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By Federal Express

Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Complaint: **Calling Upon the Commission to:**

(1) Void the conciliation agreement granting immunity to Respondents for any possible violations of law arising out of fundraising events between 9/16/99 and 11/7/00;

(2) Re-open the Commission's investigation into MUR 5225, including clear evidence of Senator Clinton's and her agents' illegal solicitation and coordination of excessive federal campaign contributions, pursuant to 2 U.S.C. sections 437g(d)(1)(A)(i) and 441a, subsections (a)(7)(B)(i) and (f); and

(3) Investigate Respondents' continuing violations of 2 U.S.C. section 434(b) and 18 U.S.C. sections 1001 and 2, based on New York Senate 2000's fourth amended FEC report filed January 30, 2006.

Complainant: **Peter F. Paul**

Respondents: **Senator Hillary Rodham Clinton; Hillary Rodham Clinton for U.S. Senate Committee, Inc.; Harold Ickes, Treasurer; New York Senate 2000 Committee; Andrew Grossman, Treasurer; William Jefferson Clinton, Edward Rendell, Howard Wolfson, Kelly Craighead, David Rosen, and James Levin**

Mesdames/Gentlemen:

On behalf of Peter F. Paul, in the public interest, attorney D. Colette Wilson complains to the Federal Election Commission against the Respondents listed above, pursuant to 11 C.F.R. section 111.4 and 2 U.S.C. section 437g(a)(1). Mr. Paul filed a related complaint with the

Commission on July 16, 2001, which was accepted and officially designated as MUR 5225, and which is incorporated herein by reference.¹

This complaint calls upon the Commission to: (1) void and set aside its conciliation agreement with Senator Clinton's joint fundraising committee, which purported to wrap up MUR 5225 and immunize Senator Clinton and her agents from further investigation into and liability arising out of all fundraising activities connected to her 2000 Senate campaign, (2) re-open its investigation into the matters raised by Peter Paul's FEC complaint filed July 16, 2001, particularly the evidence of Senator Clinton's and her agents' illegal solicitation, coordination, and acceptance of Mr. Paul's in-kind contributions totaling nearly \$1.9 million, and (3) investigate and find reasonable cause to believe the Respondents are in ongoing violation of 2 U.S.C. § 434(b) (reporting requirements), and/or of 18 U.S.C. § 1001 (false statements) and 18 U.S.C. § 2 (aiding and abetting), by causing the filing of a fourth false FEC report on January 30, 2006.

In connection with MUR 5225, the Commission conducted a limited investigation of the campaign finance violations committed by Senator Clinton's joint fundraising committee, New York Senate 2000. After concluding its investigation, but prior to issuing its final report, the Commission obtained and reviewed a transcript of the entire criminal trial of the Clinton campaign's National Finance Director, David Rosen, *United States v. David Rosen*, No. CR03-1219-AHM (C.D. Cal.) (see General Counsel's Report #2, p. 2, fn. 2; "GC Report #2"). The Commission found probable cause to believe that New York Senate 2000 and its treasurer, Andrew Grossman, had illegally underreported the cost Event 39, the Hillary Clinton fundraising event dubbed the Hollywood Gala Salute to President William Jefferson Clinton ("Event 39").

The Commission authorized a *limited audit* (described at GC Report #2, p.6), which it used to evaluate compliance with 11 C.F.R. section 106.6 in connection with "Event 39." As the Commission itself concedes, based *exclusively* on the results of that narrowly focused audit, it "determined" that neither Clinton for Senate, Harold Ickes, in his official capacity as treasurer, Senator Clinton, nor Peter Paul had violated *any* provision of the Act or regulations in connection with MUR 5225 and closed its file as to them. (GC Report #2, pp. 11-12)

Then, having closed its file as to everyone else, on December 13, 2005, the Commission accepted the signed conciliation agreement of the two remaining respondents, New York Senate 2000 and its treasurer, Andrew Grossman, the terms of which were fulfilled upon payment of a \$30,000 fine and the filing of a fourth amended FEC report on January 30, 2006. The conciliation agreement bars:

¹ Most of the documents offered in support of this complaint were also submitted into evidence in connection with the California civil case of *Paul v. Clinton*, filed in the California Superior Court for the County of Los Angeles, Case No. BC304174, and the appeal taken in Appeal No. B191066 before the California Court of Appeal, Second Appellate District, Division 7. A hyperlinked CD, designated as an "E-Brief," was filed with the Court of Appeal, containing the entire Clerk's Transcript, Reporter's Transcript, and all briefs filed in support of or opposition to the appeal and related motions. Since the E-Brief CD contains practically all of the documents relied on in support of this FEC Complaint, the Complainant is submitting three copies of the E-Brief in lieu of paper copies of those documents. Additional copies of the E-Brief – one for each Respondent – will be provided under separate cover.

