



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

Via Email Only
johnelliott@okgop.com

September 5, 2024

John Elliott
Treasurer
Oklahoma Leadership Council
4031 N. Lincoln Blvd.
Oklahoma City, OK 73105

RE: MUR 8309 (formerly AR 23-07)
Oklahoma Leadership Council

Dear Mr. Elliott:

In the normal course of carrying out its supervisory responsibilities, and following an audit, the Federal Election Commission became aware of information suggesting that Oklahoma Leadership Council and you in your official capacity as treasurer, (the "Committee") may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On August 27, 2024, the Commission found reason to believe that the Committee violated 52 U.S.C. §§ 30102(d), 30104(b)(1), (2), (3), (4), (5), (8), and 30104(g)(1), (2), provisions of the Act, and 11 C.F.R. §§ 103.3(b), 104.1(a), 104.3(a), (b), (d), 104.4(a), (b), 104.11(a), and 106.7(d)(1), provisions of the Commission's regulations. 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 you as a way to resolve this matter at an early stage and without the need for briefing the issue of whether the Commission should find probable cause to believe that you violated the law.

Enclosed is a conciliation agreement for your consideration, which includes a civil penalty of \$271,000. The Commission calculated the penalty for the violations in Findings 1, 2, 3, 4, 5, 6, and 7 of the Final Audit Report (the "FAR"), as follows:

- Findings 1, 4, and 7: 20% of the amount in violation (\$1,018,702) related to the misstatements of receipts and disbursements, debts and obligations, and independent expenditures with a 25% pre-probable cause discount, for a civil penalty of \$152,805.30 ($\$1,018,702 \times .20 = \$203,740.40$. $\$203,740.40 \times .75 =$

- \$152,805.30);
- Finding 3: 50% percent of the contributions received from unregistered political organizations (\$16,981), less a 25% pre-probable cause discount, resulting in a civil penalty of \$6,367.88 ($\$16,981 \times 0.50 = \$8,490.50$. $\$8,490.50 \times 0.75 = \$6,367.88$);
- Findings 5 and 6: one statutory penalty of \$24,255, less a 25% pre-probable cause discount, resulting in a civil penalty of \$18,191.25 ($\$24,255 \times .75 = \$18,191.25$).

Additionally, the Commission calculated the penalty for increased activity violations (Finding 2 of the FAR) as 100% of the formula that the Administrative Fines Program uses to calculate fines for reports that are filed late or not filed. *See* 11 C.F.R. § 111.43. Applying that formula to each of the relevant disclosure reports results in a total penalty of \$94,130.15. The breakdown per report is as follows:

- 2019 November Monthly Report: the failure to timely report additional receipts and disbursements in the amount of \$25,648.14 results in a civil penalty of \$2,994;
- 2019 Year-End Report: the failure to timely report additional disbursements in the amount of \$2,571.35 results in a civil penalty of \$830;
- 2020 February Monthly Report: the failure to timely report additional receipts in the amount of \$5,025.85 results in a civil penalty of \$998;
- 2020 March Monthly Report: the failure to timely report additional receipts in the amount of \$1,555 results in a civil penalty of \$830;
- 2020 April Monthly Report: the failure to timely report additional receipts and disbursements in the amount of \$1,499.05 results in a civil penalty of \$830;
- 2020 May Monthly Report: the failure to timely report additional receipts and disbursements in the amount of \$3,605.16 results in a civil penalty of \$830;
- 2020 July Monthly Report: the failure to timely report additional receipts in the amount of \$34,258.90 results in a civil penalty of \$2,994;
- 2020 August Monthly Report: the failure to timely report additional receipts and disbursements in the amount of \$16,582.72 results in a civil penalty of \$1,664;
- 2020 September Monthly Reports: the failure to timely report additional receipts and disbursements in the amount of \$4,480.64 results in a civil penalty of \$830;
- 2020 October Monthly Report: the failure to timely report additional receipts and disbursements in the amount of \$74,971.14 results in a civil penalty of \$10,606;
- 2020 Post-General Report: the failure to timely report additional receipts and disbursements in the amount of \$1,060,847.14 results in a civil penalty of \$47,738.15; and
- 2020 Year-End Report: the failure to timely report additional receipts and disbursements in the amount of \$244,184.77 results in a civil penalty of \$22,986.

Combined, the penalty calculations for the various violations result in a civil penalty of \$271,000 ($\$152,805.30 + \$94,130.15 + \$6,367.88 + \$18,191.25 = \$271,494.58$, rounded to \$271,000).

If you are interested in engaging in pre-probable cause conciliation, please contact Jacob McCall, the attorney assigned to this matter, at (202) 694-1650 or jmccall@fec.gov, within seven days of receipt of this letter. During conciliation, you 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 (60) days. *See* 52 U.S.C. § 30109(a), 11 C.F.R. Part 111 (Subpart A). Conversely, if you 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.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

We look forward to your response.

