

**MUR 8257**

**From:** [Frank Strigari](#)  
**To:** [CELA](#)  
**Subject:** MUR 8273 - Response of John McGuire et al  
**Date:** Saturday, August 17, 2024 9:27:23 PM  
**Attachments:** [Response.pdf](#)

**RECEIVED**

By OGC/CELA at 10:05 am, Aug 19, 2024

Good evening,

On behalf of my client John McGuire, McGuire for Virginia (C00856831) and Haley Wadsworth, Treasurer, [REDACTED] [REDACTED] and Friends of John McGuire SD10, please find attached to this email their joint Response to the complaint filed in the matter referenced above.

Please do not hesitate to contact me with any questions.

Regards,

Frank



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August 17, 2024

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By OGC/CELA at 10:05 am, Aug 19, 2024

Via email at cela@fec.gov

Wanda D. Brown  
Assistant General Counsel  
Federal Election Commission  
Complaints Examination & Legal Administration  
1050 First Street, NE  
Washington, DC 20463

**Re: MUR 8257 - Response of John McGuire, McGuire for Virginia (C00856831) and Haley Wadsworth, in her official capacity as Treasurer, [REDACTED]**  
**[REDACTED] and**  
**Friends of John McGuire SD10**

Dear Ms. Brown:

I am counsel for and represent John McGuire, McGuire for Virginia (C00856831) and Haley Wadsworth, in her official capacity as Treasurer, [REDACTED] and Friends of John McGuire SD10 (collectively, "Respondents") in the complaint filed with the Federal Election Commission (the "Commission") on or about May 3, 2024 and designated as Matter Under Review 8257 (the "Complaint"). This letter constitutes the Respondents' response to the Complaint.

Rick Boyer (the "Complainant") filed the Complaint naming John McGuire individually ("Mr. McGuire"), Mr. McGuire's current congressional campaign committee (McGuire for Virginia (C00856831) hereinafter "Congressional Committee"), his former congressional campaign committee (John McGuire for Virginia (Terminated) (C00793505) hereinafter "Former Congressional Committee"), and his current Virginia state senate campaign committee (Friends of John McGuire SD10 (CC-22-00162) hereinafter "State Senate Committee").

Notably, most, if not all, of the allegations in the Complaint are made against either the State Senate Committee and/or Mr. McGuire's former Virginia House of Delegates campaign committee (Friends of John McGuire, hereinafter "Former State House Committee"). More importantly, the Complaint contains no clear allegation of violations of the Federal Election Campaign Act of 1971, as amended (the "Act") or Commission

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regulations. And many of the allegations set forth in the Complaint are not supported by any real evidence.

Instead, the Complaint involves almost entirely state law claims, or speculation and inuendo at best. It is clear that the Commission lacks jurisdiction over state law claims involving state campaign committees. Further, the Commission has made clear that unsupported allegations cannot provide the basis for a reason to believe finding. Accordingly, the Commission should find no reason to believe a violation of the Act occurred and dismiss the Complaint in its entirety.

## **Facts & Analysis**

Mr. McGuire is currently an incumbent state senator in the State of Virginia, and his principal campaign committee in the state senate is the State Senate Committee.<sup>1</sup> Before being elected to the Virginia senate, Mr. McGuire represented the 56<sup>th</sup> district of the Virginia House of Delegates, and his principal campaign committee was the Former State House Committee.<sup>2</sup>

Mr. McGuire is also currently the republican nominee running for election in Virginia's 5<sup>th</sup> Congressional District at the November 5, 2024 general election.<sup>3</sup> Mr. McGuire filed his Statement of Candidacy for that election with the Commission on November 15, 2023.<sup>4</sup> He registered his principal campaign committee, McGuire for Virginia, with the Commission that same day.<sup>5</sup> Mr. McGuire previously filed to run for the republican nomination in Virginia's 7<sup>th</sup> congressional district in 2022<sup>6</sup>, but withdrew his candidacy prior to Virginia's 2022 primary election.<sup>7</sup> His principal campaign committee for that election was the Former Congressional Committee.<sup>8</sup>

### 1. *Count 1 – Deceased Treasurer*

The Complaint starts off with Count I, which ultimately alleges that “McGuire used Datwyler for the same purpose in his Virginia race, illegally.”<sup>9</sup> The inherent problem with Count I (and virtually all of the allegations in the Complaint) is that it involves nothing more than allegations of a state campaign committee allegedly violating state law. Because the Commission lacks jurisdiction to hear such claims, Count I must be dismissed.

