

1 **FEDERAL ELECTION COMMISSION**

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

4
5 **RAD REFERRAL: 24L-21**

6 DATE REFERRED: 06/27/2024

7 DATE OF NOTIFICATION: 07/01/2024

8 DATE OF LAST RESPONSE: 08/02/2024

9 DATE ACTIVATED: 09/25/2024

10 [REDACTED]
11 EXPIRATION OF SOL: 11/25/2027 – 11/29/2027

12 ELECTION CYCLE: 2022

13
14 **SOURCE:** Internally Generated

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16 **RESPONDENT:** Black Voters Matter Action PAC and Kamau
17 Franklin in his official capacity as treasurer

18
19 **RELEVANT STATUTE**
20 **AND REGULATION:** 52 U.S.C. § 30104(g)(1)
21 11 C.F.R. § 104.4(c)

22
23 **INTERNAL REPORTS CHECKED:** Disclosure Reports

24
25 **FEDERAL AGENCIES CHECKED:** None

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27 **I. INTRODUCTION**

28 This matter was generated by a Reports Analysis Division (“RAD”) Referral, concerning
29 disclosure reports filed by Black Voters Matter Action PAC and Kamau Franklin in his official
30 capacity as treasurer (the “Committee”) during the general runoff election for U.S. Senate in
31 Georgia on December 6, 2022. The Referral is based on the Committee’s failure to timely file
32 two 24-Hour Reports in support of three independent expenditures (“IEs”) totaling \$158,018.¹

¹ RAD Referral at 1-2 (Black Voters Matter Action PAC) (June 27, 2024). The Committee was the subject of another RAD Referral for the same violation in connection with the 2021 runoff election. *See* Conciliation Agreement, MUR 8012 (Black Voters Matter); Certification (“Cert.”) (June 9, 2022), MUR 8012 (Black Voters Matter).

1 On December 8, 2022, the Committee filed its 30-Day Post-General Report that disclosed IEs
2 including the \$158,018 at issue. On January 26, 2024, the Committee filed a 24-Hour Report to
3 support the three IEs at issue totaling \$158,018.

4 The Committee acknowledges its failure to timely disclose the IEs at issue, asserting that
5 the late-filed reports were due to “inadvertent lapses in its internal compliance procedures.”²

6 The Committee requests that this matter be resolved through alternative dispute resolution.³

7 As discussed below, we recommend that the Commission open a MUR and find reason to
8 believe that the Committee violated 52 U.S.C. § 30104(g)(1) and 11 C.F.R. § 104.4(c) by failing
9 to report IEs aggregating \$1,000 or more made after the 20th day, but more than 24 hours before
10 an election. We also recommend that the Commission authorize pre-probable cause conciliation
11 with the Committee as outlined below [REDACTED]

12 [REDACTED]

13 **II. FACTUAL AND LEGAL ANALYSIS**

14 The Committee is an independent expenditure-only political committee (“IEOPC”) that
15 registered with the Commission on July 29, 2020.⁴ During the 20 days prior to the 2022 runoff
16 election for the U.S. Senate in Georgia on December 6, 2022, the Committee made multiple IEs
17 supporting U.S. Senate candidate Raphael Warnock but failed to timely file 24-Hour Reports
18 disclosing three of them.⁵ Two days after the election, the Committee filed the 2022 30-Day
19 Post-General Report disclosing IEs totaling \$392,175.23 supporting five federal candidates

² Resp. at 1 (Aug. 2, 2024).

³ *Id.*

⁴ Black Voters Matter Action PAC, Statement of Organization (July 29, 2020), <https://docquery.fec.gov/pdf/459/202007299261175459/202007299261175459.pdf>.

⁵ Referral at 1-2.

