



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

July 30, 2020

**Via Electronic Mail Only**  
dlgould@gouldorellana.com

David Gould, Treasurer  
Hall for Congress  
249 E. Ocean Blvd., Suite 685  
Long Beach, CA 90802

RE: MUR 7767 (formerly AR 19-02)

Dear Mr. Gould:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission (the "Commission") became aware of information suggesting Hall for Congress and you in your official capacity as treasurer (the "Committee") may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On May 13, 2019, the Commission notified the Committee that it had been referred to the Commission's Office of General Counsel for possible enforcement action under 52 U.S.C. § 30109. On June 30, 2020, the Federal Election Commission opened a Matter Under Review ("MUR") and found that there is reason to believe the Committee and you in your official capacity as treasurer violated 52 U.S.C. § 30116(f) and 11 C.F.R. § 102.9. The Factual and Legal Analysis, which formed a basis for the Commission's findings, 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 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 to the public, it may share information on a confidential basis with other law enforcement agencies.<sup>1</sup>

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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. *Id.* § 30107(a)(9).

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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.

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 engaging in pre-probable cause conciliation, please contact Kristina Portner, the attorney assigned to this matter, at (202) 694-1518 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 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](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 Designation of Counsel 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.

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We look forward to your response.

On behalf of the Commission,

A handwritten signature in black ink, reading "J.E. Trainor, III". The signature is written in a cursive style with a large, looping initial "J" and a stylized "E".

James E. "Trey" Trainor III  
Chairman

Enclosures

Factual and Legal Analysis

**FEDERAL ELECTION COMMISSION****FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: Hall for Congress and MUR 7767  
David Gould, in his official capacity as Treasurer

**I. INTRODUCTION**

The Audit Division referred Hall for Congress and David Gould in his official capacity as treasurer (“the Committee”)<sup>1</sup> to the Office of the General Counsel for possible enforcement action stemming from an audit of the Committee’s activities between January 1, 2015, and December 31, 2016. On April 24, 2019, the Commission approved the Proposed Final Audit Report finding that the Committee received excessive contributions totaling \$61,683 and that the Committee spent general election contributions totaling \$71,407 on primary election expenses.<sup>2</sup>

Based on the available information, the Commission finds reason to believe that the Committee violated 52 U.S.C. § 30116(f) and 11 C.F.R. § 102.9.

**II. FACTUAL AND LEGAL ANALYSIS****A. There is Reason to Believe that the Committee Accepted Excessive Contributions**

During the 2016 election cycle, an authorized committee was limited to accepting a total of \$2,700 per election from an individual and \$5,000 from a multicandidate committee.<sup>3</sup> A primary election and a general election are each considered a separate election, and the

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<sup>1</sup> The Committee is the principal campaign committee for Isadore Hall, III, who sought election in 2016 to the U.S. House of Representatives for California’s Forty-fourth Congressional District. *See* Statement of Candidacy, Hall for Congress (Jan. 14, 2016).

<sup>2</sup> Final Audit Report of the Commission on Hall for Congress, [https://transition.fec.gov/audits/2016/Hall\\_for\\_Congress/IsadoreHall\\_FARC\\_2016.pdf](https://transition.fec.gov/audits/2016/Hall_for_Congress/IsadoreHall_FARC_2016.pdf) at 3 (hereinafter, “Audit Report”).

<sup>3</sup> 52 U.S.C. § 30116(a)(1)(A), (a)(2)(A); 11 C.F.R. §§ 110.1(b)(1), 110.2(b)(1).

individual contribution limits are applied separately with respect to each election.<sup>4</sup> Candidates and political committees are prohibited from knowingly accepting excessive contributions.<sup>5</sup>

Commission regulations provide that if an authorized committee receives a contribution that appears to exceed the contribution limits, the committee must either refund the contribution to the donor or deposit the contribution into its federal account and seek a reattribution or a redesignation of the excessive portion.<sup>6</sup> For example, a joint contribution may be attributed equally to each signatory on a negotiable instrument, and a committee may reattribute a portion of a joint contribution to another person on the negotiable instrument to avoid the contribution being excessive.<sup>7</sup> Similarly, a committee may ask a contributor to redesignate the contribution to another election to avoid it being excessive.<sup>8</sup> If, however, the authorized committee did not receive a proper reattribution or redesignation within 60 days after receiving the contribution, it must refund the excessive portion to the donor.<sup>9</sup>

Commission regulations further provide that when an individual makes an excessive contribution to an authorized committee before the primary, the committee may presumptively redesignate the excessive portion to the general election if the contribution is not designated in writing for a particular election and does not cause the contributor to exceed any other contribution limits as redesignated.<sup>10</sup> Similarly, when an individual makes an excessive

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<sup>4</sup> 52 U.S.C. §§ 30101(1)(A), 30116(a)(6); 11 C.F.R. §§ 100.2, 110.1(b), 110.2(b).

