



FEDERAL ELECTION COMMISSION
Washington, DC 20463

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2 **MEMORANDUM**
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4 TO: The Commission
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6 FROM: Lisa J. Stevenson
7 Acting General Counsel
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9 Charles Kitcher
10 Acting Associate General Counsel for Enforcement
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12 Stephen Gura
13 Deputy Associate General Counsel for Enforcement
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15 BY: Mark Allen *MA*
16 Assistant General Counsel
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18 Nicholas O. Mueller *NOM*
19 Attorney
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21 SUBJECT: MUR 7601 (Kansas Democratic Party)
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23 RE: Circulation of Factual & Legal Analysis and Proposed 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 Audit Referral 17-08R, which has been numbered MUR 7601. The Commission found reason
29 to believe that Kansas Democratic Party violated 52 U.S.C. § 30104(b)(3)(A) and 11 C.F.R.
30 § 102.17(c)(8)(i)(B) by failing to provide itemized contributor information for contributions
31 received through joint fundraising. In addition, the Commission voted to enter into conciliation
32 with the Committee prior to a finding of probable cause and directed OGC to circulate a
33 proposed conciliation agreement calculating the civil penalty. Finally, the Commission directed
34 OGC to circulate a Factual and Legal Analysis.
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5 This Audit Referral initially included additional activity that was addressed separately in
6 Audit Referral 18-03R for administrative purposes.³ On December 6, 2018, the Commission
7 found reason to believe in that matter, MUR 7556,

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14 **RECOMMENDATIONS**
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16 1. Approve the attached Factual and Legal Analysis;
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18 2. Approve the attached Conciliation Agreement; and
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20 3. Approve the appropriate letter.

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22 Attachments:
23 Factual & Legal Analysis
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³ See First General Counsel's Report in MUR 7556 at note 1.

FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Kansas Democratic Party and
Bill Hutton in his Official
Capacity as Treasurer **MUR: 7601**

I. INTRODUCTION

10 This matter was generated based on information ascertained by the Federal Election
11 Commission (the “Commission”) in the normal course of carrying out its supervisory
12 responsibilities. *See* 52 U.S.C. § 30109(a)(2). The Commission’s Reports Analysis Division
13 (“RAD”) referred Kansas Democratic Party and Bill Hutton in his official capacity as treasurer
14 (“Committee”) for a number of apparent reporting violations.

15 In response to the Referral, the Committee states that its review “reveal[s] several fixable
16 errors that the [Committee] is working with an outside consultant to fix and file amended reports
17 in the next few weeks.”¹

18 As discussed below, the Commission finds reason to believe that the Committee violated
19 the reporting requirements of the Federal Election Campaign Act of 1971, as amended (the
20 "Act") and Commission regulations by failing to provide itemized contributor information for
21 contributions received through joint fundraising.

22 II. FACTS

23 The Committee is a state committee of the Democratic Party.² On November 17, 2017,
24 the Commission notified the Committee that it had been referred to the Office of General

¹ Resp. at 1 (Jan. 5, 2018).

² See Amended Statement of Organization, Kansas Democratic Party (Mar. 20, 2017). The Committee was audited by the Commission in the 2012 election cycle. The Committee conciliated the matter, agreed to pay a civil

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1 Counsel (“OGC”) for possible enforcement action, and identified the unresolved issues that RAD
 2 identified from the Committee’s 2015 and 2016 reports.³ On January 5, 2018, the Committee
 3 responded, stating that “[u]nbeknownst to the [Committee], the consultant, who had been
 4 responsible for preparation of reports and all correspondence with the Commission, had not been
 5 responding” to these RFAs.⁴ The Committee further notes that it is no longer associated with
 6 this consultant.⁵ The Committee states that there are several “fixable errors” and that it is
 7 working to file amended reports “in the next few weeks.”⁶ The Committee requests that in light
 8 of these to-be-filed “comprehensive amendments,” the Commission should take no further action
 9 or refer the matter to the Alternative Dispute Resolution Office.⁷

10 **III. LEGAL ANALYSIS**

11 The treasurer of a political committee is responsible for itemizing any contribution from
 12 an individual if the contribution exceeds \$200 per calendar year either by itself or when
 13 aggregated with other contributions from the same contributor.⁸ Each participating committee in
 14 a joint fundraiser must file a memo Schedule A itemizing its share of gross fundraising receipts

penalty of \$19,000, and admitted to violating the Act and Commission regulations by understating receipts and disbursements and by failing to maintain monthly payroll logs. Conciliation Agreement ¶¶ IV.2-3, VI.1, MUR 7258 (Kansas Democratic Party).

³ Notification Letter from Jeff Jordan, OGC, to Bill Hutton, Kansas Democratic Party (Nov. 17, 2017) (“Notification”).

⁴ Resp. at 1-2.

⁵ *Id.* at 2.

⁶ *Id.* at 1. In March and April 2019 the Committee filed amendments to numerous 2015 reports and one 2016 report, but none of these amendments provide further itemization relating to joint fundraising transfers from the Hillary Victory Fund discussed below.

⁷ *Id.* at 1-2.

⁸ 52 U.S.C. § 30104(b)(3)(A).

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- 1 as contributions from the original contributors to the extent required by 11 C.F.R. § 104.3(a).⁹
- 2 Here, the Committee disclosed \$1,596,300 in transfers received from Hillary Victory Fund
- 3 during the 2016 calendar year.¹⁰ However, the Committee only itemized \$736,920.43 of the
- 4 contributions it received in connection with Hillary Victory Fund.¹¹ Therefore, \$859,379.57 in
- 5 contributions was not itemized as required. Accordingly, the Commission finds reason to believe
- 6 that the Committee violated 52 U.S.C. § 30104(b)(3)(A) and 11 C.F.R. § 102.17(c)(8)(i)(B).

⁹ 11 C.F.R. § 102.17(c)(8)(i)(B). Itemization requires the amount of the contribution, the date of receipt, the full name and address of the contributor, the contributor's occupation and the name of his or her employer, and the calendar year-to-date total of all contributions from the same contributor. 11 C.F.R. § 104.3(a)(4)(i).

¹⁰ See Kansas Democratic Party, Amended Post-General Report (May 22, 2017) (reporting \$996,300 in joint fundraising transfers from Hillary Victory Fund); Kansas Democratic Party, September Monthly Report (Oct. 4, 2016) (reporting \$600,000 in joint fundraising transfers from Hillary Victory Fund).

¹¹ See Kansas Democratic Party, September Monthly Report (Oct. 4, 2016) (itemizing \$736,920.43 in contributions connected to joint fundraising transfers from Hillary Victory Fund).