

OFFICE OF
GENERAL COUNSEL

Ann M. Ravel
RAVELLAW
[REDACTED]
Los Gatos, CA 95030.
March 21, 2024

2024 APR -2 PM 12:43

To: Lisa Stevenson, Acting General Counsel

MUR # 8236

Dear Ms. Stevenson,

Attached please find a complaint alleging the violation of campaign finance laws by U.S. Congressman Kevin Kiley, regarding his role with Californians to Reduce Homelessness, Drug Addiction and Theft (CHRDAT), which is sponsoring a proposed ballot measure in California aimed at rolling back criminal justice reform in the State.

The complaint makes clear that there is compelling evidence that CHRDAT, in its efforts to raise money to fund the collection of the requisite voter signatures required to qualify the proposed initiative for this November ballot, and has received and spent money in violation of federal limits.

The primary allegations in the complaint include:

While a member of the California Assembly, now-Congressman Kiley was among the most vocal critics of criminal justice reform and also one of the most high profile supporters of the efforts to roll back voter-approved policy.

In 2022, in support of his campaign to win election to the US Congress, Rep. Kiley opened a campaign committee "Kevin Kiley for Congress" which raised money to support his federal Campaign.

In 2023, Rep. Kiley opened Californians to Reduce Homelessness, Drug Addiction and Theft, with an initial \$50,000 donation from his federal campaign committee "Kevin Kiley for Congress", effectively making CHRDAT a federal committee.

CHRDAT, opened with \$50,000, from Kiley's federal campaign committee, subsequently solicited and received sizable donations from major retail corporations, including WalMart, Target, Macy's and Home Depot. Those amounts are detailed in the documents attached to the Complaint.

As you are well aware, federal election laws limit who can contribute to federal campaign committees and what federal committees can do with their existing funds, and ensure transparency and candor with donors and voters.

Based on my expertise and long career at the FEC and FPPC dedicated to protecting the integrity of election law, it is clear to me that in the name of being "tough on crime" proponents of the proposed ballot initiative to roll back justice reform may themselves have committed crimes by violating federal laws and regulations. I urge that the General Counsel's Office of the FEC investigate this matter.

Sincerely,

Ann M. Ravel

**BEFORE THE UNITED STATES
FEDERAL ELECTION COMMISSION**

Ann M. Ravel

Email: [REDACTED]

Complainant,

v.

Kevin Kiley
9458 Treelake Road
Granite Bay, CA, 95746

Kevin Kiley for Congress and David Bauer, Treasurer
9458 Treelake Road
Granite Bay, CA, 95746
David@theagency.us

Californians to Reduce Homelessness, Drug Addiction, and Theft, sponsored by Golden State Communities
455 Capitol Mall, Suite 600
Sacramento, CA 95814
fjpc@bmhlaw.com

Respondents.

COMPLAINT

This complaint is filed under 11 C.F.R. § 300.62 and 52 U.S.C. § 30125(e)(1) against Kevin Kiley, Kevin Kiley for Congress, and Californians to Reduce Homelessness, Drug Addiction, and Theft, sponsored by Golden State Communities (collectively, "Respondents"), for violating the Federal Election Campaign Act of 1971, as amended (the "Act") and Federal Election Commission (the "FEC" or "Commission") regulations. There is compelling evidence that Californians to Reduce Homelessness, Drug Addiction, and Theft, sponsored by Golden State Communities has been established, financed, maintained, and controlled by Congressman Kiley; that it has received, solicited, and spent funds in excess of the federal limits and from federally prohibited sources; and that Congressman Kiley may have solicited funds in excess of the federal limits and from federally prohibited sources for the committee. We urge the Commission to immediately investigate these violations and levy appropriate sanctions against Respondents for their failure to comply with basic requirements of the Act and Commission regulations.

FACTUAL BACKGROUND

Kevin Kiley is a member of the U.S. House of Representatives, representing California's 3rd Congressional District and is a candidate for re-election to the U.S. House of Representatives from California's 3rd Congressional District. His principal campaign committee for his congressional campaign is Kevin Kiley for Congress. Californians to Reduce Homelessness, Drug Addiction, and Theft, sponsored by Golden State Communities ("CRHDAT") is a state ballot measure committee established on September 9, 2023 for the purpose of qualifying and passing a California ballot measure, The Homelessness, Drug Addiction, and Theft Reduction Act ("Ballot Measure"). The Ballot Measure "is an initiative to reverse Prop. 47", which is a measure approved by voters in November 2014 that reduced penalties for certain drug and theft-related crimes.

