

FEDERAL ELECTION COMMISSION WASHINGTON, D.C. 20463

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

NOV 2 1 2018

Kierstyn Piotrowski Zolfo

Newtown, PA 18940

RE: MUR 7385

Dear Ms. Zolfo:

The Federal Election Commission reviewed the allegations in your complaint received on May 16, 2018. On November 19, 2018, 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 as to unknown respondent, BucksPAC and David Feeney in his official capacity as treasurer, and Dean Malik, and close its file in this matter. Accordingly, the Commission closed its file in this matter on November 19, 2018. A copy of the General Counsel's Report, 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).

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: Useff S. Jordan Assistant General Counsel

Enclosure General Counsel's Report

BEFORE THE FEDERAL ELECTION COMMISSION

ENFORCEMENT PRIORITY SYSTEM DISMISSAL REPORT

MUR: 7385

Complaint Receipt Date: May 16, 2018 BucksPAC Response Date: June 8, 2018 EPS Rating: Respondents: Unknown Respondent, BucksPAC and David Feeney, as Treasurer, and Dean Malik

Alleged Statutory Regulatory Violations:

52 U.S.C. § 30120(a) 11 C.F.R. § 110.11(a)-(b)

The Complaint alleges that over 30 yard signs, which are critical of a Democratic candidate, lack a disclaimer. The Complaint speculates that the signs may have been placed by either Dean Malik or BucksPAC, a political committee reportedly formed by Dean Malik, which posted a picture of one of the signs on its Facebook page.¹ The Complaint bases the allegation that Malik may have created the signs on Malik's appearance on a radio show during which he allegedly made statements using the same language found on the signs. In an unsworn email, BucksPAC denies that it "nor anyone affiliated with" it was involved in the creation or placement of the yard signs, although its treasurer admits that he took a picture of one of the signs and put it on the Committee's Facebook page. Malik, who was notified of the Complaint in his individual capacity, did not respond.

Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and assess whether particular matters warrant further administrative enforcement proceedings. These

¹ Dean Malik was a Republican primary candidate for Pennsylvania's 1st Congressional District. Scott Wallace, the subject of the signs at issue, was a Democratic candidate in the same primary election. The Complaint attaches pictures of three different signs, all of which include the words "Silver Spoon Scott Wallace," although the other text on the signs differed. The Complainant states that over 30 signs had been removed.

EPS Dismissal Report-MUR 7385 (Unknown Respondent, et al.) Page 2 of 2

criteria include (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 and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating, the lack of available information about who created and placed the signs, and the Commission's treatment of an analogous case, we recommend that the Commission dismiss the Complaint consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources.² *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). We also recommend that the Commission close the file as to all Respondents and send the appropriate letters.

> Lisa J. Stevenson Acting General Counsel

Kathleen M. Guith Associate General Counsel

Stephen Gura

Deputy Associate General Counsel

Jeff S. Jordan

Assistant General Counsel

Kristina M. Portner Attorney

² See EPS Report at 2, MUR 7184 (Unknown Respondent) (Dismissing allegation that "over 24" yard signs criticizing House candidate as "Bought/Paid For" lacked a disclaimer).

11.5.18

Date

BY: