

REPORTS ANALYSIS DIVISION REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: August 15, 2012

ANALYST: David Butler

I. COMMITTEE: Democratic Foundation of Orange County
C00176420
Xavier R. Martinez, Treasurer (9/17/11-present)
Kinde Durkee, Treasurer (2/9/04-9/16/11)
1531 Grand Avenue Suite D
San Marcos, CA 92078

II. RELEVANT STATUTE: 2 U.S.C. §432(b) and (c)
2 U.S.C. §434(b)
11 CFR §102.9
11 CFR §102.15
11 CFR §104.3

III. BACKGROUND:

Other Violations of the Federal Election Campaign Act (Unauthorized Use of Committee Funds)

Democratic Foundation of Orange County ("the Committee") filed its 2011 Year-End Report to disclose possible unauthorized activity (Attachment 2).

On January 23, 2012, Xavier Martinez, the Committee Treasurer, called the Reports Analysis Division (RAD) Analyst. Mr. Martinez told the Analyst that the Committee suspected that money may have been embezzled. The Analyst recommended that the Committee disclose as much information as possible regarding the potential embezzlement in memo text attached to the next report or filed separately on a Miscellaneous Electronic Submission ("Form 99"). The Analyst also recommended disclosing a cash adjustment when possible according to the guidance provided on the FEC website (Attachment 3).

COUNTY OF ORANGE

On January 30, 2012, the Committee filed the 2011 Year End Report covering the period from July 1, 2011 through December 31, 2011. The report disclosed a \$4,414.57 disbursement on Schedule B, supporting Line 29 (Other Disbursements), with a purpose of "Cash-on-hand adjustment due to unauthorized disbursements" (Image 12970171953).

On June 25, 2012, the Analyst called Mr. Martinez, the Committee Treasurer. The Analyst told Mr. Martinez that the apparent unauthorized disbursements disclosed on the 2011 Year-End Report would possibly be referred for further action. The Analyst advised Mr. Martinez to provide any additional information on the public record regarding the possible unauthorized activity. The Analyst also informed Mr. Martinez of the option of filing a *sua sponte* submission and left instructions on where he could obtain more information about doing so (Attachment 3).

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

1-11-2012 10:00 AM