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COMMISSION

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

MUR 6453)

MISSOURI ASSOCIATION OF REALTORS)

MISSOURI ASSOCIATION OF REALTORS)

ISSUES MOBILIZATION POLITICAL ACTION)

COMMITTEE)

CASE CLOSURE UNDER **GELA**
ENFORCEMENT PRIORITY
SYSTEM

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, or in certain cases where there are no facts to support the allegations, to make no reason to believe findings. For the reasons set forth below, this Office recommends that the Commission make no reason to believe findings in MUR 6453.

In this matter, Paul N. Sidio of Ozark Country Realty alleges that the Missouri Association of Realtors ("MAR") violated the Act by using its trade organization's dues assessments to fund its separate segregated fund. Specifically, the complainant states that from 2008 to 2011, MAR, a 501(c)(6) corporation, billed its members \$40 per year to fund "political issues activity" and then used this money to fund its Issues Mobilization Political Action

1 Committee ("IMPAC"). The complainant alleges that MAR is violating the Act by mandating
2 fees that are then used as "contributions" to political action committees. Included with the
3 complaint are 2008-2011 Dues Renewal Statements from the Greater Springfield Board of
4 Realtors, Inc. ("GSBR"). According to the statements, it appears that the GSBR bills for and
5 collects various "assessments and dues," including MAR dues. On the 2010 annual dues
6 statement, the GSBR indicates that "as a part of your 2010 dues, \$40 is a mandatory assessment
7 by the Missouri Association of Realtors for all Realtor and Realtor Associate members to be
8 used for issue activity." The statement also provides that "in the past, the MAR has contributed
9 approximately the amount collected from this assessment to the Issues Mobilization Political
10 Action Fund (IMPAC) and MAR intends to continue to make similar contributions in 2010."
11 However, the statement also states that another fee billed for what appears to be the Realtors
12 Political Action Committee ("RPAC") is voluntary, and that it is used to support federal
13 candidates and "is charged against your limits" under 2 U.S.C. § 441a.

14 The response from MAR states that the Commission has no jurisdiction in this matter
15 because the complaint involves matters outside of the scope of the Act. Specifically, the
16 response states that IMPAC, which is not registered with the Commission, but is regulated by the
17 Missouri Ethics Commission, does not make "contributions" or "expenditures" for the purpose
18 of influencing a federal election, as defined by the Act. Instead, IMPAC supports or opposes
19 state and local legislative issues that impact real property in Missouri and supports grass roots
20 lobbying and educational efforts related to that purpose. IMPAC provided a copy of its Bylaws
21 with the response that reads, in part, "IMPAC funds shall not be used for support of candidates
22 or for any purpose prohibited by federal, state or local law." See MAR IMPAC Bylaws, Article
23 2, attached to the response. The response also states that "IMPAC does not use funds

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1 contributed to it in connection with the election of candidates for office at any level (*i.e.*, federal,
2 state or local)." The response is accompanied by nine sworn and notarized affidavits from
3 trustees of IMPAC, some of whom are also officers of MAR, which all state that, to the best of
4 their knowledge, "IMPAC has never endorsed or supported any candidate for federal office. Nor
5 has it ever disbursed funds for the purpose of endorsing or supporting any candidate for federal
6 office."

7 A contribution is anything of value given for the purpose of influencing a federal
8 election. 2 U.S.C. § 431(8)(A); 11 C.F.R. § 100.52(a). In this matter, while MAR may be
9 collecting money to fund IMPAC, these funds do not appear to be "contributions," as defined by
10 the Act because they do not appear to be used for the purpose of influencing a federal election.¹

11 A review of the FEC database finds no federal contributions made by MAR or IMPAC, and none
12 are alleged in the complaint. Therefore, we recommend that the Commission find no reason to
13 believe that the Missouri Association of Realtors or the Issues Mobilization Political Action
14 Committee violated the Act.

15 **RECOMMENDATIONS**

- 16 1. Find no reason to believe that the Missouri Association of Realtors or the Issues
17 Mobilization Political Action Committee violated the Act.
18
19 2. Close the file and send the appropriate letters.

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¹ MAR is a trade association that may also be acting as a collecting agent for its separate segregated fund ("SSF"), RPAC, a committee that does make federal political contributions. As such, MAR may have certain responsibilities under the Act and the Commission's regulations to its members. See 11 C.F.R. § 114.5(a). For example, MAR may have a responsibility to inform its members of the political purposes of the fund and that members have the right to refuse to contribute without any reprisal. See 2 U.S.C. §§ 441b(b)(3)(B) and (C) and 11 C.F.R. §§ 114.5(a)(3) and (4). This issue was not raised as a potential violation in the complaint. Nevertheless, we note that the information provided with the complaint appears to show that MAR, as potential collecting agent for RPAC, provided the requisite information on the GSBK invoices.

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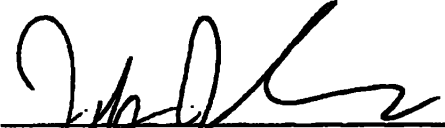
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