



FEDERAL ELECTION COMMISSION
Washington, DC 20463

VIA ELECTRONIC MAIL

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March 29, 2022

RE: MUR 7972 (RR 21L-57)
ProgressNow AZ – Federal and
Darryl Tattrie in his official capacity
as treasurer

Dear Mr. Barton,

On March 22, 2022, the Federal Election Commission found reason to believe that your client, ProgressNow AZ – Federal and Darryl Tattrie in his official capacity as treasurer (the “Committee”), violated 52 U.S.C. § 30104(g)(2) of the Federal Election Campaign Act of 1971, as amended (the “Act”) and 11 C.F.R. § 104.4(b)(2) of the Commission’s regulations by failing to file or timely file 48-Hour Reports. The Commission also found reason to believe the Committee violated 52 U.S.C. § 30104(b)(8) and 11 C.F.R. § 104.3(d) by failing to accurately report debt. 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.

Accordingly, enclosed is a conciliation agreement that the Commission has approved in settlement of this matter.

If your client agrees with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 60 days, you should respond to this notification as soon as possible. Accordingly, if your client is interested in engaging in pre-probable cause conciliation negotiations, please contact Justine A. di Giovanni, the attorney assigned to this matter, at (202) 694-1574 or jdigiovanni@fec.gov within seven days of receipt of this letter. In order to facilitate this voluntary step in the enforcement process, also attached is a tolling agreement for your signature.


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 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. 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.

ProgressNow AZ - Federal
MUR 7972 (ProgressNow AZ - Federal)
Page 3

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**

RESPONDENT: ProgressNow AZ – Federal and Darryl Tattrie
in his official capacity as treasurer

MUR: 7972

I. INTRODUCTION

This matter arises from a Reports Analysis Division (“RAD”) Referral stating that ProgressNow AZ – Federal and Darryl Tattrie in his official capacity as treasurer (“ProgressNow”) failed to file or timely file eight 48-Hour Reports in support of 12 independent expenditures aggregating \$754,443.45.¹ In addition, the Referral identifies \$120,000 in debt that was not timely reported by ProgressNow.² ProgressNow acknowledges that it failed to timely file the 48-Hour Reports and states that it has taken “corrective action” including obtaining “professional campaign finance consultants,” licensing “third-party software that will assist in tracking and cross-checking reports,” and retaining a new treasurer.³ ProgressNow does not address the originally unreported debt in its Response, but acknowledged its omission from the original 2020 12-Day Pre-General Report in a Form 99 Miscellaneous Electronic Submission filed with the Commission in May 2021.⁴

Based on the available information, the Commission opens a matter under review and finds reason to believe that ProgressNow violated 52 U.S.C. § 30104(g)(2) and 11 C.F.R.

¹ Referral at 1 (Aug. 13, 2021).

² *Id.* at 7.

³ Resp. at 2 (Aug. 30, 2021).

⁴ Resp.; ProgressNow, Form 99 Miscellaneous Electronic Submission (May 5, 2021), <https://docquery.fec.gov/pdf/555/202105059446306555/202105059446306555.pdf>.

§ 104.4(b)(2) by failing to file and timely file 48-Hour Reports and 52 U.S.C. § 30104(b)(8) and 11 C.F.R. § 104.3(d) by failing to accurately report its debt.

I. FACTUAL BACKGROUND

ProgressNow is an independent expenditure-only political committee that first registered with the Commission on May 12, 2020.⁵ During its seven months of operation during the 2020 election cycle, ProgressNow raised \$881,716 and spent \$860,589.⁶ ProgressNow remains active and has disbursed \$11,318 in operating expenditures but has not reported receiving any contributions for the 2022 election cycle.⁷

A. Independent Expenditures

Between July and October 2020, ProgressNow made independent expenditures that totaled \$754,443.45 supporting presidential candidate Joseph R. Biden Jr. and U.S. Senate candidate Mark Kelly and opposing presidential candidate Donald J. Trump. These expenditures were made on or before the 20th day before the November 3, 2020 general election.⁸

ProgressNow made nine independent expenditures between July 22 and September 30, 2020, totaling \$509,223.45, shown in the chart below, which were first disclosed to the Commission on ProgressNow's 2020 October Quarterly Report.⁹ ProgressNow had not at the

⁵ ProgressNow, Original Statement of Organization (May 12, 2020). Though ProgressNow originally organized as a Nonconnected Committee with a Non-Contribution Account, the available information indicates this was an error, and its Statement of Organization was subsequently amended to reflect its correct committee type. *See* Referral at 4-5; ProgressNow, Amended Statement of Organization (July 16, 2021).

