

BEFORE THE
FEDERAL ELECTION COMMISSION

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FEDERAL ELECTION COMMISSION
JULY 24, 2023 8:10 AM
OFFICE OF GENERAL COUNSEL

Carson Taylor
[REDACTED]
Bozeman, MT 59715

Complainant,

MUR 8149

v.

Tim Sheehy
PO Box 6456
Helena, MT 59604

Tim Sheehy for Montana
PO Box 6456
Helena, MT 59604

Katie Wenetta, Treasurer
PO Box 6456
Helena, MT 59604

Respondents.

COMPLAINT

This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) against Tim Sheehy; Tim Sheehy for Montana; and Katie Wenetta, Treasurer of Tim Sheehy for Montana (together, “*Respondents*”) for violating the Federal Election Campaign Act of 1971, as amended (the “*Act*”) and Federal Election Commission (“*FEC*” or “*Commission*”) regulations. According to public reporting, Mr. Sheehy triggered candidacy for the U.S. Senate at the latest on June 28, 2023, availing himself to the benefits and obligations of candidacy. Yet, he failed the most basic obligation imposed on federal candidates – filing the very first disclosure report due to the FEC, the July Quarterly Report. Mr. Sheehy’s failure to adhere to the first reporting requirement imposed upon him by the Act demonstrates a complete disregard for the law. Worse, the facts

suggest that this failure was a deliberate attempt to delay public disclosure of his campaign activities. The Commission should immediately investigate and take action to prevent further violations of the law and the public trust.

FACTUAL BACKGROUND AND LEGAL ANALYSIS

Under the Act, an individual becomes a “candidate” upon receiving contributions or making expenditures in excess of \$5,000 to influence their election for federal office.¹ A written contract, including a media contract, promise, or agreement to make an expenditure is an expenditure as of the date such contract, promise or obligation is made.² Once an individual qualifies as a candidate, their principal campaign committee is required to file quarterly reports.³ The campaign must report its contributions received and disbursements made both during the testing-the-waters period and after triggering candidacy.⁴ The Commission has made it clear through the enforcement process that as soon as candidacy is triggered, a campaign also triggers the reporting requirements:

An individual becomes a candidate for purposes of filing reports under the Act when he or she raises or expends \$5,000 for purposes of seeking election to federal office . . . Therefore, when [the candidate] either raised or spent \$5,000, he became a candidate and was required to file the next scheduled report with the FEC.⁵

In 2023 candidates for U.S. Senate are required to file quarterly disclosure reports with the FEC, due April 15th, July 15th, October 15th, and January 31st.⁶ The reports must include all

¹ See 52 U.S.C. § 30101(2); 11 C.F.R. § 100.3(1).

² 11 C.F.R. § 100.3(1).

³ 52 U.S.C. § 30104(a)(2)(A)(iii); 11 C.F.R. §§ 100.4(1), 104.5.

⁴ 11 C.F.R. §§ 104.3, 100.131, 100.72. A potential candidate may raise and spend funds to determine whether an individual should become a candidate. However, the funds received, and payments are subject to the reporting requirements of the Act if the individual subsequently becomes a candidate. 11 C.F.R. §§ 100.131(a), 100.72(a)

⁵ See FEC Matter Under Review 3656 (Dr. David Davis for Congress), <https://www.fec.gov/files/legal/murs/3656.pdf>.

⁶ 52 U.S.C. § 30104(a)(2)(A)(iii); 11 C.F.R. § 104.5(a)(1).

contributions received and disbursements made by the campaign committee during the applicable reporting period.⁷

At the latest, Tim Sheehy became a candidate for the United States Senate in Montana on June 28, 2023. Mr. Sheehy launched his campaign for U.S. Senate on June 27, 2023. One day later on June 28th, *Politico* reported that Mr. Sheehy had “easily” raised more than \$127,000 in the 24 hours after his Senate announcement video, well exceeding the \$5,000 threshold to trigger candidacy.⁸ Quarterly reports from other committees registered with the FEC confirm that Tim Sheehy for Montana received more than \$5,000 in contributions prior to the close of the reporting period.⁹ Accordingly, the campaign was required to file its first quarterly report on July 15, 2023, disclosing all its activity through June 30, 2023.

The facts indicate this failure deprived the general public of significant information. The campaign not only failed to report contributions received, but also failed to disclose its contracts and spending related to the campaign’s launch (activities themselves that almost certainly triggered candidacy prior to June 28, 2023). Mr. Sheehy’s campaign likely spent significant funds to prepare and execute his launch, including presumably contracting with media vendors to create the elaborate announcement video that included at least two different business filming sites and aerial footage, and to prepare a website.¹⁰ The launch video ended with a disclaimer that it was “Paid for by Tim Sheehy for Montana. Approved by Tim Sheehy.”¹¹ The announcement video also directed viewers to TimforMT.com.¹² An archived version of

⁷ 11 C.F.R. § 104.3.

⁸ Ally Mutnick, *Senate Republicans try to stop messy Montana primary*, *Politico* (June 28, 2023), <https://www.politico.com/news/2023/06/28/senate-republicans-montana-primary-00104125>.

⁹ FEC, Disbursements (last accessed July 17, 2023), https://www.fec.gov/data/disbursements/?data_type=processed&recipient_name=sheehy&two_year_transaction_period=2024&min_date=01%2F01%2F2023&max_date=12%2F31%2F2024.

