



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

MEMORANDUM

June 8, 2004

TO: ALLAN D. SILBERMAN
DIRECTOR, ALTERNATE DISPUTE RESOLUTION

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 COMMITTEE TO ELECT JOHN BARKER

The Committee to Elect John Barker ("the Committee") failed to provide supporting schedules totaling \$53,000.00 during the 2003-2004 election cycle. In accordance with the RAD Review and Referral Procedures for the 2003-2004 Election Cycle (Parts III, IV and V, Standard 7) to Alternative Dispute Resolution (ADR), a review by your office is required.

John Barker was a Republican candidate in the 45th District for the House of Representatives in the 2004 California Primary Election held on March 2, 2004. Mr. Barker lost the Primary Election with fourteen (14) percent of the vote.

Please apprise me of your determination by June 22, 2004.

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.

If you have any questions regarding this referral, please contact Samantha Dachik at 694-1162.

Attachments

25190262404

If you have any questions regarding this referral, please contact Samantha Dachik at 694-1162.

Attachments

25190262405

FEDERAL ELECTION COMMISSION
 OGC INDEX - (O) (2003-2004)

DATE 6/07/2004
 PAGE 1

BARKER, JOHN CHARLES

ID #H0CA44122

COMMITTEE TO ELECT JOHN BARKER
 ALICJA BARKER 72375 VIA VAIL
 FILING FREQUENCY: QUARTERLY

HOUSE ID #C00396457
 RANCHO MIRAGE CA 92270

FORM TYPE RPT TYPE AI PGI REC DATE PGS BEG IMAGE COVERAGE DATES BEG CASH RECEIPTS DISBURSE END CASH DEBTS BY

RQ	12P	2	3/23/2004	4	24038343100	1/01/2004	2/11/2004						
RQ	Q1	7	5/05/2004	2	24038410499	2/12/2004	3/31/2004						
3	12P	N	2/17/2004	5	24038322171	1/01/2004	2/11/2004	3000	28280	28000	280	-	
								TOTAL	28280	28000			

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REPORTS ANALYSIS REFERRAL

DATE: May 26, 2004

ANALYST: Samantha Dachik

- I. COMMITTEE: Committee to Elect John Barker
C00396457
Alicja Barker, Treasurer
72375 Via Vail
Rancho Mirage, CA 92270
- II. RELEVANT STATUTE: 2 U.S.C. §§434(b), 439(a)
11 CFR §§§104.3(a)(4)(iv), 104.3(b)(4)(i) and 104.3(d)

III. BACKGROUND:

Failure to Itemize Loans and Operating Expenditures

The Committee to Elect John Barker ("the Committee") failed to provide supporting schedules totaling \$53,000.00 during the 2003-2004 election cycle.

Presented below is a summary of the reports filed and the Reports Analysis Division's (RAD) communications with the Committee regarding the missing schedules in question.

On February 17, 2004, the Committee filed a 2004 12-Day Pre-Primary Report (microfilm #24038322171). Loans totaling \$25,000.00 were disclosed on Line 13(b) (All Other Loans) of the Detailed Summary Page. In addition, expenditures totaling \$28,000.00 were disclosed on Line 17 (Operating Expenditures) of the Detailed Summary Page. However, the report lacked supporting Schedules A and C for the loan total disclosed and a supporting Schedule B for the operating expenditure total (microfilm #s 240322173 and 240322174).

On March 23, 2004, a Request for Additional Information (RFAI) was sent by RAD to the Committee referencing the 2004 12-Day Pre-Primary Report (microfilm #24038343100). The RFAI requested that the Committee provide Schedules A and C to disclose the full identification of each person who made a loan to the Committee. In addition, the RFAI stated that any loans from the candidate must include an indication as to whether they are from his/her personal funds, or were obtained by the candidate from a bank loan, brokerage account, credit card, home equity line of credit or other line of credit. The RFAI also requested that the Committee provide either a Schedule B to disclose expenditures to persons that aggregate over \$200.00 for the election cycle or provide an explanation as to why Schedule B for Line 17 of the Detailed Summary Page was not included with the report. The Committee did not respond to the notice.

