



FEDERAL ELECTION COMMISSION  
WASHINGTON, D C 20463

August 4, 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 THELMA DRAKE FOR CONGRESS

Thelma Drake for Congress ("the Committee") failed to provide the required contributor information for 171 of 429, or forty percent (39.86%) of the itemized contributions received from individuals during the 2003-2004 Election Cycle. In accordance with the *RAD Review and Referral Procedures for the 2003-2004 Election Cycle* (Standard 8) a review by your office is required.

The Committee is the Principal Campaign Committee for Thelma Drake, a candidate in the 2003-2004 Election Cycle for the Second (2<sup>nd</sup>) Congressional District in Virginia. The candidate won the November, 2 2004, General Election with fifty-five percent (55%) of the vote.

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

If you have any questions regarding this referral, please contact Leah Palmer at 694-1154.

Attachments

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## REPORTS ANALYSIS REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: August 4, 2005

ANALYST: Leah S. Palmer

I. COMMITTEE: Thelma Drake for Congress  
C00405696  
Robert J. Catron, Treasurer  
P.O. Box 61480  
Virginia Beach, VA 23466

II. RELEVANT STATUTE: 11 CFR §104.3(a)(4)(i)  
11 CFR §100.12  
11 CFR §104.7(b)

III. BACKGROUND:

**Failure to Properly Itemize Contributions from Individuals**

Thelma Drake for Congress ("the Committee") failed to provide the required contributor information for 171 of 429, or forty percent (39.86%), of the itemized contributions received from individuals during the 2003-2004 Election Cycle (Attachment 2).

On October 18, 2004, the Committee filed the 2004 October Quarterly Report. Schedule A (Itemized Receipts) and supporting Line 11(a)(i) (Itemized Contributions from Individuals) of the report failed to provide the required contributor information for 30 of 172, or seventeen percent (17.44%) of the itemized contributions received from individuals (Image 24971749898).

On October 26, 2004, a RFAI was sent to the Committee regarding the 2004 October Quarterly Report. The RFAI requested that the Committee file an amendment to include the missing contributor information and/or a detailed description of their "best efforts to obtain the information." (Image 24038601698)

The Committee responded to the RFAI regarding the 2004 October Quarterly Report by filing an Amended 2004 October Quarterly Report on November 23, 2004. Schedule A (Itemized Receipts) and supporting Line 11(a)(i) (Itemized Contributions from Individuals) of the amended report failed to provide the required contributor information for 29 of 172, or seventeen percent (16.86 %), of the itemized contributions received from individuals (Image 24962925343).

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On October 21, 2004 the Committee filed a 2004 12 Day Pre-General Report. Schedule A (Itemized Receipts) and supporting Line 11(a)(i) (Itemized Contributions from Individuals) of the report failed to provide the required contributor information for 29 of 172, or seventeen percent (16.86%) of the itemized contributions received from individuals (Image 24981426071).

On November 12, 2004, a RFAI was sent to the Committee regarding the 2004 12 Day Pre-General Report. The RFAI requested that the Committee file an amendment by December 13, 2004 to include the missing contributor information and/or a detailed description of their "best efforts to obtain the information." (Image 24038614531)

The Committee responded to the RFAI regarding the 2004 12 Day Pre-General Report by filing an Amended 2004 12 Day Pre-General Report on January 24, 2005. Schedule A (Itemized Receipts) and supporting Line 11(a)(i) (Itemized Contributions from Individuals) of the amended report failed to provide the required contributor information for 29 of 100, or twenty-nine percent (29%) of the itemized contributions received from individuals (Image 25980324351).

On December 2, 2004, the Committee filed a 2004 30 Day Post-General Report. Schedule A (Itemized Receipts) and supporting Line 11(a)(i) (Itemized Contributions from Individuals) of the report failed to provide the required contributor information for 119 of 157, or seventy-five percent (75.8%), of the itemized contributions received from individuals (Image 24981606459).

