



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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MEMORANDUM

TO: The Commission

FROM: Lisa J. Stevenson
Acting General Counsel

Charles Kitcher
Associate General Counsel for Enforcement

BY: Jin Lee *JK*
Deputy Associate General Counsel for Enforcement

Peter Blumberg *PGB*
Assistant General Counsel for Enforcement

Aaron Rabinowitz *AR*
Attorney

SUBJECT: MUR 7745 (Casey Askar for Congress)

RE: Proposed Factual and Legal Analysis and Conciliation Agreement

I. INTRODUCTION

On April 28, 2022, the Commission voted to find reason to believe that Casey Askar for Congress and Rob Phillips III in his official capacity as treasurer violated 52 U.S.C. § 30104(b)(3)(E) and 11 C.F.R. § 104.3(a)(4)(iv), (d)(4) by failing to disclose complete and accurate information in its reports regarding a line of credit from Northern Bank that formed the basis of a loan to Askar for Congress.¹ It directed the Office of General Counsel to draft an appropriate Factual and Legal Analysis. It further authorized conciliation prior to a finding of probable cause to believe and instructed the Office of General Counsel to draft a conciliation agreement

¹ Cert. (May 4, 2022).

MUR 7745 (Casey Askar for Congress)

Page 2 of 2

1 **II. RECOMMENDATIONS**

- 2 1. Approve the attached Factual and Legal Analysis;
- 3 2. Approve the attached Conciliation Agreement; and
- 4 3. Send the appropriate letters.

5 Attachments:

6

- 7 1. Proposed Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: Casey Askar for Congress and MUR 7745
Rob Phillips III in his official capacity
as treasurer

I. INTRODUCTION

This matter was generated by a Complaint filed with the Federal Election Commission by Stanley Carter.¹ In January 2020, six weeks before announcing his candidacy for Florida's 19th Congressional District, Casey Askar obtained a \$5,000,000 line of credit from Northern Bank & Trust Company ("Northern Bank"). After his announcement of candidacy, Askar withdrew \$3,000,000 on the line of credit and loaned it to his campaign committee, Casey Askar for Congress and Rob Phillips III in his official capacity as Treasurer ("Casey Askar for Congress" or the "Committee"). The Complaint alleges that Northern Bank's involvement in the loan to the Committee violated the Federal Election Campaign Act, as amended, (the "Act") and Commission regulations because: (1) the loan, as reported by the Committee, did not bear the bank's usual and customary interest rate; and (2) Askar collateralized the line of credit with property of insufficient worth.² The Committee contends that the loan was properly disclosed in its filings with the Commission.⁴

The available information indicates that the Committee incorrectly reported information about the transaction, such as failing to provide the interest rate Northern Bank charged on the line of credit or report that other persons acted as guarantors for the transaction. Accordingly,

¹ See 52 U.S.C. § 30109(a)(1).

² Compl. at 1-2 (June 11, 2020).

⁴ Askar & Comm. Resp. at 4-9 (July 29, 2020) ("Askar Resp.").

1 the Commission finds reason to believe that the Committee violated 52 U.S.C. § 30104(b)(3)(E)
2 and 11 C.F.R. § 104.3(a)(4)(iv), (d)(4) by failing to disclose complete and accurate information
3 regarding the line of credit from Northern Bank in the Committee's reports.

4 **II. FACTUAL BACKGROUND**

5 On January 15, 2020, Askar and four LLCs secured a \$5,000,000 line of credit at
6 Northern Bank at an interest rate that was the greater of 6.5% or the Wall Street Journal Prime
7 Rate plus 1.5%.⁵ Mortgages on four parcels of land — each owned by one of the four LLCs —
8 served as collateral for the line of credit.⁶ The loan documents also provided that Askar and the
9 LLCs were jointly and severally liable for any amounts withdrawn under the line of credit.¹⁰

10 On March 19, 2020, Askar announced his candidacy for Florida's 19th Congressional
11 District, designating Casey Askar for Congress as his principal campaign committee. Askar then
12 withdrew \$3,000,000 on the line of credit, which he loaned to the Committee on March 30, 2020
13 at no interest.¹³ Neither Askar nor the LLCs had drawn on the line of credit before then.¹⁴

14 In June 2020, the Committee disclosed the loan and line of credit in Schedules C and C-1
15 in its first disclosure report filed with the Commission.¹⁵ The information in the C-1 appears to
16 relate to the line of credit in some instances and the loan from Askar to the Committee in others.
17 The Committee lists the amount of the loan as \$3,000,000 and the interest rate as 0%, and it

⁵ Askar Resp. Ex. A at 1, 8 ("Promissory Note").

