

REPORTS ANALYSIS DIVISION REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: September 26, 2016

ANALYST: Laura E. Sinram

I. COMMITTEE:

STOP HILLARY PAC
C00544767
Dan Backer, Treasurer
203 South Union Street, Suite 300
Alexandria, VA 22314

II. RELEVANT STATUTE:

52 U.S.C. §30104(b)(4)
52 U.S.C. §30104(b)(6)(B)(iii)
11 CFR §104.3(b)
11 CFR §104.4(b) and (c)
11 CFR §100.2(c)

III. BACKGROUND:

Independent Expenditure Reporting Problems

STOP HILLARY PAC ("the Committee") failed to provide the election state for three (3) independent expenditures totaling \$28,200.00 which were made on behalf of a presidential candidate for the "2016 Dem. Nat. Convention." The independent expenditures with missing information were disclosed on two (2) 48-Hour Reports of Independent Expenditures (Attachment 2). In addition, the Committee failed to provide the election state of the corresponding independent expenditures on its 2015 Year-End Report.

On October 9, 2015, the Committee filed a 48-Hour Report of Independent Expenditures disclosing five (5) independent expenditures totaling \$78,506.00. The report failed to include an

election state for one (1) independent expenditure totaling \$13,200.00 designated for the "2016 Dem. Nat. Convention"² (Image 201510099002828724).

On October 20, 2015, the Committee filed a 48-Hour Report of Independent Expenditures. The report disclosed one (1) independent expenditure totaling \$10,000.00 designated for the "2016 Dem. Nat. Convention" for which no election state was provided (Image 201510209003177352). The Committee attached a memo text which stated,

"This is the national component of a \$15,000 ad campaign including similar ad buys in several key battleground states. Expenditures for individual states have not yet reached the reporting threshold" (Image 201510209003177353).

On October 26, 2015, a Request for Additional Information (RFAI) was sent to the Committee referencing the 48-Hour Report of Independent Expenditures, received October 9, 2015. The RFAI stated that the Committee failed to provide the election state for one (1) independent expenditure and advised the Committee to amend the report to provide the missing information (Image 201510260300006321-3).

That same day, October 26, 2015, the Committee amended the 48-Hour Report originally filed on October 20, 2015. The report disclosed two (2) independent expenditures totaling \$15,000.00 designated for the "2016 Dem. Nat. Convention" for which no election state was provided (Image 201510269003240463). The Committee attached a memo text which stated,

"This is the national component of a \$20,000 ad campaign including similar ad buys in several key battleground states. Expenditures for individual states have not yet reached the reporting threshold. This amended Form 24 report includes production costs invoiced after distribution that were thought to have been part of a prior payment to the same vendor. The additional amount reported on this amendment was invoiced for on 10/23/15 and paid on 10/26/15. This amendment also corrects a data entry error in the dissemination date for transaction SE24.11700" (Image 201510269003240464).

On November 5, 2015, the Committee filed a Miscellaneous Electronic Submission ("FEC Form 99"). The Committee stated, in full:

"This Committee responds to the October 26, 2015 RFAI, with response due November 30, 2015, as follows: The expenditure at issue in the 10/9/15 Form 24 was for a nationally distributed communication that did not reference or target any specific state's primary election. Consistent with those facts and the Commission's proposed interpretive rules on reporting nationwide independent expenditures in

² 11 CFR §100.2(c) states that a primary election is an election which meets the following conditions, among others; An election which is held for the expression of a preference for the nomination of persons for election to the office of President of the United States is a primary election; An election which is held to elect delegates to a national nominating convention is a primary election.

presidential primary elections, the Committee reported these as national expenditures for the 2016 Democratic national nominating convention. All state-specific expenditures that have aggregated to \$10,000 or more were included in the original Form 24 and were properly designated for their respective states. Other state-specific expenditures have not yet aggregated to \$10,000, and so have not yet been reported" (Image 201511059003288250).

On February 1, 2016, the Committee filed the 2015 Year-End Report covering the period from July 1, 2015 through December 31, 2015. The report disclosed three (3) independent expenditures totaling \$28,200.00 designated for the "2016 Dem. Nat. Convention" for which no election state was provided. These independent expenditures were linked to the 48 Hour-Reports received on October 9 and October 26, 2015 (Images 201602019005299790, 201602019005299793, and 201602019005299795).

On February 21, 2016, the Committee filed an Amended 2015 Year-End Report. The report disclosed no change in information provided for the three (3) independent expenditures designated for the "2016 Dem. Nat. Convention" disclosed on the original report (Images 201602219008673626, 201602219008673630, and 201602219008673631).

