

REPORTS ANALYSIS DIVISION REFERRAL
TO
ALTERNATIVE DISPUTE RESOLUTION OFFICE

DATE: May 21, 2012

ANALYST: Quy Vuong

I. COMMITTEE: Frack Action USA PAC
(C00490631)
Steven Auerbach, Treasurer
100 Butternut Road
New Paltz, NY 12561

II. RELEVANT STATUTE: 2 U.S.C. §434(g)(1)
11 CFR §104.4(c)

III. BACKGROUND:

Failure to Provide Supporting Schedules (Failure to File 24-Hour Reports)

Frack Action USA PAC ("the Committee") failed to file five (5) 24-Hour Notices to support five (5) independent expenditures totaling \$35,987.00 made after the 20th day before, but more than 24 hours prior to, the 2010 General Election (Attachment 2).

On October 18, 2010, the Committee filed its first Statement of Organization to register as a political committee (Image 10030472791).

On February 11, 2011, the Committee filed a 2010 Year End Report covering the period of October 1, 2010 through January 31, 2011 which included a Schedule E (Itemized Independent Expenditures) disclosing five (5) independent expenditures, totaling \$35,987.00 made in support of one (1) federal candidate. The Committee failed to file five (5) 24-Hour Notices to support five (5) independent expenditures totaling \$35,987.00 (Images 11030571835-37).

On February 29, 2012, the Committee filed a Termination Report (Image 12030750825).

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On March 8, 2012, a Request for Additional Information (RFAI) was sent to the Committee referencing the 2010 Year End Report. The RFAI stated that the Committee may have failed to file one or more of the required 24-Hour Notices for Independent expenditures on behalf of a federal candidate. A chart was included with the RFAI identifying the five (5) independent expenditures, totaling \$35,987.00, for which 24-Hour Notices were not filed (Images 12330003542-44).

Also on March 8, 2012, an RFAI was sent to the Committee referencing the Termination Report. The RFAI stated that for the Committee to terminate, it must correct any problems on the 2010 Year End Report (Image 12330003545).

On April 17, 2012, the Reports Analysis Division (RAD) Analyst left a voice message for Mr. Auerbach. The Analyst stated that there were issues referable for further action and to please return the call so the Analyst could go over those matters in further detail. Later the same day, Mr. Auerbach returned the Analyst's call and the Analyst informed Mr. Auerbach that the Committee failed to file 24-Hour Notices for several independent expenditures in 2010. Mr. Auerbach asked the analyst how he could correct the problem. The Analyst told him that the Committee could provide any additional information regarding the apparent violation on the public record. The Analyst told Mr. Auerbach that this matter would be referred for additional action and that the appropriate division would contact the Committee once the referral moved forward. The Analyst also informed Mr. Auerbach that the Committee could not terminate their registration at that time and would have to continue filing reports (Attachment 3).

On May 1, 2012, the committee filed a 2012 April Quarterly Report, covering the period from January 1, 2012 through March 31, 2012. In a cover letter attached to the report the Committee stated in part:

"Frack Action USA PAC was a Super-PAC registered with the FEC on 10/21/10 for the purpose of independent expenditures supporting the candidacy of Congressman Maurice Hinchey (22nd District, NY). All expenditures were made prior to Election Day, 2010. The PAC has been inactive since then.

Therefore a termination report was sent on 2/29/12, I was told that the termination could not be implemented because Frack Action USA PAC did not submit a 24 hour report between 10/21/10 and election day 2010. A year end report, however, was filed on 2/11/11.

This is to let you know that it was impossible for Frack Action USA PAC to file the 24 hour notice report because I, as treasurer, was not sent information on how to file until well after election day 2011. I was told by the FEC that because they were so busy that filing instructions would follow.

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Had I been aware of the 24 hour filing, and had I received information on how to file, I would have complied.

The PAC was set up strictly for a specific congressional race in 2010, has not been active since and therefore, termination is requested. We have not raised or spent any funds since election day, 2010 (Image 12030800598)."

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

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