



THE FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 31, 2022

Via Electronic Mail

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Charlie Spies, Esq.
Katie Reynolds, Esq.
International Square
1825 Eye Street, NW, Suite 900
Washington, DC 20006

RE: MUR 7743
Beth for Congress, *et al.*

Dear Mr. Spies and Ms. Reynolds:

On June 3, 2020, the Federal Election Commission notified your clients, Beth Parlato, Anthony Parlato, and Beth for Congress and Bradley T. Crate in his official capacity as treasurer (the "Committee"), of a complaint alleging that your clients violated the Federal Election Campaign Act of 1971, as amended (the "Act"). Upon review of the allegations contained in the complaint, and information supplied by your clients, the Commission, on May 24, 2022, found reason to believe that the Committee violated 52 U.S.C. § 30104(b)(3)(E), a provision of the Act, and 11 C.F.R. § 104.3(d)(4), a provision of the Commission's regulations, by failing to disclose required information about candidate loans. The Commission also found 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. Finally, the Commission voted to dismiss the allegations that Anthony Parlato made and that the Committee accepted an excessive contribution in violation of 52 U.S.C. § 30116(a) and (f). The Factual and Legal Analysis, which formed a basis for the Commission's findings, is enclosed for your information.

In order to expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a voluntary step in the enforcement process that the Commission is offering to you as a way to resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that you violated the law.

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Charlie Spies, Esq.
Katie Reynolds, Esq.
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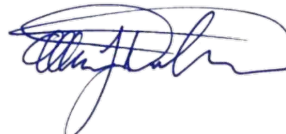
If your clients are interested in engaging in pre-probable cause conciliation, please contact Crystal Liu, the attorney assigned to this matter, at (202) 694-1273 or at cliu@fec.gov, within seven days of receipt of this letter. During conciliation, you may submit any factual or legal materials that you believe are relevant to the resolution of this matter. Because the Commission only enters into pre-probable cause conciliation in matters that it believes have a reasonable opportunity for settlement, we may proceed to the next step in the enforcement process if a mutually acceptable conciliation agreement cannot be reached within sixty days. *See* 52 U.S.C. § 30109(a), 11 C.F.R. Part 111 (Subpart A). Conversely, if your clients are not interested in pre-probable cause conciliation, the Commission may conduct formal discovery in this matter or proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding.

Pre-probable cause conciliation, extensions of time, and other enforcement procedures and options are discussed more comprehensively in the Commission's "Guidebook for Complainants and Respondents on the FEC Enforcement Process," which is available on the Commission's website at http://www.fec.gov/em/respondent_guide.pdf.

In addition, please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. *See* 18 U.S.C. § 1519. This matter will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. Please be advised that, although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.¹

We look forward to your response.

On behalf of the Commission,



Allen Dickerson
Chairman

Enclosures:

1. Factual and Legal Analysis

¹ The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

1 **FEDERAL ELECTION COMMISSION**
2 **FACTUAL AND LEGAL ANALYSIS**

3
4 **RESPONDENTS:** Beth for Congress and Bradley T. Crate **MUR 7743**
5 in his official capacity as treasurer
6 Beth Parlato
7 Anthony Parlato
8

9 **I. INTRODUCTION**

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

15 Respondents acknowledge that the Committee initially misreported the HELOC. As
16 such, the Commission finds reason to believe that the Committee violated 52 U.S.C.
17 § 30104(b)(3)(E) and 11 C.F.R. § 104.3(d)(4) by misreporting the HELOC as a personal loan
18 and authorizes pre-probable cause conciliation with the Committee. Further, the Commission
19 finds no reason to believe as to Beth Parlato and, to the extent that the factual record indicates
20 that Anthony Parlato, a co-holder of the HELOC, may have made an excessive contribution to
21 the Committee in connection with the couple’s acquisition of the loan, exercises its prosecutorial
22 discretion and dismisses that potential violation.¹

¹ 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.

1 **II. FACTUAL BACKGROUND**

2 Beth Parlato was a candidate for Congress in New York's 27th Congressional District in
 3 2020.² Beth for Congress is her principal campaign committee.³ On March 27, 2020, Parlato
 4 and her husband, Anthony Parlato, acquired a \$150,000 HELOC secured by a mortgage on their
 5 residence.⁴ On April 15, 2020, the Committee filed its original 2020 April Quarterly Report.⁵
 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.⁶

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

² 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.

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

⁴ 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 Parlato's acquired the HELOC, the Parlato residence appeared to be encumbered by a \$719,000 consolidated mortgage that the Parlato's 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 Parlato's' 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.

⁵ Beth for Congress, 2020 April Quarterly Report (Apr. 15, 2020).

⁶ *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,⁷ and claims that the Committee violated the Act because it “misreported this loan,
4 including the source, terms and due date of said loan.”⁸ In support of this allegation, the
5 Complaint attaches the recorded copy of the March 27, 2020 HELOC.⁹ The Complaint also
6 states that the town of Darien, New York, assesses the Parlatos’ 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.¹⁰

9 The Parlatos 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.”¹¹ On June 22,
12 2020, the Committee amended its April Quarterly Report to disclose the March 27, 2020
13 HELOC.¹²

14 Respondents also provide a document, titled “Property Evaluation Review,” which
15 appears to be a summary page from a property evaluation or appraisal, but does not include the

⁷ 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).

⁸ Compl. at 1.

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

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

¹¹ 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).

¹² 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 underlying analysis, indicating that the property had recently been valued at \$1,000,000 by a
 2 third-party appraiser, GAR Associates, Inc. apparently hired by Alden State Bank in the normal
 3 course of evaluating the loan application.¹³ The GAR Associates, Inc. Property Evaluation
 4 Review was performed on March 19, 2020 and included a description of the property.¹⁴ The
 5 evaluation form indicates that the property has been reviewed by the company multiple times
 6 over the years (on March 28, 2014, on May 1, 2014, on July 18, 2017).¹⁵

7 **III. LEGAL ANALYSIS**

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

10 The Act requires committee treasurers to file reports of receipts and disbursements in
 11 accordance with the provisions of 52 U.S.C. § 30104.¹⁶ These reports must include, *inter alia*,
 12 the total amount of receipts and disbursements¹⁷ as well as disclosure of candidate loans, whether

¹³ 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”).

¹⁴ 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 _____.

¹⁵ 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.

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

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

1 made from personal funds or through a lending institution.¹⁸

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.¹⁹ 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.²⁰
7 Commission regulations provide that a committee must disclose information about loans from
8 the candidate to the campaign on Schedules C and C-1.²¹ 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.²²

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

¹⁸ 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).

¹⁹ 11 C.F.R. § 100.83(e).

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

²¹ 11 C.F.R. § 104.3(d).

²² *Id.* § 104.3(d)(4).

1 the Committee had initially misreported the loan as being from Parlato’s personal funds.²³ 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.²⁴ 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.²⁵ 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.²⁶ 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
18 basis for finding Beth Parlato individually liable for the reporting violation and finding Parlato

²³ Resp. at 1-2.

²⁴ See Amended April Quarterly Report at 43-45.

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

²⁶ *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 personally responsible would not be consistent with prior matters.²⁷ Thus, the Commission finds
2 no reason to believe that Parlato violated 52 U.S.C. § 30104(b)(3)(E) and 11 C.F.R.
3 § 104.3(d)(4).

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

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

11 Federal candidates, however, may make unlimited contributions from their own “personal
12 funds” to their authorized campaign committees.³⁰ The Act and Commission regulations provide
13 that “personal funds” are (a) amounts derived from any asset that, under applicable State law, at
14 the time the individual became a candidate, the candidate had legal right of access to or control
15 over, and with respect to which the candidate had legal and rightful title or an equitable interest;
16 and (b) income received during the current election cycle of the candidate, including a salary and
17 other earned income from bona fide employment; dividends and proceeds from the sale of the

²⁷ *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).

²⁸ 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”).

²⁹ 52 U.S.C. § 30116(a), (f).

³⁰ 11 C.F.R. § 110.10.

1 candidate's stocks or other investments; and gifts of a personal nature that had been customarily
2 received by the candidate prior to the beginning of the election cycle.³¹

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

12 For example, in MUR 5421 (John Kerry for President), the complaint alleged that the
13 candidate's spouse made excessive contributions to the committee when the candidate made a
14 loan to his campaign that was funded with a line of credit secured by a piece of property he
15 owned jointly with his wife that contained additional encumbrances. The Commission found
16 reason to believe that the candidate's authorized committee accepted an excessive contribution
17 from the spouse because the factual record available at that time indicated that the candidate's
18 interest in the jointly owned collateral property may have been less than the amount of the loan

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

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

³³ 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).

³⁴ *Id.* §§ 100.52(b)(4), 100.83(b)(1)-(2).

1 due to the presence of other liens on the property.³⁵ In MUR 6824 (Eugene Yu for Congress, *et*
2 *al.*), the Commission found that a spouse made an excessive contribution by making a draw on a
3 HELOC secured by couple’s residence when the residence was 100% owned by the spouse, not
4 the candidate.³⁶ By contrast, MURs 4830 & 4845 (Udall) involved loans secured by a brokerage
5 account owned jointly by the candidate and his wife, and the Commission determined that the
6 loans from the candidate to the campaign “were based entirely on [the candidate’s] half of the
7 assets jointly controlled with” his spouse.³⁷

8 In this matter, Respondents have provided documentation indicating that the property was
9 valued at \$1 million by a third party and public records indicate that the couple holds a joint
10 interest in the property. Although the documentation as to this evaluation appears to be
11 incomplete, public information indicates that Alden State Bank is a client of GAR Associates,
12 and we have no reason to doubt the document’s legitimacy.³⁸ While a discrepancy appears to
13 exist between the bank’s valuation and the town’s tax valuation, this is insufficient to raise a
14 reasonable inference that the property was under-collateralized. The Commission previously
15 found in MUR 5421 (John Kerry for President) that “[t]he fact that the assessed value of the

³⁵ 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).

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

³⁷ 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).

³⁸ See *supra* n.13 and accompanying text.

1 property for property tax purposes diverges from the market value determined by the appraisal is
 2 not enough by itself to rebut” a fair market appraisal that differs from a tax assessment.³⁹

3 Documents attached to the Complaint indicate that the Parlato property had \$719,000 in
 4 existing mortgages at the time that the Parlatos acquired the HELOC.⁴⁰ The total amount of
 5 encumbrances on the property is consistent with the GAR Associates’ million-dollar valuation of
 6 the Parlato property: the existence of a consolidated mortgage for approximately \$700,000 and a
 7 subsequent HELOC for \$150,000, in a situation where the borrower could only access 50% of
 8 the available equity, suggests a property with a value of \$1,000,000 ($\$700,000 + (\$150,000 \times 2)$).
 9 If the Parlato property had \$300,000 or more of available equity, Ms. Parlato’s use of half of that

³⁹ 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 (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 Parlatos 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.

⁴⁰ *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 equity would not trigger an excessive contribution from her spouse.⁴¹

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

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

⁴¹ 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).

⁴² 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 (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 Given the amount of the potential violation, the fact that this was a first-time congressional
2 candidate, and the Commission's available resources, it would not be prudent to pursue this
3 potential violation. Accordingly, the Commission dismisses any allegation that Anthony Parlato
4 made, and the Committee accepted, an excessive contribution.