

1 **I. INTRODUCTION**

2 During the 2016 election cycle, Congresswomen Debbie Wasserman Schultz served as
3 Chair of the Democratic National Committee (“DNC”) and was a candidate for reelection to the
4 House of Representatives in Florida’s 23rd Congressional District. Complainant, Tim Canova, a
5 candidate challenging Wasserman Schultz in the primary election, alleges that leaked DNC
6 emails reveal that Wasserman Schultz impermissibly used DNC staff and resources to support
7 her congressional reelection campaign. Accordingly, Complainant alleges that Wasserman
8 Schultz, her principal campaign committee, Debbie Wasserman Schultz for Congress and
9 Lawrence Wasserman in his official capacity as treasurer (“the Committee”), and the DNC and
10 its treasurer Andrew Tobias each violated the Federal Election Campaign Act of 1971, as
11 amended (the “Act”) by either making or receiving in-kind contributions that were not reported.¹
12 Because the information in the Complaint does not give rise to a reasonable inference that
13 Respondents violated the Act in this regard, we recommend that the Commission dismiss the
14 allegations that the DNC made and the Committee accepted and failed to report excessive in-
15 kind contributions in violation of 52 U.S.C. §§ 30104 and 30116, and that Wasserman Schultz
16 violated 52 U.S.C. § 30116(f) by accepting excessive in-kind contributions. We also recommend
17 that the Commission find no reason to believe that Wasserman Shultz violated 52 U.S.C.

¹ The other respondents named in this matter are employees of the DNC (Alvillar, Bonosky, Khan, Miranda, Paustenbach, Pough), the Committee (Banfill, Beattie, Paikowsky), or the Democratic National Convention Committee (Mellody). Additionally, a DNC vendor, SKDKnickerbocker (“SKDK”) is a respondent along with its managing director Rosen. The DNC and those listed employees filed a joint response, as did the Committee and its staff. *See* DNC Resp. at 1 (Oct. 5, 2016); Committee Resp. at 1 (Oct. 6, 2016). SKDK and Rosen filed a joint response. *See* SKDK Resp. at 1 (Oct. 5, 2016). Finally, Ed Peavy, a direct mail consultant for the Committee, Kay Brown, Executive Director of the Alaska Democratic Party, and Kate Houghton, a DNC staffer, filed separate Responses denying violating the Act. *See* Peavy Resp., Brown Resp., and Houghton Resp.

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1 § 30124(a) by fraudulently misrepresenting campaign authority and that the DNC violated

2 52 U.S.C. § 30116(d) by making contributions in a primary election.²

3 **II. FACTUAL BACKGROUND**

4 The Complaint's allegations stem from emails released by WikiLeaks following the

5 alleged hacking of the DNC during the 2016 elections.³ The DNC emails at issue in this matter

6 were communications, primarily from May 2016, between DNC and Committee staff and, in

7 some instances, agents of SKDK, a vendor providing communications consulting services to the

8 DNC.⁴

9 At the time of the events at issue in the Complaint, Wasserman Schultz was seeking

10 reelection to the House and was also the Chair of the DNC, a position she had held since May

11 2011. The emails covered topics such as Wasserman Schultz's planned appearance at the Alaska

12 Democratic Party Convention in her role as DNC Chair;⁵ Canova's criticism of Wasserman

13 Schultz's relationship with "anti-Obamacare lobbyists;"⁶ Bernie Sanders's endorsement of

² In addition to the reporting violations, the Complaint alleges that Wasserman Schultz engaged in fraudulent misrepresentation in violation of 52 U.S.C. § 30124(a) by "undermining" Canova, and that the DNC, by making in-kind contributions to the Committee in the 2016 primary election, violated 52 U.S.C. § 30116(d), a provision that the Complaint claims prohibits national party committees from making contributions to candidates in primary elections. We recommend that the Commission find no reason to believe as to these allegations.

³ The emails are referenced in the Complaint and included as attachments. The Respondents do not acknowledge the emails' authenticity or accuracy and state that the circumstances surrounding the publication of the emails remains the subject of review. *See* DNC Resp. at 1; Committee Resp. at 1-2. In MUR 6940, *et al.*, where complainants also relied on hacked WikiLeaks emails to form their complaint, and where respondents challenged the material as inauthentic and capable of harming electoral integrity, this Office concluded that "federal agencies may consider stolen documents in administrative proceedings, so long as the agency was not involved in the underlying criminal act." *See* First Gen. Counsel's Rpt. at 1, MUR 6940, 7097, 7146, 7160, 7193 (Correct the Record).

