



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Keith Hutcheson
Keith Hutcheson for Sheriff
P.O. Box 1916
Post Falls, ID 83877

DEC 24 2012

RE: MUR 6557

Dear Mr. Hutcheson:

On April 24, 2012, the Federal Election Commission notified you of complaints alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On December 18, 2012, the Commission found, on the basis of the information in the complaints, and information provided by you, that there is no reason to believe you violated 2 U.S.C. §§ 433 and 434. Accordingly, the Commission closed its file in this matter.

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) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). The Factual and Legal Analysis, which explains the Commission's finding, is enclosed for your information.

If you have any questions, please contact Kasey Morgenheim, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "KMG".

Kathleen M. Guith
Deputy Associate General Counsel

Enclosure
Factual and Legal Analysis

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1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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5 **RESPONDENT:** Keith Hutcheson

MUR 6557

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7 **I. INTRODUCTION**

8 This matter was generated by Complaints filed with the Federal Election Commission by
9 John Erickson, Scott Grunsted, and Thomas P. Hanley, alleging violations of the Federal
10 Election Campaign Act of 1971, as amended (the "Act"), by Barry McHugh. According to the
11 three Complaints, which are nearly identical, the Kootenai County Reagan Republicans
12 ("KCRR"), Jeff Ward (KCRR's treasurer), the Strategy Group, Inc., and four candidates for
13 local office in Kootenai County, Idaho — Keith Hutcheson, Barry McHugh, Todd Tondee, and
14 Dan Green — disseminated a mailer to voters in Kootenai County that endorsed federal and state
15 candidates. The Complaints allege that the Respondents violated the Act because they spent
16 over \$1,000 for a federal candidate without "filing with" the Commission.

17 Upon review of the Complaints, Responses, and other available information, it does not
18 appear that Keith Hutcheson was required to register and report with the Commission as a
19 political committee. Accordingly, the Commission finds no reason to believe that Keith
20 Hutcheson violated 2 U.S.C. §§ 433 and 434 by failing to register and report with the
21 Commission as a political committee.

22 **II. FACTUAL AND LEGAL ANALYSIS**

23 **A. Factual Summary**

24 According to KCCR's website, it is located in Post Falls, Idaho. See
25 www.reaganrepublicans.net. Keith Hutcheson is a KCRR board member. See
26 <http://www.reaganrepublicans.net/KCRRBoard.html>.

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1 The Complaints allege that KCRR and the individual Respondents “working together . . .
2 spent over \$1,000 for a federal candidate without filing with the FEC” when they sent a mailer to
3 voters in Kootenai County that endorsed state candidates and a federal candidate. Compl. at 1.
4 The Complaints attach the mailer at issue, which states that “[the] Kootenai County Regan
5 Republicans wholeheartedly endorse the following conservative common-sense candidates in the
6 May 15 [2012] Republican Primary.” Compl., Ex. 1. The mailer lists 14 candidates for federal,
7 state, and local offices, and for each candidate includes the office sought, a photograph, and a
8 short statement about the candidate. The mailer includes one candidate for federal office,
9 Congressman Raul Labrador, the incumbent candidate for the U.S. House of Representatives
10 from Idaho’s First Congressional District. *Id.* Keith Hutcheson is listed as an endorsed
11 candidate for Kootenai County Sheriff. *Id.*

12 KCRR submitted a Response — signed and sworn to by both Ron Lahr, as KCRR’s
13 president, and Jeff Ward, as KCRR’s treasurer. The KCRR Response identifies Keith Hutcheson
14 as a candidate for Kootenai County office who had no participation in the mailer other than being
15 listed as an endorsed candidate.

16 Keith Hutcheson also submitted an individual Response. Hutcheson, a candidate for
17 Kootenai County Sheriff, asserts that he was asked to accept the endorsement of KCRR, was
18 shown the mailer, and approved his picture and what was written about him on the draft mailer.
19 Hutcheson Resp. at 1. KCRR explained to him that the mailer would be disseminated to the
20 group’s supporters in the county. *Id.* Hutcheson claims that he reported an in-kind contribution
21 to his campaign as required by state law, but asserts that he and his campaign have not made
22 contributions to any current federal or state candidates. *Id.*

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B. Legal Analysis

The Complaints generally allege that Keith Hutcheson spent over \$1,000 for a federal candidate without "filing with" the Commission. Compl. at 1. Under the Act, groups that are political committees are required to register with the Commission and publicly report all of their receipts and disbursements. 2 U.S.C. §§ 433, 434. The Act defines a "political committee" as any committee, association, or other group of persons that receives "contributions" or makes "expenditures" for the purpose of influencing a Federal election which aggregate in excess of \$1,000 during a calendar year. 2 U.S.C. § 431(4)(A). The term "contribution" is defined to include "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office." 2 U.S.C. § 431(8)(A)(i). The term "expenditure" is defined to include "any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office." 2 U.S.C. § 431(9)(A)(i). An organization will not be considered a "political committee" unless its "major purpose is Federal campaign activity (*i.e.*, the nomination or election of a Federal candidate)." Political Committee Status, 72 Fed. Reg. 5595, 5597 (Feb. 7, 2007) (Supplemental Explanation and Justification). *See Buckley v. Valeo*, 424 U.S. 1, 79 (1976); *FEC v. Massachusetts Citizens for Life, Inc.* ("MCFL"), 479 U.S. 238, 262 (1986).

There is no evidence that Keith Hutcheson had liability under sections 433 and 434 of the Act. Accordingly, the Commission finds no reason to believe that Keith Hutcheson violated 2 U.S.C. §§ 433 and 434.

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