



**Republican
National
Committee**

**David A. Horcross
General Counsel**

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FEDERAL ELECTION
COMMISSION
OCT 30 1996

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MUR 4549

October 30, 1996

Chairman Lee Ann Elliott
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: DNC Failure To File Pre-General Election Report

Dear Chairman Elliott:

Pursuant to 2 U.S.C. § 437g(a)(4)(A), and upon information and belief, the Republican National Committee ("RNC") brings this complaint to the Federal Election Commission ("the Commission") regarding violations of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431 *et. seq.* ("FECA"), by the Democratic National Committee ("DNC"). Specifically, the violations result from the DNC's knowing and willful failure to file a pre-general election report with the Federal Election Commission ("FEC") as required by FECA, (2 U.S.C. § 434(a)(4)(A)(ii)).

STATEMENT OF FACTS

The DNC has violated 2 U.S.C. § 434(a)(4)(A)(ii) as well as FEC Regulations at 11 C.F.R. § 104.5(c). The RNC respectfully requests that the Commission find reason to believe that the DNC violated FECA, initiate an expeditious investigation of this matter and, if necessary, seek injunctive relief to prevent continued violations of FECA by the DNC.

As set forth in this complaint, there is reason to believe that there are serious and ongoing violations of FECA, as amended, requiring immediate remedy by the FEC. Based on its chairman's own public admission, publicly available reports on file at the FEC and numerous news accounts and other public documents, there is reason to believe that the DNC has violated the law by knowingly and willfully refusing to file a pre-general election report with the Commission, thus failing to use its best efforts to comply with the reporting requirements of FECA.

Political committees, registered with the Federal Election Commission, must file a pre-election report if they make contributions or expenditures "in such election". Every political committee must comply with this provision of FECA, not merely those committees that only make such contributions or expenditures during that two week pre-election reporting period. The law is clear that if the DNC made any contributions or expenditures in connection with the 1996 general election campaigns of its Democratic federal candidates at any time, which it did, it would be required to file a pre-general election report, (2 U.S.C. § 434(4)(A)(ii)). The DNC has failed to file the required pre-general election report.

LEGAL ANALYSIS

The DNC is in violation of FECA.

Disclosure is at the core of FECA. Where money to federal political committees and candidates comes from and where it goes is essential to any sort of regulated campaign finance scheme. Deliberate attempts to hide financial activity prevent the American public, the Commission, the press and the opposition of being assured that all those participating in federal political activity are abiding by the same rules. When a national committee fails to report its own financial activity, it threatens the integrity of FECA in the minds of the American people. The DNC action has done just that.

The DNC argues that it has made no contributions or expenditures on behalf of federal candidates, including Bill Clinton, during the pre-election period (October 1 through October 16) and, therefore, was not obligated to file a pre-general election report with the FEC.

A plain reading of the law, however, states that a political committee like the DNC must file a pre-election report if it makes contributions or expenditures "in such election". Contrary to the DNC's arguments, the law does not limit this report to those committees that only make such contributions or expenditures during that two week pre-general election reporting period. The law is clear that if the DNC made any contributions or expenditures for the general election campaigns of federal candidates at any time, which it did, it would be required to file a pre-general report, which it did not. (2 U.S.C. § 434(a)(4)(A)(ii)).

Even if one were to assume that FEC regulations (11 CFR § 104.5(c)), only required pre-general election reporting if the DNC actually made contributions or expenditures during the two week general election reporting period (October 1 through October 16) the DNC would still be required to file. From a review of the pre-general election report filed by the Democratic Senatorial Campaign Committee ("DSCC"), the DNC transferred \$50,000 to the federal account of the DSCC on October 16th (see Attachment I). It also appears that the DNC transferred over \$1.2 million to the federal accounts of state parties, as well as \$18,000 to the Democratic Congressional Campaign

Committee ("DCCC") for federal election purposes. According to the law, an expenditure is any payment made for the purpose of influencing any election for federal office (2 U.S.C. § 431(9)). Although transfers between the party committees' federal accounts are not subject to the contribution or expenditure limits, they are nevertheless, classified as such. Transfers are not exempt from the definition of contribution or expenditure as are some other party disbursements. Simply stated, transfers by the DNC to the DSCC, the DCCC and the state parties' federal accounts between the 1st of October and the 16th require the DNC to file a pre-general election report even under the most liberal interpretation of the law and FEC regulations.

Lastly, even if no actual outlay of funds were made to directly support federal candidates during the pre-election reporting period, if the DNC had obligated funds to a vendor during that time to support federal candidates (verbal or written agreement such as a contract) and the value of that obligation was \$500 or more, even under the DNC interpretation of FEC rules, the DNC would be required to file the pre-election report. The FEC would view those obligations/commitments to spend for federal candidates just as if the money were *actually* spent on their behalf.

The DNC should immediately disclose its receipts and disbursements for the October 1st to October 16 reporting period.

