

1 **BEFORE THE FEDERAL ELECTION COMMISSION**
2
3 **ENFORCEMENT PRIORITY SYSTEM**
4 **DISMISSAL REPORT**
5

6 **MUR:** 7676

7 **Respondent:** Michelle Fischbach
8 Fischbach for Congress
9 and Paul Kilgore, as treasurer
10 (the “Committee”)

11 **Complaint Receipt Date:** December 27, 2019

12 **Response Date:** February 13, 2020

13 **EPS Rating:**

14 **Alleged Statutory/** **52 U.S.C. § 30120(a)(1) and (c)(1-3);**
15 **Regulatory Violations:** **11 C.F.R. § 110.11(a)(1), (b)(1), (c)(1-2)**
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19 The Complaint alleges that the Committee distributed, via email, two fundraising letters that
20 lacked a complete box around the Committee’s disclaimers, asserting that both letters have a partial
21 line above and below the disclaimer.¹ The Response argues that emails do not require a box around
22 disclaimers because that requirement applies only to printed public communications, and, in any event,
23 any violation is technical.²

24 Based on its experience and expertise, the Commission has established an Enforcement
25 Priority System using formal, pre-determined scoring criteria to allocate agency resources and
26 assess whether particular matters warrant further administrative enforcement proceedings. These
27 criteria include (1) the gravity of the alleged violation, taking into account both the type of activity
28 and the amount in violation; (2) the apparent impact the alleged violation may have had on the
29 electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in
30 potential violations and other developments in the law. This matter is rated as low priority for
31 Commission action after application of these pre-established criteria. Given that low rating, the

¹ Compl. at 1 (December 27, 2019). The Complaint included copies of the two emails. *Id.* at 2-5.

² Resp. at 2-3 (February 13, 2020), citing 11 C.F.R. § 110.11(c)(2).

1 technical nature of the alleged violation, and that recipients would likely understand that the
2 Committee was responsible for the emails, we recommend that the Commission dismiss the
3 Complaint consistent with the Commission's prosecutorial discretion to determine the proper
4 ordering of its priorities and use of agency resources.³ We also recommend that the Commission
5 close the file as to all Respondents and send the appropriate letters.

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7 Lisa J. Stevenson
8 Acting General Counsel
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10 Charles Kitcher
11 Acting Associate General Counsel
12

13 3.6.20

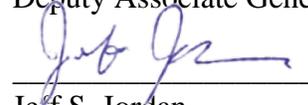
14 Date

BY:



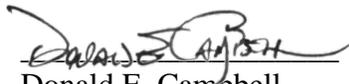
Stephen Gura

Deputy Associate General Counsel



Jeff S. Jordan

Assistant General Counsel



Donald E. Campbell

Attorney

³ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).