



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

2015 OCT 19 PM 12:02

2015 OCT 19 PM 12:02

SENSITIVE

OCT 19 2015

MEMORANDUM

TO: The Commission

FROM: Lisa J. Stevenson *LJS*
Deputy General Counsel - Law

Lorenzo Holloway *LH*
Assistant General Counsel
Compliance Advice

Danita C. Alberico *DCA*
Attorney

SUBJECT: Administrative Termination Referral – James A. Garner Congressional Committee (AT 15-01)

I. INTRODUCTION

For the reasons set forth below, we recommend that the Commission, on its own initiative, administratively terminate the James A. Garner Congressional Committee (“Committee”).

The Committee is the principal campaign committee of James A. Garner, who lost the 2004 general election for New York’s 4th Congressional District. The Committee stopped filing reports with the Commission after filing an Amended 2004 12 Day Pre-General Report on December 2, 2004. In this report, the Committee disclosed \$67,793.91 cash-on-hand, \$21,895 in receipts and \$45,375.08 in disbursements.

Because the Committee had not filed any subsequent disclosure reports for over ten years, had not filed a termination report, and had not responded to 43 consecutive Non-Filer notifications, the Reports Analysis Division (“RAD”) referred the Committee to the Office of General Counsel (“OGC”) for possible administrative termination pursuant to Standard 4 of RAD’s 2013-2014 *Review and Referral Procedures for Authorized Committees*. See Attachment 1. See also 11 C.F.R. § 102.4(a) (containing standards for administrative termination).

II. LEGAL STANDARD FOR ADMINISTRATIVE TERMINATION

The Commission may administratively terminate a political committee's reporting obligation on its own initiative or upon the committee's request based on the following eight factors set forth at 11 C.F.R. § 102.4(a):

- (1) The committee's aggregate reported financial activity in one year is less than \$5,000;
- (2) The committee's reports disclose no receipt of contributions for the previous year;
- (3) The committee's last report disclosed minimal expenditures;
- (4) The committee's primary purpose for filing its reports has been to disclose outstanding debts and obligations;
- (5) The committee has failed to file reports for the previous year;
- (6) The committee's last report disclosed that the committee's outstanding debts and obligations do not appear to present a possible violation of the prohibitions and limitations of 11 C.F.R. parts 110 and 114;
- (7) The committee's last report disclosed that the committee does not have substantial outstanding accounts receivable; and
- (8) The committee's outstanding debts and obligations exceed the total of the committee's reported cash-on-hand balance.

The Committee satisfies some but not all of the factors under 11 C.F.R. § 102.4(a). We address each of the factors and make our recommendation below. Our analysis includes written information provided by the candidate, James A. Garner, regarding the disposition of the Committee's last reported cash-on-hand.

III. THE COMMISSION SHOULD ADMINISTRATIVELY TERMINATE THE COMMITTEE

A. Factor 8 and the Committee's cash-on-hand

The Committee's Amended 2004 12 Day Pre-General Report, its last filed report, did not disclose any outstanding debts and obligations but did report a cash-on-hand balance totaling \$67,793.91. *See* 11 C.F.R. § 102.4(a)(8). To determine whether the Committee was eligible for administrative termination, OGC contacted the Committee by letter and telephone to inquire about the disposition of its last reported cash-on-hand.¹ The candidate responded in a written

¹ *See* Memorandum from Office of General Counsel to Commission: New Proposed Procedure for Contacting Committees in Administrative Termination Referrals, December 8, 2011(Commission authorized OGC

statement in which he provided an explanation on the status of the last reported cash-on-hand. Attachment 2. Mr. Garner stated that the Committee spent the \$67,793.91 cash-on-hand as follows: \$57,758 on public relations firms and consultants, \$6,960.91 on television advertising, and \$3,075 on news media and printing ($\$57,758 + \$6,960.91 + \$3,075 = \$67,793.91$).² Attachment 2. Mr. Garner indicated that the Committee disposed of all of its cash-on-hand and had no remaining funds as of 2005. *Id.* Mr. Garner did not provide any records to support his representations; however, we have no basis in the record to question the veracity of Mr. Garner's statements. *See* ATs 06-269 to 06-272 (Bob Stump Election Committee, John Glenn for Senate, Foglietta for Congress, and Ron Kirk for U.S. Senate) (Commission accepted oral or written explanations provided by committee staff or candidates, respectively, regarding the disposition, or intended disposition, of substantial cash-on-hand balances). In light of Mr. Garner's written representations, we do not have a basis to believe that the Committee's cash-on-hand was converted, in whole or in part, to personal use in violation of the Act and Commission regulations. *See* 52 U.S.C. § 30114(b) and 11 C.F.R. part 113.

