

REPORTS ANALYSIS DIVISION REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: October 28, 2010

ANALYST: Bradley Matheson

- I. COMMITTEE: Segall for Congress
C00442871
Charles McDowell Crook, Treasurer
P.O. Box 4236
Montgomery, AL 36103
- II. RELEVANT STATUTES: 2 U.S.C. § 441a(a)
2 U.S.C. § 441a(f)
11 CFR § 102.9
11 CFR § 110.1
11 CFR § 110.2

III. BACKGROUND:

Excessive, Prohibited and Other Impermissible Contributions or Transfers: Failure to Refund or Redesignate General Election Contributions within 60 Days of the Candidate's Decision not to Participate in that Election

Segall for Congress ("the Committee") received 2010 General Election contributions from twenty-eight (28) individuals and one (1) non-party multi-candidate political committee that were not refunded or redesignated within the permissible timeframe from the date the Candidate announced his decision not to participate in the 2010 Primary Election. The contributions not refunded or redesignated within the permissible timeframe total \$50,750.00 as disclosed on the 2009 July Quarterly, 2009 October Quarterly, 2009 Year End, 2010 April Quarterly, 2010 July Quarterly, and 2010 October Quarterly Reports (Attachment 2).

2009 July Quarterly Report

On July 15, 2009, the Committee filed the 2009 July Quarterly Report covering the period from April 1, 2009 to June 30, 2009 (Image 29992450101). This report

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disclosed contributions totaling \$12,100.00 from six (6) individuals on Schedule A supporting Line 11(a)(i) (Itemized Contributions from Individuals/Persons Other Than Political Committees) of the Detailed Summary Page that were designated for the 2010 General Election.

On January 5, 2010, January 25, 2010, and April 13, 2010, the Committee filed Amended 2009 July Quarterly Reports that disclosed no changes to the 2010 General Election contributions disclosed in the original filing (Images 10930013551, 10990013786, 10990137047, and 10930494453).

On April 2, 2010, Joshua S. Segall ("the Candidate") announced his decision not to participate in the 2010 Primary Election.¹

On May 25, 2010, a Request for Additional Information ("RFAI") was sent to the Committee noting the requirement that the Committee refund or redesignate all 2010 General Election contributions received and requesting that the Committee take corrective action (Image 10030340192).

On June 29, 2010, Tom Marks, a committee representative, called the Reports Analysis Division ("RAD") Analyst. The Analyst confirmed that the Committee could file a statement explaining that all of the 2010 General Election contributions were refunded in a timely manner (Attachment 3).

On August 31, 2010, the RAD Analyst called Charles Crook, Treasurer, to inform him that the Committee might be referred for further Commission action if the contributions designated for the 2010 General Election were not refunded. Mr. Crook said that he was unaware of the letter and that he would communicate with the Candidate to take corrective action (Attachment 3).

On the same day, the Candidate called the RAD Analyst to ask what action could be taken to address the contributions designated to the 2010 General Election. The Analyst advised the Candidate to fax copies of the refund checks to RAD and report the refunded contributions on the next scheduled report, the 2010 October Quarterly Report covering July 1, 2010 to September 30, 2010 (Attachment 3).

On September 9, 2010, the Candidate called the RAD Analyst to request instructions for faxing copies of refund checks. The Analyst provided the fax number and confirmed that the Analyst would review the faxed documents (Attachment 3).

On September 13, 2010, the RAD Analyst responded to a voicemail from the Candidate, received late on September 9, 2010, asking if the copies of refund checks had been received by fax. The Analyst told the Candidate that the faxed copies of refund check had not yet been received, and encouraged him to make another attempt to fax the information (Attachment 3).

¹ The Committee had sixty (60) days from this announcement to remedy any contributions designated for the 2010 General Election.

