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3 **BEFORE THE FEDERAL ELECTION COMMISSION**

2016 NOV 15 PM 2:12
FEDERAL ELECTION COMMISSION

4 In the Matter of)

5 MUR 6913)

6 Scot John Tomaszewski for Congress, Inc.:)

7 and Paul Verna, as treasurer)

DISMISSAL AND

CASE CLOSURE UNDER THE

ENFORCEMENT PRIORITY

SYSTEM

CELA

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10 **GENERAL COUNSEL'S REPORT**

11 Under the Enforcement Priority System, the Commission uses formal scoring criteria as a
12 basis to allocate its resources and decide which matters to pursue. These criteria include, without
13 limitation, an assessment of the following factors: (1) the gravity of the alleged violation, taking into
14 account both the type of activity and the amount in violation; (2) the apparent impact the alleged
15 violation may have had on the electoral process; (3) the complexity of the legal issues raised in the
16 matter; and (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as
17 amended (the "Act"), and developments of the law. It is the Commission's policy that pursuing
18 relatively low-rated matters on the Enforcement docket warrants the exercise of its prosecutorial
19 discretion to dismiss cases under certain circumstances. The Office of General Counsel has scored
20 MUR 6913 as a low-rated matter and has determined that it should not be referred to the Alternative
21 Dispute Resolution Office.¹

22 The Office of General Counsel recommends that the Commission exercise its prosecutorial
23 discretion and dismiss the allegation that Scot John Tomaszewski for Congress, Inc., and Paul Verna,
24 in his official capacity as treasurer (the "Committee"),² violated the Act by failing to disclose certain

¹ The EPS rating information is as follows: Complaint filed: January 22, 2015. Response from Committee treasurer Paul Verna, on behalf of the Committee, filed: February 5, 2015.

² Scot John Tomaszewski ran as an independent candidate for New Jersey's 1st Congressional District in 2014 but lost that election. He ran for the same seat again in 2016 but lost to the incumbent. See <http://www.nj.gov/state/elections/2016-results/2016-unofficial-general-results-house-of-representatives.pdf>.

1 receipts and disbursements.³ Specifically, the Complainant alleges that the Committee failed to file
2 its 2014 post-general election report, and failed to disclose disbursements related to refurbishing a
3 limousine owned by the candidate and used by his campaign.⁴ The Complainant notes that the
4 Committee's 2014 pre-general election report does not disclose any contributions or operating
5 expenses, but does report "a large amount of debt."⁵

6 The Committee responds that the 2014 post-general election report was filed late because the
7 Treasurer was waiting for information from the candidate.⁶ The Committee further explains that the
8 limousine was in running condition before the campaign and denies it had been refurbished.⁷

9 Committee treasurers are required to file reports of receipts and disbursements in accordance
10 with the provisions of the Act and Commission regulations.⁸ In addition to an authorized
11 committee's regular quarterly reports, in any year where there is a regularly scheduled election for
12 which a candidate is seeking election, or nomination for election, the treasurer shall file a post-
13 general election report, which shall be filed no later than the 30th day after any general election.⁹

³ Compl. at 1 (Jan. 22, 2015). At the time of the complaint, the Complainant, Letitia Tomaszewski, was the candidate's estranged wife and the President of S.T. Electric, Inc. She attaches to her complaint an order from the Superior Court of New Jersey instructing the candidate and his LLC entities not to interfere, directly or indirectly, with S.T. Electric customers or vendors. The Complainant believes, based on the debts disclosed in the 2014 pre-general election report, that the candidate violated the Order, and states that it is imperative that the Committee indicate on its 2014 post-general election report whether the debt was eliminated.

⁴ *Id.*; Att. 2.

⁵ *Id.*

⁶ Resp. at 1 (Feb. 5, 2015). Treasurer Verna states that although he knew the candidate was involved in divorce proceedings, he was not aware of the order potentially restricting the Committee from using certain vendors.

⁷ *Id.* The Committee contends that the limousine merely needed to have its battery reconnected.

⁸ 52 U.S.C. § 30104(a)(1) and (2), 11 C.F.R. §§ 104.1 and 104.3(a) and (b).

⁹ 52 U.S.C. § 30104(a)(2)(ii).

1 The Committee filed its 2014 post-general election report on January 2, 2015, 29 days late.
2 The report does not disclose contributions or disbursements for the Committee. There is no further
3 information that would suggest that the report should include disbursements related to the limousine
4 mentioned in the complaint. The report does, however, disclose just over \$26,000 in debt incurred at
5 the beginning of the campaign.¹⁰ The Committee continues to file disclosure reports with the
6 Commission, however, it discloses no current financial activity.¹¹

7 Therefore, in furtherance of the Commission's priorities, relative to other matters pending on
8 the Enforcement docket, and considering the fact that the 2014 post-general report was 29 days late
9 and reflected minimal campaign activity, the Office of General Counsel believes that the
10 Commission should exercise its prosecutorial discretion and dismiss the matter.¹²

11 RECOMMENDATIONS

- 12 1. Dismiss the allegation that Scot John Tomaszewski and Paul Verna, in his official
13 capacity as treasurer violated 52 U.S.C. § 30104(a)(1) and (2), 11 C.F.R. §§ 104.1 and
14 104.3(a) and (b);
- 15 2. Approve the Factual and Legal Analysis;
- 16 3. Approve the appropriate letters; and

¹⁰ Most of the debt, just over \$20,000, is owed to Eastern Sign Tech and is reportedly related to a "banner, airplane, and airspace." The remainder of the debt appears to be low dollar obligations, including debt for payment to the Committee treasurer for filing reports and for campaign items, including business cards and yard signs. See <http://docquery.fec.gov/pdf/521/14031262521/14031262521.pdf>.

