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NAME OF COMMITTEE (In Full)
CITIZENS FOR FREE ENTERPRISE

FEC IDENTIFICATION NUMBER
C00749671

Mailing Address 1395 S. PLATTE RIVER DRIVE

City State ZIP Code
DENVER CO 80223

February 23, 2021

VIA ELECTRONIC FILING
Federal Election Commission
Attention: Michael Beckman
Campaign Finance Analyst
Reports Analysis Division
1050 First Street, NE
Washington, DC 20463

Dear Mr. Beckman:

Citizens for Free Enterprise (CFE or PAC) is in receipt of the Request for Additional Information (RAI) dated January 18, 2021, regarding its Amended 12 Day Pre-General Report. In the RAI, you request information regarding the additional expenditures reflected on the current report filed December 10, 2020, totaling \$370,217.88 that were not included on the original 12 Day Pre-General Report filed on October 22, 2020.

Generally speaking, while the initial expenditures for the purchase of ads were timely disclosed on Independent Expenditure Notices (IENs) and/or periodic reports, based on a variety of factors, decisions were made to reallocate the PAC's budget from the initial ad buy to different ad buys for the purposes of effectively reaching the targeted audience for the ads. The reallocations may have been to make expenditures related to an election other than the one originally reported, and/or related to the same election as initially reported but for different ad product(s) and/or for different market(s) and/or for a revised message, or a combination of any of the following. The status of the expenditures was kept as current as possible based on all available information over the course of time, e.g., amending the 12 Day Pre-General Report six times. However, the current report on file with the Commission reflects the final reconciliation after all data and information from the ad buys is tabulated.

Specifically, the disbursements at issue are independent expenditures (IEs). The changes to the disbursements were included on various amend reports based on reallocations of IEs previously reported. The transactions noted below when taken together total to the \$370,217.88:

Several transactions were pre-paid to Majority Strategies LLC on 9/15. These transactions reflect a disbursement date of 10/1 instead of showing no date as would be expected as a software work around in order to get the transaction related to the offset for the prepayment, transaction SB21B.4630 for -298548.61, to appear on the same report. The addition is based on the reallocation of the PAC's budget and/or allocation to expenditures not previously determined at the time of the original report. All these transactions were included on the report by the first amendment filed on 10/23, and the IE was timely reported. The transactions include:

- Transaction ID SE.4688 \$44,563.00 disseminated on 10/25
- Transaction ID SE.4777 \$117,137.00 disseminated on 10/27
- Transaction ID SE.4782 \$101,161.01 disseminated on 10/27
- Transaction ID SE.4785 \$33,187.60 disseminated on 10/27

The third amended report, filed on 10/28, added Transaction ID SE.4851 \$2,500.00 paid to Majority Strategies LLC and disseminated on 10/27, from funds originally reported for the NM election now reallocated to the OK election. The transaction was not reported on the original report because it was added to the PAC's media strategy after the original filing. As with other transactions above, this transaction was pre-paid on 9/15 but reflects a disbursement date of 10/1 instead of showing no date as would be expected as a software work around in order to get the transaction related to the offset for the prepayment, transaction SB21B.4630 for -298548.61, to appear on the same report. The IE was timely reported.

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The fourth amended report, filed on 11/2, added three transactions for IEs from reallocated funds previously reported but now to be spent on other ads and/or in other elections. The early termination of the ad occurred on or about 10/9 (resulting in an unknown credit to CFE); therefore, 10/9 was used for the expenditure date though the IEs were not disseminated until 11/1. All the IEs were timely reported. The transactions include:

- Transaction ID SE.4871 \$48,085.00 for the reallocation of funds previously reported for the NM election
- Transaction ID SE.4876 \$24,042.50 for the reallocation of funding previously reported for the SC election
- Transaction ID SE.4877 \$24,042.50 for the reallocation of funding previously reported for the SC election

The following transactions were discovered as duplicate transactions and were removed from the report by the sixth amended report filed on 12/10:

- Transaction ID SE.4551 total paid \$7,212.98
- Transaction ID SE.4552 total paid \$17,287.75

There is no doubt someone unfamiliar with the trade practices for advertising markets, placement and pricing may question whether CFE's method of reporting its IEs was the most timely and effective method. In anticipation of this follow-up inquiry, CFE offers some added information regarding the complex process of ad placement for non-traditional advertising in the belief that with this information there will be no question as to whether the PAC's method of reporting was and is the best available method for timely and accurate reporting.

Like many political organizations, CFE has come to understand that non-traditional marketing and advertising methods offer superior channels for reaching your audience when compared to traditional marketing and advertising methods. Gone are the days of a buyer paying thousands to a seller for a billboard ad and simply hoping for the best.

CFE considers it to be its ethical responsibility to the PAC's contributors to ensure that its ad strategies get the best return (audience distribution) on its investment (expenditure) for ad placement. CFE uses a method that could be generally described as a marketing mix. That is, CFE, directly or through its vendors and consultants, uses multiple areas of focus as part of a comprehensive advertising plan, and it relies on empirical research to evaluate the past impact of ads and predict the future impact its ads. While market mix provide superior results, its complicated structure does not always provide the kind of instant information needed during elections for reporting.

