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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Informed Catholic Citizens

MUR 6137

GENERAL COUNSEL'S REPORT #2

I. ACTIONS RECOMMENDED

(1) Take no further action in this matter; (2) approve a letter of caution to Informed Catholic Citizens; and (3) close the file.

II. INTRODUCTION

This matter was generated by a complaint filed by Rebecca Kratz, which alleged that Informed Catholic Citizens ("ICC"), a Colorado-based 501(c) organization, violated the Federal Election Campaign Act of 1971, as amended, ("the Act") by making prohibited corporate expenditures for a series of recorded telephone calls that constituted express advocacy and by failing to report the cost of the calls as independent expenditures.

The Commission (1) found no reason to believe that ICC violated 2 U.S.C. § 441b; (2) found reason to believe that ICC violated 2 U.S.C. § 434(c); (3) found reason to believe that ICC violated 2 U.S.C. § 434(g); and (4) found reason to believe that ICC violated 2 U.S.C. § 441d(a). The Commission determined that one of the recorded telephone calls disseminated by ICC, the Carmody Call, contained express advocacy, and thus ICC was required to report the cost of the call as an independent expenditure and was required to include a proper disclaimer on

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1 the call. See Factual and Legal Analysis at 3-8. The Commission also authorized a limited
2 investigation to ascertain the amount spent on the Carmody Call, the timing of the calls, and the
3 number of calls made.¹ See MUR 6137 Certification dated January 19, 2011. Based on the
4 results of the investigation, we now recommend that the Commission take no further action in
5 this matter and issue a letter cautioning ICC about the requirements of the independent
6 expenditure reporting and disclaimer requirements of the Act.

7 **III. FACTUAL AND LEGAL ANALYSIS**

8 Our investigation of the Carmody Call focused on the cost, timing, and number of calls
9 made in order to determine ICC's reporting obligations. On June 8, 2011, ICC responded to our
10 informal discovery request and provided an invoice from the vendor hired to make the Carmody
11 Call. The invoice from Magellan Data and Mapping Strategies, dated October 29, 2008, states
12 that ICC paid \$2,723.92 for the production and dissemination of the Carmody Call. See ICC
13 Response Exhibit A (Attachment to this Report at 3). The invoice also states that ICC
14 disseminated the Carmody Call on October 27, 2008 and that ICC paid for 68,098 calls to be
15 made using the Carmody Call recording. *Id.*

16 Accordingly, because ICC spent over \$250 on the Carmody Call, ICC was subject to the
17 independent expenditure reporting requirements of 2 U.S.C. § 434(c). Additionally, because
18 ICC spent over \$1,000 on the Carmody Call and the call was distributed within 20 days of the
19 November 4, 2008 election, ICC was subject to the 24-hour independent expenditure reporting
20 requirements of 2 U.S.C. § 434(g). ICC did not file any independent expenditure reports.
21 Finally, because over 500 calls were made using the Carmody Call recording, ICC was required

¹ The complaint also questioned whether ICC was required to register and report with the Commission as a political committee. The Commission was equally divided on whether to find reason to believe that ICC violated 2 U.S.C. §§ 433 and 434. See MUR 6137 Certification dated January 19, 2011.

1 to include a disclaimer clearly stating that ICC paid for the communication; the address,
2 telephone number, or website address of ICC; and stating that the communication was not
3 authorized by any candidate or candidate's committee. *See* 2 U.S.C. § 441d(a). The Carmody
4 Call stated that ICC paid for the communication, but did not state the address, telephone number,
5 or website address of ICC or that the communication was not authorized by any candidate or
6 candidate's committee.

7 Due to the relatively low dollar amount spent on the production and dissemination of the
8 call, we recommend that the Commission take no further action in this matter. _____

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Due to the low dollar amount at issue, we do not believe that this matter warrants the use of additional Commission resources. Accordingly, we recommend that the Commission take no further action in this matter and close the file. However, because the investigation confirmed that ICC violated several provisions of the Act, we recommend that the Commission send a letter to caution ICC about the requirements of the independent expenditure reporting and disclaimer requirements of the Act.

IV. RECOMMENDATIONS

1. Take no further action.
2. Approve the appropriate letter of caution to Informed Catholic Citizens.
3. Close the file.

Christopher Hughey
Acting General Counsel

7-13-11
Date

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