

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2  
3 In the Matter of )  
4 )  
5 MUR 7315 ) DISMISSAL AND  
6 Allen Weh for Senate and Rebecca Sanchez ) CASE CLOSURE UNDER THE  
7 in her official capacity as Treasurer ) ENFORCEMENT PRIORITY  
8 ) SYSTEM  
9 )  
10 )  
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12 )

13 **GENERAL COUNSEL'S REPORT**

14 Under the Enforcement Priority System, the Commission uses formal scoring criteria as a  
15 basis to allocate its resources and decide which matters to pursue. These criteria include, without  
16 limitation, an assessment of the following factors: (1) the gravity of the alleged violation, taking into  
17 account both the type of activity and the amount in violation; (2) the apparent impact the alleged  
18 violation may have had on the electoral process; (3) the complexity of the legal issues raised in the  
19 matter; and (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as  
20 amended (the "Act"), and developments of the law. It is the Commission's policy that pursuing  
21 relatively low-rated matters on the Enforcement docket warrants the exercise of its prosecutorial  
22 discretion to dismiss cases under certain circumstances.

23 The Office of General Counsel has scored MUR 7315 as a low-rated matter and has  
24 determined that it should not be referred to the Alternative Dispute Resolution Office.<sup>1</sup> For the  
25 reasons set forth below, we recommend that the Commission dismiss the allegations that Allen Weh  
26 for Senate and Rebecca Sanchez in her official capacity as treasurer ("the Committee")<sup>2</sup> violated the  
Act or Commission regulations.

<sup>1</sup> The EPS rating information is as follows:  
Filed: February 26, 2018.

Complaint Filed: January 25, 2018. Response

<sup>2</sup> Allen Weh was an unsuccessful 2014 candidate for the U.S. Senate for New Mexico. Allen Weh for Senate is Allen Weh's principal campaign committee.

1           The Complaint alleges that the Committee owes the Complainant, SCM Associates, Inc.,  
2 \$7,217.85 for direct mail services, and the Committee has not reported the debt.<sup>3</sup> The Response  
3 states that the Committee had concerns over the services it received and did not consider some of the  
4 bill to be a valid campaign debt.<sup>4</sup>

5           The Act and the Commission regulations require the political committee of a candidate for  
6 federal office to report debts for expenditures in excess of \$500 as of the date on which the debt is  
7 incurred.<sup>5</sup> When there is a disputed debt, the political committee must report the disputed debt if the  
8 creditor has provided something of value to the political committee.<sup>6</sup> Until the dispute is resolved,  
9 the political committee must disclose any amounts paid to the creditor, any amount the political  
10 committee admits it owes, and the amount the creditor claims is owed.<sup>7</sup>

11           The Committee has not disclosed any debts, disputed or otherwise, owed to Complainant on  
12 its disclosure reports filed with the Commission.<sup>8</sup> Since the Committee does not dispute that it  
13 received something of value from SCM Associates, it should have reported the amount reflected on  
14 the invoice as a disputed debt in its disclosure reports.

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<sup>3</sup> Compl. at 1-2 (Jan. 25, 2018).

<sup>4</sup> Resp. at 1 (Feb. 26, 2018). The Committee previously reported paying SCM Associates, Inc. \$172,322.50 between March 1, 2014, and November 6, 2014. It is unclear from the available information whether any of these payments were for part of the services at issue, the remainder of which could be the amount invoiced.

<sup>5</sup> 52 U.S.C. § 30104(b)(8); 11 C.F.R. §§ 104.3(d), 104.11(b).

<sup>6</sup> 11 C.F.R. § 116.10(a).

<sup>7</sup> *Id.*

<sup>8</sup> Based on the Committee's response and the invoice attached to the Complaint, it appears that the Committee did not report paying for, or reflect a dispute, on its disclosure reports for the amounts reflected in the invoice (\$7,217.85 plus accumulating interest through May 1, 2017). *See* Compl. at Ex. 1; Resp. at 1. Furthermore, the Committee did not indicate it was unaware of the services provided or the amount charged for the services. Commission regulations provide that where the exact amount of the debt or obligation is not known, the Committee shall report an estimate on its disclosure reports. 11 C.F.R. § 104.11(b).

1           Given the low rating and the relatively modest amount at issue, we recommend that the  
2 Commission dismiss the complaint consistent with the Commission's prosecutorial discretion to  
3 determine the proper ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470  
4 U.S. 821, 831-32 (1985). Further, we recommend that the Commission remind the Committee to  
5 report disputed debts on its disclosure reports.

