



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

William J. Haberstroh

JAN 16 2015

Hollidaysburg, PA 16648

RE: MUR 6736

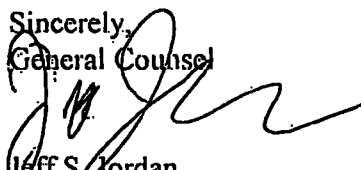
Dear Mr. Haberstroh:

On January 12, 2015, the Federal Election Commission reviewed the allegations in the complaint you filed on May 16, 2013, and found that on the basis of the information provided in the complaint, and information provided by the respondents, there is no reason to believe Art Halvorson violated 52 U.S.C. § 30102(e)(1) (formerly 2 U.S.C. § 432(e)(1)) or that Taxpayers for Art Halvorson Committee and Catherine F. Jacobs, in her official capacity as treasurer, violated 52 U.S.C. § 30103(a) (formerly 2 U.S.C. § 433(a)) with respect to the allegations in this matter. Accordingly, the Commission closed the file in this matter on January 12, 2015.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). The Factual and Legal Analysis, which more fully explains the Commission's findings, is enclosed.

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 52 U.S.C. § 30109(a)(8) (formerly 2 U.S.C. § 437g(a)(8)).

Sincerely,
General Counsel

BY: 
Jeff S. Jordan
Assistant General Counsel
Complaints Examination and
Legal Administration

Enclosure
Factual and Legal Analysis

15044370763

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Art Halvorson MUR 6736
Taxpayers for Art Halvorson Committee,
and Catherine F. Jacobs, Treasurer

I. INTRODUCTION

This matter was generated by a complaint filed by William J. Haberstroh on May 16, 2013, alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act")¹ and Commission regulations by Art Halvorson, and Taxpayers for Art Halvorson and Catherine F. Jacobs in her official capacity as treasurer (the "Committee").² It was scored as a relatively low-rated matter under the Enforcement Priority System, a system by which the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue.

II. FACTUAL AND LEGAL ANALYSIS

A. Factual Background

In this matter, Complainant William J. Haberstroh asserts that Halvorson did not submit a timely Statement of Candidacy (FEC Form 2), and that "possibly" the Committee failed to submit a timely Statement of Organization (FEC Form 1), as required by the Act and underlying Commission regulations. Compl. at 3. The Complaint claims that there is a "near-certain likelihood" that Halvorson had raised or spent funds in excess of \$5,000. *Id.* The Complaint does not provide specific allegations regarding contributions received or expenditures made, but

¹ On September 1, 2014, the Federal Election Campaign Act of 1971, as amended (the "Act"), was transferred from Title 2 of the United States Code to new Title 52 of the United States Code.

² Halvorson was an unsuccessful 2014 primary election candidate for Pennsylvania's ninth congressional district.

1 appears to rely upon the alleged "organization, infrastructure, and publicity" of Halvorson's
2 efforts to support its assertion that funds were spent or raised in excess of \$5,000. *Id.* The
3 Complaint alleges that Halvorson's publicity has "created the perception that he has made the
4 decision" to be a candidate.³ *Id.* According to the Complaint, the Committee created a website
5 that is "organized and well-developed" at the URL address of

6 ~~www.ArthHalvorsonForCongress.com, and includes the banner "Art-Halvorson-for-Congress."~~

7 *Id.* at 1. The Complaint claims that the website includes a biography of Halvorson, descriptions
8 of "detailed policy positions," and buttons linking to information regarding how individuals can
9 volunteer or mail contributions. *Id.* at 1, 3.

10 In his Response, Halvorson states the complaint "is without merit." Halvorson Resp. at
11 1. Halvorson explains that by April 15, 2013, he had "publicly announced the formation of an
12 exploratory committee and began the development of an exploratory shell webpage as a part of
13 that process." *Id.* Halvorson asserts that the website was not "populated with issues" and did not
14 have the capability to receive donations. *Id.* Further, Halvorson explains that on May 18, 2013,
15 he publicly announced his candidacy, filed his Statement of Candidacy, and was "in the process
16 of forwarding FEC Form 1." *Id.* Halvorson states that he received contributions consisting of
17 \$100 from his daughter and an unsolicited \$15 from a citizen in the Ninth District of
18 Pennsylvania. *Id.* Additionally, Halvorson states that prior to his Response, he had spent
19 "approximately" \$332 on URL acquisition costs, as well as "incidental expenses," which

³ Specifically, the Complaint alleges that Halvorson has created the perception of being a candidate by: participating in interviews in which he was referred to as a candidate, making statements to "indicate imminent candidacy," and "actively engag[ing] in speaking roles at political events." Compl. at 3. The Complaint includes a link to an April 15, 2013 article that reports Halvorson "intends to challenge" the incumbent and quotes Halvorson for stating that "I'm not declaring that I'm running, but I think the answer is going to be obvious." *Id.* at 1-2 (citing Gibson, Keegan, *Challenger Prepares Primary vs. Shuster*, POLITICSPA (April 15, 2013), <http://www.politicspa.com/challenger-prepares-primary-vs-shuster/47446/>).

1 included gasoline to allow him to visit individuals to determine their prospective level of
2 support. *Id.* Halvorson also provided a temporary statement for the Taxpayers for Art
3 Halvorson Committee's bank account that showed an ending balance of zero dollars, a deposit of
4 twenty-five dollars on May 17, 2013, and an ending balance of twenty-five dollars as of May 30,
5 2013. *Id.* at 2.

