

REPORTS ANALYSIS DIVISION REFERRAL
TO
ALTERNATIVE DISPUTE RESOLUTION OFFICE

DATE: January 30, 2015

ANALYST: Paul Stoetzer

- I. COMMITTEE: Local 32BJ Service Employees International
Union American Dream Political Action Fund
C00355289
Alison E. Hirsh, Treasurer
25 West 18th Street
New York, NY 10011-4676
- II. RELEVANT STATUTE: 52 U.S.C. §30118
(formerly 2 U.S.C. § 441(b))
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

Local 32BJ Service Employees International Union American Dream Political Action Fund ("the Committee") received misdeposited funds totaling \$54,580.00 during the 2013 calendar year that were originally intended for a non-federal account. The Committee did not refund or transfer-out the misdeposits within the permissible timeframe (Attachment 2).

On January 31, 2014, the Committee filed the 2013 Year-End Report covering the period from July 1, 2013 through December 31, 2013. This report disclosed a receipt totaling \$54,580.00 from "SEIU PEA State Fund" on Schedule A supporting Line 12 (Transfers From Affiliated/Other Party Committees) of the Detailed Summary Page (Image 14960345538).

In miscellaneous text attached to the transaction, the Committee stated, in full:

“The Line 12 receipt that is itemized on page 108A was a payment that was deposited into the Committee’s account due to an inadvertent lockbox error. It was intended for and should have been deposited into the account of a nonfederal committee that is also sponsored by Local 32BJ, SEIU, the connected organization of the Committee. The error was discovered in the course of reviewing records for the filing of this report. The Committee has transferred the mis-deposited amount to the intended nonfederal committee recipient, and that transfer will be reported on Line 22 of the Committee’s April 15 Quarterly Report. The Committee is taking steps to ensure that this error does not recur” (Image 14960345539).

On March 28, 2014, a Request for Additional Information (RFAI) was sent to the Committee referencing the 2013 Year-End Report. The RFAI requested clarification regarding the receipts for the apparent misdeposit of funds originally intended for the nonfederal account and noted the miscellaneous text stating that the misdeposited funds had been transferred out (Image 14330047828).

On April 15, 2014, the Committee filed the 2014 April Quarterly Report covering the period from January 1, 2014 through March 31, 2014. This report disclosed a disbursement to “32BJ United American Dream Fund” totaling \$54,580.00 on Schedule B supporting Line 29 (Other Disbursements) of the Detailed Summary Page (Image 14960694837).

In miscellaneous text attached to the transaction, the Committee stated, in full:

“This entry corresponds to the Schedule A entry on page 108A of the Year End Report and the corresponding miscellaneous text note. A March 28, 2014 RFAI from the Commission quotes that memo text and says “Although the Commission may take further legal action regarding the misdeposited funds, your prompt action will be taken into consideration.” That suggests that if the committee does what it says (transfer the funds at issue to the intended recipient) and duly reports it, that is all that is necessary for the Commission to take into consideration. The committee has done that. But the March 28 letter also calls on the committee to “adequately respond” to the letter or face “an audit or enforcement action.” Every RFAI uses this language, so it leaves the committee uncertain what if any further response here would be “adequate.” We have already explained the misdeposit and taken the described steps to rectify it. If the RFAI seeks some other response, we suggest that it should say so explicitly or omit this language from the letter” (Image 14960694838).

On May 29, 2014 and May 30, 2014, the Reports Analysis Division (RAD) Analyst left a voice mail message for Alison Hirsh, the Committee’s Treasurer, and asked her to call him back as soon as possible regarding the RFAI sent on March 28, 2014 (Attachment 3).

On May 30, 2014, David Schmidt, a representative of the Committee, returned the RAD Analyst’s phone call. The Analyst explained that the Committee would be referred for further

action due to the Committee's untimely transfer-out of misdeposited funds disclosed on the 2013 Year-End Report. Mr. Schmidt explained that he did not have any direct knowledge of the contents of the reports and directed the Analyst to Floriana Katz, the Controller of the Committee (Attachment 3).

Later that day, the RAD Analyst spoke with Ms. Katz. The Analyst explained that the Committee would be referred for further action due to the transfer-out of funds intended for a non-federal account occurring outside the 30 day window for the transfer-out of prohibited receipts. Ms. Katz stated that she would contact the Committee's legal department and that they would call the Analyst back (Attachment 3).