⁴ *See* Compl. Exs. 1-11; SKDK Resp. at 1.

⁵ Compl., Exs. 6-9.

⁶ Compl., Ex. 10.

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1 Canova in the primary election; and more generally, a schedule of planned statements the

2 Committee would make on various policy issues.⁷

3 The emails appear to reflect conversations between DNC staff and Wasserman Shultz

4 Committee staff primarily discussing how to respond to these topics, including whether the DNC

5 or the Committee was the appropriate source for any response.⁸ For instance, on an email chain

6 beginning on May 21, 2016, staff from the DNC, Committee, and SKDK discussed the wording

7 of Wasserman Schultz's response to Sanders's endorsement of Canova in the Florida primary

8 election race.⁹ Ryan Banfill, a Committee employee, sent a proposed press release to both DNC

9 and Committee staff.¹⁰ Luis Miranda, a DNC employee, responded, suggesting changing the

10 title of the release from "reaction" to "statement," and asked whether the Committee should send

11 the release to CNN correspondent Jake Tapper.¹¹ SKDK consultant Hilary Rosen responded

12 stating that the release should come from the Committee.¹²

13 Another email chain involved Wasserman Schultz's appearance at the Alaska Democratic

14 Convention in her DNC capacity and Canova's unscheduled appearance via Skype at what he

15 billed as a "counter-event."¹³ In connection with the Wasserman Schultz appearance and the

16 Canova counter-event, an official from the Alaska Democratic Party inquired about Canova's

⁷ Compl., Ex. 11.

⁸ See, e.g., Compl., Ex. 3 ("Re: Debbie ...please approve...team thinks this is the right approach.... 'High Road'") (discussing responses to Sanders's endorsement of Canova).

⁹ See Compl., Exs. 1-4.

¹⁰ Compl., Exs. 3-4.

¹¹ *Id.*

¹² Compl., Ex. 4.

¹³ Compl., Exs. 6-10.

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1 allegation that Wasserman Schultz was blocking his access to a Florida Democratic Party
 2 (“FDP”) voter database. DNC staff contacted individuals from the FDP to obtain information
 3 and refute Canova’s allegation.¹⁴

4 Based on the communications between DNC staff and Committee staff described in the
 5 emails, the Complaint alleges that the DNC made, and Wasserman Schultz and the Committee
 6 accepted, and did not report, in-kind contributions in the form of services performed by DNC
 7 staffers.¹⁵ The Complaint also alleges that Wasserman Schultz’s use of “staff and resources of
 8 the DNC to benefit [her] campaign” resulted in her “willfully and knowingly participat[ing] in or
 9 conspir[ing] to participate [in a] plan to undermine [Complainant’s] congressional campaign, in
 10 violation of the Act’s fraudulent misrepresentation provision.”¹⁶

11 All 18 respondents denied that they violated the Act. The Committee and the DNC put
 12 forth essentially the same arguments, contending that the emails simply show DNC staff
 13 communicating with Committee staff regarding issues or events that affect the interests of both
 14 entities.¹⁷ The Committee argues that it had a “robust staff and consulting team of its own” and
 15 that in fact some of the alleged DNC employees who were supposedly working for the
 16 Committee were actually on the Committee payroll.¹⁸ The Committee and DNC Respondents

¹⁴ *Id.*

¹⁵ Compl. at 10-11. The Complaint also argues that the DNC, by making in-kind contributions to the Committee in the 2016 primary election, violated 52 U.S.C. § 30116(d), a provision that the Complaint claims prohibits national party committees from making contributions to candidates in primary elections. *Id.* at 11. The DNC states that national parties are not prohibited from making contributions in primary elections, citing 52 U.S.C. § 30116(a). The DNC argues that section 30116(d) merely provides additional spending authority for the general election. DNC Resp. at 7-8.

¹⁶ Compl. at 8-10.

¹⁷ DNC Resp. at 3; Committee Resp. at 2-3.

¹⁸ Committee Resp. at 4.

