



FEDERAL ELECTION COMMISSION
Washington, DC 20002

Sean M. McDonough
111 North Orange Avenue
Suite 1200
Orlando, FL 32801

DEC 06 2018

RE: MUR 6721
Beth Steele
Women Advocating Respect

Dear Mr. McDonough:

On December 19, 2013, your clients, Beth Steele and Women Advocating Respect, were notified that the Federal Election Commission found reason to believe that they violated certain sections of the Federal Election Campaign Act of 1971, as amended. On January 16, 2014, you submitted a response to the Commission's reason to believe finding. After considering the circumstances of the matter, the Commission determined on November 26, 2018, to take no further action as to Beth Steele and Women Advocating Respect, and closed the file in this matter. The General Counsel's Report, explaining the basis for the Commission's decision to take no further action, is enclosed.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016), effective September 1, 2016.

If you have any questions, please contact me at (202) 694-1590.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Shonkwiler", is written over a horizontal line.

Mark Shonkwiler
Assistant General Counsel

Enclosure:
General Counsel's Report

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2
3
4 In the Matter of)
5) MUR 6721
6 Beth Steele)
7 Women Advocating Respect)
8 Todd Long)
9 Todd Long for Congress and Todd Long)
10 in his official capacity as treasurer)
11

12 **THIRD GENERAL COUNSEL'S REPORT**

13
14 **I. ACTIONS RECOMMENDED**

15 We recommend that the Commission (1) take no further action against Beth Steele,
16 Women Advocating Respect, Todd Long, and Todd Long for Congress and Todd Long in his
17 official capacity as treasurer and (2) close the file.

18 **II. BACKGROUND**

19 This matter originated with a complaint alleging that Beth Steele and an organization
20 named Women Advocating Respect ("WAR") violated the Federal Election Campaign Act of
21 1971, as amended (the "Act"), by failing to disclose independent expenditures for robocalls
22 expressly advocating the defeat of Representative Alan Grayson in the 2012 election in Florida's
23 9th Congressional District. The Commission found reason to believe that Steele and WAR
24 violated 52 U.S.C. § 30104(c) and (g) and 11 C.F.R. § 109.10(d) by failing to disclose the
25 expenditures.¹ During the initial investigation, Steele asserted that she spent \$700 on the
26 robocalls, but that her actions were not independent expenditures because they were made at the

¹ Certification ¶¶ 2.a-2.b, MUR 6721 (Beth Steele, *et al.*) (Dec. 3, 2013). The Complaint also alleged that the robocalls included an incomplete and inaccurate disclaimer. The Office of General Counsel recommended that the Commission find reason to believe that WAR violated the Act by not including a complete and accurate disclaimer in the robocall, but the recommendation did not garner the necessary four votes. First Gen. Counsel's Rpt. at 7, MUR 6721 (Beth Steele, *et al.*) (Aug. 13, 2013); Certification ¶ 1.b, MUR 6721 (Beth Steele, *et al.*) (Dec. 3, 2013).

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1 request and with the participation of Grayson's opponent, Todd Long, and his principal
2 campaign committee, Todd Long for Congress (the "Committee").² Steele provided copies of
3 the checks that she asserts Long asked her to write to pay for the recording; the checks totaling
4 \$700 were payable to a media vendor to record Steele's voice and set up the call, and to two
5 individuals to translate the recording into Spanish. Steele also stated that she later provided the
6 recording to Long or one of his campaign workers by email "and did not know how the
7 recording became a robocall."³ Based on that information, Todd Long and the Committee were
8 named as respondents and notified of their potential violations in this matter.⁴ Long and the
9 Committee submitted a brief response denying the allegations.⁵ The Commission then found
10 reason to believe Long and the Committee violated 52 U.S.C. §§ 30104(b), 30116(f), and
11 30120(a)(1)-(3) by accepting and failing to report excessive contributions from Steele, and by
12 not including the required disclaimers indicating that the candidate paid for and authorized the
13 robocalls.⁶ The investigation then focused on determining the extent of Long's involvement in
14 the robocalls and the amount of any additional funds spent for the production and distribution of
15 the robocalls.⁷

² See Second Gen. Counsel's Rpt. at 3-5, MUR 6721 (Todd Long, *et al.*) (June 11, 2015). The Complaint describes Steele as having been Long's girlfriend in 2012. Compl. at 2, MUR 6721 (Beth Steele, *et al.*) (Feb. 12, 2013). Neither Steele's nor Long's response either confirms or denies this characterization of their relationship. During her initial interview, Steele stated that she and Long are no longer friends. See Report of Investigation at 2, MUR 6721 (Beth Steele, *et al.*) (Feb. 24, 2014).

³ Second Gen. Counsel's Rpt. at 4-5.

⁴ See Memorandum to the Commission, MUR 6721 (Mar. 28, 2014); Certification, MUR 6721 (Beth Steele, *et al.*) (Oct. 21, 2014).

