

2011 SEP 26 PM 4: 58

BEFORE THE FEDERAL ELECTION
COMMISSION

In the Matter of)
MUR 6424) DISMISSAL AND
LALLY FOR CONGRESS AND) CASE CLOSURE UNDER THE
AND J. ASHLEY COOPER,) ENFORCEMENT PRIORITY SYSTEM
AS TREASURER)

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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 Federal Election Campaign Act of 1971, as amended ("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 6424 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 6424.

In this matter, complainant Maxwell Morley alleges that Lally for Congress and J. Ashley Cooper, in his official capacity as treasurer ("the Committee"), violated the Act and Commission regulations by failing "to properly designate contributions received" from federally-registered political action committees ("PACs"). Specifically, according to the complainant, the Committee's 2010 October Quarterly Report improperly disclosed that \$20,500 in contributions

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1 were made by "organizations."¹ Similarly, the complainant asserts that on its 2010 Pre-General
2 Report, the Committee improperly disclosed that \$8,000 in contributions were made by
3 "organizations."²

4 In response, the Committee acknowledges that several PAC contributions had
5 been designated improperly in its reports. The Committee explains that the errors
6 occurred where its "accounting staff did not receive their FEC information that is
7 required by [the Committee's] accounting software" . . . which "caused the PAC
8 contributions to be designated improperly in the reports." According to the Committee,
9 once the errors were brought to its accountant's attention, he corrected them and amended
10 the reports.

11 A review of the Committee's 2010 October Quarterly and Pre-General Reports discloses
12 \$20,500 and \$8,000 in PAC contributions, described above, as itemized receipts on the Reports'
13 respective Schedule As, *see* 11 C.F.R. § 104.3(a)(4). However, on the Detailed Summary Pages
14 at the beginning of the Reports, the Committee's PAC contribution are lumped in with itemized
15 contributions from individuals and others, rather than being reported on separate lines. In
16 response to those reporting anomalies, on November 24, 2010, the Committee took complete
17 remedial action by filing amended 2010 October Quarterly and Pre-General Reports, which
18 properly disclosed the \$28,500 in PAC contributions at issue on line 11(c) of the Reports'
19 respective Detailed Summary Pages.

¹ These contributions are as follows: \$1,000 from Iraq Veterans for Congress PAC on September 30, 2010; \$2,500 from Pharmacia PAC on September 30, 2010; \$5,000 from Kentucky Bankers PAC on September 28, 2010; \$5,000 from American Society of Interventional Pain Physicians PAC on September 28, 2010; \$2,000 from National Stone, Sand & Gravel Association ("Rock PAC") on September 30, 2010; and \$5,000 from Association of Builders and Contractors PAC on September 30, 2010.

² These contributions are \$3,000 from Automotive Free International Trade PAC on October 4, 2010 and \$5,000 from BuildPAC on October 7, 2010.

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1 In light of the technical nature of the alleged violations and the fact that complete
2 corrective action has already been taken by the Committee, further Enforcement action is not
3 warranted. Accordingly, under EPS, the Office of General Counsel has scored MUR 6424 as a
4 low-rated matter and therefore, in furtherance of the Commission's priorities, as discussed
5 above, the Office of General Counsel believes that the Commission should exercise its
6 prosecutorial discretion and dismiss this matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

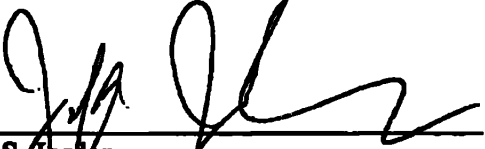
7 **RECOMMENDATIONS**

8 The Office of General Counsel recommends that the Commission dismiss MUR 6424,
9 close the file, and approve the appropriate letters.

10 Anthony Herman
11 General Counsel
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15 9/20/11
16 Date

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