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August 3, 2004

Lawrence M. Norton, Esq
General Counsel
Office of the General Counsel
Federal Election Commission
999 E St , NW
Washington, DC 20463

RE Complaint Designated
Matter Under Review #

5518

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF THE
GENERAL
COUNSEL

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Dear Mr Norton:

Pursuant to 2 U.S.C. § 437g, and upon information and belief, this complaint concerns violations of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431 *et seq.* ("the Act") and Commission regulations at 11 C.F.R. § 1.1 *et seq.* arising from the Democratic Party of Hawaii's failure to comply with the Act's core requirement to file timely, complete reports.

I. RESPONDENT

The respondent in this matter is the Democratic Party of Hawaii ("Respondent"), 770 Kapiolani Boulevard, Suite 115, Honolulu, HI 96813, a state committee of the Hawaii Democratic Party. 11 C.F.R. § 100.14.

II. FACTUAL AND LEGAL BASES FOR COMPLAINT

A. **Failure to Timely File Reports, 2 U.S.C. §§ 434(e); 434(a)(4)(B)**

The Democratic Party of Hawaii is filing quarterly reports, instead of monthly, and is therefore in violation of the Act's reporting requirements. The monthly filing requirement is clear: "State, district, and local party committees that are federal political committees and that have reportable receipts and disbursements for [Federal election activity] must file their FEC reports monthly." *FEC Record*, April 2003 at 7 (emphasis added), 2 U.S.C. §§ 434(e); 434(a)(4)(B); 11 C.F.R. §300.36(c)(1), 11 C.F.R. §104.5(c)(3). In the face of this clear requirement, the Democratic Party of Hawaii has failed to file timely monthly reports of receipts and disbursements. For example, instead of filing its 2004 May Monthly Report (covering April 1, 2004 through April 30,

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2004) due on May 20, 2004, the Democratic Party of Hawaii waited until July 16, 2004 to file its 2004 July Quarterly Report (covering April 1, 2004 through June 30, 2004).

This nearly two month delay denies the FEC and the public the timely disclosure of information, the cornerstone of campaign finance law. This is not the only time in the election cycle that Respondent's failure to report monthly resulted in a delay in important information appearing on the public record: for example, the 2004 February Monthly Report was due on February 20, 2004 and the 2004 March Monthly Report was due March 20, 2004, yet a report covering these periods was not filed until April 16, 2004. These are only a few examples of Respondent's late reporting during the 2003-2004 election cycle.

Respondent's failure to file timely reports is evidenced by a communication directing their members to go to a website and select a polling place to go to in order to participate in a presidential preference poll; holding a Presidential preference poll across the state, and engaging in voter registration activity ("We will have both party enrollment and voter registration forms available . . . that evening." Exhibit B (referring to Respondent's February 24, 2004 event). The FEA period for voter registration activity in Hawaii, according to the FEC, is October 27, 2003 through November 2, 2004 See http://www.fec.gov/pages/bcra/rulemakings/charts_fea_dates.htm#anchorCT. Based on this documentation of Respondent's activity during this period, it is inconceivable that the committee could maintain a quarterly reporting schedule. The FEC should therefore find reason to believe that Respondent violated 2 U S C. §§ 434(e). Each report found to have been filed late is a violation of 434(a)(4)(B)

B. Failure to Properly Itemize Disbursements, 2 U.S.C. § 434(b)

On April 15, 2004 the Democratic Party of Hawaii held a fundraiser honoring Senators Inouye and Akaka Exhibit A. Based on the timing of the fundraiser, there is a reasonable basis to conclude that the funds raised would be placed into their Federal account in order to conduct certain federal election activities as defined in 11 CFR §100.24. Respondent has failed to properly categorize the expenditures of the aforementioned federal election activities as required by 11 CFR §300.36(b). This amounts to a violation of 2 U S C § 434(b) for failing to properly categorize disbursements and report them as federal election activity

C. Use of Prohibited Funds for Fundraising, 2 U.S.C. § 441b

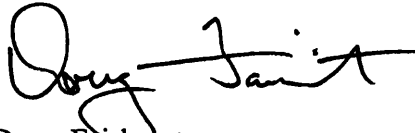
If Respondent has subsidized federal election activity using its non-federal account, the Hawaii Democratic Party has violated 2 U S C § 441b, a provision of the Act providing that corporate contributions are prohibited. Because corporate donations to their non-federal account are permissible under state law, see Hawaii Rev. Stat. § 11-204(a)-(k), use of this account to engage in federal election activity violates 2 U S C § 441b.