B. The Committee satisfies factors 5 and 7

The committee satisfies factor five because it failed to file disclosure reports for the previous year (and in fact failed to file for over ten years). *See* 11 C.F.R. § 102.4(a)(5). The Committee also satisfies factor seven because the Committee's last report disclosed that it did not have any outstanding accounts receivable. *See* 11 C.F.R. § 102.4(a)(7).

C. Factors 2, 4, and 6 do not apply to the Committee

Factor two does not apply since the Committee did not file any disclosure reports for the previous year. *See* 11 C.F.R. § 102.4(a)(2). Additionally, the Committee's last filed report indicated that it did not have any outstanding debts or obligations. *See* 11 C.F.R. § 102.4(a)(4) and (6).

to contact committees whose cash-on-hand balances and debts owed to the committee exceed the committee's total debt and obligations by \$35,000 to determine how the committee disposed of or intended to dispose of the remaining funds prior to making a recommendation to the Commission about a committee's eligibility for administrative termination).

² These amounts and categories are consistent with those the Committee disclosed throughout 2004. *See* Committee's Amended 2004 April Quarterly Report, 2004 July Quarterly Report, Amended 2004 October Quarterly Report and 2004 Pre-General Report. The Committee did not report outstanding debts or obligations on any of its 2004 disclosure reports. Thus, the cash-on-hand was likely expended, as identified and categorized by Mr. Garner, on bills the Committee received after its last filed report, the Amended 2004 12 Day Pre-General Report, which covered activity through October 13, 2004.

D. The Committee does not satisfy factors 1 and 3

The Committee's aggregated reported financial activity in one year – as disclosed in the election cycle-to-date activity on the Committee's Amended 2003 Year End Report through its last filed report (the Amended 2004 12 Day Pre-General Report) – shows that the Committee's election cycle-to-date net contributions totaled \$371,098.52 and its election cycle-to-date net operating expenditures totaled \$303,900.56. Consequently, the Committee substantially exceeded the factor one requirement that its aggregate reported financial activity in one year be less than \$5,000. *See* 11 C.F.R. § 102.4(a)(1). The Committee also did not satisfy the factor three requirement that its last filed report disclose minimal expenditures. *See* 11 C.F.R. § 102.4(a)(3). The Committee's reported expenditures totaled \$43,375.08 (and the candidate's letter represents further expenditures totaling approximately \$68,000 thereafter). We believe the Committee exceeded the factor one and three thresholds, respectively, because the Committee was raising contributions and expending funds in furtherance of the candidate's 2004 primary and general election campaigns.³ *See* Amended 2004 12 Day Pre-General Report.

Despite the Committee's failure to meet several of the factors, we believe that administrative termination would be appropriate under the circumstances presented here. Given that the Committee has not filed reports for over ten years, despite repeated notices (43 Non-Filer notifications) from RAD reminding the Committee of its continuing filing obligations, administratively terminating the Committee would further the purpose of purging old, inactive committees from the Commission's records system and conserve Commission resources going forward. *See* ATs 06-269 to 06-272 (Bob Stump Election Committee, John Glenn for Senate, Foglietta for Congress, and Ron Kirk for U.S. Senate) (Commission approved administrative terminations of committees with substantial cash-on-hand balances upon receipt of oral or written explanations of the disposition, or intended disposition, of remaining cash-on-hand.)

IV. RECOMMENDATION

Accordingly, we recommend that the Commission administratively terminate the James A. Garner Congressional Committee.

Attachments:

Attachment 1 – Administrative Termination Referral from Patricia C. Orrock, Chief Compliance Officer and Debbie Chacona, Assistant Staff Director, Reports Analysis Division, dated June 10, 2015.

Attachment 2 – Letter from James A. Garner to Danita Alberico, Esq., dated August 31, 2015.

³ The Committee's failure to file disclosure reports since December 2004 also raises the question of whether it continued to receive contributions. We conclude that it is highly unlikely that the Committee received contributions after December 2004 because the candidate lost the 2004 general election for New York's 4th Congressional District and never sought Federal office again. The Committee also did not have any reported debts and obligations, and the candidate stated that the Committee did not have any funds as of 2005.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AT 15-01 - 15-03

June 10, 2015

MEMORANDUM

To: Lisa J. Stevens
Deputy General Counsel - Law

Through: Alec Palmer
Staff Director

From: Patricia C. Orrock *PCO*
Chief Compliance Officer

Debbie Chacona *DC*
Assistant Staff Director
Reports Analysis Division

By: Kristin Roser *KDR*
Compliance Branch Chief
Reports Analysis Division

Subject: Administrative Termination Referral

The three (3) committees referenced within this memorandum are being referred to the Office of General Counsel (OGC) pursuant to the Reports Analysis Division (RAD)'s 2015-2016 *Review and Referral Procedures for Authorized Committees (Standard 29)*.

