

FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

MAY 18 10 30 AM '99

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

AUDIT REFERRAL: #98-07
DATE ACTIVATED: February 10, 1999

STAFF MEMBER: Joel J. Roessner

SOURCE: Internally Generated

RESPONDENTS: Mary Landrieu for Senate Committee, Inc., and Thomas
C. Delahaye as Treasurer

The Iberia Parish Democratic Committee

Steven Ritvo

RELEVANT STATUTES: 2 U.S.C. § 441a(a)
2 U.S.C. § 441a(f)
2 U.S.C. § 434(a)(6)
11 C.F.R. § 104.5
11 C.F.R. § 110.1
11 C.F.R. § 110.2
11 C.F.R. § 110.9

INTERNAL REPORTS CHECKED: Interim Report of the Audit Division on the Mary
Landrieu for Senate Committee, Inc.

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter was referred by the Audit Division to the Office of General Counsel on September 3, 1998, and was generated from an audit of the Mary Landrieu for Senate Committee, Inc. ("Committee") undertaken in accordance with 2 U.S.C. § 438(b). The Committee registered with the Secretary of the Senate on April 18, 1996, as the principal campaign committee for Mary L. Landrieu, a candidate for the United States Senate from the

state of Louisiana. The Audit staff examined the activities of the Committee from March 28, 1996 to December 31, 1996, related to both the primary and the general election.¹ The first finding referred to this Office is that the Committee received 66 contributions which exceeded contribution limits set forth at 2 U.S.C. § 441a(a), in a total amount of \$52,765. The second finding referred to this Office is that the Committee received 34 contributions for which it was required to file 48-hour notices, but that it failed to do so, and that the Committee also filed incorrect 48-hour notices with respect to another 10 contributions.

II. FACTUAL AND LEGAL ANALYSIS

A. Law

1. Contribution Limits

The Federal Election Campaign Act of 1971, as amended, 2 U.S.C. §§ 431-451 ("the Act") and Title 11 of the Code of Federal Regulations prohibit any person from making contributions to any candidate and his or her authorized political committees with respect to any election for federal office which, in the aggregate, exceed \$1,000. 2 U.S.C. § 441a(a)(1)(A); 11 C.F.R. § 110.1(b)(1). Multicandidate political committees are prohibited from making such contributions which, in the aggregate, exceed \$5,000. 2 U.S.C. § 441a(a)(2)(A); 11 C.F.R. § 110.2(b)(1).

The Act provides that "contributions made by political committees established or financed or maintained or controlled by any corporation, labor organization, or any other person, including any parent, subsidiary, branch, division, department, or local unit of such corporation,

¹ On August 21, 1998, the Commission approved the Final Audit Report on the Mary Landrieu for Senate Committee, Inc.

labor organization, or any other person, or by any group of such persons, shall be considered to have been made by a single committee. . . ." 2 U.S.C. § 441a(a)(5).

No candidate or political committee may knowingly accept any contribution that violates the contribution limitations. 2 U.S.C. § 441a(f); 11 C.F.R. § 110.9(a).

2. 48-Hour Notice

The Act requires the principal campaign committee of a candidate to notify the Clerk of the House, the Secretary of the Senate, or the Commission, as appropriate, in writing, of any contribution of \$1,000 or more received by any authorized committee of such candidate after the twentieth day, but more than 48 hours before, any election. 2 U.S.C. § 434(a)(6)(A); 11 C.F.R. § 104.5. Notification must be made within 48 hours after the receipt of the contribution and must include the name of the candidate, the office sought by the candidate, the identity of the contributor, the date of receipt, and amount of the contribution. *Id.* This notification is in addition to all other reporting requirements under the Act. 2 U.S.C. § 434(a)(6)(B).

