



**FEDERAL ELECTION COMMISSION**  
Washington, DC 20463

**VIA ELECTRONIC MAIL**

August 12, 2022

Neil Reiff, Esq.  
Sandler Reiff Lamb Rosenstein & Birkenstock, P.C.  
1090 Vermont Ave NW, Suite 750  
Washington, DC 20005  
[reiff@sandlerreiff.com](mailto:reiff@sandlerreiff.com)

RE: MUR 8050 (RR 22L-04)  
Montana Democratic Party and  
Lance Fourstar in his official  
capacity as treasurer

Dear Mr. Reiff:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission became aware of information suggesting your client, Montana Democratic Party and Lance Fourstar in his official capacity as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended (the “Act”). On August 9, 2022, the Commission found reason to believe that your client violated 52 U.S.C. § 30104(b)(2) and (4) and 11 C.F.R. § 104.3(a) and (b) by failing to timely and accurately report receipts and disbursements and 52 U.S.C. § 30116(f) and 11 C.F.R. § 110.9 by accepting excessive contributions. The Factual and Legal Analysis, which formed a basis for the Commission’s findings, is enclosed for your information.

In order to expedite the resolution of this matter, the Commission authorized the Office of 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 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.

Enclosed is a conciliation agreement for your consideration

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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. If your client is interested in engaging in pre-probable cause conciliation negotiations, please contact Thaddeus H. Ewald, the attorney assigned to this matter, at (202) 694-1572 or [tewald@fec.gov](mailto:tewald@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 [https://www.fec.gov/resources/cms-content/documents/respondent\\_guide.pdf](https://www.fec.gov/resources/cms-content/documents/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 client wishes 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

**FEDERAL ELECTION COMMISSION**  
**FACTUAL AND LEGAL ANALYSIS**

## INTRODUCTION

6 The Reports Analysis Division (“RAD”) referred the Montana Democratic Party and  
7 Lance Fourstar in his official capacity as treasurer (the “Committee”)<sup>1</sup> to the Office of General  
8 Counsel (“OGC”) for potential violations of the Federal Election Campaign Act of 1971, as  
9 amended (the “Act”), and Commission regulations, arising from its failure to timely and  
10 accurately disclose \$1,500,000.00 in aggregate receipts and disbursements on its 2020 12-Day  
11 Pre-General Report.<sup>2</sup> In addition, RAD referred the Committee for potential violations arising  
12 from its receipt of excessive contributions totaling \$34,490.91 from four individuals reported on  
13 its 2020 12-Day Pre-General Report that were refunded outside of the permissible timeframe.<sup>3</sup>

14 For the reasons set forth below, the Commission finds reason to believe that the  
15 Committee violated 52 U.S.C. § 30104(b)(2) and (4) and 11 C.F.R. § 104.3(a) and (b) by failing  
16 to timely and accurately report receipts and disbursements and 52 U.S.C. § 30116(f) and  
17 11 C.F.R. § 110.9 by accepting excessive contributions.

<sup>1</sup> The Committee’s treasurer at the time of the activity relevant to this matter was Donavon Hawk. Montana Democratic Party, Amended Statement of Organization at 3 (Oct. 14, 2020), <https://docquery.fec.gov/pdf/080/202010149285828080/202010149285828080.pdf>. Lance Fourstar became the Committee’s current treasurer on July 1, 2021. Montana Democratic Party, Amended Statement of Organization at 3 (July 1, 2021), <https://docquery.fec.gov/pdf/414/202107019450941414/202107019450941414.pdf>.

## 2 Referral at 1-3 (Feb. 7, 2022).

3 *Id.* at 3-5.

