FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

OCT 25 2013

James Cole, Esq.
1401 S. Brentwood Blvd., Suite 875
Saint Louis, MO 63144

RE: MUR 6592
Missouri Right to Life

13044344708

Dear Mr. Cole:

On June 19, 2012, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). On October 22, 2013, the Commission found, on the basis of the information in the complaint and information provided by several respondents that, with respect to some of the allegations, there is no reason to believe that respondents violated the Act. The Commission also exercised its discretion to dismiss the remaining allegations. Accordingly, the Commission closed its file in this matter. The Factual and Legal Analysis, which explains the Commission's findings, is enclosed for your information.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009).

If you have any questions, please contact Michael Columbo, the attorney assigned to this matter at (202) 694-1341.

Sincerely,

Mark D. Shonkwiler
Assistant General Counsel

Enclosure
Factual and Legal Analysis

BEFORE THE FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

In the Matter of	)	
	)	MUR 6592
Jacob Turk	)	
Jacob Turk for Congress	)	
and Tim Luke in his official capacity as Treasurer	)	
CBS Outdoor	)	
Jamie Barker Landes	)	
Ranch Entertainment, Inc.	)	
Jan Sindt	)	
Garmin International	)	
Dennison Development Corp.	)	
Missouri Right to Life	)	
Lone Summit Ranch Catering	)	
Belton Parks and Recreation	)	
Clarion Hotel Sports Complex (Hulsing Enterprises)	)	
Tropical Sno (Pioneer Family Brands, Inc.)	)	

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I. GENERATION OF MATTER

This matter was generated based on a complaint filed with the Federal Election Commission by Stephen Bough. *See* 2 U.S.C. § 437g(a)(1).

II. INTRODUCTION

The Complaint makes numerous allegations against Jacob Turk for Congress and Tim Luke in his official capacity as treasurer (collectively, the "Turk Committee"), the principal campaign committee of Jacob Turk, a candidate for Congress in Missouri's 5th congressional district in the 2006, 2008, 2010, and 2012 elections, as well as allegations against other individuals and entities. For the reasons stated below, the Commission either finds no reason to believe that any of the Respondents violated the Act or dismisses the allegations set forth in the Complaint.

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1 **III. ALLEGATIONS AND ANALYSES**

2 **A. Alleged Failure to File a Statement of Candidacy for the 2012 Elections**

3 The Complaint alleges that Turk failed to file a timely 2012 Statement of Candidacy.[1]
4 Candidates must file a Statement of Candidacy within 15 days of becoming a candidate,[2] which
5 is triggered when an individual receives contributions aggregating in excess of $5,000 or has
6 made expenditures aggregating in excess of $5,000.[3] Turk has been a candidate in the 2006,
7 2008, 2010, and 2012 elections, and the Turk Committee has filed disclosure reports relating to
8 each of those election cycles.

9 The Turk Committee first disclosed that it received more than $5,000 in contributions or
10 made more than $5,000 in disbursements for the 2012 election in its 2011 Year End Report, filed
11 January 30, 2012. The Turk Committee asserts that it filed a "campaign candidacy update" in
12 2011 indicating that it had appointed a new treasurer, which it claims to have believed effectively
13 served as a Statement of Candidacy for the 2012 election.[4] While it is not clear to which 2011
14 document the Response was referring, the Turk Committee filed an Amended FEC Form 1
15 Statement of Organization on January 24, 2012, that identified its new treasurer.

16 On May 14, 2012 — 22 days before the Complaint was filed — the Commission's
17 Reports Analysis Division ("RAD") notified Turk that he had 30 days to either file a Statement
18 of Candidacy for the 2012 election or to disavow disclosed activity that surpassed the $5,000

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1 *See* Compl. at 1.

2 *See* 11 C.F.R. § 101.1(a).

3 *See* 2 U.S.C. § 431(2).

4 *See* Turk Comm. Resp. at 1. The substance of the Turk Committee's Response is in a 7-page chart attached to a cover letter. Accordingly, page references to the Turk Committee's Response in this Report shall refer to the pages of the chart.

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candidacy threshold.[5] On May 25, 2012 — 11 days before the Complaint was filed — Turk filed a Statement of Candidacy.[6] Although Turk may have filed the form late, Turk nonetheless had been timely disclosing his 2012 activity and promptly filed his Statement of Candidacy when notified by RAD that he must do so — and did so before the complaint was filed. Accordingly, the Commission exercises its prosecutorial discretion and dismisses the allegation that Turk violated 11 C.F.R. § 101.1(a) by failing to timely file a statement of candidacy but issue a letter of caution.[7]

B. Alleged Violations Related to Turk Committee Billboards

The Complaint makes four allegations related to the Turk Committee's billboard advertising, which appears to have been contracted through a vendor called CBS Outdoor.

First, the Complaint alleges that the Turk Committee "continually fails to report expenditures." Specifically, it alleges the Turk Committee installed "thousands of dollars of billboards" in 2011 but reported no billboard expenditures in 2011, and that the $6,100 in expenditures that the Turk Committee disclosed for billboard advertising in 2012 "appears to only reflect a portion of the billboards installed."[8] The Complaint provides no basis for its allegations. Failing to accurately report receipts or disbursements violates 2 U.S.C. § 434(b). If

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[5] *See* Letter from Nataliya Ioffe, RAD Authorized Branch Chief, FEC, to Jacob Turk (May 14, 2012). RAD sent a similar letter to Turk on in 2009 regarding the Turk Committee's disclosed contributions and disbursements that indicated Turk may have been a 2010 election candidate and asking that Turk either file a Statement of Candidacy or disavow the disclosed activity within 30 days. *See* Letter from Madelynn Lane, RAD Authorized Branch Chief, FEC, to Jacob Turk (Oct. 22, 2009). Turk filed his 2010 Statement of Candidacy on January 25, 2010. See Jacob Turk Statement of Candidacy (Jan. 25, 2010).

