



FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 25, 2021

Via Electronic Mail (office@woodfinlaw-va.com)

Christopher M. Woodfin
Woodfin Law Offices, PLLC
7330 Staples Mill Rd., Box 100
Richmond, Virginia 23228

RE: MUR 7734
Friends of Tina Ramirez, Inc.

Dear Mr. Woodfin:

On May 6, 2020, the Federal Election Commission (the "Commission") notified Friends of Tina Ramirez, Inc. and you in your official capacity as treasurer, of a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended. Upon further review of the allegations contained in the complaint and information supplied by you, the Commission, on April 27, 2021, voted to dismiss the matter and close the file. The Factual and Legal Analysis, which more fully explains the Commission's decision, is enclosed for your information.

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), effective September 1, 2016.

If you have any questions, please contact Adrienne C. Baranowicz, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in cursive script that reads "Lynn Y. Tran".

Lynn Y. Tran
Assistant General Counsel

Enclosure:
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

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5 RESPONDENT: Friends of Tina Ramirez, Inc., and MUR 7734
6 Christopher M. Woodfin in his official
7 capacity as treasurer

I. INTRODUCTION

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9 The Complaint alleges that Friends of Tina Ramirez, Inc., and Christopher M. Woodfin
10 in his official capacity as treasurer (the “Committee”) impermissibly used contributions raised
11 for a potential general election campaign to fund primary campaign expenses during Ramirez’s
12 unsuccessful campaign for the Republican nomination for Virginia’s 7th Congressional District.¹
13 Based on a day-to-day analysis of the Committee’s cash-on-hand balances from October 1, 2019,
14 to December 31, 2019, the Complaint concludes that the Committee lacked sufficient cash on
15 hand to repay general election contributions beginning on November 1, 2019, and that this
16 demonstrates that the Committee must have been using general election contributions to fund the
17 primary campaign.² The Committee responded, stating that its amended filings would
18 demonstrate that it did, in fact, have sufficient primary funds in its deposits at all times.

19 As explained below, although the Committee’s original filings indicate that it may have
20 lacked sufficient funds to repay general election contributions, the Committee’s amended filings
21 show sufficient cash-on-hand balances. Further, the Committee made general election
22 contribution refunds after Ramirez failed to obtain the Republican nomination. Therefore, the
23 Commission exercises its prosecutorial discretion and dismisses this matter, pursuant to *Heckler*
24 *v. Chaney*, 470 U.S. 821 (1985).

¹ Compl. at 1 (May 4, 2020).

² *Id.*

1 II. FACTUAL BACKGROUND

2 Tina Ramirez was a Republican candidate for Congress in the 7th District of Virginia in
3 2020.³ She did not receive the Republican nomination at her party's convention⁴ on July 18,
4 2020, thus ending her campaign.⁵

5 The Committee's earlier 2019 July and October Quarterly Reports showed that the
6 Committee had received, as of September 30, 2019, \$18,000 in contributions designated for the
7 general election.⁶ As of September 30, 2019, the Committee reported a cash-on-hand balance of
8 \$51,726.40.⁷ The Committee filed its original 2019 Year-End Report on January 31, 2020,
9 covering the period from October 1, 2019, through December 31, 2019.⁸ That Report disclosed
10 a closing cash-on-hand balance of \$19,741.71.⁹ During the fourth quarter of 2019, as reflected
11 on the 2019 Year-End Report, the Committee received an additional \$2,800 in general election

³ FEC Form 1, Friends of Tina Ramirez, Inc.. Original Statement of Organization (Apr. 30, 2019).

⁴ In Virginia, political parties can decide whether to determine their candidates for a general election via primary election or convention. In Virginia's 7th Congressional District, the Republican Party nominated its congressional candidate via convention. See *Virginia 7th Congressional District election, 2020 (July 18 Republican convention)*, BALLOTPEdia, [https://ballotpedia.org/Virginia%27s_7th_Congressional_District_election,_2020_\(July_18_Republican_convention\)#Convention_process](https://ballotpedia.org/Virginia%27s_7th_Congressional_District_election,_2020_(July_18_Republican_convention)#Convention_process) (last visited Nov. 19, 2020).

