

**FEDERAL ELECTION COMMISSION**  
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Washington, DC 20463

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**FIRST GENERAL COUNSEL'S REPORT**

**CELA**

MUR: 6898

DATE COMPLAINT FILED: October 31, 2014

DATE OF NOTIFICATION: November 4, 2014

LAST RESPONSE: December 19, 2014

ACTIVATED: March 26, 2015

EARLIEST SOL: October 22, 2019

LATEST SOL: October 22, 2019

ELECTION CYCLE: 2014

**COMPLAINANT:**

Laura N. Doukas

**RESPONDENTS:**

Tim Bishop

Tim Bishop for Congress and Molly Bishop in her  
official capacity as treasurer<sup>1</sup>

Stony Brook University

Steve Israel

Steve Israel for Congress and Harris Wiener in his  
official capacity as treasurer

New York State Democratic Committee and John  
Gulino in his official capacity as treasurer

Democratic Congressional Campaign Committee  
and Kelly Ward in her official capacity as  
treasurer

**RELEVANT STATUTES  
AND REGULATIONS:**

52 U.S.C. § 30101(4)<sup>2</sup>

52 U.S.C. § 30101(8)(A)

52 U.S.C. § 30103

52 U.S.C. § 30104(a)(6)(A)

52 U.S.C. § 30104(b)

52 U.S.C. § 30116(a)(1)(A)

52 U.S.C. § 30116(a)(2)(A)

52 U.S.C. § 30116(d)

52 U.S.C. § 30116(f)

11 C.F.R. § 100.26

11 C.F.R. § 100.52(d)

<sup>1</sup> On February 13, 2015, the Bishop Committee filed an amended Statement of Organization designating Molly Bishop as its treasurer. Susan Taylor was the treasurer during the activity in this matter.

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

11 C.F.R. § 109.21  
11 C.F.R. § 109.32(b)  
11 C.F.R. § 109.33

INTERNAL REPORTS CHECKED: Disclosure Reports  
FEDERAL AGENCIES CHECKED: None

## I. INTRODUCTION

The Complaint alleges that Stony Brook University ("SBU") made in-kind contributions to Representative Tim Bishop and Tim Bishop for Congress ("Bishop Committee") by paying for a "Get Out the Vote Rally" for Bishop on the university campus, and in-kind contributions to Representative Steve Israel, Steve Israel for Congress and the Democratic Congressional Campaign Committee ("DCCC")<sup>3</sup> through disseminating notices about the rally. The Complaint also alleges that the Bishop Committee and other committees involved in the rally, Steve Israel for Congress, New York State Democratic Committee ("NYSDC") and the DCCC, failed to report the in-kind contributions. Respondents assert that no violations of the Act occurred because NYSDC paid for the rally, and ask that the Commission dismiss the matter or find no reason to believe and close the file in this matter. As set forth below, we recommend that the Commission find reason to believe that NYSDC made an unreported excessive in-kind contribution to the Bishop Committee and enter into pre-probable cause conciliation with these respondents, take no action at this time as to Tim Bishop, and find no reason to believe or dismiss the allegations as to SBU, Steve Israel, Steve Israel for Congress, and the DCCC.

<sup>3</sup> The Complaint identifies Israel as the Chairman of the DCCC. Compl. at 1.

1     **II.     FACTUAL AND LEGAL ANALYSIS**

2             **A.     Facts**

3             The College Democrats, a student organization at SBU, organized an event held at SBU  
4     on October 22, 2014, in support of Representative Tim Bishop, the incumbent candidate for U.S.  
5     Congress from the First Congressional District of New York in the 2014 general election. The  
6     event was advertised by a flyer, stating "Please Join Stony Brook College Democrats [for] A  
7     Rally In Support of Congressman Tim Bishop Featuring Congressman Steve Israel & Special  
8     Guest President Bill Clinton." The flyer sets forth the date, time and location of the event at the  
9     Staller Center, a theatre on SBU's campus, and contains a disclaimer, "Paid for by the New York  
10    Democratic State Committee." *See* Compl. at 8;<sup>4</sup> SBU Resp., Ex. E. The flyer was e-mailed to  
11    SBU students by the SBU Student Life listserv. *See* Compl. at 4-7; SBU Resp. at 3.

