

REPORTS ANALYSIS DIVISION REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: September 27, 2013

ANALYST: Kaitlin Eger

- I. COMMITTEE: National Republican Senatorial Committee
C00027466
Stan Huckaby, Treasurer
425 Second Street NE
Washington, DC 20002
- II. RELEVANT STATUTE: 2 U.S.C. §434(g)(2)
11 CFR §104.4(b)

III. BACKGROUND:

Failure to Provide Supporting Schedules (Failure to File 48-Hour Reports)

National Republican Senatorial Committee ("the Committee") failed to file three (3) 48-Hour Reports to support seven (7) independent expenditures totaling \$289,213.65 disclosed on the 2012 October Monthly Report made up to and including the 20th day before the 2012 General Election (Attachment 3).

Prior Notices listing the official filing dates for monthly filers were sent via email to the Committee on August 27, 2012. The notice included a section titled *48- and 24-Hour Reports of Independent Expenditures* which read as follows, "Any PAC or Party Committee that makes independent expenditures in 2012 may have to disclose this activity within 48- or 24-hours based upon the date and amount of the expenditure. See 11 CFR 104.4(b)(2) and (c). See generally, 11 CFR 104.4. Web Page: State-by-state chart of 2012 48- and 24-hour periods for independent expenditures, Campaign Guide: *Nonconnected*, pp. 72-74 [PDF]; *SSF*, pp. 65-67 [PDF]; *Party*, pp. 87-89 [PDF]. These reports are not required when a PAC or Party Committee makes a contribution directly to a candidate" (Attachment 2).

On October 19, 2012, the Committee filed its 2012 October Monthly Report, covering the period from September 1, 2012 to September 30, 2012, which included a Schedule E (Itemized Independent Expenditures) disclosing fifty-six (56) independent expenditures totaling

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\$6,059,111.73 made in support of, or in opposition to, eight (8) federal candidates. The Committee appeared to have failed to file four (4) 48-Hour Reports to support eleven (11) independent expenditures totaling \$325,463.75 (Images 12020924643-70).

On October 24, 2012, the Committee filed an Amended 2012 October Monthly Report. The report disclosed no change in independent expenditures from the original report (Image 12020973531).

On October 25, 2012, the Committee filed an Amended 2012 October Monthly Report. The report disclosed no change in independent expenditures from the original report (Image 12021020208).

On December 5, 2012, the Committee filed an Amended 2012 October Monthly Report. The report disclosed no change in independent expenditures from the original report (Image 12021103870).

On April 26, 2013, a Request for Additional Information (RFAI) was sent to the Committee referencing the Amended 2012 October Monthly Report, received December 5, 2012. Among other items, the RFAI stated that the Committee may have failed to file one or more of the required 48-Hour Reports for the independent expenditures. A chart was included identifying the eleven (11) independent expenditures, totaling \$325,463.75¹, for which 48-Hour Reports had not been filed (Image 13330030008-14).

On May 29, 2013, the Committee filed an Amended 2012 October Monthly Report. The amendment included four (4) disbursements totaling \$36,250.00 on Schedule B which had previously been reported as independent expenditures on Schedule E (Images 13020251781-83). Schedule E disclosed the remaining independent expenditures totaling \$6,022,861.73 made in support of, or in opposition to, eight (8) federal candidates. The Committee failed to file three (3) required 48-Hour Reports to support seven (7) independent expenditures totaling \$289,213.65 (Images 13020251784-810, Attachment 3).

On June 5, 2013, the Committee submitted a Miscellaneous Paper Submission ("Form 99") in response to the RFAI referencing the Amended 2012 October Monthly Report, received December 5, 2012. The Committee stated, in part:

"Regarding the expenditure of \$24,250 payable to Strategic Media Services (attachment page 4), the NRSC did not file a 48-hour notice as the communication with which the expenditure was associated was not publicly disseminated and therefore no notice was required pursuant to 11 CFR§104.4. As such, the NRSC has amended its October Monthly Report to report these expenditures as operating expenditures on Line 21(b) and has removed them from Schedule E.

The expenditures of \$4,800 payable to Netto Media and expenditures of \$2,400 and \$4,800 payable to Strategic Media Services (attachment Page 4), were payments to produce online web advertisements that did not contain express

¹ The RFAI included one additional Independent Expenditure in error.

advocacy pursuant to Commission regulation and therefore did not meet the definition of an independent expenditure under 11 CFR§100.16. Accordingly, no 48-hour notices were required under 11 CFR§104.4. The NRSC has amended its October Monthly Report to report these expenditures as operating expenditures on Line 21(b) and has removed them from Schedule E.

With regard to the expenditures of \$12,992.28 and \$108,005.22 payable to Nebo Media, and the expenditures of \$26,614.58, \$16,271.43, \$33,228.57, \$29,972.76 and \$62,128.81 payable to Strategic Media Services (attachment Page 4), due to a miscommunication between the NRSC and its independent expenditure unit, the NRSC's normal practice of filing 48-hour notices was not followed. These expenditures were subsequently disclosed on the NRSC's October Monthly Report and the NRSC has taken measures to ensure that this unintentional oversight is corrected" (Image 13620252327).

On June 12, 2013, the Reports Analysis Division (RAD) Analyst called Jay Banning, the Committee's Assistant Treasurer, and left a voice message explaining that there was an issue on the Amended 2012 October Monthly Report, received December 5, 2012, that needed further clarification. The Analyst explained that the issue could be referred for further action to the Commission if it was not resolved, and the Analyst requested a return call from the Committee as soon as possible (Attachment 4).

On June 13, 2013, the RAD Analyst called Megan Sowards, the Committee's general counsel. The Analyst left a voice message explaining that there was an issue on the Committee's Amended 2012 October Monthly Report, received December 5, 2012, that needed further clarification because it could be referred for further action to the Commission (Attachment 4).

Later that day, Ms. Sowards returned the RAD Analyst's phone call and the Analyst explained that the missing 48-Hour Reports, which the Committee explained as an unintentional oversight in their Form 99 response, could be referred for further action by the Commission. The Analyst informed Ms. Sowards that the purpose of the call was to give the Committee the opportunity to put any additional information or explanation of the issue on the public record (Attachment 4).

To date, no further communication has been received from the Committee regarding this matter.

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