



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of )  
 )  
Friends of George Demos, *et al.* ) MUR 6848  
 )

**STATEMENT OF REASONS OF VICE CHAIRMAN MATTHEW S. PETERSEN AND  
COMMISSIONER CAROLINE C. HUNTER**

Candidates may spend unlimited amounts of their personal funds on their own campaigns. The Federal Election Campaign Act of 1971, as amended (the “Act”), however, treats contributions by a candidate’s immediate family members, including a spouse, as it does any other contribution: subject to per-election amount limitations. This matter began with a complaint filed by the Chairman of the Brookhaven Republican Committee against George Demos, a 2014 Republican primary candidate for the U.S. House of Representatives for New York’s 1<sup>st</sup> Congressional District, and his principal campaign committee, Friends of George Demos (the “Committee”). The complaint alleged that Demos lacked sufficient personal funds to make \$2 million<sup>1</sup> in loans to his campaign and that the true sources of the funds were Demos’s father-in-law (Angelo Tsakopoulos) and Tsakopoulos’s company (AKT Development Corporation (“AKT”)).

Upon our review of the complaint and responses, we agreed with the Commission’s Office of General Counsel (“OGC”) that a reason-to-believe finding was appropriate.<sup>2</sup> Accordingly, on June 17, 2016, the Commission voted unanimously to find reason to believe George Demos and the Committee violated the Act by accepting and failing to disclose excessive contributions. We further authorized OGC to investigate whether the funds loaned to the Committee were, in fact, transferred from Tsakopoulos or AKT to George Demos for his campaign, and whether or not the funds loaned to his campaign qualified as his “personal funds.” OGC then acquired the bank records, interviewed witnesses, and obtained additional responses and sworn statements.

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<sup>1</sup> Friends of George Demos reported \$500,000 in additional loans subsequent to complaint’s filing.

<sup>2</sup> Critical to our rationale on this reason-to-believe vote was that the “[c]omplainant [gave] a specific account, under penalty of perjury, of a meeting he personally attended at which Demos purportedly acknowledged that Tsakopoulos was providing Demos with \$2 million for his campaign.” *See* Factual & Legal Analysis at 8. The response did not rebut the specific, sworn allegations based on personal knowledge in the complaint. The response also left open another scenario: that Tsakopoulos gave his daughter money to be used for her husband’s campaign.” *Id.* at 8. Moreover, Demos’s financial disclosure reports filed with the Clerk of the House revealed limited assets and income. *Id.* at 9.

The investigation revealed that neither Tsakopoulos nor AKT provided the funds that Demos loaned to his campaign, as the complaint alleged.<sup>3</sup> Rather, the investigation indicated that Demos funded the loans to the Committee from a joint bank that he held with his wife, Chrysanthy Demos. OGC further determined that, ten days after the couple opened the joint account, Chrysanthy Demos transferred \$3 million into it from a separate account that she held individually.<sup>4</sup>

The Demoses explained that “[a]fter the birth of their first child,” they “opened a joint checking account . . . for family and personal expenses.”<sup>5</sup> They had married the previous year and, until the birth of their first child, they each used individual bank accounts for family expenses. In 2013, for example, Chrysanthy Demos used funds from her own investment account to cover costs associated with purchasing an apartment in New York City.<sup>6</sup>

On these facts, we voted to add Chrysanthy Demos as a respondent and to find reason to believe that she made excessive contributions to George Demos and the Committee. The Commission also authorized joint conciliation with the Demoses and the Committee in an effort to resolve the matter prior to the Act’s ‘probable cause stage.’ That effort failed, however, and OGC prepared and transmitted a probable cause brief, to which the respondents replied. The respondents also requested a hearing, which the Commission granted. Afterwards, OGC recommended that the Commission find probable cause to believe that the Demoses and Committee violated the Act’s contribution limits and disclosure requirements.