On behalf of the Commission,

A handwritten signature in black ink that reads "Sean J. Cooksey". The signature is written in a cursive, flowing style.

Sean J. Cooksey
Chairman

Enclosures:

1. Factual and Legal Analysis
2. Conciliation Agreement
3. Designation of Counsel Form

1 **FEDERAL ELECTION COMMISSION**

2
3 **FACTUAL AND LEGAL ANALYSIS**

4
5
6 RESPONDENT: Oklahoma Leadership Council and John Elliott MUR 8309
7 in his official capacity as treasurer

8
9 **I. INTRODUCTION**

10 The Audit Division (“Audit”) referred Oklahoma Leadership Council and John Elliott in
11 his official capacity as treasurer (the “Committee”) to the Office of General Counsel (“OGC”)
12 for seven apparent violations of the Federal Election Campaign Act of 1971, as amended (the
13 “Act”) totaling \$3.7 million.¹ The Commission approved a Final Audit Report (“FAR”) in
14 connection with the Committee’s activity during the 2019 and 2020 calendar years that included
15 seven violations for possible enforcement action: (1) misstatements of receipts and
16 disbursements; (2) increased financial activity of receipts and disbursements; (3) contributions
17 from unregistered political organizations; (4) failure to itemize debts and obligations; (5) failure
18 to maintain records of communications; (6) failure to maintain records of employees; and
19 (7) failure to properly report independent expenditures.

20 The Committee does not deny the allegations. Instead, the Committee acknowledges that
21 errors were made, states that the Committee has taken steps to prevent it from occurring again,
22 and requests that the Commission take no further action. While the Committee claims to have

¹ At the time of the apparent violations, the Committee’s treasurer was Michael McCutchin. Oklahoma Leadership Council, Statement of Organization at 1 (May 20, 2019), <https://docquery.fec.gov/pdf/588/201905209149771588/201905209149771588.pdf>.

1 taken corrective action, it has failed to file amended reports in response to the Audit to correct
2 the public record.

3 Accordingly, the Commission finds reason to believe that the Committee violated the
4 following provisions: 52 U.S.C. § 30104(b)(1), (2), (3), (4), (5) and 11 C.F.R. § 104.3(a), (b) by
5 failing to accurately report both receipts and disbursements made by the Committee; 52 U.S.C.
6 § 30104(b) and 11 C.F.R. § 104.1(a) by understating its receipts and disbursements; 11 C.F.R.
7 § 103.3(b) by accepting contributions from unregistered political organizations; 52 U.S.C.
8 § 30104(b)(8) and 11 C.F.R. §§ 104.3(d) and 104.11(a) for failing to report outstanding debts
9 and obligations; 52 U.S.C. § 30102(d) and 11 C.F.R. § 104.14(b)(1) for failing to maintain
10 records of communications; 52 U.S.C. § 30102(d) and 11 C.F.R. § 106.7(d)(1) for failing to
11 maintain records of monthly payroll logs; 52 U.S.C. §§ 30104(b)(4)(H)(iii), 30104(g)(1), (2) and
12 11 C.F.R. § 104.4(a), (b) for failing to report independent expenditures.

13 **II. FACTUAL BACKGROUND**

14 Oklahoma Leadership Council is a state party committee for the Republican Party that
15 has been registered with the Commission since 1983.² On December 6, 2023, the Commission
16 approved the Proposed Final Audit Report, covering activity from the 2019 and 2020 calendar
17 years.³ Then, on December 21, 2023, Audit referred the Committee to OGC for seven findings.⁴

18 First, Audit referred the Committee for misstatements of receipts and disbursements.
19 According to the FAR, in calendar year 2020, the Committee understated its receipts by

² Oklahoma Leadership Council, Amended Statement of Organization at 2 (Apr. 2, 2024), <https://docquery.fec.gov/pdf/677/202404029627457677/202404029627457677.pdf>; Oklahoma Leadership Council, Statement of Organization at 1 (May 13, 1983).

³ Certification (Dec. 6, 2023), AR 23-07 (Proposed Final Audit Report on the Oklahoma Leadership Council); Final Audit Report of the Commission on the Oklahoma Leadership Council (Jan. 1, 2019 – Dec. 31, 2020) (Dec. 22, 2023) (“FAR”).

⁴ Notif. Letter at 1 (Dec. 22, 2023).

