

**BEFORE THE
FEDERAL ELECTION COMMISSION**

**RECEIVED
FEDERAL ELECTION
COMMISSION**

2009 OCT -6 PM 3: 56

Chris Whittington, Chair
Louisiana Democratic Party
701 Government Street
Baton Rouge, LA 70802,

**OFFICE OF GENERAL
COUNSEL**

Complainant,

MUR # 6217

v.

Commerce, Hope, Innovation & Progress Political Action Committee
228 S. Washington Street, Suite B20
Alexandria, VA 22314; and

Chip Pickering
Regions Plaza, Suite 1262
210 East Capitol Street,
Jackson, MS 39201

Danna S. Lane
Treasurer, Commerce, Hope, Innovation, & Progress Political Action Committee
Germantown, TN 38138; and

Haleys Political Action Committee
P.O. Box 1186
Jackson, MS 39215; and

Austin Barbour
Treasurer, Haleys Political Action Committee
Jackson, MS 39211; and

David Vitter for U.S. Senate
P.O. Box 8175
Metairie, LA 70011; and

10044273564

William Vanderbrook
Treasurer, David Vitter for U.S. Senate
2900 Clearview Parkway, Suite 206
Metairie, LA 70006,

Respondents.

COMPLAINT

The Louisiana Democratic Party files this complaint under 2 U.S.C. § 437g(a)(1) against Commerce, Hope, Innovation and Progress Political Action Committee ("CHIP PAC"), Haley's Political Action Committee ("Haley's PAC"), David Vitter for U.S. Senate, and the committees' respective treasurers (collectively "Respondents") for apparent violations of the Federal Election Campaign Act ("FECA"). The Federal Election Commission ("FEC" or the "Commission") should investigate the evidence strongly suggesting that Respondents engaged in an illegal conduit scheme in violation of 2 U.S.C. § 441f and 11 C.F.R. § 110.4.

A. FACTUAL BACKGROUND

On August 11, 2009, Haley's PAC, a political action committee associated with Mississippi Governor Haley Barbour, made a \$5,000 contribution to the principal campaign committee of Louisiana Senator David Vitter.¹ In the same week, Haley's PAC received a contribution in an identical amount from CHIP PAC, which was once the leadership PAC of former U.S. Representative Chip Pickering. The facts surrounding this contribution and apparent reimbursement suggest that the transfer from Haley's PAC to Senator Vitter may have been a contribution from CHIP PAC made in the name of another.

It is uncommon for Haley's PAC to make or receive any contributions at all. Haley's PAC has only made one other contribution in all of 2009 and, at the close of its last reporting period, it only had \$13,281.37 in the bank. *Id.* Accepting money from CHIP PAC and giving to Senator Vitter were the Committee's only reported activities in August 2009. *Id.* Similarly, the contribution was the first that CHIP PAC made all year and neither CHIP PAC nor Pickering has ever made a contribution to Haley's PAC in the past.² While the near simultaneous contributions from CHIP PAC to Haley's PAC and from Haley's PAC to Vitter are inconsistent with the committees' normal activities, there are reasons why Pickering would want to hide the fact that his PAC was giving support to Senator Vitter.

¹ See Haley's PAC September 20th, 2009 Monthly Report and Amended March 20th, 2009 Monthly Report, included herewith as Attachment A.

² See CHIP PAC's August 20th, 2009 Monthly Report, included herewith as Attachment B.

10044273566

Recently, allegations that Pickering engaged in an extramarital affair while serving as a Congressman have been receiving attention in the media.³ Similarly, Senator Vitter has had to deal with his own sex scandal concerning admitted connections to the "D.C. Madam," Deborah Jeane Palfrey.⁴ Recent reports and commentaries have also mentioned the misdeeds of both men together.⁵ Indeed, one story discussing the contribution made from CHIP PAC to Haley's PAC to Vitter pointed out that "Pickering, like Vitter, is a conservative Christian Republican accused of having an extramarital affair linked to the 'C Street' Townhouse in Southeast Washington that is at the center of a spate of GOP sex scandals."⁶ If CHIP PAC made a direct contribution to Vitter it could have drawn unwanted attention to the scandals of both individuals and the Republican Party as a whole. It appears that CHIP PAC had a strong incentive to only support Vitter in the name of another.

Finally, the Respondents had the opportunity to set-up the conduit scheme. Chip Pickering and Austin Barbour, the Treasurer of Haley's PAC, work together at a lobbying firm, Capitol Resources, LLC.⁷ When asked by a reporter about whether CHIP PAC made a contribution to Vitter in the name of Haley's PAC, Austin Barbour reportedly responded only, "No comment."⁸

B. LEGAL ARGUMENT

Pursuant to the FECA "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." 2 U.S.C. § 441f. Thus, every knowing participant in the process of making, passing along, and receiving a conduit contribution commits a separate violation of the law. These different violations are broken out in the Commission's regulations.

