



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Progressive Priorities PAC
3300 N. Interstate 35
Suite 700
Austin, TX 78722

SEP 14 2018

RE: MUR 7468
Progressive Priorities PAC

To whom it may concern:

On August 7, 2018, the Federal Election Commission found that there is reason to believe that Progressive Priorities PAC and its treasurer ("Committee") violated 52 U.S.C. §§ 30104(b), 30103(b), (c), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"), as well as 11 C.F.R. §§ 104.3, 102.2(a)(1), (2). These findings were based on information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities. *See* 52 U.S.C. § 30109(a)(2). The Factual and Legal Analysis, which formed a basis for the Commission's finding(s), is enclosed for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the Office of the General Counsel's within 15 days of your receipt of this notification. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. *See* 52 USC § 30109(a)(4).

Please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. *See* 18 U.S.C. § 1519.

If you are interested in pursuing pre-probable cause conciliation, you should make such a request by letter to the Office of the General Counsel. *See* 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into in order to complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been delivered to the respondent(s). Requests for extensions of time are not routinely granted. Requests must be made in writing at least five days prior to the due date of the response and good cause must be demonstrated. In addition, the

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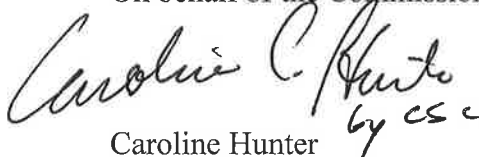
Office of the General Counsel ordinarily will not give extensions beyond 20 days. Pre-probable cause conciliation, extensions of time, and other enforcement procedures and options are discussed more comprehensively in the Commission's "Guidebook for Complainants and Respondents on the FEC Enforcement Process," which is available on the Commission's website at http://www.fec.gov/em/respondent_guide.pdf.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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

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 investigation to be made public. For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Amanda Andrade, the attorney assigned to this matter, at (202) 694-1650.

On behalf of the Commission,


Caroline Hunter
Chair

Enclosures
Factual and Legal Analysis

cc: Henok Tedla

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).

FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Progressive Priorities PAC MUR 7468
and its treasurer

I. INTRODUCTION

The Commission's Reports Analysis Division ("RAD") originally referred Progressive Priorities PAC ("the Committee") and Michelle Sotelo in her official capacity as treasurer to the Audit Division based on the Committee's failures to itemize contributions and disbursements, as well as an untimely report. The Commission subsequently transferred this matter to the Office of the General Counsel ("OGC").¹ After being notified of the allegations in the referral, the Committee's purported treasurer filed a response denying any knowledge of or involvement with the Committee.

As discussed below, the Commission finds reason to believe that the Committee violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.3 by failing to itemize its receipts and disbursements, and 52 U.S.C. § 30103(b), (c) and 11 C.F.R. § 102.2(a)(1), (2) by failing to accurately identify its treasurer.

II. FACTUAL AND LEGAL ANALYSIS

A. Background

The Committee has been registered with the Commission as a political committee since May 2016.² The Committee's first Statement of Organization listed Henok Tedla as its

¹ Certification, 2015-2016 RAD Audit Referrals – Unauthorized Committees (Nov. 9, 2017).

² Progressive Priorities PAC, Statement of Organization (May 11, 2016).

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1 treasurer.³ The Committee filed an amended Statement of Organization in September 2016
 2 listing Alex Roth as treasurer,⁴ and two subsequent Statements of Organization listing Michelle
 3 Sotelo as treasurer.⁵ Notwithstanding these changes, none of the Committee’s reports were ever
 4 signed by Alex Roth or Michelle Sotelo—all have been signed by Tedla.⁶

5 The Committee disclosed a total of \$389,539.89 in receipts and \$375,605.39 in
 6 disbursements in its 2016 July and October Quarterly Reports, with no reported activity since.⁷
 7 On February 7, 2017, RAD sent Requests for Additional Information (“RFAIs”) to the
 8 Committee for both of these reports, noting that the Committee had failed to properly itemize its
 9 receipts and disbursements.⁸ The Committee did not amend either report or otherwise respond.
 10 On December 28, 2016, RAD sent an RFAI after the Committee failed to file its 2016 Post-
 11 General Report.⁹ The Committee filed that report on February 3, 2017,¹⁰ 37 days after RAD’s
 12 notification and 57 days after the report was due.

13 On November 17, 2017, the Commission notified the Committee’s most recently
 14 designated treasurer, Michelle Sotelo, that the Committee had been referred to OGC for possible

³ *Id.* at 3.

⁴ Progressive Priorities PAC, Statement of Organization, at 3 (Sept. 23, 2016).

⁵ Progressive Priorities PAC, Statement of Organization, at 3 (Dec. 1, 2016); Progressive Priorities PAC, Statement of Organization, at 3 (Jan. 31, 2017).

⁶ RAD issued multiple Requests for Additional Information on this point. *See* RFAI: 2016 October Quarterly (Feb. 7, 2017); RFAI: 2016 Year-End (Apr. 5, 2017); RFAI: 2016 Post-General (Apr. 5, 2016); RFAI: 2017 Mid-Year Report (Aug. 28, 2017). The Committee has not provided any correction or explanation.

