

FEDERAL ELECTION COMMISSION

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<sup>1</sup> On September 1, 2014, the Federal Election Campaign Act of 1971, as amended (the “Act”), was transferred from Title 2 of the United States Code to new Title 52 of the United States Code.

Complaint Filed: June 2, 2014. Response Filed

1 Complainant Paul Chabot<sup>3</sup> alleges that Lesli Gooch for Congress and Jen Slater, in her  
2 official capacity as treasurer (collectively, the "Committee"),<sup>4</sup> violated the Act and Commission  
3 regulations by distributing a mailer that failed to include a disclaimer indicating the party  
4 responsible for the printed communication. Compl. at 1. Attached to the Complaint are copies of  
5 what appear to be two sides of a mail piece allegedly distributed by the Gooch campaign throughout  
6 California's 31<sup>st</sup> congressional district prior to the June 3, 2014 primary election. *Id.*, Attach. 1-2.  
7 Both sides of the mail piece include graphics such as handcuffs and loose currency, as well as  
8 images of President Bill Clinton, with text such as, "We can't afford Paul Chabot's costly  
9 decisions" (emphasis in original); "Paul Chabot was a political bureaucrat for Bill Clinton"; and  
10 "Paul Chabot pocketed nearly \$1 million of taxpayer money . . . ." *Id.* The return address on the  
11 mailer reads, "Lesli Gooch for Congress, 8816 Foothill Blvd., Suite 103-240, Rancho Cucamonga,  
12 CA 91730,"<sup>5</sup> and the mailer includes a pre-paid postage stamp. *Id.*

13 In response, the Committee acknowledges that, due to a "typographical error," the mail  
14 piece at issue failed to identify the party responsible for the communication and failed to set apart  
15 written text in a "box/outline," as required by the Act. Resp. at 1. The Committee states that on  
16 May 15, 2014, the mail piece was sent to a "targeted list of registered voters" in California's 31<sup>st</sup>  
17 congressional district as "part of an overall voter contact effort" that included other forms of paid  
18 media and direct mail. *Id.* The Committee contends that during the mailer's design process, "it  
19 appears that additional graphics caused the correct disclaimer at the bottom [of the mailer] to be

<sup>3</sup> Chabot and Lesli Gooch were opponents in California's June 3, 2014 Republican primary election. Chabot won the primary election with 26.6% of the vote.

<sup>4</sup> The Committee is the principal campaign committee of Lesli E. McCollum Gooch, unsuccessful 2014 primary election candidate for California's 31<sup>st</sup> congressional district.

<sup>5</sup> Disclosure documents indicate that this was the mailing address of the Committee between February 27, 2014 and July 2, 2014. See Statement of Organization dated February 27, 2014 and Amended Statement of Organization dated July 2, 2014.

1 pushed off the piece” and that the error was overlooked by the campaign in the final approval of the  
2 design proofs. *Id.* The Committee notes that the mailer includes the campaign’s address in  
3 “readable font size” with “visible contrast,” and that the correct disclaimer information appears on  
4 all other mail pieces sent by the campaign. *Id.*

5 Whenever any person makes a disbursement for a “public communication” that expressly  
6 advocates the election or defeat of a clearly identified candidate, he or she must include a  
7 disclaimer.<sup>6</sup> 52 U.S.C. § 30120(a) (formerly 2 U.S.C. § 441d(a)); 11 C.F.R. § 110.11(a)(2), (b).  
8 Regardless of content, all public communications authorized and paid for by a candidate, an  
9 authorized committee of a candidate, or an agent of either, must clearly state that the  
10 communications were paid for by the authorized political committee. 52 U.S.C. § 30120(a)  
11 (formerly 2 U.S.C. § 441d(a)); 11 C.F.R. § 110.11(b)(1).

12 In this matter, the Committee acknowledges that the mailer did not include a proper  
13 disclaimer.<sup>7</sup> However, the exact scope and cost of the mail piece is unknown, although the  
14 Committee notes that it was sent to a “targeted list of registered voters.” Finally, the Committee  
15 asserts that proper disclaimers were included on other mail pieces during the campaign. As noted  
16 by the Committee, its mailing address was included on the mailer, which failed to include the  
17 proper disclaimer. Thus, there was some identifying information on the mailer, which linked it to  
18 the Committee. Accordingly, in light of the inadvertent nature of the violation, the Office of  
19 General Counsel does not believe further Commission resources are warranted to assess the

<sup>6</sup> A public communication is “a 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.” 52 U.S.C. § 30101(22) (formerly 2 U.S.C. § 431(22)); 11 C.F.R. § 100.26. The term public communication is defined to include mass mailings. *Id.* A mass mailing, in turn, is defined as a mailing of more than 500 pieces of mail of an identical or substantially similar nature within any 30-day period. 52 U.S.C. § 30101(23) (formerly 2 U.S.C. § 431(23)); 11 C.F.R. § 100.27.

<sup>7</sup> In light of the Committee’s acknowledgment, this Office will assume that the mailer qualified as a “public communication” under 11 C.F.R. §§ 100.26, 100.27, and 110.11(b)(1).

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magnitude of the Committee's expenditure and, therefore, recommends that the Commission dismiss this matter pursuant to its prosecutorial discretion under *Heckler v. Chaney*, 470 U.S. 821 (1985).

**RECOMMENDATIONS**

1. Dismiss MUR 6835 pursuant to the Commission's prosecutorial discretion;
2. Approve the attached Factual and Legal Analysis and the appropriate letters; and
3. Close the file.

General Counsel

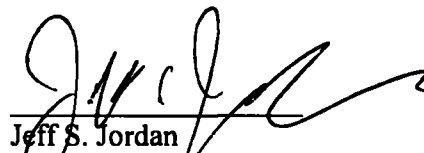
Date

10/9/14

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