

FEDERAL ELECTION COMMISSION
FIRST GENERAL COUNSEL'S REPORT

MUR 7989

DATE COMPLAINT FILED: April 25, 2022
DATE OF NOTIFICATIONS: April 26, 2022
LAST RESPONSE RECEIVED: June 3, 2022
DATE ACTIVATED: September 28, 2022
SOL EXPIRATION: April 15, 2027
ELECTION CYCLE: 2022

COMPLAINANT: Timothy Raymond Sanow

RESPONDENTS: Benjamin Pursley

RELEVANT STATUTES

AND REGULATIONS: 52 U.S.C. § 30101(2)
52 U.S.C. § 30102(e)(1)
11 C.F.R. § 101.1(a)
11 C.F.R. § 101.3

REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. INTRODUCTION

The Complaint alleges that Benjamin Pursley, a candidate for United States Senate from

30 Idaho in 2022, failed to file his Statement of Candidacy. Pursley responds that he tried to file
31 his Statement of Candidacy with the Commission on a timely basis but his attempts were
32 unsuccessful. Pursley filed his Statement of Candidacy with the Commission on April 27, 2022,
33 12 days late, after the Complaint was filed. Under the circumstances in this matter, we
34 recommend that the Commission dismiss this allegation and close the file.¹

¹ *Heckler v. Chaney*, 470 U.S. 821 (1985).

MUR 7989 (Benjamin Pursley)
 First General Counsel's Report
 Page 2 of 5

1 **II. FACTUAL BACKGROUND**

2 Benjamin Pursley was a candidate in the Democratic primary election for United States
 3 Senate from Idaho in 2022.² On March 31, 2022, he loaned \$25,000 to his principal campaign
 4 committee, Pursley for Senate (“Committee”), which filed a Statement of Organization that same
 5 day.³ The Complaint alleges that Pursley became a Senate candidate when he made the loan and
 6 had not filed a Statement of Candidacy as of the time of the filing of the Complaint on April 25,
 7 2022.⁴

8 On March 31, 2022, Pursley used the Commission’s online filing system to file a
 9 Statement of Organization for the Committee; the Response states that Pursley also attempted to
 10 file a Statement of Candidacy but was unsuccessful.⁵ The Response further states that Pursley
 11 thereafter hired a compliance professional to serve as treasurer of the Committee.⁶ On April 9,
 12 2022, the Response asserts, the Committee treasurer submitted a Statement of Candidacy on
 13 Pursley’s behalf and, receiving no error message, believed that the Statement had been
 14 successfully filed with the Commission.⁷ On April 15, 2022, the Committee filed its 2022 April
 15 Quarterly Report. On April 26, 2022, Pursley received the Complaint in this matter and he states
 16 that the Committee treasurer called the Commission’s electronic filing office to determine the

² See Idaho Secretary of State’s Office at https://canvass.sos.Idaho.gov/eng/contests/search/year_from:1990/year_to:2022/office_id:2/stage:1; see also Ballotpedia at https://Ballotpedia.org/Ben_Pursley.

³ Committee Statement of Organization (Mar. 31, 2022); Pursley for Senate 2022 April Quarterly Report at 6 (Apr. 15, 2022).

⁴ Compl. at 1 (Apr. 25, 2022).

⁵ Resp. at 1 (June 3, 2022).

⁶ *Id.*

⁷ *Id.* The Response attaches an unsigned Statement of Candidacy dated April 9, 2022. *Id.* Attach. A.

MUR 7989 (Benjamin Pursley)
 First General Counsel's Report
 Page 3 of 5

1 status of the April 9 filing;⁸ according to Pursley, Commission staff responded that they had no
 2 record of his Statement of Candidacy being filed.⁹ On April 27, 2022, Pursley successfully filed
 3 a Statement of Candidacy.¹⁰

4 The Response asserts that this matter should be dismissed because Pursley's attempt to
 5 timely file a Statement of Candidacy failed because of an error in the Commission's online filing
 6 system.¹¹ The Response also argues that there was no public harm because most of the
 7 information on the Statement of Candidacy, except for Pursley's party affiliation, was already on
 8 the Statement of Organization, which his Committee filed timely.¹²

9 **III. LEGAL ANALYSIS**

10 An individual becomes a candidate under the Act if he or she receives contributions or
 11 makes expenditures in excess of \$5,000, or consents to another doing so on his or her behalf.¹³
 12 A contribution is any gift, subscription, loan, advance or deposit of money or anything of value
 13 made by any person for the purpose of influencing any election for federal office.¹⁴ Once the
 14 \$5,000 threshold has been met, the candidate has 15 days to designate a principal campaign
 15 committee by filing a Statement of Candidacy with the Commission.¹⁵ The principal campaign

⁸ Resp. at 2.

⁹ *Id.*

¹⁰ *Id.* Benjamin Pursley Statement of Candidacy (Apr. 27, 2022) at <https://docquery.fec.gov/cgi-bin/forms/S2ID00194/1590667>.

¹¹ Resp. at 2.

¹² *Id.*

¹³ 52 U.S.C. § 30101(2) (definition of candidate); 11 C.F.R. § 100.3(a) (same).

