

**FEDERAL ELECTION COMMISSION**  
**FIRST GENERAL COUNSEL'S REPORT**

**RR 20L-13**

DATE RECEIVED: July 29, 2020

**DATE OF NOTIFICATIONS:**

July 29 and Aug. 3, 2020

LAST RESPONSE RECEIVED: Oct. 23, 2020

DATE ACTIVATED: Mar. 18, 2021

EPS: 40

## EXPIRATION OF SOL:

Feb. 21, 2018-Jan. 23, 2024

## ELECTION CYCLES: 2014, 2016, 2018, 2020

**SOURCE:** Internally Generated

Kern County Republican Central Committee  
Laura Sheffield  
in her official capacity as treasurer  
Bryan Williams

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1 **INTERNAL REPORTS CHECKED:** Disclosure Reports

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3 **FEDERAL AGENCIES CHECKED:** None

4 **I. INTRODUCTION**

5 The matter arose from a referral from the Reports Analysis Division (“RAD”)

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8 describing unauthorized disbursements by Bryan Williams, the Committee’s former treasurer.

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14 We recommend that the Commission open a

15 Matter Under Review (“MUR”) and find reason to believe that Williams knowingly and willfully

16 violated 52 U.S.C. §§ 30102(b)(3), 30102(c), 30104(b), and 11 C.F.R. §§ 102.9, 102.15, and

17 104.3 by failing to keep complete records and file accurate reports with the Commission and by

18 commingling Committee funds and personal funds. In addition, we recommend that the

19 Commission enter into pre-probable cause conciliation with Williams.

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1 **II. FACTUAL BACKGROUND**

2 The Committee is a local party committee registered with the Commission and Laura  
 3 Sheffield is the current treasurer.<sup>2</sup> Williams was the treasurer from March 18, 2013, to  
 4 February 20, 2019. The Committee's Submission states that Williams had signature authority  
 5 on all Committee accounts, handled all of the Committee's expenses, and was responsible for  
 6 providing information on receipts and disbursements to Tom Montgomery—owner and operator  
 7 of Political Visions, a campaign finance reporting business, who handles the Committee's  
 8 reporting with the Commission.<sup>4</sup>

9 The Committee states that in December 2018 and January 2019, staff members of the  
 10 Committee's consulting firm that handles the Committee's headquarters operations and  
 11 activities, Western Pacific Research, became suspicious of possible financial irregularities after  
 12 Williams failed to attend regular monthly Committee meetings, provided infrequent submissions  
 13 of monthly treasurer reports, and received notice of non-payment from a vendor of the  
 14 Committee.<sup>5</sup> Subsequently, the Committee continues, Williams changed the key to the  
 15 Committee mailbox preventing anyone else from accessing it and collected contributions from a  
 16 donor without authorization.<sup>6</sup> Western Pacific Research staff then analyzed the Committee's  
 17 reports filed with the Commission and determined they were inconsistent with "their knowledge

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<sup>2</sup> Kern County Republican Central Committee Amended Statement of Org. (Feb. 12, 2020). The Committee is the official local delegation and Central Committee for the Republican Party in Kern County, California. *See About, THE KERN GOP, <https://www.thekerngop.org/about>* (last visited June 16, 2021).

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<sup>4</sup> Committee Resp. to OGC Request for Additional Information at 2 (Feb. 27, 2021) ("Committee Resp."). Although the information provided by the Committee states that Montgomery filed reports with the Commission, Williams signed all the disclosure reports.

<sup>5</sup> *Id.* at 1-2.

<sup>6</sup> *Id.* at 2.

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1 of the Committee's activities and operations.”<sup>7</sup>

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10 On November 7, 2019, RAD identified two refunds, totaling \$218,546.39, from Williams  
11 on the Committee's 2019 Mid-Year Report and sent a Request For Additional Information to the  
12 Committee.<sup>13</sup> The Committee filed a Form 99 response in April 2020 explaining that the two  
13 refunds were from Williams, who had embezzled funds from the Committee.<sup>14</sup> Subsequently,  
14 RAD referred the Committee to OGC “for apparent unauthorized disbursements totaling  
15 \$218,546.39 on the 2019 Mid-Year Report.”<sup>15</sup>

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7 *Id.*

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13 Referral at 1, RR 20L-13 (July 24, 2020).

14 Kern County Central Republican Committee Form 99 (Apr. 15, 2020).

15 Referral at 1.

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1 detailed spreadsheets  
2 of each individual transaction they were able to identify related to the embezzlement from 2013 -  
3 2019, signed statements by Williams acknowledging that he owes money to the Committee and  
4 that he has paid partial restitution, and copies of restitution checks from Williams.

