



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

September 21, 2021

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RE: MUR 7928 (RR 19L-20)  
Renacci for US Senate

Dear Mr. Backer:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission became aware of information suggesting that your client, Renacci for US Senate and Russell Corwin in his official capacity as treasurer (the "Committee"), may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On July 17, 2019, the Commission notified your client of a referral to the Office of General Counsel alleging violations of the Act. On September 14, 2021, the Commission opened a matter under review and found reason to believe that the Committee violated 52 U.S.C. § 30104(b)(2) and (4), provisions of the Act, by failing to disclose receipts and disbursements. The Factual and Legal Analysis, which formed the basis for the Commission's finding, is enclosed for your information.

We have also enclosed a brief description of the Commission's procedures for handling possible violations of the Act. In addition, please note that your client has 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 your client wishes 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.<sup>1</sup>

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

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<sup>1</sup> 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).

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voluntary step in the enforcement process that the Commission is offering to your client 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 your client violated the law. Enclosed is a conciliation agreement for your client's consideration

If your clients are interested in engaging in pre-probable cause conciliation, please contact Adrienne C. Baranowicz, the attorney assigned to this matter, at (202) 694-1573 or [abaranowicz@fec.gov](mailto:abaranowicz@fec.gov), 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 your clients 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.

Pre-probable cause conciliation, extensions of time, and other enforcement procedures and options are discussed more comprehensively in the Commission's "Guidebook for Complainants and Respondents on the FEC Enforcement Process," which is available on the Commission's website at <http://www.fec.gov/respondent.guide.pdf>.

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We look forward to your response.

On behalf of the Commission,



Shana M. Broussard  
Chair

Enclosures:  
Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

2  
3 **FACTUAL AND LEGAL ANALYSIS**

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5 RESPONDENT: Renacci for US Senate and MUR 7928  
6 Russell Corwin in his official  
7 capacity as treasurer

8 **I. INTRODUCTION**

9 The Reports Analysis Division (“RAD”) referred Renacci for US Senate and Russell  
10 Corwin in his official capacity as treasurer (the “Committee”) to the Office of General Counsel  
11 for failing to disclose an aggregate total of \$8,014,498.93 in receipts and disbursements on its  
12 2018 July Quarterly Report and failing to disclose additional disbursements of \$500,188.57 on  
13 its 2018 12 Day Pre-General Report.<sup>1</sup> For the reasons set forth below, the Commission finds  
14 reason to believe that the Committee violated 52 U.S.C. § 30104(b)(2) and (4) by failing to  
15 accurately disclose its receipts and disbursements.

16 **II. FACTUAL BACKGROUND**

17 The Committee is the authorized committee for James Renacci’s 2016 Ohio senatorial  
18 campaign.<sup>2</sup> Renacci served as the U.S. Representative for Ohio’s 16th congressional district  
19 from 2011 to 2019. From March 2017 until January 2018, Renacci was a candidate for governor  
20 of Ohio.<sup>3</sup> After ending his campaign for governor, Renacci became a candidate for Senate in  
21 Ohio. On May 8, 2018, Renacci won the primary election in his Senate campaign and became  
22 the Republican candidate for Senate.

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<sup>1</sup> RAD Referral (Renacci for US Senate) (July 15, 2019) (“RAD Referral”) incorporated herein by reference. The additional receipts and disbursements disclosed on the Committee’s amended 2018 July Quarterly Report and 2018 12 Day Pre-General Report meet the threshold for referral to the Office of General Counsel in accordance with the 2017-2018 RAD Review and Referral Procedures (Standard 7). *See* RAD Referral at 1.

<sup>2</sup> The Committee is also involved in MURs 7476 and 7542 and AF 3727.

<sup>3</sup> Resp. at 1 (Sept, 19, 2019).

