



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4751

DATE FILMED 12-17-98 CAMERA NO. 2

CAMERAMAN S.E.-G

98-04-391-0012

## REPORTS ANALYSIS REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: September 11, 1997

ANALYST: Kenneth Davis

- I. COMMITTEE: New Jersey Democratic State Committee  
(C00104471)  
Raul "Rudy" Garcia, Treasurer  
150 West State Street  
Trenton, NJ 08608
- II. RELEVANT STATUTE: 11 CFR §106.5
- III. BACKGROUND:

**Receipt of Apparent Excessive Non-Federal Transfer for Joint Activity**

The New Jersey Democratic State Committee ("the Committee") disclosed \$1,330,158.51 in transfers from its non-federal account for joint activity for calendar year 1996 on Line 18, Column B of the Detailed Summary Page of the 1996 Year End Report. The Committee, however, disclosed \$1,246,494.75 as the non-federal share of joint activity for calendar year 1996 on Line 21(a)(ii), Column B of the Detailed Summary Page (Attachment 2). The Column B totals for Lines 18 and 21(a)(ii) should be the same at the end of the calendar year. If the Column B total on Line 18 is greater than the Column B total on Line 21(a)(ii), the difference between the two totals is considered an excessive transfer from the non-federal account. Thus, the Committee's 1996 Year End Report discloses an apparent \$83,663.76 excessive transfer.

A Request for Additional Information ("RFAI") was sent to the Committee on April 23, 1997 referencing the 1996 Year End Report. The RFAI notified the Committee that its report disclosed transfers received from its non-federal account in excess of the non-federal share of joint activity for the calendar year. The RFAI recommended that the Committee immediately transfer the total amount received in excess of the non-federal share back to the non-federal account (Attachment 3).

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The Committee's deputy treasurer, Michael Kanarick, contacted the Reports Analysis Division ("RAD") analyst on May 8, 1997. Mr. Kanarick stated that he was still working on the amendments (Attachment 4).

On May 16, 1997, a Second Notice was sent to the Committee for failure to respond in writing to the RFAI (Attachment 5).

On June 20, 1997, Mr. Kanarick contacted the RAD analyst. Mr. Kanarick stated that he was sending the Commission amendments to various RFAIs. Mr. Kanarick also stated that the Committee had made too many transfers from the non-federal account due to the large number of get-out-the-vote activities (Attachment 6).

On June 23, 1997, the Committee filed several amendments. The amendments included a cover letter that reiterated the above explanation (Attachment 7). The 1996 Amended Year End Report included amended Column B totals: Line 18 disclosed \$1,313,311.48 and Line 21(a)(ii) disclosed \$1,251,094.78 (Attachment 8). This resulted in an apparent \$62,216.70 excessive transfer. The Committee stated that the money would be transferred as soon as the Committee was financially able to do so.

On August 3, 1997, the Committee filed its 1997 Mid-Year Report with a cover letter from Mr. Kanarick which addresses the 1996 excessive transfer of non-federal funds for shared activity. The letter states, "The NJDSC is reexamining its 1996 Amended Reports to determine whether the apparent amount of the overtransfer (\$62,216.70) is in fact lower than it appears to be or nonexistent. As soon as the NJDSC has completed this review, it will notify the FEC of its findings" (Attachment 9).

On August 26, 1997, the Committee filed an Amended 1997 Mid-Year Report with another cover letter from Mr. Kanarick which again addresses the 1996 excessive transfer of non-federal funds for shared activity. The Committee stated that it was still fundraising so that it can transfer back the necessary non-federal funds, but the Committee was still trying to determine the correct amount of the excessive transfer. The Committee also stated that it transferred \$15,000 from its Federal Account to its Non-Federal Account on August 21, 1997. The transfer will be disclosed on the 1997 Year End Report, but the Committee provided a copy of a transfer slip and a memorandum to Summit Bank as supporting documentation (Attachment 10).

98-04-391-0014



COMMITTEE	DOCUMENT	RECEIPTS	DISBURSEMENTS	# OF COVERAGE DATES PAGES TYPE OF FILER	MICROFILM LOCATION
NEW JERSEY DEMOCRATIC STATE COMMITTEE					
CONNECTED ORGANIZATION: NEW JERSEY DEMOCRATIC PARTY					
1995 STATEMENT OF ORGANIZATION - AMENDMENT				21FEB95	2 95FEC/966/5108
	MID-YEAR REPORT	281,946	311,538	1JAN95 - 30JUN95	91 95FEC/965/4113
	MID-YEAR REPORT - AMENDMENT	-	-	1JAN95 - 30JUN95	3 95FEC/967/2376
	REQUEST FOR ADDITIONAL INFORMATION			1JAN95 - 30JUN95	2 96FEC/033/5200
	REQUEST FOR ADDITIONAL INFORMATION 2ND			1JAN95 - 30JUN95	3 96FEC/038/0119
	YEAR-END	340,656	442,207	1JUL95 - 31DEC95	101 96FEC/021/4034
	YEAR-END - AMENDMENT	340,656	442,207	1JUL95 - 31DEC95	9 96FEC/062/0260
	YEAR-END - AMENDMENT	-	-	1JUL95 - 31DEC95	4 97FEC/219/1615
	REQUEST FOR ADDITIONAL INFORMATION			1JUL95 - 31DEC95	5 96FEC/033/5202
	REQUEST FOR ADDITIONAL INFORMATION 2ND			1JUL95 - 31DEC95	5 96FEC/038/0114
1996 STATEMENT OF ORGANIZATION - AMENDMENT				17APR96	2 96FEC/042/5167
	APRIL QUARTERLY	229,889	183,243	1JAN96 - 31MAR96	58 96FEC/043/3756
	APRIL QUARTERLY - AMENDMENT	229,889	183,243	1JAN96 - 31MAR96	5 96FEC/062/0269
	APRIL QUARTERLY - AMENDMENT	229,889	183,243	1JAN96 - 31MAR96	5 96FEC/062/0274
	APRIL QUARTERLY - AMENDMENT	229,379	183,258	1JAN96 - 31MAR96	9 97FEC/202/0987
	APRIL QUARTERLY - AMENDMENT	229,379	183,258	1JAN96 - 31MAR96	6 97FEC/210/2678
	JULY QUARTERLY	228,583	285,666	1APR96 - 30JUN96	69 96FEC/062/4163
	JULY QUARTERLY - AMENDMENT	243,583	285,666	1APR96 - 30JUN96	69 96FEC/065/5190
	JULY QUARTERLY - AMENDMENT	243,583	285,666	1APR96 - 30JUN96	3 96FEC/095/0492
	JULY QUARTERLY - AMENDMENT	243,583	285,666	1APR96 - 30JUN96	11 96FEC/164/1697
	JULY QUARTERLY - AMENDMENT	243,583	285,666	1APR96 - 30JUN96	35 97FEC/210/2643
	JULY QUARTERLY - AMENDMENT	246,155	296,784	1APR96 - 30JUN96	3 97FEC/210/2684
	REQUEST FOR ADDITIONAL INFORMATION			1APR96 - 30JUN96	7 96FEC/114/2236
	REQUEST FOR ADDITIONAL INFORMATION 2ND			1APR96 - 30JUN96	7 96FEC/127/3641
	1ST LETTER INFORMATIONAL NOTICE			1APR96 - 30JUN96	2 97FEC/210/1096
	OCTOBER QUARTERLY	701,803	523,304	1JUL96 - 30SEP96	114 96FEC/095/3616
	OCTOBER QUARTERLY - AMENDMENT	875,803	834,475	1JUL96 - 30SEP96	113 96FEC/095/0000
	OCTOBER QUARTERLY - AMENDMENT	-	-	1JUL96 - 30SEP96	6 97FEC/194/1493
	OCTOBER QUARTERLY - AMENDMENT	892,233	850,915	1JUL96 - 30SEP96	121 97FEC/210/2687
	REQUEST FOR ADDITIONAL INFORMATION			1JUL96 - 30SEP96	6 97FEC/184/0560
	REQUEST FOR ADDITIONAL INFORMATION 2ND			1JUL96 - 30SEP96	2 97FEC/189/4132
	PRE-GENERAL	359,626	350,979	1OCT96 - 16OCT96	53 96FEC/114/0508
	PRE-GENERAL - AMENDMENT	-	-	1OCT96 - 16OCT96	2 97FEC/187/3811
	PRE-GENERAL - AMENDMENT	-	-	1OCT96 - 16OCT96	1 97FEC/194/1499
	PRE-GENERAL - AMENDMENT	379,154	351,465	1OCT96 - 16OCT96	56 97FEC/210/2008
	REQUEST FOR ADDITIONAL INFORMATION			1OCT96 - 16OCT96	5 97FEC/186/4240
	REQUEST FOR ADDITIONAL INFORMATION 2ND			1OCT96 - 16OCT96	2 97FEC/191/3017
	POST-GENERAL	1,202,655	1,266,750	17OCT96 - 25NOV96	222 96FEC/150/3300
	POST-GENERAL - AMENDMENT	-	-	17OCT96 - 25NOV96	3 97FEC/194/1500

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FEDERAL ELECTION COMMISSION  
1995-1996  
COMMITTEE INDEX OF DISCLOSURE DOCUMENTS - (C)

DATE 10SEP97

PAGE 2

COMMITTEE	DOCUMENT	RECEIPTS	DISBURSEMENTS	COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
						TYPE OF FILER
POST-GENERAL	- AMENDMENT	1,169,374	1,225,874	17OCT96 - 25NOV96	227	97FEC/210/2864
	REQUEST FOR ADDITIONAL INFORMATION			17OCT96 - 25NOV96	10	97FEC/183/4054
	REQUEST FOR ADDITIONAL INFORMATION 2ND			17OCT96 - 25NOV96	1	97FEC/189/4131
	YEAR-END	66,848	76,532	26NOV96 - 31DEC96	53	97FEC/180/3691
	YEAR-END - AMENDMENT	66,848	76,532	26NOV96 - 31DEC96	52	97FEC/210/3091
	REQUEST FOR ADDITIONAL INFORMATION			26NOV96 - 31DEC96	6	97FEC/199/0263
	REQUEST FOR ADDITIONAL INFORMATION 2ND			26NOV96 - 31DEC96	7	97FEC/203/0172
1997	MISCELLANEOUS REPORT TO FEC			20MAR97	2	97FEC/191/2995
	TOTAL	3,605,745	3,738,573		1580	TOTAL PAGES

All reports from the 1995-1996 Election Cycle have been reviewed.

98.04.391.0016

FEDERAL ELECTION COMMISSION  
1997-1998  
COMMITTEE INDEX OF DISCLOSURE DOCUMENTS - (C)

DATE 10SEP97

PAGE 1

COMMITTEE	DOCUMENT	RECEIPTS	DISBURSEMENTS	# OF COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
				TYPE OF FILER		

NEW JERSEY DEMOCRATIC STATE COMMITTEE				ID #C00104471 PARTY QUALIFIED		
CONNECTED ORGANIZATION: NEW JERSEY DEMOCRATIC PARTY						
1997 MID-YEAR REPORT		504,978	519,825	1JAN97 -30JUN97	124	97FEC/231/4117
MID-YEAR REPORT	- AMENDMENT	-	-	1JAN97 -30JUN97	5	97FEC/237/1944
TOTAL		504,978	0 519,825 0	129 TOTAL PAGES		

The 1997 Mid-Year report has not been reviewed.

Cash on Hand as of 6/30/97: \$11,950.46

Debts and obligations owed to the Committee as of 6/30/97: \$0

Debts and obligations owed by the Committee as of 6/30/97: \$0

7100-163-40-86  
98-04-391-0017

# DETAILED SUMMARY PAGE

## RECEIPTS AND DISBURSEMENTS

### PAGE 2, FEC FORM 3X

Attachment 2

(revised 1/1/91)

NAME OF COMMITTEE  
New Jersey Democratic State Committee

REPORT COVERING PERIOD  
FROM 11/28/86 TO: 12/31/86

**I. RECEIPTS**

**COLUMN A**  
Total This Period

**COLUMN B**  
Calendar Year

## 11. Contributions (other than loans) From:

## a. Individuals/Persons Other Than Political Committees

i. Itemized (Use Schedule A) .....

ii. Unitemized .....

iii. Total of contributions from individual ..... (add i and ii)

b. Political Party Committees .....

c. Other Political Committees (such as PACs) .....

d. Total Contributions ..... (add a iii, b and c)

## 12. Transfers From Affiliated/Other Party Committees

13. All Loans Received .....

14. Loan Repayments Received .....

15. Offsets To Operating Expenditures (Refunds, Rebates, etc.) .....

16. Refunds of Contributions Made to Federal Candidates and Other Political Committees

17. Other Federal Receipts (Dividends, Interest, etc.) .....

18. Transfers from Nonfederal Account for Joint Activity .....

19. Total Receipts ..... (add 11d, 12, 13, 14, 15, 16, 17, and 18)

20. Total Federal Receipts ..... (subtract line 18 from line 19)

**II. DISBURSEMENTS**

## 21. Operating Expenditures:

## a. Shared Federal/Non Federal Activity (from Schedule H4)

i. Federal Share .....

ii. Non-Federal Share .....

b. Other Federal Operating Expenditures .....

c. Total Operating Expenditures ..... (add a i, a ii, and b)

