



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of )  
 ) MUR 7783  
Byron Donalds for Congress and Bradley T. Crate )  
in his official capacity as treasurer, *et al.* )  
 )

**STATEMENT OF REASONS OF CHAIRMAN ALLEN DICKERSON AND  
COMMISSIONERS SEAN J. COOKSEY AND JAMES E. “TREY” TRAINOR, III**

The Complaint in this matter alleges that Byron Donalds, his federal campaign committee, and two Florida state political committees—Friends of Byron Donalds (“FBD”) and Conservatives for Effective Government (“CFEG”)—violated the soft-money and straw-donor prohibitions of the Federal Election Campaign Act of 1971, as amended (“the Act”).<sup>1</sup> Specifically, it claims that Donalds continued to control FBD after he resigned from its leadership to run for federal office and, through a series of transactions, FBD later transferred nonfederal funds to an independent expenditure-only political committee supporting Donalds’ candidacy.

But the evidence that Donalds continued to control the eponymous FBD organization after he resigned is scant and speculative. And without that premise, the Complaint’s theory of a violation falls apart. Because we found that there were insufficient facts supporting the allegations, we voted to find no reason to believe.

**I. Factual Background**

Byron Donalds is the sitting U.S. Representative for Florida’s Nineteenth Congressional District.<sup>2</sup> Before holding federal office, Donalds was a State Representative for the 80th District of Florida from 2016 through 2020.<sup>3</sup>

Among his other state-level political activities, on August 22, 2019, Donalds formed a new state political committee—Friends of Byron Donalds.<sup>4</sup> Donalds was initially the committee’s chair, and Noreen Fenner was its treasurer.<sup>5</sup> From September 1, 2019, to January 2, 2020, FBD

<sup>1</sup> Complaint (Aug. 18, 2020), MUR 7783 (Byron Donalds, *et al.*). *See also* 52 U.S.C. §§ 30122, 30125(e).

<sup>2</sup> *See generally* <https://www.donalds.house.gov>.

<sup>3</sup> First General Counsel’s Report at 3 (Apr. 8, 2021), MUR 7783 (Byron Donalds, *et al.*).

<sup>4</sup> *Id.* at 2.

<sup>5</sup> *Id.*

raised \$98,707 in state-level contributions,<sup>6</sup> and on January 3, 2020, FBD made an \$87,000 contribution to another state committee, Conservatives for Effective Government.<sup>7</sup> Donalds resigned as chair the same day, and FBD filed a statement with the Florida Division of Elections and an amended notice with the IRS affirming Donalds' resignation and replacement as chair.<sup>8</sup> Donalds declared his candidacy for the U.S. House of Representatives three days later, on January 6.<sup>9</sup>

About five months after Donalds resigned as chair, FBD worked to reallocate its funds. It received a contribution from CFEG for \$107,038.66 on May 28, 2020, which it says included a refund of its earlier contribution.<sup>10</sup> About a month later, FBD then contributed \$107,456 to Trusted Conservatives, a federal independent expenditure-only political committee.<sup>11</sup> Trusted Conservatives would go on to make various independent expenditures in support of Donalds' federal candidacy.<sup>12</sup> On August 18, 2020, Donalds won the Republican primary, and he went on to win the general election on November 3, 2020, to represent Florida's Nineteenth Congressional District.<sup>13</sup>

This Complaint was filed on August 18, 2020.<sup>14</sup> It alleges that these later transactions that occurred in the summer of 2020—after Donalds resigned as FBD's chair—violated the Act's prohibition against federal candidates or officeholders soliciting, receiving, directing, transferring, or spending non-federal funds because Donalds still controlled FBD's activities.<sup>15</sup> The Complaint further alleges that CFEG made a contribution in the name of another, and FBD knowingly permitted its name to be used to make such a contribution, in violation of 52 U.S.C. § 30122.<sup>16</sup> For their part, the Respondents disclaim that Donalds had any involvement in FBD after his resignation, and they dispute that any contribution to Trusted Conservatives was in the name of another.<sup>17</sup>

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<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 3.

<sup>8</sup> Friends of Byron Donalds, Change of Officers, Fla. Dep't of State, Div. of Elections (Jan. 3, 2020), *available at* <https://dos.elections.myflorida.com/campaign-docs/?account=74495>; Friends of Byron Donalds PC, Amended IRS Form 8871 (Jan. 3, 2020), *available at* [https://forms.irs.gov/app/pod/advanced8871Search/search?eventId\\_displayForm=true&formId=105426&formtype=e8871&execution=e1s3](https://forms.irs.gov/app/pod/advanced8871Search/search?eventId_displayForm=true&formId=105426&formtype=e8871&execution=e1s3).

