

FEDERAL ELECTION COMMISSION
FIRST GENERAL COUNSEL'S REPORT

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MUR: 7108
DATE COMPLAINT FILED: July 18, 2016
DATE OF NOTIFICATION: July 25, 2016
DATE OF LAST RESPONSE: August 15, 2016
DATE ACTIVATED: September 30, 2016

EXPIRATION OF SOL: March 16, 2021 – June 19, 2021
ELECTION CYCLE: 2016

COMPLAINANT:

Mary Patricia Dorsey

RESPONDENTS:

Chappelle-Nadal for Congress and George Lenard
in his official capacity as treasurer
Citizens for Maria Chappelle-Nadal and Neva
Taylor in her official capacity as treasurer
Citizens to Elect Gray and Angela Mosley in her
official capacity as treasurer
Citizens to Elect Jay Mosley State Committee LLC
and Angela D. Mosley in her official capacity as
treasurer
Linda Weaver

**RELEVANT STATUTES
AND REGULATIONS:**

52 U.S.C. § 30104(b)
52 U.S.C. § 30116(a)(7)(B)
52 U.S.C. § 30125(e), (f)
11 C.F.R. § 104.13(a)
11 C.F.R. § 109.21

INTERNAL REPORTS CHECKED:

None

AGENCIES CHECKED:

None

I. INTRODUCTION

The Complaint allege that Maria Chappelle-Nadal, a Missouri State Senator and 2016 candidate for the U.S. House of Representatives, state and federal campaign committees violated the soft money prohibitions in the Federal Election Campaign Act of 1971, as amended (the "Act"). The Complaint argue that Citizens for Maria Chappelle-Nadal (the "State Committee") influenced Chappelle-Nadal's federal candidacy by making contributions to state and local candidates

1 Chappelle-Nadal for Congress (the "Federal Committee").

2 The Complaint also allege that the Federal Committee failed to comply with the Act's reporting
3 requirements, and that several state and local candidates in Missouri,

4 violated the Act's soft money prohibitions through their
5 involvement with the State and Federal Committees.

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8 We
9 recommend taking no action against the Federal Committee

10 We also recommend that
11 the Commission dismiss the allegation that Citizens to Elect Gray and Angela Mosley in her
12 official capacity as treasurer violated the Act by using soft money to pay for Chappelle-Nadal to
13 appear on a door hanger. Finally, we recommend finding no reason to believe that any of the
14 remaining Respondents violated the Act and that the Commission close the file for MUR 7108.

15 **II. FACTUAL AND LEGAL ANALYSIS**

16 In 2003, Chappelle-Nadal registered Citizens for Maria Chappelle-Nadal with the
17 Missouri Ethics Commission. She successfully ran for the Missouri House of Representatives in
18 2004, 2006, and 2008, and for the Missouri State Senate in 2010 and 2014.² After the 2014
19 election, she was term-limited from running for the Missouri State Senate again.³ At that time,

² *CO31173: Citizens for Maria Chappelle-Nadal, MO. ETHICS COMM'N*,
http://mec.mo.gov/MEC/Campaign_Finance/CF11_CommInfo.aspx (last visited Jan. 30, 2017).

³ MO. CONST. art. III, § 8.

1 she had approximately \$200,000 in her State Committee's account.⁴ In January 2015,
2 Chappelle-Nadal amended the State Committee's Statement of Organization to reflect that she
3 would be running for statewide office in 2020.⁵

4 Chappelle-Nadal also filed a Statement of Candidacy for Missouri's First Congressional
5 District on October 6, 2015, and on the same day she registered Chappelle-Nadal for Congress as
6 her principal campaign committee.⁶ As of October 29, 2015, the Federal Committee had
7 collected over \$5,000 in contributions, making Chappelle-Nadal a federal candidate under the
8 Act.⁷ She lost to her incumbent opponent in the August 2, 2016 Democratic Primary Election.

9 The Complaint allege that the Respondents violated the Act's soft
10 money prohibition because (1) the State Committee used soft money to influence Chappelle-
11 Nadal's congressional election; (2) other state and local candidates spent soft money in
12 connection with Chappelle-Nadal's federal election

13 ⁸ The Act's soft money provision prohibits federal candidates,
14 their agents, and entities established, financed, maintained, or controlled ("EFMC'd") by federal
15 candidates from soliciting, receiving, directing, transferring, or spending funds "in connection"

⁴ 2014 30-Day After General Election Report, Citizens for Maria Chappelle-Nadal (Dec. 4, 2014).

⁵ Amended Statement of Committee Organization, Citizens for Maria Chappelle-Nadal (Jan. 28, 2015).

