

FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

MUR: 6010

DATE COMPLAINT FILED: May 12, 2008

DATE OF NOTIFICATION: June 2, 2008

LAST RESPONSE RECEIVED: September 15, 2008

DATE ACTIVATED: August 12, 2008

EXPIRATION OF SOL: April 22, 2013

COMPLAINANTS:

Cheryl A. Schmit

John M. Holmes

Rusty Dupray

Peter Hill

James W. Holmes

RESPONDENTS:

Thomas McClintock

McClintock for Congress and David Bauer, in his
official capacity as Treasurer

Partnership for America

National Indian Gaming Association

Steven J. Ding

RELEVANT STATUTES:

2 U.S.C. § 431(4)(A)

2 U.S.C. § 431(8)(A)(i)

2 U.S.C. § 433

2 U.S.C. § 434

2 U.S.C. § 441a(a)

2 U.S.C. § 441a(a)(1)

2 U.S.C. § 441a(a)(7)(B)(i)

2 U.S.C. § 441a(f)

2 U.S.C. § 441b

2 U.S.C. § 441i(c)(1)(A)

11 C.F.R. § 109.21

11 C.F.R. § 109.21(a)(1)

11 C.F.R. § 109.21(c)

INTERNAL REPORTS CHECKED:

Federal Disclosure Reports

FEDERAL AGENCIES CHECKED:

Internal Revenue Service

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I. INTRODUCTION

This matter arises out of a complaint alleging that Tom McClintock and his campaign committee, McClintock for Congress and David Bauer, in his official capacity as Treasurer, ("MCC") violated the Federal Election Campaign Act of 1971, as amended ("the Act"), when they coordinated with Partnership for America ("PFA"), a non-profit corporation organized under 26 U.S.C. § 501(c)(4), in the making of expenditures in connection with Mr. McClintock's primary election on June 3, 2008. As a result of the alleged coordination, the complaint alleges that PFA made, and MCC received, excessive and prohibited contributions, and that MCC failed to disclose these contributions. Read broadly, the complaint also alleges that Mr. McClintock solicited excessive and prohibited funds in connection with his election for federal office, and that PFA is a political committee that failed to register and report its contributions.

As discussed below, based on the available information, there is no information suggesting that PFA coordinated with Mr. McClintock or MCC. Therefore, we recommend that the Commission find no reason to believe that PFA violated 2 U.S.C. §§ 441a(a)(1) or 441b, and no reason to believe that MCC violated 2 U.S.C. §§ 434(b), 441a(f) or 441b. Also, because there is no information suggesting that Mr. McClintock solicited excessive or prohibited funds, we recommend that the Commission find no reason to believe that Mr. McClintock violated 2 U.S.C. § 441i(e)(1)(A). Further, there is no information that suggests that PFA failed to register as a political committee in violation of 2 U.S.C. § 433 because there is no information that it received contributions or made expenditures over \$1,000. *See* 2 U.S.C. § 431(4)(A). Therefore, we recommend that the Commission find no reason to believe that Partnership for America violated 2 U.S.C. §§ 433 and 434.

1 In addition, there is no information suggesting that the National Indian Gaming
2 Association ("NIGA") made excessive or prohibited contributions to MCC, and thus we
3 recommend that the Commission find no reason to believe that NIGA violated 2 U.S.C.
4 §§ 441a(a)(1) or 441b.¹ Finally, we recommend that the Commission find no reason to believe
5 that Steven J. Ding violated the Act because there appears to be no basis for liability based on the
6 facts within the complaint and publicly-available information.

7 **II. LEGAL ANALYSIS**

8 **A. Alleged Coordination and Resulting Violations**

9 **1. Facts**

10 Tom McClintock is a California state senator and the 2008 Republican nominee for the
11 House of Representatives for California's Fourth Congressional District. PFA is a nonprofit
12 corporation organized under 26 U.S.C. § 501(c)(4) and headquartered in Colorado. It is
13 "comprised of Americans who support public policies that seek to restore a common sense
14 balance between economic growth and environmental conservation." *See*
15 <http://www.partnershipforamerica.org>. The organization's stated goals are to create
16 "environmentally sound development" and "access to affordable and reliable supplies of goods,"
17 and to boost "economic growth" through job creation. *See* [http://www.partnershipforamerica.org/-](http://www.partnershipforamerica.org/-about/whatwebelieve.asp)
18 [about/whatwebelieve.asp](http://www.partnershipforamerica.org/-about/whatwebelieve.asp).

