

LAW OFFICES

**Trister, Ross, Schadler & Gold, PLLC**

1666 CONNECTICUT AVENUE, N.W., FIFTH FLOOR

WASHINGTON, D.C. 20009

PHONE: (202) 328-1666

FAX: (202) 204-5946

www.tristerross.com

MICHAEL B. TRISTER  
(1941-2018)

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 GAIL E. ROSS  
 B. HOLLY SCHADLER  
 LAURENCE E. GOLD  
 ALLEN H. MATTISON†  
 DAVID M. WACHTEL\*  
 JESSICA ROBINSON†  
 KAREN A. POST

†ALSO ADMITTED IN MARYLAND

\*ALSO ADMITTED IN  
CALIFORNIA AND MARYLANDKATHY S. STROM+  
Of Counsel+ALSO ADMITTED IN  
NEW YORK AND MARYLANDJOSEPH W. STEINBERG‡  
‡ALSO ADMITTED IN MINNESOTASARAH E. NASON\*  
JOHN O. SAWYKO\*  
\*ALSO ADMITTED IN NEW YORK

January 8, 2021

By email to [cela@fec.gov](mailto:cela@fec.gov)

Federal Election Commission  
 Office of Complaints Examination  
 & Legal Administration  
 Attn: Christal Dennis, Paralegal  
 1050 First Street, NE  
 Washington, DC 20463

Re: RR 20L-26 (Kristine Schanbacher for Congress)

Dear Ms. Dennis:

I write on behalf of Kristine Schanbacher for Congress (the “Committee”) and Kyle Seay in his official capacity as Treasurer<sup>1</sup> (together, the “Respondents”) in response to the Commission’s letter regarding a referral of the Committee to the Office of General Counsel for a possible violation of the Federal Election Campaign Act of 1971, as amended, 52 U.S.C. § 30101, *et seq.* (the “Act”) and the Commission’s implementing regulations. For the reasons set forth below, the Respondents respectfully request that the Commission take no further action with respect to this matter.

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<sup>1</sup> On December 9, 2020, the Committee filed an amended FEC Form 1 (Statement of Organization) with the Commission, disclosing the appointment of Mr. Seay as its Treasurer. Prior to Mr. Seay’s appointment as treasurer, the Committee’s treasurer was Stella Black. Ms. Black, in her official capacity as treasurer, was named as a respondent in the Commission’s letter to the Committee regarding the Committee’s referral to the Office of General Counsel. It is assumed that, consistent with the Commission’s policy on successor treasurers and substitution of treasurers in enforcement action, because the Commission named Ms. Black as respondent in her official capacity, the Commission has substituted Mr. Seay as a respondent because he is the successor to Ms. Black. *See* Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings, FEC, 70 Fed. Reg. 3 at 6 (Jan. 3, 2005) (“When the Commission pursues a current treasurer in his or her official capacity, successor treasurers will be substituted for the predecessor treasurer.”)

## **Statement of Facts**

The Committee is the principal campaign committee of Kristine Schanbacher, a first-time candidate for office who was a candidate for the Democratic nomination for the U.S. House of Representatives in Illinois' 7<sup>th</sup> Congressional District. Ms. Schanbacher lost to the incumbent Member of Congress in the March 17, 2020 primary election.

During the course of the election campaign, the Committee accepted \$36,250.00 in general election contributions. The Committee, due to a misunderstanding of the Act and the Committee's regulations, failed to timely refund these general election contributions within 60 days after the primary election, as required. After recognizing its mistake, the Committee fully refunded all of the general election contributions in December 2020.

## **Discussion**

The Committee acknowledges its mistake in failing to timely refund the general election contributions as required by 11 C.F.R. § 110.1(b)(3)(ii). This mistake was made in good faith and was not an intentional violation of the law. To remedy this mistake, the candidate contributed her own personal funds – a significant financial hardship – to facilitate the Committee's refund of all general election contributions. Those refunds were made in December 2020.

