

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
MUR 6836)
Marianne Williamson for Congress)
and Kevin R. Heneghan as treasurer)
University of California, Los Angeles)
Progressive Leaders for Democratic Action)
at UCLA)
Americans for Democratic Action)

2014 APR -8 AM 9:18

DISMISSAL AND CASE
CLOSURE UNDER THE
ENFORCEMENT PRIORITY
SYSTEM CELA

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System ("EPS"), the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue. These criteria include without limitation an assessment of the following factors: (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), and developments of the law. It is the Commission's policy that pursuing relatively low-rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss cases under certain circumstances or, where the record indicates that no violation of the Act has occurred, to make no reason to believe findings. The Office of General Counsel has scored MUR 6836 as a low-rated matter¹ and has determined that it should not be referred to the Alternative Dispute Resolution Office.

Complainant, Theo Milonopoulos, appears to allege that the University of California, Los Angeles ("UCLA") and the Progressive Leaders for Democratic Action at UCLA

¹ The EPS rating information is as follows: Complaint Filed: June 3, 2014. Response from Marianne Williamson for Congress Filed: Aug. 14, 2014. Response from University of California Filed: Aug. 1, 2014. Response from Progressive Leaders for Democratic Action at UCLA and Americans for Democratic Action Filed: Aug. 13, 2014.

1 ("PLDA") made a prohibited in-kind contribution to Marianne Williamson for Congress and
2 Kevin R. Heneghan in his official capacity as treasurer ("Committee") by hosting an event
3 with Williamson on the UCLA campus. Compl. at 1-4. For the reasons set forth below, the
4 Office of General Counsel recommends that the Commission: (1) find no reason to believe
5 that UCLA and Americans for Democratic Action ("ADA") violated the Act and Commission
6 regulations; and (2) exercise its prosecutorial discretion and dismiss MUR 6836 as to the
7 Committee and PLDA.²

8 In early May 2014, PLDA, a student organization at UCLA, posted on its Facebook
9 page that it endorsed Williamson for Congress and encouraged UCLA students to volunteer to
10 help the campaign. Compl. at 2-3. PLDA also posted photographs of students wearing
11 Williamson campaign t-shirts and news about an off-campus event featuring her and musician
12 Alanis Morissette. *Id.*

13 On May 29, 2014, PLDA sponsored an event for Williamson on campus. Compl. at 1-
14 3. PLDA publicized the event by posting a flyer on its Facebook page. Compl. at 3. The
15 flyer includes a disclaimer at the bottom that states, "Paid for by Marianne Williamson for
16 Congress." See Compl. Appendix A. The event included "an elaborate fruit, cheese and
17 refreshment display." Compl. at 1.

18 In addition to alleging that UCLA and PLDA made prohibited contributions,
19 Complainant alleges that they violated the Act by promoting and endorsing Williamson, and
20 that PLDA is a "front" for her campaign.³ *Id.* at 3-4. Furthermore, the Complainant alleges
21 that PLDA is hosted on the same nationbuilder.com platform as the Los Angeles Chapter of

² Marianne Williamson for Congress is an authorized campaign committee of Marianne Williamson, an unsuccessful candidate in the 2014 Democratic primary election for California's 33rd Congressional District.

³ The Complaint also alleges that UCLA's actions have jeopardized its tax status as a 501(c)(3) organization. Compl. at 4. We do not address this allegation as it is not within the FEC's jurisdiction.

1 ADA, which supports the theory that PLDA was established in April 2014 in association with
2 supporters of the Committee in order to make it appear as though a UCLA student association
3 supported the campaign. *Id.*

4 UCLA responds that it did not host the May 29 event; rather PLDA, an independent,
5 registered student organization, hosted it. UCLA Resp. at 1, 3. UCLA further states that it
6 charged PLDA the same rate for the use of its facilities that it would have charged any other
7 student group, and that PLDA received no university funding. *Id.* at 1, 3 and 4. Specifically,
8 UCLA invoiced PLDA for event costs totaling \$68, which purportedly covered event
9 planning and personnel. *Id.* at 5 and UCLA Resp., Exh. H. (payment receipt from PLDA).⁴

10 The joint response from PLDA and ADA, submitted by Joe Cicero, states that the
11 PLDA is not a “front organization” for anyone.⁵ PLDA Resp. at 1. PLDA further responds
12 that it was not created just to support Williamson and notes that she was one of 36 candidates
13 endorsed by both ADA and PLDA. *Id.*

14 The Committee responds that the Complaint does not allege it violated the Act.
15 Committee Resp. at 1. The Committee further states that it paid for the event’s costs and
16 advertisements, and it is not aware of any payments by PLDA or anyone else.⁶ *Id.*

17 An unincorporated student group, such as PLDA, is a “group of persons” and, thereby,
18 comes under the definition of a “person” under the Act. 52 U.S.C. § 30101(11). In 2014, a

⁴ Publicly available information indicates that the room where the Williamson event took place, the Global Viewpoint Lounge in the Ackerman Union on UCLA’s campus, is available at no cost to student groups. See http://lcgacy.asucla.ucla.edu/eventservices/stu_venues.asp?ref=prices.

