

**FEDERAL ELECTION COMMISSION
FIRST GENERAL COUNSEL'S REPORT**

AR 24-01

DATE REFERRED: March 27, 2024

DATE OF NOTIFICATION: April 1, 2024

DATE OF LAST RESPONSE: April 30, 2024

DATE ACTIVATED: June 13, 2024

EXPIRATION OF SOL: October 6, 2025-
November 3, 2025

ELECTION CYCLES: 2020

SOURCE: Internally Generated

RESPONDENT: 1199 SEIU United Healthcare Workers East Federal
Political Action Fund and Helen Schaub in her
official capacity as treasurer

**RELEVANT STATUTES
AND REGULATION:**

52 U.S.C. § 30104(b)(4)(H)(iii)

52 U.S.C. § 30104(g)(1)

11 C.F.R. § 104.4(a), (c)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. INTRODUCTION

The Audit Division (“Audit”) referred 1199 SEIU United Healthcare Workers East Federal Political Action Fund and Helen Schaub in her official capacity as treasurer (the “Committee”) to the Office of General Counsel (“OGC”) for one apparent violation of the Federal Election Campaign Act of 1971, as amended (the “Act”), totaling \$1,075,248. The Commission approved a Final Audit Report (“FAR”) in connection with the Committee’s activity during the 2019 and 2020 calendar years that included one finding containing two sub-

parts for possible enforcement action: (1) failure to properly report independent expenditures (“IEs”); and (2) failure to file 24-Hour Reports for those IEs.¹

The Committee does not dispute the reporting errors identified in the Audit, and requests that the matter be referred to Alternative Dispute Resolution Office (“ADRO”).² In response to the Interim Audit Report (“IAR”), the Committee noted that it filed amended reports to correctly disclose the \$1,075,248 in IEs on Schedule E rather than Schedule B and the two previously undisclosed IEs totaling \$75,500.³

We recommend that the Commission open a Matter Under Review (“MUR”) and find reason to believe that the Committee violated: (1) 52 U.S.C. § 30104(b)(4)(H)(iii) and 11 C.F.R. § 104.4(a) by failing to report IEs totaling \$1,075,248 on Schedule E rather than Schedule B of its 2020 Pre-General and 2020 Post-General Reports; and (2) 52 U.S.C. § 30104(g)(1) and 11 C.F.R. § 104.4(c) by failing to timely file 24-Hour Reports for the IEs totaling \$75,500. We also recommend that the Commission enter into pre-probable cause conciliation with the Committee [REDACTED]

¹ Referral at 1 (Mar. 27, 2024). Finding 2(b), which pertains to the failure to file 24-Hour Reports, is subsumed in the main finding (Finding 2(a)), which pertains to the Committee’s failure to properly report the IEs on Schedule E rather than Schedule B. *Id.* In addition, the \$75,500 at issue for Finding 2(b) is part of the total amount at issue for Finding 2(a). *Id.*

² Resp. at 1-2 (Apr. 30, 2024). Finding 2(a) was referable to ADRO, but Audit refers all referable findings to OGC when at least one finding is referable to OGC. [REDACTED]

[REDACTED] the Committee was also involved in a recent matter with ADRO (ADR 1163), which pertained to 2022 election cycle activity. *See* Referral at 1; ADR 1163 (1199 SEIU United Healthcare Workers E. Fed. Pol. Action Fund (“1199 SEIU”)). The Commission approved a negotiated settlement agreement and closed the matter on August 7, 2024. *See* Negotiated Settlement Agreement (Aug. 7, 2024), ADR 1163 (1199 SEIU); Certification (“Cert.”) ¶ 1 (Aug. 7, 2024), ADR 1163 (1199 SEIU). The settlement agreement required the payment of a \$16,000 civil penalty and attendance at a FEC seminar. Negotiated Settlement Agreement (Aug. 7, 2024), ADR 1163 (1199 SEIU). The activity in that ADRO matter is separate from the activity in the present Audit Referral, which involves activity from 2020.

³ Referral at 1; Resp. at 2.

