



FEDERAL ELECTION COMMISSION
Washington, DC 20463

VIA Email

sroberts@hvjt.com

July 20, 2021

Steve Roberts
Holtzman Vogel Josefiak Torchinsky PLLC
45 North Hill Drive, Suite 100
Warrenton, VA 20186

RE: MURs 7438 & 7476
Ohio First PAC

Dear Mr. Roberts:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission (the "Commission") became aware of information suggesting that your client, Ohio First PAC and Julie Dozier in her official capacity as treasurer ("Ohio First"), may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). In addition, on July 30, 2018 and August 15, 2018, the Commission notified your client of complaints alleging that your client violated the Act and provided your client with copies of the respective complaints at those times.

After reviewing the allegations contained in the complaints, your client's responses, and other available information, the Commission, on May 20, 2021, found reason to believe that your client failed to file a pre-primary report in violation of 52 U.S.C. § 30101(a)(4)(A)(ii) and independent expenditure reports in violation of 52 U.S.C. § 30104(g). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is enclosed for your information.

Please note that your client has a legal obligation to preserve all documents, records and materials relating to this matter until such time as your client is notified that the Commission has closed its file in this matter. *See* 18 U.S.C. § 1519. This matter will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. Please be advised that, although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.¹

¹ The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

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 your client 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 your client violated the law.

If your client is interested in engaging in pre-probable cause conciliation, please contact Nicholas Bamman, the attorney assigned to this matter, at (202) 694-1628 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. Because the Commission only enters into pre-probable cause conciliation in matters that it believes have a reasonable opportunity for settlement, we may proceed to the next step in the enforcement process if a mutually acceptable conciliation agreement cannot be reached within sixty days. *See* 52 U.S.C. § 30109(a), 11 C.F.R. Part 111 (Subpart A). Conversely, if your client is 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.

Pre-probable cause conciliation, extensions of time, and other enforcement procedures and options are discussed more comprehensively in the Commission's "Guidebook for Complainants and Respondents on the FEC Enforcement Process," which is available on the Commission's website at http://www.fec.gov/em/respondent_guide.pdf.

We look forward to your response.

On behalf of the Commission,



Shana M. Broussard
Chair

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Enclosures
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

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2
3 RESPONDENTS: Ohio First PAC and MURs 7438 and 7476
4 Julie Dozier in her official capacity as treasurer

I. INTRODUCTION

6 These matters were generated by a *sua sponte* submission filed by Ohio First and
7 Complaints filed with the Federal Election Commission (the “Commission”).¹ The matters
8 each involve allegations relating to reporting of independent expenditures made in support of
9 Jim Renacci in the 2018 Senate election in Ohio. Ohio First PAC and Julie Dozier in her
10 official capacity as treasurer (collectively, “Ohio First” or “Respondents”) made such
11 independent expenditures in support of Jim Renacci before the Ohio Republican Primary and
12 failed to report these independent expenditures on 24- and 48-hour reports and on its Pre-
13 Primary Report.² Based on the available information, the Commission finds reason to
14 believe that Ohio First violated 52 U.S.C. § 30104(a)(4)(A)(ii) by failing to timely file a pre-
15 primary report and violated 52 U.S.C. § 30104(g) by failing to report its independent
16 expenditures.

II. FACTS

18 Ohio First is an independent expenditure-only political committee (“IEOPC”) that
19 registered with the Commission on January 21, 2018.³ In the weeks leading up to the May 8,

¹ See 52 U.S.C. § 30109(a)(1)-(2).

² Ohio First, *Sua Sponte* Submission at 1 (June 29, 2018), Pre-MUR 613 (Ohio First PAC) (“First Submission”); Ohio First PAC, *Sua Sponte* Supp. Submission at 1 (Sept. 28, 2018), Pre-MUR 613 (Ohio First PAC) (“Second Submission”); Ohio First, *Sua Sponte* Second Supp. Submission (Nov. 16, 2018), Pre-MUR 613 (Ohio First PAC) (“Third Submission”); Ohio First Resp. at 1-2, MUR 7476 (Aug. 9, 2018).

³ Ohio First, Statement of Organization (Jan. 21, 2018).

