



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

June 15, 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 CITIZENS FOR CLAUDIA BERMUDEZ
FOR CONGRESS

Citizens for Claudia Bermudez for Congress ("the Committee") is being referred to the Office of General Counsel for amending its 2004 October Quarterly Report to disclose additional disbursements totaling \$93,169.55, a 60% increase over the financial activity which was originally reported. Additionally, the Committee also amended its 2004 30 Day Post-General Report to disclose additional disbursements totaling \$127,026.87, a 2,145% increase over the financial activity originally reported.

According to the 2003-2004 *RAD Review and Referral Procedures* for Authorized Committees (Standard 7), these matters require further examination by your office. Please note, that due to the amount of additional disbursements in question, RAD would recommend that this matter be sent to the Alternative Dispute Resolution (ADR) Office for further processing.

The Committee is the Principal Campaign Committee for Claudia Bermudez, a candidate in the 2003-2004 Election Cycle for California's Ninth (9th) Congressional District. The candidate lost the November 2, 2004 General Election receiving thirteen (13%) percent of the vote.

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

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If you should have any questions regarding this referral, please feel free to contact Jill Sugarman at 694-1165.

Attachments

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REPORTS ANALYSIS REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: June 15, 2005

ANALYST: Jill Sugarman

I. COMMITTEE: Citizens for Claudia Bermudez for Congress
(C00393272)
Brion Wikes, Treasurer
422 Lincoln Avenue
Alameda, CA 94501

II. RELEVANT STATUTE: 11 CFR §104.3(b)
2 U.S.C. §434(b)

III. BACKGROUND:

A. Failure to Provide Supporting Schedules (Failure to Disclose All Financial Activity)

The Citizens for Claudia Bermudez for Congress ("the Committee") amended its 2004 October Quarterly Report disclosing additional disbursements totaling \$93,169.55, a 60% increase over the financial activity reported in their original 2004 October Quarterly Report (Image 24962478642). Additionally, the Committee amended its 2004 30 Day Post-General Report disclosing additional disbursements totaling \$127,026.87, a 2,145% increase over the financial activity reported in the original 2004 30 Day Post-General Report (Image 24981799772). (Attachment 2)

2004 October Quarterly Report

On October 15, 2004, the Committee filed the original 2004 October Quarterly Report covering the period from July 1, 2004 through September 30, 2004. The report disclosed disbursements of \$154,908.09 on Line 17 (Operating Expenditures) of the Detailed Summary Page (Image 24962478645).

On October 19, 2004 and December 2, 2004, the Committee filed Amended 2004 October Quarterly Reports. Both amendments disclosed disbursements of \$159,280.39 on Line 17 (Operating Expenditures) and \$2,100.00 on Line 19(a) (Loan Repayments of Loans Made or Guaranteed by the Candidate) of the Detailed Summary Page (Image 24962566072 and Image 24981540582).

On January 31, 2005, the Committee filed a third Amended 2004 October Quarterly

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Report which disclosed disbursements of \$246,616.03 on Line 17 (Operating Expenditures) and \$2,100.00 on Line 19(a) (Loan Repayments of Loans Made or Guaranteed by the Candidate) of the Detailed Summary Page (Image 25970068069).

On March 10, 2005, a Request for Additional Information ("RFAI") was sent to the Committee referencing the 2004 Amended October Quarterly Report, received January 31, 2005. The RFAI requested clarification regarding the additional disbursements that had not been disclosed in the original filing (Image 25038751823).

On March 25, 2005, the treasurer of the committee, Brion Wikes, called the RAD Analyst to discuss, among other matters, how to respond to the RFAI referencing the 2004 Amended October Quarterly Report. The Analyst advised Mr. Wikes to file an amendment to explain why the additional activity was not included in the original report. Mr. Wikes explained that the increase in disbursements was the result of a software problem and said that he would respond with an amendment as soon as possible (Attachment 3).

On April 11, 2005, Brion Wikes called the Analyst again to discuss, among other matters, how to respond to the RFAI sent concerning the Amended October Quarterly Report. The Analyst reiterated that Mr. Wikes should file an explanation as to why the additional activity was omitted from the original October Quarterly Report. The Analyst advised Mr. Wikes that any explanation provided would be placed on the public record, but might not necessarily satisfy the requirements of the RFAI (Attachment 4).

