



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MAY 24 2005

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Lyn Utrecht, Esq.
1133 Connecticut Avenue, N.W.
Suite 300
Washington, DC 20036

RE: MUR 5408
National Action Network, Inc. and
Alfred C. Sharpton, as President

Dear Ms. Utrecht:

On February 10, 2004, the Federal Election Commission notified your client, National Action Network, Inc., of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your client at that time.

Upon further review of the allegations contained in the complaint, the Commission, on May 3, 2005, found that there is reason to believe that National Action Network, Inc., and Alfred C. Sharpton, as an officer of National Action Network, Inc., violated 2 U.S.C. § 441b, a provision of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information. Please note that Respondents have an obligation to preserve all documents, records and materials relating to the Commission's investigation.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Statements should be submitted under oath.

| In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter.

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Lyn Utrecht, Esq.
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Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

If you have any questions, please contact Kathleen Guith, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Scott E. Thomas
Chairman

Enclosures

Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

Respondent:

**National Action Network, Inc. and
Reverend Alfred C. Sharpton, as President**

MUR: 5408

I. INTRODUCTION

The complaint and amended complaints in this matter allege that Reverend Alfred C. Sharpton and his principal campaign committee, Sharpton 2004 (f/k/a the Rev. Al Sharpton Presidential Exploratory Committee) received and failed to report a variety of prohibited and excessive in-kind contributions between 2001 and 2004.¹ The primary focus of the complaint is an allegation that the National Action Network, Inc., a non-profit corporation founded and run by Sharpton, was used as a vehicle to subsidize a wide range of campaign staff and travel expenses. After evaluating all available information, including materials submitted by Sharpton 2004 in connection with its application for and suspension from eligibility for public financing, the Commission finds reason to believe that Alfred C. Sharpton, Sharpton 2004 and Andrew A. Rivera, in his official capacity as treasurer, violated various provisions of the Federal Election Campaign Act of 1971, as amended ("the Act").

¹ The vast majority of the events discussed in this Factual and Legal Analysis occurred after the effective date of BCRA and its corresponding regulations. Therefore, this Report analyzes the relevant portions of the Act and its corresponding regulations, including those amendments implemented by BCRA, Pub. L. No. 107-155, and those regulations promulgated to implement the BCRA amendments.

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1 **II. BACKGROUND**

2 **A. Identities of Respondents and Related Principal Actors**

3 **1. *Reverend Alfred C. Sharpton and Sharpton 2004***
4

5 **Sharpton was a candidate for the Democratic Party's nomination for President of the**
6 **United States in the 2004 primary election. Sharpton's principal campaign committee is**
7 **Sharpton 2004.² Although he has never held public office, Sharpton has been a federal candidate**
8 **on three prior occasions, having run in New York's Democratic primaries for the United States**
9 **Senate in 1978, 1992 and 1994. Both prior to and during his presidential candidacy, Sharpton,**
10 **who has a national reputation as a civil rights activist, served as President of the non-profit**
11 **corporation, the National Action Network, Inc.**

12 **2. *National Action Network, Incorporated ("NAN")***

13 **NAN, a domestic non-profit organization incorporated in the state of New York in 1994,**
14 **was founded by Sharpton in 1991 as an outlet for his civil rights work. The organization appears**
15 **to be focused on grassroots activity designed to speak out on civil and human rights issues.**
16 **Sharpton has served as President of NAN since its founding. Between 2001 and 2004, Sharpton**
17 **engaged in an extensive travel schedule that he purports was dedicated, at least in part, to NAN-**
18 **related activity.**

19

² On April 29, 2003, Sharpton filed a Statement of Candidacy, designating Sharpton 2004 as his principal campaign committee. The Committee's then-treasurer also filed the Committee's first disclosure reports on that date. On January 21, 2004, Sharpton and the Committee entered into a Conciliation Agreement with the Commission in MUR 5363 admitting that Sharpton was a candidate at least as early as October 2002, yet failed to file his Statement of Candidacy, an Amended Statement of Organization, and two disclosure reports in a timely manner. See MUR 5363 Conciliation Agreement ¶¶ V.1-3. MUR 5363 did not take up the issue of whether the Committee's reports, once filed, disclosed all expenditures made during the time that Sharpton was "testing the waters" of his candidacy. See MUR 5363, 1st GCR at note 10.

