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May 16, 2012

Anthony Herman  
General Counsel  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

PRE-MUR # 539

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COMMISSION  
2012 MAY 17 AM 11:56  
OFFICE OF GENERAL  
COUNSEL

Re: Committee to Re-Elect Loretta Sanchez

Dear Mr. Herman,

As discussed, this letter and its attachments constitute a sua sponte submission and provide the Office of General Counsel with additional information on the misappropriation of funds by the former treasurer, Kinde Durkee, of the Committee to Re-Elect Loretta Sanchez ("Committee").

First arrested in September of 2011, Ms. Durkee pled guilty to five counts of mail fraud on March 30, 2012. As stated in the plea agreement,<sup>1</sup> Ms. Durkee had signature authority on approximately 700 bank accounts, and she frequently served as treasurer and/or custodian of records for her clients. The plea agreement outlines some specific examples of her malfeasance but does not provide details for each transaction that comprises the \$8.3 million she misappropriated from all of her clients. While the criminal case against Ms. Durkee appears to be resolved, she, her firm, Durkee & Associates, and some specific staff members remain the subjects of multiple civil actions. At this time, it is unclear when – if ever – additional details regarding Durkee & Associates' erroneous filings on behalf of the Committee will become known. Thus this letter represents the available information to the Committee at this time.

Relationship between the Committee and Kinde Durkee

The Committee retained Ms. Durkee as Treasurer in 1996 to be primarily responsible for reporting and recordkeeping in accordance with the Federal Election Campaign Act ("FECA"). Ms. Durkee was retained because of her advertised expertise and reputation with numerous state and federal candidates, including many years of service to a United States Senator from California. The Committee chose a professional campaign treasurer in order to avoid common

<sup>1</sup> See Attachment A.

problems that arise when campaigns use volunteers or inexperienced employees for compliance services, such as aggregation errors, late or incomplete reporting, failure to gather documentation for contributions and disbursements, and the inability to resolve common technical issues. As discussed more fully below, the Committee could not have foreseen the scope and depth of Ms. Durkee's malfeasance, particularly given her professional experience and prominent clientele.

Beyond Ms. Durkee, the Committee had regular interactions with many of the employees of Durkee & Associates, all of whom appeared to be knowledgeable and equally professional. Ms. Durkee and her staff promptly responded to any Committee inquiries and adequately answered any questions raised by the Committee, whether they related to processing payments, contributions received, or other compliance or accounting issues.<sup>2</sup>

By hiring a professional treasurer and a vendor whose sole purpose was to provide professional compliance and reporting services, the Committee had every reason to believe that Ms. Durkee and Durkee & Associates complied with all applicable FECA requirements, policies and procedures, including the minimum internal controls for the embezzlement safe harbor. The bank accounts were opened by Ms. Durkee in the name of the Committee and using the Committee's Employer Identification Number. Ms. Durkee had a large and seemingly experienced staff, and the Committee believed that the various functions and responsibilities were sufficiently divided amongst them.

Contributions physically received by the Committee were mailed to Ms. Durkee's office and deposited by Ms. Durkee or her staff. In some situations, contributions to the Committee were sent directly to Ms. Durkee's address; such contributions were processed and deposited by Ms. Durkee or her staff. While the Committee believed it was notified of all contributions directly received by Durkee & Associates, Ms. Durkee only occasionally provided scanned images of these checks.

Authorized Committee disbursements were also handled almost exclusively by Ms. Durkee and her firm. Ms. Durkee and her staff approved payments for payroll, workers compensation and insurance as an authorized agent. They also made regular payments for worker's compensation, insurance, rent, consulting fees (including her own) and other similar monthly and ongoing obligations. The Committee utilized a check request form for authorized disbursements that were not routine; once sent to Durkee & Associates, they processed the checks and mailed as directed. Similarly, Ms. Durkee's office handled wire transfers, most commonly for large media buys, upon the specific request of the Committee.

Further, Durkee & Associates provided the Committee with weekly reports on its financial status, including a "Balance Sheet" and "Profit & Loss" analysis that purported to include all contributions raised and disbursements made for the cycle up to and including the date of the report.<sup>3</sup> The Committee closely monitored not only the weekly reports but also

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<sup>2</sup> See examples in Attachment B.

<sup>3</sup> See examples in Attachment C, including the weekly report dated September 2, 2011, just one day before Ms. Durkee's arrest.

specifically authorized payments, such as wire transfers for media buys.<sup>4</sup> The Committee had no knowledge of any authorized disbursement that was paid late or not at all. The Committee also reviewed FEC reports, which were consistent with their internal records of authorized receipts and disbursements.

### **Misappropriation and Embezzlement**

As noted above, the exact facts surrounding the embezzlement and malfeasance may never be known by the Committee. However, according to the plea agreement and allegations widely reported by the press, neither this Committee nor any of Ms. Durkee's clients could have imagined a misappropriation scheme that would total \$8.3 million.

Ms. Durkee has pled guilty to commingling funds belonging to her various clients and repeatedly making transfers, withdrawals and deposits between and amongst accounts on which Ms. Durkee had signing authority. A study of available Committee records, as described in detail below, shows the brazen use of the Committee's account and her signatory authorization to move hundreds of thousands of dollars in and out of the Committee's bank account. According to the plea agreement, Ms. Durkee regularly moved money between her client's accounts in an attempt to hide her embezzlement.

### **Committee Reporting**

Because of the timing of Ms. Durkee's arrest, the Committee adjusted its report for the third quarter of 2011 based on the limited amount of information that was available at that time. Since then, the Committee has been able to acquire the available records from Durkee & Associates, which includes documentation of a majority of the approved receipts and disbursements from the first quarter of 2007 through the third quarter of 2011. First California Bank provided the Committee with access to bank statements from 2007 to present.

The total amount of funds embezzled from the Committee appears to be \$393,753. The Committee arrived at this figure by subtracting the amount of cash actually in the bank accounts in September 2011 from the receipts and disbursements figures provided by Ms. Durkee and her firm.<sup>5</sup>

The Committee's newly retained compliance professionals are conducting a thorough analysis of all available Committee records and bank statements from January 2007 to present, including a detailed analysis of recently converted data from one type software database into another. Once this review is complete, the Committee will file a final amendment reconciling the reports to the actual cash on hand. Unless and until more information becomes available, or Ms. Durkee and/or Durkee & Associate are allowed and willing to provide more specifics to their clients, this final amendment will represent the most complete information that may be reported by the Committee.

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<sup>4</sup> See examples in Attachment B.

<sup>5</sup> See September 2, 2011 statement in Attachment C.

Please let us know if you wish to set up a meeting or conference call to discuss any of this information further.

Sincerely,



Carolyn Utrecht

Karen Zeglis

Counsel

Committee to Re-Elect Loretta Sanchez