Count I centers around the former treasurer of the Former State House Committee, David Matthews Clemens. Mr. Clemens was registered as the Treasurer of Friends of John

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<sup>1</sup> <https://cfreports.elections.virginia.gov/Committee/Index/adecf8c6-8ba5-4c8c-a91e-6a99dd43a56a>

<sup>2</sup> <https://cfreports.elections.virginia.gov/Committee/Index/30297172-1f16-e711-8413-984be103f032>

<sup>3</sup> <https://docquery.fec.gov/pdf/389/202407249665721389/202407249665721389.pdf>

<sup>4</sup> <https://docquery.fec.gov/pdf/085/202311159599113085/202311159599113085.pdf>

<sup>5</sup> <https://docquery.fec.gov/pdf/043/202311159599113043/202311159599113043.pdf>

<sup>6</sup> <https://docquery.fec.gov/pdf/258/202111059468430258/202111059468430258.pdf>

<sup>7</sup> <https://docquery.fec.gov/pdf/871/202207089517864871/202207089517864871.pdf>

<sup>8</sup> *Id.*

<sup>9</sup> Complaint, page 2.

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McGuire, a non-federal Virginia campaign committee, on July 27, 2021.<sup>10</sup> Sadly, Mr. Clemens passed away on October 10, 2021.<sup>11</sup> The Complaint alleges, albeit entirely on speculation, that Mr. McGuire violated state law by not timely updating the Virginia State Board of Elections with a replacement Treasurer, in accordance with Virginia law.<sup>12</sup>

The Commission lacks jurisdiction over the facts at issue in Count I, and ultimately should dismiss Count 1. Under Commission regulations, a candidate is defined as “an individual seeking nomination for election, or re-election, to a **federal office** who receives contributions or makes expenditures that exceed \$5,000.”<sup>13</sup> Further, the Act defines a “federal office” as the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress.<sup>14</sup> The candidate committees at issue in Count 1 are a terminated state house candidate committee and a current state senate campaign committee, neither of which is a federal office. Therefore, regardless of the merits of this claim, the Commission has no enforcement jurisdiction in this matter. At best, the Commission can report information regarding possible violations of law not within its jurisdiction to appropriate law enforcement authorities.<sup>15</sup>

Whether Mr. McGuire’s State Senate Committee or his Former State House Committee did or did not comply with Virginia law is irrelevant here. The Commission does not have jurisdiction over such state law claims. Because Count I is purely a question of compliance with Virginia law, the Commission lacks jurisdiction to opine on that question and must dismiss Count I.

### 2. *Count 2 – Reporting of Donations*

Count 2 of the Complaint alleges that there are “15 occurrences” where either the State Senate Committee or the Former State House Committee failed to report having received a donation on their Virginia state campaign reports pursuant to Virginia state law.<sup>16</sup> Although the Complaint does not cite the law allegedly violated in Count 2, it appears that the Complainant believes one of Mr. McGuire’s campaign committees failed to report certain contributions that it received. Much of the confusion about these allegations is due to the unknown chart that was created by an unknown person to show the alleged failure to report.

To begin with, Count II is fatally flawed because the authenticity/origin of the chart attached to the Complaint is unknown. Yet, even if the Commission were to assume, *arguendo*, that the chart is authentic and factually accurate, Count 2 once again raises a question of state law that is beyond the Commission’s jurisdiction. The unknown chart documents *state* candidate committees that allegedly did not report a contribution. No

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<sup>10</sup> Id.

<sup>11</sup> Complaint, page 2

<sup>12</sup> Id.

<sup>13</sup> 11 C.F.R. § 100.3 (emphasis added)

<sup>14</sup> 52 U.S.C. § 30101(3)

<sup>15</sup> 52 U.S.C. § 30107(a)(9)

<sup>16</sup> Complaint, pp. 2-34

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federal campaign committee of Mr. McGuire's is alleged to have done anything wrong in Count 2. Thus, like Count 1, the Commission lacks jurisdiction over the allegations in Count 2, and should dismiss Count 2.

### 3. *Count 3 – Redundant reporting of information.*

Count 3 of the Complaint alleges that “McGuire’s HD 56 and SD 10 accounts repeatedly report identical or substantially similar expenditures on the same dates as each other.”<sup>17</sup> First off, nothing in Count 3 alleges which law those transactions ran afoul of. Notwithstanding that omission, the Commission has no regulatory authority over either of the two *state* campaign committees mentioned.

The Former State House Committee and the State Senate Committee are both Virginia *state* law campaign committees. Neither committee is alleged to have failed to comply with any the Act, or any other applicable federal law. Whether either or both state committees reported information incorrectly under state law is a question of Virginia state law, not federal law. As such, and for the same reasons set forth above, the Commission lacks jurisdiction over Count 3 and should dismiss Count 3.

