



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

January 18, 2024

VIA CERTIFIED MAIL
AND ELECTRONIC MAIL
RETURN RECEIPT REQUESTED

Stephanie J. Mickelsen

Idaho Falls, ID 83402

RE: MUR 8025

Dear Ms. Mickelsen:

The Federal Election Commission reviewed the allegations in your complaint received July 11, 2022, and on the basis of the information provided in the complaint, decided to exercise its prosecutorial discretion to dismiss the allegations as to Bonneville County Republican Central Committee, Bryan Smith, Bryan Smith for Idaho, Inc. and Ron Crane in his official capacity as treasurer. Accordingly, on January 10, 2024, 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). A copy of the General Counsel's Report, which more fully explains the Commission's finding, is enclosed.

The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 52 U.S.C. § 30109(a)(8). If you have any questions, please contact Constantine Soupios, the attorney assigned to this matter, at csoupios@fec.gov or (202) 694-1414.

Sincerely,

Lisa J. Stevenson
Acting General Counsel

Wanda D. Brown

BY: Wanda D. Brown
Assistant General Counsel
Complaints Examinations
& Legal Administration

Enclosure: General Counsel's Report

BEFORE THE FEDERAL ELECTION COMMISSION
ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT

MUR: 8025

Respondents: Bonneville County Republican
Central Committee
Bryan Smith
Bryan Smith for Idaho Inc.
and Ron Crane in his official
capacity as treasurer

Complaint Receipt Date: July 11, 2022

Response Dates: August 30, 2022; September 20, 2022

**Alleged Statutory and
Regulatory Violations:**

52 U.S.C. §§ 30116(a)(7)(B)(i), 30120, 30125; 11 C.F.R.
§§ 100.80, 102.5(b)(1), 103.3(b), 109.20, 109.21, 110.11, 300.61.

The Complaint alleges that the Bonneville County Republican Central Committee (the “BCRCC”), a local party committee in the state of Idaho not registered with the Commission, made an impermissible \$1,000 contribution using funds not subject to the source prohibitions and amount limitations of the Federal Election Campaign Act of 1971, as amended (the “Act”), to Bryan Smith, a 2022 candidate for Congress in Idaho’s Second Congressional District, and his authorized committee, Bryan Smith for Idaho Inc. and Ron Crane in his official capacity as treasurer (the “Smith Committee”).¹ The Complaint further alleges that the BCRCC funded the production and distribution of a sample ballot that included Smith and 16 other federal and state candidates from non-federally compliant sources and did not include the legally required federal disclaimer.² The Complaint also appears to allege that Smith impermissibly coordinated with the

¹ Compl. at 1 (July 11, 2022).

² *Id.*, Attach. B.

1 BCRCC in connection with the sample ballot, arguing that as Vice Chair of the BCRCC, Smith
2 would have presumably been involved with the decision to print and mail the sample ballot.³

3 The BCRCC responds that the funds for both the contribution and the sample ballot were
4 federally permissible, and contends that out of the \$13,538.18 total cost for the sample ballot,
5 only a small portion (\$1,592.72) was allocable to the two federal candidates including Smith out
6 of the 17 total candidates on the sample ballot.⁴ The BCRCC also contends that Smith did not
7 participate in the vote to select candidates for the sample ballot and argues that the Complaint
8 offers no facts regarding the alleged coordination.⁵ Smith and the Smith Committee similarly
9 argue that the funds for both the contribution and sample ballot were federally permissible and
10 that Smith did not participate in the vote to select candidates for the sample ballot.⁶ In addition,
11 Smith provides an affidavit stating that he was not involved in the preparation of the sample
12 ballot.⁷ Finally, the BCRCC contends that the sample ballot, while not strictly compliant with
13 the Act's disclaimer requirements, was sufficient to identify BCRCC as the payor because the
14 committee's logo was on the front of the sample ballot as well as the words "The OFFICIAL

³ *Id.* at 1-2.

⁴ BCRCC Resp. at 2-4 (Sept. 16, 2022). Regarding the \$1,000 contribution, the BCRCC states that a review of its March and April 2022 state campaign finance reports demonstrates that there was a sufficient amount of federally permissible funds; specifically, between April 5 and 15, the BCRCC received \$3,875 in contributions from individuals under the federal contribution limit of \$2,900. *Id.* at 3. Regarding the cost of the sample ballot, the BCRCC states that the amount allocable to federal candidates (2 out of 17) is \$1,592.72 (or 2/17 x \$13,538.18, the total cost of the mailer); further, the BCRCC states that a review of its April 2022 state campaign finance report demonstrates that it received at least \$5,358.50 from individuals under the federal contribution limit of \$2,900 on April 22, 2022. *Id.* at 4.

⁵ *Id.* at 2, 5-6.

⁶ Smith & Smith Committee Resp. at 1-3 (Aug. 29, 2022).

⁷ *Id.*, Attach. A at 3.

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1 Bonneville County Republican Party SAMPLE BALLOT - Take this to the Polls!” and on the
2 back were the words “Bonneville County Republican Party (208) 497-1211.”⁸

3 Based on its experience and expertise, the Commission has established an Enforcement
4 Priority System using formal, pre-determined scoring criteria to allocate agency resources and
5 assess whether particular matters warrant further administrative enforcement proceedings. These
6 criteria include (1) the gravity of the alleged violation, taking into account both the type of
7 activity and the amount in violation; (2) the apparent impact the alleged violation may have had
8 on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent
9 trends in potential violations and other developments in the law. This matter is rated as low
10 priority for Commission action after application of these pre-established criteria. Given the low
11 rating, and the low dollar amount at issue, as well as the unlikelihood that the general public
12 would have been confused as to whether the BCRCC paid for the sample ballot, we recommend
13 that the Commission dismiss the Complaint consistent with the Commission’s prosecutorial
14 discretion to determine the proper ordering of its priorities and use of agency resources.⁹ We
15 also recommend that the Commission close the file as to all Respondents and send the
16 appropriate letters.

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18 Lisa J. Stevenson
19 Acting General Counsel

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23 Charles Kitcher
24 Associate General Counsel for
25 Enforcement
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⁸ BCRCC Resp. at 4-5. We note that the Response slightly misquotes the language of the sample ballot, and we have provided the correct quotes above.

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

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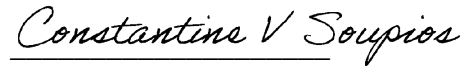
BY:



Claudio J. Pavia
Deputy Associate General Counsel
for Enforcement



Wanda Brown
Assistant General Counsel



Constantine Soupios
Attorney