

BEFORE THE FEDERAL ELECTION COMMISSION
ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT

MUR: 8032

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 15, 2022

Response Dates: September 6, 2022

**Alleged Statutory and
Regulatory Violations:**

52 U.S.C. §§ 30102, 30103, 30104, 30116(a)(7)(B)(i),
30120, 30125
11 C.F.R. §§ 100.5(c), 100.80, 102.1(d), 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, on two separate occasions, made impermissible contributions totaling \$2,000 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 also alleges that the BCRCC funded the production and distribution of a sample ballot at a cost of \$13,538.18 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

¹ Compl. ¶¶ 3-4 (July 15, 2022).

² *Id.* ¶¶ 21-25; *see also id.*, Ex. A (Sample Ballot Mailer).

1 further alleges that the BCRCC became a political committee by spending funds in connection
2 with the sample ballot exceeding the \$5,000 threshold for political committee status applicable to
3 payments exempted from the definition of contribution including sample ballots, under 52 U.S.C
4 30101(4)(C), (9)(B)(iv); 11 C.F.R. § 100.5(c).³ Finally, the Complaint appears to allege that
5 Smith impermissibly coordinated with the BCRCC in connection with the sample ballot, arguing
6 that as Vice Chair of the BCRCC, Smith would have presumably been involved with the decision
7 to print and mail the sample ballot.⁴

8 Respondents assert that the funds for both the contributions and the sample ballot were
9 from federally permissible sources.⁵ Respondents deny that there was any coordination between
10 Smith and the BCRCC regarding the sample ballot,⁶ and Smith provides an affidavit in which he
11 explains that he took no part in the process to vet and select candidates to appear on the sample
12 ballot and that he only appeared before the selection committee in his capacity as a candidate.⁷
13 The BCRCC explains that it was only required to allocate federally permissible funds to the
14 proportion of the sample ballot related to federal candidates, which in this case was two federal
15 candidates out of 17 total candidates, meaning that that the total printing cost of \$13,538.18 is
16 multiplied by 2/17, equaling \$1,592.72 which needed to be paid for with federally permissible
17 funds.⁸ The BCRCC states that it had this amount in federally permissible funds to spend on the

³ *Id.* ¶ 26; 11 C.F.R. § 100.5(c).

⁴ Compl. ¶¶ 2, 6-7, 10.

⁵ Smith & Smith Committee Resp. at 2-3 (Sept. 6, 2022); BCRCC Resp. at 3-4, 4-5 (Sept. 6, 2022).

⁶ Smith & Smith Committee Resp. at 3-4; BCRCC Resp. at 2. Smith and the Smith Committee further argue that the allegations are nothing more than speculation based on Smith's position as an officer of the BCRCC without offering any fact regarding actual coordination. Smith & Smith Committee Resp. at 3-4 (citing prior Commission decisions to argue that mere conjecture is insufficient to establish a coordination violation).

⁷ Smith & Smith Committee Resp., Attach. B.

⁸ BCRCC Resp. at 4-5.

1 sample ballot, based on its April 2022 report, which showed that the committee received \$3,875
2 in contributions from individuals under the federal contribution limit of \$2,900.⁹

3 The BCRCC also contends that the sample ballot, while not strictly compliant with the
4 Act's disclaimer requirements, was sufficient to identify BCRCC as the payor because the
5 committee's logo was on the front of the sample ballot as well as the words "The OFFICIAL
6 Bonneville County Republican Party SAMPLE BALLOT - Take this to the polls!" and on the
7 back were the words "Bonneville County Republican Party (208) 497-1211."¹⁰ The BCRCC
8 also argues that it is not required to register as a federal political committee because its major
9 purpose is not federal election activity, and even if it were, the amounts at issue (two \$1,000
10 contributions to Smith across separate years, and \$1,592.72 spent on the sample ballot related to
11 federal candidates) do not exceed the relevant \$5,000 threshold required to trigger registration.¹¹

12 Based on its experience and expertise, the Commission has established an Enforcement
13 Priority System using formal, pre-determined scoring criteria to allocate agency resources and
14 assess whether particular matters warrant further administrative enforcement proceedings. These
15 criteria include (1) the gravity of the alleged violation, taking into account both the type of
16 activity and the amount in violation; (2) the apparent impact the alleged violation may have had
17 on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent
18 trends in potential violations and other developments in the law. This matter is rated as low
19 priority for Commission action after applying these pre-established criteria. Given the low

⁹ *Id.* at 2-4; *see* Smith & Smith Committee Resp. at 2-3.

¹⁰ BCRCC Resp. at 6. We note that the Response slightly misquotes the language of the sample ballot, and we have provided the correct quotes above.

¹¹ *Id.* at 5; *see* 11 C.F.R. § 100.5(c), 100.80 (defining a political committee to include "[a]ny local committee of a political party" if, among other things, the committee "makes payments exempted from the definition of contribution," including sample ballots, in excess of \$5,000 during a calendar year).

1 rating, the low dollar amount at issue, and the unlikeliness that the general public would have
 2 been confused as to whether the BCRCC paid for the sample ballot, we recommend that the
 3 Commission dismiss the Complaint consistent with the Commission's prosecutorial discretion to
 4 determine the proper ordering of its priorities and use of agency resources.¹² We also
 5 recommend that the Commission close the file as to all Respondents and send the appropriate
 6 letters.

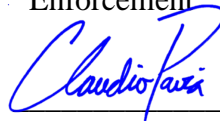
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 8 Lisa J. Stevenson
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 13 Charles Kitcher
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 15 Enforcement

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 17 12/12/23

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 19 Date

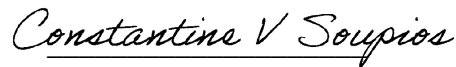
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12 _____
 Heckler v. Chaney, 470 U.S. 821, 831-32 (1985).