



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

2010 APR 30 A 8:53

SENSITIVE

MEMORANDUM

April 27, 2010

TO: The Commission

THROUGH: Alec Palmer
Acting Staff Director *AP*

FROM: Patricia Carmona *PC*
Chief Compliance Officer

Lynn M. Fraser *LMF*
Director, ADR Office

SUBJECT: ADR 540 McGroarty for Congress and Adam Hoover, Treasurer
Recommendation to Dismiss¹

The Office of General Counsel (OGC) referred MUR 6259, and the ADR Office designated the matter as ADR 540. We have included a summary and discussion of the matter for your information.

Summary of Case: Complainant K. Wilson alleges that McGroarty for Congress and Adam Hoover, Treasurer (Respondents or the Committee) accepted corporate contributions and spent funds raised for the General Election prior to the Primary Election, in violation of the Federal Election Campaign Act, as amended (FECA). This matter should be dismissed due to the fact that the amount in dispute is *de minimis* and Respondents filed amended reports to correct the record.

Specifically, Complainant alleges that RetireAmerica, a corporation, provided in-kind contributions in the form of rent and services, and for the development of a web-site for the Committee. The complaint alleges that although the Committee lists the same address on its statement of organization and its 2009 October Quarterly Report as is listed for RetireAmerica and Chino Executive Offices, there are no disbursements for rent, telephone, facsimile or internet services. In addition, the complaint alleges that the Committee accepted a contribution, prior to the Primary Election, in the amount of

¹ The Office of General Counsel concurs in the description of this matter.

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\$2,400 designated for the General Election, but failed to maintain sufficient funds to refund the contribution in the event the candidate did not win the Primary Election.

Respondents contend that the Committee shares office space with the candidate's corporations, 401(k) Administrators, Inc. and RetireAmerica Corporation, as well as a family owned business Chino Executive Offices. The latter, owned by the candidate and his family in a family owned trust, is a business that administers executive offices for numerous business entities. Respondents did not realize that they were required to pay the family owned corporation for use of space, but immediately signed a lease retroactive to September 18, 2009 for \$99 per month and included a copy of the check in payment for September 18, 2009 through March 1, 2010. The lease includes office space, telephone answering and receptionist, assigned telephone number, use of conference room, and copy, fax and internet access, as well as the use of the break-room, kitchen and bathrooms.

Respondents contend that the web-site for the Committee is registered under the candidate, Lee McGroarty. The domain account number was listed under an account that includes RetireAmerica, as the candidate registered that web-site also. To err on the side of caution, the Committee separated McGroartyforcongress.com from RetireAmerica.

As for not maintaining funds sufficient to refund General Election contributions made before the Primary Election, that incorrect reporting was due to human error. The original check was drawn on an account owned by Ronald Day and Jean Day, but only contained one signature, so it was designated to the Primary Election and General Election for just the signer. The Committee communicated with the contributors, and upon their affirmation, reattributed the contribution as \$2,400 from Ronald Day and \$2,400 from Jean Day.

Respondents filed amended reports reflecting the revisions and correcting the record.

RECOMMENDATION:

- 1. Dismiss ADR 540 (MUR 6259), and close the file.**
- 2. Approve the appropriate letters.**