



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

**JUN 20 2018**

Deborah Cunningham-Skurnik

Mission Viejo, CA 92692

RE: MUR 7323

Dear Ms. Cunningham-Skurnik:

The Federal Election Commission reviewed the allegations in your complaint received on February 20, 2018. On June 19, 2018, based upon the information provided in the complaint, and information provided by the respondents, the Commission decided to exercise its prosecutorial discretion to dismiss the allegations as to Walters for Congress and Jen Slater in her official capacity as treasurer, Representative Mimi Walters, Friends of Mimi Walters for Senate 2012, Senator Mimi Walters 2012 Officeholder Account, and Friends of Mimi Walter for Supervisor 2014, and close its file in this matter. Accordingly, the Commission closed its file in this matter on June 19, 2018. A copy of the Factual and Legal Analysis, which more fully explains the basis for the Commission's decision, is enclosed.

Documents related to the 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. 66132 (Dec. 14, 2009).

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. *See* 52 U.S.C. § 30109(a)(8).

Sincerely,

Lisa J. Stevenson  
Acting General Counsel

BY: Jeff S. Jordan  
Assistant General Counsel

Enclosure  
Factual and Legal Analysis

## FEDERAL ELECTION COMMISSION

### FACTUAL AND LEGAL ANALYSIS

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3 **RESPONDENTS:** Walters for Congress and MUR 7323  
4 Jen Slater in her official capacity as treasurer,  
5 Mimi Walters,  
6 Friends of Mimi Walters for Senate 2012,  
7 Senator Mimi Walters 2012 Officeholder Account, and  
8 Friends of Mimi Walters for Supervisor 2014  
9

10 This matter was generated by a complaint alleging violations of the Federal Election  
11 Campaign Act of 1971, as amended ("the Act") and Commission regulations by Walters for  
12 Congress and Jen Slater in her official capacity as treasurer ("the Federal Committee"), Mimi  
13 Walters, Friends of Mimi Walters for Senate 2012, Senator Mimi Walters 2012 Officeholder  
14 Account, and Friends of Mimi Walters for Supervisor 2014. It was scored as a low-rated matter  
15 under the Enforcement Priority System, by which the Commission uses formal scoring criteria as  
16 a basis to allocate its resources and decide which matters to pursue.

17 The Complaint alleges that the Federal Committee and Walters used campaign funds  
18 from her three state campaign committees, Friends of Mimi Walters for Senate 2012, Senator  
19 Mimi Walters 2012 Officeholder Account, and Friends of Mimi Walters for Supervisor 2014  
20 (the "State Committees") to benefit her 2014 congressional campaign.<sup>1</sup> Specifically, the  
21 Complainant alleges that the State Committees, which may have accepted contributions not  
22 subject to the limitations and prohibitions of the Act, made payments between July 2013 and  
23 November 2014 totaling over \$8,000 to Keena Thomas Communications LLC and Thomas  
24 Communications Group after Walters announced her federal candidacy in July 2013 and was no

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<sup>1</sup> Compl. at 1 (Feb. 20, 2018).

1 longer seeking state office.<sup>2</sup> Complainant further notes that the Federal Committee also made  
2 several expenditures to the same two vendors during that time period.<sup>3</sup>

3 The Federal Committee and Walters acknowledge that the State Committees made these  
4 disbursements, but assert that they were for expenses connected to Walters's position as a  
5 California State Senator and her aborted campaign for Orange County Supervisor.<sup>4</sup> With  
6 regards to the payments from the Friends of Mimi Walters for Senate 2012 and Senator Mimi  
7 Walters 2012 Officeholder Account, the Federal Committee and Walters assert that the  
8 payments were for non-state-reimbursed expenses for constituent outreach that Walters incurred  
9 in connection with her State Senate duties, as permitted under California law, and that none of  
10 the communications or events were connected to Walters's federal campaign.<sup>5</sup> With regards to  
11 the payment from Friends of Mimi Walters for Supervisor 2014, the Federal Committee and  
12 Walters maintain that the payment was for services incurred in connection with Walters's  
13 aborted campaign for Orange County Supervisor.<sup>6</sup>

