

**BEFORE THE FEDERAL ELECTION COMMISSION**

CAMPAIGN LEGAL CENTER  
1101 14th Street NW, Suite 400  
Washington, DC 20005  
(202) 736-2200

v. MUR No. \_\_\_\_\_

BETH HARWELL  
c/o Harwell for Congress  
P.O. BOX 159026  
Nashville, TN 37215

BETH HARWELL COMMITTEE  
95 White Bridge Rd.  
Nashville, TN 37205

HARWELL PAC  
95 White Bridge Rd.  
Nashville, TN 37205

**COMPLAINT**

1. While running for Congress in Tennessee’s Fifth District, Beth Harwell, a former Tennessee state legislator, appears to have directed a combined \$47,000 from her state campaign committee and state PAC to a federal super PAC exclusively supporting Harwell’s federal candidacy. The Federal Election Campaign Act (“FECA”), however, prohibits federal candidates and officeholders, as well as their agents and affiliated entities, from spending “soft money” — including, *e.g.*, nonfederal funds, which are not subject to federal source prohibitions, contribution limits, and reporting requirements — in connection with a federal election. By using nonfederal funds to support her bid for federal office, Harwell violated fundraising restrictions and transparency requirements that apply to all federal candidates, which are crucial to informing the public about the sources of candidates’ support, as well as for preventing corruption and its appearance.

2. This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) and is based on information and belief that Harwell, the Beth Harwell Committee, and the Harwell PAC have violated the Federal Election Campaign Act (“FECA”), 52 U.S.C. § 30101, *et seq.* If the Commission, “upon receiving a complaint . . . has reason to believe that a person has committed, or is about to commit, a violation of [FECA] . . . [t]he Commission *shall make an investigation* of such alleged violation.”<sup>1</sup>

### FACTUAL BACKGROUND

3. During the 2022 election cycle, Beth Harwell was a candidate for Congress in Tennessee’s Fifth Congressional District. Harwell filed a Statement of Candidacy with the Commission on February 24, 2022, and designated Harwell for Congress as her principal campaign committee that same day.<sup>2</sup> Harwell lost in the Republican primary election in Tennessee held on August 4, 2022.<sup>3</sup>
4. Harwell was previously a member of the Tennessee House of Representatives. The Beth Harwell Committee was her state campaign committee. Harwell PAC is a state political committee sponsored by Harwell.
5. Government of the People (“GOTP”) is a federal independent expenditure-only political committee (“IEOPC”) — commonly referred to as a “super PAC” — that registered with the Commission on July 20, 2022. Its treasurer is Debra Maggart.<sup>4</sup>
6. GOTP reported receiving a \$35,000 contribution from the Beth Harwell Committee, and a \$12,000 contribution from Harwell PAC, both on July 22, 2022 — *i.e.*, two days after

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<sup>1</sup> 52 U.S.C. § 30109(a)(2) (emphasis added); *see also* 11 C.F.R. § 111.4(a).

<sup>2</sup> Beth Harwell, Statement of Candidacy at 1 (Feb. 24, 2022); Harwell for Congress, Statement of Org. at 1 (Feb. 24, 2022).

<sup>3</sup> Tenn. Fifth Congressional Dist. Primary Election Results, N.Y. Times (Aug. 5, 2022), <https://www.nytimes.com/interactive/2022/08/04/us/elections/results-tennessee-us-house-district-5.html>.

<sup>4</sup> Government of the People, Statement of Org. at 1 (July 20, 2022).

the IEOPC was formed.<sup>5</sup> GOTP also received \$10,000 from Beth Harwell’s husband Samuel Harwell, on August 1, 2022.<sup>6</sup> In total, GOTP reported raising \$123,250.

