



National Republican Congressional Committee

Donald F. McGahn II  
General Counsel

August 18, 2000

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Lawrence M. Noble, Esq.  
General Counsel  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

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RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

Re: Complaint Against Pat Casey, Casey for Congress and the Pennsylvania  
Democrat State Party

Dear Mr. Noble:

The National Republican Congressional Committee, by and through its General Counsel, hereby brings this complaint pursuant to 2 U.S.C. § 437g(a)(1) against Pat Casey. The National Republican Congressional Committee is located at 320 First Street, S.E., Washington, D.C. 20003.

#### I. FACTUAL BACKGROUND

Pat Casey is the Democrat candidate for United States Congress from the tenth district of Pennsylvania. His is challenging the current representative, Congressman Don Sherwood.

In its August 6, 2000 edition, the *Towanda Daily Review* reported that Pat Casey may be engaging in unlawful dirty tricks. The newspaper reported that Wysox Township Supervisor Doug McLinko said "two young men who support Democrat Pat Casey, a Scranton attorney, lied to get into a meeting of Sherwood supporters in Wysox recently, and he is upset with what he calls this unethical tactic." McLinko said, "They lied to get into the meeting. They told us that they were supporters of Republican Sen. John McCain and asked to sit in on our meeting. After the meeting, though, they were really evasive with us when we asked them some questions. They just took off in their cars as fast as they could."

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Washington, D.C. 20003  
(202)479-7069  
www.nrcc.org

21-04-405-2954

The Casey campaign initially denied that the two men were acting under orders from the Casey camp. But the *Towanda Daily Review* reported that McLinko said he "saw the two at the Troy fair dressed in shirts with Casey's logo, and they were handing out literature about Sherwood, which McLinko called 'a pack of lies.'" McLinko said he "approached the men at the fair and told them what they did at the meeting was wrong. During the ensuing conversation, he said they admitted they were working for Casey." Confronted with this, a Casey spokesman admitted that it was "possible" that the "two men were later at the Troy Fair in Casey regalia," but he "pointed out the employees at the Democratic Party booth at the fair were working for all candidates of the party."

Attached is a copy of the material handed out by the two individuals. It constitutes express advocacy ("Elect Pat Casey . . ."), and lacks any sort of disclaimer.

## II. VIOLATIONS

### A. The acts of the two Casey agents constituted "dirty tricks" prohibited by 2 U.S.C. § 441h.

Passed to prevent so-called "dirty tricks" of political campaigns, section 441h states:

No person who is a candidate for Federal office or an employee or agent of such a candidate shall –

- (1) fraudulently misrepresent himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or
- (2) willfully and knowingly participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).

This section clearly prohibits the activity of the Casey campaign and its agents. First, the two individuals were agents of the Casey campaign. First, they were seen wearing Casey shirts, and were handing out "Elect Pat Casey" literature. Second, according to news reports, they admitted they were working for Casey. Third, once confronted with the facts, a Casey spokesman could not categorically deny that the individuals were not agents of the Casey campaign. Finally, even if they were not direct Casey agents, the spokesman admitted that they were certainly agents of the Democratic Party, rendering that entity just as culpable as the Casey campaign.

Second, the Casey agents misrepresented themselves as being with the Senator John McCain operation. This falsehood was told to obtain access to an opponent's campaign meeting. Such conduct is a *prima facie* violation of section 441h, and requires immediate Commission attention and action.

**B. The material distributed by the Casey agents violated 2 U.S.C. § 441d and 11 C.F.R. § 110.11(a).**

A disclaimer notice must be used when public political advertising is used either (1) to expressly advocate the election or defeat of a clearly identified candidate for Federal office, or (2) to solicit funds in connection with a Federal election. 2 U.S.C. § 441d; 11 C.F.R. § 110.11(a).

The material handed out by the Casey agents constituted express advocacy – not only did it attack Mr. Sherwood by name, it explicitly stated “Elect Pat Casey to Congress . . .” Thus, the lack of a disclaimer constitutes a violation of the Act and Commission regulations.