22. Transfers to Affiliated/Other Party Committees .....

23. Contributions to Federal Candidates/Committees and Other Political Committees

24. Independent Expenditures (use Schedule E) .....

25. Coordinated Expenditures Made by Party Committees (2 U.S.C. 441a(d)) .....

26. Loan Repayments Made .....

27. Loans Made .....

## 28. Refunds of Contributions To:

a. Individuals/Persons Other Than Political Committees .....

b. Political Party Committees .....

c. Other Political Committees (such as PACs) .....

d. Total Contribution Refunds ..... (add a, b and c)

29. Other Disbursements .....

30. Total Disbursements ..... (add 21c, 22, 23, 24, 25, 26, 27, 28d, and 29)

31. Total Federal Disbursements ..... (subtract line 21 a ii from line 30)

**III. Net Contributions/Operating Expenditures**

32. Total Contributions (other than loans)(from line 11d) .....

33. Total Contribution Refunds (from line 28d) .....

34. Net Contributions (other than loans)(subtract line 33 from 32) .....

35. Total Federal Operating Expenditures ..... (add 21 a i and 21 b)

36. Offsets to Operating Expenditures (from line 15) .....

37. Net Operating Expenditures ..... (subtract line 36 from 35)

	\$7000.00	\$579274.15 11(a)(i)
	\$165.00	\$31403.62 11(a)(ii)
	\$7165.00	\$610677.77 11(a)(iii)
	\$0.00	\$40324.44 11(b)
	\$1021.46	\$191533.79 11(c)
	\$8186.46	\$842536.00 11(d)
	\$6677.34	\$604169.04 12
	\$0.00	\$0.00 13
	\$0.00	\$0.00 14
	\$3571.87	\$200043.42 15
	\$0.00	\$167.00 16
	\$120.12	\$1332.22 17
	\$48292.39	\$1330158.51 18
	\$66848.18	\$2978406.19 19
	\$18555.79	\$1648247.68 20
	\$36411.71	\$1602763.02 21(a)(i)
	\$36596.23	\$1248494.75 21(a)(ii)
	\$521.46	\$61018.79 21(b)
	\$76532.40	\$2910276.56 21(c)
	\$0.00	\$0.00 22
	\$0.00	\$44069.85 23
	\$0.00	\$0.00 24
	\$0.00	\$41520.00 25
	\$0.00	\$0.00 26
	\$0.00	\$0.00 27
	\$0.00	\$1600.00 28(a)
	\$0.00	\$0.00 28(b)
	\$0.00	\$0.00 28(c)
	\$0.00	\$1600.00 28(d)
	\$0.00	\$181.25 29
	\$76532.40	\$2997647.76 30
	\$39933.17	\$17511530.00 31
	\$8186.46	\$842535.96 32
	\$0.00	\$1600.00 33
	\$8186.46	\$840935.96 34
	\$39933.17	\$1663781.81 35
	\$3571.87	\$200043.42 36
	\$36361.30	\$1463738.39 37

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RQ-2

APR 23 1997

Raul "Rudy" Garcia, Treasurer  
New Jersey Democratic State Committee  
150 West State Street  
Trenton, NJ 08608

Identification Number: C00104471

Reference: Year End Report (11/26/96-12/31/96)

Dear Mr. Garcia:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-The Detailed Summary Page, on Line 18 Column B of your report, discloses \$1,330,158.51 in transfers from the non-federal account for joint activity for the calendar year. However, Line 21 (a)(ii) Column B discloses \$1,246,494.75 as the non-federal share for joint activity for the calendar year. While the non-federal account is permitted to transfer funds to the federal account for allocable activity, transfers from the non-federal account for amounts greater than the non-federal share of allocable activity are prohibited by 11 CFR §102.5(a)(1)(i). Please clarify this discrepancy.

The Commission recommends that you immediately transfer back to the non-federal account, the amount which was transferred to the federal account in excess of the non-federal share. Although the Commission may take further legal action concerning this prohibited activity, your prompt action will be taken into consideration.

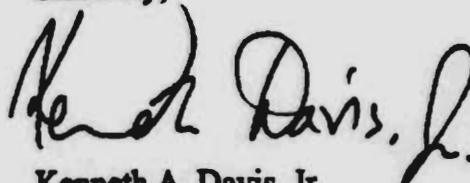
-Please provide a Schedule B to support the entry reported on Line 26 of the Detailed Summary Page. All loans repaid by your committee must be itemized on Schedule B regardless of the amount. 2 U.S.C. §434(b)(6)(B)(ii)

-Itemized disbursements must include a brief statement or description of why the disbursements were made. Please amend Schedule H4 of your report to clarify the following description(s): GOTV. For further guidance regarding acceptable purposes of disbursements, please refer to 11 CFR §104.3(b)(3).

-Schedule H4 of your report discloses a disbursement to American Express followed by memo entries associated with this expense (pertinent portions attached). The total American Express disbursement is reported as \$1,520.52, while FEC calculations disclose the memo schedule total as \$5,483.39. Please amend your report to clarify this discrepancy.

A written response or an amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 219-3580.

Sincerely,



Kenneth A. Davis, Jr.  
Reports Analyst  
Reports Analysis Division

TELECON

**ANALYST:** Kenneth Davis

**CONVERSATION WITH:** Michael Kanarick

**COMMITTEE:** New Jersey Democratic State Committee

**DATE:** 5/8/97

**SUBJECT(S):** Missing Information

Michael Kanarick called me. Mr. Kanarick stated that he was still working on the amendments.

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RQ-3

May 16, 1997

Raul "Rudy" Garcia, Treasurer  
New Jersey Democratic State Committee  
150 West State Street  
Trenton, NJ 08608

Identification Number: C00104471

Reference: Year End Report (11/26/96-12/31/96)

Dear Mr. Garcia:

This letter is to inform you that as of May 15, 1997, the Commission has not received your response to our request for additional information, dated April 23, 1997. This notice requests information essential to full public disclosure of your federal election campaign finances. To ensure compliance with the provisions of the Federal Election Campaign Act (the Act), please respond to this request (copy enclosed). The Commission acknowledges your committee's intention to amend several 1996 reports and awaits those amendments.

If no response is received within fifteen (15) days from the date of this notice, the Commission may choose to initiate audit or legal enforcement action.

If you should have any questions regarding this matter, please contact Kenneth A. Davis, Jr. on our toll-free number (800) 424-9530 or our local number (202) 219-3580.

Sincerely,

A handwritten signature in dark ink, appearing to read "John D. Gibson", followed by a horizontal line.

John D. Gibson  
Assistant Staff Director  
Reports Analysis Division

Enclosure

98-04-391-0022

TELECON

**ANALYST:** Kenneth Davis

**CONVERSATION WITH:** Michael Kanarick

**COMMITTEE:** New Jersey Democratic State Committee

**DATE:** June 20, 1997

**SUBJECT(S):** Responses to RFAIs

Mr. Kanarick contacted me. Mr. Kanarick stated that he was sending the Commission amendments to various RFAIs. Mr. Kanarick also stated that the Committee had made too many transfers from the non-federal account due to the large number of get-out -the vote activities.

98.04.391.0023



# New Jersey Democratic State Committee

R. Thomas Byrne, Jr.  
Chairman

June 20, 1997

(via United Parcel Service Next Day Air)  
Mr. Kenneth A. Davis, Jr.  
Reports Analyst, Reports Analysis Division  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

Re: New Jersey Democratic State Committee  
FEC ID No. C00104471

Dear Mr. Davis,

I write to respond to various questions raised by the FEC regarding the New Jersey Democratic State Committee's ("NJDCS") Amended October Quarterly, 12 Day Pre-General, 30 Day Post-General and Year End 1996 Reports. I have also addressed issues pertaining to the Amended July Quarterly Report, which the NJDCS identified while researching the FEC's disclosure requests. The FEC inquiries are addressed below in the order in which they were presented to the NJDCS.

As per our telephone conversation on June 12, 1997, during which I updated you as to my progress on the NJDCS's amendments, please find enclosed the following amended reports:

1. Amended July 15, 1996 Quarterly Report (Summary & Detailed Summary Pages only);
2. Amended October 15, 1996 Quarterly Report;
3. Amended 12 Day Pre-General 1996 Report;
4. Amended 30 Day Post-General 1996 Report; and
5. Amended Year End 1996 Report.

Please note that this response, including the enclosed amended reports, serves as a supplement to six (6) prior responses from the NJDCS, dated December 27, 1996, January 30, 1997, February 26, 1997, March 17, 1997, April 4, 1997 and May 12, 1997, all of which are attached to this correspondence. Additionally, please note that all FEC report balances included in this correspondence supersede any differing balances reported for identical time periods in any earlier NJDCS reports, amendments or correspondence to the FEC regarding the 1996 amendments. More specifically, the balances for the Amended April 15, 1996 Quarterly Report indicated in the NJDCS's May 12, 1997 letter

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to the FEC are accurate, but all other accurate balances (for the other five 1996 FEC reports) can be found in the five amended reports which are included with this correspondence.

**I. Amended July Quarterly Report (4/1/96 to 6/30/96)**

On October 17, 1996, prior to having received any correspondence from the FEC regarding its July 1996 Quarterly Report, the NJDSC voluntarily filed with the FEC Amended Summary and Detailed Summary Pages. Thereafter, the NJDSC received correspondence dated October 23, 1996 from the FEC requesting certain information and amendments. The October 23, 1996 FEC letter was generated without the benefit of the NJDSC's October 17, 1996 amendments. Therefore, the FEC submitted another request letter, this one dated November 14, 1996, which took into account the NJDSC October 17, 1996 amendments. Thereafter, on December 27, 1996, my predecessor, Tracy S. Zur, submitted correspondence in response to the FEC letter dated November 14, 1996, which referred to the prior FEC letter dated October 23, 1996.

***Cash on Hand Balances***

While the specifics of the NJDSC's December 27, 1996 correspondence properly addressed the various issues raised by the FEC, the NJDSC's Summary and Detailed Summary Pages were inaccurate and have now been properly amended to reflect an April 1, 1996 Cash on Hand at Beginning of Reporting Period balance of \$74,604.01 and a June 30, 1996 Cash on Hand at Close of Reporting Period balance of \$23,974.77. These balances accurately coincide with the NJDSC federal bank account balances on the corresponding dates. Please refer to the enclosed Amended July 15, 1996 Quarterly Report Summary and Detailed Summary Pages for a more detailed analysis.

***Cause of Discrepancies***

Further, while the NJDSC cannot precisely identify the exact cause of its previously reported inaccurate balances, the NJDSC is confident that the inaccuracies were caused by unfamiliarity with the software program used at the State Party to prepare the FEC reports. More specifically, certain contributions to the State Party were appearing on the appropriate FEC report line, but due to errors in tagging and identifying these contributions, the software program was not including them in the aggregate totals, thereby causing the NJDSC balances to appear lower than they actually were. Additionally, similar problems occurred with certain expenditures of the NJDSC. However, in carefully analyzing the overall reporting picture, the NJDSC is confident that, with the exception of certain data entry and software problems, it has honestly and accurately completed its FEC disclosure reports and complied with applicable election laws.

***Reconciliation of the Approximately \$17,000 Year End Discrepancy***

To avoid the necessity of repeating the foregoing paragraph in each of the following sections, please be advised that the logic of that paragraph similarly applies to each of the

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following reports, which have now been accurately revised. More specifically, the approximately \$17,000.00 Cash on Hand at Close of Reporting Period discrepancy which the NJDSC revealed to the FEC in its January 30, 1997 correspondence, which accompanied its 1996 Year End Report has now been completely remedied so that the NJDSC's Cash on Hand at Close of Reporting Period for every period in 1996, including on December 31, 1996, is precisely equal to the aggregate balances of its federal bank accounts.

## **II. Amended October Quarterly Report (7/1/96 to 9/30/96)**

The following paragraphs are in direct response to FEC letters dated February 12, February 13 and March 13, 1997 requesting additional information based upon the NJDSC's Amended October Quarterly Report.

### ***Lines 21(a)(i) and 21(a)(ii), Column B of Detailed Summary Page***

Lines 21(a)(i) and 21(a)(ii), Column B of the Detailed Summary Page are incorrect for this reporting period. Line 21(a)(i), Column B should total \$702,178.86 and Line 21(a)(ii), Column B should total \$602,404.94. Again, the totals indicated in this correspondence are the correct totals, and any previously report totals (except for those reported in the NJDSC's Amended April 15, 1996 Quarterly Report, included with its May 12, 1997 correspondence to the FEC) should be disregarded.

The NJDSC's Summary and Detailed Summary Pages have now been properly amended to reflect a July 1, 1996 Cash on Hand at Beginning of Reporting Period balance of \$23,974.77 and a September 30, 1996 Cash on Hand at Close of Reporting Period balance of \$65,293.45. These balances accurately coincide with the NJDSC federal bank account balances on the corresponding dates. Please refer to the enclosed Amended October 15, 1996 Quarterly Report Summary and Detailed Summary Pages for a more detailed analysis.

### ***Schedule A, Line 15 Offset Purposes***

An amended Schedule A, Line 15 (2 pages), which discloses receipts that specify the various offset purposes, was previously submitted as part of the NJDSC's April 4, 1997 correspondence.

### ***Schedule H3 to Support Entry Reported on Line 18 of Detailed Summary Page***

A copy of Schedule H3, which details the transactions resulting in the transfers set forth on Line 18 of the Detailed Summary Page of the October Quarterly Report, is included with the Amended October Quarterly Report, which is enclosed with this correspondence.

