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April 29, 2014

Jeff Jordan  
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999 E Street, NW  
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OFFICE OF GENERAL  
COUNSEL

**Re: RR 14L-06 (Liberty for All Action Fund)**

Dear Mr. Jordan,

Liberty for All Action Fund is in receipt of your letter regarding the Reports Analysis Division's referral of a certain reporting matter to the Office of General Counsel for review. This response is submitted by the undersigned counsel on behalf of Liberty for All Action Fund. Please see attached a signed Statement of Designation of Counsel.

## **Disclosure of Additional Disbursements: April 2012 Quarterly Report**

As recounted in the Reports Analysis Division (RAD) Referral, Liberty for All Action Fund submitted amendments to its April 2012 quarterly report that disclosed additional disbursements in the amount of \$20,088.61. Liberty for All Action Fund does not dispute these figures. The Commission is aware of these additional disbursements because Liberty for All Action Fund filed amended reports, on its own initiative, upon discovering the errors in its initial report.

The committee's April 2012 quarterly report was first amended on July 24, 2012, and with that filing the committee included the following explanation for the amendment: "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." In September 2012, RAD sent the committee a Request For Additional Information seeking "clarifying information

as to why this activity was not disclosed on your original report.” That information had already been provided with the July 24, 2012, amendment, but the committee nevertheless submitted a Form 99 (attached) to explain that “[i]n 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.” In July 2013, the committee’s RAD analyst contacted the committee’s treasurer by telephone regarding the matter and instructed the treasurer to file a Form 99 if the committee had anything further to add. In August 2013, the committee complied with these instructions and submitted a Form 99 that explained the matter to the Commission for the third time, albeit in more detail.

#### **Disclosure of Additional Receipts: July 2012 Quarterly Report**

As recounted in the RAD Referral, the committee also submitted amendments to its July 2012 quarterly report that disclosed additional receipts in the amount of \$461,631.83. Again, Liberty for All Action Fund does not dispute these figures. The Commission is aware of these additional receipts because Liberty for All Action Fund filed amended reports, on its own initiative, upon discovering the errors in its initial reports.

The committee’s July 2012 quarterly report was first amended on August 20, 2012, and with that filing the committee included the following explanation for the amendment: “This amended report includes two receipts from the same donor on the same day that were omitted from the original report.” In December 2012, the committee submitted a second amended July 2012 quarterly report and fully explained the two omitted contributions in a memo text entry. As the committee explained, the additional receipts in question were comprised of two contributions (\$431,631.83 and \$30,000), both made on the same day by the same contributor. On previous reports, the committee had already disclosed this particular donor as having made substantial contributions (approximately \$1.9 million) to the committee. In other words, this individual was already on record as having made substantial contributions to the committee, and the initially undisclosed contributions did not deprive the public of this basic contributor information.

Roughly one month later, in January 2013, RAD sent the committee a Request For Additional Information, seeking “clarifying information as to why this activity was not disclosed on your original report.” That information had already been provided, but the committee filed another amended report on February 27, 2013, in order to submit a memo text entry in response to the RFAI. That memo text indicated that the matter had already been addressed in earlier filings and that “[t]he Committee has no information beyond that already provided.”

In July 2013, the committee’s RAD analyst contacted the committee’s treasurer by telephone regarding the matter and instructed the treasurer to file a Form 99 if the committee had

anything further to add. In August 2013, the committee complied with these instructions and submitted a Form 99 (attached) that explained the matter to the Commission again.

### **Late Filed 24-Hour Report**

As recounted in the RAD Referral, Liberty for All Action Fund filed one 24-Hour Report of Independent Expenditures on September 19, 2012, which should have been filed by August 4, 2012. This independent expenditure was, however, included in the committee's September 2012 monthly report, filed September 20, 2012, on Schedule E. Thus, the committee partially complied with the law's duplicative filing requirement for certain independent expenditures.

The committee received a RFAI pertaining to this matter on December 7, 2012. On January 10, 2013, the committee filed an amended report in order to submit a memo text entry response to the RFAI. This entry explained that 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."

In July 2013, the committee's RAD analyst contacted the committee's treasurer by telephone regarding the matter and instructed the treasurer to file a Form 99 if the committee had anything further to add. In August 2013, the committee complied with these instructions and submitted a Form 99 that explained the matter to the Commission again.

### **Committee Personnel, Internal Review, and Corrective Actions**

As explained to the Commission in the committee's August 5, 2013, Form 99 submission, the committee began operations in February 2012 with an all-volunteer staff. In late April and early May 2012, the Committee took steps to professionalize its operation and hire more experienced staff. The Committee retained legal counsel and a professional compliance consultant.

Specifically, the committee retained Chris Marston, an experienced, professional compliance consultant to serve as treasurer in July 2012. The committee's July 2012 quarterly report was filed by its original treasurer, and Mr. Marston filed an amended Statement of Organization the next day, on July 16, 2012, to reflect his new position as the committee's treasurer. After being retained, Mr. Marston conducted a thorough review of the committee's finances and financial operations. This review uncovered the errors that were corrected in the amended April and July 2012 quarterly reports. Mr. Marston likewise discovered the unreported

independent expenditure in the course of preparing the committee's September 2012 monthly report.

As previously noted in the committee's Form 99 submission, the committee and Mr. Marston have implemented several measures to ensure that these reporting omissions do not continue to occur. The committee has centralized its receipts with a single Post Office Box and a single online contributions processor, both of which are monitored by Mr. Marston, who records all receipts in the committee's database. Disbursements are now similarly centralized, and the committee uses an online accounts payable system which is supplemented with an off-line recording system. All disbursements are promptly recorded, and Mr. Marston exercises oversight of both systems. Mr. Marston reconciles bank statements with the accounting system on a monthly basis, and then reconciles FEC reports with all bank statements prior to filing reports with the Commission. With these measures in place, the committee is confident that its recordkeeping and reporting is now complete, timely, and accurate.

The Committee submits this response in the hopes of cooperating with the Commission to resolve this matter as expeditiously as possible. Please feel free to contact us if you have any questions or require any additional information.

Sincerely,



Michael Bayes

Counsel to Liberty for All Action Fund

Attachment

**MISCELLANEOUS TEXT (FEC Form 99)**

PAGE 1 / 1

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 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 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.