

April 25, 2008

Federal Election Commission
Office of the General Counsel
999 E Street, N.W.
Washington, D.C. 20463

Re: Complaint against the Democratic National Committee

Dear Commissioners:

This letter constitutes a formal complaint filed under 2 U.S.C. § 437g(a) of the Federal Election Campaign Act ("FECA") on behalf of the Republican Party of Virginia. Based upon information and belief, set forth below and in media reports, the Republican Party of Virginia believes that the Democratic National Committee ("DNC") has violated FECA and the Commission's regulations with respect to the DNC's national televised advertisement opposing Senator McCain's candidacy for President of the United States.

At the time of writing, the DNC's television ad is viewable at the following web address: http://www.youtube.com/watch?v=TFDc4M_PMNk, and is discussed in the media reports attached hereto as Exhibits 1 through 4. This ad was paid for by the DNC and constitutes Federal Election Activity, as defined in 11 C.F.R. § 100.24(b)(3), which is apparent from the disclaimers and content of the ad. This ad opposes Senator John McCain's candidacy for President, and by the nature of its content and the context of its airing, clearly constitutes a coordinated communication as defined by 11 C.F.R. § 109.21. As such, the ad's disclaimer is inaccurate, and the ad is an excessive in-kind contribution on behalf of the Democrat Party's eventual nominee.

All three prongs of the coordinated test are satisfied: (1) the ad is paid for by the DNC, (not by either of the Democrat presidential candidates it benefits); (2) the ad clearly references a federal candidate; and (3) the DNC is regularly communicating with its candidates' campaigns. The DNC's expenditure – virtually on its face – is coordinated, and is not independent.

The coordinated communication regulation's conduct prong may be satisfied in various ways including: when the communication is done at the request or suggestion of a party not paying for the communication; when a party not paying for the communication is materially involved in decisions regarding the communication; or when there is substantial discussion between the paying party and the party not paying for the communication regarding the communication. Press accounts alone establish that the conduct prong has been satisfied. Attached as Exhibits 5 and 6 to this complaint are two samples of such media stories. Even without such accounts, it is simply not credible for the DNC to assert that its Chairman, or any of its agents or employees, have not been

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engaged in interactions with the two campaigns vying for the Democrat nomination regarding general election strategy, plans, projects, activities, or needs.

Also, as a coordinated communication, the disclaimer for the advertisement was inaccurate and violates 11 C.F.R. 110.11(b)(2).

The DNC's ad constitutes a coordinated communication, the payment of the production and the national cable buy – which exceeds \$5,000 – to air the ad is an excessive contribution to their candidates.

The above is true and correct to the best of my knowledge, information, and belief.

Sincerely,

on behalf of the Republican Party of
Virginia

Sworn and subscribed to in _____, _____, by the said
_____ on April _____, 2008.

Notary Public

My commission expires : _____

EXHIBIT 1



PRINT THIS



NOW, DEMOCRATS TARGET MCCAIN

The party's 30-second spot highlights US economic woes.
By Ariel Sabar | Staff writer of The Christian Science Monitor
from the April 25, 2008 edition

WASHINGTON - The announcement got buried in the avalanche of news coverage ahead of Tuesday's Democratic primary in Pennsylvania. But on the same day that Sens. Barack Obama and Hillary Rodham Clinton finished another lap

in their slog for the nomination, the national Democratic Party launched its first television ad against the man one of them will face in November.

The 30-second spot, which will air for three weeks on CNN and MSNBC and targets John McCain's economic views, reflects a growing sense among Democratic leaders that the prolonged nomination fight is giving Senator McCain a free pass for too long.

The ad coincides with a set of other Democratic Party efforts this week to counter the Arizona senator, including a national grass-roots door-knocking effort and a series of "counter-activities" near McCain campaign stops and fundraisers.

When McCain visits Oklahoma Friday, for instance, the state's Democratic Party will host a "No Third Bush Term" rally and a union hall event with \$2.30 hot dogs – a poke at McCain's \$2,300-a-plate fundraiser that night at a nearby Hilton.

"We're at the point where we're not waiting for the general election," says Karen Finney, communications director for the Democratic National Committee.

"Chairman [Howard] Dean recognizes that while it is important that the primary continue between Senators Clinton and Obama, the DNC has really got to step up its efforts to define John McCain," she says. "We want to make sure that he doesn't have the opportunity to get so far out ahead that we can't catch up."

That remains unlikely for now. With President Bush's low approval ratings and voters' displeasure with the economy and war in Iraq, Democrats are in a strong position for November.

