



FEDERAL ELECTION COMMISSION
Washington, DC 20463

VIA CERTIFIED MAIL
AND ELECTRONIC MAIL

August 12, 2020

RETURN RECEIPT REQUESTED

Joanna Opela, Treasurer
Trail Blazers for Michael Opela Committee
228045 Weinkauff Road
Edgar, WI 54426

RE: MUR 7704
Tiffany for Wisconsin, Inc.
and Fred Koth, as treasurer

Dear Ms. Opela:

The Federal Election Commission has considered the allegations contained in your complaint dated February 16, 2020. On August 6, 2020, 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 Tiffany for Wisconsin, Inc. and Fred Koth, in his official capacity as treasurer, and Tom Tiffany, and closed its file in this matter. 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 Disclosure of Certain Documents in Enforcement and Other Matters*, 81 Fed. Reg. 50,702 (Aug. 2, 2016), effective September 1, 2016.

The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. *See* 52 U.S.C. § 30109(a)(8). If you have any questions, please contact Don Campbell, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Lisa J. Stevenson
Acting General Counsel

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

BY: Jeff S. Jordan
Assistant General Counsel

Enclosure
General Counsel's Report

BEFORE THE FEDERAL ELECTION COMMISSION
ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT

MUR: MUR 7704

Respondent: Tiffany for Wisconsin, Inc.
and Fred Koth, as treasurer
(the “Committee”)
Tom Tiffany

Complaint Receipt Date: February 18, 2020

Response Date: March 12, 2020

**Alleged Statutory/
Regulatory Violations:** 52 U.S.C. §§ 30101(2), 30102(e), 30104(a), (b), 30120
11 C.F.R. §§ 100.3, 102.12, 104.1, 104.2, 104.3, 110.11

The Complaint alleges that Tiffany improperly filed his Statement of Candidacy, and the Committee improperly filed its Statement of Organization and failed to file its 2019 Year-End financial disclosure report.¹ The Complaint further alleges that the Committee included inadequate disclaimers on TV and radio ads, yard signs, and social media posts.² The Response asserts that Tiffany’s Statement of Candidacy and the Committee’s Statement of Organization complied with the requirements of the Federal Election Campaign Act of 1971, as amended (the “Act”), and Commission regulations, and states that the Commission waived the requirement to file a Year-End Report for authorized committees participating in Wisconsin’s 7th District Special Primary.³ Respondents also assert that the Committee displayed the proper disclaimers on its social media and public communications.⁴

¹ Compl. at 1-2 (Feb. 18, 2020). Tiffany is a Republican candidate in the 2020 Special Election race for U.S. Representative in Wisconsin’s 7th District. Tiffany won the special primary election with 57.5% of the vote.

² *Id.* The Complaint also alleges that Tiffany failed to file a personal Financial Disclosure Statement, however this issue is not within the Commission’s jurisdiction. *Id.* In addition, Complainant attached a complaint filed with the Wisconsin Ethics Commission, which contains a speculative allegation that Tiffany used state resources, including his state salary, to finance his federal campaign. Compl. Attach. We do not make any recommendation as this allegation.

³ Resp. at 1 (Mar. 12, 2020). *See also* <https://www.fec.gov/help-candidates-and-committees/dates-and-deadlines/2020-reporting-dates/special-election-report-notice-wi07/>. The Committee filed its 2020 Pre-Special Report on February 6, 2020, and filed five 48-Hour Notices of Contributions Received.

⁴ *Id.* at 1-2.

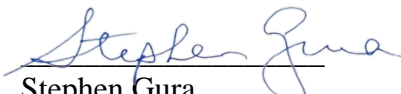
1 Based on its experience and expertise, the Commission has established an Enforcement
2 Priority System using formal, pre-determined scoring criteria to allocate agency resources and
3 assess whether particular matters warrant further administrative enforcement proceedings. These
4 criteria include (1) the gravity of the alleged violation, taking into account both the type of activity
5 and the amount in violation; (2) the apparent impact the alleged violation may have had on the
6 electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in
7 potential violations and other developments in the law. This matter is rated as low priority for
8 Commission action after application of these pre-established criteria. Given that low rating, the
9 technical nature of the allegations, and the apparent steps taken by the Respondents to comply with
10 the Act and Commission regulations,⁵ we recommend that the Commission dismiss the Complaint
11 consistent with the Commission's prosecutorial discretion to determine the proper ordering of its
12 priorities and use of agency resources.⁶ We also recommend that the Commission close the file as
13 to all respondents and send the appropriate letters.

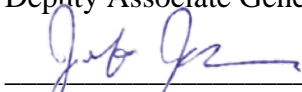
14 Lisa J. Stevenson
15 Acting General Counsel


17 Charles Kitcher
18 Acting Associate General Counsel

19
20 06.17.20
21 Date

22 BY:


23 Stephen Gura
24 Deputy Associate General Counsel


25 Jeff S. Jordan
26 Assistant General Counsel


27 Donald E. Campbell
28 Attorney
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⁵ Respondents state that the Committee's public communications included proper disclaimers, but did not provide examples supporting this statement, and this office is unable to discern the sufficiency of the disclaimers due to the lack of clarity in the images attached to the Complaint.

⁶ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).