

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2  
3 In the Matter of )  
4 )  
5 MUR 7152 ) DISMISSAL AND  
6 Jenny Horne for Congress ) CASE CLOSURE UNDER THE  
7 and Milinda A. Sullivan, as treasurer ) ENFORCEMENT PRIORITY  
8 Hearn & Hearn, P.A. ) SYSTEM  
9 Hodge & Langley Law Firm, P.C. )  
10 Ronnie A. Sabb )  
11 Law Offices of Ronnie A. Sabb, LLC )  
12

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14 **GENERAL COUNSEL'S REPORT**

15 Under the Enforcement Priority System, the Commission uses formal scoring criteria as a  
16 basis to allocate its resources and decide which matters to pursue. These criteria include, without  
17 limitation, an assessment of the following factors: (1) the gravity of the alleged violation, taking into  
18 account both the type of activity and the amount in violation; (2) the apparent impact the alleged  
19 violation may have had on the electoral process; (3) the complexity of the legal issues raised in the  
20 matter; and (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as  
21 amended (the "Act"), and developments of the law. It is the Commission's policy that pursuing  
22 relatively low-rated matters on the Enforcement docket warrants the exercise of its prosecutorial  
23 discretion to dismiss cases under certain circumstances or to find no reason to believe that the Act  
24 was violated. The Office of General Counsel has scored MUR 7152 as a low-rated matter and has  
25 determined that it should not be referred to the Alternative Dispute Resolution Office.<sup>1</sup>

26 Jenny Horne was a 2016 primary candidate for South Carolina's First Congressional District.<sup>2</sup>  
27 The Complaint alleges that three law firms and one lawyer made, and Jenny Horne for Congress and

<sup>1</sup> The EPS rating information is as follows: Complaint filed: Oct. 17, 2016. Responses filed:  
Jenny Horne for Congress and Milinda A. Sullivan, as treasurer, Nov. 8, 2016; Hodge & Langley Law Firm, P.C. Nov. 9,  
2016; and Hearn & Hearn, P.A. Nov. 8, 2016; Ronnie A. Sabb and the Law Offices of Ronnie A. Sabb, LLC, Dec. 5,  
2016.

<sup>2</sup> Horne lost the primary election.

1 Milinda A. Sullivan in her official capacity as treasurer (the "Committee") accepted, prohibited and  
2 excessive contributions.<sup>3</sup> Specifically, the Complainant alleges that on January 4, 2016, Hearn &  
3 Hearn P.A., a South Carolina Corporation, made and the Committee accepted a \$2,000 prohibited  
4 corporate contribution<sup>4</sup>; on March 8, 2016, Hodge and Langley Law Firm, P.C. made and the  
5 Committee accepted a \$250 prohibited corporate contribution; and Ronnie A. Sabb made and the  
6 Committee accepted an excessive contribution in the form of a \$2,700 contribution from Ronnie A.  
7 Sabb on November 27, 2015, and a \$2,700 contribution from "Ronnie L. Sabb LLC." the law office  
8 of Ronnie A. Sabb, on November 27, 2016.<sup>5</sup>

9 The Committee responds that it refunded the \$2,000 contribution from Hearn & Hearn, P.A.,  
10 a week after its receipt.<sup>6</sup> The Committee states that it refunded the \$250 contribution (and a \$100  
11 debt retirement contribution) from Hodge and Langley Law Firm, P.C., as soon as it learned that,  
12 contrary to the attribution form the firm submitted, the firm actually was a corporation.<sup>7</sup> Finally, the  
13 Committee explains that it only accepted one \$2,700 contribution from Ronnie A. Sabb's law  
14 partnership, but due to a typographical error, the Committee mistakenly reported it as two  
15 contributions.<sup>8</sup>

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<sup>3</sup> Compl. at 2.

<sup>4</sup> The Complaint acknowledges that the Committee refunded this contribution on January 11, 2016.

<sup>5</sup> Compl. at 2-6.

<sup>6</sup> Committee Resp. at 1; Resp. Attach. *See also* Hearn & Hearn, P.A. Resp. at 1 (confirming statements in Committee Response).

<sup>7</sup> *Id.* *See also* Hodge and Langley Law Firm, P.C. Resp. at 1 (asking Committee for refund and promising to replace it with individual contribution).

<sup>8</sup> Resp. at 1. The Committee has not amended its disclosure reports to reflect the refunds for the Hodge and Langley Law Firm, P.C. contributions, or to correct the error related to the contribution from the Law Offices of Ronnie A. Sabb. *See* <http://docquery.fec.gov/pdf/290/201601299004752290/201601299004752290.pdf>.

