



FEDERAL ELECTION COMMISSION
Washington, DC 20463

April 15, 2022

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Michael Saltsman
Austin Samuelson
Employment Policies Institute
1090 Vermont Ave., NW, Suite 800
Washington, DC 20005

RE: MUR 7708
Eva Putzova for Congress, *et al.*

Dear Messrs. Saltsman and Samuelson:

On April 5, 2022, the Federal Election Commission reviewed the allegations in the complaint you filed on February 24, 2020. Based on that complaint, and information provided by respondents, the Commission determined to dismiss as a matter of prosecutorial discretion the allegation that Restaurant Opportunities Centers United, Inc. made, and Eva Putzova, Steven Piasecki, and Eva Putzova for Congress and Eva Putzova in her official capacity as treasurer knowingly accepted and received, in-kind corporate contributions in violation 52 U.S.C. § 30118(a), in connection with salary payments to Piasecki. Accordingly, on April 5, 2022, the Commission closed the file in this matter.

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 Factual and Legal Analysis, which more fully explains the Commission's findings is enclosed.

The Federal Election Campaign Act of 1971, as amended, 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 Christine C. Gallagher, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Lisa J. Stevenson
Acting General Counsel

A handwritten signature in blue ink that reads "Claudio J. Pavia".

BY: Claudio J. Pavia
Deputy Associate General Counsel

Enclosure
Factual and Legal Analysis

**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

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3
4 RESPONDENTS: Eva Putzova for Congress and
5 Eva Putzova in her official capacity
6 as treasurer
7 Eva Putzova
8 Restaurant Opportunities Centers United, Inc.
9 Steven Piasecki

MUR 7708

10
11 **I. INTRODUCTION**

12
13 This matter was generated by a Complaint filed with the Federal Election Commission
14 alleging that Restaurant Opportunities Centers United, Inc. (“ROC United”), a 501(c)(3) non-
15 profit corporation, made prohibited in-kind corporate contributions to federal candidate Eva
16 Putzova, an employee of ROC United, and to her authorized committee, Eva Putzova for
17 Congress and Eva Putzova, in her official capacity as treasurer (the “Committee”) in violation of
18 the Federal Election Campaign Act of 1971, as amended (the “Act”). The alleged contributions
19 arose through compensation paid to ROC United employee Steven Piasecki, who also served as a
20 Putzova campaign staffer. The Complaint contends that Piasecki routinely posted political
21 messages on Putzova’s personal Twitter account and the Putzova campaign’s Twitter account
22 during the work day and, thus, ROC United effectively paid Piasecki to perform work for the
23 Committee and “essentially subsidiz[ed]” the campaign.

24 In their joint Response, Putzova, the Committee, and Piasecki (collectively, the “Putzova
25 Respondents”) deny that they received in-kind contributions from ROC United and submit a
26 sworn declaration from Piasecki attesting that he did no work for the Putzova campaign during his
27 ROC United work hours. In a separate Response, ROC United also denies violating the Act,
28 states that the allegations are speculative, and also points to Piasecki’s declaration to show it did
29 not subsidize the Putzova campaign.

1 As discussed below, the available information indicates that while a limited number of
2 tweets could potentially be attributable to Piasecki during normal business hours, Piasecki has
3 attested that he did no work for the Putzova campaign during his ROC United work hours, and the
4 nature of any potential violation is likely *de minimis*.

5 Therefore, the Commission dismisses the allegations that ROC United made, and the
6 Putzova Respondents knowingly accepted, in-kind corporate contributions, in violation of
7 52 U.S.C. § 30118(a), in connection with the salary payments to Piasecki.

8 **II. FACTUAL BACKGROUND**

9 Eva Putzova was a candidate in the Democratic primary for Arizona's 1st Congressional
10 District, which she lost on August 4, 2020.¹ Her principal campaign committee is Eva Putzova
11 for Congress and Eva Putzova is the Committee's current treasurer.² ROC United is a 501(c)(3)
12 non-profit corporation with the stated purpose of "improving the wages and working conditions of
13 restaurant workers."³ Putzova has worked for ROC United since May 2018, serving as Director
14 of Communications.⁴ Steven Piasecki has worked for ROC United since September 2018 as
15 Communications Coordinator (a salaried position)⁵ and, in February 2019, also began working for

¹ Ariz. Sec'y of State, State of Ariz. 2020 Primary Election Results (Aug. 4, 2020) <https://results.arizona.vote/#/featured/17/0> (last accessed Sept. 1, 2020).

