

**FEDERAL ELECTION COMMISSION**  
**FIRST GENERAL COUNSEL’S REPORT**

**MUR 7743**

DATE COMPLAINT FILED: May 29, 2020  
DATE OF NOTIFICATIONS: June 3, 2020  
DATE OF LAST RESPONSE: June 17, 2020  
DATE ACTIVATED: Mar. 12, 2021

EXPIRATION OF SOL: Mar. 31, 2025  
ELECTION CYCLE: 2020

**COMPLAINANT:**

Justin M. Arney

**RESPONDENTS:**

Beth for Congress and Bradley T. Crate in his  
official capacity as treasurer  
Beth Parlato  
Anthony Parlato

**RELEVANT STATUTES  
AND REGULATIONS:**

52 U.S.C. § 30104(b)(3)(E)  
52 U.S.C. § 30116(a), (f)  
11 C.F.R. § 104.3(d)(4)

**INTERNAL REPORTS CHECKED:**

Disclosure Reports

**FEDERAL AGENCIES CHECKED:**

None

**I. INTRODUCTION**

The Complaint alleges that Beth for Congress and Bradley T. Crate in his official capacity as treasurer (the “Committee”), the principal campaign committee of 2020 congressional candidate Beth Parlato, violated the Federal Election Campaign Act of 1971, as amended (the “Act”), by misreporting a home equity line of credit (“HELOC”) that Parlato acquired from a lending institution and that her Committee reported as a personal loan.

Respondents acknowledge that the Committee initially misreported the HELOC. As such, we recommend that the Commission find reason to believe that the Committee violated 52 U.S.C. § 30104(b)(3)(E) and 11 C.F.R. § 104.3(d)(4) by misreporting the HELOC as a personal loan and authorize pre-probable cause conciliation with the Committee. We further

1 recommend that the Commission find no reason to believe as to Beth Parlato and, to the extent  
2 that the factual record indicates that Anthony Parlato, a co-holder of the HELOC, may have  
3 made an excessive contribution to the Committee in connection with the couple's acquisition of  
4 the loan, recommend that the Commission exercise its prosecutorial discretion and dismiss that  
5 potential violation.<sup>1</sup>

## 6 **II. FACTUAL BACKGROUND**

7 Beth Parlato was a candidate for Congress in New York's 27th Congressional District in  
8 2020.<sup>2</sup> Beth for Congress is her principal campaign committee.<sup>3</sup> On March 27, 2020, Parlato  
9 and her husband, Anthony Parlato, acquired a \$150,000 HELOC secured by a mortgage on their

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<sup>1</sup> The Complaint also contends that the HELOC is "alarming" because two high-level employees of Alden State Bank, the bank that issued the HELOC, were contributors to Beth Parlato's candidacy and because the Parlato's home was encumbered by a sizable mortgage as compared to its town tax assessment prior to the HELOC. *See* Compl. at 1 (May 29, 2020). These details, however, appear to be included to emphasize the importance Complainant places on the alleged reporting violation, not to allege a potential bank contribution. As a result, Alden State Bank has not been notified as a respondent. Further, to the extent that the Complaint could be read to allege a prohibited bank contribution, the available information is not sufficient to raise a reasonable inference that the bank officers utilized corporate resources to effect a fraudulent loan to the Committee. *See infra* n.39.

<sup>2</sup> Beth Parlato, Statement of Candidacy at 1 (July 26, 2019) (listing party affiliation as Republican). Parlato was a Republican and Conservative party candidate in the primary election. She lost the Republican primary election but continued her campaign in the general election as the Conservative party candidate. Beth Parlato, Amended Statement of Candidacy at 1 (July 7, 2020) (listing party affiliation as Conservative). Parlato ultimately withdrew her candidacy before the general election in order to run for a judicial seat in the New York Supreme Court's Second Judicial District. *See* NEW YORK STATE BOARD OF ELECTIONS CERTIFIED RESULTS FROM JUNE 23, 2020 PRIMARY ELECTION (Sept. 2, 2020) <https://www.elections.ny.gov/NYSBOE/Elections/2020/Primary/CertifiedJune232020StatePrimaryResults.pdf>; NEW YORK STATE BOARD OF ELECTIONS RESULTS FROM STATE SUPREME COURT JUDICIAL ELECTIONS, <https://www.elections.ny.gov/NYSBOE/elections/2020/General/2020SupremeCourt.xlsx> (last visited June 10, 2021); *see also* Matthew Spina, *Conservatives About to Unite Behind Jacobs, Remove Parlato from Ballot in 27th*, BUFFALO NEWS (Aug. 10, 2020), [https://buffalonews.com/news/local/government-and-politics/conservatives-about-to-unite-behind-jacobs-remove-parlato-from-ballot-in-27th/article\\_7b59e8fa-db39-11ea-be69-e72a10248767.html](https://buffalonews.com/news/local/government-and-politics/conservatives-about-to-unite-behind-jacobs-remove-parlato-from-ballot-in-27th/article_7b59e8fa-db39-11ea-be69-e72a10248767.html) (available in VBM).

<sup>3</sup> Beth for Congress, Statement of Organization at 2 (July 7, 2020).

1 residence.<sup>4</sup> On April 15, 2020, the Committee filed its original 2020 April Quarterly Report.<sup>5</sup>  
2 That report disclosed that Parlato had made a personal loan to her Committee for \$158,500 on  
3 March 31, 2020, and did not disclose any bank loans.<sup>6</sup>

4 The Complaint, relying primarily on loan documents recorded in Genesee County, New  
5 York, contends that the personal loan reported on the Committee's original April Quarterly  
6 Report was actually a HELOC from Alden State Bank, a community bank in Western New  
7 York,<sup>7</sup> and claims that the Committee violated the Act because it "misreported this loan,  
8 including the source, terms and due date of said loan."<sup>8</sup> In support of this allegation, the  
9 Complaint attaches the recorded copy of the March 27, 2020 HELOC.<sup>9</sup> The Complaint also  
10 states that the town of Darien, New York, assesses the Parlatos' residence for tax purposes at

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<sup>4</sup> Compl., Attach. 3 (attaching March 27, HELOC documents) (May 29, 2020); Resp. at 2-3 & Ex. A (June 17, 2020) (acknowledging HELOC and attaching related documentation). At the time that the Parlatos acquired the HELOC, the Parlato residence appeared to be encumbered by a \$719,000 consolidated mortgage that the Parlatos had jointly acquired in 2017. *See* Compl., Attach. 2 (attaching September 19, 2017 Mortgage Consolidation between Anthony and Beth Parlato and Alden State Bank); Resp. at 3 (acknowledging the September 19, 2017 mortgage consolidation). The Parlatos' HELOC, their 2017 Consolidated Mortgage, and other prior financings recorded in Genesee County that predated these financings were all handled by Alden State Bank. *See* DECEMBER 17, 2010 BUILDING LOAN AGREEMENT BETWEEN ANTHONY AND BETH PARLATO AND ALDEN STATE BANK, AS RECORDED IN GENESEE COUNTY, NEW YORK, ON DECEMBER 20, 2010 (available in VBM); AUGUST 20, 2012 HOME EQUITY CREDIT LINE MORTGAGE FOR \$150,000 BETWEEN ANTHONY AND BETH PARLATO AND ALDEN STATE BANK, AS RECORDED IN GENESEE COUNTY, NEW YORK, ON AUGUST 27, 2012 (available in VBM); MAY 16, 2014 MORTGAGE MODIFICATION AGREEMENT BETWEEN ANTHONY AND BETH PARLATO AND ALDEN STATE BANK, INCREASING THE \$150,000 PRINCIPAL BALANCE TO \$450,000 AS RECORDED IN GENESEE COUNTY, NEW YORK, ON MAY 21, 2014 (available in VBM).