After considering OGC’s brief, the respondents’ written reply, the arguments made at the probable cause hearing, and the entire administrative record, we declined to find probable cause. In our view, the record did not satisfy the Commission’s evidentiary burden of demonstrating that Demos did not have legal right of access to, or control over, and did not have legal and rightful title or an equitable interest in the joint account’s funds at the time he became a candidate.<sup>7</sup>

While the Act prohibits candidates from knowingly accepting any contribution in violation of the Act’s contribution limitations and prohibitions,<sup>8</sup> candidates may spend unlimited

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<sup>3</sup> See Second Gen. Counsel’s Rpt. at 12, 14-15. Accordingly, the Commission voted unanimously to find no reason to believe AKT violated the Act and voted to close the file as to both AKT and Tsakopoulos.

<sup>4</sup> *Id.* at 2-5

<sup>5</sup> Letter from Counsel at 2 (March 24, 2017).

<sup>6</sup> *Id.*

<sup>7</sup> Our determination that the evidence is inconclusive and therefore insufficient to make a probable cause finding is not a case where we chose to exercise prosecutorial discretion pursuant to *Heckler v. Chaney* to save resources. Just the opposite is true: a multi-year investigation was conducted, consisting of document productions, witness interviews, and sworn statements. OGC compiled detailed records of the private finances of George and Chrysanthy Demos.

<sup>8</sup> 52 U.S.C. § 30116.

“personal funds” on their campaigns.<sup>9</sup> Personal funds include “an amount that is derived from . . . any asset that, under applicable State law, *at the time the individual becomes a candidate*, the candidate had legal right of access or control over . . . .”<sup>10</sup> Assets jointly owned between a candidate and candidate’s spouse are “a portion . . . equal to the candidate’s share of the asset under the instrument of conveyance or ownership . . . .”<sup>11</sup>

The Demoses jointly owned the bank account from which George Demos loaned the Committee \$2.5 million, and the record suggests that he had full legal right of access or control over the funds in that account. However, “bank records show that the bulk of the funds in the joint account came from a \$3 million transfer that [Chrysanthy Demos] made . . . from her own individually held investment account.”<sup>12</sup> Thus, under the Act, a material question was whether the jointly held account was Demos’s “asset” under the Act when he became a candidate such that he had legal right or access to the funds.<sup>13</sup>

OGC looked to the timing of the transactions and argued that Chrysanthy Demos transferred funds into the joint account with her husband “specifically for the purpose of funding Demos’s campaign.”<sup>14</sup> The record in this matter, however, lacks sufficient facts to find probable cause that George Demos had actually decided to run for office when Chrysanthy Demos transferred funds into their joint account. Two exchanges from the probable cause hearing underscore this weakness in the record:

VICE CHAIR WEINTRAUB: Is it your position or is it true that at the time Mrs. Demos put the money in the joint bank account, that that act on her part had nothing to do with her husband’s prospective candidacy?

MR. LENHARD: I don’t know what Mrs. Demos’ intent was. There’s been no discovery as to that question. There’s nothing in the record. I personally don’t know the answer to that question.<sup>15</sup>

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<sup>9</sup> See *Buckley v. Valeo*, 424 U.S. 1, 52-53 (1976) (holding unconstitutional caps on “personal expenditures by a candidate in furtherance of his [or her] own candidacy.”).

<sup>10</sup> 52 U.S.C. § 30101(26)(A).

<sup>11</sup> *Id.* § 30101(26)(C).

<sup>12</sup> General Counsel’s Brief at 4.

<sup>13</sup> 52 U.S.C. § 30101(26). The Act includes candidates’ jointly held assets in its definition of candidates’ “personal funds,” *see id.*, but the Commission “has not always been consistent in how it determines how much of the funds in a joint account are the personal funds of the candidate.” Factual & Legal Analysis at 8 (Chrysanthy Demos). However, regardless of whether George Demos could access half of the amount that Chrysanthy transferred (\$1.5 million) or the whole (\$3 million), either amount would violate the Act’s contribution limits, if the transfer into the joint account were considered a “contribution.”

