

REPORTS ANALYSIS DIVISION REFERRAL  
TO  
ALTERNATIVE DISPUTE RESOLUTION OFFICE

DATE: October 30, 2013

ANALYST: Christopher Whyrick

I. COMMITTEE: Friends of Herman Cain, Inc.  
C00496067  
Mark J. Block, Treasurer  
P.O. Box 2158  
Stockbridge, GA 30281

II. RELEVANT STATUTES: 2 U.S.C. § 441a(a) and (f)  
2 U.S.C. § 441b  
11 CFR § 102.9(e)  
11 CFR § 103.3(b)  
11 CFR § 104.8(d)  
11 CFR § 110.1

III. BACKGROUND:

**Excessive, Prohibited and Other Impermissible Contributions (Receipt of Excessive and Prohibited Contributions; Failure to Refund General Election Contributions within the Permissible Timeframe)**

Friends of Herman Cain, Inc. ("the Committee") received excessive, prohibited, and other impermissible contributions totaling \$186,871.98 for the 2012 Primary and General Elections, which were not remedied within the permissible timeframes. The Committee did not timely refund, reattribute, or redesignate, as applicable, excessive and prohibited contributions for the 2012 Primary Election totaling \$99,091.90 from sixty-six (66) individuals and two (2) corporate entities (Attachment 2). In addition, the Committee did not timely refund 2012 General Election contributions totaling \$87,780.08 from forty-three (43) individuals and one (1) political committee after the candidate announced on December 3, 2011 that he was no longer participating in the 2012 Primary Election (Attachment 3).

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Receipt of Excessive and Prohibited Contributions

On January 31, 2012, the Committee filed the 2011 Year-End Report, covering the period from October 1, 2011 through December 31, 2011. The report disclosed excessive contributions totaling \$117,991.90 from seventy-three (73) individuals, prohibited contributions totaling \$1,500.00 from two (2) corporate entities, and a potentially prohibited contribution totaling \$250.00 from one (1) unregistered organization (Image 12950399509).

On February 16, 2012, a Request for Additional Information (RAFI) was sent to the Committee referencing the 2011 Year-End Report. Among other issues, the RAFI noted the Committee's receipt of excessive and prohibited contributions and requested that the Committee take corrective action (Image 12330002671).

On March 22, 2012, the Committee filed an Amended 2011 Year-End Report (Image 12951315654). The report disclosed data entry corrections which resolved \$20,650.00 of the contributions cited as excessive from ten (10) individuals and one (1) unregistered organization.

On April 13, 2012, the Committee filed an Amended 2011 Year-End Report which disclosed no changes from the prior amendment with regard to excessive and prohibited contributions referenced in the February 16, 2012 RAFI (Image 12970917470).

On July 13, 2012, the Committee filed the 2012 July Quarterly Report covering the period from April 1, 2012 through June 30, 2012. The report disclosed refunds totaling \$16,624.00 for eleven (11) individuals previously cited in the February 16, 2012 RAFI. All of these refunds were made outside of the permissible timeframe (Image 12952424893).

On October 15, 2012, the Committee filed the 2012 October Quarterly Report covering the period from July 1, 2012 through September 30, 2012. The report disclosed refunds totaling \$29,624.90 for seventeen (17) individuals previously cited in the February 16, 2012 RAFI. All of these refunds were made outside of the permissible timeframe (Image 12954402139).

On January 31, 2013, the Committee filed the 2012 Year-End Report covering the period from October 1, 2012 through December 31, 2012. The report disclosed refunds totaling \$2,600.00 for two (2) individuals previously cited in the RAFI. Both of these refunds were made outside of the permissible timeframe (Image 13960642917).

Failure to Refund General Election Contributions within the Permissible Timeframe after the Candidate's Withdrawal from the Primary Election

On July 15, 2011, the Committee filed the 2011 July Quarterly Report covering the period from December 27, 2010 through June 30, 2011 (Image 11931915396). This report disclosed the receipt of \$8,310.00 in 2012 General Election contributions from six

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(6) individuals and one (1) political committee. On October 15, 2011, the Committee filed an amended report disclosing the receipt of \$16,336.10 in 2012 General Election contributions from seven (7) individuals and one (1) political committee (Image 11962640598). On December 22, 2011, the Committee filed an amended report disclosing no changes to the amount of 2012 General Election contributions (Image 11972769986).

