



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

August 26, 2024

VIA ELECTRONIC MAIL
AND UPS SIGNATURE REQUESTED

Theodore Roberts

[REDACTED]

Burlington, KY 41005

[REDACTED]

RE: MUR 7997

Dear Mr. Roberts,

On July 23, 2024, the Federal Election Commission reviewed the allegations in your complaint dated May 9, 2022, and, on the basis of the information provided in your complaint and information provided by the respondents voted to:

- 1) Dismiss the allegation that Wirth for Congress and Christopher Wirth in his official capacity as treasurer failed to report an expenditure in violation of 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.3 with respect to the disbursement to Cameo for a video purchase;
- 2) Dismiss the allegation that Wirth for Congress and Christopher Wirth in his official capacity as treasurer failed to report to report an in-kind contribution in violation of 52 U.S.C. § 30104(b) and 11 C.F.R. §§ 104.3(a) and 104.13(a), and accepted an excessive or prohibited contribution in violation of 52 U.S.C. §§ 30116(f) and 30118(a) and 11 C.F.R. § 110.9 with respect to the use of a party van;
- 3) Dismiss the allegation that Claire Wirth accepted an excessive or prohibited contribution in violation of 52 U.S.C. §§ 30116(f) and 30118(a) and 11 C.F.R. §§ 110.9 and 114.2(d) with respect to the use of a party van;
- 4) Dismiss the allegation that Wirth for Congress and Christopher Wirth in his official capacity as treasurer failed to report an expenditure in violation of 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.3 with respect to a disbursement to a campaign employee;
- 5) Dismiss the allegation that Wirth for Congress and Christopher Wirth in his official capacity as treasurer failed to use the correct disclaimer in violation of

52 U.S.C. § 30120(a) and 11 C.F.R. §§ 110.11(a)(1), (b)(1), (c)(1)-(2) with respect to a newspaper advertisement;

- 6) Dismiss the allegation that Wirth for Congress and Christopher Wirth in his official capacity as treasurer failed to report an in-kind contribution in violation of 52 U.S.C. § 30104(b) and 11 C.F.R. §§ 104.3(a) and 104.13(a), and accepted an excessive contribution in violation of 52 U.S.C. § 30116(f) and 11 C.F.R. § 110.9 with respect to the transfer of a Facebook account from Christopher Wirth;
- 7) Dismiss the allegation that Christopher Wirth made an excessive contribution to Wirth for Congress and Christopher Wirth in his official capacity as treasurer in violation of 52 U.S.C. § 30116(a)(1)(A) and 11 C.F.R. § 110.1(b) with respect to the transfer of a Facebook account;
- 8) Dismiss the allegation that Claire Wirth in her role as candidate of the Committee accepted an excessive contribution in violation of 52 U.S.C. § 30116(f) and 11 C.F.R. § 110.9 with the transfer of a Facebook account from Christopher Wirth; and
- 9) Dismiss the allegations that Claire Wirth failed to report to report an in-kind contribution in violation of 52 U.S.C. § 30104(b) and 11 C.F.R. §§ 104.3(a) and 104.13(a) because she was the candidate not the treasurer and therefore had no personal reporting obligations.

Accordingly, the Commission voted to close the file in this matter effective August 26, 2024.

Documents related to the case will be placed on the public record today. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). Any applicable Factual and Legal Analysis or Statements of Reasons available at the time of this letter's transmittal are 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 within 60 days of the dismissal, which became effective today. *See* 52 U.S.C. § 30109(a)(8).

Sincerely,

Lisa J. Stevenson
Acting General Counsel



BY: Aaron Rabinowitz
Assistant General Counsel

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 RESPONDENTS: Wirth for Congress and Christopher Wirth MUR 7997
4 in his official capacity as treasurer
5 Claire Wirth
6 Christopher Wirth

