

FEDERAL ELECTION COMMISSION

In the matter of : U.S.-Cuba Democracy Political Action Committee
Gus Machado, Individually and as Treasurer
Mauricio Claver-Carone
Fausto Diaz, Jr.
Anolan Ponce

MUR No.: _____

COMPLAINT

1. Citizens for Responsibility and Ethics in Washington hereby brings this complaint before the Federal Election Commission seeking an immediate FEC investigation and enforcement action against the U.S.-Cuba Democracy Political Action Committee, Gus Machado, Mauricio Claver-Carone, Fausto Diaz, Jr. and Anolan Ponce for direct and serious violations of federal campaign finance law.

Complainant

2. Citizens for Responsibility and Ethics in Washington is a non-profit, non-partisan organization dedicated to ensuring accountability in public officials.

Respondents

3. The U.S.-Cuba Democracy Political Action Committee is a political committee registered under the Federal Election Campaign Act. 2 U.S.C. § 433. Gus Machado is the treasurer and Mauricio Claver-Carone is the executive director of the U.S.-Cuba Democracy Political Action Committee.

4. Fausto Diaz, Jr. and Anolan Ponce are individual members of the U.S.-Cuba Democracy PAC.

Factual Allegations

5. On information and belief, the U.S.-Cuba Democracy Political Action Committee

held a fundraising luncheon in Miami, Florida for Senator Jim Bunning (R-KY) on May 27, 2004.

6. On information and belief, Gus Machado and/or Mauricio Claver-Carone solicited members of the U.S.-Cuba Democracy Political Action Committee to make contributions to Senator Bunning's campaign committee, Citizens for Bunning. Those solicitations resulted in the following contributions to Citizens for Bunning from members of the U.S.-Cuba Democracy Political Action Committee:

Ricardo Alvarez	\$500
Carlos de Cespedes	\$500
Remedios Diaz Oliver	\$1,000
Robert Diener	\$1,000
Feliciano Foyo	\$500
Horacio Garcia	\$500
Alina Garrido	\$500
Alberto Hernandez	\$500
Jonathan Kislak	\$1,000
Carlyn F. Mayer	\$1,000
Elpidio Nunez	\$500
Eduardo Perez	\$500
Barry Silverman	\$1,000
George Steinbrenner	\$1,000

FEC Form 3, Report of Receipts and Disbursements, filed by Citizens for Bunning, July 12, 2004 (attached as Exhibit A).

7. On information and belief, Gus Machado and/or Mauricio Claver-Carone also solicited and received contributions for Citizens for Bunning from the Tew Cardenas PAC, the Democracy Believers PAC and the Bacardi-Martini USA PAC. *See* Exhibit A. In addition, Gus Machado and /or Mauricio Claver-Carone presented Senator Bunning at the May 27, 2004 luncheon with a contribution check from the U.S.-Cuba Democracy Political Action Committee in the amount of \$5,000 and designated that contribution as applying toward the 2004 General Election. *See* Exhibit A; FEC Form 3X, Report of Receipts and Disbursements, filed by U.S.-Cuba Democracy Political Action Committee, October 1, 2004 (attached as Exhibit B).

8. On information and belief, Gus Machado and Mauricio Claver-Carone, in order to be able to present Senator Bunning with the maximum \$5,000 contribution for his 2004 general election, asked Fausto Diaz, Jr. to pay the \$2,200 cost of the fundraising event for Citizens for Bunning. The U.S.-Cuba Democracy Political Action Committee reported Mr. Diaz's payment for the Citizens for Bunning fundraiser as an in-kind contribution to the U.S.-Cuba Democracy Committee on its July 15, 2004 Quarterly Report. *See* Exhibit B. Mr. Diaz's payment for the Citizens for Bunning fundraiser was not reported as an in-kind contribution by Mr. Diaz to Citizens for Bunning.

9. During calendar year 2005, Anolan Ponce made seven separate contributions to the U.S.-Cuba Democracy Political Action Committee, both in-kind and by check, totaling \$12,715, as follows:

April 6, 2005	\$1,034.50 (in-kind)
April 9, 2005	\$1,300.00 (check)
April 25, 2005	\$1,585.00 (in-kind)
April 27, 2005	\$1,026.00 (in-kind)

May 25, 2005	\$25.00 (check)
December 8, 2005	\$5,244.50 (in-kind)
December 27, 2005	\$2,500.00 (check)

FEC Form 3X, Report of Receipts and Disbursements, filed by U.S.-Cuba Democracy Political Action Committee, June 30, 2005 (attached as Exhibit C); FEC Form 3X, Report of Receipts and Disbursements, filed by U.S.-Cuba Democracy Political Action Committee, January 30, 2006 (attached as Exhibit D). Curiously, while the U.S.-Cuba Democracy Political Action Committee reported Mrs. Ponce's December 8, 2005 contribution of \$5,244.50 as an in-kind contribution, when the Committee reported disbursing the same amount to Mrs. Ponce the Committee characterized the disbursement as a "reimbursement" rather than what it actually was – a refund of an excessive contribution. The Committee made no such distinction when it returned Mrs. Ponce's December 27, 2005 contribution of \$21,500. *See* Exhibit D.

