



FEDERAL ELECTION COMMISSION
Washington, DC 20463

June 12, 2023

By Email

troy@politicalfinancialmanagement.com

Troy Brewer
95 White Bridge Road, Suite 207
Nashville, TN 37205

RE: MUR 8143
(Formerly RR 22L-25)
Dr. Manny for US Senate and Troy Brewer
in his official capacity as treasurer

Dear Mr. Brewer:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission became aware of information suggesting Dr. Manny for US Senate and Troy Brewer in his official capacity as treasurer (the "Committee") may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). On November 22, 2022, the Commission notified the Committee that the matter was being referred to the Commission's Office of General Counsel for possible enforcement action under 52 U.S.C. § 30109. On May 31, 2023, the Commission found reason to believe that the Committee violated 52 U.S.C. § 30116(f) and 11 C.F.R. § 102.9(e) by accepting and failing to remedy excessive contributions. The Factual and Legal Analysis, which formed a basis for the Commission's findings, is enclosed for your information.

Please note that you have a legal obligation to preserve all documents, records, and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter.¹ You may consult with an attorney and have an attorney assist you in the preparation of your responses to this letter. If you intend to be represented by counsel, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notification or other communications from the Commission.

¹ See 18 U.S.C. § 1519.

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If you are interested in engaging in pre-probable cause conciliation, or have any questions, please contact Richard Weiss, the attorney assigned to this matter, at (202) 694-1021 or rweiss@fec.gov, within seven days of receiving this letter. During conciliation, you may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Because the Commission only enters into pre-probable cause conciliation in matters that it believes have a reasonable opportunity for settlement, we may proceed to the next step in the enforcement process if a mutually acceptable conciliation agreement cannot be reached within sixty days.² Conversely, if you are not interested in pre-probable cause conciliation, the Commission may conduct formal discovery or proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding. Pre-probable cause conciliation, extensions of time, and other enforcement procedures and options are discussed more comprehensively in the Commission's "Guidebook for Complainants and Respondents on the FEC Enforcement Process," which is available on the Commission's website at https://www.fec.gov/resources/cms-content/documents/respondent_guide.pdf.

This matter will remain confidential in accordance with 52 U.S.C. §§ 30109(a)(4)(B) and 30109(a)(12)(A) unless you notify the Commission in writing that you wish that the matter be made public. Please be advised that although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.³

We look forward to your response.

On behalf of the Commission,



Dara Lindenbaum
Chair

Enclosures:

Factual and Legal Analysis

² See 52 U.S.C. § 30109(a), 11 C.F.R. Part 111 (Subpart A).

³ The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 **RESPONDENTS:** Dr. Manny for US Senate and Troy Brewer **MUR:** 8143
4 in his official capacity as treasurer
5

6 **I. INTRODUCTION**

7 This matter was generated by information ascertained by the Federal Election
8 Commission in the normal course of carrying out its supervisory responsibilities.¹ The Reports
9 Analysis Division (“RAD”) referred Dr. Manny for US Senate and Troy Brewer in his official
10 capacity as treasurer (the “Committee”) to the Office of General Counsel (“OGC”) for failure to
11 refund or redesignate 2020 general election contributions totaling \$58,765.66 within the
12 permissible timeframe after the candidate’s loss in the primary election, in violation of the
13 Federal Election Campaign Act of 1971, as amended (the “Act”). The Committee admits that it
14 has failed to “rectify” the general election contributions at issue in the Referral.²

15 As discussed below, the Commission finds reason to believe that the Committee violated
16 52 U.S.C. § 30116(f) and 11 C.F.R. § 102.9(e) by accepting and failing to remedy excessive
17 contributions.

18 **I. FACTUAL BACKGROUND**

19 The Committee is the principal campaign committee for Dr. Manny Sethi, a candidate in
20 the 2020 Tennessee Republican primary election for United States Senate.³ The Committee’s
21 treasurer is Troy Brewer.⁴ On August 6, 2020, Sethi lost the Tennessee primary election.⁵

¹ See 52 U.S.C. § 30109(a)(2).

² Resp. at 1 (Dec. 6, 2022).

³ Dr. Manny for US Senate, Amended Statement of Organization (Aug. 3, 2021).

⁴ *Id.*

⁵ Referral at 1 (Nov. 22, 2022).

1 According to the Referral, the Committee failed to refund or redesignate \$58,765.66 of
2 2020 general election contributions within the permissible timeframe.⁶ On May 16, 2021, RAD
3 sent a Request for Additional Information (“RFAI”) to the Committee noting the Committee’s
4 receipt of \$86,945.78 in 2020 general election contributions and requesting that the Committee
5 take corrective action.⁷ Subsequently, the Committee filed two Miscellaneous Electronic
6 Submissions (Form 99s) with the Commission indicating it had partially remedied the general
7 election contributions by refunding some of them.⁸ However, the Committee has failed to
8 completely remedy the violations in that it has still failed to refund \$58,765.66 in general
9 election contributions.⁹ Included in this total are eight contributions totaling \$22,400 for which
10 the Committee issued refund checks, but according to the Committee’s August 2021 Form 99
11 cited in the Referral, the refunds were subsequently voided because the checks were never
12 cashed.¹⁰ RAD advised the Committee to re-issue the uncashed 2020 general election
13 contribution refund checks or disgorge the funds to the U.S. Treasury.¹¹ To date, the Committee
14 has not taken either corrective action.¹²

⁶ *Id.*

⁷ *Id.*; *see also* Dr. Manny for US Senate, RFAI at 3 (May 16, 2021), <https://docquery.fec.gov/pdf/502/202105160300118502/202105160300118502.pdf>.