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1     **II. FACTUAL BACKGROUND**

2           The Committee is a state party committee of the Democratic Party and Lance Fourstar is  
 3           the Committee's current treasurer.<sup>4</sup> The Committee's cash on hand as of May 31, 2022, is  
 4           \$417,174.82.<sup>5</sup> Biden Victory Fund is a joint fundraising committee that, at the relevant time,  
 5           was collecting contributions for Biden for President, the Democratic National Committee, and 47  
 6           Democratic state party committees, including the Committee.<sup>6</sup>

7           **A. Failure to Timely and Accurately Disclose Financial Activity**

8           RAD referred this matter to OGC for the Committee's failure to timely and accurately  
 9           disclose receipts and disbursements on its 2020 12-Day Pre-General Report.<sup>7</sup> The Committee  
 10          filed its original 2020 12-Day Pre-General Report on October 22, 2020, on which it disclosed  
 11          \$1,203,373 in receipts identified as Transfers from Affiliated/Other Party Committees on  
 12          Line 12, \$30,000 in disbursements identified as Transfers to Affiliated/Other Party Committees  
 13          on Line 22, and \$1,000 in disbursements identified as Other Disbursements on Line 29.<sup>8</sup> On  
 14          December 3, 2020, and May 11, 2021, the Committee filed amendments to its 2020 12-Day Pre-  
 15          General Report, on which it ultimately disclosed \$1,953,373 in receipts on Line 12, \$750,000 in

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<sup>4</sup>           Montana Democratic Party, Amended Statement of Organization at 2-3 (Sept. 27, 2021), <https://docquery.fec.gov/pdf/321/202109279467100321/202109279467100321.pdf>; Resp. at 1 (Mar. 2, 2022).

<sup>5</sup>           Montana Democratic Party, 2022 June Monthly Report at 2 (June 20, 2022), <https://docquery.fec.gov/pdf/580/202206209515065580/202206209515065580.pdf>.

<sup>6</sup>           Biden Victory Fund, Amended Statement of Organization at 2, 12 (Sept. 1, 2020), <https://docquery.fec.gov/pdf/685/202009019267073685/202009019267073685.pdf>.

<sup>7</sup>           Referral at 1-3.

<sup>8</sup>           Montana Democratic Party, 2020 12-Day Pre-General Report at 3-4 (Oct. 22, 2020) [hereinafter Original 2020 12-Day Pre-General Report], <https://docquery.fec.gov/pdf/631/202010229332732631/202010229332732631.pdf>; see Referral at 1, Attach. 2.

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1 disbursements on Line 22, and \$31,000 in disbursements on Line 29.<sup>9</sup> These amendments reflect  
 2 an aggregate increase of \$1,500,000 in activity on the 2020 12-Day Pre-General Report that  
 3 corresponds to an additional receipt of \$750,000 from Biden Victory Fund, an additional  
 4 disbursement of \$750,000 to the Pennsylvania Democratic Party, and the recharacterization of a  
 5 \$30,000 disbursement to the Committee's non-federal account.<sup>10</sup>

6 On August 29, 2021, RAD sent a Request for Additional Information ("RFAI") to the  
 7 Committee requesting clarification regarding the substantial increase in activity on the Amended  
 8 2020 12-Day Pre-General Report.<sup>11</sup> On September 14, 2021, the Committee filed a Form 99 in  
 9 response, stating that the increase in activity reported was "[d]ue to an internal  
 10 miscommunication" in which "a newly opened bank account was inadvertently omitted" and that  
 11 the Committee filed an amendment "[o]nce th[e] error was discovered."<sup>12</sup>

12 **B. Receipt of Excessive Contributions**

13 RAD also referred this matter for the Committee's receipt of excessive contributions and  
 14 failure to timely refund those contributions within the permissible timeframe.<sup>13</sup> The Referral

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<sup>9</sup> Montana Democratic Party, Amended 2020 12-Day Pre-General Report at 3-4 (May 11, 2021) [hereinafter Second Amended 2020 12-Day Pre-General Report], <https://docquery.fec.gov/pdf/003/202105119446447003/202105119446447003.pdf>; see Montana Democratic Party, Amended 2020 12-Day Pre-General Report at 3-4 (Dec. 3, 2020) [hereinafter First Amended 2020 12-Day Pre-General Report], <https://docquery.fec.gov/pdf/017/202012039338326017/202012039338326017.pdf> (disclosing \$1,953,373 in receipts on Line 12, \$780,000.00 in disbursements on Line 22, and \$1,000.00 in disbursements on Line 29); Referral at 2, Attach. 2.