⁶ ProgressNow — Financial Summary, FEC.GOV, <https://www.fec.gov/data/committee/C00746107/?cycle=2020> (last visited Feb. 8, 2022) (showing financial summary for 2020 election cycle).

⁷ ProgressNow — Financial Summary, FEC.GOV, <https://www.fec.gov/data/committee/C00746107/?cycle=2022> (last visited Feb. 8, 2022) (showing financial summary for 2022 election cycle).

⁸ Referral at 1, Attach. 2. For the 2020 election, the 20th day before the election was October 14, 2020.

⁹ Referral at 1-2.

time of that Report filed 48-Hour Reports regarding these expenditures.¹⁰ On October 22, 2020, RAD sent ProgressNow a Request for Additional Information (“RFAI”) regarding the non-filed 48-Hour Reports.¹¹ On November 5, 2020, ProgressNow filed six 48-Hour Reports supporting seven of the independent expenditures totaling \$259,223.45 and one 24-Hour Report regarding two of the independent expenditures totaling \$250,000.¹²

Fig. 1: Independent Expenditures First Reported on 2020 October Quarterly Report¹³

Date of Dissemination	Amount	Payee	Supporting/ Opposing
July 22, 2020	\$2,500.00	The New Media Firm, Inc.	Donald J. Trump
Aug. 17, 2020	\$3,723.45	Alluvial Media LLC	Donald J. Trump
Aug. 28, 2020	\$8,000.00	Blueprint Interactive	Donald J. Trump
Sept. 16, 2020	\$200,000.00	The New Media Firm, Inc.	Joseph R. Biden Jr.
Sept. 16, 2020	\$50,000.00	The New Media Firm, Inc.	Donald J. Trump
Sept. 18, 2020	\$25,000.00	Blueprint Interactive	Donald J. Trump
Sept. 23, 2020	\$60,000.00	Blueprint Interactive	Donald J. Trump
Sept. 25, 2020	\$112,000.00	The New Media Firm, Inc.	Joseph R. Biden Jr.
Sept. 25, 2020	\$48,000.00	The New Media Firm, Inc.	Donald J. Trump

ProgressNow made two additional independent expenditures between October 1 and October 14, 2020, totaling \$125,220, shown in the chart below, which were first disclosed to the Commission on ProgressNow’s 2020 12-Day Pre-General Report.¹⁴ ProgressNow had not at the time of that Report filed 48-Hour Reports regarding these expenditures.¹⁵ On December 3, 2020,

¹⁰ *Id.*

¹¹ *Id.* at 2; ProgressNow, RFAI at 2 (Oct. 22, 2020), <https://docquery.fec.gov/pdf/611/202010220300088611/202010220300088611.pdf>. Beginning in October 2020, ProgressNow’s former treasurer had numerous discussions with ProgressNow’s RAD Analyst regarding filing 48-Hour Reports and ProgressNow’s obligations with respect to these reports. Referral at 2-7, Attach. 3.

¹² The 24-Hour Report appears to have been filed in error; like the other expenditures discussed above, these expenditures should also have been reported on a 48-Hour Report. The Committee was not referred to the Office of General Counsel for filing a 24-Hour instead of 48-Hour Report.

¹³ Referral at 1-2.

¹⁴ *Id.* at 3-4.

¹⁵ *Id.*

1 RAD sent ProgressNow an RFAI regarding the non-filed 48-Hour Reports.¹⁶ To date,
2 ProgressNow has not filed 48-Hour Reports regarding these expenditures.¹⁷

3 **Fig. 2: Independent Expenditures First Reported on 2020 12-Day Pre-General Report¹⁸**

Date of Dissemination	Amount	Payee	Supporting
Oct. 7, 2020	\$25,220.00	International Printing Company	Mark Kelly
Oct. 14, 2020	\$100,000.00	The New Media Firm, Inc.	Joseph R. Biden Jr.

4 ProgressNow made an additional independent expenditure on October 13, 2020, in the
5 amount of \$120,000, shown below, which was first disclosed to the Commission on
6 ProgressNow's 2020 Year-End Report.¹⁹ At the time of that Report, ProgressNow had not filed
7 a 48-Hour Report regarding this expenditure. On February 24, 2021, RAD sent ProgressNow an
8 RFAI regarding the non-filed 48-Hour Report.²⁰ On March 26, 2021, ProgressNow filed a
9 48-Hour Report disclosing this independent expenditure.²¹

10 **Fig. 3: Independent Expenditure First Reported on 2020 Year-End Report²²**

Date of Dissemination	Amount	Payee	Supporting
Oct. 13, 2020	\$120,000.00	The New Media Firm, Inc.	Joseph R. Biden Jr.

¹⁶ *Id.* at 4; ProgressNow, RFAI at 1 (Dec. 3, 2020), <https://docquery.fec.gov/pdf/374/202012030300094374/202012030300094374.pdf>.

