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RECEIVED
FEDERAL ELECTION
COMMISSION

October 17, 2016

2016 OCT 18 PM 1:53

Office of General Counsel
Federal Election Commission,
999 E Street, N.W.,
Washington, D.C. 20463

OFFICE OF GENERAL
COUNSEL

Attention: Kathleen Guith
Acting Associate General Counsel, Enforcement

Re: Complaint

MUR # 7154

Dear Ms. Guith:

Enclosed, please find a signed, sworn and notarized complaint alleging violations of the Federal Election Campaign Act of 1971 ("Act") against the Ohio Democratic Party. The Complainant requests this Commission's investigation of apparent violations of the Act, and specifically the disclaimer requirements set forth in 11 CFR 110.10.

If you have any questions or need additional information, please do not hesitate to contact me. Thank you in advance for your attention to this matter.

Very truly yours,

Maria J. Armstrong

Attachments (Original and 3 copies)

FEDERAL ELECTION COMMISSION

Kathleen M. Eagan
211 South Fifth Street
Columbus, Ohio 43215
Complainant

MUR # 7154

v.

MUR# _____

Ohio Democratic Party
340 East Fulton Street
Columbus, Ohio 43215
Respondent

COMPLAINT

Now comes Complainant, Kathleen M. Eagan, and files this complaint against the Ohio Democratic Party for violations of the Federal Elections Act as described below.

A. Facts

1. Respondent Ohio Democratic Party ("ODP") is a political party committee duly registered with and regulated by the Federal Elections Commission.
2. On or about October 10, 2016, the ODP broadly mailed a printed brochure ("Brochure") listing a number of federal, state and local democratic candidates for office in Ohio.
3. A true and accurate copy of the Brochure was provided to me and is attached here as Exhibit A.
4. The return address on the Brochure clearly signifies that the mailing is from the ODP. The postage meter stamp also indicates that the mailing of the Brochure was paid for by the ODP and suggests that the Brochure was mass mailed.
5. Federal candidates Hillary Clinton, Ted Strickland, Joyce Beatty, Ed Albertson, and Scott Wharton are all named and pictured on the Brochure above the following caption: "Join us in endorsing your state and local Democratic candidates."
6. The disclaimer included on this Brochure reads as follows: "(DISCLAIMER: ODP WILL NEVER CHARGE YOU FOR TEXT ALERTS, BUT YOUR CARRIER'S MSG & DATA RATES MAY APPLY)". The disclaimer is not contained in a printed box.

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- 7. The Brochure does not include a "paid for by" disclaimer or any boxed text to indicate the source of the communication. Nor is there any disclaimer to indicate that the Brochure was or was not authorized by the named federal candidates.
- 8. The ODP has also issued sample ballots for various Ohio counties encouraging voters to support federal, state and local Democratic candidates.
- 9. Slate cards are publicly available on the ODP website and viewers are encouraged to download the sample ballot, post it to Facebook or tweet it. True and accurate copies of several sample ballots are attached here as Exhibits B, C, and D.
- 10. Although the ODP website contains what appears to be an appropriate disclaimer, the sample ballots contain no disclaimer after they are printed, posted to Facebook or tweeted.

B. Legal Analysis

- 11. 11 C.F.R. 110.11(a)(2) requires that a disclaimer must appear on all public communications made by a political committee.
- 12. 11 C.F.R. 110.11(b)(2) and (3) further require that a disclaimer must include information that the communication was or was not authorized by a candidate, candidate committee or an agent of either of those.
- 13. 11 CFR 110.11(c) further requires that the disclaimer must give "adequate notice of the identity of the person or political committee that paid for and, where required, that authorized the communication." The disclaimer must also be contained in a printed box set apart from the other contents of the communication.
- 14. 11 C.F.R. 110.11(d)(1)(i) requires that communications paid for by a political party committee pursuant to 52 U.S.C. 30116(d) must include a disclaimer that identifies "the political party committee that makes the expenditure as the person who paid for the communication, regardless of whether the political party committee was acting in its own capacity or as the designated agent of another political party committee."
- 15. 11 CFR 110.11(e) provides that a communication authorized by a political party committee and qualifying as an exempt activity under 11 CFR 100.140 (regarding slate cards) need not state whether the communication is authorized by a candidate, but must still "comply with the disclaimer requirements of paragraphs (a), (b), (c)(1), and (c)(2) of this section * * *".
- 16. 11 CFR 110.11(c)(v) requires that a disclaimer be used on any "communication that would require a disclaimer if distributed separately, that is included in a package of materials * * *".