II. FACTUAL BACKGROUND

1199 SEIU United Healthcare Workers East Federal Political Action Fund is a separate segregated fund registered with the Commission since 1999.⁴ On March 21, 2024, the Commission approved the Proposed FAR covering activity from the 2019 and 2020 calendar years.⁵ On March 27, 2024, Audit referred the Committee to OGC for Finding 2.⁶

Audit referred the Committee for failing to properly disclose IEs totaling \$1,075,248 on Schedule E, Line 24 (Itemized Independent Expenditures) on its 2020 Pre-General and 2020 Post-General Reports.⁷ Instead, the Committee disclosed the IEs on Schedule B, Line 29 (Disbursements) of those Reports.⁸ In addition, the Referral notes the Committee's failure to file 24-Hour Reports for two IEs totaling \$75,500 in support of Joseph R. Biden's presidential campaign and disseminated between October 6 and November 3, 2020.⁹ Subsequently, the Committee amended its 2020 Pre-General and 2020 Post-General Reports to correctly disclose the IEs on Schedule E and added the previously undisclosed IEs totaling \$75,500.¹⁰

⁴ 1199 SEIU, Amended Statement of Organization (Jan. 24, 2023); 1199 SEIU, Statement of Organization (Sept. 9, 1999).

⁵ Cert. (Mar. 21, 2024), A21-10 (1199 SEIU); Final Audit Report ("FAR") (Mar. 21, 2024), A21-10 (1199 SEIU).

⁶ Referral at 1; *see supra* note 2.

⁷ Referral at 1. The Referral notes that the Committee initially filed the requisite 24/48-Hour Reports with the estimated amounts. *Id.*

⁸ *Id.*

⁹ *Id.* As noted by the Referral, the amounts for these two IEs were incorrectly included on Schedule B of the Committee's disclosure reports and were part of Finding 2(a). *Id.*

¹⁰ *Id.*; 1199 SEIU, Amended 2020 Pre-General Report at 4 (Oct. 25, 2023), <https://docquery.fec.gov/pdf/685/202309209597279685/202309209597279685.pdf> (reflecting second amended Report); 1199 SEIU, Amended 2020 Pre-General Report at 4 (Sept. 20, 2023), <https://docquery.fec.gov/pdf/685/202309209597279685/202309209597279685.pdf>; (reflecting first amended Report) 1199 SEIU, Amended 2020 Post-General Report at 4, 91-92 (Oct. 25, 2023), <https://docquery.fec.gov/pdf/628/202310259598842628/202310259598842628.pdf> (reflecting second amended Report); 1199 SEIU, Amended 2020 Post-General Report (Sept. 20, 2023), <https://docquery.fec.gov/pdf/731/202309209597279731/202309209597279731.pdf> (reflecting first amended Report).

The Committee admits the reporting violations contained in the Referral.¹¹ In particular, the Committee states that, during the course of the audit and its own review of its records, it amended both the 2020 Pre-General and 2020 Post-General Reports in order to address the violations.¹² The Committee requests that the matter be referred to ADRO since no further investigation is required to determine the nature of the violations given uncovered by the audit.¹³

III. LEGAL ANALYSIS

A. Reporting of Apparent Independent Expenditures

The Act and Commission regulations require political committees to provide an accounting of all disbursements, including IEs, on their regularly scheduled disclosure reports.¹⁴

The Committee, in response to the Audit Referral, acknowledged the reporting issues contained in the FAR.¹⁵ The Committee further states that it amended both its 2020 Pre-General and 2020 Post-General Reports in order to properly convert its erroneous Schedule B, Line 29 entries to Schedule E entries; added the two previously undisclosed independent expenditures for which it failed to file 24-Hour Reports; and updated the estimates that appeared on its various 2020 24/48-Hour Reports with final figures.¹⁶

¹¹ Resp. at 2.

¹² *Id.*; *see also* Referral at 2-3. [REDACTED] *See* AR 24-01 Referral Excel Chart (Mar. 27, 2024), AR 24-01 (1199 SEIU).

¹³ *Id.*

¹⁴ 52 U.S.C. § 30104(b)(4)(H)(iii); 11 C.F.R. § 104.4(a). Committees shall report the name and address of any person who receives a disbursement for an IE from the committee during the reporting period in an aggregate amount in excess of \$200 within the calendar year (or election cycle for an authorized committee), as well as the date, amount, and purpose of any such IE and include a statement that indicates whether such IEs are in support of or in opposition to a candidate, as well as the name and office sought by such candidate. 52 U.S.C. § 30104(b)(6)(B)(iii); 11 C.F.R. § 104.4(a). Committees must also report the total of all IEs. 52 U.S.C. § 30104(b)(4)(H)(iii); 11 C.F.R. § 104.4(a).

