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**FEDERAL ELECTION COMMISSION  
999 E Street, N.W.  
Washington, D.C. 20463**

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**FIRST GENERAL COUNSEL'S REPORT**

**MUR: 6141**

**DATE COMPLAINT FILED: December 3, 2008**

**DATE OF NOTIFICATION: December 9, 2008**

**LAST RESPONSE RECEIVED: January 30, 2009**

**DATE ACTIVATED: April 6, 2009**

**EXPIRATION OF SOL: October 27, 2013**

**COMPLAINANTS:**

**Derek Humphrey, Campaign Manager  
Darcy Burner for Congress**

**RESPONDENTS:**

**Friends of Dave Reichert and Paul Kilgore,  
in his official capacity as treasurer  
MediaPlus+, Inc.**

**RELEVANT STATUTES  
AND REGULATIONS:**

**2 U.S.C. § 431(8)(A)(i)**

**2 U.S.C. § 434(b)**

**2 U.S.C. § 441b**

**11 C.F.R. § 100.55**

**11 C.F.R. § 116.1**

**11 C.F.R. § 116.3**

**INTERNAL REPORTS CHECKED:**

**Disclosure Reports**

**OTHER AGENCIES CHECKED:**

**Washington Secretary of State**

**I. INTRODUCTION**

**This matter arises out of a complaint alleging that MediaPlus+, Inc. ("MediaPlus")  
extended credit to Friends of Dave Reichert and Paul Kilgore, in his official capacity as  
treasurer, ("Committee") when it arranged to purchase television advertising time on behalf of  
the Committee in October and November 2008, which, according to the complaint, resulted in a  
prohibited corporate contribution to the Committee in violation of 2 U.S.C. § 441b, a provision**

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1 of the Federal Election Campaign Act of 1971, as amended ("the Act"). Because the Committee  
2 allegedly did not have sufficient cash on hand and MediaPlus did not require advance payment  
3 for the purchase of airtime, the complaint concludes that the extension of credit was not  
4 commercially reasonable or in the ordinary course of business. If a contribution resulted from  
5 the extension of credit, then the Committee also failed to report this contribution by MediaPlus  
6 in its reports filed with the Commission, in violation of 2 U.S.C. § 434(b).

7 The Committee and MediaPlus (collectively the "Respondents") submitted a joint  
8 response to the complaint asserting that the arrangement between them was in the ordinary  
9 course of business and on terms substantially similar to those made to MediaPlus' non-political  
10 clients. The response includes a sworn declaration from MediaPlus' President that describes the  
11 company's current business practices with clients and broadcast stations in support of the  
12 assertion that the arrangement with the Committee was commercially reasonable. In a sworn  
13 declaration, a Committee staff member also explains that when he discussed the possibility of  
14 increasing the campaign's media buys, MediaPlus provided him with examples of commercial  
15 clients to which MediaPlus extended credit in a similar manner. The response also lists the  
16 payments the Committee made to MediaPlus revealing that the extension of credit at issue was  
17 paid within four months of the broadcast dates and most payments were made within the  
18 broadcaster's 30-day credit period for payment of its invoices.

19 As set forth in further detail below, based on the available information, including the  
20 response and attached declarations from the Respondents denying the allegations, there is no  
21 information to indicate that the Respondents may have violated the Act as alleged in the  
22 complaint. Accordingly, we recommend that the Commission find no reason to believe that

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1 Friends of Dave Reichert and Paul Kilgore in his official capacity as treasurer, violated 2 U.S.C.  
2 §§ 441b and 434(b) and that MediaPlus violated 2 U.S.C. § 441b.

