



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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March 3, 2011

AGENDA ITEM

MEMORANDUM

For Meeting of 3-3-11

TO: The Commission

SUBMITTED LATE

FROM: Vice Chair Caroline C. Hunter *CCH / EW*

SUBJECT: A07-14 (Audit Division Recommendation Memorandum on the Georgia Federal Elections Committee)

Attached, please find a proposed motion in the above-referenced matter.

Motion # 1 on A07-14 (Georgia FEC)

Move to approve **Finding 1 (“Misstatement of Financial Activity”)** in Agenda Document No. 11-10, subject to appropriate changes pursuant to Directive 70, with the following modifications (and all necessary technical and conforming changes):

- 1) Find that GFEC’s payroll escrow account did not violate the Act or Commission regulations because the account was not an allocation account established pursuant to 11 C.F.R. 106.7 to pay for allocable activities, but rather was a pass-through escrow account established to accommodate GFEC’s payroll vendor and used for non-allocable disbursements. Moreover, with respect to its truly allocable payroll disbursements, GFEC transferred non-Federal funds to its Federal operating account pursuant to Section 106.7(f) and reported those allocations on Schedule H4 before it transferred funds from the Federal operating account to the payroll escrow account. Although the Commission amended the regulations in 1990 to require state party committees to pay for allocable expenses using either a Federal account or a separate allocation account, those regulations do not apply here because GFEC’s escrow account was not used to pay for allocable expenses, and the “functional equivalent” of an allocation account is not a cognizable legal concept under the Act or Commission regulations. Additionally, the Commission determined not to pursue enforcement action against a committee faced with the same problem caused by the same payroll vendor in an internally generated matter in 2006.

- 2) Find that GFEC is not required to further amend its reports in relation to the transactions involving the payroll escrow account.