Each supporting document and its location on the E-Brief will be described in a footnote. The first document, Mr. Paul's 7/16/01 FEC complaint in MUR 5225, is contained on the E-Brief as Exhibit B to the separately listed document "Request for Judicial Notice in Connection with Appellant's Reply Brief."

any further action against NYS 2000 and its current and former joint fundraising *participants, agents, employees and officers* for acts arising out of, or relating to New York Senate 2000, Event 39 and all fundraising events held by New York Senate 2000 between September 16, 1999 through November 7, 2000. [MUR 5225 Conciliation Agreement, p. 4]

These actions taken by the Commission were inconsistent with the Commission's responsibilities in enforcing the entirety of Federal Election law. In fact, a multitude of statutory and regulatory violations were uncovered by the Commission's and the Justice Department's investigations, as revealed in the Rosen trial transcript and by Mr. Paul's disclosures to the Commission.

It appears that the FEC narrowly applied its enforcement duties, not only limiting itself to the four corners of Mr. Paul's 7/16/01 complaint, but also limiting its analysis to little more than an inquiry into whether the requirements of 11 C.F.R. section 106.6 had been met. (*see* G.C. Report #2, pp. 11-12) The Commission's report concluding its investigation relates solely and exclusively to *underreporting* of Mr. Paul's in-kind contributions and turns a blind eye to clear evidence – as provided by Mr. Paul to the Commission and as revealed by testimony in the Rosen Trial – of Senator Clinton's and her agents' illegal solicitation, coordination, and acceptance of contributions wildly in excess of FECA limits on federal campaign contributions (2 U.S.C. section 441a, subparagraphs (a)(1)(A), (a)(7)(B)(i), and (f))

Most disturbing was the intentional *refusal* by the Commission to review, assess, or further investigate clear evidence of illegal actions taken by Senator Clinton (directly and through agents, including the President), while at the same time purporting to *forever exonerate* Senator Clinton, her 2000 senate campaign, and their agents of any possible wrongdoing in connection with Event 39 and all of their fundraising activities from 9/16/99 through the election on 11/7/00. In fact, the 12/13/05 conciliation agreement – while giving the appearance of discharging the Commission's duties – in reality gave the Commission's blessing to what can only be described as a *repetition* of the very crimes for which David Rosen was prosecuted, namely, depriving the public of its right to know that Peter Paul personally gave over \$1.2 million to Senator Clinton's campaign. As summed up in the federal prosecutor's closing argument:

This case is about the public's right to know. The case is about the public's right to know *who* is paying *how much* to *their elected officials*. The case is about the public's right to know how much Peter Paul is paying to a national campaign. . . . This case is about the public's right to know the truth, and the defendant, David Rosen's, continued and intentional obstruction of that public right. [Closing Argument by U.S. Attorney Daniel Schwager, Rosen Trial Transcript at 121 (May 25, 2005)]² (emphasis added)

The fourth amended report filed on January 30, 2006, barely approaches compliance with the conciliation agreement's requirement that the disclosure report be amended "to reflect the unreported \$721,895 in in-kind contributions." But what is worse, however, is that even without violating any specific requirement of the agreement, the report permitted to be filed by the

² Since the Commission already has in its possession the entire Rosen Trial Transcript, Complainant hereby incorporates it by reference; no additional copy of the transcript is being provided with this Complaint.

Commission operates as a continuing and intentional obstruction of the public's right to know that *Peter Paul* gave in excess of \$1.2 million to *Hillary Clinton's* federal campaign.

Unless the conciliation agreement is set aside and the Commission's investigation into this matter reopened, the Commission will itself have *aided and abetted* in the commission of the same felony for which David Rosen was prosecuted, that of intentionally obstructing the public's right to know (1) *who* gave (2) *how much* to (3) *Hillary Clinton's* federal election campaign.

Moreover, unless the conciliation agreement is set aside and the Commission's investigation into this matter reopened, Hillary Clinton's and her agents' illegal solicitation, coordination, and acceptance of Peter Paul's in-kind expenditures in excess of \$1.2 million (and closer, in fact, to \$1.9 million) will continue to go unchallenged, unreported for the federal contribution that it was, and unrefunded. As set forth more fully below, the Commission ignored clear evidence that Mr. Paul's in-kind expenditures had to be considered to be contributions to Senator Clinton's 2000 senate campaign. In addition, with this new complaint, Mr. Paul presents new evidence, previously unknown to the Commission, establishing the fact that his contributions were solicited, coordinated, and accepted by the candidate and her agents.