But the increasingly negative battle for the Democratic nomination has driven up the unfavorable ratings of both Obama and Clinton, while freeing McCain to unite his party and introduce himself to a wider group of voters with a minimum of distractions.

Earlier this month, he took a biographical tour of key places in his life, from his high school in Alexandria, Va., to the Jacksonville, Fla., airfield he returned to after his release from a Vietnamese POW camp. This past week, he has courted African-Americans, blue-collar workers, and other voters often left off the GOP map with a tour of "forgotten places" like Selma, Ala.; Youngstown, Ohio; and New Orleans' Ninth Ward.

McCain sewed up the GOP nomination after dispatching with the last of his rivals on March 4.

"It is a unique time when you don't have a [primary] opponent," says Brian Rogers, a McCain spokesman. "It's an opportunity that we're trying to take advantage of" by showcasing McCain's life story and visiting Democratic strongholds.

But that may become harder now as the Democrats – with or without a nominee – try to blunt his appeal. The new television ad and other efforts starting this week are an outgrowth of focus groups and polling the DNC conducted in 17 swing states in late March.

The party sought to identify what independents and other voters critical to the general election see as McCain's weaknesses and came away with three main lines of attack: that McCain is a continuation of the Bush era; that he is a Washington insider out of touch with ordinary Americans; and that he is not the "straight-talker" his campaign claims, but an opportunist too ready to shift positions on immigration reform, campaign finance, and the Bush tax cuts.

"The McCain campaign likes to say that the McCain brand is well-known," says Ms. Finney. "What we found is that contrary to that, there's a lot swing voters don't know about McCain."

Mr. Rogers, of the McCain campaign, dismissed the ad and other efforts as "typical political attacks and distortion."

The audience for the Democrats' anti-McCain message is not just swing voters, analysts say. Just as important is a Democratic coalition strained by the push and pull of the nomination fight.

"The Democrats face a pretty serious risk that either African-Americans, younger Americans, or blue-collar men are going to be discouraged when their candidate isn't nominated," says Tom Hollihan, an expert on media and politics at the University of Southern California in Los Angeles. "There's a strong motivation to communicate that whether you favored Obama or Clinton, you do have a dog in this fight; that a Republican is your real adversary."

The campaigns of the Democratic candidates have invoked McCain, too, but often in the context of which is better equipped to defeat him in November.

In recent days, however, Clinton and Obama appear to be taking more frequent aim at McCain's record. Obama named him no fewer than seven times in his speech conceding Pennsylvania Tuesday night. McCain's economic policy address in Pittsburgh last week occasioned a rare moment of cooperation between the campaigns of the two Democratic candidates. To rebut McCain, the Democratic National Committee convened a conference call for reporters with top economic advisors to both Clinton and Obama.

"That's something the Democratic Party and both of these candidates need to start doing," says Martin Johnson, a political scientist at the University of California, Riverside. "Presumably, they have more in common than they have with McCain and that's got to be a part of their message."

Find this article at:

<http://www.csmonitor.com/2008/0425/p01s01-uspo.html>

Check the box to include the list of links referenced in the article.

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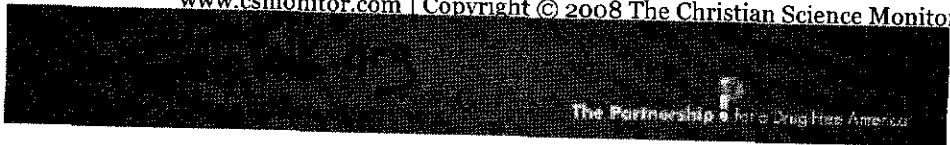


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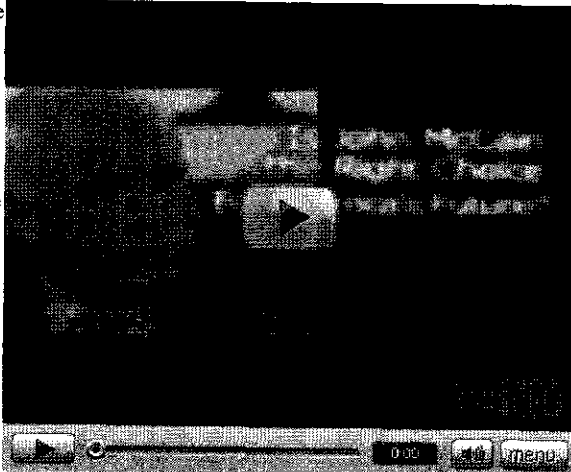
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April 21, 2008, 4:09 pm

Democrats to Run First Ad Against McCain

June Kronholz reports on the presidential campaign.

