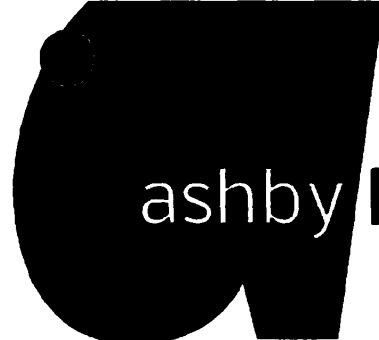


November 16, 2012

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BY HAND DELIVERY

Mr. Jeff S. Jordan, Esq.
Federal Election Commission
999 E Street, NW
Washington, District of Columbia 20463

Re: MUR # 6652

OFFICE OF GENERAL
COUNSEL

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COMMISSION

**Response of Tom Smith for Senate, Inc., Lisa R. Lisker, Treasurer,
to the Complaint Filed by the Pennsylvania Democratic Party**

Dear Mr. Jordan:

On behalf of Tom Smith for Senate, Inc., Lisa R. Lisker, Treasurer (the "Committee"), I write to respond to the Complaint filed by the Pennsylvania Democratic Party in MUR #6652. The Committee received a copy of the Complaint on October 4, 2012 and requested an extension of time to file this response until November 19, 2012, which the Commission graciously granted.

The Complaint alleges that the Committee and another committee, Keith Rothfus for Congress (the "Rothfus Committee"), failed to establish a joint fundraising committee pursuant to 11 C.F.R. § 102.17 to accept funds raised in connection with an event held on October 2, 2012 at the Palace Theater in Greensburg, Pennsylvania. The invitation to the event, a copy of which was attached to the Complaint, invited recipients to "a reception in support of" the candidacies of Tom Smith and Keith Rothfus, and solicited "a \$500 contribution allocated as you see fit."

As you review the allegations in the Complaint, please consider the following additional facts, all of which are sworn to in the attached affidavit of Jim Conroy, the Committee's Campaign Manager:¹

In response to the invitation, the Committee received thirteen checks totaling \$2,800.00. However, recognizing the potential for confusion or misunderstanding arising out of the invitation regarding the allocation of contributions and costs associated with the event, the Committee did not deposit any of the checks it received. Instead, at the direction of our Treasurer, *the Committee returned, within ten days of receipt and without having deposited, all checks it received in response to the invitation.* The Committee also

¹ In his role as Campaign Manager for the Committee, Mr. Conroy had direct and daily supervisory and executive control over the Committee's resolution of this matter. As a result, the additional facts provided in this letter fall most directly within the scope of his knowledge, information and belief. Thus, the Committee believes Mr. Conroy is the most appropriate individual to execute the attached affidavit on its behalf, and thereby to swear to the additional facts provided in this letter.

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Mr. Jeff S. Jordan, Esq.
November 16, 2012
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contacted the signer of each check by telephone and explained that due to confusion or misunderstanding surrounding the invitation to the event, it was necessary to return the check, but encouraged each such person to attend the event at no charge as the Committee's guest. The Committee understands that the Rothfus Committee also returned, within ten days of receipt and without having deposited, all of the checks it received in response to the invitation.

On October 2, 2012, the event was held as scheduled. Both Tom Smith and Keith Rothfus appeared and spoke. Neither Tom Smith, nor anyone else acting on the Committee's behalf, solicited or accepted any contributions at or in connection with the event. The Committee understands that the Rothfus Committee also did not solicit or accept any contributions at or in connection with the event. Instead, the two committees conducted the event as a "meet-and-greet," and bore the costs of the event in equal shares.

Thus, at bottom, the Committee received a relatively insubstantial number of checks in response to the invitation. Upon recognizing the potential for confusion or misunderstanding resulting from the invitation and its suggestion that "a \$500 contribution" should be "allocated as you see fit," the Committee took remedial action prior to the event. Specifically, the Committee did not deposit the relatively few checks it did receive, but instead returned each check within ten days of receipt. See 11 C.F.R. § 103.3 ("All receipts by a political committee shall be deposited . . . except that any contribution may be, within 10 days of the treasurer's receipt, returned to the contributor without being deposited."). Moreover, the Committee did not solicit or accept any contributions at the event.

11 C.F.R. § 180.52(a) defines a "contribution" as "[a] gift, subscription, loan . . . advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office." 11 C.F.R. § 100.53 confirms that "[t]he entire amount *paid* to attend a fundraiser or other political event . . . is a contribution." (Emphasis added.) In this case, no person paid to attend the event at issue. In fact, because the Committee returned, without depositing and within ten days of receipt, each check it received in response to the invitation, and because the Committee did not solicit or accept contributions at the event, *no person made a payment for any purpose*. As a result, in the final analysis, the Committee did not accept any contributions or raise any funds in response to the invitation or in connection with the event. For these reasons, the Committee respectfully urges the Commission to dismiss this matter as not warranting any further use of the Commission's resources.

On behalf of the Committee, thank you in advance for your consideration of our position in light of the additional facts set forth in this letter. Please contact me by telephone at (202) 281-5463 or e-mail to Chris@Ashby-Law.com if you have questions or need additional information.

Sincerely,



Chris Ashby
Counsel for Tom Smith for Senate, Inc., Lisa R. Lisker, Treasurer

ENCL.

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Mr. Jeff S. Jordan, Esq.

November 16, 2012

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cc: Jim Conroy, Campaign Manager, Tom Smith for Senate, Inc.
Lisa R. Lisker, Treasurer, Tom Smith for Senate, Inc.

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