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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.**SENSITIVE****MEMORANDUM**

April 26, 2024

TO: The Commission

THROUGH: Alec Palmer *AP*
Staff Director

FROM: Patricia C. Orrock *PCO*
Chief Compliance Officer

Krista J. Roche *KJR*
Director, ADR Office

Joshua A. Rebollozo *JAR*
Assistant Director, ADR Office

SUBJECT: Recommendation to Dismiss
ADR 1154 - Mark Houck for Congress and Joseph LePera,
Treasurer (C00847806)

The Office of General Counsel (OGC) transferred MUR 8161 to the Alternative Dispute Resolution Office (ADRO) on December 8, 2023, and the ADRO designated the matter as ADR 1154. The ADR Office recommends the Commission exercise prosecutorial discretion and dismiss the matter. *Heckler v. Chaney* 470 U.S. 821 (1985). We include a summary and analysis of the matter for your review.

Summary and Analysis: On August 27, 2023, Anthony Spangler filed a Complaint alleging that Mark Houck for Congress and Joseph LePera, Treasurer (Respondents or the Committee) failed to include legal disclaimers on campaign materials and in solicitations for campaign contributions; failed to collect contributor information; and failed to establish a campaign committee bank account or depository. On September 14, 2023, the Committee filed a response acknowledging the issues raised in the Complaint and stating the Committee had corrected the issues on its website and in its solicitations and had amended its Form 1 (Statement of Organization) to clarify its bank/depository information.

The candidate, Mark Houck, filed a Form 2 (Statement of Candidacy) on August 10, 2023, and the Committee filed its initial Form 1 on the same day. On August 27, 2023, the Complaint giving rise to this matter was filed. On September 14, 2023, the Committee filed its response to the Complaint detailing the remedies taken to address the issues raised in

the Complaint. On September 15, 2023, the Committee filed an amendment to its Form 1, which served as the final remedy to the issues raised in the Complaint.

Allegation of Missing/Improper Disclaimers

The Complaint alleges that until at least August 14, 2023, the Committee's website "failed to include any disclaimer identifying what federal campaign committee it was sponsored and operated by." The Complaint further states the Committee's website was updated on or around August 23, 2023, to include a disclaimer, "but this belated disclaimer fails to accurately identify the sponsoring campaign committee" because it referred to the Committee's name as "Houck for Congress" instead of "Mark Houck for Congress." In its September 14, 2023, response, the Committee addressed the failure to accurately identify the registered campaign committee as an inadvertent nomenclature error where it omitted "Mark" from its website disclosure which it has since rectified. The Committee does not contest that it failed to include a disclaimer until or around August 23, 2023.

The Complaint also alleges the Committee failed to include campaign contribution disclaimers on the Committee's website, including failing to "clearly identify the FEC registered committee to which the donations will be attributed to" and only stating "donations will go to 'Mark Houck.'" In its September 14, 2023, response, the Committee did not contest this allegation and states it rectified this issue by clearly identifying the contributions will go to Mark Houck for Congress.

Allegation of Failing to Request Required Contributor Information

Further, the Complaint alleges the Committee's website donation page failed to request required contributor information. In its September 14, 2023, response, the Committee also did not contest these allegations. The Committee stated it has since started utilizing a new contributor processing software to process its contributions, which provides "a full contributor data collection facility," unlike PayPal. Further, in its response, the Committee stated it was reviewing its previously received contributions to collect any information that was not gathered prior to filing its first campaign finance report with the Commission.

Allegation of Improper Committee Bank/Depository

Finally, the Complaint alleges PayPal, which the Committee listed as its bank/depository on its initial Form 1, is not an adequate bank/depsitory because it is "not a national bank, state bank, or a FDIC- or NCUA-insured institution." In response to the allegation, the Committee provided a bank statement from TD Bank as evidence of its bank/depository for the period preceding the Complaint (between August 11, 2023, and August 31, 2023). On September 15, 2023, the Committee amended its Form 1 to reflect this information. The Committee acknowledges, however, that it failed to properly disclose the correct bank/depository on its Form 1 until the amendment was filed on September 15, 2023.

ADRO recommends the Commission exercise its prosecutorial discretion and dismiss the allegations for the failure to include legal disclaimers on campaign materials and in solicitations for campaign contributions, the failure to collect contributor information, and the failure to timely and correctly disclose its bank/depository on its Form 1. This recommendation is based on the nature of the violations, the length of time between the

violations and their remedy, the Committee's inexperience with campaign finance laws, and the Committee's good compliance history since the Complaint was filed.

Accordingly, the ADRO recommends the Commission dismiss the allegations contained in the Complaint by exercising prosecutorial discretion. *Heckler v. Chaney* 470 U.S. 821 (1985).

RECOMMENDATIONS:

1. Dismiss ADR 1154 (MUR 8161).
2. Approve the appropriate letters.