FEDERAL ELECTION COMMISSION
Washington, DC

VIA ELECTRONIC AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED

dbrey@isaacwiles.com
Donald C. Brey
Isaac Wiles Burkholder & Teetor, LLC
Two Miranova Place, Ste 700
Columbus, OH 43215

August 11, 2021

RE: MUR 7805

Dear Mr. Brey:

The Federal Election Commission reviewed the allegations in your client's complaint received on September 25, 2020. On August 2, 2021, based upon 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 Tim Ryan for Congress and Allen Ryan, as Treasurer; Tim Ryan, and Michele Lepore-Hagan for State Representative and its treasurer, and close its file in this matter. Accordingly, the Commission closed its file in this matter on August 2, 2018. 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: 7805

Complaint Receipt Date: September 25, 2020
Latest Response Date: December 4, 2020

Respondents: Tim Ryan for Congress and Allen Ryan, as Treasurer;
Tim Ryan;
Michele Lepore-Hagan for State Representative and Treasurer

Alleged Statutory Regulatory Violations:

52 U.S.C. §§ 30101(4)(A); 30120(a)(1),(d)
11 C.F.R. §§ 100.5(a); 100.26, 110.11(a)-(c)

The Complaint alleges that Respondents posted an ad on YouTube and Twitter that lacked a disclaimer identifying who paid for or authorized the ad.[1] The Complaint further asserts that Michele Lepore-Hagan, a candidate for Ohio state representative, or her committee failed to register with the Commission as a federal committee after it raised or spent over $1,000 on the ad.[2]

The Response asserts that no disclaimer was required on the ad because no fee was paid to post the video on YouTube or Twitter.[3] The Response further asserts that all expenses to produce the video were paid by Tim Ryan for Congress, and not by Michele Lepore-Hagan or her committee.[4] Alternatively, Respondents argue that the Commission should dismiss this matter because it was unlikely that the public was misled as to which party was responsible for the ad.

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1 Compl. at 2 (Sept. 25, 2020). In the ad, Michele Lepore-Hagan states that "voting for Tim Ryan [is] the right thing to do" and calls Ryan's opponent an "Extremist Republican." *Id*. at Ex. A. The ad also includes what appears to be Tim Ryan's campaign logo. *Id*.

2 *Id*.

3 Tim Ryan for Congress Resp. at 1 (Nov. 23, 2020); Michele Lepore-Hagan for State Representative Resp. at 1-2 (Dec. 4, 2020).

4 Tim Ryan for Congress Resp. at Ex. 1.

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 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 and the unlikelihood that the public was misled as to which entity was responsible for the ad, 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 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

06.17.21
Date

BY: Stephen Gura
Stephen Gura
Deputy Associate General Counsel

Kristina Portner
Kristina M. Portner
Attorney