### **1. The Failure to Timely Refund the Contributions Was Not an Intentional Violation of the Law, but a Mistake Made in Good Faith Reliance on the Guidance of a Campaign Finance Compliance Professional.**

As explained in the Affidavit of Kristine Schanbacher (included herewith as Attachment A), the failure to timely refund the general election contributions resulted from the Campaign's reliance on guidance provided by its retained campaign finance compliance professional. This came about when, shortly before the primary election, one of the Committee's donors advised the Committee that general election contributions could be used to pay debt incurred for the primary election. *See* Schanbacher Aff. ¶ 4. In an effort to ensure that the Committee complied with the law, Ms. Schanbacher asked Emily Worth, a campaign finance compliance professional with whom the Committee had contracted for compliance services in the Fall of 2019, to research whether the general election contributions could, in fact, be used to pay for primary debt. *See* Schanbacher Aff. ¶ 1, 5. Ms. Worth reviewed the "guidance for candidates and committee published on the FEC's website" and, based on that review, informed Ms. Schanbacher that the general election contributions could be "re-designated to pay primary debts." Schanbacher Aff. ¶ 6-7.

Relying on the research of Ms. Worth, who was hired by the Committee because of her experience providing campaign finance compliance services in federal and Illinois state elections, Ms. Schanbacher agreed that the Committee could go through the process of obtaining the general election contributors' redesignations. *See* Schanbacher Aff. ¶ 2, 8-9. So, rather than refunding the general election contributions within 60 days of the primary election, the Committee obtained redesignations from those donors to pay primary election debts, and

reported those redesignations on its April 2020 Quarterly Report. Both Ms. Worth and Ms. Schanbacher (in reliance on Ms. Worth's guidance) believed that the redesignations complied with the law. *See* Schanbacher Aff. ¶ 9, 11 and Exhibit A. In fact, Ms. Worth, Ms. Schanbacher and the Committee continued to believe that the redesignation of the general election contributions was lawful until the Commission sent its Requests for Additional Information. *See* Schanbacher Aff. ¶ 10.

But for the unfortunate misreading of the Commission's guidance, the Committee would have refunded the general election contributions rather than going through the process of obtaining redesignations for them. *See* Schanbacher Aff. ¶ 11. The Committee's failure to timely refund the general election contributions was solely based on a misunderstanding of the law and was an unintentional violation made in good faith reliance on the guidance of its campaign finance compliance professional. *See* Schanbacher Aff. ¶ 8-9, 12.

## **2. The Committee Has Fully Refunded All General Election Contributions.**

The Committee corrected its error by fully refunding all of the general election contributions in December 2020. *See* Attachment B. These refunds will be disclosed on the Committee's 2020 Year-End Report, which will be filed on or before January 31, 2021.

At the time that the Committee learned it was required to refund the general election contributions, it did not have sufficient funds to do so. *See* Committee April, July and October 2020 Quarterly Reports. In December, Ms. Schanbacher used her personal funds to make contributions to the Committee to cover the amount necessary to issue refunds for all of the general election contributions. This was "a substantial financial hardship" for her. Schanbacher Aff. ¶ 13.

## **Conclusion**

As explained above, the Committee's failure to timely refund its general election contributions resulted from a good faith mistake and was unintentional, and the Committee has fully remedied its error by refunding all of the general election contributions. Further, the mistake was a costly one for the candidate, who incurred a substantial financial hardship to ensure that the contributions were refunded. It is certain that any financial penalty imposed by the Commission for this mistake could not be paid by the Committee unless Ms. Schanbacher endured additional financial hardship to contribute the funds necessary for the Committee to pay that penalty. For these reasons, the Respondents respectfully request that the Commission exercise its prosecutorial discretion and close this matter without taking further action.

Respectfully submitted,



Jessica Robinson

Attachments: 2



Schanbacher (“It was my understanding after doing this review on the FEC’s website that should the committee go into debt in the course of the election that donors could designate their donations and reattribute them toward paying down primary debt.”).)

