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999 E Street, NW
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FIRST GENERAL COUNSEL'S REPORT

RAD REFERRAL 13L-42

DATE RECEIVED: September 27, 2013

DATE ACTIVATED: January 14, 2014

EARLIEST SOL: October 22, 2017

LATEST SOL: October 25, 2017

ELECTION CYCLE: 2012

SOURCE:

Internally Generated

RESPONDENT:

David Alameel for Congress and Nadya Alameel
in her official capacity as treasurer

RELEVANT STATUTES:

2 U.S.C. § 434(a)-(b)

11 C.F.R. § 104.1(a)

11 C.F.R. § 104.3(a)

11 C.F.R. § 111.43

INTERNAL REPORTS CHECKED:

Disclosure Reports

FEDERAL AGENCIES CHECKED:

None

I. INTRODUCTION

The Reports Analysis Division ("RAD") referred David Alameel for Congress and Nadya Alameel in her official capacity as treasurer (the "Committee") to the Office of General Counsel ("OGC") for failing to disclose \$505,780.59 in receipts and \$861,563.06 in disbursements on its original 2011 Year-End, 2012 April Quarterly, 2012 12 Day Pre-Primary, 2012 July Quarterly, and 2012 October Quarterly Reports. In response, the Committee acknowledges the reporting errors but requests that the Commission resolve this matter through Alternative Dispute Resolution ("ADR") if further action is necessary.

Based on the available information, we recommend that the Commission open a matter under review ("MUR") and find reason to believe that the Committee violated 2 U.S.C. § 434(b) by failing to accurately disclose receipts and disbursements. Additionally, we recommend that the Commission enter into pre-probable cause conciliation with the Committee

II. FACTS

The Committee is the principal campaign committee of David Alameel, a candidate in the 2012 primary for the U.S. House of Representatives in Texas's 33rd Congressional District.¹ The Committee filed its Statement of Organization on December 12, 2011, and timely filed its 2011 Year-End, 2012 April Quarterly, 2012 12 Day Pre-Primary, 2012 July Quarterly, and 2012 October Quarterly Reports. As reflected in the chart below, between April 13 and October 25, 2013, the Committee filed amendments to each of these reports, which disclosed an aggregate of \$505,781 in additional receipts, and \$861,563 in additional disbursements not included in the original reports.²

¹ Alameel lost the 2012 primary election and seeks to terminate the Committee. See Letter from Brian G. Svoboda, Graham M. Wilson, Legal Counsel for the Committee, to Jeff S. Jordan, Supervisory Att'y, FEC at 1 (Dec. 6, 2013) ("Resp.").

² The Committee also filed three additional amendments which did not affect the receipts and disbursements.

Report	Dates of Amendments	Total Amount of Increased Receipts	Total Amount of Increased Disbursements	Total Increased Activity
2011 Year-End	4/13/2012 10/22/2012	\$3,125	N/A	\$3,125
2012 April Quarterly	5/17/2012 10/05/2012 10/12/2012 10/25/2012	\$2,655.59	\$16,303.91	\$18,959.50
2012 12 Day Pre-Primary	5/19/2012 7/02/2012 7/15/2012 10/12/2012 10/25/2012	\$500,000	\$200,317.95	\$700,317.95
2012 July Quarterly	10/12/2012 10/25/2012	N/A	\$643,810.60	\$643,810.60
2012 October Quarterly	10/25/2012	N/A	\$1,130.60	\$1,130.60
	TOTAL	\$505,780.59	\$861,563.06	\$1,367,343.65

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2 RAD sent the Committee two separate Requests for Additional Information ("RFAI")
3 regarding the referred reports. The first RFAI dealt only with the increased activity on the
4 Committee's July 15 amendment to the 2012 12 Day Pre-Primary Report, which added a
5 previously omitted \$500,000 loan from the candidate's personal funds. *Id.* In response, the
6 Committee filed a Miscellaneous Document ("FEC Form 99") acknowledging that the increase
7 should have been disclosed on the original report, and stating that "it was not included due to a
8 misfiling on our part." *Id.* at 4. The Committee explains that it discovered and corrected the
9 oversight after being made aware that its original report had a "negative balance." *Id.*