6 **B. Legal Analysis**

7 An individual becomes a candidate for federal office when he or she has received
8 contributions or made expenditures in excess of \$5,000. 52 U.S.C. § 30101(2) (formerly
9 2 U.S.C. § 431(2)); 11 C.F.R. § 100.3(a).⁴ Upon becoming a candidate, an individual has fifteen
10 days to file a Statement of Candidacy (FEC Form 2), and on that form, designate a political
11 committee that will serve as the candidate's principal campaign committee. 52 U.S.C.
12 § 30102(e)(1) (formerly 2 U.S.C. § 432(e)(1)); 11 C.F.R. § 101.1(a). The principal campaign
13 committee then has ten days to file a Statement of Organization (FEC Form 1). 52 U.S.C.
14 § 30103(a) (formerly 2 U.S.C. § 433(a)); 11 C.F.R. § 102.1.

15 It appears that Halvorson was not a candidate under the Act and Commission regulations
16 at the time when the activity alleged in the complaint occurred. Specifically, the Committee had
17 apparently not made expenditures or received contributions in excess of \$5,000. *See* Halvorson
18 Resp. at 1. Halvorson indicates that as of May 31, 2013, the Committee had received

⁴ The Commission created a "testing the waters" exemption to the definitions of "contributions" and "expenditures" to enable individuals to receive and spend funds while determining the feasibility of becoming a candidate. *See* 11 C.F.R. §§ 100.72, 100.131. To qualify under this exemption, individuals may participate in certain activities such as conducting polls, making telephone calls, and traveling. *Id.* The Complaint indicates that Respondents have engaged in activities that exceed the scope of those permitted under the "testing the waters" exemption. *See* Compl. However, because the Response indicates Halvorson had not received contributions or made expenditures in excess of \$5,000, which would trigger the registration requirements under the Act, an analysis of whether his activities exceeded the scope of those permitted under the exemption is not necessary in this instance.

1 contributions of approximately \$115 and made expenditures of approximately \$332.⁵ *Id.* After
2 the Complaint was filed, Halvorson voluntarily filed his Statement of Candidacy on May 28,
3 2013. *See* Statement of Candidacy (filed May 28, 2013). Thus, it appears Halvorson filed his
4 Statement of Candidacy prior to reaching the \$5,000 threshold for becoming a candidate.
5 Accordingly, the Commission finds no reason to believe that Halvorson failed to meet the
6 registration and reporting requirements under 52 U.S.C. § 30102(e)(1) (formerly 2 U.S.C.

7 § 432(e)(1)).⁶

8 Under Commission regulations, an individual does not become a candidate solely by
9 voluntarily filing a report; the individual is not a candidate until qualifying as such under
10 11 C.F.R. § 100.3. *See* MUR 6650 (Citizens to Elect Soren Simonsen) at 3; *see also* 11 C.F.R.
11 § 104.1. Further, filing a Statement of Candidacy does not trigger a candidate's designation of a
12 principal campaign committee until he becomes a candidate under the Act and Commission
13 regulations. MUR 6650 at 3; 11 C.F.R. § 100.5(d). Therefore, Halvorson's filing of his
14 Statement of Candidacy on May 28, 2013, did not trigger the 10-day requirement for the
15 Committee to file its Statement of Organization.⁷ Although Halvorson's voluntary filing of his
16 Statement of Candidacy did not make the Committee subject to the Act or Commission

⁵ The Committee's reports also indicate that Halvorson did not exceed the \$5,000 threshold at the time the Complaint was filed. Instead, the first contribution reported is for \$1,300 on June 7, 2013, and the first expenditure reported is for \$3,543 on June 4, 2013. *See* Taxpayers for Art Halvorson 2013 July Quarterly Report at 10, 12 (filed July 9, 2013), *available at* <http://docquery.fec.gov/pdf/680/13964010680/13964010680.pdf>. Halvorson loaned the Committee \$100,000 on June 27, 2013, and apparently exceeded the \$5,000 threshold on that date. *Id.* at 11.

⁶ The Complainant seems to concede that Halvorson would not be in violation of the registration requirements if he did not cross the \$5,000 threshold. Compl. at 2 ("... once an individual engages in campaign activity, if he or she has raised or spent more than \$5,000, the individual must register as a candidate with the [Federal Election Commission]").

⁷ Therefore, it is of no consequence that the Statement of Organization was filed more than ten days after the Statement of Candidacy because both forms were filed prior to being required under the Act and Commission regulations.

1 regulations regarding the filing of its FEC Form 1, the Committee nevertheless still chose to file
2 its Statement of Organization on June 10, 2013. *See* Statement of Organization (filed June 10,
3 2013). Thus, the Commission finds no reason to believe that the Committee violated 52 U.S.C.
4 § 30103(a) (formerly 2 U.S.C. § 433(a)).

5 Accordingly, the Commission finds no reason to believe that Art Halvorson violated
6 52 U.S.C. § 30102(e)(1) (formerly 2 U.S.C. § 432(e)(1)) and no reason to believe that Taxpayers
7 for Art Halvorson Committee and Catherine F. Jacobs, in her official capacity as treasurer,
8 violated 52 U.S.C. § 30103(a) (formerly 2 U.S.C. § 433(a)).