12            The Complaint, filed on October 31, 2014, alleges that SBU paid for the rally, noting that  
13    the ticket referred to the event as a "SBU GOTV RALLY." Compl. at 1. The Complaint further  
14    alleges that SBU "promoted the rally to its students and the public in various electronic and print  
15    media," and made a "contribution of great value" to the Bishop Committee by giving the  
16    Committee access to its e-mail list of students "by sending invitations to every single student at  
17    the university for this 'partisan campaign event.' " *Id.*<sup>5</sup> Furthermore, the Complainant asserts  
18    that SBU, by providing the value of the university hall for the Bishop event, "has expended more  
19    than one thousand dollars in connection with a federal campaign," and as a result SBU "must file  
20    disclosure reports with [the Commission]." *Id.* at 2.

<sup>4</sup>     The Complaint's attachments are not numbered; the pagination cited here starts from the beginning of the Complaint.

<sup>5</sup>     The Complaint also alleges that when another student group sought to bring one of Bishop's opponents on campus, SBU denied the student group a room for the meeting, and e-mail access and flyer distribution because of lack of adequate notice, yet SBU sent the e-mail about the event for Bishop just two days before the event. *Id.*

1 Respondents each deny the allegations in the Complaint.<sup>6</sup> Respondents assert that  
2 NYSDC, not SBU, paid costs of the event totaling \$12,734.97. SBU Resp. at 1; NYSDC Resp.  
3 at 1; Bishop, *et al.*, Resp. at 1-2. Respondents provide an SBU invoice in the amount of  
4 \$12,734.97 to NYSDC dated October 30, 2014,<sup>7</sup> which itemizes total costs of the services  
5 provided by SBU including the hall fee, SBU police, and parking/security, and a copy of a  
6 NYSDC check in the same amount dated November 13, 2014, made payable to SBU. SBU  
7 Resp. Ex. F, G; NYSDC Resp., Ex. A, B. NYSDC disclosed its \$12,734.97 payment to SBU on  
8 November 13, 2014, for "GOTV Rally Expenses."<sup>8</sup> Additionally, Respondents assert that the  
9 Complaint alleges no specific facts showing that SBU provided the use of the facility at less than  
10 the usual or normal charge, or that it made any coordinated communication in support of the  
11 candidates involved. Bishop, *et al.*, Resp. at 1; SBU Resp. at 4. SBU explains that when its  
12 facilities and services are used, "even if the use is by a student club, there are fees that must be  
13 paid," and asserts that "the College Democrats did not have the funds to pay for any event of this  
14 magnitude and it was agreed that [NYSDC] would pay all of the costs (at the usual rates)  
15 incurred in hosting the event." SBU Resp. at 3. According to Respondents, universities are  
16 permitted to make their facilities available to candidates or political committees in the ordinary  
17 course of business and at the usual and normal charge, pursuant to 11 C.F.R. § 114.4(c)(7).  
18 Bishop, *et al.*, Resp. at 1-2. The State University of New York system, which includes SBU as a  
19 member institution, has a policy for the use of its facilities, which states that "student partisan

<sup>6</sup> Tim Bishop and the Bishop Committee filed a joint response with Steve Israel, Steve Israel for Congress and the DCCC.

<sup>7</sup> NYSDC asserts that it received the invoice that same day, prior to the filing of the Complaint. NYSDC Resp. at 1, Ex. A.

<sup>8</sup> NYSDC 2014 Post-General Report at 101 (Dec. 4, 2014).

1 political organizations are not different from any other student organization as to regulations  
2 governing recognition, membership, sponsorship, and use of facilities.”<sup>9</sup>

3 SBU denies that the Bishop event was publicly promoted in the press or electronic media;  
4 rather, according to SBU, the event was only advertised on campus, by “an email blast” with the  
5 flyer attached, sent by the Office of Student Life on October 20, 2014, the same day “final  
6 approval of the promotional flyer was received from the Bishop Campaign.” SBU Resp. at 3;  
7 Compl. at 4-7. SBU further asserts that it sent the e-mail blast because of the short time – two  
8 days – between the announcement and the event, “follow[ing] its procedure in short turn-  
9 around situations.”<sup>10</sup> *Id.* Bishop also argues that the e-mail address of the sender,  
10 studentlife@stonybrook.edu, shows that SBU, not the Bishop Committee, sent the e-mail, and  
11 the e-mails are not in-kind contributions because they do not meet the definition of “coordinated  
12 communications” under Commission regulations. Bishop, *et al.*, Resp. at 2.

