

23L-60

REPORTS ANALYSIS DIVISION REFERRAL
TO
ALTERNATIVE DISPUTE RESOLUTION OFFICE

DATE: October 12, 2023

ANALYST: R. Bradley Austin

I. COMMITTEE: Americans for Constitutional Liberty dba
The Conservative Caucus
Paula Edwards, Reports Preparer
C90018904
Art Harmon, Executive Director
332 W. Lee Highway, Suite 221
Warrenton, VA 20186

II. RELEVANT STATUTE: 52 U.S.C. § 30104(c)
52 U.S.C. § 30104(g)(2)
11 C.F.R. § 109.10

III. BACKGROUND:

Independent Expenditure Reporting Problems – Persons Other Than Political Committees (Form 5) (Failure to Timely File 48-Hour Reports)

Americans for Constitutional Liberty dba The Conservative Caucus (“ACL”) failed to timely file two (2) 48-Hour Reports to support ten (10) independent expenditures totaling \$144,522.57, disclosed on the 2023 July Quarterly Report, that were made during the reporting period up to and including the 20th day before the 2024 General Election (Attachment 1).

On July 14, 2023, ACL filed the [2023 July Quarterly Report](#) covering the period from April 1, 2023 through June 30, 2023. Schedule 5-E (Itemized Independent Expenditures) of the report disclosed sixteen (16) independent expenditures totaling \$164,577.99, made in opposition to one (1) federal candidate. On the same date, ACL filed four (4) 48-Hour Reports supporting these independent expenditures.

On August 15, 2023, a [Request for Additional Information \(RAI\)](#) was sent to ACL referencing the 2023 July Quarterly Report. The RAI noted that ACL may have failed to timely file 48-Hour Reports for ten (10) independent expenditures disclosed on Schedule 5-E of the report.³

On September 19, 2023 ACL filed an [FEC Form 99 \(Miscellaneous Electronic Submission\)](#), which stated, in part:

“The Committee prepared and submitted all information timely to its consultant. The accountant called the FEC Information Division and was told that 48 hour reports pertaining to the 2024 Presidential General Election were not required to be filed in 2023. The consultant also reviewed the guidance for filing 48 hour report for Form 5 filers which reads as follows:

“At any time during a calendar year through the 20th day before an election, filers must report each time they make independent expenditures with an aggregate value of \$10,000 or more with respect to a given election.” The ambiguous wording was interpreted that the 48 hour reports are only required to be filed in the same calendar year as the election.

<https://www.fec.gov/help-candidates-and-committees/making-independent-expenditures/reporting-independent-expenditures-form-5/>

On the page 24- and 48- Hour Reports of Independent Expenditure Periods Special Elections (2023), no coverage period is listed for the 2024 General Election.

<https://www.fec.gov/help-candidates-and-committees/dates-and-deadlines/2023-reporting-dates/24-and-48-hour-reports-independent-expenditures-periods-special-elections-2023/>

There is no coverage period on the website for the 24- and 48- hour reports listed with respect to the 2024 General Presidential elections.

As soon as the consultant was made aware of the requirement to file 48-hour reports for independent expenditures not made in the year of the elections, the reports were filed.”

On September 20, 2023, ACL filed an [Amended 2023 July Quarterly Report](#). The report included corrections to some of the independent expenditure dates but did not change the amount of activity untimely disclosed in 48-Hour Reports.

Since July 14, 2023, the Reports Analysis Division (RAD) logged four (4) communications with an ACL representative, reflecting efforts to help ACL voluntarily

³ These independent expenditures were untimely disclosed in the [48-Hour Report](#), filed on July 14, 2023, and the second [48-Hour Report](#), filed on the same date.

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comply with the Act regarding this matter. RAD was able to connect with ACL on all these occasions and notified Paula Edwards, the individual responsible for preparing ACL's reports, that these matters could be referred to another office at the Commission for further review. RAD advised ACL to file any additional information they wished to be considered (Attachment 2). To date, no further communications have been received from ACL regarding this matter.

Filings and correspondence related to ACL can be found here: [ACL](#).

Americans for Constitutional Liberty dba The Conservative Caucus (C90018904)
[2023 July Quarterly Report](#), received 7/14/2023

48-Hour Reports Not Timely Filed

Name of Payee	Date of Dissemination	Expenditure Amount	Candidate Opposed	Election	48-Hour Report Filed
American Target Advertising, Inc.	05/15/2023	\$2,073.34	Joseph Biden Jr	2024 General (11/5/2024)	7/14/2023
Data Management, Inc.	05/15/2023	\$125.00	Joseph Biden Jr	2024 General (11/5/2024)	7/14/2023
Direct Mail Marketing Group	05/15/2023	\$10,139.78	Joseph Biden Jr	2024 General (11/5/2024)	7/14/2023
United States Postal Service	05/15/2023	\$28,128.78 48-Hour Report Required	Joseph Biden Jr	2024 General (11/5/2024)	7/14/2023
American Mailing Lists Corporation	05/26/2023	\$2,534.20	Joseph Biden Jr	2024 General (11/5/2024)	7/14/2023
American Target Advertising, Inc.	05/26/2023	\$12,955.81	Joseph Biden Jr	2024 General (11/5/2024)	7/14/2023
Data Management, Inc.	05/26/2023	\$807.68	Joseph Biden Jr	2024 General (11/5/2024)	7/14/2023
Quad/Graphics, Inc	05/26/2023	\$46,952.71	Joseph Biden Jr	2024 General (11/5/2024)	7/14/2023
The Viguerie Company	05/26/2023	\$1,054.56	Joseph Biden Jr	2024 General (11/5/2024)	7/14/2023
United States Postal Service	05/26/2023	\$39,750.71 48-Hour Report Required	Joseph Biden Jr	2024 General (11/5/2024)	7/14/2023