

REPORTS ANALYSIS DIVISION REFERRAL  
TO  
ALTERNATIVE DISPUTE RESOLUTION OFFICE

DATE: August 30, 2011

ANALYST: Rebecca Hough

- I. COMMITTEE: Marco Rubio for US Senate  
C00458844  
Keith A. Davis, Treasurer  
P.O. Box 140420  
Miami, FL 33114
- II. RELEVANT STATUTES: 11 CFR § 103.3(b)  
11 CFR § 110.1  
11 CFR § 110.2

III. BACKGROUND:

**Excessive, Prohibited and Other Impermissible Contributions or Transfers: Receipt of Excessive and Prohibited Contributions and Receipt of Primary Election Contributions after the Primary Election Date**

Marco Rubio for US Senate ("the Committee") received excessive, prohibited, and other impermissible contributions totaling \$210,173.09 for the 2010 Primary and General Elections. The Committee did not timely refund, reattribute, or redesignate prohibited and excessive contributions totaling \$184,296.09 from one hundred ten (110) individuals, three (3) limited liability partnerships, two (2) multicandidate Political Action Committees (PACs), one (1) national party committee, and two (2) corporate entities (Attachment 3). In addition, the Committee received 2010 Primary Election contributions after the date of the Primary Election totaling \$25,877.00 from nineteen (19) individuals and five (5) multicandidate PACs (Attachment 4). The Committee did not have net debts outstanding for the 2010 Primary Election and did not timely refund or redesignate the contributions.

On April 12, 2011, the Reports Analysis Division (RAD) analyst called Paul Kilgore, Assistant Treasurer, to inform him that the Committee could be referred for further Commission action for failure to timely remedy excessive and impermissible contributions received during the 2010 election cycle. Mr. Kilgore said he was aware of the issue, adding that the Committee made refunds during the 2010 Year End and 2011

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April Quarterly reporting periods to address the problem, and that he believed all of the outstanding excessive contributions were remedied (Attachment 5).

### **2010 April Quarterly Report**

During the 2010 April Quarterly reporting period, the Committee received excessive contributions totaling \$8,828.57 from six (6) individuals that were not redesignated, reattributed, or refunded within sixty (60) days of receipt (Attachment 2).

On April 15, 2010, the Committee filed the original 2010 April Quarterly Report, covering the period from January 1, 2010 through March 31, 2010. The report disclosed excessive contributions totaling \$31,663.00 from seventeen (17) individuals and one (1) partnership (Image 10020210001).

On May 18, 2010, a Request for Additional Information (RFAI) was sent to the Committee referencing the 2010 April Quarterly Report. The RFAI noted the Committee's receipt of excessive contributions and requested that the Committee take corrective action (Image 10330001122).

On June 22, 2010, the Committee filed an Amended 2010 April Quarterly Report with a cover letter that listed contributions that were redesignated, reattributed, or refunded during the 2010 July Quarterly reporting period (Image 10020413625).

On July 15, 2010, the Committee filed another Amended 2010 April Quarterly Report which disclosed no changes from the prior amendment with regard to excessive contributions referenced in the RFAI (Image 10020454008).

On the same day, the Committee filed a 2010 July Quarterly Report, covering the period from April 1, 2010 through June 30, 2010. The report disclosed redesignations, reattributions and refunds for eleven (11) individuals and one (1) partnership that were issued timely. In addition, the Committee issued refunds totaling \$8,828.57 to six (6) individuals more than sixty (60) days after receiving the contributions (Image 10020460001).

On July 30, 2010, the Committee filed another Amended 2010 April Quarterly Report which disclosed no changes from the prior amendment with regard to excessive contributions referenced in the RFAI (Image 10020590001).

### **2010 July Quarterly Report**

During the 2010 July Quarterly reporting period, the Committee received excessive contributions totaling \$34,503.94 from fifteen (15) individuals that were not redesignated, reattributed, or refunded within sixty (60) days of receipt (Attachment 2).

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On July 15, 2010, the Committee filed a 2010 July Quarterly Report, covering the period from April 1, 2010 through June 30, 2010. The report disclosed excessive contributions totaling \$98,036.65 from forty-nine (49) individuals and one (1) multicandidate PAC (Image 10020460001).

On September 14, 2010, an RFAI was sent to the Committee referencing the 2010 July Quarterly Report. Among other matters, the RFAI noted the Committee's receipt of excessive contributions and requested that the Committee take corrective action (Image 10330001879).