[6] *See* Jacob Turk Statement of Candidacy (May 25, 2012).

[7] *See Heckler v. Chaney*, 470 U.S. 821 (1985).

[8] *See* Compl. at 1.

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1 CBS Outdoor had provided the billboards at less than market value, that action may have
2 constituted a prohibited corporate contribution in violation of 2 U.S.C. § 441b(a).
3 The Turk Committee contends that it accurately disclosed its billboard expenditures.[9]
4 CBS Outdoor responded by providing a $2,500 invoice for the Turk Committee's billboard
5 purchases that it sent to the Turk Committee on December 8, 2011, as well as other invoices in
6 2012, the aggregate cost of which was $6,181. Additionally, CBS Outdoor submitted an
7 affidavit explaining the basis of the rates it charged the Turk Committee and asserting that it did
8 not give the Turk Committee a discount.[10] Because the allegation is vague and speculative, and
9 CBS Outdoor provided information refuting the allegation that is specific, credible, and
10 supported by a sworn statement, the Commission finds that there is no reason to believe the
11 allegation that the Turk Committee violated 2 U.S.C. § 434(b) by failing to disclose expenditures
12 for billboards, or that CBS Outdoor made, and the Turk Committee received, prohibited
13 corporate contributions in the form of free or discounted billboards from CBS Outdoor in
14 violation of 2 U.S.C. § 441b(a).
15 Second, the Complaint alleges that an unnamed "billboard industry executive has
16 indicated that he was directly approached by a group . . . of [unnamed] business owners to
17 purchase billboards on behalf of 'Turk for Congress'"[11] and that "[t]his is again failure [*sic*] to
18 report a donation as an in-kind contribution, accepting a corporate contribution *if* these purchases

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9 *See* Turk Comm. Resp. at 1.

10 *See* CBS Outdoor Resp. at Exh. B.

11 *See* Compl. at 1.

1 were paid by a[n] [unnamed] company, or *possibly* [unnamed] donors exceeding the maximum
2 allowable contribution levels."[12]

3 The Turk Committee responds that the allegation was unsubstantiated hearsay and "may
4 not be an infraction at all,"[13] which seems to be a reference to the possibility that the business
5 owners were discussing the making of an independent expenditure. Because the allegation is
6 speculative and unsupported, the Commission finds no reason to believe the Turk Committee
7 violated 2 U.S.C. § 434(b) by failing to disclose contributions connected with the billboards, or
8 that the Turk Committee received prohibited corporate contributions in violation of 2 U.S.C.
9 § 441b(a), or that the Turk Committee accepted excessive contributions in violation of 2 U.S.C.
10 § 441a(f).

11 Third, the Complaint alleges that CBS Outdoor made, and the Turk Committee received,
12 a prohibited corporate contribution because CBS Outdoor allowed billboards to remain in place
13 beyond the period for which the Turk Committee paid.[14] CBS Outdoor responds that, with the
14 exception of a "small number of cases," the Turk Committee's billboards were replaced within
15 "a few days" of the end of the contract period.[15] And CBS Outdoor and the Turk Committee
16 each respond that only some of the billboards stayed up beyond the contract period and
17 contended that it is standard industry practice to leave billboards in place until replaced.[16] This
18 suggests that any possible violation was both *de minimis* and inadvertent. Accordingly, the
19 Commission exercises its prosecutorial discretion and dismisses the allegation that CBS Outdoor

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12 *See id.* (italics added).

13 *See* Turk Comm. Resp. at 1.

14 *See* Compl. at 2.

15 *See* CBS Outdoor Resp. at 3; *id.*, Ex. B.

16 *See* CBS Outdoor Resp. at 3; Turk Comm. Resp. at 2.

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1 made, and the Turk Committee received, prohibited corporate contributions in violation of
2 2 U.S.C. § 441b(a) due to CBC Outdoor leaving Turk Committee billboards in place beyond the
3 contract period.

4 Fourth, the Complaint alleges that the Turk Committee's billboards failed to include a
5 disclaimer (required by 2 U.S.C. § 441d) stating that the Turk Committee paid for them and that
6 the disclaimer was not included within a box.[17] The Turk Committee responds that it included
7 the appropriate disclaimers but some were not within a box. And this was a technical violation
8 due to an oversight by its graphic designer.[18] CBS Outdoor also admits in its response that it
9 inadvertently obscured disclaimers on some of the Turk Committee's billboards.[19] The likely
10 value of the violation is low, and the Commission has previously dismissed an alleged disclaimer
11 violation where the available information indicated the violation was due to a vendor's error.[20]
12 Accordingly, the Commission dismisses the allegation that the Turk Committee violated
13 2 U.S.C. § 441d by failing to include disclaimers on its billboards.

14 **C. Alleged Improper Turk Committee Logo**

15 The Complaint alleges that the Turk Committee's logo, "Turk U.S. Congress," must have
16 the word "for" in it (that is, "Turk for U.S. Congress"), otherwise it falsely indicates that Turk is
17 currently a member of Congress.[21] The Complaint did not identify a provision of the Act or the
18 Commission's regulations that the Committee violated. The Turk Committee responds that there
19 is no such requirement in the Act and that Advisory Opinion 1986-11 (Mueller for Congress)

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17 *See* Compl. at 2.

18 *See* Turk Comm. Resp. at 2.

19 *See* Compl. at 2.

20 *See* Factual and Legal Analysis at 6-8, MUR 5991 (U.S. Term Limits).

21 *See* Compl. at 2, 4.