1           Renacci loaned the Committee \$4 million from his personal funds on March 27, 2018.<sup>4</sup>  
2           The Committee disclosed the loan on its 2018 April Quarterly Report and designated the loan for  
3           the primary election but did not indicate whether the loan had been made from the candidate’s  
4           personal funds or had been sourced from a bank loan.<sup>5</sup> On July 18, 2018, the Committee filed its  
5           original 2018 July Quarterly Report covering the period after the May 8, 2018, primary election  
6           and continued to report the loan as being for the primary election.<sup>6</sup> The July Quarterly Report  
7           did not disclose any type of repayment of Renacci’s 2018 primary loan or a reallocation to the  
8           general election.<sup>7</sup> The Committee amended its 2018 July Quarterly Report on October 15, 2018.  
9           This amendment contained a change correcting a misidentified vendor but made no additional  
10          disclosures. The amended report continued to include the \$4 million loan from Renacci, but it no  
11          longer specified whether the loan was for the primary, general, or other election.<sup>8</sup> The  
12          amendment, like the original filing, also did not indicate the source of the candidate’s loan.

13           On November 18, 2018, RAD sent the Committee a Request for Additional Information  
14          (“RFAI”) in connection with the Committee’s amendment to the 2018 July Quarterly Report and  
15          inquired about the candidate’s loan. The RFAI requested that the Committee amend its report to  
16          reflect the source of the loan “to indicate whether the loan is from the candidate’s personal funds

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<sup>4</sup>           FEC Form 3, Renacci for US Senate, 2018 April Quarterly Report at 3, 146 (Apr. 14, 2018), <https://docquery.fec.gov/pdf/227/201804190200311227/201804190200311227.pdf>.

<sup>5</sup>           *Id.* This filing was later amended to reflect that the loan was made with personal funds from the candidate. FEC Form 3, Renacci for US Senate, Amended 2018 April Quarterly Report at 3, 147 (Dec. 10, 2018), <https://docquery.fec.gov/pdf/530/201812109142260530/201812109142260530.pdf>.

<sup>6</sup>           FEC Form 3, Renacci for US Senate, 2018 July Quarterly Report at 1894 (July 18, 2018), <https://docquery.fec.gov/pdf/030/201807200200631030/201807200200631030.pdf>.

<sup>7</sup>           RAD Referral at 1.

<sup>8</sup>           RAD Referral at 2; FEC Form 3, Renacci for US Senate, Amended July Quarterly Report at 3, 1895 (Oct. 15, 2018), <https://docquery.fec.gov/pdf/073/201810159124892073/201810159124892073.pdf> (“First Amended July Quarterly Report”).

1 or if he/she obtained the loan from a bank loan, brokerage account, credit card, home equity line  
2 of credit, or other line of credit.”<sup>9</sup> The RFAI also noted that because the loan’s balance exceeded  
3 \$250,000 and was not repaid within 20 days after the primary election, the Committee needed to  
4 either provide additional information on the loan’s repayment or amend its report to show any  
5 amount above \$250,000 as a contribution from the candidate. The RFAI noted that:

6 “[i]f any of the apparent personal loans in question were  
7 incompletely or incorrectly disclosed, you must amend your  
8 original report with the clarifying information. Otherwise, you  
9 must amend your report to show the outstanding balance of  
10 candidate loans for the primary election exceeding \$250,000.00 as  
11 a contribution from the candidate and adjust the closing loan  
12 balance(s) on Schedule C so that the loan(s) for a specific election  
13 no longer aggregate in excess of \$250,000.00.”<sup>10</sup>

14 After receiving the RFAI, the Committee’s reporting consultant contacted RAD and advised that  
15 the Committee had failed to disclose: 1) a repayment of a personal loan received from Renacci  
16 after the 2018 Ohio Primary Election and 2) Renacci’s loan of those funds back to the  
17 Committee for the 2018 General Election.<sup>11</sup> RAD explained that both the repayment of the  
18 initial primary election loan and the issuance of the subsequent general election loan should have  
19 been reported, and that the Committee would need to file an amended report.<sup>12</sup>

20 On December 21, 2018, the Committee filed another amended 2018 July Quarterly  
21 Report (the “Second Amended Report”), which disclosed a May 9, 2018, repayment of the \$4

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<sup>9</sup> RFAI at 6-7 (Nov. 18, 2018), <https://docquery.fec.gov/pdf/563/201811180300025563/201811180300025563.pdf>.

<sup>10</sup> *Id.*

<sup>11</sup> RAD Referral at 2, Attach. 4.

