

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2
3 In the Matter of)
4)
5 MUR 7333) DISMISSAL AND
6 Amy for the People and Josiah McKinney in) CASE CLOSURE UNDER THE
7 his official capacity as treasurer) ENFORCEMENT PRIORITY
8) SYSTEM
9)

10
11 **GENERAL COUNSEL'S REPORT**

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

21 The Office of General Counsel has scored MUR 7333 as a low-rated matter and has
22 determined that it should not be referred to the Alternative Dispute Resolution Office.¹ For the
23 reasons set forth below, we recommend that the Commission dismiss the allegation that Amy for

¹ The EPS rating information is as follows:

1 the People and Josiah McKinney in his official capacity as treasurer (“the Committee”)² violated
2 the Act or Commission regulations.

3 The Complaint alleges that the Committee violated the Act by failing to report in its
4 2017 Year-End Report two payments and a debt to People’s Project, LLC: a \$2,000 payment on
5 October 26, 2017, a \$3,263.88 payment on December 19, 2017, and \$19,538 accounts payable
6 that was incurred on December 11, 2017.³

7 The Committee asserts that it did not disclose the \$2,000 payment on its original 2017
8 Year-End Report because it did not have bank records reflecting the payment, and it amended its
9 report once it received its bank records.⁴ Similarly, the Committee maintains that it reported the
10 \$3,263.88 payment on its April 2018 Quarterly Report because its bank records were not
11 available when it filed its 2017 Year-End Report.⁵ Finally, the Committee claims it reported the
12 debt to the Complainant in the amount it believed the Committee actually owed.⁶

13 The Act and Commission regulations require the political committee of a candidate for
14 federal office to disclose the total amount of all disbursements made during the reporting period,
15 and to report the full name and address of each person to whom an expenditure in an aggregate
16 amount or value in excess of \$200 within the election cycle is made along with the date, amount,
17 and purpose of each expenditure.⁷ In addition, Commission regulations require the political

² Amy Vilela is a 2018 candidate for the U.S. House of Representatives for Nevada’s fourth congressional district. Amy for the People is her principal campaign committee.

³ Compl. at 1, Ex. 3 (Feb. 28, 2018).

⁴ Resp. at 1 (Jun. 5, 2018).

⁵ *Id.* at 2.

⁶ *Id.* at 2. The Committee also notes that the debt is at issue in an ongoing litigation. *Id.*

⁷ 52 U.S.C. § 30104(b)(4); 11 C.F.R. § 104.3(b).

1 committee of a candidate for federal office to report debts in excess of \$500 as of the date on
2 which the debt is incurred.⁸ When there is a disputed debt, the political committee must report
3 the disputed debt if the creditor has provided something of value to the political committee.⁹
4 Until the dispute is resolved, the political committee must disclose any amounts paid to the
5 creditor, any amount the political committee admits it owes, and the amount the creditor claims
6 is owed.¹⁰

7 The Committee did not disclose any payments or debt to People's Project, LLC in its
8 original 2017 Year-End Report, and the amounts reflected on the Committee's Second and Third
9 Amended 2017 Year-End Reports and its April 2018 quarterly report are inconsistent with the
10 amounts alleged in the complaint.¹¹ Based on the available information, it appears that the
11 Committee failed to accurately report its payments and debt to People's Project, LLC. However,
12 because of the relatively modest amounts at issue, along with the Committee's amended reports
13 reflecting some of the alleged debt still outstanding, we recommend that the Commission dismiss
14 the allegations consistent with the Commission's prosecutorial discretion to determine the proper
15 ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-32

⁸ 11 C.F.R. § 104.11(b); *see also* 52 U.S.C. § 30104(b)(8).

⁹ 11 C.F.R. § 116.10(a).