⁶ Askar Resp. Ex. B ("Mortgage Loan Agreement").

¹⁰ Promissory Note § 9.6.

¹³ Askar Resp. at 3 & fn. 3; *Id.* Ex. E § 2, 4 ("Loan Agreement").

¹⁴ Askar Resp. at 3.

¹⁵ Amended Apr. 2020 Quarterly Rpt. at 98 (June 8, 2020).

1 represents that no other party is secondarily liable for the loan.¹⁶ But it also lists the lender as
2 Northern Bank and the date of the loan as January 15, 2020, and it represents that the loan was
3 collateralized by real property.¹⁷ Also of relevance, the C-1 indicates that the lender's interest in
4 the collateral was not perfected.¹⁸ A representative of Northern Bank certified that the
5 information in the C-1 was accurate and that the loan was made in a manner that complies with
6 certain specified Commission regulations.¹⁹ And although the C-1 was not submitted until April
7 15, 2020, the signature of Northern Bank's representative is dated January 15, 2020.²⁰

8 **III. LEGAL ANALYSIS**

9 Under the Act, an authorized committee of a federal candidate must report the total
10 amount of loans made by or guaranteed by the candidate as well as all other loans.²⁶
11 Commission regulations further provide that a candidate's principal campaign committee must
12 report all loans derived from an advance on the candidate's brokerage account, credit card, home
13 equity line of credit, or other line of credit available to the candidate.²⁷ If the candidate finances
14 a loan to the campaign with an underlying loan or line of credit, Section 104.3(d)(4) of the
15 Commission's regulations requires the committee to disclose on Schedule C-1, among other
16 things: (1) date, amount, and interest rate of the loan or line of credit; (2) name and address of

¹⁶ *Id.* at 95, 98.

¹⁷ *Id.* at 98.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²⁶ 52 U.S.C. § 30104(b)(2)(G), (H).

²⁷ 11 C.F.R. § 100.83(e).

1 the lending institution; and (3) types and value of collateral or other sources of repayment that
2 secured the loan.²⁸ In addition, in conjunction with the reporting of receipts, Section
3 104.3(a)(4)(iv) requires reporting committees to disclose the identification of any endorser or
4 guarantor of a loan.²⁹

5 Askar secured the line of credit with Northern Bank and funded his campaign through a
6 loan from him to the Committee with funds withdrawn on that line of credit.³⁰ Accordingly, in
7 its first report, the Committee was required to provide the information required by Sections
8 104.3(d)(4) and 104.3(a)(4)(iv).³¹ While the Committee reported some of the required
9 information, its filing failed to disclose the interest rate Northern Bank charged for withdrawals
10 on the line of credit, failed to list the LLCs as co-borrowers or guarantors, and incorrectly
11 represented that no other party was secondarily liable for the amount of the loan, despite the fact
12 that the LLCs were jointly and severally liable for any amounts withdrawn on the line of credit.³²

13
14 The Commission therefore finds reason to believe that the Committee violated 52 U.S.C.
15 § 30104(b)(3)(E) and 11 C.F.R. § 104.3(a)(4)(iv), (d)(4) by failing to disclose complete and

²⁸ 11 C.F.R. § 104.3(d)(4); *see* Factual & Legal Analysis at 6-9, MURs 7001, 7002, 7003, and 7009 (Ted Cruz for Senate, *et al.*) (finding reason to believe committee misreported the source of funds received to be the candidate's personal funds rather than bank loans); Factual & Legal Analysis at 5-7, MUR 6556 (Broun) (finding same but dismissing matter as outside statute of limitations).

²⁹ 11 C.F.R. § 104.3(a)(4)(iv).

³⁰ *See supra* fn. 5-6, 9 and accompanying text.

³¹ *See* Askar Resp. at 8-9 & n.1 (acknowledging obligation to disclose information described in these sections).

³² *See* Amended Apr. 2020 Quarterly Rpt. at 95, 98. It is also unclear whether the Committee accurately reported the amount of the loan to be \$3,000,000. As noted, the available information indicates that Askar may have established the line of credit for use in his campaign. *See supra* fn. 20-25 and accompanying text. If the entire \$5,000,000 line of credit was established for campaign-related purposes, rather than only the \$3,000,000 that was withdrawn, then the Committee should have reported the full amount of the line of credit in its filings.

MUR 7745 (Casey Askar for Congress)
Factual and Legal Analysis
Page 5 of 5

- 1 accurate information regarding the line of credit from Northern Bank in the Committee's
- 2 reports.