



FEDERAL ELECTION COMMISSION
WASHINGTON, D C. 20463

May 25, 1999

Ho-Tien Shu
96 Worthington
Glastonbury, CT 06033-1375

RE: MUR 4682
Ho-Tien Shu

Dear Mr. Shu:

On May 11, 1999, the Federal Election Commission found reason to believe that you violated 2 U.S.C. § 441d(a)(3), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The Commission reminds you that failing to place a disclaimer on a direct mailing that solicits contributions on behalf of a Federal candidate is a violation of 2 U.S.C. § 441d(a)(3). You should take steps to ensure that this activity does not occur in the future.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

Mr. Shu
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If you have any questions, please contact Tamara K. Kapper, the staff member assigned to this matter, at (202) 694-1650.

Sincerely,



Scott E. Thomas
Chairman

Enclosures
Factual and Legal Analysis
GC Report

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FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Ho-Tien Shu

MUR: 4682

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities. *See* 2 U.S.C. § 437g(a)(2).

I. THE FACTS

On October 5, 1996, a fund-raising event was held at a private residence in Wethersfield, Connecticut, on behalf of a candidate for Federal office. The written solicitation for contributions to attend the fund-raiser requested that attendees pay \$100 per person. Ho-Tien Shu was listed as one of the co-sponsors of the event. The solicitation failed to contain a disclaimer notice indicating who paid for it and whether it was authorized by the candidate. Evidence received by the Commission indicates that the solicitation may have been mailed to as many as 300 families that belong to the the Taiwanese American Association.

II. APPLICABLE LAW

The Federal Election Campaign Act of 1971, as amended, defines the term "contribution" to include any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing an election for Federal office. 2 U.S.C. § 431(8)(A)(i). Pursuant to 2 U.S.C. § 441d(a)(3)

any person that makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a

clearly identified candidate, or solicits any contribution through any broadcasting station newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, such communication-

if not authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee.

Pursuant to 11 C.F.R. § 110.11(a)(3), "direct mailing" includes any number of substantially similar pieces of mail but does not include a mailing of one hundred pieces or less by any person. According to 11 C.F.R. § 110.11(a)(1) the disclaimer shall be "presented in a clear and conspicuous manner to give the reader . . . adequate notice of the identity of the persons who paid for and, where required, who authorized the communication." Exceptions to the disclaimer requirements include "bumper stickers, pins, buttons, pens, and similar small items upon which the disclaimer cannot be conveniently printed." 11 C.F.R. § 110.11(a)(6)(i).

III. THE ANALYSIS

Pursuant to 2 U.S.C. § 441d(a)(3), a solicitation for contributions on behalf of a Federal candidate requires a disclaimer notice. The invitation did not contain a disclaimer indicating who paid for it and whether it was authorized by the Federal candidate committee. It appears that as many as 300 copies of the solicitation were produced and directly mailed to families that belong to the Taiwanese American Association. Mr. Shu co-paid for the production and distribution of this solicitation on behalf of a Federal candidate. The solicitation should have contained a disclaimer as required by 2 U.S.C. § 441d(a). Therefore, there is reason to believe that Ho-Tien Shu violated 2 U.S.C. § 441d(a)(3).