



FEDERAL ELECTION COMMISSION
Washington, DC 20463

VIA EMAIL ONLY

August 4, 2022

Andrea Merida Cuellar

Denver, CO 80211
andrea@howiehawkins.us

RE: MUR 7761

Dear Ms. Cuellar:

On July 22, 2020, the Federal Election Commission (the "Commission") notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On July 26, 2022, the Commission found, on the basis of the information in the complaint, and information provided by you, that there is no reason to believe that you violated the Act and Commission regulations in connection with this matter. Accordingly, the Commission closed its file in this matter.

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). The Factual and Legal Analysis, which more fully explains the Commission's findings, is enclosed for your information.

If you have any questions, please contact Dominique Dillenseger, the attorney assigned to this matter, at (202) 694-1650 or ddillenseger@fec.gov.

Sincerely,

A handwritten signature in cursive script that reads "Peter G. Blumberg".

Peter G. Blumberg
Assistant General Counsel

Enclosure
Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

4
5 **RESPONDENTS:** Green Party of the United States and Hillary Kane **MUR: 7761**
6 in her official capacity as treasurer
7 Howie Hawkins
8 Howie Hawkins for Our Future and Travis Christal
9 in his official capacity as treasurer¹
10 Andrea Merida Cuellar
11 Green Party of Colorado
12 Robin Laurain
13 Brendan Phillips
14 Michael O’Neil
15 Kevin Zeese
16 DC Statehood Green Party
17 Kansas Green Party
18 Green Party of Michigan
19 Green Party of New York State
20 Robert Edward Smith

21
22 **I. INTRODUCTION**

23 The Complaint alleges “potential illegal campaign finance activity” by Howie Hawkins, a
24 Green Party presidential candidate in 2020; Howie Hawkins for Our Future and Travis Christal
25 in his official capacity as treasurer (the “Committee”); the Green Party of the United States
26 (“GPUS”); various state affiliates of the GPUS; and individuals associated with the GPUS in
27 connection with activity that violated the bylaws of the GPUS or its state affiliates. The
28 Complaint specifically alleges that Hawkins became the Green Party presidential nominee after
29 Respondents improperly favored Hawkins over other Green Party candidates.² The Responses
30 assert that the Complaint does not allege or establish any violation of the Federal Election
31 Campaign Act of 1971, as amended (the “Act”) and that the Federal Election Commission has no

¹ This Respondent, which is Howie Hawkins’s principal campaign committee, changed its name from Howie Hawkins 2020 to its current name, Howie Hawkins for Our Future, after the 2020 general election. Its treasurer during the relevant time period was David M. Petrovich; it changed its treasurer to Travis Christal on July 21, 2019.

² Compl. at 2-4 (July 8, 2020).

1 jurisdiction over the internal rules of political parties regarding organizational neutrality and
2 purported conflicts of interest.³

3 As set forth below, the Complaint does not allege any specific violations of the Act, nor
4 does it allege facts that would support such violations. Accordingly, the Commission finds no
5 reason to believe that the Respondents violated the Act or Commission regulations in connection
6 with this matter.

7 **II. FACTUAL BACKGROUND**

8 GPUS is a party committee and the national committee of the Green Party.⁴ Hillary Kane
9 is the treasurer of GPUS.⁵ GPUS has affiliated state parties, including the Green Party of
10 Colorado, Kansas Green Party, Green Party of New York State, D.C. Statehood Green Party, and
11 the Green Party of Michigan.⁶

12 Howie Hawkins was the 2020 Green Party presidential nominee. Hawkins formally
13 announced his candidacy for the presidency on May 28, 2019,⁷ was formally nominated at the

³ Committee & Howie Hawkins Resp. at 1 (Aug. 6, 2020); GPUS Resp. at 1 (Aug. 4, 2020); Kansas Green Party Resp. at 2 (Aug. 4, 2020); Michael O’Neil Resp. at 1 (Aug. 5, 2020); Green Party of New York State Resp. at 1 (Aug. 6, 2020); Brendan Phillips Resp. at 1 (Aug. 6, 2020); D.C. Statehood Green Party Resp. at 1 (Aug. 6, 2020); Green Party of Michigan and Robin Laurain Resp. at 1 (Aug. 6, 2020); Green Party of Colorado and Andrea Merida Cuellar Resp. at 1 (Aug. 6, 2020); Kevin Zeese at 1 (Aug. 6, 2020); Robert Edward Smith Resp. at 1.

⁴ GPUS, Amended Statement of Organization (Aug. 10, 2021). GPUS registered with the Commission as a national political party on November 19, 2001. GPUS, Original Statement of Organization (Nov. 19, 2001).

⁵ GPUS, Amended Statement of Organization (Aug. 11, 2017); GPUS, Amended Statement of Organization (Aug. 10, 2021).

⁶ *See About, State Parties*, GREEN PARTY US, https://www.gp.org/state_parties (last visited Jan 26, 2022).