<sup>10</sup> Compare Original 2020 12-Day Pre-General Report at 3-4, 144, with First Amended 2020 12-Day Pre-General Report at 3-4, 115, 189, and Second Amended 2020 12-Day Pre-General Report at 3-4, 116, 190. See Referral at 2 n.3. The Committee originally reported a \$30,000 disbursement to "Montana Democratic Party" as a Transfer to Affiliated/Other Party Committees on Line 22 of the 2020 12-Day Pre-General Report, but later filed an amendment thereto on which it reported the \$30,000 disbursement as an Other Disbursement on Line 29. Compare Original 2020 12-Day Pre-General Report at 4, 144, and First Amended 2020 12-Day Pre-General Report at 4, 189, with Second Amended 2020 12-Day Pre-General Report at 4, 191. See Referral at 2 n.2.

<sup>11</sup> Montana Democratic Party, Request for Additional Info. ("RFAI") (Aug. 29, 2021), <https://docquery.fec.gov/pdf/397/202108290300125397/202108290300125397.pdf>; see Referral at 2.

<sup>12</sup> Montana Democratic Party, Form 99 (Sept. 14, 2021), <https://docquery.fec.gov/pdf/054/202109149466674054/202109149466674054.pdf>; see Referral at 2.

<sup>13</sup> Referral at 3-5.

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1 states that the Committee reported \$34,490.91 in contributions from four individuals on its 2020  
 2 12-Day Pre-General Report that appear to exceed the limits set forth in the Act.<sup>14</sup> The  
 3 Committee subsequently reported refunds of those excessive contributions in the amount of  
 4 \$34,490.91 on May 10, 2021, outside of the permissible timeframe.<sup>15</sup>

5 On April 15, 2021, RAD sent an RFAI to the Committee requesting clarification  
 6 regarding the excessive contributions accepted by the Committee.<sup>16</sup> On May 11, 2021, the  
 7 Committee filed an Amended 2020 12-Day Pre-General Report that contained memo text stating  
 8 that it had “refunded the overages” identified in the RFAI as of May 10, 2021, and that such  
 9 refunds would be reflected on the Committee’s upcoming 2021 June Monthly Report.<sup>17</sup> On  
 10 June 17, 2021, the Committee filed its 2021 June Monthly Report that disclosed refunds for the  
 11 \$34,490.91 in excessive contributions from the four individuals identified in the Referral.<sup>18</sup>

12 **C. Response to the Referral**

13 In response to the Referral, the Committee acknowledges the omissions made in the  
 14 original 2020 12-Day Pre-General Report and its receipt of excessive contributions.<sup>19</sup> The  
 15 Committee states that the reporting violation was caused by “an internal miscommunication  
 16 between [the Committee’s] staff and consultants as to the inclusion of a new committee bank  
 17 account that was being used to make” the transactions and the excessive contributions were

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<sup>14</sup> *Id.* at 3-5, Attach. 3.

<sup>15</sup> *Id.* at 4, Attach. 3; Montana Democratic Party, 2021 June Monthly Report at 44-45 (June 17, 2021) [hereinafter 2021 June Monthly Report], <https://docquery.fec.gov/pdf/897/202106179449206897/202106179449206897.pdf>; *see* Resp. at 2.

<sup>16</sup> Montana Democratic Party, RFAI at 1-2, Attach. (Apr. 15, 2021), <https://docquery.fec.gov/pdf/983/202104150300115983/202104150300115983.pdf>; *see* Referral at 3.

<sup>17</sup> Second Amended 2020 12-Day Pre-General Report at 6; *see* Referral at 4.

