

BRAND, LOWELL & RYAN

A PROFESSIONAL CORPORATION

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WASHINGTON, D.C. 20005

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December 4, 1998

HAND DELIVERED

Alva E. Smith, Esquire
Attorney
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: Matter Under Review 4830

Dear Ms. Smith:

Enclosed please find the response to the complaint in the above captioned matter under review filed by DRIVE and its treasurer, as well as the supporting Declaration of Mr. Charles Harple.

Please do not hesitate to call if you have any questions or require additional information.

Sincerely,


David E. Frulla

DEF/amu

Enclosures

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of:

Matter Under Review 4830

Udall for Us All Committee, *et al.*,

Respondents.

**RESPONSE TO COMPLAINT BY THE
INTERNATIONAL BROTHERHOOD OF TEAMSTERS'
DEMOCRATIC REPUBLICAN INDEPENDENT
VOTER EDUCATION POLITICAL FUND
AND ITS TREASURER**

The International Brotherhood of Teamsters Democratic Republican Independent Voter Education Political Fund ("DRIVE") and its treasurer, Mr. Tom Sever (collectively, "Respondents"), respectfully submit the following response to the complaint filed in the above-referenced matter under review. For the reasons set forth herein, DRIVE respectfully requests that the Commission dismiss this matter under review as to it. Complainant has incorrectly alleged that DRIVE violated the law.

More specifically, the Republican Party of New Mexico, and its chairman, Mr. John Dendahl (collectively, "Complainant") filed a complaint against Mr. Tom Udall, the former Attorney General of New Mexico and now a U.S. Representative-elect, and his campaign committee, the Udall for Us All Campaign Committee ("Udall Committee"). The complaint alleges that the Udall Committee accepted contributions for its June 2, 1998, primary election

after the date of the primary election had passed, in violation of 11 C.F.R. § 110.1(b)(3)(i). The complaint further alleges that DRIVE made one of these allegedly illegal contributions.

Under federal campaign finance law, however, a candidate's principal campaign committee may accept a contribution for a previous election to the extent of the committee's "net debts outstanding" from that election. 11 C.F.R. § 110.1 (b)(3)(i). Thus, the Udall Committee could have accepted contributions for the primary election after June 2, 1998, to the extent that such contributions were necessary to fully retire its outstanding debt from that election.

As explained in the Declaration of Charles E. Harple (attached hereto as Exhibit A), DRIVE was approached in July 1998 by a representative of the Udall Committee. The Udall Committee representative informed DRIVE that the Udall Committee was soliciting contributions for the purpose of retiring its 1998 primary election debt. Harple Dec., ¶ 2. Based on that solicitation, DRIVE decided to make a contribution in the amount of \$5,000.00. Harple Dec., ¶ 3. The check is dated August 26, 1998, and is specifically identified as being for "primary debt reduction." A copy of the check is attached as Exhibit 1 to Mr. Harple's Declaration. At the time of that solicitation and subsequent contribution, DRIVE was not aware of any report submitted to the Federal Election Commission by the Udall Committee that indicated the latter committee had not accrued debt in connection with its 1998 primary election. Harple Dec., ¶ 4.

DRIVE has learned from the Complaint herein that the Udall Committee had filed a mid-year report with the Federal Election Commission reporting that the Udall Committee did

DRIVE's and Mr. Sever's Response to Complaint - Page 2

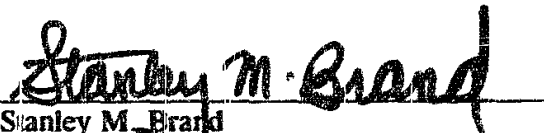
not have net debts outstanding from the 1998 primary election. See Harple Dec. ¶ 5.

However, DRIVE has now learned that the Udall Committee amended its report to the Federal Election Commission to accurately disclose that, consistent with the solicitation made to DRIVE, the Udall Committee did, indeed, have net debts outstanding at the time it solicited and accepted DRIVE's contribution towards its 1998 primary election debt. Harple Dec., ¶ 6.

