



FEDERAL ELECTION COMMISSION

Washington, DC

MEMORANDUM

TO: The Commission

FROM: Office of the Commission Secretary *LOS*

DATE: October 9, 2024

SUBJECT: AO 2024-13 (DSCC Montanans for Tester and Gallego for Arizona) Comment from Something Else Strategies

Attached are comments on AO 2024-13 (DSCC Montanans for Tester and Gallego for Arizona) from Something Else Strategies.

This matter is on the October 10, 2024 Open meeting.

Attachment

RECEIVED

By Office of the Commission Secretary at 5:54 pm, Oct 09, 2024



RECEIVED

By Office of General Counsel at 5:04 pm, Oct 09, 2024

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October 9, 2024

VIA EMAIL

Federal Election Commission
Office of General Counsel
1050 First Street, N.E.
Washington, DC 20463

Re: AO 2024-13 (DSCC, Montanans for Tester, and Gallego for Arizona)

Dear Commissioners:

Something Else Strategies, a group of seasoned campaign media consultants, by and through counsel, provides this comment on Advisory Opinion Request (“AOR”) 2024-13 submitted by the DSCC, Montanans for Tester, and Gallego for Arizona (collectively, the “Requestors”). We respectfully urge the Federal Election Commission (“Commission”) to adopt Draft A of the Advisory Opinion, which answers “no” to Question 3. Requiring a joint fundraising committee to include on-screen the full joint fundraising notice required under C.F.R. § 102.17(c)(2) in addition to the disclaimer required by 11 C.F.R. § 110.11 would be “impracticable,” which is an exception to the disclaimer requirements that has been long-recognized by the Commission.

Some commenters would have the public and Commission believe that allowing joint fundraising committees to satisfy 11 C.F.R. § 102.17(c)(2) by including a QR code that directs viewers to a fundraising webpage that displays the complete joint fundraising notice, requires the Commission to ignore the plain reading of the regulation. Commenters David Dixon and Adam Magnus even go so far as to assert that including the full joint fundraising notice on-screen can be easily done and that “media consultants routinely include a similar, if not larger, amount of text on television advertising to comply with state disclaimer requirements.” This is demonstrably false.

Draft A of the Advisory Opinion and many commenters accurately discuss the Commission’s longstanding practice of taking a practical approach to disclaimers by allowing adapted disclaimers in certain situations, so we need not waste the Commission’s time reiterating that in this comment. We specifically write to provide our view as experienced consultants.

Requiring joint fundraising committees to include the full joint fundraising notice on-screen is in no way “simple,” as Commenters Dixon and Magnus claim. Dixon and Magnus provide two examples of advertisements including disclaimers they want the public and Commission to believe “include a similar amount— if not more- text then [sic] the fundraising notice would require.” Their examples are California and Massachusetts political advertisements, two jurisdictions with very onerous disclaimer requirements. That said, these disclaimers pale in comparison to the language required under 11 C.F.R. § 102.17(c)(2). Even a small joint fundraising committee composed of two entities, would be required to include a notice that would contain more words than either example. Meaning, their comment essentially compares apples and oranges. This demonstrates that Magnus and Dixon at best lack understanding of this issue, or at worst are disingenuous in their arguments.

We have also included examples of two fundraising notices, attached as Exhibit A; these are actual joint fundraising notices for two prominent joint fundraising committees, Harris Victory Fund and Trump 47 Committee, Inc., respectively. As one can see, requiring either committee to include the full 11 C.F.R. § 102.17(c)(2) disclaimer on-screen would be futile, as no viewer would possibly be able to read the notice in the few seconds it is featured on-screen. Thus, requiring the committees to include any disclaimer required by 11 C.F.R. § 110.11, and allowing them to include a QR code to satisfy 11 C.F.R. § 102.17(c)(2), provides potential donors more information than requiring microscopic text to appear on-screen for four seconds.

If the Commission were to require the full disclaimer on-screen, it would also undermine the “Stand by Your Ad” provision of the Bipartisan Campaign Finance Act, which provides that for authorized candidate advertisements there must be a full-screen view of the candidate making an approval statement, or an image of the candidate occupying no less than 80 percent of the vertical screen height. If that image of the candidate is covered by a screen full of disclaimer language, then the intent of the candidate visual provision is certainly undercut.

To contrast, the Harris Victory Fund has produced a plethora of dynamic digital display advertisements that do not contain the full joint fundraising notice. This is one area where Vice President Harris has (perhaps without her personal knowledge) gotten something right. Not only should the full joint fundraising notice not be required on digital advertisements, but it should not be required on television either. Though digital advertisements are different than cable or broadcast, the informational needs of viewers is the same.