The Democratic Party opens its national ad campaign against Sen. John McCain Tuesday with a spot right out of President Reagan's 1980 playbook.

Titled "Better Off," the spot uses video of McCain, the Republican presidential candidate, at a Jan. 30 CNN debate talking about economic good times. "Americans overall are better off [than eight years ago] because we've had a pretty good, prosperous time," including low unemployment and low inflation, McCain says on the film clip.



Overlaid flash lines meanwhile note the "highest inflation in 17 years," "1.8 million jobs lost," and "gas prices up 200%." "Do you think you're better off?" an announcer asks at the end.

Reagan famously asked the same question of voters in his final debate against President Carter a week before the 1980 election. Carter never recovered from the blow, and Reagan swept into office with a 44-6 state landslide.

The Democratic National Committee says the ad will run for three weeks on national cable channels, and promises there will be "more to come." And should Republicans complain that the clip is heavily edited, DNC Chairman Howard Dean told reporters he'd be happy to run McCain's CNN comments in full if his campaign helps put up the money for the TV time.

Update: In response, Republican Party Chairman Robert M. "Mike" Duncan said the "ad recklessly distorts John McCain's statements and represents the sort of dishonest campaigning voters are sick of" and "will not make voters forget the Democrats' plans to raise taxes on hard-working Americans." He also contended that his party "maintains a huge financial advantage over the DNC, and to the extent Howard Dean can afford to actually run these ads, it will be out of a position of weakness."

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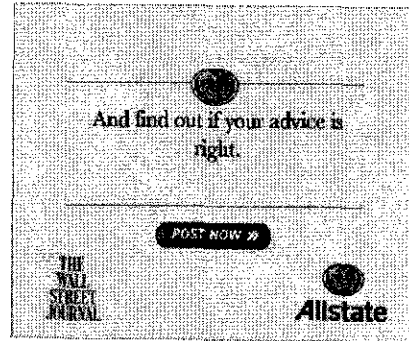
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Report offensive comments to washwire@wsj.com

I thought the Democrats were (at least when they are acting righteous and all) AGAINST negative ads - which is supposedly a disgusting weapon of the evil Republicans. And yet the FIRST ad of the Democratic party is a negative one which attacks the other candidate instead of marketing their own? Another helping of hypocrisy anyone?

POLITICAL PERCEPTIONS



Sara Murray and Gerald F. Saib summarize the best political analysis on the Web each day. [Go to recent columns >](#)
advertisement



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Sen. John McCain visited Tom Fletcher's house in Inez, Ky., where Lyndon B. Johnson made a speech 44 years ago launching the war on poverty. (Associated Press)

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[See details on the Democratic superdelegates and how they've lined up](#)

EXHIBIT 3

The Swamp

McCain: Americans 'better off...' DNC: Not

by *Mark Silva*

The Democrats don't have a candidate to take on Republican Sen. John McCain yet, so the DNC is airing its own early assault on the GOP's expected presidential nominee.

The TV ad, getting a national airing, plays the remarks of McCain in a news interview, asked by CNN's Anderson Cooper if Americans are better off than they were eight years ago, in counterpoint with some party-chosen commentary.

"I think you could argue that Americans overall are better off," McCain says -- to the accompaniment of script that household income is down \$1,000. "Because we have had a pretty good, prosperous time, with low unemployment," says McCain, in counterpoint to script that unemployment is up.

"Low inflation," says McCain, countered by "highest inflation in 17 years."

"A lot of good things have happened," says McCain -- countered by "gas prices up 200 percent.' And "a lot of jobs have been created," countered by "1.8 million jobs lost.."

"Do you feel better off?" asks the DNC's narrator, accompanied by music that can only be described as some derivative of Tubular Bells. (The Democratic National Committee is responsible for the selection of the music.)

The party, noting that "our first ad of the presidential campaign hit TVs across the country today," reminds Democrats, of course, that their money makes this possible.

"Many of you are thrilled that we're standing up and fighting John McCain on television while Sen. Clinton and Sen. Obama work to win the nomination," party director Tom McMahan says in an email today. "Make a contribution today to help us keep John McCain out of the White House -- we're running ads, organizing volunteers, and building the tools we'll need to win. But it costs money, and we can't afford to wait."

The party might try telling the superdelegates that as well -- they really could use a candidate pretty soon.

Posted by Mark Silva on April 23, 2008 12:00 PM

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EXHIBIT 4

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ABOUT

Marc Ambinder, an Atlantic associate editor, is blogging the 2008 presidential election from the roadshows. He might also write the occasional post about aviation, national security, and cognitive neuroscience. Mostly politics, though.