¹⁵ Resp. at 2.

¹⁶ *Id.* As previously discussed, this amount includes the \$75,500 figure representing previously undisclosed IEs for which 24-Hour Reports were also not filed by the Committee.

1 The Committee asserts that referral to ADRO is appropriate, since no investigation is
2 required given the detailed nature of the audit.¹⁷ It further asserts that the amounts involved are
3 comparable to amounts in violation that ADRO has previously handled, and nearly all of the IE
4 communications were reported on timely 24/48-Hour Reports, even if not in their correct
5 amounts.¹⁸

6 The Commission, however, has established thresholds for specific types of violations as
7 to what matters are referred to ADRO and what matters are referred to OGC. These thresholds
8 ensure that Committees who have similar violations are treated consistently.¹⁹ Based on these
9 thresholds, this matter was referred to OGC rather than ADRO. Accordingly, we recommend
10 that the Commission find reason to believe that the Committee violated 52 U.S.C.
11 § 30104(b)(4)(H)(iii) and 11 C.F.R. § 104.4(a) by failing to report IEs totaling \$1,075,248 on
12 Schedule E of its 2020 Pre-General and 2020 Post-General Reports.

13 **B. Reporting of Independent Expenditures on 24-Hour Reports**

14 Political committees that make IEs aggregating \$1,000 or more with respect to a given
15 election after the 20th day, but more than 24 hours, before the date of that election must file a 24-
16 Hour Report to disclose such IEs by 11:59 p.m. Eastern Standard/Daylight Time on the day
17 following the date on which a communication is publicly distributed or otherwise publicly

¹⁷ *Id.* at 2-3.

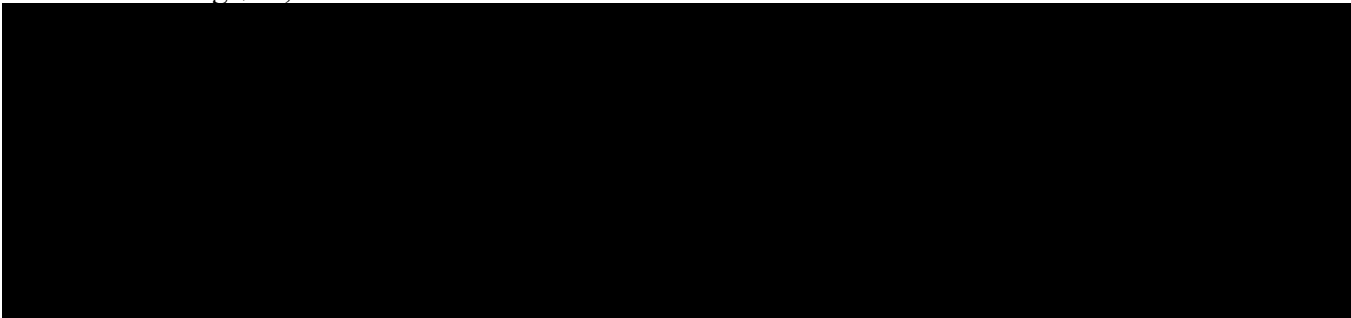
¹⁸ *Id.* at 3.

¹⁹ *See supra* note 2.

1 disseminated.²⁰ Additional 24-Hour Reports must be filed by 11:59 p.m. the following day each
2 time a committee makes or contracts to make IEs aggregating an additional \$1,000.²¹

3 During the course of the audit and the review of the apparent IEs totaling \$821,921,
4 Audit staff identified two disbursements, totaling \$75,500, for which the Committee may have
5 been required to file 24-Hour Reports depending on the date of public dissemination.²² In
6 response to the IAR recommendation, the Committee acknowledged that the two disbursements,
7 were IEs in support of Joseph Biden and were disseminated between October 6 and November 3,
8 2020.²³ However, the Committee did not address this finding in its response to the Draft FAR.²⁴

9 The Committee, in response to the Referral, admits that it failed to timely file the
10 requisite 24-Hour Reports to disclose the two IEs totaling \$75,500.²⁵ Accordingly, we
11 recommend that the Commission find reason to believe that the Committee violated 52 U.S.C.
12 § 30104 (g)(1) and 11 C.F.R. § 104.4(c) by failing to file the requisite 24-Hour Reports for the
13 two IEs totaling \$75,500.