3 **II. FACTUAL AND LEGAL ANALYSIS**

4 **A. Factual Summary**

5 Dave Reichert was the Republican candidate for Washington's 8th Congressional District  
6 during the 2008 election cycle. MediaPlus provided media buying services to the Committee  
7 during Reichert's federal campaigns in the 2004, 2006 and 2008 election cycles to purchase  
8 advertising time on local and cable television stations. See Committee and MediaPlus Response  
9 to Complaint ("Response"), at 3, Kevin Kelly Decl. at ¶¶ 1-2, and Kathy Neukirchken Decl. at  
10 ¶ 6.<sup>1</sup>

11 The complaint alleges that MediaPlus made a prohibited corporate contribution to the  
12 Committee during the 2008 election cycle by extending credit outside of the normal course of  
13 business. Complaint at 2. According to the complaint, MediaPlus arranged to purchase  
14 approximately \$1.1 million in advertising for the Committee from October 20 through  
15 November 4, 2008, which was at least \$580,000 more than the Committee's reported cash on  
16 hand at the time. Under the arrangement at issue in the complaint, television broadcast stations,  
17 not named in the complaint, apparently extended credit to MediaPlus and did not require  
18 advance payment for airing the Committee's advertisements. In turn, MediaPlus extended credit  
19 to the Committee by not requiring payment from the Committee prior to purchasing air time on  
20 these stations. The complaint states that MediaPlus "may not normally grant credit like this to  
21 its non-political clients," and because the Committee may not have had sufficient cash on hand

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<sup>1</sup> Media Plus was incorporated in the State of Washington in 1983 and according to its website, is "the Pacific Northwest's largest independent media consulting, planning and buying firm." See *Washington Secretary of State*, [http://www.secatate.wa.gov/corps/corps\\_search.aspx](http://www.secatate.wa.gov/corps/corps_search.aspx); *Media Plus Home Page*, <http://www.mediapluswa.com>.

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1 during the previous quarter, the complaint concludes that MediaPlus' extension of credit was not  
2 commercially reasonable or in the ordinary course of business.<sup>2</sup> Complaint at 2-3. The  
3 complaint further alleges that if a contribution resulted from the extension of credit, then the  
4 Committee also failed to report this contribution by MediaPlus in its reports filed with the  
5 Commission in violation of 2 U.S.C. § 434. The complaint requests that the Commission open  
6 an investigation to determine whether MediaPlus extends credit to its customers in the normal  
7 course of business, whether MediaPlus' extension of credit to the Committee was commercially  
8 reasonable, and requests the maximum civil penalty should the Commission confirm that a  
9 violation occurred. Complaint at 4.

10 Respondents submitted a joint response denying the allegations in the complaint and  
11 asserting that the arrangement between the Committee and MediaPlus was in the ordinary course  
12 of business and on terms substantially similar to those MediaPlus made to non-political clients.  
13 Response at 1. In a sworn declaration, MediaPlus President, Kathy Neukirchen, states that the  
14 company did not offer terms to the Committee that it did not also extend to its non-political  
15 clients in the ordinary course of business. Neukirchen Decl. ¶ 9. She explains that based on  
16 MediaPlus' longstanding relationship with certain broadcasters and the size of its buys,  
17 broadcasters have regularly extended credit to MediaPlus for periods of 30-60 days from the date  
18 of the broadcast for payment, with larger advertising buys obtaining even longer credit of up to

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<sup>2</sup> Although the complaint cites no authority for the proposition that credit is not normally extended for media buys, the response includes a press article indicating that opponent Darcy Burner's media vendor was offered similar credit as well by KOMO-TV, one of the television stations that extended credit for Reichert's ads. However, the same article indicates that "[m]ost political campaigns pay for their ads up front" and that buying television slots on credit is "a practice that is relatively uncommon for political advertising." Emily Heffter, *Burner loans campaign \$140,000 for ads, Move follows record fundraising, Spending indicates tight 8<sup>th</sup> District race*, SEATTLE TIMES, October 21, 2008.

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1 90 days. See Neukirchen Decl. at ¶¶ 3-4. In turn, after evaluating the credit risk for its clients,  
2 MediaPlus will often extend credit to some of its clients. Neukirchen explains that evaluating a  
3 client's credit risk includes examining any past relationship with the client, as well as the general  
4 reputation of the client and its decision makers. She states that in over 20 years of business, only  
5 one commercial client failed to pay MediaPlus and that no noncommercial or political client has  
6 ever failed to pay the company for its services. Neukirchen Decl. at ¶¶ 2-3; Response at 3.

