

FEDERAL ELECTION COMMISSION

FIRST GENERAL COUNSEL'S REPORT

MUR: 7731

DATE COMPLAINT FILED: April 28, 2020

DATE OF NOTIFICATION: May 4, 2020

LAST RESPONSE RECEIVED: August 3, 2020

DATE ACTIVATED: August 20, 2020

EARLIEST SOL: February 12, 2025

LATEST SOL: February 13, 2025

ELECTION CYCLE: 2020

COMPLAINANT:

Kurt B. Sweeney, c/o Hughes for Congress 2020

RESPONDENTS:

Fischbach for Congress

and Paul Kilgore in his official capacity as
treasurer

Michelle Fischbach

Minnesota Citizens Concerned For Life, Inc.

Federal PAC and Catherine Blaeser in her official
capacity as treasurer

National Right to Life Victory Fund

and Wayne Cockfield in his official capacity as
treasurer

Scott Fischbach

Darla St. Martin

**RELEVANT STATUTES
AND REGULATIONS:**

52 U.S.C. § 30104(b)

52 U.S.C. § 30116(a)

52 U.S.C. § 30116(f)

52 U.S.C. § 30118(a)

11 C.F.R. § 109.20

11 C.F.R. § 109.21

INTERNAL REPORTS CHECKED:

Disclosure reports

FEDERAL AGENCIES CHECKED:

None

I. INTRODUCTION

The Complaint alleges that Michelle Fischbach and Fischbach for Congress ("Fischbach Committee") coordinated communications with Minnesota Citizens Concerned For Life, Inc. Federal PAC and Catherine Blaeser in her official capacity as treasurer ("MCCL PAC") and National Right to Life Victory Fund and Wayne Cockfield in his official capacity as treasurer

1 (“NRLVF”), based on the positions Fischbach’s husband and mother held in related
2 organizations at the time of the communications: Fischbach’s husband served as Executive
3 Director of Minnesota Citizens Concerned For Life, Inc. (“MCCL, Inc.”) and Fischbach’s
4 mother served as Co-Executive Director of National Right to Life Committee (“NRLC”).¹ The
5 Complaint also alleges that Fischbach’s employment by “National Right to Life” as recently as
6 December 2019 further supports a coordination finding. Based on these factors, the Complaint
7 alleges that expenditures for the communications totaling \$23,397.42 reported by MCCL PAC
8 and NRLVF on February 12 and 13, 2020, as independent expenditures were in fact coordinated
9 communications that constitute illegal in-kind contributions to Fischbach and the Fischbach
10 Committee.²

11 Fischbach, the Fischbach Committee, MCCL PAC, and NRLVF respond that familial
12 relationships alone do not support a coordination finding, and MCCL PAC and NRLVF state
13 they used firewalls to prevent activity that might satisfy the conduct prong of the Commission’s
14 coordinated communication regulations.

15 For the reasons set forth below, we recommend that the Commission dismiss the
16 allegations that MCCL PAC violated 52 U.S.C. §§ 30116(a) and 30104(b), that NRLVF violated
17 52 U.S.C. §§ 30116(a) and 30118(a), that the Fischbach Committee violated 52 U.S.C. 30104(b),
18 §§ 30116(f), and 30118(a) and that Michelle Fischbach violated 52 U.S.C. § 30116(f). We also
19 recommend that the Commission dismiss the allegations that respondents Scott Fischbach and
20 Darla St. Martin violated the Federal Election Campaign Act of 1971, as amended (the “Act”) in
21 this matter. Finally, we recommend that the Commission close the file in this matter.

¹ Compl. at 1-2, 4 (April 28, 2020).

² *Id.* at 3-4.

