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COUNSEL

**MICHELINE Z. BURGER**

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April 29, 1997

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Federal Election Commission  
999 E. Street N.W.  
Washington, D.C. 20463

Dear Commissioners:

I am filing this complaint charging violations of the Federal Election Campaign Act at 1971, as amended ("FECA" or the "Act") 2 U.S.C. §441a(a)(1), 441a(a)(g) and related regulations of the Federal Election Commission ("FEC"), 11 C.F.R. §§ 110.1(b), 110.1(h), 110.9(a) by Brownback for Senate and by John H. and Ruth Stauffer.

The Stauffers, in-laws to Senator Sam Brownback, violated the Act by contributing more than the permitted \$1000.00 per person, per election, to the Brownback for Senate campaign. The Stauffers contributed \$37,500.00 to PAC's with the knowledge that substantial portions of those contributions would be contributed to the Brownback campaign. Senator Brownback violated the Act by accepting these excessive contributions.

The Stauffers either explicitly earmarked those contributions, or they indicated indirectly or implied that their contributions should be used toward their son-in-law's campaign. As is set out with the facts and summary below, the similarities of timing and amounts of the contributions to the PAC's and, in turn, to the Brownback campaign, are too striking to be mere coincidences.

Accordingly, I am asking the FEC to instigate a thorough investigation into these illegal contributions to the Brownback campaign and to take appropriate remedial action.

#### The Facts

Then-Rep. Sam Brownback ran for U.S. Senate in 1996 against then-Senator Sheila Frahm. Rep. Brownback was trailing favorite Senator Frahm by 20 points early summer. Brownback's campaign spent \$263,656 between July 18 and July 29 on advertising for a media blitz. Around the same time the Brownback campaign received \$36,000.00 in PAC contributions. The PAC contributions, in turn, had been immediately preceded by \$37,500.00 in contributions from the

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Stauffers to the very same PAC's. Rep. Brownback won the primary on August 6, 1996 with 54.8 % of the vote.

In July, during the primary campaign, the Stauffers, who are Senator Brownback's in-laws, contributed \$37,500.00 to various PAC's, which in turn contributed \$36,000.00 to the Brownback campaign. The contributions were made as follows:

- Citizens United Political Victory Fund—on July 5, the Stauffers contributed \$5000 to the Citizens United Political Victory Fund; 2 weeks later the Fund contributed \$5000 to the Brownback campaign. (The Fund reported no other activity for July.)
- Free Congress PAC of Washington, D.C.—on July 16, the Stauffers contributed to the Free Congress PAC of Washington, D.C.; that same day, the PAC contributed \$4500 to the Brownback campaign.
- Conservative Victory Committee—on July 12, the Stauffers contributed \$5000 to the Conservative Victory Committee; 10 days later the Committee contributed \$3000 to the Brownback campaign.
- California-based American Free Enterprise PAC—on July 19, the Stauffers contributed \$5000 to the California-based American Free Enterprise PAC; 10 days later the PAC contributed \$3500 to the Brownback campaign.
- Faith, Family & Freedom PAC—on July 26, the Stauffers contributed \$2500 to the Faith, Family & Freedom PAC; 3 days later the PAC contributed \$4000 to the Brownback campaign.
- The Eagle Forum PAC—on July 2, it contributed \$4000 to the Brownback campaign; one week later the Stauffers contributed \$5000 to the PAC; the next day the PAC spent \$965 endorsing Brownback.
- The Madison Project—also received contribution money from the Stauffers; and it contributed to the Brownback campaign.
- Additional contributions were made by the Stauffers to PAC's which same PAC's made contributions to the Brownback campaign. (See Kansas City Star, April 26, 1997)

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## The Law

Under the federal campaign law, individuals may not "make contributions to any candidate, his or her authorized political committees or agents with respect to any election for Federal office which, in the aggregate, exceed \$1000." C.F.R.110.1(b). "All contributions by a person made on behalf of or to a candidate, including contributions which are in any way earmarked or otherwise directed to the candidate through an intermediary or conduit, are contributions from the person to the candidate." 11 C.F.R. 110.6(a). Earmarked contributions count against the \$1000 individual contribution limit.

