



FEDERAL ELECTION COMMISSION  
Washington, DC

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3 **MEMORANDUM**  
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5 **TO:** The Commission  
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7 **FROM:** Lisa J. Stevenson  
8 Acting General Counsel  
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10 Charles Kitcher  
11 Acting Associate General Counsel for Enforcement  
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13 Stephen Gura  
14 Deputy Associate General Counsel for Enforcement  
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16 **BY:** Mark Allen *MA*  
17 Assistant General Counsel  
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19 Thaddeus H. Ewald *THE*  
20 Attorney  
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22 **SUBJECT:** MUR 7599 (Nevada State Democratic Party)  
23 Proposed Factual and Legal Analysis and Conciliation Agreement  
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26 The Commission originally considered this matter with MURs 7304 and 7331. On  
27 April 25, 2019, the Commission voted to close the file in MURs 7304 and 7331 and open a MUR  
28 in RR18L-25 (Nevada State Democratic Party), which has been numbered MUR 7599. The  
29 Commission found reason to believe that the Nevada State Democratic Party and Jan Churchill  
30 in her official capacity as treasurer ("Committee") violated 52 U.S.C. § 30104(a) and (b) and  
31 11 C.F.R. § 104.3(a) and (b) by failing to report joint fundraising receipts from Hillary Victory  
32 Fund and transfers to the Democratic National Committee. In addition, the Commission voted to  
33 enter into conciliation with the Committee prior to a finding of probable cause and directed the  
34 Office of General Counsel ("OGC") to circulate a proposed conciliation agreement  
35 Finally, the Commission  
36 directed OGC to circulate a Factual and Legal Analysis.  
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38 Enclosed is the Factual and Legal Analysis and proposed conciliation agreement.  
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**RECOMMENDATIONS**

- 10           1.     Approve the attached Factual and Legal Analysis;  
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12           2.     Approve the attached Conciliation Agreement; and  
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14           3.     Approve the appropriate letter.

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16   Attachments:

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18           1.     Factual and Legal Analysis  
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**FEDERAL ELECTION COMMISSION****FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Nevada State Democratic Party and MUR 7599  
Jan Churchill in her official capacity as treasurer

**I. INTRODUCTION**

This matter was generated based on information ascertained by the Federal Election Commission (the “Commission”) in the normal course of carrying out its supervisory responsibilities, *see* 52 U.S.C. § 30109(a)(2). The Commission’s Reports Analysis Division (“RAD”) referred the Nevada State Democratic Party and Jan Churchill in her official capacity as treasurer (“Committee”) to the Office of General Counsel for failing to disclose an aggregate total of \$3,313,114.97 in receipts and disbursements on its 2016 30-Day Post-General Report.<sup>1</sup> For the reasons set forth below, the Commission finds reason to believe that the Committee violated 52 U.S.C. § 30104(a) and (b) and 11 C.F.R. § 104.3(a) and (b) by failing to accurately disclose its receipts and disbursements.

**II. FACTUAL BACKGROUND**

The Committee is a state party committee of the Democratic Party.<sup>2</sup> On December 8, 2016, the Committee filed the original 2016 30-Day Post-General Report, disclosing receipts and disbursements as shown in the chart below.<sup>3</sup> As shown in the chart below, the Committee

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<sup>1</sup> RAD Referral (Nevada State Democratic Party) (July 2, 2018) (“Referral”), incorporated herein by reference.

<sup>2</sup> *See* Statement of Organization, Nevada State Democratic Party (Oct. 27, 2017).

<sup>3</sup> Referral at 1.

1 amended its 2016 30-Day Post-General Report on two occasions—on January 30, 2017 and  
 2 February 5, 2018—to disclose additional receipts and disbursements.<sup>4</sup>

Report		Report Line	Amount Reported on Original Report	Amount Reported on Jan. 30, 2017 Amended Report	Amount Reported on Feb. 5, 2018 Amended Report	Total Increased Activity <sup>5</sup>
2016 30-Day Post-General	Receipts	Line 11(c): Contributions from Other Political Committees	\$34,460.62	\$35,983.32	\$35,983.32	\$1,522.70
		Line 12: Transfers from Affiliated/Other Party Committees	\$4,006,706.26	\$4,008,147.70	\$5,661,547.70	\$1,654,841.44
	Disbursements	Line 22: Transfers to Affiliated/Other Party Committees	\$10,604.83	\$12,046.27	\$1,665,446.27	\$1,654,841.44
		Line 30(b): Federal Election Activity Paid Entirely with Federal Funds	\$4,839,180.76	\$4,841,090.15	\$4,841,090.15	\$1,909.39
<b>Report Total:</b>						<b>\$3,313,114.97</b>

