

1 **FEDERAL ELECTION COMMISSION**

2 **FIRST GENERAL COUNSEL'S REPORT**

3 **RAD REFERRAL 22L-14**

4 DATE OF REFERRAL: May 5, 2022

5 DATE OF NOTIFICATION: May 9, 2022

6 LAST RESPONSE RECEIVED: May 18, 2022

7 DATE ACTIVATED: June 30, 2022

8 EARLIEST SOL: Dec. 1, 2025

9 LATEST SOL: Oct. 18, 2026

10 ELECTION CYCLES: 2020

11

12 **SOURCE:** Internally Generated

13 **RESPONDENT:** Brady PAC and Jeanne Connelly in her official
14 capacity as treasurer

15 **RELEVANT STATUTE
16 AND REGULATIONS:**

17 52 U.S.C. § 30104(b)(8)

18 11 C.F.R. § 104.3(d)

19 11 C.F.R. § 104.11

20 11 C.F.R. § 116.10(a)

21 **INTERNAL REPORTS CHECKED:** Disclosure Reports

22 **FEDERAL AGENCIES CHECKED:** None

23 **I. INTRODUCTION**

24 The Reports Analysis Division (“RAD”) referred Brady PAC and Jeanne Connelly in her
25 official capacity as treasurer (the “Committee”) to the Office of General Counsel (“OGC”) for
26 failing to disclose a \$637,615.00 debt on its 2020 30-Day Post-General Report.¹ The Committee
27 acknowledges that it failed to report the debt but contends that the omission was inadvertent,
28 resulting from staff transition and miscommunication.² The Committee also notes that the debt

¹ RAD Referral 22L-14 (Brady PAC) (May 5, 2022) (“Referral”).

² Resp. at 1 (May 18, 2022).

1 is related to a dispute with a vendor and indicates it expects the amount of the debt to decrease as
2 a result of ongoing negotiations.³ In a recent disclosure report, the Committee disclosed a
3 settlement of the debt for a reduced amount.⁴

4 Based on the available information, we recommend that the Commission open a Matter
5 Under Review (“MUR”) and find reason to believe that the Committee violated 52 U.S.C.
6 § 30104(b)(8) and 11 C.F.R. § 104.3(b) by failing to report a debt. We also recommend that the
7 Commission enter into pre-probable cause conciliation with the Committee.

8 **II. FACTUAL BACKGROUND**

9 Brady PAC is a multicandidate hybrid political committee that registered with the
10 Commission on March 23, 2018.⁵ In the most recent reporting period, the Committee disclosed
11 \$61,565.72 in receipts, \$53,603.89 in disbursements, \$177,717.14 cash on hand, and
12 178,076.68.in total debts owed by the Committee, including a \$151,000 balance on the debt at
13 issue,⁶

14 On December 1, 2020, the Committee filed its original 2020 30-Day Post-General
15 Report, which did not disclose any debt incurred between October 15, 2020, through
16 November 23, 2020.⁷ The Committee subsequently amended its Report three times: (1) the first

³ *Id.* at 2.

⁴ Brady PAC, 2022 August Monthly Report, Form 99 Miscellaneous Electronic Submission at 798-799 (Aug. 19, 2022); Amended 2022 August Monthly Report (same) (Sept. 20, 2022).

⁵ Brady PAC, Statement of Organization (March 23, 2018). The Committee has subsequently filed multiple amended Statements of Organization on September 24, 2018; April 19, 2019; July 31, 2019; August 19, 2020; October 2, 2020; December 7, 2020; September 15, 2021; and January 28, 2022.

⁶ Brady PAC, 2022 12-Day Pre-General Report at 2, 241-242 (Oct. 27, 2022).

⁷ Brady PAC, 2020 30-Day Post-General Report at 2 (Summary Page) (Dec. 1, 2020).

