

1 **FEDERAL ELECTION COMMISSION**

2
3 **FIRST GENERAL COUNSEL'S REPORT**

4
5 **RR 21L-52**

6 DATE REFERRED: Aug. 4, 2021

7 DATE OF NOTIFICATION: Aug. 10, 2021

8 RESPONSE RECEIVED: Sept. 24, 2021

9 DATE ACTIVATED: Nov. 19, 2021

10
11 EARLIEST SOL: Dec. 2, 2025

12 LATEST SOL: Jan. 15, 2026

13 ELECTION CYCLE: 2020

14
15 **SOURCE:** Internally Generated

16
17 **RESPONDENT:** Republican Party of Arkansas and Alisha Curtis in
18 her official capacity as treasurer

19
20 **RELEVANT STATUTE
21 AND REGULATIONS:**

22 52 U.S.C. § 30104(b)(2)-(4)

23 11 C.F.R. § 102.17(c)(8)(i)(B)

24 11 C.F.R. § 104.3(a), (b)

25 **INTERNAL REPORTS CHECKED:** Disclosure reports

26
27 **FEDERAL AGENCIES CHECKED:** None

28 **I. INTRODUCTION**

29 The Referral alleges that the Republican Party of Arkansas and Alisha Curtis in her
30 official capacity as treasurer (the "Committee") violated the Federal Election Campaign Act of
31 1971, as amended (the "Act"), and Commission regulations, by failing to disclose a total of
32 \$3,528,939 in receipts, and an equal amount of disbursements, on its original 2020 30-Day Post-
33 General and Year-End Reports. The activity was associated with five transfers from the Trump
34 Victory joint fundraising committee and subsequent transfers of those funds from the Committee
35 to the Republican National Committee ("RNC").

36 The Committee acknowledges that the receipts and disbursements were omitted from its
37 original reports, but requests that the Commission exercise its prosecutorial discretion and
38 dismiss the allegations or, alternatively, that the matter be transferred to the Alternative Dispute

1 Resolution Office (“ADRO”). As discussed below, the Committee’s arguments for dismissal or
 2 transfer to ADRO are unconvincing. We therefore recommend that the Commission find reason
 3 to believe that the Committee violated 52 U.S.C. § 30104(b)(2), (4) and 11 C.F.R. § 104.3(a), (b)
 4 by misreporting its receipts and disbursements and authorize pre-probable cause conciliation
 5 with the Committee.

6 **II. FACTUAL BACKGROUND**

7 The Republican Party of Arkansas is a state party committee (“SPC”); Alisha Curtis is
 8 the Committee’s treasurer.¹ Trump Victory is a joint fundraising committee that, at the time of
 9 the relevant transfers, was collecting contributions for Donald J. Trump for President, Inc., the
 10 RNC, and 46 Republican SPCs, including the Committee.² During the 2020 election cycle, the
 11 Committee received five transfers from Trump Victory and made five corresponding transfers
 12 the same day to the RNC, none of which were disclosed on the Committee’s original reports:

Trump Victory Transfers to Committee ³		Committee Transfers to RNC ⁴	
Oct. 15, 2020	\$2,106,841.72	Oct. 15, 2020	\$2,106,841.72
Oct. 23, 2020	\$451,103.60	Oct. 23, 2020	\$451,103.60
Oct. 30, 2020	\$402,133.23	Oct. 30, 2020	\$402,133.23
Nov. 4, 2020	\$287,031.04	Nov. 4, 2020	\$287,031.04
Nov. 24, 2020	\$281,829.43	Nov. 24, 2020	\$281,829.43
Total	\$3,528,939.02	Total	\$3,528,939.02

13 On December 2, 2020, the Committee filed its original 2020 30-Day Post-General Report
 14 covering the period from October 15, 2020, through November 23, 2020.⁵ On January 12, 2021,

¹ Republican Party of Arkansas, Amended Statement of Org. (Jan. 15, 2021).

² Trump Victory, Amended Statement of Org. (Sept. 23, 2020); Resp. at 1 (Sept. 24, 2021).

³ *FEC Receipts: Filtered Results*, FEC.GOV, https://www.fec.gov/data/receipts/?data_type=processed&committee_id=C00084954&contributor_name=C00618389&two_year_transaction_period=2020 (last visited Dec. 2, 2021) (reflecting Committee receipts from Trump Victory).

⁴ *FEC Receipts: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00084954&recipient_name=C00003418&two_year_transaction_period=2020 (last visited Dec. 2, 2021) (reflecting disbursements from the Committee to the RNC).

⁵ Referral at 1 (Aug. 4, 2021); Republican Party of Arkansas, 30-Day Post-General Report (Dec. 2, 2020).

1 the Committee filed its original 2020 Year-End Report covering the period from November 24,
2 2020, through December 31, 2020.⁶ Both reports disclosed \$0.00 in receipts on Line 12 for
3 “Transfers from Affiliated/Other Party Committees” and \$0.00 in disbursements on Line 22 for
4 “Transfers to Affiliated/Other Party Committees.”⁷

5 On March 12, 2021, the Committee filed amendments to both reports. The Amended
6 2020 30-Day Post-General Report disclosed \$3,247,109.59 in receipts on Line 12 and
7 \$3,247,109.59 on Line 22.⁸ The Amended 2020 Year-End Report disclosed \$281,829.43 in
8 receipts on Line 12 and \$281,829.43 in disbursements on Line 22.⁹ Additionally, both amended
9 reports included memo text stating that the amendments were being filed to disclose the transfers
10 from Trump Victory and subsequent transfers to the RNC.¹⁰

11 **III. LEGAL ANALYSIS**

12 As explained below, the Commission should find reason to believe that the Committee
13 violated the Act and Commission regulations by failing to accurately state its receipts and
14 disbursements.

