

2004 FEB -2 A 10: 42

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**

**committee of the candidate, regardless of the date the funds were received or the payments made. *Id.***

*Ergo*, Sharpton and his committee had a legal obligation to report all contributions and expenditures for his extensive political travels and activities during the “testing the waters” period yet it is clear from Sharpton’s own FEC reports, the extensive news coverage of his activities, and the comments of the Sharpton campaign manager that expenditures for those travels and activities were “off the books,” i.e., paid by others and never reported to the FEC as in-kind contributions.

As the recitation of facts indicates, Sharpton and his Committee’s habit of not reporting in-kind contributions did not end with the conclusion of the “testing the waters” period.

Indeed, the details provided regarding the generosity of Sharpton supporter Mr. LaVan Hawkins appears symptomatic of standard operating procedure for the Sharpton campaign. This practice of relying on major donors has been observed by reporters following the Sharpton campaign. For example, Michael Slackman [*See* “Sharpton Runs for Presidency and Influence,” *The New York Times*, December 5, 2003, page 1] wrote:

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

As noted earlier, both Mr. LaVan and his wife each gave the legal maximum of \$2,000 to the Sharpton campaign on March 13, 2003. Yet they hosted a lavish fund raising dinner for Sharpton with “60 or so well-heeled invited guests.” [*Ebony*, April 2003, page 42]

The general rule with respect to a contribution to a federal candidate is that a contribution is construed broadly to include both monetary and in-kind contributions with both subject the the same aggregate limits. There is a very limited exception in calculating the value of in-kind contributions for events held for a candidate in a contributor’s home - but nothing that would keep the Hawkins’ contribution to the Sharpton campaign from being grossly over the limits.

The FEC regulation with respect to an individual hosting a campaign event in their home is also quite clear and can be found at 11 C.F.R. § 100.77:

**§ 100.77 Invitations, food, and beverages**

**The cost of invitations, food, and beverages is not a contribution where such items are voluntarily provided by an individual volunteering personal services on the individual’s residential premises or in a church or community room as specified at 11 C.F.R. § 100.65 and 100.66 to a candidate for a candidate related activity or to any political committee of a political party for party-related activity, to the extent that: the aggregate value of such invitations, food, and beverages provided by the individual on behalf of the candidate does not exceed \$1,000 with respect to any single election; and on behalf of all political committees of each political party does not exceed \$2,000 in any calendar year.**

Consider the likely tab for the following expenses associated with the fund raising dinner for Sharpton at the Hawkins home:

- **Fresh crab cakes & beef tenderloin prepared by a personal chef for about 60 guests**
- **“house swarmed with waiters and pretty coat check girls”**
- **food “washed down by \$200 a bottle Cristal champagne”**

The Ebony article certainly hit the nail on the head when it stated that “the couple spared no expense.” In light of the FEC regulations, they certainly should have.

Then there’s Mr. Hawkins private Gulfstream jet which seats 18 with an interior of mahogany, marble and Persian lamb rugs. The Ebony article states that the private jet picked up Sharpton in New York and then stopped by to pick up the Hawkins’ personal chef in Detroit before going on to the dinner at the Hawkins residence in Atlanta. That little trip certainly cost a few dollars. Added to the costs already tallied for the “spare no expense” dinner and the total is clearly over the limit.

Other issues also are suggested. Was the private jet which carried Sharpton to the lavish dinner the personal property of Mr. Hawkins or was it a corporate jet belonging to the Hawkins Food Group? The Ebony article cited previously [“Blacks Who Own Jets.” Ebony, April 2002, page 145] appears to indicate that the jet was a business jet:

**For Hawkins, and other high-flying Blacks, jets are more than a luxury. “There is no other way,” he says, “that I can run a company of this magnitude and stay on top of business operations in different cities, and maintain business connections in Canada and other countries without having the luxury of flying in and out of airports.”**

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

And if Mr. Hawkins can show that he personally reimbursed his corporation for the New York-Detroit-Atlanta (and perhaps elsewhere) trip, then that just further increases the amount of the over-the-top contributions he made to the Sharpton campaign.

