



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

November 6, 2024

VIA UPS SIGNATURE REQUESTED AND ELECTRONIC MAIL

Michael Bayes
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RE: MUR 8131

Dear Mr. Bayes,

This is in reference to the complaint filed with the Federal Election Commission on April 28, 2023, on behalf of your clients, Salazar for Congress, Freedom Force PAC, Salazar Victory Committee and Les Williamson, in his official capacity as treasurer of, concerning Nancy Marks. On May 14, 2024, the Commission found that there was reason to believe Nancy Marks violated 52 U.S.C. §§ 30102(h)(1) and 30104(b) and 11 C.F.R. §§ 103.3(a) and 104.3 by failing to deposit receipts into a campaign depository account and by failing to report and incorrectly reporting information regarding receipts, disbursements, and cash on hand. On October 7, 2024, the Commission accepted a conciliation agreement signed by the respondent. Accordingly, the Commission voted to close the file in this matter effective November 6, 2024.

Documents related to the case will be placed on the public record today. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). A copy of the Commission's factual and legal analysis and the conciliation agreement are enclosed.

If you have any questions, please contact Kevin Fortkiewicz, the attorney assigned to this matter, at (202) 694-1169.

Sincerely,

Lisa J. Stevenson
Acting General Counsel

A handwritten signature in black ink, appearing to read "Aaron Rabinowitz".

BY: Aaron Rabinowitz
Assistant General Counsel

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: Nancy Marks MUR 8131

I. INTRODUCTION

This matter arises from a Complaint filed by Salazar for Congress, Freedom Force PAC, and Salazar Victory Committee (the “Committees”) alleging that their former treasurer, Nancy Marks, should be held personally liable for reporting violations and failing to correctly deposit contributions in depository accounts while Marks served as treasurer. The same violations were the subject of MUR 8176 (Salazar for Congress, *et al.*) in which the Committees filed a *sua sponte* submission acknowledging the violations and agreed to pay a combined \$22,800 civil penalty to settle the violations. As part of the *sua sponte* process, the Committees filed this Complaint against Marks. The Committees argue that Marks should be held personally liable for the violations in MUR 8176 because she recklessly failed to fulfill her duties under the Federal Election Campaign Act of 1971, as amended (the “Act”), and Commission regulations. Specifically, they contend that the errors and omissions in her reports far exceed any level of acceptable mistake.

In her Response, Marks argues that no items were intentionally incorrectly reported or omitted. She states that the pandemic caused a labor shortage and that her company was forced to hire from a small, underqualified pool of available people. And she acknowledges hiring an inexperienced employee who was tasked with obtaining information and preparing reports. Also, during the pandemic, Marks states that several of her competitors were unable to operate and, as a result, her company took on their work which was overwhelming. Marks provides other explanations for the errors in the reports, including that: (1) the Committees’ staff was

1 difficult to work with and withheld documents; (2) the staff refused to keep the Committees’
2 activities separate; (3) vendors, operating under the stresses of the pandemic, did not timely
3 provide her with documents; and (4) that the Committees did not disclose all relevant accounts to
4 Marks. Finally, Marks provides some brief explanations for the various issues that appear on the
5 reports for each of the Committees, such as mistakes made by an inexperienced employee and
6 Marks choosing to report receipts based on when a check is dated rather than deposited.

7 As explained below, the Commission finds Marks personally liable for the reporting
8 errors and failures to deposit. Marks was responsible for filing the Committee’s reports during
9 the six-month period she was treasurer but filed reports with a wide variety of errors. The errors
10 amount to \$2,132,976.06 in misreported activity out of the \$3,077,234.91 in total transactions for
11 the Committees during the six-month period during which Marks was treasurer. The reporting
12 errors can be found on every report filed by Marks for the Committees. Marks additionally
13 deposited contributions into the wrong depository account for two of the Committees.

14 Significantly, Marks acknowledges that she took on what she describes as an overwhelming
15 amount of work obtained from competitors while assigning important tasks to inexperienced
16 staff. The other explanations in her Response, such as the Committee’s staff being difficult to
17 work with or withholding documents, is belied by the succeeding treasurer almost immediately
18 discovering the errors in reports filed by Marks and quickly filing accurate amendments. The
19 pervasive and egregious nature of these violations, coupled with the Response’s description of a
20 pattern of knowingly relying on inexperienced and overworked staff, demonstrates that Marks,
21 an experienced treasurer, acted recklessly in performing her duties as treasurer of the
22 Committees.

Therefore, the Commission finds reason to believe that Marks in her personal capacity violated 52 U.S.C. §§ 30102(h)(1) and 30104(b) and 11 C.F.R. §§ 103.3(a) and 104.3 by filing inaccurate reports with the Commission and failing to deposit contributions into the correct depository accounts.

II. FACTUAL BACKGROUND

Salazar for Congress is the principal campaign committee for Representative Maria Salazar who, during the relevant time, was a 2022 candidate for Florida's 27th Congressional District.¹ Salazar for Congress hired Nancy Marks to be treasurer of the committee in January 2021 and reported the change in treasurer to the Commission on January 25, 2021.² Freedom Force PAC is Salazar's leadership PAC and Salazar Victory Committee is a joint fundraising committee consisting of Salazar for Congress, Freedom Force PAC, and NRCC, which is a national party committee.³ Freedom Force PAC and Salazar Victory Committee hired Marks to be their treasurer in February 2021 and both reported her as treasurer to the Commission on February 17, 2021.⁴ Based on political committees reporting disbursements to Marks and her company, Campaigns Unlimited, the following chart shows the number of federal committees

¹ Compl. at 2 (Apr. 28, 2023); Maria Elvira Salazar, Statement of Candidacy at 1 (Jan. 19, 2021).

² Compl. at 2; Salazar for Congress, Amended Statement of Organization at 1 (Jan. 25, 2021).

