

24L-39

REPORTS ANALYSIS DIVISION REFERRAL

TO

ALTERNATIVE DISPUTE RESOLUTION OFFICE

DATE: October 15, 2024

ANALYST: Aaron Kelley

- I. COMMITTEE:
- One APIA PAC
C00761072
Eric Jeng, Treasurer (7/13/23 – Present)
Vu Ngoc Duy Nguyen, Treasurer
(10/18/20 – 7/12/23)
Mariela Hernandez, Treasurer (10/13/20
– 10/17/20)
6675 S. Tenaya Way
Suite 200
Las Vegas, NV 89113
- II. RELEVANT STATUTE:
- 52 U.S.C. § 30104(g)(1)
11 C.F.R. § 104.4(c)

III. BACKGROUND:

Failure to Provide Supporting Schedules (Failure to Timely File 24-Hour Reports)

One APIA PAC (“the Committee”) failed to timely file three (3) 24-Hour Reports to support nine (9) independent expenditures totaling \$126,893.35, disclosed on the 2020 Year-End Report, received February 26, 2024, made after the 20th day but more than 24 hours before the day of the 2020 General Election, and two (2) 24-Hour Reports to support five (5) independent expenditures totaling \$92,424.56 disclosed on the Amended 2022 Year-End Report, received February 27, 2024, made after the 20th day but more than 24 hours before the day of the 2022 General Election (Attachments 1 and 2).

2020 Year-End Report

On November 16, 2020, the Committee filed one (1) [24-Hour Report](#) to support eight (8) independent expenditures totaling \$87,046.36 disseminated October 16, 2020 through November 3, 2020.

On February 26, 2024, the Committee filed the [2020 Year-End Report](#) covering the period from October 1, 2020, to December 31, 2020. The report included a [Schedule E \(Itemized Independent Expenditures\)](#) disclosing eleven (11) independent expenditures totaling \$130,569.54 supporting two (2) Federal candidates.

On April 24, 2024, a [Request for Additional Information \(RFAI\)](#) was sent to the Committee referencing the 2020 Year-End Report. The RFAI noted that the Committee may have failed to file one (1) or more of the required 24-Hour Reports of Independent Expenditures. A chart was included with the RFAI identifying eleven (11) independent expenditures, totaling \$130,569.54, for which a 24-Hour Report had not been filed⁴ (Attachment 1).

On May 21, 2024, the Committee filed an [FEC Form 99 \(Miscellaneous Electronic Submission\)](#) in response to the RFAI referencing the 2020 Year-End Report. The Committee stated in part:

“II. Year-End Report 10/01/2020 to 12/31/2020

Your second RFAI, dated April 24, 2024, relates to the PAC's Year-End Report for 10/01/2020 to 12/31/2020. The second RFAI identifies the same issue as the first with 24-hour reports that do not appear to have been filed but also indicates there are 24-hour reports that disclosure expenditures that do not appear on the PAC's Year-End Report.

During the 2020 election cycle, the PAC filed a 24-hour report detailing a total of \$87,046.36 in independent expenditures. The PAC's Year-End Report details \$130,569.54 in independent expenditures for that time period. Accordingly, there is a gap of \$43,523.18 between the amount reported in the PAC's Year End Report (filed on February 26, 2024) and what was contained in 24 hour reports in 2020.

Both the filed 24-hour report and the Year-End Report identify the same two candidates for whose benefit the PAC disbursed its funds: Joseph Biden and Susie Lee. And both reports identify the same (and sole) recipient of the disbursements: NP Consulting. True, certain details differ such as the

⁴ Two (2) independent expenditures totaling \$3,676.19 were mistakenly included on the RFAI as they were disseminated after the 24-Hour reporting period, making the total expenditures for which a 24-Hour Report had not been filed or timely filed \$126,893.35.

amounts of the itemized disbursements and the dates of distribution/dissemination/disbursement, but the thrust of the information is the same. These discrepancies should be attributed to the PAC having a better sense now of when it disbursed its funds, when the ads purchases with the funds were disseminated, and how much each itemized disbursement amounted to than in the middle of the reporting periods in 2020. The PAC has reviewed its activity and has made its best, good-faith efforts to properly disclose all necessary information.

