



FEDERAL ELECTION COMMISSION
Washington, DC 20463

VIA ELECTRONIC AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED

taylor@tomahawkstrategies.com

April 29, 2022

Kurt B. Sweeney, Attorney
c/o Hughes for Congress 2020
PO Box 190
Ada, OK 74820

RE: MUR 7731

Dear Mr. Sweeney:

The Federal Election Commission reviewed the allegations in your complaint received April 28, 2020. On April 13, 2022, based on the information provided in the complaint, and information provided by respondents, the Commission decided to exercise its prosecutorial discretion to dismiss the allegations as to 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, and Darla St. Martin. Accordingly, on April 13, 2022, the Commission closed the file in this matter. A copy of 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. If you have any questions, please contact Don Campbell, the attorney assigned to this matter, at (202) 694-1650.

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).

Sincerely,

Lisa J. Stevenson
Acting General Counsel

Roy Q. Luckett

BY: Roy Q. Luckett
Acting Assistant General Counsel

Enclosure
General Counsel's Report

BEFORE THE FEDERAL ELECTION COMMISSION
ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT

MUR: 7731

Respondents: Fischbach for Congress and
Paul Kilgore in his official
capacity as treasurer¹

Complaint Receipt Date: Apr. 28, 2020

Michelle Fischbach

Response Dates: June 17, 2020, Aug. 21, 2020

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

EPS Rating:

**Alleged Statutory and
Regulatory Violations:**

**52 U.S.C. §§ 30104(b); 30116(a), (f); 30118(a)
11 C.F.R. §§ 104.3; 110.1; 110.9**

The Complaint alleges that Michelle Fischbach and Fischbach for Congress (the “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 (“NRLVF”), resulting in unreported and prohibited in-kind contributions. The allegations are based on the positions Fischbach’s husband and mother allegedly held in those organizations at the time of the communications.² Specifically, according to the Complaint, Fischbach’s husband Scott Fischbach served as Executive Director of MCCL PAC and Fischbach’s mother Darla St. Martin

¹ Michelle Fischbach was a 2020 candidate for the U.S. House of Representatives in Minnesota’s Seventh Congressional District. Fischbach for Congress is her principal campaign committee.

² Compl. at 1-2 (April 28, 2020).

MUR 7731 (Fischbach for Congress, *et al.*)

EPS Dismissal Report

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served as Co-Executive Director of NRLVF.³ Based on these factors, the Complaint alleges reported independent expenditures totaling \$23,397.42 by MCCL PAC and NRLVF on February 12 and 13, 2020, were in fact coordinated communications that constitute unreported and prohibited in-kind contributions to Fischbach and the Fischbach Committee.⁴

In their Responses, Fischbach, the Fischbach Committee, MCCL PAC, and NRLVF assert that familial relationships alone do not support a coordination finding.⁵ The PAC/Fund Response further asserts that NRLVF and MCCL PAC took affirmative steps to avoid coordinating communications with Fischbach's campaign,⁶ stating that both MCCL, Inc. and NRLC set up "firewalls" between Fischbach's husband and mother and the organizations' federal campaign activity in Minnesota.⁷

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

³ Compl. at 1-2, 4. MCCL PAC is registered with the Commission as a separate segregated fund ("SSF") of Minnesota Citizens Concerned For Life, Inc. FEC Form 1, Minn. Citizens Concerned for Life, Inc. Federal PAC, Amended Statement of Organization at 2 (Oct. 8, 2020). 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. *About the Victory Fund*, National Right to Life Victory Fund, <https://www.nrlvictoryfund.org/> (last visited December 16, 2020). According to the MCCL PAC/NRLVF Response, Scott Fischbach was Executive Director of Minnesota Citizens Concerned For Life, Inc., and St. Martin was Co-Executive Director of National Right to Life Committee. MCCL PAC and NRLVF Resp. at 3 (Aug. 21, 2020) ("PAC/Fund Resp.").

⁴ Compl. at 3-4. 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). <https://docquery.fec.gov/cgi-bin/fecimg/?202002139186502046> and <https://docquery.fec.gov/cgi-bin/fecimg/?202002149186504307>.

⁵ Michelle Fischbach and Fischbach Committee Resp. at 2-3 (June 17, 2020) ("Fischbach Resp."); PAC/Fund Resp. at 2-3).

⁶ PAC/Fund Resp. at 3.

⁷ The MCCL PAC/NRLVF Response provides sworn declarations from five individuals connected to National Right to Life Committee and NRLVF and Minnesota Citizens Concerned For Life, Inc. and MCCL PAC asserting that there was no coordination regarding the mailers. *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).

1 assess whether particular matters warrant further administrative enforcement proceedings. These
 2 criteria include (1) the gravity of the alleged violation, taking into account both the type of activity
 3 and the amount in violation; (2) the apparent impact the alleged violation may have had on the
 4 electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in
 5 potential violations and other developments in the law. This matter is rated as low priority for
 6 Commission action after application of these pre-established criteria. Given that low rating and the
 7 low dollar amount at issue, we recommend that the Commission dismiss the Complaint consistent
 8 with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and
 9 use of agency resources.⁸ We also recommend that the Commission close the file and send the
 10 appropriate letters.

12 Lisa J. Stevenson
 13 Acting General Counsel

15 Charles Kitcher
 16 Associate General Counsel

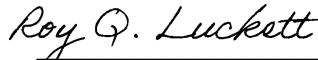
18 March 31, 2022

20 Date

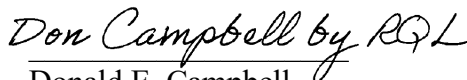
BY:



Claudio J. Pavia
 Acting Deputy Associate General Counsel
 for Enforcement



Roy Q. Luckett
 Acting Assistant General Counsel



Donald E. Campbell
 Attorney

⁸ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).