

BEFORE THE FEDERAL ELECTION COMMISSION

2007 JUN 13 A 9:32

In the Matter of)
)
MUR 5890)
U.S.-Cuba Democracy Political Action)
Committee and Gus Machado, in his)
official capacity as treasurer)

CASE CLOSURE UNDER THE
ENFORCEMENT PRIORITY SYSTEM

SENSITIVE

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, matters that are low-rated

are forwarded to the Commission with a recommendation for dismissal. The

Commission has determined that pursuing low-rated matters compared to other higher rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss these cases.

The Office of General Counsel scored MUR 5890 as a low-rated matter. In this case, the complainant, the Executive Director of Citizens for Responsibility and Ethics in Washington ("CREW"), alleges that U.S.-Cuba Democracy Political Action Committee (the "Committee") failed to report disbursements for legal fees or outstanding debt owed to a lawyer or law firm in connection with the complaint it filed in MUR 5830 against the Committee and Cuba Democracy Advocates. CREW's complaint in the instant matter was based on an article published in the *Miami Herald* concerning the earlier complaint. In that article, the director of Cuba Democracy Advocates, who is also a member of the Committee's board of directors, reportedly stated that "refuting each allegation means paying a law firm between \$15,000 and \$20,000."

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1 In response to the complaint, the Committee's treasurer, Gus Machado, submitted a
2 sworn affidavit stating that the Committee "has never consulted, and thus never complied any
3 outstanding debt, with any outside lawyer or law firm" regarding any allegations filed by
4 CREW with the Commission. *See* Committee's Response at 3.

5 In light of the speculative nature of CREW's allegations, which have been refuted by
6 the Committee's treasurer in a sworn affidavit, the Office of General Counsel believes that
7 the Commission should exercise its prosecutorial discretion and dismiss the matter. *See*
8 *Heckler v. Chaney*, 470 U.S. 821 (1985).

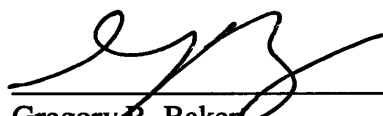
9 **RECOMMENDATION**


10 The Office of General Counsel recommends that the Commission dismiss MUR
11 5890, close the file effective two weeks from the date of the Commission vote, and approve
12 the appropriate letters. Closing the case as of this date will allow CELA and General Law
13 and Advice the necessary time to prepare the closing letters and the case file for the public
14 record.

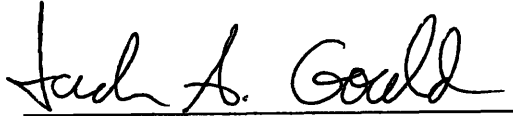
15 Thomasenia P. Duncan
16 General Counsel

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18
19 6/12/07
20 Date

21 BY:

22 
23 Gregory R. Baker
24 Special Counsel
25 Complaints Examination
26 & Legal Administration

27 
28 Jeff S. Jordan
29 Supervisory Attorney
30 Complaints Examination
31 & Legal Administration



Jack A. Gould
Attorney

Attachment:
Narrative in MUR 5890

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NARRATIVE

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3
4 **MUR 5890**

5
6 **Complainant:** Melanie Sloan, Executive Director
7 Citizens for Responsibility and Ethics in Washington ("CREW")
8

9 **Respondent:** U.S. - Cuba Democracy Political Action Committee
10 ("Committee")
11

12 **Allegations:** CREW alleges that the Committee failed to report disbursements and/or
13 debts for legal fees in connection with the complaint it filed in MUR 5830 against the
14 Committee and Cuba Democracy Advocates. CREW's complaint in this matter was
15 based on an article published in the *Miami Herald* concerning the earlier complaint. In
16 that article, the director of Cuba Democracy Advocates, who is also a member of the
17 Committee's board of directors, reportedly stated that "refuting each allegation means
18 paying a law firm between \$15,000 and \$20,000."
19

20 **Response:** The Committee, in response to the complaint in this matter, submitted a
21 sworn affidavit from its treasurer in which he stated that the Committee has "never
22 consulted, and thus never compiled any outstanding debt, with any outside lawyer or law
23 firm regarding any allegations" CREW filed with the Commission. Further, according to
24 the Committee, all responses to Commission inquiries have been drafted by its Executive
25 Committee. As for the statement reportedly made by the director of Cuba Democracy
26 Advocates, the Committee responded that he was explaining to the *Miami Herald*
27 reporter that "responding to similar allegations would typically mean a political
28 committee paying a law firm \$15,000-\$20,00 in fees . . ."
29

30 **Date Complaint filed:** December 21, 2006

31 **Response filed:** January 12, 2007

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