¹⁴ 52 U.S.C. § 30101(8)(A)(i); 11 C.F.R. § 100.52.

¹⁵ 52 U.S.C. § 30102(e)(1); 11 C.F.R. § 101.1(a).

MUR 7989 (Benjamin Pursley)
 First General Counsel's Report
 Page 4 of 5

1 committee must file a Statement of Organization within ten days of its designation,¹⁶ and it must
 2 file disclosure reports with the Commission.¹⁷

3 Pursley became a candidate for U.S. Senate on March 31, 2022, when he loaned \$25,000
 4 to his principal campaign committee. His Statement of Candidacy should have been filed by
 5 April 15, 2022, within 15 days of becoming a candidate.¹⁸ However, Pursley's two attempts to
 6 file a Statement of Candidacy before the filing deadline of April 15, 2022 were unsuccessful, and
 7 he did not file a Statement of Candidacy until April 27, 2022, 12 days late, after he received the
 8 Complaint.

9 The Commission has dismissed allegations where the late filing of a Statement of
 10 Candidacy did not result in the failure to file a quarterly report.¹⁹ Because Pursley was only 12
 11 days late in filing his Statement of Candidacy, and the Committee timely filed its 2022 April
 12 Quarterly on April 15, 2022, we recommend that the Commission dismiss this allegation under
 13 *Heckler v. Chaney*.²⁰

14 IV. RECOMMENDATIONS

15 1. Dismiss the allegation that Benjamin Pursley violated 52 U.S.C. § 30102(e)(1) by
 16 failing to file a Statement of Candidacy;

¹⁶ 52 U.S.C. § 30103(a); 11 C.F.R. § 102.1(a).

¹⁷ See 52 U.S.C. § 30104(a), (b).

¹⁸ See 52 U.S.C. § 30102(e)(1); 11 C.F.R. § 101.1(a).

¹⁹ See Factual and Legal Analysis ("F&LA") at 8-9, MURs 7689 and 7794 (Amanda Adkins for Congress, *et al.*) (dismissed the allegation that Adkins failed to timely file her Statement of Candidacy where, even if a particular event triggered candidacy, no disclosure reports by the Adkins Committee would have been missed); F&LA at 7, MUR 6815 (New Hampshire for Scott Brown) (dismissed allegation that Brown failed to file a Statement of Candidacy where, even if a particular event triggered candidacy, the Statement of Candidacy would have been less than 30 days late and the Committee's first required disclosure report would have been the same report that it timely filed); F&LA at 4-5, MUR 6785 (Kwasman for Congress, *et al.*) (dismissing as a matter of prosecutorial discretion because the Statement of Candidacy was filed only a few days late and did not cause the committee to miss filing a scheduled disclosure report).

²⁰ 470 U.S. 821 (1985).

MUR 7989 (Benjamin Pursley)
First General Counsel's Report
Page 5 of 5

1 2. Approve the attached Factual and Legal Analysis;
2
3 3. Approve the appropriate letters; and
4 4. Close the file.

5 Lisa J. Stevenson
6 Acting General Counsel
7
8
9
10

11 Charles Kitcher
12 Associate General Counsel for Enforcement
13
14

15 January 17, 2023

16 Date

17 Jin Lee
18 Jin Lee
19 Deputy Associate General Counsel for Enforcement
20
21

22 Mark Allen
23 Mark Allen
24 Assistant General Counsel
25
26

27 Delbert K. Rigsby
Attachment
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Benjamin Pursley MUR 7989

I. INTRODUCTION

The Complaint alleges that Benjamin Pursley, a candidate for United States Senate from
n 2022, failed to file his Statement of Candidacy. Pursley responds that he tried to file
tement of Candidacy with the Commission on a timely basis but his attempts were
essful. Pursley filed his Statement of Candidacy with the Commission on April 27, 2022,
s late, after the Complaint was filed. Under the circumstances in this matter, the
ission dismisses this allegation.¹

II. FACTUAL BACKGROUND

16 Benjamin Pursley was a candidate in the Democratic primary election for United States
17 Senate from Idaho in 2022.² On March 31, 2022, he loaned \$25,000 to his principal campaign
18 committee, Pursley for Senate (“Committee”), which filed a Statement of Organization that same
19 day.³ The Complaint alleges that Pursley became a Senate candidate when he made the loan and
20 had not filed a Statement of Candidacy as of the time of the filing of the Complaint on April 25,
21 2022.⁴

¹ *Heckler v. Chaney*, 470 U.S. 821 (1985).

² See Idaho Secretary of State's Office at https://canvass.sos.Idaho.gov/eng/contests/search/year_from:1990/year_to:2022/office_id:2/stage:1; see also Ballotpedia at https://Ballotpedia.org/Ben_Pursley.

³ Committee Statement of Organization (Mar. 31, 2022); Pursley for Senate 2022 April Quarterly Report at 6 (Apr. 15, 2022).