1 addresses this issue.[22] There, the Commission concluded that the Act did not require the logo of
2 the principal campaign committee for Margaret Mueller, "Margaret Mueller Congress," to
3 include the word "for" in the name of a committee.[23] For the same reason, the Commission finds
4 that there is no reason to believe that the Turk Committee's logo violated the Act.

5 **D. Alleged Mileage Reimbursements**

6 The Complaint alleges that the total amount of the Turk Committee's mileage
7 reimbursements to Turk and his wife were excessive; therefore, it contends that the Turks
8 converted campaign funds to personal use in violation of 2 U.S.C. § 439a(b).[24] The Turk
9 Committee responds that the disclosed reimbursements appeared to be high because they were
10 for previous travel during the 2010 campaign, that it properly logged and accounted for them
11 according to the relevant IRS regulations, and that it used the 2010 IRS standard deductible
12 business expense reimbursement rate.[25] Because the allegation as to the number of miles
13 travelled is speculative and unsupported, and the Turk Committee contends it used a standard
14 reimbursement rate in effect at the time, the Commission finds that there is no reason to believe
15 that Turk or his wife violated 2 U.S.C. § 439a(b).

16 **E. Alleged Violations Related to Turk's Alleged Request Airline Tickets**

17 The Complaint alleges that Turk solicited supporters to give him free airline tickets for a
18 personal vacation through a Facebook posting[26] on November 5, 2010, which, if true, would

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[22] *See* Turk Comm. Resp. at 2.

[23] *See generally* Advisory Op. 1986-11.

[24] *See* Compl. at 2.

[25] *See* Turk Comm. Resp. at 3; *see also* IRS Rev. Proc. 2009-54 at 2 (providing that the standard mileage reimbursement rate in 2010 was 50 cents per mile).

[26] *See* Compl. at 2-3; *id.* at Ex. B (Turk stated "Donna and I could use a little getaway once we get this election certified. Anybody got extra plane tickets they're not using?").

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1 violate 2 U.S.C. § 439a(b). The Turk Committee responds that the posting was a joke.[27]
2 Although it is unclear whether Turk's request was a joke, there is also no basis to conclude that
3 the request was fulfilled. Unless the request was fulfilled, there was no violation. Accordingly,
4 the Commission finds that there is no reason to believe that Turk or the Turk Committee violated
5 2 U.S.C. § 439a(b) with respect to Turk's alleged solicitation of airline tickets.

6 **F. Alleged Compensation of Three Campaign Employees in 2011**

7 The Complaint alleges that the Turk Committee failed to disclose any compensation for
8 three campaign employees in 2011.[28] A committee's failure to disclose disbursements would
9 constitute violations of 2 U.S.C. § 434(b). The Turk Committee responds that it had no
10 employees in 2011 and that the allegation is based on one employee being quoted as saying he
11 "*will be* working" for the Turk Committee in the future.[29] The support for the allegation is a
12 blog post attached to the Complaint dated January 15, 2012, in which a Turk Committee
13 employee stated that he was in Missouri where he "will be working for the next 10 months."[30]
14 The statement itself is ambiguous and does not indicate that the employee worked in 2011.
15 Because there is no information supporting the Complaint's contrary construction and the Turk
16 Committee denies it, the Commission dismisses the allegation that the Turk Committee violated
17 2 U.S.C. § 434(b) by failing to disclose employee compensation payments in 2011.
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27 *See* Turk Comm. Resp. at 4.

28 *See* Compl. at 3.

29 *See* Turk Comm. Resp. at 4.

30 *See* Compl., Ex. C.

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1 **G. Alleged Receipt of Free Legal Services or Non-Disclosure of Legal Expenses**

2 The Complaint alleges that the Turk Committee failed to disclose the receipt of free legal
3 services from attorney Jamie Barker Landes or, if those services were not volunteered, that it
4 failed to disclose the legal fees it paid Landes.[31] If true, the allegations would constitute
5 violations of 2 U.S.C. § 434(b). The premise for the allegation is that Landes represents Donna
6 Turk, Turk's wife, who is a plaintiff in a lawsuit.[32] The Turk Committee responds that Landes
7 was an attorney for Donna Turk in her individual capacity, not the Turk Committee.[33] Landes
8 also asserts that she represented Donna Turk in her individual capacity and provided no legal
9 services to the Turk Committee.[34] Given those responses, the Commission finds that there is no
10 reason to believe that the Turk Committee violated 2 U.S.C. § 434(b) by failing to disclose an in
11 kind contribution from, or payments for, legal services provided by Landes.

12 **H. Alleged Violations Related to the Faulkner Ranch Event**

13 The Complaint alleges that the Turk Committee failed to disclose an expenditure, or
14 alternatively, received a corporate in-kind contribution in relation to an advertised event
15 scheduled to be held at Faulkner's Ranch on March 31, 2012, and that it further failed to disclose
16 an in-kind contribution for a donated White House Easter egg allegedly used as a prize at the
17 event, "provided [that] the value [of the egg] yielded a contribution in excess of $200[.]"[35]
18 According to the Turk Committee, the planned event was cancelled and the donated Easter egg

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31 *See* Compl. at 3.

32 *See id.*

33 *See* Turk Comm. Resp. at 4.

34 *See* Landes Resp. at 1-2.

35 *See* Compl. at 3.

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had a market value of $19 to $30[36] — well below the itemization threshold.[37] Faulkner Ranch responded, confirming that the event was never held and that it received no money from the Turk Committee.[38] Because the available information does not indicate that there was an event involving unreported contributions or expenditures, and the Turk Committee was not obligated to itemize the contribution of the White House Easter Egg, the Commission finds that there is no reason to believe that the Turk Committee failed to report an expenditure or receipt in connection with the alleged event at the Faulkner Ranch or the donated Easter Egg in violation of 2 U.S.C. § 434(b), or that it received a prohibited corporate contribution from the Faulkner Ranch for the alleged event in violation of 2 U.S.C. § 441b.

