



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

FEDERAL ELECTION COMMISSION
SECRETARIAT
2010 NOV -3 A 11: 37

SENSITIVE

MEMORANDUM

November 3, 2010

TO: The Commission

THROUGH: Alec Palmer *AP*
Acting Staff Director

FROM: Patricia Carmona *PC*
Chief Compliance Officer

Lynn M. Fraser *LMF*
Director, ADR Office

BY: Krista J. Roche *KJR*
Assistant Director, ADR Office

SUBJECT: ADR 550 Gibbs for Congress and Jody Gibbs, Treasurer
Recommendation to Dismiss¹

The Office of General Counsel (OGC) referred MUR 6360 on October 19, 2010, and the ADR Office designated the matter as ADR 550. We include a summary and discussion of the matter for your information. Copies of the complaint and response, as well as the EPS report, are in the voting ballots folder.

Summary and Analysis of Case:

The ADR Office recommends this matter be dismissed due to the *de minimis* amount of the apparent violation (i.e., \$52) and the uncertainty that a violation actually occurred.

On August 17, 2010, Zack Space for Congress Committee filed a complaint against Gibbs for Congress and Jody Gibbs, Treasurer, (Respondents) alleging that the campaign accepted an excessive contribution from campaign staffer Dallas Gerber because Respondents' July 2010 Quarterly Report disclosed a general election contribution of \$3,452 described as "In-kind: Mileage."

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

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Respondents contend that upon consultation with a campaign finance analyst at the Federal Election Commission (FEC), they amended their July 2010 Quarterly Report on August 30, 2010, to disclose \$2,400 as the accurate amount of the in-kind general election contribution for mileage. The Reports Analysis Division has no record of this communication.

Pursuant to 2 U.S.C. §441(a)(1), an individual may not contribute in excess of \$2,400 per election to a candidate for federal office. However, 11 C.F.R. § 100.79 provides that \$1,000 of travel reimbursement expenses are exempt from the contribution limit per election. Therefore, an in-kind contribution of mileage totaling \$3,400 per election would be permissible.

Accordingly, the maximum amount in violation in this matter is \$52. Additional research and investigation would be required to determine the content of the consultation Respondents claim they received from the FEC as well as the details of the allegedly excessive contribution that might serve as a basis for the reported amendment. However, based on the *de minimis* amount of the apparent violation in this matter, the ADR Office recommends dismissal without any further expenditure of Commission resources.

RECOMMENDATION:

- 1. Dismiss ADR 550 (MUR 6360), and close the file.**
- 2. Approve the appropriate letters.**

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