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October 26, 1998

MUR 4839

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

Re: Illegal Campaign Ads

Dear Commissioners:

On behalf of the Democratic Congressional Campaign Committee and the Missouri Democratic Party, we file this complaint alleging violations of the campaign laws by Kenny Hulsof, the Republican candidate for the U.S. House of Representatives in the 9th Congressional District of Missouri, and his principal campaign committee, Bill Federer, the Republican candidate for the U.S. House of Representatives in the 3rd Congressional District of Missouri, and his principal campaign committee, Chuck Pierce, the Republican candidate for State Auditor in Missouri, and possibly other federal candidates unknown at this time (hereinafter referred to as "Respondents").

Respondents have violated the Federal Election Campaign Act of 1971, as amended ("FECA") and the Federal Election Commission ("FEC") regulations implementing that Act, by making and accepting excessive contributions using funds from prohibited sources.

The Facts

In several Congressional Districts around Missouri, the Republican candidate for State Auditor has purchased numerous 30-second spots. These purchases have been valued at more than \$65,000 for the period of October 27 through November 2. Additional purchases were made for earlier periods.

When the advertisements run for these spots, however, they consist of a 15-second spot for the Auditor candidate and a 15-second spot for the Republican Congressional candidates. Each 15-second spot contains its own disclaimer: paid for

[04031-0001/DA982970.002]

October 26, 1998

Page 2

by the Auditor candidate's committee and paid for by the Congressional candidate's committee. The 30-second spot was, however, paid for in its entirety by the State Auditor's committee.

Upon information and belief, the State Auditor's committee is not registered with the FEC and, pursuant to the provisions of Missouri law, accepts funds that are not lawful under the FECA.

Violations of the Law

A purchase of this size by either Mr. Pierce or his campaign committee, on behalf of the federal candidates in question, constitutes an excessive contribution under the FECA. Under the federal campaign laws, an individual or a person, such as a candidate's committee, is limited in making contributions to another campaign committee to \$1,000 per election. 2 U.S.C. § 441a(a). An unregistered committee, such as Mr. Pierce's, may contribute only \$1,000 in a calendar year to benefit all federal candidates. 11 C.F.R. § 102.5.

A contribution is defined to include "a gift, subscription, loan . . . , advance, deposit of money or anything of value . . .". 11 C.F.R. § 100.7(a)(1). There is no question that the purchase of over \$65,000 worth of media time, half of which has been made available to federal candidates, meets the definition of "contribution" and exceeds by enormous quantities the contribution limits.

Further, the use of a 30-second spot for two 15-second spots results in a significant savings to the federal candidates. For example, the cost of a single 15-second spot purchased alone is valued on one of the stations at 65 percent of a 30-second spot.¹ Thus, if a single 30-second spot cost \$1,000, a single 15-second spot would cost \$650. Two 15-second spots would be worth \$1,300, not the \$1,000 paid by Mr. Pierce. The value to the federal candidates is \$650, not \$500. The "cost" to the federal candidates for the use of the 15-second spot is, therefore, worth 15 percent more than it would have been if they had purchased a 15-second spot directly.

¹ Each station prices its spots individually, but no station values its 15-second spot simply at 1/2 of the cost of a 30-second spot.

October 26, 1998

Page 3

This method also makes available to the federal candidates time that would not otherwise be available to them -- stations simply do not provide this number of 15-second spots for purchase.

Mr Pierce may try to argue that his committee purchased the time merely to hold it on behalf of the federal candidates' campaigns, until those campaigns could replace the buy with their own funds. This, however, would still constitute an "advance" or "deposit of money" well within the definition of contribution.

Alternatively, the federal candidates may attempt to argue that they have made "matching" buys, half of which they are making available to Mr. Pierce to "offset" the time purchased on their behalf by Mr. Pierce. That they choose to make their own contribution in-kind to Mr. Pierce by providing him with other time does not change in any way the fact that the value of the time paid by Mr. Pierce on their behalf is in excess of the limits and uses funds that are illegal under the federal campaign laws.

Mr. Pierce has also violated the law by raising and spending in excess of \$1,000 for the purpose of influencing a federal election, but failing to register as a political committee under the Act. While normally a nonfederal candidate would not be subject to the jurisdiction of the FEC, where such a candidate spends huge amounts of funds to benefit federal candidates, such registration and reporting of the source of funds used must be required.

Conclusion

These purchases by Mr. Pierce, in excess of the contribution limits and from prohibited sources, are illegal contributions in-kind to the federal candidates. We ask that the Federal Election Commission conduct an immediate investigation into this matter. Because both Mr. Hulshof and Mr. Federer are federal candidates, we must presume they are aware of the contribution limits and source restrictions and, thus,

October 26, 1998
Page 4

that the acceptance of this illegal contributions is knowing and willful under the campaign laws, subject to the highest penalties provided under this statute.

Very truly yours,

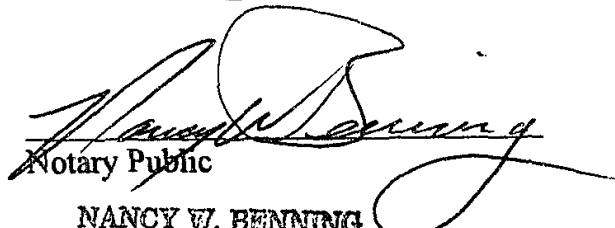


Judith L. Corley
Counsel to the Democratic Congressional
Campaign Committee and the Missouri
Democratic Party

STATE OF District of)

County of Columbia)

SUBSCRIBED AND SWORN to before me this 26th day of October, 1998.



Notary Public

My Commission Expires:

NANCY W. BENNING
Notary Public, Washington, D.C.

May 31, 2000