1 \$216,154 and understated its disbursements by \$226,564.⁵ Second, Audit referred the
2 Committee for increased activity for understating its receipts by \$829,858 and its disbursements
3 by \$1,077,630 on its original monthly reports filed during the 2019 and 2020 calendar years.⁶
4 Third, Audit referred the Committee for accepting 15 contributions that totaled \$16,981 from
5 unregistered political organizations that may have come from impermissible funds.⁷ Fourth,
6 Audit referred the Committee for failing to report \$230,595 in outstanding debts and obligations
7 owed to eight vendors.⁸ Fifth, Audit referred the Committee for failing to properly maintain
8 records for 35 disbursements totaling \$378,222 that lacked sufficient detail to verify the proper
9 reporting of the disbursements.⁹ Sixth, Audit referred the Committee for failing to maintain
10 monthly employee logs to determine how much time employees spent on work that was in
11 connection to a federal election.¹⁰ Audit found 10 payments, totaling \$25,031, some of which
12 were exclusively paid to employees with non-federal funds.¹¹ Seventh, Audit referred the
13 Committee for failing to report independent expenditures totaling \$345,389, where the
14 Committee failed to file required 24-hour and 48-hour reports.¹² The total amount in violation
15 for all seven findings is \$3,672,883.39.

16 Respondents do not deny the allegations but request that the Commission take no further

⁵ FAR at 8.

⁶ *Id.* at 10.

⁷ *Id.* at 12.

⁸ *Id.* at 15.

⁹ *Id.* at 17.

¹⁰ *Id.* at 20.

¹¹ *Id.*

¹² *Id.* at 22.

1 action in this matter.¹³ Similarly, in prior communications during the Audit process, the
2 Committee stated that it “does not dispute any of the facts presented” and it has “made all
3 corrective actions.”¹⁴ In its response to the exit conference with Audit, the Committee stated that
4 it “would be filing amended reports in response to the audit.”¹⁵ However, as of the date of this
5 Report, the Committee has yet to file a single amended report to correct these errors.¹⁶ Similarly,
6 the Committee has provided no evidence that it has resolved, through refunds or disgorgement,
7 the impermissible contributions.¹⁷ Finally, the Committee notes that it has very little money and
8 the people responsible for the violations no longer work at the Committee.¹⁸

9 **III. LEGAL ANALYSIS**

10 **A. Misstatements of Receipts and Disbursements**

11 The Act and Commission regulations require treasurers to file reports disclosing, among

¹³ Resp. at 1 (Feb. 20, 2024).

¹⁴ Committee’s Response to the Draft Final Audit Report of the Audit Division (“Response to Draft FAR”) at 1 (Oct. 9, 2023) (also noting that “[a]s the health and the death of the Treasurer responsible for the transactions during the audit period does not change what resulted in that period we must accept what happened”).

¹⁵ FAR at 16.

¹⁶ The Committee has not filed any amended reports for the 2019-2020 cycle since May 13, 2021. Oklahoma Leadership Council, Amended 2020 Year-End Report at 1 (May 13, 2021), <https://docquery.fec.gov/pdf/522/202105139446688522/202105139446688522.pdf>.

¹⁷ FAR at 14.

¹⁸ Resp. at 1-2. Additionally, the Committee has been involved in several matters with the Commission in the past. In MUR 7215, the Committee entered into a conciliation agreement with the Commission after an Audit Report found that the Committee failed to maintain proper records for its employees for payments totaling \$178,305. *See* Factual & Legal Analysis (“F&LA”) at 1, MUR 7215 (Oklahoma Leadership Council); Conciliation Agreement at 2, MUR 7215 (Oklahoma Leadership Council) (including a \$5,000 penalty for failing to maintain employee logs). Further, the Committee has had multiple Administrative Fines cases (AF 2755, 2760, 3836, 3841, 3857, and 4088) and a matter before ADRO (ADR 791). *See* AF 2755 (Oklahoma Leadership Council) (fining the Committee \$330 for failing to file its June Monthly Report in 2013); AF 2760 (Oklahoma Leadership Council) (fining the Committee \$320 for failing to file its July Monthly Report in 2013); AF 3836 (Oklahoma Leadership Council) (fining the Committee \$212 for failing to file its April Monthly Report in 2020); AF 3841 (Oklahoma Leadership Council) (fining the Committee \$212 for failing to file its May Monthly Report in 2020); AF 3857 (Oklahoma Leadership Council) (fining the Committee \$329 for failing to file its June Monthly Report in 2020); AF 4088 (Oklahoma Leadership Council) (fining the Committee \$12,984 for failing to file its 30 Day Post-General Report for 2020); ADR Settlement Agreement at 4, ADR 791 (Oklahoma Leadership Council) (requiring the Committee to attend training and pay a penalty of \$8,750 for numerous errors during the 2013-2014 election cycle).

