



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

November 16, 2023

VIA EMAIL AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Natalie K. Baur, Treasurer
Steve Chabot for Congress
9856 Archer Lane
Dublin, OH 43017-8914
natalie@nkbaurassociates.com

RE: MUR 7677

Dear Ms. Baur:

This is in reference to the complaint you filed with the Federal Election Commission on December 27, 2019, concerning allegations that James R. Schwartz II violated provisions of the Federal Election Campaign Act of 1971, as amended, in connection with activity he engaged in while acting as treasurer of Steve Chabot for Congress and Natalie Bauer as treasurer (the "Committee").

Based on that complaint, on January 26, 2023, the Commission found reason to believe that James R. Schwartz II knowingly and willfully violated 52 U.S.C. §§ 30102(c), 30103(b), (c), 30104(b), 30114(b)(1) and 11 C.F.R. §§ 102.2(a)(1), (2), 102.9, 104.3, and 104.14(d) by converting funds of the Committee to personal use, failing to keep complete Committee financial records, and failing to file accurate disclosure reports. Subsequently, the Commission on November 15, 2023, entered into a conciliation agreement with James R. Schwartz II and closed the file on the matter.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016).

The Factual and Legal Analysis, which explains the Commission's findings, and a copy of the conciliation agreement are enclosed. If you have any questions, please contact me at (202) 694-1476 or arabinowitz@fec.gov.

Natalie K. Baur
MUR 7677
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Sincerely,

Lisa J. Stevenson
Acting General Counsel

A handwritten signature in black ink, appearing to read "Aaron Rabinowitz". The signature is fluid and cursive, with the first name "Aaron" and last name "Rabinowitz" clearly distinguishable.

By: Aaron Rabinowitz
Assistant General Counsel

Enclosures
Factual and Legal Analysis
Conciliation Agreement

1 **FEDERAL ELECTION COMMISSION**
2
3 **FACTUAL AND LEGAL ANALYSIS**
4

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6 RESPONDENT: James R. Schwartz II

MUR 7677

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9 **I. INTRODUCTION**

10 This matter was generated by a complaint filed with the Federal Election Commission
11 (the “Commission”), which alleges violations of the Federal Election Campaign Act of 1971, as
12 amended (the “Act”), relating to allegations of an eight-year embezzlement scheme by James R.
13 Schwartz II, the former campaign manager of Steve Chabot for Congress and Natalie Baur as
14 treasurer (the “Committee”). The Committee submitted a complaint shortly after learning of the
15 embezzlement scheme in which it acknowledges that Schwartz, as part of his efforts to conceal
16 the misappropriations of funds, caused it to file inaccurate disclosure reports that misrepresented
17 its receipts, disbursements, and cash-on-hand balances. Schwartz has since pleaded guilty to
18 charges of wire fraud and the falsification of records in a federal investigation in connection with
19 embezzling \$1.4 million from the Committee and related misrepresentations made in reports he
20 prepared and filed on behalf of the Committee and falsified documents he provided to the Audit
21 Division.

22 Based on the available information, the Commission finds reason to believe that James
23 R. Schwartz II knowingly and willfully violated 52 U.S.C. §§ 30102(c), 30103(b), (c), 30104(b),
24 30114(b)(1), and 11 C.F.R. §§ 102.2(a)(1), (2), 102.9, 104.3, 104.14(d) by converting Committee
25 funds to personal use, failing to keep complete Committee financial records, misrepresenting the
26 actual treasurer of the Committee, and failing to file accurate disclosure reports.

1 **II. FACTUAL BACKGROUND**

2 Steve Chabot for Congress and Natalie Baur as treasurer is the principal campaign
3 committee of Ohio Representative Steve Chabot.¹ James R. Schwartz II acted as the campaign
4 manager for the Committee from 2011 to 2019.² During the same period the Committee listed
5 his father, James Schwartz, Sr., as treasurer on all Committee filings.³

6 On April 23, 2019, the Commission voted to undertake an audit of the Committee's
7 2017-2018 election cycle activity.⁴ At the start of the audit, Schwartz communicated on behalf
8 of the Committee and provided bank statements and internal records in response to the Audit
9 Division's requests.⁵ After the Audit Division made follow-up requests, however, Schwartz
10 became noncommunicative and, it was later learned, turned himself into law enforcement.⁶

11 On April 27, 2021, Schwartz was charged with wire fraud and falsification of records in a
12 federal investigation in connection with a long running scheme to embezzle funds from the
13 Committee,⁷ and Schwartz pleaded guilty to those charges in an amended plea agreement on

¹ Steve Chabot for Congress, Statement of Organization (Oct. 11, 2021).

