

BEFORE THE
FEDERAL ELECTION COMMISSION

Nevada State Democratic Party
1210 S. Valley View Blvd., Suite 114
Las Vegas, NV 89102

MUR # 6676

Complainant,

v.

Tarkanian for Congress
50 S. Jones Blvd. #202
Las Vegas, NV 89107

Respondents:

COMPLAINT

Complainant files this complaint under 2 U.S.C. § 437g(a)(1) against Tarkanian for Congress for violations of the Federal Election Campaign Act ("Act"), as described below. These violations are serious, and the Federal Election Commission ("FEC") must act quickly and decisively to hold Tarkanian for Congress accountable.

A. Tarkanian for Congress Did Not Properly Report the Loans it Received from the Candidate and the Funds May Not Have Been Eligible to be Loaned

On June 13, 2012, Danny Tarkanian forgave \$250,000.07 in loans that he had previously made to his campaign. See Tarkanian for Congress July Quarterly Report, available at <http://herndon1.sdrdc.com/pdf/888/12971458888/12971458888.pdf#navpanes=0>. On July 29, 2012, Mr. Tarkanian loaned an additional \$40,000 to his campaign. On July 11, 2012, the campaign repaid Mr. Tarkanian \$53,755.83. See Tarkanian for Congress October Quarterly Report, attached as Appendix A (page 147).

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respect to which the candidate had (1) legal and rightful title, or (2) an equitable interest." *See* 11 C.F.R. § 100.33(a) (emphasis added).

On May 22, 2012, before Mr. Tarkanian forgave the \$250,000.07 loan and made the additional \$40,000 loan, the FDIC obtained a judgment against Mr. Tarkanian in the United States District Court for the Southern District of California in the amount of \$16,995,005.17. *See* S.D. Cal. Case No. 3:10-cv-00980-WQH-KSC, Doc. 108. Nevada law protects creditors in situations like this one, stipulating that "[a] transfer made or obligation incurred by a debtor is fraudulent as to a creditor whose claim arose before the transfer was made or the obligation was incurred if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at that time or the debtor became insolvent as a result of the transfer or obligation." Nev. Rev. Stat. 112.190. If Mr. Tarkanian did not have sufficient funds to pay the FDIC judgment, then it is by no means clear that Mr. Tarkanian had title or an equitable interest in the funds at issue under Nevada law. And if he did not, then federal law would have barred him from forgiving the \$250,000.07 loan or making the additional \$40,000 loan.

B. Tarkanian for Congress Violated Other Reporting Requirements As Well

Federal law requires authorized campaign committees to report contributions that it receives from individuals separately from the contributions that it receives from political committees. *See id.* §§ 104.3(a)(2)(i), (ii). This rule serves a vital purpose, allowing the public to understand who is funding the campaign and what percentage of a candidate's funding comes from special interest groups.

Yet Tarkanian for Congress did not comply with this requirement. Tarkanian for Congress reported the following contributions from political committees on Line 11(a), the line reserved for contributions from persons other than political committees:

- \$500 from American Gas Association Political Action Committee on 9/21/2012 (Appendix A, page 8)
- \$1,000 from Amodei for Nevada on 9/28/2012 (page 8)
- \$1,000 from Cash America International PAC on 9/27/2012 (page 16)
- \$2,000 from Friends of John Boehner on 7/18/2012 (page 34)
- \$1,000 from John Carter for Congress on 9/8/2012 (page 45)
- \$2,000 from Trust PAC Team Republicans for Utilizing Sensible Tactics on 9/28/2012 (page 82)

Likewise, Tarkanian for Congress reported the following contributions from persons other than political committees on Line 11(c), the line reserved for contributions from political committees:

- \$250 from Michael Dermody on 8/29/2012 (page 92)
- \$250 from Perry DiLoreto on 8/30/2012 (Page 92)
- \$2,500 from Scott Gragson on 7/10/2012 (page 97)
- \$1,000 from Bettie Koval on 7/9/2012 (page 102)
- \$1,000 from Kern Schumacher on 9/11/2012 (page 109)
- \$500 from the Lepori Family Trust on 9/4/2012 (page 111)

Based on these failures to report properly, Tarkanian for Congress violated 11 C.F.R. § 104.3(a) (2).

