



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4842

DATE FILMED 12/2/98 CAMERA NO. 3

CAMERAMAN EES

98043902110



**THE
KAMBER
GROUP**

The Baltimore Tower
500 South Grand Avenue
Suite 2050
Los Angeles, CA
90071-2606
(213) 486-6560
FAX (213) 486-6501
E-mail: LA@kamber.com

30 East 29th Street
Suite 200
New York, NY
10016-7925
(212) 679-4540
FAX (212) 684-0074
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**Corporate
Headquarters**

1920 L Street, NW
Suite 700
Washington, DC
20036-5004
(202) 223-8700
FAX (202) 659-5559
E-mail: DC@kamber.com

Kamber Web Site
www.kamber.com

RECEIVED
FEDERAL ELECTION
COMMISSION MAIL ROOM

JUN 1 12 49 PM '98

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF THE CLERK

JUN 2 10 49 AM '98

May 27, 1998

Federal Election Commission
999 East Street, NW
Washington DC, 90463

PreMur 363

REF: FEC # C00334706

Dear Sir/Madam,

Enclosed is a copy of a recent mailer that we prepared for our client, The Grace Flores Napolitano for Congress Committee, FEC #C00334706. The mailer, titled "Crime" was inadvertently printed with an error in the disclaimer on the front mailing panel. The error was minor, inasmuch as the disclaimer included the official committee address, FEC number, and treasurer's name, but not the Committee name. However, the Bulk Rate Indicia is a "Company Permit" that reads: PAID, Napolitano For Congress.

Our printer made the mistake after we signed off on the piece and before we received a copy of the printed version. By the time we finally received an actual live sample, it was too late and the piece was already in the mail.

Please also note that enclosed are other samples that our firm produced before and after this piece was mailed that clearly shows the disclaimer was printed in full accordance with the law.

As the Consultant on behalf of the Grace Flores Napolitano Committee, I must take full responsibility for this error.

Very truly yours,

Harvey A. Englander
Senior Vice President & Director
West Coast Operations



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 16, 1998

Harvey A. Englander
Sr. Vice President and Director
The Kamber Group
The Biltmore Tower
500 S. Grand Ave., Ste. 2050
Los Angeles, CA 90071-2606

RE: Pre-MUR 363

Dear Mr. Englander:

This is to acknowledge receipt of your letter dated May 27, 1998, advising us of a possible violation of the Federal Election Campaign Act of 1971, as amended, by the The Grace Flores Napolitano for Congress Committee and The Kamber Group. We will review the matter and notify you as soon as the Federal Election Commission takes action on your submission.

If you have any questions, please contact Jennifer H. Boyt on our toll-free number, (800)-424-9530. Our local number is (202) 694-1650. For your information, we have attached a brief description of the Commission's procedures for handling matters such as this.

Sincerely,

A handwritten signature in black ink, appearing to read "F. Andrew Turley".

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Enclosure
Procedures

98043902120



**THE
KAMBER
GROUP**

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Kamber Web Site
www.kamber.com

June 18, 1998
May 27, 1998

Ms. Jennifer Boyt
Federal Election Commission
999 East Street, NW
Washington DC, 90463

JUN 22 11 50 AM '98

REF: FEC # C00334706

MUR 4749

Dear Ms. Boyt:

Pursuant to our conversation, enclosed is a copy of a recent mailer that we prepared for our client, The Grace Flores Napolitano for Congress Committee, FEC #C00334706. The mailer, titled "Crime" was inadvertently printed with an error in the disclaimer on the front mailing panel. The error was minor, inasmuch as the disclaimer included the official committee address, FEC number, and treasurer's name, but not the Committee name. However, the Bulk Rate Indicia is a "Company Permit" that reads: PAID, Napolitano For Congress.

Our printer made the mistake after we signed off on the piece and before we received a copy of the printed version. By the time we finally received an actual live sample, it was too late and the piece was already in the mail.

