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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**SENSITIVE**

**MEMORANDUM**

December 11, 2018

TO: The Commission

THROUGH: Alec Palmer  
Staff Director *AP by MAH*

FROM: Patricia C. Orrock *PCO* for PCO  
Chief Compliance Officer

Krista J. Roche *KJR*  
Director, ADR Office

Rosa Marshall *RM*  
Assistant Director, ADR Office

SUBJECT: ADR 883 Mike Crapo for US Senate and Paul Kilgore, Treasurer; Freedom Fund and Lance Kolbert, Treasurer; Idaho Conservative Growth Fund and Meredith Leshner, Treasurer; and 223 C Street, LLC, and Vicki Hart, Governor, Recommendation to Dismiss

The Office of General Counsel transferred MUR 7369, and the ADR Office designated the matter as ADR 883. The ADR Office recommends the Commission exercise prosecutorial discretion and dismiss the matter. *Heckler v. Chaney* 470 U.S. 821 (1985). We include a summary and discussion of the matter for your information.

**Summary and Analysis of Case:** On April 20, 2018, Campaign for Accountability ("Complainant") filed a Complaint alleging that Mike Crapo for U.S. Senate and Paul Kilgore, Treasurer; Freedom Fund and Lance Kolbet, Treasurer; and Idaho Conservative Growth Fund and Meredith Leshner, Treasurer (collectively "the Committees" or "Respondent Committees")<sup>1</sup> held multiple fundraising events at a Washington, DC condominium located at 223 C Street, NE ("the condominium") but did not report any disbursements or in-kind contributions for the use thereof. The Complainant also states that the use of the condominium may constitute a prohibited contribution if 223 C Street, LLC elected to be treated as a corporation by the Internal Revenue Service. The Complainant filed a supplement to the Complaint on May 16, 2018 to provide additional information regarding the date range of events held at the condominium. The

<sup>1</sup> Freedom Fund and Idaho Conservative Growth Fund are leadership PACs sponsored by Senator Mike Crapo.

supplement also questions the fair market value for use of the space and whether the Committees received excessive contributions based on the value of the space.

In a response dated May 13, 2018, 223 C Street, LLC and Vicki Hart, as Governor of 223 C Street LLC ("Respondents") indicate that after potential billing issues were made known, an internal review was conducted. Respondents contend that the review found that "due to an honest administrative error, the use of the condominium by the [C]ommittees had not been invoiced within a commercially reasonable time and at the normal commercial rental rate notwithstanding the intent to do so." Respondents contend that the Respondent Committees paid for all catering, cleaning, telephone calls, and staff expenses associated with the use of the condominium, but did not pay for or report the cost associated with each use of the space, which was understood to be an in-kind contribution from Ms. Hart based upon a letter dated May 12, 2015. That letter from Ms. Hart documented a \$1,000 personal in-kind contribution to Mike Crapo for U.S. Senate for the use of the condominium in the first half of 2015. That in-kind contribution was disclosed on Mike Crapo for U.S. Senate's 2015 July Quarterly Report filed on July 15, 2015.

In a response dated May 31, 2018, the Respondent Committees contend that since the discovery of the billing error from an internal review on March 26, 2018, the required reimbursement payments have been made and the public record has been clarified. The Respondent Committees provided check copies dated April 20, 2018, which disclosed reimbursements to 223 C Street, LLC on behalf of Mike Crapo for U.S. Senate in the amount of \$6,700 for the 2016 election cycle and \$1,100 for the 2022 election cycle. In addition, copies of checks showing reimbursements on behalf of Freedom Fund totaling \$300 were also included. Additionally, the May 31, 2018 response states that Idaho Conservative Growth Fund never utilized the condominium for an event. The Respondent Committees also contend in their response that they were unaware that the condominium was owned by an LLC that elected to be treated as a corporation for tax purposes, due to Ms. Hart's letter of May 12, 2015, which indicates a personal in-kind contribution from her for the use of the space. The Respondent Committees contend that, as most of the events at the condominium lasted sixty to ninety minutes, the \$100 fee per use is a fair value for the rental space. The Respondent Committees filed a Miscellaneous Report on April 26, 2018 (Mike Crapo for US Senate) and a FEC Form 99 on April 25, 2018 (Freedom Fund) disclosing the details surrounding these payments.

Considering the public record has been clarified, the reimbursement payments have been effectuated, and the dollar amount at issue, the ADR Office recommends the Commission exercise prosecutorial discretion and dismiss the matter. *Id.*

**Factors Supporting ADR Dismissal: *internal use only***

**RECOMMENDATIONS:**

1. Dismiss ADR 883 (MUR 7369).
2. Approve the appropriate letters.