

FEDERAL ELECTION COMMISSION
FIRST GENERAL COUNSEL'S REPORT

AR 19-14

DATE OF REFERRAL: 6/14/2021

DATE OF NOTIFICATION: 6/16/2021

LAST RESPONSE RECEIVED: 7/16/2021

DATE ACTIVATED: 9/27/2021

EXPIRATION OF SOL: 2/17/2022 - 7/20/2023

ELECTION CYCLE: 2018

SOURCE:

Internally Generated

RESPONDENT:

Grassroots Victory PAC and John Skic in his
official capacity as treasurer

RELEVANT STATUTE:

52 U.S.C. § 30104(b)

INTERNAL REPORTS CHECKED:

Disclosure Reports

FEDERAL AGENCIES CHECKED:

None

I. INTRODUCTION

This matter arises from an audit of Grassroots Victory PAC's ("GVP's") activity during the 2018 election cycle. On April 29, 2021, the Audit Division referred GVP to the Alternative Dispute Resolution Office ("ADRO") following a Commission Final Audit Report finding that GVP understated its disbursements by \$106,674 on its original disclosure reports filed over the two-year period ending on December 31, 2018. GVP declined to participate in the Alternative Dispute Resolution program. On June 14, 2021, ADRO transferred the matter to the Office of General Counsel ("OGC") for possible enforcement action. GVP filed a Response arguing that because it proactively corrected the misstated disbursements prior to the audit, which did not make any additional findings, the Commission should exercise its prosecutorial discretion and dismiss the matter without taking any further action.

For the reasons set forth below, we recommend that the Commission open a Matter Under Review (“MUR”), find reason to believe that GVP violated 52 U.S.C. § 30104(b) of the Federal Election Campaign Act of 1971, as amended (the “Act”), authorize pre-probable cause conciliation with GVP, and approve the attached proposed conciliation agreement

II. FACTUAL BACKGROUND

GVP is a nonconnected political action committee.¹ GVP initially disclosed combined total disbursements of \$127,214.46 on its Monthly Reports covering January 2017 through March 2018.² On January 30, 2018, GVP filed amended 2017 July, August, September, October, November, and December Monthly Reports disclosing previously unreported disbursements of \$90,161.74.³ On February 26, 2018, the Commission’s Reports Analysis Division (“RAD”) sent Requests for Additional Information (“RFAIs”) to GVP referencing the amended September, October, and November Monthly Reports.⁴ On August 17 and 20, 2018, GVP filed a second set of amended reports, overlapping with the six reports from above and including an additional nine, disclosing total disbursements of \$239,957.77, a difference of \$112,743.31 compared to GVP’s original reports covering January 2017 through March 2018.⁵ But because GVP’s amended February 2018 Monthly Report disclosed a *decrease* in

¹ Grassroots Victory PAC, Statement of Org. (Feb. 8, 2016), <https://docquery.fec.gov/pdf/556/201602089008442556/201602089008442556.pdf>.

² *Infra* Figure 1.

³ *Id.*

⁴ *E.g.*, Grassroots Victory PAC, RFAI (Feb. 26, 2018), <https://docquery.fec.gov/pdf/177/201802270300000177/201802270300000177.pdf> (2017 September Monthly).

⁵ *Infra* Figure 1.

disbursements, the total misstated amount across all reports is \$141,843.29. The August 2018

amended reports included memo text responding to the RFAs:

In order to discover the source of these discrepancies, [GVP] hired a compliance firm to review all of its past reports and financial activities. This review has uncovered additional undisclosed disbursements, as well as some previously reported contributions and disbursements that require amendment.⁶

The below chart shows GVP's original reported disbursements and subsequent amendments:

Figure 1. GRASSROOTS VICTORY PAC – Amended Disbursements

Monthly Report	Original	Amended January 2018	Amended August 2018	Difference from Original
Feb-2017	\$588.55		\$653.31	\$64.76
Mar-2017	\$235.20		\$261.70	\$26.50
Apr-2017	\$111.46		\$171.41	\$59.95
May-2017	\$9,221.50		\$9,990.71	\$769.21
Jun-2017	\$0		\$246.26	\$246.26
Jul-2017	\$0	\$138.88	\$340.48	\$340.48
Aug-2017	\$0	\$374.16	\$1,140.24	\$1,140.24
Sep-2017	\$0	\$44,358.24	\$46,376.15	\$46,376.15
Oct-2017	\$0	\$31,272.78	\$26,512.23	\$26,512.23
Nov-2017	\$0	\$10,176.69	\$16,323.23	\$16,323.23
Dec-2017	\$0	\$3,840.99	\$7,403.24	\$7,403.24
YE 2017	\$79,798.51		\$82,518.87	\$2,720.36
Feb-2018	\$35,000.00		\$20,450.01	\$14,549.99
Mar-2018	\$2,259.24		\$27,283.27	\$25,024.03
Apr-2018	\$0		\$286.66	\$286.66
TOTAL	\$127,214.46	\$90,161.74	\$239,957.77	\$141,843.29

⁶ E.g., Grassroots Victory PAC, Amended 2017 September Monthly Report Grassroots Victory PAC (Aug. 17, 2018), <https://docquery.fec.gov/pdf/575/201808179119956575/201808179119956575.pdf>.

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On October 2, 2019, the Audit Division notified GVP that it would be the subject of a Commission audit of its 2018 cycle activities.⁹ The single finding in the Final Audit Report (“FAR”) related to GVP’s original reported disbursements, which GVP corrected prior to the audit—discussed above.¹⁰ The total amount of GVP’s undisclosed disbursements in the FAR (\$106,674) is less than the final reported amended amount listed above (\$141,843.29), which is attributable to Audit’s review of bank records compared to OGC’s analysis of disclosure reports which is necessary for a potential violation pursuant to Commission regulations,

⁹ Notification Letter from Dayna C. Brown, Acting Assistant Staff Director, FEC, to Eleanor Collinson, Treasurer, GVP (Oct. 2, 2019).

¹⁰ Final Audit Report of Grassroots Victory PAC at 3 (Apr. 28, 2021).

Initially, the Interim Audit Report and Draft FAR characterized the Audit Division's finding as "Misstatement of Financial Activity – Increased Activity."¹² In its response to the Draft FAR, GVP objected to the description of the proposed finding as a "misstatement," arguing that it had "accurately disclosed its financial activity, of its own volition, through amended reports that preceded the audit."¹³

On March 11, 2021, the Commission approved the Audit Division's Recommendation Memorandum but changed the finding from "Misstatement of Financial Activity – Increased Activity" to "Increased Activity (Corrected)."¹⁵ On April 13, 2021, the Commission approved the Proposed Final Audit Report.¹⁶

Pursuant to the 2017-2018 Cycle Materiality Thresholds, the Audit Division referred GVP to ADRO.¹⁷ However, GVP chose not to participate in Alternative Dispute Resolution, arguing that the FAR, the source of the Audit Division's referral, "shows that GVP has complied with its reporting obligations" under the Act.¹⁸ Accordingly, and in accordance with "ADRO's procedure to transfer matters in which Respondents decline to participate in the ADR process,"

¹² Interim Audit Report of Grassroots Victory PAC at 3-5 (July 6, 2020); Draft Final Audit Report of Grassroots Victory PAC at 3-5 (Oct. 14, 2020).

¹³ GVP Response to the Draft FAR (Nov. 6, 2020), https://www.fec.gov/resources/cms-content/documents/GVP_CmteResponseDFAR_2018.pdf.

¹⁵ Certification (Mar. 22, 2021), A19-14 (Grassroots Victory PAC) ("deleting 'Misstatement of Financial Activity' before 'Increased Activity' on page 3 (the Cover Page), page 5 (the Table of Contents), page 8 (the Summary), and page 9 (Part IV) of Agenda Document Number 21-11-A; and adding after the phrase 'Increased Activity' a parenthetical that says '(Corrected).')."

¹⁶ Certification (Apr. 13, 2021), A19-14 (Grassroots Victory PAC).

