

18L-13

REPORTS ANALYSIS DIVISION REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: February 26, 2018

ANALYST: Kevin Fortkiewicz

I. COMMITTEE: Americans Socially United
C00572537
Cary Peterson, Treasurer
848 N Rainbow Blvd
Suite 3419
Las Vegas, NV 89107

II. RELEVANT STATUTE: 52 U.S.C. § 30104(b)(3)(A)
52 U.S.C. § 30104(b)(5)(A)
52 U.S.C. § 30104(b)(5)(E)
52 U.S.C. § 30104(b)(8)
11 CFR § 103.3(b)(1)
11 CFR § 104.3(b)(3)
11 CFR § 104.3(d)
11 CFR § 104.12

III. BACKGROUND:

Failure to Provide Supporting Schedules and Failure to Properly Itemize Disbursements

Americans Socially United (“the Committee”) failed to disclose the source of funds of the Committee’s initial cash balance of \$2,820.00, disclosed a negative ending cash balance of \$49,748.51, failed to disclose the original receipt of contributions refunded to

individuals totaling \$79,316.00², and failed to properly itemize disbursements totaling \$70,535.73 on its 2015 Mid-Year Report.

On April 17, 2015, Cary Peterson, the Committee's Treasurer, called the Reports Analysis Division (RAD) Analyst. Mr. Peterson called to ask whether there was an "interim statement" the Committee could submit to disclose their activity. The Analyst advised Mr. Peterson that the Committee's first report covering activity through June 30, 2015, due July 31, 2015, would be sufficient and that no report was required to be submitted prior to that date. The RAD Analyst directed Mr. Peterson to the section of the website where he could view the Committee's filings (Attachment 2).

On July 31, 2015, Mr. Peterson called the RAD Analyst to request assistance with disclosing in-kind contributions. The Analyst told him there should be a receipt on Schedule A and a matching disbursement on Schedule B. He then asked if the Committee should be filing under their current committee name or the original committee name. The Analyst told him the current committee name should be disclosed on the report. He also wanted to know how to look up the Committee on the FEC's website since the committee name had changed. The Analyst explained that the best method would be to use the Committee's FEC identification number (Attachment 2).

On August 4, 2015, Mr. Peterson's call was transferred to the RAD Analyst from the Electronic Filing Office. Mr. Peterson informed the Analyst that the Committee had resolved their technical issues and was preparing to submit the 2015 Mid-Year Report. He wanted to provide additional information regarding the technical issues, along with other matters involving the Committee on the report. The Analyst informed Mr. Peterson that he could include memo text with the report to disclose such information. Mr. Peterson then brought up other matters which the Analyst determined required the assistance of the Office of General Counsel, and at that point the Analyst transferred his call (Attachment 2).

On September 16, 2015, the Committee filed a 2015 Mid-Year Report covering the period from February 11, 2015 through June 30, 2015. The report disclosed \$2,820.00 on Line 6(a) (Cash on Hand January 1, 2015) and -\$49,748.51 on Line 8 (Cash on Hand at Close of Reporting Period) of the Summary Page. The report disclosed five (5) entries totaling \$67,700.00 in federal operating expenditures on Schedule B supporting Line 21(b) (Other Federal Operating Expenditures),³ and forty-three (43) entries totaling \$43,065.73 in apparent transfers on Schedule B supporting Line 22 (Transfers to Affiliated/Other Party Committees), \$70,535.73 and forty (40) entries of which were missing adequate addresses and/or adequate purposes. The report also disclosed twelve (12) entries totaling

² The report disclosed twelve (12) entries in apparent refunds to individuals totaling \$79,566.00 on Schedule B supporting Line 28(a) of the Detailed Summary Page. However, six (6) entries totaling \$250.00 are below the \$200 calendar year-to-date threshold which would not have required itemization on Schedule A supporting Line 11(a)(i). Thus, the violation in question is the remaining six (6) entries totaling \$79,316.00 on Schedule B supporting Line 28(a).

³ Schedule B, Line 21(b), disclosed \$22,750.00 in memo entries and \$44,950.00 in non-memo entries so the amount of activity disclosed on Line 21(b) of the Detailed Summary Page is \$44,950.00.

\$79,566.00⁴ in apparent refunds to individuals on Schedule B supporting Line 28(a) (Refunds of Contributions to Individuals/Persons Other Than Political Committees) of the Detailed Summary Page (Images 201509169002679470, 201509169002679489-518), all of which were missing the original receipt.

