



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 28, 2019

Farrah N. Khan for Irvine City Council 2018
P.O. Box 60281
Irvine, CA 92602

Re: ADR 899 (MUR 7526)

Dear Ms. Khan:

On October 26, 2018, the Federal Election Commission (FEC/Commission) received a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and take no action against the Respondents, Katie Porter for Congress, et al. In its memorandum to the Commission, dated May 8, 2019, this office stated:

Summary and Analysis of Case: On October 26, 2018, Parrisa Yazdani filed a Complaint alleging that she received a mail piece from Abraham Ghorbanian referencing one federal candidate committee, Katie Porter for Congress, and two non-federal candidate committees, Farrah N. Khan for Irvine City Council 2018 and Ed Pope for Mayor of Irvine 2018. The Complaint contends that the mailer lacked the proper disclaimer; that disclosure reports were not filed; that if funds were pooled from multiple individuals the group should have filed as a political committee; that the sender may have coordinated with the candidates on the mail piece resulting in an excessive in-kind contribution; and that the mailer may have resulted in a prohibited corporate contribution if the funds were from Dr. Ghorbanian's dental practice, Avin Dental, Inc. The Complaint provides the usage of Dr. Ghorbanian's dental practice address on the mailer as evidence to support these contentions.

In a response from Abraham Ghorbanian, dated November 13, 2018, Dr. Ghorbanian denies coordinating the mailer with the candidates and indicates that he used his personal funds to pay for the communication. He states that he "had no contact with the three mentioned individuals or anyone from their campaign committees." He further states in his response that "no candidate or political party has had any input regarding the content of my postcard." The text of the mailer itself reads that "no political party has helped me with the cost of this mailer." Along with his response, Dr. Ghorbanian provides a copy of the personal check he used to pay for the mailer and states that he used the return address of his dental practice rather than his

residence for security and privacy reasons. Dr. Ghorbanian also provides a copy of the Form 5, dated October 31, 2018, disclosing the independent expenditure. He indicates that he was inexperienced in political activity and unaware of the legal requirements, and further states that after he received the Complaint he consulted with counsel experienced in election law to receive guidance on compliance.

In a response dated December 6, 2018, counsel for the Katie Porter for Congress and Alexander Warren, Treasurer, (the Committee) states that the "Committee had no contact with Dr. Ghorbanian and did not coordinate the mailer with him." The Committee states it had no knowledge of the mailer and indicates that there are no facts contained in the Complaint to support the allegations that coordination occurred or that an in-kind contribution was received.

Several of the allegations in the Complaint are unsubstantiated. Based on the facts contained in the Complaint and the responses, there is no indication that the sender coordinated with any candidate on the mail piece. In addition, Dr. Ghorbanian's response plus the copy of his personal check refute the allegations that the mailer constitutes a prohibited corporate contribution or that funds were pooled from multiple individuals.

However, the 24-Hour Report for this communication was filed ten days late¹ on November 1, 2018. Further, the mailer did not contain the required disclaimer² that adequately identified the payor and provided notice that no candidate or candidate's committee authorized the communication. Due to Respondent Ghorbanian's inexperience with federal campaign finance laws, the fact that the disclosure report was filed prior to the election, and the fact that information contained in the body of the mailer identifies Dr. Ghorbanian and indicates that no political party paid for the mailer, the ADR Office recommends that the Commission exercise prosecutorial discretion and dismiss the matter. *Heckler v. Chaney* 470 U.S. 821 (1985).

Accordingly, the Commission closed its file in this matter on May 23, 2019.

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. 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 52 U.S.C. § 30109(a)(8).

¹ 52 U.S.C. § 30104(g)(1); 11 C.F.R. § 109.10.

² 52 U.S.C. § 30120; 11 C.F.R. § 110.11(b)(3).

Sincerely,

Krista J. Roche

Krista J. Roche, Director
Alternative Dispute Resolution Office

10-100M-1N15101