Any reliance by the DNC on past FEC enforcement actions to substantiate its argument that it is not required to file a pre-general election report is misplaced and disingenuous, specifically, in Matter Under Review ("MUR") 2399. In that 1988 MUR, the FEC assessed a \$3,000 civil penalty against the Republican National Congressional Committee ("NRCC") for its failure to file a 1986 post general election "contribution" report but took no action against the NRCC for its failure to report "contributions" in a pre-election filing. This was based upon the recommendations of the FEC general counsel.

At the time the NRCC maintained two separate reporting committees, a "Contributions Committee" and an "Expenditures Committee". The NRCC filed a pre-election report for its "Expenditures Committee" but not for its "Contributions Committee" since it made no transfers to the "Expenditures Committee" or to any other federal committee during the pre-general election reporting period.

National party committees can no longer maintain such separate committees and, in fact, must report *all* activity (federal and non-federal) through *one* federal committee (see FEC Regulations at 11 C.F.R. §§ 104.8, 104.9, and 106.5).

More importantly, in the case of the DNC, federal transfers of over \$1.2 million were in fact made during the pre-general election reporting period (see Attachments I and II).

It has come to our attention that the DNC has filed information, in the form of a "miscellaneous document", in lieu of filing its legally mandated pre-general election report on FEC Form 3X or the pre-approved FEC computer equivalent. This "miscellaneous document" fails to meet FECA requirements. It fails to provide complete summary information regarding receipts and in particular, provides no summary information regarding expenditures. There is also no attempt to categorize these expenditures. For example, no distinction is made between federal operating expenditures, joint federal/ non-federal expenditures, contributions to candidates, party expenditures on behalf of candidates or other disbursements requiring categorization by FECA. Also, there is no description of the "purpose" of the listed expenditures or the addresses of the payees as required by FECA. All of this is essential information to determine the potential allocability to federal candidates.

CONCLUSION

Based upon the facts as known, the Complainant has reason to believe that the Respondent violated FECA and FEC Regulations by knowingly and willfully failing to file its pre-general election report with the FEC and by failing to use its best efforts to comply with the reporting requirements of FECA.

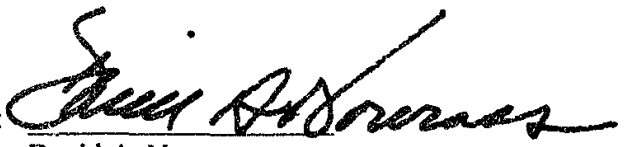
For these reasons, the Commission should find reason to believe that the DNC violated 2 U.S.C. §§ 434(a)(4)(A)(ii) and 434(b));

- impose appropriate civil penalties for such violations;
- take any other actions necessary, including injunctive relief, to prevent further violations of the law.

I hereby affirm that to the best of my information and belief the foregoing is true and correct.

Respectfully submitted,

Republican National Committee

By: 
David A. Norcross
General Counsel

CITY OF WASHINGTON

DISTRICT OF COLUMBIA

SS:

Subscribed and sworn (affirmed) to before me, this 30th day of Oct 1996.

M. D. Acton
Notary Public

My commission expires 7/14/99

M. D. Acton
Notary Public, District of Columbia
My Commission Expires July 14, 1999

SCHEDULE A

ITEMIZED
RECEIPTSPage 1 of 1
Line Number 12DEMOCRATIC SENATORIAL CAMPAIGN COMMITTEE
OCTOBER 1-16, 1996

NAME/ADDRESS	PURPOSE	DATE	AMOUNT
=====			
DNC Services Corporation General Fund 430 S. Capitol Street, SE Washington, DC 20003	Transfer	10/16/96	\$ 50,000.00

Illinois Senate Victory Fund P.O. Box 1949 Springfield, IL 62705	Transfer	10/16/96	\$ 6,835.53

Arkansas Victory Fund 430 S. Capitol St., SE Washington, DC 20003	Transfer	10/16/96	18.00

Georgia Victory Fund 430 S. Capitol St., SE Washington, DC 20003	Transfer	10/16/96	\$ 15,547.57

North Carolina Victory Fund 430 S. Capitol Street, SE Washington, DC 20003	Transfer	10/16/96	\$ 30.80

Texas Victory Fund 430 S. Capitol Street, SE Washington, DC 20003	Transfer	10/16/96	\$ 1,437.75

Kerry/Doe Victory Fund 430 S. Capitol Street, SE Washington, DC 20003	Transfer	10/16/96	\$ 50.00

TOTAL This Page			\$ 73,919.65
TOTAL This Period			\$ 73,919.65

DNC relents, reveals finances

The Washington Times

DATE: 10 30 86
PAGE: A1

Raw list exposes indirect spending on federal races

By Brian Blomquist
and Christopher Hays

The Democratic National Committee, bowing to Republican pressure, yesterday reluctantly released a list of its recent fund raising and spending.

The records, released after a day of political maneuvering, show the DNC doled out more than \$1 million for federal campaigns and pocketed large contributions from an Indonesian businessman, trial lawyers and the Hollywood elite.

In the closing weeks of the 1986 campaign, the DNC has come under fire for illegal foreign contributions, and Republicans have seized on the committee's tangle-walking over its financial dealings in hopes of drawing greater attention to the Clinton administration's ethical problems.

The DNC said yesterday it did not have to file the pre-election finance report, which covers the first two weeks of October, be-

cause it did not spend money on federal campaigns during that period.