II. FACTS

Michelle Fischbach was a 2020 candidate for the U.S. House of Representatives in Minnesota's Seventh Congressional District.³ Fischbach for Congress is her principal campaign committee.⁴ MCCL PAC is registered with the Commission as a separate segregated fund ("SSF") of Minnesota Citizens Concerned For Life, Inc.⁵ NRLVF is registered with the Commission as an independent expenditure-only political committee ("IEOPC"), and is associated with the National Right to Life Committee, a nationwide federation of state affiliates and local chapters.⁶

MCCL PAC and NRLVF each filed a 48-Hour Report of independent expenditures in identical amounts of \$11,698.71 with public distribution dates of February 12 and February 13, 2020, respectively, for "IE-Fischbach-Direct Mail" (MCCL PAC) and "IE-Fischbach, Michelle-Direct Mail" (NRLVF).⁷

The Complaint alleges that these communications were coordinated with Fischbach and the Fischbach Committee, and thus Fischbach received as contributions the organizations' spending on these communications, based on their employment of her husband and mother,

³ Fischbach won the Republican primary for the U.S. House of Representatives in Minnesota's Seventh Congressional District on August 11, 2020, and won the general election on November 3, 2020. Fischbach filed her Statement of Candidacy on September 2, 2019. See FEC Form 2, Michelle Fischbach, Statement of Candidacy (Sept. 2, 2019), <https://docquery.fec.gov/pdf/800/201909029163123800/201909029163123800.pdf>.

⁴ The Fischbach Committee filed its Statement of Organization on September 2, 2019. See FEC Form 1, Fischbach for Congress (Sept. 2, 2019), <https://docquery.fec.gov/pdf/801/201909029163123801/201909029163123801.pdf>.

⁵ FEC Form 1, Minn. Citizens Concerned for Life, Inc. Federal PAC, Amended Statement of Organization at 2 (Oct. 8, 2020), <https://docquery.fec.gov/pdf/227/202010089285062227/202010089285062227.pdf>.

⁶ *About the Victory Fund*, National Right to Life Victory Fund, <https://www.nrlvictoryfund.org/> (last visited December 16, 2020).

⁷ See <https://docquery.fec.gov/cgi-bin/fecimg/?202002139186502046> and <https://docquery.fec.gov/cgi-bin/fecimg/?202002149186504307>.

1 respectively, and by Fischbach's own employment by "National Right to Life."⁸ Specifically,
 2 the Complaint alleges that MCCL PAC employed Fischbach's husband, Scott Fischbach, as
 3 Executive Director at the time it made its \$11,698.71 expenditure supporting Fischbach.⁹ The
 4 Complaint further alleges that NRLVF employed Fischbach's mother, Darla St. Martin, as Co-
 5 Executive Director at the time it made its \$11,698.71 expenditure supporting Fischbach.¹⁰
 6 According to the MCCL PAC and NRLVF Response ("PAC/Fund Response"), Scott Fischbach
 7 was Executive Director of MCCL, Inc., an associated but separate entity from MCCL PAC, and
 8 St. Martin was Co-Executive Director of NRLC, associated with, but a separate entity from,
 9 NRLVF.¹¹

10 The Complaint also asserts that Fischbach received a \$36,000 salary from "National
 11 Right to Life" in 2018, and a \$24,000 salary from "National Right to Life" in 2019, and alleges
 12 that Fischbach received her salary "potentially as recent as December 31, 2019."¹² The
 13 Complaint argues that it is "inconceivable" that Michelle Fischbach did not coordinate with, or
 14 was not made aware of, either her husband or mother's intended or actual independent
 15 expenditure-related activity, and, combined with Fischbach's prior relationship with "National
 16 Right to Life" and the short time frame between the organization's salary payments to her and

⁸ Compl. at 1, 5 (April 28, 2020). The Complaint was signed "Kurt B. Sweeney, Attorney, c/o Hughes for Congress 2020," and listed a post office box address of Ada, OK. *Id.* at 1, 5. David Hughes, whose principal campaign committee is "Hughes for Congress," was a House candidate in Minnesota's Seventh Congressional District, and lost in the August 11, 2020, Republican primary to Michelle Fischbach. *See* FEC Form 2, David Russell Hughes, Amended Statement of Candidacy (Feb. 19, 2019), <https://docquery.fec.gov/pdf/243/201902199145526243/201902199145526243.pdf>. There is no committee currently registered with the FEC under the name "Hughes for Congress 2020."

