

**BEFORE THE
FEDERAL ELECTION COMMISSION**

Amanda Bogden
End Citizens United
PO Box 66005
Washington, D.C. 20035

Complainant,

v.

Ron DeSantis
P.O. Box 3696
Tallahassee, FL 32315

Never Back Down PAC
Thomas Datwyler, in his official capacity as Treasurer
P.O. Box 183
Hudson, WI 54016

Empower Parents PAC
f/k/a Friends of Ron DeSantis
Noreen A. Fenner, in her official capacity as Treasurer
610 S. Boulevard
Tampa, FL 33606

Respondents.

COMPLAINT

This complaint is filed under 52 U.S.C. § 30109(a)(1) against Ron DeSantis, Never Back Down PAC and Thomas Datwyler in his official capacity as Treasurer (the “independent-expenditure-only committee”), and Empower Parents PAC f/k/a Friends of Ron DeSantis (the “State Committee”) and Noreen A. Fenner in her official capacity as Treasurer, collectively the “Respondents,” for violating the Federal Election Campaign Act of 1971, as amended (the “Act”) and Federal Election Commission (the “FEC” or “Commission”) regulations. In apparent circumvention of the Act and the Commission’s regulations, it seems that the State Committee transferred \$82,500,000 to Never Back Down PAC. As an entity established, financed,

maintained, or controlled by Ron DeSantis, a Federal candidate, the State Committee is prohibited from transferring funds outside the amount limits and source restrictions of the Act. As such, the Commission should immediately investigate these apparent violations and take appropriate remedial action against Respondents.

FACTS

Ronald (“Ron”) D. DeSantis is a candidate for President. He filed his statement of candidacy for President of the United States with the Commission on May 24, 2023.¹ Never Back Down PAC is an independent expenditure-only political committee registered with the Commission.² According to public reporting, Never Back Down PAC is closely affiliated with Mr. DeSantis. It is led by Phil Cox, one of Mr. DeSantis’s “top political advisers.”³ Heather Barker, “DeSantis’s longtime fundraiser . . . who served as a senior adviser to [DeSantis’s] reelection campaign last year, will raise money for the super PAC.”⁴

Mr. DeSantis was first elected as Governor of Florida in 2018.⁵ To support his run for that office, in January 2018 Mr. DeSantis “filed paperwork with state election officials creating both his official campaign and a political committee called Friends of Ron DeSantis . . . [which] can accept unlimited contributions.”⁶ Mr. DeSantis’s official campaign committee and the State Committee, until very recently, shared the same treasurer and deputy treasurer.⁷

¹ Ronald D. DeSantis, FEC Form 2, Statement of Candidacy (May 24, 2023), <https://docquery.fec.gov/pdf/802/202305249581677802/202305249581677802.pdf>.

² Never Back Down PAC, FEC Form 1, Statement of Organization (Jan 1, 2022), <https://docquery.fec.gov/pdf/659/202201239475106659/202201239475106659.pdf>.

³ Michael Scherer, Isaac Stanley-Becker & Ashley Parker, *DeSantis Group Plans Field Program, Showing Expanding Role of Super PACs*, WASH. POST (Apr. 19, 2023), <https://www.washingtonpost.com/politics/2023/04/19/desantis-super-pac-campaign>.

⁴ *Id.*

⁵ NAT’L GOV’RS. ASS’N., *Florida: Gov. Ron DeSantis*, <https://www.nga.org/governor/ron-desantis> (last accessed May 22, 2023).

⁶ Matt Dixon, *DeSantis Makes it Official, Enters Governor’s Race*, POLITICO (Jan. 5, 2018), <https://www.politico.com/states/florida/story/2018/01/05/desantis-makes-it-official-enters-governors-race-172991>.

⁷ The State Committee (formerly known as Friends of Ron DeSantis) and candidate DeSantis’s campaign committee registered with Florida both had Nancy Watkins as Treasurer and Robert Watkins as Deputy Treasurer up until May

As of March 28, 2023, Friends of Ron DeSantis’s webpage listed Ron DeSantis as the “[a]ssociated person” of the political committee.⁸ Additionally, Mr. DeSantis personally fundraised for and directed large sums of money to Friends of Ron DeSantis. Mr. DeSantis used the State Committee “to raise a record amount of money for his re-election campaign [in 2022] as he pulled in donations from many major Republican donors.”⁹ On one occasion in July 2022, “[a]fter personally receiving a \$10 million check from real estate mogul Robert Bigelow in Las Vegas . . . [o]nce he landed [in Florida] DeSantis told a member of his finance team to drive the check to the Tampa offices of . . . his political committee, Friends of Ron DeSantis.”¹⁰ On April 19, 2023, the *Washington Post* reported that Never Back Down PAC “could receive a transfer of more than \$85 million that DeSantis has in a state fundraising account if he becomes a candidate.”¹¹ At the time of that reporting, Mr. DeSantis was publicly testing the waters for a presidential campaign.¹²

