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March 2, 2022

MEMORANDUM

To: The Commission

Through: Alec Palmer *AP*
Staff Director

From: Patricia C. Orrock *PCO*
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Assistant Staff Director
Audit Division

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Subject: Audit Division Recommendation Memorandum on the Association for
Emergency Responders and Firefighters, PAC (A19-21)

Pursuant to Commission Directive No. 70 (FEC Directive on Processing Audit Reports), the Audit staff presented the Draft Final Audit Report (DFAR) to the Association for Emergency Responders and Firefighters, PAC (AERF) on January 11, 2022 (see attachment). AERF 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, AERF provided additional comments and, for Finding 2, Recordkeeping for Disbursements and Use of Designated Depository, AERF also provided additional documentation.

Finding 1. Increased Activity (Corrected)

In response to the DFAR, AERF reiterated its prior responses and stated that it “continues to follow and refine the processes and procedures implemented in response to this FEC audit and assorted written reports.” 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.

The Audit staff recommends that the Commission find that AERF understated its disbursements by \$769,804 on the original reports filed over the two-year period ending December 31, 2018.

Finding 2. Recordkeeping for Disbursements and Use of Designated Depository

In response to the DFAR, AERF reiterated its Interim Audit Report (IAR) response that each of its 66 ACH¹ transfer payments were made directly to its vendors and were made from its designated depository. AERF also reiterated that the labeling of the transfers as “ACH Settlement Vendor Pay Er Responders” 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, AERF submitted the following documentation:

- A QuickBooks Report and Statements reflecting the vendors’ invoiced and payment amounts. The Audit staff notes that AERF 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 and invoice and payment amounts. The statements, however, do not substantiate that the vendors were paid from AERF’s designated depository.
- New redacted vendor bank statements indicating that an additional 24 payments totaling \$65,773, appeared to have reached its vendors, as AERF reported. Therefore, to date, the redacted vendor bank statements submitted in response to the IAR and the DFAR, demonstrate, albeit circumstantially, that 110 payments totaling \$1,326,861,² reached AERF’s vendors. AERF did not provide the vendor bank statements for the remaining 49 vendor payments totaling \$913,392.³

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 AERF’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 AERF. Moreover, none of the submitted documentation, to date, was sufficient to verify that 159 disclosed vendor payments, totaling \$2,240,253, originated from its designated depository.⁴

¹ Automated Clearing House (ACH) is an electronic network for financial transactions in the United States.

² Per IAR response: 86 payments totaling \$1,261,088 + Per DFAR response: 24 payments totaling \$65,773 = 110 payments totaling \$1,326,861.

³ 159 payments totaling \$2,240,053 – 110 payments totaling \$1,326,861 = 49 payments totaling \$913,392.

⁴ See the Office of General Counsel’s LRA 1113 ADRM Comments dated March 1, 2022.

The Audit staff recommends that the Commission find that AERF failed to provide sufficient supporting and verifiable evidence to demonstrate that the 66 ACH transfer payments made from AERF's designated depository, as reflected in its bank statements, were used to make the 159 vendor payments reported on AERF's disclosure reports.

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 Tesfai Asmamaw or Zuzana Pacious at 694-1200.

Attachments:

- Draft Final Audit Report of the Audit Division on the Association for Emergency Responders and Firefighters, PAC
- LRA 1113 Association for Emergency Responders and Firefighters, PAC ADRM Comments dated March 1, 2022

cc: Office of General Counsel



Draft Final Audit Report of the Audit Division on the Association for Emergency Responders and Firefighters, 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,

About the Committee (p. 3)

The Association for Emergency Responders and Firefighters is a non-connected, independent expenditure-only committee headquartered in Milwaukee, Wisconsin. For more information, see the chart on the Committee Organization p. 3.

Financial Activity (p. 3)

• Receipts	
○ Contributions from Individuals	\$ 3,072,808
○ Transfers from Affiliated/Other Party Committees	59,119
Total Receipts	\$ 3,131,927
• Disbursements	
○ Operating Expenditures	\$ 2,949,339
○ Transfers to Affiliated/Other Party Committees	113,000
○ Contribution Refunds	495
○ Independent Expenditures	0 ³
Total Disbursements	\$ 3,062,834

¹ The committee's name during the audit period was Association for Emergency Responders and Firefighters and was subsequently changed to Association for Emergency Responders and Firefighters, PAC on September 23, 2021.

² 52 U.S.C. §30111(b).

³ The Association for Emergency Responders and Firefighters made no independent expenditures during the 2017-2018 election cycle.

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.