19

¹ The complaint referred to this entity as both "Southern California Indian Gaming Tribes" and "California Indian Gaming Tribes." However, because of difficulty locating these entities, the "California Nations Indian Gaming Association" (CNIGA) was notified of the complaint. CNIGA then informed the FEC that it was not the same respondent named in the complaint. CEFA then contacted the National Indian Gaming Commission, the federal agency responsible for regulating Indian gaming, in an attempt to locate the proper entity, but was unable to do so. According to publicly available information and MCC's untimely response, however, the correct name of this entity is the "National Indian Gaming Association," and throughout this memo it will be referred to as such. *See* <http://s36.a2zinc.net/clients/niga/niga08/public/ExhibitorList.aspx?ID=157>.

1 The complaint alleges that Tom McClintock and PFA engaged in coordinated
2 communications by funding an "illegal independent expenditure and/or issue advocacy
3 'campaign'" to influence the outcome of the June 3, 2008 Republican primary election.
4 Complaint at 2 and Exh. A. Specifically, the complaint asserts that an individual named Steven
5 J. Ding promoted and solicited funds for PFA's campaign by e-mail and at a meeting of Indian
6 gaming tribes at the same time he was a paid "employee/consultant" of the McClintock
7 committee. *See id.* at 4 and Exhs. A, C. By contrast, the article attached to the complaint states
8 that Mr. Ding "was on McClintock's campaign payroll until a few weeks" before the meeting.
9 Complaint Exh. B (David Whitney, McClintock Independent Campaign Effort Questioned, The
10 Sacramento Bee, Apr. 26, 2008, available at <http://www.sacbee.com/111/story/891275.html>).
11 The complaint attaches a three-page document entitled, "CA-4 CONGRESSIONAL ISSUE
12 ADVOCACY CAMPAIGN," that, according to the complaint, was prepared and distributed by
13 PFA through its agent, Mr. Ding. *See id.* at Exh. A. The document states that PFA "is launching
14 a campaign to highlight certain issue positions [of] the candidates in the Fourth District of CA,"
15 proposes a timeline of activities and a budget of \$660,000 for the primary campaign, and
16 describes its strategy and purpose as follows:

17 We will aim to create a political environment by which the most conservative
18 candidate's messages on taxes, economic development; gun rights; immigration,
19 and other key issues will lead to higher turnout among like minded people who
20 care about those issues. That, in turn, will create a better scenario for the
21 conservative candidate (who is aligned with our beliefs) to achieve victory in the
22 primary as well as the general election in November.

23 *Id.* at Exh. A. According to the complaint, Mr. McClintock frequently touted himself in
24 communications as "the most conservative" candidate in the primary election. *See id.* at 4.

1 In response, PFA asserts that the complaint is based on "erroneous" information.
2 Specifically, PFA states that while it did prepare a draft plan for an education effort "to highlight
3 the candidates' positions on key issues... this draft plan was never funded, initiated, acted upon,
4 or the subject of any communications to voters in the [F]ourth [D]istrict of California." PFA
5 Response at 1. In addition, PFA asserts that it made no attempt to run an "independent
6 expenditure" effort for or against any candidate in California's Fourth Congressional district and
7 that it made no public communications related to the candidates in that election. PFA does not
8 address whether the draft plan was created or distributed by Mr. Ding. However, it asserts that
9 Mr. Ding is not an employee, agent, or representative of PFA. Press reports and the
10 organization's website corroborates the response, as they contain no information suggesting that
11 PFA aired communications related to this race. Thus, because it never approved or acted upon
12 the draft plan in any way, PFA argues that it could not have violated the coordination rules or
13 exceeded spending limits.

14 2. Analysis

15 The allegations in this matter raise the question of whether PFA made excessive and
16 prohibited in-kind contributions to MCC in the form of coordinated communications in violation
17 of 2 U.S.C. §§ 441a(a)(1) and 441b, and whether Mr. McClintock and MCC knowingly accepted
18 excessive and prohibited contributions and failed to disclose them in violation of 2 U.S.C.
19 §§ 441a(f), 441b and 434(b). Under the Act, no person may make a contribution, including an
20 in-kind contribution, to a candidate and his or her authorized political committee with respect to
21 any election for Federal office, which, in the aggregate, exceeds \$2,300. 2 U.S.C. § 441a(a). In
22 addition, the Act prohibits direct and in-kind contributions by corporations. See 2 U.S.C.
23 § 441b; see also 11 C.F.R. § 114.10(d)(3). The Act defines in-kind contributions as, *inter alia*,

1 expenditures made by any person "in cooperation, consultation, or concert, with, or at the request
2 or suggestion of, a candidate, his authorized political committees, or their agents."