⁵ Long Resp. at 1; Second Gen. Counsel's Rpt. at 5.

⁶ Certification ¶ 1, MUR 6721 (Aug. 17, 2015).

⁷ See Second Gen. Counsel's Rpt. at 10.

1 **III. ANALYSIS**

2 We were unable to conclusively resolve Long's role in creating and distributing the
3 robocalls, and we uncovered no information indicating that the amount spent on the robocalls
4 exceeded the \$700 that Steele spent on the calls. During multiple informal telephone interviews,
5 Long steadfastly denied Steele's assertions that he was involved in creating and distributing the
6 robocalls in any way. To support his denials, Long provided a brief written statement in which
7 he asserts that he "did not pay for the calls nor have input into the content of the ads," and that
8 his campaign "had no involvement in these calls in any fashion."⁸ While Long acknowledges,
9 that Steele told him about her intention to produce and distribute the recording prior to its actual
10 distribution, he asserts that he responded that it was Steele's decision to proceed or not.

11 Steele, in response to Long's assertions, maintains that her account of Long's role in the
12 production and distribution of the robocalls is accurate, *i.e.*, that Long asked her to make the
13 robocalls, provided her with a script, directed her to pay vendors, and took the recording from
14 her when it was completed.⁹ Steele was unable, however, to provide us with any additional
15 documentation to support her account, explaining that she had already provided all of the
16 relevant information in her possession during the initial stage of the investigation and no longer
17 has access to emails from the relevant time period.¹⁰ Steele also stated that she is unaware of
18 any other expenditures that were made in connection with the calls.¹¹ Nor, despite concerted

⁸ Affidavit of Todd Long ¶¶ 2-3 (Dec. 10, 2015). The statement is titled "Affidavit of Todd Long," though the statement was not sworn under oath or witnessed.

⁹ See Second Gen. Counsel's Rpt. at 7.

¹⁰ Email from Sean McDonough (Feb. 8, 2016, 10:34 AM EST).

¹¹ Letter from Sean McDonough (Jan. 16, 2014).

1 efforts, were we able to identify any other individuals with relevant information that could assist
2 in resolving Steele and Long's conflicting accounts. Long maintains that there are no other
3 individuals associated with his campaign who would have knowledge of the relevant facts, nor
4 are there any documents or communications that support his version of events.¹²

5 Thus, there are still two conflicting accounts of Long's participation in the production
6 and distribution of the robocalls¹³ — Steele and Long each insists that the other party bore
7 primary responsibility for the robocalls, and that the Commission should look to the other party
8 in assessing liability for any violation of the Act.¹⁴ Because of the conflicting accounts of
9 Long's participation in the production and distribution of the robocalls, we cannot conclusively
10 determine whether they were coordinated.¹⁵ However, regardless of which party violated the
11 Act in connection with the robocalls, it appears that the violation involved no more than a

¹² Though we made multiple attempts to contact individuals who worked for the Committee during the 2012 campaign, those attempts did not result in any additional information about the robocalls or Long's campaign. We also attempted to contact a vendor who provided robocall services to Todd Long during his 2010 Congressional campaign, but the vendor appears to no longer be in business. We made multiple attempts to reach the individual who was evidently in charge of the 2010 vendor when it was active, but those attempts were unsuccessful.

¹³ Although Steele appears to be more credible, the conflicting testimony and lack of corroborating information makes it difficult to prove that Long met the conduct prong by requesting or suggesting the robocalls.

¹⁴ As explained in the Second General Counsel's Report, *see* Second Gen. Counsel's Rpt. at pp. 8-10, the disposition of this matter turns on whether Long and Steele coordinated the robocalls. If Steele created and disseminated the robocall independently, Beth Steele and Women Advocating Respect violated 52 U.S.C. § 30104(c) and (g) and 11 C.F.R. § 109.10(d) by failing to file independent expenditure reports in connection with the robocalls. If, however, Long coordinated with Steele on the robocall, the expenditures made by Steele¹⁴ were in-kind contributions to Long, and Long and the Committee violated 52 U.S.C. §§ 30104(b), 30116(f), and 30120(a)(1)-(3) by accepting and failing to report excessive contributions from Steele and by not including the required disclaimers in the robocalls, and Steele violated 52 U.S.C. § 30116(a)(1) by making an excessive contribution to Long.

¹⁵ Under Commission regulations, a communication is coordinated if: (1) the communication is paid for by a person other than the candidate or authorized committee; (2) the communication satisfies at least one of the content standards set forth in 11 C.F.R. § 109.21(c); and (3) the communication satisfies at least one of the conduct standards set forth in 11 C.F.R. § 109.21(d). 11 C.F.R. § 109.21(d). As discussed in the Second General Counsel's Report, the robocall satisfies both the payment and content prongs of the coordinated communication test, thus it is only the conduct prong that is at issue. *See* Second Gen. Counsel's Rpt. at 6.