1 other things, the amount of cash-on-hand at the beginning of each reporting period; the total
2 amount of receipts for the reporting period and for the calendar year; and the total amount of
3 disbursements for the reporting period and for the calendar year.¹⁹ For each receipt or
4 disbursement exceeding \$200, the committee must report the source, date, and amount of each
5 receipt and the ultimate payee, purpose, amount, and date of each disbursement.²⁰ Committee
6 treasurers are responsible for the timely and complete filing of disclosure reports and for the
7 accuracy of the information contained therein.²¹

8 During its field work, Audit identified discrepancies between the Committee’s bank
9 records and the financial activity disclosed on the Committee’s most recent disclosure reports
10 filed with the Commission at the time of the Audit.²² The FAR found, and the Committee has
11 acknowledged, multiple errors related to its receipts and disbursements in the Committee’s
12 filings in calendar year 2020 totaling \$442,718 (*i.e.*, \$216,154 in understated receipts and
13 \$226,564 in disbursements), which also resulted in the Committee understating its cash on
14 hand.²³ According to the FAR, the Committee has not corrected these errors and the receipts and
15 disbursements remain misstated.²⁴ Therefore, the Commission finds reason to believe that the
16 Committee violated 52 U.S.C. § 30104(b)(1), (2), (3), (4), (5) and 11 C.F.R. § 104.3(a), (b) by
17 failing to accurately report its receipts and disbursements.

18 **B. Increased Activity**

¹⁹ See 52 U.S.C. § 30104(b)(1), (2), (4); 11 C.F.R. § 104.3(a)(1).

²⁰ 52 U.S.C. § 30104(b)(3), (5); 11 C.F.R. § 104.3(a)(4), (b)(3), (b)(4).

²¹ 11 C.F.R. § 104.14(d).

²² FAR at 8.

²³ *Id.*

²⁴ *Id.* at 9-10.

1 The Act requires committee treasurers to file reports of receipts and disbursements in
2 accordance with the provisions of 52 U.S.C. § 30104.²⁵ These reports must include, *inter alia*,
3 the total amount of receipts and disbursements, including the appropriate itemizations, where
4 required.²⁶ A State, district or local committee of a political party that is a political committee
5 must report all receipts and disbursements made for federal election activity aggregating more
6 than \$5,000 in a calendar year.²⁷

7 During a comparison of the Committee’s bank records with its original reports filed with
8 the Commission, Audit found that the Committee understated its receipts and disbursements by
9 \$1,907,488 during the 2019 and 2020 calendar years; specifically, it understated receipts by
10 \$829,858 and disbursements by \$1,077,630.²⁸ Some of those understatements appeared to
11 consist of funds received for a joint fundraising committee and the subsequent transfer of those
12 funds.²⁹ Therefore, the Commission finds reason to believe that the Committee violated
13 52 U.S.C. § 30104 and 11 C.F.R. § 104.1(a) by understating its receipts and disbursements.

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

²⁶ 52 U.S.C. § 30104(b); 11 C.F.R. § 104.3.

²⁷ 52 U.S.C. § 30104(e)(2); 11 C.F.R. § 300.36(b)(2).

²⁸ FAR at 10-11. The amount in violation in Finding 2 includes the \$216,154 in underreported receipts and \$226,564 in underreported disbursements from Finding 1.

²⁹ *Id.*

1 **C. Contributions From Unregistered Political Organizations**

2 Unregistered political organizations are broadly categorized as “[o]rganizations that are
3 not political committees under the Act,”³⁰ and as such “must demonstrate through a reasonable
4 accounting method that, whenever such an organization makes a contribution . . . the
5 organization has received sufficient funds subject to the limitations and prohibitions of the Act to
6 make such contribution.”³¹ Political committees may not accept contributions from unregistered
7 organizations that do not demonstrate that the underlying funds are subject to the limitations and
8 prohibitions of the Act.³² The treasurer of a political committee is responsible for ensuring that
9 all contributions received from unregistered political organizations were made with permissible
10 funds.³³

11 According to the FAR, the Committee accepted 15 contributions, totaling \$16,981, from
12 unregistered political organizations that may have come from impermissible funds.³⁴ The
13 Committee neither disputes the facts nor does it provide additional documentation concerning

³⁰ 11 C.F.R. § 102.5(b) (providing that any organization that makes contributions, expenditures, and exempted payments but that does not qualify as a political committee “must keep records of receipts and disbursements and, upon request, must make such records available for examination by the Commission”).

³¹ *Id.*

³² 11 C.F.R. § 102.5(b)(1) (providing that an unregistered organization must show that it has “received sufficient funds subject to the limitations and prohibitions of the Act to make [a] . . . contribution”); *see also* 52 U.S.C. §§ 30116(f) and 30118(a).

