

20L-08

REPORTS ANALYSIS DIVISION REFERRAL
TO
ALTERNATIVE DISPUTE RESOLUTION OFFICE

DATE: May 5, 2020

ANALYST: Robert Bradley Austin

- I. COMMITTEE: Case Action Fund
C90016627
Kori McClemmens, Representative¹
801 N 2nd Avenue
Phoenix, AZ 85003
- II. RELEVANT STATUTE: 52 U.S.C. § 30104(c)
52 U.S.C. § 30104(g)
11 CFR § 109.10

III. BACKGROUND:

Independent Expenditure Reporting Problems – Persons Other Than Political Committees (Form 5) (Independent Expenditures Reported after the General Election)

Case Action Fund (“Case Action”) disclosed one hundred one (101) independent expenditures totaling \$133,427.52 made prior to the 2018 General Election, after the election. Case Action did not disclose these expenditures on 24- or 48-Hour Reports, and only disclosed them on the 2018 Year-End Report (Attachment 2).

On November 8, 2018, the Reports Analysis Division (RAD) Analyst spoke with Joseph Silva, a representative of Case Action. Mr. Silva indicated that Case Action was still in the process of paying charges related to the 2018 General Election and asked how to report them. Among other items, the RAD Analyst explained the distinction between dissemination dates and payment dates and that 24- and 48-Hour Reports were required for independent expenditure activity that occurred prior to the General Election (Attachment 3).

¹ Joseph Silva was the representative who filed the Original and Amended 2018 Year-End Reports.

On January 25, 2019, Case Action filed its 2018 Year-End Report covering the period from October 1, 2018 through December 31, 2018. Schedule 5-E (Itemized Independent Expenditures) of the report disclosed two hundred ninety-two (292) independent expenditures totaling \$222,283.34, made in support of one (1) federal candidate (Images 201901259144002519-618).

On June 3, 2019, a Request for Additional Information (RAI) was sent to Case Action referencing the 2018 Year-End Report. Among other items, the RAI noted that Case Action disclosed one hundred one (101) independent expenditures on Schedule 5-E of the report that had apparently incorrect dissemination dates after the November 6, 2018 General Election (Images 201906040300041283-294).

On June 17, 2019 the RAD Analyst spoke to Joseph Silva, a representative of Case Action. The Analyst explained that to address the RAI, Case Action should review its records to ensure that the dates for independent expenditures were correctly reported. The Analyst indicated this matter may require further review by another Commission office, as the entity did not file the required 24- or 48-Hour Reports for the independent expenditures in question (Attachment 3).

On June 18, 2019, Case Action filed an Amended 2018 Year-End Report that disclosed no changes regarding the one hundred one (101) independent expenditures that had dissemination dates after the 2018 General Election (Images 201906189150093830-936).

From June 28, 2019 until February 26, 2020, the RAD Analyst spoke on multiple occasions with representatives of Case Action, Mr. Silva and Kori McClemmens, as well as Stacey Montoya, a compliance specialist for the organization. The Analyst discussed the definition of an independent expenditure and explained how Case Action could correct the disclosure of the independent expenditures reported with dissemination dates after the 2018 General Election. Specifically, the Analyst indicated that the dates disclosed in the 2018 Year-End Report for independent expenditures appeared to be payment dates, rather than dissemination dates. Case Action's representatives cited problems with accessing the entity's electronic filing database as the reason for their inability to make corrections (Attachment 3).

On February 28, 2020, Ms. McClemmens called the RAD Analyst and stated she obtained access to Case Action's electronic filing database. The Analyst reiterated the definition of an independent expenditure, explained how the dissemination date was different from the date of payment, and reminded Ms. McClemmens that RAD was seeking clarification regarding the transactions reported as occurring after the 2018 General Election. The Analyst asked Ms. McClemmens to amend the 2018 Year-End Report if there were any discrepancies between the reported dissemination dates and the actual dissemination dates. Ms. McClemmens told the Analyst she did not have information about the exact dissemination dates. She stated that if she were to amend the report for a number of the transactions, she would be making a guess on the dissemination dates. The RAD Analyst explained this matter may be referred to another Commission office for potential

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further action and encouraged Case Action Fund to provide any additional information regarding these transactions (Attachment 3).

On the same date, Case Action filed an FEC Form 99 (Miscellaneous Electronic Submission) that stated in part:

“Each one of these items is for goods or services used during the campaign. Payment for each of these items occurred after the election date, however, because I am not the individual who filed the report, I have no way of determining the correct disbursement dates in order to file a proper amendment.

There were obviously issuing with the final payroll, as the report reflects that payroll had to be run numerous times, causing several of the instances listed above. That is why several items are either listed as final payroll and final payroll fees from ADP.

There were three separate offices being utilized during this campaign and the final utility payments were not received until the following month after the campaign officially ended.

The remaining items are reimbursements made directly to staff that was not submitted until after the campaign ended” (Images 202002289203379272-4).

To date, no further communications have been received from Case Action regarding this matter.

