



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 5, 2015

MEMORANDUM

To: The Commission

Through: Alec Palmer
Staff Director

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

Thomas E. Hintermister ~~TH~~
Assistant Staff Director
Audit Division

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Audit Manager

By: Jeff Spilizewski *JS*
Lead Auditor

Subject: Audit Division Recommendation Memorandum on New American City,
Inc. (NAC)

Pursuant to Commission Directive No. 70 (FEC Directive on Processing Audit Reports), the Audit staff presents its recommendations below and discusses the findings in the attached Draft Final Audit Report (DFAR). The Office of General Counsel has reviewed this memorandum and concurs with the recommendations.

Finding 1. Misstatement of Financial Activity

During audit fieldwork, a comparison of NAC's reported financial activity with its bank records revealed a misstatement of financial activity for disbursements during 2011 through 2012. The total of the misstated amounts was \$2,024,213. In response to the Preliminary Audit Report (PAR) recommendation, NAC filed amended disclosure reports that materially corrected its misstated activity. NAC had no additional comments in response to the DFAR.

The Audit staff recommends that the Commission find that NAC misstated its financial activity for disbursements during calendar years 2011 and 2012.

Finding 2. Disclosure of Receipts

During audit fieldwork, the Audit staff identified 16 receipts totaling \$2,704,569 that were missing or lacked required disclosure information. In response to the PAR recommendation, NAC filed amended disclosure reports that corrected the receipt disclosure errors. NAC had no additional comments in response to the DFAR.

The Audit staff recommends that the Commission find that NAC failed to correctly disclose receipt information totaling \$2,704,569.

Finding 3. Disclosure of Disbursements

The Audit staff identified 653 disbursements totaling \$4,188,384 that were either missing or lacked required disclosure information. In response to the PAR recommendation, NAC filed amended disclosure reports that materially corrected the disbursement disclosure errors. NAC had no additional comments in response to the DFAR.

The Audit staff recommends that the Commission find that NAC failed to correctly disclose disbursement information totaling \$4,188,384.

Finding 4. Reporting of Debts and Obligations

The Audit staff identified a debt to an equipment rental vendor, in the amount of \$25,425, that was not itemized on Schedule D (Debts and Obligations) as required. In response to the PAR recommendation, NAC filed amended disclosure reports to properly itemize the debt. NAC had no additional comments in response to the DFAR.

The Audit staff recommends that the Commission find that NAC failed to itemize a debt totaling \$25,425.

NAC did not request an audit hearing.

If this memorandum is approved, a Proposed Final Audit Report will be prepared within 30 days of the Commission's vote.

In case of an objection, Directive No. 70 states that the Audit Division Recommendation Memorandum will be placed on the next regularly scheduled open session agenda.

Documents related to this audit report can be viewed in the Voting Ballot Matters folder. Should you have any questions, please contact Jeff Spilizewski or Douglas Kodish at 694-1200.

Attachment:

Draft Final Audit Report of the Audit Division on New American City, Inc.

cc: Office of General Counsel



Draft Final Audit Report of the Audit Division on New American City, Inc. (May 4, 2011 - December 31, 2012)

Why the Audit Was Done

The Commission audits each host committee or municipal fund that represents a city where a publicly financed nominating convention was held. The audit seeks to determine whether the committee has materially complied with the prohibitions and disclosure requirements of the election law.¹

Future Action

The Commission may initiate enforcement action, with respect to any of the matters discussed in this report.

About the Committee (p. 2)

New American City, Inc. (NAC) headquartered in Charlotte, North Carolina, is a committee responsible for hosting the 2012 Democratic National Convention. For more information, see the chart on the Committee Organization, p. 2.

Financial Activity (p. 2)

• Receipts	
○ Contributions to Defray Convention Expenses	\$ 19,008,773
○ Transfers from Affiliated Committees	8,783
○ Loans Received	1,000,000
○ Refunds, Rebates, and Deposits	49,669
○ Other Income	950
Total Receipts	\$ 20,068,175
• Disbursements	
○ Convention Expenditures	\$ 20,056,269
○ Other Disbursements	10,775
Total Disbursements	\$ 20,067,044

Findings and Recommendations (p. 3)

- Misstatement of Financial Activity (Finding 1)
- Disclosure of Receipts (Finding 2)
- Disclosure of Disbursements (Finding 3)
- Reporting of Debts and Obligations (Finding 4)

¹ 11 CFR §9008.54.