²⁰ 52 U.S.C. § 30104(g)(1); 11 C.F.R. § 104.4(c). The Act and Commission regulations include a separate requirement to file 48-Hour Reports for independent expenditures aggregating \$10,000 or more at any time up to and including the 20th day before the date of an election. 52 U.S.C. § 30104(g)(2); 11 C.F.R. § 104.4(b).

²¹ 11 C.F.R. § 104.4(c).

²² Referral at 1.

²³ *Id.*

²⁴ *Id.* at 6.

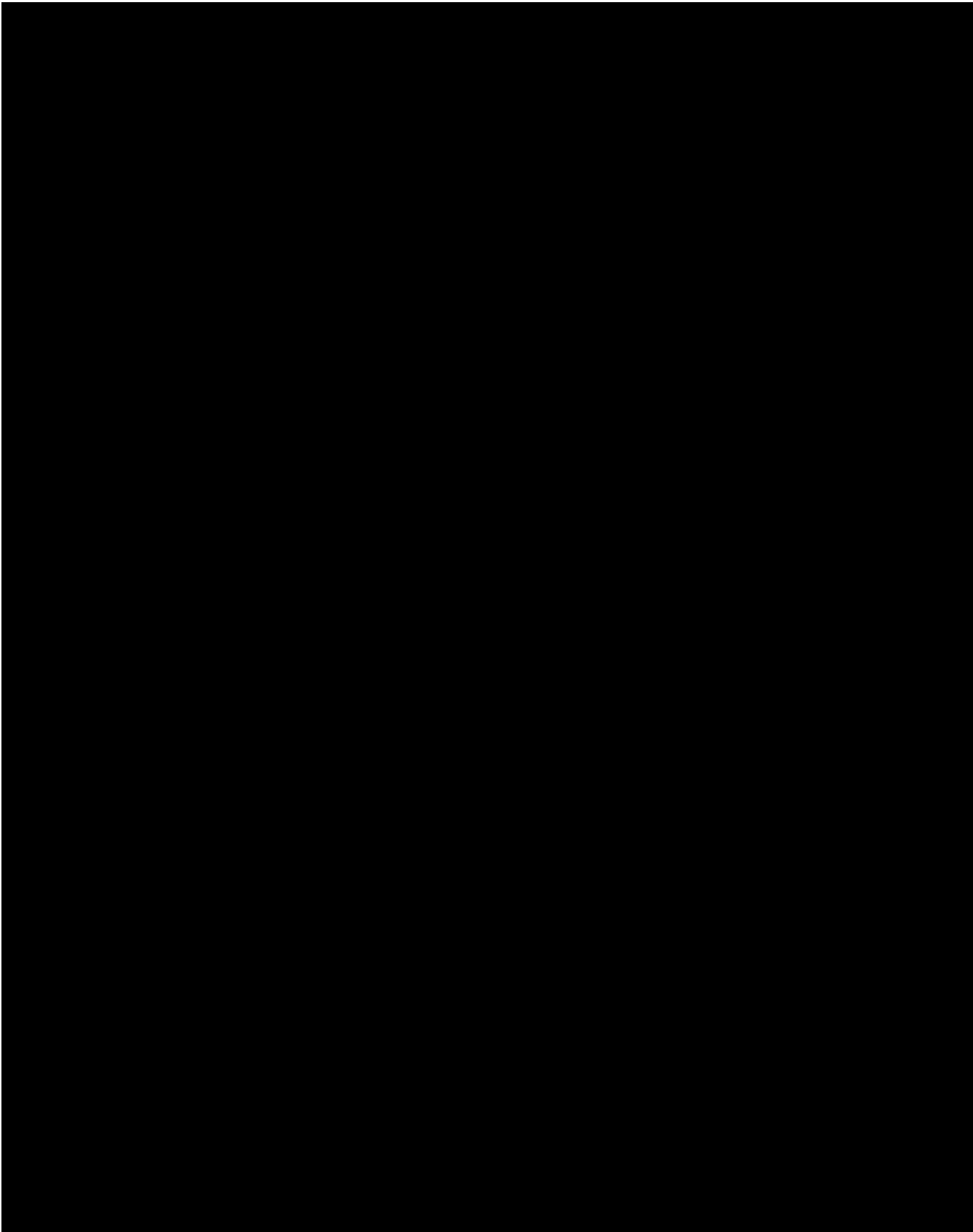
²⁵ Resp. at 2.