¹⁷ Audit Referral AR 19-14 (Apr. 29, 2021).

¹⁸ Email from Jonathan Berkon, counsel to GVP, to Krista Roche, Alternative Dispute Resolution Office Director, FEC (June 4, 2021, 01:18 EST).

on June 14, 2021, ADRO transferred the matter to OGC.¹⁹ On June 16, 2021, OGC notified GVP of the transfer and that it was subject to possible enforcement action.²⁰

In response to OGC's notification, GVP argues that enforcement is unwarranted.²¹ GVP acknowledges its original reporting errors, but argues that the Commission already concluded that GVP proactively came into compliance prior to the audit, and that the Commission should take no enforcement action and assess no civil penalty as a result.²² GVP also asserts that in previous cases where a committee proactively amended reports prior to Commission action, the Commission declined to impose any civil penalty.²³

III. LEGAL ANALYSIS

The Act requires committee treasurers to file reports of disbursements in accordance with the provisions of 52 U.S.C. § 30104(b)(4).²⁴ These reports must be timely and must include, *inter alia*, the total amount of disbursements, including the appropriate itemizations, where required.²⁵ Here, as shown by its amendments filed on January 30, 2018, and August 17, 2018, GVP did not comply with the Act's reporting requirements when it misstated its disbursements in its original reports covering January 2017 through March 2018. As shown in Figure 1 above, the total amount of GVP's misstated disbursements is \$141,843.29.

¹⁹ Letter from Krista J. Roche, Director of ADRO, FEC, to Kristina Portner, CELA (June 14, 2021). If a respondent chooses not to participate in ADR, "the matter may be dropped from further consideration for ADR and sent to OGC for further processing." Guidebook for Complainants and Respondents on the FEC Enforcement Process, May 2012, https://www.fec.gov/resources/cms-content/documents/respondent_guide.pdf.

²⁰ Notification Letter from Charles Kitcher, Acting Associate General Counsel for Enforcement, FEC, to Jonathan Berkon, counsel to GVP (June 16, 2021).

²¹ Grassroots Victory PAC Resp. at 3 (July 16, 2021).

²² *Id.* at 1, 2.

²³ *See id.* at 2 (citing MURs 5198 (Cantwell) and 6386 (Steve Fincher for Congress)).

²⁴ 52 U.S.C. § 30104(a)(1); *see also* 11 C.F.R. § 104.1(a).

²⁵ 52 U.S.C. § 30104(b); 11 C.F.R. § 104.3(a).

1 Nonetheless, GVP argues that the Commission should dismiss because it proactively
2 corrected the misstatements prior to the audit, which found no other problems with its 2018
3 election cycle reporting. However, we recommend that the Commission proceed in this matter in
4 accordance with its established thresholds and procedures for handling findings that are the
5 subject of a final audit report, as discussed below.

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9 Finally, GVP points to two enforcement matters where the Commission did not seek a
10 civil penalty from a committee when it proactively amended reports prior to Commission action,
11 and argues that the same result should apply here.³² Both matters, MUR 5198 (Cantwell) and
12 MUR 6386 (Steve Fincher for Congress), were complaint-generated and involved candidate bank
13 loans that were not properly disclosed.³³ However, more recently, the Commission has pursued

³² *See* Resp. at 2.

³³ *See* First Gen. Counsel's Rpt. at 12-15, MUR 5198 (Cantwell); First Gen. Counsel's Rpt. at 4-6, MUR 6386 (Steve Fincher for Congress).

1 matters involving misstated disbursements where a committee proactively corrected the mistakes
2 and has encourage proactive reporting.³⁴

3 In conclusion, because the 2017-2018 Cycle Audit Materiality Thresholds reflect activity
4 that, in the Commission's judgment, warrants enforcement action, we recommend that the
5 Commission open a MUR and find reason to believe that GVP violated 52 U.S.C. § 30104(b).

³⁴ See MUR 7916 (Rebuilding America Now); MUR 7895 (Democratic Services Corp./Democratic National Committee); MUR 7603 (Wyoming Republican Party); MUR 7599 (Nevada State Democratic Party); MUR 7598 (South Carolina Democratic Party); MUR 7597 (Texas Democratic Party).

