



FEDERAL ELECTION COMMISSION
Washington, DC 20463

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

April 17, 2023

Jason Henry

Harrisburg, PA 17101

RE: MUR 7940

Dear Mr. Henry:

On April 13, 2023, the Federal Election Commission reviewed the allegations in your complaint dated October 29, 2021, and on the basis of the information provided in your complaint and information provided by the respondents, found no reason to believe that Richard Sean Parnell and Americans for Parnell Committee and Kayla Glaze in her official capacity as treasurer (the "Committee") violated 52 U.S.C. § 30114(b) by converting campaign funds to personal use by purchasing copies of Parnell's books. The Commission also dismissed as a matter of prosecutorial discretion the allegation that Parnell and the Committee violated 52 U.S.C. § 30114(b) by converting campaign funds by promoting Parnell's books through social media posts. Accordingly, the Commission closed its 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). The Factual and Legal Analysis, which more fully explains the Commission's findings, is enclosed for your information.

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). If you have any questions, please contact Justine A. di Giovanni, the attorney assigned to this matter, at (202) 694-1574 or jdigiovanni@fec.gov.

Sincerely,

Ana J. Peña-Wallace

Ana J. Peña-Wallace
Assistant General Counsel

Enclosure:
Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 **RESPONDENTS:** Americans for Parnell Committee and
4 Kayla Glaze in her official capacity
5 as treasurer
6 Richard Sean Parnell

MUR 7940

7 **I. INTRODUCTION**

8 This matter arises from a Complaint alleging that Richard Sean Parnell, a candidate for
9 U.S. Senate for Pennsylvania in the 2022 election cycle, and his principal campaign committee,
10 Americans for Parnell Committee and Kayla Glaze in her official capacity as treasurer (the
11 “Committee”), converted campaign funds to personal use when the Committee purchased books
12 authored by Parnell and promoted those books on its social media accounts. The Response
13 argues that the purchase and promotion of the books conformed to guidance issued by the
14 Commission in advisory opinions — that is, the books were purchased for campaign purposes at
15 fair market value; Parnell did not receive any income or royalties from the purchase; and the
16 promotion of the books on the Committee’s social media was *de minimis*.

17 As explained below, the Committee’s purchase of the books was apparently for fair
18 market value, a reasonable number of them were given to contributors and supporters, the
19 purchase was excluded from any current or future royalty calculations, and Parnell did not
20 receive any income from the sale of books to the Committee. Therefore, the Commission finds
21 no reason to believe that the Committee’s purchase of Parnell’s books resulted in the conversion
22 of campaign funds to personal use. Further, the Committee’s promotion of the books on its
23 social media is *de minimis*, and pursuing the related violation does not appear to be worth further
24 expenditure of the Commission’s limited resources. Therefore, the Commission exercises its

1 prosecutorial discretion to dismiss the allegation that the Committee’s promotion of Parnell’s
2 books on its social media accounts resulted in the conversion of campaign funds to personal use.¹

3 **II. FACTUAL BACKGROUND**

4 Richard Sean Parnell was a candidate for U.S. Senate for Pennsylvania in the 2022
5 election cycle.² The Committee is his principal campaign committee.³ Parnell is the author of
6 five books published by HarperCollins Publishers, including *Outlaw Platoon* and *Left for Dead*.⁴
7 *Left for Dead* was released on September 7, 2021, during Parnell’s candidacy.⁵

8 Citing the Committee’s disclosure reports, the Complaint identifies \$2,803.54 in
9 disbursements from the Committee to “Harper Collins Publishing [*sic*]” for “Donor Mementos”
10 that the Complaint infers were for books written by Parnell.⁶ The Complaint notes that,
11 according to Parnell’s 2021 Senate Financial Disclosure, Parnell received \$96,811 of income

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

² Richard Sean Parnell, Amended Statement of Candidacy at 1 (July 28, 2021), <https://docquery.fec.gov/pdf/480/202107289452144480/202107289452144480.pdf>. On November 22, 2021, after the Complaint was filed but prior to the primary election, Parnell suspended his campaign. Sara Murray & Michael Warren, *Republican Sean Parnell Suspends Candidacy for Pennsylvania Senate Seat*, CNN (Nov. 22, 2021), <https://www.cnn.com/2021/11/22/politics/sean-parnell-suspends-senate-campaign/index.html>; Resp. at 1 (Dec. 20, 2021) (“Mr. Parnell suspended his campaign for Senate on November 22, 2021.”); *see generally* Compl. (Oct. 29, 2021) (referring to Parnell as an active candidate).