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1 3. ***Roger Stone***

2 **Roger Stone is an experienced political consultant who reportedly helped Sharpton staff**
3 **his campaign and hire consultants for the Democratic Party primaries. Stone also reportedly**
4 **assisted Sharpton in his bid for presidential matching funds from the Commission, and served as**
5 **a general consultant to Sharpton during the campaign. It has been reported that Stone either**
6 **contributed or loaned more than \$200,000 to NAN during the pendency of the Sharpton**
7 **campaign and paid for Sharpton's travel expenses to various campaign-related events. See**
8 **Wayne Barrett, *Sleeping With the GOP*, VILLAGE VOICE, Feb. 5, 2004; see also Wayne Barrett,**
9 ***Sharpton's Cynical Campaign Choice*, VILLAGE VOICE, Feb. 11-17, 2004.**

10 4. ***Shared Consultants***

11 **Beginning in Fall 2003, a number of political consultants reportedly had concurrent**
12 **relationships with NAN and Sharpton 2004. Charles Halloran is the owner of Charles Halloran**
13 **Development, a political consulting firm based in Alexandria, Virginia. Halloran, reportedly at**
14 **the request or suggestion of Roger Stone, took over as Sharpton's campaign manager in**
15 **September 2003.³ Halloran then reportedly enlisted assistance for the campaign from Archer**
16 **Group, Inc., a consulting firm, and an individual named Elizabeth Burke. *Id.* Halloran is not a**
17 **named respondent in this matter.**

18 **Archer Group, Inc. is a San Francisco-based political consulting firm which provided**
19 **services to both NAN and Sharpton's campaign beginning in late September 2003. Archer**
20 **Group, Inc. was reportedly initially enlisted by Charles Halloran to design a voter registration**
21 **program for NAN in exchange for a \$20,000 per month fee. *Id.* However, Archer Group, Inc.**

³ Sharpton 2004 disbursed \$10,000 in consulting fees to Halloran Development in January 2004 and approximately \$46,000 in reimbursement expenses between November 2003 and January 2004. Sharpton 2004's most recently filed disclosure report lists a \$65,000 debt to Charles Halloran Development for "campaign management consultant fees." See Sharpton 2004 Year-End Report, filed Jan. 31, 2005 at 13.

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1 reportedly began working primarily for Sharpton 2004 shortly after it was retained.⁴ *Id.* The two
2 Archer Group, Inc. executives working on the campaign were Michael Pitts, who was named
3 Sharpton's Deputy Campaign Manager in December 2003, and Ron Coleman.

4 Elizabeth Burke worked as a scheduler for the Sharpton campaign beginning in October
5 2003. Burke, who was reportedly brought into the campaign by Charles Halloran, has stated that
6 she was also paid a salary from NAN while she worked for the campaign, although her time was
7 fully devoted to the work of the campaign. *Id.*

8 Eddie Harris is a filmmaker who accompanied Reverend Sharpton on his travels between
9 2001-2004. Although Harris reportedly served as the Sharpton campaign's videographer,
10 Sharpton 2004 now claims that Harris' services were provided to NAN, not the campaign.

11 **B. The Sharpton Campaign**

12 Sharpton began paving the way for a potential presidential candidacy as early as August
13 2001.⁵ In February 2002, Sharpton reportedly commenced a "Getting to Know You Tour," and
14 traveled to New Hampshire and Iowa, but Sharpton 2004 reported no disbursements in
15 connection with this trip. Sharpton became a candidate, within the meaning of the Act, no later
16 than October 2002. *See* MUR 5363 Conciliation Agreement ¶ IV.10.

17 It appears that Sharpton traveled extensively during the early days of his campaign,
18 although the Committee reported no expenditures for travel taken during 2002. In late 2003,

⁴ Sharpton 2004 disclosure reports show that Sharpton campaign paid Archer Group, Inc. a total of \$20,000 between December 2003 and January 2004 for campaign fieldwork, campaign logistics, and campaign consultants. Sharpton 2004's most recently filed disclosure report lists a debt of approximately \$26,000 to Archer Group/Michael Pitts for "campaign consultant/field operations." *See* Sharpton 2004 Year-End Report, filed Jan. 31, 2005 at 11.

