



FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 6, 2021

Ethan Owens

St. Petersburg, FL 33716

RE: MUR 7901 (RR 18L-29)
Ethan Owens

Dear Mr. Owens:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission became aware of information suggesting that you may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On November 21, 2018, the Commission notified you of a referral to the Office of General Counsel alleging violations of the Act. On May 5, 2021, the Commission opened a matter under review (MUR) and found reason to believe that you violated 52 U.S.C. §§ 30102(b)(3), (c), (d), (h)(1), and 30104(b), provisions of the Act, and 11 C.F.R. §§ 102.9, 102.15, 103.3, and 104.3 of the Commission's regulations by commingling campaign funds with personal funds, failing to deposit receipts in an account at a properly designated campaign depository, failing to keep and maintain adequate records, and failing to accurately report receipts, disbursements, and loans. The Factual and Legal Analysis, which formed a basis for the Commission's findings, is enclosed for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the Office of the General Counsel within 15 days of receipt of this notification. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. *See* 52 U.S.C. § 30109(a)(4).

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 pursuing pre-probable cause conciliation, you should make such a request by letter to the Office of the General Counsel. *See* 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that

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pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into in order to complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after a brief on probable cause has been delivered to you. Requests for extensions of time are not routinely granted. Requests must be made in writing at least five days prior to the due date of the response and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days. 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.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, telephone number, and email address of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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.¹

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. For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Justine A. di Giovanni, the attorney assigned to this matter, at (202) 694-1574 or jdigiiovanni@fec.gov.

On behalf of the Commission,



Shana M. Broussard
Chair

Enclosures:
Factual and Legal Analysis

¹ 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).

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS****RESPONDENT:** Ethan Owens**MUR:** 7901**I. INTRODUCTION**

This matter was generated based on information ascertained by the Federal Election Commission (“Commission”) in the normal course of carrying out its supervisory responsibilities.¹

The Reports Analysis Division (“RAD”) referred the Adam Kokesh American Referendum Project and Angela Thornton in her capacity as treasurer (the “Committee”) to the Office of General Counsel (“OGC”) for unauthorized activity totaling \$27,216.30 disclosed in its 2018 April Quarterly Report.² Specifically, the Committee reported that its receipts totaling \$11,551.04 and disbursements totaling \$15,665.26 were “unauthorized” or “undocumented.” In a memo included on this Report and in a Form 99 (Miscellaneous Electronic Submission) filed the same day, the Committee identified a number of violations allegedly committed by the Committee’s former treasurer, Ethan Owens, and its former Campaign Manager, Angela Fisher, who is also Owens’s wife.³ The alleged violations include: (1) failure to disclose the Committee’s official depository institution and timely deposit funds into the depository; (2) failure to segregate campaign funds from personal funds; (3) failure to keep and maintain adequate records; and (4) failure to accurately report the Committee’s contributions, expenditures, and loans.⁴

¹ See 52 U.S.C. § 30109(a)(2).

² RR18L-29 at 2 (Adam Kokesh American Referendum Project).

³ *Id.* at 2-4.

⁴ *Id.* at 4.

1 Because the record indicates that the Committee's past treasurer, Ethan Owens, should be
2 held personally liable for his actions as treasurer, the Commission finds reason to believe that
3 Owens violated in his personal capacity: (1) 52 U.S.C. § 30102(b)(3) and 11 C.F.R. § 102.15 by
4 commingling campaign funds with personal funds; (2) 52 U.S.C. § 30102(h)(1) and 11 C.F.R.
5 § 103.3 by failing to deposit receipts in an account at a properly designated campaign depository;
6 (3) 52 U.S.C. § 30102(c)-(d) and 11 C.F.R. § 102.9 by failing to keep adequate records of
7 contributions and disbursements; and (4) 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.3 by failing
8 to accurately report the Committee's contributions, expenditures, and loans.

