



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

May 18, 2021

**Via Electronic Mail Only**  
[rwilson@nativelawgroup.com](mailto:rwilson@nativelawgroup.com)

Rollie Wilson  
601 Pennsylvania Ave, NW  
South Building, Suite 900  
Washington, DC 20004

RE: P-MUR 649  
UtePAC and Massy Skyler, Treasurer

Dear Mr. Wilson:

This is to acknowledge receipt of your letter on May 17, 2021, advising us that your former executive director and your clients UtePAC and Massy Skyler, in his official capacity as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended. Please note that in accordance with the Commission's *sua sponte* policy, we are treating your filing as both a *sua sponte* and separate complaint. We will review the matter and notify you as soon as the Federal Election Commission takes action on your submission. We have numbered the *sua sponte* as P-MUR 649.

This matter will remain confidential in accordance with 52 U.S.C. §§ 30109(a)(4)(B) and 30109(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. Please be advised that, although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.<sup>1</sup>

Please note that you have a legal obligation to preserve all documents, records, and materials relating to the subject matter of the submission until such time as you are notified that the Commission has closed its file in this matter. *See* 18 U.S.C. § 1519.

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<sup>1</sup> The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

Any correspondence sent to the Commission must be addressed to **one** of the following (note, if submitting via email, this Office will provide an electronic receipt by email):

**Mail**  
Federal Election Commission  
Office of Complaints Examination  
and Legal Administration  
Attn: Christal Dennis, Paralegal  
1050 First Street, NE  
Washington, DC 20463

*OR*

**Email**  
CELA@fec.gov

As indicated in the FEC's Notice found at [https://www.fec.gov/resources/cms-content/documents/status\\_of\\_fec\\_operations\\_8-10-2020.pdf](https://www.fec.gov/resources/cms-content/documents/status_of_fec_operations_8-10-2020.pdf), the office's mailroom is open on a limited basis and, therefore, processing paper correspondence may be delayed. Accordingly, we strongly encourage you to file responses and additional correspondence via email.

If you have any questions, please contact Christal Dennis at (202) 694-1519 or toll free at (800) 424-9530. For your information, we have enclosed a brief description of the Commission's preliminary procedures for processing submissions such as this.

Sincerely,



Jeff S. Jordan  
Assistant General Counsel  
Complaints Examination &  
Legal Administration

## **Finding 1. Misstatement of Financial Activity**

### **Summary**

During audit fieldwork, a comparison of UTEP's reported financial activity with its bank records revealed a misstatement of receipts and disbursements, as well as beginning and ending cash for calendar year 2018. Specifically, UTEP understated receipts and disbursements by \$209,332 and \$198,202 respectively. UTEP overstated its beginning cash on hand by \$15,422 and understated its ending cash on hand by \$12,065. In response to the exit conference, UTEP corrected the misstated receipts, disbursements, beginning cash on hand and ending cash on hand for 2018 by filing Forms 99 (Miscellaneous Electronic Submission).

In response to the Interim Audit Report recommendation, UTEP stated that, given its work to respond to and correct the former treasurer's financial management and reporting, this finding has been addressed and should be removed from the audit report. The Audit staff acknowledged that UTEP corrected the public record with regard to the misstated financial activity for the audit period. However, since UTEP's corrective action occurred in response to the audit, the finding remained in the audit report. In response to the Draft Final Audit Report, UTEP again requested the findings that were addressed be reduced or removed from the audit report. UTEP also requested an audit hearing before the Commission.

The Commission approved a finding that UTEP understated receipts by \$209,332 and disbursements by \$198,202, overstated beginning cash on hand by \$15,422, and understated ending cash on hand by \$12,065 in calendar year 2018.

### **Legal Standard**

**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, the Audit staff reconciled UTEP's reported financial activity with its bank records for calendar years 2017 and 2018. The reconciliation determined that

UTEP misstated receipts and disbursements for 2018, as well as beginning cash on hand and ending cash on hand for 2018. The following chart details the discrepancies between UTEP's disclosure reports and bank activity. The succeeding paragraphs explain why the discrepancies occurred.

<b>2018 Committee Activity</b>			
	<b>Reported</b>	<b>Bank Records</b>	<b>Discrepancy</b>
Beginning Cash on hand @ January 1, 2018	\$17,410	\$1,988	\$15,422 Overstated
Receipts	\$3,334	\$212,666	\$209,332 Understated
Disbursements	\$871	\$199,073	\$198,202 Understated
Ending Cash on hand @ December 31, 2018	\$3,516 <sup>5</sup>	\$15,581	\$12,065 Understated

The beginning cash on hand was overstated by \$15,422 and the discrepancy resulted from prior period discrepancies.

The misstatement of 2018 receipts resulted from the following differences:

• Contributions from individuals not reported	\$5,950
• Other federal receipts not reported	202,814
• Receipts not supported by bank deposits	(15)
• Unexplained difference	<u>583</u>
<b>Net Understatement of Receipts</b>	<b><u>\$ 209,332</u></b>

The other federal receipts not reported, totaling \$202,814, consisted primarily of receipts deposited into the non-contribution account from The Ute Indian Tribe (the Tribe), totaling \$200,000.

The misstatement of 2018 disbursements resulted from the following differences:

• Federal operating expenditures not reported	\$ 9,856
• Other disbursements not reported	<u>188,346</u>
<b>Understatement of Disbursements</b>	<b><u>\$198,202</u></b>

The other disbursements not reported, totaling \$188,346, consisted of cash disbursements, meals, travel expenses, vehicle expenses, equipment purchases, purchase of items for research, printing/media/advertising costs, accounting services, staffing/payroll/media consulting services, internet services, telephone bills, office utilities, rent, shipping costs, bank and 3<sup>rd</sup> party service fees, office supplies, and registration fees for events.

<sup>5</sup> The reported ending cash on hand does not equal reported beginning cash on hand plus reported receipts minus reported disbursements. This was due to a mathematical discrepancy in which the reported beginning cash on hand for 2018 did not equal the ending cash on hand reported for 2017.

The \$12,065 understatement of the ending cash on hand was a result of the reporting discrepancies described above.

