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For Hearing of January 28, 2021



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 21, 2021

MEMORANDUM

To: The Commission

Through: Alec Palmer *AP*
Staff Director

From: Patricia C. Orrock *PCO*
Chief Compliance Officer

Dayna C. Brown *DCB*
Acting Assistant Staff Director
Audit Division

Nicole Burgess *NB*
Audit Manager

By: Chris Carrell *CJC*
Lead Auditor

Subject: Audit Hearing for Grassroots Victory PAC (A19-14)

Attached for your information is a copy of the Draft Final Audit Report (DFAR) and Office of General Counsel legal analysis that was provided to Grassroots Victory PAC (GVP) on October 14, 2020. Counsel representing GVP responded to the DFAR on November 6, 2020, and requested a hearing before the Commission to discuss the Audit Division's conclusion to the Misstatement of Financial Activity – Increased Activity Finding. The hearing was granted on November 30, 2020, and has been scheduled for January 28, 2021.

Misstatement of Financial Activity – Increased Activity Finding

This Finding is based on GVP's failure to comply with 52 U.S.C. §30104(b)(1), (2), (3), (4) and (5), and 52 U.S.C. § 30104(a)(4)(B). The Federal Election Campaign Act ("Act") and related regulations refer to contents of reports and require that each report disclose financial activity for the corresponding reporting period and election cycle.

In the Interim Audit Report (IAR), the Audit staff determined, based on bank records provided by GVP, that the committee understated its disbursements by \$106,674 on its original reports filed with the Commission 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 in August 2018, prior to the October 2019 audit notification, to disclose the missing disbursements.

In response to the IAR, GVP stated the auditors found no new information that the Committee had not already disclosed to the Commission. GVP stated that it was not the audit that revealed its disbursements were understated by \$106,674 in calendar years 2017 and 2018, but rather GVP's proactive amendments in August 2018, prior to the audit. GVP explained that, in early 2018 they 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 their original reports rather than their 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 the GVP accurately disclosed its financial activity on its own volition, through amended reports that preceded the audit.

The DFAR concluded that 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, the DFAR also highlighted 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.

In response to the DFAR, 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 reiterated 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. Specifically, GVP stated:

A finding of "Misstatement of Financial Activity" therefore does not match what the audit actually found – the Committee accurately disclosed its financial activity on its own volition, through amended reports that preceded the audit. The Audit Division's own guidance says that a committee "can reduce the misstated amount by demonstrating that the audited reports were materially correct or misstated by a lesser amount prior to the audit notification letter."

Fed. Elec. Comm'n, *Audit Division 2017–2018 Materiality Thresholds*
at 28.

The Audit staff notes that, as stated in the IAR, GVP's bank activity was compared to its original reports and its amended reports in the course the audit. In addition, GVP's DFAR response cited the redacted Materiality Thresholds used for Misstatement Findings, which compare a committee's most recent reports filed, i.e. amended reports, to its bank activity. However, the Materiality Threshold for Misstatement Findings does not apply to the finding in this Audit Report, rather the Materiality Threshold for Increased Financial Activity, which compares a committee's original reports to its bank activity is the applicable Materiality Threshold for the finding. The Increased Financial Activity threshold expressly states that this review will be performed for, "any Committee that was assigned RAD referral point(s) for 'increased reported activity' (Receipts or Disbursements)..." As GVP indicated in its exit conference, IAR and DFAR responses, the committee filed amended reports in 2018 to disclose previously missing financial activity, resulting in the disclosure of increased reported activity and the corresponding assignment of RAD referral point(s). As such, a review of Increased Financial Activity was performed by the Audit staff in accordance with the Materiality Thresholds. Further, the increased activity met or exceeded the Criteria for Inclusion in the Audit Report, resulting in the finding currently before the Commission.

Documents related to this audit report can be viewed in the Voting Ballot Matters folder. Should you have any questions, please contact Nicole Burgess or Chris Carrell 694-1200.

Attachments:

- Draft Final Audit Report of the Audit Division on Grassroots Victory PAC
- Office of General Counsel Legal Analysis, dated October 7, 2020
- GVP Response to Draft Final Audit Report, dated November 6, 2020

cc: Office of General Counsel



Draft Final Audit Report of the Audit Division on the Grassroots Victory PAC

(January 1, 2017 - December 31, 2018)

Why the Audit Was Done

Federal law permits the Commission to conduct audits and field investigations of any political committee that is required to file reports under the Federal Election Campaign Act (the Act). The Commission generally conducts such audits when a committee appears not to have met the threshold requirements for substantial compliance with the Act.¹ The audit determines whether the committee complied with the limitations, prohibitions and disclosure requirements of the Act.