Please also note that enclosed are other samples that our firm produced before and after this piece was mailed that clearly shows the disclaimer was printed in full accordance with the law.

As the Consultant on behalf of the Grace Flores Napolitano Committee, I must take full responsibility for this error.

Very truly yours,

Harvey A. Englander
Senior Vice President & Director
West Coast Operations



Grace Napolitano

*“Tougher than
3 Strikes”*

12123 E. Firestone Blvd., Norwalk, CA 90650
FEC # C00334706, Yolanda Dyer, Treasurer



Bulk Rate
U.S. Postage
PAID
Napolitano
For Congress



CRIME VICTIMS UNITED

A Non-Partisan Political Action Committee

Dear Friend:

Before we endorse a candidate, we evaluate each candidate's record and their support for victims of crime. Our endorsement of Grace Napolitano for Congress was an easy one to make.

Grace Napolitano has always made fighting crime and safer neighborhoods her first priority. That's why she strongly supported the "Three Strikes" law and supported a new law creating "Special Circumstances" for murders committed by gangs.

It's no surprise that Grace Napolitano is also law enforcement's choice for Congress. Grace supported and voted for tough laws imposing longer sentences on drive-by shooters and she's always been a supporter of the death penalty.

Grace Napolitano has always been there for crime victims and their families. She also authored a law requiring background checks for any city and county employee who comes into contact with children.

Grace Napolitano has been in the forefront of laws to thwart gangs and handgun possession by youths, in addressing domestic violence and ridding our streets of graffiti. Her leadership skills and experience, along with her energy, are desperately needed in Congress.

We hope that you will vote to elect Grace Napolitano to the U.S. Congress.

Sincerely,

Harriet Salarno, President/Chair
Crime Victims United of California

Grace Napolitano is Law Enforcement's choice for U.S. Congress



CCLCA



FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

OCT 20 4 27 PM '98

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

PRE-MUR: 363
DATE COMPLAINT FILED: 6/1/98
DATE ACTIVATED: 6/18/98

STAFF MEMBER: Seth H. Row

SOURCE: INTERNALLY GENERATED

RESPONDENTS: Napolitano for Congress and Yolanda Dyer, as treasurer

RELEVANT STATUTES: 2 U.S.C. § 441d(a)(1)
11 C.F.R. § 110.11(a)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

The Office of the General Counsel received a sua sponte submission from Harvey Englander of the Kamber Group, a consulting group, in connection with work that the Kamber Group performed on behalf of the Napolitano for Congress Committee ("the Committee"). Mr. Englander indicated that a recent mailer prepared by his group for the Committee failed to contain the required disclaimer information.

II. FACTUAL AND LEGAL ANALYSIS

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that whenever a person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits contributions through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct

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mailing, or any other type of general public political advertising, such communication, if paid for and authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication has been paid for by such authorized political committee. 2 U.S.C. § 441d(a)(1). Such a disclaimer must appear and 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. 11 C.F.R. § 110.11(a)(1). A disclaimer is not clear and conspicuous if the printing is difficult to read or if the placement is easily overlooked. 11 C.F.R. § 110.11(a)(5). Each communication that would require a disclaimer if mailed separately, that is included in a package of materials, must contain the required disclaimer. 11 C.F.R. § 110.11(a)(5)(ii).

The material prepared by the Kamber Group for the Committee and submitted with the complaint was a direct mailer. 11 C.F.R. § 110.11(a)(3) ("direct mailer" includes a mailing of any number of substantially similar pieces, over one hundred). Therefore the mailer should have contained a disclaimer. 11 C.F.R. § 110.11(a)(1). Because the mailer was paid for and authorized by the candidate's authorized political committee, the disclaimer should have indicated that the mailer was paid for by the candidate committee. 11 C.F.R. § 110.11(a)(1)(i).

