



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

Neil Reiff  
Sandler Reiff Lamb Rosenstein  
& Birkenstock PC  
1025 Vermont Avenue N.W.  
Suite 300  
Washington, D.C. 20005

SEP 19 2016

RE: MUR 6973  
Daniel Chavez

Dear Mr. Reiff:

On October 26, 2015, the Federal Election Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your client at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on September 13, 2016, voted to dismiss this matter. The Factual and Legal Analysis, which more fully explains the Commission's decision, is enclosed for your information.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009).

If you have any questions, please contact Kimberly Hart, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Blumberg".

Peter Blumberg  
Acting Deputy Associate General Counsel

Enclosure  
Factual and Legal Analysis

**FEDERAL ELECTION COMMISSION  
FACTUAL AND LEGAL ANALYSIS**

**MUR 6973**

**RESPONDENTS:**

**Ruben Kihuen**

**Ruben Kihuen for Congress and  
Jay Petterson in his official capacity as  
Treasurer**

**Tacos and Beer LLC**

**Alien Tequila Spirits Company, LLC**

**Latin Chamber of Commerce**

**Embassy Nightclub**

**Ramirez Group, Inc.**

**ActBlue**

**Daniel Chavez**

**I. INTRODUCTION**

The Complaint in this matter alleges that Ruben Kihuen and his principal campaign committee, Ruben Kihuen for Congress and Jay Petterson in his official capacity as treasurer (the "Committee") (collectively, "the Respondents"), violated multiple provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). Among other things, the Complaint's allegations against Respondents include:

- the making and receipt of unreported prohibited in-kind contributions in the form of free event space, food, beverages, and invitations from Tacos and Beer LLC in connection with an April 25, 2015, Committee fundraiser;
- the making and receipt of unreported prohibited in-kind contributions in the form of free event space, food, beverages, invitations and sponsorship by Embassy Nightclub, Latin Chamber of Commerce and Alien Tequila Spirits Company, LLC in connection with a June 29, 2015, Committee fundraiser;

- 1 • the failure to report certain campaign expenditures, including salary payments to staff,  
2 Kihuen's travel costs, and office rent owed to Ramirez Group, Inc. ("Ramirez Group"),  
3 Kihuen's employer;  
4
- 5 • the inclusion of an incorrect disclaimer on Kihuen's website solicitation page, which was  
6 hosted on Respondent ActBlue's website; and  
7
- 8 • an impermissible transfer from Kihuen's state committee to his federal committee.

9 The Commission received responses from Kihuen and the Committee ("Committee  
10 Response"); Alien Tequila, ActBlue, and Daniel Chavez, which generally deny the making or  
11 receipt of prohibited in-kind contributions. The Committee acknowledged that it amended  
12 disclosure reports to reflect the receipt of certain *de minimis* in-kind contributions and  
13 expenditures. In addition, the Respondents deny that they failed to timely report other campaign  
14 expenses, violated the disclaimer provisions, or made or received an impermissible transfer.  
15 Tacos and Beer, the Embassy Nightclub, the Ramirez Group, and the Latin Chamber of  
16 Commerce did not submit responses.

## 17 II. FACTUAL AND LEGAL ANALYSIS

18 The Act prohibits corporations from making contributions to a federal political  
19 committee other than independent-expenditure-only political committees, and further prohibits  
20 any officer of a corporation from consenting to any such contribution by the corporation.<sup>1</sup> The  
21 Act further prohibits a candidate or political committee from accepting or receiving any  
22 contribution prohibited by section 30118(a).<sup>2</sup> A treasurer of a principal campaign committee of a  
23 candidate for the House of Representatives is required to file, in a non-election year, quarterly

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<sup>1</sup> 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(a), (e).

<sup>2</sup> *Id.*; see also 11 C.F.R. § 114.2(d).

1 reports of receipts, including contributions, and disbursements.<sup>3</sup> In-kind contributions shall be  
2 reported as a receipt in accordance with section 104.3(a) and as an expenditure in accordance  
3 with section 104.3(b).<sup>4</sup> A debt or obligation, including a loan, written contract, written promise  
4 or written agreement to make an expenditure, the amount of which is over \$500 shall be reported  
5 as of the date on which the debt or obligation was incurred, except that any obligation incurred  
6 for rent, salary, or other regularly recurring administrative expenses shall not be reported as a  
7 debt before the payment due date.<sup>5</sup> The Commission's regulations require disclaimers for all  
8 internet websites of political committees available to the general public as specified by section  
9 110.11(c).<sup>6</sup> A federal candidate shall not solicit, receive, direct, transfer or spend funds in  
10 connection with an election for federal office, including federal election activity, unless the funds  
11 are subject to the limitations, prohibitions, and reporting requirements of the Act.<sup>7</sup>

12 In light of the *de minimis* nature of the alleged violations, and in furtherance of the  
13 Commission's priorities and resources, the Commission exercises its prosecutorial discretion  
14 pursuant to *Heckler v. Chaney*, 470 U.S. 821 (1985), and dismisses the allegations that Ruben  
15 Kihuen, Kihuen for Congress and Jay Petterson in his official capacity as treasurer, Tacos and  
16 Beer, LLC, Embassy Nightclub, Alien Tequila, the Latin Chamber of Commerce, Ramirez  
17 Group, Inc, ActBlue and Daniel Chavez violated the Act.<sup>8</sup>

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<sup>3</sup> *Id.* § 30104(a)(2)(B), (b); *Id.* §§ 104.3(a)(2), (b).

<sup>4</sup> *Id.* § 104.13(b).

<sup>5</sup> *Id.* § 104.11(b).

<sup>6</sup> 11 C.F.R. § 110.11(a), (c).

<sup>7</sup> 52 U.S.C. § 30125(e)(1)(A).

<sup>8</sup> *Heckler v. Chaney*, 470 U.S. 821 (1985).