

## BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
Steve Chabot for Congress )  
and Natalie Baur in her )  
official capacity as treasurer )  
 )  
 )  
 )  
**PRE-MUR 630, AR 19-01R, and**  
**RR 20L-04**  
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## SECOND GENERAL COUNSEL'S REPORT

## **I. ACTIONS RECOMMENDED**

12 We recommend that the Commission find reason to believe that Steve Chabot for  
13 Congress (the “Committee”) and Natalie Baur as treasurer violated 52 U.S.C. §§ 30102(c),  
14 30103(b), (c), 30104(b), 30114(b)(1) and 11 C.F.R. §§ 102.2(a)(1), (2), 102.9, 104.3, and  
15 104.14(d) by allowing Committee funds to be converted for personal use, failing to file accurate  
16 disclosure reports, and misreporting the Committee’s treasurer. We recommend the Commission  
17 enter into pre-probable cause conciliation with the Committee to resolve these violations.

18 II. BACKGROUND

19 On November 20, 2022, the Office of General Counsel (“OGC”) circulated a First  
20 General Counsel’s Report for P-MUR 630, AR 19-01R, RR 20L-04, and MUR 7677 (Steve  
21 Chabot for Congress, *et al.*) to the Commission.<sup>1</sup> [REDACTED] s

23 The report also detailed subsequent referrals to OGC from the Audit

<sup>1</sup> First Gen. Counsel's Rpt. ("First GCR").

P-MUR 630, AR 19-01R, RR 20L-04 (Steve Chabot for Congress)

Second General Counsel's Report

Page 2 of 16

1 Division and the Reports Analysis Division (“RAD”) regarding reporting violations during the  
2 2017-2018 and 2019-2020 election cycles by the Committee.<sup>3</sup>

3 On April 23, 2019, the Commission voted to undertake an audit of the Committee’s  
4 2017-2018 election cycle activity.<sup>4</sup> Schwartz was campaign manager for the Committee.<sup>5</sup> On  
5 July 31, 2019, the Audit Division arrived in Cincinnati for a field audit.■ Schwartz has since  
6 acknowledged that he provided false records to the Audit Division prior to their arrival.■ In a  
7 later interview, Schwartz represented that he realized at this time that he couldn’t continue  
8 providing false documents for the audit and decided to report his criminal activity to law  
9 enforcement.■ [REDACTED]

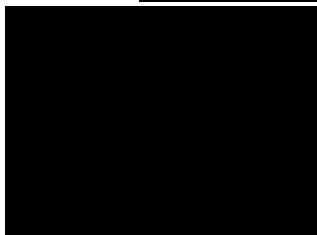
10 [REDACTED] ■ Additionally, the Committee hired a CPA firm to conduct  
11 an audit of the Committee’s records.■ The Committee represented in its submission that  
12 Schwartz incorrectly listed his father as treasurer to further his embezzlement scheme and that it  
13 believed Schwartz embezzled at least \$300,000.■ Additionally, the Committee filed a

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<sup>3</sup> Audit Referral at 2 (June 1, 2021), AR 19-01R (Steve Chabot for Congress); Referral at 1-2 (Feb. 27, 2020), RR 20L-04 (Steve Chabot for Congress).

<sup>4</sup> Letter from Patricia C. Orrock, FEC, to James Schwartz Sr. (Apr. 25, 2019).

<sup>5</sup> Compl. at 1 (Dec. 27, 2019), MUR 7677 (James R. Schwartz II).  
■ [REDACTED]



P-MUR 630, AR 19-01R, RR 20L-04 (Steve Chabot for Congress)  
 Second General Counsel's Report  
 Page 3 of 16

1 Complaint against Schwartz for the misappropriation of funds and the reporting violations  
 2 caused to conceal the misappropriations of funds.<sup>12</sup>

3 The Audit Division referred the Committee to OGC for: (1) disclosing a negative ending  
 4 cash-on-hand in the amount of \$119,614 on the 2018 30 Day Post-General Report; (2) failing to  
 5 properly itemize contributions from 227 individuals during the 2017-2018 election cycle; (3)  
 6 filing consecutive reports with election cycle-to-date discrepancies in excess of \$50,000 per  
 7 report; and (4) failing to file required 48-Hour Notices for the 2018 Primary and General  
 8 Elections, for contributions totaling \$147,945.<sup>13</sup>

9 Additionally, the Audit Division produced an analysis based on its reconciliation of  
 10 records provided by the Committee for the 2017-2018 election cycle.<sup>14</sup> The Audit Division  
 11 identified \$44,724 in receipts and \$307,177 in disbursements that were either over-reported,  
 12 under-reported, or were not reported at the end of calendar year 2017.<sup>15</sup> Additionally, the Audit  
 13 Division identified \$420,112 in receipts and \$1,725,572 in disbursements that had been either  
 14 over-reported, under-reported, or were not reported at the end of calendar year 2018.<sup>16</sup>

15 RAD referred the Committee to OGC for possible enforcement action for: (1) disclosing  
 16 a \$305,093.23 cash-on-hand discrepancy on its 2019 October Quarterly Report; (2) amending its  
 17 2019 April Quarterly Report to disclose additional receipts of \$123,635.72; (3) reporting

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<sup>12</sup> Compl. at 1 (Dec. 27, 2019), MUR 7677 (James R. Schwartz II). On November 15, 2023, the Commission approved a Conciliation Agreement with Schwartz, which included that he knowingly and willfully violated the Act and Commission regulations. Certification (“Cert.”) at 1 (Nov. 15, 2023), MUR 7677 (James R. Schwartz II).

<sup>13</sup> Audit Referral at 2.

<sup>14</sup> Analysis of Committee Documents Provided to the Office of General Counsel, Summary of Results (Dec. 22, 2021), [REDACTED]

<sup>15</sup> *Id.* at 2.

<sup>16</sup> *Id.* at 2-3.

P-MUR 630, AR 19-01R, RR 20L-04 (Steve Chabot for Congress)  
 Second General Counsel's Report  
 Page 4 of 16

1 \$57,004.50 disbursements with inadequate purposes on its 2019 October Quarterly Report; and  
 2 (4) \$925,784.92 in errors related to incorrect election-cycle-to-date totals on reports.<sup>17</sup>

3 The Committee responded to the referrals, contending that the Committee was the victim  
 4 of Schwartz's malfeasance.<sup>18</sup> The Committee identified Schwartz as the "de-facto treasurer" and  
 5 once trusted member of the campaign.<sup>19</sup> The Committee asked the Commission to close the  
 6 matter or to transfer to the Alternate Dispute Resolution Office ("ADRO").<sup>20</sup>

7 On January 26, 2023, the Commission transferred Pre-MUR 630, AR 19-01R, and  
 8 RR 20L-04 to ADRO.<sup>21</sup> On February 22, 2023, the Committee agreed to participate in the  
 9 ADRO process.<sup>22</sup> The Committee ended its participation after an impasse in negotiations.<sup>23</sup> On  
 10 June 15, 2023, ADRO transferred the matter back to OGC and closed their file.<sup>24</sup> The  
 11 Committee filed Termination Reports disclosing an ending cash-on-hand balance of \$0.00 on

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<sup>17</sup> RAD Referral at 1-2 (Feb. 27, 2020).

