



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

**SENSITIVE**

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of	)	
	)	
	)	MUR 6096
Americans for Limited Government	)	
Research Foundation, et al.	)	

**STATEMENT OF REASONS OF  
 Vice Chairman MATTHEW S. PETERSEN and  
 COMMISSIONERS CAROLINE C. HUNTER and DONALD F. MCGAHN**

In this matter, we voted to approve the Office of General Counsel's recommendation and, for the purposes of 2 U.S.C. § 437g(a)(8), attach the General Counsel's Report.

5.20.09  
 Date

*Matthew S. Petersen*  
 MATTHEW S. PETERSEN  
 Vice Chairman

*Caroline C. Hunter*  
 CAROLINE C. HUNTER  
 Commissioner

*Donald F. McGahn II*  
 DONALD F. MCGAHN II  
 Commissioner

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**BEFORE THE FEDERAL ELECTION COMMISSION**

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3 In the Matter of )  
4 )  
5 MUR 6096 )  
6 AMERICANS FOR LIMITED )  
7 GOVERNMENT RESEARCH ) **CASE CLOSURE UNDER THE**  
8 FOUNDATION ) **ENFORCEMENT PRIORITY SYSTEM**  
9 AMERICANS FOR LIMITED )  
10 GOVERNMENT, INC. )  
11 HOWARD RICH, CHAIRMAN OF )  
12 AMERICANS FOR LIMITED )  
13 GOVERNMENT )  
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**GENERAL COUNSEL'S REPORT**

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17 Under the Enforcement Priority System, matters that are low-rated \_\_\_\_\_  
18 \_\_\_\_\_ and are deemed inappropriate for review by the Alternative Dispute Resolution  
19 Office are forwarded to the Commission with a recommendation for dismissal. The  
20 Commission has determined that pursuing low-rated matters compared to other higher rated  
21 matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to  
22 dismiss these cases.

23 The Office of General Counsel scored MUR 6096 as a low-rated matter. In this case,  
24 the complainant, the Democratic Senatorial Campaign Committee ("DSCC"), contends that  
25 the respondents, Americans for Limited Government Research Foundation, Americans for  
26 Limited Government, Inc., and Howard Rich (collectively "respondents") obtained the names  
27 and addresses of donors to the Democratic Senatorial Campaign Committee from Federal  
28 Election Commission ("Commission") disclosure reports and subsequently mailed harassing  
29 letters to these individuals in violation of 2 U.S.C. § 438(a)(4). The mailings stated that the  
30 respondents had observed that the recipients of the letters were donors to a left-wing  
31 organization, and noted that the respondents had put the recipients in its database so that it

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1 could publicize the recipients' involvement with these organizations. The letters also  
2 referenced possible criminal investigations into voter fraud. The complainant contends that  
3 these actions violate the Federal Election Campaign Act, as amended, because obtaining the  
4 names and addresses from the Commission's disclosure reports was carried out for the  
5 purpose of soliciting contributions or for commercial purposes, in violation of 2 U.S.C.  
6 § 438(a)(4) and 11 C.F.R. § 104.15(a).

7 The respondents maintain that they obtained information about the recipients of the  
8 letters from "publicly available sources, including the Internet," and that any recipients who  
9 happened to also contribute to the DSCC "would not be an unusual coincidence." The  
10 respondents further state that none of "names and addresses to whom the letter was sent were  
11 gathered from any FEC reports or from reports filed with the FEC by the DSCC."

12 In light of the speculative nature of the allegations, and in furtherance of the  
13 Commission's priorities and resources, relative to other matters pending on the Enforcement  
14 docket, the Office of General Counsel believes that the Commission should exercise its  
15 prosecutorial discretion and dismiss the matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985).


16 **RECOMMENDATION**


17 The Office of General Counsel recommends that the Commission dismiss  
18 MUR 6096, close the file, and approve the appropriate letters.

19 Thomasenia P. Duncan  
20 General Counsel

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22  
23 3/10/09  
24 Date

BY:

  
\_\_\_\_\_  
25 Gregory R. Baker  
26 Special Counsel  
27 Complaints Examination  
& Legal Administration



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**Jeff S. Jordan**  
**Supervisory Attorney**  
**Complaints Examination**  
**& Legal Administration**

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