



FEDERAL ELECTION COMMISSION
Washington, DC 20463

October 10, 2023

By First Class Mail and EMAIL

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RE: MUR 8174
OkieWay and Steven Martin
in his official capacity as treasurer

Dear Mr. Jacobs:

On February 24, 2023, the Federal Election Commission (the "Commission") notified your client, OkieWay and Steven Martin in his official capacity as treasurer (the "Committee"), of RR 23L-04 indicating that, in the normal course of carrying out its supervisory responsibilities, the Commission became aware of information suggesting that the Committee may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On October 3, 2023, the Commission opened MUR 8174 and found reason to believe that the Committee violated 52 U.S.C. § 30104(g)(2) of the Act. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

Please note that the Committee has a legal obligation to preserve all documents, records and materials relating to this matter until notified that the Commission has closed its file in this matter. *See* 18 U.S.C. § 1519. In the meantime, 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 investigation to be made public.

In order to expedite the resolution of this matter, the Commission has authorized the Office of the 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 clients 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 the Committee violated the law.

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If the Committee is interested in engaging in pre-probable cause conciliation, please contact Camilla Jackson Jones, the attorney assigned to this matter, at (202) 694-1507 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.

We look forward to your response.

On behalf of the Commission,

A handwritten signature in black ink, appearing to read 'Dara Lindenbaum', with a stylized flourish at the end.

Dara Lindenbaum
Chair

Enclosures
Factual and Legal Analysis

1 Based on the available information, the Commission has determined to open a matter
2 under review (“MUR”) and find reason to believe that OkieWay and Steven Martin in his official
3 capacity as treasurer violated 52 U.S.C. § 30104(g).

4 **II. FACTUAL BACKGROUND**

5 OkieWay is an independent expenditure-only political committee that registered with the
6 Commission on January 7, 2022.³ The Committee made independent expenditures supporting a
7 single candidate, Lucas Holland, in the Oklahoma Republican primary election held on June 28,
8 2022.

9 On July 15, 2022, the Committee filed its 2022 July Quarterly Report covering the period
10 from April 1, 2022, through June 30, 2022.⁴ The report included a Schedule E (Itemized
11 Independent Expenditures) disclosing a previously unreported independent expenditure totaling
12 \$344,875 made on May 7, 2022 in support of Holland.⁵ Also on July 15, 2022, the Committee
13 filed one untimely 48-Hour Report to support the \$344,875 independent that it had disseminated
14 on May 7, 2022.⁶

15 On August 7, 2022, RAD sent a Request for Additional Information (“RFAI”) to the
16 Committee referencing the 2022 July Quarterly Report and noting that the Committee may have
17 failed to timely file one or more of the required 48-Hour Reports of independent expenditures.⁷

³ OkieWay, Statement of Organization (Jan. 7, 2022), <https://docquery.fec.gov/pdf/628/202201079474888628/202201079474888628.pdf>.

⁴ 2022 July Quarterly Report.

⁵ *Id.* at 20-21.

⁶ OkieWay, 48 Hour Report (July 15, 2022), <https://docquery.fec.gov/pdf/146/202207159521570146/202207159521570146.pdf>.

⁷ OkieWay, Request for Additional Information (Aug. 7, 2022), <https://docquery.fec.gov/pdf/018/202208240300152018/202208240300152018.pdf>.

1 The RFAI included a chart that identified one independent expenditure totaling \$344,875, for
2 which a 48-Hour Report had not been timely filed.⁸

3 On August 15, 2022, the Committee filed a Form 99 (Miscellaneous Electronic
4 Submission) in response to the RFAI regarding the 2022 July Quarterly Report.⁹ On the Form
5 99, the Committee stated:

6 OkieWay inadvertently failed to timely file one 48hr Independent
7 Expenditure Notifications [sic] later disclosed in the 2022 July
8 Quarterly report. In this instance, the information and notifications
9 of the expenditures were not conveyed in a timely manner from the
10 accounting manager who disbursed the payments to the
11 compliance team filing the reports. The accounting manager
12 subsequently transitioned to another position outside of the firm
13 shortly thereafter, thus contributing to the delay in information
14 transmittal and notification of the issue. As soon as the compliance
15 team realized the omission, the report was filed immediately to
16 ensure that it was placed on the public record.

