

REPORTS ANALYSIS DIVISION REFERRAL
TO
ALTERNATIVE DISPUTE RESOLUTION OFFICE

DATE: August 17, 2011

ANALYST: Rosa Lewis

- I. COMMITTEE: National Emergency Medicine Political Action Committee (C00140061)
Phyllis Edans, Treasurer
1125 Executive Circle
Irving, TX 75038
- II. RELEVANT STATUTE: 2 U.S.C. §434(b)(4)
2 U.S.C. §434(g)(2)
11 CFR §104.4(b)
- III. BACKGROUND:

Failure to Provide Supporting Schedules (Failure to Timely file 48-Hour Notices)

National Emergency Medicine Political Action Committee ("the Committee") failed to file one (1) 48-Hour Notice to support one (1) independent expenditure totaling \$40,000 made up to and including the 20th day before the 2010 General Election (Attachment 2).

The Prior Notice listing the official filing dates for the 2010 12-Day Pre-General Report was sent via e-mail to the Committee on September 27, 2010. The notice included a section titled *48- and 24-Hour Reports of Independent Expenditures* which read as follows:

Any PAC or Party Committee that makes independent expenditures in 2010 may have to disclose this activity within 48- or 24-hours based upon the date and the amount of the expenditures. See 11 CFR 104.4, the Web Page: http://www.fec.gov/info/charts_ie_dates_2010.shtml, or the Campaign Guide. These reports are not required when a PAC or Party Committee makes a contribution directly to a candidate (Attachment 3).

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On October 21, 2010, the Committee filed a 2010 12-Day Pre-General Report covering the period from October 1, 2010 through October 13, 2010 which included a Schedule E (Itemized Independent Expenditures) disclosing one (1) independent expenditure totaling \$40,000 made in support of one (1) federal candidate with an election designation of "Other" 2010, for which a 48-Hour Notice was not filed (Image 10931711710).

On March 8, 2011, the Committee filed an Amended 2010 12-Day Pre-General Report¹. The amended report disclosed no change in the independent expenditure disclosed on the original 2010 12-Day Pre-General Report (Image 11930457268).

On April 21, 2011, a Request for Additional Information ("RFAI") was sent to the Committee referencing the Amended 2010 12-Day Pre-General Report, received March 8, 2011. Among other issues, the RFAI stated that the Committee may have failed to file one or more of the required Notices² for independent expenditures made on behalf of a federal candidate. A chart was included with the RFAI identifying the one (1) independent expenditure, totaling \$40,000, for which a Notice had not been filed (Image 11330008124).

On May 11, 2011, the Committee filed an Amended 2010 12-Day Pre-General Report. The amended report changed the election designation for the \$40,000 independent expenditure to "General" 2010 (Image 11931315693).

On June 10, 2011, the Reports Analysis Division (RAD) Analyst called and spoke with the Committee's treasurer, Phyllie Edans. The Analyst informed Ms. Edans that the failure to file a 48-Hour Notice for the independent expenditure disclosed on the 2010 12-Day Pre-General Report could be referred for further action by the Commission. Ms. Edans asked that the Analyst call Carolyn Ball regarding the issue because she maintains the Committee's reports (Attachment 4).

On June 15, 2011, the Analyst left a message on Ms. Ball's voicemail stating that the Committee's failure to file a 48-Hour Notice for the independent expenditure disclosed on the 2010 12-Day Pre-General Report could be referred for additional enforcement action by the Commission. The Analyst asked Ms. Ball to call back to discuss the issue. Later that day, Ms. Ball left a message on the Analyst's voicemail stating that she thought a note had been attached to the Amended 12-Day Pre-General Report that clarified the issue of the missing 48-Hour Notice and wanted to know what additional information was needed (Attachment 4).

Later on June 15, 2011, the Analyst and Ms. Ball spoke regarding the missing 48-Hour Notice. The Analyst explained to Ms. Ball that when committees make

¹ The amendment was filed in response to an RFAI sent on February 7, 2011, referencing the original 2010 12-Day Pre-General Report. The RFAI sought clarification on mathematical discrepancies and did not reference the \$40,000 independent expenditure (Image 11330004566).

² The RFAI incorrectly referenced 24-Hour Notices rather than 48-Hour Notices.

independent expenditures, 24- or 48- Hour Notices may need to be filed to disclose the date the independent expenditures were publicly disseminated. The Analyst advised Ms. Ball to add a statement to the public record stating why the notice was not filed when the expenditure was publicly disseminated. The Analyst also advised Ms. Ball to contact her software vendor for assistance with filing a Miscellaneous Electronic Submission ("FEC Form 99") (Attachment 4).

On June 15, 2011, the Committee filed an FEC Form 99 referencing the Amended 2010 12-Day Pre-General Report. The FEC Form 99 stated in full,

"In regards to the missing independent expenditure schedule E from our 12 Day Pre-General Report (10/01/2010-10/13/2010), for the \$40,000 radio ad for Christopher Murphy, The new staff person preparing the filing did not understand the rules regarding filing of the 24-48 hour notice report and only included the independent expenditure on the pre general report to the Federal Election Commission. We have provided additional training to this staff person to prevent this error from occurring on any future independent expenditures we file. Please accept our apology and advise if any further action needs to be taken" (Image 11931652667).

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

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