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<sup>2</sup> Compl. at 2-4. Complainant identifies three payments to Keena Thomas Communications from Friends of Mimi Walters for Senate 2012 (July 31, 2013 payment of \$125; September 6, 2013 payment of \$1045.40; September 6, 2013 payment of \$737.50), one payment to Keena Thomas Communications from Friends of Mimi Walters for Supervisor 2014 (July 8, 2013 payment of \$938.34), five payments to Keena Thomas Communications from Senator Mimi Walters 2012 Officeholder Account (December 3, 2013 payment of \$1,362.50; December 9, 2013 payment of \$311.50; January 20, 2014 payment of \$832.87; February 6, 2014 payment of \$608.23; March 11, 2014 payment of \$309.00), six payments to Thomas Communications Group from Friends of Mimi Walters for Senate 2012 (June 4, 2014 payment of \$234; July 3, 2014 payment of \$209; August 8, 2014 payment of \$246.50; September 12, 2014 payment of \$184; October 6, 2014 payment of \$184; November 10, 2014 payment of \$309), and one payment to Thomas Communications Group from Senator Mimi Walters 2012 Officeholder Account (April 7, 2014 payment of \$459). *Id.*

<sup>3</sup> *Id.* at 4. During the 2014 election cycle, the Federal Committee paid \$3,472.23 to Keena Thomas Communications and \$2,473.21 to Thomas Communications Group. *Id.*

<sup>4</sup> Resp. at 2-4 (Mar. 8, 2018).

<sup>5</sup> *Id.* at 3.

<sup>6</sup> *Id.* at 2. The \$938.34 payment to Kenna Thomas Communications from Friends of Mimi Walters for Supervisor 2014 was a monthly retainer for services rendered in the month of June 2013 to the state committee and a \$13.34 postage expense. *Id.*

1           The Act prohibits a federal candidate from soliciting, receiving, directing, transferring or  
2   spending funds in connection with a federal campaign unless the funds are subject to the  
3   limitations, prohibitions, and reporting requirement of the Act.<sup>7</sup> The Act further provides that  
4   this prohibition does not apply to the solicitation, receipt, or spending of funds by an individual  
5   who is or was also a candidate for a state or local office solely in connection with such election  
6   for state or local office so long as the solicitation, receipt, or spending of funds is permitted  
7   under state law.<sup>8</sup>

8           The available information shows that the State Committees and Federal Committee used  
9   the same vendors,<sup>9</sup> and the State Committees continued to make payments to the vendors after  
10   Walters announced her federal candidacy. The Federal Committee and Walters, however,  
11   specifically deny any violation.

12           In furtherance of the Commission's priorities relative to other matters pending on the  
13   Enforcement docket, the relatively modest amounts at issue, and the impending statute of  
14   limitations,<sup>10</sup> the Commission exercises its prosecutorial discretion and dismisses the allegations  
15   as to Walters for Congress and Jen Slater, in her official capacity as treasurer, Mimi Walters,  
16   Friends of Mimi Walters for Senate 2012, Senator Mimi Walters 2012 Officeholder Account,  
17   and Friends of Mimi Walters for Supervisor 2014. *Heckler v. Chaney*, 470 U.S. 821, 831-32  
18   (1985).

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<sup>7</sup>       52 U.S.C. § 30125(e)(1). Commission regulations also prohibit a candidate from transferring funds or assets from a candidate's committee for a nonfederal election to her principal campaign committee or other authorized committee for a federal election. 11 C.F.R. § 110.3(d).

<sup>8</sup>       52 U.S.C. § 30125(e)(2).

<sup>9</sup>       The two vendors, Kenna Thomas Communications and Thomas Communications Group, appear related. Kate Keena and Barb Thomas were principals in Keena Thomas Communications, LLC. Resp. at 3. When the principals parted ways, Barb Thomas established Thomas Communications Group. *Id.*

<sup>10</sup>      As indicated in note 2, all of the alleged violations relate to 2014 cycle activity, and many were imperiled under the statute of limitations at the time the Complaint was filed.