⁵ On August 20, 2001 Sharpton announced that by November 2001 he would establish a presidential exploratory committee. In December 2001, Sharpton appeared at a conference in Atlanta entitled "The State of the Black World," during which he discussed his presidential aspirations and the formation of an exploratory committee for a possible campaign. Rob Borsellino, *Al Sharpton to Pay Political Visit*, DES MOINES REGISTER, Feb. 25, 2002.

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1 Sharpton began conferring with political consultant Roger Stone. Sharpton acknowledges that
2 Stone, an established professional political consultant, assisted Sharpton's campaign, particularly
3 with its anticipated application for federal matching funds. *See* Wayne Barrett, *Sleeping With the*
4 *GOP*, VILLAGE VOICE, Feb. 5, 2004. After Stone began consulting with Sharpton, Charles
5 Halloran became campaign manager for Sharpton 2004 and hired consultants Elizabeth Burke
6 and Archer Group, Inc. to provide assistance to the campaign. Burke and Archer Group, Inc.'s
7 consultants, who also received compensation from NAN, reportedly worked exclusively on the
8 campaign from Sharpton's New York headquarters.

9 Sharpton asserts that he "undertook a great deal of non-campaign related activities on
10 behalf of NAN during the same period in which he was a presidential candidate." Sharpton 2004
11 Resp. to FEC Matching Funds Inquiry. Archer Group, Inc. consultant Michael Pitts has
12 reportedly stated that these NAN trips were "commingled" with campaign trips. *See* Wayne
13 Barrett, *Sleeping With the GOP*, VILLAGE VOICE, Feb. 5, 2004. Sharpton admits that Sharpton
14 2004's disclosure reports do not accurately reflect which travel expenses incurred by Sharpton
15 were campaign-related and which were not.⁶ *Id.*

16 **C. Sharpton 2004 Application for Public Financing**

17 On January 2, 2004, Sharpton and Sharpton 2004 applied for matching fund payments
18 under the Presidential Primary Matching Payment Account Act, 26 U.S.C. §§ 9031-9042. *See*
19 11 C.F.R. parts 9031-9039. The application included Sharpton's certification that he had not and
20 would not exceed the expenditure limitations at 26 U.S.C. § 9035 and 11 C.F.R. §§ 9035.1 and
21 9035.2, including the \$50,000 personal expenditure limitation.

⁶ The Committee claims that it has now conducted a detailed analysis of Sharpton's expense records and amended its disclosure reports accordingly. *Id.* Notwithstanding the claim, the Committee has not amended its reports to include disbursements for many trips that apparently included campaign appearances.

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1 **The Commission qualified Sharpton as eligible to receive public funds and on March 11,**
2 **2004, certified an initial \$100,000 payment. However, the Committee's disclosure reports**
3 **revealed that Sharpton had made personal expenditures in the amount of \$47,821.13, and thus,**
4 **was extremely close to exceeding the \$50,000 personal expenditure limitation. Because**
5 **Sharpton had the practice of using his personal credit card to pay for campaign expenditures, the**
6 **Commission opened an investigation to resolve whether there were credit charges pending which**
7 **would result in Sharpton exceeding or having exceeded his \$50,000 personal expenditure**
8 **limitation.⁷ See 26 U.S.C. § 9039(b).**

9 **After reviewing Sharpton 2004's disclosure reports, along with information produced in**
10 **the investigation, the Commission made an initial determination to suspend matching fund**
11 **payments to Sharpton because Sharpton had exceeded his personal expenditure limitation. On**
12 **April 21, 2004, Sharpton responded to the suspension by asserting that he had expended only**
13 **\$46,956.23 of his personal funds in connection with his campaign and that the Committee had**
14 **mistakenly reported large amounts of Sharpton's non-campaign related expenditures as**
15 **campaign expenditures.⁸ However, the information provided to the Commission by the**
16 **Committee appeared to show that Sharpton knowingly and substantially exceeded the \$50,000**
17 **personal expenditure limit by \$66,976 as of January 2, 2004. Therefore, the Commission made a**
18 **final determination to suspend matching fund payments to Sharpton and the Committee on April**
19 **29, 2004. See Statement of Reasons in Support of Final Determination to Suspend Matching**

⁷ See 11 C.F.R. § 9035.2(a)(2) (credit card charges count against a candidate's personal expenditure limitations to the extent that the full amount due, including any finance charge, is not paid within 60 days after the closing date of the billing statement on which the charges first appeared).

