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COMMISSION

In the Matter of 2014 JUN 25 AM 10: 50)

2014 JUN 25 AM 10: 46

MUR 6650)

DISMISSAL AND

Citizens to Elect Soren Simonsen)

CASE CLOSURE UNDER THE

and Brandy Brock as Treasurer)

ENFORCEMENT PRIORITY

Soren Dahl Simonsen)

SYSTEM

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue. These criteria include, without limitation, an assessment of the following factors: (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), and developments of the law. It is the Commission's policy that pursuing relatively low-rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss cases under certain circumstances. The Office of General Counsel has determined that MUR 6650 should not be referred to the Alternative Dispute Resolution Office. Also, for the reasons set forth below, the Office of General Counsel recommends that the Commission exercise its prosecutorial discretion to dismiss MUR 6650.¹

Complainant Lowell Nelson, on behalf of the Utah Republican Party, asserts that Soren Simonsen and Citizens to Elect Soren Simonsen and Brandy Brock in her official capacity as treasurer (the "Committee")² failed to timely file a statement of the Committee's organization, and failed to timely file its initial disclosure report, as required by the Act and underlying Commission

¹ The EPS rating information is as follows: Complaint Filed: September 24, 2012. Response from Soren Simonsen and Citizens to Elect Soren Simonsen Filed October 17, 2012.

² Simonsen was an unsuccessful candidate in Utah's third congressional district. The Committee is Simonsen's principal campaign committee.

1 regulations. Compl. at 1. The Complaint alleges that Simonsen submitted a Statement of
2 Candidacy (FEC Form 2), which was received by the Commission on June 20, 2012, but
3 nevertheless postponed the filing of the Committee's Statement of Organization (FEC Form 1) until
4 July 6, 2012. The Complainant states that the filing delay "created a false impression that
5 [Simonsen's] campaign did not exist before the end of July," which the Complaint asserts
6 "mask[ed]" the fact that the Committee's first disclosure report was not timely filed. *Id.* The
7 Complainant further asserts that the Committee failed to file its July 2012 Quarterly Report as
8 required. *Id.*

9 Respondents state that the Statement of Candidacy was filed "prematurely" because of a
10 "misunderstanding of the filing rules and the advice of inexperienced campaign volunteers" and that
11 Simonsen did not cross the \$5,000 filing threshold until June 22, 2012. Resp. at 1. As such,
12 Respondents state that the Committee's Statement of Organization was "appropriately submitted on
13 July 6, 2012, within the 15 (sic) day period." *Id.* In addition, Respondents state that their initial
14 disclosure report was filed within the "30 day period following the Statement of Organization."
15 Resp. at 1. Respondents assert that the Committee had "no intent to misrepresent the status of
16 candidacy," or disregard disclosure requirements. *Id.*

17 A person becomes a candidate when, *inter alia*, he or she has received contributions or made
18 expenditures aggregating in excess of \$5,000.³ 2 U.S.C. § 431(2)(A); 11 CFR § 100.3(a)(1) and (2).
19 Once a person crosses the \$5,000 candidacy threshold, he or she must file a Statement of Candidacy
20 form within 15 days of becoming a candidate, and must also designate a political committee to
21 serve as the candidate's principal campaign committee on that form. 2 U.S.C. § 432(e)(1); 11
22 C.F.R. § 101.1(a). The principal campaign committee must then file a Statement of Organization

³ A contribution includes any gift, subscription, loan, advance or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office. 2 U.S.C. § 431(8)(A)(i).

1 "no later than 10 days after [the Committee's] designation," 2 U.S.C. § 433(a), and must also file
2 disclosure reports with the Commission in accordance with 2 U.S.C. § 434(a) and (b).

3 The Committee's disclosure reports indicate that Simonsen received a \$5,000 contribution
4 from ARCHIPAC — The American Institute of Architects ("ARCHIPAC") on June 22, 2012.⁴ See
5 October 2012 Quarterly Report (filed October 15, 2012). Therefore, under 2 U.S.C. § 431(2),
6 Simonsen crossed the \$5,000 threshold and became a candidate on that date. Simonsen
7 "prematurely" filed his Statement of Candidacy on June 20, 2012. See Statement of Candidacy
8 (filed June 20, 2012); Resp. at 1. However, under Commission regulations, an individual does not
9 become a candidate solely by voluntarily filing a report; the individual is not a candidate until
10 qualifying as such under 11 CFR § 100.3. See 11 C.F.R. § 104.1. Therefore, Simonsen's Statement
11 of Candidacy did not trigger a *candidate's* designation of a principal campaign committee until he
12 became a candidate under the Act on June 22, 2012. Only at that date did Simonsen's designation
13 of Citizens to Elect Soren Simonsen as his principal campaign committee become effective.⁵ The
14 Committee was then required to file a Statement of Organization within 10 days after its designation
15 became effective on June 22, 2012. However, the Committee did not file a Statement of
16 Organization until July 6, 2012, fourteen days after the effective date of the Statement of Candidacy
17 and four days after the 10-day filing deadline. See Statement of Organization (filed July 6, 2012).
18 Therefore, the Committee failed to timely file its Statement of Organization.

