



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MAR - 6 2015

James Moran, Treasurer
Jill Stein for President

Lexington, MA 02421

RE: MUR 6714

Dear Mr. Moran:

On January 15, 2013, the Federal Election Commission notified Jill Stein for President and you in your official capacity as treasurer (the "Committee") of complaints alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("Act"). On March 2, 2015, based upon the information contained in the complaint and information provided by you, the Commission decided to dismiss the matter and close its file. Accordingly, the Commission closed its file in this matter on March 2, 2015.

The Commission encourages the Committee to review the Factual & Legal Analysis which sets forth the statutory and regulatory provisions considered by the Commission in this matter, a copy of which is enclosed for your information and future reference. In particular, the Commission reminds you that the Committee is under an obligation to continuously report the amount and nature of its outstanding debts until those debts are extinguished, pursuant to 52 U.S.C. § 30104(b)(8) (formerly 2 U.S.C. § 434(b)(8)) and 11 C.F.R. §§ 104.3(d), 104.11, including both "estimated debts," *see* 11 C.F.R. § 104.11(b), and "disputed debts," *see* 11 C.F.R. § 116.10(a). The Commission also reminds the Committee to amend its 2012 disclosure reports as appropriate. For further information on the Act, please refer to the Commission's website at www.fec.gov or contact the Commission's Public Information Division at (202) 694-1100.

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).

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If you have any questions, please contact Donald E. Campbell, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Gregory R. Baker
Deputy General Counsel

A handwritten signature in black ink, appearing to read "Jeff S. Jordan". To the right of the signature is a small handwritten mark that looks like "KOC".

BY: Jeff S. Jordan
Assistant General Counsel
Complaints Examination &
Legal Administration

Enclosure
Factual & Legal Analysis

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Jill Stein for President
and James Moran as Treasurer
Ben Manski

MUR 6714

I. INTRODUCTION

This matter was generated by a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations by Jill Stein for President and James Moran in his official capacity as treasurer (the "Committee"), and Ben Manski, the Committee's campaign manager.¹ It was scored as a low-rated matter under the Enforcement Priority System, by which the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue.

II. FACTUAL AND LEGAL ANALYSIS

A. Factual Background

Complainant Richard R. Zitola alleges that while serving as an unpaid volunteer for the 2012 campaign of Green Party presidential candidate Jill Stein, he incurred approximately \$6,000 in campaign-related expenses that the Stein campaign has failed to reimburse in violation of the Act and Commission regulations. Compl. at 1. According to Zitola, between November 2011 and June 2012, he served voluntarily as Stein's "scheduler" and was in "frequent, direct contact" with Stein and Manski concerning Stein's travel itineraries. *Id.* Zitola alleges that

¹ The Committee's initial Statement of Organization (FEC Form 1), filed November 14, 2011, named John D. Portelli as treasurer. Portelli was the named treasurer on the Committee's reports from that point through the 2012 September Monthly Report, filed September 20, 2012. On the Committee's 2012 October Monthly Report, filed October 22, 2012, the named treasurer was John W. Andrews. On the Committee's 2012 Pre-General Report, filed October 24, 2012, the named treasurer was James Moran. Moran has been listed as the Committee's treasurer on all subsequent reports filed with the Commission, and a Statement of Organization (FEC Form 1) naming Moran as treasurer was filed with the Commission on December 10, 2012.

Manski was “fully aware” that Zitola purchased plane and train tickets for Stein on behalf of the campaign and expected to be reimbursed for those purchases. *Id.*

Zitola states that he prepared and mailed to the campaign’s national office after the July 2012 convention a full accounting of his campaign-related expenses.² *Id.* at 2. A copy of that expense report is attached to the Complaint and reflects \$5,649.41 in apparent travel-related costs incurred on Stein’s behalf between November 26, 2011, and May 3, 2012, as well as \$296.01 in total charges for “Printing” and \$74.25 for “Supplies.” *See id.* at Attach.³ In the months following his submission of the expense report, Zitola alleges that he frequently contacted Manski regarding reimbursement but that Manski “repeatedly put [him] off, saying he did not have time to review them.” *Id.*⁴ Zitola notes that to date, there have been no further communications from the Committee concerning his request for reimbursement. *Id.*

The Committee and Manski filed a joint response stating that Zitola was a “longtime associate” of Stein who worked as a volunteer with Stein’s 2012 presidential campaign “in a number of different capacities,” and for a time, was responsible for Stein’s travel arrangements. Joint Resp. at 1-2. The Committee maintains that Zitola was not a paid employee of the campaign, and that in keeping with campaign directives, Manski instructed Zitola during various phone conversations to “immediately” submit any expenses to the Committee for reimbursement. *Id.* at 2. The Committee states that it was unaware of any expenses Zitola incurred on the

² Zitola alleges that he and Manski discussed his reimbursement for the travel expenses many times, but that Zitola’s workload was such that he was unable to provide a complete compilation of all expenses until July 2012. Compl. at 1.

