

REPORTS ANALYSIS REFERRAL
TO
ALTERNATIVE DISPUTE RESOLUTION OFFICE

DATE: July 27, 2009

ANALYST: Andrew Karwoski

- I. COMMITTEE: Friends of Phil Steck
C00442723
Cornelius D. Murray, Treasurer
39 North Pearl Street, 4th Floor
Albany, NY 12211
- II. RELEVANT STATUTE: 2 U.S.C. § 434(b)(4)
11 CFR § 104.3(a)(b)

III. BACKGROUND:

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

The Friends of Phil Steck (“the Committee”) amended its 2008 12 Day Pre-Primary Report to disclose additional disbursements of \$94,987.16 that were not disclosed on the original report, received on August 28, 2008. The Committee also amended its 2008 October Quarterly Report to disclose additional disbursements of \$92,706.00 that were not disclosed on the original report, received on October 15, 2008 (Attachment 2).

2008 12 Day Pre-Primary Report

On August 28, 2008, the Committee filed a 2008 12 Day Pre-Primary Report, covering the period from July 1 through August 20, 2008, disclosing total disbursements of \$118,365.13 on Line 17 (Operating Expenditures) of the Detailed Summary Page (Image 28991949031).

On October 15, 2008, the Committee filed an Amended 2008 12 Day Pre-Primary Report disclosing total disbursements of \$118,373.70 on Line 17 of the Detailed Summary Page. In addition, the Committee also disclosed additional disbursements of

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\$20,000.00 on Line 21 (Other Disbursements) of the Detailed Summary Page that were not included in the original report (Image 28992546741).

On October 27, 2008, the Committee filed an Amended 2008 12 Day Pre-Primary Report disclosing \$118,373.70 on Line 17 of the Detailed Summary Page and \$0.00 dollars on Line 21 of the Detailed Summary Page (Image 28993075939).

On November 13, 2008, a Request for Additional Information ("RFAI") was sent to the Committee. Among other discrepancies, the RFAI requested information regarding the increase in disbursements on Line 17 of the Detailed Summary Page that were not disclosed on the Committee's original 2008 12 Day Pre-Primary Report (Image 28039920790).

On December 15, 2008, the Committee filed a Miscellaneous Electronic Submission (FEC Form 99) with the Commission which stated:

"With regard to the 10/15/2008 12 Day Pre-Primary Report, it was discovered that due to the unfamiliarity of the operator with the FECfile software, some of the campaign's disbursements were entered into incorrect sections of previous FEC reports. The errors were corrected with the subsequent 10/15/2008 12 Day Pre-Primary Report." (Image 28994114441)

On April 7, 2009, the Committee filed an Amended 2008 12 Day Pre-Primary Report disclosing disbursements in the amount of \$213,352.29 on Line 17 of the Detailed Summary Page. With this filing, the Committee disclosed an additional \$94,987.16 in disbursements on Line 17 of the Detailed Summary Page that were not included in the original report (Image 29933460801; Attachment 2).

On May 7, 2009, a RFAI was sent to the committee regarding the Amended 2008 12 Day Pre-Primary Report, received April 7, 2009. Among other discrepancies, the RFAI requested information regarding the \$94,987.16 increase in disbursements on Line 17 of the Detailed Summary Page that were not disclosed on the Committee's original 2008 12 Day Pre-Primary Report (Image 29030084197).

On June 8, 2009, the Reports Analysis Division (RAD) Analyst spoke with Cornelius D. Murray, Committee treasurer, and Chuck Miller, Committee representative, and explained how to respond to the RFAI sent to the Committee. Both Mr. Murray and Mr. Miller indicated they wanted to file bank statements and other supporting documents to explain the increase in disbursements. The Analyst further explained how to create a FEC Form 99 and clarified what needed to be filed electronically and what could be filed on paper (Attachment 3).

On June 8, 2009, the Committee filed an Amended 2008 12 Day Pre-Primary Report. This report disclosed the same amount of activity as the Amended 2008 12 Day Pre-Primary Report, received April 7, 2009 (Image 29933996879).

