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999 E Street, N.W. Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

MUR: 6894

DATE OF COMPLAINT: October 27, 2014
DATE OF NOTIFICATION: October 30, 2014
DATE OF RESPONSE: December 19, 2014
DATE ACTIVATED: June 16, 2015

ELECTION CYCLE: 2014

EXPIRATION OF SOL: October 23, 2019

COMPLAINANT: Wallace Collins, Chairman of the Oklahoma

Democratic Party

RESPONDENTS: Steve Russell for Congress and Robert

Crookshank in his official capacity as treasurer¹

RELEVANT STATUTE 52 U.S.C. § 30104(b)²

AND REGULATION: 11 C.F.R. § 104.3

INTERNAL REPORTS CHECKED: Disclosure Reports

27 FEDERAL AGENCIES CHECKED: None

I. INTRODUCTION

- The Complaint alleges that the principal campaign committee of Congressional candidate
- 31 Steve Russell violated the Federal Election Campaign Act of 1971, as amended (the "Act"), by
- 32 failing to disclose a media buy purchased by its media vendor to air the Committee's advertising.
- 33 The Committee denies the allegation. Because the vendor, not the Committee, made the media
- 34 buy, and the Committee was not required to report disbursements made by its vendor to a sub-

On January 25, 2015, Steve Russell for Congress ("Committee") filed an amended Statement of Organization designating Robert Crookshank as its treasurer. David Tinker was the treasurer during the activity at issue in this matter.

On September 1, 2014, the Federal Election Campaign Act of 1971, as amended, was transferred from Title 2 to new Title 52 of the United States Code.

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- vendor, we recommend that the Commission find no reason to believe that Steve Russell for
- 2 Congress and Robert Crookshank in his official capacity as treasurer violated 52 U.S.C.
- 3 § 30104(b) and close the file in this matter.

II. FACTUAL AND LEGAL ANALYSIS

Steve Russell was a 2014 candidate for the U.S. House of Representatives in Oklahoma's Fifth Congressional District. In October 2014, Thompson Communications, Inc. ("TCI"), a media vendor of the Committee, purchased air time from two television stations to air Russell's campaign advertisements between October 15 and 26, 2014.³ The Complaint attaches copies of the publicly available purchase contracts between TCI and each station. The contracts each list the Committee as the advertiser and collectively charge TCI \$20,750.⁴

The Complaint alleges that the Committee violated the Act by failing to disclose this media buy as a disbursement or a debt. In response, the Committee explains that it hired TCI to produce and distribute advertising, incurred fees with TCI, paid TCI, and properly disclosed its payments to TCI on its disclosure reports. TCI, in turn, contracted separately with the stations and paid the stations for air time. Thus, the Committee asserts that it did not have to report the amounts payable under the purchase contracts because the Committee did not directly incur debt or disburse funds to either television station. The Committee asks the Commission to dismiss

Compl. at 1 and Attach.

Of that amount, \$3,113 consists of agency commissions earned by TCI in connection with the media buy.

Resp. at 10. The Committee reported a number of payments to TCI in its disclosure reports, and three were for the purpose of "media buy" around the time of the scheduled October 2014 advertisements: \$41,973 on September 3, \$47,665 on October 20, and \$123,285 on November 3. *Id.*; 2014 October Quarterly Report at 71 and 2014 Post-General Report at 40, 45, attached to Resp. at Exhs. 2-3. The Committee's response does not specify which of the reported disbursements to TCI are connected to the contracts at issue in this matter.

⁶ Resp. at 8.

the Complaint and find that there is no reason to believe that it violated the Act.⁷

The Act and Commission regulations require an authorized committee to report the name and address of each person to whom it makes expenditures or other disbursements aggregating more than \$200 per election cycle, as well as the date, amount, and purpose of such payments.⁸ However, where a committee vendor makes a payment to a sub-vendor for services or goods used in the performance of the vendor's contract with the committee, a committee need not separately report its vendor's payment.⁹

Here, the available information shows that the alleged unreported disbursements to the television stations were not disbursements by the Committee itself. Rather, they were disbursements by the Committee's media vendor to a sub-vendor in connection with services the vendor provided to the Committee. Accordingly, the Committee was not required to disclose the payments. Further, the Committee's disclosure reports show that it disclosed payments it made directly to TCI for media and advertising services, including media buys to broadcast the Committee's advertising. We recommend, therefore, that the Commission find no reason to believe that the Committee violated 52 U.S.C. § 30104(b) and close the file in this matter.

ld. at 12.

⁸ 52 U.S.C. § 30104(b)(5)(A), (6)(A); 11 C.F.R. § 104.3(b)(4)(i), (vi).

See 52 U.S.C. § 30104(b)(5)(A); 11 C.F.R. § 104.3(b)(4)(i)(A); Advisory Op. 1983-25 (Mondale for President). The Commission has addressed certain situations, not applicable to the present matter, where committees are required to disclose the ultimate payees. See Reporting Ultimate Payees of Certain Political Committee Disbursements, 78 Fed. Reg. 40,625, 40,626-27 (July 8, 2013) (reimbursements to individuals for certain out-of-pocket expenses made on behalf of a political committee, payments to credit card companies, and unreimbursed disbursements by candidates who use personal funds to pay committee expenses). See also Factual and Legal Analysis at 13, MUR 6510 (Kirk for Senate, et al.) (Committee was only required to report disbursements to its vendor, not the vendor's sub-contractor).

MUR 6894 (Steve Russell for Congress) First General Counsel's Report Page 4 of 4

III. RECOMMENDATIONS 2 3 Find no reason to believe that Steve Russell for Congress and Robert Crookshank 1. 4 in his official capacity as treasurer violated 52 U.S.C. § 30104(b); 5 2. Approve the attached Factual and Legal Analysis; 6 3. Approve the appropriate letters; and 7 8 4. Close the file. 9 10 11 12 Deputy Associate General Counsel for Enforcement 13 14 15 16 17 Assistant General Counsel 18 19 Dellant K. Rigsby 20 21 22 Attorney 23 24