² *United States v. Schwartz*, 1:21-cr-45, Information ¶ 12 ("Schwartz Information") (S.D. Ohio, Apr. 27, 2021); Compl., MUR 7677 (Dec. 27, 2019).

³ Steve Chabot for Congress, Statement of Organization (Jan. 30, 2011); Steve Chabot for Congress, Statement of Organization (Oct. 31, 2019).

⁴ Letter from Patricia C. Orrock, FEC, to James Schwartz Sr. (Apr. 25, 2019).

⁵ *United States v. Schwartz*, 1:21-cr-45, Amended Plea Agreement, Attachment A ("Schwartz Plea Agreement") (S.D. Ohio, May 28, 2021).

⁶ Schwartz Plea Agreement.

⁷ Schwartz Information.

1 May 28, 2021.⁸ Schwartz stipulated that he had embezzled a total of \$1,420,475.23 from the
2 Committee throughout his time as campaign manager for Chabot from 2011 through 2019.
3 According to the plea, Schwartz effectuated this scheme by: (1) misrepresenting in reports to the
4 Commission that his father was the Committee's treasurer; (2) writing checks from the
5 Committee's bank account to himself and his consulting companies, Fountain Square Group
6 LLC and Prime Media LLC; (3) sending reports to the Commission that misrepresented the
7 Committee's cash on hand, receipts, and disbursements in order to hide the embezzlement; and
8 (4) falsifying documents in connection with a Commission audit, including sending auditors
9 fraudulently-altered bank account information.⁹ On May 1, 2022, Schwartz was sentenced to
10 twenty four months of imprisonment and three years of supervised release and was required to
11 pay \$1,407,220.03 in restitution.¹⁰

12 On December 27, 2019, the Committee filed a Complaint with the Commission alleging
13 violations of the Act by Schwartz based on the criminal indictment and the Committee's review
14 of its records to-date.¹¹ Schwartz did not file a Response.

15 III. LEGAL ANALYSIS

16 Each treasurer is required to keep an accurate account of and disclose, among other
17 things, its receipts, disbursements, and cash-on-hand balances.¹² Committees, through their

⁸ Schwartz Plea Agreement.

⁹ *Id.*, Attachment A.

¹⁰ *United States v. Schwartz*, 1:21-cr-45, Judgment in a Criminal Case (S.D. Ohio, Apr. 1, 2022).

¹¹ Compl.

¹² 52 U.S.C. § 30104(a), (b).

1 treasurers, are also required to file a statement of organization that accurately discloses the
2 current name and address of the treasurer of the committee.¹³ The Act prohibits any person from
3 converting contributions to a federal candidate to personal use.¹⁴ The Act prescribes additional
4 monetary penalties for violations that are knowing and willful.¹⁵ A violation of the Act is
5 knowing and willful if the “acts were committed with full knowledge of all the relevant facts and
6 a recognition that the action is prohibited by law.”¹⁶ This does not require proving knowledge of
7 the specific statute or regulation the respondent allegedly violated.¹⁷ Rather, it is sufficient to
8 demonstrate that a respondent “acted voluntarily and was aware that his conduct was
9 unlawful.”¹⁸ This awareness may be shown through circumstantial evidence from which the
10 respondent’s unlawful intent reasonably may be inferred.¹⁹

¹³ 52 U.S.C. § 30103(a), (b); 11 C.F.R. § 102.2(a)(1), (2).

¹⁴ 52 U.S.C. § 30114(b)(1). A contribution or donation shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate’s election campaign or individual’s duties as a holder of federal office. *Id.* § 30114(b)(2).

¹⁵ *Id.* §§ 30109(a)(5)(B), 30109(d).

¹⁶ 122 Cong. Rec. 12,197, 12,199 (May 3, 1976).

¹⁷ *United States v. Danielczyk*, 917 F. Supp. 2d 573, 578 (E.D. Va. Jan. 9, 2013) (quoting *Bryan v. United States*, 524 U.S. 184, 195 & n.23 (1998) (holding that, to establish a violation is willful, government needs to show only that defendant acted with knowledge that conduct was unlawful, not knowledge of specific statutory provision violated)).