7 **I. INTRODUCTION**

8 This matter arises from a Complaint alleging that Claire Wirth, a 2022 candidate in
9 Kentucky's 4th Congressional District, and her principal campaign committee, Wirth for
10 Congress and Christopher Wirth in his official capacity as treasurer (the "Committee"), violated
11 provisions of the Federal Election Campaign Act of 1971, as amended (the "Act"), and the
12 Commission's regulations in the following ways: (1) by failing to report the purchase of a
13 Cameo video in which political commentator Tomi Lahren wishes Mrs. Wirth "good luck" on
14 her upcoming run; (2) by failing to report an in-kind contribution from an unnamed third party
15 who provided Mrs. Wirth with transportation in a rental van to attend and depart a political party
16 event and in which Mrs. Wirth conducted a livestream for her campaign; (3) by failing to report a
17 payment to a campaign employee that was publicly shown on Venmo with the purpose of
18 "Freedom Fest" and with the amount unspecified; (4) by failing to include a proper disclaimer on
19 a newspaper advertisement which used "Paid for by Candidate" rather than "Paid for by Wirth
20 for Congress"; and (5) by failing to report an in-kind contribution for the transfer of a Facebook
21 page to the Committee from Christopher Wirth, the candidate's husband, who allegedly ran the
22 Facebook page under the name "Thank You Trump," prior to its transfer.

23 The Responses by the Committee and Mrs. Wirth, which are identical, both generally
24 deny the allegations. First, regarding the Cameo video, the Responses do not address who
25 purchased the video but only state that any relationship between Mrs. Wirth and Lahren "is a

1 personal matter” and that Mrs. Wirth “is a fan of Tomi’s and frequently shares her content.”¹
2 Second, regarding the party van, the Responses state that the 10-person van, which they imply
3 was rented by an unnamed third party, had extra space available, concluding that “no cost or in-
4 kind donation applied.”² Third, regarding the Venmo payment to a campaign employee, the
5 Responses assert that Mrs. Wirth paid the employee for “a few homemade shirts, not relating to
6 Mrs. Wirth’s campaign,” on October 10, 2021, and that the employee did not start working for
7 the campaign until April 2022.³ Fourth, regarding the newspaper advertisement, the Responses
8 assert that the disclaimer was “worded by the local paper” and that in any event, “Paid for by
9 Candidate” offers no ambiguity as to who paid for it.⁴ Finally, regarding the Facebook page, the
10 Responses state that Facebook bans the sale of pages, although they do not specify whether the
11 page was nonetheless sold or transferred or otherwise made available to the Committee, and
12 assert, without providing specifics, that the page was “abandoned” and “had no monetary
13 value.”⁵ Mr. Wirth did not provide a response in his personal capacity addressing the allegations
14 made in the Complaint.

15 Given the minimal amounts in violation, the Commission dismisses the following
16 allegations in the exercise of its prosecutorial discretion: (1) regarding the Cameo video,
17 dismisses the allegation that Wirth for Congress violated 52 U.S.C. § 30104(b) and 11 C.F.R.
18 § 104.3 by failing to disclose a disbursement and/or an in-kind contribution from Mrs. Wirth
19 who may have paid for the video with her personal funds; (2) regarding the van rental, dismisses

¹ Wirth for Congress Resp. at 1 (July 1, 2022); Claire Wirth Resp. at 1 (Aug. 5, 2022).

² Wirth for Congress Resp. at 1; Claire Wirth Resp. at 1.

³ Wirth for Congress Resp. at 1; Claire Wirth Resp. at 1.

⁴ Wirth for Congress Resp. at 1; Claire Wirth Resp. at 1.

⁵ Wirth for Congress Resp. at 1; Claire Wirth Resp. at 1.

1 the allegations that Wirth for Congress violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.3 by
2 failing to disclose an in-kind contribution and violated 52 U.S.C. §§ 30116(f) and 30118(a) and
3 11 C.F.R. §§ 110.9 and 114.2(d) by knowingly accepting an excessive or prohibited corporate
4 contribution; (3) regarding the transfer of the Facebook page, dismisses the allegations that Wirth
5 for Congress violated 52 U.S.C. § 30104(b) and 11 C.F.R. §§ 104.3(a) and 104.13(a) by failing
6 to report an in-kind contribution and violated 52 U.S.C. § 30116(f) and 11 C.F.R. § 110.9 by
7 knowingly accepting an excessive contribution; and (4) also regarding the Facebook page,
8 dismisses the allegation that Christopher Wirth violated 52 U.S.C. § 30116(a)(1)(A) and
9 11 C.F.R. § 110.1(b) by making an excessive contribution.