<sup>5</sup> Beth for Congress, 2020 April Quarterly Report (Apr. 15, 2020).

<sup>6</sup> *Id.* at 3, 43.

<sup>7</sup> *See* Location and Hours, ALDEN STATE BANK, <https://www.aldenstate.com/about-us/locations-hours.html> (last visited June 10, 2021) (showing locations in Alden and Lancaster, New York).

<sup>8</sup> Compl. at 1.

<sup>9</sup> *Id.*; *see also id.*, Attach 3 (attaching the March 27, 2020 HELOC).

1 \$417,755.10 and that the property has a \$719,000 mortgage on it in addition to the \$150,000  
2 HELOC.<sup>10</sup>

3 The Parlato and the Committee submitted a joint Response. In it, Respondents  
4 acknowledge that the loan was misreported, stating, “we recognize that the loan was improperly  
5 reported as from the candidate’s personal funds on the original April Quarterly.”<sup>11</sup> On June 22,  
6 2020, the Committee amended its April Quarterly Report to disclose the March 27, 2020  
7 HELOC.<sup>12</sup>

8 Respondents also provide a document, titled “Property Evaluation Review,” which  
9 appears to be a summary page from a property evaluation or appraisal, but does not include the  
10 underlying analysis, indicating that the property had recently been valued at \$1,000,000 by a  
11 third-party appraiser, GAR Associates, Inc. apparently hired by Alden State Bank in the normal  
12 course of evaluating the loan application.<sup>13</sup> The GAR Associates, Inc. Property Evaluation

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<sup>10</sup> Compl. at 1; *see also id.*, Attach. 2 (attaching a September 19, 2017 mortgage and a property assessment from the town of Darien).

<sup>11</sup> Resp. at 2, n.5. Respondents also claim that Anthony Parlato should not have been notified as a respondent. *Id.* at 2. The Complaint identifies the HELOC as being taken out by Beth and Anthony Parlato, which the loan documents confirm. Compl. at 1; *see id.*, Attach. 3 (attaching copy of the March 27, 2020 HELOC).

<sup>12</sup> Beth for Congress, Amended 2020 April Quarterly Report at 3, 43-45, (June 22, 2020) (“Amended April Quarterly Report”), <https://docquery.fec.gov/pdf/188/202006229244074188/202006229244074188.pdf> (disclosing a HELOC for \$148,300 and a personal loan for \$10,200); *see also* Resp., Ex. A (containing a “Home Equity Grid” summary sheet indicating that, after applying costs associated with the loan, \$148,300 was available to Parlato).

<sup>13</sup> Publicly available information indicates that Alden State Bank is a client of GAR Associates, Inc. *See* Residential Clients, GAR ASSOC., <https://www.garappraisal.com/services/residential-appraisals/> (last visited June 10, 2021) (listing clients, which primarily consist of small banks and credit unions local to Western New York, but also includes several national banks). GAR Associates, Inc. also appears to have been conducting real estate appraisals in Western New York for over sixty years. *See* Our History, <https://www.garappraisal.com/about/> (last visited June 10, 2021) (stating that, “for 60 years, GAR Associates has been performing real estate appraisals and consulting services to professionals who value quality”).

1 Review was performed on March 19, 2020 and included a description of the property.<sup>14</sup> The  
 2 evaluation form indicates that the property has been reviewed by the company multiple times  
 3 over the years (on March 28, 2014, on May 1, 2014, on July 18, 2017).<sup>15</sup>

### 4 **III. LEGAL ANALYSIS**

#### 5 6 **A. The Commission Should Find Reason to Believe that the Committee** 7 **Misreported Beth Parlato's Loan to the Committee**

8 The Act requires committee treasurers to file reports of receipts and disbursements in  
 9 accordance with the provisions of 52 U.S.C. § 30104.<sup>16</sup> These reports must include, *inter alia*,  
 10 the total amount of receipts and disbursements<sup>17</sup> as well as disclosure of candidate loans,  
 11 whether made from personal funds or through a lending institution.<sup>18</sup>

12 The candidate's principal campaign committee must report all loans derived from an  
 13 advance on the candidate's brokerage account, credit card, home equity line of credit, or other  
 14 line of credit available to the candidate.<sup>19</sup> The disclosure report must identify the person who  
 15 makes a loan to the committee during the reporting period, together with the identification of any

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<sup>14</sup> Publicly available information indicates that the Parlato property is 28.4-acre property with a three-thousand-square-foot house. The property also features a three-and-a-half-car garage, a pole barn, a lake, a pool, a covered porch, and an open porch/deck. See GENESEE COUNTY PARCEL REPORT FOR (available in VBM); *see also* Resp., Ex. B (providing a property evaluation of the Parlato property completed by GAR Associates evaluating to be worth \$1,000,000). The Parlato property was assessed by the Town of Darien for tax purposes at \$417,755.10 in 2019 and \$435,531.91 in 2020. See Compl., Attach. 4 (attaching Town of Darien 2019 Property Tax Assessment); TOWN OF DARIEN 2020 TAX ASSESSMENT FOR (available in VBM).

<sup>15</sup> Resp., Ex. B. These dates appear to relate to prior financing arrangements between the Parlato and Alden State Bank. *See supra* n.4 and accompanying text.

<sup>16</sup> 52 U.S.C. § 30104(a)(1); 11 C.F.R. § 104.1.

<sup>17</sup> 52 U.S.C. § 30104(b); 11 C.F.R. § 104.3(a).

<sup>18</sup> 52 U.S.C. § 30104(b); 11 C.F.R. § 104.3(d)(4); *see also* MUR 6556 (Paul Broun) (finding that a candidate misreported a personal loan when the candidate made a personal loan to his campaign committee and then used a draw on a HELOC to repay himself but dismissing for statute of limitations reasons).

<sup>19</sup> 11 C.F.R. § 100.83(e).

1 endorser or guarantor of such loan, and the date and amount or value of such loans.<sup>20</sup>  
2 Commission regulations provide that a committee must disclose information about loans from  
3 the candidate to the campaign on Schedules C and C-1.<sup>21</sup> If the candidate finances a loan to the  
4 campaign with an underlying loan or line of credit, section 104.3(d)(4) of the Commission's  
5 regulations requires the committee to disclose on Schedule C-1, among other things, the:  
6 (1) date, amount, and interest rate of the loan or line of credit; (2) name and address of the  
7 lending institution; and (3) types and value of collateral or other sources of repayment that  
8 secured the loan.<sup>22</sup>

9 Ms. Parlato borrowed funds from Alden State Bank and subsequently loaned those funds  
10 to her Committee. As such, the ultimate source of the loan was Alden State Bank and the  
11 Committee should have disclosed that information along with the terms of the loan. Indeed, the  
12 Committee acknowledges that Parlato had secured the loan on behalf of her campaign and that  
13 the Committee had initially misreported the loan as being from Parlato's personal funds.<sup>23</sup> As a  
14 result, until the Committee amended its quarterly report, the public was not on notice of the fact  
15 that the money had been loaned to Parlato, the identity of the lender, the interest rate at which the  
16 money was loaned, the identity of the loan's guarantor, or the value of the collateral used to  
17 secure the loan.<sup>24</sup> The Commission has determined this type of misreporting to be a material  
18 violation of the Act in the past and has conciliated similar violations rather than dismiss them.  
19 Recently, in MURs 7001, 7002, 7003, 7009, & 7455 (Ted Cruz for Senate), the Commission

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<sup>20</sup> See 52 U.S.C. § 30104(b)(3)(E); 11 C.F.R. § 104.3(a)(4)(iv).