<sup>12</sup> *Id.*

1 million primary loan<sup>13</sup> and a May 9, 2018, issuance of a \$4 million loan for the general  
2 election.<sup>14</sup> In total, the Second Amended Report contained an increase of \$4,001,590.00 in  
3 receipts and an increase of \$4,012,908.93 in disbursements.<sup>15</sup>

4 On February 18, 2019, RAD sent the Committee another RFAI regarding the increased  
5 activity on the Committee's Second Amended 2018 July Quarterly Report.<sup>16</sup> In response, the  
6 Committee filed a FEC Form 99 on March 25, 2019, stating in part that "the amended report  
7 disclosed an increase in receipts and disbursements related to the repayment of the candidate for  
8 the loan for the Primary election and the new loan for the General election. There was no net  
9 cash effect and was erroneously missed in the original filing."<sup>17</sup> In other conversations with  
10 RAD, the Committee's reporting consultant further explained that the increases in activity were  
11 caused by the Committee's difficulties reconciling accounts when they switched accounting  
12 software as the candidate ran for offices in three separate elections during that election cycle.<sup>18</sup>

13 The same day the Committee filed the Form 99 with additional information on Renacci's  
14 loan, the Committee also filed an Amended 2018 12 Day Pre-General Report that indicated a

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<sup>13</sup> FEC Form 3, Renacci for US Senate, Amended 2018 July Quarterly Report at 3, 1902 (Dec. 21, 2018), <https://docquery.fec.gov/pdf/905/201812219143654905/201812219143654905.pdf> ("Second Amended 2018 July Quarterly Report").

<sup>14</sup> Second Amended 2018 July Quarterly Report at 3, 1905. The filing also disclosed an additional \$1,590 in itemized contributions and an additional \$12,908.93 in operating expenditures. RAD Referral at 2.

<sup>15</sup> RAD Referral at 1, Attach. 2.

<sup>16</sup> RFAI (Feb. 18, 2019), <https://docquery.fec.gov/pdf/098/201902180300031098/201902180300031098.pdf>. The RFAI contained a single inquiry, which noted the increased receipts and disbursements, and requested that the Committee, "provide clarifying information as to why this activity was not disclosed on your original report." *Id.*

<sup>17</sup> FEC Form 99, Renacci for US Senate, Miscellaneous Text (Mar. 25, 2019), <https://docquery.fec.gov/pdf/403/201903259145941403/201903259145941403.pdf>. The Committee did not address either the additional \$1,590 in itemized contributions or the additional \$12,908.93 in operating expenditures that were also included in the February 18, 2019, RFAI.

<sup>18</sup> RAD Referral, Attach. 4.

1 \$500,188.57 increase in disbursements.<sup>19</sup> The Committee received another RFAI inquiring why  
2 this activity had not been disclosed,<sup>20</sup> and the Committee explained that the funds to pay a  
3 \$500,000 invoice due to a vendor, OnMessage Inc., were wired from a “segregated account used  
4 to house the candidate’s loan,” and that the Committee was not aware of the payment until it  
5 reconciled the investment account’s bank statement, which was received after the filing date.<sup>21</sup>  
6 Again, the Committee’s reporting consultant stated that the discrepancies were caused by the  
7 Committee’s difficulties with reconciling their accounts and switching reporting software, in  
8 connection with Renacci’s multiple campaigns in the 2017-18 election cycle.<sup>22</sup>

9 On July 17, 2019, the Committee was notified of the RAD Referral to the Office of  
10 General Counsel concerning the discrepancies associated with the 2018 July Quarterly Report  
11 and the 2018 12 Day Pre-General Report. In its Response to the Referral, the Committee  
12 requests that the Commission refrain from taking any action because Renacci’s multiple  
13 campaigns presented unique accounting difficulties.<sup>23</sup> The Committee explains that it worked  
14 with RAD to properly amend its reports to correctly reflect Renacci’s personal loans after it  
15 learned of the discrepancy on its July 2018 Quarterly Report. The Committee further explains

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<sup>19</sup> *Id.* at 3; FEC Form 3, Renacci for US Senate, Amended 2018 12 Day Pre-General Report at 1215, 1238 (Mar. 25, 2019), <https://docquery.fec.gov/pdf/562/201903259145925562/201903259145925562.pdf> (“Amended 2018 12 Day Pre-General Report”).