The mailer did not contain an adequate disclaimer. The only information on the Committee's two page mailer that indicated who paid for any part of the associated costs was the bulk rate company permit that read "PAID, Napolitano for Congress," indicating that the Committee had paid for the postage. This printing did not state that the Committee paid for the mailer and thus did not constitute a sufficient disclaimer under Commission regulations. See 11 C.F.R. § 110.11(a). No disclaimer information at all appeared on the actual letter, which was

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the second page of the mailer. The Committee's mailing address appeared on the cover page, but did not contain the Committee's name.

In addition, because of the content of the mailing, the lack of a disclaimer on the mailer rendered the mailer misleading. Although the mailer expressly advocated the election of Grace Napolitano, see 11 C.F.R. § 100.22(a), the content of the mailer was a letter from a law enforcement organization, Crime Victims United. Without a disclaimer stating that the Committee paid for the mailer, readers of the mailer may have concluded that Crime Victims United itself had produced and paid for the mailer advocating Napolitano's election.

This mailer, rendered misleading by the lack of proper disclosure, is an example of the type of confusing communication that the Commission's regulations were designed to protect against. Given the failure to include the proper disclaimer, this Office recommends that the Commission find reason to believe that the Napolitano for Congress Committee and Yolanda Dyer, as treasurer, violated 2 U.S.C. § 441d(a)(1).

The Kamber Group, the Committee consultant that produced the mailer, states in the sua sponte submission that the disclaimer was inadvertently left off by the printer after the consultants "signed off" on the mailer. If this statement is true, then neither the Committee nor the Committee's primary vendor had an opportunity to correct the mistake. If documentation can be produced in this case showing that The Kamber Group did indeed send the mailer to the printer with the proper disclaimer, and that it was the printer who made the error, then this Office will be in a better position to recommend to the Commission what further action, if any, should be taken.

98043902126

Through informal discovery, this Office proposes to request documents from the Committee and The Kamber Group regarding the drafting of the mailer from its conception to its final layout as sent to the printer.

III. RECOMMENDATIONS


1. Open a MUR.
2. Find reason to believe that Napolitano for Congress and Yolanda Dyer, as treasurer, violated 2 U.S.C. § 441d(a)(1).
3. Approve the attached Factual and Legal Analysis.
4. Approve the appropriate letters.

Lawrence M. Noble
General Counsel

93043902127
Date

10/20/98

BY:


Lois G. Lerner
Associate General Counsel

Attachments:
Factual and Legal Analysis



FEDERAL ELECTION COMMISSION

Washington, DC 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/LISA R. DAVIS
COMMISSION SECRETARY

DATE: OCTOBER 26, 1998

SUBJECT: Pre-MUR 363 - First General Counsel's Report
dated October 20, 1998.

The above-captioned document was circulated to the Commission
on Wednesday, October 21, 1998

Objection(s) have been received from the Commissioner(s) as
indicated by the name(s) checked below:

Commissioner Elliott	<u>XXX</u>
Commissioner Mason	<u>XXX</u>
Commissioner McDonald	—
Commissioner Sandstrom	<u>XXX</u>
Commissioner Thomas	<u>XXX</u>
Commissioner Wold	—

This matter will be placed on the meeting agenda for

Tuesday, October 27, 1998.

Please notify us who will represent your Division before the Commission on this
matter.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Napolitano for Congress and) Pre-MUR 363
Yolanda Dyer, as treasurer)

MUR 4842

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on October 27, 1998, do hereby certify that the Commission decided by a vote of 4-1 to take the following actions with respect to Pre-MUR 363:

1. Open a MUR.
2. Find reason to believe that Napolitano for Congress and Yolanda Dyer, as treasurer, violated 2 U.S.C. § 441d(a)(1).
3. Approve the Factual and Legal Analysis attached to the General Counsel's October 20, 1998 report.
4. Take no further action and close the file in this matter.
5. Send appropriate letters.