Case Action Fund (C90016627)

2018 Year-End Report, received 1/25/2019

Independent Expenditures with Dissemination Dates after the Election (11/6/2018)

Name of Payee	Date of Dissemination	Expenditure Amount	Candidate Supported/Opposed	Election
Ardon, Christopher	11/7/2018	\$73.18	Kyrsten Sinema	General 2018
Corporate Caterers	11/7/2018	\$883.92	Kyrsten Sinema	General 2018
Extended Stay America	11/7/2018	\$48.63	Kyrsten Sinema	General 2018
Extended Stay America	11/7/2018	\$77.23	Kyrsten Sinema	General 2018
Greyhound	11/7/2018	\$27.90	Kyrsten Sinema	General 2018
Inner Circle Cafe	11/7/2018	\$755.83	Kyrsten Sinema	General 2018
Lei, Lisa	11/7/2018	\$35.73	Kyrsten Sinema	General 2018
Lei, Lisa	11/7/2018	\$0.87	Kyrsten Sinema	General 2018
Lei, Lisa	11/7/2018	\$9.64	Kyrsten Sinema	General 2018
Lewis, Durrel	11/7/2018	\$31.24	Kyrsten Sinema	General 2018
Lyft	11/7/2018	\$5.59	Kyrsten Sinema	General 2018
Onejeme, Nnameke	11/7/2018	\$25.70	Kyrsten Sinema	General 2018
Romero, Jose	11/7/2018	\$327.60	Kyrsten Sinema	General 2018
Safeway	11/7/2018	\$83.14	Kyrsten Sinema	General 2018
Safeway	11/7/2018	\$78.43	Kyrsten Sinema	General 2018
Seed Shack	11/7/2018	\$164.67	Kyrsten Sinema	General 2018
Which Wich	11/7/2018	\$807.12	Kyrsten Sinema	General 2018
Bethea, Josephine	11/8/2018	\$10.80	Kyrsten Sinema	General 2018

Name of Payee	Date of Dissemination	Expenditure Amount	Candidate Supported/Opposed	Election
Bethea, Stephen	11/8/2018	\$21.60	Kyrsten Sinema	General 2018
Cox Communications	11/8/2018	\$43.20	Kyrsten Sinema	General 2018
Every Nook & Kranny	11/8/2018	\$18.00	Kyrsten Sinema	General 2018
Extended Stay America	11/8/2018	\$38.50	Kyrsten Sinema	General 2018
Lyft	11/8/2018	\$4.93	Kyrsten Sinema	General 2018
Onejeme, Nnameke	11/8/2018	\$13.73	Kyrsten Sinema	General 2018
Stern, Joshua	11/8/2018	\$73.18	Kyrsten Sinema	General 2018
Stern, Joshua	11/8/2018	\$18.19	Kyrsten Sinema	General 2018
ADP	11/9/2018	\$123.97	Kyrsten Sinema	General 2018
ADP	11/9/2018	\$41,637.26	Kyrsten Sinema	General 2018
Extended Stay America	11/9/2018	\$48.63	Kyrsten Sinema	General 2018
Fields, Tayllor	11/9/2018	\$73.18	Kyrsten Sinema	General 2018
Mata, Guillermo	11/9/2018	\$17.95	Kyrsten Sinema	General 2018
Privitera, Justice	11/9/2018	\$7.56	Kyrsten Sinema	General 2018
Privitera, Justice	11/9/2018	\$5.85	Kyrsten Sinema	General 2018
Ruiz, Nellie	11/9/2018	\$19.41	Kyrsten Sinema	General 2018
Southwest Gas Corporation	11/13/2018	\$4.29	Kyrsten Sinema	General 2018
Vasquez, Francisco	11/13/2018	\$73.18	Kyrsten Sinema	General 2018
A-1 Van Leasing	11/14/2018	\$113.23	Kyrsten Sinema	General 2018
APS	11/14/2018	\$185.85	Kyrsten Sinema	General 2018

Name of Payee	Date of Dissemination	Expenditure Amount	Candidate Supported/Opposed	Election
Castaneda, Catherine	11/15/2018	\$129.72	Kyrsten Sinema	General 2018
Federal Express	11/15/2018	\$65.79	Kyrsten Sinema	General 2018
Ruiz, Nellie	11/15/2018	\$52.88	Kyrsten Sinema	General 2018
USPS - Phoenix	11/15/2018	\$37.71	Kyrsten Sinema	General 2018
ADP	11/16/2018	\$12,198.35	Kyrsten Sinema	General 2018
Cuellar, Edward	11/19/2018	\$17.95	Kyrsten Sinema	General 2018
P&A Administrative Services, Inc.	11/19/2018	\$398.08	Kyrsten Sinema	General 2018
Staples - Osborn	11/19/2018	\$12.51	Kyrsten Sinema	General 2018
Verizon Wireless	11/19/2018	\$96.98	Kyrsten Sinema	General 2018
Astudillo, Samantha	11/20/2018	\$10.63	Kyrsten Sinema	General 2018
Boca, Tiberiu	11/20/2018	\$2,898.00	Kyrsten Sinema	General 2018
Snyder, Thomas	11/20/2018	\$36.72	Kyrsten Sinema	General 2018
Snyder, Thomas	11/20/2018	\$1,980.00	Kyrsten Sinema	General 2018
Snyder, Thomas	11/20/2018	\$118.21	Kyrsten Sinema	General 2018
Snyder, Thomas	11/20/2018	\$274.05	Kyrsten Sinema	General 2018
Flagstaff Security Services	11/21/2018	\$36.00	Kyrsten Sinema	General 2018
Lei, Lisa	11/21/2018	\$26.89	Kyrsten Sinema	General 2018
Martinez, Lizette	11/21/2018	\$4.32	Kyrsten Sinema	General 2018
Murphy, Joseph	11/21/2018	\$52.35	Kyrsten Sinema	General 2018