<sup>18</sup> Resp. at 1, AR 19-01R (June 22, 2021).

<sup>19</sup> *Id.*

<sup>20</sup> Resp. at 1, RR 20L-04 (Apr. 28, 2020).

<sup>21</sup> Cert. at ¶ 2.a (Jan 26, 2023), MUR 7677 (James R. Schwartz II, *et al.*).

<sup>22</sup> Letter from Krista J. Roche, Director of ADRO, FEC, and Joshua A. Rebollozo, Assistant Director of ADRO, FEC, to Wanda Brown, Acting Assistant General Counsel of CELA, FEC (June 15, 2023).

<sup>23</sup> *Id.* "If the respondent and ADRO are unable to reach a settlement during bilateral negotiations, the case may be sent to OGC for enforcement." Guidebook for Complainants and Respondents on the FEC Enforcement Process, May 2012, [https://www.fec.gov/resources/cms-content/documents/respondent\\_guide.pdf](https://www.fec.gov/resources/cms-content/documents/respondent_guide.pdf).

<sup>24</sup> *Id.*

P-MUR 630, AR 19-01R, RR 20L-04 (Steve Chabot for Congress)  
 Second General Counsel's Report  
 Page 5 of 16

1 June 9, 2023, October 15, 2023, and February 2, 2024.<sup>25</sup> Currently, the Commission website  
 2 lists the Committee as an active quarterly filer.<sup>26</sup>

3 **III. LEGAL ANALYSIS**

4 **A. Personal Use**

5 Under the Federal Election Campaign Act of 1971, as amended (the “Act”), a  
 6 contribution accepted by a candidate may be used for, *inter alia*, “otherwise authorized  
 7 expenditures in connection with the campaign for Federal office of the candidate.”<sup>27</sup> However, a  
 8 contribution to a candidate shall not be converted by any person to “personal use.”<sup>28</sup> “Personal  
 9 use” means any use of funds in a campaign account of a present or former candidate to fulfill a  
 10 commitment, obligation, or expense of any person that would exist irrespective of the  
 11 candidate’s campaign or duties as a Federal officeholder.<sup>29</sup>

12 Schwartz has stipulated that he has embezzled \$1,420,475.23 from the Committee  
 13 between 2011 and 2019, while he served as the Committee’s campaign manager.<sup>30</sup> The  
 14 Committee’s Response acknowledges the embezzlement by Schwartz and documents steps  
 15 implemented by the Committee, following the discovery of the embezzlement.<sup>31</sup>

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<sup>25</sup> Steve Chabot for Congress, 2023 Termination Report at 2 (June 9, 2023), <https://docquery.fec.gov/cgi-bin/fecimg/?202306099581780017>; Steve Chabot for Congress, 2023 Termination Report at 2 (Oct. 15, 2023), <https://docquery.fec.gov/cgi-bin/fecimg/?202310159598388575>; Steve Chabot for Congress, 2023 Termination Report at 2 (Feb. 2, 2024), <https://docquery.fec.gov/cgi-bin/fecimg/?202402029619672040>.

<sup>26</sup> FEC Committee Profiles: *Steve Chabot for Congress*, FEC.GOV, <https://www.fec.gov/data/committee/C00301838/> (last visited Feb. 6, 2024) (reflecting the Committee has not received termination approval and is listed as an active quarterly filer).

<sup>27</sup> 52 U.S.C. § 30114(a).

<sup>28</sup> *Id.* § 30114(b)(1).

<sup>29</sup> *Id.* § 30114(b)(2); 11 C.F.R. § 113.1(g); Explanation and Justification for Expenditures; Reports by Political Committees; Personal Use of Campaign Funds, 60 Fed. Reg. 7,862, 7,863 (Feb. 9, 1995) (“Personal Use E&J”).

<sup>30</sup> CA ¶ IV.2, MUR 7677 (James R. Schwartz II); Cert. (Nov. 15, 2023), MUR 7677 (James R. Schwartz II).

<sup>31</sup> Resp. at 2, AR 19-01R (June 22, 2021).

P-MUR 630, AR 19-01R, RR 20L-04 (Steve Chabot for Congress)  
Second General Counsel's Report  
Page 6 of 16

1 The Commission has previously concluded that a committee can be held liable for failure  
2 to comply with the Act based on actions undertaken by its former treasurer or fiduciary.<sup>32</sup> The  
3 Commission's Safe Harbor for Misreporting Due to Embezzlement establishes procedures for  
4 political committees to avoid financial penalties by maintaining certain internal controls and post  
5 discovery steps.<sup>33</sup> It appears that the Committee lacked effective internal controls in its  
6 accounting and financial operations, as, according to the Committee's representations, it is not  
7 aware of any relevant policies or practices that were in place while Schwartz acted as treasurer.<sup>34</sup>  
8 The current treasurer of the Committee states that she does not believe the Committee's bank  
9 account had been balanced while Schwartz was treasurer along with other management issues. ■

10 Therefore, we recommend that the Commission find reason to believe that the Committee  
11 violated 52 U.S.C. § 30114(b)(1) by having Committee funds converted into personal use.

<sup>32</sup> See Factual & Legal Analysis (“F&LA”) at 18, MUR 6922 (ACA/ACPAC) (finding reason to believe an agent of the connected organization and political committee caused them to violate the Act and Commission Regulations by making prohibited corporate contribution, making contributions in the names of others, and accepting prohibited contributions); F&LA, MUR 7126 (Michigan Democratic State Central Committee) (finding reason to believe a state party committee made reporting and recordkeeping errors from the actions of a staff members, including two longtime party leaders with expertise in campaign finance who occupied senior management and compliance positions); F&LA, MUR 8176 (Salazar for Congress, *et al.*) (finding reason to believe the political committees misreported over \$2,000,000 in activity and misdeposited contributions even though the political committees faulted their past treasurer as the cause of these errors); F&LA, MUR 8076 (UtePAC) (finding reason to believe that the political committee misreported financial activity even though the political committee faulted their past treasurer as the cause of these errors).

<sup>33</sup> See Statement of Policy: Safe Harbor for Misreporting Due to Embezzlement, 72 Fed. Reg. 16,695 (Apr. 5, 2007) (“Safe Harbor Policy”); The internal controls in the policy include (1) all bank accounts are opened using the committee’s name and Employer Identification Number, not in an individual’s name or Social Security Number, (2) bank statements are reviewed for unauthorized transactions and reconciled to the accounting records each month and to reports prior to filing, (3) checks in excess of \$1,000 are authorized in writing and/or signed by two individuals, (4) an individual who does not handle the committee’s accounting or have banking authority receives incoming checks and monitors all other incoming receipts, and (5) if the committee has a petty cash fund, the value of the petty cash fund should be no more than \$500. *Id.*

<sup>34</sup> Letter from E. Stewart Crosland, counsel for Committee, to Aaron Rabinowitz, FEC (Aug. 30, 2021).