Mr. Paul urges the Commission to stop aiding and abetting these falsehoods, reopen its investigation, and take all appropriate action to enforce the FECA.

Hillary Clinton's Intent to Deceive the Public

The Commission found, without question, that Event 39 "was funded primarily through corporate entities controlled by *Peter Paul*, with promoter Aaron Tonken assisting with procuring and paying for some of the vendors using an account funded by shares of Stan Lee Media stock." (General Counsel's Brief, p.6) There was no reason whatever to believe the donor was Stan Lee Media, Inc., as none of the checks used to pay the vendors were drawn on Stan Lee Media, Inc.'s account (*see* Exhibit 4 to Paul's 7/16/01 FEC complaint). Furthermore, all of the checks were signed by Peter Paul, and he was the only person claiming to have paid for Event 39.

Senator Clinton violated the public's right to know *who* was giving *how much* to her campaign when she was directly questioned by the *Washington Post* regarding Paul's role in Event 39. Through her spokesman, Howard Wolfson, she used the media to *deliberately hide* Paul's contributions from the public by falsely claiming Paul had not given any money to her campaign and that the campaign would not accept any money from him and by having Ed Rendell and Jim Levin coerce Paul into corroborating that falsehood.³ The fact that Ed Rendell, on behalf of Senator Clinton, pressured Paul to corroborate her lie that Paul had not given any money demonstrates that Senator Clinton *knew* differently, but that she intended to hide this fact from the public. Paul followed the campaign's instructions in falsely stating he had, in fact, been paid a fee for his services. (*Id.*) Howard Wolfson's disclosure to the *Washington Post* that Event 39 had cost \$1 million in in-kind contributions demonstrates that Senator Clinton and her campaign

³ Supplemental Declaration of Peter F. Paul, paragraphs 54-59 and accompanying Exhibits 23-25, found on E-Brief under Clerk's Transcript, go to 1 CT vi, scroll to hyperlink for page 771, then scroll to 4 CT 788, line 17 – 4 CT 800, line 6 and hyperlinked exhibits.

knew the ballpark amount of Paul's contributions. (*Id.*) It is not surprising that Wolfson was aware of the projected \$1 million cost of Event 39, since he participated in the July 11, 2000, conference call in which Paul discussed contributing \$525,000 towards event costs and it was represented that Cynthia Gershman would also put up \$525,000.⁴

Senator Clinton's intent to hide Paul's identity as her largest contributor was reflected in her joint fundraising committee's FEC reports regarding Event 39, which falsely listed Stan Lee Media, Inc. as the event's primary underwriter. No contributions at all are attributed to Paul, the identical falsehood reported to the public through the media. The cost of the event was also underreported, since Senator Clinton clearly knew differently. Senator Clinton either deliberately withheld the true information from New York Senate 2000 – which is the same crime for which David Rosen was indicted – or the joint fundraising committee aided and abetted Senator Clinton's intent to deceive the public.

It should be noted that the January 30, 2006, amended report persists in obscuring Peter Paul as the source of in-kind contributions for Event 39, through the falsehood of attributing \$225,000 (a portion of the \$1,240,972 figure determined by the Commission to be the true cost) to Stan Lee individually.⁵ This conflicts with the Commission's finding that the event was funded almost entirely by Paul. The amended report also lumps together under one figure, \$838,902, two corporate entities – Paraversal Inc. and Excelsior Productions. Not only is this improper, but no member of the public searching for donations by "Peter Paul" to Senator Clinton's campaign would have any clue that this figure represents money he spent on her campaign. Most glaringly, by failing to designate this sum as an "in-kind" contribution, the report makes the sum appear to be an *expenditure* by the campaign, rather than a *donation* to it. This conforms to Senator Clinton's desired falsity, conveyed through the *Washington Post*, that Paul was *paid* for his services. The remaining \$177,070 of the \$1,240,972 is unaccounted for. The report is also defective in other ways, as, for example, by not breaking down Paul's in-kind contributions by expenditures, since in-kind contributions are required to be shown as both donations and expenditures.

The Commission has taken no action against New York Senate 2000 for failing to comply with the conciliation agreement. Indeed, the Commission's actions, in allowing this false report to serve as consideration for Senator Clinton's and other's immunity from further investigation and enforcement action, would lead any reasonable person to conclude that the Commission is colluding with Senator Clinton in defrauding the public. It is incumbent upon the Commission to set aside the conciliation agreement, re-open its investigation, and demand compliance with the FECA. As the prosecutor in the Rosen Trial told the jury in closing argument: "The very function of the FEC was willfully and knowingly obstructed by the defendant in this case."⁶

The Commission Ignored Clear Evidence of Senator Clinton's and Her Agent's Solicitation, Coordination, and Acceptance of Paul's In-Kind Expenditures

⁴ First Amended Complaint, paragraphs 35-38; E-Brief at Clerk's Transcript, go to 1 CT iii, scroll to hyperlinked page 16, then go to pages 1 CT 22-23.

