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Friends for

Menor

Campaign Committee

December 21, 2009

Joseph F. Stoltz
Assistant Staff Director
Audit Division
Federal Election Commission
Washington, D.C. 20463

Re: Draft Audit Report

Dear Mr. Stoltz:

We have had an opportunity to review the above-referenced draft audit report. Please be advised that based on our review, we continue to have strong objections to the findings and recommendations contained therein, and therefore would respectfully request that the report be amended to reflect our concerns. The reasons for our objections are discussed below.

I. The \$5,500 Business Loan Received By The Candidate and Deposited Into His Law Firm Account Was Not A Prohibited Contribution.

In its draft audit report, the Audit Division questioned the permissibility of a \$5,500 business loan that was furnished to the Candidate by a mortgage lending company, and rendered a finding that the loan constituted a "prohibited contribution." However, such a finding presupposes that the proceeds from this loan, which were deposited into the Candidate's law account, were the source of funds for the loans that the Candidate made to his campaign. In other words, as the Commission's Office of General Counsel indicated on page 3 of its Memorandum attached to the draft audit report, the business loan should be treated as a prohibited corporate contribution "if the candidate then made those proceeds available to the Committee in connection with the campaign . . ." (Emphasis added).

The problem with the Commission's finding is that there is no evidence to demonstrate that any portion of the \$5,500 loan was utilized by the Candidate to make loans to his campaign. The Office of General Counsel acknowledged this fact. On page 4 of its Memorandum, it concluded that based on generally accepted accounting principles, it is impossible for the Commission to accurately determine that loan proceeds from the mortgage lending company were the source of the loans that were deposited into the campaign account.

Absent clear evidence showing that the Candidate utilized funds from the business loan to finance his campaign, it would be unfair and prejudicial to the Candidate for the Commission to render a finding that the loan was "prohibited" under federal elections law. Furthermore, we would respectfully submit that the campaign committee is entitled to the benefit of the doubt regarding this issue for several reasons. First of all, the Candidate and the mortgage lending company never intended that the proceeds of the loan were to be used for campaign purposes. The Candidate attempted to make clear in the Declaration that he submitted to the audit staff in response to the interim draft audit report that he deposited the loan proceeds into his law account, to cover law practice related expenses. As the committee has stated previously, the plain language of the promissory note specifies that "[r]epayment of this loan is to be secured by accounts receivable of the Law Offices of Ron Menor." The parties included this language to make clear that funds were being loaned to the Candidate in connection with his law practice.

In this regard, it should be noted that on page 4 of its Memorandum, the Office of General Counsel indicated that out of the \$45,000 in funds (which included the \$5,500 business loan) that were deposited into the campaign account, the Candidate made a total of \$39,000 in loans to the Committee, leaving \$6,000 in the law account which were not used in connection with the campaign. The fact that the Candidate retained in his law account almost the exact same amount that he had borrowed from the mortgage lending company demonstrates that the proceeds from the business loan were being held in reserve for the Candidate's law practice, and not for campaign purposes, and the proceeds from the loan were in fact not used for campaign purposes.

II. The Commission Should Consider Amending The Finding of The Audit Division Concerning the \$9,000 Loan from the Candidate's Joint Checking Account.

The Audit Division concluded that the \$9,000 loan from the Candidate's joint checking account to the campaign was impermissible because it exceeded limits that are applicable to personal loans or contributions from the Candidate's spouse. The audit staff rendered this finding because the Candidate's spouse signed the check drawn from the joint checking account, and the Committee stated in its written response to the interim draft report that the spouse intended to make a personal loan to the campaign.

While it is true that the spouse intended to make a loan to the campaign, we would respectfully ask the Commission to consider whether a portion of the \$9,000 loan check could be construed as coming from the Candidate himself, pursuant to the applicable rule cited in the draft audit report. As is stated on page 5 of the draft report, the Committee can rebut the presumption that a contribution from a joint checking account was made solely by the spouse "by showing the Candidate intended to make the contribution."

