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Ben Jeffers
Chairman

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October 26, 1998

MUR 4841

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

Dear Mr. Noble,

The Democratic State Central Committee of Louisiana, through the undersigned, its duly elected chairman, files this complaint asserting that Congressman Richard H. Baker, who is a candidate for reelection in this year's congressional election, and the Baker for Congress Committee ("Committee") (collectively, "Respondents") appear to have violated the Federal Election Campaign Act (the "Act"), 2 U.S.C., Section 431 *et seq.*, and related regulations of the Federal Election Commission ("FEC" or the "Commission"), 11 C.F.R., Section 100.1 *et seq.*, in the manner and for the reasons set forth herein below.

A separate complaint was filed earlier this year alleging that Congressman Baker used his Congressional employees to subsidize his campaign illegally, by having them make payments on behalf of his campaign which constituted contributions in apparent violation of Federal criminal law. Since then, disturbing reports have arisen in the public press suggesting that Baker may have spent more than \$500,000 in campaign funds for personal purposes, in direct payments to companies owned by him and his spouse, and that he has transferred funds to an unregulated entity to shield campaign disbursements from public scrutiny.

These matters require the Commission's immediate attention. Together with the previous complaint, they suggest that Mr. Baker may be engaging in a truly remarkable pattern of violations that threaten the integrity of the Act itself.

DISCUSSION

Personal Use of Campaign Funds



The Federal Election Campaign Act flatly states the "no amounts...[of campaign funds] may be converted by any person to any personal use, other than to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office." 2 U.S.C., Section 439a (1998). See also 11 C.F.R., Section 113.1(g) (1998).

Commission regulations prohibit a campaign's rental of a candidate's real and personal property even for campaign purposes, "to the extent the payments exceed the fair market value of the property usage." 11 C.F.R., Section 113.1 (g)(1)(E)(2). They also prohibit salary payments to a member of the candidate's family, unless the family member is providing bona fide services to the campaign. 11C.F.R., Section 113.1 (g)(1)(H).

On October 21, The Hill newspaper reviewed the reports filed by Baker with the Commission, and found a series of transactions that suggest prima facie multiple violations of the Act's prohibition on personal use of campaign funds. Jock Friedly, Rep. Baker's business got campaign funds, The Hill, Oct. 21, 1998, at 1, 8 (Attachment A). Specifically, the article reveals the following:

- From 1992 to 1996, Baker's campaign made \$42,200 in rent payments to Baker Agency, Inc., Baker's own real estate agency, ostensibly for the use of a campaign headquarters. However, "[u]nlike typical rent payments, they often occur more than once a month and are interspersed with inexplicable 'rent' payments of \$1,600 and \$2,600."
- While Baker reported no income on his House financial disclosure reports from the Baker Agency before the rental payments began, he reported the receipt of between \$33,500 and \$107,500 in "dividends" from the agency during the period when the payments occurred, from 1992 to 1995. Baker also reported that his wife received a salary of an undisclosed amount from the agency during this period.
- Baker's campaign made \$37,600 in payments to his wife's former business, 1884 Shoppe. "The bills were labeled everything from 'event expense' and 'printing' to 'gift baskets' and 'helium rental.'"
- Baker's campaign made \$12,700 in payments from 1989 to 1993 to another business run by Baker's wife, K's Louisiana Market. The payments were classified as "event expenses," "gifts" and the like.
- In 1993 and 1994, the Baker campaign spent \$5,549.69 for improvements to Baker's own property. The improvements included air conditioning, plumbing, extermination, and even landscaping.
- According to The Hill article, "the only known fax on public record from the Baker Agency - one to the Louisiana Real Estate Commission on July 25, 1997 - lists 'Baker for Congress' in the automatically generated header. The typed cover sheet also states that the business's fax number is the one that the header lists as the campaign's."

These transactions may not reflect bona fide services to the campaign, and their amounts may not reflect fair market value. They appear to represent a transparent scheme to funnel campaign funds to the candidate himself, and to businesses owned by his immediate family, for personal gain. The Commission should immediately investigate the circumstances of these suspicious payments.

Disclosure Requirements

The recent news article also suggests that Baker may have set up an elaborate scheme to avoid the disclosure requirements of the Act, raising the inference that he may have sought to disguise additional instances of personal use, or additional illegal contributions from his congressional staff.

The Act's reporting requirement is clear: "Political committees shall report the full name and mailing address of each person to whom an expenditure in an aggregate amount of \$200 within the calendar year is made." 11 C.F.R., Section 104.9. This requirement is essential for voters who seek to assess the manner in which candidates spend their funds, and for other candidates whose strategic decisions rely on critical information contained in a full public record.

As the attached article demonstrates, Baker appears to have evaded these requirements by establishing a business entity, and simply transferring funds to that entity so that it may make general operating expenditures on behalf of the campaign. The campaign has made over \$433,000 in payments to the Tricolor Group, a sole proprietorship that "appears to shadow whomever Baker has as his [Congressional] chief of staff."