⁸ In particular, Sharpton claimed that travel and salary expenses related to the travel of videographer Eddie Harris were mistakenly reported as campaign expenditures even though Harris accompanied Sharpton on behalf of NAN.

1 Funds, dated April 29, 2004. On May 14, 2004, the Commission determined that Sharpton and
2 the Committee must repay \$100,000 to the United States Treasury.⁹

3 **III. ANALYSIS**

4 Complainant's central allegation is that "Sharpton ran an off-the-books campaign in
5 which campaign expenses were paid by parties without the proper disclosure to the Federal
6 Election Commission and at times in apparent violation of campaign contribution limits and the
7 legal restriction against corporate contributions."¹⁰ MUR 5408, Second Am. Compl. at 2. The
8 available information supports the allegation that Sharpton's campaign was subsidized by
9 various unreported, excessive, and impermissible in-kind contributions to Sharpton 2004.
10 Accordingly, as detailed below, the Commission finds reason to believe that NAN violated the
11 Act.

12 **A. Unreported In-Kind Contributions**

13 **1. Travel Expenses**

14 The complaint alleges, and the available information suggests, that Sharpton 2004 did not
15 report all of the travel expenses Sharpton incurred in connection with his candidacy, including

⁹ On July 16, 2004, Sharpton 2004 requested administrative review of the repayment determination and requested an oral hearing. The Commission approved the request and scheduled an oral hearing for September 29, 2004. One day prior to the scheduled hearing, Respondents requested a ninety-day postponement of the hearing. The Commission granted this request and rescheduled the hearing for December 1, 2004. Respondents subsequently requested another postponement. The Commission denied this request, and Respondents indicated that no representative would appear on December 1, 2004. The Commission is currently in the process of completing the administrative review based on the written submissions made by the Committee.

¹⁰ In separate responses to the complaints, Sharpton and NAN each argue that the complaint does not meet the procedural requirements contained in the Act's corresponding regulations. Sharpton argues that the complaint is insufficient because it is based on "no pertinent, first-hand facts." Sharpton Resp. at 2. NAN argues that the complaint does not provide sufficient information to support the allegations because it is based on a single newspaper article that is not credible. NAN Resp. at 1-2. The Act and its corresponding regulations clearly contemplate and allow complaints to be based on second-hand information contained in news accounts. Pursuant to 11 C.F.R. § 111.4(d)(2)-(3), a complaint that is not based on personal knowledge should be accompanied by an identification of the source of the information which gives rise to the complainant's belief in the truth of such statements and shall contain a clear and concise recitation of the facts which describe a violation of the statute or regulation. Because the complaint's allegations are specific and accompanied by the identification of a credible source of information, this Office finds Respondents' procedural arguments unpersuasive.

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1 those made while he was "testing the waters," and that this campaign-related travel was
2 subsidized by NAN in the form of shared events for which NAN picked up the entirety of
3 Sharpton's travel costs. Second Am. Compl. at 2, 5; *see* 11 C.F.R. § 100.72(a)-(b). In
4 addition, the First and Second Amended Complaints allege that political consultant Roger Stone
5 charged \$18,000 of Sharpton's campaign-related travel expenses to his personal credit card
6 without receiving reimbursement from Sharpton 2004.

