



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Ronald M. Jacobs, Esq.  
Venable LLP  
575 Seventh Street NW  
Washington, DC 20004

DEC 02 2016

RE: MUR 7200  
(formerly RR 14L-41 and 15L-32)  
Joni for Iowa  
and Cabell Hobbs in his  
official capacity as treasurer

Dear Mr. Jacobs:

On January 6, 2015, and September 22, 2015, respectively, the Federal Election Commission ("the Commission") notified your clients, Joni for Iowa and Cabell Hobbs in his official capacity as treasurer (the "Committee"), that it had ascertained information in the normal course of carrying out its supervisory responsibilities indicating that your clients may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). At each time, we also provided your clients with a copy of the referral document received by the Commission's Office of the General Counsel. The first referral, designated as RAD Referral RR 14L-41, addresses the Committee's apparent failure to disclose debts totaling \$571,042.05 on its original 2014 July Quarterly Report. The second referral, designated as RAD Referral 15L-32, involved the Committee's failure to timely refund, reattribute, or redesignate excessive and prohibited contributions totaling \$37,190. On March 11, 2015, and November 27, 2015, respectively, we received your clients' responses to the referrals.

On November 15, 2016, the Commission found reason to believe that your clients violated 52 U.S.C. §§ 30104(b)(8), 30116(f), and 30118, provisions of the Act. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determinations.

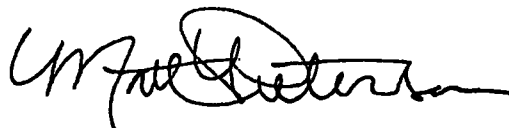
In order to expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a voluntary step in the enforcement process that the Commission is offering to you as a way to resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that you violated the law.

170614M02400

If the Committee is interested in engaging in pre-probable cause conciliation, please contact Roy Q. Luckett, the attorney assigned to this matter, at (202) 694-1650 or (800) 424-9530, within seven days of receipt of this letter. During conciliation, you may submit any factual or legal materials that you believe are relevant to the resolution of this matter. No action by the Commission or any person and no information derived in connection with any conciliation attempt by the Commission may be made public by the Commission without the written consent of the respondent and the Commission. 52 U.S.C. § 30109(a)(4)(B). The Commission may proceed to the next step in the enforcement process if the Committee is not interested in pre-probable cause conciliation or a mutually acceptable conciliation agreement cannot be reached within 60 days. See 52 U.S.C. § 30109(a), 11 C.F.R. Part 111 (Subpart A). Conversely, if you are not interested in pre-probable cause conciliation, the Commission may conduct formal discovery in this matter or proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding.

We look forward to your response.

On behalf of the Commission,



Matthew Petersen  
Chairman

Enclosures  
Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 **MUR 7200**

4  
5 **RESPONDENT:** Joni for Iowa  
6 and Cabell Hobbs in his  
7 official capacity as treasurer  
8

9 **I. INTRODUCTION**

10 The Reports Analysis Division ("RAD") referred Joni for Iowa and Cabell Hobbs, in his  
11 official capacity as treasurer (the "Committee") to the Office of General Counsel ("OGC") with  
12 respect to two apparent violations of the Federal Election Campaign Act of 1971, as amended  
13 (the "Act"). First, the Committee apparently failed to disclose debts totaling \$571,042.05 on its  
14 original 2014 July Quarterly Report.<sup>1</sup> In response, the Committee argues that the Commission  
15 should take no action because it could not estimate debts owed to vendors before it had to file  
16 that report.<sup>2</sup> Second, the Committee apparently received excessive and prohibited contributions  
17 totaling \$37,190 for the 2014 general election that were not timely refunded, reattributed, or  
18 redesignated. The Committee again argues that the Commission should take no action, noting  
19 that the number of refunds was small, and it made the refunds before the Referral.<sup>3</sup> Based on the  
20 available information, the Commission has determined to find reason to believe that the  
21 Committee violated 52 U.S.C. §§ 30104(b)(8), 30116(f), and 30118 by failing to accurately  
22 disclose debts, by knowingly accepting excessive and prohibited contributions, and by failing to  
23 timely refund excessive and prohibited contributions.

<sup>1</sup> Reports Analysis Division ("RAD"), Referral of Joni for Iowa, 14L-41 (December 30, 2014) ("Referral"), incorporated herein by reference.

<sup>2</sup> Committee Resp. at 1 (Mar. 11, 2015).

