



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

VIA ELECTRONIC MAIL

August 12, 2024

rjacobs@elias.law; eposton@elias.law

Rachel L. Jacobs
Elizabeth P. Poston
Elias Law Group LLP
250 Massachusetts Ave. NW, Suite 400
Washington, DC 20001

RE: MUR 8179

Dear Ms. Jacobs:

On October 13, 2023, the Federal Election Commission notified your clients, Friends of Lucy McBath and Ashton Narzisi in her official capacity as treasurer and Representative Lucia Kay McBath, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (“the Act”). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint, and information supplied by your clients, the Commission, on July 10, 2024, voted to dismiss this matter effective August 12, 2024. 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 today. *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 Tiferet Unterman, the attorney assigned to this matter, at (202) 694-1284.

Sincerely,

Lisa J. Stevenson
Acting General Counsel

Wanda D. Brown

BY: Wanda D. Brown
Assistant General Counsel

Enclosure:
General Counsel’s Report

BEFORE THE FEDERAL ELECTION COMMISSION

ENFORCEMENT PRIORITY SYSTEM

DISMISSAL REPORT

MUR: 8179

Respondents:

Friends of Lucy McBath and Ashton Narzisi
in her official capacity as Treasurer
Representative Lucia Kay McBath

Complaint Receipt Date: October 10, 2023

Response Date: October 27, 2023

**Alleged Statutory and
Regulatory Violations:** 52 U.S.C. § 30120
11 C.F.R. § 110.11

The Complaint raises allegations that Lucia McBath, a Member of Congress from Georgia’s 7th Congressional District who is running for reelection in 2024 in Georgia’s 6th Congressional District,¹ and her principal campaign committee, Friends of Lucy McBath and Ashton Narzisi in her official capacity as treasurer (the “Committee”),² violated the Federal Election Campaign Act of 1971, as amended (the “Act”), by knowingly accepting an in-kind contribution when McBath’s congressional office paid for a video advertisement touting McBath’s legislative accomplishments that appeared on internet platforms such as YouTube and Pluto TV.³ The Complaint provides a partial screenshot of the advertisement that includes a link to the “advertiser’s” website which is listed as mcbath.house.gov.⁴ The Complaint does not otherwise provide specific information about the video advertisement in question.

¹ Lucia Kay McBath, Statement of Candidacy (Feb. 18, 2022), <https://docquery.fec.gov/pdf/285/202202189491797285/202202189491797285.pdf>; Lucia Kay McBath, Statement of Candidacy (Mar. 8, 2024), <https://docquery.fec.gov/pdf/644/202403089622355644/202403089622355644.pdf>.

² Friends of Lucy McBath, Statement of Organization (Mar. 7, 2024), <https://docquery.fec.gov/pdf/425/202403079622323425/202403079622323425.pdf>.

³ Compl. at 1-2 (Oct. 10, 2023).

⁴ *Id.* at 2.

29 In a joint response, McBath and the Committee state that the advertisement that was
30 presumably the video to which the Complaint referred, was not a campaign advertisement, but
31 rather an official communication paid for by taxpayer dollars that was approved by the U.S.
32 House’s bipartisan Franking Commission.⁵ According to approval documents referred to in the
33 Response, the advertisement was approved on April 18, 2023, in accordance with 39 U.S.C.
34 § 3210(a)(3)(A).⁶

35 The Complaint in this matter alleges that the “U.S. government is the advertiser” and that
36 therefore McBath misused her office.⁷ However, the advertisement appears to constitute frankable
37 materials pursuant to 39 U.S.C. § 3210, a statute over which the Commission lacks jurisdiction.
38 Further, under the Act, only a “person” may make a contribution or expenditure.⁸ A “person” is
39 defined in the Act to exclude “the Federal Government or any authority of the Federal
40 Government.”⁹ As such, McBath’s advertisement, which was paid for by the federal government,
41 would not constitute a contribution or expenditure.

42 Based on its experience and expertise, the Commission has established an Enforcement
43 Priority System using formal, pre-determined scoring criteria to allocate agency resources and
44 assess whether particular matters warrant further administrative enforcement proceedings. These
45 criteria include (1) the gravity of the alleged violation, considering both the type of activity and the
46 amount in violation; (2) the apparent impact the alleged violation may have had on the electoral
47 process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential

⁵ Resp. at 2-3 (Oct. 27, 2023).

⁶ *Id.* at 2 n.4 (citing to House Communication Standards Comm’n, Rec. No. 42565-9 (Apr. 18, 2023), https://frankingfiles.house.gov/AO_28-42565-9.pdf).

⁷ Compl. at 1.

⁸ 52 U.S.C. § 30101(8)-(9).

⁹ *Id.* § 30101(11).

48 violations and other developments in the law. This matter is rated as low priority for Commission
 49 action after application of these pre-established criteria. Given that low rating and lack of applicable
 50 authority, we recommend that the Commission dismiss the complaint consistent with the
 51 Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of
 52 agency resources.¹⁰ We also recommend that the Commission close the file effective 30 days from
 53 the date of certification of this vote (or on the next business day after the 30th day, if the 30th day
 54 falls on a weekend or holiday) and send the appropriate letters.

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Lisa J. Stevenson
 Acting General Counsel

Charles Kitcher
 Associate General Counsel

June 27, 2024

Date

BY:



Claudio J. Pavia
 Deputy Associate General Counsel

Wanda D. Brown

Wanda D. Brown
 Assistant General Counsel

Tiferet Unterman

Tiferet Unterman
 Attorney

¹⁰ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).