

11044310030

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29

## 11

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

25

26

27

28

29

1

1 complainant asserts, after the Iowa Democratic Party “brought this discrepancy to light,” Lange’s  
2 campaign manager Cody Brown issued a press release stating that the Lange campaign had  
3 “launched its first television ad on September 30 and received an invoice outlining the expenses  
4 on October 1 . . .” and pledging that the media expenditure would be listed on the Committee’s  
5 subsequent disclosure report, the 2010 Pre-General Report. Nonetheless, according to the  
6 complainant, the Report failed to fully disclose the Committee’s \$66,264 media buy, and instead  
7 disclosed only \$60,666 for “palm cards and media.”

8 In response, the Committee acknowledges that the Lange campaign issued the press  
9 release alluded to above, but challenges the complainant’s assertion that it failed to report the full  
10 costs of its media expenditure on its 2010 Pre-General Report. To the contrary, according to the  
11 Committee, the \$60,666 figure cited by the complainant represents the full costs of the Lange  
12 media buy, plus the cost of palm cards. The Committee explains that it received a “commission  
13 discount” on the campaign advertisement, which it produced internally.<sup>2</sup> Enclosed with the  
14 response are copies of an invoice dated September 15, 2010, from “Victory Enterprises” for  
15 10,000 palm cards in the amount of \$988.51, and another invoice from the same vendor dated  
16 October 1, 2010, for various broadcast and cable television buys, for \$59,678.10, which includes  
17 a deduction of \$6,625.40 for “Commission Discount.” The Committee maintains that its payment  
18 of the two invoices, for costs totaling \$60,666.61, is reflected on its 2010 Pre-General Report, and

<sup>2</sup> The Committee suggests that the complainant’s alleged error resulted from the fact that she “failed to research the process of media buying and failed to understand the difference between a ‘net buy’ and a ‘gross buy,’ because the advertisement was produced internally. Although the Committee does not define these terms, an Internet search indicates that a “net buy” is “the actual amount paid [to] a TV station or cable network for media time. The net buy is typically 15% less than the gross buy, which reflects the commission paid [to] the agency for its media buying services.” See [http://www.pgmedia.tv/drtv\\_terminology.html](http://www.pgmedia.tv/drtv_terminology.html).

<sup>3</sup> According to its website, Victory Enterprises, Inc. is a technology communications company that provides both Internet services and political communication services. See <http://www.victoryenterprises.com/aboutm.htm>.

11044310031

1 encloses the relevant page of the report, which shows that the Committee made a disbursement in  
2 that amount to Victory Enterprises on October 1, 2010.

3 The Commission's regulations require that debts or obligations over \$500 shall be  
4 reported as of the date on which the debt or obligation is incurred, with the exception of regularly  
5 occurring expenses such as rent. 11 C.F.R. § 104.11(b); *see also* 2 U.S.C. § 434(b)(8).<sup>4</sup> If the  
6 exact amount of a debt or obligation is not known, the report shall state that the amount reported  
7 is an estimate and then the report shall be amended, if necessary. 11 C.F.R. § 104.11(b). Because  
8 the \$988.51 cost for the palm cards and at least a portion of the \$59,678.10 cost for the broadcast  
9 and cable television buys were incurred in September 2010, the Committee should have reported  
10 or estimated these costs as debts on its 2010 October Quarterly Report.<sup>5</sup>

11 Although the Committee failed to report some of the debts in a timely manner, they were  
12 ultimately reported shortly after they were incurred and before the election. Under EPS, the  
13 Commission has scored MUR 6409 as a low-rated matter. In light of the fact that the Committee  
14 reported the disbursements on its subsequent disclosure report, and in furtherance of the  
15 Commission's priorities as discussed above, the Office of General Counsel believes that the  
16 Commission should exercise its prosecutorial discretion and dismiss the matter. *See Heckler v.*  
17 *Chaney*, 470 U.S. 821 (1985). Additionally, this Office recommends that the Commission remind  
18 Lange for Congress and Greg Raymond Torgerson, in his official capacity as treasurer, of the  
19 requirements under 2 U.S.C. § 434(b)(8) and 11 C.F.R. § 104.11(b) concerning the timely  
20 reporting of campaign debts, and to amend its 2010 October Quarterly Report to properly reflect  
21 the Committee's estimated debts, as described above.

---

<sup>4</sup> Had the debt or obligation to make expenditure been in the amount of \$500 or less, this amount should have been reported as of the time payment is made or not later than 60 days after such obligation is incurred, whichever comes first. 11 C.F.R. § 104.11(b).

<sup>5</sup> The October Quarterly Report covers the reporting period from July 1 through September 30. 11 C.F.R. § 104.5(a)(1).

11044310032


**RECOMMENDATIONS**

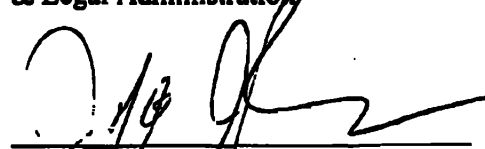
The Office of General Counsel recommends that the Commission dismiss MUR 6409, close the file, and approve the appropriate letters. Additionally, this Office recommends that the Commission remind Lange for Congress and Greg Raymond Torgerson, in his official capacity as treasurer, of the requirements under 2 U.S.C. § 434(b)(8) and 11 C.F.R. § 104.11(b) concerning the timely reporting of campaign debts and amending its 2010 October Quarterly Report.

Christopher Hughey  
Acting General Counsel

7/15/11  
Date

BY:

  
\_\_\_\_\_  
Gregory R. Baker  
Special Counsel  
Complaints Examination  
& Legal Administration

  
\_\_\_\_\_  
Jeff S. Jordan  
Supervisory Attorney  
Complaints Examination  
& Legal Administration

  
\_\_\_\_\_  
Ruth Heilizer  
Attorney

11044310033