1 including the \$158,018 at issue.⁶ After receiving a Request for Additional Information (“RFAI”)
2 from RAD referencing the 30-Day Post-General Report, stating that the Committee may have
3 failed to timely file at least one 24-Hour Report of independent expenditures,⁷ the Committee
4 filed an Amended 2022 30-Day Post-General Report disclosing twelve IEs totaling \$309,557.23
5 supporting five federal candidates including the \$158,018 at issue.⁸ In that amended report, the
6 Committee stated in memo text that it did not timely disclose the IEs due to an inadvertent lapse
7 in its compliance procedures and that it had put in place procedures to reduce the chance of
8 future lapses in independent expenditure disclosure.⁹ On January 26, 2024, the Committee filed
9 a 24-Hour Report to support three IEs totaling \$158,018 that had been disclosed in the 2022 30-
10 Day Post General Report, but had not been previously disclosed on 24-Hour Reports.

11 The Federal Election Campaign Act of 1971, as amended (the “Act”) and Commission
12 regulations require political committees to provide an accounting of all disbursements, including
13 IEs, on their regularly-scheduled disclosure reports.¹⁰ In addition, committees that make IEs
14 aggregating \$1,000 or more with respect to a given election after the 20th day, but more than 24
15 hours before the date of that election must file a 24-Hour Report to disclose IEs by 11:59 p.m.

⁶ Referral at 1; *see also* Black Voters Matter Action PAC, 30 Day Post-General Report (Dec. 8, 2022), <https://docquery.fec.gov/pdf/776/202212089557369776/202212089557369776.pdf#navpanes=0>.

⁷ Black Voters Matter Action PAC, Request for Additional Information (Mar. 30, 2023), https://docquery.fec.gov/cgi-bin/fecimg/?_202303300300177323+0

⁸ *See* Referral at 1; *see also* Black Voters Matter Action PAC, Amended 30 Day Post-General Report (May 4, 2023), <https://docquery.fec.gov/cgi-bin/forms/C00753277/1703179/>.

⁹ Referral at 2; *see also* Black Voters Matter Action PAC, Amended 30 Day Post-General Report (May 4, 2023), <https://docquery.fec.gov/cgi-bin/forms/C00753277/1703179/>.

¹⁰ 52 U.S.C. § 30104(b); 11 C.F.R. § 104.3(b). Committees shall report the name and address of any person who receives a disbursement for an independent expenditure from the committee during the reporting period in an aggregate amount in excess of \$200 within the calendar year (or election cycle for an authorized committee), as well as the date, amount, and purpose of any such independent expenditure and include a statement that indicates whether such independent expenditure is in support of or in opposition to a candidate, as well as the name and office sought by such candidate. 52 U.S.C. § 30104(b)(6)(B)(iii); 11 C.F.R. § 104.3(b)(3)(vii). Committees must also report the total of all independent expenditures. 52 U.S.C. § 30104(b)(4)(H)(iii); 11 C.F.R. § 104.3(b)(1)(vii).

1 Eastern Standard/Daylight Time on the day following the date on which a communication is
2 publicly distributed or otherwise publicly disseminated.¹¹ Additional 24-Hour Reports must be
3 filed by 11:59 p.m. the following day each time a committee makes or contracts to make IEs
4 aggregating an additional \$1,000.¹² Thus, IEs aggregating \$1,000 or more that were made on
5 November 16, 2022, through December 4, 2022, needed to be disclosed in a 24-Hour Report.
6 Specifically, the Committee disseminated IEs of amounts greater than \$1,000 on both November
7 24, 2022, and November 28, 2022, but did not timely file the corresponding 24-Hour Reports
8 that were due on November 25 and 29, 2022.

9 In response to the Referral, the Committee admits that it failed to report the \$158,018 in
10 IEs on the requisite 24-Hour Reports.¹³ While the Committee did later disclose the IEs to the
11 Commission on its original 30-Day Post General Report, the IEs were not disclosed until after
12 the general runoff election was held.¹⁴ The Committee notes that it timely disclosed over \$1.5
13 million in independent expenditures in the 2021-2022 election cycle.¹⁵ The Committee states
14 these two 24-Hour Reports were not timely filed due to “inadvertent lapses in its internal
15 compliance procedures,” and that the Committee has “put in place procedures to reduce the
16 chance of future lapses that affect independent expenditure disclosure.”¹⁶

¹¹ 52 U.S.C. § 30104(g)(1); 11 C.F.R. § 104.4(c). The Act and Commission regulations include a separate requirement to file 48-hour reports for independent expenditures aggregating \$10,000 or more at any time up to and including the 20th day before the date of an election. 52 U.S.C. § 30104(g)(2); 11 C.F.R. § 104.4(b).