III. Conclusion

The PAC recognizes that a total of \$42,424.56 for the 2022 cycle and \$43,523.18 for the 2020 cycle should have appeared in timely 24-hour reports but did not. The PAC asks the Commission to pardon the discrepancy in light of the PAC's ongoing, good faith efforts timely to and fully to comply.”

On June 5, 2024, the Committee filed another [FEC Form 99](#) in response to the RFAI referencing the 2020 Year-End Report. The Committee stated:

“On May 21, 2024, One APIA PAC, committee ID number C00761072, timely responded to two Requests for Additional Information (RFAI) dated April 16, 2024, and April 24, 2024. The second RFAI related to the PAC's Year-End Report for 10/01/2020 to 12/31/2020 and asked about differences between the Year-End Report and a 2020 24-hour report.

In its response, the PAC indicated that despite minor discrepancies, the disbursements identified in both reports are substantially the same and that any differences in the later-filed report "should be attributed to the PAC having a better sense now of when it disbursed its funds, when the ads purchased with the funds were disseminated, and how much each itemized disbursement amounted to than in the middle of the reporting periods in 2020." It further stated that "[t]he PAC has reviewed its activity and has made its best, good-faith efforts to properly disclose all necessary information."

On May 30, 2024, counsel for the Committee received a call from Commission staff requesting a more detailed explanation of which expenditures the PAC believes should be matched between its 2020 24-hour report and the more-recently filed Year End Report for that year. The Commission requested that the PAC file a second Form 99 report indicating which transaction IDs correspond to one another together between the reports.

After the reviewing the reports and records, the PAC believes the following transactions on the 24-hour report appear on the more-accurate 2020 Year-End Report in the following locations:

"24-Hour Report Transaction ID WFT202010161428-1 (page 1, "Digital video buy" supporting Joseph Biden) appears on the 2020 Year-End Report at Transaction ID SE.4221 (page 7, "Digital Ad" supporting Joseph R. Biden Jr.).

"24-Hour Report Transaction ID WFT202010161431-1 (page 1, "Mailers" supporting Joseph Biden) appears on the 2020 Year-End Report at Transaction ID SE.4227 (page 9, "Mailer" supporting Joseph R. Biden Jr.).

"24-Hour Report Transaction ID WFT202010161436-1 (page 2, "GOTV Doorhangers" supporting Joseph Biden) appears on the 2020 Year-End Report at Transaction ID SE.4232 (page 11, "Door Hanger" supporting Joseph R. Biden Jr.).

"24-Hour Report Transaction ID WFT20201061438-1 (page 2, "Mailers" supporting Joseph Biden) appears on the 2020 Year-End Report at Transaction ID SE.4230 (page 10, "Mailer" supporting Joseph R. Biden Jr.).

"24-Hour Report Transaction ID WFT202010161356-1 (page 3, "Digital video buy" supporting Susie Lee) appears on the 2020 Year-End Report at Transaction ID (page 7, "Digital ad" supporting Susie Lee).

"24-Hour Report Transaction ID WFT20201061430-1 (page 3, "Mailers" supporting Susie Lee) appears on the 2020 Year-End Report at Transaction ID SE.4231 (page 11, "Mailer" supporting Susie Lee).

"24-Hour Report Transaction ID WFT202010161435-1 (page 4, "GOTV Doorhangers" supporting Susie Lee) appears on the 2020 Year-End Report at Transaction ID SE.4233 (page 12, "Door hanger" supporting Susie Lee).

"24-Hour Report Transaction ID WFT202010161433-1 (page 4, "Mailers" supporting Susie Lee) appears on the 2020 Year-End Report at Transaction ID SE.4226 (page 8, "Mailer" supporting Susie Lee).

The PAC believes that all transactions in the 2020 24-hour report are reflected in the PAC's Year-End Report for 10/01/2020 to 12/31/2020 as detailed above. Though the amounts and dates disclosed in the 2020 24-hour report were estimates at the time, they are now accurately reported in the 2020 Year-End Report.

The PAC recognizes this leaves some transactions in its 2020 Year-End Report unaccounted for in any 24-hour report. Specifically, transaction IDs

SE.4225 (page 8, \$8,263.92 supporting Joseph R. Biden Jr.), SE.4228 (page 9, \$2,644.35 supporting Joseph R. Biden Jr.), and SE.4229 (page 10, \$2,644.35 supporting Susie Lee). The PAC believes this leaves only \$13,552.62 in independent expenditures that do not appear on any 24-hour report for the 2020 reporting period referenced in the Commission's RFAI. It further believes all expenditures in the 2020 24-hour are now properly accounted for in the Year-End Report.”