Commissioners Elliott, McDonald, Sandstrom and Thomas voted affirmatively for the decision; Commissioner Mason dissented; Commissioner Wold recused himself from consideration of this matter and did not vote.

Attest:

10/27/98
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

98043902129



FEDERAL ELECTION COMMISSION
Washington, DC 20463

November 2, 1998

The Grace Flores Napolitano for Congress Committee
Yolanda Dyer, Treasurer
12123 E. Firestone Blvd.
Norwalk, CA 90650

RE: MUR 4842

Dear Ms. Dyer:

On October 27, 1998, the Federal Election Commission found reason to believe that The Grace Flores Napolitano for Congress Committee, and you, as treasurer, violated 2 U.S.C. § 441d, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission also 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. A Statement of Reasons from the Commission will follow.

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.

If you have any questions, please contact Seth H. Row, the staff member assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in dark ink, appearing to read "Scott Thomas".

Scott Thomas
Acting Chairman

Enclosure
Factual and Legal Analysis

cc: Harvey Englander, The Kamber Group

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Napolitano for Congress and MUR: 4842
Yolanda Dyer, as Treasurer

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).

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that whenever a person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits contributions through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, such communication, if paid for and authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication has been paid for by such authorized political committee. 2 U.S.C. § 441d(a)(1). Such a disclaimer must appear and 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. 11 C.F.R. § 110.11(a)(1). A disclaimer is not clear and conspicuous if the printing is difficult to read or if the placement is easily overlooked. 11 C.F.R. § 110.11(a)(5). Each communication that would require a disclaimer if mailed separately, that is included in a package of materials, must contain the required disclaimer. 11 C.F.R. § 110.11(a)(5)(ii).

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The material prepared by the Kamber Group for the Committee and submitted with the complaint was a direct mailer. 11 C.F.R. §110.11(a)(3) ("direct mailer" includes a mailing of any number of substantially similar pieces, over one hundred). Therefore the mailer should have contained a disclaimer. 11 C.F.R. §110.11(a)(1). Because the mailer was paid for and authorized by the candidate's authorized political committee, the disclaimer should have indicated that the mailer was paid for by the candidate committee. 11 C.F.R. §110.11(a)(1)(i).

The mailer did not contain an adequate disclaimer. The only information on the Committee's two page mailer that indicated who paid for any part of the associated costs was the bulk rate company permit that read "PAID, Napolitano for Congress," indicating that the Committee had paid for the postage. This printing did not state that the Committee paid for the mailer and thus did not constitute a sufficient disclaimer under Commission regulations. See 11 C.F.R. §110.11(a). No disclaimer information at all appeared on the actual letter, which was the second page of the mailer. The Committee's mailing address appeared on the cover page, but did not contain the Committee's name.

In addition, because of the content of the mailing, the lack of a disclaimer on the mailer rendered the mailer misleading. Although the mailer expressly advocated the election of Grace Napolitano, see 11 C.F.R. § 100.22(a), the content of the mailer was a letter from a law enforcement organization, Crime Victims United. Without a disclaimer stating that the Committee paid for the mailer, readers of the mailer may have concluded that Crime Victims United itself had produced and paid for the mailer advocating Napolitano's election.

This mailer, rendered misleading by the lack of proper disclosure, is an example of the type of confusing communication that the Commission's regulations were designed to protect against. Given the failure to include the proper disclaimer, the Commission finds reason to believe that the Napolitano for Congress Committee and Yolanda Dyer, as treasurer, violated 2 U.S.C. § 441d(a)(1).

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4842

DATE FILMED 12/2/98 CAMERA NO. 3

CAMERAMAN EES

90043700104



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

Date: 12/18/98

✓ Microfilm

 Press

THE ATTACHED MATERIAL IS BEING ADDED TO CLOSED MUR 4842

99.04.391.0095



FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20461

MEMORANDUM

TO: The Commissioners
Acting Staff Director
General Counsel's Noble
Press Officer Harris

FROM: Marjorie W. Emmons/Lisa R. Davis
Secretary of the Commission

DATE: December 18, 1998

SUBJECT: Statement of Reasons for MUR 4842.