<sup>9</sup> First General Counsel's Report at 4 (Apr. 8, 2021), MUR 7783 (Byron Donalds, *et al.*).

<sup>10</sup> *Id.*

<sup>11</sup> Response of Friends of Byron Donalds at 2 (Sept. 28, 2020), MUR 7783 (Byron Donalds, *et al.*).

<sup>12</sup> First General Counsel's Report at 5 (Apr. 8, 2021), MUR 7783 (Byron Donalds, *et al.*).

<sup>13</sup> *Id.* at 13.

<sup>14</sup> Complaint (Aug. 18, 2020), MUR 7783 (Byron Donalds, *et al.*).

<sup>15</sup> *Id.* at 4–7.

<sup>16</sup> *Id.* at 7–8.

<sup>17</sup> *See* Response of Friends of Byron Donalds at 2 (Sept. 28, 2020), MUR 7783 (Byron Donalds, *et al.*); Response of Byron Donalds, *et al.* (Sept. 10, 2020), MUR 7783 (Byron Donalds, *et al.*).

## II. Legal Analysis

Under the Act’s soft-money prohibition, federal candidates and officeholders—as well as any entity “directly or indirectly established, financed, maintained, or controlled [“EFMC’d”] by or acting on behalf of” a federal candidate, officeholder—may not solicit, receive, direct, transfer, or spend funds raised outside the federal limits and source prohibitions in connection with a federal election.<sup>18</sup> To determine whether a candidate, federal officeholder, or his or her agent EFMC’d an entity, the Commission considers a non-exhaustive list of ten factors set forth in 11 C.F.R. § 300.2(c)(2), which “must be examined in the context of the overall relationship between [the candidate or officeholder] and the entity.”<sup>19</sup>

The analysis of this matters turns almost entirely on the issue of whether Donalds EFMC’d FBD in the months after he resigned as chair and began to campaign for federal office, which is the period when FBD received funds from CEFG and then contributed to Trusted Conservatives. In its First General Counsel’s Report, OGC concluded that Donalds continued to retain “the authority or ability to direct or participate in the governance of” FBD during the summer of 2020, based on three principal pieces of evidence.<sup>20</sup> First, OGC points to the fact that FBD did not change its name after Donalds resigned—it was still called Friends of Byron Donalds even after Donalds had left the organization.<sup>21</sup> Second, OGC relies on the fact that after Donalds resigned, FBD’s website continued to carry the statement “Friends of Byron Donalds is associated with Byron Donalds.”<sup>22</sup> Finally, OGC infers that Donalds continued to control FBD because the contribution FBD subsequently made was later used to fund independent expenditures in support of Donalds’ federal candidacy.<sup>23</sup>

But for the following reasons, we concluded that this evidence was too meager to support reason to believe Donalds EFMC’d the state committee after his resignation. First, OGC’s reliance on the name of the state committee is unjustified. What’s in a name? That which we call Friends of Byron Donalds by any other name would not affect whether Donalds exercised authority over the committee. In its First General Counsel’s Report, OGC provides no theory or conjecture about how the name of the organization makes it more likely that Donalds maintained decision-making power for the committee.<sup>24</sup> Nor is any rational connection apparent to us. In fact, OGC appears to have reached the opposite conclusion in MUR 7683 (Our Revolution), where it reasoned that the organization Our Revolution’s name being “inspired” by Senator Bernie Sanders was not sufficient evidence to infer that Sanders established the group.<sup>25</sup>

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<sup>18</sup> 52 U.S.C. § 30125(e)(1)(A); 11 C.F.R. §§ 300.60, 300.61.

<sup>19</sup> 11 C.F.R. § 300.2(c)(2).

<sup>20</sup> 11 C.F.R. § 300.2(c)(2)(ii).

<sup>21</sup> First General Counsel’s Report at 11 (Apr. 8, 2021), MUR 7783 (Byron Donalds, *et al.*).

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *See* First General Counsel’s Report at 17 (July 8, 2021), MUR 7683 (Our Revolution, *et al.*).

We agree with OGC’s reasoning in its First General Counsel’s Report in MUR 7683: “even if it were assumed that Sanders was responsible for naming Our Revolution, this itself is not sufficient to show that Sanders ‘established’ the organization.”<sup>26</sup> In that matter, OGC went on to conclude that “though the available information supports the conclusion that Our Revolution was inspired and perhaps influenced by Sanders and his political agenda, it does not provide a sufficient basis to infer that he EFMC’d Our Revolution.”<sup>27</sup> So too here. An organization’s name tells us nothing about whether an individual has actual control of or influence over the organization.

