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BEFORE THE FEDERAL ELECTION COMMISSION

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COMMISSION

2011 MAR -7 PR 2: 46

2011 MAR -7 P 2: 51

In the Matter of

MUR 6328

ALLEGRETTI FOR CONGRESS AND

RONALD R. GRAVINO, AS TREASURER

MICHAEL ALLEGRETTI

) DISMISSAL AND CASE CLOSURE
) UNDER THE ENFORCEMENT
) PRIORITY SYSTEM

CELA

SENSITIVE

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System ("EPS"), the Commission uses formal scoring criteria to allocate its resources and decide which cases to pursue. These criteria include, but are not limited to, an assessment of (1) the gravity of the alleged violation, both with respect to the type of activity and the amount in violation, (2) the apparent impact the alleged violation may have had on the electoral process, (3) the legal complexity of issues raised in the case, (4) recent trends in potential violations of the Act, and (5) development of the law with respect to certain subject matters. It is the Commission's policy that pursuing low-rated matters, compared to other higher-rated matters on the Enforcement docket, warrants the exercise of its prosecutorial discretion to dismiss certain cases. The Office of General Counsel has scored MUR 6328 as a low-rated matter and has also determined that it should not be referred to the Alternative Dispute Resolution Office. This Office therefore recommends that the Commission exercise its prosecutorial discretion to dismiss MUR 6328.

In this matter, the complainant, Stephen Clinton, alleges that Allegretti for Congress and Ronald R. Gravino, in his official capacity as treasurer ("the Committee"), and Michael Allegretti (collectively "the respondents"), were "in direct violation of the section of election law/regulation" requiring disclaimers on campaign signs, as set forth in 2 U.S.C. § 441d(a)(1) and 11 C.F.R. §§ 110.11(a) and (b)(1). The complaint includes a photograph of what appears

1 to be an Allegretti yard sign, the text of which reads: "REPUBLICAN MICHAEL
2 ALLEGRETTI FOR CONGRESS," which does not include a disclaimer stating who had paid
3 for and authorized the sign.

4 Richard A. Zimmer, the respondents' designated counsel, filed a submission on behalf
5 of the respondents, which included an affidavit from Raymond Riley, the Committee's
6 campaign manager. The response acknowledges that proper disclaimers had been left off a
7 single order of 500 yard signs, but asserts that the omission was "a single isolated mistake" by
8 an inexperienced campaign staffer. After the omission was discovered the Committee took
9 remedial action by printing disclaimer stickers containing the phrase "Paid for by Allegretti for
10 Congress, Inc.,"¹ which were then affixed to the remaining signs in the Committee's
11 headquarters, as well as to "any surviving lawn signs that [did] not contain the disclaimer."
12 The respondents also state that every other public communication by the campaign included
13 the disclaimer "Paid for by Allegretti for Congress, Inc." Enclosed with the response are
14 photocopies of campaign signs that include the requisite disclaimers.

15 Political committee campaign materials that require disclaimers include, *inter alia*,
16 yard signs, *see* 2 U.S.C. § 441d(a); *see also* 11 C.F.R. § 110.11(a). The respondents have
17 conceded that disclaimers were necessary, and have indicated that the Committee made efforts
18 to remedy the initial absence of disclaimers by ordering new signs containing proper
19 disclaimers and affixing disclaimer stickers to the yard signs at issue.

20 Although the single order of 500 yard signs lacked the appropriate disclaimers, the
21 scope of the violation appears to be limited to this initial order of yard signs and the omission
22 was corrected once it was brought to the Committee's attention. Accordingly, under EPS, the

¹ According to the Committee's Statement of Organization, its name is "Allegretti for Congress." The abbreviation "Inc." is not included. The Committee does not address this discrepancy.


Office of General Counsel has scored MUR 6328 as a low-rated matter and therefore, in furtherance of the Commission's priorities, as discussed above, the Office of General Counsel believes that the Commission should exercise its prosecutorial discretion and dismiss this matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985). Additionally, this Office recommends that the Commission remind Allegretti for Congress and Ronald R. Gravino, 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 6328, close the file, and approve the appropriate letters. Additionally, this Office recommends that the Commission remind Allegretti for Congress and Ronald R. Gravino, 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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3/7/11
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