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COMMISSION

2011 JUL 21 PM 5:30

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 6370
Mulvaney for Congress; Patricia J.)
Jenkins, as treasurer; Gardner Gore)

CERTIFICATION

I, Shelley E. Garr, recording secretary for the Federal Election Commission executive session on July 19, 2011, do hereby certify that the Commission decided by a vote of 6-0, on an amended pre-meeting tally, to take the following actions in MUR 6370

1. Dismiss MUR 6370.
2. Close the file.
3. Approve the appropriate letters.

Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Attest:

July 21, 2011
Date

Shelley E. Garr
Shelley E. Garr
Deputy Secretary of the Commission

11044300754



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JUL 28 2011

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dohald L. Curlovic

Sumter, SC 29150

RE: MUR 6370

Dear Mr. Curlovic:

The Federal Election Commission reviewed the allegations in your complaint received on October 9, 2010. On July 19, 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 July 19, 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 / Mcl*
Jeff S. Jordan
Supervisory Attorney
Complaints Examination and
Legal Administration

Enclosure
General Counsel's Report

11044300756



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JUL 28 2011

VIA FIRST CLASS MAIL

Kenneth R. Young, Jr.
Young Keffer & Donald, PA
23 West Calhoun Street
Sumter, South Carolina 29150

RE: MUR 6370
Gardner Gore

Dear Mr. Young:

On May 11, 2011, the Federal Election Commission notified your client of a complaint filed against Gardner Gore, alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("Act"). On July 19, 2011 based upon the information contained in the complaint, and information provided by you, the Commission decided to dismiss the complaint and close its file in this matter.

The Commission encourages your client to review the General Counsel's Report, which sets forth the statutory and regulatory provisions considered by the Commission in this matter. A copy of the dispositive General Counsel's Report is enclosed for your client's information and future reference. The Commission reminds your client to take steps to ensure that their conduct is in compliance with 2 U.S.C. § 441d(a)(3) and 11 C.F.R. § 110.11(a)(2) and (b)(3), concerning the disclaimer requirements. For further information on the Act, please refer to the Commission's website at www.fec.gov or contact the Commission's Public Information Division at (202) 694-1100.

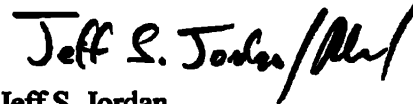
Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003).

11044300758

If you have any questions, please contact Frankie D. Hampton, 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

11044300759



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JUL 28 2011

VIA FIRST CLASS MAIL

Patricia J. Jenkins, Treasurer
Mulvaney for Congress
P.O. Box 1975
Lancaster, SC 29721

RE: MUR 6370

Dear Ms. Jenkins:

On May 11, 2011, the Federal Election Commission notified you of a complaint filed against Mulvaney for Congress ("Committee") and you, as treasurer, alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("Act"). On July 19, 2011 based upon the information contained in the complaint, and information provided by you, the Commission decided to dismiss the complaint and close its file in this matter.

The Commission encourages you to review the General Counsel's Report, which sets forth the statutory and regulatory provisions considered by the Commission in this matter. A copy of the dispositive General Counsel's Report is enclosed for your information and future reference. For further information on the Act, please refer to the Commission's website at www.fec.gov or contact the Commission's Public Information Division at (202) 694-1100.

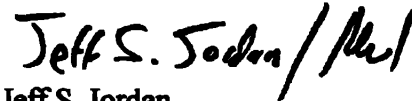
Documents related to this case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003).

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If you have any questions, please contact Frankie D. Hampton, 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

11044300762

RECEIVED
FEDERAL ELECTION COMMISSION
BEFORE THE FEDERAL ELECTION COMMISSION

2011 JUN 15 AM 10: 59

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4 In the Matter of)
5)
6 MUR 6370)
7 MULVANEY FOR CONGRESS)
8 PATRICIA J. JENKINS,)
9 AS TREASURER)
10 GARDNER GORE)

DISMISSAL AND **CELA**
CLOSURE UNDER THE
ENFORCEMENT PRIORITY
SYSTEM

GENERAL COUNSEL'S REPORT

11
12
13
14 Under the Enforcement Priority System ("EPS"), the Commission uses formal scoring
15 criteria to allocate its resources and decide which cases to pursue. These criteria include, but are not
16 limited to, an assessment of (1) the gravity of the alleged violation, both with respect to the type of
17 activity and the amount in violation, (2) the apparent impact the alleged violation may have had on
18 the electoral process, (3) the legal complexity of issues raised in the case, (4) recent trends in
19 potential violations of the Federal Election Campaign Act of 1971, as amended ("Act"), and
20 (5) development of the law with respect to certain subject matters. It is the Commission's policy
21 that pursuing low-rated matters, compared to other higher-rated matters on the Enforcement docket,
22 warrants the exercise of its prosecutorial discretion to dismiss certain cases. The Office of General
23 Counsel has scored MUR 6370 as a low-rated matter and has also determined that it should not be
24 referred to the Alternative Dispute Resolution Office. This Office therefore recommends that the
25 Commission exercise its prosecutorial discretion to dismiss MUR 6370.

26 In this matter, complainant Donald L. Curlovic asserts that respondents Mulvaney for
27 Congress and Patricia J. Jenkins, in her official capacity as treasurer (collectively "the Committee"),
28 violated the Act and underlying Commission regulations by failing to include disclaimers on
29 various campaign signs, in apparent violation of 2 U.S.C. § 441d(a) and 11 C.F.R. §§ 110.11(a) and
30 (b)(1). As an attachment to the complaint, Exhibit A contains a photograph of a sign that reads,
31 "Sack Spratt." The sign lacks any further text or identifying information, including a disclaimer.