³³ 11 C.F.R. § 103.3(b) (“The treasurer shall be responsible for examining all contributions received for evidence of illegality and for ascertaining whether contributions received, when aggregated with other contributions from the same contributor, exceed the contribution limitations of 11 C.F.R. §§ 110.1 or 110.2.”); F&LA at 8-9, MUR 8262 (Orange County Republican Executive Committee) (finding reason to believe that the committee violated 11 C.F.R. § 103.3(b) by accepting contributions from unregistered organizations without ascertaining whether the underlying funds complied with the limitations and prohibitions of the Act). *See* Advisory Opinion (“AO”) 1982-38 (Moynihan) (recipients of “contributions from unregistered organizations which are not political committees under the Act must assume responsibility for determining that the contributions originally came from permissible sources”); AO 1988-33 (Republican Party of Florida) (“[T]he Act and Commission regulations impose certain affirmative duties on the various participants in the Federal election process,” such as recipient committees, “to prevent the infusion, directly or indirectly, of prohibited funds into the Federal election process.”).

³⁴ FAR at 12.

1 these contributions.³⁵ As of the date of the FAR, the Committee had not resolved the
2 contributions by transferring them to its non-federal account, refunding the contributions, or by
3 providing proof that the contributions came from permissible sources.³⁶ Therefore, the
4 Commission finds reason to believe that the Committee violated 11 C.F.R. § 103.3(b) by
5 accepting contributions from unregistered political organizations.

6 **D. Reporting of Debts and Obligations**

7 Political committees must disclose the amount and nature of outstanding debts and
8 obligations until those debts are extinguished.³⁷ For each regular report, Commission regulations
9 require disclosure of a committee's outstanding debts on Schedule D³⁸ and clarify that "[a] debt
10 or obligation, including a loan, written contract, written promise or written agreement to make an
11 expenditure, the amount of which is over \$500 shall be reported as of the date on which the debt
12 or obligation is incurred."³⁹ In addition, "[d]ebts and obligations owed by or to a political
13 committee which remain outstanding shall be continuously reported until extinguished."⁴⁰

14 According to the FAR, the Committee failed to disclose debts and obligations to eight
15 vendors totaling \$230,595, and those debts were outstanding from four to 149 days.⁴¹ The
16 Committee failed to report numerous debts across an entire year of activity, from November of
17 2019 to December of 2020. The Committee initially questioned why certain expenditures were

³⁵ *Id.* at 12-13.

³⁶ *Id.* at 14.

³⁷ 52 U.S.C. § 30104(b)(8); *see also* 11 C.F.R. § 104.3(a)(4)(iv) (setting forth information required to be disclosed, including the identification of any endorser or guarantor of the loan, the date the loan was made, and the amount of the loan).

³⁸ 11 C.F.R. § 104.3(d).

³⁹ *Id.* § 104.11(b).

⁴⁰ *Id.* § 104.11(a).

⁴¹ FAR at 15-16.

1 to be reported on Schedule D,⁴² but ultimately failed to provide documentation to show that these
2 transactions were not required to be reported as debts.⁴³ The Committee has not amended its
3 reports to correct the public record with regard to these debts.⁴⁴ Therefore, the Commission
4 finds reason to believe that the Committee violated 52 U.S.C. § 30104(b)(8) and 11 C.F.R.
5 §§ 104.3(d) and 104.11(a) for failing to report outstanding debts and obligations.

6 **E. Recordkeeping for Communications**

7 The Act and Commission regulations provide that a committee shall maintain records
8 with respect to the matters required to be reported, which shall provide in sufficient detail the
9 necessary information and data from which the filed reports may be verified, explained, clarified,
10 and checked for accuracy and completeness.⁴⁵ Committee treasurers must preserve those records
11 for three years after the report is filed.⁴⁶

12 According to the FAR, the Committee failed to maintain records in sufficient detail to
13 verify the reporting of communications.⁴⁷ Specifically, the Committee failed to maintain records
14 connected to 35 disbursements, totaling \$378,222: for seventeen disbursements totaling
15 \$13,602, the Committee failed to maintain copies of invoices or the communications, and for
16 eighteen disbursements totaling \$364,620, the Committee provided invoices but failed to
17 maintain copies of the communications.⁴⁸ Therefore, the Commission finds reason to believe

⁴² FAR at 16.

⁴³ *Id.*

⁴⁴ *Id.*; Response to Draft FAR at 1.

⁴⁵ 52 U.S.C. § 30102(d); 11 C.F.R. §104.14(b)(1).

⁴⁶ 52 U.S.C. § 30102(d).

⁴⁷ FAR at 17.

⁴⁸ *Id.*

1 that the Committee violated 52 U.S.C. § 30102(d) and 11 C.F.R. § 104.14(b)(1) by failing to
2 maintain records of communications.