17 OkieWay takes the Federal Election Campaign Act seriously, and
18 has always acted in good faith to follow all applicable regulations
19 and deadlines. The Committee has reviewed its process
20 thoroughly, has strengthened the procedures in place for these 24-
21 and 48-hour filings, and taken internal remedial actions to ensure
22 that these issues are prevented in the future.¹⁰

23 Since September 21, 2022, RAD has logged two telephone communications with a
24 representative of the Committee which reflect efforts to help the Committee voluntarily comply
25 with the Act.¹¹ In those conversations, the Committee confirmed that they had responded to the

⁸ *Id.*

⁹ OkieWay, Miscellaneous Text Submission (Aug. 15, 2022), [https://docquery.fec.gov/pdf/981/202208159525397981.pdf](https://docquery.fec.gov/pdf/981/202208159525397981/202208159525397981.pdf).

¹⁰ *Id.*

¹¹ Referral, Attach 2. The RAD Communication Log notes that, on September 21, 2022, the RAD analyst informed the Committee that it may file an additional Form 99 to provide any further clarifying information for the public record, but the Form 99 filed on August 15, 2022, constituted an adequate response to the RFAs referencing the 2022 July Quarterly Report and Termination Report. *Id.* On December 15, 2022, the RAD analyst spoke with

1 RFAI via the August 15, 2022 Form 99.¹² RAD advised the Committee that it may file a Form
2 99 with any additional clarifying information for the public record and that the matter may be
3 referred to another office at the Commission for further review.¹³ As of the date of the Referral,
4 no further communications with the Committee regarding this matter had occurred.¹⁴

5 The Committee's response to the Referral does not contest that the 48-Hour Report was
6 not timely filed.¹⁵ The Committee asserts that all other 24- and 48-hour Reports were filed on
7 time and this omission was a one-time mistake caused by the departure of a staff member of the
8 compliance firm OkieWay had retained.¹⁶ The Committee states that when the compliance firm
9 was preparing the July Quarterly Report, it identified the missed report and filed it immediately
10 and did not wait for the Commission to notify it of the missed report.¹⁷

11 In explaining why the single expenditure of \$344,875 was not included on a 48-Hour
12 Report that should have been filed by May 7, 2022, the Committee states that the oversight
13 occurred when the compliance firm's staff member who managed the expenditures of OkieWay
14 at the time of the May disbursement left the firm for another opportunity.¹⁸ The departing staff
15 member did not communicate to other compliance staff that a 48-Hour Report was needed and
16 the staff member who took over the account and timely filed reports for July 2022 was unaware

the Committee regarding its continuing reporting obligations while the outstanding issue of a missing 48-Hour Report on the 2022 July Quarterly Report still had not been resolved. *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ Referral at 1.

¹⁵ Resp. at 1 (Apr. 10, 2023).

¹⁶ *Id.* at 1-2.

¹⁷ *Id.*

¹⁸ *Id.*

1 that the \$344,875 disbursement had not been included on the 48-Hour Report filed May 7,
2 2022.¹⁹

3 The Committee states that it retained a professional and experienced compliance firm to
4 assist with the reports it files with the Commission.²⁰ The Committee asserts that the compliance
5 firm works with dozens of other committees and has various processes in place to help ensure its
6 clients comply with the Act and that staff of the firm have been regular attendees of various
7 Commission trainings and conferences.²¹ The Committee contends that since this reporting error
8 occurred, the compliance firm has reviewed its process thoroughly and developed a new process
9 related to departing staff to ensure all pending compliance and reporting items are properly noted
10 and communicated to other staff.²²

11 On August 15, 2022, OkieWay paid its final winding down expenses, had no cash on
12 hand, and filed a Termination Report, covering the period of July 1, 2022 through August 15,
13 2022.²³ On August 24, 2022, RAD informed the Committee they would not be permitted to
14 terminate until all outstanding issues with the 2022 July Quarterly Report were resolved.²⁴

15 The Committee states it is now defunct and, as a single candidate independent
16 expenditure-only political committee that supported an unsuccessful candidate, has no ability to

¹⁹ *Id.*

²⁰ *Id.* at 2.