7 Contrary to the complaint's assertions, Respondents explain that extensions of credit for  
8 broadcast time are "an established part of the advertising industry" and cite to a Federal  
9 Communications Commission ("FCC") opinion letter as support for this assertion. See Response  
10 at 2-3 (citing to *In re Beth Daly*, 7 FCC Rcd 1442, 1992 FCC LEXIS 707 (Feb. 6, 1992)). They  
11 explain that according to FCC authority, broadcasters must extend credit to commercial and  
12 noncommercial and political clients in the same manner, indicating that the FCC contemplates  
13 that broadcasters extend credit to clients. *Id.* at 3; Neukirchen Decl. at ¶ 9. Consistent with this  
14 view, MediaPlus reportedly placed about \$20 million in advertising throughout the Pacific  
15 Northwest during 2008 and broadcast stations extended credit for a number of MediaPlus' media  
16 buys during the 2008 election, including media buys involving non-federal candidates.  
17 Neukirchen at ¶¶ 1, 4.

18 With regard to the credit extended to the Committee, Respondents explain that the  
19 Committee approached MediaPlus about increasing its ad buys late during the 2008 general  
20 election cycle but that it did not have sufficient cash on hand to pay for the buys in advance.  
21 Kelly Decl. at ¶¶ 2-3; Neukirchen at ¶ 5. The Committee told MediaPlus that it had fundraising  
22 plans to pay for the cost of the advertising. Kelly Decl. at ¶ 3. MediaPlus explains that it chose  
23 to extend credit to the Committee based on an established relationship with the Committee over

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1 the 2004 and 2006 election cycles during which the campaign met all of its financial obligations  
2 to them as well as based on its work with the Committee early during the 2008 election cycle.  
3 Response at 3-4; Neukirchen Decl. at ¶ 6. MediaPlus further explains that the credit extended to  
4 the Committee was below what MediaPlus usually extends to commercial clients. Neukirchen  
5 Decl. at ¶ 7. In a sworn declaration, Committee staff member Kevin Kelly explained that  
6 MediaPlus provided him with examples of commercial clients to which MediaPlus extended  
7 credit in a similar manner and that he understood the arrangement extended by MediaPlus was  
8 also available to nonpolitical clients. Kelly Decl. at ¶¶ 4-5. Those examples were not attached  
9 to or detailed in the response.

10 According to MediaPlus, the advertising buys in question fell within the November  
11 broadcast month, which covered the period of October 27, 2008 through the election.  
12 Neukirchen at ¶ 7. The Committee committed to buy airtime in the amount of \$413,897 during  
13 that time period, which included MediaPlus' commissions, but the response did not specify the  
14 final amount the Committee ultimately owed during this time period. The response indicates that  
15 the Committee placed advertising in the amount of \$413,897, but because "[b]roadcasters do not  
16 always broadcast correctly all advertising to which a client, commercial or political has  
17 committed . . ." and "[o]nly the ads actually aired are paid for," the actual amount paid by the  
18 Committee is often different than the amount it committed to buy. *Id.* at ¶ 8.

19 The Committee paid for the media buys that had been provided on credit in what appear  
20 to have been three payments totaling \$360,832 made between October 31 and December 1, 2008,  
21 as listed below.

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| DATE       | AMOUNT                |
|------------|-----------------------|
| 10/31/2008 | \$157,087             |
| 11/24/2008 | \$160,000             |
| 12/01/2008 | \$43,745 <sup>3</sup> |
| TOTAL      | \$360,832             |

2

3 Although payment to the broadcast stations would not be due until 30 days from receipt of a  
4 correct invoice from the broadcasters, the Committee made at least 2 payments to MediaPlus  
5 before receipt of the invoices:<sup>4</sup> \$157,087 on October 31, 2008, which was within four days of  
6 the start of the broadcast period and \$160,000 on November 24, 2008. *Id.*; see also 2008 Year  
7 End Report. As of January 2009, the Committee had paid all amounts due to the broadcasters,  
8 which was within the credit period extended by the broadcasters, and the Committee only owed  
9 MediaPlus a smaller amount (\$19,103) for commissions. Response at 4; Neukirchen at ¶ 8. The  
10 Committee's 2009 April Quarterly Report indicates that the remaining amounts due to  
11 MediaPlus for the commissions were paid in full on March 31, 2009. In addition, while the total  
12 cost of the ad buys for the time period in question was \$413,897, only \$379,935 of that amount  
13 (\$360,832 identified in chart above + \$19,103 in commissions) was due to MediaPlus while the

