



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Scott B. MacKenzie, Treasurer
Afghanistan & Iraq Veterans for Congress PAC
2776 South Arlington Mill Drive #806
Arlington, VA 22206

SEP 29 2015

Re: MUR 6964

Dear Mr. MacKenzie:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission (the "Commission") became aware of information suggesting that Afghanistan and Iraq Veterans for Congress PAC (the "Committee") and you, in your official capacity as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On September 15, 2015, the Commission found reason to believe that the Committee and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(b) (formerly 2 U.S.C. § 434(b)), a provision of the Act. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

We have also enclosed a brief description of the Commission's procedures for handling possible violations of the Act. In addition, please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. *See* 18 U.S.C. § 1519. 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 you wish the matter to be made public. Please be advised that, although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.¹

¹ The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

If you are interested in engaging in pre-probable cause conciliation, please contact Kamau Philbert, the attorney assigned to this matter, at (202) 694-1650 or (800) 424-9530, 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 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.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed Designation of Counsel 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,



Ann M. Ravel
Chair

Enclosures
Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 MUR 6964

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5 RESPONDENTS: Afghanistan and Iraq Veterans
6 for Congress PAC and Scott B. Mackenzie
7 in his official capacity as treasurer
8

9 **I. INTRODUCTION**

10 This matter was generated based on information ascertained by the Federal Election
11 Commission (the "Commission") in the normal course of carrying out its supervisory
12 responsibilities, *see* 52 U.S.C. § 30109(a). The Alternative Dispute Resolution Office
13 ("ADRO") referred Afghanistan and Iraq Veterans for Congress PAC and Scott B. Mackenzie in
14 his official capacity as treasurer (the "Committee") to the Office of General Counsel ("OGC")
15 for failing to disclose receipts totaling \$109,566.25 and disbursements totaling \$132,979.21 on
16 its original 2012 30-Day Post-General Report. The Committee has not responded to the referral.
17 Based on the available information, the Commission has determined to open a matter under
18 review ("MUR") and find reason to believe that the Committee violated 52 U.S.C. § 30104(b)
19 (formerly 2 U.S.C. § 434(b)) by failing to accurately disclose receipts and disbursements.

20 **II. FACTS**

21 The Committee is a multicandidate political committee registered with the Commission.
22 *See* Statement of Organization (Apr. 5, 2014). On December 6, 2012, the Committee timely
23 filed its 2012 30-Day Post-General Report covering the period from October 18, 2012, through
24 November 26, 2012. The report disclosed no receipts and total disbursements of \$25,000.00.
25 *See* Committee 2012 30-Day Post-General Report (Dec. 6, 2012).¹ On July 9, 2013, the

¹ <http://docquery.fcc.gov/pdf/356/12962896356/12962896356.pdf>.

1 Committee filed an Amended 2012 30-Day Post-General Report that disclosed an additional
2 \$109,566.25 in receipts and \$132,979.21 in disbursements. *See* Committee 2012 Amended
3 30-Day Post-General Report (July 9, 2013).²

4 On October 29, 2013, the Reports Analysis Division (“RAD”) sent the Committee a
5 Request for Additional Information (“RFAI”) regarding the additional receipts and
6 disbursements disclosed on the Amended 2012 30-Day Post-General Report.³ In a follow-up
7 telephone call on November 18, 2013, a RAD Analyst spoke with a Committee representative
8 who handled the Committee’s filings regarding the RFAI. During the conversation, the Analyst
9 told the representative that the increased activity could be referred to the Commission for further
10 action. The Committee did not respond to the RFAI.

11 RAD referred the Committee to ADRO for failing to disclose receipts totaling
12 \$109,566.25 and disbursements totaling \$132,979.21 on its original 2012 30-Day Post-General
13 Report. The Committee did not respond to ADRO’s offer to participate in the ADR process, and
14 ADRO referred the matter to OGC. *See Guidebook for Complainants and Respondents on the*
15 *FEC Enforcement Process* at 23 (May 2012) (matter may be referred to OGC where respondent
16 fails to respond to ADRO’s invitation). OGC notified the Committee of the referral on October
17 15, 2014. The Committee did not respond to the referral.

² <http://docquery.fec.gov/pdf/658/13964009658/13964009658.pdf>.

³ <http://docquery.fec.gov/pdf/986/13330038986/13330038986.pdf>. RAD originally sent the RFAI to the Committee on September 19, 2013, but it was removed from the public record due to the October 2013 government shutdown. RAD resent the RFAI to the Committee on October 29, 2013. The revised response date was December 3, 2013. *Id.*

1 **III. LEGAL ANALYSIS**

2 The Federal Election Campaign Act of 1971, as amended (the "Act") requires committee
3 treasurers to file reports of receipts and disbursements in accordance with the provisions of
4 52 U.S.C. § 30104 (formerly 2 U.S.C. § 434). *See* 52 U.S.C. § 30104(a)(1); 11 C.F.R.
5 § 104.1(a). These reports must include, *inter alia*, the total amount of receipts and
6 disbursements, including the appropriate itemizations, where required. *See* 52 U.S.C.
7 § 30104(b); 11 C.F.R. § 104.3(a)-(b).

8 Here, the Committee did not comply with the Act's reporting requirements when it failed
9 to disclose receipts totaling \$109,566.25 and disbursements totaling \$132,979.21 on its original
10 2012 30-Day Post-General Report. Therefore, the Commission has determined to find reason to
11 believe that Afghanistan and Iraq Veterans for Congress PAC and Scott B. Mackenzie in his
12 official capacity as treasurer violated 52 U.S.C. § 30104(b) (formerly 2 U.S.C. § 434(b)).