³ Am. for Parnell Comm., Amended Statement of Organization at 1 (July 27, 2021), <https://docquery.fec.gov/pdf/169/202107279452132169/202107279452132169.pdf>.

⁴ Compl. at 2 (citing *Search Results: Sean Parnell*, HARPERCOLLINS PUBLISHERS, <https://www.harpercollins.com/search?q=sean+parnell> (last visited Jan. 19, 2023)).

⁵ *Id.*, Ex. C; *Left for Dead*, HARPERCOLLINS PUBLISHERS, <https://www.harpercollins.com/products/left-for-dead-sean-parnell?variant=33031637499938> (last visited Jan. 19, 2023).

⁶ Compl. at 2. After the Complaint was filed, the Committee reported making another \$2,976.65 in disbursements to HarperCollins Publishing. *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00724914&recipient_name=harper+collins&two_year_transaction_period=2022 (last visited Jan. 19, 2023) (reflecting disbursements to “Harper Collins Publishing [*sic*]” for “donor mementos”).

1 from “royalties” or “profits on sale of books” over the last decade.⁷ The Complaint alleges that
2 “there is no indication” that the publisher either donated royalties associated with the
3 Committee’s purchase of Parnell’s books to charity or excluded the purchase from the
4 calculation of Parnell’s royalties.⁸ Thus, according to the Complaint, Parnell and the Committee
5 converted campaign funds to personal use because Parnell received royalties on the Committee’s
6 book purchases.⁹

7 The Complaint further alleges that the Committee impermissibly promoted Parnell’s
8 books with “at least” 25 posts on social media.¹⁰ For example, the Committee’s Twitter
9 account¹¹ reposted a September 7, 2021 tweet by Derek Hunter, a radio host, reading in relevant
10 part, “Do yourself a favor and pick up @SeanParnellUSA’s latest Eric Steele book, out today.”¹²
11 The Complaint further alleges that some of the Committee’s social media posts include “custom-
12 designed countdown graphics to [Parnell’s] latest book’s release,” and infers that “substantial
13 campaign staff time and campaign resources” were used to create them.¹³ The Complaint alleges

⁷ RICHARD S. PARNELL, CANDIDATE REPORT (AMENDMENT 1) (Jan. 6, 2022). Senate candidate financial disclosures are accessible online. *See Financial Disclosures*, U.S. SENATE, <https://efdsearch.senate.gov/search> (search for last name: Parnell; report type: annual).

⁸ Compl. at 5.

⁹ *Id.*

¹⁰ *Id.* at 3.

¹¹ The Respondents’ joint Response asserts, and the Commission therefore assumes, that the social media accounts at issue in this matter belong to the Committee and not to Parnell individually. Resp. at 2 (“[T]he Committee has also posted a limited amount of book-related content to each of its social media channels.”).

¹² *Id.* at 3; *id.*, Ex. B; Derek Hunter (@derekahunter), TWITTER (Sept. 7, 2021, 11:25 AM), <https://twitter.com/derekahunter/status/1435263029092962304> (showing seven retweets including by the Committee’s Twitter account). The tweet links to the Amazon listing for Parnell’s book, *Left for Dead*, which notes that the book is the fourth in a series about character “Eric Steele.”

¹³ Compl. at 6.

1 that the number of posts exceeds what the Commission has considered *de minimis* and that the
2 posts entailed “substantial campaign staff time and campaign resources.”¹⁴

3 The Response argues that the Committee’s actions were “in full compliance with” the
4 Commission’s guidance issued in its advisory opinions.¹⁵ Specifically, the Response asserts that
5 the Committee purchased 240 copies of *Outlaw Platoon*, one of Parnell’s books, “to distribute to
6 donors and supporters and for related campaign activities.”¹⁶ The Response further asserts that
7 the books were purchased at fair market value and that the “sales were excluded from the
8 calculation of royalties that otherwise accrue” to Parnell under the publication agreement, and
9 that Parnell “did not receive any payments or other form of income whatsoever” from the
10 Committee’s purchase.¹⁷ The Response also states that the Committee’s promotion of the books
11 on its social media accounts was *de minimis* “in both amount and cost” and that promotional
12 material constituted 2.7% of its Twitter posts and 3.7% of its Facebook posts, and only four of
13 hundreds posts on Gettr, another social media platform, “since the commencement of Parnell’s
14 candidacy.”¹⁸

¹⁴ *Id.* at 5-6.

