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March 23, 2022

MEMORANDUM

To: The Commission

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Audit Division

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Subject: Audit Division Recommendation Memorandum on the US Veterans Assistance Foundation, PAC (A19-06)

Pursuant to Commission Directive No. 70 (FEC Directive on Processing Audit Reports), the Audit staff presented the Draft Final Audit Report (DFAR) to the US Veterans Assistance Foundation, PAC (USVAF) on January 25, 2022 (see attachment). USVAF did not request an audit hearing.

This memorandum provides the Audit staff's recommendation for each finding outlined in the DFAR.

In response to the DFAR, USVAF provided additional comments and, for Findings 1 and 5, Misstatement of Financial Activity and Recordkeeping for Disbursements and the Use of Designated Depository, respectively, USVAF also provided additional documentation.

Finding 1. Misstatement of Financial Activity

In response to the DFAR, USVAF reiterated that it has “adjusted its process to improve reporting and avoid similar errors in the future.” Specifically, USVAF stated that it instituted a two-level reconciliation process whereby the reporting team first reconciles the expenses with the bank statements and then proceeds with the overall bank reconciliation. USVAF also stated that they had improved the communication between the accounting and reporting teams, including the sharing of source documentation.

Additionally, in response to the DFAR, USVAF:

- Amended its 2018 Year-End disclosure report on February 13, 2022, to accurately disclose the 2018 disbursement of \$200,000 discussed in the DFAR.
- Provided a PayPal contribution spreadsheet listing the contributions received from June 2018 through August 2019, totaling \$42,163. Of this amount, \$23,740 appear to relate to 2018 activity. As discussed in the DFAR, according to USVAF, its PayPal account collected \$71,385 in contributions from individuals during 2018.¹ In 2021, USVAF amended five of its 2018 reports, increasing unitemized contributions by a total of \$71,385.²

However, the Audit staff notes that USVAF did not provide the monthly PayPal statements, as the DFAR recommended. In the absence of monthly statements from PayPal, the Audit staff is unable to verify whether the disclosed PayPal contributions and their respective impact on USVAF’s ending cash balance, are accurate. The spreadsheet provided by USVAF appears to be an internal, committee prepared document, supporting only a portion of PayPal contributions received. The Audit staff recommended USVAF submit the monthly statements from PayPal, which are a third party, independent source document.

By amending its 2018 Year-End Report in response to the DFAR in February 2022, to accurately disclose a \$200,000 disbursement, USVAF materially corrected the public record regarding its misstated disbursements. However, the amended 2018 ending cash on hand remains materially misstated.

The Audit staff recommends that the Commission find that, in 2018, USVAF overstated its reported disbursements by \$244,141 and understated its ending cash on hand by \$224,021.

Finding 2. Increased Activity

In response to the DFAR, USVAF reiterated its prior responses and stated that it “implemented processes and procedures to avoid similar errors in the future.” USVAF stated that these improvements include, among others, improved communication and document sharing with its accounting firm and adding a function to its filing software to detect discrepancies between the software reports and the bank statements.

¹ See the attached DFAR, p.8.

² The amended reports reflected the following PayPal increases: \$2,688 (2018 July Quarterly); \$11,999 (2018 October Quarterly); \$14,480 (2018 12 Day Pre-General); \$18,478 (2018 30 Day Post-General); and \$23,740 (2018 Year-End).

The Audit staff recommends that the Commission find that USVAF understated disbursements by \$2,795,679 on the original reports filed over the two-year reporting period ending December 31, 2018.

Finding 3. Disclosure of Occupation and Name of Employer

In response to the DFAR, USVAF agreed with the Audit's staff conclusion that, by amending its disclosure reports in response to the Interim Audit Report recommendation, USVAF materially corrected the public record. USVAF further stated that this finding should be "withdrawn".

The Audit staff notes that USVAF's corrective action occurred in response to the audit and the finding cannot be "withdrawn". As such, the Audit staff recommends that the Commission find that USVAF failed to disclose or adequately disclose the occupation and/or name of employer information for 160 contributions from individuals totaling \$40,850.

Finding 4. Disclosure of Disbursements

In response to the DFAR, USVAF reiterated its previous responses and stated that it accurately reported the disclosure information. USVAF also filed amended disclosure reports and corrected inadequate or inaccurate disclosure information for each of the 144 disbursements, totaling \$5,358,342, identified by the Audit staff.

The Audit staff recommends that the Commission find that USVAF failed to disclose adequate or accurate information for disbursement totaling \$5,358,342.

Finding 5. Recordkeeping for Disbursements and Use of Depository

In response to the DFAR, USVAF reiterated its IAR response that each of its 53 ACH³ transfer payments were made directly to its vendors and were made from its designated depository. USVAF also reiterated that the labeling of the transfers as "ACH Settlement Vendor Usvetassistfound" was controlled by its bank and it was, therefore, unable to more clearly demonstrate the direct flow of funds from its designated depository to its vendors.

In response to the DFAR, USVAF submitted the following documentation:

- A QuickBooks report and statements reflecting the vendors' invoiced and payment amounts. The Audit staff notes that USVAF provided these statements in response to the exit conference and the IAR. These statements, as discussed in the IAR and DFAR, merely reflect the dates, invoice and payment amounts. The statements, however, do not substantiate that the vendors were paid from USVAF's designated depository.
- New redacted vendor bank statements indicating that an additional 24 payments totaling \$793,247 appeared to have reached its vendors, as USVAF reported. Therefore, to date, the redacted vendor bank statements submitted in response to the IAR and the DFAR, demonstrate, albeit

³ Automated Clearing House (ACH) is an electronic network for financial transactions in the United States.

circumstantially, that 108 payments totaling \$3,756,989⁴ reached USVAF's vendors. USVAF did not provide the vendor bank statements for the remaining 39 vendor payments totaling \$1,699,686.⁵

The Audit staff notes that neither the QuickBooks report and statements, nor the redacted vendor bank statements substantiate, sufficiently and verifiably, that the funds used to pay the vendors originated from USVAF's designated depository. That is, the redacted vendor bank statements show the vendors' receipt of payment but do not show that the payments originated from USVAF. Moreover, none of the submitted documentation, to date, was sufficient to verify that 147 disclosed vendor payments totaling \$5,456,675 originated from its designated depository.⁶

The Audit staff recommends that the Commission find that USVAF failed to provide sufficient supporting and verifiable evidence to demonstrate that the 53 ACH transfer payments made from USVAF's designated depository, as reflected in its bank statements, were used to make the 147 vendor payments reported on USVAF's disclosure reports.

Finding 6. Failure to File 24/48-Hour Reports

In response to the DFAR, USVAF reiterated its prior responses and stated that the errors were "unintentional" and that it has implemented processes to ensure the filings of such reports in the future.

The Audit staff recommends that the Commission find that USVAF failed to timely file 48-hour reports for two independent expenditures totaling \$17,000 and failed to file the required 24-hour reports for two independent expenditures totaling \$15,000.

The Office of General Counsel has reviewed this memorandum and concurs with the recommendations.

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

If this Audit Division Recommendation Memorandum is not approved on a tally vote, Directive No. 70 states that the matter 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 Michelle Grant or Zuzana Pacious at 694-1200.

⁴ Per USVAF's IAR response: 84 payments totaling \$2,963,742 + Per DFAR response: 24 payments totaling \$793,247 = 108 payments totaling \$3,756,989.