³ Compl. at 2; Freedom Force PAC, Statement of Organization at 1 (Feb. 17, 2021); Salazar Victory Committee, Statement of Organization at 1 (Feb. 17, 2021).

⁴ Compl. at 2; Freedom Force PAC, Statement of Organization at 1 (Feb. 17, 2021); Salazar Victory Committee, Statement of Organization at 1 (Feb. 17, 2021).

1 who reported disbursements to Marks and her company, Campaigns Unlimited,⁵ on a yearly
2 basis.⁶

Time Period	Number of Federal Committees Reporting Operating Expenses to Nancy Marks or Campaigns Unlimited
1/1/19 – 12/31/19	6
1/1/20 – 12/31/20	10
1/1/21 – 12/31/21	21
1/1/22 – 12/31/22	26

3 In addition, based on a review of Statements of Organization, Marks currently serves as
4 treasurer for over 40 political committees.⁷

5 Marks filed the 2021 April Quarterly Report covering January 1, 2021, to March 31,
6 2021, and 2021 July Quarterly Reports covering April 1, 2021, to June 30, 2021, for the
7 Committees.⁸ The reports filed by Nancy Marks disclosed receiving \$1,454,194.46 in receipts

⁵ See Salazar for Congress, 2021 July Quarterly Report at 145 (July 16, 2021), <https://docquery.fec.gov/cgi-bin/fecimg/?202107169451662295> (disclosing a payment for “ACCOUNTING SERVICES/RETAINER” to Campaigns Unlimited at 47 Flintlock Drive in Shirley, NY); Salazar for Congress, Statement of Organization at 3 (Jan. 25, 2021) (disclosing Nancy Marks as treasurer at 47 Flintlock Drive in Shirley, NY).

⁶ *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&recipient_name=Campaigns+Unlimited&recipient_name=Nancy+Marks&two_year_transaction_period=2020&min_date=01%2F01%2F2019&max_date=12%2F31%2F2019 (last visited Feb. 5, 2024) (showing 6 different committees made disbursements to Nancy Marks or Campaigns Unlimited in 2019); *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&recipient_name=Campaigns+Unlimited&recipient_name=Nancy+Marks&two_year_transaction_period=2020&min_date=01%2F01%2F2020&max_date=12%2F31%2F2020 (last visited Feb. 5, 2024) (showing 10 different committees made disbursements to Nancy Marks or Campaigns Unlimited in 2020); *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&recipient_name=Campaigns+Unlimited&recipient_name=Nancy+Marks&two_year_transaction_period=2022&min_date=01%2F01%2F2021&max_date=12%2F31%2F2021 (last visited Feb. 5, 2024) (showing 21 different committees made disbursements to Nancy Marks or Campaigns Unlimited in 2021); *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&recipient_name=Campaigns+Unlimited&recipient_name=Nancy+Marks&two_year_transaction_period=2022&min_date=01%2F01%2F2022&max_date=12%2F31%2F2022 (last visited Feb. 5, 2024) (showing 26 different committees made disbursements to Nancy Marks or Campaigns Unlimited in 2022).

⁷ *FEC Committees: Filtered Results*, FEC.GOV, https://www.fec.gov/data/committees/?treasurer_name=Nancy+Marks (last visited Nov. 15, 2023) (48 committees disclose Nancy Marks as their treasurer on their most recent Statements of Organization).

⁸ See e.g., Salazar for Congress, Amended 2021 April Quarterly Report (Apr. 15, 2021); Freedom Force PAC, 2021 April Quarterly Report (Apr. 15, 2021); Salazar Victory Committee, 2021 April Quarterly Report (Apr. 15, 2021).

and \$709,743.78 in disbursements for the six-month period with a specific breakdown of Salazar for Congress reporting \$1,180,594.46 in receipts and \$517,437.32 in disbursements, Freedom Force PAC reporting \$49,200 in receipts and \$40,806.46, and Salazar Victory Committee reporting \$224,400 in receipts and \$151,500 in disbursements.⁹ The new treasurer hired by the Committees conducted a review of the 2021 April and July Quarterly Reports for the Committees and filed amended reports that disclosed the Committees receiving \$1,346,620.50 in receipts and \$751,867.19 in disbursements for the six-month period Marks served as treasurer with the specific breakdown of Salazar for Congress reporting \$1,094,949 in receipts and \$584,871.43 in disbursements, Freedom Force PAC reporting \$49,400 in receipts and \$29,965.25 in disbursements, and Salazar Victory Committee reporting \$202,271 in receipts and \$137,030.51 in disbursements.¹⁰

According to the Complaint, the Committees' staff found Marks unresponsive to their requests and decided to replace her in June 2021.¹¹ Specifically, the Committees contend that Marks failed to show drafts of reports and filed reports without internal approval from other

⁹ Salazar for Congress, Amended 2021 April Quarterly Report at 4 (Apr. 15, 2021), <https://docquery.fec.gov/cgi-bin/fecimg/?202104159443765614>; Salazar for Congress, 2021 July Quarterly Report at 4 (July 17, 2021), <https://docquery.fec.gov/cgi-bin/fecimg/?202107179451679037>; Freedom Force PAC, 2021 April Quarterly Report at 2 (Apr. 15, 2021), <https://docquery.fec.gov/cgi-bin/fecimg/?202104159443589566>; Freedom Force PAC, Amended 2021 July Quarterly Report at 2 (July 17, 2021), <https://docquery.fec.gov/cgi-bin/fecimg/?202107179451678906>; Salazar Victory Committee, 2021 April Quarterly Report at 4 (Apr. 15, 2021), <https://docquery.fec.gov/cgi-bin/fecimg/?202104159443590134>; Salazar Victory Committee, Amended 2021 July Quarterly Report at 4 (Aug. 2 2021), <https://docquery.fec.gov/cgi-bin/fecimg/?202108029465821526>.

