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May 9, 2001

VIA HAND DELIVERY

Office of General Counsel  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

Re: MUR 5197

Dear General Counsel:

We represent the Federal National Mortgage Association and its Chief Executive Officer, Franklin Raines (collectively, Fannie Mae).<sup>1</sup> This letter responds to the inquiry dated April 23, 2001, that the Federal Election Commission (FEC) sent to Fannie Mae regarding a complaint submitted to the FEC by the National Taxpayers Union (NTU), alleging violations of the Federal Election Campaign Act of 1971 (FECA). For the reasons discussed below, and based on the documentation attached hereto, we respectfully submit that there is no basis for any action to be taken against Fannie Mae.

NTU's complaint alleges that Fannie Mae made contributions to nonfederal accounts of national party committees in violation of the FECA. As a Congressionally chartered corporation, Fannie Mae is prohibited under the FECA from making contributions or expenditures in connection with any federal, state or local election.<sup>2</sup> Fannie Mae is permitted, however, to donate money (or anything of value) to a national or state party committee if such donations are specifically designated for the purpose of constructing or purchasing a party office facility.<sup>3</sup>

<sup>1</sup> The requisite Statements of Designation of Counsel have been filed herewith.

<sup>2</sup> 11 C.F.R. § 114.2(a).

<sup>3</sup> 11 C.F.R. § 114.1(a)(2)(ix). NTU's Complaint focuses on party building fund donations, but it is important to note that Fannie Mae also is permitted to donate money or anything of value to party committees for other limited purposes, such as get-out-the-vote drives, as long as such donations are not used to support candidates for federal, state or local elections. Such donations are not considered to be contributions or expenditures under the FECA. 11 C.F.R. § 114.1(a)(2).

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Following receipt of NTU's complaint, Fannie Mae asked us to conduct a thorough independent audit of Fannie Mae's contributions to national party nonfederal accounts from 1997-2000. We determined that almost all of these contributions were designated specifically for and deposited into "building fund" accounts. Results of the audit are discussed in more detail below and are summarized in the chart attached as Exhibit 1. Supporting documentation is attached as Exhibits 2-5.

During our audit, Fannie Mae learned for the first time, however, that payments it had made to the Republican Governors Association (RGA) for membership dues were deposited by the RGA into an RNC Republican National State Elections Committee (RNSEC) account that could be used to support candidates for state and local elections. Immediately upon making this discovery, Fannie Mae requested that the RGA return or re-designate each of these membership dues payments. RGA returned the full amount of each of these payments. The RGA payments are discussed in more detail below, and relevant documentation is attached as Exhibits 6-7.

#### I. AUDIT RESULTS FOR ALL ACCOUNTS EXCEPT RNSEC

The NTU complaint included an FEC report listing Fannie Mae's donations from 1997 through 2000 to non-federal accounts associated with national party committees. We conducted an audit of Fannie Mae's accounts payable department files to verify the legality of each of these donations. To ensure a thorough audit, we reviewed all of the donations listed on the FEC report.<sup>4</sup>

Exhibit 1 summarizes the results of the audit. The chart is based on the same FEC report that NTU includes with its complaint, except that we have replaced the third column with a "verification" column denoting the back-up documentation that verifies the legality of each donation. This documentation consists primarily of disbursement requests and cancelled checks.<sup>5</sup>

For all but two of the donations to the accounts other than the RNSEC, Fannie Mae located copies of cancelled checks and/or disbursement requests verifying that the donations in question were designated specifically for party building fund purposes and

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<sup>4</sup> NTU asserts that "Fannie Mae's non-building soft money donations totaled almost \$340,000 . . ." Presumably, NTU's complaint is focusing on two recipients – the NRCCC Non Federal Account (with donations totaling \$297,950) and the RNC RNSEC (with donations totaling \$40,000) – because these accounts do not contain "building fund" in the title. As indicated, however, Fannie Mae reviewed all of the donations listed on the FEC report, not just the donations to these two accounts.

