



**FEDERAL ELECTION COMMISSION
Washington, DC 20463**

May 4, 2018

MEMORANDUM

TO: The Commission

FROM: Kathleen M. Guith
Associate General Counsel

Stephen Gura
Deputy Associate General Counsel

BY: Jeff S. Jordan 
Assistant General Counsel

SUBJECT: Transfer of AR 17-14R (Urban Vic

19 On November 8, 2017, the Commission transferred to the Office of General Counsel
20 (“OGC”) several matters that the Reports Analysis Division (“RAD”) had referred to the Audit
21 Division.¹ One of those matters, AR 17-14R, involves the Urban Victory Fund (“UVF” or the
22 “Committee”) and its apparent receipt of excessive contributions totaling \$124,516 during the
23 2016 election cycle.² As discussed below, OGC is referring this matter to ADRO. Because the
24 reporting errors in this matter largely relate to the Committee’s confusion as to its status, ADRO
25 is better positioned to help the Committee register properly and file its disclosure reports timely
26 and accurately.

¹ *Reports Analysis Audit Referral #AR17-14R* (July 13, 2017) (“Referral”). Because of staffing limitations, the Audit Division recommended that UVF, along with a number of other audit eligible committees, be referred directly to OGC. *See Audit Memorandum to Commission* at 1 (Sept. 7, 2017). *See also* Cert., 2015-2016 RAD Audit Referrals-Unauthorized Committees (Nov. 8, 2017).

² See 2015-2016 RAD Review and Referral Procedures Standard 5, Excessive, Prohibited and Other Impermissible Contributions/Transfers. See also 52 U.S.C. § 30104(b); 11 C.F.R. §§ 104.4(a); 110.1(d), (n); 110.2(d). The Act limits contributions to PACs that make contributions to federal candidates or candidate committees to \$5,000. The Act does not limit contributions made to Independent Expenditure only committees.

The Committee also failed to disclose \$30,000 in independent expenditures that had previously been disclosed on a 48-Hour Report on Schedule E of its 30-Day Post-General Report. This reporting issue met the threshold for referral to ADRO, but was referred to OGC in order to “limit the duplicate consideration of matters.” See 2015-2016 *RAD Review and Referral Procedures* at 21.

1 The Committee is registered with the Commission as a Hybrid PAC.³ As such, it is
2 required to maintain two separate accounts—one subject to the Act’s limitations and prohibitions
3 so that it could make contributions to candidates and their committees (“contribution account”),
4 and one that could solicit and accept unlimited contributions, even from some sources otherwise
5 prohibited under the Act, so that it could make independent expenditures (“non-contribution
6 account”).⁴

7 The apparent excessive contributions at issue in this referral are the result of the
8 Committee’s failure to designate receipts as having been deposited into its “non-contribution”
9 account. In response to RAD’s Requests for Additional Information, the Committee amended its
10 disclosure reports to note that the apparent excessive contributions were designated for its “non-
11 contribution” account. However, in its response to the referral, it argued that it was impossible
12 for it to receive excessive contributions because it is a “Independent Expenditure Super PAC”
13 that makes no contributions to any candidate or candidate committee.⁵ Instead, the Committee
14 states that it uses funds only for “messaging for or against candidates.”⁶ In fact, a review of the
15 Committee’s disclosure reports reveals no contributions to candidates or candidate committees.
16 If, as it appears, the Committee is an IE-only committee, then it has not accepted excessive
17 contributions, but continues to incorrectly report its receipts and disbursements.⁷

18 Given the Committee’s apparent confusion over how it has registered with the
19 Commission, it appears that ADRO would be the more appropriate forum for this referral.
20 ADRO is better able to help the Committee determine its status, amend its Statement of
21 Organization and disclosure reports, if necessary, and enhance the likelihood the Committee files
22 timely and accurate disclosure reports in the future. We have conferred with ADRO and they
23 concur with this assessment.