10 Regarding the Venmo payment, given the un rebutted statements that the payment was not
11 related to an election, the Commission dismisses the allegation that Wirth for Congress violated
12 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.3 by failing to disclose both a payment to a campaign
13 employee and an in-kind contribution from Mrs. Wirth to the Committee resulting from the
14 payment. Regarding the newspaper advertisement, because there would likely not be confusion
15 as to who paid for the newspaper advertisement given the disclaimer's wording, the Commission
16 exercises its prosecutorial discretion and dismisses the allegation that Wirth for Congress
17 violated 52 U.S.C § 30120(a) and 11 C.F.R. § 110.11(a)(l), (b)(l), (c)(1)-(2) by not including a
18 proper disclaimer on it. Finally, the Commission dismisses the allegation that Mrs. Wirth
19 violated 52 U.S.C. § 30104(b) and 11 C.F.R. §§ 104.3(a) and 104.13(a) by failing to report the
20 alleged payments and in-kind contributions because she was not the treasurer of the Committee
21 and therefore had no personal reporting obligations.

1 **II. FACTUAL AND LEGAL ANALYSIS**

2 Wirth for Congress is the principal campaign committee for Claire Wirth; Christopher
3 Wirth is its treasurer.⁶ Claire Wirth was a candidate in the 2022 election cycle for Kentucky’s
4 4th Congressional District.⁷ Wirth lost the 2022 Republican primary election on May 17, 2022.⁸

5 **A. Relevant Law**

6 Political committees must regularly submit to the Commission reports that accurately
7 disclose their, *inter alia*, receipts and disbursements.⁹ A principal campaign committee’s reports
8 must disclose the total amount of receipts and disbursements during the reporting period.¹⁰
9 Further, for contributors whose aggregate contributions exceed \$200 during an election cycle for
10 an authorized committee, the committee shall disclose the date and amount of each contribution
11 as well as the contributor’s identifying information.¹¹ And, for persons whose aggregate
12 disbursements received exceed \$200 during an election cycle for an authorized committee, the
13 committee shall disclose the date, amount of the disbursement, the name of the person, and a
14 purpose for the expenditure.¹²

15 The term “contribution” includes “any gift, subscription, loan, advance, or deposit of
16 money or anything of value made by any person for the purpose of influencing any election for

⁶ Wirth for Congress, Statement of Organization (Feb. 6, 2021),
<https://docquery.fec.gov/pdf/319/202102169428278319/202102169428278319.pdf>.

⁷ Claire Wirth, Statement of Candidacy (Feb. 24, 2021),
<https://docquery.fec.gov/pdf/890/202102249428822890/202102249428822890.pdf>.

⁸ 2022 Primary Election Results, COMMONWEALTH OF KENTUCKY: STATE BOARD OF ELECTIONS,
<https://elect.ky.gov/results/2020-2029/Documents/2022%20Primary%20Election%20results.pdf> (last visited May
20, 2024).

⁹ 52 U.S.C. § 30104(b)(2)-(7); 11 C.F.R. § 104.3(a)(3)-(4), (b)(2), (4).

¹⁰ 52 U.S.C. § 30104(b)(2), (4); 11 C.F.R. § 104.3(a), (b).

¹¹ 52 U.S.C. § 30104(b)(3)(a); 11 C.F.R. § 104.3(a)(4)(i).

¹² 52 U.S.C. § 30104(b)(5)(a); 11 C.F.R. § 104.3(b)(4)(i).

1 Federal office.”¹³ In defining a “contribution,” the Act uses a broadly-encompassing phrase,
2 “anything of value,”¹⁴ which, under the Commission’s regulation, includes “all in-kind
3 contributions” and “the provision of any goods or services” at no charge or at a reduced charge.¹⁵

4 The amount of an in-kind contribution shall be equal to the usual and normal value on the
5 date received, and each in-kind contribution shall be reported as a contribution in accordance
6 with 11 C.F.R. 104.3(a).¹⁶ Further, except for limited exceptions, in-kind contributions shall also
7 be reported as an expenditure at the same usual and normal value and reported on the appropriate
8 expenditure schedule, in accordance with 11 C.F.R. § 104.3(b).¹⁷

9 For the 2022 election cycle, an individual could not make and a principal campaign
10 committee could not knowingly accept contributions exceeding \$2,900 per election.¹⁸ A
11 candidate who receives a contribution or makes disbursements in connection with his or her
12 campaign will be considered an agent of their campaign.¹⁹ Additionally, candidates may make
13 unlimited expenditures from personal funds in support of their own campaigns.²⁰ However, the
14 Act prohibits corporations from making contributions to federal candidates or their committees

¹³ 52 U.S.C. § 30101(8)(A)(i).

¹⁴ *Id.*

¹⁵ 11 C.F.R. § 100.52(d)(1).

¹⁶ 11 C.F.R. § 104.13(a)(1).

¹⁷ *Id.* § 104.13(a)(2).

