



FEDERAL ELECTION COMMISSION
Washington, DC 20463

BY EMAIL ONLY

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Jessica Furst Johnson
Christine Fort
Holtzman Vogel PLLC
15406 John Marshall Hwy
Haymarket, VA 20169

December 20, 2022

RE: MUR 7941
WinRed, *et al.*

Dear Mses. Johnson and Fort:

On November 5, 2021, the Federal Election Commission ("Commission") notified your clients WinRed and Benjamin Ottenhoff in his official capacity as treasurer of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On December 13, 2022, based on the information provided in the complaint, and information provided by you, the Commission decided to exercise its prosecutorial discretion to dismiss the allegations as to WinRed and Benjamin Ottenhoff in his official capacity as treasurer. The Commission then closed its file in this matter. A copy of the General Counsel's Report, which more fully explains the Commission's decision, is enclosed for your information.

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). If you have any questions, please contact Don Campbell, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Lisa J. Stevenson
Acting General Counsel

Roy Q. Luckett

BY: Roy Q. Luckett
Acting Assistant General Counsel

Enclosure:
General Counsel's Report

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

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3 **ENFORCEMENT PRIORITY SYSTEM**
4 **DISMISSAL REPORT**

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6 **MUR:** 7941

Respondent: WinRed and Benjamin
Ottenhoff in his official
capacity as treasurer

10 **Complaint Receipt Date:** November 3, 2021

11 **Response Date:** December 20, 2021

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13 **EPS Rating:**

14
15 **Alleged Statutory**

52 U.S.C. § 30124(b);

16 **Regulatory Violations:**

11 C.F.R. § 110.16(b)

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18 The Complaint alleges that WinRed and Benjamin Ottenhoff in his official capacity as
19 treasurer (“WinRed”), a political committee that operates as an online fundraising platform, charged
20 Complainants’ mother’s credit card without approval for \$6,712.99 in recurring contributions to
21 multiple candidate committees, joint fundraising committees, and independent expenditure-only
22 political committees between May 2020 and April 2021.¹ WinRed ultimately refunded \$1,220 of
23 the total contributions but Complainants on behalf of their mother have sought additional refunds
24 from WinRed and received correspondence from WinRed directing them to contact the recipient
25 committees directly to request refunds.²

26 In response, WinRed asserts that the Complaint does not allege any violation of the Act or
27 Commission regulations.³ The Response further states that all contributions were made by the
28 donor voluntarily and were collected and transmitted by WinRed in accordance with applicable law
29 and WinRed policy, and that after the donor contacted WinRed, WinRed addressed the donor’s

¹ Compl. at 1, 3 (Nov. 3, 2021).

² *Id.* at 3. Complainants state that they have also filed a local police report, disputed the charges with their mother’s credit card company, and submitted a complaint to the Better Business Bureau. *Id.* at 1, 2.

³ WinRed Resp. at 1 (Dec. 20, 2021).

1 concerns promptly, including issuing refunds that WinRed asserts were not legally required.⁴ The
2 Response also states that once contacted by the donor, WinRed addressed her concerns to the extent
3 possible and provided additional information on seeking refunds from the committees that received
4 the contributions at issue.⁵

5 Based on its experience and expertise, the Commission has established an Enforcement
6 Priority System using formal, pre-determined scoring criteria to allocate agency resources and
7 assess whether particular matters warrant further administrative enforcement proceedings. These
8 criteria include (1) the gravity of the alleged violation, taking into account both the type of activity
9 and the amount in violation; (2) the apparent impact the alleged violation may have had on the
10 electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in
11 potential violations and other developments in the law. This matter is rated as low priority for
12 Commission action after application of these pre-established criteria. Given that low rating, and the
13 low dollar amount involved, we recommend that the Commission dismiss the Complaint consistent
14 with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and
15 use of agency resources.⁶ We also recommend that the Commission close the file as to all

⁴ *Id.* at 1, 4. Specifically, the Response states that the donor made 43 contributions to federal candidates and committees through WinRed between May 3, 2020, and April 23, 2021, including 12 standard, one-time contributions, 24 recurring contributions, four "additional contributions," and three "pledge contributions." *Id.* at 3.

⁵ *Id.* The Response also states that six contributions were refunded to the donor after she had contacted WinRed on April 27, 2021, stating that the only active recurring contribution at the time was cancelled, and three contributions made within 90 days of that time of contact were refunded.

⁶ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

1 Respondents and send the appropriate letters.

2 Lisa J. Stevenson
3 Acting General Counsel
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6 Charles Kitcher
7 Associate General Counsel
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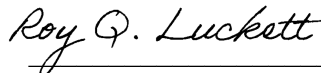
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10 9/29/2022

11 Date

BY:



Claudio J. Pavia
Deputy Associate General Counsel

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Roy Q. Luckett
Acting Assistant General Counsel

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Donald E. Campbell
Attorney

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