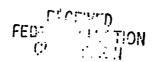
. .





2017 JAN 31 AM 8: 12

801 323.4230 DFFICE 801 538.0651 OFFICE 801 517.4600 FAX 55 N 300 W SUITE 800 SLC, UT 84180

CELA

January 30, 2017

Jeff. S. Jordan, Esq.
Federal Election Commission
Office of Complaints Examination
and Legal Administration
ATTN: MARY BETH deBEAU
999 E Street, N.W.
Washington, DC 20463

Re: MUR 7206 - Descret News Publishing Company/Descret Management Corporation

Dear Mr. Jordan:

Descret Management Corporation and the Descret News Publishing Company (the "Descret News") submit this letter in response to the complaint filed by Robert Breeze, dated December 6, 2016.

Mr. Breeze alleges the Deseret News promoted Evan McMullin's 2016 candidacy for president by (a) publishing "fake news" and (b) giving unequal coverage to Mr. McMullin. These actions, Mr. Breeze asserts, constituted unreported campaign contributions/expenditures. Mr. Breeze's claims, however, are unsupported, rely on innuendo and fundamentally misconstrue relevant law.

Although claiming the Deseret News published "fake news", Mr. Breeze fails to site or reference one article or editorial that constitutes "fake news". Likewise, Mr. Breeze fails to site one fact that was inaccurately reported by the Deseret News, whether as to Mr. McMullin or any of the other presidential candidates.

Mr. Breeze cannot do so because the Deseret News' coverage of the 2016 election, as with previous elections, was accurate, unbiased and fair to all candidates. The Deseret News is Utah's oldest continuously published daily newspaper, having published since 1850. It is in the business of reporting relevant news and providing editorial content. The Deseret News used its editorial judgment to determine what news from the presidential election was relevant to its market audience, and then reported on that news fairly and accurately.

Unable or unwilling to provide evidence of "fake news", Mr. Breeze resorts to innuendo and conspiracy theories. Essentially, he argues the Deseret News provided excess coverage to Mr. McMullin compared to other third party candidates simply because Mr. McMullin is a member of the Church of Jesus Christ of Latter-day Saints, which controls Deseret Management Corporation, the sole owner of the Deseret News. Interestingly, Mr.











Breeze fails to refer to the Deseret News' coverage of Mr. Trump and Ms. Clinton, which both grossly outweighed that of Mr. McMullin.

In fact, the Deseret News offered Ms. Stein, Mr. Johnson and Mr. McMullin the opportunity to write an op-ed piece, as it did to both Mr. Trump and Ms. Clinton. Mr. Johnson and Mr. McMullin did so. The Deseret News editorial staff also met with both Mr. Johnson and Mr. McMullin. As Utah was the home to both Mr. Johnson's and Mr. McMullin's campaign headquarters, and both polled well in Utah at times, it is understandable that both would receive coverage above that of Ms. Stein.

Moreover, any coverage of Mr. McMullin was simply an editorial decision based upon the interest of its readers. As the Deseret News editorialized at the time, "we will continue to look at the McMullin story. Why? Because it's more relevant in Utah than perhaps anywhere else, as this BYU graduate tries to accomplish his stated goal of winning Utah while denying enough electoral votes to Trump and Clinton to throw the final decision into the U.S. House. With two months to go, all the candidates will provide plenty to write about." All candidates did just that, with the coverage of Mr. Trump and Ms. Clinton dwarfing the rest.

Regardless, contrary to Mr. Breeze's suggestions, the law does not require proportionality or equal time. This basic misunderstanding of the law dooms Mr. Breeze's complaint. But it is not the only misunderstanding and/or misinterpretation of relevant law.

Mr. Breeze specifically sites to 11 CFR §100.73 and 100.132 for the proposition that "when news coverage does not constitute a bona fide news story the free advertising constitutes a contribution/expenditure which must be reported." Setting aside the lack of evidence of "fake news" previously discussed, Mr. Breeze's citation of these rules is completely without merit.

Before even discussing whether bona fide news is exempted as a campaign contribution, 11 CFR §100.73 states,

Any cost incurred in covering or carrying a news story, commentary, or editorial by any broadcasting station (including a cable television operator, programmer or producer), Web site, newspaper, magazine, or other periodical publication, including any Internet or electronic publication, is not a contribution unless the facility is owned or controlled by any political party, political committee, or candidate...

(emphasis added). Identical language is used to define an expenditure under 11 CFR §100.132. As stated previously, the Deseret News is owned exclusively by Deseret Management Corporation, which is ultimately controlled by the Church of Jesus Christ of Latter-day Saints. Since Deseret Management Corporation, nor the LDS Church, is not a political party, committee or candidate, the costs incurred by the Deseret News in carrying a news story or editorial cannot be considered contributions or expenses. Mr. Breeze's arguments simply fail as a matter of law.

Because there is no factual or legal support for Mr. Breeze's complaint, the Commission should take no further action against the Deseret News or Deseret Management Corporation.

Sincerely,

J. David Pearce

Associate General Counsel



FEDERAL ELECTION COMMISSION 999 E Street, NW Washington, DC 20463

STATEMENT OF DESIGNATION OF COUNSEL

Provide one form for each Respondent/Witness.

FAX 202-219-3923

MUR #_7206
Name of Counsel: J. DAVED PEARCE
Firm: DESERGE MANAGEMENT CORPORATION
Address: 55 N. 300 U. Suere 800
SAIT LAKE CITY, UT 84180
Telephone: (20) 933-1272 Fax: (20) 531-3371
E-mail: David Pearce & Benfinancial . com
The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.
1-30-17 Date Signature (Respondent/Agent) Title
Date Signature (Respondent/Agent) Title
RESPONDENT: DESERET MANAGEMENT CORPORATION
(Committee Name/ Company Name/Individual Named in Notification Letter)
Mailing Address: SS N. 300 U. Supre 800 (Please Print)
SALT LAKE CZZ UT 84180
Telephone (H): (W):
E-mail:

This form relates to a Federal Election Commission matter that is subject to the confidentiality provisions of 52 U.S.C. § 30109(a)(12)(A). This section prohibits making public any notification or investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.



FEDERAL ELECTION COMMISSION 999 E Street, NW Washington, DC 20463

STATEMENT OF DESIGNATION OF COUNSEL

Provide one form for each Respondent/Witness

FAX 202-219-3923

MUR # 7206
Name of Counsel: J. DALED PEARCE
Firm: Desert News PUBLESHEUG COMPANY
Address: 55 N. 300 W, SJRTE 800
SALT LAKE COLY UT 84180
· · · · · · · · · · · · · · · · · · ·
Telephone: (201) 933- U-72 Fax: (201) 531-3371 E-mail: David PEARCE C Beafinescal Cum
The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.
Dâte Signature (Respondent/Agent) And General Course Cour
RESPONDENT: DE SERET NEW PUBLISHED COMPANY (Committee Name/ Company Name/Individual Named in Notification Letter)
Mailing Address: SEE ABUE (Please Print)
Telephone (H): (W):

This form relates to a Federal Election Commission matter that is subject to the confidentiality provisions of 52 U.S.C. § 30109(a)(12)(A). This section prohibits making public any notification or investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.