Of course, a review of the material makes it obvious why the Casey campaign chose to forego the disclaimer requirements. Simply put, the material is false and defamatory. For example, it claims that Congressman Sherwood “[s]upports opening dumps throughout Susquehanna County,” a charge ludicrous on its face. What's next, a claim that Mr. Sherwood supports banning trash cans? Perhaps they will next claim he is in favor of throwing trash out of one's car window?

The accusations contained in the material rise to this level of absurdity, and Pat Casey and Pennsylvania Democrats ought to be ashamed of spreading such falsehoods. Commission action is warranted to prevent more of these dirty tricks.

**C. The violations are knowing and willful.**

This is not a simple case involving an accidental lack of disclaimers. Instead, this is an intentional effort by Pat Casey, his campaign, and the Pennsylvania Democrat party to smear Congressman Sherwood.

Just this week, the Washington Post reported that “Top Democratic strategists” are increasingly worried that their opportunity to reclaim the House this fall could slip away unless they can make more races competitive. Obviously, they have resorted to dirty tricks to attempt to make this race “more competitive.” First, Casey operatives falsely claimed that they with Senator McCain. Then they hand out anonymous literature attacking Congressman Sherwood. Then the Casey campaign attempts to deny it. Then,

and only when they are left with no other choice, do the agents admit who they really are. But then the Casey campaign attempts to blame the Democrat Party. This chain events indicates a knowing and willful violation of the law.

Such tactics are unethical. More importantly, they are illegal. Such dirty tricks ought to be stopped by the Commission forthwith.

### III. CONCLUSION

For the foregoing reasons, the National Republican Congressional Committee respectfully requests that the Federal Election Commission find that there is a reason to believe that a violation of the law has occurred, and investigate the matter promptly.

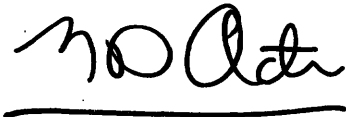
Respectfully submitted,



Donald F. McGahn II

District of Columbia

Signed and sworn to before me  
this 18th day of August, 2000



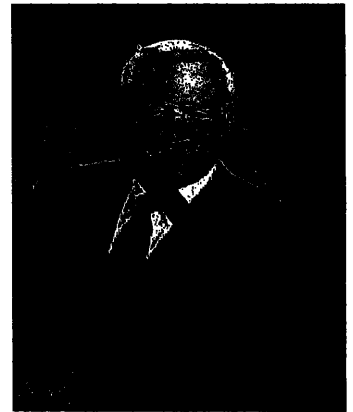
M.D. ACTON  
Notary Public, District of Columbia  
My Commission Expires July 14, 2004

**Do you want dumps in Susquehanna County?**

**Act now before it is too late!**



**Do you realize that  
Don Sherwood**



- **Supports opening dumps throughout Susquehanna County**
- **Considers dumps to be "economic development"**
- **Has taken tens of thousands of dollars in campaign contributions from people who are looking to open dumps in Susquehanna County**
- **Actively supports legislation that would allow companies to sue in Federal Court to overturn all state and local regulations and bans concerning dumps (House Resolution 2372)**
- **Supports allowing companies to blackmail and threaten local communities with costly litigation (House Resolution 2372)**
- **Wants unelected Federal Judges to have the power to issue dump permits even if the local citizens oppose it (H. R. 2372)**

**This is not just garbage dumps, but toxic and  
nuclear waste dumps!!!**

**Pat Casey opposes opening dumps in our backyard  
Elect Pat Casey to Congress before it is too late!!!**

21.04.405.2957

# Casey's camp accused of spying on opposition

Sherwood supporters say two Dems lied to get into congressman's campaign meeting; Casey spokesman says those responsible could be Democrats, but they don't work for candidate

BY BOB IGOE

(570) 265-1629

*The Daily/Sunday Review*

As the race for the 10th Congressional District heats up, supporters of incumbent Republican Congressman Don Sherwood say that his opponent's camp is resorting to dirty tricks.

According to Republican Wysox Township Supervisor Doug McLinko, a supporter of Sherwood, two young men who support Democrat Pat Casey, a Scranton attorney, lied to get into a meeting of Sherwood supporters in Wysox recently, and he is upset with what he calls this unethical tactic.

