



FEDERAL ELECTION COMMISSION
Washington, DC 20463

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2 **MEMORANDUM**

3
4 **TO:** The Commission

5
6 **FROM:** Lisa J. Stevenson
7 Acting General Counsel

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9 Charles Kitcher
10 Acting Associate General Counsel for Enforcement

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12 Stephen A. Gura
13 Deputy Associate General Counsel for Enforcement

14
15 **BY:** Mark Allen *MA*
16 Assistant General Counsel

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18 Roy Q. Lockett *RQL*
19 Attorney

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21 **SUBJECT:** MUR 7598 (Democratic Party of South Carolina) - Memorandum to the
22 Commission

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25 The Commission originally considered this matter with MURs 7304 and 7331. On
26 April 25, 2019, the Commission voted to close the file in MURs 7304 and 7331 and open a MUR
27 in RAD Referral 17L-46, which has been numbered MUR 7598. The Commission found reason
28 to believe that the Democratic Party of South Carolina and Velva E. George in her official
29 capacity as treasurer (the "Committee") violated 52 U.S.C. § 30104(a) and (b) and 11 C.F.R.
30 § 104.3(a) and (b) by failing to disclose a total of \$2,110,627.71 in receipts and disbursements on
31 its 2016 August Monthly and 2016 12-Day Pre-General Reports. In addition, the Commission
32 voted to enter into conciliation with the Committee prior to a finding of probable cause and
33 directed the Office of General Counsel ("OGC") to circulate a proposed conciliation agreement

34 Finally, the

35 Commission directed OGC to circulate a Factual and Legal Analysis.

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37 Enclosed is the Factual and Legal Analysis and proposed conciliation agreement.
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8 **RECOMMENDATIONS**

- 9 1. Approve the attached Factual and Legal Analysis;
10 2. Approve the attached Conciliation Agreement; and
11 3. Approve the appropriate letter.
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16 **Attachments:**

- 17 1. Factual and Legal Analysis
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1001-0-1444001

1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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5 **RESPONDENTS:** Democratic Party of South Carolina and **MUR 7598**
6 Velva E. George in her
7 official capacity as treasurer
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9 **I. INTRODUCTION**

10 This matter was generated based on information ascertained by the Federal Election
11 Commission (“Commission”) in the normal course of carrying out its supervisory
12 responsibilities.¹ The Reports Analysis Division (“RAD”) referred the Democratic Party of
13 South Carolina and Velva E. George in her official capacity as treasurer (the “Committee”) to the
14 Office of General Counsel for failing to disclose an aggregate total of \$2,110,627.71 in receipts
15 and disbursements on its 2016 August Monthly and 12-Day Pre-General Reports.² For the
16 reasons set forth below, the Commission finds reason to believe that the Committee violated
17 52 U.S.C. § 30104(a) and (b) and 11 C.F.R. § 104.3(a) and (b).

18 **II. FACTUAL AND LEGAL ANALYSIS**

19 **A. BACKGROUND**

20 The Committee is a state party committee of the Democratic Party.³ On June 1 and
21 June 12, 2017, the Committee amended its 2016 August Monthly and 12-Day Pre-General Reports,
22 respectively, disclosing additional receipts and disbursements, as shown in the chart below.⁴

1 ¹ See 52 U.S.C. § 30109(a)(2).

2 ² RAD Referral (Democratic Party of South Carolina) (Nov. 28, 2017) (“Referral”), incorporated herein by
reference.

3 ³ See Amended Statement of Organization, Democratic Party of South Carolina (Oct. 26, 2017).

4 ⁴ Referral at 2-3, Attach. 2.

NON-FEDERAL SHARE

Report		Report Line	Total Amount Reported on Original Report	Total Amount Reported on Amended Report	Total Increased Variance
2016 August Monthly	Receipts	Line 11(a)(i): Itemized Contributions from Individuals	\$50,183.01	\$50,279.01	\$96.00
		Line 11(a)(ii): Unitemized Contributions from Individuals	\$4,944.16	\$2,020.16	-\$2,924.00
		Line 12: Transfers from Affiliated/Other Party Committees	\$7,500.00	\$460,045.00	\$452,545.00
		Line 15: Offsets to Operating Expenditures	\$0.00	\$4,325.19	\$4,325.19
	Disbursements	Line 21(a)(i): Allocated Federal/Non-Federal Activity (Federal Share)	\$57,886.12	\$56,555.47	-\$1,330.65
		Line 21(a)(ii): Allocated Federal/Non-Federal Activity (Non-Federal Share)	\$102,908.31	\$100,542.76	-\$2,365.55
		Line 21(b): Other Federal Operating Expenditures	\$6,353.94	\$6,594.55	\$240.61
		Line 22: Transfers to Affiliated/Other Party Committees	\$0.00	\$450,000.00	\$450,000.00
		Line 30(b): Federal Election Activity Paid Entirely with Federal Funds	\$8,539.23	\$16,799.45	\$8,260.22
					Total Variance:
2016 12-Day Pre-General	Receipts	Line 11(a)(i): Itemized Contributions from Individuals	\$6,733.16	\$7,128.16	\$395.00
		Line 11(a)(ii): Unitemized Contributions from Individuals	\$6,384.00	\$5,682.02	-\$701.98
		Line 12: Transfers from Affiliated/Other Party Committees	\$68,268.09	\$668,268.09	\$600,000.00
		Line 15: Offsets to Operating	\$0.00	\$1,004.35	\$1,004.35
	Disbursements	Line 21(a)(i): Allocated Federal/Non-Federal Activity (Federal Share)	\$22,280.68	\$17,867.84	-\$4,412.84
		Line 21(a)(ii): Allocated Federal/Non-Federal Activity (Non-Federal Share)	\$39,985.13	\$31,765.08	-\$8,220.05
		Line 21(b): Other Federal Operating Expenditures	\$6,195.21	\$5,000.00	-\$1,195.21
		Line 22: Transfers to Affiliated/Other Party Committees	\$2,500.00	\$602,500.00	\$600,000.00
		Line 30(b): Federal Election Activity Paid Entirely with Federal Funds	\$26,990.11	\$41,901.73	\$14,911.62
					Total Variance:

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1 On July 12, 2017, and August 10, 2017, RAD sent the Committee Requests for
2 Additional Information (“RFAs”) seeking clarification regarding the substantial increase in
3 receipts and disbursements disclosed on the amended 2016 August Monthly and 12-Day Pre-
4 General Reports.⁵ In response, on August 16, 2017, the Committee filed a Form 99
5 (Miscellaneous Report) addressing both RFAs, stating that transfers from the Hillary Victory
6 Fund (“HVF”) and transfers to the Democratic National Committee (“DNC”) were inadvertently
7 omitted from the original filings, and the Committee amended its reports soon after discovery of
8 the omissions.⁶

9 B. LEGAL ANALYSIS

10 The Federal Election Campaign Act of 1971, as amended (the “Act”), requires committee
11 treasurers to file reports of receipts and disbursements in accordance with the provisions of
12 52 U.S.C. § 30104.⁷ These reports must include, *inter alia*, the total amount of receipts and
13 disbursements, including the appropriate itemizations, where required.⁸ Here the Committee did
14 not comply with the Act’s reporting requirements when it failed to disclose a total of
15 \$2,110,627.71 in increased activity.

16 In its Response to the Referral, the Committee acknowledges its reporting errors but
17 argues for leniency, noting that its failure to report the activity at issue was unintentional and due
18 to “an inadvertent oversight caused by the large and unprecedented financial activity undertaken

⁵ Referral at 3.

⁶ *Id.*

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

⁸ *See* 52 U.S.C. § 30104(b)(2), (4); 11 C.F.R. § 104.3(a), (b).

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1 by the [Committee] in 2016.”⁹ The Committee states that almost all of the amounts included in
2 its amendments involve the omission of two transfers from HVF totaling \$1,050,000 and two
3 transfers totaling the same amount to the DNC that were not detected because the errors caused
4 no net change to the Committee’s cash-on-hand balance.¹⁰ The Committee also states that when
5 it discovered the errors during a Spring 2017 review of the Committee’s 2016 joint fundraising
6 activity, it amended its disclosure reports, and HVF and the DNC each timely disclosed the
7 respective transactions to the Commission.¹¹

8 The Committee argues that the public was not deprived of meaningful disclosure. In the
9 context of joint fundraising, however, other participating committees disclosing the types of
10 transactions at issue here does not vitiate the violation. As the Commission’s regulations
11 specify, both the joint fundraising representative and the participating political committees are
12 required to report all receipts and disbursements in the reporting period in which they are
13 received and made.¹² Thus, the Committee cannot avoid that responsibility by pointing out that
14 certain transactions were disclosed by other entities, or that it encountered a substantial uptick in
15 financial activity. The Committee was responsible for ensuring that its reports were complete
16 and accurate.¹³ Although the Committee requests that the Commission assign this matter to
17 ADRO, this matter was appropriately referred to OGC. Accordingly, the Commission finds

⁹ Democratic Party of South Carolina Resp. (“Resp.”) at 1-2 (Dec. 15, 2017).

¹⁰ *Id.*

¹¹ *Id.* at 2.

¹² See 11 C.F.R. § 102.17(c)(8)(i), (ii); see also Explanation & Justification, Transfer of Funds; Collecting Agents; Joint Fundraising, 48 Fed. Reg. 26,296, 26,300 (June 7, 1983).

¹³ In addition, each relevant transfer occurred well before the applicable filing deadline: the 2016 August Monthly Report was filed on August 20, 2016, while the relevant transfers occurred on July 26, and the 12-Day Pre-General Report was filed on October 28, while the relevant transfers occurred on October 11. See Resp. at 2.

- 1 reason to believe that the Democratic Party of South Carolina and Velva E. George in her official
- 2 capacity as treasurer violated 52 U.S.C. § 30104(a) and (b) and 11 C.F.R. § 104.3(a) and (b).

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