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BEFORE THE
FEDERAL ELECTION COMMISSION
OF THE
UNITED STATES OF AMERICA

2004 FEB -9 A 11: 05

In the Matter of:

Alfred C. Sharpton
Rev. Al Sharpton Presidential Exploratory Committee)
(a/k/a Sharpton 2004)
Mr. and Mrs. LaVan Hawkins
National Action Network
Respondents

MUR: 5408

2004 FEB -9 P 1:35

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

AMENDED COMPLAINT

NATIONAL LEGAL AND POLICY CENTER, a corporation organized and existing under the District of Columbia Non-profit Corporation Act and having its offices and principal place of business at 107 Park Washington Court, Falls Church, VA 22046, files this Complaint with the Federal Election Commission in accordance with the provisions of 2 U.S.C. §437g(a)(1) in the belief that Respondents violated provisions of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. §§431, *et seq.*

The primary purpose of the National Legal and Policy Center, a charitable and educational organization described in section 501(c)(3) of the Internal Revenue Code, is to foster and promote ethics in government. In furtherance of that purpose, National legal and Policy Center educates the public about the "Code of Ethics for Government Service," as adopted by a Joint Resolution of Congress on July 11, 1958. It endeavors to ensure compliance by people in public life with provisions of the Code and the laws of the United States. The apparent violations alleged herein represent a serious lack of compliance with the law by a federal candidate and his campaign committee.

RESPONDENTS

ALFRED C. SHARPTON, (hereinafter "Sharpton"), 1001 6th Avenue, Suite 1211, New York, NY 10018 has been raising funds since August 2002 for a campaign for the Democratic Party nomination for President for the 2004 election.

REV. AL SHARPTON PRESIDENTIAL EXPLORATORY COMMITTEE (a/k/a Sharpton 2004) (hereinafter "the Committee"), 1001 6th Avenue, Suite 1211, New York, NY 10018 is the designated fund raising committee for Sharpton's presidential campaign.

MR. AND MRS. LAVAN HAWKINS, Atlanta, GA 30305 are major contributors to Sharpton's Committee. Mr. Hawkins is CEO of the Hawkins Food Group, L.L.C. and Mrs. Hawkins serves as Treasurer of that company. Sharpton received \$25,000 in "consulting" fees from Hawkins Food Group. Hawkins' support of Sharpton's campaign also

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included private jet travel, a fund raising dinner featuring Cristal champagne costing \$200 a bottle and a dinner prepared by Hawkins personal chef who was flown in by private jet for the event.

NATIONAL ACTION NETWORK, c/o Michael A. Hardy, Esq., [redacted]
Brooklyn, NY 11216 (hereinafter "NAN") is a New York state not for profit corporation founded by Al Sharpton which subsidized Sharpton travels and other expenses during a period of time in which Sharpton was seeking federal office.

FACTS

The facts supporting this complaint are found in press accounts regarding Sharpton's campaign as well as the Sharpton Committee's own FEC filings and are fully cited below.

This Complaint amends the Complaint filed by the National Legal and Policy Center regarding the activities of Sharpton, the Sharpton Committee and Mr. LaVan Hawkins filed with the Federal Election Commission on February 2, 2004. The Amended Complaint adds the National Action Network as a Respondent and provides numerous additional details supporting the earlier Complaint's allegation that Sharpton ran an off-the-books campaign in which campaign expenses were paid by parties without the proper disclosure to the Federal Election Commission and at times in apparent violation of campaign contribution limits and the legal restriction against corporate contributions.

The Complaint filed on February 2, 2004 as well as this Amended Complaint raise serious doubts on whether the Sharpton Committee is entitled to matching funds from the federal government because of a pattern of questionable subsidies. The Sharpton campaign has applied for matching funds. [See "The 2004 Campaign: The Minister; Sharpton's Bid Renews Queries Over Finances," by Michael Slackman, *The New York Times*, January 10, 2004, Page 1]

A richly-detailed account of financial irregularities in the Sharpton campaign written by Wayne Barrett has just been published by the *Village Voice*. [See "Sleeping With the GOP," *Village Voice* by Wayne Barrett, additional research by Andrew Burtless, Cristi Hegranes, Brian O'Connor, Abigail Roberts, Catherine Shu, and Jennifer Suh; February 5, 2004; online at <http://www.villagevoice.com/issues/0405/barrett.php>] With respect to how tenuous Sharpton's effort to obtain matching funds was, the article states:

Sharpton was the last candidate to meet the December 31 deadline and is immediately seeking more than \$150,000 in federal funding. If the FEC, which has been reviewing his application for a month, determines that he meets the threshold, Sharpton will be eligible for more.