Findings and Recommendations (p. 4)

- Increased Activity (Corrected) (Finding 1)
- Recordkeeping for Disbursements and Use of Designated Depository (Finding 2)

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Draft Final Audit Report of the Audit Division on the Association for Emergency Responders and Firefighters, 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 Association for Emergency Responders and Firefighters, PAC (AERF), 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

AERF did not comply with the provisions of §104.14(b)(1), which require committees to maintain sufficiently detailed records in order to verify the filed reports. AERF reported 159 disbursements totaling \$2,240,253 as payments to vendors. However, the Audit staff found that AERF's bank statements reflected 66 ACH transfers⁴ for this same amount to an entity annotated as "Er Responders." The bank statements described each transaction as "ACH Settlement Vendor Pay Er Responders." This entity appears to be the Association for Emergency Responders and Firefighters, LLC.⁵ AERF provided vendor statements showing that all billed amounts were paid, presumably suggesting that "Er Responders" used the funds wired from

⁴ In its response to the exit conference and the Interim Audit Report, AERF 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 AERF'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.

⁵ 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, AERF objected to "each of the findings that state AERF LLC was the payee of certain disbursements." See Finding 2.

AERF to pay the vendors. AERF has not provided any AERF or “Er Responders” bank records to support that the funds were used to pay the vendors disclosed on AERF’s disclosure reports. (See Finding 2A).

Further, AERF 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. AERF routed its funds through the “Er Responders” bank account before purportedly disbursing these funds to the vendors. The Audit staff, in absence of the “Er Responders” bank statements, was unable to identify the composition of the funds in that bank account. As a result, AERF may have impermissibly commingled its funds with the personal funds of an individual or with corporate funds. (See Finding 2B).

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Part II

Overview of Committee

Committee Organization

Important Dates	
• Date of Registration	July 27, 2016
• Audit Coverage	January 1, 2017 - December 31, 2018
Headquarters	Milwaukee, Wisconsin
Bank Information	
• Bank Depositories	One
• Bank Accounts	One checking account
Treasurer	
• Treasurer When Audit Was Conducted	Robert Piaro
• Treasurer During Period Covered by Audit	Robert Piaro (8/16/17 - Present) Thomas Heitman (7/27/16 - 8/15/17)
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	\$ 156
Receipts	
○ Contributions from Individuals	3,072,808
○ Transfers from Affiliated/Other Party Committees	59,119
Total Receipts	\$ 3,131,927
Disbursements	
○ Operating Expenditures	2,949,339
○ Transfers to Affiliated/Other Party Committees	113,000
○ Contribution Refunds	495
○ Independent Expenditures	0
Total Disbursements	\$ 3,062,834
Cash on hand @ December 31, 2018	\$ 69,249

Part III

Summaries

Findings and Recommendations

Finding 1. Increased Activity (Corrected)

A comparison of AERF's bank activity with its originally filed reports revealed that disbursements were understated by \$769,804 for calendar years 2017 and 2018. In response to the Interim Audit Report recommendation, AERF reiterated its earlier response to the exit conference and stated that it "continues to follow and refine the processes and procedures implemented in response to the Audit staff's Preliminary Findings and Recommendations." (For more detail, see p. 5.)

Finding 2. Recordkeeping for Disbursements and Use of Depository

During audit fieldwork, the Audit staff identified payments totaling \$2,240,253 which AERF made to "Er Responders," however, AERF reported these disbursements as payments to vendors on its disclosure reports. AERF did not provide any "Er Responders" bank statements to demonstrate that these payments were subsequently transmitted to the disclosed vendors. In response to the Interim Audit Report recommendation, AERF acknowledged the existence of the Association for Emergency Responders and Firefighters, LLC, but denied that this entity was the payee of any of the payments from AERF. AERF submitted the redacted bank statements obtained from four of its vendors which reflected 86 payments totaling \$1,261,088, 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 AERF's bank account. AERF provided no additional documentation for the remaining 73 vendor payments totaling \$979,165. (For more detail, see p. 7.)

Part IV

Finding and Recommendation

Finding 1. Increased Activity (Corrected)⁶

Summary

A comparison of AERF's bank activity with its originally filed reports revealed that disbursements were understated by \$769,804 for calendar years 2017 and 2018. In response to the Interim Audit Report recommendation, AERF reiterated its earlier response to the exit conference and stated that it "continues to follow and refine the processes and procedures implemented in response to the Audit staff's Preliminary Findings and Recommendations."

