



FEDERAL ELECTION COMMISSION
Washington, DC 20463

April 9, 2021

BY ELECTRONIC MAIL AND
CERTIFIED MAIL
RETURN RECEIPT REQUESTED
klma@factdc.org

Kendra Arnold, Executive Director
 Foundation for Accountability & Civic Trust
 1717 K Street NW, Suite 900
 Washington, D.C. 20006

RE: MUR 7479

Dear Ms. Arnold:

This is in reference to the complaint you filed with the Federal Election Commission (the “Commission”) on August 16, 2018, alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the “Act”). On March 9, 2021, the Commission considered the complaint but was divided on whether to find reason to believe that Keeping America in Republican Control PAC and H. Russell Taub in his personal capacity and official as treasurer violated the Act. On the same date, the Commission voted to dismiss this matter as an exercise of prosecutorial discretion under *Heckler v. Chaney* and closed the file.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). A Statement of Reasons issued by Vice Chair Allen Dickerson and Commissioners Sean J. Cooksey and James E. “Trey” Trainor III, explaining their votes in this matter, is enclosed. Any additional Statements of Reasons that are issued in this matter will be forwarded to you at a later time.

The Act allows a complainant to seek judicial review of the Commission’s dismissal of this action. *See* 52 U.S.C. § 30109(a)(8).

MUR 7479 (KAIRC PAC)
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If you have any questions, please contact Ana Peña-Wallace, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Lisa Stevenson
Acting General Counsel

Mark Allen

BY: Mark Allen
Assistant General Counsel

Enclosure
Statement of Reasons



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	
Keeping America in Republican Control PAC)	
and H. Russell Taub, in his official)	MUR 7479
capacity as treasurer)	
)	
H. Russell Taub)	

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

H. Russell Taub was committing fraud. While he represented Keeping America in Republican Control PAC (“KAIRC PAC”) as a legitimate political committee when soliciting over \$1.5 million, in truth, he was pocketing much of the money and spending it on himself.¹ The Commission received a complaint against Taub and KAIRC PAC alleging as much, as well as other campaign-finance violations, from the Foundation for Accountability and Civic Trust on August 16, 2018.²

But before the Commission could investigate Mr. Taub, the Department of Justice caught up to him first. In early 2019, Taub was charged with and pleaded guilty to wire fraud and knowing and willful violations of campaign-finance law.³ He was sentenced to three years in prison and another three years of supervised release, and ordered to pay more than \$1.1 million in restitution.⁴ What few proceeds remained were seized to satisfy a small fraction of that order.⁵

¹ MUR 7479 (KAIRC PAC, *et al.*), Supplement to First General Counsel’s Report, Attachment 2: Proposed Factual and Legal Analysis (Dec. 7, 2020) at 9-10 (“Taub used more than \$1 million of the contributions that KAIRC PAC and KOIRC PAC received to pay for personal expenses, including transfers to his personal bank accounts, and for the payment of personal expenses such as ‘travel, hotels, restaurants, clothing, cigars, adult entertainment, and escort services.’” (quoting Criminal Information at 7-8, *United States v. Harold Russell Taub*, 1:19CR00015 (D. R.I. Feb. 12, 2019)).

² MUR 7479 (KAIRC PAC, *et al.*), Complaint (Aug. 16, 2018).

³ See Amended Judgment and Restitution List, *United States v. Harold Russell Taub*, 1:19CR00015-01 (D. R.I. Jul. 20, 2020).

⁴ *Id.*

⁵ *Id.*

Notwithstanding this successful criminal prosecution, the Office of General Counsel (“OGC”) wanted to pursue Taub and KAIRC PAC further. OGC recommended that the Commission investigate for the sole purpose of requiring KAIRC PAC to register and report its political activity to the Commission.⁶ The Commission rejected that recommendation and voted 4-2 to dismiss the matter.⁷

Dismissal under these circumstances is consistent with the Commission’s longstanding practice of declining to pursue cases where there has already been adequate enforcement and vindication of the Commission’s interests by other government agencies.⁸ We have done so even where, in theory, the Commission might seek some further remedy from the respondent, such as additional fines or amended committee reports.⁹

The reason is simple: our resources are limited, and we do not serve the public’s interests by duplicating other agencies’ work or pursuing pyrrhic victories. This is especially true when the Commission faces a backlog of cases where we might undertake original investigations.¹⁰ Justice

⁶ See MUR 7479 (KAIRC PAC, *et al.*), Supplement to First General Counsel’s Report (Dec. 7, 2020).

