

**FEDERAL ELECTION COMMISSION
COMPLAINT**

MUR # 5912 # 17

In the Matter of Senator John McCain.

SENSITIVE

COMPLAINT

2008 MAR -1 P 2:52

FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

1. The California Democratic Party (CDP) brings this complaint before the Federal Election Commission (FEC) seeking immediate FEC investigation and enforcement against Senator John McCain and California Governor Arnold Schwarzenegger for direct and serious violations of the Federal Election Campaign Act (FECA), including amendments sponsored by Senator McCain in the Bipartisan Campaign Reform Act of 2002 (BCRA).
2. The FEC allows any person to file a complaint if he or she believes a violation of the federal election campaign laws or Commission regulations have been violated.
3. Specifically, CDP believes Senator McCain and Governor Schwarzenegger are soliciting soft money from prohibited sources and in excess of the federal contribution limits.

Complainant

4. The complainant is the California Democratic Party and its Chairman, Art Torres.
5. The California Democratic Party believes violations of federal election campaign laws have been committed by Senator John McCain and Governor Arnold Schwarzenegger.

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Respondent

6. The respondents are Senator John McCain, Senior United States Senator from the state of Arizona and a candidate and officeholder under federal law, (2 U.S.C. 431(2) and (3)), and Governor Arnold Schwarzenegger, Governor of California and a candidate for re-election in 2006.

Facts

7. Senator John McCain and California Governor Arnold Schwarzenegger are jointly soliciting soft money in connection with a joint fundraiser between Governor Schwarzenegger's re-election campaign and the California Republican Party's federal and nonfederal committee.¹ The solicitation involves a written invitation that prominently features Senator John McCain as Special Guest. Senator McCain's picture is displayed on the front of the invitation alongside Governor Schwarzenegger's picture under a large headline that reads "Spring into Action." (See Exhibit A and B).
8. The event is to take place on March 20, 2006 at the Beverly Hilton in Beverly Hills, California. (See Exhibit A).

¹ Because this is a "joint fundraiser" between a federal and two nonfederal committees, other violations of Federal law may be implicated and the Commission may wish to also investigate whether the joint fundraiser is permissible under BCRA and, if so, whether the California Republican Party federal committee is complying with FEC regulations of joint fundraisers.

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9. On the second page of the written invitation Senator McCain's name is featured directly above solicitations of soft money from "Platinum sponsors (\$100,000), "Gold" sponsors (\$50,000), "Silver" sponsors (\$25,000), and "Bronze" sponsors (\$10,000). The contributions from "Platinum" and "Gold" sponsors are divided such that \$44,600 is earmarked for Governor Arnold Schwarzenegger's re-election campaign. (See Exhibit A). These amounts are in excess of federal contribution limits provided by FECA, as amended by BCRA. (See Exhibit A).
 10. In exchange for the \$100,000 contribution, Platinum sponsors receive preferential seating at the dinner with the Governor, tickets to a pre-dinner reception and 6 photos with the Governor (2 persons per photo). Gold, Silver and Bronze sponsors receive similar, although less generous, prerequisites. (See Exhibit A).
 11. On the second and third pages of the written solicitation appears a "disclaimer" apparently intended to show Senator McCain is not soliciting contributions in excess of FECA and BCRA limits. That disclaimer reads, "We are honored to have Senator John McCain as our Speaker for this event. However, the solicitation of funds is being made only by Californians for Schwarzenegger and the California Republican Party. In accordance with federal law, Senator McCain is not soliciting funds beyond the federal limit, and is not soliciting funds from

corporations or labor unions.” (See Exhibits A and B). The disclaimer does not inform the contributor of the federal contribution limits.

- 12. The unfortunate effect of the “disclaimer” is to suggest to the uninformed donor that federal law permits contributions up to as much as \$100,000.**
- 13. The credit card contribution portion of the written invitation states that if the credit card being used for the contribution is a corporate card, it will be considered a corporate donation. (See Exhibit A).**

Applicable Law

- 14. Under the amendments to the Act by BCRA along with Commission regulations, federal candidates and officeholders expressly are prohibited from soliciting, receiving, directing, transferring, or spending funds in connection with any election other than an election for federal office unless the funds are not in excess of the amounts permitted with respect to contributions to candidates and political committees and are not from sources prohibited by the Act from making contributions in connection with an election for Federal office. Current contribution limits to federal candidates are \$2,100 from individuals and \$5,000 from multi-candidate PACs per election. (2 U.S.C. 441(e) (1) (A) and (B); 11 CFR 300.61 and 300.62).**

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15. A federal candidate or officeholder may attend, speak or be a featured guest at a state or local candidate fundraiser. When involved in such events, the candidate may only ask for funds in amounts and from sources that are both consistent with state law and not in violation of the Act's limits and prohibitions. Furthermore, no solicitation materials mentioning the candidate may solicit funds outside the limits and prohibitions of the Act. Prohibited sources include corporations and unions. (Campaign Guide for Congressional Candidates and Committees, Appendix E, page 2; Advisory Opinions 2003-36, 2003-3).