7 Expenditures for travel relating to the campaign of a candidate seeking nomination for
8 election to the office of President by any individual, including a candidate, shall be qualified
9 campaign expenses and be reported by the candidate's authorized committee as an expenditure.
10 11 C.F.R. § 9034.7(a). If the trip is entirely campaign-related, the total cost of the trip shall be a
11 qualified campaign expense and a reportable expenditure. 11 C.F.R. § 9034.7(b)(1).¹¹
12 Furthermore, if an individual who had been "testing the waters" subsequently becomes a
13 candidate, funds received or payments made for "testing the waters" are contributions and
14 expenditures subject to the reporting requirements of the Act. 11 C.F.R. §§ 100.72(a) and
15 100.131(a). Such contributions must be reported with the first report filed by the principal
16 campaign committee of the candidate, regardless of the date the funds were received or the
17 payments made. *Id.* Therefore, once Sharpton became a candidate, his principal campaign

¹¹ Pursuant to 11 C.F.R. § 9034.7(b)(2), "For a trip that includes campaign and non-campaign related stops, that portion of the cost of the trip allocable to campaign activity shall be a qualified campaign expense and a reportable expenditure. Such portion shall be determined by calculating what the trip would have cost from the point of origin of the trip to the first campaign-related stop and from that stop to each subsequent campaign-related stop, back to point of origin. The calculation is based on commercial airfare rates at time of travel, and the committee is responsible for retaining documentation of these rates. If any campaign activity, other than incidental contacts, is conducted at a stop, that stop shall be considered campaign-related. Campaign-related activity includes soliciting, making, or accepting contributions, and expressly advocating the election or defeat of the candidate. Other factors, including the setting, timing and statements or expressions of the purpose of an event and the substance of the remarks or speech made, will also be considered in determining whether a stop is campaign-related." Furthermore, "For each trip, an itinerary shall be prepared by the Committee and made available to the Commission for inspection. The itinerary shall show the time of arrival and departure and the type of event." 11 C.F.R. § 9034.7(b)(3).

1 committee was responsible for reporting all of the campaign-related travel expenses that he
2 incurred during the "testing the waters" period.

3 On April 29, 2003, Sharpton 2004 filed its first required disclosure report, the 2002 Year-
4 End Report, disclosing the Committee's receipts and disbursements from July 1, 2002 through
5 December 31, 2002. The report shows that the Committee made approximately \$24,000 in
6 expenditures during the reporting period, and that each of the disbursements was made in
7 connection with a single fundraising event held by Sharpton in Washington, D.C. However,
8 Sharpton 2004 reported no disbursements for travel expenses for the trip to Washington, D.C. for
9 the fundraiser.¹²

10 There is also information to suggest that Sharpton made additional expenditures for travel
11 during the time period covered by the Committee's 2002 Year End Report that were not
12 contained in the Committee's disclosure reports. Press accounts of Sharpton's activity indicate
13 that he traveled to numerous additional cities in connection with his exploratory presidential
14 committee, including trips to New Hampshire and Iowa in February 2002. *See supra* p. 6. Since
15 it is unlikely that Sharpton could have incurred no expenses related to this travel, significant
16 questions exist as to whether the disclosure reports filed by the Committee include all of the
17 expenditures made by Sharpton in connection with his efforts to "test the waters" of a potential
18 presidential campaign. As a result, there is a reasonable basis to investigate whether Sharpton
19 engaged in any campaign-related travel without reporting any corresponding disbursements for
20 the travel expenses incurred for that travel.

¹² The disbursements included payments for caterers, stage and sound, event space and insurance, entertainment, and door workers. *See Sharpton 2004, 2002 Year-End Report, Schedule B, filed April 29, 2003. Although the Committee's treasurer filed an amended version of the report on November 28, 2003, the amendments did not affect the reported disbursements.*

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1 Furthermore, the available information suggests that at least a portion of any unreported
2 campaign-related travel expenses incurred by Sharpton may have been paid for by NAN in
3 violation of 2 U.S.C. § 441b, and/or by Roger Stone in an amount in excess of the Act's
4 contributions limit at 2 U.S.C. § 441a(a)(1)(A). There are reported statements by Archer
5 consultant Michael Pitts acknowledging that campaign trips and NAN trips were "commingled,"
6 and that he scheduled many events across the country that were part campaign and part NAN.
7 *See* Wayne Barrett, *Sleeping With the GOP*, VILLAGE VOICE, Feb. 5, 2004. Sharpton also
8 acknowledges that he traveled extensively for NAN while he was a presidential candidate.
9 Although NAN asserts that the allegation that NAN shared events with Sharpton's campaign is
10 baseless, NAN Resp. at 2, Pitts' reported statements, combined with evidence of campaign-
11 related trips for which no travel expenditures were reported by the Committee, provide a
12 reasonable basis to infer that NAN may have subsidized Sharpton's campaign travel by paying
13 for the entirety of Sharpton's travel to campaign-related events. As a result, there is a sufficient
14 basis to investigate whether Sharpton engaged in any campaign-related travel that was paid for
15 by NAN, but not reported or reimbursed by the campaign, in violation of 2 U.S.C. §§
16 434(b)(4)(A) and 441b.