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1 also point to the Commission's allocation rules in explaining that "[e]xpenditures for rent,
 2 personnel ... and other day-to-day costs of political committees need not be attributed to
 3 individual candidates, unless these expenses are made on behalf of a clearly identifiable
 4 candidate and the expenditure can be directly attributed to that candidate."¹⁹ Thus, they argue
 5 that DNC employees are entitled to engage in day-to-day staff work without their services being
 6 considered contributions to a candidate so long as the services are not directly related to a
 7 candidate's campaign. Here, they contend that the emails do not show that the DNC paid for any
 8 expense on behalf of Wasserman Schultz as a candidate but instead show the DNC responding to
 9 press inquiries for Wasserman Schultz in her capacity as DNC Chair.²⁰

10 The Committee and DNC also argue that the Complaint misunderstands the Act's
 11 fraudulent misrepresentation provision, and that in order to violate it, a candidate must
 12 misrepresent herself as acting on behalf of another candidate or committee to the detriment of
 13 *that* candidate or committee.²¹ The Respondents state that the complaint does not allege that
 14 anyone purported to act on behalf of Canova or say or do anything damaging to his campaign.²²

15 **III. LEGAL ANALYSIS**

16 The Act defines "contribution" to include "any gift . . . or anything of value made by any
 17 person for the purpose of influencing election for federal office," as well as "payment by any

¹⁹ Committee Resp. at 3 (quoting 11 C.F.R. § 106.1(c)(1)); DNC Resp. at 3-4 (quoting 11 C.F.R. § 106.1(c)(1)).

²⁰ DNC Resp. at 3 ("The Complaint identifies no discrete expense incurred by the DNC and directly attributable to Representative Wasserman Schultz's campaign."); Committee Resp. at 3 ("[T]he Complaint and its exhibits do not show the DNC acting to support the Committee. The Complaint's exhibits shows the DNC and Representative Wasserman Schultz as its Chair responding or preparing to respond to external events affecting the DNC's own interests.").

²¹ DNC Resp. at 6; Committee Resp. at 4.

²² DNC Resp. at 7; Committee Resp. at 4.

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1 person of compensation for the personal services of another person which are rendered to a
 2 political committee without charge for any purpose.”²³ Commission regulations provide that the
 3 term “anything of value” includes in-kind contributions such as “the provision of any goods or
 4 services without charge.”²⁴ The regulations also provide that “[e]xpenditures for rent, personnel,
 5 overhead, general administrative, fund-raising, and other day-to-day costs of political
 6 committees need not be attributed to individual candidates, unless these expenditures are made
 7 on behalf of a clearly identified candidate and the expenditure can be directly attributed to that
 8 candidate.”²⁵ A multi-candidate committee may not make contributions to any candidate or
 9 authorized committee with respect to any election which, in the aggregate, exceed \$5,000.²⁶ A
 10 candidate may not accept a prohibited or excessive contribution.²⁷

11 Further, all political committees must file periodic reports with the Commission that
 12 include contributions received and made during the reporting period.²⁸ The Act prohibits
 13 persons from fraudulently misrepresenting themselves as speaking, writing, or otherwise acting
 14 for or on behalf of any candidate or agent thereof for the purpose of soliciting contributions or
 15 donations.²⁹

²³ 52 U.S.C. § 30101(8)(A); *see also* 11. C.F.R. § 100.54.

²⁴ 11. C.F.R. § 100.52(d)(1).

²⁵ 11 C.F.R. § 106.1(c)(1); *see* First General Counsel's Report at 10, n.34, MUR 6830 (Tom MacArthur for Congress) (opining that dedicated campaign office space in a political party's office building should be “directly attributed” to that candidate and would not constitute overhead under § 106.1(c)(1)).

²⁶ 52 U.S.C. § 30116(a)(2)(A).

²⁷ 52 U.S.C. § 30116(f).

²⁸ 52 U.S.C. § 30104(b)(2); 11. C.F.R. § 104.3(a)(2).

²⁹ 52 U.S.C. § 30124.

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1 The Complaint alleges that the DNC made unreported in-kind contributions in the form
 2 of the provision of services by DNC staff and consultants to the Committee without charge, and
 3 that Wasserman Schultz and the Committee accepted and did not report these in-kind
 4 contributions. Here, however, it does not appear that the DNC provided services to, or made
 5 expenditures on behalf of, the Committee even though the Committee may have benefited
 6 incidentally from services that the DNC staff and its consultants provided to the DNC due to
 7 Wasserman Schultz's position as Chair of the DNC.