15 The Act requires committee treasurers to file reports of receipts and disbursements in
16 accordance with the provisions of 52 U.S.C. § 30104.¹¹ These reports must include, *inter alia*,
17 the total amount of receipts and disbursements, including the appropriate itemizations, where

⁶ Referral at 2; Republican Party of Arkansas, 2020 Year-End Report (Jan. 12, 2021).

⁷ Referral at 1-2; Republican Party of Arkansas, 30-Day Post-General Report at 3-4 (Dec. 2, 2020);
Republican Party of Arkansas, 2020 Year-End Report at 3-4 (Jan. 12, 2021).

⁸ Referral at 2; Republican Party of Arkansas, Amended 30-Day Post-General Report at 3-4 (Mar. 12, 2021)

⁹ Referral at 2; Republican Party of Arkansas, Amended 2020 Year-End Report at 3-4 (Mar. 12, 2021).

¹⁰ Referral at 1-2; Republican Party of Arkansas, Amended 30-Day Post-General Report at 6 (Mar. 12, 2021);
Republican Party of Arkansas, Amended 2020 Year-End Report at 6 (Mar. 12, 2021).

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

1 required.¹² Here the Committee did not comply with the Act's reporting requirements when it
2 failed to disclose a total of \$7,057,878.04 in aggregate receipts and disbursements.

3 In its Response, the Committee does not explain how these large transfers went
4 unreported, but rather simply asserts that they were "inadvertent omission[s]."¹³ The Committee
5 also notes that Trump Victory and the RNC timely reported the transfers and argues that, because
6 the public could find the information on those committees' reports, the "harm to the public's
7 informational interest caused by the [Committee]'s inadvertent omission is significantly less than
8 the harm caused by failing to file entire reports or failing to report information that is not
9 publicly available on reports filed by other political committees."¹⁴

10 In a similar previous increased activity case involving multi-million dollar Trump
11 Victory transfers into and out of the Wyoming Republican Party, the Commission found reason
12 to believe that the SPC in that matter had violated 52 U.S.C. § 30104(a), (b) and 11 C.F.R.
13 § 104.3(a), (b) by failing to report \$2,890,378.82 in aggregate receipts and disbursements. The
14 facts of that case are indistinguishable from the facts of this case: both involve millions in
15 transfers that went unreported by the SPC but were reported by Trump Victory and the RNC, and
16 were only amended several months after the filing of the original election-sensitive reports.¹⁵
17 We recommend that the Commission take the same approach here and find reason to believe that

¹² See 52 U.S.C. § 30104(b)(2), (4); 11 C.F.R. § 104.3(a), (b).

¹³ Resp. at 1-2.

¹⁴ *Id.* at 2.

¹⁵ See Referral at 1-2; Factual & Legal Analysis at 1-4, MUR 7603 (Wyoming Republican Party); First Gen. Counsel's Rpt. at 7, MUR 7603 (noting that the relevant reports were election sensitive); *infra* note 20 and accompanying text (explaining that the bulk of the misreporting activity in this matter, \$6,494,219, was on the Committee's 2020 30-Day Pre-General Report, which is election sensitive).

1 the Committee violated 52 U.S.C. § 30104(b)(2), (4) and 11 C.F.R. § 104.3(a), (b) by
2 misreporting \$7,057,878.04 in aggregate receipts and disbursements.¹⁶

3
4
5
6
7
8
9
10
11
12

¹⁶ The Office of General Counsel (“OGC”) recommended transferring another SPC Trump Victory reporting case to ADRO, but that case involved a significantly lower amount in violation — approximately \$827,000 — and more critically, the relevant Trump Victory transfers had not yet occurred when the SPC filed its original report several weeks early making the report technically accurate at the time that it was filed, and the SPC filed its amended report a mere 21 days after the deficient October Monthly report and prior to the 2016 general election. RR 17L-27 (North Dakota Republican Party) (later transferred back to OGC to be analyzed concurrently with another enforcement matter with potentially overlapping facts, and subsequently transferred back to ADRO for final disposition).

RR 21L-52 (Republican Party of Arkansas)

First General Counsel's Report

Page 6 of 7

1

2

3

4

5

V. RECOMMENDATIONS


1. Open a MUR in RR 21L-52;
2. Find reason to believe that the Republican Party of Arkansas and Alisha Curtis in her official capacity as treasurer violated 52 U.S.C. § 30104(b)(2), (4) and 11 C.F.R. § 104.3(a), (b) by misreporting receipts and disbursements;
3. Approve the attached Factual and Legal Analysis;
4. Authorize pre-probable cause conciliation with the Republican Party of Arkansas and Alisha Curtis in her official capacity as treasurer;
5. Approve the attached Proposed Conciliation Agreement; and
6. Approve the appropriate letters.

Lisa J. Stevenson
Acting General Counsel


Charles Kitcher
Associate General Counsel for Enforcement

February 7, 2022


Date



Claudio J. Pavia
Acting Deputy Associate General Counsel for
Enforcement



Mark Shonkwiler
Assistant General Counsel



Ray Wolcott
Attorney