FEDERAL ELECTION COMMISSION
Washington, DC 20463

Toner

SENSITIVE

MEMORANDUM

TO: Commissioners
Staff Director
General Counsel

FROM: Office of the Commission Secretary

DATE: September 22, 2005

SUBJECT: (WITHDRAWN AND RESUBMITTED)

Statement of Reasons MUR 5523 by
Chairman Scott E. Thomas
Vice-Chairman Michael E. Toner
Commissioner David M. Mason
Commissioner Danny L. McDonald
Commissioner Ellen L. Weintraub

The attached document is being circulated for a 48-hour review prior to public release. Absent objection, the Office of General Counsel will include this statement in the public record file in this case.

cc: Vincent Convery

Attachment

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

MUR 5523

Local 12, United Assoc. Plumbers
& Gasfitters Bldg. Corp.

STATEMENT OF REASONS

This matter involves allegations that Local 12, United Assoc. Plumbers & Gasfitters Bldg. Corp. ("Plumbers Local 12"), advocated the election of Democratic presidential candidate John Kerry and solicited contributions for his campaign to the general public through its website in violation of section 441b of the Federal Election Campaign Act of 1971, as amended ("the Act"). It was also alleged that the Plumbers Local 12 web-based solicitation failed to include a disclaimer in violation of 2 U.S.C. § 441d.

The Office of General Counsel initially recommended that the Commission find reason to believe that Plumbers Local 12 violated 2 U.S.C. § 441b by making express advocacy communications and soliciting contributions to a federal candidate from the general public via its website homepage, but take no further action and send an admonishment letter. The General Counsel also recommended that the Commission find no reason to believe that Plumbers Local 12 violated 2 U.S.C. § 441d because Plumbers Local 12 was not required to include a disclaimer on its website under the Commission's regulations.

The website's relatively small amount of traffic and the respondent's prompt removal of the material in question suggest that the impact of the apparent violation was minimal and that the expenditures associated with these express advocacy and solicitation website communications were negligible. Therefore, the Commission as a matter of prosecutorial discretion in the proper ordering of its priorities and resources voted 6-0 to dismiss the matter as to Plumbers Local 12, and close the file. *See Heckler v. Chaney*, 470 U.S. 821 (1985). *See also* MUR 5491 (Jerry Falwell Ministries, Inc. and The Liberty Alliance, Inc.) and MURS 5474 and 5539 (Dog Eat Dog Films, Westside LLC, et al.).

9/21/05
Date

Scott E. Thomas
Chairman

9/21/05
Date

Michael E. Toner
Vice-Chairman

9/21/05
Date

David M. Mason
Commissioner

09-22-05
Date

Danny L. McDonald
Commissioner

9/21/05
Date

Ellen L. Weintraub
Commissioner