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C. Requested Action

The Brochure purports to be a communication from five (5) federal candidates asking the reader to "join us in endorsing your state and local Democratic candidates" and apparently paid for by the ODP at least in part, as noted in the metered postage stamp. As such, the Brochure appears on its face to be a coordinated communication between the ODP and each candidate.

The Brochure fails to include a disclaimer clearly and conspicuously disclosing the information required by 11 CFR 110.11(b) and/or (d). A disclaimer regarding text alert charges does not comply with the content or formatting requirements of 11 CFR 110.10(c) and does not qualify as an appropriate disclaimer under federal law. Moreover, since the communication is apparently issued by the five federal candidates and some portion of the cost is paid by the ODP, expenses for the mailing appear to be a contribution from the ODP to each candidate.

In the alternative, if the Brochure is intended to be a slate card issued by the ODP pursuant to 11 CFR 100.140, a disclaimer is still required by 11 CFR 110.10(e). Failure to include any disclaimer that meets the requirements of 11 CFR 110.10 is a violation of federal election laws.

Finally, the ODP encourages readers to print, post or tweet sample ballots, but the sample ballot contains no disclaimer as required by federal election laws.

Complainant respectfully asks this Commission to promptly investigate the violation outlined above. Should the Commission determine that a violation has occurred, Complainant respectfully requests that the Respondent be enjoined from further violations, be required to report its expenditures for this mailing appropriately, and be fined the maximum amount permitted by law.

Sincerely,


Kathleen M. Eagan

Signed and sworn to before me this 17th day of October, 2016.


Kathleen Reardon
Notary Public



KATHLEEN REARDON
Notary Public, State of Ohio
My Commission Expires March 21, 2018

EXHIBIT A



OHIO DEMOCRATIC PARTY

340 EAST FULTON STREET | COLUMBUS, OH 43215
ODP16103_FRANKLIN

PRESORTED
FIRST CLASS MAIL
U. S. POSTAGE
PAID
OHIO DEMOCRATIC
PARTY

GIT 43017



Hillary Clinton



Ted Strickland



Joyce Beatty



Ed Albertson



Scott Wharton

Join us in endorsing your state and local Democratic candidates.

Cathy Johnson State Senate District 16	Bernadine Kennedy Kent State House District 25	Antoinette C. Miranda State School Board 6 th District	Laurel A. Beatty Common Pleas Court
Adam Miller State House District 17	Hearcel F. Craig State House District 26	Stephanie Dodd State School Board 9 th District	Richard A. Frye Common Pleas Court
Kristin Boggs State House District 18	Kevin Boyce Commissioner	Judge John P. O'Donnell Supreme Court Justice	Kimberly Cocroft Common Pleas Court
Michael Johnston State House District 19	John O'Grady Commissioner	Judge Cynthia Rice Supreme Court Justice	Jim Reese Common Pleas Court
Heather Bishoff State House District 20	Zach Klein Prosecuting Attorney	Jennifer Brunner 10 th District Court of Appeals	Vote for Issues 1, 2, 3, & 4 City of Columbus Bond Issues
Ryan Koch State House District 21	Maryellen O'Shaughnessy Clerk of Courts	Julia L. Dorrian 10 th District Court of Appeals	
David Leland State House District 22	Dallas L. Baldwin Sheriff	Crysta Pennington Common Pleas Court	
Lee Schreiner State House District 23	Danny O'Connor Recorder	Mark A. Serrott Common Pleas Court	Vote for Issue 57 Columbus School Improvement Plan
Kristopher Keller State House District 24	Anahi Ortiz Coroner	Jeffrey M. Brown Common Pleas Court	

Vote early or on ELECTION DAY NOV. 8. OhioTogether.com

Standing up for Franklin County



Zach Klein
Prosecuting Attorney

- A prosecutor for the 21st century
- Keeping our families and neighborhoods safe



Danny O'Connor
Recorder

- A reformer, committed to service with integrity
- A champion of veterans, homeowners, and small businesses

OHIO

DEMOCRATS ARE
STRONGER TOGETHER.



