

September 27, 2018

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**BY EMAIL AND U.S. MAIL**

Federal Election Commission  
Audit Division  
Mr. Kendrick Smith  
1050 First Street, NE  
Washington, DC 20002  
Email: [audit@fec.gov](mailto:audit@fec.gov); [ksmith@fec.gov](mailto:ksmith@fec.gov)

**Re: Tony Cardenas for Congress**

Dear Mr. Smith:

On behalf of our client, Tony Cardenas for Congress (the “Committee”), we write in response to the Interim Audit Report of the Audit Division (the “Report”). The Committee has cooperated fully with the auditors at all stages of the process.

This audit covered the Committee’s activities for the 2016 election cycle. The Committee was then a small operation and used a small California-based compliance firm. The Committee has since engaged an experienced compliance firm to handle its accounting and report preparation functions. At the same time, the Committee has also taken steps to bolster its compliance operations and established procedures for internal quality control. The Committee is prepared to take further remedial measures as circumstances require to ensure continued compliance.

The Report made two findings:

*First*, the Report posited misstatement of financial activity, consisting of an understatement of ending cash-on hand of \$10,237 during 2015, an overstatement of disbursements of \$40,568 in 2016, and an understatement of ending cash-on hand of \$38,999 during 2016.<sup>1</sup>

During the period provided to respond to the Report, the Committee disputed the scope of these misstatements. In particular, the Committee provided documentation showing that a check for \$39,497.67 made on November 10, 2016, which comprised nearly all of the asserted misstatement, was in fact issued, but simply had not been cashed at the end of 2016; the Committee later issued a new check which was processed by the bank on January 10, 2017. By email on September 20, 2018, the auditors agreed to “adjust our bank reconciliation to show this disbursement as an outstanding check, and there is no adjustment needed for your disclosure

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<sup>1</sup> See Interim Audit Report at 4.

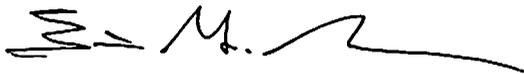
reports. We believe the public record is accurate since you did not report the second disbursement.”<sup>2</sup>

The Committee also provided evidence indicating that the asserted misstatement of receipts of \$11,200 was not, in fact, a misstatement. Rather, the Committee reported as receipts the reversals of checks that were never cashed by the recipients. The auditors agreed that the documentation was “a true representation,” but they did “not agree with the manner in which the [C]ommittee reported the reversals,” insofar as the Committee should have disclosed the reversals as negative disbursements on Schedule B.<sup>3</sup> The Committee is amending its reports to disclose the reversals in the manner urged by the auditors, and to correct the few remaining elements of the misstatement finding.<sup>4</sup>

*Second*, the Report posits the receipt of contributions in excess of the limits. During the initial audit fieldwork, the audit staff’s review indicated that the Committee received apparent excessive contributions totaling \$74,302.<sup>5</sup> Before the issuance of the Report, the Committee resolved all excessive contributions by sending a refund check and reattribution and redesignation letters confirming the donors’ intent.<sup>6</sup> In the Report, the auditors recommend that the Committee provide evidence of negotiation for the one refund check provided in response to the exit conference.<sup>7</sup> The Committee has provided the auditors with additional documentation evidencing negotiation for the refund check, attached as Exhibit A. Accordingly, the Committee has fully complied with the auditors’ recommendations as to this finding.

The Committee is committed to continued compliance with the Federal Election Campaign Act of 1971, as amended. We appreciate the Commission’s consideration of this response.

Very truly yours,



Brian G. Svoboda  
Emma Olson Sharkey  
Counsel to Tony Cardenas for Congress

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<sup>2</sup> Email from Kendrick Smith to Brian Svoboda (Sep. 20, 2018).

<sup>3</sup> *Id.*

<sup>4</sup> Interim Audit Report at 5.

<sup>5</sup> *See id.*

<sup>6</sup> *See id.*

<sup>7</sup> *See id.* at 5-6.