9 **II. FACTUAL BACKGROUND**

10 Adam Kokesh was a Libertarian Party candidate for President, and the Committee is his
11 principal campaign committee. The Committee was organized in December 2017, with Ethan
12 Owens as its treasurer and Owens's wife, Angela Fisher, as its Campaign Manager and the
13 Committee's agent.⁵ Its registered depository institution was a Fort Wayne, Indiana, branch of
14 Wells Fargo Bank.⁶

15 Between December 1, 2017, and March 5, 2018, however, Owens and Fisher allegedly
16 maintained the campaign's funds in multiple personal accounts rather than in the campaign's
17 account at Wells Fargo.⁷ Owens also accepted \$11,551.04 in contributions for the campaign for
18 which he failed to record any contributor information and which he failed to deposit in the
19 campaign's depository within ten days, and some of which the Committee alleges it never

⁵ FEC Form 1, Committee Statement of Organization (Dec. 1, 2017).

⁶ *Id.*

⁷ FEC Form 99, Committee Miscellaneous Text at 1 (Apr. 10, 2018); RR18L-29 at 4.

1 received at all.⁸ Owens and Fisher further made \$15,665.26 in disbursements to Fisher and
2 campaign vendors, at least some potentially for legitimate campaign expenses and
3 reimbursement thereof, but Owens failed to maintain necessary records documenting the
4 disbursements.⁹ Fisher also made two loans to the Committee aggregating \$3,801.04, which the
5 Committee alleged were “unauthorized.”¹⁰

6 On or around March 5, 2018, the Committee terminated Owens and Fisher.¹¹
7 Nonetheless, Owens and Fisher continued to disburse campaign funds and access the accounts
8 they maintained on behalf of the campaign after their terminations.¹² On March 28, 2018, the
9 Committee named Angela Thornton as its new treasurer and no longer listed Wells Fargo as its
10 campaign depository.¹³ Instead, on April 10, 2018, the Committee reported that it maintained an
11 account with PNC Bank in Hartland, Michigan.¹⁴

12 The new treasurer, Thornton, attempted to obtain the necessary records regarding the
13 campaign’s receipts and disbursements from Owens and Fisher, but they refused to provide them

⁸ FEC Form 3P, Committee 2018 April Quarterly Report at 8, sched. A-P at 12-22 (Apr. 22, 2018); RR18L-29, attach. 2 at 7-8.

⁹ FEC Form 3P, Committee 2018 April Quarterly Report, sched. B-P at 33-58 (Apr. 22, 2018); RR18L-29, attach. 2 at 11-12. Though a number of the disbursements were made to Fisher, and could therefore represent conversion of campaign funds for personal use, there is no evidence to suggest that a violation of this kind occurred, and the Commission takes no action regarding such a violation at this time.

¹⁰ FEC Form 3P, Committee 2018 April Quarterly Report (Apr. 22, 2018); RR18L-29 at 3. Though the Committee has alleged that the loan resulted in an excessive contribution by Fisher, it does not appear that the two loans would actually be excessive, as the loans could properly be allocated between Fisher’s separate contribution limits for the primary race and the general election.

¹¹ FEC Form 1, Committee Amended Statement of Organization (Mar. 5, 2018).

¹² FEC Form 3P, Committee 2018 April Quarterly Report at 8 (Apr. 22, 2018); FEC Form 99, Committee Miscellaneous Text at 1 (Apr. 10, 2018). On July 15, 2018, the Committee disclosed a \$4,226.36 “[c]ash-on-hand adjustment due to unauthorized disbursements.” FEC Form 3P, Committee 2018 July Quarterly Report (July 15, 2018).

¹³ FEC Form 1, Committee Amended Statement of Organization (Mar. 28, 2018).

¹⁴ FEC Form 1, Committee Amended Statement of Organization (Apr. 10, 2018).

