

REPORTS ANALYSIS DIVISION REFERRAL  
TO  
ALTERNATIVE DISPUTE RESOLUTION OFFICE

DATE: August 25, 2014

ANALYST: Brian Jones

I. COMMITTEE: JBS USA LLC PAC  
C00394650  
Gustavo Biscardi, (2/20/14-Present)  
William G. Trupkiewicz (8/20/13-2/19/14)  
1770 Promontory Circle  
Greeley, CO 80634-9039

II. RELEVANT STATUTE: 2 U.S.C. § 441b  
11 CFR §102.5(a)  
11 CFR §114.5

III. BACKGROUND:

**Prohibited and Other Impermissible Contributions/Transfers: Failure to Refund Prohibited Contributions within the Permissible Timeframe**

JBS USA LLC PAC ("the Committee") received misdeposited funds totaling \$55,501.73<sup>2</sup> during the 2013 calendar year that were originally intended for the Committee's connected organization, JBS USA LLC, which were not remedied within the permissible timeframe (Attachment 2).

On January 6, 2014, Nick White, counsel for the Committee, called the Reports Analysis Division (RAD) Analyst to discuss how to report the misdeposit of funds into the Committee's account and subsequent refund to the connected organization. The Analyst stated that the receipts should be reported on Line 17 (Other Federal Receipts) of the Detailed Summary Page and the refunds should be reported on Line 29 (Other Disbursements) of the Detailed Summary Page on the applicable reports for the time

<sup>2</sup> The Committee's 2013 Year-End Report disclosed \$158,900.84 in receipts that were described as misdeposited, however, \$103,399.11 of those receipts were timely refunded or redesignated. The Committee failed to timely remedy \$55,501.73 of the misdeposited funds disclosed on the 2013 Year -End Report.

period in which the transactions took place. Mr. White further explained that the Committee transferred out the misdeposited funds immediately after the accounting error had been uncovered. The Analyst also advised the Committee to file a Miscellaneous Electronic Submission ("Form 99") to explain the situation (Attachment 3).

On January 31, 2014, the Committee filed a 2013 Year-End Report covering the period from December 1, 2013 through December 31, 2013. The report disclosed a receipt on Schedule A supporting Line 17 of the Detailed Summary Page received on December 31, 2013 totaling \$158,900.84 from "S & C Resale CO" with a transaction description of "Deposit to Account made in error- Will be removed in Jan" (Image 14940279107).

On February 20, 2014, the Committee filed a 2014 February Monthly Report covering the period from January 1, 2014 through January 31, 2014. This report disclosed a disbursement on Schedule B supporting Line 29 of the Detailed Summary Page on January 1, 2014 totaling \$103,399.11 to "S & C Resale CO" with a purpose of "Return of Funds Deposited in Error. Remaning [sic] \$55,501.73 is still set to be returned reported [sic] in Dec" (Image 14940532027).

On March 26, 2014, a Request for Additional Information (RFAI) was sent to the Committee referencing the 2013 Year-End Report. The RFAI requested clarification regarding the receipt for the apparent misdeposit of funds originally intended for the connected organization and noted the transfer-out of the misdeposited funds disclosed on the 2014 February Monthly Report (Image 14330047677).

On March 27, 2014, the RAD Analyst received a call from Jason Castle, the Committee's Custodian of Records. Mr. Castle asked why the Committee received the RFAI referencing the misdeposited receipts disclosed on the Committee's 2013 Year-End Report. The Analyst explained that the Committee is responsible for performing timely corrective action regarding prohibited receipts in the Committee's account and should transfer any prohibited receipts no later than 30 days of receipt. Furthermore, it appeared that the Committee had failed to timely remedy the receipt of misdeposited funds in question. Mr. Castle stated that the Committee failed to disclose an additional transfer-out of misdeposited funds that should have been reported on the Committee's 2014 March Monthly Report. The Analyst advised Mr. Castle to amend the 2014 March Monthly Report to correctly disclose the Committee's financial activity. The Analyst advised filing a Form 99 to clarify any corrective action taken by the Committee (Attachment 3).

On April 3, 2014, the Committee filed an Amended 2014 March Monthly Report covering the period from February 1, 2014 through February 28, 2014. This report disclosed a disbursement on Schedule B supporting Line 29 of the Detailed Summary Page on February 24, 2014 totaling \$55,501.73 to "JBS USA LLC PAC" with a purpose of "Removal of Funds Deposited in Error"<sup>3</sup> (Image 14960604378).

---

<sup>3</sup> The Committee did not disclose any transfers-out to "S & C Resale CO" on the original 2014 March Monthly Report, dated March 21, 2014.

On April 3, 2014, the Committee filed a Form 99 in response to the RFAI. The Committee stated, in full:

“This note is to give more information on the misc. deposits made to the FEC bank account in Dec. of 2013. There were 2 deposits made to or [sic] account in error from S&C Resalse Co [sic]. There deposits were found when we received [sic] the bank Statement on this account. The deposits were for [\$]103,399.11 and [\$]55,501.73. When found we had the bank return the deposits [sic] that were made in error. The bank did not return both deposits, only the deposit in the amount of [\$]103,399.11 was returned. When we received our Jan. statement we noticed that only one deposit was returned. So wer [sic] had the bank return the other deposit. The bank them returned this deposit on 2/24. This amount was not included in the origanly [sic] PAC filing for March, but an amended filing [sic] was sent to include thie return of the funds depoited [sic] to the account in error” (Image 14960604397).

On May 5, 2014, the RAD Analyst called Mr. Castle. The Analyst stated that the matter regarding apparent misdeposited funds in the Committee’s account may be referred to another office at the Commission for further action. The Analyst acknowledged that the Committee filed a Form 99 on April 3, 2014 referencing the misdeposited funds, but stated that the Committee could provide further information by filing an additional Form 99 if they wished to do so. The Analyst advised Mr. Castle to notify Mr. Biscardi, the Committee Treasurer, of this matter and seek whether the committee had additional information to provide for the public record (Attachment 3).

On May 8, 2014, the RAD Analyst received a call from Mr. White. The Analyst reiterated that the matter regarding misdeposited funds may be referred to another office at the Commission for further action and stated that if the Committee wanted to provide further information regarding the misdeposits they could submit additional information on a Form 99 (Attachment 3).

To date, no further communications have been received from the Committee regarding this matter.

14960604397