Legal Standard

A. Reporting Requirements. All political committees other than authorized committees of a candidate shall file either:

- Quarterly reports in a calendar year in which a regularly scheduled general election is held, which shall be filed no later than the 15th day after the last day of each calendar quarter: except that the report for the quarter ending on December 31 of such calendar year shall be filed no later than January 31 of the following calendar year;
- A pre-election report, which shall be filed no later than the 12th day before (or posted by any of the following: registered mail, certified mail, priority mail having a delivery confirmation, or express mail having a delivery confirmation, or delivered to an overnight delivery service with an on-line tracking system, if posted or delivered no later than the 15th day before) any election in which the committee makes a contribution to or expenditure on behalf of a candidate in such election, and which shall be complete as of the 20th day before the election;
- A post-general election report, which shall be filed no later than the 30th day after the general election and which shall be complete as of the 20th day after such general election; and
- In any other calendar year, a report covering the period beginning January 1 and ending June 30, which shall be filed no later than July 31 and a report covering the period beginning July 1 and ending December 31, which shall be filed no later than January 31 of the following calendar year. 52 U.S.C. § 30104(a)(4)(A); or
- Monthly reports. 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;

⁶ This finding was presented to AERF as "Increased Financial Activity" during the exit conference; however, the Commission has since voted to change the title of such findings to "Increased Activity (Corrected)."

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

The Audit staff calculated that AERF understated its disbursements by \$769,804 on the original reports filed for the two-year period ending December 31, 2018. This understatement was primarily due to AERF's failure to disclose disbursements totaling \$628,383 on its originally filed 2018 April Quarterly and July Quarterly Reports.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with AERF representatives during the exit conference and provided the relevant schedule. In response to the exit conference, AERF stated that it has previously filed the necessary amended disclosure reports to correct the reporting errors. AERF explained that its original 2018 April Quarterly Report failed to disclose the payroll entries totaling \$83,367 and its 2018 July Quarterly Report was inadvertently uploaded without the corresponding disbursements totaling \$628,383. AERF stated that it has implemented "processes and procedures to avoid similar errors in the future."

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

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, AERF reiterated its earlier response to the exit conference and stated that it "continues to follow and refine the processes and procedures implemented in response to the Audit staff's Preliminary Findings and Recommendations." To avoid similar errors in the future, AERF has implemented several processes and procedures to alleviate many of the errors that occurred in 2017 and 2018, including 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.

Finding 2. Recordkeeping for Disbursements and Use of Designated Depository

Summary

During audit fieldwork, the Audit staff identified payments totaling \$2,240,253 which AERF made to “Er Responders,” however, AERF reported these disbursements as payments to vendors on its disclosure reports. AERF did not provide any “Er Responders” bank statements to demonstrate that these payments were subsequently transmitted to the disclosed vendors. In response to the Interim Audit Report recommendation, AERF acknowledged the existence of the Association for Emergency Responders and Firefighters, LLC, but denied that this entity was the payee of any of the payments from AERF. AERF submitted the redacted bank statements obtained from four of its vendors which reflected 86 payments totaling \$1,261,088, 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 AERF’s bank account. AERF provided no additional documentation for the remaining 73 vendor payments totaling \$979,165.

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 payee⁷;
- 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 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).

⁷ 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).

- 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 159 payments totaling \$2,240,253 that AERF disclosed as payments to vendors. According to AERF's bank statements, however, AERF made 66 ACH transfers (ACH settlements) totaling \$2,240,253 to "Er Responders." This appears to be the Association for Emergency Responders and Firefighters, LLC.⁴ AERF reported the disbursements as payments to vendors other than "Er Responders" on its disclosure reports but did not provide "Er Responders" bank statements to demonstrate that the funds transferred from AERF to "Er Responders" 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 with AERF representatives during the exit conference and provided relevant schedules. In response to the exit conference, AERF denied it violated the applicable regulations and stated that it properly disclosed disbursements to its vendors.

According to AERF:

- The vendors' statements presented in response to the exit conference demonstrate payment from AERF "to all vendors throughout all of 2018."
- Three vendors changed their names and addresses in August 2018 but "the payments from AERF to the vendors from August 2018 through December 2018 correlate to the vendor's invoice number."

- AERF 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, AERF submitted an attachment detailing the invoices and payment amounts for three vendors.
- Lastly, AERF acknowledged the existence of the Association for Emergency Responders and Firefighters, LLC, however, it “object[s] to each of the findings that state AERF LLC was the payee of certain disbursements; these payments were properly made to the vendors as payees.”