10 RAD sent the second RFAI to the Committee regarding the substantial increase in
11 receipts and disbursements disclosed by the Committee on amendments filed to the 2011 Year-
12 End on October 22, 2012; and to the 2012 April Quarterly, 2012 12 Day Pre-Primary, 2012 July

Quarterly, and 2012 October Quarterly Reports on October 25, 2012.³ *Id.* In response, the Committee filed a FEC Form 99 explaining that amendments to the original reports were necessary due to human error in processing and recording large numbers of checks that were issued to individuals providing the Committee with contract labor services ranging from office maintenance to canvassing. *Id.* Specifically, the Committee explains that after the treasurer signed a physical check, its procedure was to file a copy of the check until needed for entry into FEC reports. The Committee asserts that “deviations” from this procedure “led to activity occurring without our immediate knowledge and therefore incurred delayed updates to our records.” *Id.* The Committee acknowledged specific omitted disbursements, including in-kind contributions totaling \$5,780.59, automatic debits to the account, including six bank fees totaling \$1,130, large wire transfers including an advertising payment in the amount of \$39,000, wire payments to Rindy Miller Media for \$250,000 and to Latimundo for \$405,000. *Id.* Further, the Committee asserted that some of the errors resulted when it had to restore its financial files and FEC file to a new computer after encountering software issues while uploading an amendment. *Id.*

RAD referred the Committee to OGC for amending its 2011 Year-End, 2012 April Quarterly, 2012 12 Day Pre-Primary, 2012 July Quarterly, and 2012 October Quarterly Reports to disclose a total of \$505,780.59 in additional receipts and a total of \$861,563.06 in additional disbursements during the 2012 election cycle, which is an aggregate increase in activity of \$1,367,343.65. RAD referred the Committee to OGC pursuant to *2011-2012 RAD Review and Referral Procedures for Authorized Committees* at 75 (the “Referral Procedures”) (approved by

³ The Committee filed these amendments after discussions with RAD in October 2012 about additional accounting errors it had discovered. See Referral at 4-5. Although the Committee had filed previous amendments to each of these reports (with the exception of the 2012 October Quarterly Report), see chart *supra* p. 3, those amendments had not previously triggered an RFAI.

Comm'n Apr. 5, 2011). Standard 7 of those procedures includes referrals to OGC when increases in activity for receipts and/or disbursements aggregate over on amendments filed to reports covering the current and/or previous election cycles, which were received during the current election cycle.⁴ Upon receipt of the Referral, OGC notified the Committee about this matter on September 30, 2013. Letter from Jeff S. Jordan, Supervisory Att'y, CELA, FEC to Nadya Alameel, Treasurer of the Committee (Sep. 30, 2013); *see also Agency Procedure for Notice to Respondents in Non-Complaint Generated Matters*, 74 Fed. Reg. 38,617 (Aug. 4, 2009).

In response, the Committee states that it regrets that its reports required correction, but maintains that the Commission should not proceed with further enforcement action. Resp. at 2. The Committee states that the first-time candidate "heavily self-funded his campaign, so the significant changes to the receipts disclosed on the Committee's reports consist mainly of his own contributions." *Id.* The Committee also notes that the "bulk of the disbursements added to the Committee's reports were for two large media purchases. The rest included standard campaign expenses, such as payments for contract labor and bank fees." *Id.* Further, the Committee asserts that it repeatedly conferred with Commission staff to make the necessary amendments to the reports, and cites to the Referral, which details those conversations. *Id.* It reiterates the explanations made in the FEC Form 99, which noted that the amendments stemmed from the hiring of a large number of campaign contractors, resulting in a large number of checks to be cut and tabulated. *Id.* It also maintains that the extremely large number of transactions

⁴ Standard 7 of those procedures also states that a case will be referred to OGC for review when (i) an amendment or amendments are filed at least business days after the original report was filed; (ii) the amendment or amendments disclose an increase or decrease of more than in receipts, disbursements, or debts; and (iii) for an election-sensitive report, the increase or decrease is in excess of or for a non-election sensitive report, in excess of. *Id.* The increase in receipts outlined in the Amended 2012 12 Day Pre-Primary Report and the increase in disbursements outlined in the Amended 2012 July Quarterly Report both meet this "per report" threshold.

