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**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of

MUR 6850

Atia Black

Matthew Black

Friends of Mike Lee and Mike McCauley

in His Official Capacity as Treasurer

**THIRD GENERAL COUNSEL'S REPORT****I. ACTIONS RECOMMENDED**

We recommend that the Commission: (1) dismiss the allegation that Matthew Black and Atia Black violated 52 U.S.C. § 30122; (2) dismiss the allegation that Friends of Mike Lee and Mike McCauley in his official capacity as treasurer violated 52 U.S.C. § 30122; (3) close the file as to Matthew Black and Atia Black; and (4) send the appropriate letters.

**II. BACKGROUND**

Count I of the Complaint alleged that Jeremy Johnson made contributions in the names of others in June of 2010 to Friends of Mike Lee, the principal campaign committee of Mike Lee for Sen. Mike Lee's 2010 campaign, through Arvin Black, Atia Black, Matthew Black, and other then-unidentified straw donors. Compl. at 1-2. On November 18, 2014, the Commission found reason to believe that John Swallow, Jeremy Johnson, and Arvin Black violated the Act in connection with these alleged contributions. Certification, MUR 6850 (Nov. 20, 2014). The Commission made no findings at that time with respect to potential violations of Atia Black, Matthew Black, or the Friends of Mike Lee and Mike McCauley in his official capacity as treasurer (collectively, the "Lee Committee") regarding these alleged contributions.

We conducted an investigation and obtained information from a variety of sources related to the allegations in this matter. On April 16, 2015, the Commission found probable cause to believe that Johnson and Arvin Black violated the Act as alleged and that Johnson's violations

1 were knowing and willful. Certification, MUR 6850 (Apr. 17, 2015). The Commission is  
2 currently conciliating with Johnson and Black, and the Office of General Counsel transmitted its  
3 Probable Cause Brief to Swallow on May 28, 2015.<sup>1</sup>

### 4 **III. ANALYSIS**

#### 5 **A. Atia and Matthew Black's Alleged Violations**

6 The Complaint alleged that Matthew and Atia Black served as straw donors for Johnson's  
7 contributions in the names of others. Compl. at 2. The Act and Commission regulations prohibit  
8 making a contribution in the name of another or knowingly permitting one's name to be used to  
9 effect the making of such a contribution, 52 U.S.C. § 30122, including knowingly helping or  
10 assisting any person in making a contribution in the name of another, 11 C.F.R. § 110.4(b). The  
11 presently available record evidence indicates that Matthew and Atia Black's only participation in  
12 the alleged straw donor scheme was to allow their names to be used for Johnson's contributions.  
13 There is no evidence that they played a role in organizing or executing the reimbursements.  
14 Further, the Commission is pursuing three respondents who were primarily responsible for the  
15 scheme. Accordingly, we recommend that the Commission dismiss the allegations against  
16 Matthew and Atia Black in the exercise of its prosecutorial discretion, as it has previously done  
17 in similar circumstances. *See Heckler v. Chaney*, 470 U.S. 821 (1985); *see, e.g.*, Certification,  
18 MUR 6054 (Venice Nissan, *et al.*) (Aug. 24, 2010) (taking no action and closing the file as to  
19 employee respondents who merely served as straw donors).

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<sup>1</sup> Johnson and Black have each tolled the statute of limitations for 30 days and Swallow has tolled for 90 days.

1           **B.       Potential Violations of the Lee Committee Regarding Johnson's Conduit**  
2           **Contributions in 2010**

3           The Act prohibits a political committee from knowingly accepting contributions made by  
4 one person in the names of others. 52 U.S.C. § 30122. The Lee Committee's Response to the  
5 Complaint, supported by sworn declarations, denied that it knew that Johnson reimbursed  
6 contributions to the Lee Committee at the time they were received. Lee Committee Resp. at 1-5.  
7 The Lee Committee's Response also included information from its internal investigation  
8 identifying donors who were potentially Johnson's straw donors, a recitation of the Lee  
9 Committee's efforts to confirm whether those donors used their personal funds for their  
10 contributions, and a summary of a contact with one donor who admitted that her contribution  
11 was reimbursed. Lee Committee Resp. at 2-5.

