

1 reasons set forth below, we recommend that the Commission find no reason to believe that
2 Burchett for Congress and Roger L. Goins in his official capacity as treasurer, Stokely
3 Hospitality Enterprises, or Valliant, Harrison & Schwartz, P.A. violated 52 U.S.C. § 30118(a);
4 dismiss the allegation that Burchett for Congress and Roger L. Goins in his official capacity as
5 treasurer and Commercial Realty Group, LLC violated 52 U.S.C. § 30116(a)(1) and 11 C.F.R. §
6 110.1(e); and find no reason to believe that Cohen Communication Group, LLC, JRF Properties,
7 LLC, or Squire's Square LLC violated 52 U.S.C. § 30116(a)(1) and 11 C.F.R. § 110.1(e).

8 The Complaint alleges that the Committee accepted contributions from two corporations:
9 a \$2,700 contribution from Stokely Hospitality Enterprises and a \$500 contribution from
10 Valliant, Harrison & Schwartz, P.A.² In addition, the Complaint alleges that the Committee
11 failed to disclose the individuals associated with contributions from four business entities in its
12 2017 Year-End report: a \$500 contribution from Cohen Communication Group, LLC, a \$100
13 contribution from Commercial Realty Group, LLC, two \$2,700 contributions from JRF
14 Properties, LLC, and a \$1,000 contribution from Squire's Square LLC.³ Contrary to the
15 complainant's allegation, the 2017 Year-End Report disclosed the identity of individuals
16 associated with each contribution.⁴

17 The Act prohibits a political committee (other than an independent-expenditure-only
18 committee) from accepting corporate contributions, and prohibits a corporation from making a

treasurer, Cohen Communication Group, LLC, or Squire's Square LLC. Stokely Hospitality Properties, Inc. was also notified, and responded on April 16, 2018.

² Compl. at 1-3 (Feb. 20, 2018).

³ *Id.* at 3.

⁴ FEC Form 3, Burchett for Congress 2017 Year-End Report, available at <http://docquery.fec.gov/pdf/157/201801319091134157/201801319091134157.pdf>.

1 contribution to a candidate's principal campaign committee.⁵ The Act further requires a political
2 committee to report the identification of each person who makes a contribution or contributions
3 having an aggregate amount or value in excess of \$200 within an election cycle.⁶ A contribution
4 by a partnership shall be attributed to the partnership and to each contributing partner, according
5 to instructions, which shall be provided by the partnership to the political committee.⁷

6 Stokely Hospitality Enterprises denies that its contribution was prohibited because it is a
7 partnership, not a corporation.⁸ Similarly, Valliant, Harrison & Schwartz, P.A. denies that its
8 contribution was prohibited because it is an unincorporated professional association.⁹ Therefore,
9 we recommend that the Commission find no reason to believe that Burchett for Congress and
10 Roger L. Goins in his official capacity as treasurer, Stokely Hospitality Enterprises, or Valliant,
11 Harrison & Schwartz, P.A. violated 52 U.S.C. § 30118(a).¹⁰

12 Commercial Realty Group responded that it may have failed to provide the Committee

⁵ 52 U.S.C. § 30118(a).

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

⁷ 52 U.S.C. § 30116(a)(1); 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.*

⁸ Stokely Hospitality Enterprises Resp. at 1 (May 4, 2018). The Complaint alleges that Stokely Hospitality Enterprises and Stokely Hospitality Properties, Inc. are connected. Compl. at 2. Stokely Hospitality Enterprises and Stokely Hospitality Properties, Inc. assert that they have no business affiliation. Stokely Hospitality Enterprises Resp. at 1; Stokely Hospitality Properties, Inc. Resp. at 1, Ex. 1 (Apr. 18, 2018).

⁹ Valliant, Harrison & Schwartz, P.A. Resp. at 1 (Mar. 15, 2018).