3 2 U.S.C. § 441a(a)(7)(B)(i). A communication is coordinated with a candidate, an authorized
4 committee, a political party committee, or agent thereof if it meets a three-part test:² (1) payment
5 by a third-party; (2) satisfaction of one of four "content" standards;³ and (3) satisfaction of one of
6 six "conduct" standards.⁴ See 11 C.F.R. § 109.21.

7 In this matter, while Mr. Ding was a former employee of the McClintock campaign, there
8 is no specific information that PFA ever paid for or made a communication sufficient to satisfy
9 the payment prong at 11 C.F.R. § 109.21(a)(1) or the content standard under 11 C.F.R.
10 § 109.21(c). The only information regarding possible communications by PFA is a vague

² After the decision in *Shays v. FEC*, 414 F.3d 76 (D.C. Cir. 2005) (Appeals Court affirmed the District Court's invalidation of the fourth, or "public communication," content standard of the coordinated communications regulation), the Commission made revisions to 11 C.F.R. § 109.21 that became effective July 10, 2006. In a subsequent challenge by Shays, the U.S. District Court for the District of Columbia held that the Commission's content and conduct standards of the coordinated communications regulation at 11 C.F.R. § 109.21(c) and (d) violated the Administrative Procedure Act; however, the court did not vacate the regulations or enjoin the Commission from enforcing them. See *Shays v. F.E.C.*, 508 F.Supp.2d 10, 70-71 (D.D.C. Sept. 12, 2007) (NO. CIV.A. 06-1247 (CKK)) (granting in part and denying part the respective parties' motions for summary judgment). Recently, the D.C. Circuit affirmed the district court with respect to, *inter alia*, the content standard for public communications made before the time frames specified in the standard, and the rule for when former campaign employees and common vendors may share material information with other persons who finance public communications. See *Shays v. F.E.C.*, 528 F.3d 914 (D.C. Cir. 2008). This decision does not impact this matter, however, because there is no information that any communication was funded by PFA.

³ The content prong is satisfied if the communications at issue meet at least one of four content standards: (1) a communication that is an electioneering communication as defined in 11 C.F.R. § 100.29(a); (2) a public communication that republishes, disseminates, or distributes candidate campaign materials; (3) a public communication containing express advocacy; or (4) a public communication, in relevant part, that refers to a clearly identified federal candidate, is publicly distributed or disseminated 120 days or fewer before a primary or general election, and is directed to voters in the jurisdiction of the clearly identified candidate. See 11 C.F.R. § 109.21(c).

⁴ The conduct prong is satisfied when any of the following types of conduct occurs: (1) the communication was created, produced, or distributed at the request or suggestion of a candidate or his campaign; (2) the candidate or his campaign was materially involved in decisions regarding the communication; (3) the communication was created, produced, or distributed after substantial discussions with the campaign or its agents; (4) the parties contracted with or employed a common vendor that used or conveyed material information about the campaign's plans, projects, activities, or needs, or used material information gained from past work with the candidate to create, produce, or distribute the communication; (5) the payor employed a former employee or independent contractor of the candidate who used or conveyed material information about the campaign's plans, projects, activities, or needs, or used material information gained from past work with the candidate to create, produce, or distribute the communication; or (6) the payor republished campaign material. See 11 C.F.R. § 109.21(d).

