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BEFORE THE
FEDERAL ELECTION COMMISSION
OF THE
UNITED STATES OF AMERICA

In the Matter of: Alfred C. Sharpton Rev. Al Sharpton Presidential Exploratory Committee) (a/k/a Sharpton 2004) Mr. and Mrs. LaVan Hawkins Respondents	MUR:

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

FACTS

The facts supporting this complaint are found in press accounts regarding Sharpton's campaign and are fully cited below.

An article by *Daily News* (New York) Senior Political Correspondent Joel Siegel reported that despite a heavy travel and speaking schedule, Sharpton reported very little in the way of campaign expenses. ("Questions raised about Sharpton's campaign finances," *Daily News,* May 26, 2003)

The *Daily News* reported that its "...examination of Sharpton's campaign finances raises questions about whether he has disclosed all his spending as required by law and whether he has used paid speeches, a book tour and his nonprofit National Action Network to improperly subsidize his presidential ambitions."

The article went on to disclose that Sharpton's committee filings showed that he had only spent $54,500 of $114,000 in campaign donations and that nearly half of those expenditures was for one event in Washington. Citing a December 2002 interview that Sharpton gave to the *St. Louis Post-Dispatch* in which Sharpton boasted of having already visited 80 cities in his efforts to gauge political support, the article went on to cite trips to an additional 20 cities in 2003. Specifically cited were a visit to Iowa, two visits to New Hampshire and three to South Carolina, all described as "key primary or caucus states." Also cited was a March 15 speech to 2,000 Democrats in Sacramento California and at least four visits to Washington, D.C.

The *Daily News* article raised a series of questions regarding Sharpton's extensive off-the-books campaigning:

> **Instead, Watkins [Sharpton campaign manager] acknowledged, Sharpton's travels largely were paid for by others. Some of his appearances coincided with trips to promote his book "Al on America," and the publisher, Kensington Books, paid the bills, Watkins said. Kensington executives did not return a call for comment.**
>
> **Other appearances were not campaign events, but sermons or speeches for which Sharpton pocketed a speaking fee, Watkins said. Sharpton considered still other trips part of his work as an advocate, and so his National Action Network paid the way, Watkins said.**
>
> . . .

But there are no ambiguities governing "mixed purpose" trips in which a candidate travels to a state for a campaign event at one stop and supposedly nonpolitical event at another. Sharpton, it appears, made several such trips. In such cases, the candidate must treat the cost of travel as a campaign expense. Sharpton apparently did not treat such trips that way.

In his March trip to California, for example, he gave a paid speech to the National Black Political Science Conference, then was driven to the state Democratic convention in Sacramento to speak again. Watkins said the campaign was required to pay only the cost of gas in driving to Sacramento once Sharpton was in California.

But campaign finance experts said that the entire cost of traveling to California and back must be charged to the campaign.

"You can't use the noncampaign events as cover for subsidizing campaign travel." said Larry Noble, Federal Election Commission general counsel from 1987 to 2000. The commission can assess civil penalties of up to $5,000 per violation of the campaign finance law, Noble said. For "knowing and willful" violations criminal prosecution is possible.

Just as there appears to be a strong pattern of the Sharpton campaign failing to disclose expenditures, there also appears to be a pattern of failing to disclose in-kind contributions even when those contributions are directly related to the Sharpton campaign's fund raising. An Ebony magazine profile of a Sharpton contributor and his wife [*See* "How La-Van Hawkins Rose From the Projects to a Private Jet and a Multi-million-Dollar Empire," by Kevin Chappell, Ebony, April 2003, page 42] provides the background. Referring to La-Van Hawkins and his wife, the article states -

At a recent fund-raising dinner for the Rev. Al Sharpton's presidential bid, the couple spared no expense. They arranged for their private jet to pick Sharpton up in New York, and swing by Detroit to pick up their personal chef before heading to Atlanta. The house swarmed with waiters and pretty coat-check girls who greeted the 60 or so well-heeled invited guests.

Fresh crab cakes and carved beef tenderloins were washed down by $200 a bottle Cristal champagne. Hawkins worked the crowd, at times talking business and world politics with guests, at other times, seeming to "shake down" guests for donations. Sharpton, who had been instrumental in Hawkins' battle against Burger King, gave a rousing speech, and guests ponied up their contributions on their way out the door.

The sparing of no expense in hosting the Sharpton fund raising dinner is especially interesting in light of the fact that LaVan Hawkins and his wife Wendy each made the legal maximum contribution of $2,000 to the Rev. Al Sharpton Presidential Exploratory Committee. The Committee's FEC reports indicate that both $2,000 contributions were made on March 13, 2003. The contribution entries list Hawkins Food Group as the employer for both Mr. and Mrs. Hawkins.