¹⁰ Salazar for Congress, Amended 2021 April Quarterly Report at 4 (Sept. 7, 2021), <https://docquery.fec.gov/cgi-bin/fecimg/?202109079466623168>; Salazar for Congress, Amended 2021 July Quarterly Report at 4 (July 7, 2021), <https://docquery.fec.gov/cgi-bin/fecimg/?202109079466623404>; Freedom Force PAC, Amended 2021 Mid-Year Report at 2 (Sept. 28, 2021), <https://docquery.fec.gov/cgi-bin/fecimg/?202109289467145380>; Salazar Victory Committee, Amended 2021 Mid-Year Report at 2 (Sept. 28, 2021), <https://docquery.fec.gov/cgi-bin/fecimg/?202109289467145398>.

¹¹ Compl. at 3-4.

committee staff.¹² Additionally, the Complaint states that the Committees' fundraisers noticed reports were missing transactions.¹³ The Committees hired a new treasurer, Les Williamson, to replace Marks in late July 2021.¹⁴ The Committees contend that Marks delayed the transfer of records, causing counsel for the Committees to send a demand letter requesting the transfer of all records.¹⁵ On August 11, 2021, Marks transferred the records to the new treasurer.¹⁶

The Complaint states that the new treasurer began reviewing the Committees' bank statements and disclosure reports and discovered reporting and deposit violations for all the Committees while Marks was treasurer.¹⁷ The Committees reported these errors by filing amended reports, a *sua sponte* submission, and this Complaint which reflect \$2,030,026.06 of reporting errors on transactions including memo entries (the total activity for the affected reports is \$3,077,234.91).¹⁸

Salazar for Congress disclosed the following errors:

- Contributions not reported, contributions reported with the wrong date, and duplicate transactions;
- Failure to properly report joint fundraising contributions causing the appearance of excessive contributions;
- Failure to properly designate contributions to specific elections causing the appearance of excessive contributions;
- Unreported operating expenditures; and

¹² *Id.* at 3-4.

¹³ *Id.*

¹⁴ *Id.* at 3; Salazar for Congress, Amended Statement of Organization at 1 (July 30, 2021); Freedom Force PAC, Amended Statement of Organization at 1 (Aug. 11, 2021); Salazar Victory Committee, Amended Statement of Organization at 1 (Aug. 11, 2021).

¹⁵ Compl. at 3-4. The Response disputes that Marks failed to timely turn over the records to the new treasurer on the basis that she and her company were responsible for filing the July Quarterly Reports, and it asserts that she was in contact with the Committees' staff from late July until August 11, when she turned the records over to the new treasurer. *See Resp.* at 2 (June 16, 2023).

¹⁶ Compl. at 3.

¹⁷ *Id.* at 4.

¹⁸ *Id.* at 1, 4.

- Reporting expenditures that did not occur.¹⁹

Freedom Force PAC disclosed the following errors:

- A transfer from a joint fundraising committee was reported incorrectly as a contribution from a political committee;
- Unreported operating expenditures;
- Reporting of expenses that were expenses for a different committee;
- Reporting of contributions on incorrect reporting lines; and
- Use of incorrect dates for when transactions occurred.²⁰

Salazar Victory Committee disclosed the following errors:

- Contributions reported failed to disclose they were earmarked through a conduit;
- Unreported operating expenditures; and
- Misreporting of transfers to participants of the committee.²¹

These individual errors also caused the Committees to misreport their cash on hand in the relevant reports.²² In addition to these reporting errors, the Committees reported that Marks failed to correctly deposit contributions in the campaign depositories.²³ Marks allegedly incorrectly deposited 38 contributions totaling \$92,500 for Salazar Victory Committee into the

¹⁹ *Id.* at 4-8.

²⁰ *Id.* at 9.

²¹ *Id.* at 10.

²² Compare Salazar for Congress Original 2021 April Quarterly Report (Apr. 15, 2021), with Salazar for Congress Second Amended 2021 April Quarterly Report (Sept. 7, 2021) (reflecting a closing cash on hand disparity of \$3,816.08); compare Salazar for Congress Original 2021 July Quarterly Report (July 16, 2021), with Salazar for Congress Second Amended 2021 July Quarterly Report (Sept. 7, 2021) (reflecting a closing cash on hand disparity of \$143,155.12); compare Freedom Force PAC Amended 2021 July Quarterly Report (July 17, 2021), with Freedom Force PAC, 2021 Mid-Year Report (Sept. 28, 2021) (reflecting a closing cash on hand disparity of \$11,041.21); compare Salazar Victory Committee Original 2021 July Quarterly Report (July 16, 2021), with Salazar Victory Committee, 2021 Mid-Year Report (Sept. 29, 2021) (reflecting a closing cash on hand disparity of \$37,540.49). Salazar for Congress received Request for Additional Information (“RFAI”) letters for its original and amended April and July 2021 filings, which regarded the large increase and decreases in activity, transfers, reattributions, and other issues. RFAI (Oct. 14, 2021); RFAI (Oct. 11, 2021); RFAI (Aug. 3, 2021); RFAI (June 30, 2021).

²³ Compl. at 8-9.

depository account of Salazar for Congress.²⁴ Additionally, Marks deposited two contributions totaling \$10,000 for Freedom Force PAC into the depository account of Salazar for Congress.²⁵

In connection with these same reporting and depositing errors outlined above, the Committees filed a *sua sponte* submission to the Commission once their new treasurer conducted a review of their financial activity for the period Marks was the treasurer.²⁶ The Committees admitted to filing reports with errors and depositing contributions in the incorrect depository account.²⁷ The Commission found reason to believe as to the Committees for filing inaccurate reports with the Commission and failing to deposit contributions into their depository accounts.²⁸ The Committees agreed to cease and desist from committing further violations and pay a civil penalty of \$22,800 to be paid for in the following amounts: \$10,450 by Salazar for Congress; \$4,750 by Freedom Force PAC; and \$7,600 by Salazar Victory Committee.²⁹

The Committees filed the Complaint pursuant to Footnote 1 of the Commission's Policy Regarding Self-Reporting of Campaign Violation (*Sua Sponte* Submissions), Notice 2007-8.³⁰ The Complaint cites the Commission's Policy Regarding Treasurers Subject to Enforcement Proceedings which provides that a treasurer can be personally liable for reporting duties;

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ Conciliation Agreement ("CA") ¶ V, MUR 8176 (Salazar for Congress, *et al*).