1           **B.       Reporting Violations**

2           The Act requires a committee, through its treasurer, to keep an accurate account of  
3    receipts, disbursements, and cash-on-hand balances.<sup>36</sup> Committee reports must disclose: (1) the  
4    amount of cash-on-hand at the start of the reporting period; (2) the total amount of receipts;  
5    (3) the identity of any person who contributes more than \$200 in the election cycle, and the date  
6    and amount of their contribution(s); (4) the total amount of disbursements; (5) the identity of any  
7    person to whom the committee disburses over \$200 during the election cycle, together with the  
8    date, amount, and purpose of the expenditure(s); and (6) the amount of cash-on-hand at the close  
9    of the reporting period.<sup>37</sup>

10           [REDACTED]

11           [REDACTED]

12           [REDACTED] The Audit Division  
13           referred a finding of filing consecutive reports with election cycle-to-date discrepancies in excess  
14    of \$50,000 per report.<sup>39</sup> RAD referred the Committee for disclosing additional receipts of  
15    \$123,635.72 on its 2019 April Quarterly Report.<sup>40</sup> Additionally, RAD referred the Committee  
16    for \$305,093.23 cash-on-hand discrepancy on its 2019 October Quarterly Report.<sup>41</sup>

17           The Committee does not dispute the discrepancies in its reports, but emphasizes these  
18    issues were the result of the scheme to cover up Schwartz's embezzlement.<sup>42</sup> Even so, political

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<sup>36</sup>           52 U.S.C. §§ 30102(c), 30104(b); 11 C.F.R. §§ 104.3, 104.14(d).

<sup>37</sup>           *Id.* § 30104(b)(1)-(6); 11 C.F.R. 104.3(a)-(b).

<sup>39</sup>           Audit Referral at 2; Cert ¶ 3 (May 27, 2021), AR19-01 (Steve Chabot for Congress).

<sup>40</sup>           RAD Referral at 1-2.

<sup>41</sup>           *Id.*

<sup>42</sup>           Resp. at 1, AR 19-01R (June 22, 2021).

P-MUR 630, AR 19-01R, RR 20L-04 (Steve Chabot for Congress)  
Second General Counsel's Report  
Page 8 of 16

1 committees must regularly submit to the Commission reports that accurately disclose its receipts,  
2 disbursements, and cash-on-hand balances.<sup>43</sup> Although the Committee’s Response provides  
3 steps implemented in the wake of the embezzlement, it does not appear that the Committee had  
4 any internal controls in place before its discovery.<sup>44</sup> The Commission has previously concluded  
5 that a political committee can be held liable for the misreporting of financial activity by staff  
6 members.<sup>45</sup> As detailed above, the Committee had serious reporting violations throughout its  
7 reports for nearly a decade, which only came to light when the Audit Division performed a field  
8 audit on the Committee. ■

9           Therefore, we recommend that the Commission find reason to believe that the Committee  
10        violated 52 U.S.C. §§ 30102(c), 30104(b) and 11 C.F.R. §§ 104.3, 104.14(d) by failing to keep  
11        accurate account of receipts, disbursements, and cash on hand balance.

### C. Misreporting the Committee's Treasurer

13 A political committee must provide the name and address of the treasurer on its  
14 Statement of Organization to the Commission.<sup>47</sup> Any changes in information that is provided in

<sup>43</sup> 52 U.S.C. § 30104(b)(1)-(4); 11 C.F.R. § 104.3(a)(1),(b).

<sup>44</sup> Resp. at 2; Letter from E. Stewart Crosland, counsel for Committee, to Aaron Rabinowitz, FEC (Aug. 30, 2021).

<sup>45</sup> See F&LA at 10-13, MUR 7126 (Michigan Democratic State Central Committee) (finding reason to believe a state party committee made reporting and recordkeeping errors from the actions of a staff members, including two longtime party leaders with expertise in campaign finance who occupied senior management and compliance positions).

<sup>47</sup> 52 U.S.C. § 30103 (b)(4); 11 C.F.R. § 102.2(a).

P-MUR 630, AR 19-01R, RR 20L-04 (Steve Chabot for Congress)  
Second General Counsel's Report  
Page 9 of 16

1 the Statement of Organization, including the name and address of the treasurer, needs to be  
2 provided no later than 10 days after the date of the change.<sup>48</sup>

3 The Committee began listing James Schwartz, Sr. as its treasurer in 2011.<sup>49</sup> The  
4 Committee listed him as treasurer until September 16, 2019.<sup>50</sup> In his plea, Schwartz  
5 acknowledged misrepresenting his father as the Committee's treasurer.<sup>51</sup> [REDACTED]

6 [REDACTED]  
7 [REDACTED] However, Schwartz has provided statements that the  
8 Committee was not paying attention when he informed them his father would serve as treasurer  
9 and the previous treasurer had not looked at the reports created by Schwartz. [REDACTED] Additionally,  
10 according to Schwartz, neither Chabot nor any other campaign staff ever had discussions with  
11 Schwartz's father about his role as treasurer, suggesting Chabot and other staff were not engaged  
12 in the Committee's operations and did not provide oversight. [REDACTED]

13 In sum, Committee staff and the candidate failed to oversee the purported treasurer or  
14 even confirm that the individual disclosed as treasurer on the Committee's reports in fact held

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<sup>48</sup> 52 U.S.C. § 30103 (c); 11 C.F.R § 102.2(a)(2).

<sup>49</sup> Steve Chabot for Congress, Amended Statement of Organization (Jan. 30, 2011).

<sup>50</sup> Steve Chabot for Congress, Amended Statement of Organization (Sept. 16, 2019).

<sup>51</sup> *United States v. Schwartz*, 1:21-cr-45, Amended Plea Agreement, Attachment A ("Schwartz Plea Agreement") (S.D. Ohio, May 28, 2021); Factual & Legal Analysis ("F&LA") at 3, MUR 7677 (James R. Schwartz II).

[REDACTED]

[REDACTED]