On June 6, 2014, Lawrence Gold, counsel for the Committee, called the RAD Analyst to discuss the RFAI referencing the Committee's 2013 Year-End Report, among other issues. The Analyst explained that the report disclosed an apparent misdeposit of \$54,580.00 in August 2013 that was not refunded until January 2014. The Analyst told him that due to the length of time it took for the Committee to transfer out those funds, the matter would be referred for further action. The Analyst told him that if the Committee chose to they could file a Miscellaneous Electronic Submission ("FEC Form 99") explaining the circumstances of this receipt and refund. He stated that the Committee would do so (Attachment 3).

On August 18, 2014, the RAD Analyst called Mr. Gold and asked about the status of the response requested in the June 6, 2014 phone call. Among other issues, he asked for a summary of the potentially referable matter, and the Analyst restated that the 2013 Year-End Report disclosed an apparent misdeposit of \$54,580.00 that was not timely transferred out. The Analyst stated that the Committee could provide further information regarding the apparent discrepancy. He said that the Committee would provide a response promptly (Attachment 3).

On October 7, 2014, the RAD Analyst called Mr. Gold, to restate the request for a response on the public record regarding the RFAI referencing the Committee's 2013 Year-End Report. The Analyst requested that the Committee file that response by October 17, 2014 (Attachment 3).

On October 21, 2014, Mr. Gold called the RAD Analyst and said that he was not able to get the information requested submitted by October 17, 2014 and said he would have it by October 24, 2014. The Analyst told him that the Commission would move ahead with this matter if the response was not submitted by then (Attachment 3).

On October 24, 2014, Mr. Gold called the RAD Analyst to state that responses regarding the referable matters would be filed that day (Attachment 3).

Later that day, the Committee submitted a FEC Form 99 in response to the RFAI. The FEC Form 99 stated in full:

"In response to your letter dated March 28, 2014, please be advised as follows regarding the receipt on the Committee's 2013 Year End Report. On August 23, 2013, the Committee received an ACH wire transfer in the amount of \$54,580.00

from the Service Employees International Union (SEIU), the affiliated international labor organization of the Committee's connected organization. The Committee understood that the origin of the transfer was SEIU's connected federal committee, SEIU COPE.

In January 2014, during the regular audit and review undertaken in preparation of the Committee's 2013 Year-End Report, the Committee discovered that this transfer had instead originated from the SEIU PEA State Fund, a nonfederal committee of SEIU, and that it should have been deposited in the 32BJ United American Dream Fund, a nonfederal committee of the Committee's connected organization. Accordingly, on January 31, the Committee rectified the misdeposit by transferring the full amount of \$54,580.00 to that nonfederal committee, as is reflected on Line 29 of the Committee's April 2014 Quarterly Report.

The original wire of the funds at issue to the Committee from SEIU and the subsequent deposit in the Committee's account arose from a miscommunication between the two labor organizations. The Committee acted well within the 30 days prescribed by 11 C.F.R. § 103.3(b)(2) following its discovery of the unlawful source of the receipt. Rather than refund the amount to SEIU PEA State Fund, the Committee transferred the funds to the proper recipient non-federal committee. This was appropriate in light of the fact that the federal and nonfederal committees and connected organizations involved are all affiliated with each other under the Commission's regulations. See 11 C.F.R. §§ 100.5(g), 100.6, 106.6.

Because the deposit of nonfederal funds was inadvertent; the Committee discovered the error through its own self-examination, unprompted by the Commission; the Committee immediately rectified the error; and the Committee fully and accurately reported and explained the matter to the Commission in a miscellaneous text in its January 31, 2014 Year End Report, the Committee respectfully requests that no further action be taken regarding this matter" (Image 14952547613).

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

O-Index (2015-2016)

Cmte. ID: C00355289 Cmte. Name: LOCAL 32BJ SERVICE EMPLOYEES INTERNATIONAL UNION AMERICAN DREAM POLITICAL ACTION FUND
 Treasurer Name: HIRSH, ALISON E. Address: 25 WEST 18TH STREET, NEW YORK, NY 10011-4676
 Cmte. Type: Q (QUALIFIED NON-PARTY) Cmte. Designation: U (UNAUTHORIZED) Filing Frequency: QUARTERLY FILER

Form Tp	Rpt Tp	AVI	Recpt Dt	Pgs	Begin Img#	Begin Cvg Dt	End Cvg Dt	Ltr Mail Dt	Begin Cash	Recpts	Disb --	End Cash	Debts	Loans	Debts & Loans
No records were found for this cycle.															