<sup>21</sup> 11 C.F.R. § 104.3(d).

<sup>22</sup> *Id.* § 104.3(d)(4).

<sup>23</sup> Resp. at 1-2.

<sup>24</sup> See Amended April Quarterly Report at 43-45.

1 found reason to believe that the committee in that matter violated the Act by reporting a  
2 candidate's loan that was funded with a line of credit and a margin loan from a brokerage  
3 account as a personal loan.<sup>25</sup> In doing so, the Commission noted that a report that misreported a  
4 loan where funds were derived from a financial institution, as opposed to a candidate's "personal  
5 funds," was not "substantially correct" and did not merit dismissal.<sup>26</sup> The circumstances in this  
6 matter are similar because the public was initially denied information concerning the bank that  
7 financed the candidate's loan and the terms of that loan.

8 As such, we recommend that the Commission find reason to believe that the Committee  
9 violated 52 U.S.C. § 30104(b)(3)(E) and 11 C.F.R. § 104.3(d)(4) by failing to disclose accurate  
10 information on its original April Quarterly Report. The Complaint does not appear to articulate  
11 any factual or legal basis for finding Beth Parlato individually liable for the reporting violation  
12 and finding Parlato personally responsible would not be consistent with prior matters.<sup>27</sup> As such,  
13 we recommend that the Commission find no reason to believe that Parlato violated 52 U.S.C.  
14 § 30104(b)(3)(E) and 11 C.F.R. § 104.3(d)(4).

15 **B. The Commission Should Dismiss the Possible Excessive Contribution by**  
16 **Anthony Parlato to the Committee**

17 No person, including a candidate's family members, shall make contributions to any  
18 candidate or authorized committee with respect to any election which, in the aggregate, exceed

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<sup>25</sup> Factual & Legal Analysis ("F&LA") at 2, MURs 7001, 7002, 7003, 7009, & 7455 (Ted Cruz for Senate).

<sup>26</sup> *Id.* at 8 (distinguishing MUR 5421 (John Kerry for President), where the Commission dismissed reporting violations, which had involved misreporting the date the loan was accessed as opposed to the date the loan was incurred, and reporting the full value of the collateral as opposed to the spouse's share of the collateral. There, the Commission concluded that the reporting was substantially correct).

<sup>27</sup> *Id.* at 9; *see also* F&LA at 3, MUR 6066 (Hartley-Nagle for Congress, *et al.*) (finding no reason to believe that a candidate violated alleged reporting violations because Complainant did not articulate any factual or legal basis for finding the candidate personally liable).

1 the Act's contribution limit, which was \$2,800 during the 2020 election cycle.<sup>28</sup> Moreover, no  
2 candidate or political committee shall "knowingly accept" a contribution that exceeds the  
3 applicable contribution limit.<sup>29</sup>

4 Federal candidates, however, may make unlimited contributions from their own "personal  
5 funds" to their authorized campaign committees.<sup>30</sup> The Act and Commission regulations provide  
6 that "personal funds" are (a) amounts derived from any asset that, under applicable State law, at  
7 the time the individual became a candidate, the candidate had legal right of access to or control  
8 over, and with respect to which the candidate had legal and rightful title or an equitable interest;  
9 and (b) income received during the current election cycle of the candidate, including a salary and  
10 other earned income from bona fide employment; dividends and proceeds from the sale of the  
11 candidate's stocks or other investments; and gifts of a personal nature that had been customarily  
12 received by the candidate prior to the beginning of the election cycle.<sup>31</sup>

13 When a candidate uses "personal funds" derived from assets that are jointly owned with  
14 his or her spouse, the amount is limited to "the candidate's share of the asset under the  
15 instrument of conveyance or ownership;" "if the instrument is silent, the Commission will  
16 presume that the candidate holds a one-half ownership interest."<sup>32</sup> A candidate's spouse is

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<sup>28</sup> 52 U.S.C. § 30116(a)(1)(A); Contribution Limits for 2019-2020, FEC.GOV, (Feb. 7, 2019), <https://www.fec.gov/updates/contribution-limits-2019-2020/>. See *Buckley v. Valeo*, 424 U.S. 1, 51 n.57, 53 n.59 (1976) (upholding the constitutionality of contribution limits as to family members, reasoning that, "[a]lthough the risk of improper influence is somewhat diminished in the case of large contributions from immediate family members, we cannot say that the danger is sufficiently reduced to bar Congress from subjecting family members to the same limitations as nonfamily contributors").

<sup>29</sup> 52 U.S.C. § 30116(a), (f).

<sup>30</sup> 11 C.F.R. § 110.10.

<sup>31</sup> 52 U.S.C. § 30101(26); 11 C.F.R. § 100.33(a)-(b).

<sup>32</sup> 52 U.S.C. § 30101(26)(C); 11 C.F.R. § 100.33(c).



1 permitted to act as the endorser, guarantor, or co-signor of a loan obtained by the candidate but is  
2 deemed to have contributed an amount equal to the portion of the loan for which he or she agreed  
3 to be liable.<sup>33</sup> But in the case of a secured brokerage loan or line of credit, there is no  
4 contribution from the spouse if the candidate's share of the collateral equals or exceeds the  
5 amount of the loan used for the campaign.<sup>34</sup>

6 For example, in MUR 5421 (John Kerry for President), the complaint alleged that the  
7 candidate's spouse made excessive contributions to the committee when the candidate made a  
8 loan to his campaign that was funded with a line of credit secured by a piece of property he  
9 owned jointly with his wife that contained additional encumbrances. The Commission found  
10 reason to believe that the candidate's authorized committee accepted an excessive contribution  
11 from the spouse because the factual record available at that time indicated that the candidate's  
12 interest in the jointly owned collateral property may have been less than the amount of the loan  
13 due to the presence of other liens on the property.<sup>35</sup> In MUR 6824 (Eugene Yu for Congress, *et*  
14 *al.*), the Commission found that a spouse made an excessive contribution by making a draw on a  
15 HELOC secured by couple's residence when the residence was 100% owned by the spouse, not  
16 the candidate.<sup>36</sup> By contrast, MURs 4830 & 4845 (Udall) involved loans secured by a brokerage  
17 account owned jointly by the candidate and his wife, and the Commission determined that the

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<sup>33</sup> 11 C.F.R. §§ 100.52(b)(3)-(4), 100.83(c). A reduction in the unpaid balance of the loans reduces proportionately the amount endorsed or guaranteed by the spouse. *Id.* §§ 100.52(b)(3), 100.83(b).

<sup>34</sup> *Id.* §§ 100.52(b)(4), 100.83(b)(1)-(2).

<sup>35</sup> *See* F&LA at 11, MUR 5421 (John Kerry for President). The Commission subsequently took no further action on this allegation after the investigation revealed that loan transaction was structured to phase the payouts to avoid implicating the spouse's interest in the collateral. *See* Second Gen. Counsel's Rpt. at 6-7, MUR 5421; Certification, MUR 5421 (Dec. 12, 2005).

