



## FEDERAL ELECTION COMMISSION

Washington, D.C. 20463

May 17, 2022

**Via Email**

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Michael E. Toner, Esq.  
Brandis L. Zehr, Esq.  
Wiley Rein LLP  
1776 K St. NW  
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RE: MUR 7999  
Republican Party of Arkansas

Dear Mr. Toner and Ms. Zehr:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission (the “Commission”) became aware of information suggesting that your clients, the Republican Party of Arkansas and Alisha Curtis in her official capacity as treasurer (the “Committee”), may have violated the Federal Election Campaign Act of 1971, as amended (the “Act”). On January May 12, 2022, the Commission found reason to believe that the Committee violated 52 U.S.C. § 30104(b)(2), (4) and 11 C.F.R. § 104.3(a), (b) by misreporting 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 is a voluntary step in the enforcement process that the Commission is offering to your clients 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 you violated the law.

Enclosed is a conciliation agreement for your clients’ consideration

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If your clients are interested in engaging in pre-probable cause conciliation, please contact Ray Wolcott, the attorney assigned to this matter, at (202) 694-1302 or [rwlcott@fec.gov](mailto:rwlcott@fec.gov) within seven days of receipt of this letter. During conciliation, your clients may submit any factual or legal materials that you believe 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 sixty days. *See 52 U.S.C. § 30109(a), 11 C.F.R. Part 111 (Subpart A).* Conversely, if your clients are not interested in pre-probable cause conciliation, the Commission may conduct formal discovery in this matter or proceed to the next step in the enforcement process. 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](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 you notify the Commission in writing that your clients wish the matter to be made public.

We look forward to your response.

On behalf of the Commission,



Allen Dickerson  
Chairman

Enclosures

Factual and Legal Analysis

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## FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Republican Party of Arkansas and Alisha Curtis MUR 7999  
in her official capacity as Treasurer

## I. INTRODUCTION

7 The Referral alleges that the Republican Party of Arkansas and Alisha Curtis as treasurer  
8 (the “Committee”) violated the Federal Election Campaign Act of 1971, as amended (the “Act”),  
9 and Commission regulations, by failing to disclose a total of \$3,528,939 in receipts, and an equal  
10 amount of disbursements, on its original 2020 30-Day Post-General and Year-End Reports. The  
11 activity was associated with five transfers from the Trump Victory joint fundraising committee  
12 and subsequent transfers of those funds from the Committee to the Republican National  
13 Committee (“RNC”).

14 The Committee acknowledges that the receipts and disbursements were omitted from its  
15 original reports, but requests that the Commission exercise its prosecutorial discretion and  
16 dismiss the allegations or, alternatively, that the matter be transferred to the Alternative Dispute  
17 Resolution Office (“ADRO”). As discussed below, the Committee’s arguments for dismissal or  
18 transfer to ADRO are unconvincing. The Commission therefore finds reason to believe that the  
19 Committee violated 52 U.S.C. § 30104(b)(2), (4) and 11 C.F.R. § 104.3(a), (b) by misreporting  
20 its receipts and disbursements.

## 21 II. FACTUAL BACKGROUND

22 The Republican Party of Arkansas is a state party committee (“SPC”); Alisha Curtis is  
23 the Committee’s treasurer.<sup>1</sup> Trump Victory is a joint fundraising committee that, at the time of

<sup>1</sup> Republican Party of Arkansas, Amended Statement of Org. (Jan. 15, 2021).

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1 the relevant transfers, was collecting contributions for Donald J. Trump for President, Inc., the  
 2 RNC, and 46 Republican SPCs, including the Committee.<sup>2</sup> During the 2020 election cycle, the  
 3 Committee received five transfers from Trump Victory and made five corresponding transfers  
 4 the same day to the RNC, none of which were disclosed on the Committee's original reports:

Trump Victory Transfers to Committee <sup>3</sup>		Committee Transfers to RNC <sup>4</sup>	
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
<b>Total</b>	<b>\$3,528,939.02</b>	<b>Total</b>	<b>\$3,528,939.02</b>

5 On December 2, 2020, the Committee filed its original 2020 30-Day Post-General Report  
 6 covering the period from October 15, 2020, through November 23, 2020.<sup>5</sup> On January 12, 2021,  
 7 the Committee filed its original 2020 Year-End Report covering the period from November 24,  
 8 2020, through December 31, 2020.<sup>6</sup> Both reports disclosed \$0.00 in receipts on Line 12 for  
 9 "Transfers from Affiliated/Other Party Committees" and \$0.00 in disbursements on Line 22 for  
 10 "Transfers to Affiliated/Other Party Committees."<sup>7</sup>

11 On March 12, 2021, the Committee filed amendments to both reports. The Amended  
 12 2020 30-Day Post-General Report disclosed \$3,247,109.59 in receipts on Line 12 and

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

<sup>3</sup> 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](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).

<sup>4</sup> 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](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).

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

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

<sup>7</sup> 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).

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1 \$3,247,109.59 on Line 22.<sup>8</sup> The Amended 2020 Year-End Report disclosed \$281,829.43 in  
 2 receipts on Line 12 and \$281,829.43 in disbursements on Line 22.<sup>9</sup> Additionally, both amended  
 3 reports included memo text stating that the amendments were being filed to disclose the transfers  
 4 from Trump Victory and subsequent transfers to the RNC.<sup>10</sup>

5 **III. LEGAL ANALYSIS**

6 The Act requires committee treasurers to file reports of receipts and disbursements in  
 7 accordance with the provisions of 52 U.S.C. § 30104.<sup>11</sup> These reports must include, *inter alia*,  
 8 the total amount of receipts and disbursements.<sup>12</sup> Here the Committee did not comply with the  
 9 Act's reporting requirements when it failed to disclose a total of \$7,057,878.04 in aggregate  
 10 receipts and disbursements.

11 In its Response, the Committee does not explain how these large transfers went  
 12 unreported, but rather simply asserts that they were “inadvertent omission[s].”<sup>13</sup> The Committee  
 13 also notes that Trump Victory and the RNC timely reported the transfers and argues that, because  
 14 the public could find the information on those committees’ reports, the “harm to the public’s  
 15 informational interest caused by the [Committee]’s inadvertent omission is significantly less than  
 16 the harm caused by failing to file entire reports or failing to report information that is not  
 17 publicly available on reports filed by other political committees.”<sup>14</sup>

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

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

<sup>10</sup> 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).

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

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

<sup>13</sup> Resp. at 1-2.

<sup>14</sup> *Id.* at 2.

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1        In a similar previous increased activity case involving multi-million-dollar Trump  
2        Victory transfers into and out of the Wyoming Republican Party, the Commission found reason  
3        to believe that the SPC in that matter had violated 52 U.S.C. § 30104(a), (b) and 11 C.F.R.  
4        § 104.3(a), (b) by failing to report \$2,890,378.82 in aggregate receipts and disbursements. The  
5        facts of that case are indistinguishable from the facts of this case: both involve millions in  
6        transfers that went unreported by the SPC but were reported by Trump Victory and the RNC, and  
7        were only amended several months after the filing of the original reports.<sup>15</sup> The Commission  
8        takes the same approach here and finds reason to believe that the Committee violated 52 U.S.C.  
9        § 30104(b)(2), (4) and 11 C.F.R. § 104.3(a), (b) by misreporting \$7,057,878.04 in aggregate  
10      receipts and disbursements.

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<sup>15</sup> 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.