1 over a short period of time, coupled with human error, further contributed to omissions from the
2 Committee's original reports. *Id.* The Committee states that it awaits termination, and to the
3 extent that any further action is necessary in this matter, it requests that the Commission refer the
4 matter to ADR. *Id.*

5 III. LEGAL ANALYSIS

6 The Federal Election Campaign Act of 1971, as amended (the "Act"), requires committee
7 treasurers to file reports of receipts and disbursements in accordance with the provisions of
8 2 U.S.C. § 434. 2 U.S.C. § 434(a)(1); 11 C.F.R. § 104.1(a). These reports must include, *inter*
9 *alia*, the total amount of receipts and disbursements, including the appropriate itemizations,
10 where required. 2 U.S.C. § 434(b); 11 C.F.R. § 104.3.

11 Here, the Committee did not comply with the Act's reporting requirements when it failed
12 to disclose \$505,780.59 in receipts and \$861,563.06 in disbursements on its original 2011 Year-
13 End, 2012 April Quarterly, 2012 12 Day Pre-Primary, 2012 July Quarterly, and 2012 October
14 Quarterly Reports, an aggregate increase of \$1,367,343.65. Resp. at 1-2. Although the
15 Committee requests either dismissal or a referral to ADR, the Referral Procedures indicate that
16 increased-activity matters referred pursuant to Standard 7 are handled by OGC where, as here,
17 the amended reports reflect aggregate increased activity over *See 2011-2012 RAD*
18 *Review and Referral Procedures for Authorized Committees* at 75. Moreover, the Committee's
19 reporting omissions on its 12 Day Pre-Primary Report, an election-sensitive report, included
20 \$500,000 in receipts, an increase of more than from the receipts in the original report,
21 which also meets the Standard 7 per-report threshold for referral to OGC.⁵ *See supra* footnote 8.
22 Additionally, the Committee's Amended 2012 July Quarterly Report, a non-election sensitive

⁵ Pursuant to 11 C.F.R. § 111.43(d)(1), election sensitive reports include pre-election reports for primary, general, runoff, and special elections.

1 report, meets Standard 7's per-report threshold for non-election sensitive reports, as the increase
2 in the amended report reflects nearly \$650,000 in activity not available in the original report (an
3 increase of more than). *Id.* Therefore, we believe that opening a MUR — rather than
4 dismissal or transfer to ADR — is the appropriate course.

5 We therefore recommend the Commission open a MUR and find reason to believe that
6 the Committee violated 2 U.S.C. § 434(b).⁶

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⁶ We have included in our recommendation each report referred by RAD in accordance with the Commission-approved Referral Procedures. Recently, in other matters in which OGC made recommendations based on the aggregate increased activity threshold in the Referral Procedures, the Commission found reason to believe for only some of the reports RAD referred. In some matters, the Commission found reason to believe only with respect to those amended reports for which the amount in violation met a Standard 7 per report increase in activity referral threshold. *See, e.g.*, MUR 6705 (Freedom and Prosperity PAC), MUR 6706 (Schiff for Senate), MUR 6707 (Visclosky for Congress), MUR 6708 (Carney for Congress). In other matters, the Commission found reason to believe only with respect to those amended reports for which the amount in violation exceeded per report, and the remaining amounts in violation in the aggregate exceeded . *See, e.g.*, MUR 6709 (Bachmann for Congress), MUR 6710 (Trent Franks), MUR 6757 (Gillibrand for Senate).

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V. RECOMMENDATIONS

1. Open a MUR.
2. Find reason to believe that David Alameel for Congress and Nadya Alameel in her official capacity as treasurer violated 2 U.S.C. § 434(b).
3. Approve the attached Factual and Legal Analysis.
4. Enter into conciliation with David Alameel for Congress and Nadya Alameel in her official capacity as treasurer prior to a finding of probable cause to believe.
- 5.

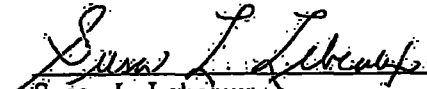
6. Approve the appropriate letter:

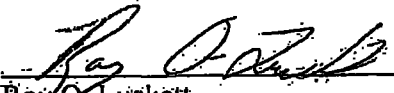
4-11-14
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