



FEDERAL ELECTION COMMISSION
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August 21, 2012

AGENDA ITEM

MEMORANDUM

To: The Commission **For Meeting of 10-18-12**

Through: Alec Palmer *AP*
Staff Director

From: Patricia C. Orrock *PC for PO*
Chief Compliance Officer

Tom Hintermister *TH*
Assistant Staff Director
Audit Division

Marty Favini *MF*
Audit Manager

By: Camilla Reminsky *CR*
Lead Auditor

Subject: Audit Division Recommendation Memorandum on Friends of Sharron Angle (FOSA)(A11-09)

Pursuant to Commission Directive No. 70 (FEC Directive on Processing Audit Reports), the Audit staff presents its recommendations below and discusses the findings in the attached Draft Final Audit Report (DFAR). The Office of General Counsel has reviewed this memorandum and concurs with the recommendations.

Finding 1. Filing of 48-Hour Notices

In its response to the DFAR, FOSA had no additional comments on this finding. The Audit staff recommends that the Commission find that FOSA filed in an untimely manner or failed to file 48-hour notices for 169 contributions totaling \$243,750, that were made prior to the primary and general elections.

Finding 2. Reporting of Debts and Obligations

In its response to the DFAR, FOSA had no additional comments on this finding. The Audit staff recommends that the Commission find that FOSA failed to itemize debts totaling \$2,287,080 on Schedule D (Debts and Obligations).

The Committee did not request an audit hearing.

If this memorandum is approved, a Proposed Final Audit Report will be prepared within 30 days of the Commission's vote.

In case of an objection, Directive No. 70 states that the Audit Division Recommendation Memorandum will be placed on the next regularly scheduled open session agenda.

Documents related to this audit report can be viewed in the Voting Ballot Matters folder. Should you have any questions, please contact Camilla Reminsky or Marty Favin at 694-1200.

Attachment:

- Draft Final Audit Report of the Audit Division on Friends of Sharron Angle

cc: Office of General Counsel



Draft Final Audit Report of the Audit Division on the Friends of Sharron Angle

(February 17, 2009 -
December 31, 2010)

Why the Audit Was Done

Federal law permits the Commission to conduct audits and field investigations of any political committee that is required to file reports under the Federal Election Campaign Act (the Act). The Commission generally conducts such audits when a committee appears not to have met the threshold requirements for substantial compliance with the Act.¹ The audit determines whether the committee complied with the limitations, prohibitions and disclosure requirements of the Act.

Future Action

The Commission may initiate an enforcement action, at a later time, with respect to any of the matters discussed in this report.

About the Campaign

 (p. 2)

Friends of Sharron Angle is the principal campaign committee for Sharron Angle, Republican candidate for the United States Senate from Nevada, and is headquartered in Reno, Nevada. For more information, see the chart on the Campaign Organization, p. 2.

Financial Activity

 (p. 2)

• Receipts	
○ Contributions from Individuals	\$ 27,790,037
○ Contributions from Other Political Committees	399,037
○ Contributions from Other Authorized Committees	56,544
○ Refunds and Other Offsets	23,531
Total Receipts	\$ 28,269,149
• Disbursements	
○ Operating Disbursements	\$ 27,948,259
○ Contribution Refunds	206,202
○ Other Disbursements	22,675
Total Disbursements	\$ 28,177,136

Findings and Recommendations

 (p. 3)

- Filing of 48-Hour Notices (Finding 1)
- Reporting of Debts and Obligations (Finding 2)

¹ 2 U.S.C. §438(b).

Draft Final Audit Report of the Audit Division on the Friends of Sharron Angle

(February 17, 2009 - December 31, 2010)



Table of Contents

	Page
Part I. Background	
Authority for Audit	1
Scope of Audit	1
Part II. Overview of Campaign	
Campaign Organization	2
Overview of Financial Activity	2
Part III. Summaries	
Findings and Recommendations	3
Part IV. Findings and Recommendations	
Finding 1. Filing of 48-Hour Notices	4
Finding 2. Reporting of Debts and Obligations	6

Part I

Background

Authority for Audit

This report is based on an audit of the Friends of Sharron Angle (FOSA), undertaken by the Audit Division of the Federal Election Commission (the Commission) in accordance with the Federal Election Campaign Act of 1971, as amended (the Act). The Audit Division conducted the audit pursuant to 2 U.S.C. §438(b), which permits the Commission to conduct audits and field investigations of any political committee that is required to file a report under 2 U.S.C. §434. Prior to conducting any audit under this subsection, the Commission must perform an internal review of reports filed by selected committees to determine whether the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act. 2 U.S.C. §438(b).