### ***Reconciliation of Schedules H2 & H4***

The NJDSC realizes that its Schedule H2 includes activities and/or events for which there are no corresponding disbursements on Schedule H4. Please note that after a thorough examination, the NJDSC has determined that its Schedule H4 disbursements were

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The NJDSC's Summary and Detailed Summary Pages have now been properly amended to reflect an October 1, 1996 Cash on Hand at Beginning of Reporting Period balance of \$65,293.45 and an October 16, 1996 Cash on Hand at Close of Reporting Period balance of \$92,982.19. These balances accurately coincide with the NJDSC federal bank account balances on the corresponding dates. Please refer to the enclosed Amended 12 Day Pre-General Report Summary and Detailed Summary Pages for a more detailed analysis.

***Line 12, Detailed Summary Page, & Schedule A Discrepancy***

This discrepancy has been remedied to reflect a \$69,842.42 aggregate both on Line 12, Transfers from Affiliated/Other Party Committees, of the Detailed Summary Page and on the corresponding section of itemized receipts on Schedule A.

***Schedule A, Line 15 Offset Purposes***

An amended Schedule A, Line 15 (1 page), which discloses receipts that specify the various offset purposes, was previously submitted as part of the NJDSC's April 4, 1997 correspondence.

***Schedule H3 to Support Entry Reported on Line 18 of Detailed Summary Page***

A copy of Schedule H3, which details the transactions resulting in the transfers set forth on Line 18 of the Detailed Summary Page of the 12 Day Pre-General Report, is included with the Amended 12 Day Pre-General Report, which is enclosed with this correspondence.

***Reconciliation of Schedules H2 & H4***

The NJDSC realizes that its Schedule H2 includes activities and/or events for which there are no corresponding disbursements on Schedule H4. Please note that after a thorough examination, the NJDSC has determined that its Schedule H4 disbursements were correctly reported and that the problem is software-related and specifically concerns Schedule H2, not Schedule H4. More specifically, on June 18, 1997, I spent approximately 1 and 1/2 hours on the telephone with a technical support staff member of Aristotle Publishing (producer of Campaign Manager) in an effort to produce accurate Schedule H2s which specifically correspond to each reporting period.

After much effort, Aristotle informed me that the form Schedule H2 is not reporting-period specific. In other words, unlike Schedules H3 and H4, which correspond to the specific reporting period at hand, Schedule H2 accumulates activities and events and does not have the capability to only include those activities for which there are corresponding disbursements in the reporting period in question. Aristotle assured me that they are in the process of creating an updated program which will allow the NJDSC to better conform to FEC standards in the future. The NJDSC respectfully requests that the FEC consider only those Schedule H2 entries for which there are corresponding disbursements on Schedule H4 for each reporting period in analyzing NJDSC reports, bearing in mind that the NJDSC's Schedule H4s are correct.

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correctly reported and that the problem is software-related and specifically concerns Schedule H2, not Schedule H4. More specifically, on June 18, 1997, I spent approximately 1 and 1/2 hours on the telephone with a technical support staff member of Aristotle Publishing (producer of Campaign Manager) in an effort to produce accurate Schedule H2s which specifically correspond to each reporting period.

After much effort, Aristotle informed me that the form Schedule H2 is not reporting-period specific. In other words, unlike Schedules H3 and H4, which correspond to the specific reporting period at hand, Schedule H2 accumulates activities and events and does not have the capability to only include those activities for which there are corresponding disbursements in the reporting period in question. Aristotle assured me that they are in the process of creating an updated program which will allow the NJDSC to better conform to FEC standards in the future. The NJDSC respectfully requests that the FEC consider only those Schedule H2 entries for which there are corresponding disbursements on Schedule H4 for each reporting period in analyzing NJDSC reports, bearing in mind that the NJDSC's Schedule H4s are correct.

***Schedule H2 Identifying Codes & Type of Activity & 100% Federal Activity***

The NJDSC has amended its report so that each shared activity or event listed on Schedule H2 has its own unique identifying title or code. Additionally, most activities referred to on Schedule H2 do reflect a corresponding activity box checked. However, those activities which do not have a box checked are all allocated on the 60%/40% federal/non-federal ratio for get-out-the-vote activities. The NJDSC has taken note of the fact that 100% federal activity, because it is not shared by definition, should not be disclosed on Schedules H2 and H4, and will avoid future reporting of 100% federal activity in this manner.

***Line 9, Summary Page, & Schedule C Discrepancy***

Schedule C, as originally reported, incorrectly indicated a \$500.00 debt owed to the NJDSC. This debt has been forgiven and is, therefore, no longer outstanding. Accordingly, Line 9 of the Summary Page, which indicated \$0.00 in debts owed to the NJDSC was correct as originally reported.

**III. 12 Day Pre-General Report (10/1/96 to 10/16/96)**

The following paragraphs are in direct response to FEC letters dated February 12, February 26 and March 20, 1997 requesting additional information based upon the NJDSC's 12 Day Pre-General Report.

***Lines 21(a)(i) and 21(a)(ii), Column B of Detailed Summary Page***

Lines 21(a)(i) and 21(a)(ii), Column B of the Detailed Summary Page are incorrect for this reporting period. Line 21(a)(i), Column B should total \$918,053.93 and Line 21(a)(ii), Column B should total \$723,529.17. Again, the totals indicated in this correspondence are the correct totals, and any previously report should be disregarded.

98.04.391.0028

***Schedule H2 Identifying Codes & Type of Activity & 100% Federal Activity***

The NJDSC has amended its report so that each shared activity or event listed on Schedule H2 has its own unique identifying title or code. Additionally, most activities referred to on Schedule H2 do reflect a corresponding activity box checked. However, those activities which do not have a box checked are all allocated on the 60%/40% federal/non-federal ratio for get-out-the-vote activities. The NJDSC has taken note of the fact that 100% federal activity, because it is not shared by definition, should not be disclosed on Schedules H2 and H4, and will avoid future reporting of 100% federal activity in this manner.

***IV. 30 Day Post-General Report (10/17/96 to 11/25/96)***

The following paragraphs are in direct response to FEC letters dated February 12 and March 13, 1997 requesting additional information based upon the NJDSC's 30 Day Post-General Report.

***Correction of Misdesignation of New Jersey Environmental Federation Contribution***

This issue was addressed and remedied as part of the NJDSC's April 4, 1997 correspondence to the FEC. The NJDSC reported the receipt of the \$8028.17, a non-federal in-kind contribution, as an amendment to its year-end ELEC report. Additionally, the proper designation of the in-kind contribution will be reported on Schedule B of the NJDSC's mid-year FEC report to be submitted in July of 1997.

***Transfer of Federal Overdeposit from United Brotherhood of Carpenters from Federal to Non-Federal Account***

This issue was also addressed and remedied as part of the NJDSC's April 4, 1997 correspondence to the FEC. As indicated in that correspondence the United Brotherhood of Carpenters authorized the NJDSC to retain the \$5000 UBC contribution with the understanding that the NJDSC would promptly transfer the \$5000 to its non-federal account. Again, this transfer out took place on April 1, 1997 and will be reported on Schedule B of the NJDSC's mid-year FEC report to be submitted in July of 1997.

***Lines 21(a)(i) and 21(a)(ii), Column B of Detailed Summary Page***

Lines 21(a)(i) and 21(a)(ii), Column B of the Detailed Summary Page are incorrect for this reporting period. Line 21(a)(i), Column B should total \$1,580,378.51 and Line 21(a)(ii), Column B should total \$1,214,495.55. Again, the totals indicated in this correspondence are the correct totals, and any previously report should be disregarded.

The NJDSC's Summary and Detailed Summary Pages have now been properly amended to reflect an October 17, 1996 Cash on Hand at Beginning of Reporting Period balance of \$92,982.19 and a November 25, 1996 Cash on Hand at Close of Reporting Period balance of \$36,482.07. These balances accurately coincide with the NJDSC federal bank account balances on the corresponding dates. Please refer to the enclosed Amended 30 Day Post-General Report Summary and Detailed Summary Pages for a more detailed analysis.

6200 "165" 40" 86

***Schedule H3 to Support Entry Reported on Line 18 of Detailed Summary Page***

A copy of Schedule H3, which details the transactions resulting in the transfers set forth on Line 18 of the Detailed Summary Page of the 30 Day Post-General Report, is included with the Amended 30 Day Post-General Report, which is enclosed with this correspondence.

***Schedule A, Line 15 Offset Purposes***

An amended Schedule A, Line 15 (2 pages), which discloses receipts that specify the various offset purposes, was previously submitted as part of the NJDSC's April 4, 1997 correspondence.

***Schedule F, Identities of Supported Candidates***

The identity of the candidate supported by the 441a(d) expenditures listed on Schedule F was disclosed as part of the NJDSC's May 12, 1997 correspondence to the FEC. As promised in that correspondence, as soon as the NJDSC receives a copy of the \$610 Congressman Steve Rothman check to Vision Media and the corresponding \$610 refund check from Vision Media to the NJDSC, I will send the FEC copies of both to further document this transaction.

***Disclosure of Voter Drive Allocation Percentage Ratios***

The NJDSC has taken note of the discrepancy between whether to disclose such ratios on Schedule H1 or H2. While the NJDSC understands that the FEC would like get-out-the-vote allocation percentage ratios disclosed on Schedule H1, the NJDSC, despite the assistance of its software technical support staff from Aristotle Publishing, has been unable to reflect voter drive allocations on Schedule H1. Therefore, as indicated above with regard to the October Quarterly and the Pre-General Report, the NJDSC has included such 60%/40% voter drive activities on its Schedule H2 to at least disclose such activities in a form that does not alter the federal/non-federal ratios on Schedule H4. The NJDSC would welcome some insight into how to report such voter drive activities on Schedule H1 in the future.

***Description of Itemized Disbursements***

The NJDSC's Schedule H4 descriptions of "pre-election voter drive" and "GOTV" for hundreds of its itemized disbursements during this reporting period correspond to get-out-the-vote ("GOTV") activity. More specifically, the NJDSC made payments to individuals who, in turn, knocked on doors in their communities in an effort to encourage citizens to vote. The NJDSC will in the future endeavor to include a more detailed description directly on Schedule H4.

**V. Year End Report (11/26/96 to 12/31/96)**

The following paragraphs are in direct response to FEC letters dated April 23 and May 16, 1997 requesting additional information based upon the NJDSC's Year End Report.

0300 "163" 40.86

***Lines 21(a)(i) and 21(a)(ii), Column B of Detailed Summary Page***

Lines 21(a)(i) and 21(a)(ii), Column B of the Detailed Summary Page are incorrect for this reporting period. Line 21(a)(i), Column B should total \$1,619,790.22 and Line 21(a)(ii), Column B should total \$1,251,094.78. Again, the totals indicated in this correspondence are the correct totals, and any previously report should be disregarded.

The NJDSC's Summary and Detailed Summary Pages have now been properly amended to reflect an November 26, 1996 Cash on Hand at Beginning of Reporting Period balance of \$36,482.07 and a December 31, 1996 Cash on Hand at Close of Reporting Period balance of \$26,797.85. These balances accurately coincide with the NJDSC federal bank account balances on the corresponding dates. Please refer to the enclosed Amended Year End Report Summary and Detailed Summary Pages for a more detailed analysis.

***Line 18, Column B and Line 21(a)(ii), Column B Non-federal Transfer Discrepancy***

The foregoing two (2) paragraphs affect the totals of both Line 18, Column B and Line 21(a)(ii), Column B of the Detailed Summary Page. In the Amended Year End Report, Line 18 Column B discloses \$1,313,311.48 in transfers from non-federal to federal accounts for calendar year 1996, while Line 21(a)(ii), Column B discloses \$1,251,094.78 as the non-federal share for joint activity for the calendar year 1996, a difference of \$62,216.70. After a thorough review of all of the NJDSC's 1996 reports, it appears that this discrepancy began with the 12 Day Pre-General Report and increased during the 30 Day Post-General and Year End Reports.

Further, while unable to exactly pinpoint the cause or, more likely, causes of the discrepancy, the NJDSC believes the discrepancy arose in connection with the NJDSC's massive get-out-the-vote effort. It is important to note that much money was disbursed to New Jersey's county democratic organizations, as well as directly to hundreds of individuals in an effort to mobilize voters. The explanation appears to be that the overtransfer is attributable to transfers that included the non-federal shares of federal checks which were later voided. More specifically, thousands of dollars in get-out-the-vote disbursements were prepared, and the corresponding and allowable transfers were made. However, it appears that the NJDSC inadvertently did not transfer back from federal to non-federal accounts the appropriate non-federal shares of the voided checks in question.

The NJDSC fully intends to transfer back the difference to the non-federal account as soon as the NJDSC is financially able to do so in accordance with the recommendation of the FEC. At the present time, however, NJDSC federal account balances are insufficient to allow such a transfer. Toward compliance with the FEC recommendation to transfer back the difference, the NJDSC respectfully points out that it did not transfer the non-federal share totaling \$33,991.11 from its non-federal accounts to its federal accounts for joint activities spanning the time frame of May 29 to June 18, 1997 due to not having sufficient non-federal account balances which would permit such transfers to NJDSC federal accounts. In other words, the NJDSC proposes that the FEC count the non-federal

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share totaling \$33,991.11 that the NJDSC did not transfer to federal accounts against the difference of \$62,216.70, thereby reducing the balance which must still be transferred back from federal to non-federal accounts to \$28,225.59.