17 In addition, there is also information supporting the allegation that Stone paid for certain
18 of Sharpton's travel expenses with Stone's personal credit card. One Sharpton campaign worker
19 reportedly stated that Stone informed him that Sharpton ran up \$18,000 on his credit card last
20 year to cover Sharpton's travel expenses for a trip to California for, among other things, a NAN
21 fundraiser. *See* Wayne Barrett, *Sleeping With the GOP*, VILLAGE VOICE, Feb. 5, 2004. Sharpton
22 reportedly responded to this charge by arguing that the travel expenses charged by Stone were

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1 for travel to "our annual event in California."¹³ See Wayne Barrett, *Sleeping With the GOP*,
2 VILLAGE VOICE, Feb. 5, 2004. Again, because there is credible evidence that Sharpton
3 frequently commingled NAN events with campaign activities, there is a sufficient basis to
4 investigate whether Stone made in-kind contributions to Sharpton 2004 by paying for campaign-
5 related travel in amounts that exceed the Act's contributions limits and were not disclosed on the
6 Committee's reports.¹⁴ Furthermore, because Sharpton was an officer of NAN, and appears to
7 have consented to most, if not all, of any travel expense disbursements, including those made to
8 reimburse prior campaign expenses charged to his personal American Express card, the
9 Commission is also making findings against Sharpton personally.

10 Based on the foregoing, the Commission finds reason to believe that NAN and Alfred C.
11 Sharpton, as an officer of NAN, violated 2 U.S.C. § 441b by making corporate in-kind corporate
12 contributions to Sharpton 2004.

13 2. *Salaries of Campaign Employees and Consultants*

14 The complaint alleges that NAN paid salaries or fees to Sharpton's campaign employees
15 and consultants in violation of 2 U.S.C. § 441b. See Second Am. Compl. at 3-5. The available
16 information suggests that NAN may have subsidized the salaries and fees.

17 Several news accounts reportedly quote employees and consultants of the Sharpton
18 campaign who state that NAN partially paid for their salaries or fees. For instance, former

¹³ Stone's one page response to the complaint does not discuss the substance of the complaint in detail, but rather makes a general attack on the credibility of the *Village Voice* article cited in the complaint and categorically denies that he violated the Act in any way. See Stone Resp. at 1.

¹⁴ To the extent that any of the expenses incurred by Stone were transportation costs, 11 C.F.R. § 100.79 states that any unreimbursed payment for transportation expenses incurred by any individual on behalf of any candidate or any political committee of a political party is not a contribution to the extent that: (1) the aggregate value of the payments made by such individual on behalf of a candidate does not exceed \$1,000 with respect to a single election; and (2) the aggregate value of the payment made by such individual on behalf of all political committees of each political party does not exceed \$2,000 in a calendar year. However, because Stone purportedly spent \$18,000 on travel expenses in connection with Sharpton's campaign without receiving reimbursement, this exception would not eliminate the in-kind contribution from Stone. See also 11 C.F.R. § 100.139.

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1 **Sharpton campaign staffer Elizabeth Burke reportedly stated that she was paid \$1,000 a week to**
2 **fulfill her duties as logistical director for all of Sharpton's campaign events, but half of this**
3 **money was paid by the campaign, and half by NAN.¹⁵ See Wayne Barrett, *Sleeping With the***
4 ***GOP*, VILLAGE VOICE, Feb. 5, 2004. Furthermore, Burke is quoted as stating that campaign**
5 **consultants from Archer Group, Inc. were vastly underpaid compared to the amount of the work**
6 **that they performed for the campaign. *Id.***

