



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Glenn M. Willard, Esq.
Patton Boggs, LLP
2550 M Street, NW
Washington, DC 20037

JUN 25 2007

RE: MUR 5867
American College of Gastroenterology

Dear Mr. Willard:

On November 2, 2006, the Federal Election Commission notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended, ("the Act"). On June 20, 2007, the Commission found, on the basis of the information in the complaint, and information provided by your client, that there is no reason to believe the American College of Gastroenterology violated 2 U.S.C. § 441b, a provision of the Act, or 11 C.F.R. § 114. Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). The Factual and Legal Analysis, which explains the Commission's findings, is enclosed for your information.

If you have any questions, please contact Audra Wassom, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Thomasenia P. Duncan
General Counsel

A handwritten signature in black ink, appearing to read "Mark D. Shonkwiler", is written over the typed name of the Assistant General Counsel.

BY: Mark D. Shonkwiler
Assistant General Counsel

Enclosure
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: American College of Gastroenterology

MUR: 5867

I. INTRODUCTION

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The complaint in this matter involved allegations that the American College of Gastroenterology ("ACG") made disbursements to sponsor a fundraiser for Senator Rick Santorum, and put up highway billboards near Philadelphia to provide political support to Senator Santorum. Although, Complainant appears to be alleging violations of 2 U.S.C. § 441b and 11 C.F.R. § 114, information provided by the Respondents leads the Commission to find no reason to believe that there has been any violation of the Federal Election Campaign Act of 1971, as amended, ("the Act") in this matter.

II. FACTS

First, Complainant alleges that ACG held a dinner program on colorectal cancer in September of 2005 and invited Senator Rick Santorum to participate. Complainant alleges that someone (who is never identified) stated he could meet the Senator at the event and that he was expected to contribute to his campaign and vote for him. Complainant claims this was "overt fundraising, expression of the candidate's position, and coercion." It is not clear if Complainant actually attended the program.

According to the response to the complaint, accompanied by the signed affidavit of Tom Fise (Executive Director of ACG from January, 1987 until October 31, 2005 and ACG's Director of Policy and Strategic Initiatives since November 1, 2005), Sen. Santorum was neither invited to nor present at the September 2005 dinner program discussed in the complaint. The Santorum campaign apparently held a separate and unrelated fundraising event that same evening in the

same hotel as the ACG conference. The response indicates that the only mention of the Santorum event at the ACG dinner was to let attendees know what time the dinner program would be completed for the convenience of anyone also planning on attending the Santorum event. The response also states that "there was no public suggestion to any attendees to participate at the event or to vote for him."

Second, Complainant alleges that ACG sponsored billboards in Philadelphia (around September of 2006) that identified and contained a picture of Sen. Santorum along with a "statement of his political position." Similar billboards were also erected in other states concerning other federal officeholders of both major political parties. The ACG billboards identified a federal officeholder (including the one identifying Santorum) with the officeholder's picture and thanked the officeholder "for [his/her] strong commitment to helping America defeat colon cancer." *See* Complaint. The billboard also stated "To learn more about Colon Cancer Screening, visit ACG's website at: www.acg-gi.org" and contained the ACG logo. There is no mention of the officeholder as a candidate or of any election.

III. ANALYSIS

The Act prohibits a corporation from making "a contribution or expenditure in connection with any election to any political office." 2 U.S.C. § 441b. The Commission's regulations also include this prohibition and provide additional guidance regarding impermissible and permissible corporate activities. *See* 11 C.F.R. § 114.

It appears from the response to the complaint and the accompanying affidavit that Sen. Santorum did not take part in the September 2005 ACG dinner, although his campaign was apparently holding an event in the same hotel. A review of the ACG and Santorum websites also

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reveal no evidence of Sen. Santorum attending an ACG sponsored dinner. The Complainant provides no details about the dinner, other than to claim that Sen. Santorum was involved. Regarding the allegation that he was told he was expected to contribute, Complainant does not state who asked him to contribute or whether the person was a representative of ACG. The Complainant, who apparently did not make a contribution to Senator Santorum, also did not provide any additional facts to support his allegations that ACG took any action to coerce him into contributing or supporting Santorum in violation of 11 C.F.R. § 114.2(f). Therefore, there does not appear to be any violation of the Act or the Commission's regulations as a result of this dinner event.

The billboards in this case contain no express advocacy (in fact no mention of the officeholder being a candidate or of any election). They simply thank the officeholder for his or her commitment to helping defeat colon cancer, and there is no evidence of coordination with any candidate regarding the content or distribution of the billboards.

Accordingly, the Commission finds no reason to believe that the American College of Gastroenterology violated the Act with respect to this matter.