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**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter Of	)	
	)	
MUR 6577	)	DISMISSAL AND
Angela Valles	)	CASE CLOSURE UNDER THE
Committee to Elect Angela Valles to	)	ENFORCEMENT PRIORITY
Congressional 8 <sup>th</sup> District and	)	SYSTEM
Rick Roelle as treasurer	)	

**GENERAL COUNSEL'S REPORT**

Under the Enforcement Priority System, the Federal Election Commission (the "Commission") uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue. These criteria include without limitation an assessment of the following factors: (1) the gravity of the alleged violation, taking into account both 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 complexity of the legal issues raised in the matter; and (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), and developments of the law. It is the Commission's policy that pursuing relatively low rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss cases under certain circumstances.

The Office of General Counsel ("OGC") has determined that MUR 6577 should not be referred to the Alternative Dispute Resolution Office. Also, for the reasons set forth below, OGC recommends that the Commission exercise its prosecutorial discretion to dismiss MUR 6577.

In this matter, the Complainant, Irmalinda Tapia, alleges that Angela Valles and the Committee to Elect Angela Valles to Congressional 8<sup>th</sup> District and Rick Roelle in his official

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1 capacity as treasurer (the "Committee") paid for advertisements ("ads") that were broadcast on  
2 various radio stations in California beginning on May 9, 2012, that did not include the "Stand By  
3 Your Ad Provision," as required under the Act.<sup>2</sup> Compl. at 1. Specifically, the sworn  
4 Complaint alleges that the candidate failed to clearly include a disclaimer stating that Valles had  
5 approved the communications. *See* 2 U.S.C. § 441d(d)(1)(A); 11 C.F.R. § 110.11(c)(3)(i).

6 The Respondents state that the Committee paid El Dorado Broadcaster LLC ("Radio  
7 Station") for 122 radio spots for the month of May 2012. Resp. at 1. The Respondents admit  
8 that the sixty-second advertisement that is the subject of the Complaint ran without the "Stand  
9 By Your Ad Provision" twelve times and that the ad cost \$250.75 for the twelve radio spots.<sup>3</sup> *Id.*

10 The Respondents maintain, however, that Valles noticed on May 17, 2012 that the ads at  
11 issue did not have the proper disclaimers and immediately notified the Radio Station, which  
12 corrected the ads the next day. *Id.* The Respondents also contend that while the ads at issue did  
13 not contain the proper disclaimer indicating that Valles approved the messages, the ads all started  
14 with Valles clearly identifying herself and ended with her stating that the ads were paid for by  
15 the Committee. *Id.* Further, the Respondents state that other transmissions and ads with the  
16 Radio Station that aired before and after the twelve ads at issue in the Complaint complied with  
17 the "Stand By Your Ad Provision," as did those broadcast by other radio stations. Resp. at 2.

18 The Respondents assert that, upon recognizing the omission, Valles confirmed that all  
19 other ads contained the required disclaimers and, thereafter, implemented compliance measures  
20 to ensure that future public communications contained the proper disclaimers. *Id.*

<sup>2</sup> The Complainant provides a link to the ad in question: <http://www.youtube.com/watch?v=O-kzmWnxeBU>, but attempting to visit the link results in an error message indicating that "this video has been removed by the user."

<sup>3</sup> The unsworn Response attaches an unlabeled schedule listing the twelve times (on May 16, 17, and 18) the ad at issue ran, the radio stations that carried the ad without the provision, and the cost of the ad each time it ran. *See* Resp. Ex. 1.

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1           The Respondents state that both the discovery of the omissions and corrective action  
2   occurred before it received the Complaint, and that the Committee has complied with all  
3   disclaimer regulations since that time. *Id.* Based on the inadvertent nature of the omission and  
4   the low dollar amount involved, the Respondents request that the Commission exercise its  
5   prosecutorial discretion and dismiss the case.

6           Although the ads did not contain the required disclaimers as required under 2 U.S.C.  
7   § 441d(d)(1)(A) and 11 C.F.R. § 110.11(c)(3)(i), the seriousness of the alleged violation is not  
8   sufficient to justify the likely cost of further pursuit by the Commission. The Complainant  
9   alleges that the ads without proper disclaimers began to air on May 9, 2012, and the Committee  
10   asserts that the ads ran only twelve times on three different radio stations between May 16 and  
11   May 18, 2012. The Committee's Pre-Primary Report, filed on May 17, 2012, shows that the  
12   Committee made two disbursements for "Radio Ads" during the relevant period: to the Radio  
13   Station for \$2,494.75 on May 14, 2012 and to Great Country Broadcasting, Inc. for \$1,008 on  
14   May 14, 2012. Thus, the amount in violation, though possibly not as small as \$250.75, as  
15   represented by the Committee, is still minimal. Further, under the circumstances presented here,  
16   the public was unlikely to have been misled as to whether Valles approved the messages because  
17   the advertisements all started by her clearly identifying herself as Angela Valles and ended with  
18   her stating that the ad was paid for by the Committee. Moreover, it appears that the Respondents  
19   attempted to correct the errors quickly once they were discovered and instituted remedial  
20   measures to ensure the violations did not reoccur. Therefore, in furtherance of the Commission's  
21   priorities, relative to other matters pending on the Enforcement docket, OGC believes the  
22   Commission should exercise its prosecutorial discretion and dismiss this matter pursuant to

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*Heckler v. Chaney*, 470 U.S. 821 (1985), approve the attached Factual & Legal Analysis and the appropriate letters, and close the file.

**RECOMMENDATIONS**

1. Dismiss MUR 6577, pursuant to the Commission's prosecutorial discretion;
2. Approve the attached Factual & Legal Analysis and the appropriate letters; and
3. Close the file.

10/26/12  
Date

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BY:

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