<sup>3</sup> Committee Resp. (RR 15L-32) at 1-2 (Nov. 27, 2015).

## II. FACTUAL AND LEGAL ANALYSIS

### A. Increased Activity—Debt Reporting Violations

The Committee is a political committee registered with the Commission.<sup>4</sup> On July 15, 2014, the Committee timely filed its 2014 July Quarterly Report covering the period from May 15, 2014, through June 30, 2014.<sup>5</sup> The report disclosed no debts on Line 10 (Debts and Obligations Owed by the Committee) of the Summary Page.<sup>6</sup> The report also included post-election contributions designated for the 2014 primary election, which triggered a RAD Request for Additional Information (“RFAI”) from RAD to the Committee on August 14, 2014, asking whether the Committee had sufficient net debts outstanding for the primary election in order to legally conduct post-election fundraising.<sup>7</sup> On September 18, 2014, the Committee filed an Amended 2014 July Quarterly Report that disclosed \$665,462.49 in debts.<sup>8</sup> A cover letter included with the report noted that the Committee “had determined that it had net-debts outstanding based on the invoices received for primary expenses that had not been received in time to be included on the [original 2014 July Quarterly Report].”<sup>9</sup> The Committee further stated that at the time of the original filing, “it was impossible to provide an accurate estimate of these

<sup>4</sup> See Statement of Organization (July 10, 2013), available at <http://docquery.fec.gov/pdf/722/13020272722/13020272722.pdf>.

<sup>5</sup> See Committee 2014 July Quarterly Report (July 15, 2014), available at <http://docquery.fec.gov/pdf/980/14020463980/14020463980.pdf>.

<sup>6</sup> *Id.*

<sup>7</sup> See Referral at 1.

<sup>8</sup> See Committee First 2014 Amended July Quarterly Report (Sept. 18, 2014), available at <http://docquery.fec.gov/pdf/001/14020700001/14020700001.pdf>.

<sup>9</sup> *Id.*

1 debts, given the short amount of time between the primary and the close-of-books for the  
2 report.”<sup>10</sup>

3 On October 1, 2014, RAD sent the Committee a RFAI regarding the substantial increase  
4 in debts that were disclosed on the Amended 2014 July Quarterly Report.<sup>11</sup> In a telephone  
5 conversation on October 3, 2014, the Committee treasurer at that time, Bradley Crate, informed  
6 the RAD Analyst that the Committee omitted the estimated debts from the original report  
7 because of a “timing issue.”<sup>12</sup> The Analyst advised Crate to file a more detailed explanation on a  
8 Miscellaneous Electronic Submission (“Form 99”), which Crate did on the same day.<sup>13</sup> On that  
9 Form 99, the Committee reiterated the statements made in the Committee’s September 18, 2014,  
10 cover letter to its Amended 2014 July Quarterly Report — that it was impossible to provide an  
11 accurate estimate of debts given the short amount of time between the primary and the close-of-  
12 books for the report.<sup>14</sup> He also stated that the Committee disclosed estimated debts once it was  
13 able to do so, and at the suggestion of the Commission.<sup>15</sup>

14 On October 15, 2014, the Committee filed a second Amended 2014 July Quarterly  
15 Report, disclosing \$571,042.05 in debts on Line 10 of the Summary Page, a decrease of  
16 \$94,420.44 from the first Amended 2014 July Quarterly Report.<sup>16</sup> The Committee’s cover letter

---

<sup>10</sup> *Id.*

<sup>11</sup> *See Referral at 2.*

<sup>12</sup> *Id.* at 3.

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

<sup>14</sup> *Id.*

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

<sup>16</sup> *See Committee Second 2014 Amended July Quarterly Report (Oct. 15, 2014), available at <http://docquery.fec.gov/pdf/496/14020840496/14020840496.pdf>.*

1 to this amended report, stated, in part that it filed this amendment because the first amended 2014  
2 July Quarterly Report disclosed more than \$94,000 in estimated debt that had already been  
3 paid.<sup>17</sup>

On December 30, 2014, RAD referred the Committee to OGC for amending its 2014 July Quarterly Report to disclose additional debts totaling \$571,042.05. OGC notified the Committee about this matter on January 6, 2015.<sup>18</sup>

7       The Committee's Response to the Referral reiterates that the amount of time between the  
8       primary election and due date of the 2014 July Quarterly Report contributed to the reporting  
9       errors in this matter.<sup>19</sup> Specifically, the Committee notes that

