



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C.

January 18, 2024

**VIA ELECTRONIC MAIL**

rebekah@ashby.law

Rebekah Marino, Esq.  
Ashby Law P.C.  
625 N. Washington Street  
Suite 325  
Alexandria, VA 22314

RE: MUR 8032

Dear Ms. Marino:

On July 21, 2022, the Federal Election Commission (“Commission”) notified your clients of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On January 10, 2024, based on the information provided in the complaint, the Commission decided to exercise its prosecutorial discretion to dismiss the allegations as to Bonneville County Republican Central Committee, Bryan Smith, and Bryan Smith for Idaho, Inc. and Ron Crane in his official capacity as treasurer. The Commission then closed its file in this matter. A copy of 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 Constantine Souprios, the attorney assigned to this matter, at [csouprios@fec.gov](mailto:csouprios@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:** 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”).<sup>1</sup> 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.<sup>2</sup> The Complaint

<sup>1</sup> Compl. ¶¶ 3-4 (July 15, 2022).

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

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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).<sup>3</sup> 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.<sup>4</sup>

8 Respondents assert that the funds for both the contributions and the sample ballot were  
9 from federally permissible sources.<sup>5</sup> Respondents deny that there was any coordination between  
10 Smith and the BCRCC regarding the sample ballot,<sup>6</sup> 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.<sup>7</sup>  
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.<sup>8</sup> The BCRCC states that it had this amount in federally permissible funds to spend on the

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<sup>3</sup> *Id.* ¶ 26; 11 C.F.R. § 100.5(c).

<sup>4</sup> Compl. ¶¶ 2, 6-7, 10.

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

<sup>6</sup> 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).

<sup>7</sup> Smith & Smith Committee Resp., Attach. B.

<sup>8</sup> BCRCC Resp. at 4-5.

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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.<sup>9</sup>

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.”<sup>10</sup> 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.<sup>11</sup>

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

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<sup>9</sup> *Id.* at 2-4; *see* Smith & Smith Committee Resp. at 2-3.

<sup>10</sup> 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.

<sup>11</sup> *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.<sup>12</sup> We also  
 5 recommend that the Commission close the file as to all Respondents and send the appropriate  
 6 letters.

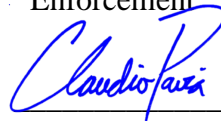
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 8 Lisa J. Stevenson  
 9 Acting General Counsel

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 13 Charles Kitcher  
 14 Associate General Counsel for  
 15 Enforcement

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 17 1/24/24

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 19 Date

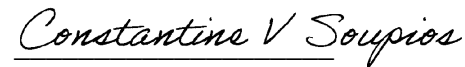
BY:



20 Claudio J. Pavia  
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<sup>12</sup> *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).