



THE FEDERAL ELECTION COMMISSION
Washington, DC 20463

November 24, 2010

MEMORANDUM

To: Lynn Fraser
ADRO Director

Through: Alec Palmer
Acting Staff Director

From: Patricia Carmona Patricia Carmona
Chief Compliance Officer Digitally signed by Patricia Carmona
DN: cn=Patricia Carmona, o=FE
and that's my last e-mail, I
mean, so sorry about you, I'll
keep you'll know to be better

Joseph F. Stoltz
Assistant Staff Director JStoltz
Audit Division Digitally signed by Joseph F. Stoltz
DN: cn=Joseph F. Stoltz, o=FE
and that's my last e-mail, I
mean, so sorry about you, I'll
keep you'll know to be better

Tom Hintermister
Audit Manager Thomas Hintermister,
Deputy Assistant Staff
Director for Public Financing Digitally signed by Thomas Hintermister, Deputy
Assistant Staff Director for Public Financing
DN: cn=Thomas Hintermister, Deputy Assistant Staff
Director for Public Financing, o=Federal Election
Commission, email=thinter@fec.gov, c=US
Date: 2010.11.23 13:34:14 -0500

By: Rosa Crussiah
Lead Auditor

Subject: Friends for Menor (A07-02)- Referral Matter

On October 25, 2010 the Commission approved the final audit report on the Friends for Menor (FFM). The final audit report includes a finding for the receipt of excessive contributions from three individuals totaling \$8,780 that is referable to your office (See **Part B** of Finding 1 attached). FFM indicated that the loans associated with the excessive amounts have been paid in full with interest or the Candidate performed legal services in lieu of repayment of the loans.

All work papers and related documentation are available for review in the Audit Division. Should you have any questions regarding this matter, please contact Rosa Crussiah or Tom Hintermister at 694-1200.

Attachments: Finding 1- Candidate Loan and Receipt of Excessive Contributions

11190291219

Finding 1. Candidate Loan and Receipt of Excessive Contributions

Summary

FFM disclosed loans and/or contributions from the Candidate totaling \$75,000 that initially could not be verified as coming from the Candidate's personal funds. These funds were all transferred to FFM from the Candidate's business account and potentially resulted in impermissible contributions. In the interim audit report, the Audit staff recommended that FFM demonstrate that the loans were from the Candidate's personal funds. Absent such a demonstration, it was recommended that FFM refund any impermissible contributions and properly disclose the source of the loans. After consideration of FFM's response, the following was determined with respect to the \$75,000:

Candidate Loan

Sixty thousand dollars was received by the Candidate's business from corporations. FFM provided evidence that \$54,500 of that amount was the Candidate's personal funds. There remained a question concerning a \$5,500 loan received from an incorporated mortgage lending company. However, the Commission determined that there was insufficient evidence that the loan resulted in a prohibited contribution.

Receipt of Excessive Contributions

It was determined that three individuals loaned \$15,000 resulting in excessive contributions of \$8,780. The Commission determined that the loans from individuals resulted in FFM's receipt of excessive contributions.

Legal Standard

A. Contents of Reports. Each report must disclose for the reporting period and election cycle, the date and amount of loans made by or guaranteed by the candidate and the identification of each person who makes, endorses or guarantees a loan to the committee. 2 U.S.C. §434(b)(2)(G) and (3)(E).

B. Contribution Defined. A gift, subscription, loan (except when made in accordance with 11 CFR §§100.72 and 100.73), advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office is a contribution. The term *loan* includes a guarantee, endorsement, and any other form of security. A loan is a contribution at the time it is made and is a contribution to the extent that it remains unpaid. The aggregate amount loaned to a candidate or committee by a contributor, when added to other contributions from that individual to that candidate or committee, shall not exceed the contribution limitations set forth at 11 CFR part 110. A loan, to the extent it is repaid, is no longer a contribution. 11 CFR §100.52(a), (b)(1) and (b)(2).

C. Candidate as Agent of Authorized Committee. Any candidate who receives a contribution, obtains any loan, or makes any disbursement in connection with his or her

11190291220

campaign shall be considered as having received such contribution, obtained such loan or made such disbursement as an agent of his or her authorized committee(s). 11 CFR §101.2(a).

D. Definition of Personal Funds. *Personal funds* of the candidate mean the sum of all of the following:

(a) *Assets.* Amounts derived from any asset that, under applicable State law, at the time the individual became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had legal and rightful title or in which the candidate had an equitable interest;

(b) *Income.* Income of the candidate received during the current election cycle, as defined in 11 CFR §400.2, including:

- (1) A salary and other earned income that the candidate earns from bona fide employment;
- (2) Income from the candidate's stocks or other investments;
- (3) Bequests to the candidate;
- (4) Income from trusts established before the beginning of the election cycle as defined in 11 CFR §400.2;
- (5) Income from trusts established by bequest after the beginning of the election cycle of which the candidate is the beneficiary;
- (6) Gifts of a personal nature that had been customarily received by the candidate prior to the beginning of the election cycle, as defined in 11 CFR §400.2; and
- (7) Proceeds from lotteries and similar legal games of chance. 11 CFR §100.33

E. Receipt of Prohibited Contributions – General Prohibition. Candidates and committees may not accept contributions (in the form of money, in-kind contributions or loans) from, among other sources, the treasury funds of a corporation. 2 U.S.C. §441b.

F. Authorized Committee Limits: An authorized committee may not receive more than a total of \$2,000 per election from any one person. 2 U.S.C. §441a(a)(1)(A) and 11 CFR §110.1(a) and (b). The Bipartisan Campaign Reform Act of 2002 (BCRA) includes provisions that indexes the individual contribution limit for inflation. The individual contribution limit for the 2006 election cycle was \$2,100.

Facts and Analysis

FFM disclosed loans and/or contributions from the Candidate totaling \$75,000 that initially could not be verified as coming from the Candidate's personal funds. These funds were all transferred to FFM from the Candidate's business account. Based on an examination of bank statements and other records relating to the Candidate's business account, the Audit staff determined the source of the funds was apparently \$54,000 from two corporations and \$21,000 from an unknown source.

11190291221