



FEDERAL ELECTION COMMISSION
Washington, DC 20463

OCT 11 2017

Stephen Hershkowitz, Esq.
Sandler, Reiff, Lamb, Rosenstein & Birkenstock, PC
1090 Vermont Avenue, NW
Suite 750
Washington, DC 20005

RE: MUR 7258
Kansas Democratic Party and Bill Hutton
in his official capacity as treasurer

Dear Mr. Hershkowitz:

On October 5, 2017, the Federal Election Commission accepted the signed conciliation agreement submitted on your clients' behalf in settlement of violations of 52 U.S.C. § 30104(b) and 11 C.F.R. § 106.7(d)(1), provisions of the Federal Election Campaign Act of 1971, as amended, and the Commission's regulations, respectively. Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. *See* 52 U.S.C. § 30109(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the first payment of the civil penalty is due within 30 days of the conciliation agreement's effective date, and the additional payments are due as provided for in Paragraph VI of the agreement. If you have any questions, please contact me or Delbert Rigsby, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink that reads "Mark Allen".

Mark Allen
Assistant General Counsel

Enclosure
Conciliation Agreement

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FEDERAL ELECTION
COMMISSION

BEFORE THE FEDERAL ELECTION COMMISSION

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In the matter of)

)
) Kansas Democratic Party
) and Bill Hutton in his
) official capacity as treasurer
)

MUR 7258

OFFICE OF GENERAL
COUNSEL

CONCILIATION AGREEMENT

This matter was initiated pursuant to information ascertained by the Federal Election Commission (the "Commission") in the normal course of carrying out its supervisory responsibilities. Based on a Commission audit of the Kansas Democratic Party for the time period of 2011-2012, the Commission found reason to believe that the Kansas Democratic Party and Bill Hutton in his official capacity as treasurer ("Respondents" or "Committee") violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 106.7(d)(1).

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 52 U.S.C. § 30109(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. The Committee is a state party committee of the Democratic Party. Bill Hutton is the treasurer of the Committee. Mr. Hutton was not the treasurer at the time of the activity

described herein. He is named in this matter only in his official capacity as treasurer pursuant to the Commission's policy statement on treasurer liability. See Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings, 70 Fed. Reg. at 6 (Jan. 3, 2005).

2. The Federal Election Campaign Act of 1971, as amended, requires committee treasurers to file reports of receipts and disbursements in accordance with the provisions of 52 U.S.C. § 30104(b). As set forth in the Final Audit Report, the Commission found that the Committee misstated financial activity in 2012 by understating receipts by \$122,088 and understating disbursements by \$162,640.

3. Commission regulations provide that State, district, and local party committees must maintain monthly employee payroll logs. Salaries, wages, and fringe benefits "[paid] to State, district, or local party committee employees who spend 25 percent or less of their compensated time in a given month on Federal election activity or on activity in connection with a Federal election" may be allocated as administrative costs, *i.e.*, may be paid with a combination of funds from the committee's federal and non-federal accounts. 11 C.F.R. §§ 106.7(c)(1), (d)(1)(i), and (d)(2). Commission regulations also provide that when allocating salary, wage and fringe benefit payments, political party committees are required to "keep a monthly log of the percentage of time each employee spends in connection with a federal election." 11 C.F.R. § 106.7(d)(1). As set forth in the Final Audit Report, the Commission found that the Committee failed to maintain monthly payroll logs totaling \$321,560 in 2011 and 2012.

4. The Committee contends that the errors described herein were inadvertent, that the Committee has cooperated with the Commission to discover these errors and corrected its filings, and that it has instituted procedures to prevent such errors in the future, hired new staff and has committed resources for staff training to prevent future errors.

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V. 1. Respondents violated 52 U.S.C. § 30104(b) by misstating financial activity.

2. Respondents violated 11 C.F.R. § 106.7(d)(1) by failing to maintain monthly payroll logs.

VI. 1. Respondents will pay a civil penalty to the Commission in the amount of Nineteen Thousand Dollars (\$19,000), pursuant to 52 U.S.C. § 30109(a)(5)(A). The civil penalty will be paid as follows:

a. A payment of Six Thousand dollars (\$6,000) is due no more than thirty (30) days from the date this Agreement becomes effective.

b. Thereafter, four consecutive monthly installments of Three Thousand Two Hundred and Fifty dollars (\$3,250) each;

c. Each such installment shall be paid within thirty (30) days of the due date of the previous installment;

d. In the event that any payment is not received by the Commission by the fifth day after it becomes due, the Commission may, at its discretion, accelerate the remaining payments and cause the entire amount to become due upon ten days written notice to the Respondents. Failure by the Commission to accelerate the payments with regard to any overdue payment shall not be construed as a waiver of its right to do so with regard to further overdue payments.

2. Respondents will cease and desist from committing violations of 52 U.S.C. § 30104(b) and 11 C.F.R. § 106.7(d)(1).

VII. The Commission, on request of anyone filing a complaint under 52 U.S.C. § 30109(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any

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requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed the same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission, except as expressly specified in Paragraph VI.1.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained within this written agreement shall be enforceable.

FOR THE COMMISSION:

BY: Kathleen Guith
Kathleen Guith
Associate General Counsel
for Enforcement

10/10/17
Date

FOR THE RESPONDENTS:

Stephen Hershkowitz
Stephen Hershkowitz
Counsel for Respondents

Sep 22, 2017
Date

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