Future Action

The Commission may initiate an enforcement action, at a later time, with respect to any of the matters discussed in this report.

About the Committee (p. 2)

The Grassroots Victory PAC is a non-qualified, non-connected political action committee headquartered in Washington, DC. For more information, see the chart on the Committee Organization p. 2.

Financial Activity (p. 2)

·	Receipts	
○	Contributions from Individuals	\$ 612,987
○	Contributions from Other Political Committees	5,000
○	Offsets to Operating Expenditures	26
	Total Receipts	\$ 618,013
·	Disbursements	
○	Operating Expenditures	\$ 36,852
○	Contributions to Federal Committees	110,000
○	Independent Expenditures	8,974
○	Contribution Refunds	8,129
○	Other Disbursements	334,999
	Total Disbursements	\$ 498,954

Finding and Recommendation (p. 3)

- Misstatement of Financial Activity – Increased Activity

¹ 52 U.S.C. §30111(b).



Draft Final Audit Report of the Audit Division on the Grassroots Victory PAC

(January 1, 2017 - December 31, 2018)

DRAFT

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Part I

Background

Authority for Audit

This report is based on an audit of the Grassroots Victory PAC (GVP), undertaken by the Audit Division of the Federal Election Commission (the Commission) in accordance with the Federal Election Campaign Act of 1971, as amended (the Act). The Audit Division conducted the audit pursuant to 52 U.S.C. §30111(b), which permits the Commission to conduct audits and field investigations of any political committee that is required to file a report under 52 U.S.C. §30104. Prior to conducting any audit under this subsection, the Commission must perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act. 52 U.S.C. §30111(b).

Scope of Audit

Following Commission-approved procedures, the Audit staff evaluated various risk factors and as a result, this audit examined:

1. the disclosure of individual contributors' occupation and name of employer;
2. the consistency between reported figures and bank records;
3. the completeness of records; and
4. other committee operations necessary to the review.

Part II

Overview of Committee

Committee Organization

Important Dates	
· Date of Registration	February 8, 2016
· Audit Coverage	January 1, 2017 - December 31, 2018
Headquarters	
Washington, DC	
Bank Information	
· Bank Depositories	One
· Bank Accounts	One checking account
Treasurer	
· Treasurer When Audit Was Conducted	Eleanor Collinson
· Treasurer During Period Covered by Audit	Eleanor Collinson (5/17/18 - Present), Shelbi Warner (2/8/16-5/16/18)
Management Information	
· Attended FEC Campaign Finance Seminar	Yes
· Who Handled Accounting and Recordkeeping Tasks	Paid Staff

Overview of Financial Activity (Audited Amounts)

Cash on hand @ January 1, 2017	\$ 28,409
Receipts	
○ Contributions from Individuals	612,987
○ Contributions from Other Political Committees	5,000
○ Offsets to Operating Expenditures	26
Total Receipts	\$ 618,013
Disbursements	
○ Operating Expenditures	36,852
○ Contributions to Federal Committees	110,000
○ Independent Expenditures	8,974
○ Contribution Refunds	8,129
○ Other Disbursements	334,999
Total Disbursements	\$ 498,954
Cash on hand @ December 31, 2018	\$ 147,468

Part III

Summary

Finding and Recommendation

Misstatement of Financial Activity – Increased Activity

A comparison of GVP's bank activity with its original 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 report should be modified to reflect that the reports on file when the audit began accurately disclosed their financial activity. (For more detail, see p. 4.)

Part IV

Finding and Recommendation

Misstatement of Financial Activity – Increased Activity

Summary

A comparison of GVP's bank activity with its original 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 report should be modified to reflect that the reports on file when the audit began accurately disclosed their financial activity.

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 the Committee 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 they 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 their original reports rather than their 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 the GVP accurately disclosed its financial activity on its own volition, through amended reports that preceded the audit.