In simplest terms, while CFE is the advertiser, there are a number of other parties in the advertising ecosystem that may be involved in any one of the ad transactions: ad buyers, which may not necessarily be CFE, is the party who literally enters the various markets to place, finalize and manage the ad buys; ad vendors and consultants offer a number of digital ad services; ad production vendors and consultants offer manufacturing and creative services for ads; publishers offer digital inventory and distribute ads through their channels, e.g., web, mobile, social, search, and video; publisher networks are involved in the buying and selling marketplace; data providers offer analysis and information on a variety of topics, e.g., audiences, pricing, performance; media management companies may be involved to provide tools to manage ad campaigns. One or several of these actors may be involved in the final pricing of an ad, or for that matter, the calculation of the refund due to the PAC, as advertiser, in the instance the PAC decides to pull the ad before the original end date under an out clause, termination or cancellation clause for the ad buy for any reason, including reasons based on empirical research of ad performance.

Additionally, the buy model and pricing of non-traditional ads often leaves open the possibility that the final ad price may change due to

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changes in inventory, or because the PAC decides to end the ad early in order to reallocate its budget to other ads messages, channels, ad platforms or elections for any reason. Other than network television and AM/FM frequency radio, the ad buy model may take the form of direct, programmatic, or programmatic direct buy, and it may be accomplished through a variety of methods including real-time bidding, private auction marketplace, unreserved fixed rate, automated direct, or programmatic reserved (guaranteed). Additionally, the ad buy may be done by reservation or by auction.

While it is impossible to cover all the potential pricing structures here, the most basic terms of pricing include fixed pricing or auction driven pricing, and it can be charged under a variety of terms. The most common pricing types are: costs per million impressions, (CPM); cost per click (CPC or PPC) for the literal number of times a link in the ad is used; cost per lead (CPL) for each potential shareholder delivered; cost per action (CPA) for the literal number of times the call to action is filled.

Given the intricacy of the ad buys, the challenge of reporting fluctuations in IEs grows based on the number of factors, including, the number of elections, of ads, of messages, of vendors, of shortened ad runs, of reallocations, and other factors. As a general matter, the PAC can timely and accurately report the details of the IE from the front-end, i.e., when it places the ad buy and accepts the ad buy cost. However, the manner in which the reconciliation of all the changes and reallocations to ad buys for IEs is conducted does not easily fit the culture of IENs and/or periodic reporting.

Instead, the PAC must use all its efforts to remain as current as possible based on all available information. As CFE placed new ads, it continued to report its IEs. At the same time, the PAC relied on empirical research for its ads to determine their efficacy. Based on the empirical data, from time to time the PAC decided to reallocate its expenditures to other elections, messages or ad types. The reallocations relied on the early termination of ad buys; however, because of the way ad buys are priced and the number of parties that may be involved the resulting "refund" form an early termination is not immediately determined. In the PAC books, any reallocations were treated as estimated receipts in transit for the purposes of reconciling the bank balance and the Cash on Hand at Close of Reporting Period (COH) for reporting purposes. Using this method, inevitably, the PAC ended up over-reporting its IEs on Schedule B at certain times.

As soon as possible after the election, and once all the information for the IEs and reallocations was received, the PAC reconciled its expenditures and verified the reconciliation against a number of independent sources. As mentioned, the current version of the 12 Day Pre-General Report accurately reflects the update to transactions based on the final information received.

Part of the reconciliation process requires the correction to the over-reporting on Schedule B. As noted on this report and others, the PAC reported correction for the over-reporting on Schedule B by reporting the funds from the reallocations on Schedule A, Line 17 Other Federal Receipts with appropriate memos as a matter of clarity. Since the PAC did not in fact receive any deposits into its bank account, by check or wire, as a refund, rebate or return of deposits, and the expenditures at issue were not made for operating costs, the PAC did not report the reallocations on Line 15 Offsets to Operating Expenditures.

To explain the complexity of the reporting obligation, it may be helpful to consider a hypothetical for federal IEs made for 3 offices in 3 different states. Due to a character limitation for the Miscellaneous 99 Form, this hypothetical is filed under separate cover for your consideration.

In CFE's view, amending

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all the involved IENs and/or amending the periodic reports to retroactively apply reductions or reallocations to IEs would, in all likelihood, decrease the public's understanding of CFE's activity. Based on the trade practices in non-traditional advertising and the limitations of the reporting structure and the reporting technology, CFE's method of reporting IEs each time a new IE is authorized and accounting for reallocations or refunds on the periodic report once known, while complex, was and is the most effective method available.

It is my expectation that this information satisfies your request for additional information as well as providing information regarding the method to the madness reporting. Of course, if you have any additional questions, please do not hesitate to contact me.

Sincerely,
Mike Slanker
Treasurer