<sup>3</sup> According to Neukirchen's declaration, the Committee made a payment in the amount of \$51,129 on January 15, 2009, which is not reflected in the Committee's reports filed with the Commission. We offered the Respondents an opportunity to clarify their response in connection with the payments pertaining to the Committee's advertising MediaPlus placed from October 27, 2008 through the general election, particularly with regard to the January 15 payment. In response, counsel for the Respondents submitted a letter that explained that the \$51,129 figure previously provided was incorrect. See Attachment 2. Rather, the correct amount of the payment was \$43,745.10 made on December 1, 2008, which was disclosed in the Committee's 2008 Year End Report filed with the Commission. See *id.*

<sup>4</sup> Because Media Plus received invoices from the broadcasters in December, its payment to the broadcast stations was not due until January 2009. Response at 2; Neukirchen at ¶ 8.

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1 rest was for media production services provided by a sub-vendor, Victory Group. Attachment 2.  
2 The payment to Victory Group, in the amount of \$33,961, which was disclosed in the  
3 Committee's 2009 April Quarterly Report, taken together with payments in the amount of  
4 \$379,935 made to MediaPlus brings the total amount at issue to \$413,896.<sup>5</sup>

5 **B. Analysis**

6 The Act prohibits corporations from making contributions in connection with federal  
7 elections. 2 U.S.C. § 441b(a); 11 C.F.R. § 114.2(b)(1). Similarly, the Act prohibits committees  
8 from knowingly accepting prohibited contributions. See 2 U.S.C. § 441(b). A "contribution" is  
9 defined as "any gift, subscription, loan, advance, or deposit of money or anything of value made  
10 by any person for the purpose of influencing any election for Federal office." 2 U.S.C.  
11 § 431(8)(A)(i). Commission regulations provide that a commercial vendor's extension of credit  
12 will not be considered a contribution so long as it is made in the ordinary course of business and  
13 the terms are substantially similar as those provided to non-political clients of similar risk and  
14 with an obligation of similar size.<sup>6</sup> 11 C.F.R. §§ 100.55, 116.3(b). As a business incorporated in  
15 the State of Washington, MediaPlus would have made prohibited corporate contributions to the  
16 Committee if the extensions of credit were not made in the ordinary course of business. 2 U.S.C.  
17 § 441b.

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<sup>5</sup> The original response identified \$413,897 in media buys, but the \$1 difference "appears to be due to rounding." Attachment 2 at 1.

<sup>6</sup> "Commercial vendor" is defined as "any persons providing goods or services to a candidate or political committee whose usual and normal business involves the sale, rental, lease, or provision of those services." 11 C.F.R. § 116.1(e).

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1           The complaint raises the question whether MediaPlus extended credit to the Committee  
2 outside the ordinary course of business, which resulted in a prohibited contribution. An  
3 extension of credit includes, but is not limited to, any agreement between the creditor and  
4 political committee that full payment is not due until after the creditor provides goods or services  
5 to the political committee. See 11 C.F.R. § 116.1(e). In assessing whether a commercial vendor  
6 extended credit in the ordinary course of business, and thus did not make a contribution, the  
7 Commission will consider: (1) whether the commercial vendor followed its established  
8 procedures and its past practice in approving the extension of credit; (2) whether the commercial  
9 vendor received prompt payment in full if it previously extended credit to the same candidate or  
10 political committee; and (3) whether the extension of credit conformed to the usual and normal  
11 practice in the commercial vendor's trade. See 11 C.F.R. § 116.3(c). The regulations further  
12 provide that the Commission may rely on regulations prescribed by the FCC, among other  
13 Federal agencies, to determine whether extensions of credit by the entities regulated by those  
14 Federal agencies were made in the ordinary course of business. See 11 C.F.R. § 116.3(d).

