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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

MEMORANDUM

January 31, 2019

TO: The Commission

THROUGH: Alec Palmer *AP by MAH*
Staff Director

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

Krista J. Roche *KJR*
Director, ADR Office

Rosa Marshall *RM*
Assistant Director, ADR Office

SUBJECT: ADR 885 Sinema for Arizona and Cynthia Applebaum, Treasurer
Recommendation to Dismiss

The Office of General Counsel referred MUR 7389 on August 15, 2018, and the ADR Office designated the matter as ADR 885. 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 discussion of the matter for your information.

Summary and Analysis of Case: On May 21, 2018, Matthew Anderson (Complainant) filed a Complaint against Sinema for Arizona and Cynthia Leigh Applebaum, Treasurer (Respondents or the Committee) for allegedly violating the Commission's best efforts rules that require committees and their treasurers to obtain, maintain, and report the name, address, occupation, and employer of each contributor who gives more than \$200 in an election cycle. The Complaint states that the Committee failed to provide the required employer and occupation information for over twenty percent (20%) of donors by disclosing "N/A" and "Not Employed" on reports filed during the 2017-2018 election cycle. The Complaint states that the Committee does not use words such as "Information Requested" or "Best Efforts Attempted," which is the "typical language used by committees when they are meeting their best efforts obligations but have been unsuccessful in obtaining that information despite exercising best efforts." The Complaint also states that for numerous entries the individual should be listed as "Retired" instead of "Not Employed."

In response to the Complaint, Respondents stated on July 23, 2018 that the Committee goes above and beyond the Commission's regulations to comply with the Commission's best efforts requirements. Respondents state that when contributors submit incomplete information, the Committee calls or emails to request the information. If no response is received, the Committee then sends a letter with a pre-addressed envelope that does not solicit a contribution. Respondents state that these procedures take place prior to filing reports, and that they "follow the Commission's guidelines for disclosing additional information that becomes available after the filing deadline." Respondents state that the disclosure of "N/A" and "Not Employed" only occurs when that is what is reported by the donor, and that those designations are not placeholders within reports for when additional best effort research should be conducted. Respondents contend that the Committee uses a compliance firm to file reports and multiple individuals check each report before it is filed with the Commission.

Reports filed by the Committee during the 2017-2018 election cycle disclose almost 10,000 entries with "N/A" and "Not Employed" in the employer and occupation field. Over ninety-four percent (94%) of entries with this disclosure are earmarked contributions received from conduit committees such as Actblue and Emily's List. The websites for these particular conduit committees use "None" or "Not Employed" to encompass retired, self-employed, and not employed and prompt contributors to enter information with these guidelines (see Exhibit A). Respondents assert that conduit committees send electronic spreadsheets that include earmarked contributor information, and that the Committee conducts best effort procedures when contributor information is missing or incomplete.

Based on the best effort procedures Respondents follow, as well as the fact that there is no indication that the Committee falsified reports or knowingly failed to disclose employment information, the ADR Office recommends that the Commission exercise its prosecutorial discretion and dismiss this matter. *Heckler v. Chaney. Id.*

RECOMMENDATIONS:

1. Dismiss ADR 885 (MUR 7389).
2. Approve the appropriate letters.

10-10-2010



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Sinema for Arizona (C00508804)
Exhibit A

Actblue's Website Contributor Disclosure:

Will you chip in \$5 or more to help elect Kyrsten Sinema to the U.S. Senate?

\$250 (edit)

2 Your details

*All fields required.

Email Address		
First Name	Last Name	
Number, Street, Apt.		
ZIP	City	State <input type="button" value="v"/>
United States <input type="button" value="v"/>		
Phone		

Campaign finance law requires
If self-employed, please enter **Self** for employer.

Are you currently employed?
 Yes No
If not employed, please select **No** above.

Occupation	Employer <input type="button" value="i"/>
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Continue

If contributor selects "No" the website enters the following information:

Not Employed	Not Employed <input type="button" value="i"/>
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Continue

10-10-2011