On April 14, 2016, an RFAI was sent to the Committee referencing the Amended 2015 Year-End Report, received February 21, 2016. Among other items, the RFAI stated that the Committee failed to provide the election state for three (3) independent expenditures and advised the Committee to amend the report to provide the missing information (Image 201604140300041630).

On May 19, 2016, the Committee filed an Amended 2015 Year-End Report. The report disclosed no change in information provided for the three (3) independent expenditures designated for the "2016 Dem. Nat. Convention" disclosed on the original report (Images 201605199015549184, 201605199015549188, and 201605199015549189).

Also on May 19, 2016, the Committee filed an FEC Form 99. The Committee stated, in part:

"2. Though reported alongside expenditures targeted at specific states, the expenditures referenced here were distributed nationally, with the goal of denying Hillary Clinton the 2016 Democratic nomination. Consistent with that goal, and with the Commission's proposed interpretive rules on reporting nationwide independent expenditures in presidential primary elections, the Committee reported these expenditures as being for the Convention, and not, as would be factually incorrect, for one or more states" (Image 201605199015549192).

On May 25, 2016, the Reports Analysis Division (RAD) Analyst called the Committee Treasurer, Dan Backer, regarding the RFAI sent on the Amended 2015 Year-End Report, received February 21, 2016. Mr. Backer asked Mr. Joseph Lilly, the Committee's counsel, to participate in the call. Among other items, the Analyst stated that the Committee's response for

the omitted election states for the three (3) independent expenditures was inadequate and the issue may be referred for further action. The Analyst stated that the Committee's use of the national convention as an election state was inadequate, in part, because the Commission had not approved the Notice of Proposed Rulemaking mentioned in the response. Mr. Backer stated that the Committee would not be amending the designation to disclose something they believed was untrue. The Analyst said that the Committee could place any additional information on the public record (Attachment 4).

On June 1, 2016, the Committee filed an FEC Form 99. The Committee stated, in part:

"With respect to the nationally distributed independent expenditures disclosed on Schedule E, the Committee will once again state that these expenditures were distributed nationally, with the goal of influencing the outcome of the 2016 Democratic National Convention, and were therefore reported as such. While the Committee appreciates that Commission policies on independent expenditures have not yet caught up with 21st century political advertising norms, the Committee's aim in reporting its activity in this way is full and accurate disclosure - clearly not something the Commission should be discouraging" (Image 201606019017457915).

Failure to Provide Supporting Schedules (Failure to Disclose All Financial Activity)

STOP HILLARY PAC ("the Committee") amended its 2015 Year-End Report to disclose additional disbursements of \$163,732.16, which were not disclosed in the original report (Attachment 3).

On February 1, 2016, the Committee filed the 2015 Year-End Report covering the period from July 1, 2015 through December 31, 2015. The report disclosed \$7,931.85 in disbursements on Line 21(b) (Other Federal Operating Expenditures), \$206,006.00 on Line 24 (Independent Expenditures), \$6,000.00 on Line 26 (Loan Repayments Made), \$745.00 on Line 28(a) (Refunds of Contributions to Individuals and Persons Other than Political Committees), and \$179,003.19 on Line 29 (Other Disbursements) (Image 201602019005299730).

On February 21, 2016, the Committee filed an Amended 2015 Year-End Report. The report disclosed \$859.61 on Line 21(b), \$290,193.64 on Line 24, \$63,223.54 on Line 26, \$995.00 on Line 28(a) and \$208,146.41 on Line 29, a total increase in disbursements of \$163,732.16 from the original report (Image 201602219008673130).

On April 14, 2016, a Request for Additional Information (RFAI) was sent to the Committee referencing the Amended 2015 Year-End Report, received February 21, 2016. Among other items, the RFAI requested clarification regarding the substantial increase in disbursements disclosed on the Amended 2015 Year-End Report, which were not disclosed in the original filing (Image 201604140300041630).

On May 19, 2016, the Committee filed an Amended 2015 Year-End Report. The report disclosed no change in disbursements from the prior amendment (Image 201605199015548688).