On September 14, 2010, the RAD Analyst received a fax from the Committee, which stated in part, "...I have returned contributions to anyone who gave money for the general election in the 2010 cycle to Segall for Congress..." The checks and check stubs were dated July 20, 2010 and supported refunds totaling \$42,300.00 of 2010 General Election contributions cited in the RFAI sent on May 25, 2010 (Image 10030422731).²

2009 October Quarterly Report

On October 15, 2009, the Committee filed the 2009 October Quarterly Report covering the period from July 1, 2009 to September 30, 2009 (Image 29934910792). This report disclosed contributions totaling \$21,000.00 from nine (9) individuals on Schedule A supporting Line 11(a)(i) (Itemized Contributions from Individuals/Persons Other Than Political Committees) of the Detailed Summary Page and one (1) non-party multi-candidate political committee on Schedule A supporting Line 11(c) (Contributions From Other Political Committees) of the Detailed Summary Page that were designated for the 2010 General Election.

On January 5, 2010, January 25, 2010, and April 13, 2010, the Committee filed Amended 2009 October Quarterly Reports that disclosed no changes to the 2010 General Election contributions disclosed in the original filing (Images 10930013600, 10930103460, and 109304944574).

On April 2, 2010, the Candidate announced his decision not to participate in the 2010 Primary Election.

On May 25, 2010, an RFAI was sent to the Committee noting the requirement that the Committee refund or redesignate all 2010 General Election contributions received and requesting that the Committee take corrective action (Image 10030340192).

On June 29, 2010, Tom Marks, a committee representative, called the RAD Analyst. The Analyst confirmed that the Committee could file a statement explaining that all of the 2010 General Election contributions had been refunded in a timely manner (Attachment 3).

On August 31, 2010, the RAD Analyst called Charles Crook, Treasurer, to inform him that the Committee might be referred for further Commission action if the contributions designated for the 2010 General Election were not refunded. Mr. Crook said that he was unaware of the letter and that he would communicate with the Candidate to take corrective action (Attachment 3).

On the same day, the Candidate called the RAD Analyst to ask what action could be taken to address the contributions designated to the 2010 General Election. The

² Note that the fax cover letter indicated that the Committee had refunded all contributions designated for the 2010 General Election; however, adequate supporting documentation for \$8,450.00 of 2010 General Election contributions was not included.

Analyst advised the Candidate to fax copies of the refund checks to RAD and report the refunded contributions on the next scheduled report, the 2010 October Quarterly Report covering July 1, 2010 to September 30, 2010 (Attachment 3).

On September 9, 2010, the Candidate called the RAD Analyst to request instructions for faxing copies of refund checks. The Analyst provided the fax number and confirmed that the Analyst would review the faxed documents (Attachment 3).

On September 13, 2010, the RAD Analyst responded to a voicemail from the Candidate, received late on September 9, 2010, asking if the copies of refund checks had been received by fax. The Analyst told the Candidate that the faxed copies of refund check had not yet been received, and encouraged him to make another attempt to fax the information (Attachment 3).

On September 14, 2010, the RAD Analyst received a fax from the Committee, which in part stated, "...I have returned contributions to anyone who gave money for the general election in the 2010 cycle to Segall for Congress..." The checks and check stubs were dated July 20, 2010 and supported refunds totaling \$42,300.00 of 2010 General Election contributions cited in the RFAI sent on May 25, 2010 (Image 10030422731).

2009 Year End Report

On January 31, 2010, the Committee filed the 2009 Year Report covering the period from October 1, 2009 to December 31, 2009 (Image 10990237588). This report disclosed contributions totaling \$6,500.00 from seven (7) individuals on Schedule A supporting Line 11(a)(i) (Itemized Contributions from Individuals/Persons Other Than Political Committees) of the Detailed Summary Page that were designated for the 2010 General Election.

On April 2, 2010, the Candidate announced his decision not to participate in the 2010 Primary Election.

On April 13, 2010, the Committee filed an Amended 2009 Year End Report covering the period from October 1, 2009 to December 31, 2009 (Image 10990455945). This report disclosed contributions totaling \$6,250.00 from six (6) individuals on Schedule A supporting Line 11(a)(i) of the Detailed Summary Page that were designated for the 2010 General Election (Attachment 2).³

On May 25, 2010, an RFAI was sent to the Committee noting the requirement that the Committee refund or redesignate all 2010 General Election contributions received and requesting that the Committee take corrective action (Image 10030340192).

³ The 11/5/09 contribution from W. Allen Sheehan for \$250 was disclosed as a 2010 Primary Election contribution on the 4/13/10 amendment. The original report disclosed this contribution as a 2010 General Election contribution.