Therefore, the Complaint erroneously alleges that the Udall Committee did not have net debts outstanding from the 1998 primary toward which DRIVE could make a contribution to retire. For these reasons, DRIVE respectfully requests that the Commission dismiss the matter under review as to it.

Respectfully submitted this 4th day of December, 1998.

BRAND, LOWELL & RYAN, P.C.
(A Professional Corporation)



Stanley M. Brand
D.C. Bar No. 213082
David E. Frulla
D.C. Bar No. 414170
923 15th Street N.W.
Washington, D.C. 20005
(202) 662-9700

Counsel for Respondents DRIVE and Sever


DECLARATION OF CHARLES E. HARPLE

I, Charles E. Harple, do hereby declare and state as follows:

- 1. I am a member of the International Brotherhood of Teamsters Government Affairs Department ("IBT"). I also conduct activity on behalf of the IBT's separate segregated fund, the Democratic Republican Independent Voter Education Fund ("DRIVE") and make the following declaration based on my own personal knowledge gained in these capacities.**
- 2. In July 1998, DRIVE was approached by a representative from the Udall for Us All Campaign Committee ("Udall Committee"). The Udall Committee representative informed DRIVE that the Udall Committee accrued debt during the 1998 primary election and solicited a contribution from DRIVE for the purpose of retiring that debt.**
- 3. DRIVE contributed \$5,000.00 to the Udall Committee for the purpose of retiring debt associated with the 1998 primary campaign. A true and accurate copy of the check is attached hereto as Exhibit 1.**
- 4. At the time of that solicitation and subsequent contribution, DRIVE was not aware of any report submitted to the Federal Election Commission by the Udall Committee that indicated the Committee had not accrued debt in connection with its 1998 primary election.**
- 5. It was not until DRIVE reviewed the instant complaint that it learned that the Udall Committee did, in fact, file an erroneous report with the Federal Election Commission indicating that it was not indebted from the 1998 primary election.**
- 6. The Udall Committee has since amended the relevant report to the Federal Election Commission and accurately disclosed its debt from the 1998 primary election at the time the instant solicitation and contribution were made. A true and accurate copy of the Udall Committee's amended report to the Federal Election Commission is attached hereto as Exhibit 2.**

Further Declarant sayeth not.

I declare under the penalty of perjury that the foregoing is true and correct.


Charles E. Harple

603-010777



DRIVE POLITICAL FUND

AFFILIATED WITH THE
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

25 LOUISIANA AVENUE, N.W. WASHINGTON, D.C. 20001

FEC # C00032879

DATE 26-AUG-98 CUSTOMER /ICCT. NO.

UDALL FOR US ALL

66707

INVOICE NO.	INVOICE DATE	DESCRIPTION	DISCOUNT AMOUNT	NET AMOUNT
25-AUG-98	25-AUG-98	PRIMARY 98 DEBT REDUCTION	0.00	5,000.00
			0.00	5,000.00



DRIVE POLITICAL FUND

AFFILIATED WITH THE

INTERNATIONAL BROTHERHOOD OF TEAMSTERS

25 LOUISIANA AVENUE, N.W. WASHINGTON, D.C. 20001

FEC # C00032879

15-52

540

603-010777

CHIEF OF
FINANCE
WASHINGTON, DC

CHECK DATE	CHECK NUMBER	CHECK AMOUNT
26-AUG-98	10777	*****5,000.00

PAY FIVE THOUSAND DOLLARS AND 00 CENTS*****

TO THE
ORDER OF

UDALL FOR US ALL
P O BOX 203
SANTA FE, NM 87504

NOT NEGOTIABLE

Department Approval:

1st Audit:

2nd Audit:

Post Audit:

Date:

Date:

Date:

Date:

Special Mailing Instructions:

Delivered/Released to: UCIN EXCERO

By:

9-1-98

Entered By: IDSLOSKEY on 8/24/98

F.I.C. IMAGE 98033900149 (Page 1 of 39)

Page 2 of 3

Tom Udall

 RECEIVED
 FEDERAL ELECTIONS COMMISSION
 NOV 20 1998

TO 1 7 51 E 12

October 30, 1998

 Rubin Kelly
 Federal Elections Commission
 810 E. Street NW
 Washington, DC 20463

 RE: UDALL FOR US ALL
 C 01029895

Dear Robin:

This letter is to follow up on our conversation this morning about how to record primary debt on the FEC report.