16. The written solicitation violates FECA as amended by BCRA in that it clearly mentions the name of Senator McCain (on multiple occasions) and solicits contributions both in excess of the FECA limits and from prohibited sources.

17. The FEC has opined that written solicitations that mention a federal candidate and solicit funds for a nonfederal candidate must, in addition to not requesting funds in excess of federal limits and from prohibited sources, contain a written notice. That notice must read: "I am asking for a donation of up to \$2,100 per election from an individual's own funds [or up to \$5,000 per election from a multi-candidate political committee or a political party committee]. I am not asking for funds from corporations or labor organizations." (Advisory Opinion 2003-3).

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18. The written solicitation does not contain this disclaimer. Instead the disclaimer that is printed on the invitation begins with statement as to how "honored" the Governor and Republican Party are to have him as a featured guest. The disclaimer does not advise donors of the precise contribution limits under federal law, thus leaving the uninformed donor to believe the limits are as high as \$100,000. (See Exhibit A).

Count 1

19. Senator McCain, by appearing on the invitation soliciting large soft money contributions over the federal limits and from prohibited sources for Governor Schwarzenegger's campaign and the California Republican Party, violated the Federal Election Campaign Act Section 441a(a)(1) and Commission regulations 300.61 and 300.62. While FECA permits Senator McCain to attend, speak and be a featured guest at Governor Schwarzenegger's fundraiser, Senator McCain violated the Act by having his name appear on the face of the invitation with requests for contributions in amounts of \$100,000, \$50,000 and \$25,000, far in excess of the federal limits of \$2,100 or \$5,000. In addition, the invitation solicits contributions from corporations and unions in violation of the Act's prohibitions. (Advisory Opinions 2003-36, 2003-3).

Count 2

20. Although the invitation does include disclaimer language, Senator McCain violated the Commission's interpretation of the disclaimer requirement by

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including a completely gratuitous reference to being "honored" and failing to mention the actual limitations on federal contributions. (2 U.S.C. 4411 (e) (1) (B); 11 CFR 300.62, Advisory Opinion 2003-3).

Count 3

21. Governor Schwarzenegger violated the Act by aiding and abetting Senator McCain in soliciting soft money contributions in violation of federal law.

The California Democratic Party and Chairman Art Torres request that the Federal Election Commission conduct an investigation into these allegations, declare the respondent to have violated FECA, as amended by his own sponsored legislation, impose sanctions appropriate to the violations and take such further action as may be appropriate.



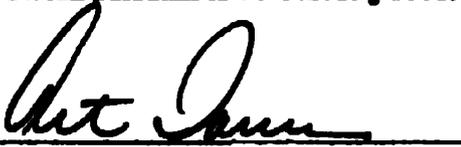
**Art Torres
Chairman
California Democratic Party
1401 21st Street, Suite 200
Sacramento CA 95814**

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Verification

The California Democratic Party, acting through its Chairman Art Torres, hereby verifies the statements made in the attached Complaint are, upon information and belief, true.

Sworn pursuant to 18 U.S.C. § 1001.



A handwritten signature in cursive script, appearing to read "Art Torres", is written over a solid horizontal line.

Chairman Art Torres

Sworn to and subscribed before me this 6th day of March, 2006.

see notarial certificate attached - needed to include updated notarial wording per California law. Kn

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State of California
County of Napa

Subscribed and sworn to (or affirmed) before me on this 16th day of March, 2006
by Art Torres, personally known to me or proved to me on the
basis of satisfactory evidence to be the person(s) who appeared before me.