The highlighted committees do not meet the criteria for administrative termination by RAD and, as such, are being referred to your office for further research and a final recommendation of disposition to the Commission.

A brief summary of the committee's status, activity and supporting information is provided for the convenience of OGC.


If you should have any questions, please contact Kristin Roser, Compliance Branch Chief, at extension 1153.

ATTACHMENT 1
PAGE 1 OF 6

Committee: James A. Gardner Congressional Committee (C00392506)
7 12th Street
Garden City, NY 11530
Treasurer: Rod Cyrus Tabriztchi
Candidate: James A. Gardner
Committee Type: Authorized Committee
Year of Last Election: 2004
Last Report Filed: Amended 2004 12 Day Pre-General (Image: 24991453217)
Cash on Hand: \$67,793.91
Total Obligations: \$0.00
Committee Contacts: Rod Cyrus Tabriztchi, Treasurer - (516) 746-4200
Charles Robinson, General Counsel - (212) 476-3223
Louis Eustache, (Title Unknown) - (516) 565-3582

The James A. Gardner Congressional Committee last filed a report on December 2, 2004. The Committee filed the Amended 2004 12 Day Pre-General Report, disclosing \$21,895.00 in receipts and \$45,375.08 in disbursements and an ending cash-on-hand balance of \$67,793.91. A termination report has never been filed and the committee has failed to respond to the past forty-three (43) consecutive Non-Filer Notifications (RQ-7).

The Committee has no outstanding compliance or enforcement matters. RAD last made contact with the treasurer on June 3, 2010. The Committee has been unresponsive to RAD's request to bring the Committee's reporting into compliance. The Committee has not filed a report for ten (10) years. RAD most recently attempted to contact the Committee on June 9, 2015, but was unsuccessful.

Attachment 1: O-Index


O-Index (2015-2016)															
Cmte. ID: C00392506 Cmte. Name: JAMES A GARNER CONGRESSIONAL COMMITTEE															
Treasurer Name: ROD CYRUS TABRIZTCHI Address: 7 12TH STREET, GARDEN CITY, NY 11530															
Cmte. Type: H (HOUSE) Cmte. Designation: A (AUTHORIZED BY A CANDIDATE) Filing Frequency: QUARTERLY FILER															
Form Tp	Rpt Tp	A/I	Recpt Dt	Pgs	Begin Img#	Beg Cvg Dt	End Cvg Dt	Ltr Mail Dt	Begin Cash	Recpts	Disb	End Cash	Debts	Loans	Debts & Loans
RQ7	Q1		5/1/2015	2	15330081801	1/1/2015	3/31/2015	5/1/2015	-	-	-	-	-	-	-
Totals										\$0	\$0				

O-Index (2013-2014)															
Cmte. ID: C00392506 Cmte. Name: JAMES A GARNER CONGRESSIONAL COMMITTEE															
Treasurer Name: ROD CYRUS TABRIZTCHI Address: 7 12TH STREET, GARDEN CITY, NY 11530															
Cmte. Type: H (HOUSE) Cmte. Designation: A (AUTHORIZED BY A CANDIDATE) Filing Frequency: QUARTERLY FILER															
Form Tp	Rpt Tp	A/I	Recpt Dt	Pgs	Begin Img#	Beg Cvg Dt	End Cvg Dt	Ltr Mail Dt	Begin Cash	Recpts	Disb	End Cash	Debts	Loans	Debts & Loans
RQ7	Q1		5/3/2013	2	13330030662	1/1/2013	3/31/2013	5/3/2013	-	-	-	-	-	-	-
RQ7	Q2		8/2/2013	2	13330034967	4/1/2013	6/30/2013	8/2/2013	-	-	-	-	-	-	-
RQ7	Q3		11/1/2013	2	13330039578	7/1/2013	9/30/2013	11/1/2013	-	-	-	-	-	-	-
RQ7	YE		2/19/2014	2	14330043952	10/1/2013	12/31/2013	2/19/2014	-	-	-	-	-	-	-
RQ7	Q1		5/2/2014	2	14330050852	1/1/2014	3/31/2014	5/2/2014	-	-	-	-	-	-	-
RQ7	Q2		8/4/2014	2	14330055864	4/1/2014	6/30/2014	8/4/2014	-	-	-	-	-	-	-
RQ7	Q3		10/31/2014	2	14330063476	7/1/2014	9/30/2014	10/31/2014	-	-	-	-	-	-	-
RQ7	YE		2/18/2015	2	15330074918	10/1/2014	12/31/2014	2/18/2015	-	-	-	-	-	-	-
Totals										\$0	\$0				