15           Reviewing the information presented according to the three considerations set forth in  
16 section 116.3(c), we conclude that MediaPlus' extension of credit to the Committee appears to  
17 have been made in the ordinary course of business and did not result in a prohibited corporate  
18 contribution to the Committee. First, MediaPlus explains that as a commercial vendor, it  
19 followed its established procedures and past practice, and there is no information suggesting  
20 otherwise. 11 C.F.R. § 116.3(c)(1). MediaPlus explains that prior to extending credit to the  
21 Committee it followed its past practice and evaluated the Committee's credit risk, including the  
22 company's past business relationship with the Committee during the 2004 and 2006 election  
23 cycles just as it would any other client. *Supra* at 5-6. It also noted that the credit it extended to

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1 the Committee was "well below what MediaPlus+ extends to commercial clients." Response at  
2 3. Publicly available information also appears to support Respondents' sworn assertions that  
3 MediaPlus followed established procedures and past practices in making the extension of credit  
4 to the Committee. News reports from the 2006 election cycle questioning similar arrangements  
5 that MediaPlus made on behalf of Mike McGavick's campaign for U.S. Senate in 2006 reveal  
6 that Neukirchen made the same assertions to the press as she has made to the Commission in this  
7 case.<sup>7</sup> At the time, she explained that MediaPlus was "a heavy buyer in the local market with  
8 established credit" and that all of MediaPlus' contracts were "Net 30," a "type of trade credit  
9 where the payment is due in full 30 days after the item is purchased." See Josh Feit, *Borrowed*  
10 *Time, McGavick Buys TV Ads on Credit and Fails to Disclose How Much He Borrowed*,  
11 *available at* <http://www.thestranger.com/seattle/Content?oid=34022>; Definition of "Net 30,"  
12 <http://www.businessdictionary.com/definition/net-30.html>. Neukirchen made the same  
13 statements in a letter to the editor dated May 23, 2006, adding that "it is a big misconception that  
14 all political advertising must be paid in advance." See  
15 <http://www.thestranger.com/seattle/letters-to-the-editor/Content?oid=37077>.

16 Second, there is no information to contradict MediaPlus' assertion that it received prompt  
17 payment in full from the Committee for its media buys during the 2004 and 2006 election cycles  
18 such that the credit extended to the Committee during the 2008 election cycle was the result of a  
19 good payment history during past election cycles. See 11 C.F.R. § 116.3(c)(2). The  
20 Respondents did not provide documentation, other than Neukirchen's sworn declaration, in  
21 support of this assertion, but we have no information suggesting otherwise.

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<sup>7</sup> There has not been a prior enforcement matter involving an extension credit from MediaPlus to Mike McGavick. The only prior enforcement matter involving McGavick concerned a potential extension of credit relating to severance payments made to the candidate (MUR 5736), for which the Commission found no reason to believe that a violation occurred.

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1 Finally, contrary to the assertions in the complaint, there is nothing to demonstrate that  
2 MediaPlus' extension of credit did not conform to the usual and normal practice in the industry.  
3 11 C.F.R. § 116.3(c)(3). Instead, it appears that credit arrangements for broadcast time is part of  
4 the ordinary course of business for both MediaPlus and other vendors in the industry. While the  
5 complainant claims that broadcasting stations typically require advance payments from political  
6 committees, the General Manager for KOMO-TV, one of the stations used by the Committee to  
7 air its ads, indicated to the press that the station was not engaging in "anything unusual" in not  
8 requiring advance payments from MediaPlus, that "the station sometimes bills buyers it has a  
9 good relationship with," that "KOMO regularly works with MediaPlus," and that it offered the  
10 same arrangement to Reichert's opponent, Darcy Burner. Emily Heffter, *Burner loans campaign*  
11 *\$140,000 for ads, Move follows record fundraising, Spending indicates tight 8<sup>th</sup> District race,*  
12 *SEATTLE TIMES*, October 21, 2008; Andrew Noyes, *Reichert Ad Buy, Opponent's Loan Spice Up*  
13 *Race in Wash.*, NATIONAL JOURNAL'S CONGRESS DAILY, October 22, 2008. In addition,  
14 broadcasting station representatives have reportedly stated that "Media Plus can buy on credit,  
15 because they have established credit." *Feit, supra*. A sales manager from one broadcasting  
16 station (KIRO) explained that "[g]enerally political campaigns don't have established credit" . . .  
17 "[b]ut [candidates] can always use an agency with established credit." *Id.*