<sup>18</sup> 2021 June Monthly Report at 44-45; *see* Referral at 4.

<sup>19</sup> Resp. at 1-2.

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1 caused “solely by joint fundraising activity” by the Committee and the “inadvertent duplication”  
 2 of contributor records.<sup>20</sup> The Committee requests that the Commission take no further action or  
 3 transfer the Referral to the Alternate Dispute Resolution Office (“ADRO”) in light of the  
 4 inadvertent nature of the violations, the Committee’s self-reporting of the omissions via  
 5 amendments to its reports, the prompt refund of the excessive contributions, and the steps it has  
 6 taken to ensure future violations do not occur again.<sup>21</sup>

7 **III. LEGAL ANALYSIS**

8       **A. The Commission Finds Reason to Believe That the Committee Failed to**  
 9       **Timely and Accurately Report Receipts and Disbursements**

10       The Act requires committee treasurers to file reports of receipts and disbursements in  
 11 accordance with the provisions of 52 U.S.C. § 30104.<sup>22</sup> These reports must include, *inter alia*,  
 12 the total amount of receipts and disbursements, including the appropriate itemizations, where  
 13 required.<sup>23</sup>

14       Here, the Committee acknowledges that it omitted receipts and disbursements on its  
 15 original 2020 12-Day Pre-General Report.<sup>24</sup> On its Amended 2020 12-Day Pre-General Report,  
 16 the Committee disclosed additional receipts and disbursements totaling \$1,500,000.<sup>25</sup> Therefore,

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<sup>20</sup> *Id.* at 1.

<sup>21</sup> *Id.* at 1-2. Regarding the steps taken to prevent future violations, the Committee states that it will be conducting “full reconciliation of all accounts before reports are filed” with the Commission, “seeking confirmation . . . that all filings have been received by the Commission on a timely basis,” and “instituting data protocols to ensure that its database does not contain duplicate donor entries caused by the import of data from multiple sources.” *Id.* at 2.

<sup>22</sup> 52 U.S.C. § 30104(a)(1); 11 C.F.R. § 104.1(a).

<sup>23</sup> 52 U.S.C. § 30104(b)(2), (4); 11 C.F.R. § 104.3(a), (b).

<sup>24</sup> Resp. at 2.

<sup>25</sup> Referral at 2-3; *see supra* notes 8-10. *Compare* Original 2020 12-Day Pre-General Report at 3-4, with Second Amended 2020 12-Day Pre-General Report at 3-4.

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1 the Committee did not comply with the Act's reporting requirements when it failed to timely and  
 2 accurately report \$1,500,000 in aggregate receipts and disbursements.

3 In response to the Referral, the Committee states that the omissions were due to a  
 4 "miscommunication" between the Committee and its outside consultant related to a new  
 5 committee bank account, were corrected "immediately" upon discovery, and that the Committee  
 6 has taken steps to "ensure that these errors do not happen again, including full reconciliation of  
 7 all accounts before reports are filed."<sup>26</sup> In light of those circumstances, the Committee requests  
 8 that the Commission take no further action or transfer this matter to ADRO.<sup>27</sup>

9 In similar circumstances involving state party committees that made inadvertent reporting  
 10 errors by omitting receipts and disbursements arising from participation in joint fundraising  
 11 arrangements, the Commission has consistently found reason to believe and engaged in pre-  
 12 probable cause conciliation with the relevant state party.<sup>28</sup> Accordingly, the Commission finds  
 13 reason to believe that the Montana Democratic Party and Lance Fourstar in his official capacity  
 14 as treasurer violated 52 U.S.C. § 30104(b)(2) and (4) and 11 C.F.R. § 104.3(a) and (b) by failing  
 15 to timely and accurately report receipts and disbursements.

16 **B. The Commission Finds Reason to Believe That the Committee Accepted**  
 17 **Excessive Contributions**

18 The Act provides that no person shall make contributions to a political committee  
 19 established and maintained by a state committee of a political party in any calendar year that, in

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<sup>26</sup> Resp. at 1-2.