¹⁷ Referral at 4-5.

¹⁸ *Id.* at 3-4.

¹⁹ *Id.* at 5 & n.1.

²⁰ *Id.* at 5-6; ProgressNow, RFAI at 1 (Feb. 24, 2021), <https://docquery.fec.gov/pdf/303/202102240300109303/202102240300109303.pdf>.

²¹ Referral at 6. On May 5, 2021, ProgressNow also amended its 2020 12-Day Pre-General Report to include this independent expenditure. *Id.* at 5.

²² *Id.* at 5 & n.1.

1 **B. Reporting Debt**

2 On October 14, 2020, ProgressNow filed its original 2020 12-Day Pre-General Report,
 3 which did not disclose any debt incurred between October 1 and 14, 2020.²³ ProgressNow
 4 subsequently amended this Report multiple times.²⁴ On the most recent amendment, dated
 5 March 26, 2021, ProgressNow disclosed \$120,000 in debt incurred during the reporting period
 6 that had not been previously disclosed.²⁵ On March 31, 2021, RAD sent ProgressNow an RFAI
 7 requesting clarification regarding the increase in debts disclosed on the amended Report.²⁶ On
 8 May 5, 2021, ProgressNow filed a Form 99 Miscellaneous Electronic Submission stating that
 9 ProgressNow “acknowledged the \$120,000 increase in debt to The New Media Firm due to a
 10 mistake in processing the debt in the FEC[F]ile [*sic*] software resulting in its omission on the
 11 Pre[-] and Post[-]General, as well as the Year-[E]nd Reports.”²⁷

12 **C. Response**

13 ProgressNow “accepts responsibility” for and “acknowledges” the errors made in its
 14 disclosure reports.²⁸ ProgressNow states that it received the first RFAI regarding its untimely
 15 48-Hour Reports after its original 12-Day Pre-General Report had already been filed. The
 16 Response asserts that then-treasurer Chlan “was frequently on the phone with her RAD Analyst,
 17 but failed to realize the scope of her deficiencies until the deed was done,” and states that

²³ *Id.* at 7.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*; ProgressNow, RFAI at 1 (Mar. 31, 2021), <https://docquery.fec.gov/pdf/147/202103310300114147/202103310300114147.pdf>.

²⁷ Referral at 8 (quoting ProgressNow, Form 99 Miscellaneous Electronic Submission (May 5, 2021), <https://docquery.fec.gov/pdf/555/202105059446306555/202105059446306555.pdf>).

²⁸ Resp. at 1-2 (citing ProgressNow, Form 99 Miscellaneous Electronic Submission (Mar. 26, 2021), <https://docquery.fec.gov/pdf/713/202103269442261713/202103269442261713.pdf>).

1 “[w]hile the errors are undeniable, and [ProgressNow] does not deny them, it hopes the
 2 Commission will take into consideration the sincere effort to comply demonstrated by
 3 [ProgressNow] even prior to obtaining the assistance of more experienced and qualified
 4 professionals.”²⁹

5 The Response states that, since the errors at issue in this matter occurred, ProgressNow
 6 has undertaken a number of corrective actions that it believes will “prevent [similar errors] from
 7 happening again.”³⁰ These actions include retaining an “outside campaign finance compliance
 8 firm,” licensing “third-party software that will allow for better tracking of expenditures due to
 9 more robust book keeping [*sic*] features,” performing an internal audit and filing amendments for
 10 all 2020 reports, and hiring a new treasurer.³¹

11 II. LEGAL ANALYSIS

12 A. Independent Expenditures

13 The Federal Election Campaign Act of 1971, as amended (the “Act”) requires
 14 committee treasurers to file reports of receipts and disbursements in accordance with the
 15 provisions of 52 U.S.C § 30104(b).³² The reporting requirement includes reporting independent
 16 expenditures made by political committees other than authorized committees.³³ Every political
 17 committee that makes independent expenditures must report them in its regularly scheduled

²⁹ Resp. at 3.

³⁰ *Id.* at 1.

³¹ *Id.*; Referral at 8 n.2 (“The Committee filed an Amended Statement of Organization . . . on July 16, 2021, which disclosed Mr. Tattre as the new Treasurer . . .”).

³² 52 U.S.C. § 30104(a)(1).