<sup>14</sup> General Counsel’s Brief at 11. Respondent argued that to determine when an individual becomes a candidate, the Commission has looked to when the individual files a Statement of Candidacy, as a “bright line.” Reply Brief at 6-8 (citing MUR 6440 (Guinta), Factual & Legal Analysis (“Thus Guinta’s ‘personal assets’ would include amounts from any asset that Guinta had legal right of access to or control over on or before [the date he filed a Statement of Candidacy].”).

<sup>15</sup> Probable Cause Transcript at 33-34.

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VICE CHAIR WEINTRAUB: Just one question, which I'm sure you're not going to answer.

MR. LENHARD: How cynical.

(Laughter.)

VICE CHAIR WEINTRAUB: Is it your client's position that Mr. Demos had not decided to run for office at the time the \$3 million was deposited into the joint checking account?

MR. LENHARD: I don't know the answer to that question.

VICE CHAIR WEINTRAUB: See, I told you you weren't going to answer.

MR. LENHARD: I said I don't know.

CHAIR HUNTER: You don't have to answer if you don't know.

VICE CHAIR WEINTRAUB: Well, it's just that, unfortunately, we don't have your client here, so you're the only person I can ask.

MR. LENHARD: *There was never a question raised in discovery during the multiple years we've been since the vote on RTB.*<sup>16</sup>

The weakness of the record at this late stage of the enforcement process is all the more significant due to the government's "somewhat diminished"<sup>17</sup> interest in "the prevention of corruption and the appearance of corruption"<sup>18</sup> in the context of spousal contributions. In *Buckley*, the Court upheld the Act's contribution limits on the grounds that they served "to limit the actuality and appearance of corruption resulting from large individual financial contributions."<sup>19</sup> However, as we wrote in another 'family money' matter, the Court in *Buckley* also "acknowledged that the potential for actual or apparent corruption from familial contributions is 'diminished' relative to contributions from other sources."<sup>20</sup> The record here lacks facts that suggest Chrysanthy Demos's transfer posed a risk of corruption to her husband. To the contrary, the record suggests that the couple was building a life together, and that Chrysanthy Demos was prepared to provide funds to purchase an apartment and care for their first child. We therefore did not think it prudent to proceed further on this record.<sup>21</sup>

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<sup>16</sup> *Id.* at 41 (emphasis added).

<sup>17</sup> *Buckley*, 424 U.S. at 53 n.59.

<sup>18</sup> *Id.* at 25.

<sup>19</sup> *Id.* at 26; *see also Citizens United v. FEC*, 558 U.S. 310, 356-57 (2010).

<sup>20</sup> Statement of Reasons of Vice Chairman Matthew S. Petersen and Commissioner Caroline C. Hunter in MUR 5724 (Feldkamp for Congress) at 3 (quoting *Buckley*, 424 U.S. at 53 n.59).

<sup>21</sup> *See, e.g., McCutcheon v. FEC*, 572 U.S. 185 (2014) (holding unconstitutional Act's aggregate contribution limits, which Court had previously addressed in *Buckley*); *Citizens United* (overruling *Austin v. Michigan Chamber of Commerce*, 494 U.S. 652 (1990) when invalidating Act's ban on independent expenditures by corporations).

Accordingly, we voted against the motion to find probable cause to believe that the respondents violated the Act's contribution limits and disclosure requirements.

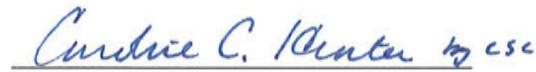
Statement of Reasons of Vice Chairman Petersen and Commissioner Hunter  
MUR 6848 (Demos)



Matthew S. Petersen  
Vice Chairman

8/30/2019

Date



Caroline C. Hunter  
Commissioner

8/30/2019

Date