¹² 11 C.F.R. § 104.4(c).

¹³ *See* Resp. at 1.

¹⁴ Referral at 1; *see also* Black Voters Matter Action PAC, 30 Day Post-General Report (Dec. 8, 2022), <https://docquery.fec.gov/pdf/776/202212089557369776/202212089557369776.pdf#navpanes=0>.

¹⁵ Resp. at 1. However, the Committee does not mention a previous violation in 2022 for failing to timely file 24-Hour Reports. *See* Conciliation Agreement at 2, MUR 8012 (Black Voters Matter); Cert. (June 9, 2022), MUR 8012 (Black Voters Matter).

¹⁶ Resp. at 1.

1 The Committee also requested to resolve the matter through Alternative Dispute
2 Resolution (“ADR”) program.¹⁷ [REDACTED]

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6 Accordingly, consistent with our recommendations in prior MURs with similar
7 violations,¹⁹ we recommend that the Commission open a matter under review and find reason to
8 believe Black Voters Matter Action PAC and Kamau Franklin in his official capacity as treasurer
9 violated 52 U.S.C. § 30104(g)(1) and 11 C.F.R. § 104.4(c) by failing to timely file 24-Hour
10 Reports.

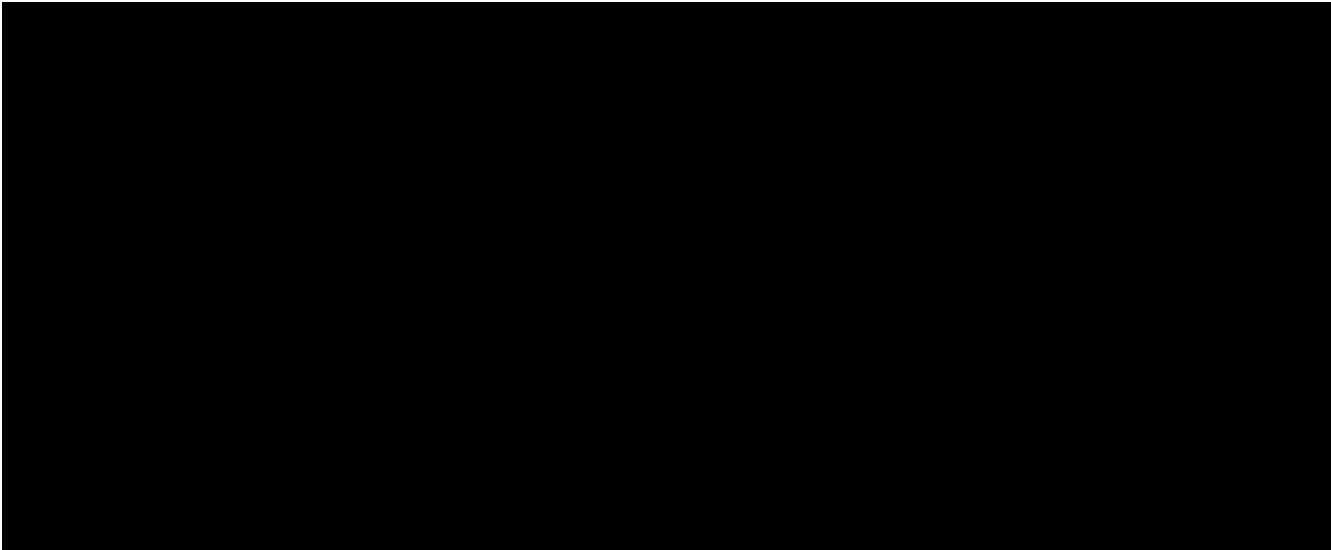
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¹⁷ Resp. at 1.