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First General Counsel's Report
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1 **V. RECOMMENDATIONS**

- 2 1. Open a MUR;
- 3 2. Find reason to believe Grassroots Victory PAC and John Skic in his official
4 capacity as treasurer violated 52 U.S.C. § 30104(b) by failing to accurately report
5 disbursements;
- 6 3. Approve the attached Factual and Legal Analysis;
- 7 4. Enter into conciliation with Grassroots Victory PAC and John Skic in his official
8 capacity as treasurer prior to a finding of probable cause to believe;
- 9 5. Approve the attached proposed Conciliation Agreement; and

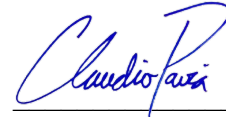
6. Approve the appropriate letter.


Lisa J. Stevenson
Acting General Counsel

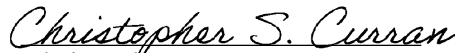
Charles Kitcher
Associate General Counsel for Enforcement

November 22, 2021

Date



Claudio J. Pavia
Acting Deputy Associate General Counsel
for Enforcement

Mark Allen
Assistant General Counsel

Christopher S. Curran
Attorney

Attachments:

1. Final Audit Report
2. Factual and Legal Analysis for Grassroots Victory PAC



Final Audit Report of the Commission on the Grassroots Victory PAC

(January 1, 2017 - December 31, 2018)

Why the Audit Was Done

Federal law permits the Commission to conduct audits and field investigations of any political committee that is required to file reports under the Federal Election Campaign Act (the Act). The Commission generally conducts such audits when a committee appears not to have met the threshold requirements for substantial compliance with the Act.¹ The audit determines whether the committee complied with the limitations, prohibitions and disclosure requirements of the Act.

Future Action

The Commission may initiate an enforcement action, at a later time, with respect to any of the matter discussed in this report.

About the Committee (p. 2)

The Grassroots Victory PAC is a non-qualified, non-connected political action committee headquartered in Washington, DC. For more information, see the chart on the Committee Organization p. 2.

Financial Activity (p. 2)

Receipts	
○ Contributions from Individuals	\$ 612,987
○ Contributions from Other Political Committees	5,000
○ Offset to Operating Expenditures	26
Total Receipts	\$ 618,013
Disbursements	
○ Operating Expenditures	\$ 36,852
○ Contributions to Federal Committees	110,000
○ Independent Expenditures	8,974
○ Contribution Refunds	8,129
○ Other Disbursements	334,999
Total Disbursements	\$ 498,954

Commission Finding (p. 3)

- Increased Activity (Corrected)

¹ 52 U.S.C. §30111(b).



Final Audit Report of the Commission on the Grassroots Victory PAC

(January 1, 2017 - December 31, 2018)

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Part I

Background

Authority for Audit

This report is based on an audit of the Grassroots Victory PAC (GVP), undertaken by the Audit Division of the Federal Election Commission (the Commission) in accordance with the Federal Election Campaign Act of 1971, as amended (the Act). The Audit Division conducted the audit pursuant to 52 U.S.C. §30111(b), which permits the Commission to conduct audits and field investigations of any political committee that is required to file a report under 52 U.S.C. §30104. Prior to conducting any audit under this subsection, the Commission must perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act. 52 U.S.C. §30111(b).

Scope of Audit

Following Commission-approved procedures, the Audit staff evaluated various risk factors and as a result, this audit examined

1. the disclosure of individual contributors' occupation and name of employer;
2. the consistency between reported figures and bank records;
3. the completeness of records; and
4. other committee operations necessary to the review.