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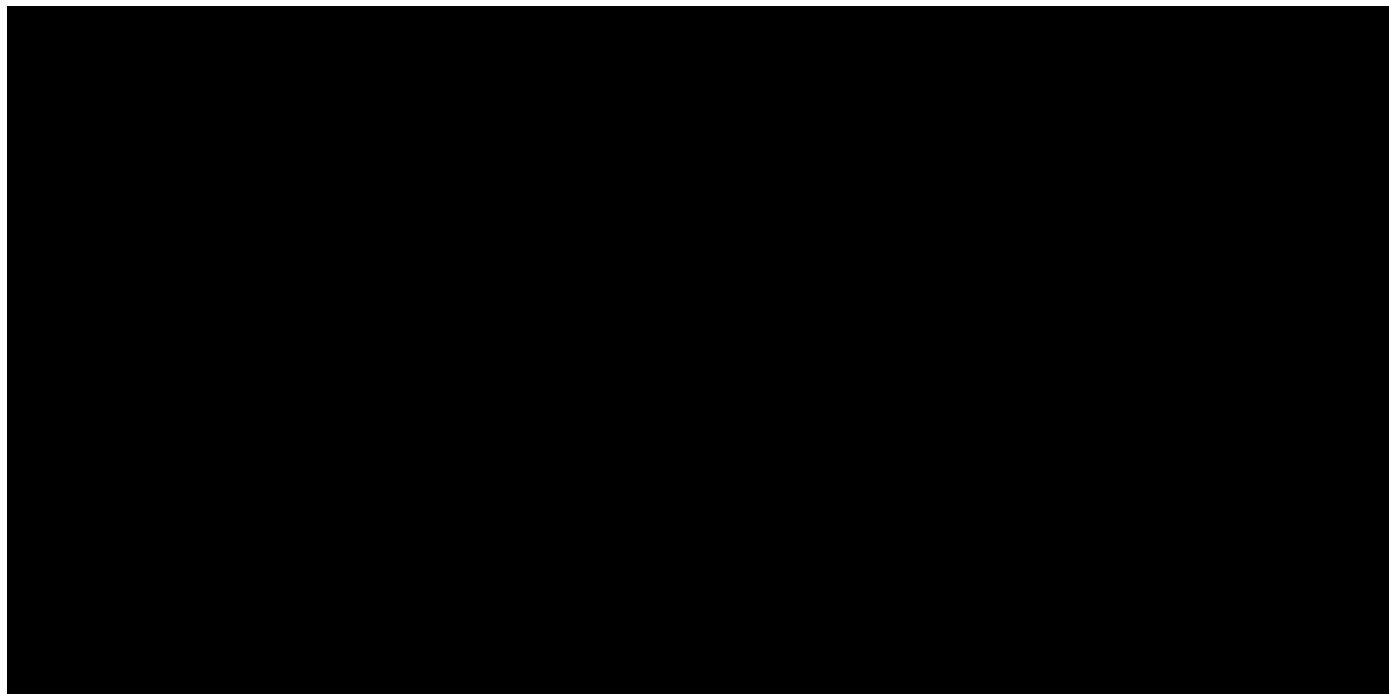
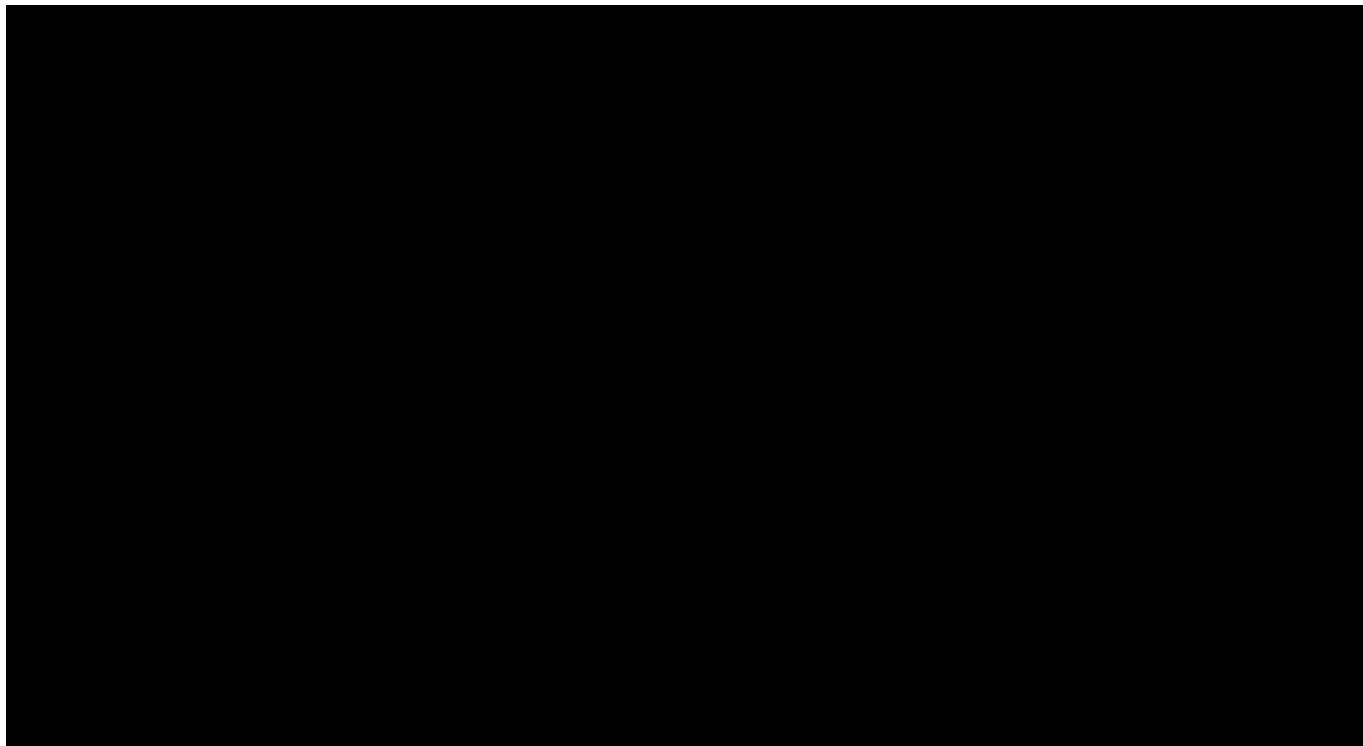


