

BEFORE THE FEDERAL ELECTION COMMISSION

**ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT**

MUR: 7564

Respondents: AJ Kern for Congress
and John W. Kern, as Treasurer
("Committee")

Complaint Receipt Date: February 5, 2019

Response Date: No Response Received

EPS Rating:

**Alleged Statutory
Regulatory Violations:**

**52 U.S.C. § 30104(a)(2)(i)-(ii)
11 C.F.R. §§ 104.5(a)(2)**

The Complaint alleges that the Committee should have, but did not, file a 2018 Pre-General Report or a 2018 Post-General Report because AJ Kern asked the Minnesota Secretary of State to count any general election write-in votes she received.¹

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 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 fact that the Committee's reports show that its disbursements and expenditures were all in connection with the primary election, and the relatively modest amount raised and spent by the committee

¹ Compl. at 1 (Feb. 5, 2019). The Committee did not respond to the Complaint.

during the 2018 election cycle,² 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. *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). We also recommend that the Commission close the file and send the appropriate letters.

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Acting General Counsel

Charles Kitcher
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6.26.19

Date

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² According to its 2018 Year-End Report, the Committee's receipts (\$15,936.83) and expenditures (\$16,925.51) amounted to \$32,862.34 for the election cycle. Pursuant to Standard 4 of the Reports Analysis Division's Review and Referral Procedures for the 2017-2018 Election Cycle, only those committees with receipts and expenditures combined exceeding _____ will be referred to the Office of General Counsel or Alternative Dispute Resolution Office for late or missing reports.