⁵ 147 payments totaling \$5,456,675 – 108 payments totaling \$3,756,989 = 39 payments totaling \$1,699,686. The Audit staff notes that one payment reflected in the vendor's redacted bank statement was \$100 less than the reported and invoiced amount. See DFAR, footnote 16.

⁶ See the Office of General Counsel's LRA 1105 ADRM Comments dated March 22, 2022.

Attachments:

- Draft Final Audit Report of the Audit Division on the US Veterans Assistance Foundation, PAC
- LRA 1105 US Veterans Assistance Foundation, PAC ADRM Comments dated March 22, 2022

cc: Office of General Counsel



Draft Final Audit Report of the Audit Division on the US Veterans Assistance Foundation, PAC¹

(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.² 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 US Veterans Assistance Foundation, PAC is a non-connected, independent expenditure-only committee headquartered in Fredonia, Wisconsin. For more information, see the chart on the Committee Organization, p. 2.

Financial Activity (p. 2)

• Receipts	
○ Contributions from Individuals	\$ 6,454,147
○ Transfers from Affiliated/Other Party Committees	96,922
Total Receipts	\$ 6,551,069
• Disbursements	
○ Operating Expenditures	\$ 5,667,092
○ Transfers to Affiliated/Other Party Committees	368,311
○ Independent Expenditures	40,000
Total Disbursements	\$ 6,075,403

Findings and Recommendations (p. 3)

- Misstatement of Financial Activity (Finding 1)
- Increased Activity (Finding 2)
- Disclosure of Occupation and Name of Employer (Finding 3)
- Disclosure of Disbursements (Finding 4)
- Recordkeeping for Disbursements and Use of Designated Depository (Finding 5)
- Failure to File 24/48-Hour Reports (Finding 6)

¹ The committee's name during the audit period was US Veterans Assistance Foundation and was subsequently changed to US Veterans Assistance Foundation, PAC on September 23, 2021.

² 52 U.S.C. §30111(b).



Draft Final Audit Report of the Audit Division on the US Veterans Assistance Foundation, PAC

(January 1, 2017 - December 31, 2018)

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Part I

Background

Authority for Audit

This report is based on an audit of the US Veterans Assistance Foundation, PAC (USVAF), 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 disclosure of disbursements;
3. the consistency between reported figures and bank records;
4. the completeness of records;
5. the disclosure of independent expenditures; and
6. other committee operations necessary to the review.

Limitations

USVAF did not comply with the provision of §104.14(b)(1), which requires committee to maintain sufficiently detailed records in order to verify the filed reports. USVAF reported 147 disbursements totaling \$5,456,675 as payments to vendors. However, the Audit staff found that USVAF's bank statements reflected 53 ACH transfers³ for this same amount to an entity annotated as "Usvetassistfound." The bank statements described each transaction as "ACH Settlement Vendor Usvetassistfound." This entity appears to be the US Veterans Assistance Foundation, LLC⁴. USVAF provided vendor statements showing that all billed amounts were paid, presumably suggesting that "Usvetassistfound" used the funds wired from USVAF to pay the vendors. USVAF has not provided any USVAF or "Usvetassistfound" bank records to

³ In its response to the exit conference and the Interim Audit Report, USVAF referred to these transactions as "ACH wire transfers." The Audit staff likewise referred to the transactions as wire transfers in the Interim Audit Report; however, these outgoing electronic payments are labeled as "ACH" transactions on USVAF's bank statements. To conform to the terminology in the bank statements, the Audit staff will refer to these as "ACH" transactions in this and the subsequent audit reports.

⁴ Based on the results of the Office of General Counsel's Business Entity Search on <https://esos.nv.gov/EntitySearch/OnlineEntitySearch>. In its response to the exit conference, USVAF stated that the US Veterans Assistance Foundation LLC does not exist. See Finding 5.

support that the funds were used to pay the vendors disclosed on USVAF's disclosure reports. (See Finding 5A).

Further, USVAF may have violated 52 U.S.C. § 30102(h) and 11 C.F.R. § 103.3(a), which require committees to make all disbursements, except those for petty cash, through checks drawn on a designated depository account. USVAF routed its funds through the "Usvetassistfound" bank account before purportedly disbursing these funds to the vendors. The Audit staff, in absence of the "Usvetassistfound" bank statements, was unable to identify the composition of the funds in that bank account. As a result, USVAF may have impermissibly commingled its funds with the personal funds of an individual or with corporate funds. (See Finding 5B).

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Part II

Overview of Committee

Committee Organization

Important Dates	
• Date of Registration ⁵	August 18, 2017
• Audit Coverage	January 1, 2017 – December 31, 2018
Headquarters	Fredonia, WI
Bank Information	
• Bank Depositories	Two
• Bank Accounts	Two checking accounts
Treasurer	
• Treasurer When Audit Was Conducted	Robert Piaro
• Treasurer During Period Covered by Audit	Robert Piaro
Management Information	
• Attended FEC Campaign Finance Seminar	No
• Who Handled Accounting and Recordkeeping Tasks	Paid Staff

Overview of Financial Activity (Audited Amounts)

Cash-on-hand @ January 1, 2017	\$ 225
Receipts	
○ Contributions from Individuals	6,454,147
○ Transfers from Affiliated/Other Party Committees	96,922
Total Receipts	\$ 6,551,069
Disbursements	
○ Operating Expenditures	5,667,092
○ Transfers to Affiliated/Other Party Committees	368,311
○ Independent Expenditures	40,000
Total Disbursements	\$ 6,075,403
Cash-on-hand @ December 31, 2018	\$ 475,891

⁵ USVAF established a bank account prior to the 2017 – 2018 audit period and before it registered with the Commission and received contributions/made expenditures aggregating in excess of \$1,000 in connection with a federal election.

Part III

Summaries

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

During audit fieldwork, a comparison of USVAF's reported financial activity with its bank records revealed a misstatement of disbursements and the ending cash balance for calendar year 2018. USVAF overstated its disbursements by \$244,141 and understated its ending cash balance by \$224,021. In response to the Interim Audit Report recommendation, USVAF filed amended disclosure reports for calendar year 2018 which materially corrected disbursements. However, the 2018 disbursements and the ending cash balance remain misstated on the amended reports largely due to USVAF's removal of a previously reported disbursement of \$200,000 although bank records show the check cleared its bank account in January 2019. The Audit staff concludes that 2018 disbursements and ending cash remain materially misstated by \$198,327 and \$237,251, respectively. (For more detail, see p. 6.)

Finding 2. Increased Activity

A comparison of USVAF's bank activity with its originally filed reports revealed that disbursements were understated by \$2,795,679 for calendar years 2017 and 2018. In response to the Interim Audit Report recommendation, USVAF reiterated its earlier response to the exit conference by stating that its original 2018 July Quarterly and October Quarterly Reports were inadvertently uploaded without all of the corresponding disbursements. USVAF stated that it has implemented "processes and procedures to avoid similar errors in the future." The Audit staff concludes that USVAF misstated disbursements by \$2,795,679, on its originally filed reports. (For more detail, see p. 9.)

Finding 3. Disclosure of Occupation and Name of Employer

During audit fieldwork, a review of all contributions from individuals requiring itemization indicated that 160 contributions totaling \$40,850 lacked or inadequately disclosed the required occupation and/or name of employer information. USVAF did not sufficiently demonstrate "best efforts" to obtain, maintain and submit the required information. In response to audit fieldwork, USVAF provided some documentation of "best efforts," however, USVAF did not file amended reports to disclose and report the missing or inadequate information. In response to the Interim Audit Report recommendation, USVAF amended its disclosure reports by including or adequately disclosing the required occupation and/or name of employer information relating to 97 contributions totaling \$23,710. The Audit staff concludes that USVAF materially corrected the public record by amending its 2017 and 2018 disclosure reports to adequately disclose occupation and name of employer information for 97 contributions totaling \$23,710. (For more detail, see p. 10.)