7. Between July 27, 2022, and August 4, 2022 — the day of the primary election in Tennessee — GOTP reported making over \$62,000 in independent expenditures supporting Harwell’s candidacy, and over \$51,000 in independent expenditures opposing Harwell’s primary opponent, Andy Ogles.<sup>7</sup>

#### SUMMARY OF THE LAW

8. Under FECA, a “candidate” is defined as “an individual who seeks nomination for election, or election, to Federal office” and crosses the statutory threshold of receiving aggregate contributions, or making aggregate expenditures, in excess of \$5,000.<sup>8</sup> Federal candidates must file a written statement designating a principal campaign committee within fifteen days of becoming a candidate.<sup>9</sup>
9. FECA requires that the funds federal candidates and officeholders raise and spend in connection with federal elections comply with federal campaign finance laws. The Bipartisan Campaign Reform Act of 2002 (“BCRA”) amended FECA to prohibit federal candidates and officeholders, their agents, and any entities that they directly or indirectly establish, finance, maintain, or control from raising or spending funds in connection with a federal election that do not comply with FECA’s contribution limits, source prohibitions, and reporting requirements — *i.e.*, so-called “soft money.”<sup>10</sup>

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<sup>5</sup> Government of the People, 2022 Oct. Quarterly Report at 11 (Oct. 14, 2022).

<sup>6</sup> *Id.* at 9.

<sup>7</sup> Government of the People, Independent Expenditures, 2021-2022, [https://www.fec.gov/data/independent-expenditures/?two\\_year\\_transaction\\_period=2022&data\\_type=processed&q\\_spender=C00821009&cycle=2022&is\\_notice=true&most\\_recent=true](https://www.fec.gov/data/independent-expenditures/?two_year_transaction_period=2022&data_type=processed&q_spender=C00821009&cycle=2022&is_notice=true&most_recent=true).

<sup>8</sup> 52 U.S.C. § 30101(2); *see* 11 C.F.R. § 100.3.

<sup>9</sup> 52 U.S.C. § 30102(e)(1); *see* 11 C.F.R. § 101.1(a).

<sup>10</sup> *See generally* 52 U.S.C. § 30125; 11 C.F.R. part 300.

10. Specifically, FECA provides, in relevant part:

A candidate, individual holding Federal office, agent of a candidate or an individual holding Federal office, or an entity directly or indirectly established, financed, maintained or controlled by or acting on behalf of 1 or more candidates or individuals holding Federal office, shall not — (A) solicit, receive, direct, transfer, or spend funds in connection with an election for Federal office, including funds for any Federal election activity, unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act.<sup>11</sup>

11. Although federal court decisions have invalidated some of FECA’s source prohibitions and amount limitations as applied to IEOPCs,<sup>12</sup> those decisions left intact BCRA’s statutory amendments mandating that federal candidates and officeholders cannot “solicit, receive, direct, transfer, or spend” soft money in connection with federal elections, and those requirements thus remain in effect, as the Commission itself has explicitly recognized.

12. In Advisory Opinion 2011-12 (Majority PAC), the Commission explicitly reaffirmed that BCRA, codified at 52 U.S.C. § 30125 *et seq.*, “remains valid” after *Citizens United* and *SpeechNow*: “[BCRA] was enacted by Congress long after [FECA’s] contribution limits and source prohibitions. It was upheld by the Supreme Court in *McConnell v. FEC*, 540 U.S. 93, 181-184 (2003), and remains valid since it was not disturbed by either *Citizens United* or *SpeechNow*.”<sup>13</sup> In that advisory opinion, the Commission explicitly stated that federal candidates cannot lawfully solicit funds on an IEOPC’s behalf that are beyond FECA’s contribution limits, source prohibitions, and reporting requirements.<sup>14</sup>

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<sup>11</sup> 52 U.S.C. § 30125(e)(1); *see* 11 C.F.R. § 300.61.

<sup>12</sup> *SpeechNow v. FEC*, 599 F.3d 686, 689 (D.C. Cir. 2010); *see also Citizens United v. FEC*, 558 U.S. 310 (2010).

<sup>13</sup> Advisory Op. 2011-12 (Majority PAC) at 4.

<sup>14</sup> *Id.* at 3-4.