⁵ Supplemental Declaration of Peter F. Paul, paragraphs 89 and accompanying Exhibits 43, found on E-Brief under Clerk's Transcript, go to 1 CT vi, scroll to hyperlink for page 771, then scroll to 4 CT 808, line 13 and hyperlinked exhibit, at 5 CT 1034.

⁶ Rosen Transcript, May 25, 2005, at 162.

Paul set forth in full in his Supplemental Declaration in his California civil case against the Clintons the facts demonstrating how he was solicited by President Clinton, Ed Rendell, James Levin, and Senator Clinton herself to support Senator Clinton's campaign, how his expenditures were coordinated by Senator Clinton's agents, particularly James Levin and David Rosen, and Senator Clinton's knowing acceptance of them. Paul incorporates in full his Supplemental Declaration and its supporting exhibits.⁷ Paul's account also describes Senator Clinton's coordination of his expenditures as to the largest vendor – Gary Smith and Black Ink Productions -- in her insistence that he use Smith rather than Dick Clark Productions. (*Id.*) Paul met and spoke at length with the Commission's investigator, relaying to the Commission all of this information, which was based on his own, first-hand knowledge. In particular, Paul explained that his willingness to underwrite Event 39 was absolutely contingent on the President's acceptance of his future employment offer – a clear demonstration of solicitation for Paul's expenditures by Senator Clinton's authorized agent. The Commission chose to ignore Paul's report to the extent that other sources did not provide corroboration. (General Counsel's Brief, p. 1, fn. 2)

The Supplemental Declaration is supported by corroborating testimony from the Rosen Trial. Additionally, Levin testified that the idea for Event 39 originated with Kelly Craighead's requested meeting with him, David Rosen, and Aaron Tonken in Chicago on June 23, 2000. At that meeting, Senator Clinton's agents conceived of the idea for Event 39, and Levin was detailed by President Clinton to not only solicit Paul to pay for it, but to stay in close contact with Paul to oversee his expenditures and efforts in producing the event.⁸

Paul Has New Evidence, Heretofore Unknown to the Commission, Demonstrating Senator Clinton's and Her Agents' Solicitation, Coordination, and Acceptance of His In-Kind Contributions.

In the context of Paul's civil case appeal in his case against Senator Clinton, Paul's attorney, Colette Wilson, set forth in full the evidence and law supporting the conclusion that Paul's expenditures must be deemed federal contributions to Senator Clinton's 2000 campaign, not non-federal. Paul hereby incorporates in full the briefs Mrs. Wilson filed on his behalf in his California appeal, including (a) Appellant's Opening Brief at pages 50-59⁹; (b) Motion to Admit New Documentary Evidence and supporting Declaration of D. Colette Wilson¹⁰ and (c) Appellant's Reply Brief, at pages 10-43¹¹

Conclusion

⁷ Supplemental Declaration of Peter F. Paul, found on E-Brief under Clerk's Transcript, go to 1 CT vi, scroll to hyperlink for page 771, with exhibits hyperlinked throughout the text.

⁸ Testimony of James Levin, May 12, 2005, at 120, 135-145

⁹ E-brief, "Appellant's Opening Brief," under heading "C" – "Even if HRC/Committee's Claimed, Protected Activities Were the Basis for Paul's Claim, Their Activities Violated the Law, Making Section 425.16 Inapplicable.

¹⁰ E-brief, "Motion to Admit New Documentary Evidence, etc.," "July 17 DVD" and "Declaration of D. Colette Wilson, etc."

¹¹ E-brief, "Appellant's Reply Brief," under heading "B" – "HRC/Committee's Conduct Does Not Enjoy First Amendment Protection In Any Event Because It Was Criminal, As a Matter of Law."

Second Complaint by Peter F. Paul
December 29, 2007

Based on the foregoing, the Federal Election Commission has a duty to void and set aside the conciliation agreement granting immunity to the Respondents for any possible violation of law arising out of Senator Clinton's fundraising events between September 19, 1999, and November 7, 2000. Further, the Commission has a duty to re-open its investigation of MUR 5225, including investigation into the clear evidence of illegal solicitation and coordination of Mr. Paul's excessive federal campaign contributions to Senator Clinton's campaign. The Commission must also investigate the Respondents' continuing violations of 2 U.S.C. section 434(b) and 18 U.S.C. sections 1001 and 2.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 29th day of December 2007, at _____, North Carolina.

Peter F. Paul