]KD

***Line 26, Loan Repayments Made***

The NJDSC has neither obtained any loans during the course of 1996 nor had any other loans outstanding during 1996 and is, therefore, uncertain as to the specific nature of the FEC's request that the NJDSC "provide a Schedule B to support the entry reported on Line 26 of the Detailed Summary Page." The NJDSC did not repay any loans during this reporting period in that it had no outstanding loans.

***Description of Itemized Disbursements***

The NJDSC's Schedule H4 descriptions of "pre-election voter drive" and "GOTV" for hundreds of its itemized disbursements during this reporting period correspond to get-out-the-vote ("GOTV") activity. More specifically, the NJDSC made payments to individuals who, in turn, knocked on doors in their communities in an effort to encourage citizens to vote. The NJDSC will in the future endeavor to include a more detailed description directly on Schedule H4.

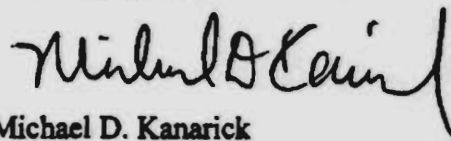
***American Express Payment and Corresponding Memo Entries***

The reason the total December 26, 1996 American Express disbursement reported (\$1,520.52) is less than the sum of the memo entries (\$5,483.39) is because the NJDSC had a \$4,189.05 credit with American Express resulting from an October 20, 1996, overpayment to American Express. The total new charges on the December 11, 1996 American Express bill were \$6,571.07, leaving an outstanding balance of \$2,382.02 after applying the credit. That outstanding balance was paid in two payments: the December 26, 1996 payment of \$1,520.52; and the January 13, 1997 payment of \$861.50.

**VI. Conclusion**

The NJDSC has made its best efforts to address each FEC information request in connection with the NJDSC's 1996 FEC Reports, and is confident that all of the foregoing, coupled with the enclosed amended reports, should serve to answer these requests. If you find that any particular issue remains unaddressed or that the FEC would like further explanation, the NJDSC will endeavor to address such issues expeditiously. If unavailable at the telephone number listed below, I can be reached at (908) 280-2400. Once again, thank you very much for your cooperation and patience during the NJDSC's investigation and remedying of these matters.

Very truly yours,



Michael D. Kanarick  
Finance Director

98.04.391.0032

# **DETAILED SUMMARY PAGE** **OF RECEIPTS AND DISBURSEMENTS** **PAGE 2, FEC FORM 3X**

(revised 1/1/91)

NAME OF COMMITTEE New Jersey Democratic State Committee		REPORT COVERING PERIOD FROM 11/28/96 TO: 12/31/96	
I. RECEIPTS		COLUMN A Total This Period	COLUMN B Calendar Year
11. Contributions (other than loans) From:			
a. Individuals/Persons Other Than Political Committees			
i. Itemized (Use Schedule A)	\$7000.00	\$579188.15	11(a)(i)
ii. Unitemized	\$185.00	\$31885.54	11(a)(ii)
iii. Total of contributions from individual (add i and ii)	\$7185.00	\$610734.69	11(a)(iii)
b. Political Party Committees	\$0.00	\$21790.00	11(b)
c. Other Political Committees (such as PACs)	\$1021.46	\$182150.82	11(c)
d. Total Contributions (add a iii, b and c)	\$8186.46	\$814675.31	11(d)
12. Transfers From Affiliated/Other Party Committees	\$8677.34	\$852106.29	12
13. All Loans Received	\$0.00	\$0.00	13
14. Loan Repayments Received	\$0.00	\$0.00	14
15. Offsets To Operating Expenditures (Refunds, Rebates, etc.)	\$3571.87	\$198543.42	15
16. Refunds of Contributions Made to Federal Candidates and Other Political Committees	\$0.00	\$167.00	16
17. Other Federal Receipts (Dividends, Interest, etc.)	\$120.12	\$6342.22	17
18. Transfers from Nonfederal Account for Joint Activity	\$48292.39	\$1313311.48	18
19. Total Receipts (add 11d, 12, 13, 14, 15, 16, 17, and 18)	\$68848.18	\$2983146.72	19
20. Total Federal Receipts (subtract line 18 from line 19)	\$18555.79	\$1669834.24	20
II. DISBURSEMENTS			
21. Operating Expenditures:			
a. Shared Federal/Non Federal Activity (from Schedule H4)			
i. Federal Share	\$39411.71	\$1619790.22	21(a)(i)
ii. Non-Federal Share	\$36599.23	\$1251094.78	21(a)(ii)
b. Other Federal Operating Expenditures	\$521.48	\$26188.12	21(b)
c. Total Operating Expenditures (add a i, a ii, and b)	\$76532.40	\$2897073.12	21(c)
22. Transfers to Affiliated/Other Party Committees	\$0.00	\$0.00	22
23. Contributions to Federal Candidates/Committees and Other Political Committees	\$0.00	\$44089.95	23
24. Independent Expenditures (use Schedule E)	\$0.00	\$0.00	24
25. Coordinated Expenditures Made by Party Committees (2 U.S.C. 441a(d))	\$0.00	\$41520.00	25
26. Loan Repayments Made	\$0.00	\$0.00	26
27. Loans Made	\$0.00	\$0.00	27
28. Refunds of Contributions To:			
a. Individuals/Persons Other Than Political Committees	\$0.00	\$1800.00	28(a)
b. Political Party Committees	\$0.00	\$0.00	28(b)
c. Other Political Committees (such as PACs)	\$0.00	\$0.00	28(c)
d. Total Contribution Refunds (add a, b and c)	\$0.00	\$1800.00	28(d)
29. Other Disbursements	\$0.00	\$568.15	29
30. Total Disbursements (add 21c, 22, 23, 24, 25, 26, 27, 28d, and 29)	\$76532.40	\$2984831.22	30
31. Total Federal Disbursements (subtract line 21 a ii from line 30)	\$39933.17	\$1733736.44	31
III. Net Contributions/Operating Expenditures			
32. Total Contributions (other than loans)(from line 11d)	\$8186.46	\$814675.31	32
33. Total Contribution Refunds (from line 28d)	\$0.00	\$1800.00	33
34. Net Contributions (other than loans)(subtract line 33 from 32)	\$8186.46	\$813075.31	34
35. Total Federal Operating Expenditures (add 21 a i and 21 b)	\$39933.17	\$1645978.34	35
36. Offsets to Operating Expenditures (from line 15)	\$3571.87	\$198543.42	36
37. Net Operating Expenditures (subtract line 36 from 35)	\$36361.30	\$1449434.92	37

98-04-393



# New Jersey Democratic State Committee

RECEIVED  
FEDERAL ELECTION  
COMMISSION MAIL ROOM  
Attachment 9  
Page 1 of 3

AUG 3 3 46 PM '97

July 31, 1997

(via Certified Mail, Return Receipt Requested)

Mr. Kenneth A. Davis, Jr.  
Reports Analyst, Reports Analysis Division  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

Re: New Jersey Democratic State Committee  
FEC ID No. C00104471

Dear Mr. Davis,

**I. 1997 Mid-Year Report (1/1/97 to 6/30/97)**

Enclosed within please find the New Jersey Democratic State Committee's ("NJDCS") July 31, 1997 Mid-Year Report. Based upon the gathering by the NJDCS of information and suggestions provided by the Federal Election Commission ("FEC") during the NJDCS's many telephone conferences and correspondence with the FEC over the past seven (7) months while the NJDCS was in the process of amending its 1996 FEC reports, the NJDCS has endeavored to completely and accurately prepare its 1997 Mid-Year Report and is confident that it has done so. Of course, the NJDCS will promptly provide the FEC with any further information the FEC deems necessary for a thorough evaluation of this report.

Please note that the NJDCS has included a total of four (4) Schedule H's as part of its 1997 Mid-Year Report: (1) 1997 Method of Allocation for Shared Federal and Non-Federal Administrative Expenses; (2) 1997 Method of Allocation for Shared Federal and Non-Federal Generic Voter Drive Costs; (3) 1996 Method of Allocation for Shared Federal and Non-Federal Administrative Expenses; and (4) 1996 Method of Allocation for Shared Federal and Non-Federal Generic Voter Drive Costs. Due to the fact that certain 1996 expenditures were paid in the early part of 1997 on the 1996 50%/50% administrative and the 1996 60%/40% generic voter drive allocation ratios, the NJDCS included as part of its 1997 Mid-Year Report 1996 Schedule H's in addition to its 1997 Schedule H's. Incidentally, the NJDCS's 1997 administrative allocation ratio is 17%/83% and its 1997 generic voter drive allocation ratio is 0%/100%.



## **II. Remaining 1996 Amendment Issues**

The following paragraphs address the remaining issues relative to the NJDSC's amendments of its 1996 FEC reports.

### ***Itemization of Transfers from Non-Federal Accounts on Schedule H3***

Pursuant to our telephone conversation on July 9, 1997, it has come to the attention of the NJDSC that it is not necessary to itemize transfers from NJDSC non-federal accounts to NJDSC federal accounts on Schedule A, Line. The NJDSC understands that all transfers received into NJDSC federal accounts from NJDSC non-federal accounts for joint activity should be itemized on Schedule H3. To the extent that the NJDSC's Amended 1996 Reports included Schedule A, Line 18, in addition to Schedule H3, please disregard Line 18 of those Schedule As. Accordingly, please note that the NJDSC's July 31, 1997 Mid-Year Report correctly itemizes all transfers received from NJDSC non-federal accounts for joint activity on Schedule H3, and not on Line 18, Schedule A.

### ***441a(d) Authority***

As previously disclosed to the FEC in correspondence dated May 12, 1997 (p. 2) and June 20, 1997 (p. 7), the NJDSC exceeded its 441a(d) authority expenditure limit by \$610 on behalf of Congressman Steve Rothman during the 1996 election cycle. However, at this point in time, the overexpenditure situation has been remedied. In early July, 1997, Congressman Rothman's office wrote a check payable to Vision Media Marketing, Inc., for \$610, and on July 14, 1997, Vision Media wrote a check payable to the NJDSC for \$610. Therefore, the NJDSC, having now received and deposited the \$610 refund check from Vision Media, has expended its allowable 441a(d) authority expenditure limit as detailed in the NJDSC's May 12, 1997 correspondence to the FEC. While the NJDSC was unable to obtain a copy of Congressman Rothman's \$610 check to Vision Media, attached hereto is a copy of Vision Media's \$610 check payable to the NJDSC. Because the NJDSC deposited Vision Media's check on July 16, 1997, it will not appear on an FEC report until January, 1998, when the NJDSC files its 1997 Year End Report.

### ***1996 Overtransfer of Non-Federal Allocation***

As indicated in the NJDSC's June 20, 1997 (p. 8) correspondence to the FEC, the NJDSC is aware that its aggregate 1996 "Transfers from Non-Federal Account for Joint Activity" (at Line 18, Column B of the Detailed Summary Page of the 1996 Year End Report) was reported to be \$62,216.70 greater than its aggregate 1996 "Non-Federal Share of Operating Expenditures" (at Line 21a.ii., Column B of the Detailed Summary Page of the 1996 Year End Report). While the NJDSC is in the process of fundraising to sufficiently enable the NJDSC to transfer back from federal to non-federal accounts the accurate amount of the overtransfer, the NJDSC is endeavoring to determine the correct amount of the overtransfer.

In other words, while on paper, the overtransfer appears to be \$62,216.70, the NJDSC is concerned that certain of its allocation ratios utilized on both its Schedule H2s and H4s during the course of 1996 may have been incorrect, thereby inadvertently indicating an improper 1996 "non-federal share of operating expenditures," which was less than the

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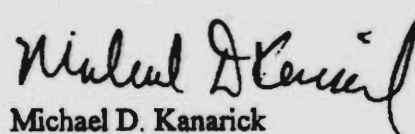
allowable aggregate transfer for 1996. For example, it the NJDSC properly paid a 1996 \$10,000 administrative expense with a check from its federal account and properly reimbursed its federal account with \$5,000 from its non-federal account, based upon the 50%/50% administrative allocation ratio in effect in 1996, yet improperly indicated on its Schedule H4 that the expense was a 60%/40% allocation ratio expense, thereby improperly indicating the non-federal share of the expense to be \$4,000 instead of \$5,000, it would appear that the NJDSC overtransferred its allowable non-federal share by \$1,000. Yet from the above hypothetical scenario, there was in fact no overtransfer, but rather an error in the coding of the expense involved.

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Based upon the foregoing, the NJDSC is reexamining its 1996 Amended Reports to determine whether the apparent amount of the overtransfer (\$62,216.70) is in fact lower than it appears to be or nonexistent. As soon as the NJDSC has completed this review, it will notify the FEC of its findings.

Thank you again for your cooperation with the NJDSC as it has worked to accurately amend its 1996 FEC reports and to move forward with accurate 1997 reports.

