



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

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Of Counsel  
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FEB 15 2019

RE: MUR 7308

Dear Mr. Willard:

The Federal Election Commission previously notified you of a complaint alleging that you may have violated the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was forwarded to you at that time.

Upon further review of the allegations contained in the complaint, the Commission, on February 5, 2019, voted to dismiss this matter. The Factual and Legal Analysis, which more fully explains the Commission's decision, is enclosed for your information. Accordingly, the Commission closed its file in this matter.

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 Roy Q. Lockett, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in dark ink, appearing to read "Mark Allen".

Mark Allen  
Assistant General Counsel

Enclosure  
Factual and Legal Analysis



1 made his contributions.<sup>3</sup> Complainant now alleges that Victor, through intimidation, bribery,  
2 threats of physical harm, and other methods, caused the Commission to receive false or  
3 misleading testimony from respondent straw donors in the earlier matters.<sup>4</sup> The Complaint  
4 requests, among other things, that the Commission reopen MURs 7005 and 7056, including  
5 Victor's conciliation agreement, and seek harsher penalties against him.<sup>5</sup>

6 Specifically, the new Complaint asserts that Victor threatened the straw donors if they  
7 refused to sign the witness statements in response to the Complaints in MURs 7005 and 7056.<sup>6</sup> It  
8 also alleges that two of Victor's lawyers, Joshua Krakowsky and Glenn Willard, participated in  
9 this conspiracy by drafting false declarations for the conduits.<sup>7</sup> According to Complainant, these  
10 actions resulted in reduced civil penalties and, with respect to some respondents, the inability for  
11 the Commission to find reason to believe and arrive at a civil penalty.<sup>8</sup>

<sup>3</sup> See First Gen. Counsel's Rpt. at 15, MURs 7005 and 7056; Second Amended Certification, MURs 7005 and 7056 (Nov. 16, 2016); Memorandum to the Commission, Pre-Probable Cause Conciliation and Case Closing at 2-4, MURs 7005 and 7056 (July 26, 2017); Certification, MURs 7005 and 7056 (Aug. 3, 2017).

<sup>4</sup> MUR 7308 Compl. at 3-8.

<sup>5</sup> *Id.* at 43.

<sup>6</sup> *Id.* at 4-5. The Complainant refers to several witness statements that had declared under penalty of perjury that payments from Victor or his companies were reimbursements for travel expenses, purchases or, other personal expenses of the alleged straw donors, and several other witness statements that "unidentified payments and/or checks referenced in [the MUR 7005 Complaint] were not paid to [Respondent]." *Id.* at 21; see also First Gen. Counsel's Rpt. at 6-7, MURs 7005 and 7056.

<sup>7</sup> MUR 7308 Compl. at 5-6. The Complaint also alleges that Krakowsky bribed a witness on Victor's behalf during litigation unrelated to the allegations addressed in MURs 7005 and 7056. *Id.* at 31-35.

<sup>8</sup> *Id.* at 16. The MUR 7308 Complaint names as respondents many of the same alleged straw donors, excluding Victor's family members, named in MURs 7005 and 7056.

1 Respondents Krakowsky and Willard each assert that the Complaint does not allege that they  
2 respectively engaged in activity that violated the Act.<sup>9</sup> Krakowsky states that he “never prepared  
3 any document that to [his] knowledge was false in any way and submitted to the FEC.”<sup>10</sup> He also  
4 maintains that he has “never prepared any draft witness statements that [he] knew contained false  
5 information” and does not “recall ever meeting in person with any witnesses involved in this  
6 case other than Adam Victor.”<sup>11</sup> The only other responses to the MUR 7308 Complaint came  
7 from Marta Dani and Nana Yoshioka, who each maintained that further comment was  
8 unnecessary given the resolution of MURs 7005 and 7056.<sup>12</sup> Yoshioka further requested that the  
9 Commission dismiss the Complaint.<sup>13</sup>

10 A number of the allegations in this matter, such as conspiracy, bribery, and witness  
11 tampering, are not within the Commission’s jurisdiction. To the extent the new Complaint  
12 provides new information regarding alleged violations of the Act, the contributions at issue

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<sup>9</sup> Krakowsky Resp. at 2 (Mar. 16, 2018); Willard Resp. at 1 (Feb. 2, 2018).

<sup>10</sup> Krakowsky Resp. at 2.

<sup>11</sup> *Id.*

<sup>12</sup> Dani Resp. at 1 (Mar. 26, 2018); Yoshioka Resp. at 1 (Feb. 22, 2018).

<sup>13</sup> Yoshioka Resp. at 1.

1 occurred during the 2012 election cycle and are beyond the statute of limitations.<sup>14</sup> In addition,  
2 the Commission conciliated with Victor on a knowing and willful basis with a substantial civil  
3 penalty, suggesting that Victor's alleged coercion of witnesses did not result in more favorable  
4 treatment.<sup>15</sup>

5 Because the Commission conciliated with Victor in MURs 7005 and 7056 and all the  
6 violations of the Act alleged in the new Complaint are beyond the statute of limitations, the  
7 Commission has determined to dismiss the Complaint in MUR 7308.

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<sup>14</sup> The Complaint provides new information concerning alleged straw donor Garry Coulter, alleging that the check ledger of TGDS references a check in the amount of \$7,500 payable to Coulter dated December 21, 2011. MUR 7308 Compl. at 18-19. The Complaint asserts that \$2,500 of that amount was used to cover Coulter's \$2,500 contribution to Manchin for West Virginia on December 30, 2011, with the remainder reflecting Coulter's monthly \$5,000 consulting fee from TGDS. *Id.* This proximity of a check from Victor with a political contribution is consistent with the pattern for certain straw donors in MURs 7005 and 7056. See First Gen. Counsel's Rpt. at 8-9, MURs 7005 and 7056. Coulter did not respond to the MUR 7308 Complaint, although in response to the MUR 7005 Complaint he denied participating in a straw donor scheme and claimed that all of the payments he received were management consulting services. Coulter Resp. to MUR 7005 Complaint at 1-2 (Feb. 18, 2016). Coulter's \$2,500 contribution to the Manchin Committee was included among Victor's conduit contributions at the reason to believe stage of the earlier matters. See First Gen. Counsel's Rpt. at 14-15, MURs 7005 and 7056; Factual and Legal Analysis addressed to Victor at 12, MURs 7005 and 7056; Second Amended Certification, MURs 7005 and 7056 (Nov. 16, 2016). Victor's affidavit admitting to making numerous contributions in the name of another, negotiated during the investigative stage, does not include Coulter's contribution, at Victor's request and in light of the lack of evidence showing that Coulter's contributions were reimbursed. See Gen. Counsel's Rpt. #2 at 2 n.5, MURs 7005 and 7056; Certification, MURs 7005 and 7056 (Apr. 27, 2017). As a result, the conciliation agreement accepted by the Commission does not include Coulter's contribution. See Memorandum to the Commission, Pre-Probable Cause Conciliation and Case Closing, MURs 7005 and 7056 (June 26, 2017); Certification, MURs 7005 and 7056 (Aug. 3, 2017). In any event, the Coulter contribution is beyond the statute of limitations.

<sup>15</sup> Further, it was apparent at that time that the factual statements in the witness affidavits were not credible. See First Gen. Counsel's Rpt. at 12, MURs 7005 and 7056 (characterizing the witnesses' explanations regarding the sequence of events as "remarkable coincidences," and not as likely as the explanation that "Victor gave them money for the purpose of making political contributions").