



FEDERAL ELECTION COMMISSION
Washington, DC 20463

April 21, 2021

Jason Torchinsky, Esq.
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RE: MUR 7696
Texans for Senator John Cornyn
Senator John Cornyn

Dear Mr. Torchinsky:

On February 14, 2020, the Federal Election Commission notified your clients, Texans for Senator John Cornyn and Kerry N. Cammack in his official capacity as treasurer and Senator John Cornyn, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on March 9, 2021, voted to dismiss this matter. The Factual and Legal Analysis, which more fully explain the Commission's decision, are enclosed for your information.

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).

If you have any questions, please contact Elena Paoli, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Lynn Y. Tran".

Lynn Y. Tran
Assistant General Counsel

Enclosure
Factual and Legal Analyses

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

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6 **RESPONDENTS:** Texans for Senator John Cornyn and Kerry N. **MUR: 7696**
7 Cammack in his official capacity as treasurer
8 Senator John Cornyn
9

I. INTRODUCTION

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12 This matter was generated by a complaint filed with the Federal Election Commission
13 (“Commission”) by MJ for Texas. *See* 52 U.S.C. § 30109(a)(1). The Complaint alleges that
14 U.S. Senator John Cornyn and his campaign committee, Texans for Senator John Cornyn and
15 Kerry N. Cammack in his official capacity as treasurer (the “Committee”), failed to timely
16 disgorge prohibited contributions received from Dannenbaum Engineering Corp. (“DEC”) as
17 part of a contribution reimbursement scheme.¹ The Complaint alleges that the Committee failed
18 to timely disgorge \$10,000 in contributions after a November 2019 article detailing criminal
19 charges related to the contributions put the Committee on notice of the reimbursement scheme.²
20 The Committee responds that it did not know the amount to disgorge at the time of the
21 November 2019 article, the Department of Justice (“DOJ”) requested that it wait to disgorge the
22 funds, and it made the disgorgements as soon as it received guidance from DOJ.³

¹ Compl. at 1 (Feb. 11, 2020).

² *Id.*

³ Texans for Senator John Cornyn Response at 1 (April 8, 2020) (“Committee Resp.”).

1 **II. FACTUAL BACKGROUND**

2 **A. The Reimbursement Scheme**

3 DEC is a privately owned engineering firm in Houston, Texas, and James D.
4 Dannenbaum, its controlling shareholder, was president and chief executive officer of the firm at
5 the time of the contributions at issue.⁴ In April 2017, the FBI raided multiple DEC offices in
6 South Texas as well as the offices of several members of the Laredo, Texas, city council in
7 connection with DEC's pursuit of infrastructure construction projects, including the wall at the
8 U.S./Mexico border.⁵ The resulting investigation culminated in a Deferred Prosecution
9 Agreement between DEC and DOJ and a plea agreement with Dannenbaum. The agreements
10 outline the use of DEC funds to advance or reimburse contributions to straw donors for \$323,000
11 in contributions to federal candidates over a period of approximately two years.⁶

12 **B. Cornyn Committee Disgorgements**

13 The Complaint alleges that when news of Dannenbaum's impending guilty plea emerged,
14 the Committee should have been able to determine that it received \$10,000 in reimbursed
15 contributions from DEC employees.⁷ The Complaint alleges that the charging documents made
16 clear that only one Senate committee from Texas had received illegal contributions in the

⁴ See Deferred Prosecution Agreement, *United States v. Dannenbaum Engineering Corp. and Engineering Holding Corp.*, 19-CR 795 (S.D. Tex. Nov. 22, 2019) ("DPA") at 29.

⁵ See Gabrielle Banks and Stephanie Lamm, *Former UT regent, engineering CEO resigns after admitting to illegal contributions*, HOUSTON CHRONICLE, Nov. 7, 2019, <https://www.houstonchronicle.com/news/houston-texas/houston/article/Former-UT-regent-engineering-CEO-resigns-after-14817897.php>; Richard Webner, *Dannenbaum, target of FBI probe, has controversial history along border*, SAN ANTONIO EXPRESS, June 23, 2017, <https://www.expressnews.com/business/local/article/Dannenbaum-target-of-FBI-probe-has-11242963.php>.

⁶ See DPA and Plea Agreement, *United States v. James D. Dannenbaum*, 19-CR-794 (S.D. Texas Dec. 6, 2019).

⁷ Compl. at 4-5.

1 scheme, asserting that fact gave sufficient notice to the Cornyn Committee to disgorge, but the
2 Committee failed to do so in the required 30 days.⁸

3 The DPA describes “Candidate C” as a candidate for the U.S. Senate and “Committee C”
4 as that candidate’s principal campaign committee, and states that “at Dannenbaum’s solicitation
5 and direction, four DEC employees and their family members each contributed to Committee C
6 in their own names, for a total of \$10,800.”⁹ Dannenbaum then reimbursed each contributor
7 with DEC funds.¹⁰

8 The Committee states that it disgorged \$10,800 on Feb. 6, 2020.¹¹ It also argues that it
9 did not know the names of the conduit contributors or the exact amounts of their contributions
10 until recently.¹² It further argues that as early as November 7, 2019, DOJ told the Committee
11 that information about the contributions would not be released until the end of the investigation
12 and that the Committee should wait to disgorge the reimbursed contributions.¹³ The Committee
13 maintains that it was not in a position to comply with the regulation, and it attaches a letter dated
14 February 4, 2020, in which it repeated its request to DOJ for the contribution information.¹⁴

⁸ *Id.* at 2-3, 5.

⁹ DPA at 33-34.

¹⁰ *Id.* at 34.

¹¹ It is not clear why the Committee states it disgorged \$10,800 or why the Complaint alleged that the Committee should have disgorged \$10,000. In fact, in a news article, the Committee said it disgorged \$15,400, and that is confirmed by FEC records. *See* Committee 2020 Pre-Primary Report at 2252 (Feb. 20, 2020), <https://docquery.fec.gov/cgi-bin/fecimg/?202002209186576532>.

¹² Committee Resp. at 2.

¹³ *Id.*

¹⁴ *See id.*, Attach.

1 Thus, the Committee argues that it could not comply with the Commission’s 30-day regulation
2 because of DOJ’s “stand-down” order and concludes that the Complaint should be dismissed.¹⁵

3 **III. LEGAL ANALYSIS**

4 Commission regulations provide that committee treasurers are responsible for examining
5 all contributions for evidence of illegality.¹⁶ Commission regulations also provide that an
6 apparently legal contribution accepted by a committee that is later determined to be illegal
7 “based on new evidence not available to the political committee at the time of receipt and
8 deposit” must be refunded “within 30 days of the date on which the illegality is discovered.”¹⁷
9 Alternatively, instead of issuing a refund, the committee may disgorge a prohibited contribution
10 to the U.S. Treasury.¹⁸

11 The Complaint alleges that DEC could have identified the illegal contributions to the
12 Committee, apparently based on news articles and by searching the FEC disclosure database.
13 Nevertheless, DOJ specifically asked the Committee not to disgorge the contributions until a
14 later time. Under these circumstances, the Commission dismisses the allegation that the Cornyn
15 Committee and Senator Cornyn violated 11 C.F.R § 103.3(b)(2).

¹⁵ Committee Resp. at 3-4.

¹⁶ 11 C.F.R. § 103.3(b).

¹⁷ 11 C.F.R. § 103.3(b)(2).

¹⁸ Advisory Op. 1996-05 (Kim).