

August 4, 2010

Thomasena Duncan, Esquire
General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

MUR # 6343

OFFICE OF GENERAL
COUNSEL

2010 AUG -5 PM 3:46

RECEIVED
FEDERAL ELECTION
COMMISSION

Re Michael McMahon and Mike McMahon for Congress

Dear Ms Duncan

Pursuant to 2 USC § 437g(a)(1) and 11 CFR § 111.4, please accept this letter as a Complaint against Michael McMahon ("McMahon") and Mike McMahon for Congress ("the Committee") for operating in violation of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Federal Election Commission ("FEC" or "Commission") regulations, and more specifically, for violation of the prohibition on using information gathered from FEC reports for the purpose of soliciting funds, as set forth in 11 CFR §104.15

I State

Mike McMahon for Congress is the authorized principal campaign committee for Michael McMahon, a U S Representative running for re-election in New York's 13th Congressional District. The Committee filed an FEC Form 1 Statement of Organization on January 31, 2010 for the 2010 general election, and filed amended versions of that FEC Form 1 Statement of Organization on January 31, 2010 and April 17, 2010. McMahon filed his FEC Form 2 Statement of Candidacy with the Commission on January 31, 2010.

On August 3, 2010, an article, entitled "Fred arde in 'Jewish money' flap speaks", was posted on Politico.com in a column called Maggie Haberman on New York ("the Article"). As of the date of this Complaint, the Article is available at <http://www.politico.com/blogs/magiehaberman>. See Attachment 1. In the Article, former aide to Rep. Mike McMahon, Jennifer Nelson ("Nelson"), references lists of donors who made contributions to Michael Grimm ("Grimm"). Grimm is a candidate for the U S House of Representatives, also running to represent New York's 13th Congressional District.

In the Article, Nelson is quoted as saying that the "purpose [of putting the lists together] was an analysis of potentially poachable donors from McMahon's rivals after the second quarter fundraising filings came out." It is important to note that Nelson specifies in the Article that McMahon and the Committee made the lists in question using names of individuals disclosed on the second quarter filings Grimm submitted to the FEC. Nelson continues to state that the purpose of the list was "to identify specific voters that the congressman could reach out to via email or phone call or letter to discuss issues of importance to them and having [sic] them contribute money to his campaign." See Attachment 1 (emphasis added).

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II Relevant Law

The Act prohibits use of the names and contact information of individual contributors, copied from FEC reports, for the purpose of soliciting funds, including political contributions. See 11 CFR §104.15. In FEC Advisory Opinion 2003-24, the Commission noted that Congress so limited the way the information could be used in order to protect the privacy of those who choose to make a contribution to a campaign or political party.

III Legal Analysis

In the Article, Jennifer Nelson clearly states that Michael McMahon and the Committee compiled lists of donors disclosed on Grimm's FEC reports filed second quarter of 2010 in order to identify donors "that the congressman could reach out to via email or phone call or letter to discuss issues of importance to them and having [sic] these contribute money to his campaign." See Attachment 1 (emphasis added). This is exactly the type of activity that is explicitly prohibited by the Act and FEC regulations. Michael McMahon and the Committee explicitly and admittedly violated federal law and the privacy rights of individuals by pulling the names of donors to Michael Grimm from Grimm's second quarter FEC reports and soliciting those individuals for contributions.

IV Conclusion

Upon information and belief, and based upon the facts relayed herein, Michael McMahon and Mike McMahon for Congress have violated the Federal Election Campaign Act of 1971, as amended, and Federal Election Commission Regulations. Accordingly, we respectfully request that the Commission conduct an immediate investigation into the violations outlined above and impose the maximum penalty under law.

The foregoing is correct and accurate to the best of my knowledge, information and belief.

