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Lawrence Norton, Esq.  
Office of the General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, DC 20463

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FEDERAL ELECTION COMMISSION  
OFFICE OF THE GENERAL COUNSEL

**Re: MUR 5408 Respondent National Action Network**

Dear Mr. Norton:

On behalf of the National Action Network ("NAN") this letter is submitted in response to the February 5, 2004 complaint filed with the Federal Election Commission by the National Legal and Policy Center ("NLPC"). NAN denies the unsupported allegations contained in the NLPC complaint that it made prohibited contributions to the Rev. Al Sharpton Presidential Exploratory Committee (the "Sharpton campaign").

1. **The source of information relied upon by the NLPC is insufficient to support the allegations made in the complaint.**

The NLPC relies upon an article downloaded from the Internet as the source of information upon which they base their belief that NAN violated the Federal Election Campaign Act of 1971, as amended (the "Act"). With respect to its allegations against NAN, the NLPC relies on one source identified as "Sleeping With the GOP," *Village Voice* by Wayne Barrett ..., February 5, 2004; online at <http://www.villagevoice.com/issues/0405/barrett.php>. See Complaint at 2.

Commission regulations require complaints not based upon personal knowledge to include "an identification of the source of information which gives rise to the complainants belief in the truth of such statements." 11 C.F.R. § 111.4(d)(2). This requirement allows the Office of General Counsel to weigh the credibility of the source relied upon by the complainant. In this case, one article filled should not be a sufficient source of information for the Commission to rely upon to support a finding that there is a reason to believe that NAN violated the Act. Before the FEC launches an investigation,

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we respectfully suggest that it should be based upon something a little more credible than this article.

## 2. The alleged activity would not result in a violation of the Act

The NLPC makes four specific allegations that they claim result in prohibited corporate contributions by NAN. First, NLPC alleges that NAN "was paying consultants and/or staffers who were working for both NAN and the Sharpton campaign." See Complaint at 7. There is no prohibition in the Act that makes it a violation for individuals or consultants to be paid at the same time by two different entities, such as NAN and the Sharpton campaign. Fundraisers often work for multiple clients, political and non-profit, at the same time. Consultants often advise multiple clients, political and non-political, at the same time. U.S. House and Senate staffers can simultaneously be paid with official funds to work for the government and with campaign funds to work for a political campaign.<sup>1</sup> It is not a violation of the Act for NAN to pay consultants and/or staffers who were working for both NAN and the Sharpton campaign.

Second, the NLPC alleges that NAN "provided financial support for key campaign consultants or staff as a subsidy for campaign activities." See Complaint at 7. As explained above, it is permissible for NAN and the Sharpton campaign to each pay "key campaign consultants or staff." NLPC notably does not allege that these individuals and consultants failed to perform services for NAN. An entity is not providing a "subsidy" if it pays for an individual or consultant to perform services and that individual or consultant performs such services and, in addition, volunteers on a political campaign. There is no violation when individuals engage in volunteer activity on behalf of political campaigns. 2 U.S.C. § 431(8)(B)(i). Contrary to their unsupported allegation, it is permissible for an individual to be paid by one entity for services performed on behalf of that entity and for that individual to volunteer on a campaign.

Third, the NLPC alleges that NAN "repeatedly sponsored 'shared events' with the Sharpton campaign." See Complaint at 7. Yet, they fail to provide even one example of a "shared event" that supposedly occurred "repeatedly." This baseless allegation does not support a reason to believe finding against NAN.

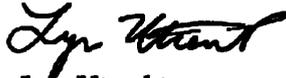
Finally, the NLPC alleges that NAN "was financially assisted in a major way by an individual who was closely working with the Sharpton campaign." See Complaint at 7. Similarly, this does not state a violation of the law. An individual, working closely with a campaign, may also financially assist non-profit organizations, even in a "major way." We would not be surprised to learn that many, if not most, individuals who make political contributions also make charitable donations to 501(c)(3) organizations.

<sup>1</sup> "... Senate staffers are free to engage in campaign activities on their own time, as volunteers or for pay..." Senate Ethics Manual, Select Committee on Ethics, United States Senate, 2003 edition, p. 140  *citing*  Interpretive Ruling No. 357 (Dec. 16, 1982) and Interpretive Ruling No. 402 (Oct. 18, 1985). "[House employees] are free to engage in campaign activities on their own time, as volunteers or for pay..." "Laws, Rules and Standards of Conduct on Campaign Activities, Committee on Standards of Official Conduct, (Dec. 2001), p. 20.

Perhaps even some of NLPC's supporters, including their major supporters, also make political contributions in compliance with the Act.

We agree with NLPC's observation that "sometimes things are what they look like." This complaint is filled with unsupported allegations that do not support a finding that there is a reason to believe that NAN violated the Act. We respectfully request that the Commission dismiss this matter as it pertains to NAN.

Sincerely,



Lyn Utrecht  
Counsel, National Action Network

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