

May 14, 2001

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FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

Jeff S. Jordan, Supervisory Attorney  
Central Enforcement Docket  
Federal Election Commission  
999 E. Street, N.W.  
Washington, DC 20463

Attention: Elizabeth Williams

Re: MUR 5183

Dear Mr. Jordan:

This letter responds to the March 28, 2001 Federal Election Commission (the "Commission") letter notifying the Keep Hope Alive Political Action Committee and Dennis Rivera as Treasurer (collectively the "PAC") of a complaint filed by the American Conservative Union ("ACU") in the above referenced Matter Under Review ("MUR").

The ACU complaint appears to be a politically motivated effort to create controversy about efforts by Reverend Jesse Jackson to mobilize voters to register and to vote in support of the Democratic Party. For the reasons set forth below, the Commission should find that there is no reason to believe that the PAC committed a violation of the Federal Election Campaign Act (the "Act") or its implementing regulations, as alleged in the complaint. In addition, the Commission should take no further action against the PAC other than to dismiss the PAC from this matter.

Factual Background.

The PAC is a non-connected political committee. It has been registered with the FEC for roughly a decade, with alternating periods of activity and dormancy. The PAC properly maintains separate federal and non-federal accounts. The PAC has filed with the Commission, as well as recently with the Internal Revenue Service, all required reports on federal and non-federal activity in a timely and complete manner.

During the 1999-2000 election cycle, the PAC raised funds for its federal and non-federal accounts. Contributions received by the PAC included two contributions of non-federal funds from the Democratic National Committee ("DNC"). The DNC mistakenly sent its first contribution of \$35,000 to an address in Chicago, Illinois where the PAC's former fundraiser occasionally received mail; that contribution check was redirected to the correct address for the PAC in Washington, D.C. and deposited in the PAC's non-federal account. The second DNC contribution of \$75,000 of non-federal funds went directly to the PAC's Washington, D.C. address and was deposited in the PAC's

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non-federal account. Receipt of all contributions was fully, accurately, and timely reported by the PAC.

The PAC used its funds to make contributions in support of federal and non-federal candidates. The PAC also made disbursements for some travel related expenses to support generic voter registration and get-out-the-vote ("GOTV") activities of Reverend Jackson. The PAC did not make any other expenditures for a generic GOTV event or any other generic GOTV communication during the 1999-2000 election cycle.

In order to apportion administrative and generic GOTV expenses shared between its federal and non-federal accounts, the PAC established an allocation ratio and transferred funds, as required under 11 C.F.R. §§ 106.6(c) and (e). The PAC properly reported such allocations and transfers as provided in 11 C.F.R. § 104.10(b).

#### Response to ACU Complaint

The ACU complaint alleges that PAC disbursements for travel by Reverend Jesse Jackson to conduct generic GOTV activities should have been considered expenditures for non-generic federal campaign activities. The complaint further alleges that this alternate treatment of the disbursements would cause the PAC to violate federal election law by allocating and transferring funds for those expenditures from its non-federal account to its federal account. Finally, the complaint suggests that such a transfer meant that the DNC and the PAC exceeded contribution limits for activities related to a federal election.

The allegations are not supported by any evidence presented in the complaint.

- (1) The DNC contributions of non-federal funds made to and deposited in the PAC's non-federal account were permissible. Such contributions are not subject to any contribution limitations imposed by the Act and regulations. The PAC and the DNC fully disclosed the contributions, as required.
- (2) The PAC accurately established an allocation ratio to apportion PAC administrative expenses to its federal and non-federal accounts, as required by 11 C.F.R. § 106.6(b)(2)(i) and (ii). These expenses included fundraising, legal, and accounting services. The PAC established the ratio in accordance with the "funds expended method," pursuant to 11 C.F.R. § 106.6(c). The PAC based the allocation on 1) the ratio of federal expenditures (amounts contributed to or otherwise spent on behalf of specific federal candidates) to non-federal disbursements made by the PAC during the two-year federal election cycle, and 2) the PAC's reasonable prediction of its disbursements for the cycle. As the PAC's expenditures for specific federal candidates totaled \$14,149, and its expenditures for specific non-federal candidates totaled \$138,290, the allocation ratio became 10% federal and 90% non-federal.

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- (3) The PAC correctly applied the same allocation ratio to pay for only travel related expenses in connection with some of Reverend Jackson's generic voter registration and GOTV activities. As required by 11 C.F.R. § 106(b)(2)(iii), the PAC used the administrative allocation ratio to apportion generic GOTV disbursements between federal and non-federal accounts, and to transfer funds from the non-federal account to the federal account.
  - (4) The PAC accurately reported its allocation ratio and all transfers and expenditures made pursuant to that ratio from its federal and non-federal accounts, in compliance with the requirements of 11 C.F.R. § 104.10. The ACU assertion that the PAC "falsely reported to the Commission its allocation of generic GOTV expenses" is completely unfounded, and its complaint offers no basis for it at all.
  - (5) The ACU complaint does not provide any evidence that amounts disbursed by the PAC for generic GOTV travel expenses were intended or used for any non-generic campaign activities. Rather, the complaint simply attaches numerous newspaper articles that report on various generic GOTV and other events involving Reverend Jackson. Nothing in these articles indicates that any travel expenses paid by the PAC were actually connected with activities other than generic GOTV in support of the Democratic Party.

### Conclusions

Contrary to the ACU allegations, the PAC's actions did not violate any contribution limits in 2 U.S.C. § 441a(1)(c) or any other law. Nor did the PAC violate any reporting requirements in 2 U.S.C. § 434(a), or allocation rules for generic voter registration and GOTV activities found in 11 C.F.R. §§ 106.6(c), 104.10(b). For these reasons, we urge that the Commission find no reason to believe that a violation by the PAC occurred, and take no further action with respect to the PAC other than to dismiss it from this matter.

Respectfully submitted,



Katharine R. Boyce  
Attorney for Respondents  
Keep Hope Alive Political Action Committee and  
Dennis Rivera as Treasurer

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