This complaint pertains to the unlawful receipt and use of funds from federally prohibited

sources by CRHDAT, an entity established, financed, maintained or controlled by Kiley.

According to the campaign reports CRHDAT filed with the California Secretary of State, it has raised and spent funds from federally prohibited sources, including contributions made by corporations, and funds in excess of the federal limit.

Kiley has long been closely identified with the repeal of Proposition 47. In 2016, when he ran for the California State Assembly, Kiley's stated top priority was "changing Proposition 47."

In the California State Assembly, Kiley introduced Assembly Bill (AB) 1599 in January 2022 to repeal Proposition 47. The bill failed passage in the Assembly Committee on Public Safety on April 25, 2022. Currently, in Congress, Kiley is a member on the Subcommittee on Crime and Federal Government Surveillance and brags that he has "used [his] position on the Crime Subcommittee to bring attention to California's reckless policies and have sponsored legislation to combat organized retail theft."

On or about September 22, 2023, Thomas W. Hiltachk submitted a request to the California Office of Attorney General to prepare a circulating title and summary of the proposed measure titled "The Homelessness, Drug Addiction, and Theft Reduction Act." Thomas W. Hiltachk is the proponent of the initiative and is also a managing partner at Bell, McAndrews & Hiltachk, LLP, the law firm that also represents Kevin Kiley for Congress. On October 26, 2023, the California Secretary of State cleared the Ballot Measure to begin collecting petition signatures.

On September 7, 2023, the ballot measure committee, Californians to Reduce Homelessness, Drug Addiction, and Theft, sponsored by Golden State Communities ("CRHDAT"), was established to support the qualification and passage of the Ballot Measure. Thomas W. Hiltachk serves as the treasurer of the committee.

Kiley has been working closely and extensively with the leaders of the Ballot Measure and CRHDAT. On February 2, 2024, Kiley announced through his congressional office that he would be hosting a signature gathering event for the Ballot Measure in Roseville, CA. On February 3, 2024, Kiley was joined by leaders of the Ballot Measure, including El Dorado County District Attorney Pierson and Former Sacramento County District Attorney Schubert at the event. District Attorney Schubert is a member of the Golden State Communities, the sponsoring organization of the CRHDAT, and has been active in promoting and fundraising for the Ballot Measure. District Attorney Pierson is "one of the main leaders of the initiative" and co-wrote an opinion with Kiley concerning the Ballot Measure. During the event, Kiley states to the public, "If you are watching here are a couple of ways that you too can sign...you can go right there like ten feet away and sign the petition. If you are watching this in the live streams, you should have a link right above it on Facebook [End47.com], click there, put your address there, and we'll send you a petition in the mail that you can sign and send back."

On or about February 4, 2024, the domain "End47.com" was purchased. The website "End47.com" redirects users to Kiley's federal campaign website, "https://blog.electkevinkiley.com/prop47/", where users can request for a petition or donate to support the Ballot Measure. Kevin Kiley for Congress also paid for a mailing in which he solicited recipients to sign the petition for Proposition 47. In that same email, he solicits funds for the measure, to be made by check to "Kevin Kiley for Congress," indicating that he has solicited earmarked contributions for the measure, using his committee as a conduit.

Kiley has sent numerous emails to urge his constituents and supporters to support the Ballot Measure and provide updates on the initiative. On February 6, 2024, Kiley sent an email to thank a supporter and request for additional signatures. The email states:

If you know someone who would like to sign as well, please have them enter their address at: End47.com

Prop. 47 has been a key factor in rising crime in California. This initiative to repeal its worst provisions is a golden opportunity to start turning our state around. A total of 546,000 signatures are needed by April 23 to qualify the initiative, and we've already collected over 300,000.

On February 8 and 15, Kiley sent additional emails on the Ballot Measure, including instructions to sign the petition. On February 29, 2024, Kiley sent another email where he wrote:

Before being elected to Congress, I was a member of the California Legislature. I tried to put a Prop. 47 Repeal directly on the ballot, but the Public Safety Committee refused (watch the video here). That's why we've now taken matters into our own hands with a Citizen Initiative.