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1 statement found in its "CA-4 Congressional Issue Advocacy Campaign" memo that "[a]ccording
2 to the 'timeline,' research activities were to be commenced in April and it has been reported that
3 a telephone survey has been conducted within the district and presumed to be paid for by
4 Partnership for America." PFA specifically countered this claim in its response, asserting that it
5 never approved or acted upon the draft plan at issue in any way, and that it received no funds
6 from its membership to fund any actions related to the candidates in the congressional election in
7 the Fourth District of California. While PFA's response does not provide affidavits or other
8 supporting materials, publicly-available information corroborates its claim that it did not fund
9 such communications. Specifically, PFA's website includes no information suggesting that PFA
10 made expenditures on behalf of Mr. McClintock, and no news articles report communications
11 funded by PFA in the Fourth District. Therefore, based upon the information presented, we
12 recommend that the Commission find no reason to believe that Partnership for America violated
13 2 U.S.C. §§ 441a(a)(1) or 441b by making excessive or prohibited contributions in the form of
14 coordinated communications, and no reason to believe McClintock for Congress violated
15 2 U.S.C. §§ 441a(f), 441b or 434(b) by receiving and failing to disclose excessive or prohibited
16 contributions.

17 **B. Alleged Solicitation of Soft Money**

18 **1. Facts**

19 The complaint alleges that, on or about April 22, 2008, Mr. McClintock, personally and
20 through Mr. Ding as his agent, solicited excessive and prohibited contributions for PFA's
21 "independent expenditure" "campaign" at an Indian gaming tribes conference. See Complaint at
22 2-4 and Exh. B. The complaint asserts that, at the meeting,

- 23 • Mr. McClintock solicited campaign contributions for his authorized committee;

- 1 • "It is not known, but believed, that [Mr. McClintock] also solicited contributions for
- 2 [PFA];"
- 3 • Mr. Ding, as an agent of Mr. McClintock, solicited contributions for PFA; and
- 4 • "It is not known, but believed, that [Mr. Ding] also solicited contributions for [MCC]."
- 5 *Id.* at 4. The complaint also alleges that the Indian gaming tribes in attendance violated federal
- 6 contribution limits by donating in excess to MCC and PFA. *See id.* at 2.

7 Mr. McClintock denies that he ever solicited funds for PFA, that he is or was an agent of
8 PFA, or that Mr. Ding was his agent at the time of the Indian gaming tribes conference.
9 *See* MCC Response at 2. According to its response, MCC hired Mr. Ding to organize a
10 fundraising trip to Washington, D.C., but severed all ties with him on April 9, 2008 and has not
11 retained his services for any other purpose or at any subsequent time. *See id.* Although
12 Mr. McClintock attended the NIGA conference and solicited funds for his authorized committee,
13 MCC asserts that it properly disclosed all contributions solicited and received.⁵ *See id.* at 3.
14 PFA similarly asserts that Mr. Ding is not an employee, agent, or representative of PFA. *See*
15 PFA Response at 2.

16 2. Analysis

17 The complaint asserts that Mr. McClintock and his agents solicited excessive and
18 prohibited funds for an "independent expenditure" or "issue advocacy" effort to benefit
19 conservative candidates, and Mr. Ding, as an agent of Mr. McClintock, solicited funds for PFA.
20 The complaint also states, however, that "it is not known, but believed" that Mr. McClintock
21 solicited funds for PFA.

⁵ Although MCC did not disclose any contributions from Indian tribes, its reports indicate that McClintock may have received individual contributions in response to his solicitations at the conference based on the date of receipt.

Under the Act, as amended by the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Federal officeholders and candidates for Federal office, or their agents, may not solicit, receive, direct, transfer or spend funds in connection with any election, unless the funds comply with Federal contribution limits, source restrictions, and reporting requirements. 2 U.S.C. §§ 441i(e)(1)(A) and (B); 11 C.F.R. §§ 300.61 and 300.62. Specifically, a Federal officeholder or candidate, whether in connection with a Federal or non-Federal election, may not raise funds from individuals that exceed the current limit of \$2,300 per election per candidate, and may not raise funds from corporations, labor organizations, or foreign nationals. The Commission has defined the term "solicit" to mean "to ask that another person make a contribution, donation, transfer of funds, or otherwise provide anything of value whether the contribution, donation, transfer of funds, or thing of value, is to be made or provided directly, or through a conduit or intermediary."⁶ 11 C.F.R. § 300.2(m).