B. Analysis

1. Excessive Contributions

In its Interim Audit Report, the Audit Division identified 67 contributions to the Committee which appeared to exceed the limits set forth at 2 U.S.C. § 441a(a) by a total amount of \$53,015. *See* Attachment 1 at 4-7. This Office's inspection of the audit workpapers shows that the apparently excessive contributions identified by the Audit staff were:

- Primary contributions from 37 persons other than multicandidate political committees which appear to exceed the \$1,000 limit set forth at 2 U.S.C. § 441a(a)(1)(A) by a total amount of \$26,375;
- General election contributions from 27 persons other than multicandidate political committees which appear to exceed the \$1,000 limit set forth at 2 U.S.C. § 441a(a)(1)(A) by a total amount of \$17,140;

- Primary contributions from the Columbia HCA Texas Good Government Fund, a multicandidate political committee, which appear to exceed the \$5,000 limit set forth at 2 U.S.C. § 441a(a)(2)(A) by a total amount of \$500; and
- General election contributions from multicandidate political committees, which appear to exceed the \$5,000 limit set forth at 2 U.S.C. § 441a(a)(2)(A) by a total amount of \$9,000.

Supporting schedules of the apparently excessive contributions are attached to this report.

Attachment 4.

In the Interim Audit Report, the Audit Division recommended that the Committee demonstrate that the apparent excessive contributions did not in fact exceed the contribution limits, refund any amounts which it could not show to be within the contribution limits, and report as debts any amounts which it could neither show to be within the contribution limits, nor refund due to unavailability of funds. Attachment 1 at 7.

Thereafter, the Committee demonstrated, to the satisfaction of the Audit Division, that one \$250 contribution had been designated for the 2002 election, but accidentally had been deposited into the Committee's account for the 1996 general election. See Attachment 3 at 4. The remaining contributions, totaling \$52,765, were included in the finding of apparent excessive contributions which was referred to this Office. *Id.* at 3-4.

Apart from the \$250 contribution which was designated for the 2002 election and one \$5,000 general election contribution, it appears that the Committee does not dispute that the contributions identified by the Audit Division exceeded the limits set forth at 2 U.S.C.

§ 441a(a).² In its response to the Interim Audit Report the Committee acknowledged that it accepted excessive contributions, stating:

In reviewing the instances where the [interim] audit report notes excessive contributions, we submit that the Committee in no way purposely attempted to evade campaign contribution limits. Rather, we maintain and the record supports that the excessive contributions resulted from a failure to designate contributions within 60 (sixty) days of receipt or were the simple result of bookkeeping errors.

Attachment 2 at 3.³ The aggregate amount of the remaining undisputed excessive contributions is \$47,765. Accordingly, the Office of General Counsel recommends that the Commission find reason to believe that the Committee violated 2 U.S.C. § 441a(f) and 11 C.F.R. § 110.9(a) by accepting \$47,765 in contributions in excess of the contribution limits imposed by 2 U.S.C. § 441a(a).

Included in the undisputed excessive contributions are a \$3,000 primary contribution from Steven Ritvo and a \$3,000 general election contribution from the Iberia Parish Democratic Committee. Therefore, the Office of General Counsel recommends that the Commission find reason to believe that Steven Ritvo and the Iberia Parish Democratic Committee each violated

² The audit workpapers show that the Audit staff concluded that a \$5,000 general election contribution from the National Rural Letter Carriers Association Political Action Committee ("NRLCAPAC") and a \$5,000 general election contribution from the Committee on Letter Carriers Political Education ("CLCPE") should be considered to have been made by a single political committee under 2 U.S.C. § 441a(a)(5). It therefore appeared to the Audit Division that the aggregated general election contributions of these two committees exceeded the 2 U.S.C. § 441a(a)(2)(A) limit by \$5,000.

Subsequent to the referral, the Audit staff informed this Office that the Committee mailed a \$5,000 check to NRLCAPAC, representing a refund of the apparent excessive general election contribution. However, the Audit staff was informed that NRLCAPAC disputed that its contributions should be combined with those of CLCPE pursuant to 2 U.S.C. § 441a(a)(5), and it declined to negotiate the check. The Audit Division notified this Office that, upon further review, it had reversed its opinion, and decided that there was no basis for treating the separate contributions of these two committees as the contributions of a single committee. Accordingly, this Office has deleted the general election contributions from NRLCAPAC and CLCPE from the apparent excessive contributions referred by the Audit Division.

