



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 22, 2019

Marc E. Elias, Danielle E. Friedman and
Jacquelyn K. Lopez
Perkins Coie LLP
700 Thirteenth Street, NW Suite 600
Washington, DC 20005

Re: ADR 885 (MUR 7389)

Dear Mr. Elias, Ms. Friedman and Ms. Lopez:

On May 24, 2018, the Federal Election Commission ("FEC" or "Commission") notified you of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with the notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and take no further action against the Respondents Sinema for Arizona and Cynthia Applebaum, Treasurer. In its memorandum to the Commission, dated January 31, 2019, this office stated:

Summary and Analysis of Case: On May 21, 2018, Matthew Anderson 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. 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.*

Accordingly, the Commission closed its file in this matter on February 14, 2019.

The FEC is obligated by federal regulations to make a finding to terminate its proceedings public, as well as the basis therefore. 11 C.F.R. § 111.20(b). In addition, the Commission will also place on the record copies of the complaint, correspondence exchanged between Respondent(s) and the Commission, and reports prepared for the Commission by this office to assist in its consideration of this matter. Accordingly, copies of documents relative to this matter will be forwarded shortly to the FEC's Public Information Office.

If you have any questions regarding this matter please be in touch. My telephone number is 202-694-1152.

Sincerely,

Rosa Marshall

Rosa Marshall,
Assistant Director,
Alternative Dispute Resolution Office