Iowa held its Republican primary election on June 3, 2014. The close of books for the July Quarterly Report was June 30, a mere 27 days after the primary, which was prior to the next billing cycle for most vendors. That means vendors closed their books on the same day as Joni for Iowa, and issued invoices *after* the close of books. With the report due on July 15, the Committee had not even received the invoices by the day the report was due.<sup>20</sup>

The Committee also maintains that it was impossible to make a good-faith estimate of the debts at issue on the 2014 July Quarterly Report. The Committee explains that it orally agreed to pay vendors a “win bonus” if Ernst won the primary — which she did — and it was still negotiating the exact amount of those bonuses when the report was due.<sup>21</sup>

17 *Id.*

<sup>18</sup> Letter from Jeff S. Jordan, Assistant General Counsel-Complaints Examination and Legal Administration, FEC to Bradley Crate, Treasurer of the Committee (Jan. 6, 2015); *see also Agency Procedure for Notice to Respondents in Non-Complaint Generated Matters*, 74 Fed. Reg. 38,617 (Aug. 4, 2009).

<sup>19</sup> Committee Resp. at 2.

20 *Id.*

21 *Id.*

1 The Committee further argues that it was not required to amend its 2014 July Quarterly  
2 Report at all. Citing 11 C.F.R. § 104.11(b), the Committee states that “[o]nce the exact amount  
3 [of debt] is determined, the political committee shall either amend the report(s) containing the  
4 estimate or indicate the correct amount on the report for the reporting period in which such  
5 amount is determined.”<sup>22</sup> Thus, the Committee maintains that it did not have to disclose the debt  
6 until it determined the correct amount, which would have been during the 2014 October  
7 Quarterly reporting period. Accordingly, the Committee concludes that it “was under no  
8 obligation to file an amended report to disclose debts once they were ascertained with  
9 certainty.”<sup>23</sup>

10 The Act and Commission regulations require political committees to disclose the amount  
11 and nature of outstanding debts and obligations until those debts are extinguished.<sup>24</sup> A political  
12 committee must file separate schedules for debts owed by and to the committee with a statement  
13 explaining the circumstances and conditions under which each debt and obligation was incurred  
14 or extinguished.<sup>25</sup> A debt or obligation of \$500 or less must be reported as of the time that  
15 payment is made or within sixty days of the date on which the political committee incurs the

---

<sup>22</sup> *Id.* at 4.

<sup>23</sup> *Id.* After the Referral, on April 16, 2015, the Committee filed another Amended 2014 July Quarterly Report, which disclosed no debts owed by Committee, and provided no explanation for the reported change in debt from its previous amendments. See Committee's Third Amended 2014 July Quarterly Report (Apr. 16, 2015), available at <http://docquery.fec.gov/pdf/461/15020139461/15020139461.pdf>. On June 30, 2015, after this matter was initially activated, OGC asked RAD about this last debt reporting entry, and RAD confirmed with the Committee that the entry was a mistake. On July 8, 2015, the Committee filed another Amended 2014 July Quarterly Report, which reflected the full amount of debt at issue in this matter. See Committee's Fourth Amended 2014 July Quarterly Report (July 8, 2015), available at <http://docquery.fec.gov/pdf/689/15020179689/15020179689.pdf>. Since the Fourth Amendment merely verifies the original increase in reported debt that formed the basis of the referral and because RAD does not intend to make an additional referral for the mistaken Third Amendment, the Commission does not take any action pertaining to the mistaken Third Amendment to the 2014 July Quarterly Report.

<sup>24</sup> 52 U.S.C. § 30104(b)(8); 11 C.F.R. §§ 104.3(d), 104.11(a).

<sup>25</sup> See 11 C.F.R. § 104.11(a).

1 debt, whichever comes first, and a debt exceeding \$500 must be disclosed in the report that  
2 covers the date on which the debt was incurred.<sup>26</sup> If the exact amount of a debt or obligation is  
3 not known, the report shall state that the amount reported is an estimate.<sup>27</sup> Once the exact  
4 amount is determined, a political committee has two options: (1) amend the report(s) containing  
5 the estimate; or (2) indicate the correct amount on the report for the reporting period in which  
6 such amount is determined.<sup>28</sup>