5 Williams did not respond to the Commission's notification of the Referral.

### 6 **III. LEGAL ANALYSIS**

#### 7 **A. The Committee**

8 The Act requires a committee, through its treasurer, to keep an accurate account of  
9 receipts, disbursements, and cash-on-hand balances.<sup>16</sup> In 2007, the Commission established a  
10 safe harbor to benefit committees that file inaccurate reports because their funds were  
11 unknowingly misappropriated by committee fiduciaries and staff.<sup>17</sup> The Commission concluded  
12 that it would not seek a monetary penalty from a committee for filing inaccurate reports due to  
13 embezzlement if the committee maintained certain internal controls at the time and took certain  
14 steps after discovery.<sup>18</sup> The Commission concluded that those internal controls and post-  
15 discovery steps "represent the *minimum* efforts a committee must take to qualify for this safe  
16 harbor."<sup>19</sup> Nonetheless, the Commission will consider "the presence of some but not all" of the

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<sup>16</sup> 52 U.S.C. §§ 30102(c), 30104(b); 11 C.F.R. § 104.3.

<sup>17</sup> See Statement of Policy: Safe Harbor for Misreporting Due to Embezzlement, 72 Fed. Reg. 16,695 (Apr. 5, 2007).

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* (emphasis added).

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1 controls as mitigating factors when fashioning a civil penalty offer even if a committee fails to  
2 satisfy the policy's additional requirements.<sup>20</sup>

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4                   Based on the spreadsheets provided by the Committee, it appears that  
5 Williams's embezzlement caused the Committee to under-report its disbursements, and  
6 misreport the purpose of its disbursements on its disclosure reports since 2013.

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10                  The available information indicates that Williams had primary responsibility for  
11 managing all of the Committee's accounting and financial operations.<sup>23</sup> Williams was the sole  
12 authorized signatory on all of the Committee's bank accounts except for one and transferred  
13 Committee funds to himself and paid his personal credit card with Committee funds without the  
14 Committee's knowledge or authorization.<sup>24</sup> Williams also provided falsified reports to  
15 Montgomery, who was responsible for preparing the Committee's disclosure reports.

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<sup>20</sup>                  *Id.*

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<sup>22</sup>                  *Id.* at 2.

<sup>23</sup>                  Committee Resp. at 2-3.

<sup>24</sup>                  *Id.*

<sup>25</sup>

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## B. Bryan Williams

8        Each treasurer is required to keep an accurate account of and disclose, among other  
9        things, committee receipts, disbursements, and cash-on-hand balances.<sup>27</sup> To accomplish this, the  
10      Act imposes on committees a series of recordkeeping and reporting requirements to be executed  
11      by the committee’s treasurer. The Act provides that committees must record the name and  
12      address of every person to whom a disbursement is made, and the date, amount, and purpose of  
13      the disbursement, and retain records (e.g., receipt, cancelled check, invoice) related to each  
14      disbursement in excess of \$200.<sup>28</sup> The Act also requires that a committee’s funds “shall be  
15      segregated from, and may not be commingled with the personal funds of any individual.”<sup>29</sup>

16 While serving as treasurer for the Committee, Williams withdrew over \$200,000 in  
17 Committee funds and did not disclose the withdrawals on reports filed with the Commission.

MUR 596/MUR 7132 (Amedisys PAC/Michael Pitts) (assigning committee to ADRO for embezzlement of \$79,640); Cert. ¶ 1 (Sept. 11, 2014), MUR 6867 (formerly RR 13L-33) (Lynn Jenkins for Congress) (assigning committee to ADRO for embezzlement of \$21,300); Cert. ¶ 1 (Oct. 20, 2015), MUR 6980 (formerly RR 15L-03/ADR 78) (McConnell Senate Committee) (assigning committee to ADRO for embezzlement of \$100,634).

26 Committee Resp. at 5 & Attach. A.

<sup>27</sup> 52 U.S.C. §§ 30102(c), 30104(a), (b).

<sup>28</sup> 52 U.S.C. § 30102(c)(5); *see also* 11 C.F.R. § 102.9(b)(1)-(2).

<sup>29</sup> 52 U.S.C. § 30102(b)(3); 11 C.F.R. § 102.15.

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1 Williams signed each Committee report filed between February 2013 and January 2019.

2 Williams provided false information about the recipient and purpose of certain disbursements on

3 the reports. Therefore, it appears that Williams violated 52 U.S.C. § 30104(b) and 11 C.F.R.

4 § 104.3 by failing to file accurate reports with the Commission.<sup>30</sup> Further, it appears that

5 Williams violated 52 U.S.C. § 30102(c) and 11 C.F.R. § 102.9 by failing to keep an account of

6 disbursements made from the Committee's funds.<sup>31</sup> The Committee did not appear to have a

7 record of Williams's unauthorized activity until the Committee conducted an internal audit and

8 provided a list of the unauthorized disbursements to the Commission for the first time on

9 February 27, 2021. Lastly, the available information, including the Committee's internal

10 investigation and the restitution payments, confirm that Williams commingled Committee funds

11 and personal funds by depositing Committee funds into his personal bank accounts in violation

12 of 52 U.S.C. § 30102(b)(3) and 11 C.F.R. § 102.15.<sup>33</sup> By contrast, direct payments to

13 Williams's personal credit cards would appear to not violate the comingling provision of the

14 Act.<sup>34</sup>

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<sup>30</sup> See Factual & Legal Analysis at 6-7, MUR 7225 (Jack Wu) (finding treasurer violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.3 by failing to file accurate reports with the Commission reflecting his embezzlement); Factual & Legal Analysis at 3, MUR 5610 (Earl Allen Haywood) (same).

