



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

VIA ELECTRONIC AND FIRST CLASS MAIL

John Duarte

January 17, 2024

Hilmar, CA 95324

kellylawler@thekalgroup.com

RE: MUR 8106

Dear Mr. Duarte:

On January 30, 2023, the Federal Election Commission notified you of a Complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On January 10, 2024, based on the information provided in the Complaint, the Commission determined to exercise its prosecutorial discretion to dismiss the allegations contained in the Complaint. Accordingly, the Commission closed its file in this matter. A copy of the General Counsel's Report, which more fully explains the Commission's decision, is enclosed for your information.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). If you have any questions, please contact Justine A. di Giovanni, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Lisa J. Stevenson
Acting General Counsel

Wanda D. Brown

BY: Wanda D. Brown
Assistant General Counsel

Enclosure:
General Counsel's Report

BEFORE THE FEDERAL ELECTION COMMISSION

ENFORCEMENT PRIORITY SYSTEM

DISMISSAL REPORT

MUR 8106

Respondents: John Duarte for Congress and Kelly Lawler in her official capacity as treasurer
Matt Stoll for Congress and Jen Slater in her official capacity as treasurer¹
John Duarte
Matthew Stoll

Complaint Receipt Date: Jan. 24, 2023

Response Dates: Feb. 14, 2023

Alleged Statutory and Regulatory Violations:	18 U.S.C. § 201
	18 U.S.C. § 597
	26 U.S.C. § 9012 (e)
	26 U.S.C. § 9042 (b), (d)
	52 U.S.C. § 30104(b)(3)
	11 C.F.R. § 104.3(a)

The Complaint alleges that John Duarte, a candidate in California’s 13th Congressional District in 2022, bribed his opponents to withdraw from the primary election, and that Duarte is the subject of an FBI investigation into that conduct.² Duarte’s principal campaign committee is John Duarte for Congress and Kelly Lawler in her official capacity as treasurer (the “Duarte Committee”).³ According to the Complaint, Duarte allegedly promised to make a \$2,900 contribution to one of his opponents, Matt Stoll, and provide him with an endorsement if Stoll changed his candidacy from the 13th District to the 21st District, which Stoll did on March 7,

¹ This Respondent filed a request to terminate prior to the filing of the Complaint in this matter, which the Commission accepted on July 25, 2022. Matt Stoll for Congress, Termination Report (July 7, 2022), <https://docquery.fec.gov/pdf/412/202207159518702412/202207159518702412.pdf>; Letter from Mary Seiler, Campaign Fin. Analyst, FEC, to Jen Slater, Treasurer, Matt Stoll for Congress re: Termination Report (05/19/2022 – 06/30/2022) (July 25, 2022), <https://docquery.fec.gov/pdf/459/202207250300147459/202207250300147459.pdf>.

² Compl. at 1 (Jan. 24, 2023).

³ John Duarte for Congress, Amended Statement of Organization at 2 (June 6, 2023), <https://docquery.fec.gov/pdf/574/202306069581747574/202306069581747574.pdf>.

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EPS Dismissal Report

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1 2022.⁴ Stoll’s authorized committee, Matt Stoll for Congress and Jen Slater in her official capacity
2 as treasurer (the “Stoll Committee”), filed a disclosure report reflecting a \$2,900 contribution from
3 Duarte received March 25, 2022.⁵ The Complaint asserts that another of Duarte’s opponents, David
4 Giglio, told the FBI that Duarte had met with him and attempted to intimidate Giglio to drop out of
5 the race.⁶ There is no record of Duarte making a contribution to Giglio’s authorized committee.⁷
6 The Complaint further claims that the FBI is investigating whether Duarte also offered a bribe to a
7 further opponent, Elizabeth Heng, as the Complaint states that Heng “quietly withdrew from the
8 race . . . without any public comment” despite her prior insistence on running, even without the
9 support of local Republican leadership.⁸ There is no record of Duarte making a contribution to
10 Heng’s authorized committee.⁹

11 Duarte and the Duarte Committee filed a joint Response denying the allegations and stating
12 that, as reflected in the committees’ 2022 Pre-Primary and April Quarterly Reports, which pre-dated
13 the June 7, 2022 primary election, the Duarte Committee had significantly more cash on hand than
14 either Stoll’s or Heng’s authorized committees, and that, “[a]s a result, some candidates elected to
15 drop out and re-file their candidacy in other districts, presumably for a higher likelihood of

