

JUN 6 3 15 PM '98

**DEMOCRATIC PARTY OF NEW MEXICO
5317 MENAUL, NE
ALBUQUERQUE, NM 87110**

MUR 4754

Lawrence Noble, esq.
General Counsel
Federal Election Commission
6th Floor
999 E. Street, N.W.
Washington, D.C. 20463

**Re: Complaint Against Heather Wilson, the Heather Wilson for
Congress Committee, and the Republican Party of New Mexico**

Dear Mr. Noble:

This complaint asserts that Heather Wilson ('Wilson'), the Heather Wilson for Congress Committee ("Campaign") and the Republican Party of New Mexico ("Party") violated the Federal Election Campaign Act (the "Act"), 2 U.S.C. §§ 431 et seq., and related regulations of the Federal Election Commission ("FEC" or the "Commission"), 11 C.F.R. §§ 100.1 et seq.

As the June 23 special election for New Mexico's First District House seat rapidly approaches, Respondents are engaging in a scheme to funnel thousands thousands of dollars to illegal expenditures for the benefit of Wilson, the Republican candidate. The Commission should take immediate action to preserve the integrity of the election.

Within the last several days, the Party has sent thousands of pieces of mass-produced direct mail on Wilson's behalf to registered voters. (Attachment 1) Accompanied by an absentee ballot application, each piece of mail expressly advocates Wilson's election in the starkest terms, exhorting voters to "please cast your vote for Heather Wilson," and saying: "Your vote for Heather is a vote we cannot afford to lose." The disclaimer on the mailing reads: "Paid for by the Republican Party of New Mexico.

The mailing was followed by a phone bank operation with a virtually identical message. It is assumed that the phone bank is being conducted by the Republican Party of New Mexico.

There are only four ways in which the Party legally can finance such a mailing and phone campaign. One is by making an in-kind contribution to Wilson within the Party's maximum limit of \$5,000 per election. See 2 U.S.C. §§ 441a(a)(2)(a) (1998). The second way is by making a coordinated expenditure on Wilson's behalf. See 2 U.S.C. §§

Lawrence Noble, Esq.
June 3, 1998
Page 2.

441a(d). The third way is by making an independent expenditure on Wilson's behalf. See Colorado Republican Fed. Campaign Committee v. FEC, 116S. Ct. 2309 (1996). The fourth and last way is by engaging in activity that is specifically exempt from the definition of "contribution" or "expenditure" under the Act. See 2 U.S.C. §§ 431 (8)(b)(x)(1), 431(9)(B)(viii)(1).

The Party cannot have done any of these things without violating the Act. First, the mailing and phone bank cannot be in-kind contributions, because their cost undoubtedly exceeds the \$5,000 limit. Second, they cannot be a coordinated expenditure, as the mailing's disclaimer must indicate that it was authorized by Wilson. See 2 U.S.C. §§ 441d(a)(2).¹ Third, they cannot be independent expenditures, as by all accounts, the operations of the Party and the campaign are completely intertwined and the disclaimer for an independent expenditure mailing must state that it is "not authorized by any candidate."

Finally, there is the Act's exemption of selected volunteer activities from the definitions of "contribution" and expenditure." Clearly, this is the figleaf with which the Party seeks to cloak its illegal activity. To a one-piece, professionally mass-produced, pre-labeled, computer-sorted mailing, the Party cynically attaches the ornament of a hand-stamped "postage paid" seal, to create the illusion that it was somehow the product of volunteer labor. But the Commission has found in virtually identical circumstances by another Republican State Party that such a mailing does not meet the requirements of the volunteer exemption. See MUR 2559 (In the Matter of Oregon Republican Party). See also MUR 2288 (in the Matter of Utah Republican Party). As the Act itself clearly states, the volunteer exemption does not apply to "direct mail . . . or similar type[s] of general public communications or political advertising . . ." §§ 431(8)(b)(x)(1), §§431(9)(B)(viii)(1).

What remains, then, is an illegal effort to funnel money to expenditures to benefit the Wilson campaign from the Party, which has already spent its maximum; and from the Party's donors, many of whom also have given her their limit. It is inconceivable that Wilson and the campaign are not participating in this effort, given the extent to which their activities have been and are still are intertwined with those of the Party.

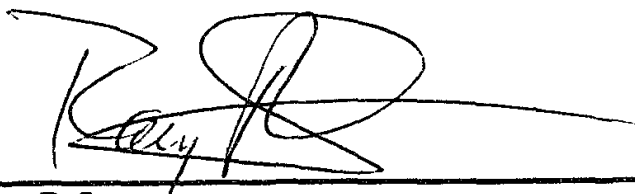
Because of the seriousness of this offense, and because it was knowingly committed by Wilson, the Campaign, and the Party, we ask that the Commission investigate this complaint promptly, and seek the highest civil penalty available under law.

¹ The Commission's investigation would certainly demonstrate that the Party has met or exceeded its contribution and coordinated spending limits through other spending.

Lawrence Noble, Esq.
June 3, 1998
Page 3

Moreover, because these illegal activities are ongoing, and because there is ample reason to suspect that they will recur throughout the special election and general election cycles, we ask the Commission to seek a permanent injunction to ensure that they never occur.

Sincerely,

A handwritten signature in black ink, appearing to read "Ray D. Sena", written over a horizontal line.

Ray D. Sena
Chair, Democratic Party of New Mexico

Enclosure

2004-398-0019

Lawrence Noble, Esq.

