



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 22, 2014

MEMORANDUM

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Chief Compliance Officer

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FROM: Lisa J. Stevenson *LJS*
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SUBJECT: Proposed Preliminary Audit Report on New American City, Inc. (LRA 964)

I. INTRODUCTION

The Office of the General Counsel has reviewed the proposed Preliminary Audit Report ("proposed Report") on New American City, Inc ("NAC"). The proposed Report contains four findings: Misstatement of Financial Activity (Finding 1); Disclosure of Receipts (Finding 2); Disclosure of Disbursements (Finding 3); and Reporting of Debt and Obligations (Finding 4).¹ We concur with the findings, and comment briefly on Finding 2 (Disclosure of Receipts) and Finding 3 (Disclosure of Disbursements). If you have any questions, please contact Margaret J. Forman, the attorney assigned to this audit.

¹ We recommend that the Commission consider this document in Executive Session because the Commission may eventually decide to pursue an investigation of matters contained in the proposed Report. 11 C.F.R. §§ 2.4(a) and (b)(6).

II. FACTUAL INFORMATION SURROUNDING SOME INCOMPLETE MAILING ADDRESSES

In both Finding 2 (Disclosure of Receipts) and Finding 3 (Disclosure of Disbursements) in the proposed Report, the Audit Division identifies transactions requiring itemization that lacked the required disclosure information, including incomplete mailing addresses. However, the law does not specify the requirements of a mailing address and the incomplete mailing address information, in some of these instances, can be determined fairly easily with an electronic search on the Internet. Therefore, we question whether this incomplete information should be included as a part of Finding 2 and Finding 3.

Finding 2 identifies 16 receipts totaling \$2,704,569, requiring itemization that lacked required disclosure information. For 6 of these receipts, totaling \$39,950, NAC disclosed the street address or post office box, and zip code, but not the city and state. The proposed Report recommends that NAC amend its reports to disclose these transactions correctly on Schedule A, Itemized Receipts.

Similarly, Finding 3 identifies 653 disbursements totaling \$4,188,384, requiring itemization that lacked required disclosure information, including 9 transactions totaling \$194,888.13 in which the Audit Division marked the disbursements as errors due to an incomplete street address and the lack of a state listed on NAC's disclosure report. On Schedule B of FEC Form 4 (Itemized Disbursements), NAC identified the disbursements as follows: "Research Triangle Park, NC" on the mailing address line, "P.O. Box" on the city line, nothing on the state line, and what apparently is a post office box number on the zip code line.² See New American City, Inc., 2012 Post Convention Report, Image # 12972715697-12972715700 (Oct. 17, 2012) available at <http://docquery.fec.gov/pdf/831/12972714831/12972714831.pdf>; New American City, 2012 Year End Report, Image # 13960623441 (Jan. 31, 2013) available at <http://docquery.fec.gov/pdf/421/13960623421/13960623421.pdf>. The proposed Report recommends that NAC amend its reports to disclose these transactions correctly on Schedule B, Itemized Disbursements.

NAC is required to disclose these transactions under the Federal Election Campaign Act ("Act") and the Commission's regulations. The Act and pertinent regulations require the disclosure of the individual's name, mailing address, occupation, and the name of the individual's employer, and for any other person, the full name and address. 2 U.S.C. § 434(b)(3)(A),

² The zip code listed was 12696. According to the Audit Division, the zip code for Research Triangle Park, Durham, NC is 27709. The 2011-2012 Title 26 Audit Program does not require zip codes for mailing addresses.

NAC may have complied with the address requirements for the 9 disbursements in Finding 3. The Act and pertinent regulations require the full name and mailing address of this disbursement. 2 U.S.C. § 434(b)(5)(A), 11 C.F.R. § 104.3(b)(3)(i); see 2 U.S.C. § 431(13); 11 C.F.R. § 100.12. NAC listed the required information, but on the wrong lines on the form. The Audit Division should also discuss these facts in their cover memorandum to the Commission.

(b)(5)(A), 11 C.F.R. § 104.3(a)(4)(i), (b)(3)(i); *see* 2 U.S.C. § 431(13), 11 C.F.R. § 100.12. The Act and regulations, however, do not describe what must be included in a mailing address.

Since the Act and regulations do not describe the requirements of a mailing address, we looked to the United States Postal Service for guidance. The United States Postal Service requires that a delivery address include at least the recipient's name or other identification, street and number, city and state, and zip code where required.³ *See* Mailing Standards of the United States Postal Service Publication 28 – Postal Addressing Standards, January 2013, PSN 7610-03-000-3688 *available at* <http://pe.usps.com/text/pub28/welcome.htm> (last visited Jul. 15, 2014); Mailing Standards of the United States Postal Service Domestic Mail Manual, 600 Basic Standards for All Mailing Services, *available at* <http://pe.usps.com/text/dmm300/602.htm> (last visited Jul. 15, 2014). However, with a street address and zip code, the city and state can be determined fairly easily with an electronic search on the Internet. USPS.com, “Look Up a Zip Code,” <https://tools.usps.com/go/ZipLookupAction!input.action> (last visited Jul. 17, 2014).

Given that the Act and the Commission's regulations do not describe the requirements for reporting the mailing address, and the missing city and state information can easily be obtained with a street address and a zip code, we question whether the transactions missing only the city and state should be included in the audit finding. We, therefore, recommend that the auditors discuss this matter in their cover memorandum to the Commission, and include the applicable monetary amount of these receipts and disbursements.

III. ULTIMATE PAYEE DISCLOSURE ERRORS

We also recommend that the Audit Division revise Finding 3 to include additional information. Finding 3 references \$149,058 in disbursements that were “missing memo entries to the ultimate payee.”⁴ Proposed Report at 7, note 3. The Audit Division should include more explanation as to what information was missing regarding these disbursements. For example, if these errors were for missing memo entries detailing reimbursement to an individual who advanced personal funds to pay committee expenses aggregating more than \$200 to a single vendor (or \$500 for travel or subsistence expenses), the proposed Report should explain these facts.

³ The United States Postal Service specifies that failure to include this information could result in a delayed or misrouted mailpiece. *See* USPS Business Mail 101 – Addressing Delivery Address *available at* <http://pe.usps.com/businessmail101/addressing/deliveryaddress.htm> (last visited Jul. 15, 2014).

⁴ It is our understanding that in examining the disbursements, the Audit Division complied with the audit program, which is consistent with the Commission's interpretive rule on ultimate payees. *Notice of Interpretive Rule on Reporting Ultimate Payees of Political Committee Disbursements*, 78 Fed. Reg. 40625 (Jul. 8, 2013). Although this audit pre-dates the date of the notice of interpretive rule, the notice states that “the Commission makes clear that this interpretation is based on long-standing Commission practice and is not making any fundamental changes to its rules or processes.” *Id.* at 40626.