⁷ Howie Hawkins, Original Statement of Candidacy at 1 (May 28, 2019); Howie Hawkins, Amended Statement of Candidacy at 1 (June 4, 2019). Hawkins also ran as a candidate for the presidency for the Socialist Party USA and won the nomination on October 26, 2019. Ecosocialism, Media Release, Howie Hawkins Wins Socialist Party USA Nomination Green Candidate Seeks To Build Left Unity With Multiple Nominations, H’20 HAWKINS/WALKER GREENS FOR PRES & VP (Oct. 28, 2019), <https://howiehawkins.us/howie-hawkins-wins-socialist-party-usa-nomination-green-candidate-seeks-to-build-left-unity-with-multiple-nominations/> (last visited Jan. 26, 2022).

1 Green Party National Convention on July 11, 2020,⁸ and lost the general election on
 2 November 3, 2020.⁹ Howie Hawkins for Our Future,¹⁰ is the principal campaign committee of
 3 Howie Hawkins. Travis Christal is the Committee's treasurer.¹¹

4 According to the Complaint, Hawkins, who ran as a presidential candidate for both the
 5 GPUS and the Socialist Party, violated GPUS bylaws, which prohibit a GPUS candidate from
 6 running with multiple parties.¹² The Complaint also alleges that Andrea Merida Cuellar, Kevin
 7 Zeese, Robin Laurain, Michael O'Neil, Brendan Phillips, and Robert Edward Smith violated the
 8 Green Party's conflict-of-interest rules by serving as officials, members, or employees of the
 9 Green Party while also working on the Hawkins 2020 presidential campaign.¹³

10 Further, the Complaint alleges that the Respondents improperly promoted Hawkins's
 11 2020 presidential campaign over other Green Party candidates for the Green Party presidential

⁸ See *Howie Hawkins Presidential Campaign, 2020*, BALLOTPEDIA, https://ballotpedia.org/Howie_Hawkins_presidential_campaign_2020 (last visited Jan. 26, 2022). 18 individuals filed as 2020 Green Party presidential candidates. Prior to the national convention, state primaries and conventions were held to select the presidential nominating convention delegates. *How to Seek the 2020 Green Presidential Nomination*, GREEN PARTY US, <https://gpus.org/how-to-seek-2020-green-nomination-2/> (last visited Jan. 26, 2022). The delegates selected the party nominee at the convention by majority vote. *Id.*

⁹ FEC, OFFICIAL 2020 PRESIDENTIAL GENERAL ELECTION RESULTS (2020), <https://www.fec.gov/resources/cms-content/documents/2020presgeresults.pdf>.

¹⁰ Committee, Original Statement of Organization (May 28, 2019). The Statement of Organization has been amended several times. Committee, Amended Statement of Organization (June 20, 2019); Committee, Amended Statement of Organization (July 21, 2019); Committee, Amended Statement of Organization (Nov. 9, 2020).

¹¹ Committee, Amended Statement of Organization (July 21, 2019); Committee, Amended Statement of Organization (Nov. 9, 2020).

¹² Compl. ¶ 7; *id.*, Ex. 2 (stating that a GPUS candidate should not be a registrant or party member of any state or national political party in the individual's primary state, except for a party affiliated with GPUS).

¹³ Andrea Merida Cuellar, a member of the GPUS Media Committee and National Co-Chair of the Colorado Green party, was Hawkins's campaign manager. Compl. ¶ 2. Kevin Zeese, a Green Party Media Committee member, was Hawkins's Press Secretary. *Id.* ¶ 4; *id.*, Ex. 10. Robin Laurain, co-chair of the Michigan Green Party, was a community organizer for the Hawkins campaign. Compl. ¶ 17; *id.*, Ex. 11. Michael O'Neil was employed by the GPUS, the Green Party of New York State and the Hawkins campaign at various times during the 2020 primary election. Compl. ¶ 16; *id.*, Ex. 8. Brendan Philipps was Ballot Access Coordinator for GPUS and Ballot Access Consultant Contractor for Hawkins. Compl. ¶ 19; *id.*, Ex. 9. Robert Edward Smith, a coordinated campaign committee member of the GPUS and communications manager for the Mountain Party, was deputy press secretary and media coordinator and consultant for Hawkins. Compl. ¶ 21; *id.*, Ex. 12.

1 nomination, in violation of GPUS’s conflict-of-interest rules and state party rules that proscribe
2 Green Party officials from publicly endorsing, advocating for or against, or working on the
3 campaign of any candidate prior to the Presidential Nominating Convention.¹⁴ Finally, the
4 Complaint alleges that certain state Green Party organizations manipulated the primary process
5 to further benefit Hawkins. For example, it alleged that North Carolina Green Party changed its
6 rules to permit dual party affiliation for its candidates and removed all candidates from the ballot,
7 except for Hawkins,¹⁵ and that both the Missouri Green Party and Illinois Green Party unfairly
8 provided speaking time to Hawkins at their conventions while not providing the same to the
9 other candidates.¹⁶