Scope of Audit

Following Commission-approved procedures, the Audit staff evaluated various risk factors and as a result, this audit examined:

1. the receipt of excessive contributions and loans;
2. the receipt of contributions from prohibited sources;
3. the disclosure of contributions received;
4. the disclosure of individual contributors' occupation and name of employer;
5. the disclosure of disbursements, debts and obligations;
6. the consistency between reported figures and bank records;
7. the completeness of records; and
8. other committee operations necessary to the review.

Part II

Overview of Campaign

Campaign Organization

Important Dates	
• Date of Registration	April 9, 2009
• Audit Coverage	February 17, 2009 - December 31, 2010
Headquarters	
Reno, Nevada	
Bank Information	
• Bank Depositories	Three
• Bank Accounts	Five
Treasurer	
• Treasurer When Audit Was Conducted	William E. Rasavage (March 7, 2011 - October 24, 2011) Robert Fee (October 25, 2011 – Present)
• Treasurer During Period Covered by Audit	Alan Mills
Management Information	
• Attended FEC Campaign Finance Seminar	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid Staff

Overview of Financial Activity (Audited Amounts)

Cash-on-hand @ February 17, 2009	\$ 0
Receipts	
○ Contributions from Individuals	27,790,037
○ Contributions from Other Political Committees	399,037
○ Contributions from Other Authorized Committees	56,544
○ Refunds and Other Offsets	23,531
Total Receipts	\$ 28,269,149
Disbursements	
○ Operating Disbursements	27,948,259
○ Contribution Refunds	206,202
○ Other Disbursements	22,675
Total Disbursements	\$ 28,177,136
Cash-on-hand @ December 31, 2010	\$ 92,013

Part III

Summaries

Findings and Recommendations

Finding 1. Filing of 48-Hour Notices

FOSA filed in an untimely manner or failed to file 48-hour notices for 169 contributions totaling \$243,750, that were made prior to the primary and general elections. These included 65 earmarked contributions totaling \$107,200. In response to the Interim Audit Report recommendation, FOSA submitted written comments stating that it made a good-faith effort to file all notices, but that the contribution processing system in place could not handle the large number of donations received. (For more detail, see p. 4.)

Finding 2. Reporting of Debts and Obligations

The Audit staff identified debts totaling \$2,287,080 that were not itemized on Schedule D (Debts and Obligations). In response to the Interim Audit Report recommendation, FOSA amended its reports to materially correct the reporting of debts and obligations. FOSA also stated that the debt reporting problems were due to a breakdown in communications between vendors and committee staff. (For more detail, see p. 6.)

Part IV

Findings and Recommendations

Finding 1. Filing of 48-Hour Notices

Summary

FOSA filed in an untimely manner or failed to file 48-hour notices for 169 contributions totaling \$243,750, that were made prior to the primary and general elections. These included 65 earmarked contributions totaling \$107,200. In response to the Interim Audit Report recommendation, FOSA submitted written comments stating that it made a good-faith effort to file all notices, but that the contribution processing system in place could not handle the large number of donations received.

Legal Standard

A. Last-Minute Contributions (48-Hour Notices). Campaign committees must file special notices regarding contributions of \$1,000 or more received less than 20 days but more than 48 hours before any election in which the candidate is running. This rule applies to all types of contributions to any authorized committee of the candidate, including:

- contributions from the candidate;
- loans from the candidate and other non-bank sources; and
- endorsements or guarantees of loans from banks. 11 CFR §104.5(f).

B. Reporting by Recipient Committee. When a candidate committee receives earmarked contributions through a conduit, each individual contribution should be itemized when the individual's total contributions to the committee aggregate over \$200 per election cycle. This itemization must include:

- the full name;
- address;
- occupation and employer of the contributor; and
- date the contribution was received by the conduit. 11 CFR §110.6(c)(2)(ii)(C).

Contributions from Political Action Committees, authorized committees, or other political committees must be itemized regardless of the amount contributed. 11 CFR §104.3(a)(4).

In addition, the total contribution(s) transmitted through the conduit should be itemized on Schedule A as a memo entry. The conduit's full name and address must be provided, along with the date when the candidate committee received the contribution and the total amount. 11 CFR §110.6(c)(2).

Facts and Analysis

A. Facts

The Audit staff reviewed contributions of \$1,000 or more that FOSA received during the 48-hour notice filing periods for the primary (May 20, 2010 – June 5, 2010) and general (October 14, 2010 - October 30, 2010) elections. FOSA filed in an untimely manner or failed to file 48-hour notices for 169 contributions totaling \$243,750 as summarized below.