⁹ Compl. at 1-2.

¹⁰ *Id.*

¹¹ MCCL PAC and NRLVF Resp. at 2-3 (Aug. 21, 2020) ("PAC/Fund Resp.").

¹² Compl. at 3-4.

the dates of the communications, argues that it is “most likely” that Fischbach was “made very well aware” of the intended independent expenditures from MCCL PAC and NRLVF.¹³ The Complaint asserts that Fischbach and the Fischbach Committee coordinated the communications and thus violated the Act and Commission regulations.¹⁴

Respondents contend that none of the facts offered in the Complaint points to a violation of the Act and Commission regulations.¹⁵ Respondents assert that there is no basis for liability by virtue of Fischbach’s marriage to her husband and relationship to her mother, as neither marriage nor other close familial relationships alone establish coordination under the Commission’s coordinated communications test.¹⁶

The PAC/Fund Response describes the processes of each organization’s endorsement of Fischbach and the expenditure for a mailing supporting her.¹⁷ It further asserts that NRLVF and MCCL PAC took affirmative steps to avoid coordinating communications with Fischbach’s campaign.¹⁸ They state that both MCCL, Inc. and NRLC set up “firewalls” between Fischbach’s husband and mother and the organizations’ federal campaign activity in Minnesota, and provide sworn declarations from five individuals connected to NRLC and NRLVF and MCCL, Inc. and MCCL PAC asserting that there was no coordination regarding the

¹³ *Id.* at 4.

¹⁴ *Id.*

¹⁵ Michelle Fischbach and Fischbach Committee Resp. at 1-2 (June 17, 2020) (“Fischbach Resp.”); PAC/Fund Resp. at 3. Neither Fischbach’s husband nor mother filed responses.

¹⁶ Fischbach Resp. at 2-3; PAC/Fund Resp. at 2-3.

¹⁷ PAC/Fund Resp. at 5-7. The PAC/Fund Response further states that at no time was there any communication or contact with Fischbach, the Fischbach Committee, Scott Fischbach, or Darla St. Martin during each organization’s processes leading to the endorsements of Fischbach. *Id.* at 4-7.

¹⁸ *Id.* at 3.

1 mailers.¹⁹ For example, the declaration of Karen Cross, Political Director for NRLC, avers that
 2 at no time did she have any discussion, directly or indirectly, with Scott Fischbach, Darla St.
 3 Martin, Michelle Fischbach, or any agent of her campaign about the direct mail piece at issue.²⁰
 4 In addition, the declaration of Leo LaLonde, President of MCCL, states that in August 2019,
 5 MCCL's Legislative Director drafted, and LaLonde approved and circulated, a Memorandum
 6 that excluded Scott Fischbach from any MCCL PAC activities and reminded all MCCL and
 7 MCCL PAC personnel that special caution should be taken to ensure that Scott Fischbach not be
 8 involved in any conversations regarding endorsement and/or expenditures in the Minnesota
 9 Seventh Congressional District race.²¹

10 The PAC/Fund Response also states that Fischbach had been paid a salary from NRLC in
 11 2018 and 2019 as the Director/Coordinator of the annual national oratory and essay contests, but
 12 that she resigned from that position effective August 31, 2019, and that Scott Fischbach assumed
 13 those positions effective September 1, the day before Fischbach filed her Statement of
 14 Candidacy.²²

¹⁹ *Id.* at 3-7; *see* Karen Cross Decl. ¶¶ 5, 6, 9-14, 17, 21 (July 30, 2020) (Political Dir., Nat'l Right to Life Comm.); Leo LaLonde Decl. ¶¶ 6-8, 13, 15, 17, 21 (July 31, 2020) (Pres., Minn. Citizens Concerned for Life); David O'Steen Decl. ¶¶ 6, 7 (Aug. 3, 2020) (Exec. Dir., Nat'l Right to Life Comm., Inc.); Jacki Ragan Decl. ¶¶ 4-5, 9 (July 31, 2020) (Dir. of State Org. Dev., Nat'l Right to Life Comm.); Paul Stark Decl. ¶¶ 4, 6 (July 30, 2020) (Commc'ns Dir., Minn. Citizens Concerned for Life).