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On May 6, 2004, a RAD Analyst contacted Mr. Barker and explained the outstanding issues on the 12-Day Pre-Primary Report. The Analyst informed the candidate that the report must be amended or the Committee will be referred to the Federal Election Commission's Office of General Counsel. Mr. Barker explained that he was too busy to file an amendment to the report and hung up shortly thereafter (Attachment #2).

To date, no further communications have been received from the Committee regarding this matter.

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WESTERN UNION

WESTERN UNION COMMERCIAL SERVICES
CONFIRMATION OF MAILGRAM TO: ALICJA BARKER
COMMITTEE TO ELECT JOHN BARKER
72375 VIA MAIL
RANCHO MIRAGE CA 92270-1753

CHRIS RITCHIE
FEDERAL ELECTION COMMISSION
999 E ST NW
WASHINGTON DC 20463

JULY 30, 2004

IDENTIFICATION NUMBER: C00396457

REFERENCE: JULY QUARTERLY REPORT (04/01/2004 - 06/30/2004)

DEAR TREASURER:

IT HAS COME TO THE ATTENTION OF THE FEDERAL ELECTION COMMISSION THAT YOU MAY HAVE FAILED TO FILE THE ABOVE REFERENCED REPORT OF RECEIPTS AND EXPENDITURES AS REQUIRED BY THE FEDERAL ELECTION CAMPAIGN ACT, AS AMENDED. YOU WERE PREVIOUSLY NOTIFIED OF THE DUE DATE FOR THIS REPORT.

IT IS IMPORTANT THAT YOU FILE THIS REPORT IMMEDIATELY WITH THE FEDERAL ELECTION COMMISSION, 999 E STREET, N.W., WASHINGTON, D.C., 20463 FOR HOUSE CANDIDATES, OR THE SECRETARY OF THE SENATE, 232 HART SENATE OFFICE BUILDING, WASHINGTON, D.C. 20510 FOR SENATE CANDIDATES. A COPY OF THIS REPORT MUST ALSO BE FILED WITH THE SECRETARY OF STATE OR EQUIVALENT STATE OFFICER, UNLESS THE STATE IS EXEMPT FROM THE FEDERAL REQUIREMENT TO RECEIVE AND MAINTAIN PAPER COPIES.

THE FAILURE TO TIMELY FILE THIS REPORT MAY RESULT IN CIVIL MONEY PENALTIES, AN AUDIT OR LEGAL ENFORCEMENT ACTION. THE CIVIL MONEY PENALTY CALCULATION FOR LATE REPORTS DOES NOT INCLUDE A GRACE PERIOD AND BEGINS ON THE DAY FOLLOWING THE DUE DATE FOR THE REPORT.

IF YOU HAVE ANY QUESTIONS REGARDING THIS MATTER, PLEASE CONTACT ALAN SHOOK IN THE REPORTS ANALYSIS DIVISION ON OUR TOLL FREE NUMBER (800)424-9530. OUR LOCAL NUMBER IS (202)694-1130.

SINCERELY,

JOHN C. GIBSON
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

October 26, 2004

Alicja Barker, Treasurer
Committee to Elect John Barker
72375 Via Vail
Rancho Mirage, CA 92270

Response Due Date:
November 26, 2004

Identification Number: C00396457

Reference: October Quarterly Report (7/1/04 - 9/30/04)

Dear Ms. Barker:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. This notice requests information essential to full public disclosure of your federal election campaign finances. An adequate response must be received at the Commission by the response date noted above. An itemization of the information needed follows:

-Schedule A of your report discloses one or more contributions that appear to exceed the limits set forth in the Act (see attached). You should examine all of your contributions to check for additional excessive contributions. The Committee's procedures for processing contributions should also be reviewed.

