

BRACEWELL & GIULIANI

Texas
New York
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Connecticut
Seattle
Dubai
London

Larry Levy
Counsel

212.938.6403 Office
212.938.3878 Fax

larry.levy@bgllp.com

Bracewell & Giuliani LLP
1251 Avenue of the Americas
48th Floor
New York, New York
10020-1104

January 16, 2013

Anthony Herman, Esq.
General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: Response of Friends of Trey Radel in MUR 6699

Dear Mr. Herman,

This response is submitted by the undersigned counsel on behalf of Friends of Trey Radel, Inc. ("Committee") and Barbara Bisnette, Treasurer, in response to the Complaint designated as Matter Under Review 6699.

The Complaint in this matter was filed by Sheryl Wooley, the campaign manager for Chauncey Goss, who ran against Mr. Radel in the Primary election for the Republican nomination to Congress from the 19th Congressional District ("CD") in Florida. The Complaint alleges that the Committee sent a solicitation to Ms. Shirley A. Wood of Cape Coral, FL 33914, sometime in September of 2012. Further, that Shirley A. Wood is a fictitious name used in salted FEC reports filed by the Goss campaign, using the true address of Ms. Wooley.

The Committee was shocked and surprised to receive the Complaint alleging a violation of 2 U.S.C §438(a)(4) and 11 C.F.R. §104.15 (a). At no time did the Committee sanction, suggest or knowingly use any information obtained from FEC reports for the purpose of soliciting contributions to the Committee. To the contrary, as detailed in the annexed affidavit of Matt Pusateri, campaign manager for the Committee, staff and volunteers were specifically trained to observe all laws and FEC regulations in the conduct of the campaign.

The primary election in CD 19 was very challenging, featuring six candidates seeking an open seat, which was ultimately won by Trey Radel, a first-time candidate who had never before run for federal office. Mr. Pusateri was a first-time campaign manager for a federal election, he guided the Committee, including the supervision of donor outreach.

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As noted in Mr. Pusateri's affidavit, and confirmed by the FEC's public information, no other complaints have been filed against the Committee. As one might expect for a Committee staffed with volunteers and individuals engaged in their first ever federal election, the assigned analyst has occasionally raised a question about filed reports, each of which has been timely resolved in the normal course of business.

Mr. Pusateri's affidavit details how the Committee came to send a solicitation to Ms. Wood in September of 2012. In simplest terms, after Mr. Radel won the primary election, a number of volunteers and supporters of the five other candidates sought to support the Republican standard bearer in the general election. Among those volunteers was a gentleman by the name of Dave Stokes, a firefighter in the area who had been a volunteer for the campaign of another candidate, Paige Kreegel. Mr. Stokes was also known to the Committee as an active volunteer in Republican politics in the area.

According to Mr. Pusateri, and supported by FEC records, the Committee had been loaned a significant amount of money by Mr. Radel in order to campaign and effectively publish his message during the Primary. In order to be able to continue to campaign during the general election additional funds were necessary. As such, early in September, the Committee had organized a house party fund raiser at the home of Dr. Daniel and Celia Dorosrtz, which included Gary Aubuchon, another former candidate in the primary election. See Exhibit 4 to the Pusateri Affidavit.

Mr. Pusateri and Mr. Radel, asked all the volunteers, those who recently joined the Committee, and those who had been assisting during the primary, to forward names and addresses of individuals to invite to the September 24th fundraiser, or to otherwise invite to make donations. Mr. Stokes provided 3 lists of potential donors to the Committee via an email he sent to Mr. Radel, on September 8, 2012, which was promptly forwarded to Mr. Pusateri. See Exhibit 1 to the Pusateri Affidavit, and the Affidavit.

Mr. Pusateri's Affidavit indicates that he didn't question the lists from Mr. Stokes because he knew him to be an active volunteer in Republican politics in the area and a recent volunteer for the Kreegel campaign. Moreover, he had not attempted to provide special training to Mr. Stokes regarding FEC regulations because of this history. Other volunteers had received training during the primary to ensure compliance with FEC regulating election law.