²⁸ Factual and Legal Analysis ("F&LA") at 2, MUR 8176 (Salazar for Congress, *et al*).

²⁹ CA ¶ VI, MUR 8176 (Salazar for Congress, *et al*).

³⁰ Policy Regarding Self-Reporting of Campaign Finance Violations (*Sua Sponte* Submissions) ("*Sua Sponte* Policy"), Notice 2007-8, 72 Fed. Reg. 16,695, 16,696 n.1 (Apr. 5, 2007). Footnote 1 of the *Sua Sponte* Policy provides if a person reporting a violation of the Act also makes specific allegations to someone not joining the submission then the Commission, acting through the Office of General Counsel, may advise the self-reporting person to resubmit a complaint against the other persons.

1 specifically, the Complaint alleges that Marks acted recklessly.³¹ The Complaint argues that
2 “[t]he errors and omissions contained in the reports far exceed any level of acceptable mistake
3 and constitute a failure to fulfill the treasurer’s duties pursuant to FECA and Commission
4 regulations.”³²

5 The Response states that “[n]o items were intentionally incorrectly reported or omitted”
6 and claims that “Marks did her best to work through the difficulties imposed by the pandemic
7 that is labor shortages and an overwhelming amount of work.”³³ Specifically, she states that
8 during the pandemic it was very difficult to secure qualified employees and “the office was
9 overwhelmed with work from competitors who were not able to work, at the same time had to
10 recruit employees from a very small, and underqualified, pool of available people.”³⁴ Further,
11 she contends that the Committees’ staff was difficult to work with and withheld documents; that
12 the staff refused to keep the Committees’ activities separate; that vendors operating under the
13 stresses of the pandemic did not timely provide her with documents; that Salazar had a credit
14 card account that was not disclosed to Marks; and that the campaign manager had a bank account
15 that was not disclosed to Marks.³⁵ She clarifies that the omitted transactions occurred because
16 the inexperienced employee was not forceful with the Committees’ staff in obtaining all the
17 necessary records.³⁶ Additionally, according to the Response, this inexperienced employee made

³¹ Compl. at 1. (citing Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings, 70 Fed. Reg. 3, 3-4 (Jan. 3, 2005)) (“Treasurer Policy”).

³² Compl. at 11.

³³ Resp. at 4.

³⁴ *Id.* at 2.

³⁵ *Id.* at 3.

³⁶ *Id.* at 2.

1 clerical errors on the reports “such as reporting items on the wrong line.”³⁷ The Response also
2 claims that the reporting errors detailed in the Complaint are from reporting styles differing
3 between Marks and the new treasurer.³⁸ The Response describes how she usually uses the date a
4 contribution is deposited as the date used on the reports, but if a contribution is received near the
5 end of the reporting period, then she uses the date on the contribution.³⁹

6 Marks does not dispute that she deposited contributions into the wrong depository
7 account, but argues that the Committee staff did not provide correct guidance to contributors.⁴⁰
8 Marks deposited contributions for Salazar Victory Committee into the depository account for
9 Salazar for Congress, but claims that, based on the joint fundraising agreement, these
10 contributions were to be transferred to Salazar for Congress.⁴¹ She explains that correcting this
11 error would have created confusion.⁴² Additionally, Marks states that contributions for Freedom
12 Force PAC were deposited into the wrong account, but were ultimately fixed by transferring the
13 funds.⁴³

14 In her Response, Marks argues that various reporting errors for the Committees were
15 unintentional or minor.⁴⁴ In one example, she states that “[w]e will not waste the committee’s
16 time by addressing some of the *de minimis* mistakes Mr. Williamson cites, such as the \$15 bank

³⁷ *Id.*

³⁸ *Id.* at 4.

³⁹ *Id.* at 2.

⁴⁰ *Id.* at 1-3.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

supply charge or the paperwork mistake by AMEX that caused three payments of \$6,400 to be made automatically and which were promptly reversed.”⁴⁵

III. LEGAL ANALYSIS

A. Relevant Law

The Act and Commission regulations require that each treasurer of a political committee file regular reports with the Commission and sign each report.⁴⁶ Reports for political committees must disclose, among other things: (1) the amount of cash on hand at the beginning of the reporting period; (2) the total amount of receipts per reporting period; (3) itemized contributions from individuals; (4) contributions from other political committees; (5) transfers from affiliated political committees; (6) operating expenditures; (7) transfers to affiliated political committees; and (8) contributions to other political committees.⁴⁷ The Act and Commission regulations require each political committee to maintain at least one campaign depository and require that the treasurer deposit all contributions into that account within 10 days of receipt.⁴⁸ Each political committee registered with the Commission must have a treasurer.⁴⁹ The treasurer of a political committee is required to file reports of receipts and disbursements.⁵⁰

The Commission may find a current or former treasurer personally liable when “the treasurer knowingly and willfully violated an obligation that the Act or regulations specifically impose on treasurers or where the treasurer recklessly failed to fulfill the duties imposed by law,

⁴⁵ *Id.* at 2.

⁴⁶ 52 U.S.C. § 30104(a)(1), (b); 11 C.F.R. §§ 104.1(a), 104.3(a), (b).

⁴⁷ 52 U.S.C. § 30104(b); 11 C.F.R. § 104.3(a), (b).

⁴⁸ 52 U.S.C. § 30102(h)(1); 11 C.F.R. § 103.3.

⁴⁹ 52 U.S.C. § 30102(a); 11 C.F.R. § 102.7(a).

