

FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, DC 20463

2015 SEP 14 AM 2:48

CELA

FIRST GENERAL COUNSEL'S REPORT

RAD REFERRAL 15L-19

DATE RECEIVED: May 20, 2015

DATE OF NOTIFICATION: May 28, 2015

DATE OF LAST RESPONSE: June 18, 2015

DATE ACTIVATED: July 28, 2015

EARLIEST SOL: April 15, 2019

LATEST SOL: April 15, 2019

ELECTION CYCLES: 2014

SOURCE:

Internally Generated (RAD Referral)

RESPONDENT:

Republican Majority Campaign and
Randy Goodwin in his official capacity as treasurer

RELEVANT STATUTES:

52 U.S.C. § 30104(b)(2), (4)

11 C.F.R. § 104.3(a), (b)

INTERNAL REPORTS CHECKED:

RAD Referral Documents
Disclosure Reports

FEDERAL AGENCIES CHECKED:

None

I. INTRODUCTION

The Reports Analysis Division ("RAD") referred the Republican Majority Campaign and Randy Goodwin in his official capacity as Treasurer (the "Committee") to the Office of the General Counsel ("OGC") for failing to disclose receipts of \$658,359.09 and disbursements of \$670,461.08 on its original 2014 April Quarterly Report. See RAD Referral, dated May 20, 2015 ("Referral"), incorporated herein by reference. The Committee does not dispute any of the reporting errors, but blames them on an alleged software malfunction. See Resp. at 1-2. Based on the available information, we recommend that the Commission open a matter under review ("MUR") and find reason to believe that the Committee violated 52 U.S.C. § 30104(b)(2) and (4)

1 by failing to accurately disclose its receipts and disbursements. Additionally, we recommend
2 that the Commission enter into pre-probable cause conciliation with the Committee

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4 **II. FACTS**

5 The Committee is a multicandidate, qualified nonparty political action committee
6 ("PAC") based in Santa Ana, California, that registered with the Commission in December 2007.
7 Statement of Organization at 1-2. On April 15, 2014, it timely filed its original 2014 April
8 Quarterly Report covering the period from January 1, 2014, through March 31, 2014. That
9 report disclosed no receipts or disbursements. On July 15, 2014, the Committee filed an
10 amended 2014 April Quarterly Report that disclosed total receipts of \$658,359.09 and total
11 disbursements of \$670,461.08.

12 The Committee also filed a Miscellaneous Electronic Submission ("FEC Form 99")
13 explaining that while preparing to file its 2014 July Quarterly Report, its treasurer, Randy
14 Goodwin, discovered that the Committee's 2014 April Quarterly Report was missing required
15 information regarding its receipts and disbursements. Referral at 2. Mr. Goodwin speculated
16 that the missing information was likely lost due to a "major glitch" with FEC File software. He
17 maintained that on April 15, he had unsuccessfully tried to upload the report several times, then
18 encountered a major error that caused all of the data he had entered to be lost. He claimed that
19 while attempting to resolve the problem, he was able to recover "window images from the FEC
20 File program" that showed the missing data. He then successfully uploaded the report, but did
21 not realize that the submitted report contained incomplete information. On July 15, 2014, Mr.
22 Goodwin realized that he had not submitted a complete and accurate April Quarterly report, and
23 he prepared and filed an amended report that included the missing data. *Id.*

1 RAD sent the Committee a Request for Additional Information ("RFAI") seeking
2 clarification regarding the substantial increase in receipts and disbursements disclosed on the
3 amended 2014 April Quarterly Report, and in response, Mr. Goodwin called the Committee's
4 RAD analyst on November 18, 2014. The analyst advised Mr. Goodwin that the matter could be
5 forwarded to another office for further Commission action, and that the Committee could file an
6 additional FEC Form 99. *Id.* at 3. The next day, the Committee did so, and that form reiterated
7 the earlier explanation and added that because Mr. Goodwin had a report for another PAC due
8 that night, he had turned his attention to that other report immediately after filing the
9 Committee's 2014 April Quarterly Report. *Id.* On December 8, 2014, a RAD analyst called Mr.
10 Goodwin and left a message again explaining that the matter could be referred for further
11 Commission action and informing him that if the Committee wished to place any further
12 information on the public record, it should do so by December 12, 2014. *Id.* The Committee has
13 not done so.

