



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Jan Witold Baran
Wiley Rein LLP
1776 K Street NW
Washington DC 20006

MAR 05 2019

RE: MUR 7459
Citizens for Turner
and Michael Berning, as treasurer;
Michael Turner

Dear Ms. Baran:

On August 9, 2018, the Federal Election Commission ("Commission") notified your clients of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). On February 26, 2019, based upon the information contained in the complaint and information provided by respondents, the Commission decided to dismiss allegations that Citizens for Turner and Michael Berning in his official capacity as treasurer and Michael Turner violated provisions of the Act. The Commission then closed its file in this matter. A copy of the General Counsel's Report, which more fully explains the basis for the Commission's decision, is enclosed.

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. 66132 (Dec. 14, 2009). If you have any questions, please contact Kristina Portner, the attorney assigned to this matter, at (202) 694-1518.

Sincerely,

Lisa J. Stevenson
Acting General Counsel

BY: 
Jeff S. Jordan
Assistant General Counsel

Enclosure:
General Counsel's Report

BEFORE THE FEDERAL ELECTION COMMISSION

**ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT**

MUR: 7459

Respondents: Citizens for Turner and
Michael Berning, as Treasurer
("the Committee")
Michael Turner¹

Complaint Receipt Date: August 3, 2018

Response Dates: September 26 & 27, 2018

EPS Rating:

**Alleged Statutory
Regulatory Violations:**

**52 U.S.C. § 30120(d)(1)(B)(ii)
11 C.F.R. § 110.11(c)(3)(iii)**

Complainant alleges that two of Respondents' television ads failed to include written disclaimers stating that Turner had approved the ads. Respondents admit that the two ads did not originally contain the written disclaimer, assert that the written disclaimer was inadvertently omitted by their vendor, and explain that the versions of the ads available on the Committee's website have been corrected to include the written authorization disclaimer.

Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and assess whether particular matters warrant further administrative enforcement proceedings. These criteria include (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 and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating and the unlikelihood the general public would have been confused as to whether the television ads were

¹ Turner was a 2018 candidate for the U.S. House of Representatives in Ohio's Tenth District. Citizens for Turner is his principal campaign committee.

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authorized by Turner,² we recommend that the Commission dismiss the Complaint consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). We also recommend that the Commission close the file as to all Respondents and send the appropriate letters.

Lisa J. Stevenson
Acting General Counsel

Kathleen M. Guith
Associate General Counsel

11.20.18
Date

BY: Stephen Gura
Stephen Gura
Deputy Associate General Counsel

Jeff S. Jordan
Jeff S. Jordan
Assistant General Counsel

Kristina M. Portner
Kristina M. Portner
Attorney

² Although the television ads omitted the required written authorization statement, Respondents assert that the original ads included video of Turner orally stating that he approved them and a written disclaimer stating that the Committee paid for them.