

1 **FEDERAL ELECTION COMMISSION**
2
3 **FIRST GENERAL COUNSEL'S REPORT**
4

5 **MUR 7891**

6 DATE COMPLAINT FILED: Mar. 17, 2021

7 DATE OF NOTIFICATIONS: Mar. 23, 2021

8 DATE OF LAST RESPONSE: Apr. 27, 2021

9 DATE ACTIVATED: Aug. 24, 2021

10 EXPIRATION OF SOL: Apr. 1, 2025 (earliest)

11 Nov. 3, 2025 (latest)

12 ELECTION CYCLE: 2020

13
14 **COMPLAINANT:**

Randal D. Schreiner

15
16 **RESPONDENTS:**

17 Friends of Dan Feehan and Meghan Maes in her
18 official capacity as treasurer
19 Leadership for Educational Equity
20 National Lead for America, Inc.

21 **RELEVANT STATUTE
22 AND REGULATION:**

52 U.S.C. § 30118(a)

11 C.F.R. § 114.2

23
24
25 **INTERNAL REPORTS
26 CHECKED:**

Disclosure Reports

27
28 **AGENCIES CHECKED:**

None

29 **I. INTRODUCTION**

30 The Complaint in this matter alleges that Friends of Dan Feehan and Meghan Maes in her
31 official capacity as treasurer (the "Committee") and two non-profit corporations, National Lead
32 for America ("NLA") and Leadership for Educational Equity ("LEE"), violated the Federal
33 Election Campaign Act of 1971, as amended (the "Act") when the corporations apparently paid
34 three individuals to work on behalf of the Committee. The Responses broadly deny violating the
35 Act, with NLA claiming that it never paid anyone to work on behalf of the Committee and LEE
36 arguing that it only paid a small stipend that should be exempt from the definition of a
37 contribution.

1 The available information indicates that although one of the named individuals was a
2 fellow for NLA, NLA did not pay her for work on the Feehan campaign. Rather, she was
3 compensated by the Minnesota Democratic-Farmer-Labor Party (“MDFLP”) for such work. We
4 therefore recommend that the Commission find no reason to believe that NLA violated 52 U.S.C.
5 § 30118(a) by making a prohibited corporate contribution to the Committee. The other two
6 individuals appear to have been paid modest stipends by LEE in connection with their work with
7 the Committee. Although there is insufficient information in the record to determine whether
8 these stipends violated the Act, considering the available information and the small amount at
9 issue, we do not believe further investigation would be a prudent use of Commission resources.
10 We therefore recommend that the Commission dismiss the allegation that Leadership for
11 Educational Equity violated 52 U.S.C. § 30118(a) by making a prohibited corporate
12 contribution.¹ For the same reason, we recommend that the Commission dismiss the allegation
13 that the Committee violated 52 U.S.C. § 30118(a) by accepting or receiving a prohibited
14 corporate contribution.²

15 **II. FACTUAL BACKGROUND**

16 The Committee was the authorized campaign committee for former House candidate Dan
17 Feehan. Micah Joselow, Christina Beros, and Monali Bhakta worked on behalf of the
18 Committee during the 2020 election cycle.³ The Complaint attaches screenshots from the
19 LinkedIn profiles of each of these individuals, which appear to show connections with the
20 respondent corporations.⁴ According to these screenshots, Joselow listed his occupation as “LEE

¹ *See Heckler v. Chaney*, 470 U.S. 821 (1985).

² *Id.*

³ *See Resp. of Committee at 1* (Apr. 27, 2021).

⁴ *Compl. at 2-4* (Mar. 17, 2021).

1 Fellow at Dan Feehan for Congress” beginning June 2020,⁵ Beros listed her occupation as
2 “Leadership for Educational Equity Campaign Leadership Fellow” at “Dan Feehan for
3 Congress” beginning in July 2020,⁶ and Bhakta worked for the MDFLP on behalf of “Dan
4 Feehan for Congress” beginning in April 2020 while also listing herself as “LFMN Fellow at
5 Lead for America.”⁷

