



FEDERAL ELECTION COMMISSION
Washington, DC 20463

VIA ELECTRONIC AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED

douglas.gansler@cwt.com

July 19, 2022

Douglas F. Gansler, Esq.
Cadwalader, Wickersham & Taft LLP
700 Sixth Street, NW
Washington, DC 20001

RE: MUR 7911

Dear Mr. Gansler:

On July 13, 2022, the Federal Election Commission reviewed the allegations in your complaint received July 7, 2021, and on the basis of the information provided in the complaint, and information provided by respondents, decided to exercise its prosecutorial discretion to dismiss the allegations as to Rodney for Congress and Thomas Charles Datwyler in his official capacity as treasurer, and Restoring Our Democracy and Thomas Charles Datwyler in his official capacity as treasurer. Accordingly, on July 13, 2022, the Commission closed the 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), effective September 1, 2016. A copy of the General Counsel's Report, which more fully explains the Commission's finding, is enclosed.

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. *See* 52 U.S.C. § 30109(a)(8).

Sincerely,

Lisa J. Stevenson
Acting General Counsel

Roy Q. Luckett

BY: Roy Q. Luckett
Acting Assistant General Counsel

Enclosure
General Counsel's Report

BEFORE THE FEDERAL ELECTION COMMISSION
ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT

MUR: 7911

Respondents: Rodney for Congress
and Thomas Charles Datwyler
in his official capacity as treasurer
Restoring Our Democracy (ROD PAC)
and Thomas Charles Datwyler
in his official capacity as treasurer

Complaint Receipt Date: July 7, 2021

Response Date: August 10, 2021

EPS Rating:

Alleged Statutory

52 U.S.C. §§ 30101(8)(B); 30104;

Regulatory Violations:

11 C.F.R. §§ 116.3, 116.10

The Complaint alleges that Rodney for Congress (the “Committee”) and Restoring Our Democracy (“ROD PAC”) failed to reimburse and compensate the Gula Graham Group (“GGG”) over \$33,000 in fundraising and consulting costs.¹ Specifically, the Complaint alleges that the Committee directed GGG to provide third-party payment for \$16,018.45 in personal and campaign expenses, but has refused to reimburse GGG and has attempted to convert these expenses into unreported campaign contributions.² The Complaint further asserts that the Committee and the PAC have refused to pay \$15,395 and \$2,400, respectively, owed to GGG for fundraising services.³ The Complaint alleges that the Respondents have violated the Federal Election Campaign Act of 1971, as amended (the “Act”), because the committees’ failure to repay GGG has resulted in an

¹ Compl. at 1 (July 7, 2021).

² *Id.* The Complaint alleges that in March 2020 the Committee and ROD PAC both stopped reimbursing GGG for expenses for which they had been reimbursing GGG for many years. *Id.* at 2.

³ *Id.* at 1. GGG alleges that the Committee and ROD PAC failed to pay GGG a 12% commission based on its fundraising for the committees. *Id.* at 2.

1 unintended extension of credit that is not in the ordinary course of business, and because the
2 committees have inaccurately reported these debts as disputed.⁴

3 The joint response of the Committee and the PAC asserts that the Complaint does not allege
4 any violation of the Act, but rather is an attempt to litigate a disputed debt.⁵ The Response further
5 states that the Respondents have properly disclosed the amounts claimed by GGG as “disputed
6 debt” on their disclosure reports with the Commission.⁶

7 Based on its experience and expertise, the Commission has established an Enforcement
8 Priority System using formal, pre-determined scoring criteria to allocate agency resources and
9 assess whether particular matters warrant further administrative enforcement proceedings. These
10 criteria include (1) the gravity of the alleged violation, taking into account both the type of activity
11 and the amount in violation; (2) the apparent impact the alleged violation may have had on the
12 electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in
13 potential violations and other developments in the law. This matter is rated as low priority for
14 Commission action after application of these pre-established criteria. Given that low rating, and the
15 fact that the Committee has included the disputed debt in subsequent reports, we recommend that
16 the Commission dismiss the Complaint consistent with the Commission’s prosecutorial discretion to
17

⁴ *Id.* at 2-3.

⁵ Committee and PAC Resp. at 1 (Aug. 10, 2021). The Response asserts that Respondents had agreements with GGG to provide fundraising services through December 31, 2020, but that on March 26, 2020, GGG’s principal announced to the Respondents that GGG would cease providing services to its clients. *Id.* at 1-2.

⁶ *Id.* at 3. *See also* Rodney for Congress 2022 Pre-Primary Report at 441 (June 16, 2022), <https://docquery.fec.gov/pdf/279/202206169514980279/202206169514980279.pdf>, and Restoring Our Democracy (ROD PAC) Amended 2021 April Quarterly Report at 25 (June 9, 2022), <https://docquery.fec.gov/pdf/937/202206099514816937/202206099514816937.pdf>.

determine the proper ordering of its priorities and use of agency resources.⁷ We also recommend that the Commission close the file as to all Respondents and send the appropriate letters.

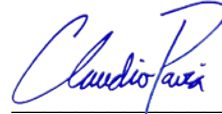
Lisa J. Stevenson
Acting General Counsel

Charles Kitcher
Associate General Counsel

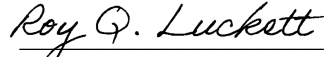
6/30/2022

Date

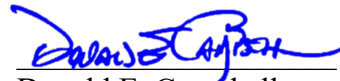
BY:



Claudio J. Pavia
Deputy Associate General Counsel



Roy Q. Luckett
Acting Assistant General Counsel



Donald E. Campbell
Attorney

⁷ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).