

PROJECT 24

Truth, Honor, & Integrity - 24th Congressional District of Texas

May 27, 1997

Larry Noble, Esquire
General Counsel
Federal Elections Commission
999 East Street, N.W.
Washington, D.C. 20463

**Re: Complaint Representative Martin Frost - Democratic
Congressional Campaign Committee - Tarrant County Democratic
Party**

Dear Mr. Noble:

Pursuant to provisions of the Federal Elections Campaign Act of 1971, as amended ("Act")¹, the Project 24 of Conservative Advocacy, Inc., a citizens issue advocacy group is filing this complaint with your office. It regards the activities of the Democratic Congressional Committee ("DCCC"), Congressman Martin Frost and the Tarrant County Democratic Party. The actions of these organizations and Congressman Martin Frost are in violation of the Act and the Federal Elections Commission's regulations. In addition to filing this Complaint with the Commission, identical materials are being provided to the Elections Crimes branch of the Public Integrity Section of the United States Department of Justice. These materials are being provided to the Department of Justice since the matter may involve knowing and willful actions by these parties and significant sums of money. These factors provide a basis for a criminal investigation in addition to civil enforcement by the Commission².

¹ 2 U.S.C. § 437g.

² 2 U.S.C. § 437g(d) United States v. Jackson 433 F. Supp. 239 (W.D.N.Y. 1977), aff'd 586 F.2d 832 (2nd Cir. 1977), denied 440 U.S. 239 (1978); United States v. Tonry, 433 F. Supp. 620 (W.D. LA. 1977); United States v. International Union of Operating Engineers, 638 F.2d 1161 (9th Cir. 1979), cert. Denied 444 U.S. 1077 (1980). Criminal cases ground on the Act's penal section are ordinary federal crimes and will be prosecuted first without having been processed by the Federal Elections Commission.

We are seeking an immediate investigation by the Commission into the illegal practices of these parties. As the available public record clearly shows and the Commission's investigations can confirm, Congressman Martin Frost has conspired with the Tarrant County Democratic Party and the DCCC to violate the Act. The experiences and sophistication of the individuals involved with this program is such that there can be no reasonable doubt that this violation is a knowing and willful effort by them to circumvent and violate the Act.

Representative Martin Frost is the Chairman of the Democratic Congressional Campaign Committee; as such, he is the Chief Executive of that political committee. In 1996, Representative Frost was seeking re-election from the 24th Congressional District of Texas to the House of Representatives. Representative Frost transferred at least \$170,000 and possibly much more to local party operations in the 24th Congressional District from the Democratic Congressional Committee. The Tarrant County Democratic Party received at least \$97,000 in money raised outside the limitation restriction of the Act (soft money)³. This money was used for activities on behalf of the Frost Campaign in coordination with the DCCC. As an example of the misuse of this money, we directed Commissions to and attached an article from the April 7th issue of Roll Call discussing the Tarrant County Democratic Party's use of the funds from the DCCC to place radio advertisements urging voters to turn out for Representative Frost. Martin Frost was the sole candidate for any office appearing in the advertisements paid for by the Tarrant County Democratic party. These advertisements were paid for with funds raised outside the limitations and restrictions of the Act (soft money). These advertisements appeared not to have been reported as contributions to or expenditures for the Frost Campaign. Exempted party activities and volunteer materials that benefited Representative Frost's campaign appear to have been financed with funds transferred from the DCCC in violation of the Commission's regulations⁴. In light of public disclosures of these activities, the Commission should examine all expenditures of the Tarrant County Democratic Party and transfers received from the DCCC, since there is little doubt as to their use in connection with the Frost Congressional Election.

In conclusion, the public records in this case make it clear to any reasonable examination that there has been a carefully orchestrated conspiracy of these parties to circumvent provisions of the Act. The Commission should move expeditiously to review this matter, enjoin and impose appropriate penalties.

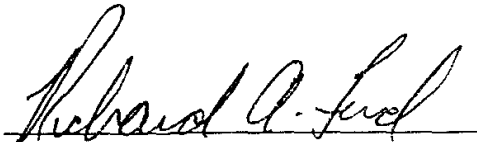
³ 2 U.S.C. § 441b Union/Corporate treasury funds
11 C.F.R. § 110.1(d); 110.2(d)

⁴ 11 C.F.R. §§ 100.7(b)(15); 100.8(b)(16).