On March 8 and 12, he sent additional emails concerning the initiative. In addition, Kiley has

promoted the Ballot Measure on his blog and social media pages such as Facebook, Instagram and Twitter/X.

In one recent blog post, Kiley noted that “we are nearing 600,000 signatures in the initiative to end Prop. 47.” Complainant has reviewed CRHDAT’s website and has not identified a press release containing that information. Thus, it appears that Kiley has insider knowledge about the progress of the campaign.

Campaign reports filed with the California Secretary of State show Kiley’s campaign has made multiple large contributions to CRHDAT. On February 20, 2024, Kevin Kiley for Congress made nonmonetary contribution in the amount of \$14,216 for volunteer petition signatures and on another amount of \$14,295.84 for printing and mailing costs on February 27, 2024.

This is likely not the full extent of Kiley’s financial support for the initiative. Unlike federal law, California campaign finance law requires that electronic mail be valued at fair market value and treated as an in-kind contribution. As indicated, Kevin Kiley for Congress has sent at least six emails to its email list soliciting support for the measure, none of which have been reported. In addition, Kevin Kiley for Congress has served as a conduit to receive and transmit contributions to CRHDAT, but the costs associated with these conduit services do not appear to have been reported.

According to campaign reports filed by Kevin Kiley for Congress and CRHDAT, both committees use several common vendors: The Monaco Group, Bell, McAndrews & Hiltachk LLP, and eFundraising Connections. For example, on February 10, 2024, Kevin Kiley for Congress made a payment to The Monaco Group for \$3,327.23 for postage. Then on February 13, 2024, Kevin Kiley for Congress made another payment to The Monaco Group for \$10,888.77 for mass mail. CRHDAT reported payments made to The Monaco Group in the amount of \$9,690.45 for petition circulating expenses. On January 1, 2024, Kevin Kiley for Congress made a payment to Bell, McAndrews & Hiltachk LLP in the amount of \$1,007.76 for legal fees. Similarly, CRHDAT reported payments made to Bell, McAndrews & Hiltachk LLP in the amounts of \$4,293.20 and \$2,518.38 for professional services. Lastly, both committees disclose payments to eFundraising Connections.

Bell, McAndrews & Hiltachk LLP is a campaign and election law firm that has been providing its services to Kiley’s congressional campaign since 2022. The Monaco Group is a printing and marketing consulting firm which Kiley has also used for his congressional campaign since 2022. Likewise, Kiley has used eFundraising Connections as his political fundraising platformed since 2022.

CRHDAT has accepted contributions from federally prohibited sources and in amounts in excess of those permitted by federal law. For example, campaign reports show CRHDAT received \$500,000 contributions from Walmart, Inc. on October 31, 2023 and December 15, 2023 from prohibited source. CRHDAT also received a contribution of \$15,000 from Kevin Nagle on November 20, 2023 in excess of the federal limits. Recent reports show CRHDAT received contributions from Chelsea Investment Corporation on March 14, 2024 for \$5,000 and Jeffrey Bradley on March 11, 2024 for \$9,999. Notably, some of these donors have a close connection to Kiley. According to campaign finance records, Kiley’s assembly campaign received \$16,800 from the Walton family in his first run for office; Kiley was the only California candidate that the Walton family made contributions to in 2016. Nagle was a maximum contributor to his congressional campaign in 2022.

LEGAL ANALYSIS

I. Applicable Law

The Act and Commission regulations prohibit federal candidates, their agents, and entities established, financed, maintained, or controlled by federal candidates from soliciting, receiving, directing, transferring or spending funds in connection with a nonfederal election unless the funds comply with the amount limitations and sources permitted under the Act. The Commission has determined that “all activities of a ballot measure committee that is directly or indirectly established, financed, maintained, or controlled by a federal candidate are ‘in connection with’ any election other than an election for Federal office and, thus, subject to the Act’s restrictions.” An entity established, financed, maintained, or controlled (“EFMCed”) by a federal candidate may only solicit up to \$5,000 per calendar year from permissible sources. To determine whether a Federal candidate or officeholder directly or indirectly EFMCed another entity the Commission applies the factors set forth in 11 CFR 300.2(c)(2), including any other relevant factors, in the context of the overall relationship between the federal candidate or officeholder and the entity. Even meeting one of the factors can result in a determination that a federal candidate has EFMCed an entity.