Finding 4. Disclosure of Disbursements

During audit fieldwork, the Audit staff identified 144 disbursements totaling \$5,358,342 with inadequate or inaccurate disclosure information. In response to the Interim Audit Report recommendation, USVAF stated that it was "...in the process of amending its reports to disclose accurate addresses and purposes and to address the FEC's recommendation pertaining to disclosing itemized disbursements." USVAF continued to deny it violated the applicable reporting requirements or that it lacked or had inadequate disclosure information and maintained that this information was correctly reported. USVAF did not correct the disclosure information for the disbursements included in this finding. The Audit staff concludes that USVAF's disclosure reports continue to reflect inadequate or inaccurate disclosure information pertaining to disbursements totaling \$5,358,342. (For more detail, see p. 13.)

Finding 5. Recordkeeping for Disbursements and Use of Designated Depository

During audit fieldwork, the Audit staff identified payments totaling \$5,456,675, which USVAF made to "Usvetassistfound," however, USVAF reported these disbursements as payments to vendors on its disclosure reports. USVAF did not provide any "Usvetassistfound" bank statements to demonstrate that these payments were subsequently transmitted to the disclosed vendors. In response to the Interim Audit Report recommendation, USVAF reiterated that the payments were made to the intended vendors and not to "the U.S. Veterans Assistance Foundation, LLC, nor any other entity or entities." Also in response to the Interim Audit Report recommendation, USVAF submitted the redacted bank statements obtained from four of its vendors which reflected 84 payments totaling \$2,963,742, for the period January 1, 2018 through August 9, 2018. However, the payments outlined on the redacted bank statements are not supporting and verifiable evidence that the disclosed vendors were paid with the funds transferred from USVAF's bank account. USVAF provided no additional documentation for the remaining 63 vendor payments totaling \$2,492,834. The Audit staff concludes that USVAF did not provide sufficient supporting and verifiable evidence that the disclosed vendor payments totaling \$5,456,675, were made with the funds transferred from USVAF's bank account. (For more detail, see p. 16.)

Finding 6. Failure to File 24/48-Hour Reports

During audit fieldwork, the Audit staff determined that USVAF untimely filed 48-Hour Reports for two independent expenditures totaling \$17,000 and did not file the required 24-Hour Reports for two independent expenditures totaling \$15,000. In response to the Interim Audit Report recommendation, USVAF stated that the errors were "unintentional" and it has implemented processes to ensure the filing of such reports in the future. The Audit staff concludes that USVAF untimely filed 48-Hour Reports for two independent expenditures totaling \$17,000 and did not file 24-Hour Reports for two independent expenditures totaling \$15,000. (For more detail, see p. 23.)

Part IV

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

Summary

During audit fieldwork, a comparison of USVAF's reported financial activity with its bank records revealed a misstatement of disbursements and the ending cash balance for calendar year 2018. USVAF overstated its disbursements by \$244,141 and understated its ending cash balance by \$224,021. In response to the Interim Audit Report recommendation, USVAF filed amended disclosure reports for calendar year 2018 which materially corrected disbursements. However, the 2018 disbursements and the ending cash balance remain misstated on the amended reports largely due to USVAF's removal of a previously reported disbursement of \$200,000 although bank records show the check cleared its bank account in January 2019. The Audit staff concludes that 2018 disbursements and ending cash remain materially misstated by \$198,327 and \$237,251 respectively.

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).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff reconciled USVAF's reported financial activity with its bank records for calendar years 2017 and 2018. The reconciliation determined that USVAF misstated disbursements and the ending cash balance for 2018. The following chart details the discrepancies between USVAF's disclosure reports and its bank activity. The succeeding paragraph explains why the discrepancies occurred.

2018 Committee Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash on hand @ January 1, 2018	\$12,614	\$12,614	\$0
Receipts	\$6,462,798	\$6,442,678	\$20,120 Overstated

2018 Committee Activity			
	Reported	Bank Records	Discrepancy
Disbursements	\$6,223,542	\$5,979,401	\$244,141 Overstated
Ending Cash on hand @ December 31, 2018	\$251,870	\$475,891	(\$224,021) Understated

The overstatement of disbursements resulted from the following differences:

• Disbursements not reported	+ 3,970
• Disbursements reported incorrectly	- 3,010
• Disbursements reported but did not clear the bank	- 227,862
• Bank reversing entries reported as disbursements	- 6,975
• Offsets to operating expenditures reported as disbursements	- 10,264
Net Overstatement of Disbursements	<u>\$ 244,141</u>

The \$224,021 understatement of the ending cash balance was a result of the reporting discrepancies noted above.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter during the exit conference with USVAF representatives and provided the relevant schedules. In response to the exit conference, USVAF stated that the overstatement of disbursements relates to a voided check to a vendor totaling \$225,000. USVAF explained that its accounting firm voided this check but did not inform USVAF's reporting team of the void. USVAF provided its December 2018 general ledger reflecting the voided payment⁶ and stated it would file an amended disclosure report. USVAF further explained that this error occurred due to communication issues between its accounting and reporting team and the lack of a standardized reconciliation process at that time. USVAF stated it has adjusted its process to improve reporting and avoid similar errors in the future. Additionally, it has instituted a two-level reconciliation prior to filing and improved communication between the accounting and reporting teams and it "will provide the appropriate amendments." To-date, USVAF has not amended its reports to disclose the voided check.

The Interim Audit Report recommended that USVAF amend its disclosure reports or file a Form 99 (Miscellaneous Electronic Submission) to correct the misstatements noted above. In addition, the Interim Audit Report recommended that USVAF reconcile the cash balance on its most recently filed report and correct any subsequent discrepancies.

C. Committee Response to Interim Audit Report

In its narrative response to the Interim Audit Report recommendation, USVAF reiterated that the overstated disbursements and the corresponding understated ending cash on hand in calendar year 2018, were caused by the erroneous reporting of a voided \$225,000 check. In August 2021, USVAF filed amended disclosure reports which materially

⁶ The check was made to a political action committee and the Audit staff verified that this committee did not report any such contribution from USVAF.

corrected the misstated disbursements for the 2018 calendar year, identified by the Audit staff. However, in its amended 2018 Year-End disclosure report, USVAF noted that “[t]he Closing balance of this amended report is increasing by \$461,271.64. Of that value, \$23,740.29 of it is due to the discovery of the PayPal account during this audit. There was also an additional \$200,000 check to “Congressional Leadership Fund” that was voided.” By removing this transaction from its amended disclosure reports, USVAF misstated its disbursement and ending cash on hand by \$198,327 and \$237,251, respectively.

Regarding the removal of the previously reported disbursement of \$200,000, the Audit staff notes that USVAF made this disbursement via check dated December 27, 2018. The check subsequently cleared USVAF’s bank account on January 9, 2019. Based on the documentation provided by USVAF during the audit, this was a valid disbursement which was disclosed accurately on its original 2018 Year-End Report. The removal of this transaction on the amended 2018 Year-End Report, creates an additional discrepancy of \$200,000 for disbursements and ending cash on hand. Following the review of the amended reports, the Audit staff reached out to USVAF and inquired as to why the transaction was removed from its disclosure report. In its response to this inquiry, USVAF stated that “[T]his donation was originally marked as December 27, 2018 but during the reconciliation process it was found to not have cleared until the next period.” USVAF disclosed this transaction on its 2019 Mid-Year Report with a disbursement date of January 9, 2019 and purpose of “Donation (In transit from 12-27-18).” However, this is not a correct disclosure because the date of disbursement was not January 9, 2019. This was a 2018 disbursement drawn on a check dated December 27, 2018 and should be disclosed when incurred, rather than when it cleared the bank. The fact that the donation check was outstanding as of December 31, 2018, indicates that it was a 2018 reconciling item and not a 2019 disbursement. The Audit staff recommends that USVAF amend its 2018 Year-End Report to include this disbursement.

