



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

In the Matter of

Orange County Democratic Central Committee
and Christopher Carnes, as treasurer

)
) MURs 4389 and 4652
)
)

STATEMENT OF REASONS

On August 17, 1999, the Federal Election Commission considered the General Counsel's recommendation to find probable cause to believe that the Orange County Democratic Central Committee and Christopher Carnes, as treasurer ("the Committee") violated 2 U.S.C. §§ 433(a), 434(a), 441a(a)(1)(A), and 441d(a). Given the circumstances of this matter, the Commission instead decided by a 5-0 vote to take no further action against the Committee and close the file.

This matter was initiated by a *sua sponte* submission received from the Committee on May 20, 1996 and a complaint received by the Commission on June 17, 1996 against the Committee, James Toledano, James Prince, Debra Lee LaPrade, and Paul LaPrade. Prior to the March 26, 1996 primary election in California's 46th Congressional District, Mr. Toledano, the Committee's chairman, received a contribution check for \$10,000 made payable to the Committee. Mr. Toledano did not forward the \$10,000 check to the treasurer of the Committee as required by 2 U.S.C. § 432(b). Rather, he deposited the check into an account at a bank where the Committee may have done business at an earlier time. He opened the account in the name of the Committee, but set up the account with his as the sole required signature. Shortly before the March 26, 1996 primary election, Mr. Toledano used the \$10,000 contribution to produce and distribute a mailer to voters in the district. The mailer communicated the Committee's purported endorsement of Jim Prince for Congress and urged citizens to vote on election day. Mr. Toledano coordinated the creation of this mailer with the Prince campaign.

The Committee asserted that neither its treasurer nor its executive committee had authorized any mailing or expenditure of funds for such purpose. Indeed, there is no evidence in the record indicating Mr. Toledano informed the other members of the Committee's executive committee about receiving the \$10,000 contribution or his plan to use it for a mailer announcing the Committee's endorsement of Jim Prince.

Based on the actions of the Committee's own chairman, the Commission found reason to believe that the Committee made an excessive in-kind contribution to the Prince for Congress Committee in violation of 2 U.S.C. § 441a(a)(1)(A). The Commission also found reason to believe that as a result of the chairman's actions, the Committee failed to register and file periodic reports of its receipts and disbursements. 2 U.S.C. §§ 433(a) and 434(a). Moreover, the

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Commission found reason to believe the mailer which advocated the Prince candidacy did not include the appropriate disclaimer in violation of 2 U.S.C. § 441d(a).

At the probable cause to believe stage, however, the Commission decided to take no further action for several reasons. First, it appears that Mr. Toledano operated well outside the strict guidelines and by-laws of the Committee. For example, the Committee's by-laws effectively prohibit the chairman from depositing Committee funds into a new bank account or from expending those funds on his own. Article VII, Section 2.A states: "All funds obtained in the name of the County Committee . . . shall be deposited by the Treasurer in the general fund account or in appropriately designated accounts authorized by the EC [Executive committee]." Probable Cause Response Brief of Committee at 5 (May 11, 1998)(emphasis added). Likewise, Article VII, Section 3.A states: "Expenditures shall be made from County Committee funds as provided for by the authorized budget or by specific authorizations of the EC or the County Committee." *Id.*

Second, and perhaps most importantly, it appears that Mr. Toledano's actions were not only taken without the knowledge or approval of anyone else associated with the Committee, but they were actively concealed from such persons. 2 U.S.C. 432(b). Under the above circumstances, the Commission did not feel it necessary to pursue the Committee beyond the initial reason to believe finding. Accordingly, the Commission decided to take no further action with respect to the Committee.

12/16/99

Date



Scott E. Thomas
Chairman

12/16/99

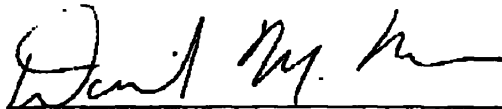
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Lee Ann Elliott
Commissioner

12/16/99

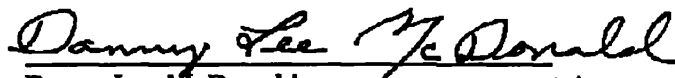
Date



David M. Mason
Commissioner

12/17/99

Date



Danny Lee McDonald
Commissioner

12/16/99

Date



Karl J. Sandstrom
Commissioner

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