### **B. Interim Audit Report & Audit Division Recommendation**

The Audit staff discussed this matter with the UTEP representative during the exit conference and provided a schedule detailing the misstatement of financial activity. In response to the exit conference, the UTEP representative provided a written response stating that the former treasurer acted on his own accord even though the Tribe provided additional funds for the former treasurer to hire an administrative professional to assist with reporting and compliance. UTEP further stated the overwhelming problem was the former treasurer's use and management of UTEP funds and indicated that it is taking steps to avoid the misuse of funds by any future treasurer.<sup>6</sup> UTEP's former treasurer stated in a letter to the Audit staff, included in UTEP's written response, that he was the main employee; he tried to understand Commission software, guidelines and rules for reporting and found it difficult to balance the books and report properly; and that he "assumed [there were] fewer reporting requirements in the non-contribution account." He further stated that Tribal Members were informed of all UTEP activities.

UTEP subsequently filed Forms 99 (Miscellaneous Electronic Submission) to correct all of its misstated receipts, disbursements, beginning cash on hand and ending cash on hand for 2018. Since UTEP's corrective action occurred after audit notification, the matter is included in this audit report.

The Interim Audit Report recommended that UTEP provide any additional comments it deemed relevant.

### **C. Committee Response to Interim Audit Report**

In response to the Interim Audit Report recommendation, UTEP stated that it filed Forms 99 to correct the former treasurer's erroneous reporting. UTEP further stated, "Finding 1 has been addressed and should be removed from the audit findings" and also addressed the written exit conference response from the former treasurer as follows:

- UTEP agreed with the former treasurer that he was the main employee and added, the former treasurer "never told the Tribe or anyone else that he needed additional employees or that he was not keeping financial records as required by the FEC" or that he "needed assistance understanding FEC software, procedures or requirements." Once the former treasurer "requested funding to hire accountants and lawyers to assist with UtePAC management, these funds were provided as a part of UtePAC's budget."
- UTEP stated the former treasurer's claim that he "assumed [there were] fewer reporting requirements for the non-contribution account" was "not a defense and

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<sup>6</sup> On January 4, 2020, UTEP hired an independent accounting firm to conduct an internal audit of the former treasurer's management of UTEP activities after "growing concerns." UTEP indicated that it learned of the Commission's audit once its General Counsel began to take over UTEP's operations following the former treasurer's termination. UTEP further stated that its independent audit resulted in findings similar to those uncovered during the Commission's audit.

cannot be accurate.” UTEP acknowledges there is guidance on non-contribution accounts and the information is “easily accessible on [the] FEC’s website.”

- UTEP disagreed with the former treasurer’s statement that “Tribal members were informed of all UtePAC activities.” UTEP said the former treasurer did not inform anyone with the Tribe or working for the Tribe that he “was failing to keep records required by the FEC, that he had questions about which records the FEC required him to keep, or that he was having difficulty using the FEC software and following FEC requirements.”

#### **D. Draft Final Audit Report**

The Draft Final Audit Report acknowledged that UTEP filed Forms 99 and corrected the public record for the misstatement of receipts, disbursements, beginning cash on hand and ending cash on hand for 2018. However, since UTEP’s corrective action occurred in response to the audit, the finding would remain in the audit report.

#### **E. Committee Response to the Draft Final Audit Report**

In response to the Draft Final Audit Report, UTEP stated the “FEC provides no basis for maintaining corrected audit findings in its DFAR. To encourage compliance with FEC audits, the FEC should remove and reduce findings that have been addressed.” UTEP continued to request the findings that have been addressed or corrected be reduced or removed from the audit report and requested an audit hearing with the Commission.

The Audit staff maintained that the corrective action occurred in response to the audit and therefore the finding would remain in the audit report.

#### **F. Audit Hearing**

See Audit Hearing section on page 2.

#### **Commission Conclusion**

On April 28, 2022, the Commission considered the Audit Division Recommendation Memorandum, in which the Audit staff recommended that the Commission find that UTEP understated receipts by \$209,332 and disbursements by \$198,202, overstated beginning cash on hand by \$15,422, and understated ending cash on hand by \$12,065 in calendar year 2018.

The Commission approved the Audit staff’s recommendation.

### **Finding 2. Increased Activity (Corrected)**

#### **Summary**

During audit fieldwork, a comparison of UTEP’s bank activity with its original reports filed revealed that receipts were understated by \$248,162 and disbursements were understated by \$255,268 for calendar years 2017 and 2018. In response to the Interim Audit Report recommendation, UTEP stated Forms 99 (Miscellaneous Electronic Submission) were filed to document and correct the former treasurer’s “failure to report

receipts and disbursements.” UTEP requested this finding be reduced based on its corrective actions. The Audit staff acknowledged the Forms 99 filed in response to Finding 1- Misstatement of Financial Activity, also corrected the public record for the understatement of receipts and disbursements outlined in this finding. However, since UTEP’s corrective action occurred in response to the audit, the finding remained in the audit report. In response to the Draft Final Audit Report, UTEP again requested the findings that were addressed be reduced or removed from the audit report. UTEP also requested an audit hearing before the Commission.

The Commission approved a finding that UTEP understated its receipts by \$248,162 and disbursements by \$255,268 over the two-year reporting period ending December 31, 2018.

## **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 UTEP’s most recently filed reports prior to audit notification, the Audit staff also compared UTEP’s originally filed reports with its bank records. The purpose of this additional reconciliation was to identify the degree to which UTEP misstated its original filings.

The Audit staff calculated that UTEP understated its receipts by \$248,162 and disbursements by \$255,268 on the original reports filed over the two-year period ending on December 31, 2018. These figures included the \$209,332 understatement of receipts

and the \$198,202 understatement of disbursements from 2018 discussed in Finding 1-Misstatement of Financial Activity.