³ The expense report also includes \$251.02 in food-related expenses, but Zitola states these charges were inadvertently included and are not at issue. *Id.* at 2; Attach.

⁴ In addition to the expense report, Zitola attached copies of email communications between him and Manski concerning Stein’s travel and tour itineraries, as well as copies of travel-related receipts.

Committee's behalf until the campaign received a \$6,270 reimbursement request from Zitola several months after the Committee terminated its relationship with him.⁵ *Id.* at 3.

Attached to the joint response are copies of various emails between Manski and Zitola from November 18, 2011 through April 10, 2012, clarifying Zitola's campaign responsibilities and Stein's travel schedule. *Id.* at Ex. A-Q. Also attached to the joint response is a September 20, 2012 letter in which the Committee informs Zitola "[b]ecause no expense report was filed between the months of November 2011 and May 2012, Campaign management concluded that [Zitola] had not personally incurred any reportable expenses" and, therefore, the Committee "cannot accept responsibility for the expenses." *Id.* at Ex. Y.

Separately, James Moran responded that he was not the Committee's treasurer during the period in which Zitola allegedly incurred the expenses and had no knowledge of Zitola's claims before receiving notice of the Complaint. Moran Resp. at 1.

B. Legal Analysis

The Act and Commission regulations require political committees to continuously report the amount and nature of outstanding debts until those debts are extinguished. 52 U.S.C. § 30104(b)(8) (formerly 2 U.S.C. § 434(b)(8)); 11 C.F.R. §§ 104.3(d), 104.11(a)-(b). This reporting requirement applies both to "disputed debts," *see* 11 C.F.R. § 116.10(a), and "estimated debts," *see* 11 C.F.R. § 104.11(b).⁶ A "disputed debt" is "an actual or potential debt or obligation

⁵ It appears that the Committee ended its relationship with Zitola in April 2012; after "expericnc[ing] various difficulties with Mr. Zitola" the Committee "removed him from all volunteer roles in the campaign." Joint Rrsp. at 1, 3.

⁶ Debts or obligations of \$500 or less "shall be reported as of the time payment is made or not later than 60 days after such obligation is incurred, whichever comes first." 11 C.F.R. § 104.11(b). Debts or obligations over \$500 shall be disclosed "as of the date on which the debt or obligation is incurred," with the exception of recurring administrative expenses such as salary or rent, and if the exact amount is not known, the report shall state that the amount disclosed is an estimate. *Id.* "Once the exact amount is determined, the political committee shall amend the report(s) containing the estimate or indicate the correct amount on the report for the reporting period in which such amount is determined." *Id.*

owed by a political committee, including an obligation arising from a written contract, promise or agreement to make an expenditure, where there is a bona fide disagreement between the creditor and the political committee as to the existence or amount of the obligation owed by the political committee.” 11 C.F.R. § 116.1(d). When there is a “disputed debt,” the political committee must report the disputed debt if the creditor has provided “something of value” to the political committee. 11 C.F.R. § 116.10(a). Until the dispute is resolved, the political committee must disclose any amounts paid to the creditor, any amount the political committee admits it owes, and the amount the creditor claims is owed. 11 C.F.R. § 116.10(a).

The Committee has disclosed several debts incurred during the 2012 election cycle on Schedule D of its Campaign Finance Reports filed with the Commission but has not disclosed any debts, disputed or estimated, owed to Richard R. Zitola.⁷ The Committee should have classified and reported any disputed or estimated debts claimed by Zitola during the appropriate period. In light of the relatively low dollar amount at issue, however, the Commission, in furtherance of its priorities relative to other matters pending on the Enforcement docket, exercises its prosecutorial discretion and dismisses this matter as to Jill Stein for President and James Moran in his official capacity as treasurer under *Heckler v. Chaney*, 470 U.S. 821 (1985).

Furthermore, the Commission finds no reason to believe Manski violated the Act or Commission regulations. Manski was the Committee’s campaign manager and did not serve in

⁷ See Jill Stein for President Amended 2012 April Quarterly Report at 68 (filed on June 20, 2014), Amended 2012 May Monthly Report at 49 (filed on June 20, 2014), Amended 2012 June Monthly Report at 60 (filed on June 20, 2014), Amended 2012 July Monthly Report at 74 (filed on June 20, 2014), Amended 2012 August Monthly Report at 128-129 (filed on June 20, 2014), Amended 2012 September Monthly Report at 157-159 (filed on June 20, 2014), Amended 2012 October Monthly Report at 177-180 (filed on June 20, 2014), Amended 2012 12-Day Pre-General Report at 99-101 (filed on June 20, 2014), Amended 2012 30-Day Post-General Report at 284-285 (filed on June 20, 2014), Amended 2012 Year-End Report at 30 (filed on June 20, 2014); additionally, the most recent report filed by the Committee does not disclose any debts, disputed or estimated, owed to Richard R. Zitola, see Jill Stein for President 2014 September Monthly Report at 16 (filed on September 21, 2014).

an official capacity as treasurer of the Committee. He was thus not responsible for any subsequent reporting of any disputed or estimated debts.