In this case, there is no information suggesting that Mr. McClintock solicited funds for PFA. While it is true that he attended the same conference as Mr. Ding, the complaint only speculates that the two acted in concert or that Mr. McClintock solicited funds for PFA at the conference. Also, the article attached to the complaint cited as support for this allegation states only that Mr. McClintock solicited for his campaign and Mr. Ding solicited for PFA at the conference. Although the complaint alleges that Mr. Ding acted as Mr. McClintock's agent in soliciting funds for PFA, MCC stated in its response that it ceased using Mr. Ding's services after April 9, 2008, and that Mr. McClintock never solicited funds for PFA. Therefore, based

⁶ Congress at 2 U.S.C. § 441i(c)(4) excepted: (1) general solicitations on behalf of 501(c) groups whose primary purpose is not certain types of "Federal election activity," including voter registration within 120 days of a Federal election and voter identification, get-out-the-vote and generic campaign activity in proximity to a Federal election; and (2) specific solicitations limited to \$20,000 on behalf of 501(c) entities whose primary purpose is these certain types of "Federal election activity." See AO 2005-10.

upon the information presented, we recommend that the Commission find no reason to believe that Tom McClintock violated 2 U.S.C. § 441i(e)(1)(A).

C. Political Committee Status

The complaint asserts that PFA should have registered and reported as a political committee because it intended to engage in activity aimed at influencing the outcome of federal elections. *See* 2 U.S.C. §§ 431(4), 433(a) and 434(a). The Act defines a “political committee” as any committee, club, association, or other group of persons that receives “contributions” or makes “expenditures” for the purpose of influencing a federal election that aggregate in excess of \$1,000 during a calendar year. 2 U.S.C. § 431(4)(A). The term “expenditure” is defined to include “any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal Office.” 2 U.S.C. § 431(9)(A)(i). The term “contribution” is defined to include “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.” 2 U.S.C. § 431(8)(A)(i). Further, Commission regulations provide that funds received in response to any communication are contributions to the person making the communication “if the communication indicates that any portion of the funds received will be used to support or oppose the election of a clearly identified Federal candidate.” 11 C.F.R. § 100.57.

To address overbreadth concerns, the Supreme Court has held that only organizations whose major purpose is campaign activity can potentially qualify as political committees under the Act. *See, e.g., Buckley v. Valeo*, 424 U.S. 1, 79 (1976); *FEC v. Massachusetts Citizens for Life*, 479 U.S. 238, 262 (1986) (“*MCFL*”). The Commission has long applied the Court’s major purpose test in determining whether an organization is a “political committee” under the Act, and

1 it interprets that test as limited to organizations whose major purpose is federal campaign
2 activity. *See* Political Committee Status: Supplemental Explanation and Justification, 72 Fed.
3 Reg. 5595, 5597, 5601 (Feb. 7, 2007); *see also* FEC's Mem. in Support of Second Mot. for
4 Summ. J., *Emily's List v. FEC*, Civ. No. 05-0049 at 21 (D.D.C. Oct. 9, 2007). An organization's
5 "major purpose" may be established through public statements of its purpose. *See, e.g., FEC v.*
6 *Malenick*, 310 F. Supp. 2d 230, 234-36 (D.D.C. 2004) (court found organization evidenced its
7 "major purpose" through its own materials which stated the organization's goal of supporting the
8 election of Republican Party candidates for federal office and through efforts to get prospective
9 donors to consider supporting federal candidates); *FEC v. GOPAC, Inc.*, 917 F. Supp. 851, 859
10 (D.D.C. 1996) ("organization's [major] purpose may be evidenced by its public statements of its
11 purpose or by other means. . ."). An organization can also satisfy the "major purpose" test
12 through sufficient spending on campaign activity. *MCFL*, 479 U.S. at 262-264 (political
13 committee status would be conferred on MCFL if its independent spending were to become so
14 extensive that the group's major purpose may be regarded as campaign activity).

15 Based on the complaint, response from PFA, and publicly-available sources, there is no
16 information that PFA made expenditures or received contributions meeting the \$1,000 threshold.
17 The complaint states that PFA was preparing to engage in a \$660,000 "independent expenditure
18 effort" in the Fourth District of California's Republican primary. However, while PFA
19 acknowledged in its response that it had created a "draft plan" for an "education effort," it stated
20 that the draft plan was never "funded, initiated, acted upon, or the subject of any communications
21 to voters." There is also no information that PFA ran any advertisements, and the group's
22 website contains no references to federal candidates or requests for funds to run ads to help

1 federal candidates. IRS filings by PFA also show no disbursements suggesting that PFA made
2 "expenditures."