### **B. Interim Audit Report & Audit Division Recommendation**

The Audit staff discussed this matter with the UTEP representative during the exit conference and provided a schedule detailing the understatement of receipts and disbursements on UTEP's original reports. In response to the exit conference, UTEP's written response stated that the former treasurer was responsible for all of the day-to-day operations of UTEP. UTEP asserted that the findings were due to the former treasurer's use and management of UTEP funds, it is working with its General Counsel to correct the "numerous reporting errors... to the extent possible"<sup>7</sup> and is taking steps to avoid the misuse of funds by any future treasurer. The former treasurer's written response stated that the responsibility for the violation of FEC rules ultimately lies with the Tribe and not with him or his LLC.<sup>8</sup>

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

### **C. Committee Response to Interim Audit Report**

In response to the Interim Audit Report recommendation, UTEP stated Forms 99 were filed to correct, as much as possible, the former treasurer's "failure to report receipts and disbursements." UTEP requested this finding be reduced based on its corrective actions. UTEP stated most of the understatements appeared to be based on the former treasurer's failure to document and report receipts and disbursements from the non-contribution account.

UTEP stated the former treasurer's assertion that "the responsibility for the violation of FEC rules ultimately lies with the Tribe and not him or his LLC" is incorrect. UTEP explained that "under the Act, treasurers can be held liable in both their official and personal capacities" and that "all of the responsibility for the violation of FEC rules lies with [the former treasurer] who served as [UTEP's] sole Director and Treasurer during the time period under audit."

### **D. Draft Final Audit Report**

The Draft Final Audit Report acknowledged that Forms 99 filed for Finding 1-Misstatement of Financial Activity also corrected the public record for receipts and

<sup>7</sup> On October 5, 2020, counsel for UTEP submitted a Request for Consideration of a Legal Question by the Commission (Request). UTEP asked that the Commission: 1) name UTEP's former treasurer "as a Respondent" in the Commission's audit of UTEP; 2) not "name" UTEP and its current treasurer in the audit; and 3) not impose any civil penalties against UTEP. UTEP was informed by the Office of General Counsel on October 22, 2020 that the questions raised in the Request were beyond the scope of the Commission's policy on Requests for Legal Consideration, which was intended to provide a forum for committees to resolve legal questions related to corrective actions recommended by the Reports Analysis Division or the Audit Division.

<sup>8</sup> The former treasurer's LLC is the American System Group, LLC (ASG). ASG was retained by UTEP to serve as an independent contractor responsible for the formation, management, advertising and fundraising of UTEP. The contract with the former treasurer allowed UTEP funds to be deposited into and vendors to be paid out of ASG's bank account.



disbursements outlined in this finding. However, since UTEP's corrective action occurred in response to the audit, the finding would remain in the audit report.

Further, the Audit staff noted that the Commission has the authority to conduct audits and field investigations of any political committee required to file a report under section 30104 of the Federal Election Campaign Act, per 52 U.S.C. § 30111(b). The audit of UTEP was authorized pursuant to this statutory authority. The subject of this audit, therefore, is UTEP and not its former treasurer. As such, UTEP is responsible for any audit findings. Whether a committee treasurer may be held personally liable for violating a duty imposed by law is determined through the Commission's enforcement process and not an audit.

#### **E. Committee Response to the Draft Final Audit Report**

In response to the Draft Final Audit Report, UTEP stated the "FEC provides no basis for maintaining corrected audit findings in its DFAR. To encourage compliance with FEC audits, the FEC should remove and reduce findings that have been addressed." UTEP continued to request the findings that have been addressed or corrected be reduced or removed from the audit report and requested an audit hearing with the Commission.

The Audit staff maintained that the corrective action occurred in response to the audit and therefore the finding remained in the audit report.

#### **F. Audit Hearing**

See Audit Hearing section on page 2.

#### **Commission Conclusion**

On April 28, 2022, the Commission considered the Audit Division Recommendation Memorandum, in which the Audit staff recommended that the Commission find that UTEP understated receipts by \$248,162 and disbursements by \$255,268 over the two-year reporting period ending December 31, 2018.

The Commission approved the Audit staff's recommendation.

### **Finding 3. Cash Disbursements**

#### **Summary**

During audit fieldwork, the Audit staff determined that UTEP made 43 cash disbursements and issued one check payable to cash totaling \$131,300. The Act requires political committees to make all disbursements, except those from a petty cash fund, by check or similar draft drawn on a committee account. In response to the Interim Audit Report recommendation, UTEP stated that the violations stem from the former treasurer's "failure to comply with the FEC's basic requirements for cash transactions" and requested that the finding either be removed from the audit report or the amount reduced based on its corrective actions. UTEP further stated it plans to implement procedures for maintaining a petty cash fund and documenting the use of a petty cash fund; as well as

documenting, reporting, and preserving records for disbursements. Additionally, UTEP provided a letter from its financial institution attesting to the fact that many of the transactions which appeared to be cash disbursements were actually transfers of funds between accounts, reducing the amount of violation from \$131,300 to \$13,640. Absent additional documentation, the Audit staff concluded that UTEP made \$13,640 in cash disbursements. In response to the Draft Final Audit Report, UTEP stated that the letter from its financial institution was not properly accounted for in the DFAR. UTEP requested this finding be reduced based on its corrective actions. UTEP also requested an audit hearing before the Commission.

The Commission approved a finding that UTEP made cash disbursements totaling \$13,640.

### **Legal Standard**

**A. Disbursement by Check.** A political committee may only make expenditures in cash, not to exceed \$100, from a petty cash fund. A written journal for such cash expenditures is to be maintained by the treasurer. All other disbursements shall be made by check or similar draft drawn on account(s) established at the campaign's depository (ies). 52 U.S.C. §30102(h).

**B. Petty Cash Fund.** A political committee may maintain a petty cash fund out of which it may make expenditures not in excess of \$100 to any person per purchase per transactions.

It is the duty of the treasurer to keep and maintain a written journal of all petty cash disbursements. The written journal shall include:

- Name and address of every person to whom any disbursement is made;
- Date;
- Amount;
- Purpose; and
- If disbursement is made for a candidate, the journal shall include the name of that candidate and the office (including State and Congressional district) sought by such candidate. 11 CFR §102.11.

