

1 Mack, Inc. and Craig Engle in his official capacity as treasurer, and find no reason to believe that
2 Connie Mack violated the Act or Commission regulations.

3 In this matter, Complainant Clyde M. Collins, Jr. alleges that Connie Mack, and Friends
4 of Connie Mack, Inc. and Craig Engle in his official capacity as treasurer (the "Committee")²
5 violated the Act's prohibition on the use of campaign funds for personal use, specifically, for
6 "clothing, other than items of *de minimis* value." Compl. at 1. Complainant asserts that a
7 member of Mack's campaign committee purchased clothing "at Brooks Brothers [in]
8 Jacksonville, FL . . . apparently for Respondent Connie Mack," on two occasions. *Id.* at 2.
9 Complainant alleges that each transaction was in the amount of \$234.33, and that "the personal
10 clothing items" were charged to Mack's federal campaign account.³ *Id.*

11 Complainant further alleges that the Committee has "admitted that it violated federal
12 campaign laws regarding expenditures of clothing for the candidate," and that "[w]hen
13 questioned by the media about the use of campaign funds for personal items . . . [a campaign
14 spokesman] stated, 'The Brooks Brothers charges were mistaken, inappropriate charges made by
15 travel staff.'" *Id.*

16 In its response, the Committee acknowledges that an employee of Mack's Senate
17 campaign made two clothing purchases in 2012 and "charged the purchases to a campaign
18 American Express card." Resp. at 1. The Committee's 2012 July Quarterly Report discloses a
19 credit card payment to "American Express" on April 12, 2012, in the amount of \$49,820.15 with

² Connie Mack was an unsuccessful 2012 candidate for United States Senate from Florida. Friends of Connie Mack, Inc. was Mack's principal campaign committee. On January 31, 2013, the Committee filed an Amended Statement of Organization, changing its name to "Mack PAC," and on February 5, 2013, it filed a Notification of Multicandidate Status.

³ The Complaint names Connie Mack as a "Respondent," however the available information does not indicate that Mack was involved with the transactions at issue in the Complaint.

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1 a corresponding memo-entry to "Brooks Brothers" for "clothing" in the amount of \$234.33.⁴
2 The Report discloses another credit card payment to "American Express" on May 16, 2012, in
3 the amount of \$40,384.96, also with a corresponding memo-entry to "Brooks Brothers" for
4 "clothing" in the amount of \$234.33.⁵

5 The Committee states that "the error was brought to the Committee's attention on July
6 17, 2012," and that it required the employee to "immediately reimburse the campaign for the
7 reported charges." *Id.* The Committee's 2012 12 Day Pre-Primary Report discloses a receipt of
8 \$706.82 from "Deputy Campaign Manager" Ed Miyagishima on July 20, 2012 for
9 "Reimbursement for inadvertent AMEX Charges."⁶ The Committee maintains that it "acted
10 immediately as soon as it discovered the charges were inappropriate," and "had already taken
11 remedial action two weeks *before* it learned that the . . . complaint had been filed" (emphasis in
12 original). *Id.* at 2.

13 A contribution accepted by a candidate may be used by the candidate for otherwise
14 authorized expenditures in connection with the campaign for federal office of the candidate.
15 See 2 U.S.C. § 439a(a)(1). However, a contribution or donation described in 2 U.S.C.
16 § 439a(a) shall not be converted by any person to personal use. 2 U.S.C. § 439a(b)(1).
17 "Personal use" is defined as any use of funds in a campaign account of a present or future
18 candidate to fulfill a commitment, obligation, or expense of any person that would exist

⁴ See Friends of Connie Mack, Inc.'s 2012 July Quarterly Report of Receipts and Disbursements at 382, 386 (Jul. 13, 2012).

⁵ See Friends of Connie Mack, Inc.'s 2012 July Quarterly Report of Receipts and Disbursements at 360, 381 (Jul. 13, 2012).

⁶ See Friends of Connie Mack, Inc.'s 2012 12-Day Pre-Primary Report of Receipts and Disbursements at 80 (Aug. 2, 2012). The Committee states that "[t]he total amount of the inappropriate charges was . . . \$706.82." Resp. at 2. The amount of the reimbursement appears to cover the two alleged payments (\$234.33 + 234.33 = \$468.66) and an additional payment of \$238.16 (\$706.82 - \$468.66). The Committee stated that additional personal charges were uncovered as a result of a review of all charges made by that employee. Resp. at 1.

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1 irrespective of the candidate's campaign, including "a clothing purchase." 2 U.S.C.
2 § 439a(b)(2)(B). Such use of campaign funds includes, but is not limited to, the use of funds
3 for . . . "[c]lothing, other than items of *de minimis* value that are used in the campaign."
4 11 C.F.R. § 113.1(g)(1)(i)(C).

5 The Response acknowledges that the alleged clothing purchases were made using a
6 campaign account, by an agent of the Committee, but observes that the funds have been repaid to
7 the Committee, and the Committee's disclosure reports show the reimbursement. Given the
8 relatively low amount in violation and the prompt remedial action taken by the Committee, we
9 do not believe this matter warrants further Enforcement action. Therefore, in furtherance of the
10 Commission's priorities, relative to other matters pending on the Enforcement docket, the Office
11 of General Counsel believes that the Commission should exercise its prosecutorial discretion and
12 dismiss this matter pursuant to *Heckler v. Chaney*, 470 U.S. 821 (1985), with regard to Friends
13 of Connie Mack, Inc. and Craig Engle in his official capacity as treasurer; find no reason to
14 believe Connie Mack violated the Act or Commission regulations with respect to the allegations
15 in this matter; approve the attached Factual & Legal Analysis and the appropriate letters, and
16 close the file.

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RECOMMENDATIONS

1. Dismiss the allegations against Friends of Connie Mack, Inc. and Craig Engle in his official capacity as treasurer, pursuant to the Commission's prosecutorial discretion;
2. Find no reason to believe Connie Mack violated the Act or Commission regulations with respect to the allegations in this matter;
3. Approve the attached Factual & Legal Analysis and the appropriate letters; and
4. Close the file.

3/21/14
Date

General Counsel

BY:



Gregory R. Baker
Deputy General Counsel



Jeff S. Jordan
Supervisory Attorney
Complaints Examination
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Donald E. Campbell
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