<sup>36</sup> Second Gen. Counsel's Rpt. at 25, MUR 6824 (Eugene Yu for Congress, *et al.*); Certification, MUR 6824 (Mar. 28, 2019).

1 loans from the candidate to the campaign “were based entirely on [the candidate’s] half of the  
2 assets jointly controlled with” his spouse.<sup>37</sup>

3 In this matter, Respondents have provided documentation indicating that the property was  
4 valued at \$1 million by a third party and public records indicate that the couple holds a joint  
5 interest in the property. Although the documentation as to this evaluation appears to be  
6 incomplete, public information indicates that Alden State Bank is a client of GAR Associates,  
7 and we have no reason to doubt the document’s legitimacy.<sup>38</sup> While a discrepancy appears to  
8 exist between the bank’s valuation and the town’s tax valuation, this is insufficient to raise a  
9 reasonable inference that the property was under-collateralized. The Commission previously  
10 found in MUR 5421 (John Kerry for President) that “[t]he fact that the assessed value of the  
11 property for property tax purposes diverges from the market value determined by the appraisal is  
12 not enough by itself to rebut” a fair market appraisal that differs from a tax assessment.<sup>39</sup>

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<sup>37</sup> F&LA at 8-9, MURs 4830 & 4845 (Udall). *See also* First Gen. Counsel’s Rpt. at 14-15, MURs 7001, 7002, 7003, 7009, & 7455 (Ted Cruz for Senate). In the Cruz matter, OGC recommended that the Commission dismiss the allegation that the candidate’s wife made an excessive contribution to the Committee when the candidate secured \$800,000 in loans with accounts shared with his wife. However, it was not entirely clear how the ownership interests in the brokerage account were allocated. The Commission was equally divided on this recommendation. *See* Certification at 1-2, MURs 7001, 7002, 7003, 7009, & 7455 (July 31, 2018).

<sup>38</sup> *See supra* n.13 and accompanying text.

<sup>39</sup> F&LA at 6-7, MUR 5421 (accepting a fair market appraisal of \$12.8 million on a property that had been assessed for tax purposes at \$6.6 million). In MUR 5421, Respondents provided more extensive property appraisal information, and the loan at issue in that matter was discussed and analyzed by the press and other real estate professionals. Here, Respondents have only provided what appears to be a cover sheet from a property evaluation.

The Complaint describes the Committee’s “lack of disclosure of [the] loan” as “more alarming” based on the difference between the Parlato property’s assessed value and \$719,000 mortgage along with “the fact that the bank is a small community bank with two branches, and the bank’s president and vice president are previous donors to Ms. Parlato’s campaign.” Compl. at 1. The Committee reported receiving two contributions from individuals who identified their employer as Alden State Bank. Colleen Pautler, a vice-president of the bank, contributed \$250 and Steven Woodard, the bank’s CEO, contributed \$500. *See* FEC Receipts/Disbursements: Filtered Results, FEC.GOV, [https://www.fec.gov/data/receipts/individual-contributions/?contributor\\_+employer=Alden+State&committee\\_id=C00713859&contributor\\_employer=alden+state+bank&two\\_year\\_transaction\\_period=2020&two\\_year\\_transaction\\_period=2018](https://www.fec.gov/data/receipts/individual-contributions/?contributor_+employer=Alden+State&committee_id=C00713859&contributor_employer=alden+state+bank&two_year_transaction_period=2020&two_year_transaction_period=2018) (last visited June 10, 2021) (reflecting contributions to Beth for Congress received from employees of Alden State Bank for the 2020 election cycle). The existence of these contributions is

1 Documents attached to the Complaint indicate that the Parlato property had \$719,000 in  
2 existing mortgages at the time that the Parlato acquired the HELOC.<sup>40</sup> The total amount of  
3 encumbrances on the property is consistent with the GAR Associates' million-dollar valuation of  
4 the Parlato property: the existence of a consolidated mortgage for approximately \$700,000 and a  
5 subsequent HELOC for \$150,000, in a situation where the borrower could only access 50% of  
6 the available equity, suggests a property with a value of \$1,000,000 ( $\$700,000 + (\$150,000 \times 2)$ ).  
7 If the Parlato property had \$300,000 or more of available equity, Ms. Parlato's use of half of that  
8 equity would not trigger an excessive contribution from her spouse.<sup>41</sup>

9 If the Parlato property did not have \$300,000 of available equity, then it is possible that  
10 Anthony Parlato made an excessive contribution to the Committee. If the bank valued the  
11 property as indicated in the GAR Associates valuation at exactly \$1 million, and the outstanding  
12 debt on the pre-existing 2017 mortgage had not been paid down and still remained at \$719,000,  
13 the property would have had \$281,000 in equity. Parlato's interest in the available equity on the  
14 property would then be \$140,500. The Committee ultimately reported receiving \$148,300 from  
15 the HELOC. Under these circumstances, based on the financial data provided by Respondents, it

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not, by itself, sufficient to raise a reasonable inference that the bank officers utilized corporate resources to effect a fraudulent loan to the Committee. More broadly, the available information does not support a reasonable inference that the bank made a prohibited contribution to the Committee through the terms of the HELOC. As the Respondents note, the HELOC is a written instrument collateralized by a mortgage on the Parlato property, which seems to account for senior interests on the property, has a payment schedule, and appears to bear a customary variable interest rate. It also appears that the Parlato have an established history of obtaining financing with Alden State Bank. *See* Resp. at 2; 52 U.S.C. § 30118(a) (prohibition on corporate contributions); 11 C.F.R. § 100.82(a) (bank loans made in the ordinary course exempted from definition of "contribution"). On the basis of this information we make no recommendation as to any contribution by the bank.

<sup>40</sup> *See* Compl., Attach 2 (Ex. A to the attached 2017 Loan Agreement (noting a \$719,000 mortgage)); Resp. at 3 (acknowledging a 2017 mortgage valuation of \$719,000).

<sup>41</sup> *See* F&LA at 10-11, MUR 5421 (analyzing potential senior liens as potentially diminishing a candidate's ability to access his full share of a property's equity as reflected in an appraisal).

1 appears that Anthony Parlato may have contributed up to a maximum of \$7,800 of the 2020  
2 HELOC to the Committee. Since Anthony Parlato had already contributed a total of \$5,600 to  
3 his wife's campaign — \$2,800 to the primary election and \$2,800 to the general election — the  
4 entire amount of the \$7,800 loan contribution would have been excessive.<sup>42</sup> However, in the  
5 likely event the 2017 mortgage amount had decreased over three years, and therefore the  
6 Parlato's equity had increased, any excessive contribution by Anthony Parlato would be smaller.

7 Investigating to determine whether there was an excessive contribution in these  
8 circumstances would likely require an examination of the full appraisal of the property along  
9 with an in-depth examination of the Parlato's various financings of the property and payments on  
10 their 2017 consolidated mortgage to determine the available equity in the Parlato property.

11 Given the amount of the potential violation, the fact that this was a first-time congressional  
12 candidate, and the Commission's available resources, we do not think it would be prudent to  
13 pursue this potential violation. Accordingly, we recommend that the Commission dismiss any  
14 allegation that Anthony Parlato made, and the Committee accepted, an excessive contribution.