**C. Required Records for Disbursements.** For each disbursement, the treasurer of a political committee must keep records on the:

- Amount;
- Date;
- Name and address of the payee;<sup>9</sup>
- Purpose (a brief description of why the disbursement was made);
- If the disbursement was made on behalf of a candidate, the candidate's name and office sought by the candidate; and

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<sup>9</sup> The payee is usually the person providing the goods or services to the committee. In the case of travel advances, however, the payee is the person receiving the advance. 11 CFR §102.9(b)(2).

- If the disbursement was in excess of \$200, the records must include a receipt or an invoice from payee, or a cancelled check or share draft to the payee. If the disbursement was made by credit card, the record must include the monthly statement or customer receipt and the cancelled check used to pay the credit card bill. 52 U.S.C. §30102(c) and 11 CFR §102.9(b).

**D. Preserving Records and Copies of Records.** The treasurer of a political committee must preserve all records and copies of reports for 3 years after the report is filed. 52 U.S.C. §30102(d).

## **Facts and Analysis**

### **A. Facts**

During audit fieldwork, the Audit staff examined bank records and the disbursement database provided by UTEP and identified 43 transactions, totaling \$135,600, involving cash disbursements. One transaction was a check payable to cash in the amount of \$150; the remaining transactions consisted of cash withdrawals from UTEP's contribution and non-contribution bank accounts.

According to UTEP's former treasurer, the cash disbursements were used to pay various individuals and vendors for salaries, telephone bills, office supplies, reimbursement of travel expenses, payroll, and printing or other advertising costs. The former treasurer stated that these expenses were campaign related.

The Audit staff reviewed UTEP's disbursement database to assess the nature of the cash disbursements and noted the following:

- Other than bank statements and withdrawal slips disclosing the cash transactions, and statements from the former treasurer, UTEP presented no documentation, such as receipts, invoices, payroll documents or contemporaneous memoranda, etc., demonstrating the cash disbursements were in fact payments for bona fide campaign expenses.<sup>10</sup>
- 32 of the cash disbursements totaling \$66,940 were not reported. UTEP filed Forms 99 (Miscellaneous Electronic Submission) in response to the audit to address the unreported cash disbursements. See Finding 1- Misstatement of Financial Activity.

The Audit staff further noted that political committees may maintain a petty cash fund out of which they may make expenditures not in excess of \$100 to any person, per purchase, and per transaction. The political committees must maintain a written journal of all petty cash disbursements per 11 C.F.R. §102.11. However, UTEP did not maintain a petty cash fund. UTEP confirmed that there was no use of a petty cash fund and a review of UTEP's disbursement records did not yield any evidence to demonstrate that UTEP ever

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<sup>10</sup> UTEP filed Forms 99 in response to the exit conference disclosing the payee as the former treasurer. See Finding 1 – Misstatement of Financial Activity and Finding 6 – Disclosure of Disbursements. UTEP also did not maintain an accounting of 16 of the cash disbursements, totaling \$18,140, since they were not in the disbursement database. See Finding 4 – Recordkeeping for Disbursements.

established or maintained a petty cash fund. UTEP stated the former treasurer claimed he could no longer access the information to many of his accounts utilized to make purchases for UTEP. The Audit staff concluded the 43 cash disbursements, in excess of \$100, totaling \$131,300, were excessive cash disbursements.

### **B. Interim Audit Report & Audit Division Recommendation**

The Audit staff discussed this matter with the UTEP representative during the exit conference and provided a schedule of cash disbursement transactions. In response to the exit conference, UTEP's written response expressed that the former treasurer was responsible for "...complying with all FEC requirements for PACs..." and that the former treasurer "...represented to the Tribe that he was capable and experienced..." in this area. The UTEP representative expressed a willingness to provide the documentation but stated that he was having difficulty obtaining the documentation and that the former treasurer "kept few if any records regarding financial transactions as the Director and Treasurer of [UTEPA]." UTEPA worked with the former treasurer to obtain control of the records and accounts, but stated he "has not been forthcoming with necessary information and records." The UTEPA representative also stated that the former treasurer's "failure to produce records regarding [UTEPA] disbursements" makes it "difficult to track his finances to determine the true purpose of many of his withdraws and expenditures." UTEPA stated the overwhelming problem was the former treasurer's use and management of UTEPA funds. UTEPA added that it was taking steps to avoid the misuse of funds by any future treasurer. The written statement of UTEPA's former treasurer stated that the responsibility for the violation of FEC rules ultimately lies with the Tribe and not with him or his LLC.

The Interim Audit Report recommended that UTEPA:

- Demonstrate it complied with the provisions of 52 U.S.C. §30102(h) regarding cash disbursements;
- Provide any comments it deemed relevant regarding the cash disbursements; and
- Provide the missing disbursement documentation to demonstrate that the cash disbursements were for campaign activity.

### **C. Committee Response to Interim Audit Report**

In response to the Interim Audit Report recommendation, UTEPA requested the finding be removed from the audit report or the amount reduced "based on the work of [UTEPA] to investigate and correct this finding." UTEPA stated the former treasurer "failed to comply with the FEC's basic requirements for cash transactions." UTEPA explained that for "over more than a year" it "gathered as much information as possible about these cash transactions" and the former treasurer "continued to provide only limited information" and "did not retain records or refuses to produce the records needed to fully address Finding 3." UTEPA stated it cannot provide records because the former treasurer did not retain the records, however, UTEPA plans to implement procedures for maintaining a petty cash fund and documenting the use of a petty cash fund; as well as documenting, reporting, and preserving records for disbursements. Finally, UTEPA provided a letter from its financial institution, attesting to the fact that much of what appeared to be cash

disbursements were actually transfers of funds between accounts, which did not involve cash.

UTEP noted that "...the responsibility for complying with the Act extends to holding former treasurers liable in their personal capacity" and as such, UTEP believes the former treasurer "should be held personally responsible under Finding 3, not [UTEP] or its current treasurer."