3 Similarly, we have no information suggesting that PFA received contributions exceeding
4 \$1,000. Although PFA apparently solicited funds for its "draft plan," it asserts that it received no
5 funds from its membership or new members "to fund ANY actions related to the candidates in
6 the CA-4." PFA Response at 2. We have no information suggesting otherwise. In addition, its
7 website reveals no solicitations indicating that any portion of the funds received will be used to
8 support or oppose the election of a clearly identified Federal candidate. *See Partnership for*
9 *America: Join Us!*, at <http://www.partnershipforthewest.org/-registration/default.asp> (last visited Nov.
10 3, 2008). As a result, the available information indicates that PFA did not accept "contributions"
11 under the Act.

12 Therefore, because PFA has not met the statutory threshold for political committee status,
13 it is not necessary to consider the major purpose test. Accordingly, we recommend that the
14 Commission find no reason to believe that Partnership for America violated 2 U.S.C. §§ 433 and
15 434.

16 **D. National Indian Gaming Association**

17 The complaint alleges that Mr. McClintock personally solicited contributions from Indian
18 tribes at a NIGA conference, but it does not identify any specific tribes alleged to have made
19 contributions. An Indian tribe is a "person" under the Act and is therefore subject to the
20 contribution limitations and prohibitions in the federal campaign finance law.⁷ An Indian tribe
21 may contribute up to \$2,300 per election to federal candidates unless the tribe is prohibited from
22 making contributions because it is a corporation or a federal government contractor, in which

⁷ See 2 U.S.C. § 441a(a)(1) and (2); AO 1978-51.

1 case the tribe would be subject to the same prohibitions on contributions as other corporations
2 and federal government contractors. Additionally, political committees, including candidate and
3 party committees, must disclose contributions from Indian tribes on their regularly filed
4 disclosure reports.

5 MCC asserts that it properly disclosed all contributions solicited and received by
6 McClintock at the conference. Although MCC did not disclose any contributions from Indian
7 tribes, it received contributions from individuals on or around the time of the gaming tribes'
8 meeting. None of the disclosed contributions appear to be improper.

9 There is no information in FEC reports indicating that NIGA itself contributed money to
10 MCC. Therefore, since the complaint does not allege, and we have no information, that NIGA
11 made an excessive or prohibited contribution to McClintock for Congress, we recommend that
12 the Commission find no reason to believe that the NIGA violated 2 U.S.C. §§ 441a(a)(1) and
13 441b.


14 **E. Steven J. Ding**


15 While the complaint alleges that "it is believed" that Mr. Ding solicited funds for
16 McClintock for Congress, there is no information that this occurred and MCC specifically denied
17 having any knowledge or information with respect to any such solicitation by Mr. Ding. Even if
18 true, there is no information that his solicitations resulted in a violation of the Act. Mr. Ding did
19 not file a response, but since there appears to be no basis for liability based on facts within the
20 complaint and on publicly-available information, we recommend that the Commission find no
21 reason to believe that Mr. Ding violated the Act.

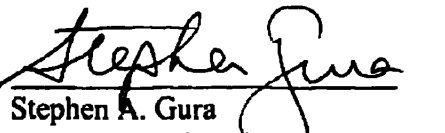
III. RECOMMENDATIONS


1. Find no reason to believe that Partnership for America violated 2 U.S.C. §§ 441a(a)(1) or 441b.
2. Find no reason to believe that McClintock for Congress and David Bauer, in his official capacity as Treasurer, violated 2 U.S.C. §§ 434(b), 441a(f) and 441b.
3. Find no reason to believe that Tom McClintock violated 2 U.S.C. § 441j(e)(1)(A).
4. Find no reason to believe that Partnership for America violated 2 U.S.C. §§ 433 and 434.
5. Find no reason to believe that the National Indian Gaming Association violated 2 U.S.C. §§ 441a(a) or 441b.
6. Find no reason to believe that Steven J. Ding violated the Act.
7. Approve the attached Factual and Legal Analyses.
8. Approve the appropriate letters; and
9. Close the file.

December 9, 2008
Date

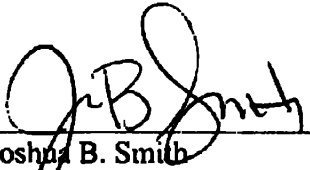

Thomasenia P. Duncan
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Tracey Ligon
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MUR 6010
First General Counsel's Report



Joshua B. Smith
Attorney

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