

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 5572
David W. Rogers; Friends of Dave)
Rogers and Christian Winthrop, in his)
official capacity as Treasurer; Rogers for)
Congress n/k/a Special Operations Fund)
and Christian Winthrop, in his official)
capacity as Treasurer)

CERTIFICATION

I, Darlene Harris, recording secretary of the Federal Election Commission executive session, do hereby certify that on February 10, 2009, the Commission took the following actions in the above-captioned matter:

1. **Failed by a vote of 3-3 to pass a motion to:**
 - a) Find probable cause to believe that David W. Rogers violated 2 U.S.C. § 439a and 11 CFR § 113.1.
 - b) Find probable cause to believe that Friends of Dave Rogers and Christian Winthrop, in his official capacity as Treasurer, violated 2 U.S.C. § 439a and 11 CFR § 113.1.
 - c) Find probable cause to believe that Rogers for Congress n/k/a Special Operations Fund and Christian Winthrop, in his official capacity as Treasurer, violated 2 U.S.C. § 439a and 11 CFR § 113.1.
 - d) Approve the proposed conciliation agreement, as recommended in General Counsel's Report #2 dated December 9, 2008.
 - e) Approve the appropriate letters.

Commissioners Bauerly, Walther and Weintraub voted affirmatively for the motion. Commissioners Hunter, McGahn II and Petersen dissented.

2. **Failed by a vote of 3-3 to pass a motion to:**

Dismiss MUR 5572 on the basis of prosecutorial discretion as outlined in Heckler v. Chaney, 470 U.S. 821 (1985).

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Commissioners Hunter, McGahn II and Petersen voted affirmatively for the motion. Commissioners Bauerly, Walther and Weintraub dissented.

3. Decided by a vote of 5-0 to:

Close the file in MUR 5572.

Commissioners Bauerly, Hunter, McGahn II, Petersen and Weintraub voted affirmatively for the decision. Commissioner Walther abstained.

Attest:

February 11, 2009
Date

Darlene Harris
Darlene Harris
Deputy Secretary of the Commission

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