



FEDERAL ELECTION COMMISSION
Washington, DC 20463

VIA ELECTRONIC MAIL

Neil P. Reiff
Sandler Reiff Lamb Rosenstein & Birkenstock, PC
1090 Vermont Ave. NW, Suite 750
Washington, DC 20005
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July 28, 2021

RE: MUR 7877
Tennessee Democratic Party

Dear Mr. Reiff,

On July 22, 2021, the Federal Election Commission accepted the signed conciliation agreement submitted on your client's behalf in settlement of violations of 52 U.S.C. § 30104(b)(2), (3)(A), (4), a provision of the Federal Election Campaign Act of 1971, as amended, and 11 C.F.R. §§ 102.17(c)(8)(i)(B) and 106.7(d)(1), provisions of the Commission's regulations. 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 installment of the civil penalty is due within 60 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 694-1574 or jdigiovanni@fec.gov.

Sincerely,

A handwritten signature in black ink that reads "Justine A. di Giovanni".

Justine A. di Giovanni
Attorney, Federal Election Commission

Enclosure:
Conciliation Agreement

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	MUR 7877
Tennessee Democratic Party and Carol V.)	
Abney in her official capacity as treasurer)	

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission (the "Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that the Tennessee Democratic Party and Carol V. Abney in her official capacity as treasurer ("Respondent" or the "Committee") violated 52 U.S.C. § 30104(b)(2), (3)(A), (4) of the Federal Election Campaign Act of 1971, as amended (the "Act"), and 11 C.F.R. §§ 102.17(c)(8)(i)(B) and 106.7(d)(1) of the Commission regulations.

NOW, THEREFORE, the Commission and Respondent, 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 Respondent 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. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- III. Respondent enters 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. Carol V. Abney is the Treasurer of the Committee. Ms. Abney is a licensed Certified Public Accountant. Ms. Abney was not the Treasurer of the Committee during the 2015-2016 election cycle.

3. The Act requires committee treasurers to file accurate reports of receipts and disbursements. 52 U.S.C. § 30104(b); *see also* 11 C.F.R. § 104.3.

4. The Act requires political committees to report the identification of each person whose aggregate contributions exceed \$200 within the calendar year (or election cycle, in the case of an authorized committee), along with the date and amount of any such contributions. 52 U.S.C. § 30104(b)(3)(A); *see also* 11 C.F.R. § 104.3(a)(4)(i).

5. Commission regulations require each committee participating in joint fundraising to report its share of the net proceeds as a transfer-in from the fundraising representative and also to properly itemize its share of gross receipts as contributions from the original contributors. 11 C.F.R. § 102.17(c)(8)(i)(B).

6. Commission regulations provide that political committees may allocate the salaries, wages, and fringe benefits paid to state, district, or local party committee employees who spend 25 percent or less of their compensated time in a given month on federal election activity or activity in connection with a federal election as administrative costs, while the same paid to those employees who spend more than 25 percent of their compensated time on federal election activities may be paid only from a federal account. 11 C.F.R. § 106.7(c)(1), (d). Commission regulations also provide that, when allocating salary, wage, and fringe benefit payments, political party committees shall “keep a monthly log of the percentage of time each employee spends in connection with a Federal election.” *Id.* § 106.7(d)(1).

7. During the 2016 election cycle, the Committee failed to disclose receipts and disbursements totaling \$2,739,911 on its original reports filed with the Commission.

8. Following the 2016 election, the Committee filed amended reports with the Commission disclosing \$2,444,107 of the missing receipts and disbursements.

9. During the course of a Commission audit of its 2016 election cycle activity, the Committee filed additional amended reports to disclose the remaining \$295,804 in receipts and disbursements.

10. The Committee reported \$3,113,531 in net proceeds from joint fundraising activity during the 2016 election cycle, but failed to itemize \$1,509,766 in contributions that exceeded the \$200 itemization threshold. In addition, the Committee failed in its amended report to correctly report a gross, unitemized \$78,999 joint fundraising contribution.

11. The Committee allocated \$409,900 in payroll across 2015 and 2016 between federal and non-federal funds but failed to maintain the required logs.

12. Respondent contends that the errors cited in this matter were the result of incorrect reports filed by a third-party vendor that it replaced in 2017, prior to the receipt of a notification of an audit from the Commission. Respondent also contends that it was cooperative during the audit process; amended its reports per the Commission's request; and has implemented procedures to ensure that all sufficient records are maintained to properly document any salary, wages and benefits disclosed on Schedule H4 of its reports.

V. The parties agree to the following:

1. Respondent violated 52 U.S.C. § 30104(b)(2), (4) by failing to report total receipts and disbursements.

2. Respondent violated 52 U.S.C. § 30104(b)(3)(A) and 11 C.F.R. § 102.17(c)(8)(i)(B) by failing to itemize receipts received via joint fundraising transfers.
3. Respondent violated 11 C.F.R. § 106.7(d)(1) by failing to maintain monthly payroll logs.

VI. Respondent will take the following actions:

1. Pay a civil penalty to the Commission in the amount of One Hundred and Three Thousand dollars (\$103,000), pursuant to 52 U.S.C. § 30109(a)(5)(A). The civil penalty will be paid as follows:

- i. A payment of Twenty-Five Thousand, Seven Hundred and Fifty Dollars (\$25,750) is due no more than sixty (60) days from the date this Agreement becomes effective;
- ii. Thereafter, three installment payments of Twenty-Five Thousand, Seven Hundred and Fifty Dollars (\$25,750) each shall be paid within sixty (60) days of the due date of the previous installment;
- iii. In the event that any installment payment is not received by the Commission by the fifth day after which 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 Respondent. Failure by the Commission to accelerate the payments with regard to any overdue installment shall not be construed as a waiver of its right to do so with regard to future installments.

2. Respondent will require appropriate personnel to attend a Commission-sponsored training program for state and local party committees within one year of the effective date of this Agreement. Respondent shall submit evidence of registration and attendance at such event to the Commission. In recognition of Respondent's hiring of an outside compliance firm

to prepare and file its disclosure reports with the Commission, including the amendments at issue in this matter, and because the Committee has instituted procedures to prevent similar reporting errors in the future, the Commission agrees to accept a lower civil penalty than it otherwise would require.

3. Cease and desist from committing violations of 52 U.S.C. § 30104(b)(2), (3)(A), (4) and 11 C.F.R. §§ 102.17(c)(B)(i)(B) and 106.7(d)(1).

4. Amend its reports to adequately disclose a gross, unitemized \$78,999 joint fundraising contribution.

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 thirty (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.

MUR 7877 (Tennessee Democratic Party)
Conciliation Agreement
Page 6 of 6

X. This 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
Acting Associate General Counsel
for Enforcement

7/28/21
Date

FOR THE RESPONDENT:

Neil P. Reiff
Neil P. Reiff
Counsel for Respondent

6/17/21
Date