And then there’s the issue of the “personal chef” flown in from Detroit to cook those crab cakes. Mr. Hawkins with several co-investors owns a Detroit restaurant, Sweet Georgia Brown, where the head chef, Jerry Nottage, is known for his signature dish, crab cakes [See “Celebs are sweet on Hawkins’ new eatery,” by Michael Strong, Crain’s Detroit Business, January 13, 2003, page 10]. If the “personal chef” was an employee of a corporation which was paying for his time, then there is yet another corporate contribution issue.

Finally, there is the question relating to the nature of the \$25,000 paid to Sharpton by Mr. Hawkins corporation, Hawkins Food Group, for “consulting.” As noted earlier, this payment to Sharpton was disclosed in an article covering the late filing of Sharpton’s financial disclosure form. [See “Internal Revenue Service Auditing Sharpton,” an Associated Press article carried by Newsday (New York) on July 12, 2003]

While Al Sharpton has been described in many ways, “business consultant” is not the term that typically is used. This payment by an individual who subsequently became a major donor and then some to Sharpton’s campaign is all the more questionable given the statement by the Sharpton campaign that records for some of his “consulting” work were destroyed in a fire which also

destroyed other records about honoraria and income earned by Sharpton.

It goes without saying that if a corporation owned by a friend and contributor to a candidate could simply cut a \$25,000 check to the candidate with nothing resembling documentation, then there might as well be no Federal Election Campaign Act or restriction against corporate contributions because they would be essentially unenforceable.

The indications by Sharpton's campaign manager, Frank Watkins, that Sharpton's extensive political travels and activities may have been financed by the publisher of his autobiography, Kensington Books, also raises the question of illegal corporate contributions. [See "Questions raised about Sharpton campaign finances," *Daily News*, May 26, 2003]. Similarly, campaign activities financed by Sharpton's National Action Network could represent not just illegal corporate contributions but also violations of legal requirements to disclose contributions and expenditures as well as contributions in excess of the legal maximums set by the Federal Election Campaign Act.

#### Failure to disclose expenditures

Any campaign which is run off-the-books by contributors making undisclosed in-kind contributions for campaign expenditures represents not just a failure to disclose contributions but also a failure to disclose expenditures.

With just a few exceptions, including some noted above, a campaign for federal office is required to accurately disclose its expenditures in its filings with the FEC. An expenditure is a purchase or payment to influence a federal election.[11 C.F.R. § 100.8(a)(1)]

The FEC regulations are quite explicit about the need to report in-kind contributions as expenditures. Indeed, the FEC's guides for federal campaign committees make this point directly:

#### **In-kind Contributions**

**Note also that an in-kind contribution received by a committee, although technically not an expenditure, must be reported as an operating expenditure in addition to being reported as a receipt. 104.13(a)** [See Federal Election Commission Campaign Guide, Chapter 8: Expenditures and Other Disbursements, page 31 on the web at <http://www.fec.gov/pdf/candgui.pdf>]

Voters, the general public and the media are all entitled by the Federal Election Campaign Act and regulations to an accurate and timely reporting of all required expenditures by a campaign promoting a candidate for federal office. A campaign running an off-the books campaign makes mockery of the expenditure disclosure requirements.

#### Violation of campaign contribution limits

If the Sharpton campaign had filed reports with the Federal Election Commission showing a pattern of in-kind contributions by individuals and corporations far in excess of the maximum contributions allowed by law it is quite likely that the committee treasurer would soon receive a letter from the FEC informing him that corporate contributions were illegal and that any individual contribution in excess of the \$2,000 maximum must be promptly refunded.

The Sharpton campaign avoided that unpleasant outcome by simply failing to report

excessive contributions.

The campaign contribution limit per person per election to a candidate for President is \$2,000. The FEC regulation is remarkably unambiguous:

**No person shall make contributions to any candidate, his or her authorized political committees or agents with respect to any election for Federal office that, in the aggregate, exceed \$2,000.  
11 C.F.R. § 110.1(b)**

When media accounts continue to report Sharpton staying at swank hotels including the Delano Hotel in Miami and the Ritz Carlton and Four Seasons in Washington, there is no credible excuse for the Sharpton campaign not to obey the campaign laws which all federal office candidates are required to follow. When LaVan Hawkins can fly candidate Sharpton and the Hawkins private chef to a fund raising dinner featuring \$200 a bottle Cristal champagne by a Gulfstream private jet, it cannot be alleged with a straight face that legal and accounting guidance to follow election laws was somehow unaffordable.