⁷ *See* Progressive Priorities PAC, 2016 Year-End Report at 2 (Feb. 3, 2017); Progressive Priorities PAC, 2017 Mid-Year Report (July 31, 2017).

⁸ RFAI: 2016 October Quarterly Report (Feb. 7, 2017); RFAI: July Quarterly 2016 (Feb. 7, 2017).

⁹ RFAI: 2016 Post-General Report (Dec. 28, 2016).

¹⁰ Progressive Priorities PAC, 2016 Post-General Report (Feb. 3, 2017).

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1 enforcement action. The letter cited the Committee's late-filed 2016 Post-General Report and
2 the Committee's failure to properly itemize its receipts and disbursements in its 2016 July and
3 October Quarterly Reports.¹¹

4 On February 17, 2018, Sotelo filed a response, denying any knowledge of or involvement
5 with the Committee ("Response") and asserting that the Committee identified her as a treasurer
6 without her consent.¹² According to the Response, Sotelo actually goes by her married name of
7 Michelle Pautin.¹³ Pautin claimed that a family friend named Kyle Davies asked her to invest
8 \$100 in a business opportunity, for which he also requested and received her social security
9 number.¹⁴ Davies allegedly convinced Pautin to open a bank account, but then took it over and
10 denied her access to it.¹⁵ She said that she fought with Davies for months to regain access to her
11 account, and that Davies claimed that his business partners objected.¹⁶

12 Pautin stated that she did not realize that she had been designated as a treasurer for the
13 Committee until she received a call from OGC in February 2018 because the Committee had not
14 responded to the referral.¹⁷ According to Pautin, she immediately contacted Davies, who
15 admitted to her that Progressive Priorities PAC was run by his former business partner, Matthew
16 Tunstall, and that Davies was just a recruiter and had no idea what the business was.¹⁸ Pautin

¹¹ Notification Letter from Jeff Jordan to Michelle Sotelo, Progressive Priorities PAC (Nov. 17, 2017).

¹² Response from Michelle Pautin to the Commission (Feb. 17, 2018).

¹³ *Id.* at 2.

¹⁴ *Id.* at 1.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.* at 1-2.

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1 said she has been unable to get in contact with Tunstall.¹⁹ Pautin also reported filing a police
 2 report.²⁰

3 **B. Legal Analysis**

4 1. Failure To Itemize Receipts and Disbursements

5 Under the Federal Election Campaign Act of 1971, as amended (the “Act”), a political
 6 committee must identify each person who makes a contribution having an aggregate amount in
 7 excess of \$200 within the calendar year, together with the date and amount of such
 8 contribution.²¹ Identification for an individual is defined as the full first and last names,
 9 complete mailing address, occupation, and name of employer.²² If a committee is not able to
 10 obtain all of this information for a contributor, but the treasurer can demonstrate that he or she
 11 exercised “best efforts” to obtain, maintain, and submit this identifying information, the

¹⁹ *Id.* at 2.

²⁰ *Id.* Pautin believes that Davies and Tunstall’s activities in connection with the Committee were fraudulent, and publicly available information appears to support that belief. The Committee does not appear to have made any disbursements to an identifiable political candidate or committee. It also appears to be very closely connected to another political committee called Liberty Action Group—both groups used Tedla as their report preparer, had nearly identical websites, and made significant disbursements to the same automated calling organization. That vendor, Smartcall Media, received \$270,501 from Progressive Priorities PAC and \$984,800 from Liberty Action Group in 2016. The Commission has no record of Smartcall Media receiving disbursements from any other source during that year. Progressive Priorities PAC also reported a disbursement to Liberty Action Group’s director. *See* Progressive Priorities PAC, 2016 October Quarterly Report, at 42 (Oct. 13, 2016) (reporting \$500 disbursement to Josiah Cammer); Liberty Action Group, Misc. Report to FEC (Sept. 9, 2016) (listing Cammer as “Director”). Liberty Action Group made disbursements to people Pautin cited in her Response as operating Progressive Priorities PAC: \$13,586.10 to Kyle Davies and \$484,414.70 to Matt Tunstall. *See* 2017 Termination Report: Amendment 2 (June 27, 2017) (\$1,956.30 to Kyle Davies in four disbursements and \$11,629.80 to “Kayle Davies” in 10 disbursements); Liberty Action Group, 2016 July Quarterly Report: Amendment 3 (June 26, 2017) (\$202,414.70 to Tunstall in 14 disbursements); 2016 October Quarterly Report: Amendment 1 (June 26, 2017) (\$187,500 to Tunstall in nine disbursements); 2016 Post-General Report: Amendment 1 (June 26, 2017) (\$14,500 to Tunstall in two disbursements); 2016 Year-End Report: Amendment 1 (June 26, 2017) (\$63,000 to Tunstall in two disbursements); 2017 Termination Report: Amendment 2 (June 27, 2017) (\$17,000 to Tunstall in two disbursements).

