

November 22, 2006

VIA FACSIMILE
VIA U.S. MAIL

Mr. Jeff S. Jordan
Supervisory Attorney
Complaints Examination & Legal Administration
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MUR 5827

Dear Mr. Jordan:

On behalf of Friends of Conrad Burns – 2006 and James Swain, as Treasurer (the “Committee”), this letter responds to the complaint filed by Montanans for Tester in the above-captioned Matter Under Review. The Committee denies any violation of the Federal Election Campaign Act of 1971, as amended (the “Act”).

The Complaint

The basis for the complaint is a debate between Senator Burns and Jon Tester on September 23, 2006. According to the complaint, the *Montana Standard*, a newspaper based in Butte, Montana, hosted the debate along with one or more co-sponsors. Resodyn Corporation was purportedly one of these sponsors, offering to contribute \$200 to the *Montana Standard* to help underwrite the costs of the debate. Exhibits A and B to the complaint indicate, however, that the newspaper may not have accepted Resodyn’s contribution.

The complaint alleges that Resodyn’s attempted contribution “may constitute illegal in-kind contributions to [Senator] Burns’s campaign.” The complaint asserts that Resodyn received a certain number of reserved seats for the debate. In the view of the complainant, Resodyn attempted to promote Senator Burns’ candidacy by giving its seats to the Senator’s supporters and providing them “stickers supporting [Senator] Burns’s re-election.”

Finally, the complaint speculates, without supporting evidence, that “it is likely that [Senator] Burns, and/or those in his campaign, knew of Resodyn’s activities to support [Senator] Burns and his campaign committee.”

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The Committee's Response

This complaint is without merit and should be dismissed. The bulk of the complaint does not even implicate the Committee. The principal allegations relate to whether Resodyn Corporation and the *Montana Standard* may have violated federal regulations applicable to staging organizations and the sponsorship of debates. See 11 C.F.R. §§ 110.13(b) & 114.4(f). Even if the complainant could establish violations of these standards, which we do not believe it can, the Committee would not be responsible.

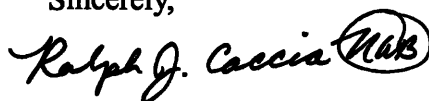
The only aspect of the complaint that alleges wrongdoing by the Committee is the unsupported claim that Senator Burns or members of his campaign "likely . . . knew of Resodyn's activities" with regard to the debate. This half-hearted assertion attempts to advance a misconceived theory that the Resodyn Corporation somehow contributed to the Committee through its activities related to the debate. As an initial matter, the complaint misstates the applicable standard for what constitutes an in-kind contribution. The Act provides that:

expenditures made by any person *in cooperation, consultation, or concert, with, or at the request or suggestion of*, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate.

2 U.S.C. § 441a(a)(7)(B)(i) (emphasis added). In any event, the Committee did not cooperate or consult with the Resodyn Corporation as to the debate in question, did not suggest or request that Resodyn take the actions it allegedly took, or even know of Resodyn's activities as to the debate. The Committee is not even aware whether Resodyn ultimately contributed to the costs of the debate.

For these reasons, the Federal Election Commission should find no basis to believe that the Committee has committed a violation of the Act and should promptly dismiss this complaint.

Sincerely,

The signature is written in cursive and includes the name "Ralph J. Caccia" followed by a circled set of initials, likely "HAB".

Ralph J. Caccia

For POWELL GOLDSTEIN LLP

RJC/

cc: James Swain