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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE**MEMORANDUM**

July 7, 2022

TO: The Commission

THROUGH: Alec Palmer *AP*
Staff Director

FROM: Patricia C. Orrock *PCO*
Chief Compliance Officer

Krista J. Roche *KJR*
Director, ADR Office

Rosa Marshall *RM*
Assistant Director, ADR Office

SUBJECT: Recommendation to Approve Negotiated Settlement and Dismiss Remaining Allegations in ADR 1069 (MUR 7709)
Nehls for Congress and Robert Phillips, III, Treasurer (C00730150), Troy Nehls, Friends of Troy Nehls, Supporters of Trever Nehls, Friends of Trever Nehls, Chad Norvell, and Supporters of Chad Norvell

RESOLUTION TERMS: Refund or disgorge impermissible nonfederal contributions totaling \$7,497.64; perform required corrective action in accordance with the Corrective Action Plan (Exhibit A of the Negotiated Settlement); certify that a representative participated in an FEC training program; and pay a civil penalty of \$1,150.

Attached for your review is a signed Negotiated Settlement pertaining to ADR 1069 (MUR 7709). The ADR Office received this referral on January 3, 2022.

SUMMARY: The Federal Election Commission (the FEC or Commission) received Complaints¹ filed by Laura Pullins (Complainant), dated February 19, 2020, containing several allegations involving Nehls for Congress and Robert

¹ The Complainant filed two complaints against the Respondents on the same day, both have been assigned the same matter number and are treated as one.

Phillips, III, Treasurer²; Troy Nehls; Friends of Troy Nehls; Trever Nehls; Supporters of Trever Nehls; Friends of Trever Nehls³; Chad Norvell; and Supporters of Chad Norvell (collectively the Respondents). The Complaint alleges a joint mailer distributed by Nehls for Congress constituted an impermissible coordinated communication; Nehls for Congress failed to include a disclaimer on an advertisement; Supporters of Trever Nehls made a contribution in the name of another; Supporters of Trever Nehls failed to register as a political committee; an improper payment was made to Supporters of Chad Norvell in exchange for his services as treasurer of Nehls for Congress; and general allegations concerning coordination between the campaigns of Troy and Trever Nehls. The Complaint further alleges that Nehls for Congress accepted impermissible nonfederal funds from the state campaign committees of Troy Nehls and Trever Nehls.

I. Allegations Involving Impermissible Contributions Addressed in the Negotiated Settlement

The Complainant alleged that Troy Nehls, Nehls for Congress, and Robert Phillips, III, in the official capacity of Treasurer accepted impermissible nonfederal funds from the state campaign committees of Troy Nehls and Trever Nehls. The impermissible contributions accepted by Nehls for Congress include a \$5,400 contribution from Friends of Troy Nehls⁴ which was not disclosed by the Committee⁵; a \$2,700 contribution from Supporters of Trever Nehls⁶ which the Respondents disclosed in the name of Trever Nehls individually⁷; and a \$2,097.64⁸ in-kind contribution in the form of advertising paid for by the Supporters of Trever Nehls.

² Chad Norvell was the treasurer of Nehls for Congress from December 9, 2019, until September 7, 2021. George Husted was listed as treasurer from September 8, 2021 to December 9, 2021, and Robert Phillips, III, became treasurer on December 10, 2021.

³ The Complainant incorrectly references Friends of Trever Nehls instead of “Friends of Troy Nehls” in one instance. *See* Trever Nehls and Supporters of Trever Nehls Resp. at 2 (May 1, 2020).

⁴ Friends of Troy Nehls is not registered with the Commission; it is the state campaign committee for Troy Nehls and his 2012 and 2016 campaign for Sheriff of Fort Bend County, Texas.

⁵ Contribution dated December 9, 2019. *See* Complaint.

⁶ Supporters of Trever Nehls is not registered with the Commission; it is the state campaign committee for Trever Nehls and his 2020 campaign for Sheriff of Fort Bend County, Texas.

⁷ Contribution dated August 1, 2019. *See* Nehls for Congress [2019 Year-End Report](#) (Image 202001319184847800).

⁸ Contribution dated February 8, 2020. *See* Nehls for Congress [2020 Pre-Primary Report](#) (Image 202002209186956525).

On June 24, 2020, the Committee amended its 2019 Year-End Report to correctly disclose the \$2,700 contribution from Supporters of Trever Nehls.⁹ Respondents state that the original disclosure of the \$2,700 contribution was based on the nomenclature requirements of the Texas Election Code, which requires individuals running for state and local office to file campaign finance reports under their own names and not their committee names. Respondents acknowledge that the contribution should have been reported on Line 11(c) (Contributions from Other Political Committees) since it was received from a nonfederal committee account. On July 2, 2020, the Committee disclosed the corresponding refund of \$2,700 to Supporters of Trever Nehls on their 2020 12 Day-Pre-Runoff Report. Per the Negotiated Settlement, the Committee will take corrective action for the remaining impermissible nonfederal contributions, totaling \$7,497.64, by refunding or disgorging the contributions and clarifying the public record by filing relevant disclosure reports.

