

FEDERAL  
COMMISSION

October 29, 1998

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the matter of:

Brad Sherman for Congress  
FEC ID Number C00308742

MUR # 4846

**COMPLAINT**

The Randy Hoffman for Congress Committee, by and through its Campaign Manager, Todd Slosek, brings this complaint pursuant to 2 U.S.C. section 437g(a)(1). Todd Slosek maybe reached at 19710 Ventura Blvd., Suite 107, Woodland Hills, CA 91364.

**I. SUMMARY**

According to his FEC reports, Representative Brad Sherman is beating Wall Street by investing in his own campaign. Sherman reports earning a 6% return on a total of \$260,000 that he loaned to his campaign since December 28, 1995, and he reports a 5% yield on \$367,500 more in loans. See Sherman Committee Mid-Year 1998 Report. According to the Wall Street Journal of October 5, 1998, the current yield on a 3-month Treasury bill is 4.12%.

While his above-market returns do not appear to violate the law -- since the interest is commercially reasonable and similar to bank loans -- Brad Sherman's incomplete FEC reporting does violate campaign disclosure requirements. Specifically, **over \$64,000 in interest payments that his campaign owes him have vanished without a trace**. Sherman does not report paying himself the interest owed. He does not report forgiving the interest. And the campaign does not report still owing the funds. Federal election law demands more.

According to FEC regulations and clear precedent, Sherman's reporting omission(s) violate the Federal Election Campaign Act. He must amend each of his 1997-1998 reports by taking the following actions:

- Amend Schedule A because he has forgiven the interest payments owed to him;
- Amend Schedule B because he has paid himself the interest owed;
- Amend Schedule C because, contrary to his last 8 reports, the loans are really interest free;

OR Amend Schedule D because the campaign still owes him these unpaid interest payments.

## **II. VIOLATIONS of LAW**

Federal law requires candidates to publicly disclose their campaign receipts, payments, outstanding loans (including interest rates) and unpaid debts. 2 U.S.C. § 434(b). Congress passed these federal reporting requirements to allow citizens and the free press to "follow the money." Public disclosure reduces corruption and the appearance of corruption that undermine public confidence in government. *Buckley v. Valeo*, 424 U.S. 1 (1976). Brad Sherman's campaign finance disclosures violate federal law because more than an estimated \$64,000 in interest obligations vanished without trace.

### **1. Brad Sherman Has Charged the Sherman Committee Over \$64,000 in Interest.**

In the past three years, Brad Sherman has reported interest obligations associated with his personal loans to the campaign. *See Sherman Campaign Filings 1996-1998, Schedule C*. Specifically, Sherman reports a 6% obligation on a total of \$260,000 in loans, and he reports a 5% obligation on \$367,500 more. *See Sherman Committee Mid-Year 1998 Report*. The attached spreadsheet itemizes the 17 separate loans to the Sherman Committee from Brad Sherman that remained outstanding as of the Sherman Committee's June 30, 1998, disclosure report.

If Brad Sherman's personal loans to his campaign do not actually involve interest obligations, then his consistent filings to the contrary over the past three years are false, fraudulent and fictitious, and in violation of federal reporting law. 18 U.S.C. § 1001.

### **2. The Sherman Committee Has Not Reported Making Any Interest Payments**

If the Sherman Committee paid interest on its loans, then it has failed to report the payments on Schedule B as is required by law. Federal law requires disclosure of all disbursements in excess of \$200, including interest payments to the candidate. 2 U.S.C. § 434. In 1991 the Commission explicitly advised Nebraska Congressman Peter Hoagland:

The payments of interest by the Committee to Mr. Hoagland are to be reported on Schedule B as as operating expenditure of the Committee. 11 C.F.R. 100.8(a)(1)(i). Each interest payment should be itemized separately.

*FEC Advisory Opinion 1991-9 [¶6016]*.

### **3. The Sherman Committee Has Not Reported Outstanding Debts of Interest**

If the Sherman Committee still owes Mr. Sherman the interest that has been accruing over the past three years, then it has failed to file required Schedule D (outstanding debt) reports. Federal law requires continuous reporting of debts (including accrued interest obligations) each reporting period until they are repaid. 11 C.F.R. § 104.11(a) and (b). The Commission fined John Glenn's 1984 Presidential campaign \$65,000 in 1994 for similarly failing to report unpaid interest obligations as outstanding debts. *See Matter Under Review No. 3418 (described in the September 1994 FEC Record, attached)*.

