



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

MEMORANDUM

November 6, 2003

TO: LAWRENCE H. NORTON
GENERAL COUNSEL

THROUGH: JAMES A. PEHRKON
STAFF DIRECTOR

ROBERT J. COSTA
DEPUTY STAFF DIRECTOR

FROM: JOHN D. GIBSON
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION

SUBJECT: REFERRAL OF THE LIBERTARIAN PARTY OF ILLINOIS

2003 NOV -7 A 10:14

FEDERAL ELECTION COMMISSION
OFFICE OF THE GENERAL COUNSEL

The Libertarian Party of Illinois ("the Committee") received excessive contributions from two (2) individuals totaling \$76,270 during the 2001 calendar year and \$65,749 during the 2002 calendar year and failed to take any corrective action. In accordance with the 2001-2002 RAD Review and Referral Procedures for Unauthorized Committees (Standard 5), a review by your office is required.

Copies of any reports or letters either filed by the Committee or sent by the Reports Analysis Division and referenced in this referral, are available for your review on the FEC Imaging System or the web site.

For your information, the Committee failed to file reports for calendar years 2000 and 2001, and has been assessed several civil money penalties under the Administrative Fine Program. The Committee was fined \$3,000 for failing to file the 2000 October Quarterly Report and failed to challenge or pay the fine, resulting in a transfer of the case to the United States Department of the Treasury ("Treasury") for collection. Of the \$3,000 fine amount, Treasury has collected \$969. The Committee was also fined \$2,700 for failing to file the 2000 30 Day Post-General Report and failed to challenge or pay the fine, resulting in a transfer of the case to Treasury for collection. Treasury has collected the full amount of

this fine. Further, the Committee was fined \$3,375 for failure to file the 2000 Year End Report and failed to challenge or pay the fine, resulting in a transfer of the case to Treasury for collection. Of the \$3,375 fine amount, Treasury has collected \$2,700 and compromised \$675. Finally, the Committee was fined \$7,875 for failure to file the 2001 Mid-Year Report. The Committee did, however, petition the district court, but lost the case. Treasury also received this case for collection, and as of this date has failed to collect any portion of the debt.

If you have any questions regarding this referral, please contact Alissa Sagri at 694-1130.

Attachments

REPORTS ANALYSIS REFERRAL

DATE: November 6, 2003

ANALYST: Alissa Sagri

I. COMMITTEE: Libertarian Party of Illinois
(C00315713)
William J. Stephens, Treasurer
316 ½ N. River St., Suite B
East Dundee, IL 60118

II. RELEVANT STATUTE: 2 U.S.C. §441a(a)
11 CFR §110.1(d)

III. BACKGROUND:

Excessive Contributions Received from Individuals

The Libertarian Party of Illinois ("the Committee") received excessive contributions from two (2) individuals totaling \$76,270 in the 2001 calendar year as disclosed during the 2001 Mid-Year and Year End reporting periods and \$65,749.28 in the 2002 calendar year as disclosed during the 2002 April Quarterly, July Quarterly, October Quarterly and 30 Day Post-General reporting periods.

On September 21, 2001, the Committee filed a 2001 Mid-Year Report which disclosed excessive contributions received from two (2) individuals totaling \$16,100 (Attachment 2 and Image # 21990497541).

On January 29, 2002, the Committee filed a 2001 Year End Report which disclosed additional excessive contributions received from the two (2) individuals totaling \$60,170 (Attachment 2 and Image # 22990173834).

A Request for Additional Information (RAFI) was sent to the Committee on March 20, 2002 referencing the 2001 Mid-Year Report (Image # 22037504582). The RAFI sought clarification regarding contributions received from individuals that appeared to be in excess of the \$5,000 per calendar year limit and informed the Committee that it may have to refund the excessive amount. The RAFI further stated that the Committee may retain the funds if within 60 days of the date of receipt, the conditions for reattribution were met or the funds were transferred to an account not used to influence federal elections. In addition, the

THE LIBERTARIAN PARTY OF ILLINOIS
REPORTS ANALYSIS OGC REFERRAL
PAGE 2

RFAI stated that although the Commission may take further legal action, any prompt action by the Committee to seek reattribution, transfer out, or refund the excessive amount would be taken into consideration.

On April 11, 2002, a Second Notice was sent to the Committee for failure to respond to the RFAI referencing the 2001 Mid-Year Report (Image #22037523982). The Committee submitted a miscellaneous electronic document on June 4, 2002 referencing the 2001 Mid-Year Report which failed to address the excessive contributions.

On April 14, 2002, the Committee filed a 2002 April Quarterly Report which disclosed excessive contributions received from two (2) individuals totaling \$27,875 (Attachment 2 and Image # 22990655161).

On July 15, 2002, the Committee filed a 2002 July Quarterly Report which disclosed additional excessive contributions received from the two (2) individuals totaling \$27,974.28 (Attachment 2 and Image # 22991301403).