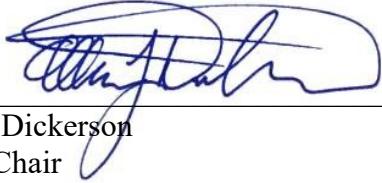
⁷ MUR 7479, Certification.

⁸ See Statement of Reasons of Chairman Danny L. McDonald, Vice Chairman David M. Mason, and Commissioners Karl J. Sandstrom, Bradley A. Smith, Scott E. Thomas, and Darryl R. Wold, Pre-MUR 385 (Phillip R. Davis) (May 7, 2001) (“Because the violations at issue have been addressed by the Justice Department in a criminal prosecution and a further expenditure of resources is not warranted relative to other matters pending before the Commission, we exercised our prosecutorial discretion by not taking further action.”).

⁹ See, e.g., MUR 6865 (Jose Susumo Azano Matsura) (declining to further pursue Azano’s 52 U.S.C. §§ 30121 and 30122 knowing and willful violations after criminal prosecution for same activity, and sentence of three years’ incarceration, assessment of \$3,700, and additional restitution of \$560,995); MUR 6761 (Kenneth A. Barfield) (declining to further pursue Barfield’s knowing and willful violation of 52 U.S.C. §§ 30102(b), 30102(c), 30114, 30116, 30122, and 30125(e), to further pursue action against Barfield, who had pleaded guilty to three criminal counts, including “Embezzlement of Funds Contributed to a Federal Candidate,” was sentenced to 87 months in federal prison, and was ordered to pay \$2,940,821 in restitution); Factual & Legal Analysis at 1-2, MUR 7072 (Babulal Bera) (Jan. 4, 2017) (declining to pursue further action against perpetrator of conduit scheme “among the largest [ever] considered” after Bera pleaded guilty to one criminal count each under 52 U.S.C. §§ 30116(a)(1)(A) and 30122 and was sentenced to a prison term of one year and one day, supervised release for a term of 36 months, and a criminal fine of \$100,000, while also noting statute of limitations concerns and respondent’s advanced age); Factual & Legal Analysis at 2, 5, MUR 6231 (Glenn Marshall) (Nov. 17, 2009) (declining to further pursue action against Marshall, who had pleaded guilty to five criminal counts for knowing and willful violations of provisions now codified at 52 U.S.C. §§ 30118 and 30122 and was sentenced to 41 months in federal prison and ordered to pay restitution of \$467,612.62); Factual & Legal Analysis at 1, MUR 6232 (Gladwin Gill) (Nov. 17, 2009) (declining to further pursue action against Gill who had pleaded guilty to one criminal count of making contributions in the name of another in violation of the provision now codified at 52 U.S.C. § 30122 and was sentenced to one year and one day in federal prison, followed by three years of supervised release, and was fined \$200,100).

¹⁰ See Statement of Commissioner Ellen L. Weintraub On the Senate’s Votes to Restore the Federal Election Commission to Full Strength (Dec. 9, 2020), available at <https://www.fec.gov/resources/cms-content/documents/2020-12-Quorum-Restoration-Statement.pdf>.

having already been done in this case, we dismissed this matter as an exercise of our prosecutorial discretion under *Heckler v. Chaney*, 470 U.S. 821, 831 (1985).



Allen Dickerson
Vice Chair

April 6, 2021

Date



Sean J. Cooksey
Commissioner

April 6, 2021

Date



James E. "Trey" Trainor, III
Commissioner

April 6, 2021

Date