



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

January 17, 2007

MEMORANDUM

To: Robert W. Biersack  
Press Officer

From: Joseph F. Stoltz *JFS*  
Assistant Staff Director  
Audit Division

Subject: Public Issuance of the Audit Report on Friends of Duane Sand

Attached please find a copy of the audit report and related documents on Friends of Duane Sand, which was approved by the Commission on December 6, 2006.

The report may be released to the public on January 17, 2007.

Attachment as stated

cc: Office of General Counsel  
Office of Public Disclosure  
Reports Analysis Division  
FEC Library  
DSDD Website ✓



# Report of the Audit Division on Friends of Duane Sand

January 20, 2004 – December 31, 2004

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## 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.<sup>1</sup> 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 Duane Sand (FODS) is the principal campaign committee for Duane Sand, Republican candidate for the U.S. House of Representatives from the state of North Dakota. FODS is headquartered in Fargo, ND. For more information, see chart on the Campaign Organization, p 2.

## Financial Activity (p. 2)

- **Receipts**
  - Contribution from Individuals \$ 903,162
  - Contributions from Political Committees 122,056
  - Other Receipts 21,815
  - **Total Receipts** \$ 1,047,033
  
- **Disbursements**
  - Operating Expenditures \$ 1,022,942
  - Contribution Refunds 2,860
  - Other Disbursements 65
  - **Total Disbursements** \$ 1,025,867

## Findings and Recommendations (p. 3)

- Disclosure of Occupation/Name of Employer (Finding 1)
- Recordkeeping for Receipts (Finding 2)

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<sup>1</sup> 2 U.S.C. §438(b).

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# Part I

## Background

### Authority for Audit

This report is based on an audit of Friends of Duane Sand (FODS), 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 if 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 consistency between reported figures and bank records.
5. The completeness of records.
6. Other committee operations necessary to the review.

### Limitations

Prior to audit fieldwork, Duane Sand (the Candidate) was ordered to active military duty overseas and he requested a postponement of the audit until his return. Upon his return, the Audit staff conducted an inventory of FODS receipt records and determined that a significant portion was missing. The Candidate contacted former FODS personnel but was unable to locate additional records. The lack of adequate records limited the Audit staff's testing of receipts for possible prohibited or excessive contributions as well as the verification of disclosure information. (See Finding 2)

### Committee History

The Candidate was running for election to the U.S. Senate seat from North Dakota until January 29, 2004, when he filed a Statement of Candidacy (FEC Form 2) declaring his candidacy for the House of Representatives. On the same date, FODS filed a Statement of Organization (FEC Form 1) and obtained a new committee identification number from the Commission. FODS continued to operate with the existing bank accounts of the Senate committee. Financial activity relating to the Candidate's campaign for the House of Representatives began on January 20, 2004 and was subject to this audit.

## Part II

# Overview of Campaign

### Campaign Organization

Important Dates	Friends of Duane Sand
• Date of Registration	January 29, 2004
• Audit Coverage	January 20, 2004 – December 31, 2004
<b>Headquarters</b>	Fargo, ND
<b>Bank Information</b>	
• Bank Depositories	Two
• Bank Accounts	3 Checking
<b>Treasurer</b>	
• Treasurer When Audit Was Conducted	Karen Risky
• Treasurer During Period Covered by Audit	Karen Risky
<b>Management Information</b>	
• Attended FEC Campaign Finance Seminar	No
• Used Commonly Available Campaign Management Software Package	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid Staff

### Overview of Financial Activity (Audited Amounts)

<b>Cash on hand @ January 20, 2004</b>	<b>\$ 0</b>
o Contribution from Individuals	\$903,162
o Contributions from Political Committees	122,056
o Other Receipts	21,815
<b>Total Receipts</b>	<b>\$ 1,047,033</b>
o Operating Expenditures	\$1,022,942
o Contribution Refunds	2,860
o Other Disbursements	65
<b>Total Disbursements</b>	<b>\$ 1,025,867</b>
<b>Cash on hand @ December 31, 2004</b>	<b>\$ 21,166</b>

## **Part III**

### **Summaries**

#### **Findings and Recommendations**

##### **Finding 1. Disclosure of Occupation/Name of Employer**

FODS did not adequately disclose the occupation and/or name of employer for 747 contributions totaling \$143,367. In addition, FODS did not demonstrate that “best efforts” were exercised to obtain, maintain and submit the information. The Audit staff recommended that FODS provide evidence that it exercised “best efforts” to obtain the contributor information or contact each contributor for whom information was lacking, submit evidence of such contact, and disclose any information received in amended reports. In response, FODS indicated that efforts were made to contact contributors, however, evidence of such action was not provided and amended reports were not filed. (For more detail, see p. 4)

##### **Finding 2. Recordkeeping for Receipts**

A sample review of contributions from individuals indicated that 29% of the receipts tested were not properly documented. The Audit staff recommended that FODS provide any additional records that it was able to locate and provide any other relevant information. In response, FODS did not provide any additional receipt records. (For more detail, see p. 5)

## Part IV

# Findings and Recommendations

### Finding 1. Disclosure of Occupation/Name of Employer

#### Summary

FODS did not adequately disclose the occupation and/or name of employer for 747 contributions totaling \$143,367. In addition, FODS did not demonstrate that “best efforts” were exercised to obtain, maintain and submit the information. The Audit staff recommended that FODS provide evidence that it exercised “best efforts” to obtain the contributor information or contact each contributor for whom information was lacking, submit evidence of such contact, and disclose any information received in amended reports. In response, FODS indicated that efforts were made to contact contributors, however, evidence of such action was not provided and amended reports were not filed.