II. CRHDAT is an entity established, financed, maintained, or controlled by Kevin Kiley and has accepted and spent federally impermissible funds in violation of 52 U.S.C. § 30125(e)(1) and 11 C.F.R. § 300.62.

The facts demonstrate that CRHDAT is an entity EMFCed by Kevin Kiley. This is underscored by Kiley's longstanding identification with the very issue that is the subject of the measure, Kiley's involvement in gathering petition signatures to qualify the Ballot Measure, his solicitation for donation to support the Ballot Measure, his nonmonetary contributions to CRHDAT, his consistent and repeated use of the first-person plural ("we") when referring to the activities of CRHDAT, and Respondents' use of common vendors. Accordingly, CRHDAT has violated the Act and Commission regulations by soliciting, raising and spending federally impermissible funds.

a. Kevin Kiley has provided and solicited significant contributions and resources to CRHDAT.

Two key factors in determining whether a Federal candidate directly or indirectly EFMCD another entity are whether (1) a federal candidate provides funds "in a significant amount" to the entity, including direct or indirect payments for administrative, fundraising, or other costs and whether (2) a federal candidate or its agent "causes or arranges for funds in a significant amount or on an ongoing basis to be provided to the entity." Here, to date, Kevin Kiley for Congress has reported providing a total of \$28,511.84 in nonmonetary contributions to CRHDAT to support the petition signature gathering of the initiative. He has also provided crucial public awareness for the initiative by soliciting for support and donation to the initiative through his blog, blast emails, and social media accounts where he has thousands of followers, none of which have been reported publicly. And it is not just the gross amount that makes his contributions significant. Instead of merely providing funding to CRHDAT, he has taken he has a lead role in the organization by providing it with core administrative services, such as petition gathering and solicitation, at a time when CRHDAT is getting off the ground. This signifies that Kiley has provided CRHDAT with critical "seed money."

Similarly, Kiley and his agent, Kevin Kiley for Congress, have been active in soliciting contributions to CRHDAT, even sending out a written solicitation letter in which he sought funds for CRHDAT to be earmarked through Kevin Kiley for Congress. He also regularly solicits donations for CRHDAT through email and electronic fundraising. And some of Kiley's big donors, including Walmart and Kevin Nagle, have made large soft-money donations to the measure.

These facts suggest that Kiley EFMCD CRHDAT.

b. Kevin Kiley and CRHDAT use the same vendors for fundraising, print and marketing and legal services.

Another factor that counsels towards a finding that a federal candidate has directly or indirectly EFMCD another entity if the federal candidate has common or overlapping officers or employees with the entity that indicates a formal or ongoing relationship between the candidate and the entity, or any members, officers, or employees who were member, officers, or employees of the entity that indicates the creation of a successor entity. Here, Respondents use the same vendors, Bell, McAndrews & Hiltachk LLP, The Monaco Group, and eFundraising Connections; this overlap of personnel is further evidence of the close relationship between Kiley and CRHDAT.

Separate from the shared personnel, Kiley's close association with the repeal of Proposition 47 provides evidence that CRHDAT is, in reality, a successor entity to Kiley's past campaigns. When he first ran for the California State Assembly, Kiley's stated top priority was repealing Proposition 47. In the Assembly, he sponsored and championed the bill to repeal Proposition 47. And he has continued to be closely associated with the issue now that he is a member of Congress. Plainly, CRHDAT is the successor entity to Kiley's longstanding crusade to repeal Proposition 47.

c. Kevin Kiley has the ability to participate in the governance or decision-making of CRHDAT.

A third relevant factor is whether a sponsor has authority or ability to direct or participate in the governance of the entity, whether through provisions in the entity's written governing documents or in fact. And the facts here indicate a close relationship between Kiley and

CRHDAT that suggest Kiley has at least a de facto level of participation in the organization.

Kiley and his campaign have been intimately involved in the core functions of the committee, hosting events and undertaking an extensive campaign to help qualify the measure for the ballot, and soliciting funds for CRHDAT. He has posted nonpublic information about the qualification effort in his blog posts, making it clear that he is communicating privately with CRHDAT. He has made public appearances with the leaders of CRHDAT and its sponsoring organization and, as detailed above, many of his agents also work for CRHDAT.