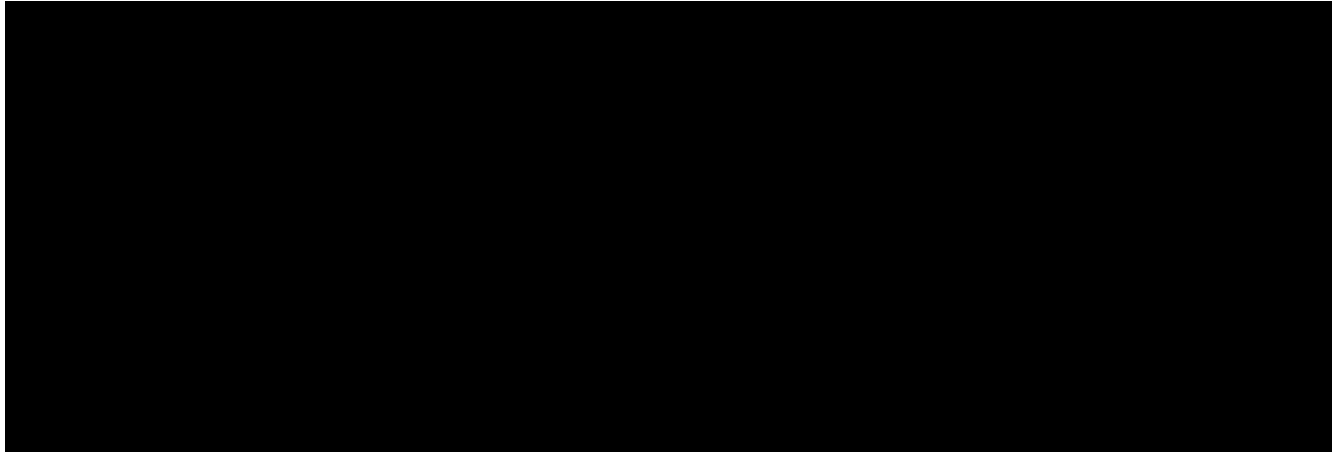
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IV. RECOMMENDATIONS

