

REPORTS ANALYSIS DIVISION REFERRAL
TO
ALTERNATIVE DISPUTE RESOLUTION OFFICE

DATE: June 30, 2011

ANALYST: Allen Norfleet

- I. COMMITTEE: Senate Conservatives Fund
C00448696
Barry Wynn, Treasurer
228 South Washington Street, Suite 115
Alexandria, VA 22314
- II. RELEVANT STATUTE: 2 U.S.C. §434(b)(4)
11 CFR §104.3(b)
- III. BACKGROUND:

Failure to Provide Supporting Schedules (Failure to Disclose All Financial Activity)

The Senate Conservatives Fund ("the Committee") amended its 2010 12 Day Pre-General Report to disclose additional disbursements totaling \$167,080.51 that were not previously disclosed on the original 2010 12 Day Pre-General Report (Attachment 2).

On October 21, 2010, the Committee filed its original 2010 12 Day Pre-General Report covering the period from October 1, 2010 to October 13, 2010. The original report disclosed disbursements totaling \$79,741.70 on Line 21(b) (Other Federal Operating Expenditures), \$210,136.00 on Line 23 (Contributions to Federal Candidates/Committees and Other Political Committees), and \$129,603.34 on Line 24 (Independent Expenditures) of the Detailed Summary Page (Image 10931750004; Attachment 2).

On November 9, 2010, Lisa Lisker, the Committee's designated agent, called the Reports Analysis Division ("RAD") Analyst and explained that she was amending the 2010 October Monthly and 2010 12 Day Pre-General Reports both to correct earmarked contributions on Schedule B and to fix several independent expenditures on Schedule E. Ms. Lisker said that the cash-on-hand should not be affected significantly. Ms. Lisker clarified that the Committee had problems uploading both reports due to the large size of the files (Attachment 3).

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On December 7, 2010, the Committee filed an Amended 2010 12 Day Pre-General Report which disclosed \$88,236.35 on Line 21(b), \$212,437.00 on Line 23, and \$285,888.20 on Line 24 of the Detailed Summary Page (Image 10932064874). The Committee attached a memo text to this report which stated, in part,

"Due to issues with the filing software, the origianl (*sic*) report did not include several disbursements, the candidate detail for all of the independent expenditures, or the memo entries detailing each earmark transmittal (*sic*). This amendment fully discloses all activity" (Image 10932064871).

On April 8, 2011, a Request for Additional Information ("RFAI") was sent to the Committee referencing the Amended 2010 12 Day Pre-General Report, received December 7, 2010. Among other issues, the RFAI requested clarification regarding the additional disbursements totaling \$167,080.51 disclosed on Lines 21(b), 23, and 24 of the Detailed Summary Page that were not disclosed on the original 2010 12 Day Pre-General Report (Images 11330007030-2).

On May 9, 2011, Ms. Lisker called the Analyst to inform him that the Committee would be amending the 2010 October Monthly and 2010 12 Day Pre-General Reports again (Attachment 3).

On May 11, 2011, the Committee filed an Amended 2010 12 Day Pre-General Report which reflected no change in disbursements as disclosed on the previous amendment (Image 11931320005; Attachment 2).

On May 12, 2011, the Committee filed a Miscellaneous Electronic Submission ("Form 99"), which stated in part,

"Your letter indicates that the above referenced amendment disclosed an additional \$167,080.51 in disbursements, most of which were on line 24. As was noted on the amended filing, the Committee was having data entry issues with the software and was unable to correctly enter several disbursements. The software was not accurately recording entries and was not allowing the appropriate candidate related information to be recorded. However, the Committee believes that the most of these were previously disclosed on 24-hour notices" (Image 11931353649).

On May 27, 2011, the Analyst left a message for Ms. Lisker acknowledging receipt of the Form 99 explaining the reason for the increase in disbursements on the Amended 2010 12 Day Pre-General Report, but stated the issue may be referred for further Commission action. The Analyst explained that he was calling to give the Committee an opportunity to place additional information on the public record (Attachment 3).

On May 31, 2011, Ms. Lisker called the Analyst asking what information the Committee could file to prevent the issues identified on the Amended 2010 12 Day Pre-

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General Report from being referred for further Commission action. The Analyst explained he had called to give the Committee a chance to file any additional information concerning this increase in financial activity disclosed on the amendment. Ms. Lisker then asked the Analyst to which office the referral would be sent, the Analyst told her he was unsure at this point. Ms. Lisker said that she would need to contact the Committee staff to see if they wished to place additional information on the public record (Attachment 3).

On June 6, 2011, Ms. Lisker, called the Analyst asking if the Committee still had time to file a Form 99 regarding the increase in disbursements disclosed on the Amended 12 Day Pre-General Report. The Analyst gave Ms. Lisker until the end of the week to file any additional information (Attachment 3).

On June 12, 2011, the Committee filed a Form 99, which stated in part,

"Amended 12 Day Pre-General Report (10/1/10-10/13/10), received 12/7/10:

The amended report disclosed disbursements that were not disclosed on the original filing. The Committee again experienced difficulty with the software. Please note that these reports were due on 10/20/10 and 10/21/10 and that the software company was unable to address specific issues in this short timeframe. In addition, due to the close filing dates, this web based software experienced a high volume of usage, which slowed the system and made data entry and uploading data a time consuming and difficult process. The software did not accurately load data and it was difficult to link transactions within the software so that they would be accurately reflected on the final report.

Within the operating expenses, most missing transactions were bank fees and credit card processing fees, not any transactions that were directly related to the daily operations of the Committee or related to the General Election.

In reviewing independent expenditures that were not disclosed on the original report, there were two distinct items. All of the independent expenditures, except one, that were not included on the original report were transactions with the Senate Conservatives Fund as the payee and were made to disclose online processing fees associated with processing the online earmarked contributions made through the Committee for other federal candidates. The Federal Election Commission has questioned the need to report these as independent expenditures, but the Committee has continued to do so in the interest of full disclosure.

The Committee has worked closely with the software company to avoid these issues in the future. The software company has established procedures to allow for itemization of earmarks, the ability to produce large FEC reports, and has improved its web based operations to prevent

streamlined its methods of tracking independent expenditures to ensure all are accurately reflected and has tightened controls on accepting and disbursing earmarked contributions to assist in the upload of data to the filing software" (Images 11931616535-6).

To date, no further communication has been received from the Committee regarding these matters.

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