

**BEFORE THE FEDERAL ELECTION COMMISSION**

**ENFORCEMENT PRIORITY SYSTEM  
DISMISSAL REPORT**

**MUR: 7617**

**Complaint Receipt Date:** June 17, 2019

**Response Dates:** June 26 & 27, 2019

**EPS Rating:**

**Respondents:** Supporters of Judy Herschel  
and Judith Herschel, as Treasurer  
("the Committee"),<sup>1</sup>  
Rachel Thomas

**Alleged Statutory**

**Regulatory Violations:**

**52 U.S.C. § 30116(a)(1)(A), (f)  
11 C.F.R. §§ 110.1(b), 110.9**

The Complaint alleges that the Committee reported twenty in-kind contributions from Rachel Thomas, an attorney, and the value of those services exceeded the individual contribution limit.<sup>2</sup> The Committee states that Thomas's voluntary legal services were reported as in-kind contributions in an abundance of caution, but notes that there was possibly no duty to report them at all.<sup>3</sup> Thomas responds that the Federal Election Campaign Act specifically exempts from the definition of "contribution" both volunteer services and the provision of free legal services to a campaign for the purpose of ensuring a campaign's compliance with the Act.<sup>4</sup>

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

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<sup>1</sup> Judith Herschel was a 2018 candidate for the U.S House of Representatives in Pennsylvania's Tenth District, and Supporters of Judy Herschel was her principal campaign committee.

<sup>2</sup> Compl. at 1 (June 17, 2019). The Committee reported receiving \$9,975 worth of in-kind contributions from Thomas.

<sup>3</sup> Supporters of Judy Herschel Resp. at 1 (June 27, 2019).

<sup>4</sup> Rachel Thomas Resp. at 1 (June 26, 2019).

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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, and the relatively low amount of potential contributions, in-kind or otherwise, at issue, 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. *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). We also recommend that the Commission close the file and send the appropriate letters.

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July 19, 2019

Date

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