An individual or a political committee other than an authorized committee or qualified multi-candidate committee may not make a contribution to a candidate for federal office in excess of \$2,000 per election. An authorized committee may not make a contribution to a candidate for federal office in excess of \$1,000 per election. A qualified multi-candidate committee and all affiliated committees may not make a contribution(s) to a candidate for federal office in excess of \$5,000 per election. The term "contribution" includes any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office. (2 U.S.C. §441a(a) and (f); 11 CFR §110.1(b), (c) and (k))

If any apparently excessive contribution in question was incompletely or incorrectly disclosed, you must amend your original report with the

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COMMITTEE TO ELECT JOHN BARKER
PAGE 2

clarifying information. If any contribution you received exceeds the limits, you may have to refund the excessive amount

Excessive contributions may be retained if within sixty (60) days of receipt, the excessive portions are properly redesignated or reattributed. Guidelines for each option are provided below:

For reattributions, excessive contributions from individuals can be retained, if within sixty (60) days of receipt, the excessive amount is properly reattributed to another person. Please note that reattributions only apply to excessive contributions from individuals. An excessive contribution is considered properly reattributed if (1) the contributors provide the committee with written documentation, signed by each contributor, authorizing a retribution and indicating the amount of the contribution to be attributed to each contributor, or (2) the committee reattributes, by presumption, the excessive portion of the contribution if the contribution was made on a written instrument from a joint account and was signed by only one of the account holders. In this case, the treasurer must notify the contributors in writing within 60 days of receiving the contribution that the committee intends to retribute the excessive portion and must give the contributor an opportunity to request a refund. (11 CFR 110.1(k)(3)(ii)(B))

For redesignations, the funds can be retained if within sixty (60) days of receipt the excessive amount is properly redesignated for a different election. An excessive contribution is considered properly redesignated if (1) the committee obtains signed written documentation from the contributor(s) authorizing the redesignation of the contribution for another election, provided that the new designation does not exceed the limitations on contributions made with respect to that election, or (2) your committee redesignates by presumption the excessive portion of the contribution for another election provided that the new designation does not exceed the limitations on contributions made with respect to that election. In this case, the treasurer must notify the contributor of the redesignation in writing within 60 days of the treasurer's receipt of the contribution. The notification must give the contributor an opportunity to request a refund. (11 CFR §110.1(b)(5)(ii)(B)) Please note that you cannot presumptively redesignate an excessive contribution from a multi-candidate committee. Also, a contribution can only be redesignated to a previous election to the extent that the contribution does not exceed the committee's net debts outstanding for that election. (11 CFR §110.1(b)(3)(i))

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**COMMITTEE TO ELECT JOHN BARKER
PAGE 3**

If the foregoing conditions for reattributions or redesignations are not met within 60 days of receipt of the contribution, the excessive amount must be refunded. See 11 CFR §103.3(b)(1).

Please inform the Commission of your corrective action immediately in writing and provide photocopies of any refund checks and/ or letters reattributing or redesignating the contributions in question. Refunds are reported on Line 20 of the Detailed Summary Page and on a supporting Schedule B of the report covering the period in which they are made. Redesignations and reattributions are reported as memo entries on Schedule A of the report covering the period in which the authorization for the redesignation and/or reattribution is received. (11 CFR §104.8(d)(2), (3) and (4))

The acceptance of excessive contributions is a serious problem. Again, the committee's procedures for processing contributions should be examined and corrected in order to avoid this problem. Although the Commission may take further legal action, prompt action by you to refund, redesignate, and/or reattribute of the excessive amount will be taken into consideration.

-There should not be a gap in the coverage dates of your report. You must file an Amended October Quarterly Report to include the activity from 2/12/04 to 9/30/04. (2 U.S.C. §434(b))

-Please file an amended report that includes Column B figures for the Summary and Detailed Summary Page information. (2 U.S.C. §434(b))

-Schedule C of your report fails to include information required by Commission Regulations. With every report submitted, you must provide the date incurred, the original source and amount of the loan, the due date, the interest rate, the cumulative payment, and the outstanding balance. In addition, if there are any endorsers or guarantors, their mailing address along with the name of their employer and occupation must be disclosed. Please amend your report to include the date incurred and the due date. (11 CFR §§ 100.52(a), 100.52(b) and 104.3(d))

Unlike previous election cycles, you will not receive an additional notice from the Commission on this matter. Adequate responses received on or before this date will be taken into consideration in determining whether audit action will be initiated. Requests for extensions of time in which to respond will not be considered. Failure to provide an adequate response by this date may result in an audit of the committee.

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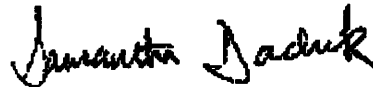
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COMMITTEE TO ELECT JOHN BARKER
PAGE 4

Failure to comply with the provisions of the Act may also result in an enforcement action against the committee. Any response submitted by your committee will be placed on the public record and will be considered by the Commission prior to taking enforcement action.

