



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

M.S. Stan Tomlinson, Treasurer
Marta Macias Brown for Congress
P.O. Box 1867
Colton, CA 92324

Februaury 25, 2000

RE: MUR 4973
Marta Macias Brown for Congress and
M.S. Stan Tomlinson, as treasurer.

Dear Mr. Tomlinson:

On February 15, 2000, the Federal Election Commission found that there is reason to believe that Marta Macias Brown for Congress and you, as treasurer, violated 2 U.S.C. § 441d(a), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's findings, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office along with answers to the enclosed questions within 30 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing preprobable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that preprobable cause conciliation be pursued. The Office of the General Counsel may recommend that preprobable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for preprobable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such

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21-04-403-2667

counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Tracey C. Robinson, the staff attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Darryl R. Wold
Chairman

Enclosures

Factual and Legal Analysis

Procedures

Designation of Counsel Form

Definitions and Questions

21-04-403-2668

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Marta Macias Brown for Congress MUR 4973
and M.S. Stan Tomlinson, as treasurer

I. GENERATION OF MATTER

This matter was initiated by a *sua sponte* submission filed on September 13, 1999, by Bobi Johnson, Campaign Manager for Marta Macias Brown for Congress ("Committee"). The submission advises the Commission that Marta Macias Brown for Congress campaign literature was distributed without the proper disclaimer.

II. FACTUAL AND LEGAL ANALYSIS

A. The Law

The Federal Election Campaign Act of 1971, as amended ("the Act"), provides that any person making an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through any outdoor advertising facility or any other type of general public political advertising shall clearly state that the communication has been paid for by such authorized political committee, if paid for and authorized by a candidate, an authorized political committee of a candidate, or its agents. 2 U.S.C. § 441d(a). Such a disclaimer must appear in a clear and conspicuous manner to give the reader adequate notice of the identity of the persons who paid for and authorized the communication. 11 C.F.R. § 110.11(a)(5). Each communication, if mailed separately, or 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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B. The Facts

Marta Macias Brown was a 1999 candidate for the U.S. House of Representatives from California's 42nd Congressional District where she attempted to fill the seat of her late husband, Congressman George Brown.¹ During the campaign, the Committee authorized and paid for the printing and distribution of campaign literature which expressly advocated the election of Marta Macias Brown for Congress. In the *sua sponte* submission Bobi Johnson, Campaign Manager for the Committee, states that she failed to notice the omission of the required language on the mailers prepared by the campaign's mail designer. Johnson admits that the literature was authorized and paid for by "the campaign."

C. Discussion

The literature at issue expressly advocated the election of Marta Macias Brown for Congress and should have contained a disclaimer, stating that the Committee authorized and paid for the communication. 11 C.F.R. § 110.11(a)(1).

It is clear from the submission that the mailer lacked the appropriate disclaimer. Moreover, the Committee had the opportunity to correct the mistake when it reviewed the proofs, notwithstanding that the copies were "partly shaded." Accordingly, there is reason to believe that Marta Macias Brown for Congress and M.S. Stan Tomlinson, as treasurer violated 2 U.S.C. § 441d(a).

¹ Marta Macias Brown lost the 1999 Special Election with 45 percent of the vote.

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DEFINITIONS

For the purpose of this discovery request, including the instructions thereto, the terms listed below are defined as follows:

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Vendor" shall mean any seller, dealer, distributor, merchant, or salesperson.

"Document" shall mean the original and/or accurate and complete copies, and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, electronic communications, computer print-outs, and all other writings and other data compilations, including information contained on computer disks and hard drives, from which information can be obtained.

"Campaign mailer" shall mean the printed literature expressly advocating the election of Marta Macias Brown for Congress relating to the *sua sponte* submission.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the residential, business and cellular telephone numbers and servers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Checks," if copies are provided, shall include the front and back.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and request for the production of documents any documents, materials and information which may otherwise be construed to be out of their scope.

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Questions

1. Identify all vendors that provided services of any kind to Marta Macias Brown for Congress (the "Committee") in relation to the campaign mailers. For each vendor state:
 - a) The type of service(s) provided by the vendor;
 - b) The amount paid to each vendor;
 - c) The name of the contact person the Committee dealt with in regards to the services.
2. Provide all purchase orders, invoices, bills, receipts, canceled checks or other documents that reflect, refer, relate to any of the services identified in your answers to questions 1.a) through 1.c).
3. State the number of copies of the campaign mailers that were ordered by the Committee.
4. State the number of times the campaign mailer was distributed.
5. State the number of copies mailed in each distribution.
6. Provide all drafts, paste-ups, proofs or other copies of the original campaign mailers as sent to the printer.