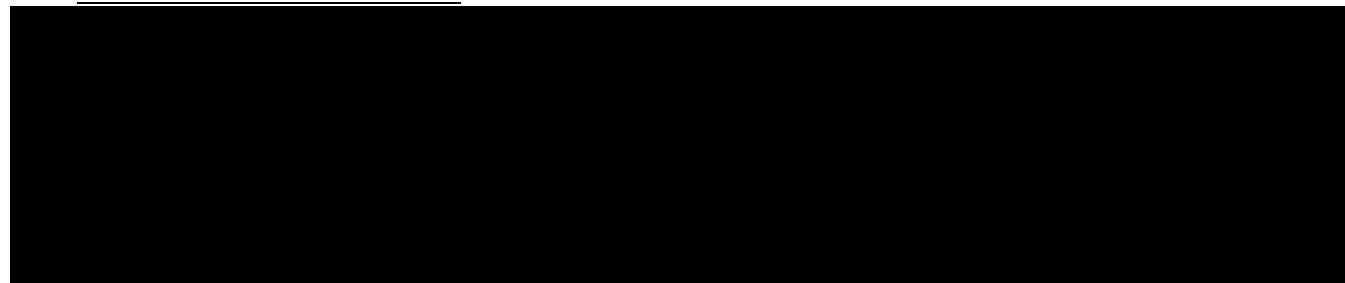
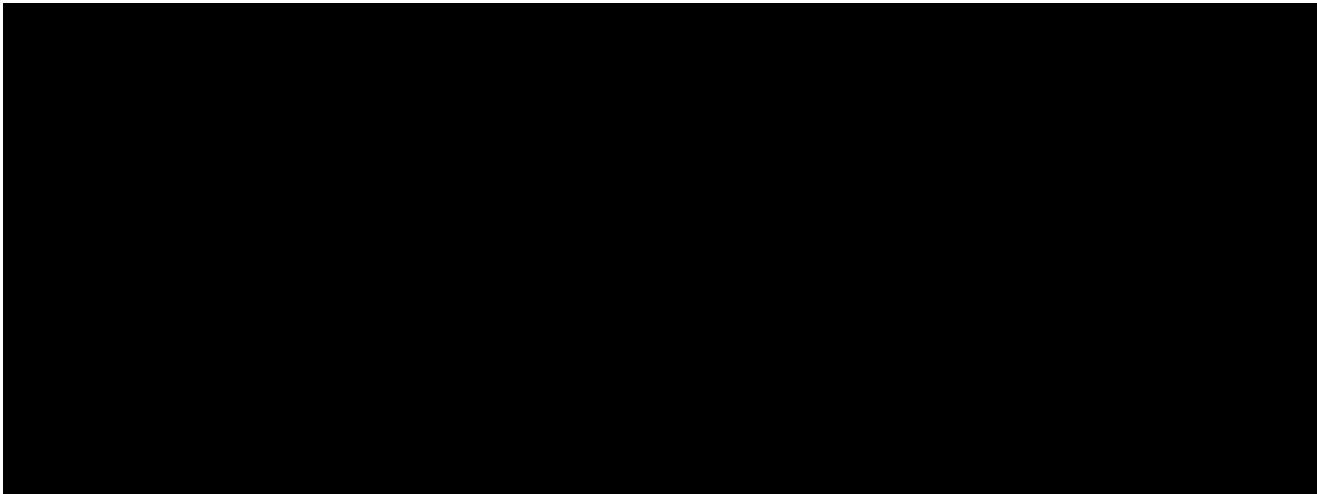
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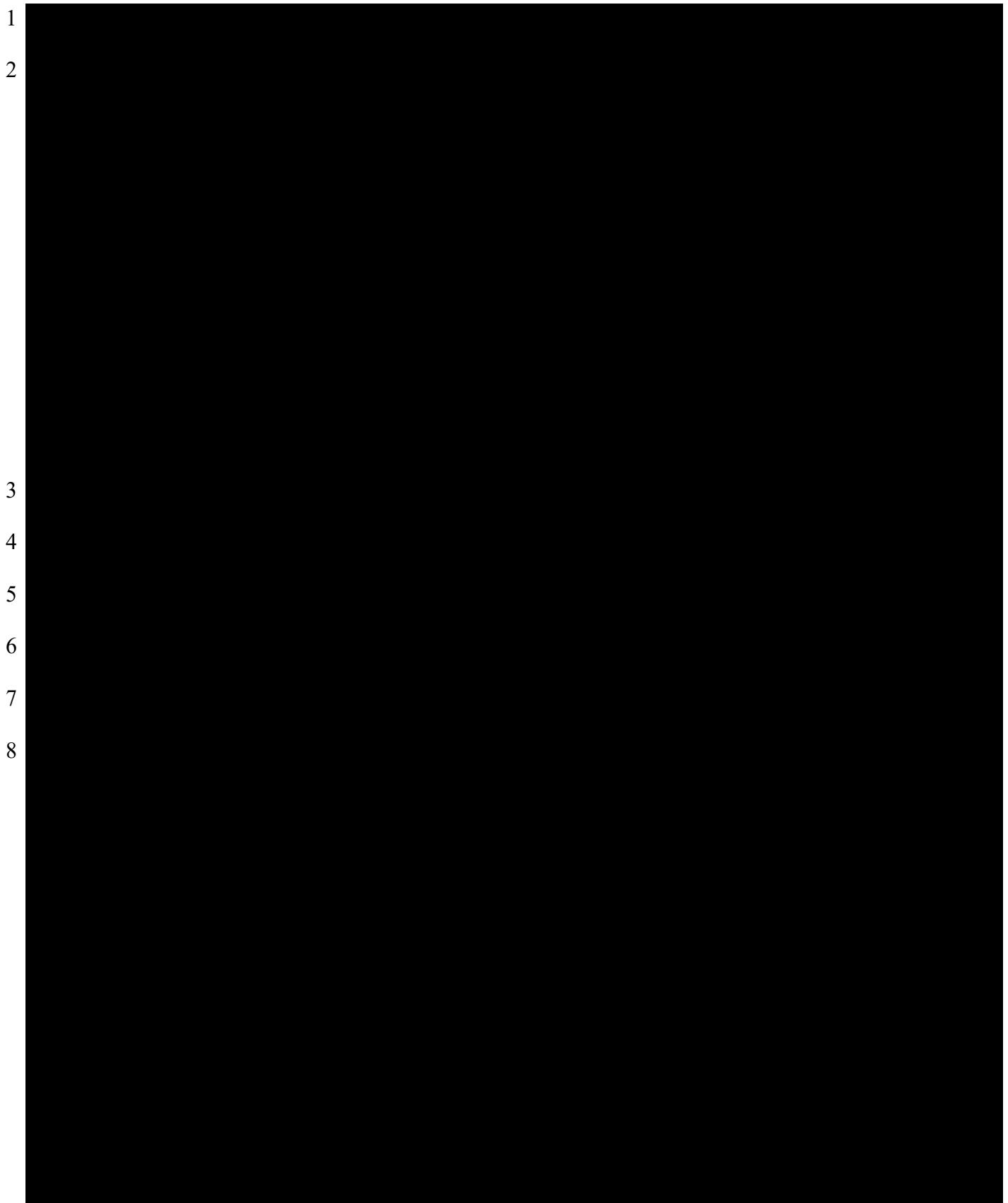
1 that position.■ This lack of oversight or use of best practices also appears to have been a long  
2 running problem for the Committee, as the earlier treasurers also purportedly failed to fulfil the  
3 duties of that role.■ Additionally, according to the Committee's representations, it is not aware  
4 of any relevant policies or practices to ensure oversight that Committee staff engaged in while  
5 Schwartz acted as treasurer.<sup>57</sup> This lack of oversight likely enabled Schwartz's embezzlement  
6 and permitted it to persist for years without interruption. Therefore, we recommend that the  
7 Commission find reason to believe that the Committee violated 52 U.S.C. § 30103(b)(4) and  
8 11 C.F.R § 102.2(a) by misrepresenting the treasurer of the Committee.

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<sup>57</sup> Letter from E. Stewart Crosland, counsel for Committee, to Aaron Rabinowitz, FEC (Aug. 30, 2021).