³ According to the Committee's January 31 Year End Report (Report of Receipts and Disbursements) filed January 29, 1999, the Committee refunded all of the excessive contributions identified by the Audit Division.

2 U.S.C. § 441a(a)(1)(A) by making excessive contributions to the Committee.⁴ However, the Office of General Counsel further recommends that the Commission take no further action against these contributors. Based on the excessive contribution amounts and consistent with the proper ordering of the Commission's resources and priorities, this Office believes that no further action with respect to these contributors is appropriate. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

2. 48-Hour Notice Requirement

In the Interim Audit Report, the Audit Division identified 34 contributions with respect to which the Committee failed to file required 48-hour notices. *See* 2 U.S.C. § 434(a)(6)(A). The aggregate amount of these 34 contributions was \$43,500.⁵ The Audit Division also identified ten contributions for which the Committee filed incorrect 48-hour notices. *See id.* The Committee's errors were that it either reported an incorrect contribution amount or incorrect contributor.⁶ The aggregate amount which was reported incorrectly was \$22,000.

The Committee acknowledges that it did not comply with the 48-hour notice requirement. Attachment 2 at 2-3. However, the Committee urges that its errors were not material, arguing that "[t]he error noted by the audit disclosed that the Committee failed to include in the 48 hour reports 43 contributions totaling \$64,000 [sic]. In light of the total campaign contributions of

⁴ Based on established Commission practice, this Office makes no recommendation concerning the remaining contributors of excessive contributions.

⁵ Of these contributions, fifteen contributions, totaling \$20,000, were made within two and twenty days of the September 21, 1996 Louisiana primary. The remaining nineteen contributions, totaling \$23,500, were made within two and twenty days of the November 5, 1996 general election.

⁶ The Interim Audit Report states that "[e]xcept for one PAC [contributor notice], these notices either disclosed the wrong name of the contributor or contained the wrong amount." Attachment 1 at 7. Following an inquiry from this Office, and upon further review of the workpapers, the Audit staff concluded that all of the incorrect 48-hour notices arise from incorrect reporting of either the contribution amount or the contributor identification.

\$2,541,114, we respectfully submit that the 48 hour reporting lapses while regrettable, are not material." *Id.* at 3. Neither the Committee's expression of regret, nor its suggestion that the violations were "not material," refutes the Audit Division's identification of apparent violations of the 48-hour notice requirement. Accordingly, the Office of General Counsel recommends that the Commission find reason to believe that the Committee violated 2 U.S.C. § 434(a)(6)(A) by failing to file 48-hour notices, or filing incorrect 48-hour notices, for 44 contributions in an aggregate amount of \$65,500, received by the Committee after the twentieth day, but more than 48 hours before, the 1996 Senate election.

III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

This Office recommends that the Commission offer to enter into conciliation with the respondents prior to a finding of probable cause to believe. Attached for the Commission's approval is a proposed conciliation agreement (Attachment 8).

IV. RECOMMENDATIONS

1. Open a MUR.
2. Find reason to believe that the Mary Landrieu for Senate Committee, Inc., and Thomas C. Delahaye, as treasurer, violated 2 U.S.C. § 441a(f) and 11 C.F.R. § 110.9(a), and 2 U.S.C. § 434(a)(6)(A), and enter into conciliation prior to a finding of probable cause to believe.
3. Find reason to believe that Steven Ritvo violated 2 U.S.C. § 441a(a)(1)(A), and take no further action.
4. Find reason to believe that the Iberia Parish Democratic Committee violated 2 U.S.C. § 441a(a)(1)(A), and take no further action.
5. Close the file as it pertains to Steven Ritvo and the Iberia Parish Democratic Committee.
6. Approve the attached Factual and Legal Analyses.
7. Approve the attached conciliation agreement.
8. Approve the appropriate letters.

