



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of	)	
	)	
Utah Republican Party	)	MUR 7235
and Abram Young in his official capacity	)	(AR-17-01 and RR15L47R)
as treasurer	)	

**STATEMENT OF REASONS OF  
COMMISSIONER LEE E. GOODMAN**

On October 24, 2017, in response to a referral from the Audit Division to the Office of General Counsel, the Commission voted to find reason to believe that the Utah Republican Party (“Party”) violated 11 C.F.R. § 106.7(d)(1) by failing to maintain time logs for its employees and to impose a civil penalty for the violation.<sup>1</sup> This is the most recent in a series of matters on which the Commission has had to decide whether to impose a civil penalty upon a state party for failing to maintain employee time logs. I have voted against the imposition of civil penalties in those cases<sup>2</sup> and did so again in this matter for similar reasons.

First, the Commission’s publicly available Audit Report documented the absence of employee time logs and the Commission made the finding that the Committee’s failure to keep logs violated the regulation.<sup>3</sup> The audit finding and the unanimous formal Commission finding of a legal violation is sufficient to vindicate the public interest.

Second, the Party complied with the Audit staff’s recommendation by implementing a plan to maintain employee time logs going forward.<sup>4</sup> This means that the Commission’s audit process brought the party into compliance.

<sup>1</sup> See MUR 7235 (Utah Republican Party), Certification (Apr. 20, 2017). I supported finding reason to believe the Party violated 11 C.F.R. § 106.7(d)(1) in addition to finding reason to believe as to the remaining violations recommended in the First General Counsel’s Report.

<sup>2</sup> See Statement of Reasons of Commissioner Lee E. Goodman, MUR 7215 (Oklahoma Leadership Council); Statement of Reasons of Commissioner Lee E. Goodman, MUR 6967 (Kentucky State Democratic Central Executive Committee); Statement of Reasons of Commissioner Lee E. Goodman, MUR 6966 (Democratic Party of Wisconsin).

<sup>3</sup> Final Audit Report of the Commission on the Utah Republican Party at 5, 16-18 (“Audit Report”) available at [https://transition.fec.gov/audits/2012/Utah\\_Republican\\_Party/FinalAuditReportoftheCommission1337174.pdf](https://transition.fec.gov/audits/2012/Utah_Republican_Party/FinalAuditReportoftheCommission1337174.pdf); Commission Certification at ¶3, MUR 7235 (Apr. 20, 2017).

<sup>4</sup> Audit Report at 16.

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Third, time logs are not statutory requirements. The Commission promulgated a regulation requiring time logs for the sole purpose of assisting the Commission with determining whether a state or local party used funds to subsidize the federal election activity of its employees.

Furthermore, the audit experience and its attendant costs are more than effective punishment to instill in any state party an incentive to comply—at great compliance cost—with the most myopic of federal regulations in the future. The audit process is expensive and drains resources from a state party's political mission. The party must disburse considerable funds to pay lawyers and accountants while committee staff devote hundreds of hours compiling records and responding to auditor demands. The experience distracts the party and ties up its resources and operations for two years or more. Therefore, it is not necessary for the Commission to impose a financial penalty on top of tens of thousands of dollars in audit expenses to accomplish the Commission's enforcement objectives, that is, to incentivize a party to keep employee logs in the future.

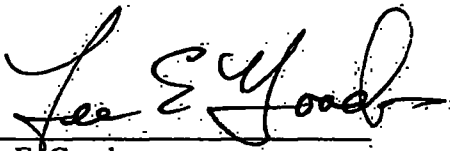
In this case, the Commission's enforcement objectives would have been achieved best by concluding the case with an audit report publicly finding the absence of required logs and memorializing that the Utah Republican Party has already implemented new log compliance procedures, as well as a public finding by the Commission that there was reason to believe the Party violated the law and a conciliation agreement that memorialized these circumstances. The Commission is not required to seek monetary penalties and, indeed, often quickly dismisses insignificant violations of greater consequence than employee logs.<sup>5</sup> In all such cases, the public interest in compliance is vindicated.

Finally, this regulatory treatment is justified given the severe burdens the federal and state regulatory schemes impose upon state and local political parties. All Commissioners and representatives of various parties<sup>6</sup> have expressed concern about regulatory burdens imposed upon state and local parties. A resolution without a civil financial penalty would have been one way to make good on those concerns.

<sup>5</sup> The Commission has significant discretion to determine the best way to resolve matters, including whether to assess penalties for non-compliance or dismiss a matter at the initial state of enforcement. See 52 U.S.C. § 30109(a)(5)(A)-(B) (conciliation agreements entered into by the Commission "*may* include a requirement that the person involved in such conciliation agreement shall pay a civil penalty . . .") (italics added); *Heckler v. Chaney*, 470 U.S. 821 (1985) (holding that agencies may dismiss matters pursuant to their prosecutorial discretion); *Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process*, 72 Fed. Reg. 12,545 (Mar. 16, 2007) (stating policy of dismissing insignificant violations that do not merit further proceedings rather than proceeding to reason-to-believe findings and investigation or conciliation).

<sup>6</sup> Press Release, Federal Election Commission, FEC Chairman Goodman and Vice Chair Ravel Host Political Party Forum (June 4, 2014), <https://www.fec.gov/updates/fec-chairman-goodman-and-vice-chair-ravel-host-political-party-forum/> (including link to audio recording); Press Release, Federal Election Commission, FEC Chairman Lee E. Goodman and Vice Chair Ann M. Ravel to Host Public Forum on Political Parties (Apr. 16, 2014), <https://www.fec.gov/updates/fec-chairman-lee-e-goodman-and-vice-chair-ann-m-ravel-to-host-public-forum-on-political-parties-updated/> (announcing forum).

The issue of time logs is just one of several onerous or unclear regulatory burdens on state and local political parties in need of reform, whether by the Commission or Congress. The Commission's volunteer mail rules are another issue ripe for clarification by the Commission. At the Commission's May 25, 2017 public meeting I submitted a detailed resolution—including specific revisions to our regulations—to open a rulemaking with respect to political parties. The Commission agreed to direct the Office of General Counsel to draft a Notice of Proposed Rulemaking.<sup>7</sup> In the last seven months that NPRM has not been submitted to the Commission. I renew my call for the agency to provide needed regulatory relief to the most important grassroots political organizations in America.



Lee E. Goodman  
Commissioner

Dec. 20, 2017  
Date

<sup>7</sup> See Press Release, Federal Election Commission, FEC approves amended Audit Division recommendation memorandum, approves advisory opinion, and agrees to commence work on party rulemaking (May 25, 2017), <https://www.fec.gov/updates/fec-approves-amended-audit-division-recommendation-memorandum-approves-advisory-opinion-and-agrees-commence-work-party-rulemaking/>.