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FEDERAL ELECTION
COMMISSION

BEFORE THE FEDERAL ELECTION COMMISSION ²⁰¹¹ MAY 27 AM 9: 53

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In the Matter of)
MUR 6419) DISMISSAL AND CASE
JOE MILLER FOR US SENATE AND) CLOSURE UNDER THE
BERNADETTE C. KOPPY, AS TREASURER) ENFORCEMENT PRIORITY
) SYSTEM
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GENERAL COUNSEL'S REPORT

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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 6419 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 6419.

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In this matter, the complainant, Mary Schulz, alleges that Joe Miller for US Senate and Bernadette C. Koppy, in her official capacity as treasurer ("Committee"), violated the Federal Election Campaign Act, as amended (the "Act") and Commission regulations by

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1 failing to include the appropriate disclaimers in newspaper advertisements. The complaint
2 specifically alleges that the Committee placed newspaper ads in the Ketchikan Daily News
3 on September 24-26, 2010 without appropriate disclaimers, as required by 11 C.F.R.
4 § 110.11.

5 In its response, the Committee acknowledges that the newspaper advertisements
6 did not include the required disclaimers. However, the Committee indicates that the
7 postings clearly show that the source of the advertisements is the Joe Miller campaign. In
8 addition, the Committee states that the failure to include disclaimers was unintentional, due
9 to the Committee's volunteers' lack of knowledge concerning federal campaign finance
10 laws. Finally, the Committee notes that the advertisements cost a total of \$474.48.

11 All public communications made by a political committee must include
12 disclaimers. 2 U.S.C. § 441d; 11 C.F.R. § 110.11(a)(1). If a public communication is paid
13 for and authorized by a candidate or an authorized committee of a candidate, then the
14 communication must clearly state that it was paid for by such authorized political
15 committee. 2 U.S.C. § 441d(a)(1); 11 C.F.R. § 110.11(b)(1). Additionally, such
16 communications must meet certain specifications set forth in the Act, such as being
17 contained in a printed box, which is set apart from the other contents of the
18 communication. See 2 U.S.C. § 441d(c)(2); 11 C.F.R. § 110.11(e)(2)(ii).

19 The newspaper advertisements described in the complaint are a type of public
20 communication that required written disclaimers. See 2 U.S.C. § 441d(a)(1); 11 C.F.R.
21 §§ 100.26 and 110.11. As acknowledged by the Committee, the advertisements did not
22 contain disclaimers as required by 2 U.S.C. § 441d and 11 C.F.R. § 110.11. However,

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1 it appears that the campaign advertisements at issue contained sufficient identifying
2 information to prevent the public from being misled as to who paid for them.¹ In addition,
3 given the stated costs of the advertisements, the potential amount in violation appears to be
4 de minimis. Accordingly, under EPS, the Office of General Counsel has scored MUR
5 6419 as a low-rated matter and, therefore, in furtherance of the Commission's priorities as
6 discussed above, the Office of General Counsel believes that the Commission should
7 exercise its prosecutorial discretion and dismiss this matter.


8 **RECOMMENDATIONS**

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10 The Office of General Counsel recommends that the Commission dismiss
11 MUR 6419, close the file, and approve the appropriate letters.

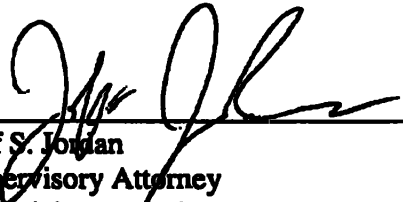
12 Christopher Hughey
13 Acting General Counsel

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17 5/20/11
18 Date

BY:



19 Gregory R. Baker
20 Special Counsel
21 Complaints Examination
22 & Legal Administration



23 Jeff S. Jordan
24 Supervisory Attorney
25 Complaints Examination
26 & Legal Administration
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¹ The advertisements were for a "Meet and Greet" and included the Committee's internet address and phone number, as well as a picture of the candidate along with an invitation to the function.

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Jin Lee

Jin Lee
Attorney *by JLL*

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