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January 16, 2009

Jeffrey S. Jordan
Supervisory Attorney, Complaints
Examination & Legal Administration
Federal Election Commission
999 E Street, NW
Washington, DC 20463

PRE-MUR # 483

RE: Christopher Shays for Congress Committee

Dear Mr. Jordan:

On behalf of the Christopher Shays for Congress Committee ("Committee"), and Ralph DePanfilis, as treasurer, I am writing to follow-up on the previous discussions we had with the staff of the Federal Election Commission ("FEC" or "Commission") where we brought to the Commission's attention the apparent misappropriation of funds from the Committee by a former Committee official which caused the Committee to file inaccurate reports with the FEC. While the Committee is still in the process of gathering and reviewing documents, and a criminal investigation is ongoing, we now have additional information, as well as documents, which we want to bring to the Commission's attention. We are making this submission consistent with the Commission's *Policy Regarding Self-Reporting of Campaign Finance Violations (Sua Sponte Submissions)*, 11 CFR Part 111 [Notice 2007-8] and the *Statement of Policy; Safe Harbor for Misreporting Due to Embezzlement*, 11 CFR Part 104, [NOTICE 2007-9]

I. Facts

1. Committee Procedures During Campaign

The Christopher Shays for Congress Committee was Congressman Shays' authorized committee for his 2008 campaign for re-election to Congress. Ralph DePanfilis served as treasurer and Michael Sohn was the Committee's campaign manager. Under established Committee procedures, Mr. Sohn was responsible for the day-to-day operation of the campaign and giving preliminary approval for campaign expenditures. If Mr. Sohn approved of a proposed expenditure, he was supposed to submit the request for payment to Mr. DePanfilis.

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Only Mr. DePanfilis could give final approval for Committee expenditures and sign Committee checks. Mr. DePanfilis also had to approve expenditures paid by other means, such as with the campaign's debit card. It was Mr. Sohn's responsibility, as campaign manager, to provide Mr. DePanfilis with the necessary documentation to justify the expenditures.

Consistent with the FEC's general guidance, as the person authorized to sign the checks, Mr. DePanfilis, was not responsible for the initial review of the bank statements. The FEC reports were prepared by staff using Aristotle Campaign Manager software and technical support, reviewed by Mr. Sohn and then given to Mr. DePanfilis. After Mr. DePanfilis reviewed and approved the reports, Mr. Sohn filed the report with the FEC. Records of deposits and expenditures were kept by the Committee in a software database, and bank reconciliation reports were tied to FEC reports prior to their filing.

2. The Misappropriation of Funds

During the latter part of the campaign, a routine review of the Committee's financial records identified several anomalies which gave rise to some questions. For example, it appeared that the number of reconciled items on the bank statement was low. While there was no outright indication of a serious problem and the Committee was in the middle of a difficult campaign, the Committee's treasurer, Ralph DePanfilis, sought to gather the facts surrounding the anomalies to try to determine if mistakes were being made and how to avoid them.

As Mr. Sohn was responsible for the day-to-day operation of the campaign, Mr. DePanfilis made several attempts to meet with Mr. Sohn so they could discuss the anomalies and talk to the Committee's bank. However, Mr. Sohn avoided the meetings, citing a series of apparently plausible excuses. Finally, not willing to wait any longer, Mr. DePanfilis went to the Committee's bank without Mr. Sohn in order to look at the bank's records. The bank initially looked at the bank statements Mr. DePanfilis had received from Mr. Sohn and thought they were genuine bank statements. It was only after Mr. DePanfilis and the bank reviewed other records in the bank's possession that it became apparent that the bank statements provided by Mr. Sohn in the normal course of his duties had been altered and that Mr. DePanfilis' signature on many Committee checks may have been forged.

3. Notifying Law Enforcement Authorities

As soon as Mr. DePanfilis became aware that funds were likely misappropriated, he communicated the information to Congressman Shays and the

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Committee's attorney, who contacted Peter S. Jongbloed, Chief of the Criminal Division of the United States Attorney's Office for the District of Connecticut over the Thanksgiving weekend. On December 2, 2008, right after the long holiday weekend, I contacted Leah Palmer, a FEC Senior Reports Analyst, on behalf of the Committee with two immediate concerns. First, the Committee wanted to bring this matter to the attention of the FEC and, second, the Committee wanted guidance about its upcoming filing which it now knew could not be accurate. Following the advice received, the Committee filed its report based on the inaccurate numbers in its system, but specifically noted on the report that the numbers were inaccurate as a result of a misappropriation of funds. In addition, as you know, we immediately contacted the Office of General Counsel by phone to bring the matter to your attention and I met with you, Peter Blumberg and James Pawlick, Investigator, on December 11, 2008.

As of this filing, we are aware that the United States Attorney's Office and the Federal Bureau of Investigation have opened an investigation regarding this matter, with which the Committee is fully cooperating. As noted, we have also been in contact with the FEC regarding how to proceed and are self-reporting this matter, as well as filing a separate complaint against Mr. Sohn.

