



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Craig Engle
Arent Fox LLP
1717 K Street NW
Washington, DC 20009

JUL 23 2018

RE: MUR 7371
Pensler for Senate
and Justin Brown, as treasurer

Dear Mr. Engle:

On April 27, 2018, the Federal Election Commission ("Commission") notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). On July 19, 2018, based upon the information contained in the complaint and information provided by respondents, the Commission decided to find no reason to believe the allegations that Pensler for Senate and Justin Brown in his official capacity as treasurer violated provisions of the Act. The Commission then closed its file in this matter. A copy of the Factual and Legal Analysis, which more fully explains the basis for the Commission's decision, is enclosed.

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). If you have any questions, please contact Kristina Portner, the attorney assigned to this matter, at (202) 694-1518.

Sincerely,

Lisa J. Stevenson
Acting General Counsel

BY: 
Jeff S. Jordan
Assistant General Counsel

Enclosure:
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

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3 RESPONDENTS: Pensler for Senate and MUR 7371
4 Justin Brown in his official capacity as treasurer,
5 Sandy Pensler,
6 Brian Calley for Governor and
7 Jordan Bush in his official capacity as treasurer, and
8 Brian Calley
9

10 This matter was generated by a complaint alleging violations of the Federal Election
11 Campaign Act of 1971, as amended (“the Act”) and Commission regulations by Pensler for
12 Senate and Justin Brown in his official capacity as treasurer (“the Pensler Committee”), Sandy
13 Pensler, Brian Calley for Governor and Jordan Bush in his official capacity as treasurer (“the
14 Calley Committee”), and Brian Calley. It was scored as a low-rated matter under the
15 Enforcement Priority System, by which the Commission uses formal scoring criteria as a basis to
16 allocate its resources and decide which matters to pursue.

17 Based upon news reports, Complainant alleges that the nominating petition submitted by
18 Calley included at least 47 sheets containing signatures collected for Pensler’s nominating
19 petition and, therefore, asserts that the Calley Committee gathered signatures for Pensler’s
20 nominating petition.¹ The Calley Committee denies that it paid to gather signatures for Pensler;
21 rather, it states that it paid a vendor to collect signatures for Calley.² The Pensler Committee
22 also states that it paid a vendor to collect signatures for its own nominating petition, no other
23 campaign subsidized its collection process, and it does not know why the collection vendor held
24 petitions for more than one candidate.³

¹ Compl. at 1-2 (Apr. 23, 2018).

² Calley Committee Resp. at 1 (May 15, 2018).

³ Pensler Committee Resp. at 1, Exs. 1-11 (June 14, 2018).

1 The Act and Commission regulations provide that no person may make contributions to
2 any candidate or his authorized political committee that exceed the contribution limits
3 established by 52 U.S.C. §30116.⁴ The provision of any goods or services without charge or at
4 a charge that is less than the usual and normal charge for such goods or services is an in-kind
5 contribution.⁵

6 The news reports the Complaint cites are the only sources that suggest that the Calley
7 Committee contributed to the Pensler Committee by gathering signatures for Pensler's
8 nominating petition.⁶ Both committees specifically deny that the Calley Committee paid to
9 gather signatures for the Pensler Committee, and the Pensler Committee's reports disclose
10 disbursements to its own signature collection firm.⁷ Therefore, the Commission finds no reason
11 to believe that Pensler for Senate and Justin Brown, in his official capacity as treasurer, Sandy
12 Pensler, Brian Calley for Governor and Jordan Bush, in his official capacity as treasurer, and
13 Brian Calley violated the Act or Commission regulations.

⁴ 52 U.S.C. § 30116(a); 11 C.F.R. § 110.1(b). *See also* 52 U.S.C. § 30125(e)(1)(A); 11 C.F.R. § 300.61 (prohibition on federal candidate or his agents from soliciting, receiving, directing, transferring or spending funds in connection with a federal campaign unless the funds are subject to the limitations, prohibitions, and reporting requirements of the Act). The Complaint suggests that the Pensler Committee may have accepted funds in violation of 52 U.S.C. § 30125(e)(1)(A), but provides no further substantiation other than a reference to the 47 petition sheets.

⁵ 11 C.F.R. § 100.52(d).

⁶ The Complainant cites to reports indicating that both committees used the same vendor. However, the Calley Committee states it used The Stroud Company, while the Pensler Committee states (and provides documentation) it used 190 Personnel LLC. *See* Calley Committee Resp. at 1; Pensler Committee Resp. at 1.

⁷ In its response, the Pensler Committee asserts that it disclosed \$26,154 in payments for signature collection. Pensler Committee Resp. at 1. The Pensler Committee actually disclosed a total of \$79,665 in payments to its signature collection firm, 190 Personnel LLC, in its April 2018 Quarterly Report.