¹⁰ The Committee's 2017 Year-End Report attributed the contributions from Stokely Hospitality Enterprises and Valliant, Harrison & Schwartz, P.A. as required by 52 U.S.C. § 30116(a)(1) and 11 C.F.R. § 110.1(e). The Committee's 2017 Year End Report reflects that 100% of the contribution from Valliant, Harrison & Schwartz, P.A. was attributed to John P. Valliant. FEC Form 3, Burchett for Congress 2017 Year-End Report, available at <http://docquery.fec.gov/pdf/157/201801319091134157/201801319091134157.pdf> at 87-88. Similarly, the contribution from Stokely Hospitality Enterprises was attributed 100% to William B. Stokely, IV. *Id.* at 81.

1 information about how to attribute its contribution among the partners, and that 99% of its
2 contribution should be allocated to Barbara Jean Shagan and 1% to Robert Shagan.¹¹ The
3 Committee's 2017 Year-End Report and Amended 2017 Year-End Report attributed 100% of the
4 Commercial Realty Group contribution to Robert Shagan.¹² Given the specific factual
5 circumstances and the relatively modest amount at issue, we recommend that the Commission
6 dismiss the allegation that Burchett for Congress and Roger L. Goins in his official capacity as
7 treasurer and Commercial Realty Group, LLC violated 52 U.S.C. § 30116(a)(1) and 11 C.F.R. §
8 110.1(e) consistent with the Commission's prosecutorial discretion to determine the proper
9 ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-32
10 (1985).

11 We also recommend that the Commission find no reason to believe that Cohen
12 Communication Group, LLC, JRF Properties, LLC, and Squire's Square LLC, violated 52
13 U.S.C. § 30116(a)(1) and 11 C.F.R. § 110.1(e) since there is no information to suggest that any
14 of these entities is a corporation¹³ or that any individual exceeded the per election contribution
15 limit once the partnership contributions are attributed to the individuals and aggregated with any

¹¹ Commercial Realty Group Resp. at 2 (Mar. 8, 2018). Barbara Jean Shagan owns 99% of Commercial Realty Group and Robert Shagan owns 1% of Commercial Realty Group. *Id.* at 1.

¹² FEC Form 3, Burchett for Congress 2017 Year-End Report, available at <http://docquery.fec.gov/pdf/157/201801319091134157/201801319091134157.pdf> at 20, 62; FEC Form 3, Burchett for Congress Amended 2017 Year-End Report, available at <http://docquery.fec.gov/pdf/830/201803059095645830/201803059095645830.pdf> at 20, 62.

¹³ Cohen Communications Group is registered with the Tennessee Secretary of State as a limited liability company (<https://tnbear.tn.gov/Ecommerce/FilingDetail.aspx?CN=091040072040125015130066069091004230002084064097>), and there is no indication that it has chosen corporate tax treatment. JRF Properties is a limited liability company that is treated as a partnership for federal tax purposes. JRF Properties, LLC Resp. at 1 (Mar. 15, 2018); *see also* <https://tnbear.tn.gov/Ecommerce/FilingDetail.aspx?CN=004141107230206200114091022094069218202059154201>. There is no information to suggest that Squire's Square LLC is a corporation; it is not registered as a corporation in Tennessee and a report compiled by Dun & Bradstreet does not indicate that it is incorporated in any other state.

1 individual contributions.

2 **RECOMMENDATIONS**


- 3 1. Find no reason to believe that Burchett for Congress and Roger L. Goins in his
4 official capacity as treasurer, Stokely Hospitality Enterprises, or Valliant, Harrison &
5 Schwartz, P.A. violated 52 U.S.C. § 30118(a);
6
7 2. Dismiss the allegation that Burchett for Congress and Roger L. Goins in his official
8 capacity as treasurer and Commercial Realty Group, LLC violated 52 U.S.C.
9 § 30116(a)(1) and 11 C.F.R. § 110.1(e), pursuant to the Commission's prosecutorial
10 discretion under *Heckler v. Chaney*, 470 U.S. 821 (1985);
11
12 3. Find no reason to believe that Cohen Communication Group, LLC, JRF Properties,
13 LLC, or Squire's Square LLC violated 52 U.S.C. § 30116(a)(1) and 11 C.F.R. §
14 110.1(e);
15
16 4. Approve the attached Factual and Legal Analysis and the appropriate letters; and
17
18 5. Close the file as to all Respondents.