**Draft Final Audit Report of the
Audit Division on
New American City, Inc.**

(May 4, 2011 - December 31, 2012)



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Part I

Background

Authority for Audit

This report is based on an audit of New American City, Inc. (NAC), undertaken by the Audit Division of the Federal Election Commission (the Commission) as mandated by Section 9008.54 of Title 11 of the Code of Federal Regulations. That section states that the Commission shall conduct an examination and audit of each host committee registered under 11 CFR §9008.51.

Scope of Audit

This audit examined:

1. the receipt of contributions from prohibited sources;
2. the disclosure of contributions and other receipts;
3. the disclosure and nature of disbursements;
4. the disclosure of debts and obligations;
5. *and the completeness of records;*
6. the consistency between reported figures and bank records; and
7. other committee operations necessary to the review.

Inventory of Committee Records

The Audit staff routinely conducts an inventory of committee records before it begins the audit fieldwork. NAC records were materially complete and the fieldwork began thereafter.

Part II Overview of Committee

Committee Organization

Important Dates	
• Date of Registration	May 18, 2011
• Audit Coverage	May 4, 2011 - December 31, 2012
Headquarters	Charlotte, North Carolina
Bank Information	
• Bank Depositories	One
• Bank Accounts	Two Accounts
Treasurer	
• Treasurer When Audit Was Conducted	Daniel Murrey, M.D.
• Treasurer During Period Covered by Audit	Daniel Murrey, M.D.
Management Information	
• Attended Commission Campaign Finance Seminar	No
• Who Handled Accounting and Recordkeeping Tasks	Paid Staff

Overview of Financial Activity (Audited Amounts)

Cash-on-hand @ April 1, 2011	\$ 0
Receipts	
○ Contributions to Defray Convention Expenses	19,008,773
○ Transfers from Affiliated Committees	8,783
○ Loans Received	1,000,000
○ Refunds, Rebates, Returns of Deposits	49,669
○ Other Income	950
Total Receipts	\$ 20,068,175
Disbursements	
○ Convention Expenditures	20,056,269
○ Loan Repayments Made	0
○ Other Disbursements	10,775
Total Disbursements	\$ 20,067,044
Cash-on-hand @ December 31, 2012	\$ 1,131

Part III Summaries

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

During audit fieldwork, a comparison of NAC's reported financial activity with its bank records revealed a misstatement of financial activity for disbursements during 2011 through 2012. The total of the misstated amounts was \$2,024,213. In response to the Preliminary Audit Report recommendation, NAC filed amended disclosure reports that materially corrected its misstated activity. (For more detail, see p. 4.)

Finding 2. Disclosure of Receipts

During audit fieldwork, the Audit staff identified 16 receipts totaling \$2,704,569 that were missing or lacked required disclosure information. In response to the Preliminary Audit Report recommendation, NAC filed amended disclosure reports that corrected the receipt disclosure errors. (For more detail, see p. 5.)

Finding 3. Disclosure of Disbursements

The Audit staff identified 653 disbursements totaling \$4,188,384 that were either missing or lacked required disclosure information. In response to the Preliminary Audit Report recommendation, NAC filed amended disclosure reports that materially corrected the disbursement disclosure errors. (For more detail, see p. 6.)

Finding 4. Reporting of Debts and Obligations

The Audit staff identified a debt to an equipment rental vendor, in the amount of \$25,425, that was not itemized on Schedule D (Debts and Obligations) as required. In response to the Preliminary Audit Report recommendation, NAC filed amended disclosure reports to properly itemize the debt. (For more detail, see p. 8.)

Part IV

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

Summary

During audit fieldwork, a comparison of NAC's reported financial activity with its bank records revealed a misstatement of financial activity for disbursements during 2011 through 2012. The total of the misstated amounts was \$2,024,213. In response to the Preliminary Audit Report recommendation, NAC filed amended disclosure reports that materially corrected its misstated activity.

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) (formerly 2 U.S.C. §434 (b)(1), (2), (3), (4) and (5)).

Facts and Analysis

A. Facts

The Audit staff reconciled NAC's reported activity with its bank records and identified a misstatement of disbursements for 2011 through 2012.² The following chart details the discrepancies and succeeding paragraphs explain the reasons for the misstatements.

2011-2012 Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash Balance @ May 4, 2011	\$0	\$0	\$0
Receipts	\$20,061,878	\$20,068,175	\$6,297 Understated
Disbursements	\$20,035,206	\$20,067,044	\$31,838 Understated
Ending Cash Balance @ December 31, 2012	\$26,672	\$1,131	\$25,541 Overstated

As indicated in the chart above, reported disbursements for 2011 through 2012 were understated by \$31,838. Furthermore, the Audit staff identified the following adjustments that should be made to correct the reporting of disbursements:

² NAC's first receipt of funds was on May 4, 2011.

