

Congress of the United States  
House of Representatives

COMMISSION ON CONGRESSIONAL MAILING STANDARDS  
1216 LONGWORTH HOUSE OFFICE BUILDING  
WASHINGTON, D.C. 20515-6230  
(202) 225-9337

August 31, 2010

Dr. Bill Young  
Lane County Republican Party  
P.O. Box 10247  
Eugene, OR 97440

Dear Dr. Young:

This letter is in response to a Complaint dated August 16, 2010, filed by you (Complainant) and received by the Commission on Congressional Mailing Standards (Commission) on August 20, 2010, regarding Representative Peter DeFazio (Respondent), and alleging misuse of the franking privilege under 39 U.S.C. 3210.

The Commission appreciates the time and effort you have expended to articulate your concerns, which included analyses of the application of Oregon State and Federal law, and the Regulations on the Use of the Congressional Frank by Members of the House of Representatives (Regulations). Your Complaint also addressed the application of the Members' Congressional Handbook with regard to "Mass automated phone calls." While this matter is not within the jurisdiction of the Franking Commission, had the Complaint been raised in the proper forum, it would be subject to the same analysis contained herein.

As you indicated in Paragraph 3 of your Complaint, Title 39 of the United States Code, and the associated Commission Regulations, authorize Members of the House to initiate mass mailings to constituents up to 90 days preceding an election in which they are candidates for public office. The Commission defines *candidate* based on whether the Member's "name appears anywhere on any official ballot." Thus the gravamen of your Complaint is that participation in the candidate selection process used by the Independent Party of Oregon (IPO) constituted such an election, and that the IPO's selection list constituted an "official ballot."

The Commission has consistently treated only official State-conducted elections and State-issued ballots as triggering the application of the above 90-day rule. The statute did not contemplate, and the Commission has refrained from imposing, any limitation based on a candidate selection process which is not conducted by a State, and which is not an official action of a State. Thus a State-recognized political organization's internal candidate selection process, whether by precinct caucus, party conventions, or other means, does not trigger the application of the above 90-day rule. The IPO's choice to use the internet to facilitate its internal candidate selection process did not constitute a State-conducted election, nor did its internet selection list constitute a State-issued "official ballot."

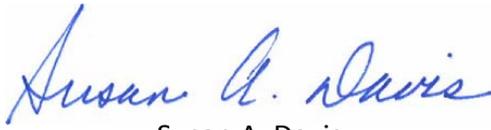
The Commission thoroughly examined the Complaint and enclosure, and Respondent's Answer and attachments, which included a letter from the Director of Elections in the Oregon Secretary of State's office, which read in pertinent part:

“This election was not administered by the Oregon Secretary of State, and was not in any way an official Oregon election. These are not considered elections under Oregon election law, as the state only conducts primary elections for the two major parties.”

Respondent complied with all other statutory and regulatory requirements, and received an advisory opinion authorizing Respondent to proceed with the mailing.

After review of your Complaint, Respondent’s Answer, and after thorough consideration of the issues in question, pursuant to Rule 3 of the Rules of Practice in Proceedings before the House Commission on Congressional Mailing Standards, the Commission finds that there is no substantial reason to believe that a violation of the franking law has occurred, and therefore dismisses the Complaint.

Sincerely,



Susan A. Davis  
Chairwoman



Daniel E. Lungren  
Ranking Member

Cc: Rep. Peter DeFazio