Interim Audit Report of the Audit Division on the Ambulatory Surgery Center Association PAC (ASCAPAC)

(January 1, 2015 – December 31, 2016)

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 Ambulatory Surgery Center Association PAC (ASCAPAC) is a separated segregated fund- trade association. It qualified for multi-candidate status and is headquartered in Alexandria, Virginia. For more information, see the chart on the Committee Organization, p 2.

Financial Activity (p. 2)

• **Receipts**	
o Contributions from Individuals	$ 361,090
o Contributions from Other Political Committees	11,322
o Offsets to Operating Expenditures	1,481
o Refund of Contribution Made to Federal Candidates	1,000
Total Receipts	**$ 374,893**
• **Disbursements**	
o Contributions to Federal Candidates/Committees	$ 269,000
o Transfers to Affiliated Committees	14,872
o Operating Expenditures	6,618
o Refunds of Contributions to Individuals	1,850
Total Disbursements	**$ 292,340**

Findings and Recommendations (p. 3)

- Misstatement of Financial Activity (Finding 1)
- Receipt of Prohibited Contributions (Finding 2)
- Recordkeeping for Receipts (Finding 3)
- Disclosure of Receipts (Finding 4)
- Untimely Deposit of Receipts (Finding 5)

[1] 52 U.S.C. §30111(b).

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Part I
Background

Authority for Audit

This report is based on an audit of the Ambulatory Surgery Center Association PAC (ASCAPAC), 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 receipt of excessive contributions;
2. the receipt of contributions from prohibited sources;
3. the disclosure of contributions received;
4. the disclosure of individual contributors' occupation and name of employer;
5. the disclosure of contributions to candidate committees;
6. the consistency between reported figures and bank records;
7. the completeness of records; and
8. other committee operations necessary to the review.

Limitations

ASCAPAC did not comply with the recordkeeping requirements, 11 CFR §§ 102.9 and 104.14(b)(1), which require committees to maintain a copy of contributor checks in excess of $50 and to keep an account of all contributions received by or on behalf of the political committee. Under the dual attribution rule for partnerships, the contribution is attributable to the partnership, and to each individual partner as specified by the contributing partnership (11 CFR § 110.1(e)). The lack of contributor checks and the attribution information for each partner for contributions from partnerships, limited the Audit staff's testing of all contributions received via credit card or check that may have exceeded the limits. Likewise, the Audit staff was not able to verify the accuracy of disclosure information for and the permissibility of contributions received via check or credit card due to the lack of the aforementioned records. (See Findings 3 and 4).

Part II
Overview of Committee

Committee Organization

Important Dates	
• Date of Registration	May 25, 2006
• Audit Coverage	January 1, 2015 – December 31, 2016
Headquarters	Alexandria, VA
Bank Information	
• Bank Depositories	Two
• Bank Accounts	Two checking
Treasurer	
• Treasurer When Audit Was Conducted	John Greenwich
• Treasurer During Period Covered by Audit	John Greenwich October 1, 2013 - Present
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, 2015	**$ 118,102**
Receipts	
o Contributions from Individuals	361,090
o Contributions from Other Political Committees	11,322
o Offsets to Operating Expenditures	1,481
o Refund of Contribution Made to Federal Candidates	1,000
Total Receipts	**$ 374,893**
Disbursements	
o Contributions to Federal Candidates/Committees	269,000
o Transfers to Affiliated Committees	14,872
o Operating Expenditures	6,618
o Refunds of Contributions to Individuals	1,850
Total Disbursements	**$ 292,340**
Cash-on-hand @ December 31, 2016	**$ 200,655**

Part III
Summaries

Findings and Recommendations

Finding 1. Misstatement of Financial Activity
During audit fieldwork, a comparison of ASCAPAC's reported activity with bank records revealed a misstatement of receipts for calendar year 2015. ASCAPAC understated its receipts by $16,834. The Audit staff recommends that ASCAPAC amend its disclosure reports to correct the misstatement. (For more detail, see p. 4.)

Finding 2. Receipt of Prohibited Contributions
During audit fieldwork, a review of contributions from individuals revealed that ASCAPAC received 102 contributions totaling $93,023 from apparent prohibited sources. The Audit staff recommends, absent evidence that these contributions were made with permissible funds, ASCAPAC refund these contributions to the contributors or disgorge the contributions to a government agency or eligible charitable organization. (For more detail, see p. 6.)

