

BEFORE THE FEDERAL ELECTION COMMISSION

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COMMISSION

2011 FEB -7 AM 9: 26

In the Matter of )  
 ) MUR 6349  
Brumberg for Congress and Dr. Barry )  
Brumberg, as treasurer; David Ryan )  
Brumberg (Case Closure EPS) )

**CELA**

CERTIFICATION

I, Shawn Woodhead Werth, recording secretary of the Federal Election Commission executive session, do hereby certify that on February 01, 2011, the Commission took the following actions in the above-captioned matter:

1. Failed by a vote of 3-3 to:
  - a. Dismiss the allegation in MUR 6349 that David Brumberg, Brumberg for Congress, and Dr. Barry Brumberg, in his official capacity as treasurer, violated 2 U.S.C. § 441a(f) on the basis of prosecutorial discretion pursuant to Heckler v. Cheney, 470 U.S. 821 (1985).
  - b. Find no reason to believe that David Brumberg, Brumberg for Congress, and Dr. Barry Brumberg, in his official capacity as treasurer, violated 2 U.S.C. § 434(b).
  - c. Close the file and approve the appropriate letters.

Commissioners Bauerly, Walther, and Weintraub voted affirmatively for the motion.

Commissioners Hunter, McGahn II, and Petersen dissented.

2. Decided by a vote of 5-1 to:
  - a. Find no reason to believe that David Brumberg, Brumberg for Congress, and Dr. Barry Brumberg, in his official capacity as treasurer, violated 2 U.S.C. § 441a(f).

Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

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3. Decided by a vote of 6-0 to:

- a. Find no reason to believe that David Brumberg, Brumberg for Congress, and Dr. Barry Brumberg, in his official capacity as treasurer, violated 2 U.S.C. § 434b.
- b. Close the file and approve the appropriate letters.

Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Attest:

February 4, 2011  
Date

Shawn Woodhead Werth  
Shawn Woodhead Werth  
Secretary and Clerk of the Commission

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