On October 15, 2011, the Committee filed the 2011 October Quarterly Report covering the period from July 1, 2011 through September 30, 2011 (Image 11952640619). This report disclosed the receipt of \$24,204.99 in 2012 General Election contributions from fourteen (14) individuals. On December 22, 2011 and April 13, 2012, the Committee filed amendments to the 2011 October Quarterly Report that did not change the amount of 2012 General Election contributions received (Images 11953340826 and 12951401249).

On December 3, 2011, the candidate, Herman Cain, announced his withdrawal from the 2012 Presidential Primary Election.

On January 31, 2012, the Committee filed the 2011 Year-End Report covering the period from October 1, 2011 through December 31, 2011 (Image 12950399509). The report disclosed the receipt of \$49,738.99 in 2012 General Election contributions from twenty-four (24) individuals. This report also disclosed a timely refund of \$2,500.00 to one (1) individual. On March 22 and April 13, 2012, the Committee filed amendments to the 2011 Year-End Report that did not change the amount of 2012 General Election contributions received (Images 12951315654 and 12970917470).

On June 27, 2012, a Request for Additional Information (RFAI) was sent to the Committee referencing the 2012 April Quarterly Report. The RFAI noted the Committee's receipt of 2012 General Election contributions throughout the 2012 Election Cycle and requested that the Committee refund the contributions since the Candidate would not be participating in the General Election (Image 12330008837).

On July 13, 2012, the Committee filed the 2012 July Quarterly Report covering the period from April 1, 2012 through June 30, 2012 (Image 12952424893). This report disclosed \$13,800.00 in 2012 General Election contribution refunds to seven (7) individuals and one (1) political committee. These refunds occurred outside the permissible timeframe after the candidate withdrew from the 2012 Primary Election.

On August 1, 2012, the Committee filed a Miscellaneous Electronic Submission ("Form 99") referencing the RFAI for the 2012 April Quarterly Report. The Form 99 stated, in part:

"We are aware of the need to refund all contributions made to our committee designated towards the General 2012 election period. While our committee was active we maintained separate bank accounts for Primary 2012 and General 2012 funds. In the weeks leading up to the conclusion of the campaign, our volume and revenue sources increased

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significantly. Those factors caused the processing time to increase. It was during that time that some spending decisions were made before all of the calculations for General 2012 funds and excessive Primary 2012 contributions were fully completed. We are currently working on a plan for raising funds to satisfy all outstanding refunds that we are required to make and plan to issue those refunds as soon as possible" (Image 12952603125).

On October 15, 2012, the Committee filed the 2012 October Quarterly Report covering the period from July 1, 2012 through September 30, 2012 (Image 12954402139). This report disclosed \$18,700.00 in 2012 General Election contribution refunds to nine (9) individuals. These refunds occurred outside the permissible timeframe after the candidate withdrew.

On January 31, 2013, the Committee filed the 2012 Year-End Report covering the period from October 1, 2012 through December 31, 2012 (Image 13960642917). This report disclosed \$2,600.00 in 2012 General Election contribution refunds to two (2) individuals. These refunds occurred outside the permissible timeframe after the candidate withdrew.

On April 15, 2013, the Committee filed the 2013 April Quarterly Report covering the period from January 1, 2013 through March 31, 2013 (Image 13940544162). This report disclosed \$6,146.10 in 2012 General Election contribution refunds to three (3) individuals. These refunds occurred outside the permissible timeframe after the candidate withdrew.

On April 29, 2013, Reports Analysis Division (RAD) management called several individuals associated with the Committee and left messages regarding the unresolved issues referenced in the RFAs for the 2011 Year-End and 2012 April Quarterly reporting periods (Attachment 4).

On April 30, 2013, Vicki Temple, a finance staff member with the Committee, returned RAD management's call and stated that they were trying to wind down the Committee and were working to raise funds to issue refunds to remedy excessive and prohibited contributions (Attachment 4).

To date, no further communication has been received from the Committee regarding these matters.

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