¹⁵ Resp. at 1 (citing Advisory Opinion 2014-06 (Ryan) (“AO 2014-06”); Advisory Opinion 2011-02 (Brown) (“AO 2011-02”); Advisory Opinion 2006-07 (Hayworth) (“AO 2006-07”).

¹⁶ *Id.* at 2. The Committee reported disbursements of \$2,803.54 for 240 books in July and September, 2021, resulting in a purchase price of \$11.69 per book. The most recent list price for the paperback version is \$13.59. See *Outlaw Platoon*, HARPERCOLLINS PUBLISHERS, <https://www.harpercollins.com/products/outlaw-platoon-sean-parnelljohn-bruning?variant=32207492907042> (last visited Jan. 19, 2023).

¹⁷ Resp. at 2.

¹⁸ *Id.* at 4; see also *id.* at 2 (“Specifically, as overviewed in the Complaint, this included nine of 324 total Twitter posts, twelve of 324 total Facebook posts, and four Gettr posts. It is important to note, however, that several of these posts were not original content developed and posted by the Committee; rather, they were the result of ‘re-Tweets’ or other reposts of third-party users’ unique content.” (citation omitted)).

1 III. LEGAL ANALYSIS

2 Under the Act and Commission regulations, an authorized committee may spend its funds
3 to finance activities “in connection with the [candidate’s] campaign for Federal office,” and the
4 Commission has determined that a candidate and the candidate’s campaign committee have wide
5 discretion in making expenditures to influence the candidate’s election.¹⁹ Campaign funds,
6 however, “shall not be converted by any person to personal use,” which is defined as using funds
7 “to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the
8 candidate’s election campaign or individual’s duties as holder of Federal office.”²⁰ In other
9 words, expenses “that would be incurred even if the candidate was not a candidate” are
10 considered personal rather than campaign-related.²¹

11 Examples of *per se* personal use include utility payments, non-campaign related
12 automobile expenses, vacations or other non-campaign-related trips, household food items, and
13 tuition payments not associated with training campaign staff.²² For all other disbursements, the
14 regulation provides that the Commission shall determine on a case-by-case basis whether a given
15 disbursement is personal use by applying the “irrespective test” formulated in the statute.²³
16 Neither the purchase nor promotion of a candidate’s book are codified *per se* uses. Accordingly,
17 the Commission determines “on a case-by-case basis”²⁴ whether such activities constitute

¹⁹ 52 U.S.C. § 30114(a)(1); 11 C.F.R. § 113.2 (providing that campaign funds may be used to “defray[] expenses in connection with a campaign for federal office”); Commission Regulations on Personal Use of Campaign Funds, 60 Fed. Reg. 7867 (Feb. 9, 1995) [hereinafter 1995 Personal Use E&J]; *see also* AO 2011-02; AO 2006-07.

²⁰ 52 U.S.C. § 30114(b). Permitted uses of campaign funds include, among other things, charitable donations and any other lawful purpose that is not personal use. *Id.* § 30114(a)(1)-(6); *see also* 11 C.F.R. § 113.2.

²¹ 1995 Personal Use E&J at 7863.

²² 52 U.S.C. § 30114(b)(2); 11 C.F.R. § 113.1(g)(1)(i).

²³ 11 C.F.R. § 113.1(g)(1)(ii).

²⁴ *Id.* § 113.1(g)(1)(i), (ii).