On October 15, 2010, the Committee filed a 2010 October Quarterly Report, covering the period from August 5, 2010 through September 30, 2010. The report disclosed redesignations, reattributions, and refunds for seventeen (17) individuals that were issued timely. Refunds totaling \$2,878.70 for two (2) other individuals were issued more than sixty (60) days after the initial receipt of the excessive contributions (Image 10020722226).

On October 19, 2010, the Committee filed an Amended 2010 July Quarterly Report which disclosed redesignations and reattributions for another seventeen (17) individuals and one (1) multicandidate PAC that were issued timely (Image 10020900001).

On October 21, 2010, the Committee filed a 2010 12 Day Pre-General Report, covering the period from October 1, 2010 through October 13, 2010. The report disclosed refunds totaling \$26,108.57 for another eight (8) individuals that were issued more than sixty (60) days after the initial receipt of the excessive contributions. No corrective action was reported for excessive contributions totaling \$5,516.67 from five (5) other individuals cited in the RFAI (Image 10020922965).

#### **2010 12 Day Pre-Primary Report**

During the 2010 12 Day Pre-Primary reporting period, the Committee received excessive contributions totaling \$7,361.00 from four (4) individuals and two (2) partnerships that were not redesignated, reattributed, or refunded within sixty (60) days of receipt (Attachment 2).

On August 12, 2010, the Committee filed a 2010 12 Day Pre-Primary Report, covering the period from July 1, 2010 through August 4, 2010. The report disclosed excessive contributions totaling \$27,407.00 from twenty (20) individuals and two (2) partnerships (Image 10020601726).

On September 14, 2010, an RFAI was sent to the Committee referencing the 2010 12 Day Pre-Primary Report. Among other matters, the RFAI noted the Committee's receipt of excessive contributions and requested that the Committee take corrective action (Image 10330001889).

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On October 15, 2010, the Committee filed a 2010 October Quarterly Report, covering the period from August 5, 2010 through September 30, 2010. The report disclosed redesignations, reattributions, and refunds for sixteen (16) individuals that were issued timely (Image 10020722226).

On October 21, 2010, the Committee filed a 2010 12 Day Pre-General Report, covering the period from October 1, 2010 through October 13, 2010. The report disclosed refunds totaling \$4,800.00 for two (2) partnerships that were issued more than sixty (60) days after the initial receipt of the contributions. No corrective action was reported for excessive contributions totaling \$2,561.00 from four (4) individuals (Image 10020922965).

### **2010 October Quarterly Report**

During the 2010 October Quarterly reporting period, the Committee received excessive and other impermissible contributions totaling \$131,519.58 that were not redesignated, reattributed, or refunded within sixty (60) days of receipt. The Committee received excessive contributions totaling \$105,642.58 from seventy-two (72) individuals and one (1) partnership (Attachment 2). In addition, the Committee received contributions that were designated for the Primary Election after the date of the Primary totaling \$25,877.00 from nineteen (19) individuals and five (5) multicandidate PACs (Attachment 4). The Committee did not have net debts outstanding for the 2010 Primary Election.

On October 15, 2010, the Committee filed a 2010 October Quarterly Report, covering the period from August 5, 2010 through September 30, 2010. The report disclosed excessive contributions totaling \$153,535.55 from ninety-four (94) individuals and one (1) partnership. In addition, the report disclosed contributions designated for the Primary Election that were received after the date of the Primary Election totaling \$25,877.00 from nineteen (19) individuals and five (5) multicandidate PACs (Image 10020722226).

On December 2, 2010, the Committee filed a 2010 30 Day Post-General Report, covering the period from October 14, 2010 through November 22, 2010. The report disclosed reattributions and redesignations for seven (7) individuals that were completed timely (Image 10021100001).

On December 20, 2010, an RFAI was sent to the Committee referencing the 2010 October Quarterly Report. Among other matters, the RFAI noted the Committee's receipt of excessive contributions and contributions designated for the Primary Election that were received after the date of the Primary Election, and requested that the Committee take corrective action (Image 10330003069).

On January 24, 2011, the Committee filed a letter referencing the RFAI for the 2010 October Quarterly Report. The letter stated, in part:

“The time period in question is one in which there were significant changes in our processing systems. For that reason, it has taken longer than normal to research our archives for the documentation we need to fully respond” (Image 11020014149).

On January 31, 2011, the Committee filed a 2010 Year End Report, covering the period from November 23, 2010 through December 31, 2010. The report disclosed refunds for three (3) individuals that were issued timely. The report also disclosed a \$100.00 refund to one (1) individual that was issued more than sixty (60) days after the receipt of the excessive contribution (Image 11020060220).

