



## FEDERAL ELECTION COMMISSION

Washington, DC 20463

September 1, 2022

### VIA ELECTRONIC MAIL

Neil Reiff, Esq.  
 Sandler Reiff Lamb Rosenstein & Birkenstock, P.C.  
 1090 Vermont Avenue, Suite 750  
 Washington, DC 20005  
[reiff@sandlerreiff.com](mailto:reiff@sandlerreiff.com)

RE: MUR 7899  
 Democratic Executive Committee of  
 Florida and Fran Garcia in her  
 official capacity as treasurer

Dear Mr. Reiff:

On August 29, 2022, the Federal Election Commission accepted the signed conciliation agreement submitted on behalf of your clients, Democratic Executive Committee of Florida and Fran Garcia in her official capacity as treasurer (“Committee”), in settlement of violations of 52 U.S.C. §§ 30104(b), 30104(e)(2), 30116(f), and 30118(a), provisions of the Federal Election Campaign Act of 1971, as amended, and a violation of 11 C.F.R. § 106.7(d)(1) of the Commission’s regulations. Accordingly, the file has been closed 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). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. *See* 52 U.S.C. § 30109(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the Committee’s initial civil penalty payment is due within 30 days of the conciliation agreement’s effective date. If you have any questions, please contact me at (202) 694-1616 or drigsby@fec.gov.

Sincerely,

*Delbert K. Rigsby*  
 Delbert K. Rigsby  
 Attorney

Enclosure  
 Conciliation Agreement

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of )  
 ) MUR 7899  
Democratic Executive Committee of Florida )  
 and Fran Garcia in her official capacity )  
 as treasurer )

**CONCILIATION AGREEMENT**

This matter was initiated by the Federal Election Commission (“Commission”) pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that the Democratic Executive Committee of Florida and Fran Garcia in her official capacity as treasurer (“Respondent” or “Committee”) violated 52 U.S.C. §§ 30104(b), 30104(e)(2), 30116(f), and 30118(a) of the Federal Election Campaign Act of 1971, as amended, (the “Act”), and 11 C.F.R. § 106.7(d)(1) of the Commission regulations.

NOW, THEREFORE, the Commission and the Respondent, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 52 U.S.C. § 30109(a)(4)(A)(i).

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

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IV. The pertinent facts and law in this matter are as follows:

1. The Committee is a political committee within the meaning of 52 U.S.C. § 30101(4) and a state committee of the Democratic Party within the meaning of 52 U.S.C. § 30101(15). Since June 6, 2019, Fran Garcia has been the named Treasurer of the Committee.

Acceptance of Excessive and Prohibited Contributions

2. The Act provides that no person shall make contributions to a political committee established and maintained by a State committee of a political party in any calendar year that, in the aggregate, exceed \$10,000. 52 U.S.C. § 30116(a)(1)(D); 11 C.F.R. § 110.1(c)(5). With the exception of a committee established and maintained by a national political party, no multicandidate committee shall make contributions to any other political committee in any calendar year which in the aggregate exceed \$5,000. 52 U.S.C. § 30116(a)(2)(C); 11 C.F.R. § 110.1(d). Further, the Act provides that no political committee shall knowingly accept any contribution that violates 52 U.S.C. § 30116. 52 U.S.C. § 30116(f). Corporations are prohibited from making contributions to political committees other than independent expenditure-only political committees (“IEOPCs”) in connection with a Federal election, and political committees other than IEOPCs are prohibited from knowingly receiving such contributions. 52 U.S.C. § 30118(a); Advisory Opinion 2010-11 (Common Sense Ten) at 2-3.

3. A committee may reattribute the excessive portion of a contribution to another individual whose name appears on the written instrument used to make the contribution. 11 C.F.R. § 110.1(k). However, the committee must, within 60 days of receipt of the contribution, notify the contributor of the reattribution and the option to request a refund. 11 C.F.R. § 110.1(k)(3)(ii)(B). Contributions that present general questions as to whether they were made by corporations, labor organizations, foreign nationals or federal contractors may be, within ten days of the treasurer’s receipt, either deposited into a campaign depository or returned

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to the contributor. 11 C.F.R § 103.3(b)(1). If any such contribution is deposited, the treasurer shall make his or her best efforts to determine the legality of the contribution. *Id.* If the contribution cannot be determined to be legal, the treasurer shall, within thirty days of the treasurer's receipt of the contribution, refund the contribution to the contributor. *Id.*

4. The Committee reported receiving excessive and prohibited contributions totaling \$58,750 during the 2018 calendar year that the Committee failed to fully refund and transfer out. The Committee received excessive contributions totaling \$20,000 from three individuals and two multicandidate committees, and prohibited contributions of \$10,750 from two corporations as disclosed on the amended 2018 12-Day Pre-General Report dated February 26, 2019. The Committee also disclosed receiving a \$10,000 prohibited contribution from a corporation on the amended 2018 September Monthly Report dated December 10, 2018. Further, the Committee reported depositing a contribution for \$18,000 from a corporation that was intended for its non-federal account into its federal account and reported it on the amended 2018 February Monthly Report dated May 15, 2018. The Committee has refunded \$10,750 in prohibited contributions and \$15,000 in excessive contributions, and transferred \$33,000 in prohibited and excessive contributions from its federal account to its non-federal account.

