



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

**OCT 20 2016..**

Samuel Wheeler  
Stokes, Wasser, and Wheeler, LLP  
1207 Filson Street  
Pittsburgh, PA 15212

RE: MUR 7010

Dear Mr. Wheeler:


The Federal Election Commission reviewed the allegations in your complaint received by the Commission on February 12, 2016. Based upon the information provided in the complaint, and information provided by the respondents, the Commission decided to exercise its prosecutorial discretion to dismiss the allegations and close the file in this matter. Accordingly, the Commission closed its file on October 11, 2016.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). The Factual and Legal Analysis, which more fully explains the Commission's finding, is enclosed for your information.

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 52 U.S.C. § 30109(a)(8).

Sincerely,

Lisa J. Stevenson  
Acting General Counsel

BY:   
Jeff S. Jordan  
Assistant General Counsel  
Complaints Examination and  
Legal Administration

cc: Adam Stokes and Justin Wasser  
Enclosure  
Factual and Legal Analysis

# FEDERAL ELECTION COMMISSION

## FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Erin McClelland MUR 7010  
Erin McClelland for Congress, Inc.  
Douglas Campbell, as treasurer

### I. INTRODUCTION

This matter was generated by a Complaint filed by Sam Wheeler, on behalf of Stokes, Wasser, and Wheeler, LLP ("SWW"), ("Complainant") on February 12, 2016, alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act") and Commission regulations by Erin McClelland, 2014 candidate for Pennsylvania's 12th Congressional District,<sup>1</sup> and McClelland for Congress, Inc. and Douglas Campbell in his official capacity as treasurer (collectively the "Committee"). It was scored as a relatively low-rated matter under the Enforcement Priority System, a system by which the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue.

### II. FACTUAL AND LEGAL ANALYSIS

According to the Complainant, the Committee violated the Act when it falsely reported a disbursement and failed to disclose a debt owed to the complainant's firm in its 2015 Year-End disclosure report filed with the Commission.<sup>2</sup> Specifically, complainant Sam Wheeler, on behalf of Stokes, Wasser, and Wheeler, LLP alleges that in the Committee's 2015 Year-End report, it falsely disclosed a \$35,000 disbursement to SWW, for which the purpose was recorded as "debt

<sup>1</sup> McClelland won the 2014 Democratic nomination, but lost the November 2014 general election. McClelland is now the 2016 Democratic nominee for the same seat.

<sup>2</sup> Compl. at 3 (Feb. 12, 2016).

1 zeroed,” and eliminated from its report a previously disclosed \$35,000 debt still owed to SWW.<sup>3</sup>  
2 The complaint refers to a memo submitted with the Committee’s disbursement schedule on  
3 which the Committee claimed that the “debt was reported by a part owner of the firm and  
4 previous campaign manager, Adam Stokes” and that “[n]o contract for that amount was signed  
5 or produced by the firm. Stokes, Wasser, and Wheeler, LLP and Adam Stokes have been paid in  
6 full for services rendered.”<sup>4</sup> The Complaint alleges that SWW has not been paid in full, and that  
7 the Committee still owes \$35,000 to SWW for management and consulting services provided  
8 during the 2014 primary election.<sup>5</sup> Further, the Complaint asserts that even if the Committee did  
9 not agree that it owed the debt, it should have been disclosed and reported as disputed.<sup>6</sup>

10 In a sworn response filed by the Committee’s treasurer, Douglas Campbell states that he  
11 became the Committee’s treasurer in April 2015 and had no role with the Committee during the  
12 2014 primary election.<sup>7</sup> Campbell claims that when he assumed the Committee’s reporting  
13 responsibilities, the Committee was continuing to report the \$35,000 obligation to SWW as a  
14 “carry-over” from McClelland’s 2014 campaign.<sup>8</sup> Campbell also indicates that when the  
15 Committee’s “2015 annual report” was being prepared, the candidate “advised that the claim was  
16 being made by those formerly in control of the campaign, and that they had made no effort to  
17 enforce it since the fall of 2014.”<sup>9</sup> Campbell declares that “a decision was made to write off the

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<sup>3</sup> *Id.* at 3-4.

<sup>4</sup> *Id.* at 4.

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

<sup>6</sup> *Id.*

<sup>7</sup> Resp. at 1 (March 2, 2016).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

1 disputed SWW claim by 'zeroing out' the amount on the Committee's 2015 annual report."<sup>10</sup>  
2 After the Committee filed its 2015 Year-End report, Campbell says that he received a call around  
3 February 9, 2015, from SWW's counsel, who told Campbell that the Committee still owed the  
4 debt and that SWW intended to file a complaint with the Commission, as well as a civil  
5 collection action.<sup>11</sup> Consequently, the Committee amended its 2015 Year-End report on  
6 February 19, 2016, to remove the \$35,000 disbursement and show the amount as a disputed  
7 debt.<sup>12</sup>

8 Committee treasurers are required to file reports of receipts and disbursements in  
9 accordance with the provisions of the Act.<sup>13</sup> The reports must include the amount and nature of  
10 outstanding debts and obligations owed by or to the political committee.<sup>14</sup> Further, the  
11 Commission's regulations specify that a debt or obligation exceeding \$500 must be disclosed in  
12 the report that covers the date on which the debt or obligation is incurred.<sup>15</sup> Debts and  
13 obligations shall be continuously reported until extinguished, and shall also include a statement  
14 explaining the circumstances under which each debt and obligation was incurred or  
15 extinguished.<sup>16</sup> A Committee shall also report a disputed debt<sup>17</sup> if the creditor has provided

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<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 2.

<sup>12</sup> Resp., Attach. 1 & 2.

<sup>13</sup> 52 U.S.C. § 30104(a)(1), 11 C.F.R. § 104.1(a).

<sup>14</sup> 52 U.S.C. § 30104(b)(8); 11 C.F.R. § 104.3(d).

<sup>15</sup> 11 C.F.R. § 104.3(d).

<sup>16</sup> See 11 C.F.R. § 104.11(b).

<sup>17</sup> A debt is disputed where an actual or potential debt or obligation owed by a political committee, including an obligation arising from a written contract, promise or agreement to make an expenditure, where there is a bona fide disagreement between the creditor and the political committee as to the existence or amount of the obligation owed by the political committee. 11 C.F.R. § 116.1(d).

1 something of value to the political committee.<sup>18</sup> Until the dispute is resolved, the committee  
2 shall disclose on the appropriate reports any amounts paid to the creditor, any amount the  
3 political committee admits it owes, and the amount the creditor claims is owed.”<sup>19</sup>

4 The Committee concedes that it did not disclose the \$35,000 debt as “disputed” in its  
5 original 2015 Year-End report. However, soon after SWW notified the Committee that it would  
6 file a complaint with the Commission and attempt to collect the debt, the Committee amended its  
7 2015 Year-End report to remove the reported disbursement and include the disputed debt. The  
8 Committee has continued to report the debt in its subsequent disclosure reports.

9 The Committee quickly amended its 2015 Year-End disclosure report to include the  
10 disputed debt, and continues to include the debt on its disclosure reports. Therefore, in  
11 furtherance of the Commission’s priorities, relative to other matters pending on the Enforcement  
12 docket, and in light of the corrective actions taken by the Committee, the Commission exercised  
13 its prosecutorial discretion and dismissed the matter.<sup>20</sup>

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<sup>18</sup> 11 C.F.R. § 116.10(a).

<sup>19</sup> *Id.*

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