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On June 8, 2009, the Committee filed a FEC Form 99, which stated, in full:

“This is in response to your letter dated May 7, 2009, and, in particular, to Questions [*sic*] regarding the report memorializing the Amended 12 Day Pre-Primary Report (7/1/2008 – 8/20/2008):

1. The original report received 8/28/08 overlooked a personal loan from the candidate made on August 8, 2008 in the amount of \$20,000. In addition, a contribution in the amount of \$1,000 made by Diane Stuto was overlooked because the donor had, in fact, made two separate \$1,000 donations and the August 28, 2008 report disclosed only one. Also, a contribution in the amount of \$250 by David Zimmerman dated July 14, 2008 was overlooked in the August 28, 2008 report. The sum total of these three items is \$21,250 which, when added to the \$77,779 reported on August 28, 2008, matches exactly the \$99,029 reported in the amended report filed on April 6, 2009.

2. The report filed on August 28, 2008 failed to disclose a \$100,000 wire transfer to Mundy Kantowitz which was not entered in the checkbook from which entries were made to the report. By way of further adjustments, the original report contained duplicate entries of \$3,276 payable to Grammercy Communications, and duplicate entries of \$351.62 and \$2,549.99 to the U.S. Postal Service. The total amount of these three duplicate entries comes to \$6,177.61, which when deducted from the \$100,000 paid to Mundy Kantowitz is \$93,922.39 which accounts for the vast majority of the discrepancy between the total amount of disbursements shown on the August 28, 2008 and April 6, 2009 reports.”
(Image 29992213846)

On June 8, 2009, the Committee filed a FEC Form 99 and bank statements, explaining in detail the nature of the increase in disbursements (Image 29030101867).

On June 17, 2009, the Analyst telephoned Mr. Murray informing him that the Committee may be referred for further Commission action in reference to the increase in disbursements on the 2008 Amended 12 Day Pre-Primary Report, received 6/8/2009. The Analyst also explained that the Committee had an opportunity to place additional information on the public record before being referred for further action (Attachment 3).

2008 October Quarterly Report

On October 15, 2008, the Committee filed their 2008 October Quarterly Report, covering the period from August 21 through September 30, 2008, disclosing total disbursements of \$75,129.02 on Line 17 of the Detailed Summary Page (Image 28933483575).

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On December 29, 2008, the Committee filed an Amended 2008 October Quarterly Report. This report disclosed the same amount of activity as the original 2008 October Quarterly Report (Image 28935232492).

On April 7, 2009, the Committee filed an Amended 2008 October Quarterly Report disclosing \$167,835.02 in disbursements on Line 17 of the Detailed Summary Page. With this filing, the Committee disclosed an additional \$92,706.00 in disbursements not disclosed on the original report (Image 29933460982; Attachment 2).

On May 7, 2009, an RFAI was sent to the Committee regarding the Amended 2008 October Quarterly Report, received April 7, 2009. Among other discrepancies, the RFAI requested information regarding the \$167,835.02 in disbursements on Line 17 of the Detailed Summary Page that were not disclosed on the Committee's original 2008 October Quarterly Report (Image 29030084200).

On June 4, 2009, Mr. Murray called the Analyst to receive help on responding to the RFAI. The Analyst walked him through filing a FEC Form 99 to explain why the activity was not included in the original filing (Attachment 3).

On June 8, 2009, the Committee filed an Amended 2008 October Quarterly Report in response to the RFAI sent to the Committee. This report disclosed the same amount of increased activity as the previous Amended 2008 October Quarterly Report, received April 7, 2009 (Image 29933996971).

On June 8, 2009, the Committee also filed an additional FEC Form 99, which stated, in full:

"This is in response to your letter dated May 7, 2009, and, in particular, to Question No. 1, in which you inquired as to the reason for "a substantial increase in the amount of disbursements from those disclosed in the original report received 10/15/08." The reason was that in the original report, expenditures were reported based upon entries made in the Campaign's checking account, but in so doing, three different wire transfer withdrawals made in the amount of \$100,000 on August 7, 2008; \$25,606 on August 24, 2008 and \$67,100 on August 27, 2008 were overlooked. This amounted in the aggregate to \$192,706. They were all made to the same entity. Enclosed is a copy of the bank's checking account statement dated August 31, 2008 showing the wire transfers separately from other withdrawals. All payments were made to Mundy Kantowitz Media, Inc. as explained in a previous letter dated April 6, 2009 to Patricia Carmona (copy sent via regular mail)." (Image 29933996970)

On June 17, 2009, the Analyst telephoned Mr. Murray informing him that the Committee may be referred for further Commission action in reference to the increase in disbursements on the Amended 2008 October Quarterly Report, received 6/8/2009. The

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Analyst also explained that the Committee had an opportunity to place additional information on the public record before being referred for further action (Attachment 3).

To date, no further communications have been received from the Committee regarding these matters.

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