In the instant case, there clearly was an intent on the part of the Candidate to make a loan to the campaign from the joint check account. In this regard, we are furnishing to the Commission an Affidavit from the Candidate's spouse indicating that she issued and signed a check in the amount of \$9,000 payable to the campaign because the Candidate directed and asked her to do so. (See Affidavit of Patricia Menor attached hereto and made a part hereof.) The Candidate of course was legally entitled to direct that funds in the joint account be used for campaign purposes as a co-owner of the account. Therefore, based on the Commission's own rule, it should consider an amendment to the audit staff's findings to reflect the fact that the \$9,000 loan was based on a joint and mutual decision on the part of Candidate and his spouse to use monies from the joint bank account for the campaign.

There is another important matter that we need to bring to the Commission's attention. It appears that the audit staff has attributed an additional \$1,626 in contributions to the Candidate's spouse. We have reviewed our records and have been unable to verify that she made any contribution in this amount. The Committee would appreciate clarification on this point.

In light of our strong objections to the findings and recommendations in the draft audit report, the committee had considered requesting a hearing on this matter before the Commission. However, given the considerable time and expenses that would be involved in contesting the findings and in the interests of bringing closure to this audit, which was initiated close to three years ago, we have decided to forego a hearing request and to have the Commission render a decision based on the record.

With respect to the remaining loans totaling \$15,000 which the Audit Division has questioned, we would like the Commission to know that if it determines that these loans exceeded applicable limits, this occurred inadvertently and we are prepared to work with the Commission to implement whatever corrective actions are necessary.

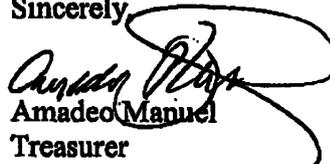
III. Status of Loans from the Candidate to the Campaign.

For the information of the Commission, the bulk of the loans delineated in the draft audit report have been fully paid. The \$5,500 loan from the mortgage lending company and the \$5,000 loan from another individual have already been paid in full with interest. Moreover, the Candidate performed legal work for the campaign treasurer and his spouse in lieu of a repayment to them for the loan that they made. Finally, the Committee is prepared to refund to the Candidate's spouse amounts loaned from the joint checking account if the Commission deems it appropriate, and amend its reports as necessary to reflect the foregoing.

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Draft Audit Report
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We hope that this written response has been helpful. As always, please feel free to contact us should you need additional information.

Sincerely,


**Amadeo Manuel
Treasurer
Friends for Menor**

Attachment

AFFIDAVIT OF PATRICIA MENOR

STATE OF HAWAII)
) SS:
CITY AND COUNTY OF HONOLULU)

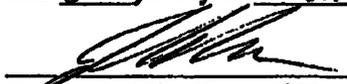
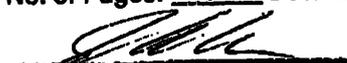
PATRICIA MENOR, being duly sworn on oath, deposes and says:

1. Affiant is a resident of the City and County of Honolulu and is the spouse of Ron Menor.
2. Her husband was a candidate for a seat in the United States House of Representatives in the Second Congressional District during the 2006 elections.
3. In furtherance of her husband's campaign, Affiant issued and signed a check in the amount of \$9,000. payable to his campaign committee from a joint account held by her and her husband. Affiant agreed to issue the check after her husband directed and asked her to do so because the campaign needed additional funds. Affiant was also instructed by her husband to make a notation on the check that the amount being withdrawn from their joint checking account was a loan from them to the campaign committee.

FURTHER AFFIANT SAYETH NAUGHT.


PATRICIA MENOR

Subscribed and sworn to before me
this 21st day of December, 2009.


 Notary Public, State of Hawaii
 Print Name: Jessica E Weaver
 My Commission Expires: August 20, 2010
 NOTARY PUBLIC CERTIFICATION
 Jessica E. Weaver First Judicial Circuit
 Doc. Description: Affidavit of Patricia Menor
 No. of Pages: 1 Date of Doc. 12/21/09

 Notary Signature Date 12/21/09