On May 8, 2023, Friends of Ron DeSantis filed an Amended Statement of Organization with the Florida Secretary of State changing its name to Empower Parents PAC.¹³ On May 5,

5, 2023. *See* Ron DeSantis, Candidate Appointment of Campaign Treasurer (Nov. 5, 2021), <https://dos.elections.myflorida.com/campaign-docs/default.aspx> (accessible by searching “Ron DeSantis”); Ron DeSantis, Candidate Appointment of Deputy Campaign Treasurer (Nov. 5, 2021), <https://dos.elections.myflorida.com/campaign-docs/default.aspx> (accessible by searching “Ron DeSantis”); Friends of Ron DeSantis, Statement of Organization of Political Committee at 2 (Jan. 5, 2018), <https://dos.elections.myflorida.com/campaign-docs/default.aspx> (accessible by searching Account Number “70275”).

⁸ FRIENDS OF RON DESANTIS, *Home*, <https://web.archive.org/web/20230328065249/https://friendsofrondesantis.com> (last accessed March 28, 2023).

⁹ Gary Fineout & Sally Goldenberg, *DeSantis Takes Major Step Ahead of Expected Presidential Bid*, POLITICO (May 9, 2023 10:34 A.M. EDT), <https://www.politico.com/news/2023/05/09/desantis-2024-campaign-political-committee-00095947>.

¹⁰ Matt Dixon, *‘De Facto Frontrunner’: DeSantis’ \$200 Million Haul Positions Him for 2024 Run*, POLITICO (Nov. 3, 2022), <https://www.politico.com/news/2022/11/03/desantis-record-breaking-haul-positions-him-for-2024-00065046>.

¹¹ Scherer et al., *supra* note 3.

¹² *See id.*

¹³ Friends of Ron DeSantis, Statement of Organization of Political Committee (May 15, 2023), <https://dos.elections.myflorida.com/campaign-docs/default.aspx> (accessible by searching Account Number “70275”).

2023, Mr. DeSantis filed a notice with the Florida Secretary of State indicating that “‘he was no longer associated with the political committee’ and that he was no longer raising money either directly or indirectly for the organization.”¹⁴

On May 31, 2023, Empower Parents PAC, the Florida political committee formerly known as Friends of Ron DeSantis, transferred \$82,500,000 to Never Back Down, Inc.¹⁵ The transfer reportedly accounted for close to 95% of the State Committee’s cash on hand at the time of the transfer.¹⁶

LEGAL DISCUSSION

The Act and the Commission’s regulations prohibit entities that are directly or indirectly established, financed, maintained, or controlled (“EFMC”) by a Federal candidate from “direct[ing], transfer[ing], spend[ing], or disburs[ing] funds in connection with an election for Federal office . . . unless the amounts consist of Federal funds that are subject to the limitations, prohibitions, and reporting requirements of the Act.”¹⁷ Ron DeSantis originally established the State Committee in anticipation of his state candidacy, but he continued to finance, maintain, and control it while he was testing the waters as a federal candidate. The ultimate transfer of soft money to the Super PAC supporting Mr. DeSantis’s presidential campaign occurred as per his direction after he became a federal candidate.

To determine whether an entity is EFMC’d by a Federal candidate, the Commission examines several non-exhaustive factors “in the context of the overall relationship between the [Federal candidate] and the entity.”¹⁸ In relevant part, the Commission’s factors include whether

¹⁴ Fineout & Goldenberg, *supra* note 9.

¹⁵ See EMPOWER PARENTS PAC, EXPENDITURES, <https://empowerparentspac.com/wp-content/uploads/2023/06/EPP-Exp-2.pdf> (contribution to “Never Back Down, Inc.” listed on Page 28).

¹⁶ Scherer et al., *supra* note 3.

¹⁷ 52 U.S.C. § 30125(e)(1)(A); 11 C.F.R. §§ 300.60(d); 300.2(c).