1 personal use, and “[i]f the candidate can reasonably show that the expenses at issue resulted from
2 campaign or officeholder activities, the Commission will not consider the use to be personal
3 use.”²⁵

4 **A. The Commission Finds No Reason to Believe that the Committee’s**
5 **Disbursements for Purchasing Copies of *Outlaw Platoon* Constituted**
6 **Personal Use**

7 The purchase of a candidate’s book is not one of the *per se* personal uses listed in the Act
8 and Commission regulations.²⁶ However, the Commission has issued several advisory opinions
9 addressing questions surrounding campaign committees purchasing copies of candidates’ books.
10 In those opinions, the Commission has examined the details of the proposed purchases and
11 whether the candidates derived a personal financial benefit from the transaction.²⁷ The
12 Commission concluded in these advisory opinions that, where the purchase of a candidate’s book
13 was for distribution to the committees’ supporters in quantities limited to that purpose, campaign
14 funds were being used “to defray an expense that would not exist irrespective of the campaign”
15 and therefore, the book purchase was “in connection with” a federal election.²⁸

16 The Commission’s advisory opinions concerning committee book purchases also
17 considered whether the candidate received a benefit in the form of royalties as a factor in the
18 personal use analysis, and under the fact patterns presented, determined that no personal use
19 would result from such purchases in instances in which the publisher donated the candidate’s
20 royalties for their campaign’s book purchases directly to a charitable organization that was not

²⁵ 1995 Personal Use E&J at 7863-64.

²⁶ 52 U.S.C. § 30114(b)(2); 11 C.F.R. § 113.1(g)(1)(i).

²⁷ Advisory Opinion 1993-20 (Nighthorse Campbell) (“AO 1993-20”); Advisory Opinion 1995-46 (D’Amato) (“AO 1995-46”); Advisory Opinion 2001-08 (Specter) (“AO 2001-08”); Advisory Opinion 2004-18 (Lieberman) (“AO 2004-18”); AO 2011-02; AO 2014-06.

²⁸ *See, e.g.*, AO 2001-08 at 3; AO 2004-18 at 4; AO 2011-02 at 5; AO 2014-06 at 4.

1 associated with the candidate²⁹ or in instances which otherwise excluded the committees'
2 purchases from the calculation of royalties accruing to the candidate.³⁰

3 Three of the most recent opinions discuss non-receipt of royalties as a key factor in the
4 Commission's personal use analysis. In Advisory Opinion 2001-08 (Specter), the Commission
5 explained that there would be no personal use as result of the committee's purchase of the
6 candidate's book because the purchase would neither result in the candidate receiving income or
7 tax deductions nor "increase [the candidate's] opportunity to receive future royalties," and stated
8 that "[the candidate's] non-receipt of such royalties or other benefits indicates that the sale to the
9 Committee is not, in reality, a device to use the Committee to benefit [the candidate]
10 financially."³¹ In Advisory Opinion 2011-02 (Brown), the Commission explained its rationale in
11 approving the request by quoting the statute and regulations prohibiting personal use and stating
12 that the candidate "may not personally accept royalties for sales of the book to the Committee,
13 even if he then makes charitable contributions equal to that amount . . . [and] must also not
14 receive any personal benefit, tangible or intangible, for the royalties the Publisher donates to
15 charity for the sales of the book to the Committee."³² And in Advisory Opinion 2014-06 (Ryan),
16 citing both the Specter and Brown advisory opinions, the Commission similarly stated that no
17 personal use would result where "all royalties attributable to the committee's purchase would be
18 paid by the publisher to charity; and the committee's purchase would be excluded by the

²⁹ AO 2001-08 (regarding purchases where the royalties were to be donated to charity by publisher);
AO 2011-02 (same); AO 2014-06 (same).

³⁰ AO 1993-20 at 1 (noting that the request stated that the candidate will "receive no royalties or profits from
sale of [the candidate's book]"); AO 1995-46 (noting that the rights to all royalties were assigned by the candidate to
Chaminade High School in Mineola, New York); AO 2004-18 (noting that the candidate waived all potential
royalties from committee purchases by agreement with the publisher).

³¹ AO 2001-08 at 3.

³² AO 2011-02 at 6.

1 publisher from the royalty calculation.”³³ Thus, neither the Act nor Commission regulations
2 expressly prohibit the use of campaign funds to purchase copies of a candidate’s book, and the
3 Commission’s advisory opinions considering a variety of book purchase arrangements indicate
4 that campaign committee book purchases that appear to otherwise pass the irrespective test must
5 also avoid creating a financial benefit for the candidate to be consistent with the Act and
6 Commission regulations concerning personal use.³⁴