Subsequently on May 19, 2016, the Committee filed a Miscellaneous Electronic Submission ("FEC Form 99"). The Committee stated, in part:

"This Committee responds to the April 14, 2016 RFAI, with response due May 19, 2016, as follows: 1. The increase in disbursements was largely the result of final invoice amounts from independent expenditure vendors finally being made available, and the Committee updating the original report with actual - instead of estimated - payment amounts. The debts disclosed on the amended report are all related to the Committee's independent expenditure activity, and, as the Committee has stated in the past, do not accurately reflect the Committee's billing arrangements with its vendors - they were only reported in this manner due to the FEC's insistence on such" (Image 201605199015549192).

On May 25, 2016, the Reports Analysis Division (RAD) Analyst called the Committee Treasurer, Dan Backer, regarding the RFAI referencing the Amended 2015 Year-End Report, received February 21, 2016. Mr. Backer asked Mr. Joseph Lilly, the Committee's counsel, to participate in the call. Among other items, the Analyst stated that the Committee's response was inadequate and the increase in disbursements may be referred for further action. The Analyst said that the Committee could place any additional information on the public record (Attachment 4).

On June 1, 2016, the Committee filed an FEC Form 99. The Committee stated, in part:

"Following a conversation with the Committee's analyst, the Committee writes to provide additional information regarding the April 14, 2016 RFAI. With respect to the increase in disbursements on the amended year-end report, the increase on line 24 was, as previously described, due to the Committee updating the original report with actual - instead of estimated - payment amounts, as final invoices were received. The increase on line 26 was the result of the FEC-mandated treatment of independent expenditures disseminated during the mid-year reporting period but not paid until the year-end reporting period. These amounts were not actually owed to the vendors as of the close of books of the mid-year report, and, since each was timely paid once invoiced for, no debt was ever incurred. Nonetheless, the FEC required the Committee to report these as debts on the mid-year report, and as payments on those debts on the year-end report. The increase on line 28(a) was the result of properly including a few individual refunds inadvertently excluded from the original report. The increase on line 29 was largely the result of recategorizing certain disbursements originally thought to be independent expenditures as Carey account operating expenditures. Due to the delay in determining final payment amounts for the independent expenditures, the initial mis-categorization was not discovered until after the original report had been filed" (Image 201606019017457915).

To date, no further communication has been received from the Committee regarding these matters.