<sup>31</sup> See Factual & Legal Analysis at 6-7, MUR 7225 (Jack Wu) (finding treasurer violated 52 U.S.C. § 30102(c) and 11 C.F.R. § 102.9 by failing to keep an account of his unauthorized and embezzled disbursements); Factual & Legal Analysis at 3, MUR 5610 (Earl Allen Haywood) (same).

<sup>33</sup> See Factual & Legal Analysis at 7, MUR 7225 (Jack Wu) (finding respondent knowingly and willfully violated the commingling provisions by withdrawing funds from the committee account and depositing the money into his personal and business accounts); Factual & Legal Analysis at 4-5, MUR 7132 (Michael David Pitts) (finding respondent knowingly and willfully commingled funds by forging a check drawn on a PAC account and making it payable to a company with a bank account that was controlled by the respondent).

<sup>34</sup> See Factual & Legal Analysis at 2-3, MUR 5872 (Jane Hague for Congress) (considering unauthorized checks committee staffer wrote to herself as commingling, but not check payable to her childcare provider).

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1        The Act prescribes additional monetary penalties for violations that are knowing and  
 2 willful.<sup>35</sup> A violation of the Act is knowing and willful if the “acts were committed with full  
 3 knowledge of all the relevant facts and a recognition that the action is prohibited by law.”<sup>36</sup> This  
 4 does not require proving knowledge of the specific statute or regulation the respondent allegedly  
 5 violated.<sup>37</sup>

6        The information supports a knowing and willful finding. Williams, without  
 7 authorization, transferred Committee funds directly to his own accounts and falsified memo and  
 8 description fields of the transactions to conceal his conduct. In an effort to conceal his  
 9 embezzlement, Williams never provided Montgomery copies of Committee invoices or  
 10 Williams’s credit card statements for review and instead, provided falsified information.<sup>3</sup>  
 11 Williams’s actions, which caused the Committee to underreport and misreport its disbursements,  
 12 indicate an intent to conceal the embezzlement.<sup>40</sup>

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<sup>35</sup> 52 U.S.C §§ 30109(a)(5)(B), 30109(d).

<sup>36</sup> 122 Cong. Rec. 12,197, 12,199 (May 3, 1976).

<sup>37</sup> *United States v. Danielczyk*, 917 F. Supp. 2d 573, 578 (E.D. Va. Jan. 9, 2013) (quoting *Bryan v. United States*, 524 U.S. 184, 195 & n.23 (1998) (holding that, to establish a violation is willful, government needs to show only that defendant acted with knowledge that conduct was unlawful, not knowledge of specific statutory provision violated)). It is sufficient to demonstrate that a respondent “acted voluntarily and was aware that his conduct was unlawful.” *Id.* (citing jury instructions in *United States v. Edwards*, No. 11-61 (M.D.N.C. 2012), *United States v. Acevedo Vila*, No. 08-36 (D.P.R. 2009), *United States v. Fieger*, No. 07-20414 (E.D. Mich. 2008), and *United States v. Alford*, No. 05-69 (N.D. Fla. 2005)). This awareness may be shown through circumstantial evidence from which the respondent’s unlawful intent reasonably may be inferred. *Cf. United States v. Hopkins*, 916 F.2d 207, 213 (5th Cir. 1990) (quoting *United States v. Bordelon*, 871 F.2d 491, 494 (5th Cir. 1989)). *Hopkins* involved a conduit contributions scheme, and the issue before the Fifth Circuit concerned the sufficiency of the evidence supporting the defendants’ convictions for conspiracy and false statements under 18 U.S.C. §§ 371 and 1001.

<sup>40</sup> 52 U.S.C. § 30104(b); 11 C.F.R. §§ 104.3.

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12 **V. RECOMMENDATIONS**

13 1.

14 16 17 2. Open a Matter Under Review in RR 20L-13 with regard to Bryan Williams;

18 19 20 3. Find reason to believe that Bryan Williams knowingly and willfully violated  
52 U.S.C. §§ 30102(b)(3), 30102(c), 30104(b) and 11 C.F.R. §§ 102.9, 102.15, and

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1 104.3 by failing to keep complete records and file accurate reports with the  
2 Commission and by commingling Committee funds and personal funds;  
3  
4 4. Enter into conciliation with Bryan Williams prior to a finding of probable cause to  
5 believe;  
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7 5. Approve the attached Conciliation Agreement for Bryan Williams;  
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9 6. Approve the attached Factual and Legal Analysis; and  
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11 7. Approve the appropriate letters.

13 Lisa J. Stevenson  
14 Acting General Counsel  
15  
16 Charles Kitcher  
17 Acting Associate General Counsel  
18 for Enforcement  
19  
20

21 06.16.21

22 Date

*Stephen Gura*  
23 Stephen Gura  
24 Deputy Associate General Counsel  
25 for Enforcement  
26  
27

*Mark Allen*  
28 Mark Allen  
29 Assistant General Counsel  
30  
31

*Richard Weiss*  
32 Richard L. Weiss  
33 Attorney  
34  
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