■ [REDACTED]

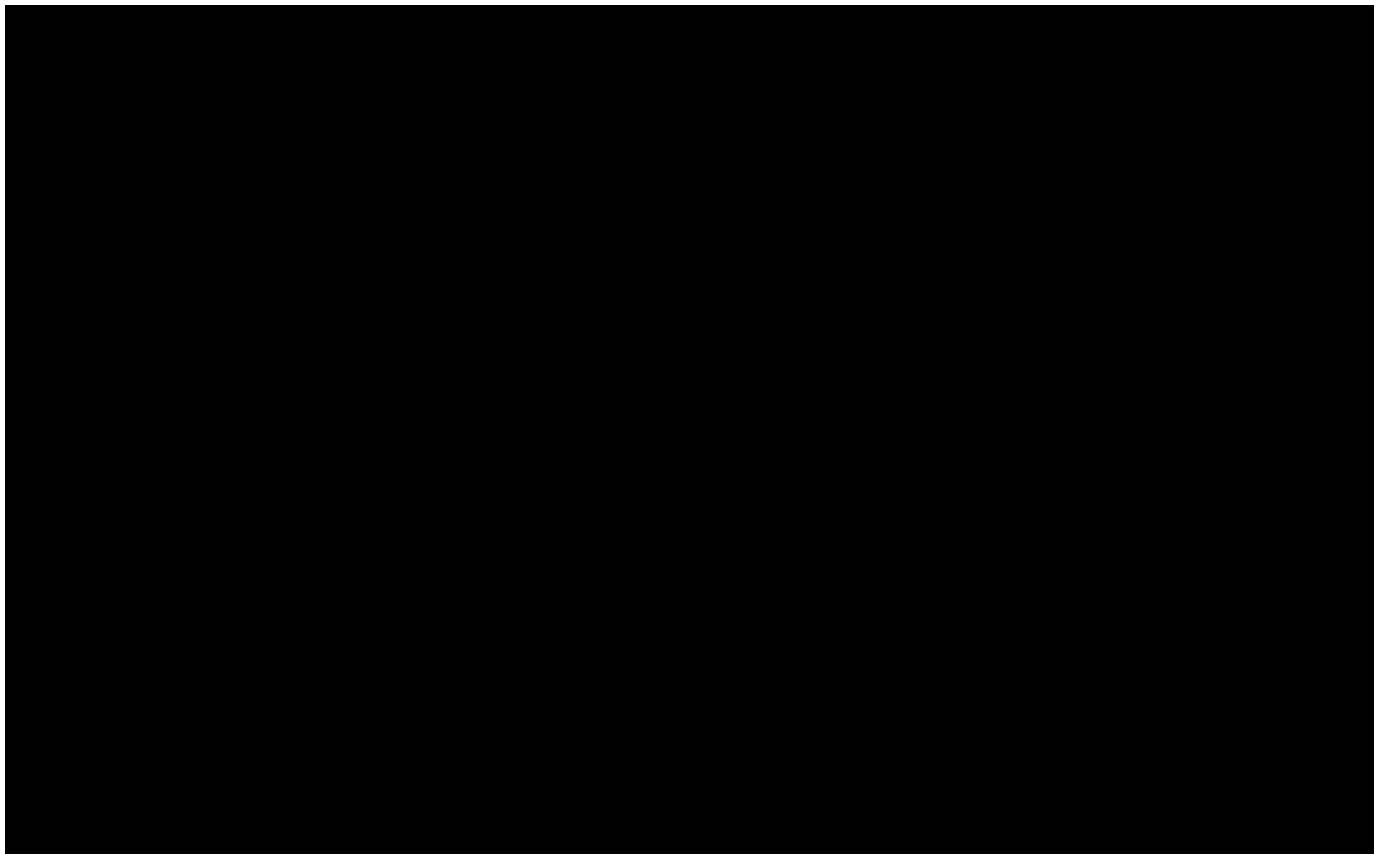
¹⁹ See First General Counsel's Report (“First GCR”) at 4-5, MUR 8201 (PA Lawyer Fund); Cert. (Jan. 24, 2024), MUR 8201 (PA Lawyer Fund); First GCR at 6-7, MUR 8200 (Big Sky Voters PAC); Cert. (May 15, 2024), MUR 8200 (Big Sky Voters PAC).