¹⁸ 52 U.S.C. § 30116(a)(1)(A), (f); 11 C.F.R. §§ 110.1(b); 110.9; *see also* Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold, 86 Fed Reg. 7867, 7869 (Feb. 2, 2021).

¹⁹ 11 C.F.R. § 101.2(a).

²⁰ 11 C.F.R. § 110.10; *see id.* § 100.33 (defining personal funds); *Buckley v. Valeo*, 424 U.S. 1, 54 (1976) (“[T]he First Amendment simply cannot tolerate [the Act’s] restriction upon the freedom of a candidate to speak without legislative limit on behalf of his own candidacy. We therefore hold that [the Act’s] restriction on a candidate’s personal expenditures is unconstitutional.”).

1 and corporate officers and directors from consenting to such contributions.²¹ It also prohibits
 2 federal candidates or their committees from knowingly accepting corporate contributions.²²

3 Additionally, the Act and Commission regulations require all public communications by
 4 a political committee to have a disclaimer that clearly identifies the political committee that paid
 5 for the communication.²³ The term “public communication” means “a communication by means
 6 of any broadcast, cable, or satellite communication, *newspaper*, magazine, outdoor advertising
 7 facility, mass mailing, or telephone bank to the general public, or any other form of general
 8 public political advertising.”²⁴ In the case of a communication that is paid for by a candidate, an
 9 authorized committee of a candidate, or an agent of the foregoing, the disclaimer must clearly
 10 state that the communication has been paid for by the authorized committee.²⁵

11 **B. The Commission Dismisses as a Matter of Prosecutorial Discretion the**
 12 **Allegation that the Committee Violated 52 U.S.C. § 30104(b) and 11 C.F.R.**
 13 **§ 104.3 by Failing to Disclose the Disbursement of a Cameo Video and/or**
 14 **Resulting In-Kind Contribution from Mrs. Wirth**

15 The Complaint alleges that Mrs. Wirth²⁶ or the Committee purchased a video of Lahren
 16 for her campaign through Cameo,²⁷ which was not reported on the Committee’s reports of

²¹ 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(e).

²² 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(d).

²³ 52 U.S.C. § 30120(a); 11 C.F.R. § 110.11(a)(1), (b)(1), (c)(1)-(2).

²⁴ 52 U.S.C. § 30101(22) (emphasis added); *see also* 11 C.F.R. § 100.26.

²⁵ 11 C.F.R. § 110.11(b)(1).

²⁶ The Complaint names Mrs. Wirth individually as well as the Committee for alleged reporting violations. The Act and Commission regulations require that each treasurer of a political committee file regular reports with the Commission and sign each report. 52 U.S.C. § 30104(a)(1), (b); 11 C.F.R. §§ 104.1(a), 104.3(a), (b). Mrs. Wirth was not treasurer of the Committee, and as a result these reporting obligations do not apply to her. The Commission therefore dismisses the reporting allegations as to Mrs. Wirth.

²⁷ Compl. at 1. Cameo describes itself as “the leading marketplace connecting fans directly with tens of thousands of pop culture personalities in the form of customized video messages, live video calls and direct messages.” CAMEO. *What is Cameo?*, CAMEO.COM, <https://help.cameo.com/en/support/solutions/articles/43000661300-what-is-cameo-> (last visited May 24, 2024).

1 receipts and disbursements.²⁸ The Complaint includes a link to the video which appears to be
2 from Cameo; the start of the video is a screenshot of Lahren’s Cameo page and then segues into
3 a video of Lahren in the same outfit and background as one of the stills on her page.²⁹ In the
4 video, Lahren addresses “Claire” and wishes her luck on her upcoming run.³⁰ The Complaint
5 states that the Committee posted the video but does not identify on which platform.³¹ The
6 Responses do not address whether Mrs. Wirth or the Committee paid Cameo for the video but
7 state that any relationship between Mrs. Wirth and Lahren “is a personal matter.”³² Prices listed
8 on Cameo at the time of purchase reflect that a personal video from Lahren costs \$95 and a video
9 for a business costs \$3,000.³³

10 It appears that the Cameo video featuring Lahren was posted on social media by the
11 campaign, but it is unclear who purchased the video or how much it cost. The amount in
12 violation for not reporting a Cameo purchase, in this instance, would presumably be \$95 or
13 \$3,000, depending if it was a personal video or business video.³⁴ Even if Mrs. Wirth or the
14 Committee purchased a business video, resulting in an amount in violation of \$3,000, however,

²⁸ Compl. at 1.