Attached is copy of the Statement of Reasons for MUR 4642 signed by Acting Chairman Scott E. Thomas and Commissioner Lee Ann Elliott, Commissioner Karl Sandstrom, and Commissioner Danny Lee McDonald. This was received in the Commission Secretary's Office on Thursday, December 17, 1998 at 4:30 p.m.

Attachment

c: V. Convery, OGC

99.04.391.0096



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

In the Matter of)

MUR 4842

Napolitano for Congress)
and Yolanda Dyer, as treasurer)

STATEMENT OF REASONS

ACTING CHAIRMAN SCOTT E. THOMAS
COMMISSIONER LEE ANN ELLIOTT
COMMISSIONER KARL SANDSTROM
COMMISSIONER DANNY LEE MCDONALD

On June 1, 1998, the Office of General Counsel received a *sua sponte* submission from Harvey Englander of the Kamber Group, a consulting group, in connection with work that the Kamber Group performed on behalf of the Napolitano for Congress Committee ("the Committee"). Mr. Englander indicated that a recent mailer prepared by his group for the Committee failed to contain the proper disclaimer information.

The Office of General Counsel prepared a report and recommended that the Commission find reason to believe that the Committee violated 2 U.S.C. §441d(a)(1) by failing to include a proper disclaimer on the mailer. In its report, the Office of General Counsel noted that the Kamber Group had indicated that the disclaimer had been inadvertently left off by the printer after the consultants had "signed off" on the mailer. The General Counsel's Report recommended that the Commission request documentation from the Kamber Group and the Committee in order to ascertain the source of the failure to include a disclaimer.

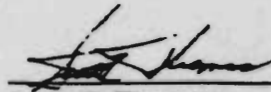
On October 27, 1998, the Commission considered the General Counsel's Report and approved the Report's recommendation to find reason to believe that the Committee had violated 2 U.S.C. §441d(a)(1). The Commission, however, rejected the recommendation to send letters to the Committee and the Kamber Group requesting

99.04.391.0097

further information in this matter. The Commission concluded that given the limited resources of the Commission, this matter did not warrant further action. In the proper ordering of its priorities and resources, the Commission voted to close the file in this matter. See Heckler v. Chaney, 470 US 821 (1985).

12/16/98

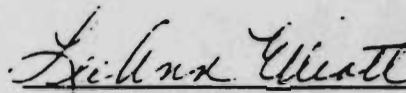
Date



Scott E. Thomas
Acting Chairman

12/15/98

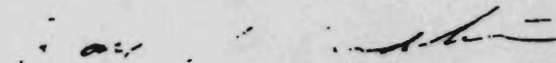
Date



Lee Ann Elliott
Commissioner

12/15/98

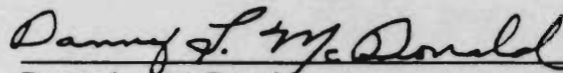
Date



Karl Sandstrom
Commissioner

12/15/98

Date



Danny Lee McDonald
Commissioner

by F3/27

8600.163.40.66



FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 18, 1998

Grace Flores Napolitano for Congress
Yolanda Dyer, Treasurer
12946 Belcher Street
Norwalk, CA 90650

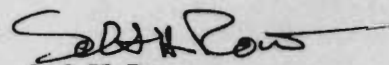
RE: MUR 4842

Dear Ms. Dyer:

Enclosed please find a Statement of Reasons from four Commissioners explaining their vote. This document will be placed on the public record as part of the file of MUR 4842.

If you have any questions, please contact me at (202) 694-1650.

Sincerely,


Seth H. Row
Attorney

Enclosure
Statement of Reasons

cc: Harvey Englander,
The Kamber Group

99-04-391-0099