¹⁸ 11 C.F.R. § 300.2(c)(2). See Fed. Election Comm’n, Factual and Legal Analysis MUR 7933 (Alek for Oregon, et al.) at 6, https://www.fec.gov/files/legal/murs/7933/7933_11.pdf.

the Federal candidate: (1) “had an active or significant role in the formation of the entity;”¹⁹ (2) “has common or overlapping officers or employees with the entity that indicates a formal or ongoing relationship between the Federal candidate and the entity;”²⁰ (3) “causes or arranges for funds in a significant amount or on an ongoing basis to be provided to the entity;”²¹ and (4) “directly or through its agent, has the authority or ability to direct or participate in the governance of the entity through provisions of constitutions, bylaws, contracts, or other rules, or through formal or informal practices or procedure.”²²

According to public reports, Mr. DeSantis raised millions of dollars for the State Committee while he was testing the waters for a federal candidacy.²³ During that same period, Friends of DeSantis pre-planned a transfer funds to Never Back Down PAC. When the State Committee followed through on Mr. DeSantis’s apparent instruction, it was operating under his “authority or ability to direct or participate in the governance of the entity through” at the least, “informal practices or procedure[s]”—and it did so after Mr. DeSantis became a candidate.²⁴ Additionally, Mr. DeSantis’s Florida candidate’s committee continued to (until May 5, 2023, when Mr. DeSantis appeared to attempt to disaffiliate from his committee) have overlapping officers with the State Committee—both the Treasurer and Deputy Treasurer²⁵—indicating a

¹⁹ 11 C.F.R. § 300.2(c)(2)(ix).

²⁰ *Id.* § 300.2(c)(2)(v).

²¹ *Id.* § 300.2(c)(2)(viii).

²² *Id.* § 300.2(c)(2)(ii).

²³ See Fineout & Goldenberg, *supra* note 9; Matt Dixon, ‘De Facto Frontrunner’: DeSantis’ \$200 Million Haul Positions Him for 2024 Run, POLITICO (Nov. 3, 2022), <https://www.politico.com/news/2022/11/03/desantis-record-breaking-haul-positions-him-for-2024-00065046>.

²⁴ 11 C.F.R. § 300.2(c)(2)(ii).

²⁵ See Ron DeSantis, Candidate Appointment of Campaign Treasurer (Nov. 5, 2021), <https://dos.elections.myflorida.com/campaign-docs/default.aspx> (accessible by searching “Ron DeSantis”); Ron DeSantis, Candidate Appointment of Deputy Campaign Treasurer (Nov. 5, 2021), <https://dos.elections.myflorida.com/campaign-docs/default.aspx> (accessible by searching “Ron DeSantis”); Friends of Ron DeSantis, Statement of Organization of Political Committee at 2 (Jan. 5, 2018), <https://dos.elections.myflorida.com/campaign-docs/default.aspx> (accessible by searching Account Number “70275”).

potential ongoing relationship between candidate DeSantis and the State Committee.²⁶ Taken together, these facts suggest that the State Committee was financed, maintained, or controlled by candidate Ron DeSantis at the time that the transfer was made.

Mr. DeSantis appears to have attempted to circumvent the Act by having the State Committee change its officers, the committee's name, and the website within days of Mr. DeSantis's announcement for Federal office. A formal, on-paper disaffiliation is not sufficient to defeat the evidence that Mr. DeSantis continued to control the committee when it followed through on telegraphed plans to transfer its funds to the super PAC supporting him. Commission regulations recognize that there is a high burden of proof to show that an entity established by a federal candidate is no longer operating under the candidate's control; federal candidates may seek an advisory opinion to show "all material connections between the [Federal candidate] and the entity have been severed for two years."²⁷ Here, the nominal separation was less than a month before the committee established by Ron DeSantis—into which Ron DeSantis raised millions of dollars while testing the waters to run for president—decided to transfer those millions of dollars to a Ron DeSantis-focused Super PAC. To argue that the State Committee was no longer under DeSantis's control at the time of the transfer strains credulity. Because the State Committee remained under DeSantis's control, Respondents violated the Act.²⁸

REQUESTED ACTION

As we have shown, Respondents appear to have violated the Act and Commission regulations by making prohibited transfers from the entity formerly known as Friends of Ron

²⁶ 11 C.F.R. § 300.2(c)(2)(v).

²⁷ *Id.* § 300.2(c)(4)(i)-(ii).

²⁸ 52 U.S.C. § 30125(e)(1)(A).

DeSantis to Never Back Down PAC. As such, we respectfully request that the Commission immediately investigate this apparent violation, fine Respondents the maximum amount permitted by law, require the independent expenditure-only political committee to disgorge the unlawful funds it received from the entity formerly known as Friends of Ron DeSantis, and enjoin Respondents from further violations of the law.

Sincerely,



Amanda Bogden
End Citizens United
PO Box 66005
Washington, D.C. 20035

SUBSCRIBED AND SWORN to before me this 21st day of June 2023



Notary Public

My Commission Expires:

MARK ANDREWS
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires July 14, 2024

