



FEDERAL ELECTION COMMISSION
Washington, DC 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

December 22, 2021

Brian Coletta

Winston-Salem, NC 27104

RE: MUR 7748

Dear Mr. Coletta:

The Federal Election Commission reviewed the allegations in your complaint dated June 19, 2020. On December 14, 2021, based on the information provided in the complaint, and information provided by respondents, the Commission decided to exercise its prosecutorial discretion to dismiss the allegations as to To Elect Jenny Marshall and Jennifer Marshall in her official capacity as Treasurer. Accordingly, on December 14, 2021, the Commission closed the file in this matter. 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).

If you have any questions, please contact Don Campbell, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Lisa J. Stevenson
Acting General Counsel

Roy Q. Lockett

BY: Roy Q. Lockett
Acting Assistant General Counsel

Enclosure
General Counsel's Report

BEFORE THE FEDERAL ELECTION COMMISSION

ENFORCEMENT PRIORITY SYSTEM

DISMISSAL REPORT

MUR: 7748

Respondents: To Elect Jenny Marshall and Jennifer Marshall, as Treasurer (“Committee”); Jennifer Marshall; Jeffrey Marshall

Complaint Receipt Date: June 19, 2020

Latest Response Date: September 21, 2020

Alleged Statutory

Regulatory Violations:

52 U.S.C. §§ 30104(a)(2)(A); 30114(b)

11 C.F.R. §§ 104.3; 104.5; 113.1(g)

The Complaint alleges that the Committee made several reporting errors, including failing to report all of its contributions, expenditures, and debts as a result of its failure to file both a 2018 October Quarterly Report and a 2018 Year End Report. The Complaint also alleges that the Committee failed to include a purpose or street address information for disbursements to campaign staff, failed to respond to Requests for Additional Information (“RFAI”) issued by the Commission, and failed to file its 2018 July Quarterly Report electronically.¹ The Complaint further alleges that the Committee failed to timely file its Statement of Organization and converted certain campaign funds to personal use by paying \$377.21 to Verizon Wireless and \$42.78 to Hulu.²

Respondents acknowledge that the Committee failed to file its 2018 October Quarterly and Year End Reports after Marshall lost the May 8, 2018 primary,³ but note that the Committee had

¹ Compl. at 2-11 (June 19, 2020); Compl. Amend. at 7-50 (Sept. 2, 2020). In particular, the Complaint alleges, as a result of the Committee’s failure to file a 2018 October Quarterly Report and a 2018 Year End Report, the Committee failed to report \$2,300 in salary payments to Complainant, failed to report debts owed to Complainant, failed to report receipts and disbursements of at least \$16,483.41, failed to report payments or debts to NGP VAN for database costs, failed to itemize travel mileage reimbursements, and failed to report contributions or expenditures received after June 30, 2018. *Id.* The Complaint also notes that the Committee’s reports contained discrepancies in the election cycle to date cumulative totals. Compl. at 6.

² Compl. at 11; Compl. Amend. at 49-50.

³ Resp. at 2-3 (Aug 10, 2020). Respondents assert that they are attempting to hire a qualified FEC treasurer and to file the missing reports. *Id.* at 3. However, as of the date of this report, the Committee has not filed its missing reports, nor any disclosure report beyond its 2018 July Quarterly Report.

lost its treasurer and was trying to hire a new one and, at the same time, obtain compliance software to prepare the Committee's missing reports.⁴ The Commission ultimately imposed administrative fines for the Committee's failure to file its 2018 October and Year End Reports, as well as its failure to file its 2018 July Quarterly Report electronically.⁵

Respondents concede that they failed to report street address information for disbursements to campaign staff.⁶ Respondents, however, assert that the Committee timely filed its Statement of Organization on December 12, 2016.⁷ Further, Respondents assert that the \$377.21 payment to Verizon Wireless was for two phones used by campaign office staff and the \$42.78 payment to Hulu was an auto renewal of an account used to monitor the news cycle.⁸

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 electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in

⁴ *Id.*

⁵ Admin. Fine 3476; Admin. Fine 3543; Admin. Fine 3717.

⁶ Resp. at 2-3. The Committee's failure to report street addresses does not meet the Reports Analysis Division Review and Referral Procedures for the 2017-2018 Election Cycle Standard 11 threshold for referral to the Office of General Counsel ("OGC") or the Alternative Dispute Resolution Office ("ADRO"), which requires that the disbursements with missing or inadequate information be in excess of \$50,000. Similarly, the mathematical discrepancies in the Committee's reports does not meet the Standard 6 threshold for referral to OGC or ADRO, which requires that cash-on-hand discrepancies between reports be in excess of \$25,000 and that election cycle-to-date discrepancies be in excess of \$50,000 per report.

⁷ *Id.* at 2. Contrary to the Complaint's assertion that no Statement of Organization was filed until August 5, 2017, a Statement of Organization was filed with the Commission on December 12, 2016.

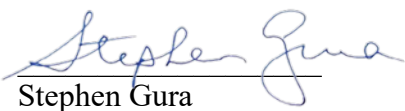
⁸ *Id.*


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 administrative fines previously imposed by the Commission, and the relatively modest amounts at issue concerning the reporting and personal use allegations, 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. *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). We further recommend that the Commission remind the Committee to file its 2018 October Quarterly and Year End Reports. 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

05.12.21
Date

BY: 
Stephen Gura
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