



FEDERAL ELECTION COMMISSION
Washington, DC 20002

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

DEC 06 2018

Scott Randolph
c/o Orange County Democratic Executive Committee
P. O. Box 1648,
Orlando, FL 32802-1648

RE: MUR 6721

Dear Mr. Randolph:

This is in reference to the complaint you filed with the Federal Election Commission on February 21, 2013 concerning Beth Steele, Women Advocating Respect, Todd Long, and Todd Long for Congress and Todd Long in his official capacity as treasurer (collectively "Respondents). Based on that complaint, on December 19, 2013, the Commission found reason to believe that Beth Steele and Women Advocating Respect violated 2 U.S.C. §§ 434(c) & (g) and 11 C.F.R. § 109.10(d), and instituted an investigation of this matter. On August 31, 2015, the Commission found reason to believe that Todd Long and Todd Long for Congress and Todd Long in his official capacity as treasurer violated 52 U.S.C. §§ 30104(b), 30116(f), and 30120(a)(1)-(3).

However, after considering the circumstances of this matter, the Commission determined to take no further action as to the Respondents, and closed the file in this matter on November 26, 2018. 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).

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. *See* 52 U.S.C. § 30109(a)(8). 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

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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.

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1 *de minimis* amount. Steele stated that she spent just \$700 to produce the recording and is
2 unaware of any additional amounts spent by others in connection with the calls.¹⁶ Despite our
3 efforts, we have been unable to obtain any information that would establish the amount of
4 additional funds that were spent on the distribution of the robocalls, either by Long, his
5 campaign committee or some third party. We note that robocalls are a relatively inexpensive
6 form of communication, and there is no information to indicate that the additional amount spent
7 was significantly larger than the \$700 spent by Steele.¹⁷ Further, Long has not become a
8 candidate again since the 2012 election, and we have no indication that he intends to become a
9 candidate in any future federal election. Under these circumstances, we recommend that the
10 Commission take no further action and close the file.¹⁸

¹⁶ See Second Gen. Counsel's Rpt. at 3-4.

¹⁷ See First Gen. Counsel's Rpt., Attach. 1, MUR 6721 (Beth Steele, *et al.*) (Aug. 13, 2013) (providing examples of robocall vendor prices); see also MUR 6011 (Darrell Glasper, *et al.*) (dismissing matter on basis of low cost of robocalls and affidavit from candidate claiming no involvement).

¹⁸ See *Heckler v. Chaney*, 470 U.S. 821 (1985).

1 **IV. RECOMMENDATIONS**

- 2 1. Take no further action against Beth Steele, Women Advocating Respect, Todd
3 Long, and Todd Long for Congress and Todd Long in his official capacity as
4 treasurer.
- 5 2. Approve the appropriate letters.
- 6 3. Close the file.

7
8 Lisa J. Stevenson
9 Acting General Counsel

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11
12
13 11/9/18
14 Date

Kathleen M. Guith
Kathleen M. Guith
Associate General Counsel

Mark Shonkwiler
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