²⁹ Video: Good Luck Claire from Tomi Lahren at 00:07 (uploaded to Google Drive May 9, 2022), <https://drive.google.com/file/d/14um3WCRwzBiu9kN471CqUMW3qKJOFioG/view>.

³⁰ *Id.* Whereas the Complaint describes the video as containing an endorsement, a review of the video shows that Lahren does not specifically endorse Wirth but rather makes general statements about the conservative movement, hoping that “Claire” agrees with them and then offers her luck.

³¹ Compl. at 1.

³² Wirth for Congress Resp. at 1; Claire Wirth Resp. at 1.

³³ *Tomi Lahren- Bio, Birthday, Age, Video: Cameo*, CAMEO.COM, <https://www.cameo.com/tomilahren> (last visited May 20, 2024); *Tomi Lahren- Bio, Birthday, Age, Video: Cameo for Business*, CAMEO.COM, <https://www.cameo.com/business/talent/tomilahren> (last visited May 20, 2024).

³⁴ *Tomi Lahren- Bio, Birthday, Age, Video: Cameo*, CAMEO.COM, <https://www.cameo.com/tomilahren> (last visited May 20, 2024); *Tomi Lahren- Bio, Birthday, Age, Video: Cameo for Business*, CAMEO.COM, <https://www.cameo.com/business/talent/tomilahren> (last visited May 20, 2024).

1 the Commission does not pursue the matter as the Commission has previously exercised its
2 prosecutorial discretion in dismissing matters of similar amounts.³⁵

3 The Commission thus exercises its prosecutorial discretion and dismisses the allegations
4 that the Committee failed to report an expenditure and/or an in-kind contribution from Mrs.
5 Wirth in violation of 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.3 with respect to the Cameo
6 video.³⁶

7 **C. The Commission Dismisses as a Matter of Prosecutorial Discretion the**
8 **Allegation that the Committee Violated 52 U.S.C. § 30104(b) and 11 C.F.R.**
9 **§ 104.3 by Failing to Disclose an In-Kind Contribution and Violated**
10 **52 U.S.C. §§ 30116(f) and 30118(a) and 11 C.F.R. §§ 110.9 and 114.2(d) by**
11 **Knowingly Accepting an Excessive or Prohibited Corporate Contribution for**
12 **the Use of a Party Van**

13 The Complaint alleges that the Committee failed to report an expense for the use of a
14 party van to attend the Boone County Republican Party’s Christmas Gala.³⁷ The Complaint
15 provides a photo of Mrs. Wirth entering the van and a link to a livestream she conducted from
16 the van.³⁸ The Complaint describes the video as a “campaign livestream” but it is unclear
17 through which platform the video was streamed or who provided the party van for the event.³⁹
18 The Complaint cites to a website for a bus rental company, asserting that “[p]arty van rentals are

³⁵ Gen. Counsel’s Rpt. (“GCR”), MUR 8039 (Becker for Congress) (EPS Dismissal) (recommending dismissal of a complaint regarding \$14,356.58 in in-kind contributions that failed to provide the names of vendors or ultimate payees who had provided services); Certification (“Cert.”) ¶ 1 (Jan. 12, 2023), MUR 8039 (Becker for Congress) (voting to dismiss complaint pursuant to prosecutorial discretion); GCR at 3-4, MUR 7077 (Ellson for Congress) (EPS Dismissal) (recommending dismissal of a complaint regarding failure to report a \$10,440 ballot access fee); Cert ¶ 1 (June 26, 2017), MUR 7077 (Ellson for Congress) (voting to dismiss the allegations).

³⁶ *See Heckler v. Chaney*, 470 U.S. 821, 831 (1985).

³⁷ Compl. at 1-2.

³⁸ *Id.* at 1.

³⁹ *Id.* at 1-2.

1 rather expensive,” although the cited page does not contain any prices.⁴⁰ The Responses imply
2 that an unnamed third party provided the van, which held 10 people, and that the van simply had
3 extra space available that Mrs. Wirth used in connection with a political event and assert that “no
4 cost or in-kind donation applied.”⁴¹ The Responses also indicate that the tickets for the event
5 were purchased by the Committee and reported on its disclosure reports.⁴²

6 The available information suggests that the transportation provided to Mrs. Wirth only
7 occurred on one night, likely resulting in a minimal in-kind contribution, if any.⁴³ The
8 Commission previously exercised its prosecutorial discretion in dismissing matters where the
9 value of the alleged in-kind contribution was similarly minimal.⁴⁴ It would not be an efficient
10 use of the Commission’s limited resources to pursue this matter and determine the amount of the
11 in-kind contribution here.