<sup>27</sup> *Id.* at 2.

<sup>28</sup> See, e.g., Factual & Legal Analysis ("F&LA") at 4, MUR 7971 (Indiana Democratic Congressional Victory Committee); Conciliation Agreement, MUR 7971 (Indiana Democratic Congressional Victory Committee); F&LA at 4-5, MUR 7970 (Washington State Democratic Central Committee); Conciliation Agreement, MUR 7970 (Washington State Democratic Central Committee).

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1 the aggregate, exceed \$10,000.<sup>29</sup> Likewise, the Act prohibits political committees from  
 2 knowingly accepting an excessive contribution.<sup>30</sup> When a committee receives a contribution that  
 3 on its face exceeds the limits or that exceeds the limits when aggregated with other contributions  
 4 from the same contributor, the Commission's regulations give the committee 60 days from the  
 5 date of contribution receipt to refund, redesignate, or reattribute the excessive amount.<sup>31</sup>

6         Here, the Committee acknowledges that it accepted excessive contributions.<sup>32</sup> The  
 7 Committee accepted excessive contributions from four individuals totaling \$34,490.91, as  
 8 disclosed on its 2020 12-Day Pre-General Report and amendments thereto.<sup>33</sup> The Referral and  
 9 the Committee's 2021 June Monthly Report reflect that the Committee has refunded all  
 10 \$34,490.91 of the excessive contributions more than seven months after they were received.<sup>34</sup>  
 11 Therefore, the available information indicates that the Committee has accepted excessive  
 12 contributions from four individuals totaling \$34,490.91, which it has refunded entirely but  
 13 outside of the permissible timeframe.

14         In response to the Referral, the Committee acknowledges the receipt of and failure to  
 15 timely refund excessive contributions.<sup>35</sup> The Committee states that the excessive contributions  
 16 were caused by joint fundraising activity and the inadvertent duplication of contributor records,  
 17 were "promptly refunded" upon receipt of the RFAI, and that the Committee has taken steps "to  
 18 ensure that these errors do not happen again, including . . . instituting data protocols to ensure

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<sup>29</sup>         52 U.S.C. § 30116(a)(1)(D); 11 C.F.R. § 110.1(c)(5).

<sup>30</sup>         52 U.S.C. § 30116(f); 11 C.F.R. § 110.9.

<sup>31</sup>         See 11 C.F.R. § 103.3(b)(3).

<sup>32</sup>         See Resp. at 1-2.

<sup>33</sup>         Referral at 3-5; *see supra* notes 13-14.

<sup>34</sup>         Referral at 4, Attach. 3; 2021 June Monthly Report at 44-45; *see also* Resp. at 1-2; *supra* note 15.

<sup>35</sup>         Resp. at 2.

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1 that its database does not contain duplicate donor entries caused by the import of data from  
2 multiple sources.”<sup>36</sup> In light of those circumstances, the Committee requests that the  
3 Commission take no further action or transfer this matter to ADRO.<sup>37</sup>

4 In similar circumstances involving receipt of excessive contributions, the Commission  
5 has consistently found reason to believe and engaged in pre-probable cause conciliation with the  
6 recipient committee.<sup>38</sup> Accordingly, the Commission finds reason to believe that Montana  
7 Democratic Party and Lance Fourstar in his official capacity as treasurer violated 52 U.S.C.  
8 § 30116(f) and 11 C.F.R. § 110.9 by accepting excessive contributions.

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<sup>36</sup> *Id.* at 1-2.

<sup>37</sup> *Id.* at 1-2.

<sup>38</sup> See, e.g., F&LA at 7-11, MUR 7200 (Joni for Iowa) (finding reason to believe in RAD referral to OGC for excessive and prohibited contributions totaling \$37,190 along with other reporting violations where the respondent committee made most of the refunds between 130 and 150 days after receipt of the contributions); Conciliation Agreement, MUR 7200 (Joni for Iowa).