June 3, 1998

Page 4

STATE OF New Mexico)
County of Bernalillo)

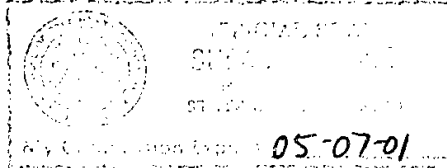
SUBSCRIBED AND SWORN to before me this 3rd day of June 1998 by Ray. A Sena

Susan M. Stone

Notary Public

My Commission Expires:

May 7, 2001



20.04.398.0020

INSIDE P618

TO OPEN - FOLD AND TEAR ALONG PERFORATION
PARA ABRIR - DOBLELO Y CORTELO A LO LARGO DE LA PERFORACION

NONPROFIT ORGN.
US POSTAGE PAID
ALBUQUERQUE, N.M.
PERMIT NO. 786

APPLICATION FOR ABSENT VOTER BALLOT
SOLICITUD PARA LA BOLETA DE VOTANTE AUSENTE

AUTOCR**C-032

[REDACTED]

[REDACTED]

ALBUQUERQUE NM 87-4831

|||||

APPLICATION FOR ABSENT VOTER BALLOT
SOLICITUD PARA LA BOLETA DE VOTANTE AUSENTE

COUNTY / CONDADO
STATE OF NEW MEXICO / ESTADO DE NUEVO MEXICO

ELECTION / ELECCIÓN

- ☐ GENERAL / GENERAL
☐ PRIMARY / PRIMARIA
☐ SPECIAL / ESPECIAL
☐ SCHOOL / ESCOLAR

I am a registered voter of New Mexico and hereby make application for an absentee ballot for the offices and/or questions on which I may vote under the Absentee Voter Act.
Soy un votante registrado de Nuevo México y hago una aplicación para boleta de votante ausente para los puestos y preguntas por las cuales yo puedo votar conforme a la ley de Votante Ausente.

Print or type voter's name as registered /
Nombre de votante segun registrado escrito a maquina o imprimido

Street Address as registered / *Dirección segun registrado*

Social Security Number or birth date /
Número de Seguro Social o fecha de nacimiento

City - State - Zip /
Ciudad - Estado - Zona Postal

Mail ballot to address below / *Envie boleta a esta dirección*
See Instruction #2 on Reverse / *Lea Instrucción #2 al reversa*

SIGNATURE of registered voter / FIRMA de votante

X

NMAV-1 (1998)

TO OPEN - FOLD AND TEAR ALONG PERFORATION
PARA ABRIR - DOBLELO Y CORTELO A LO LARGO DE LA PERFORACION

20.04.398.0021

OUTSIDE PG 2

INSTRUCTIONS - INSTRUCCIONES

1. Type or print your name, your STREET ADDRESS (no P.O. Boxes) and your Social Security number in the spaces provided. (A birth date may be substituted by those persons not having a Social Security Number).

Escriba a maquina o imprime su nombre, DIRECCIÓN (no use apartado postal) y número de Seguro Social en el espacio apropiado (la fecha de nacimiento puede ser sustituido para las personas que no tienen número de Seguro Social).

2. Only fill in the area under "Mail ballot to address below" if you want your absentee ballot sent to an address other than the street address you indicated in step 1 above.

Complete la parte bajo de "Envie boleta a esta dirección solamente si desea que su boleta se le envíe a otra dirección que no sea la indicada en #1.

3. Sign your application.

Firme su solicitud.

4. Return your application in person or by mail to the County Clerk.

Regrese la forma por correo o en persona al Escribano(a) de Condado.

If all steps are not properly completed, your application will be rejected, causing a delay in the mailing of your ballot.

Si no a completado su solicitud será rechazada y causará retardos en enviarle su boleta.

If you have any questions concerning these instructions, please call the County Clerk's office at:

(505)

Si tiene preguntas tocante estas instrucciones, favor de llamar al Escribano(a) de Condado, al número:

(505)

Detach and mail this application card to the Office of the County Clerk.
Separe esta tarjeta de solicitud y envíela por correo al Escribano(a) de Condado.



Place
Stamp
Here
*Ponga la
Estampilla
Aqui*

SPECIAL

APPLICATION FOR ABSENT VOTER BALLOT SOLICITUD PARA LA BOLETA DE VOTANTE AUSENTE

BERNALILLO COUNTY
OFFICE OF THE COUNTY CLERK
PO BOX 542
ALBUQUERQUE NM 87103-0542



MAKE SURE YOUR VOTE Counts

Pete Domenici - Senator

Dear Fellow Republican:

June 23rd is one of the most important days this year to Republicans and for our party nationally. On that Tuesday we will choose a person to serve out the remainder of this Congressional term of our late friend, Rep. Steve Schiff.

This Special Election holds the key to Republican control of the House of Representatives in Washington. Every available resource must be brought to bear to keep this seat in Republican control.

We have a magnificent candidate in Heather Wilson, Governor Johnson's former Secretary for Children, Youth, and Families. She received Steve's endorsement before his death and has been called one of the best Republican candidates for the House in the entire nation.

Under New Mexico law, everyone has the right to avoid the lines on Election Day by voting absentee. To be sure that your vote is counted, we are sending you this application for an absentee ballot.


Please return the completed application to your county clerk's office immediately and don't forget to check the "Special Election" box on the application form.

We control the House of Representatives by only 11, we must keep the momentum going into the November general elections, when the entire House is up for grabs. Heather Wilson's race to win this seat will be watched by the national media to see if Democrats, indeed, have a chance to regain the House and thwart our party's efforts to reform government and cut taxes.

Your vote is critical. When you get your absentee ballot for the Special Election June 23rd from your county clerk, please cast your vote for Heather Wilson and return it immediately.

Your vote for Heather is a vote we cannot afford to lose... a single vote could make all the difference in this race and in the House of Representatives.

Sincerely,


Pete Domenici
U.S. Senator

Printed by the Republican Party of New Mexico

3200 "86E" 40 "02