Kelly Monhoff
(Signature of Notary)



OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Further Description of Any Attached Document

Title or Type of Document: Federal Election Commission Compliant

Document Date: March 6, 2006 Number of Pages: 8

Signer(s) Other Than Named Above: _____

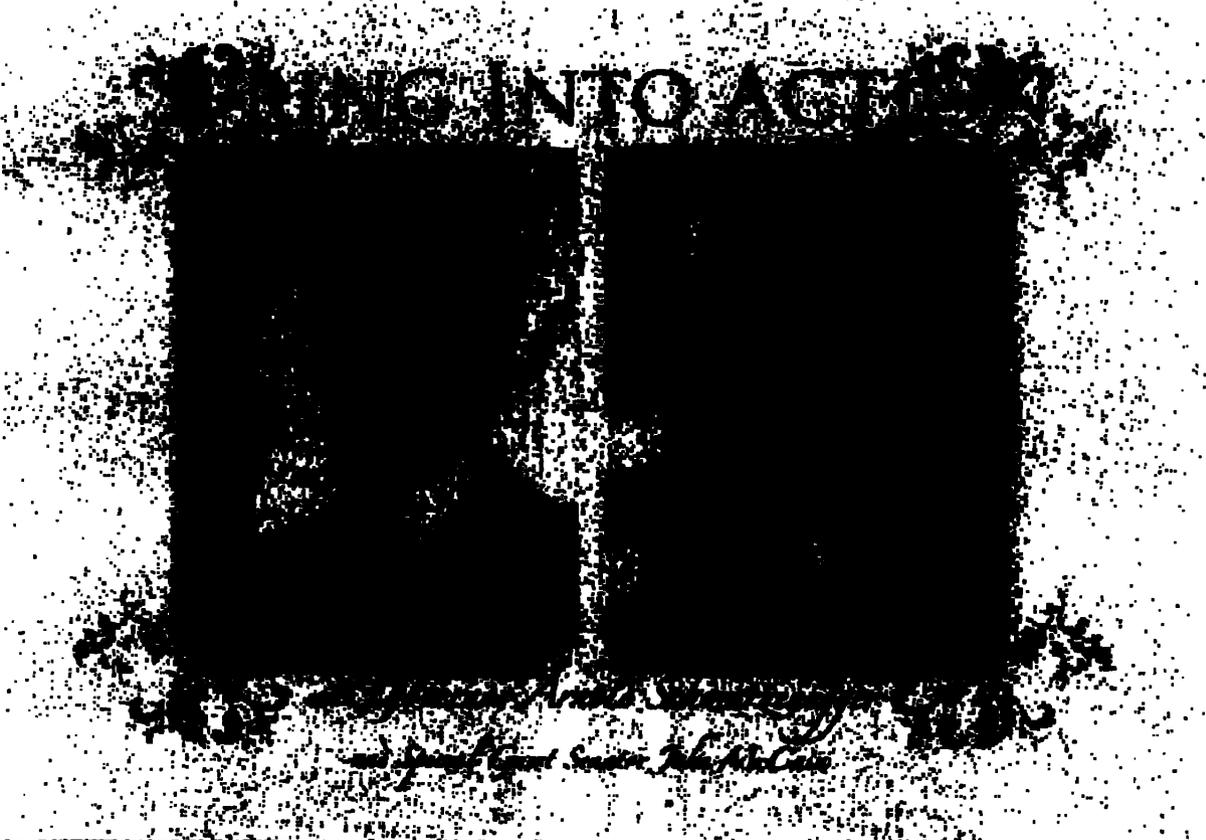
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EXHIBIT A

FEDERAL BUREAU OF INVESTIGATION
OFFICE OF THE ATTORNEY GENERAL
COURT REPORTER
2008 MAR -9 P 3 24

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GOVERNOR ARNOLD SCHWARZENEGGER
 C/O GINA BLOCK
 3110 MAIN STREET, SUITE 225
 SANTA MONICA, CALIFORNIA 90405

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ADRIAN & MARGALITA
AVERY & JENNIFER
KATEY & FRANK ANTONI
BILL & BONNIE
TINA & ERIC