14 RAD referred the Committee to OGC based on the substantial increased activity on its
15 Amended 2014 April Quarterly Report, which disclosed additional receipts of \$658,359.09 and
16 disbursements of \$670,461.08.¹ Upon receipt of the Referral, OGC provided notice to the
17 Committee. Letter from Jeff S. Jordan, Asst. Gen. Counsel, CELA, FEC to Randy Goodwin,
18 Treasurer for the Committee (May 28, 2015); *see also Agency Procedure for Notice to*
19 *Respondents in Non-Complaint Generated Matters*, 74 Fed. Reg. 38,617 (Aug. 4, 2009). As
20 previously noted, the Committee responded by explaining that the report was amended to correct

¹ RAD referred the matter to OGC pursuant to the *2013-2014 RAD Review and Referral Procedures for Unauthorized Committees (Standard 7)* at 74-75 (the "Referral Procedures"). Standard 7 includes referrals to OGC when an amendment or amendments are filed at least : business days after the original report is filed and the increase or decrease in activity, for non-election sensitive reports, exceeds The increase in activity disclosed on the Committee's amended 2014 April Quarterly Report meets this referral threshold. *Id.*

1 omissions from its original report caused by a possible software glitch. Resp. at 1. Mr.
2 Goodwin, on behalf of the Committee, argued that the following should be considered as
3 mitigating factors: (1) he has been a PAC treasurer for over 33 years without any serious
4 problems with his reports to the Commission; (2) he filed an amended report as soon as he
5 discovered the problem; (3) the 2014 April Quarterly Report was not election-sensitive; (4) FEC
6 File "has had some serious flaws" in the past; and (5) he now double-checks the contents of his
7 reports after he files them to ensure that this type of situation will not recur.² *Id.* at 2.

8 III. LEGAL ANALYSIS

9 The Federal Election Campaign Act of 1971, as amended (the "Act"), requires committee
10 treasurers to file reports of receipts and disbursements in accordance with the provisions of
11 52 U.S.C. § 30104. *See* 52 U.S.C. § 30104(a)(1); 11 C.F.R. § 104.1(a). These reports must
12 include the total amount and nature of these receipts and disbursements. *See* 52 U.S.C. §
13 30104(b)(2), (4); 11 C.F.R. § 104.3(a), (b). Here, the Committee did not comply with the Act's
14 reporting requirements when it failed to disclose receipts of \$658,359.09 and disbursements of
15 \$670,461.08 on its 2014 April Quarterly Report—an aggregate total of \$1,328,820.17 in
16 increased activity.

17 In its response, the Committee claims that it inadvertently failed to file an accurate and
18 complete report because of an apparent "glitch in the [FEC File] software." Resp. at 1. There
19 does not, however, appear to be any basis for the Committee's assertion that the Commission's
20 software prevented it from filing an accurate report.

² Mr. Goodwin argued that in light of these mitigating factors, a penalty in the range of \$2,000 to \$2,500, rather than the corresponding amount called for by the administrative fines schedule, would be "large enough to be significant without being so large as to be unreasonable." *Id.*

1 First, no other political committee reported problems with FEC File around the time
2 when Mr. Goodwin tried to upload the relevant report. Second, Mr. Goodwin does not claim that
3 he called the Commission for help, even though he acknowledged that he has previously done so
4 when having issues with filing reports. Instead, Mr. Goodwin stated that after the report
5 "vanished from [his] computer screen," he "panicked" and tried to find it, and when he thought
6 he had found the report again, he submitted it "immediately," apparently without checking its
7 contents. Referral at 4. He concedes that he "could have somehow accidentally erased the data."
8 Resp. at 1.

9 Ultimately, the Committee is responsible for ensuring timely and accurate filing of
10 reports with the Commission, and Mr. Goodwin, as treasurer, should have made sure the report
11 he filed was accurate. Mr. Goodwin acknowledges that he now double-checks his reports after
12 filing them. If he had done so after filing the April Quarterly Report, it likely would have
13 prevented these reporting violations. We therefore recommend that the Commission open a
14 MUR and find reason to believe that the Committee violated 52 U.S.C. § 30104(b)(2) and (4).

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RR 15L-19 (Republican Majority Campaign)
First General Counsel's Report
Page 6 of 8

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V. RECOMMENDATIONS

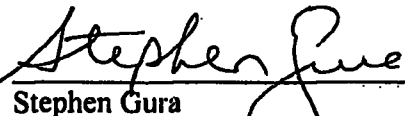
1. Open a MUR.
2. Find reason to believe that Republican Majority Campaign and Randy Goodwin in his official capacity as treasurer violated 52 U.S.C. § 30104(b)(2), (4).
3. Approve the attached Factual and Legal Analysis.
4. Enter into conciliation with Republican Majority Campaign and Randy Goodwin in his official capacity as treasurer prior to a finding of probable cause to believe.
5. --
6. Approve the appropriate letter.

Daniel A. Petalas
Acting General Counsel

9.14.15

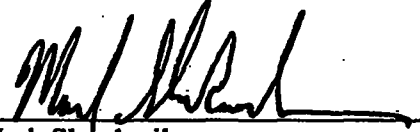
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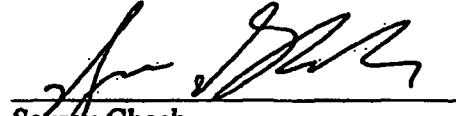


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