⁵ Joe Cicero appears to be the President of the Southern California Chapter of ADA and a founding director of PLDA. See PLDA Resp.

⁶ In contrast, in an article attached to the Complaint, Cicero apparently stated that the Williamson event was not funded by the Committee but that PLDA had applied for funding for it from another student group. See Compl. Attachment, Benjamin Genta, THE DAILY BRUIN ([HTTP://DAILYBRUIN.COM](http://DAILYBRUIN.COM)), *Candidate Marianne Williamson speaks at Ackerman Thursday* (May 30, 2014).

1 person was limited to making \$2,600 in contributions, including in-kind contributions, per
2 election to any candidate. 52 U.S.C. § 30116(a)(1)(A). The Act prohibits a corporation from
3 making contributions to a federal political committee. 52 U.S.C. § 30118. The term
4 "expenditure" is defined by the Act as "any purchase, payment ... or anything of value made
5 by any person for the purpose of influencing any election for Federal office ..." 52 U.S.C.
6 § 30101(9)(A).

7 An incorporated or unincorporated nonprofit, tax exempt, educational institution, such
8 as a university, "may make its facilities available to any candidate or political committee in
9 the ordinary course of business and at the usual and normal charge." 11 C.F.R. §§ 110.12(a),
10 114.4(b)(7)(i). Such activity does not constitute a contribution or expenditure under the Act.
11 See First Gen Counsel's Rpt. at 13, MURs 5550 and 5566 (Michael Moore) (Commission
12 approved recommendations, May 19, 2006).

13 The available information in the record indicates that Respondent UCLA did not make
14 a contribution because it made its facilities available to PLDA in the ordinary course of
15 business at the usual and normal charge, which was paid.⁷ 11 C.F.R. §§ 110.12(a),
16 114.4(b)(7)(i). Therefore, we recommend that the Commission find no reason to believe that
17 the University of California, Los Angeles violated the Act or Commission regulations.
18 Additionally, there is no evidence in the record to suggest that ADA was involved with the
19 event and, therefore, we recommend that the Commission find no reason to believe that
20 Americans for Democratic Action violated the Act or Commission regulations.

21 It is not clear whether the Committee or PLDA paid the costs associated with the
22 event. The Committee states that it paid all of the costs, although the receipt from UCLA

⁷ UCLA states that it is one of ten campuses of the Regents of the University of California, which is a state "constitutional corporation." UCLA Resp. at 5.

1 indicates that PLDA paid the room rental fees and other costs. Committee Resp. at 1, UCLA
2 Resp., Exh. H. (payment receipt from PLDA). We also do not know the cost of the food and
3 refreshments, although they were likely modest. In any event, the Committee's reports to the
4 Commission do not appear to disclose the costs, either as a contribution from PLDA or an
5 expenditure it made.

6 However, in light of the apparent low dollar amount associated with the event at issue,
7 we recommend that the Commission exercise its prosecutorial discretion, pursuant to *Heckler*
8 *v. Chaney*, 470 U.S. 821 (1985), to dismiss this matter as to Marianne Williamson for
9 Congress and Kevin R. Heneghan in his official capacity as treasurer and the Progressive
10 Leaders for Democratic Action. Additionally, we recommend that the Commission approve
11 the attached Factual and Legal Analyses and the appropriate letters, and close the file.

12 **RECOMMENDATIONS**
13

- 14 1. Find no reason to believe that the University of California, Los Angeles violated the
15 Act or commission regulations;
16
- 17 2. Find no reason to believe that Americans for Democratic Action violated the Act or
18 Commission regulations;
19
- 20 3. Dismiss the matter as to Marianne Williamson for Congress and Kevin R. Heneghan
21 in his official capacity as treasurer;
22
- 23 4. Dismiss the matter as to the Progressive Leaders for Democratic Action;
24
- 25 5. Approve the attached Factual and Legal Analyses and the appropriate letters; and

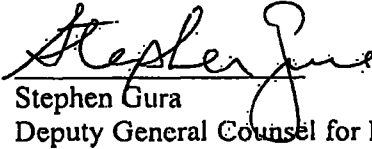
6. Close the file.

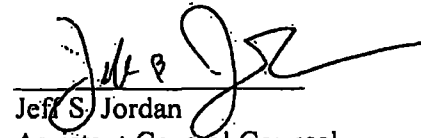
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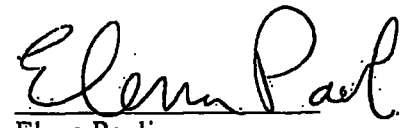
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Date

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