



SEP 10 9 58 AM '97

**Comptroller of the Currency
Administrator of National Banks**

Washington, DC 20219

September 8, 1997

Pre-MUR 354

Ms. Lois G. Lerner
Associate General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: Hamilton Bank, N.A., Miami, Florida

Dear Ms. Lerner:

During the course of an examination of the Hamilton Bank, N.A., Miami, Florida ("Bank"), examiners of the Office of the Comptroller of the Currency ("OCC") uncovered an apparent violation of a provision of the Federal Election Campaign Act, 2 U.S.C. § 431 et seq., which prohibits banks from making contributions to campaign committees. See 2 U.S.C. § 441b.

Specifically, OCC examiners discovered that on April 26, 1996, the Bank made a contribution of \$50,000 to the Democratic National Committee ("DNC"). The check appears to have been issued by the Bank following discussions by the Bank's Chairman, Eduardo Masferrer, with Howard M. Giicken, Director of the DNC's National Finance Board, regarding the purchase of a DNC trustee membership.


Prior to issuing the check, the Bank apparently consulted with outside counsel, and also obtained an opinion from the DNC's General Counsel regarding the legality of such a contribution. The DNC provided the Bank with an opinion which explained that national banks are not allowed to contribute to political campaigns, but noted that this prohibition does not extend to donations to a political party's building fund. See 2 U.S.C. § 431(8)(B)(viii)(1996). Accordingly, the opinion concluded that the Bank could lawfully make a donation to the DNC's Building Fund, if it was designated as such.

Nonetheless, the check from the Bank to the DNC was never specifically designated to be placed in the DNC's Building Fund, all of the Bank's internal documentation characterizes the donation as the purchase of a DNC trustee membership, and the acknowledgment from the DNC to Mr. Masferrer, notes that the funds would be used for DNC activities such as "polling, media and get out the vote operations." The Bank currently maintains that it intended to make this contribution pursuant to the Building Fund exception.

- 2 -

We are referring this matter for your review. If you require any additional information or wish to review the OCC's documentation relating to this transaction, please do not hesitate to call Brian C. McCormally, Assistant Director, Enforcement and Compliance Division at (202) 874-4800.

Sincerely,


Robert B. Serrano
Deputy Chief Counsel

5475 963 40 02