



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

**BY EMAIL ONLY**

April 29, 2022

[cwinkelman@hvjt.law](mailto:cwinkelman@hvjt.law)

Chris Winkelman

Caleb J. Hays

Holtzman Vogel Josefiak Torchinsky, PLLC

2300 N Street NW, Ste 643A

Washington, DC 20037

RE: MUR 7731  
Fischbach for Congress  
and Paul Kilgore in his official  
capacity as treasurer  
Michelle Fischbach

Dear Messrs. Winkelman and Hays:

On August 10, 2021, the Federal Election Commission ("Commission") notified your clients, Fischbach for Congress and Paul Kilgore in his official capacity as treasurer and Michelle Fischbach 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 April 13, 2022, decided to exercise its prosecutorial discretion and voted to dismiss this matter. The Commission then closed its file in this matter. The General Counsel's Report, which more fully explains the Commission's decision, is 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 Don Campbell, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Lisa J. Stevenson  
Acting General Counsel

A handwritten signature in cursive script that reads "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 treasurer<sup>1</sup>

**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.<sup>2</sup> Specifically, according to the Complaint, Fischbach’s husband Scott Fischbach served as Executive Director of MCCL PAC and Fischbach’s mother Darla St. Martin

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<sup>1</sup> 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.

<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup>

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

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

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<sup>3</sup> 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.").

<sup>4</sup> 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>.

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

<sup>6</sup> PAC/Fund Resp. at 3.

<sup>7</sup> 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.<sup>8</sup> We also recommend that the Commission close the file and send the  
10 appropriate letters.

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19 March 31, 2022

20 Date

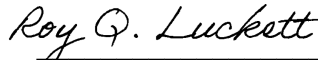
Lisa J. Stevenson  
Acting General Counsel

Charles Kitcher  
Associate General Counsel

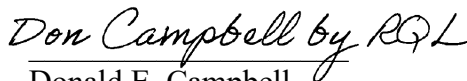
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BY:



Claudio J. Pavia  
Acting Deputy Associate General Counsel  
for Enforcement



Roy Q. Luckett  
Acting Assistant General Counsel



Donald E. Campbell  
Attorney

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