

FEDERAL ELECTION COMMISSION
FIRST GENERAL COUNSEL'S REPORT

RAD REFERRAL 21L-53

DATE FILED: Aug. 6, 2021

DATE OF NOTIFICATION: Aug. 11, 2021

DATE OF LAST RESPONSE: Sept. 13, 2021

DATE ACTIVATED: Oct. 7, 2021

EXPIRATION OF SOL: Oct. 22, 2025 –
Feb. 8, 2026

ELECTION CYCLE: 2020

SOURCE: Internally Generated**RESPONDENT:** Washington State Democratic Central Committee
and Julie Johnson in her official capacity
as treasurer**RELEVANT STATUTE
AND REGULATION:** 52 U.S.C. § 30104(b)(2), (4)
11 C.F.R. § 104.3(a), (b)**INTERNAL REPORTS CHECKED:** Disclosure Reports**FEDERAL AGENCIES CHECKED:** None**I. INTRODUCTION**

The Reports Analysis Division (“RAD”) referred the Washington State Democratic Central Committee and Julie Johnson in her official capacity as treasurer (the “Committee”) for failure to timely disclose certain receipts and disbursements on its 2020 12-Day Pre-General Report after the Committee, a state committee of the Democratic Party, amended the report to show \$250,000 in receipts and \$250,000 in disbursements that were not initially disclosed.¹ The Committee acknowledges the omissions but contends that they resulted from an inadvertent error

¹ Referral at 1 (Aug. 6, 2021); Washington State Democratic Central Committee, Amended Statement of Organization at 2 (Oct. 4, 2021).

1 and that it has taken steps to ensure that such errors will not happen again.² The Committee
2 requests that the Commission either take no further action or refer this matter to the Alternative
3 Dispute Resolution Office.³

4 Respondent acknowledges that it initially failed to disclose the two transactions totaling
5 \$500,000 in its 12-Day Pre-General Report. Additionally, RAD determined that
6 the fact that the Committee later
7 amended its report does not excuse the violation. Accordingly, we recommend that the
8 Commission open a Matter Under Review (“MUR”), find reason to believe that the Committee
9 violated 52 U.S.C. § 30104(b)(2) and (4) of the Federal Election Campaign Act of 1971, as
10 amended (the “Act”), and authorize pre-probable cause conciliation.

11 **II. FACTUAL BACKGROUND**

12 The Committee initially filed its 2020 12-Day Pre-General Report on October 22, 2020,
13 disclosing \$38,272 in receipts identified as transfers from Affiliated/Other Party Committees and
14 \$0 in disbursements identified as transfers to Affiliated/Other Party Committees.⁴ On February
15 8, 2021, more than three months later and after the 2020 general election, the Committee
16 amended the report and disclosed an additional \$250,000 in transfers from Affiliated/Other Party
17 Committees and \$250,000 in transfers made to Affiliated/Other Party Committees.⁵

18 The previously unreported transactions are a \$250,000 transfer the Committee received
19 from the Biden Victory Fund on October 13, 2020, and a \$250,000 transfer the Committee made

² Resp. at 1-2 (Sept. 13, 2021).

³ *Id.* at 1.

⁴ Referral at 1; Washington State Democratic Central Committee, 2020 12-Day Pre-General Report at 3-4 (Oct. 22, 2020).

⁵ Referral at 2; Washington State Democratic Central Committee, Amended 2020 12-Day Pre-General Report at 3-4 (Feb. 8, 2021) (“Amended Report”).

1 to the Democratic Executive Committee of Florida on the same day.⁶ On April 28, 2021, in
2 response to a Request for Additional Information about the newly disclosed transfers, the
3 Committee stated that it had “inadvertently omitted activity from a segregated bank account that
4 had very limited activity” and had amended its report “immediately” upon discovering the
5 “oversight.”⁷

6 The Committee argues that the Commission should “take no further action” in this matter
7 or refer it to the Alternative Dispute Resolution Office (“ADRO”).⁸ The Committee states that
8 the transfers were not initially reported due to an “internal miscommunication between
9 [Committee] staff and consultants as to the account that was being used to make these
10 transactions” and that the error was not immediately detected because the omissions did not
11 change the Committee’s cash on hand.⁹ The Committee states that the consultant is responsible
12 for preparing the Committee’s reports.¹⁰ The Committee contends that it discovered the error in
13 early December 2020 when preparing its 30-Day Post-General Report and prepared an amended
14 report but “[f]or reasons that the [Committee] cannot explain, the amended report was not
15 uploaded to the Commission.”¹¹ The Committee filed the amended report after another state

⁶ Amended Report at 102, 113.

⁷ Referral at 2; Washington State Democratic Central Committee, Amended 2020 12-Day Pre-General Report at 6 (Apr. 28, 2021). Although the Committee did not promptly report the two \$250,000 transfers, they were timely reported by the other committees involved. *See* Biden Victory Fund, 2020 12-Day Pre-General Report at 50,534 (Oct. 22, 2020) (reporting a \$250,000 disbursement to the Washington State Democratic Central Committee dated Oct. 13, 2020); Democratic Executive Committee of Florida, 2020 12-Day Pre-General Report at 1129 (Oct. 22, 2020) (reporting a \$250,000 transfer received from the “Washington Democratic Party” on October 13, 2020).

⁸ Resp. at 1-2.

⁹ *Id.* at 1.

¹⁰ *Id.* at 2.

¹¹ *Id.* at 1.