<sup>5</sup> Before Fannie Mae makes any donations (to political entities or otherwise), a check disbursement request must be sent to the accounts payable department that includes the recipient of the donation, the purpose of the funds, and the check number. Disbursement requests are filed internally according to the name of the check recipient. We worked backwards from the names of the recipient-committees on the FEC report to locate disbursement requests for the entries on the FEC report.

were deposited into building fund accounts.<sup>6</sup> (See Exhibits 1 and 2). These donations are unquestionably lawful under the FECA. Accordingly, we respectfully submit that there is no basis for any action against Fannie Mae with respect to these donations.

There are two donations into accounts other than the RNSEC for which Fannie Mae was unable to locate a cancelled check or disbursement request indicating that the payment had been made to a nonfederal building fund account. For these donations, however, Fannie Mae used alternative means to confirm that these donations were deposited into building fund accounts. These donations are addressed below.

**A. \$700 Donation to the NRCCC Nonfederal Account**

The FEC report indicates that Fannie Mae made a \$700 payment to the NRCCC Nonfederal Account, on June 16, 1999.<sup>7</sup> Fannie Mae traced this payment to a registration fee for the National Republican Conference for two of its employees. The fee was charged to an employee's credit card on June 15, 1999. A copy of the expense report and credit card receipt is attached as Exhibit 3.

Because the receipt does not indicate that the payment was designated specifically for a building fund account, Fannie Mae sought confirmation from the NRCC that this amount was deposited into a building fund account. A copy of Fannie Mae's letter to the NRCC is attached as Exhibit 4. NRCC's general counsel, Don McGahn, confirmed by telephone that the \$700 payment was deposited into the NRCC's building fund account. Accordingly, Fannie Mae respectfully submits that there is no basis for any action to be taken against it with respect to this donation.

**B. \$25,000 Donation to the NRSC Building Fund Account**

The FEC report indicates that Fannie Mae made a \$25,000 donation on July 7, 1999 to the NRSC Building Fund account.<sup>8</sup> Fannie Mae was unable to find a cancelled check or other clear record of this donation in its files. Based on a memorandum to Fannie Mae from the 1999 Republican Senate House Dinner, however, it appears that this donation

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<sup>6</sup> In a few cases, a single donation (evidenced by a single check) was split into two or more entries bearing the same date on the recipient's FEC report. For example, the last two donations under the "DSCC-Nonfederal Building Fund" heading are two \$50,000 donations, both dated 3/20/2000. The Fannie Mae disbursement request and cancelled check indicate that this was a single donation for \$100,000. In Exhibit 1, we note where one disbursement request or cancelled check covers more than one entry.

<sup>7</sup> This donation is listed as number F.7 in Exhibit 1. The chart in Exhibit 1 uses the names of the party committee accounts as they appear in FEC reports. In some cases, the name of the party committee differs slightly from the name of the account. The NRCC's account, for example, uses the acronym "NRCCC" – the additional "C" stands for "contributions." All of the account and committee names used herein are consistent with FEC reports.

<sup>8</sup> This donation is listed as number G.4 in Exhibit 1.

was transferred to the NRSC Building Fund from the \$50,000 donation that Fannie Mae made to the 1999 Republican Senate/House Dinner Nonfederal Building Fund on the same date.<sup>9</sup> The memorandum states that donations to the Dinner Committee's Building Fund are distributed only to the building funds of the NRCC and NRSC. Fannie Mae donated \$50,000 to the Dinner Committee Building Fund on July 7, 1999, and the NRSC Building Fund reported a \$25,000 Fannie Mae donation on the same date. A copy of the memorandum is attached as Exhibit 5.

In addition, the FEC report itself expressly characterizes this payment as a donation to a building fund account. Accordingly, Fannie Mae respectfully requests that no action be taken against it with respect to this donation.

## II. RGA MEMBERSHIP DUES AND CONFERENCE FEE PAYMENTS

As indicated above, the audit revealed that Fannie Mae had made membership dues payments to the RGA in 1998, 1999 and 2000.<sup>10</sup> Through the audit, Fannie Mae also learned for the first time that such membership dues payments ultimately were deposited into an RNSEC account that might have been used to support candidates for state or local elections.