By any objective standard, the contributions by LaVan Hawkins to the Sharpton campaign wildly exceeded the maximum allowed by law.

By any objective standard, the political travels of Sharpton to 80 cities in 2002 and another 20 in early 2003 were in no way accurately accounted for in the FEC filings of the Sharpton campaign.

The *New York Times* article cited earlier stating that the Sharpton campaign was “relying on the generosity of a few wealthy donors” accurately summarized Sharpton campaign finance practices. But when over-the-limit contributions are not reported that simply compounds the violations of Federal election law.

### CONCLUSION

As a result of an earlier complaint to the Federal Election Commission by the National Legal and Policy Center regarding the Sharpton committee's failure to file timely reports, the FEC found that the Sharpton and his committee had violated federal election laws. Under the Conciliation Agreement agreed upon between Sharpton and the FEC, Sharpton and his committee were assessed a civil penalty of \$5,500. The Conciliation Agreement also cited, among other things, Sharpton's own autobiography in concluding “Sharpton became a candidate no later than October 2002, when he made statements included 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 his Committee had already raised and spent more than \$5,000 by that time.” [See *Conciliation Agreement* for MUR 5363 at 10]

This finding heightens the reporting responsibilities of Sharpton and his Committee for his extensive travels to political events in furtherance of his political campaign. At the minimum, Sharpton and his Committee have a duty to disclose to the FEC which persons or corporations financed his political travels and expenses.

Since Sharpton has already used the excuse of an office fire at the National Action Network to shrug off reporting requirements, a closer look is in order. The media has already covered Sharpton's slipperiness when it comes to financial disclosure: *The New York Post* [“Al Sharpton's Latest Scam,” August 23, 2003, page 16] reported that Sharpton has a history of fires

destroying his financial documents:

**Regarding Sharpton's finances, where there is smoke, there's fire.**

**Literally.**

**Back in 1997, just after Sharpton announced he would open his financial records, a mysterious fire broke out in his headquarters - destroying the relevant documents.**

**And wouldn't you just know it, the same thing happened again this year!**

**In July, it was announced that Sharpton's campaign was the target of an IRS audit.**

**At the same time, his filings with the Federal Election Commission were incomplete because certain records covering his income from speeches and "consulting" work were lost in a January fire that destroyed the National Action Network business office.**

**Sounds like Sharpton could use a smoke detector or two.**

Of course, there should be records of credit cards used by Sharpton, his publisher's expense records, and other records to document who paid Sharpton for his activities and travels. And the Hawkins Food Group must have canceled checks, contract documents and other work product to substantiate what - if anything - Sharpton did in return for his \$25,000 "consulting" fee from his generous supporter.


At its core, this case illustrates the calculated and willful violation of two of the pillars of campaign finance law: contribution limits and financial disclosure.

Even a casual reading of the Legislative History of the Federal Election Campaign Act repeatedly underscores the importance of contribution limits and financial disclosure to achieve the Act's stated goal of promoting "fair practices in the conduct of election campaigns for Federal political offices."

The Sharpton campaign has brazenly sought to run an off-the-books campaign. The evidence is overwhelming and beyond dispute.

The public is entitled to know who is funding the Sharpton campaign and in what amounts. Anything less than strong action to compel disclosure sets an unfortunate precedent that rewards scofflaw candidates.

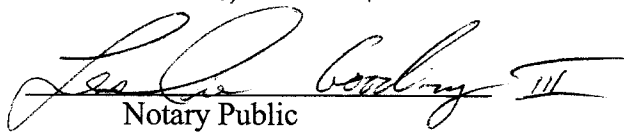
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By:   
Kenneth F. Boehm  
Chairman

Subscribed and sworn before me this 2nd day of February, 2004

State of Virginia

My Commission Expires: *October 31, 2004*

  
Notary Public