³ See *FEC Statement on Carey v. FEC Reporting Guidance for Political Committees that Maintain a Non-Contribution Account* (Oct. 5, 2011) at <https://www.fec.gov/updates/fec-statement-on-carey-fec/>. The Carey Statement includes a template that can be used by a Committee to notify the Commission of its status as a Hybrid PAC. The statement in this matter followed that template. See *Statement of Organization*.

⁴ *Id.*

⁵ Resp. at 1 (Nov. 24, 2017).

⁶ *Id.*

⁷ The Carey Statement also requires that a Hybrid PAC note when disbursements are made from its “non-contribution” account, as well as distinguish its “non-contribution” funds on its summary pages. The Committee is not doing so.

Memo to the Commission
AR 17-14R (Urban Victory Fund)
May 4, 2018
Page 3 of 3

1 Accordingly, this Office intends to refer AR 17-14R to the Alternative Dispute
2 Resolution Office on May 11, 2018.

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4 Please let me know if you have any questions or concerns.
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24 Attachments:
25 1. Referral of Urban Victory Fund, dated November 8, 2017
26 2. Response from the Urban Victory Fund, dated November 24, 2017

ATTACHMENT 1

DATE: July 13, 2017
ANALYST: Nicholas Tarone

REPORTS ANALYSIS AUDIT REFERRAL

I. COMMITTEE: Urban Victory Fund (UVF)
C00578187
Drue Kinchen, Treasurer
13001 Justice Ave
Baton Rouge, LA 70816

TYPE OF COMMITTEE: Nonconnected (Hybrid PAC - Committee w/ Non-Contributed Account)

II. REGISTRATION DATE: May 18, 2015

III. MULTICANDIDATE STATUS DATE: Non-Qualified

IV. TOTAL POINTS ASSESSED:

V. SUMMARY OF AUDIT POINTS BY STANDARD:

Standard	#	Description
Standard	4	Failure to File Reports and Late Filing
Standard	5	Excessive, Prohibited and Other Impermissible Contributions and Transfers
Standard	7	Failure to Provide Supporting Schedules
		TOTAL

VI. NOTICES SENT TO AND RESPONSES RECEIVED FROM THE COMMITTEE:

See attached O-Index for the Committee.

VII. PROBLEMS FOR WHICH AUDIT POINTS WERE ASSESSED:

A. Standard 4 - Failure to File Reports and Late Filing:

Report Type	Due date	Date Filed
2016 Q3	10/15/16	11/2/16
2016 30G	12/8/16	1/14/17

Standard 4 Total:

B. Standard 5 – Excessive, Prohibited and Other Impermissible Contributions/Transfers:

Report Type	Violation (Description)
2016 Q3	Schedule A supporting Line 11(a)(i) disclosed the receipt of excessive contributions totaling \$9,516.00, or 41.2% of the Committee's total contributions from individuals, and did not include an indication that they were deposited into the non-contribution account. These contributions were received from three (3) individuals.
2016 12G	Schedule A supporting Line 11(a)(i) disclosed the receipt of an excessive contribution totaling \$25,000.00, or 99.9% of the Committee's total contributions from individuals, and did not include an indication that it was deposited into the non-contribution account. This contribution was received from one (1) individual.
2016 30G	Schedule A supporting Line 11(a)(i) disclosed the receipt of an excessive contribution totaling \$90,000.00, and did not include an indication that it was deposited into the non-contribution account. This contribution was received from one (1) individual.

Standard 5 Total:

C. Standard 7 - Failure to Provide Supporting Schedules:

Report Type	Violation (Description)
2016 30G	The Committee failed to provide a Schedule E for one (1) independent expenditure totaling \$30,000.00 disclosed on one (1) 48-Hour Report.

Standard 7 Total:

VIII. MATTERS REQUIRING REFERRAL TO OGC/ADRO:

A. OGC –

Excessive, Prohibited and Other Impermissible Contributions and Transfers (Standard 5)

The Committee can be referred to the Office of General Counsel (OGC) for the receipt of apparent excessive contributions totaling \$124,516.00 during the 2016 calendar year.