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On June 29, 2010, Tom Marks, a committee representative, called the RAD Analyst. The Analyst confirmed that the Committee could file a statement explaining that all of the 2010 General Election contributions were refunded in a timely manner (Attachment 3).

On August 31, 2010, the RAD Analyst called Charles Crook, Treasurer, to inform him that the Committee might be referred for further Commission action if the contributions designated for the 2010 General Election were not refunded. Mr. Crook said that he was unaware of the letter and that he would communicate with the Candidate to take corrective action (Attachment 3).

On the same day, the Candidate called the RAD Analyst to ask what action could be taken to address the contributions designated to the 2010 General Election. The Analyst advised the Candidate to fax copies of the refund checks to RAD and report the refunded contributions on the next scheduled report, the 2010 October Quarterly Report covering July 1, 2010 to September 30, 2010 (Attachment 3).

On September 9, 2010, the Candidate called the RAD Analyst to request instructions for faxing copies of refund checks. The Analyst provided the fax number and confirmed that the Analyst would review the faxed documents (Attachment 3).

On September 13, 2010, the RAD Analyst responded to a voicemail from the Candidate, received late on September 9, 2010, asking if the copies of refund checks had been received by fax. The Analyst told the Candidate that the faxed copies of refund check had not yet been received, and encouraged him to make another attempt to fax the information (Attachment 3).

On September 14, 2010, the RAD Analyst received a fax from the Committee, which stated in part, "...I have returned contributions to anyone who gave money for the general election in the 2010 cycle to Segall for Congress..." The checks and check stubs were dated July 20, 2010 and supported refunds totaling \$42,300.00 of 2010 General Election contributions cited in the RFAI sent on May 25, 2010 (Image 10030422731).

2010 April Quarterly Report

On April 2, 2010, the Candidate announced his decision not to participate in the 2010 Primary Election.

On April 14, 2010, the Committee filed the 2010 April Quarterly Report covering the period January 1, 2010 to March 31, 2010 (Image 10990544857). The report disclosed contributions totaling \$16,200.00 from ten (10) individuals on Schedule A supporting Line 11(a)(i) (Itemized Contributions from Individuals/Persons Other Than Political Committees) of the Detailed Summary Page that were designated for the 2010 General Election.

On May 25, 2010, an RFAI was sent to the Committee noting the requirement that the Committee refund or redesignate all 2010 General Election contributions received and requesting that the Committee take corrective action (Image 10030340192).

On June 29, 2010, Tom Marks, a committee representative, called the RAD Analyst. The Analyst confirmed that the Committee could file a statement explaining that all of the 2010 General Election contributions were refunded in a timely manner (Attachment 3).

On August 31, 2010, the RAD Analyst called Charles Crook, Treasurer, to inform him that the Committee might be referred for further Commission action if the contributions designated for the 2010 General Election were not refunded. Mr. Crook said that he was unaware of the letter and that he would communicate with the Candidate to take corrective action (Attachment 3).

On the same day, the Candidate called the RAD Analyst to ask what action could be taken to address the contributions designated to the 2010 General Election. The Analyst advised the Candidate to fax copies of the refund checks to RAD and report the refunded contributions on the next scheduled report, the 2010 October Quarterly Report covering July 1, 2010 to September 30, 2010 (Attachment 3).

On September 9, 2010, the Candidate called the RAD Analyst to request instructions for faxing copies of refund checks. The Analyst provided the fax number and confirmed that the Analyst would review the faxed documents (Attachment 3).

On September 13, 2010, the RAD Analyst responded to a voicemail from the Candidate, received late on September 9, 2010, asking if the copies of refund checks had been received by fax. The Analyst told the Candidate that the faxed copies of refund check had not yet been received, and the Analyst encouraged the Candidate to make another attempt to fax the information (Attachment 3).

On September 14, 2010, the RAD Analyst received a fax from the Committee, which stated in part, "...I have returned contributions to anyone who gave money for the general election in the 2010 cycle to Segall for Congress..." The checks and check stubs were dated July 20, 2010 and supported refunds totaling \$42,300.00 of 2010 General Election contributions cited in the RFAI sent on May 25, 2010 (Image 10030422731).

