MUR770400023



FEDERAL ELECTION COMMISSION Washington, DC 20463

VIA ELECTRONIC MAIL kate@aspectcompliance.com August 12, 2020

Fred Koth, Treasurer Tiffany for Wisconsin, Inc. P.O. Box 1007 Wausau, WI54402

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

Dear Mr. Koth:

On February 21, 2020, the Federal Election Commission ("Commission") notified Tiffany for Wisconsin, Inc. and you, in your official capacity as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act") and Commission regulations. A copy of the complaint was forwarded to you and the Committee at that time. On August 6, 2020, based upon the information contained in the complaint and information provided by respondents, the Commission voted to dismiss allegations that Tiffany for Wisconsin, Inc. and you, in your official capacity as treasurer, violated provisions of the Act. The Commission then closed its file in this matter. 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). If you have any questions, please contact Don Campbell, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Jeff S. Jordan Assistant General Counsel

Enclosure: General Counsel's Report MUR770400024

1	BEFORE TI	E THE FEDERAL ELECTION COMMISSION	
2 3 4	ENFORCEMENT PRIORITY SYSTEM DISMISSAL REPORT		
5 6 7 8 9 10	MUR: MUR 7704	Respondent:	Tiffany for Wisconsin, Inc. and Fred Koth, as treasurer (the "Committee") Tom Tiffany
10 11 12 13 14 15	Complaint Receipt Date: Febru Response Date: March 12, 2020	2	
16 17 18	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	
19	The Complaint alleges that Tiffany improperly filed his Statement of Candidacy, and the		
20	Committee improperly filed its Statement of Organization and failed to file its 2019 Year-End		
21	financial disclosure report. ¹ The Complaint further alleges that the Committee included inadequate		
22	disclaimers on TV and radio ads, yard signs, and social media posts. ² The Response asserts that		
23	Tiffany's Statement of Candidacy and the Committee's Statement of Organization complied with		
24	the requirements of the Federal Election Campaign Act of 1971, as amended (the "Act"), and		
25	Commission regulations, and states that the Commission waived the requirement to file a Year-End		
26	Report for authorized committees participating in Wisconsin's 7th District Special Primary. ³		
27	Respondents also assert that the Committee displayed the proper disclaimers on its social media and		
28	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* <u>https://www.fec.gov/help-candidates-and-committees/dates-and-deadlines/2020-reporting-dates/special-election-report-notice-wi07/</u>. 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.

EPS Dismissal Report MUR 7704 (Tiffany for Wisconsin, Inc.) Page 2 of 2

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Date

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 the Act and Commission regulations,⁵ we recommend that the Commission dismiss the Complaint 10 11 consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources.⁶ We also recommend that the Commission close the file as 12 13 to all respondents and send the appropriate letters.

> Lisa J. Stevenson Acting General Counsel

Charles Kitcher Acting Associate General Counsel

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Stephen Gura Deputy Associate General Counsel

Jeff S. Jordan Assistant General Counsel

Donald E. Campbell Attorney

BY:

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).