But he only submitted 21 states, and at least one, Illinois, is unlikely to be certified, since it came in at \$5,100 and contains two \$250 contributions from the same individual. Only single contributions of up to \$250 can count toward the threshold. That means Sharpton's funding - against which he has already taken a \$150,00 bank loan - is the lifeblood of the campaign. Stone and Halloran allies, including staffers Johnson and Ruffin, kicked in at least four \$250 contributions in D.C., all on December 30 and 31, that gave Sharpton a perilous \$5,332 total.

The *Village Voice* article not only raises questions as to whether Sharpton's campaign

qualifies for federal matching funds, it sheds a great deal of light from many different sources on how Sharpton's off-the-books campaign financing operated. While the article focuses on the role of political consultant Roger Stone (described as "the longtime Republican dirty-tricks operative" [*Village Voice* at page 1]) in the Sharpton campaign, the financial vehicle which is repeatedly cited as helping the campaign is NAN.

The role Stone played is summarized as follows [*Village Voice* at page 1]:

Stone played a pivotal role in putting together Sharpton's pending application for federal matching funds, getting dollars in critical states from family members and political allies at odds with everything Sharpton represents. He's also helped stack the campaign with a half-dozen incongruous top aides who've worked for him in prior years. He's even boasted about engineering six-figure loans to Sharpton's National Action Network (NAN) and allowing Sharpton to use his credit card to cover thousands in NAN costs neither of which he could legally do for the campaign.

For the record, NAN is listed in New York Department of State records as a domestic not for profit corporation with an incorporation date of April 4, 1994, Corporation #1809235. Sharpton is on record as the founder and driving force behind NAN.

Stone's involvement in the campaign began with a lunch at a New York steakhouse in early March 2003. [*Village Voice* at pages 3 and 4] At the time, Sharpton had been a candidate for President at least since October 2002 according to the Conciliation Agreement the FEC signed with Sharpton following an earlier complaint by the National Legal and Policy Center. [See Conciliation Agreement for MUR 5363, at numbered paragraph 10, "Sharpton became a candidate no later than October 2002, when he made statements in his book referring to himself as a candidate for President (see 11 C.F.R. §§ 100.72(b)(3) and 100.131(b)(3)), given that his Committee had already raised and spent more than \$5,000 by that time."]

The article describes how Charles Halloran, a political consultant close to Stone, came to be Sharpton's campaign manager in the Fall of 2003. According to the article:

Halloran had also managed a Stone-run campaign in New York in 2002, spending nearly \$65 million of billionaire Tom Gollisano's money and getting the Independence Party candidate a mere 14 percent of the vote in the gubernatorial race. [*Village Voice* at page 4]

...he [Halloran] stays at Stone's 40 Central Park South apartment when he's in New York working for Sharpton. [*Village Voice* at page 4]

...the two operatives [Halloran and Stone] talk virtually every day. By his own account, Halloran made so much money in the Gollisano and Bermuda campaigns, he has so far worked for Sharpton since September 4 without receiving a single cent in pay. [*Village Voice* at page 4]

Neither Stone nor Sharpton disputed Stone's involvement in helping the campaign with matching funds and staffing. The article states that in an interview with the *Voice* Stone "confirmed his matching funds and staffing roles." [*Village Voice* at pages 1-2] And the article cites Sharpton

on the subject:

He did not dispute that Stone had helped generate matching contributions and staff the campaign. [Village Voice at page 2]

Stone's major involvement with the Sharpton campaign is most relevant to Federal Election Campaign Act issues because of the numerous and close ties between Sharpton and his National Action Network even as he runs for President.

Perhaps most controversial are allegations that Stone was bankrolling NAN as he was overseeing the Sharpton campaign. The allegations come from several named sources.