⁶ Statement of Organization, Chappelle-Nadal for Congress (Oct. 6, 2015); Statement of Candidacy, Maria Chappelle-Nadal (Oct. 6, 2015).

⁷ 52 U.S.C. § 30101(2)(A) (stating that a person becomes a "candidate" when she receives contributions aggregating over \$5,000); 2015 Year-End Report, Chappelle-Nadal for Congress (Jan. 29, 2016).

⁸ Under Missouri law, candidates can accept unlimited contributions and contributions from corporations and labor unions. MO. REV. STAT. §§ 130.011-.160 (providing no contribution limit); *id.* § 130.029 (stating that corporations and labor organizations may make contributions).

1 with any federal or non-federal election unless the funds are in amounts and from sources
2 permitted by the Act.⁹

3 The Commission has provided guidance on the types of activities that are "in connection"
4 with an election. Such activities include, but are not limited to: (1) contributing to a candidate
5 committee; (2) contributing to a political party organization; (3) soliciting funds for a candidate
6 committee; (4) expending funds to obtain information that will be shared with a candidate
7 committee; (5) expressly advocating the election or defeat of a candidate; and (6) "federal
8 election activity," as defined by the Act, which includes public communications referring to a
9 clearly identified federal candidate and that promote, support, attack, or oppose ("PASO") a
10 candidate for that office.¹⁰

11 A federal candidate who concurrently runs for state or local office may solicit, receive,
12 and spend funds outside of the Act's amount and source limitations when the solicitations,
13 receipts, and expenditures are solely in connection with her own state or local race.¹¹ Further,
14 where this exception does not apply, a state committee can comply with the soft money
15 provisions of the Act by using a reasonable accounting method to determine the amount of hard
16 and soft money in its account and then use only the hard money to pay for activities in
17 connection with other candidates' elections.¹²

⁹ 52 U.S.C. § 30125(e)(1)(A)-(B); 11 C.F.R. §§ 300.61-62. The Commission has concluded that a federal candidate's state committee is an entity EFMC'd by the federal candidate. Advisory Op. 2007-26 (Schock) at 4 ("AO 2007-26"); Advisory Op. 2006-38 (Casey State Committee) at 4 ("AO 2006-38").

¹⁰ Advisory Op. 2009-26 (State Representative Coulson) at 5 ("AO 2009-26"); AO 2007-26 at 4; AO 2006-38 at 4. "Federal election activity" also includes voter registration activity within 120 days of a federal election; voter identification, get-out-the-vote activity, or generic campaign activity for a federal election; and services provided by certain employees of a political party. 52 U.S.C. § 30101(20); 11 C.F.R. § 100.24.

¹¹ 52 U.S.C. § 30125(e)(2).

¹² AO 2007-26 at 3; AO 2006-38 at 3. For this purpose, the Commission has approved as reasonable the "first in, first out" and "last in, first out" accounting methods. AO 2006-38 at 3. Other accounting methods may also be reasonable.

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B. Use of Soft Money by Other Committees

The Complaint further allege that state and local candidates who received contributions from the State Committee, including Jay Mosley, Rochelle Walton Gray, and Linda Weaver, violated the Act by using soft money to pay for a door hanger supporting Chappelle-Nadal's congressional campaign.⁵¹ The Complaint imply that Chappelle-Nadal instructed those candidates.

to use the contributions received from the State Committee to support her federal candidacy in this fashion.⁵² The Complaint therefore make allegations against the Federal Committee, in addition to Mosley, Walton Gray, and Weaver, claiming that the door hanger

⁵¹ See Compl. (MUR 7108) at 1 (July 18, 2016).

⁵²

1 were coordinated expenditures that the Federal Committee failed to disclose as in-kind
2 contributions.⁵³

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5 also enclose a copy of the door hanger, which encourages
6 people to "Vote Democratic & Elect" Chappelle-Nadal and state and local candidates Jay
7 Mosley, Rochelle Walton Gray, Tony Weaver, and Linda Weaver. The door hanger has a
8 disclaimer that states, "Paid for by Citizens to Elect Gray, Angela Mosley, Treasurer & by
9 Citizens to Elect Jay Mosley, LLC, Angela Mosley, Treasurer."⁵⁵

10 The Respondents deny any wrongdoing with regard to the door hanger

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Compl. (MUR 7108) at 1.

⁵⁵

Compl. (MUR 7108), Attach. A.

