

1                                   **FEDERAL ELECTION COMMISSION**  
2  
3                                   **FIRST GENERAL COUNSEL'S REPORT**

4  
5                                   **MUR: 7642**

6                                   DATE COMPLAINT FILED: September 6, 2019

7                                   DATE OF NOTIFICATION: September 11, 2019

8                                   RESPONSE RECEIVED: October 4, 2019

9                                   DATE ACTIVATED: November 8, 2019

10  
11                                   EXPIRATION OF SOL: February 17, 2022

12                                   ELECTION CYCLE: 2018

13  
14 **COMPLAINANT:**

John L. Brant Jr.

15  
16 **RESPONDENT:**

Cynthia Brehm for San Antonio City Council,

District 8

Cynthia Brehm

Hail Alanazi

17  
18  
19  
20  
21 **RELEVANT STATUTES AND**  
22 **REGULATIONS:**

52 U.S.C. § 30121

11 C.F.R. § 110.20

23  
24  
25 **INTERNAL REPORTS CHECKED:**

None

26  
27 **FEDERAL AGENCIES CHECKED:**

None

28  
29 **I. INTRODUCTION**

30           The complaint alleges that Cynthia Brehm accepted a \$500 donation from a Saudi citizen  
31 in connection with her campaign for a seat on the San Antonio City Council. Brehm  
32 acknowledges that she accepted the donation, but asserts that she relied upon guidance from the  
33 San Antonio City Clerk's Office. Given the specific circumstances, including the modest  
34 amount at issue, we recommend that the Commission exercise its prosecutorial discretion and  
35 dismiss the allegation that Cynthia Brehm for San Antonio City Council, District 8, Cynthia  
36 Brehm, and Hail Alanazi violated 52 U.S.C. § 30121, caution the Respondents against future  
37 similar violations, and caution Cynthia Brehm for San Antonio City Council, District 8 to refund  
38 the donation.

1 **II. FACTUAL AND LEGAL ANALYSIS**

2 Brehm, a candidate for a seat on the San Antonio City Council, acknowledges accepting a  
3 \$500 donation from Hail Alanazi, a citizen of Saudi Arabia.<sup>1</sup> She admits that she knew that  
4 Alanazi was from Saudi Arabia when he told her he wanted to make the donation.<sup>2</sup> Brehm  
5 asserts that she contacted the San Antonio City Clerk's Office before accepting the donation, and  
6 was informed that the city code did not prohibit foreign national contributions.<sup>3</sup> Brehm also  
7 states that she was unaware of the Act's prohibition against accepting donations from foreign  
8 nationals or that the prohibition applied to local elections.<sup>4</sup>

9 The Federal Election Campaign Act of 1971, as amended ("Act"), and Commission  
10 regulations prohibit any "foreign national" from "directly or indirectly" making a contribution or  
11 donation of money or any other thing of value, or an expenditure, independent expenditure, or  
12 disbursement, in connection with a federal, state, or local election.<sup>5</sup> The Act's definition of  
13 "foreign national" includes an individual who "is not a citizen of the United States or a national  
14 of the United States . . . and who is not lawfully admitted for permanent residence[.]"<sup>6</sup>

15 The Act further provides that no person shall knowingly solicit, accept, or receive a  
16 prohibited foreign national contribution or donation.<sup>7</sup> The term "knowingly" is defined as  
17 having "actual knowledge" that the source is a foreign national, or being aware of "facts that

---

<sup>1</sup> Resp. at 1 (Oct. 14, 2019); Compl. at 1, Ex. C (Sept. 6, 2019).

<sup>2</sup> Resp. at 1. She also admits knowing that Alanazi was in the Saudi Air Force. *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> 52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.20(b).

<sup>6</sup> 52 U.S.C. § 30121(b); 11 C.F.R. § 110.20(a)(3).

<sup>7</sup> 52 U.S.C. § 30121(a)(2).

1 would lead a reasonable person to conclude that there is a substantial probability that” or “facts  
 2 that would lead a reasonable person to inquire whether” the source is a foreign national.<sup>8</sup>

3 The information is undisputed that Alanazi made, and Brehm and her Committee  
 4 knowingly accepted, a prohibited foreign national donation. In light of Brehm’s assertion that  
 5 she relied upon guidance provided by the San Antonio City Clerk’s office<sup>9</sup> and the modest  
 6 amount of the donation, we recommend that the Commission exercise its prosecutorial discretion  
 7 and dismiss the allegation that Cynthia Brehm for San Antonio City Council, District 8, Cynthia  
 8 Brehm, and Hail Alanazi violated 52 U.S.C. § 30121.<sup>10</sup> We further recommend that the  
 9 Commission caution the Respondents against future similar violations and the Committee to  
 10 refund the donation.<sup>11</sup>

#### 11 **IV. RECOMMENDATIONS**

- 12 1. Dismiss the allegation that Cynthia Brehm for San Antonio City Council, District  
 13 8, Cynthia Brehm, and Hail Alanazi violated 52 U.S.C. § 30121;
- 14 2. Caution Cynthia Brehm for San Antonio City Council, District 8, Cynthia Brehm,  
 15 and Hail Alanazi against future violations of 52 U.S.C. § 30121 and caution  
 16 Cynthia Brehm for San Antonio City Council, District 8, to refund the  
 17 contribution to Hail Alanazi;
- 18 3. Approve the attached Factual and Legal Analysis;
- 19 4. Approve the appropriate letters; and
- 20 5. Close the file as to all Respondents.
- 21
- 22
- 23
- 24

---

<sup>8</sup> 11 C.F.R. § 110.20(a)(4).

<sup>9</sup> In a similar prior matter, the Commission exercised its prosecutorial discretion to dismiss allegations involving state candidates who accepted foreign national contributions in reliance upon guidance provided by a state government office that such contributions would not violate state law. Factual & Legal Analysis at 4, MURs 6931 and 6933 (Leo Ledohowski) (Commission dismissed allegations that state candidates accepted over \$5,000 in contributions from a foreign national when the state candidates relied on guidance provided by a state government office and refunded the contribution after being notified of the complaints).

<sup>10</sup> *See Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

<sup>11</sup> Brehm indicated that she was willing to return the donation if requested. Resp. at 1.

MUR 7642 (Cynthia Brehm for San Antonio City Council, District 8, *et al.*)

First General Counsel's Report

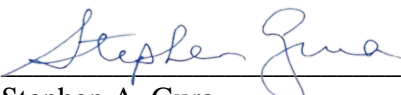
Page 4 of 4

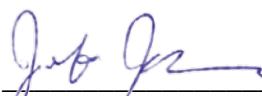
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26


Lisa J. Stevenson  
Acting General Counsel

Charles Kitcher  
Acting Associate General Counsel for Enforcement

1.27.20  
Date

BY:   
\_\_\_\_\_  
Stephen A. Gura  
Deputy Associate General Counsel

  
\_\_\_\_\_  
Jeff S. Jordan  
Assistant General Counsel

  
\_\_\_\_\_  
Kristina M. Portner  
Attorney