



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Topside Wine and Spirits  
Dusten J. Tipton, Registered Agent  
2037 Topside Road  
Louisville, TN 37777

**MAY 18 2018**

RE: MUR 7325  
Topside Wine and Spirits

Dear Mr. Tipton:

On February 22, 2018, the Federal Election Commission ("Commission") notified Topside Wine and Spirits of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). On May 10, 2018, based upon the information contained in the complaint and information provided by respondents, the Commission decided to find no reason to believe that Topside Wine and Spirits violated provisions of the Act. The Commission then closed its file in this matter. 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). If you have any questions, please contact Kristina Portner, the attorney assigned to this matter, at (202) 694-1518.

Sincerely,

Lisa J. Stevenson  
Acting General Counsel

BY:   
Jeff S. Jordan  
Assistant General Counsel

Enclosure:  
Factual and Legal Analysis

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**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

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3 **RESPONDENTS:** Matlock for Congress and MUR 7325  
4 Mark J. Hackney in his official capacity as treasurer,  
5 Lange Animal Hospital,  
6 Lenoir City Animal Clinic,  
7 Loope Builders,  
8 McKinnon Construction Company, and  
9 Topside Wine and Spirits LLC  
10

11 This matter was generated by a complaint alleging violations of the Federal Election  
12 Campaign Act of 1971, as amended (“the Act”) and Commission regulations by Matlock for  
13 Congress and Mark J. Hackney, in his official capacity as treasurer (the “Committee”), Lange  
14 Animal Hospital, Lenoir City Animal Clinic, Loope Builders, McKinnon Construction  
15 Company, and Topside Wine and Spirits LLC. It was scored as a low-rated matter under the  
16 Enforcement Priority System, by which the Commission uses formal scoring criteria as a basis to  
17 allocate its resources and decide which matters to pursue.

18 The Complaint alleges that the Committee accepted two \$500 corporate contributions  
19 during the fourth quarter of 2017 from Lange Animal Hospital and Lenoir City Animal Clinic.<sup>1</sup>  
20 The Committee admits it accepted the corporate contributions in error, and it states that it  
21 refunded them both and amended its report.<sup>2</sup> The Committee’s Amended 2017 Year-End Report  
22 reflects those refunds.<sup>3</sup>

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<sup>1</sup> Compl. at 1 (Feb. 20, 2018). The Complaint includes information from the Tennessee Secretary of State showing that both Lange Animal Hospital and Lenoir City Animal Clinic are corporations. *Id.* at 2.

<sup>2</sup> Committee Resp. at 1 (Feb. 27, 2018). Lange Animal Hospital’s agent states he mistakenly wrote the contribution check from his business account, not his personal account. Lange Animal Hosp. Resp. at 1 (Feb. 28, 2018). He states that he has since substituted a personal check for the corporate check. *Id.*

<sup>3</sup> Matlock for Congress, Amended 2017 Year-End Report (filed Mar. 19, 2018), <http://docquery.fec.gov/pdf/522/201803199096590522/201803199096590522.pdf>, at 46.

1 In addition, the Complaint alleges that the Committee's 2017 Year-End report failed to  
2 properly disclose the individuals associated with contributions from five businesses: the two  
3 contributions just mentioned, two \$500 contributions from Loope Builders, a \$1,500 contribution  
4 from McKinnon Construction, and a \$250 contribution from Topside Wine and Spirits.<sup>4</sup>

5 The Act prohibits a political committee (other than an independent-expenditure-only  
6 committee) from accepting corporate contributions, and prohibits a corporation from making a  
7 contribution to a candidate's principal campaign committee.<sup>5</sup> The Act further requires a political  
8 committee to report the identification of each person who makes a contribution or contributions  
9 having an aggregate amount or value in excess of \$200 within an election cycle.<sup>6</sup> A contribution  
10 by a partnership shall be attributed to the partnership and to each contributing partner.<sup>7</sup>

11 The available information shows that Lange Animal Hospital and Lenoir City Animal  
12 Clinic made prohibited corporate contributions, and the Committee accepted them. In addition,  
13 as the Committee indicates, it violated the Act by failing to properly attribute the contributions  
14 from Loope Builders, McKinnon Construction, and Topside Wine and Spirits to the contributing  
15 partners in its 2017 Year-End Report.<sup>8</sup>

<sup>4</sup> Compl. at 3.

<sup>5</sup> 52 U.S.C. § 30118(a).

<sup>6</sup> 52 U.S.C. § 30104(b)(3). Under the Act, the term "person" includes a partnership. 52 U.S.C. § 30101(11).

<sup>7</sup> 11 C.F.R. § 110.1(e). The contribution shall be attributed to each partner either in direct proportion to his or her share of the partnership profits or by agreement of the partners, as long as only the profits of the partners to whom the contribution is attributed are reduced (or losses increased), and those partners' profits are reduced (or losses increased) in proportion to the contribution attributed to each of them. *Id.*

<sup>8</sup> The Committee's Amended 2017 Year-End Report (filed Feb. 13, 2018) identifies McKinnon Construction as a single-member LLC, attributing the entire contribution to Mark McKinnon, and identifies Topside Wine and Spirits as a single-member LLC, attributing the entire contribution to Darrell Tipton. The Tennessee Secretary of State indicates that McKinnon Construction has three members and that Topside Wine and Spirits has two members. See Tennessee Secretary of State Business Entity Detail for McKinnon Construction, <https://tnbear.tn.gov/Ecommerce/FilingDetail.aspx?CN=072232198142237032044186164155192154003121119004> (last visited Apr. 9, 2018); Tennessee Secretary of State Business Entity Detail for Topside Wine and Spirits, <https://tnbear.tn.gov/Ecommerce/FilingDetail.aspx?CN=170104047038218018030103032209141039009158050006>.

1           In furtherance of the Commission’s priorities relative to other matters pending on the  
2 Enforcement docket, the relatively modest amounts at issue, and remedial actions taken by the  
3 Committee, the Commission exercises its prosecutorial discretion and dismisses the allegations  
4 as to Matlock for Congress and Mark J. Hackney, in his official capacity as treasurer, Lange  
5 Animal Hospital, and Lenoir City Animal Clinic. *Heckler v. Chaney*, 470 U.S. 821, 831-32  
6 (1985). Further, the Commission finds no reason to believe that Loope Builders, McKinnon  
7 Construction, and Topside Wine and Spirits LLC violated the Act or Commission regulations  
8 because there is no available information to suggest that any of these entities is a corporation or  
9 that any individual exceeded the per election contribution limit once the partnership  
10 contributions are attributed to the individuals and aggregated with any individual contributions.<sup>9</sup>

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(last visited Apr. 9, 2018). Without additional information, we are unable to determine whether the Committee’s amendments properly attributed the contributions among the respective members. *See* 11 C.F.R. 110.1(e).

<sup>9</sup> Loope Builders states that it is a sole proprietorship. Loope Builders Resp. at 1 (Mar. 15, 2018). McKinnon Construction states that it is treated as a partnership for tax purposes. McKinnon Construction Resp. at 1 (Feb. 27, 2018). There is no indication on the public record that Topside Wine and Spirits has chosen corporate tax treatment.