O-Index (2011-2012)															
Cmte. ID: C00392506 Cmte. Name: JAMES A GARNER CONGRESSIONAL COMMITTEE															
Treasurer Name: ROD CYRUS TABRIZTCHI Address: 7 12TH STREET, GARDEN CITY, NY 11530															
Cmte. Type: H (HOUSE) Cmte. Designation: A (AUTHORIZED BY A CANDIDATE) Filing Frequency: QUARTERLY FILER															
Form Tp	Rpt Tp	A/I	Recpt Dt	Pgs	Begin Img#	Beg Cvg Dt	End Cvg Dt	Ltr Mail Dt	Begin Cash	Recpts	Disb	End Cash	Debts	Loans	Debts & Loans
RQ7	Q1	N	5/3/2011	2	11030603054	1/1/2011	3/31/2011	5/3/2011	-	-	-	-	-	-	-
RQ7	Q2	N	8/1/2011	2	11030644212	4/1/2011	6/30/2011	8/1/2011	-	-	-	-	-	-	-
RQ7	Q3	N	11/3/2011	2	11030683845	7/1/2011	9/30/2011	11/3/2011	-	-	-	-	-	-	-
RQ7	YE	N	2/16/2012	2	12030742578	10/1/2011	12/31/2011	2/16/2012	-	-	-	-	-	-	-
RQ7	Q1	N	5/2/2012	2	12030801988	1/1/2012	3/31/2012	5/2/2012	-	-	-	-	-	-	-
RQ7	Q2	N	7/31/2012	2	12030870668	4/1/2012	6/30/2012	7/31/2012	-	-	-	-	-	-	-
RQ7	Q3	N	10/31/2012	2	12030942460	7/1/2012	9/30/2012	10/31/2012	-	-	-	-	-	-	-
RQ7	YE		2/15/2013	2	13330023427	10/1/2012	12/31/2012	2/15/2013	-	-	-	-	-	-	-
Totals										\$0	\$0				

ATTACHMENT 1
 PAGE 3 OF 6

JAMES A. GARNER CONGRESSIONAL COMMITTEE
7 12TH STREET GARDEN CITY NY, 11530
PHONE: 516-746-4200 FAX: 516-746-7900

August 31, 2015

Ms. Danita Alberico, Esq.
Federal Election Committee
Washington, D.C. 20462

Re: AT 15-01

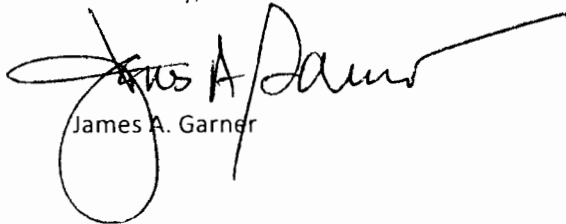
Dear Ms. Alberico,

Thank you for your correspondence with respect to the Federal Election Commission's ("Commission") process to administratively terminate the James A. Garner Congressional Committee ("JAGCC") pursuant 52 U.S.C. §30103(d)(2). The Commission has requested information about whether and how the JAGCC has disposed of the remaining cash on hand as of October 13, 2004 of \$67,793.91, as reported to the FEC at that time.

The JAGCC has disposed of all cash on hand and there are no funds remaining as of 2005. Please see the enclosed page for a list of the expenditures upon which the cash on hand was spent.

If you have any questions, please do not hesitate to contact us. Thank you.

Yours truly,



James A. Garner

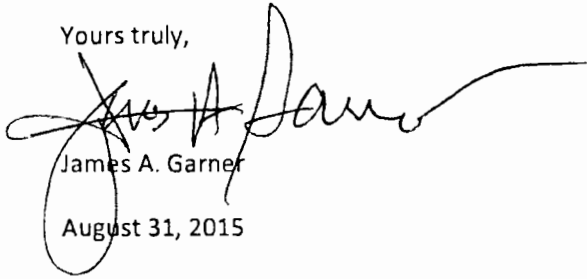
ATTACHMENT 2
PAGE 1 OF 2

JAMES A. GARNER CONGRESSIONAL COMMITTEE
INFORMATION ON DISPOSAL OF THE REMAINING CASH ON HAND

(According to the Available Records)

<u>Expenditures</u>	<u>Amount</u>
Public Relation Firms-Consultants	\$ 57,758.00
Television Advertising	6,960.91
News media and Printing	<u>3,075.00</u>
Total	\$ <u><u>67,793.91</u></u>

Yours truly,



James A. Garner

August 31, 2015

ATTACHMENT 2
PAGE 2 OF 2