²¹ *Id.*

²² *Id.*

²³ Referral at 2; Resp. at 2; OkieWay, Termination Report (Aug. 15, 2022), <https://docquery.fec.gov/pdf/982/202208159525397982/202208159525397982.pdf>.

²⁴ Referral at 2; OkieWay, Request for Additional Information (Aug. 24, 2022), <https://docquery.fec.gov/pdf/018/202208240300152018/202208240300152018.pdf>.

1 raise additional funds.²⁵ Respondent requests that the Commission dismiss the matter or,
2 alternatively, approve pre-probable cause conciliation consistent with the resolution of MURs
3 with similar violations.²⁶

4 **III. LEGAL ANALYSIS**

5 Political committees must file periodic reports disclosing their receipts and
6 disbursements.²⁷ An independent expenditure is an expenditure that expressly advocates the
7 election or defeat of a clearly identified federal candidate, and is not made in concert or
8 cooperation with or at the request or suggestion of such candidate, the candidate's authorized
9 political committee, or their agents.²⁸ In addition to a political committee's regular reporting
10 obligations, the Act further requires additional independent expenditure reporting within 24
11 hours of the expenditure when a person makes or contracts to make independent expenditures
12 aggregating \$1,000 or more after the 20th day but more than 24 hours before the date of an
13 election.²⁹

14 Further, a political committee that makes or contracts to make independent expenditures
15 aggregating \$10,000 or more outside of that 20-day period, up to and including the 20th day,
16 prior to the election must file a report describing those expenditures within 48 hours.³⁰ These
17 reports must be filed within 48 hours "following the date on which a communication that
18 constitutes an independent expenditure is publicly distributed or otherwise publicly

²⁵ Resp. at 2.

²⁶ *Id.*

²⁷ 52 U.S.C. § 30104(a).

²⁸ *Id.* § 30101(17); *see also* 11 C.F.R. § 100.22(a), (b) (providing definition of "expressly advocating").

²⁹ *See* 52 U.S.C. § 30104(g); 11 C.F.R. § 109.10(d).

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

1 disseminated.”³¹ In 2022, the 20-day period for the Oklahoma special election began on June 8,
2 2022;³² thus, an independent expenditure made by a political committee before that date
3 aggregating \$10,000 or more triggered the obligation to file a 48-Hour Report.

4 Respondent does not dispute that the Committee failed to timely file the necessary 48-
5 Hour Report, which was due by May 7, 2022, but was not filed until July 15, 2022. Respondent
6 argues that the missed filing was an inadvertent oversight by its professional compliance firm,
7 who has processes in place to help ensure its clients comply with the Act and who has developed
8 a new process since this incident to ensure all pending compliance and reporting items are
9 properly noted and communicated to other staff.³³ Notwithstanding the fact that the Committee
10 asserts the failure to file the timely 48-Hour Report was inadvertent, the Committee is still
11 responsible for its failure to timely file this required disclosure. Consistent with our findings in
12 prior MURs with similar violations,³⁴ the Commission finds reason to believe that OkieWay and
13 Steven Martin in his official capacity as treasurer violated 52 U.S.C. § 30104(g).

³¹ 11 C.F.R. § 104.4(b), (c).

³² See *24- and 48-Hour Reports of Independent Expenditures Periods: Special Elections (2022)*, FEC.GOV, <https://www.fec.gov/help-candidates-and-committees/dates-and-deadlines/2022-reporting-dates/24-and-48-hour-reports-independent-expenditures-periods-special-elections-2022/> (last visited Aug. 7, 2023).

³³ Resp. at 2.

³⁴ See, e.g., Factual & Legal Analysis at 4, MUR 7436 (Warrior PAC) (finding reason to believe that the committee violated section 30104(g) by failing to file 48-Hour Reports of Independent Expenditures); Factual & Legal Analysis at 5, MUR 7337 (Conservative Leadership for Ariz.) (same); Factual & Legal Analysis at 9, MUR 7276 (Right to Rise USA) (same); Factual & Legal Analysis at 3, MUR 6219 (Kuhl for Congress) (same); Factual & Legal Analysis at 3, Factual & Legal Analysis at 8, MUR 5783 (Green Party of Luzerne Cty.) (same).