

REPORTS ANALYSIS DIVISION REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: March 28, 2014

ANALYST: Paul Stoetzer

I. COMMITTEE: Liberty for All Action Fund
C00514653
Chris Marston, Treasurer (7/16/12 - Present)
Aaron Nosbisch, Treasurer (4/23/12 -
7/15/12)
John Andrew Ramsey, Treasurer
(3/05/12 - 4/22/12)
P. O. Box 25394
Alexandria, VA 22313

II. RELEVANT STATUTE: 2 U.S.C. § 434(b)
2 U.S.C. § 434(g)(1)
11 CFR § 104.3
11 CFR § 104.4(c)

III. BACKGROUND:

Failure to Provide Supporting Schedules (Failure to Disclose All Financial Activity)

Liberty for All Action Fund ("the Committee") amended its 2012 April Quarterly and 2012 July Quarterly Reports to disclose additional receipts of \$461,631.83 and additional disbursements of \$20,088.61, which were not disclosed in the original reports (Attachment 2).

2012 April Quarterly Report

On April 15, 2012, the Committee filed the original 2012 April Quarterly Report covering the period from January 1, 2012 through March 31, 2012. The report disclosed \$127,884.06 in disbursements on Line 21(a)(ii) (Non-Federal Share of Allocated

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Federal/Non-Federal Activity) and \$0.00 in disbursements on Line 21(b) (Other Federal Operating Expenditures) of the Detailed Summary Page (Image 12970951890).

On July 24, 2012, the Committee filed an Amended 2012 April Quarterly Report. The report disclosed \$0.00 in disbursements on Line 21(a)(ii) of the Detailed Summary Page and \$147,972.67 in disbursements on Line 21(b) of the Detailed Summary Page, a total increase in disbursements of \$20,088.61 from the original report⁴ (Image 12952590489, Attachment 4). The Committee attached memo text to the report stating in part: "The Committee has identified some expenditures which were not reported on its initial report, but should have been. All expenditures are reflected on this amended report" (Image 12952590491).

On September 6, 2012, a Request for Additional Information (RFAI) was sent to the Committee referencing the Amended 2012 April Quarterly Report, received July 24, 2012. Among other items, the RFAI requested clarification regarding the substantial increase in disbursements from those disclosed on the original report (Image 12330012064).

On September 7, 2012, the Committee filed a Miscellaneous Electronic Submission ("Form 99") in response to the RFAI. The Committee stated, in part:

"The Committee is in receipt of your request for additional information, dated September 6, 2012. You note an increase in disbursements from the intial [sic] report to the amended report of \$20,088.61.

In preparing the amended report to provide additional required information and correct other errors, the Committee discovered that it had failed to report some expenditures. The amended report corrected this failure" (Image 12972176164).

2012 July Quarterly Report

On July 16, 2012, the Committee filed the original 2012 July Quarterly Report covering the period from April 1, 2012 through June 30, 2012. The report disclosed \$1,718,962.95 in receipts on Line 11(a)(i) (Itemized Contributions from Individuals) of the Detailed Summary Page (Image 12971467371).

On August 20, 2012, the Committee filed an Amended 2012 July Quarterly Report. The report disclosed \$2,180,594.78 in receipts on Line 11(a)(i) of the Detailed Summary Page, an increase of \$461,631.83 from the original report (Image 12952831672). The Committee attached memo text to the report stating in part: "This amended report includes two receipts from the same donor on the same day that were omitted from the original report" (Image 12952831675).

⁴ The original report disclosed \$127,884.06 in activity on Line 21(a)(ii) that appears to have been moved to Line 21(b) on the amendment filed on 7/24/12, resulting in a net increase in disbursements of \$20,088.61.

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On December 21, 2012, the Committee filed an Amended 2012 July Quarterly Report. The report disclosed no change in receipts from the previous amendment (Image 12963777874, Attachment 3). The Committee attached memo text to the report stating in part:

"Increased Receipts-As noted in memo text on the amended report filed on 8/20, the Committee failed to report two receipts from the same donor on the same day. Two contributions from John Ramsey on 5/8/2012 in the amounts of \$431,631.83 and \$30,000 account for the increase in receipts. The Committee filed this amended report to correct this omission when it was discovered in the course of preparing its August 20 Monthly report⁵" (Image 12963777877).

