

1 **FEDERAL ELECTION COMMISSION**

2 **FIRST GENERAL COUNSEL'S REPORT**

3 MUR: 7049

4 DATE COMPLAINT FILED: Apr. 25, 2016

5 DATE OF NOTIFICATION: Apr. 27, 2016

6 DATE OF SUPPLEMENT: Sept. 13, 2016

7 DATE OF NOTIFICATION: Sept. 22, 2016

8 DATE OF LAST RESPONSE: Oct. 17, 2016

9 DATE ACTIVATED: Feb. 22, 2017

10 EXPIRATION OF SOL: Apr. 16, 2021

11 ELECTION CYCLE: 2016

12 **COMPLAINANT:**

Jed Whittaker

13 **RESPONDENTS:**

Margaret Stock

Margaret for Alaska and Tim Pearson in his

official capacity as treasurer

Alaska Democratic Party and Carolyn Covington¹

in her official capacity as treasurer

14 **RELEVANT STATUTES**
15 **AND REGULATIONS:**

16 52 U.S.C. § 30101(8)(A)(i)

17 52 U.S.C. § 30104(a), (b)

18 11 C.F.R. § 100.52(d)(1), (2)

11 C.F.R. § 100.111(e)(1), (2)

11 C.F.R. § 104.1

11 C.F.R. § 104.3(a), (b)

19 **INTERNAL REPORTS CHECKED:**

Disclosure reports

20 **FEDERAL AGENCIES CHECKED:**

None

21 **I. INTRODUCTION**

22 The Complaint alleges that Margaret for Alaska (the "Committee"), the campaign
23 committee of 2016 U.S. Senate candidate Margaret Stock, violated the Federal Election
24

¹ At the time of the Complaint, Cyndi Cieslak served as treasurer. On March 3, 2017, the Alaska Democratic Party named Carolyn Covington as its treasurer. See Amended Statement of Organization, Alaska Democratic Party (Mar. 3, 2017), available at <http://docquery.fec.gov/pdf/207/201703039050597207/201703039050597207.pdf>.

1 Campaign Act of 1971, as amended (the "Act"), by failing to file disclosure reports.² A
2 supplemental Complaint alleges that the Alaska Democratic Party ("ADP") violated the Act by
3 "sharing" its voter database with the Committee.³

4 Based on the available information, we recommend that the Commission find no reason
5 to believe that the Committee violated 52 U.S.C. § 30104(a) by failing to file required disclosure
6 reports. In addition, we recommend that the Commission exercise its prosecutorial discretion
7 and dismiss the allegations that Respondents violated 52 U.S.C. § 30104(b) by failing to disclose
8 transactions related to the Committee's use of ADP's voter database.⁴

9 II. FACTUAL AND LEGAL ANALYSIS

10 Margaret Stock was an Independent candidate for U.S. Senate in Alaska's 2016 general
11 election, and Margaret for Alaska is her principal campaign committee.⁵ Although Stock ran as
12 an Independent, the Complaint asserts that the Alaska Democratic Party supported Stock instead
13 of its own candidate.⁶

² Compl. at 2 (Apr. 25, 2016). The Complaint also makes allegations concerning candidate eligibility for Alaska's primary election and filing requirements of the Alaska Division of Elections. The Complaint further alleges that ADP conspired to support a Republican candidate running as an Independent in Alaska's 2016 primary election. These allegations are outside the Commission's jurisdiction.

³ Supp. Compl. at 1 (Sept. 13, 2016).

⁴ See *Heckler v. Chaney*, 470 U.S. 821 (1985).

⁵ FEC Form 1, *Statement of Organization*, Margaret for Alaska (Feb. 24, 2016).

⁶ Compl. at 1. There are no entries on ADP's disclosure reports that indicate that it made expenditures on behalf of Stock or the Democratic Senate nominee. Stock placed third in the election, after the Republican incumbent and a Libertarian candidate, but before the Democratic candidate.

A. Disclosure Reports

The Complaint alleges that the Committee did not file disclosure reports with the Commission.⁷ Margaret Stock responds that her Committee timely filed its disclosure reports since Stock declared her candidacy on February 17, 2016.⁸

The Act and the Commission's regulations require each treasurer of an authorized political committee to file quarterly reports of receipts and disbursements.⁹ In addition to an authorized committee's regular quarterly reports, in any year where there is a regularly scheduled election for which a candidate is seeking election, or nomination for election, the treasurer shall file a pre-election report, which shall be filed no later than the 12th day before an election, as well as a post-general election report, which shall be filed no later than the 30th day after any general election.¹⁰

The Committee filed its Statement of Organization on February 24, 2016. Its first quarterly disclosure report, the 2016 April Quarterly Report, was timely filed on April 15, 2016, and it appears that the Committee has met all of its subsequent reporting deadlines.¹¹ Thus, we recommend that the Commission find no reason to believe that the Committee violated 52 U.S.C. § 30104(a).¹²

⁷ Compl. at 2.

⁸ Stock Resp. at 1-2 (June 14, 2016); FEC Form 2, Statement of Candidacy, available at <http://docquery.fec.gov/pdf/949/201602220200074949/201602220200074949.pdf> (Feb. 16, 2016).

⁹ 52 U.S.C. § 30104(a), (b); 11 C.F.R. §§ 104.1, 104.3(a), (b), 104.5(a).

¹⁰ 52 U.S.C. § 30104(a)(2)(i), (ii); 11 C.F.R. § 104.5(a)(2).

¹¹ See Committee/Candidate Detail, Margaret for Alaska, <http://www.fec.gov/fecviewer/CandidateCommitteeDetail.do>.