<sup>20</sup> RFAI (Apr. 14, 2019), <https://docquery.fec.gov/pdf/279/201904140300037279/201904140300037279.pdf>.

<sup>21</sup> RAD Referral at 3-4; FEC Form 99, Renacci for US Senate, <https://docquery.fec.gov/pdf/648/201905209149757648/201905209149757648.pdf> (May 20, 2019). The Committee did not address the remaining \$188.57 in increased activity in its conversations with RAD or in its Response. The investment account in question was not disclosed on the Committee’s Statement of Organization until it was amended on December 19, 2018. FEC Form 1, Renacci for US Senate, Amended Statement of Organization (Dec. 19, 2018) <https://docquery.fec.gov/pdf/755/201812199143584755/201812199143584755.pdf>.

<sup>22</sup> RAD Referral at 4.

<sup>23</sup> Resp. at 1.



1 that the error was unintentional and due to a lack of awareness of regulations concerning the  
2 reporting of the repayment of loans when a primary election and general election overlap in the  
3 same reporting period.<sup>24</sup> With regard to the \$500,000 disbursement, the Committee contends  
4 that the error was the result of a payment that was made from an account not ordinarily used to  
5 make disbursements, and was made without the reporting consultant's knowledge.<sup>25</sup> The  
6 Committee explains that when the reporting consultants learned of the disbursement from an  
7 account statement that was received after the report was filed, they proactively amended their  
8 report.<sup>26</sup>

### 9 III. LEGAL ANALYSIS

10 The Federal Election Campaign Act of 1971, as amended (the "Act"), requires committee  
11 treasurers to file reports of receipts and disbursements in accordance with the provisions of  
12 52 U.S.C. § 30104.<sup>27</sup> These reports must include, *inter alia*, the total amount of receipts and  
13 disbursements.<sup>28</sup>

14 The Act and Commission regulations also require political committees to disclose the  
15 amount and nature of outstanding debts and obligations until those debts are extinguished.<sup>29</sup> A  
16 political committee must file separate schedules for debts owed by and to the Committee with a  
17 statement explaining the circumstances and conditions under which each debt and obligation was

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<sup>24</sup> *Id.* at 2.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> 52 U.S.C. § 30104(a)(1); 11 C.F.R. § 104.1.

<sup>28</sup> 52 U.S.C. § 30104(b); 11 C.F.R. § 104.3(a).

<sup>29</sup> 52 U.S.C. § 30104(b)(8); 11 C.F.R. §§ 104.3(d), 104.11(a).

1 incurred or extinguished.<sup>30</sup> A debt or obligation of \$500 or less must be reported as of the time  
2 that payment is made or within 60 days of the date on which the political committee incurs the  
3 debt, whichever comes first, and a debt exceeding \$500 must be disclosed in the report that  
4 covers the date on which the debt was incurred.<sup>31</sup> The Act also requires accurate reporting of the  
5 total amount of loans made or guaranteed by the candidate and the repayment of those loans.<sup>32</sup>  
6 When a Committee reports receiving a loan from the candidate, it is necessary to clarify whether  
7 or not the candidate used personal funds or borrowed the money from a lending institution, as  
8 loans obtained from lending institutions require the committee to disclose additional  
9 information.<sup>33</sup> Commission regulations further provide that authorized committees must repay  
10 personal loans of a candidate that exceed \$250,000 within 20 days of the election.<sup>34</sup> In  
11 promulgating this regulation, the Commission reasoned that 20 days represented a grace period  
12 during which a committee could finish its accounting and close its books.<sup>35</sup>

13 Here, the Committee was notified by RAD on November 18, 2018, that Renacci's  
14 personal loan was either "incompletely or incorrectly disclosed" or potentially constituted a

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<sup>30</sup> See 11 C.F.R. § 104.11(a).

<sup>31</sup> See *id.* § 104.11(b).

