




FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

MEMORANDUM

**TO: The Commissioners
Staff Director
Deputy Staff Director
General Counsel**

FROM: Office of the Commission Secretary 

DATE: August 7, 2002

**SUBJECT: Statement Of Reasons for MURs 4530 and 4531 – DNC
Services Corporation/Democratic National Committee and
its treasurer.**

**Attached is a copy of the Statement Of Reasons for MURs 4530
and 4531 signed by Chairman David M. Mason, Vice Chairman Karl J.
Sandstrom, and Commissioner Bradley A. Smith.**

**This was received in the Commission Secretary's Office on
Wednesday, August 7, 2002 at 11:21 a.m.**

**cc: Vincent J. Convery, Jr.
OGC Docket (5)**

Attachment

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

DNC Services Corporation/
Democratic National Committee and
its treasurer)

MURs 4530 and 4531)

STATEMENT OF REASONS

I. Background

In this matter the Office of the General Counsel recommended that the Commission find probable cause to believe that the DNC Services Corporation/ Democratic National Committee and its treasurer ("DNC") violated 2 U.S.C. §§ 441b(a) and 441f with respect to \$106,500 raised in contributions from individuals reimbursed by the International Buddhist Progress Society, Inc., d/b/a Hsi Lai Buddhist Temple (the "Temple"). Instead, on May 8, 2001, by a vote of 5-1, the Commission voted to find probable cause to believe that the DNC violated Sections 441b(a) and 441f with respect to \$55,000 of the \$106,500¹, thereby rejecting the Office of the General Counsel's recommendation as to the remaining \$51,500 and prompting this statement. This Statement of Reasons provides the rationale for the Commission's conclusion that there was insufficient evidence that the DNC knew that this \$51,500 in contributions had been reimbursed by the Temple and related persons.²

¹Commissioners Mason, McDonald, Smith, Thomas and Wold voted affirmatively for the decision. Vice Chairman Sandstrom dissented because he did not find the evidence supported a probable cause to believe finding. However, Vice Chairman Sandstrom concurs in this statement explaining there was insufficient evidence as to the \$51,500 in contributions at issue here.

²The Commission has taken a number of previous actions in this matter. On April 4, 2000, the Commission voted to find probable cause to believe that the Temple's Master Hsing Yun knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f through the use of conduits to make corporate contributions. The Commission voted to find probable cause to believe that the Temple, Suh Jen Wu (Tzu Jung), and Yi Chu knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f through the use of conduits to make corporate contributions of federal funds and to find probable cause to believe that the Temple, Master Hsing Yun, Suh Jen Wu (Tzu Jung), and Yi Chu violated 2 U.S.C. § 441b(a) by failing to obtain advance payment for food services it provided in connection with the April 1996 Democratic National Committee luncheon held at the temple. The Commission also voted to find probable cause to believe that Man Ho knowingly and willfully violated 2 U.S.C. § 441f in connection with the use of conduits to make corporate contributions of federal funds. On January 11, 2001, the Commission, by a vote of 5-1, voted to find probable cause to believe that John Huang knowingly accepted or received from the Temple \$100,000 in

ENCLOSURE

II. Applicable Law

The Act provides that no person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and that no person shall knowingly accept a contribution made by one person in the name of another person. 2 U.S.C. § 441f; 11 C.F.R. § 110.4(b). The Act prohibits corporations from making contributions in connection with federal elections and political committees are prohibited from knowingly accepting such contributions. 2 U.S.C. § 441b(a).

III. Factual Summary³

DNC Vice Chairman for Finance John Huang organized an event at the Hsi Lai Buddhist Temple to be held on April 29, 1996. Previously, Master Shing Yun, the Temple's leader, had invited then-Vice President Al Gore to the Temple in a meeting between the two requested by Huang. Huang worked with Maria Hsia to coordinate the event.⁴ Hsia and Huang knew each other since 1987, and she worked with him to raise funds for a number of federal candidates. Hsia, an immigration consultant, also had ties to the Temple; she provided immigration services for the Temple through her firm. Huang encouraged Hsia to become a member of the DNC Finance Board, she agreed, and raised contributions for the Temple event to meet the \$350,000 board member goal.

The DNC received \$106,500 in contributions raised by Huang and Hsia related to the Temple event that were reimbursed by the Temple and therefore impermissible.