Exhibit 2, to the Pusateri Affidavit, and the Affidavit, indicate a list, including the name and address of Ms. Wood, was sent to the Committee by Mr. Stokes and titled, "Lee County only 1,000\$ and up", in the accompanying email. No one questioned Mr. Stokes apparent authority to have properly collected and supplied those names to the Committee. Indeed, when one looks to the "properties" of the attachment, attached to the Pusateri Affidavit as Exhibit 3, one notes the list was originally compiled in May of 2012, when Mr. Stokes was assisting the Kreegel campaign as a volunteer. Moreover, a review of the Friends of Chauncey Goss FEC filing shows

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that Ms. Wood, first was reported as a \$1,000 donor to that campaign on page 27 of Schedule A, filed on January 30, 2012. As such, it may well have been given to the Kreegel campaign as part of the list apparently prepared by Mr. Stokes in May of 2012. Unfortunately, we can't ascertain that information because Mr. Stokes will not further cooperate with the Committee.

As detailed in the Pusateri Affidavit, upon receipt of The Complaint of MUR 6699, Mr. Pusateri conducted an investigation to determine the relevant facts. He found a volunteer, David Stokes, supplied the name of Ms. Wood, along with some other names, that Mr. Stokes obtained from the published FEC report of The Goss campaign. Mr. Stokes told Mr. Pusateri he didn't know he wasn't allowed to use report information published by the FEC to solicit contributions. Mr. Pusateri then asked Mr. Stokes, a local firefighter and political volunteer, to speak to the Committee's Counsel in order to provide a sworn affidavit of the relevant facts. Mr. Stokes refused to cooperate, which refusal he said was predicated on the advice of his personal counsel.

Mr. Pusateri's investigation did not reveal any other person with knowledge of the source of the information provided by Mr. Stokes, nor, did he uncover information indicating that any other Committee volunteer or staffer had improperly supplied data from an FEC published report.

Given the sworn complaint by Ms. Wooley, and the admission Mr. Stokes made to Mr. Pusateri and referenced in his Affidavit, the Committee's misplaced reliance on the propriety of information provided by a volunteer appears to have led to an inadvertent, one time, use of FEC published data. The Committee, as explained by Mr. Pusateri in his Affidavit has already, (1) conducted a thorough investigation, (2) removed the person responsible for the error from any involvement with the Committee, (3) retained a professional to oversee the collecting and reporting of all donations on a going forward basis, (4) retained experienced counsel, (5) has offered to send a representative to FEC training and (6) has committed to require all staff and volunteers to undergo specific training regarding the solicitation, collection and reporting of campaign contributions. As such, we respectfully submit that the Commission should exercise its discretion to not further prosecute this matter.

I note in researching FEC cases in preparation for this response there are very few relevant matters on the record. One of the few was MUR 6096, a 2008 complaint involving a blatant violation of U.S.C. §438 (a) (4), wherein a not-for-profit entity took donor information from reports filed by the Democratic Senatorial Campaign Committee in order to attempt to intimidate those donors, thereby getting them to stop donating to the Democratic Senatorial Committee, or other alleged "left wing" organizations. That egregious conduct is precisely what the law was intended to prevent, to wit, harassment, commercial use and unwarranted solicitation of those people whose residence data and interests are made public only because they supported a political entity. This is dramatically different, than MUR 6699, where a volunteer, acting in good faith, makes an inadvertent error leading to the Committee unknowingly making a *de minimus* improper solicitation.

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Advisory Opinion 1988-2, indicated that the Commission has narrowly applied the "commercial purpose" restriction in the statute to "protect individuals who make contributions to campaigns from being victimized by list-brokering"; not an issue in the current matter. While Advisory Opinion 1981-5 indicates the FEC lists could be used to send letters to an opponent's contributors to "set the record straight" regarding allegations made during a campaign, such distinctions are easily lost on an eager campaign volunteer.