I. Alleged Disclaimer Violations for Certain Campaign Materials

The Complaint alleges that the Turk Committee failed to put its "paid for" disclaimers on certain campaign materials, or failed to put them in a box (copies or photos of which are attached to the Complaint as Exhibits H through O).[39] The Turk Committee responds that not all of the materials in question require disclaimers and that it has recently added boxes around its disclaimers where required.[40]

The Act requires that communications by an authorized political committee of a candidate include a disclaimer stating that the authorized political committee paid for the

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[36] Resp. at 4-5. The Turk Committee's invitation to the event stated that the egg was from the 122nd annual White House Easter Egg Roll, which was held in 2000. *See* Compl., Ex. G; Deb Riechman, *White House Holds Easter Egg Roll*, ASSOCIATED PRESS, Apr. 24, 2000. We note that several such White House Easter Eggs are currently listed between $16.99 and $29.99 on eBay.

[37] *See also* 2 U.S.C. § 434(b)(3)(A) (requiring identification of persons whose total contributions to the committee exceed $200, and the date and amount of any such contributions).

[38] *See* Faulkner Resp. at 1.

[39] *See* Compl. at 4 and Exhibits H-O.

[40] *See* Turk Comm. Resp. at 5.

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communication.[41] Disclaimers on printed communications "must be contained in a printed box set apart from the other contents of the communication."[42] Disclaimers, however, are not required to be printed on "[b]umper stickers, pins, buttons, pens, and similar small items upon which the disclaimer cannot be conveniently printed."[43] And the Commission has exercised its discretion to dismiss allegations predicated on communications that include disclaimers but fail to include a box around the disclaimer where the communications at issue contained sufficient identifying information to prevent the public from being misled as to who paid for them, the violation appeared to be technical in nature, and the committee took remedial action.[44]

Our analysis of the communications at issue is as follows:

- Exhibit H appears to be a business card for Mr. Turk that includes no disclaimer. The exception at 11 C.F.R. § 110.11(f) applies to such items, and therefore the Commission finds that there is no reason to believe that the Turk Committee violated 2 U.S.C. § 441d with respect to Turk's business card.

- Exhibit I is a flyer that includes the statement "Paid for by Turk for Congress" but not within a box. The Commission exercises its prosecutorial discretion and dismisses this allegation.

- Exhibit J appears to be a bumper sticker that includes a statement that it was "Paid for by Turk for Congress," but not within a box. The exception at 11 C.F.R. § 110.11(f) applies and, therefore, the Commission finds no reason to believe that the Turk Committee violated 2 U.S.C. § 441d with respect to the bumper sticker in Exhibit J.

- Exhibits K and L are newspaper ads that include statements that they were "Paid for by Jacob Turk for Congress," but not within boxes. The Commission exercises its prosecutorial discretion and dismisses this allegation.

- Exhibit M is a newspaper ad that does not appear to include a disclaimer — though the poor quality of the copy may obscure it. Handwriting on the exhibit indicates it is an ad

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41 *See* 2 U.S.C. § 441d(a)(1).

42 *See* 2 U.S.C. § 441d (c)(2).

43 *See* 11 C.F.R. § 110.11(f).

44 *See*, e.g. General Counsel's Report, MUR 6392 (Kelly for Congress).

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from a local newspaper called the Examiner published on October 1, 2010. The Complaint does not indicate if the ad ran in only one day's paper or for a period of time. Information on the Examiner's website does not include ad rates, but it notes that the Examiner's circulation reaches "thousands" in eastern Jackson County, Missouri. Due to the limited circulation of the Examiner, the cost of the ad, and thus the amount in violation, is likely *de minimis*. In addition, the prominent placement of the candidate's photograph, the slogan "Jacob Turk for U.S. Congress" and the inclusion of the campaign website address make it unlikely that readers would have been misled as to the sponsor of the advertisement. The Commission dismisses the allegation.

- Exhibit N appears to be a printout of the Turk Committee's Facebook page on May 6, 2012. The page includes a photograph of two people standing at what appears to be the Turk Committee's booth at the "Tougher Than Hell motorcycle ride."[45] It is not obvious which Turk Committee material the Complaint is targeting, but the booth appears to have a large Turk Committee sign in front of it and what appear to be a stack of yard signs. There is text on the signs that may be a disclaimer, but it is difficult to discern from the picture in Exhibit N. There may not be a box around the apparent disclaimer but, again, the picture is not of sufficient quality to be certain and the Complaint provides no guidance. Accordingly, the Commission dismisses this allegation.

- Exhibit O is a letter that appears to be on Turk Committee letterhead (the logo "Turk U.S. Congress" appears at the top of the letter) that was sent from Turk himself to his opponent on October 20, 2010, to challenge him to a debate. In context, it is clear from the letter that the Turk Committee paid for the letter and that Turk authorized it, and because it was only a single letter, its cost was *de minimis*. Accordingly, the Commission dismisses the allegation as to this letter.[46]

J. Alleged Failure to Disclose Expenditures for TV Ads

The Complaint claims that the Turk Committee failed to timely disclose TV ads that it allegedly purchased in the period covered by the 2010 Pre-General Report. Specifically, the Complaint contends that the Turk Committee reported a $19,794 expenditure on August 3, 2010, after the fact.[47] The Complaint cites Exhibit P to the Complaint, which contains 28 pages of check copies, agreements between the Turk Committee and media companies, television station

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[45] *See* Compl., Ex. N.

[46] *See* Factual and Legal Analysis at 20, MUR 6438 (Robinson for Congress); Factual and Legal Analysis at 10-12, MUR 6270 (Rand Paul).