Finding 3. Recordkeeping for Receipts
During Audit fieldwork, the Audit staff reviewed records provided by ASCAPAC and determined that ASCAPAC did not maintain adequate documentation for receipts totaling $67,108. Of this amount, ASCAPAC did not maintain check copies for contributions totaling $6,378, and did not maintain the attribution information for each partner, for contributions totaling $60,730. The Audit staff recommends that ASCAPAC provide the missing records and submit any comments it deems necessary. (For more detail, see p. 9.)

Finding 4. Disclosure of Receipts
During audit fieldwork, the Audit staff identified 154 contributions totaling $197,571 that were missing the required disclosure information. The Audit staff recommends that ASCAPAC amend its disclosure reports to correctly disclose these transactions on Schedule A (Itemized Receipts), and provide any other comments it deems necessary. (For more detail, see p. 11.)

Finding 5. Untimely Deposit of Receipts
During audit fieldwork, the Audit staff determined that ASCAPAC did not deposit 106 contributions totaling $84,333 within 10 days of receipt. The Audit staff recommends that ASCAPAC provide evidence demonstrating that the contributions in question were deposited timely or submit any additional comments it deems relevant to this matter. (For more detail, see p. 12.)

Part IV
Findings and Recommendations

Finding 1. Misstatement of Financial Activity

Summary
During audit fieldwork, a comparison of ASCAPAC's reported activity with bank records revealed a misstatement of receipts for calendar year 2015. ASCAPAC understated its receipts by $16,834. The Audit staff recommends that ASCAPAC amend its disclosure reports to correct the misstatement.

Legal Standard
Contents of (Federal) 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), (5), (6), and (7).

Facts and Analysis

A. Facts
During audit fieldwork, the Audit staff reconciled ASCAPAC's reported financial activity with its bank records for calendar years 2015 and 2016. The reconciliation revealed that ASCAPAC misstated its receipts in 2015. The following chart details the discrepancies between ASCAPAC's disclosure reports and bank activity. The succeeding paragraphs explain why the discrepancies occurred.

2015 Committee Activity			
	Reported	**Bank Records**	**Discrepancy**
Beginning Cash-Balance @ January 1, 2015	$ 121,494	$ 118,102	$3,392 Overstated
Receipts	$ 176,749	$ 193,583	($16,834) Understated
Disbursements	$ 124,490	$ 133,412	($8,922) Understated
Ending Cash-Balance @ December 31, 2015	$ 173,753	$ 178,273	($4,520) Understated

The beginning cash balance was overstated by $3,392. The Audit staff identified a discrepancy of $2,500 due to a disbursement check that cleared the bank in 2014, but was not reported until 2015. The remaining $892 is the result of period reporting discrepancies.

The understatement of receipts resulted from the following:

• Trade Association funds erroneously deposited in the Federal account, not reported (See explanation below)	+	11,560
• Contributions from individuals, not reported	+	5,000
• Contributions from individuals reported, not supported by bank deposits	-	500
• Offset to operating disbursements not reported	+	95
• Unexplained difference	+	679
Net Understatement of Receipts	$	16,834

The $4,520 understatement of the ending cash balance was a result of the reporting discrepancies described above as well as various reporting discrepancies for disbursements.

ASCAPAC deposited checks from individuals and offsets to operating expenditures totaling $11,560[2] that were either dues to the Ambulatory Surgery Association, donations to their advocacy fund, or offsets to the Ambulatory Surgery Association. These erroneously deposited checks were not reported, as well as the transfers to accounts not related to ASCAPAC. 52 U.S.C. §30104(b) requires that all receipts and disbursements be reported and as such, both the receipt of these funds and the subsequent transfers are required to be reported.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed the misstatement of the 2015 receipts at the exit conference and provided ASCAPAC representatives with schedules detailing the misstated activity. In response to the exit conference, ASCAPAC representatives stated that the unreported activity consisted of receipts that were deposited to the ASCAPAC account in error, and were later transferred out of the ASCAPAC account. ASCAPAC representatives further stated that they would amend the disclosure reports to include this activity.

The Audit staff recommends that, within 30 calendar days of service of this report, ASCAPAC amend its 2015 disclosure reports to correct the misstatements noted above. In addition, the Audit staff recommends that ASCAPAC reconcile the cash balance on its most recently filed disclosure report to account for the recommended adjustments and identify any subsequent discrepancies, as necessary.

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[2] ASCAPAC is in the process of closing the checking account that received $2,500 of these funds intended for the advocacy fund and are transferring these funds to a non-ASCAPAC bank account. The remaining $9,060 erroneously deposited receipts were transferred out of the ASCAPAC checking account.

