



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

June 3, 2024

By First Class Mail

Matt Sommer
Treasurer
Eugene DePasquale for Pennsylvania
1560 W. Princess Street
York, PA 17404

RE: MUR 7773
Eugene DePasquale for Pennsylvania

Dear Mr. Sommer:

On August 11, 2020, the Federal Election Commission notified Eugene DePasquale for Pennsylvania and you, in your official capacity as treasurer, ("State Committee") of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On May 1, 2024, the Commission voted to dismiss the allegations that the State Committee violated 52 U.S.C. § 30125(e)(1)(A) and 11 C.F.R. § 300.61 by directing or spending funds in connection with a federal election that were not subject to the limitations, prohibitions, and reporting requirements of the Act, when the State Committee made in-kind contributions for Eugene DePasquale's testing-the-waters expenditures. At the same time, the Commission voted to dismiss the allegations that the State Committee violated 11 C.F.R. § 110.3(d) by transferring assets to a federal committee in connection with that committee's testing-the-waters activities. Accordingly, the Commission voted to close the file, effective on June 3, 2024.

Documents related to the case will be placed on the public record today. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). Any applicable Factual and Legal Analysis or Statements of Reasons available at the time of this letter's transmittal are enclosed.

If you have any questions, please contact Christine C. Gallagher, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "A.B.R.", written over a white background.

Anne B. Robinson
Assistant General Counsel



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Eugene DePasquale, *et al.*)

) MUR 7773
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**STATEMENT OF REASONS OF CHAIRMAN SEAN J. COOKSEY AND
COMMISSIONERS ALLEN J. DICKERSON AND JAMES E. “TREY” TRAINOR, III**

This matter arose from a Complaint alleging that former Pennsylvania Auditor General and former congressional candidate Eugene DePasquale violated various testing-the-waters and soft-money restrictions in the Federal Election Campaign Act of 1971, as amended (“the Act”).¹ The Complaint bases its allegations on expenditures and other activities by both DePasquale’s state-level and federal campaign committees prior to his official entry into the 2020 congressional campaign for Pennsylvania’s Tenth Congressional District.²

Following the Complaint and responses from the Respondents, however, necessary delays forestalled the Commission’s consideration of this matter’s merits. As a result of this lag, the Office of General Counsel (“OGC”) circulated a First General Counsel’s Report to the Commission on April 2, 2024.³ But by that point, most of the activity at issue in the Complaint was beyond the five-year statute of limitations that governs violations of the Act.⁴ The few transactions still subject to possible enforcement on the date the report circulated would have been beyond the limitations period in a matter of weeks.⁵ As a result, the Commission dismissed the Complaint because it lacks the authority to enforce against activity outside of the statute of limitations, and it could not effectively pursue enforcement against the remaining activity with such little time remaining and limited agency resources.⁶

¹ Complaint (Aug. 6, 2020), MUR 7773 (Eugene DePasquale, *et al.*).

² *Id.* at 3–4.

³ First General Counsel’s Report (April 2, 2024), MUR 7773 (Eugene DePasquale, *et al.*).

⁴ *Id.* at 1 (noting a statute-of-limitations period running from March 5, 2024, to May 13, 2024). *See also* 28 U.S.C. § 2462 (“[A]n action, suit or proceeding for the enforcement of any civil fine, penalty, or forfeiture, pecuniary or otherwise, shall not be entertained unless commenced within five years from the date when the claim first accrued.”).

⁵ *See* Complaint at 4 (Aug. 6, 2020), MUR 7773 (Eugene DePasquale, *et al.*) (setting out a table of relevant transactions).

⁶ *See* 28 U.S.C. § 2462; *Heckler v Chaney*, 470 U.S. 821, 831 (1985).



Sean J. Cooksey
Chairman

May 30, 2024

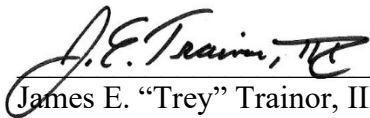
Date



Allen J. Dickerson
Commissioner

May 30, 2024

Date



James E. "Trey" Trainor, III
Commissioner

May 30, 2024

Date



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
DePasquale for PA 10, *et al.*) MUR 7773
)

**STATEMENT OF REASONS OF VICE CHAIR ELLEN L. WEINTRAUB AND
COMMISSIONER SHANA M. BROUSSARD**

This matter concerns allegations that Eugene DePasquale’s state committee paid “testing the waters” expenses for DePasquale’s federal campaign. The Office of General Counsel (“OGC”) concluded that most of the expenses at issue were not clearly related to the federal campaign, some of the expenses were reimbursed by the federal committee, and the small amount of potential in-kind contributions were not worth pursuing.¹ Given the small amount at issue and in light of the Commission’s limited resources, we agreed with OGC’s recommendation and voted to dismiss, based on prosecutorial discretion.²

The statute of limitations was not part of our rationale for dismissal. Had this matter involved a more significant violation we would have voted to find reason to believe. The statute of limitations for the reporting violations did not fully expire for seven months, and even after that, we would have sought disclosure as an equitable remedy for a significant violation.³

May 30, 2024
Date

Ellen L. Weintraub
Ellen L. Weintraub
Vice Chair

May 30, 2024
Date

Shana M. Broussard
Shana M. Broussard
Commissioner

¹ First Gen. Counsel’s Rpt. at 34-36, MUR 7773 (DePasquale for PA 10, *et al.*).

² Cert. ¶ 1 (May 1, 2024); *Heckler v. Chaney*, 470 U.S. 821 (1985). While the Complaint alleges nearly \$137,000 in violation, OGC concluded that the potential amount in violation did not exceed \$14,000. *See* First Gen. Counsel’s Rpt. at 34.

³ The reporting violations were on the committee’s 2019 October Quarterly Report filed on October 15, 2019. Therefore, the statute of limitations would expire on October 15, 2024. We note that even after the statute of limitations expires, the Commission retains authority to seek equitable relief such as the correction of inaccurate reporting since it is distinguishable from “any civil fine, penalty, or forfeiture” established in 52 U.S.C. § 2462.