4 Compl. at 1 (Apr. 25, 2022).

MUR 7989 (Benjamin Pursley)

Factual and Legal Analysis

Page 2 of 4

1 On March 31, 2022, Pursley used the Commission's online filing system to file a
2 Statement of Organization for the Committee; the Response states that Pursley also attempted to
3 file a Statement of Candidacy but was unsuccessful.⁵ The Response further states that Pursley
4 thereafter hired a compliance professional to serve as treasurer of the Committee.⁶ On April 9,
5 2022, the Response asserts, the Committee treasurer submitted a Statement of Candidacy on
6 Pursley's behalf and, receiving no error message, believed that the Statement had been
7 successfully filed with the Commission.⁷ On April 15, 2022, the Committee filed its 2022 April
8 Quarterly Report. On April 26, 2022, Pursley received the Complaint in this matter and he states
9 that the Committee treasurer called the Commission's electronic filing office to determine the
10 status of the April 9 filing;⁸ according to Pursley, Commission staff responded that they had no
11 record of his Statement of Candidacy being filed.⁹ On April 27, 2022, Pursley successfully filed
12 a Statement of Candidacy.¹⁰

13 The Response asserts that this matter should be dismissed because Pursley's attempt to
14 timely file a Statement of Candidacy failed because of an error in the Commission's online filing
15 system.¹¹ The Response also argues that there was no public harm because most of the

⁵ Resp. at 1 (June 3, 2022).

⁶ *Id.*

⁷ *Id.* The Response attaches an unsigned Statement of Candidacy dated April 9, 2022. *Id.* Attach. A.

⁸ Resp. at 2.

⁹ *Id.*

¹⁰ *Id.* Benjamin Pursley Statement of Candidacy (Apr. 27, 2022) at <https://docquery.fec.gov/cgi-bin/forms/S2ID00194/1590667>.

¹¹ Resp. at 2.

MUR 7989 (Benjamin Pursley)

Factual and Legal Analysis

Page 3 of 4

1 information on the Statement of Candidacy, except for Pursley's party affiliation, was already on
 2 the Statement of Organization, which his Committee filed timely.¹²

3 **III. LEGAL ANALYSIS**

4 An individual becomes a candidate under the Act if he or she receives contributions or
 5 makes expenditures in excess of \$5,000, or consents to another doing so on his or her behalf.¹³
 6 A contribution is any gift, subscription, loan, advance or deposit of money or anything of value
 7 made by any person for the purpose of influencing any election for federal office.¹⁴ Once the
 8 \$5,000 threshold has been met, the candidate has 15 days to designate a principal campaign
 9 committee by filing a Statement of Candidacy with the Commission.¹⁵ The principal campaign
 10 committee must file a Statement of Organization within ten days of its designation,¹⁶ and it must
 11 file disclosure reports with the Commission.¹⁷

12 Pursley became a candidate for U.S. Senate on March 31, 2022, when he loaned \$25,000
 13 to his principal campaign committee. His Statement of Candidacy should have been filed by
 14 April 15, 2022, within 15 days of becoming a candidate.¹⁸ However, Pursley's two attempts to
 15 file a Statement of Candidacy before the filing deadline of April 15, 2022 were unsuccessful, and

¹² *Id.*

¹³ 52 U.S.C. § 30101(2) (definition of candidate); 11 C.F.R. § 100.3(a) (same).

¹⁴ 52 U.S.C. § 30101(8)(A)(i); 11 C.F.R. § 100.52.

¹⁵ 52 U.S.C. § 30102(e)(1); 11 C.F.R. § 101.1(a).

¹⁶ 52 U.S.C. § 30103(a); 11 C.F.R. § 102.1(a).

¹⁷ See 52 U.S.C. § 30104(a), (b).

¹⁸ See 52 U.S.C. § 30102(e)(1); 11 C.F.R. § 101.1(a).

MUR 7989 (Benjamin Pursley)

Factual and Legal Analysis

Page 4 of 4

1 he did not file a Statement of Candidacy until April 27, 2022, 12 days late, after he received the

2 Complaint.

3 The Commission has dismissed allegations where the late filing of a Statement of

4 Candidacy did not result in the failure to file a quarterly report.¹⁹ Because Pursley was only 12

5 days late in filing his Statement of Candidacy, and the Committee timely filed its 2022 April

6 Quarterly on April 15, 2022, the Commission dismisses this allegation under *Heckler v.*

7 *Chaney*.²⁰

¹⁹ See Factual and Legal Analysis (“F&LA”) at 8-9, MURs 7689 and 7794 (Amanda Adkins for Congress, *et al.*) (dismissed the allegation that Adkins failed to timely file her Statement of Candidacy where, even if a particular event triggered candidacy, no disclosure reports by the Adkins Committee would have been missed); F&LA at 7, MUR 6815 (New Hampshire for Scott Brown) (dismissed allegation that Brown failed to file a Statement of Candidacy where, even if a particular event triggered candidacy, the Statement of Candidacy would have been less than 30 days late and the Committee’s first required disclosure report would have been the same report that it timely filed); F&LA at 4-5, MUR 6785 (Kwasman for Congress, *et al.*) (dismissing as a matter of prosecutorial discretion because the Statement of Candidacy was filed only a few days late and did not cause the committee to miss filing a scheduled disclosure report).

²⁰ 470 U.S. 821 (1985).