² Eva Putzova for Congress, Amended Statement of Organization at 1 (Oct. 11, 2020). At the time of the activity described in this matter, the Committee's treasurers were as follows: Alexandra Perez-Garcia, *see* Eva Putzova for Congress, Amended Statement of Organization at 1 (July 14, 2020); Joe Bader, *see* Eva Putzova for Congress, Amended Statement of Organization at 1 (Feb. 26, 2020); Joseph Downs, *see* Eva Putzova for Congress, Amended Statement of Organization at 1 (May 6, 2019); Katrin Pantsosnik, *see* Eva Putzova for Congress, Amended Statement of Organization at 1 (Feb. 16, 2019).

³ ROC United Resp. at 1 (June 1, 2020).

⁴ *Id.* at 2 n.1; Compl. (Feb. 24, 2020), Ex. B at 1 (screenshot of ROC United webpage listing national staff); *id.* at 4 (screenshot of Putzova's LinkedIn page).

⁵ ROC United Resp. at 1; Compl., Ex. B at 1.

1 the Committee in the role of Communications Director.⁶ As part of his job at ROC United,
2 Piasecki operated the ROC United Twitter account, which principally communicated about
3 restaurant trade issues and did not endorse or discuss Putzova’s candidacy.⁷ During the election,
4 the Committee operated an official Twitter account — @CongressEva — and, at the same time,
5 Putzova’s personal Twitter account — @EvaPutzova — was also used to disseminate election-
6 related messages.⁸

7 The Complaint alleges that Piasecki “regularly engaged in candidate-related work during
8 the course of the normal workday” by controlling the Putzova campaign’s official Twitter account
9 as well as Putzova’s personal account during time that he was being paid by ROC United.⁹ The
10 Complaint asserts that Piasecki’s work for ROC United, *i.e.*, tweets he supposedly made using
11 ROC United’s Twitter account, overlapped with his work for the Committee such that ROC
12 United was “essentially subsidizing his campaign work.”¹⁰

13 The Complaint attaches a series of charts reflecting Twitter usage data obtained from
14 ExportTweet, a Twitter analytics tool.¹¹ The charts purport to show that, based on alleged similar
15 patterns among tweets posted on the Putzova campaign account, Putzova’s personal account, and
16 the ROC United account, Piasecki was in control of all of the accounts. For instance, the

⁶ Compl., Ex. B at 3 (screenshot of Piasecki’s LinkedIn page) (Feb. 24, 2020). Between February 12, 2019, and July 1, 2020, the Committee paid Piasecki \$24,600 for “Communications Consulting Services” and “Social Media and Communications Consulting,” initially in monthly payments of \$600, but later increasing to \$2,000 and then \$4,000. Eva Putzova for Congress Disbursements, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00694091&recipient_name=piasecki&two_year_transaction_period=2020 (last accessed August 12, 2020).

⁷ Putzova, Committee, & Piasecki Resp. at 2 (Mar. 4, 2020); ROC United Resp. at 2; Compl. at 2, Ex. D.

⁸ Compl., Exs. D, E, F.

⁹ *Id.* at 2.

¹⁰ *Id.*

¹¹ *Id.*, Exs. D, E.

1 Complaint asserts that the Twitter data shows Piasecki had an Android, and that after Putzova
2 declared her candidacy, there was a sharp increase in tweets from her account by an Android user,
3 which the Complaint presumes was Piasecki.¹² In addition, the Complaint claims that the patterns
4 of activity for each of the Twitter accounts shifted in a manner that corresponded with Piasecki's
5 move to the East Coast, thus suggesting he controlled those accounts.¹³

