



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

VIA ELECTRONIC MAIL

Harrison Clewell, Esq.
Genova Burns LLC
494 Broad Street
Newark, NJ 07102
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September 20, 2024

RE: MUR 8192

Dear Mr. Clewell:

On April 29, 2024, the Federal Election Commission notified your client, Theodore Romankow, of a Complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On August 21, 2024, based on the information provided in the Complaint and information provided by you, the Commission determined to exercise its prosecutorial discretion to dismiss the allegations contained in the Complaint. Accordingly, the Commission 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 Justine A. di Giovanni, the attorney assigned to this matter, at (202) 694-1650.

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 8192

Respondents: Robert Menendez
Menendez for Senate and John Palumbo
in his official capacity as treasurer
Theodore J. Romankow
Robert S. Ellenport
Christine P. O’Hearn

Complaint Receipt Date: Dec. 20, 2023

Response Dates: Feb. 7, 2024; May 14, 2024; June 20, 2024; July 24, 2024



**Alleged Statutory and
Regulatory Violations:**

52 U.S.C. § 30104(b)
52 U.S.C. § 30122
11 C.F.R. § 104.3(a)
11 C.F.R. § 110.4(b)

The Complaint alleges in relevant part that Robert Menendez and Menendez for Senate and John Palumbo in his official capacity as treasurer (the “Menendez Committee”) engaged in a money laundering network and associated real estate bid-rigging and blackmail scheme. While the majority of the Complaint involves allegations beyond the scope of the Federal Election Campaign Act of 1971, as amended (the “Act”), and thus outside the Commission’s jurisdiction, the Complaint alleges that Menendez “participated as a coconspirator in a money laundering network which financed his electoral campaigns,” which “structured transactions to avoid the reporting requirements of 52 U.S.C. 30104 *et seq.* and 11 C.F.R. 104, 110 *et seq.*”¹ The Complaint identifies a series of contributions aggregating \$11,200 and taking place over a span of 15 years as part of the alleged scheme: two contributions by Robert S. Ellenport (\$500 on October 24, 2006, and \$200 on October 17, 2018, for a total of \$700); two contributions by Christine P. O’Hearn (each for \$2,500 on September 25, 2011, for a total of \$5,000); and five by Theodore J. Romankow (\$1,000 on June 30, 2018; \$1,000 on September 18, 2018; \$500 on

¹ Compl. at 19 (Dec. 20, 2023).

October 24, 2018; \$2,000 on October 21, 2019; and \$1,000 on July 2, 2021, for a total of \$5,500).² The Complaint alleges that the above transactions may have constituted “straw donor activities” and alleges that other, unknown respondents may have made additional contributions in the same posture.³

The Complaint also alleges that the Menendez Committee failed to report certain undefined benefits conferred via Menendez’s alleged participation in a scheme whereby Menendez purportedly rigged a real estate bidding process in favor of Netflix, which, in return, allegedly produced its documentary film, “The Hatchet Wielding Hitchhiker,” to “launder[] the reputation of a deceased member of” Menendez’s money-laundering network.⁴

Menendez and the Menendez Committee filed a joint Response denying the allegations and stating that “[t]he specific transactions identified by the Complaint all represent contributions . . . that were reported in full compliance with the Act.”⁵ The Menendez Response also states that the Complaint “presents no evidence of” any of the unspecified transactions allegedly made to benefit Menendez or the Menendez Committee.⁶ It states that “[t]he Complaint’s allegations are conclusory and do not contain any specific facts that support finding reason to believe that Respondents committed a violation of the Act or Commission regulations.”⁷ Romankow’s Response denies the allegations and states that the Complaint relies on “outlandish conjecture,” “lack[s] concrete, verifiable factual support,” and “fail[s] to meet even the minimal standards required for the Commission to find any potential violation of federal law.”⁸ Ellenport’s Response states that his campaign contributions to the Menendez Committee were “compliant with the statute,” and that “other statements . . . referencing

² *Id.* at 54-56.

³ *Id.* at 21-22, 54.

⁴ *Id.* at 19-20.

⁵ Robert Menendez & Menendez for Senate Resp. at 4 (Feb. 7, 2024)

⁶ *Id.* at 5.

⁷ *Id.*

⁸ Romankow Resp. at 2, 5 (July 24, 2024).

[him] are scurrilous, speculative[,] and without any basis in fact.”⁹ O’Hearn’s Response states only that she does not intend to submit a response, and that the Complainant has “filed multiple civil and/or administrative complaints against me, and many other judges.”¹⁰

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 assess whether particular matters warrant further administrative enforcement proceedings. These criteria include (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating, the speculative nature of the allegations, the expiration of the statute of limitations as to most of the conduct alleged, and the apparent low dollar amount involved, we recommend that the Commission dismiss the Complaint consistent with the Commission’s prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources.¹¹ We also recommend that the Commission close the file effective 30 days from the

⁹ Ellenport Resp. at 1 (May 14, 2024).

¹⁰ O’Hearn Resp. at 1 (June 20, 2024).

¹¹ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). Ordinarily, allegations involving contributions in the name of another are activated for further analysis regardless of the amount in violation. Here, given the speculative nature of the allegations and that most of the conduct is outside the five-year statute of limitations, we recommend that the Commission more efficiently dismiss this Complaint via the Enforcement Priority System process.

MUR 8192 (Robert Menendez, *et al.*)
EPS Dismissal Report
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date of certification of this vote (or on the next business day after the 30th day, if the 30th day falls on a weekend or holiday) as to all Respondents and send the appropriate letters.

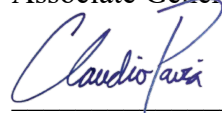
Lisa J. Stevenson
Acting General Counsel

Charles Kitcher
Associate General Counsel

August 12, 2024

Date

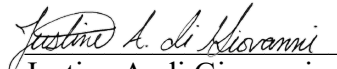
BY:



Claudio J. Pavia
Deputy Associate General Counsel



Wanda Brown
Assistant General Counsel



Justine A. di Giovanni
Attorney