Additionally, the five 2018 disclosure reports USVAF amended in August 2021⁷, contained a notation of the “discovery of the PayPal Account during this audit.” As a result, the amended reports reflect an increase in receipts totaling \$71,385.⁸ The corresponding cash on hand increased accordingly. USVAF did not provide the monthly PayPal statements to the Audit staff in response to the audit notification. In light of this “discovery,” the Audit staff recommends that USVAF provide all monthly PayPal statements to the Audit staff for review and inclusion in the bank reconciliation.

The Audit staff concludes that 2018 disbursements and ending cash on hand remain materially misstated by \$198,327 and \$237,251 respectively.

⁷ The five reports are the 2018 July Quarterly; October Quarterly; 12 Day Pre-General; 30 Day Post-General; and Year-End reports.

⁸ The Audit staff notes that this amount does not have a material impact on Increased Activity for receipts. See Finding 2.

Finding 2. Increased Activity

Summary

A comparison of USVAF's bank activity with its originally filed reports revealed that disbursements were understated by \$2,795,679 for calendar years 2017 and 2018. In response to the Interim Audit Report recommendation, USVAF reiterated its earlier response to the exit conference by stating that its original 2018 July Quarterly and October Quarterly Reports were inadvertently uploaded without all of the corresponding disbursements. USVAF stated that it has implemented "processes and procedures to avoid similar errors in the future." The Audit staff concludes that USVAF misstated disbursements by \$2,795,679, on its originally filed reports.

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 USVAF's most recent reports filed prior to audit notification, the Audit staff also compared USVAF's originally filed reports with its bank records. The purpose of this additional reconciliation was to identify the degree to which USVAF had misstated its original filings.

The Audit staff calculated that USVAF understated its disbursements by \$2,795,679 on the original reports filed over the two-year period ending December 31, 2018. This understatement was primarily due to USVAF's failure to disclose disbursements totaling \$95,222 and \$2,700,458 on its originally filed 2017 and 2018 disclosure reports,

respectively. The 2018 understatement of disbursements includes the \$244,141 overstatement of disbursements discussed in Finding 1 above (Misstatement of Financial Activity).

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with USVAF representatives during the exit conference and provided the relevant schedule. In response to the exit conference, USVAF stated that it has previously filed the necessary amended disclosure reports to correct the reporting errors. USVAF explained that its original 2018 July Quarterly and October Quarterly Reports were inadvertently uploaded without all of the corresponding disbursements. USVAF stated that it has implemented “processes and procedures to avoid similar errors in the future.”

The Interim Audit Report recommended that USVAF provide any additional comments it deemed relevant to this matter.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, USVAF reiterated that its original 2018 July Quarterly and October Quarterly Reports were inadvertently uploaded without all of the corresponding disbursements. USVAF stated that it has implemented “processes and procedures to avoid similar errors in the future.” USVAF cited its improved communication and document sharing with its accounting firm; and the added functions and technical features to its filing software to detect discrepancies between the software reports and the bank statements.

The Audit staff concludes that USVAF misstated disbursements by \$2,795,679, on its originally filed reports.

Finding 3. Disclosure of Occupation and Name of Employer

Summary

During audit fieldwork, a review of all contributions from individuals requiring itemization indicated that 160 contributions totaling \$40,850 lacked or inadequately disclosed the required occupation and/or name of employer information. USVAF did not sufficiently demonstrate “best efforts” to obtain, maintain and submit the required information. In response to audit fieldwork, USVAF provided some documentation of “best efforts,” however, USVAF did not file amended reports to disclose and report the missing or inadequate information. In response to the Interim Audit Report recommendation, USVAF amended its disclosure reports by including or adequately disclosing the required occupation and/or name of employer information relating to 97 contributions totaling \$23,710. The Audit staff concludes that USVAF materially corrected the public record by amending its 2017 and 2018 disclosure reports to adequately disclose occupation and name of employer information for 97 contributions totaling \$23,710.

Legal Standard

- A. Itemization Required for Contributions from Individuals.** A political committee other than an authorized committee must itemize any contribution from an individual if it exceeds \$200 per calendar year, either by itself or when combined with other contributions from the same contributor. 52 U.S.C. §30104(b)(3)(A).
- B. Required Information for Contributions from Individuals.** For each itemized contribution from an individual, 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;
 - 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).
- C. Best Efforts Ensures Compliance.** When the treasurer of a political committee shows that the committee used best efforts (see below) to obtain, maintain, and submit the information required by the Act, the committee’s reports and records will be considered in compliance with the Act. 52 U.S.C. §30102(i).
- D. Definition of Best Efforts.** The treasurer and the committee will be considered to have used “best efforts” if the committee satisfied all of the following criteria:
- All written solicitations for contributions included:
 - A clear request for the contributor's full name, mailing address, occupation, and name of employer; and
 - The statement that such reporting is required by Federal law.
 - Within 30 days after the receipt of the contribution, the treasurer made at least one effort to obtain the missing information, in either a written request or a documented oral request.
 - The treasurer reported any contributor information that, although not initially provided by the contributor, was obtained in a follow-up communication or was contained in the committee’s records or in prior reports that the committee filed during the same two-year election cycle. 11 CFR §104.7(b).

Facts and Analysis

A. Facts

USVAF did not disclose or inadequately disclosed the required occupation and/or name of employer information for contributions requiring itemization on its FEC reports, as of the date of the audit notification letter.

Contributions Requiring Itemization – Missing or Inadequate Occupation and/or Name of Employer	
Number of Contributions	160
Dollar Value of Contributions	\$40,850
Percent of Contributions	50%

1. Contributor Information Provided but Amendments Not Filed:

During audit fieldwork, USVAF provided the Audit staff with the required contributor occupation and/or name of employer information; however, USVAF did not file the required amendments for the following:

Contributor Information Provided but Amendments Not Filed	
Number of Contributions	41 ⁹
Dollar Value of Contributions	\$9,425

2. Best Efforts Documentation Not Provided:

USVAF did not provide the Audit staff records to document “best efforts” for the following:

Best Efforts Documentation Not Provided by Committee	
Number of Contributions	119
Dollar Value of Contributions	\$31,425

3. Additional Information:

USVAF disclosed the following unacceptable entries on Schedule A:

- “Best Efforts” for 126 contributions totaling \$30,890, and
- Inadequate occupation and/or name of employer for 34 contributions totaling \$9,960.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with USVAF representatives during audit fieldwork and at the exit conference and provided the schedule detailing these disclosure errors. USVAF representatives stated during fieldwork that they were working to obtain the additional “best efforts” information requested to the extent it was available.

In response to the exit conference, USVAF stated that, in relation to the disclosure of missing information, it is “currently investigating” and will amend its disclosure reports

⁹ USVAF’s updated documentation, provided to the Audit staff during fieldwork, contained the occupation and name of employer information.

to include this information to the extent it possesses the information. In relation to the “best efforts” documentation, USVAF stated that it continues its investigation to obtain and produce “best efforts” documentation for the contributions discussed during the exit conference.

The Interim Audit Report recommended that USVAF amend its reports or file a Form 99 (Miscellaneous Electronic Submission) to report and submit the occupation and/or name of employer information for the 160 contributions.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, USVAF stated that it amended its reports to include “...this missing information to the extent it possesses the information.” As for the “best efforts” documentation, USVAF “continues its investigation to obtain and produce “best efforts” documentation to the satisfaction of the FEC for contributors for whom USVAF has not received employer/occupation information.”

Corrective Action Taken in Response to the Interim Audit Report	
Number of Contributions	97
Dollar Value of Amendments filed	\$23,710

The Audit staff concludes that USVAF materially corrected the public record by amending its 2017 and 2018 disclosure reports to include this previously missing or inadequate occupation and name of employer information.

Finding 4. Disclosure of Disbursements

Summary

During audit fieldwork, the Audit staff identified 144 disbursements totaling \$5,358,342 with inadequate or inaccurate disclosure information. In response to the Interim Audit Report recommendation, USVAF stated that it was “...in the process of amending its reports to disclose accurate addresses and purposes and to address the FEC’s recommendation pertaining to disclosing itemized disbursements.” USVAF continued to deny it violated the applicable reporting requirements or that it lacked or had inadequate disclosure information and maintained that this information was correctly reported. USVAF did not correct the disclosure information for the disbursements included in this finding. The Audit staff concludes that USVAF’s disclosure reports continue to reflect inadequate or inaccurate disclosure information pertaining to disbursements totaling \$5,358,342.

Legal Standard

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

- Amount;
- Date when the expenditures were made;
- Name and address of the payee; and
- Purpose (a brief description of why the disbursement was made—see below). 52 U.S.C. §30104(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. 11 CFR §104.3(b)(3)(i)(B).
- Inadequate Descriptions. The following descriptions do not meet the requirement for reporting “purpose”: advance, election day expenses, expenses, other expenses, expense reimbursement, miscellaneous, outside services, get-out-the-vote, and voter registration. 11 CFR §104.3(b)(3)(i)(B).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff identified 144 reported disbursements totaling \$5,358,342 that were disclosed as payments to vendors and had inadequate or inaccurate disclosure. These reporting errors consisted of the following¹⁰:

- 144 reported payments to vendors, totaling \$5,358,342, disclosed addresses different than those appearing on the vendors’ invoices, resulting in the inaccurate disclosure of addresses; and
- 106 payments to vendors totaling \$3,184,550 disclosed inadequate purposes.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter during the exit conference with USVAF representatives and provided the relevant schedules. In response to the exit conference, USVAF denied that it improperly disclosed disbursements to its vendors or that the disbursements had inadequate disclosure information, stating that the information was reported correctly. Additionally, USVAF submitted an attachment containing vendor statements summarizing invoices and payment amounts during calendar year 2018. According to USVAF, three vendors changed their names and addresses in August 2018 but “the payments from USVAF to the vendors from August 2018 through December 2018 correlate to the vendor’s invoice number and as reported.”

The Interim Audit Report recommended that USVAF amend its reports or file a Form 99 (Miscellaneous Electronic Submission) to correctly disclose these disbursements on Schedule B (Itemized Disbursements).

¹⁰ These errors and their respective dollar value exceed the 144 errors totaling \$5,358,342 because the 106 disbursements totaling \$3,184,550 for inadequate purposes also had inaccurate addresses. Each of these disbursements were counted once toward the total errors.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, USVAF stated it was "...in the process of amending its reports to disclose accurate addresses and purposes and to address the FEC's recommendation pertaining to disclosing itemized disbursements." Further, USVAF continued to deny it violated the applicable statute or that it lacked or had inadequate disclosure information and maintained that this information was correctly reported. USVAF stated that "The purported errors relate to accounting practices, specifically memo entries for payments, that § 30109(b) does not specifically address. The provision does not impose requirements that a committee disclose "payees" as a "memo entry". To improve its processes, USVAF stated that it "will separate each wire transfer to the specific vendor," so that there is one vendor payment per transfer, rather than multiple vendor payments per transfer. Finally, USVAF reiterated that three vendors changed their names and addresses in August 2018 but "the payments from USVAF to the vendors from August 2018 through December 2018 correlate to the vendor's invoice number as reported."

USVAF filed amended disclosure reports in response to the Interim Audit Report recommendation, however, it did not correct the aforementioned disclosure errors pertaining to the 144 vendor payments totaling \$5,358,342. The Audit staff also notes that the disclosure errors included in this finding did not involve any "payees, memo entries", or "wire transfers" as referenced in USVAF's response.

The Audit staff acknowledges that USVAF's amended disclosure reports contained different addresses for three of its vendors than USVAF reported previously. However, the addresses disclosed on the amended reports continue to appear inaccurate for the following reasons:

- USVAF's original filings disclosed an identical physical address in Las Vegas, Nevada for all three vendors' transactions;
- USVAF's amended reports disclosed different UPS street addresses¹¹ in states other than Nevada as the vendors' addresses;
- The documentation USVAF provided during the course of the audit demonstrates that the vendors' address during the audit period was the Las Vegas, Nevada address; and
- USVAF did not submit any additional documentation to demonstrate that the UPS vendor addresses disclosed on its amended reports were the actual contemporaneous addresses of the vendors.

Regarding its vendors' change of address in August 2018, USVAF stated that the vendor addresses could be verified by its invoices and its disclosure reports. The Audit staff notes that these addresses do not match the addresses on the amended disclosure reports. The Audit staff further notes that Commission regulations require accurate address reporting for each payee even if the identity of the payee is correctly disclosed per 11 CFR §§104.3(b)(3)(i) and 104.14(d).

¹¹ The reported vendor addresses reflect mailbox services at three physical locations of the United Parcel Service known as The UPS Store.

The Audit staff concludes that USVAF's disclosure reports continue to reflect inadequate or inaccurate disclosure information for disbursements totaling \$5,358,342.

Finding 5. Recordkeeping for Disbursements and Use of Designated Depository

Summary

During audit fieldwork, the Audit staff identified payments totaling \$5,456,675, which USVAF made to "Usvetassistfound," however, USVAF reported these disbursements as payments to vendors on its disclosure reports. USVAF did not provide any "Usvetassistfound" bank statements to demonstrate that these payments were subsequently transmitted to the disclosed vendors. In response to the Interim Audit Report recommendation, USVAF reiterated that the payments were made to the intended vendors and not to "the U.S. Veterans Assistance Foundation, LLC, nor any other entity or entities." In response to the Interim Audit Report recommendation, USVAF further submitted the redacted bank statements obtained from four of its vendors which reflected 84 payments totaling \$2,963,742, for the period January 1, 2018 through August 9, 2018. However, the payments outlined on the redacted bank statements are not supporting and verifiable evidence that the disclosed vendors were paid with the funds transferred from USVAF's bank account. USVAF provided no additional documentation for the remaining 63 vendor payments totaling \$2,492,834. The Audit staff concludes that USVAF did not provide sufficient supporting and verifiable evidence that the disclosed vendor payments totaling \$5,456,675, were made with the funds transferred from USVAF's bank account.

Legal Standard

- A. Formal Requirements Regarding Reports and Statements.** Each Political Committee shall maintain records with respect to the matters required to be reported which shall provide in sufficient detail the necessary information and data from which the filed reports may be verified, explained, clarified, and checked for accuracy and completeness. 11 CFR §104.14(b)(1).
- B. Required Records for Disbursements.** For each disbursement, the treasurer of a political committee must keep records on the:
- Amount;
 - Date;
 - Name and address of the payee;¹²
 - Purpose (a brief description of why the disbursement was made—see below); and
 - If the disbursement was made on behalf of a candidate, the candidate's name and the office sought by the candidate.
 - If the disbursement was in excess of \$200, the records must include a receipt or invoice from the payee, or a cancelled check or share draft to the payee. If the disbursement was by credit card, the record must include the monthly statement

¹² The payee is usually the person providing the goods or services to the committee. In the case of travel advances, however, the payee is the person receiving the advance. 11 CFR §102.9(b)(2).

or customer receipt and the cancelled check used to pay the credit card bill. 52 U.S.C. §30102(c)(5) and 11 CFR §102.9(b).

- C. Required Supporting Evidence.** For any single disbursement that exceeds \$200, the treasurer must also keep a receipt, an invoice, or a canceled check. 52 U.S.C. §30102(c)(5).
- D. Preserving Records and Copies of Reports.** The treasurer of a political committee must preserve all records and copies of reports for 3 years after the report is filed. 52 U.S.C. §30102(d).
- E. Depositories.** Each political committee shall designate one or more state banks, federally chartered depository institutions (including a national bank), or depository institutions, the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration, as its campaign depository or depositories. Each political committee shall maintain at least one checking account or transaction account at one of its depositories. 52 U.S.C. §30102(h)(1) and 11 CFR §103.2.
- F. Disbursements from the Depository.** A committee shall make all disbursements by check or similar drafts drawn on an account at its designated campaign depository, except for expenditures of \$100 or less made from a petty cash fund maintained pursuant to 11 CFR §102.11. Funds may be transferred from the depository for investment purposes, but shall be returned to the depository before such funds are used to make expenditures. 11 CFR §103.3(a).

Facts and Analysis

A. Recordkeeping for Disbursements

1. Facts

The Audit staff reviewed 147 payments totaling \$5,456,675 that USVAF disclosed as payments to vendors. According to USVAF's bank statements, however, USVAF made 53 ACH transfers (ACH settlements) totaling \$5,456,675 to "Usvetassistfound." This appears to be the US Veterans Assistance Foundation LLC.⁴ USVAF reported the disbursements as payments to vendors other than "Usvetassistfound" on its disclosure reports (see Finding 4); but did not provide "Usvetassistfound" bank statements to demonstrate that the funds transferred from USVAF to "Usvetassistfound" were used to pay the vendors disclosed on the reports. As a result, the Audit staff was unable to verify the accuracy and completeness of the reported activity. (See Limitations, p.1.)

2. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter during the exit conference with USVAF representatives and provided relevant schedules. In response to the exit conference,

USVAF denied it violated the applicable regulations and stated that it properly disclosed disbursements to its vendors.

According to USVAF:

- The vendors' statements presented in response to the exit conference demonstrate payment from USVAF "to all vendors throughout all of 2018."
- Three vendors changed their names and addresses in August 2018 but "the payments from USVAF to the vendors from August 2018 through December 2018 correlate to the vendor's invoice number."
- USVAF stated it made a single ACH wire transfer to pay for all three vendors, as opposed to three separate wire transfers, "because the single wire was a more cost effective and efficient way to transfer funds." To support this assertion, USVAF submitted an attachment detailing the invoices and payment amounts for three vendors.
- Lastly, USVAF acknowledged the existence of the US Veterans Assistance Foundation, LLC, however, it "object[s] to each of the findings that state USVAF LLC was the payee of certain disbursements; these payments were properly made to the vendors as payees."

The Audit staff maintained that:

- USVAF did not provide sufficient and verifiable records to demonstrate that the vendors disclosed on the reports were paid by way of the disbursements discussed in this finding. USVAF's bank statements indicate that the recipient of the ACH transfers was a single entity titled "Usvetassistfound." This entity appears to be the US Veterans Assistance Foundation, LLC.⁴ USVAF only provided vendor statements to support that all billed amounts presented were paid. USVAF provided no verifiable documentation to demonstrate whether "Usvetassistfound" subsequently made the payments to the disclosed vendors.
- Changes to the new names and addresses of vendors should have been reflected in USVAF's amended disclosure reports. Unless such changes are disclosed, the public record is not accurate.
- The US Veterans Assistance Foundation, LLC registered with the Nevada Secretary of State on November 20, 2017, three months after USVAF registered with the Commission. In addition, while the Nevada Secretary of State discloses the LLC's current status as "Revoked,"⁴ USVAF's Treasurer, was listed as one of the managers of the LLC, along with two family members and, according to the public record, this entity was formed as a domestic limited liability company.

The Interim Audit Report recommended that USVAF provide supporting and verifiable evidence, such as bank statements, that the disclosed vendors were paid with the funds transferred from USVAF's bank account to the "Usvetassistfound."

3. Committee Response to the Interim Audit Report

In response to the Interim Audit Report recommendation, USVAF reiterated that the payments were made to the intended vendors and not to "the U.S. Veterans Assistance Foundation, LLC, nor any other entity or entities." USVAF stated that,

for each of the ACH wire transfers made from its designated depository, PNC, its banking institution labeled the transfers “ACH Settlement Vendor Usvetassistfound.” USVAF further stated that “...this label was created solely by PNC, and does not reflect payment to the US Veterans Assistance Foundation, LLC, nor to any entity or entities other than the intended vendors.”

According to USVAF, “[the] labeling of the wire transfers occurred as part of the process by which funds were transferred directly from USVAF’s designated depository to the vendors in question.¹³” Further, USVAF stated that, “For each payment to a vendor, only one transfer occurred – the payment from USVAF to the vendor, only one transfer occurred – the payment from USVAF to the vendor, though it may have appeared that two transfers were being made – one from USVAF’s designated depository to “Usvetassistfound”... and one from “Usvetassistfound” to each of the vendors...” USVAF stated this was due to its bank’s “internal recordkeeping practice. Because this labeling process is controlled by the bank, USVAF’s ability to more clearly demonstrate the direct flow of funds from its depository to the vendors is limited.” To support its assertion, USVAF resubmitted vendor statements showing that all billed amounts were paid.¹⁴ In addition, USVAF submitted redacted bank statements obtained from its vendors¹⁵ which reflected 84 payments from “Usvetassistfound” totaling \$2,963,742¹⁶, for the period January 1, 2018 through August 9, 2018. USVAF did not provide any additional documentation for the remaining 63 vendor payments totaling \$2,492,834.

USVAF objected to the Audit staff’s “continued unsupported contention” that the wire transfers in question went to an intermediary entity. According to USVAF, the Audit staff has not provided “any factual evidence or rationale” to demonstrate its conclusion. USVAF stated that “the Audit Division should withdraw its finding related to recordkeeping for disbursements and use of designated depository.”

Based on the documentation provided, the Audit staff maintains that USVAF has not provided sufficient and verifiable documentation to support the 53 ACH transfers totaling \$5,456,675 made from its account. Specifically, the Audit staff notes the following:

- USVAF did not provide any documentation such as the debit memoranda or similar electronic receipts (discussed below), to demonstrate that the payments originating from its account were made directly to its vendors.
- Resubmitted vendor statements reflecting that all billed amounts presented were paid, do not provide the source(s) of the funds wired to the vendors.