<sup>5</sup> 52 U.S.C. § 30116(f); 11 C.F.R. § 110.9.

<sup>6</sup> 11 C.F.R. § 103.3(b)(3).

<sup>7</sup> 11 C.F.R. § 110.1(k)(3).

<sup>8</sup> 11 C.F.R. § 110.1(b)(2), (3), (5).

<sup>9</sup> 11 C.F.R. § 103.3(b)(3).

<sup>10</sup> 11 C.F.R. § 110.1(b)(5)(ii)(B).

contribution to an authorized committee after the primary and before the general election, the committee may presumptively redesignate the excessive portion to the primary election if the contribution is not designated in writing for a particular election, the redesignation does not cause the contributor to exceed any other contribution limits, and the contribution does not exceed the committee's net debts outstanding for the primary election.<sup>11</sup> If a committee presumptively redesignates an excessive contribution, it must notify the contributor within sixty days after receipt of the contribution, and inform the contributor of the amount of the contribution that was redesignated and that the contributor may request a refund of the contribution.<sup>12</sup>

The audit revealed that the Committee received \$61,683 in excessive contributions.<sup>13</sup> The Audit staff informed the Committee that the excessive contributions could be resolved with presumptive redesignation letters, albeit untimely.<sup>14</sup> In response, the Committee sent presumptive redesignation letters untimely resolving \$44,500 in excessive contributions.<sup>15</sup> The remaining \$17,183 in excessive contributions was not resolved.

Therefore, the Commission finds reason to believe that Hall for Congress and David Gould in his official capacity as treasurer violated 52 U.S.C. § 30116(f) by accepting excessive contributions.

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<sup>11</sup> 11 C.F.R. § 111.1(b)(5)(ii)(C).

<sup>12</sup> 11 C.F.R. § 110.1(b)(5)(ii)(B)(5)-(6), (C)(5)-(6).

<sup>13</sup> Audit Report at 5.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* The Commission's database shows no corresponding amendments to the Committee's 2015 and 2016 reports.

**B. There is Reason to Believe that the Committee Used General Election Funds for Primary Election Expenses**

Commission regulations permit a candidate's authorized committee to receive contributions for the general election prior to the primary election provided the committee employs an acceptable accounting method to distinguish between primary and general election contributions.<sup>16</sup> Committees are permitted to use general election contributions to make advance payments for general election purposes.<sup>17</sup> The committee's records must demonstrate that prior to the primary election, the committee's recorded cash-on-hand was at all times equal to or in excess of the sum of general election contributions received less the sum of general election disbursements made.<sup>18</sup> These regulations are designed to ensure that candidates do not use general election contributions for the primary election.<sup>19</sup>

The audit revealed that the Committee spent general election contributions totaling \$71,407 on primary election expenses.<sup>20</sup> The Audit division determined that the Committee received \$155,358 in general election contributions prior to the primary election, and that it began spending general election contributions on primary election expenditures on April 21, 2016, and continued through the primary election on June 7, 2016.<sup>21</sup> As a result, the Committee

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<sup>16</sup> 11 C.F.R. § 102.9(e)(1).

<sup>17</sup> See Advisory Op. 1986-17 (Friends of Mark Green) at 4 (concluding that the Act did not prohibit a committee from using general election contributions to make expenditures for the general election before the primary election, such as advance payments or deposits in connection with the general election).

<sup>18</sup> 11 C.F.R. § 102.9(e)(2).

<sup>19</sup> See Advisory Opinion 1992-15 (Russo for Congress) at 2.

<sup>20</sup> Audit Report at 7. In response to the audit exit conference, the Committee submitted expenses for fundraising and compliance that were to be allocated between the primary and general election. *Id.* at 8. The \$32,854 of such expenses which were attributed to the general election are not reflected in the \$71,407. *Id.*

<sup>21</sup> *Id.* at 8.

did not meet the requirement that the committee's cash-on-hand was at all times prior to the primary election equal to or in excess of the sum of general election contributions received less the sum of general election disbursements made.<sup>22</sup>

In response to the Interim Audit Report, the Committee argued that the cost of setting up campaign offices for both the primary and general elections were higher than the amount identified by the Audit Division, and were at least equal to the \$71,407 at issue.<sup>23</sup> However, the Committee failed to provide any documentation during the audit demonstrating that the general election contributions were not used to fund primary election activity and did not respond to the referral.<sup>24</sup>

Therefore, the Commission finds reason to believe that Hall for Congress and David Gould in his official capacity as treasurer violated 11 C.F.R. § 102.9(e) by using general election contributions for primary election expenses.

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<sup>22</sup> For example, the Committee reported a cash on hand balance of \$38,182.11 in its 2016 Pre-Primary Report, which was less than the total amount of general election contributions made at that time. *See* Hall for Congress, Am. 2016 Pre-Primary Report (Jan. 23, 2017).

<sup>23</sup> Audit Report at 8.

<sup>24</sup> *Id.*