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<sup>42</sup> See FEC Receipts/Disbursements: Filtered Results, FEC.GOV, [https://www.fec.gov/data/individual-contributions/?committee\\_id=C00713859&contributor\\_name=parlato&two\\_year\\_transaction\\_period=2020](https://www.fec.gov/data/individual-contributions/?committee_id=C00713859&contributor_name=parlato&two_year_transaction_period=2020) (last visited June 10, 2021) (showing Anthony Parlato's contribution to Beth for Congress of \$5,600, a reattribution of \$2,800 to the general election, and a \$2.00 spousal reattribution). Parlato filed an Amended Statement of Candidacy and her Committee filed an Amended Statement of Organization on July 7, 2020, indicating that she did intend to run in the General Election, even though she eventually withdrew her candidacy.

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**V. RECOMMENDATIONS**

1. Find reason to believe that Beth for Congress and Bradley T. Crate in his official capacity as treasurer violated 52 U.S.C. § 30104(b)(3)(E) and 11 C.F.R. § 104.3(d)(4) by failing to disclose required information about candidate loans;
2. Find no reason to believe that Beth Parlato violated 52 U.S.C. § 30104(b)(3)(E) and 11 C.F.R. § 104.3(d)(4) by failing to disclose required information about candidate loans;
3. Dismiss the allegation that Anthony Parlato made and Beth for Congress and Bradley T. Crate in his official capacity as treasurer accepted an excessive contribution in violation of 52 U.S.C. § 30116(a) and (f);
4. Approve the attached Factual and Legal Analysis;
5. Enter into conciliation with Beth for Congress and Bradley T. Crate in his official capacity as treasurer prior to a finding of probable cause to believe;
6. Approve the attached Conciliation Agreement; and

1           7. Approve the appropriate letter.

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Lisa J. Stevenson  
Acting General Counsel

Charles Kitcher  
Acting Associate General Counsel for  
Enforcement

June 10, 2021  

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Date

*Peter G. Blumberg*  

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Peter G. Blumberg  
Acting Deputy Associate General Counsel  
for Enforcement

*Mark Allen*  

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Mark Allen  
Assistant General Counsel

*Adrienne C. Baranowicz*  

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Adrienne C. Baranowicz  
Attorney

- Attachments:  
1. Factual and Legal Analysis



1 **II. FACTUAL BACKGROUND**

2 Beth Parlato was a candidate for Congress in New York's 27th Congressional District in  
 3 2020.<sup>2</sup> Beth for Congress is her principal campaign committee.<sup>3</sup> On March 27, 2020, Parlato  
 4 and her husband, Anthony Parlato, acquired a \$150,000 HELOC secured by a mortgage on their  
 5 residence.<sup>4</sup> On April 15, 2020, the Committee filed its original 2020 April Quarterly Report.<sup>5</sup>  
 6 That report disclosed that Parlato had made a personal loan to her Committee for \$158,500 on  
 7 March 31, 2020, and did not disclose any bank loans.<sup>6</sup>

8 The Complaint, relying primarily on loan documents recorded in Genesee County, New

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<sup>2</sup> Beth Parlato, Statement of Candidacy at 1 (July 26, 2019) (listing party affiliation as Republican). Parlato was a Republican and Conservative party candidate in the primary election. She lost the Republican primary election but continued her campaign in the general election as the Conservative party candidate. Beth Parlato, Amended Statement of Candidacy at 1 (July 7, 2020) (listing party affiliation as Conservative). Parlato ultimately withdrew her candidacy before the general election in order to run for a judicial seat in the New York Supreme Court's Second Judicial District. *See* NEW YORK STATE BOARD OF ELECTIONS CERTIFIED RESULTS FROM JUNE 23, 2020 PRIMARY ELECTION (Sept. 2, 2020) <https://www.elections.ny.gov/NYSBOE/elections/2020/Primary/CertifiedJune232020StatePrimaryResults.pdf>; NEW YORK STATE BOARD OF ELECTIONS RESULTS FROM STATE SUPREME COURT JUDICIAL ELECTIONS, <https://www.elections.ny.gov/NYSBOE/elections/2020/General/2020SupremeCourt.xlsx> (last visited June 10, 2021); *see also* Matthew Spina, *Conservatives About to Unite Behind Jacobs, Remove Parlato from Ballot in 27th*, BUFFALO NEWS (Aug. 10, 2020), [https://buffalonews.com/news/local/government-and-politics/conservatives-about-to-unite-behind-jacobs-remove-parlato-from-ballot-in-27th/article\\_7b59e8fa-db39-11ea-be69-e72a10248767.html](https://buffalonews.com/news/local/government-and-politics/conservatives-about-to-unite-behind-jacobs-remove-parlato-from-ballot-in-27th/article_7b59e8fa-db39-11ea-be69-e72a10248767.html).

<sup>3</sup> Beth for Congress, Statement of Organization at 2 (July 7, 2020).

<sup>4</sup> Compl., Attach. 3 (attaching March 27, HELOC documents) (May 29, 2020); Resp. at 2-3 & Ex. A (June 17, 2020) (acknowledging HELOC and attaching related documentation). At the time that the Parlatos acquired the HELOC, the Parlato residence appeared to be encumbered by a \$719,000 consolidated mortgage that the Parlatos had jointly acquired in 2017. *See* Compl., Attach. 2 (attaching September 19, 2017 Mortgage Consolidation between Anthony and Beth Parlato and Alden State Bank); Resp. at 3 (acknowledging the September 19, 2017 mortgage consolidation). The Parlatos' HELOC, their 2017 Consolidated Mortgage, and other prior financings recorded in Genesee County that predated these financings were all handled by Alden State Bank. *See* DECEMBER 17, 2010 BUILDING LOAN AGREEMENT BETWEEN ANTHONY AND BETH PARLATO AND ALDEN STATE BANK, AS RECORDED IN GENESEE COUNTY, NEW YORK, ON DECEMBER 20, 2010; AUGUST 20, 2012 HOME EQUITY CREDIT LINE MORTGAGE FOR \$150,000 BETWEEN ANTHONY AND BETH PARLATO AND ALDEN STATE BANK, AS RECORDED IN GENESEE COUNTY, NEW YORK, ON AUGUST 27, 2012; MAY 16, 2014 MORTGAGE MODIFICATION AGREEMENT BETWEEN ANTHONY AND BETH PARLATO AND ALDEN STATE BANK, INCREASING THE \$150,000 PRINCIPAL BALANCE TO \$450,000 AS RECORDED IN GENESEE COUNTY, NEW YORK, ON MAY 21, 2014.

<sup>5</sup> Beth for Congress, 2020 April Quarterly Report (Apr. 15, 2020).

<sup>6</sup> *Id.* at 3, 43.



1 York, contends that the personal loan reported on the Committee’s original April Quarterly  
2 Report was actually a HELOC from Alden State Bank, a community bank in Western New  
3 York,<sup>7</sup> and claims that the Committee violated the Act because it “misreported this loan,  
4 including the source, terms and due date of said loan.”<sup>8</sup> In support of this allegation, the  
5 Complaint attaches the recorded copy of the March 27, 2020 HELOC.<sup>9</sup> The Complaint also  
6 states that the town of Darien, New York, assesses the Parlato’s residence for tax purposes at  
7 \$417,755.10 and that the property has a \$719,000 mortgage on it in addition to the \$150,000  
8 HELOC.<sup>10</sup>

9 The Parlato and the Committee submitted a joint Response. In it, Respondents  
10 acknowledge that the loan was misreported, stating, “we recognize that the loan was improperly  
11 reported as from the candidate’s personal funds on the original April Quarterly.”<sup>11</sup> On June 22,  
12 2020, the Committee amended its April Quarterly Report to disclose the March 27, 2020  
13 HELOC.<sup>12</sup>

14 Respondents also provide a document, titled “Property Evaluation Review,” which

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<sup>7</sup> See Location and Hours, ALDEN STATE BANK, <https://www.aldenstate.com/about-us/locations-hours.html> (last visited June 10, 2021) (showing locations in Alden and Lancaster, New York).