²⁰ *See* Karen Cross Decl. ¶ 21.

²¹ *See* Leo LaLonde Decl. ¶¶ 6-7.

²² PAC/Fund Resp. at 2 n.4, *see also* David O'Steen Decl. ¶ 4; Fischbach Resp. at 2 n.5, n.8 (asserting Fischbach ended her employment with NRLC in August 2019 and has not had any involvement with NRLVF since 1996).

1 **III. LEGAL ANALYSIS**

2 The Act defines the terms “contribution” and “expenditure” to include “anything of
 3 value” made by any person for the purpose of influencing an election.²³ The term “anything of
 4 value” includes in-kind contributions.²⁴ In-kind contributions result when goods or services are
 5 provided without charge or at less than the usual and normal charge,²⁵ and when a person makes
 6 an expenditure in cooperation, consultation or in concert with, or at the request or suggestion of a
 7 candidate or the candidate’s authorized committee or their agents.²⁶

8 Under the Act, “coordinated” means made in cooperation, consultation or concert with,
 9 or at the request or suggestion of, a candidate, a candidate’s authorized committee, or a political
 10 party committee.²⁷ For purposes of this definition, any reference to a candidate, a candidate’s
 11 authorized committee, or a political party committee includes an agent thereof.²⁸ Any
 12 expenditure that is coordinated is an in-kind contribution to the candidate or committee with
 13 which it is coordinated.²⁹

14 Under Commission regulations, expenditures for “coordinated communications” are
 15 addressed under a three-prong test at 11 C.F.R. § 109.21.³⁰ Specifically, a communication is
 16 coordinated and treated as an in-kind contribution when: (1) it is paid for by someone other than

²³ 52 U.S.C §§ 30101(8)(A)(i), 30101(9)(A)(i).

²⁴ 11 C.F.R. § 100.52(d).

²⁵ *Id.*

²⁶ 52 U.S.C. § 30116(a)(7)(B); 11 C.F.R. § 109.20; *see also Buckley v. Valeo*, 424 U.S. 1, 46-47 (1976).

²⁷ *See* 52 U.S.C. § 30116(a)(7)(B)(i); 11 C.F.R. § 109.20(a).

²⁸ 11 C.F.R. § 109.20(a).

²⁹ *See* 52 U.S.C. § 30116(a)(7)(B)(i)-(ii); *see also* 11 C.F.R. §§ 109.20, 109.21(b).

³⁰ 11 C.F.R. § 109.20(a); *see also* 52 U.S.C. § 30116(a)(7)(B)(i).

1 a candidate, a candidate's authorized committee, a political party committee, or the authorized
 2 agents of either (the "payment prong"); (2) it satisfies one of five content standards (the "content
 3 prong"); and (3) it satisfies one of five conduct standards (the "conduct prong").³¹ A
 4 communication must satisfy all three prongs to be considered coordinated.³²

5 No multicandidate political committee shall make contributions to any candidate or his or
 6 her authorized committee with respect to any election for Federal office that in the aggregate
 7 exceed \$5,000.³³ No candidate or political committee shall knowingly accept any contribution
 8 or make any expenditure in violation of the provisions of 52 U.S.C. § 30116.³⁴ The Act requires
 9 committee treasurers to file reports of receipts and disbursements in accordance with the
 10 provisions of 52 U.S.C. § 30104, and the reports must include, *inter alia*, the total amount of
 11 receipts and disbursements, including the appropriate itemizations, where required.³⁵

12 Additionally, IEOPCs are prohibited from making contributions to federal candidates,³⁶
 13 and candidates and their authorized committees are prohibited from accepting contributions not
 14 subject to the limits and prohibitions of the Act.³⁷

³¹ 11 C.F.R. § 109.21(a); *see also id.* § 109.21(b) (describing in-kind treatment and reporting of coordinated communications); *id.* §§ 109.21(c), (d) (describing content and conduct standards, respectively). A sixth conduct standard describes how the other conduct standards apply when a communication republishes campaign materials. *See id.* § 109.21(d)(6).

