



FEDERAL ELECTION COMMISSION
Washington, DC

VIA ELECTRONIC AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED

August 6, 2021

James Arthur Gustafson

Helena, MT 59607

RE: MUR 7744

Dear Mr. Gustafson:

The Federal Election Commission reviewed the allegations in your complaint received on June 1, 2020. On July 27, 2021, based upon the information provided in the complaint, and information provided by the respondents, the Commission decided to exercise its prosecutorial discretion to dismiss the allegations as to Dennis Daneke for Senate and Dennis Daneke, in his official capacity as treasurer, and Dennis Daneke, and close its file in this matter. Accordingly, the Commission closed its file in this matter on August 2, 2021. A copy of the General Counsel's Report, which more fully explains the basis for the Commission's decision, is enclosed.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009).

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. *See* 52 U.S.C. § 30109(a)(8).

Sincerely,

Lisa J. Stevenson
Acting General Counsel

Roy Q. Luckett

BY: Roy Q. Luckett
Acting Assistant General Counsel

Enclosure
General Counsel's Report

BEFORE THE FEDERAL ELECTION COMMISSION
ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT

MUR: MUR 7744

Respondents: Dennis Daneke
Dennis Daneke for Senate
and Dennis Daneke, as treasurer
(the “Committee”)

Complaint Receipt Date: June 1, 2020

Response Date: June 29, 2020

Alleged Statutory/Regulatory Violations: 52 U.S.C. §§ 30101(2); 30102(e)(1) & (h)(1); 30103; 30104;
11 C.F.R. §§ 100.3(a)(1), (2); 101.1(a); 102.1(a); 104.1; 104.3

The Complaint alleges that Daneke failed to register as a candidate, designate a principal campaign committee, and file disclosure reports, in violation of the Act and Commission regulations.¹ Daneke responds that he neither raised nor spent \$5,000 in his campaign and, therefore, does not meet the Act’s definition of a candidate, and is not required to register and report to the FEC.²

Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and assess whether particular matters warrant further administrative enforcement proceedings. These criteria include (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the

¹ Compl. at 1, 3 (June 1, 2020). Daneke was a candidate for U.S. Senate in Montana, who filed to be on the ballot in the Green Party Primary on March 9, 2020. See https://app.mt.gov/cgi-bin/filing/index.cgi?ACTION=LIST_NON_LEG. Daneke lost the June 2, 2020, Green Party Primary with 255 votes (34%). See <https://electionresults.mt.gov/resultsSW.aspx?type=FED&map=CTY>. Neither Daneke nor the Committee filed an FEC Form 1 or Form 2 with the Commission. Compl. at 1. The Committee also did not file campaign finance reports with the FEC or the Montana Commissioner of Political Practices. Additionally, the Complaint cites reporting that Daneke “is not an actual candidate for office,” but is attempting to disrupt the candidacy of another Green Party Primary candidate. *Id.* at 1, 4-12.

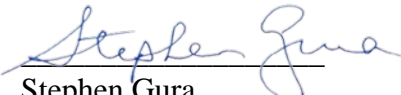
² Resp. at 1 (June 29, 2020). Daneke states that he contacted the FEC and was told that as soon as he raised \$5,000 or spent \$5,000, he would need to file with the Commission. *Id.* Daneke further states that he never raised any money, and only spent \$1,740 on the campaign as a filing fee, which was paid from his personal account. *Id.*

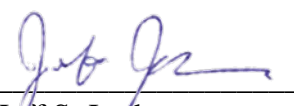
electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating, the candidate's statement that he did not meet the financial activity thresholds for filing disclosure reports with the Commission, and the apparently low dollar amount at issue, we recommend that the Commission dismiss the Complaint consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources.³ We also recommend that the Commission close the file as to all Respondents and send the appropriate letters.

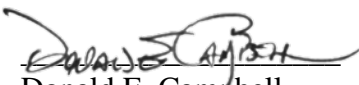
Lisa J. Stevenson
Acting General Counsel

Charles Kitcher
Acting Associate General Counsel

11.2.20
Date

BY: 
Stephen Gura
Deputy Associate General Counsel


Jeff S. Jordan
Assistant General Counsel


Donald E. Campbell
Attorney

³ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).