[47] *See* Compl. at 4.

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computer record printouts, and bank wire transfer records related to television ad time purchased by the Turk Committee that are dated in October 2010 and appear to relate to ads run during that month. There is nothing in Exhibit P related to an August 3, 2010, expenditure. The Turk Committee responds that Exhibit P upon which the Complaint relies itself refutes the claim, that it did not buy TV time before October 2010 (the period covered in that Report), and that "[a]ll TV advertising purchases were reported timely and properly."[48] We agree that the exhibit cited in the Complaint does not appear to support the claim and find that there is no reason to believe that the Turk Committee violated 2 U.S.C. § 434(b) by misreporting expenditures for television ads as alleged in the Complaint.

K. Alleged Corporate Contribution of a Garmin GPS Unit

The Complaint identifies an in-kind contribution of a GPS unit from Jan Sindt, an individual employed by Garmin International, that was disclosed by the Turk Committee, and asks "whether this is simply a pass-through conduit of the corporate donation from Garmin Industries[?]"[49] The Complaint provides no support for its conclusion that the GPS unit may, in fact, have been contributed by Garmin rather than Sindt. The Turk Committee characterizes the allegation as speculative and asserts that the contribution was from Sindt, as it disclosed.[50] Garmin also responded to the Complaint and asserts that it did not contribute the GPS unit and included a supporting declaration from Sindt.[51] The Commission finds that there is no reason to believe that Sindt or Garmin made, or the Turk Committee received, this alleged corporate in-kind contribution in violation of 2 U.S.C. § 441b(a).

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48 *See* Turk Comm. Resp. at 5.

49 *See* Compl. at 4.

50 *See* Turk Comm. Resp. at 5.

51 *See* Garmin Resp. at 1.

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1 **L. Alleged Corporate Contribution of a Vacation Rental**

2 The Turk Committee's 2010 30 Day Post-General Election Report reflects two $900 in-
3 kind contributions from individual contributors on October 14, 2010, described as "In-kind Gift
4 for Auction Vacation Condo Rental."[52] The Complaint alleges that these contributors own a
5 company, Dennison Development, and, therefore, "documentation needs to be secured reflecting
6 private ownership of this vacation rental versus corporate ownership[.]"[53] The Turk Committee
7 asserts that the contributions were personal contributions of the business's owners.[54] One of the
8 contributors also responded, asserting that he donated one week of a time share, worth $1,000-
9 $1,200, that he personally had purchased.[55] The Commission finds no reason to believe that
10 Dennison Development made, or the Turk Committee received, an in-kind corporate contribution
11 in violation of 2 U.S.C. § 441b(a) for Turk's use of the time share.

12 **M. Alleged Corporate Contribution of Catering Services**

13 On its 2010 12-Day Pre General Election Report, the Turk Committee disclosed that on
14 October 10, 2010, it received $1,300 in catering services donated by John Gibson and $2,100 in
15 catering services donated by Judy Gibson.[56] The Complaint alleges that Judy Gibson is the sole
16 owner of a business called Lone Summit Catering and, therefore, "John Gibson's in-kind
17 donation is falsely disclosed [in violation 2 U.S.C. § 434(b)] and/or a corporate donation [in
18 violation of 2 U.S.C. § 441b(a)] associated with facility rental of the Lone Summit Ranch

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52 *See* Amended Turk Comm. 2010 30 Day Post-General Election Report at 12 (Aug. 5, 2011).

53 *See* Compl. at 4.

54 *See* Turk Resp. at 5.

55 *See* Fastnacht Resp. at 1.

56 *See* Amended Turk Comm. 2010 12-Day Pre-Election Report at 8 (Aug. 4, 2011).

1 estimated value of $740 to $1500."[57] The Turk Committee responds that the disclosed in-kind
2 contributions were the personal contributions of the Gibsons but provides no support for this
3 assertion.[58] The Commission notified Lone Summit Ranch Catering of the Complaint and
4 provided it with a copy of the Complaint, but it did not respond.

5 There is insufficient information to find reason to believe that a corporation paid the costs
6 of the Turk Committee's fundraiser or that John Gibson's contribution amount was
7 misreported.[59] Lone Summit Ranch Catering is the name used by VIP Property Management
8 Co., Inc., which John and Judy Gibson own.[60] The Gibsons, along with Amber Riley, are also
9 that corporation's officers.[61] Ms. Riley is also the person identified as the "Director of Catering
10 and Events" in Lone Summit Ranch's brochure.[62] This may suggest that VIP Property
11 Management Co., Inc. d/b/a Lone Summit Catering is the corporation through which the Gibsons
12 provide catering and event services at the Lone Summit Ranch. Nevertheless, the Complaint

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57 *See* Compl. at 4-5.

58 *See* Turk Comm. Resp. at 5.

59 We have no information about the attendance at the fundraiser or the specific amenities involved and, therefore, no basis to recommend that there is reason to believe that the total value of the disclosed contributions from the Gibsons is inaccurate. According to Lone Summit Ranch marketing materials, for events on Sundays such as the Turk Committee's October 10, 2010, fundraiser, Lone Summit Ranch currently charges $750 to rent a location on its grounds, and charges a minimum of $2,400 for food and beverages. *See* Attach. 1 (Lone Summit Ranch marketing brochure, one page of which is Exhibit R to the Complaint). Its standard catering options cost $21.50 to $34.50 per adult and it also offers a variety of optional bar packages, decoration rentals, entertainment, and activities. *See id.* Accordingly, the disclosed total value of the Gibsons' in-kind contributions of catering services, $3,400, would appear to represent little more than the minimum charges ($750 for the location + $2,400 minimum for the catering = $3,150). And the catering portion of the charges, $2,400, would be sufficient for an event with as many as approximately 111 attendees ($2,400 / $21.50). The Complaint provided no information indicating that the event cost more than $3,400, the total amount of the in-kind contributions from the Gibsons.