	Primary	General	Total
48-Hour Notices Not Filed	\$31,200 (21)	\$115,450 (88)	\$146,650 (109)
48-Hour Notices Filed Late, but Before the Election	\$51,500 (29)	\$0	\$51,500 (29)
48-Hour Notices Filed After the Election	\$45,600 (31)	\$0	\$45,600 (31)
TOTALS	\$128,300 (81)	\$115,450 (88)	\$243,750 (169)

Primary election contributions for which notices were filed late (prior to or after the election) or not filed included 53 earmarked contributions totaling \$86,100. General election contributions for which notices were not filed included 12 earmarked contributions in the amount of \$21,100.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed the filing of 48-hour notices with FOSA's counsel at the exit conference and subsequently provided schedules of the contributions for which FOSA did not file 48-hour notices or filed them in an untimely manner. FOSA's counsel expressed concern that these notices were not filed or were filed in an untimely manner and stated that FOSA had established a system under which the finance director would examine the contributions received on a daily basis to identify those that required such notices. Counsel further stated that FOSA would attempt to determine why the required notices were not filed.

The Audit staff recommended that FOSA provide evidence that the 48-hour notices were not required to be filed or were filed in a timely manner, or provide any further comments it considered relevant.

C. Committee Response to Interim Audit Report

FOSA submitted comments regarding its failure to file 48-hour notices. FOSA stated that it makes no excuses, but that it made a good-faith effort to file the notices.

By way of explanation, FOSA notes that "Sharron Angle was not the favored 'establishment' candidate in the GOP Primary, but began to receive small dollar

contributions from across the country...” FOSA added that the endorsement of the Tea Party Express and the win in the June 2010 Nevada GOP Primary led to FOSA receiving far more contributions than previously anticipated. FOSA pointed out that the funds received were equivalent in volume to those received for a Presidential campaign, without the infrastructure already in place to handle such volume.

FOSA also noted that the notices not filed for the general election period comprise less than 2% of the total amount of contributions during the 48-hour notice reporting period.

FOSA reiterated that there was no intent to fail to comply with the law, but the contribution processing system in place could not handle the large number of donations received.

Finding 2. Reporting of Debts and Obligations

Summary

The Audit staff identified debts totaling \$2,287,080 that were not itemized on Schedule D (Debts and Obligations). In response to the Interim Audit Report recommendation, FOSA amended its reports to materially correct the reporting of debts and obligations. FOSA also stated that the debt reporting problems were due to a breakdown in communications between vendors and committee staff.

Legal Standard

A. Continuous Reporting Required. A political committee must disclose the amount and nature of outstanding debts and obligations until those debts are extinguished. 2 U.S.C §434(b)(8) and 11 CFR §§104.3(d) and 104.11(a).

B. Itemizing Debts and Obligations.

- A debt or obligation of \$500 or less must be reported once it has been outstanding 60 days from the date incurred (the date of the transaction); the committee reports the debt or obligation on the next regularly scheduled report.
- A debt or obligation exceeding \$500 must be disclosed in the report that covers the date on which the debt was incurred. 11 CFR §104.11(b).

Facts and Analysis

A. Facts

The Audit staff reviewed FOSA’s invoices and computer files containing disbursements made in 2009 and 2010 to 19 selected vendors and identified debts totaling \$1,442,452 that were reported on Schedule D. However, FOSA did not report debts totaling \$2,287,080 on Schedule D as required.² The majority of these debts should have been reported on the 2010 October Quarterly and 12-Day Pre-General reports.

² This is the sum of the total unreported debt balance for each of the 19 vendors during the period covered by the audit (debts only counted when incurred).

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed the reporting of debts and obligations with FOSA's counsel at the exit conference and subsequently provided workpapers detailing the unreported debts. Counsel stated that FOSA would look into this issue. Documentation provided by FOSA subsequent to the exit conference was considered in the "Facts" section presented above.

The Audit staff recommended that absent evidence that the debts did not require disclosure, FOSA should amend its reports to itemize these debts and obligations on the appropriate Schedule D and provide any further comments it considers relevant.

C. Committee Response to Interim Audit Report

In response, FOSA amended its reports to materially correct the reporting of debts and obligations. FOSA also provided a written explanation stating that the vendors were under the impression that FOSA was provided the information to disclose all outstanding debts and obligations in a timely manner. FOSA staff, however, were either unaware that the information needed to be reported, or did not receive the information. FOSA admits that, whatever the cause, "...the amounts were apparently not reported as debts."

In addition, FOSA noted that when preparing its response to the Interim Audit Report, it had discussed this matter with the vendors involved and expressed to them that each should review its procedures to ensure better communication with political committees in the future.