10 Howie Hawkins, the Committee, Green Party of Colorado, DC Statehood Green Party,
11 Green Party of Michigan, Kansas Green Party, Phillips, Merida Cuellar, Zeese, and Smith filed
12 responses denying that the allegations establish any violation of the Act and Commission
13 regulations or that the FEC has jurisdiction over the internal rules of political parties regarding
14 organizational neutrality and purported conflicts of interest.¹⁷ The GPUS, Green Party of New
15 York State, and O’Neil also denied the allegations for the same reasons.¹⁸

16

¹⁴ Compl. ¶¶ 2-4, 9-11, 13, 14, 16-21; *id.*, Ex.1.1. (citing Standing Rules of the Presidential Campaign Support Committee (“PCSC”) ¶ 2.1 (Conflict of Interest) (requesting that members of the PCSC and the Steering Committee “avoid making public statements that could be interpreted as advocacy for or against any particular presidential candidate” or establishing a contractor relationship with a candidate prior to the Presidential Nominating Convention)); Compl; *id.*, Exs. 6, 10, 11.

¹⁵ Compl. ¶ 23.

¹⁶ *Id.* ¶¶ 25, 26.

¹⁷ *See supra* n.3.

¹⁸ In their Responses, the GPUS and O’Neil indicate that O’Neil, the GPUS communications manager, started employment with the GPUS in September 2019 after he had completed independent contractor work for the Hawkins campaign in April and August 2019. GPUS Resp. at 1; Michael O’Neil Resp. at 1.

1 **III. LEGAL ANALYSIS**

2 In past matters, the Commission has determined that it has no jurisdiction in matters
3 alleging that party organizations discriminated against or promoted certain candidates for federal
4 office over others in violation of other statutes. Specifically, the Commission has found no
5 reason to believe that respondents violated any statute within its jurisdiction where the complaint
6 alleged that: (1) a candidate was left out of party meetings and other candidates close to the
7 governor were being favored over that candidate in violation of 18 U.S.C. § 595;¹⁹ and (2) a
8 county party organization interfered with a candidate’s campaign for federal office, in violation
9 of 18 U.S.C. § 595, when it ignored the candidate’s request for a place on the speaker’s stand at a
10 dinner event sponsored by the organization.²⁰ In MUR 678 (Onondaga County Democratic
11 Comm., N.Y.), the Commission found no reason to believe a county party committee violated
12 the Act where the complaint alleged that the committee discriminated against a candidate by
13 promoting certain party candidates over him.²¹ There, the report concluded, “[t]here is no statute
14 under the . . . Act or regulation that prohibits State and local committees from endorsing some
15 candidates for Federal office over others.”²²

16 Similarly, the Commission does not appear to have jurisdiction over the allegations here
17 involving a dispute regarding the internal conflict-of-interest rules of political party
18 organizations or to the management of primary elections by state party committees.

¹⁹ First Gen. Counsel’s Rpt. (“First GCR”) at 1, MUR 542 & Cert. (Otis R. Bowen) (Mar. 8, 1978) (adopting First GCR’s recommendation). 18 U.S.C. § 585 prohibits, in part, interference with the nomination or election of federal candidates by persons employed in any administrative position with the United States, or any State, Territory, or Possession of the United States.

²⁰ First GCR at 1, MUR 554 & Cert. (G. Robert Kirby, Chairman, Henry County Republican Party) (Mar. 31, 1978) (approving First GCR’s recommendation).

²¹ First GCR at 1, MUR 678 & Cert. ¶ 1 (Onondaga County Democratic Comm., N.Y.) (Aug. 30, 1978) (adopting First GCR’s recommendation).

²² *Id.*

1 Further, the Complaint does not allege a specific violation of the Act, nor does it allege
2 facts that would support such a violation. It does not appear that the activities alleged in the
3 Complaint resulted in any in-kind contributions. There is no information that Green Party staff
4 or resources were used to support the Hawkins presidential primary campaign or that
5 pro-Hawkins statements made by Green Party qualified as “contributions” under the Act.²³
6 While several Green Party officials also served as paid staff on the Hawkins campaign, there is
7 nothing in the Act or Commission regulations that would restrict individuals, including a
8 candidate, from serving in a dual capacity within a party organization. Further, the Green Party
9 officials that worked on the Hawkins campaign were clearly identified as staff of the Hawkins
10 campaign and payments for their services to the campaign were disclosed on the Hawkins
11 Committee disclosure reports.²⁴

12 Accordingly, the Commission finds no reason to believe that Respondents violated the
13 Act and Commission regulations in this matter.

²³ Even assuming the Green Party made in-kind contributions to Hawkins and the Committee, the Act does not prohibit national parties from making contributions in primary elections. 52 U.S.C. § 30116(a) (imposing a \$5,000 per election contribution limit on multi-candidate committees).

²⁴ For example, the Committee reported disbursements to Merida Cuellar for services as a campaign manager. *See* Committee, 2020 Amended Year-End Report at 12 (Jan. 31, 2021) (\$500); Committee, 2020 Amended 30-Day Post-Election Report at 64 (Jan. 28, 2021) (\$1,000); Committee, 2020 Amended 12-Day Pre-Election Report at 55 (Jan. 26, 2021) (\$1,000).