Treasurer Name: BACKER, DAN Cmte. ID: C00544767 Cmte. Name: STOP HILLARY PAC Address: 203 SOUTH UNION STREET STE 300, ALEXANDRIA, VA 22314									
Cmte. Type: V (NON-QUALIFIED NON-PARTY WITH NON-CONTRIBUTION ACCOUNT) Cmte. Designation: U (UNAUTHORIZED)									
Form Tp	Rpt Tp	A/I	Recpt Dt	Pq's	Begin Ing#	Beg Cvg Dt	End Cvg Dt	Ltrr Mail Dt	Begin Cash
MS-T			4/13/2015	1	15951126370				
MS-T			4/20/2015	1	15951206741				
MS-T			6/1/2015	2	15951448074				
MS-T			6/1/2015	1	15951486755				
MS-T			8/27/2015	1	201508279001585468				
MS-T			11/5/2015	1	201511059003268250				
MS-T			1/1/2015	1	201511059003281858				
MS-M			12/3/2015	1	201512319004426164				
MS-O			1/13/2016	2	2016011300009437				
MS-T			5/19/2016	1	201605199015549192				
MS-T			6/1/2016	1	20160619017457915				
MS-T			6/16/2016	1	201606169018419989				
MS-T			6/27/2016	1	2016062790020100765				
MS-M			7/27/2016	1	201607279021938707				
MS-O			7/28/2016	2	20160729030053220				
MS-T			8/15/2016	1	201608159022249673				
MS-T			9/19/2016	1	201609199030989112				
MS-T			9/19/2016	1	201609199030989177				
RQ2	48		10/26/2015	3	201510260300006321			10/26/2015	
RQ1		A	4/27/2015	2	15330081454			4/27/2015	
RQ2	MY	N	10/1/2015	4	201510010300005520	1/1/2015	6/30/2015	10/1/2015	
RQ2	MY	A	12/6/2015	2	201512060300008392	1/1/2015	6/30/2015	12/6/2015	
RQ2	YE	A	4/14/2016	4	201604142000041630	7/1/2015	12/31/2015	4/14/2016	
RQ2	M3	N	5/1/2016	3	201605120300046926	2/1/2016	2/29/2016	5/1/2016	
RQ2	M4	N	6/16/2016	2	201606160300048952	3/1/2016	3/31/2016	6/16/2016	
RQ2	M5	A	8/15/2016	3	201608150300057063	4/1/2016	4/30/2016	8/15/2016	
RQ2	M6	N	8/15/2016	4	201608150300057066	5/1/2016	5/31/2016	8/15/2016	
RQ7	M8		9/7/2016	2	201609070300058175	7/1/2016	7/31/2016	9/7/2016	
F3XN	MY	N	7/31/2015	698	201507319000532336	1/1/2015	6/30/2015	\$25,872	\$798,141
F3XA	MY	A	11/5/2015	697	201511179003281859	1/1/2015	6/30/2015	\$25,872	\$798,141
F3XA	MY	A	11/17/2015	705	201511179003360960	1/1/2015	6/30/2015	\$213,658	\$213,658
F3XA	MY	A	1/6/2016	705	201601069004438207	1/1/2015	6/30/2015	\$25,872	\$798,141
F3XA	MY	A	2/21/2016	705	201602219008671698	1/1/2015	6/30/2015	\$25,872	\$798,141
F3XA	YE	N	2/11/2016	69	20160219005299727	7/1/2015	12/31/2015	\$203,658	\$464,000
F3XA	YE	A	2/21/2016	507	201602219008673127	7/1/2015	12/31/2015	\$213,658	\$466,205
F3XA	YE	A	5/19/2016	507	2016051980015548685	7/1/2015	12/31/2015	\$213,658	\$466,205
F3XN	M2	N	2/20/2016	28	201602208008671526	1/1/2016	1/31/2016	\$116,420	\$41,970
F3XA	M2	A	6/16/2016	27	201606169018420000	1/1/2016	1/31/2016	\$116,420	\$41,970
F3XN	M3	N	3/18/2016	19	201603180009791321	2/1/2016	2/29/2016	\$70,019	\$38,128
F3XA	M3	A	6/16/2016	22	201606169018420095	2/1/2016	2/29/2016	\$70,019	\$38,128
F3XN	M4	N	4/20/2016	41	201604208014985600	3/1/2016	3/31/2016	\$45,704	\$46,904
F3XA	M4	A	6/16/2016	42	201606169018420117	3/1/2016	3/31/2016	\$65,704	\$46,904
F3XN	M5	N	5/20/2016	23	201605208015985398	4/1/2016	4/30/2016	\$40,902	\$25,978
F3XA	M5	A	6/16/2016	24	201606169018420198	4/1/2016	4/30/2016	\$62,330	\$25,978