### 4. *Count 4 – Failure to report*

Count 4 of the Complaint alleges that the Former Congressional Committee failed to report two donations of \$350 from Mr. McGuire’s State Senate Committee. Separately, yet paradoxically, the Complainant states that the State Senate Committee account “shows a \$25 expenditure for ‘parking’” ...even though “Virginia has no paid parking spaces”.<sup>18</sup>

To begin with, the Complaint refers to “EXHIBIT 1, P. 7” to substantiate the allegations in Count 4. There is no page 7 of Exhibit 1 attached to the Complaint. In fact, Exhibit 1 is only 5 pages in length, and it is a “Statement of Organization CANDIDATE COMMITTEE” for the Former State House Committee.

Consequently, Exhibit 1 is completely inapplicable to the allegations in Count 4. As such, the Complaint lacks any real evidence that shows how any actions were inconsistent with federal law. Finally, Respondents are not sure what the Complainant is even asserting is improper about a \$25 expenditure for parking. As such, the Commission should not entertain such unsubstantiated and illusory allegations and dismiss Count 4 in its entirety.

### 5. *Count 5 – Statement of Organization*

Count 5 of the Complaint states that “a material error” was made on the “Amended Statement of Organization filed January 12, 2023”.<sup>19</sup> Which statement of organization the Complainant is referring to is unknown. Further, unlike all the other counts in the Complaint,

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<sup>17</sup> Complaint, p.3

<sup>18</sup> Id.

<sup>19</sup> Id.

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Count 5 has no exhibits that substantiate the allegations in Count 5 of the Complaint. Without sufficient information to respond to the allegations made in Count 5 of the Complaint, Respondents lack the ability to respond in a meaningful way that could address the merits of Count 5. Therefore, Count 5 of the Complaint should be dismissed.

### 6. *Count 6 – Minor Errors*

Count 6 cites to Exhibit 1, page 7, which does not exist. Notwithstanding that, there is literally nothing alleged by the Complainant in Count 6, except a title, which reads “Other, comparatively minor errors on report.” There are no allegations in Count 6, and consequently, there is no way for Respondents to understand what the Complainant is concluding was a “minor error.” Without a single allegation made in Count 6, Respondents are unable to respond to anything accordingly; thus, the Commission must reject Count 6.

### 7. *Count 7 – Expenditure of state campaign funds.*

In Count 7, the Complaint states that “McGuire likely used funds donated to his state campaign committee to pay for signs for his congressional campaign.”<sup>20</sup> The Complainant seeks to explain this conclusion by laying out a sequence of transactions and dates that, according to the Complainant, documents how the State Senate Committee allegedly paid for campaign signs and email communications for the Congressional Committee.

To begin with, the Complainant once again cites to pages of an exhibit that do not exist (Exhibit 1, P. 8 & 9). Respondents cannot meaningfully respond to such allegations without being able to see what the Complainant is referring to. More importantly, the Complainant once again takes issue with expenditures made by state campaign committees, not federal campaign committees. Finally, the Complainant is speculating about possible violations that Respondents are fundamentally unable to understand. Without actual real evidence, or facts that can be understood, the Commission should dismiss Count 7 in its entirety.

### 8. *Count 8 – Data Entry*

Citing to Exhibits 14 and 15 (neither of which exist), Count 8 of the Complaint alleges that because Mr. McGuire’s federal campaign committees did not document fuel expenses over an unknown period of time, but instead were all documented on one particular day, then all those entries entered on the same day must have been expenses paid for by Mr. McGuire’s state campaign committees, even though they should have been expenses of his congressional campaign.<sup>21</sup> The same goes for “travel” expenses that the Complainant believes should have been paid for by the congressional committee instead of the state committee.

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<sup>20</sup> Complaint, p. 4

<sup>21</sup> Id., p. 5

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As confusing as such logic is, fundamentally such allegations are nothing more than mere speculation.<sup>22</sup> The Commission has explained that mere speculation is not enough to support a reason to believe finding and allegations must be substantiated with specific evidence of wrongdoing. For instance, in MUR 7421, the Commission found no reason to believe campaign funds were used for personal travel because “[t]he Complaint [did] not point to any specific information to support its allegation, instead relying on an assertion that the amount of the reimbursements seemed excessive compared to a general impression of how much the [candidate] could have reasonably traveled for the campaign during the relevant time period.”<sup>23</sup> At best, the Complainant speculates about what he believes happened. No real evidence corroborates the allegations that he makes against the Congressional Committee. As such, Count 8 should be dismissed.

