



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 5, 2022

MEMORANDUM

TO: Patricia C. Orrock
Chief Compliance Office

FROM: Neven Stipanovic *NFS*
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Assistant General Counsel
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SUBJECT: Interim Audit Report on the Communications Workers of America – COPE
Political Contributions Committee (LRA 1162)

I. INTRODUCTION

The Office of the General Counsel has reviewed the draft Interim Audit Report (“IAR”) on the Communications Workers of America – COPE Political Contributions Committee (“Committee”). The draft IAR contains two findings: (1) Misstatement of Financial Activity, and (2) Disclosure of Occupation and Name of Employer. We concur with both findings and comment on a legal argument the Committee appears to have raised regarding Finding 2. If you have any questions, please contact Joshua Blume, the attorney assigned to this audit.

II. DISCLOSURE OF OCCUPATION AND NAME OF EMPLOYER (Finding 2).

The draft IAR concludes that the Committee has not demonstrated that it exercised its “best efforts” to obtain, maintain, and submit the occupation and/or name of employer for 18,702 contributions totaling \$670,717. Audit’s review of the Committee’s records revealed that, of this amount, the Committee had in its possession the occupation and name of employer for 16,768 contributions totaling \$597,808 but the Committee, to date, has not reported this information.

The Committee’s written response to the exit conference states, “the fact that the

Committee in fact has complete information for the overwhelming majority of contributors identified during the audit demonstrate [*sic*] the Committee’s compliance with the Commission’s ‘best efforts’ requirements.” It is not clear whether the Committee intends by this statement to assert that obtaining and maintaining contributor information fully satisfies the Commission’s “best efforts” requirements as a matter of law, even if the Committee does not submit that information in reports to the Commission.

We comment to observe that obtaining and maintaining contributor information are necessary conditions for satisfying the “best efforts” requirement but are not sufficient. “Best efforts” under the Act and Commission regulations requires such information to also be submitted to the Commission on a committee’s reports.¹ The Commission has explained that “when political committees do not have complete contributor identifications at the time they file reports, they must include whatever information is available. In this situation, political committees have an obligation under the [Act] to file amended reports if additional contributor information is obtained after the applicable reporting period.”²

Thus, because the Committee, to date, has not submitted, in reports to the Commission, the information it obtained and maintained through its best efforts, it has not satisfied the “best efforts” requirements of 52 U.S.C. § 30102(i) and 11 C.F.R. § 104.7.

¹ See 52 U.S.C. § 30102(i) (when treasurer “shows best efforts have been used to obtain, maintain, *and submit* the information required by this Act for the political committee, any reports . . . shall be considered in compliance” (emphasis added)); 11 C.F.R. § 104.7(a) (same); *id.* § 104.7(b)(3) (specifying that treasurer and committee “will only be deemed to have exercised best efforts” if “treasurer reports all contributor information not provided by the contributor, but in the political committee’s possession”); *id.* § 104.7(b)(4) (same and requiring committee to amend its reports “[i]f any of the contributor information is received after the contribution has been disclosed on a regularly scheduled report”).

² Recordkeeping and Reporting by Political Committees: Best Efforts, 58 Fed. Reg. 57725, 57728 (Oct. 27, 1993) (citations omitted).