1 to her.¹⁵ According to Thornton, Owens and Fisher were unresponsive to requests for
2 information from the Committee, and the little communication the Committee had with Fisher
3 was “sporadic, incomplete and even hostile.”¹⁶

4 On April 22, 2018, the Committee reported the alleged violations to the Commission in
5 its April Quarterly Report and an associated Form 99, in which it disclosed what it referred to as
6 “illegal contribution activity as well as some unauthorized expenditures” in the amount of
7 \$27,216.30.¹⁷ The Committee’s Quarterly Report notes:

8 While this report is true and complete to the best of my ability, we are aware that
9 the disclosure indicates some illegal contribution activity as well as some
10 unauthorized expenditures. We are self-reporting all known violations, but
11 [Owens] has not handed over any financial statements. The information herein is
12 largely based on a spreadsheet provided by [Fisher], who also accessed our funds
13 after [Owen’s] resignation. We have reason to believe we are under-reporting
14 expenditures. We know that co-mingling [sic] personal funds resulted in excess
15 contributions, a fictitious [sic] depository was listed, payments to vendors were
16 made via cryptocurrency[.] Additionally, donations were made to, but not
17 received by, the campaign. Unauthorized expenditures were made to the
18 treasurer’s wife. We are aware there are serious violations in the report, and
19 anticipate that an amendment will be required in the future[.]¹⁸

¹⁵ FEC Form 99, Committee Miscellaneous Text (Apr. 22, 2018).

¹⁶ *Id.*

¹⁷ FEC Form 3P, Committee 2018 April Quarterly Report at 8 (Apr. 22, 2018); FEC Form 99, Committee Miscellaneous Text (Apr. 22, 2018); RR18L-29 at 2, 2 n.1.

¹⁸ FEC Form 3P, Committee 2018 April Quarterly Report (Apr. 22, 2018). Though the Committee describes payments made via cryptocurrency as a violation, payments made via cryptocurrency received as contributions have not been found to be impermissible so long as they are appropriately documented and the necessary records maintained. *See* Advisory Op. 2014-02 at 4 (Make Your Laws PAC, Inc.) (“The Commission could not approve a response by the required four affirmative votes as to whether [a PAC] may acquire goods and services with bitcoins it receives as contributions.”).

1 **III. LEGAL ANALYSIS**

2 **A. Failure to Use Proper Campaign Depository**

3 The Federal Election Campaign Act of 1971, as amended, (the “Act”) requires that every
4 political committee designate as its campaign depository one or more state banks, federally
5 chartered depository institutions, or depository institutions in which the accounts are insured by
6 the Federal Deposit Insurance Corporation or the National Credit Union Administration.¹⁹ Each
7 political committee shall maintain at least one checking or transaction account at one of its
8 depositories, and all receipts received by the committee shall be deposited in such accounts.²⁰

9 All disbursements (except petty cash) must be drawn on such accounts.²¹ Commission
10 regulations further provide that all deposits shall be made within ten days of the treasurer’s
11 receipt.²²

12 The Committee admits that it failed to maintain a campaign depository for approximately
13 four months. From December 1, 2017 to March 14, 2018, the Committee listed the Fort Wayne,
14 Indiana branch of Wells Fargo Bank as its depository institution in its Statement of
15 Organization²³ but acknowledges that this depository was “ficti[t]ious.”²⁴ Instead, it appears that
16 the Committee’s former treasurer, Owens, and his wife, Fisher, opened and operated multiple
17 undisclosed personal accounts in which they kept and from which they disbursed the

¹⁹ 52 U.S.C. § 30102(h)(1); 11 C.F.R. § 103.3.

²⁰ *Id.*

²¹ *Id.*

²² 11 C.F.R. § 103.3(a).

²³ FEC Form 1, Committee Statement of Organization (Dec. 1, 2017); FEC Form 1, Committee Amended Statement of Organization (Mar. 5, 2018); FEC Form 1, Committee Amended Statement of Organization (Mar. 14, 2018).

²⁴ FEC Form 99, Committee Miscellaneous Text (Apr. 22, 2018).