<sup>8</sup> Compl. at 1.

<sup>9</sup> *Id.*; see also *id.*, Attach 3 (attaching the March 27, 2020 HELOC).

<sup>10</sup> Compl. at 1; see also *id.*, Attach. 2 (attaching a September 19, 2017 mortgage and a property assessment from the town of Darien).

<sup>11</sup> Resp. at 2, n.5. Respondents also claim that Anthony Parlato should not have been notified as a respondent. *Id.* at 2. The Complaint identifies the HELOC as being taken out by Beth and Anthony Parlato, which the loan documents confirm. Compl. at 1; see *id.*, Attach. 3 (attaching copy of the March 27, 2020 HELOC).

<sup>12</sup> Beth for Congress, Amended 2020 April Quarterly Report at 3, 43-45, (June 22, 2020) (“Amended April Quarterly Report”), <https://docquery.fec.gov/pdf/188/202006229244074188/202006229244074188.pdf> (disclosing a HELOC for \$148,300 and a personal loan for \$10,200); see also Resp., Ex. A (containing a “Home Equity Grid” summary sheet indicating that, after applying costs associated with the loan, \$148,300 was available to Parlato).

1 appears to be a summary page from a property evaluation or appraisal, but does not include the  
 2 underlying analysis, indicating that the property had recently been valued at \$1,000,000 by a  
 3 third-party appraiser, GAR Associates, Inc. apparently hired by Alden State Bank in the normal  
 4 course of evaluating the loan application.<sup>13</sup> The GAR Associates, Inc. Property Evaluation  
 5 Review was performed on March 19, 2020 and included a description of the property.<sup>14</sup> The  
 6 evaluation form indicates that the property has been reviewed by the company multiple times  
 7 over the years (on March 28, 2014, on May 1, 2014, on July 18, 2017).<sup>15</sup>

### 8 III. LEGAL ANALYSIS

#### 9 A. The Commission Finds Reason to Believe that the Committee 10 Misreported Beth Parlato's Loan to the Committee

11 The Act requires committee treasurers to file reports of receipts and disbursements in  
 12 accordance with the provisions of 52 U.S.C. § 30104.<sup>16</sup> These reports must include, *inter alia*,  
 13 the total amount of receipts and disbursements<sup>17</sup> as well as disclosure of candidate loans,

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<sup>13</sup> Publicly available information indicates that Alden State Bank is a client of GAR Associates, Inc. *See* Residential Clients, GAR ASSOC., <https://www.garappraisal.com/services/residential-appraisals/> (last visited June 10, 2021) (listing clients, which primarily consist of small banks and credit unions local to Western New York, but also includes several national banks). GAR Associates, Inc. also appears to have been conducting real estate appraisals in Western New York for over sixty years. *See* Our History, <https://www.garappraisal.com/about/> (last visited June 10, 2021) (stating that, “for 60 years, GAR Associates has been performing real estate appraisals and consulting services to professionals who value quality”).

<sup>14</sup> Publicly available information indicates that the Parlato property is 28.4-acre property with a three-thousand-square-foot house. The property also features a three-and-a-half-car garage, a pole barn, a lake, a pool, a covered porch, and an open porch/deck. *See* GENESEE COUNTY PARCEL REPORT FOR \_\_\_\_\_; *see also* Resp., Ex. B (providing a property evaluation of the Parlato property completed by GAR Associates evaluating to be worth \$1,000,000). The Parlato property was assessed by the Town of Darien for tax purposes at \$417,755.10 in 2019 and \$435,531.91 in 2020. *See* Compl., Attach. 4 (attaching Town of Darien 2019 Property Tax Assessment); TOWN OF DARIEN 2020 TAX ASSESSMENT FOR \_\_\_\_\_.

<sup>15</sup> Resp., Ex. B. These dates appear to relate to prior financing arrangements between the Parlato and Alden State Bank. *See supra* n.4 and accompanying text.

<sup>16</sup> 52 U.S.C. § 30104(a)(1); 11 C.F.R. § 104.1.

<sup>17</sup> 52 U.S.C. § 30104(b); 11 C.F.R. § 104.3(a).

1 whether made from personal funds or through a lending institution.<sup>18</sup>

2         The candidate's principal campaign committee must report all loans derived from an  
3 advance on the candidate's brokerage account, credit card, home equity line of credit, or other  
4 line of credit available to the candidate.<sup>19</sup> The disclosure report must identify the person who  
5 makes a loan to the committee during the reporting period, together with the identification of any  
6 endorser or guarantor of such loan, and the date and amount or value of such loans.<sup>20</sup>  
7 Commission regulations provide that a committee must disclose information about loans from  
8 the candidate to the campaign on Schedules C and C-1.<sup>21</sup> If the candidate finances a loan to the  
9 campaign with an underlying loan or line of credit, section 104.3(d)(4) of the Commission's  
10 regulations requires the committee to disclose on Schedule C-1, among other things, the:  
11 (1) date, amount, and interest rate of the loan or line of credit; (2) name and address of the  
12 lending institution; and (3) types and value of collateral or other sources of repayment that  
13 secured the loan.<sup>22</sup>

14         Ms. Parlato borrowed funds from Alden State Bank and subsequently loaned those funds  
15 to her Committee. As such, the ultimate source of the loan was Alden State Bank and the  
16 Committee should have disclosed that information along with the terms of the loan. Indeed, the  
17 Committee acknowledges that Parlato had secured the loan on behalf of her campaign and that

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<sup>18</sup> 52 U.S.C. § 30104(b); 11 C.F.R. § 104.3(d)(4); *see also* MUR 6556 (Paul Broun) (finding that a candidate misreported a personal loan when the candidate made a personal loan to his campaign committee and then used a draw on a HELOC to repay himself but dismissing for statute of limitations reasons).

<sup>19</sup> 11 C.F.R. § 100.83(e).

<sup>20</sup> *See* 52 U.S.C. § 30104(b)(3)(E); 11 C.F.R. § 104.3(a)(4)(iv).

<sup>21</sup> 11 C.F.R. § 104.3(d).

<sup>22</sup> *Id.* § 104.3(d)(4).

1 the Committee had initially misreported the loan as being from Parlato’s personal funds.<sup>23</sup> As a  
2 result, until the Committee amended its quarterly report, the public was not on notice of the fact  
3 that the money had been loaned to Parlato, the identity of the lender, the interest rate at which the  
4 money was loaned, the identity of the loan’s guarantor, or the value of the collateral used to  
5 secure the loan.<sup>24</sup> The Commission has determined this type of misreporting to be a material  
6 violation of the Act in the past and has conciliated similar violations rather than dismiss them.  
7 Recently, in MURs 7001, 7002, 7003, 7009, & 7455 (Ted Cruz for Senate), the Commission  
8 found reason to believe that the committee in that matter violated the Act by reporting a  
9 candidate’s loan that was funded with a line of credit and a margin loan from a brokerage  
10 account as a personal loan.<sup>25</sup> In doing so, the Commission noted that a report that misreported a  
11 loan where funds were derived from a financial institution, as opposed to a candidate’s “personal  
12 funds,” was not “substantially correct” and did not merit dismissal.<sup>26</sup> The circumstances in this  
13 matter are similar because the public was initially denied information concerning the bank that  
14 financed the candidate’s loan and the terms of that loan.

