
From: Berkon, Jonathan (Perkins Coie) <JBerkon@perkinscoie.com>
Sent: Friday, June 4, 2021 1:18 PM
To: Krista Roche <KRochefec.gov>
Cc: Hogin, Emily A. (Perkins Coie) <EHogin@perkinscoie.com>
Subject: RE: ADR 1017 Introductory Materials

Dear Ms. Roche,

Thank you for the invitation to participate in the Alternative Dispute Resolution Program. However, Grassroots Victory PAC ("GVP") declines to participate in the program for the issues referred.

As you may know, GVP recently completed an FEC audit for the period at issue, January 1, 2017 through December 31, 2018. At the audit hearing, the Commission agreed with GVP and rejected the Audit Division's initial report because it failed to reflect that GVP had proactively corrected the public record and was in compliance before the audit began. The Final Audit Report that was approved by the Commission and is the source of this referral shows that GVP has complied with its reporting obligations under the Federal Election Campaign Act of 1971, and GVP therefore believes no further enforcement action is warranted.

Best regards,

Jonathan Berkon | Perkins Coie LLP

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E. JBerkon@perkinscoie.com

From: Krista Roche <KRochefec.gov>
Sent: Thursday, May 13, 2021 1:13 PM
To: Berkon, Jonathan (WDC) <JBerkon@perkinscoie.com>
Subject: ADR 1017 Introductory Materials

Good afternoon-

Please see the attached introductory materials regarding a new matter in the Alternative Dispute Resolution Office of the Federal Election Commission. Kindly review and submit the attached form, electronic submission to this e-mail is acceptable. The response due date in this matter is June 4, 2021. Should you have any questions or concerns, please don't hesitate to contact me. I look forward to working with you to bring this matter to resolution.

Krista J. Roche
Director, ADR Office
Federal Election Commission
(202) 694-1661

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Part IV

Commission Finding

Increased Activity (Corrected)

Summary

A comparison of GVP's bank activity with its original disclosure reports filed with the Commission revealed that disbursements were understated by \$106,674 for calendar years 2017 and 2018. In response to the Interim Audit Report recommendation, GVP stated that the audit report should be modified to reflect that the disclosure reports on file when the audit began accurately presented its financial activity.

In response to the Draft Final Audit Report, GVP reiterated that it identified undisclosed disbursements and amended its disclosure reports in August 2018, and indicated that the finding was unwarranted since GVP corrected its disclosure reports prior to the audit notification letter. GVP requested a hearing before the Commission to discuss this matter.

The Commission approved a finding that GVP understated disbursements by \$106,674 on the original disclosure reports filed over the two-year period ending on December 31, 2018, and changed the finding title from "Misstatement of Financial Activity – Increased Activity" to "Increased Activity (Corrected)."

Legal Standard

A. Reporting Requirements. All political committees other than authorized committees of a candidate shall file either:

- Quarterly reports. 52 U.S.C. § 30104(a)(4)(A); or
- Monthly reports in all calendar years shall be filed no later than the 20th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-general election report shall be filed in accordance with 52 U.S.C. § 30104(2)(A)(i), a post-general election report shall be filed in accordance with 52 U.S.C. § 30104(2)(A)(ii), and a year-end report shall be filed no later than January 31 of the following calendar year. 52 U.S.C. §30104(a)(4)(B).

B. Contents of Reports. Each report must disclose:

- The amount of cash on hand at the beginning and end of the reporting period;
- The total amount of receipts for the reporting period and for the calendar year;
- The total amount of disbursements for the reporting period and for the calendar year; and
- Certain transactions that require itemization on Schedule A (Itemized Receipts) or Schedule B (Itemized Disbursements). 52 U.S.C. §30104 (b)(1),(2),(3),(4) and (5).

Facts and Analysis

A. Facts

During audit fieldwork, in addition to examining GVP's most recent reports filed prior to the audit notification, the Audit staff compared GVP's originally filed reports with its bank records. The purpose of this additional reconciliation was to identify the degree to which GVP had misstated its original filings.