12 The Commission therefore exercises its prosecutorial discretion and dismisses the
13 allegation that the Committee failed to report an in-kind contribution in violation of 52 U.S.C. §
14 30104(b) and 11 C.F.R. §§ 104.3(a) and 104.13(a) with respect to the use of a party van.⁴⁵ The
15 Commission also exercises its prosecutorial discretion and dismisses the allegation the

⁴⁰ *Id.* at 2; SANTOS VIP LIMOUSINE, <https://santoslimousine.com/mercedes-benz-sprinter-limo> (last visited June 4, 2024).

⁴¹ Wirth for Congress Resp. at 1; Claire Wirth Resp. at 1.

⁴² Wirth for Congress Resp. at 1; Claire Wirth Resp. at 1; *see also* Wirth for Congress, Amended 2021 Year-End Report at 25 (Apr. 15, 2022), <https://docquery.fec.gov/cgi-bin/fecimg/?202204159499769821> (disclosing disbursement to Ticketleap on November 3, 2021, for “Boone Co. Republican Party Sponsorship”).

⁴³ Compl. at 1; Wirth for Congress Resp. at 1; Claire Wirth Resp. at 1.

⁴⁴ GCR at 4-5, MUR 7077 (Ellson for Congress) (EPS Dismissal) (recommending dismissal of a complaint regarding failure to report \$100 in-kind contribution for fundraiser tickets); Cert. ¶ 2 (June 26, 2017), MUR 7077 (Ellson for Congress) (voting to dismiss the allegations); Factual & Legal Analysis (“F&LA”) at 6-7, MUR 6004 (“Friends of Andrew Concannon aka [sic] Concannon for Congress” *et al.*) (dismissing with admonishment a complaint regarding a candidate committee failing to report an-kind contribution for the use of an electronic sign valued at \$350 provided by a supporter).

⁴⁵ *See Heckler v. Chaney*, 470 U.S. 821, 831 (1985).

1 Committee and Mrs. Wirth knowingly accepted an excessive or prohibited corporate contribution
2 in violation of 52 U.S.C. §§ 30116(f) and 30118(a) and 11 C.F.R. §§ 110.9 and 114.2(d) with
3 respect to the use of a party van.

4 **D. The Commission Dismisses the Allegation that the Committee Violated**
5 **52 U.S.C. § 30104(b) and 11 C.F.R. § 104.3 by Failing to Disclose a**
6 **Disbursement to a Campaign Employee and Resulting In-Kind Contribution**
7 **from Mrs. Wirth**

8 The Complaint alleges that the Committee failed to report a payment from Mrs. Wirth to
9 a campaign employee, Francis Carl Rogers.⁴⁶ The Complaint provides a link to a Venmo
10 transaction from Mrs. Wirth to Rogers that was publicly shown on Venmo on October 10, 2021,
11 with the purpose of “Freedom Fest” for an unspecified amount.⁴⁷ The Responses assert that Mrs.
12 Wirth paid Rogers for “a few homemade shirts, not relating to Mrs. Wirth’s campaign,” on
13 October 10, 2021, and that Rogers did not start working for the campaign until April 2022.⁴⁸

14 There is no information in the record contradicting the representation that the Venmo
15 transaction reflected Mrs. Wirth purchasing homemade shirts from Rogers irrespective of the
16 campaign or that Rogers was not a campaign employee in 2021 when the Venmo transaction
17 occurred.⁴⁹ Other than establishing that a payment from Mrs. Wirth to Rogers occurred and that
18 Rogers later became a Committee staffer, the Complaint does not provide any specific
19 information to suggest that payment was related to Mrs. Wirth’s election. The fact that Rogers

⁴⁶ Compl. at 2.

⁴⁷ *Id.*

⁴⁸ Wirth for Congress Resp. at 1; Claire Wirth Resp. at 1.

⁴⁹ Wirth for Congress Resp. at 1; Claire Wirth Resp. at 1; *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00769596&recipient_name=Roger s&two_year_transaction_period=2022&min_date=01%2F01%2F2021&max_date=12%2F31%2F2022 (last visited May 20, 2023) (reflecting one payment made to Carl Rogers in the 2022 election cycle on March 29, 2022, in the amount of \$2,300 with a description of “Campaign Manager”).