Elizabeth Burke

Elizabeth Burke, like others on the Sharpton campaign staff, was a veteran of the Stone and Halloran-run Golisano 2002 campaign for New York Governor. She joined the Sharpton campaign, working first at Sharpton's campaign office at the hospital workers union and later at an apartment used by campaign consultants for the Sharpton committee from the Archer Group. Her allegations were:

- Pitts and Coleman [Archer Group consultants working for both NAN and the Sharpton Committee] told her that Stone made "at least two loans in six figures to NAN, totaling well over \$200,000" - and that they were all "stunned to hear about it" because Stone, she said, has to know that he'll never get it back." [Village Voice at page 6]
- "Burke was paid \$1,000 a week, half by NAN and half by the campaign, and says she did "all the logistics" for him across the country, "working with debate organizers and creating campaign events." [Village Voice at page 6]
- "The campaign and NAN, which she calls a 'shell,' were in such disarray that 'the only way we were staying afloat was through other sources that might not be legal, Republican sources.'" [Village Voice at page 6]

Randy Credico

Randy Credico is described as an "anti-Rockefeller-drug-law activist" who was a mutual friend of both Stone and Sharpton. The article further states that he remained in close touch with Stone throughout the Sharpton campaign. Credico is quoted as saying that Stone told him he took a \$270,000 promissory note from Sharpton. Credico also is cited as saying that Stone told him that Sharpton ran up \$18,000 on his credit card in 2003 in order to cover some of the costs of a California trip, including a fundraising dinner organized by NAN. [Village Voice at 6]

When Stone was questioned by the *Village Voice* about the \$270,000 and \$18,000, Stone answered, "Go badger someone else." [Village Voice at page 6]

When Sharpton was asked about the payments, he told the *Village Voice* that they should get NAN's IRS filings "knowing that they do not detail revenue sources and don't have to be filed for months." [Village Voice at page 6]

With respect to the Stone credit card payments, Sharpton responded that the event was an

annual NAN event in California and that any Stone credit card purchases were NAN-related exclusively. The article stated, accurately:

The NAN loans are a potential illegal end-run around FEC limits, as are his donated services, which are an in-kind contribution to the campaign from a professional consultant. [Village Voice at page 6]

Sharpton's assurances regarding Stone's financial dealings with NAN appear to raise more questions than they answer:

Asked about the Stone loans, he [Sharpton] conceded that he "asked him to help NAN," but attributed the financial aid to his and Stone's joint "fight against the Rockefeller drug laws," adding: "If he let me use his credit card to cover NAN expenses, fine." The finances of NAN and the Sharpton campaign have so merged in recent months that they have shared everything from contractors to consultants to travel expenses, though Sharpton insists that these questionable maneuvers have been done in compliance with Federal Election Commission regulations. [Village Voice at page 2]

The Archer Group

The Archer Group, a California consulting firm that had made \$246,000 from the Golisano campaign, sent two of its operatives, Michael Pitts and Ron Coleman, to New York to work for Sharpton in September 2003. According to Sharpton Committee FEC records the company has only been paid \$5,000 by the campaign for "logistics" and was owed \$5,000 for rent for an office/apartment at 50 West 34th Street. The article states that Pitts described their role as being recruited by Halloran "to do a national field operation plan."

Interestingly, the Archer Group - according to Michael Pitts - had a contract to get \$20,000 a month from NAN, although that amount was later reduced. Also according to Pitts, they were paid entirely by NAN until December, purportedly to run a voter registration drive,

But Pitts concedes that all they did was a registration plan, never any registration, and that they began "to focus more on scheduling" for the Rev, saying that many of the events they scheduled across the country were "shared events," part campaign and part NAN. [Village Voice at page 5]

We knew that some of these things were commingled," he said. We heard from Charles that it had been ruled that our arrangements had gotten a bit too hazy. Was there, he asked, "a hazy thing" about being paid by NAN to do scheduling for the campaign? "Yeah, you get caught up in the middle of it." [Village Voice at page 5]

Elizabeth Burke, the campaign worker previously cited, said that the \$5,000 payment to Archer was "laughable" compared to the amount of work the company did. [Village Voice at page 6]

The pattern with consultants linked to Stone and/or the Golisano campaign working for