3 **F. Recordkeeping of Employees**

4 Under Commission regulations, salaries, wages, and fringe benefits “[paid] to State,
5 district, or local party committee employees who spend 25 percent or less of their compensated
6 time in a given month on Federal election activity or on activity in connection with a Federal
7 election” may be allocated as administrative costs; *i.e.*, may be paid with a combination of funds
8 from the committee’s federal and non-federal accounts.⁴⁹ Commission regulations also provide
9 that when allocating salary, wages, and fringe benefit payments, political party committees are
10 required to “keep a monthly log of the percentage of time each employee spends in connection
11 with a Federal election.”⁵⁰

12 According to the FAR, the Committee failed to maintain any monthly payroll logs to
13 document the amount of time employees spent in connection with a federal election.⁵¹
14 Specifically, Audit identified 10 payments to employees, totaling \$25,031, without monthly
15 payroll logs, which were made with both federal and non-federal funds.⁵² The Committee did
16 not provide additional documentation in connection with these payments in response to either the
17 Interim or Draft FAR.⁵³ The Commission finds reason to believe that the Committee violated

⁴⁹ 11 C.F.R. § 106.7(c)(1), (d)(1)(i), (d)(2).

⁵⁰ *Id.* § 106.7(d)(1); *see also* 52 U.S.C. § 30102(d) (requiring committee to maintain records with “sufficient detail the necessary information and data from which the filed reports may be verified, explained, clarified, and checked for accuracy and completeness”).

⁵¹ FAR at 20.

⁵² *Id.*

⁵³ *Id.* at 21.

1 52 U.S.C. § 30102(d) and 11 C.F.R. § 106.7(d)(1) for failing to maintain records of monthly
2 payroll logs.

3 **G. Reporting of Apparent Independent Expenditures**

4 The Act requires committee treasurers to file reports of receipts and disbursements in
5 accordance with the provisions of 52 U.S.C. § 30104(b).⁵⁴ The reporting requirement includes
6 reporting independent expenditures made by political committees other than authorized
7 committees.⁵⁵ Every political committee that makes independent expenditures must report them
8 in its regularly scheduled disclosure reports in accordance with 11 C.F.R. § 104.3(b)(3)(vii).⁵⁶
9 Political committees and other persons that make or contract to make independent expenditures
10 after the 20th day, but more than 24 hours before an election must disclose the activity within 24
11 hours each time that the expenditures aggregate \$1,000 or more.⁵⁷ In addition, a political
12 committee that makes independent expenditures aggregating \$10,000 or more for an election in
13 any calendar year, up to and including the 20th day before an election, must report these
14 expenditures within 48 hours.⁵⁸

15 According to the FAR, the audit of the Committee identified expenditures, totaling
16 \$345,389, that appear to be independent expenditures that were not disclosed on Schedule E.⁵⁹
17 Additionally, the Committee failed to file 24-hour and 48-hour reports for a portion of those

⁵⁴ 52 U.S.C. § 30104(a)(1).

⁵⁵ *Id.* § 30104(b)(4)(H)(iii); *see* 11 C.F.R. § 104.3(b)(1)(vii). The term “independent expenditure” means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate that is not made in concert or in cooperation with, or at the request or suggestion of, such candidate, the candidate’s committee, or their agents. 52 U.S.C. § 30101(17).

⁵⁶ 11 C.F.R. § 104.4(a).

⁵⁷ 52 U.S.C. § 30104(g); 11 C.F.R. § 109.10(d).

⁵⁸ 52 U.S.C. § 30104(g)(2); 11 C.F.R. § 104.4(b)(2).

⁵⁹ FAR at 22.

- 1 apparent independent expenditures, totaling \$326,460.⁶⁰ Therefore, the Commission finds reason
- 2 to believe that the Committee violated 52 U.S.C. § 30104(b)(4)(H)(iii), 30104(g)(1), (2) and
- 3 11 C.F.R. § 104.4(a), (b) for failing to report independent expenditures.

⁶⁰ *Id.*

BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of)
)
Oklahoma Leadership Council and John Elliott) MUR 8309
in his official capacity as treasurer)
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CONCILIATION AGREEMENT

This matter was initiated pursuant to information ascertained by the Federal Election Commission in the normal course of carrying out its supervisory responsibilities for apparent violations of the Federal Election Campaign Act of 1971, as amended (the “Act”). The Commission found reason to believe that Oklahoma Leadership Council and John Elliott in his official capacity as treasurer (“Respondent” or the “Committee”) violated 52 U.S.C. § 30104(b)(1)-(5) and 11 C.F.R. § 104.3(a), (b) by failing to accurately report receipts and disbursements; 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.1(a) by understating its receipts and disbursements; 52 U.S.C. § 30116(f) or 30118(a) and 11 C.F.R. § 103.3(b) by accepting contributions from unregistered political organizations; 52 U.S.C. § 30104(b)(8) and 11 C.F.R. §§ 104.3(d) and 104.11(a) for failing to report outstanding debts and obligations; 52 U.S.C. § 30102(d) and 11 C.F.R. § 104.14(b)(1) for failing to maintain records of communications; 52 U.S.C. § 30102(d) and 11 C.F.R. § 106.7(d)(1) for failing to maintain records of monthly payroll logs; and 52 U.S.C. §§ 30104(b)(4)(H)(iii), 30104(g)(1), (2) and 11 C.F.R. § 104.4(a), (b) for failing to report independent expenditures.