The reimbursements followed a general pattern in which Maria Hsia would contact Man Ho, a Temple nun with administrative duties, and ask for a contribution of a sum certain in connection with a particular political

contributions made in the name of another in violation of 2 U.S.C. § 441f. On January 11, 2001, the Commission, by a vote of 6-0, voted to find probable cause to believe that John Huang knowingly accepted or received corporate contributions in the amount of \$90,000 in violation of 2 U.S.C. § 441b. On May 8, 2001, by a vote of 6-0, the Commission voted to find probable cause to believe that the DNC violated 2 U.S.C. § 441b by accepting payments totaling \$4,424 from the Temple for expenses, plus additional indeterminable amounts for use of the facility in connection with the April 29, 1996 event there.

³The full context of the Temple event appears in the General Counsel's Brief in MUR 4530 dated January 22, 2001 ("Brief") at 72-84. The Brief references the abundant information concerning the Temple event, as developed by the Commission's investigation and the U.S. Senate Committee on Governmental Affairs' *Investigation of Illegal or Improper Activities in Connection with 1996 Federal Election Campaigns*, S. Rep. No. 167, 105th Cong., 2d Sess. (1998) and the U.S. House Committee on Government Reform and Oversight's report *Investigation of Political Fundraising Improprieties and Possible Violations of Law - Interim Report*, H.R. Rep. No. 829, 105th Cong., 2d Sess. (1998).

⁴ On March 2, 2000, Maria Hsia was convicted of five counts of causing the submission of materially false statements to be filed with the Commission; two of the counts are related to contributions to the DNC reimbursed by the Temple. Hsia was sentenced to 90 days home detention and a fine of \$5,300. As of the time of this writing, her appeal is pending. *United States v. Hsia*, D.C. Cir., No. 01-3101, argued Nov. 14, 2001.

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fundraising event. Man Ho would communicate Maria Hsia's request to the Temple's Abbess, who would approve a check request form prepared by Man Ho. Man Ho would then give the completed form to Yi Chu, a nun who was the Temple's treasurer and chief financial officer. In most cases, Yi Chu would then approach monastics or devotees who had personal checking accounts and request that they write checks in the requested amounts. In some instances, Yi Chu would herself fill out the payee line. Within a very short time, Yi Chu would reimburse the check-writers in full from the Temple's corporate funds for the amounts of the checks they had written.

Brief at 73 (citations omitted). This scheme was used beginning in 1993 up to and including the 1996 Temple event. *Id.* At 74.

By the day of the April 1996 event, \$45,000 had been raised. Of this amount, \$10,000 had been made by individual contributors who were reimbursed by the Temple.

[A] total of \$45,000 was raised from Temple devotees, including \$10,000 in cash donated by two devotees who wished to remain anonymous. Yi Chu reimbursed three conduits, Jou Sheng, Shiwen Teh (a/k/a Melissa Wang), and Hsin Cheng Shih, who wrote checks totaling \$10,000 to the DNC to account for the \$10,000 that had been donated in cash by the two devotees cited above. The DNC disclosed these three contributions as received on April 30, 1996, the day after the Temple event, and deposited them into the federal account. The DNC check tracking forms for each of these three conduit contributions list John Huang as the "DNC Contact" and Maria Hsia as the solicitor.

Brief at 80 (footnotes and citations omitted).

The DNC received two more Temple-reimbursed contributions relevant to this statement totaling \$6,500: \$1,500 from Hsiu Chu Lin on October 2, 1996 and \$5,000 attributed to Maria Hsia on September 25, 1996. *Id.* at 85.

IV. Analysis

The Commission could not properly conclude that the DNC should be held liable for the total amount of contributions reimbursed by the Temple. Although the entire amount of contributions raised in connection with the Temple event represents impermissible corporate contributions made in the name of another, for the Commission to find the recipient liable the DNC would have had to be shown to possess sufficient knowledge under 2 U.S.C. § 441f ("no person shall knowingly accept a contribution made by one person in the name of another person"). As to \$51,500 of the amount raised,

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based on the evidence and other testimony available, the Commission concludes that the DNC did not know that this set of contributions had, in fact, been reimbursed.

As it appeared from the face of each of these contributions checks, these contributions were made through proper individual contributors and there was no indication on the face of the checks that the contributors had, in fact, been reimbursed by the Temple. Nor was there other information apparently known to the recipient that these contributions were impermissible. In arriving at this conclusion, the Commission considered the knowledge of DNC Vice Chairman for Finance John Huang and Maria Hsia's role in the Temple event.