When Fannie Mae paid the RGA membership dues, it was under the belief that the payments were being made to a non-party trade association and that they would be deposited into an RGA account that is used to cover the costs of conferences, dinners, and other benefits offered to RGA members. Fannie Mae was unaware at the time these payments were made that these funds could be deposited into an election-related nonfederal account used to support candidates for state and local offices. Immediately upon learning that these funds could be used to support non-federal candidates, Fannie Mae sent a letter to the RGA requesting that each of its membership dues payments be refunded in full or be re-designated to a party building fund account. A copy of Fannie Mae's letter to the RGA is attached as Exhibit 6. These payments were returned in full to Fannie Mae on April 12, 2001. A copy of the refund check from the RGA is attached as Exhibit 7.

Fannie Mae acted immediately to withdraw these membership dues payments as soon as it discovered that the RGA could redirect such payments for use in support of candidates for state and local elections. It thus used its best efforts to remedy the situation as soon as the situation came to its attention. Furthermore, the full refund of these membership dues payments ensures that no Fannie Mae funds have been used for an impermissible purpose under the FECA. Accordingly, we respectfully request that no action be taken against Fannie Mae with respect to these payments.

<sup>9</sup> See Exhibit 1, donation A.2.

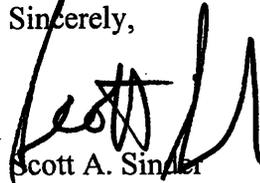
<sup>10</sup> See Exhibit 1, part H.

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For the reasons explained above, we believe that no basis exists for the Commission to pursue any action against Fannie Mae or its Chief Executive Officer, Franklin Raines. If the Commission has further questions or requires any additional information, please contact either of us at (202) 342-8400.

Sincerely,



Scott A. Singer  
Christy Hallam DeSanctis  
Counsel to Fannie Mae  
and Franklin Raines

cc: F. Raines, Fannie Mae CEO  
A. Kappler, Fannie Mae Senior  
Vice President and General Counsel

EXHIBIT 1

## FANNIE MAE DONATIONS

(From FEC Report Showing Non-Federal Receipts "Exempt From Limits")<sup>1</sup>

**A. Republican Senate/House Dinner Building Fund**

	<u>Date</u>	<u>Amount</u>	<u>Verification</u> <sup>2</sup>
1.	06/17/1997	20,000.00	CC, DR
2.	07/07/1999	50,000.00	CC, DR
3.	06/21/2000	100,000.00	CC, DR

**B. DCCCC Building Fund #1**

	<u>Date</u>	<u>Amount</u>	<u>Verification</u>
1.	08/24/1999	2,500.00	CC, DR
2.	06/22/2000	50,000.00	CC, DR
3.	06/29/2000	50,000.00	CC, DR
4.	07/13/2000	25,000.00	CC, DR
5.	08/24/2000	2,500.00	CC, DR

**C. DCCCE Building Account #1**

	<u>Date</u>	<u>Amount</u>	<u>Verification</u>
1.	07/25/1997	3,000.00	CC, DR
2.	03/31/1998	300.00	CC, DR
3.	06/24/1998	500.00	CC, DR
4.	06/24/1998	25,000.00	CC, DR
5.	04/12/1999	400.00	CC, DR
6.	05/07/1999	400.00	CC, DR
7.	06/10/1999	50,000.00	CC, DR
8.	06/28/1999	50,000.00	CC, DR

**D. DNC - Building Fund**

	<u>Date</u>	<u>Amount</u>	<u>Verification</u>
1.	10/26/1998	75,000.00	CC, DR <sup>3</sup>

1 The data in this chart is the same data contained in the FEC report attached to the NTU's complaint. We have rewritten it here and replaced the third column with our own "Verification" column denoting the type of back-up documentation collected for each contribution.