The Audit staff notes that, as highlighted in the Facts section above, it reviewed GVP's original reports and amended reports during the course of the audit. GVP is 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 maintains that GVP's original reports understated its disbursements by \$106,674.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Patricia C. Orrock
Chief Compliance Officer

October 7, 2020

Dayna Brown
Acting Assistant Staff Director
Audit Division

FROM: Neven F. Stipanovic *NS* for NFS
Associate General Counsel
Policy Division

Lorenzo Holloway *LH*
Assistant General Counsel
Compliance Advice

Jennifer Waldman *JW*
Attorney

SUBJECT: Draft Final Audit Report on Grassroots Victory Political Action
Committee (LRA 1106)

The Office of the General Counsel has reviewed the proposed Draft Final Audit Report (“DFAR”) for the Grassroots Victory Political Action Committee. The DFAR contains one finding: Misstatement of Financial Activity – Increased Activity. We concur with the finding. If you have any questions, please contact Jennifer Waldman, the attorney assigned to this audit.

November 6, 2020

Jonathan S. Berkon
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VIA E-MAIL AUDIT@FEC.GOV

Ms. Dayna C. Brown
Acting Assistant Staff Director
Audit Division
Federal Election Commission
1050 First Street NE
Washington, DC 20463

Re: Grassroots Victory PAC Draft Final Audit Report

Dear Ms. Brown:

We write as counsel for Grassroots Victory PAC (“GVP” or the “Committee”) in response to the Draft Final Audit Report (“Report”). The Report, unlike the Interim Audit Report and the preliminary audit findings, finally concedes that the auditors found no new information that the Committee had not already disclosed to the Commission: “GVP is 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.” Report at 5. Under the Audit Division’s own guidance, a misstatement of financial activity finding is therefore unwarranted. The Committee requests a hearing on this matter.

As we discussed in our response to the preliminary audit findings and to the Interim Audit Report, in early 2018, the Committee discovered unreported disbursements for its September, October, and November Monthly 2017 reports and amended those reports. To discover the source of the discrepancies, the Committee 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 so the Committee amended its reports in August 2018. As noted in the Report, this audit followed those proactive amendments.

We have twice asked the auditors 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. Once again, the Report contains no explanation:

The Audit staff notes that, as highlighted in the Facts section above, it reviewed GVP’s original reports and amended reports during the course of the audit. GVP is correct in stating that in August 2018, prior to the October 2019 audit notification, it amended its

Dayna C. Brown
November 6, 2020
Page 2

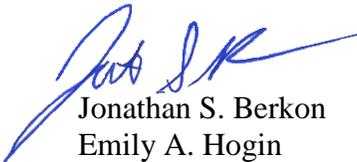
disclosure reports to accurately disclose missing financial activity. However, it was GVP's responsibility to accurately and timely disclose all financial activity on the respective due date of the required report. As such, the Audit staff maintains that GVP's original reports understated its disbursements by \$106,674. Report at 5.

GVP respects that it has a responsibility to accurately and timely disclose all financial activity. That is why it undertook a comprehensive review of its reports and financial activities to correct the public record. In addition, as we discussed in our response to the preliminary audit findings, the Committee has taken numerous additional steps to improve its recordkeeping and reporting capabilities, including working with an outside compliance firm to audit its activities and sending staff to attend five FEC webinars.

The Report confirms that these efforts were successful and that GVP's public reports were accurate as of August 2018. A finding of "Misstatement of Financial Activity" therefore does not match what the audit actually found—the Committee accurately disclosed its financial activity, on its own volition, through amended reports that preceded the audit. The Audit Division's own guidance says that a committee "can reduce the misstated amount by demonstrating that the audited reports were materially correct or misstated by a lesser amount prior to the audit notification letter." Fed. Elec. Comm'n, *Audit Division 2017–2018 Materiality Thresholds* at 28.

Here, the Report concedes that the Committee's reports were materially correct more than a year before the audit notification letter. There was no misstatement of financial activity prior to the audit notification letter. Thus, under the Audit Division's own guidance, the Committee's reports as amended prior to the audit do raise an issue that meets the criteria for inclusion in the audit report. *Id.*

Very truly yours,



Jonathan S. Berkon
Emily A. Hogin
Counsel for Grassroots Victory PAC

cc: James E. "Trey" Trainor III, Chair
Steven T. Walther, Vice Chair
Ellen L. Weintraub, Commissioner
Nicole Burgess, Audit Manager