



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Harry Reid Votes and Allison Van Over,) MUR 6377
in her official capacity as Treasurer;)
Daniel J. Tarkanian)
)

**STATEMENT OF REASONS
CHAIR CYNTHIA L. BAUERLY**

The complaint in this matter alleged that during the 2010 campaign for Nevada’s U.S. Senate seat, Harry Reid Votes and Allison Van Over, in her official capacity as treasurer, (collectively, “HRV”)¹ violated Section 432(e)(4) of the Federal Election Campaign Act of 1971, as amended (“the Act”), by including the name of a federal candidate, Senator Harry Reid, in its official title. Complaint at 5-6. I, along with Vice Chair Hunter and Commissioner Petersen, supported the recommendation of the Office of General Counsel (“OGC”) to find reason to believe that HRV, an unauthorized committee created and operated by Daniel J. “Danny” Tarkanian, used the name of a federal candidate in its title.² A motion to find reason to believe that HRV violated 2 U.S.C. § 432(e)(4) failed by a vote of 3-1.³

¹ Harry Reid Votes, Harry Reid Votes, Inc., and www.harryreidvotes.com are the same entity. “HRV” refers to all three designations.

² The complaint also alleged that HRV made and Friends of Sharon Angle and Alan B. Mills, in his official capacity as treasurer (collectively, “the Angle Committee”), and Sharron E. Angle, accepted through their purported agent, Danny Tarkanian, excessive in-kind contributions in the form of coordinated communications that expressly advocated against Ms. Angle’s general election opponent, Senator Harry Reid, in violation of Section 441a of the Act. Complaint at 3-5. Further, the complaint alleged that the public communications HRV financed did not include the appropriate disclaimers, in violation of Section 441d(a) of the Act. For the reasons contained in the Factual and Legal Analyses approved in this matter, I, along with Vice Chair Hunter and Commissioners Petersen and McGahn, supported the recommendations to find no reason to believe HRV and Tarkanian violated 2 U.S.C. § 441a(a) and the Angle Committee and Angle violated 2 U.S.C. § 441a(f) and voted to dismiss with caution the allegation that HRV violated 2 U.S.C. § 441d(a). See Factual and Legal Analysis (Harry Reid Votes, *et al.*); Factual and Legal Analysis (Friends of Sharron Angle, *et al.*).

³ Commissioners Bauerly, Hunter, and Petersen voted to find reason to believe HRV violated 2 U.S.C. § 432(e)(4). Commissioner McGahn dissented. Commissioners Walther and Weintraub recused themselves and did not vote. Certification in MUR 6377, dated June 14, 2011.

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HRV violated the Act and the Commission's regulations by registering with the Commission as an unauthorized political committee that used a candidate's name in its official title. The Act and the Commission's regulations prohibit the use of a candidate's name in the officially registered name of an unauthorized committee. See 2 U.S.C. § 432(e)(4) and 11 C.F.R. § 102.14(a). See also Advisory Opinion 1995-09 (NewtWatch) (the Commission advised an unauthorized committee opposed to then-Speaker of the House of Representatives Newt Gingrich that the term "NewtWatch" may not be used as part of the Committee's name). This prohibition includes "any name under which a committee conducts activities, such as solicitations or other communications, including a special project name or other designation." 11 C.F.R. § 102.14(a). However, a committee may include the name of a candidate in the title of a delegate committee, the title of a draft committee or the title of a special project or other communication if the title clearly and unambiguously shows opposition to the named candidate. 11 C.F.R. 102.14(b)(1)-(3); Explanation and Justification, *Special Fundraising Projects and Other Use of Candidate Names by Unauthorized Committees*, 59 Fed. Reg. 17267 (April 12, 1994).

HRV contends that the prohibition against using a federal candidate's name in the title of an unauthorized committee does not apply to it because it is not a political committee. HRV Response at 4. However, HRV is a political committee registered with the Commission. On August 24, 2010, HRV filed a Statement of Organization with the Commission, registering as a non-connected political committee. See http://query.nictusa.com/cgi-bin/fecinfo/?_10030413054+0. While HRV claims it had filed the Statement of Organization in error or that its Statement of Organization is void and that it is not a political action committee or independent expenditure committee, see HRV Letters to the Commission, dated October 1, 2010 and October 29, 2010, the fact remains that HRV registered with the Commission as a non-connected political committee on August 24, 2010.

HRV also contends that even if it were a political committee, its title would be lawful because the possibility of "confusion" and "abuse" does not exist here given that "[a]ll materials that feature HRV's name 'clearly and unambiguously show opposition' to candidates like Senator Harry Reid, and make plain that HRV combats policies those candidates would enact." HRV Response at 4. The regulatory exception at 11 C.F.R. § 102.14(b)(3) does provide that an unauthorized committee may use a candidate's name in a special project if the title clearly and unambiguously shows opposition to the named candidate without reference to the project's content. See MUR 6213 (DUMPREID PAC) Factual and Legal Analysis at 3-5 (the Commission determined that the use of Senator Reid's name in its website, www.dumpreid.com, was permissible because the website was a special project whose title was clearly and unambiguously in opposition to Senator Reid). HRV does not contend that "Harry Reid Votes" or www.harryreidvotes.com is a special project name, but even if it did, this regulatory exception does not apply here because the title "Harry Reid Votes" is not clearly and unambiguously in opposition to Senator Reid.

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For the foregoing reasons, I voted to find reason to believe HRV, a non-connected political committee, violated the Act and the Commission's regulations by registering as an unauthorized political committee that impermissibly used a candidate's name in its official title.

8/12/11
Date

Cynthia L. Bauerly
Cynthia L. Bauerly
Chair

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