



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

February 8, 2005

MEMORANDUM

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 FRESHMEN POLITICAL ACTION COMMITTEE

The Freshmen PAC ("the Committee") is being referred to the Office of General Counsel for amending its 2004 July Quarterly Report in order to disclose additional disbursements totaling \$213,423.91 (96% increase). According to the 2003-2004 *RAD Review and Referral Procedures for Unauthorized Committees* (Standard 7), this matter requires further examination by your office. Please note, however, due to the timely communication and proactive changes to the operating procedures of the Committee, RAD would recommend that this matter be sent to the Office of Alternative Dispute Resolution for further processing.

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 matter, please feel free to contact Kristine Adams at 694-1141.

Attachments

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REPORTS ANALYSIS REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: February 8, 2005

ANALYST: Kristine Adams

I. COMMITTEE: Freshmen PAC
(C00383901)
David Metzner, Treasurer
Post Office Box 25121
Washington, DC 20027

II. RELEVANT STATUTE 11 C.F.R. §104.3(b)
2 U.S.C. §434(b)(4)(A)

III. BACKGROUND:

Failure to provide Supporting Schedules (Failure to Disclose All Financial Activity)

Freshmen PAC ("the Committee") filed an Amended 2004 July Quarterly Report to disclose additional disbursements totaling \$213,423.91 on August 20, 2004 (Image 24971396456).

On July 15, 2004, the Committee originally filed its 2004 July Quarterly Report covering the period from April 1, 2004 through June 30, 2004. This original report disclosed \$220,065.18 in disbursements on Line 21(b) (Other Federal Operating Expenditures) of the Detailed Summary Page (Image 24961831504).

On August 20, 2004, the Committee filed an Amended 2004 July Quarterly Report which disclosed \$433,489.09 in disbursements on Line 21(b) (Other Federal Operating Expenditures) of the Detailed Summary Page (Image 24971396458) (Attachment 2).

On October 8, 2004, a Request for Additional Information ("RFAI") was sent to the Committee. The RFAI requested clarification regarding the \$213,423.91 in additional disbursements not disclosed on the Committee's original 2004 July Quarterly Report (Image 24038533168).

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On October 20, 2004, the Reports Analysis Division ("RAD") analyst received a call from Mr. Ted Koch. Mr. Koch prepares and files the electronic reports on behalf of the Committee's Treasurer, David Metzner. Mr. Koch indicated that the increase in disbursements was an oversight on the part of the Committee and that the Committee would file a miscellaneous electronic submission clarifying this issue. (Attachment 3)

On November 4, 2004, the Committee responded to the RFAI in a miscellaneous electronic document which stated, "After the July quarterly reporting period ended on June 30, 2004 and after the July quarterly report had been prepared and filed, we determined that there were two disbursements that had been made during the reporting period but which had not cleared the bank by June 30, 2004 (the next reporting period). When it was determined that these disbursements, totaling \$213,423 91, were in fact made during the July quarterly reporting period, the July quarterly report was amended to include these disbursements. Subsequently, Freshmen PAC adjusted its procedures, including moving to a monthly reporting status in order to better capture and report information in a more timely manner." (Image 24962841661)

On November 16, 2004, the RAD analyst attempted unsuccessfully to telephonically contact the Treasurer, David Metzner and Cleta Mitchell, Attorney and Custodian of Records. Therefore, the analyst called Committee contact, Ted Koch. The analyst informed Mr. Koch that the issue of increased disbursements on the Committee's Amended 2004 July Quarterly Report was referable to the Office of General Counsel. The analyst advised Mr. Koch to have the Committee's attorney call if there were any further questions. (Attachment 4)

On November 19, 2004, Cleta Mitchell called the RAD analyst. Ms. Mitchell asked what additional information was needed regarding the increase in disbursements. She explained the Committee had not previously been very active and had just recently become aggressively engaged in fundraising. Ms. Mitchell explained the disbursements in question had not yet appeared on bank statements and therefore were not included in the original report. She said once the oversight was discovered the report was amended to include them, and that the Committee switched to a monthly filing to better keep track of accounting and the increased activity of the PAC. The analyst advised Ms. Mitchell to disclose this information in an electronically filed statement. (Attachment 5)