7 Here, it appears that the Committee purchased the books from HarperCollins Publishers
8 at fair market value and gave the books to contributors and supporters, therefore using the books
9 for campaign-related activities. First, the Committee represents that it purchased the books at
10 fair market value and the information available regarding the number purchased, cost of the
11 purchases, and retail value of the books tends to support this assertion.³⁵ Second, the number
12 purchased (240) appears to have been a reasonable amount used for the campaign-related
13 purpose of “donor mementos.”³⁶ The Complaint does not allege that the number of copies that
14 the Committee purchased was unreasonably high, nor does any other available information
15 suggest that the Committee purchased an unreasonably high number of copies, particularly in
16 light of a committee’s wide discretion in making expenditures to influence its candidate’s

³³ AO 2014-06 at 5. AO 1993-20 and AO 1995-46 also involved exclusion of committee purchases from royalty calculations, although the Commission did not cite non-receipt of royalties as prominently as a factor in its analysis in those opinions. AO 1993-20 at 1 (noting that the request indicated that the candidate would “receive no royalties or profits from the sale of [his] biography [to the campaign]”); AO 1995-46 at 2 (stating that “[t]he fact that Senator D’Amato will not receive proceeds from the proposed transactions also indicates that personal use of campaign funds will not result”).

³⁴ See AO 1993-20; AO 1995-46; AO 2001-08; AO 2004-18; AO 2011-02; AO 2014-06. .

³⁵ Resp. at 3; *supra* note 16 (calculating that the Committee spent approximately \$11.69 per book).

³⁶ *Supra* note 6 and accompanying text; see also Resp. at 4 (“The books were purchased at fair market value from Harper Collins for distribution to campaign supporters and for use in a campaign contest.”).

1 election.³⁷ Further, the number of books purchased here is consistent with prior, Commission-
2 approved purchases.³⁸

3 It appears that Parnell did not receive any royalties or other income from the Committee's
4 purchase of his book. The Response asserts that "any royalties attributable to the Committee's
5 purchases were excluded from the [publisher's] royalty calculation" and that "[a]ll sales . . . to
6 the Committee were royalty-free."³⁹ The Response also denies that Parnell received "any
7 payments" or "income — royalties or otherwise — from such transactions."⁴⁰ The Complaint
8 bases its allegations on the fact that Parnell generally disclosed receiving royalties in his Senate
9 Financial Disclosure, but the Complaint lacks any details that would tend to contradict the
10 Response's specific denials regarding the Committee's book purchases.⁴¹ Respondents have also
11 asserted that the purchased copies will have no impact on his future potential royalties, and the
12 Commission is aware of no information to the contrary. Accordingly, there is no basis to
13 conclude that any campaign funds were converted to Parnell's personal use.

14 In sum, it appears that the Committee purchased Parnell's books at fair market value;
15 used the books for a campaign-related purpose; the number of books purchased was reasonable
16 for this purpose; Parnell did not receive any payments, income, or royalties from the committee's
17 purchase of the books; and the purchase of the books was excluded from any current or future
18 royalty calculations. The Commission therefore finds no reason to believe that Respondents

³⁷ *Supra* note 19 and accompanying text.

³⁸ AO 2011-02 at 6 (approving purchase of "several thousand" copies of the candidate's book); AO 2004-18 at 2 (approving purchase of "a few hundred" copies of the candidate's book); AO 1995-46 at 1 (approving purchase of "up to several thousand" copies of the candidate's book); AO 1993-20 (approving purchase of "100 copies" of the candidate's book).

³⁹ Resp. at 3.

⁴⁰ *Id.* at 1, 3.

⁴¹ Compl. at 5.

1 converted campaign funds to personal use through the Committee’s purchase of Parnell’s books
2 in violation of 52 U.S.C. § 30114(b).

3 **B. The Commission Dismisses the Allegations that the Committee’s Social**
4 **Media Activity to Promote *Outlaw Platoon* Constituted Personal Use**

5 It is unclear whether the promotion of Parnell’s books on the Committee’s social media
6 was *de minimis*. The Commission has previously concluded that expenses associated with
7 marketing a commercially published book for which a candidate would receive royalties are
8 expenses that would exist irrespective of the candidate’s election or duties as a federal
9 officeholder.⁴² Further, the Commission has concluded that an authorized committee “may post
10 a *de minimis* amount of material promoting” a candidate’s book on the committee’s “website and
11 social media sites at *de minimis* cost” without converting campaign funds to personal use.⁴³ The
12 Commission has determined that “a single sentence, or, at most two sentences of promotional
13 material” on a “substantial” committee website would constitute a small amount of material at *de*
14 *minimis* cost, but that 25% of a website and Facebook and LinkedIn pages and 10% of a Twitter
15 feed would not be *de minimis*. By contrast, the Commission has advised that the use of a larger

