



BENJAMIN J. GIBSON
 PARTNER
 Shutts & Bowen LLP
 215 South Monroe Street
 Suite 804
 Tallahassee, Florida 32301
 DIRECT (850) 241-1723
 FAX (850) 241-1718
 EMAIL BGibson@shutts.com

Digitally
 signed by
 Christal
 Dennis
 Date:
 2019.02.25
 16:06:50
 -05'00'

February 25, 2019

Jeff Jordan, Esq.
 Assistant General Counsel Complaints Examination
 & Legal Administration
 Office of the General Counsel
 Federal Election Commission
 1050 First Street, NE
 Washington, DC 20463
cela@fec.gov

Re: MUR 7561 (Response of Ron DeSantis for Governor, Friends of Ron DeSantis PAC, and Treasurer, Nancy Watkins)

Dear Mr. Jordan:

This Response is being submitted by the undersigned counsel on behalf of the named Respondents, Ron DeSantis for Governor, Friends of Ron DeSantis PAC, and Treasurer, Nancy Watkins, in the Complaint designated as Matter Under Review (MUR) 7561.

On February 1, 2019, the Federal Election Commission (FEC) received this Complaint against the Ron DeSantis Campaign for Governor (“Campaign”) and its Treasurer, Nancy Watkins filed by Joseph Weinzettle (Complainant). The Campaign first became aware of the Complaint on February 4, 2019, through its Treasurer when it received correspondence from you and a copy of the Complaint. The Complaint alleges “violation of 52 U.S.C. § 30121 for accepting contributions from foreign nationals and foreign organizations.” On February 12, 2019, the FEC received additional information from the Complainant adding the same allegations against Friends of Ron DeSantis PAC (the “PAC”). This Response will address both the original and supplemental information contained within MUR 7561.

The Commission is required to investigate a complaint only if it determines that it has “reason to believe” that a person has committed, or is about to commit a violation of the Act.¹ The Commission may find “reason to believe” only if a complaint sets forth sufficient specific facts, which, if proven true, would constitute a violation of the Act.² Unwarranted legal conclusions from asserted facts or mere speculation will not be accepted as true by the Commission, and a complaint may be dismissed if it consists of factual allegations that are

¹ See 2 USC §437g(a)(2).

² See MUR 4960, Commissioners Mason, Sandstrom, Smith, and Thomas, Statement of Reasons (Dec. 21,2001).

refuted in the response with sufficiently compelling evidence.³ For the following reasons, it should be found that Respondents did not violate the Act or Commission regulations and dismiss this matter.

I. Factual Background

The Ron DeSantis for Governor Campaign was a Florida political campaign involved in a state election to elect Ron DeSantis as Governor of Florida. The Campaign followed Florida law, which prohibited it from accepting any contribution within 5 days of the General Election held on Tuesday, November 6, 2018. The last day the Campaign was able to accept contributions under Florida law was November 1, 2018.⁴ It is required to file a termination report and dispose of all funds remaining within its account within 90 days after the campaign has concluded. § 106.141, Fla. Stat. Friends of Ron DeSantis is a state political committee registered with the Florida Division of Elections under the laws of the State of Florida. It is authorized to accept unlimited contributions and to coordinate on certain items with political campaigns. Nancy Watkins⁵ serves as Treasurer for both the Campaign and the PAC.

Complainant alleges that the Campaign, PAC, and Treasurer violated 52 U.S.C. § 30121 by accepting contributions from foreign nationals and foreign organizations. Compl. at 1 (Feb. 1, 2019, Feb. 15, 2019). The allegations are made based on speculation that communications posted on Twitter by a Twitter handle whose location indicates “Romania America” (@MihaiBasaran) and further postings by a Twitter handle whose location indicates “Romania” (@blueinsight33) amount to coordination and acceptance of a foreign contribution. The Complaint also alleges that the PAC officers knew, or reasonably have known that there was “substantial foreign influence on the campaign.” Compl. at 1. (Feb 15, 2019). The Complaint provides no evidence of this beyond conspiratorial speculation of a link between legitimate payments made by the PAC to media firms in the United States and random Twitter comments directed to officers or agents of those firms by alleged foreign Twitter accounts.

II. Legal Discussion

A. Respondents did not violate 52 U.S.C. § 30121 and Complainant provides no evidence beyond mere speculation

The Respondents are involved in state, not federal, elections. However, it is recognized that the prohibition on accepting contributions from foreign nationals applies to state and local elections as well. *See* 52 U.S.C. § 30121. The Act and Commission regulations specify a person

³ *Id.*

⁴ All of the Campaign’s contributions and expenditures are reported pursuant to Florida law and are publicly available. *See* <https://dos.elections.myflorida.com/candidates/CanDetail.asp?account=70276> (last accessed February 18, 2019). There are no contributions accepted from foreign nationals.

⁵ The Complaint misspells the Treasurer’s name as “Nancy Hawkins.”

is prohibited from knowingly soliciting, accepting, or receiving a contribution or donation from a foreign national. *Id.*; 11 C.F.R §§ 110.20(a)(7)(b)-(c), (g). One can “knowingly” accept a prohibited contribution from a foreign national even if they do not have actual knowledge but if they are “aware of facts that would lead a reasonable person to conclude that there is a substantial probability that the source of the funds solicited, accepted or received is a foreign national,” or even if they are “aware of facts that would lead a reasonable person to inquire” if the source of the contribution is from a foreign national. 11 C.F.R. 110.20(a)(4)(i)-(iii). Commission regulations lay out pertinent facts that should put a committee on notice such as the contributor uses a foreign passport or passport number for identification purposes, the contributor provides a foreign address, the contributions is made with funds from a foreign bank, or the contributor resides abroad. *See* 11 C.F.R. § 110.20(a)(5).

