



it difficult for the Commission to conclude that the mailing was a solicitation for purposes of Section 438(a)(4).

Moreover, while rejecting the General Counsel's substantive recommendations, the Commission agreed with the report's conclusion that further investigation into the identity of the communication's unknown author(s) and the circumstances under which it was sent would not be the best use of the Commission's resources. Accordingly, in an exercise of its prosecutorial discretion, the Commission unanimously decided to take no action on the recommended reason to believe findings and close the file. *See Heckler v. Chaney*, 470 U.S. 821 (1985) (authorizing the use of prosecutorial discretion).

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Bradley A. Smith, Chairman

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Date

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Ellen L. Weintraub, Vice Chair

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Date

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David M. Mason, Commissioner

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Date

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Michael E. Toner, Commissioner

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Date