15 As such, the Commission finds reason to believe that the Committee violated 52 U.S.C.  
16 § 30104(b)(3)(E) and 11 C.F.R. § 104.3(d)(4) by failing to disclose accurate information on its  
17 original April Quarterly Report. The Complaint does not appear to articulate any factual or legal

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<sup>23</sup> Resp. at 1-2.

<sup>24</sup> *See* Amended April Quarterly Report at 43-45.

<sup>25</sup> Factual & Legal Analysis (“F&LA”) at 2, MURs 7001, 7002, 7003, 7009, & 7455 (Ted Cruz for Senate).

<sup>26</sup> *Id.* at 8 (distinguishing MUR 5421 (John Kerry for President), where the Commission dismissed reporting violations, which had involved misreporting the date the loan was accessed as opposed to the date the loan was incurred, and reporting the full value of the collateral as opposed to the spouse’s share of the collateral. There, the Commission concluded that the reporting was substantially correct).

1 basis for finding Beth Parlato individually liable for the reporting violation and finding Parlato  
2 personally responsible would not be consistent with prior matters.<sup>27</sup> Thus, the Commission finds  
3 no reason to believe that Parlato violated 52 U.S.C. § 30104(b)(3)(E) and 11 C.F.R.  
4 § 104.3(d)(4).

5 **B. The Commission Dismisses the Possible Excessive Contribution by Anthony**  
6 **Parlato to the Committee**

7 No person, including a candidate’s family members, shall make contributions to any  
8 candidate or authorized committee with respect to any election which, in the aggregate, exceed  
9 the Act’s contribution limit, which was \$2,800 during the 2020 election cycle.<sup>28</sup> Moreover, no  
10 candidate or political committee shall “knowingly accept” a contribution that exceeds the  
11 applicable contribution limit.<sup>29</sup>

12 Federal candidates, however, may make unlimited contributions from their own “personal  
13 funds” to their authorized campaign committees.<sup>30</sup> The Act and Commission regulations provide  
14 that “personal funds” are (a) amounts derived from any asset that, under applicable State law, at  
15 the time the individual became a candidate, the candidate had legal right of access to or control  
16 over, and with respect to which the candidate had legal and rightful title or an equitable interest;

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<sup>27</sup> *Id.* at 9; *see also* F&LA at 3, MUR 6066 (Hartley-Nagle for Congress, *et al.*) (finding no reason to believe that a candidate violated alleged reporting violations because Complainant did not articulate any factual or legal basis for finding the candidate personally liable).

<sup>28</sup> 52 U.S.C. § 30116(a)(1)(A); Contribution Limits for 2019-2020, FEC.GOV, (Feb. 7, 2019), <https://www.fec.gov/updates/contribution-limits-2019-2020/>. *See Buckley v. Valeo*, 424 U.S. 1, 51 n.57, 53 n.59 (1976) (upholding the constitutionality of contribution limits as to family members, reasoning that, “[a]lthough the risk of improper influence is somewhat diminished in the case of large contributions from immediate family members, we cannot say that the danger is sufficiently reduced to bar Congress from subjecting family members to the same limitations as nonfamily contributors”).

<sup>29</sup> 52 U.S.C. § 30116(a), (f).

<sup>30</sup> 11 C.F.R. § 110.10.

1 and (b) income received during the current election cycle of the candidate, including a salary and  
2 other earned income from bona fide employment; dividends and proceeds from the sale of the  
3 candidate's stocks or other investments; and gifts of a personal nature that had been customarily  
4 received by the candidate prior to the beginning of the election cycle.<sup>31</sup>

5 When a candidate uses "personal funds" derived from assets that are jointly owned with  
6 his or her spouse, the amount is limited to "the candidate's share of the asset under the  
7 instrument of conveyance or ownership;" "if the instrument is silent, the Commission will  
8 presume that the candidate holds a one-half ownership interest."<sup>32</sup> A candidate's spouse is  
9 permitted to act as the endorser, guarantor, or co-signor of a loan obtained by the candidate but is  
10 deemed to have contributed an amount equal to the portion of the loan for which he or she agreed  
11 to be liable.<sup>33</sup> But in the case of a secured brokerage loan or line of credit, there is no  
12 contribution from the spouse if the candidate's share of the collateral equals or exceeds the  
13 amount of the loan used for the campaign.<sup>34</sup>

14 For example, in MUR 5421 (John Kerry for President), the complaint alleged that the  
15 candidate's spouse made excessive contributions to the committee when the candidate made a  
16 loan to his campaign that was funded with a line of credit secured by a piece of property he  
17 owned jointly with his wife that contained additional encumbrances. The Commission found  
18 reason to believe that the candidate's authorized committee accepted an excessive contribution

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<sup>31</sup> 52 U.S.C. § 30101(26); 11 C.F.R. § 100.33(a)-(b).

<sup>32</sup> 52 U.S.C. § 30101(26)(C); 11 C.F.R. § 100.33(c).

<sup>33</sup> 11 C.F.R §§ 100.52(b)(3)-(4), 100.83(c). A reduction in the unpaid balance of the loans reduces proportionately the amount endorsed or guaranteed by the spouse. *Id.* §§ 100.52(b)(3), 100.83(b).

<sup>34</sup> *Id.* §§ 100.52(b)(4), 100.83(b)(1)-(2).

1 from the spouse because the factual record available at that time indicated that the candidate's  
2 interest in the jointly owned collateral property may have been less than the amount of the loan  
3 due to the presence of other liens on the property.<sup>35</sup> In MUR 6824 (Eugene Yu for Congress, *et*  
4 *al.*), the Commission found that a spouse made an excessive contribution by making a draw on a  
5 HELOC secured by couple's residence when the residence was 100% owned by the spouse, not  
6 the candidate.<sup>36</sup> By contrast, MURs 4830 & 4845 (Udall) involved loans secured by a brokerage  
7 account owned jointly by the candidate and his wife, and the Commission determined that the  
8 loans from the candidate to the campaign "were based entirely on [the candidate's] half of the  
9 assets jointly controlled with" his spouse.<sup>37</sup>

10 In this matter, Respondents have provided documentation indicating that the property was  
11 valued at \$1 million by a third party and public records indicate that the couple holds a joint  
12 interest in the property. Although the documentation as to this evaluation appears to be  
13 incomplete, public information indicates that Alden State Bank is a client of GAR Associates,  
14 and we have no reason to doubt the document's legitimacy.<sup>38</sup> While a discrepancy appears to  
15 exist between the bank's valuation and the town's tax valuation, this is insufficient to raise a

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<sup>35</sup> See F&LA at 11, MUR 5421 (John Kerry for President). The Commission subsequently took no further action on this allegation after the investigation revealed that loan transaction was structured to phase the payouts to avoid implicating the spouse's interest in the collateral. See Second Gen. Counsel's Rpt. at 6-7, MUR 5421; Certification, MUR 5421 (Dec. 12, 2005).