13 **B. Legal Analysis**

14 The Complaint alleges that SBU made an in-kind contribution to Bishop, the Bishop  
15 Committee and others by holding the rally for Bishop. The Act defines “contribution” to include  
16 “any gift, subscription, loan, advance, or deposit of money or anything of value made by any  
17 person for the purpose of influencing any election for Federal office.”<sup>11</sup> “Anything of value”  
18 includes all in-kind contributions and, generally, the provision of any goods or services without

<sup>9</sup> State University of New York’s policy on Use of its Facilities by Non-Commercial Organizations,  
[https://www.suny.edu/sunypp/documents.cfm?doc\\_id=374](https://www.suny.edu/sunypp/documents.cfm?doc_id=374).

<sup>10</sup> SBU also asserts that it gave the College Republicans, not named in the Complaint, an opportunity to hold a similar event; SBU says it did not deny a request by this other group. SBU Resp. at 2, 4, Ex. A (e-mail to College Republicans advising them of the College Democrats’ request “to host congress members on campus” and extending the same invitation to them).

<sup>11</sup> 52 U.S.C. § 30101(8)(A)(i).

1 charge or at a charge that is less than the usual and normal charge for such goods or services.<sup>12</sup>  
2 Examples of such goods or services include, but are not limited to, securities, facilities,  
3 equipment, supplies, personnel, advertising services, membership lists and mailings lists.<sup>13</sup> If  
4 goods or services are provided at less than the usual and normal charge, the amount of the in-  
5 kind contribution is the difference between the usual and normal charge for the goods or services  
6 at the time of the contribution and the amount charged the political committee.<sup>14</sup> During the  
7 2014 election cycle, persons other than political committees were subject to a \$2,600 per-  
8 election contribution limit to candidates.<sup>15</sup>

9 The available information indicates that SBU did not make a contribution to Bishop and  
10 the Bishop Committee. Rather, NYSDC paid \$12,734.97 for the event, and the available  
11 information, including the documentation provided by SBU and NYSDC, does not suggest that  
12 there were additional costs not paid by NYSDC or that NYSDC did not pay the usual and normal  
13 charges for the hall rental, SBU police, parking/security and so forth.<sup>16</sup> The available  
14 information also suggests that SBU made its facilities available in the ordinary course of  
15 business, similar to 501(c)(3) non-profit educational institutions doing so pursuant to 11 C.F.R.  
16 § 114.4(c)(7). Nor does SBU appear to have provided something of value to the Bishop  
17 Committee in the form of the student e-mail addresses, as the available information indicates that  
18 SBU's Office of Student Life, not the Bishop Committee, sent the e-mails that distributed the

<sup>12</sup> 11 C.F.R. § 100.52(d)(1).

<sup>13</sup> *Id.*

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

<sup>15</sup> See 52 U.S.C. § 30116(a)(1)(A).

<sup>16</sup> The Complaint was filed on October 31, 2014, before NYSDC filed its Post-General Report on December 4, 2014, that disclosed its \$12,734.97 payment to SBU for the costs of the event.

1 flyer.<sup>17</sup> Accordingly, we recommend that the Commission find no reason to believe that SBU  
2 violated 52 U.S.C. § 30116(a)(1)(A). And because there is no other information in the complaint  
3 indicating that SBU may have engaged in activity requiring it to register and report with the  
4 Commission as a political committee, we recommend that the Commission find no reason to  
5 believe that SBU violated 2 U.S.C. §§ 30103 and 30104.<sup>18</sup>

6 NYSDC disclosed its \$12,734.97 payment to SBU for the costs of the Bishop event as  
7 "GOTV Rally Expenses" as a disbursement on Schedule B on its 2014 Post-General Report. By  
8 paying the expenses of the event supporting Bishop, NYSDC appears to have provided  
9 something of value in connection with Bishop's election, and thus has made an in-kind  
10 contribution to Bishop and the Bishop Committee.<sup>19</sup>

