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We are responding to your letter dated January 21, 2015 regarding the Committee's 2014 October Quarterly Report. As we have explained to you by telephone, this letter inexplicably was electronically routed to a general "spam quarantine" destination of the email system of the organization that hosts the Committee email address that is listed on the Committee's Statement of Organization, and the Committee did not discover the letter until March 26. Accordingly, the Committee did not file its amended October Quarterly Report on January 28, 2015, in consideration of your letter.

We first respond with respect to the independent expenditures, totaling \$16,206.95, involving the following payees:

AFSCME Special Account  
 AFT Michigan General Fund  
 AFT Solidarity 527  
 Committee on Letter Carriers Political Education  
 Michigan Nurses Association General Account  
 National Air Traffic Controllers Association Political Action Committee (aka NATCA PAC)  
 Retail, Wholesale and Department Store Union International Treasury Account  
 UFCW International Union Working Families Advocacy Project  
 USW Works  
 Voices of the American Federation of Government Employees

All of the independent expenditures to these payees were "in-kind independent expenditures" that the Committee reported under an interpretation of 11 C.F.R. § 104.13(a)(12), which provides: "Except for items noted in 11 CFR 104.13(b) [?] [c] contributions of stocks, bonds, art objects and other similar items to be liquidated? ? each in-kind contribution shall also be reported as an expenditure at the same usual or normal value and reported on the appropriate expenditure schedule, in accordance with 11 CFR 104.3(b).? This regulation, then, requires an offsetting disbursement entry on Form 3X for every in-kind contribution that a committee receives during the same reporting period. However, the Committee's application of this regulation did not reflect that the Federal Election Commission ("Commission") has long maintained an interpretative rule that requires all in-kind expenditures to be reported as a Line 21(b) operating expenditure.

That interpretative rule exists in several official Commission publications. The first is its Campaign Guide for Nonconnected Committees (2008). The Federal Election Campaign Act ("the Act") states that the Commission shall "prepare, publish, and furnish to all persons required to file reports and statements under this Act a manual recommending uniform methods of bookkeeping and reporting." 52 U.S.C. § 30111(a)(2). The Commission identifies its Campaign Guides as "compliance manuals for committees registered with the FEC." <http://www.fec.gov/info/publications.shtml> (emphasis added). And, the guide for nonconnected committees like Workers' Voice instructs:

[T]he value of the in-kind contribution [received] must be reported as an operating expenditure on Line 21(b) (in order to avoid inflating the cash-on-hand amount). 104.13(a)(2). If the in-kind contribution must be itemized on Schedule A, then it must also be itemized as an operating expenditure on Schedule B for operating expenditures. See the illustration at right.

Id. at 58 (footnote omitted). The Campaign Guide for Corporations and Labor Organizations, at p. 55, contain nearly identical instructional language, including the citation to § 104.13(a)(2). This, then, is an interpretative rule that binds the Commission unless and until the Commission changes it.

The second publication that establishes this interpretative rule is the instructions for Form 3X itself. The Act directs the Commission to "prescribe rules, regulations, and forms to carry out the provisions of this Act." 52 U.S.C. § 30111(a)(7) (emphasis added). The Form 3X instructions direct: "Each contribution in-kind must also be reported in the same manner as an operating expense on Schedule B and included in the total for "Operating Expenditures."? Instructions for Form 3X and Related

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Schedules, p. 10 (emphasis added); see also id. at 13 (?Contributions in-kind received by the committee which are itemized on Schedule A must also be itemized as an operating expenditure on Schedule B.?) (emphases added).

That Workers? Voice did not actually rely upon the Commission?s interpretative rule when it reported its in-kind expenditures in the October Quarterly Report does not matter; the Commission cannot enforce compliance with a reporting standard that did not then, and still does not, exist. Workers? Voice stands ready to amend its October Quarterly Report to list on Line 21(b) rather than Schedule E all of its in-kind expenditure transactions with the above-listed payees. Of course, the 48-hour reporting requirement did not apply to Line 21(b), so at most Workers? Voice reported its in-kind expenditures on the wrong reporting schedule of its October Quarterly Report.

Even if for some reason the Commission?s interpretative rule were invalid ? and there is no reason why it would be ? and for some further reason these in-kind expenditures were required to be reported on Schedule E within 48 hours of the dissemination of the particular communication, this did not always occur during September 2014, the for two reasons.

First, Workers? Voice relied heavily upon in-kind contributions of third-party-paid personnel in order to carry out its activities, and those kinds of in-kind contributions account for all or virtually all of the amounts that Workers? Voice correspondingly reported as in-kind expenditures to the payees above. Workers? Voice established an elaborate accounting system in order to timely record the nature, timing and value of these contributions and their use in its activities. Nonetheless, some of this information was not received by Workers? Voice from its in-kind contributors or otherwise in time for Workers? Voice to report it on a 48-hour report.

Second, Workers? Voice?s vendor?s accounting entry system for generating 48-hour reports for a particular election did not produce a listing on the reports of some expenditure that preceded the attainment of the \$10,000 reporting threshold; instead, the report listed only the expenditures that crossed the threshold.

Your letter secondly refers to a total of \$9,899.67 in monetary independent expenditures to four different payees.

With respect to payee Mosaic, which produced flyers that were distributed by canvassers, most of the \$7,612.50 of entries that your letter lists reflect late reporting due to the vendor technical flaw described above. Other of the late-reported expenditures resulted from an inadvertent error of not internally registering the federal portion of a combined federal/nonfederal flyer. Other of the late-reported expenditures resulted from misattribution to a committee of U.S. Senate candidate Gary Peters that did not pertain to his Senate candidacy. However, \$990.00 of Mosaic independent expenditures were timely reported but, due to a different vendor system flaw, the Schedule E entries for ?Date of Public Distribution/Dissemination? and ?Date of Disbursement or Obligation? were reversed, which resulted in an entry that appeared to be late but in fact was not. Workers? Voice will amend the report accordingly.

The CO AFL-CIO payee entry of \$480.00 is a late-reported expenditure that resulted from the vendor system flaw concerning the thresholds, described above. The AFL-CIO payee entries totaling \$226.20 reflect late-reported expenditures that appear to have resulted from the same problem. The EGT Printing Solutions, LLC payee entry for \$1,580.97 reflects a late-reported expenditure that appears to have resulted from the misattribution concerning the multiple Gary Peters committees, described above.

In light of the above, we respectfully submit that no further action should be taken with respect to any of these matters.

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