¹⁸ *Id.* (citing jury instructions in *United States v. Edwards*, No. 11-61 (M.D.N.C. 2012), *United States v. Acevedo Vila*, No. 08-36 (D.P.R. 2009), *United States v. Fieger*, No. 07-20414 (E.D. Mich. 2008), and *United States v. Alford*, No. 05-69 (N.D. Fla. 2005)).

¹⁹ *Cf. United States v. Hopkins*, 916 F.2d 207, 213 (5th Cir. 1990) (quoting *United States v. Bordelon*, 871 F.2d 491, 494 (5th Cir. 1989)). *Hopkins* involved a conduit contributions scheme, and the issue before the Fifth Circuit concerned the sufficiency of the evidence supporting the defendants’ convictions for conspiracy and false statements under 18 U.S.C. §§ 371 and 1001.

1 Although Schwartz was not named in Committee filings as the Committee's treasurer, the
2 available information establishes that Schwartz performed all the duties of the treasurer while he
3 was campaign manager, including maintaining the Committee's depository account and
4 preparing and filing reports with the Commission.²⁰ The Commission has consistently held that
5 an individual who is assigned the duties of a treasurer will be liable for violations of his or her
6 duties even if the Committee names a figurehead treasurer in its reports.²¹

7 The available information, including the criminal investigation, and the plea agreement,
8 confirms that Schwartz converted campaign funds to personal use and caused the Committee to
9 inaccurately report its receipts, disbursements, cash-on-hand, the identity of the Committee's
10 treasurer and other information while he functioned as treasurer. In addition, the available
11 information, including Schwartz's plea agreement acknowledging that he purposefully filed
12 inaccurate reports to conceal his embezzlement, supports a knowing and willful finding.

13 Therefore, the Commission finds reason to believe that James R. Schwartz II knowingly
14 and willfully violated 52 U.S.C. §§ 30102(c), 30103(b), (c), 30104(b), 30114(b)(1), and 11
15 C.F.R. §§ 102.2(a)(1), (2), 102.9, 104.3, 104.14(d) by converting Committee funds to personal
16 use, failing to keep complete Committee financial records, misrepresenting the actual treasurer of
17 the Committee, and failing to file accurate disclosure reports.

²⁰ See *United States v. Schwartz*, 1:21-cr-45, Amended Plea Agreement, Attachment A.

²¹ See, e.g., Conciliation Agreement at 5-6, MUR 5358 (Jamie Morgan) (holding candidate personally liable where treasurer of record ceased performing his duties, but the candidate subsequently signed and filed nine disclosure reports); Factual & Legal Analysis at 7, MUR 5646 (Burchfield) (Mar. 3, 2005) (holding campaign manager personally liable as *de facto* treasurer where campaign manager prepared the committee's reports, performed finance-related duties, deposited contributions, and prepared checks to pay the campaign's expenses).

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

James R. Schwartz II

MUR 7677

CONCILIATION AGREEMENT

This matter was generated by a complaint filed with the Federal Election Commission (the "Commission"). The Commission found reason to believe that James R. Schwartz II ("Respondent") knowingly and willfully violated 52 U.S.C. §§ 30102(c), 30103(b), (c), 30104(b), 30114(b)(1) and 11 C.F.R. §§ 102.2(a)(1), (2), 102.9, and 104.3, 104.14(d) by converting Committee funds to personal use, failing to keep complete Committee financial records, and failing to file accurate disclosure reports.

NOW, THEREFORE, the Commission and Respondent, having participated in informal methods of conciliation prior to a finding of probable cause to believe, agree as follows:

I. The Commission has jurisdiction over Respondent and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 52 U.S.C. § 30109(a)(4)(A)(i).

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Steve Chabot for Congress and Natalie Baur as treasurer (the "Committee") is the principal campaign committee of Ohio Representative Steve Chabot.

James R. Schwartz II acted as the campaign manager for the Committee from 2011 to 2019.

During the same period, the Committee listed his father, James Schwartz, Sr., as treasurer on all Committee filings.

