

OFFICE OF
GENERAL COUNSEL**BEFORE THE
FEDERAL ELECTION COMMISSION**

2023 JUN -6 PM 12: 54

Tiffany Muller
End Citizens United
PO Box 66005
Washington, DC 20035

Complainant,

v.

Senator Timothy E. Scott
1405 Ashley River RD
Charleston, SC 29407-5305

Respondent.

MUR #

8142**COMPLAINT**

This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) against Senator Timothy E. Scott (“Respondent”) for apparently failing to timely file his Statement of Candidacy with the Federal Election Commission (“FEC” or “Commission”) within fifteen days of deciding to run for federal office and raising or spending \$5,000 in support of his candidacy.¹ On April 30, 2023, Senator Scott announced that there would be an event on May 22, 2023 in North Charleston, South Carolina, to “take the final step,” alluding to running for president.² He filed his Form 2 Statement of Candidacy on May 19, 2023.³ The law sets a clear deadline because timely filing of this form serves a vital public interest of notifying the public of which candidates have begun raising and spending money to seek a position of public trust. Failure to meet this deadline undermines that important interest, and the Commission should take such failures seriously.

¹ See 52 U.S.C. 30102(e)(1); 11 C.F.R. § 101.1(a).

² Sen. Tim Scott, @votetimscott <https://twitter.com/votetimscott/status/1652786045472088066> (April 30, 2023 at 5:24 P.M.).

³ See Timothy E. Scott, FEC Form 2 Statement of Candidacy, (May 19, 2023), <https://docquery.fec.gov/pdf/862/202305199581555862/202305199581555862.pdf>.

FACTUAL BACKGROUND

Senator Tim Scott began exploring a presidential run in February 2023, which included traveling to Iowa and hosting events.⁴ On April 15, 2023, he renamed his Senate Campaign Committee the “Tim Scott Presidential Exploratory Committee” and informed the Commission that he was no longer a candidate for Senate in 2028.⁵ On April 30, 2023, Senator Scott told attendees at a Tim Scott-branded rally, “On May the 22nd, in North Charleston, South Carolina, it is time to take the final step. Please, tell your friends, be in attendance, North Charleston, more details coming your way, we will have a major announcement—you’re gonna want to be there.”⁶ He filed his Form 2 Statement of Candidacy on May 19, 2023.⁷

LEGAL ANALYSIS

An individual becomes a “candidate” for purposes of the Federal Election Campaign Act of 1971, as amended (the “Act”) upon receiving contributions or making expenditures in excess of \$5,000 to influence their election for federal office.⁸ Such individuals must file a Statement of Candidacy within fifteen days of meeting the threshold for becoming a “candidate.”⁹

Although there is an exemption under Commission regulations for persons who are raising and spending money only to “test the waters” for a potential candidacy,¹⁰ the exemption

⁴ See Natalie Allison, *Tim Scott files paperwork to run for president*, Politico (May 19, 2023 at 11:44 A.M.), <https://www.politico.com/news/2023/05/19/tim-scott-2024-presidential-race-00097878>.

⁵ Tim Scott Presidential Exploratory Committee, FEC Form 1 (April 15, 2023), <https://docquery.fec.gov/pdf/510/202304159580860510/202304159580860510.pdf>; Tim Scott Presidential Exploratory Committee, FEC Form 99 (April 15, 2023), <https://docquery.fec.gov/pdf/131/202304159580866131/202304159580866131.pdf>.

⁶ Sen. Tim Scott, @votetimsconfig <https://twitter.com/votetimsconfig/status/1652786045472088066> (April 30, 2023 at 5:24 P.M.).

⁷ See Timothy E. Scott, FEC Form 2 Statement of Candidacy, (May 19, 2023), <https://docquery.fec.gov/pdf/862/202305199581555862/202305199581555862.pdf>.

⁸ See 52 U.S.C. § 30101(2); 11 C.F.R. § 100.3.

⁹ 52 U.S.C. 30102(e)(1); 11 C.F.R. § 101.1(a).

¹⁰ 11 C.F.R. §§ 100.72, .131.

is not available to individuals who have already made a private decision to become candidates.¹¹ Once someone “has moved beyond the deliberative process of deciding to become a candidate, and into the process of planning and scheduling public activities designed to heighten his political appeal to the electorate, then . . . the activity would cease to be within the exemption, and candidacy would arise.”¹² Thus, if an individual has made the private decision to become a candidate, his deadline to file his Statement of Candidacy is 15 days from when he crosses the \$5,000 threshold.¹³ A contract to make an expenditure counts towards the \$5,000 threshold.¹⁴

It is evident from Senator Scott’s announcement of a “final step” in his exploratory campaign that he made a decision to become a candidate for president on or before April 30, 2023. He likely raised or spent more than \$5,000 on or before that date in order to secure the logistics for his May 22, 2023 rally in order to be able to announce it publicly. Thus, his deadline to file his Statement of Candidacy was likely May 15, 2023—a deadline he missed when he filed the Statement of Candidacy on May 19.¹⁵

REQUESTED ACTION

The Commission should investigate whether Respondent failed to meet his Form 2 deadline as required by federal law. If Senator Scott is found to have violated federal law, we respectfully request that the Commission fine him the maximum amount permitted by law in order to discourage him and others from disregarding their obligations to public disclosure.

¹¹ *Id.* § 100.131(b); *see also id.* § 100.72(b); FEC Matter Under Review 5363 (Sharpton), Factual and Legal Analysis; FEC Matter Under Review 6449 (Bruning), Factual and Legal Analysis (stating that candidacy is triggered when “a private decision to become a candidate has been made.”); *see also* FEC Matter Under Review 5693 (Aronsohn), General Counsel’s Report #2 (“The determining factor is whether the individual’s activities “take on a partisan political quality [that] would indicate that a decision has been made to seek nomination for election, or election, to a Federal office”) (citing Advisory Opinion 1981-32).

¹² Advisory Opinion 1981-32 (Askew).

¹³ *See* 52 U.S.C. 30102(e)(1); 11 C.F.R. § 101.1(a).

¹⁴ 11 C.F.R. 100.112.

¹⁵ *See* Timothy E. Scott, FEC Form 2 Statement of Candidacy, (May 19, 2023), <https://docquery.fec.gov/pdf/862/202305199581555862/202305199581555862.pdf>.

Sincerely,



Tiffany Muller
End Citizens United
PO Box 66005
Washington, DC 20035

SUBSCRIBED AND SWORN to before me this 22nd day of May 2023.

Mark Andrews

Notary Public

My Commission Expires:

MARK ANDREWS
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires July 14, 2024