12           In the First General Counsel's Report, we noted that, notwithstanding the Lee  
13 Committee's Response, the record of its knowledge of Johnson's reimbursements remained  
14 incomplete and declined to make a recommendation at that time. First General Counsel's Report  
15 at 16-17, MUR 6850. During our investigation into Johnson, Swallow, and Black's violations,  
16 the Lee Committee has been cooperative and produced relevant documents voluntarily.  
17 However, neither Johnson nor Swallow complied with the Commission's subpoena for  
18 documents and order to submit written answers.

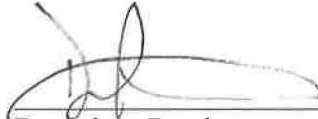
19           In light of the impending expiration of the statute of limitations as to any potential  
20 violations by the Lee Committee with respect to the June 2010 contributions that Johnson  
21 allegedly reimbursed, and taking into account the sworn declarations submitted in response to the  
22 Complaint denying such knowledge, we recommend that the Commission dismiss the allegation  
23 that the Friends of Mike Lee and Mike McCauley in his official capacity as treasurer violated

52 U.S.C. § 30122 with respect to Johnson's contributions in the names of others to the Friends of Mike Lee in June 2010.<sup>2</sup>


#### IV. RECOMMENDATIONS

1. Dismiss the allegations that Matthew Black and Atia Black violated 52 U.S.C. § 30122.
2. Dismiss the allegations that the Friends of Mike Lee and Mike McCauley in his official capacity as treasurer violated 52 U.S.C. § 30122.
3. Close the file as to Matthew Black and Atia Black.
5. Send the appropriate letters.

Date: 6/9/15

  
Daniel A. Petalas  
Associate General Counsel

  
Peter G. Blumberg  
Assistant General Counsel

  
Michael A. Columbo  
Attorney

#### Attachments:

Matthew Black Factual and Legal Analysis  
Atia Black Factual and Legal Analysis  
Friends of Mike Lee and Mike McCauley in his official capacity as treasurer Factual and Legal Analysis

<sup>2</sup> A proposed F&LA for the Lee Committee addressing its potential liability with respect to the alleged 2010 violations is attached. The Lee Committee continues to be a respondent as to the unrelated subsequent allegations in Count II of the Complaint regarding Mike Lee's real estate transactions.

**FEDERAL ELECTION COMMISSION****FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Matthew Black

MUR: 6850

**I. INTRODUCTION**

This matter was generated by a complaint filed with the Federal Election Commission by Maryann Martindale on behalf of the Alliance for a Better Utah. *See* 52 U.S.C. § 30109(a)(1). Count I of the Complaint alleged that Jeremy Johnson made contributions in the names of others in June of 2010 to Friends of Mike Lee, the principal campaign committee of Mike Lee for Sen. Mike Lee's 2010 campaign, in the names of straw donors, including Matthew Black. Compl. at 1-2.

**II. ANALYSIS**

The Complaint alleged that Matthew Black served as a straw donor for Johnson's contributions in the names of others. Compl. at 2. The Act and Commission regulations prohibit making a contribution in the name of another or knowingly permitting one's name to be used to effect the making of such a contribution, 52 U.S.C. § 30122, including knowingly helping or assisting any person in making a contribution in the name of another, 11 C.F.R. § 110.4(b).

The presently available record evidence indicates that Matthew Black's only participation in the alleged straw donor scheme was to allow his name to be used for Johnson's contributions. There is no evidence that he played a role in organizing or executing the reimbursements.

Accordingly, the Commission dismisses the allegations against Matthew Black in the exercise of its prosecutorial discretion, as it has previously done in similar circumstances. *See Heckler v. Chaney*, 470 U.S. 821 (1985); *see, e.g.*, Certification, MUR 6054 (Venice Nissan, *et*

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1 *al.*) (Aug. 24, 2010) (taking no action and closing the file as to employee respondents who  
2 merely served as straw donors).