Audit Hearing

GVP requested a hearing before the Commission. The request was granted and the hearing was held on January 28, 2021. At the hearing, GVP requested that the title of the finding be changed to remove "Misstatement of Financial Activity." (For more detail, see Audit Hearing at Increased Activity (Corrected) p. 6)

Part II

Overview of Committee

Committee Organization

Important Dates	
• Date of Registration	February 8, 2016
• Audit Coverage	January 1, 2017 - December 31, 2018
Headquarters	Washington, DC
Bank Information	
• Bank Depositories	One
• Bank Accounts	One checking account
Treasurer	
• Treasurer When Audit Was Conducted	Eleanor Collinson
• Treasurer During Period Covered by Audit	Eleanor Collinson (5/17/18-Present), Shelbi Warner (2/8/16-5/16/18)
Management Information	
• Attended FEC Campaign Finance Seminar	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid Staff

Overview of Financial Activity (Audited Amounts)

Cash on hand @ January 1, 2017	\$ 28,409
Receipts	
○ Contributions from Individuals	612,987
○ Contributions from Other Political Committees	5,000
○ Offsets to Operating Expenditures	26
Total Receipts	\$ 618,013
Disbursements	
○ Operating Expenditures	36,852
○ Contributions to Federal Committees	110,000
○ Independent Expenditures	8,974
○ Contribution Refunds	8,129
○ Other Disbursements	334,999
Total Disbursements	\$ 498,954
Cash on hand @ December 31, 2018	\$ 147,468

Part III

Summary

Commission Finding

Increased Activity (Corrected)

A comparison of GVP's bank activity with its original disclosure reports filed with the Commission revealed that disbursements were understated by \$106,674 for calendar years 2017 and 2018. In response to the Interim Audit Report recommendation, GVP stated that the audit report should be modified to reflect that the disclosure reports on file when the audit began accurately presented its financial activity.

In response to the Draft Final Audit Report, GVP reiterated that it identified undisclosed disbursements and amended its disclosure reports in August 2018, and indicated that the finding was unwarranted since GVP corrected its disclosure reports prior to the audit notification letter. GVP requested a hearing before the Commission to discuss this matter. (For more detail, see Audit Hearing, p. 6.)

The Commission approved a finding that GVP understated disbursements by \$106,674 on the original disclosure reports filed over the two-year period ending on December 31, 2018, and changed the finding title from "Misstatement of Financial Activity – Increased Activity" to "Increased Activity (Corrected)." (For more detail, see p. 4)

Part IV

Commission Finding

Increased Activity (Corrected)

Summary

A comparison of GVP's bank activity with its original disclosure reports filed with the Commission revealed that disbursements were understated by \$106,674 for calendar years 2017 and 2018. In response to the Interim Audit Report recommendation, GVP stated that the audit report should be modified to reflect that the disclosure reports on file when the audit began accurately presented its financial activity.

In response to the Draft Final Audit Report, GVP reiterated that it identified undisclosed disbursements and amended its disclosure reports in August 2018, and indicated that the finding was unwarranted since GVP corrected its disclosure reports prior to the audit notification letter. GVP requested a hearing before the Commission to discuss this matter.

The Commission approved a finding that GVP understated disbursements by \$106,674 on the original disclosure reports filed over the two-year period ending on December 31, 2018, and changed the finding title from "Misstatement of Financial Activity – Increased Activity" to "Increased Activity (Corrected)."

Legal Standard

A. Reporting Requirements. All political committees other than authorized committees of a candidate shall file either:

- Quarterly reports. 52 U.S.C. § 30104(a)(4)(A); or
- Monthly reports in all calendar years shall be filed no later than the 20th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-general election report shall be filed in accordance with 52 U.S.C. § 30104(2)(A)(i), a post-general election report shall be filed in accordance with 52 U.S.C. § 30104(2)(A)(ii), and a year-end report shall be filed no later than January 31 of the following calendar year. 52 U.S.C. §30104(a)(4)(B).

B. Contents of Reports. Each report must disclose:

- The amount of cash on hand at the beginning and end of the reporting period;
- The total amount of receipts for the reporting period and for the calendar year;
- The total amount of disbursements for the reporting period and for the calendar year; and
- Certain transactions that require itemization on Schedule A (Itemized Receipts) or Schedule B (Itemized Disbursements). 52 U.S.C. §30104 (b)(1),(2),(3),(4) and (5).