The Audit staff maintained that:

- AERF 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. AERF’s bank statements indicate that the recipient of the ACH transfers was a single entity titled “Er Responders.” This entity appears to be the Association for Emergency Responders and Firefighters, LLC.⁴ AERF only provided vendor statements to support that all billed amounts presented were paid. AERF provided no verifiable documentation to demonstrate whether “Er Responders” subsequently made the payments to the disclosed vendors.
- Changes to the new names and addresses of vendors should have been reflected in AERF’s disclosure reports. Unless such changes are disclosed, the public record is not accurate.
- The Association for Emergency Responders and Firefighters, LLC registered with the Nevada Secretary of State on November 20, 2017, 16 months after AERF registered with the Commission. In addition, while the Nevada Secretary of State disclosed the LLC’s current status as “Revoked,⁴” AERF’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 AERF provide supporting and verifiable evidence, such as bank statements, that the disclosed vendors were paid with the funds transferred from AERF’s bank account to “Er Responders.”

3. Committee Response to the Interim Audit Report

In response to the Interim Audit Report recommendation, AERF acknowledged the existence of the Association for Emergency Responders and Firefighters, LLC. However, AERF denied that this entity was the payee of any of the ACH transfer payments from AERF. AERF stated that, for each of the ACH wire transfers made from its designated depository, PNC, its banking institution labeled the transfers “ACH Settlement Vendor Pay Er Responders.” AERF further stated that “...this label was created solely by the PNC, and does not reflect payment to the Association for Emergency Responders and Firefighters, LLC, nor to any entity or entities other than the intended vendors.”

According to AERF, “[the] labeling of the wire transfers occurred as part of the process by which funds were transferred directly from AERF’s designated depository to the vendors in question⁸.” Further, AERF stated that, “For each payment to a vendor, only one transfer occurred – the payment from AERF to the vendor, though it may have appeared that two transfers were being made – one from AERF’s designated depository to “Er Responders”... and one from “Er Responders” to each of the vendors...” AERF stated that the Audit staff’s claim of the transfers being made via the LLC was “baseless” and that such transaction labeling was its bank’s “internal recordkeeping practice. Because this labeling process is controlled by the bank, AERF’s ability to more clearly demonstrate the direct flow of funds from its depository to the vendors is limited.” To support its assertion, AERF resubmitted vendor statements showing that all billed amounts were paid.⁹ In addition, AERF submitted redacted bank statements obtained from its vendors which reflected 86 payments from “Er Responders” totaling \$1,261,088, for the period January 1, 2018 through August 9, 2018. AERF did not provide any additional documentation for the remaining 73 vendor payments totaling \$979,165.

AERF objected to the Audit staff’s “continued unsupported contention that the wire transfers in question went to the Association for Emergency Responders and Firefighters, LLC.” According to AERF, the Audit staff has not provided “any factual evidence or rationale” to demonstrate its conclusion. AERF 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 AERF has not provided sufficient and verifiable documentation to support the 66 ACH transfers totaling \$2,240,253 made from its account. Specifically, the Audit staff notes the following:

- AERF did not provide any documentation such as 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 paid to the vendors.
- According to AERF’s bank statements, there were 66 ACH transfers totaling \$2,240,253. These ACH transfers were reported on AERF’s disclosure reports as 159 vendor payments of the same total amount. AERF’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, AERF’s ACH transfers contained one, two or three vendor payments per transfer as follows:

⁸ The Audit staff notes that, irrespective of how the transactions are labeled, to utilize the ACH process to transfer funds, AERF (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).

⁹ AERF submitted this documentation previously, in its response to the exit conference.

# of Payments Included Per ACH Transfer	Per AERF Bank Statements	
	# of ACH Transfers	Amount Paid
One	19	722,401
Two	1	16,520
Three	46	1,501,332
Totals Per Bank	66	\$ 2,240,253

In 19 instances, the amounts transferred from AERF's account represented a single payment to one of AERF'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, AERF's response did not address the discrepancy between AERF'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 AERF's orders.

- AERF obtained and provided the redacted bank statements of four of its vendors reflecting 86 vendor payments totaling \$1,261,088. The Audit staff notes that all four vendors utilized the same financial institution and that, per the bank statements, all four vendors used the same physical address. As for the 86 payments to vendors, the description of each transaction was "Er Responders Des: Cash Disb. ID:" followed by the respective vendor's name. AERF 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 9, 2018,¹⁰ it appears as if the vendors received payments as follows:

# of Payments Included Per ACH Transfer	Per AERF Bank Statements	Per Redacted Vendor Bank Statements	
	# of ACH Transfers	# of Vendor Payments	Amount Reported
One	6	6	163,268
Two	1	2	16,520
Three	26	78	1,081,300
Totals Per Vendors	33	86¹¹	\$ 1,261,088

¹⁰ The redacted 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 AERF were blank.