³² *See* 11 C.F.R. § 109.21; *see also* Explanation and Justification, *Coordinated and Independent Expenditures*, 68 Fed. Reg. 421, 453 (Jan. 3, 2003) ("2003 Coordination E&J").

³³ *See* 52 U.S.C. § 30116(a)(2)(A).

³⁴ *See id.* § 30116(f).

³⁵ *Id.* § 30104(a)(1), 30104(b); 11 C.F.R. § 104.3.

³⁶ *See* 52 U.S.C. § 30116(a) (prohibition on excessive contributions); *id.* § 30118(a) (prohibition on corporate contributions); Advisory Op. 2010-11 (Commonsense Ten).

³⁷ *See* 52 U.S.C. § 30125(e)(1).

1 MCCL PAC, a multicandidate political committee, and NRLVF, an IEOPC, disclosed
 2 independent expenditures in support of Fischbach, and thereby appear to have satisfied the
 3 payment and content prongs of the coordination test.³⁸ As to the conduct prong, the Complaint's
 4 allegation that the communications were coordinated is based on Fischbach's relationship with
 5 her mother and husband, who were employed by entities that both endorsed Fischbach and were
 6 associated with the entities that paid for a mailer supporting Fischbach, as well as Fischbach's
 7 previous employment with NRLC.³⁹ Under the Commission's regulations, the conduct prong
 8 may be satisfied when, among other things, a candidate or her authorized committee, including
 9 an agent thereof, is materially involved in decisions regarding a communication or a
 10 communication is made after substantial discussion about the communication with a candidate or
 11 her authorized committee.⁴⁰ A candidate is "materially involved" in decisions if she conveys
 12 approval or disapproval of the third party payor's plans.⁴¹ Under the Commission's regulations,
 13 any person who has actual authority, either express or implied, to engage in activities on behalf
 14 of a Federal candidate that would satisfy the conduct standard of § 109.21's coordination test is
 15 considered an agent of that candidate.⁴²

³⁸ See *id.* § 30101(17) ("independent expenditure" defined in part as an expenditure expressly advocating the election or defeat of a clearly identified candidate); 11 C.F.R. § 109.21(c)(3) (express advocacy content standard); see also Factual & Legal Analysis ("F&LA") at 13, MUR 6888 (Republican Nat'l Comm.).

³⁹ See Compl. at 1-4.

⁴⁰ 11 C.F.R. § 109.21(d)(2), (3). Material involvement occurs when a candidate, authorized committee, or political party committee is materially involved in decisions regarding: (i) the content of the communication; (ii) the intended audience for the communication; (iii) the means or mode of the communication; (iv) the specific media outlet used for the communication; (v) the timing or frequency of the communication; or (vi) the size or prominence of a printed communication, or duration of a communication by means of broadcast, cable, or satellite. *Id.* § 109.21(d)(2).

⁴¹ See 2003 Coordination E&J, 68 Fed. Reg. at 434. A discussion is "substantial" if information about the plans, projects, or needs of the candidate is conveyed to a person paying for the communication and that information is material to the creation, production, or distribution of the communication. *Id.*

⁴² See 11 C.F.R. 109.3(b) (defining "agent"); see also 2003 Coordination E&J, 68 Fed. Reg. at 423-24.

Here, the Complaint does not identify any specific conduct by the parties indicating that they shared information about the Fischbach's campaign's plans, projects, activities, or needs. Rather, the Complaint bases its coordination allegation on Fischbach's familial relationships and employment history.⁴³ The Commission has previously considered family relationships and found that the existence of a close family relationship, standing alone, does not satisfy the conduct standard, although it has not specifically considered a spousal relationship, and there are important reasons to weigh that relationship differently than a parent-child or sibling relationship.⁴⁴ In the instant case, however, the available information does not reveal conduct by Fischbach, her family, the Fischbach Committee, NRLVF, or MCCL PAC that would satisfy the coordinated communications test.