1 Committee's funds.²⁵ According to the Committee's filings, \$11,551.04 in receipts were made
2 to these accounts and were "undocumented."²⁶ In addition, Owens allegedly failed to deposit an
3 unknown number of donations into the campaign account within ten days and failed to deposit
4 some additional donations at all.²⁷

5 Under the Commission's Statement of Policy Regarding Treasurers Subject to
6 Enforcement Proceedings, the Commission will pursue "allegations that involve a past or present
7 treasurer's violation of obligations that the Act or regulations impose specifically on
8 treasurers."²⁸ Further, the Commission may name a treasurer in his or her personal capacity
9 when the available information supports a reasonable inference that "the treasurer had
10 knowledge that his or her conduct violated a duty imposed by law, or where the treasurer
11 recklessly failed to fulfill his or her duties under the [A]ct and regulations, or intentionally
12 deprived himself or herself of facts giving rise to the violations."²⁹ Here, the facts indicate that
13 Owens acted recklessly when he apparently used personal accounts as campaign depositories and
14 failed to ensure that contributions made to the Committee were deposited into its designated
15 depository. Further, his lack of cooperation with the Committee's attempts to comply with the
16 Act indicate reckless failure to fulfill his duties as treasurer. The Commission therefore finds
17 reason to believe that Owens in his personal capacity violated 52 U.S.C. § 30102(h)(1) and

²⁵ *Id.*

²⁶ FEC Form 3P, Committee 2018 April Quarterly Report (Apr. 22, 2018); RR18L-29 at 3.

²⁷ FEC Form 3P, Committee 2018 April Quarterly Report (Apr. 22, 2018); FEC Form 99, Committee Miscellaneous Text (Apr. 22, 2018).

²⁸ Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings, 70 Fed. Reg. 3, 5 n.7 (Jan. 3, 2005).

²⁹ *Id.* at 5.

1 11 C.F.R. § 103.3 by failing to deposit contributions to the Committee in the designated
2 depository institution.

3 **B. Commingling of Campaign Funds with Personal Funds**

4 The Act and Commission regulations require that all campaign funds be “segregated
5 from, and may not be commingled with, the personal funds of any individual.”³⁰ As discussed
6 above, Owens and Fisher appear to have used personal accounts as campaign depositories.³¹ The
7 Committee’s filings and Response indicate that Owens and Fisher accepted \$11,551.04 in
8 receipts to and made \$15,665.26 in disbursements from these personal accounts.³² Thirty-two
9 disbursements appear to have been made to Fisher from these accounts between January 4, 2018
10 and March 2, 2018, while Owens was still treasurer and Fisher still Campaign Manager, and for
11 which the Committee has no documentation. The purported purposes for these disbursements
12 were reimbursements to Fisher for expenditures such as travel expenses (*e.g.*, \$269.30 to “Mxn
13 Eurocar,”), a \$162.96 “Fundraising Expense” at “Com Mexicano Restaurant,” and a \$51.83
14 purchase from “Capitol Liquor.”³³

15 Under these circumstances, the Commission finds reason to believe that Owens in his
16 personal capacity violated 52 U.S.C. § 30102(b)(3) and 11 C.F.R. § 102.15 by commingling
17 campaign funds with personal funds.

³⁰ 52 U.S.C. § 30102(b)(3); *see also* 11 C.F.R. § 102.15.

³¹ FEC Form 99, Committee Miscellaneous Text (Apr. 22, 2018).

³² RR18L-29, attach. 2 at 5.

³³ FEC Form 3-P, Committee April Quarterly Report, sched. B-P (Apr. 22, 2018); RR18L-29, attach. 2 at 9-10.

1 **C. Failure to Keep Records of Contributions and Disbursements**

2 The treasurer of a political committee must keep an accurate account of the committee's
3 contributions and disbursements.³⁴ The Act and Commission regulations provide that
4 committees must record the name and address of every person to whom a disbursement is made,
5 and the date, amount, and purpose of the disbursement, and retain records (*e.g.*, receipt,
6 cancelled check, invoice) related to each disbursement in excess of \$200.³⁵ The Act and
7 Commission regulations also provide that records must be kept regarding contributions in excess
8 of \$50. For each such receipt, the account shall include the person's name and address together
9 with the date and amount of the contribution.³⁶ For any person who makes contributions
10 aggregating more than \$200 in a calendar year, the record must also include the contributor's
11 occupation and employer.³⁷ Further, the treasurer must preserve all such records for three years
12 after the report is filed with the Commission.³⁸

