

RECEIVED
FEDERAL ELECTION
COMMISSION

2010 AUG 18 AM 9:59

CELA

CASE CLOSURE UNDER THE
ENFORCEMENT PRIORITY SYSTEM

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
MUR 6308)
Principal Campaign Committee James E Bryan)
James E Bryan, Candidate and Treasurer)

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, matters that are low-rated

are

forwarded to the Commission with a recommendation for dismissal. The Commission has determined that pursuing low-rated matters, compared to other higher-rated matters on the Enforcement docket, warrants the exercise of its prosecutorial discretion to dismiss these cases. The Office of General Counsel scored MUR 6308 as a low-rated matter.

In this matter, the complainant, Brian Tucker, alleges that James Edward Bryan is not in compliance with the reporting requirements of the Federal Election Campaign Act of 1971, as amended ("the Act"). Mr. Bryan is a write-in candidate for the 2010 First Congressional District of Florida election. Mr. Tucker bases this allegation on his belief that Principal Campaign Committee James E Bryan, Mr. Bryan's campaign committee ("the Committee"), has not "filed any reports since August of 2009 for this election cycle." In his response, Mr. Bryan states that, as of June 16, 2010, he has not raised \$5,000 and, therefore, is not "required to report until I go above \$5,000."

Under the Act, an individual becomes a candidate for federal office, triggering the Act's registration and reporting requirements, when his or her campaign exceeds \$5,000 in contributions or expenditures. 2 U.S.C. § 431(2). However, it appears that the complaint is speculative as to the nature of the potential violation. Specifically, there is no evidence

10044281137

1 submitted by the complainant supporting that Mr. Bryan has reached the \$5,000 threshold
2 triggering the reporting requirements of 2 U.S.C. § 431(2).¹ In fact, an article attached to the
3 complaint indicates that as of May 22, 2010, Mr. Bryan had raised "a little more than \$4,000 so
4 far." In addition, Mr. Bryan has denied the allegations in the complaint and his response appears
5 to be consistent with information found on the public record (i.e., news article and disclosure
6 reports).

7 Based on information in the news article, disclosure reports, and Mr. Bryan's response
8 denying the allegations, coupled with the speculative nature of the allegations, and in furtherance
9 of the Commission's priorities and resources, relative to other matters pending on the
10 Enforcement docket, the Office of General Counsel believes that the Commission should
11 exercise its prosecutorial discretion and dismiss this matter. *See Heckler v. Chaney*, 470 U.S.
12 821 (1985).

13 **RECOMMENDATIONS**

14 The Office of General Counsel recommends that the Commission dismiss MUR 6308,
15 close the file, and approve the appropriate letters.

17 Thomasenia Duncan
18 General Counsel

21 9/17/10
22 _____
23 Date

BY:



24 _____
25 Gregory R. Baker
26 Special Counsel
Complaints Examination
& Legal Administration

¹ The Committee filed Forms 1 and 2 with the Commission in March of 2010.

10044281138

19944281139

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20


Jeff S. Jordan
Supervisory Attorney
Complaints Examination
& Legal Administration
April J. Sands
Attorney