For similar reasons, we were not persuaded that FBD’s website’s statement that “Friends of Byron Donalds is associated with Byron Donalds” was sufficient evidence of Donalds’ continued control over the committee. FBD claims that the statement was left on its website by mistake—a human error that was subsequently corrected when the Complaint was filed.<sup>28</sup> We found FBD’s explanation credible. And at any rate, mere statements of affiliation with a candidate are insufficient to conclude that the candidate EFMCs the organization, as OGC itself acknowledged in MUR 7683 (Our Revolution). There, “Our Revolution’s website and four press releases from Our Revolution’s five years of operations state that Our Revolution was ‘founded’ by Sanders.”<sup>29</sup> Yet OGC discounted that evidence—along with much more—and found it insufficient to conclude that Sanders EFMC’d the organization.<sup>30</sup> By the same logic, we could not conclude that one stray website statement in this matter was enough to establish Donalds’ control over FBD. Moreover, FBD’s affirmative act of filing an amended notice with the IRS and an amended statement with the Florida Division of Elections provides sufficient information to conclude that Donalds had severed ties with the organization in early January 2020.<sup>31</sup>

Finally, we rejected OGC’s *post hoc* reasoning that, because Trusted Conservatives subsequently made independent expenditures in support of Donalds’ federal candidacy after FBD’s contribution, Donalds must have directed FBD to make that contribution. Again, this conclusion is speculative, and it seems equally likely—if not more so—that FBD’s contribution to a Trusted Conservatives was motivated by the group’s independent desire to see its former chair elected to federal office. As we have observed in others matters, “the Act does not prohibit an entity from engaging in political speech merely because it was, at some point in the past, EFMC’d by an individual who later became a federal candidate or officeholder.”<sup>32</sup> And once again, we note that OGC did not seem to reach the same inference in MUR 7683 (Our Revolution), where the

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<sup>26</sup> *Id.*

<sup>27</sup> *Id.* at 14.

<sup>28</sup> Response of Friends of Byron Donalds at 2 (Sept. 28, 2020), MUR 7783 (Byron Donalds, *et al.*).

<sup>29</sup> First General Counsel’s Report at 14 (July 8, 2021), MUR 7683 (Our Revolution, *et al.*).

<sup>30</sup> *Id.* at 17.

<sup>31</sup> IRS Form 8871 requires that the filer submit “true, correct, and complete” information “under penalties of perjury,” and Florida’s campaign finance statute provides that filing a false report is punishable as a misdemeanor. Fla. Stat. Ann. § 106.19.

<sup>32</sup> Statement of Reasons of Vice Chair Dickerson and Commissioners Cooksey and Trainor at 9 (Aug. 3, 2021), MUR 7354 (Friends of Chris McDaniel, *et al.*).

organization had spent significant sums on ads that advocated for the nomination and election of Senator Sanders and was staffed by former members of Senators Sanders' campaign.<sup>33</sup>

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All in all, there was simply not sufficient evidence in the record to support finding reason to believe that Donalds EFMC'd Friends of Byron Donalds months after he resigned from the organization. And comparatively, there was substantially less evidence here that the candidate EFMC'd the organization than in MUR 7683, where we agreed with OGC's recommendation to dismiss the allegations.<sup>34</sup> Similarly, we agreed with OGC that the information available in this matter did not appear to show that the transactions between FBD, CFEG, and Trusted Conservatives constituted an illegal contribution in the name of another.<sup>35</sup> As a result, we voted to find no reason to believe any violation occurred in this matter, and we subsequently voted to close the file.<sup>36</sup>



Allen Dickerson  
Chairman

May 31, 2022


Date



Sean J. Cooksey  
Commissioner

May 31, 2022

Date



James E. "Trey" Trainor, III  
Commissioner

May 31, 2022

Date

<sup>33</sup> First General Counsel's Report at 8–9 (July 8, 2021), MUR 7683 (Our Revolution, *et al.*).

<sup>34</sup> Certification (Aug. 11, 2021), MUR 7683 (Our Revolution, *et al.*).

<sup>35</sup> First General Counsel's Report at 14–15 (Apr. 8, 2021), MUR 7783 (Byron Donalds, *et al.*).

<sup>36</sup> Certification (Apr. 26, 2022), MUR 7783 (Byron Donalds, *et al.*).