60 The Complaint cites a Registration of Fictitious Name renewal form for Lone Summit Catering that identifies Judy Gibson as the sole owner of Lone Summit Catering. *See* Compl. at Ex. R. However, the original Fictitious Name form for Lone Summit Catering on file with the Missouri Secretary of State identifies Lone Summit Catering as a fictitious name used by VIP Property Management, Inc. *See* Attach. 2. The records on file with the Missouri Secretary of State for that corporation indicate that it is owned by John and Judy Gibson. *See* Attach. 3.

61 *See* Attach. 3.

62 *See* Attach. 1.

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1 provides no information supporting a conclusion that this corporation contributed its corporate
2 assets to the Turk Committee's October 10, 2010, fundraiser at the Lone Summit Ranch, or
3 refuting the allocation of the expenses between the Gibsons as disclosed by the Turk Committee.
4 In light of the above and the *de minimis* alleged amount in violation, the Commission
5 therefore exercises its prosecutorial discretion and dismisses the allegation that the Turk
6 Committee or that Lone Summit Catering violated 2 U.S.C. § 441b(a), or that the Turk
7 Committee misreported the value of an in-kind contribution in violation of 2 U.S.C. § 434(b),
8 with regard to the Turk Committee's fundraiser at the Lone Summit Ranch on October 10, 2010.

9 **N. Alleged Failure to Disclose Utility Payments**

10 The Complaint alleges that the Turk Committee failed to disclose any utility payments
11 and submits, at Exhibit S, one page of a document that appears to indicate that the Turk
12 Committee had internet service commencing on September 1, 2010.[63] The Turk Committee
13 responds that it occupied its headquarters office for less than two months and that its utility bills
14 were less than the $200 reporting threshold.[64] The Commission finds that there is no reason to
15 believe that the Turk Committee violated 2 U.S.C. § 434(b) by failing to disclose utility
16 payments.

17 **O. Alleged Failure to Disclose Contribution of a Newspaper Ad**

18 The Complaint alleges that the Turk Committee failed to disclose a contribution of a
19 newspaper ad in the *Lake Lotawana Express* allegedly donated by Charles Falkenberg, a possible
20 violation of 2 U.S.C. § 434(b).[65] According to the Complaint, the Turk Committee disclosed that

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[63] *See* Compl. at 5, Ex. S.

[64] *See* Turk Comm. Resp. at 6.

[65] *See* Compl. at 5.

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1 Falkenberg contributed $500 but did not disclose Falkenberg's contribution of the ad.[66] The
2 exhibit to the Complaint supporting the allegation appears to be a copy of the ad, which
3 advertises a fundraiser for Turk hosted at Falkenberg's residence and expressly advocates Turk's
4 election ("Come to support Jacob and VOTE for him November 2"). The ad also includes a
5 disclaimer stating "Paid for by Chuck Falkenberg[.]"[67]

6 The Turk Committee responds that the ad cost less than $200 and, therefore, it was not
7 itemized but was aggregated and disclosed with other contributions by Falkenberg based on
8 advice provided by the Commission's Information Division.[68] We have no information to the
9 contrary, but the information available is also not dispositive. We note that the use of
10 Falkenberg's residential premises as well as any invitations, food, or beverages he may have
11 provided for the event may have been exempted from the definition of contributions by
12 11 C.F.R. §§ 100.75, 100.77. Due to the likely *de minimis* amount in violation, if any, the
13 Commission dismisses the allegation that the Turk Committee failed to disclose a contribution
14 for the ad in violation of 2 U.S.C. § 434(b).

15 **P. Alleged Coordination of Communications with Missouri Right to Life**

16 The Complaint alleges that the Turk Committee received a contribution as a result of a
17 coordinated communication by "a state qualified [PAC]."[69] Payments for coordinated
18 communications within the meaning of the Commission's regulations are treated as in-kind

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66 *See id.*

67 *See id.*, Ex. T.

68 *See* Turk Comm. Resp. at 6.

69 *See* Compl. at 4-5. The Complaint did not specify exactly which provision of the Act the Turk Committee or Missouri Right to Life would have violated or the alleged value of the violation. Arguably, if the two entities coordinated communications, the resulting contribution to the Turk Committee may have constituted undisclosed, corporate, or excessive contributions, or some combination thereof.

13044344726

1 contributions to the candidate or political committee with whom the communication is
2 coordinated.[70] The factual foundation for this allegation is the Complaint's assertion that the
3 Turk Committee's website and a Missouri Right to Life ad "clearly demonstrates a mirror image
4 of topics, words, phrases, and characterizations reflecting direct and specific coordination
5 between" the two organizations.[71] In support of this allegation, the Complaint cites Exhibit U,
6 which appears to be a photograph of a Missouri Right to Life ad that compares the positions of
7 Turk and his opponent regarding abortion, and Exhibit V, which appears to be pages from the
8 Turk Committee's website that contrast Turk and his opponent.

9 The Turk Committee responds that the allegation was speculative and denied it, noting
10 that the content on its website could have been copied by Missouri Right to Life.[72] Missouri
11 Right to Life responds that its ads predated the material published on the Turk Committee
12 website and, at any rate were not identical to the content of the Turk Committee's website.[73]
13 Each communication addressed aspects of the candidates that the other does not, and their
14 alleged overlap, if any, was limited.[74] Finally, Missouri Right to Life contends that the
15 Complaint failed to allege facts satisfying the conduct prong of the Commission's coordination
16 regulations at 11 C.F.R. §109.21(d).[75]

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70 *See* 11 C.F.R. § 109.21.