Allowing joint fundraising committees to satisfy 11 C.F.R. § 102.17(c)(2) by including a QR code that directs the viewer to an online donation page containing the joint fundraising notice would not only be beneficial to groups wishing to exercise their First Amendment rights, but it would also provide prospective donors a simple and direct way to contribute. This approach also affords donors the opportunity to read the entire disclaimer at their own pace on

their phone or tablet. For this reason, we urge the Commission to adopt Draft A of Advisory Opinion 2024-13 and answer “no” to Question 3.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Chris Spies".

Charles R. Spies
Sloane S. Carlough
Counsel to Something Else Strategies

Exhibit A

Harris Victory Committee Joint Fundraising Notice

Contribution rules

1. I am a U.S. citizen or lawfully admitted permanent resident (i.e., green card holder).
2. This contribution is made from my own funds, and funds are not being provided to me by another person or entity for the purpose of making this contribution.
3. I am at least eighteen years old.
4. I am not a federal contractor.
5. I am making this contribution with my own personal credit card and not with a corporate or business credit card or a card issued to another person.

Contributions or gifts to Harris Victory Fund are not tax deductible.

Paid for by Harris Victory Fund, a joint fundraising committee authorized by Harris for President, the Democratic National Committee and the State Democratic Parties in these states: AK, AL, AR, AZ, CA, CO, CT, DC, DE, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MA, MD, ME, MI, MN, MO, MS, MT, NC, ND, NE, NH, NJ, NM, NV, NY, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, VT, WA, WI, WV, and WY.

The first \$3,300/\$5,000 from a person/multicandidate committee ("PAC") will be allocated to Harris for President for the general election. The next \$41,300/\$15,000 from a person/PAC will be allocated to the DNC. The next \$510,000/\$255,000 from a person/PAC will be split equally among the Democratic state parties from these states: AK, AL, AR, AZ, CA, CO, CT, DC, DE, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MA, MD, ME, MI, MN, MO, MS, MT, NC, ND, NE, NH, NJ, NM, NV, NY, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, VT, WA, WI, WV, and WY. Any additional funds will be allocated to the DNC, subject to applicable contribution limits. A contributor may designate their contribution for a particular participant by contacting contact@kamalaharris.com. The allocation formula above may change if following it would result in an excessive contribution. Contributions will be used in connection with federal elections, may be spent on any activity as each committee determines in its sole discretion, and will not be earmarked for any particular candidate. Federal law requires us to use our best efforts to collect and report the name, mailing address, occupation, and name of employer of individuals whose contributions exceed \$200 per election cycle. Harris Victory Fund does not accept contributions from corporations or their PACs, unions, federal contractors, national banks, those registered as federal lobbyists or under FARA, SEC-named executives of fossil fuel companies, or foreign nationals.

Trump 47 Committee, Inc. Joint Fundraising Notice

You are contributing to Trump 47 Committee, Inc., a joint fundraising committee authorized by Donald J. Trump for President 2024, Inc. ("Trump for President"); Save America; Republican National Committee ("RNC"); and the federal accounts of State Republican Parties in AK, AL, AR, AZ, CA, CO, CT, DC, DE, FL, GA, GU, IA, ID, IL, IN, KS, KY, LA, MA, MD, ME, MI, MN, MO, MS, MT, NC, ND, NE, NH, NJ, NM, NV, NY, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WI, WY, and WV.

Contributions or gifts to Trump 47 Committee are not tax deductible. All contributions are subject to the limits and prohibitions of the Federal Election Campaign Act. Contributions from corporations, foreign nationals (i.e., without "green cards"), federal government contractors, and other federally impermissible sources are strictly prohibited. Contributions made in the name of, or refunded by, any other person are unlawful.

By contributing you understand and acknowledge that the recipient committees may use your contributed funds for any reason, as determined in their sole discretion, consistent with their obligations under federal election law. No statement contained in any solicitation should be reasonably understood or construed as a promise, earmark, or other designation to make any specific use of funds you contribute.

In calendar year 2024, the maximum possible contribution an individual or federal non-multicandidate political committee may make to Trump 47 Committee is \$924,600 (\$415,000 for multicandidate PACs). Contributions from individuals (multicandidate PACs in parentheses) will be allocated sequentially according to the following formula:

(1) the first \$3,300 (\$5,000) to the Trump for President general election account; (2) the next \$3,300 (\$5,000) to the Trump for President recount account; (3) the next \$5,000 (\$5,000) to Save America; (4) the next \$289,100 (\$105,000) to RNC; (5) the next \$10,000 (\$5,000) to Alaska Republican Party; (6) the next \$10,000 (\$5,000) to Mississippi Republican Party; (7) the next \$10,000 (\$5,000) to Connecticut Republican State Central Committee, Inc.; (8) the next \$10,000 (\$5,000) to DC Republican Party Federal Account; (9) the next \$10,000 (\$5,000) to Georgia Republican Party, Inc.; (10) the next \$10,000 (\$5,000) to Republican Party of Guam; (11) Republican Party of Kentucky; (12) the next \$10,000 (\$5,000) to Republican Party of Louisiana; (13) the next \$10,000 (\$5,000) to Oklahoma Leadership Council; (14) the next \$10,000 (\$5,000) to Republican State Committee of Delaware; (15) the next \$10,000 (\$5,000) to Missouri Republican State Committee – Federal; (16) the next \$10,000 (\$5,000) to South Carolina Republican Party; (17) the next \$10,000 (\$5,000) to South Dakota Republican Party; (18) the next \$10,000 (\$5,000) to Tennessee Republican Party Federal Election Account; (19) the next \$10,000 (\$5,000) to Utah Republican Party; (20) the next \$10,000 (\$5,000) to NY Republican Federal Campaign Committee; (21) the next \$10,000 (\$5,000) to Rhode Island Republican State Central Committee; (22) the next \$10,000 (\$5,000) to Maryland Republican State Central Committee; (23) the next \$10,000 (\$5,000) to Massachusetts Republican Party; (24) the next \$10,000 (\$5,000) to Washington State Republican Party; (25) the next \$10,000 (\$5,000) to Republican Party of Iowa; (26) the next \$10,000 (\$5,000) to North Carolina Republican Party; (27) the next \$10,000 (\$5,000) to New Hampshire Republican State Committee; (28) the next \$10,000 (\$5,000) to Illinois Republican Party – Federal; (29) the next \$10,000 (\$5,000) to Oregon Republican Party; (30) the next \$10,000 (\$5,000) to New Jersey Republican State Committee; (31) the next \$10,000 (\$5,000) to Montana Republican State Central Committee; (32) the next \$10,000 (\$5,000) to Republican Party of Wisconsin; (33) the next \$10,000 (\$5,000) to Indiana Republican State Committee, Inc.; (34) the next \$10,000 (\$5,000) to Maine Republican Party; (35) the next \$10,000 (\$5,000) to Ohio Republican Party State Central & Executive Committee; (36) the next \$10,000 (\$5,000) to Republican Federal Committee of Pennsylvania; (37) the next \$10,000 (\$5,000) to Nevada Republican Central Committee; (38) the next \$10,000 (\$5,000) to Republican Party of Minnesota – Federal; (39) the next \$10,000 (\$5,000) to California Republican Party Federal Acct; (40) the next \$10,000 (\$5,000) to Republican Campaign Committee of New Mexico; (41) the next \$10,000 (\$5,000) to Republican Party of Florida; (42) the next \$10,000 (\$5,000) to West Virginia Republican Party, Inc.; (43) the next \$10,000 (\$5,000) to Republican Party of Virginia Inc.; (44) the next \$10,000 (\$5,000) to Kansas Republican Party; (45) the next \$10,000 (\$5,000) to Republican Party of Arizona, LLC; (46) the next \$10,000 (\$5,000) to Michigan Republican Party; (47) the next \$10,000 (\$5,000) to Alabama Republican Party; (48) the next \$10,000 (\$5,000) to Republican Party of Arkansas; (49) the next \$10,000 (\$5,000) to Colorado Republican Committee; (50) the next \$10,000 (\$5,000) to Idaho Republican Party; (51) the next \$10,000 (\$5,000) to Nebraska Republican Party; (52) the next \$10,000 (\$5,000) to North Dakota Republican Party; (53) the next \$10,000 (\$5,000) to Republican Party of Texas; (54) the next \$10,000 (\$5,000) to Wyoming Republican Party, Inc.; and (55) the remainder, up to \$125,900 (\$45,000), to RNC.

Any contribution exceeding the legal amount that may be contributed to any participant committee will be distributed to the remaining participants to the extent permitted by federal law and according to the allocation method set forth above. Any contribution that would cause a contributor to exceed any applicable federal contribution limit or otherwise not be permissible under the Federal Election Campaign Act will be refunded to the contributor. Contributors may specify a different allocation than the one set forth above.

Federal law requires us to use our best efforts to collect and report the name, mailing address, occupation, and name of employer of individuals whose aggregate contributions exceed \$200 in an election cycle or calendar year, as applicable.

Paid for by Trump 47 Committee, Inc., a joint fundraising committee authorized by Donald J. Trump for President 2024, Inc.; Save America; Republican National Committee; and the State Republican Parties in AK, AL, AR, AZ, CA, CO, CT, DC, DE, FL, GA, GU, IA, ID, IL, IN, KS, KY, LA, MA, MD, ME, MI, MN, MO, MS, MT, NC, ND, NE, NH, NJ, NM, NV, NY, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WI, WY, and WV.