

**FEDERAL ELECTION COMMISSION**

Washington, D.C. 20463

November 17, 2021

VIA EMAIL

Matthew A. Tysdal, Esq.
Heidepriem, Purtell, Siegel & Hinrichs, LLP
101 West 69th Street, Suite 105
Sioux Falls, SD 57108
matthew@hpslawfirm.com

RE: MUR 7872
South Dakota Democratic Party

Dear Mr. Tysdal:

On November 9, 2021, the Federal Election Commission (“Commission”) accepted the signed conciliation agreement, including a \$40,000 civil penalty, submitted on your client’s behalf, in settlement of a violation of 52 U.S.C. § 30104(b), a provision of the Federal Election Campaign Act of 1971, as amended, and a violation of 11 C.F.R. § 103.3(b). Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. *See* 52 U.S.C. § 30109(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the first \$10,000 installment payment of the civil penalty is due within 30 days of the conciliation agreement’s effective date of November 16, 2021. The second installment of \$10,000 will be due within 90 days of the first installment payment’s due date, and a final installment of \$20,000 will be due within 90 days of the second installment payment’s due date. If you have any questions, please contact Ray Wolcott, the attorney assigned to this matter, at (202) 694-1302 or rwolcott@fec.gov.

Sincerely,

A handwritten signature in cursive script that reads "Saurav Ghosh".

Saurav Ghosh
Acting Assistant General Counsel

Enclosure
Conciliation Agreement

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	MUR 7872
South Dakota Democratic Party and Marcia)	
Bunger in her official capacity as treasurer)	

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission (“Commission”), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that the South Dakota Democratic Party and its treasurer (“Respondents” or “Committee”) violated 52 U.S.C. § 30104(b) of the Federal Election Campaign Act of 1971, as amended, (the “Act”) and 11 C.F.R. § 103.3(b).

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 52 U.S.C. § 30109(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. The Committee is a state party committee of the Democratic Party.

2. Marcia Bunger is the Committee Treasurer. Ms. Bunger was not treasurer at the time of the violations described in this agreement.

3. The Act requires committee treasurers to file reports of receipts and disbursements in accordance with the provisions of 52 U.S.C. § 30104(b). 52 U.S.C. § 30104(a)(1).
4. During the 2016 election cycle, the Committee failed to disclose disbursements totaling \$2,500,147 on its original reports filed with the Commission.
5. The Committee did not report these disbursements until after the 2016 general election, when it filed amended reports disclosing the transactions.
6. The Act also prohibits political committees from accepting contributions that are not subject to the prohibitions and limitations of the Act. 52 U.S.C. §§ 30116(f), 30118(a).
7. Commission regulations require committee treasurers to ensure that all contributions the committee receives are from permissible sources and do not exceed contribution limits, and prohibited or excessive contributions must be returned or refunded. 11 C.F.R. § 103.3(b). Contributions which “present genuine questions as to whether they were made by corporations, labor organizations, foreign nationals, or Federal contractors” must, within 10 days, be either deposited into a campaign account or returned to the contributor. 11 C.F.R. § 103.3(b)(1). If any such contribution is deposited, the treasurer “shall make his or her best efforts to determine the legality of the contribution.” 11 C.F.R. § 103.3(b)(1).
8. During the 2016 election cycle, the Committee received \$23,827 in contributions from unregistered organizations without confirming that these contributions were made using permissible funds. As of the effective date of this agreement, \$16,487 in such contributions remain within the applicable statute of limitations, and the Committee has provided the Commission with documentation showing that \$13,913 of these contributions were in fact made with permissible funds.

9. The Committee contends that none of the current officers or employees of the Committee were present during or responsible for the conduct described in paragraphs 4–8 above.

10. The Committee further contends that its new leadership implemented a number of internal changes at the Committee, including preparing a budget that is presented to the state central committee for approval; hiring professional compliance experts, sending Committee personnel and experts to FEC trainings; routing checks and bills directly to the Committee's accountant for appropriate payment and recording; and requiring two signatories on every check issued from the Committee. The Committee also contends that it filed amended reports with the FEC to correct errors from past years; and entered into a negotiated settlement agreement with the FEC to settle matters arising from 2017 and 2018, which also occurred prior to the election of current Co-Treasurers and other officers.

V. Respondents violated 52 U.S.C. § 30104(b) by misreporting the Committee's disbursements during the 2016 election cycle and violated 11 C.F.R. § 103.3(b) by depositing funds into the Committee's federal account without confirming whether the contributions complied with the prohibitions and limitations of the Act.

VI. Respondents will take the following actions:

1. Respondents will implement the following training requirements for key staff members: The Committee's Treasurer, Executive Director, and retained accountant will be required to attend annual Commission-sponsored training, either virtually or in-person.

2. Respondents will continue to retain professional accounting services and continue to perform an annual audit of the Committee's finances.

3. Respondents will pay a civil penalty of Forty Thousand dollars (\$40,000), pursuant to 52 U.S.C. § 30109(a)(5)(A). The civil penalty will be paid as follows:

- a. A payment of Ten Thousand dollars (\$10,000) is due no more than thirty (30) days from the date this agreement becomes effective.
- b. Thereafter, an installment of Ten Thousand dollars (\$10,000) shall be paid within 90 days of the due date of the previous payment and a final installment of Twenty Thousand dollars (\$20,000) shall be paid within 90 days of the due date of the second installment payment.
- c. In the event that any payment is not received by the Commission by the fifth day after it becomes due, the Commission may, at its discretion, accelerate the remaining payments and cause the entire amount to become due upon ten days written notice to the Respondents. Failure by the Commission to accelerate payments with regard to any overdue payment shall not be construed as a waiver of its right to do so with regard to further overdue payments.

4. Respondents will refund or disgorge to the U.S. Treasury the \$2,565 in contributions the Committee received from unregistered organizations during the 2016 election cycle that remain within the statute of limitations and for which they could not provide sufficient documentation that said contributions were made with permissible funds.

5. Respondents will cease and desist from committing violations of 52 U.S.C. § 30104(b) and 11 C.F.R. § 103.3(b).

VII. The Commission, on request of anyone filing a complaint under 52 U.S.C. § 30109(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed the same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lisa J. Stevenson
Acting General Counsel

BY: Charles Kitcher
Charles Kitcher
Associate General Counsel
for Enforcement

11/16/21
Date

FOR THE RESPONDENTS:


Name: Matthew Tysdal
Position: Counsel

10/26/2021
Date