71 *See* Compl. at 5.

72 *See* Turk Comm. Resp. at 6.

73 *See* Missouri Right to Life ("MRTL") Resp. at 2.

74 *Compare* Compl. Exh. U (MRTL ad comparing Turk's positions to those of his opponent), *with* Compl. Exh. V (Turk Committee website comparing Turk's positions to those of his opponent; the only overlapping topics addressed in the two communications were their positions on stem cell research/cloning and abortion restrictions).

75 *See* MRTL Resp. at 1-3.

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1 There is nothing inherently novel about ads that compare rival candidates' positions on
2 issues, and there is no substantial similarity between the content of the Missouri Right to Life ads
3 and the subsequent Turk Committee statement on its website, with the possible exception of the
4 generic statements that Turk "Supports adult stem cell research" and that his opponent "Supports
5 embryonic stem cell research." The context of the communications differs substantially —
6 Missouri Right to Life took out a print ad in a newsletter while Turk's comments were presented
7 on his website, and the Missouri Right to Life's ad focused exclusively on whether Turk would
8 "protect human life." Missouri Right to Life claims its ad first appeared a month before "the
9 date listed for the Turk for Congress web page."[76] The language that comes closest to
10 overlapping is generic. Standing alone, there is insufficient similarity to reasonably infer
11 coordination between Missouri Right to Life and the Turk Committee. Accordingly, the
12 Commission finds that there is no reason to believe the allegation satisfies any of the means of
13 coordination identified in the conduct standard of the Commission's coordinated
14 communications regulation at 11 C.F.R. § 109.21(d).

15 The Complaint also alleges that Missouri Right to Life paid for the ad using state PAC
16 funds rather than federal PAC funds.[77] Missouri Right to Life denies the allegation and
17 submitted an affidavit explaining where to find its payments for the ad in its federal committee's
18 disclosure reports.[78]

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[76] *See* MRTL Resp. at 2.

[77] *See* Compl. at 5.

[78] *See* MRTL Resp. at 3-4.

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1 For these reasons, the Commission finds that there is no reason to believe that the Turk
2 Committee received an impermissible or undisclosed contribution from Missouri Right to Life
3 through publication of the ad identified in the Complaint.

4 **Q. Alleged Solicitation of Contributions for State Candidates**

5 The Complaint alleges that Turk "failed to appropriately disclose a federal candidate
6 raising money for a state/local candidate and using federal campaign resources to directly benefit
7 a state/local candidate."[79] Exhibit X to the Complaint appears to be an emailed invitation to a
8 non-federal fundraiser at Turk's house on January 13, 2011. The invitation indicates that the
9 fundraiser was for a candidate for the Missouri state senate. It also includes two Facebook
10 postings advocating the election of the same state senate candidate, as well as candidates for
11 Kansas City mayor and city council and for mayor of Grandview. The invitation to the
12 fundraiser includes a disclaimer stating "Paid for by Turk for Congress, Jim McIntosh,
13 Treasurer," while the Facebook postings were apparently made using the Turk Committee's
14 account.[80] The Turk Committee responds that if there was a violation, it was unintentional, and
15 that Turk hosted the event in his home after he lost the 2010 election and, therefore, he was no
16 longer a candidate at the time.[81]

17 Federal candidates may not "solicit, receive, direct, transfer, or spend funds in connection
18 with any election other than an election for Federal office or disburse funds in connection with
19 such an election unless the funds" comply with the Act's amount limitations, source prohibitions,

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79 *See* Compl. at 5.

80 *See id.*, Ex. X at 1.

81 *See* Turk Comm. Resp. at 6.

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1 and reporting requirements.[82] More importantly, Turk's loss of the election would have ended
2 his 2010 candidacy for the purposes of the prohibition, and, as of the time of the fundraiser, Turk
3 had neither raised more than $5,000 in receipts nor made more than $5,000 in expenditures for
4 the 2012 election according to the Turk Committee's disclosure reports; therefore, Turk was not
5 yet a 2012 candidate either. Accordingly, the Commission finds no reason to believe that Turk
6 violated 2 U.S.C. § 441i(e) for his alleged support and endorsements of the state and local
7 candidates.

8 **R. Alleged Failure to Disclose Expenditures or Receipt of Corporate**
9 **Contributions in Connection with Facility Rentals**

10 The Complaint alleges that the Turk Committee failed to disclose rental payments in
11 violation of 2 U.S.C. § 434(b) or else received corporate in-kind contributions in violation of
12 2 U.S.C. § 441b(a) for its use of three venues for committee events: the Belton Community
13 Center, the Clarion Hotel, and an American Legion post hall in Lee's Summit, Missouri.[83] The
14 Complaint provides no information indicating which, if any, of the commercial facilities were
15 owned by corporations and acknowledges that Turk is a veteran and may have been able to use
16 the American Legion Hall without charge.[84] The Turk Committee contends that its expenditures
17 for these venues were under the $200 reporting threshold.[85] The owner of one of the venues, the
18 Clarion Hotel, denied the allegation and provided a document indicating that the rental fee was
19 $129.27.[86] The allegations are speculative and unsupported — there is no basis in the record to

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82 *See* 2 U.S.C. § 441i(e)(1).

83 *See* Compl. at 5-6.

84 *See id.*

85 *See* Turk Comm. Resp. at 6.

86 *See* Hulsing Resp. at 1 (providing an agreement for the rental and a copy of a negotiated check).

1 conclude that any of the venues cost more than $200, and records support the contention that at
2 least one of the venues cost less. Accordingly, the Commission finds that there is no reason to
3 believe that the Turk Committee, the Belton Community Center, or the Clarion Hotel violated
4 2 U.S.C. § 441b(a) or that the Turk Committee violated 2 U.S.C. § 434(b) in connection with the
5 Turk Committee's use of the Belton Community Center, the Clarion Hotel, or the American
6 Legion post hall.

