



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

OCT 12 2012

Lisa P. Gonzalez, Treasurer
Gonzalez for Congress Committee
18333 Egret Bay Blvd
Suite 270
Houston, TX 77058

RE: MUR 6536

Dear Ms. Gonzalez :

On February 29, 2012, the Federal Election Commission notified Gonzalez for Congress ("Committee") and you in your official capacity as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On September 27, 2012, based upon the information contained in the complaint, and information provided by the Committee and you in your official capacity as treasurer, 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 27, 2012.

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 Factual and Legal Analysis 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,

Anthony Herman
General Counsel

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

Enclosure
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Gonzalez for Congress Committee MUR 6536
and Lisa P. Goazalaz, as treasurer

I. INTRODUCTION

This matter was generated by a complaint filed by Sylvia N. Murphy on February 27, 2012, alleging violations of the Federal Election Campaign Act of 1971, as amended ("Act") and Commission regulations by the Gonzalez for Congress Committee and Lisa P. Gonzalez, in her official capacity as treasurer ("Committee"). It was scored as a low-rated matter under the Enforcement Priority System, a system by which the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue.

II. FACTUAL AND LEGAL ANALYSIS

A. Factual Background

The Complainant, Sylvia N. Murphy filed a complaint alleging that the Committee¹ had offices in three different locations but had failed to disclose "disbursements paying fair market value [or] in-kind contributions" for the space. Compl. at 1. According to Murphy, the Committee's office locations were: (1) Clear Lake Tea Party ("CLTP") headquarters, 2045 Space Park Drive, Suite 280, Nassau Bay, TX 77058; (2) Sunbelt Securities, 1025 I-10 North, Beaumont, TX 77706; and (3) Better Living Medical, 1039 N. Twin City Highway, Nederland, TX 77627. *Id.*

In response, Committee treasurer Gonzalez asserted that the Commission should not take action against the Committee because "the office space listed on the enclosed letter was not

¹ On May 29, 2012, Roberto F. Gonzalez was defeated for the Republican nomination for Congress from Texas's 14th Congressional District.

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1 utilized by Gonzalez for Congress Committee until February 1, 2012," which fell during the first
2 quarter reporting period of January 1, 2012 through March 31, 2012. The Committee's April
3 Quarterly Report was not due to be filed until April 15, 2012. Resp. at 1. For that reason,
4 according to Gonzalez, the Committee's disbursements for the CLTP office space and its
5 reporting of the other two offices, which she described as "an in-kind contribution by two
6 separate individuals," were not disclosed at the time that the Complaint was filed, on February
7 27, 2012. *Id.*

8 Along with her Response, Gonzalez submitted documentation relating to the three
9 office locations at issue. As to the first office location in Nassau Bay, Texas, Respondent
10 enclosed a lease agreement dated February 1, 2012, between the Committee and CLTP. Resp.,
11 Attach. 1. According to the lease, the Committee agreed to pay CLTP \$100 per month to rent a
12 10' by 10' office, starting on February 1, 2012. The lease also provided that the rent would be
13 due on the last day of each month, beginning on February 29, 2012, and further specified that
14 either party could cancel the lease at any time. *Id.*

15 As to the latter two office locations, Gonzalez included contribution forms for in-kind
16 donations of office space from two individuals – Kenneth Barry and Randy Robin – beginning in
17 February 2012. Resp., Attachs. 2, 3. Barry's form, which listed him as the managing director of
18 Sunbelt Securities, described Barry's donation of "office space" in Beaumont, Texas to the
19 Committee as an in-kind contribution of \$50 per month, beginning on February 3, 2012. Resp.,
20 Attach. 2. Similarly, Robin's contribution form, which described him as employed by Better
21 Living Medical, listed his contribution as an in-kind contribution of office space in Nederland,
22 Texas valued at \$50 per month, also as of February 3, 2012. Resp., Attach. 3.

B. Legal Analysis

Authorized political committees are required to report receipts and disbursements, *see* 2 U.S.C. § 434(b)(2), (4) and 11 C.F.R. § 104.3(a)-(b), and may be further required to itemize receipts and disbursements by source, to the extent that they aggregate in excess of \$200 per election cycle, *see* 2 U.S.C. § 434(b)(3), (5) and 11 C.F.R. § 104.3(a)(4)(i), (b)(4)(i).

As for the CLTP office space, an itemized disbursement of \$100 to CLTP for rent disbursed on April 30, 2012, is disclosed on Schedule B of the Committee's Amended Pre-Primary Report filed on July 17, 2012.² Since the Committee agreed to rent office space from CLTP for \$100 per month starting in February 2012, *see* Resp., Attach. 1, it is possible that the Committee paid CLTP \$100 in rent in February and March, and itemized only the subsequent April rent payment, because it was at that point that the Committee's disbursements to CLTP exceeded \$200 and were required to be itemized, pursuant to 11 C.F.R. § 104.3(b)(4)(i). On other hand, the Committee filed the amended Pre-Primary Report several months after the Report was due, and after the May 29, 2012 primary election was over.

Similarly, Commission regulations require that contributions, including in-kind contributions, *see* 11 C.F.R. § 100.52(a), (d)(1), be itemized to the extent that they exceed \$200 per contributor per election cycle. The Committee's April Quarterly Report, Schedule A, discloses that Barry had already made contributions totaling \$200 prior to the reporting period, and that he made two additional in-kind contributions of office space, valued at \$50 each, on

² The original Pre-Primary Report did not contain any such disbursement to CLTP, nor did the April Quarterly Report. The Committee also filed a Termination Report, which discloses that it paid CLTP \$311.76 on May 12, 2012. That payment, however, is described as being for "advertising," not "rent." The Amended Termination Report, filed on July 17, 2012, contains the same disclosure.

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1 February 29, 2012, and March 31, 2012. The Amended Pre-Primary Report and the amended
2 Termination Report, both of which were filed on July 17, 2012, disclose that Barry made further
3 in-kind contributions of office space on April 30, 2012 and May 29, 2012, both of which were
4 valued at \$50, for a total of \$200 in in-kind contributions. However, as noted above, the
5 Committee filed its Amended Pre-Primary Report, which disclosed one of the Barry in-kind
6 contributions, several months late. Robin's contributions were not itemized on Schedule A of
7 the Committee's Reports.

8 Based on the available information, it is not clear whether the Committee properly
9 reported all financial information pertaining to the three offices at issue.³ Nonetheless, the
10 amount potentially at issue is not significant, and the Committee appears to be inactive and has
11 requested permission to terminate. Therefore, the Commission exercised its prosecutorial
12 discretion and dismissed this matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

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³ The Commission expresses no opinion as to whether the rental agreements represented fair market value.