11 NYSDC, a multicandidate political committee, is subject to a \$5,000 contribution limit in  
12 giving to any candidate or his or her authorized political committees with respect to any election  
13 for Federal office, and no candidate or political committee shall knowingly accept any  
14 contribution in excess of this limit.<sup>20</sup> The Act also requires political committees to disclose the  
15 making and receipt of contributions.<sup>21</sup> In addition to making contributions to candidates subject  
16 to the Act's limitations, state party committees and national party committees may each make

<sup>17</sup> We agree with Respondents that the e-mails as sent by SBU are not "coordinated communications" constituting in-kind contributions because they do not constitute "public communications" and thus do not meet the content standard of the definition of "coordinated communications" under Commission regulations. *See* Bishop, *et al.*, Resp. at 2; 11 C.F.R. §§ 100.26, 109.21(a), (c).

<sup>18</sup> *See* 52 U.S.C. § 30101(4).

<sup>19</sup> *See* 52 U.S.C. § 30101(8)(A)(i); 11 C.F.R. § 100.52(d)(1). *See also* Factual & Legal Analysis at 3-4, MUR 5859 (Association of Community Organization for Reform Now) where a state-registered political committee's payment of costs for a rally in support of a federal candidate constituted an in-kind contribution subject to applicable limits and disclosure requirements.

<sup>20</sup> 52 U.S.C. §§ 30116(a)(2)(A), 30116(f).

<sup>21</sup> 52 U.S.C. § 30104(b).

1 coordinated party expenditures in connection with the general election of candidates for Federal  
2 office in that State who are affiliated with the party.<sup>22</sup> In the case of House candidates from a  
3 state which is entitled to more than one representative, such as New York State, the coordinated  
4 party expenditure limit for 2014 was \$47,200.<sup>23</sup> Accordingly, NYSDC could support Bishop and  
5 the Bishop Committee for the 2014 general election by making contributions up to \$5,000 and  
6 coordinated party expenditures up to \$47,200.<sup>24</sup> NYSDC, however, appears to have assigned its  
7 coordinated party expenditure authority to the DCCC, *see* 11 C.F.R. § 109.33, which had its own  
8 \$47,200 expenditure authority with which to support Bishop.<sup>25</sup> *See* 52 U.S.C. § 30116(d);  
9 11 C.F.R. § 109.32(b).

10 NYSDC did not disclose making any contributions to Bishop, and the Bishop Committee  
11 did not disclose the receipt of any such contributions. Nor did NYSDC disclose making any  
12 coordinated party expenditures in support of Bishop. Because NYSDC paid \$12,734 for the rally  
13 and it could have given a \$5,000 contribution to Bishop, it appears that NYSDC made an  
14 excessive contribution of \$7,734 to Bishop. We recommend, therefore, that the Commission  
15 find reason to believe that NYSDC violated 52 U.S.C. § 30116(a)(2)(A) by making an excessive  
16 contribution, and violated 52 U.S.C. § 30104(b) by failing to report such contribution. In  
17 addition, we recommend that the Commission find reason to believe that the Bishop Committee

<sup>22</sup> 52 U.S.C. § 30116(d); 11 C.F.R. § 109.32(b).

<sup>23</sup> 11 C.F.R. § 109.32(b)(2)(ii) and (3). *See* [http://www.fec.gov/info/charts\\_441ad\\_2014.shtml](http://www.fec.gov/info/charts_441ad_2014.shtml).

<sup>24</sup> At the time of the October 22, 2014, rally for Bishop, the NYSDC could not have made a contribution to Bishop for the June 24, 2014, primary election because the Bishop Committee had no debts from that earlier election. *See* 11 C.F.R. § 110.2(b)(3)(i) (a contribution designated for a particular election, but made after that election, shall be made only to the extent that the contribution does not exceed net debts outstanding from such election); Bishop Committee 2014 Pre-Primary Report at 2; 2014 July Quarterly Report at 2.

<sup>25</sup> According to the DCCC's disclosure reports, it spent \$86,978 of the combined \$94,400 coordinated party expenditure authority on behalf of Bishop. *See* DCCC 2014 30-Day Post General Report at 127,533-34; 2014 Year End Report at 52,995.



