



FEDERAL ELECTION COMMISSION
Washington, DC 20463

March 16, 2022

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Maryann Martindale
Alliance for a Better UTAH
PO Box 521847
Salt Lake City, UT 84152

RE: MUR 6850

Dear Ms. Martindale:

This is in reference to the complaint you filed with the Federal Election Commission (the “Commission”) on June 30, 2014, concerning allegations that John E. Swallow, Jeremy Johnson, Friends of Mike Lee Inc. and Thomas Datwyler in his official capacity as treasurer, Arvin Lee Black, Atia Black, and Matthew Black made, knowingly permitted their names to be used, or knowingly accepted contributions in the name of another.¹

On June 18, 2015, the Commission decided to dismiss the allegations that Matthew Black, Atia Black, and Friends of Mike Lee Inc. and Thomas Datwyler in his official capacity as treasurer violated 52 U.S.C. § 30122. Copies of the Factual and Legal Analyses, which more fully explain the bases of the Commission’s decisions, are enclosed.

On November 18, 2014, the Commission voted to find reason to believe that Arvin Lee Black violated 52 U.S.C. § 30122. After engaging in pre-probable cause conciliation, on July 9, 2015, the Commission accepted a signed conciliation agreement with Arvin Lee Black. A copy of the conciliation agreement is enclosed.

On April 17, 2015, the Commission found probable cause to believe that Jeremy Johnson violated 52 U.S.C. § 30116(a) and 52 U.S.C. § 30122. The Commission was unable to settle the matter through conciliation and, therefore, filed a civil suit in United States District Court against Jeremy Johnson. This litigation resulted in a Consent Judgment enjoining Johnson from violating 52 U.S.C. § 30116(a)(1)(A) and 52 U.S.C. § 30122. A copy of the Consent Judgment is enclosed.

On October 28, 2015, the Commission found probable cause to believe that John Swallow violated 52 U.S.C. § 30122. The Commission was unable to settle the matter through conciliation and, therefore, filed a civil suit in United States District Court against John Swallow.


¹ On March 23, 2016, the Commission notified you regarding separate allegations in your complaint concerning certain real estate transactions that were severed and merged into MUR 7025.

This litigation resulted in a Partial Final Judgment granting Swallow's motion to dismiss the litigation and denying the Commission's cross motion for judgment on the pleadings. A copy of the Partial Final Judgment is enclosed.

Due to an administrative oversight, there was a delay in the formal closure of this matter. Accordingly, this is to advise you that the file in this matter has been closed and this matter is now public. Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016).

The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. *See* 52 U.S.C. § 30109(a)(8). If you have any questions, please contact me at (202) 694-1597 or cpavia@fec.gov.

Sincerely,



Claudio Pavia

Acting Deputy Associate General Counsel

Enclosures:

- 1) Factual and Legal Analysis (Matthew Black)
- 2) Factual and Legal Analysis (Atia Black)
- 3) Factual and Legal Analysis (Friends of Mike Lee Inc. and Thomas Datwyler in his official capacity as treasurer)
- 4) Conciliation Agreement (Arvin Lee Black)
- 5) Partial Final Judgment (John Swallow)
- 6) Consent Judgment (Jeremy Johnson)

1 **FEDERAL ELECTION COMMISSION**2 **FACTUAL AND LEGAL ANALYSIS**3
4 RESPONDENT: Matthew Black

MUR: 6850

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6 **I. INTRODUCTION**

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

13 **II. ANALYSIS**

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

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

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

MUR 6850 (Matthew Black)
Factual and Legal Analysis
Page 2 of 2

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**

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

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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).