6 NLA is organized as a non-profit corporation under Section 501(c)(3) of the Internal
7 Revenue Code.⁸ In response to the Complaint, NLA argues that although Bhakta was an NLA
8 fellow, it did not compensate her for work with the Committee.⁹ Instead, NLA asserts that
9 Bhakta was responsible for developing diversity, equity, and inclusion initiatives in parts of
10 Minnesota on behalf of Lead for Minnesota.¹⁰ NLA further states that while Bhakta was
11 concurrently employed by the MDFLP, the “two positions were unrelated.”¹¹ According to the
12 response, MDFLP alone compensated Bhakta for Feehan campaign work, and NLA told her she
13 “could not record any of her time working on the Feehan Campaign as time she was obligated to
14 work to meet her fellowship requirements.”¹² In support, NLA attaches an affidavit from
15 Bhakta explaining her duties on behalf of Lead for Minnesota as well as the circumstances that

⁵ *Id.* at 2.

⁶ *Id.* at 3.

⁷ *Id.* at 4. LFMN appears to be an abbreviation for Lead for Minnesota, an arm of National Lead for America. *See About, LEAD FOR MINN.*, <https://www.leadforminnesota.org/about> (last visited Nov. 8, 2021).

⁸ *See* IRS Form 990, NLA, 2019 Return of Organization Exempt from Income Tax at 1 (Apr. 1, 2020).

⁹ Resp. of NLA at 2 (Apr. 26, 2021).

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

1 led her to become separately employed by the MDFLP.¹³ NLA also attaches an affidavit from
 2 its Deputy Director and Program Coordinator of Lead for Minnesota explaining Bhakta's work
 3 for the organization, the prohibition on Bhakta commingling her work for NLA with her work
 4 for the Committee, and an avowal that no such commingling had been observed.¹⁴ The
 5 Response from the Committee echoes this explanation.¹⁵ In addition, MDFLP reports filed with
 6 the Commission for the 2020 election cycle show a total of \$11,249 in disbursements to Bhakta
 7 between July 31 and November 20, 2020.¹⁶

8 LEE is organized as a non-profit corporation under Section 501(c)(4) of the Internal
 9 Revenue Code.¹⁷ In a prior matter before the Commission, LEE acknowledged retaining Feehan
 10 as an independent contractor in 2017 and then as a "temporary employee" in 2019.¹⁸ It appears
 11 Feehan's compensation from LEE for these two periods totaled \$170,000.¹⁹ In response to the
 12 current allegations, LEE argues that it sponsored Joselow and Beros to work on Feehan's
 13 campaign for educational rather than electoral purposes.²⁰ Specifically, LEE writes that its focus

¹³ *Id.* at Ex. A. The affidavit further states that "I did not mix my campaign work with my fellowship duties."
Id.

¹⁴ *Id.* at Ex. B.

¹⁵ Resp. of Committee at 1 ("[Bhakta] was hired and paid by the Minnesota Democratic-Farmer-Labor Party.
 . . . [she] accepted a separate part-time position as a fellow with National Lead for America.").

¹⁶ See MDFLP, Amended 2020 August Monthly Report at 223 (Oct. 8, 2020); MDFLP, 2020 Amended
 September Monthly Report at 337-38 (Oct. 8, 2020); MDFLP, Amended 2020 October Monthly Report at 822-23
 (May 5, 2021); MDFLP, Amended 2020 12-Day Pre-General Report at 515 (May 5, 2021); MDFLP, Amended 2020
 30-Day Post-General Report at 1507 (May 5, 2021). It appears these payments were coordinated party expenditures.
 See Resp. of Committee at 1. Although not reported as such, there is no information in the record to suggest
 MDFLP exceeded its limit, which was \$51,900, because MDFLP reported no such expenditures during the 2020
 election cycle.

¹⁷ See Resp. of LEE at 3 (Apr. 22, 2021); IRS Form 990, LEE, 2018 Return of Organization Exempt from
 Income Tax at 1 (Nov. 11, 2019) (showing organization as corporation).

¹⁸ Resp. of LEE at 4-5, MUR 7816 (Feehan, *et al.*) (Nov. 16, 2021) In that matter, a Complaint
 alleged that LEE's payments to Feehan were contributions rather than compensation for *bona fide* services.

