



**FEDERAL ELECTION COMMISSION**  
Washington, DC 20463

October 4, 2022

**Via Electronic Mail**

[Scott.Thomas@blankrome.com](mailto:Scott.Thomas@blankrome.com)

Scott E. Thomas, Esq.  
Blank Rome LLP  
1825 Eye Street, NW  
Washington, DC 20006

RE: MUR 7903  
Tomfoolery, LLC  
Thomas A. Chavez

Dear Mr. Thomas:

On October 3, 2022, the Federal Election Commission accepted the signed conciliation agreement and \$25,000 civil penalty submitted on your clients' behalf in settlement of a violation of 52 U.S.C. § 30122, a provision of the Federal Election Campaign Act of 1971, as amended. 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 civil penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 694-1273.

Sincerely,

*Crystal Liu*  
Crystal Liu  
Attorney

Enclosure  
Conciliation Agreement

# BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of	)	
	)	MUR 7903
Tomfoolery, LLC	)	
Thomas A. Chavez	)	
	)	

## CONCILIATION AGREEMENT

This matter was initiated by a Complaint filed with the Federal Election Commission (“Commission”) by the Campaign Legal Center. The Commission found reason to believe that Tomfoolery, LLC (“Tomfoolery”) and Thomas A. Chavez (collectively, “Respondents”) violated 52 U.S.C. § 30122.

NOW, THEREFORE, the Commission and Respondents, 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 Respondents 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. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

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

1. Tomfoolery is a limited liability company (“LLC”) formed in Delaware on November 13, 2017, and has a single natural person member, Thomas A. Chavez, and is a disregarded entity for federal tax purposes.

2. Lone Star Forward (“LSF”) is an independent-expenditure-only political committee (“IEOPC”), which registered with the Commission on January 22, 2020. During the 2020 election cycle, the committee received \$275,510 in contributions, and made \$255,200 in independent expenditures, all of which supported Cristina Ramirez, a candidate in the 2020 Democratic primary election for the U.S. Senate in Texas.

3. Chavez provided funds to and caused Tomfoolery to send a \$50,000 contribution to LSF on February 3, 2020, and a \$25,000 contribution to LSF on February 24, 2020. Tomfoolery did not provide any information about the source of the funds or that they should have been attributed to some other person.

4. LSF reported that Tomfoolery made contributions of \$50,000 and \$25,000 on February 3 and February 24, 2020. After the filing of the complaint in this matter, LSF amended that report to attribute the \$75,000 in Tomfoolery contributions to Chavez as the true source of the contribution.

5. Under the Federal Election Campaign Act of 1971, as amended (the “Act”), a contribution includes “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.” 52 U.S.C. § 30101(8)(A).

6. The term “person” for purposes of the Act and Commission regulations includes partnerships, corporations, and “any other organization or group of persons.” 52 U.S.C. § 30101(11).

7. The Act prohibits a person from making a contribution in the name of another person, knowingly permitting his or her name to be used to effect such a contribution, or knowingly accepting such a contribution. 52 U.S.C. § 30122.

8. Federal courts have interpreted 52 U.S.C. § 30122 and the Commission's regulations implementing that provision such that a person who furnishes another person with funds for the purpose of contributing to a candidate or committee "makes" the resulting contribution. *See United States v. O'Donnell*, 608 F.3d 546, 555 (9th Cir. 2010); *United States v. Boender*, 649 F.3d 650, 660 (7th Cir. 2011); *United States v. Whittemore*, 776 F.3d 1074, 1080 (9th Cir. 2015).

9. While Tomfoolery is a distinct "person" that can make political contributions — provided that those contributions abide by the Act's prohibitions, including the prohibition on contributions in the name of another — the record indicates that Tomfoolery did not make these contributions using its own funds. Instead, Chavez was "the source" of two contributions totaling \$75,000 to LSF, whereas Tomfoolery was the "intermediary who simply conveys the gift from the donor to the donee." *Boender*, 649 F.3d at 660.

10. Respondents contend that this was a first-time situation for Mr. Chavez; that he indicated to his financial advisors, "[P]lease send Lone Star \$50K. [I]f possible, [I]'d like to send it through an llc like tomfoolery; if [I] need to be named, so be it."; and that promptly after receiving notice of the complaint in this matter, he initiated the process of having the recipient committee revise its reports to reflect the contributions being in Mr. Chavez's name.

V. Respondents violated 52 U.S.C. § 30122 when Thomas A. Chavez made, and Tomfoolery knowingly permitted its name to be used to effect, two contributions in the name of another totaling \$75,000.

VI. 1. Respondents will pay a civil penalty to the Commission in the amount of Twenty-Five Thousand Dollars (\$25,000), pursuant to 52 U.S.C. § 30109(a)(5)(A).

2. Respondents will cease and desist from committing violations of 52 U.S.C. § 30122.

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. Respondents shall have no more than thirty (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.

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 within this written agreement shall be enforceable.

XI. This agreement shall not be read to waive Respondents' right or ability to assert, without prejudice, any arguments or defenses in any future proceedings that are unrelated to the terms of this agreement and the violations of law described herein.

MUR 7903 (Tomfoolery, LLC, *et al.*)  
Conciliation Agreement  
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FOR THE COMMISSION:

Lisa J. Stevenson  
Acting General Counsel

BY:

Charles Kitcher

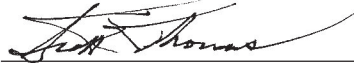
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Kitcher  
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Charles Kitcher  
Associate General Counsel for Enforcement

10/3/22

Date

FOR THE RESPONDENTS:



Scott E. Thomas  
Counsel for Respondents

9/9/22

Date