



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Anchin, Block & Anchin LLP and)
Evan H. Snapper)

) MUR 6656
)
)

**STATEMENT OF REASONS
OF COMMISSIONERS CAROLINE C. HUNTER, MATTHEW S. PETERSEN, AND
ELLEN L. WEINTRAUB**

This matter was initiated by a complaint filed by Patricia D. Cornwell alleging that her former business management firm, Anchin, Block & Anchin, and a former principal at that firm, Evan H. Snapper, violated the Commission’s confidentiality provisions when they identified Cornwell as the subject of an “FEC investigation” in a public court filing. We write to explain why we voted against pursuing this complaint.¹

On October 13, 2009, Cornwell sued Anchin and Snapper in federal district court for mismanaging her financial accounts.² On April 6, 2010, Anchin filed a *sua sponte* submission with the Commission addressing a scheme allegedly orchestrated by Cornwell and carried out by Anchin and Snapper to illegally reimburse contributions made through 21 conduits to three federal candidate committees.³ On August 13, 2012, Anchin and Snapper filed a motion in the lawsuit with Cornwell, which included the following language:

¹ See Certification for MUR 6656 (Anchin, Block & Anchin, *et al.*), dated Sept. 24, 2013. The Office of General Counsel’s recommendation to find reason to believe failed 1-3, with Commissioner Walther voting affirmatively for the motion and Commissioners Hunter, Petersen, and Weintraub dissenting. *Id.* Chairman Goodman and Vice Chair Ravel were not yet members of the Commission. At the time of that vote, the Commission elected not to close the file because the underlying enforcement matter alleged to have been improperly disclosed by Anchin and Snapper, MUR 6454 (Patricia D. Cornwell, *et al.*), remained open and confidential. After the Commission closed the file in MUR 6454, Vice Chair Ravel and Commissioners Hunter, Petersen, Walther, and Weintraub voted to close the file in MUR 6656. Certification for MUR 6656 (Anchin, Block & Anchin, *et al.*), dated Mar. 20, 2014. Chairman Goodman recused himself with respect to this matter and did not vote. *Id.*

² First General Counsel’s Report for MUR 6656 (Anchin, Block & Anchin, *et al.*), dated Apr. 17, 2013, at 2; see also *CEI et al. v. Anchin, Block & Anchin LLP, et al.*, No. 09-11708-GAO (D. Mass). An amended complaint named Snapper individually as a co-defendant.

³ First General Counsel’s Report for MUR 6656 at 2. On April 24, 2012, the Commission found reason to believe that Cornwell violated 2 U.S.C. §§ 441a(a) and 441f in connection with this reimbursement scheme and entered into

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In 2009, after the relationship between Plaintiffs and Defendants ceased and this lawsuit commenced, Snapper self-reported the [section 441f scheme] to the FBI and the Federal Election Committee [sic] ("FEC"). As a result of Snapper's self-report, the DOJ and the FEC initiated investigations into the facts and circumstances surrounding the violations. Snapper, Anchin and Cornwell were among those that the DOJ and FEC investigated. Ultimately, Snapper pleaded guilty to one count of providing false information — a felony — and settled charges with the FEC. Anchin received no action letters from both the DOJ and FEC indicating that the firm would not be charged. Although the defense has no way of knowing why Cornwell has not been charged, Plaintiffs' counsel has represented that the DOJ chose not to charge Cornwell. The FEC investigation remains open.⁴

The Federal Election Campaign Act, as amended ("the Act") provides that "[a]ny notification or investigation made under [section 2 U.S.C. § 437g(a)] shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made."⁵ Cornwell's complaint alleges that Anchin and Snapper violated this provision by referencing an "open" Commission investigation.⁶

We voted against pursuing this complaint.⁷ Counsel's statements that the "FEC investigated" Cornwell and "[t]he FEC investigation remains open" appear to have been inartful references to the underlying *sua sponte* submission, not to an investigation initiated by the Commission. In fact, it is difficult to imagine what investigation the motion could possibly refer to, since the Commission never initiated or conducted an investigation as to Cornwell.⁸ Had the motion simply used the term "matter" rather than "investigation," there would be no grounds for pursuing Anchin and Snapper. Complainants often publicly reveal that they have filed a complaint, as well as disclose the contents of that complaint without any threat of adverse action by the Commission.⁹ And because the Commission makes complaint-generated enforcement

pre-probable cause conciliation with her. *Id.* On the same day, the Commission determined to take no action and close the file as to Anchin. *Id.* The Commission had previously found reason to believe that Snapper had violated the Act and entered into a pre-probable cause agreement with him. *Id.* at 2-3. While the matter with respect to Cornwell remained open, the Commission sent closing letters to Snapper and Anchin informing them, among other things, that the Commission's confidentiality provisions remained in effect because the matter remained open "with respect to other respondents." *Id.* at 3.

⁴ *Id.*

⁵ 2 U.S.C. § 437g(a)(12)(A); 11 C.F.R. § 111.21(a).

⁶ First General Counsel's Report for MUR 6656 at 5-7.

⁷ See *Heckler v. Chaney*, 470 U.S. 821 (1985).

⁸ Instead, the Commission found reason to believe that Cornwell violated the Act and immediately entered into pre-probable cause negotiations with her, forgoing any investigation pursuant to section 437g(a)(2).

⁹ See, e.g., Advisory Op. 1994-32 (Gasink) (concluding that a complainant may reveal the filing of a complaint to a newspaper but may not "discuss or disclose any information relating to any notification of findings by the

matters public once they are closed, a quick check of the Commission's website can subsequently confirm whether any particular matter remains open. We see little distinction between what Anchin and Snapper did here and what complainants regularly do by publicizing their complaints with the news media or in a press release.

The Act's confidentiality provisions serve an important purpose by protecting respondents from the premature disclosure of Commission investigations. We do not, however, believe that this case is comparable to a purposeful disclosure of non-public information about an actual Commission investigation. Nor do we believe that negotiating a token civil penalty against Anchin and Snapper, who are already involved in significant legal proceedings concerning their mismanagement of Cornwell's accounts,¹⁰ would be a worthwhile use of the Commission's limited resources. Accordingly, we voted against pursuing this complaint.

4/29/14
Date

Carole C. Hunter
Caroline C. Hunter
Commissioner

4/29/14
Date

Matthew S. Petersen
Matthew S. Petersen
Commissioner

4/28/14
Date

Ellen L. Weintraub
Ellen L. Weintraub
Commissioner

Commission or any action taken by the Commission in an investigation"); MUR 3222 (McCloud) (same); MURs 3168, 3169, 3170 (Hawke) (same); MUR 2142 (National Rifle Association) (same).

¹⁰ The jury awarded Cornwell \$50.9 million in her federal lawsuit. See First General Counsel's Report for MUR 6656 at 2 n.1. On March 25, 2014, the court granted the defendants' motion for a new trial. See *Cornwell Entertainment, Inc. v. Anchin, Block & Anchin LLP*, 2014 WL 1249047 (D. Mass., Mar. 25, 2014). Snapper pleaded guilty to causing a political committee to file materially false reports with the Commission, a felony violation of 18 U.S.C. §§ 2 and 1001. First General Counsel's Report for MUR 6656 at 2 n.5.

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