

RECEIVED  
FEDERAL ELECTION  
COMMISSION

2009 NOV 20 PM 2:10 FEDERAL ELECTION COMMISSION

In the presence of: ~~Office of General~~ Mary Landrieu, Inc. MUR 6234  
COUNSEL

COMPLAINT

1. Citizens for Responsibility and Ethics in Washington ("CREW") and Melanie Sloan bring this complaint before the Federal Election Commission ("FEC" or "Commission") seeking an immediate investigation and enforcement action against Friends of Mary Landrieu, Inc. for direct and serious violations of the Federal Election Campaign Act ("FECA").

Complainants

2. Complainant CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the right of citizens to be informed about the activities of government officials and to ensuring the integrity of government officials. CREW is dedicated to empowering citizens to have an influential voice in government decisions and in the governmental decision-making process. CREW uses a combination of research, litigation, and advocacy to advance its mission.

3. In furtherance of its mission, CREW seeks to expose unethical and illegal conduct of those involved in government. One way CREW does this is by educating citizens regarding the integrity of the electoral process and our system of government. Toward this end, CREW monitors the campaign finance activities of those who run for federal office and publicizes those who violate federal campaign finance laws. Through its website, press releases and other methods of distribution, CREW also files complaints with the FEC when it discovers violations of the FECA. Publicizing campaign finance violators and filing complaints with the FEC serves CREW's mission of keeping the public informed about individuals and entities who violate campaign finance laws and deterring future violations of campaign finance law.

4. In order to assess whether an individual, candidate, political committee or other regulated entity is complying with federal campaign finance law, CREW needs the information contained in receipts and disbursements reports that political committees must file pursuant to

12044321454

the FECA, 2 U.S.C. § 434(a)(2); 11 C.F.R. § 104.1. CREW is hindered in its programmatic activity when an individual, candidate, political committee or other regulated entity fails to disclose campaign finance information in reports of receipts and disbursements required by the FECA.

5. CREW relies on the FEC's proper administration of the FECA's reporting requirements because the FECA-mandated reports of receipts and disbursements are the only source of information CREW can use to determine if a candidate, political committee or other regulated entity is complying with the FECA. The proper administration of the FECA's reporting requirements includes mandating that all reports of receipts and disbursements required by the FECA are properly and timely filed with the FEC. CREW is hindered in its programmatic activity when the FEC fails to properly administer the FECA's reporting requirements.

6. Complainant Melanie Sloan is the executive director of Citizens for Responsibility and Ethics in Washington, a citizen of the United States and a registered voter and resident of the District of Columbia. As a registered voter, Ms. Sloan is entitled to receive information contained in reports of receipts and disbursements required by the FECA, 2 U.S.C. § 434(a)(2); 11 C.F.R. § 104.1. Ms. Sloan is harmed when a candidate, political committee or other regulated entity fails to report campaign finance activity as required by the FECA. See FEC v. Akins, 524 U.S. 11, 19 (1998), quoting Buckley v. Valeo, 424 U.S. 1, 66-67 (1976) (political committees must disclose contributors and disbursements to help voters understand who provides which candidates with financial support). Ms. Sloan is further harmed when the FEC fails to properly administer the FECA's reporting requirements, limiting her ability to review campaign finance information.

#### Respondent

7. Friends of Mary Landrieu, Inc. is the principal campaign committee of U.S. Senator Mary Landrieu (D-LA) and, as such, is subject to the jurisdiction of the FEC. 2 U.S.C. § 431(5).

12044321456

### Factual Allegations

8. On August 7, 2008, Friends of Mary Landrieu, Inc. made an expenditure (characterized on its 2008 Pre-Primary Report as a "donation") of \$25,300 to the U.S. Treasury. See Friends of Mary Landrieu, FEC Form 3, Report of Receipts and Disbursements, p. 233, filed August 25, 2008 (attached as Exhibit A). When questioned about the expenditure by the press, a lawyer for the campaign refused to explain why the campaign disgorged the funds to the Treasury, stating only the contributors "are private citizens who in most instances may not have done anything wrong . . . ." See Arthur Delaney, Why Did Sen. Landrieu's Campaign Donate \$25,300 to the Government?, *Huffington Post*, November 13, 2009 (attached as Exhibit B). Because funds normally are disgorged to the Treasury only when a campaign has reason to believe a contribution was illegal, it appears that Friends of Mary Landrieu, Inc. accepted \$25,300 in contributions that at some point it either suspected or knew were illegal and, rather than return the illegal contributions to the contributors as required by Commission regulations, opted to disgorge the funds to the U.S. Treasury.

