



FEDERAL ELECTION COMMISSION
Washington, DC 20463

VIA ELECTRONIC MAIL

Neil P. Reiff
Sandler Reiff Lamb Rosenstein & Birkenstock, PC
1090 Vermont Ave. NW, Suite 750
Washington, DC 20005
reiff@sandlerreiff.com

October 26, 2021

RE: MUR 7062
Ro for Congress
Ro Khanna

Dear Mr. Reiff,

On October 22, 2021, the Federal Election Commission accepted the signed conciliation agreement submitted on behalf of Ro for Congress in settlement of violations of 52 U.S.C. § 30111(a)(4), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the Commission has closed the file in this matter as to Ro for Congress and Ro Khanna.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. *See* 52 U.S.C. § 30109(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 90 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 694-1574 or jdigiovanni@fec.gov.

Sincerely,


Justine A. di Giovanni
Attorney

Enclosure:
Conciliation Agreement

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2
3 In the Matter of)
4) MUR 7062
5 Ro for Congress and Linda Sell)
6 in her official capacity as)
7 treasurer)
8)
9

10 **CONCILIATION AGREEMENT**

11 This matter was initiated by a signed, sworn, and notarized complaint filed by Glen
12 Shaffer. The Federal Election Commission (the "Commission" or "FEC") found reason to
13 believe that Ro for Congress and Linda Sell in her official capacity as treasurer (the
14 "Committee" or "Respondent") violated 52 U.S.C. § 30111(a)(4), the "sale and use" provision of
15 the Federal Election Campaign Act of 1971, as amended (the "Act"), by using information taken
16 from the Commission's database of reports and statements filed by political committees ("FEC
17 data") for the purpose of soliciting contributions.

18 NOW, THEREFORE, the Commission and Respondent, having participated in informal
19 methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as
20 follows:

21 I. The Commission has jurisdiction over Respondent and the subject matter of this
22 proceeding, and this Agreement has the effect of an agreement entered pursuant to 52 U.S.C.
23 § 30109(a)(4)(A)(i).

24 II. Respondent has had a reasonable opportunity to demonstrate that no action should
25 be taken in this matter.

26 III. Respondent enters voluntarily into this Agreement with the Commission.

27 IV. The pertinent facts and relevant law in this matter are as follows:

FACTS

1
2 1. Ro Khanna is the U.S. Representative from California's 17th Congressional
3 District; he unsuccessfully ran for Congress in 2014, was elected in 2016, and reelected in 2018
4 and 2020. Ro for Congress is Khanna's authorized committee.

5 2. RevUp Software, Inc., ("RevUp") was a technology company founded by its
6 CEO, Steve Spinner, which between 2014 and 2019 sold web-based fundraising software.

7 3. The RevUp software ranked and scored a user's contacts from zero to 100 based
8 on their likelihood of making a contribution to the user's campaign. RevUp's ranking and
9 scoring algorithm used FEC data, specifically, contribution histories — *i.e.*, the fact that a
10 contact has previously made contributions, the recipients of those contributions, and the amounts
11 of those contributions — as one of the factors to determine the likelihood that a given person will
12 make a contribution to a client's campaign. The RevUp software also used FEC data to display
13 contacts' contribution histories, and allowed the user to select similar or "correlated" campaigns
14 and would identify all contacts who made contributions to those campaigns. The Committee was
15 aware when it used the RevUp software that it incorporated FEC data.

16 4. During the 2014 and 2016 election cycle, RevUp's CEO, Spinner, simultaneously
17 served as the Committee's volunteer Chair and as a volunteer fundraiser. The Committee was
18 the first political committee to report disbursements to RevUp: During the 2014 election cycle, it
19 used a prototype of the RevUp software not available to the general public. Between June 2014
20 and March 2015, it continued to participate in product testing ahead of the software's official
21 launch in March 2015. The Committee continued to use the software until RevUp's dissolution
22 in December 2019 and, during the entire period from 2014-2019, reported disbursements of
23 \$61,000 to RevUp.

7. Throughout the relevant time period, Committee personnel used the RevUp software, and therefore FEC data, for the purpose of identifying potential donors and making solicitations on behalf of the Committee.

LAW

9. Based on the legislative history, and the Congressional objective of protecting the privacy of individual contributors, the Commission has approved the sale and use of individual contribution information only in “narrow circumstances” where the principal purpose was informational, and there was no indication that the entity published the FEC data for the purpose of soliciting contributions. Advisory Op. 1988-02 at 2 (Chi. Bd. of Options Exch. II); *see, e.g.*, Advisory Op. 2017-08 (Point Bridge Capital); Advisory Op. 2015-12 (Ethiq); Advisory Op. 2014-07 (Crowdpac); Advisory Op. 2013-16 (PoliticalRefund.org); Advisory Op. 2009-19 (Club

for Growth); Advisory Op. 1995-09 (NewtWatch); Advisory Op. 1984-02 (Gramm); Advisory Op. 1981-05 (Findley).

10. The statute not only places restrictions on the sale and use of names and addresses obtained from the Commission's database, but also restricts the sale and use of contribution histories, including by matching a pre-existing list of names with FEC disclosure reports for the purpose of identifying known political contributors in order to assist with potentially soliciting those individuals. *See* MURs 6960 & 6991 (SW Technologies, LLC); Advisory Op. 1985-16 (Weiss).

V. Solely for the purpose of settling this matter expeditiously and to avoid the expense of litigation, and without admitting liability, Respondent agrees not to further contest the Commission's finding that Respondent violated 52 U.S.C. § 30111(a)(4) by using individual contribution histories obtained from the Commission database of reports and statements filed by political committees for the purpose of soliciting contributions.

VI. Respondent will take the following actions:

1. The Committee will pay a civil penalty to the Commission in the amount of Sixteen Thousand dollars (\$16,000) pursuant to 52 U.S.C. § 30109(a)(5)(A).

2. The Committee will cease and desist from violating 52 U.S.C. § 30111(a)(4).

VII. The Commission, on request of anyone filing a complaint under 52 U.S.C. § 30109(a)(1) concerning the matter at issue herein or on its own motion, may review compliance with this Agreement. If the Commission believes that this Agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This Agreement shall become effective as of the date that all parties hereto have executed the same and the Commission has approved the entire Agreement.

IX. Respondent shall have no more than 90 days from the date this Agreement becomes effective to comply with and implement the requirements contained in this Agreement and to so notify the Commission.

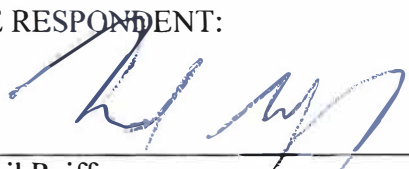
X. This Agreement constitutes the entire agreement between the parties on the matter raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party that is not contained in this written Agreement shall be enforceable.

FOR THE COMMISSION:

BY: Charles Kitcher
Charles Kitcher
Acting Associate General Counsel for Enforcement

10/25/21
Date

FOR THE RESPONDENT:


Neil Reiff
Attorney for Ro for Congress and Linda
Sell in her official capacity as treasurer

9/15/21
Date