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 4 On April 12, 2018, RAD sent the Committee a Request for Additional Information  
 5 (“RFAI”) seeking clarification regarding the substantial increase in receipts and disbursements  
 6 disclosed on the Amended 2016 30-Day Post-General Report filed on February 5, 2018.<sup>6</sup> In  
 7 response, the Committee filed an Amended 2016 30-Day Post-General Report on May 16, 2018,  
 8 stating in memo text that the transfers from the Hillary Victory Fund (“HVF”) and transfers to

<sup>4</sup> *Id.* at 1-2. The Committee amended its 2016 30-Day Post-General Report on June 7, 2017 and July 5, 2017 as well, but those reports did not disclose additional changes in receipts or disbursements from the January 30, 2017 amendment. *Id.* at 2.

<sup>5</sup> The figures totaled in this column display the increase in activity from the original report filed on December 8, 2016 and the February 5, 2018 amended report, the subject of the RFAI.

<sup>6</sup> Referral at 2; RFAI, Amended 30-Day Post-General Report, Nevada State Democratic Party (Apr. 12, 2018).

1 the Democratic National Committee (“DNC”) were inadvertently omitted from the original  
2 filings, and the Committee amended its report soon after discovering the omissions.<sup>7</sup>

### 3 **III. LEGAL ANALYSIS**

4 The Federal Election Campaign Act of 1971, as amended (the “Act”), requires committee  
5 treasurers to file reports of receipts and disbursements in accordance with the provisions of  
6 52 U.S.C. § 30104.<sup>8</sup> These reports must include, *inter alia*, the total amount of receipts and  
7 disbursements, including the appropriate itemizations, where required.<sup>9</sup> Here, the Committee did  
8 not comply with the Act’s reporting requirements when it failed to disclose an aggregate total of  
9 \$3,313,114.97 in increased activity.

10 In its Response, the Committee acknowledges its reporting errors but argues for leniency,  
11 noting that its failure to report the activity was unintentional and due to “a single error[:]. . . a  
12 lone bank statement for one of the Committee’s multiple accounts was missed during the  
13 reconciliation that preceded the filing of the Committee’s 2016 Post-General Report.”<sup>10</sup> The  
14 Committee states that that the Original 30-Day Post-General Report included all of the  
15 underlying HVF memo entries and “otherwise reported all incoming transfers from HVF and all  
16 outgoing transfers to the DNC.”<sup>11</sup> The Committee also states that when it discovered the errors,

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<sup>7</sup> Referral at 2.

<sup>8</sup> 52 U.S.C. § 30104(a)(1); 11 C.F.R. § 104.1(a).

<sup>9</sup> See 52 U.S.C. § 30104(b)(2), (4); 11 C.F.R. § 104.3(a), (b).

<sup>10</sup> Nevada State Democratic Party Resp. (“Resp.”) at 1-2 (Aug. 23, 2018); Referral at 2 (describing “one” missed bank statement “in the busy season of the 2016 election”).

<sup>11</sup> *Id.*; see also Resp. at 2-3.

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Factual and Legal Analysis

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1 it amended its disclosure report.<sup>12</sup> Further, the Committee notes that HVF and the DNC each  
2 timely disclosed the respective transactions to the Commission.<sup>13</sup>

3         The Committee argues that the public was not deprived of meaningful disclosure. In the  
4 context of joint fundraising, however, other participating committees disclosing the types of  
5 transactions at issue here does not vitiate the violation. As the Commission's regulations  
6 specify, both the joint fundraising representative and the participating political committees are  
7 required to report all receipts and disbursements in the reporting period in which they are  
8 received and made.<sup>14</sup> Thus, the Committee cannot avoid that responsibility by pointing out that  
9 certain transactions were disclosed by other entities, or that it encountered a substantial uptick in  
10 financial activity. The Committee was responsible for ensuring that its report was complete and  
11 accurate. Accordingly, the Commission finds reason to believe that the Nevada State Democratic  
12 Party and Jan Churchill in her official capacity as treasurer violated 52 U.S.C. § 30104(a) and (b)  
13 and 11 C.F.R. § 104.3(a) and (b).

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<sup>12</sup> Referral at 2; *see also* Resp. at 1, 3.

<sup>13</sup> Referral at 2; *see also* Resp. at 1, 3.

<sup>14</sup> *See* 11 C.F.R. § 102.17(c)(8)(i), (ii); *see also* Explanation & Justification, Transfer of Funds; Collecting Agents; Joint Fundraising, 48 Fed. Reg. 26,296, 26,300 (June 7, 1983).