II. Allegations for Dismissal

In addition to the allegations addressed in the attached Negotiated Settlement, there remain allegations for which ADRO recommends dismissal, including the exercise of prosecutorial discretion. *Heckler v. Chaney* 470 U.S. 821 (1985).

A. Joint Mailer Allegation

The Complaint alleges a four-page mailer totaling \$3,500 and distributed by Nehls for Congress in January 2020, asked readers to “Vote Troy Nehls for Congress” and “Vote Trever Nehls for Sheriff” constituting an impermissible contribution in violation of 52 U.S.C. § 30125(e), which prohibits spending funds in connection with a federal election that are not subject to federal contribution limits and prohibitions. Respondents state Nehls for Congress, a registered federal committee, paid for the mailer, creating an in-kind contribution to Supporters of Trever Nehls, a state committee.¹⁰ Both committees reflected this expense on their disclosure reports.¹¹ Since the federal committee paid for the mailer from funds subject to federal limits and prohibitions, the ADRO recommends the Commission dismiss this allegation.

⁹ Contribution dated August 1, 2019. See Nehls for Congress Amended 2019 Year-End Report (Image 202006249244188585).

¹⁰ Troy Nehls and Chad Norvell Resp. at 1 (Apr. 17, 2020). The Troy Nehls Federal Committee did not respond to the Complaint.

¹¹ See Supporters of Trever Nehls, Candidate/Officeholder Campaign Finance Report, Texas Ethics Commission at 5 (Jan. 31, 2020); Nehls for Congress 2020 Pre-Primary Report at 49 (Feb. 20, 2020).

B. Disclaimer Allegation

The Complaint alleges Nehls for Congress failed to include a disclaimer on an advertisement published in the February 2020 edition of the *Fort Bend Business Journal* in violation of 52 U.S.C. § 30120(a)(1) and 11 C.F.R. § 110.11. Respondents state this inadvertent omission occurred early in the campaign, and the campaign has since established an internal review process to avoid future omissions.¹² Further, Respondents highlight the advertisement contained identifying information, including the website address of Nehlsforcongress.com.¹³ Accordingly, the ADRO recommends the Commission exercise its prosecutorial discretion and dismiss the disclaimer allegation. *Heckler v. Chaney* 470 U.S. 821 (1985).

C. Contribution in the Name of Another Allegation

The Complaint alleges that Supporters of Trever Nehls violated 52 U.S.C. § 30122 by making a contribution in the name of another. The Complaint states, and the relevant disclosure reports confirm, that Nehls for Congress accepted a \$2,700 contribution from Supporters of Trever Nehls, which it disclosed as having been contributed by Trever Nehls individually.¹⁴ Respondents state that “confusion arising from state law governing state campaign reports may have contributed to the manner in which this contribution was reported[,]” and that Supporters of Trever Nehls contributed the funds.¹⁵ Because Supporters of Trever Nehls properly disclosed the \$2,700 contribution to Nehls for Congress on its State disclosure report,¹⁶ the ADRO recommends the Commission dismiss this allegation.

D. Failure to Register Allegation

The Complaint alleges that Supporters of Trever Nehls failed to register with the Commission as a political committee after contributing \$2,700 to the Nehls for Congress in violation of 52 U.S.C. §§ 30102, 30103, and 30104. The Act defines a political committee as “any committee, club, association, or other group of persons” that receives aggregate contributions or makes aggregate expenditures in excess of

¹² Troy Nehls and Chad Norvell Resp. at 1-2 (Apr. 17, 2020).

¹³ *Id.*

¹⁴ Second Compl. at 6; Second Compl., Attach. B at 26 (the Troy Nehls Federal Committee disclosing the \$2,700 from Trever Nehls); Second Compl., Attach. A at 8 (the Trever Nehls State Committee disclosing the \$2,700 to the Troy Nehls Federal Committee). The \$2,700 contribution was made to “Nehls Exploratory Committee.” *See id.*; Trever Nehls and Supporters of Trever Nehls Resp. at 2.

¹⁵ Troy Nehls and Chad Norvell Resp. at 1. Troy Nehls explains that the nomenclature requirements of the Texas Election Code require individuals running for state and local office to file campaign finance reports under their own names and not their committee names. *Id.*

¹⁶ Second Compl., Ex. A at 8.

