



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

AUG 04 2017

James Pfaff
Hoosiers for Jim Pfaff
P.O. Box 5823
Bloomington, IN 47401

RE: MUR 7212

Dear Mr. Pfaff:

The Federal Election Commission (the "Commission") previously notified you and Hoosiers for Jim Pfaff (the "Committee") of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act") and Commission regulations.

On August 3, 2017, based upon the information contained in the complaint, the Commission dismissed the allegations that the Committee violated the Act and Commission regulations, pursuant to the Commission's prosecutorial discretion. *See Heckler v. Chaney*, 470 U.S. 821 (1985). Accordingly, the Commission closed its file in this matter on August 3, 2017.

The Commission encourages the Committee to review the enclosed Factual and Legal Analysis, which sets forth the statutory and regulatory provisions considered by the Commission in this matter. In particular, the Commission reminds the Committee to amend its disclosure reports to reflect debt owed to Paul Sapperstein, pursuant to 52 U.S.C. § 30104(b) or in the alternative, to indicate that the debt is disputed, pursuant to 11 C.F.R. § 116.1(d). For further information on the Act, please refer to the Commission's website at www.fec.gov or contact the Commission's Public Information Division at (202) 694-1100.

Documents related to this case will be placed on the public record within 30 days. *See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files*, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and *Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record*, 74 Fed. Reg. 66,132 (Dec. 14, 2009).

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If you have any questions, please contact the attorney assigned to this matter, Wanda D. Brown, at (202) 694-1650.

Sincerely,
Lisa J. Stevenson
Acting General Counsel



BY: Jeff S. Jordan
Assistant General Counsel

Enclosure:
Factual and Legal Analysis

ENCLOSURE

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: James Pfaff MUR 7212
Hoosiers for Jim Pfaff

I. INTRODUCTION

This matter was generated by a Complaint alleging that Hoosiers for Jim Pfaff and James Pfaff in his official capacity as treasurer (the "Committee") violated the Federal Election Campaign Act of 1971, as amended (the "Act") by failing to disclose debts in disclosure reports filed with the Federal Election Commission (the "Commission").¹

II. FACTUAL AND LEGAL ANALYSIS

James Pfaff was a candidate for Congress from Indiana's ninth district.² According to documents attached to the Complaint, in early January 2016, Pfaff hired Complainant Paul Sapperstein as the Committee's Deputy Campaign Manager with a monthly salary of \$3,500 and a starting date of January 18, 2016.³ A month later, Complainant presented Pfaff with a report detailing \$639.68 in expenses incurred both as a volunteer and a paid employee of the Committee, and requested reimbursement, as well as his first month's salary.⁴ Sapperstein says

¹ Compl. at 1-2 (Feb. 2, 2017).

² *Id.* at 1. On August 20, 2015, Hoosiers for Jim Pfaff filed its FEC Form 1, Statement of Organization, registering as the authorized campaign Committee for Pfaff. FEC Form 1, Statement of Organization (Aug. 20, 2015) at <http://docquery.fec.gov/pdf/109/201508209000876109/201508209000876109.pdf>. Available information indicates that Pfaff withdrew as a federal candidate as early as Feb. 1, 2016, and ran for state office. Pfaff did not win that election. See Indiana Secretary of State, Election Division, at http://www.in.gov/sos/elections/files/2016_May_3_Primary_Candidate_Abbreviated_List_Feb_22__pdf.pdf. See also https://ballotpedia.org/Jim_Pfaff and <http://www.indystar.com/story/news/politics/2016/02/05/indianas-presidential-ballot-crowded-but-how-long/79892704>.

³ Compl. Attach. 1 (Offer Letter).

⁴ Compl. at 1-2; see also Compl. Attach. 3-4.

1 that his requests were ignored, so he left his position with the Committee on February 19, 2016.⁵
2 Sapperstein states that further requests for payment and reimbursement were also ignored.⁶
3 Neither Pfaff nor his Committee filed a response.

4 Committee treasurers are required to file reports of receipts and disbursements in
5 accordance with the provisions of the Act and Commission regulations.⁷ The disclosure reports
6 must include the amount and nature of outstanding debts and obligations owed by or to the
7 political committee.⁸ Further, the Commission's regulations specify that a debt or obligation
8 exceeding \$500 must be disclosed in the report that covers the date on which the debt or
9 obligation is incurred.⁹ A Committee shall also report a disputed debt¹⁰ if the creditor has
10 provided something of value to the political committee.¹¹

11 Complainant presented information indicating debts owed to him, but a review of the
12 Committee's disclosure reports shows no disbursements to the Complainant at any point during
13 the Committee's existence, and the Committee reports no outstanding debts or disputed debts
14 owed to the Complainant. It also appears that Pfaff is not a candidate for Federal office.

⁵ *Id.*

⁶ *Id.*

⁷ 52 U.S.C. § 30104(a)(1), 11 C.F.R. § 104.1(a).

⁸ 52 U.S.C. § 30104(b)(8); 11 C.F.R. § 104.3(d).

⁹ 11 C.F.R. § 104.3(d). Debts and obligations shall be continuously reported until extinguished, and shall also include a statement explaining the circumstances under which each debt and obligation was incurred or extinguished. See 11 C.F.R. § 104.11(b).

¹⁰ A debt is disputed where there is an actual or potential debt or obligation owed by a political committee, including an obligation arising from a written contract, promise or agreement to make an expenditure, where there is a bona fide disagreement between the creditor and the political committee as to the existence or amount of the obligation owed by the political committee. 11 C.F.R. § 116.1(d).

¹¹ 11 C.F.R. § 116.10(a). Until the dispute is resolved, the committee shall disclose on the appropriate reports any amounts paid to the creditor, any amount the political committee admits it owes, and the amount the creditor claims is owed. *Id.*

1 Although the Committee continues to file disclosure reports with the Commission, there has been
2 no recent financial activity and the Committee appears to have no cash on hand.¹² Therefore,
3 given the status of this Committee and the *de minimis* nature of this reporting violation, and in
4 furtherance of the Commission's priorities, relative to other matters pending on the Enforcement
5 docket, the Commission exercised its prosecutorial discretion to dismiss the allegation that
6 Hoosiers for Jim Pfaff and James Pfaff in his official capacity as treasurer violated 52 U.S.C.
7 § 30104(b) and 11 C.F.R. § 116.10(a).¹³ The Commission also reminds the Committee to amend
8 its reports to disclose debts owed to the Complainant for salary and expenses, or to declare these
9 debts as disputed.

¹² The Committee began reporting a negative cash on hand balance in its 2016 July Quarterly report. The Commission's Reports Analysis Division ("RAD") sent a Request for Additional Information to the Committee regarding the negative balance, and on October 19, 2016, the Committee amended its report to reflect no cash on hand. The Committee again disclosed a negative cash on hand balance in its 2016 Year End report, 2017 April Quarterly report, and 2017 July Quarterly report.

¹³ *Heckler v. Chaney*, 470 U.S. 821 (1985).