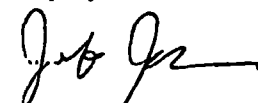
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21 Lisa J. Stevenson
22 Acting General Counsel

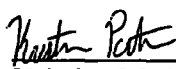
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25 Kathleen M. Guith
26 Associate General Counsel

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30 5.25.18
31 Date

BY:


32 Stephen Gura
33 Deputy Associate General Counsel


34 Jeff S. Jordan
35 Assistant General Counsel


36 Kristina M. Portner
37 Attorney

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41
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44 Attachment:

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Factual and Legal Analysis

0123456789101112131415161718192021222324252627282930313233343536373839404142434445464748495051525354555657585960616263646566676869707172737475767778798081828384858687888990919293949596979899100

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

1
2
3 **RESPONDENTS:** Burchett for Congress and MUR 7326
4 Roger L. Goins in his official capacity as treasurer,
5 Stokely Hospitality Enterprises,
6 Cohen Communication Group, LLC
7 Commercial Realty Group, LLC
8 JRF Properties, LLC
9 Squire's Square LLC
10 Valliant, Harrison & Schwartz, P.A.

11
12 This matter was generated by a complaint alleging violations of the Federal Election
13 Campaign Act of 1971, as amended ("the Act") and Commission regulations by Burchett for
14 Congress and Roger L. Goins in his official capacity as treasurer, Stokely Hospitality
15 Enterprises, Cohen Communication Group, LLC, Commercial Realty Group, LLC, JRF
16 Properties, LLC, Squire's Square LLC, and Valliant, Harrison & Schwartz, P.A. It was scored as
17 a low-rated matter under the Enforcement Priority System, by which the Commission uses
18 formal scoring criteria as a basis to allocate its resources and decide which matters to pursue.

19 The Complaint alleges that the Committee accepted contributions from two corporations:
20 a \$2,700 contribution from Stokely Hospitality Enterprises and a \$500 contribution from
21 Valliant, Harrison & Schwartz, P.A.¹ In addition, the Complaint alleges that the Committee
22 failed to disclose the individuals associated with contributions from four business entities in its
23 2017 Year-End report: a \$500 contribution from Cohen Communication Group, LLC, a \$100
24 contribution from Commercial Realty Group, LLC, two \$2,700 contributions from JRF
25 Properties, LLC, and a \$1,000 contribution from Squire's Square LLC.² Contrary to the
26 complainant's allegation, the 2017 Year-End Report disclosed the identity of individuals

¹ Compl. at 1-3 (Feb. 20, 2018).

² *Id.* at 3.

1 associated with each contribution.³

2 The Act prohibits a political committee (other than an independent-expenditure-only
3 committee) from accepting corporate contributions, and prohibits a corporation from making a
4 contribution to a candidate's principal campaign committee.⁴ The Act further requires a political
5 committee to report the identification of each person who makes a contribution or contributions
6 having an aggregate amount or value in excess of \$200 within an election cycle.⁵ A contribution
7 by a partnership shall be attributed to the partnership and to each contributing partner, according
8 to instructions, which shall be provided by the partnership to the political committee.⁶

9 Stokely Hospitality Enterprises denies that its contribution was prohibited because it is a
10 partnership, not a corporation.⁷ Similarly, Valliant, Harrison & Schwartz, P.A. denies that its
11 contribution was prohibited because it is an unincorporated professional association.⁸ Therefore,
12 the Commission finds no reason to believe that Burchett for Congress and Roger L. Goins in his
13 official capacity as treasurer, Stokely Hospitality Enterprises, or Valliant, Harrison & Schwartz,

³ FEC Form 3, Burchett for Congress 2017 Year-End Report, available at <http://docquery.fec.gov/pdf/157/201801319091134157/201801319091134157.pdf>.

