



National Republican Congressional Committee

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Donald F. McGahn II  
General Counsel

September 26, 2002

Lawrence H. Norton, Esquire  
General Counsel  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

MUR # 5305

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

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Re: Complaint Against Dario Herrera and Herrera for Congress

Dear Mr. Norton:

The National Republican Congressional Committee, by and through its General Counsel, hereby brings this complaint pursuant to 2 U.S.C. § 437g(a)(1) against Dario Herrera and Herrera for Congress. The National Republican Congressional Committee is located at 320 First Street, S.E., Washington, D.C. 20003.

## I. FACTUAL BACKGROUND

Dario Herrera is the Democrat candidate for United States Congress for the third district of Nevada and is currently a county commissioner.

Herrera has been plagued by ethical and legal problems, including:

- He is the subject of a state ethics complaint filed for casting the swing vote on a billboard ordinance that would benefit his wife's clients (*Las Vegas Sun*, 01/22/02).
- Reported abuse of his county commission office and misuse of the county's television station for political gain. Herrera's questionable actions led to a new policy prohibiting commissioners from exploiting the government's channel in "stand-alone" interviews and public service announcements (*Las Vegas Sun*, 01/21 & 25/02).

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- Involvement with an improper public relations contract worth \$84,000 with the Las Vegas Housing Authority, which was the basis of a formal FBI complaint. Claims of bribery surfaced in connection with the same deal (*Associated Press*, 02/14/02 & *Las Vegas Review-Journal*, 3/2/02).
- A controversial \$85,000 loan obtained by Herrera from his wife's former employer, who was convicted of bribery and conspiracy as well as fined for operating as an unlicensed mortgage broker (*Las Vegas Review-Journal*, 7/17/02)

Employees working for the Las Vegas-based Rhodes Design and Development Corporation and its affiliates are prolific givers to the Herrera campaign. Fifteen employees and their spouses gave a maximum-allowable \$1000 for the general election, and most contributed another maximum \$1000 for the primary. The employee donors, all of who gave the maximum allowable contribution, range from CFO James A. Bevan and Corporate Counsel Ronald E. Gillette to those individuals on the lower rungs of the corporate ladder, Payroll Clerk Mona M. Wilcox and Human Resources Manager Margaret Hester.

Contributions by Rhodes Design employees were bundled together on a few exact days. The Herrera campaign received six \$1,000 contributions from Rhodes employees on April 24, 2001. Couple of months later, on June 29 and June 30, 2001, the campaign received 14 additional \$1,000 contributions. Later, on December 17, 2001, James Rhodes himself made a contribution in his own name. Then, on March 29, 2002, six more \$1,000 contributions from Rhodes employees flowed into the Herrera campaign. Likewise, every other contribution registered in the final week of a given month. Rhodes Design employees together gave \$27,000 to the Herrera campaign and \$10,000 to Democratic Sen. Harry Reid's campaign

All of the Rhodes employees and spouses contributed to only the Herrera and Reid campaigns. Only James Rhodes gave any reported contribution to another candidate during this cycle (the Sen. Tom Harkin campaign, who has his own ethical problems). No employee reportedly gave any contribution over \$200 to any Republican candidate (there is no information indicating that any Republican received even \$1 from a Rhodes employee). No employee contributed to a political campaign in the 1998 or 2000 election cycles. A full list of names, amounts given, and relevant dates appears in the chart below.

According to Free Cuba PAC's July 15th FEC report, Aleyda and Jorge Mas gave \$5,000 each to the Free Cuba PAC on April 9, 2002. The PAC then turned around and contributed \$5,000 one week later, on April 17, 2002. These were the only contributions and disbursements of the PAC during the second quarter.

## Questionable Contributions to the Herrera for Congress Campaign

Name	Employer/Listed Occupation	Amount	Date
James A. Bevan	Rhodes Design, CFO	\$1,000	6/30/2001
James A. Bevan	Rhodes Design, CFO	\$1,000	6/30/2001
Donna Escoto	Rhodes Construction, Director of Purchasing	\$1,000	4/24/2001
Nadine Giudicessi	Rhodes Design, Controller	\$1,000	6/30/2001
Nadine Giudicessi	Rhodes Design, Controller	\$1,000	6/30/2001
Gary Giudicessi	Imperial Palace Hotel Security	\$1,000	3/29/2002
Gary Giudicessi	Imperial Palace Hotel Security	\$1,000	3/29/2002
Dean L. Griffith	Rhodes Design, General Manager	\$1,000	6/30/2001
Dean L. Griffith	Rhodes Design, General Manager	\$1,000	6/30/2001
Dirk P. Griffith	Rhodes Design, General Supervisor	\$1,000	6/30/2001
Dirk P. Griffith	Rhodes Design, General Supervisor	\$1,000	6/30/2001
Margaret Hester	Rhodes Design, Human Resource Manager	\$1,000	6/30/2001
Margaret Hester	Rhodes Design, Human Resource Manager	\$1,000	3/29/2002
Kevin Hester	Ry/Sys Management, Painter	\$1,000	3/29/2002
Nancy D. Kurtik	Rhodes Construction, Director of Sales	\$1,000	4/24/2001
Lori J. Marko	Rhodes Construction, Escrow Manager	\$1,000	4/24/2001
Lori J. Marko	Rhodes Construction, Escrow Manager	\$1,000	4/24/2001
James M. Rhodes	Rhodes Design and Development	\$1,000	4/24/2001
James M. Rhodes	Rhodes Design and Development	\$1,000	12/17/2001
Kathryn J. Sanucci	Rhodes Construction, Product Supervisor	\$1,000	4/24/2001
Kathryn J. Sanucci	Rhodes Construction, Product Supervisor	\$1,000	6/30/2001
Mona M. Wilcox	Rhodes Framing, Controller	\$1,000	6/30/2001
Mona M. Wilcox	Rhodes Framing, Controller	\$1,000	6/30/2001
Andrea J. Zoanni	Rhodes Design, Payroll Clerk	\$1,000	6/30/2001
Andrea J. Zoanni	Rhodes Design, Payroll Clerk	\$1,000	6/30/2001
Ronald E. Gillette	Rhodes Homes, Corporate Counsel	\$1,000	3/29/2002
Ronald E. Gillette	Rhodes Homes, Corporate Counsel	\$1,000	3/29/2002