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3 As to the door hanger displaying five candidates, the Federal Committee denies
4 coordinating with Gray and Mosley in its creation and/or distribution. It states that the
5 contributions made by the State Committee to Gray and Mosley were solely for the purpose of
6 supporting their campaigns and any “[d]ecisions concerning expenditure of those funds, once
7 contributed, were entirely at the discretion of the Gray and Mosley candidate committees.”⁵⁹

8 Mosley’s committee, Gray’s committee, and Linda Weaver also jointly responded to the
9 Complaint stating that “there was no coordination, agreement or direction given . . . by Maria
10 Chappelle Nadal that they were to include her congressional candidacy on said door hanger or on
11 any campaign materials in exchange for the campaign contributions from her statewide campaign
12 committee.”⁶⁰ They aver that the political organization to which they belonged asked them to
13 include Chappelle-Nadal on the door hanger and that they did so without communicating with
14 her.⁶¹ The committees further state that, though it was their intention for Mosley’s and Gray’s
15 committees to share the cost of the door hanger, Gray’s committee paid the entire cost of
16 \$356.56.⁶² They attach a copy of the order confirmation, which bills Citizens to Elect Gray for
17 the door hangers.⁶³

⁵⁹ Chappelle-Nadal for Congress & George Lenard in his Official Capacity as Treasurer Resp. (MUR 7108) at 2 (Aug. 15, 2016).

⁶⁰ Citizens to Elect Gray and Angela Mosley in her Official Capacity as Treasurer, Citizens to Elect Jay Mosley State Committee LLC and Angela D. Mosley in her Official Capacity as Treasurer & Linda Weaver Joint Resp. (MUR 7108) at 3.

⁶¹ *Id.*

⁶² *Id.* at 2.

⁶³ *Id.*, Attach. F.

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2. Five-Candidate Door Hanger

11 As to the door hanger featuring Chappelle-Nadal and four non-federal candidates, the
12 available evidence indicates that Citizens to Elect Gray, a Missouri political committee free to
13 collect soft money, paid for the entirety of the communication. However, because Chappelle-
14 Nadal occupied less than one-fifth of the space on the door hanger, the potential amount in
15 violation is less than \$71.31 ($\$356.56 \div 5$).⁷⁰ Given this *de minimis* amount, and the fact that this
16 is the only allegation against Citizens to Elect Gray, we recommend that the Commission dismiss
17 the section 30125(f) allegation as a matter of prosecutorial discretion.⁷¹ Furthermore, because
18 there is no evidence that Linda Weaver or Citizens to Elect Jay Mosley paid for the door hanger,
19 we recommend finding no reason to believe that they violated 52 U.S.C. § 30125(f).⁷²

⁷⁰ While each candidate occupied equal space on the front of the door hanger, the back of the door hanger was completely dedicated to Mosley and Gray. Compl. (MUR 7108), Attach. A.

⁷¹ *Heckler*, 470 U.S. 821.

⁷² Tony Weaver was not named as a Respondent, and in any event, there is no evidence that he violated the § 30125(f) because he did not contribute to the door hanger.

1 As to the allegations against Chappelle-Nadal's Committees, the Respondents deny that
2 Chappelle-Nadal or either of her Committees directed Citizens to Elect Gray to make the door
3 hanger or told Citizens to Elect Gray how to use any of the funds contributed by the State
4 Committee. Because there is no evidence contradicting these statements, we recommend that the
5 Commission find no reason to believe that Chappelle-Nadal or her State and Federal Committees
6 violated the Act by directing the use of soft money for this door hanger, in violation of 52 U.S.C.
7 § 30125(e)(1)(A).⁷³ Relatedly, because there is no evidence that the Federal Committee
8 coordinated with Citizens to Elect Gray in the creation and distribution of the door hanger,⁷⁴ the
9 Federal Committee did not have to report the door hanger as an in-kind contribution.⁷⁵
10 Therefore, we also recommend that the Commission find no reason to believe that the Federal
11 Committee violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.13(a)'s reporting requirements.

12 As a result of these substantive recommendations, we recommend that the Commission
13 close the file as to MUR 7108, because we are not recommending that the Commission proceed
14 as to any of the allegations in that matter.

⁷³ 52 U.S.C. § 30125(e)(1)(A) (prohibiting federal candidates from "spending" and "directing" soft money in connection with an election for federal office).

⁷⁴ In order for an activity to be coordinated under the Commission's regulations, among other requirements, it must meet at least one of five enumerated conduct standards. 11 C.F.R. § 109.21(a)(3). Those standards are: request or suggestion; material involvement; substantial discussion; common vendor; and former employee or independent contractor. *Id.* § 109.21(c)(1)-(5); *see also* 52 U.S.C. § 30116(a)(7)(B). There is no evidence relating to any of these standards.