Platinum
LETT & ROBERT DICK
JOHN & JOHN HITCHCOCK
CHRISTINE JOHN & KYLE
THE NINE BARBERS LOU & BOB
BOB & DAN'S THAI MAUS

MARGIE & TERRY PERENCHIO
WILLIAM & ROBINSON
BOB & ALICE SPANOS
LINDA & DONALD

Gold
JERRY CARBON
JAN & BLAIR HEDGECOCK
MIKE MCCOY & BLACK CATERING MCCOY
DANNY & JERRY
GARY & JANE

Silver
RICHIE & TONY ANDERSON
DONNA TUTTLE & DAVID ELMORE
DAN & HILARY
MICHAEL & DOMINICK
GAIL & JOHN
PATRICIA & BOB

MICHELLE & ANDY SAHAR
RUTH & JIM
LINDA & JIM
JERRY
BARBARA & BOB
JERRY
BOB & JANE
JANE

Bronze
ART & HILARY
GARY & JANE
JOHN & JANE
JERRY & JANE

NANCY & EDWARD PHILIPSON
EDWARD G. PRICE
GARY & JANE
JERRY & JANE

SPRING INTO ACTION

GOVERNOR ROBERT ZENEGGER



BUSINESS ATTORNEY
DIRECTOR OF THE STATE OF CALIFORNIA
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EXHIBIT B

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Article Launched: 3/03/2006 12:00 AM

Arnold to hit up Hollywood for millions in re-election

By Michael R. Blood, Associated Press
LA Daily News

At a time when he's trying to reclaim his outsider image, Gov. Arnold Schwarzenegger is asking Hollywood and corporate insiders to donate up to \$100,000 for his re-election campaign and the state Republican Party.

The governor has scheduled a celebrity-studded fundraiser this month in Beverly Hills - headlined by Arizona Sen. John McCain - that could pull in at least \$2 million for his depleted campaign account. The host committee includes names from the entertainment and business elite, including "The Terminator" director James Cameron, Interscope Records chief Jimmy Iovine, Yahoo Chairman Terry Semel and Univision Chairman Jerry Perenchio.

Supporters are being asked to kick in up to \$100,000 for dinner, a private reception and photographs with Schwarzenegger. In some cases, the money will be divided with the state party, which can use the funds to support Schwarzenegger or run its statewide operations.

Other prices, according to the invitation, range from \$1,000 for an individual ticket to \$50,000 for ticket packages that can include perks like photographs with the governor and a seat at the head table.

Schwarzenegger was elected in 2003 after promising to spend politics as usual in Sacramento. But he's since become one of the most prolific political fundraisers in state history, and his campaign committees have banked millions of dollars from supporters with business and corporate ties.

Schwarzenegger "learned that he couldn't spend politics as usual, and he had to practice politics as usual," said Robert Stern, president of the Center for Governmental Studies, a Los Angeles research group that studies campaign finance.

The governor began the year with his political finances drained after his committees spent more than \$50 million in an attempt to enact his failed 2005 "year of reform" ballot proposals. It's expected his campaign will need at least as much for his re-election bid. His campaign was outspent by a wide margin last year by his rivals.

McCain is known nationally for his efforts to reform federal campaign finance laws, and he was once critical of fundraising by former Gov. Gray Davis, a Democrat who was replaced by Schwarzenegger. Campaigning with the governor last year, McCain said he advised Schwarzenegger to seek campaign finance reform in the state once the 2005 election ended.

One Democratic official said McCain's appearance was in conflict with federal law authored by the senator, which places restrictions on federal officeholders taking part in events that solicit political funds. The Schwarzenegger invitation includes the senator's picture, and lists him as a "special guest."

McCain "is flouting, if not the letter, the intent of his own law," said Lance Olson, general counsel to the state Democratic Party. "He couldn't raise that money for his own campaign; he shouldn't be able to raise it for somebody else."

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The invitation includes a disclaimer that says Schwarzenegger's campaign and the state party are raising the money, and McCain "is not soliciting individual funds beyond federal limit, and is not soliciting funds from corporations or labor unions." But Olson said the wording is inadequate and McCain "should not have his name appear on material that asks for contributions that are in excess of the federal limits."

Candidates for federal office cannot accept more than \$2,100 from individuals for each election. Some individual tickets could give Schwarzenegger as much as \$44,600 for his campaign.

Trevor Potter, a former Federal Election Commission member who advises McCain, said the disclaimer was carefully reviewed to avoid any conflict.

"The disclaimer makes clear he is not asking for any money," Potter said.

State candidates are running with new donation limits this year, but the governor is able to ask for \$100,000 ticket packages by dividing the money with the state party. Spokeswoman Katie Levinson said the campaign is "complying with both the spirit and letter" of state campaign-finance laws.

In an interview Sunday on NBC's "Meet the Press," the governor said, "I take money because you need to take money.

"What is wrong with the system right now is there have been people who pay in and favors go out, and you should never do that. That is the key thing," Schwarzenegger said. "The fact is that the elections are very expensive."

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