• Salary, payroll taxes, and processing fees under or not reported	\$ 1,022,043
• Salary and payroll taxes over reported	884,529
• Duplicate disbursement transactions reported	72,855
• Correction to reports for checks that were voided	24,260
• Disbursement amounts over reported (or not debited by the bank)	11,640
• Disbursements not reported	5,968
• Bank corrections erroneously reported as disbursements	2,918
Sum of Reporting Adjustments	<u>\$2,024,213</u>

NAC regularly misreported its payroll and payroll taxes over the entire reporting period which resulted in a salary and payroll tax understatement of \$1,022,043. This consisted of payroll tax understatements totaling \$885,609 and salary understatements totaling \$136,434. Conversely, salary and payroll taxes over reported, \$884,529, consisted of salary payments totaling \$872,394 and payroll taxes totaling \$12,135. This resulted from reporting individual gross salary amounts instead of the net salary amounts.

B. Preliminary Audit Report & Audit Division Recommendation

At the exit conference, the Audit staff discussed and provided a schedule of the misstated amounts to NAC representatives. NAC representatives said they would amend their disclosure reports in response to the Preliminary Audit Report.

The Preliminary Audit Report recommended that NAC amend its disclosure reports to correct the misstatements noted above.

C. Committee Response to Preliminary Audit Report

In response to the Preliminary Audit Report recommendation, NAC filed amended disclosure reports that materially corrected its misstated activity.

Finding 2. Disclosure of Receipts

Summary

During audit fieldwork, the Audit staff identified 16 receipts totaling \$2,704,569 that were missing or lacked required disclosure information. In response to the Preliminary Audit Report recommendation, NAC filed amended disclosure reports that corrected the receipt disclosure errors.

Legal Standard

Required Information for Contributions. For each itemized contribution, the committee must provide the following information:

- the contributor's full name and address (including zip code);
 - the contributor's occupation and the name of his or her employer (for individual contributors);
 - the date of receipt (the date the committee received the contribution);
 - the amount of the contribution; and
 - the calendar year-to-date total of all contributions from the same individual.
- 11 CFR §§100.12 and 104.3(a)(4) and 52 U.S.C. §30104(b)(3)(A) (formerly 2 U.S.C. §434(b)(3)(A)).

Facts and Analysis

A. Facts

The Audit staff identified 16 receipts reported on Schedule A totaling \$2,704,569 (approximately 13 percent of total receipts) that were missing or lacked the required disclosure information. These reporting errors consisted of the following:

- 15 receipts, from 15 different contributors, for \$2,699,394 that did not disclose or inadequately disclosed the correct address; and
- One receipt for \$5,175 that incorrectly disclosed the contributor's name.

B. Preliminary Audit Report & Audit Division Recommendation

At the exit conference, the Audit staff discussed the disclosure items with NAC representatives and provided a schedule of the receipts disclosed incorrectly. NAC representatives said they would amend their disclosure reports in response to the Preliminary Audit Report.

The Preliminary Audit Report recommended that NAC amend its disclosure reports to correctly disclose these receipts on Schedule A.

C. Committee Response to Preliminary Audit Report

In response to the Preliminary Audit Report recommendation, NAC filed amended disclosure reports that corrected the receipt disclosure error.

Finding 3. Disclosure of Disbursements

Summary

The Audit staff identified 653 disbursements totaling \$4,188,384 that were either missing or lacked required disclosure information. In response to the Preliminary Audit Report recommendation, NAC filed amended disclosure reports that materially corrected the disbursement disclosure errors.

Legal Standard

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

- date when the expenditures were made;
- name and address of the payee; and
- purpose (a brief description of why the disbursement was made). 52 U.S.C. §30104(b)(5)(A) (formerly 2 U.S.C. §434(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)(4)(i)(A).
- **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)(4)(i)(A).