³³ *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).

disclosure reports in accordance with 11 C.F.R. § 104.3(b)(3)(vii).³⁴ In addition, 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.³⁵ These 48-Hour Reports must be filed by the end of the second day “following the date on which a communication that constitutes an independent expenditure is publicly distributed or otherwise publicly disseminated.”³⁶

The Referral states, and ProgressNow acknowledges, that ProgressNow failed to timely file six 48-Hour Reports supporting ten independent expenditures totaling \$629,223.45 and did not file two 48-Hour Reports supporting two independent expenditures totaling \$125,220. The expenditures are grouped by their required 48-Hour Reports below:

Fig. 4: Independent Expenditures Resulting in Late and Non-Filed 48-Hour Reports

Date of Dissemination	Amount	Payee	Date 48-Hour Report Due	Date 48-Hour Report Filed
July 22, 2020	\$2,500.00	The New Media Firm, Inc.	Aug. 30, 2020	Nov. 5, 2020
Aug. 17, 2020	\$3,723.45	Alluvial Media LLC		
Aug. 28, 2020	\$8,000.00	Blueprint Interactive		

³⁴ 11 C.F.R. § 104.4(a). Such a political committee must disclose on Schedule E the name of any person who receives any disbursement during the reporting period in an aggregate amount or value in excess of \$200 within the calendar year in connection with an independent expenditure by the reporting committee. The report also must disclose 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(g)(3)(B) (requiring 48-Hour Reports to include information required by section 30104(b)(6)(B)(iii)); *see* 11 C.F.R. § 104.3(b)(3)(vii).

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

³⁶ 11 C.F.R. § 104.4(b)(2).

Date of Dissemination	Amount	Payee	Date 48-Hour Report Due	Date 48-Hour Report Filed
Sept. 16, 2020	\$200,000.00	The New Media Firm, Inc.	Sept. 18, 2020	Nov. 5, 2020 ³⁷
Sept. 16, 2020	\$50,000.00	The New Media Firm, Inc.		
Sept. 18, 2020	\$25,000.00	Blueprint Interactive	Sept. 20, 2020	Nov. 5, 2020
Sept. 23, 2020	\$60,000.00	Blueprint Interactive	Sept. 25, 2020	Nov. 5, 2020
Sept. 25, 2020	\$112,000.00	The New Media Firm, Inc.	Sept. 27, 2020	Nov. 5, 2020
Sept. 25, 2020	\$48,000.00	The New Media Firm, Inc.		
Oct. 7, 2020	\$25,220.00	International Printing Company	Oct. 9, 2020	Not Filed
Oct. 13, 2020	\$120,000.00	The New Media Firm	Oct. 15, 2020	Mar. 26, 2021
Oct. 14, 2020	\$100,000.00	The New Media Firm, Inc.	Oct. 16, 2020	Not Filed

As shown in the chart above, ProgressNow failed to file each of the above 48-Hour Reports by 11:59 pm on the second day following the date on which the independent expenditures aggregating \$10,000 or more were publicly distributed or disseminated. Accordingly, the Commission finds reason to believe that ProgressNow violated 52 U.S.C. § 30104(g)(2) and 11 C.F.R. § 104.4(b)(2) by failing to timely file 48-Hour Reports.

B. Reporting Debt

Political committees must disclose the amount and nature of outstanding debts and obligations until those debts are extinguished.³⁸ Debts of \$500 or less must be reported no later

³⁷ As noted above, ProgressNow appears to have mistakenly submitted this Report as a 24-Hour Report rather than a 48-Hour Report. See Referral at 3; ProgressNow, 24-Hour Report of Independent Expenditures (Nov. 5, 2020). Because the disclosed information is identical to what would have been disclosed in the correct 48-Hour Report but for checking the incorrect box at the top of the Report, the Commission makes no additional findings regarding the filing of the incorrect report.

³⁸ 52 U.S.C. § 30104(b)(8); 11 C.F.R. §§ 104.3(d), 104.11(a).

1 than 60 days after the obligation is incurred, while debts of more than \$500 must be reported as
2 of the date the obligation is incurred.³⁹

3 ProgressNow's original 2020 12-Day Pre-General Report did not disclose any debt
4 incurred between October 1 and 14, 2020.⁴⁰ ProgressNow subsequently amended this Report on
5 March 26, 2021, and ultimately disclosed \$120,000 in debt incurred during the reporting period
6 that had not been previously disclosed.⁴¹ Further, ProgressNow acknowledges that it failed to
7 report \$120,000 in debt at the time it was incurred.⁴² Accordingly, the Commission finds reason
8 to believe that ProgressNow violated 52 U.S.C. § 30104(b)(8) and 11 C.F.R. § 104.3(d) by
9 failing to accurately report its debt.

³⁹ 11 C.F.R. § 104.11(b).

⁴⁰ Referral at 7.

⁴¹ *Id.*

⁴² *Id.* at 8 (quoting ProgressNow, Form 99 Miscellaneous Electronic Submission (May 5, 2021), <https://docquery.fec.gov/pdf/555/202105059446306555/202105059446306555.pdf>).