1 amended report, dated February 8, 2021, disclosed no debts;⁸ (2) the second amended report,
2 dated September 1, 2021, disclosed \$637,615.00 as a newly incurred debt for the reporting
3 period;⁹ and (3) the third amended report, dated October 18, 2021, disclosed no change in total
4 debt from the previous amendment, but clarified the status of the new debt as disputed¹⁰ On the
5 Amended 2020 Year-End Report, the Committee disclosed a payment of \$167,615 toward the
6 debt, reducing it to \$470,000.¹¹ The nature of the debt (purpose) was described as “disputed.”¹²

7 On January 12, 2022, RAD sent the Committee a Request for Additional Information
8 (“RFAI”) requesting clarification regarding the increased debt disclosed on the Amended 2020
9 30-Day Post-General Report, dated October 18, 2021, that had not been disclosed on the original
10 report.¹³ On February 4, 2022, the Committee filed a Form 99 Miscellaneous Electronic
11 Submission acknowledging the omission and stating that it was “due to an inadvertent and
12 internal miscommunication between the committee staff and the compliance firm that prepares
13 the report,” adding that the debt reported to the vendor (Mothership Strategies) was incurred on
14 November 1, 2020, in the amount of \$637,615.00, and that \$470,000 remained in dispute.¹⁴ The
15 Committee continued to report the \$470,000 as a disputed debt in subsequent reports.¹⁵ On the

⁸ Brady PAC, Amended 2020 30-Day Post-General Report at 2 (Summary Page) (Feb. 8, 2021).

⁹ Brady PAC, Amended 2020 30-Day Post-General Report at 7483 (Sept. 1, 2021).

¹⁰ Brady PAC, Amended 2020 30-Day Post-General Report at 7483 (Oct. 18, 2021).

¹¹ Amended 2020 Year-End Report at 2, 3139 (Oct. 18, 2021).

¹² *Id.* at 3139.

¹³ Brady PAC, RFAI at 1 (Jan. 12, 2022).

¹⁴ Referral at 2 (quoting Brady PAC, Form 99 Miscellaneous Electronic Submission (Feb. 4, 2022)).

¹⁵ Starting with the Amended 2020 Year-End Report (Amendment 3) through the 2022 July Monthly Report, the Committee reported the \$470,000 debt on the Schedule D, Debts and Obligations Mothership Strategies as “Donor Acquisition Advertising – disputed”: Brady PAC, Amended 2020 Year-End Report at 3139 (Oct. 18, 2021); Brady PAC, Amended 2021 April Quarterly Report at 2208 (Oct. 18, 2021); Brady PAC, Amended 2021 Pre-Special Report at 1313 (Oct. 18, 2021); Brady PAC, Amended 2021 July Quarterly Report at 1683 (Oct. 18,

1 2022 August Monthly Report, the Committee disclosed a credit of \$277,000 to the \$470,000
2 debt, and a closing balance of \$193,000.¹⁶ The Report included a miscellaneous text stating:
3 “This adjustment reflects a legal settlement of a disputed debt between the committee and the
4 vendor.”¹⁷

5 In response to the Referral, the Committee acknowledges its failure to properly report the
6 debt to the vendor and contends that the omission was inadvertent and due to an oversight due to
7 staff transition at the time, a miscommunication between the Committee staff and the compliance
8 firm retained by the Committee to prepare reports, and the disputed nature of a large portion of
9 the debt disclosed to the vendor.¹⁸ It further contends that the omission was discovered during
10 an internal review of the dispute between the Committee and the vendor, that they are engaged in
11 negotiations to resolve the debt and that any potential violation amount “should be reduced to
12 reflect the final debt, once the amount is determines.”¹⁹ Finally, the Committee asserts that
13 given its “impressive compliance record” and the significant resources it devoted to review and

2021); Brady PAC, 2021 Year-End Report at 7194 (Jan. 28, 2022); Brady PAC, 2022 February Monthly Report at 151 (Feb. 18, 2022); Brady PAC, 2022 March Monthly Report at 262 (Mar. 18, 2022); Brady PAC, 2022 April Monthly Report at 386 (Apr. 19, 2022); Brady PAC, 2022 May Monthly Report at 523 (May 20, 2022); Brady PAC, 2022 June Monthly Report at 760 (Jun. 17, 2022); and Brady PAC, 2022 July Monthly Report at 151 (Jul. 20, 2022).