¹³ The Audit staff notes that, irrespective of how the transactions are labeled, to utilize the ACH process to transfer funds, USVAF (not the bank) would have entered in the payee(s) information, including the payees’ names; bank account numbers; desired amounts to be transferred and the transfer date(s).

¹⁴ USVAF submitted these documents previously, in its response to the exit conference.

¹⁵ The redacted 2018 bank statements from one vendor were not applicable as USVAF made payments to this vendor only during calendar year 2017.

¹⁶ The Audit staff notes that one payment reflected in the vendor’s redacted bank statement was \$100 less than the reported and invoiced amount.

- According to USVAF bank statements, there were 53 ACH transfers totaling \$5,456,675. These ACH transfers were reported on USVAF's disclosure reports as 147 vendor payments of the same total amount. USVAF's assertion that "for each payment to a vendor, only one transfer occurred," is only partially supported by its bank statements. As outlined in the chart below, USVAF's ACH transfers contained one or three vendor payments per wire transfer as follows:

# of Payments Included Per ACH Transfer	Per USVAF Bank Statements	
	# of ACH transfers	Amount Paid
One	6	182,534
Three	47	5,274,141
Totals Per Bank	53	\$ 5,456,675

In six instances, the amounts transferred from USVAF's account represented a single payment to one of USVAF's vendors. In the remaining 47 instances, the transferred amounts contained more than one payment and were disbursed to more than one vendor. For those ACH transfers, USVAF's response did not address the discrepancy between USVAF's amounts reported per disclosed transaction and the actual amount and number of ACH transfers from its bank account, for which the banking institution lacks discretion apart from USVAF's orders.

- USVAF obtained and provided the redacted bank statements of three¹⁴ of its vendors reflecting 84 vendor payments totaling \$2,963,742. The Audit staff notes that all vendors utilized the same financial institution and that, per the bank statements, all three vendors used the same physical address. As for the 84 payments to vendors, the description of each transaction was "Usvetassistfound Des: Cash Disb. ID:" followed by the respective vendor's name. USVAF did not explain why these payments to vendors were described on the redacted bank statements as cash disbursements. The chart below summarizes the number of payments substantiated by the redacted vendor bank statements. Between January 1, 2018, and August 8, 2018¹⁷, it appears as if the vendors received the payments as follows:

¹⁷ The vendor bank statements for August 2018 did not indicate any activity beyond August 9, 2018. The September and October 2018 redacted vendor bank statements submitted by USVAF were blank.

# of Payments Included Per ACH Transfer	Per USVAF Bank Statements	Per Redacted Vendor Bank Statements	
	# of ACH Transfers	# of Vendor Payments	Amount Reported
One	3	3	84,201
Three	27	81	2,879,641
Totals Per Vendors	30	84¹⁸	\$ 2,963,842¹⁸

As such, USVAF demonstrated, albeit circumstantially, that these 84 payments appear to have reached its vendors as USVAF reported, however, USVAF did not provide any documentation to substantiate that these payments to vendors originated from its own banking institution. Similarly, the vendors' redacted bank statements appear to show payments from "Usvetassistfound" but do not appear to reflect that the payments came directly from USVAF's bank account.

- USVAF did not provide the vendor bank statements for the remaining 63 vendor payments totaling \$2,492,834. The chart below summarizes the number of payments which were not substantiated by the vendor bank statements as follows:

# of Payments Included Per ACH Transfer	Per USVAF Bank Statements and Vendor Sheets	No Documentation Provided	
	# of ACH Transfers	# of Vendor Payments	Amount Reported
One	3	3	98,333
Three	20	60	2,394,501
Totals Per Bank	23	63	\$ 2,492,834

The Audit staff recommends USVAF provide sufficient supporting and verifiable evidence to demonstrate that the 53 ACH transfers resulted in the 147 vendor payments USVAF reported on its disclosure reports. Based on the documentation provided by USVAF, it appears that USVAF initiated the ACH transfers using its banking institution's online banking portal, USVAF can provide, for example, a debit memorandum or any similar electronic transaction receipt generated during the process for each ACH transfer. Such documentation would include the detail necessary to verify that the vendor payments reported on USVAF's disclosure reports were accurate and paid via the committee's depository, in accordance with 11 CFR §104.14(b)(1).

¹⁸ According to USVAF's bank statements, USVAF made 53 ACH transfers for 84 vendor payments totaling \$5,456,675. USVAF did not provide any documentation for the remaining 23 ACH transfers which presumably paid 63 vendor payments totaling \$2,492,834.

- Generally, to electronically initiate an ACH transfer, the requestor/sender would access their online bank account and initiate an ACH transfer. For successful processing, the following information would be entered; the ACH transfer date, the recipient's name; the recipient's bank routing number and account number; and the amount to be transferred. In USVAF's case, this information would be required for *all* recipients (vendors) since the ACH transfers included up to three invoiced payments.
- Similarly, upon completion of each ACH transfer, USVAF's banking institution would issue a debit memorandum or similar electronic receipt, reflecting such details as dates, amounts, the collecting bank's routing and account numbers, along with the name on the account.

USVAF obtained and provided some vendor bank statements and was able to show that 84 payments totaling \$2,963,742, made via 30 ACH transfers, reached its vendors. However, with regard to recordkeeping requirements, USVAF did not materially comply with the Audit staff's recommendation because it did not provide sufficient and verifiable evidence such as, debit memorandum or similar electronic receipt for each ACH transfer to demonstrate that the vendor payments originated from the USVAF's bank account. USVAF also did not provide any documentation for the remaining 63 vendors payments totaling \$2,492,834 which were disbursed via 23 ACH transfers.

The Audit staff recommends that, in addition to the aforementioned transfer documentation, USVAF may also provide a written explanation from a bank official regarding how the ACH transactions appear on its monthly bank statements and how exactly the funds were transferred.

The Audit staff maintains that USVAF did not provide sufficient supporting and verifiable evidence that the disclosed vendor payments totaling \$5,456,675, were made with the funds transferred from USVAF's bank account.

B. Use of the Designated Depository

1. Facts

The Audit staff identified 147 payments totaling \$5,456,675 disclosed as payments to vendors which, according to USVAF bank statements, were instead ACH transfers to "Usvetassistfound." It appears USVAF involved this entity in its financial operations and failed to use its designated depository to make payments directly to the vendors.

USVAF provided vendor statements to support that all billed amounts presented were paid to the vendors, however, the Audit staff was unable to verify that the funds USVAF transferred to "Usvetassistfound" were subsequently transmitted to USVAF's disclosed vendors.

2. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter during the exit conference with USVAF representatives. In its written response to the exit conference, USVAF did not address USVAF's failure to use its designated depository to make payments to its vendors.

The Interim Audit Report recommended that USVAF provide bank statements to support that the disclosed vendors were paid with the funds transferred from USVAF's bank account to "Usvetassistfound" with the description of "ACH Company: USVETASSISTFOUND." The Interim Audit Report further recommended that USVAF explain why its designated depository was apparently not used to make the direct payments to the disclosed vendors.

3. Committee Response to the Interim Audit Report

In response to the Interim Audit Report recommendation, USVAF disagreed with the Audit staff's conclusion and maintained that the ACH transfers were made from its designated depository, as discussed in Part A above.

To demonstrate that the vendor payments originated from its bank account, the Audit staff recommends USVAF provide sufficient supporting and verifiable evidence such as, debit memorandum or similar electronic receipt for each payment to demonstrate that the 53 ACH transfers initiated by USVAF resulted in the 147 vendor payments reported on its disclosure reports. USVAF may also provide a written explanation from a bank official regarding how the ACH transactions appear on its monthly bank statements and how exactly the funds were transferred.

