



DEMOCRATIC NATIONAL COMMITTEE

U.S. DEPARTMENT OF JUSTICE  
OFFICE OF THE GENERAL COUNSEL

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January 30, 2009

**VIA FACSIMILE and FIRST CLASS MAIL**

Mr. Jeff S. Jordan  
Federal Election Commission  
Office of the General Counsel  
999 E Street, NW  
Washington, DC 20463

**Re: MUR 6142 - Obama Victory Fund, Respondent**

Dear Mr. Jordan:

This letter is in response to your correspondence regarding the Complaint filed in the above-referenced MUR. The allegations against the Obama Victory Fund are totally without merit and no action should be taken against either the Obama Victory Fund or Treasurer Andrew Tobias.

MUR 6142 consists of a myriad of allegations from more than 10 individuals, styled as individual complaints and numerous "supplemental" filings that appear to be part of a coordinated letter writing campaign. Allegations are made interchangeably against both Obama for America, the principal campaign committee of President Barack Obama, as defined by 11 C.F.R. § 100.5(e)(1), and Obama Victory Fund ("OVF"), a joint fundraising committee established pursuant to 11 C.F.R. § 102.17 whose participants are the Democratic National Committee (DNC), a national party committee, as defined by 11 C.F.R. § 100.5(e)(4). For the purposes of this response, the undersigned have attempted to sort through the allegations and reply only to those leveled at OVF, however given the vagueness of the allegations and the lack of any credible evidence accompanying them, this has been quite challenging. As such, counsel would respectfully request that OVF be given the opportunity to respond at a later date should the Commission succeed in deciphering any additional allegations directed at OVF.

All the complaints and supplemental filings contain one or more of the following allegations: 1) that OVF accepted contributions that exceed campaign contribution limits; 2) that there are discrepancies or irregularities in transfers made from OVF to

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Obama for America; 3) that "the Obama Campaign" refused to provide any information on donors whose contributions were less than \$200. Additional allegations are made regarding the redistribution and redesignation of contributions, debts not reported and uncollected chargeback and bank return debits, however, these allegations appear to be made only against OFA and in any event, lack any credible or supporting evidence sufficient for the Commission to make any kind of determination as to their validity.

1. Excessive Contributions

The complainants allege that Obama for America ("OFA"), the principal campaign committee of President Barack Obama, as defined by 11 C.F.R. § 100.5(e)(1), and Obama Victory Fund ("OVF"), a joint fundraising committee established pursuant to 11 C.F.R. § 102.17 whose participants are the Democratic National Committee (DNC), a national party committee, as defined by 11 C.F.R. § 100.5(e)(4), and OFA, accepted contributions that exceed campaign contribution limits.

The allegations are based on the complainants' review of donor "records," presumably found on the Commission's website, though many complaints do not indicate which records were consulted. As relief, the complaints all request audits of both Obama for America and Obama Victory Fund.

The complainants have not alleged any facts that could establish any violation by OVF of the Federal Election Campaign Act of 1971 as amended (the "Act") or the Commission's regulations. The complaints allege that certain individuals made contributions that exceeded contribution limits, but the allegations are not supported by any credible evidence. As stated previously, many of the complainants do not indicate where they received the information regarding the donors who allegedly made excessive contributions, and all appear to have presented the alleged documentation in their own format rather than reflecting the original source of the information, if any.

In addition, as a joint fundraising committee established pursuant to 11 C.F.R. § 102.17, OVF was legally permitted to accept up to \$33,100 per donor, making the allegations that certain donors had exceeded the "\$4,600 maximum" limit irrelevant. OVF had procedures in place to ensure that donors did not exceed any applicable limits to either OFA or the DNC. Specifically, all contributions received by OVF were matched to the donor records of OFA and DNC. The contribution of any contributor who exceeded their applicable limits to OFA when aggregated with prior contributions to OFA were reallocated to the DNC pursuant to 11 C.F.R. § 102.17(c). Any contribution when aggregated with prior contributions to both OFA and DNC were promptly refunded to the contributor.

Because the complainants lack personal knowledge regarding any alleged violations and because the authenticity and she does not present any credible information that alleges any violation, the Complaint must be dismissed. See, Statement of Reasons for MUR 4960 (setting forth standard for dismissal of complaints and stating that "mere speculation . . . will not be accepted as true" and noting that "[c]omplaints not based upon

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personal knowledge must identify a source of information that reasonably gives rise to a belief in the truth of the allegations presented").

## 2. Transfers

Some of the complainants raise questions regarding transfers from the Obama Victory Fund to Obama for America. See e.g. Complaint of Over Limit Contributions and Request for Audit - Obama for America (C00431445) and Obama Victory Fund (C00451393), Luann Moore, Complainant, Received by the Commission Dec. 1, 2008. Ms. Moore states that "Obama for America reports list total transfers from the Obama Victory Fund as \$58,450,000." Ms. Moore observes that "Obama for America lists no transfers as Disbursements" and states "[a]t the very least, it appears to be misreported and I would question why it was done this way."

Ms. Moore has not alleged any facts based on personal knowledge that could possibly establish any violation by OFV of the Act or the Commission's regulations. Nor has she provided any source of information that could lend veracity to her sheer speculation. Ms. Moore appears to be referring to disbursements from OFV to OFA which were ordinary disbursements of the net proceeds pursuant to the joint fundraising agreement between Obama for America and the Democratic National Committee in accordance with 11 C.F.R. § 102.17. Her sheer speculation that these transfers were "misreported" is wholly unbounded and her allegations of questionable transfers, like those of others contained in the hodgepodge of complaints that encompass MUR 6142 must be dismissed accordingly.

## 3. Unitemized Contributions

Finally, some complainants allege that "the Obama Campaign" did not disclose information from donors whose contributions totaled less than \$200. It is not clear whether "the Obama Campaign" includes OFV, but if it does, these allegations are completely unsupported and cannot state any facts that could be considered a violation of the Act or the Commission's regulations, because the Commission's own regulations at 11 C.F.R. § 102.9 do not require reporting the identification of the contributor for contributions that do not exceed \$200 during a calendar year.

Because the Complaint does not allege any facts that could establish any violation, and because there were no violations, the Complaint must be dismissed and no action taken against OFV or Treasurer Andrew Tobias.

Sincerely,



Joseph E. Sandler

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Neil P. Reiff  
Sandler, Reiff & Young, PC  
300 M Street, SE Suite 1102  
Washington, DC 20003

Amanda S. La Forge  
Democratic National Committee  
430 South Capitol Street, SE  
Washington, DC 20003

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