2010 July Quarterly Report

On May 25, 2010, an RFAI was sent to the Committee noting the requirement that the Committee refund or redesignate all 2010 General Election contributions received and requesting that the Committee take corrective action (Image 10030340192).

On June 29, 2010, Tom Marks, a committee representative, called the RAD Analyst. The Analyst confirmed that the Committee could file a statement explaining

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that all of the 2010 General Election contributions were refunded in a timely manner (Attachment 3).

On July 14, 2010, the Committee filed the 2010 July Quarterly Report covering the period from April 1, 2010 to June 30, 2010 (Image 10990861138). The report disclosed refunds made on April 29, 2010 totaling \$4,800.00 to two (2) individuals on Schedule B supporting Line 20(a) (Refunds of Contributions to Individuals/Persons Other Than Political Committees) for contributions designated for the 2010 General Election⁴.

On August 31, 2010, the RAD Analyst called Charles Crook, Treasurer, to inform him that the Committee might be referred for further Commission action if the contributions designated for the 2010 General Election were not refunded. Mr. Crook said that he was unaware of the letter and that he would communicate with the Candidate to take corrective action (Attachment 3).

On the same day, the Candidate called the RAD Analyst to ask what action could be taken to address the contributions designated to the 2010 General Election. The Analyst advised the Candidate to fax copies of the refund checks to RAD and report the refunded contributions on the next scheduled report, the 2010 October Quarterly Report covering July 1, 2010 to September 30, 2010 (Attachment 3).

On September 9, 2010, the Candidate called the RAD Analyst to request instructions for faxing copies of refund checks. The Analyst provided the fax number and confirmed that the Analyst would review the faxed documents (Attachment 3).

On September 13, 2010, the RAD Analyst responded to a voicemail from the Candidate, received late on September 9, 2010, asking if the copies of refund checks were received by fax. The Analyst told the Candidate that the faxed copies of refund check had not yet been received, and encouraged him to make another attempt to fax the information (Attachment 3).

On September 14, 2010, the RAD Analyst received a fax from the Committee, which stated in part:

"...I have returned contributions to anyone who gave money for the general election in the 2010 cycle to Segall for Congress... I have included check stubs and check copies for all but one contributor. I neglected to ask the bank for Robert Arnow's check, and for some reason, I am missing his check stub. I have included a print out from my NGP database confirming his contribution was returned on April 29, 2010."
(Image 10030422731)

⁴ The Committee disclosed two (2) refunds to Robert H. Arnow on 4/29/10; each refund was for a 2010 Primary Election contribution of \$2,400.00. The Committee's reports had previously disclosed a \$2,400.00 2010 Primary Election contribution and a \$2,400.00 2010 General Election contribution from this contributor.

The checks and check stubs were dated July 20, 2010 and supported refunds totaling \$42,300.00 of 2010 General Election contributions cited in the RFAI sent on May 25, 2010.

On October 13, 2010, an RFAI was sent to the Committee referencing the 2010 July Quarterly Report. The RFAI requested clarification regarding a refund to an individual for which there was no corresponding contribution received (Image 10030441721).⁵

2010 October Quarterly Report

On October 15, 2010, the Committee filed the 2010 October Quarterly Report covering the period from July 1, 2010 to September 30, 2010 (Image 10931467102). The report disclosed refunds totaling \$43,090.00 to twenty-eight (28) individuals on Schedule B supporting Line 20(a) (Refunds of Contributions to Individuals/Persons Other Than Political Committees) for contributions designated for the 2010 General Election (Images 10931467113-22). The refunds included all those referenced in the Committee's September 14, 2010 faxed submission with the exception of IBEW COPE.⁶

In summary, a total of \$50,750.00 in 2010 General Election contributions were not refunded by the Committee within the permissible timeframe (Attachment 2).

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

⁵ To date, the Committee has provided no further clarification on the 2010 Primary Election designation of the \$2,400.00 refund to Robert H. Arnow for which there was no contribution received. Therefore, this contribution is included in this referral.

⁶ While the September 14, 2010 fax disclosed the date of refunds as July 20, 2010, Schedule B supporting Line 20(a) of the Detailed Summary Page of the 2010 October Quarterly Report listed the date each refund check was cashed (a date range from 7/26/10 through 8/31/10).

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