On July 11, 2016, Mr. Peterson sent an email to the Electronic Filing Office and Information Division, which stated in part:

“Dear FEC Representatives, This email message is made to whom it may concern regarding various political action committees registered with your office that my firm and I manage. Hence, I have your emails in my address book from prior communication with your office in the past year or so. Americans Socially United PAC and Tijerina for Greener Texas were active from January 1 through March 31, 2016. Hence, the plans to dissolve the organizations are in works following the final filings with your office being completed. In March my work computer, VPN data key, and data storage drive from my office were taken by US Attorney's Office in New Jersey due to a criminal complaint related to a Wall Street company I was working with in 2012. We'd been working to get our 12/31/2015 filing for ASU completed after dealing with issues retrieving financial records from our prior banking provider and the credit processors we were using this time last year. Unfortunately the financial data needed for my accountant helping me with the financial reporting was compromised in February by unknown sources and thereafter taken by FBI agents when I was detained at San Francisco airport (with all of my belongings) on March 13, 2016. We're doing our best to retrieve the data and complete our filing with your office. Even after I was released from detainment by authorities my computer and VPN key that gave access to sensitive records for FEC registered committees that I'm involved with was not returned. I send this official notice and ask for advisory how to resolve this matter and satisfy my necessary requirements with FEC. Please advise and thank you in advance for your support” (Attachment 2).

On July 12, 2016, RAD Management replied to Mr. Peterson's email, which stated in part:

“Dear Mr. Peterson: Thank you for your message. For assistance with filing reports, please contact the Reports Analysis Division staff assigned to your committees... Please note, the Commission does not grant extensions of filing due dates. The Reports Analysis Division typically advises committees to re-create the information needed to file reports if the original information becomes unavailable. The committee is encouraged to request copies of bank statements, review copies of receipts and cancelled checks,

⁴ Schedule B, Line 28(a), disclosed \$25,250.00 in memo entries and \$54,316.00 in non-memo entries so the amount of activity disclosed on Line 28(a) of the Detailed Summary Page is \$54,316.00.

as applicable, and take any other needed steps to help the committee rebuild its reporting database and file the required FEC reports. The committee also has an option to explain the circumstances detailed in your message for the public record in a Miscellaneous Document Submission (Form 99). Please contact the above assigned analysts for further assistance" (Attachment 2).

On July 20, 2016, Mr. Peterson called the RAD Analyst and explained that he recently had been detained and had his personal belongings taken by the FBI. Because of that, he did not have all the necessary data and information to accurately file past-due reports with the FEC. Mr. Peterson further explained that he reached out to the Committee's bank to try and obtain as much information as possible to file the reports. The Analyst advised that the Committee submit a Miscellaneous Electronic Submission (Form 99) to disclose this information on the public record. The Analyst also advised Mr. Peterson that he may want to speak to the Office of General Counsel regarding this issue. The Analyst obtained Mr. Peterson's contact information and stated he would call him with advice on how to proceed after speaking with RAD Management (Attachment 2).

On July 21, 2016, the RAD Analyst called Mr. Peterson to follow up on the issues discussed the previous day. The Analyst advised that the Committee should file complete 2015 Year-End, 2016 April Quarterly, and 2016 July Quarterly Reports. Mr. Peterson reiterated that the Committee does not have all of the information necessary to file complete reports. He said all that information is on a laptop he had taken from him by the FBI and had yet to be returned. He further explained that the only information the Committee has is mostly dates and amounts obtained from bank statements. Mr. Peterson said the Committee will be filing a Form 99 to disclose this information on the public record. He then wanted to know if he could terminate the Committee's filing requirement with the FEC. The Analyst informed Mr. Peterson that a Request for Additional Information (RFAI) was in the process of being sent to the Committee regarding the 2015 Mid-Year Report with reporting discrepancies that may prevent the Committee from being able to terminate. The Analyst informed him one of the major discrepancies on the 2015 Mid-Year Report was the Committee's apparent negative ending cash-on-hand balance. Mr. Peterson informed the Analyst that this was due to the fact that the Committee received prohibited contributions. He said the Committee returned those contributions to the donors which left the Committee with not enough funds to pay for certain invoices. Mr. Peterson told the Analyst he paid for some of the Committee's invoices on a personal credit card, but the disbursements were still disclosed on the report. The Analyst told Mr. Peterson that the disbursements paid on the credit card should not have been disclosed as disbursements since they were not paid from the Committee's bank account. Mr. Peterson wanted to know if it was possible for the RFAI to not be sent. The Analyst told him it was already in the process of being sent to the Committee and that the Committee has 35 days from the date it is sent to respond. The Analyst then gave Mr. Peterson the contact information for the Office of General Counsel at the FEC in case he had legal questions (Attachment 2).