⁸ Referral at 3 (Nov. 22, 2022); *see also* Dr. Manny for US Senate, Form 99 (June 21, 2021), <https://docquery.fec.gov/pdf/796/202106219449833796/202106219449833796.pdf>; Dr. Manny for US Senate, Form 99 (Aug. 23, 2021), <https://docquery.fec.gov/pdf/230/202108239466558230/202108239466558230.pdf>.

⁹ Referral at 2.

¹⁰ *Id.* at 3.

¹¹ *Id.* at 3-4 (citing Dr. Manny for US Senate, Form 99 (Aug. 23, 2021), <https://docquery.fec.gov/pdf/230/202108239466558230/202108239466558230.pdf>).

¹² *Id.*, Attach. 1.

1 In its response to the Referral, the Committee admits that it has failed to “rectify” the
2 general election contributions at issue.¹³

3 **II. LEGAL ANALYSIS**

4 During the 2020 election cycle, an authorized committee could not accept more than
5 \$2,800 per election from individuals and more than \$5,000 from a multicandidate political
6 committee.¹⁴ An authorized committee could not contribute more than \$2,000 to another
7 authorized committee.¹⁵ A primary election and a general election are each considered a
8 separate “election” under the Act, and the contribution limits are applied separately with respect
9 to each election.¹⁶ Candidates and political committees are prohibited from knowingly accepting
10 excessive contributions.¹⁷

11 The Commission’s regulations permit a candidate’s committee to receive contributions
12 for the general election prior to the primary election.¹⁸ However, the committee must use an
13 acceptable accounting method to distinguish between primary and general election
14 contributions.¹⁹ The committee’s records must demonstrate that prior to the primary election,
15 the committee’s recorded cash on hand was at all times equal to or in excess of the sum of
16 general election contributions received less the sum of general election disbursements made.²⁰

¹³ Resp. at 1.

¹⁴ 52 U.S.C. §§ 30116(a)(1)(A), (a)(2)(A), (f); 11 C.F.R. §§ 110.9, 110.1(a)-(b).

¹⁵ 52 U.S.C. § 30102(e)(3)(B).

¹⁶ 52 U.S.C. §§ 30101(1)(A) and 30116(a)(6); 11 C.F.R. §§ 100.2 and 110.1(j).

¹⁷ 52 U.S.C. § 30116(f).

¹⁸ 11 C.F.R. § 102.9(e)(1).

¹⁹ *Id.*

²⁰ *Id.* § 102.9(e)(2).

1 Furthermore, if the candidate ultimately does not become a candidate for the general
2 election, the committee must refund, redesignate, or reattribute any general election contributions
3 in accordance with applicable Commission regulations.²¹ The committee must do so within 60
4 days of the date that the committee has actual notice of the need to redesignate, reattribute, or
5 refund the contributions.²² A committee cannot redesignate general election funds to the primary
6 election if doing so would cause the contributor to exceed the maximum allowable contribution
7 for that election.²³ Likewise, reattribution of a general election contribution may only occur to
8 the extent that such attribution does not exceed the contributor's contribution limits.²⁴

9 As set forth in the RAD Referral, the Committee failed to refund or redesignate 2020
10 general election contributions totaling \$58,765.66 within the permissible timeframe.²⁵ The
11 Committee admits to the violations in its Response. Therefore, the Commission finds reason to
12 believe that the Committee violated 52 U.S.C. § 30116(f) and 11 C.F.R. § 102.9(e) by accepting
13 and failing to remedy excessive contributions.²⁶

²¹ *Id.* § 102.9(e)(3).

²² *See* Advisory Opinion 2008-04 at 1 (Dodd); Advisory Opinion 1992-15 at 2 (Russo); *see also* 11 C.F.R. §§ 110.1(b)(3)(i) and (b)(5); 110.2(b)(3)(i) and (b)(5); 103.3(b)(3).

²³ 11 C.F.R. §§ 110.1(b)(5)(iii), 110.2(b)(5)(iii). Furthermore, amounts redesignated may not exceed the net debts outstanding from the primary. 11 C.F.R. §§ 110.1(b)(5)(iii), 110.2(b)(5)(iii).

²⁴ *Id.* § 110.1(k)(3)(ii)(B)(I).

²⁵ Resp. at 1.

²⁶ *See* Conciliation Agreement ¶ V, MUR 7191 (Freedom for All Americans) (conciliating with the committee for violations of 52 U.S.C. § 30116(f) and 11 C.F.R. § 102.9(e) for failing to timely refund, reattribute, or redesignate general election contributions, which resulted in excessive contributions after Presidential candidate Rand Paul suspended his campaign and did not participate in the general election).