Lawrence M. Noble
General Counsel

May 17, 1999
Date

BY:

Kim Bright-Coleman
Kim Bright-Coleman
Associate General Counsel

Attachments:

1. Interim Audit Report
2. Committee Response to Interim Audit Report
3. Audit Referral

4. Schedules of Apparently Excessive Contributions
5. Factual and Legal Analysis -- Mary Landrieu for Senate Committee, Inc., and Thomas C. Delahaye, as Treasurer (proposed)
6. Factual and Legal Analysis -- Steven Ritvo (proposed)
7. Factual and Legal Analysis -- The Iberia Parish Democratic Committee (proposed)
8. Conciliation Agreement -- Mary Landrieu for Senate Committee, Inc., and Thomas C. Delahaye, as Treasurer (proposed)

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R17(2)

LANDRIEU FOR US SENATE

(Subject)

Schedule of Contributors in Excess of \$1000

(Assignment)

	Last Name	First Name	W/P Ref.	Amount	Response	Excessive Amount	Election Exces
1	Adrian	Donald	C11/2-1	\$1,000 \$1,000	R17E p 9	\$1,000	G
2	Alario	Gene	C11/2-2	\$1,000 \$1,500	R17E p 10	\$500	P
3	Ashy	Bill	C11/2-3	\$1,000 \$1,000	R17E p 10	\$1,000	G
4	Besthoff	Walda	C11/2-7	\$1,000 \$1,000	R17E p 10	\$1,000	G
5	Bhatti	Ataur	C11/2-8	\$1,000 \$500 \$70	R17E p 10	\$570	G
6	Burleigh	Lawrence	C11/2-9	\$250 \$1,000	R17E p 11	\$250	G
7	Calvert	Margot	C11/2-10	\$1,000 \$1,000	R17E p 9	\$1,000	P
8	Cofrin	Edith	C11/2-12	\$1,000 \$1,000	R17E p 5	\$1,000	P
9	Conway	Williamn	C11/2-14	\$1,000 \$500	R17E p 11	\$500	P
10	Cotsoradis	John	C11/2-15	\$1,000 \$1,000	R17E p 11	\$1,000	G
11	Dejean	Edwin	C11/2-16	\$100 \$900 \$100	R17E p 11	\$100	P
12	Dranguet	Ed	C11/2-17	\$1,000 \$1,000	R17E p 5	\$1,000	P
13	Efteland	Jon	C11/2-18	\$1,000 \$1,000	R17E p 12	\$1,000	G
14	Fransen	Remy	C11/2-19	\$250 \$1,000	R17E p 12	\$250	G
15	Friedmann	Joni	C11/2-20	\$250 \$1,000	R17E p 3	\$250	P

C 11/1-2

	Last Name	First Name	W/P Ref.	Amount	Response	Excessive Amount	Election Exces
16	Fulmer	Delmar		\$500			
				\$35			
				\$250			
			C11/2-21	\$500	R ¹⁷ (3)p 8	\$35	G
17	Gambel	Elizabeth		\$50			
				\$50			
				\$35			
			C11/2-22	\$950	R ¹⁷ (3)p 6	\$50	P
18	Gates	Joanne		\$1,000			
			C11/2-23	\$250	R ¹⁷ (3)p 8	\$250	P
19	Gerhardt	William		\$1,000			
				\$1,000			
				\$250			
				\$500		\$250	P
			C11/2-26	\$1,000	R ¹⁷ (3)p 8	\$500	G
20	Greenbalt	Leon	C11/2-27	\$2,000	R ¹⁷ (3)p 12	\$1,000	P
21	Gregorio	Sam		\$1,000			
			C11/2-28	\$1,000	R ¹⁷ (3)p 8	\$1,000	G
22	Hall	Kathryn		\$1,000			
			C11/2-29	\$1,000	R ¹⁷ (3)p 7	\$1,000	P
23	Harkins	Deborah		\$250			
				\$750			
				\$500			
			C11/2-30	\$250	R ¹⁷ (3)p 5	\$750	P
24	Hayden	Jan		\$1,000			
			C11/2-31	\$1,000	R ¹⁷ (3)p	\$1,000	P
25	Jacobs	Jodi		\$35			
			C11/2-32	\$1,000	R ¹⁷ (3)p 13	\$35	G
26	Jacobs	Marvin		\$1,000			
				\$500			
			C11/2-33	\$500	R ¹⁷ (3)p 4	\$500	P
27	Jacobs	Dorothy		\$500			
			C11/2-33	\$1,500	R ¹⁷ (3)p 13	\$1,000	P
28	James	Mack		\$1,000			
			C11/2-34	\$1,000	R ¹⁷ (3)p 6	\$1,000	P
29	Johnson	Pittman		\$250	SEE		
				\$1,000	AUDITOR'S FT		
				\$1,000	GEN LST		
			C11/2-35	\$1,000	R ¹⁷ (3)p 6	\$250	G
30	Kind	Patricia		\$1,000			
			C11/2-36	\$1,000	R ¹⁷ (3)p 7	\$1,000	P
31	Kirkpatrick	Kris		\$1,000			
			C11/2-37	\$250	R ¹⁷ (3)p 13	\$250	G
32	Kullman	Ruth		\$500			