Facts and Analysis

A. Facts

During audit fieldwork, in addition to examining GVP's most recent reports filed prior to the audit notification, the Audit staff compared GVP's originally filed reports with its bank records. The purpose of this additional reconciliation was to identify the degree to which GVP had misstated its original filings.

The Audit staff calculated that GVP understated its disbursements by \$106,674 on the original reports filed over the two-year period ending December 31, 2018. Most of the understatement (\$98,342) was due to GVP not reporting any disbursements from May 2017 through November 2017. GVP subsequently amended its reports to disclose the disbursements that took place during this time.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with GVP representatives during the exit conference and provided the relevant schedule. In response to the exit conference, GVP stated that the finding confirms that it had unreported disbursements for calendar years 2017 and 2018. GVP further stated that it made proactive efforts, prior to Commission action, to correct the public record by amending its reports in August 2018 to disclose the unreported disbursements. GVP also stated that it is unclear why the Audit staff compared its bank activity to its original reports given that GVP amended its reports in August 2018. As noted above, the Audit staff compared GVP's original reports to its bank records to identify the degree to which GVP misstated the activity disclosed on its original filings. GVP underreported its disbursements by \$106,674 between the time the original reports were filed on or near their respective due dates and when the amendments were filed in August 2018.

The Interim Audit Report recommended that GVP provide any additional comments it deemed necessary with respect to this matter.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, GVP stated the auditors found no new information that it had not already disclosed to the Commission. According to GVP, it was not the audit that "revealed" GVP understated its disbursements by \$106,674, it was GVP's proactive response in August 2018. GVP explained that, in early 2018 it discovered unreported disbursements for its September, October, and November 2017 Monthly reports and amended those reports. To discover the source of these discrepancies GVP hired a compliance firm to review its past reports and financial activities. This review identified additional undisclosed disbursements as well as some previously reported contributions and disbursements that required amendment and resulted in GVP amending its reports in August 2018. GVP stated that the Interim Audit Report did not explain why the Audit staff worked from its original reports rather than its amended reports that were on the public record before the audit began. Further, GVP stated the Interim Audit Report should be modified to reflect that GVP accurately

disclosed its financial activity on its own volition, through amended reports that preceded the audit.

The Audit staff noted that, as highlighted in the Facts section above, it reviewed GVP's original reports and amended reports during the course of the audit. GVP was correct in stating that in August 2018, prior to the October 2019 audit notification, it amended its disclosure reports to accurately disclose missing financial activity. However, it was GVP's responsibility to accurately and timely disclose all financial activity on the respective due date of the required report. As such, the Audit staff maintained that GVP's original reports understated its disbursements by \$106,674.

D. Draft Final Audit Report

The Draft Final Audit Report reiterated that GVP's original disclosure reports materially understated its disbursements for 2017 and 2018 by \$106,674.

E. Committee Response to the Draft Final Audit Report

GVP responded to the Draft Final Audit Report by requesting a hearing on this matter. GVP stated it twice asked the Audit staff to explain their choice to work from the original reports rather than the amended reports that were on the public record before the audit began. GVP stated that it identified undisclosed disbursements and amended its disclosure reports in August 2018 and indicated that the finding is unwarranted since GVP corrected its disclosure reports prior to the audit notification letter.

F. Audit Hearing

During the Audit Hearing, GVP counsel stated that at the time the audit notification letter was sent in October 2019, there was no misstatement of its financial activity within its filings on the public record because it had corrected its reports on its own volition in August 2018. GVP counsel further stated that the title "Misstatement of Financial Activity" is misleading because the committee corrected its reported activity. GVP counsel requested that the Commission remove "Misstatement of Financial Activity" from the title of the finding.

Commission Conclusion

On March 11, 2021, the Commission considered the Audit Division Recommendation Memorandum finding of "Misstatement of Financial Activity – Increased Activity," in which the Audit Division recommended that the Commission find that GVP understated disbursements by \$106,674 on the original reports filed over the two-year period ending December 31, 2018.

