



In the Matter of)	
Senator Ted Cruz;)	
Ted Cruz for Senate;)	
Bradley Knippa,)	MUR 7897
in his official capacity as)	
Treasurer.)	

INTRODUCTION

Through counsel, Senator Ted Cruz, Ted Cruz for Senate (“the Committee”), and Bradley Knippa, in his official capacity as Treasurer (“Respondents”), provide the following response to the complaint filed by the Campaign Legal Center (the “Complainant”) and designated by the Federal Election Commission (the “Commission” or “FEC”) as MUR 7897.¹

The Complainant alleges the Committee converted campaign funds to personal use in violation of 52 U.S.C. § 30114(b)(1) by financing Facebook advertisements to promote Senator Cruz’s book, *One Vote Away: How a Single Supreme Court Seat Can Change History* (“*One Vote Away*”), that resulted in royalty payments to Senator Cruz. Contrary to the allegation, Senator Cruz **has not received any royalties from any sales** of *One Vote Away*. Therefore, the Commission should find no reason to believe that the Respondents violated the Act and promptly close the file in this matter.

ARGUMENT

An impermissible personal use of campaign funds occurs when the funds are used to fulfill any commitment, obligation, or expense that would exist irrespective of the campaign. 52 U.S.C. § 30114(b)(1); 11 C.F.R. § 113.1(g). The Federal Election Campaign Act (“Act”) and Commission regulations provide a non-exhaustive list of uses that constitute *per se* personal use, which the Commission considers on a case-by-case basis. 11 C.F.R. § 113.1(g); FEC Advisory Opinion 2011-02 (Brown); FEC Advisory Opinion 2006-18 (Granger); FEC Advisory Opinion 2004-18 (Lieberman); FEC Advisory Opinion

¹ The Respondents received notice of the complaint on April 9, 2021, and they were subsequently granted an extension to file a response on or before May 24, 2021.

2001-08 (Specter); FEC Advisory Opinion (D'Amato); FEC Advisory Opinion 1993-20 (Nighthorse Campbell).

Critically, the Commission has determined that expenses incurred from the promotion of a book would exist irrespective of a bid for elective office; however, campaign funds cannot be used to promote a book that results in author royalties. *See* FEC Advisory Opinions 2001-08 (Specter) at 3, 2011-02 (Brown) at 5-6, 2014-06 (Ryan). Conversely, a campaign committee's purchase of an appropriate quantity of books for the purpose of distributing them to campaign contributors *is* an expense that would *not* exist irrespective of the candidacy. *Id.* Thus, book purchases by a campaign committee would be permitted for such purpose if the candidate forgoes any royalties tied to those book sales and any purchases by the campaign committee are excluded from the royalty calculations. *Id.* The same is true here.

I. Senator Cruz has not received any royalty payments resulting from the Committee's purchases of *One Vote Away*.

As stated above, Senator Cruz **has not received any royalties from any sales of *One Vote Away*.**

To support the allegation that Senator Cruz has received royalties tied to all sales of *One Vote Away*, the Complainant cites to a brief three-line summary of Senator Cruz's agreement with Regnery Publishing that was disclosed on Senator Cruz's 2019 personal financial statement. Based on this short summary, the Complainant incorrectly assumes Senator Cruz has received royalties tied to the sale of *One Vote Away* to the Committee. At the time Senator Cruz entered into the agreement with Regnery Publishing and subsequently summarized the agreement on his 2019 personal financial statement, Senator Cruz did not know whether, and to what extent: (i) the Committee would purchase *One Vote Away* for contributors/supporters; or (ii) the Committee would promote *One Vote Away* on social media.

While we cannot disclose confidential attorney-client communications, we can note that Senator Cruz and the Committee sought the advice of qualified legal counsel to confirm that any purchases and the promotion of *One Vote Away* would comply with applicable law. Such advice was sought many months after Senator Cruz had entered into the agreement with Regnery Publishing and submitted his 2019 personal financial statement, but prior to the Committee purchasing any copies of *One Vote Away* or promoting the book on social media. The Committee ultimately purchased copies of *One*

Vote Away for distribution to the Committee's supporters in an amount that did not exceed the number needed for that purpose.

Since Senator Cruz **has not received any royalties from any sales** of *One Vote Away*, there is simply no basis for the Complainant's allegation that the Committee's purchases of the book resulted in impermissible royalty payments to Senator Cruz. Hypothetically, even if Senator Cruz were to receive royalties for *One Vote Away* sales in the future, the Respondents recognize that any copies of the book purchased by the Committee would have to be excluded from royalty calculations in compliance with the Act and Commission regulations.

II. Senator Cruz has not received any royalty payments resulting from the Committee's promotion of *One Vote Away*.

The Commission's position is clear: a committee does not convert its funds to personal use when: (i) the committee promotes a candidate's book more than a *de minimis* amount; and (ii) the candidate does not receive any financial benefit, such as through royalty payments. See FEC Advisory Opinion 2006-18 (Granger) ("Granger AO").

In the Granger AO, the requestor specifically stated that Representative Granger's campaign committee ("Granger Committee") planned to promote Representative Granger's book more than a *de minimis* amount. The Granger Committee planned to promote the book by featuring it prominently on the Granger Committee's website, by using the Granger Committee's mailing list to promote the book, and by using the Granger Committee's staff to organize book-related events. *Id.* at 2. The Commission concluded that these activities and expenditures would be permissible because neither Representative Granger nor the Granger Committee were to receive any royalties or financial benefit. *Id.* at 4.

The situation in the instant matter is no different: (i) like the Granger Committee, Ted Cruz for Senate spent more than a *de minimis* amount of campaign funds to promote a book through social media advertising; and (ii) like Representative Granger, Senator Cruz has not received any financial benefit, such as through royalty payments, as a result of the promotions. Therefore, the Committee's expenditures to promote *One Vote Away* do not constitute an impermissible personal use of campaign funds.

CONCLUSION

Senator Cruz has not received any financial benefit, such as through royalty payments, from any sales of *One Vote Away* resulting from the Committee's purchases or

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promotion of the book. Therefore, the Commission should find no reason to believe that the Respondents violated the Act and promptly close the file in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris K. Gober", with a long horizontal flourish extending to the right.

Chris K. Gober

Counsel to Senator Ted Cruz, Ted Cruz for Senate, and
Treasurer, in his official capacity as Treasurer