

**FEDERAL ELECTION COMMISSION****FIRST GENERAL COUNSEL'S REPORT****RAD REFERRAL: 21L-33**

DATE FILED: May 25, 2021

DATE OF NOTIFICATION: May 26, 2021

LAST RESPONSE RECEIVED: June 10, 2021

DATE ACTIVATED: August 26, 2021

SOL EXPIRATION: July 23, 2025 /Oct. 4, 2025

ELECTION CYCLE: 2020

**SOURCE:** Internally Generated**RESPONDENT:** Just the Truth Political Action Committee  
and Jodi Schwartz in her official capacity as  
treasurer**RELEVANT STATUTES  
AND REGULATIONS:**

52 U.S.C. § 30101(17)

52 U.S.C. § 30104(b)

52 U.S.C. § 30104(g)(2)

11 C.F.R. § 104.4(b)

**REPORTS CHECKED:** Disclosure Reports**FEDERAL AGENCIES CHECKED:** None**I. INTRODUCTION**

The Reports Analysis Division ("RAD") referred Just the Truth Political Action Committee and Jodi Schwartz in her official capacity as treasurer ("Committee") to the Office of General Counsel for failing to timely file eight 48-Hour Reports that supported ten independent expenditures totaling \$455,309.94 disclosed on its amended 2020 October Quarterly Report and one 48-Hour Report supporting two independent expenditures totaling \$76,858.83 disclosed on its 2020 12-Day Pre-General Report.

1           In response, the Committee states that the failure to timely file the 48-Hour Reports was  
2           unintended and it has filed the reports and changed its procedures to ensure future compliance.  
3           Accordingly, we recommend that the Commission open a MUR, find reason to believe that the  
4           Committee violated 52 U.S.C. § 30104(g)(2) by failing to timely file 48-Hour independent  
5           expenditures reports, enter into pre-probable cause conciliation with the Committee, and  
6           approve the attached conciliation agreement.

## 7       **II.     FACTUAL BACKGROUND**

8           The Committee is an independent expenditure-only political committee registered with  
9           the Commission.<sup>2</sup> The Committee filed an amended 2020 October Quarterly Report disclosing  
10          independent expenditures totaling \$455,309.94 and a 2020 12-Day Pre-General Report  
11          disclosing independent expenditures totaling \$76,858.83, all of which were in opposition to  
12          Presidential candidate Donald Trump and paid to Waldron Strategies, a communications  
13          company.<sup>3</sup> However, the Committee did not file 48-Hour Reports for these independent  
14          expenditures, which were either greater than \$10,000, or when aggregated greater than \$10,000,  
15          and listed below:

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<sup>2</sup>       *See* Just the Truth Political Action Committee Statement of Organization (May 26, 2020).

<sup>3</sup>       Just the Truth Political Action Committee Amended 2020 October Quarterly Report at 61-70 (Oct. 21, 2020); Just the Truth Political Action Committee 2020 12-Day Pre-General Report at 9-10 (Oct. 21, 2020).

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<b>Disclosure Report</b>	<b>Expenditure Amount</b>	<b>Date</b>
Amended 2020 October Quarterly Report	\$ 8,053.23	July 9, 2020
Amended 2020 October Quarterly Report	\$ 11,200.00	July 21, 2020
Amended 2020 October Quarterly Report	\$ 15,000.00	July 28, 2020
Amended 2020 October Quarterly Report	\$ 13,309.38	August 3, 2020
Amended 2020 October Quarterly Report	\$ 27,500.00	August 7, 2020
Amended 2020 October Quarterly Report	\$ 80,500.00	August 14, 2020
Amended 2020 October Quarterly Report	\$134,375.00	September 3, 2020
Amended 2020 October Quarterly Report	\$ 10,372.33	September 3, 2020
Amended 2020 October Quarterly Report	\$ 90,000.00	September 18, 2020
Amended 2020 October Quarterly Report	\$ 65,000.00	September 25, 2020
2020 12-Day Pre-General Report	\$ 7,858.83	October 1, 2020
2020 12-Day Pre-General Report	\$ 69,000.00	October 2, 2020
<b>TOTAL</b>	<b>\$532,168.77</b>	

1  
 2 RAD sent a Request for Additional Information (“RFAI”) to the Committee on  
 3 December 20, 2020, informing it that it may have failed to file one or more 48-Hour Reports  
 4 concerning independent expenditures disclosed on its amended 2020 October Quarterly  
 5 Report.<sup>4</sup> The Committee responded to the RFAI on December 23, 2020, by filing a  
 6 Miscellaneous Report (“Form 99”) stating, “we were unaware prior to the receipt of the  
 7 correspondence of the obligation regarding 48-hour reporting for each independent expenditure  
 8 over \$10,000 (aggregate).”<sup>5</sup> The Committee also stated that it had immediately submitted  
 9 appropriate filings for all independent expenditures on the cited report as well as subsequent  
 10 reports and had modified procedures to ensure compliance in the future.<sup>6</sup> On the same day, the

<sup>4</sup> See Just the Truth Political Action Committee, RFAI (Dec. 20, 2020).