MUR 6850 (Atia Black)
Factual and Legal Analysis
Page 2 of 2

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
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6 **I. INTRODUCTION**

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

12 **II. ANALYSIS**

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.
17 The Lee Committee's Response also included information from its internal investigation
18 identifying donors who were potentially Johnson's straw donors, a recitation of the Lee
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

MUR 6850 (Friends of Mike Lee)
Factual and Legal Analysis
Page 2 of 2

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**

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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.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

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MUR 6850

Arvin Black

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CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by The Alliance for a Better Utah and Maryann Martindale. An investigation was conducted, and the Federal Election Commission ("Commission") found probable cause to believe that Arvin Black violated 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f) and 52 U.S.C. § 30116(a) (formerly 2 U.S.C. § 441a(a)).

NOW, THEREFORE, the Commission and the Respondent(s), having duly entered into conciliation pursuant to 52 U.S.C. § 30109(a)(4)(A)(i) (formerly 2 U.S.C. § 437g(a)(4)(A)(i)), do hereby agree as follows:

- I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding.
- II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- III. Respondent enters voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. At the time of the events described here, Arvin Lee Black, II, was the sole member of Sole Group, LLC.
2. Jeremy Johnson was a Utah businessman who owned an Internet marketing company and various entities that processed transactions for online poker games. Millions of dollars that originated with Johnson passed through Black and Sole Group.
3. On June 14, 2010, Triple 7, a company controlled by Johnson, issued a check for \$14,400 to Black's Sole Group, LLC. That same day, at Black's direction, Sole Group issued six checks for \$2,400 to himself, members of his family, an employee, and two others, totaling \$14,400, to reimburse them for contributions they were making to the Friends of Mike Lee in their names. Of those contributions, \$9,600 were successfully made and disclosed as received by Friends of Mike Lee.
4. The Act provides that no person shall make contributions to any candidate and his or her authorized political committees with respect to any election for federal office that, for the 2010 election cycle, exceed \$2,400 in the aggregate. 52 U.S.C. § 30116(a)(1)(A) (formerly 2 U.S.C. § 441a(a)(1)(A)). The Act further provides that no person "shall make a contribution in the name of another person." 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f). That prohibition extends to knowingly permitting one's name to be used to effect the making of a contribution in the name of another, or to knowingly helping or assisting any person in making a contribution in the name of another. 11 C.F.R. § 110.4(b)(ii), (iii). The Commission has explained that "knowingly helping or assisting" a false-name contribution would reach the conduct of "those who initiate or instigate or have some significant participation in a

plan or scheme to make a contribution in the name of another.” Explanation & Justification for 11 C.F.R. § 110.4, 54 Fed. Reg. 34,098, 34,105 (Aug. 17, 1989).

V. Arvin Black made approximately \$9,600 in contributions in the names of others to the Friends of Mike Lee in violation of 52 U.S.C. § 30122 and 52 U.S.C. § 30116(a). Black will cease and desist from violating 52 U.S.C. § 30122 and 52 U.S.C. § 30116(a).

VI. In ordinary circumstances, the Commission would seek a civil penalty based on the violations outlined in this agreement as well as mitigating circumstances. However, Arvin Black pleaded guilty to Wire Fraud and Money Laundering in connection with an alleged ponzi scheme operated through his company, Sole Group, LLC, and was sentenced on May 9, 2014, in the United States District Court for the District of Utah. As part of that sentence, he was ordered to pay \$13,793,626.55 in restitution, which was more than his assets. Additionally, a court-appointed receiver obtained a judgment against Mr. Black and Sole Group for \$618,991.61 on October 20, 2014, in connection with a Federal Trade Commission matter involving businesses owned or operated by Johnson. Due to these matters, Arvin Black does not have sufficient assets to pay a civil penalty in this matter. Accordingly the Commission agrees to depart from the civil penalty that the Commission would normally seek for the violations at issue, and the Commission agrees that no civil penalty will be due. If evidence is uncovered indicating Respondent’s financial condition is not as stated, a total civil penalty of up to nine thousand six hundred dollars (\$9,600) shall be immediately due, pursuant to 52 U.S.C. § 30109(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 52 U.S.C. § 30109(a)(1) (formerly 2 U.S.C. § 437g(a)(1)) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this

MUR 6850 (Black)
Conciliation Agreement
Page 4 of 4

agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.


VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondent(s) shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

BY:


Daniel A. Petalas
Associate General Counsel
for Enforcement

7/16/15
Date

FOR THE RESPONDENT:


Arvin Black

JUNE 03, 2015
Date

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

FEDERAL ELECTION COMMISSION, <i>Plaintiff,</i> v. JEREMY JOHNSON and JOHN SWALLOW, <i>Defendants.</i>	Case No. 2:15-cv-00439-DB PARTIAL FINAL JUDGMENT District Judge Dee Benson
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Pursuant to this Court’s Memorandum Decision and Order (Apr. 6, 2018), ECF No. 120, Defendant John Swallow’s Motion for Partial Final Judgment, and Federal Rule of Civil Procedure 54(b):

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant John Swallow’s motion to dismiss is GRANTED and the Federal Election Commission’s cross motion for judgment on the pleadings is DENIED;

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Federal Election Commission is forthwith ENJOINED from enforcing regulation 11 C.F.R. § 110.4(b)(1)(iii) and ORDERED to strike 11 C.F.R. § 110.4(b)(1)(iii) from the Code of Federal Regulations and;

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that dismissal of the Federal Election Commission’s claims against Defendant John Swallow are final and separable from the remaining claims against Defendant Jeremy Johnson. The claims against Mr. Swallow

were based on an amended complaint under legal theories that differ from the remaining claims before this Court;

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that there is no just reason for delay of entry of partial final judgment as to the claims against Defendant John Swallow or vacatur of 11 C.F.R. § 110.4(b)(1)(iii); and

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant John Swallow's Motion for Partial Final Judgment is thereby GRANTED.

DATED this 20th day of September, 2018.

Hon. Dee Benson
United States District Judge

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

FEDERAL ELECTION COMMISSION,)	
)	
Plaintiff,)	Case No. 2:15-cv-00439-DB
)	
v.)	
)	CONSENT JUDGMENT
JEREMY JOHNSON,)	
)	
Defendant.)	District Judge Dee Benson
)	

**CONSENT JUDGMENT BETWEEN PLAINTIFF FEDERAL ELECTION
COMMISSION AND DEFENDANT JEREMY JOHNSON**

Plaintiff Federal Election Commission (“FEC” or “Commission”) filed this action for declaratory, injunctive, and other appropriate relief against defendant Jeremy Johnson. The Commission and defendant Johnson have stipulated to the Court’s entry of this Consent Judgment based on the following:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this suit pursuant to 28 U.S.C. § 1345, since it is an action brought by an agency of the United States expressly authorized to sue by an act of Congress. 52 U.S.C. §§ 30107(a)(6), 30109(a)(6)(A).

2. Venue is properly found in the United States District Court for the District of Utah pursuant to 28 U.S.C. § 1391(b) and 52 U.S.C. § 30109(a)(6)(A).

3. The Commission has satisfied all jurisdictional prerequisites to the initiation of this suit.

THE PARTIES

4. Defendant Jeremy Johnson is a Utah resident who has conducted business in

Utah. At all times relevant to this case, Johnson has owned or effectively controlled a company named Triple 7, an internet-marketing company named I Works, Inc. (“I Works”), and other businesses that processed transactions for online-poker companies.

RELEVANT STATUTORY AND REGULATORY PROVISIONS

5. During the 2009-2010 election cycle, the Federal Election Campaign Act (“FECA” or the “Act”), [52 U.S.C. §§ 30101-46](#), prohibited any person from contributing in excess of \$2,400 per election to any candidate for federal office and his or her authorized political committees. [52 U.S.C. § 30116\(a\)\(1\)\(A\)](#); Price Index Increases for Contribution and Expenditure Limitations, 74 Fed. Reg. 7435-02, 7437 (Feb. 17, 2009).