On November 22, 2004, the Committee filed a miscellaneous electronic submission with an additional explanation for the increase in disbursements on the Amended 2004 July Quarterly Report which in part stated, "During the process of reviewing the July bank statement and canceled checks for purposes of preparing the July monthly report, it was discovered that the two checks paid in July were dated in June. Upon reviewing the dates of the checks, the July Quarterly Report was amended to reflect the disbursements as having been made in June, even though the amounts were not actually paid until July. The Committee determined that to be most accurate, the disbursements should be reported as having been made during the second quarter. Since the amendment to the July Quarterly report was filed, the Committee has revised its operating procedures to ensure that all outstanding disbursements are promptly forwarded to the compliance vendor in order that those can be reported in the month in which the disbursements are made. In addition, as mentioned previously, the Committee moved its

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reporting schedule from quarterly to monthly, thus enabling all activity to be disclosed in a timely and accurate manner. Please know that Freshmen PAC takes great care to ensure that all reporting requirements are met and has been pro-active in retaining qualified professional vendors to assist with all compliance responsibilities of the Committee. Essentially, Freshmen PAC changed virtually overnight from a relatively small and inactive entity to one with a very active fundraising and donor component, with a commensurate increase in reporting complexities. The transition required changes in operating procedures and enhanced levels of professionalism, which the Committee took immediate and voluntary steps to ensure.” (Image 24962898117)

To date, no further communication has been received from the Committee regarding this matter

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FRESHMEN PAC
David Metzner
FILING FREQUENCY MONTHLY

P.O Box 25121

Washington

NON-PARTY QUALIFIED
DC 20027

ID #C00383901

FORM TYPE	RPT TYPE	AI	PGI	REC DATE	PGS	BEG IMAGE	COVERAGE DATES	BEG CASH	RECEIPTS	DISBURSE	END CASH	DEBTS BY
1			A	2/13/2003	5	23037984435						
1			M	7/09/2004	1	24961750167						
1			A	8/17/2004	6	24962116221						
MS			T	10/06/2003	5	23038212608						
MS			T	6/10/2004	5	24038424453						
MS			T	7/08/2004	2	24038441004						
MS			M	7/15/2004	1	24961831952						
MS			O	7/21/2004	2	24038473598						
MS			T	9/09/2004	1	24971433012						
MS			T	11/04/2004	1	24962841661						
MS			T	11/04/2004	1	24962841662						
MS			T	11/04/2004	1	24962841663						
MS			T	11/22/2004	2	24962898117						
RQ			1	1/15/2003	2	23037923758	1/15/2003					
RQ			6	2/06/2003	3	23037981398	2/06/2003					
RQ	Q2	2		8/11/2004	4	24038494188	4/01/2004 6/30/2004					
RQ	Q2	2		10/08/2004	3	24038533168	4/01/2004 6/30/2004					
RQ	M8	2		10/13/2004	2	24038542747	7/01/2004 7/31/2004					
RQ	M9	2		10/13/2004	3	24038542749	8/01/2004 8/31/2004					
3	MY	N	P	7/29/2003	13	23991573873	1/01/2003 6/30/2003	89	20754	4498	16345	0
3	YE	N	P	1/29/2004	6	24990225945	7/01/2003 12/31/2003	16345	8	626	15726	0
3	Q1	N	P	4/14/2004	6	24990986106	1/01/2004 3/31/2004	15726	2004	228	17502	0
3	Q2	N	P	7/15/2004	57	24961831501	4/01/2004 6/30/2004	17502	771591	230165	558928	0
3	Q2	A	P	8/20/2004	61	24971396455	4/01/2004 6/30/2004	17502	771591	443589	345505	0
3	M8	N	P	8/20/2004	57	24962194247	7/01/2004 7/31/2004	345505	1000362	917668	428199	785
3	M9	N	P	9/20/2004	99	24971536312	8/01/2004 8/31/2004	428199	1106227	786330	748095	426466

