

MUR 7818**RECEIVED**

By OGC-CELA at 3:55 pm, Nov 30, 2020

From: [Andrew Finko](#)
To: [CELA](#)
Subject: Re: MUR 7828 Notification
Date: Wednesday, November 25, 2020 12:59:19 AM
Attachments:

Hello Ms. Ross,

Attached are the Responses (separately) submitted in relation to MUR 7818 and MUR 7828, directed to the Office of General Counsel.

Thank you.

Andrew Finko

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November 24, 2020

Via email to cela@fec.gov

Jeff S. Jordan
 Federal Election Commission
 Office of Complaints Examination
 & Legal Administration
 1050 First Street, NE
 Washington, DC 20463

Re: ***Willie Wilson 2020***
MUR 7818

Dear Mr. Jordan:

I represent Candidate, Dr. Willie Wilson, his Committee, Willie Wilson 2020, and its Treasurer, Nicole Janes (collectively, Respondents). This letter is written in response to allegations in the Complaint in the above matter, and to respectfully request that this matter be dismissed.

Summary of Allegations

Complainant is the president of the Democratic County Chairs Association in Illinois, which is a political party committee that supported and endorsed the Democratic Party candidate in this election. Two Complaints were filed by Karen Zahoric (MUR 7818 and MUR 7828) against Candidate, Dr. Willie Wilson, during the final weeks before the November 3, 2020 election. Though the ballot for Senator included five candidates, three were actively campaigning, and Candidate, Dr. Willie Wilson, was the only African American Senate candidate on the ballot in Illinois. This Complaint was clearly coordinated with the Democratic Party's candidate to seek political advantage in the November 3, 2020 election.

MUR 7818 raises the omission of the "Stand By Your Ad" disclaimer in two television ads, the first of which Complainant observed on June 24, 2020, with the second ad was observed on October 5, 2020. Respondents acknowledge that the ads that ran on the two dates listed did not contain the required disclaimer, but such omission was through a production oversight by the video production company, and Candidate had previously recorded that disclaimer for each ad. The omission was not willful or intentional, and was not intended to mislead viewers.

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Each advertisement raised by Complainant featured Candidate, Dr. Wilson, in a video monologue that started with the Candidate introducing himself and saying “I’m Willie Wilson.” The entire advertisement featured Candidate, Dr. Wilson, speaking to voters. There could be no confusion among voter that each of the advertisements was created, and approved, by Candidate, Dr. Wilson. In addition the ad clearly disclosed in written text inserted into the advertisement that stated each was paid for by the Candidate’s committee, and provided social media contact information including Candidate’s website. Please see attached images for examples of the advertisement format used by Candidate, Dr Wilson.

Respondents were not aware of this production oversight by the video production company until notified of this Complaint. Candidate had previously recorded the “Stand By Your Ad” disclaimer with the video production company. The two video ads were 27 seconds in duration specifically to allow the pre-recorded “Stand By Your Ad” disclaimer to be added by the production company. Immediately upon receipt of this complaint, Respondents notified the production company and requested addition of the previously recorded disclaimer. The ads were promptly edited to include the disclaimer for all subsequent airings.

Respondents ceased campaign related activities on or about November 3, 2020, and no advertisements have been aired thereafter.

Complainant has not offered any specific facts to indicate any confusion by viewers as to the origin or endorsement of the ads which she identified. Indeed, the Complainant did not have any difficulty in determining against whom to file this Complaint, nor did she offer facts to indicate there was any confusion as to the origin, sponsorship, or payment for the ads. There was no possibility whatsoever that any viewer would not know who paid for and approved the advertisements.

Standard of Review

The Commission may find “reason to believe” only if a complaint sets forth sufficient specific facts, which, if proven true, would constitute a violation of the Act. (FEC Matter Under Review 4960, Statement of Reasons of Commissioners David M. Mason, Karl J. Sandstrom, Bradley A. Smith, and Scott E. Thomas at 1 (Dec. 21, 2000)).

The Commission has made clear that “unwarranted legal conclusions [drawn] from asserted facts” or “mere speculation” are not sufficient to find reason to believe that Respondents violated the Act. FEC Matter Under Review 4960, *supra* note 4.

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Request for Dismissal

Though the Complaint herein asserts a technical omission, it was inadvertent and promptly corrected with no deception or confusion among viewers. Complainant has not alleged any facts to indicate there was any confusion among viewers. Any viewer would clearly and unequivocally understand that Candidate, Dr. Wilson, approved a video advertisement in which he introduces himself and is featured speaking for the duration of the ad. Respondents request that the Commission find that there is no reason to believe that the Complaint sets forth sufficient specific facts that would constitute a violation.

Dismissal would also be consistent with the Commission's actions in similar instances, where it has exercised its prosecutorial discretion and dismissed complaints regarding matters which stated *de minimis* infractions. See, e.g., MUR 6284 (Denham for Congress) in which the Office of the General Counsel ("OGC") exercised its prosecutorial discretion and dismissed a complaint filed against a candidate committee that aired an ad with the proper disclaimer at the beginning of the ad instead of the end of the ad. In doing so, OGC noted that it did "not appear that the public would have been misled as to who paid for and approved the campaign advertisements" since they included "other identifying information, including the candidate's photograph and voice." General Counsel's Report In the Matter of MUR 6284 Denham for Congress and David Bauer, as Treasurer at 2. In addition, OGC noted that the MUR was scored a "low-rated matter" and therefore, "in furtherance of the Commission's priorities and resources, related to other matters pending on the Enforcement docket," the matter should be dismissed. *Id.*

In light of these strong mitigating factors, Respondents respectfully request that the Office of General Counsel exercise its prosecutorial discretion to determine the proper ordering of priorities and use of agency resources, and recommend that this Complaint be dismissed. *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

Respectfully submitted:



By: Andrew Finko

Encl.

cc: Dr. Willie Wilson
 Nicole Janes



 **Willie Wilson**

 Like  Comment  Share 
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650 Views · about 4 months ago · 

**Dr. Willie Wilson**

@DrWillieWilson

...

I am running for U.S. Senate for the same reason I have always extended myself - FOR the people! I WILL continue my work & commitment. More details at williewilsonforsenate2020.com. Watch, like, follow & share. #williewilsonforsenate #drwilliewilson
[#AllTheWayToDC](#)





Willie
Wilson

Dr. Willie Wilson