On January 24, 2013, a Request for Additional Information (RFAI) was sent to the Committee referencing the Amended 2012 July Quarterly Report, received December 21, 2012. Among other items, the RFAI requested clarification regarding the substantial increase in receipts from those disclosed on the original report (Image 13330020850).

On February 27, 2013, the Committee filed an Amended 2012 July Quarterly Report. The report disclosed no change in receipts from the previous amendment (Image 13961077244). The Committee attached memo text to the report stating in part:

"This amendment is filed in response to a Request for Additional Information dates [sic] 1/24/2013...1. Increased receipts--this issue was addressed in both of the prior amended reports on 8/20/12 and 12/21/12. The Committee has no information beyond that already provided" (Image 13961077247).

On July 30, 2013, the Reports Analysis Division (RAD) Analyst left a voice mail message with Chris Marston, the Committee's treasurer and asked Mr. Marston to call the Analyst back. Later that day, the Analyst spoke with Mr. Marston. Among other issues, the Analyst informed the treasurer that the matter regarding increased financial activity on the 2012 April Quarterly and 2012 July Quarterly reports was referable for further action to the Commission. Mr. Marston stated that he had no further explanation beyond what had been disclosed on memo text of the amended reports. The Analyst stated that if he did have anything further to disclose, he should disclose it on a Miscellaneous Electronic Submission ("Form 99") (Attachment 6).

On August 5, 2013, the Committee submitted a Form 99 stating in full:

"In reference to the Committee's amended 2012 April Quarterly and July Quarterly, the Committee wishes to apprise the Commission of the circumstances surrounding the errors made on the original reports and the

⁵ The RFAI referenced in memo text on this report inadvertently included the wrong chart attachment and was subsequently deleted from the public record.

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Committee's efforts to ensure accurate and timely reporting for all subsequently filed reports.

The Committee started its operations in February of 2012, beginning with an all-volunteer staff. As it brought on paid staff through the spring, the heavy focus was on involvement in elections and the business and compliance operations were staffed by young, inexperienced, but committed employees. They made a good faith effort to comply with the Commission's regulations, but didn't realize the complexity involved in reporting or the requirements of record keeping.

In late April and early May, the Committee began to professionalize its operation and bring on more seasoned staff. The Committee's leadership realized in mid-June, after the first primary election in which it was engaged, that its financial operations and compliance activities were not being managed successfully.

At that time, the Committee sought out experienced professionals in campaign finance law and FEC reporting, retaining both a law firm and a compliance consultant to review the Committee's reports and records and to assume responsibility for financial operations, compliance, and reporting going forward.

The Committee transitioned responsibility for these activities beginning in early July. Unfortunately, the transition was not complete prior to the filing of the July Quarterly report.

However, the Committee discovered the substantial errors it made in disbursements on the April Quarterly Report and the substantial errors it made in reporting receipts on the July Quarterly Report. Upon discovering the errors and making an exhaustive review of the Committee's records, the Committee amended the reports to disclose these errors on its own initiative.

Additionally, the Committee notes that the errors, although significant, did not mask the most important details from the public record. The error in total disbursements on the April Quarterly Report consisted mostly of small individual expenditures, none of which were independent expenditures. Although the record was incomplete, no major expenditures to influence an election were omitted.

Although the error in receipts on the July Quarterly Report was quite large, it consisted entirely of two contributions received the same day from the same donor. That donor and his considerable support for the Committee were well established in the public record based on the original reports. The original report disclosed year-to-date contributions from the

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donor in question in excess of \$1.9 million dollars. While the correct amount was in excess of \$2.35 million dollars, it was certainly clear that the donor was a major supporter of the Committee.

Since these early errors in its reporting, the Committee has taken several measures to improve its ability to accurately report to the Commission--

(1) Centralizing Receipts through a single post office box and single online contributions processor and recording them in a fundraising database.

