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FEDERAL ELECTION
COMMISSION

BEFORE THE FEDERAL ELECTION COMMISSION

2011 MAY 31 PM 1:31

In the Matter of)
)
Randy Hultgren for Congress and)
Clifford A. Brown, as treasurer; Friends) MUR 6369
for Hultgren; Randy Hultgren: Case)
Closure (EPS))

CELA

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on May 26, 2011, the Commission decided by a vote of 5-0 to:

1. Dismiss MUR 6369.
2. Close the file.
3. Approve the appropriate letters.

Commissioners Bauerly, Hunter, McGahn II, Petersen and Weintraub voted affirmatively for the decision. Commissioner Walther did not vote.

Attest:

7 May 27, 2011
Date

Shawn Woodhead Werth
Shawn Woodhead Werth
Secretary and Clerk of the Commission

11044293772



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

JUN 13 2011

Catherine A. Hamilton

Elgin, IL 60123

RE: MUR 6369
Randy Hultgren for Congress

Dear Ms. Hamilton:

The Federal Election Commission reviewed the allegations in your complaint received on September 24, 2010. On May 26, 2011, based upon the information provided in the complaint, and information provided by the respondent, the Commission decided to dismiss the complaint and close its file in this matter. Accordingly, the Commission closed its file in this matter on May 26, 2011.

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). A copy of the dispositive General Counsel's Report is enclosed for your information. The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g (a)(8).

Sincerely,

Christopher Hughey
Acting General Counsel

BY: Jeff S. Jordan
Supervisory Attorney
Complaints Examination and
Legal Administration

Enclosure
General Counsel's Report

11044293774



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA FIRST CLASS MAIL

JUN 13 2011

Clifford A. Brown, Treasurer
Randy Hultgren for Congress
PO Box 39
Batavia, IL 60510

RE: MUR 6369

Dear Mr. Brown:

On September 28, 2010, the Federal Election Commission notified Randy Hultgren for Congress and you, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On May 26, 2011, based upon the information contained in the complaint, and information provided by you, as treasurer for Randy Hultgren for Congress, the Commission decided to dismiss the complaint and closed its file in this matter. Accordingly, the Commission closed its file in this matter on May 26, 2011.

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). A copy of the dispositive General Counsel's Report is enclosed for your information.

If you have any questions, please contact Kim Collins, the paralegal assigned to this matter, at (202) 694-1650.

Sincerely,

Christopher Hughey
Acting General Counsel

BY: Jeff S. Jordan
Supervisory Attorney
Complaints Examination and
Legal Administration

Enclosure
General Counsel's Report

11044293776



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JUN 13 2011

VIA FIRST CLASS MAIL

Betty Curl, Treasurer
Friends for Hultgren
PO Box 39
Batavia, IL 60510

RE: MUR 6369

Dear Ms. Curl:

On September 28, 2010, the Federal Election Commission notified Friends for Hultgren and you, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On May 26, 2011, based upon the information contained in the complaint, and information provided by Clifford A. Brown, treasurer for Randy Hultgren for Congress, the Commission decided to dismiss the complaint and closed its file in this matter. Accordingly, the Commission closed its file in this matter on May 26, 2011.

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). A copy of the dispositive General Counsel's Report is enclosed for your information.

If you have any questions, please contact Kim Collins, the paralegal assigned to this matter, at (202) 694-1650.

Sincerely,

Christopher Hughey
Acting General Counsel

A handwritten signature in black ink, appearing to read "CHUGHEY", written over the typed name of Christopher Hughey.

BY: Jeff S. Jordan
Supervisory Attorney
Complaints Examination and
Legal Administration

Enclosure
General Counsel's Report

11044293778



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA FIRST CLASS MAIL

JUN 13 2011

Randy Hultgren
PO Box 39
Batavia, IL 60510

RE: MUR 6369

Dear Mr. Hultgren:

On September 28, 2010, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On May 26, 2011, based upon the information contained in the complaint, and information provided by Clifford A. Brown, treasurer for Randy Hultgren for Congress, the Commission decided to dismiss the complaint and closed its file in this matter. Accordingly, the Commission closed its file in this matter on May 26, 2011.

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). A copy of the dispositive General Counsel's Report is enclosed for your information.

If you have any questions, please contact Kim Collins, the paralegal assigned to this matter, at (202) 694-1650.

Sincerely,

Christopher Hughey
Acting General Counsel

BY: Jeff S. Jordan
Supervisory Attorney
Complaints Examination and
Legal Administration

Enclosure
General Counsel's Report

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RECEIVED
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SECRET
BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
FEDERAL ELECTION
COMMISSION

2011 MAY 11 P 4: 35

2011 MAY 11 PM 3: 38

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In the Matter of)
MUR 6369)
RANDY HULTGREN FOR CONGRESS)
CLIFFORD A. BROWN,)
AS TREASURER)
FRIENDS FOR HULTGREN)
RANDY HULTGREN)