⁷⁵ 11 C.F.R. § 109.21(b)(1) (stating that a coordinated communication must be reported in the same way as an in-kind contribution); *see also* 52 U.S.C. § 30116(a)(7)(B).

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Citizens to Elect Gray and Angela Mosley MUR: 7108
in her official capacity as treasurer

I. INTRODUCTION

This matter was generated by a Complaint filed with the Federal Election Commission (the "Commission") by Mary Patricia Dorsey. The Complaint alleges that Missouri candidate committee Citizens to Elect Gray and Angela Mosley in her official capacity as treasurer violated the Federal Election Campaign Act of 1971, as amended (the "Act"), by spending soft money to print and distribute a door hanger supporting Maria Chappelle-Nadal's federal candidacy.

II. FACTUAL AND LEGAL ANALYSIS

A. Factual Background

The Complaint in this matter alleges that Citizens to Elect Gray paid for a door hanger supporting Chappelle-Nadal for Congress.¹ A copy of the door hanger is attached to the Complaint. The door hanger encourages people to "Vote Democratic & Elect" Chappelle-Nadal and state and local candidates Jay Mosley, Rochelle Walton Gray, Tony Weaver, and Linda Weaver. The front of the door hanger has pictures of each candidate and, on the back, there is more information about Jay Mosley and Rochelle Walton Gray and a disclaimer that states, "Paid for by Citizens to Elect Gray, Angela Mosley, Treasurer & by Citizens to Elect Jay Mosley, LLC, Angela Mosley, Treasurer."²

Citizens to Elect Gray filed a Response stating that, though it was the candidates' original intention that Mosley's and Gray's committees share the cost of the door hanger, Citizens to

¹ Compl. at 1 (July 8, 2016).

² *Id.*, Attach. A.

1 Elect Gray paid the entire cost of \$356.56.³ The Respondent attached a copy of the order
2 confirmation, which billed Citizens to Elect Gray for the door hangers.⁴

3 **B. Legal Analysis**

4 The Act prohibits state and local candidates from spending funds on public
5 communications that refer to a clearly identified candidate for federal office and promote,
6 support, attack, or oppose a candidate for that office, unless the funds are in amounts and from
7 sources permitted by the Act, and are subject to the Act's reporting requirements.⁵ Therefore,
8 state and local candidates can only make such expenditures if they employ a reasonable
9 accounting method to be sure the communication is paid for with hard money.⁶

10 A state or local candidate can, however, partner with federal candidates to produce a
11 communication supporting all of their campaigns.⁷ So long as each candidate pays for her
12 allocable share of the communication, no candidate is spending money to support any other.⁸
13 The Commission's regulations state that, when candidates partner to make a publication, they

³ Citizens to Elect Gray and Angela Mosley in her Official Capacity as Treasurer, Citizens to Elect Jay Mosley State Committee LLC and Angela D. Mosley in her Official Capacity as Treasurer & Linda Weaver Joint Resp. at 3 (Aug. 9, 2016).

⁴ *Id.*, Attach. F.

⁵ 52 U.S.C. § 30125(f), *cross-referencing id.* § 30101(20)(A)(iii).

⁶ Advisory Op. 2007-26 (Schock) at 3; Advisory Op. 2006-38 (Casey State Committee) at 3.

⁷ 11 C.F.R. § 106.1(a).

⁸ Advisory Op. 2006-11 (Washington Democratic State Central Committee) at 3 ("AO 2006-11") (concluding that a state political party that wished to distribute a flier featuring one clearly identified federal candidate with other "generically referenced candidates of the State Party Committee" had to pay for the correct proportion of the space used to promote the non-federal candidates, or it would be making a contribution to the federal candidate or a coordinated expenditure with the federal candidate).

1 must allocate the costs based on “the proportion of space . . . devoted to each candidate as
2 compared to the total space . . . devoted to all candidates.”⁹

3 Under Missouri law, candidates can accept unlimited contributions and contributions
4 from corporations and labor unions.¹⁰ Therefore, Missouri allows candidates to collect funds in
5 excess of federal limitations and from sources prohibited by the Act, *i.e.* soft money.¹¹

6 The available evidence here indicates that Citizens to Elect Gray, a Missouri political
7 committee free to collect soft money, paid for the entirety of the communication. However,
8 because Chappelle-Nadal occupied less than one-fifth of the space on the door hanger, the
9 potential amount in violation is less than \$71.31 ($\$356.56 \div 5$). Given this *de minimis* amount,
10 the Commission dismisses Citizens to Elect Gray’s 52 U.S.C. § 30125(f) violation as a matter of
11 prosecutorial discretion.¹²

⁹ 11 C.F.R. § 106.1(a). While this regulation applies only to expenditures made on behalf of “more than one clearly identified federal candidate,” the Commission has applied the principle of allocation to situations in which only one federal candidate appears in a communication. See AO 2006-11 at 2-4.

