

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Vernon Jones for Georgia)
and Patricia Moore, as treasurer)

MUR 6047

SENSITIVE

**STATEMENT OF REASONS OF
CHAIRMAN STEVEN T. WALTHER,
COMMISSIONER CYNTHIA L. BAUERLY, AND
COMMISSIONER ELLEN L. WEINTRAUB**

On April 21, 2009, the Commission closed the file in this matter after failing to approve a recommendation to dismiss this matter and send a cautionary letter to Vernon Jones for Georgia and Patricia Moore, as treasurer (collectively "the Committee"), regarding allegations that the Committee failed to include adequate disclaimers on campaign materials during the 2004 U.S. Senate race in Georgia, in violation of 2 U.S.C. § 441d(a)(1). Because we believed the complaint's allegations and accompanying exhibits raised important questions about whether the Committee included the disclaimers required by law, we supported a motion to find reason to believe and open an investigation to ascertain whether the law was violated. That motion failed 3-3.

The Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431 *et seq.* ("the Act") requires candidate committees to "clearly state that the communication has been paid for" by the candidate committee. The statute provides explicit requirements for print, radio, and television advertisements. 2 U.S.C. § 441d(c).

The Act requires that the Commission find "reason to believe that a person has committed, or is about to commit, a violation" of the Act as a predicate to opening an investigation into the alleged violation. 2 U.S.C. § 437g(a)(2). "Reason to believe" is a threshold determination that by itself does not establish that the law has been violated. In fact, "reason to believe" determinations indicate only that the Commission found sufficient legal justification to open an investigation to determine whether there is probable cause that a violation of the Act has occurred.¹ Rather than finding reason to believe, the Commission may vote to dismiss matters at the initial stages of an enforcement matter "due to factors such as the small amount or significance of the alleged violation, the vagueness or weakness of the evidence, or likely difficulties with an investigation."² We do not believe, however, that these factors are sufficiently supported by the factual record at this stage of the matter.

¹ See 72 Fed. Reg. 12545, Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process (March 16, 2007).

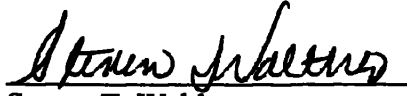
² 72 Fed. Reg. at 12546; see also *Heckler v. Chaney*, 470 U.S. 821 (1985).

190044242159

the exercise of its prosecutorial discretion. Based on the foregoing, however, it was premature to dismiss this matter at the outset in the face of potentially significant disclaimer violations.

5/22/09

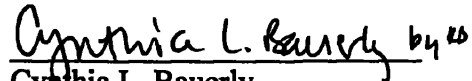
Date



Steven T. Walther
Chairman

5/22/09

Date



Cynthia L. Bauerly
Commissioner

5/26/09

Date



Ellen L. Weintraub
Commissioner

29044242161

ATTACHMENT A

**Reported Disbursements Involving Advertising From Vernon Jones for Georgia's
2008 October Quarterly Report and 2008 Year-End Report filed with
the Federal Election Commission**

Date	Amount	Purpose of Disbursement
7/18/08	248.00	Canvassing – phone banking
7/18/08	218.00	Canvassing – phone banking
7/21/08	1,500.00	Sign placement, canvassing, get out the vote
7/21/08	976.00	Advertising
7/21/08	232.00	Advertising
7/21/08	360.00	Advertising
7/25/08	212.00	Canvassing, phone banking
7/25/08	256.00	Canvassing, phone banking
7/28/08	600.00	Studio session for commercials
7/28/08	2,507.00	Mail-piece printing
7/28/08	22,108.78	Postage for mail-piece to voters
7/31/08	501.00	Radio advertising
8/1/08	248.00	Canvassing, phone banking
8/1/08	244.00	Canvassing, phone banking
8/1/08	350.00	Sign placement, canvassing
8/12/08	8,000.00	Design, printing of mail-piece to voters
8/14/08	860.00	Communications Consulting
8/19/08	1,000.00	Communications services
9/15/08	500.00	Communications services
10/1/08	2,278.00	Advertisement – tv
10/2/08	9,000.00	Billboards – advertisement
10/3/08	8,750.00	Advertising – tv
10/3/08	4,950.00	Advertisement – tv
10/6/08	2,507.00	Voter mail piece printing
10/7/08	20,462.00	Balance of voter mail, piece design, printing, distribution
10/12/08	2,000.00	Balance of mail piece printing
10/12/08	1,000.00	Advertisement
10/12/08	1,920.00	Radio advertising
10/17/08	1,800.00	Newspaper advertising
10/19/08	10,870.00	Balance on campaign billboards
12/19/08	989.75	Campaign signage
TOTAL:	\$107,447.53	

29044282162