Significantly, Kiley's own language provides important evidence of his position within the CRHDAT organization. In appearances made with CRHDAT leader, and in numerous emails and blog posts, Kiley consistently refers to the effort to qualify the measure using the first-person plural: "put your address there, and we'll send you a petition in the mail that you can sign and send back"; "A total of 546,000 signatures are needed by April 23 to qualify the initiative, and we've already collected over 300,000"; "That's why we've now taken matters into our own hands with a Citizen Initiative"; "we are nearing 600,000 signatures in the initiative to end Prop. 47". If we cannot rely on Kiley's own characterization of his role in the CRHDAT, what can we rely on?

In short, Kiley's own statements and the other available facts demonstrate a close relationship between Kiley and CRHDAT, one that suggests he has, at the very least, a de facto role participating in CRHDAT's decision-making.

d. CRHDAT was established by an agent of Kiley

Another factor that the Commission must consider in assessing whether an organization is EFMCD by a federal candidate is whether the candidate or the officeholder had a role in establishing the organization. In Advisory Opinion 2003-12, then-Representative Flake's part-time campaign consultant had aided a state ballot measure committee with its filings and opened its bank accounts. The same occurred here. Thomas Hiltachk, a partner at the law firm that represents Kiley, is the very proponent of the ballot measure and serves as the treasurer of CRHDAT. The fact that an agent of Kiley's is the proponent of the measure and responsible for the committee's compliance provides additional evidence that CRHDAT was EFMCD by Kiley.

e. CRHDAT has accepted and used federally impermissible funds.

Under the Act, an entity established, financed, maintained, or controlled by a federal candidate may only solicit up to \$5,000 per calendar year from federally permissible sources; it may not solicit contributions in excess of this amount, or contributions from corporations and other federally prohibited sources. As the facts detailed above demonstrate, CRHDAT is EFMCD by Kevin Kiley and is, accordingly, prohibited from receiving, directing, transferring, or spending funds in violation of the Act.

However, CRHDAT has repeatedly and consistently violated this prohibition. On October 31, 2023 and December 15, 2023, and February 7, 2024 CRHDAT received \$500,000 contributions from Walmart, Inc., in addition to a \$1,000,000 contribution on February 21, 2024, and continues to accept contributions from prohibited sources. As recently as on March 14, 2024, it accepted a contribution from 7-Eleven for \$300,000. On November 20, 2023, CRHDAT reported receipt of a \$15,000 contribution from Kevin Nagle as well as \$9,999 from Jeffrey Bradley on March 11, 2024.

Additional contributions of \$1,000,000 from Home Depot USA, Inc. on March 5, 2024, \$500,000 from Target Corporation on January 18, 2024, \$300,000 from the California Correctional Peace Officers Association on January 17, 2024, \$250,000 from the San Manuel Band of Mission Indians on February 23, 2024, \$215,000 from Macy's Inc. on January 30, 2024, and \$100,000 from State Bros. Holding Inc. on February 13, 2024 have been received by CRHDAT. Accordingly, CRHDAT has plainly solicited, accepted, directed and spent federally impermissible funds in violation of Commission regulations and the Act.

III. Kevin Kiley may have solicited soft money for CRHDAT.

Lastly, the Commission should investigate whether Kiley himself has violated the Act by soliciting soft money for CRHDAT. As stated, several donors who made large soft money donations to CRHDAT – including a \$500,000 corporate donation from Walmart and a \$15,000 donation from Kevin Nagle – have a longstanding donor relationship with Kiley. If Kiley solicited these soft money contributions to CRHDAT, it would result in a separate, independent violation of 52 U.S.C. § 30125(c)(1).

REQUESTED ACTION

As shown, Respondents have violated the Act and Commission regulations by soliciting, accepting, directing and spending funds that were raised in excess of the federal limits and from federally prohibited sources in connection with an election. Accordingly, we respectfully request

that the Commission immediately investigate these violations, fine Respondents the maximum amount permitted by law, and enjoin Respondents from further violations of the law.

Sincerely,

Ann Ravel

Ann M. Ravel

SUBSCRIBED AND SWORN to before me this ___ day of March 2024.

SEE CA NOTARIAL ACT

Notary Public

My Commission Expires: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Santa Clara

Subscribed and sworn to (or affirmed) before me on this 21st day

of March, 2024, by Ann Ravel

_____, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature _____ (Seal)