Very truly yours,



Michael D. Kanarick  
Finance Director

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# New Jersey Democratic State Committee

RECEIVED  
FEDERAL ELECTION  
AUG 26 11 59 AM '97

August 21, 1997

Thomas F. Giblin  
Chairman

Mr. Kenneth A. Davis, Jr.  
Reports Analyst, Reports Analysis Division  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

Re: New Jersey Democratic State Committee  
FEC ID No. C00104471

Dear Mr. Davis,

## *1996 Overtransfer of Non-Federal Allocation*

As indicated in the NJDSC's June 20, 1997 (p. 8) and July 31, 1997 (p. 2) correspondence to the FEC, the NJDSC is aware that its aggregate 1996 "Transfers from Non-Federal Account for Joint Activity" (at Line 18, Column B of the Detailed Summary Page of the 1996 Year End Report) was reported to be \$62,216.70 greater than its aggregate 1996 "Non-Federal Share of Operating Expenditures" (at Line 21a.ii., Column B of the Detailed Summary Page of the 1996 Year End Report). The NJDSC is still in the process of both (1) fundraising to sufficiently enable the NJDSC to transfer back from federal to non-federal accounts the accurate amount of the overtransfer and (2) endeavoring to determine the correct amount of the overtransfer.

However, as a first step toward remedying this discrepancy, the NJDSC has transferred \$15,000 from its federal account number 906701341 to its nonfederal account number 906702097 at Summit Bank, 150 West State Street, Trenton, NJ 08608. The transfer took place today, August 21, 1997. Attached you will find the NJDSC's transfer request memorandum to Summit bank, along with bank receipts indicating that the transfer occurred. This transfer will be reported on the NJDSC's 1997 Year End Report when filed in January 1998.

Accordingly, unless the NJDSC is able to demonstrate that its overtransfer was less than \$62,216.70, the NJDSC must still transfer back from federal to nonfederal accounts \$47,216.70.

Thank you for your cooperation in this matter.

Very truly yours,

*Michael D. Kanarick*  
Michael D. Kanarick  
Finance Director

98.04.391.0037



# New Jersey Democratic State Committee

Thomas P. Giblin  
Chairman

TO: Summit Bank  
FROM: Michael Kanarick, Finance Director  
DATE: August 21, 1997  
RE: Transfer

Mike

Please make the following transfer:

1. \$15,000.00 from NJDSC FEC Account  
Account

to NJDSC Asset Mgt.

Thank you for your assistance.

98.04.391.0038

**SUMMIT**  
BANK

WE HAVE CREDITED YOUR CHECKING ACCOUNT AS FOLLOWS:

transfer to acct. Michael  
Leavitt

NT DSC

98.04.391.0039

Date: 04/15/98

ENTER ACCOUNT NUMBER IN BOXES BELOW

\$

150,000.00

CNOA 205

BRANCH / DEPT.

Leavitt

PREPARED BY

Leavitt

APPROVED BY

CUSTOMER COPY

97032371946



**SUMMIT  
BANK**

WE HAVE CHARGED YOUR CHECKING ACCOUNT AS FOLLOWS:

transfer w/ per Michael Kammund

FNS DSC

L

\$

15000.00

CUD # 205

BRANCH / DEPT.

Della Mason

PREPARED BY

[Signature]

APPROVED BY

CUSTOMER COPY

98.04.391.0049

Date

02-11-98

ENTER ACCOUNT NUMBER IN BOXES BELOW

97032371947

FEDERAL ELECTION COMMISSION  
999 E Street, N.W.  
Washington, D.C. 20463

FEDERAL ELECTION  
COMMISSION  
CENTRAL MAIL

MAY 14 11 20 PM '98

FIRST GENERAL COUNSEL'S REPORT

**SENSITIVE**

RAD REFERRAL: 97L-21  
DATE ACTIVATED: 1/15/98

STAFF MEMBER: Nancy E. Bell

SOURCE: INTERNALLY GENERATED

RESPONDENTS: New Jersey Democratic State Committee  
and Raul "Rudy" Garcia, as Treasurer

RELEVANT STATUTES: 2 U.S.C. § 441a(f)  
2 U.S.C. § 441b(a)  
11 C.F.R. § 102.5(a)(1)(i)  
11 C.F.R. § 106.5(d)  
11 C.F.R. § 106.5(f)  
11 C.F.R. § 106.5(g)

INTERNAL REPORTS CHECKED: Referral Materials and Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter was generated from the Reports Analysis Division ("RAD"). According to the referral, the New Jersey Democratic State Committee ("the Committee") received apparent excessive transfers of funds from its non-federal account totaling \$62,216.70 in excess of the non-federal account's allocable amount for shared activity.

II. FACTUAL AND LEGAL ANALYSIS

The Federal Election Campaign Act of 1971, as amended ("the Act") prohibits the making or knowing acceptance of corporate or labor organization contributions or expenditures in connection with a federal election. 2 U.S.C. § 441b(a). For purposes of this section, the Act

98-04-391-0041

defines "contribution" or "expenditure" to include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value to any candidate, campaign committee, or political party in connection with any [federal] election.

2 U.S.C. § 441b(b)(2); 11 C.F.R. § 114.1(a)(1). Further, the Act provides that no person or multicandidate political committee ("PAC") shall make contributions to a state or local party committee's federal account in any calendar year which in the aggregate exceed \$5,000, and prohibits the state or local committee from knowingly accepting such contributions.

2 U.S.C. § 441a(a) and (f). See also 11 C.F.R. § 110.3f(b)(3). Under New Jersey law, individual and PAC contributions and corporate and labor union monies to political party state committees are permitted up to \$25,000 per year. NJSA § 19:44A-11.4.

Where a committee such as the New Jersey Democratic State Committee has established both a federal and a non-federal account, "only funds subject to the limitations and prohibitions of the Act shall be deposited in such separate federal account." 11 C.F.R. § 102.5(a)(1)(i). Except for the limited circumstances provided in 11 C.F.R. §§ 106.5(g) and 106.6(e), no transfers may be made to a federal account from any other accounts maintained by the committee for the purpose of financing non-federal election activity. Id.

A state party committee that has established separate federal and non-federal accounts must pay the entire amount of an allocable expense from its federal account and shall transfer funds from its non-federal account to its federal account solely to cover the non-federal share of that allocable expense. 11 C.F.R. § 106.5(g)(1)(i). For each transfer of funds from a committee's non-federal account to its federal account, the committee must itemize in its reports the allocable activities for which the transferred funds are intended to pay, as required by

98.04.391.0042

11 C.F.R. § 104.10(b)(3); 11 C.F.R. § 106.5(g)(2)(ii)(A). Moreover, such funds cannot be transferred more than 10 days before or more than 60 days after the payment for which they are designated is made ("70-day window"). 11 C.F.R. § 106.5(g)(2)(ii)(B). Furthermore, if the requirements of 11 C.F.R. § 106.5(g)(2)(ii)(A) are not met, any portion of a transfer from a committee's non-federal account to its federal account shall be presumed to be a loan or contribution from the non-federal account to a federal account, in violation of the Act. 11 C.F.R. § 106.5(g)(2)(iii). Since transfers from a non-federal account to a federal account may be made solely to cover the non-federal share of an allocable expense, transfers to a federal account for the purpose of financing purely non-federal activity are prohibited. See MUR 4413 (New York Republican Federal Campaign Committee).

According to the RAD referral, the Detailed Summary Sheet of the Committee's Amended 1996 Year End Report disclosed considerably more funds transferred in from the non-federal account than were expended for the non-federal allocable share for the calendar year total. For the calendar year January 1, 1996 through December 31, 1996, the Amended 1996 Year End report showed a transfer-in of \$1,313,311.48, a non-federal share of \$1,251,094.78, and an apparent excessive transfer of funds totaling \$62,216.70.

On the Committee's original 1996 Year End Report, the year-to-date amount transferred-in, \$1,330,158.51, was significantly greater than the amount of reported year to date non-federal shared activity, \$1,246,494.75. RAD questioned the transfers and notified the Committee, by a Request for Additional Information ("RFAI") dated April 23, 1997, of the apparent excessive transfer and recommended that the Committee immediately transfer the total amount received in excess of the non-federal share back to the non-federal account. On June 23, 1996, the

98-04-391-0043



Committee filed an Amended 1996 Year End Report which included an amended transferred-in total of \$1,313,311.48 and an amended non-federal share activity total of \$1,251,094.78, as well as a statement that the Committee had made too many transfers from the non-federal account due to the large number of get-out-the-vote activities. The Committee's Financial Director, Michael D. Kanarick, stated to RAD that:

The explanation appears to be that the overtransfer is attributable to transfers that included the non-federal shares of federal checks which were later voided. More specifically, thousands of dollars in get-out-the-vote disbursements were prepared, and the corresponding and allowable transfers were made. However, it appears that the NJDSC inadvertently did not transfer back from federal to non-federal accounts the appropriate non-federal shares of voided checks in question.

The Committee further stated that the apparent \$62,216.70 excessive transfer would be transferred back to the non-federal account as soon as the Committee was financially able to do so. Since that time, the Committee has transferred back the \$62,216.70 as follows: 1) \$15,000 on August 15, 1997 (see Attachment 4); 2) \$10,000 on September 12, 1997 (see Attachment 5); 3) \$10,000 on October 20, 1997 (see Attachment 6); 4) \$17,216.70 on October 22, 1997 (Id.); and 5) \$10,000 on October 24, 1997 (Id.).

On further analysis by this Office, it appears that the Committee may have transferred amounts totaling up to \$117,009.49 in excess into the federal account for non-federal activity in five separate reporting periods in 1996. For the period January 1, 1996 through March 30, 1996, the 1996 April Quarterly Report shows a transfer-in of \$135,742.04 and a non-federal share of \$90,480.56, disclosing a \$45,261.48 transfer which may have been excessive. For the period July 1, 1996 through September 30, 1996, the Amended 1996 October Quarterly Report showed a transfer-in of \$377,912.54 and a non-federal share of \$370,136.87, disclosing a \$7,775.67

98-04-391-0044

transfer which may have been excessive. For the period October 1, 1996 through October 16, 1996, the Amended 1996 12 Day Pre-General Report showed a transfer-in of \$136,404.30 and a non-federal share of \$121,124.23, disclosing a \$15,280.07 transfer which may have been excessive. For the period October 17, 1996 through November 25, 1996, the Amended 1996 30 Day Post-General Report showed a transfer-in of \$527,965.49 and a non-federal share of \$490,966.38, disclosing a \$36,999.11 transfer which may have been excessive. And, finally, for the period November 26, 1996 through December 31, 1996, the Amended 1996 Year End Report showed a transfer-in of \$48,292.39 and a non-federal share of \$36,599.23, disclosing a \$11,693.16 transfer which may have been excessive. See Attachment 3.

Additionally, for the period April 1, 1996 through June 30, 1996, the 1996 July Quarterly Report showed a transfer-in of \$86,994.72 and a non-federal share of \$141,274.40, disclosing a \$54,279.68 under-transfer. Therefore, it appears that the Year-to-date excessive transfer figure of \$62,216.70<sup>1</sup>, rather than \$117,009.49, was reported as the year end figure because of the \$54,279.68 under-transfer. Id. Thus, for calendar year 1996, the non-federal account made transfers to the federal account totaling as much as \$117,009.49 in excess of the allocable non-federal amount for shared political activity. The actual amount of the excessive transfer may be less than \$117,009.49 due to the offsetting effect of the "70-day window."

Finally, during 1996, the Committee failed to include a Schedule H3 (itemizes transfers) in its Amended 1996 July Quarterly, 1996 October Quarterly, 1996 12 Day Pre-General, and 1996 30 Day Post General. This missing information, in addition to the inadequate response provided by the Committee regarding the year end overtransfer figure, prevented the tracking

<sup>1</sup> The correct Year-to-date figure for excessive transfers is \$62,729.81. The Committee erred in its calculation of their Year-to-date figures on their original and amended 1996 Year End Reports.

and/or matching by RAD of transfers from the non-federal account to payments made from the federal account during the "70-day window" surrounding the undertransfer.<sup>2</sup> Review of the 1996 April Quarterly and the 1996 July Quarterly, though, reveals that the Committee, at best, could possibly account for/offset a modest portion of the overtransfer amount with the 1996 July Quarterly undertransfer.

Based on this information, it appears that the New Jersey Democratic State Committee did not properly allocate expenses between its federal and non-federal committees, and the non-federal account transfers to the federal account contained funds prohibited in connection with federal elections. Therefore, this Office recommends that the Commission find reason to believe that the New Jersey Democratic State Committee and Raul "Rudy" Garcia, as treasurer violated 2 U.S.C. §§ 441b(a) and 441a(f) and 11 C.F.R. §§ 102.5(a)(1)(i) and 106.5(g)(1)(i) in this matter.<sup>3</sup> Further, this Office will attempt to engage the Committee to better determine whether the actual amount of the excessive transfer could be lower than \$117,009.49 due to the offsetting effect of the "70-day window" and then will make a further report to the Commission.

#### IV. RECOMMENDATIONS

1. Open a MUR.
2. Find reason to believe that the New Jersey Democratic State Committee and Raul "Rudy" Garcia, as treasurer, violated 2 U.S.C. §§ 441b(a) and 441a(f) and 11 C.F.R. §§ 102.5(a)(1)(i) and 106.5(g)(1)(i).

<sup>2</sup> These schedule H3s were eventually filed with the Commission on December 27, 1996 for the Amended 1996 July Quarterly and on June 20, 1997 for the 1996 October Quarterly, the 1996 12 Day Pre-General, and the 1996 30 Day Post General.

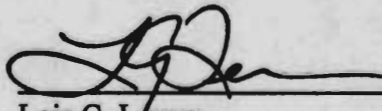
<sup>3</sup> In an analogous situation where a committee appeared to have violated 11 C.F.R. §§ 102.5 and 106.5 by impermissible transfers from a non-federal account to an allocation account, the Commission found reason to believe that the Committee may also have violated § 441b if the non-federal account contained corporate or labor organization funds at the time of the transfer. See MUR 4413 (New York Republican Federal Campaign Committee).