NOW, THEREFORE, the Commission and Respondent, 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 Respondent 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. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this Agreement with the Commission.

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

1. During the relevant period, the Committee was a state party committee for the Republican Party. John Elliott is its treasurer.

Misstatement of Receipts and Disbursements

2. The Act and Commission regulations require committees to file reports disclosing the total amount of receipts and disbursements for the reporting period and for the calendar year. 52 U.S.C. § 30104(b)(1), (2), (4); 11 C.F.R. § 104.3(a)(1). For each receipt or disbursement exceeding \$200, the committee must report the source, date, and amount of each receipt and the ultimate payee, purpose, amount, and date of each disbursement. 52 U.S.C. § 30104(b)(3), (5); 11 C.F.R. § 104.3(a)(4), (b)(3), (b)(4).

3. During the 2020 calendar year, the Committee understated \$216,154 in receipts and \$226,564 in disbursements. The Committee has not amended its reports to correct these errors.

Increased Activity

4. The Act requires committee treasurers to file reports of receipts and disbursements in accordance with the provisions of 52 U.S.C. § 30104. 52 U.S.C. § 30104(a)(1); 11 C.F.R. § 104.1(a). These reports must include, *inter alia*, the total amount of receipts and

disbursements, including the appropriate itemizations, where required. 52 U.S.C. § 30104(b); 11 C.F.R. § 104.3. A State, district or local committee of a political party that is a political committee must report all receipts and disbursements made for federal election activity aggregating more than \$5,000 in a calendar year. 52 U.S.C. § 30104(e)(2); 11 C.F.R. § 300.36(b)(2).

5. During the 2019 and 2020 calendar years, on its original disclosure reports, the Committee understated \$829,858 in receipts and \$1,077,630 in disbursements.

Contributions From Unregistered Political Organizations

6. Unregistered political organizations are broadly categorized as “[o]rganizations that are not political committees under the Act, and as such “must demonstrate through a reasonable accounting method that, whenever such an organization makes a contribution . . . the organization has received sufficient funds subject to the limitations and prohibitions of the Act to make such contribution.” 11 C.F.R. § 102.5(b). Political committees may not accept contributions from unregistered organizations that do not demonstrate that the underlying funds are subject to the limitations and prohibitions of the Act. 11 C.F.R. § 102.5(b)(1).

7. The Committee accepted 15 contributions, totaling \$16,981, from unregistered political organizations that may have come from impermissible funds. The Committee neither disputes the facts nor does it provide additional documentation concerning these contributions. The Committee has not taken steps to resolve the contributions.

Reporting of Debts and Obligations

8. Political committees must disclose the amount and nature of outstanding debts and obligations until those debts are extinguished. 52 U.S.C. § 30104(b)(8). For each regular report, Commission regulations require disclosure of a committee's outstanding debts on Schedule D and clarify that "[a] debt or obligation, including a loan, written contract, written promise or written agreement to make an expenditure, the amount of which is over \$500 shall be reported as of the date on which the debt or obligation is incurred. 11 C.F.R. §§ 104.3(d) and 104.11(b). "Debts and obligations owed by or to a political committee which remain outstanding shall be continuously reported until extinguished." 11 C.F.R. § 104.11(a).

9. The Committee failed to disclose debts and obligations owed to eight vendors totaling \$230,595; those debts were outstanding from four to 149 days. The Committee has not amended its reports to correct the public record with regard to these debts.

Recordkeeping for Communications and Employee Payroll Logs

10. The Act and Commission regulations provide that a Committee shall maintain records with respect to the matters required to be reported, which shall provide in sufficient detail the necessary information and data from which the filed reports may be verified, explained, clarified, and checked for accuracy and completeness. 52 U.S.C. § 30102(d); 11 C.F.R. §104.14(b)(1).

11. Under Commission regulations, 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), (d)(2). Commission regulations also provide that when allocating salary, wages, 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).

12. The Committee failed to maintain records in sufficient detail to verify the reporting of communications. The Committee failed to maintain records connected to 35 disbursements, totaling \$378,222: for seventeen disbursements totaling \$13,602, the Committee failed to maintain copies of invoices or the communications, and for eighteen disbursements totaling \$364,620, the Committee provided invoices but failed to maintain copies of the communications.

