



FEDERAL ELECTION COMMISSION
Washington, DC 20463

VIA ELECTRONIC AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED

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Erin Chlopak
Sophie Gonsalves-Brown
Campaign Legal Center
1101 14th Street, NW, Suite 400
Washington, DC 20005

April 29, 2022

RE: MUR 7847

Dear Ms. Chlopak and Ms. Gonsalves-Brown:

On April 19, 2022, the Federal Election Commission reviewed the allegations in your complaint received October 28, 2020, and on the basis of the information provided in the complaint, and information provided by respondents, decided to exercise its prosecutorial discretion to dismiss the allegations as to DTE Energy Company, American Working Families and Bud Jackson in his official capacity as treasurer. Accordingly, on April 19, 2022, the Commission closed the file in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016), effective September 1, 2016. A copy of the General Counsel's Report, which more fully explains the Commission's finding, is enclosed.

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. Lockett

BY: Roy Q. Lockett
Acting Assistant General Counsel

Enclosure
Factual and Legal Analysis

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2
3 **ENFORCEMENT PRIORITY SYSTEM**
4 **DISMISSAL REPORT**

5
6 **MUR:** 7847

Respondents: DTE Energy Company
American Working Families and
Bud Jackson in his official
capacity as treasurer¹

7
8 **Complaint Receipt Date:** October 28, 2020

9 **Response Dates:** Jan. 8, 2021, Feb. 25, 2021

10 **EPS Rating:**

11
12 **Alleged Statutory and**
13 **Regulatory Violations:**

52 U.S.C. § 30119(a)
11 C.F.R. § 115.2(a), (c)

14
15 The Complaint alleges that DTE Energy Company (“DTE”) made a prohibited \$15,000
16 contribution as a federal contractor to American Working Families (“AWF”), an independent-
17 expenditure-only political committee (“IEOPC”), in violation of the Federal Election Campaign Act
18 of 1971, as amended (the “Act”).² The Complaint alleges that DTE held federal contracts with the
19 General Services Administration, Department of Veterans Affairs, and Department of Defense at
20 the time that it made a contribution to AWF.³ During the timeframe that DTE was allegedly a
21 federal contractor, it reportedly made a contribution to AWF on August 24, 2020, in the amount of
22 \$15,000, but AWF subsequently amended the relevant report to disclose that the contribution was
23 made by DTE Energy Corporate Services, LLC, not DTE Energy Company.⁴ The Complaint also
24 raises questions as to whether AWF knowingly solicited a federal contractor contribution.

¹ American Working Families is an independent-expenditure-only political committee (“IEOPC”) registered with the Commission. See AWF Statement of Organization at 2 (Feb. 6, 2012).

² Compl. at 1 (Oct. 28, 2020).

³ *Id.* Specifically, the Complaint asserts that DTE held a ten-year indefinite delivery/requirements federal contract with the General Services Administration and held several contract awards that were active on August 25, 2020, including a \$2,500,000 contract with the Department of Veterans Affairs beginning on October 1, 2019, and a \$231,000 contract with the Department of Defense beginning on January 13, 2020. *Id.* at 2.

⁴ *Id.* at 3; see AWF 2020 October Quarterly Report at 7 (Oct. 15, 2020); AWF Amended 2020 October Quarterly Report at 7 (Dec. 22, 2020).

MUR 7847 (DTE Energy Company, *et al.*)

EPS Dismissal Report

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1 In its Response, DTE asserts that DTE Energy Corporate Services, LLC, a subsidiary of
2 DTE Energy Company, made the contribution, and further asserts that neither DTE Energy
3 Corporate Services, LLC, nor its parent DTE Energy Company, was a federal contractor at the time
4 that DTE Energy Corporate Services, LLC made the contribution.⁵ Rather, DTE states that the
5 federal contracts identified in the Complaint are held by DTE Electric Company and DTE Gas
6 Company, separate and distinct legal entities from DTE Energy Corporate Services, LLC, and DTE
7 Energy Company.⁶ AWF's Response acknowledges that AWF initially disclosed the receipt of a
8 contribution from DTE Energy Company in the amount of \$15,000 in its original report filed with the
9 Commission, and that after further inquiry AWF amended its original filings to clarify that the
10 contribution was made by the subsidiary, DTE Energy Corporate Services, LLC.⁷ The AWF
11 Response argues that because neither DTE Energy Company, nor DTE Energy Corporate Services,
12 LLC were federal contractors at the time of the contribution in August of 2020, the contribution from
13 DTE Energy Corporate Services, LLC was permissible.⁸

14 Based on its experience and expertise, the Commission has established an Enforcement
15 Priority System using formal, pre-determined scoring criteria to allocate agency resources and
16 assess whether particular matters warrant further administrative enforcement proceedings. These
17 criteria include (1) the gravity of the alleged violation, taking into account both the type of activity

⁵ DTE Energy Company Resp. at 1, 3 (Jan. 19, 2021). The DTE Response also observes that AWF amended its 2020 October Quarterly Report to disclose that the contribution was made by DTE Energy Corporate Services, LLC, not DTE Energy Company. *Id.* at 3; *see also* AWF Amended 2020 October Quarterly Report at 7.

⁶ DTE Energy Company Resp. at 5, 8.

⁷ AWF Resp. at 1-2 (Feb. 26, 2021); *see* AWF Amended 2020 30-Day Post-General Report at 10 (Jan. 11, 2021).

⁸ AWF Resp. at 2.

1 and the amount in violation; (2) the apparent impact the alleged violation may have had on the
 2 electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in
 3 potential violations and other developments in the law. This matter is rated as low priority for
 4 Commission action after application of these pre-established criteria. Given that low rating and the
 5 low dollar amount at issue, we recommend that the Commission dismiss the Complaint consistent
 6 with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and
 7 use of agency resources.⁹ We also recommend that the Commission close the file
 8 and send the appropriate letters.

9 Lisa J. Stevenson
 10 Acting General Counsel

11 Charles Kitcher
 12 Associate General Counsel

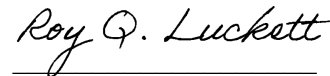
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 14
 15
 16 2/25/2022

17 Date

18 BY:

19 

20 Claudio J. Pavia
 21 Acting Deputy Associate General Counsel
 22 for Enforcement

23 

24 Roy Q. Luckett
 25 Acting Assistant General Counsel

26 

27 Donald E. Campbell
 28 Attorney
 29

⁹ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).