7 **S. Alleged Undisclosed Corporate Contribution of Shaved Flavored Ice**

8 Based on Exhibit Z, the Complaint alleges that "Tropic Sno provided shaved flavor ice
9 after the 4th of July parade in Sugar Creek, MO," resulting in the Turk Committee's failure to
10 report an expenditure or an in-kind contribution in violation of 2 U.S.C. § 434(b), or the receipt
11 of a corporate contribution in violation of 2 U.S.C. § 441b(a).[87] The Complaint further alleges
12 that "it is possible that Tropic Sno is a corporation and hence provided a prohibited
13 contribution."[88] The Turk Committee responds that the allegation is speculative.[89]

14 Exhibit Z to the Complaint appears to be a notice about, or invitation to, a Turk
15 Committee event. It is not clear on its face where this document came from or how it was
16 distributed, although it bears a disclaimer stating that the Turk Committee paid for it. It states
17 that there would be an opportunity to meet Turk at "Harrison Park, After parade" near "Mike
18 Onka Hall." It also states "Free Shaved-Ice today . . . by Tropical Sno." The Complaint does not
19 indicate the value of the Tropical Sno shaved ice, if any, that was actually provided to attendees
20 at the event, whether the event was actually held, and, if so, how many people attended, or any

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[87] *See* Compl. at 6.

[88] *See id.*

[89] *See* Turk Comm. Resp. at 6.

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other clarifying information relating to the alleged event. Nor does it provide any information about Tropic Sno, including whether it is a corporation. Indeed, it is unclear whether Tropic Sno contributed the shaved ice to the Turk Committee for the event. Accordingly, the Commission dismisses the allegation that the Turk Committee violated 2 U.S.C. § 434(b) by failing to report a contribution or expenditure, or received a corporate contribution in violation of 2 U.S.C. § 441b(a), in connection with the alleged consumption of flavored ice at the Sugar Creek, Missouri 4th of July event because the allegation lacks adequate specificity and the amount of the potential violation, if any occurred, would likely have been *de minimis*.

T. Alleged Failure to Disclose Expenditures for Campaign Staff Wages and Alleged Personal Use of Campaign Funds

In what it characterized as a "possible violation," the Complaint alleges that "media reports indicated that 'Turk for Congress' was paying workers cash which, if correct, results in a violation for failing to disclose expenditures[.]"[90] Such a failure to report expenditures would constitute a violation of 2 U.S.C. § 434(b). The Complaint relies on Exhibit AA, a printed page from a blog called "Tony's Kansas City."[91] The blog stated that "one of the VERY BEST TKS TIPSTERS has noted that questions abound regarding Turk's campaign."[92] Quoting the unidentified "tipster," the blog stated "There are also some very credible talk [*sic*] that the Turk campaign is paying people in cash."[93] The tipster is quoted as stating that "How is [Turk] supporting himself and his wife? He doesn't have a job. He closed his business and his wife

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90 *See* Compl. at 6.

91 *See id.*, Ex. AA.

92 *See id.*

93 *See id.*

1 doesn't work."[94] The Complaint also alleges that "further media reports questioned how Mr.
2 Turk pays for his living expenses without having a job for a number of years directly [*sic*]
3 implying that Mr. Turk is using campaign funds for personal living expenses,"[95] potentially a
4 violation of 2 U.S.C. § 439a(b).[96] These allegations do not rest on any credible source — rather,
5 they rely on what appears to be the speculation of unattributed third parties on a blog — and the
6 Commission dismisses them.

7 **U. Alleged Cash Contribution**

8 The Complaint alleges a "Possible Violation" because a commenter posted on the
9 "comment wall" of a website called "Political Graffiti" that "BTW, I donated cash . . . for
10 [Turk]."[97] Based on this the Complaint asserts that "the FEC should contact this contributor and
11 confirm that" the contribution was under $200 and "within the allowable limits for accepting
12 cash."[98] Pursuant to Section 441g of the Act, cash contributions cannot exceed $100.[99] The
13 Turk Committee responds that this was not a valid allegation because it was based on an
14 anonymous comment and that it was speculative.[100] The comment, however, had a name
15 associated with it, appears to have been posted on December 15, 2010, and the Turk Committee
16 disclosed a $250 contribution dated October 12, 2010, for the 2010 general election, from

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94 *See id.*

95 *See* Compl. at 6.

96 Although the Turk Committee responded to the alleged payment of its staff in cash, characterizing the claim as "politically induced innuendo," "speculative," and "[b]ased on hearsay," it does not appear to have responded to the allegation that Turk used campaign funds to pay his personal expenses. *See* Turk Comm. Resp. at 7.

97 *See* Compl., Ex. BB.

98 *See* Compl. at 6.

99 *See* 2 U.S.C. § 441g.

100 *See* Turk Comm. Resp. at 7.

1 someone with the same name as the commenter. The Turk Committee did not disclose any other
2 contributions from the 2010 cycle for this contributor and that contributor's 2010 cycle-to-date
3 contribution total was also $250. It is unclear whether the commenter used the term "cash" as a
4 colloquial reference to money or currency, in particular. Further, it is unclear if the cash
5 contribution to which the commenter was referring was the disclosed $250 contribution in his
6 name, a part of it, or another contribution — perhaps one that was less than $101, and therefore
7 within the limits of the Act for cash contributions and below the $200 itemization threshold. In
8 any event, the Commission dismisses the allegation that the Turk Committee violated 2 U.S.C.
9 §441g because it is speculative and any such violation was likely *de minimis*.

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