



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Lawrence Tabas
Obermayer Rebmann Maxwell & Hippel LLP
Centre Square West
1500 Market Street | Suite 3400
Philadelphia, PA 19102-2101

JUL 06 2018

RE: MUR 7338
Rick for Congress
and Brenda Hankins, as treasurer,
Friends of Rick Saccone
and Nicolas Racculia, as treasurer,
Rick Saccone

Dear Mr. Tabas:

On March 7, 2018, the Federal Election Commission ("Commission") notified your clients of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). On June 28, 2018, based upon the information contained in the complaint and information provided by respondents, the Commission decided to dismiss allegations that Rick for Congress and Brenda Hankins in her official capacity as treasurer, Friends of Rick Saccone and Nicolas Racculia in his official capacity as treasurer, and Rick Saccone 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

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

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2
3 **RESPONDENTS:** Rick for Congress and MUR 7338
4 Brenda Hankins in her official capacity as treasurer,
5 Friends of Rick Saccone and Nicolas Racculia
6 in his official capacity as treasurer, and
7 Rick Saccone
8

9 This matter was generated by a complaint alleging violations of the Federal Election
10 Campaign Act of 1971, as amended (the "Act") and Commission regulations by Rick for
11 Congress and Brenda Hankins in her official capacity as treasurer (the "Federal Committee"),
12 Friends of Rick Saccone and Nicolas Racculia in his official capacity as treasurer (the "State
13 Committee"), and Rick Saccone. It was scored as a low-rated matter under the Enforcement
14 Priority System, by which the Commission uses formal scoring criteria as a basis to allocate its
15 resources and decide which matters to pursue.

16 The Complaint alleges that the State Committee made expenditures for activities related
17 to Saccone's federal campaign in violation of the Act.¹ In particular, Complainant challenges
18 four expenditures by the State Committee: (1) an \$800 payment for a full-page newspaper ad,
19 (2) a payment for Saccone and a staffer's attendance at the Conservative Political Action
20 Conference, (3) a \$145.48 payment for campaign supplies, and (4) a \$955 transfer to the Federal
21 Committee.²

22 Respondents admit that the State Committee made the four payments and assert that any
23 violation of the Act was inadvertent.³ First, Respondents assert that the \$800 payment was an
24 overdue payment for an ad that ran the month before Saccone's November 2016 election for

¹ Compl. at 2 (Mar. 1, 2018).

² *Id.* at 2-3.

³ Resp. at 2-3 (Apr. 30, 2018).

1 State Representative and was unrelated to the federal campaign.⁴ Second, Respondents assert
2 that the State Committee believed it could reimburse the conference costs because Saccone was
3 a Pennsylvania State Representative, and, in an abundance of caution, the Federal Committee
4 has reimbursed the State Committee for those costs.⁵ Third, Respondents assert that the \$145.48
5 payment was for two ink cartridges, and any violation was *de minimis*.⁶ Fourth, Respondents
6 explain that the State Committee mistakenly believed it could transfer the \$995 to the Federal
7 Committee, and that the Federal Committee has issued a refund.⁷ Finally, the State
8 Committee's treasurer has agreed to seek approval from the State Committee Chairman or
9 counsel before spending any funds while Saccone is a federal candidate.⁸

10 The Act prohibits a federal candidate from soliciting, receiving, directing, transferring or
11 spending funds in connection with a federal campaign unless the funds are subject to the
12 limitations, prohibitions, and reporting requirement of the Act.⁹ The Act provides that this
13 prohibition does not apply to the solicitation, receipt, or spending of funds by an individual who
14 is or was also a candidate for a state or local office solely in connection with such election for
15 state or local office so long as the solicitation, receipt, or spending of funds is permitted under
16 state law.¹⁰ Commission regulations further prohibit the transfer of funds or assets from a

⁴ *Id.* at 2, Ex. A.

⁵ *Id.* at 2

⁶ *Id.* at 2.

⁷ *Id.* at 3. Respondents explain that the State Committee had collected enough federally permissible contributions, and did not realize that regulations prohibited the transfer of funds from a candidate's committee for a nonfederal election to his principal campaign committee. *Id.*

⁸ *Id.* at 3.

⁹ 52 U.S.C. § 30125(e)(1)(A).

¹⁰ 52 U.S.C. § 30125(e)(2).

1 candidate's campaign committee for a nonfederal election to his principal campaign committee
2 for a federal election or other authorized committee for a federal election.¹¹

3 The available information shows that the State Committee paid for certain expenditures
4 related to Saccone's federal candidacy, and the State Committee transferred money to the
5 Federal Committee.

6 In furtherance of the Commission's priorities relative to other matters pending on the
7 Enforcement docket, the relatively modest amounts at issue, and remedial actions taken by the
8 Committee, the Commission exercises its prosecutorial discretion and dismisses the allegations
9 as to Rick for Congress and Brenda Hankins in her official capacity as treasurer, Friends of Rick
10 Saccone and Nicolas Racculia in his official capacity as treasurer, and Rick Saccone. *Heckler v.*
11 *Chaney*, 470 U.S. 821, 831-32 (1985).

¹¹ 11 C.F.R. § 110.3(d)