⁴ 52 U.S.C. § 30118(a).

⁵ 52 U.S.C. § 30104(b)(3). Under the Act, the term "person" includes a partnership. 52 U.S.C. § 30101(11).

⁶ 52 U.S.C. § 30116(a)(1); 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.*

⁷ Stokely Hospitality Enterprises Resp. at 1 (May 4, 2018). The Complaint alleges that Stokely Hospitality Enterprises and Stokely Hospitality Properties, Inc. are connected. Compl. at 2. Stokely Hospitality Enterprises and Stokely Hospitality Properties, Inc. assert that they have no business affiliation. Stokely Hospitality Enterprises Resp. at 1; Stokely Hospitality Properties, Inc. Resp. at 1, Ex. 1 (Apr. 18, 2018).

⁸ Valliant, Harrison & Schwartz, P.A. Resp. at 1 (Mar. 15, 2018).

1 P.A. violated 52 U.S.C. § 30118(a).⁹

2 Commercial Realty Group responded that it may have failed to provide the Committee
3 information about how to attribute its contribution among the partners, and that 99% of its
4 contribution should be allocated to Barbara Jean Shagan and 1% to Robert Shagan.¹⁰ The
5 Committee's 2017 Year-End Report and Amended 2017 Year-End Report attributed 100% of the
6 Commercial Realty Group contribution to Robert Shagan.¹¹ Given the specific factual
7 circumstances and the relatively modest amount at issue, the Commission exercises its
8 prosecutorial discretion and dismisses the allegation that Burchett for Congress and Roger L.
9 Goins in his official capacity as treasurer and Commercial Realty Group, LLC violated 52 U.S.C.
10 § 30116(a)(1) and 11 C.F.R. § 110.1(e). *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

11 The Commission finds no reason to believe that Cohen Communication Group, LLC, JRF
12 Properties, LLC, and Squire's Square LLC, violated 52 U.S.C. § 30116(a)(1) and 11 C.F.R. §
13 110.1(e) since there is no information to suggest that any of these entities are a corporation¹² or

⁹ The Committee's 2017 Year-End Report attributed the contributions from Stokely Hospitality Enterprises and Valliant, Harrison & Schwartz, P.A. as required by 52 U.S.C. § 30116(a)(1) and 11 C.F.R. § 110.1(e). The Committee's 2017 Year End Report reflects that 100% of the contribution from Valliant, Harrison & Schwartz, P.A. was attributed to John P. Valliant. FEC Form 3, Burchett for Congress 2017 Year-End Report, available at <http://docquery.fec.gov/pdf/157/201801319091134157/201801319091134157.pdf> at 87-88. Similarly, the contribution from Stokely Hospitality Enterprises was attributed 100% to William B. Stokely, IV. *Id.* at 81.

¹⁰ Commercial Realty Group Resp. at 2 (Mar. 8, 2018). Barbara Jean Shagan owns 99% of Commercial Realty Group and Robert Shagan owns 1% of Commercial Realty Group. *Id.* at 1.

¹¹ FEC Form 3, Burchett for Congress 2017 Year-End Report, available at <http://docquery.fec.gov/pdf/157/201801319091134157/201801319091134157.pdf> at 20, 62; FEC Form 3, Burchett for Congress Amended 2017 Year-End Report, available at <http://docquery.fec.gov/pdf/830/201803059095645830/201803059095645830.pdf> at 20, 62.

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- 1 that any individual exceeded the per election contribution limit once the partnership
- 2 contributions are attributed to the individuals and aggregated with any individual contributions.

a corporation in Tennessee and a report compiled by Dun & Bradstreet does not indicate that it is incorporated in any other state.