C. Tarkanian for Congress Appears to Have Accepted Excessive Contributions

In its October Quarterly Report, Tarkanian for Congress reported accepting a contribution from Bill Carlson for \$25,000 on September 5, 2012, designated for the general

election. *See* Appendix A (page 16). However, federal law prohibits an authorized campaign committee, such as Tarkanian for Congress, from accepting more than \$2,500 per election from any single individual. *See* 2 U.S.C. §§ 441a(a)(1)(A), (f). By accepting \$25,000 from Mr. Carlson, Tarkanian for Congress appears to have violated 2 U.S.C. § 441a(f).

But that is not all. Tarkanian for Congress also reported receiving the following contributions designated for the primary election:

- \$550 from George Balaban on 9/25/2012 (Appendix A, page 11)
- \$2,500 from Debbie Cassidy on 8/20/2012 (page 17)
- \$2,500 from David Dobbins on 9/30/2012 (page 27)
- \$2,500 from John Falb on 8/9/2012 (page 32)

Tarkanian for Congress accepted these contributions long after the date of the June 12 Nevada primary. Federal law prohibits an authorized campaign committee from accepting *any* contribution designated for a particular election after that election has occurred, unless the contribution is designated for debt retirement and the contribution does not exceed the committee's net debts outstanding from that election. *See* 11 C.F.R. § 110.1(b)(3). On its October Quarterly Report, Tarkanian for Congress did not indicate that these contributions were designated for primary debt retirement.

Nor could the committee have legally done so, since it did not have sufficient net debts outstanding from the primary election. The only primary election debts that the committee reported were the \$53,755.83 loan from Mr. Tarkanian that the committee repaid on July 11, 2012 and a \$900 debt to JAMD that remains unpaid. *See* Appendix A (pages 147, 149). The contributions listed above were accepted long after the committee repaid the \$53,755.83 loan. Therefore, by accepting \$8,050 in contributions designated for the primary after the primary had

taken place, when the committee's net debts outstanding were no more than \$900, Tarkanian for Congress appears to have violated 11 C.F.R. § 110.1(b)(3).

D. Tarkanian for Congress Appears to Have Accepted Impermissible Corporate Contributions

Federal law prohibits an authorized campaign committee from accepting *any* contributions from a corporation. *See* 2 U.S.C. § 441b. Yet Tarkanian for Congress reported accepting the following contributions:

- \$250 from Fine Properties LLC on 8/20/2012 (page 94)
- \$250 from Herbert's Refrigeration Company on 9/12/2012 (page 99)
- \$2,000 from Primm Investments LLC on 7/10/2012 (page 108)

Federal law prohibits LLCs from contributing to authorized campaign committees unless they have elected to be treated as a partnership by the Internal Revenue Service (or have not elected to be treated as a corporation). *See* 11 C.F.R. § 110.1(g)(3). The burden falls on the LLC to affirm its eligibility to contribute and, accordingly, it is standard practice for authorized campaign committees to indicate such eligibility on its FEC reports. *Id.* § 110.1(g)(5). Tarkanian for Congress failed to do so here. By accepting contributions from two LLCs and an entity listed as a "company," Tarkanian for Congress may have violated 2 U.S.C. § 441b.

E. Requested Action

As we have shown, there is substantial evidence that Tarkanian for Congress has violated the Act. We respectfully request the FEC to investigate these violations, including whether they were knowing and willful. Should the FEC determine that Respondent has violated the Act, we request that Respondent be enjoined from further violations and be fined the maximum amount permitted by law.

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