#### Increased Financial Activity

5. The Act requires committee treasurers to file reports of receipts and disbursements in accordance with the provisions of 52 U.S.C. § 30104. 52 U.S.C. § 30104(a)(1); 11 C.F.R. § 104.1(a). These reports must include, *inter alia*, the total amount of receipts and disbursements, including the appropriate itemizations, where required. 52 U.S.C. § 30104(b); 11 C.F.R. § 104.3. The Committee disclosed additional disbursements of \$304,851.11 on its amended 2018 12-Day Pre-General Report dated February 26, 2019, that were not disclosed on the original report.

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6. A State, district or local committee of a political party that is a political committee must report all receipts and disbursements made for federal election activity aggregating more than \$5,000 in a calendar year. 52 U.S.C. § 30104(e)(2); 11 C.F.R. § 300.36(b)(2). The Committee disclosed additional Levin receipts and disbursements of \$230,000 and \$233,730.20, respectively, on its amended 2018 12-Day Pre-General Report dated February 26, 2019 that were not disclosed on the original report.

7. The Committee contends that the failure to disclose Levin Schedules on its reports was caused by a software error that was not discovered at the time of the filing.

#### Failure to Maintain a Monthly Payroll Log

8. Commission regulations provide that political committees may allocate the salaries, wages, and fringe benefits paid to state, district, or local party committee employees who spend 25 percent or less of their compensated time in a given month on federal election activity or activity in connection with a federal election as administrative costs, while the same paid to those employees who spend more than 25 percent of their compensated time on federal election activities may be paid only from a federal account. 11 C.F.R. § 106.7(c), (d). Commission regulations also provide that when allocating salary, wage, and fringe benefit payments, political party committees shall “keep a monthly log of the percentage of time each employee spends in connection with a Federal election.” *Id.* § 106.7(d)(1). Respondent allocated \$278,714.49 as its non-federal share of payroll that was disclosed on Schedule H4 of the amended 2018 October Monthly Report dated January 6, 2019, but failed to maintain the required monthly payroll log for allocated payroll totaling \$352,803.13 in violation of 11 C.F.R. § 106.7(d)(1).

V. Respondent violated 52 U.S.C. § 30116(f) by accepting excessive contributions and violated 52 U.S.C. § 30118(a) by accepting prohibited contributions. Respondent violated

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52 U.S.C. § 30104(b) by failing to disclose \$304,851.11 in increased activity in disbursements on its 2018 12-Day Pre-General Report. Respondent also violated 52 U.S.C. § 30104(e)(2) by failing to disclose a total of \$463,730.20 in increased activity in Levin receipts and disbursements on its 2018 12-Day Pre-General Report. Further, Respondent violated 11 C.F.R. § 106.7(d)(1) by failing to maintain the monthly log for payroll disclosed on Schedule H4 of the amended 2018 October Monthly Report dated January 6, 2019.

VI. Respondent will take the following actions:

1. Respondent will pay a civil penalty to the Commission in the amount of Forty-Four Thousand Dollars (\$44,000), pursuant to 52 U.S.C. § 30109(a)(5)(A). The civil penalty will be paid as follows:
  - a. A payment of Twenty-Two Thousand Dollars (\$22,000) is due no more than thirty (30) days from the date this Agreement becomes effective.
  - b. Thereafter, two consecutive monthly installments of Eleven Thousand Dollars (\$11,000) each.
  - c. Each such installment shall be paid within thirty (30) days of the due date of the previous payment.
  - d. In the event that any payment is not received by the Commission by the fifth day after it becomes due, the Commission may, at its discretion, accelerate the remaining payments and cause the entire amount to become due upon ten days written notice to the Respondent. Failure by the Commission to accelerate the payments with regard to any overdue payment shall not be construed as a waiver of its right to do so with regard to further overdue payments.

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2. Respondent will cease and desist from committing violations of 52 U.S.C. §§ 30104(b), 30104(e)(2), 30116(f), and 30118(a) and 11 C.F.R. § 106.7(d)(1).

3. Respondent will amend its reports to reflect the refunds or transfer out of excessive and prohibited contributions that are described in this Agreement.

VII. The Commission, on request of anyone filing a complaint under 52 U.S.C. § 30109(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed the same and the Commission has approved the entire agreement.

IX. Respondent shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

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X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

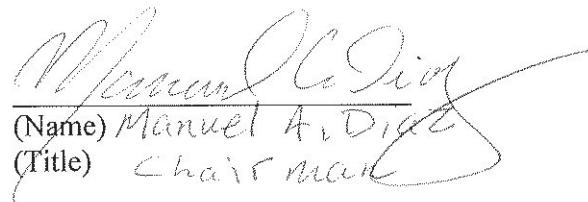
Lisa J. Stevenson  
Acting General Counsel

BY: Charles Kitcher Digitally signed by  
Charles Kitcher  
Date: 2022.08.29  
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8/29/22  
Date

Charles Kitcher  
Associate General Counsel  
for Enforcement

FOR THE RESPONDENT:

  
(Name) Manuel A. Diaz  
(Title) Chairman

7-6-22  
Date