COUNT I

10. The Federal Election Campaign Act ("FECA") and Federal Election Commission ("FEC") regulations establish limitations on the amount of money that individuals can contribute to candidates and nonconnected political committees like the U.S.-Cuba Democracy Political Action Committee and on the amount of money that such political committees can contribute to candidates for federal office. During the 2003-2004 election cycle, the maximum legal contribution from an individual to a federal candidate was \$2,000. 2 U.S.C. §441a(a)(1)(A); 11 C.F.R. §110.1(b). The maximum aggregate annual legal contribution from an individual to a political committee like the U.S.-Cuba Democracy Political Action Committee is, and at all times relevant to this complaint was, \$5,000. 2 U.S.C. § 441a(a)(1)(C); 11 C.F.R. §110.4(d). Similarly, the maximum legal contribution from a nonconnected political committee like the

U.S.-Cuba Democracy Political Action Committee to a federal candidate is, and at all times relevant to this complaint was, \$5,000 per election. 2 U.S.C. §441a(a)(2)(A); 11 C.F.R. §110.2(b). An individual may make a conduit contribution to a federal candidate through a nonconnected political committee, but if that committee exercises direction or control over the individual's choice of the recipient candidate, the full amount of the contribution counts against the limits of both the individual and the conduit committee. Federal Election Commission Advisory Opinions 1986-4, 1981-57 and 1980-46.

11. Because Gus Machado and/or Mauricio Claver-Carone directed Fausto Diaz to pay the cost of the May 27, 2004 Citizens for Bunning fundraising event, the U.S.-Cuba Democracy Political Action Committee exercised direction and control over Fausto Diaz's \$2,200 in-kind contribution to Citizens for Bunning, and the full amount of the \$2,200 contribution should be counted against the contribution limits of both Fausto Diaz and the U.S.-Cuba Democracy Political Action Committee. Accordingly, Fausto Diaz violated 2 U.S.C. §441a(a)(1)(A) and 11 C.F.R. §110.1(b) by making an in-kind contribution to Citizens for Bunning that was \$200 in excess of the legal limit.

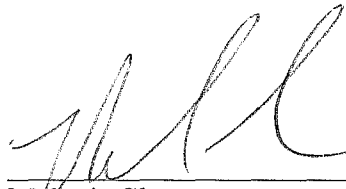
12. Similarly, the U.S.-Cuba Democracy Political Action Committee violated 2 U.S.C. §441a(a)(2)(A) and 11 C.F.R. §110.2(b) by making a \$2,200 in-kind contribution to Citizens for Bunning for the 2004 General Election when it had already given the maximum legal contribution to Citizens for Bunning for that election by giving the campaign a check for \$5,000.

COUNT II

13. Anolan Ponce committed two separate violations of 2 U.S.C. § 441a(a)(1)(C) and 11 C.F.R. § 110.1(d) by making two separate illegal excessive contributions to the U.S.-Cuba

Political Action Committee: first by making a \$5,244.50 in-kind contribution to the Committee on December 2, 2005, and a second time by making a \$2,500 contribution by check to the Committee on December 27, 2005. Both contributions exceeded the aggregate annual limit of \$5,000 that Mrs. Ponce could contribute to the U.S.-Cuba Democracy Political Action Committee.

WHEREFORE, Citizens for Responsibility and Ethics in Washington requests that the Federal Election Commission conduct an investigation into these allegations, declare the respondents to have violated the federal campaign finance laws, impose sanctions appropriate to these violations and take such further action, including but not limited to an audit of the U.S.-Cuba Democracy Political Action Committee, as may be appropriate.

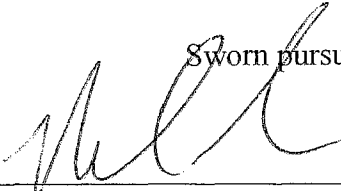


Melanie Sloan
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Verification


Citizens for Responsibility and Ethics in Washington, acting through Melanie Sloan, hereby verifies that the statements made in the attached Complaint are, upon information and belief, true.

Sworn pursuant to 18 U.S.C. § 1001.



Melanie Sloan

Sworn to and subscribed before me this 1st day of March, 2006.



Blanca M. Clayton

Notary Public

Blanca M. Clayton
Notary Public, District of Columbia
My Commission Expires 04-30-2007