



FEDERAL ELECTION COMMISSION
Washington, DC 20463

VIA ELECTRONIC MAIL

March 31, 2022

Neil Reiff
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1090 Vermont Ave NW, Suite 750
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RE: MUR 7970 (RR 21L-53)
Washington State Democratic
Central Committee and Julie
Johnson in her official capacity as
treasurer

Dear Mr. Reiff:

On March 22, 2022, the Federal Election Commission found reason to believe that your client, the Washington State Democratic Central Committee and Julie Johnson in her official capacity as treasurer (the "Committee"), violated 52 U.S.C. § 30104(b)(2) and (4) of the Federal Election Campaign Act of 1971, as amended (the "Act") by failing to report receipts and disbursements. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is enclosed for your information.

In order to expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations, but it is a voluntary step in the enforcement process that the Commission is offering to your client as a way to resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that your client violated the law.

MUR 7970 (Washington State Democratic Central Committee)
Mr. Reiff
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If your client agrees with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 60 days, your client should respond to this notification as soon as possible. Accordingly, if your client is interested in engaging in pre-probable cause conciliation negotiations, please contact Laura Conley, the attorney assigned to this matter, at (202) 694-1475 or lconley@fec.gov within seven days of receipt of this letter.

During conciliation, your client may submit any factual or legal materials that it believes are relevant to the resolution of this matter. Because the Commission only enters into pre-probable cause conciliation in matters that it believes have a reasonable opportunity for settlement, we may proceed to the next step in the enforcement process if a mutually acceptable conciliation agreement cannot be reached within 60 days. *See* 52 U.S.C. § 30109(a), 11 C.F.R. Part 111 (Subpart A). Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding.

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. This matter will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) unless your client notifies the Commission in writing that it wishes the matter to be made public.

We look forward to your response.

On behalf of the Commission,

A handwritten signature in blue ink, appearing to read "Allen Dickerson", enclosed within a blue ink rectangular box.

Allen Dickerson
Chairman

Enclosures
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Washington State Democratic Central MUR 7970
Committee and Julie Johnson in her
official capacity as treasurer

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

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

² Resp. at 1-2 (Sept. 13, 2021).

³ *Id.* at 1.

II. FACTUAL BACKGROUND

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

The previously unreported transactions are a \$250,000 transfer the Committee received from the Biden Victory Fund on October 13, 2020, and a \$250,000 transfer the Committee made to the Democratic Executive Committee of Florida on the same day.⁶ On April 28, 2021, in response to a Request for Additional Information about the newly disclosed transfers, the Committee stated that it had “inadvertently omitted activity from a segregated bank account that had very limited activity” and had amended its report “immediately” upon discovering the “oversight.”⁷

The Committee argues that the Commission should “take no further action” in this matter or refer it to the Alternative Dispute Resolution Office (“ADRO”).⁸ The Committee states that

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”).

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.

1 the transfers were not initially reported due to an “internal miscommunication between
2 [Committee] staff and consultants as to the account that was being used to make these
3 transactions” and that the error was not immediately detected because the omissions did not
4 change the Committee’s cash on hand.⁹ The Committee states that the consultant is responsible
5 for preparing the Committee’s reports.¹⁰ The Committee contends that it discovered the error in
6 early December 2020 when preparing its 30-Day Post-General Report and prepared an amended
7 report but “[f]or reasons that the [Committee] cannot explain, the amended report was not
8 uploaded to the Commission.”¹¹ The Committee filed the amended report after another state
9 party committee notified it in February 2021 that a transfer to that committee had not been
10 disclosed in the Committee’s reports.¹²

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

⁹ *Id.* at 1.

¹⁰ *Id.* at 2.

¹¹ *Id.* at 1.

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).

III. LEGAL ANALYSIS

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

The Committee admits that it failed to include receipts and disbursements totaling \$500,000 in its original 12-Day Pre-General Report.¹⁷ Nevertheless, the Committee requests that the Commission take no further action or transfer this matter to ADRO.¹⁸ However, the Committee offers no law or precedent indicating that those outcomes are merited.

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

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.

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.*).

MUR 7970 (Washington State Democratic Central Committee)

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.