On August 23, 2024, the Committee filed one (1) [24-Hour Report](#) to support one (1) independent expenditure totaling \$2,644.35 disseminated on October 19, 2020.

On the same day, the Committee filed one (1) [24-Hour Report](#) to support one (1) independent expenditure totaling \$8,263.92 disseminated on October 19, 2020.

Also on the same day, the Committee filed one (1) [24-Hour Report](#) to support one (1) independent expenditure totaling \$2,644.35 disseminated October 19, 2020.

Amended 2022 Year-End Report, received February 27, 2024

On February 27, 2024, the Committee filed an [Amended 2022 Year-End Report](#) covering the period from October 1, 2022, to December 31, 2022. The report included a [Schedule E \(Itemized Independent Expenditures\)](#) disclosing five (5) independent expenditures totaling \$92,424.56 supporting two (2) Federal candidates.

On April 16, 2024, an [RFAI](#) was sent to the Committee referencing the Amended 2022 Year-End Report, received February 27, 2024. The RFAI noted that the Committee may have failed to file one (1) or more of the required 24-Hour Reports of independent expenditures. A chart was included with the RFAI identifying five (5) independent expenditures, totaling \$92,424.56, for which a 24-Hour Report had not been filed (Attachment 2).

On May 21, 2024, the Committee filed an [FEC Form 99](#)⁵ in response to the RFAI referencing the Amended 2022 Year-End Report, received February 27, 2024. The FEC Form 99 included a written response as well as an image of an FEC Form 5 (Report of Independent Expenditures Made and Contributions Received) that the Committee filed via email. The Committee stated in part:

“I. Amended Year-End Report for 10/01/2022 to 12/31/2022

Your first RFAI, dated April 16, 2024, relates to the PAC's Amended Year-End Report for 10/01/2022 to 12/31/2022. It indicates "Schedule E of your report indicates that your committee may have failed to file one or more of

⁵ On the same date, the Committee electronically filed a duplicate [FEC Form 99 \(Miscellaneous Electronic Submission\)](#).

the required 24 hour report(s) regarding 'last minute' independent expenditures (see attached).

For background, the PAC long suffered from technical issues with the Commission's filing systems. The Commission then changed the PAC's status from active to administratively terminated for failure to timely file reports. When undersigned counsel began working with the PAC in late 2022, the PAC's prior treasurer was no longer active with the PAC and all possible email accounts that could be used to reset passwords were no longer active or accessible. The PAC's new and current treasurer had no ability to update its statement of organization or file timely reports.

While undersigned counsel was attempting to reactivate the PAC's status and reset credentials to file reports, the PAC indicated it was about to engage in an independent expenditure on November 4, 2022. Recognizing the need to attempt to comply with the 24-hour reporting requirement, counsel spoke with Commission staff, who indicated that the best course of action while the PAC was still unable to properly log in online and file reports was to send the report to an email address staff provided (2022190174@fec.gov). This was a similar process the PAC later had to use to successfully file an amended statement of organization and reactivate the PAC. Undersigned counsel timely sent this email and a PDF version of a 24-hour report disclosing an expenditure of \$50,000.00 on November 5, 2022. Undersigned counsel has printed a copy of this Form 99 Response and copies of the Novmeber (sic) 2022 email and 24-hour report and mailed them to this Commission this same day as submitting this response.

Since then, the PAC and its new treasurer have also worked diligently with undersigned counsel to file all missing regular reports since the PAC's inception. All such reports are now filed, and the PAC has taken seriously its prospective reporting requirements. Though the PAC cannot account for the remaining \$42,424.56 that was not included in 24-hour reports in 2022, the PAC ensures now that its log-in credential issues have been addressed and undersigned counsel is actively working with the PAC on its complying with its reporting obligations, and that all future quarterly and 24-hour reports will be timely and completely filed...

III. Conclusion

The PAC recognizes that a total of \$42,424.56 for the 2022 cycle and \$43,523.18 for the 2020 cycle should have appeared in timely 24-hour reports but did not. The PAC asks the Commission to pardon the discrepancy in light of the PAC's ongoing, good faith efforts timely to and fully to comply.