1 later became a staffer does not indicate that payments to him prior to his employment were
2 related to the election.

3 The Commission therefore dismisses the allegation that the Committee failed to report an
4 expenditure and an in-kind contribution from Mrs. Wirth in violation of 52 U.S.C. § 30104(b)
5 and 11 C.F.R. § 104.3 with respect to a disbursement to an employee or an in-kind contribution
6 from Mrs. Wirth to the Committee resulting from the payment.

7 **E. The Commission Exercises its Prosecutorial Discretion and Dismisses the**
8 **Allegation that the Committee Violated 52 U.S.C § 30120(a) and 11 C.F.R.**
9 **§ 110.11(a)(I), (b)(I), (c)(1)-(2) by not Including a Proper Disclaimer on a**
10 **Newspaper Advertisement**

11 The Complaint alleges that the Committee failed to include a proper disclaimer on a
12 newspaper advertisement, which used “Paid for by Candidate” rather than “Paid for by Wirth for
13 Congress.”⁵⁰ The Complaint provides a link to the newspaper advertisement, which includes a
14 Claire Wirth for Congress logo and a disclaimer of “Paid for by Candidate.”⁵¹ The Responses
15 assert that the disclaimer was “worded by the local paper” and that, in any event, “Paid for by
16 Candidate” offers no ambiguity who paid for it.⁵²

17 The newspaper advertisement did not contain the correct disclaimer because it did not
18 provide the Committee’s full name.⁵³ The Commission’s regulations require that for a public
19 communication, such as a newspaper advertisement, a paid for and authorized by a candidate or
20 an authorized committee, the disclaimer “must clearly state that the communication has been

⁵⁰ Compl. at 2.

⁵¹ *Id.*

⁵² Wirth for Congress Resp. at 1; Claire Wirth Resp. at 1.

⁵³ 11 C.F.R. § 110.11(b)(I).

1 paid for *by the authorized political committee.*⁵⁴ However, the advertisement did contain a
2 disclaimer stating that it was “[p]aid for by Candidate,” and the advertisement included a picture
3 of Mrs. Wirth and the Claire Wirth for Congress logo in it, which likely meant viewers would
4 have known who authorized the advertisement.⁵⁵ The Commission has previously exercised its
5 prosecutorial discretion in dismissing cases where a political committee failed to include a
6 correct disclaimer, but information in the advertisement otherwise made clear who was
7 responsible for it.⁵⁶

8 The Commission therefore exercises its prosecutorial discretion and dismisses the
9 allegation the Committee violated 52 U.S.C § 30120(a) and 11 C.F.R. § 110.11(a)(1), (b)(1),
10 (c)(1)-(2) with respect to failing to include the correct disclaimer on a newspaper
11 advertisement.⁵⁷

⁵⁴ *Id.* §§ 110.11(b)(1), 100.26 (definition “public communication” to include a communication “by means of any . . . newspaper”).

⁵⁵ Compl. at 2.

⁵⁶ GCR at 1-2, MUR 7518 (Campaign to Elect Josh McCall, *et al.*) (EPS Dismissal) (recommending dismissal of a complaint regarding failure to provide proper disclaimer on yard signs and newspaper advertisement when yard signs and newspaper advertisement contained the campaign slogan “Josh McCall for All”); Cert. ¶ 1 (Dec. 17, 2018), MUR 7518 (Campaign to Elect Josh McCall, *et al.*) (approving dismissal of complaint as a matter of prosecutorial discretion); GCR at 1-2, MUR 7956 (Cody for Oregon, *et al.*) (EPS Dismissal) (recommending dismissal of a complaint regarding failure to use correct disclaimer on television advertisements due to the advertisement featured the candidate speaking and campaign logo for the candidate likely not confusing who was responsible for the advertisements); Cert. ¶ 1 (Jan. 12, 2023), MUR 7956 (Cody for Oregon, *et al.*) (approving dismissal of complaint as a matter of prosecutorial discretion).

⁵⁷ *See Heckler*, 470 U.S. at 831.