Finding 2. Receipt of Prohibited Contributions

Summary
During audit fieldwork, a review of contributions from individuals revealed that ASCAPAC received 102 contributions totaling $93,023 from apparent prohibited sources. The Audit staff recommends, absent evidence that these contributions were made with permissible funds, ASCAPAC refund these contributions to the contributors or disgorge the contributions to a government agency or eligible charitable organization.

Legal Standard
A. Receipt of Prohibited Contributions General Prohibition. Candidates and committees may not accept contributions (in the form of money, in-kind contributions or loans):

1. In the name of another; or
2. From the treasury funds of the following prohibited sources:
   - Corporations (this means any incorporated organization, including a non-stock corporation, an incorporated membership organization, and an incorporated cooperative);
3. Federal Government Contractors (including partnerships, individuals, and sole proprietors who have contracts with the federal government); and
4. Foreign Nationals (including individuals who are not U.S. citizens and not lawfully admitted for permanent residence; foreign governments and foreign political parties; and groups organized under the laws of a foreign country or groups whose principal place of business is in a foreign country, as defined in 22 U.S.C. §611(b). 52 U.S.C. §§30118, 30119, 30121, and 30122.

B. Receipt of Prohibited Corporate Contributions. Political committees may not accept contributions from the general treasury funds of corporations. This prohibition applies to any type of corporation including a non-stock corporation, as incorporated membership organization, and an incorporated cooperative. 52 U.S.C. §30118.

C. Definition of Limited Liability Company. A limited liability company (LLC) is a business entity recognized as an LLC under the laws of the State in which it was established. 11 CFR §110.1(g)(1).

D. Application of Limits and Prohibition to LLC Contributions. A contribution from an LLC is subject to contribution limits and prohibitions, depending on several factors, as explained below:

1. LLC as Partnership. The contribution is considered a contribution from a partnership if the LLC chooses to be treated as a partnership under Internal Revenue Service (IRS) tax rules, or if it makes no choice at all about its tax status. A contribution by partnership is attributed to each partner by his or her share of the partnership profits. 11 CFR §110.1 (e)(1) and (g)(2).
2. LLC as Corporation. The contribution is considered a corporate contribution-and is barred under the Act-if the LLC chooses to be treated as a corporation under IRS rules, or if its shares are traded publicly. 11 CFR § 110.1(g)(3).

3. LLC with Single Member. The contribution is considered a contribution from a single individual if the LLC is a single-member LLC that has not chosen to be treated as a corporation under IRS rules. 11 CFR §110.1 (g)(4).

E. Limited Liability Company's Responsibility to Notify Recipient Committee. At the time it makes a contribution, an LLC must notify the recipient committee:
- That it is eligible to make the contribution; and
- In the case of an LLC that considers itself a partnership (for tax purposes), how the contribution should be attributed among the LLC's members. 11 CFR §110.1(g)(5).

F. Questionable Contributions. It is the Treasurer's responsibility to ensure that all contributions are lawful. 11 CFR §103.3(b). If a committee receives a contribution that appears to be prohibited (a questionable contribution), it must follow the procedures below:

1. Within 10 days after the treasurer receives the questionable contribution, the committee must either:
   - Return the contribution to the contributor without depositing it; or
   - Deposit the contribution (and follow the steps below). 11 CFR §103.3(b)(1).
2. If the committee deposits the questionable contribution, it may not spend the funds and must be prepared to refund them. It must therefore maintain sufficient funds to make the refunds or establish a separate account in a campaign depository for possibly illegal contributions. 11 CFR §103.3 (b)(4).
3. The committee must keep a written record explaining why the contribution may be prohibited and must include this information when reporting the receipt of the contribution. 11 CFR §103.3(b)(5).
4. Within 30 days of the treasurer's receipt of the questionable contribution, the committee must make at least one written or oral request for evidence that the contribution is legal. Evidence of legality includes, for example, a written statement from the contributor explaining why the contribution is legal or an oral explanation that is recorded by the committee in a memorandum. 11 CFR §103.3(b)(1).
5. Within these 30 days, the committee must either:
   - Confirm the legality of the contribution; or
   - Refund the contribution to the contributor and note the refund on the report covering the period in which the refund was made. 11 CFR §103.3(b)(1).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff identified contributions that appeared to be from prohibited sources. The following chart details the source of these receipts.