II. The Committee's Review

In response to this incident, the Committee initiated an internal review of its procedures and has already taken the following specific steps:

1. The Committee's Bank Accounts Have Been Secured

The Committee's check card has been cancelled, a new operating account has been opened with the bank and signing authority continues to be restricted to Ralph DuPanfilis, treasurer. In addition, consistent with FEC best practiced guidance, a team has been put in place to further increase the segregation of duties. All account reconciliation and bank statement analyses are being handled by someone other than the check signer or the person responsible for handling the committee's bookkeeping.

2. A Detailed Process For Validating Past Obligations to Vendors is in Place

In order to help ensure that payments were for legitimate expenditures, the Committee has increased its level of review of vendors. This includes identifying and validating each vendor (through phone calls, web sites and third party verification) and confirming amounts billed, paid and owed currently (by

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requesting vendor account statements). All vendor assessment records, including a standard validation checklist, any vendor statements or invoices and a call log showing all contacts with the vendor, are being kept in separate folders and secured in the Committee's office. The vendor assessment process is underway and all of the vendors have, or will be, contacted. By the end of January, the Committee should have a complete and consistently prepared assessment of who the vendors are and how much they are owed.

3. The Committee Has Secured Copies of Its Electronic Records

The campaign has long used Aristotle's Campaign Manager Software. Working with Aristotle, the campaign arranged to secure a backed-up version of its records as of the time when potentially fraudulent activity was discovered. These web-based records are secured and available for review by authorities or investigators.

4. A Working Version of the Committee's Campaign Manager Records has been Created and is being Reviewed and Corrected

With an unaltered version of the records safely backed up, the Committee has begun a comprehensive review of all data back to January 1, 2007. This effort includes correcting, where required, all data entries so that they match and reconcile to the Committee's bank statements. As part of this process, the campaign is logging all discrepancies and noting any checks, withdrawals and deposits that lack substantiation or appear inappropriate. When this work is finished, the campaign should have complete and correct financial records for the most recent election cycle. Furthermore, these revised records will provide a basis for correcting, as required, FEC filings by the campaign.

III. Initial Results of Committee's Review

The Committee's review to date has preliminarily identified over \$150,000 in misappropriated funds and at least four areas of apparent wrongdoing by Mr. Sohn:

1. Mr. Sohn apparently forged Mr. DePanfilis' signature on numerous committee checks that were made payable to Mr. Sohn, totaling approximately \$55,000 in 2007 and \$27,000 in 2008.
2. Mr. Sohn apparently made unauthorized withdrawals using the Committee's debit card of approximately \$20,000 in 2007 and approximately \$49,000 in 2008.

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3. In addition to cash withdrawals, Mr. Sohn apparently used the Committee's debit card for personal purchases, such as sporting events and hotel rooms.

4. Mr. Sohn apparently falsified Bank of America statements and altered the Committee's internal records as part of his misappropriation of funds. In some cases, legitimate payments to vendors were approved and made, or lawful contributions were received and deposited, but Mr. Sohn either did not enter the transactions or removed records of them from the Committee's internal database, which caused them to be omitted from the FEC reports. We believe these actions were part of an attempt to create the illusion that the bank statements and committee's internal records were consistent.

By his actions, not only did Mr. Sohn misappropriate Committee funds, but he caused the Committee to file inaccurate reports with the FEC.

It must be stressed that these are initial findings. The Committee's review is ongoing and that review, as well as the concurrent work of law enforcement agencies, could affect the amount of money involved and broaden the scope of potentially illegal activities.

IV. Records Being Provided to the FEC

As discussed during our meeting, we are providing the FEC with documents, data and other relevant records dealing with the 2007-2008 election cycle. However, the review of the Committee's records is still ongoing and additional records will be provided as they are obtained. In addition, as noted, the matter is being investigated by the U.S. Attorney's office, and the Committee understands that the FEC will be in contact with that office. Of course, the Committee will provide whatever assistance it can in order to help further the FEC's review.

The disk accompanying this letter contains what we believe are the relevant documents to which we have access. In certain cases (e.g. compromised bank statements), the Committee has only been able to find documents from 2008. Unless otherwise noted, all documents are in the PDF file format:

CD Title: Exhibits for Christopher Shays for Congress FEC Submission

Folder 1 Title: 2008 Compromised Bank Statements (January to September)

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- Folder 2 Title: 2008 Checks Written to Michel Sohn and Forged by Michael Sohn
- Folder 3 Title: 2007 Checks Written to Michael Sohn and Forged by Michael Sohn
- Folder 4 Title: 2008 Official Bank Statements (January through December)
- Folder 5 Title: 2007 Official Bank Statements (January through December)
- Folder 6 Title: 2008 Bank Statements in Excel
- Folder 7 Title: 2008 Campaign Manager Data in Excel
- Folder 8 Title: 2007 Campaign Manager Data in Excel

V. The Commission Should Take No Action Against the Committee

As described above, it now appears that funds were misappropriated from the Committee by Mr. Sohn. Because of Mr. Sohn's actions, and his attempts to cover-up the misappropriation of funds, the reports the Committee filed with the FEC do not accurately reflect its actual financial activity. While the FEC can initiate an enforcement action against the Committee in such a situation, the facts of this matter clearly call for the Commission to exercise its discretion under its *Statement of Policy; Safe Harbor for Misreporting Due to Embezzlement* and not take any enforcement action against the Committee.