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9 **IV. RECOMMENDATIONS**

- 10 1. Open a MUR;
- 11 2. Find reason to believe that Black Voters Matter Action PAC and Kamau Franklin
- 12 in his official capacity as treasurer violated 52 U.S.C. § 30104(g)(1) and
- 13 11 C.F.R. § 104.4(c) by failing to timely report independent expenditures



- 1 aggregating \$1,000 or more made after the 20th day, but more than 24 hours
- 2 before an election;
- 3 3. Approve the attached Factual and Legal Analysis;
- 4 4. Authorize pre-probable cause conciliation;
- 5 5. Approve the attached proposed Conciliation Agreement; and
- 6 6. Approve the appropriate letter.

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Lisa J. Stevenson
Acting General Counsel

11/27/24
Date

Adrienne C. Baranowicz by MA
Adrienne C. Baranowicz
Deputy Associate General Counsel
for Enforcement

Mark Allen
Mark Allen
Assistant General Counsel

Pam Keller
Pam Keller
Attorney

- 27 Attachments:
- 28 1. Factual and Legal Analysis
 - 29 

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Black Voters Matter Action PAC and Kamau Franklin in his official capacity as treasurer **MUR** ____

I. INTRODUCTION

This matter was generated by a Reports Analysis Division (“RAD”) Referral, concerning disclosure reports filed by Black Voters Matter Action PAC and Kamau Franklin in his official capacity as treasurer (the “Committee”) during the general runoff election for U.S. Senate in Georgia on December 6, 2022. The Referral is based on the Committee’s failure to timely file two 24-Hour Reports in support of three independent expenditures (“IEs”) totaling \$158,018.¹ The Committee acknowledges its failure to timely disclose the IEs at issue, asserting that the late-filed reports were due to “inadvertent lapses in its internal compliance procedures.”²

As discussed below, the Commission finds reason to believe that the Committee violated 52 U.S.C. § 30104(g)(1) and 11 C.F.R. § 104.4(c) by failing to report IEs aggregating \$1,000 or more made after the 20th day, but more than 24 hours before an election.

II. FACTUAL AND LEGAL ANALYSIS

The Committee is an independent expenditure-only political committee (“IEOPC”) that registered with the Commission on July 29, 2020.³ During the 20 days prior to the 2022 runoff election for the U.S. Senate in Georgia on December 6, 2022, the Committee made multiple IEs

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2 hours before the date of that election must file a 24-Hour Report to disclose IEs by 11:59 p.m.
3 Eastern Standard/Daylight Time on the day following the date on which a communication is
4 publicly distributed or otherwise publicly disseminated.¹⁰ Additional 24-Hour Reports must be
5 filed by 11:59 p.m. the following day each time a committee makes or contracts to make IEs
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such independent expenditure is in support of or in opposition to a candidate, as well as the name and office sought by such candidate. 52 U.S.C. § 30104(b)(6)(B)(iii); 11 C.F.R. § 104.3(b)(3)(vii). Committees must also report the total of all independent expenditures. 52 U.S.C. § 30104(b)(4)(H)(iii); 11 C.F.R. § 104.3(b)(1)(vii).

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¹¹ 11 C.F.R. § 104.4(c).

¹² *See Resp.* at 1.

¹³ Referral at 1; *see also* Black Voters Matter Action PAC, 30 Day Post-General Report (Dec. 8, 2022), <https://docquery.fec.gov/pdf/776/202212089557369776/202212089557369776.pdf#navpanes=0>.

1 independent expenditure disclosure.”¹⁴

2 Accordingly, consistent with the Commission’s determinations in prior MURs with
3 similar violations,¹⁵ the Commission finds reason to believe Black Voters Matter Action PAC
4 and Kamau Franklin in his official capacity as treasurer violated 52 U.S.C. § 30104(g)(1) and 11
5 C.F.R. § 104.4(c) by failing to timely file 24-Hour Reports.

¹⁴ Resp. at 1.

¹⁵ See Factual & Legal Analysis (“F&LA”) at 1-2, MUR 8201 (PA Lawyer Fund); F&LA at 1-2, MUR 8200 (Big Sky Voters PAC).

