



## FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

**Via Email and First Class Mail**

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**MAY 30 2019**

RE: MUR 7599 (formerly RR 18L-25)  
Nevada State Democratic Party and  
Jan Churchill, in her official  
capacity as treasurer

Dear Mr. Reese, Mr. Svoboda, and Ms. Louijeune:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission (the "Commission") became aware of information suggesting your client, Nevada State Democratic Party and Jan Churchill in her official capacity as treasurer (the "Committee"), may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On July 2, 2018, the Commission notified the Committee that it was being referred to the Commission's Office of General Counsel for possible enforcement action under 52 U.S.C. § 30109. On April 25, 2019, the Commission found 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). The Factual and Legal Analysis approved by the Commission on May 24, 2019, which formed a basis for the Commission's finding, is enclosed for your information.

We have also enclosed a brief description of the Commission's procedures for handling possible violations of the Act. In addition, please note that the Committee has 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. 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

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to the public, it may share information on a confidential basis with other law enforcement agencies.<sup>1</sup>

In order to expedite the resolution of this matter, the Commission has authorized the Office of 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. Enclosed is a conciliation agreement for your consideration

If your client is interested in engaging in pre-probable cause conciliation, please contact Thaddeus H. Ewald, the attorney assigned to this matter, at (202) 694-1572 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](http://www.fec.gov/em/respondent_guide.pdf).

We look forward to your response.

On behalf of the Commission,



Ellen L. Weintraub  
Chair

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<sup>1</sup> 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. 52 U.S.C. § 30107(a)(9).

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Enclosures

Factual and Legal Analysis

**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>					

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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.

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).