



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
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) MUR 6001
ORENTLICHER FOR CONGRESS)
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))

STATEMENT OF REASONS

Following the death of Congresswoman Julia Carson, Indiana Governor Mitch Daniels called for a special election to select an individual to serve out the remainder of her term as U.S. Representative from Indiana's 7th Congressional District. Under Indiana law, state parties choose their special election nominees at special caucuses. David Orentlicher was a candidate in the special caucus, held on January 12, 2008, but was defeated in his bid for his party's nomination. Accordingly, he was not a candidate in the special election that was held on March 11, 2008. Mr. Orentlicher was also a candidate in the regularly-scheduled primary held on May 6, 2008, but he lost the primary and was therefore not a candidate in the regularly-scheduled general election.

According to the complainant, Jacob E. Perry, three individuals, Robert Bader, Toni Bader, and Ann Stack (collectively "the respondents") each made, and Orentlicher for Congress and David S. Gabovitch, in his official capacity as treasurer ("the Committee"), received from each, contributions of \$4,600 for Mr. Orentlicher's special election

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campaign. These contributions are alleged to be in excess of the \$2,300 per individual, per election, contribution limit. *See* 2 U.S.C. § 441a.

In its response, the Committee explained that the respondents made \$2,300 contributions toward the special caucus and another \$2,300 toward the special election, and that the contributions were properly designated as such on the Committee's 2007 Year End Report. After Mr. Orentlicher lost the special caucus, the Committee refunded to Mr. Bader, Ms. Bader, and Ms. Stack \$2,300 each that had been designated for the special election. The refunds were made on February 4, 2008, well within the 60-day time frame required by 11 C.F.R. § 103.3(b)(3). In addition, although Mr. Orentlicher was a candidate in the primary, when he lost the election he refunded the contributions from the respondents that had been designated for the general election on May 16, 2008.

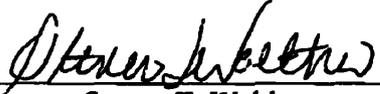
The Federal Election Campaign Act of 1971, as amended, and the Commission's regulations provide that a special caucus, special election, primary election, and general election are all "elections," and each has its own contribution limit. *See* 2 U.S.C. § 441a(a)(6), and 11 C.F.R. §§ 100.2(a)-(c) and (e)-(f). Accordingly, in this case, the Committee was permitted to accept concurrently contributions for each of the separate elections. After losing both the special caucus and primary election, the Committee timely refunded the contributions it received from the respondents, as required under 11 C.F.R. § 103.3(b)(3).

The Office of the General Counsel recommended that the Commission dismiss this matter. However, in light of the fact that the Committee made timely refunds, we decided by a vote of 6-0 to find no reason to believe that Orentlicher for Congress and David S.

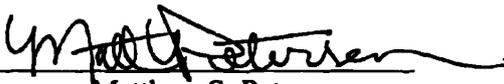
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Gabovitch, in his official capacity as treasurer, Robert Bader, Toni Bader, and Ann Stark
violated 2 U.S.C. § 441a and close the file.

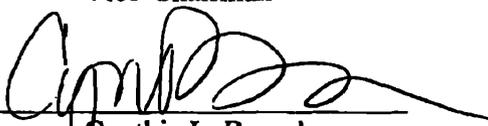
3/18/09
Date


Steven T. Walther
Chairman

3/18/2009
Date


Matthew S. Petersen
Vice-Chairman

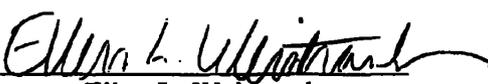
3/18/2009
Date


Cynthia L. Bauerly
Commissioner

3/18/09
Date


Caroline C. Hunter
Commissioner

3/18/09
Date


Ellen L. Weintraub
Commissioner

3/18/09
Date


Donald F. McGahn II
Commissioner

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