⁵⁰ 52 U.S.C. § 30104(a)(1); 11 C.F.R. §§ 104.1(a), 104.3(a), (b).

or where the treasurer has intentionally deprived himself or herself of the operative facts giving rise to the violation.”⁵¹

B. The Commission Finds Reason to Believe that Marks in her Personal Capacity Violated 52 U.S.C. §§ 30102(h)(1) and 30104(b) and 11 C.F.R. §§ 103.3(a) and 104.3 by Recklessly Filing Inaccurate Reports with the Commission and Failing to Deposit Contributions into the Correct Depository Accounts

Marks, when serving as treasurer of the Committees, violated the reporting requirements of the Act governing, among other things the reporting of receipts, disbursements, cash on hand, and transfers.⁵² Marks signed every report as treasurer of the three Committees for the six-month period that included the 2021 April Quarterly Reports covering January 1, 2021, to March 31, 2021, and the 2021 July Quarterly Reports covering April 1, 2021, to June 30, 2021.⁵³ The available information shows that Marks filed reports containing hundreds of errors totaling \$2,030,026.06 (out of \$3,077,234.91 in total activity), including incorrect dates for contributions, failing to report operating expenditures, incorrectly reporting joint fundraising activity, and reporting expenses that did not occur.⁵⁴ A review of the reports filed by Marks compared to the amendments filed by the new treasurer establishes these reporting violations.⁵⁵ The Commission has also made findings that these reporting errors occurred in MUR 8176.⁵⁶ Marks’s Response appears to not dispute that the amendments are correct and appears to acknowledge reporting

⁵¹ Treasurer Policy, 70 Fed. Reg. at 3-4.

⁵² See 52 U.S.C. § 30104(a)(1); 11 C.F.R. §§ 104.1(a), 104.3(a), (b).

⁵³ See, e.g., Salazar for Congress, Amended 2021 April Quarterly Report (Apr. 15, 2021); Freedom Force PAC, 2021 April Quarterly Report (Apr. 15, 2021); Salazar Victory Committee, 2021 April Quarterly Report (Apr. 15, 2021).

⁵⁴ F&LA at 6, MUR 8176 (Salazar for Congress, *et al.*); see *supra* note 22 and accompanying text.

⁵⁵ See *supra* note 22 and accompanying text.

⁵⁶ F&LA at 6, MUR 8176 (Salazar for Congress, *et al.*).

1 violations did occur with the exception of the dispute over reporting the date of receipt of
2 checks.⁵⁷ By way of example, Marks failed to report over \$52,000 in contributions to Salazar for
3 Congress on its 2021 April Quarterly Report.⁵⁸ Marks also incorrectly reported transfers from
4 Salazar Victory Committee to Salazar for Congress and Freedom Force PAC on their reports by
5 failing to provide memo entries to support the transfers, duplicating memo entries that had
6 already been provided, and reporting the transactions as receipts from a political action
7 committee rather than a joint fundraising representative.⁵⁹ Additionally, Marks incorrectly
8 reported Salazar Victory Committee expenses on Freedom Force PAC's reports.⁶⁰ The reporting
9 errors also resulted in the Committees misreporting their cash on hand in their relevant reports.⁶¹

10 Marks provides explanations in her Response for several of the reporting violations, but
11 nothing that she provides undermines the conclusion that these violations occurred. One of the
12 Response's most significant explanations for misreporting is that Marks's reporting style "may
13 be different" than the Committees' new treasurer, which resulted in transactions being reported
14 differently on the Committees' original and amended reports.⁶² However, Marks's style for
15 reporting contributions as outlined in the Response is incorrect; whereas Marks would use the
16 date on the check, Commission regulations provide that the date of receipt for reporting purposes
17 is not the date on the donor's check or when a check is deposited but is instead the date the check

⁵⁷ Resp. at 3-4.

⁵⁸ Compl. at 4; F&LA at 8, MUR 8176 (Salazar for Congress, *et al.*); *see supra* note 22 and accompanying text.

⁵⁹ Compl. at 4-10; F&LA at 8, MUR 8176 (Salazar for Congress, *et al.*); *see supra* note 22 and accompanying text.

⁶⁰ Compl. at 10; F&LA at 8, MUR 8176 (Salazar for Congress, *et al.*); *see supra* note 22 and accompanying text.

⁶¹ F&LA at 6, MUR 8176 (Salazar for Congress, *et al.*); *see supra* note 22 and accompanying text.

⁶² Resp. at 2.

1 is actually received by the Committee.⁶³ The Response asserts that Marks correctly reported
 2 Take Back the House and GOP Winning Women receipts on Line 12 on the July Quarterly
 3 Report, however a review of the last July Quarterly Report disclosed the transactions on an
 4 incorrect line number.⁶⁴ Additionally, the Response asserts that “Mr. Williamson criticizes Ms.
 5 Marks both for reporting donations ‘early’ by basing them on the donor’s check date, and
 6 reporting expenditures ‘late,’ when she had not received the documents necessary to report
 7 them,” but it was Marks’s responsibility to report the transactions correctly even if documents
 8 came late from the Committees.⁶⁵ It was Marks responsibility to file amendments when she
 9 received late documents from the Committees or vendors and provide the correct information on
 10 the correct report.⁶⁶

11 Marks also violated the requirement that a treasurer deposit receipts into a committee’s
 12 depository account within 10 days of receipt.⁶⁷ The available information, including the
 13 amendments to the Committee’s reports, demonstrates that Marks failed to deposit 38
 14 contributions totaling \$92,500 for Salazar Victory Committee in their depository within 10 days

⁶³ See 11 C.F.R. § 102.8(a) (“Date of receipt shall be the date such person obtains possession of the contribution”); *see also* FEDERAL ELECTION COMM’N, CAMPAIGN GUIDE: CONGRESSIONAL CANDIDATES AND COMMITTEES at 25-26 (2021), <https://www.fec.gov/resources/cms-content/documents/policy-guidance/candgui.pdf> (reporting clarification in guide by the Commission to use the date of receipt by campaign committee or representative when completing reports and not to use date of deposit, which is not how Marks reported contributions).

