

FEDERAL ELECTION COMMISSION  
999 E Street, N.W.  
Washington, D.C. 20463

**FIRST GENERAL COUNSEL'S REPORT**

AUDIT REFERRAL: #00-01  
DATE ACTIVATED: May 17, 2000

STAFF MEMBER: Joel J. Roessner

SOURCE:

Internally Generated

RESPONDENTS:

Democratic National Committee, and Andrew Tobias as  
treasurer

RELEVANT STATUTES:

2 U.S.C. § 431(13)(A)  
2 U.S.C. § 432(i)  
2 U.S.C. § 434(a)(1)  
2 U.S.C. § 434(b)(3)(A)

2 U.S.C. § 441f  
11 C.F.R. § 102.17(a)(1)(ii)  
11 C.F.R. § 102.17(c)(8)

2004-04-02 10:03:00

11 C.F.R. § 104.7(b)(2)

INTERNAL REPORTS

CHECKED:

Report of the Audit Division on the Victory '96 Joint Fundraising Activities

FEDERAL AGENCIES

CHECKED:

None

**I. GENERATION OF MATTER**

Victory '96 was a joint fundraising project of the Democratic National Committee ("DNC") and the Clinton/Gore '96 General Election Legal and Compliance Fund ("Clinton/Gore '96 GELAC").<sup>1</sup> This matter was referred by the Audit Division to the Office of General Counsel on January 3, 2000, and was generated from an audit of the Victory '96 Joint Fundraising Activities, undertaken in accordance with 26 U.S.C. § 9007(a).<sup>2</sup>

The Commission approved the Audit Report on the Victory '96 Joint Fundraising Activities on December 9, 1999.

The finding referred to this Office is that the DNC, as the fundraising representative, failed to identify persons who made contributions to Victory '96.

<sup>1</sup> Where political committees engage in joint fundraising, the participants must either establish a separate committee or select a participating committee to act as the fundraising representative for all participants. 11 C.F.R. § 102.17(a). The DNC acted as the fundraising representative for the Victory '96 participants, and Victory '96 was not itself a separate committee.

<sup>2</sup> The Audit Division was authorized under 26 U.S.C. § 9007(a) and 11 C.F.R. § 9007.1(a)(1) to conduct an audit of the activities of the candidate, the candidate's authorized committee and their agents, including contributions to its legal and accounting compliance fund. As the fundraising representative for both joint fundraising participants, the DNC was also an authorized committee of the candidate. 11 C.F.R. § 102.17(a)(1)(i). Therefore, the Clinton/Gore '96 GELAC and the DNC were both subject to examination under 26 U.S.C. § 9007(a). The audit fieldwork was conducted by working with one representative each of the Clinton/Gore '96 GELAC and the DNC, both of whom provided relevant information and records to the Audit staff.

## II. ANALYSIS

### A. Law

#### 2. Disclosure of Occupation and Name of Employer

Each treasurer of a political committee shall file reports of its receipts and disbursements. 2 U.S.C. § 434(a)(1). In the case of joint fundraising activities, the fundraising representative is responsible for reporting receipts and disbursements. 11 C.F.R. § 102.17(c)(8); *see also* 11 C.F.R. § 102.17(a)(1)(ii).

A report of receipts and disbursements shall disclose the identification of each person, other than a political committee, whose contributions during the calendar year exceed \$200.<sup>3</sup> 2 U.S.C. § 434(b)(3)(A). The Act defines the term "identification," in the case of an individual, to mean the individual's name, mailing address, occupation, and employer's name. 2 U.S.C. § 431(13)(A).

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<sup>3</sup> Effective for reporting periods beginning after December 31, 2000, reports of an authorized committee of a candidate for Federal office shall disclose the identification of each person whose contributions during the *election cycle* exceed \$200. See section 641 of the Treasury and General Government Appropriations Act, 2000, Pub. Law No. 106-58 (signed into law September 29, 1999).

When the treasurer of a political committee demonstrates that best efforts have been used to obtain, maintain, and submit information required by the Act, the committee's reports and records shall be considered to be in compliance with the Act. 2 U.S.C. § 432(i). A committee will be deemed to have exercised best efforts to obtain contributor information which was not provided with the contribution only if the treasurer makes at least one subsequent effort to obtain the missing information by sending a written request for the information, or making an oral request confirmed in writing. 11 C.F.R. § 104.7(b)(2).

**B.     Analysis**

**2. Disclosure of Occupation and Name of Employer**

As described in the Audit Referral, the Audit Division conducted a sample review of contributions from individuals and found that, with material frequency, the DNC failed to report contributors' occupations and employer names.

Although the DNC filed an amended report, correcting some of the errors, the frequency of the DNC's failure to report contributors' occupations and employer names was still material.<sup>7</sup> Accordingly, this Office

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<sup>7</sup> It appears that the DNC failed to correct errors related to funds collected by the GELAC. However, as the fundraising representative for this joint fundraising effort, the DNC had an obligation to retrieve this information from the GELAC. 11 C.F.R. § 102.17(c)(4)(ii).

recommends that the Commission find reason to believe that the DNC failed to disclose the identification of persons, other than political committees, whose contributions during the calendar year exceeded \$200, in violation of 2 U.S.C. § 434(b)(3)(A).

This Office believes that the proper ordering of the Commission's resources and priorities warrants taking no further action with respect to this issue. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

**III. RECOMMENDATIONS**

1. Open a MUR;
2. Find reason to believe that the Democratic National Committee and Andrew Tobias, as treasurer, violated 2 U.S.C. § 434(b)(3)(A) and take no further action;
3. Approve the appropriate letter; and
4. Close the file.

Lawrence M. Noble  
General Counsel

7/13/00  
Date

BY: Kim Leslie Bright  
Kim Leslie Bright  
Associate General Counsel