¹⁰ Tim Sheehy, *God and Country*, YouTube (June 27, 2023), <https://www.youtube.com/watch?v=7ScveOJBIII>.

¹¹ *Id.*

¹² *Id.*

TimforMT.com from June 27, 2023, asked persons to “support Tim Sheehy’s campaign for Senate” and included a “Paid for by Tim Sheehy for Montana” disclaimer.¹³ The campaign should have disclosed to the public by July 15, 2023 all of its itemizable expenditures associated with the launch video, its website, and any other campaign activity.

Even further, the campaign also should have disclosed by July 15, 2023, any funds received or payments made related to its testing the waters activities. For example, Mr. Sheehy traveled to Washington, D.C. in the days leading up to his campaign launch to reportedly meet with a group of lobbyists and “discuss[] a potential 2024 Senate run.”¹⁴ The travel costs associated with his trip to Washington, D.C. were, at least in part, in furtherance of his candidacy or to test the viability of his candidacy. Accordingly, the travel costs incurred were reportable campaign expenses once Mr. Sheehy became a candidate.¹⁵

Mr. Sheehy did file a Statement of Candidacy with the Commission on July 1, 2023, designating Tim Sheehy for Montana as his principal campaign committee.¹⁶ Similarly, Tim Sheehy for Montana filed a Statement of Organization with the Commission on July 1, 2023, and designated Kim Wenetta as treasurer.¹⁷ The timings of these filings – one day after the reporting period for the July Quarterly Report- raise serious concerns that Respondents deliberately waited

¹³ Web Archive, Timformt.com (June 27, 2023), <http://web.archive.org/web/20230627140813/https://timformt.com/>.

¹⁴ Ryan Lizza, Eugene Daniels & Rachel Bade, *Playbook: Could Suarez become a Miami vice?* Politico (June 16, 2023), <https://www.politico.com/newsletters/playbook/2023/06/16/could-suarez-become-a-miami-vice-00102378>.

¹⁵ FEC. Adv. Op. 1985-40 (“The purpose for Mr. Baker’s travel to these party events includes activities undertaken to determine whether he should become a candidate for the 1988 Republican presidential nomination. For instance, his public remarks at such meetings will refer to his potential candidacy. Thus, the Commission concludes that travel for appearances at these party events will constitute testing-the-waters activity so long as Mr. Baker’s activities at such events do not indicate that he has decided to become a candidate for the 1988 Republican presidential nomination or is conducting a campaign for such nomination . . . Accordingly, RMF expenditures to defray the travel costs for such appearances will constitute in-kind gifts of a thing of value to Mr. Baker’s Fund.”)

¹⁶ FEC, Form 2 – Statement of Candidacy, Tim Sheehy (July 1, 2023), <https://docquery.fec.gov/pdf/729/202307019582427729/202307019582427729.pdf>.

¹⁷ FEC, Form 1 – Statement of Organization, Tim Sheehy for Montana (July 1, 2023), <https://docquery.fec.gov/pdf/730/202307019582427730/202307019582427730.pdf>.

to file these Statements until after the reporting period concluded in a misguided attempt to avoid disclosing the campaign's contributions and expenditures for three months.

The campaign's failure to file is particularly significant in this case because Mr. Sheehy has the capability of self-funding the campaign's expenses. Ahead of Mr. Sheehy's announcement video, *Politico* reported that Republicans were "eagerly courting" Mr. Sheehy, in part, over his ability to fund his own campaign.¹⁸ Without the report disclosing the campaign's second quarter activities during the critical early stages of the U.S. Senate primary, the public is left without information regarding how much of Mr. Sheehy's own resources he has provided to the campaign (and in what form), as well as any information to assess his level of grassroots support.

The Act and regulations set a firm deadline for filing quarterly reports. These deadlines are so important that they are not extended when they fall on a weekend or a federal holiday.¹⁹ Respondents seem to have taken deliberate action to avoid their obligation to file the July 15 quarterly report. The Commission should not tolerate such a flagrant violation of federal campaign finance law.

REQUESTED ACTION

The Commission should investigate this matter, require Respondents to immediately file the required July Quarterly Report, and impose an appropriate fine for the delay in providing the public with the disclosure information required by the Act and Commission regulations.

¹⁸ Ally Mutnick, *Republicans are looking for Senate candidates who are filthy rich*, *Politico* (March 22, 2023), <https://www.politico.com/news/2023/03/22/national-republicans-senate-candidates-rich-00088199>.

¹⁹ See FEC, 2023 Quarterly Reports, <https://www.fec.gov/help-candidates-and-committees/dates-and-deadlines/2023-reporting-dates/2023-quarterly-filers/>.

Sincerely,

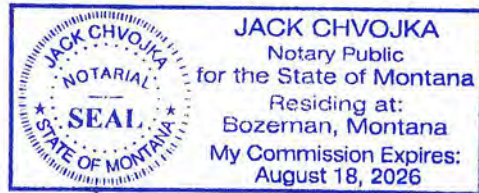
Carson Taylor
Carson Taylor

Bozeman, MT 59715

SUBSCRIBED AND SWORN to before me this 22nd day of July, 2023.

Jack Chvojka

Notary Public



My Commission Expires: August 18, 2026