13. Accordingly, even after *Citizens United* and *SpeechNow*, FECA clearly prohibits federal candidates and officeholders, their agents, and any other entities that they have directly or indirectly established, financed, maintained or controlled — including, *e.g.*, a state campaign committee or PAC that a federal candidate or officeholder sponsored — from directing or transferring nonfederal funds to an IEOPC.<sup>15</sup>

#### CAUSE OF ACTION

##### **COUNT I:**

##### **HARWELL, THE BETH HARWELL COMMITTEE, AND THE HARWELL PAC APPEAR TO HAVE VIOLATED 52 U.S.C. § 30125(E) BY DIRECTING OR TRANSFERRING NONFEDERAL FUNDS TO A FEDERAL COMMITTEE FOR USE IN CONNECTION WITH A FEDERAL ELECTION**

14. The available information supports finding reason to believe that Harwell directed or transferred \$47,000 from two nonfederal committees that she established, financed, maintained or controlled — the Beth Harwell Committee and Harwell PAC — to a federal IEOPC, GOTP, in connection with Harwell’s congressional campaign.
15. Harwell was clearly a federal candidate from the time she registered as such with the Commission in February 2022, through at least the date of the Tennessee primary election on August 4, 2022.
16. During that period, on July 22, 2022, Harwell appears to have directed her state campaign committee, the Beth Harwell Committee, to contribute \$35,000 to GOTP, a federal IEOPC exclusively supporting Harwell’s federal candidacy. The Beth Harwell Committee is an entity that Harwell “established, financed, maintained or controlled” under FECA, yet the funds raised by that state campaign committee are nonfederal funds or “soft money” that is not subject to FECA’s source prohibitions, amount limitations, or reporting requirements. As such, there is reason to believe that the \$35,000 in nonfederal

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<sup>15</sup> See 52 U.S.C. §§ 30116(a)(1)(C); 30125(e)(1)(A).

funds the Beth Harwell Committee transferred to GOTP in connection with a federal election violated FECA.

17. Likewise, on July 22, 2022, Harwell appears to have directed Harwell PAC to contribute \$12,000 to GOTP. Harwell PAC is a state political committee sponsored by Harwell, and thus, like the Beth Harwell Committee, Harwell PAC is an entity that Harwell “established, financed, maintained or controlled” under FECA. Likewise, the funds raised by it are also nonfederal funds or “soft money” that is not subject to FECA’s source prohibitions, amount limitations, or reporting requirements. Therefore, there is reason to believe that the \$12,000 in nonfederal funds the Harwell PAC transferred to GOTP in connection with a federal election violated FECA.
18. Based on the foregoing, there is reason to believe that Harwell, the Beth Harwell Committee, and the Harwell PAC violated 52 U.S.C. § 30125(e)(1)(A) when Harwell directed or transferred a combined \$47,000 from those two state committees to GOTP in connection with Harwell’s campaign for federal office.

**PRAYER FOR RELIEF**

19. Wherefore, the Commission should find reason to believe that Harwell, the Beth Harwell Committee, and the Harwell PAC violated 52 U.S.C. § 30101 *et seq.*, and conduct an immediate investigation under 52 U.S.C. § 30109(a)(2).
20. Further, the Commission should seek appropriate sanctions for any and all violations, including civil penalties sufficient to deter future violations, injunctive relief to remedy these violations and prohibit any and all future violations, and such additional remedies as are necessary and appropriate to ensure compliance with FECA.

Respectfully submitted,

/s/ Saurav Ghosh  
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November 15, 2022

VERIFICATION

The complainants listed below hereby verify that the statements made in the attached Complaint are, upon their information and belief, true.

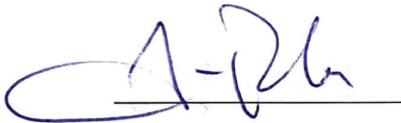
Sworn pursuant to 18 U.S.C. § 1001.

For Complainant Campaign Legal Center



Saurav Ghosh, Esq.

Sworn to and subscribed before me this 15<sup>th</sup> day of November 2022.



Notary Public