On December 23, 2004, a RFAI was sent to the Committee regarding the 2004 30 Day Post-General Report. Among other discrepancies, the RFAI requested that the Committee file an amendment to include the missing contributor information and/or a detailed description of their "best efforts to obtain the information." (Image 24038673437)

The Committee responded to the RFAI regarding the 2004 30 Day Post-General Report by filing an Amended 2004 30 Day Post-General Report on January 24, 2005. Schedule A (Itemized Receipts) and supporting Line 11(a)(i) (Itemized Contributions from Individuals) of the report again failed to provide the required contributor information for 119 of 157, or seventy-five percent (75.8%), of the itemized contributions received from individuals (Image 25980324467).

On April 25, 2005, the RAD Analyst called the Committee and spoke with the bookkeeper, Mr. Mike Lavin. The Analyst stated that the Amended 2004 30 Day Post-General Report failed to adequately address all issues mentioned in the December 23, 2004 RFAI. After discussing other concerns in connection with this report, the Analyst also mentioned the Committee's failure to provide the missing contributor information or a detailed description of the best efforts to obtain the information. Mr. Lavin said the Committee had some additional information which it had not yet submitted. He stated that the Committee would file a best efforts statement by Friday, April 29, 2005. Mr. Lavin also stated that he would look for the actual contributor information and the Committee would try to file an amended report with the required information. During the conversation, the Analyst informed Mr. Lavin that failure to provide the requested

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information would result in the Committee's referral to the Office of General Counsel (Attachment 3).

On May 2, 2005, Mr. Lavin left a message on the Analyst's voicemail explaining that he was having problems filing electronic text statements with the FEC's server. Mr. Lavin stated that he had contacted the Electronic Filing Office, had received a new password and would try to file the statements again.

Also on May 2, 2005, the Committee filed a miscellaneous report with the Commission. The report was an electronic text (e-text) attachment which provided an overview for the Committee's best effort procedures used to acquire missing contributor information. The e-text stated that "any and all solicitations included a clear and conspicuous request for all requisite information pertaining to the contributor." The attachment further explained that a second attempt to obtain contributor information is made by mail. The committee sends a letter with a reply card and return envelope which asks for all missing contributor information. Finally, the Committee's response also mentioned that their best efforts "included searching the FEC online contributor information in the event that an individual's name of employer and occupation were listed in reference to a previous contribution to a different committee."<sup>1</sup> (Image 25990643401)

On June 1, 2005, the Assistant Branch Chief, Madelynn Lane, spoke with Mr. Lavin. She discussed various problems the Committee was having, and advised Mr. Lavin that the Committee was at risk of being referred to the Office of General Counsel for its failure to provide the required contributor information and/or best efforts documentation. Ms. Lane stated the Committee needed to file all best efforts documentation by June 10, 2005. Mr. Lavin stated he understood the seriousness of the situation, and would file the necessary information (Attachment 4).

On June 14, 2005, Mr. Lavin telephoned the Analyst with questions regarding amendments to previous reports the Committee had filed. He stated that he had filed an amendment to the 2005 April Quarterly Report, and wanted to know if it was sufficient. The Analyst advised Mr. Lavin that the Committee's best efforts problem stemmed from the prior cycle's reports, going back to the 2004 October Quarterly Report, and it appeared the Committee had not filed any amendments to those reports. Mr. Lavin said he would work on amending these reports, and file them the next day, June 15, 2005. The Analyst also reminded Mr. Lavin the Committee was at risk of being referred to the Office of General Counsel if the information was not provided (Attachment 5).

On June 22, 2005, the Committee filed an Amended 2004 October Quarterly Report. Schedule A (Itemized Receipts) and supporting Line 11(a)(i) (Itemized Contributions from Individuals) of the amended report failed to provide the required contributor information for 23 of 172, or thirteen percent (13.37 %), of the itemized contributions received from individuals (Image 25970420609).

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

<sup>1</sup> Please note that the best efforts procedures outlined by the Committee within the e-text attachment failed to meet all components of the "obtain, maintain and submit" best efforts guidelines established by the FEC.

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