⁶⁴ Resp. at 2; Salazar for Congress, Amended 2021 July Quarterly Report at 15, 19, 38, and 44 (July 17, 2021) (disclosing Take Back the House and GOP Winning Women on Line 11(a) rather than Line 12 on last July Quarterly Report filed by Marks.).

⁶⁵ Resp. at 4.

⁶⁶ See 52 U.S.C. § 30104(b); *see also* FEDERAL ELECTION COMM’N, CAMPAIGN GUIDE: CONGRESSIONAL CANDIDATES AND COMMITTEES at 135 (2021), <https://www.fec.gov/resources/cms-content/documents/policy-guidance/candgui.pdf> (reporting clarification in guide by Commission that a political committee must file an amended report if it does not obtain all the required information about a particular itemized receipt or disbursement in time to include it in the appropriate report).

⁶⁷ See 52 U.S.C. § 30102(h)(1); 11 C.F.R. § 103.3.

1 that accounted for 46% of the contributions from individuals received during the time period.⁶⁸
 2 Additionally, Marks failed to deposit two contributions totaling \$10,000 for Freedom Force PAC
 3 in their depository account within 10 days, accounting for 69% of the contributions from
 4 individuals received during the time period.⁶⁹ Marks does not dispute that she deposited some of
 5 the contributions alleged by the Complainant in the wrong campaign depository account, but
 6 blames the Committees' staff for giving confusing instructions to donors.⁷⁰ Marks also claims
 7 that although many contributions were deposited incorrectly, "they were ultimately going to be
 8 deposited in the account through transfer, at any rate" and thus "it would have been pointless and
 9 confusing to withdraw, redeposit[], and transfer[] back into the original . . . account."⁷¹

10 The Complaint alleges that Marks should be held liable in her personal capacity for the
 11 reporting and depository violations described above because she acted recklessly, specifically on
 12 the grounds that the error and omissions in her reports "far exceed any level of acceptable
 13 mistake."⁷² The Commission has explained that treasurers may be held personally liable for
 14 recklessly failing to fulfill his or her duties where the available information indicated "a systemic
 15 lack of diligence."⁷³ For example, in MUR 5652, the Commission found reason to believe that a

⁶⁸ Compl. at 8-9; Salazar Victory Committee, Amended 2021 Mid-Year Report at 3 (Sept. 29, 2021), <https://docquery.fec.gov/cgi-bin/fecimg/?202109299467146259> (disclosing \$200,050 in contributions from individuals from January 1, 2021, to June 30, 2021).

⁶⁹ Compl. at 8-9; Freedom Force PAC, Amended 2021 Mid-Year Report at 3 (Sept. 28, 2021), <https://docquery.fec.gov/cgi-bin/fecimg/?202109289467145381> (disclosing \$14,400 contributions from individuals from January 1, 2021, to June 30, 2021).

⁷⁰ Resp. at 1, 3 ("Some of the issues Marks dealt with was the staff's totally unreasonable refusal to keep the separate committees separate and use them for their respective purposes. They ran events under the name of one committee and yet instructed the donors to make checks out to other committees, or carelessly did not properly instruct them.").

⁷¹ *Id.* at 3.

⁷² Compl. at 11.

⁷³ F&LA at 5, MUR 7223 (Applegate for Congress).

1 treasurer recklessly violated the Act in her individual capacity when the political committee she
2 served violated the Act by accepting 65 corporate contributions totaling \$64,600, 541 excessive
3 contributions totaling \$552,576, and \$100,000 from the proceeds of an unsecured bank loan;
4 understating total receipts by \$693,576 and total disbursements by \$960,876; overstating cash on
5 hand by \$281,800; failing to itemize contributions from individuals and political committees, as
6 well as \$302,000 in joint fundraising proceeds; and failing to file 48-hour notices for 77
7 contributions totaling \$106,100.⁷⁴ In MUR 7905, the Commission found reason to believe that a
8 treasurer recklessly violated the Act in his individual capacity by understating total receipts by
9 \$248,162 and total disbursements by \$259,018, which was “materially deficient in terms of
10 accurately disclosing financial activity.”⁷⁵ Additionally, in MUR 7796, the Commission found
11 reason to believe that a treasurer in his personal capacity recklessly failed to fulfill his duties by
12 not filing reports for approximately \$233,093.69 in contributions and approximately \$233,086.26
13 in disbursements.⁷⁶

14 The available information indicates that Marks recklessly failed to fulfill her duties as
15 treasurer, causing \$2,132,976.06 in reporting errors and depositing violations over a six-month
16 period. The reporting errors were on all the reports filed by Marks for the Committees.⁷⁷
17 Marks’s recklessness is apparent from the volume and extent of the reporting errors, relative to
18 the overall amounts that were reported, as well as the breadth of different violations. As
19 described above, the violations included: contributions reported with the incorrect dates, failure

⁷⁴ F&LA at 2-4, MUR 5652 (Susan Arceneaux).

⁷⁵ F&LA at 10-11, 13, MUR 7905 (Robert George Lucero, Jr.).

⁷⁶ F&LA at 6, MUR 7796 (Louis G. Baglietto).

⁷⁷ Compl at 4-10.

