

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA

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MIDDLE DISTRICT OF FLORIDA

FEDERAL ELECTION COMMISSION,	)	
	)	
Plaintiff,	)	Civil Action No.
	)	86-687-CIV-T-10
	)	
v.	)	Hodges, J.
	)	
CESAR RODRIGUEZ	)	MOTION FOR SUMMARY JUDGMENT
	)	
Defendant.	)	

**THE PLAINTIFF FEDERAL ELECTION COMMISSION'S  
MOTION FOR SUMMARY JUDGMENT**

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, the plaintiff Federal Election Commission (the "Commission") hereby moves for summary judgment because there are no material facts in dispute and the Commission is entitled to judgment as a matter of law. In support of this motion, the Commission relies on the attached Statement of Material Facts Not In Genuine Dispute and Memorandum of Points and Authorities In Support of Its Motion For Summary Judgment.

Respectfully submitted,



Charles N. Steele  
General Counsel

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GENERAL COUNSEL



Ivan Rivera  
Assistant General Counsel

November 12, 1986

A handwritten signature in cursive script that reads "Robert E. Pease". The signature is written in black ink and is positioned above a horizontal line.

Robert E. Pease  
Attorney

FOR THE PLAINTIFF  
FEDERAL ELECTION COMMISSION  
999 E Street, N.W.  
Washington, D.C. 20463  
(202) 376-8200

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FEDERAL ELECTION COMMISSION, )  
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Plaintiff, ) Civil Action No.  
 ) 86-687-CIV-T-10  
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v. ) Hodges, J.  
 )  
CESAR RODRIGUEZ ) PLAINTIFF'S MEMORANDUM  
 ) IN SUPPORT OF MOTION FOR  
 ) SUMMARY JUDGMENT  
Defendant. )

**PLAINTIFF FEDERAL ELECTION COMMISSION'S  
MEMORANDUM OF POINTS AND AUTHORITIES IN  
SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT**

On June 30, 1986, the Federal Election Commission (the "Commission") served Cesar Rodriguez with the complaint in this action. The complaint alleges that the defendant violated 2 U.S.C. § 441f, a provision of the Federal Election Campaign Act of 1971, as amended (the "Act"). In lieu of answering the complaint, the defendant filed a one-page motion to dismiss, without any supporting authority, claiming that because the Commission did not attach exhibits to the complaint, the defendant was deprived of his "procedural" rights "and his rights under the U.S. Constitution." Having opposed that meritless motion, which is pending before this court, the Commission now moves, pursuant to Rule 56 of the Federal Rules of Civil Procedure, for summary judgment because there are no material facts in dispute and because the Commission is entitled to judgment as a matter of law.

Statement of the Case

During the 1980 election campaign, Allen Wolfson attempted to raise campaign contributions for the Citizens for Gunter and for the Carter/Mondale Presidential Committee, Inc. Exhibit 1, at 29. Instead of merely soliciting contributions for those campaigns, Wolfson decided to "expedite" the process by contributing all of the money himself but in the name of other individuals. Exhibit 1 at 33-34. Under this scheme, Wolfson asked defendant Cesar Rodriguez, a close business associate,<sup>1/</sup> and another person to seek \$1,000 contributions from various individuals for the Carter or Gunter campaigns with a promise of full reimbursement by Wolfson for the contribution.<sup>2/</sup> Exhibit 1 at 47, 62, 67, 76-79. Defendant Rodriguez accepted a \$1,000 check from the solicited individual made out to either the Carter or Gunter campaign and thereafter reimbursed the individual for the full amount of the "contribution," usually with a check from Certified Financial Consultants, Inc. ("CFC").<sup>3/</sup> Exhibits 2-5.

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<sup>1/</sup> Wolfson and Rodriguez were involved in numerous business dealings at that time. See Exhibit 1 at 14-15.

<sup>2/</sup> On February 6, 1986, Judge Carr granted the Commission's motion for summary judgment finding that Wolfson violated 2 U.S.C. § 441f and ordered Wolfson to pay a civil penalty of \$52,000. FEC v. Wolfson, Case No. 85-1617-Civ-T-13 (M.D.Fl. 1986).

<sup>3/</sup> CFC was a Florida corporation controlled by Wolfson. Defendant Rodriguez performed various services for CFC as a consultant during the period in question. CFC is no longer an active corporation.

Argument

**Defendant Rodriguez Knowingly Accepted Contributions  
From One Person In The Name Of Another Person.**

Defendant Rodriguez violated 2 U.S.C. § 441f by accepting contributions made to federal candidates from various individuals and reimbursing the individuals for those contributions using funds provided by Allen Wolfson. Section 441f provides that:

No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

This section has three potential areas of liability. First, making a contribution in the name of another; second, for permitting one's name to be so used; and third, for accepting such a contribution. United States v. Hankin, 607 F.2d 611, 613 (3rd Cir. 1979).

The statutory language is clear. It prohibits the acceptance of contributions made by one person in the name of another. Mr. Rodriguez accepted contributions from the conduits that were actually contributions made by Wolfson. In United States v. Chestnut, 533 F.2d 40, 47 (2d Cir. 1976), the court held that an illegal contribution could be accepted by an entity other than the final recipient, the campaign committee. In his deposition testimony, Mr. Wolfson repeatedly stated that Rodriguez accepted contributions and made reimbursements for

the contributions in Wolfson's name.<sup>4/</sup> Wolfson testified, Exhibit 1 at 77-78:

Q. Mr. Rodriguez knew that you were reimbursing others for their campaign contributions?

A. Yes.

Q. Did he collect the checks for you from these individuals?

A. I think he may have some of them, yes.

Q. Did he reimburse them with the money that you provided?

A. Yes.

In addition, four of the "contributors" have admitted that they were solicited by defendant Rodriguez for a contribution to a federal candidate, promised reimbursement for the contribution, gave Rodriguez the check, and were subsequently reimbursed.<sup>5/</sup> See Exhibits 2-5.