Apparent Prohibited Contributions	
Type of Review	100%
Contributions from Limited Liability Companies	$75,462
Contributions from Corporations	$16,412
Contributions from Professional Limited Liability Companies	$649
Contributions from Limited Liability Partnerships	$500[3]
Total of Prohibited Contributions	**$93,023**

B. Additional Information:
For contributions from corporations, the Audit staff verified the corporate status of the entities, as of the date of the contribution, with the applicable Secretary of State offices. For contributions from Limited Liability Company (LLC) and Limited Liability Partnerships (LLP), ASCAPAC provided documentation for $44,194 stating whether the company/partnership elected to be treated as a partnership or corporation for tax purposes. For the remaining $31,768 from LLCs and LLPs, ASCAPAC did not provide documentation stating how the company/partnership elected to be treated.

ASCAPAC did not provide the tax status information for contributions totaling $40,214. For the remaining contributions totaling $52,809, the tax status documentation provided showed these contributions were from entities that elected to be treated as a corporation. The Audit staff verified the corporate status with the appropriate Secretaries of State for all corporations contributing an aggregate amount of $16,412 to ASCAPAC.

ASCAPAC did not maintain a separate account for questionable contributions. However, ASCAPAC did maintain a sufficient balance in its bank account to make refunds of the apparent prohibited contributions.

The contributions originated primarily from surgery centers that were members of the Ambulatory Surgery Center Association.

C. Interim Audit Report & Audit Division Recommendation
The Audit staff discussed this matter with ASCAPAC representatives during the exit conference and provided a schedule of the apparent prohibited contributions identified during the review. ASCAPAC representatives stated that the committee "continues to conduct an extensive, multimodal effort to collect documentation of the tax filing status…" and have provided additional information regarding the eligibility of the contributions received to the Audit staff. In addition, they stated that ASCAPAC is in the process of issuing refunds and will provide details once the refund process is completed.

ASCAPAC representatives further stated: "…the Committee accepted contributions from LLCs based on the understanding of the following points:

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[3] This was a single contribution from a partnership where both partners were incorporated entities.

> 1. An ASC [Ambulatory Surgery Center], by definition, is owned wholly or in part by a single physician or partnership of physicians, and as such represents an inherently permissible donor under FEC rules and regulations.
>
> 2. FEC guidance consistently informs Committees that the contributing LLC is the party affirmatively responsible for notifying the Committee of donor eligibility status. The Committee objects to any assertion by the Audit staff that this affirmative duty somehow rests with it as the recipient PAC. Likewise, the Committee rejects any allegation by the Audit staff that the PAC's staff did anything other than seek full compliance with the "best efforts" obligations set forth in FEC rules and regulations, the Campaign Guide for Corporate and Labor Organizations, and other applicable Commission guidance."

The Audit staff notes that although the contributor is responsible for providing eligibility of its contribution, 11 CFR §103.3(b) states that it is the treasurer's responsibility to ensure that all contributions are lawful and to maintain a record of documentation to that effect. According to the best efforts provisions in 11 CFR §103.3(b), ASCAPAC did not demonstrate best efforts because it did not provide statements from the business entities attesting to the legality of their contributions or refund the potentially prohibited contributions.

The Audit staff recommends that, within 30 calendar days of service of this report, ASCAPAC:

- Provide documentation demonstrating that the apparent prohibited contributions totaling $93,023 were made with permissible funds or were timely resolved. This documentation should include records that were not made available to the Audit staff during the audit, including tax status information provided by the contributors, or timely refunds (copies of the front and back of negotiated refund checks).
- Absent documentation that the funds were permissible or were timely resolved, ASCAPAC must refund these apparent prohibited contributions to the contributors or disgorge them to a governmental entity or to a qualified charitable organization.[4] ASCAPAC should provide proof of any refunds and/or disgorgement by providing the front and back of the negotiated refund checks.
- If funds are not available to make the necessary refunds or disgorgement, ASCAPAC should disclose the contributions requiring refunds on Schedule D (Debts and Obligations) until funds become available to make such refunds.

Finding 3. Recordkeeping for Receipts

Summary

During Audit fieldwork, the Audit staff reviewed records provided by ASCAPAC and determined that ASCAPAC did not maintain adequate documentation for receipts totaling $67,108. Of this amount, ASCAPAC did not maintain check copies for contributions

[4] See 26 U.S.C §170(c).

totaling $6,378, and did not maintain the attribution information for each partner, for contributions totaling $60,730. The Audit staff recommends that ASCAPAC provide the missing records and submit any comments it deems necessary.

