



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 7383
Hughes for Congress and Dave Hughes)
in his official capacity as Treasurer)

**STATEMENT OF REASONS OF VICE CHAIR ALLEN DICKERSON AND
COMMISSIONERS SEAN J. COOKSEY AND JAMES E. "TREY" TRAINOR, III**

This matter arose from a complaint filed by a former campaign volunteer¹ alleging various federal campaign finance reporting and personal use violations by the Hughes for Congress Committee ("the Committee"), and Dave Hughes, a novice Congressional candidate. First, the complaint alleges that the Committee, at the candidate's direction, underreported its disbursements on its 2018 April Quarterly Report by approximately \$20,000 to "deceit[fully] increase his [c]ash on [h]and for the campaign."² Second, it alleges that the Committee incorrectly reported a \$40,000 loan to the Committee as coming from the candidate's personal funds.³ Third, the complaint alleges that approximately \$7,000 of Committee funds may have been used to pay for Hughes's personal transportation and meals expenses. The Commission's Office of General Counsel ("OGC") recommended that the Commission dismiss the first and second allegations. But as to the third, OGC recommended finding reason to believe Hughes and the Committee violated the Federal Election Campaign Act of 1971, as amended (the "Act") and suggested authorizing an investigation.⁴ We supported OGC's recommendations as to the dismissal of the first and second allegations, but, considering the totality of the circumstances, we did not support moving forward on the remaining allegation.

Turning first to the allegation about the underreported disbursements, as OGC noted in its First General Counsel's Report, the Committee hired a professional to handle its FEC

¹ The Complainant was, for a time, listed as the Committee's Treasurer on records filed with the Commission; but according to the Complainant, he "never signed my name to a form to be Treasurer," but subsequently sent a letter resigning as Treasurer. MUR 7383, Compl. at 2. The Respondent characterized the complainant as "disgruntled former staff." MUR 7383 (Hughes for Congress), Resp. at 1.

² MUR 7383, Compl. at 1.

³ See 52 U.S.C. § 30104(b)(3)(E) and 11 C.F.R. §§ 104.3(a)(4)(iv) and 100.83(e).

⁴ See MUR 7383, First Gen. Counsel's Report.

compliance and worked with the Commission's Reports Analysis Division to amend its 2018 April Quarterly Report to correct the prior misreporting of disbursements and cash on hand. Reporting errors by novice candidates are not uncommon, and there was no additional evidence to support the Complainant's allegation that the errors were an intentional attempt to mislead the public. Accordingly, we supported OGC's recommendation to dismiss the allegation.

With respect to the second allegation regarding the misreporting of the loan, we note the particular ambiguity and complexity around loan reporting and the relationship between personal candidate loans and campaign committee loans. Under our regulations, a candidate's committee must disclose the loans on two schedules on its Form 3x, C and C-1,⁵ and include not only information about the candidate's loan to the campaign, but also information about the commercial lender and the terms of the loan made to the candidate personally. It is no surprise that these reporting requirements trip up candidates, especially novice candidates who rely on volunteers to staff their campaigns.

In this case, there is no question that the loan was disclosed on the Committee's reports. The problem was that the loan was reported as coming from the candidate's personal funds, rather than the bank that made the loan to the candidate. Nevertheless, the existence of the loan was fully disclosed. We also noted that the amount of the loan at issue is relatively small, and not aligned with the amount of activity when the Commission has previously pursued similar violations of this type.⁶ Moving forward under these circumstances—that is, to pursue an apparent violation for an amount much smaller than the amount of activity the Commission has moved forward with in the past—raises serious due process concerns. Taking these factors together, we concurred with OGC's recommendation to dismiss this allegation.

Having disposed of the first two allegations, all that remained was an allegation of a potential personal use. In support of this allegation, the Complainant pointed to a campaign check payable to Dahlstrom Motors for \$668.42 and the failure of the candidate to keep a mileage log. On the other hand, OGC pointed to two checks made payable to Hughes, one for \$4,500, and another for \$1,000, both of which were report as "loan repayments." Limiting our analysis to OGC's presentation of the record, we could not support OGC's recommendation to pursue this allegation through investigation.

⁵ 11 C.F.R. § 104.3(d).

⁶ *See* MURs 7001, 7002, 7003, 7009 & 7455 (Ted Cruz for Senate, et al.) (Commission found reason to believe that the committee misreported loans totaling \$1,064,000 when it failed to properly disclose the source of the loans and represented the loans as being from the candidate's personal funds), MUR 6417 (Jim Huffman for Senate, et al.) (Commission found reason to believe that the committee misreported loans totaling \$1,350,000 when it failed to properly disclose the source of the loans and represented the loans as being from the candidate's personal funds); see also MUR 6860 (Terri Lynn Land) (Commission found reason to believe that the committee misreported contributions totaling \$700,000 when it failed to properly disclose the source of the contributions and represented the contributions as being from the candidate's personal funds).

While we take allegations of personal use seriously,⁷ here, on balance, we were unpersuaded by the evidence presented to us because it is conceivable (and not unreasonable) that the repayments were for legitimate expenses incurred by the candidate, such as mileage. Moreover, given the relatively low dollar amount at issue, we considered whether further investigation was the best use of limited Commission enforcement resources. In short, we concluded that absent stronger evidence of a violation or a higher potential amount in violation, an investigation was not the best use of Commission resources.⁸ Accordingly, we voted to dismiss this remaining allegation, and joined with two of our colleagues in voting to close the file.⁹

9/21/2021

Date

Allen Dickerson
Vice Chair

9/21/2021

Date

Sean J. Cooksey
Commissioner

9/21/2021

Date

James E. "Trey" Trainor, III
Commissioner

⁷ See e.g. MURs _____, _____, _____, and 7692 (Scott E. Coleman).

⁸ *Heckler v. Chaney*, 470 U.S. 821, 832 (1985).

⁹ Certification (Aug. 19, 2021), MUR 7383 (Dave Hughes, *et al.*).