1. Open a Matter Under Review;
2. Find reason to believe that 1199 SEIU United Healthcare Workers East Federal Political Action Fund and Helen Schaub in her official capacity as treasurer violated 52 U.S.C. § 30104(b)(4)(H)(iii) and 11 C.F.R. § 104.4(a) by failing to disclose independent expenditures on Schedule E of its disclosure reports;
3. Find reason to believe that 1199 SEIU United Healthcare Workers East Federal Political Action Fund and Helen Schaub in her official capacity as treasurer violated 52 U.S.C. § 30104(g)(1) and 11 C.F.R. § 104.4(c) by failing to report independent expenditures;
4. Approve the attached Factual and Legal Analysis;
5. Enter into pre-probable cause conciliation with 1199 SEIU United Healthcare Workers East Federal Political Action Fund and Helen Schaub in her official capacity as treasurer;
6. Approve the attached Conciliation Agreement; and

7. Approve the appropriate letter.

Lisa J. Stevenson
Acting General Counsel

10/11/2024
DATE

Adrienne C. Baranowicz
Adrienne Baranowicz
Deputy Associate General Counsel for Enforcement

Mark Shonkwiler
Mark D. Shonkwiler
Assistant General Counsel

Kimberly D. Hart
Kimberly D. Hart
Attorney

ATTACHMENTS:

1. Factual and Legal Analysis



FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENT: 1199 SEIU United Healthcare Workers East MUR _____
Federal Political Action Fund

I. INTRODUCTION:

The Audit Division (“Audit”) referred 1199 SEIU United Healthcare Workers East Federal Political Action Fund and Helen Schaub in her official capacity as treasurer (the “Committee”) to the Office of General Counsel (“OGC”) for one apparent violation of the Federal Election Campaign Act of 1971, as amended (the “Act”), totaling \$1,075,248. The Commission approved a Final Audit Report (“FAR”) in connection with the Committee’s activity during the 2019 and 2020 calendar years that included one finding containing two sub-parts for possible enforcement action: (1) failure to properly report independent expenditures (“IEs”); and (2) failure to file 24-Hour Reports for those IEs.¹

The Committee does not dispute the reporting errors identified in the Audit, and requests that the matter be referred to Alternative Dispute Resolution Office (“ADRO”).² In response to the Interim Audit Report (“IAR”), the Committee noted that it filed amended reports to correctly

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² Resp. at 1-2 (Apr. 30, 2024). The Committee was also involved in a recent matter with ADRO (ADR 1163), which pertained to 2022 election cycle activity. *See* Referral at 1; ADR 1163 (1199 SEIU United Healthcare Workers E. Fed. Pol. Action Fund (“1199 SEIU”)). The Commission approved a negotiated settlement agreement and closed the matter on August 7, 2024. *See* Negotiated Settlement Agreement (Aug. 7, 2024), ADR 1163 (1199 SEIU); Certification (“Cert.”) ¶ 1 (Aug. 7, 2024), ADR 1163 (1199 SEIU). The settlement agreement required the payment of a \$16,000 civil penalty and attendance at a FEC seminar. Negotiated Settlement Agreement (Aug. 7, 2024), ADR 1163 (1199 SEIU). The activity in that ADRO matter is separate from the activity in the present Audit Referral, which involves activity from 2020.

disclose the \$1,075,248 in IEs on Schedule E rather than Schedule B and the two previously undisclosed IEs totaling \$75,500.³

Accordingly, the Commission finds reason to believe that the Committee violated:

(1) 52 U.S.C. § 30104(b)(4)(H)(iii) and 11 C.F.R. § 104.4(a) by failing to report IEs totaling \$1,075,248 on Schedule E rather than Schedule B of its 2020 Pre-General and 2020 Post-General Reports; and (2) 52 U.S.C. § 30104(g)(1) and 11 C.F.R. § 104.4(c) by failing to timely file 24-Hour Reports for the IEs totaling \$75,500.

II. FACTUAL BACKGROUND

1199 SEIU United Healthcare Workers East Federal Political Action Fund is a separate segregated fund registered with the Commission since 1999.⁴ On March 21, 2024, the Commission approved the Proposed FAR covering activity from the 2019 and 2020 calendar years.⁵ On March 27, 2024, Audit referred the Committee to OGC for Finding 2.⁶

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⁸ *Id.*

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campaign and disseminated between October 6 and November 3, 2020. Subsequently, the Committee amended its 2020 Pre-General and 2020 Post-General Reports to correctly disclose the IEs on Schedule E and added the previously undisclosed IEs totaling \$75,500.⁹

The Committee admits the reporting violations contained in the Referral.¹⁰ In particular, the Committee states that, during the course of the audit and its own review of its records, it amended both the 2020 Pre-General and 2020 Post-General Reports in order to address the violations.¹¹ The Committee requests that the matter be referred to ADRO since no further investigation is required to determine the nature of the violations given uncovered by the audit.¹²

III. LEGAL ANALYSIS

A. Reporting of Apparent Independent Expenditures

The Act and Commission regulations require political committees to provide an accounting of all disbursements, including IEs, on their regularly scheduled disclosure reports.¹³

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¹⁰ Resp. at 2.