The Audit staff concludes that USVAF has not provided sufficient supporting and verifiable evidence to support that the disclosed vendors were paid with the funds transferred from USVAF's bank account.

Finding 6. Failure to File 24/48-Hour Reports

Summary

During audit fieldwork, the Audit staff determined that USVAF untimely filed 48-hour reports for two independent expenditures totaling \$17,000 and did not file the required 24-hour reports for two independent expenditures totaling \$15,000. In response to the Interim Audit Report recommendation, USVAF stated that the errors were "unintentional" and it has implemented processes to ensure the filing of such reports in the future. The Audit staff concludes that USVAF untimely filed 48-Hour Reports for two independent expenditures totaling \$17,000 and did not file 24-Hour Reports for two independent expenditures totaling \$15,000.

Legal Standard

A. Definition of Independent Expenditures. The term "independent expenditure" means an expenditure by a person for a communication expressly advocating the

election or defeat of a clearly identified candidate that is not made in coordination with any candidate or authorized committee or agent of a candidate. 11 CFR §100.16(a).

B. Itemization of Independent Expenditures. When independent expenditures to the same person exceed \$200 in a calendar year, the committee must report on Schedule E the:

- Amount of the expenditures;
- Date when the expenditures were made;
- Name and address of the payee; and
- Purpose of the expenditures. 52 U.S.C. §30104(b)(5)(A) and 11 CFR§104.3(b)(3)(vii).

Independent expenditures made (i.e., publicly disseminated) prior to payment should be disclosed as “memo” entries on Schedule E and as a reportable debt on Schedule D. Independent expenditures of \$200 or less do not need to be itemized, though the committee must report the total of those expenditures online (b) on Schedule E. 11 CFR §§104.3(b)(3)(vii), 104.4(a) and 104.11

C. Last-Minute Independent Expenditure Reports (24-Hour Reports). Any independent expenditures aggregating \$1,000 or more, with respect to any given election, and made after the 20th day but more than 24 hours before the day of an election must be reported and the report must be received by the Commission within 24 hours after the expenditure is made. A 24-hour report is required for each additional \$1,000 that aggregates. The 24-hour report must be filed on a stand-alone Schedule E. The date that a communication is publicly disseminated serves as the date that the Committee must use to determine whether the total amount of independent expenditures has, in the aggregate, reached or exceeded the threshold reporting amount of \$1,000. 11 CFR §§104.4(f) and 104.5(g)(2).

D. Last-Minute Independent Expenditure Reports (48-Hour Reports). Any independent expenditure aggregating \$10,000 or more for an election in any calendar year, up to and including the 20th day before an election, must be disclosed within 48 hours each time the expenditures aggregate \$10,000 or more. The reports must be filed with the Commission within 48 hours after the expenditure is made. The 48-hour report must be filed on a stand-alone Schedule E. The date that a communication is publicly disseminated serves as the date that the Committee must use to determine whether the total amount of independent expenditures has, in the aggregate, reached or exceeded the threshold reporting amount of \$10,000. 11 CFR §§104.4(f) and 104.5(g)(1).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff reviewed five disbursements totaling \$40,000 that USVAF disclosed on Schedule E (Itemized Independent Expenditures). According to

USVAF's disclosure reports, which included the corresponding dissemination dates, these expenditures were for billboards, mailers, signs, social media and campaign advertising service and administration. USVAF provided the Audit staff with its media vendor's "Proposed Marketing Plan" (the Plan) and the associated invoices to demonstrate that the communications described in the Plan were the same communications USVAF paid for and subsequently self-reported as independent expenditures. The Audit staff determined that four of these independent expenditures, totaling \$32,000, required the filing of 24/48-Hour Reports. Specifically, USVAF untimely filed 48-Hour Reports for two expenditures totaling \$17,000 and did not file 24-Hour Reports for two expenditures totaling \$15,000.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter during the exit conference with USVAF representatives and provided the relevant schedule. In its response to the exit conference, USVAF stated that it inadvertently failed to file these reports. USVAF stated that these errors were unintentional and explained that it has implemented a process to track and correctly report independent expenditures to ensure that required 24/48-Hour Reports are filed.

The Interim Audit Report recommended that USVAF provide copies of the previously requested communications and the corresponding documentation to support the public dissemination date for each communication to demonstrate that the filing of 24/48-Hour Reports was not required. Absent such documentation, the Interim Audit Report recommended that USVAF 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, USVAF acknowledged it inadvertently failed to file the required 24/48-Hour Reports. USVAF stated that: "At that time, the reporting team and USVAF were establishing the appropriate protocols and processes to track and correctly report the independent expenditures." Additionally, USVAF indicated that, "Both errors were unintentional and the current process will ensure that all required 24-hour or 48-hour reports are filed."

The Audit staff concludes that USVAF untimely filed 48-Hour Reports for two independent expenditures totaling \$17,000 and did not file 24-Hour Reports for two independent expenditures totaling \$15,000.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 22, 2022

MEMORANDUM

TO: Patricia C. Orrock
Chief Compliance Officer

Dayna C. Brown
Assistant Staff Director
Audit Division

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

Jessica Selinkoff *JS*
Acting Assistant General Counsel
Compliance Advice

Joshua Blume *JB*
Attorney

SUBJECT: Audit Division Recommendation Memorandum on the
US Veterans Assistance Foundation (LRA 1105)

The Office of the General Counsel has reviewed the Draft Final Audit Report (“DFAR”) and Audit Division Recommendation Memorandum (“ADRM”) on the US Veterans Assistance Foundation (“USVAF”) and USVAF’s response to the DFAR. The DFAR and ADRM contain six findings: Misstatement of Financial Activity (Finding 1); Increased Activity (Finding 2); Disclosure of Occupation and Name of Employer (Finding 3); Disclosure of Disbursements (Finding 4); Recordkeeping for Disbursements and Use of Designated Depository (Finding 5); and Failure to File 24/48-Hour Reports (Finding 6). We concur with the findings generally, and comment on Finding 5. If you have any questions, please contact Joshua Blume, the attorney assigned to this audit.

I. RECORDKEEPING FOR DISBURSEMENTS AND USE OF DESIGNATED DEPOSITORY (FINDING 5).

The Audit Division concludes, and we concur, that it is unable to verify the accuracy and completeness of USVAF's disclosed disbursements to vendors. Specifically, USVAF has not provided supporting evidence independently verifying that \$5,456,675 in disbursements to "Usvetassistfound" were, in fact, payments from USVAF's designated campaign depository account to its vendors. 52 U.S.C. § 30102(h)(1); 11 C.F.R. § 103.3(a). While USVAF provided USVAF bank statements, certain vendor bank statements, and materials created by or on behalf of USVAF such as a Quickbooks Report in support of its position that disbursements it made to "Usvetassistfound" were payments to its vendors, USVAF did not provide information documenting who controls the "Usvetassistfound" account, whether USVAF, one or more of its vendors, or another person or persons.

The requirement that political committees make all disbursements from the political committee's designated campaign depository "seem[s] designed to support the general statutory intention of the Act and the regulations to assure a complete and reliable 'paper trail' for record keeping, disclosure and audit purposes." Advisory Opinion 1993-04 (Cox) at 3, note 2. In this case, the lack of documentation about the person or persons controlling the "Usvetassistfound" account does not allow verification that USVAF disbursed funds to its vendors from its campaign depository as required by 52 U.S.C. § 30102(h)(1) and 11 C.F.R. §§ 103.2, 103.3.