

1 expended approximately \$39,000 during the 2009-2010 election cycle thus far;² and 3) the
2 Financial Disclosure Statement allegedly filed by Mr. Sholley with the House of
3 Representatives covering January 1, 2009 through July 31, 2009, discloses that Mr. Sholley
4 earned only \$3,000 in income during that time period. Based on the above, the complainant
5 surmises that it is possible that Mr. Sholley has been using campaign funds for personal
6 purposes in violation of 2 U.S.C. § 439a(b).

7 In response, Mr. Sholley, who replied on behalf of his Committee as well as
8 himself, denies having used any campaign funds for prohibited personal uses, and states
9 that, to the contrary, he has loaned his campaign nearly \$20,000.³ As for his income,
10 Mr. Sholley asserts that, as a widower, he receives Social Security survivor benefits and
11 that he also earns income as a horticultural consultant and as a political consultant. In
12 addition, Mr. Sholley states that during the past two years he has obtained additional funds
13 by liquidating some of his stock holdings and Individual Retirement Accounts. Finally,
14 with respect to the alleged reporting violations regarding the Committee's expenditures,
15 Mr. Sholley asserts that the actual total amounts expended were reported properly
16 (ostensibly on the Detailed Summary Pages of the Committee's reports). However, with
17 respect to the allegation that the Committee failed to itemize disbursements exceeding
18 \$200, Mr. Sholley acknowledges that, due to a "misunderstanding," the Committee "was
19 not in full compliance" with 2 U.S.C. §§ 434(b)(5) and (6). Mr. Sholley states that the

² The Committee's 2010 April Quarterly Report, the last report filed prior to the complaint, discloses that, during the 2009-2010 election cycle, the Committee raised a total of \$51,168.08 and expended a total of \$49,464.60.

³ The Committee's 2010 Pre-Primary Report discloses that Mr. Sholley has loaned his campaign a total of \$19,400 during the 2009-2010 election cycle.

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1 Committee's treasurer is in the process of amending previously-filed reports to include the
2 requisite itemization information for expenditures exceeding \$200.⁴

3 Based on the complaint and response, it does not appear that Mr. Sholley used his
4 Committee's funds for prohibited personal uses, as set forth in 2 U.S.C. § 439a(b).
5 However, while the public record reflects that the Committee reported its expenditure totals
6 on lines 17 through 22 of the Detailed Summary Pages of its financial disclosure reports, it
7 appears that the Committee failed to itemize certain expenditures exceeding \$200, as
8 required by 2 U.S.C. §§ 434(b)(5) and (6). According to Mr. Sholley, the Committee will
9 amend its reports to include itemization of expenditures, where appropriate.

10 Therefore, in light of the Committee's proposed remedial action, its recently-filed
11 reports and its original disclosure of its total expenditures, and in furtherance of the
12 Commission's priorities and resources, relative to other matters pending on the
13 Enforcement docket, the Office of General Counsel believes that the Commission should
14 exercise its prosecutorial discretion and dismiss the matter. *See Heckler v. Chaney*,
15 470 U.S. 821 (1985). Additionally, this Office intends on reminding
16 Earl Henry Sholley for Congress and Ronald A. Gengo, in his official capacity as treasurer,
17 of the requirement to itemize expenditures exceeding \$200, pursuant to 2 U.S.C.
18 §§ 434(b)(5) and (6).

19 **RECOMMENDATIONS**

20 The Office of General Counsel recommends that the Commission dismiss
21 MUR 6318, close the file, and approve the appropriate letters. Additionally, this Office
22 intends on reminding Earl Henry Sholley for Congress and Ronald A. Gengo, in his official

⁴ The Committee's 2010 July Quarterly and 2010 Pre-Primary Reports, filed subsequent to the complaint, include Schedule Bs listing itemized expenditures.

capacity as treasurer, of the requirement to itemize expenditures exceeding \$200, pursuant
to 2 U.S.C. §§ 434(b)(5) and (6).

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9/14/10
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