<sup>36</sup> Second Gen. Counsel's Rpt. at 25, MUR 6824 (Eugene Yu for Congress, *et al.*); Certification, MUR 6824 (Mar. 28, 2019).

<sup>37</sup> F&LA at 8-9, MURs 4830 & 4845 (Udall). See also First Gen. Counsel's Rpt. at 14-15, MURs 7001, 7002, 7003, 7009, & 7455 (Ted Cruz for Senate). In the Cruz matter, OGC recommended that the Commission dismiss the allegation that the candidate's wife made an excessive contribution to the Committee when the candidate secured \$800,000 in loans with accounts shared with his wife. However, it was not entirely clear how the ownership interests in the brokerage account were allocated. The Commission was equally divided on this recommendation. See Certification at 1-2, MURs 7001, 7002, 7003, 7009, & 7455 (July 31, 2018).

<sup>38</sup> See *supra* n.13 and accompanying text.

1 reasonable inference that the property was under-collateralized. The Commission previously  
 2 found in MUR 5421 (John Kerry for President) that “[t]he fact that the assessed value of the  
 3 property for property tax purposes diverges from the market value determined by the appraisal is  
 4 not enough by itself to rebut” a fair market appraisal that differs from a tax assessment.<sup>39</sup>

5 Documents attached to the Complaint indicate that the Parlato property had \$719,000 in  
 6 existing mortgages at the time that the Parlato acquired the HELOC.<sup>40</sup> The total amount of  
 7 encumbrances on the property is consistent with the GAR Associates’ million-dollar valuation of  
 8 the Parlato property: the existence of a consolidated mortgage for approximately \$700,000 and a  
 9 subsequent HELOC for \$150,000, in a situation where the borrower could only access 50% of  
 10 the available equity, suggests a property with a value of \$1,000,000 ( $\$700,000 + (\$150,000 \times 2)$ ).

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<sup>39</sup> F&LA at 6-7, MUR 5421 (accepting a fair market appraisal of \$12.8 million on a property that had been assessed for tax purposes at \$6.6 million). In MUR 5421, Respondents provided more extensive property appraisal information, and the loan at issue in that matter was discussed and analyzed by the press and other real estate professionals. Here, Respondents have only provided what appears to be a cover sheet from a property evaluation.

The Complaint describes the Committee’s “lack of disclosure of [the] loan” as “more alarming” based on the difference between the Parlato property’s assessed value and \$719,000 mortgage along with “the fact that the bank is a small community bank with two branches, and the bank’s president and vice president are previous donors to Ms. Parlato’s campaign.” Compl. at 1. The Committee reported receiving two contributions from individuals who identified their employer as Alden State Bank. Colleen Pautler, a vice-president of the bank, contributed \$250 and Steven Woodard, the bank’s CEO, contributed \$500. *See* FEC Receipts/Disbursements: Filtered Results, FEC.GOV, [https://www.fec.gov/data/receipts/individual-contributions/?contributor\\_+employer=Alden+State&committee\\_id=C00713859&contributor\\_employer=alden+state+bank&two\\_year\\_transaction\\_period=2020&two\\_year\\_transaction\\_period=2018](https://www.fec.gov/data/receipts/individual-contributions/?contributor_+employer=Alden+State&committee_id=C00713859&contributor_employer=alden+state+bank&two_year_transaction_period=2020&two_year_transaction_period=2018) (last visited June 10, 2021) (reflecting contributions to Beth for Congress received from employees of Alden State Bank for the 2020 election cycle). The existence of these contributions is not, by itself, sufficient to raise a reasonable inference that the bank officers utilized corporate resources to effect a fraudulent loan to the Committee. More broadly, the available information does not support a reasonable inference that the bank made a prohibited contribution to the Committee through the terms of the HELOC. As the Respondents note, the HELOC is a written instrument collateralized by a mortgage on the Parlato property, which seems to account for senior interests on the property, has a payment schedule, and appears to bear a customary variable interest rate. It also appears that the Parlato have an established history of obtaining financing with Alden State Bank. *See* Resp. at 2; 52 U.S.C. § 30118(a) (prohibition on corporate contributions); 11 C.F.R. § 100.82(a) (bank loans made in the ordinary course exempted from definition of “contribution”). On the basis of this information we reach no conclusion as to any contribution by the bank.

<sup>40</sup> *See* Compl., Attach 2 (Ex. A to the attached 2017 Loan Agreement (noting a \$719,000 mortgage)); Resp. at 3 (acknowledging a 2017 mortgage valuation of \$719,000).



1 If the Parlato property had \$300,000 or more of available equity, Ms. Parlato's use of half of that  
2 equity would not trigger an excessive contribution from her spouse.<sup>41</sup>

3 If the Parlato property did not have \$300,000 of available equity, then it is possible that  
4 Anthony Parlato made an excessive contribution to the Committee. If the bank valued the  
5 property as indicated in the GAR Associates valuation at exactly \$1 million, and the outstanding  
6 debt on the pre-existing 2017 mortgage had not been paid down and still remained at \$719,000,  
7 the property would have had \$281,000 in equity. Parlato's interest in the available equity on the  
8 property would then be \$140,500. The Committee ultimately reported receiving \$148,300 from  
9 the HELOC. Under these circumstances, based on the financial data provided by Respondents, it  
10 appears that Anthony Parlato may have contributed up to a maximum of \$7,800 of the 2020  
11 HELOC to the Committee. Since Anthony Parlato had already contributed a total of \$5,600 to  
12 his wife's campaign — \$2,800 to the primary election and \$2,800 to the general election — the  
13 entire amount of the \$7,800 loan contribution would have been excessive.<sup>42</sup> However, in the  
14 likely event the 2017 mortgage amount had decreased over three years, and therefore the  
15 Parlatos' equity had increased, any excessive contribution by Anthony Parlato would be smaller.

16 Investigating to determine whether there was an excessive contribution in these  
17 circumstances would likely require an examination of the full appraisal of the property along  
18 with an in-depth examination of the Parlatos' various financings of the property and payments on

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<sup>41</sup> See F&LA at 10-11, MUR 5421 (analyzing potential senior liens as potentially diminishing a candidate's ability to access his full share of a property's equity as reflected in an appraisal).

<sup>42</sup> See FEC Receipts/Disbursements: Filtered Results, FEC.GOV, [https://www.fec.gov/data/individual-contributions/?committee\\_id=C00713859&contributor\\_name=parlato&two\\_year\\_transaction\\_period=2020](https://www.fec.gov/data/individual-contributions/?committee_id=C00713859&contributor_name=parlato&two_year_transaction_period=2020) (last visited June 10, 2021) (showing Anthony Parlato's contribution to Beth for Congress of \$5,600, a reattribution of \$2,800 to the general election, and a \$2.00 spousal reattribution). Parlato filed an Amended Statement of Candidacy and her Committee filed an Amended Statement of Organization on July 7, 2020, indicating that she did intend to run in the General Election, even though she eventually withdrew her candidacy.

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1 their 2017 consolidated mortgage to determine the available equity in the Parlato property.  
2 Given the amount of the potential violation, the fact that this was a first-time congressional  
3 candidate, and the Commission's available resources, it would not be prudent to pursue this  
4 potential violation. Accordingly, the Commission dismisses any allegation that Anthony Parlato  
5 made, and the Committee accepted, an excessive contribution.