



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

NOV - 6 2007

Elizabeth Kingsley, Esq.  
Harmon, Curran, Spielberg & Eisenberg, LLP  
1726 M Street, NW, Suite 600  
Washington, DC 20036

RE: MUR 5859  
Association of Community  
Organizations for Reform Now

Dear Ms. Kingsley:

On October 30, 2006, the Federal Election Commission notified your clients, Association of Community Organizations for Reform Now, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). On October 10, 2007, the Commission found, on the basis of the information in the complaint, and information provided by your clients that there is no reason to believe they violated 2 U.S.C. § 441b, a provision of the Act. Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). The Factual and Legal Analysis, which explains the Commission's finding, is enclosed for your information.

If you have any questions, please contact Camilla Jackson Jones, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark D. Shonkwiler", with a long horizontal line extending to the right.

Mark D. Shonkwiler  
Assistant General Counsel

Enclosure  
Factual and Legal Analysis

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**FEDERAL ELECTION COMMISSION**  
**FACTUAL AND LEGAL ANALYSIS**

Respondents: Association of Community Organizations  
for Reform Now (ACORN)  
Lois Murphy for Congress Committee  
and Katherine A. Rowe, as Treasurer

MUR 5859

**I. INTRODUCTION**

This matter was generated by a Complaint filed with the Federal Election Commission by Jim Gerlach for Congress Committee and Mike DeHaven, in his official capacity as treasurer, against the Association of Community Organizations for Reform Now ("ACORN"), a non-profit organization whose mission is to increase civic involvement and political participation in low and moderate-income and minority communities, and Lois Murphy for Congress Committee and Katherine A. Rowe, in her official capacity as treasurer. *See* 2 U.S.C. § 437g(a)(1). The Complaint alleges that ACORN made coordinated expenditures that resulted in excessive and unreported in-kind contributions to Lois Murphy for Congress Committee and Katherine A. Rowe, in her official capacity as Treasurer (the "Murphy Campaign"), in violation of 2 U.S.C. § 441b, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). Specifically, the Complaint cites a April 29, 2006 press release from Lois Murphy's website entitled, "ACORN Endorses Lois Murphy," which describes a rally and post-event door-to-door canvassing by Ms. Murphy and rally participants to discuss with potential voters the issues of health care, minimum wage and education. *Id.* Complaint, Attachment 1. For the reasons discussed below, the Commission finds no reason to believe that the Association of Community Organizations for Reform Now or Lois

Murphy for Congress Committee and Katherine A. Rowe, in her official capacity as Treasurer, violated 2 U.S.C. § 441b.

## II. FACTUAL AND LEGAL ANALYSIS

Respondents assert, and the available information suggests, that the Murphy Campaign incorrectly identified ACORN in its press release as the entity that endorsed Candidate Murphy, when it was actually a related state political committee registered in Pennsylvania -- Pennsylvania ACORN ("PA-APAC") -- that made the endorsement and sponsored the subsequent rally and canvassing. ACORN Response at 1; Murphy Response at 2. ACORN and Murphy contend that they did not violate the Act because (1) it was the political action committee, PA-APAC, and not ACORN that sponsored and made disbursements in connection with the event; (2) the attendees at the event were all PA-APAC volunteers; (3) the expenditures made by PA-APAC were within federal contribution limits; and (4) the Murphy Campaign's participation in the event was permissible under the Act. *Id.*

The Murphy Campaign submits the declaration of its Campaign Manager, Jill Harris, who states that in late March 2006 the Campaign received a letter from PA-APAC, not ACORN, endorsing Murphy's candidacy, that the Campaign worked with PA-APAC volunteers in preparation for the public announcement of the endorsement. The Murphy Campaign acknowledges that the April 26, 2006 press release mistakenly stated that ACORN endorsed Murphy, when it should have stated that PA-APAC endorsed Murphy. Murphy Response, Attachment 3, Declaration of Jill Harris ("Harris Decl.") at ¶¶ 2-4. Harris also confirms that Murphy attended the PA-APAC rally to

accept its endorsement and that Murphy never received an endorsement from the national ACORN. *Id.* at ¶¶ 5-6.

Respondents also contend that the costs associated with the event were minimal and well within federal guidelines. ACORN Response at 1; Murphy Response at 2. The Declaration of Ali Kronley, Head Organizer for ACORN in Pennsylvania, states that the estimated costs for the rally totaled \$1,045 -- which is comprised of \$300 for materials, \$100 donation by PA-APAC to the Murphy Campaign, and \$645 in estimated labor costs for the PA-APAC employee who coordinated the rally. ACORN Response, Attachment 1, Declaration of Ali Kronley ("Kronley Decl.") at ¶¶ 4-7. Additionally, Kronley states that the funds in the PA-APAC account are made up of donations made by individual ACORN members, usually at a rate of approximately \$3-\$5 a month per member, and that in the past five years no individual has contributed more than \$120 per year. *Id.* at ¶ 3.

The Complaint's assertion that ACORN coordinated the rally and canvassing event with the Murphy Campaign appears to be incorrect. It was not ACORN, but an affiliated state political committee, PA-APAC, that endorsed Murphy at its rally and canvassing event. ACORN Response, Attachment 1, Murphy Response, Exhibit C. While it is true that ACORN, as a corporation, was prohibited from making in-kind contributions to the Murphy campaign in the form of labor and materials for the event, *see* 2 U.S.C. § 441b(a), PA-APAC, as a political action committee, was not so circumscribed and was permitted to make such disbursements, subject to the applicable contribution limits and disclosure requirements. *See* 11 C.F.R. §§ 109.21 and 114.4(C)(6). The \$945 expended by PA-APAC for the rally and canvassing event, in

addition to its \$100 direct contribution to the Murphy Campaign, were within the \$2,000 contribution limit set forth in the Act.<sup>1</sup> *See* 2 U.S.C. § 441a(a)(1)(D).

Accordingly, based on the information in the Complaint, and the Responses submitted thereto, the Commission finds no reason to believe that the Association of Community Organizations for Reform Now or Lois Murphy for Congress Committee and Katherine A. Rowe, in her official capacity as Treasurer, violated 2 U.S.C. § 441b.

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<sup>1</sup> PA-APAC's contribution was disclosed by the Murphy Campaign in its Pre-Primary Report filed May 4, 2006.

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