9. Commission regulations establish a clear regulatory scheme for a committee treasurer to follow when the committee receives a contribution of questionable legality. Contributions that, when received, present genuine questions as to whether they were made by corporations, labor organizations, foreign nationals, or Federal contractors may be deposited into a campaign depository or returned to the contributor within ten days of receipt. If such a contribution is deposited, the treasurer must make his or her best efforts to determine the legality of the contribution. The treasurer must make at least one written or oral request for evidence of the legality of the contribution. Such evidence includes but is not limited to, a written statement from the contributor explaining why the contribution is legal, or a written statement by the treasurer memorializing an oral communication from the contributor to that effect. If the contribution cannot be determined to be legal, the treasurer shall refund it to the contributor within thirty days of receipt. 11 C.F.R. §103.3(b)(1)(emphasis added).

10. If the treasurer determined at the time the contribution was received and deposited that it did not appear to have been made by a corporation, labor organization, foreign national, federal contractor, or in the name of another, "but later discovers that it is illegal based on new evidence not available to the political committee at the time of receipt and deposit, the treasurer shall refund the contribution to the contributor within thirty days of the date on which the illegality is discovered." 11 C.F.R. § 103.3(b)(2)(emphasis added).

11. The clear rule established by the Commission's regulations is that when a political committee suspects or later determines that a contribution is illegal, the contribution must be returned to the contributor. 11 C.F.R. § 103.3(b)(1)&(2). The Commission, however, in a series of advisory opinions, has authorized political committees to disgorge illegal contributions to the U.S. Treasury in one unique situation – when the committee learns that the source of the illegal contributions is under investigation, under indictment, or has been convicted for making illegal contributions. See Advisory Opinion 1996-5 (former Representative Jay Kim could disgorge \$10,000 in illegal conduit contributions from five employees of Samsung America after the campaign learned that Samsung had been convicted of reimbursing the employees in violation of 2 U.S.C. § 441f); Advisory Opinion 1995-19 (nonconnected political committee could disgorge \$34,800 in illegal conduit contributions after the names of the conduit contributors were reported in the *Baltimore Sun* and the Federal Bureau of Investigation requested, and the political committee provided, information and documents regarding the conduit contributions); Advisory Opinion 1991-39 (Friends of Senator D'Amato could disgorge multiple contributions from a single contributor over a three-year period after the committee learned that the contributor had been indicted for causing the committee to file false statements with the Commission); Advisory Opinion 1989-5 (Richard Ray for Congress Campaign Committee could disgorge a \$1,000 contribution from a contributor after the committee learned that the contributor had pleaded guilty to four counts of violating 2 U.S.C. § 441f by serving as a conduit for unlawful corporate contributions from the Sperry Corporation); and Advisory Opinion 1984-52 (former

Representative Marty Russo could disgorge \$7,750 in illegal corporate conduit contributions received from employees of the Board of Trade Clearing Corporation after the Clearing Corporation entered a plea of guilty to criminal violations of 2 U.S.C. § 441b).

12. The FEC advisory opinions interpreting 11 C.F.R. § 103.3(b)(2) establish a clear rule that a committee may disgorge contributions to the U.S. Treasury voluntarily only when the Justice Department is pursuing a criminal investigation or prosecution of the contributions. These advisory opinions simply do not stand for the proposition, as Friends of Mary Landrien, Inc. appears to contend, that a political committee may disgorge illegal contributions to the U.S. Treasury at will.

#### COUNT I

13. FEC regulations require that when a campaign committee suspects or later determines that a contribution is illegal, the committee must refund the illegal contribution to the contributor. 11 C.F.R. § 103.3(b)(1)&(2). Such refunds must be reported by the campaign committee on its periodic reports to the Commission. 11 C.F.R. § 104.3(b)(2)(v)(A).