As we discussed, the contributions received for the primary election fall short of covering the campaign's primary election expenses in the amount of \$37,828.25. Of this amount, all but \$4781.25 was paid by the end of the reporting period, i.e., June 30, 1998. See enclosed Schedule C. The \$33,167.00 that was disbursed between the June 3 primary and the June 30 close of the reporting period are included on the Schedule B filed on July 15, 1998. These disbursements are marked "Primary Debt" on the enclosed copy of that schedule.

The debts totaling \$4781.25 that were not paid by June 30 do not appear on the Schedule B filed on July 15, 1998. They are shown as disbursements on the Schedule B filed October 15, 1998. When this amount is added to the \$30,000 loan from the candidate shown on the enclosed Schedule C, the total Debts and Obligations Owed BY the Committee equals \$14,781.25. An amended copy of the Report of Receipts and Disbursements is also enclosed.

Thus, the campaign's total primary debt was \$57,828.25. This amount was reduced to \$53,043.25 as a result of a \$14,025.00 refund from one of its primary vendors. To date, the campaign has received \$13,801.00 toward payment of its primary debt, leaving a debt as of this date of \$27,403.25.

Thank you for all of your help in resolving this matter.

Sincerely,


 J. Z. Cooper

P.O. Box 100, Santa Fe, NM 87504

Paid for by UDALL FOR US ALL The Garcia Trustee.

Printed on recycled paper by American Press.

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REPORT OF RECEIPTS AND DISBURSEMENTS

For an Authorized Candidate
(Continued Page)

1. NAME OF COMMITTEE (in full)

Unit for Us All

ADDRESS (number and street)

P.O. Box 200

☐ Check if different than physically reported

CITY, STATE and ZIP CODE

Santa Fe, NM 87501

STATE/DISTRICT

NM 3

2. FEC IDENTIFICATION NUMBER

C00329000

PERIOD COVERED
COMMITTEE REPORT

For 1 7 98

3. IS THIS REPORT AN AMENDMENT?

☒ YES ☐ NO

4. TYPE OF REPORT

☐ April 15 Quarterly Report

☐ Twelve day report preceding

☒ July 15 Quarterly Report

election on _____ in State of _____

☐ October 15 Quarterly Report

☐ Twelve day report following the General Election on

☐ January 31 Year End Report

in the State of _____

☐ July 31 Mid-Year Report (Non-election Year Only)

☐ Transition Report

This report is being
submitted for

☒ Primary Election

☒ General Election

☐ Special Election

☐ Runoff Election

SUMMARY

5. Reporting Period	04/01/98 through 06/30/98	COLUMN A This Period	COLUMN B Calendar Year to Date
6. Net Contributions (other than loans)			
(a) Total Contributions (other than loans) (from Line 9(c))		\$180067.15	\$202071.00
(b) Total Contribution Refunds (from Line 23(c))		\$0.00	\$0.00
(c) Net Contributions (other than loans) (Subtract Line (b) from (a))		\$180067.15	\$202071.00
7. Net Operating Expenditures			
(a) Total Operating Expenditures (from Line 17)		\$304541.00	\$430450.00
(b) Total Offsets to Operating Expenditures (from Line 14)		\$0.00	\$0.00
(c) Net Operating Expenditures (Subtract Line (b) from (a))		\$304541.00	\$430450.00
8. Cash on hand at (Date of Reporting Period (from Line 8))		\$23350.00	
9. Debits and Credits from Other TOB Contributions (reported on Schedule C and/or Schedule D)		\$0.00	
10. Debits and Credits from Other TOB Contributions (reported on Schedule C and/or Schedule D)		\$34761.25	

TOTAL NET CONTRIBUTIONS MINUS NET OPERATING EXPENDITURES (Line 6(c) minus Line 7(c))

NOTE: See instructions on page 1 for details.

Signature of Candidate

Signature of Treasurer

NOTE: See instructions on page 1 for details.

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FEC FORM 3
(Required 407)