



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Patricia C. Orrock
Chief Compliance Officer

OCT 13 2016

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FROM: Adav Noti *AN*
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SUBJECT: Draft Final Audit Report on the Kind for Congress Committee (LRA 1018)

I. INTRODUCTION

The Office of General Counsel has reviewed the proposed Draft Final Audit Report ("DFAR") on the Kind for Congress Committee ("Committee"). We concur with the sole finding in the DFAR: Untimely Deposit of Receipts. We comment here only to address the Committee's response to the Interim Audit Report in which it contends that the Federal Election Campaign Act of 1971, as amended, ("Act") and Commission regulations are unclear with respect to the timeliness of deposits. If you have any questions, please contact Danita Alberico, the attorney assigned to this audit.

II. A COMMITTEE AGENT'S OR EMPLOYEE'S RECEIPT OF A CONTRIBUTION IS IMPUTED TO THE TREASURER TO DETERMINE TIMELINESS OF DEPOSIT

This finding concerns contributions that Committee representatives received in Washington, D.C. and mailed to its treasurer, located in La Crosse, Wisconsin, to deposit in the Committee's bank account. The time between the Committee representatives' receipt of these

contributions in Washington and their deposit in La Crosse averaged 26 days. The finding concludes that the Committee failed to deposit contributions totaling \$581,719 within 10 days of receipt. The Audit staff used the date of the contributor check (plus three days for mailing) as the date of receipt because the Committee was unable to provide firm information on the actual dates of receipt. We concur with this finding.

The Committee, however, argues that the Commission's rules, when read together, are unclear with respect to the timeliness of deposits, and thus the regulations could be interpreted to mean that a treasurer has 20 days within which to deposit contributions. The provisions at issue are 11 C.F.R. § 103.3(a), which requires that all receipts by a political committee be deposited within 10 days of the treasurer's receipt, and 11 C.F.R. § 102.8(a), which requires every person who receives a contribution for an authorized political committee to forward the contribution to the treasurer no later than 10 days after receipt.

The Act and Commission regulations are clear regarding the time frame for depositing contributions regardless of whether those contributions are received directly by the treasurer or by an individual acting on behalf of the committee. Contributions must be deposited within 10 days. 11 C.F.R. § 103.3. The Commission has stated that when a committee representative or agent receives a contribution, the receipt of that contribution is imputed to the committee's treasurer and thus must be deposited within 10 days of the treasurer's or agent's receipt. For example, in interpreting Section 102.8, the Commission said that "the date of receipt of contributions shall be the date on which the treasurer *or any other person acting on behalf of a committee* obtains possession of the contribution." Explanation and Justification for *Section 102.8 Receipt of Contributions*, 45 Fed. Reg. 15080, 15084 (Mar. 7, 1980) (emphasis added). In addition, in an advisory opinion addressing the applicability of Section 103.3(a) and whether the 10-day deposit period began to run from the treasurer's actual receipt, even though the contributions had been received at an earlier date by the committee's employee-agent, the Commission explicitly stated that the 10-day deposit period begins running with the date of receipt of the contribution by an agent authorized to receive contributions for the committee. Advisory Opinion 1992-29 (Holtzman).