1 to properly report join fundraising transactions, transactions entered on the wrong line, and
 2 contributions omitted.⁷⁸

3 The Response states that “the office was overwhelmed with work” but it appears that this
 4 was a circumstance that occurred by choice, as the additional work came “from competitors who
 5 were not able to work [during the pandemic].”⁷⁹ Marks also states in her Response that, due to
 6 the pandemic, she was forced to “recruit employees from a very small, and underqualified, pool
 7 of available people.”⁸⁰ Marks describes in her Response how “an inexperienced employee”
 8 tasked with obtaining information from the Committees and preparing their reports made errors
 9 such as reporting items on the wrong line.⁸¹ The Response presents these explanations as
 10 mitigating circumstances, but in fact they support a finding of recklessness because she
 11 proceeded to act as the treasurer for multiple committees while her business could not handle the
 12 workload. Based on political committees reporting disbursements to Marks and her company,
 13 Campaigns Unlimited, she served as treasurer for at least 6 committees in 2019, which increased
 14 to at least 10 committees in 2020, and 21 in 2021.⁸² This does not include possible work for
 15 state committees.

⁷⁸ *Supra* notes 18-22 and accompanying text.

⁷⁹ Resp. at 2.

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&recipient_name=Campaigns+Unlimited&recipient_name=Nancy+Marks&two_year_transaction_period=2020&two_year_transaction_period=2022&two_year_transaction_period=2024&min_date=01%2F01%2F2020&max_date=07%2F31%2F2020 (last visited Feb. 2, 2024) (showing 6 different committees made disbursements to Nancy Marks or Campaigns Unlimited from January 1, 2020 to July 31, 2020); *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&recipient_name=Campaigns+Unlimited&recipient_name=Nancy+Marks&two_year_transaction_period=2020&two_year_transaction_period=2022&two_year_transaction_period=2024&min_date=01%2F01%2F2021&max_date=07%2F31%2F2021 (last visited Feb. 2, 2024) (showing 13 different committees made disbursements to Nancy Marks or Campaigns Unlimited from January 1, 2021, to July 31, 2021 while she was treasurer of the Committees).

1 The Response provides additional explanations for the errors, none of which undermine
2 the conclusion that Marks was reckless. The Response argues that factors outside of Marks's
3 control contributed to the reporting violations, including that the staff of the Committees were
4 hard to work with in getting the necessary information to complete the reports.⁸³ Additionally,
5 the Response states that, due to the pandemic, "vendors . . . were not as responsive and prompt as
6 they otherwise would have been in providing information." The Committees, by contrast,
7 contend it was Marks that was unresponsive and failed to show them reports before they were
8 filed.⁸⁴ But even if Committee staff were difficult to work with and withheld information, this
9 would not excuse Marks from signing and submitting inaccurate reports. Missing information
10 also does not explain why transactions would be reported on the wrong line or reported on an
11 incorrect report. Further, Marks's contentions here are belied by the actions of the new treasurer
12 who quickly reviewed the reports submitted by Marks and was able to obtain the necessary
13 information (presumably from the staff and vendors) to show that Marks's reports were
14 inaccurate. The new treasurer was able to provide amended reports for Salazar for Congress and
15 file a *sua sponte* submission detailing the reporting errors for the Committee.⁸⁵ Williamson
16 became the treasurer of Salazar for Congress on July 30, 2021, and the treasurer of Freedom
17 Force PAC and Salazar Victory Committee on August 11, 2021, and in about a month, on
18 September 7, 2021, was able to review Marks's reports, compare them with any information he

⁸³ Resp. at 2.

⁸⁴ Compl. at 2-3.

⁸⁵ *Id.* at 3; [REDACTED] Pre-MUR652 (Salazar for Congress, *et al.*); Salazar for Congress, Amended 2021 April Quarterly Report (Sept 7, 2021); Salazar for Congress, Amended 2021 July Quarterly Report (Sept. 7, 2021).

1 had gathered from the Committees and vendors, and file amended reports with the accurate
2 information.⁸⁶

3 The Response asserts that the Chief of Staff tried to have Salazar for Congress repay
4 credit card statements for a personal jet from the candidate, but Marks does not explain how
5 these allegations, if true, impacted the reporting mistakes she made as detailed above.⁸⁷
6 Additionally, the Response asserts the Chief of Staff kept hidden a bank depository in Florida,
7 but does not provide any clarification on what transactions occurred in this account that impacted
8 her reporting responsibilities.⁸⁸ Regardless of the veracity of these assertions, they do not alter
9 Marks's own culpability in causing the reporting and depositing errors at issue.

10 In sum, Marks acted recklessly in her role as treasurer of the Committees, causing over
11 \$2,030,026.06 in reporting errors and depositing contributions totaling \$102,500 into incorrect
12 accounts. These errors were pervasive, spanning multiple reports, and none of the responses
13 provided by Marks adequately justify or explain the errors that occurred. Therefore, the
14 Commission finds reason to believe that Nancy Marks, in her personal capacity, violated
15 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.3 by failing to correctly report cash on hand, receipts,
16 and disbursements in the reports she filed on behalf of Salazar for Congress, Salazar Victory
17 Committee, and Freedom Force PAC. Additionally, the Commission finds reason to believe that
18 Nancy Marks, in her personal capacity, violated 52 U.S.C. § 30102(h)(1) and 11 C.F.R. §
19 103.3(a) by failing to deposit contributions made payable to Salazar Victory Committee and
20 Freedom Force PAC into the depository accounts of those Committees.

⁸⁶ Compl. at 3; [REDACTED] Pre-MUR652 (Salazar for Congress, *et al.*); Salazar for Congress, Amended 2021 April Quarterly Report (Sept 7, 2021); Salazar for Congress, Amended 2021 July Quarterly Report (Sept. 7, 2021).

⁸⁷ Resp. at 3.

⁸⁸ *Id.* at 3.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	
)	
Nancy Marks)	MUR 8131
)	
)	

CONCILIATION AGREEMENT

This matter was generated by a complaint filed with the Federal Election Commission. The Federal Election Commission found reason to believe that Nancy Marks (“Respondent”) in her personal capacity violated 52 U.S.C. §§ 30102(h)(1) and 30104(b) and 11 C.F.R. §§ 103.3(a) and 104.3 by failing to deposit receipts into a campaign depository account and by failing to report and incorrectly reporting information regarding receipts, disbursements, and cash on hand.