⁴ Compl. at 1. *Compare* Matthew Stoll, Amended Statement of Candidacy (Feb. 21, 2022), <https://docquery.fec.gov/pdf/140/202202219493671140/202202219493671140.pdf> (reflecting that Stoll was running for office in California’s 13th District) *with* Matthew Stoll, Amended Statement of Candidacy (Mar. 7, 2022), <https://docquery.fec.gov/pdf/094/202203079493743094/202203079493743094.pdf> (reflecting that Stoll was running for office in California’s 21st District).

⁵ Compl. at 2.

⁶ *Id.*

⁷ *FEC Receipts: Filtered Results*, FEC.GOV, https://www.fec.gov/data/receipts/?data_type=processed&committee_id=C00772202&contributor_name=Duarte (last visited Dec. 20, 2023) (reflecting no contributions from any individual named “Duarte” to Giglio for Congress).

⁸ Compl. at 2-3.

⁹ *FEC Receipts: Filtered Results*, FEC.GOV, https://www.fec.gov/data/receipts/?data_type=processed&committee_id=C00771824&contributor_name=Duarte (last visited Dec. 20, 2023) (reflecting no contributions from any individual named “Duarte” to Heng for Congress).

1 success.”¹⁰ Duarte and the Duarte Committee confirm that Duarte made the \$2,900 contribution
2 discussed in the Complaint, but state that it was “legally permissible” for him to do so.¹¹ The joint
3 Response states that the contribution could not have violated 18 U.S.C. § 201(b) because that
4 provision prohibits individuals from corruptly providing funds to “any public official or person who
5 has been selected to be a public official,” which none of Stoll, Heng, or Duarte’s other opponents
6 was at the time of the alleged conduct.¹² The joint Response further states that Duarte’s
7 contribution could not have violated 18 U.S.C. § 597 because that provision prohibits offering,
8 making, soliciting, accepting, or receiving an “expenditure . . . either to vote or withhold [a] vote, or
9 to vote for or against any candidate,” and encouraging a candidate to withdraw from a race is not
10 within those terms.¹³

11 Stoll and the Stoll Committee filed separate Responses. Stoll’s Response states that he
12 received the Duarte contribution, and that he “ran where [he] intended to run as a congressional
13 candidate.”¹⁴ The Stoll Committee’s Response states in its entirety that “[a]ll donations received by
14 the [Stoll Committee] were compliant with FEC laws.”¹⁵

15 Based on its experience and expertise, the Commission has established an Enforcement
16 Priority System using formal, pre-determined scoring criteria to allocate agency resources and
17 assess whether particular matters warrant further administrative enforcement proceedings. These
18 criteria include (1) the gravity of the alleged violation, taking into account both the type of activity
19 and the amount in violation; (2) the apparent impact the alleged violation may have had on the

¹⁰ Duarte & Duarte Comm. Resp. at 1 (Feb. 14, 2023).

¹¹ *Id.* at 2.

¹² *Id.*

¹³ *Id.*

¹⁴ Stoll Resp. at 1 (Feb. 14, 2023).

¹⁵ Stoll Comm. Resp. at 1 (Feb. 14, 2023).

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1 electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in
 2 potential violations and other developments in the law. This matter is rated as low priority for
 3 Commission action after application of these pre-established criteria. Given that low rating, we
 4 recommend that the Commission dismiss the Complaint consistent with the Commission's
 5 prosecutorial discretion to determine the proper ordering of its priorities and use of agency
 6 resources.¹⁶ We also recommend that the Commission close the file as to all Respondents and send
 7 the appropriate letters.

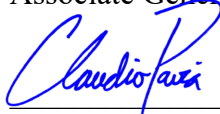
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 9 Lisa J. Stevenson
 10 Acting General Counsel

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 12
 13
 14 Charles Kitcher
 15 Associate General Counsel

16
 17 December 21, 2023

18 _____
 19 Date

BY:



 Claudio J. Pavia
 Deputy Associate General Counsel



 Wanda Brown
 Assistant General Counsel



 Justine A. di Giovanni
 Attorney

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¹⁶ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).