⁵ Justin Mattingly, *Freitas Wins GOP Nomination to Take on Spanberger in 7th District*, RICHMOND TIMES DISPATCH (July 18, 2020), https://richmond.com/news/virginia/freitas-wins-gop-nomination-to-take-on-spanberger-in-7th-district/article_4fbc1958-c050-5c39-b10d-e8ce0240afec.html.

⁶ See generally, FEC Form 3, Friends of Tina Ramirez, Inc., First Amended 2019 July Quarterly Report (Aug. 28, 2019), <https://docquery.fec.gov/pdf/332/201908289163108332/201908289163108332.pdf>; FEC Form 3, Friends of Tina Ramirez, Inc., First Amended 2019 Oct. Quarterly Report (Jan. 6, 2020), <https://docquery.fec.gov/pdf/876/202001069167022876/202001069167022876.pdf> ("2019 First Amended Oct. Quarterly Report"); see also Resp. at 1, 7 (May 21, 2020) (noting an initial calculation of \$18,000 in general election contributions and providing a table addressing those contributions).

⁷ 2019 First Amended Oct. Quarterly Report at 2.

⁸ FEC Form 3, Friends of Tina Ramirez, Inc., 2019 Year-End Report (Jan. 31, 2020), <https://docquery.fec.gov/pdf/506/202001319185203506/202001319185203506.pdf> ("2019 Original Year-End Report").

⁹ *Id.* at 4.

1 contributions for a total of \$20,800.¹⁰ Since the Committee reported having only \$19,741.71
2 cash on hand at the end of 2019, this would indicate that the Committee was in a deficit with
3 respect to its general election funds.¹¹ The Committee's 2020 April Quarterly Report discloses
4 that the Committee received \$2,000 in additional general election contributions and held
5 \$33,001.67 cash on hand as of March 31, 2020, suggesting that any cash-on-hand deficiencies
6 were resolved during the first quarter of 2020.¹²

7 In May of 2020, complainant Christopher Jenkins filed a Complaint alleging that
8 beginning on November 1, 2019, the Committee's cash-on-hand balance was insufficient to
9 refund the general election contributions that it had already received.¹³ In support of its
10 allegations, the Complaint attached a spreadsheet analyzing the Committee's daily receipts and
11 expenditures for each day in the fourth quarter of 2019.¹⁴ Based on this analysis, the Complaint
12 argues that the Committee lacked sufficient daily cash on hand to repay general election
13 contributions, with the deficit growing to be as large as \$16,171.21 at one point, suggesting that
14 the Committee was using general election contributions to fund primary election expenditures.¹⁵

15 In its Response, the Committee states that it was aware of its obligations to ensure that
16 general election funds are not spent for the primary, and to ensure that enough funds are on hand

¹⁰ *See id.* at 17.

¹¹ *Id.* at 4.

¹² FEC Form 3, Friends of Tina Ramirez, Inc., 2020 April Quarterly Report at 4 (Apr. 15, 2020), <https://docquery.fec.gov/pdf/128/202004159219619128/202004159219619128.pdf>.

¹³ Compl. at 1.

¹⁴ Compl., Attach.

¹⁵ *Id.*

1 to “repay general election donations, if necessary.”¹⁶ The Response explains that certain
2 contributions were misreported as general election contributions and were in fact joint spousal
3 contributions for the primary election, and that the Committee would be amending its reports to
4 more accurately disclose the contributions.¹⁷ The Response attributed these errors to
5 “discrepancies between our internal database and the FEC efile system.”¹⁸ Finally, the Response
6 claims that the amended reports would show that, at the beginning of the fourth quarter of 2019,
7 the Committee had only received \$12,200 in general election contributions as opposed to the
8 \$18,000 in general election contributions disclosed on earlier reports.¹⁹

