

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

**FIRST GENERAL COUNSEL'S REPORT**

MUR 6148  
DATE COMPLAINT FILED: 12/15/2008  
DATE OF NOTIFICATION: 12/22/2008  
LAST RESPONSE RECEIVED: 02/04/2009  
DATE ACTIVATED: 03/12/09  
EXPIRATION OF SOL: 08/2013

**COMPLAINANT:**

Lisa Harrison

**RESPONDENTS:**

Hillary Clinton for President and Shelly  
Moakwa, in her official capacity as Treasurer

National Organization for Women PAC and  
Latifa Lyles, in her official capacity as Treasurer

**RELEVANT STATUTES  
AND REGULATIONS:**

2 U.S.C. § 431(8)  
2 U.S.C. § 439a(a)  
2 U.S.C. § 441a(j)  
11 C.F.R. § 100.111(a)  
11 C.F.R. § 113.1(a)(5)

**INTERNAL REPORTS CHECKED:** FEC Database

**FEDERAL AGENCIES CHECKED:** None

**I. INTRODUCTION**

The complaint in this matter alleges that Hillary Clinton for President and Shelly Moakwa, in her official capacity as Treasurer ("the Committee"), violated the Federal Election Campaign Act of 1971 ("the Act"), as amended by the Bipartisan Campaign Reform Act of 2002 ("BCRA"), by engaging in deceptive fundraising when it solicited funds, on its own and through the National Organization for Women Political Action Committee and

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1 Latifa Lyles, in her official capacity as Treasurer ("NOW PAC"), after Hillary Clinton had  
2 ended her campaign and was assisting Barack Obama in securing the Democratic presidential  
3 nomination. Attached to the complaint is, *inter alia*, a page from NOW PAC's website  
4 soliciting funds for Hillary Clinton for President. Based on the complaint, the responses, and  
5 available information, we conclude that no violation of the Act or the Commission's  
6 regulations resulted from the activity at issue. Therefore, we recommend that the  
7 Commission find no reason to believe that the Committee or NOW PAC violated the Act.

8 **II. FACTUAL AND LEGAL ANALYSIS**

9 The complaint alleges that Hillary Clinton for President violated the Act by soliciting  
10 campaign contributions while then-primary candidate Hillary Rodham Clinton was assisting  
11 her opponent, then-Senator Barack Obama, in "securing the [D]emocratic nomination" for  
12 President of the United States. Complaint, p. 1. Attached to the complaint is an undated letter  
13 the complainant asserts that she received during the week of August 18-23, 2008 (the week  
14 prior to the Democratic National Convention) from Hillary Clinton for President Committee  
15 soliciting funds to retire campaign debt; a page from the National Organization for Women  
16 PAC's website, dated August 26, 2008, soliciting funds for Hillary Clinton for President  
17 under the heading "Donate for Hillary for President;" and a copy of a "hillarycampaign2008"  
18 website contribution page dated August 26, 2008. Complaint, Attachments 4-6.

19 In response to the complaint, Hillary Clinton for President asserts that the complaint  
20 should be dismissed because it does not contain facts that describe a violation of law, or any  
21 supporting documentation, and that no provision of law prohibits the Committee from raising  
22 funds, subject to the Act's limitations and prohibitions, to retire its own debt, while at the

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1 same time, the Committee's candidate is campaigning for other candidates. Response of  
2 Hillary Clinton for President, p. 2.

3 Similarly, NOW PAC asserts that no action should be taken against NOW PAC or its  
4 treasurer because neither was named in the complaint, and the NOW website clearly stated "I  
5 understand my donation to Hillary Clinton for President will go entirely and directly to  
6 Hillary Clinton for President and will be processed by the campaign." National Organization  
7 for Women Response, p. 1.