Sharpton and being underpaid or unpaid also applies to Ernest Baynard of the Meridian Hills Strategies. Baynard is described as doing press and research for the Sharpton campaign yet he has not been paid anything. Sharpton FEC records list him as a \$20,000 debtor. Interestingly, Meridian Hill Strategies, while working for Sharpton, was also retained by another campaign associated with Stone. [*Village Voice* at page 5]

Eddie Harris

Aside from the numerous issues raised by the disclosures in the *Village Voice* article, the questions regarding the hazy border between NAN operations as a not for profit corporation and the Sharpton Committee have surfaced in other news accounts. A recent *New York Times* article regarding Sharpton's tangled finances touched on other questionable expenditures:

The campaign has also spent thousands of dollars on airfare and lodging for Mr. Harris [described earlier as Sharpton's personal filmmaker] who, according to Mr. Halloran, does not work for the campaign. Instead, he is under contract with the National Action Network and has a deal with Mr. Sharpton to film his activities. In June and July, the campaign paid about \$4,000 for Mr. Harris.

Election-law experts said using campaign contributions to cover noncampaign-related expenses is improper, and a commission spokesman said Mr. Harris's travel and lodging was probably not a "qualified campaign expense." [See "The 2004 Campaign: The Minister; Sharpton's Bid Renews Queries Over Finances," by Michael Slackman, *The New York Times*, page 1]

Undisclosed In-kind Contribution of Car Use

Yet another example of the off-the-books nature of Sharpton's campaign was described in the *New York Times* article just cited:

The Sharpton campaign also did not report that it had received the free use of cars from a car dealer in South Carolina. That should have been reported as an in-kind campaign contribution, Mr. Halloran said. Bob Biersack, a spokesman for the election commission, said that in some circumstances the free car usage could be considered an illegal corporate contribution. [See "The 2004 Campaign: The Minister; Sharpton's Bid Renews Queries Over Finances," by Michael Slackman, *The New York Times*, page 1]

QUESTIONS RAISED

The facts presented above raise numerous questions regarding the financial practices of the Sharpton campaign. As with the Complaint filed by the National Legal and Policy Center on February 2, 2004, this Complaint provides example after example of off-the-books campaign activities. These examples help explain how Sharpton's FEC reports can be so lacking in travel and other related expenses compared to the public reporting of his campaign activities.

The questions raised include:

- Did the Sharpton campaign illegally benefit from campaign activities being paid for by corporations, including Sharpton's non-profit corporation, the National Action Network?
- Did the Sharpton campaign repeatedly fail to disclose campaign expenditures as well as in-kind contributions in violation of the Federal Election Campaign Act and FEC regulations?

Corporate Contributions

Corporate contributions to candidates for federal office are illegal. [11 C.F.R. § 114.2(a)]

Whether the corporation provides a cash contribution or an in-kind contribution does not matter as both are equally illegal.

While some possible corporate contributions, such as the free use of cars from a car dealer by the campaign if the dealer is incorporated, are relatively modest, they still reflect a pervasive attitude that the rules can be ignored.

The allegations with respect to the heavy involvement by NAN are far more consequential. Not only are corporate contributions a violation of federal election law as cited above, but such contributions raise both state and federal law issues regarding abuse of a nonprofit's tax status.

Without reciting all of the allegations and questions cited in the factual review above, there are indications that NAN:

- was paying consultants and/or staffers who were working for both NAN and the Sharpton campaign
- provided financial support for key campaign consultants or staff as a subsidy for campaign activities
- repeatedly sponsored "shared events" with the Sharpton campaign
- was financially assisted in a major way by an individual who was closely working with the Sharpton campaign

If expenditures by NAN are found to have paid for campaign trips, consultants and other activities, it calls into question whether the Sharpton campaign has any claim whatsoever to federal matching funds. One of the purposes of the matching funds provision was to encourage involvement of smaller donors in the Presidential election process, not to reward campaigns that come up with schemes to have corporations underwrite their activities.

