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COMMISSION

BEFORE THE FEDERAL ELECTION COMMISSION

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4 In the Matter of)

CELA)

6 MUR 6316)

7 PRIDEMORE FOR CONGRESS)

8 AND LINDA MCLAIN,)

9 AS TREASURER)

CASE CLOSURE UNDER THE
ENFORCEMENT PRIORITY
SYSTEM

10
11 GENERAL COUNSEL'S REPORT

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

13 are

14 forwarded to the Commission with a recommendation for dismissal. The Commission has
15 determined that pursuing low-rated matters, compared to other higher-rated matters on the
16 Enforcement docket, warrants the exercise of its prosecutorial discretion to dismiss these
17 cases. The Office of General Counsel scored MUR 6316 as a low-rated matter.

18 In this matter, complainant Michael Carnahan alleges that Pridemore for Congress
19 and Linda McLain, in her official capacity as treasurer ("the Committee"),¹ violated 2 U.S.C.
20 § 441d and 11 C.F.R. § 110.11, by including defective disclaimers on various campaign
21 materials, or by omitting disclaimers entirely. In support of the allegations, the complainant
22 attached to the complaint what appears to be a letter from the Pridemore campaign soliciting
23 contributions, which includes the line "Paid for by Pridemore for Congress," but lacks a box
24 surrounding the disclaimer. In addition to the letter, the complainant also appended the
25 following items: an envelope including information about making contributions, which also
26 includes the line "Paid for by Pridemore for Congress,"² but lacks a box surrounding the
27 disclaimer; two sets of flyers, one of which includes the phrase "Paid for by Pridemore for

¹ Washington State Senator Craig Pridemore was a congressional candidate from Washington's Third Congressional District.

² The complaint describes the envelope as a "resistance envelope."

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1 Congress" and another that includes the phrase "Pridemore for Congress," neither of which
2 includes a box surrounding the disclaimer; a placard from the Pridemore campaign exhorting
3 readers to "Elect Craig Pridemore for Congress," without an appropriate disclaimer; and what
4 appears to be a lapel sticker approximately three inches in width and two inches in length that
5 includes the line "Craig Pridemore for Congress, District 3, D."

6 In response, the Committee's treasurer, Linda McLain acknowledges, that in the
7 campaign's early days, the Committee made errors with respect to the disclaimers on some of
8 its campaign materials. For example, Ms. McLain notes that some of the Committee's
9 contribution remittance envelopes, such as the one provided in the complaint, refer to the
10 Washington State "Public Disclosure Commission," the entity that administers Washington's
11 campaign finance laws, by its initials "PDC."³ Ms. McLain admits that the Committee
12 initially used old remittance envelopes by mistake, but states that the Committee has
13 subsequently corrected its disclaimer errors, which she describes as "minor" and unintentional.
14 Ms. McLain also includes a Pridemore remittance envelope, which includes a reference to the
15 Federal Election Commission, using the acronym "FEC," instead of "PDC." In conclusion,
16 Ms. McLain notes that Mr. Pridemore has withdrawn from the primary election race and is in
17 the process of winding down his campaign, and requests that the Commission close this
18 matter.

19 In assessing whether the Committee was required to include disclaimers on the
20 campaign materials provided in the complaint, we note that "public communications" for
21 which an authorized committee makes expenditures must contain disclaimers clearly stating
22 that the committee paid for the communications. 11 C.F.R. §§ 110.11(a)-(c). "Public

³ The envelopes provided by the complainant include a reference to the "PDC."

1 communications," in turn, include outdoor advertising, general public political advertising, and
2 mass mailings, or mailings of more than 500 pieces of identical or substantially similar pieces
3 of mail within a 30-day period. 11 C.F.R. §§ 100.26 and 100.27. Additionally, disclaimers on
4 printed materials must be clearly readable and contained within a printed box. 11 C.F.R.
5 § 110.11(c)(2). However, disclaimers are not required on small items, such bumper stickers,
6 pins, pens, buttons, and similar small items upon which a disclaimer cannot be conveniently
7 printed. See 11 C.F.R. § 110.11(f)(1)(i).

8 With respect to the campaign materials provided by the complainant, it appears that the
9 label stickers may be exempt from the Commission's disclaimer requirements as "small items"
10 upon which disclaimers cannot be conveniently printed. *Id.*⁴ As for the remaining items,
11 assuming that the campaign letter and remittance envelope were part of a mass mailing and,
12 therefore, required disclaimers, see 11 C.F.R. § 100.27, *supra*, both pieces apparently included
13 the disclaimer "Paid for by Pridemore for Congress," but failed to surround the disclaimer with
14 a printed box, as required by 11 C.F.R. § 110.11(c)(2)(ii). In addition, as noted, the envelope
15 referred to the "PDC" instead of the "PEC." Regarding the flyers and placard, the Committee
16 apparently concedes that disclaimers might have been required. As such, the flyers that
17 included the phrase "Pridemore for Congress," instead of "Paid for by Pridemore for
18 Congress," apparently lacked an appropriate disclaimer, as did the placard, which urges that
19 Craig Pridemore be elected, but fails to state that the communication was paid for by
20 Pridemore for Congress.

21 In light of the remedial action taken by the Committee and its acknowledgement of
22 possible violations, and in furtherance of the Commission's priorities and resources, relative to

⁴ In support, we note that section 110.11(f)(1)(i) specifically lists "bumper stickers" as one of the "small items" exempted from the Commission's disclaimer requirements, and bumper stickers are typically larger than the stickers at issue here.

1 other matters pending on the Enforcement docket, the Office of General Counsel believes that
2 the Commission should exercise its prosecutorial discretion and dismiss the matter. *See*
3 *Heckler v. Chaney*, 470 U.S. 821 (1985). Additionally, this Office intends on reminding
4 Pridemore for Congress and Linda McLain, in her official capacity as treasurer, of the
5 requirements under 2 U.S.C. § 441d and 11 C.F.R. § 110.11(c)(2)(ii) concerning the use of
6 appropriate disclaimers.

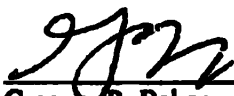
7 **RECOMMENDATIONS**

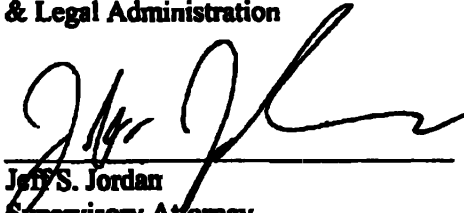
8 The Office of General Counsel recommends that the Commission dismiss MUR 6316,
9 close the file, and approve the appropriate letters. Additionally, this Office recommends
10 reminding Pridemore for Congress and Linda McLain, in her official capacity as treasurer, of
11 the requirements under 2 U.S.C. § 441d and 11 C.F.R. § 110.11(c)(2)(ii) concerning the use of
12 appropriate disclaimers.

13 Christopher Hughey
14 Acting General Counsel
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16

17
18 10/12/10
19 Date

20 BY:


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