²¹ 52 U.S.C. § 30104(b)(3)(A); 11 C.F.R. § 104.3(a)(4).

²² 11 C.F.R. § 100.12.

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1 committee would nonetheless be considered in compliance with this requirement.²³ Similarly,
2 political committees must also report the name and address of each person to whom an
3 expenditure is made having an aggregate amount in excess of \$200 within the calendar year,
4 together with the date, amount, and purpose of the expenditure.²⁴

5 The Committee failed to include occupation or employer information for all of the 332
6 contributors for whom that information was required in the 2016 July and October Quarterly
7 Reports. It also made no attempt to demonstrate that it exercised its “best efforts” to collect this
8 information. In fact, because the Committee has not disclosed receipts in any other report, the
9 Committee has never correctly itemized a single contribution. Moreover, in the Committee’s
10 2016 July Quarterly Report, the Committee reported 256 receipts totaling \$30,995 identified only
11 as “PayPal.” RAD instructed the Committee to itemize all of these PayPal contributions
12 aggregating over \$200, but the Committee failed to do so.²⁵ Because the Committee has
13 repeatedly failed to provide all required information about its receipts, the Commission finds
14 reason to believe that the Committee violated 52 U.S.C. § 30104(b)(3)(A) and 11 C.F.R.
15 § 104.3(a)(4).

16 The Committee also failed to provide all necessary information for 68 disbursements
17 totaling \$372,922.11 in the 2016 July and October Quarterly Reports. All of the disbursements
18 reported in the Committee’s 2016 July Quarterly Report (totaling \$211,621.11) were missing
19 both an address and the purpose of the expenditure. In the 2016 October Quarterly Report, an

²³ 52 U.S.C. § 30102(i); 11 C.F.R. § 104.7(a).

²⁴ 52 U.S.C. § 30104(b)(5)(A); 11 C.F.R. § 104.3(b)(3).

²⁵ RFAI: 2016 July Quarterly Report (Feb. 7, 2017). It is not clear from the Committee’s 2016 July Quarterly Report whether each PayPal receipt corresponds to an individual contributor or whether they are aggregated or subdivided in any way.

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1 address was missing for \$161,301 out of \$163,621 in disbursements. Because the Committee
2 repeatedly failed to provide all required information about its disbursements, the Commission
3 finds reason to believe that the Committee violated 52 U.S.C. § 30104(b)(5)(A) and 11 C.F.R.
4 § 104.3(b)(3).

5 2. Failure To Accurately Identify the Committee's Treasurer

6 The Act also requires every political committee to have a treasurer.²⁶ The duties of the
7 treasurer include keeping an account of receipts and disbursements, preserving all records of
8 receipts and disbursements, filing reports of receipts and disbursements with the Commission,
9 and signing each report.²⁷ It is the responsibility of a committee to report the name and address
10 of its treasurer to the Commission, and any change in treasurer must be reported to the
11 Commission within ten days.²⁸

12 The Response indicates that Michelle Pautin, née Sotelo, the Committee's named
13 treasurer, did not actually perform the statutory duties of treasurer for the Committee at any
14 point. Pautin's Response claims she had no involvement whatsoever with the Committee, and
15 did not even know she was listed as its treasurer until she was contacted by OGC. While Tedla
16 purportedly signed the Committee's reports as "treasurer," the Committee's amended Statement
17 of Organization appears to have falsely designated Pautin as its treasurer and also purportedly
18 reflects the signature of Pautin. Given Pautin's statement that she had no knowledge of being the
19 treasurer of the Committee, and the lack of information about the Committee's operations, it is
20 unclear who acted as the treasurer. Accordingly, the Commission finds reason to believe that the

²⁶ 52 U.S.C. § 30102(a); *see also* 11 C.F.R. § 102.7(a).

²⁷ 52 U.S.C. §§ 30102(c)-(d), 30104(a).

²⁸ *Id.* § 30103(a)-(c); 11 C.F.R. §§ 102.1(d), 102.2(a)(1), (2).

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- 1 Committee violated 52 U.S.C. § 30103(b), (c) and 11 C.F.R. § 102.2(a)(1), (2) by failing to
- 2 accurately identify as treasurer the person to whom it had actually assigned the statutory duties
- 3 of that position.²⁹

²⁹ The Commission has previously found reason to believe committees violated 52 U.S.C. § 30103 where the treasurer named in the committee's Statement of Organization was not actively performing the statutory duties of treasurer. *See, e.g.*, First General Counsel's Report at 5-6, MUR 5276 (Friends of Jack Machek); Certification, MUR 5276 (Friends of Jack Machek) (deciding 5-0 in favor of finding reason to believe Respondent committee violated 2 U.S.C. § 433(b), (c), current 52 U.S.C. § 30103(b), (c)). In that case, the Commission took no further action where the listed treasurer had previously signed reports and the assistant treasurer had subsequently taken over. In this case, however, it appears the Committee listed as treasurer a person completely unaffiliated with the Committee.