On July 28, 2016, an RFAI was sent to the Committee referencing the 2015 Mid-Year Report. Among other items, the RFAI requested clarification regarding the source of funds of the Committee's initial cash balance, the disclosure of a negative ending cash balance, the failure to disclose addresses and adequate purposes for disbursements, and the failure to disclose the original receipt of contributions refunded to individuals (Images 201607280300053087-89).

On October 15, 2016, the Committee filed an FEC Form 99. The Committee stated, in part:

“3. PAC is in the process of amending FEC report filed for June 20, 2015 deadline due to financial updates and accounting errors as a result to technical issues to filing software. 4. PAC receipts, deposits, and records were stolen and compromised by a third party in March 2016. This information has been reported to the FEC in previous communication. 5. PAC is working to file past due FEC reports despite the compromised and stolen content required to complete necessary filings due” (Image 201610159032826421).

On June 7, 2017, the Committee filed a Miscellaneous Paper Document (“FEC Form 99”). The Committee stated, in part:

“Last year communication started with your office’s committee advisory, online filing support, compliance/legal departments to resolve outstanding matters of PAC while it was active between February 2015 and March 2016 … My request is for the necessary requirement to make closure on this issue regarding PAC and update the records with associated parties are being copied on this letter” (Image 201706070300158623).

On August 4, 2017, the RAD Analyst left a voicemail for Mr. Peterson regarding outstanding matters from the Committee's 2015 Mid-Year Report. The Analyst requested that Mr. Peterson return the call so the Analyst could work with him to resolve the issues (Attachment 2).

On August 8, 2017, Mr. Peterson called the RAD Analyst and said that the Committee is unable to file any reports because they do not have access to their computers or servers, which he states have been hacked and compromised. He said the Committee is currently involved in ongoing legal matters, which is preventing them from accessing the information. Mr. Peterson said he filed a Form 99 late last year and also emailed the FEC earlier this year regarding the Committee's inability to file reports with the FEC (Attachment 2).

On August 10, 2017, Mr. Peterson sent an email to the FEC Web Manager account, which was later brought to the RAD Analyst's attention. The email stated, in part:

“To Whom This May Concern, I recently received a call from a contact at your office...regarding my former client Americans Socially United. He and I were speaking for a few minutes but there seemed to be some connection difficulties. The call was canceled and I called back leaving a voice message. I've yet to receive a return call. Additionally, I've sent this forwarded email below some time and have received no response. Please forward this message to the appropriate party” (Attachment 2).

On August 16, 2017, the RAD Analyst called Mr. Peterson to inform him that the outstanding issues from the Committee's 2015 Mid-Year Report would be referred for further action. The Analyst told Mr. Peterson the Committee could submit additional information regarding the matter if they wanted to do so. Mr. Peterson said that he had been trying to email the FEC to correspond with the Commission about why the Committee is unable to file their reports, but he had not received any response. He wanted to know if there was any record of communication between the Committee and the FEC. The Analyst told him that summaries of phone conversations are kept and informed him that any correspondence from the Committee should be filed in the form of a Miscellaneous Electronic Submission via the committee's filing software since they are electronic filers. The Analyst told Mr. Peterson one of the other divisions at the FEC would be in contact with the Committee when the issue moves forward. Mr. Peterson said he would be sending correspondence via mail or courier to the Analyst's attention regarding the matter (Attachment 2).

Subsequently, on August 16, Mr. Peterson sent an email to the FEC Web Manager account. The email stated in part:

“To Who This May Concern, I send this email as follow up correspondence to a phone call that I had with...an assigned adviser for committee ID: C00596882 which formerly was active and operating as Americans Socially United in 2015 and the beginning of 2016. In today's conversation with the FEC adviser it was mutually understood that the status of the organization remains the same, as specified in Form 99 filed in 2016 and that the matter has been escalated to a different department to resolve the open issue regarding delinquent filings and the intervening causes that prevented the past due filings in question by your office. My firm no longer represents Americans Socially United but I'm glad to communicate with your office on a resolution that is suitable to close this outstanding matter that took place while we were active with them” (Attachment 2).