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## II. VIOLATIONS

Designed to prevent so-called "giving in the name of another," section 441f of Title 2 states:

No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution and no person shall knowingly accept a contribution made by one person in the name of another person.

Furthermore, 2 U.S.C. § 441a(a), states: "(1) No person shall make contributions - \* \* \* (A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000." Political action committees (PACs) are likewise limited to contributions totaling \$5,000 or less. Finally, no officer or employee of a political committee is permitted to accept a contribution in excess of the contribution limits. 11 C.F.R. § 110.9(a).

### A. Illegal contributions from Rhodes Design employees

The donations from individuals employed by the Rhodes Design corporation and employee spouses call for an immediate investigation. The evidence of illegal giving-in-the-name-of-another is compelling:

1. the unusually *high number of contributing employees* from a small corporation;
2. the unusual *lockstep partisan uniformity*;
3. the *uniformly high amount of each contribution* regardless of the individual's salary or position within the corporation;
4. the *clustering of contributions* on a few exact days; and
5. the *complete absence of a prior contribution history* by employees who were suddenly inspired to contribute the maximum amount to a Democratic campaign.

The contributions by Rhodes Design employees cannot be explained away as a statistical aberration. The available facts point to a cynical evasion of federal election contribution limitations and a blatant violation of section 441f's prohibition of conduit contributions by Herrera, the Herrera campaign, James Rhodes, and Rhodes Design and its employees.

The remaining issue that the FEC should investigate is who or what is the source of the conduit contributions—James Rhodes or the Rhodes Design and Development Corporation. If the source is James Rhodes, then that individual made a contribution far exceeding the \$1,000 limit. If the source is the Rhodes Corporation, an illegal corporate

contribution occurred. The Commission should exercise its investigatory power to discover the truth.

Critically, schemes such as Herrera's can rise to the level of criminal conduct, even in the case of relatively small dollar amounts. For example, in 1997, Michael Brown, son of the late Commerce Secretary Ron Brown, pleaded guilty to using co-workers to funnel money into Senator Ted Kennedy's 1994 election campaign. The dollars amounts involved were less than the almost \$30,000 here, as Brown admitted to funneling \$4,000. Similarly, individuals connected to Sen. Torricelli's 1996 campaign pleaded guilty to serving as illegal conduit donors for businessman David Chang. In November 1998, DeLuca Liquor and Wine and its vice president paid \$60,000 in fines to the Commission for funneling \$10,000 in contributions through the company's employees and their spouses.

#### **B. Contributions from Aleyda and Jorge Mas via the Free Cuba PAC**

The contributions to the Free Cuba PAC give rise to a reason to believe that section 441f has been violated. On April 9, 2002, both of the individuals each gave \$5,000 to a PAC with only \$2,667 in its coffers. The PAC thereafter promptly handed over one of the \$5,000 contributions to Herrera. In fact, the PAC's contribution was made only a week after receiving the funds from the individuals. This quick turnaround time suggests that orchestration of the contribution hand-off occurred between the individuals, the Free Cuba PAC, and the Herrera campaign before they contributed on April 9. Thus, the PAC was merely a pass through entity designed to mask the individuals' donation to Herrera, and evade Federal contribution limits.

### **III. CONCLUSION**

For the foregoing reasons, the National Republican Congressional Committee respectfully requests that the Federal Election Commission find that there is reason to believe that a violation of the law has occurred, investigate the matter promptly, and refer the matter to the United States Department of Justice if appropriate.

Respectfully submitted,

**MICHELLE M. BLIGH**  
Notary Public, District of Columbia  
My Commission Expires October 14, 2008



Donald F. McGahn II

District of Columbia

Signed and sworn to before me  
this 26 day of September, 2002.

*Michelle M Bligh*  
Notary public District of Columbia