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1 2018, Ohio primary election, Ohio First supported the candidacy of Jim Renacci for the
 2 Republican nomination for U.S. Senate from Ohio by making nearly half a million dollars in
 3 independent expenditures, but it did not file reports with the Commission disclosing these
 4 independent expenditures until after the primary election.⁴

5 Under the Commission's reporting schedules for the Ohio primary election, Ohio
 6 First was required to file 48-hour independent expenditure reports through April 18, 2018,
 7 and 24-hour independent expenditure reports from April 19 to May 6, 2018, as well as a Pre-
 8 Primary Report by April 26, 2018 (covering the period through April 18, 2018). Ohio first
 9 did not report any cash on hand, receipts, disbursements, or debts, and reported no
 10 independent expenditures, until June 29, 2018, more than six weeks after the primary
 11 election.

12 Most of Ohio First's activity occurred during April and May 2018.⁵ During that
 13 period, Ohio First made the following independent expenditures, totaling \$472,129.66:⁶

Distribution or Dissemination	Vendor	Amount
Apr. 1, 2018	Majority Strategies	\$ 25,000.00
Apr. 1, 2018	Majority Strategies	\$ 93,270.00
Apr. 1, 2018	Majority Strategies	\$ 2,500.00

⁴ See First Submission at 1 (stating that Ohio First filed its independent expenditure reports after the primary election); Ohio First, 2018 Pre-Primary Report at 10-13 (June 29, 2018); Ohio First, 2018 July Quarterly Report at 15-17 (July 15, 2018).

⁵ First Submission at 1; Ohio First, 2018 Pre-Primary Report at 10-13; Ohio First, 2018 July Quarterly Report at 15-17.

⁶ Ohio First, 2018 Pre-Primary Report at 2, 6-9; Ohio First, 2018 July Quarterly Report at 9-14. The first contribution to Ohio First was made on May 10, 2018, two days after the primary election. Ohio First Receipts, https://www.fec.gov/data/receipts/?two_year_transaction_period=2018&committee_id=C00666750&data_type=processed (last visited Apr. 18, 2020).

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Distribution or Dissemination	Vendor	Amount
Apr. 2, 2018	Majority Strategies	\$ 52,307.33
Apr. 9, 2018	Majority Strategies	\$ 52,307.33
Apr.16, 2018	Majority Strategies	\$ 52,307.33
Apr. 16, 2018	Majority Strategies	\$ 25,000.00
Apr. 23, 2018	Majority Strategies	\$ 50,314.67
Apr. 30, 2018	Majority Strategies	\$ 51,311.00
May 1, 2018	Ascent Media LLC	\$ 7,700.00
May 1, 2018	Majority Strategies	\$ 58,362.00
May 1, 2018	Majority Strategies	\$ 1,750.00
	Total:	\$ 472,129.66

1 In a supplemental submission, Ohio First represents that it failed to timely report its
2 independent expenditures because Ohio First’s treasurer was unaware of the expenditures.⁷
3 Ohio First stated that, although it had received invoices from its vendors, it did not pay the
4 invoices because it lacked funds and did not forward the unpaid invoices to Ohio First’s
5 treasurer.⁸ Ohio First states that it discovered that it did not file the required reports on or
6 around June 20, 2018, and then conducted an “audit” to review its activity and implemented
7 a new process to route independent expenditure invoices directly to the treasurer upon
8 receipt.⁹

⁷ See Second Submission at 1.

⁸ *Id.* (explaining, also, that Ohio First’s treasurer is a “professional at a compliance firm”).

⁹ *Id.* at 2. Ohio First stated that the revised compliance process was not memorialized in any formal written policy because of the “expectation of a limited time duration for Ohio First PAC’s activities.” Third Submission at 3.