Name of Payee	Date of Dissemination	Expenditure Amount	Candidate Supported/Opposed	Election
ADP	11/23/2018	\$253.61	Kyrsten Sinema	General 2018
De Jesus, Hector David	11/26/2018	\$334.57	Kyrsten Sinema	General 2018
Juarez, Miguel	11/26/2018	\$72.00	Kyrsten Sinema	General 2018
Juarez, Miguel	11/26/2018	\$288.00	Kyrsten Sinema	General 2018
Onejeme, Nnameke	11/26/2018	\$8.78	Kyrsten Sinema	General 2018
Rodriguez, Miguel	11/26/2018	\$73.18	Kyrsten Sinema	General 2018
City of Phoenix Water	11/27/2018	\$50.40	Kyrsten Sinema	General 2018
Mata, Guillermo	11/27/2018	\$20.43	Kyrsten Sinema	General 2018
Barrera, Rosario	11/28/2018	\$11.58	Kyrsten Sinema	General 2018
Bethea, Stephen	11/28/2018	\$19.80	Kyrsten Sinema	General 2018
Abuseif, Azza	11/30/2018	\$581.65	Kyrsten Sinema	General 2018
ADP	11/30/2018	\$138.73	Kyrsten Sinema	General 2018
ADP	11/30/2018	\$1,599.19	Kyrsten Sinema	General 2018
ADP	12/7/2018	\$42.88	Kyrsten Sinema	General 2018
Bethea, Josephine	12/10/2018	\$10.80	Kyrsten Sinema	General 2018
Carreno, Silvia	12/10/2018	\$162.00	Kyrsten Sinema	General 2018
Dunlap, Jason	12/10/2018	\$12.96	Kyrsten Sinema	General 2018
Kirchen, Carly	12/10/2018	\$152.75	Kyrsten Sinema	General 2018
Kirchen, Carly	12/10/2018	\$72.88	Kyrsten Sinema	General 2018

Name of Payee	Date of Dissemination	Expenditure Amount	Candidate Supported/Opposed	Election
Kirchen, Carly	12/10/2018	\$912.53	Kyrsten Sinema	General 2018
Kirchen, Carly	12/10/2018	\$101.88	Kyrsten Sinema	General 2018
Lewis, Durrel	12/10/2018	\$10.80	Kyrsten Sinema	General 2018
Smith, Jermaine	12/10/2018	\$20.45	Kyrsten Sinema	General 2018
Sulkes, Rachel	12/10/2018	\$51.98	Kyrsten Sinema	General 2018
Unite Here Local 11	12/10/2018	\$371.88	Kyrsten Sinema	General 2018
Unite Here Local 11	12/10/2018	\$1,668.24	Kyrsten Sinema	General 2018
Abuseif, Azza	12/11/2018	\$581.65	Kyrsten Sinema	General 2018
Abuseif, Azza	12/11/2018	\$60.23	Kyrsten Sinema	General 2018
USPS - Phoenix	12/11/2018	\$2.41	Kyrsten Sinema	General 2018
Galindo, Jose	12/13/2018	\$73.18	Kyrsten Sinema	General 2018
ADP	12/14/2018	\$694.18	Kyrsten Sinema	General 2018
Dunn, Jonathan	12/17/2018	\$14.51	Kyrsten Sinema	General 2018
Raine, Chris	12/17/2018	\$26.59	Kyrsten Sinema	General 2018
ADP	12/28/2018	\$3,199.86	Kyrsten Sinema	General 2018
Castaneda, Catherine	12/28/2018	\$3.21	Kyrsten Sinema	General 2018
Castaneda, Catherine	12/28/2018	\$36.00	Kyrsten Sinema	General 2018
Unite Here Arizona	12/28/2018	\$14,293.92	Kyrsten Sinema	General 2018
Unite Here Health	12/28/2018	\$1,624.54	Kyrsten Sinema	General 2018
Unite Here Health	12/28/2018	\$422.80	Kyrsten Sinema	General 2018

Name of Payee	Date of Dissemination	Expenditure Amount	Candidate Supported/Opposed	Election
Unite Here Local 11	12/28/2018	\$513.73	Kyrsten Sinema	General 2018
Unite Here Local 11	12/28/2018	\$1,411.92	Kyrsten Sinema	General 2018
Unite Here Local 11	12/28/2018	\$33,250.85	Kyrsten Sinema	General 2018
Four Points by Sheraton	12/31/2018	\$5,698.63	Kyrsten Sinema	General 2018