The Complaint points to random social media communications from Twitter handles it allegedly controlled by foreign nationals that are directed at individuals involved with the Respondents. Based on communications directed at Respondents (but not responded to) and independent social media posts perceived as favorable to Respondents, the Complaint alleges a contribution. Social media posts made by alleged foreign Twitter accounts that are deemed favorable to Respondents do not amount to in-kind contributions from foreign nationals. This is beyond a stretch of an allegation. Complainant makes this allegation without providing any evidence that the Respondents or any of their agents coordinated or communicated with any individuals or entities behind these Twitter accounts, and most tellingly, the Complaint does not identify any contribution Respondents accepted from a foreign national.

Respondents did not solicit, accept, or receive any contribution or donation from a foreign national and the Complaint has provided no evidence beyond weak speculation supporting the allegation that Respondents violated 52 U.S.C. § 30121.

B. The Uncompensated Internet Activity by the named Twitter Accounts is Not a Contribution under the Act

The Commission’s regulations exempt volunteer internet activity from the definition of a contribution providing that individuals or a group of individuals communicating over the internet to influence a federal election is not a contribution if the personal services related to the Internet activities are uncompensated. *See* 11 C.F.R. § 100.94.⁶ Here, there was no coordination,

⁶ § 100.94 Uncompensated Internet activity by individuals that is not a contribution.

(a) When an individual or a group of individuals, acting independently or in coordination with any candidate, authorized committee, or political party committee, engages in Internet activities for the purpose of influencing a Federal election, neither of the following is a contribution by that individual or group of individuals:

- (1) The individual's uncompensated personal services related to such Internet activities;
- (2) The individual's use of equipment or services for uncompensated Internet activities, regardless of who owns the equipment and services. . . .

communication, or compensation by the Campaign to or with any individual or entity operating the Twitter accounts that the Complaint references.

In MUR 6772, the Commission reviewed allegations made against the Obama Campaign that it had solicited contributions from foreign nationals based on links to “Obama.com” appearing on websites with predominantly foreign traffic. Ultimately, the Commission found that, “Although the Complaint alleges solicitation violations, it provides no basis to conclude that the Obama Campaign Committees or any agent of those committees solicited foreign national contributions. The mere appearance of the domain name www.obama.com on internet websites or blogs that are allegedly frequented by foreign nationals does not support a reasonable inference of such violations.” F&LA at 8, n. 6, MUR 6772, (Obama for America, et al.).

Similarly, here, even assuming true the allegation that Twitter communications favorable to Respondents, this does not amount to a solicitation of foreign contributions. If anything, the communications would amount to uncompensated internet activity, which the Commission regulations have stated is not a contribution under the Act. The Commission has also opined that a foreign national can volunteer personal services to a federal candidate or federal political committee without making a contribution. *See* AO 2014-20 (Make Your Laws PAC). Despite volunteer activity being allowed by the Commission, the activities outlined in the Complaint were not done as volunteer activity, but were done completely independent of and not at the direction of any of the Respondents or their agents.

C. Respondents Took Steps to Avoid Contributions from Foreign Nationals

Florida law requires state campaigns and political committees to report the name, address, and occupation, if any, of each person that has made a contribution to a candidate or political committee. § 106.07, Fla. Stat. Respondents collected this information (as well as email and employer) from each donor and reported it publicly. This process allowed Respondents to identify and refuse any contributions from foreign nationals. Florida election regulators that oversee the activities of Respondents are also not silent on this prohibition. The Florida Division of Elections provides clear guidance to all state campaigns and treasurers that federal law prohibits contributions from foreign nationals to any federal, state, or local candidate.⁷

III. Conclusion

The Complaint should be dismissed for any of the reasons set forth above. First, the Respondents did not solicit, accept, or receive any contribution or donation from a foreign national, and the Complaint has provided no evidence of such beyond mere speculation. Second,

⁷ *See* Fla. Div. of Elec., *Candidate and Campaign Treasurer Handbook*, at 22, available at: <https://dos.myflorida.com/media/699202/candidate-and-campaign-treasurer-handbook-2018.pdf> (last accessed Feb. 18, 2019).

Jeff Jordan, Esq.
February 25, 2019
Page 5

even if certain Twitter communications favorable to Respondents were emanating from foreign sources as Complaint alleges, this would amount to uncompensated internet activity, which Commission regulations state explicitly is not a contribution. Third, the Respondents and the state officials regulating them, take affirmative steps under Florida law to collect information about each donor so that they can identify and refuse any contributions from foreign nationals. The allegations in the Complaint are based on nothing more than the Complainant's own conspiratorial speculation, and the Commission should find no reason to believe that Respondents violated the Act or Commission regulations and dismiss this matter.

Sincerely,



Benjamin J. Gibson

*Counsel for Respondents,
Ron DeSantis Campaign for Governor, Friends
of Ron DeSantis PAC, and Treasurer Nancy
Watkins*