John P. O'Donnell

- John P. O'Donnell has served as judge on the Cuyahoga County Common Pleas Court – one of the busiest courts in Ohio – since 2002
- Impressive legal background and history of standing up for working Ohioans
- “Recommended” by the Ohio State Bar Association
- Opponent endorsed by pro-big business groups that want to limit access to courts



Cynthia Rice

- Cynthia Rice serves as presiding judge on the 11th District Court of Appeals, where she was first elected in 2002
- Over 10 years as a prosecutor handling violent crime and public corruption cases
- “Highly Recommended” by the Ohio State Bar Association
- Opponent is a career politician “Not Recommended” by the State Bar

Don't Think Twice
Vote **O'Donnell** and **Rice**
FOR OHIO SUPREME COURT



1. Vote early or on
Election Day Nov. 8.



2. Text **FIGHT** to **90975**
to get involved.



3. Learn more at:
OhioTogether.com

EXHIBIT B, C, and D

Ohio Democrats are **STRONGER TOGETHER**



Ohio Democratic Party Official Sample Ballot

Hillary Clinton and Tim Kaine
United States President & Vice President

Ted Strickland United States Senate	John Tharp Sheriff
Marcy Kaptur United States Rep - 9 th District	Phillip D. Copeland Recorder
James Neu, Jr. United States Rep - 5 th District	Wade Kapszukiewicz Treasurer
Kirk Halliday State Senate District 2	Keith Earley Engineer
Michael Ashford State House District 44	James Patrick Coroner
Teresa Fedor State House District 45	Judge John P. O'Donnell Supreme Court Justice
Michael P. Sheehy State House District 46	Judge Cynthia Rice Supreme Court Justice
Lauri Cooper State House District 47	Gary Cook 6 th District Court of Appeals
Tina Skeldon Wozniak Commissioner	Mark L. Pietrykowski 6 th District Court of Appeals
Pete Gerken Commissioner	Dean Mandros Common Pleas Court
Julia Bates Prosecuting Attorney	Lindsay Navarre Common Pleas Court
Bernie Quilter Clark of Courts	

Ohio Democrats are **STRONGER TOGETHER**

ODP1604
HAMILTON



Ohio Democratic Party Official Sample Ballot

Hillary Clinton and Tim Kaine
United States President & Vice President

Ted Strickland United States Senate	Jim Neil Sheriff
Michele Young United States Rep - 1 st District	Wayne Coates Recorder
Mary Rose Lierman State Senate District 8	Seth T. Walsh Treasurer
Joe Otis State House District 27	Lakshmi Kode Sammarco Coroner
Jessica Miranda State House District 28	Judge John P. O'Donnell Supreme Court Justice
Mark A. Childers State House District 30	Judge Cynthia Rice Supreme Court Justice
Brigid Kelly State House District 31	Marilyn Zayas-Davis 1 st District Court of Appeals
Catherine Ingram State House District 32	Jody Marie Luebers Common Pleas Court
Alicia Reece State House District 33	Darlene Rogers Common Pleas Court
Todd Portune Commissioner	Peter J. Stackpole Common Pleas Court
Denise Driehaus Commissioner	Alvertis Bishop Common Pleas Court
Alan C. Triggs Prosecuting Attorney	Michael T. Mann Common Pleas Court
Aftab Pureval Clerk of Courts	Darrell D. Payne Juvenile Court

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Ohio Democrats are
**STRONGER
TOGETHER**

Endorsed by Congresswoman Joyce Beatty

**Ohio Democratic Party
Official Sample Ballot**

Hillary Clinton and Tim Kaine
United States President & Vice President

Ted Strickland United States Senate	Zach Klein Prosecuting Attorney
Joyce Beatty United States Rep – 3 rd District	Dallas L. Baldwin Sheriff
Ed Albertson United States Rep – 12 th District	Danny O'Connor Recorder
Scott Wharton United States Rep – 15 th District	Anahi Ortiz Coroner
Cathy Johnson State Senate District 16	Antoinette C. Miranda State School Board 6 th District
Adam Miller State House District 17	Stephanie Dodd State School Board 9 th District
Kristin Boggs State House District 18	Judge John P. O'Donnell Supreme Court Justice
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Lee Schreiner State House District 23	Jeffrey M. Brown Common Pleas Court
Kristopher Keller State House District 24	Kimberly Cocroft Common Pleas Court
Bernadine Kennedy Kent State House District 25	Richard A. Frye Common Pleas Court
Hearcel F. Craig State House District 26	Crysta R. Pennington Common Pleas Court
Kevin Boyce Commissioner	Jim Reese Common Pleas Court
John O'Grady Commissioner	Mark A. Serrott Common Pleas Court
Maryellen O'Shaughnessy Clerk of Courts	Ohio Democratic Party



OHIO DEMOCRATIC PARTY