6 Regarding the allegation that Piasecki was tweeting on behalf of the campaign during his
7 workday for ROC United, the Complaint asserts that a substantial number of tweets were issued
8 by the Putzova campaign accounts during normal business hours when, presumably, Piasecki was
9 supposed to be working for ROC United.¹⁴ Attached to the Complaint is a chart showing
10 hundreds of tweets issued by the official account between 9:00am and 5:00pm during February –
11 October 2019.¹⁵ However, the charts do not take into account whether the tweets were made on
12 weekdays, nor does it indicate the time zone. Publicly available information shows the
13 Committee's, ROC United's, and Eva Putzova's Twitter usage data from January 2019 – August
14 2020, which reveals that 1,224 tweets out of 2,887 (or 42.4%) were issued between the hours of
15 9:00am and 5:00pm EST on weekdays, equating to about 3.2 tweets per day.¹⁶ When removing

¹² *Id.* at 2. *But see* Putzova, Committee, & Piasecki Resp. at 3 (stating that Putzova owns iOS and Android devices and used both on Twitter).

¹³ Compl. at 2.

¹⁴ *Id.*, Exs. D, E.

¹⁵ *Id.*, Ex. D at 2, 5.

¹⁶ Vicinitas is a Twitter analytics tool which permits the public to download free of charge into an Excel file up to 3,200 of the most recent tweets of any Twitter user. The information contains, among other things, the text and type of tweet and the time of its creation. <https://www.vicinitas.io/free-tools/download-user-tweets> (last accessed Sept. 1, 2020). Eastern Standard Time (EST) is used as the reference time zone because ROC United is headquartered in New York. <https://rocunited.org>. However, this may not be precise to establish whether the tweets were made during working hours given that Piasecki moved to the East Coast in July 2019 and thus he might not have been expected to follow an EST workday. Compl. at 2, n.2, Ex. D. There is no information regarding Piasecki's normal work hours.

1 “retweets,” the numbers change to 237 tweets out of 663 (or 35.7%) issued during business hours,
2 equating to about 0.6 per day. Similarly, it also appears that Putzova’s personal Twitter account
3 was active during standard business hours. The tweets from her personal account were campaign-
4 related, discussing her candidacy, the upcoming election, her opponent, and her stance on
5 campaign-related issues. The publicly available data from January 2020 through July 2020,
6 reveals that 1,429 tweets out of 3,190 (or 44.8%) were issued between the hours of 9:00am and
7 5:00pm EST on weekdays, equating to about 10.2 tweets per day. When removing retweets, the
8 numbers change to 687 tweets out of 1,562 (or 44.0%), equating to about 4.9 per day.¹⁷

9 Finally, the Complaint alleges that Piasecki’s tweets on behalf of ROC United were
10 similar in content to tweets posted by the Committee, further suggesting that Piasecki was
11 working for the Committee during business hours. Specifically, the Complaint attaches three sets
12 of tweets from @ROC United and @EvaPutzova issued around the same time as each other (on
13 the same or next day) regarding the following issues: (1) fair wages; (2) opposition to the
14 potential nomination of Herman Cain to the Federal Reserve Board; and (3) hearings for the Raise
15 the Wage Act of 2019.¹⁸ The tweets appear to involve generally similar messaging, and in one
16 case use the same graphic obtained from the Economic Policy Institute, but do not mention
17 Putzova’s candidacy or the election.¹⁹

¹⁷ As Vicinitas only makes a certain number of tweets available for download to the average user, it is possible to go back only to January 2020 for this account. *See supra* note 16.

¹⁸ Compl., Ex. F at 1-2, 4.

¹⁹ *Id.* at 2. The Complaint alleges that the similarities between the ROC United and Putzova tweets “demonstrate clear coordination” between ROC United and the Committee. *Id.* at Ex. D at figure 7; Ex. F at figures 8, 9 (*see* descriptions of tweets). Although it is not expressly alleged that these are coordinated communications that constitute contributions from ROC United to the Committee, the Commission notes that each of the cited tweets were apparently free communications over the internet and, therefore, are exempt from the definition of “coordinated communications” under the “internet exemption.” *See* 11 C.F.R. §§ 109.21(c), 100.26.

