

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

45COMMITTEE, INC.,)	
)	
Plaintiff,)	Civ. No. 22-1749 (APM)
)	
v.)	
)	
FEDERAL ELECTION COMMISSION <i>et al.</i> ,)	NOTICE
)	
Defendants.)	

**FEDERAL ELECTION COMMISSION’S NOTICE
OF SUBSEQUENT DEVELOPMENTS**

Defendant Federal Election Commission (“FEC” or “Commission”) hereby provides notice of subsequent factual developments. The composition of the Commission recently changed, with Dara Lindenbaum sworn in as Commissioner on August 2, 2022. FEC, *Dara Lindenbaum Sworn In As Commissioner* (Aug. 2, 2022), <https://www.fec.gov/updates/dara-lindenbaum-sworn-in-as-commissioner/>. Soon thereafter, on August 29, 2022, there were successful votes to close the file in a number of FEC Matters Under Review (“MUR”), including MUR 7486, an administrative enforcement matter involving plaintiff 45Committee, Inc. (“45Committee”) that is at issue in this case. (Complaint for Declaratory and Injunctive Relief (“Compl.”) (Docket No. 1) ¶ 44.) Other successful closure votes on that same date involved matters that appear to meet the criteria of the seven other MURs plaintiff has challenged (though not specifically identified) in this proceeding as being subject to an alleged “concealment policy.” (*Id.* ¶¶ 3, 7.) As a result of these file closures, plaintiff will soon be in possession of the vote certifications and statements of reasons it has sought regarding MUR 7486, and it will therefore have received all of the relief it seeks in this case with respect to that proceeding.

Plaintiff will also soon have access, via public disclosure, to the vote certifications and statements of reasons for several other MURs that meet the criteria of the matters it has challenged, providing plaintiff with the additional broader relief it requested. These developments mean that plaintiff's claims will soon be mooted.

The FEC Commissioners voted 4-1 (with one abstention) to close the file in MUR 7486. The respondent in MUR 7486, 45Committee, has been notified of this action. The notification to 45Committee stated, among other things, that the FEC had divided equally in June 2020 on whether to find reason to believe that 45Committee had violated the Federal Election Campaign Act. The votes in other MURs varied, but in all cases included at least four votes in favor of closing the respective MUR files at this time.

As a result of these file closures, the Commission will place on the public record categories of documents integral to its decision-making process in these MURs, including certifications of Commission votes and Commissioner statements of reasons, in accord with the agency's disclosure policy. *See* FEC, Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702, 50,703 (Aug. 2, 2016). The Commission will do so as soon as practicable and generally endeavors to do so within 30 days. *Id.*

The closure of these MUR files, and resulting disclosures, are pertinent to the FEC's Motion to Dismiss as to which briefing is currently underway before this Court. (*See* FEC's Motion to Dismiss ("Motion to Dismiss") (ECF No. 17).) In its Motion the Commission argued that this Court lacks jurisdiction and that plaintiff has failed to state claims upon which relief can be granted. (*Id.* at 11-39.) In part, the Commission explained that the documents plaintiff sought here had been permissibly withheld because the agency's file closure of MUR 7486 and other MURs about which plaintiff appeared to complain had not yet occurred in accord with the

agency's longstanding practice. (Motion to Dismiss at 6-7, 20-25.) The closure of these MUR files and resulting disclosures mean that these issues will soon be mooted.

The Commission will confer with plaintiff 45Committee to confirm its agreement that the case will shortly become moot and to propose an appropriate course of action for the interim period. Given the pending motion, the Commission wanted to provide this immediate update.

Respectfully submitted,

Lisa J. Stevenson (D.C. Bar No. 457628)
Acting General Counsel
lstevenson@fec.gov

Harry J. Summers
Assistant General Counsel
hsummers@fec.gov

Kevin Deeley
Associate General Counsel
kdeeley@fec.gov

/s/ Christopher H. Bell
Christopher H. Bell
Attorney
chbell@fec.gov

September 1, 2022

FEDERAL ELECTION COMMISSION
1050 First Street NE
Washington, DC 20463
(202) 694-1650

CERTIFICATE OF SERVICE

I hereby certify that on September 1, 2022, I served the foregoing pursuant to Fed. R. Civ. P. 5(b)(2)(E) on counsel of record, as a registered ECF user, through the Court's ECF system.

/s/ Christopher H. Bell
Christopher H. Bell
Attorney
chbell@fec.gov