O-Index (2013-2014)

Cmte. ID: C00355289 Cmte. Name: LOCAL 32BJ SERVICE EMPLOYEES INTERNATIONAL UNION AMERICAN DREAM POLITICAL ACTION FUND
 Treasurer Name: HIRSH, ALISON E. Address: 25 WEST 18TH STREET, NEW YORK, NY 10011-4676
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MS-T			1/31/2013	1	13860821120										
MS-T			10/24/2014	1	14952547578										
MS-T			10/24/2014	1	14952547613										
RQ2	MY	N	3/2/2013	2	13330038743	1/1/2013	6/30/2013	3/12/2013							
RQ2	YE	N	3/28/2014	3	14330047828	7/1/2013	12/31/2013	3/28/2014							
F3XN	MY	N	7/31/2013	27	13941308110	1/1/2013	6/30/2013		\$154,270	\$397,490	\$777,830	\$323,831			\$0
F3XN	YE	N	1/31/2014	110	14980345431	7/1/2013	12/31/2013		\$323,831	\$1,023,211	\$1,041,712	\$305,330			\$0
F3XN	Q1	N	4/15/2014	15	14980344224	1/1/2014	3/31/2014		\$305,330	\$553,844	\$58,478	\$827,795			\$0
F3XN	Q2	N	7/15/2014	27	14981801789	4/1/2014	6/30/2014		\$802,795	\$567,271	\$748,348	\$823,720			\$0
F3XN	Q3	N	10/15/2014	122	14978330212	7/1/2014	9/30/2014		\$823,720	\$554,008	\$41101	\$1,173,627			\$0
F3XN	30G	N	12/4/2014	182	14952951855	10/1/2014	11/24/2014		\$1,173,627	\$313,048	\$1,373,014	\$113,681			\$0
F3XN	YE	N	1/27/2015	346	15970057245	11/25/2014	12/31/2014		\$113,681	\$246,100	\$1,080	\$358,671			\$0
Totals										\$4,205,076	\$4,000,675				

O-Index (2011-2012)

Cmte. ID: C00355289 Cmte. Name: LOCAL 32BJ SERVICE EMPLOYEES INTERNATIONAL UNION AMERICAN DREAM POLITICAL ACTION FUND
 Treasurer Name: HIRSH, ALISON E. Address: 25 WEST 18TH STREET, NEW YORK, NY 10011-4676
 Cmte. Type: Q (QUALIFIED NON-PARTY) Cmte. Designation: U (UNAUTHORIZED) Filing Frequency: QUARTERLY FILER

Form Tp	Rpt Tp	AVI	Recpt Dt	Pgs	Begin Img#	Begin Cvg Dt	End Cvg Dt	Ltr Mail Dt	Begin Cash	Recpts	Disb	End Cash	Debts	Loans	Debts & Loans
MS-T			1/25/2011	1	11990080951										
RQ2	MY	N	2/7/2013	2	13330022238	1/1/2011	6/30/2011	2/7/2013							
RQ2	MY	N	2/4/2013	2	13330021580	1/1/2011	6/30/2011								
F3XN	MY	N	7/29/2011	21	11932111830	1/1/2011	6/30/2011		\$115,535	\$782,491	\$572,183	\$325,863			\$0
F3XN	Q1	N	4/13/2012	16	12970804464	1/1/2012	3/31/2012		\$88,021	\$427,339	\$45,243	\$450,118			\$0
F3XN	Q2	N	7/2/2012	22	12972004113	4/1/2012	6/30/2012		\$450,118	\$437,325	\$317,616	\$535,676			\$0
F3XN	Q3	N	10/15/2012	78	12972571877	7/1/2012	9/30/2012		\$535,679	\$428,686	\$800,257	\$164,108			\$0
F3XN	30G	N	3/28/2013	53	13980811133	10/1/2012	11/27/2012		\$164,108	\$228,550	\$206,311	\$455,357			\$0
F3XN	YE	N	1/31/2013	52	13980808113	11/27/2012	12/31/2012		\$455,352	\$173,318	\$475,000	\$154,270			\$0
Totals										\$3,333,240	\$3,294,505				

**Local 32BJ Service Employees International Union American Dream Political Action Fund
(C00355289)**

Prohibited Contribution Refunded Outside Permissible Timeframe

2013 Year-End Report (7/1/13 - 12/31/13) and 2014 April Quarterly Report (1/1/14-3/31/14)

Name	Receipt Date	Contribution Amount	Prohibited Amount Refunded Outside of Timeframe	Transfer-out date	Refunded # Days Since Receipt
SEIU PEA State Fund	8/22/2013	\$54,580.00	\$54,580.00	1/31/2014	162
Total Amount Refunded Outside Permissible Timeframe:					\$54,580.00