



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Micheal Miller  
Denise Diane Miller, Treasurer  
Friends for Mike Miller  
32107 Jimtown Road  
Lewes, DE 19958

MAR 30 2009

RE: MUR 6066

Dear Mr. Miller and Ms. Miller:

On September 12, 2008, the Federal Election Commission notified Micheal Miller and Friends for Mike Miller of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to Mr. Miller and to the Committee at that time.

Upon further review of the allegations contained in the complaint and information supplied by Mr. Miller, the Commission, on March 10, 2009, found there is no reason to believe that Mr. Miller violated the Act in connection with the allegations in this matter. On the same date, after considering the circumstances of the matter, the Commission decided to dismiss the allegation that the Friends for Mike Miller and Denise Diane Miller, in her official capacity as treasurer, violated 2 U.S.C. § 434(a), and closed its file in this matter.

In his response to the complaint, Mr. Miller acknowledged that the Committee had met the threshold for filing disclosure reports and stated that the Committee intended to file a disclosure report within a week of the date of his response. However, based on the information before the Commission, it appears that the Committee has not filed any disclosure reports in violation of 2 U.S.C. § 434(a). The Committee should file all required disclosure reports until it terminates. The Commission cautions the Committee to take steps to ensure that its conduct is in compliance with the Act and Commission regulations.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). The Factual and Legal Analysis, which more fully explains the Commission's decision, is enclosed for your information.

If you have any questions, please contact Dominique Dillenseger, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Peter G. Blumberg  
Assistant General Counsel

Enclosure  
Factual and Legal Analysis

29044233644

# FEDERAL ELECTION COMMISSION

## FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Friends for Mike Miller  
and Denise Diane Miller,  
in her official capacity as treasurer  
Micheal C. Miller

MUR: 6066

### I. GENERATION OF MATTER

This matter was generated by a complaint filed with the Federal Election Commission by Jerry Northington. *See* 2 U.S.C. § 437g(a)(1).

### II. FACTUAL AND LEGAL ANALYSIS

Under the Act, an individual becomes a candidate for Federal office, thus triggering registration and reporting obligations, when his or her campaign exceeds \$5,000 in either contributions received or expenditures made. 2 U.S.C. § 431(2). If a campaign has not exceeded the \$5,000 threshold, it is not required to file reports. 11 C.F.R. § 100.3(a)(1). All campaigns that have a reporting obligation must file periodic reports of financial activity. 2 U.S.C. § 434(a). Authorized committees of House and Senate candidates must file quarterly reports and pre-primary election and pre-general election reports before any election in which the candidate runs. Candidates running in the 2008 Delaware primary were required to file the Pre-Primary Report due on August 28, 2008, 48-Hour Notices if applicable, and the October Quarterly Report due on October 15, 2008. *See* 2008 Congressional Pre-Election Reporting Dates, [http://www.fec.gov/info/charts\\_primary\\_dates.shtml#anchor2](http://www.fec.gov/info/charts_primary_dates.shtml#anchor2) (last visited Jan. 5, 2009).

Complainant alleges that Micheal Miller and Friends for Mike Miller (“the Miller Committee”) did not file disclosure reports with the Commission even though Mr. Miller publicly stated that he had raised over \$40,000 for his campaign and purchased various campaign

29044233645

materials such as palm cards, large highway signs, and lawn signs, rented billboards and placards on city buses and maintained a website.

In his response to the complaint, Mr. Miller acknowledges that he had “nearly \$40,000 dollars in signs and infrastructure” for his current campaign, but asserts that the signs were purchased and paid for by his last two campaigns. Mr. Miller also indicates that he purchased a billboard for \$2,343 and palm cards for \$1,060 and he provided copies of invoices for palm cards and a billboard with his response. Mr. Miller also states that the website was designed by him and family members and that the domain name was purchased for \$120. Mr. Miller acknowledges that he met the \$5,000 threshold on August 11, 2008, and states that he filed his Statement of Organization on August 18, 2008. Mr. Miller notes that as of the date of his response, September 25, 2008, his campaign had not raised or spent over \$20,000. Finally, Mr. Miller asserts that he was preparing a disclosure report which he intended to file within a week of the date of his response. To date, the Miller Committee has not filed any disclosure reports.

Mr. Miller has acknowledged that the Committee reached the \$5,000 threshold on August 11, 2008. Mr. Miller was a candidate in Delaware’s primary, and was thus required to file a Pre-Primary Report, 48 Hour Notices if applicable, and an October Quarterly Report. To date, the Miller Committee has not filed any disclosure reports. Accordingly, it appears that the Miller Committee violated 2 U.S.C. § 434(a).

It does not appear, based on the information provided by Mr. Miller, that the Miller Committee raised or spent more than \$20,000. In light of the apparent low level of financial activity at issue in this matter and in the furtherance of the Commission’s priorities and resources relative to other matters pending on the Enforcement docket, the Commission is exercising its

29044233646

prosecutorial discretion to dismiss with caution the allegation that Friends for Mike Miller and Denise Diane Miller, in her official capacity as treasurer, violated 2 U.S.C. § 434(a). *See Heckler v. Chaney*, 470 U.S. 821 (1985).

Complainant did not articulate any factual or legal basis for finding the candidate personally liable for any of the alleged reporting violations. Therefore, there is no reason to believe that Micheal Miller violated the Act in connection with the allegations in this matter.

29044233647