

Paulsen

June 5, 2018

Thomas Hintermister
Federal Election Commission
Assistant Staff Director
Audit Division
1050 First Street NE
Washington D.C., 20463

VIA E-MAIL AND U.S. MAIL

Re: *Response to Interim Audit Report*

Dear Mr. Hintermister:

This responds to the Federal Election Commission's (the "Commission") Interim Audit Report of the Audit Division concerning the 2015-2016 election cycle activities of the Friends of Erik Paulsen Committee (the "Committee").

The Interim Audit Report includes only one finding—relying entirely on contribution sampling and projections drawn from that sampling, the Interim Audit Report finds that the Committee *might* have received excessive contributions of \$134,786.

Although sampling has been blessed by the Commission as a general matter, the Audit Division's projections here are incorrect because the sampled items relied on by the Audit Division were not excessive contributions (or erroneous in any other way). To the contrary, the Committee provided the auditors with evidence demonstrating that *none* of the sample items involved excessive contributions—and the auditors agreed that all concerns regarding the sample items have been resolved. Because the sampled contributions were not errors, the Audit Division cannot draw statistical projections from them, per Commission regulation. See 11 C.F.R. § 9038.1(f)(2).

Even if the interim audit report correctly applied statistical sampling, the Interim Audit Report's findings suggest, at most, a technical record-retention issue relating to the maintenance of the redesignation/retribution letters sent by the Committee to contributors. Although the Committee does not believe that any contributions identified by the Audit Division were excessive, it has nonetheless resolved any potential error by re-

Paid for by Friends of Erik Paulsen

sending reattribution and redesignation letters to every contributor whose contribution was reattributed or redesignated in 2016. Thus, the error—if there really was an error—has been corrected. There are no excessive contributions, and thus the Audit Division should close this audit and issue a report with no findings.

A. The Commission's projections from statistical sampling were improper because the sample items were not errors.

When a Commission audit relies on statistical sampling for its findings, the audited Committee must "respond only to the specific sample items used to make the projection," and may demonstrate that "any apparent errors found among the sample items were not errors." Upon such a showing, the Commission must revise its projection based on the reduced number of errors in the sample. 11 C.F.R. § 9038.1(f)(2).

Here, the Committee presented evidence that every sample item relied on by the Audit Division was not, in fact, an error. For every sample item identified as a potentially excessive contribution, the Committee resolved the Commission's concerns by producing either (1) evidence that the potentially excessive contribution was refunded or (2) a letter redesignating or reattributing the donor's contribution.

The Commission's Audit Division acknowledged that the Committee addressed and resolved each of the sample items in an e-mail to the Committee's treasurer on March 1, 2018 in which auditor Terry O'Brien wrote "the Committee addressed and resolved the remaining 100% review items (\$31,800.00) with its submission of redesignation/retribution letters." See Exhibit 1.

The Committee has done more than simply show that redesignation/retribution letters were sent to donors. The Committee also has produced evidence showing that letters resolving excessive contributions were timely sent to all donors identified by the Audit Division. That evidence includes (1) proof that every donor received a solicitation explaining that his or her contribution would be reallocated or redesignated before the donor made the contribution and (2) a letter from the Committee's representative—Josi Hellier—explaining that she recalled sending timely reallocation or redesignation letters at the time the contribution was reallocated or redesignated to every person on the Audit Division's list of supposedly excessive contributions.

This evidence already produced by the Committee resolved the auditors' concerns regarding the alleged errors in the sample items. Because those concerns were resolved, as a matter of regulation the Audit Division cannot use those sample items as the basis for statistical projection under 11 C.F.R. § 9038.1(f)(2).

B. The Committee has demonstrated that every donor received a reattribution or redesignation letter when warranted during the 2016 cycle.

Following the audit exit conference, the Audit Division requested the Committee review a spreadsheet of additional allegedly excessive contributions, and other contributions of \$1,000 or greater, and then “go through the committee’s records and find items, similar to the ones we found during field work, that require a redesignation/reattribution letter to be sent to the contributor.” The Audit Division indicated that if the Committee sent new reattribution or redesignation letters to donors “found during field work” and identified on the spreadsheet, “this should address the issue we presented at the exit conference.” *See Exhibit 2.*

In preparing a response to the Interim Audit Report, the Committee recognized that—contrary to the Audit Division’s representations—the Committee had produced reattribution and redesignation letters for nearly all the contributions listed on the spreadsheet. The Committee’s treasurer notified the Audit Division of its error. On June 4, 2018 (the day before this response letter was due), the Audit Division sent an e-mail to the Committee’s treasurer acknowledging the Committee already had produced letters to nearly all the individuals listed on its spreadsheet.¹ *See Exhibit 3.*

Having resolved the Audit Division’s concerns regarding (1) the sample items identified before the Interim Audit Report and (2) all but a handful of additional items identified after the Interim Audit Report, the Committee was left to guess which contributor(s) (if any) should receive (yet another) reattribution or redesignation letter. To be clear, as noted above, the Committee sent timely reattribution and redesignation letters in every instance where a letter was warranted, and the Committee has provided sufficient evidence to prove this point. Yet, rather than adopt this evidence in their findings, the auditors speculated there could be issues and asked that the Committee use its limited resources to go back and review *all* of the Committee’s records to identify any instances where contributors might not have received letters. *See Exhibit 1* (asking Committee to “review its contributions to find any items requiring a presumptive reattributed/redesignated letter but for which no letter was sent and/or maintained”).

In order to resolve the Audit Division’s speculative concerns, the Committee decided to send another round of redesignation and reattribution letters to every donor whose contribution was reallocated or redesignated during the 2015-2016 election cycle. Those letters are attached to this response as Exhibit 4.

¹ Unfortunately, during the course of the audit, there were at least three instances where the Committee independently discovered that it had produced records that the auditors claimed to be missing. The auditors’ mistakes seem inadvertent, but — nonetheless — created a significant burden for the Committee, which was required repeatedly to double check the auditors’ factual findings.

Mr. Thomas Hintermister

June 5, 2018

Page 4

C. The Audit Division should report no findings or, at a minimum, revise its methodology and findings to comport with the evidence.

The Audit Division should accept the Committee's evidence demonstrating that the Committee sent a reallocation or redesignation letter in every instance where a letter was warranted. This should resolve the audit—which at this point reflects, at most, a recordkeeping issue—and the Final Audit Report should include no findings.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Asp", with a stylized flourish at the end.

David W. Asp
Treasurer