18 Further, FCC authority suggests that the FCC contemplates that advance payments may  
19 not always be required or appropriate. The FCC requires that charges to candidates be  
20 comparable to those made to other commercial advertisers. *See* 47 U.S.C. § 315(b). Therefore,  
21 broadcasters can require advance payments from a political candidate, but only if it would also  
22 require advance payments from a similarly situated commercial entity. *See* 47 U.S.C.  
23 § 312(a)(7) (broadcaster may not adopt policies that impede a federal candidate's reasonable

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1 access to its broadcast facilities and cannot require advance payments from federal candidates  
2 more than seven days in advance of the first broadcast date); *In re Request for Ruling on*  
3 *Advance Payment of Political Advertising of Beth Daly, Great American Media, Inc.*, 7 FCC  
4 Rcd. 5989, 5990 (Aug. 14, 1992) (clarifying that broadcasting station must apply its customary  
5 payment/credit policies equally to political and commercial advertisers). The FCC has indicated  
6 that it "has no formal policy regarding advance payments," and that a station cannot treat  
7 similarly situated commercial advertisers and candidates differently. *In re Beth Daly*, 7 FCC  
8 Rcd 1442, 1992 FCC LEXIS 707 (Feb. 6, 1992). This FCC Opinion goes on to provide the  
9 following example: "if a candidate, or a candidate's agency has an established credit history  
10 (and is responsible for payment), we believe that requiring advance payment is inappropriate if  
11 the station would not so treat commercial advertisers or their representatives under the station's  
12 customary payment/credit policies."

13 Similarly, the Commission has no policy regarding advance payments and has typically  
14 decided extension of credit matters based upon an analysis of whether the vendor followed its  
15 ordinary course of business. In some cases, the Commission has authorized investigations to  
16 determine whether the vendor followed its ordinary course of business and whether industry  
17 standards were followed. *See, e.g.*, MUR 3638 (Republican Challengers Committee)  
18 (Commission found reason to believe, authorized an investigation to determine the vendor's  
19 practices and direct mail industry standards, and later found probable cause to believe a violation  
20 had occurred but took no further action); MURs 5069 and 5132 (Acevedo Vila) (Commission  
21 found reason to believe and authorized investigation where, among other things, the record  
22 contained conflicting information about the normal industry practice. The investigation revealed  
23 credible evidence provided by the Respondents that it was the usual and normal practice for

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1 advertising agencies in Puerto Rico to pay media outlets for media time in advance and bill  
2 clients later.); MURs 5112 and 5383 (Federer for Congress) (the Commission initially found  
3 reason to believe that the vendor violated the Act when it advanced payments to print books  
4 where the advance was not in the ordinary course of business). The Commission has also found  
5 reason to believe that respondents violated the Act where a respondent asserts that credit was  
6 extended in the ordinary course of business but does not provide any information to substantiate  
7 its assertion where there is conflicting publicly available information and inconsistencies in the  
8 Committee's disclosure reports. *See, e.g.*, MUR 4803 (Tierney for Congress), John Tierney for  
9 Congress Committee and Tierney for Congress Factual and Legal Analysis at 16-20. In these  
10 cases, the information available at the reason to believe stage was insufficient to show that the  
11 ordinary course of business was followed.

