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BEFORE THE FEDERAL ELECTION COMMISSION

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In the Matter of

MUR 6319

VICKY HARTZLER FOR CONGRESS

AND DELBERT SCOTT, AS TREASURER

CASE CLOSURE UNDER THE
ENFORCEMENT PRIORITY SYSTEM

CELA

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 6319 as a low-rated matter.

In this matter, the complainant, Angel Leggett, alleges that Vicky Hartzler for Congress and Delbert Scott, in his official capacity as treasurer ("the Committee"),¹ violated 2 U.S.C. § 441d(a) and 11 C.F.R. §§ 110.11(a) and (b)(1) by "consistently display[ing] campaign paraphernalia," which lacked disclaimers stating who paid for the materials. Specifically, the complainant asserts that a Hartzler campaign banner, which purportedly hangs in the Committee's headquarters, lacks the requisite "'Paid By' box." Attached to the complaint, as Exhibit Pictures A and B, are what are alleged to be photographs of the banner at issue, as well as Exhibit Pictures C and D, which the complainant describes as photographs of the banner taken from candidate Vicky Hartzler's Facebook page. As pictured, the banner displays the campaign slogan "Vicky Hartzler [graphic] U.S. Congress," but does not include language stating that the Committee paid for the banner.

¹ Ms. Hartzler is a candidate in Missouri's Fourth Congressional District.

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2 In its response, the Committee acknowledges that "a single" Hartzler campaign
3 banner lacked a statement identifying who had paid for it, but asserts that it corrected the
4 omission as soon as it was brought to the Committee's attention. Attached to the response is
5 what appears to be a photograph of the banner described in the complaint, with the inclusion
6 of the statement "Paid for by Vicky Hartzler for Congress. Delbert Scott, Treasurer." In
7 addition, the Committee points out that, as the banner identified candidate Vicky Hartzler by
8 name and was displayed at the Committee's campaign headquarters and at campaign events,
9 "no reasonable person would have had any doubt as to who paid for the sign." Finally,
10 asserting that it is "well aware of the disclaimer requirements set forth by 11 C.F.R.
11 § 110.11," the Committee attaches to its response what appears to be a copy of an invitation
12 to a Hartzler campaign event, which includes the disclaimer "Paid for by Vicky Hartzler for
13 Congress." For these reasons, the Committee urges the Commission to dismiss this matter.

14 The Committee acknowledges that its campaign banner lacked a disclaimer stating
15 that the Committee had paid for the banner, as set forth in 2 U.S.C. § 441d(a) and 11 C.F.R.
16 §§ 110.11(a) and (b)(1). It appears, however, that the Committee acted swiftly to include the
17 requisite disclaimer information, which is alleged to have been omitted on only one piece of
18 campaign material. Therefore, in light of the Committee's prompt remedial action and the
19 limited scope of the alleged violation, and in furtherance of the Commission's priorities and
20 resources, relative to other matters pending on the Enforcement docket, the
21 Office of General Counsel believes that the Commission should exercise its prosecutorial
22 discretion and dismiss this matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985).
23 Additionally, this Office intends on reminding Vicky Hartzler for Congress and

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Delbert Scott, in his official capacity as treasurer, of the requirements under 2 U.S.C.
§ 441d(a) and 11 C.F.R. §§ 110.11(a) and (b)(1) concerning the use of appropriate disclaimers.

RECOMMENDATIONS

The Office of General Counsel recommends that the Commission dismiss MUR 6319,
close the file, and approve the appropriate letters. Additionally, this Office recommends
reminding Vicky Hartzler for Congress and Delbert Scott, in his official capacity as treasurer,
of the requirements under 2 U.S.C. § 441d(a) and 11 C.F.R. §§ 110.11(a) and (b)(1)
concerning the use of appropriate disclaimers.

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9/20/10
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