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1 Another attachment, labeled Exhibit B, consists of a photograph of what appears to be the same
2 “Sack Spratt” sign attached to an official Committee sign, which includes the appropriate disclaimer
3 identifying the Committee. Finally, Exhibit C consists of a photograph of a sign that states, “Fire
4 Spratt Hire Mulvaney.” Similarly, this sign lacks any further text or identifying information,
5 including a disclaimer.

6 In response, the Committee states it does not know who erected the “Sack Spratt” signs, and
7 that the “Sack Spratt” signs attached to official Committee campaign signs are being affixed by
8 individuals who are not associated with the Mulvaney Campaign. Moreover, the “Sack Spratt”
9 signs are being placed after the Committee erects its signs. The Committee also explains that an
10 unidentified individual contacted the campaign to inform the Committee that she made and erected
11 a homemade sign which read, “Fire Spratt Hire Mulvaney,” and that no one associated with the
12 Committee was involved with its design or installation.

13 In addition, respondent Gardner Gore also responded to the complaint and addressed the
14 question as to whether he was responsible for the “Sack Spratt” signs, *see* n. 3, *infra*. Specifically,
15 in his response, Mr. Gore submitted an affidavit that acknowledges responsibility for the signs, but
16 also explains that after receiving advice from an attorney¹ he affixed “Paid for by” stickers to the
17 signs above the web address, “sackspratt.com.”

18 Under the Act and Commission regulations, all public communications² made by a political
19 committee must include disclaimers. 2 U.S.C. § 441d(a)(1); *see also* 11 C.F.R. § 110.11(a)(1). In
20 addition, public communications that are not authorized by a candidate must include disclaimers

¹ It should be noted that Mr. Gore sought the counsel of Butch Bowen, who also serves as counsel for the Mulvaney Committee.

² “Public communications” include any communication “by means of any broadcast, cable, or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone bank to the general public, or any other form of general public political advertising.” 11 C.F.R. § 100.26.

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1 stating the name and permanent street address, telephone number or Internet address of the
2 individual who paid for the communication, in addition to stating that the communication is not
3 authorized by any candidate or candidate's committee. 2 U.S.C. § 441d(a)(3); see also 11 C.F.R.
4 §§ 110.11(a)(2) and (b)(3). Information available on the public record appears to corroborate the
5 response that the "Sack Spratt" signs do not belong to the Committee, but instead appear to be part
6 of an independent effort by Gardner Gore, an individual formerly affiliated with campaign
7 opponents of former Democratic House member John Spratt.³

8 In light of Mr. Gore's submissions, as well as the remedial action taken by Mr. Gore, we
9 believe no further Enforcement action is necessary. Accordingly, under EPS, the Office of General
10 Counsel has scored MUR 6370 as a low-rated matter and therefore, in furtherance of the
11 Commission's priorities as discussed above, the Office of General Counsel believes that the
12 Commission should exercise its prosecutorial discretion and dismiss this matter. See *Heckler v.*
13 *Chaney*, 470 U.S. 821 (1985). Additionally, this Office recommends that the Commission remind
14 Mr. Gore concerning the Commission's disclaimer requirements pursuant to 2 U.S.C. § 441d(a)(3)
15 and 11 C.F.R. §§ 110.11(a)(2) and (b)(3).

16 RECOMMENDATIONS

17 The Office of General Counsel recommends that the Commission dismiss
18 MUR 6370, close the file, and approve the appropriate letters. Additionally, this Office
19

³ See Jill Cincotta, *Who's Behind Those Provocative Signs?*, HERALD INDEP., Sept. 24, 2010, http://www.heraldindependent.com/view/full_story/9595643/article-Who-s-Behind-Those-Provocative-Signs-?instance=home_news_lead; Nick McCormac, "Sack Spratt" mastermind creates new political committee, THE ITEM (Sumter, S.C.) Mar. 1, 2011, http://www.theitem.com/news/article_4ce5cd1b-2475-56ee-97df-2e2b95bd7e5a.html; Bane Windlow, *Sack Spratt Signs Everywhere*, CAROLINA POLITICS ONLINE (Sept. 28, 2010), <http://www.carolinapoliticsonline.com/2010/09/28/sack-spratt-signs-everywhere>.

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1 recommends that the Commission remind Gardner Gore concerning the Commission's disclaimer
2 requirements pursuant to 2 U.S.C. § 441d(a)(3) and 11 C.F.R. §§ 110.11(a)(2) and (b)(3).

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Christopher Hughey
Acting General Counsel

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6/14/11
Date

BY:



Gregory R. Baker
Special Counsel
Complaints Examination
& Legal Administration

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Jeff S. Jordan
Supervisory Attorney
Complaints Examination
& Legal Administration

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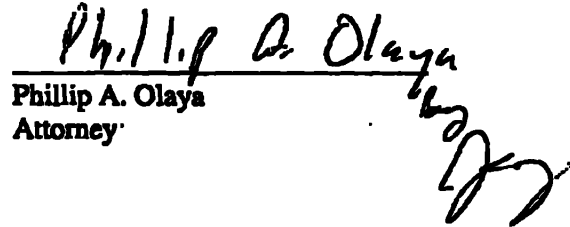
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Phillip A. Olaya
Attorney



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