(2) Centralized Disbursements by limiting the number of individuals with authority to make disbursements, using an online accounts payable system and recording all off-line transactions promptly in an accounting package.

(3) Reconciliation of the accounting system to bank statements monthly and reconciling FEC reports to bank statements prior to filing.

The Committee looks forward to working with the Commission to resolve any outstanding questions about its reports" (Image 13964496041).

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

Liberty for All Action Fund ("the Committee") failed to timely file one (1) 24-Hour Report to support one (1) independent expenditure totaling \$42,085.00 disclosed on the 2012 September Monthly Report made less than 20 days, but not more than 24 hours before the 2012 Primary Election in the state of Michigan (Attachment 5).

A Prior Notice listing the official filing dates for monthly filers was sent via email to the Committee on August 27, 2012. The notice included a section titled *48- and 24-Hour Reports on Independent Expenditures* which read as follows, "Any PAC or Party Committee that makes independent expenditures in 2012 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(b)(2) and (c), the WebPage: http://www.fec.gov/info/charts_ie_dates_2012.shtml, or the Campaign Guide. These reports are not required when a PAC or Party Committee makes a contribution directly to a candidate."

On September 19, 2012, the Committee filed a 24-Hour Report of Independent Expenditures (Schedule E). The report disclosed one (1) independent expenditure dated August 3, 2012, totaling \$42,085.00 and designated to the 2012 Primary Election in the state of Michigan, held on August 7, 2012. The Committee attached memo text to the 24-Hour Report stating: "Report filed late. Discovered failure to report in preparing Sept 20 Monthly report" (Image 12952942772-3).

On September 20, 2012, the Committee filed a 2012 September Monthly Report, covering the period from August 1, 2012 through August 31, 2012, which included a Schedule E (Itemized Independent Expenditures) disclosing sixteen (16) independent expenditures totaling \$516,562.59 made in support of one (1) federal candidate and in

opposition to one (1) federal candidate. The Committee failed to timely file one (1) required 24-Hour Report to support one (1) independent expenditure totaling \$42,085.00 (Image 12972220902-9, Attachment 5).

On December 7, 2012, a Request for Additional Information (RFAI) was sent to the Committee referencing the 2012 September Monthly Report. Among other items, the RFAI noted the Committee may have failed to timely file one (1) or more of the required 24-Hour Reports for the independent expenditures. A chart was included with the RFAI identifying, among other issues, one (1) independent expenditure designated to the 2012 Primary Election in the state of Michigan totaling \$42,085.00, for which a 24-Hour Report had not been timely filed (Image 12330017919-22).

On January 10, 2013, the Committee filed an Amended 2012 September Monthly Report. The amendment disclosed no changes to Schedule E (Image 13960115836-43). The Committee attached memo text to the report in response to the RFAI stating, in part:

"This amended report responds to a Request for Additional Information [sic] letter (RFAI) dated 12/7/2012, which requests information on three items, each of which is addressed in turn...Late 24 Hour Report (Schedule E)--With respect to the three expenditures identified, the Committee notes the following: Nebo Media 8/3/12, \$42,085.00. The Committee filed an Independent Expenditure report on 9/19 and included memo text indicating that the report was filed late and that the error had been discovered in the process of preparing the Sept 20 Monthly Report. The Committee regrets its error and corrected it on its own initiative once discovered" (Image 13960115786).

On March 21, 2013, the Committee filed an Amended 2012 September Monthly Report. The amendment disclosed no changes to Schedule E (Image 13940505305-12).

On July 30, 2013, the Reports Analysis Division (RAD) Analyst left a voice mail message with Chris Marston, the Committee's treasurer and asked him to call the Analyst back. Later that day, the Analyst spoke with Mr. Marston. Among other issues, the Analyst informed Mr. Marston that the 24-Hour Report filed late on September 19, 2012 for the independent expenditure in opposition of Nancy Cassis was referable for further action to the Commission. Mr. Marston stated that he had no further explanation beyond what had been disclosed on memo text of the amended report. The Analyst again stated that if he did have anything further to disclose, he should disclose it on a Miscellaneous Electronic Submission ("Form 99") (Attachment 6).

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

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