¹¹ After the 2014 election, RAD discussed eligibility for an administrative termination with the Committee. However, the candidate decided to keep the Committee running in the event that he chose to run again. The candidate, after obtaining 134 signatures, was on the ballot for the 2016 election. It does not appear that the campaign solicited or accepted contributions, or spent funds related to the 2016 campaign. The Committee may be eligible for administrative termination now that the 2016 election is over, but could not voluntarily terminate until the ongoing debt is resolved. RAD continues to work with the Committee so that it meets its reporting requirements.

¹² *Heckler v. Chaney*, 470 U.S. 821 (1985).

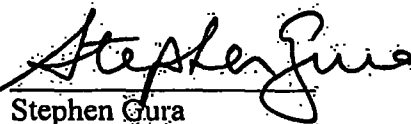
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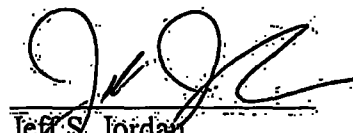
Lisa J. Stevenson
Acting General Counsel

Kathleen M. Guith
Acting Associate General Counsel

11.15.16
Date

BY:


Stephen Gura
Deputy Associate General Counsel


Jeff S. Jordan
Assistant General Counsel


Wanda D. Brown
Attorney

Attachment: Factual and Legal Analysis

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Scot John Tomaszewski for Congress, Inc. MUR 6913
and Paul Verna, as treasurer

I. INTRODUCTION

This matter was generated by a Complaint filed on January 22, 2015, alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act") and Commission regulations by Scot John Tomaszewski for Congress, Inc. and Paul Verna in his official capacity as treasurer (collectively the "Committee").¹ 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

The Complaint alleges that the Committee violated the Act by failing to disclose certain receipts and disbursements.² Specifically, the Complainant alleges that the Committee failed to file its 2014 post-general election report, and failed to disclose disbursements related to refurbishing a limousine owned by the candidate and used by his campaign.³ The Complainant

¹ Scot John Tomaszewski ran as an independent candidate for New Jersey's 1st Congressional District in 2014 but lost that election. He ran for the same seat again in 2016 but lost to the incumbent. *See* <http://www.nj.gov/state/elections/2016-results/2016-unofficial-general-results-house-of-representatives.pdf>.

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1 notes that the Committee's 2014 pre-general election report does not disclose any contributions
2 or operating expenses, but does report "a large amount of debt."⁴

3 The Committee responds that the 2014 post-general election report was filed late because
4 the Treasurer was waiting for information from the candidate.⁵ The Committee further explains
5 that the limousine was in running condition before the campaign and denies it had been
6 refurbished.⁶

7 Committee treasurers are required to file reports of receipts and disbursements in
8 accordance with the provisions of the Act and Commission regulations.⁷ In addition to an
9 authorized committee's regular quarterly reports, in any year where there is a regularly scheduled
10 election for which a candidate is seeking election, or nomination for election, the treasurer shall
11 file a post-general election report, which shall be filed no later than the 30th day after any
12 general election.⁸

13 The Committee filed its 2014 post-general election report on January 2, 2015, 29 days
14 late. The report does not disclose contributions or disbursements for the Committee. There is no
15 further information that would suggest that the report should include disbursements related to the
16 limousine mentioned in the complaint. The report does, however, disclose just over \$26,000 in

⁴ *Id.*

⁵ Resp. at 1 (Feb. 5, 2015). Treasurer Verna states that although he knew the candidate was involved in divorce proceedings, he was not aware of the order potentially restricting the Committee from using certain vendors.

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2 reports with the Commission, however, it discloses no current financial activity.

3 Therefore, in furtherance of the Commission's priorities, relative to other matters pending
4 on the Enforcement docket, and considering the fact that the 2014 post-general report was 29
5 days late and reflected minimal campaign activity, the Commission exercised its prosecutorial
6 discretion and dismissed the matter.¹⁰

⁹ Most of the debt, just over \$20,000, is owed to Eastern Sign Tech and is reportedly related to a "banner, airplane, and airspace." The remainder of the debt appears to be low dollar obligations, including debt for payment to the Committee treasurer for filing reports and for campaign items, including business cards and yard signs. See <http://docquery.fec.gov/pdf/521/14031262521/14031262521.pdf>.

¹⁰ *Heckler v. Chaney*, 470 U.S. 821 (1985).