¹¹ According to AERF's bank statements, AERF made 33 ACH transfers for 86 vendor payments totaling \$1,261,088. AERF did not provide any documentation for the remaining 33 ACH transfers which presumably paid 73 vendor payments totaling \$979,165.

As such, AERF demonstrated, albeit circumstantially, that these 86 payments appear to have reached its vendors as AERF reported, however, AERF 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 "Er Responders" but do not appear to reflect that the payments came directly from AERF's bank account.

- AERF did not provide the vendor bank statements for the remaining 73 vendor payments totaling \$979,165. 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 AERF Bank Statements and Vendor Sheets # of ACH Transfers	No Documentation Provided	
		# of Vendor Payments	Amount Reported
One	13	13	559,133
Three	20	60	420,032
Totals Per Bank	33	73	\$ 979,165

The Audit staff recommends that AERF provide sufficient supporting and verifiable evidence to demonstrate that the 66 ACH transfers resulted in the 159 vendor payments AERF reported on its disclosure reports. Since it appears that AERF initiated the ACH transfers using its banking institution's online banking portal, AERF 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 AERF's disclosure reports were accurate and paid via the committee's depository, in accordance with 11 CFR §104.14(b)(1).

- 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 AERF'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, AERF'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.

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

AERF obtained and provided some vendor bank statements and was able to show that 86 payments totaling \$1,261,088, made via 33 ACH transfers, reached its vendors. However, with regard to recordkeeping requirements, AERF 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 AERF's bank account. AERF also did not provide any documentation for the remaining 73 vendors payments totaling \$979,165, which were disbursed via 33 ACH transfers.

The Audit staff maintains that AERF did not provide sufficient supporting and verifiable evidence that the disclosed vendor payments totaling \$2,240,253, were made with the funds transferred from AERF's bank account.

B. Use of the Designated Depository

1. Facts

The Audit staff identified 159 payments totaling \$2,240,253 disclosed as payments to vendors which, according to AERF bank statements, were instead ACH transfers to "Er Responders." It appears AERF involved this entity in its financial operations and failed to use its designated depository to make payments directly to its vendors.

AERF 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 AERF transferred to "Er Responders" were subsequently transmitted to AERF's disclosed vendors.

2. Interim Audit Report & Audit Division Recommendation

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

The Interim Audit Report recommended that AERF provide bank statements to support that the disclosed vendors were paid with the funds transferred from AERF's bank account to "Er Responders" with the description of "ACH Settlement Vendor Pay Er Responders." The Interim Audit Report further recommended that AERF 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, AERF 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. The Audit staff maintains that AERF did not provide sufficient supporting and verifiable evidence to support that the disclosed vendors were paid with the funds transferred from the AERF's bank account.

To demonstrate that the vendor payments originated from its bank account, the Audit staff recommends AERF provide sufficient supporting and verifiable evidence such as, debit memorandum or similar electronic receipt for each payment to demonstrate that the 66 ACH transfers initiated by AERF resulted in the 159 vendor payments reported on its disclosure reports.

DRAFT



WASHINGTON, D.C. 20463

March 1, 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

Margaret J. Forman *MJF*
Attorney

SUBJECT: Audit Division Recommendation Memorandum on the
Association for Emergency Responders
and Firefighters (LRA 1113)

The Office of the General Counsel has reviewed the Draft Final Audit Report (“DFAR”) and Audit Division Recommendation Memorandum (“ADRM”) on the Association for Emergency Responders and Firefighters (“AERF”) and AERF’s response to the DFAR. The DFAR and ADRM contain two findings: Increased Activity (Corrected) (Finding 1), and Recordkeeping for Disbursements and Use of Designated Depository (Finding 2). We concur with the findings generally, and comment on Finding 2. If you have any questions, please contact Margaret J. Forman, the attorney assigned to this audit.

I. RECORDKEEPING FOR DISBURSEMENTS AND USE OF DESIGNATED DEPOSITORY (FINDING 2).

The Audit Division concludes, and we concur, that it is unable to verify the accuracy and completeness of AERF's disclosed disbursements to vendors. Specifically, AERF has not provided supporting evidence independently verifying that \$2,240,253 in disbursements to "Er Responders" were, in fact, payments from AERF's designated campaign depository account to its vendors. 52 U.S.C. § 30102(h)(1); 11 C.F.R. § 103.3(a). While AERF provided AERF bank statements, certain vendor bank statements, and materials created by or on behalf of AERF such as a Quickbooks Report in support of its position that disbursements it made to "Er Responders" were payments to its vendors, AERF did not provide information documenting who controls the "Er Responders" account, whether AERF, 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 2, note 2. In this case, the lack of documentation about the person or persons controlling the "Er Responders" account does not allow verification that AERF 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.