Conversely, the available information — most notably, the declarations attached to the PAC/Fund Response and the firewall policies implemented by NRLC, NRLVF, MCCL Inc., and MCCL PAC⁴⁵ — suggests that the Respondents took steps to shield Darla St. Martin and Scott

⁴³ The Complaint cites Commission regulations regarding agents of committees, but does not specifically allege that Scott Fischbach or Darla St. Martin acted as agents of the Fischbach Committee. *See* Compl. at 2. Furthermore, based on the limited information available, there is not enough here to indicate that Darla St. Martin and Scott Fischbach are, or were, agents of the campaign.

⁴⁴ *See* FEC Advisory Op. 2003-10 (Reid) (father-son relationship alone is insufficient to create an agency relationship); F&LA at 4-5, MUR 7067 (Murphy) (finding no reason to believe where the father of a federal candidate and a family owned business contributed \$450,000 and \$300,000, respectively, to an IEOPC that supported the candidate); F&LA at 5-9, MUR 6668 (Chen) (finding no reason to believe where the brother of a federal candidate provided \$765,000 of the \$1,115,000 received by an IEOPC that supported the candidate). *But see* MUR 7139 (Maryland USA) First Gen. Counsel's Rpt at 13-14, 17-18 (Recommending reason to believe regarding coordination allegation where candidate's husband held official campaign positions early in wife's campaign, and was major source of funds for an IEOPC that made expenditures to support only his wife). The Fischbach Response cites to MUR 6277 (Kirkland for Congress) as an example of the Commission rejecting a coordination finding based on a family relationship, although in that case, the Commission was unable to agree on findings. *See* Fischbach Resp. at 2, n.6; Commission Certification at ¶¶ 1-2, MUR 6277 (Kirkland for Congress) (Dec. 3, 2010).

⁴⁵ Under the Commission's regulations, the conduct standard for coordination is not met if a commercial vendor, former employee or political committee establishes a "firewall" to prohibit the flow of information between employees or consultants of the person paying for the communication and employees or consultants currently or previously providing services to the candidate who is clearly identified in the communication or an opponent of the candidate mentioned in the communication. The firewall must be described in a written policy that is distributed to

1 Fischbach from decision-making processes with regard to election activity and independent
 2 expenditures, and employed measures to safeguard against activity that would satisfy the conduct
 3 prong of the Commission's coordinated communications test.⁴⁶ It is true that the record does not
 4 include declarations from Fischbach, her husband, or her mother, and the declarations in the
 5 record do not entirely foreclose the possibility that Fischbach Committee personnel or other
 6 agents of Fischbach could have communicated with NRLC, NRLVF, MCCL Inc., or MCCL
 7 PAC. However, we have no information suggesting that such communications occurred. Thus,
 8 the available information does not suggest that Fischbach or the Fischbach Committee were
 9 materially involved in decisions regarding the communication or that St. Martin or Scott
 10 Fischbach engaged in any activities on behalf of Michelle Fischbach or the Fischbach Committee
 11 that would satisfy the conduct prong.

12 Regarding Fischbach's former employment by NRLC, the Complaint does not allege any
 13 specific conduct by the parties that they shared information about the Fischbach Committee's
 14 plans, projects, activities, or needs. Rather, the Complaint appears to base its coordination
 15 allegation on the timing of Fischbach's reported salary payment from NLRC and the dates of the
 16 NRLVF communication, alleging that Fischbach's previous employment with NRLC may have
 17 continued until December 2019, shortly before the February 2020 communications.⁴⁷ However,

all relevant employees, consultants and clients affected by the policy. *See* 11 C.F.R. § 109.21(h); *see also* Leo LaLonde Decl. ¶¶ 6-7, 13, Ex. 1-3; David O'Steen Decl. ¶¶ 6-7, Ex. 3.

