

2011 NOV -1 PM 4: 35

BEFORE THE FEDERAL ELECTION COMMISSION

CELA

In the Matter of)
)
Lally for Congress and J. Ashley Cooper,) MUR 6424
as treasurer (Case Closure EPS))

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on October 20, 2011, the Commission decided by a vote of 6-0 to recommend that the Commission dismiss MUR 6424, close the file and approve the appropriate letters, as recommended in the General Counsel's Report dated September 26, 2011 subject to the errata in the Memorandum to the Commission dated October 5, 2011.

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

Attest:

November 1, 2011
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

NOV - 8 2011

Maxwell Morley
Louisville, KY 40217

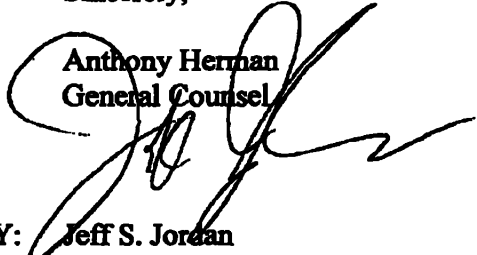
RE: MUR 6424

Dear Mr. Morley:

The Federal Election Commission reviewed the allegations in your complaint received on November 4, 2010. On October 20, 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 October 20, 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,

Anthony Herman
General Counsel


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

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA FIRST CLASS MAIL

NOV - 8 2011

J. Ashley Cooper, Treasurer
Lally for Congress
2017 Boulevard Napoleon
Louisville, KY 40205

RE: MUR 6424

Dear Mr. Cooper:

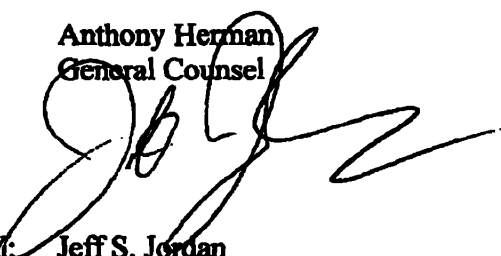
On November 10, 2010, the Federal Election Commission notified Lally for Congress ("Committee") and you, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On October 20, 2011, based upon the information contained in the complaint, and information provided by you, the Commission decided to dismiss the complaint and closed its file in this matter. Accordingly, the Commission closed its file in this matter on October 20, 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 Frankie D. Hampton, the paralegal assigned to this matter, at (202) 694-1650.

Sincerely,

Anthony Herman
General Counsel


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

Enclosure
General Counsel's Report

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2011 SEP 26 PM 4: 58

**BEFORE THE FEDERAL ELECTION
COMMISSION**

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In the Matter of)
MUR 6424) DISMISSAL AND
LALLY FOR CONGRESS AND) CASE CLOSURE UNDER THE
AND J. ASHLEY COOPER,) ENFORCEMENT PRIORITY SYSTEM
AS TREASURER)

CELA

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System ("EPS"), the Commission uses formal scoring criteria to allocate its resources and decide which cases to pursue. These criteria include, but are not limited to, an assessment of (1) the gravity of the alleged violation, both with respect to 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 legal complexity of issues raised in the case, (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as amended ("Act"), and (5) development of the law with respect to certain subject matters. It is the Commission's policy that pursuing low-rated matters, compared to other higher-rated matters on the Enforcement docket, warrants the exercise of its prosecutorial discretion to dismiss certain cases. The Office of General Counsel has scored MUR 6424 as a low-rated matter and has also determined that it should not be referred to the Alternative Dispute Resolution Office. This Office therefore recommends that the Commission exercise its prosecutorial discretion to dismiss MUR 6424.

In this matter, complainant Maxwell Morley alleges that Lally for Congress and J. Ashley Cooper, in his official capacity as treasurer ("the Committee), violated the Act and Commission regulations by failing "to properly designate contributions received" from federally-registered political action committees ("PACs"). Specifically, according to the complainant, the Committee's 2010 October Quarterly Report improperly disclosed that \$20,500 in contributions

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1 were made by "organizations."¹ Similarly, the complainant asserts that on its 2010 Pre-General
2 Report, the Committee improperly disclosed that \$8,000 in contributions were made by
3 "organizations."²

4 In response, the Committee acknowledges that several PAC contributions had
5 been designated improperly in its reports. The Committee explains that the errors
6 occurred where its "accounting staff did not receive their FEC information that is
7 required by [the Committee's] accounting software" . . . which "caused the PAC
8 contributions to be designated improperly in the reports." According to the Committee,
9 once the errors were brought to its accountant's attention, he corrected them and amended
10 the reports.

11 A review of the Committee's 2010 October Quarterly and Pre-General Reports discloses
12 \$20,500 and \$8,000 in PAC contributions, described above, as itemized receipts on the Reports'
13 respective Schedule As, *see* 11 C.F.R. § 104.3(a)(4). However, on the Detailed Summary Pages
14 at the beginning of the Reports, the Committee's PAC contribution are lumped in with itemized
15 contributions from individuals and others, rather than being reported on separate lines. In
16 response to three reporting anomalies, on November 24, 2010, the Committee took complete
17 remedial action by filing amended 2010 October Quarterly and Pre-General Reports, which
18 properly disclosed the \$28,500 in PAC contributions at issue on line 11(c) of the Reports'
19 respective Detailed Summary Pages.

¹ These contributions are as follows: \$1,000 from Iraq Veterans for Congress PAC on September 30, 2010; \$2,500 from Pharmacia PAC on September 30, 2010; \$5,000 from Kentucky Bankers PAC on September 28, 2010; \$5,000 from American Society of Interventional Pain Physicians PAC on September 28, 2010; \$2,000 from National Stone, Sand & Gravel Association ("Rock PAC") on September 30, 2010; and \$5,000 from Association of Builders and Contractors PAC on September 30, 2010.

² These contributions are \$3,000 from Automotive Free International Trade PAC on October 4, 2010 and \$5,000 from BuildPAC on October 7, 2010.

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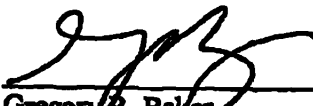
1 In light of the technical nature of the alleged violations and the fact that complete
2 corrective action has already been taken by the Committee, further Enforcement action is not
3 warranted. Accordingly, under EPS, the Office of General Counsel has scored MUR 6424 as a
4 low-rated matter and therefore, in furtherance of the Commission's priorities, as discussed
5 above, the Office of General Counsel believes that the Commission should exercise its
6 prosecutorial discretion and dismiss this matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

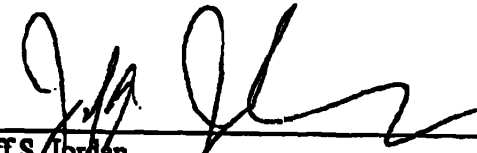
7 **RECOMMENDATIONS**

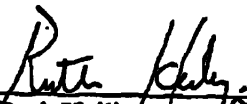
8 The Office of General Counsel recommends that the Commission dismiss MUR 6424,
9 close the file, and approve the appropriate letters.

10 Anthony Herman
11 General Counsel

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15 9/26/11
16 Date

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20 BY: 
21 Gregory R. Baker
22 Special Counsel
23 Complaints Examination
24 & Legal Administration

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29 Jeff S. Jordan
30 Supervisory Attorney
31 Complaints Examination
32 & Legal Administration

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37 Ruth Heilizer
Attorney

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