The Audit staff calculated that GVP understated its disbursements by \$106,674 on the original reports filed over the two-year period ending December 31, 2018. Most of the understatement (\$98,342) was due to GVP not reporting any disbursements from May 2017 through November 2017. GVP subsequently amended its reports to disclose the disbursements that took place during this time.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with GVP representatives during the exit conference and provided the relevant schedule. In response to the exit conference, GVP stated that the finding confirms that it had unreported disbursements for calendar years 2017 and 2018. GVP further stated that it made proactive efforts, prior to Commission action, to correct the public record by amending its reports in August 2018 to disclose the unreported disbursements. GVP also stated that it is unclear why the Audit staff compared its bank activity to its original reports given that GVP amended its reports in August 2018. As noted above, the Audit staff compared GVP's original reports to its bank records to identify the degree to which GVP misstated the activity disclosed on its original filings. GVP underreported its disbursements by \$106,674 between the time the original reports were filed on or near their respective due dates and when the amendments were filed in August 2018.

The Interim Audit Report recommended that GVP provide any additional comments it deemed necessary with respect to this matter.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, GVP stated the auditors found no new information that it had not already disclosed to the Commission. According to GVP, it was not the audit that "revealed" GVP understated its disbursements by \$106,674, it was GVP's proactive response in August 2018. GVP explained that, in early 2018 it discovered unreported disbursements for its September, October, and November 2017 Monthly reports and amended those reports. To discover the source of these discrepancies GVP hired a compliance firm to review its past reports and financial activities. This review identified additional undisclosed disbursements as well as some previously reported contributions and disbursements that required amendment and resulted in GVP amending its reports in August 2018. GVP stated that the Interim Audit Report did not explain why the Audit staff worked from its original reports rather than its amended reports that were on the public record before the audit began. Further, GVP stated the Interim Audit Report should be modified to reflect that GVP accurately

disclosed its financial activity on its own volition, through amended reports that preceded the audit.

The Audit staff noted that, as highlighted in the Facts section above, it reviewed GVP's original reports and amended reports during the course of the audit. GVP was correct in stating that in August 2018, prior to the October 2019 audit notification, it amended its disclosure reports to accurately disclose missing financial activity. However, it was GVP's responsibility to accurately and timely disclose all financial activity on the respective due date of the required report. As such, the Audit staff maintained that GVP's original reports understated its disbursements by \$106,674.

D. Draft Final Audit Report

The Draft Final Audit Report reiterated that GVP's original disclosure reports materially understated its disbursements for 2017 and 2018 by \$106,674.

E. Committee Response to the Draft Final Audit Report

GVP responded to the Draft Final Audit Report by requesting a hearing on this matter. GVP stated it twice asked the Audit staff to explain their choice to work from the original reports rather than the amended reports that were on the public record before the audit began. GVP stated that it identified undisclosed disbursements and amended its disclosure reports in August 2018 and indicated that the finding is unwarranted since GVP corrected its disclosure reports prior to the audit notification letter.

F. Audit Hearing

During the Audit Hearing, GVP counsel stated that at the time the audit notification letter was sent in October 2019, there was no misstatement of its financial activity within its filings on the public record because it had corrected its reports on its own volition in August 2018. GVP counsel further stated that the title "Misstatement of Financial Activity" is misleading because the committee corrected its reported activity. GVP counsel requested that the Commission remove "Misstatement of Financial Activity" from the title of the finding.

Commission Conclusion

On March 11, 2021, the Commission considered the Audit Division Recommendation Memorandum finding of "Misstatement of Financial Activity – Increased Activity," in which the Audit Division recommended that the Commission find that GVP understated disbursements by \$106,674 on the original reports filed over the two-year period ending December 31, 2018.

The Commission approved the Audit staff's recommendation and changed the title of the finding to "Increased Activity (Corrected)."



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STATEMENT OF DESIGNATION OF COUNSEL
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The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

10/9/19
Date

[Signature]
Auditee/ Client Signature

COO
Title

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