In July of 2010, MUR 6248 (ADR 537) and P-MUR 495 (ADR 539) were resolved, each presented facts strikingly similar to the instant matter. Respondents acknowledged that some thirty-five (35) names and addresses were taken from filed and published FEC reports of Duffy for Congress and sent solicitations. The Respondents acknowledged the source of the information, the sending of solicitations, but claimed they could not determine who actually provided the information to their Committee. Nonetheless through the alternate dispute resolution process, respondents acknowledged their actions and agreed to develop a compliance manual and verify the source of potential donors in the future, as a complete resolution of the two MURs.

In the instant matter, the Committee has identified the source of the improper donor list as a recent campaign volunteer, separated that volunteer from the Committee and put in place a series of remedial actions to insure future compliance. Therefore, we suggest, dismissal of the complaint would be the most appropriate result for MUR 6699.

The instant matter is very similar to Matter Under Review 5990, a 2008 complaint alleging improper political solicitations were sent to hundreds of potential donors whose information was initially obtained from published FEC reports by a "first time" campaign manager and volunteers. In that matter the campaign manager for candidate Matt Shaner copied 984 names from the published FEC reports of Congressman Peterson, and then had volunteers complete address information and mailed them solicitations to donate to Mr. Shaner's campaign. The campaign manager was not aware he couldn't copy names from FEC lists, and the volunteers didn't know the source of the names they solicited. In 2009, the Commission dismissed the complaint and closed the file, with an admonishment to ensure any future activity by the committee and the treasurer be in compliance with the Act and Commission regulations.

MUR 6699 presents another opportunity for the Commission to exercise its discretion and do justice by not proceeding with the complaint. Here a first-time campaign manager and first-time candidate were provided a list of names by a volunteer they knew to be active in local political activity. Moreover, the volunteer had just joined the Committee from another campaign, after that candidate was eliminated in the primary election. The volunteer has admitted he took some names from FEC websites, but that he had no knowledge it was not permissible. This one time, *de minimus* and inadvertent use of FEC published information was smaller in scope than what was resolved in MUR 5990 matter, and entirely the product of a volunteer's actions, rather than that of a neophyte paid campaign manager, as occurred in MUR

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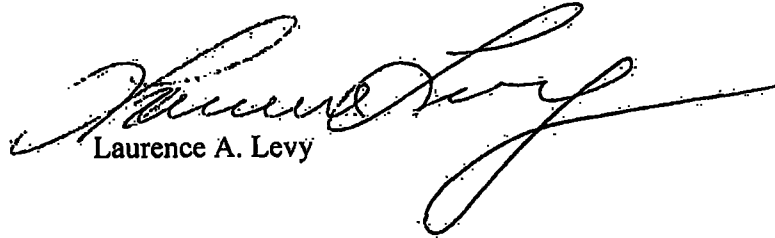
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5990, it therefore should lead to a similar dismissal. In addition, the Committee has fully cooperated by investigating the complaint and sharing all the information obtained with the FEC, and has already taken several steps outlined above to ensure such a mistake will never recur. Through training and the retention of experienced professionals the Committee has demonstrated its commitment to strict compliance with the Act, and the regulations. As such, given the facts and circumstances detailed herein, including Commission precedent, we submit that dismissal of MUR 6699 is the most appropriate resolution.

Respectfully submitted,

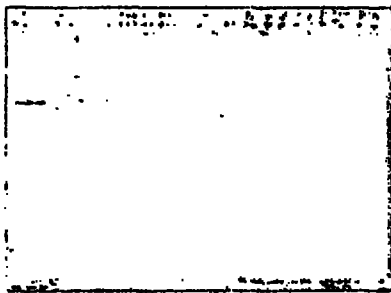
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Dear Joe,

I am proud to be the Republican nominee to serve you in the United States Congress, as the Representative from District 19. However, we have a lot of work to do here in Southwest Florida. We must now come together as Republicans for the future of our community and our country. Together, we need to rally to make sure our next President is Mitt Romney, and I am in Congress to support his leadership. I'm writing today to ask for your help.

Would you please join a reception on the evening of September 24th at the home of the Dosoretz family, at , Ft. Myers, from 5:30 – 7:00 pm.

