



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SEP 21 2011

Craig Schley
Vote People for Change Craig Schley for Congress
331 West 57th Street
Box 146
New York, NY 10019

RE: MUR 6442

Dear Mr. Schley:

On December 20, 2010, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On September 16, 2011, based upon the information contained in the complaint, and information provided by you the Commission decided to dismiss the complaint and closed its file in this matter. Accordingly, the Commission closed its file in this matter on September 16, 2011.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). A copy of the dispositive General Counsel's Report is enclosed for your information.

If you have any questions, please contact Frankie D. Hampton, the paralegal assigned to this matter, at (202) 694-1650.

Sincerely,

Christopher Hughey
Acting General Counsel

BY: Jeff S. Jordan
Supervisory Attorney
Complaints Examination and
Legal Administration

Enclosure
General Counsel's Report

cc: Mr. Craig Schley

New York, NY 10027

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) **DISMISSAL AND CASE** CELA
) **CLOSURE UNDER THE**
) **ENFORCEMENT PRIORITY**
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14 Under the Enforcement Priority System ("EPS"), the Commission uses formal scoring
15 criteria to allocate its resources and decide which cases to pursue. These criteria include, but are
16 not limited to, an assessment of (1) the gravity of the alleged violation, both with respect to the
17 type of activity and the amount in violation, (2) the apparent impact the alleged violation may
18 have had on the electoral process, (3) the legal complexity of issues raised in the case, (4) recent
19 trends in potential violations of the Federal Election Campaign Act of 1971, as amended ("Act"),
20 and (5) development of the law with respect to certain subject matters. It is the Commission's
21 policy that pursuing low-rated matters, compared to other higher-rated matters on the
22 Enforcement docket, warrants the exercise of its prosecutorial discretion to dismiss certain cases.
23 The Office of General Counsel has scored MUR 6442 as a low-rated matter and has also
24 determined that it should not be referred to the Alternative Dispute Resolution Office. This
25 Office therefore recommends that the Commission exercise its prosecutorial discretion to dismiss
26 MUR 6442.

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1 for Change/Craig Schley for Congress and Andre McDonnaugh in his official capacity as
2 treasurer ("the Committee"), which were not reported by the Committee.¹ In support of her
3 allegations, the complainant includes the following documents: a news article, reporting that the
4 Committee received approximately \$13,000 during the 2008 election cycle;² minutes of a
5 meeting on November 5, 2008, of "Community Board No. 10 - Manhattan," which includes a
6 purported comment by Mr. Schley that his campaign had met \$6,000; and copies of Mr. Schley's
7 Statement of Candidacy and the Committee's Statement of Organization, both of which were
8 filed on September 2, 2008. In a supplement to the complaint, the complainant alleges that
9 Committee treasurer Andre McDonnaugh had bank accounts, presumably for the campaign, at
10 several banks, and that Mr. Schley used campaign funds for personal living expenses.

11 In his response, Mr. Schley contends that neither he nor the Committee had borrowed any
12 money from Ms. Brown, whom he describes as a disgruntled campaign volunteer who has a
13 personal vendetta against him. He further states that Ms. Brown filed two civil lawsuits in Small
14 Claims Court, first against him and then against his Committee, seeking recovery of \$3,534.
15 Subsequently, a court-appointed arbitrator dismissed the claim against him, and the Small Claims
16 Court judge ruled in his Committee's favor, with the notation "claim dismissed for lack of proof
17 or documentary evidence." In addition, Mr. Schley denies that his campaign raised \$13,000, as
18 reported in the news article attached to the complaint or, alternatively, that it raised \$6,000, as set
19 forth in the Community Board minutes. Instead, Mr. Schley states that that his 2008 campaign,
20 which was his first, lasted for only about two months, starting after he and his Committee filed

¹ The complainant also asserts that, during unspecified legal proceedings, Mr. Schley falsely testified that her
loans were, in fact, contributions to the campaign.

² See Jaisal Noor, "Taking on Rangel: Underdog Candidate Challenges Goodtime Charlie," *The
Independent*, [sic], October 27, 2008, available at <http://www.independent.com/2008/10/24/taking-on-rangel>.

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1 the Statements of Candidacy and Organization, respectively, on September 2, 2010. Thereafter,
2 according to Mr. Schley, he did not raise sufficient funds to trigger the Act's reporting
3 requirements. Mr. Schley's response includes what appear to be copies of the Committee's bank
4 statements, to support his position. Finally, Mr. Schley did not respond to the complainant's
5 allegations that he illegally diverted campaign funds for his personal use, nor did he address his
6 2010 campaign, except to say that he was "compiling documents to file my 2010 report shortly."

7 Mr. McDonnaugh responded by stating that, although he had been designated as the
8 Committee's treasurer "at the beginning of [Mr. Schley's] run for office," he had not performed
9 any services for the Schley campaign.