8 Instead, it appears that the emails between the DNC and the Committee reflect
 9 conversations regarding events that implicated Wasserman Schultz's dual roles as both DNC
 10 Chair and as a candidate for reelection to the House, and that employees of the two entities were
 11 communicating to serve the interests of their own organizations.³⁰ For example, both the
 12 Committee and the DNC would be impacted by Bernie Sanders's endorsement of Canova since,
 13 from the Committee's perspective, Canova was Wasserman Schultz's opponent, and from the
 14 DNC's perspective, it was newsworthy that a Democratic presidential candidate endorsed the
 15 DNC chair's opponent. The fact that Wasserman Schultz was serving as the DNC Chair at the
 16 time only heightens the DNC's interest in ensuring that the appropriate response came from the
 17 appropriate source. Indeed, the emails show that later a member of the press inquired "off the
 18 record" why Wasserman Schultz chose to react to the Sanders endorsement of Canova through

³⁰ The Commission has identified situations where wearing "two hats" does not necessarily violate the Act and regulations. *See, e.g.*, Explanatory and Justification, Prohibited and Excessive Contributions: Non-Federal Funds or Soft Money, 67 Fed. Reg. 49063, 49083 (certain fundraising situations); Advisory Opinion 2007-05 (Iverson) (certain fundraising situations—state chair of Montana Republican committee and chief of staff to member of congress); Advisory Opinion 2004-25 (Corzine) (national party committee officer not acting on behalf of party when donating personal funds); Factual & Legal Analysis at 6-7, MUR 7288 (DNC Services Corporation/DNC) (DNC Chair not acting on behalf of DNC when "Team Tom" 527 group donated funds). *See also* Restatement (Second) of Agency 13 ("merely acting in a manner that benefits another is not necessarily acting on behalf of that person.") (cited with approval in Definitions of "Agent" for BCRA Regulations on Non-Federal Funds or Soft Money and Coordinated and Independent Expenditures, 71 Fed. Reg. 4975, 4979 (Jan. 31, 2006)).

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1 the Committee rather than the DNC, suggesting that it was an open question as to whether and
2 how the Committee and the DNC should respond to questions that impacted Wasserman Schultz
3 in both her roles.

4 Similarly, the discussions between the DNC, the Committee, and the Alaska Democratic
5 Party concerning Canova's announcement of an event intended to counter Wasserman Schultz's
6 appearance on behalf of the DNC during the Alaska Democratic Convention, evidence the
7 Committee and DNC's mutual interest in determining the details in an effort to address the
8 potential disruption. The other email chains cited in the Complaint reflect similar dual purposes
9 and show conversations between Committee staff and DNC staff representing their respective
10 organizations' interests.

11 Thus, the record indicates that the DNC staff and consultants provided services to the
12 DNC in the form of time and resources to address issues that arose in connection with
13 Wasserman Schultz's role as Chair of the DNC and not to the Committee and Wasserman
14 Schultz as a candidate. Therefore, it does not appear that the DNC staff and consultant services
15 were provided to Wasserman Shultz as a candidate or to the Committee, resulting in in-kind
16 contributions to them. Accordingly, because the Complaint and Responses fail to give rise to a
17 reasonable inference that the DNC made and failed to report and Wasserman Schultz and the
18 Committee accepted and failed to report in-kind contributions, we recommend that the
19 Commission dismiss the allegation that the DNC and the Committee violated 52 U.S.C. § 30104
20 and that they and Wasserman Schultz violated 52 U.S.C. § 30116. Consistent with this
21 recommendation, we also recommend that the Commission dismiss the allegation that the other
22 Respondents in this matter, staffers and vendors to the Committee and DNC, violated the Act.

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1 In addition, even assuming the DNC made in-kind contributions to Wasserman Schultz
2 and the Committee, the Act does not any prohibit national parties from making contributions in
3 primary elections.³¹ The statute cited in the Complaint to support this alleged violation governs
4 coordinated expenditures by national, state, and subordinate committees in general elections.
5 Accordingly, we recommend that the Commission find no reason to believe the DNC violated
6 52 U.S.C. § 30116(d).

7 Finally, the Complaint does not provide a basis to support the fraudulent
8 misrepresentation allegation against Wasserman Schultz. The Complaint argues that by using
9 DNC resources to benefit the Committee, Wasserman Schultz “undermined” Canova. These
10 facts do not allege fraudulent misrepresentation under 52 U.S.C. § 30124(a)(1) of the Act. There
11 are no facts alleging or information showing that Wasserman Shultz misrepresented herself as
12 acting on behalf of the Canova campaign to the detriment of that campaign.³² Therefore, we
13 recommend that the Commission find no reason to believe Wasserman Schultz violated
14 52 U.S.C. § 30124(a).