8 The Act defines the term "contribution" as "any gift, subscription, loan, advance, or  
9 deposit of money or anything of value made by any person for the purpose of influencing any  
10 election for Federal office." 2 U.S.C. § 431(8)(A)(i). There is nothing in the Act or the  
11 Commission's regulations that prohibits a campaign committee from soliciting and receiving  
12 contributions, within applicable limitations and prohibitions, to pay off the campaign's debts  
13 after the candidate drops out of the race. *See FEC v. Ted Haley Congressional Comm.*, 852  
14 F.2d 1111, 1115 (9<sup>th</sup> Cir. 1988) (stating with respect to Federal elections, "funds raised after  
15 an election to retire election campaign debts are just as much . . . in connection with the  
16 election as are those contributions received before the election," quoting Advisory Opinion  
17 1983-2 (Citizens for Emery Committee); *cf.* 11 C.F.R. §§ 110.1(b)(3)(i) and 110.2(b)(3)(i)  
18 (permitting acceptance of contributions designated for a particular election after that election  
19 to the extent that the contributions do not exceed net debts). The complaint does not allege,  
20 nor do we have information, that any of the contributions solicited or received by Hillary  
21 Clinton for President and Shelly Moskwa, in her official capacity as Treasurer, in connection  
22 with the letter attached to the complaint were outside of applicable limitations and  
23 prohibitions.

1           Notably, then-Senator Hillary Clinton officially conceded the Democratic nomination  
2 for the 2008 United States presidential election on June 7, 2008, and, thus, publicly ended her  
3 campaign well before the complainant received the solicitation from the campaign committee.  
4 *See Adam Nagourney and Mark Leibovich, Clinton Ends Bid With Clear Call To Elect*  
5 *Obama*, *The New York Times*, June 8, 2008. Further, in the undated letter attached to the  
6 complaint, Mrs. Clinton explicitly states that the purpose of the solicitation was to help retire  
7 the campaign's debt. *Complaint, Attachment 4*. Thus, contrary to the complaint, there  
8 appears to be no basis for the allegation that Hillary Clinton for President deceived voters by  
9 soliciting contributions under the premise that she was still running for President.

10           Finally, we note that BCRA restricted the ability of candidates and their authorized  
11 committees to raise funds after the election to repay loans that the candidates made to their  
12 authorized committees. *See 2 U.S.C. 441a(j)*. Section 441a(j) states, "Any candidate who  
13 incurs personal loans after the effective date of the Bipartisan Campaign Reform Act of 2002  
14 in connection with the candidate's campaign for election shall not repay (directly or  
15 indirectly), to the extent such loans exceed \$250,000, such loans from any contributions made  
16 to such candidate or any authorized committee of such candidate after the date of such  
17 election." However, the complaint does not allege, and we do not have information, that the  
18 Hillary Clinton for President Committee was soliciting contributions to repay the candidate.  
19 Indeed, the solicitation letter attached to the complaint specifically states that Clinton was  
20 "not asking for anyone's help to pay" back money she loaned the campaign.

21           With respect to NOW, the complaint alleges that pages copied from NOW's website,  
22 attached to the complaint, "attempt to solicit donations under the premise that the Hillary  
23 campaign was still active" on August 26, 2008. There is no information that NOW PAC

1 fraudulently misrepresented itself in any way and there is no prohibition against a committee  
2 soliciting funds for a campaign committee to help retire debt.

3 Based on the foregoing, we recommend that the Commission find no reason to believe  
4 that Hillary Clinton for President and Shelly Moskwa, in her official capacity as Treasurer, or  
5 the National Organization for Women PAC and Latifa Lyles, in her official capacity as  
6 Treasurer, violated the Act.

7 **III. RECOMMENDATIONS**

- 8 1) Find no reason to believe Hillary Clinton for President and Shelly Moskwa, in her  
9 official capacity as Treasurer, violated the Act;
- 10 2) Find no reason to believe the National Organization for Women PAC and Latifa  
11 Lyles, in her official capacity as Treasurer, violated the Act;
- 12 3) Approve the attached Factual and Legal Analyses;
- 13 4) Approve the appropriate letters; and
- 14 5) Close the file.

15 **Thomasenia P. Duncan**  
16 **General Counsel**

17 **Ann Marie Terzaken**  
18 **Associate General Counsel**  
19 **for Enforcement**

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26 **Date**

BY: 

**Julie K. McConnell**  
**Assistant General Counsel**

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31 **Tracey L. Ligon**  
32 **Attorney**

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**MUR 6148 (Hillary Clinton for President)  
First General Counsel's Report**

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