Respectfully submitted,


Brendan Lantry

Staten Island, NY 10312

Sworn to and subscribed before me this 4th day of August, 2010

JAMES A. RICE
Notary Public, State of New York
ID #0186107928
Qualified in Richmond County
My Commission Expires April 12, 2012


Notary Public

My Commission Expires

Attachment 1

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FEB 10 10:10
COMMUNICATION

2010 AUG 05 AM 11:11

MAGGIE HABERMAN

On New York

August 03, 2010

Categories
Congress

Fired aide in 'Jewish money' flap speaks

The spokeswoman for Rep. Mike McMahon who was fired last week for giving a reporter a breakdown of a rival's "Jewish money" told POLITICO the document was one of several put together internally as part of an effort to identify potential supporters the congressman could reach out to and woo his way.

The aide, Jennifer Nelson, said she was not instructed by campaign officials to highlight for a New York Observer reporter Republican Michael Grimm's Jewish donors, and that the goal was to discuss his out-of-district money, a topic she said McMahon had been heavily focused on.

She said that list was one of many on her desk, and wasn't cleared to give it, although she also wasn't told not to. But she said she used it to illustrate out-of-town donations, not how many Jewish donors Grimm had.

The Observer quoted her saying, "Where is Grimm's money coming from," and, "There is a lot of Jewish money, a lot of money from people in Florida and Manhattan, retirees."

She told the weekly that McMahon's finance director is Jewish and had compiled the list.

Nelson said the lists were put together after a discussion involving the congressman's chief of

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staff in his Washington office, Chris McConnell, and done after a conference call with him, the campaign finance team and others.

But she said the purpose was an analysis of potentially poachable donors from McMahon's rivals after the second quarter fundraising filings came out, and had nothing to do with segregating out people by ethnicity or race.

It remains unclear why it didn't occur to anyone internally that the label "Jewish money" might be sensitive -- the phrase is considered offensive by many Jews. However, it seems clear the document wasn't intended for public consumption.

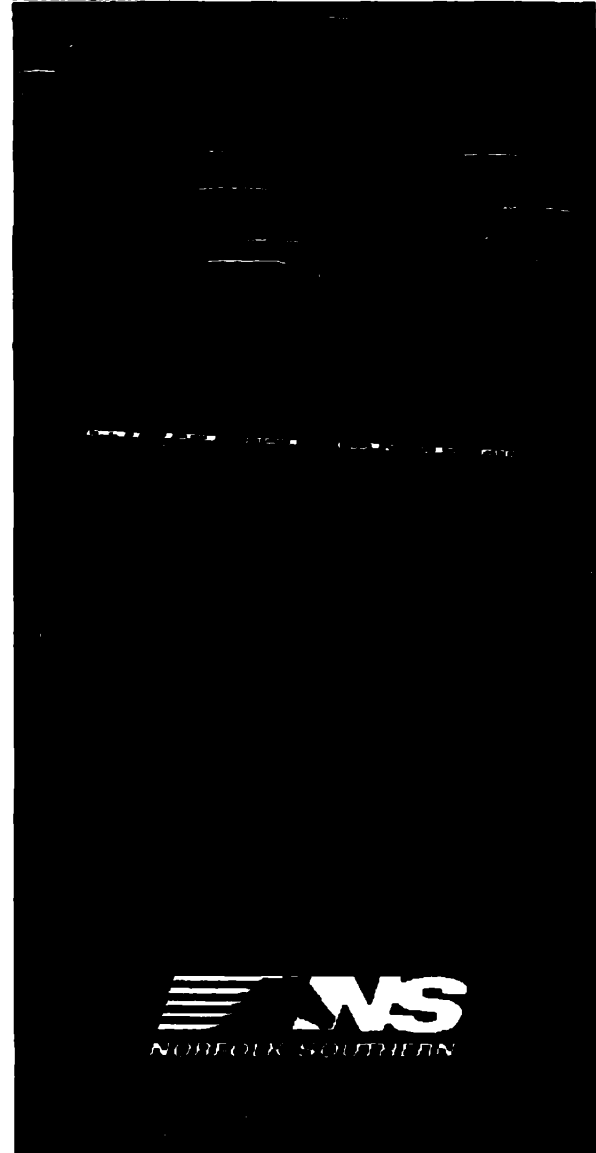
Asked in comment, Jonathan Yasim, McMahon's campaign manager, did not address what Nelson said about the existence of the list.