Q-Index (2013-2014)

Case ID: 000544767 Client Name: STOP HILLARY PAC

Treasurer Name: BACKER, DAN Cmtte. Type: V (NON-QUALIFIED NON-PARTY WITH NON-CONTRIBUTION ACCOUNT) Address: 203 SOUTH UNION STREET STE 300, ALEXANDRIA, VA 22314 Cmtte. Designation: U (UNAUTHORIZED) Cmtte. Frequency: MONTHLY FILER

Form Tp	Rpt Tp	AI	Recpt Dt	Pgs	Begin Img#	Beg Cvg Dt	End Cvg Dt	Ltrr Mail Dt	Begin Cash	Recpts	Disb	End Cash	Debits	Loans	Debits & Loans
RQ9			5/19/2014	2	14330052406			5/19/2014							
RQ2	YE	A	3/16/2015	2	15330078728	7/1/2013	12/31/2013	3/16/2015							
RQ2	30G	A	3/16/2015	2	15330078736	10/16/2014	11/24/2014	3/16/2015							
RQ2	YE	N	3/8/2015	3	15330078121	11/25/2014	12/31/2014	3/8/2015							
F3XN	MY	N	7/31/2013	6	13964489183	1/1/2013	6/30/2013		\$0	\$21,010		\$0	\$21,010		\$0
F3XN	YE	N	1/31/2014	66	14904321088	7/1/2013	12/31/2013		\$21,010	\$252,504	\$228,598		\$44,915		\$0
F3XA	YE	A	1/28/2015	69	15980120622	7/1/2013	12/31/2013		\$21,010	\$274,023	\$235,955		\$59,078		\$0
F3XN	Q1	N	4/15/2014	29	14980794737			3/31/2014		\$44,915	\$189,234		\$79,371		\$54,779
F3XA	Q1	A	1/28/2015	30	15980120921	1/1/2014	3/31/2014		\$59,078	\$189,234		\$179,371		\$66,941	
F3XN	Q2	N	7/15/2014	89	149841800967	4/1/2014	6/30/2014		\$54,779	\$265,828	\$273,802		\$46,804		\$0
F3XA	Q2	A	12/4/2014	92	14982894143	4/1/2014	6/30/2014		\$54,779	\$265,828		\$253,112		\$61,494	
F3XA	Q2	A	1/28/2015	92	15970065525	4/1/2014	6/30/2014		\$68,941	\$265,828		\$223,112		\$81,657	
F3XN	Q3	N	10/15/2014	157	14978233187	7/1/2014	9/30/2014		\$46,804	\$264,593	\$288,525		\$22,872		\$0
F3XA	Q3	A	12/4/2014	158	14982895178	7/1/2014	9/30/2014		\$67,494	\$264,593	\$278,090		\$53,997		\$0
F3XA	Q3	A	1/28/2015	158	15970065617	7/1/2014	9/30/2014		\$81,657	\$264,593	\$278,090		\$68,159		\$0
F3XN	12G	N	10/21/2014	26	14981887442	10/1/2014	10/15/2014		\$22,872	\$27,506		\$37,992		\$12,385	
F3XA	12G	A	12/4/2014	27	14982895783	10/1/2014	10/15/2014		\$53,997	\$27,506		\$37,992		\$43,510	
F3XA	12G	A	1/28/2015	27	15970065788	10/1/2014	10/15/2014		\$68,159	\$27,506		\$37,992		\$57,672	
F3XN	30G	N	12/4/2014	61	14982896147	10/16/2014	11/24/2014		\$43,510	\$30,615		\$66,754		\$7,371	
F3XA	30G	A	1/28/2015	62	15980121139	10/16/2014	11/24/2014		\$57,672	\$30,615		\$66,754		\$21,533	
F3XA	30G	A	4/20/2015	85	15981201042	10/16/2014	11/24/2014		\$57,672	\$30,615		\$66,754		\$21,533	
F3XN	YE	N	1/28/2015	28	15970065826	11/25/2014	12/31/2014		\$21,533	\$17,743		\$13,405		\$25,872	
F-1	N		5/16/2013	6	13031070917										
F1A	A		7/31/2013	5	13964489178										
F1A	A		6/6/2014	5	14981236148										
F1A	A		6/2/2014	5	14981233640										
F1MN			5/12/2014	1	14941206889										
Totals															

O-Index (2011-2012)

Cmte. ID: C00544767 Cmte. Name: STOP HILLARY PAC

Treasurer Name: BACKER, DAN Address: 203 SOUTH UNION STREET STE 300, ALEXANDRIA, VA 22314

Form Tp	Rpt Tp	AI	Recpt Dt	Pgs	Begin Img#	Beg Cvg Dt	End Cvg Dt	Ltrr Mail Dt	Begin Cash	Recpts	Disb	End Cash	Debits	Loans	Debits & Loans

No records were found for this cycle.

STOP HILLARY PAC (C00544767)
Overview of Missing Information - 48 Hour Reports

48-Hour Report of Independent Expenditures, received October 9, 2015
(Image 201510099002828724)

Name of Payee	Date of Dissemination	Expenditure Amount	Candidate Opposed	Election
Strategic Media Placement	10/13/2015	\$13,200.00	Hillary Rodham Clinton	2016 Dem. Nat. Convention

Amended 48-Hour Report of Independent Expenditures, received October 26, 2015
(Image 201510269003240463)

Name of Payee	Date of Dissemination	Expenditure Amount	Candidate Opposed	Election
CD, Inc.	10/20/2015	\$10,000.00	Hillary Rodham Clinton	2016 Dem. Nat. Convention
The Strategy Group for Media	10/20/2015	\$5,000.00	Hillary Rodham Clinton	2016 Dem. Nat. Convention

STOP HILLARY PAC (C00544767)
2015 Year-End Report/Amended 2015 Year-End Report

Overview of Additional Disbursements

Report Line	Original 2015 Year-End Report (Image 201602019005299730)	Amended 2015 Year-End Report, received 5/19/16 (Image 201605199015548688)	Disbursement Variance Amount
Line 21(b): Other Federal Operating Expenditures	\$7,931.85	\$859.61	-\$7,072.24
Line 24: Independent Expenditures	\$206,006.00	\$290,193.64	\$84,187.64
Line 26: Loan Repayments Made	\$6,000.00	\$63,223.54	\$57,223.54
Line 28(a): Refunds of Contributions to Individuals or Persons Other than Political Committees	\$745.00	\$995.00	\$250.00
Line 29: Other Disbursements	\$179,003.19	\$208,146.41	\$29,143.22
Total	\$399,686.04	\$563,418.20	\$163,732.16