7 Here, the information before the Commission conclusively shows that the Committee  
8 violated the Act by failing to disclose any debt, actual or estimated, on its original 2014 July  
9 Quarterly Report. Further, the Committee's arguments why the Commission should take no  
10 action are unpersuasive. First, the Committee had 42 days between the June 3, 2014, primary  
11 election and July 15, 2014, the report's due date, to report either actual or estimated debts, and it  
12 presents no information supporting its assertion that this was not enough time to gather the  
13 relevant data. The fact that the Committee may have been negotiating "win bonuses" around the  
14 time the report was due was not an excuse to report no debt at all on the original report. The  
15 Committee knew it owed some amount to its vendors, so reporting nothing was clearly  
16 inaccurate. And it is reasonable to assume that the Committee knew its debts were substantial  
17 because it engaged in extensive post-election debt-retirement fundraising to pay them.<sup>29</sup> Under  
18 these circumstances, 11 C.F.R. § 104.11(b) required the Committee to make a good-faith estimate  
19 of its debts, and it did not.

---

<sup>26</sup> See 11 C.F.R. § 104.11(b).

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> See Referral at 1-2.

170544M00005



1 Indeed, the Committee's remaining argument — that it was not required to file an  
2 amended 2014 July Quarterly Report and could instead report the correct amount once it was  
3 determined — reads the requirement to disclose estimated debts completely out of the regulation.  
4 Section 104.11(b) states that "if the exact amount of a debt or obligation is not known, the report  
5 shall state that the amount reported is an estimate."<sup>30</sup> The provision on which the Committee  
6 relies merely tells the Committee what it must do after it has already estimated its debts; it does  
7 not mean that a Committee can ignore its responsibility to make an estimate in the first place.  
8 Therefore, the Commission finds reason to believe that Joni for Iowa and Cabell Hobbs in his  
9 official capacity as treasurer violated 52 U.S.C. § 30104(b)(8).

10 **B. Acceptance of Excessive and Prohibited Contributions**

11 Additionally, the Committee's 2014 October Quarterly and 30-Day Post-General Reports  
12 show that it received excessive and prohibited contributions totaling \$37,190 for the 2014  
13 general election from twenty-six individuals, one partnership, one multicandidate political action  
14 committee, one non-multicandidate political action committee, and three corporations.<sup>31</sup> The  
15 Committee did not timely refund, reattribute, or redesignate these excessive and prohibited  
16 contributions.

17 On December 1, 2014, RAD sent the Committee an RFAI regarding the 2014 October  
18 Quarterly Report, noting the Committee's receipt of excessive and potentially prohibited  
19 contributions and requesting that the Committee take corrective action.<sup>32</sup> The Committee  
20 responded by disclosing the untimely contribution refunds on three different reports.

<sup>30</sup> *Id.*

<sup>31</sup> RAD Referral of Joni for Iowa, 15L-32 (Sept. 17, 2015) ("Referral (RR 15L-32)"), incorporated herein by reference.

<sup>32</sup> *Id.* at 2.

1706444406

1 Specifically, on December 4, 2014, the Committee filed the 2014 30-Day Post-General Report  
2 covering the period from October 16, 2014, to November 24, 2014, which disclosed an untimely  
3 \$500 refund to one individual.<sup>33</sup> The Committee's 2014 Year-End Report, filed on January 30,  
4 2015, and covering the period from November 25, 2014, to December 31, 2014, disclosed  
5 untimely refunds totaling \$6,825 to three individuals and \$1,750 to three corporations.<sup>34</sup> Finally,  
6 on July 15, 2015, the Committee filed its 2015 July Quarterly Report covering the period from  
7 April 1, 2015, to June 30, 2015.<sup>35</sup> The Committee disclosed untimely refunds totaling \$4,000 to  
8 one partnership and one non-multicandidate political action committee.<sup>36</sup>

9 On March 12, 2015, RAD sent the Committee another RFAI regarding excessive  
10 contributions revealed on its 2014 30-Day Post-General Report.<sup>37</sup> On April 15, 2015, the  
11 Committee filed the 2015 April Quarterly Report covering the period from January 1, 2015, to  
12 March 31, 2015. That report disclosed untimely refunds of excessive contributions totaling  
13 \$24,115 from 22 individuals and one multicandidate political action committee.<sup>38</sup>

14 On September 16, 2015, RAD referred the Committee to OGC for failing to timely  
15 remedy excessive and prohibited 2014 general election contributions totaling \$37,190. OGC

---

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.* at 3.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.* at 4.

