

REPORTS ANALYSIS DIVISION REFERRAL
TO
ALTERNATIVE DISPUTE RESOLUTION OFFICE

DATE: January 13, 2011

ANALYST: Nicole Miller

- I. COMMITTEE: Mason Tenders District Council of
Greater New York & LI PAC
C00337733
Michael Prohaska, Treasurer
266 West 37th Street, 7th Floor
New York, NY 10018
- II. RELEVANT STATUTES: 2 U.S.C. § 434(b)(2)(A)
11 CFR § 104.3(a)

III. BACKGROUND:

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

Mason Tenders District Council of Greater New York & LI PAC ("the Committee") amended its 2007 Year End Report to disclose additional receipts totaling \$199,362.43 that were not disclosed on the original 2007 Year End Report (Attachment 2).

On January 31, 2008, the Committee filed its original 2007 Year End Report covering the period from July 1, 2007 through December 31, 2007. The original report disclosed \$107,856.72 on Line 11(a)(i) (Itemized Contributions from Individuals/Persons Other Than Political Committees), and \$328,676.61 on Line 11(a)(ii) (Unitemized Contributions from Individuals/Persons Other Than Political Committees) of the Detailed Summary Page (Image 28990260003).

On April 11, 2008, the Committee filed an Amended 2007 Year End Report which reflected no change in receipts as disclosed on the original 2007 Year End Report (Image 28990786957).

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On July 10, 2008, the Committee filed two Amended 2007 Year End Reports which both disclosed \$118,576.67 on Line 11(a)(i), and \$366,847.14 on Line 11(a)(ii) of the Detailed Summary Page (Images 28932140742 and 28991387912).

On August 1, 2008, the Committee was sent a Request for Additional Information ("RFAI") referencing the Amended 2007 Year End Report, received July 10, 2008. Among other issues, the RFAI asked for clarification regarding the \$48,890.48 in additional receipts that were not disclosed on the Committee's original 2007 Year End Report (Image 28039804245).

On August 15, 2008, the Committee filed an Amended 2007 Year End Report which reflected no change in receipts as disclosed on the July 10, 2008 amendment. The Committee attached a memo text to the report which stated in part, "Item 2: We neglected to enter 11(a)(i) and 11(a)(ii) totals in the report we filed. This generated the additional receipts that were not disclosed on the original report. We apologize for the error" (Image 28991720941).

On October 15, 2010, Kris Kohler, the Committee Administrator, called the Reports Analysis Division (RAD) Analyst. Ms. Kohler stated that she discovered the Committee had failed to report receipts in 2007 totaling about \$150,000.00 and asked how she should fix the discrepancy. The Analyst told Ms. Kohler that she should amend the 2007 reports to disclose the missing receipts (Attachment 3).

Subsequently, on October 15, 2010, the Committee filed another Amended 2007 Year End Report which disclosed receipts totaling \$189,679.03 on Line 11(a)(i) and \$446,216.73 on Line 11(a)(ii) of the Detailed Summary Page (Image 10931490004). The Committee attached a memo text to this report that stated in full,

"Due to a software error, some contribution data for the months of July, August and November 2007 were not captured in the 2007 year-end report filed with the FEC. The software provider has eliminated the problem, and the data for those months is now complete. Precautions have been added that will avoid an error such as this from occurring again. This amendment reflects the corrected contribution data for the year end report" (Image 10931490002).

On October 19, 2010, the Analyst called Ms. Kohler to tell her how to correct the current cash-on-hand balance discrepancy caused by the additional receipts reported on the Amended 2007 Year End Report. The Analyst told Ms. Kohler that the Committee could make a one-time adjustment to its cash-on-hand balance on its next filed report, and then all subsequent reports would show the correct cash-on-hand balance. The Analyst also advised Ms. Kohler that the Committee would be receiving an RFAI for the receipts discrepancy issue on the Amended 2007 Year End Report, and that any additional information provided for public disclosure would be helpful (Attachment 3).

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On October 22, 2010, an RFAI was sent to the Committee referencing the Amended 2007 Year End Report, received October 15, 2010. The RFAI requested clarification regarding the additional receipts totaling \$150,471.95¹ disclosed on Lines 11(a)(i) and 11(a)(ii) of the Detailed Summary Page that were not previously disclosed on the Committee's original 2007 Year End Report (Image 10030473203).

On November 24, 2010, Ms. Kohler called the RAD Analyst. She told the Analyst that she amended the 2007 Year End Report and now needed to correct the current cash-on-hand discrepancy. The Analyst advised the Committee to amend the 2010 October Quarterly Report to disclose the additional receipts as a lump sum on Line 11a(i) of the Detailed Summary Page. The Analyst also told the Committee to file a Miscellaneous Electronic Submission (FEC Form 99) to further explain the situation but that the Commission may still take further action (Attachment 3).

On November 24, 2010, the Committee submitted an FEC Form 99 which stated in full,

"The inaccurate negative cash on hand balance at the close of the April Quarterly 2010 report prompted an internal review of data in prior reports. This review led to the discovery that due to an unknown-at-the-time software malfunction, \$150,471.95 in receipts thought to have been reported on the 2007 year-end report had been reported to our compliance software provider but were subsequently not included in the receipts filed on the FEC report. The inadvertent omission of \$150,471.95 in receipts is what caused the negative cash on hand on the 2010 April Quarterly report. At no time did this account have a negative balance. Steps have been taken that assure this type of inadvertent exclusion of data will not occur in the future. The inadvertently omitted receipts were disclosed on the amended 2007 year end report. The MTDCPAC consulted the FEC as to the best course of action to reconcile the receipts for reports following the amended 2007 year end report. Per the instruction of the FEC the 2010 October Quarterly report is to be amended by adding a lump sum reconciliation in the amount of \$150,471.95 to Schedule A. This will correct the closing cash on hand for the Quarter 3 reporting period"² (Image 10991876987).

¹ The amount referenced in the RFAI, \$150,471.95, is the total activity change in receipts between the Amended 2007 Year End Report filed on October 15, 2010 and the previous amendments filed on July 10, 2008 and August 15, 2008. The Committee had been previously questioned for a \$48,890.48 increase in receipts between the original 2007 Year End Report filed on January 31, 2008 and amendments filed on July 10, 2008. Thus the total amount of activity change compared to the original report is \$150,471.95 + \$48,890.48 = \$199,362.43.

² On November 24, 2010, the Committee amended the 2010 October Quarterly Report to show the correct ending cash-on-hand. All subsequent reports reflect the correct cash-on-hand.

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On December 7, 2010, the Analyst left a voicemail for Ms. Kohler stating that the Committee was being referred for further action by the Commission for the increased receipts on the 2007 Year End Report (Attachment 3).

To date, no further communication has been received from the Committee regarding this matter.

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