¹⁰ MO. REV. STAT. §§ 130.011-.160 (providing no contribution limit); *id.* § 130.029 (stating that corporations and labor organizations may make contributions).

¹¹ 52 U.S.C. § 30116(a)(1)(A) (providing the individual contribution limit); *Contribution Limits for 2015-2016 Federal Elections*, FED. ELECTION COMM’N, <http://www.fec.gov/info/contriblimitschart1316.pdf> (last visited Jan. 30, 2017) (stating that the indexed individual contribution limit to a candidate and her authorized committee is \$2,700 per person, per election); see also 52 U.S.C. § 30118(a) (prohibiting corporations and labor unions from contributing to candidates and political committees).

¹² *Heckler v. Chaney*, 470 U.S. 821 (1985).

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

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3 **RESPONDENTS:** Citizens to Elect Jay Mosley State **MUR: 7108**
4 Committee LLC and Angela D. Mosley
5 in her official capacity as treasurer
6 Linda Weaver
7

8 **I. INTRODUCTION**

9
10 This matter was generated by a Complaint filed with the Federal Election Commission
11 (the "Commission") by Mary Patricia Dorsey. The Complaint alleges that Citizens to Elect Jay
12 Mosley State Committee LLC and Angela D. Mosley in her official capacity as treasurer,
13 together with local candidate Linda Weaver (collectively, the "Respondents"), violated the
14 Federal Election Campaign Act of 1971, as amended (the "Act"), by spending soft money to
15 print and distribute a door hanger supporting Maria Chappelle-Nadal's federal candidacy.

16 **II. FACTUAL AND LEGAL ANALYSIS**

17 **A. Factual Background**

18 The Complaint in this matter alleges that the Respondents paid for a door hanger
19 supporting Chappelle-Nadal for Congress.¹ A copy of the door hanger is attached to the
20 Complaint. The door hanger encourages people to "Vote Democratic & Elect" Chappelle-Nadal
21 and state and local candidates Jay Mosley, Rochelle Walton Gray, Tony Weaver, and Linda
22 Weaver. The front of the door hanger has pictures of each candidate and, on the back, there is
23 more information about Jay Mosley and Rochelle Walton Gray and a disclaimer that states,
24 "Paid for by Citizens to Elect Gray, Angela Mosley, Treasurer & by Citizens to Elect Jay
25 Mosley, LLC, Angela Mosley, Treasurer."²

¹ Compl. at 1 (July 8, 2016).

² *Id.*, Attach. A.

1 The Respondents filed a Joint Response stating that, though it was the candidates'
2 original intention that Mosley's and Gray's committees share the cost of the door hanger,
3 Citizens to Elect Gray paid the entire cost of \$356.56.³ The Respondents attached a copy of the
4 order confirmation, which billed Citizens to Elect Gray for the door hangers.⁴

5 **B. Legal Analysis**

6 The Act prohibits state and local candidates from spending funds on public
7 communications that refer to a clearly identified candidate for federal office and promote,
8 support, attack, or oppose a candidate for that office, unless the funds are in amounts and from
9 sources permitted by the Act, and are subject to the Act's reporting requirements.⁵ Therefore,
10 state and local candidates can only make such expenditures if they employ a reasonable
11 accounting method to be sure the communication is paid for with federally permissible funds.⁶

12 The available evidence here indicates that Citizens to Elect Gray paid for the entirety of
13 the communication. Therefore, because neither Citizens to Elect Jay Mosley nor Linda Weaver
14 paid for the door hanger, the Commission finds no reason to believe that the Respondents
15 violated 52 U.S.C. § 30125(f).

³ Citizens to Elect Gray and Angela Mosley in her Official Capacity as Treasurer, Citizens to Elect Jay Mosley State Committee LLC and Angela D. Mosley in her Official Capacity as Treasurer & Linda Weaver Joint Resp. at 3 (Aug. 9, 2016).

⁴ *Id.*, Attach. F.

⁵ 52 U.S.C. § 30125(f), *cross-referencing id.* § 30101(20)(A)(iii).

⁶ Advisory Op. 2007-26 (Schock) at 3; Advisory Op. 2006-38 (Casey State Committee) at 3.