



FEDERAL ELECTION COMMISSION
Washington, DC 20463

VIA CERTIFIED MAIL
AND ELECTRONIC MAIL
RETURN RECEIPT REQUESTED

July 29, 2020

Christopher Watson
Morris, MN 56267

RE: MUR 7676
Michelle Fischbach
Fischbach for Congress
and Paul Kilgore, as treasurer

Dear Mr. Watson:

The Federal Election Commission has considered the allegations contained in your complaint received December 27, 2020. On July 24, 2020, based upon the information provided in the complaint, and information provided by the respondents, the Commission decided to exercise its prosecutorial discretion to dismiss the allegations as to Michelle Fischbach, Fischbach for Congress and Paul Kilgore, as treasurer, and closed its file in this matter. The General Counsel's Report, which more fully explains the basis for the Commission's decision, is enclosed.

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), effective September 1, 2016.

The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. *See* 52 U.S.C. § 30109(a)(8). If you have any questions, please contact Don Campbell, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Lisa J. Stevenson
Acting General Counsel

A handwritten signature in blue ink, appearing to read "Jeff S. Jordan".

BY: Jeff S. Jordan
Assistant General Counsel

Enclosure
General Counsel's Report

BEFORE THE FEDERAL ELECTION COMMISSION
ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT

MUR: 7676

Respondent: Michelle Fischbach
 Fischbach for Congress
 and Paul Kilgore, as treasurer
 (the “Committee”)

Complaint Receipt Date: December 27, 2019

Response Date: February 13, 2020

**Alleged Statutory/
 Regulatory Violations:** **52 U.S.C. § 30120(a)(1) and (c)(1-3);
 11 C.F.R. § 110.11(a)(1), (b)(1), (c)(1-2)**

The Complaint alleges that the Committee distributed, via email, two fundraising letters that lacked a complete box around the Committee’s disclaimers, asserting that both letters have a partial line above and below the disclaimer.¹ The Response argues that emails do not require a box around disclaimers because that requirement applies only to printed public communications, and, in any event, any violation is technical.²

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

¹ Compl. at 1 (December 27, 2019). The Complaint included copies of the two emails. *Id.* at 2-5.

² Resp. at 2-3 (February 13, 2020), citing 11 C.F.R. § 110.11(c)(2).

1 technical nature of the alleged violation, and that recipients would likely understand that the
2 Committee was responsible for the emails, we recommend that the Commission dismiss the
3 Complaint consistent with the Commission's prosecutorial discretion to determine the proper
4 ordering of its priorities and use of agency resources.³ We also recommend that the Commission
5 close the file as to all Respondents and send the appropriate letters.

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7 Lisa J. Stevenson
8 Acting General Counsel
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10 Charles Kitcher
11 Acting Associate General Counsel
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13 3.6.20

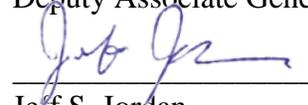
14 Date

BY:



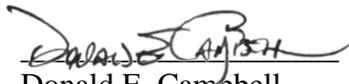
Stephen Gura

Deputy Associate General Counsel

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Jeff S. Jordan

Assistant General Counsel

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Donald E. Campbell

Attorney
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³ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).