



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Peter Casserly
Town of Babylon Democratic Committee
P.O. Box 48
Babylon, NY 11702

OCT 09 2018

RE: MUR 7420

Dear Mr. Casserly:

On July 2, 2018, the Federal Election Commission ("Commission") notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). On October 2, 2018, based upon the information contained in the complaint and information provided by respondents, the Commission decided to dismiss allegations that Town of Babylon Democratic Committee 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

A handwritten signature in black ink, appearing to read "Jeff S. Jordan".

BY: Jeff S. Jordan
Assistant General Counsel

Enclosure:
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

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2
3 RESPONDENTS: Gregory for Congress and MUR 7420
4 Jeffrey Casale in his official capacity
5 as treasurer, and
6 Town of Babylon Democratic Committee
7

8 This matter was generated by a Complaint alleging violations of the Federal Election
9 Campaign Act of 1971, as amended (“the Act”) and Commission regulations by Gregory for
10 Congress and Jeffrey Casale in his official capacity as treasurer (“the Committee”) and Town of
11 Babylon Democratic Committee. It was scored as a low-rated matter under the Enforcement
12 Priority System, by which the Commission uses formal scoring criteria as a basis to allocate its
13 resources and decide which matters to pursue.

14 The Complaint alleges that the Committee used space at Babylon’s office but failed to
15 report in-kind contributions or expenditures for such use.¹ Babylon asserts that the Committee
16 subleased the space for \$500 a month, its fair market value, and provided copies of the sublease
17 agreement, and the rental invoices for April and May 2018.²

18 A federal candidate may not solicit, receive, direct, transfer or spend funds in connection
19 with a federal campaign unless the funds are subject to the limitations, prohibitions, and
20 reporting requirements of the Act.³ Similarly, amounts expended or disbursed by a state,
21 district, or local committee for Federal election activity must be from funds subject to the
22 limitations, prohibitions, and reporting requirements of the Act.⁴ A candidate’s principal

¹ Compl. at 1-2 (June 27, 2018).

² Town of Babylon Democratic Committee Response at 1, Exhibits 1-3 (July 26, 2018).

³ 52 U.S.C. § 30125(e)(1).

⁴ 52 U.S.C. § 30125(b)(1).

1 committee is required to disclose the total amount of all contributions and disbursements made
2 during the reporting period,⁵ including the name and address of each person to whom an
3 expenditure in an aggregate amount or value in excess of \$200 within the election cycle is
4 made,⁶ and to report debts in excess of \$500 as of the date on which the debt is incurred.⁷

5 Babylon asserts that the Committee agreed to pay the fair market value of the office
6 space. In furtherance of the Commission's priorities relative to other matters pending on the
7 Enforcement docket, the modest amounts at issue, and the lack of information concerning
8 whether the debt is still outstanding, the Commission exercises its prosecutorial discretion and
9 dismisses the allegations that Gregory for Congress and Jeffrey Casale in his official capacity as
10 treasurer violated 52 U.S.C. § 30125(e)(1) and that Town of Babylon Democratic Committee
11 violated 52 U.S.C. § 30125(b)(1). *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

12 The Committee's disclosure reports reveal no payments or debts to Babylon, and
13 Babylon's response did not indicate it had been paid. The debts would have exceeded \$500 on
14 June 1, 2018, when both the April and May 2018 invoices were due, and should have been
15 reported on the Committee's 2018 July Quarterly Report. Conversely, if the Committee paid
16 Babylon, the payment should have been reported on its 2018 July Quarterly Report. In either
17 event, it appears that the Committee failed to report the transaction.

18 In furtherance of the Commission's priorities relative to other matters pending on the
19 Enforcement docket and the modest amounts at issue, the Commission exercises its prosecutorial

⁵ 52 U.S.C. § 30104(b)(3)-(4); 11 C.F.R. § 104.3(a)(3), (b)(2). The provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services is an in-kind contribution. 11 C.F.R. § 100.52(d).

⁶ 52 U.S.C. § 30104(b)(5); 11 C.F.R. 104.9(a).

⁷ With the exception that any obligation for rent, salary or other regularly reoccurring administrative expense shall not be reported until the payment due date. 11 C.F.R. § 104.11(b); *see also* 52 U.S.C. § 30104(b)(8).

- 1 discretion and dismisses the allegation that Gregory for Congress and Jeffrey Casale in his
- 2 official capacity as treasurer violated 52 U.S.C. § 30104, by not reporting either a debt or a
- 3 disbursement. *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).