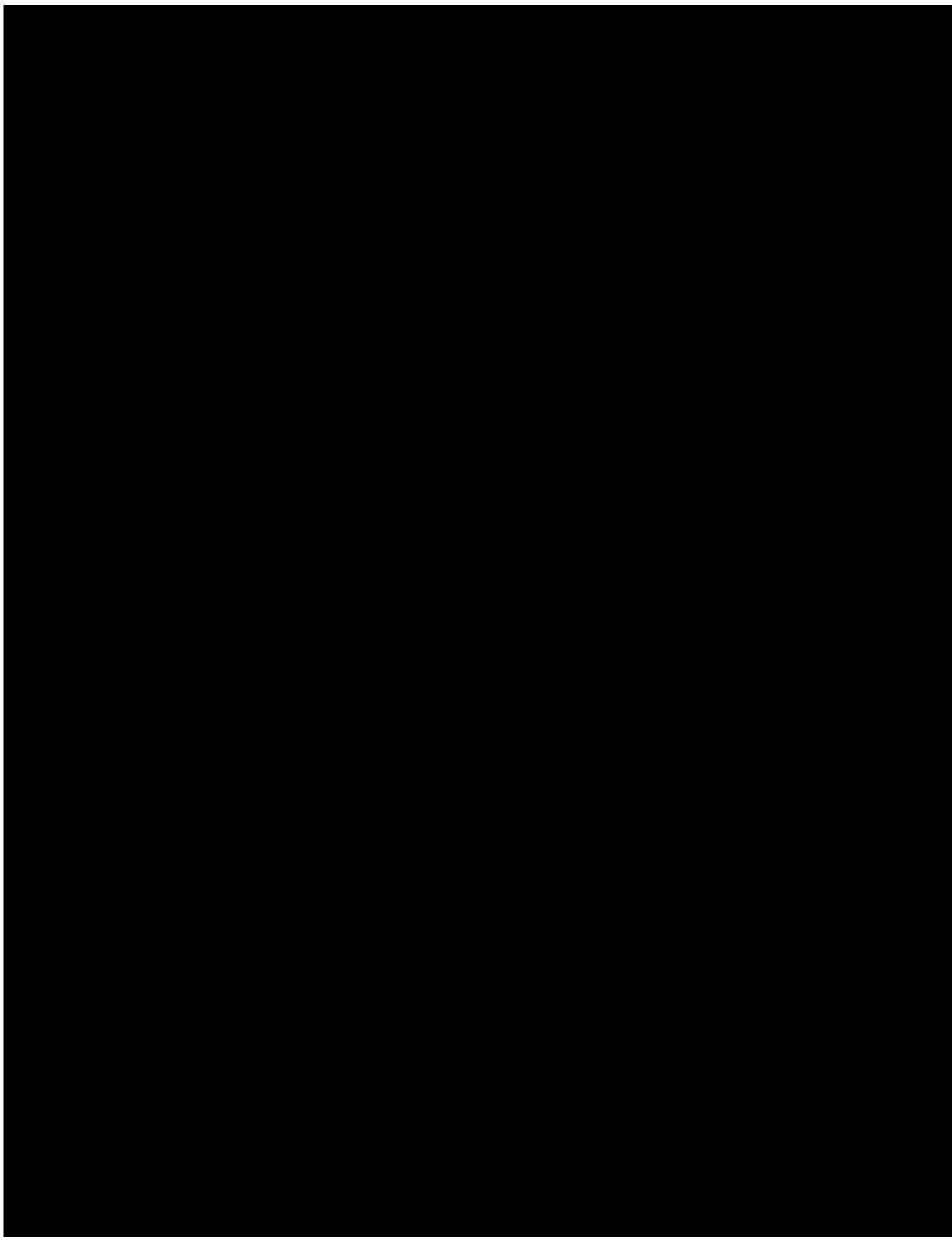
P-MUR 630, AR 19-01R, RR 20L-04 (Steve Chabot for Congress)  
Second General Counsel's Report  
Page 11 of 16



P-MUR 630, AR 19-01R, RR 20L-04 (Steve Chabot for Congress)

Second General Counsel's Report

Page 12 of 16



P-MUR 630, AR 19-01R, RR 20L-04 (Steve Chabot for Congress)

Second General Counsel's Report

Page 13 of 16

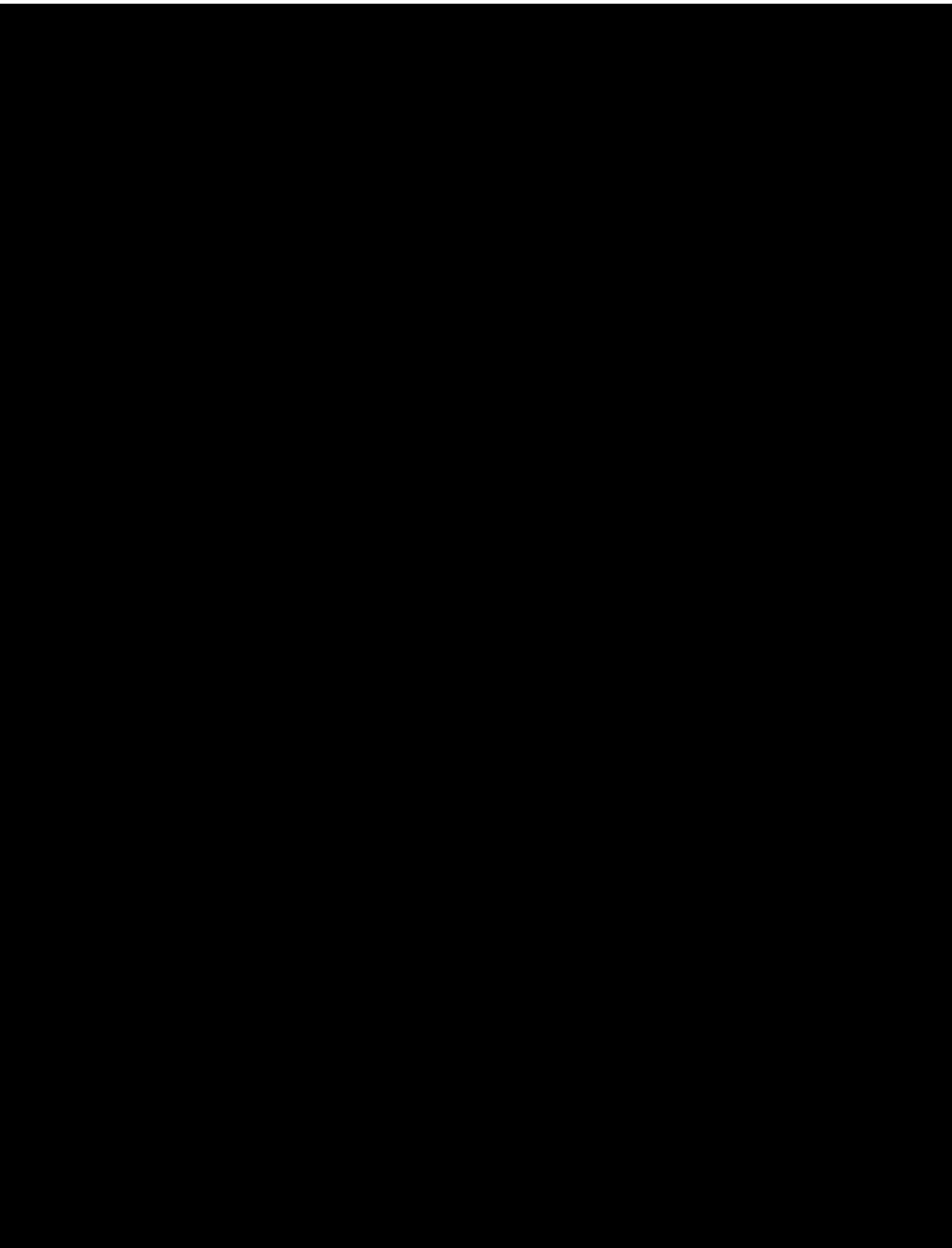
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P-MUR 630, AR 19-01R, RR 20L-04 (Steve Chabot for Congress)

Second General Counsel's Report

Page 14 of 16

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1 [REDACTED]

2 [REDACTED]

3 **V. RECOMMENDATIONS**

4 1. Open a MUR;

5 2. Find reason to believe that the Steve Chabot for Congress and Natalie Baur in her  
6 official capacity as treasurer violated 52 U.S.C. § 30114(b)(1) by having  
7 Committee funds converted into personal use;

8 3. Find reason to believe that the Steve Chabot for Congress and Natalie Baur in her  
9 official capacity as treasurer violated 52 U.S.C. §§ 30102(c), 30104(b) and 11  
10 C.F.R. §§ 104.3, 104.14(d) by failing to keep accurate account of receipts,  
11 disbursements, and cash on hand balance;

12 4. Find reason to believe that the Steve Chabot for Congress and Natalie Baur in her  
13 official capacity as treasurer violated 52 U.S.C. § 30103 (b)(4) and 11 C.F.R.  
14 § 102.2(a) by failing to disclose the actual treasurer of the Committee;

15 5. Enter into pre-probable cause conciliation with Steve Chabot for Congress and  
16 Natalie Baur in her official capacity as treasurer prior to a finding of reason to  
17 believe;

18 6. Approve the attached Factual and Legal Analysis;

19 7. Approve the attached Conciliation Agreement; and

[REDACTED]

P-MUR 630, AR 19-01R, RR 20L-04 (Steve Chabot for Congress)  
Second General Counsel's Report  
Page 16 of 16

1                   8.        Approve the appropriate letters.

Lisa J. Stevenson  
Acting General Counsel

Charles Kitcher  
Associate General Counsel for  
Enforcement

3/5/2024

BY: Adrienne C. Baranowicz  
Adrienne Baranowicz  
Deputy Associate General Counsel  
for Enforcement

Aaron Rabinowitz  
Assistant General Counsel

"I'm a Kid Again" 11

Levin Fortkiewicz

Kevin Fortkiewic

## Attachments:

### 1) Factual and Legal Analysis

**FEDERAL ELECTION COMMISSION**  
**FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: Steve Chabot for Congress and MUR \_\_\_\_\_  
Natalie Burr in her official Capacity as treasurer

## I. INTRODUCTION

12 This matter arises from [REDACTED], a referral from the Audit Division, and a  
13 referral from the Reports Analysis Division (“RAD”) relating to reporting errors that arose from  
14 a lengthy embezzlement scheme by the former campaign manager of Steve Chabot for Congress  
15 (the “Committee”) and Natalie Baur as treasurer, James R. Schwartz II resulting in violations  
16 under the Federal Election Campaign Act of 1971, as amended (the “Act”), and Commission  
17 regulations. The available information indicates that the Committee misreported financial  
18 activity. Specifically, the Committee under-reported, over-reported, and unreported transactions  
19 during the 2017-2018 election cycle and 2019-2020 election cycle. In total, the amount in  
20 violation for the reporting errors is \$2,945,526.80. Additionally, the Committee allowed  
21 Committee funds to be converted to personal use when Schwartz embezzled \$1,420,475.23 while  
22 he served as campaign manager. Finally, the Committee did not accurately disclose their  
23 treasurer when it falsely disclosing James Schwartz, Sr. as its treasurer from 2011 until 2019.  
24 The Commission finds reason to believe that Steve Chabot for Congress (the “Committee”) and  
25 Natalie Baur as treasurer violated 52 U.S.C. §§ 30102(c), 30103(b), (c), 30104(b), 30114(b)(1)  
26 and 11 C.F.R. §§ 102.2(a)(1), (2), 102.9, 104.3, and 104.14(d) by allowing Committee funds to  
27 be converted for personal use, failing to file accurate disclosure reports, and misreporting the  
28 Committee’s treasurer.

MUR \_\_\_\_ (Steve Chabot for Congress)

## Factual and Legal Analysis

Page 2 of 8

## 1 II. FACTUAL BACKGROUND

2 On April 23, 2019, the Commission voted to undertake an audit of the Committee's  
3 2017-2018 election cycle activity.<sup>1</sup> Schwartz was campaign manager for the Committee.<sup>2</sup> On  
4 April 23, 2019, the Commission voted to undertake an audit of the Committee's 2017-2018  
5 election cycle activity.<sup>3</sup> At the start of the audit, Schwartz communicated on behalf of the  
6 Committee and provided bank statements and internal records in response to the Audit  
7 Division's requests.<sup>4</sup> After the Audit Division made follow-up requests, however, Schwartz

8 became noncommunicative and, it was later learned, turned himself into law enforcement.<sup>5</sup>

9 [REDACTED] [REDACTED]

10 [REDACTED] Additionally, the Committee hired a CPA firm to conduct an audit of the

11 Committee's records.<sup>7</sup> The Committee represented in its submission that Schwartz incorrectly

12 listed his father as treasurer to further his embezzlement scheme and that it believed Schwartz

13 embezzled at least \$300,000.<sup>8</sup> Additionally, the Committee filed a Complaint against Schwartz

<sup>1</sup> Letter from Patricia C. Orrock, FEC, to James Schwartz Sr. (Apr. 25, 2019).

<sup>2</sup> Compl. at 1 (Dec. 27, 2019), MUR 7677 (James R. Schwartz II).

<sup>3</sup> Letter from Patricia C. Orrock, FEC, to James Schwartz Sr. (Apr. 25, 2019).

<sup>4</sup> *United States v. Schwartz*, 1:21-cr-45, Amended Plea Agreement, Attachment A (“Schwartz Plea Agreement”) (S.D. Ohio, May 28, 2021).

7 *Id.*

8 *Id.* at 1-2.

MUR \_\_\_\_ (Steve Chabot for Congress)

Factual and Legal Analysis

Page 3 of 8

1 for the misappropriation of funds and the reporting violations caused to conceal the  
 2 misappropriations of funds.<sup>9</sup>

3 The Audit Division referred the Committee to OGC for: (1) disclosing a negative ending  
 4 cash-on-hand in the amount of \$119,614 on the 2018 30 Day Post-General Report; (2) failing to  
 5 properly itemize contributions from 227 individuals during the 2017-2018 election cycle; (3)  
 6 filing consecutive reports with election cycle-to-date discrepancies in excess of \$50,000 per  
 7 report; and (4) failing to file required 48-Hour Notices for the 2018 Primary and General  
 8 Elections, for contributions totaling \$147,945.<sup>10</sup>

9 RAD referred the Committee to OGC for possible enforcement action for: (1) disclosing  
 10 a \$305,093.23 cash-on-hand discrepancy on its 2019 October Quarterly Report; (2) amending its  
 11 2019 April Quarterly Report to disclose additional receipts of \$123,635.72; (3) reporting  
 12 \$57,004.50 disbursements with inadequate purposes on its 2019 October Quarterly Report; and  
 13 (4) \$925,784.92 in errors related to incorrect election-cycle-to-date totals on reports.<sup>11</sup>

14 The Committee responded to the referrals, contending that the Committee was the victim  
 15 of Schwartz's malfeasance.<sup>12</sup> The Committee identified Schwartz as the "de-facto treasurer" and  
 16 once trusted member of the campaign.<sup>13</sup> The Committee asked the Commission to close the  
 17 matter or to transfer to the Alternate Dispute Resolution Office ("ADRO").<sup>14</sup>

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<sup>9</sup> Compl. at 1 (Dec. 27, 2019), MUR 7677 (James R. Schwartz II). On November 15, 2023, the Commission approved a Conciliation Agreement with Schwartz, which included that he knowingly and willfully violated the Act and Commission regulations. Certification ("Cert.") at 1 (Nov. 15, 2023), MUR 7677 (James R. Schwartz II).

<sup>10</sup> Audit Referral at 2 (June 1, 2021), AR 19-01R (Steve Chabot for Congress).

<sup>11</sup> Referral at 1-2 (Feb. 27, 2020), RR 20L-04 (Steve Chabot for Congress).

<sup>12</sup> Resp. at 1, AR 19-01R (June 22, 2021).

<sup>13</sup> *Id.*

<sup>14</sup> Resp. at 1, RR 20L-04 (Apr. 28, 2020).

MUR \_\_\_\_ (Steve Chabot for Congress)

Factual and Legal Analysis

Page 4 of 8

1        On January 26, 2023, the Commission transferred Pre-MUR 630, AR 19-01R, and  
 2        RR 20L-04 to ADRO.<sup>15</sup> On February 22, 2023, the Committee agreed to participate in the  
 3        ADRO process.<sup>16</sup> On June 15, 2023, ADRO transferred the matter back to OGC and closed their  
 4        file.<sup>17</sup> The Committee filed Termination Reports disclosing an ending cash-on-hand balance of  
 5        \$0.00 on June 9, 2023, October 15, 2023, and February 2, 2024.<sup>18</sup>

6        **III.    LEGAL ANALYSIS**

7        **A.      Personal Use**

8        Under the Federal Election Campaign Act of 1971, as amended (the “Act”), a  
 9        contribution accepted by a candidate may be used for, *inter alia*, “otherwise authorized  
 10        expenditures in connection with the campaign for Federal office of the candidate.”<sup>19</sup> However, a  
 11        contribution to a candidate shall not be converted by any person to “personal use.”<sup>20</sup> “Personal  
 12        use” means any use of funds in a campaign account of a present or former candidate to fulfill a  
 13        commitment, obligation, or expense of any person that would exist irrespective of the  
 14        candidate’s campaign or duties as a Federal officeholder.<sup>21</sup>

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<sup>15</sup>        Cert. at ¶ 2.a (Jan 26, 2023), MUR 7677 (James R. Schwartz II, *et al.*).

<sup>16</sup>        Letter from Krista J. Roche, Director of ADRO, FEC, and Joshua A. Rebollozo, Assistant Director of ADRO, FEC, to Wanda Brown, Acting Assistant General Counsel of CELA, FEC (June 15, 2023).

<sup>17</sup>        *Id.*

<sup>18</sup>        Steve Chabot for Congress, 2023 Termination Report at 2 (June 9, 2023), <https://docquery.fec.gov/cgi-bin/fecimg/?202306099581780017>; Steve Chabot for Congress, 2023 Termination Report at 2 (Oct. 15, 2023), <https://docquery.fec.gov/cgi-bin/fecimg/?202310159598388575>; Steve Chabot for Congress, 2023 Termination Report at 2 (Feb. 2, 2024), <https://docquery.fec.gov/cgi-bin/fecimg/?202402029619672040>.

<sup>19</sup>        52 U.S.C. § 30114(a).

<sup>20</sup>        *Id.* § 30114(b)(1).

<sup>21</sup>        *Id.* § 30114(b)(2); 11 C.F.R. § 113.1(g); Explanation and Justification for Expenditures; Reports by Political Committees; Personal Use of Campaign Funds, 60 Fed. Reg. 7,862, 7,863 (Feb. 9, 1995) (“Personal Use E&J”).

MUR \_\_\_\_ (Steve Chabot for Congress)

Factual and Legal Analysis

Page 5 of 8

1           Schwartz has stipulated that he has embezzled \$1,420,475.23 from the Committee  
 2    between 2011 and 2019, while he served as the Committee's campaign manager.<sup>22</sup> The  
 3    Committee's Response acknowledges the embezzlement by Schwartz and documents steps  
 4    implemented by the Committee, following the discovery of the embezzlement.<sup>23</sup>

5           The Commission has previously concluded that a committee can be held liable for failure  
 6    to comply with the Act based on actions undertaken by its former treasurer or fiduciary.<sup>24</sup> The  
 7    Commission's Safe Harbor for Misreporting Due to Embezzlement establishes procedures for  
 8    political committees to avoid financial penalties by maintaining certain internal controls and post  
 9    discovery steps.<sup>25</sup> It appears that the Committee lacked effective internal controls in its  
 10   accounting and financial operations, as, according to the Committee's representations, it is not  
 11   aware of any relevant policies or practices that were in place while Schwartz acted as treasurer.<sup>26</sup>

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<sup>22</sup> CA ¶ IV.2, MUR 7677 (James R. Schwartz II); Cert. (Nov. 15, 2023), MUR 7677 (James R. Schwartz II).

<sup>23</sup> Resp. at 2, AR 19-01R (June 22, 2021).

<sup>24</sup> See Factual & Legal Analysis ("F&LA") at 18, MUR 6922 (ACA/ACPAC) (finding reason to believe an agent of the connected organization and political committee caused them to violate the Act and Commission Regulations by making prohibited corporate contribution, making contributions in the names of others, and accepting prohibited contributions); F&LA, MUR 7126 (Michigan Democratic State Central Committee) (finding reason to believe a state party committee made reporting and recordkeeping errors from the actions of a staff members, including two longtime party leaders with expertise in campaign finance who occupied senior management and compliance positions); F&LA, MUR 8176 (Salazar for Congress, *et al.*) (finding reason to believe the political committees misreported over \$2,000,000 in activity and misdeposited contributions even though the political committees faulted their past treasurer as the cause of these errors); F&LA, MUR 8076 (UtePAC) (finding reason to believe that the political committee misreported financial activity even though the political committee faulted their past treasurer as the cause of these errors).

