

REPORTS ANALYSIS DIVISION REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: September 29, 2017

ANALYST: Nataliya Ioffe

- I. COMMITTEE: Equality Pennsylvania
C90016312
Joseph Dungee, Report Preparer
1211 Chestnut Street, Suite 605
Philadelphia, PA 19107
- II. RELEVANT STATUTES: 52 U.S.C. §30104(c) and (g)
11 CFR §109.10(b) and (e)
- III. BACKGROUND:

Failure to File Reports and Late Filing (Failure to Timely File the 2016 October Quarterly Report)

Equality Pennsylvania ("Equality PA") failed to timely file the 2016 October Quarterly Report to support contributions totaling \$174,214.52 and independent expenditures totaling \$62,424.04 disclosed on its three (3) 48-Hour Reports.

On September 28, 2016, Equality PA filed a 48-Hour Report via an e-mail attachment.¹ The report disclosed four (4) contributions totaling \$174,214.52 on Schedule 5-A (Itemized Receipts) and six (6) independent expenditures totaling \$11,400.01, made in support of three (3) federal candidates, on Schedule 5-E (Itemized Independent Expenditures) (Image 201609230300099694).

On September 29, 2016, a Notice of Failure to File Electronically ("MS-P") was sent to Equality PA referencing the 48-Hour Report. It stated Equality PA must file

¹ According to 11 CFR §104.18, Equality PA was required to submit this 48-Hour Report electronically. Since the filing crossed the statutory threshold for electronic filing, this 48-Hour Report was considered not filed and was coded as a Miscellaneous Text Document (MS-T).

reports with the Commission electronically because Equality PA disclosed financial activity in excess of the statutory threshold for electronic filing (Image 201609300300062790).

On October 26, 2016, Equality PA filed a Miscellaneous Electronic Document ("FEC Form 99") that stated, in part:

"On behalf of Equality Pennsylvania, I am submitting simultaneously herewith the Form 5 notification reports required to be filed in compliance with 11 CFR §§104.4 and 109.10(b), including (1) a 48-Hour Notification Report covering the period from August 1, 2016 to September 15, 2016; (2) a 48-Hour Notification Report covering the period from September 15, 2016 to September 30, 2016; (3) a 48-Hour Notification Report covering the period from October 1, 2016 to October 15, 2016; (4) the Quarterly Report due October 15, 2016²; and (5) a 24-Hour Notification Report covering the period from October 15 to October 22, 2016.

Relying on advice provided by the Information Division of the Commission via telephone call on September 8, 2016, we previously excluded payroll expenses in calculating the amount of independent expenditures made for purposes of meeting the \$10,000 reporting threshold for 48-Hour Notification Reports. We attempted to file a 48-Hour Notification Report with the Commission on September 23, 2016, showing expenditures in the aggregate amount of \$3,800 each on behalf of three candidates. We received notification on September 29, 2016 that this report must be filed electronically, but as we had not yet met the reporting threshold of \$10,000 per election under 11 CFR §109.10(c), we did not refile.

We have since further reviewed the reporting requirements and believe that the payroll expenses are properly included as independent expenditures. Accordingly, we have been working to update our records and prepare all required reports to be filed in as timely a fashion as possible. We regret that these reports were not filed by their deadline, but we have made diligent efforts to comply with our reporting responsibilities, and we were relying on advice provided by the Commission as to the type of expenditures that are properly reportable" (Image 201610269034596577).³

On the same date, Equality PA filed three (3) 48-Hour Reports electronically. The reports disclosed four (4) contributions totaling \$174,214.52 and eight (8) independent expenditures totaling \$62,424.04, made in support of two (2) federal

² While the Form 99 mentioned the 2016 October Quarterly Report was filed, it was not received by the FEC.

³ A paper copy of this Form 99 was received on October 31, 2016 via USPS First Class Mail (Image 201610310300115805).

candidates, on Schedule 5-E (Images 201610269034603268, 201610269034598611, and 201610269034613076).

On November 3, 2016, a Notice of Failure to File ("RQ-7") was sent to Equality PA referencing the 2016 October Quarterly Report. The Notice of Failure to File stated that Equality PA may have failed to file the October Quarterly Report required for the independent expenditures made during the quarterly report coverage period of July 1, 2016 through September 30, 2016 (Image 201611030300067791).

On January 25, 2017, Equality PA filed a 2016 Year-End Report, with the adjusted coverage period from January 1, 2016 through December 31, 2016. The report disclosed two (2) independent expenditures made outside of the 2016 October Quarterly reporting period, totaling \$172,468.76 (Image 201701259041475044).

On May 19, 2017, a Request for Additional Information ("RFAI") was sent to Equality PA referencing the 2016 Year-End Report. The RFAI stated that the 48- and 24-Hour Reports filed by Equality PA for the time period covered by the 2016 Year-End Report did not correlate with the information on the Year-End Report (Image 201705200300086643).

On June 21, 2017, Joseph Dungee, Equality PA's representative responsible for filing the organization's FEC reports, contacted the Reports Analysis Division (RAD) Analyst. Mr. Dungee spoke with the RAD Analyst concerning the RFAI sent on the 2016 Year-End Report, and indicated he would amend it to include complete activity (Attachment 2).