¹⁶ Brady PAC, 2022 August Monthly Report at 798 (Aug. 19, 2022); Brady PAC, Form 99 Miscellaneous Electronic Submission at 799 (Feb. 4, 2022). The 2022 August Monthly Report and subsequent reports (Amended 2022 August Monthly Report, 2022 September Monthly Report, and 2022 October Monthly Report) reflect payments to the adjusted amount (\$193,000) but continue to describe the debt as “Donor Acquisition Advertising – disputed.”

¹⁷ Brady PAC, 2022 August Monthly Report, Form 99 Miscellaneous Electronic Submission at 798-799 (Aug. 19, 2022); Amended 2022 August Monthly Report (same) (Sept. 20, 2022).

¹⁸ Resp. at 1.

¹⁹ *Id.* at 2.

1 improve its internal processes, as well as the disputed nature of the debt, the Commission should
2 take no action or refer this matter to Alternative Dispute Resolution Office (“ADRO”).²⁰

3 **III. LEGAL ANALYSIS**

4 Under the Act and Commission regulations, political committees must disclose the
5 amount and nature of outstanding debts and obligations until those debts are extinguished.²¹
6 Debts of \$500 or less must be reported no later than 60 days after the obligation is incurred,
7 while debts of more than \$500 must be reported as of the date the obligation is incurred.²² If the
8 exact amount of a debt or obligation is not known, the report shall state that the amount reported
9 is an estimate.²³ Once the exact amount is determined, a political committee must either:
10 (1) amend the report(s) containing the estimate; or (2) indicate the correct amount on the report
11 for the reporting period in which such amount is determined.²⁴

12 Where there is a “disputed debt,” the political committee must report the disputed debt if
13 the creditor has provided “something of value” to the political committee.²⁵ Until the dispute is
14 resolved, the political committee must disclose any amounts paid to the creditor, any amount the
15 political committee admits it owes, and the amount the creditor claims is owed.²⁶

²⁰ *Id.*

²¹ 52 U.S.C. § 30104(b)(8); 11 C.F.R. §§ 104.3(d), 104.11(a).

²² 11 C.F.R. § 104.11(b).

²³ *Id.*

²⁴ *Id.*

²⁵ 11 C.F.R. § 116.10(a). A “disputed debt” is “an actual or potential debt or obligation owed by a political committee, including an obligation arising from a written contract, promise or agreement to make an expenditure, where there is a bona fide disagreement between the creditor and the political committee as to the existence or amount of the obligation owed by the political committee.” *Id.* § 116.1(d).

²⁶ *Id.* § 116.10(a).

1 The Committee acknowledges incurring a debt, related to “something of value” provided
2 by the vendor to the Committee, in the amount of \$637,615.00 on November 1, 2020, with
3 \$470,000 as disputed.²⁷ The Committee was required to but did not disclose the debt on its
4 original 2020 30-Day Post-General Report that it filed on December 1, 2020.²⁸ The debt was not
5 disclosed until nearly a year later, on the Amended 2020 30-Day Post-General Report, filed on
6 September 1, 2021.²⁹ Further, because the debt was in dispute, the Committee was required to
7 disclose any amounts paid to the creditor, any amount the Committee admits it owes, and the
8 amount the creditor claims is owed until the dispute is resolved.³⁰ The Committee did not fully
9 disclose the nature of the debt as disputed until February 4, 2022, after it had received an RFAI
10 inquiring about the previously undisclosed debt.³¹

11 The Committee failed to report a \$637,615.00 debt and disputed debt in multiple reports.
12 While the failure to report appears to be an oversight and the Committee states that it has made
13 efforts to improve its compliance, the Committee’s disclosure reports remained inaccurate for
14 over a year. Although the Committee requests that the Commission take no further action on the
15 Referral or refer the case to ADRO,³² such a result would be inconsistent with how the
16 Commission has treated prior respondents in similar circumstances. Instead, in similar matters,
17 the Commission has found reason to believe and authorized pre-probable cause conciliation,

²⁷ Brady PAC, Form 99 Miscellaneous Electronic Submission (Feb. 4, 2022).