10 The Act defines "candidate" as an individual who seeks election to federal office.
11 2 U.S.C. § 431(2). An individual is deemed to seek nomination when he has received
12 contributions or made expenditures in excess of \$5,000. *Id.* A contribution includes "any gift,
13 loan, advance, or deposit of money or anything of value" made for the person of influencing a
14 federal election. 2 U.S.C. § 431(8)(A)(i). Once an individual becomes a candidate under the
15 Act, he or she must file a Statement of Candidacy and must designate a principal campaign
16 committee within fifteen days, and the committee must file a Statement of Organization, within
17 ten days thereafter. See 2 U.S.C. §§ 432(e), 433; 11 C.F.R. §§ 101.1, 102.1, 102.2. The
18 committee must then file reports of receipts and disbursements in accordance with 2 U.S.C.
19 § 434(a).

20 Despite the complainant's allegation that she loaned an unspecified amount of money to
21 the candidate and his campaign, a civil court has dismissed what appears to be similar claims
22 brought by the complainant.³ While the complainant argues that the court dismissed her claims

³ See Notice of Judgment, *Brown v. Vote People for Change*, Index No. S.C.H. 634/09-42-401, Oct. 7, 2010.

1 because Mr. Schley claimed that her loan was a contribution to the campaign, and that the loan
2 should have therefore been reported, the complainant provides little, if any, information as to the
3 amount, date, or circumstances relating to the purported loan. Thus, there is little evidence to
4 substantiate the complainant's allegation relating to the unreported loan.

5 In a supplement to the complaint, the complainant also appears to allege that Mr. Schley
6 converted campaign funds for his personal use, in violation of 2 U.S.C. § 439a(b)(1).⁴ Although
7 the candidate does not address this allegation in his response, the complainant provides no
8 supporting information relating to the alleged personal use. Given the lack of supporting
9 information concerning the personal use allegation, there is no evidence in the factual record to
10 determine whether or not Mr. Schley may have violated 2 U.S.C. § 439a(b)(1).

11 Mr. Schley's response states that neither he nor his Committee had much expertise in
12 running a federal campaign. However, in examining the thresholds for filing disclosure reports
13 he noted that the Committee had not raised or spent \$5,000 and, therefore, the Committee was
14 not required to file disclosure reports. In examining the Committee's bank statements, it appears
15 the Committee received deposits to its checking account, which exceeded \$5,000 on November
16 3, 2008, the day before the general election.⁵ Under these circumstances, it is possible that the
17 Committee may have been required to file a 30-Day Post General Election Report that covered
18 the period from when the Committee's first financial activity occurred through the closing day of

⁴ In making the allegation concerning personal use, the complainant states that the "Mr. Schley's treasurer was Andre McDonnaugh," who had held accounts at numerous banks. In the sentence immediately following this statement, the complainant writes, "I would also like to state that he used his campaign funds for personal living expenses." Although one could interpret this sentence as referencing Mr. McDonnaugh, it appears that the complainant is most likely referring to the candidate, given her use of the term "his campaign funds."

⁵ For the bank statement ending August 31, 2008, the Committee's deposits totaled \$250.23, and its debits totaled \$240. By the end of September 30, 2008, the Committee deposited an additional \$775, and spent an additional \$783. By the end of October 31, 2008, the Committee deposited an additional \$8,696.31 and spent an additional \$3,620. On November 3, 2008, the Committee deposited two checks totaling \$1,150, which resulted in the Committee's reaching \$5,661.54 in deposits since the date the account was apparently opened in August 2008.

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1 the reporting period, if the deposits were campaign contributions. *See* 2 U.S.C. § 434(a).
2 However, even assuming that some or all of the deposits were campaign contributions, we
3 cannot determine whether any of the debits to the account were refunded or returned
4 contributions.⁶

5 Since we do not have any detail as to the nature of the bank deposits or debits, and there
6 is no information in the record to support the personal use allegation, we believe that this matter
7 does not warrant further Enforcement action. Accordingly, under EPS, the Office of General
8 Counsel has scored MUR 6442 as a low-rated matter and therefore, in furtherance of the
9 Commission's priorities as discussed above, the Office of General Counsel believes that the
10 Commission should exercise its prosecutorial discretion and dismiss this matter. *See Heckler v.*
11 *Chaney*, 470 U.S. 821 (1985).

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⁶ The bank statements show that after the general election on November 4, 2008, the Committee had very limited financial activity and that it raised approximately \$6,000 and also spent approximately \$6,000 between September 1 – November 30, 2008. By the end of November 2008, the Committee's account balance equaled \$6.26.


RECOMMENDATIONS

The Office of General Counsel recommends that the Commission dismiss MUR 6442,
close the file, and approve the appropriate letters.


Christopher Hughey
Acting General Counsel

9/1/11
Date

BY:



Gregory R. Baker
Special Counsel
Complaints Examination
& Legal Administration



Jeff S. Jordan
Supervisory Attorney
Complaints Examination
& Legal Administration



Ruth Heilizer
Attorney

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