1 party committee notified it in February 2021 that a transfer to that committee had not been
2 disclosed in the Committee's reports.¹²

3 The Committee asserts that it has "taken steps to ensure that these errors do not happen
4 again, including full reconciliation of all accounts before reports are filed, as well as seeking
5 confirmation, through receipt[,], that all filings have been received by the Commission on a
6 timely basis."¹³ The Committee also states that its staff and consultants participated in a
7 September 10, 2021, training program with RAD.¹⁴

8 **III. LEGAL ANALYSIS**

9 The Act requires political committee treasurers to file reports of receipts and
10 disbursements in accordance with the provisions of 52 U.S.C. § 30104.¹⁵ These reports must
11 include, among other things, the total amount of receipts and disbursements, including the
12 appropriate itemizations, where required.¹⁶

13 The Committee admits that it failed to include receipts and disbursements totaling
14 \$500,000 in its original 12-Day Pre-General Report.¹⁷ Nevertheless, the Committee requests that

¹² *Id.*

¹³ *Id.* at 2.

¹⁴ *Id.* The Committee states that, as part of the training program, it agreed to "provide further clarification with respect to the circumstances surrounding the omissions that are subject to this referral." *Id.* This appears to refer to a Form 99 that the Committee filed with the Commission on October 1, 2021. The Form 99 states that the initial omission was caused by miscommunication relating to "activity in a recently opened committee account" and that the amended report was not filed immediately after the error was discovered due to "unknown technical errors" but was ultimately filed after the "failed upload" was discovered. Washington State Democratic Central Committee, Form 99 (Oct. 1, 2021).

¹⁵ 52 U.S.C. § 30104(a)(1); 11 C.F.R. § 104.1(a).

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

¹⁷ Resp. at 1-2.

1 the Commission take no further action or transfer this matter to ADRO.¹⁸ However, the
2 Committee offers no law or precedent indicating that those outcomes are merited.

3 In prior similar matters, the Commission has found reason to believe that the relevant
4 committee violated the Act. For example, in MUR 7597 (Texas Democratic Party, *et al.*), the
5 committee failed to timely report \$800,000 in transfers from Affiliated/Other Party Committees
6 and the same amount in transfers to Affiliated/Other Party Committees.¹⁹ The committee
7 characterized the omissions as the result of “an inadvertent data entry error” and requested that
8 the matter be dismissed or referred to ADRO.²⁰ The Commission, noting that the transactions
9 were disclosed about six months late and four months past the relevant general election, found
10 reason to believe that the Committee violated the Act’s reporting requirements and the
11 committee paid a civil penalty.²¹ As to the Committee’s request that this matter be transferred to
12 ADRO,

13
14 Accordingly, we recommend that the Commission open a MUR, find reason to believe
15 that the Committee violated 52 U.S.C. § 30104(b)(2) and (4) by failing to timely disclose
16 disbursements, and authorize pre-probable cause conciliation.

¹⁸ *Id.* at 2.

¹⁹ Factual & Legal Analysis (“F&LA”) at 1-2, MUR 7597 (Texas Democratic Party, *et al.*).

²⁰ *Id.* at 2-3.

²¹ *Id.* at 4; Conciliation Agreement ¶ VI.1, MUR 7597 (Texas Democratic Party, *et al.*).

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V. RECOMMENDATIONS

1. Open a MUR;
2. Find reason to believe that the Washington State Democratic Central Committee and Julie Johnson in her official capacity as treasurer violated 52 U.S.C. § 30104(b)(2) and (4) by failing to report receipts and disbursements;
3. Approve the attached Factual and Legal Analysis;

1 4. Approve the attached proposed Conciliation Agreement; and

2 5. Approve the appropriate letter.

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Lisa J. Stevenson
Acting General Counsel

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Charles Kitcher
Associate General Counsel for Enforcement

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12 1/5/22

Peter G. Blumberg

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14 Date

Peter G. Blumberg
Acting Deputy Associate General Counsel for
Enforcement

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Anne B. Robinson

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Anne B. Robinson
Acting Assistant General Counsel

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Laura Conley

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Laura Conley
Attorney

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28 Attachments:

- 29 1. Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

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5 RESPONDENT: Washington State Democratic Central MUR ____
6 Committee and Julie Johnson in her
7 official capacity as treasurer
8

I. INTRODUCTION

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11 Central Committee and Julie Johnson in her official capacity as treasurer (the “Committee”) for
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13 Report after the Committee, a state committee of the Democratic Party, amended the report to
14 show \$250,000 in receipts and \$250,000 in disbursements that were not initially disclosed.¹ The
15 Committee acknowledges the omissions but contends that they resulted from an inadvertent error
16 and that it has taken steps to ensure that such errors will not happen again.² The Committee
17 requests that the Commission either take no further action or refer this matter to the Alternative
18 Dispute Resolution Office.³

19 Respondent acknowledges that it initially failed to disclose the two transactions totaling
20 \$500,000 in its 12-Day Pre-General Report, and the fact that the Committee later amended its
21 report does not excuse the violation. Accordingly, the Commission finds reason to believe that
22 the Committee violated 52 U.S.C. § 30104(b)(2) and (4) of the Federal Election Campaign Act
23 of 1971, as amended (the “Act”).

¹ Referral at 1 (Aug. 6, 2021); Washington State Democratic Central Committee, Amended Statement of Organization at 2 (Oct. 4, 2021).

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¹⁷ Resp. at 1-2.

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²¹ *Id.* at 4; Conciliation Agreement ¶ VI.1, MUR 7597 (Texas Democratic Party, *et al.*).

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Factual and Legal Analysis
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- 1 Accordingly, the Commission finds reason to believe that the Committee violated 52
- 2 U.S.C. § 30104(b)(2) and (4) by failing to timely disclose disbursements.