

JUL 10 2006

BEFORE THE FEDERAL ELECTION COMMISSION

COMMISSION
SECRETARIAT

2006 JUL 10 P 4:43

In the Matter of)
MUR 5734)
ANGIE PACCIONE FOR CONGRESS)

CASE CLOSURE UNDER THE
ENFORCEMENT PRIORITY SYSTEM

SENSITIVE

GENERAL COUNSEL'S REPORT

The Office of General Counsel has scored MUR 5734 as a low-rated matter. 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 facts giving rise to this complaint involve an alleged offer by the respondent, Angie Paccione for Congress ("Committee"), to give paid vacations and non-campaign related trips to individuals who raised and contributed funds to her Congressional campaign. The communications were made via a mass e-mail, which purported to offer trips to Washington D.C., dinners, entertainment, and prizes for donors who raised at least \$5,000. The complainant contends that the offer violated both the personal use and disclaimer provisions of the Federal Election Campaign Act.

26044144099

1 The candidate, Angie Paccione, denied that she, or anyone with authority in her
2 campaign, approved the e-mail messages. Upon learning of the e-mail's existence
3 Ms. Paccione contacted her campaign manager in order to have a follow-up e-mail sent,
4 which retracted the first e-mail. Ms. Paccione's campaign manager, Gary Chandler, stated
5 that the e-mail had been sent by two staffers who had not received authorization by the
6 appropriate campaign officials. He sent a retraction via e-mail roughly three hours and forty-
7 five minutes after the original e-mail to the approximately 1100 persons who had received
8 that e-mail, and prior to anyone responding to the offer. Additionally, the Committee took
9 steps to require that all future campaign-related e-mails be cleared through appropriate
10 channels.

11 In light of the curative action taken by the respondents and the assertion that the offer
12 never came into fruition, and after a review of the merits of MUR 5734 in furtherance of the
13 Commission's priorities and resources relative to other matters pending on the Enforcement
14 docket, the Office of General Counsel believes that the Commission should exercise its
15 prosecutorial discretion and dismiss the matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

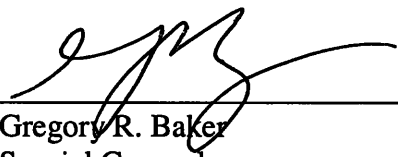
16 **RECOMMENDATION**

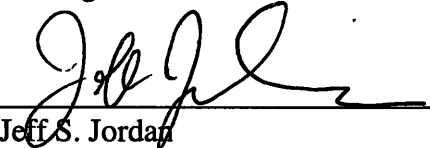
17 The Office of General Counsel recommends that the Commission dismiss
18 MUR 5734, close the file effective two weeks from the date of the Commission vote, and
19 approve the appropriate letters. Closing the case as of this date will allow CELA and
20 General Law and Advice the necessary time to prepare the closing letters and the case file for
21 the public record.

James A. Kahl
Deputy General Counsel

7/10/06
Date

BY:


Gregory R. Baker
Special Counsel
Complaints Examination
& Legal Administration


Jeff S. Jordan
Supervisory Attorney
Complaints Examination
& Legal Administration

Attachment:
Narrative in MUR 5734

26044144101

1
2
3
4 **MUR 5734**

5
6 **Complainant:** Ron W. Buxman
7

8 **Respondents:** Angie Paccione for Congress and
9 John M. Ericson, Jr., as Treasurer
10 Angela "Angie" Paccione
11

12 **Allegations:** Complainant alleges that respondent Angela Paccione, a candidate for
13 Colorado's 4th Congressional District, and Angie Paccione for Congress ("Committee")
14 offered paid vacations and non-campaign related trips to individuals who raised and
15 contributed funds to her Congressional campaign. The communications were made via a
16 mass e-mail, which purported to offer trips to Washington D.C., dinners, entertainment,
17 and prizes for donors who raised at least \$5,000. The e-mail communications also did
18 not include a disclaimer and, therefore, the complainant contends the Committee violated
19 the Federal Election Campaign Act's disclaimer provisions.
20

21 **Responses:** Angie Paccione's response indicates that she first became aware of the e-
22 mail after fielding a question from a Denver newspaper reporter. Ms. Paccione denied
23 that she approved the e-mail message and upon learning of its existence she contacted her
24 campaign manager in order to have a follow-up e-mail sent, which retracted the first e-
25 mail. The original e-mail was developed by two financial staffers and had not been
26 cleared through the Committee's staff prior to its release. Subsequent to the retraction of
27 the e-mail, the Committee took steps to educate its staff and to require that all e-mails be
28 approved through the Committee's legal and management staff.
29

30 **General Counsel's Note:** The original e-mail was sent on February 23, 2006 at 3:35 PM
31 and the retraction was transmitted on the same day at 7:17 PM. It should be noted that no
32 one responded to the e-mail prior to its retraction.
33

34 **Date complaint filed:** April 17, 2006
35

36 **Response filed:** May 25, 2006

26044144102