¹⁹ Resp. of Feehan at 2, MUR 7816 (Feehan, *et al.*) (Nov. 3, 2021)

²⁰ Resp. of LEE at 3-4

1 is “developing leadership skills and inspiring and supporting a network of civic leaders to end
2 the injustice of educational inequity.”²¹ In furtherance of that mission, LEE says it created an
3 internship program “to allow some of its members the opportunity to gain practical, direct, in-
4 the-field experience and learn demonstrable campaign skills while volunteering on a political
5 campaign and completing training and curriculum developed by LEE.”²² According to LEE, this
6 program did not come with a salary but included a stipend of \$2,250 “to help offset living
7 expenses and other incidental costs.”²³ The Response from the Committee is consistent with that
8 of LEE.²⁴ We found no additional information about the program from publicly available
9 sources, and thus do not know how many participants the program typically sponsors or how
10 many campaigns these participants have worked on.

11 **III. LEGAL ANALYSIS**

12 **A. Legal Standard**

13 Corporations are prohibited from making contributions to federal candidates or their
14 authorized committees, and candidates and authorized committees are prohibited from
15 knowingly receiving or accepting such contributions.²⁵ Under Section 30101(8)(A)(ii) of the
16 Act, the term “contribution” includes “the payment by any person of compensation for the
17 personal services of another person which are rendered to a political committee without charge
18 for any purpose.”²⁶

²¹ *Id.* at 3.

²² *Id.*

²³ *Id.* at 4.

²⁴ Resp. of Committee at 1 (“Mr. Joselow and Ms. Beros were not paid by LEE, although they received a small cost-of-living stipend from LEE.”)

²⁵ 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(a), (b)(1).

²⁶ 52 U.S.C. § 30101(8)(A)(ii); 11 C.F.R. § 100.54.

1 **B. The Commission Should Find No Reason to Believe that NLA Made**
2 **Contributions to the Committee**

3 The Responses from both the Committee and NLA provide substantial evidence that
4 Bhakta was paid by the MDFLP rather than NLA for her work with the Committee. NLA
5 submitted two affidavits testifying to her different positions at Lead for Minnesota and the
6 Committee, which is further supported by contemporaneous reports that the Minnesota
7 Democratic-Farmer-Labor Party filed with the Commission. In light of this information, we
8 recommend that the Commission find no reason to believe that NLA made a prohibited
9 contribution to the Committee in violation of 52 U.S.C. § 30118(a).

10 **C. The Commission Should Dismiss the Allegation that LEE made Prohibited**
11 **Contributions to the Committee**

12 With regard to Joselow and Beros, LEE claims it “did not pay them” but admits that it
13 gave them a “a modest stipend [\$2,250 each for the duration of the fellowship] to cover living
14 costs while they volunteered.”²⁷ LEE contends that these stipends did not constitute prohibited
15 in-kind contributions,²⁸ relying on Advisory Opinion 2015-14 (Hillary for America) (“AO 2015-
16 14”). There, the Commission concluded that a university’s payment of a non-specific \$3,000
17 stipend to an undergraduate student volunteering for a candidate’s campaign was not a prohibited
18 corporate contribution.²⁹ Specifically, the Commission determined that the “stipends are
19 provided to students for *bona fide* educational objectives, not for the provision of personal
20 services to federal campaigns.”³⁰ Thus, even though the university student provided “substantive

²⁷ Resp. of LEE at 3.

²⁸ *Id.* at 5.

²⁹ AO 2015-14 at 4. The \$3,000 stipend provided by DePauw University reimbursed the student in part for travel and subsistence expenses, which were estimated to total \$4,735. *Id.* The student also received academic credit toward a graduation requirement. *Id.* at 2.

³⁰ *Id.* at 4.

1 work” to the Clinton Committee, including helping with vetting, the stipend was not offered or
2 received as compensation for the provision of the personal services.³¹ Instead, the Commission
3 found that the sole purpose of the stipend was to assist students with an educational experience in
4 a wide variety of settings.³² In addition, the program awarding the stipend was non-partisan and
5 not for the purpose of advancing political goals.³³

6 The Commission has not had many occasions to consider how far the exemption laid out
7 in AO 2015-14 might reach. In MUR 7035 (Australian Labor Party), the Commission did not
8 extend the exemption to a foreign political party that placed “delegates” in “partisan settings.”³⁴
9 The Commission explained that there was information in the record that these delegates
10 performed “campaign-related services.”³⁵ Thus, the Commission found reason to believe that
11 payment in connection with those services was a contribution. The Australian Labor Party
12 ultimately admitted to paying a total of \$16,140 for flights and \$8,282 for daily stipends, and
13 agreed to settle the matter.³⁷

14 Because the Act generally prohibits “compensation for the personal services of another
15 person which are rendered to a political committee without charge for any purpose,”³⁸ AO 2015-

³¹ *Id.* at 3-4.

