



FEDERAL ELECTION COMMISSION  
WASHINGTON, D C 20463

**MEMORANDUM**

**TO:** The Commissioners  
Staff Director  
Deputy Staff Director  
General Counsel

**FROM:** Office of the Commission Secretary 

**DATE:** December 21, 2000

**SUBJECT:** Statement of Reasons for MUR 4960

Attached is a copy of the Statement of Reasons for MUR 4960 signed by Commissioner David M. Mason, Commissioner Karl J. Sandstrom, Commissioner Bradley A. Smith, and Commissioner Scott E. Thomas.

This was received in the Commission Secretary's Office on Wednesday, December 20, 2000 at 5:10 p.m.

cc: Vincent J. Convery, Jr.  
Press Office  
Public Information  
Public Disclosure

**Attachment**



FEDERAL ELECTION COMMISSION  
 WASHINGTON, D.C. 20463

**BEFORE THE FEDERAL ELECTION COMMISSION**

*In re* Hillary Rodham Clinton for )  
 US Senate Exploratory Committee, *et al.* ) MUR 4960  
 )

**STATEMENT OF REASONS**

On October 10, 2000, the Commission rejected the General Counsel's recommendation that MUR 4960 be dismissed as not warranting further action relative to other cases pending before the Commission. Instead, the Commission voted 4-2<sup>1</sup> to find no reason to believe that Hillary Rodham Clinton and the Hillary Rodham Clinton for US Senate Exploratory Committee (Respondents) received excessive contributions in violation of 2 USC § 441a(a)(1)(A) of the Federal Election Campaign Act (FECA).

**Standard for Summary Dismissals**

Any person who believes a violation of the FECA has occurred may file a complaint with the Commission. 2 USC § 437g(a)(1). The FECA anticipates that the Commission may summarily dismiss the complaint before the expiration of the 15 days afforded to alleged violators to set forth their reasons why no action should be taken against them. *Id.* After the response period closes, the Commission has the power to investigate alleged FECA violations only where there is "reason to believe" that a violation has been, or is about to be, committed. 2 USC § 437g(a)(2).

The Commission may find "reason to believe" only if a complaint sets forth sufficient specific facts, which, if proven true, would constitute a violation of the FECA. Complaints not based upon personal knowledge must identify a source of information that reasonably gives rise to a belief in the truth of the allegations presented. *See* 11 CFR 111.4(d)(2); MUR 4545 (Clinton/Gore '96 Primary Comm./Amtrak) ("While the available evidence is inadequate to determine whether the costs of the Train Trip were properly paid, the complainant's allegations are not sufficient to support a finding of reason to believe . . ."); MUR 3534 (Bibleway Church of Atlas Road) ("[T]here was a lack of evidence indicating the literature was distributed on behalf of the [Respondent] or at its expense.").

<sup>1</sup> Commissioners McDonald and Wold dissented.

2004-10-02 14:02:25

Unwarranted legal conclusions from asserted facts, *see* SOR in MUR 4869 (American Postal Workers Union), or mere speculation, *see* SOR of Chairman Wold and Commissioners Mason and Thomas in MUR 4850 (Fossella), will not be accepted as true. In addition, while credibility will not be weighed in favor of the complainant or the respondent, a complaint may be dismissed if it consists of factual allegations that are refuted with sufficiently compelling evidence provided in the response to the complaint, *see* MUR 4852 (Wiebe), or available from public sources such as the Commission's reports database.

### Complaint and Response

The Complaint alleges that the cost of President and Mrs. Clintons' move from the White House to Chappaqua, New York was "financed by third parties, in violation of applicable campaign finance requirements." Compl. at 2. The Complainant attests that "[p]ublic and private monies and/or other benefits and preferences" that "appear to be derived from questionable sources" are being bestowed on Mrs. Clinton and her campaign committee. *Id.*

Complainant's factual assertions rest on two bases: Mrs. Clinton's lawyer failed to respond to a letter from the Complainant inquiring as to who would be paying for the decorating, furnishing and renovation of the Clinton's New York home, *id.* at 2-3; and media reports indicate that "old friends" are decorating the Clinton's home, and federal government employees, i.e., Secret Service personnel, are assisting with the move. *Id.* at 3. One of the media reports cited attributes Mrs. Clinton's spokeswoman with a statement that the Clintons were paying their moving bill themselves. Compl. Exh. 3.

The response asserts that the Complaint is both without factual basis and implicates conduct outside the FECA's coverage.

### Analysis

Two threshold deficiencies are conspicuous in the Complaint. First, it does not provide evidence that the costs of the Clintons' move to New York are in connection with Mrs. Clinton's Senate election. While it is true that Mrs. Clinton needed to establish residency in New York in order to run for the Senate there, she could have done so by securing a smaller and less costly residence or possibly without acquiring a permanent residence at all. Thus, the cost of moving into the home the Clintons purchased was not shown to be a campaign expense.

Second, no adverse inference, let alone an admission, may necessarily be found in a person choosing not to respond to correspondence. This is especially true of public figures who receive a large amount of correspondence from persons or groups with whom they are not personally acquainted. While no one would question that "silence *when one would be expected to speak* is a powerful persuader," *Libutti v. United States*, 178 F.3d 114, 120 (2d Cir. 1999) (emphasis added), no such expectations should have arisen in this case. Correspondence posed to a First Lady's lawyer by a watch dog organization does not raise an expectancy that a response was in order.

While the complaint generally alleges that the move was "financed by third parties," the only specific allegations involved assistance by "old friends," i.e., volunteers, which would not constitute contributions or expenditures under the Act, *see* 2 USC § 431(8)(B)(i), and Secret Service personnel, i.e., federal government funds, which are likewise exempt from the Act. *See* 2 USC § 431(11). Moreover, one of the media reports attached to the Complaint specifically states that the Clintons "were paying the moving bill themselves." Thus, the only evidence cited by the Complainant directly contradicts his speculation (e.g., "financial assistance *apparently* provided" (*emphasis added*)) that the move may have been financed by gifts from private sources. Such purely speculative charges, especially when accompanied by a direct refutation, do not form an adequate basis to find reason to believe that a violation of the FECA has occurred. *See* MUR 4850.

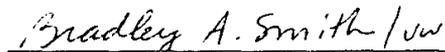
To meet the threshold for "reason to believe," the complainant should have provided some evidence upon which one could reasonably conclude that third parties actually paid for the move (as opposed to merely speculating that someone must have). Absent personal knowledge, the Complainant, at a minimum, should have made a sufficiently specific allegation (i.e., as to who supposedly made payments, along with some reasonable basis for the belief), so as to warrant a focused investigation that can prove or disprove the charge.

Finally, even if the complaint had shown that sources other than the Federal government and the Clintons themselves had paid for the move, there would have to be some indication the payment would not have been made "irrespective of the candidacy." 11 CFR 113.1(g)(6). The complaint failed completely to address, much less provide any evidence regarding, this essential element of the violation it alleged.

For these reasons, the Commission found no reason to believe that Respondents did not receive excessive contributions in violation of 2 USC § 441(a)(1)(A).

  
\_\_\_\_\_  
David M. Mason, Commissioner

  
\_\_\_\_\_  
Karl J. Sandstrom, Commissioner

  
\_\_\_\_\_  
Bradley A. Smith, Commissioner

  
\_\_\_\_\_  
Scott E. Thomas, Commissioner

December 21, 2000