3. Approve the attached Factual and Legal Analysis and the appropriate letter.

Lawrence M. Noble  
General Counsel

5/14/98  
Date

BY:

  
Lois G. Lerner  
Associate General Counsel

Attachments:

1. Factual and Legal Analysis
2. Chart
3. Correspondence from Committee, dated August 21, 1997
4. Correspondence from Committee, dated September 15, 1997
5. Correspondence from Committee, dated December 3, 1997

98.04.391.0047





FEDERAL ELECTION COMMISSION  
Washington, DC 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE  
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/VENESHE FEREBEE-VINES  
COMMISSION SECRETARY

DATE: MAY 20, 1998

SUBJECT: RAD Referral #97L-21 - First General Counsel's Report  
dated April 23, 1998.

V7V

The above-captioned document was circulated to the Commission  
on Friday, May 15, 1998.

Objection(s) have been received from the Commissioner(s) as  
indicated by the name(s) checked below:

Commissioner Aikens	—
Commissioner Elliott	—
Commissioner McDonald	<u>XXX</u>
Commissioner McGarry	—
Commissioner Thomas	—

This matter will be placed on the meeting agenda for  
Tuesday, June 2, 1998.

Please notify us who will represent your Division before the Commission on this  
matter.

98.04.391.0048

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

New Jersey Democratic State Committee  
and Raul "Rudy" Garcia, as Treasurer.

) (MUR 4751)  
)  
) RAD Referral  
) #97L-21

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on May 28, 1998, the Commission decided by a vote of 5-0 to take the following actions in RAD Referral #97L-21:

1. Open a MUR.
2. Find reason to believe that the New Jersey Democratic State Committee and Raul "Rudy" Garcia, as treasurer, violated 2 U.S.C. §§ 441b(a) and 441a(f) and 11 C.F.R. §§ 102.5(a)(1)(i) and 106.5(g)(1)(i).
3. Approve the Factual and Legal Analysis, and the appropriate letter, as recommended in the General Counsel's Report dated May 14, 1998.

Commissioners Aikens, Elliott, McDonald, McGarry, and Thomas voted affirmatively for the decision.

Attest:

5-28-98  
Date

Marjorie W. Emmons  
Marjorie W. Emmons  
Secretary of the Commission

Received in the Secretariat:	Thurs., May 14, 1998	4:10 p.m.
Circulated to the Commission:	Fri., May 15, 1998	12:00 p.m.
Deadline for vote:	Wed., May 20, 1998	4:00 p.m.
Received Objection:	Wed., May 20, 1998	4:57 p.m.
Placed on Agenda for:	Tues., June 02, 1998	
Objection Withdrawn:	Wed., May 28, 1998	1:34 p.m.
Withdrawn from Agenda		

lrd

98-04-391-0049



**FEDERAL ELECTION COMMISSION**

Washington, DC 20463

*June 2, 1998*

Raul "Rudy" Garcia, Treasurer  
New Jersey Democratic State Committee  
150 West State Street  
Trenton, NJ 08608

RE: MUR 4751

Dear Mr. Garcia:

On May 28, 1998, the Federal Election Commission found that there is reason to believe New Jersey Democratic State Committee ("Committee") and you, as treasurer, violated 2 U.S.C. §§ 441b (a) and 441a(f), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act") and 11 C.F.R. §§ 102.5 (a)(1)(i) and 106.5 (g)(1)(i), provisions of the Code of Federal Regulations. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be

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98-04-391-0050

demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Nancy E. Bell, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

*Joan D. Aikens*

Joan D. Aikens  
Chairman

Enclosures

Factual and Legal Analysis

Procedures

Designation of Counsel Form

1500-166-40-86  
98-04-391-0051



**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: New Jersey Democratic State  
Committee and Raul "Rudy"  
Garcia, as treasurer

MUR: 4751

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. 437g(a)(2).

The Federal Election Campaign Act of 1971, as amended ("the Act") prohibits the making or knowing acceptance of corporate or labor organization contributions or expenditures in connection with a federal election. 2 U.S.C. § 441b(a). For purposes of this section, the Act defines "contribution" or "expenditure" to include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value to any candidate, campaign committee, or political party in connection with any [federal] election.

2 U.S.C. § 441b(b)(2); 11 C.F.R. § 114.1(a)(1). Further, the Act provides that no person or multicandidate political committee ("PAC") shall make contributions to a state or local party committee's federal account in any calendar year which in the aggregate exceed \$5,000, and prohibits the state or local committee from knowingly accepting such contributions. 2 U.S.C. § 441a(a) and (f). See also 11 C.F.R. § 110.31(b)(3). Under New Jersey law, individual and PAC contributions as and corporate and labor union monies to political party state committees are permitted up to \$25,000 per year. NJSA §19:44A-11.4.

98.04.391.0052

Where a committee such as the New Jersey Democratic State Committee has established both a federal and a non-federal account, "only funds subject to the limitations and prohibitions of the Act shall be deposited in such separate Federal account." 11 C.F.R. § 102.5(a)(1)(i). Except for the limited circumstances provided in 11 C.F.R. §§ 106.5(g) and 106.6(e), no transfers may be made to a federal account from any other accounts maintained by the committee for the purpose of financing non-federal election activity. Id.

As stated above, the Act prohibits corporations and labor organizations from making contributions in connection with federal elections, and prohibits political committees from knowingly accepting such contributions. 2 U.S.C. § 441b(a). Accordingly, contributions, disbursements or transfers from non-federal accounts of registered committees that include corporate and labor organization contributions are in violation of the Act. 2 U.S.C. §§ 441b(a) and 441a.

In addition, a state party committee that has established separate federal and non-federal accounts must pay the entire amount of an allocable expense from its federal account and shall transfer funds from its non-federal account to its federal account solely to cover the non-federal share of that allocable expense. 11 C.F.R. § 106.5(g)(1)(i). For each transfer of funds from a committee's non-federal account to its federal account, the committee must itemize in its reports the allocable activities for which the transferred funds are intended to pay, as required by 11 C.F.R. § 104.10(b)(3); 11 C.F.R. § 106.5(g)(2)(ii)(A). Moreover, such funds cannot be transferred more than 10 days before or more than 60 days after the payment for which they are designated is made ("70-day window"). 11 C.F.R. § 106.5(g)(2)(ii)(B). Furthermore, if the requirements of 11 C.F.R. § 106.5(g)(2)(ii)(A) are not met, any portion of a transfer from a

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98-04-391-0053

committee's non-federal account to its federal account shall be presumed to be a loan or contribution from the non-federal account to a federal account, in violation of the Act. 11 C.F.R. § 106.5(g)(2)(iii).

The Detailed Summary Sheet of the Committee's Amended 1996 Year End Report disclosed considerably more funds transferred in from the non-federal account than were expended for the non-federal allocable share for the calendar year total. For the calendar year January 1, 1996 through December 31, 1996, the 1996 amended Year End report showed a transfer-in of \$1,313,311.48 and a non-federal share of \$1,251,094.78.

On the Committee's original 1996 Year End Report, the year-to-date amount transferred-in, \$1,330,158.51, was significantly greater than the amount of reported year-to-date non-federal shared activity, \$1,246,494.75. The Commission questioned the transfers and notified the Committee, by a Request for Additional Information ("RFAI") dated April 23, 1997, of the apparent excessive transfer and recommending that the Committee immediately transfer the total amount received in excess of the non-federal share back to the non-federal account. On June 23, 1996, the Committee filed an Amended 1996 Year End report which included an amended transferred-in total of \$1,313,311.48 and an amended non-federal shared activity total of \$1,251,094.78, as well as a statement that the Committee had made too many transfers from the non-federal account due to the large number of get-out-the-vote activities. The Committee's Financial Director, Michael D. Kanarick stated to RAD that:

The explanation appears to be that the overtransfer is attributable to transfers that included the non-federal shares of federal checks which were later voided. More specifically, thousands of dollars in get-out-the-vote disbursements were prepared, and the corresponding and allowable transfers were made. However, it appears that the NJDSC inadvertently did not transfer back from federal to non-federal accounts the appropriate non-federal shares of voided checks in question.

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98-04-391-0054

The Committee further stated that the apparent \$62,216.70 excessive transfer would be transferred back to the non-federal account as soon as the Committee was financially able to do so. Since that time, the Committee has transferred back the \$62,216.70 as follows: 1) \$15,000 on August 15, 1997; 2) \$10,000 on September 12, 1997; 3) \$10,000 on October 20, 1997; 4) \$17,216.70 on October 22, 1997; and 5) \$10,000 on October 24, 1997.

On further analysis by the Commission, it appears that the Committee may have transferred amounts totaling up to \$117,009.49 in excess into the federal account for non-federal activity in five separate reporting periods in 1996. For the period January 1, 1996 through March 30, 1996, the 1996 April Quarterly Report shows a transfer-in of \$135,742.04 and a non-federal share of \$90,480.56, disclosing a \$45,261.48 transfer which may have been excessive. For the period July 1, 1996 through September 30, 1996, the Amended 1996 October Quarterly Report showed a transfer-in of \$377,912.54 and a non-federal share of \$370,136.87, disclosing a \$7,775.67 transfer which may have been excessive. For the period October 1, 1996 through October 16, 1996, the Amended 1996 12 Day Pre-General Report showed a transfer-in of \$136,404.30 and a non-federal share of \$121,124.23, disclosing a \$15,280.07 transfer which may have been excessive. For the period October 17, 1996 through November 25, 1996, the Amended 1996 30 Day Post-General showed a transfer-in of \$527,965.49 and a non-federal share of \$490,966.38, disclosing a \$36,999.11 transfer which may have been excessive. And, finally, for the period November 26, 1996 through December 31, 1996, the Amended 1996 Year End Report showed a transfer-in of \$48,292.39 and a non-federal share of \$36,599.23, disclosing a \$11,693.16 transfer which may have been excessive.

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Additionally, for the period April 1, 1996 through June 30, 1996, the 1996 July Quarterly Report showed a transfer-in of \$86,994.72 and a non-federal share of \$141,274.40, disclosing a \$54,279.68 under-transfer. Therefore, it appears that the Year-to-date excessive transfer figure of \$62,216.70<sup>1</sup>, rather than \$117,009.49, was reported as the year end figure because of the \$54,279.68 under-transfer. Id. Thus, for calendar year 1996, the non-federal account made transfers to the federal account totaling as much as \$117,009.49 in excess of the allocable non-federal amount for shared political activity. The actual amount of the excessive transfer may be less than \$117,009.49 due to the offsetting effect of the "70-day window."

Finally, during 1996, the Committee failed to include a Schedule H3 (itemizes transfers) in its Amended 1996 July Quarterly, 1996 October Quarterly, 1996 12 Day Pre-General, and 1996 30 Day Post General. This missing information, in addition to the inadequate response provided by the Committee regarding the year end overtransfer figure, prevented the tracking and/or matching by RAD of transfers from the non-federal account to payments made from the federal account during the "70-day window" surrounding the undertransfer.<sup>2</sup> Review of the 1996 April Quarterly and the 1996 July Quarterly, though, reveals that the Committee, at best, could possibly account for/offset a modest portion of the overtransfer amount with the 1996 July Quarterly undertransfer.

Based on this information, it appears that the New Jersey Democratic State Committee did not properly allocate expenses between its federal and non-federal committees, and the non-federal account transfers to the federal account contained funds prohibited in connection with

<sup>1</sup> The correct Year-to-date figure for excessive transfers is \$62,729.81. The Committee erred in its calculation of their Year-to-date figures on their original and amended 1996 Year End Reports.

<sup>2</sup> These schedule H3s were eventually filed with the Commission on December 27, 1996 for the Amended 1996 July Quarterly and on June 20, 1997 for the 1996 October Quarterly, the 1996 12 Day Pre-General, and the 1996 30 Day Post General.

federal elections. Therefore, there is reason to believe that the New Jersey Democratic State Committee and Raul "Rudy Garcia, as treasurer violated 2 U.S.C. §§ 441b(a) and 441a(f) and 11 C.F.R. §§ 102.5(a)(1)(i) and 106.5(g)(1)(i) in this matter.

98.04.391.0057



# New Jersey Democratic State Committee

Thomas P. Giblin  
Chairman

June 16, 1993

**Via Fax**

Federal Election Commission

Washington, D.C. 20463

Attn: Nancy Bell

Re: MUR 4751

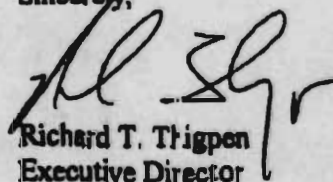
Dear Ms. Bell:

The New Jersey Democratic State Committee requests a 20 day extension on the above referenced matter. The Committee needs the additional time to investigate and gather relevant information and to retain counsel.

If you have any questions or require additional information, please contact me at (609) 392-3367. Thank you for your attention to this matter.

Regards,

Sincerely,



Richard T. Thigpen  
Executive Director

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FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
JUN 17 4 56 PM '98

98.04.391.0058

STATEMENT OF DESIGNATION OF COUNSEL

MUR

4751

NAME OF COUNSEL:

Richard Thigpen

ADDRESS:

150 West State Street  
Trenton, N.J. 08608

TELEPHONE:

609-392-3367

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RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL

The above-named individual is hereby designated as my  
counsel and is authorized to receive any notifications and other  
communications from the Commission and to act on my behalf before  
the Commission.

