



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

December 14, 2006

MEMORANDUM

AUDIT REFERRAL # 06-06

To: Lawrence H. Norton
General Counsel

Through: Patrina M. Clark
Staff Director

py for PMC

From: Joseph F. Stoltz
Assistant Staff Director
Audit Division

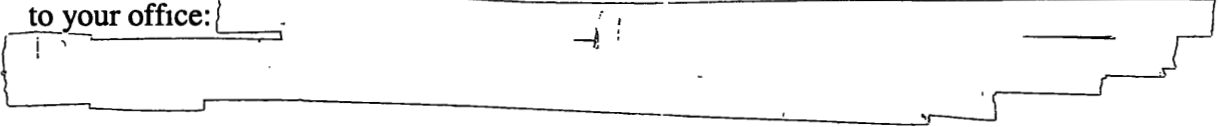
JF Stoltz

Thomas Hintermister
Audit Manager

Christopher Carrell
Lead Auditor

Subject: Friends of Duane Sand (A05-13) - Referral Matter

On December 6, 2006 the Commission approved the final audit report on Friends of Duane Sand. The final audit report includes a matter that meets the criteria for referral to your office:



All workpapers and related documentation are available for review in the Audit Division. Should you have any questions regarding this matter, please contact Christopher Carrell or Thomas Hintermister at 694-1200.

Attachments: Finding 1- Disclosure of Occupation/Name of Employer

cc: Lorenzo Holloway

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COUNSEL
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Finding 1. Disclosure of Occupation/Name of Employer

Summary

FODS did not adequately disclose the occupation and/or name of employer for 747 contributions totaling \$143,367. In addition, FODS did not demonstrate that “best efforts” were exercised to obtain, maintain and submit the information. The Audit staff recommended that FODS provide evidence that it exercised “best efforts” to obtain the contributor information or contact each contributor for whom information was lacking, submit evidence of such contact, and disclose any information received in amended reports. In response, FODS indicated that efforts were made to contact contributors, however, evidence of such action was not provided and amended reports were not filed.

Legal Standard

A. Required Information for Contributions from Individuals. For each itemized contribution from an individual, the committee must provide the following information:

- The contributor’s full name and address (including zip code);
- The contributor’s occupation and the name of his or her employer;
- The date of receipt (the date the committee received the contribution);
- The amount of the contribution; and
- The election cycle-to-date total of all contributions from the same individual. 11 CFR §§100.12 and 104.3(a)(4) and 2 U.S.C. §434(b)(3)(A).

B. Best Efforts Ensures Compliance. When the treasurer of a political committee shows that the committee used best efforts (see below) to obtain, maintain, and submit the information required by the Act, the committee’s reports and records will be considered in compliance with the Act. 2 U.S.C. §432(h)(2)(i).

C. Definition of Best Efforts. The treasurer and the committee will be considered to have used “best efforts” if the committee satisfied all of the following criteria:

- All written solicitations for contributions included:
 - A clear request for the contributor’s full name, mailing address, occupation, and name of employer; and
 - The statement that such reporting is required by Federal law.
- Within 30 days after the receipt of the contribution, the treasurer made at least one effort to obtain the missing information, in either a written request or a documented oral request.
- The treasurer reported any contributor information that, although not initially provided by the contributor, was obtained in a follow-up communication or was contained in the committee’s records or in prior reports that the committee filed during the same two-year election cycle. 11 CFR §104.7(b).

Facts and Analysis

A review of contributions from individuals disclosed on Schedules A (Itemized Receipts) indicated that 747 contributions totaling \$143,367 did not adequately disclose an occupation and/or name of employer. Most of these contributions were disclosed with no

contributor occupation and/or name of employer or with a notation of "information requested." In response to several Requests for Additional Information (RAI's) concerning this matter, FODS stated that "best efforts" procedures were utilized and that new contributor information was contained in amended reports. FODS also provided a copy of a form letter sent to contributors requesting their employer and occupation information. However, those FODS records made available to the Audit staff did not include a copy or confirmation of these letters purportedly sent to contributors.

This matter was discussed with the Candidate during fieldwork. In response, the Candidate indicated that contributors were contacted by phone to obtain the missing information; however, documentation to support this action was also not provided.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that FODS either provide documentation to demonstrate that "best efforts" were made to obtain missing occupation and name of employer information. Absent such evidence, it was recommended that FODS contact each contributor lacking the occupation and/or name of employer, submit evidence of such contact, and disclose any information received in amended reports. In response, the Candidate indicated that he would send a letter and self-addressed stamped envelope to those contributors for whom the occupation and/or name of employer was not adequately disclosed and file amended reports when contributor responses were received. FODS did not provide any documentation to support that letters were sent to contributors nor were amended report filed.

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