

AUG 14 2008

FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

AUDIT REFERRAL: 08-12
DATE REFERRED: 02/15/08
DATE ACTIVATED: 06/19/08
EXPIRATION OF SOLS: 02/18/08 -
01/31/10

SOURCE: INTERNALLY GENERATED
RESPONDENTS: 21st Century Democrats and Bill Combs,
in his official capacity as treasurer¹
RELEVANT STATUTES AND REGULATIONS: 2 U.S.C. §§ 432 (c) and (d)
2 U.S.C. §§ 434(b)(1) - (5), (8)
11 C.F.R. §§ 102.9(a)(1),(2) and (4)
11 C.F.R. § 104.3(d)
11 C.F.R. §§ 104.11(a) and (b)
INTERNAL REPORTS CHECKED: Audit Documents
Disclosure Reports
FEDERAL AGENCIES CHECKED: None

I. INTRODUCTION

This matter was generated by a Commission audit of the 21st Century Democrats and Bill Combs, in his official capacity as treasurer ("21st CD" or "the Committee"), a nonconnected, multi-candidate committee, pursuant to 2 U.S.C. § 438(b) of the Federal Election Campaign Act of 1971, as amended ("the Act"). The audit covered the period January 1, 2003 through December 31, 2004. On January 31, 2008, the Final Audit Report ("FAR" or "Attachment 1")

¹ At the time of the violations at issue, Michael Lux was the Committee's treasurer.

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1 was forwarded to the Commission on a tally vote basis, and it is currently awaiting Commission
2 approval. On February 15, 2008, the Audit Division referred Findings 1, 2 and 4 to this Office.²

3 **II. ANALYSIS**

4 Based on the information set forth in the FAR, we recommend that the Commission open
5 a MUR and find reason to believe that the Committee violated the Act as follows:

- 6 • **Documentation for Receipts** The Committee failed to retain approximately 37.5% of
7 contributor check copies and credit card documentation for individual contributions over
8 \$50 for the requisite three years, in violation of 2 U.S.C. § 432(c) and (d), and 11 C.F.R.
9 § 102.9(a)(1), (2), and (4). See Finding 1; Attachment 1 at 7-9.
10
11 • **Reporting of Debts and Obligations** The Committee failed to report and itemize most of
12 its debts and obligations on its Schedule Ds, including \$638,361 owed to a single vendor,
13 in violation of 2 U.S.C. § 434(b)(8) and 11 C.F.R. §§ 104.3(d), 104.11(a) and 104.11(b).
14 See Finding 2; Attachment 1 at 9-10.
15
16 ■ **Misstatements of Financial Activity** The Committee misstated its receipts by failing to
17 report \$179,761 in transfers from non-federal accounts, reporting \$106,448 in transfers
18 from non-federal accounts that did not occur, failing to report \$15,805 in other political
19 committee contributions in violation of 2 U.S.C. §§ 434(b)(1) – (5). See Finding 4;
20 Attachment 1 at 10-11.³
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² Currently pending with the Commission is General Counsel's Report #3 in MUR 5637, a complaint-generated matter involving this Committee. In that Report, this Office recommends that the Commission take no further action as to allegations that the Committee failed to properly allocate funds received during the 2003-2004 election cycles between its federal and non-federal accounts, and that it received excessive contributions during that time. The issues raised in MUR 5637, are separate from, and unrelated to, the issues upon which this FAR is based.

³ In accordance with our usual practice, we did not include the amounts constituting unexplained differences between the Committee's reported Receipts and the amounts calculated by Audit which are not considered to be material. See, e.g., General Counsel's Report #2 in MURs 5334, 5341 and 5524 (O'Grady) (all MURs were handled in one Report); see also First General Counsel's Report in AR 08-06 (Shannon) (currently pending before the Commission).

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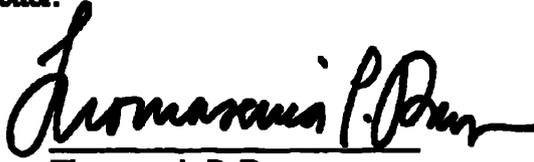
11 **IV. RECOMMENDATIONS**

- 12 1. **Open a MUR.**
- 13
- 14 2. **Find reason to believe that 21st Century Democrats and Bill Combs, in his**
- 15 **official capacity as treasurer, violated 2 U.S.C. § 432(c) and (d), and**
- 16 **11 C.F.R. § 102.9(a)(1), (2), and (4).**
- 17
- 18 3. **Find reason to believe that 21st Century Democrats and Bill Combs, in his**
- 19 **official capacity as treasurer, violated 2 U.S.C. § 434(b)(1)-(5), (8) and**
- 20 **11 C.F.R. §§ 104.3(d), 104.11(a) and 104.11(b).**
- 21
- 22 4. **Approve the Final Audit Report as the Factual and Legal Analysis.**
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- 27 6.

7. Approve the appropriate letter.

8/13/2008

Date



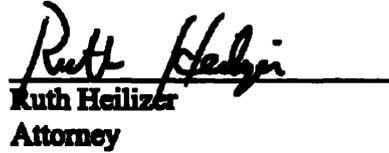
Thomasenia P. Duncan
General Counsel



Ann Marie Terzaken
Associate General Counsel for Enforcement


MS

Mark D. Shonkwiler
Assistant General Counsel



Ruth Heilizer
Attorney



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