2. On April 27, 2021, Schwartz was charged with wire fraud and falsification of records in a federal investigation in connection with a long running scheme to embezzle funds from the Committee, and Schwartz pleaded guilty to those charges in an amended plea agreement on May 28, 2021. Schwartz stipulated that he had embezzled a total of \$1,420,475.23 from the Committee throughout his time as campaign manager for Chabot from 2011 through 2019. According to the plea, Schwartz effectuated this scheme by: (1) misrepresenting in reports to the Commission that his father was the Committee's treasurer; (2) writing checks from the Committee's bank account to himself and his consulting companies, Fountain Square Group LLC and Prime Media LLC; (3) sending reports to the Commission that misrepresented the Committee's cash on hand, receipts, and disbursements in order to hide the embezzlement; and (4) falsifying documents in connection with a Commission audit, including sending auditors fraudulently-altered bank account information. On May 1, 2022, Schwartz was sentenced to twenty four months of imprisonment and three years of supervised release and was required to pay \$1,407,220.03 in restitution. On December 27, 2019, the Committee also filed a Complaint with the Commission alleging violations of the Act by Schwartz based on the criminal indictment and the Committee's review of its records to-date.

3. Because of Schwartz's embezzlement and his efforts to conceal it, the Committee failed to disclose or incorrectly disclosed approximately \$2.5 million in receipts and disbursements and over or under-reported cash on hand by \$1 million or more during the 2017-2018 election cycle. In the first half of 2019, the Committee's reporting of receipts and

disbursements were off by more than \$400,000. Schwartz also caused the Committee to inaccurately report its cash-on-hand throughout the same period.

4. Each treasurer is required to keep an accurate account of and disclose, among other things, its receipts, disbursements, and cash-on-hand balances. 52 U.S.C. § 30104(a), (b). Committees, through their treasurers, are also required to file a statement of organization that accurately discloses the current name and address of the treasurer of the committee. 52 U.S.C. § 30103(a), (b); 11 C.F.R. § 102.2(a)(1), (2). The Act prohibits any person from converting contributions to a federal candidate to personal use. 52 U.S.C. § 30114(b)(1). The Act prescribes additional monetary penalties for violations that are knowing and willful. 52 U.S.C. §§ 30109(a)(5)(B), 30109(d).

5. Although Schwartz was not named in Committee filings as the Committee's treasurer, Schwartz performed all the duties of the treasurer while he was campaign manager, including maintaining the Committee's depository account and preparing and filing reports with the Commission. Schwartz thereby acted as the *de facto* treasurer of the Committee.

V. James R. Schwartz II knowingly converted campaign funds to personal use and caused the Committee to inaccurately report its receipts, disbursements, cash-on-hand, the identity of the Committee's treasurer and other information while he functioned as treasurer. As a result, James R. Schwartz II knowingly and willfully violated 52 U.S.C. §§ 30102(c), 30103(b), (c), 30104(b), 30114(b)(1) and 11 C.F.R. §§ 102.2(a)(1), (2), 102.9, and 104.3, 104.14(d).

VI. Respondent will take the following actions:

1. Respondent will cease and desist from committing further violations of 52 U.S.C. §§ 30102(c), 30103(b), (c), 30104(b), 30114(b)(1) and 11 C.F.R. §§ 102.2(a)(1), (2), 102.9, and 104.3, 104.14(d).
2. Respondent is prohibited from working or volunteering on any federal political committee in any capacity that involves fundraising or handling finances for a period of ten (10) years from the effective date of this agreement. This prohibition encompasses recordkeeping and preparing and/or filing disclosure reports with the Federal Election Commission.
3. Respondent James R Schwartz II, through the submission of financial documentation to the Commission and additional representations, has indicated that financial hardship prevents him from paying any civil penalty to the Commission. Schwartz is currently in the process of paying restitution in the amount of \$1,407,420.03 to the Committee and has limited assets. The Commission regards these submissions and representations as material representations. Due to Schwartz's financial condition, the Commission agrees to depart from the civil penalty that it would normally seek for the violations at issue, and the Commission agrees that no civil penalty shall be due. If evidence is uncovered indicating Respondent's financial condition is not as stated, a civil penalty of four million, forty nine thousand dollars (\$4,049,000) shall be immediately due, pursuant to 52 U.S.C. § 30109(a)(5)(B).

VII. The Commission, on request of anyone filing a complaint under 52 U.S.C. § 30109(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed the same and the Commission has approved the entire agreement.

IX. Respondent shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the Commission and Respondent and constitutes a final settlement as to Respondent. No other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lisa J. Stevenson
Acting General Counsel

Charles
Kitcher

Digitally signed by
Charles Kitcher
Date: 2023.11.16
10:28:44 -05'00'

BY:

11/16/23

Charles Kitcher
Associate General Counsel
for Enforcement

Date

FOR THE RESPONDENT:



(Name) James Schwartz
(Position)

11/7/23

Date