9 The Committee amended its reports in July 2020 to reflect a total of \$12,200 in general
10 election contributions received in 2019, and did not report any general election disbursements.²⁰
11 Further, the amended reports reflect cash on hand of \$19,741.71 at the end of 2019, which is
12 greater than the amount of general election contributions it received.²¹

13 On July 18, 2020, Ramirez did not advance to the general election, and her Committee
14 was obligated to refund or redesignate all general election contributions, and report those refunds
15 or redesignations. On October 14, 2020, the Committee filed a Termination Report, in which it

¹⁶ Resp. at 1.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ See FEC Form 3, Friends of Tina Ramirez, Inc., Third Amended 2019 July Quarterly Report (July 1, 2020), <https://docquery.fec.gov/pdf/914/202007019244229914/202007019244229914.pdf>; FEC Form 3, Friends of Tina Ramirez, Inc., Third Amended 2019 October Quarterly Report (July 1, 2020), <https://docquery.fec.gov/pdf/964/202007019244229964/202007019244229964.pdf>; FEC Form 3, Friends of Tina Ramirez, Inc., Amended Year-End Report (July 1, 2020), <https://docquery.fec.gov/pdf/032/202007019244230032/202007019244230032.pdf>.

²¹ Resp. at 1. The Committee had also received Requests for Additional Information concerning several excessive contributions. These amendments also address the issues raised concerning those contributions.

1 reported that it had refunded contributions totaling \$22,968,²² resolving nearly all of its general
2 election contributions.²³

3 III. LEGAL ANALYSIS

4 The Act requires all treasurers to keep an account of all contributions received by a
5 political committee.²⁴ Commission regulations permit a candidate's authorized committee to
6 receive contributions for the general election prior to the primary election, provided the
7 committee employs an acceptable accounting method to distinguish between primary and general
8 election contributions.²⁵ Committees are permitted to use general election contributions to make
9 advance payments for general election purposes.²⁶ The committee's records must demonstrate
10 that, prior to the date of the primary election, the committee's recorded cash on hand was at all
11 times equal to or in excess of the sum of general election contributions received less the sum of
12 general election disbursements made.²⁷ These regulations are designed to ensure that candidates

²² The amount of refunds reflects not only the general election contributions the Committee received in 2019, which are at issue in this matter, but also additional general election contributions received in 2020.

²³ See FEC Form 3, Friends of Tina Ramirez, Inc., Termination Report at 4 (Oct. 14, 2020), <https://docquery.fec.gov/pdf/703/202010149285802703/202010149285802703.pdf> ("Termination Report"). This report appears to have left \$4,400 in general election contributions unremedied. This may be due in part to data entry error as some contributors appear to have received refunds in excess of their general election contributions.

²⁴ 52 U.S.C. § 30102(c).

²⁵ 11 C.F.R. § 102.9(e)(1).

²⁶ See Advisory Op. 1986-17 (Friends of Mark Green) at 4 (concluding that the Act did not prohibit a committee from using general election contributions to make expenditures for the general election before the primary election, such as advance payments or deposits in connection with the general election); cf. Advisory Op. 2016-16 (Gary Johnson 2012) (finding that a committee may use general election funds to pay civil penalties and reimbursements to the U.S. Treasury).

²⁷ 11 C.F.R. § 102.9(e)(2); see also Advisory Op. 1986-17 (Green) at 4 ("[T]he Act does not prohibit [an authorized committee] from using contributions designated for the general election to make expenditures, prior to the primary election, exclusively for the purpose of influencing the prospective general election . . .").

1 do not use general election contributions for the primary election.²⁸ If the candidate is not a
2 candidate in the general election, the general election contributions must be refunded to the
3 contributors or redesignated.²⁹

4 The Committee's original 2019 Year-End Report depicted an insufficient cash-on-hand
5 balance at the end of 2019, but that deficiency was relatively small (\$1,058.29) and appears to
6 have been resolved by the close of the first quarter of 2020. Subsequent amendments to that
7 report disclose that the Committee actually did not have a deficit at the end of the reporting
8 period. Nevertheless, the day-to-day cash-on-hand analysis of the original reports provided by
9 Complainant suggests the possibility that, at some point during the fourth quarter of 2019, the
10 Committee's general election contributions may have exceeded the amount of cash on hand.