1 In response to the Complaint, Piasecki acknowledges that he “contributed to both the ROC
2 United and Putzova campaign Twitter accounts,” but provides no other specific details about
3 either his Twitter usage or the hours he worked for ROC United and the Committee.²⁰
4 The Putzova Respondents generally assert that “Piasecki never tweeted for the Campaign while
5 he was on the clock for ROC,” and that the Twitter usage data in the Complaint “does not
6 necessarily overlap with work hours.”²¹ Piasecki submitted a sworn declaration, in which he
7 states — “At no time have I provided any work for the Campaign while being ‘on the clock’ for
8 ROC. ROC has never compensated me for any work provided for the Campaign.”²² ROC United
9 denies that Piasecki used compensated work time or its corporate resources on behalf of the
10 Committee, pointing to his sworn declaration.²³ ROC United asserts that the Complaint’s exhibits
11 do not prove who operated the Twitter accounts.²⁴ In addition, ROC United asserts that the
12 Complaint does not present any evidence that Piasecki used ROC United’s resources on behalf of
13 the Committee, and even if he did, the Commission’s regulations providing safe harbors for
14 “occasional, isolated, or incidental” use of corporate facilities, including internet facilities, in the

²⁰ Putzova, Committee, & Piasecki Resp. at 2.

²¹ *Id.* The Putzova Respondents do not provide information regarding the extent of Piasecki’s contributions to the campaign Twitter accounts or whether other individuals besides Piasecki were in control of the accounts during normal business hours.

²² *Id.*, Attach. (Piasecki Aff. ¶ 2 (Mar. 17, 2020)).

²³ ROC United Resp. at 1-2, 4.

²⁴ *Id.* at 2. ROC United denies that it coordinated with Putzova on any of the five tweets attached as Exhibits D and E to the Complaint, and even if they did collaborate the content standard of the Commission’s coordinated communications regulation would not be satisfied. *Id.* at 2-3, n. 5 (citing 11 C.F.R. § 109.21(c)) (alleging that the tweets do not constitute “public communications” or express advocacy or the equivalent thereof).

1 context of volunteering for a campaign, and for employees who make up any working time used,
2 would apply.²⁵

3 **III. LEGAL ANALYSIS**

4 The available information indicates that there are a limited number of tweets which could
5 potentially be attributable to Piasecki during normal business hours and thus the nature of the
6 violation is likely *de minimis*.²⁶

7 The Act prohibits corporations from making contributions to federal candidates, and
8 likewise bars candidates, political committees (other than independent expenditure-only political
9 committees and committees with hybrid accounts), and other persons, from knowingly accepting
10 or receiving corporate contributions.²⁷ The term “contribution” includes, “any gift, subscription,
11 loan, advance, or deposit of money or anything of value made by any person for the purpose of
12 influencing any election for Federal office.”²⁸ The term “anything of value” includes all in-kind
13 contributions, “[u]nless specifically exempted,” such as the “provision of any goods or services

²⁵ *Id.* at 2, n. 7 (citing 11 C.F.R. § 114.9(a)(2)).

²⁶ The Commission notes that the Complaint alleges that Piasecki “may be using corporate resources in his work for the campaign.” Compl. at 2. The Commission’s regulations provide an exemption for the “occasional, isolated, or incidental use of corporate facilities” for individual volunteer activity in connection with a federal election. 11 C.F.R. § 114.9(a)(2). Given that Piasecki was a paid campaign staffer, this exemption would not apply. Nevertheless, the Complaint’s general allegations raising the possibility that he may have used corporate resources on behalf of the campaign are not supported by any facts, and are denied by Respondents. Further, the only activity cited by the Complaint is his Twitter activity which does not involve the use of office resources, other than a *de minimis* amount.

²⁷ 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(b), Note to Paragraph (b) (explaining that corporations and labor organizations may make contributions to nonconnected political committees that make only independent expenditures, or to separate accounts maintained by nonconnected political committees for making only independent expenditures).

²⁸ 52 U.S.C. § 30101(8)(A)(i); 11 C.F.R. § 100.52(a).

