

Holtzman Vogel

HOLTZMAN VOGEL BARAN TORCHINSKY & JOSEFIAK PLLC

October 31, 2022

Camilla Reminsky
Kendrick Smith
Audit Division
Federal Election Commission
1050 First Street, NE
Washington, DC 20463

VIA EMAIL

Re: Response of Steve Daines for Montana to Interim Audit Report

Dear Ms. Reminsky and Mr. Smith,

This response is submitted by the undersigned counsel on behalf of Steve Daines for Montana (the “Committee”) regarding the Interim Audit Report of July 29, 2022. At the outset, we note that the Committee maintains its objection to the use of sampling to estimate or project errors.

The Audit Division’s three Findings are addressed below.

Finding 1. Receipt of Contributions in Excess of the Limit

In our Exit Conference Response, we briefly addressed excessive contributions that were refunded by the Committee but never deposited by the contributor. We reiterate here that excessive contributions that were refunded by the Committee, in some cases more than once, but not deposited by the contributor, should be separated from unrefunded excessive contributions. The former category should not be treated as “actionable violations.”

On September 23, 2022, the Committee disgorged multiple contributions to the U.S. Treasury via check in the amount of \$56,920.38. This transaction appears on the Committee’s October 2022 quarterly report on Line 21. The contributions included are listed as memo entries on the Committee’s report.

The Committee has refunded all remaining contributions specifically identified by the Audit Division as excessive. In addition, we note that identified excessive contributions referenced in the Committee’s Exit Conference Response dated March 11, 2022 have been issued or proper attributions filed as amendments. Refunds are reported on Line 20a of the Committee’s October Quarterly Report with additional amendments to appear on the Committee’s next report. Details regarding each individual transaction will be forwarded separately and we will be available to discuss and provide any clarifications needed.

Finally, the Committee refunded one contribution in the amount of \$11,200 from an impermissible source on September 23, 2022. This refund is also reported on Line 20a of the Committee's October Quarterly Report.

The Committee will forward separately banking records showing that contributors deposited refund checks.

Finding 2. Disclosure of Debts and Obligations

Several identified debts were previously addressed in the Committee's Exit Conference Response (March 11, 2022). It is our understanding that those debts were removed from the findings in the Interim Audit Report

The Committee believes that the following invoices identified by the Audit Division as unreported debts for brief periods of time (6-8 days) are immaterial to the public record and should be excluded from the Audit Division's findings. In each case, the disbursement to the vendor was reported on the Committee's next report.

Allegiance Direct LLC.

- Audit objection appears to be that two invoices dated 06/03/20 were not reported on Schedule D of July Quarterly report (covering period 5/14/20 – 06/30/20).
- Both invoices were paid by check dated 7/7/20.
- Had check #5900 been issued one week earlier, the transaction would not have "crossed" reporting periods and no Schedule D entry would have been required.

Campaign Solutions

- As noted in the Exit Conference Response (March 11, 2022), the invoice was provided to the Committee by the vendor on 3/10/20.
- This invoice was paid by check dated 4/7/20.
- Had payment been issued one week earlier, the transaction would not have "crossed" reporting periods and no Schedule D entry would have been required.

Connell Donatelli (1)

- Audit objection appears to be that two invoices dated 3/3/20 and 3/5/20 were not reported on Schedule D of April Quarterly report (covering period 01/01/20 – 03/31/20).
- Both invoices were paid by check dated 4/7/20.
- Had check #5797 been issued one week earlier, the transaction would not have "crossed" reporting periods and no Schedule D entry would have been required.

Connell Donatelli (2)

- Audit objection appears to be that two invoices dated 4/24/20 and 5/6/20 were not reported on Schedule D of Pre-Primary 2020 report (covering period 4/1/20 – 5/13/20).
- Both invoices were paid by check dated 5/19/20.

- Had check #5841 been issued six days earlier, the transaction would not have “crossed” reporting periods and no Schedule D entry would have been required.

Shanna Woodbury Consulting

- Audit objection appears to be that invoice dated 5/21/20 was not reported on Schedule D of July Quarterly report (covering period 5/14/20 – 06/30/20).
- Invoice was paid by check dated 7/8/20.
- Had check #5901 been issued eight days earlier, the transaction would not have “crossed” reporting periods and no Schedule D entry would have been required.
- All invoices from Shanna Woodbury Consulting have been paid.

As we previously explained in email correspondence on December 15, 2021, the invoice from Connell Donatelli, Inc., dated June 15, 2020, was for advertising that the Committee did not actually place at the time. The ad buy was delayed and the purchase/obligation was actually made in September 2020. A wire in the amount of \$108,750 was sent on September 10, 2020. The invoice dated June 15, 2020 did not reflect an actual obligation, and there was never any debt or obligation associated with this invoice that was required to be reported. To the best of the Committee’s knowledge, however, the invoice was not withdrawn and reissued in September 2020 when the ad buy was actually made. Instead, the Committee paid the existing invoice when the vendor indicated the obligation was actually made on or about September 10, 2020.

With respect to invoicing from Gula Graham, we previously explained in email correspondence on December 15, 2021, that the referenced invoices “contained items from several shared events. They were returned for further clarification and a request that we be billed only for the specific campaign’s share of the expenses.” Once this clarification was received, the Committee paid the invoices on the dates specified.

Finding 3. Disclosure Receipts

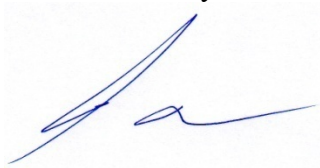
The Committee has prepared reporting amendments based on the disclosure issues identified by the Audit Division. (These amendments will be filed on October 31 or November 1, 2022.) Identified disclosure errors such as “incorrect date,” “incorrect amount,” “incomplete name,” “missing address,” and improperly reported contributions through conduits have been corrected and appear on the Committee’s amended filings.

- The Committee notes that several contributions that were identified as having been reported with an “incorrect date” involve immaterial discrepancies that have no impact on the public record. For example, the Audit Division found identified one contribution in the amount of \$95 that showed a date of October 4 on the check or credit card, a reported date of receipt of October 10, and a date of deposit of October 16, and. In another case, a check was dated June 30, the reported date of receipt was July 7, and the date of deposit was July 13.

Comprehensive amendments have been filed to address the identified joint fundraising disclosure and receipt issues.

We appreciate your continued assistance in this matter. Please feel free to contact us if you need any further information.

Sincerely,

A handwritten signature in blue ink, appearing to be 'Jason Torchinsky', is centered on the page. The signature is fluid and cursive, with a long horizontal stroke at the end.

Jason Torchinsky
Michael Bayes
Counsel to Steve Daines for Montana