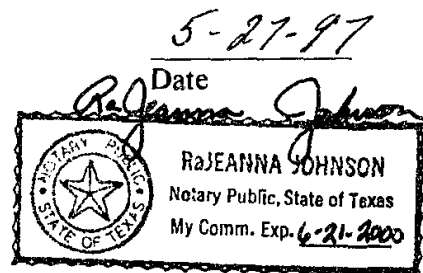
Larry Noble, Esquire
Page 3

Very truly yours,

Enclosure

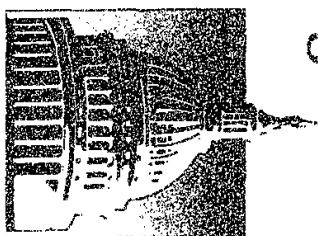

Sworn

Richard A. Ford
President



Let's Make a Deal: Balancing the Budget Policy Briefing Inside

ROLL



CALL

THE NEWSPAPER OF CAPITOL HILL SINCE 1955
VOL. 42, NO. 73
MONDAY, APRIL 7, 1997
\$3.00

Democrats Ready A Welcome

Back Attack

By Jennifer Bradley

Democrats are coming back from Easter recess ready to go on the offensive, hammering Republicans for their leather-light floor schedule for the 105th Congress.

On Wednesday, Minority Leader Dick Gephardt (D-Mo), Minority Whip David Bonior (D-Mich), and the 42 Democratic freshmen will hold a press conference emphasizing the differences between the 105th Congress and the 103rd Congress, which the Democrats controlled.

The biggest change from four years ago, according to statistics Democrats have culled from the

Continued on page 29

Frost Showered His Home State of Texas, Own District With Millions From DCCC



Photo by Maureen Keating

Rep. Martin Frost: The Texas Democrat sent more DCCC money to his own state than to any other in the 1996 election cycle.

By Amy Keller

The Democratic Congressional Campaign Committee directed \$2.7 million in the 1996 election cycle to the home state of its chairman, Texas Rep. Martin Frost — more than twice as much as flowed to any other state.

Frost, who was fighting a tough re-election battle in his Dallas seat, transferred much of that money — at least \$170,000 and possibly much more — directly to local Democratic party operations in his own 24th district.

The Texas Democrat is hardly the first Member of Congress to exploit a leadership position for home-state gain. Sen. Alfonse D'Amato (R-NY), for example, has come under fire for having directed almost \$2.6

million in National Republican Senatorial Committee funds to Empire State candidates in 1996.

But Frost directed even more money to his home state than D'Amato did, according to the Federal Election Commission. And while D'Amato's money went to other Republicans, some of Frost's DCCC transfers directly benefited his own 1996 re-election bid.

The money supplemented the \$1.9 million Frost raised and spent on his own behalf for his 1996 re-election bid, the fifth most expensive House race in the country. That spending helped Frost beat back his Republican opponent, homebuilder Ed Harrison, 56 to 39 percent — 11 points higher than he won by in 1994.

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Frost Funneled \$2.7 Million DCCC Funds to Home State

Continued from page 1

The sheer scope of the money flow from the DCCC to Texas is noteworthy.

The \$2.7 million sent to Texas amounted to nearly 30 percent of the entire amount of money the DCCC transferred to the states last cycle. Frost's home state, in other words, got nearly one-third of all the money.

In the entire 1992 and 1994 election cycles, not a single DCCC soft-money dollar went to Texas state parties. The chairman at the time was California Rep. Vic Fazio.

In 1996, the amount transferred to Texas from the DCCC was more than twice the \$1.1 million that went to California, which features 52 House races, compared with Texas's 30. Many states that featured several highly competitive House races, such as Kentucky and Oregon, didn't receive any soft-money transfers from the DCCC at all.

Of the \$2.7 million sent by the DCCC to Texas, approximately \$1.5 million was soft and \$1.2 million was hard.

