



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

March 17, 2025

VIA ELECTRONIC MAIL

dmcgahn@jonesday.com, scrosland@jonesday.com

Donald F. McGahn II, Esquire & E. Stewart Crosland, Esquire
Jones Day
51 Louisiana Ave., N.W.
Washington, D.C. 20001

RE: MUR 8287
The Joshua Super PAC, *et al.*

Dear Mr. McGahn & Mr. Crosland:

On July 23, 2024, the Federal Election Commission notified your client, Bernie Moreno for Senate (the "Committee,"), and Paul Kilgore in his official capacity as treasurer, 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 the Committee at that time.

Upon further review of the allegations contained in the complaint, and information supplied in response, the Commission, on February 12, 2025, voted to dismiss this matter and close the file effective March 17, 2025. 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).

Sincerely,

Lisa J. Stevenson
Acting General Counsel

Wanda D. Brown

BY: Wanda D. Brown
Assistant General Counsel

Enclosure
General Counsel's Report

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2
3 **ENFORCEMENT PRIORITY SYSTEM**
4 **DISMISSAL REPORT**

5
6 **MUR 8287**

7 **Respondents:** The Joshua Super PAC and Kathy
8 Fishel in her official capacity as
9 treasurer
10 Bernie Moreno for Senate and Paul
11 Kilgore in his official capacity as
12 treasurer
13 Kathy Fishel
14 Scott Fishel

15 **Complaint Receipt Date:** July 15, 2024

16 **Last Response Date:** Oct. 21, 2024

17
18 

19
20 **Alleged Statutory/**

21 **Regulatory Violations:**

22 52 U.S.C. §§ 30104(a)-(b), 30116(a), (f)
11 C.F.R. §§ 104.3, 109.20, 109.21

23 The Complaint alleges that The Joshua Super PAC and Kathy Fishel in her official capacity
24 as treasurer (the “Joshua PAC”), an independent expenditure-only political committee,¹ as well as
25 Kathy Fishel and Scott Fishel in their individual capacities, made, and Bernie Moreno for Senate
26 and Paul Kilgore in his official capacity as treasurer (the “Moreno Committee”), the principal
27 campaign committee of Senator Bernie Moreno, 2024 candidate for Senator from Ohio,² knowingly
28 accepted, unreported, excessive, and prohibited coordinated in-kind contributions, in violation of
29 the Federal Election Campaign Act of 1971, as amended (the “Act”).³

¹ The Joshua Super PAC, Statement of Organization at 2 (Mar. 26, 2022), <https://docquery.fec.gov/pdf/296/202203269495911296/202203269495911296.pdf>.

² Bernie Moreno, Statement of Candidacy at 1 (Apr. 10, 2023), <https://docquery.fec.gov/pdf/172/202304109579738172/202304109579738172.pdf>; Bernie Moreno for Senate, Statement of Organization at 2 (Apr. 10, 2023), <https://docquery.fec.gov/pdf/092/202304109579738092/202304109579738092.pdf>.

³ Compl. at 1 (July 15, 2024). The Complaint makes a number of allegations involving the Joshua PAC’s interactions with state committees that are outside the Commission’s jurisdiction.

1 The Complaint states that Kathy and Scott Fishel “hosted a number of fundraisers” in
2 support of Moreno’s candidacy and paid for communications in coordination with the Moreno
3 Committee, without further specifying.⁴ The Complaint includes a picture of an invitation to an
4 event “in support of” the Moreno Committee held at another individual’s home with live
5 entertainment and valet parking, displaying “[l]eadership [c]ommittee” followed by four monetary
6 amounts, and listing “Kathy and Scott Fishel” as members of the leadership committee.⁵

7 During the 2024 election cycle, the Joshua PAC reported a total of \$31,661.95 in receipts
8 and \$34,351.68 in disbursements, and did not report making any contributions to the Moreno
9 Committee.⁶ On November 15, 2023, prior to the submission of the Complaint, the Joshua PAC
10 was administratively terminated.⁷ The Moreno Committee disclosed aggregated contributions
11 totaling \$3,330 designated for the 2024 primary election and \$3,300 designated for the 2024 general
12 election from an individual named Scott Fishel.⁸

13 In Response, the Joshua PAC and Kathy Fishel in her personal capacity argue that the
14 Complaint is “frivolous,” state that the Joshua PAC has never coordinated with any campaign, and
15 specifically deny each allegation made in the Complaint.⁹ In Response, Scott Fishel states that the
16 Complaint does not allege that he violated the Act and specifically denies the allegations.¹⁰

⁴ *Id.*

⁵ *Id.* at 13.

⁶ *The Joshua Super PAC: Financial Summary*, FEC.GOV, <https://www.fec.gov/data/committee/C00810499/> (last visited Jan. 31, 2025); *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00810499&recipient_name=Bernie+Moreno+for+Senate&two_year_transaction_period=2024 (last visited Jan. 31, 2025).

⁷ The Joshua Super PAC, *Administrative Termination 2023* at 1 (Nov. 15, 2023), <https://docquery.fec.gov/pdf/284/202311150300196284/202311150300196284.pdf>.

⁸ *FEC Receipts: Filtered Results*, FEC.GOV, https://www.fec.gov/data/receipts/?data_type=processed&committee_id=C00837484&contributor_name=fishel&two_year_transaction_period=2024 (last visited Jan. 31, 2025).

⁹ Joshua PAC Resp. at 1-3 (Aug. 14, 2024); Kathy Fishel Resp. at 1-3 (Sept. 19, 2024).

¹⁰ Scott Fishel Resp. at 1-4 (Sept. 19, 2024).

1 In Response, the Moreno Committee argues that the Complaint does not identify any
2 coordinated communication made by Joshua PAC in support of any federal candidate.¹¹ The
3 Moreno Committee argues that the Complaint is purely speculative and that Joshua PAC has never
4 made a public communication in support of Senator Moreno’s candidacy.¹²

5 Based on its experience and expertise, the Commission has established an Enforcement
6 Priority System using formal, pre-determined scoring criteria to allocate agency resources and
7 assess whether particular matters warrant further administrative enforcement proceedings. These
8 criteria include (1) the gravity of the alleged violation, taking into account both the type of activity
9 and the amount in violation; (2) the apparent impact the alleged violation may have had on the
10 electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in
11 potential violations and other developments in the law. This matter is rated as low priority for
12 Commission action after application of these pre-established criteria. Given that low rating, we
13 recommend that the Commission dismiss the Complaint, consistent with the Commission’s
14 prosecutorial discretion to determine the proper ordering of its priorities and use of agency
15 resources.¹³ We also recommend that the Commission close the file effective 30 days from the date
16 the certification of the vote is signed (or on the next business day after the 30th day, if the 30th day
17 falls on a weekend or holiday) and send the appropriate letters.

¹¹ Moreno Committee Resp. at 1-2 (Oct. 21, 2024).

¹² *Id.* at 2-4.

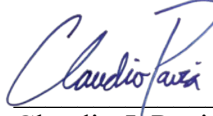
¹³ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17


January 31, 2025

Date

Lisa J. Stevenson
Acting General Counsel

BY: 

Claudio J. Pavia
Deputy Associate General Counsel



Wanda D. Brown
Assistant General Counsel



Gordon King
Attorney