#### **D. Draft Final Audit Report**

The Draft Final Audit Report acknowledged UTEP's plan to implement procedures to comply with the provisions of 52 U.S.C. §30102(h) regarding cash disbursements and the letter from the financial institution attesting that transfers from UTEP's bank accounts to the former treasurer's bank accounts performed in-branch were not cash disbursements. This reduced the violation amount from \$133,300 to \$13,640, for which UTEP provided no documentation or explanation that these were in fact not cash disbursements. The cash disbursements, totaling \$13,640, were cash withdrawals, including ATM withdrawals from UTEP's bank account. The Audit staff also noted no documentation was provided to verify the disbursements were for campaign related activities. As such, the Audit staff concluded that UTEP made \$13,640 in cash disbursements.

Further, the Audit staff noted that the Commission has the authority to conduct audits and field investigations of any political committee required to file a report under section 30104 of the Federal Election Campaign Act, per 52 U.S.C. § 30111(b). The audit of UTEP was authorized pursuant to this statutory authority. The subject of this audit, therefore, is UTEP and not its former treasurer. As such, UTEP is responsible for any audit findings. Whether a committee treasurer may be held personally liable for violating a duty imposed by law is determined through the Commission's enforcement process and not an audit.

#### **E. Committee Response to the Draft Final Audit Report**

In response to the Draft Final Audit Report, UTEP stated the letter from its financial institution was not "properly accounted for" in the Draft Final Audit Report (DFAR). Specifically, UTEP stated that whereas the DFAR indicated that the letter from its financial institution resulted in the reduction of the amount in violation from \$131,300 to \$13,640, the letter affirmed that \$131,300 was never the violation amount, instead the violation amount had always been \$13,640. UTEP asked that corrected finding be reduced or removed from the audit report and requested an audit hearing with the Commission.

The Audit staff noted that UTEP did not provide the letter from its financial institution until it received the Interim Audit Report (IAR). As such, the \$131,300 amount in violation referenced in the IAR was reduced to \$13,640 in the DFAR. If UTEP had provided the letter from its financial institution in response to the exit conference, the amount in violation referenced in the IAR would have been \$13,640, with no reference to the \$131,300.

## F. Audit Hearing

See Audit Hearing section on page 2.

## Commission Conclusion

On April 28, 2022, the Commission considered the Audit Division Recommendation Memorandum, in which the Audit staff recommended that the Commission find that UTEP made cash disbursements totaling \$13,640.

The Commission approved the Audit staff's recommendation.

## Finding 4. Recordkeeping for Disbursements

### Summary

During audit fieldwork, the Audit staff identified 17 disbursements totaling \$18,640, from the contribution account, for which UTEP did not maintain adequate documentation. In response to the Interim Audit Report recommendation, UTEP stated that the former treasurer did not maintain adequate documentation for the disbursements and requested that the finding either be removed from the audit report or the amount reduced, based on its corrective actions. UTEP provided records it said came from the former treasurer, reducing the amount of violation by \$500. Absent additional documentation, the Audit staff concluded that UTEP did not maintain sufficient records for 16 transactions totaling \$18,140. In response to the Draft Final Audit Report, UTEP again requested the findings that were addressed be reduced or removed from the audit report. UTEP also requested an audit hearing before the Commission.

The Commission approved a finding that UTEP failed to maintain records to support disbursements totaling \$18,140.

### Legal Standard

**A. Required Records for Disbursements.** For each disbursement, the treasurer of a political committee must keep records on the:

- Amount;
  - Date;
  - Name and address of the payee;<sup>11</sup>
  - Purpose (a brief description of why the disbursement was made - see below); and
  - If the disbursement was made on behalf of a candidate, the candidate's name and the office sought by the candidate.
  - If the disbursement was in excess of \$200, the records must include a receipt or invoice from the payee, or a cancelled check or share draft to the payee. If the disbursement was by credit card, the record must include the monthly statement or customer receipt and the cancelled check used to pay the credit card bill.
- 52 U.S.C. §30102(c)(5) and 11 CFR §102.9(b).

<sup>11</sup> The payee is usually the person providing the goods or services to the committee. In the case of travel advances, however, the payee is the person receiving the advance. 11 CFR §102.9(b)(2).

**B. Preserving Records and Copies of Reports.** The treasurer of a political committee must preserve all records and copies of reports for 3 years after the report is filed. 52 U.S.C. §30102(d).

## **Facts and Analysis**

### **A. Facts**

During audit fieldwork, the Audit staff reviewed disbursements from the contribution account and the non-contribution account and determined that UTEP did not maintain adequate documentation for 17 disbursements, totaling \$18,640<sup>12</sup>, from the contribution account. Sixteen of these disbursements totaling \$18,140 were for cash disbursements, and the remaining disbursement for \$500 was a debit purchase. UTEP did not maintain receipts or invoices for these transactions. In addition, these transactions were not in UTEP's disbursement database. The Audit staff used UTEP's bank statements and withdrawal slips to identify the dates and amounts of the disbursements.

### **B. Interim Audit Report & Audit Division Recommendation**

The Audit staff discussed this matter with the UTEP representative during the exit conference and provided a schedule of the disbursement transactions lacking adequate documentation. In response to the exit conference, UTEP provided copies of contracts, invoices, emails, billing statements, and receipts to adequately document some disbursements. These transactions were not included in the finding amount. The UTEP representative expressed a willingness to provide the documentation but stated that he was having difficulty obtaining the documentation and that the former treasurer "kept few if any records regarding financial transactions as the Director and Treasurer of [UTEP]." UTEP worked with the former treasurer to obtain control of the records and accounts, but stated he "has not been forthcoming with necessary information and records." The UTEP representative also stated that the former treasurer's "failure to produce records regarding [UTEP] disbursements" makes it "difficult to track his finances to determine the true purpose of many of his withdrawals and expenditures." UTEP stated the overwhelming problem was the former treasurer's use and management of UTEP funds. UTEP added that it was taking steps to avoid the misuse of funds by any future treasurer. The written statement of UTEP's former treasurer stated that the responsibility for the violation of FEC rules ultimately lies with the Tribe and not with him or his LLC.

The Interim Audit Report recommended that UTEP provide documentation to support the disbursements totaling \$18,640.