³¹ As stated *infra*, 52 U.S.C. § 30116(a) imposes a \$5,000 per election contribution limit on multi-candidate committees. The Complaint does not allege that the value of the DNC contribution to the Committee exceeded the contribution limit.

³² 52 U.S.C. § 30124(a)(1) requires evidence that a candidate fraudulently misrepresented herself as acting on behalf of another candidate or political party “on a matter which is damaging to such other candidate or political party. . . .” The Commission has determined that the statutory language “on a matter that is damaging” includes actions or spoken or written communications that are intended to suppress votes for the candidate or party who has been fraudulently misrepresented. *See* Explanation and Justification of 11 C.F.R. § 110.16, 67 Fed. Reg. 76,962, 76,968-69 (Dec. 13, 2002). While the precise harm may be difficult to quantify, harm is presumed from the nature of the communication. *Id.* at 76,969. Proof of financial damages is unnecessary. *Id.*; *see also* First Gen. Counsel's Rpt., MUR 6427 (Unknown Respondents) (violation of section 30124(a)(1) when “fake press release” attributed to a candidate falsely states that the candidate is withdrawing from election).

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1 IV. RECOMMENDATIONS

1. Dismiss the allegation that Debbie Wasserman Schultz for Congress and Lawrence Wasserman in his official capacity as treasurer violated 52 U.S.C. § 30104 by failing to report in-kind contributions and 52 U.S.C. § 30116(f) by accepting excessive in-kind contributions;
2. Dismiss the allegation that Debbie Wasserman Schultz violated 52 U.S.C. § 30116(f) by accepting excessive in-kind contributions;
3. Dismiss the allegation that the Democratic National Committee and Andrew Tobias in his official capacity as treasurer violated 52 U.S.C. § 30104 by failing to report in-kind contributions and 52 U.S.C. § 30116(a)(2)(A) by making excessive in-kind contributions;
4. Find no reason to believe that the Democratic National Committee and Andrew Tobias in his official capacity as treasurer violated 52 U.S.C. § 30116(d) by making contributions in a primary election;
5. Find no reason to believe that Debbie Wasserman Schultz violated 52 U.S.C. § 30124(a) by fraudulently misrepresenting campaign authority;
6. Dismiss the allegation that SKDKnickerbocker, Hilary Rosen, Raul Alvillar, Ryan Banfill, Dave Beattie, Garret Bonosky, Kay Brown, Kate Houghton, Ali Khan, April Mellody, Luis Miranda, Steven Paikowsky, Marc Paustenbach, Ed Peavy, and Tracie Pough violated the Act;
7. Approve the attached Factual and Legal Analysis;
8. Approve the appropriate letters; and
9. Close the file.

Lisa J. Stevenson
Acting General Counsel

Charles Kitcher
Acting Associate General Counsel for Enforcement

May 7, 2019

Date

Peter J. Blumberg

Peter G. Blumberg
Acting Deputy Associate General Counsel for
Enforcement

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14 Attachment:

15 Factual and Legal Analysis

Lynn Tran
Lynn Y. Tran
Assistant General Counsel

Elena Paoli
Elena Paoli
Attorney

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FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Debbie Wasserman Schultz for Congress and Lawrence Wasserman in his official capacity as treasurer
Debbie Wasserman Schultz
Democratic National Committee and Andrew Tobias in his official capacity as treasurer
SKDKnickerbocker
Hilary Rosen
Raul Alvillar
Ryan Banfill
Dave Beattie
Garret Bonosky
Kay Brown
Kate Houghton
Ali Khan
April Mellody
Luis Miranda
Steven Paikowsky
Marc Paustenbach
Ed Peavy
Tracie Pough

MUR 7125

This matter was generated by a complaint filed with the Federal Election Commission by

29 Tim Canova. *See* 52 U.S.C. § 30109(a)(1). During the 2016 election cycle, Congresswoman
30 Debbie Wasserman Schultz served as Chair of the Democratic National Committee (“DNC”) and
31 was a candidate for reelection to the House of Representatives in Florida’s 23rd Congressional
32 District. Complainant, a candidate challenging Wasserman Schultz in the primary election,
33 alleges that Wasserman Schultz and her campaign committee, Debbie Wasserman Schultz for
34 Congress (the “Committee”), impermissibly used DNC staff and resources to support her
35 congressional re-election campaign.