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

O-Index (2017-2018)															
Cmte. ID: C00572537					Cmte. Name: AMERICANS SOCIALLY UNITED										
Treasurer Name: PETERSON, CARY L Address: 848 N RAINBOW BLVD SUITE 3419, LAS VEGAS, NV 89107					Cmte. Designation: U (UNAUTHORIZED)										
Cmte. Type: V (NON-QUALIFIED NON-PARTY WITH NON-CONTRIBUTION ACCOUNT) Filing Frequency: QUARTERLY FILER															
Form Tp	Rpt Tp	A/I	Recpt Dt	Pgs	Begin Img#	Beg Cvg Dt	End Cvg Dt	Ltrr Mail Dt	Begin Cash	Recpts	Disb	End Cash	Debts	Loans	Debts & Loans
MS-T			6/7/2017	3	201706070300158623				-	-	-	-	-	-	-
RQ7	MY		8/16/2017	2	201708160300090224	1/1/2017	6/30/2017	8/16/2017	-	-	-	-	-	-	-
RQ7	YE		2/20/2018	2	201802200300099378	7/1/2017	12/31/2017	2/20/2018	-	-	-	-	-	-	-
Totals									\$0	\$0					

O-Index (2015-2016)															
Cmte. ID: C00572537					Cmte. Name: AMERICANS SOCIALLY UNITED										
Treasurer Name: PETERSON, CARY L Address: 848 N RAINBOW BLVD SUITE 3419, LAS VEGAS, NV 89107					Cmte. Designation: U (UNAUTHORIZED)										
Cmte. Type: V (NON-QUALIFIED NON-PARTY WITH NON-CONTRIBUTION ACCOUNT) Filing Frequency: QUARTERLY FILER															
Form Tp	Rpt Tp	A/I	Recpt Dt	Pgs	Begin Img#	Beg Cvg Dt	End Cvg Dt	Ltrr Mail Dt	Begin Cash	Recpts	Disb	End Cash	Debts	Loans	Debts & Loans
MS-T			10/15/2016	1	201610159032826421				-	-	-	-	-	-	-
RQ1		A	5/19/2015	2	15330083058			5/19/2015	-	-	-	-	-	-	-
RQ2	MY	N	7/28/2016	3	201607280300053087	2/11/2015	6/30/2015	7/28/2016	-	-	-	-	-	-	-
RQ7	MY		9/3/2015	2	201509030300021259	2/11/2015	6/30/2015	9/3/2015	-	-	-	-	-	-	-
RQ7	YE	N	3/15/2016	1	201603170300056564	7/1/2015	12/31/2015	3/15/2016	-	-	-	-	-	-	-
RQ7	Q1		5/3/2016	2	201605040300044343	1/1/2016	3/31/2016	5/3/2016	-	-	-	-	-	-	-
RQ7	Q2		8/2/2016	2	201608020300054776	4/1/2016	6/30/2016	8/2/2016	-	-	-	-	-	-	-
RQ7	Q3		10/31/2016	2	201610310300065868	7/1/2016	9/30/2016	10/31/2016	-	-	-	-	-	-	-
RQ7	30G		12/28/2016	2	201612280300072442	10/1/2016	11/28/2016	12/28/2016	-	-	-	-	-	-	-
RQ7	YE		2/16/2017	2	201702160300079391	11/29/2016	12/31/2016	2/16/2017	-	-	-	-	-	-	-
F3XN	MY	N	9/16/2015	52	201509169002679469	2/11/2015	6/30/2015		\$2,820	\$90,690	\$143,258	(\$49,748)	-	-	\$0
F1N		N	2/11/2015	4	15970263847				-	-	-	-	-	-	-
F1A		A	4/30/2015	5	15970684020				-	-	-	-	-	-	-
F1A		A	4/30/2015	5	15970684025				-	-	-	-	-	-	-
F1A		A	3/6/2015	5	15950841638				-	-	-	-	-	-	-
F1A		A	6/18/2015	5	15951488315				-	-	-	-	-	-	-
Totals									\$90,690	\$143,258					

O-Index (2013-2014)															
Cmte. ID: C00572537					Cmte. Name: AMERICANS SOCIALLY UNITED										
Treasurer Name: PETERSON, CARY L Address: 848 N RAINBOW BLVD SUITE 3419, LAS VEGAS, NV 89107					Cmte. Designation: U (UNAUTHORIZED)										
Cmte. Type: V (NON-QUALIFIED NON-PARTY WITH NON-CONTRIBUTION ACCOUNT) Filing Frequency: QUARTERLY FILER															
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No records were found for this cycle.															