And Mr. and Mrs. Hawkins were not the only Hawkins Food Group employees to make the maximum legal contribution to the Sharpton campaign in March 2003. FEC records show that Mr. Conrad Mallett, Jr., General Counsel of Hawkins Food Group, made a $2,000 contribution to the Sharpton campaign on March 12, 2003. Interestingly, Mr. Mallett does not appear in FEC records to have made any other political contributions in the campaign cycle. Another $2,000 contributor to Sharpton on March 12, 2003, Ms. Barbara Straughan Mallet, is listed in FEC records as living at the same address as Mr. Mallett. For reasons not stated, the Sharpton campaign's FEC reports show Ms. Mallett as receiving a $2,000 refund on April 14, 2003. Also, Mr. George Rikard, listed as an employee of Hawkins Food Group, is shown in FEC records to have contributed $2,000 to the Sharpton campaign on March 21, 2003. However, Mr. Rikard is also shown to have contributed $1,000 to Gephardt for President on March 28, 2003. Coincidentally, his boss at Hawkins Food Group - Mr. LaVan Hawkins - contributed the exact same amount to the Gephardt for President campaign just three days earlier.

This pattern is especially interesting in light of the Ebony magazine account of the Sharpton fund raising dinner at the Hawkins mansion where Hawkins was described as "seeming to 'shake down' guests for donations."

The Hawkins' private jet which apparently provided free travel for Sharpton to get to the Atlanta fund raiser from New York - with a Detroit stopover to pick up Hawkins' personal chef - is described in a recent Ebony magazine article [*See* "Blacks Who Own Jets," by Kevin Chappell, Ebony, April 2002, page 145]:

> **La-Van Hawkins, like Gary, flies in style. He redecorated the interior of his Gulfstream, which can accommodate 18, in mahogany and marble and installed Persian lamb rugs. The silverware is gold and the plates are ivory-embroidered with the name of La-Van Hawkins. There is a specially designed stereo system.**

The only thing that appears missing about the luxurious private jet is any mention anywhere in Sharpton's Federal Election Commission reports regarding the in-kind contribution of the travel which was explicitly intended to get him to the campaign fund raising dinner provided by his generous - and maxed out - supporter, Mr. Hawkins.

Mr. Hawkins largess to Al Sharpton certainly appeared to know no bounds - regardless of the Federal Election Commission Act and regulations. In addition to maximum contributions from Mr. and Mrs. Hawkins and Hawkins Food Group employees, the in-kind contributions of private jet travel for Sharpton and the personal chef, the sumptuous dinner with waiters, pretty coat-check girls and $200 a bottle Cristal champagne, and other expensive goodies, is it possible that Mr. Hawkins did even more to express his generosity to Rev. Sharpton?

He certainly did. With a $25,000 payment to Sharpton for something vaguely described as "consulting."

The payment of $25,000 to Al Sharpton for consulting work for the Hawkins Food Group first came to light in Sharpton's financial disclosure form, required for all presidential candidates. [*See* "Internal Revenue Service Auditing Sharpton," an Associated Press article carried by Newsday (New York) on July 12, 2003]

True to form, Sharpton's financial disclosure report was filed late.

Even more interesting was the statement by the Sharpton campaign to the FEC that it was not able to list sources of honoraria paid to Rev. Al Productions because the records were lost in a fire. It seems that some of the records for consulting work were destroyed in the fire as well.

There was nothing disclosed by the Sharpton campaign to describe the type of "consulting" Sharpton may have provided Mr. Hawkins' company in return for the $25,000 payment. Perhaps the contract and supporting documents were lost in the fire.

APPARENT VIOLATIONS

The gravamen of this complaint is quite simple: Al Sharpton has been routinely running an off-the-books presidential campaign.

Specifically, the Sharpton Committee has

- failed to disclose in-kind contributions
- failed to disclose expenditures
- violated campaign contribution limits

Failure to disclose in-kind contributions

As reported in the *Daily News* by Joel Siegel ["Questions raised about Sharpton's campaign finances," *Daily News,* May 26, 2003] Sharpton had only spent $54,500 of $114,00 in campaign contributions and that nearly half of that was for one event in Washington, DC. The article cited a St. Louis Post-Dispatch December 2002 interview with Sharpton in which he claimed he had visited 80 cities in his efforts to gauge support for his campaign. The article cited trips to an additional 20 cities in 2003. Included were a visit to Iowa, two visits to New Hampshire and three to South Carolina, all described as "key primary or caucus states." The article also cited a March 15 speech to 2,000 Democrats in Sacramento, California and at least four trips to Washington, DC.

This extensive political travel is not reflected anywhere in Sharpton's Federal Election Commission filings, yet the costs had to have been paid somehow.

Indeed, Sharpton's campaign manager Mr. Frank Watkins acknowledged that Sharpton's travels were paid by others but stated that a breakdown of which trips fell into what category was not available.

In the Conciliation Agreement entered into between Sharpton and the Federal Election Commission in January 2004 as a result of a prior complaint against Sharpton and his Committee by the National Legal and Policy Center, the FEC cited the reporting requirements for expenditures and contributions made during a "testing the waters" phase of a campaign for federal office:

> **4. If an individual who had been "testing the waters" subsequently becomes a candidate, funds received or payments made for "testing the waters" are contributions and expenditures subject to the reporting requirements of the Act. 11 CFR §§ 100.72(a) and 100.131(a). Such contributions and expenditures must be reported with the first report filed by the principal campaign**