



FEDERAL ELECTION COMMISSION
Washington, DC 20463

BY EMAIL ONLY

April 29, 2022

reiff@sandlerreiff.com

Neil P. Reiff
Sandler Reiff Lamb
Rosenstein & Birkenstock, P.C.
1090 Vermont Ave NW, Suite 750
Washington, DC 20005

RE: MUR 7847
American Working Families
Bud Jackson, as Treasurer

Dear Mr. Reiff:

On November 4, 2021, the Federal Election Commission ("Commission") notified your clients, American Working Families and Bud Jackson, in his official capacity as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was forwarded to your clients at that time. Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on April 19, 2022, decided to exercise its prosecutorial discretion and voted to dismiss this matter. The Commission then closed its file in this matter. The General Counsel's Report, which more fully explains the Commission's decision, is enclosed for your information.

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). 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. Luckett

BY: Roy Q. Luckett
Assistant General Counsel

Enclosure:
General Counsel's Report

BEFORE THE FEDERAL ELECTION COMMISSION

ENFORCEMENT PRIORITY SYSTEM

DISMISSAL REPORT

MUR: 7847

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

Complaint Receipt Date: October 28, 2020

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

EPS Rating:

**Alleged Statutory and
Regulatory Violations:**

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

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

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
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12 Charles Kitcher
13 Associate General Counsel
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15 2/25/2022
16
17 Date

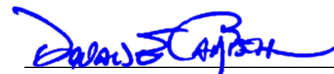
18 BY:

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21 Claudio J. Pavia
22 Acting Deputy Associate General Counsel
23 for Enforcement
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27 Roy Q. Lockett
28 Acting Assistant General Counsel
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Donald E. Campbell
Attorney

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