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GENERAL ELECTION
COMMISSION
SECRETARIAT

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Case, 1007
District
Scene
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In light of the de minimis nature of the allegations presented in MUR 5856 and in furtherance of the Commission's priorities and resources, relative to other matters pending on the Enforcement docket, the Office of General Counsel believes that the Commission should

exercise its prosecutorial discretion and dismiss the matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985).


RECOMMENDATION

The Office of General Counsel recommends that the Commission dismiss MUR 5856, close the file effective two weeks from the date of the Commission vote, and approve the appropriate letters. Closing the case as of this date will allow CELA and General Law and Advice the necessary time to prepare the closing letters and the case file for the public record.

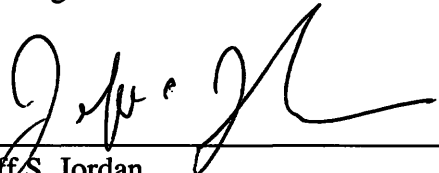
Thomasenia P. Duncan
General Counsel

6/11/07
Date


BY:



Gregory R. Baker
Special Counsel
Complaints Examination
& Legal Administration



Jeff S. Jordan
Supervisory Attorney
Complaints Examination
& Legal Administration



Kate Belinski
Attorney

Attachment:
Narrative in MUR 5856

27044171041

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4 **MUR 5856**

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6 **Complainant:** Candace Hewitt

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8 **Respondent:** Peter Kuhnert

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11 **Allegations:** Complainant alleges that Peter Kuhnert, a write-in candidate for
12 Maryland's 5th District congressional seat in the November 2006 general election,
13 deposited "offensive and obscene campaign literature" in her mailbox and failed to
14 include the appropriate candidate authorization and disclaimers. The communication in
15 question, a copy of which was attached to the complaint, consisted of a one-page flyer
16 that criticizes incumbent Congressman Steny Hoyer's position on abortion and gay
17 marriage and ends with the statement, "Send Hoyer's honchos a message—write in Pete
18 Kuhnert for Congress. He's the only pro-life and pro-marriage candidate running in
19 District 5. Please write in P. Kuhnert." The communication does not contain any
20 disclaimers or authorization language.

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22 **Response:** Peter Kuhnert states that he was a candidate for Maryland's 5th Congressional
23 seat, but that he received no contributions for his campaign, and only spent
24 approximately \$500 of his own funds on the election. He did not have a treasurer.
25 Furthermore, he claims that he did not place any of his campaign literature in anyone's
26 mailbox.

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28 **Date complaint filed:** October 23, 2006

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30 **Response filed:** November 20, 2006

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