3 **III. CONCLUSION**

4  
5 Therefore, based on the currently available information, the Commission dismisses the  
6 allegation that Matthew Black violated 52 U.S.C. § 30122.

**FEDERAL ELECTION COMMISSION****FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Atia Black

MUR: 6850

**I. INTRODUCTION**

This matter was generated by a complaint filed with the Federal Election Commission by Maryann Martindale on behalf of the Alliance for a Better Utah. *See* 52 U.S.C. § 30109(a)(1). Count I of the Complaint alleged that Jeremy Johnson made contributions in the names of others in June of 2010 to Friends of Mike Lee, the principal campaign committee of Mike Lee for Sen. Mike Lee's 2010 campaign, in the names of straw donors, including Atia Black. Compl. at 1-2.

**II. ANALYSIS**

The Complaint alleged that Atia Black served as a straw donor for Johnson's contributions in the names of others. Compl. at 2. The Act and Commission regulations prohibit making a contribution in the name of another or knowingly permitting one's name to be used to effect the making of such a contribution, 52 U.S.C. § 30122, including knowingly helping or assisting any person in making a contribution in the name of another, 11 C.F.R. § 110.4(b).

The presently available record evidence indicates that Atia Black's only participation in the alleged straw donor scheme was to allow her name to be used for Johnson's contributions. There is no evidence that she played a role in organizing or executing the reimbursements.

Accordingly, the Commission dismisses the allegation against Atia Black in the exercise of its prosecutorial discretion, as it has previously done in similar circumstances. *See Heckler v. Chaney*, 470 U.S. 821 (1985); *see, e.g.*, Certification, MUR 6054 (Venice Nissan, *et al.*) (Aug. 24, 2010) (taking no action and closing the file as to employee respondents who merely served as straw donors).

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**III. CONCLUSION**

Therefore, based on the currently available information, the Commission dismisses the allegation that Atia Black violated 52 U.S.C. § 30122.



1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 RESPONDENTS: Friends of Mike Lee and Mike McCauley MUR: 6850  
4 in his official capacity as treasurer  
5

6 **I. INTRODUCTION**

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8 Maryann Martindale on behalf of the Alliance for a Better Utah. *See* 52 U.S.C. § 30109(a)(1).  
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11 Mike Lee's 2010 campaign. Compl. at 1-2.

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13 The Act prohibits a political committee from knowingly accepting contributions made by  
14 one person in the names of others. 52 U.S.C. § 30122. The Lee Committee's Response to the  
15 Complaint, supported by sworn declarations, denied that it knew that Johnson reimbursed  
16 contributions to the Lee Committee at the time they were received. Lee Committee Resp. at 1-5.  
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19 Committee's efforts to confirm whether those donors used their personal funds for their  
20 contributions, and a summary of a contact with one donor who admitted that her contribution was  
21 reimbursed. Lee Committee Resp. at 2-5.

22 Although the Lee Committee has remained cooperative and produced relevant documents  
23 voluntarily, the record of the Lee Committee's knowledge of Johnson's reimbursements remains  
24 incomplete. In light of the impending expiration of the statute of limitations as to any potential  
25 violations by the Lee Committee with respect to the June 2010 contributions that Johnson

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1 allegedly reimbursed, and taking into account the sworn declarations submitted in response to the  
2 Complaint denying such knowledge, the Commission dismisses the allegation that the Friends of  
3 Mike Lee and Mike McCauley in his official capacity as treasurer violated 52 U.S.C. § 30122  
4 with respect to Johnson's contributions in the names of others to the Friends of Mike Lee in June  
5 2010. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

6 **III. CONCLUSION**  
7

8 Therefore, based on the currently available information, the Commission dismisses the  
9 allegation that Friends of Mike Lee and Mike McCauley in his official capacity as treasurer  
10 violated 52 U.S.C. § 30122.