Electronic filers must file amendments (to include statements, designations and reports) in an electronic format and must submit an amended report in its entirety, rather than just those portions of the report that are being amended. If you should have any questions regarding this matter or wish to verify the adequacy of your response, please contact me on our toll-free number (800) 424-9530 (at the prompt press 5 to reach the Reports Analysis Division) or my local number (202) 694-1162.

Sincerely,



Samantha Dachik
Senior Campaign Finance Analyst
Reports Analysis Division

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WESTERN UNION

WESTERN UNION COMMERCIAL SERVICES

CONFIRMATION OF MAILGRAM

TO: ALICJA BARKER

COMMITTEE TO ELECT JOHN BARKER

72375 VIA MAIL

RANCHO MIRAGE CA 92370-1750

CHRIS RITCHIE
FEDERAL ELECTION COMMISSION
999 E ST NW
WASHINGTON DC 20463

FEBRUARY 16, 2005

IDENTIFICATION NUMBER: 200396457

REFERENCE: YEAR-END REPORT (10/01/2004 - 12/31/2004)

DEAR TREASURER:

IT HAS COME TO THE ATTENTION OF THE FEDERAL ELECTION COMMISSION THAT YOU MAY HAVE FAILED TO FILE THE ABOVE REFERENCED REPORT OF RECEIPTS AND EXPENDITURES AS REQUIRED BY THE FEDERAL ELECTION CAMPAIGN ACT, AS AMENDED. YOU WERE PREVIOUSLY NOTIFIED OF THE DUE DATE FOR THIS REPORT.

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SINCERELY,

JOHN D. WILSON
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION

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**FEC
FORM 3**

**REPORT OF RECEIPTS
AND DISBURSEMENTS**
For An Authorized Committee

1. NAME OF COMMITTEE (in full)

TYPE OR PRINT ▼

Example: If typing, type over the lines.

COMMITTEE TO ELECT JOHN BARKER

ADDRESS (number and street)

Check if different than previously reported. (ACC)

72375 VIA VALLE
RANCHO MIRAGE

2. FEC IDENTIFICATION NUMBER ▼

CITY ▲

5

C00396457

3. IS THIS REPORT

NEW (N)

OR

4. TYPE OF REPORT (Choose One)

(a) Quarterly Reports:

April 15 Quarterly Report (Q1)

July 15 Quarterly Report (Q2)

October 15 Quarterly Report (Q3)

January 31 Year-End Report (YE)

Termination Report (TER)

(b) 12-Day PRE-Election Report for the:

Primary (12P)

Convention (12C)

Election on

M M /

D D /

(c) 30-Day POST-Election Report for the:

General (30G)

Election on

M M /

D D /

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First Page Previous Page Goto Page [] Next Page Last Page PDF

TO REPORTS INDEX NEW SEARCH NEW ADVANCED SEARCH

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SUMMARY PAGE
of Receipts and Disbursements

FEC Form 3 (Revised 02/2003)

Write or Type Committee Name

COMMITTEE TO ELECT JOHN BARKER

Report Covering the Period:

From:

MM ' DD ' YYYY
01 ' 01 ' 2005

MM ' DD ' YYYY

MM ' DD ' YYYY
2005

To:

COLUMN A
This Period

6. Net Contributions (other than loans)

(a) Total Contributions *NONE*
(other than loans) (from Line 11(e))....

[Empty box for Total Contributions]

(b) Total Contribution Refunds *NONE*
(from Line 20(d)).....

[Empty box for Total Contribution Refunds]

(c) Net Contributions (other than loans) *NONE*
(subtract Line 6(b) from Line 6(a)).....

[Empty box for Net Contributions]

7. Net Operating Expenditures

(a) Total Operating Expenditures *NONE*
(from Line 17).....

[Empty box for Total Operating Expenditures]

(b) Total Offsets to Operating Expenditures (from Line 14).... *NONE*

[Empty box for Total Offsets to Operating Expenditures]

(c) Net Operating Expenditures *NONE*

[Empty box for Net Operating Expenditures]

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