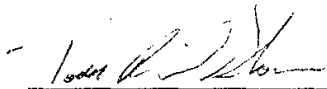
**4. The Sherman Committee Has Not Reported Forgiveness of Interest Owed**

If Brad Sherman has forgiven the interest owed by his Committee, then his Committee failed to report the forgiveness as contributions received. Federal law permits candidates to make unlimited contributions to their committees, but requires reporting of such contributions when made. 2 U.S.C. § 434. Of course if Sherman has been forgiving the interest owed each reporting period, it raises the second question of whether the loans can accurately be reported as interest-generating.

**III. PRAYER FOR RELIEF**

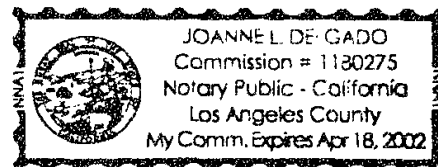
Citizens in California's 24<sup>th</sup> district have the right to follow Brad Sherman's campaign money. By reporting personal loans that generate interest, Sherman assumes the legal duty to disclose what happens to that interest, a duty he has forsaken. The Commission should investigate the true nature of Brad Sherman's sizable loans to his campaign and determine what happened to more than \$64,000 in interest. At a minimum, Sherman should be required to amend his reports from the past three years. The Commission should take other appropriate actions to deter similar nonfeasance and ensure compliance in the future.

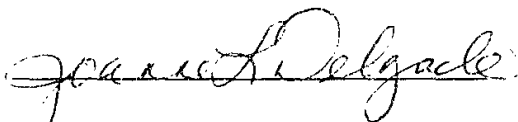
Respectfully Submitted,



STATE OF CALIFORNIA

Signed and sworn to before me  
this 28th day of October, 1998.





NOTARY PUBLIC

My commission expires: April 18, 2002

| <u>Amount Outstanding</u> | <u>Date Incurred</u> | <u>"Date Due"</u> | <u>Months Out.</u> | <u>Int. Rate</u> | <u>Interest Owed</u> |
|---------------------------|----------------------|-------------------|--------------------|------------------|----------------------|
| \$ 40,000.00              | 3/11/96              | 3/1/97            | 31                 | 6%               | \$ 6,200.00          |
| \$ 175,000.00             | 12/28/95             | 11/15/96          | 21                 | 6%               | \$ 18,375.00         |
| \$ 75,000.00              | 6/25/96              | 5/1/97            | 27                 | 5%               | \$ 8,437.50          |
| \$ 10,000.00              | 5/7/96               | 5/7/97            | 29                 | 6%               | \$ 1,450.00          |
| \$ 13,000.00              | 9/30/96              | 9/1/97            | 24                 | 5%               | \$ 1,300.00          |
| \$ 35,000.00              | 6/29/96              | 6/1/97            | 27                 | 5%               | \$ 3,937.50          |
| \$ 66,962.42              | 10/31/96             | 10/1/97           | 23                 | 5%               | \$ 6,417.23          |
| \$ 42,000.00              | 9/30/96              | 9/1/97            | 24                 | 5%               | \$ 4,200.00          |
| \$ 25,000.00              | 11/12/96             | 10/31/97          | 23                 | 5%               | \$ 2,395.83          |
| \$ 8,037.58               | 10/31/96             | 10/1/97           | 23                 | 5%               | \$ 770.27            |
| \$ 12,500.00              | 11/25/96             | 10/31/97          | 22                 | 5%               | \$ 1,145.83          |
| \$ 30,000.00              | 11/13/96             | 11/13/97          | 23                 | 5%               | \$ 2,875.00          |
| \$ 2,000.00               | 12/24/96             | 11/30/97          | 21                 | 5%               | \$ 175.00            |
| \$ 25,000.00              | 12/10/96             | 12/10/97          | 22                 | 5%               | \$ 2,291.67          |
| \$ 20,000.00              | 1/3/97               | 12/31/97          | 21                 | 5%               | \$ 1,750.00          |
| \$ 13,000.00              | 12/24/96             | 11/30/97          | 21                 | 5%               | \$ 1,137.50          |
| \$ 35,000.00              | 12/25/97             | 12/24/98          | 10                 | 6%               | \$ 1,750.00          |
| <b>\$ 627,500.00</b>      |                      |                   |                    |                  | <b>\$ 64,608.33</b>  |

Randy  
**Hoffman**  
*for Congress*

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CAMPAIGN MANAGER

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