¹² The Complainant signed the Complaint on April 19, 2016, four days after the Committee submitted its first disclosure report. See Compl. at 1, 14 (Notarization and Complainant's signature).

B. Use of ADP's Voter Database

The supplement to the Complaint alleges that ADP violated the Act by "sharing" the ADP's voter database with the Committee.¹³ The Committee acknowledges in its response that ADP "has made its voter database available to Margaret for Alaska at considerable cost" to the Committee.¹⁴ Reports on file with the Commission show that the Committee made \$20,000 in "contributions" to ADP,¹⁵ and ADP received these contributions.¹⁶

Margaret for Alaska Contributions Made		Alaska Democratic Party Contributions Received	
Amount	Date	Amount	Date
\$1,000	08/04/2016	\$1,000	08/09/2016
\$1,000	08/15/2016	\$1,000	09/02/2016
\$8,000	09/06/2016	\$8,000	09/07/2016
\$5,000	10/04/2016	\$5,000	10/11/2016
\$5,000	10/19/2016	\$5,000	10/31/2016

The Respondents provided further information as to whether these transactions were in partial or full payment for use of the database.¹⁷ The Committee and ADP both acknowledge

¹³ Supp. Compl. at 1.

¹⁴ Committee Resp. to Supp. at 1 (Oct. 17, 2016).

¹⁵ Margaret for Alaska, 2016 October Quarterly Report at 158 (Oct. 14, 2016); 2016 Pre-General Report at 51 (Oct. 24, 2016).

¹⁶ Alaska Democratic Party, 2016 September Monthly Report at 11 (Sept. 21, 2016); 2016 October Monthly Report at 37 (Oct. 20, 2016); 2016 Pre-General Report at 23 (Oct. 27, 2016); 2016 Post-General Report at 40 (Dec. 9, 2016). ADP's August 9, 2016, and September 7, 2016, receipts contain the notation "Candidate Buy-in." We do not know the meaning of this notation, although it may relate to the Complaint's general allegation that the ADP supported Stock, the Independent candidate in the 2016 U.S. Senate election.

¹⁷ See MUR 7049 Commission Certification (Nov. 9, 2017).

1 that at least some of these transactions were the Committee's payments for use of ADP's
2 database.¹⁸

3 The Act and Commission regulations require political committees to itemize
4 disbursements, including a brief description of each disbursement's purpose.¹⁹ Descriptions,
5 when considered along with the identity of the disbursement recipient, must be sufficiently
6 specific to make clear the purpose of the disbursement.²⁰ Political committees are also required
7 to disclose and itemize contributions and other receipts.²¹ In addition, the Act requires political
8 committees to disclose contributions made and received.²²

9 Although the Committee states that ADP made its voter database available to the
10 Committee "at considerable cost," it did not disclose any disbursement to ADP regarding the
11 database, and ADP did not disclose any corresponding receipts. Respondents, however, have
12 since acknowledged that at least some of the transactions identified on the two committees'
13 reports as contributions to ADP were actually payments for use of ADP's database.
14 Accordingly, it appears that payments were incorrectly described in disclosure reports.²³

¹⁸ See Emails from Wanda Brown, FEC, to Neil O'Donnell, Counsel, Margaret for Alaska (Nov. 13, 2017 05:56 PM) and to Neil Reiff, Counsel, Alaska Democratic Party (Nov. 13, 2017 08:36 PM); Email from Neil O'Donnell to Wanda Brown (Nov. 13, 2017 08:37 PM) and Email from Neil Reiff to Wanda Brown (Nov. 16, 2017 04:06 PM).

¹⁹ 52 U.S.C. § 30104(b)(4)-(7); 11 C.F.R. § 104.3(b)(3), (4).

²⁰ 11 C.F.R. § 104.3(b)(3), (4); "Purpose of Disbursement" Entries for Filings with the Commission, 72 Fed. Reg. 887 (Jan. 9, 2007).

²¹ 11 C.F.R. § 104.3(a)(2).

²² 52 U.S.C. § 30104(b)(2), (3).

²³ See 52 U.S.C. § 30104(b)(2)-(4).

1 However, given the unique circumstances of this particular case, and in furtherance of
2 the Commission's priorities relative to other matters pending on the Enforcement docket, we
3 recommend that the Commission exercise its prosecutorial discretion and dismiss the allegations
4 that Respondents violated 52 U.S.C. § 30104(b).²⁴

5 **III. RECOMMENDATIONS**

- 6
7 1. Find no reason to believe that Margaret for Alaska and Tim Pearson in his official
8 capacity as treasurer violated 52 U.S.C. § 30104(a);
9
10 2. Dismiss the allegation that Alaska Democratic Party and Carolyn Covington in her
11 official capacity as treasurer, Margaret Stock, and Margaret for Alaska and Tim
12 Pearson in his official capacity as treasurer violated 52 U.S.C. § 30104(b) pursuant to
13 the Commission's prosecutorial discretion under *Heckler v. Chaney*, 470 U.S. 821
14 (1985);
15
16 3. Approve the Factual and Legal Analysis;
17
18 4. Approve the appropriate letters; and
19

²⁴ See *Heckler v. Chaney*, 470 U.S. 821 (1985). The closing letters will direct the Committee and ADP to work with RAD to amend their reports to accurately reflect the purpose of the transactions related to the Committee's use of ADP's database.

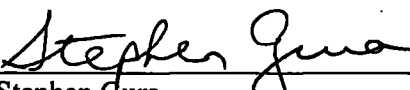
5. Close the file.


Lisa J. Stevenson
Acting General Counsel

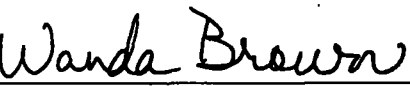
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