FRESHMEN PAC
David Metzner
FILING FREQUENCY MONTHLY

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FORM TYPE	RPT TYPE	AI	PGI	REC DATE	PGS	BEG IMAGE	COVERAGE DATES	BEG CASH	RECEIPTS	DISBURSE	END CASH	DEBTS BY
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3	M10	N	P	10/20/2004	122	24962589437	9/01/2004	9/30/2004	748095	711682	1221727	238051	0
3	12G	N	P	10/21/2004	5	24962669481	10/01/2004	10/13/2004	23	382400	289030	331420	1647
3	30G	N	P	12/02/2004	255	24981537568	10/14/2004	11/22/2004	331420	701298	795722	236996	0
3	YE	N	P	1/31/2005	199	25980392774	11/23/2004	12/31/2004	236996	257958	377508	117447	0
									TOTAL	4954284	4836926		

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Freshman PAC ((C00383901)
2004 July Quarterly Report/Amended 2004 July Quarterly Report
Disbursement Overview

Line	Original 2004 Quarterly Report (Image 24961831504)	Amended 2004 Quarterly Report (Image 24971396458)	Disbursement Difference
21(b)	\$220,065.18	\$433,489.09	\$213,423.91

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Communication Log

Date/Time: 10/20/2004 01 17 PM

ID: C00383901 Name: FRESHMEN PAC

Phone (703) 980-3977 EMail Address:

Candidate:

Type: Phone Call

Contact: Ted Koch

Title:

Communications Category Type: RFAI

Summary Mr Koch called about two issues on RFAs sent to him for fundraising issues (M8 and M9) and one for additional disbursements (Q2 amendment) I told him that he needed to clarify the fundraising disbursements, if they were for PAC only or if they were on behalf of a candidate and he could do this in an amendment to those reports or an MST He told me that the additional disbursement on the Q2 were an oversight and that he wanted to explain that too---I said file an MST for that as well

Additional Remarks:

Analyst: Kristine Adams Branch: Party/Non-Party

AF#

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Communication Log

Date/Time: 11/16/2004 02 14 PM

ID: C00383901 Name: FRESHMEN PAC

Phone: (202) 945-6134 EMail Address:

Candidate:

Type: Phone Call

Contact: Ted Koch

Title:

Communications Category Type:

Summary I spoke to Mr Koch about a possible OGC referral for increased disbursements on the amended Q2 report I explained that the committee has a week to provide any additional information on the situation, beyond the MST already filed, to explain the additional activity He wanted to know why the previous response was not adequate and what he could file that would be, I told him to file whatever he could, any other information would be looked at in terms of determining whether it is to be pursued He wanted to know if I would be the one determining that, I said no, that I was calling to alert the committee that they had one week to give any more information so that anything they wanted to say on the issue would be looked at by OGC and that OGC decides if it is to be referred I advised him to have the committee's attorney, Cleta Mitchell (who I attempted to call when I could not get a hold of the treasurer), contact me with any questions

Additional Remarks:

Analyst: Kristine Adams Branch: Party/Non-Party

AF#

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Communication Log

Date/Time: 11/19/2004 03 00 PM

ID: C00383901

Name: FRESHMEN PAC

Phone: (202) 295-4061

E-Mail Address:

Candidate:

Type: Phone Call

Contact: Clela Mitchell

Title:

Communications Category Type: RFAI

Summary I spoke with Ms Mitchell about the committee's possible OGC referral for increased activity on the 2004 Q2 report. She explained that Ted Koch and she wanted get more information about what she should include in the response.

She said that the committee had not previously been very active but later had some larger disbursements. In this situation, some that had not yet appeared on bank statements were not included in the report. Once this was discovered, the report was amended to include them, and the committee switched to monthly filing to better keep track of accounting and the increased activity of the PAC. I advised her to include all of this in the response she was sending, though I could not tell her if it would be enough. I said that my position was to inform the committee they had a week to provide us with any more information on the issue for OGC to see. I reminded her that the deadline for the response was Tuesday and she should do it electronically.

I also suggested that the Statement of Organization be amended to include Ted Koch, who she said the committee hired to do the accounting and reporting. That way he would be listed on the Form 1 as an official contact of the committee. Further, I inquired about some returned mail we had received indicating the committee's P O Box had been closed. She said the address had not changed but would look into it.

Additional Remarks

Analyst: Kristine Adams

Branch: Party/Non-Party

AF#

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