### **C. Committee Response to Interim Audit Report**

In response to the Interim Audit Report recommendation, UTEP stated that it requested the former treasurer "provide all remaining [UTEP] records in his possession" and that the former treasurer "provided some additional explanations of his disbursements." UTEP indicated it did not have the time to "assess his response" before responding to the

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<sup>12</sup> Eleven of the disbursements totaling \$14,740 were not reported on Schedule B (Itemized Disbursements) and are included in Finding 1 – Misstatement of Financial Activity.

Interim Audit Report. UTEP also stated that it appears the former treasurer “did not retain records or refuses to produce the records needed to fully address Finding 4”. The explanations UTEP stated were provided by the former treasurer included a spreadsheet with purposes of the disbursements; however, there was only documentation to support one transaction totaling \$500. No documentation or records were provided to support the remaining \$18,140 in disbursements.

UTEP noted that “...the responsibility for complying with the Act extends to holding former treasurers liable in their personal capacity” and as such, UTEP believes the former treasurer “should be held personally responsible under Finding 4, not [UTEP] or its current treasurer.”

#### **D. Draft Final Audit Report**

The Draft Final Audit Report acknowledged that the Audit staff reviewed and accepted the documentation for one transaction, reducing the violation amount by \$500. The spreadsheet the committee provided, compiled by the former treasurer, and not verified by current UTEP representatives, included purposes of disbursements, however, without supporting documentation, this was not sufficient to demonstrate compliance with the recordkeeping requirements of 11 CFR §102.9(b). Absent additional documentation, and supporting records, the Audit staff concluded that UTEP did not maintain sufficient records for 16 transactions totaling \$18,140.

Further, the Audit staff noted that the Commission has the authority to conduct audits and field investigations of any political committee required to file a report under section 30104 of the Federal Election Campaign Act, per 52 U.S.C. § 30111(b). The audit of UTEP was authorized pursuant to this statutory authority. The subject of this audit, therefore, is UTEP and not its former treasurer. As such, UTEP is responsible for any audit findings. Whether a committee treasurer may be held personally liable for violating a duty imposed by law is determined through the Commission’s enforcement process and not an audit.

#### **E. Committee Response to the Draft Final Audit Report**

In response to the Draft Final Audit Report, UTEP continued to request the findings that have been addressed or corrected be reduced or removed. UTEP stated the “FEC provides no basis for maintaining corrected audit findings in its DFAR. To encourage compliance with FEC audits, the FEC should remove and reduce findings that have been addressed.” UTEP requested an audit hearing with the Commission.

The Audit staff noted that Draft Final Audit Report reflected the violation amount was reduced by \$500, based on supporting documentation provided by UTEP.

#### **F. Audit Hearing**

See Audit Hearing section on page 2.



**Commission Conclusion**

On April 28, 2022, the Commission considered the Audit Division Recommendation Memorandum, in which the Audit staff recommended that the Commission find that UTEP failed to maintain records to support disbursements totaling \$18,140.

The Commission approved the Audit staff's recommendation.

**Finding 5. Recordkeeping for Communications****Summary**

During audit fieldwork, the Audit staff reviewed disbursements for communications to verify the accuracy of the information and proper classification of transactions disclosed on UTEP's disclosure reports. UTEP reported 15 disbursements totaling \$52,764 on Schedules B (Itemized Disbursements), Line 21(b) (Other Federal Operating Expenditures) and Line 29 (Other Disbursements); and Schedule H4 (Disbursements for Allocated Federal/Non-Federal Activity) with purposes including, "advertising," "printing," "video crew expense," "outdoor retailer advertising," "printed materials" and "banners, posters, brochures." An additional 18 disbursements totaling \$17,058 were not reported. In response to the exit conference, UTEP provided invoices but the documentation was insufficient to make a determination pertaining to the purpose for these disbursements and verification as to whether these were operating expenditures or allocable activity.

In response to the Interim Audit Report recommendation, UTEP provided records it said came from the former treasurer, reducing the amount of violation by \$8,000, and requested that the finding either be removed from the audit report or the amount reduced, based on its corrective actions. Absent additional documentation, the Audit staff concluded that UTEP did not maintain sufficient records for verification of proper reporting and determination of how to report communication disbursements totaling \$61,822. In response to the Draft Final Audit Report, UTEP again requested the findings that were addressed be reduced or removed from the audit report. UTEP also requested an audit hearing before the Commission.

The Commission approved a finding that UTEP failed to maintain records to support disbursements for communications totaling \$61,822.

**Legal Standard**

**A. Formal Requirements Regarding Reports and Statements.** Each political committee shall maintain records with respect to the matters required to be reported which shall provide in sufficient detail the necessary information and data from which the filed reports may be verified, explained, clarified, and checked for accuracy and completeness. 11 CFR §104.14(b)(1).

**B. Preserving Records and Copies of Reports.** The treasurer of a political committee must preserve all records and copies of reports for 3 years after the report is filed. 52 U.S.C. §30102(d).

## **Facts and Analysis**

### **A. Facts**

During audit fieldwork, the Audit staff reviewed disbursements for communications to verify the accuracy of the information and proper classification of transactions disclosed on the reports. UTEP made 33 disbursements totaling \$69,822 for which documentation was insufficient to make a determination pertaining to whether 15 of these disbursements totaling \$52,764 were correctly reported on Schedule B, Line 21(b); Schedule B, Line 29 and Schedule H4. The remaining 18 disbursements totaling \$17,058 were not reported. UTEP filed Forms 99 in response to the audit to address the unreported disbursements. See Finding 1 – Misstatement of Financial Activity.

The Audit staff's analysis resulted in the following:

**i. Disbursements – No Invoices or Copies of Communications Provided (\$66,577)**

Twenty-five disbursements totaling \$66,577 were paid to nine vendors. Twelve of these disbursements, totaling \$51,103, were disclosed on Schedule B, Line 29 and Schedule H4 with purposes of “advertising,” “printing” and “video crew expense.” Thirteen disbursements totaling \$15,474 were not reported. No invoices or associated communications were provided for these disbursements. Without sufficient detail, the Audit staff was unable to verify the reporting of these amounts or determine how the amounts should be reported. The Audit staff requested copies of the invoices and the associated communications for each of the disbursements. To date, these invoices and communications have not been provided.