⁴⁶ We also note that St. Martin and Scott Fischbach were employed by entities that are separate from the entities that paid for the communications: St. Martin was employed by NRLC, a separate entity from NRLVF, and Scott Fischbach was employed by MCCL, Inc., a separate entity from MCCL PAC.

⁴⁷ *See* Compl. at 3-4. We also considered whether the Complaint generally alleged that the "former employee" conduct standard was implicated by Fischbach's former employment by NRLC. Under the Commission's regulations, the conduct prong may be satisfied where the payor employed a former employee or independent contractor of the candidate who used or conveyed material information about the campaign's plans, projects, activities or needs, or used material information gained from past work with the candidate to create, produce, or distribute the communication. *See* 11 C.F.R. § 109.21(d)(5)(i). Here, Fischbach stopped working for the organization that is affiliated with the payor to become a federal candidate, and the former employer later paid

a sworn declaration provided by Respondents indicates that Fischbach left her position as the coordinator of NRLC's annual national oratory and essay contests on August 31, 2019, more than five months before the mailers were disseminated.⁴⁸ Thus, under the specific facts of this case, the available information does not support a reasonable inference that the conduct prong was satisfied.

Accordingly, we recommend that in connection with the alleged coordinated communications, the Commission dismiss the allegations that Minnesota Citizens Concerned For Life, Inc. Federal PAC and Catherine Blaeser in her official capacity as treasurer violated 52 U.S.C. §§ 30116(a) and 30104(b), that National Right to Life Victory Fund and Wayne Cockfield in his official capacity as treasurer violated 52 U.S.C. §§ 30116(a) and 30118(a), that Fischbach for Congress and Paul Kilgore in his official capacity as treasurer violated 52 U.S.C. §§ 30104(b), 30116(f), and 30118(a) and that Michelle Fischbach violated 52 U.S.C. § 30116(f). We also recommend that the Commission dismiss the allegations that Respondents Scott Fischbach and Darla St. Martin violated the Act in this matter. Finally, we recommend that the Commission close the file.

IV. RECOMMENDATIONS

1. Dismiss the allegation that Minnesota Citizens Concerned For Life, Inc. Federal PAC and Catherine Blaeser in her official capacity as treasurer violated 52 U.S.C. §§ 30116(a) and 30104(b) by making and failing to report an in-kind contribution in the form of coordinated communications;
2. Dismiss the allegation that National Right to Life Victory Fund and Wayne Cockfield in his official capacity as treasurer violated 52 U.S.C. §§ 30116(a) and 30118(a) by making an in-kind contribution in the form of coordinated communications;

for the communications. The former employee conduct standard, however, applies to a situation in which a former employee of the candidate subsequently becomes employed by the payor, or is the payor. Thus, by its terms, the former employee standard does not apply.

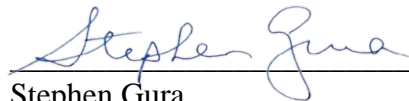
⁴⁸ David O'Steen Decl. ¶ 4; *see also* Fischbach Resp. at 2 nn.5, 8.


3. Dismiss the allegation that Fischbach for Congress and Paul Kilgore in his official capacity as treasurer violated 52 U.S.C. §§ 30104(b), 30116(f), and 30118(a) by receiving and failing to report in-kind contributions in the form of coordinated communications;
4. Dismiss the allegation that Michelle Fischbach violated 52 U.S.C. § 30116(f) by receiving excessive in-kind contributions in the form of coordinated communications;
5. Dismiss the allegation that Respondents Scott Fischbach and Darla St. Martin violated the Act in this matter;
6. Approve the attached Factual and Legal Analysis;
7. Approve the appropriate letters; and
8. Close the file.


Lisa J. Stevenson
Acting General Counsel

Charles Kitcher
Acting Associate General Counsel for Enforcement

12.18.20
Date


Stephen Gura
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