1. Making a Contribution in the Name of Another

The first element of an illegal conduit contribution is described at 11 C.F.R. § 110.4(b)(1)(i): "No person shall – (i) Make a contribution in the name of another."

This is the provision that CHIP PAC appears to have violated here. While Haley's PAC purported to make the \$5,000 contribution to David Vitter for Senate, Haley's PAC was apparently reimbursed by CHIP PAC, and thus, it may have

³ See e.g., John Bresnahan, *Pickering's wife sues alleged mistress*, POLITICO (July 16, 2009), available at <http://www.politico.com/news/stories/0709/25067.html>.

⁴ See Adam Nossiter, *Senator Apologizes Again for Prostitution Link*, N.Y. TIMES (July 17, 2007) available at <http://www.nytimes.com/2007/07/17/us/17vitter.html>.

⁵ See e.g., Daniel Allott, *Plus Eight is Enough*, THE AMERICAN SPECTATOR (August 17, 2009) available at <http://spectator.org/archives/2009/08/17/plus-eight-is-enough>.

⁶ Jonathan Allen, *\$5K 'C Street' Relay? Pickering-Barbour-Vitter*, CQ POLITICS (September 22, 2009) available at <http://blogs.cqpolitics.com/notespad/2009/09/5k-relay-pickeringbarbourvitter.html#more>.

⁷ See <http://www.capitolresourcesllc.com/dc.htm>

⁸ See Allen, *\$5K 'C Street' Relay?*, *supra* note 4.

actually been CHIP PAC's contribution. The Commission should investigate whether CHIP PAC contributed to David Vitter for Senate in the name of Haley's PAC.

2. Permitting Your Name to be Used in a Conduit Scheme

The second type of conduit scheme violation is when a person knowingly permits his or her name to be used to effect a contribution in the name of another. See 11 C.F.R. § 110.4(b)(1)(ii). Haley's PAC may have violated this provision by agreeing to act as a pass through for CHIP PAC. This is exactly the kind of activity prohibited by FECA, as illustrated by the following example of a contribution made in the name of another as described by § 110.4(b)(2)(i): "Giving money ... all or part of which was provided to the contributor by another person (the true contributor) without disclosing the source of money ... to the recipient ... committee at the time the contribution is made." The evidence suggests that Haley's PAC violated the law by using its name to make a contribution to David Vitter for Senate, while never disclosing that the true source of the funds, and thus the contribution, was in fact CHIP PAC.

3. Accepting a Contribution in the Name of Another

As described in 11 C.F.R. § 110.4(b)(1)(iv), FECA also prohibits "knowingly accept[ing] a contribution made by one person in the name of another." Under 2 U.S.C. § 441f, every knowing participant in a conduit scheme, including the ultimate recipient of the contribution, acts in violation of the law. If CHIP PAC informed David Vitter for Senate that it was the true source of the contribution from Haley's PAC, or if the campaign committee was otherwise aware of this fact, then the it is just as liable as the other participants if there was in fact a conduit scheme.

4. Individuals who Assisted in Making a Contribution in the Name of Another

At this point, Complainant is not aware of which specific individuals may have assisted the respondent committees, or indeed, acted on behalf of the committees if there was a contribution made from CHIP PAC to David Vitter for Senate in the name of Haley's PAC. However, 11 C.F.R. § 110.4(b)(1)(iii) provides that any such individual has independently violated § 441f. If, for example, Austin Barbour or Chip Pickering assisted in the committees making a contribution in the name of another, they should be held liable under FECA. As the Commission investigates this matter, any other individuals suspected to have been involved in any conduit scheme should be added as respondents in the investigation.

C. REQUESTED ACTION

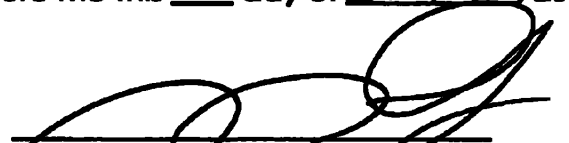
The currently available evidence strongly suggests that Respondents may have violated the Federal Election Campaign Act by engaging in an illegal conduit scheme. We respectfully request that the Commission investigate these violations, enjoin Respondents from further violations, assign the maximum fines permitted by law, and refer any knowing and willful violations to the Department of Justice for criminal prosecution.

Sincerely,



Chris Whittington, Chair
Louisiana Democratic Party
701 Government Street
Baton Rouge, LA 70802

SUBSCRIBED AND SWORN to before me this 22 day of Oct, 2009.


Notary Public
Bobby A. Lormend, Jr.

My Commission Expires:

Indefinite