1 without charge or at a charge that is less than the usual and normal charge for such goods or
2 services.”²⁹

3 The payment by any person of compensation for the personal services of another person if
4 those services are rendered without charge to a political committee for any purpose, is considered
5 a contribution.³⁰ However, the Commission’s regulations provide for certain exceptions
6 including, that if an employee is paid on an hourly or salaried basis, no contribution results if the
7 employee engages in political activity during a regular work period, provided that the taken time
8 is made up or completed by the employee within a reasonable time or if the employee uses *bona*
9 *fide* vacation time or other earned leave time to engage in political activity.³¹

10 Here, Piasecki is a salaried ROC United employee.³² Thus, to the extent he operated the
11 Putzova campaign Twitter accounts and engaged in any Twitter activity on behalf of the
12 Committee during his regular work period for ROC United, an in-kind contribution from ROC

²⁹ 11 C.F.R. § 100.52(d) (listing examples of goods or services, such as securities, facilities, equipment, supplies, personnel, advertising services, membership lists, and mailing lists).

³⁰ 52 U.S.C. § 30101(8)(A)(ii); 11 C.F.R. § 100.54.

³¹ 11 C.F.R. § 100.54(a), (c); *see also id.* § 100.54(b) (providing an additional exception “where an employee engages in political activity during normal working hours, if the employee is paid on a commission or piecework basis, or is paid only for work actually performed and the employee’s time is considered their own to use as they see fit”); Factual & Legal Analysis at 3-4, MUR 7035 (Bernie 2016) (finding reason to believe committee knowingly received prohibited foreign national contributions by allowing the Australian Labor Party to pay for Australian citizens to work on the Bernie 2016 campaign); Factual & Legal Analysis at 3-5, MUR 7111 (Trump for President, Inc.) (dismissing allegation that committee received a prohibited in-kind corporate contribution from the Trump Organization when the corporation paid a person to provide speechwriting services to the committee and the amount of payment for the services was *de minimis.*); Factual & Legal Analysis at 6-8, MUR 6818 (Allen Weh for Senate) (finding no reason to believe that committee received a prohibited in-kind corporate contribution from the Weh Corporation when the corporation continued to pay a salary to the committee’s campaign director and where the committee paid a separate salary for his work as campaign manager and he maintained a division of responsibilities between the two entities and division of payment of his services).

³² ROC United Resp. at 1.

1 United to the Committee could result unless the taken time was made up or completed by Piasecki
2 within a reasonable time, or if Piasecki used *bona fide* vacation time or other earned leave time.³³

3 As an initial matter, however, the Commission needs to determine whether Piasecki
4 operated the Putzova campaign Twitter accounts during his ROC United work hours. Piasecki
5 admits that he “contributed” to the official account, but provides no specific details.³⁴ The
6 Respondents do not identify who, if not Piasecki, operated the Putzova campaign accounts during
7 business hours when Piasecki was presumably working for ROC United. Given Piasecki’s role as
8 the Committee’s Communications Director it is reasonable to infer that his role was significant,
9 but it is also possible that others were in control of the account.³⁵ It is also unclear whether and to
10 what extent Piasecki may have posted on Putzova’s personal account, which was also used to
11 disseminate campaign messaging. The Complaint presents circumstantial information, based on
12 Twitter usage data, suggesting that he contributed to that account as well.³⁶ Weight must also be
13 given to Piasecki’s sworn declaration in which he attests: “At no time have I provided any work

³³ 11 C.F.R. § 100.54(a). The Complaint asserts that Putzova is an employee of ROC United, but makes no allegations that she too, like Piasecki, worked for the campaign during her ROC United work day.

³⁴ Putzova, Committee, and Piasecki Resp. at 2. ROC United’s Response asserts that the Complaint’s allegation that Piasecki “undertook *all* of the Twitter activity attributable to ROC United, Eva Putzova for Congress and Ms. Putzova personally” is the “product of speculation.” ROC United Resp. at 2 (emphasis in original).

³⁵ For instance, the Committee’s disclosure reports show that it paid another person, Abigail Jackson, for “Communications Consulting,” which is the same purpose used to describe the Committee’s payments to Piasecki. Eva Putzova for Congress, 2020 July Quarterly Rpt. at 434 (July 17, 2020) (reflecting a total of \$3,000 in disbursements to Jackson on May 1 and June 1, 2020); *supra* note 6 (disbursements to Piasecki for “Communications Consulting Services” and “Social Media and Communications Consulting”). In addition, Putzova herself may have contributed to the Twitter account. *See* Putzova, Committee, and Piasecki Resp. at 3 (“Eva Putzova owns both iOS and Android devices with which she engages Twitter.”).