<sup>5</sup> Just the Truth Political Action Committee Form 99 (Dec. 23, 2020).

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

1 Committee filed a 48-Hour Report for the independent expenditures identified by RAD that had  
2 been disclosed on the amended 2020 October Quarterly Report but not in 48-Hour Reports.<sup>7</sup>

3 RAD also sent an RFAI to the Committee on February 11, 2021, regarding the failure to  
4 file one or more 48-Hour Reports for independent expenditures totaling \$76,858.83 first  
5 disclosed on the Committee's 2020 12-Day Pre-General Report.<sup>8</sup> The Committee responded to  
6 this RFAI on March 10, 2021, by filing a Form 99, which stated similar points to those made in  
7 response to the first RFAI and also stated that it had filed a 48-Hour Report for these particular  
8 independent expenditures in response to the first RFAI.<sup>9</sup>

9 In response to the Office of General Counsel's notification of the RAD Referral, the  
10 Committee states that it immediately filed the "delinquent" 48-Hour Reports after it received  
11 the first RFAI and that the error to file timely 48-Hour Reports was "unintended negligence."<sup>10</sup>  
12 The Committee also states that it has "altered procedures to ensure delinquent reporting of [48-  
13 Hour Reports] does not happen in the future" and it will draft 48-Hour Reports "at the end of  
14 each day that disbursements are made."<sup>11</sup>

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<sup>7</sup> *Id.* See Just the Truth Political Action Committee 48-Hour Report (Image #202012239393683166) (Dec 23, 2020).

<sup>8</sup> Just the Truth Political Action Committee, RFAI (Feb. 11, 2021).

<sup>9</sup> Just the Truth Political Action Committee Form 99 (Mar. 10, 2021). See Just the Truth Political Action Committee 48-Hour Report (Image # 202012239393683179) (Dec. 23, 2020).

<sup>10</sup> Committee Resp. at 1 (June 10, 2021).

<sup>11</sup> *Id.*

### 1     **III.     LEGAL ANALYSIS**

2             The Federal Election Campaign Act of 1971, as amended (the “Act”), requires  
 3     committee treasurers to file reports of receipts and disbursements in accordance with the  
 4     provisions of the 52 U.S.C. § 30104(b).<sup>12</sup> The reporting requirement includes reporting  
 5     independent expenditures made by political committees other than authorized committees. The  
 6     term “independent expenditure” means an expenditure by a person expressly advocating the  
 7     election or defeat of a clearly identified candidate that is not made in concert or in cooperation  
 8     with, or at the request or suggestion of, such candidate, the candidate’s committee, or their  
 9     agents.<sup>13</sup> Every political committee that makes independent expenditures must report them in its  
 10    regularly scheduled disclosure reports in accordance with 11 C.F.R. § 104.3(b)(3)(vii).

11            A political committee that makes independent expenditures aggregating \$10,000 or more  
 12    for an election in any calendar year, up to and including the 20th day before an election, must  
 13    also report these expenditures within 48 hours.<sup>14</sup> These reports, known as 48-Hour Reports,  
 14    must be filed by the end of the second day “following the date on which a communication that  
 15    constitutes an independent expenditure is publicly distributed or otherwise publicly  
 16    disseminated.”<sup>15</sup>

17            The Committee admits that it failed to timely file the required 48-Hour Reports for  
 18    independent expenditures totaling \$532,168.77 first disclosed on its Amended 2020 October  
 19    Quarterly Report and 2020 12-Day Pre-General Report. We recommend that the Commission

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<sup>12</sup>     52 U.S.C. § 30104(a)(1); 11 C.F.R. § 104.4(a).

<sup>13</sup>     52 U.S.C. § 30101(17).

<sup>14</sup>     52 U.S.C. § 30104(g)(2); 11 C.F.R. § 104.4(b)(2).

<sup>15</sup>     11 C.F.R. § 104.4(b)(2).

open a matter under review and find reason to believe that the Committee violated 52 U.S.C. § 30104(g)(2).