#### Legal Standard

**A. Required Information for Contributions from Individuals.** For each itemized contribution from an individual, the committee must provide the following information:

- The contributor’s full name and address (including zip code);
- The contributor’s occupation and the name of his or her employer;
- The date of receipt (the date the committee received the contribution);
- The amount of the contribution; and
- The election cycle-to-date total of all contributions from the same individual. 11 CFR §§100.12 and 104.3(a)(4) and 2 U.S.C. §434(b)(3)(A).

**B. Best Efforts Ensures Compliance.** When the treasurer of a political committee shows that the committee used best efforts (see below) to obtain, maintain, and submit the information required by the Act, the committee’s reports and records will be considered in compliance with the Act. 2 U.S.C. §432(h)(2)(i).

**C. Definition of Best Efforts.** The treasurer and the committee will be considered to have used “best efforts” if the committee satisfied all of the following criteria:

- All written solicitations for contributions included:
  - A clear request for the contributor's full name, mailing address, occupation, and name of employer; and
  - The statement that such reporting is required by Federal law.
- Within 30 days after the receipt of the contribution, the treasurer made at least one effort to obtain the missing information, in either a written request or a documented oral request.
- The treasurer reported any contributor information that, although not initially provided by the contributor, was obtained in a follow-up communication or was contained in the committee’s records or in prior reports that the committee filed during the same two-year election cycle. 11 CFR §104.7(b).

### **Facts and Analysis**

A review of contributions from individuals disclosed on Schedules A (Itemized Receipts) indicated that 747 contributions totaling \$143,367 did not adequately disclose an occupation and/or name of employer. Most of these contributions were disclosed with no contributor occupation and/or name of employer or with a notation of “information requested.” In response to several Requests for Additional Information (RAI’s) concerning this matter, FODS stated that “best efforts” procedures were utilized and that new contributor information was contained in amended reports. FODS also provided a copy of a form letter sent to contributors requesting their employer and occupation information. However, those FODS records made available to the Audit staff did not include a copy or confirmation of these letters purportedly sent to contributors.

This matter was discussed with the Candidate during fieldwork. In response, the Candidate indicated that contributors were contacted by phone to obtain the missing information; however, documentation to support this action was also not provided.

### **Interim Audit Report Recommendation and Committee Response**

The Audit staff recommended that FODS either provide documentation to demonstrate that “best efforts” were made to obtain missing occupation and name of employer information. Absent such evidence, it was recommended that FODS contact each contributor lacking the occupation and/or name of employer, submit evidence of such contact, and disclose any information received in amended reports. In response, the Candidate indicated that he would send a letter and self-addressed stamped envelope to those contributors for whom the occupation and/or name of employer was not adequately disclosed and file amended reports when contributor responses were received. FODS did not provide any documentation to support that letters were sent to contributors nor were amended reports filed.

## **Finding 2. Recordkeeping for Receipts**

### **Summary**

A sample review of contributions from individuals indicated that 29% of the receipts tested were not properly documented. The Audit staff recommended that FODS provide any additional records that it was able to locate and provide any other relevant information. In response, FODS did not provide any additional receipt records.

### **Legal Standard**

**A. Retention of Check Copies.** For contributions in excess of \$50, committees must maintain a photocopy or digital image of the check or written instrument. 2 U.S.C. §102.9(A)(4)

**B. Preserving Documents.** Committees must preserve these records for 3 years after a report is filed. 2 U.S.C. §432(d).

### **Facts and Analysis**

The Audit staff reviewed contributions from individuals on a sample basis and determined that 29% of the items tested lacked a copy of the contributor’s check.



This matter was discussed with FODS representatives during fieldwork. In response, a FODS representative explained the process for making FODS deposits which included a procedure for copying contributor checks. However, based on communications with several FODS representatives and the Candidate, it appeared that these records were not maintained in a central location and subsequently may have been lost.

**Interim Audit Report Recommendation and Committee Response**

The Audit staff recommended that FODS provide any additional records that it was able to locate and provide any other relevant information. In response, the Candidate stated that FODS made copies of contributor checks and that the records provided to the Audit staff for examination were complete. The Candidate also acknowledged the records had been moved by a relative and that he had no control or possession of the records during his military duty overseas. No additional receipt records were submitted to the Audit staff.