³⁶ The Complaint asserts that Putzova’s personal account experienced an uptick in tweets from an Android device after she announced her candidacy and that, because Piasecki apparently used an Android device, he must have been operating the account. *See* Compl. at 2; *id.*, Ex. E at 2. However, this conclusion is problematic given the assertion that “Putzova owns both iOS and Android devices with which she engages Twitter.” Putzova, Committee, and Piasecki Resp. at 3. The Complaint also attempts to show that Piasecki controlled Putzova’s personal account based on the alleged shift in the pattern of tweeting (based on time of day) that supposedly reflects Piasecki move to the East Coast in July 2019. *See* Compl. at 2; *id.*, Ex. D at 1, 5.

1 for the Campaign while being ‘on the clock’ for ROC. ROC has never compensated me for any
2 work provided for the Campaign.”³⁷ The available Twitter data suggests that only a few tweets
3 per day were issued during business hours, suggesting that a significant amount of time was not
4 used. The official campaign account tweeted about 3.2 times per day during business hours (or
5 0.6 times per day when removing retweets) and, thus, even when considered in the aggregate over
6 the course of the election, this might result in a *de minimis* amount of time. Additionally, as
7 Respondents note, other individuals, besides Piasecki, may have been responsible for these
8 tweets. Accordingly, given the resource-intensive process that would be involved in identifying
9 the authors of the tweets and determining which were attributable to Piasecki, and in light of the
10 limited number of tweets which could be potentially attributed to Piasecki, it does not appear to
11 be a prudent use of the Commission’s resources to pursue this matter. In addition, Putzova was a
12 first-time federal candidate³⁸ running a non-sophisticated and low-dollar amount campaign³⁹ in
13 which she lost in the primary election.⁴⁰

³⁷ Piasecki Decl. ¶ 3.

³⁸ Putzova was previously elected to the Flagstaff City Council in November 2014 and served a four-year term. <https://evaforcongress.com/about-1/> (last accessed Sept. 3, 2020).

³⁹ See Eva Putzova for Congress, Amended 12-Day Pre-Primary Rpt. at 3 (Aug. 28, 2020) (reporting total contributions of \$367,557 for the 2020 election cycle).

⁴⁰ See, e.g., First General Counsel’s Rpt. at 6, 8, 10, MUR 6840 (All Citizens for Mississippi) (recommending dismissal with caution regarding failure to include a proper disclaimer, dismissal regarding failure to file an independent expenditure report, and dismissal with caution regarding in-kind contribution through republication where advertisement contained a partial disclaimer, the cost of the advertisement was minimal and subsequently reported, and the campaign materials were only one quarter portion of the advertisement’s overall content, and where the activity involved a first-time political committee with individuals inexperienced in federal campaign finance laws); Certification, MUR 6840 at 1-2 (Nov. 23, 2015) (dismissing violations); EPS Dismissal Report at 1-2, MUR 7012 (Mike Sweeney 4 Congress) (recommending dismissal regarding failure to include proper disclaimers on brochures and yard signs by a first-time, low-budget candidate who acted unintentionally); Certification, MUR 7012 at 1 (Nov. 28, 2016) (dismissing violations); First General Counsel’s Rpt. at 2, MUR 7643 (America Progress Now) (recommending dismissal with caution regarding failure to include proper disclaimers and file an independent expenditure report where respondent alleged that errors were due to inexperience, amounts were small, and intended to take remedial action); Certification, MUR 7643 at 2 (July 6, 2020) (dismissing allegations); Second General Counsel’s Rpt. at 2, MURs 6486 and 6491 (Mark Hicks and JW Management) (recommending that the Commission take no further action after investigation showed that an inexperienced and elderly respondent spent \$10,500 on two

1 Therefore, the Commission dismisses the allegations that ROC United made, and Putzova,
2 Piasecki, and Eva Putzova for Congress knowingly accepted and received, in-kind corporate
3 contributions, in violation of 52 U.S.C. § 30118(a), in connection with Piasecki's salary, as a
4 matter of prosecutorial discretion.⁴¹

billboards and failed to report independent expenditures); Certification, MURs 6486 and 6491 at 1 (Dec. 6, 2012) (taking no further action).

⁴¹ *See Heckler v. Chaney*, 470 U.S. 821 (1985).