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OFFICE OF GENERAL
COUNSEL

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March 12, 2010

Kim Collins
Federal Election Commission
999 E Street NW
Washington, DC 20463

Re: MUR 6251

Dear Ms. Collins:

On behalf of Minnick for Congress and Vern Bisterfeldt as Treasurer¹ ("Respondents"), this letter is submitted in response to the complaint filed by David E. Olson ("the Complaint") and subsequently labeled MUR no. 6251. A Designation of Counsel is attached. The Complaint asserts no facts that give rise to a reason to believe that the Federal Election Campaign Act ("the Act") has been violated. It should be immediately dismissed.

The Commission may find "reason to believe" only if a complaint sets forth sufficient specific facts which, if proven true, would "describe a violation of a statute or regulation over which the Commission has jurisdiction." 11 C.F.R. § 111.4(a), (d) (2010). The Complaint alleges that a mailing sponsored by Congressman Walt Minnick's congressional office is both a contribution to Minnick for Congress, and in violation of the Commission's disclaimer requirements. Based on the Complaint itself and its allegedly supporting documentation, both claims are without merit.

The mail in question was sent out under Congressman Minnick's frank, and all costs were paid from funds appropriated by Congress. See 39 U.S.C. § 3210(f). Because it was a mass mailing, see *id.* § 3210(a)(6)(E), it was reviewed and approved in advance by the House Commission on Congressional Mailing Standards. See 2 U.S.C. § 59e(f). The mailing would not have been approved had it solicited political support for Congressman Minnick. See 39 U.S.C. § 3210(a)(5)(C).

¹ Mr. Bisterfeldt replaced Susan Eastlake as Treasurer on March 1, 2010.

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Moreover, by its very nature the mailing cannot be, under the Act, an in-kind contribution to or expenditure by Minnick for Congress. First, it was paid for by the federal government, which is exempt from the definitions of "contribution" and "expenditure." See 2 U.S.C. § 431(8), (9), & (11). Second, it does not meet the content standard for a coordinated communication under 11 C.F.R. § 109.21(c), as it does not contain express advocacy, and it was not distributed 90 days or fewer before Congressman Minnick's election.²

Nor does the mailing have any disclaimer requirements under the Act or Commission regulations. It was not sponsored by a political committee; it does not contain express advocacy; it does not solicit contributions; and it is not an electioneering communication. See 11 C.F.R. § 110.11(a).

In short, this mailing is regulated solely by the House Commission on Congressional Mailing Standards, which approved its content. Because the Complaint does not allege any facts that would describe a violation of federal election law, Respondents respectfully request that the Complaint be immediately dismissed pursuant to 11 C.F.R. § 111.4(d).

Very truly yours,



Brian G. Svoboda
Ezra W. Reese

² The mailing was received on or before February 2, 2010 -- the date of the Complaint; the primary election in Idaho is scheduled for May 25, 2010.

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COUNSEL



FEDERAL ELECTION COMMISSION
500 E Street, NW
Washington, DC 20005

STATEMENT OF DESIGNATION OF COUNSEL
Please print name for each Representative
NAME OF REPRESENTATIVE

6251

NAME

NAME OF COUNSEL: Brian Svoboda / Ezra Reese

FIRM

Perkins Cole

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Washington, DC 20005

TELEPHONE- OFFICE (202) 628-6600

FAX (202) 434-1690

The above-named individual under firm is hereby designated as my
counsel and is authorized to receive any notifications and other communications
from the Commission and to act on my behalf before the Commission.

3-11-10
Date

Vern Bisterfeldt Treasurer
Responsible Official Signature Title

Minnick for Congress

Vern Bisterfeldt, Treasurer

RESPONSE/COMMENT
(Please Print)

MAILING ADDRESS: PO Box 306

Boise, ID 83701

TELEPHONE- HOME ()

BUSINESS ()

Information being sought in part for investigative purposes by the Federal Election
Commission and its constituent agencies of the U.S. Department of Justice. This request
includes certain provisions of the Freedom of Information Act. The Commission
has agreed within limits of the provisions of the Act.

Rev. 9/99

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