



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA ELECTRONIC AND FIRST CLASS MAIL

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JUN 14 2019

RE: MUR 7601
Kansas Democratic Party and Bill
Hutton in his official capacity as
treasurer

Dear Mr. Reiff:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission (the "Commission") became aware of information suggesting your client, Kansas Democratic Party and Bill Hutton in his official capacity as treasurer (the "Committee"), may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On April 25, 2019, the Commission found reason to believe that your client violated 52 U.S.C. § 30104(b)(3)(A), a provision of the Act, and 11 C.F.R. § 102.17(c)(8)(i)(B). The Factual and Legal Analysis, which formed a basis for the Commission's finding, was approved by the Commission on June 5, 2019, and is enclosed for your information.¹

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

¹ The Commission previously sent notification of its finding of reason to believe in MUR 7556 that the Committee violated the Act, by letter dated December 17, 2018. As we explained at the time, that finding addressed some, but not all of the potential violations which your client was notified of on November 17, 2017. *See* Letter re: AR 17-08R from Jeff Jordan, Asst. Gen. Counsel, FEC, to Bill Hutton, Treasurer, Kansas Democratic Party (Nov. 17, 2017). MUR 7601 addresses the remaining potential violations.

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to the public, it may share information on a confidential basis with other law enforcement agencies.²

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 you 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 you violated the law.

If you are interested in engaging in pre-probable cause conciliation, please contact Nicholas Mueller, the attorney assigned to this matter, at (202) 694-1577 or nmueller@fec.gov, 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 you are 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.

² 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).

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We look forward to your response.

On behalf of the Commission,

A handwritten signature in black ink, appearing to read "Ellen L. Weintraub". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Ellen L Weintraub
Chair

Enclosures
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

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

MUR: 7601

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 Kansas Democratic Party and Bill Hutton in his official capacity as treasurer (“Committee”) for a number of apparent reporting violations.

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

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

II. FACTS

The Committee is a state committee of the Democratic Party.² On November 17, 2017, 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

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).