On the same date, Equality PA filed an Amended 2016 Year-End Report, with the adjusted coverage period from January 1, 2016 through December 31, 2016. The report included activity that occurred during the 2016 October Quarterly reporting period: contributions totaling \$174,214.52 and independent expenditures totaling \$62,424.04 made in support of two (2) federal candidates (Image 201706219065072348).

On August 16, 2017, the RAD Analyst called Mr. Dungee to inform him that the late filing of Equality PA's 2016 October Quarterly Report was referable for potential further action. The Analyst encouraged Equality PA to provide any additional explanation concerning this matter for the public record. Mr. Dungee requested additional time until August 23, 2017 for submitting a response (Attachment 2).

On August 23, 2017, the RAD Analyst called Mr. Dungee to follow up on the referable matter because Equality PA had not provided a response to date. The Analyst explained that the matter will be forwarded to another office for further action, and Equality PA will have an opportunity to provide additional information to that office (Attachment 2).

To date, no additional information has been received from Equality PA regarding this matter.

Cmte. ID: C90016312 Cmte. Name: EQUALITY PENNSYLVANIA
 Treasurer Name: null Address: 1211 CHESTNUT STREET SUITE 605, PHILADELPHIA, PA 19107
 Type: I (INDEPENDENT EXPENDITURE - PERSON OR GROUP NOT A COMMITTEE) Cmte. Designation: U (UNAUTHORIZED) Filing Frequency: QUARTERLY

Yr	Recpt Dt	Pgs	Begin Img#	Beg Cvg Dt	End Cvg Dt	Ltr Mail Dt	Begin Cash	Recpts	Disb	End Cash	Debits	Loans
	8/9/2017	1	201708099070306848									
								\$0				

O-Index (2015-2016)

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Yr	Recpt Dt	Pgs	Begin Img#	Beg Cvg Dt	End Cvg Dt	Ltr Mail Dt	Begin Cash	Recpts	Disb	End Cash	Debits	Loans
N	9/28/2016	7	201609230300099694	8/1/2016	9/7/2016							
N	9/29/2016	1	201609300300062790	8/1/2016	9/7/2016							
N	10/26/2016	1	201610269034596577									
N	10/31/2016	4	201610310300115805									
N	11/3/2016	1	201611030300067791	7/1/2016	9/30/2016	11/3/2016						
N	5/19/2017	2	201705200300086643	1/1/2016	12/31/2016	5/19/2017						
A	7/7/2017	2	201707080300087847	1/1/2016	12/31/2016	7/7/2017						
N	10/26/2016	4	201610269034603268	7/1/2016	9/7/2016			\$174,214	\$7,600			
N	10/26/2016	2	201610269034598611	7/1/2016	9/15/2016			\$0	\$23,031			
N	10/26/2016	2	201610269034613076	9/16/2016	9/30/2016			\$0	\$31,792			
N	10/26/2016	3	201610269034612886	10/1/2016	10/14/2016			\$73,357	\$33,459			
N	10/26/2016	3	201610269034622401	10/20/2016	10/21/2016			\$54,111	\$2,899			
N	10/26/2016	2	201610269034622714	10/21/2016	10/22/2016			\$0	\$4,394			
N	10/26/2016	2	201610269034623001	10/22/2016	10/23/2016			\$0	\$2,924			
N	10/26/2016	2	201610269034623110	10/23/2016	10/24/2016			\$0	\$3,554			
N	10/26/2016	2	201610269034623226	10/24/2016	10/25/2016			\$0	\$3,764			
N	10/27/2016	2	201610279034722764	10/26/2016	10/27/2016			\$0	\$2,579			
N	10/29/2016	2	201610299037007065	10/27/2016	10/28/2016			\$0	\$2,929			
N	10/28/2016	2	201610289037003711	10/27/2016	10/28/2016			\$0	\$2,439			
N	10/31/2016	2	201610319037012333	10/29/2016	10/31/2016			\$0	\$969			
N	11/1/2016	2	201611019037015694	10/31/2016	11/1/2016			\$0	\$2,229			
N	11/2/2016	2	201611029037083627	11/1/2016	11/2/2016			\$0	\$2,229			
N	11/3/2016	2	201611039037110217	11/2/2016	11/3/2016			\$0	\$2,579			
N	11/4/2016	2	201611049037120456	11/3/2016	11/4/2016			\$0	\$2,159			
N	11/8/2016	2	201611089037136641	11/5/2016	11/6/2016			\$0	\$2,999			
N	11/8/2016	2	201611089037136643	11/5/2016	11/6/2016			\$0	\$2,439			
N	11/8/2016	2	201611089037136645	11/6/2016	11/7/2016			\$0	\$2,649			
N	11/8/2016	2	201611089037136654	11/7/2016	11/8/2016			\$0	\$2,649			
N	11/9/2016	2	201611099037139523	11/8/2016	11/9/2016			\$0	\$5,239			
N	1/25/2017	2	201701259041475044	1/1/2016	12/31/2016			\$0	\$172,468			
A	6/21/2017	19	201706219065072348	1/1/2016	12/31/2016			\$301,682	\$147,513			
								\$603,365	\$467,495			

O-Index (2013-2014)

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No records were found for this cycle.