



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

January 25, 2023

**BY EMAIL ONLY**

Thomas W. Kelley  
555 Grand National Drive  
Fort Wayne, IN 46804

RE: MUR 8035  
Jim Banks for Congress, Inc., *et al.*

Dear Mr. Kelley:

On July 21, 2022, the Federal Election Commission ("Commission") notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). On January 11, 2023, based on the information provided in the complaint, and information provided by respondents, the Commission decided to exercise its prosecutorial discretion to dismiss the allegations as to you in your individual capacity. 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 Don Campbell, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Lisa J. Stevenson  
Acting General Counsel

*Roy Q. Luckett*

BY: Roy Q. Luckett  
Acting Assistant General Counsel

Enclosure:  
General Counsel's Report

**BEFORE THE FEDERAL ELECTION COMMISSION**  
**ENFORCEMENT PRIORITY SYSTEM**  
**DISMISSAL REPORT**

**MUR:** 8035

**Respondents:** Jim Banks for Congress, Inc., and Steve Martin, Jr., in his official capacity as treasurer  
 Thomas W. Kelley

**Complaint Receipt Date:** July 19, 2022

**Response Date:** September 7, 2022

**EPS Rating:**

**Alleged Statutory**

52 U.S.C. § 30116(a), (f);

**Regulatory Violations:**

11 C.F.R. §§ 110.1; 110.9

The Complaint alleges that Jim Banks for Congress, Inc., and Steve Martin, Jr., in his official capacity as treasurer (the “Committee”) knowingly accepted an excessive contribution from Thomas W. Kelley. Specifically, the Complaint alleges that after Kelley made two \$2,900 contributions through his LLC, Kelley Automotive Group, LLC, on March 31, 2021, one for the primary election and one for the general election, he subsequently made another \$2,500 contribution for the primary election on April 1, 2022, thus exceeding the individual limit for the primary election.<sup>1</sup> In its Response, the Committee states that the alleged violation was due to clerical and software errors and that after multiple unsuccessful attempts to reattribute, the Committee ultimately refunded the contribution, prior to the filing of the Complaint in this matter.<sup>2</sup>

Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and

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<sup>1</sup> Compl. at 1, 3-4 (Sept. 3, 2021). The Complaint also states that the Committee did not redesignate the apparent excessive contribution from Kelley within the required 60 days. *Id.* at 2. The same Complainant filed an earlier complaint in MUR 7925 against the Committee, Kelley, and Kelley Automotive Group, LLC, on Sept. 3, 2021, alleging a similar fact pattern regarding an excessive contribution that resulted from a \$2,500 contribution that Kelley made to the Committee on June 25, 2021, and which the Committee refunded on Sept. 24, 2021. *See* MUR 7925 (Jim Banks for Congress, Inc., *et al.*). The Complaint in the instant matter focuses on a separate \$2,500 contribution that Kelley subsequently made to the Committee on April 1, 2022.

<sup>2</sup> Committee Response at 1 (Sept. 7, 2021). Thomas Kelley did not respond to the Complaint.

1 assess whether particular matters warrant further administrative enforcement proceedings. These  
2 criteria include (1) the gravity of the alleged violation, taking into account both the type of activity  
3 and the amount in violation; (2) the apparent impact the alleged violation may have had on the  
4 electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in  
5 potential violations and other developments in the law. This matter is rated as low priority for  
6 Commission action after application of these pre-established criteria. Given that low rating, the  
7 remedial actions of the Respondents, and the low dollar amount involved, we recommend that the  
8 Commission dismiss the Complaint consistent with the Commission's prosecutorial discretion to  
9 determine the proper ordering of its priorities and use of agency resources.<sup>3</sup> We also recommend  
10 that the Commission close the file as to all Respondents and send the appropriate letters.

11 Lisa J. Stevenson  
12 Acting General Counsel  
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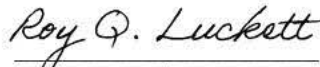
15 Charles Kitcher  
16 Associate General Counsel  
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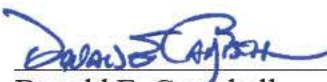
18  
19 December 29, 2022

20 Date

BY:

  
21 Claudio J. Pavia  
22 Deputy Associate General Counsel  
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24 Roy Q. Luckett  
25 Acting Assistant General Counsel  
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28 Donald E. Campbell  
29 Attorney  
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<sup>3</sup> *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).