## **V. RECOMMENDATIONS**

1. Open a MUR;
2. Find reason to believe that Just the Truth Political Action Committee and Jodi Schwartz in her official capacity as treasurer violated 52 U.S.C. § 30104(g)(2);
3. Approve the attached Factual and Legal Analysis;
4. Enter into conciliation with Just the Truth Political Action Committee and Jodi Schwartz in her official capacity as treasurer prior to a finding of probable cause to believe;

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5. Approve the attached Conciliation Agreement; and

6. Approve the appropriate letter.

Lisa J. Stevenson  
Acting General Counsel

Charles Kitcher  
Associate General Counsel for Enforcement

11.24.2021

Date

*Peter G. Blumberg*  
Peter G. Blumberg  
Acting Deputy Associate General Counsel

*Mark Allen*  
Mark Allen  
Assistant General Counsel

*Delbert K. Rigsby*  
Delbert K. Rigsby  
Attorney

Attachments

1. Factual and Legal Analysis

**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

**RESPONDENT:** Just the Truth Political Action Committee  
and Jodi Schwartz in her official capacity  
treasurer

**MUR** \_\_\_\_\_

**I. INTRODUCTION**

This information was generated by information ascertained by the Federal Election Commission (“Commission”) in the normal course of carrying out its supervisory responsibilities.<sup>1</sup> The Commission’s Reports Analysis Division (“RAD”) referred Just the Truth Political Action Committee and Jodi Schwartz in her official capacity as treasurer (“Committee”) to the Office of General Counsel for failing to timely file eight 48-Hour Reports that supported ten independent expenditures totaling \$455,309.94 disclosed on its amended 2020 October Quarterly Report and one 48-Hour Report supporting two independent expenditures totaling \$76,858.83 disclosed on its 2020 12-Day Pre-General Report.

In response, the Committee states that the failure to timely file the 48-Hour Reports was unintended and it has filed the reports and changed its procedures to ensure future compliance. Accordingly, the Committee found that there is reason to believe that the Committee violated 52 U.S.C. § 30104(g)(2).

**II. FACTUAL BACKGROUND**

The Committee is an independent expenditure-only political committee registered with the Commission.<sup>2</sup> The Committee filed an amended 2020 October Quarterly Report disclosing independent expenditures totaling \$455,309.94 and a 2020 12-Day Pre-General Report

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<sup>1</sup> See 52 U.S.C. § 30109(a)(2).

<sup>2</sup> See Just the Truth Political Action Committee Statement of Organization (May 26, 2020).



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Factual and Legal Analysis

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disclosing independent expenditures totaling \$76,858.83, all of which were in opposition to Presidential candidate Donald Trump and paid to Waldron Strategies, a communications company.<sup>3</sup> However, the Committee did not file 48-Hour Reports for these independent expenditures, which were either greater than \$10,000, or when aggregated greater than \$10,000, and listed below:

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over \$10,000 (aggregate).”<sup>5</sup> The Committee also stated that it had immediately submitted appropriate filings for all independent expenditures on the cited report as well as subsequent reports and had modified procedures to ensure compliance in the future.<sup>6</sup> On the same day, the Committee filed a 48-Hour Report for the independent expenditures identified by RAD that had been disclosed on the amended 2020 October Quarterly Report but not in 48-Hour Reports.<sup>7</sup>

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### III. LEGAL ANALYSIS

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A political committee that makes independent expenditures aggregating \$10,000 or more for an election in any calendar year, up to and including the 20th day before an election, must also report these expenditures within 48 hours.<sup>14</sup> These reports, known as 48-Hour Reports, must be filed by the end of the second day “following the date on which a communication that constitutes an independent expenditure is publicly distributed or otherwise publicly disseminated.”<sup>15</sup>

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<sup>11</sup> *Id.*

<sup>12</sup> 52 U.S.C. § 30104(a)(1); 11 C.F.R. § 104.4(a).

<sup>13</sup> 52 U.S.C. § 30101(17).

<sup>14</sup> 52 U.S.C. § 30104(g)(2); 11 C.F.R. § 104.4(b)(2).

<sup>15</sup> 11 C.F.R. § 104.4(b)(2).

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1           The Committee admits that it failed to timely file the required 48-Hour Reports for  
2 independent expenditures totaling \$532,168.77 first disclosed on its Amended 2020 October  
3 Quarterly Report and 2020 12-Day Pre-General Report. The Commission found that there is  
4 reason to believe that the Committee violated 52 U.S.C. § 30104(g)(2).