

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

MAR 0 5 2019

N. Zachary West Ohio Democratic Party 340 East Fulton Street Columbus, OH 43215

RE: MUR 7459

Dear Mr. West:

The Federal Election Commission reviewed the allegations in your complaint received on August 6, 2018. On February 26, 2019, based upon the information provided in the complaint, and information provided by the respondents, the Commission decided to exercise its prosecutorial discretion to dismiss the allegations as to Citizens for Turner and Michael Berning in his official capacity as treasurer and Michael Turner, and close its file in this matter. Accordingly, the Commission closed its file in this matter on February 26, 2019. A copy of the General Counsel's Report, which more fully explains the basis for the Commission's decision, is enclosed.

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) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009).

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 52 U.S.C. § 30109(a)(8).

Sincerely,

Lisa J. Stevenson Acting General Counsel

BY: Jeff S. Jórdan

Assistant General Counsel

Enclosure
General Counsel's Report

BEFORE THE FEDERAL ELECTION COMMISSION

ENFORCEMENT PRIORITY SYSTEM DISMISSAL REPORT

MUR: 7459 Respondents: Citizens for Turner and

Michael Berning, as Treasurer

Complaint Receipt Date: August 3, 2018
Response Dates: September 26 & 27, 2018

("the Committee")
Michael Turner¹

EPS Rating:

Alleged Statutory Regulatory Violations: 52 U.S.C. § 30120(d)(1)(B)(ii) 11 C.F.R. § 110.11(c)(3)(iii)

Complainant alleges that two of Respondents' television ads failed to include written disclaimers stating that Turner had approved the ads. Respondents admit that the two ads did not originally contain the written disclaimer, assert that the written disclaimer was inadvertently omitted by their vendor, and explain that the versions of the ads available on the Committee's website have been corrected to include the written authorization disclaimer.

Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and assess whether particular matters warrant further administrative enforcement proceedings. These criteria include (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 and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating and the unlikeliness the general public would have been confused as to whether the television ads were

Turner was a 2018 candidate for the U.S. House of Representatives in Ohio's Tenth District. Citizens for Turner is his principal campaign committee.

EPS Dismissal Report—MUR 7459 (Citizens for Turner, et al.) Page 2 of 2

authorized by Turner,² we recommend that the Commission dismiss the Complaint consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). We also recommend that the Commission close the file as to all Respondents and send the appropriate letters.

Lisa J. Stevenson Acting General Counsel

Kathleen M. Guith Associate General Counsel

11.20.18

Date

BY:

Stephen Gura

Deputy Associate General Counsel

Jeff S. Jordan

Assistant General Counsel

Kristina M. Portner

Attorney

Although the television ads omitted the required written authorization statement, Respondents assert that the original ads included video of Turner orally stating that he approved them and a written disclaimer stating that the Committee paid for them.