Legal Standard

A. Recordkeeping. Political committees must keep records of:

- All contributions received by or on behalf of the committee;
- The name and address of any person who makes a contribution in excess of $50, together with the date and amount of the contribution; and
- The occupation and name of employer of any individual whose contributions aggregate more than $200 during a calendar year, together with the date and amount of any such contributions. 52 U.S.C. §30102(c) and 11 CFR §102.9(a).

B. Retention of Check Copies. For contributions in excess of $50, committees must maintain a photocopy or digital image of the check or written instrument. 11 CFR §102.9(a)(4).

C. Maintaining Records. Committees must maintain records that provide in sufficient detail the necessary information and data from which filed reports may be verified and checked for accuracy and completeness. 11 CFR §104.14(b)(1).

D. Preserving Records and Copies of Reports. Committees must preserve these records for 3 years after a report is filed. 52 U.S.C. §30102(d).

E. Dual Attribution Rule for Partnerships. Contributions from business entities should provide information pertaining to the proportion of the contribution attributable to each partner. Contributions from partnerships are both attributable to the partnership, and to each individual partner as specified by the contributing partnership. 11 CFR §110.1(e) and 52 Fed. Reg. 760, 764-765 (Jan. 9, 1987).

Facts and Analysis

A. Facts

The Audit staff's review of all contribution records indicated that ASCAPAC failed to maintain copies of contribution checks or other written instruments for contributions over $50 totaling $6,378. Furthermore, contributions from business entities totaling $60,730 were not annotated with the attribution information for each partner. The total missing contributions checks and attributions total $67,108 and represent 19% of the total contributions received from individuals that require record retention. By not retaining the required checks and attributions, ASCAPAC did not comply with the aforementioned regulations pertaining to the recordkeeping requirements.

Audit staff requested the missing records from ASCAPAC. ASCAPAC representatives stated that they did not maintain these records. However, during audit fieldwork, they reached out to the contributing entities and requested the attribution information. The

Audit staff notes that ASCAPAC's database did contain the attribution information for each partner, however, the review of subsequent responses from the contributing entities indicated that the information recorded in the database and reported by ASCAPAC, was incorrect.

As a result of the missing records, the Audit staff was unable to verify the attribution to each partner from partnerships. (See Limitations, p. 1.)

B. Interim Audit Report & Audit Division Recommendation
The Audit staff discussed the missing records with ASCAPAC representatives at the exit conference and provided schedules detailing the missing records. ASCAPAC representatives again stated that they did not maintain original records documenting partnership attributions, however, after the beginning of fieldwork, partnership attributions were requested from all of the business entities that made contributions. ASCAPAC provided the Audit staff with attribution records after the exit conference.[5] ASCAPAC representatives further stated that ASCAPAC will amend their disclosure reports to reflect the updated information.

The Audit staff recommends that, within 30 calendar days of service of this report, ASCAPAC provide the requested attribution records. ASCAPAC should develop and implement a plan to obtain and maintain records as the law requires, for the partners to whom a partnership's contribution is attributed. Additionally, the Audit staff recommends that ASCAPAC submit any comments it deems relevant to this matter.

Finding 4. Disclosure of Receipts

Summary
During audit fieldwork, the Audit staff identified 154 contributions totaling $197,571 that were missing the required disclosure information. The Audit staff recommends that ASCAPAC amend its disclosure reports to correctly disclose these transactions on Schedule A (Itemized Receipts), and provide any other comments it deems necessary.

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).

[5] Totals in the Facts section reflect these records received.

Facts and Analysis

A. Facts
During audit fieldwork, the Audit staff identified 154 contributions reported on Schedule A totaling $197,571 that were missing or lacked the required disclosure information. These reporting errors consisted of the following[6]:

- 78 contributions from individuals, partnerships, and companies totaling $82,852 that incorrectly disclosed the contributors' name;
- 70 contributions from individuals and business entities totaling $55,993 that incorrectly disclosed the contribution dates; and
- 53 contributions from partnerships totaling $109,532 that incorrectly disclosed the partnership attribution for the contributions.

The Audit staff was not able to verify disclosure information for 89 contributions totaling $60,730 from business partnerships due to the lack of records showing each partner's attribution.[7]

B. Interim Audit Report & Audit Division Recommendation
The Audit staff discussed the disclosure items at the exit conference and provided schedules of contributions disclosed incorrectly. ASCAPAC representatives stated that they would amend the reports to reflect information received from donors.

