



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of	)	
	)	MUR 7501
Bill Nelson for U.S. Senate and Peggy Gagnon	)	
in her official capacity as treasurer	)	
	)	
Democratic Executive Committee of Florida and	)	
Fran Garcia in her official capacity	)	
as treasurer	)	

**STATEMENT OF REASONS OF VICE CHAIR ALLEN DICKERSON AND  
COMMISSIONERS SEAN J. COOKSEY AND JAMES E. “TREY” TRAINOR, III**

The Complaint in this matter alleges that the Democratic Executive Committee of Florida (“Florida Democratic Party”) made, and the Bill Nelson for U.S. Senate campaign committee (“Nelson Campaign”) accepted, over \$58,000 in in-kind contributions.<sup>1</sup> Specifically, the Complaint cited at least 19 entries on Florida Democratic Party disclosure reports which list “Senate 18/Nelson,” “USS/Nelson,” “Senate/Nelson” or a similar notation as part of the reported purpose for disbursements primarily to individuals for payroll and consulting, to companies for insurance, and to a printing company.<sup>2</sup> The Complaint infers that because these memo entries reference Senator Nelson, the associated expenditure must have been made on behalf of the Nelson Campaign. The Complaint does not identify additional facts that support this inference.

The Respondents deny the allegations. The Nelson Campaign asserts that “**none** of the disbursements were made for the exclusive benefit of the Committee or on the Committee’s behalf.”<sup>3</sup> The Nelson Campaign further avers that while some of the individuals identified by the Complaint were employed by the campaign, they were paid for that work by the campaign.<sup>4</sup> Moreover, even if the entries were accurate and the staff at issue did some work related to the

<sup>1</sup> Complaint (Sept. 18, 2018), MUR 7501 (Bill Nelson for Senate, *et al.*).

<sup>2</sup> *Id.* at Exhibit A.

<sup>3</sup> Response of Bill Nelson for Senate at 2 (Nov. 13, 2018), MUR 7501 (Bill Nelson for Senate, *et al.*) (emphasis in the original).

<sup>4</sup> *Id.* at 3.

Nelson Campaign, that does not necessarily mean the payments are attributable to the Respondents.<sup>5</sup>

The Florida Democratic Party denies that the expenses identified in the Complaint are attributable to any one campaign, asserting “the [staff] activities supported the Committee’s own activities for the benefit of candidates up and down the ballot.”<sup>6</sup> The Florida Democratic Party attributes the reporting to “simple administrative error due to a misunderstanding of the differences between federal and state reporting requirements and general miscommunication between lower level staff responsible for data entry for the Committee reports and Committee management” and subsequently amended their disclosure reports.<sup>7</sup> There is nothing in the record which contradicts the Florida Democratic Party’s assertion.

The Commission has previously made clear that “purely speculative charges, especially when accompanied by a direct refutation, do not form an adequate basis to find reason to believe that a violation of the [law] has occurred.”<sup>8</sup> As the courts have stated, “mere ‘official curiosity’ will not suffice as the basis for FEC investigations.”<sup>9</sup> Therefore, “[t]he Commission cannot launch investigations into Americans’ political activities based on speculation or official curiosity, or shift the burden to respondents to prove their innocence.”<sup>10</sup>

Ultimately, the Commission does not have a set of facts before it that supports the Complaint’s allegations. It merely has speculation that the Florida Democratic Party’s initial memo entries were more accurate (and unintentionally revealing) than their amended reports. The Respondents directly deny the Complaint’s allegations, and there is no information in the record that contradicts this denial.<sup>11</sup> Under these circumstances, speculation is insufficient to support a

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<sup>5</sup> *Id.* See also 11 C.F.R. § 106.1(c)(1) (“Expenditures for rent, personnel, overhead, general administrative, fund-raising, and other day-to-day costs of political committees need not be attributed to individual candidates, unless these expenditures are made on behalf of a clearly identified candidate and the expenditure can be directly attributed to that candidate.”).

<sup>6</sup> Response of the Democratic Executive Committee of Florida at 1 (Dec. 10, 2018), MUR 7501 (Bill Nelson for Senate, *et al.*).

<sup>7</sup> *Id.* at 2.

<sup>8</sup> Statement of Reasons of Commissioners David M. Mason, Karl J. Sandstrom, Bradley A. Smith, and Scott E. Thomas at 3 (Dec. 21, 2000), MUR 4960 (Hillary Rodham Clinton for Senate). See also First General Counsel’s Report at 5 (July 23, 2004), MUR 5467 (Michael Moore) (quoting the Statement of Reasons of four Commissioners in MUR 4960 (Hillary Rodham Clinton for U.S. Senate Exploratory Committee, Inc.)); Statement of Reasons of Vice Chairman Donald F. McGahn and Commissioners Caroline C. Hunter and Matthew S. Petersen at 6 (Sept. 19, 2013), MUR 5878 (Arizona Democratic Central Committee) (same).

<sup>9</sup> *FEC v. Machinists Non-Partisan Political League*, 655 F.2d 380, 388 (D.C. Cir. 1981).

<sup>10</sup> Statement of Reasons of Vice Chair Caroline C. Hunter and Commissioners Lee E. Goodman and Matthew S. Petersen at 2 (Feb. 15, 2017), MUR 6747 (Rick Santorum for President); see also Statement of Reasons of Chairman Darryl R. Wold and Commissioners David M. Mason, and Scott E. Thomas at 2 (July 20, 2000), MUR 4850 (Deloitte & Touche, LLP, *et al.*) (“The burden of proof does not shift to a respondent merely because a complaint is filed.”).

<sup>11</sup> Some have suggested that this denial needed to be accompanied by a sworn affidavit to be credible. Yet knowingly and willfully making false representations to the Commission is already a crime under 18 U.S.C. § 1001,

reason to believe finding, let alone the costly and invasive investigation recommended by the Commission's Office of General Counsel.

Accordingly, we voted to find no reason to believe a violation occurred in this matter.



Allen Dickerson  
Vice Chair

June 28, 2021

Date



Sean J. Cooksey  
Commissioner

June 28, 2021

Date



James E. "Trey" Trainor, III  
Commissioner

June 28, 2021

Date

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and knowingly and willfully filing false report amendments with the Commission may be prosecuted under 52 U.S.C. § 30109(d).