



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Kansas Democratic Party) MURs 7556 and 7601
)
)

STATEMENT OF REASONS

OF

CHAIR SHANA M. BROUSSARD

In this matter, there was no disagreement among the Commissioners about the facts and legal issues involved. I could not, however, support the Commission’s acceptance of what I believe was an inadequate civil penalty given the high-dollar reporting violations.¹

On two occasions, the Commission unanimously agreed that the Kansas Democratic Party (“KDP”) violated multiple sections of the Federal Election Campaign Act of 1971, as amended (the “Act”) and Commission regulations concerning KDP’s failure to (1) provide itemized contributor information for contributions received through joint fundraising, (2) accurately disclose debts, and (3) accurately report cash on hand.² These violations concerned activity that occurred during the 2016 election cycle.

Based on its first set of reason-to-believe findings in this case, the Commission directed the Office of General Counsel (“OGC”) to enter into pre-probable cause conciliation with KDP in December 2018. The total amount in violation in connection with these findings was \$200,845. During negotiations, the Commission made additional findings for other reporting violations related to the same election cycle. The total amount in violation for the second set of reason-to-believe findings was \$859,380.

¹ See Certification in MURs 7556 & 7601 dated January 26, 2021.

² On December 6, 2018, the Commission found reason to believe that the KDP violated 52 U.S.C. § 30104(b)(1), 30104(b)(3)(A) and 30104(b)(8), and 11 C.F.R. §§ 102.17(c)(8)(i)(B), 104.3(a)(1), 104.3(d) and 104.11(a). On April 25, 2019, the Commission made additional findings that KDP violated 52 U.S.C. § 30104(b)(3)(A) and 11 C.F.R. § 102.17(c)(8)(i)(B) involving KDP’s apparent failure to provide itemized contributor information for additional contributions received through joint fundraising.

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While OGC was attempting to negotiate a combined agreement for violations totaling \$1,060,225 (\$200,845 + \$859,380), KDP filed amended reports, one of which reflected yet another significant 2016 reporting violation. In its amended 2016 Pre-General Report, filed on March 23, 2020, KDP disclosed a \$1,904,765 increase in receipts and disbursements from the original report. With KDP's consent, OGC combined this additional violation into the conciliation agreement that it ultimately recommended to, and was accepted by, the Commission. The agreement requires the payment of a civil penalty of \$60,000 for violations that total \$2,964,990.³

The Commission's penalty structure was set up, and has been adjusted over the years, to reflect the gravity of the violation at issue. Although non-knowing and willful disclosure violations are not subject to the higher penalty formulas that the Commission would apply to, say, violations stemming from the receipt of corporate or foreign national funds, that doesn't mean we should be overly lenient in high-dollar reporting matters such as this one. Ensuring transparency through the disclosure of accurate and timely financial information is a core mission of this agency, and as Commissioners we are obligated to hold violators accountable and to do our best to minimize future occurrences.

In this matter, the \$60,000 settlement is a mere 2% of the amount in violation of almost \$3 million. A penalty this low does not sufficiently account for the magnitude of these violations and I question whether it will deter such conduct in the future. Indeed, less than four years ago, the KDP agreed to pay a civil penalty of \$19,000 to the Commission for violating the Act and Commission regulations by similarly understating receipts and disbursements.⁴

While I applaud the inclusion of the educational component and appreciate our staff's efforts in providing guidance to the KDP to rectify the reporting errors outlined in the conciliation agreement, I remain unconvinced that the penalty is commensurate with the violations at issue. I can only hope that the hiring of an outside compliance firm and instituting other procedures to prevent similar reporting errors, as set forth in the agreement, will ensure that we do not see this committee come before the Commission in an enforcement matter for quite some time, if ever.

³ See Conciliation Agreement in MURs 7556 & 7601. Paragraph V includes admissions of violations of 52 U.S.C. § 30104(a) and (b) and 11 C.F.R. § 104.3(a) and (b) by failing to disclose a total of \$1,904,764.58 in increased activity.

⁴ See Conciliation Agreement in MUR 7258 (Kansas Democratic Party), *available at* <https://www.fec.gov/files/legal/murs/7258/17044431207.pdf>.

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March 8, 2021
Date



Shana M. Broussard
Chair