Of that soft money, at least \$170,000 went to party committees that are part of Frost's district. The Dallas County Democratic party received nearly \$70,000, the Tarrant County Democratic party got the lion's share of \$97,000, and the Ellis County party in Watauga received \$3,500.

These funds represent part of the explosion of soft money raised and spent by Frost and other Democrats in the 1996 cycle. In previous years, much smaller amounts had been transferred to the states (only \$53,500 by the DCCC in 1994, for example).

But this time, Democrats sent hordes of corporate and labor union cash — which generally isn't supposed to be spent directly on federal elections — to the states.

And Frost sent it home, unlike Democratic Senatorial Campaign Committee Chairman Bob Kerrey (Nebr.), who sent just \$274,000 — only 2 percent of the entire amount of money the DCCC expended that way — to his home state of Nebraska, where there was a hotly contested Senate race that Democrats ultimately lost.

The DCCC defended the high-figure transfers, calling Texas a key 1996 "background" with at least seven competitive races including Frost's. The DCCC also cited redistricting matters that complicated elections in the Lone Star State last year.

"The courts changed the lines. There had to be significant education done there," one DCCC aide said.

But some of Frost's critics argue that the chairman was feathering his own nest.

Rich Galen, spokesman for the National Republican Congressional Committee, assailed Frost for "using the DCCC as his own piggy bank that he can whack with a hammer and use any time he needs it."

The DCCC funds that went to Frost's Dallas and Fort Worth based district were considerable. Those transactions included \$97,000 to the Tarrant County Democratic Party in Frost's district, the local party helped to set up phone banks and buy radio ads for the DCCC chairman (see story below).

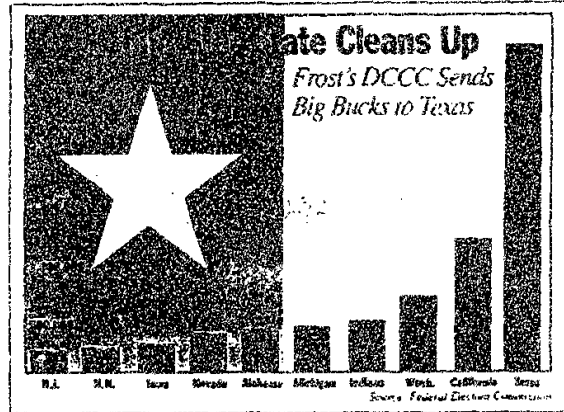
The Tarrant County party also hosted barbecues, went door-to-door, and stuffed envelopes on Frost's behalf, according to news reports.

At a Labor Day rally and barbecue the Tarrant County Democratic Party hosted to help Frost's campaign last fall, the DCCC chairman told the Dallas Morning News, "The precincts [in Tarrant County] were my margin of victory in 1994, and they will be my margin of victory in 1996."

The day after that barbecue, the DCCC gave the local party a \$40,000 donation. The group received another \$40,000 on Sept. 16 and another \$55,000 on Oct. 25. On April 10, the group received \$10,000, and on Dec. 7, another \$2,000 rolled in.

The committee, which was also spending on Democrat Hugh Parmer's race against now-Rep. Kay Granger (R), received at least another \$37,000 in hard-money contributions from the DCCC between Sept. 23 and Nov. 7, 1996.

By comparison, the Harris County Democratic Party in Houston, where Rep. Ken Bentsen (D) faced a tough runoff, which was



widely viewed as the toughest race for a Democrat in the state, was granted only \$20,000 in DCCC funds — a fourth of what Tarrant County Democrats received.

The Texas State Democratic Party also received a large chunk of DCCC soft money last cycle, taking in more than \$1.15 million from the DCCC to boost its activities in the 1996 elections. Another \$122,500 went to state and local candidates.

Harrison, Frost's GOP opponent in 1994 and 1996, claims that media buy documentation with local stations showed that the Texas State Democratic Party spent between \$100,000 and \$200,000 on TV ads against Harrison.

Stuart Clegg, the Tarrant County Democratic Party's new executive director, downplayed his organization's support for Frost.