But the raw list released yesterday shows that the DNC paid \$3.4 million to state Democratic committees, including \$1.2 million specifically earmarked for federal election activities. The documents also show a \$30,000 payment to the Democratic Senatorial Campaign Committee and \$18,000 to the Democratic Congressional Campaign Committee. These two committees support individual candidates.

The list also shows \$13,693 paid for the two weeks to the Kambor Group, a political consulting firm, and \$7,600 paid to Worldwide Travel, the Clinton campaign's charter air service, owned by Hollywood producer and longtime Clinton friend Harry Thomason.

"The DNC's refusal to file its campaign-finance report as law requires is not a casual act or a bureaucratic snafu," Republican National Committee Chairman Haley Barbour said. "This is a carefully calculated act by very sophisticated political operatives who fully understood that they will take political heat, have a political firestorm for violating disclosure laws."

"Clinton and his DNC appointees have decided that whatever it is they're hiding is even more damaging than openly breaking the law of public disclosure."

Mr. Barbour spoke yesterday morning. The DNC released and released the 200-page list at 5 p.m.

DNC spokeswoman Amy Weiss said the committee will file its complete pre-election report to

the Federal Election Commission by "week's end" even though, she said last night, "we are not required to do so by law."

Miss Weiss said the transfer of millions of dollars doesn't qualify as federal expenses. "We're on firm legal ground," she said.

The release of the DNC's raw data did not satisfy the RNC, which compared the situation to a person dropping off a check book full of receipts at the Internal Revenue Service rather than filing a tax return.

Mr. Barbour disputed the DNC's contention that sending money to other federal campaign committees, such as the DCCC and the DCCC, doesn't constitute federal spending.

President Clinton took credit for pressuring the DNC to retreat from its position that it would not

reveal the sources of its money well after Tuesday's election.

"When we learned about it yesterday I think it's safe to say we made our feelings known," White House spokesman Michael McCurry said.

The release of the alphabetical list of donors capped off a frenetic day that included:

- A vow by the RNC to go to court this morning to seek an injunction freezing the DNC's ability to raise and spend money until it filed a proper report with the FEC.

- A court deposition from DNC fund-raiser John Hwang, a former top official of Indonesian Lippo Group, which contributed — illegally, Republicans say — nearly half a million dollars to the DNC.

- A letter by GOP congressional leaders to Attorney General Janet Reno calling for the appointment of an independent counsel to investigate Democratic fund raising, including allegations of illegal contributions from foreign people and corporations to the DNC and the Clinton campaign.

The letter cited "night specific instances" in which Clinton officials and the DNC may have violated federal campaign laws. It asked Miss Reno for a decision by Friday.

The areas of concern included donations by a South Korean electronics firm whose \$250,000 gift was returned and by an Indonesian couple who gave \$432,000 to the DNC while living in Arlington, the solicitation and acceptance of questionable contributions from people at a Buddhist temple in Los Angeles, and the fund-raising activities of Mr. Hwang.

Justice Department officials had no comment on the letter last night.

GOP presidential nominee Bush

Dale was quiet yesterday about the DNC flap. Mr. Barbour said he talked with Dale often, and they decided it would be better for the party chairman to speak out than to have Mr. Dale do it.

The president, who has avoided the campaign-finance issue as much as possible, will address the subject during an address either tomorrow in Phoenix or Friday in Santa Barbara, Calif., officials said.

Mr. Clinton is expected to thank his support for a campaign-finance bill sponsored by Sen. Russell D. Feingold, Wisconsin Democrat, and John McCain, Arizona Republican, and to reach a handshake agreement with House Speaker Newt Gingrich in New Hampshire last year to try to pass such a bill. The two men have not delivered on the pledge.

"We've clearly seen a campaign where money played too large a role, and we need to diminish that role," Mr. McCurry said.

He said Mr. Dale has had equal problems with questionable fund raising, but "most never organizations feel like it would be kind of kicking Dale when he was down to take out after his contributions."

The final version of the McCain-Feingold legislation would have banned "soft money" contributions to the political parties, prohibited contributions by political action committees, required 60 percent of contributions in congressional races to come from a house owner, and ended the practice of "bundling," in which businesses package contributions from their employees.

- Jerry Soper and George Archibald in Washington and Warren P. Strobel, working with the Clinton campaign, contributed to this report.

FEC sometimes needs extra reports

and Washington Times

Here is what the Federal Election Commission says in its Campaign Guide about filing pre-election reports:

"In addition to quarterly reports, a party committee may have to file pre-primary reports and a pre-general election report if the committee makes contributions or expenditures in connection with the election during the following period:

- Beginning the day after the closing date of the previous report.

- Through the 20th day be-

fore the election.

"A pre-election report must disclose all activity that occurred during the above period. The report is due 12 days before the election, if not by registered or certified mail, the report must be postmarked no later than the 15th day before the election, 104.5(c)(1)(ii).

"Note that the FEC does not need party committee treasurer notices and forms for pre-primary reports. The treasurer is responsible for determining whether the committee must file a pre-primary or pre-general election report."