14. By disgorging \$25,300 in apparently illegal contributions to the U.S. Treasury rather than refunding them to the contributors and reporting the refunds, Friends of Mary Landrieu, Inc. violated 11 C.F.R. § 103.3(b)(1) or (2).

#### CONCLUSION

WHEREFORE, Citizens for Responsibility and Ethics in Washington and Melanie Sloan request that the Federal Election Commission conduct an investigation into these allegations, declare the respondent to have violated the Federal Election Campaign Act and applicable FEC regulations, impose sanctions appropriate to these violations and take such further action as may be appropriate, including referring any information obtained by the

Commission in this case to the Justice Department for investigation of possible violations of 2  
U.S.C. §§ 441b(a) & 441f.



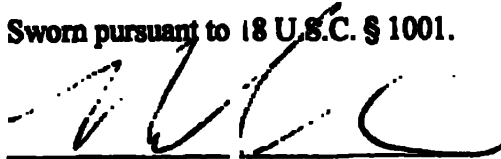
**Melanie Sloan**  
**Executive Director**  
**Citizens for Responsibility and Ethics**  
**in Washington**  
**1400 Eye Street, N.W.**  
**Suite 450**  
**Washington, DC 20005**  
**(202) 408-5565 (phone)**  
**(202) 588-5020 (fax)**

12044321459

**Verification**

**Citizens for Responsibility and Ethics in Washington and Melanie Sloan hereby verify  
that the statements made in the attached Complaint are, upon information and belief, true.**

**Sworn pursuant to 18 U.S.C. § 1001.**



**Melanie Sloan**

**Sworn to and subscribed before me this 19th day of November, 2009.**

  
**Notary Public**

**Lisa Drew  
District of Columbia, Notary Public  
My Commission Expires  
July 31, 2014**

12044321460

12044321461

**EXHIBIT A**



FEC  
FORM 3

REPORT OF RECEIPTS  
AND DISBURSEMENTS  
For Authorized Committee

SECRETARY OF THE SENATE  
08 AUG 25 PM 4:07

Office Use Only

1. NAME OF COMMITTEE (in full) USE FEC MAILING LABEL OR TYPE OR PRINT Example: typing, type over the lines

Friends of Mary Landrieu, Inc.

ADDRESS (number and street) 807 14th Street, NW, Suite 800

☐ Check if different than previously reported. (ACC)

Washington

DC

20005

2. FEC IDENTIFICATION NUMBER

C00825128

CITY A

STATE A

ZIP CODE A

STATE V DISTRICT

3. IS THIS REPORT

☒

NEW

OR

☐

AMENDED (A)

LA

00

4. TYPE OF REPORT (Choose One)

(a) Quarterly Reports:

- ☐ April 15 Quarterly Report (Q1)  
☐ July 15 Quarterly Report (Q2)  
☐ October 15 Quarterly Report (Q3)  
☐ January 31 Year-End Report (YE)

☐ Termination Report (TER)

(b) 15-Day PRE-Election Report for the:

- ☒ Primary (12P) ☐ General (12G) ☐ Runoff (12R)  
☐ Convention (12C) ☐ Special (12S)

Election on

09

08

2008

In the State of

LA

(c) 30-Day POST-Election Report for the:

- ☐ General (30G) ☐ Runoff (30R) ☐ Special (30S)

Election on

In the State of

5. Covering Period

07

01

2008

through

08

17

2008

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer

Nancy M. Maraglia

Signature of Treasurer

Electronically Filed by Nancy M. Maraglia

Date

08

25

2008

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. 437g.

Office Use Only

FEC FORM 3  
(Revised 08/2004)

PERAND18

12044321462

28020450279

**SCHEDULE B (FEC Form 3)  
ITEMIZED DISBURSEMENTS**

Use separate schedule(s)  
for each category of the  
Detailed Summary Page

FOR LINE NUMBER:  
(check only one)

PAGE 233 / 242

☐ 17 ☐ 18 ☐ 19a ☐ 19b  
☐ 20a ☐ 20b ☐ 20c ☒ 21

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee

NAME OF COMMITTEE (in Full)  
Friends of Mary Landrieu, Inc.

A.