13 The Committee acknowledges that it has not maintained its records.³⁹ The Committee
14 states that it does not have access to any of the records possessed by Owens.⁴⁰ In addition to the
15 total absence of records regarding the Committee's receipts and disbursements, the Committee
16 received 31 separate \$250 contributions from contributors from whom it collected no
17 information as the recorded data includes only the date and amount of the contributions at

³⁴ 52 U.S.C. § 30102(c); 11 C.F.R. § 102.9.

³⁵ 52 U.S.C. § 30102(c)(5); 11 C.F.R. § 102.9(b)(1)-(2).

³⁶ 52 U.S.C. § 30102(c)(2); 11 C.F.R. § 102.9(a)(1).

³⁷ 52 U.S.C. § 30102(c)(3); 11 C.F.R. § 102.9(a)(2); *see also* 52 U.S.C. § 30101(13)(A); 11 C.F.R. § 100.12 (defining "identification" of an individual).

³⁸ 52 U.S.C. § 30102(d); 11 C.F.R. § 102.9(c).

³⁹ FEC Form 99, Committee Miscellaneous Text (Apr. 22, 2018).

⁴⁰ *Id.*

1 issue.⁴¹ Further, multiple disbursements were made to Fisher as reimbursements for campaign
2 expenses but has no associated documentation for the expenses reimbursed.⁴²

3 Given Owens's reckless failure to fulfill his duties as treasurer as described above, the
4 Commission finds reason to believe that Owens in his personal capacity violated 52 U.S.C.
5 § 30102(c)-(d) and 11 C.F.R. § 102.9 by failing to keep and maintain adequate records of
6 contributions and disbursements.

7 **D. Failure to Accurately Report Contributions, Disbursements, and Loans**

8 The Act requires a political committee to accurately disclose its contributions,
9 disbursements, and loans.⁴³ With respect to contributions, a political committee must report the
10 identification of each person who makes a contribution or contributions having an aggregate
11 amount or value in excess of \$200 within an election cycle.⁴⁴ A political committee also must
12 itemize disbursements on its disclosure reports, including a brief description of each
13 disbursement's purpose.⁴⁵ Further, a political committee's disclosure report must identify any
14 person who makes a loan to the committee during the reporting period, together with the
15 identification of any endorser or guarantor of such loan, and the date and amount or value of
16 such loan.⁴⁶

17 Because the Committee failed to maintain its records, it is unable to accurately disclose
18 its contributions and disbursements prior to April 2018. As discussed above, it cannot report

41 *Id.*

42 *Id.*

43 *See* 52 U.S.C. § 30104(b); 11 C.F.R. § 104.3.

44 52 U.S.C. § 30104(b)(3)(A); 11 C.F.R. § 104.3(a)(4)(i).

45 52 U.S.C. § 30104(b)(4)-(7); 11 C.F.R. § 104.3(b)(3), (4).

46 52 U.S.C. § 30104(b)(3)(E); 11 C.F.R. § 104.3(a)(4)(iv).

1 donor information for at least 31 persons who each contributed \$250 to the campaign, nor can it
2 properly itemize loans and disbursements authorized by the prior treasurer. According to the
3 Committee, the amount of inadequately documented receipts and disbursements totals
4 \$27,216.30, which includes two loans made by Fisher to the Committee totaling \$3,801.04.⁴⁷

5 Given Owens's reckless failure to fulfill his duties as treasurer as described above, the
6 Commission finds reason to believe that Owens in his personal capacity violated 52 U.S.C.
7 § 30104(b) and 11 C.F.R. § 104.3 by failing to file accurate reports concerning the Committee's
8 receipts, disbursements, and loans.

⁴⁷ FEC Form 3P, Committee 2018 April Quarterly Report (Apr. 22, 2018); RR18L-29 at 3.