On February 25, 2011, the Committee filed a second letter referencing the RFAI for the 2010 October Quarterly Report. The letter stated, in part:

“With respect to the excessive contributions, some of the contributions in question have already been refunded. Others have been reattributed to their spouses and, in these cases, these transactions have already been reported on subsequent reports. For the others in question, we are resolving them during this period and all of that activity will be reported on our Q1 report. We would like to emphasize that the vast majority of these contributions were excessive for the Primary 2010 election period due to the fact that routine redesignation documentation procedures were inadvertently omitted for a short timeframe during a vendor transition. Otherwise, most would have been redesignated to the General election presumptively, thereby negating any excessive situation. We feel this is an important point to make” (Image 11020082719).

On March 14, 2011, the Committee filed an Amended 2010 October Quarterly Report. The amended report disclosed reattributions, redesignations, and refunds for eleven (11) individuals that were issued timely (Image 11020100001).

On April 15, 2011, the Committee filed a 2011 April Quarterly Report, covering the period from January 1, 2011 through March 31, 2011. The report disclosed a refund for one (1) individual that was issued timely. The report also disclosed refunds totaling \$88,574.58 for fifty-one (51) individuals that were issued more than sixty (60) days after the initial receipt of the contributions. No corrective action was reported for excessive contributions totaling \$16,968.00 from twenty-two (22) individuals<sup>1</sup> and one (1) partnership. The Committee also did not report remedies for Primary Election contributions received after the date of the Primary Election totaling \$25,877.00 from nineteen (19) individuals and five (5) multicandidate PACs (Image 11020183888).

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<sup>1</sup> Two individuals made excessive contributions for more than one election during the 2010 October Quarterly reporting period. One individual received no refund for a Primary Election excessive amount and received a late refund during the 2010 Year End reporting period for a General Election excessive amount. A second individual received a late refund for a Primary Election excessive amount during the 2011 April Quarterly reporting period and no refund for a General Election excessive amount. These individuals were also counted in the paragraphs above as late refunds.

## **2010 30 Day Post-General Report**

During the 2010 30 Day Post-Election reporting period, the Committee received prohibited and excessive contributions totaling \$27,960.00 that were not redesignated, reattributed, or refunded in the appropriate timeframes. The Committee received prohibited contributions totaling \$1,000.00 from two (2) corporate entities that were not refunded within thirty (30) days of receipt. The Committee also received excessive contributions totaling \$26,960.00 from thirteen (13) individuals, two (2) multicandidate PACs, and one (1) national party committee that were not redesignated, reattributed, or refunded within sixty (60) days of receipt (Attachment 2).

On December 2, 2010, the Committee filed a 2010 30 Day Post-General Report, covering the period from October 14, 2010 through November 22, 2010. The report disclosed prohibited contributions totaling \$1,000.00 from two (2) corporate entities and excessive contributions totaling \$68,150.00 from thirty (30) individuals, four (4) multicandidate PACs, and one (1) national party committee (Image 10021100001).

On January 6, 2011, an RFAI was sent to the Committee referencing the 2010 30 Day Post-General Report. Among other matters, the RFAI noted the Committee's receipt of excessive and prohibited contributions and requested that the Committee take corrective action (Image 11330003404).

On January 31, 2011, the Committee filed a 2010 Year End Report, covering the period from November 23, 2010 through December 31, 2010. The report disclosed redesignations and refunds for nine (9) individuals that were issued timely (Image 11020060220).

On February 10, 2011, the Committee filed a letter referencing the RFAI for the 2010 30 Day Post-General Report. The letter stated in part,

"Our committee realizes how important the contribution limits and source prohibitions established by the Commission are and we strive to abide by those limits and rectify all instances in the timeframe prescribed. Thus, we have reviewed all of the donations referenced in the Commission's letter and have reattributed, redesignated or refunded the required amounts for each one" (Image 11020064203).

On March 29, 2011, the Committee filed an Amended 2010 30 Day Post-General Report. The report corrected duplicate contributor entries and disclosed redesignations and reattributions for six (6) individuals and one (1) multicandidate PAC that were issued timely (Image 11020131023).

On April 15, 2011, the Committee filed a 2011 April Quarterly Report, covering the period from January 1, 2011 through March 31, 2011. The report disclosed refunds for another two (2) individuals and one (1) PAC that were issued timely. The report also disclosed refunds totaling \$7,200.00 for three (3) other individuals that were issued more

than sixty (60) days after the initial receipt of the contributions and \$1,000.00 for two (2) corporations that were issued more than thirty (30) days after the initial receipt of the prohibited donations. No corrective action was reported for excessive contributions totaling \$19,760.00 from ten (10) individuals, two (2) multicandidate PACs, and one (1) national party committee (Image 11020183888).

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

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