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III. CONCLUSION

Based on available information, the Democratic Party Of Hawaii has engaged in "federal election activities" and is therefore required, under the Act and Commission regulations, to fund this activity with federal funds. Furthermore, this activity necessitates the timely filing of monthly reports of receipts and disbursements. Because the Democratic Party of Hawaii has failed to comply with these and other fundamental requirements of the Act, the Federal Election Commission should find reason to believe that the Respondent has violated the Act and commence an investigation. Pursuant to 2 U.S.C. § 437g, the remedies for these multiple violations of the Act includes the payment of civil penalties and a requirement that Respondent timely file its reports in the future.

Respectfully submitted,



Doug Fairhurst
Treasurer
Hawaii Republican Party
725 Kapiolani Blvd #C-105
Honolulu, HI 96813

Attachments

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Verification

Doug Fairhurst hereby verifies that the statements made in this complaint are,
upon information and belief, true


Sworn pursuant to 18 U.S.C. § 1001



Doug Fairhurst, Treasurer
Hawaii Republican Party

The foregoing instrument was subscribed to and sworn before me on this

16th day of August 2004 by Doug Fairhurst



Notary Public
Shirlyn Hookano

My Commission Expires

October 24, 2007

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EXHIBIT A

Make for your support!

- ☐ Yes, we would like to confirm our commitment as a
☐ Diamond ☐ Platinum ☐ Gold Sponsor
☐ Yes, we would like to purchase _____ tickets
☐ We are unable to attend, enclosed is our contribution in the
amount of \$ _____

Name _____
Street Address _____
City, State, Zipcode _____
Tel _____
Email _____
Occupation _____
Employer _____

Please make checks payable to:
Democratic Party of Hawaii
P.O. Box 23031
Honolulu, HI 96823-3031
Ph (808) 524-7699

*Hawaii
House Democratic Honor*

*Senator
Daniel H. Inouye
and
Senator
Daniel K. Akaka*

Thursday, April 16, 2004

Senator White's Ballroom

6:00 p.m. - 6:15 p.m.

Reception

6:15 p.m. - 6:30 p.m.

Dinner and Program

*Diamond Sponsor \$ 10,000
Platinum Sponsor \$ 5,000
Gold Sponsor \$ 2,500
Individual \$ 250*

Make Mine

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Exhibit B

(Page one of two of an unsigned letter from Alexander C. Santiago, Chair, Democratic Party of Hawaii)

Democratic Party of Hawai'i Chair Letter 9 Feb. 2004

Page 1 of 2

February 9, 2004



Dear Fellow Democrat:

The Democratic Party of Hawai'i needs your help. For the first time in many years, we are asking our members to provide us with timely and much-needed financial support. Party volunteers have worked diligently to plan our upcoming events, such as our February 24 presidential preference poll and our May 28-30 state convention. However, it is difficult to keep pace with a professional Republican operation that readily outspends our party by a very wide margin. Your assistance will make a big difference.

That's why I'm urging you to support the Democratic Party of Hawai'i's crucial operations – including our voter outreach and communications efforts – by sending your generous donation today to the address listed at the bottom of this page.

Your timely support will help us direct the public's attention to the destructive impact of Republican policies in Hawai'i and across our country, maintain our current veto-proof majorities in the state legislature, and deliver our White House and Congress from the corrosive influence of special corporate interests.

Also, don't forget to participate in our presidential preference poll at 7:00 p.m. on Tuesday, February 24, 2004, which will be held as part of our statewide precinct meetings. Using your district and precinct numbers, refer to our party's website (<http://www.hawaiidemocrats.org/>) to identify your precinct meeting location. If you know someone who does not have internet access, or if you have any questions at all about where to go, please call the following numbers to determine the precinct meeting location: O'ahu – 596-2980, Kauai County – 245-9591, Maui County – 249-0032, and Hawai'i County – 959-0888.

This is your opportunity to join and support your fellow Democrats nationwide, by helping select our candidate to take back our country from George W. Bush in November. Please feel free to bring friends, relatives, and neighbors to this very important precinct meeting. We will have both party enrollment and voter registration forms available for all Hawai'i residents who wish to participate that evening.

These are truly extraordinary times for our party, state, and nation. Your donation will help the Democratic Party of Hawai'i – with its inclusive message of hope and opportunity for all – stand firm as the true party of the people. Further, your participation in our February 24 presidential preference poll is the critical first step necessary to bring about responsible change in Washington.

Mahalo Nui Loa for your time, your effort, your fellowship, and your generosity.

Sincerely yours,

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