



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA FEDERAL EXPRESS

November 18, 2010

Brian G. Svoboda, Esq.
PERKINS COIE
607 Fourteenth Street N.W.
Washington, DC 20005-2011

Re: ADR 550 (MUR 6360)

Dear Mr. Svoboda:

On August 23, 2010, the Federal Election Commission (FEC/Commission) received your complaint on behalf of your client, Zack Space for Congress Committee, alleging certain violations of the Federal Election Campaign Act of 1971, as amended.

After considering the circumstances of this matter, the Commission determined to exercise its prosecutorial discretion and take no action against the Respondents, Gibbs for Congress and Jody Gibbs, Treasurer. In its memorandum to the Commission, dated November 3, 2010, this office stated:

Summary:

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."

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

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election. Therefore, an in-kind contribution of mileage totaling \$3,400 per election would be permissible.

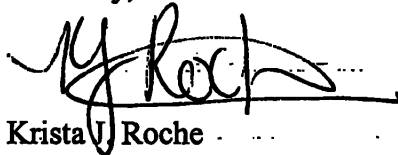
Accordingly, the maximum amount in violation in this matter is \$52. Additional research and investigation would be required to determine the content of the consultation Respondents claim they received from the FEC as well as the details of the allegedly excessive contribution that might serve as a basis 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.

Accordingly, the Commission closed its file in this matter on November 18, 2010.

The FEC is obligated by federal regulations to make a finding to terminate its proceedings public, as well as the basis therefore. 11 C.F.R. § 111.20(b). In addition, the Commission will also place on the record copies of the complaint, correspondence exchanged between Respondents and the Commission, and reports prepared for the Commission by this office to assist in its consideration of this matter. Accordingly, copies of documents relative to this matter will be forwarded shortly to the FEC's Public Information Office.

The Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Sincerely,



Krista J. Roche
Assistant Director
Alternative Dispute Resolution Office