Date

6-12-98

Signature

Richard Thigpen  
Executive Director  
N.J. D.S.C.

RESPONDENT'S NAME:

ADDRESS:

HOME PHONE:

BUSINESS PHONE:

6500" 163" 40" 86





FEDERAL ELECTION COMMISSION  
Washington, DC 20463

June 18, 1998

**BY FACSIMILE**

Richard T. Thigpen  
Executive Director  
New Jersey Democratic State Committee  
150 West State Street  
Trenton, New Jersey 08608

RE: MUR: 4751

Dear Mr. Thigpen:

This is in response to your letter dated June 16, 1998, which we received on June 17, 1998, requesting an extension of 20 days to respond to the Commission's reason to believe notification in the above-captioned matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on Tuesday, July 7, 1998.

Sincerely,

A handwritten signature in dark ink, appearing to read "Nancy E. Bell", is written over the typed name.

Nancy E. Bell  
Attorney

98.04.391.0060



## New Jersey Democratic State Committee

Thomas P. Giblin  
Chairman

July 7, 1998

(Via Fax: 202-219-3923)

Nancy E. Bell, Esq.  
Federal Election Commission  
999 E Street NW  
Washington, DC 20463

RE: MUR 4751

Dear Ms. Bell:

By this letter the New Jersey Democratic State Committee (NJDCS) hereby accepts your invitation to pursue pre-probable cause conciliation. While we believe the NJDCS has taken all steps necessary to bring itself in compliance with Federal law, the NJDCS will be forced to allocate substantial time and resources to thoroughly investigate this matter with the Commission. Therefore, we believe it is in the best interest for both the NJDCS and the Federal Election Commission to resolve this matter through the conciliation process.

I look forward to discussing this matter further.

Sincerely,

Richard T. Thigpen  
Executive Director

98.04.391.0061

Jul 1 1998

BEFORE THE FEDERAL ELECTION COMMISSION 108 7 1 02 PM '98

In the Matter of )

New Jersey Democratic State Committee )  
and Raul "Rudy" Garcia, as Treasurer )

MUR: 4751

**SENSITIVE**

### GENERAL COUNSEL'S REPORT

#### I. BACKGROUND

On May 28, 1998, the Commission found that there was reason to believe that the New Jersey Democratic Committee and Raul "Rudy" Garcia, as treasurer ("Committee" or "respondents"), violated 2 U.S.C. §§ 441b(a) and 441a(f) and 11 C.F.R. §§ 102.5(a)(1)(i) and 106.5(g)(1)(i). In the General Counsel's Report dated May 14, 1998, this Office stated that, for calendar year 1996, the Committee's non-federal account made transfers to the federal account totaling as much as \$117,009.49, but that the total amount of the excessive transfer may be less than \$117,009.49 due to the offsetting effect of the "70-day window." Based upon this appreciation of the possible implications of the offsetting effect of the "70-day window," this Office stated that it would attempt to engage the Committee, after reason to believe, to better determine whether the actual amount of the excessive transfer could be lower than \$117,009.49.

On June 12, 1998, staff was contacted by Richard Thigpen, the Executive Director of, and counsel for, the Committee. Staff discussed the issue of the "70-day window" with Mr. Thigpen and encouraged Mr. Thigpen to submit a response explaining any offset to the amount in violation which would be due to the "70-day window" or any other extenuating circumstance. During this conversation, staff also suggested that the Committee seek a brief extension of time

98.04.391.0062

to respond to the notification letter, due to the complexity associated with their task at hand. On June 17, 1998, the Committee submitted a request for a 20 day extension, to July 7, 1998, which was granted by this Office the next day.

On July 7, this Office received a request for pre-probable cause conciliation from the Committee. See Attachment 1.

II. DISCUSSION OF CONCILIATION PROVISIONS AND CIVIL PENALTY

This Office recommends that the Commission enter into conciliation with respondents prior to a finding of probable cause to believe.

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98-04-391-0063



### III. RECOMMENDATIONS


1. Enter into conciliation with the New Jersey Democratic State Committee and Raul "Rudy" Garcia, as treasurer, prior to a finding of probable cause to believe.
2. Reject the July 7, 1998 offer submitted by the New Jersey Democratic State Committee and Raul "Rudy" Garcia, as treasurer.
3. Approve the attached proposed conciliation agreement and the appropriate letter.

Lawrence M. Noble  
General Counsel

Date

8/14/98

BY:

  
Lois G. Lerner  
Associate General Counsel

#### Attachments

1. Request for conciliation, dated July 7, 1998
2. Proposed Conciliation Agreement

Staff assigned: Nancy E. Bell

98.04.391.0064



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE  
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/VENESHE FEREBEE-VINES  
COMMISSION SECRETARY

DATE: AUGUST 21, 1998

SUBJECT: MUR 4751 - General Counsel's Report  
dated August 14, 1998.

(NPN)

The above-captioned document was circulated to the Commission  
on Monday, August 17, 1998.

Objection(s) have been received from the Commissioner(s) as  
indicated by the name(s) checked below:

Commissioner Aikens	—
Commissioner Elliott	—
Commissioner Mason	—
Commissioner McDonald	—
Commissioner Sandstrom	—
Commissioner Thomas	<u>XXX</u>

This matter will be placed on the meeting agenda for  
Tuesday, September 1, 1998.

Please notify us who will represent your Division before the Commission on this  
matter.

98.04.391.0065

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) MUR 4751  
New Jersey Democratic State )  
Committee and Raul "Rudy" )  
Garcia, as Treasurer )

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on September 1, 1998, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 4751:

1. Enter into conciliation with the New Jersey Democratic State Committee and Raul "Rudy" Garcia, as treasurer, prior to a finding of probable cause to believe.
2. Reject the July 7, 1998 offer submitted by the New Jersey Democratic State Committee and Raul "Rudy" Garcia, as treasurer.
3. Approve the proposed conciliation agreement and the appropriate letter recommended in the General Counsel's August 14, 1998 report

Commissioners Aikens, Elliott, Mason, McDonald, Sandstrom, and Thomas voted affirmatively for the decision.

Attest:

9-3-98  
Date

Marjorie W. Emmons  
Marjorie W. Emmons  
Secretary of the Commission

98.04.391.0066



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

September 3, 1998

Richard T. Thigpen  
Executive Director  
New Jersey Democratic State Committee  
150 West State Street  
Trenton, New Jersey 08608

RE: MUR 4751


Dear Mr. Thigpen:

On May 28, 1998, the Federal Election Commission found reason to believe that the New Jersey Democratic State Committee and Raul "Rudy" Garcia, as treasurer, violated 2 U.S.C. §§ 441b(a) and 441a(f) and 11 C.F.R. §§ 102.5(a)(1)(i) and 106.5(g)(1)(i). At your request, on September 1, 1998, the Commission determined to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe.

Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If the Committee agrees with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

If you have any questions or suggestions for changes in the agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact me at (202) 694-1650.

Sincerely,

  
Nancy E. Bell  
Attorney

Enclosure  
Conciliation Agreement

98.04.391.0067



**SANDLER & REIFF, P.C.**

6 E STREET SE  
WASHINGTON, DC 20003

JOSEPH E. SANDLER  
NEIL P. REIFF

SEP 16 3 10 PM '98  
TELEPHONE: (202) 543-7680  
FACSIMILE: (202) 543-7686

September 16, 1998

Nancy E. Bell, Esq.  
Federal Election Commission  
999 E Street, N.W.  
Washington, DC 20463

RE: MUR 4751

Dear Ms. Bell:

The undersigned represent the New Jersey Democratic State Committee ("Committee") and Raul "Rudy" Garcia (collectively referred to as "Respondents") in the above-mentioned matter. Enclosed please find an executed designation of counsel to that effect. In this matter, the Commission alleges that the Committee may have violated the Federal Election Campaign Act ("Act"), and its regulations, by making excessive non-federal transfers in connection with allocable activity during the 1996 calendar year.

The committee is in receipt of the Commission's proposed conciliation agreement in this matter.

98-04-391-0068

Nancy E. Bell, Esq.  
September 16, 1998  
Page Two

Although the Office of the General Counsel claims that Schedule H3 for certain reports were unavailable to the Commission, a complete set of amended reports were received by the Commission no later than June 20, 1997. See FEC Factual and Legal Analysis, p5, n.2. The Commission voted to find reason to believe that the Committee may have violated the Act on May 28, 1998. Therefore, the Commission had been in the possession of the necessary information to properly analyze this matter for over eleven months before the Commission took any action in this matter. The Committee believes that a proper analysis of the seventy-day window will significantly lower any possible over-transfer of non-federal funds that may have occurred in connection with allocable activities. Therefore, the Commission should not have moved forward in this matter without properly analyzing the Committee's activities based on its own regulations. Accordingly, it may follow that the Commission's finding of Reason to Believe that the Committee had violated the Act may itself be unlawful.

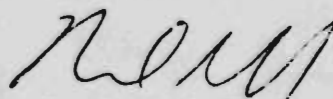
98.04.391.0069

Nancy E. Bell, Esq.  
September 16, 1998  
Page Three

98.04.391.0070

If you would like to discuss this matter further, or if you have any further questions, please call us at (202) 543-7680.

Sincerely,

A handwritten signature in dark ink, appearing to read "JES" or similar, written in a cursive style.

Joseph E. Sandler  
Neil P. Reiff  
Attorneys for Respondents

**STATEMENT OF DESIGNATION OF COUNSEL**

U.S. DEPARTMENT OF JUSTICE  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL

MUR

4751

SEP 16 3 09 PM '98

NAME OF COUNSEL:

Neil Reiff / Joe Sandler

ADDRESS:

Sandler + Reiff, PC

6 E Street, SE

Washington, DC 20003

TELEPHONE:

(202) 543-7680

The above-named individual is hereby designated as my  
counsel and is authorized to receive any notifications and other  
communications from the Commission and to act on my behalf before  
the Commission.

Date

9/11/98

Signature

Helene A. Miller

FINANCE DIRECTOR

RESPONDENT'S NAME:

NJ DEMOCRATIC STATE COMMITTEE and Paul Garcia, Jr.

ADDRESS:

150 W. STATE ST.

TRENTON NJ 08608

Treasurer

HOME PHONE:

BUSINESS PHONE:

609-392-3367

98.04.391.0071



RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

**BEFORE THE FEDERAL ELECTION COMMISSION**

Nov 17 9 51 PM '98

In the Matter of

)

MUR 4751

New Jersey Democratic State Committee  
and Raul "Rudy" Garcia, as Treasurer

)

)

)

)

**SENSITIVE**

**GENERAL COUNSEL'S REPORT**

**I. BACKGROUND**

Attached is a conciliation agreement which has been signed by Neil P. Reiff, counsel for the New Jersey Democratic State Committee and Raul "Rudy" Garcia, as treasurer ("Respondents"). On May 28, 1998, the Commission found reason to believe that Respondents violated 2 U.S.C. §§ 441b(a) and 441a(f) and 11 C.F.R. § 102.5(a)(1)(i). On September 1, 1998, the Commission approved a proposed conciliation agreement directed to Respondents.

**II. DISCUSSION OF CONCILIATION**

98-04-391-0072

Therefore, this Office recommends that the Commission accept the attached signed conciliation agreement as a serious attempt to settle the matter prior to probable cause to believe.

III. RECOMMENDATIONS

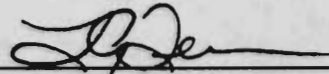
1. Accept the attached conciliation agreement.
2. Close the file.
3. Approve the appropriate letter.

Lawrence M. Noble  
General Counsel

Date

11-9-98

BY:

  
Lois G. Lerner  
Associate General Counsel

<sup>1</sup> This figure represents the unrefunded portion of impermissible funds used for allocable activity.

**Attachments**

1. Letter from counsel, dated September 16, 1998
2. Letter to counsel, dated October 2, 1998
3. Letter from counsel, dated October 6, 1998
4. Letter to counsel, dated October 13, 1998
5. Conciliation Agreement

Staff Assigned: Nancy E. Bell

98.04.391.0074

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) MUR 4751  
New Jersey Democratic State )  
Committee and Raul "Rudy" )  
Garcia, as Treasurer.

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on November 20, 1998, the Commission decided by a vote of 5-0 to take the following actions in MUR 4751:

1. Accept the conciliation agreement, as recommended in the General Counsel's Report dated November 9, 1998.
2. Close the file.
3. Approve the letter, as recommended in the General Counsel's Report dated November 9, 1998.

Commissioners Elliott, Mason, McDonald, Sandstrom and Wold voted affirmatively for the decision; Commissioner Thomas objected for the record.

Attest:

11-23-98  
Date

*Marjorie W. Emmons*  
Marjorie W. Emmons  
Secretary of the Commission

Received in the Secretariat:	Tues., Nov. 17, 1998	9:51 a.m.
Circulated to the Commission:	Tues., Nov. 17, 1998	11:00 a.m.
Deadline for vote:	Fri., Nov. 20, 1998	4:00 p.m.

vfv

5200-163-40-86





FEDERAL ELECTION COMMISSION

Washington, DC 20463

November 25, 1998

Neil Reiff, Esq.  
Sandler & Reiff, P.C.  
6 E Street, S.E.  
Washington, DC 20003

RE: MUR 4751  
New Jersey Democratic State  
Committee and Raul "Rudy" Garcia,  
as treasurer

Dear Mr. Reiff:

On November 20, 1998, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your client's behalf in settlement of a violation of 2 U.S.C. §§ 441b(a) and 441a(f), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). Accordingly, the file has been closed in this matter.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

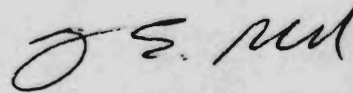
Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

98-04-391-0076

Neil Reiff, Esq.  
MUR 4751  
Page 2

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 694-1650.