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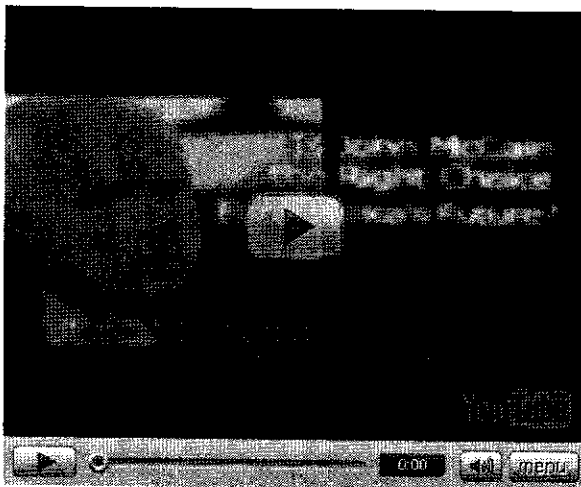
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BLOGROLL

Is The DNC's Ad Misleading? No....

21 Apr 2008 01:33 pm

The DNC's first general election ad hits John McCain on the economy.



Misleading? Haven't the Democrats been truncating McCain's comments to Bloomberg News all week? Well, the DNC doesn't refer to the Bloomberg interview. Instead, they refer to McCain's comments during a January 2008 debate on CNN. Here's the full McCain answer:

McCain: "I think you could argue that Americans overall are better off, because we have had a pretty good prosperous time, with low unemployment and low inflation and a lot of good things have happened. A lot of jobs have been created. But let's have some straight talk. Things are tough right now. Americans are uncertain about this housing crisis. Americans are uncertain about the economy, as we see the stock market bounce up and down, but more importantly, the economy particularly in some parts of the country, state of Michigan, Governor Romney and I campaigned, not to my success, I might add, and other parts of the country are probably better off. But I think what we're trying to do to fix this economy is important. We've got to address the housing, subprime housing problem. We need to, obviously, have this package go through the Congress as quickly as possible. We need to make the Bush tax cuts permanent, which I voted for twice to do so. I think we need to eliminate the alternate minimum tax that sits out there and challenges 25 million American families.

Cooper: "It sounds like you're saying we're not better off."

McCain: "I think we are better off overall if you look at the entire eight-year period, when you look at the millions of jobs that have been created,

the improvement in the economy, et cetera.

The DNC's ad doesn't take McCain out of context.

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EXHIBIT 5



The Fix

By Chris Cillizza

washingtonpost.com's Politics Blog

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DNC Officials Huddle With Clinton, Obama Campaigns

In an attempt to kick start the general election contest before the party has picked its nominee, Democratic National Committee officials have met in recent days with the top campaign brass of Sens. **Barack Obama** (Ill.) and **Hillary Rodham Clinton** (N.Y.) to brief them on the committee's plans in the coming months.

DNC chief of staff **Tom McMahon** and political director **Dave Boundy** met yesterday at Clinton's Ballston headquarters with **Guy Cecil**, political director for the New York Senator's bid, and **Howard Wolfson**, one of the campaign's chief strategists, among others. A similar DNC delegation huddled with senior officials from the Obama campaign several weeks ago.

The discussion, according to DNC communications director **Karen Finney**, centered on the field plan the national party is implementing for the fall campaign, a rough outline of the DNC's strategy in regards Sen. **John McCain** (Ariz.) -- the committee and the presidential candidates cannot directly coordinate on messaging -- and plans to form joint committees to raise money both for the nominee and the DNC.

As first reported by The Page's Mark Halperin, a deal has been reached between the DNC and the Obama campaign that will allow donors to write a single check to a joint fundraising committee, which will then parcel out the cash between the candidate and the committee. No such deal has yet been reached with the Clinton campaign although conversations are ongoing.

"We are in general election mode at the DNC at this point," said Finney when asked about the meetings with the two campaigns. "We can't wait."

The gatherings are the latest sign of an increased campaign presence by the DNC and its chairman -- former Vermont Gov. **Howard Dean**.

Earlier this week, Dean announced a new "Neighborhood Volunteer" program in which residents in all 50 states have pledged to speak to their neighbors about the need to elect a Democrat in the fall. Dean said more than 50,000 people have already signed up for the program.

The DNC is also now on television with an ad that seeks to paint McCain as out of step with the average voters when it comes to the economy. Talking Points Memo notes that the DNC is spending \$500,000 on the ad campaign, a sizable chunk of the \$5.3 million the committee showed on hand at the end of March.

