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April 16, 2018

Federal Election Commission
Office of Complaints Examination
& Legal Administration
Attn: Kathryn Ross, Paralegal
1050 First Street, NW
Washington, DC 20002

Re: MUR 7330

Dear Ms. Ross,

This Response is submitted by the undersigned counsel on behalf of Representative Mia Love, Friends of Mia Love, and Robert Carlin, in his capacity as Treasurer of Friends of Mia Love. For the reasons set forth below, the Complaint should be dismissed.

The Complainant alleges that “the Love campaign accepted an excessive in-kind contribution from the Utah Republican Party to the tune of over \$120,000 by having the Party pay for the Love campaign’s political mailings.” Complaint at 1-2. The Complainant further alleges that “[t]he Love campaign apparently agreed to reimburse the Party for these mailings.” *Id.* at 2.¹

The mailings referenced by the Complainant were distributed as “volunteer mail” pursuant to 11 C.F.R. §§ 100.87 and 100.147. “Volunteer mail” falls within the exemption that allows state or local party committees and their volunteers to distribute “campaign materials ... on behalf of any nominee(s) of such party.” 11 C.F.R. § 100.87. The exemption assumes that the materials distributed will be prepared by the candidate in whole or in part, and/or with the candidate’s involvement. Where the volunteer materials exemption is satisfied, the party committee’s payment is neither an expenditure nor a “contribution,” the coordination rules are inapplicable, and there is no “party coordinated expenditure.”

All of the mailings at issue included the disclaimer “Paid for by the Utah Republican Party,” printed within a box. This disclaimer is consistent with the requirements set forth in MUR 5837 for volunteer mail that is authorized by a candidate. *See* MUR 5837 (Missouri Democratic State Committee), Statement of Reasons of Chairman Robert D. Lenhard, Vice

¹ We do not address the Complainant’s allegations relating to U.S. Postal Service regulations as the Commission has no jurisdiction over such matters and they do not inform the consideration of the Complainant’s FECA-related allegations.

Chairman David M. Mason, and Commissioners Hans A. von Spakovsky and Ellen L. Weintraub at 6 (“If a mailer distributed under the volunteer materials exemption is authorized by a candidate, an authorized committee of the candidate, or an agent of either of the foregoing, the mailer’s disclaimer is only required to include a ‘paid for by’ statement, and is not required to include either the permanent street address, telephone number, or world wide web address of the person who paid for the communication, or an ‘authorized by statement.’”).

The Complainant refers to comments made by Dave Hansen indicating that Friends of Mia Love is responsible for paying the costs of mailings. Mr. Hansen was not referring to a legal responsibility, and as he stated, “[t]echnically, ‘the money is owed by the party.’” Brian Mullahy, *Utah GOP has campaign debt from Mia Love and Tanner Ainge*, KUTV (Jan. 19, 2018), <http://kutv.com/news/local/utah-gop-has-campaign-debt-from-mia-love-and-tanner-ainge>. The two statements do not suggest an impermissible arrangement. As is the case in most states, a party’s “top of the ticket” candidates and officeholders play a key role in the party’s fundraising efforts. Representative Love has supported the Utah Republican Party’s fundraising efforts for years and intends to continue doing so. Funds raised in this manner may be used to pay the party’s expenses, including outstanding debts. The Act also allows Friends of Mia Love to transfer an unlimited amount of funds to the Utah Republican Party. *See* 52 U.S.C. § 30114(a)(4). Transfer funds may be used to pay party expenses, including outstanding debts related to volunteer materials, even if designated for such use. *See* MUR 6691, Statement of Reasons of Vice Chairman Matthew S. Petersen and Commissioners Lee E. Goodman and Caroline C. Hunter at 4 (“a candidate’s provision of funds to a party to be used to support that candidate is not a ‘contribution’ for purposes of the volunteer materials exemption”). Even if the Complainants allegations are true, and Friends of Mia Love agreed to assist the Utah Republican Party in paying for volunteer mailings, the Complainant does not state a violation of the Act.

As noted above, there is no such thing as “coordination” in the context of the volunteer materials exemption. *See, e.g.*, MUR 4754 (Republican Campaign Committee of New Mexico, Factual and Legal Analysis at 16 (“The Complaint alleges that the Party’s expenditures for the mailers were an in-kind contribution because the mailers were coordinated with the Wilson Committee. The Commission need not resolve this issue if it determines that the mailers qualified for the ‘volunteer materials exemption.’”); Advisory Opinion 2010-01 (Nevada State Democratic Party) (approving “volunteer mail” request where requestor stated that “[t]he State Party will coordinate with its preferred candidates regarding the proposed campaign materials, which may expressly advocate for the election of the preferred candidates”). Thus, even if “the mailings originated with the Love campaign,” Complaint at 4, that does not make the slightest bit of difference for mailings that were distributed by party volunteers. In the context of the “campaign materials” exemption, state and local party committees are permitted to work closely with, on behalf of, or in coordination with their candidates without “contributions” or “expenditures” resulting.

In MUR 5598, which also involved volunteer mail sent by the Utah Republican Party, four Commissioners stated an intention “to issue more detailed guidance to clarify the volunteer materials exemption and the circumstances in which it applies.” MUR 5598, Statement of Reasons of Vice Chairman Petersen, Commissioner Bauerly, Commissioner Hunter, and Commissioner Weintraub at 4. In 2010, the Commission considered four draft interim

enforcement policies, but, unfortunately, no policy was adopted. In the absence of more comprehensive guidance, the respondents in this matter have endeavored to adhere to the rules and requirements for volunteer mail that are set forth in the Commission's enforcement materials. *See generally* MUR 5841 (Arizona Democratic Party), Factual and Legal Analysis; MUR 5837 (Missouri Democratic State Committee), Statement of Reasons of Chairman Robert D. Lenhard, Vice Chairman David M. Mason, and Commissioners Hans A. von Spakovsky and Ellen L. Weintraub; MUR 5574 (Alaska Democratic Party), Statement of Reasons of Vice Chairman Peterson and Commissioners Bauerly, Hunter, and McGahn.

The Complaint does not once mention the volunteer mail exemption, and instead insists that the mailings can only be coordinated party communications that yield impermissible in-kind contributions from the Utah Republican Party to Friends of Mia Love. While Mr. Woodhouse may be unaware of the volunteer mail exemption, it is also entirely possible that the Complainant is knowingly harassing the Respondents with a frivolous complaint. In either case, the Complaint fails to set forth sufficient facts that, even if proven true, would constitute a violation of the Act. *See* MUR 4960 (Clinton), Statement of Reasons of Commissioners David M. Mason, Karl J. Sandstrom, Bradley A. Smith, and Scott E. Thomas at 3. The Complaint alleges coordination and excessive in-kind contributions, but neither allegation applies in the context of the volunteer mail exemption. The Complainant presents no evidence suggesting that the requirements of the volunteer mail exemption were not met. Accordingly, the Complaint should be dismissed.

Sincerely,



Timothy Kronquist

Michael Bayes

*Counsel to Respondents Representative Mia Love,
Friends of Mia Love, and Robert Carlin, in his
capacity as Treasurer of Friends of Mia Love*