Sincerely,



Nancy E. Bell  
Attorney

Enclosure  
Conciliation Agreement

98.04.391.0077

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) MUR: 4751  
New Jersey Democratic State )  
Committee and Raul "Rudy" )  
Garcia, as treasurer )

Oct 22 4 41 PM '98  
RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that the New Jersey Democratic State Committee and Raul "Rudy" Garcia, as treasurer, ("Respondents") violated 2 U.S.C. §§ 441b(a) and 441a(f) and 11 C.F.R. §§ 102.5(a)(1)(i) and 106.5(g)(1)(i).

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. New Jersey Democratic State Committee is a political committee within the meaning of 2 U.S.C. § 431(4).

98.04.391.0078

2. Raul "Rudy" Garcia is the treasurer of the respondent committee.

3. The Federal Election Campaign Act of 1971, as amended ("the Act") prohibits the making or knowing acceptance of corporate or labor organization contributions or expenditures in connection with a federal election. 2 U.S.C. § 441b(a). For purposes of this section, the Act defines "contribution" or "expenditure" to include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value to any candidate, campaign committee, or political party in connection with any [federal] election.

2 U.S.C. § 441b(b)(2); 11 C.F.R. § 114.1(a)(1).

4. The Act provides that no person or multicandidate committee ("PAC") shall make contributions to a state or local party committee's federal account in any calendar year which in the aggregate exceed \$5,000, and prohibits the state or local committee from knowingly accepting such contributions. 2 U.S.C. § 441a(a) and (f). See also 11 C.F.R. § 110.3(b)(3).

5. Under New Jersey law, individual and PAC contributions and corporate and labor monies to political state committees are permitted up to \$25,000 per year. NJSA §19:44A-11.4.

6. Where a committee such as the New Jersey Democratic State Committee has established both a federal and a non-federal account, "only funds subject to the limitations and prohibitions of the Act shall be deposited in such separate Federal account."

11 C.F.R. § 102.5(a)(1)(i). Except for the limited circumstances provided in

11 C.F.R. §§ 106.5(g) and 106.6(e), no transfers may be made to a federal account from any other accounts maintained by the committee for the purpose of financing non-federal election activity. Id.

98-04-391-0079



7. A state party committee that has established separate federal and non-federal accounts must pay the entire amount of an allocable expense from its federal account and shall transfer funds from its non-federal account to its federal account solely to cover the non-federal share of that allocable expense. 11 C.F.R. § 106.5(g)(1)(i).

8. For each transfer of funds from a committee's non-federal account to its federal account, the committee must itemize in its reports the allocable activities for which the transferred funds are intended to pay, as required by 11 C.F.R. § 104.10(b)(3); 11 C.F.R. § 106.5(g)(2)(ii)(A).

9. If the requirements of 11 C.F.R. § 106.5(g)(2)(ii)(A) are not met, any portion of a transfer from a committee's non-federal account to its federal account shall be presumed to be a loan or contribution from the non-federal account to a federal account, in violation of the Act. 11 C.F.R. § 106.5(g)(2)(iii). Since transfers from a non-federal account to a federal account may be made solely to cover the non-federal share of an allocable expense, transfers to a federal account for the purpose of financing purely non-federal activity are prohibited.

10. For the period January 1, 1996 through December 31, 1996, Respondents' reports disclosed five instances of excessive non-federal transfers:

a. Respondents' 1996 April Quarterly Report (January 1, 1996 through March 3, 1996) showed non-federal transfers of \$135,742.04 to cover the allocable non-federal share of activity totaling \$90,480.56, disclosing a \$45,261.48 excessive transfer;

b. Respondents' Amended 1996 October Quarterly Report (July 1, 1996 through September 30, 1996) showed non-federal transfers of \$377,912.54 to cover the allocable non-federal share of activity totaling \$370,136.87, disclosing a \$7,775.67 excessive transfer;

98-04-391-0080

c. Respondents' Amended 12 Day Pre-General Report (October 1, 1996 through October 16, 1996) showed non-federal transfers of \$136,404.30 to cover the allocable non-federal share of activity totaling \$121,124.23, disclosing a \$15,280.07 excessive transfer;

d. Respondents' Amended 1996 30 Day Post-General Report (October 17, 1996 through November 25, 1996) showed non-federal transfers of \$527,965.49 to cover the allocable non-federal share of activity totaling \$490,966.38, disclosing a \$36,999.11 excessive transfer;

e. Respondents' 1996 Amended Year End Report (November 26, 1996 through December 31, 1996) showed non-federal transfers of \$48,292.39 to cover the allocable non-federal share of activity totaling \$36,599.23, disclosing a \$11,693.16 excessive transfer.

11. Based on the figures noted in 10 above, Respondents accepted \$117,009.49 into the federal account from the non-federal account in excess of the allocable non-federal amount for shared political activity.

12. The Committee has transferred back to the non-federal account \$62,216.70 of the excessive transfers as follows: 1) \$15,000 on August 15, 1997; 2) \$10,000 on September 12, 1997; 3) \$10,000 on October 20, 1997; 4) \$17,216.70 on October 22, 1997; and 5) \$10,000 on October 24, 1997.

13. Given New Jersey law governing campaign contributions, the non-federal account transfers to Respondents may have contained funds prohibited in connection with federal elections. 2 U.S.C. §§ 441a(f) and 441b(a).

V. 1. Respondents received funds improperly transferred from a non-federal account in violation of 11 C.F.R. §§ 102.5(a)(1)(i) and 106.5(g)(1)(i).

2. Respondents accepted excessive non-federal transfers containing excessive individual and PAC contributions in violation of 2 U.S.C. § 441a(f).

1800-165-40-86  
98-04-391-0081

3. Respondents accepted excessive transfers from non-federal accounts containing corporate contributions in violation of 2 U.S.C. § 441b(a).

VI. 1. Respondents will transfer \$54,279.68 from their federal account to their non-federal account.

2. Respondents will pay a civil penalty to the Federal Election Commission in the amount of fifteen thousand dollars (\$15,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement

98-04-391-0082

shall be enforceable.

FOR THE COMMISSION:

Lawrence M. Noble  
General Counsel

BY:

*Lois G. Lerner*  
Lois G. Lerner  
Associate General Counsel

11/25/1998  
Date

FOR THE RESPONDENTS:

*Nel Perff*  
(Name) Nel Perff  
(Position) Counsel for Respondents

10/22/98  
Date

98.04.391.0083





FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4751

DATE FILMED 12-17-98 CAMERA NO. 2

CAMERAMAN S.E.G.

98.04.391.0084



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Date: 1/4/99

✓ Microfilm

       Press

THE ATTACHED MATERIAL IS BEING ADDED TO CLOSED MUR 4751

99-04-391-0089

SANDLER & REIFF, P.C.

6 E STREET SE  
WASHINGTON, DC 20003

JOSEPH E. SANDLER  
NEIL P. REIFF

TELEPHONE: (202) 543-7680  
FACSIMILE: (202) 543-7686

December 24, 1998

Nancy E. Bell, Esq.  
Federal Election Commission  
999 E Street, N.W.  
Washington, DC 20463

RE: MUR 4751

Dear Ms. Bell:

On behalf of my client, the New Jersey Democratic State Committee ("committee") and Raul "Rudy" Garcia, as Treasurer, enclosed please find the following, pursuant to a conciliation agreement that has been executed in this matter.

- 1) A check, payable to the Federal Election Commission, in the amount of \$15,000.
- 2) A copy of a check, in the amount of \$54,279.68, which reflects a transfer from the committee's federal account to its non-federal account.

If you would like to discuss this matter further, or if you have any further questions, please call me at (202) 543-7680.

Sincerely,



Neil P. Reiff  
Attorney for Respondents

99.04.391.0090

1600.163.40.56  
99.04.391.0091

NEW JERSEY DEMOCRATIC STATE COMMITTEE  
VICTORY 98 STATE  
150 W. STATE ST.  
TRENTON, NJ 08608

**SUMMIT**  
BANK  
TRENTON, NJ  
55-208/312

1114

12/17/1998

PAY TO THE  
ORDER OF

Federal Election Commission

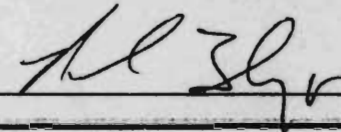
\*\*15,000.00

Fifteen Thousand and 00/100\*\*\*\*\*

DOLLARS

Federal Election Commission  
999 E Street, N.W.  
Washington, DC 20463

MEMO: MUR #4751



⑈001114⑈ ⑆031202084⑆ 4205⑈01311 7⑈

SECURITY FEATURES: MICRO PRINT TOP & BOTTOM BORDERS COLORED PATTERN - ARTIFICIAL WATERMARK ON REVERSE SIDE - MISSING FEATURE INDICATES A COPY

NEW JERSEY DEMOCRATIC STATE COMMITTEE  
VICTORY 98 STATE  
Federal Election Commission

1114

12/17/1998

15,000.00

1996

Victory 98 NonF

MUR #4751

15,000.00



5168

**NJ JERSEY DEMOCRATIC STATE COMMITTEE**

FEDERAL ELECTION ACCOUNT

150 W. STATE ST.  
TRENTON, NJ 08608

SUMMIT BANK  
TRENTON, NJ 08608  
755-208-312

12/18/1998

TO THE  
DER OF NJDSC Asset Mgt. Non-Federal Acct.

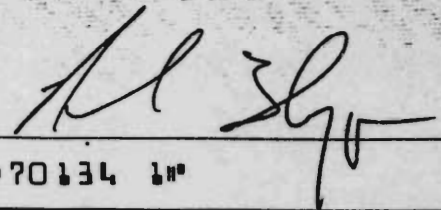
\$ 54,279.68

Fifty-Four Thousand Two Hundred Seventy-Nine and 68/100\*\*\*\*\*

DOLLARS

NJDSC Asset Mgt Acct.  
Summit Bank  
150 West State Street  
Trenton, NJ 08608

10



⑈005168⑈ ⑆031202084⑆ 906⑈70134 1⑈

**JERSEY DEMOCRATIC STATE COMMITTEE**

NJDSC Asset Mgt. Non-Federal Acct.

0999

12/18/1998

5168

54,279.68

99.04.391.0092

Victory 98 NonF

54,279.68

**JERSEY DEMOCRATIC STATE COMMITTEE**

NJDSC Asset Mgt. Non-Federal Acct.

0999

12/18/1998

5168

54,279.68

Victory 98 NonF

54,279.68

Amount \$54,279.68  
Date 12-18-98 15:34P  
520 #34 Host

NEW JERSEY  
 UNITED  
 YOUNG  
 HUSBAND GENERAL  
 STATE COMMITTEE  
 NEW JERSEY DEMOCRATIC

PERIODIC TABLE OF ELEMENTS

DEPOSIT RECEIPT COPY <sup>DO NOT</sup> 205  
312

NEW JERSEY DEMOCRATIC  
STATE COMMITTEE  
ASSET MANAGEMENT ACCOUNT  
NON-FED

**UNITED  
JERSEY BANK**

150 West State Street, Trenton, NJ 08602

DATE 12-18-98 19

DEPOSITS MAY NOT BE AVAILABLE FOR IMMEDIATE WITHDRAWAL

**LIST CHECKS, SINGLY OR ATTACH LIST**

DOLLARS      CENTS

[illegible]

906 70 209 7 0006

69

\$ 54279 68

PLEASE ENTER TOTAL HERE

Checks and other items are received for deposit subject to the provisions of the Uniform Commercial Code or any applicable collection agreement.



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

DEC 28 3 37 PM '98

December 28, 1998

**TWO WAY MEMORANDUM**

TO: OGC Docket  
FROM: Rosa E. Swinton  
Accounting Technician  
SUBJECT: Account Determination for Funds Received

We recently received a check from **New Jersey Democratic State Committee**, check number **1114**, dated **December 17, 1998**, for the amount of **\$ 15,000.00**. A copy of the check and any correspondence is being forwarded. Please indicate below which account the funds should be deposited and give the MUR/Case number and name associated with the deposit.

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TO: Rosa E. Swinton  
Accounting Technician  
FROM: OGC Docket  
SUBJECT: Disposition of Funds Received

In reference to the above check in the amount of \$ 15000.00, the MUR/Case number is 4751 and in the name of New Jersey Democratic State Cmte. Place this deposit in the account indicated below:

- ☐ Budget Clearing Account (OGC), 95F3875.16  
☒ Civil Penalties Account, 95-1099.160  
☐ Other: \_\_\_\_\_

Kim Q. Stevens  
Signature

12-29-98  
Date

Celebrating the Commission's 20th Anniversary  
YESTERDAY, TODAY AND TOMORROW  
DEDICATED TO KEEPING THE PUBLIC INFORMED

DEC 24 3 55 AM '98

FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

4600-163-40-66  
99-04-391-0094