8. Emily Wurth further explained to me that based on her review of the information found on the FEC’s website, that re-designations had to be obtained from the donors, and then she understood we just needed to submit those re-designations on the Campaign’s FEC reports.
9. After consulting with Emily Wurth, and relying on her advice as a retained compliance consultant for the Campaign, I agreed with her recommendation that the Campaign could use general election donations to pay down primary debt.
10. After the Campaign received Requests for Additional Information from the FEC regarding the general election contributions, I spoke with Emily Wurth, and for the first time, she conveyed to me that her advice may not have been correct. *See* Exhibit A, November 30, 2020 e-mail from Emily Wurth to Kristine Schanbacher (“It was the receipt of the FEC’s RFAI that indicated that this was not correct. We amended the report to change the reattributed contributions to debt owed by the committee to be repaid.”).
11. If I had understood that the general election contributions could not be re-designated to pay for primary debt if the donor had already contributed the maximum amount for the primary, I would not have permitted the Campaign to use the general election contributions in that manner.
12. I want to emphasize that I believe the Campaign’s use of the general election contributions for primary expenses was based solely on a misunderstanding of the law. Any violation of the law was completely unintentional.
13. I have now personally paid back the entire amount of general election contributions that were used in this manner, and this was a significant financial hardship for me personally.

I declare under penalty of perjury that the foregoing is true and correct.



Kristine Schanbacher

Dated: January 7, 2021

# EXHIBIT A

**From:** Emily Wurth <[emily@nelsonwurth.com](mailto:emily@nelsonwurth.com)>  
**Date:** November 30, 2020 at 8:36:05 PM CST  
**To:** Kristine Schanbacher <  
**Subject:** Draft Statement

To my recollection - the route we went on donations was suggested to us by a donor. At the time, we went through the FEC's website and read up on what happened if the campaign went into debt, how to raise to pay down debt. ,and what it meant to reattribute donor contributions towards paying down campaign debt.

It was my understanding after doing this review on the FEC's website that should the committee go into debt in the course of the election that donors could designate their donations and reattribute them toward paying down primary debt.

It was the receipt of the FEC's RFAI that indicated that this was not correct. We amended the report to change the reattributed contributions to debt owed by the committee to be repaid.

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that would obviously need cleaned up. But I believe it captures my memory of what happened

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Emily Wurth  
Nelson Wurth Consulting, LLC  
[emily@nelsonwurth.com](mailto:emily@nelsonwurth.com)



Check Number	Payee	Amount	Signature
1011	Richard Price	\$2,800.00	[Signature]
1013	Cheryl Schanbacher	\$2,800.00	[Signature]
1010	Linda Price	\$2,800.00	[Signature]
1014	John Schanbacher	\$2,800.00	[Signature]
1015	Joseph Schanbacher	\$2,800.00	[Signature]
1009	Brian Price	\$2,800.00	[Signature]
1012	Stacey Price	\$2,800.00	[Signature]
1017	Marilyn Sitarus	\$2,725.00	[Signature]
1018	Michael A. Sitarus	\$2,725.00	[Signature]
1007	Richard Hankins	\$2,800.00	[Signature]
1005	Jordan H. Hankins	\$2,800.00	[Signature]
1008	Richard LaFeria	\$2,800.00	[Signature]
1016	Jane Sitarus	\$2,800.00	[Signature]

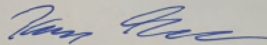
12/20/2020

Dear Jordan Hankins,

Enclosed with this letter you will find a refund check from Kristine Schanbacher for Congress for \$2,800. This refund is from the 2020 General Election Contribution you made to Kristine Schanbacher's congressional campaign. Please have this check deposited within 10 days, otherwise the money will be forfeited to the Department of Treasury.

Sincerely,

Kristine Schanbacher for Congress



Kristine Schanbacher

Enclosure


1026

KRISTINE SCHANBACHER FOR CONGRESS  
400 E OHIO ST, APT 1504  
CHICAGO, IL 60611-4610

DATE 12-20-2020

PAY TO THE ORDER OF Jordan Hankins \$ 2,800.00

two thousand eight hundred & no/100 DOLLARS

BY  Byline Bank™  
www.bylinebank.com

General Election Contribution Refund

1026