1 **F. The Commission Exercises its Prosecutorial Discretion and Dismisses the**
2 **Allegations that the Committee Violated 52 U.S.C. § 30104(b) and 11 C.F.R.**
3 **§§ 104.3(a) and 104.13(a) by Failing to Report an In-Kind Contribution and**
4 **Violated 52 U.S.C. § 30116(f) and 11 C.F.R. § 110.9 by Knowingly Accepting**
5 **an Excessive Contribution with Respect to the Transfer of a Facebook**
6 **Account from Christopher Wirth to the Committee and Dismisses the**
7 **Allegation that Christopher Wirth Violated 52 U.S.C. § 30116(a)(1)(A) and**
8 **11 C.F.R. § 110.1(b) by Making an Excessive Contribution**

9 The Complaint raises the allegation that the Committee failed to report an in-kind
10 contribution for the transfer of a Facebook page from Christopher Wirth, the candidate's
11 husband, to the Committee, and also raises the allegation of whether the in-kind contribution
12 would have exceeded the individual contribution limit.⁵⁸ Facebook page "Thank You Trump,"
13 which was created on February 18, 2017, became "Claire Wirth-Congressional Candidate for
14 Kentucky's 4th District" on March 27, 2021, and subsequently became "Claire Wirth" on
15 September 2, 2021 (the page still lists Wirth for Congress as responsible for the page).⁵⁹ The
16 Complaint cites to the Meta Ad Library, which shows that Mr. Wirth personally purchased \$410
17 worth of advertisements prior to the alleged transfer when the page was named "Thank You
18 Trump," which allegedly grew the number of followers to the page.⁶⁰ The Facebook page
19 currently has approximately 17,800 followers, but it is unclear how many followers it had at the
20 time of the alleged transfer.⁶¹ The Responses state that Facebook bans the sale of pages,
21 although they do not specify whether the page was nonetheless sold or transferred or otherwise

⁵⁸ Compl. at 2.

⁵⁹ *Id.* at 2; *Claire Wirth*, FACEBOOK: Page Transparency, https://www.facebook.com/BuilderClaireKY/about_profile_transparency (last visited May 20, 2024) (disclosing page created on Feb. 18, 2017, with the name "Thank You Trump" until changing to "Claire Wirth-Congressional Candidate for Kentucky's 4th District" on March 27, 2021; currently, the name of page is "Claire Wirth," since September 2, 2021).

⁶⁰ Compl. at 2.

⁶¹ *Claire Wirth*, FACEBOOK, <https://www.facebook.com/BuilderClaireKY/> (last visited May 20, 2024).

1 made available to the Committee, and assert, without providing specifics, that the page was
2 “abandoned” and “had no monetary value.”⁶²

3 However, even assuming that the Facebook page had some value at the time of transfer,
4 the amount here is not worth the use of the Commission’s limited resources to pursue. The
5 Facebook page currently has about 17,800 followers, but presumably had fewer followers at the
6 time of transfer in 2021. Additionally, the Committee reported making over \$35,000 worth of
7 purchases to Facebook, which could have increased the number of followers.⁶³ This is compared
8 to the \$410 that Mr. Wirth paid for ads on Facebook before the transfer.

9 Therefore, given the apparently minimal value of the Facebook page and in light of the
10 Commission’s resources that would need to be expended to determine the value, the Commission
11 exercises its prosecutorial discretion and dismisses the allegation that the Committee violated
12 52 U.S.C. § 30104(b) and 11 C.F.R. §§ 104.3(a) and 104.13(a) by failing to report an in-kind
13 contribution and violated 52 U.S.C. § 30116(f) and 11 C.F.R. § 110.9 by knowingly accepting an
14 excessive contribution from Christopher Wirth.⁶⁴ The Commission similarly exercises its
15 prosecutorial discretion and dismisses the allegation that Christopher Wirth violated 52 U.S.C.
16 § 30116(a)(1)(A) and 11 C.F.R. § 110.1(b) by making an excessive contribution to the
17 Committee. Finally, the Commission similarly exercises its prosecutorial discretion and

⁶² Wirth for Congress Resp. at 1; Claire Wirth Resp. at 1.

⁶³ *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00769596&recipient_name=Facebook&two_year_transaction_period=2022&two_year_transaction_period=2024&min_date=01%2F01%2F2021&max_date=12%2F31%2F2024 (last visited May 10, 2024) (reflecting 94 expenditures reported by the Committee to Facebook totaling \$37,471.34).

⁶⁴ *See Heckler*, 470 U.S. at 831-32.

MUR 7997 (Wirth for Congress, *et al.*)

Factual and Legal Analysis

Page 15 of 15

- 1 dismisses the allegation that Claire Wirth violated 52 U.S.C. § 30116(f) and 11 C.F.R. § 110.9
- 2 by accepting an excessive contribution from Christopher Wirth for the Facebook account.