<sup>25</sup> See Statement of Policy: Safe Harbor for Misreporting Due to Embezzlement, 72 Fed. Reg. 16,695 (Apr. 5, 2007) ("Safe Harbor Policy"); The internal controls in the policy include (1) all bank accounts are opened using the committee's name and Employer Identification Number, not in an individual's name or Social Security Number, (2) bank statements are reviewed for unauthorized transactions and reconciled to the accounting records each month and to reports prior to filing, (3) checks in excess of \$1,000 are authorized in writing and/or signed by two individuals, (4) an individual who does not handle the committee's accounting or have banking authority receives incoming checks and monitors all other incoming receipts, and (5) if the committee has a petty cash fund, the value of the petty cash fund should be no more than \$500. *Id.*

<sup>26</sup> Letter from E. Stewart Crosland, counsel for Committee, to Aaron Rabinowitz, FEC (Aug. 30, 2021).

MUR \_\_\_\_\_ (Steve Chabot for Congress)

Factual and Legal Analysis

Page 6 of 8

1       Therefore, the Commission finds reason to believe that the Committee violated 52 U.S.C.

2       § 30114(b)(1) by having Committee funds converted into personal use.

3           **B.     Reporting Violations**

4       The Act requires a committee, through its treasurer, to keep an accurate account of  
 5       receipts, disbursements, and cash-on-hand balances.<sup>27</sup> Committee reports must disclose: (1) the  
 6       amount of cash-on-hand at the start of the reporting period; (2) the total amount of receipts;  
 7       (3) the identity of any person who contributes more than \$200 in the election cycle, and the date  
 8       and amount of their contribution(s); (4) the total amount of disbursements; (5) the identity of any  
 9       person to whom the committee disburses over \$200 during the election cycle, together with the  
 10      date, amount, and purpose of the expenditure(s); and (6) the amount of cash-on-hand at the close  
 11      of the reporting period.<sup>28</sup>

12       The information provided by [REDACTED], the referral  
 13      from the Audit Division, and the referral from RAD all disclose reporting discrepancies on  
 14      reports in the 2017-2018 election cycle and 2019-2020 election cycle.<sup>29</sup> The Audit Division  
 15      referred a finding of filing consecutive reports with election cycle-to-date discrepancies in excess  
 16      of \$50,000 per report.<sup>30</sup> RAD referred the Committee for disclosing additional receipts of  
 17      \$123,635.72 on its 2019 April Quarterly Report.<sup>31</sup> Additionally, RAD referred the Committee  
 18      for \$305,093.23 cash-on-hand discrepancy on its 2019 October Quarterly Report.<sup>32</sup>

<sup>27</sup>       52 U.S.C. §§ 30102(c), 30104(b); 11 C.F.R. §§ 104.3, 104.14(d).

<sup>28</sup>       *Id.* § 30104(b)(1)-(6); 11 C.F.R. 104.3(a)-(b).

<sup>29</sup>       Submission at 1; Audit Referral at 2; RAD Referral at 1-2.

<sup>30</sup>       Audit Referral at 2; Cert ¶ 3 (May 27, 2021), AR19-01 (Steve Chabot for Congress).

<sup>31</sup>       RAD Referral at 1-2.

<sup>32</sup>       *Id.*

MUR \_\_\_\_ (Steve Chabot for Congress)

Factual and Legal Analysis

Page 7 of 8

1        The Committee does not dispute the discrepancies in its reports, but emphasizes these  
 2    issues were the result of the scheme to cover up Schwartz's embezzlement.<sup>33</sup> Even so, political  
 3    committees must regularly submit to the Commission reports that accurately disclose its receipts,  
 4    disbursements, and cash-on-hand balances.<sup>34</sup> Although the Committee's Response provides  
 5    steps implemented in the wake of the embezzlement, it does not appear that the Committee had  
 6    any internal controls in place before its discovery.<sup>35</sup> The Commission has previously concluded  
 7    that a political committee can be held liable for the misreporting of financial activity by staff  
 8    members.<sup>36</sup> As detailed above, the Committee had serious reporting violations throughout its  
 9    reports for nearly a decade, which only came to light when the Audit Division performed a field  
 10   audit on the Committee.

11       Therefore, the Commission finds reason to believe that the Committee violated 52 U.S.C.  
 12   §§ 30102(c), 30104(b) and 11 C.F.R. §§ 104.3, 104.14(d) by failing to keep accurate account of  
 13   receipts, disbursements, and cash on hand balance.

14       **C. Misreporting the Committee's Treasurer**

15       A political committee must provide the name and address of the treasurer on its  
 16   Statement of Organization to the Commission.<sup>37</sup> Any changes in information that is provided in

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<sup>33</sup>        Resp. at 1, AR 19-01R (June 22, 2021).

<sup>34</sup>        52 U.S.C. § 30104(b)(1)-(4); 11 C.F.R. § 104.3(a)(1),(b).

<sup>35</sup>        Resp. at 2; Letter from E. Stewart Crosland, counsel for Committee, to Aaron Rabinowitz, FEC (Aug. 30, 2021).

<sup>36</sup>        See F&LA at 10-13, MUR 7126 (Michigan Democratic State Central Committee) (finding reason to believe a state party committee made reporting and recordkeeping errors from the actions of a staff members, including two longtime party leaders with expertise in campaign finance who occupied senior management and compliance positions).

<sup>37</sup>        52 U.S.C. § 30103 (b)(4); 11 C.F.R. § 102.2(a).

MUR \_\_\_\_ (Steve Chabot for Congress)

Factual and Legal Analysis

Page 8 of 8

1 the Statement of Organization, including the name and address of the treasurer, needs to be  
 2 provided no later than 10 days after the date of the change.<sup>38</sup>

3 The Committee began listing James Schwartz, Sr. as its treasurer in 2011.<sup>39</sup> The  
 4 Committee listed him as treasurer until September 16, 2019.<sup>40</sup> In his plea, Schwartz  
 5 acknowledged misrepresenting his father as the Committee's treasurer.<sup>41</sup>

6 In sum, Committee staff and the candidate failed to oversee the purported treasurer or  
 7 even confirm that the individual disclosed as treasurer on the Committee's reports in fact held  
 8 that position. Additionally, according to the Committee's representations, it is not aware of any  
 9 relevant policies or practices to ensure oversight that Committee staff engaged in while Schwartz  
 10 acted as treasurer.<sup>42</sup> This lack of oversight likely enabled Schwartz's embezzlement and  
 11 permitted it to persist for years without interruption. Therefore, the Commission finds reason to  
 12 believe that the Committee violated 52 U.S.C. § 30103(b)(4) and 11 C.F.R. § 102.2(a) by  
 13 misrepresenting the treasurer of the Committee.

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<sup>38</sup> 52 U.S.C. § 30103 (c); 11 C.F.R. § 102.2(a)(2).

<sup>39</sup> Steve Chabot for Congress, Amended Statement of Organization (Jan. 30, 2011).

<sup>40</sup> Steve Chabot for Congress, Amended Statement of Organization (Sept. 16, 2019).

<sup>41</sup> Schwartz Plea Agreement; Factual & Legal Analysis ("F&LA") at 3, MUR 7677 (James R. Schwartz II).

<sup>42</sup> Letter from E. Stewart Crosland, counsel for Committee, to Aaron Rabinowitz, FEC (Aug. 30, 2021).