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Federal Election Commission  
Washington, DC 20463

**SENSITIVE**

**MEMORANDUM**

September 7, 2016

TO: The Commission

THROUGH: Alec Palmer *AP*  
Staff Director

FROM: Patricia C. Orrock *PCO*  
Chief Compliance Officer

Lynn M. Fraser *LMF*  
Director, ADR Office

BY: Krista J. Roche *KJR*  
Assistant Director, ADR Office

SUBJECT: ADR 809 Donovan for Congress and Steven G. Martin, Jr., Treasurer  
Recommendation to Dismiss

The Office of General Counsel (OGC) referred MUR 6935, and the ADR Office designated the matter as ADR 809. The ADR Office recommends the Commission exercise prosecutorial discretion and dismiss the matter. *Heckler v. Chaney* 470 U.S. 821 (1985). We include a summary and discussion of the matter for your information.

**Summary and Analysis of Case:** On April 17, 2015, Michael Jude filed a Complaint alleging that Donovan for Congress and Steven G. Martin, Jr., Treasurer, (Respondents or the Committee) violated the Federal Election Campaign Act of 1971, as amended, and Commission regulations by distributing materials, including banners, window signs, and lawn signs, that lacked disclaimers stating that the Committee had paid for them. The Committee acknowledges that it inadvertently omitted the disclaimers and that, before the Complaint was filed, it ordered stickers bearing the proper disclaimers which were then affixed to the signs to remedy the issue.

The Committee acknowledges that it inadvertently omitted the disclaimers due to inexperience with the federal disclaimer requirements. Campaign leadership was experienced in New York state and local elections, in which disclaimers are not required for signage. The signs contained clear language supporting the candidate, such as "Dan Donovan for Congress." The Committee

was contacted by a reporter on April 16, 2015, regarding the missing disclaimers. The campaign manager immediately contacted counsel, who informed him of the applicable disclaimer requirement. That same day, corrective stickers were ordered for rush delivery at a substantial cost (approximately 10% of original signage) to the Committee. Upon receipt of the stickers, fifty paid staff and volunteers affixed them to the signs. In addition to the remedial action undertaken by Respondents, the Committee indicated in an affidavit that representatives will participate in the FEC e-learning program and at least one educational webinar prior to the next election.

Given the circumstances presented above, we recommend that the Commission exercise prosecutorial discretion and dismiss the matter. *Heckler v. Chaney* 470 U.S. 821 (1985).

**RECOMMENDATION:**

1. Dismiss ADR 809 (MUR 6935), and close the file.
2. Approve the appropriate letters.