

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2  
3 In the Matter of )  
4 )  
5 MUR 6841 ) DISMISSAL AND  
6 Friends for Harry Reid ) CASE CLOSURE UNDER THE  
7 Harry M. Reid ) ENFORCEMENT PRIORITY  
8 Claude Zobell, as treasurer ) SYSTEM  
9 Friends for Flores )  
10 Lucy Flores )

11  
12 **GENERAL COUNSEL'S REPORT**

13 Under the Enforcement Priority System, the Commission uses formal scoring criteria as a  
14 basis to allocate its resources and decide which matters to pursue. These criteria include, without  
15 limitation, an assessment of the following factors: (1) the gravity of the alleged violation, taking into  
16 account both the type of activity and the amount in violation; (2) the apparent impact the alleged  
17 violation may have had on the electoral process; (3) the complexity of the legal issues raised in the  
18 matter; and (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as  
19 amended (the "Act"), and developments of the law. It is the Commission's policy that pursuing  
20 relatively low-rated matters on the Enforcement docket warrants the exercise of its prosecutorial  
21 discretion to dismiss cases under certain circumstances. The Office of General Counsel has scored  
22 MUR 6841 as a low-rated matter and has determined that it should not be referred to the Alternative  
23 Dispute Resolution Office.<sup>1</sup>

24 The Office of General Counsel recommends that the Commission exercise its prosecutorial  
25 discretion and dismiss the allegation that Harry Reid and Friends for Harry Reid and Claude Zobell  
26 in his official capacity as treasurer (collectively the "Reid Committee") violated the Act by failing to  
27 include a proper disclaimer on an email that solicited funds for Friends for Flores, campaign

<sup>1</sup> The EPS rating information is as follows: Complaint filed: June 13, 2014. Response from Lucy Flores and Friends of Flores filed: July 8, 2014. Response from Harry Reid, Friends for Harry Reid, and Claude Zobell filed: August 4, 2014.

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1 committee for Lucy Flores, the 2014 Democratic candidate for Nevada's lieutenant governor.<sup>2</sup>  
2 Specifically, the complaint alleges that in an email sent from the Reid Committee, Senator Reid  
3 invited recipients to contribute to Flores' state campaign but did not state that corporate contributions  
4 were prohibited under the Act.<sup>3</sup> The Reid email asks that recipients contribute "\$5 or more" and "\$5,  
5 or whatever you can" to Flores' campaign.<sup>4</sup> The email also includes a link to the Friends of Flores  
6 website contribution page.<sup>5</sup> That contribution form asks that contributions be made directly to  
7 Friends for Flores.<sup>6</sup>

8 The Reid Committee admits that the email, which was meant to facilitate low dollar  
9 contributions, did not inform recipients that Reid was soliciting only federally compliant funds. The  
10 Reid Committee also asserts that all 62 contributions Flores received in response to the solicitation,  
11 none of which was greater than \$100, complied with the Act.<sup>7</sup> Further, the Reid Committee says that  
12 it sent another email "within days" stating that all contributions must comply with the limitations and  
13 prohibitions of the Act.<sup>8</sup>

14 Lucy Flores and Friends for Flores (collectively the "Flores Committee") respond that the  
15 Committee received 62 contributions as a result of the Reid solicitation, in amounts ranging from \$5  
16 to \$100. The Committee asserts that all of the contributions were made from permissible sources

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<sup>2</sup> Flores lost her 2014 bid for Nevada's Lieutenant Governor. Flores is a candidate in the 2016 election for Nevada's 4th Congressional District seat.

<sup>3</sup> Compl. at 1 (June 13, 2014).

<sup>4</sup> Compl., Attach. 1.

<sup>5</sup> *Id.*

<sup>6</sup> Compl., Attach. 2.

<sup>7</sup> Reid Resp. at 1 (Aug. 4, 2014).

<sup>8</sup> *Id.*

1 under the Act.<sup>9</sup> Further, the Flores Committee maintains that as a state committee governed by  
2 Nevada's campaign finance laws, it is not subject to the jurisdiction of the Commission and did not  
3 violate the Act.<sup>10</sup>

4 The Act and Commission regulations prohibit federal officeholders and entities that are  
5 directly or indirectly established, financed, maintained, or controlled by or acting on behalf of one or  
6 more candidates or individuals holding federal office from soliciting funds in connection with non-  
7 federal elections that are not subject to the limitations, prohibitions, and reporting requirements of the  
8 Act.<sup>11</sup> The Act also prohibits corporations from making contributions in connection with federal  
9 elections.<sup>12</sup>

10 It appears that the original solicitation, which did not inform recipients that Reid was only  
11 asking for contributions that complied with the Act, violated 52 U.S.C. § 30125(e)(1)(B). However,  
12 the contributions resulting from Reid's solicitation email appear to have been modest, and the Reid  
13 Committee attempted to remedy the violation by sending a follow-up email explaining that all  
14 contributions had to comply with the Act's limitations and source prohibitions. Thus, in furtherance  
15 of the Commission's priorities, relative to other matters pending on the Enforcement docket, and in  
16 light of the corrective actions taken by the Reid Committee and the modest amount in violation, the  
17 Office of General Counsel believes that the Commission should exercise its prosecutorial discretion  
18 and dismiss the violations as to Reid and his committee.<sup>13</sup> As to the Flores Committee, we have no  
19 information indicating that any of its activities related to contributions resulting from the Reid email

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<sup>9</sup> Flores Resp. at 1 (July 8, 2014).

<sup>10</sup> *Id.*

<sup>11</sup> 52 U.S.C. § 30125(e)(1)(B); 11 C.F.R. §§ 300.62.

<sup>12</sup> 52 U.S.C. § 30118(a).

<sup>13</sup> *Heckler v. Chaney*, 470 U.S. 821 (1985).

1 violated the Act. Accordingly, we recommend that the Commission find no reason to believe that  
2 they violated any provision of the Act.

3 **RECOMMENDATIONS**

- 4  
5 1. Dismiss the allegations that Harry Reid and Friends for Reid violated 52 U.S.C.  
6 § 30125(e)(1)(B);  
7  
8 2. Find no reason to believe Lucy Flores and Friends for Flores violated the Act or  
9 Commission regulations;  
10  
11 3. Approve the appropriate letters; and  
12  
13 4. Close the file.  
14  
15

16 Daniel A. Petalas  
17 Acting General Counsel

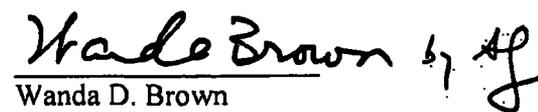
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25 6.8.16  
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