DNC Vice Chairman John Huang was a DNC employee and agent of the DNC, thus his knowledge is attributable to the DNC. Huang, however, denied knowing that these particular contributions were reimbursed. FEC Deposition of John Huang August 24, 1999 at 530. His testimony and the other evidence available to the Commission indicates that Huang, "who solicited and received the Temple-related checks on behalf of the DNC, had no knowledge whatsoever that any of these contributions had been reimbursed." Brief of the Democratic National Committee in Response to the Brief of the General Counsel ("DNC Response Brief") at 42. In fact, Huang repeatedly testified that he thought individuals associated with the Temple had the means to make contributions in these amounts. Huang Depo. at 473, 516, and 529. Thus, the Commission could not properly find the DNC liable under Section 441f for this set of contributions on the basis of John Huang's knowledge. The Commission, however, further considered Maria Hsia's role in the Temple event because the theory presented by the Office of the General Counsel concludes that "[i]n [the] circumstances of Huang's complete reliance on Hsia, Huang, and through him the DNC, the recipient of the contributions, can be held liable for Hsia's fundraising methods." Brief at 87. Here, Huang was alleged to have "unreasonably turned a blind eye to the suspicious circumstances, choosing to rely upon Hsia as in effect his deputy." Brief at 89 (footnote omitted).

Maria Hsia had a significant role in the Temple event and Huang relied heavily on her fundraising experience and her familiarity with the Temple to make the event a success. Although Hsia "almost certainly knew that the Temple was reimbursing these contributions," Brief at 88, for a number of reasons her knowledge is not attributable through Huang to the DNC for the purpose of finding liability under Section 441f here. Although Hsia had considerable connections to the DNC (she attended the January 1996 meeting of the DNC Finance Board and raised contributions for several DNC events during 1996; Brief at 73), unlike Huang, she was not a DNC employee. While she had been delegated a lot of the responsibility for the Temple event and was relied upon to represent the legality of checks that were received, Huang Depo. at 516, she was not asserted to be an agent of the DNC. Further, Hsia was criminally convicted, in part, for deliberately concealing from the DNC the true source of contributions. DNC Response

Brief at 42. Here, based on the available evidence, the Commission could not properly hold the DNC liable on the theory that Mr. Huang unreasonably relied on Hsia, based on Hsia's status as a lay fundraiser, her apparent positive steps to conceal the true source of contributions, and, at the time, the seemingly reasonable trust Huang placed in her based on their previous associations.

As to the two additional Temple-reimbursed contributions totaling \$6,500 (\$1,500 from Hsiu Chu Lin on October 2, 1996 and \$5,000 attributed to Maria Hsia on September 25, 1996), Brief at 85, there was no evidence presented that establishes that the DNC knew that the contributions were made in the name of another, other than Huang's identification as the name on the DNC check tracking form for the contribution attributed to Hsia. From this information, the Commission could not conclude that the DNC knew that either of these contributions had, in fact, been reimbursed.

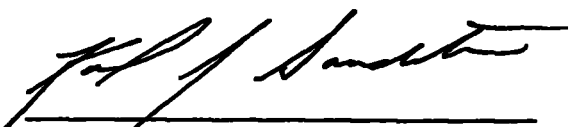
V. Conclusion

Based on the available evidence, the Commission could not properly conclude that the DNC was liable under 2 U.S.C. §§ 441b(a) and 441f for \$51,500 of the \$106,500 in contributions that were reimbursed. Thus, the Commission voted to find probable cause to believe that the DNC violated Sections 441b(a) and 441f with respect to \$55,000 of the \$106,500, and in doing so rejected the Office of the General Counsel's recommendation as to the remaining \$51,500.

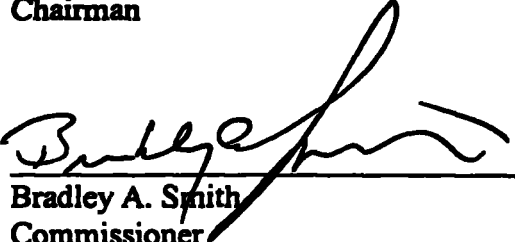
August 5, 2002



David M. Mason
Chairman



Karl J. Sandstrom
Vice Chairman



Bradley A. Smith
Commissioner

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