On a personal note, while you may have supported one of my opponents in the primary, I want to be clear: *I am here to serve you.* I ran against great men who will continue to be leaders in our community. I look forward to working with them, and I also hope to have a relationship with you as well, for years to come.

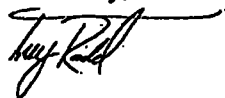
Please join us at the Dosoretz home. I would love to have the chance to share my message, vision and values with you. More importantly, I want to learn about your concerns for the future of our community and the country. Joe, again, I hope this can be a relationship for years to come.

Please see the enclosed event invitation for more details. We are asking for a minimum contribution of \$500 per person, or \$1000 per couple. In addition, if you would like to join our host committee, we are asking for a minimum contribution of \$2,500 per person, or \$5,000 per couple. Your support would be sincerely appreciated, and it will ensure a sound victory in November over my Democrat opponent, who is strongly in favor of ObamaCare and Obama policy.

I am working hard to be your next Congressman, but I need your help. If you cannot attend but would like to be supportive I would greatly appreciate it. You will find a return envelope and donor information form enclosed.

Thank you.

Sincerely,



Trey Radel

www.treyradel.com

Paid for by Friends of Trey Radel



Please join us for a reception in support of **Trey Radel**

Republican Nominee for U.S. Congress, FL-19

Hosted by:

Representative Gary Aubuchon, Representative Matt Caldwell, Dane Eagle,
Heather Fitzenhagen, Mayor Randy Henderson, Ray Rodrigues

Dr. Daniel and Celia Dosoretz

Samira Beckwith, Dr. John and Elizabeth Kagan, Steve and Eviana Martin,
Dr. James and Betty Rubenstein

Monday, September 24, 2012

5:30 - 7:00 pm

To Host: \$2,500 per person / \$5,000 per couple

To Attend: \$500 per person / \$1,000 per couple

(maximum is \$2,500 per person)

Payable to: Friends of Trey Radel

At the home of Dr. Daniel and Celia Dosoretz

- Fort Myers, FL 33907

For more information or to RSVP, please contact Abby Dosoretz.

Abby@TreyRadel.com or 239-671-1243

www.TreyRadel.com

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DONOR FORM

- ☐ I would like to join the Dosoretz on the Host Committee. Find my enclosed contribution in the amount of \$ _____
- ☐ I would like to Attend the event at the Dosoretz residence. Find my enclosed contribution in the amount of \$ _____
- ☐ I cannot make this event but I would like to support you. Find my enclosed contribution in the amount of \$ _____

Step 1

First Name: _____ Last Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Business Phone: _____

Email: _____ Fax: _____

Occupation: (Required) _____

Employer: (Required) _____

This Contribution is made by check or credit card from my personal funds and is not drawn on an account maintained by an incorporated entity. I am a United States citizen or permanent resident and another person will not reimburse this contribution.

Signature: _____

Step 2 (Contributing)

_____ Contribution Amount

_____ Check- please make checks payable to: Friends of Trey Radel, P.O. Box 1329 Fort Myers, FL 33902

Or

_____ Credit Card (Visa, MasterCard or American Express)

Cardholders Name: _____

Account number: _____ Expiration Date: _____ CCV: _____

Signature: _____ Date: _____

Signature: (Spouse) _____ Date: _____

The maximum contribution per individual is \$5,000 (\$2,500 to primary election and \$2,500 to general election). An individual may write one check for \$5,000 and indicate "primary/general" in the memo of the check. Also, a couple may write a check for up to \$10,000 from a joint account (where both names are listed on the account) if "primary/general" is indicated in the memo of the check and this form is completed and signed by both contributors.

Federal law requires us to use our best efforts to collect and report the name, mailing address, occupation and employer of each individual whose contributions exceed \$200 in an election cycle.

Contributions to Friends of Trey Radel are not deductible as charitable contributions for federal income tax purposes. Funds received in response to this solicitation are subject to federal contribution limits. Contributions from corporations, foreign nationals, labor organizations, and federal government contractors are not permitted.

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