6           **RECOMMENDATIONS**

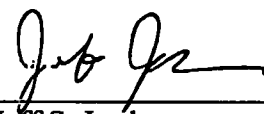
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8           1. Dismiss the allegations that Allen Weh for Senate and Rebecca Sanchez in her official  
9 capacity as treasurer violated the Act and Commission regulations, pursuant to the  
10 Commission's prosecutorial discretion under *Heckler v. Chaney*, 470 U.S. 821 (1985);  
11  
12           2. Remind Allen Weh for Senate and Rebecca Sanchez in her official capacity as treasurer  
13 of the obligation to disclose disputed debts in Committee disclosure reports;  
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15           3. Approve the attached Factual and Legal Analysis; and  
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17           4. Close the file as to all Respondents.  
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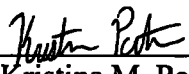
Lisa J. Stevenson  
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28       April 27, 2018  
29       Date

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- 1 Attachments:
- 2
- 3 Factual and Legal Analysis

UNIVERSITY OF MICHIGAN

**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

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2  
3 RESPONDENTS: Allen Weh for Senate and MUR 7315  
4 Rebecca Sanchez in her official capacity as Treasurer  
5

6 This matter was generated by a complaint alleging violations of the Federal Election  
7 Campaign Act of 1971, as amended (“the Act”) and Commission regulations by Allen Weh for  
8 Senate and Rebecca Sanchez in her official capacity as treasurer (“the Committee”). It was  
9 scored as a low-rated matter under the Enforcement Priority System, by which the Commission  
10 uses formal scoring criteria as a basis to allocate its resources and decide which matters to  
11 pursue.

12 The Complaint alleges that the Committee owes the Complainant, SCM Associates, Inc.,  
13 \$7,217.85 for direct mail services, and the Committee has not reported the debt.<sup>1</sup> The Response  
14 states that the Committee had concerns over the services it received and did not consider some  
15 of the bill to be a valid campaign debt.<sup>2</sup>

16 The Act and the Commission regulations require the political committee of a candidate  
17 for federal office to report debts for expenditures in excess of \$500 as of the date on which the  
18 debt is incurred.<sup>3</sup> When there is a disputed debt, the political committee must report the disputed  
19 debt if the creditor has provided something of value to the political committee.<sup>4</sup> Until the

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<sup>1</sup> Compl. at 1-2 (Jan. 25, 2018).

<sup>2</sup> Resp. at 1 (Feb. 26, 2018). The Committee previously reported paying SCM Associates, Inc. \$172,322.50 between March 1, 2014, and November 6, 2014. It is unclear from the available information whether any of these payments were for part of the services at issue, the remainder of which could be the amount invoiced.

<sup>3</sup> 52 U.S.C. § 30104(b)(8); 11 C.F.R. §§ 104.3(d), 104.11(b).

<sup>4</sup> 11 C.F.R. § 116.10(a).

1 dispute is resolved, the political committee must disclose any amounts paid to the creditor, any  
2 amount the political committee admits it owes, and the amount the creditor claims is owed.<sup>5</sup>

3 The Committee has not disclosed any debts, disputed or otherwise, owed to Complainant  
4 on its disclosure reports filed with the Commission.<sup>6</sup> Since the Committee does not dispute that  
5 it received something of value from SCM Associates, it should have reported the amount  
6 reflected on the invoice as a disputed debt in its disclosure reports.

7 In furtherance of the Commission's priorities relative to other matters pending on the  
8 Enforcement docket and the relatively modest amounts at issue, the Commission exercises its  
9 prosecutorial discretion and dismisses the allegations as to Allen Weh for Senate and Rebecca  
10 Sanchez in her official capacity as treasurer. *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

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<sup>5</sup> *Id.*

<sup>6</sup> Based on the Committee's response and the invoice attached to the Complaint, it appears that the Committee did not report paying for, or reflect a dispute, on its disclosure reports for the amounts reflected in the invoice (\$7,217.85 plus accumulating interest through May 1, 2017). *See* Compl. at Ex. 1; Resp. at 1. Furthermore, the Committee did not indicate it was unaware of the services provided or the amount charged for the services. Commission regulations provide that where the exact amount of the debt or obligation is not known, the Committee shall report an estimate on its disclosure reports. 11 C.F.R. § 104.11(b).