On April 12, 2005, the Committee filed another Amended 2004 October Quarterly Report which disclosed disbursements of \$245,977.64 on Line 17 (Operating Expenditures) and \$2,100.00 on Line 19(a) (Loan Repayments of Loans Made or Guaranteed by the Candidate) of the Detailed Summary Page (Image 25990441488). The amendment also included the following e-text message from the treasurer: "Regarding notice RQ2, Amended 30 Day Post-General Report and Amended October Quarterly Report. Using the templates provided by the FecFile software, I had placed my disbursements for Schedule B in these templates and imported them into FecFile. It appears that in all cases where I had listed a dollar figure with a comma, such as 3,243.21, the software only listed this amount as 3.00. The software did not notify me that it had truncated any of my figures, and, there is no warning in the documentation that such an event would occur. This was brought to my attention when I proceeded to enter the December Year End Report. This was an unforeseen software glitch. Therefore, I am asking for exoneration from any penalties." (Image 25990441597)

On April 22, 2005, the RAD Analyst called Brion Wikes to advise him that the matter of increased disbursements would be referred to OGC for further investigation. The Analyst encouraged him to provide any additional explanation or clarification regarding the matter within a week. Mr. Wikes reiterated that the increases in disbursements were due to software problems, and he did not believe that any additional information could be forwarded (Attachment 5).

On April 25, 2005, Mr. Wikes called the Analyst to ask, among other questions, if the Commission would take into account that he was a first time treasurer. The Analyst advised Mr. Wikes that she could not comment on how the Commission would view his explanation and again advised him to provide any additional information, if relevant, to explain why the increased disbursements were not disclosed in the original report (Attachment 6).

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2004 30 Day Post-General Report

On December 18, 2004, the Committee filed the original 2004 30 Day Post-General Report covering the period from October 14, 2004 to November 22, 2004. The report disclosed disbursements of \$5,922.30 on Line 17 (Operating Expenditures) of the Detailed Summary Page (Image 24981799776).

On January 31, 2005, the Committee filed an Amended 2004 30 Day Post-General Report which disclosed disbursements of \$125,567.98 on Line 17 (Operating Expenditures) and \$3,375.00 on Line 20(a) (Refunds of Contributions to Individuals) of the Detailed Summary Page (Image 25970098584). The additional disbursements totaled \$123,020.68, a 2,077% increase over the disbursements reported on the original report.

On March 10, 2005, an RFAI was sent to the Committee referencing the 2004 Amended 30 Day Post-General Report, received January 31, 2005. The RFAI requested clarification regarding the additional disbursements that had not been disclosed in the original filing (Image 25038751826).

On March 25, 2005, Brion Wikes called the RAD Analyst to discuss, among other matters, how to respond to the RFAI referencing the 2004 Amended 30 Day Post-General Report. The Analyst advised Mr. Wikes to file an amendment to explain why the additional activity was not included in the original report. Mr. Wikes explained that the increase in disbursements was the result of a software problem and said that he would respond with an amendment as soon as possible (Attachment 3).

On April 11, 2005, Brion Wikes called the Analyst again to discuss, among other matters, how to respond to the RFAI sent on the Amended 30 Day Post-General Report. The Analyst reiterated that Mr. Wikes should file an explanation as to why the additional activity was omitted from the original 30 Day Post-General Report. The Analyst advised Mr. Wikes that any explanation would be placed on the public record, but might not necessarily satisfy the requirements of the RFAI (Attachment 4).

On April 12, 2005, the Committee filed an Amended 2004 30 Day Post-General Report which disclosed disbursements of \$129,574.17 on Line 17 (Operating Expenditures) and \$3,375.00 on Line 20(a) (Refunds of Contributions to Individuals) of the Detailed Summary Page (Image 25990441283). This amendment also included the following e-text message from the treasurer: "Regarding notice RQ2, Amended 30 Day Post-General Report and Amended October Quarterly Report. Using the templates provided by the FecFile software, I had placed my disbursements for Schedule B in these templates and imported them into FecFile. It appears that in all cases where I had listed a dollar figure with a comma, such as 3,243.21, the software only listed this amount as 3.00. The software did not notify me that it had truncated any of my figures, and, there is no warning in the documentation that such an event would occur. This was brought to my attention when I proceeded to enter the December Year End Report. This was an unforeseen software glitch. Therefore, I am asking for exoneration from any penalties." (Image 25990441353)

On April 22, 2005, the RAD Analyst called Brion Wikes to advise him that the matter of increased disbursements would be referred to OGC for further investigation. The Analyst encouraged him to provide any additional explanation or clarification regarding the matter within a week. Mr. Wikes reiterated the increases were caused by software problems, and he did not

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believe that any additional information could be forwarded (Attachment 5).

On April 25, 2005, Mr. Wikes called the Analyst to ask, among other questions, if the Commission would take into account that he was a first time treasurer. The Analyst advised Mr. Wikes that she could not comment on how the Commission would view his explanation and again advised him to provide any additional information, if relevant, to explain why the increased disbursements were not disclosed in the original report. (Attachment 6)

To date, no further communication has been received from the Committee regarding these matters.

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