The Audit staff recommends that, within 30 calendar days of service of this report, ASCAPAC amend its disclosure reports to correctly disclose these contributions on Schedule A, and provide any other comments it deems necessary.

Finding 5. Untimely Deposit of Receipts

Summary

During audit fieldwork, the Audit staff determined that ASCAPAC did not deposit 106 contributions totaling $84,333 within 10 days of receipt. The Audit staff recommends that ASCAPAC provide evidence demonstrating that the contributions in question were deposited timely or submit any additional comments it deems relevant to this matter.

Legal Standard

A. Deposit of Receipts. The treasurer of a political committee must deposit contributions (or return them to the contributors without being deposited) within 10 days of the treasurer's receipt of the contribution. 11 CFR §103.3(a).

B. Receipt of Contributions. Every person who receives a contribution for an authorized political committee shall, no later than 10 days after receipt, forward such contribution to the treasurer. If the amount of the contribution is in excess of $50,

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6 These three groups of errors and their respective dollar value exceed the amount of total errors of 154 totaling $197,571 because 47 contributions totaling $50,806 had multiple disclosure errors. Each contribution was counted once toward the total errors, even if there were multiple errors.

7 See Limitations, p. 1.

such person shall also forward to the treasurer the name and address of the contributor and the date of receipt of the contribution. If the amount of the contribution is in excess of $200, such person shall forward the contribution, the identification of the contributor in accordance with 11 CFR §100.12, and the date of receipt of the contribution. Date of receipt shall be the date such person obtains possession of the contribution. 52 U.S.C. §30102(b)(2) and 11 CFR §102.8(b).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff reviewed available contribution records and identified 106 contributions totaling $84,333 which ASCAPAC did not deposit within 10 days. This amount represents 23% of the total contributions from individuals.

The Audit staff compared the reported receipt dates[8] to the deposit dates and determined that it took ASCAPAC, on average, 22 days to deposit these contributions. The untimely deposit of contributions ranged from a minimum of 14 days to a maximum of 74 days.[9]

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with ASCAPAC representatives during the exit conference and provided schedules detailing the untimely deposited contributions. ASCAPAC representatives did not provide any comments related to this matter at that time.

In response to the exit conference, ASCAPAC representatives stated that ASCAPAC's policy is to deposit all checks within 10 days of receipt. The representatives stated that 2 items on the list were erroneous deposits and therefore are not subject to the 10-day deposit regulation. The Audit staff notes that all deposits must be made within 10 days of the Committee's receipt according to 11 CFR § 103.3(a), regardless of whether or not they were made in error.

In addition, other contributions were received by their compliance consultant and were deposited to a credit card holding account. ASCAPAC classified that account, "as a cash account on the Committee's ledger and the funds were received on the date that the donor initiated the credit card charge." ASCAPAC further stated that those funds were subsequently credited to ASCAPAC's checking account and should not be considered untimely deposited. The Audit staff notes that the funds in the credit card holding account were not accessible by ASCAPAC staff until they were deposited to its checking account. Therefore, the Audit staff considers these credit card contributions not deposited timely.

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[8] The Audit staff verified the date reported on the disclosure reports was the date received stamped in the contributor records. The Audit staff used the date of the check or the credit card merchant received date to determine timeliness for contributions with no date stamp.

[9] Of these untimely deposited contributions, 70 contributions totaling $55,993 were not disclosed with the correct date on the disclosure reports. See Finding 4, p. 11.

ASCAPAC representatives further stated that they do not consider the remaining items on the list to be deposited untimely, however, they do not have documentation of the receipt date. However, to comply with the 10-day deposit regulation in the future, ASCAPAC has implemented a procedure where all contributions are date stamped upon receipt in order to ensure that the date of receipt is documented.

In accordance with 11 CFR § 102.8(a), such a procedure should help ensure that the date of receipt is documented and is the date ASCAPAC obtains possession of the contribution. ASCAPAC should then ensure that its deposit is made within 10 days of receiving a contribution to comply with 11 CFR § 103.3(a). Finally, ASCAPAC should ensure that the recorded receipt day is accurately reflected on its disclosure reports.

The Audit staff recommends that, within 30 calendar days of service of this report, ASCAPAC provide documentation demonstrating that the contributions in question were deposited timely. Further, the Audit staff recommends that ASCAPAC clarify whether the credit card holding account was its own depository. Finally, the Audit staff recommends that ASCAPAC submit any comments it deems relevant to this matter.