The Tricolor Group's address has consistently been the same as the campaign headquarters and the Baker Agency. The "owner" of The Tricolor Group also always appears to be Baker's Congressional chief of staff. The large amount transferred raises a number of disturbing questions: whether the Congressional staffer serving as sole proprietor made illegal contributions to the Baker campaign by departing from the ordinary course of business, see 11 C.F.R., Section 116.3(a), 116.5; whether transfers were made to the "business" in order to disguise the campaign's disbursements; and whether the disguised disbursements reflect additional payments for Baker's personal use.

On October 22, 1998, The Advocate (Baton Rouge) reported that "campaign finance reports show Baker reimburses Tricolor for campaign fund-raising..." [Attachment B] This raises questions as to the appropriateness of a congressman's chief of staff performing the dual role of fund-raiser for the committee. How are potential contributors expected to recognize the posture of the chief of staff/fund-raiser at the time of contact? And more importantly, what reasonable (or practical) chance of declining the solicitation do they have when it comes straight from the congressman's chief of staff?

Whatever the purpose, the effect of Baker's apparent scheme is to withhold information about his campaign's activities to which the public is legally entitled, and which he is legally required to disclose. The Commission should immediately investigate these apparent, serious violations of the

STATE OF LOUISIANA :
PARISH OF EAST BATON ROUGE :

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



Notary Public

Commission Expires: Life

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Rep. Baker's business got campaign funds

By Jack Friedly

Rep. Richard Baker (R-La.) has made more than half-a-million dollars in payments in recent years from his campaign to his private businesses, his wife and his top aides, records show.

Such payments in and of themselves are not prohibited by federal law. But the nature of Baker's payments raise questions as to whether his campaign made arm's-length business arrangements.

The payments include \$433,000 in payments to a mystery campaign consulting organization named The Tricolor Group. In what campaign finance experts describe as an unusual arrangement, Tricolor appears to shadow whomever Baker has as his chief of staff.

In recent years, that has been Christina Casteel. She has claimed to be the sole proprietor of Tricolor on several personal financial disclosures since she became Baker's top aide. Meanwhile, Baker's prior chief of staff, Timothy Carpenter, listed his own wife, Krista, as the previous Tricolor owner, according to his financial disclosures.

Multiple urgent phone calls to

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Baker's congressional and campaign offices went unreturned this week. Messages for Casteel at work and home also went unreturned.

Krista Carpenter did not respond to a phone call placed to her home. Tim Carpenter refused to answer questions about Tricolor, citing hazy memory. "You're asking me to remember something from eight years ago," he said.

He blamed the questions on Baker's electoral opponent Marjorie McKeithen, who, he said, was taking the focus off her own poor voting record. "It is a white rabbit," he said. "This is just Marjorie trying to

misdirect people."

Baker was first elected to Louisiana's 6th District in 1986 as a "clean government" crusader, fighting for ethics in Congress and campaign finance reform. He has opposed the major campaign finance bills in Congress this year. Instead, he has stated his support for full disclosure of receipts and expenditures.

Baker's own campaign disclosures describe a tangled relationship between his reelection effort and his family business interests. The campaign's payments to Baker, his family and their businesses since he came to Washington include:

• \$42,200 in rent payments from 1992 to

1996 to Baker Agency Inc., the lawmaker's real estate office, which he used as his campaign headquarters. The transactions are mostly in \$650 and, finally, \$850 amounts. Unlike typical rent payments, they often occur more than once a month and are interspersed with inexplicable "rent" payments of \$1,600 and \$2,600. He sold the building in 1996.

- \$37,600 to his wife Kay's former business called 1884 Shoppe. The bills were labeled everything from "event expense" and "printing" to "gift baskets" and "helium rental."

- \$12,700 from 1989 to 1993 in "event expenses," "gifts" and the like from K's Louisiana Market, a gift store owned by his wife.

Baker's campaign has shared the same address as the Baker Agency, his wife's business and the Tricolor Group.

Questioned in 1995 when the issue of his rent payments first arose, Baker explained, "The issue for me was one of political convenience, where I conducted my political activities."

Experts say that with this arrangement, Baker is walking a delicate line between his business and his campaign. On the one hand, incorporated businesses may not subsidize a campaign. On the other, campaigns may not subsidize a business owned by the candidate since federal law prohibits the conversion of campaign funds to "personal use."

At times, Baker has blurred the distinction between his business and his campaign. For example, the only known fax on public record from the Baker Agency — one to the Louisiana Real Estate Commission on July 25, 1997 — lists "Baker for Congress" in the automatically generated header. The typed cover sheet also states that the business's fax number is the one that the header lists as the campaign's.

More substantively, Baker's campaign has paid for improvements to Baker's property, not typically the direct responsibility of tenants sharing a building. Among the expenses are air conditioning repair, yard work, extermination and plumbing. All told, these costs amounted to \$5,400.