6. The Act further provides that “[n]o person shall make a contribution in the name of another person.” [52 U.S.C. § 30122](#). Section 30122 bars a person from soliciting others to contribute to a candidate for federal office in their own names and either advancing the money or promising to reimburse and in fact reimbursing those others for their contributions. *United States v. O’Donnell*, [608 F.3d 546, 555](#) (9th Cir. 2010).

7. The Act authorizes a United States district court to order a defendant who has knowingly and willfully contributed excessive amounts to a federal candidate in violation of [52 U.S.C. § 30116\(a\)](#) to pay a civil penalty. That civil penalty may not exceed the greater of \$16,000 or 200% of the contributions involved in the violation. *See* [52 U.S.C. § 30109\(a\)\(6\)\(C\)](#); [11 C.F.R. § 111.24\(a\)\(2\)\(i\)](#) (2010).

8. The Act authorizes a United States district court to order a defendant who has knowingly and willfully made contributions in the name of another in violation of [52 U.S.C. § 30122](#) to pay a civil penalty. That civil penalty may not be less than 300% of the contributions involved in the violation and may not be more than the greater of \$60,000 or 1,000% of the

contributions involved in the violation. 52 U.S.C. § 30109(a)(6)(C); 11 C.F.R. § 111.24(a)(2)(ii) (2010).

9. In addition to imposing civil penalties, FECA authorizes a United States district court to “grant a permanent or temporary injunction, restraining order, or other order” against any defendant who has violated the Act. 52 U.S.C. § 30109(a)(6)(B).

FACTS SUPPORTING THE JUDGMENT

10. The facts supporting the judgment are recited in paragraphs 2 through 20 of the Stipulation for Entry of Consent Judgment Between Plaintiff Federal Election Commission and Defendant Jeremy Johnson. (*See* Docket No. 164 (“Stipulation”).)

COSTS, ATTORNEY’S FEES, AND OTHER EXPENSES

11. The Commission and Johnson waive any and all claims for costs, attorney’s fees, or other expenses related to or arising from the Commission’s claims against Johnson in this litigation.

APPEAL RIGHTS

12. The Commission and Johnson waive all rights of appeal from this Consent Judgment.

Plaintiff Federal Election Commission and defendant Jeremy Johnson having stipulated to the entry of this Consent Judgment, it is HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. Johnson knowingly and willfully violated 52 U.S.C. § 30116(a)(1)(A) by contributing approximately \$50,000 to Mike Lee’s Senate campaign and about \$20,000 to Majority Leader Harry Reid’s Senate campaign during the 2009-2010 election cycle.

2. Johnson knowingly and willfully violated 52 U.S.C. § 30122 by using straw donors to contribute approximately \$50,000 to Mike Lee's Senate campaign and about \$20,000 to Majority Leader Harry Reid's Senate campaign during the 2009-2010 election cycle.

3. Because Johnson knowingly and willfully contributed \$70,000 in violation of 52 U.S.C. § 30116(a) and knowingly and willfully contributed \$70,000 in violation of 52 U.S.C. § 30122, the Act would have authorized the Court to impose a civil penalty against Johnson of up to \$840,000. *See* 52 U.S.C. § 30109(a)(6)(C). In recognition that Johnson owes the federal government millions of dollars in connection with other actions and is currently limited in his ability to earn a living, the Commission agrees to forego any civil monetary penalty. If Johnson's financial condition on the day he signs the Stipulation is not as represented, a total civil penalty of \$270,000 will be immediately due.

4. Johnson is permanently enjoined from violating 52 U.S.C. § 30116(a)(1)(A).

5. Johnson is permanently enjoined from violating 52 U.S.C. § 30122.

6. The Commission and Johnson shall bear their own costs and attorney's fees with regard to the Commission's claims against Johnson in this litigation.

7. This Court shall retain jurisdiction of this action, and of any ancillary or supplemental actions thereto, in order to, among other things, implement and carry out the terms of all orders, judgments, and decrees that may be entered herein, including any that may be necessary to assure compliance with this Consent Judgment.

SO ORDERED this 19th day of August 2020.

Hon. Dee Benson
United States District Judge