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 Factual and Legal Analysis
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1 As support, the Complaint includes as exhibits emails released by WikiLeaks following
 2 the alleged hacking of the DNC during the 2016 elections.¹ The DNC emails at issue in this
 3 matter were communications, primarily from May 2016, between DNC and Committee staff and,
 4 in some instances, agents of SKDKnickerbocker (“SKDK”), a vendor providing communications
 5 consulting services to the DNC.² The Complaint alleges that the emails establish that the DNC,
 6 under Wasserman Schultz’s direction and control, “used its resources to track Tim Canova,
 7 interfere with Tim Canova events and to assist the Wasserman Schutz campaign in
 8 communications strategy.”³

9
 10 Based on these emails, , the Complaint alleges that the DNC made, and Wasserman
 11 Schultz and the Committee accepted, and did not report, in-kind contributions in the form of
 12 services performed by DNC staffers.⁴ The Complaint also alleges that Wasserman Schultz’s use
 13 of “staff and resources of the DNC to benefit [her] campaign” resulted in her “willfully and
 14 knowingly participat[ing] in or conspir[ing] to participate [in a] plan to undermine
 15 [Complainant’s] congressional campaign,” in violation of the Act’s fraudulent misrepresentation
 16 provision.⁵

¹ The emails are referenced in and attached to the Complaint.

² *See* Compl., Exs. 1-11; SKDK Resp. at 1.

³ Compl. ¶ 18.

⁴ Compl. at 8, 10-11. The Complaint also argues that the DNC, by making in-kind contributions to the Committee in the 2016 primary election, violated 52 U.S.C. § 30116(d), a provision that the Complaint claims prohibits national party committees from making contributions to candidates in primary elections. *Id.* at 11. The DNC states that national parties are not prohibited from making contributions in primary elections, citing 52 U.S.C. § 30116(a). The DNC argues that section 30116(d) merely provides additional spending authority for the general election. DNC Resp. at 7-8.

⁵ Compl. at 8-10.

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 Factual and Legal Analysis
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1 Respondents deny that they violated the Act.⁶ In separate responses, the Committee and
 2 the DNC state that the circumstances surrounding the publication of the hacked emails attached
 3 to the Complaint remain the subject of review and that they do not concede the emails'
 4 authenticity or accuracy.⁷ Nevertheless, without waiving any such defense and to resolve this
 5 matter, the Committee and the DNC respond that, assuming the emails' authenticity, the
 6 Complaint fails to allege a violation of the Act and should be dismissed.⁸

7 The Commission notes that the Complaint's allegations rely exclusively on emails that
 8 were hacked from the DNC and released by WikiLeaks. Although the DNC and the Committee
 9 have assumed their authenticity for the purpose of resolving this matter, it is material to the
 10 Commission's consideration of the Complaint that these documents were stolen by a foreign
 11 state and distributed to interfere in the 2016 election cycle. Further, all of the alleged conduct
 12 described in the Complaint occurred during the first half of 2016 and thus is now barred by the
 13 five-year statute of limitations.⁹ Taken together or separately, the provenance of the hacked
 14 emails and the expiration of the statute of limitations are factors that weigh against further

⁶ Other respondents named in this matter are employees of the DNC (Alvillar, Bonosky, Khan, Miranda, Paustenbach, Pough), the Committee (Banfill, Beattie, Paikowsky), or the Democratic National Convention Committee (Mellody). Additionally, SKDK is a respondent along with its managing director (Rosen). The DNC and those listed employees filed a joint response, as did the Committee and its staff. *See* DNC Resp. at 1 (Oct. 5, 2016); Committee Resp. at 1 (Oct. 6, 2016). SKDK and Rosen filed a joint response. *See* SKDK Resp. at 1 (Oct. 5, 2016). Finally, Ed Peavy, a direct mail consultant for the Committee, Kay Brown, Executive Director of the Alaska Democratic Party, and Kate Houghton, a DNC staffer, filed separate Responses denying violating the Act. *See generally* Peavy Resp., Brown Resp., and Houghton Resp.

⁷ *See* DNC Resp. at 1-2; Committee Resp. at 1 n.1.

⁸ *See* DNC Resp. at 2; Committee Resp. at 1 n.1.

⁹ 18 U.S.C. § 2462

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Factual and Legal Analysis
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1 consideration of this matter. Accordingly, the Commission exercises its prosecutorial discretion
2 and dismisses the allegations and closes the file as to all Respondents.¹⁰

3

¹⁰ *Heckler v. Chaney*, 470 U.S. 821, 831 (1985).