

**BEFORE THE FEDERAL ELECTION COMMISSION**

**ENFORCEMENT PRIORITY SYSTEM**

**DISMISSAL REPORT**

**MUR:** 8060

**Respondents:** Andy Barr for Congress, Inc., and  
Paul Kilgore in his official  
capacity as treasurer  
Andy Barr

**Complaint Receipt Date:** July 29, 2022

**Response Date:** August 19, 2022

**Alleged Statutory/**

**Regulatory Violations:**

52 U.S.C. § 30120

11 C.F.R. § 110.11

The Complaint alleges that Andy Barr, a Member of Congress from Kentucky’s 6th Congressional District who ran for reelection in 2022, violated the Federal Election Campaign Act of 1971, as amended (the “Act”), by running an advertisement in the Richmond (KY) Register paid for with official funds from his congressional office that stated “President Biden’s failed economic agenda is hurting Kentucky families and businesses. As your Congressman, I will continue to fight for you, oppose Biden’s reckless agenda, and work to get our economy back on track.”<sup>1</sup> The Complaint alleges that the advertisement is “not a public service by any means” but rather is a “campaign ad.”<sup>2</sup> Andy Barr for Congress, Inc., and Paul Kilgore in his official capacity as treasurer (the “Committee”) is Barr’s principal campaign committee.

In response, Barr states that the advertisement was not a campaign ad, but rather an official communication paid for by taxpayer dollars that was approved by the U.S. House’s

---

<sup>1</sup> Compl. at 1 (Aug. 31, 2022); *id.*, Attach. The advertisement contains the disclaimer “PUBLIC SERVANT OFFICIAL BUSINESS – It is provided as a service to the 6th District of Kentucky Constituents. Paid for with official funds from the office of Congressman Andy Barr.”

<sup>2</sup> *Id.*

1 bipartisan Franking Commission.<sup>3</sup> According to approval documents attached to the Response,  
2 the advertisement was approved on July 14, 2022, in accordance with 39 U.S.C.  
3 § 3210(a)(3)(A).<sup>4</sup>

4 The Complaint in this matter contains no clear allegation of violations of the Act or  
5 Commission regulations. Instead, the Complaint alleges that the advertisement did not constitute  
6 frankable materials pursuant to 39 U.S.C. § 3210, a statute over which the Commission lacks  
7 jurisdiction. Further, under the Act, only a “person” may make a contribution or expenditure.<sup>5</sup>  
8 A “person” is defined in the Act to exclude “the Federal Government or any authority of the  
9 Federal Government.”<sup>6</sup> As such, Congressman Andy Barr’s advertisement, which was paid for  
10 by the federal government, would not constitute a contribution or expenditure.

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

---

<sup>3</sup> Andy Barr and Andy Barr for Congress Resp. at 1 (Sept. 15, 2022). Barr signed this Response, printed on letterhead for “Andy Barr, U.S. Congress,” and included “Andy Barr for Congress” below his signature. Committee treasurer Paul Kilgore later filed a very brief second Response on behalf of the Committee, explicitly joining the earlier response. Kilgore Resp. at 1 (Apr. 20, 2023).

<sup>4</sup> Andy Barr and Andy Barr for Congress Resp., Attach.

<sup>5</sup> 52 U.S.C. § 30101(8)-(9).

<sup>6</sup> *Id.* § 30101(11).

MUR 8060 (Andy Barr for Congress)  
EPS Dismissal Report  
Page 3 of 3

1 rating and lack of applicable authority, we recommend that the Commission dismiss the  
2 Complaint consistent with the Commission's prosecutorial discretion to determine the proper  
3 ordering of its priorities and use of agency resources.<sup>7</sup> We also recommend that the Commission  
4 close the file and send the appropriate letters.

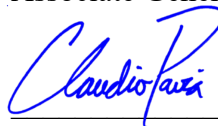
5  
6 Lisa J. Stevenson  
7 Acting General Counsel  
8  
9

10  
11 Charles Kitcher  
12 Associate General Counsel  
13

14  
15 Dec. 21, 2023

16 Date

BY:



Claudio J. Pavia  
Deputy Associate General Counsel

18  
19  
20 *Wanda D. Brown*

Wanda D. Brown  
Assistant General Counsel

23  
24  
25 *Gordon King*

Gordon King  
Attorney

26  
27  

---

<sup>7</sup> *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).