<sup>32</sup> 52 U.S.C. § 30104(b); 11 C.F.R. § 104.3(d).

<sup>33</sup> See 52 U.S.C. § 30104(b)(3), (4); 11 C.F.R. § 104.3(d); RFAI at 6 (Nov. 18, 2018).

<sup>34</sup> 11 C.F.R. § 116.11(c)(1). Congressional discussions of these provisions reflected a belief that Congress did not want candidates to extensively fundraise after an election to repay their self-financed loans. See 147 Cong. Rec. S2450-51, S2461-62 (daily ed. Mar. 19, 2001) (statements of Sen. Domenici and Sen. Durbin), <https://www.congress.gov/crec/2001/03/19/CREC-2001-03-19-pt1-PgS2433-2.pdf>.

<sup>35</sup> See Increased Contribution and Coordinated Party Expenditure Limits for Candidates Opposing Self-Financed Candidates, 68 Fed. Reg. 3970, 3974 (Jan. 27, 2003); Advisory Op. 2008-09 (Lautenberg) (applying § 116.11 to primary election loans). The November 18, 2018, RFAI also explained that a candidate's personal loans "aggregating in excess of \$250,000 and designated to the primary election must be repaid within 20 days after that election. If loans are not repaid by the twenty-day deadline, the committee must treat the portion of the aggregate outstanding balance that exceeds \$250,000.00 as a contribution from the candidate, which cannot be repaid."

1 contribution in the form of an un-repaid candidate loan.<sup>36</sup> It was only after receiving the RFAI  
2 that the Committee explained that Renacci’s loan did not result in a \$4 million contribution;  
3 instead the Committee had not reported either its repayment of Renacci’s personal loan or his  
4 “immediate” loan of the funds back for the general election.<sup>37</sup> Similarly, the Committee  
5 neglected to disclose its payment for a \$500,000 invoice because it was wired directly from the  
6 investment account where the Committee kept the candidate’s personal loan.<sup>38</sup> Based on the  
7 Committee’s statements and amendments to its reports, the Committee did not comply with the  
8 Act’s reporting requirements when it failed to disclose an aggregate total of \$8,514,687.50 by  
9 failing to report: the repayment of Renacci’s \$4 million personal loan for the primary election;  
10 his subsequent \$4 million personal loan for the general election; \$500,188.57 in operating  
11 expenditures on its 2018 Pre-General Report; and \$12,908.93 in other operating expenditures and  
12 \$1,590 in itemized contributions from individuals on its July 2018 Quarterly Report.

13         The Committee acknowledges that it did not properly report the loans from Renacci and a  
14 single \$500,000 disbursement to OnMessage, but does not address the remaining \$14,687.50 of  
15 referred increased activity that is not attributed to the candidate’s loans or the disbursement to  
16 OnMessage with any specificity. The Committee argues for leniency because of Renacci’s  
17 multiple campaigns, difficulties with software transitions, and a lack of familiarity with  
18 regulations concerning the proper reporting of personal loans from candidates. However, the Act  
19 imposes responsibility on political committees and their treasurers to certify the accuracy of the

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<sup>36</sup> RFAI at 7 (Nov. 18, 2018).

<sup>37</sup> RAD Referral, Attachment 4 at p. 2.

<sup>38</sup> See RAD Referral at 3; Resp. at 2.

1 disclosure information they provide to the Commission and, ultimately, the public.<sup>39</sup> The  
2 Committee's failure to familiarize itself with its reporting obligations in connection with  
3 Renacci's loan and the payment to OnMessage as well as the candidate's decision to pursue  
4 multiple campaigns does not excuse the Committee from its reporting obligations. Accordingly,  
5 the Commission finds reason to believe that the Committee violated 52 U.S.C. § 30104(b)(2) and  
6 (4) by failing to report receipts and disbursements.

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<sup>39</sup> See Factual & Legal Analysis at 4, MUR 7223 and RR 17L-23 (Applegate for Congress) (citing Factual & Legal Analysis at 5, MUR 6979 (Republican Majority Campaign)) ("Ultimately, the Committee was responsible for ensuring timely and accurate filing of reports with the Commission, and [its treasurer] should have made sure the report was accurate.").