"We don't make expenditures for federal candidates," he said. "It's sort of an indirect support. Our job is to turn out the Democrats' core, the base Democrat. What I can do is get the Democrats in Tarrant County to go vote."

"If they were to eliminate soft money, we couldn't do anything," Clegg said.

But Tarrant County Democrats did a lot last year, and Frost swept the portion of the county in his district with 66 percent of the vote to Harrison's 28 percent.

"This just goes to show — Martin Frost, the best Congressman money can buy," Harrison

said, lambasting the DCCC chairman for "using money to safeguard his position at the end of other Democratic candidates."

But highly placed DCCC officials defended the large expenditures in Texas and on Frost, who they say was in a tough re-election race despite his relatively comfortable 56 percent finish.

Martin's race was a competitive race. Republicans had targeted him specifically, and one DCCC operative ("Rep") Joe Barton (R-Texas) had said, "Frost is on life support, and we're going to pull the plug."

And it wasn't just Frost who profited. DCCC spokeswoman Stephanie Cohen said the DCCC's soft-money injection in Texas also helped other candidates, including Rep. Charles Stenholm (D) in the 17th district, John Poulard, who failed in his bid against now-Rep. Pete Sessions (R) in the 9th district, Bentsen in the 25th district, now-Rep. Max Sandlin (D) in the 1st district and Joe Turner (D) in the 2nd district, and Parmer's losing battle in Fort Worth's 12th district.

As Cindy McGill, then-executive director of the Tarrant County Democratic Party, proclaimed to the Dallas Morning News after the announcement that Frost would stay another term as DCCC chairman, "Locally we benefit by his being in a more prominent position."

Accounting Clause Allows Soft Money to Turn Hard

By Amy Keller

When Rep. Martin Frost (R-Texas) showered Texas with Democratic Congressional Campaign Committee money last year, he also managed to do the seemingly impossible.

Through a series of transfers from the DCCC to a county party in Frost's district, the DCCC chairman managed to turn soft money into hard dollars that benefited his re-election campaign.

Federal election law prohibits soft money — those unlimited, big-dollar contributions from individuals and corporations — from being spent directly on federal campaigns. Hard money, which is raised under strict limits, is what funds campaigns directly.

Last year, the House Democratic campaign arm took in a record \$12.3 million in soft money, it is supposed to be used for get-out-the-vote activities and other party-building exercises in states and localities.

Except in one very specific instance.

Buried deep in Federal Election Commission regulations is a clause — 11 CFR 106.5(g) — that allows party committees that have already spent their hard dollars on administrative expenses to replenish that money later with soft dollars.

"It's nothing sinister. It's merely book-keeping," one DCCC official explained.

"It's perfectly legal and proper," a Federal Election Commission spokeswoman said.

Here's how it was done in the case of Frost and the Tarrant County Democratic Party, the

local operation in Frost's district that received the lion's share — at least \$97,000 — of DCCC soft money given to counties in Texas last cycle.

FEC records and disclosures filed with the Texas Ethics Commission show that after the Tarrant County Democratic Party received soft-money payments from the DCCC, substantial amounts of that money were then transferred to the 21st Century Political Action Committee, the Tarrant County party's federal PAC which made direct expenditures on behalf of Frost's campaign in coordination with the DCCC.

The 21st Century PAC, in fact, spent more money on Frost's campaign — a total of \$37,500 in coordinated expenditures — than it did on any other federal candidate's race last cycle.

A \$40,000 chunk of the DCCC's soft money rolled into the Tarrant County Democratic Party on Sept. 3, 1996 — one day after the party hosted a Labor Day event kicking off Frost's campaign.

Two days later, on Sept. 5, the Tarrant County Democratic Party made contributions to the 21st Century PAC in the amounts of \$20,556 and \$5,355, records filed with the Texas Ethics Commission show.

That same day, the 21st Century PAC made two coordinated expenditures on behalf of Frost, according to the PAC's FEC filings. On Sept. 5, the 21st Century PAC paid the Fort Worth firm Pavlik & Associates \$20,000 and

\$5,000 to set up a phone bank for Frost, according to the PAC's FEC reports. The PAC said the DCCC had designated the 21st Century PAC to make the expenditures.