1 violated 52 U.S.C. § 30116(f) by knowingly accepting an excessive contribution from NYSDC,  
2 and violated 52 U.S.C. § 30104(b) for failing to report the contribution, and 52 U.S.C.  
3 § 30104(a)(6)(A) by failing to file a notice that it had received a contribution of \$1,000 or more  
4 after the 20th day, but more than 48 hours before the November 4, 2014, general election. With  
5 respect to Tim Bishop, he attended the rally, but we have no information regarding other  
6 personal involvement or his knowledge about how the contribution would be reported. Thus, we  
7 recommend that the Commission take no action as to Tim Bishop at this time.<sup>26</sup>

8 The Complaint alleges that SBU also made in-kind contributions to Steve Israel, Steve  
9 Israel for Congress and the DCCC by paying for the Rally and distributing notices to the  
10 university community and public about the rally, and that these respondents failed to disclose the  
11 contributions. In regard to Steve Israel and Steve Israel for Congress, Israel was a candidate for  
12 reelection and his name was listed on the disseminated flyer as one the speakers at the rally, so  
13 Israel and his committee may have received something of value.<sup>27</sup> The circumstances, however,  
14 suggest that any potential contribution here would be limited. The rally focused on Bishop, not  
15 Israel, and SBU is located in the congressional district in which Bishop was running for  
16 reelection. And any contribution to Israel would most likely have not exceeded the NYSDC's  
17 applicable \$5,000 contribution limit.<sup>28</sup> Accordingly, we recommend that the Commission  
18 dismiss the allegation that Steve Israel for Congress failed to disclose the receipt of a  
19 contribution in violation of 52 U.S.C. § 30104(b). We further recommend that the Commission

<sup>26</sup> See First Gen. Counsel's Rpt. at 13-14, MUR 6447 (Steele for Maryland) (discussion and recommendation as to Michael Steele). If no additional information is obtained during pre-probable cause conciliation that suggests liability on the part of Bishop, we will recommend that the Commission dismiss the Complaint as to Bishop when we recommend that the Commission close the entire file.

<sup>27</sup> See 11 C.F.R. § 100.52(d)(1).

<sup>28</sup> The NYSDC did not disclose making any contribution to Israel during the 2014 election cycle.

1 find no reason to believe that Steve Israel or Steve Israel for Congress violated 52 U.S.C.

2 § 30116(f) by accepting an excessive contribution.

3 The available information does not suggest that SBU – or NYSDC, the actual payor for  
4 the event – made a contribution to the DCCC. Therefore, there was no corresponding obligation  
5 to report a contribution. We recommend that the Commission find no reason to believe that the  
6 DCCC violated 52 U.S.C. §§ 30104(b) or 30116(f).

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**IV. RECOMMENDATIONS**

1. Find reason to believe that New York State Democratic Committee and John Gulino in his official capacity as treasurer violated 52 U.S.C. §§ 30104(b) and 30116(a)(2)(A).
2. Find reason to believe that Tim Bishop for Congress and Molly Bishop in her official capacity as treasurer violated 52 U.S.C. §§ 30104(a)(6)(A), 30104(b) and 30116(f).
3. Take no action at this time as to Tim Bishop.
4. Find no reason to believe that Stony Brook University violated 52 U.S.C. §§ 30103, 30104 or 30116(a)(1)(A).
5. Find no reason to believe that Steve Israel or Steve Israel for Congress and Harris Wiener in his official capacity as treasurer violated 52 U.S.C. § 30116(f).
6. Dismiss the allegation that Steve Israel for Congress and Harris Wiener in his official capacity as treasurer violated 52 U.S.C. § 30104(b).

7. Find no reason to believe that the Democratic Congressional Campaign Committee and Kelly Ward in her official capacity as treasurer violated 52 U.S.C. §§ 30104(b) or 30116(f).
8. Close the file as to Stony Brook University, Steve Israel, Steve Israel for Congress and Harris Wiener in his official capacity as treasurer, and the Democratic Congressional Campaign Committee and Kelly Ward in her official capacity as treasurer.
9. Approve the attached Factual and Legal Analyses.
10. Enter into conciliation with New York State Democratic Committee and John Gulino in his official capacity as treasurer prior to a finding of probable cause to believe.
11. Enter into conciliation with Tim Bishop for Congress and Molly Bishop in her official capacity as treasurer prior to a finding of probable cause to believe.
12. Approve the attached Conciliation Agreements.
13. Approve the appropriate letters.

June 24, 2015

Date

Kathleen Guith by MA

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