



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

NOV -2 2018

James Ducane

Dania Beach, FL 33004

RE: MUR 7475

Dear Mr. Ducane:

The Federal Election Commission reviewed the allegations in your complaint received on August 10, 2018. On October 30, 2018, 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 Jennifer Zimmerman for Congress and Jay Zimmerman, in his official capacity as treasurer, and close its file in this matter. Accordingly, the Commission closed its file in this matter on October 30, 2018. 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

A handwritten signature in black ink, appearing to read "Jeff S. Jordan", written over the typed name of the Assistant General Counsel.

BY: Jeff S. Jordan
Assistant General Counsel

Enclosure
General Counsel's Report

BEFORE THE FEDERAL ELECTION COMMISSION
ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT

MUR: 7475

**Respondents: Jennifer Zimmerman for
Congress and Jay Zimmerman,
as Treasurer ("the Committee")¹**

Complaint Receipt Date: August 10, 2018

Response Date: August 30, 2018

EPS Rating:

**Alleged Statutory
Regulatory Violations:**

**52 U.S.C. § 30120(a)(1), (c)
11 C.F.R. § 110.11(a)(1), (b), (c)(1), (2)**

The Complaint alleges that the Committee distributed literature containing an improper disclaimer that referenced a nonexistent "Dr. Z for Congress" Committee. The door hanger contains a quote from the candidate "Dr. Jennifer Zimmerman." The Response states that the Committee has not distributed any literature under the name "Dr. Z for Congress" since the Commission approved its official name, and it does not know "where that outdated piece of literature came from."²

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

¹ Zimmerman is a 2018 candidate for the U.S. House of Representatives in Florida's First District. Jennifer Zimmerman for Congress is her principal campaign committee.

² Although the response is ambiguous, it appears that the Committee acknowledges creating the door hanger identifying the Committee as "Dr. Z. for Congress." Specifically, the Response refers to "our new literature that we have been using since the name was officially changed with the FEC" and attaches an image of campaign literature that identifies the Committee as "Jennifer Zimmerman for Congress." Resp. at 1, Ex. 1. Both the Committee's original and amended Statements of Candidacy designate the candidate's authorized committee as "Jennifer Zimmerman for Congress." See Statement of Organization for Jennifer Zimmerman for Congress, available at <http://docquery.fec.gov/cgi-bin/forms/H8FL0115/1206735/>; Amended Statement of Organization for Jennifer Zimmerman for Congress, available at <http://docquery.fec.gov/cgi-bin/forms/H8FL0115/1207846/>.

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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 unlikelihood the public would have been confused as to the source of the original literature, 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

October 11, 2018
Date

BY: Stephen Gura
Stephen Gura
Deputy Associate General Counsel

Jeff S. Jordan
Jeff S. Jordan
Assistant General Counsel

Kristina M. Portner
Kristina M. Portner
Attorney