CELA

DISMISSAL AND CASE
CLOSURE UNDER THE
ENFORCEMENT PRIORITY
SYSTEM

SENSITIVE

GENERAL COUNSEL'S REPORT

15 Under the Enforcement Priority System ("EPS"), the Commission uses formal scoring
16 criteria to allocate its resources and decide which cases to pursue. These criteria include, but are
17 not limited to, an assessment of (1) the gravity of the alleged violation, both with respect to the
18 type of activity and the amount in violation, (2) the apparent impact the alleged violation may
19 have had on the electoral process, (3) the legal complexity of issues raised in the case, (4) recent
20 trends in potential violations of the Federal Election Campaign Act of 1971, as amended ("the
21 Act"), and (5) development of the law with respect to certain subject matters. It is the
22 Commission's policy that pursuing low-rated matters, compared to other higher-rated matters on
23 the Enforcement docket, warrants the exercise of its prosecutorial discretion to dismiss certain
24 cases. The Office of General Counsel has scored MUR 6369 as a low-rated matter and has also
25 determined that it should not be referred to the Alternative Dispute Resolution Office. This
26 Office therefore recommends that the Commission exercise its prosecutorial discretion to dismiss
27 MUR 6369.

28 In this matter, the complainant, Catherine A. Hamilton, asserts that respondents Randy
29 Hultgren for Congress and Clifford A. Brown, in his official capacity as treasurer ("Federal
30 Committee"), Friends for Hultgren ("State Committee"), and then-congressional candidate

1 Randy Hultgren¹ violated the Act because the State Committee made a \$1,000 contribution to the
2 Federal Committee on September 30, 2009, and again on January 21, 2010. The complaint
3 further alleges that the Federal Committee failed to report the receipt of the second contribution.
4 The complaint requests the Commission investigate the allegations, enjoin respondents from
5 further violations, and impose the maximum penalty against the respondents.

6 In its response, the Federal Committee acknowledges that it received contributions from
7 the State Committee, but explains that they were accepted in error and refunded to the State
8 Committee on September 3, 2010. The Federal Committee also acknowledges that it failed to
9 report the \$1,000 contribution it received on January 21, 2010 on its April 2010 Quarterly Report
10 due to a "clerical error."

11 In addressing the contributions by the State Committee, we observe that the Act prohibits
12 a federal candidate, a candidate's agent, and entities established, financed, maintained or
13 controlled by, or acting on behalf of, a candidate from soliciting, receiving, directing,
14 transferring or spending funds in connection with a Federal election unless the funds are subject
15 to the limitations, prohibitions, and reporting requirements of the Act. 2 U.S.C. § 441i(e)(1)(A).
16 See also 11 C.F.R. § 110.3(d) (prohibiting transfers of funds or assets from a candidate's
17 campaign committee for a non-federal election to his or her campaign committee for a federal
18 election).

19 Here, the Federal Committee acknowledged that it received \$2,000 in contributions from
20 the State Committee, but issued a refund on September 3, 2010. Illinois law permits candidate
21 political committees to accept contributions up to \$5,000 from any individual; \$10,000 from any

¹ Mr. Hultgren represents Illinois' 14th Congressional District.

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1 corporation, labor organization, or association; or \$50,000 from a candidate political committee
2 or political action committee. *See* ILL. COMP. STAT. 9/8.5(b) (2011). Therefore, it appears the
3 Federal Committee violated the Act because it is possible that the State Committee's funds may
4 have been outside the limits, prohibitions, and reporting requirements of the Act.² *See* 2 U.S.C.
5 § 441i(e)(1)(A). *See also* 11 C.F.R. § 110.3(d). Likewise, in reviewing the Federal Committee's
6 April 2010 Quarterly Report and subsequent amendments, it also appears that the Federal
7 Committee violated the Act by failing to report the receipt of the January 21, 2010 contribution,
8 pursuant to 2 U.S.C. § 434(b). The Federal Committee admits its failure to report the
9 contribution from January 21, 2010, and it has reported the refund in its amended October 2010
10 Quarterly Report.

11 Thus, it appears that the Federal Committee violated the Act and 11 C.F.R. § 110.3(d) by
12 accepting \$2,000 in prohibited contributions from the State Committee and by failing to report a
13 contribution on its January 21, 2010. We note, however, the Federal Committee has admitted to
14 the violations and has taken remedial measures by refunding the prohibited contributions to the
15 State Committee and reporting the refund on its amended October 2010 Quarterly Report.
16 Accordingly, under EPS, the Office of General Counsel has scored MUR 6369 as a low-rated
17 matter and therefore, in furtherance of the Commission's priorities as discussed above, the Office
18 of General Counsel believes that the Commission should exercise its prosecutorial discretion and
19 dismiss this matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

20

² Compare 2 U.S.C. § 441b(a) (prohibiting corporations or labor organizations from making contributions in connection with any election) with ILL. COMP. STAT. 9/8.5(b) (2011) (allowing candidate political committees to receive contributions of up to \$10,000 from corporations, labor organizations, or associations).

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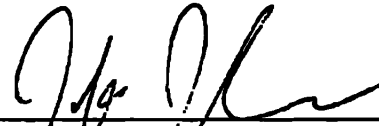
RECOMMENDATIONS


The Office of General Counsel recommends that the Commission dismiss MUR 6369,
close the file, and approve the appropriate letters.

Christopher Hughey
Acting General Counsel

5/10/11
Date

BY: 
Gregory R. Baker
Special Counsel
Complaints Examination
& Legal Administration


Jeff S. Jordan
Supervisory Attorney
Complaints Examination
& Legal Administration


Philip A. Olaya
Attorney

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