Full Name (Last, First, Middle Initial)  
U.S. Treasury

Transaction ID: D221369  
Date of Disbursement

Mailing Address 1500 Pennsylvania Ave NW

08 / 07 / 2008

City Washington State DC Zip Code 20220

Amount of Each Disbursement this Period

Purpose of Disbursement  
Donation

25300.00

Candidate Name

Category/  
Type

☐ Refund or Disposal of Excess  
Contributions Required Under  
11 C.F.R. 400.83

Office Sought: ☐ House  
☐ Senate  
☐ President

Disbursement For: 2008  
☒ Primary ☐ General  
☐ Other (specify) ▾

State: District:

SUBTOTAL of Disbursements This Page (optional) ➤

25300.00

TOTAL This Period (last page this line number only) ➤

25300.00

FEC44018

FEC Schedule B (Form 3) (Revised 05/2003)

12044321463

28020450511

12044321464

**EXHIBIT B**

November 19, 2009

This is the print preview. [Back to normal view](#) »

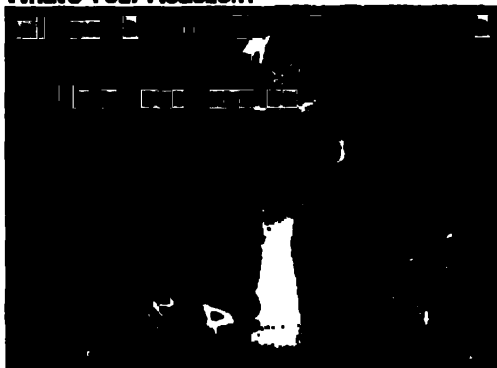


Arthur Delaney  
arthur@huffingtonpost.com | HuffPost Reporting

## Why Did Sen. Landrieu's Campaign Donate \$25,300 To The Government?

First Posted: 11-13-09 08:15 PM | Updated: 11-13-09 09:57 PM

### What's Your Reaction?



When a political campaign returns dirty donations, it usually releases a statement of some kind praising the integrity of the candidate. So why didn't the campaign of Sen. Mary Landrieu (D-La.) say anything when it donated \$25,300 in campaign funds to the U.S. Treasury Department in August 2008?

Progressive watchdog group Citizens for Responsibility and Ethics in Washington noticed the donation and wondered if it had something to do with an investigation by the Senate Ethics Committee. In January 2008, CREW had asked the committee whether

Landrieu violated Senate rules in 2001 by requesting a \$2 million earmark for the Voyager Expanded Learning literacy program for D.C. public schools — "a mere four days after receiving \$251,000 in campaign contributions from company executives and their relatives."

The committee announced it had cleared Landrieu of wrongdoing on Thursday, two years after the complaint. To CREW, it seemed odd that \$25,300 had been returned during the investigation.

Landrieu's campaign said CREW is basing up the wrong tree.

"It has absolutely nothing at all, whatsoever, in any way shape or form to do with the CREW ethics complaint, or Voyager, or anything like that," said Marc Elias, a lawyer for the campaign, in an interview with the Huffington Post.

So why did the campaign return that money? Elias wouldn't say.

CREW executive director Melissa Sloan said she believed Elias' statement that it had nothing to do with Voyager. But she has become even more cautious about the donation.

"Now there's something else out there and we don't know what it is," she told HuffPost. "It may not be Voyager, but I believe something bad happened, and I'd sure like to know what it is... Somehow the money is tainted in some way, and when a senator has a contribution that's tainted in some way the

public has a right to know what happened."

Story continues below .

Elise said the campaign was protecting the identities of its donors.

"The concern is that these are private citizens who in most instances may not have done anything wrong," he said. "So to throw them in an article that scratches an itch that CREW has isn't fair."

Sloan's response: "Too bad. Life isn't fair."

Incidentally, D.C. public school officials did not even want the literacy program. It didn't even rank among the top three when they searched for a new system-wide program in 2005, according to the December 2007 story by the Washington Post's James Garmaldi that prompted CREW's complaint.

Garmaldi described how Congress' predilection for meddling with D.C. public schools has hurt the system:

"The Voyager story...highlights the haphazard way that curricula end up in the District's classrooms," he wrote. "For many years, educators have said that the patchwork of instructional material is one reason the city's students hover near the bottom of rankings in national test scores."