1 After conducting its internal review, Ohio First filed its *sua sponte* submission with
2 the Commission by letter dated June 29, 2018.¹⁰ At the same time, Ohio First filed
3 independent expenditure reports for the 12 expenditures it made from April 1 through
4 May 1, 2018, and filed its Pre-Primary Report covering the period from April 1 through
5 April 18, 2018. The Pre-Primary Report disclosed no receipts, no disbursements, no cash on
6 hand, and \$367,667.99 in debts and obligations along with \$302,691.99 in independent
7 expenditures in support of Renacci.¹¹

8 **III. LEGAL ANALYSIS**

9 Under the Act and Commission regulations, political committees other than
10 authorized committees must report their independent expenditures.¹² Every political
11 committee that makes independent expenditures must report them in its regularly scheduled
12 disclosure reports in accordance with 11 C.F.R. § 104.3(b)(3)(vii).¹³ Depending on the
13 aggregate dollar amounts and timing of the independent expenditures, a political committee
14 that makes or contracts to make independent expenditures must also report the independent
15 expenditures within 24 or 48 hours.¹⁴ In addition, political committees including IEOPCs

¹⁰ First Submission at 1. The letter was received July 2, 2018. *Id.*

¹¹ Ohio First, 2018 Pre-Primary Report at 2. In addition to debt to Majority Strategies for the \$302,691.99 in independent expenditures disseminated during the Pre-Primary period, the report also disclosed additional debts to Majority Strategies in the amounts of \$30,000 for “survey research” and \$4,975 for “web service.” Ohio First, 2018 Pre-Primary Report at 2, 6-9.

¹² 52 U.S.C. § 30104(b)(4)(H)(iii); *see also* 11 C.F.R. § 104.3(b)(1)(vii).

¹³ 11 C.F.R. § 104.4(a).

¹⁴ A political committee that makes or contracts to make independent expenditures aggregating \$10,000 or more for an election in any calendar year, up to and including the 20th day before an election, must report these expenditures within 48 hours (in “48-hour reports”). 52 U.S.C. § 30104(g)(2); 11 C.F.R. § 104.4(b)(2). These 48-hour reports must be filed by the end of the second day “following the date on which a communication that constitutes an independent expenditure is publicly distributed or otherwise publicly disseminated.” 11 C.F.R. § 104.4(b)(2). A political committee that makes or contracts to make independent

1 that make expenditures in connection with a primary election must file a pre-primary report
 2 no later than 12 days before that primary, disclosing all receipts and disbursements as of the
 3 20th day before the primary election.¹⁵

4 Ohio First was under an obligation to disclose the independent expenditures made on
 5 or before April 18, 2018, within 48 hours of the communications' public distribution or
 6 dissemination.¹⁶ Similarly, Ohio First was required to disclose the independent expenditures
 7 made between April 19 and May 6, 2018, within 24 hours of the communications' public
 8 distribution or dissemination.¹⁷

9 Ohio First voluntarily self-disclosed reporting violations related to over \$470,000 in
 10 independent expenditures and does not deny that it failed to timely file the associated 24-
 11 hour, 48-hour, and Pre-Primary Reports.¹⁸ Specifically, Ohio First failed to timely file 24-
 12 Hour Reports disclosing \$169,437.67 in independent expenditures and 48-Hour Reports
 13 disclosing \$302,691.99 in independent expenditures.¹⁹ Ohio First also acknowledged that it
 14 did not file its Pre-Primary Report, an election-sensitive report, until more than six weeks
 15 after it was due.²⁰ Accordingly, the Commission finds reason to believe that Ohio First

expenditures aggregating \$1,000 or more after the 20th day, but more than 24 hours, before the date of an election must report the expenditures within 24 hours (in "24-hour reports"). 52 U.S.C. § 30104(g)(1); 11 C.F.R. §§ 104.4(c), 109.10(d). These 24-hour reports must be filed before midnight on the day following the date on which the communication is publicly disseminated. 11 C.F.R. § 104.4(c).

¹⁵ 52 U.S.C. § 30104(a)(4)(A); 11 C.F.R. § 104.5(c)(1).

¹⁶ 11 C.F.R. § 104.4(b).

¹⁷ 11 C.F.R. § 104.4(c).

¹⁸ First Submission at 1; Second Submission at 1-2; Third Submission at 1.

¹⁹ First Submission at 1.

²⁰ *Id.* Because Ohio First filed the election sensitive 24- hour, 48-hour, and Pre-Primary Reports after the date of the primary election, they are deemed "not filed" rather than filed late. *See* 11 C.F.R. § 111.43(d)(1), (e) (defining "election sensitive reports" and explaining their treatment as late or not filed).

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- 1 violated 52 U.S.C. § 30104(a)(4)(A)(ii) by failing to timely file a pre-primary report and 52
- 2 U.S.C. § 30104(g) by failing to report its independent expenditures.