

BEFORE THE FEDERAL ELECTION COMMISSION
ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT

MUR: 7782

Respondents: Duane Whitmer for Congress
and Alyce Auman, as Treasurer
("the Committee")
Duane James Whitmer

Complaint Receipt Date: August 18, 2020

Response Date: October 8, 2020

EPS Rating:

**Alleged Statutory
Regulatory Violations:**

**52 U.S.C. § 30120(a)
11 C.F.R. § 100.11(a), (b)(1), (c)**

The Complainant alleges that he received two mailings from the Committee prior to the June 23, 2020, special election, which lacked a disclaimer regarding who paid for the mailings.¹ The Respondents acknowledge that the mailings did not contain disclaimers, but assert that the mailings did refer to the Committee's website that contained a disclaimer and that additional training has been provided to the individuals responsible for the Committee's mailings to ensure that future mailings contain the required disclaimer.²

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, the

¹ Compl. at 1, Exs. A-B (Aug. 18, 2020).

² Resp. at 1 (Oct. 8, 2020).

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unlikelihood that the public was misled as to who paid for the mailings, and the Committee's remedial actions, 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.

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05.14.21

Date

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