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April 29, 2013

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**CONFIDENTIAL
COMMUNICATION
PURSUANT TO 11 C.F.R. § 111.21**

Jeffrey S. Jordan, Esq.
Office of Complaints Examination and Legal Administration
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

PRE-MUR # 556

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2013 APR 29 PM 3:52

RECEIVED
FEDERAL SECRETARIAT

Re: Mike Crapo for U.S. Senate (FEC ID# C00330886)

Dear Mr. Jordan,

On behalf of my client, Mike Crapo for U.S. Senate ("the Campaign"), I am writing to self-report the Campaign's disclosure report omission of a loan transaction entered into by a former campaign aide on September 22, 2008. This letter serves as the Campaign's *sua sponte* submission to the Federal Election Commission pursuant to 2 U.S.C. § 437g(a).

Background

Mike Crapo for U.S. Senate is registered with the Commission as the principal campaign committee of U.S. Senator Michael Crapo, who serves as the senior Senator for the State of Idaho. From June 2006 through December 2010, Jacob G. Ball served as the Campaign Manager for the campaign. See Affidavit of Jacob G. Ball ¶ 1 (attached hereto as Exhibit A). In this role, Mr. Ball was responsible for managing the Campaign's staff and finances. See *id.* ¶ 2.

Recitation of Facts

In light of his financial management responsibilities for the Campaign, Mr. Ball contemplated ways in which the Campaign could earn the best interest rate on funds in the Campaign's depository accounts. See *id.* ¶ 3. On or about September 2008, Mr. Ball discussed a loan proposal with his acquaintance, Gavin McCaleb. See *id.* ¶ 5; Affidavit of Gavin R. McCaleb ¶ 3 (McCaleb Aff. attached hereto as Exhibit B). Mr. McCaleb is the managing member of Blueberry Guru, LLC, which is a business entity that has been organized under the laws of the State of Idaho since November 5, 2007. See McCaleb Aff. ¶ 1; Blueberry Guru, LLC Article of Organization (Articles attached hereto as Exhibit C). Mr. McCaleb suggested to Mr. Ball that the Campaign loan Blueberry Guru, LLC \$250,000 in exchange for repayment at an 8 percent interest rate. See Ball Aff. ¶ 5. According to Mr. McCaleb, he planned to invest loan proceeds

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in certain real estate transactions that would generate a profit for Blueberry Guru, LLC. *See* McCaleb Aff. ¶ 3.

Mr. Ball and Mr. McCaleb entered into the loan agreement on behalf of the Campaign and Blueberry Guru, LLC, respectively, on September 22, 2008. *See* Promissory Note, Sept. 22, 2008 (attached hereto as Exhibit D). Mr. Ball, who was a signor on the Campaign's bank accounts, paid the loan to Mr. McCaleb from one of the Campaign's depository accounts. *See* Ball Aff. ¶ 6. He did not alert the Campaign to the transaction at the time. *See id.* Blueberry Guru, LLC did not repay any of the Campaign's loan and, according to Mr. McCaleb, the company has not generated any business income.¹ *See* McCaleb Aff. ¶ 5. As for the loan proceeds provided by the Campaign, Mr. McCaleb explained that he invested the funds in Nevada-based investment firm, which appears to have defrauded Mr. McCaleb and Blueberry Guru, LLC. *See id.* ¶¶ 5-6. Messrs. Block and McCaleb are unable to compensate the Campaign for the loss. *See* Ball Aff. ¶ 9, McCaleb Aff. ¶ 7.

Mr. Ball departed the campaign in December 2010 for another employment opportunity, but he informed the Campaign of the apparent fraud on Blueberry Guru, LLC, by the Nevada-based investment company. *See* Ball Aff. ¶ 9. The Campaign hired outside counsel to investigate the matter and, at Senator Crapo's instruction, had counsel disclose the transaction to Special Agent Rebekah Morse of the Federal Bureau of Investigation. Affidavit of Margaret M. Ballard ¶¶ 3-5 (attached hereto as Exhibit E). The Campaign cooperated with Ms. Morse throughout her investigation. *See id.* ¶ 6. Ms. Morse turned the results of her investigation over to the U.S. Attorney for the District of Idaho. *See id.* In November 2012, the U.S. Attorney's office informed the Campaign's attorney that the FBI and U.S. Attorney's office would not take any further action on the matter. *See id.*

Analysis

The Federal Election Campaign Act of 1971, as amended, requires a principal campaign committee to report debt owed to the committee, as well as repayments it receives on that debt. *See* 2 U.S.C. § 434(b)(8), 11 C.F.R. §§ 104.3(d), 104.11. As explained in guidance published by the Commission, a committee should continuously report debt in excess of \$500 on Line 9 and Schedule C of FEC Form 3 until that debt is extinguished. *See* Federal Election Commission Campaign Guide for Congressional Candidates and Committees, Aug. 2011, at 103. Because Mr. Ball failed to alert the Campaign or its Treasurer to the loan made to Blueberry Guru, LLC, in September 2008, the Campaign did not report the transaction to the Commission during on the Campaign's October 2008 Quarterly Report, or during subsequent reporting

¹ According to Mr. McCaleb, Blueberry Guru, LLC has not elected to be taxed as an incorporated entity by the Internal Revenue Service. In light of its tax status, Blueberry Guru, LLC would not be precluded from repaying the Campaign's loan if the company was solvent. *See* 11 C.F.R. §§ 100.52(b)(5) ("repayment shall be made with funds that are subject to the prohibitions of 11 CFR 110.20 and part 114."), 110.1(g)(2).

Gregory R. Baker, Esq.

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periods. Accordingly, the Campaign's periodic disclosure reports did not meet the reporting requirements set forth in Section 104.3(d) of the Commission's regulations.

Amended Disclosure Reports

Section 104.11 of the Commission's regulations states that "[w]here such debts and obligations are settled for less than their reported amount or value, the reporting committee shall include a statement as to the circumstances and conditions under which the debt or obligation was extinguished and the amount paid." *See* 11 C.F.R. § 104.11. In circumstances where an authorized committee is unable to secure repayment of a loan from a debtor, the Commission has allowed the committee to report the debt as extinguished. *See* F.E.C. Adv. Op. No. 2000-32, Dec. 1, 2000, at 3 (allowing campaign to forgive unpaid 10-year-old loan).

Based on the foregoing, Campaign plans to disclose the loan by amending two previous disclosure reports. First, the Campaign will amend its October 2008 Quarterly Report, which covers the date on which the loan was entered, by identifying the amount owed on the loan on Line 9 and Schedule C. Second, the Campaign will amend the October 2009 Quarterly Report, which covers the period in which full payment was due on the loan. As explained in F.E.C. Adv. Op. No. 2000-32, the Campaign will indicate on Schedule C that the loan is forgiven and cite to that Advisory Opinion. *See* Adv. Op. 2000-32, at 3. Moreover, the Campaign will state that it will no longer list the transaction on Schedule C of its disclosure reports. *See id.*

Please do not hesitate to contact me at (202) 756-8333 if you require additional information about this matter.

Sincerely,



Stephen M. Ryan
Counsel for Mike Crapo for U.S. Senate

Enclosures

cc: Paul Kilgore, Professional Data Services, Inc.