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The PAC ensures that the PAC's new treasurer is committed to working with counsel to file reports in a timely and accurate manner going forward. Should you have any further questions or concerns, please contact me."

On August 23, 2024, the Committee filed one (1) [24-Hour Report](#) to support one (1) independent expenditure totaling \$11,615.28 disseminated on October 20, 2022.

On the same day, the Committee filed one (1) [24-Hour Report](#) to support one (1) additional independent expenditure totaling \$11,615.28 disseminated on October 20, 2022.

On the same day, the Committee filed one (1) [24-Hour Report](#) to support one (1) independent expenditure totaling \$9,597.00 disseminated on November 4, 2022.

On the same day, the Committee filed one (1) [24-Hour Report](#) to support one (1) additional independent expenditure totaling \$9,597.00 disseminated on November 4, 2022.

Also on the same day, the Committee filed one (1) [24-Hour Report](#) to support one (1) independent expenditure totaling \$50,000.00 also disseminated on November 4, 2022.

Since November 4, 2022, the Reports Analysis Division (RAD) logged sixteen (16) communications with a representative of the Committee which reflect efforts to help the Committee voluntarily comply with the Act. RAD was able to successfully connect with the Committee on multiple occasions and notified Austin Marshall, Compliance Consultant for the Committee, that the matters could be referred to another office at the Commission for further review. To date, no further communications have been received from the Committee regarding these matters (Attachment 3).

Filings and correspondence related to the Committee can be found here:
[One APIA PAC.](#)

One APIA PAC (C00761072)2020 Year-End Report, received February 26, 202424-Hour Reports Not Timely Filed

Name of Payee	Date of Dissemination (Schedule E)	Expenditure Amount	Candidate Supported	Election	24-Hour Report Filed
NP Consulting	10/16/2020	\$30,937.50 <i>24-Hour Report Required</i>	Biden, Joseph R Jr.	G2020	11/16/2020
NP Consulting	10/19/2020	\$14,307.92 <i>24-Hour Report Required</i>	Biden, Joseph R Jr.	G2020	11/16/2020
NP Consulting	10/19/2020	\$8,263.93 <i>24-Hour Report Required</i>	Biden, Joseph R Jr.	G2020	8/23/2024
NP Consulting	10/19/2020	\$2,644.35 <i>24-Hour Report Required</i>	Biden, Joseph R Jr.	G2020	8/23/2024
NP Consulting	10/23/2020	\$14,446.94 <i>24-Hour Report Required</i>	Biden, Joseph R Jr.	G2020	11/16/2020
NP Consulting	10/16/2020	\$30,937.50 <i>24-Hour Report Required</i>	Lee, Susie	G2020	11/16/2020
NP Consulting	10/19/2020	\$8,263.92 <i>24-Hour Report Required</i>	Lee, Susie	G2020	11/16/2020
NP Consulting	10/19/2020	\$2,644.35 <i>24-Hour Report Required</i>	Lee, Susie	G2020	8/23/2024
NP Consulting	10/23/2020	\$14,446.94 <i>24-Hour Report Required</i>	Lee, Susie	G2020	11/16/2020

One APIA PAC (C00761072)Amended 2022 Year-End Report, received February 27, 202424-Hour Reports Not Timely Filed

Name of Payee	Date of Dissemination (Schedule E)	Expenditure Amount	Candidate Supported	Election	24-Hour Report Filed
Pendulum Group	10/20/2022	\$11,615.28 <i>24-Hour Report Required</i>	Cortez Masto, Catherine.	G2022	8/23/2024
Pacific Campaign House	11/4/2022	\$50,000.00 <i>24-Hour Report Required</i>	Cortez Masto, Catherine	G2022	8/23/2024
Pendulum Group	11/4/2022	\$9,597.00 <i>24-Hour Report Required</i>	Cortez Masto, Catherine	G2022	8/23/2024
Pendulum Group	10/20/2022	\$11,615.28 <i>24-Hour Report Required</i>	Lee, Susie	G2022	8/23/2024
Pendulum Group	11/4/2022	\$9,597.00 <i>24-Hour Report Required</i>	Lee, Susie	G2022	8/23/2024