On October 16, 2002, the Committee filed a 2002 October Quarterly Report which disclosed additional excessive contributions received from the two (2) individuals totaling \$7,475 (Attachment 2 and Image # 22992257242).

On December 1, 2002, the Committee filed a 2002 30 Day Post-General Report which disclosed additional excessive contributions received from one (1) of the individuals totaling \$2,350 (Attachment 2 and Image # 22992746119).

RFAs were sent to the Committee on June 4, 2003 referencing the 2001 Year End Report and the 2002 April Quarterly, July Quarterly, October Quarterly and 30 Day Post-General Reports (Image #'s: 23038094758, 23038094750, 23038094737, 23038094721 and 23038094683, respectively). The RFAs sought clarification regarding contributions received from individuals that appeared to be in excess of the \$5,000 per calendar year limit and informed the Committee that it may have to refund the excessive amount. The RFAs further stated that the Committee may retain the funds if within 60 days of the date of receipt, the conditions for reattribution were met or the funds were transferred to an account not used to influence federal elections. In addition, the RFAs stated that although the Commission may take further legal action, any prompt action by the Committee to seek reattribution, transfer out, or refund the excessive amount would be taken into consideration.

On June 26, 2003, a Second Notice was sent to the Committee for failure to respond to the RFAs referencing the 2001 Year End Report and the 2002 April Quarterly, July Quarterly, October Quarterly, and 30 Day Post-General Reports

THE LIBERTARIAN PARTY OF ILLINOIS
REPORTS ANALYSIS OGC REFERRAL
PAGE 3

(Image #'s 23038113259, 23038113272, 23038113281, 23038113295 and 23038113312, respectively).

On July 1, 2003, Julia Fox, the Assistant Treasurer, contacted the Reports Analysis Division (RAD) analyst by phone to discuss the RFAs referencing the receipt of excessive contributions (Attachment 3). Ms. Fox explained that the Committee was using its federal account as a shared federal and non-federal account which is why they received the excessive contributions. She noted that she now knows she should have two separate accounts for state and federal activity. She further stated that she could not contact or locate either of the individuals who gave the excessive contributions. The RAD analyst told Ms. Fox that she should try her best to make contact with the individuals and refund the money. Ms. Fox then noted that the Committee did not have sufficient funds to repay the excessive amounts. The RAD analyst explained that they would have to disclose the excessive amounts as debts owed to the individuals and pay off these debts with the next contributions they received. The RAD analyst also told Ms. Fox that if she could not make contact with the individuals, she should disclose the excessive amount as a debt owed to the non-federal account.

On July 11, 2003, Ms. Fox filed a letter¹ on behalf of the Committee referencing the 2001 Year End Report and the 2002 April Quarterly, July Quarterly, October Quarterly and 30 Day Post-General Reports (Image # 23038140877) which stated that she had emailed one (1) of the individuals whose contributions exceeded the FEC limits and would be "sending both individuals, within the next few days, a letter stating that the Libertarian Party of Illinois is required by FEC regulations to inform them that FEC limits were exceeded, and that they may request the amounts exceeding FEC limits be returned to them." She further stated she would "request replies in writing from both individuals." Ms. Fox also stated that her discussion with the RAD analyst had led her to understand that if refunds were not requested, then "the total amounts exceeding FEC limits can be designated, at the FEC's discretion, as debt owed to [the] committee's non-Federal account." Finally, she indicated that she would inform the FEC of any replies received from the individuals and "take the appropriate action based upon the replies."

On July 15, 2003, the Committee filed amendments to the 2002 April Quarterly, July Quarterly, October Quarterly, and 30 Day Post-General Reports (Image #'s 23991359517, 23991362082, 23991362377 and 23991362542, respectively). The amendments failed to address the excessive contributions. The amended April Quarterly Report, however, disclosed an additional excessive

¹ A substantially identical electronic letter was filed by the Committee on July 16, 2003 (Image # 23991424958)

THE LIBERTARIAN PARTY OF ILLINOIS
REPORTS ANALYSIS OGC REFERRAL
PAGE 4

contribution, in the amount of \$75, from one of the same individuals who had made excessive contributions in the original report.

On July 16, 2003, the Committee filed an amendment to the 2001 Year End Report (Image # 23991424830). This amendment also failed to address the excessive contributions.

On July 31, 2003, the RAD analyst contacted Ms. Fox by phone to discuss the RFAs referencing the receipt of excessive contributions (Attachment 4). The analyst told Ms. Fox that the excessive receipts issue was referable to the Office of General Counsel. Ms. Fox explained that the Committee did not have enough funds to reimburse the individuals who gave the excessive contributions. The analyst informed Ms. Fox that the Committee should disclose the excessive amounts as debts owed to the individuals. Ms. Fox then indicated that the Committee has been unable to contact the individuals. The analyst then advised her to disclose the excessive amount as a debt owed to the non-federal account. Also, the analyst advised the Committee to repay the debt as soon as possible.

As of this date, the Committee has not provided the Commission with any additional information regarding corrective action taken for the excessive receipts.