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¹² *Id.*

¹³ 52 U.S.C. § 30104(b)(4)(H)(iii); 11 C.F.R. § 104.4(a). Committees shall report the name and address of any person who receives a disbursement for an IE from the committee during the reporting period in an aggregate amount in excess of \$200 within the calendar year (or election cycle for an authorized committee), as well as the date, amount, and purpose of any such IE and include a statement that indicates whether such IEs are in support of or in opposition to a candidate, as well as the name and office sought by such candidate. 52 U.S.C. § 30104(b)(6)(B)(iii); 11 C.F.R. § 104.4(a). Committees must also report the total of all IEs. 52 U.S.C. § 30104(b)(4)(H)(iii); 11 C.F.R. § 104.4(a).

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4 entries to Schedule E entries; added the two previously undisclosed independent expenditures for
5 which it failed to file 24-Hour Reports; and updated the estimates that appeared on its various
6 2020 24/48-Hour Reports with final figures.¹⁶

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10 communications were reported on timely 24/48-Hour Reports, even if not in their correct
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14 ensure that Committees who have similar violations are treated consistently. Based on these
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16 finds reason to believe that the Committee violated 52 U.S.C. § 30104(b)(4)(H)(iii) and
17 11 C.F.R. § 104.4(a) by failing to report IEs totaling \$1,075,248 on Schedule E of its 2020 Pre-
18 General and 2020 Post-General Reports.

¹⁵ Resp. at 2.

¹⁶ *Id.* As previously discussed, this amount includes the \$75,500 figure representing previously undisclosed IEs for which 24-Hour Reports were also not filed by the Committee.

¹⁷ *Id.* at 2-3.

¹⁸ *Id.* at 3.

B. Reporting of Independent Expenditures on 24-Hour Reports

Political committees that make IEs aggregating \$1,000 or more with respect to a given election after the 20th day, but more than 24 hours, before the date of that election must file a 24-Hour Report to disclose such IEs by 11:59 p.m. Eastern Standard/Daylight Time on the day following the date on which a communication is publicly distributed or otherwise publicly disseminated.¹⁹ Additional 24-Hour Reports must be filed by 11:59 p.m. the following day each time a committee makes or contracts to make IEs aggregating an additional \$1,000.²⁰

During the course of the audit and the review of the apparent IEs totaling \$821,921, Audit staff identified two disbursements, totaling \$75,500, for which the Committee may have been required to file 24-Hour Reports depending on the date of public dissemination.²¹ In response to the IAR recommendation, the Committee acknowledged that the two disbursements, were IEs in support of Joseph Biden and were disseminated between October 6 and November 3, 2020.²² However, the Committee did not address this finding in its response to the Draft FAR.²³

The Committee, in response to the Referral, admits that it failed to timely file the requisite 24-Hour Reports to disclose the two IEs totaling \$75,500.²⁴ Accordingly, the Commission finds reason to believe that the Committee violated 52 U.S.C. § 30104 (g)(1) and

¹⁹ 52 U.S.C. § 30104(g)(1); 11 C.F.R. § 104.4(c). The Act and Commission regulations include a separate requirement to file 48-Hour Reports for independent expenditures aggregating \$10,000 or more at any time up to and including the 20th day before the date of an election. 52 U.S.C. § 30104(g)(2); 11 C.F.R. § 104.4(b).

²⁰ 11 C.F.R. § 104.4(c).

²¹ Referral at 1.

²² *Id.*

²³ *Id.* at 6.

²⁴ Resp. at 2.

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THIS PROPOSED DRAFT WAS VOTED ON BUT
NOT APPROVED BY THE COMMISSION.

- 1 11 C.F.R. § 104.4(c) by failing to file the requisite 24-Hour Reports for the two IEs totaling
- 2 \$75,500.