A contribution does not have to be earmarked directly or expressly. FEC regulations provide that a contribution is earmarked "whether direct or indirect, express or implied, oral or written [if it] results in all or any part of a contribution or expenditure being made to, or expended on behalf of, a clearly identified candidate or a candidate's authorized committee." 11 C.F.R.110.6(b).

An individual may contribute to both a specific candidate and also to a political committee which has supported, or anticipates supporting, the same candidate in the same election, "as long as . . . (2) The contributor does not give with the knowledge that a substantial portion will be contributed to, or expended on behalf of, that candidate for the same election . . ." 11 C.F.R.110.1(h). Where that knowledge is present, the contribution counts against the individual's \$1000 contribution limit.

It is also a violation of the Act for a candidate or political committee to accept any contributions or make any expenditures that violate the provisions of part 110. 11 C.F.R.110.9(a).

## Discussion

The Stauffers violated the law by exceeding the \$1000 personal contribution limit. They contributed \$36,00 earmarked to the Brownback campaign for the 1996 Kansas Senate primary. The Stauffers contributed a total of \$37,500 to political committees which, in turn, immediately contributed an almost identical amount to the Brownback campaign. Each Stauffer contribution to a PAC was followed by a strikingly similar contribution to the Brownback campaign, most within 1 to 14 days of the Stauffer contribution. Senator Brownback and his committee have also violated the Act by accepting excessive contributions from his in-laws.

Under the definition of earmarking in the FEC' regulations it is clear that the Stauffers earmarked for the Brownback campaign the money they contributed to these PAC's. Whether the earmarking was explicit or subtle, it

violates provisions of the Act. It cannot be coincidence that at least six separate contributions were made to PAC's in July and that in that month, those same PAC's each gave similar sums to the Brownback campaign.

It is notable that the Stauffers, as a couple, could have given each PAC \$10,000, but they limited their contributions to \$5000-the exact amount the PAC could contribute to the Brownback campaign. It is also notable that until July 1996, the Stauffers had not given to any PAC's dating as far back as 1987. These contributions came just as the campaign was spending hundreds of thousands of dollars on a media blitz. Brownback came from over 20 points behind to win the primary race. The Stauffers made no other PAC contributions after the Senate primary.

The PAC's, the Stauffers and Senator Brownback have attempted to argue that the contributions to the campaign were not coordinated and that the Stauffer contributions were not earmarked to go to the Brownback campaign. However, an investigation will show that this is not the case. Coincidence cannot explain the extraordinarily close timing of the Stauffer contributions to PAC's and the PAC contributions to the Brownback campaign, all at a critical juncture in his campaign.

Even if the Stauffers can somehow argue that this money was not explicitly earmarked, the Stauffers contributed money with the knowledge that a substantial portion would be contributed to the Brownback campaign. Either way, the Stauffers violated the law by exceeding their personal contribution limit to the Brownback campaign and the Brownback campaign violated the law by accepting these excessive contributions.

I respectfully request that the Commission conduct a prompt investigation into the above stated matters and enter into conciliation with the Respondents to remedy the violations by imposing any and all penalties grounded on the violations in this complaint.

Respectfully Submitted,



Micheline Z. Burger

County of Johnson )

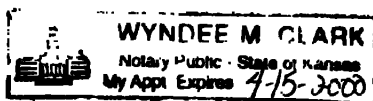
State of Kansas )

Subscribed and sworn to before me by Micheline Z. Burger  
this 30<sup>th</sup> day of April, 1997.

SS:

Wyndee M. Clark  
Notary Public

My Commission Expires:  
April 15, 2000



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