¹⁰ *Id.*

¹¹ The Committee's April 2018 Quarterly report reflects a \$3,751.22 payment on January 3, 2018 and a \$3,626.59 debt to People's Project, LLC. Amy for the People, April 2018 Quarterly Report (filed Apr. 16, 2018), <http://docquery.fec.gov/pdf/703/201804169108269703/201804169108269703.pdf>; *see also* Amy for the People, Amended April 2018 Quarterly Report (filed Apr. 17, 2018), <http://docquery.fec.gov/pdf/692/201804179108271692/201804179108271692.pdf>. The Committee amended its 2017 Year-End Report to reflect a \$2,000 payment on October 31, 2017, a \$1,000 payment on November 13, 2017, and a \$3,626.59 debt to People's Project, LLC. Amy for the People, Second Amended 2017 Year-End Report (filed Apr. 16, 2018), <http://docquery.fec.gov/pdf/768/201804169108262768/201804169108262768.pdf>; *see also* Amy for the People, Third Amended 2017 Year-End Report (filed Apr. 17, 2018), <http://docquery.fec.gov/pdf/557/201804179108271557/201804179108271557.pdf>.

1 (1985). We further recommend that the Commission remind the Committee to itemize any
2 expenditure in an aggregate amount or value in excess of \$200 within the election cycle, and to
3 disclose debts, disputed or otherwise, on its disclosure reports.

4 **RECOMMENDATIONS**

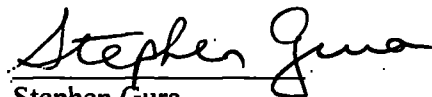
- 5
6 1. Dismiss the allegations that Amy for the People and Josiah McKinney in his official
7 capacity as treasurer violated the Act and Commission regulations, pursuant to the
8 Commission's prosecutorial discretion under *Heckler v. Chaney*, 470 U.S. 821
9 (1985);
10
11 2. Remind Amy for the People and Josiah McKinney in his official capacity as treasurer
12 of the obligations to itemize any expenditure in an aggregate amount or value in
13 excess of \$200 within the election cycle and to disclose debts in Committee reports;
14
15 3. Approve the attached Factual and Legal Analysis and the appropriate letters; and
16
17 4. Close the file as to all respondents.

18 Lisa J. Stevenson
19 Acting General Counsel

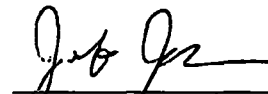
22 Kathleen M. Guith
23 Associate General Counsel

26 6.8.18
27 Date

BY:



Stephen Gura
Deputy Associate General Counsel



Jeff S. Jordan
Assistant General Counsel



Kristina M. Portner
Attorney

40 Attachment:

41
42 Factual and Legal Analysis

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

1
2
3 **RESPONDENTS:** Amy for the People and Josiah McKinney MUR 7333
4 in his 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 Amy for the
8 People and Josiah McKinney in his official capacity as treasurer. It was scored as a low-rated
9 matter under the Enforcement Priority System, by which the Commission uses formal scoring
10 criteria as a basis to allocate its resources and decide which matters to pursue.

11 The Complaint alleges that the Committee violated the Act by failing to report in its
12 2017 Year-End Report two payments and a debt to People’s Project, LLC: a \$2,000 payment on
13 October 26, 2017, a \$3,263.88 payment on December 19, 2017, and \$19,538 accounts payable
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20 debt to the Complainant in the amount it believed the Committee actually owed.⁴

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4 *Id.* at 2. The Committee also notes that the debt is at issue in an ongoing litigation. *Id.*

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2 federal office to disclose the total amount of all disbursements made during the reporting period,
3 and to report the full name and address of each person to whom an expenditure in an aggregate
4 amount or value in excess of \$200 within the election cycle is made along with the date, amount,
5 and purpose of each expenditure.⁵ In addition, Commission regulations require the political
6 committee of a candidate for federal office to report debts in excess of \$500 as of the date on
7 which the debt is incurred.⁶ When there is a disputed debt, the political committee must report
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⁶ 11 C.F.R. § 104.11(b); *see also* 52 U.S.C. § 30104(b)(8).

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1 Committee failed to accurately report its payments and debt to People's Project, LLC.

2 In furtherance of the Commission's priorities relative to other matters pending on the
3 Enforcement docket, the relatively modest amounts at issue, along with the Committee's
4 amended reports reflecting some of the payments to the vendor and alleged debt still outstanding,
5 the Commission exercises its prosecutorial discretion and dismisses the allegations as to Amy for
6 the People and Josiah McKinney in his official capacity as treasurer. *Heckler v. Chaney*, 470
7 U.S. 821, 831-32 (1985).