**ii. Disbursements – Invoices Provided – No Copies of Communications Provided (\$1,795)**

Six disbursements totaling \$1,795 were paid to three vendors. One disbursement totaling \$211 was disclosed on Schedule B, Line 29 with a purpose of “advertising.” Five disbursements totaling \$1,584 were not reported. For these disbursements, UTEP provided invoices but did not provide information about the related communications. Without sufficient detail, the Audit staff was unable to verify the reporting of these amounts or determine how the amounts should be reported. The Audit staff requested copies of the associated communications. To date, these communications have not been provided.

**iii. Disbursements – No Invoices – Copies of Communications Provided (\$1,450)**

Two disbursements totaling \$1,450 were paid to two vendors. The disbursements were reported on Schedules B, Line 21(b) and Line 29 with purposes of “advertising” and “video crew expense,” respectively. For one of the

disbursements totaling \$1,165, UTEP provided a copy of a plan for TV ads but no invoice. For the other disbursement totaling \$285, UTEP provided a copy of the social media video link and an invoice, but the invoice provided did not match the amount or date of the transaction. Without sufficient detail, the Audit staff was unable to verify the reporting of these amounts or determine how the amounts should be reported. The Audit staff requested copies of the invoices. To date, these invoices have not been provided.

### **B. Interim Audit Report & Audit Division Recommendation**

The Audit staff discussed this matter with the UTEP representative during the exit conference and provided a schedule of the disbursements for which further records were necessary to verify the accuracy of UTEP's reporting. In response to the exit conference, UTEP provided some invoices and payment receipts with corresponding media records such as photographs of banners. These transactions were not included in the finding amount. The UTEP representative also stated that he was committed to resolving the findings and had been working with the vendors and UTEP's former treasurer to obtain the requested records. The UTEP representative expressed a willingness to provide the documentation but stated that he was having difficulty obtaining the documentation and that the former treasurer "kept few if any records regarding financial transactions as the Director and Treasurer of [UTEP]." UTEP had been working with the former treasurer to obtain control of the records and accounts, but stated he "has not been forthcoming with necessary information and records." The UTEP representative also stated that the former treasurer's "failure to produce records regarding [UTEP] disbursements" makes it "difficult to track his finances to determine the true purpose of many of his withdrawals and expenditures." UTEP stated the overwhelming problem was the former treasurer's use and management of UTEP funds. UTEP added that it was taking steps to avoid the misuse of funds by any future treasurer. The written statement of UTEP's former treasurer stated that the responsibility for the violation of FEC rules ultimately lies with the Tribe and not with him or his LLC.

The Interim Audit Report recommended that UTEP provide, in sufficient detail, documentation that allowed for verification of proper reporting and determination of how to report the communication disbursements totaling \$69,822. The documentation should have included the invoices and associated communications.

### **C. Committee Response to Interim Audit Report**

In response to the Interim Audit Report recommendation, UTEP stated it "worked extensively over the past year and a half to obtain information and records" from the former treasurer. UTEP provided the Audit staff with records received from the former treasurer, but noted it did not have time to "assess his responses" before responding to the Interim Audit Report. Additionally, UTEP stated it appears its former treasurer "did not maintain records for communications as required by the Federal Election Campaign Act and the FEC". The records UTEP said were from the former treasurer included an explanation of some of the disbursements, various invoices, cancelled checks, pictures of events and copies of fliers and billboards. However, UTEP and the former treasurer were not able to indicate which records corresponded to which disbursements. UTEP

requested this finding be removed from the audit report or the amount reduced based on its corrective actions.

UTEP noted that "...the responsibility for complying with the Act extends to holding former treasurers liable in their personal capacity" and as such, UTEP believes the former treasurer "should be held personally responsible under Finding 5, not [UTEP] or its current treasurer."

#### **D. Draft Final Audit Report**

The Draft Final Audit Report stated the Audit staff made several attempts to assist UTEP with verifying the accuracy of the disbursements for communications by providing a detailed spreadsheet to help UTEP match the invoices with the disbursements for communications and following up on UTEP's progress. The Audit staff verified one transaction, totaling \$8,000, was correctly reported based on a copy of the negotiated check to the vendor and a photo to support that the payment was for a booth rental. This reduced the violation amount by \$8,000. Absent additional documentation and/or UTEP's ability to correlate records previously provided with its reported disbursements, the Audit staff concluded that UTEP did not maintain sufficient records for verification of proper reporting and determination of how to report communication disbursements totaling \$61,822.

Further, the Audit staff noted that the Commission has the authority to conduct audits and field investigations of any political committee required to file a report under section 30104 of the Federal Election Campaign Act, per 52 U.S.C. § 30111(b). The audit of UTEP was authorized pursuant to this statutory authority. The subject of this audit, therefore, is UTEP and not its former treasurer. As such, UTEP is responsible for any audit findings. Whether a committee treasurer may be held personally liable for violating a duty imposed by law is determined through the Commission's enforcement process and not an audit.

#### **E. Committee Response to the Draft Final Audit Report**

In response to the Draft Final Audit Report, UTEP continued to request the findings that have been addressed or corrected be removed or reduced. UTEP stated the "FEC provides no basis for maintaining corrected audit findings in its DFAR. To encourage compliance with FEC audits, the FEC should remove and reduce findings that have been addressed." UTEP requested an audit hearing with the Commission.

The Audit staff noted that Draft Final Audit Report reflected the violation amount was reduced by \$8,000, based on supporting documentation provided by UTEP.

#### **F. Audit Hearing**

See Audit Hearing section on page 2.

#### **Commission Conclusion**

On April 28, 2022, the Commission considered the Audit Division Recommendation Memorandum, in which the Audit staff recommended that the Commission find that

UTEP failed to maintain records to support disbursements for communications totaling \$61,822.

The Commission approved the Audit staff's recommendation.

