



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

February 4, 2022

**BY EMAIL ONLY**

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Jessica Johnson

Elizabeth Ellington

Holtzman Vogel Josefiak Torchinsky PLLC

15405 John Marshall Highway

Haymarket, VA 20169

RE: MUR 7806  
Cory Gardner for Senate  
and Lisa Lisker, as Treasurer  
Cory Gardner

Dear Ms. Johnson and Ms. Ellington:

On October 2, 2020, the Federal Election Commission (“Commission”) notified your clients, Cory Gardner for Senate and Lisa Lisker in her official capacity as treasurer and Cory Gardner, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On February 2, 2022, based on the information provided in the complaint, and information provided by you, the Commission decided to exercise its prosecutorial discretion to dismiss the allegations as to Cory Gardner for Senate and Lisa Lisker in her official capacity as treasurer and Cory Gardner. 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,

Lisa J. Stevenson  
Acting General Counsel

*Roy Q. Luckett*

BY: Roy Q. Luckett  
Acting Assistant General Counsel

Enclosure:  
General Counsel’s Report



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 violation, and the unlikelihood the general public would have been confused  
 10 as to whether the television ad was authorized by Gardner, we recommend that the Commission  
 11 dismiss the Complaint consistent with the Commission's prosecutorial discretion to determine the  
 12 proper ordering of its priorities and use of agency resources.<sup>4</sup> We also recommend that the  
 13 Commission close the file and send the appropriate letters.

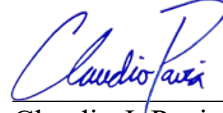
14           Lisa J. Stevenson  
 15           Acting General Counsel

16           Charles Kitcher  
 17           Associate General Counsel

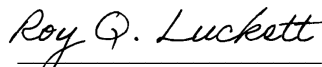
18           1/21/2022

19           Date

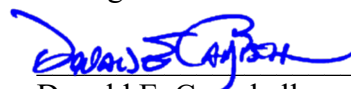
20           BY:

21           

22           Claudio J. Pavia  
 23           Acting Deputy Associate General Counsel  
 24           for Enforcement

25           

26           Roy Q. Luckett  
 27           Acting Assistant General Counsel

28           

29           Donald E. Campbell  
 30           Attorney

31           on Disclaimers, Fraudulent Solicitation, Civil Penalties, and Personal Use of Campaign Funds, 67 Fed. Reg. 76,962,  
 32           76,966 (Dec. 13, 2002)).

<sup>4</sup> *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).