When questioned by Roll Call, DCCC officials confirmed that those soft-money transfers were used to fund the Frost phone-banking operation.

But by that time, they said, the money had become hard.

How? The Federal Election Campaign Act allows a party committee to repay its federal account within 60 days of an expenditure for funds previously advanced by the federal account for joint federal and non-federal administrative expenses.

In plain English, the transfer is similar to the way in which a bank might cover an overdraft for a customer. A party committee can draw money from another account — it's federal hard dollars in this case — to cover bills for administrative activities. Later on, when soft money goes into the account, it repays the hard money.

Or, in the case of the Tarrant County Democratic Party, it sends the money to pay for Frost's phone banks.

"Once the Tarrant committee repaid the PAC, the funds became for federal law purposes fully federal funds — not 'soft money' or nonfederal funds," DCCC lawyer Bob Bauer said.

The Democrats call their strategy a system of "buy-backs." But others see it differently

"Sounds like a big laundry to me," said Bill Holden, director of investigative projects for the Center for Public Integrity. "This is a real illustration of why the system has become a cesspool. It has become so hard to trace the path of political money."

The 21st Century PAC used other soft money that it received from the DCCC to boost Frost's re-election effort. Last September, for example, the party orchestrated a radio bus for Frost.

On Sept. 16, the DCCC gave \$40,000 contribution to the Tarrant County Democratic Party, on Sept. 26, the Tarrant County Democratic Party transferred \$20,000 to the 21st Century PAC. The same day, the 21st Century PAC used that \$20,000 contribution, in conjunction with a \$10,000 hard-money transfer from the DCCC, to place a radio buy through Media Strategies, a Colorado-based media firm.

Democrats say the radio spot — which mentions Frost and only Frost by name — was both a generic get-out-the-vote ad and a spot for Frost. Therefore, they say, they were allowed to use federal and non-federal funds to pay for the radio buy.

If all this sounds complicated, that's because it is. Even Tarrant County Democratic Chairman Art Brender, was at a loss to explain the transfers and expenditures to Roll Call. Said Brender, "This campaign finance stuff is very strange in how you have to account for stuff."

The work period from now until the fourth of July recess is the longest Congressional lead-in plan this year. There ought to be something to show for it.

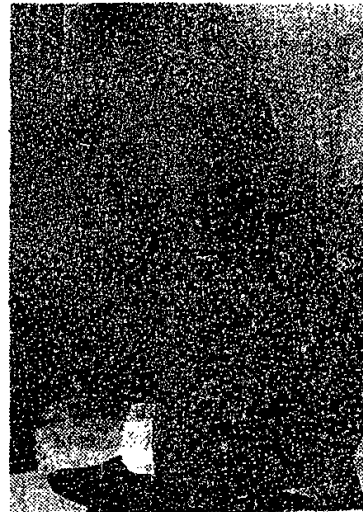
Frosting the DCCC

It looked as though the 1996 record for feathering your own nest was set by Sen. Alfonse D'Amato, who as chairman of the National Republican Senatorial Committee sent \$2.6 million in party funds to his home state of New York. But, as Roll Call's Amy Keller reports today, the top featherer actually is Rep. Martin Frost (D-Texas), who sent \$2.7 million in Democratic Congressional Campaign Committee funds to his home state — and at least \$170,000 of it to his own district.

Frost, who still has the job of DCCC chairman, deserves to be in deep trouble with House Democratic leaders and with rank-and-file Democratic Members. He won his re-election race by 17

points, while across the country one calculation shows that a shift of 13,000 votes in the 11 closest Congressional districts could have produced a Democratic House. Texas was a battleground state, but it's hard to argue that it deserved 30 percent of all the funds the DCCC transferred to the states.

The implications of Frost's diversion transcend ruffled feathers within the Democratic party. Frost also apparently figured out a legal way to turn "soft money" contributions meant for party-building activities into "hard money" that could be used on his own campaign. His committee may have been the only one to use this particular legal loophole, but in different ways this blurring of hard and soft money was done all over the country by both parties in 1996, effectively destroying the legal prohibition against use of corporate funds to elect federal candidates. Another week, another reason for campaign reform.



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