11 In prior matters, the Commission has found reason to believe and sought a civil penalty
12 where an authorized committee accepted general election contributions during the primary
13 election period, but then failed to make the necessary refunds after the candidate did not advance
14 to the general election. In those matters, the Commission has not relied on the type of day-to-
15 day analysis of cash on hand outlined in the Complaint.³⁰ For example, in MUR 7007, the
16 Commission did not undertake a day-by-day analysis but found violations based on a
17 Committee's failure to refund general election contributions after a candidate lost in the primary

²⁸ See Advisory Op. 1992-15 (Russo for Congress) at 2.

²⁹ 11 C.F.R. § 102.9(e)(3); see also *id.* § 110.1(b)(3)(i) ("If the candidate is not a candidate in the general election, all contributions made for the general election shall be either returned or refunded to the contributors or redesignated . . . , or reattributed . . . , as appropriate.").

³⁰ See *e.g.*, Conciliation Agreement at 4-5, MUR 7007 (Kyle McCarter for Congress Committee); Conciliation Agreement at 4, MUR 6956 (Espaillat for Congress); Conciliation Agreement at 3, MUR 6887 (McCotter Congressional Committee).

1 election.³¹ Similarly, in MUR 6959, the Commission conciliated a matter where a committee
2 had accepted excessive contributions and stated its intention to host “debt retirement fundraisers”
3 to refund general election contributions after losing a primary election.³² Conversely, the
4 Commission has dismissed matters where the committee violated the regulation but made timely
5 refunds or did not need to make refunds because it participated in the general election, as well as
6 where the dollar amount at issue did not merit the use of additional Commission resources.³³

7 In this matter, Commission chooses to dismiss the allegation. All of the Committee’s
8 amended reports disclose an end-of-quarter cash-on-hand balance that was sufficient to refund
9 general election contributions. To the extent that the Committee’s original 2019 Year-End
10 Report depicted a cash-on-hand deficit, it was only in the amount of \$1,058.29.³⁴ Furthermore,
11 the Committee was able to successfully refund nearly all of its general election contributions at
12 the end of Ramirez’s candidacy. Although the Committee appears to have an obligation to
13 refund an additional \$4,400 of general election contributions, the amount at issue is in line with
14 prior matters where the Commission has exercised its prosecutorial discretion and dismissed the

³¹ See *supra* notes 8-10.

³² See Factual & Legal Analysis (“F&LA”) at 2-3, MUR 6956.

³³ F&LA at 7-8, MURs 7093 & 7145 (Friends of Frank Guinta) (finding a violation of the regulation but dismissing because the candidate’s candidacy in the general election eliminated reimbursement concerns); F&LA at 9, MURs 6295 & 6307 (Sue Lowden for US Senate) (dismissing a complaint where a Committee spent \$18,000 of general election contributions during the primary election but was able to successfully refund all general election contributions after losing the primary election). Similarly, the Commission has dismissed matters where a Committee failed to make reimbursements but the amount in violation was relatively small. See F&LA at 5, MUR 6646 (Strickland for Congress 2012) (dismissing a complaint concerning approximately \$5,000 of allegedly excessive contributions in an exercise of prosecutorial discretion); F&LA at 3, MUR 7066 (Hilary for America) (dismissing allegation concerning \$845 in excessive contributions that were not timely refunded or redesignated); *but see* F&LA at 7, MUR 7007 (Kyle McCarter for Congress) (finding reason to believe violations of 52 U.S.C. § 30116(f) had occurred where a Committee failed to refund \$5,900 of general election contributions after losing a primary election, but where approximately \$45,000 in prohibited corporate contributions were also at issue).

³⁴ See 2019 Original Year-End Report at 4.

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- 1 allegations.³⁵ In light of these overall circumstances, the Commission exercises its prosecutorial
- 2 discretion and dismisses this matter.³⁶

³⁵ See *supra* note 32.

³⁶ See *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).