⁴² See AO 2014-06 at 7. In AO 2011-02, the Commission wrote that it had “previously determined that the expenses associated with marketing a book that a commercial publisher publishes and for which it pays royalties to the candidate are expenses that would exist irrespective of the candidate’s election campaign or duties as a holder of Federal office. Therefore, the use of an authorized committee’s asset, such as the Committee’s website, to promote the candidate’s book would ordinarily constitute a prohibited personal use.” AO 2011-02 at 6 (internal citations omitted). See also AO 2006-07 at 3; Advisory Opinion 2006-18 at 3 (Granger) (“AO 2006-18”).

⁴³ AO 2011-02 at 6.

1 amount of authorized committee assets to promote a candidate’s book ordinarily would
2 constitute a prohibited personal use of campaign funds.⁴⁴

3 The facts of this matter indicate that the Committee’s promotion of Parnell’s book is
4 between what the Commission has advised is acceptable, *de minimis* promotion and what would
5 not be considered *de minimis*. The Complaint alleges that the Committee posted “nine times on
6 Twitter, 12 times on Facebook, and four times on Gettr” from the date that the Committee filed
7 its statement of organization through the end of Parnell’s candidacy.⁴⁵ The Response asserts that
8 material promoting Parnell’s books on the Committee’s social media accounts constituted 2.7%
9 of its Twitter posts “since the commencement of Mr. Parnell’s candidacy,” 3.7% of its Facebook
10 posts “in the same time frame,” and “a scant four posts out of hundreds on Gettr.”⁴⁶

11 Review of the Committee’s social media accounts confirms that the promotion of
12 Parnell’s books constituted a small percentage of the overall content. Although the Complaint
13 characterizes some of the social media posts as containing “custom graphics” of “countdown
14 clocks,” it appears that the posts in questions are a stock photograph of the book with added text
15 reading, *e.g.*, “2 DAYS,” referring to the days until the book’s release.⁴⁷ While it is unclear

⁴⁴ See AO 2011-02 at 6 (determining that material promoting the candidate’s book comprising up to 25% of the Committee website’s homepage, 25% of the Committee’s Facebook page, 10% of the Committee’s Twitter page, and 25% of the candidate’s LinkedIn page would be more than *de minimis* and therefore prohibited); AO 2014-06 at 7 (determining that adding “one or two sentences” of promotional language to the committee’s website, accompanied by hyperlinks to the publisher’s website or online booksellers, and posting similarly limited information to the Committee’s social media accounts was *de minimis* and would not constitute personal use even though the candidate could receive future royalties); AO 2006-07 at 3 (determining that a *de minimis* amount of promotional language added to the Committee’s website would not constitute personal use even though the candidate would receive royalties from any future book sales); *but see* AO 2006-18 at 3-4 (determining that more than *de minimis* use of the campaign website to promote the candidate’s book was not personal use where the candidate had arranged for all resulting royalties to be donated to charity).

⁴⁵ Compl. at 3.

⁴⁶ Resp. at 4.

⁴⁷ Compl., Ex. C.

1 whether the text was added to the photograph by Parnell, the Committee, or a third party, adding
2 such text to a photograph would likely not require a significant use of campaign resources given
3 current photo-editing technology. Other posts cited by the Complaint were re-posts of content
4 generated by third parties, which similarly would not have used substantial Committee
5 resources.⁴⁸ Further, there is no information that Respondents paid to promote these posts.

6 The posts here, while certainly less than 25% of the Committee's posts on any social
7 media platform, are more than the one or two sentences of a website previously considered to be
8 *de minimis* by the Commission. Nevertheless, given the minimal amount of activity at issue here
9 and the Commission's priorities, the Commission dismisses as a matter of prosecutorial
10 discretion the allegation that Respondents converted campaign funds to personal use through the
11 Committee's promotion of Parnell's books on social media in violation of 52 U.S.C.
12 § 30114(b).⁴⁹

⁴⁸ See Compl., Ex. B.

⁴⁹ *Heckler v. Chaney*, 470 U.S. 821 (1985).