## **Finding 6. Disclosure of Disbursements**

### **Summary**

During audit fieldwork, the Audit staff identified 25 disbursements totaling \$94,998 that either lacked or had inaccurate disclosure information. In response to the exit conference, UTEP filed the Form 99 (Miscellaneous Electronic Submission) to include missing or correct information for all 25 disbursements totaling \$94,998. In response to the Interim Audit Report recommendation, UTEP stated it filed the Form 99 to correct the former treasurer's incomplete and inaccurate reporting for these transactions and requested that the finding be removed from the audit report based on its corrective actions. The Audit staff acknowledged the filing of the Form 99 corrected the public record. However, since UTEP's corrective action occurred in response to the audit, the finding remained in the audit report. In response to the Draft Final Audit Report, UTEP again requested the findings that were addressed be reduced or removed from the audit report. UTEP also requested an audit hearing before the Commission.

The Commission approved a finding that UTEP failed to correctly disclose disbursements totaling \$94,998.

### **Legal Standard**

**A. Reporting Other Disbursements.** When other expenditures to the same person exceed \$200 in a calendar year, the committee must report the:

- The amount of the expenditures;
- The date when the expenditures were made;
- The name and address of the payee; and
- The purpose of the expenditures. 52 U.S.C. §30104(b)(5)(A) and 11 CFR §104.3(b)(3)(i).

### **B. Examples of Purpose.**

- **Adequate Descriptions.** Examples of adequate descriptions of "purpose" include the following: dinner expenses, media, salary, polling, travel, party fees, phone banks, travel expenses, travel expense reimbursement, catering costs, loan repayment, or contribution refund. 11 CFR §104.3(b)(3)(i)(B).
- **Inadequate Descriptions.** The following descriptions do not meet the requirement for reporting "purpose": advance, election-day expenses, other expenses, expense reimbursement, miscellaneous, outside services, get-out-the-vote, and voter registration. 11 CFR §104.3(b)(3)(i)(B).

## **Facts and Analysis**

### **A. Facts**

During audit fieldwork, the Audit staff identified 25 reported disbursements totaling \$94,998 that either lacked or had inaccurate disclosure information. All of these disbursements were from the non-contribution account. These reporting errors consisted of the following:

- Ten disbursements totaling \$7,258 were missing a memo text<sup>13</sup> stating they were disbursements from the non-contribution account;
- Two disbursements totaling \$1,124 were missing a memo text stating they were disbursements from the non-contribution account and were reported on Schedule H4 (Disbursements for Allocated Federal /Non-Federal Activity) instead of Schedule B (Itemized Disbursements), Line 29 (Other Disbursements);
- Nine disbursements totaling \$82,773 were reported with the incorrect payees and missing a memo text stating they were disbursements from the non-contribution account;
- Four disbursements totaling \$3,843 were reported with the incorrect payees, missing a memo text stating they were disbursements from the non-contribution account and were reported on Schedule H4 instead of Schedule B, Line 29.

During audit fieldwork, the UTEP representative responded by sending a letter dated April 27, 2020 to the Acting Assistant Staff Director for Audit stating that “Mr. Lucero had a history of making incomplete and inaccurate filings with the FEC.”

### **B. Interim Audit Report & Audit Division Recommendation**

The Audit staff discussed this matter with the UTEP representative during the exit conference and provided a schedule of the disclosure transactions. In response to the exit conference, UTEP filed the Form 99 (Miscellaneous Electronic Submission) to include the missing or correct information and to correct the Schedules and line numbers for all 25 disbursements totaling \$94,998. Since UTEP’s corrective action occurred after audit notification, the matter is included in this audit report. UTEP stated the overwhelming problem is the former treasurer’s use and management of UTEP funds. UTEP added that it is taking steps to avoid the misuse of funds by any future treasurer. The written statement of UTEP’s former treasurer stated that the responsibility for the violation of FEC rules ultimately lies with the Tribe and not with him or his LLC.

The Interim Audit Report recommended that UTEP provide any additional comments it deemed relevant to this matter.

### **C. Committee Response to Interim Audit Report**

In response to the Interim Audit Report recommendation, UTEP stated the Form 99 was filed to correct the former treasurer’s “incomplete and inaccurate reporting of these transactions.” UTEP requested this finding be removed from the audit report based on its

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<sup>13</sup> When itemizing transactions from the non-contribution account on Schedule B, political committees should identify these disbursements by entering “Non-Contribution Account” as a memo text or in the description field along with the required purpose of the disbursement.

corrective actions.<sup>14</sup> UTEP also noted that “...the responsibility for complying with the Act extends to holding former treasurers liable in their personal capacity” and as such, UTEP believes the former treasurer “should be held personally responsible under Finding 6, not [UTE] or its current treasurer.”

#### **D. Draft Final Audit Report**

The Draft Final Audit Report acknowledged that UTEP corrected the public record by filing the Form 99. However, since UTEP’s corrective action occurred in response to the audit, the finding would remain in the audit report.

Further, the Audit staff noted that the Commission has the authority to conduct audits and field investigations of any political committee required to file a report under section 30104 of the Federal Election Campaign Act, per 52 U.S.C. § 30111(b). The audit of UTEP was authorized pursuant to this statutory authority. The subject of this audit, therefore, is UTEP and not its former treasurer. As such, UTEP is responsible for any audit findings.

#### **E. Committee Response to the Draft Final Audit Report**

In response to the Draft Final Audit Report, UTEP continued to request the findings that have been addressed or corrected be reduced or removed. UTEP stated the “FEC provides no basis for maintaining corrected audit findings in its DFAR. To encourage compliance with FEC audits, the FEC should remove and reduce findings that have been addressed.” UTEP requested an audit hearing with the Commission.

#### **F. Audit Hearing**

See Audit Hearing section on page 2.

#### **Commission Conclusion**

On April 28, 2022, the Commission considered the Audit Division Recommendation Memorandum, in which the Audit staff recommended that the Commission find that UTEP failed to correctly disclose disbursements totaling \$94,998.

The Commission approved the Audit staff’s recommendation.

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<sup>14</sup> In addition to the Form 99 provided by UTEP, the former treasurer provided updated purposes for three of the 25 disbursements; however, he did not provide any supporting documentation and UTEP could not verify the accuracy of the purposes. Therefore, UTEP did not amend its Form 99 to include these purposes.