1 A "contribution" is "any gift, subscription, loan, advance, or deposit of money or anything of  
2 value made by any person for the purpose of influencing any election for Federal office."<sup>9</sup> The Act  
3 and Commission regulations prohibit any corporation from making a contribution to a political  
4 committee (other than an independent-expenditure-only committee or a hybrid entity) in connection  
5 with a federal election, and further prohibit any candidate or political committee from knowingly  
6 accepting or receiving such a contribution.<sup>10</sup> No candidate or political committee shall knowingly  
7 accept prohibited or excessive contributions.<sup>11</sup> The Committee treasurer is responsible for  
8 ascertaining whether a contribution is excessive or prohibited.<sup>12</sup> Contributions that present genuine  
9 questions as to whether they were made by corporations may be, within ten days of receipt, either  
10 deposited into the committee depository or returned to the contributor.<sup>13</sup> If the contribution is  
11 deposited, the treasurer must make best efforts to determine the legality of the contribution.<sup>14</sup> If the  
12 contribution cannot be determined to be legal, the treasurer shall, within thirty days of the receipt,  
13 refund the contribution.<sup>15</sup> Further, if the contribution is later discovered to be prohibited, the  
14 treasurer shall refund the contribution within thirty days of discovering the illegality.<sup>16</sup> Finally,

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<sup>9</sup> 52 U.S.C. § 30101(8)(A)(i); 11 C.F.R. § 100.52(a).

<sup>10</sup> 52 U.S.C. § 30118(a); *see* Advisory Op. 2010-11 (Commonsense Ten); *Carey v. FEC*, 791 F.Supp.2d 121 (D.D.C. 2011).

<sup>11</sup> 52 U.S.C. § 30116(f).

<sup>12</sup> 11 C.F.R. § 103.3(b).

<sup>13</sup> 11 C.F.R. § 103.3(b)(1).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> 11 C.F.R. § 103.3(b)(2).

1 Committee treasurers are required to file reports of receipts and disbursements in accordance with the  
2 provisions of the Act.<sup>17</sup>

3 As to the contributions by Hearn & Hearn, P.A. and Hodge and Langley Law Firm, P.C., the  
4 Committee treasurer took appropriate steps to determine the legality of the contributions and made  
5 timely refunds.<sup>18</sup> The Committee presented information showing that Ronnie A. Sabb made only one  
6 individual contribution through his law partnership, and the second report of a contribution was a  
7 typographical error.<sup>19</sup>

8 Therefore, in furtherance of the Commission's priorities, relative to other matters pending on  
9 the Enforcement docket, the Office of General Counsel recommends that the Commission exercise its  
10 prosecutorial discretion and dismiss this matter as to Hodge & Langley Law Firm, P.C., and Hearn &  
11 Hearn, P.A. concerning the making of prohibited contributions in violation of 52 U.S.C.  
12 § 30118(a).<sup>20</sup> Additionally, we recommend that the Commission dismiss the allegation that the  
13 Committee misreported receipts, in violation of 52 U.S.C. § 30104(b). We further recommend that  
14 the Commission find no reason to believe that the Committee accepted prohibited or excessive  
15 contributions, in violation of 52 U.S.C. §§ 30116(f) or 30118(a), and no reason to believe that Ronnie  
16 A. Sabb, and Law Offices of Ronnie A. Sabb, LLC made a prohibited or excessive contribution. Finally,  
17 we recommend that the Commission remind the Committee to amend its disclosure reports to reflect

<sup>17</sup> 52 U.S.C. § 30104(a)(1), 11 C.F.R. § 104.1(a).

<sup>18</sup> In the case of the Hearn & Hearn, P.A. contribution, the treasurer determined it to be a prohibited corporate contribution and issued a refund within seven days of its receipt. As to the Hodge and Langley Law Firm, P.C. contribution, the treasurer asked for and received a partnership allocation, and later, when the Complaint alleged that the Firm acted as a corporation, it issued a refund within thirty days of receiving the Complaint.

<sup>19</sup> Committee Resp at 1, Attach. at 3 (Sabb partnership attribution form).

<sup>20</sup> *Heckler v. Chaney*, 470 U.S. 821 (1985).

the refunded contributions and to correct the misreporting of the \$2,700 contribution made by the Law Offices of Ronnie A. Sabb.

**RECOMMENDATIONS**

1. Dismiss the allegation that Hodge & Langley Law Firm, P.C., and Hearn & Hearn, P.A. violated 52 U.S.C. § 30118(a);
2. Find no reason to believe that Ronnie A. Sabb and Law Offices of Ronnie A. Sabb, violated 52 U.S.C. §§ 30116(a) and 30118(a);
3. Find no reason to believe Jenny Horne for Congress and Milinda A. Sullivan in her official capacity as treasurer violated 52 U.S.C. §§ 30116(f) and 30118(a);
4. Dismiss the allegation that Jenny Horne for Congress and Milinda A. Sullivan in her official capacity as treasurer violated 52 U.S.C. § 30104(b);
5. Remind the Committee to amend its disclosure reports to disclose disbursements for the contribution refunds and to accurately reflect the single contribution from the Law Offices of Ronnie A. Sabb, LLC and Ronnie A. Sabb;
6. Approve the Factual and Legal Analyses;
7. Approve the appropriate letters; and
8. Close the file as to all Respondents.

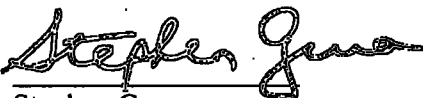
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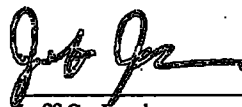
5.5.17

Date

BY:



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## 2. Draft Reminder Letter