19 During an election year in which a candidate is seeking election, the treasurer must file
20 quarterly reports of receipts and disbursements no later than the 15th day after each calendar

⁴ Simonsen had previously received two separate \$1,000 contributions from individuals on March 31, 2012, and April 3, 2012. See October 2012 Quarterly Report (filed October 15, 2012).

⁵ Under 11 CFR § 100.5(d), an individual's principal campaign committee becomes a political committee when that individual becomes a candidate pursuant to 11 CFR § 100.3. Therefore, Citizens to Elect Soren Simonsen became a political committee when Soren Simonsen became a candidate on June 22, 2012.

1 quarter. See 2 U.S.C. § 434(a)(2)(A)(iii). Also, the first report filed by a political committee shall
2 include all amounts received prior to becoming a political committee under 11 C.F.R. § 100.5, even
3 if such amounts were not received during the current reporting period. 11 C.F.R. § 104.3(a) and (b).
4 The first disclosure report that the Committee filed with the Commission was its October 2012
5 Quarterly Report (filed October 15, 2012), in which the Committee reported activity from March 1,
6 2012, through September 30, 2012. See October 2012 Quarterly Report.⁶ Subsequently, in January
7 2013, the Committee noted in a Miscellaneous Report that "it was our misunderstanding about the
8 timing of the July quarterly report, since the Campaign Committee was not formally recognized
9 until mid-July. We believe this matter was previously resolved with the Commission. To properly
10 update the records for both the 2012 Primary and General Elections, we have created a new July
11 quarterly report, which contains all of the information from the original October report...."

12 It appears that the Committee misunderstood the filing and reporting requirements when it
13 began its campaign, and has subsequently made efforts to comply with them.⁷ Therefore, the Office
14 of General Counsel believes that further enforcement action is not warranted in this instance.
15 Accordingly, in furtherance of the Commission's priorities, relative to other matters pending on the

⁶ The Committee faxed three Miscellaneous Reports to the Commission on January 2, 2013, all of which appear to be duplicate responses to a Request for Additional Information from the Reports Analysis Division ("RAD") concerning a possible excessive contribution. See Miscellaneous Reports to FEC, dated January 2, 2013. Two of the Miscellaneous Reports consist of a letter stating that the Committee mistakenly attributed a June 22, 2012, contribution from ARCHIPAC to the general election and that it had reattributed the contribution to the primary election. *Id.* The Committee also states that it experienced "some confusion . . . as to the timing" of the July 2012 quarterly report and that it submitted a "new" July Quarterly Report. *Id.* The third Miscellaneous Report dated January 2, 2013, includes the same cover letter, along with the Summary and Detailed Summary Pages of the Committee's July 2012 Quarterly Report, covering activity from March 1, 2012, through June 30, 2012. *Id.* However, this submission failed to include a supporting Schedule A. Also, on January 2, 2013, the Committee filed a 48 Hour Notice (FEC Form 6) indicating the receipt of a \$5,000 contribution from ARCHIPAC on June 22, 2012. See FEC Form 6, dated January 2, 2013. The Committee filed a separate submission, FEC Form 99, on January 3, 2013, which appears to be another duplicate of the letter discussed above. See Miscellaneous Report to FEC dated January 3, 2013.

⁷ The Committee has not reported any receipts since its 2012 30-Day Post-General Report, and has filed a termination request with the Commission. See 2012 30-Day Post-General Report (filed October 15, 2012), 2012 Year-End Report (filed January 31, 2013), 2013 Termination Report (filed January 31, 2013), 2013 April Quarterly Report (filed April 12, 2013), 2013 July Quarterly Report (filed July 15, 2013), 2013 October Quarterly Report (filed October 14, 2013).

Enforcement docket, the Office of General Counsel believes that the Commission should exercise its prosecutorial discretion and dismiss this matter pursuant to *Heckler v. Chaney*, 470 U.S. 821 (1985), approve the attached Factual & Legal Analysis and the appropriate letters, and close the file.

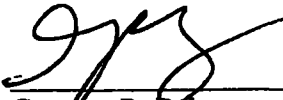
RECOMMENDATIONS

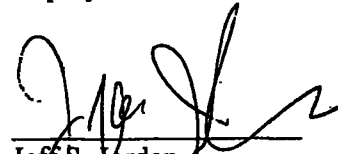
1. Dismiss MUR 6650, pursuant to the Commission's prosecutorial discretion;
2. Approve the attached Factual and Legal Analysis and the appropriate letters; and
3. Close the file.

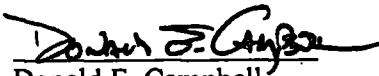
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