B. ADRO –

Failure to Provide Supporting Schedules (Standard 7)

The Committee can be referred to the Alternative Dispute Resolution Office (ADRO) on the 2016 30 Day Post-General Report for failing to disclose \$30,000 in independent expenditures on Schedule E that had previously been disclosed on a 48-Hour Report.

IX. OTHER COMMISSION ACTIONS DURING THE 2013-2014 AND 2015-2016 ELECTION CYCLES:

None.

X. OTHER RELEVANT INFORMATION:

None.

Cmte. ID: C00578187	Cmte. Name: URBAN VICTORY FUND (UVF)	
Treasurer Name: DRUE KINCHEN	Address: 13001 JUSTICE AVE, BATON ROUGE, LA 70816	
Type: V (NON-QUALIFIED NON-PARTY WITH NON-CONTRIBUTION ACCOUNT)	Cmte. Designation: U (UNAUTHORIZED)	Filing Frequency: QUARTERLY FILED
/ Recpt Dt	Pgs	Begin Img#
Beg Cvg Dt	End Cvg Dt	Ltrr Mail Dt
Begin Cash	Recpts	Disb
End Cash	Debts	Loans

No records were found for this cycle.

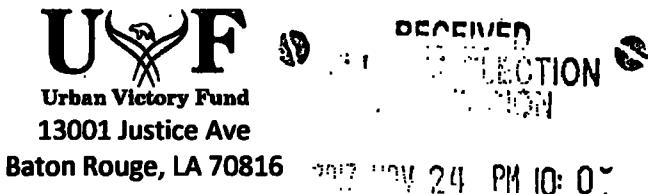
O-Index (2015-2016)		
Cmte. ID: C00578187		
Cmte. Name: URBAN VICTORY FUND (UVF)		
Treasurer Name: DRUE KINCHEN	Address: 13001 JUSTICE AVE, BATON ROUGE, LA 70816	
Type: V (NON-QUALIFIED NON-PARTY WITH NON-CONTRIBUTION ACCOUNT)	Cmte. Designation: U (UNAUTHORIZED)	Filing Frequency: QUARTERLY FILED
/ Recpt Dt	Pgs	Begin Img#
Beg Cvg Dt	End Cvg Dt	Ltrr Mail Dt
Begin Cash	Recpts	Disb
End Cash	Debts	Loans
4/5/2017	4	201704050300083625
10/31/2016	2	201610310300066026
4/11/2017	4	201704110300084163
4/11/2017	5	201704110300084167
12/28/2016	2	201612280300072604
1/31/2016	12	201601319004967082
4/27/2016	8	201604279015361175
7/31/2016	10	201607319022161911
11/2/2016	18	201611029037018249
7/6/2017	18	201707069066529936
1/14/2017	8	201701149041390415
7/6/2017	8	201707069066529954
1/14/2017	13	201701149041390423
1/14/2017	7	201701149041390436
5/18/2015	7	15031424338
11/4/2016	1	201611049037123948
11/6/2016	1	201611069037127511
12/4/2016	3	201612049037607834
11/4/2016	1	201611049037115107
12/6/2016	1	201612069037635783

O-Index (2013-2014)		
Cmte. ID: C00578187		
Cmte. Name: URBAN VICTORY FUND (UVF)		
Treasurer Name: DRUE KINCHEN	Address: 13001 JUSTICE AVE, BATON ROUGE, LA 70816	
Type: V (NON-QUALIFIED NON-PARTY WITH NON-CONTRIBUTION ACCOUNT)	Cmte. Designation: U (UNAUTHORIZED)	Filing Frequency: QUARTERLY FILED
/ Recpt Dt	Pgs	Begin Img#
Beg Cvg Dt	End Cvg Dt	Ltrr Mail Dt
Begin Cash	Recpts	Disb
End Cash	Debts	Loans

No records were found for this cycle.