- C. Reporting Credit Card Transactions.** A committee must itemize a payment to a credit card company if the payment exceeds the \$200 aggregate threshold for itemization. The committee must also itemize, as a memo entry, any specific transaction charged on a credit card if the payment to the actual vendor exceeds the \$200 threshold. The memo entry must include the name and address of the vendor, the purpose of the disbursement, and the amount of the disbursement. 11 CFR §§102.9(b)(2) and 104.9.
- D. Reporting Reimbursements to Individuals.** When an individual who is not acting as a vendor advances his or her personal funds (or uses a personal credit card) to pay for goods or services on behalf of a political committee, the reimbursement must be reported as follows:
- **Nontravel Advances.** Report the individual as payee, and report the payments aggregating over \$200 to any one vendor as memo entries on Schedule B; and
 - **Travel and Subsistence Advances.** If the total amount reimbursed is \$500 or less, the committee should report the individual as payee. If the total amount exceeds \$500 and payments to any one vendor used for the expenses total over \$200 for the calendar year, report the individual as payee, and report the payments aggregating over \$200 to any one vendor as memo entries on Schedule B. Each memo entry must include the name and address of the vendor, as well as the date, amount and purpose of the payment. 11 CFR §§104.3(b)(3)(i) and 104.9.

Facts and Analysis

A. Facts

The Audit staff identified 653 reimbursements totaling \$4,188,384 (approximately 21 percent of total disbursements) that were either missing or lacked the required disclosure information. The majority of disclosure errors were related to the reporting of addresses and purposes. See the table below.

Description	Number of Transactions	Dollar Value
Payments with a missing or incomplete address disclosure.	224	\$1,099,179
Payments missing or having an inadequate disclosure of purpose.	208	\$2,671,674
Credit card payments lacking memo entry disclosures.	71	\$268,473
Other payment disclosure errors. ³	150	\$149,058
Total		\$4,188,384

³ Seventy-one transactions totaling \$93,312 had missing or incomplete addresses and inadequate purposes. Seventy-nine reimbursements to individuals totaling \$55,746 lacked memo entries to the ultimate payee. Of these transactions, some also improperly or inadequately disclosed the address and/or purpose of the transactions. For the 79 transactions described above, 33 were for employee travel/subsistence expense reimbursements exceeding the \$500 reporting threshold and 46 were for non-travel reimbursements exceeding the \$200 aggregate memo reporting threshold.

B. Preliminary Audit Report & Audit Division Recommendation

At the exit conference, the Audit staff discussed the disclosure items with NAC representatives and provided a schedule detailing these items. NAC representatives said they would amend their disclosure reports in response to the Preliminary Audit Report.

The Preliminary Audit Report recommended that NAC amend its disclosure reports to correctly disclose these disbursements on Schedule B.

C. Committee Response to Preliminary Audit Report

In response to the Preliminary Audit Report recommendation, NAC filed amended disclosure reports that materially corrected the disbursement disclosure errors.

Finding 4. Reporting of Debts and Obligations

Summary

The Audit staff identified a debt to an equipment rental vendor, in the amount of \$25,425, that was not itemized on Schedule D (Debts and Obligations) as required. In response to the Preliminary Audit Report recommendation, NAC filed amended disclosure reports to properly itemize the debt.

Legal Standard

Reporting of Debts and Obligations.

- A. Continuous Reporting Required. A per se local committee must disclose the amount and nature of outstanding debts and obligations until those debts are extinguished. 52 U.S.C §30104(b)(8) (formerly 2 U.S.C. §434(b)(8)) and 11 CFR §§104.3(d) and 104.11(a).
- B. Separate Schedules. A per se local committee must file separate schedules for debts owed by the committee and debts owed to the committee, together with a statement explaining the circumstances and conditions under which each debt and obligation was incurred or extinguished. 11 CFR §104.11(a).
- C. Itemizing Debts and Obligations.
 - A debt of \$500 or less must be reported once it has been outstanding 60 days from the date incurred (the date of the transaction); the committee reports it on the next regularly scheduled report.
 - A debt exceeding \$500 must be disclosed in the report that covers the date on which the debt was incurred. 11 CFR §104.11(b).

Facts and Analysis

A. Facts

The Audit staff identified a debt to an equipment rental vendor, in the amount of \$25,425, arising from a transaction on August 21, 2012 that was outstanding until October 26, 2012. NAC did not report this amount as an itemized debt Schedule D, as required, for both its Post Convention and Year End reports.

B. Preliminary Audit Report & Audit Division Recommendation

At the exit conference, the Audit staff provided details and discussed the undisclosed debt with NAC representatives. NAC representatives said they would amend their disclosure reports in response to the Preliminary Audit Report.

The Preliminary Audit Report recommended that NAC amend its disclosure reports to itemize this debt on Schedule D.

C. Committee Response to Preliminary Audit Report

In response to the Preliminary Audit Report recommendation, NAC filed amended disclosure reports to properly itemize the debt.

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