The Commission approved the Audit staff's recommendation and changed the title of the finding to "Increased Activity (Corrected)."

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Grassroots Victory PAC and John Skic in his official capacity as treasurer **MUR** _____

I. INTRODUCTION

This matter arises from an audit of Grassroots Victory PAC's ("GVP's") activity during the 2018 election cycle. Following a Commission Final Audit Report finding that GVP understated its disbursements by \$106,674 on its original disclosure reports filed over the two-year period ending on December 31, 2018, GVP was referred to the Office of General Counsel ("OGC") for possible enforcement action. GVP filed a Response arguing that because it proactively corrected the misstated disbursements prior to the audit, which did not make any additional findings, the Commission should exercise its prosecutorial discretion and dismiss the matter without taking any further action.

For the reasons set forth below, the Commission finds reason to believe that GVP violated 52 U.S.C. § 30104(b) of the Federal Election Campaign Act of 1971, as amended (the "Act").

II. FACTUAL BACKGROUND

GVP is a nonconnected political action committee.¹ GVP initially disclosed combined total disbursements of \$127,214.46 on its Monthly Reports covering January 2017 through March 2018.² On January 30, 2018, GVP filed amended 2017 July, August, September,

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² *Infra* Figure 1.

October, November, and December Monthly Reports disclosing previously unreported disbursements of \$90,161.74.³ On February 26, 2018, the Commission's Reports Analysis Division ("RAD") sent Requests for Additional Information ("RFAs") to GVP referencing the amended September, October, and November Monthly Reports.⁴ On August 17 and 20, 2018, GVP filed a second set of amended reports, overlapping with the six reports from above and including an additional nine, disclosing total disbursements of \$239,957.77, a difference of \$112,743.31 compared to GVP's original reports covering January 2017 through March 2018.⁵ But because GVP's amended February 2018 Monthly Report disclosed a *decrease* in disbursements, the total misstated amount across all reports is \$141,843.29. The August 2018 amended reports included memo text responding to the RFAs:

In order to discover the source of these discrepancies, [GVP] hired a compliance firm to review all of its past reports and financial activities. This review has uncovered additional undisclosed disbursements, as well as some previously reported contributions and disbursements that require amendment.⁶

The below chart shows GVP's original reported disbursements and subsequent amendments:

³ *Id.*

⁴ *E.g.*, Grassroots Victory PAC, RFAI (Feb. 26, 2018), <https://docquery.fec.gov/pdf/177/201802270300000177/201802270300000177.pdf> (2017 September Monthly).

⁵ *Infra* Figure 1. Note that Figure 1 only shows the specific GVP Monthly Reports that initially misstated disbursements (totaling \$239,957.77) whereas GVP amended additional reports that did not present a misstatement from the original.

⁶ *E.g.*, Grassroots Victory PAC, Amended 2017 September Monthly Report Grassroots Victory PAC (Aug. 17, 2018), <https://docquery.fec.gov/pdf/575/201808179119956575/201808179119956575.pdf>.

Figure 1. GRASSROOTS VICTORY PAC – Amended Disbursements

Monthly Report	Original	Amended January 2018	Amended August 2018	Difference from Original
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Mar-2017	\$235.20		\$261.70	\$26.50
Apr-2017	\$111.46		\$171.41	\$59.95
May-2017	\$9,221.50		\$9,990.71	\$769.21
Jun-2017	\$0		\$246.26	\$246.26
Jul-2017	\$0	\$138.88	\$340.48	\$340.48
Aug-2017	\$0	\$374.16	\$1,140.24	\$1,140.24
Sep-2017	\$0	\$44,358.24	\$46,376.15	\$46,376.15
Oct-2017	\$0	\$31,272.78	\$26,512.23	\$26,512.23
Nov-2017	\$0	\$10,176.69	\$16,323.23	\$16,323.23
Dec-2017	\$0	\$3,840.99	\$7,403.24	\$7,403.24
YE 2017	\$79,798.51		\$82,518.87	\$2,720.36
Feb-2018	\$35,000.00		\$20,450.01	\$14,549.99
Mar-2018	\$2,259.24		\$27,283.27	\$25,024.03
Apr-2018	\$0		\$286.66	\$286.66
TOTAL	\$127,214.46	\$90,161.74	\$239,957.77	\$141,843.29