13. The Committee failed to maintain any monthly payroll logs to document the amount of time employees spent in connection with a federal election. The Committee made 10 payments to employees, totaling \$25,031, without monthly payroll logs. These payments were made with both federal and non-federal funds, and the Committee did not provide additional documentation in connection with these payments.

Reporting of Apparent Independent Expenditures

14. The Act requires committee treasurers to file reports of receipts and disbursements in accordance with the provisions of 52 U.S.C. § 30104(b). 52 U.S.C. § 30104(a)(1). The reporting requirement includes reporting independent expenditures made by political committees other than authorized committees. 52 U.S.C. § 30104(b)(4)(H)(iii). Every political committee that makes independent expenditures must report them in its regularly scheduled disclosure reports in accordance with 11 C.F.R. § 104.3(b)(3)(vii). 11 C.F.R. § 104.4(a).

15. Political committees and other persons that make or contract to make independent expenditures after the 20th day, but more than 24 hours before an election must disclose the activity within 24 hours each time that the expenditures aggregate \$1,000 or more. 52 U.S.C. § 30104(g); 11 C.F.R. § 109.10(d). A political committee that makes independent expenditures aggregating \$10,000 or more for an election in any calendar year, up to and including the 20th day before an election, must report these expenditures within 48 hours. 52 U.S.C. § 30104(g)(2); 11 C.F.R. § 104.4(b)(2).

16. The Committee had expenditures, totaling \$345,389, that appear to be independent expenditures that were not disclosed on Schedule E. Additionally, the Committee failed to file 24-hour and 48-hour reports for a portion of those apparent independent expenditures, totaling \$326,460.

V. Respondent committed the following violations:

1. Respondent violated 52 U.S.C. § 30104(b)(1)-(5) and 11 C.F.R. § 104.3(a), (b) by failing to accurately report receipts and disbursements in calendar year 2020.
2. Respondent violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.1(a) by understating its receipts and disbursements.
3. Respondent violated 11 C.F.R. § 103.3(b) by accepting contributions from unregistered political organizations.
4. Respondent violated 52 U.S.C. § 30104(b)(8) and 11 C.F.R. §§ 104.3(d) and 104.11(a) for failing to report outstanding debts and obligations.
5. Respondent violated 52 U.S.C. § 30102(d) and 11 C.F.R. § 104.14(b)(1) for failing to maintain records of communications.

6. Respondent violated 52 U.S.C. § 30102(d) and 11 C.F.R. § 106.7(d)(1) for failing to maintain records of monthly payroll logs.

7. Respondent violated 52 U.S.C. § 30104(b)(4)(H)(iii), 30104(g)(1), (2) and 11 C.F.R. § 104.4(a), (b) for failing to report independent expenditures.

VI. Respondent will take the following actions:

1. Respondent will pay a civil penalty to the Commission in the amount of Two Hundred and Seventy-One Thousand Dollars (\$271,000), pursuant to 52 U.S.C. § 30109(a)(5)(A).

2. Respondent will cease and desist from committing violations of 52 U.S.C. §§ 30102(d), 30104(b)(1)-(5), (8), 30104(g), and 11 C.F.R. §§ 103.3(b), 104.1(a), 104.3(a), (b), (d), 104.4(a) and (b), 104.11(a), 104.14(b)(1), and 106.7(d)(1).

3. Respondent will work with the Reports Analysis Division to correct and file amended reports within 12 months of the effective date of this Agreement.

4. Respondent will refund or disgorge to the U.S. Treasury the \$16,981 in contributions the Committee received from unregistered political organizations.

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 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. Respondent 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, unless another time frame is provided above, and to so notify the Commission.

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:

Lisa J. Stevenson
Acting General Counsel

BY: _____
Charles Kitcher
Associate General Counsel
for Enforcement

Date

FOR THE RESPONDENT:

(Name)
(Position)

Date



FEDERAL ELECTION COMMISSION

STATEMENT OF DESIGNATION OF COUNSEL

Provide one form for each Respondent/Witness

E-MAIL: cela@fec.gov

ARMUR/RR/P-MUR# _____

Name of Counsel: _____

Firm: _____

Address: _____

Office#: _____ Fax#: _____

Mobile#: _____

E-mail: _____

The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

Date (Signature - Respondent/Agent/Treasurer) Title

(Name - Please Print)

RESPONDENT: _____
(Please print Committee Name/ Company Name/Individual Named in Notification Letter)

Mailing Address: _____
(Please Print)

Home#: _____ Mobile#: _____

Office#: _____ Fax#: _____

E-mail: _____

This form relates to a Federal Election Commission matter that is subject to the confidentiality provisions of 52 U.S.C. § 30109(a)(12)(A). This section prohibits making public any notification or investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.