7 **In the same article, Archer Group, Inc. consultant Michael Pitts, reportedly confirms that**
8 **his consulting firm was largely paid by NAN, even though the bulk of the work performed was**
9 **related to Sharpton's campaign. As discussed above, the article also quotes Pitts as admitting**
10 **that he knew that events he scheduled for Sharpton's campaign were "commingled" with NAN**
11 **events. *Id.***

12 **Furthermore, it appears that NAN may have paid for the services of the campaign's**
13 **videographer, Eddie Harris. Harris traveled to campaign events with Sharpton, and the**
14 **Committee's disclosure reports list some direct payments to Harris for "Campaign Video Taping**
15 **Service" and report debts outstanding to Mr. Harris for his services, as well as debt owed to**
16 **Sharpton for Mr. Harris' travel expenses. However, the Committee now argues that the expenses**
17 **related to Harris were not campaign-related, but were related to the Sharpton's activities as head**
18 **of NAN.¹⁶ Although it is possible that Harris provided services that were both campaign and**
19 **non-campaign related, even if they were dual purpose, the salary and travel expenses for Harris**
20 **would still need to be allocated. See 11 C.F.R. § 106.3.**

¹⁵ Sharpton 2004's disclosure reports show that Burke was paid a total of \$5,000 in salary from the campaign, and that these payments were made between October 17, 2003 through November 28, 2003. It is unclear how much NAN paid Burke during this period.

¹⁶ Although the Committee makes this assertion, it has failed to amend its disclosure reports accordingly, and in fact, the Committee has filed reports as recently as January 31, 2005 which still list outstanding debts to Harris for "campaign videotaping services."

1 The discrepancies in the information suggest that there may have been a commingling of
2 services for the campaign and NAN, without the proper allocation, and provide a basis for
3 investigating whether and/or to what extent the services of Burke, Pitts, Archer Group, Inc., and
4 Harris were campaign-related, and if so, the amount of their compensation, the source of that
5 compensation, and the payment of any campaign-related travel by those individuals.

6 Based on the foregoing, the Commission finds reason to believe that NAN and Alfred C.
7 Sharpton, as an officer of NAN, violated 2 U.S.C. § 441b by making those in-kind corporate
8 contributions to Sharpton 2004.

9 **B. Loans from Stone to NAN**

10 The First and Second Amended Complaints allege that Roger Stone subsidized
11 Sharpton's campaign by loaning over \$200,000 to NAN, for the purpose of directing the money
12 into Sharpton's campaign by paying for Sharpton's travel expenses and campaign consultants.

13 The Act provides that a contribution includes a loan made by a person for the purpose of
14 influencing any election for Federal office. 2 U.S.C. § 431(8)(A). Furthermore, 11 C.F.R. §
15 100.52(b) provides that a loan that exceeds the contribution limits of 2 U.S.C. § 441a shall be
16 unlawful whether or not it is repaid, and further, that a loan is a contribution at the time it is
17 made and is a contribution to the extent that it remains unpaid. Therefore, if Stone made over
18 \$200,000 in loans to Sharpton for the purpose of funding campaign expenses, Stone has
19 exceeded the Act's contribution limit at 2 U.S.C. § 441(a)(1)(A). *See* 2 U.S.C. § 441a(a)(8).

20 The complaint's allegations are supported by purported quotes from a news article in
21 which a Sharpton campaign employee, Elizabeth Burke, stated that Archer Group, Inc. campaign
22 consultants Pitts and Coleman were told by Stone that Stone made "at least two loans in six
23 figures to NAN, totaling well over \$200,000." *See* Wayne Barrett, *Sleeping With the GOP*,

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1 **VILLAGE VOICE, Feb. 5, 2004. Furthermore, the article cites another Sharpton campaign worker**
2 **as stating that Stone told him that he took a \$270,000 promissory note from Sharpton. *Id.* The**
3 **news article is purportedly based on first-hand interviews with these individuals and provides**
4 **sufficient detail on which to base an investigation into whether Stone loaned funds to NAN for**
5 **the purpose of allowing NAN to fund Sharpton's campaign activities and whether such loans**
6 **were excessive contributions pursuant to 2 U.S.C. §§ 441a(a)(1)(A) and 441a(a)(8).**

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