"They lied to get into the meeting," said McLinko. "They told us that they were supporters of Republican Sen. John McCain and asked to sit in on our meeting. After the meeting, though, they were really evasive with us when we asked them some questions. They just took off in their cars as fast as they could."

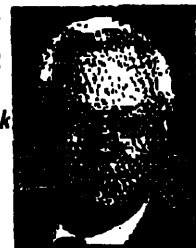
The meeting of Sherwood supporters was held at McLinko's eatery, Stewart's Family Restaurant on U.S. Route 6. Casey lost to Sherwood, of Tunkhannock, for the 10th District seat by 515 votes in 1998, and political forecasters say this year's rematch is shaping up to be one of the most hotly contested races in the nation.

See SHERWOOD, Page 16A



**Pat  
Casey**

*Scranton  
Attorney*



**Rep. Don  
Sherwood**

*R-Tunkhannock*

# SHERWOOD

Continued from Page 1A

Charlie Lyons, a spokesman for the Casey campaign, says that while it is possible that the two young men in question were Democratic Party volunteers, he denies that they acted under orders from the Casey camp.

"We would not condone that," he said. "I made some calls and verified that there may have been two Democratic supporters at the meeting, but they were not Casey employees."

According to McLinko, the license plates on the men's vehicles were from out-of-state. He added the plates on their cars were different than the states the men claimed to be from.

He also said he was suspicious of how the pair, who claimed to be "college students just passing through" Bradford County, learned of the meeting, since there was no sign or advertising to promote it.

After the meeting, McLinko said he saw the two at the Troy Fair dressed in shirts with Casey's logo, and they were handing out literature about Sherwood, which McLinko called "a pack of lies."

McLinko said he approached the men at the fair and told them what they did at the meeting was wrong. During the ensuing conversation, he said they admitted they were working for Casey.

"We weren't discussing anything top-secret at that meeting," McLinko said. "They lied to get into this meeting. They lied about their purpose for being there. It was just blatant dishonesty on their

part and for what? Is this the kind of tactics that Pat Casey feels he needs to use to get elected?"

As for McLinko's statement that the two men were later at the Troy Fair in Casey regalia, Lyons again said this is possible.

But he pointed out the employees at the Democratic Party booth at the fair were working for all candidates of the party.

Lyons added the two men could have easily gotten their hands on the Casey shirts, which are often passed out at campaign events.

Although The Review could not locate the two men described by McLinko at the fair, the newspaper did acquire a copy of a flyer that the Democratic Committee distributed from its booth there.

The one-page, black-and-white document, which lists no funding source and does not credit any sources for its information, is titled, "An important message from your union."

It encourages residents to call a toll-free number, which has been disconnected, to criticize Sherwood for voting "to squander America's budget surplus on a \$792 billion tax cut for the rich and Big Business." The letter also claims "more than 80 percent of this bonus will go to the richest 20 percent of Americans; two-fifths will go to the wealthiest 1 percent."

Sherwood finds the charges to be completely

inaccurate.

"This flyer is one left over from last year," said Sherwood. "Even so, these charges are still wrong, just as they were then. This tax cut bill, which President Bill Clinton vetoed, contained such things as marriage penalty tax relief, which would have given a tax break to one out of every 1.5 persons in this district alone, not just the rich."

Sherwood continued that the tax cut bill "also contained a measure to eliminate the 3 percent tax on telephones. And I know a lot of people who own phones that aren't wealthy. Their (the Democrats) assertions are false and full of half-truths."

Sherwood says he feels his record of service will overcome the negative campaigning and tricks of his opponent.

"We are committed to a positive campaign dedicated to the issues," said Sherwood. "We want to get out the message about all of the positives we have accomplished, such as lowering taxes, working to preserve Social Security and supporting education and national defense."

He continued, "This race is about the people of the 10th District and what is best for them. Unfortunately, we have outside influences coming in and trying to influence the outcome. I would be interested in knowing who is funding these efforts."

Sherwood added, "We have done a lot of good for the people of the 10th District."