12 By contrast, the Commission has approved no-reason to believe findings in matters where  
13 there is credible information that the vendor followed its own practices and where even though  
14 the record lacked information on industry standards, there was no information available  
15 indicating that industry standards may not have been followed. *See, e.g.*, MUR 6023 (John  
16 McCain 2008 and Loeffler Group LLP) (Commission found no reason to believe based on  
17 assertions and documentation concerning the vendor's own practices); MUR 5496 (Huffman for  
18 Congress) (Commission found no reason to believe a violation occurred based on information  
19 pertaining to the vendor's ordinary course of business); MUR 4989 (Dole/Kemp '96)  
20 (Commission found no reason to believe based on documentation provided regarding vendor's

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1 credit policies with regard to other customers that showed extension of credit was in the ordinary  
2 course of business).<sup>8</sup>

3 Here, the complaint questions the circumstances surrounding MediaPlus' extension of  
4 credit to the Committee late during the general election cycle. Although neither Respondent  
5 provides supporting documentation, both the Committee and MediaPlus have submitted sworn  
6 statements containing details about the credit arrangement at issue. There is also publicly  
7 available information in support of the vendors' assertions that it followed its ordinary course of  
8 business, that extensions of credit for media buys are part of industry practice, and there is no  
9 available information to contradict the Respondents' contentions. The fact that the Committee  
10 paid most of the amount due to the broadcasting stations before receipt of any invoices, and that  
11 all amounts due to MediaPlus and its sub-vendor were paid within four months, also provide  
12 support for the Committee's good credit standing and that the extension of credit was  
13 commercially reasonable.<sup>9</sup> In light of these facts, there is insufficient information upon which to  
14 initiate an investigation into whether MediaPlus and the Committee may have violated the Act in

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<sup>8</sup> In the context of Advisory Opinions, the Commission has found arrangements where the vendor incurred initial expenses were not prohibited contributions where it constituted normal industry practice and the credit was extended in the ordinary course of business. See Advisory Opinion 1979-36 (Fauntroy) (approving financial agreement with direct mail vendor where arrangements were made within the ordinary course of business); see also 1986-22 (WREX-TV) (approving discounts or rebates to political candidates where made on the same terms and conditions as to other advertisers); 1994-10 (Franklin National Bank) (concluding that bank's fee waivers were not in violation of the Act where such waivers were based on a pre-existing business relationship, using the same considerations as with other clients).

<sup>9</sup> In past cases in which the Commission determined that in-kind contributions resulted, the cases involved long delays in payment that did not appear commercially reasonable.

MUR 5396 (Bauer for President 2000) (respondents entered into conciliation agreement to resolve, *inter alia*, 441a and 441b violations resulting from extensions of credit from three different vendors totaling over \$700,000 and owed for periods between 105 to 235 days); MUR 5047 (Clinton/Gore '96) (the Commission found reason to believe that the committee and two of its vendors violated section 441b by accepting or making illegal corporate extensions of credit totaling over \$900,000 that were unresolved for four months or longer, but took no further action because the debts had been paid in full and some debt collection activity had occurred).

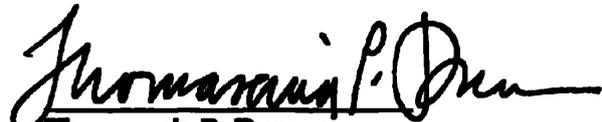
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1 connection with the extension of credit. Accordingly, we recommend that the Commission find  
2 no reason to believe that Friends of Dave Reichert and Paul Kilgore in his official capacity as  
3 treasurer, violated 2 U.S.C. §§ 441b and 434(b) and that MediaPlus+, Inc. violated 2 U.S.C.  
4 § 441b.

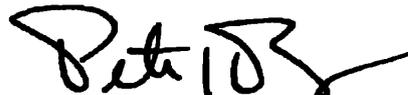
5 **III. RECOMMENDATIONS**

- 6 1. Find no reason to believe that Friends of Dave Reichert and Paul Kilgore,  
7 in his official capacity as treasurer, violated 2 U.S.C. §§ 441b and 434(b).
- 8
- 9 2. Find no reason to believe that MediaPlus+, Inc. violated 2 U.S.C.  
10 § 441b.
- 11
- 12 3. Approve the attached Factual and Legal Analyses.
- 13
- 14 4. Approve the appropriate letters.
- 15
- 16 5. Close the file.
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