



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Antone for Congress, *et al.*) MUR 7774
)

**STATEMENT OF REASONS OF COMMISSIONERS
SHANA M. BROUSSARD AND ELLEN L. WEINTRAUB**

On July 12, 2022, the Commission found reason to believe that Antone for Congress and Dennis Melton in his official capacity as treasurer (the “Committee”) violated 52 U.S.C. § 30104(b)(5)(A) and 11 C.F.R. § 104.3(b)(4) by misreporting the payee of funds paid to West Coast Public Affairs and authorized pre-probable cause conciliation.¹ The available information showed that during the 2020 election cycle, the Committee reported 20 disbursements totaling \$3,309,026 for a variety of purposes related to advertising to “WCPA,” whose address the Committee listed as an Illinois post office box. WCPA, as it turns out, is in fact West Coast Public Affairs (“West Coast”), a corporation providing media services to political, nonprofit, and other organizations, including media strategy, production, and time-buying, which is handled through a subvendor. The Illinois address reported by the Committee was not associated with West Coast, a California company, in any public records.

Referencing press reports, the Complaint and Response asserted that during the 2020 election cycle, the DCCC issued an internal policy that amounted to maintaining a “blacklist” of vendors that worked with challengers to incumbent Democratic congressional candidates.² In March 2021, the DCCC announced that it would no longer follow this policy.³

The Act and Commission regulations require political committees to report the name and address of each person to whom they make expenditures or other disbursements aggregating more than \$200 per calendar year, or per election cycle for authorized committees, as well as the date, amount, and

¹ Certification, MUR 7774 (July 12, 2022).

² Compl. at 5 (citing Rachael Bade & David Weigel, *Pelosi Endorses Rep. Tlaib in Primary Fight, Moves to Help Members of ‘the Squad,’* WASH. POST (July 29, 2020), https://www.washingtonpost.com/powerpost/pelosi-endorses-rep-tlaib-in-primary-fight-moves-to-help-members-of-the-squad/2020/07/29/028b5692-d1c6-11ea-9038-af089b63ac21_story.html); Joint Resp. at 3; *see also* Daniel Marans, *DCCC Promises to Blacklist Firms that Work with Candidates Challenging Incumbents*, HUFFINGTON POST (Mar. 22, 2019), https://www.huffpost.com/entry/dccc-promises-to-blacklist-firms-that-work-with-candidates-challenging-incumbents_n_5c95126ae4b01ebeeef0ec3ae.

³ *See* Ally Mutnick, *House Democrats End Controversial Consultant Ban*, POLITICO (Mar. 9, 2021), <https://www.politico.com/news/2021/03/09/dccc-ban-primary-challengers-474588>.

purpose of such payments.⁴ The relevant reporting requirements under the Act and Commission regulations are intended to ensure public disclosure of “where political campaign money comes from and how it is spent.”⁵ Disclosure requirements also “deter[] and help[] expose violations” of the Act and Commission regulations.⁶

The Committee violated the plain language of 11 C.F.R. § 104.3(b)(4), which states that committees “shall report the full name and address” of each “person to whom an expenditure in an aggregate amount or value in excess of \$200 within the election cycle is made by the reporting authorized committee to meet the authorized committee’s operating expenses.”⁷ It matters not whether Antone for Congress violated the law intentionally – indeed, conciliation agreements often include contention language from Respondents arguing that their violations were inadvertent⁸ – what matters is that the public was deprived of critical information. The use of the acronym and the Illinois address would have made it very difficult for a member of the public to identify the recipient of \$3,309,026 in disbursements — 71% of the Committee’s total disbursements during the 2020 election cycle.⁹ Because the Committee violated the plain language of the relevant regulation, and thereby obscured West Coast as the payee, the Commission found reason to believe that the Committee violated 52 U.S.C. § 30104(b)(5)(A) and 11 C.F.R. § 104.3(b)(4) by misreporting the payee of funds paid to West Coast.¹⁰

In finding reason to believe, the Commission authorized pre-probable cause conciliation with the Committee and directed the Office of General Counsel (“OGC”) to prepare a proposed conciliation agreement addressing this violation. OGC circulated a draft conciliation just a few weeks later for the

⁴ 52 U.S.C. § 30104(b)(5), (6); 11 C.F.R. § 104.3(b)(3)(i), (ix) (political committees other than authorized committees); *id.* § 104.3(b)(4)(i), (vi) (authorized committees); *id.* § 104.9(a), (b) (all political committees).

⁵ *Buckley v. Valeo*, 424 U.S. 1, 66 (1976); *see also Citizens United v. FEC*, 558 U.S. 310, 369-71 (2010) (describing importance of disclosure requirements to serve informational interest, because “transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages”).

⁶ *SpeechNow.org v. FEC*, 599 F.3d 686, 698 (D.C. Cir. 2010) (en banc); *see also Buckley*, 424 U.S. at 67-68 (explaining that disclosure requirements “deter actual corruption and avoid the appearance of corruption by exposing large contributions and expenditures to the light” and that “recordkeeping, reporting, and disclosure requirements are an essential means of gathering the data necessary to detect violations” of the Act); *McConnell v. FEC*, 540 U.S. 93, 196 (2003) (concurring with the stated government interests in disclosure requirements described in *Buckley* — “providing the electorate with information, deterring actual corruption and avoiding any appearance thereof, and gathering the data necessary to enforce” the Act and Commission regulations).

⁷ 11 C.F.R. § 104.3(b)(4), (b)(4)(i); *see also* 52 U.S.C. § 30104(b)(5)(A) (committee reports shall disclose “the name and address” of each person to whom an expenditure in an aggregate amount or value in excess of \$200 within the election cycle is made by the reporting committee).


⁸ *See, e.g.*, Conciliation Agreement, MUR 7597; Conciliation Agreement, MUR 7586; Conciliation Agreement, MUR 7568; Conciliation Agreement, MUR 7470.

⁹ The Committee disclosed \$4,650,989.07 in total disbursements during the 2020 election cycle. Campaign Finance Data, Antone for Congress, Spending, <https://www.fec.gov/data/committee/C00729582/?cycle=2020&tab=spending>.


¹⁰ Factual and Legal Analysis, MUR 7774 at 7. We further supported OGC’s recommendations to find reason to believe the Committee misreported the payee of funds paid to several other vendors, as well as the purposes of those disbursements. *See* Certification, MUR 7774 (July 12, 2022). When the Commission split on those motions, we were willing to proceed on these narrower grounds.

Commission's approval. Yet, when OGC presented the Commission with a draft conciliation agreement for approval, our colleagues instead decided to dismiss the matter.¹¹ As a result, not only was the Committee not required to pay any civil penalty for its violation (a penalty that would have been the subject of negotiation, factoring in ability to pay), but the Committee was not required to comply with the regulation by amending its 2020 disclosure reports, which, to date, remain misleading. And we fear that other political actors may take the wrong message from the Commission's failure to pursue this violation and may feel emboldened to file reports that obscure rather than clarify the information which the public is entitled to know.

September 23, 2022
Date


Shana M. Broussard
Commissioner

September 23, 2022
Date


Ellen L. Weintraub
Commissioner

¹¹ See Certification, MUR 7774 (Aug. 11, 2022).