\$1,000 during a calendar year.¹⁷ Notwithstanding the statutory threshold for contributions and expenditures, an organization will be considered a political committee only if its “major purpose is Federal campaign activity (*i.e.*, the nomination or election of a Federal candidate)” or whether it is controlled by a federal candidate.¹⁸

Supporters of Trever Nehls acknowledges it contributed \$2,700 to Troy Nehls’s federal exploratory committee, which Nehls for Congress subsequently refunded.¹⁹ Nevertheless, Supporters of Trever Nehls maintains its purpose is to support Trever Nehl’s campaigns for nonfederal office, it is not controlled by any federal candidate, and it never had the major purpose of nominating or electing a federal candidate.²⁰ Further, according to reports filed with the Texas Ethics Commission, Supporters of Trever Nehls, reported spending 14% of its expenditures on Troy Nehls’s Congressional campaign in contrast to 79% of its expenditures on Trever Nehls’s campaign for Sheriff.²¹ Therefore, ADRO recommends the Commission dismiss the failure to register allegation because Supporters of Trever Nehls lacked the requisite major purpose.

E. Impermissible Payment to Chad Norvell Allegation

The Complaint also alleges Friends of Troy Nehls, Troy Nehls’s state campaign committee, made a \$1,000 payment to Supporters of Chad Norvell²² for Norvell’s duties as treasurer of Nehls for Congress. Respondents Troy Nehls and Chad Norvell state the \$1,000 payment was made to Chad Norvell’s 2020 state campaign for Constable in Fort Bend County, Texas, and was properly reported by both committees. Respondents state that the “Complainant has no basis for her speculation that this was a payment for Norvell’s service as treasurer.”²³ As no

¹⁷ 52 U.S.C. § 30101(4)(A).

¹⁸ Political Committee Status: Supplemental Explanation and Justification, 72 Fed. Reg. 5,595, 5,597 (Feb. 7, 2007) (“Suppl. E&J”) (“[D]etermining political committee status under [the Act], as modified by the Supreme Court, requires an analysis of both an organization’s specific conduct — whether it received \$1,000 in contributions or made \$1,000 in expenditures — as well as its overall conduct — whether its major purpose is Federal campaign activity (*i.e.*, the nomination or election of a Federal candidate.”); *see Buckley v. Valeo*, 424 U.S. 1, 79 (1976); *FEC v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238, 262 (1986).

¹⁹ Trever Nehls and Supporters of Trever Nehls Resp. at 2 (May 1, 2020).

²⁰ *Id.*

²¹ Through the date of the most recent state disclosure report, Supporters of Trever Nehls spent \$2,097.64 on advertising for Nehls for Congress, \$1,000 on a contribution to Supporters of Chad Norvell, and \$11,976.05 on expenses for Trever Nehls’ campaign for Sheriff. Supporters of Trever Nehls, Candidate/Officeholder Campaign Finance Reports, Texas Ethics Commission.

²² Supporters of Chad Norvell is not registered with the Commission; it is the state campaign committee for Chad Norvell and his 2020 campaign for Constable in Fort Bend County, Texas.

²³ Troy Nehls and Chad Norvell Resp. at 2 (Apr. 17, 2020).

evidence in the record confirms Complainant's allegation or refutes Respondents' denial, the ADRO recommends dismissal of this allegation.

Accordingly, the ADRO recommends the Commission approved the attached Negotiated Settlement and dismiss the remaining allegations contained in the Complaint, including by exercising prosecutorial discretion. *Heckler v. Chaney* 470 U.S. 821 (1985).

RECOMMENDATIONS:

1. Approve the attached Negotiated Settlement.
2. Dismiss the remaining allegations.
3. Approve the appropriate letters.
4. Close the file on this matter.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

**Corrective Action Plan
Nehls for Congress (C00730150)
Exhibit A**

Robert Phillips, III, Treasurer
PO Box 16968
Sugar Land, TX 77496

Najvar Law Firm PLLC
2180 North Loop West, Ste. 255
Houston, TX 77018

Re: ADR 1069: Nehls for Congress

Below is the corrective action plan for Nehls for Congress per the Negotiated Settlement.

Transaction	Corrective Action
\$2,097.64 contribution from Supporters of Trevor Nehls	<ul style="list-style-type: none">I. Refund or disgorge the \$2,097.64 contribution from Supporters of Trevor Nehls within 30 days.II. Disclose the refund on the relevant disclosure report.
Finding/Issue	Corrective Action
\$5,400 contribution from Friends of Troy Nehls	<ul style="list-style-type: none">I. Disgorge the \$5,400 contribution from Friends of Troy Nehls within 30 days.II. File a Miscellaneous Electronic Submission (Form 99) to fully disclose the details concerning the \$5,400 contribution, including the name, address, date, and amount of the transaction. The Form 99 should also state whether the reported cash-on-hand (COH) balance accurately reflects the actual bank balance. If the reported COH balance is inaccurate, the Committee should also make a one-time cash adjustment on its next report to reflect the actual balance.III. Disclose the refund on the relevant disclosure report.