

# SHARPTON 2004

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May 15, 2003

VIA FACSIMILE 202-219-1043  
VIA CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Kim Stevenson  
Federal Election Commission  
999 E Street, NW  
Washington DC 20463

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FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

2003 MAY 20 P 3:20

Re: In the Matter of Alfred C. Sharpton  
Rev. Al Sharpton Presidential Exploratory Committee

MUR 5363

Dear Sir/Madam:

I am counsel for the above referenced Respondents pursuant to the complaint filed by the National Legal and Policy Center (NLPC) in accordance with the provisions of 2 U.S.C. Section 437g(a)(1) of the Federal Election Campaign Act of 1971, as amended (the "Complaint").

The complaint asserts, in brief, that the Respondents have engaged in fundraising and expenditure activities "...since August, 2002 and it registered its existence with Federal Election Commission in January, 2003" without fulfilling its obligation to file quarterly financial reports with the Federal Election Commission (FEC) as all other candidates for the Democratic Party nomination for president in 2004.

In fact, an exploratory "testing-the-waters" committee was formed in August, 2002, entitled The Rev. Al Sharpton Presidential Exploratory Committee (the "Committee". The Complaint errs in stating that this Committee "...is the designated fundraising committee for Sharpton's presidential campaign" (emphasis added).

This Committee was formed in a manner consistent with the statute to provide Rev. Sharpton with a vehicle to assess his opportunities regarding the viability of his potential candidacy for the Office of President of the United States in the Democratic Party primaries. This Committee raised limited funds through and including December 31, 2002, approximating \$24,800.

Those funds in turn were expended on a fundraiser that was conducted in Washington DC at the National Museum of Women in the Arts, that in turn allowed Rev. Sharpton to meet and greet a number of significant community and political activists with whom he inquired as to their assessment of his potential candidacy.

May 15, 2003

The complainant cites to 11 C.F.R. Section 100.7(b)(ii) as the relevant guideline for determining whether an individual is conducting exploratory activities or actually engaged in a political campaign. We do not shy away from this test! The Rev Al Sharpton Presidential Exploratory Committee **did not**; (i) engage in general public political advertising to publicize his intention to campaign for federal office, (ii) raise funds in excess of what could reasonably be expected to be used for exploratory activities, (iii) make or authorize written or oral statements that refer to him as a candidate or (iv) conduct activities in close proximity to an election or over a protracted period of time.

In January, 2003 the Respondents filed a Statement of Organization with the FEC as a gratuitous act. As you will note, this document refers to the Committee as an exploratory committee, not as a campaign committee. In addition, no Statement of Candidacy was filed in connection with this document.

On April 29, 2003, Rev. Al Sharpton determined that he was going to be a full-fledged candidate for the Democratic Party nomination for President of the United States in 2004. Accordingly, the Respondent Committee was transformed to a campaign committee, re-named, Sharpton 2004. In connection therewith, a Statement of Candidacy was duly filed with the FEC and financial reports incorporating all monies raised and expended from August, 2002 through March 31<sup>st</sup> 2003 was electronically filed with FEC.

The Respondents maintain that no obligation to file was in existence prior to April 29, 2003. Therefore, matter effectively moot given the determination and actions of Rev. Sharpton as of that date.

Accordingly, we respectfully request a dismissal of the complaint.

Respectfully yours,

Stanley Kalmon Schlein  
Counsel

Affirmed under penalties of perjury this 15<sup>th</sup> day of May, 2003

  
Stanley Kalmon Schlein, ESQ.