Failure to Disclose Contributions and Expenditures

An expenditure is a purchase or payment to influence a federal election. [11 C.F.R. § 100.8(a)(1)]

If a party makes a payment or a purchase that constitutes an expenditure, it must be disclosed. It is subject to the campaign contribution limits. The fact that such a payment or purchase may constitute an in-kind contribution does not in any way eliminate the legal responsibility of the campaign to disclose the expenditure. 11 C.F.R. § 104.13(a)

Of course, if a corporation is routinely paying for campaign costs, a disclosure of such a corporate expenditure would result in a communication from the Federal Election Commission explaining the illegality of such payments. The Sharpton campaign solved the problem by not reporting any corporate contributions.

CONCLUSION

The facts provided by recent media coverage of the Sharpton campaign add further weight to an observation made recently by journalist Michael Slackman [See "Sharpton Runs for President and Influence," *The New York Times*, December 5, 2003, page 1]:

His [Sharpton's] campaign has little in the way of organization or infrastructure, relying on the generosity of a few wealthy donors.

Now it is beyond dispute that Sharpton's non-profit corporation - termed a "shell" by Sharpton campaign functionary Elizabeth Burke - was busy making payments to key Sharpton campaign personnel. And Burke should know since she was being paid half of her \$1,000 salary by NAN while she was doing "all the logistics" for the Sharpton campaign.

The same Elizabeth Burke is quoted as calling the \$5,000 payment to the Archer Group "laughable" compared to the amount of work they did for the Sharpton campaign. This is the same Archer Group that had signed a \$20,000 a month contract with Sharpton for NAN and which was paid only by NAN for their activities from September 2003 until December. The NAN payments was ostensibly to run a voter registration project but somehow no voters were registered. Perhaps they were too busy working for the Sharpton campaign.

And then there is the statement by Archer Group operative Michael Pitts that many of the events they were scheduling for Sharpton across the country were "shared events," part Sharpton campaign and part NAN.

Less there be any doubt as to what the arrangement was, Mr. Pitts is further quoted as saying, "We knew some of these things were commingled."

It certainly looks like a campaign operative who received most of his pay from NAN was busy scheduling "shared events" for the Sharpton campaign and NAN for a declared federal candidate.

Sometimes things are what they look like.

Then there are the statements in the article regarding Mr. Stone's purported generosity to NAN, including the use of his credit card and possible six-figure assistance to a non-profit group with a long and troubled financial history. And this was in the context of Stone and Sharpton both conceding Stone's help to the campaign with matching funds and staffing, not to mention Stone's virtually daily conversations with his close friend, campaign manager Charles Halloran.

The Sharpton explanation of Stone's possible generosity to NAN in the middle of the campaign was that they both shared an interest in opposing the Rockefeller anti-drug laws. As if that was what either Sharpton or Stone was spending any time on whatsoever. It would be interesting to get a list of NAN expenditures for the last year to see exactly how much was spent on opposing a New York drug law as opposed to, say, "shared events" with the Sharpton campaign in key primary states and in payments to Sharpton campaign consultants and staff.

The two pillars of campaign finance law are contribution limits and financial disclosure.

If someone set out to design a campaign that would make a mockery of those two principles, it would be hard to top the Sharpton campaign.

As this complaint is being filed, the Sharpton campaign is telling the world that they expect approximately \$150,000 in federal matching funds from the taxpayers. That's certainly what they told the Amalgamated Bank in New York when they borrowed \$150,000 on January 16, 2004 while listing the collateral as "Federal matching funds receivable." [See Sharpton 2004, Schedule C-P-1 Filing with the Federal Election Commission, January 16, 2004]

We urge the Federal Election Commission to fulfill its responsibility to protect the integrity of the campaign finance system by denying any matching funds pending a thorough audit of a campaign that seems determined to be the poster child of everything prohibited by federal election law.

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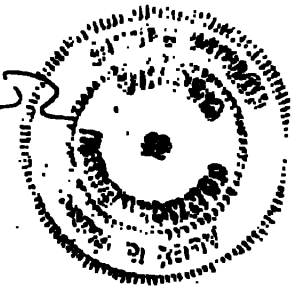
By: *Kenneth F. Boehm*
Kenneth F. Boehm
Chairman

Subscribed and sworn before me this 6th day of February, 2004

State of Virginia, *city of Falls Church.*

My Commission Expires: *12/31/04*

Alex R. F...
Notary Public



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