



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RQ-2

February 2, 2023

THOMAS DATWYLER, TREASURER  
NEVER SURRENDER PAC  
P.O. BOX 2706  
BRENTWOOD, TN 37024

**Response Due Date**  
**03/09/2023**

IDENTIFICATION NUMBER: C00687525

REFERENCE: 30 DAY POST-GENERAL REPORT (10/20/2022 - 11/28/2022)

Dear Treasurer:

This letter is prompted by the Commission's preliminary review of the report referenced above. This notice requests information essential to full public disclosure of your federal election campaign finances. **Failure to adequately respond by the response date noted above could result in an audit or enforcement action.** Additional information is needed for the following 2 item(s):

1. Schedule A of your report (see attached) discloses one or more contributions from an organization(s), which is not a political committee registered with the Commission. In order for your committee to accept contributions from unregistered organizations into accounts used to influence federal elections, your committee should take steps to insure that the contributor(s) used permissible funds to make the contribution(s) to avoid violating 52 U.S.C. §§30116(f) and 30118 or 11 CFR §102.5(b). Under 11 CFR §102.5(b), organizations which are not political committees under the Act and choose to contribute to federal committees must either: 1) establish a separate account which contains only those funds permitted under the Act, or 2) demonstrate through a reasonable accounting method that the organization has received sufficient funds subject to the limitations and prohibitions in order to make the contribution.

If any apparently prohibited contribution in question was incompletely or incorrectly disclosed, you should amend your original report with clarifying information. In addition, please clarify whether the contribution(s) received from the referenced organization(s) is permissible.

To the extent that your committee has received prohibited funds, you may have to make a refund. If within 30 days of receipt you (1) transferred the prohibited amount to an account not used to influence federal elections, and (2) provided written notice to the person making the contribution of the option of receiving a

NEVER SURRENDER PAC

Page 2 of 4

refund, you may retain the contribution in an account not used to influence federal elections. Any request from a donor for a refund must be honored.

If the foregoing conditions for transfers to a non-federal account were not met within 30 days of receipt, the prohibited amount must be refunded. (11 CFR §103.3(b)(1))

Please inform the Commission of your corrective action promptly by providing the date and method of your remedy (refund and/or transfer to a non-federal account) for each contribution. The committee should retain for its records copies of refund checks and/or transfers to nonfederal account. Should you choose to transfer-out or refund the contribution(s), the Commission will presume the funds were impermissible if no statement from your committee provides information to the contrary. Transfers-out and refunds should be disclosed on a Schedule B supporting Line 22 or 28 of the report covering the period during which the transaction was made.

Although the Commission may take further legal action concerning the acceptance of prohibited contributions, prompt action by your committee in transferring-out or refunding the amounts will be taken into consideration.

2. Schedule B supporting Line 23 discloses one or more contributions to a candidate(s) for the 2022 General election; however, the funds were disbursed after the election date(s) (see attached). Please note that contributions may not be designated for an election which has already occurred unless the funds are to be used to reduce a candidate committee's debts incurred during that election campaign. (11 CFR §§110.1(b)(3) and 110.2(b)(3))

If any apparently impermissible contribution in question was incompletely or incorrectly disclosed, you should amend your original report with clarifying information. If the contribution(s) in question should have been designated for debt retirement, you should amend your report to indicate "debt retirement," along with the year of election.

If you have made an impermissible contribution, you must request a refund or provide a written authorization for a redesignation of the contribution pursuant to 11 CFR §110.2(b) within 60 days of the treasurer's receipt.

If the foregoing conditions for redesignations were not met within 60 days of the treasurer's receipt, your committee must obtain a refund. (11 CFR §103.3(b)(1) and (3))

NEVER SURRENDER PAC

Page 3 of 4

Please inform the Commission of your corrective action promptly by providing the date and method of your remedy (refund or redesignation request) for each contribution. The committee should retain for its records copies of the refund and/or redesignation request(s) sent to the recipient committee(s). In addition, any refunds should be disclosed on Schedule A supporting Line 16 of the report covering the period during which they are received. Any redesignations should be disclosed as memo entries on Schedule B supporting Line 23 of the report covering the period during which the redesignation is made. (11 CFR §110.1(b))

Although the Commission may take further legal action regarding this impermissible activity, your prompt action in obtaining a refund and/or redesignating the contribution(s) will be taken into consideration.

- Your report discloses certain categories of financial activity that have been reflected on the wrong lines of the Detailed Summary Page. For your information and consideration when preparing future filings, other disbursements, including contributions to non-federal candidates and committees, should be properly disclosed on a separate Schedule B, supporting Line 29 of the Detailed Summary Page. Please refer to the instructions for each line when determining the proper categorization(s) for your next filing. (52 U.S.C. §30104(b) and FORM 3X Instructions)

**Please note, you will not receive an additional notice from the Commission on this matter.** Adequate responses must be received by the Commission on or before the due date noted above to be taken into consideration in determining whether audit action will be initiated. Failure to comply with the provisions of the Act may also result in an enforcement action against the committee. Any response submitted by your committee will be placed on the public record and will be considered by the Commission prior to taking enforcement action. **Requests for extensions of time in which to respond will not be considered.**

Electronic filers must file amendments (to include statements, designations and reports) in an electronic format and must submit an amended report in its entirety, rather than just those portions of the report that are being amended. For information about the report review process or specific filing information for your committee type, please visit [www.fec.gov/help-candidates-and-committees](http://www.fec.gov/help-candidates-and-committees). For more information about Requests for Additional Information (RFAI), why you received a letter, and how to respond, please visit [www.fec.gov/help-candidates-and-committees/request-additional-information](http://www.fec.gov/help-candidates-and-committees/request-additional-information). Should you have any questions regarding this matter or wish to verify the adequacy of your response, please contact me on our toll-free number (800) 424-9530 (at the prompt press 5 to reach the Reports Analysis Division) or my local number(202) 694-1180.

NEVER SURRENDER PAC

Page 4 of 4

Sincerely,

A handwritten signature in black ink that reads "Nicholas Tarone". The script is cursive and fluid, with the first letter of each word being capitalized and prominent.

Nicholas Tarone  
Senior Campaign Finance Analyst

334

**Apparent Impermissible, Excessive, and Prohibited Contributions**  
**NEVER SURRENDER PAC (C00687525)**

**Contributions from Possible Unregistered Organizations**

<b>Contributor Name</b>	<b>Date</b>	<b>Amount</b>	<b>Report</b>
We the People Advocacy Fund	10/31/22	\$5,000.00	30 Day Post-General

**Apparent Contributions Made After Election Date**

<b>Recipient Name</b>	<b>Date</b>	<b>Amount</b>	<b>Election</b>	<b>Election Date</b>
ANDY OGLES FOR CONGRESS	11/15/22	\$2,000.00	G2022	11/8/22
LAUREN BOEBERT FOR CONGRESS	11/14/22	\$1,000.00	G2022	11/8/22