### 9. *State Senate campaign committee expenditures*

While citing yet another exhibit that does not exist (Exhibit 1, Page 12), Count 9 is nothing more than a smorgasbord of allegations lumped together. Complainant starts off by simply asking questions about transactions made by the State Senate Committee, and not alleging any violation of law.<sup>24</sup> He goes on to next allege that certain bank fees incurred by the State Senate Committee are “questionable at best”.<sup>25</sup> He goes on further to question the Commission’s approval of the Former Congressional Committee’s Termination Report.<sup>26</sup> Finally, the Complainant concludes that Mr. McGuire failed “to distinguish between his [Former State House Committee] and the [State Senate Committee] []”.<sup>27</sup>

Respondents are unable to meaningfully respond to the allegations in Count 9 because it is impossible to understand what the alleged violations are here. And asking questions is not a viable claim to make in an action filed with the Commission. Without any meaningful factual basis that cites to real evidence, the Commission should dismiss Count 9.

### 10. *Petty Cash*

Citing to Exhibit 1, Page 13 (which does not exist), the Complainant once again alleges that Mr. McGuire’s state campaign committee is violating a Virginia state law – this time about how his state campaign committee did not comply with a policy of the Virginia Department of Elections.

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<sup>22</sup> See *Common Cause Georgia v. FEC*, 2023 WL 6388883 at \*6 (D.D.C. 2023) (“speculation is not enough” to find reason to believe); see also Statement of Reasons, Comm’rs Mason, Sandstrom, Smith & Thomas at 1-2, MUR 4960 (Hillary Rodham Clinton for US Senate Expl. Comm., Inc., et al.) (“The Commission may find ‘reason to believe’ only if a complaint sets forth sufficient specific facts which, if proven true, would constitute a violation of the [Act]. . . . [M]ere speculation . . . will not be accepted as true.”).

<sup>23</sup> Factual and Legal Analysis at 5, MUR 7421 (Cramer for Senate, et al.).

<sup>24</sup> Complaint, p. 5

<sup>25</sup> Id.

<sup>26</sup> Id.

<sup>27</sup> Id.

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Citing no federal law violation and no entity for which the Commission has jurisdiction over, the Commission must dismiss Count 10 in its entirety.

### 11. *Contributions during General Assembly session*

Citing to Exhibit 1, Page 14 (which does not exist), the Complainant cites a provision of state law from Virginia about members soliciting or accepting contributions during sessions of the Virginia General Assembly (Virginia Code § 24.2-954).<sup>28</sup> Whether or not any of Mr. McGuire's state campaign committees violated that provision of state law is irrelevant in this matter. The Commission lacks jurisdiction to hear any such dispute.

The Complainant does separately suggest that Mr. McGuire's congressional campaign somehow violated state law in one instance – on April 3, 2022.<sup>29</sup> However, Count 11 fails to explain how Virginia's state law is applicable to Mr. McGuire's congressional committee in this case. Further, even if Virginia state law did somehow apply to Mr. McGuire's Congressional Committee, the Commission lacks jurisdiction over that state law claim. Consequently, the Commission should dismiss Count 11 in its entirety.

### 12. *Count 12 – Travel Expense for State Campaign Committees*

Without citing to any federal law or regulation, Count 12 appears to allege that the Former State House Committee and the State Senate Committee “were used to fuel [Mr. McGuire's] federal campaign without being properly donated to the CD 5 campaign under federal donation limits.”<sup>30</sup> This conclusion is based on different expenditures made by Mr. McGuire's state campaign committees. Once again, the same problem exists here as above; namely, the exhibit cited by the Complainant that supposedly documents his allegations simply does not exist. The Complainant cites “EXHIBIT 16” of the Complaint to document the allegations of Count 12. There is no Exhibit 16 attached to the Complaint. Exhibit 13 is the last exhibit to the Complaint. As such, the allegations of Count 12 are baseless and do not provide Respondents with the ability to adequately respond to the allegations in Count 12; consequently, the Commission should dismiss Count 12 in its entirety.

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<sup>28</sup> Complaint, p. 6

<sup>29</sup> Id.

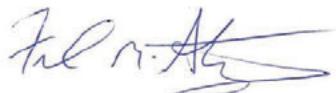
<sup>30</sup> Id., p. 7

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**Conclusion**

The Commission should find no reason to believe a violation occurred in this matter. "The burden of proof does not shift to a respondent merely because a complaint is filed." The Complaint's allegations are based entirely on either state law questions, which the Commission lacks jurisdiction to consider, or alleged information that is mere speculation and inuendo. As such, the Commission should find no reason to believe a violation of the Act occurred, and dismiss the Complaint in its entirety.

Respectfully,



Frank M. Strigari

*John McGuire, McGuire for Virginia (C00856831)  
and Haley Wadsworth, in her capacity as Treasurer,*

*Friends of John McGuire SD10*