

KAUFMAN LEGAL GROUP
A PROFESSIONAL CORPORATION

RECEIVED
FEC MAIL CENTER

December 6, 2018

2018 DEC -7 AM 11:13

VIA EXPRESS-OVERNIGHT & E-MAIL

Jeff S. Jordan
Assistant General Counsel
Office of Complaints Examination and Legal Administration
Federal Election Commission
1050 First Street, NE
Washington, DC 20436
Email: CELA@fec.gov

2018 DEC -7 AM 11:49
OFFICE OF
GENERAL COUNSEL

Re: **FEC MUR 7526**

Dear Mr. Jordan:

We are writing as counsel to Katie Porter for Congress and its Treasurer, Alexander Warren, in response to the complaint filed by Parrisa Yazdani on or about October 23, 2018 ("the Complaint"), in MUR 7526.

Introduction

The Complaint was filed against Abraham Ghorbanian, DDS, MS and his purported company, Avin Dental, Inc., and a number of candidates, including Congresswoman-Elect Katie Porter, alleging violations of the Federal Election Campaign Act of 1971, as amended ("the Act") and Commission regulations.¹ At issue is a mailing allegedly sent out by Dr. Ghorbanian (or his company Avin Dental, Inc.), which featured Congresswoman-Elect Porter and two non-federal candidates.

The Complaint alleges that the mailer lacked the proper disclaimer. The complainant also alleges that the mailer may have resulted in the making of a prohibited corporate contribution from Avin Dental, Inc., to Katie Porter for Congress, and further suggests that the sender may have coordinated the mailer with the featured candidates, thereby providing them with excess non-monetary contributions.

The Complaint is purely speculative and does not provide any factual or legal basis for asserting any violation of the Act or Commission regulations. Consequently, there is no reason to believe

¹ The Complaint also alleges a number of violations State and local campaign finance laws, which are not addressed in this response.

that Katie Porter for Congress or Mr. Warren violated any provision of the Act, and the Commission should immediately dismiss the complaint with respect to these Respondents.

Analysis

Katie Porter for Congress (FEC ID No. C00636571) (“the Committee”) is the principal campaign committee of Congresswoman-Elect Katie Porter. The Committee may not accept contributions from prohibited sources, including corporations. (See 52 U.S.C. § 30118(a).) The Committee is also subject to a contribution limit of \$2,700 per donor, per election. (See 52 U.S.C. § 30116(a)(1)(A).)

The Complaint surmises that Dr. Ghorbanian or his company, Avin Dental, Inc., “may have spent corporate money supporting Katie Porter.” The complainant does not provide any factual support for this allegation. In fact, neither Dr. Ghorbanian nor his purported company are known to the Committee or Mr. Warren. Their only connection is that Congresswoman-Elect Porter was apparently featured in the mailer at issue.²

The Complaint also suggests that there may have been coordination between Dr. Ghorbanian and the candidates appearing in the mailer, including Congresswoman-Elect Porter, claiming that the mailer “could be considered an in-kind contribution to the Porter campaign and very likely exceed the limits allowed under Federal Election Law (\$2,700).” Under Commission regulations, a communication is coordinated, and therefore treated as a non-monetary contribution to a candidate subject to contribution limits, if the communication is: (1) paid for, in whole or in part, by a person other than that candidate; (2) satisfies at least one of the content standards; and, additionally, (3) satisfies at least one of the conduct standards set forth in the regulations, such as a request or suggestion by the candidate, or material involvement by the candidate. (See 11 C.F.R. § 109.21(a).)

The Complaint provides no evidence demonstrating any contact, let alone coordination, between Dr. Ghorbanian and the Porter campaign. Instead, the Complaint is filled with mere innuendo. It includes statements such as “[i]t is ... possible that the campaign[] of Katie Porter ... coordinated this mail,” but admits that “that is also impossible to ascertain” Indeed, the Complaint includes no basis for these allegations. Absent some actual evidence, the mere appearance of a candidate in a mailer is insufficient to meet the conduct standard of the Commission’s coordination test.

The fact is that the Committee had no contact with Dr. Ghorbanian and did not coordinate the mailer at issue with him. The Respondents had no knowledge of the mailer and certainly did not request or suggest that the mailer be produced or distributed. They were not involved in the production or distribution of the mailer, and they did not have any discussions with Dr. Ghorbanian about this mailer. (See conduct standards at 11 C.F.R. § 109.21(d)(1) – (4).) Thus,

² The mailing appears to be independent expenditure, which corporations are permitted to make under the law in any event.

Jeff Jordan
December 6, 2018
Page 3

there is absolutely no basis for suggesting that any coordination took place and thus, no basis for asserting that any unreported in-kind contribution – corporate or otherwise – occurred.

Conclusion

For the reasons described herein, the Complaint does not contain any factual or legal basis for asserting a possible violation of the Act by these Respondents. Therefore, we respectfully request that the Commission find no reason to believe a violation has occurred and immediately dismiss this Complaint in its entirety with no further action against Katie Porter for Congress and Mr. Warren.

Very truly yours,



Stephen L. Kaufman

SJK:vcc