1. The Committee's Action Upon Discovery Of The Misappropriation

From the moment the Committee became aware of the alleged misappropriations, its actions have been consistent with the FEC's policy on *sua sponte* matters. The Committee not only quickly notified the relevant law enforcement authorities, including the FEC, but has been undertaking its own internal audit, and is providing the FEC with the records as they become available. Congressman Shays is also filing a separate complaint with the FEC against his campaign manager, Michael Sohn, and intends to fully cooperate with any investigation that follows. All of Congressman Shays' actions have been directed towards ensuring that the public record is accurate and that justice is done.

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2. The Committee Procedures

Whenever funds are misappropriated from a campaign, there is a need to review the Committee's procedures to identify any deficiencies in order to take appropriate steps to try to avoid it ever happening again. While such a review is ongoing, it should be recognized that at the time of the misappropriation of funds, the Committee's relevant internal controls were substantially consistent with the "safe harbor" provisions provided for in the FEC's *Statement of Policy; Safe Harbor for Misreporting Due to Embezzlement*.

For example, the Committee separated the final expenditure authorization and check signing functions from the initial review of bank statements. In fact, the Committee's procedures requiring Mr. Sohn to seek approval from the treasurer for expenditures and provide the appropriate back-up documentation clearly had an effect. The steps Mr. Sohn had to take in order to misappropriate funds reflect that the Committee's procedures did make the embezzlement of funds more difficult. Because of the procedures in place, Mr. Sohn not only forged checks, but he had to falsify what he claimed were original bank records prior to providing them to the Committee's treasurer and had to go into the campaign's accounting database to change the internal records. In fact, the Committee's bank, when first presented with what were purported to be copies of bank statements, thought they were genuine. Nevertheless, as noted, the Committee is further strengthening those safeguards.

3. Correcting the Public Record

One of the Committee's highest priorities is to ensure that the public record is accurate and complete. With the approval of the FEC's Reports Analysis Division ("RAD"), the Committee is planning on filing a report reflecting the Committee's current financial status and listing fraudulent or otherwise problematic expenditures. Of course, we will continue to work with the FEC to ensure the public record is correct.

V. Conclusion

As noted, the Committee had relevant procedures in place consistent with the Safe Harbor Rules which were intended to provide a high level of protection against the misappropriation of funds. However, no usable procedure can prevent every attempt to embezzle funds from a campaign. In this case, despite the procedures in place, the Committee's campaign manager, who Congressman Shays had known and trusted for ten years, apparently embezzled over \$150,000 from the Committee through forgery and the doctoring of records. As of now, the Committee

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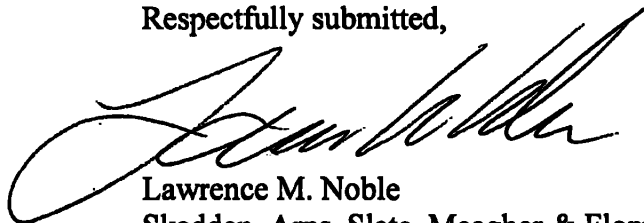
appears to be have approximately \$7,000 dollars in its account and approximately \$230,000 in outstanding obligations.

While there is no doubt that the Committee was unknowingly caused to file incorrect reports, Congressman Shays is also victim in this matter. He was betrayed by a trusted employee who apparently siphoned off over a \$150,000 from the Committee while Congressman Shays was engaged in a tough, and ultimately unsuccessful, reelection campaign. Now, Congressman Shays and his Committee are faced with mounting legal, accounting and staff expenses required to reconcile its books so it may correct the public record, fully cooperate with the FEC, FBI and Department of Justice and take other action necessary action to repair the damage Mr. Sohn caused.

In light of this, no purpose will be served by requiring the Committee to go through an extended enforcement process or assessing the Committee a civil penalty. Therefore, we respectfully ask the Commission to close this matter as it pertains to the Committee and its treasurer.

Please do not hesitate to call me at 202-371-7365 if you need additional information or wish to discuss any of these matters.

Respectfully submitted,



Lawrence M. Noble
Skadden, Arps, Slate, Meagher & Flom LLP
Attorney for Christopher Shays for Congress,
Committee and Ralph DePanfilis, as treasurer.

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