That dearth of cash has led many Democratic strategists to worry that the DNC can't possibly keep up its anti-McCain messaging in ads until a nominee is selected. The hope in many circles is that Progressive Media USA, a liberal independent group, will fill the void as they have begun to do with commercials currently running in Ohio.

Dean, himself, acknowledged earlier this week that the lack of a nominee presents a serious challenge but insisted it in no way impedes the efforts of the DNC to prepare for the fall election.

"If we had a nominee, we'd be able to do more," Dean said. "The fact that we don't have a nominee doesn't cripple us in any way."

By Chris Cillizza | April 25, 2008; 2:20 PM ET | Category: **Eye on 2008**

Previous: **Friday Line: McCain's Best Strategic Moves** |

http://blog.washingtonpost.com/thefix/2008/04/dnc_huddles_with_clinton_obama.html

EXHIBIT 6



Dean: McCain's Age Worries Voters

DNC Chair Cites Health, 'Old-Fashioned' Views

By TEDDY DAVIS and MIKE ELMORE

April 10, 2008—

Democratic National Committee Chairman Howard Dean said Thursday that swing voters participating in focus groups commissioned by the D.N.C. bring up John McCain's age unprompted.

"We didn't bring it up, but they volunteered it," said Dean in response to a reporter's question. He went on to explain that voters have expressed two concerns about McCain's age. "One was a health concern, the other was, and this is really interesting . . . that his views are old-fashioned."

At the age of 72, McCain would be the oldest newly elected president in U.S. history if inaugurated in 2009.

Referring to what Dean characterized as the party's most conservative focus group in Charleston, W. Va., the DNC chairman said "the women in that group were shocked that [McCain] believed health insurance shouldn't cover birth control pills and they were shocked about his belief in abstinence only education."

While knocking McCain's "old-fashioned" views, Dean maintained that the Democratic Party was unlikely to invoke McCain's age in the fall campaign.

"I doubt we will bring it up in the election," said Dean, referring to the age issue. "There is somewhat of a higher ethical bar on what we do."

"We don't have any Lee Atwaters or Karl Roves on our side," he added.

"We don't have to," added D.N.C. spokeswoman Karen Finney. "I know the McCain campaign is saying he's a strong brand. He's not a strong brand. He's actually a pretty weak candidate."

"I don't think we have to bring up age," said Cornell Belcher, an Obama pollster who collaborated on the D.N.C.'s McCain poll. "I don't think we will."

Republican National Committee spokesman Alex Conant dismissed Dean's comments about McCain's age, saying the election would be about "judgment, character, vision and leadership -- all things voters associate with John McCain."

Dean made his comments to reporters at the D.N.C.'s "John McCain polling briefing".

Since the Democrats have not yet settled on a presidential candidate, Dean was joined in making the polling presentation by Belcher, one of Sen. Barack Obama's pollsters, as well as Allan Rivlin, whose

polling firm does work for Sen. Hillary Clinton, D-N.Y.

The kicker "Now that's my phone buzzing there. I don't want you to think I'm getting fresh or anything."

--Barack Obama speaking to a woman closely pressed against him for a photo when his phone started to vibrate in his pocket on his right thigh

On the campaign front. . .

JOHN MCCAIN

-- 4:00 pm EST: Campaign Event at Lubbock International Airport, Lubbock, TX.

BARACK OBAMA

-- 12:30 pm ET: Town Hall meeting in Columbus, IN. -- 8:15 pm ET: Town Hall meeting in Terre Haute North Vigo High School, Terre Haute, IN.

HILLARY CLINTON

-- 10:00 am ET: Campaign Event at YMCA Gym, Philadelphia, PA. -- 5:00 pm ET: Campaign Event at Drexel University Main Building Atrium, Philadelphia, PA.

BILL CLINTON

-- 10:45 am ET: Holds a campaign event at South Vermillion High School in Clinton, IN. -- 1:00 pm ET: Holds a campaign event at South Putnam Elementary School Gymnasium in Greencastle, IN. -- 5:30 p.m. ET: Attends campaign event at Centennial Park in Roanoke Rapids, NC. -- 7:30 p.m. ET: Attends campaign event at North Carolina Wesleyan College in Rocky Mount, NC.

PRESIDENT BUSH:

--7:10 pm ET: Attends an RNC reception with First Lady Laura Bush, Broken Spoke Ranch, Crawford, TX

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McCain Hugs 'View' Ladies The presidential candidate isn't afraid of showing affection on daytime TV. [LINK](#)

McCain to Boycott Olympics Opening The senator says that he will not attend kickoff ceremony in Beijing.

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ABC News' Jacqueline Klingebiel contributed to this report.

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