ATTACHMENT 2

1-30-100000-1-552



November 24, 2017

RE: AR 17-14R

Federal Election Commission
Office of Complaints Examination
and Legal Administration
Attn: Christal Dennis, Paralegal
999 E Street NW
Washington, DC 20463

RE: AR 17-14R

Dear Ms. Dennis,

I'm responding to your letter dated November 17, 2017 with regards to referral number AR 17-14R. You have six items of inquiry that I will do my best to answer for you through this communication. I'm enclosing a copy of your original letter as reference points for the itemized items as I respond to each by number listed.

It is my honest belief that numbers 3, 4 and 5 are in question because we are supposed to an Independent Expenditure Super PAC able to receive unlimited contributions from United States based individuals and organizations. We DO NOT contribute direction to any candidate, campaigns or committees but rather run ads or messaging for or against candidates.

Here are the answers to your questions to the best of my knowledge:

Item 1 – Failed to file in a timely manner in 3rd Quarter of 2016. (Answer – As we were a new Super PAC started in 2015, I was unaware that the Quarterly Reports were due by the 15th or the month instead of the 30th.

Item 2 – Failed to file 30 Day Post-General Report in a timely manner. (Answer – was unaware that PAC / Super PACs had 30 days to file a Post General election Report. Was under assumption that 24 and 48 hour reporting was all that was needed when a PAC / Super PAC actively participated in an election)

Items 3, 4 and 5 – Excessive contributions. (Answer – we filed as an Independent Expenditure Super PAC that could legally accept contributions from individual donors and organizations from \$1 to an unlimited amount. There should be no excessive amount of donation.)

Item 6 – Failed to provide a Schedule E. (Answer-This was an oversight that we did not catch when the filing report. I have filed an amended report electronically.

I am truly sorry for inconvenience my actions or lack thereof may have caused the Federal Election Commission or my committee. Your assistance in helping me remedy this matter would be welcomed and most appreciated.

Thank you,

Drue Kinchen,
Treasurer – Urban Victory Fund



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

NOV 17 2017

Urban Victory Fund
Drue Kinchen, Treasurer
13001 Justice Avenue
Baton Rouge, LA 70816

RE: AR 17-14R

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13010011574
Dear Mr. Kinchen:

The Federal Election Commission ("Commission") has ascertained information in the normal course of carrying out its supervisory responsibilities indicating that Urban Victory Fund and you, in your official capacity as treasurer ("Committee"), may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). The Committee has been referred by the Commission to the Office of General Counsel for possible enforcement action under 52 U.S.C. § 30109.¹ Specifically, the Committee has been referred for the following issues that may be in violation of the Act and Commission regulations:

1. 2016 3rd Quarter Report: The Committee failed to timely file the required Quarterly Report.
2. 2016 30 Day Post-General Report: The Committee failed to timely file the required Post-General Report.
3. 2016 3rd Quarter: Schedule A supporting Line 11(a)(i) disclosed the receipt of excessive contributions totaling \$9,516.00, or 41.2% of the Committee's total contributions from individuals, and did not include an indication that they were deposited into the non-contribution account. These contributions were received from three (3) individuals.
4. 2016 12 Day Pre-General Report: Schedule A supporting Line 11(a)(i) disclosed the receipt of an excessive contribution totaling \$25,000.00, or 99.9% of the Committee's total contributions from individuals, and did not include an indication that it was deposited into the non-contribution account. This contribution was received from one (1) individual.
5. 2016 30 Day Post-General Report: Schedule A supporting Line 11(a)(i) disclosed the receipt of an excessive contribution totaling \$90,000.00, and did not include an indication that it was deposited into the non-contribution account. This contribution was received from one (1) individual.
6. 2016 30 Day Post-General Report: The Committee failed to provide a Schedule E for one (1) independent expenditure totaling \$30,000.00 disclosed on one (1) 48-Hour Report.

We have numbered this referral AR 17-14R.

¹ Notification of this referral is being provided to you pursuant to the Commission's Agency Procedure for Notice to Respondents in Non-Complaint Generated Matters, as published in the Federal Register on August 4, 2009 (74 Fed. Reg. 38,617).