²⁸ Brady PAC, 2022 October Monthly Report at 2 (Summary Page) (Oct. 20, 2022).

²⁹ Brady PAC, Amended 2020 30-Day Post-General Report at 7483 (Sept. 1, 2021).

³⁰ 11 C.F.R. § 116.10(a).

³¹ Brady PAC, Form 99 Miscellaneous Electronic Submission (Feb. 4, 2022).

³² *See Resp.* at 2.

1 taking the self-reported nature of the reporting violations into account when calculating the civil
2 penalty.³³

3 This matter was appropriately referred to OGC under Standard 7 of RAD's Review and
4 Referral Procedures.³⁴ The amount in violation reflects the amount of the original debt that the
5 Committee should have disclosed on its original 2020 30-Day Post-General Report, including
6 any disputed debt.

7 Accordingly, we recommend that the Commission find reason to believe the Committee
8 violated 52 U.S.C. § 30104(b)(8) and 11 C.F.R. § 104.3(d) by failing to report its debt.

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³³ See, e.g., MUR 8000 (Jim Jordan for Congress) (finding reason to believe and authorizing pre-probable cause conciliation where, in response to a RAD referral, respondent stated that reporting errors stemmed from an inadequate accounting system); MUR 7054 (Oakland County Democratic Party) (finding reason to believe and authorizing pre-probable cause conciliation where, in response to a RAD referral, respondent stated that reporting errors stemmed, in part, from accounting software problems); MUR 7603 (Wyoming Republican Party, Inc.) (finding reason to believe and authorizing pre-probable cause conciliation where, in response to a RAD referral, respondent stated that reporting errors stemmed from miscommunications between two vendors and requested that matter transfer to ADRO).

³⁴ RAD REVIEW AND REFERRAL PROCEDURES FOR THE 2019-2020 ELECTION CYCLE at 85 (non-public) (OGC referral if the amendment is more than _____ business days after the due date of the original report, which discloses an increase or decrease in receipts or disbursements or debts of _____ or more and, for non-election sensitive reports, is in excess of _____ when a determination has been made during the OGC Review and Concurrence Process that the matter(s) in question is better suited for standard processing in OGC.).

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First General Counsel's Report
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V. RECOMMENDATIONS

1. Find reason to believe that Brady PAC and Jeanne Connelly in her official capacity as treasurer violated 52 U.S.C. § 30104(b)(8) and 11 C.F.R. § 104.3(d) by failing to report a debt;
2. Approve the attached Factual and Legal Analysis;
3. Enter into conciliation with Brady PAC and Jeanne Connelly in her official capacity as treasurer prior to a finding of probable cause to believe;
4. Approve the attached proposed Conciliation Agreement; and

1 5. Send the appropriate letters.

2 Charles Kitcher
3 Associate General Counsel for Enforcement

4 October 27, 2022 *Jin Lee*
5 Date _____
6 Jin Lee
 Deputy Associate General Counsel for Enforcement

7 *Peter Blumberg by Jk*
8 _____
9 Peter G. Blumberg
 Assistant General Counsel

10 *Dominique Dillenseger*
11 _____
12 Dominique Dillenseger
 Attorney

13 Attachments
14 1.Factual and Legal Analysis
15

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

Respondent: Brady PAC and Jeanne Connolly MUR _____
in her official capacity as treasurer