³² *Id.*

³³ *Id.* at 4.

³⁴ Factual & Legal Analysis at 5, MUR 7035 (Australian Labor Party).

³⁵ *Id.* at 5-6.

³⁶

³⁷ MUR 7035 (Australian Labor Party), Conciliation Agreement ¶¶ IV.4, V.

³⁸ 52 U.S.C. § 30101(8)(A)(ii); 11 C.F.R. § 100.54.

1 14 draws a specific exemption for stipends with a “*bona fide* educational objective.”³⁹ LEE
2 argues that it should qualify for this exemption, stating that its fellowship program “involved
3 education check-ins and other training to ensure appropriate educational content.”⁴⁰ LEE further
4 argues that its program “provided important educational and skills benefits to the Fellows.”⁴¹

5 Although the stipend at issue is less than the one in AO 2015-14, LEE has not submitted
6 information showing that it administers its program in a non-partisan fashion for purely
7 educational benefits. As a 501(c)(4), LEE is permitted to engage in limited political advocacy
8 under IRS rules, and it is not clear from the record whether LEE placed its fellows
9 disproportionately in campaigns that the organization supported.⁴² Indeed, LEE’s prior
10 employment of Feehan raises questions as to LEE’s relationship with the Feehan campaign and
11 whether LEE placed its fellows for non-partisan, educational purposes.

12 Nonetheless, the available information is enough to rebut the Complaint’s allegation that
13 these fellows were paid tens of thousands of dollars.⁴³ Even if the Commission were to
14 determine that LEE’s stipends constituted prohibited corporate contributions, the amount in
15 violation would have been \$4,500. Moreover, although LEE’s prior work with Feehan raises
16 legitimate questions about the fellowship’s objective, the record is far from clear that LEE
17 actually administered its program for the purpose of providing services to campaigns. This
18 uncertainty distinguishes the current matter from MUR 7035 (Australian Labor Party, *et al.*), in

³⁹ AO 2015-14 at 4.

⁴⁰ Resp. of LEE at 3.

⁴¹ *Id.* at 4.

⁴² One of the Commissioners signing onto AO 2015-14 explicitly argued that “this opinion about an apolitical university internship stipend provides no cover to super PACs, (c)(4)s, or billionaires with political agendas seeking to subsidize the staff of their favorite candidates.” Concurrence of Comm’r Weintraub at 1, AO 2015-14.

⁴³ Compl. at 1.

1 which a foreign political party sent delegates to a specific like-minded American campaign. In
 2 the absence of clearer information and in light of the small dollar-value of the stipends at issue,
 3 we conclude that it would not be a prudent use of Commission resources to investigate LEE's
 4 fellowship program at this time. Accordingly, we recommend that the Commission dismiss the
 5 allegations against LEE and the Committee as an exercise of prosecutorial discretion.⁴⁴

6 **IV. RECOMMENDATIONS**

- 7 1. Find no reason to believe that National Lead for America, Inc., violated 52 U.S.C.
 8 § 30118(a) by making a prohibited corporate contribution;
- 9 2. Dismiss the allegation that Leadership for Educational Equity violated 52 U.S.C.
 10 § 30118(a) by making a prohibited corporate contribution;
- 11 3. Dismiss the allegation that Friends of Dan Feehan and Meghan Maes in her official
 12 capacity as treasurer violated 52 U.S.C. § 30118(a) by knowingly accepting or
 13 receiving a prohibited corporate contribution;
- 14 4. Approve the attached Factual and Legal Analysis;
- 15 5. Approve the appropriate letters; and
- 16 6. Close the file.

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 18 Lisa J. Stevenson
 19 Acting General Counsel
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 22 Charles Kitcher
 23 Associate General Counsel
 24 for Enforcement
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26
 27
 28 December 16, 2021

29 Date

30 Peter G. Blumberg
 31 Peter G. Blumberg
 32 Acting Deputy Associate General
 Counsel

⁴⁴ See *Heckler v. Chaney*, 470 U.S. 821 (1985).

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Jin Lee

Jin Lee
Acting Assistant General Counsel

Amanda Andrade

Amanda Andrade
Attorney