

BEFORE THE FEDERAL ELECTION COMMISSION
ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT

MUR: 7608

Respondent: Friends of Marc Friedenberg
and Sean Miller as Treasurer
Marc Friedenberg¹

Complaint Receipt Date: May 9, 2019

Response Date: N/A²

EPS Rating:

Alleged Statutory

52 U.S.C. §§ 30102(c), (d); 30104(a), (b);

Regulatory Violations:

11 C.F.R. §§ 104.3(a), (b); 104.14

The Complaint alleges that Marc Friedenberg and Friends of Marc Friedenberg (the “Committee”) failed to properly report receipts and disbursements in disclosure reports filed in the 2017-2018 election cycle and on the Committee’s 2019 April Quarterly Report.³ Specifically, the Complaint alleges the Committee’s disclosure reports failed to disclose address information and purpose for certain disbursements and in-kind contributions, failed to disclose alleged in-kind contributions for donations of furniture and office supplies that had been requested by the campaign, and failed to disclose disbursements for voter file access, campaign materials, supplies, office space and staff.⁴

¹ Friedenberg lost in the May 21, 2019, special election to represent Pennsylvania’s 12th Congressional District with 31.9% of the vote.

² Neither Friedenberg nor the Committee responded to the Complaint.

³ Compl. at 1-4 (May 9, 2019). The original 2019 April Quarterly Report, filed April 14, 2019, listed all of the Committee’s disbursements for the reporting period as ActBlue transaction fees. The Amended 2019 April Quarterly Report, filed May 14, 2019, provided a more accurate and comprehensive reporting of disbursements.

⁴ *Id.* The Committee has either reported many of the allegedly unreported transactions on amended reports, or for the transactions that did not contain a proper address or description information, much of the information appeared on subsequent or prior reports. *See, e.g.,* Friends of Marc Friedenberg 2017 Year-End Report at 18; 2018 April Quarterly Report at 31, 34, 35; 2018 Amended Pre-Primary Report at 13-17, 19-24; 2018 July Quarterly Report at 27-34, 41, 43-45, 49-52; 2018 Pre-General Report at 21, 24-25, 27-29; 2019 Amended April Quarterly Report at 64-67, 70-75, 78-81. The Commission’s Report’s Analysis Division (“RAD”) has sent Requests for Additional Information (“RAFI”) regarding the Committee’s failure to include the full address or descriptions of the purpose of each itemized disbursement, incomplete employer and occupation entries for contributions, and other errors. *See* RAFI: 2018 12-Day Pre-Primary Report; RAFI: 2019 April Quarterly Report; RAFI: 2019 July Quarterly Report. The total of verified undisclosed activity is \$17,581.22, which does not reach a referral threshold for either the Office of General Counsel or the Office of Alternative Dispute Resolution. *See* 2017-2018 RAD Review and Referral Procedures (Standard 7).

Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and assess whether particular matters warrant further administrative enforcement proceedings. These criteria include (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating, the remedial actions already taken by the Committee regarding its reported and previously unreported transactions, and the low dollar amount involved, we recommend that the Commission dismiss the Complaint consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources.⁵ We also recommend that the Commission close the file as to all Respondents and send the appropriate letters.

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12/20/19

Date

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⁵ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).