The single finding in the Final Audit Report (“FAR”) related to GVP’s original reported disbursements, which GVP corrected prior to the audit—discussed above.⁷ The total amount of GVP’s undisclosed disbursements in the FAR (\$106,674) is less than the final reported amended amount listed above (\$141,843.29), which is attributable to the Commission calculating the amount of the misstatement in absolute terms regardless of whether it was an under or overstatement of the correct amount.⁸

In response to OGC’s notification, GVP argues that enforcement is unwarranted.⁹ GVP acknowledges its original reporting errors, but argues that the Commission already concluded

⁷ Final Audit Report of Grassroots Victory PAC at 3 (Apr. 28, 2021).

⁸ The difference between \$112,743.31 (the final amended amount if the decreased activity reported on GVP’s amended 2018 February Monthly Report is treated as a negative) and \$106,674 (Final Audit Report) is \$6,069.31. This difference reflects GVP overreporting its 2017 disbursements by \$953.84 and its 2018 disbursements by \$5,115.48. Neither amount is included in the Final Audit Report.

⁹ Grassroots Victory PAC Resp. at 3 (July 16, 2021).

that GVP proactively came into compliance prior to the audit, and that the Commission should take no enforcement action and assess no civil penalty as a result.¹⁰ GVP also asserts that in previous cases where a committee proactively amended reports prior to Commission action, the Commission declined to impose any civil penalty.¹¹

III. LEGAL ANALYSIS

The Act requires committee treasurers to file reports of disbursements in accordance with the provisions of 52 U.S.C. § 30104(b)(4).¹² These reports must be timely and must include, *inter alia*, the total amount of disbursements, including the appropriate itemizations, where required.¹³ Here, as shown by its amendments filed on January 30, 2018, and August 17, 2018, GVP did not comply with the Act's reporting requirements when it misstated its disbursements in its original reports covering January 2017 through March 2018. As shown in Figure 1 above, the total amount of GVP's misstated disbursements is \$141,843.29.

Nonetheless, GVP argues that the Commission should dismiss because it proactively corrected the misstatements prior to the audit, which found no other problems with its 2018 election cycle reporting. However, the Commission proceeds in this matter in accordance with its established thresholds and procedures for handling findings that are the subject of a final audit report.

GVP points to two enforcement matters where the Commission did not seek a civil penalty from a committee when it proactively amended reports prior to Commission action, and

¹⁰ *Id.* at 1, 2.

¹¹ *See id.* at 2 (citing MURs 5198 (Cantwell) and 6386 (Steve Fincher for Congress)).

¹² 52 U.S.C. § 30104(a)(1); *see also* 11 C.F.R. § 104.1(a).

¹³ 52 U.S.C. § 30104(b); 11 C.F.R. § 104.3(a).

1 argues that the same result should apply here.¹⁴ Both matters, MUR 5198 (Cantwell) and MUR
2 6386 (Steve Fincher for Congress), were complaint-generated and involved candidate bank loans
3 that were not properly disclosed.¹⁵ However, more recently, the Commission has pursued
4 matters involving misstated disbursements where a committee proactively corrected the
5 mistakes.¹⁶

6 Under these circumstances, the Commission finds reason to believe that GVP violated
7 52 U.S.C. § 30104(b).

¹⁴ See Resp. at 2.

¹⁵ See First Gen. Counsel's Rpt. at 12-15, MUR 5198 (Cantwell); First Gen. Counsel's Rpt. at 4-6, MUR 6386 (Steve Fincher for Congress).

¹⁶ See, e.g., MUR 7916 (Rebuilding America Now); MUR 7895 (Democratic Services Corp./Democratic National Committee); MUR 7603 (Wyoming Republican Party); MUR 7599 (Nevada State Democratic Party); MUR 7598 (South Carolina Democratic Party); MUR 7597 (Texas Democratic Party).