

BEFORE THE FEDERAL ELECTION COMMISSION

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COMMISSION
SECRETARIAT

JUN 8 2007

2007 JUN -8 P 2: 51

In the Matter of)
)
MUR 5803)
)
COLORADANS FOR RICK ODONNELL)
)
)

CASE CLOSURE UNDER THE
ENFORCEMENT PRIORITY SYSTEM

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, matters that are low-rated
are forwarded to the Commission with a recommendation for dismissal. The
Commission has determined that pursuing low-rated matters compared to other higher rated
matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to
dismiss these cases.

The Office of General Counsel scored MUR 5803 as a low-rated matter. In this case,
the complainant states that that respondent, Coloradans for Rick O'Donnell ("Committee"),
accepted prohibited in-kind corporate contributions from the Bushell Insurance Agency in
the form of postcard invitations (to a campaign event) containing Bushell's name and the
logo of State Farm Insurance, and the use of Bushell's business mailing list. The postcards at
issue addressed the recipient as "Dear Policyholder," and contained Bushell's business
telephone number.

The Committee responded by noting that it was their understanding that two
campaign volunteers, who were inviting friends using their personal Christmas card list,
which included long time policyholders associated with the Bushell Insurance Agency,
sponsored the campaign event. At the time the campaign staff reviewed the text of the
postcard invitations the text did not contain a reference to "policy holder," and only included
the Bushells' home address and telephone number. Additionally, the campaign staff was also

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1 informed that the Bushells had purchased the postcards and stamps using their personal
2 checking account in advance of the event. Arthur Bushell stated in his affidavit, which was
3 attached to State Farm Insurance Company's response, that the list used to invite
4 policyholders to the event was derived from a customer list held by his company, Bushell,
5 Inc.

6 The Committee noted that no contributions were received at the event and the
7 Bushell's reimbursed their insurance agency \$170 for the costs of the mailings. Additionally,
8 the Committee claims that these costs were reported as in-kind contributions in the
9 Committee's October 2006 disclosure report.

10 In light of the de minimis nature of the allegations and the remedial action taken by
11 the donors in MUR 5803, and in furtherance of the Commission's priorities and resources,
12 relative to other matters pending on the Enforcement docket, the Office of General Counsel
13 believes that the Commission should exercise its prosecutorial discretion and dismiss the
14 matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

15 RECOMMENDATION

16 The Office of General Counsel recommends that the Commission dismiss MUR
17 5803, close the file effective two weeks from the date of the Commission vote, and approve
18 the appropriate letters. Closing the case as of this date will allow CELA and General Law
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1 and Advice the necessary time to prepare the closing letters and the case file for the public
2 record.

3 Thomasenia P. Duncan
4 General Counsel

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6
7 6/8/07
8 Date

9 BY:

10 Gregory R. Baker
11 Special Counsel
12 Complaints Examination
13 & Legal Administration

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15
16
17 Jeff S. Jordan
18 Supervisory Attorney
19 Complaints Examination
20 & Legal Administration

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22 Attachment:
23 Narrative in MUR 5803

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5 **MUR 5803**

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7 **Complainant:** Perlmutter for Congress and
8 Thomas M. Rogers III
9

10 **Respondents:** Coloradans for Rick O'Donnell and
11 Justin Lippard, as Treasurer
12 Arthur J. Bushell
13 Bushell Insurance Agency, Inc.
14 State Farm Investment Management Corp.
15
16

17 **Allegations:** The complainant states that that respondent, Coloradans for Rick
18 O'Donnell, accepted prohibited in-kind corporate contributions from the Bushell
19 Insurance Agency in the form of postcard invitations (to a campaign event) containing
20 Bushell's name and the logo of State Farm Insurance, and the use of Bushell's mailing
21 list. The postcards at issue referred to the recipient as a "Dear Policyholder," and
22 contained Bushell's business telephone number.
23

24 **Response:** The Coloradans for Rick O'Donnell committee responded by noting that it
25 was their understanding that the event was sponsored by two campaign volunteers who
26 were inviting friends off their personal Christmas card list, which included long time
27 policy holders associated with the Bushell Insurance Agency. At the time the campaign
28 staff reviewed the text of the postcard invitation the text did not contain a reference to
29 "policy holder," and only included the Bushells' home address and telephone number.
30 Additionally, the campaign staff was also informed that the Bushells had purchased the
31 postcards and stamps from their personal checking account in advance of the event. In an
32 affidavit submitted by Arther Bushell he admits that the list that was used to invite
33 policyholders to the event was derived from a customer list held by his company,
34 Bushell, Inc.
35

36 No contributions were received at the event and the Bushell's reimbursed their
37 insurance agency \$170 for the costs of the mailings. These costs were reported as in-kind
38 contributions in the Coloradans for Rick O'Donnell's October 2006 disclosure report.
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40 **Date complaint filed:** August 28, 2006
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42 **Response filed:** September 25, 2006 & October 13, 2006

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