ATTACHMENT

4

Page

2

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5

C 11/1-2

	Last Name	First Name	W/P Ref.	Amount	Response	Excessive Amount	Election Exces
				\$25			
33	Landrieu	Keri	C11/2-39	\$1,000	R170p 4	\$25	P
				\$1,000			
			C11/2-41	\$1,000	R170p 3	\$1,000	P
34	Landrieu	Mitchell	C11/2-42	\$2,000	R170p 7	\$1,000	P
35	Landrieu	Sherri		\$1,000			
				\$250			
			C11/2-43	\$35	R170p 2	\$250	P
36	Landry	Wayne		\$1,000			
			C11/2-44	\$1,000	R170p 13	\$1,000	P
37	LeBlanc	Margaret		\$60			
				\$500			
				\$1,000			
				\$250			
				\$125			
			C11/2-45	\$125	R170p 1	\$185	G
38	Lipton	Howard		\$1,000			
			C11/2-46	\$1,000	R170p 2	\$1,000	P
39	Lupin	Ralph		\$1,000			
				\$1,000			
			C11/2-47	\$1,000	R170p 3	\$1,000	P
40	Magee	Donald		\$100			
				\$1,000			
			C11/2-48	\$200	R170p 6	\$100	P
41	Martin	Cynthia		\$1,000			
				\$1,000			
			C11/2-49	\$1,000	R170p 1	\$1,000	G
42	Meyer	Vernon	C11/2-50	\$2,000	R170p 14	\$1,000	G
43	Nanda	Laura		\$500			
				\$1,000			
			C11/2-51	\$25	R170p 14	\$25	P
44	Nguyen	Nhu		\$150			
			C11/2-52	\$1,000	R170p 14	\$150	G
45	Noland	John		\$1,000			
			C11/2-53	\$1,000	R170p 2	\$1,000	G
46	Rabelais	Rodney		\$1,000			
			C11/2-54	\$25	R170p 14	\$25	G
47	Rack	Elizabeth		\$1,000			
				\$140			
			C11/2-55	\$250	R170p 7	\$140	G
48	Reilly	Kevin		\$1,000			
			C11/2-56	\$1,000	R170p 2	\$1,000	G
49	Ritvo	Steven		\$1,000			