NOW, THEREFORE, the Commission and Respondent, having participated in informal methods of conciliation prior to a finding of probable cause to believe, 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 in this matter are as follows:

1. Nancy Marks was hired to be the treasurer for Salazar for Congress, Freedom Force PAC, and Salazar Victory Committee (the “Committees”). Salazar for Congress is the authorized campaign committee of Representative Maria E. Salazar. Freedom Force

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PAC is Salazar's leadership PAC. Salazar Victory Committee is her joint fundraising committee.

2. Marks served in that role approximately from January 2022 to July 2022.

Marks filed April 2021 and July 2021 Quarterly Reports for the Committees while serving as the Committees' treasurer.

3. The Reports filed by Marks contained numerous errors, including, *inter alia*:

- contributions not reported, contributions reported with the wrong date, and duplicate transactions;
- failure to properly report joint fundraising contributions causing the appearance of excessive contributions;
- failure to properly designate contributions to specific elections causing the appearance of excessive contributions;
- unreported operating expenditures;
- reporting expenditures that did not occur;
- reporting of expenses that were expenses for a different committee;
- use of incorrect dates for when transactions occurred;
- contributions reported failed to disclose they were earmarked through a conduit; and
- misreporting of transfers to participants of the committee.

These individual errors also caused the Committees to misreport their cash on hand in the relevant reports.

4. The dollar amounts for the Committees' errors are as follows: (1) Salazar for Congress disclosed \$563,114.24 in errors in its 2021 April Quarterly Report and \$930,066.16 in errors in its 2021 July Quarterly Report; (2) Freedom Force PAC disclosed

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\$12,200.00 in errors in its 2021 April Quarterly Report and \$23,771.71 in errors in its 2021 July Quarterly Report; and (3) Salazar Victory Committee disclosed \$246,480.6 in errors in its 2021 April Quarterly Report and \$264,393.35 in errors in its 2021 July Quarterly Report. These errors also resulted in the Committees misreporting their cash on hand in the relevant reports. The errors amount to \$2,132,976.06 in misreported activity out of the \$3,077,234.91 in total transactions for the Committees during the six-month period during which Marks was treasurer.

5. In addition, during this same period, Marks deposited \$92,950 in checks made payable to Salazar Victory Committee and \$10,000 in checks made payable to Freedom Force PAC into Salazar for Congress's depository account.

6. The Federal Election Campaign Act of 1971, as amended (the "Act") and Commission regulations require that each treasurer of a political committee file regular reports with the Commission and sign each report. 52 U.S.C. § 30104(a)(1), (b); 11 C.F.R. §§ 104.1(a), 104.3(a), (b). The Commission may find a current or former treasurer personally liable when "the treasurer knowingly and willfully violated an obligation that the Act or regulations specifically impose on treasurers or where the treasurer recklessly failed to fulfill the duties imposed by law, or where the treasurer has intentionally deprived himself or herself of the operative facts giving rise to the violation." Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings, 70 Fed. Reg. 3, 3-4 (Jan. 3, 2005).

7. The Act requires political committees to file reports disclosing, among other things the amount of cash-on-hand at the beginning of each reporting period; the total amount of receipts for the reporting period and for the calendar year; and the total amount of 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), 104.12. For each receipt or disbursement exceeding \$200, the

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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) and (5); 11 C.F.R. § 104.3(a)(4), (b)(3).

8. The Act and Commission regulations require each political committee to maintain at least one campaign depository and require that the treasurer deposit all contributions into that account within 10 days of receipt. 52 U.S.C. § 30102(h)(1); 11 C.F.R. § 103.3.

9. Marks, when serving as treasurer of the Committees, violated the reporting requirements of the Act governing, among other things the reporting of receipts, disbursements, cash on hand, and transfers. Marks also violated the requirement that a treasurer deposit receipts into a committee's depository account within 10 days of receipt. Marks recklessly failed to fulfill her duties as treasurer, causing \$2,132,976.06 in reporting errors and depositing violations while she was treasurer of the Committees.

V. Respondent committed the following violations:

1. Nancy Marks violated in her personal capacity 52 U.S.C. §§ 30102(h)(1) and 30104(b) and 11 C.F.R. §§ 103.3(a) and 104.3 by failing to deposit receipts into a campaign depository account and by failing to report and incorrectly reporting information regarding receipts, disbursements, and cash on hand;

VI. Respondent will take the following actions:

1. Respondent will cease and desist from committing further violations of 52 U.S.C. §§ 30102(h)(1) and 30104(b) and 11 C.F.R. §§ 103.3(a) and 104.3.

2. Respondent, through the submission of financial documentation to the Commission and additional representations, has indicated that financial hardship prevents her from paying any civil penalty to the Commission. Marks represents that her company,

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Campaigns Unlimited, is no longer in operation and that she does not plan to be a treasurer of political committees in the future. The Commission regards these submissions and representations as material representations. Due to Marks's financial condition, the Commission agrees to depart from the civil penalty that it would normally seek for the violations at issue, and the Commission agrees that no civil penalty shall be due. If evidence is uncovered indicating Respondent's financial condition is not as stated, a civil penalty of thirty-six thousand dollars (\$36,000) shall be immediately due, pursuant to 52 U.S.C. § 30109(a)(5)(A).

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 and to so notify the Commission.


X. This Conciliation Agreement constitutes the entire agreement between the Commission and Respondent and constitutes a final settlement as to the Respondent. No other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

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FOR THE COMMISSION:


Lisa J. Stevenson
 Acting General Counsel

BY:


~~Charles Kitcher~~ *Lisa J. Stevens*
~~Associate General~~
~~Counsel for Enforcement~~ *gc*

10/29/2024
 Date

FOR THE RESPONDENT:


 (Name) *Nancy MARKS*
 (Position) *Respondent*

9/3/2024
 Date

Maureen Hoerger
Attorney for Respondent

9/3/2024

