



FEDERAL ELECTION COMMISSION
Washington, DC 20463

January 26, 2023

BY EMAIL AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Timothy Raymond Sanow

Idaho Falls, ID 83404

RE: MUR 7989

Dear Mr. Sanow:

This is in reference to the complaint you filed with the Federal Election Commission on April 25, 2022, concerning Benjamin Pursley. After considering the circumstances of this matter, the Commission determined to dismiss this matter and closed the file on January 25, 2023. The Factual and Legal Analysis, 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* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016).

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).

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If you have any questions, please contact Delbert K. Rigsby, the attorney assigned to this matter, at (202) 694-1616 or drigsby@fec.gov.

Sincerely,

Lisa J. Stevenson
General Counsel

Mark Allen

BY: Mark Allen
Assistant General Counsel

Enclosure
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 Idaho in 2022, failed to file his Statement of Candidacy. Pursley responds that he tried to file his Statement of Candidacy with the Commission on a timely basis but his attempts were unsuccessful. Pursley filed his Statement of Candidacy with the Commission on April 27, 2022, 12 days late, after the Complaint was filed. Under the circumstances in this matter, the Commission dismisses this allegation.¹

II. FACTUAL BACKGROUND

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

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

The Response asserts that this matter should be dismissed because Pursley's attempt to timely file a Statement of Candidacy failed because of an error in the Commission's online filing 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.

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

III. LEGAL ANALYSIS

An individual becomes a candidate under the Act if he or she receives contributions or makes expenditures in excess of \$5,000, or consents to another doing so on his or her behalf.¹³

A contribution is any gift, subscription, loan, advance or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office.¹⁴ Once the \$5,000 threshold has been met, the candidate has 15 days to designate a principal campaign committee by filing a Statement of Candidacy with the Commission.¹⁵ The principal campaign committee must file a Statement of Organization within ten days of its designation,¹⁶ and it must file disclosure reports with the Commission.¹⁷

Pursley became a candidate for U.S. Senate on March 31, 2022, when he loaned \$25,000 to his principal campaign committee. His Statement of Candidacy should have been filed by April 15, 2022, within 15 days of becoming a candidate.¹⁸ However, Pursley's two attempts to 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).

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

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