2 CC = Cancelled Check. DR= Disbursement Request. Copies of the cancelled checks and disbursement requests are attached as Exhibit 2.

3 The check and disbursement request for this donation shows Unity 98 as the recipient. According to its statement of organization (FEC Form 1), Unity 98 (formerly Unity 96) is a subordinate committee of the

2.	07/14/2000	50,000.00	CC, DR
3.	07/14/2000	100,000.00	CC, DR

**E. DSCC Nonfederal Building Fund**

	<u>Date</u>	<u>Amount</u>	<u>Verification</u>
1.	06/23/1997	25,000.00	CC, DR
2.	10/21/1998	10,000.00	CC, DR
3.	04/08/1999	15,000.00	CC, DR
4.	06/28/1999	50,000.00	CC, DR
5.	02/08/2000	15,000.00	CC, DR
6.	03/20/2000	50,000.00	CC, DR <sup>4</sup>
7.	03/20/2000	50,000.00	CC, DR

**F. NRCCC -Nonfederal Account**

	<u>Date</u>	<u>Amount</u>	<u>Verification</u>
1.	02/14/1997	25,000.00	CC, DR
2.	03/20/1997	10,000.00	CC, DR
3.	04/30/1997	250.00	CC, DR
4.	06/19/1997	10,000.00	CC, DR
5.	09/18/1997	15,000.00	CC, DR
6.	03/06/1998	2,000.00	CC, DR <sup>5</sup>
7.	03/06/1998	10,000.00	CC, DR
8.	03/06/1998	15,000.00	CC, DR
9.	03/06/1998	25,000.00	CC, DR
10.	05/29/1998	10,000.00	CC, DR <sup>6</sup>
11.	05/29/1998	15,000.00	CC, DR
12.	10/20/1998	50,000.00	CC, DR
13.	11/18/1998	5,000.00	CC, DR
14.	03/10/1999	5,000.00	CC, DR <sup>7</sup>
15.	03/10/1999	20,000.00	CC, DR
16.	03/10/1999	25,000.00	CC, DR
17.	06/16/1999	700.00	See Exhibits 3 and 4
18.	07/26/1999	5,000.00	CC, DR

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Democratic Party. The cover letter from Fannie Mae that accompanied the Unity '98 check specifically designated that the donation be used exclusively for party building fund purposes. A copy of the designation letter is appended to the Disbursement Request for this donation that is included in Exhibit 2.

4 The same check and disbursement request (for \$100,000) covers DSCC entries 6 and 7.

5 The same check and disbursement request (for \$52,000) covers NRCCC entries 6, 7, 8, and 9.

6 The same check and disbursement request (for \$25,000) covers NRCCC entries 10 and 11.

7 The same check and disbursement request (for \$50,000) covers NRCCC entries 14, 15 and 16.

19. 12/13/1999 50,000.00 CC, DR

**G. NRSC-Building Fund**

	<u>Date</u>	<u>Amount</u>	<u>Verification</u>
1.	11/10/1997	15,000.00	CC, DR
2.	10/14/1998	50,000.00	CC, DR
3.	10/26/1998	25,000.00	CC, DR
4.	07/07/1999	25,000.00	See Exhibit 5
5.	08/31/1999	5,000.00	CC, DR <sup>s</sup>
6.	08/31/1999	45,000.00	CC, DR
7.	06/30/2000	100,000.00	CC, DR

**H. RNC Republican National State Elections Committee (See Exhibits 6 and 7)**

	<u>Date</u>	<u>Amount</u>	
1.	07/07/1998	10,000.00	RGA transfer – withdrawn.
2.	04/29/1999	15,000.00	RGA transfer – withdrawn
3.	02/16/2000	15,000.00	RGA transfer – withdrawn

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8 The same check and disbursement request (for \$50,000) covers NRSC entries 5 and 6.

**EXHIBITS 2 THRU 7, PRIMARILY COPIES OF DISBURSEMENT REQUESTS  
AND CHECKS, HAVE NOT BEEN INCLUDED**

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