"Mr. Nelson's actions and statements were unauthorized, inappropriate and not reflective of the congressman or his staff," he said in a statement. "Congressman McMahon apologized for his behavior and took necessary action to terminate her employment with the campaign. However, this election isn't about Jon Nelson, it's about how best to create jobs, grow our economy, and represent the people of Staten Island and Brooklyn. Mike McMahon has been staunchly independent, working with Democrats and Republicans alike to deliver real results. That's why he will be re-elected in November."

She said she didn't compile the list "or label it," and used it only to illustrate the number of out-of-town donors on that list. She said she couldn't recall whether she had told the campaign she gave it out because it wasn't the focus of her meeting with the reporter.

"It was certainly not in any way anti-Semitic or to try to stereotype any particular group," said Nelson. "It was to identify specific voters that the congressman would reach out to via email or phone call or letter to discuss issues of importance to them and having them contribute money to his campaign. It was never ever done with any malice or derogatory comments on anybody's part, including the congressman. It was never done against any ethnic group, ever."

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About McCannell, she said the impetus for creating the lists came "from the official office. I know he was on the phone call. The decision to create that list came as a result of a discussion with the finance (team). He was aware of it."

She said she couldn't say whether McMahon had seen the list.

What is certain is that many other people in the newspaper had, although, again, she insisted there was no nefarious purpose, and that while it might have been poorly labeled, the goal was a list of people McMahon could try to reach and personally reach out to.

Nelson said that Grimm's donations was the only one she had seen with that type of heading, that there were many made after analyzing both his and Republican Michael Albright's filings.

"It's commonplace in campaigns to identify people in groups either by profession or other cross-tabs, she said. "There are certainly voters, people who have contributed to the congressman in the past who now were contributing to either Mr. Grimm or Mr. Albright."

She said the goal was for McMahon to reach out and ask "did they have any issues with him, is there a reason why (they flipped) you always look for surrogates within specific communities. The congressman happens to have one of the most diverse districts in congress."

Nelson said she didn't know of other breakdowns in "exactly the same form" with that type of heading, but said, "I know that we have identified voters across ethnic groups, across occupations, across locations."

She added, "I want to make it very clear that I don't think the congressman has done anything wrong in identifying voters to reach out to and knowing him as an individual, there is never any

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has intent on his part of anyone on that campaign's part "

But she added that she was troubled by the statement the campaign put out about her when the story hit, saying, "People who don't know me are making assumptions that I'm anti-Semitic "

"It confounds me that they didn't just explain why the list existed," she said, adding that "under no circumstances" should any staffer be fired, amid ongoing calls for other people's heads to roll by Republican critics of the congressman

"I don't think I was a victim," she said "I was the one who chose to use that list to illustrate a point (about out-of-state addresses) "

"I do think that the statement that was put out by the campaign was intentionally vague and it left people with the impression that I in some way was responsible for segregating people within the district which could not be farther from the truth I would just never do that "

She added, "It was pure and simple about raising money and I will tell anyone who asks me that I don't think the congressman did anything wrong despite the fact that he released a statement that made me look like I was anti-Semitic To this day I haven't spoken to him I was not fired by the congressman, I was fired by the official chief of staff in Washington He asked me how (the reporter) got the list, I told him I gave it to him and he fired me "

She said, "I can't take back the mistakes I made in not using the right list to make my point It was more about the addresses on the list than the heading on the list That said, to issue a statement that is so open ended that has resulted in me getting phone calls at home calling me a pig and racist and my favorite was why don't you go back to 1928 with your ex-boyfriend Hitler, is just confounding to me And I've gotten many phone calls of support from people who know me "

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Posted by Maggie Haberman 09 45 AM

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