ATTACHMENT

4

Page 3 of 5

	Last Name	First Name	W/P Ref.	Amount	Response	Excessive Amount	Election Exces
				\$1,000			
			C11/2-57	\$1,000	R ¹⁷ ③ 4	\$2,000	P
50	Rosenblu	Paul		\$1,000			
			C11/2-58	\$1,000	R ¹⁷ ③ 15	\$1,000	G
51	Saizan	Darrel		\$1,000			
			C11/2-59	\$250	R ¹⁷ ③ 15	\$250	G
52	Scheerle	P.K.		\$1,000			
			C11/2-60	\$250			
				\$1,000	R ¹⁷ ③ 6	\$250	P
53	Sheerr	Betsy		\$200			
			C11/2-62	\$250			
				\$250			
				\$750	R ¹⁷ ③ 1	\$250	G
54	Wade	Gwendoly		\$50			
			C11/2-66	\$25			
				\$1,000	R ¹⁷ ③ 3	\$75	P
55	Watson	Fran		\$1,000			
			C11/2-67	\$500	R ¹⁷ ③ 15	\$500	P
56	Wich	Joan		\$500			
			C11/2-69	\$500	R ¹⁷ ③ 5	\$500	P
57	Willhoft	Raymond		\$1,000			
			C11/2-70	\$1,000	R ¹⁷ ③ 15	\$1,000	P
58	Willhoft, Jr	Raymond		\$1,000			
			C11/2-70	\$1,000	R ¹⁷ ③ 16	\$1,000	P
59	Willhoft	Rod		\$1,000			
			C11/2-70	\$1,000	R ¹⁷ ③ 16	\$1,000	P
60	Fontcuberta	Ralph		\$1,000			
			C11/2-71	\$1,000	R ¹⁷ ③ 12	\$1,000	G
61	Barham	Mack		\$2,000	R ¹⁷ ③ 9	\$1,000	P
62	Chafetz	Laurence		\$2,000	R ¹⁷ ③ 9	\$1,000	P
TOTAL of Excessive Amount						\$41,015	

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ATTACHMENT
4 of 5
Page 4 of 5

Pittman Johnson

This contributor's check was made out to - to the Reelect Cmte and should have been deposited in the Reelect. It was accidentally deposited into the "Mary Landrieu acct" and thus became excessive for the "Mary Landrieu acct". Per JS, if the Cmte transferred monies to cover this chk back to the Reelect, then this contributor would not be an issue. The Cmte supplied a validated ^{Page 4} deposit slip showing the monies going to the Reelect. See R¹⁷ ③ ④. Thus amt will be removed from the total 41,015 - 250 = 40,765 SEE R¹⁷ ③ ④

Federal Election Commission
Audit Division

R17 ①

Landrieu For US Senate

(ASSIGNMENT)

PACS-Excessive Contributions

(SUBJECT)

WP REF #	PAC	AMOUNT	Total Amount	Excessive Amount	Response	Excess Election
C6/2-21	Columbia HCA Texas Good Gov	\$500.00				
	Columbia HCA Texas Good Gov	\$5,000.00				
	Columbia HCA Texas Good Gov	\$5,000.00	\$10,500.00	\$500.00	R17 ③ p 4	P
C6/2-24	Iberia Parish Democratic Committee	\$3,000.00	\$3,000.00	\$2,000.00	R17 ③ p 16	G
C6/2-43	NRCLA Political Action Committee	\$5,000.00				
	Comte on Letter Carriers Pol Edu	\$10,000.00	\$15,000.00	\$5,000.00	R17 ③ p 16	G
C6/2-50	AFT Staff Union Comte on Pol Educ	\$4,000.00				
	American Federation of Teachers	\$1,000.00				
	American Federation of Teachers	\$1,000.00				
	American Federation of Teachers	\$2,000.00				
	American Federation of Teachers	\$1,000.00				
	American Federation of Teachers	\$5,000.00	\$14,000.00	\$4,000.00	R17 ③ p 17	G
C6/2-66	Flo-Sun PAC	\$500.00				
	Flo-Sun PAC	\$1,000.00	\$1,500.00	\$500.00	R17 ③ p 1	P
	Total			\$12,000.00		

1 NRCLA is affiliated with Committee on Letter Carrier Political Education Fund. All affiliated cmtes are subject to one overall contribution limit, per candidate, per election. 110.3(a)(1)(i)

2 AFT Staff union Comte on Political Education is affiliated with American Federation of Teachers and too share a contribution limit.

3 FLO-SUN PAC is not a multicandidate PAC, per the E-index.

ATTACHMENT

Page 5 of 5