"These are not arm's-length transactions," said Gary Ruskin, executive director of the Congressional Accountability Project. "Consequently, when a member of Congress deals with campaign vendors not at arm's length, it raises some questions and these questions are heightened when the payments are particularly irregular as in this case."

Baker appears to have personally profited from the rent and facility payments by his campaign. For several years before the payments began, his financial disclosures reveal no income from Baker Agency.

From 1992 to 1995, however, as rent payments were occurring, Baker realized "dividends" from the business of somewhere between \$33,500 to 107,500, according to his disclosures. In 1994 and 1996, Baker also reported that his wife received a salary in an undisclosed amount from the agency.

The largest expenses that raise possible questions were not to Baker's businesses, but to Tricolor. In 1992 and 1993, Chief of Staff Carpenter reported \$15,627 in income from Tricolor to his wife. Casteel also listed \$600 in partnership income in 1993.

When Casteel assumed the position of Baker's chief of staff, she reported Tricolor on her financial disclosure as being a "sole proprietorship" jointly owned with her husband producing \$7,500 that year. Over the following years, she reported an additional \$41,900 in direct income, including \$15,000 last year.

In 1990 and 1991, Baker's campaign listed Tricolor's address as the one where Baker maintained his campaign and family businesses. When the campaign moved, so too did Tricolor.

Baker's payments to Tricolor make it difficult to determine how the campaign spends its money. Not clear, for example, is how much money — if any — flowed from Tricolor to the Baker Agency for rent.

MIETRO/STATE

Baker, aide arrangement questioned

Democratic group wants
investigation into double role

By **MARSHA SHULER**
Capitol news bureau

A national Democratic group is questioning an arrangement between Republican U.S. Rep. Richard Baker and a top aide that has led to the woman being paid \$285,000 for various political services since 1995.

Baker said Tuesday there is nothing wrong with the arrangement, which pays Christina Casteel an \$18,000-a-year retainer for outside political work on top of the estimated \$84,000 salary she gets as Baker's full-time chief of staff.

The retainer, paid in \$1,500-a-month installments, is part of \$285,000 Baker's campaign has paid in the last four years to The Tricolor Group, a company Casteel owns and which is housed in the same building as Baker's Baton Rouge offices.

The Democratic Congressional Campaign Committee is questioning Baker's cozy relationship with the firm.

The committee is also concerned about thousands of dollars from Baker's prior congressional campaigns paid to businesses owned by Baker and his wife, Kay, dating as far back as 1989.

□ See **BAKER**, Page 2B

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Baker

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"I don't know what crosses the line of legality, but it definitely needs some investigating," said DCCC official Olivia Morgan.

Morgan said Baker's campaign is Tricolor's primary client and that alone raises suspicions.

The DCCC campaign finance attack is the latest salvo in the 6th District congressional race where political newcomer Democrat Marjorie McKeithen is trying to unseat Baker.

Election day is Nov. 3.

The DCCC supports Democratic congressional candidates with financial contributions and political research. Baker said there is nothing illegal in his campaign finance activities. He said all the expenditures the DCCC questions have been disclosed in his finance reports.

"McKeithen is 10 points down. They have got to do something," said Baker.

Baker said House rules allow Casteel to have a private business as long as her salary does not exceed a certain level.

Casteel said that ceiling is about \$90,000. She estimates her House salary is about \$84,000 right now.

"I don't know what my pay is. I never see my paycheck because it is direct deposit," Casteel said.

When Casteel joined Baker's staff in 1993, she had just finished a job as a fund-raiser for the Republican National Committee.

Baker said Casteel wanted to continue a side business as a campaign planner and fund-raiser and he had no objections as long as Casteel filed the proper disclosure forms.

Campaign finance reports show Baker reimburses Tricolor for campaign fund-raising, coordinating events and handling direct mail on a year-round basis.

Payments for such services have amounted to more than \$200,000 the last four years.

Baker said Casteel handles political activities for him "on her own time," so no one can accuse her of doing political work for her government salary.

Baker said he makes no personal money from Tricolor.

Baker is Tricolor's primary client, Casteel said, adding she also does fund-raising for a few other

political and non-profit clients through the business.

"When I have an election year for Richard, I just can't do a lot else," Casteel said.

Casteel, who lives in Baton Rouge, estimates she makes about \$20,000 a year from the outside business. One year, she said, her income may have hit \$32,000.

Casteel said she does Tricolor work at home and on weekends so it doesn't interfere with her chief of staff duties.

Having Tricolor with office space near Baker's "saves time. I work here because it is convenient," she said.

Casteel said she first got into the business in 1990 with the wife of Baker's former chief of staff, Tim Carpenter, and later with Carpenter himself. When the Carpenters moved to Virginia, Casteel said she took over the firm as sole proprietor. The DCCC also points to rental payments Baker's prior campaigns once made to a real estate company owned by Baker, and other campaign payments that went to a business formerly owned by Baker's wife several years ago.