I. INTRODUCTION

The Reports Analysis Division (“RAD”) referred Brady PAC and Jeanne Connelly in her official capacity as treasurer (the “Committee”) to the Office of General Counsel (“OGC”) for failing to disclose a \$637,615.00 debt on its 2020 30-Day Post-General Report.¹ The Committee acknowledges that it failed to report the debt but contends that the omission was inadvertent, resulting from staff transition and miscommunication.² The Committee also notes that the debt is related to a dispute with a vendor and indicates it expects the amount of the debt to decrease as a result of ongoing negotiations.³ In a recent disclosure report, the Committee disclosed a settlement of the debt for a reduced amount.⁴

Based on the available information, the Commission finds reason to believe that the Committee violated 52 U.S.C. § 30104(b)(8) and 11 C.F.R. § 104.3(d) by failing to report a debt.

II. FACTUAL BACKGROUND

Brady PAC is a multicandidate hybrid political committee that registered with the Commission on March 23, 2018.⁵ In the most recent reporting period, the Committee disclosed \$61,565.72 in receipts, \$53,603.89 in disbursements, \$177,717.14 cash on hand, and

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⁹ Brady PAC, Amended 2020 30-Day Post-General Report at 7483 (Sept. 1, 2021).

¹⁰ Brady PAC, Amended 2020 30-Day Post-General Report at 7483 (Oct. 18, 2021).

¹¹ Amended 2020 Year-End Report at 2, 3139 (Oct. 18, 2021).

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1 negotiations to resolve the debt and that any potential violation amount “should be reduced to
 2 reflect the final debt, once the amount is determines.”¹⁹ Finally, the Committee asserts that
 3 given its “impressive compliance record” and the significant resources it devoted to review and
 4 improve its internal processes, as well as the disputed nature of the debt, the Commission should
 5 take no action or refer this matter to Alternative Dispute Resolution Office.²⁰

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 11 exact amount of a debt or obligation is not known, the report shall state that the amount reported
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 16 the creditor has provided “something of value” to the political committee.²⁵ Until the dispute is

¹⁹ *Id.* at 2.

²⁰ *Id.*

²¹ 52 U.S.C. § 30104(b)(8); 11 C.F.R. §§ 104.3(d), 104.11(a).

²² 11 C.F.R. § 104.11(b).

²³ *Id.*

²⁴ *Id.*

²⁵ 11 C.F.R. § 116.10(a). A “disputed debt” is “an actual or potential debt or obligation owed by a political committee, including an obligation arising from a written contract, promise or agreement to make an expenditure, where there is a bona fide disagreement between the creditor and the political committee as to the existence or amount of the obligation owed by the political committee.” *Id.* § 116.1(d).

1 resolved, the political committee must disclose any amounts paid to the creditor, any amount the
2 political committee admits it owes, and the amount the creditor claims is owed.²⁶

3 The Committee acknowledges incurring a debt, related to “something of value” provided
4 by the vendor to the Committee, in the amount of \$637,615.00 on November 1, 2020, with
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6 original 2020 30-Day Post-General Report that it filed on December 1, 2020.²⁸ The debt was not
7 disclosed until nearly a year later, on the Amended 2020 30-Day Post-General Report, filed on
8 September 1, 2021.²⁹ Further, because the debt was in dispute, the Committee was required to
9 disclose any amounts paid to the creditor, any amount the Committee admits it owes, and the
10 amount the creditor claims is owed until the dispute is resolved.³⁰ The Committee did not fully
11 disclose the nature of the debt as disputed until February 4, 2022.³¹ Accordingly, the
12 Commission finds reason to believe that Brady PAC violated 52 U.S.C. § 30104(b)(8) and
13 11 C.F.R. § 104.3(d) by failing to report a debt.

²⁶ *Id.* § 116.10(a).

²⁷ Brady PAC, Form 99 Miscellaneous Electronic Submission (Feb. 4, 2022).

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