There also exists evidence that Rodriguez was reimbursed by Wolfson for a contribution to a candidate although it is unclear whether the contribution was made to a federal candidate. Exhibit 1 at 62-63. Wolfson stated that he reimbursed Rodriguez for a contribution. The Commission, however, has no record of defendant Rodriguez contributing to a federal candidate.

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<sup>4/</sup> Mr. Rodriguez refused to respond to any discovery by the Commission during the administrative investigation. The Commission attempted to depose Mr. Rodriguez, however, he refused to testify on the grounds that his testimony was protected by the Fifth Amendment.

<sup>5/</sup> Mr. Rodriguez may have approached many other individuals. Numerous conduits could not remember whether they were approached by Rodriguez or by Wolfson since the conduits frequently dealt with both men.

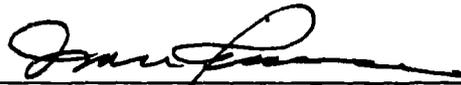
CONCLUSION

The statutory language and the facts in this case are clear. Section 441f prohibits any person from accepting a contribution made by one person in the name of another. Defendant Rodriguez accepted contributions to federal candidates made by Allen Wolfson using the names of other individuals.

Respectfully submitted,



Charles N. Steele  
General Counsel



Ivan Rivera  
Assistant General Counsel

November 12, 1986



Robert E. Pease  
Attorney

FOR THE PLAINTIFF  
FEDERAL ELECTION COMMISSION  
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	)	
Plaintiff,	)	Civil Action No.
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	)	
v.	)	Hodges, J.
	)	
CESAR RODRIGUEZ	)	ORDER
	)	
Defendant.	)	

ORDER

Upon consideration of the plaintiff Federal Election Commission's Motion for Summary Judgment, it is hereby ORDERED that the plaintiff's motion be and hereby is granted.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA

FEDERAL ELECTION COMMISSION, )  
 )  
 Plaintiff, ) Civil Action No.  
 ) 86-687-CIV-T-10  
 )  
 v. ) Hodges, J.  
 )  
 CESAR RODRIGUEZ ) STATEMENT OF MATERIAL FACTS  
 )  
 Defendant. )

**PLAINTIFF FEDERAL ELECTION COMMISSION'S  
STATEMENT OF MATERIAL FACTS NOT IN GENUINE DISPUTE**

In support of its motion for summary judgment, the plaintiff Federal Election Commission (the "Commission") submits that the following material facts are not in genuine dispute.

1. During the 1980 election campaign, Cesar Rodriguez, on behalf of Allen Wolfson, solicited contributions from various individuals for the Carter/Mondale Presidential Committee and to the Citizens for Gunter Committee. Exhibits 1-5.

2. Mr. Rodriguez represented to the various individuals that Wolfson would reimburse the individual for the full amount of the contribution. Exhibits 1-5.

3. Mr. Rodriguez accepted the contributions from the individuals and gave them a reimbursement check for the full amount of the contribution. Exhibits 1-5.

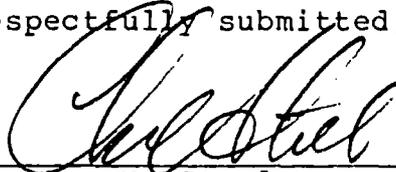
4. On January 3, 1984, the Commission found reason to believe that Mr. Rodriguez violated 2 U.S.C. § 441f, a provision of the Federal Election Campaign Act of 1971, as amended (the "Act"), by accepting contributions made by one person in the

name of another person. Mr. Rodriguez was notified of the Commission's determination. Exhibit 6.

5. On September 24, 1985, the General Counsel, pursuant to 2 U.S.C. § 437g(a)(3), submitted to Mr. Rodriguez a brief recommending that the Commission find probable cause to believe that Rodriguez violated the Act. After receiving no response from Rodriguez, the Commission found probable cause to believe that Rodriguez violated the Act. Mr. Rodriguez was notified of the Commission's determination. Exhibit 7.

6. After failing to resolve the matter through informal conciliation, the Commission, on April 2, 1986, authorized the General Counsel to file a civil action for relief. Mr. Rodriguez was notified of the Commission's determination. Exhibit 8.

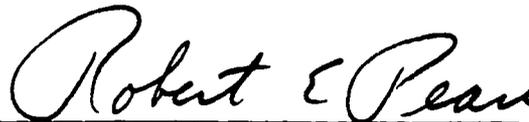
Respectfully submitted,



Charles N. Steele  
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Ivan Rivera  
Assistant General Counsel



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Attorney

November 12, 1986

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CESAR RODRIGUEZ	)	
	)	CERTIFICATE OF SERVICE
Defendant.	)	

**CERTIFICATE OF SERVICE**

I hereby certify that I have caused to be served, by first-class mail, postage prepaid, a copy of the plaintiff Federal Election Commission's Motion for Summary Judgment, memorandum in support thereof and statement of material facts not in genuine dispute, this 12th day of November, 1986, to the following:

Cesar Rodriguez  
2510 South Dundee Street  
Tampa, FL 33620

November 12, 1986

  
\_\_\_\_\_  
Robert E. Pease  
Attorney