1 notified the Committee about this matter on September 22, 2015.<sup>39</sup>

2 The Committee's Response concedes that it accepted excessive and prohibited  
3 contributions, but argues that the Commission should take no further action in this matter.<sup>40</sup>  
4 Specifically, the Committee notes that: (1) the late refunds were relatively minor, as only 32  
5 contributions were not refunded within the permitted 60 days; (2) it made all the refunds at issue  
6 before the Referral; and (3) it has taken remedial steps to ensure compliance, including  
7 establishing a new database that aggregates contributions more effectively. The Committee also  
8 states that its former compliance vendor failed to properly refund the contributions within the  
9 prescribed 60-day period.<sup>41</sup> It notes that "[m]any of the excessive individual contributions were  
10 received shortly before the election. Had the vendor performed as expected, it [vendor] would  
11 have sought redesignation of the contributions to the 2020 primary election."<sup>42</sup> The Committee  
12 concludes that "[b]ecause the vendor did not perform the tasks it contracted to handle, it would  
13 be unfair to further punish [the Committee] for the vendor's errors."<sup>43</sup>

14 Under the Act, an individual may not make a contribution to a candidate with respect to  
15 any election in excess of the legal limit, which was \$2,600 per election during the 2014 election  
16 cycle.<sup>44</sup> Candidates and political committees are prohibited from knowingly accepting excessive

---

<sup>39</sup> Letter from Jeff S. Jordan, Assistant General Counsel-Complaints Examination and Legal Administration, FEC to Cabell Hobbs, Treasurer of the Committee (Sep. 22, 2015); *see also Agency Procedure for Notice to Respondents in Non-Complaint Generated Matters*, 74 Fed. Reg. 38,617 (Aug. 4, 2009) ("Commission's Notification Policy").

<sup>40</sup> Committee Resp. (RR 15L-32) at 1.

<sup>41</sup> *Id.* at 5.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *See* 52 U.S.C. § 30116(a)(1)(A) and 11 C.F.R. § 110.1(b)(1).

1 contributions.<sup>45</sup> When a committee receives an excessive contribution, the committee must,  
2 within 60 days of the contribution's receipt, either refund the excessive portion of the  
3 contribution or obtain a redesignation or reattribution from the contributor.<sup>46</sup>

4 The Act also prohibits political committees from accepting contributions from the general  
5 treasury funds of corporations.<sup>47</sup> If a committee receives a contribution that appears to be  
6 prohibited, it must follow the procedures set forth at 11 C.F.R. § 103.3(b). Within 30 days of the  
7 treasurer's receipt of the questionable contribution, the committee must make at least one written  
8 or oral request for evidence that the contribution is legal, and must either confirm the legality of  
9 the contribution or refund the contribution to the contributor and note the refund on the report  
10 covering the period in which the refund was made.<sup>48</sup>

11 It is undisputed that the Committee accepted prohibited and excessive contributions  
12 totaling \$37,190 for the 2014 general election from individuals, corporations, and political action  
13 committees, and that all of the refunds for these contributions were untimely. The Committee,  
14 however, argues that the Commission should not pursue the violation because it ultimately  
15 refunded all the contributions, and there were only 32 of them. Nevertheless, the amount in  
16 violation met a Commission-approved referral threshold, and the Committee made most of the  
17 refunds between 130 and 150 days after the contributions' receipt, much later than provided for

---

<sup>45</sup> See 52 U.S.C. § 30116(f).

<sup>46</sup> See 11 C.F.R. § 103.3(b)(3).

<sup>47</sup> See 52 U.S.C. § 30118.

<sup>48</sup> See 11 C.F.R. § 103.3(b)(1).

- 1 by regulation.<sup>49</sup> Therefore, the Commission finds reason to believe that the Committee violated  
2 §§ 30116(f) and 30118 by knowingly accepting excessive and prohibited contributions, and  
3 by failing to timely refund those contributions.

---

<sup>49</sup> With respect to the Committee's vendor error argument, the Commission has not considered vendor error to be a valid exculpatory or mitigating factor in similar situations. *See, e.g.*, MUR 6568 (Heath Shuler for Congress) (finding that Committee failed to report disbursements caused by vendor's error) and MUR 6300 (Republican Party of Virginia) (finding RPV responsible for its vendor's failure to timely forward contributions and RPV's consequential reporting errors). The Commission has, however, taken vendor error into account as a mitigating factor in other types of cases, such as cases involving disclaimer violations. *See, e.g.*, MUR 6125 (McClintock for Congress) (robocall disclaimer violation dismissed due to possible vendor error, among other factors).