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 Kathryn Ross

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April 26, 2018

VIA ELECTRONIC AND CERTIFIED MAIL

Mr. Jeff S. Jordan
 Federal Election Commission
 Office of Complaints Examination & Legal Administration
 Attn: Kathryn Ross, Paralegal
 1050 First Street, N.E.
 Washington, DC 20463

Re: MUR 7330—Response of the Utah Republican Party (Abram Owen, Treasurer)

Dear Mr. Jordan:

I write on behalf of the Utah Republican Party to respond to a recent complaint that claims U.S. Representative Mia Love's campaign committee "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," and that the Love Campaign then "agreed to reimburse the Party for these mailings" in violation of United States Postal Service regulations.¹ The Complaint is meritless, both because the mailings were distributed under the Commission's "volunteer materials" exception and because any payments by the Love Campaign to the Utah Republican Party were permissible transfers.² I therefore urge the Commission to dismiss this matter expeditiously.

1. The Mailers at Issue Were Volunteer Materials, Not Coordinated Expenditures

In 2016, while Representative Mia Love was running for reelection, the Utah Republican Party funded mailings distributed by volunteers that featured the disclaimer "Paid for by the Utah Republican Party." While the Complaint alleges that these mailings were a "coordinated expenditure" by the Party and Representative Love's principal campaign committee, the mailings actually fell squarely within the "volunteer material" exception. A state political party may pay for campaign materials used "in connection with volunteer activities on behalf of any nominee(s)

¹ Federal Elec. Comm'n MUR 7330, Complaint of American Democracy Legal Fund, dated Feb. 13, 2018 ("Complaint").

² 11 C.F.R. §§ 100.87, 100.147.



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of such party" without making a "contribution" or "coordinated expenditure"³ if volunteers participate in the distribution of the materials and if the materials are paid for with federal funds.⁴ The Commission has found that a broad range of volunteer involvement can qualify a mail piece for this exemption, including unpacking, addressing, stamping, sorting, bundling, and transporting mail pieces.⁵ Mail pieces that qualify for this "volunteer material" exemption must feature a disclaimer that reads "Paid for by [State Party Committee Name]."⁶

Here, Representative Love was the Utah Republican Party's nominee for her current Congressional seat in 2016 when the mailers in question were distributed. The Utah Republican Party paid for the mailings from its federal account, affixed the appropriate legal disclaimer, and involved volunteers in distributing the mailings.⁷ The Complaint cites no evidence to the contrary and, in fact, fails to even mention the "volunteer material" exemption. The Utah Republican Party's mailers featuring Representative Love were therefore not an in-kind contribution or coordinated expenditure, given that the mailers qualified for the "volunteer material" exemption.

2. Payments From Representative Love's Campaign to the Utah Republican Party Were Permissible Transfers

The Complaint also alleges that, because certain individuals' publicly reported comments suggested that the Love Campaign had a "responsibility" to pay the Utah Republican Party, there was an impermissible arrangement between the two entities.⁸ Those comments did not refer to any legal responsibility, but to the common and legitimate task of transferring funds from a candidate committee to the state party. Candidate committees may transfer funds in unlimited amounts to a state party, which may use these funds to pay expenses.⁹ Commissioners have even spoken approvingly in the past about "a candidate's provision of funds to a party to be used to

³ Volunteer materials are expressly allowed to be coordinated. The Commission has previously approved as exempted campaign materials that the "State Party . . . coordinate[d] with its preferred candidates" and "expressly advocate[d] for the election of the preferred candidates." Federal Elec. Comm'n Adv. Op. 2010-01 at 2 (Nevada State Democratic Party). The Commission "need not resolve" whether a state party's expenditures for mailers are coordinated, and thus an in-kind contribution, "if it determines that the mailers qualified for the 'volunteer materials exemption.'" Federal Elec. Comm'n MUR 4754, First General Counsel's Report at 17 (Feb. 1, 1999).

⁴ 11 C.F.R. § 100.87; Federal Elec. Comm'n MUR 6899, First General Counsel's Report at 3 (Apr. 2, 2015).

⁵ Federal Elec. Comm'n MUR 6899, First General Counsel's Report at 4-5 (Apr. 2, 2015). *See, e.g.*, Federal Elec. Comm'n MURs 5824, 5825, 5837, and 5841.

⁶ Disclaimers for "volunteer" mail differ from normal disclaimer rules. If a mailer is coordinated with and authorized by a candidate, its disclaimer reads "Paid for by [State Party Committee name]". If a mailer is *not* coordinated with or authorized by a candidate, its disclaimer reads "Paid for by [State Party Committee name] and not authorized by any candidate." along with the state party's address, phone number or web address. 11 C.F.R. § 110.11(e).

⁷ Although the individuals who coordinated the Party's volunteer mail program in 2016 are no longer employed by the Party and are unreachable, contemporaneous emails do demonstrate that volunteers were involved in the distribution of the mailers. *See* Appendix A, attached hereto.

⁸ Complaint at 2.

⁹ 52 U.S.C. § 30114(a)(4); 11 C.F.R. § 113.2(c).

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support that candidate” and noted that such a transfer of funds “is not a contribution for purposes of the volunteer materials exemption.”¹⁰ Consequently, the Utah Republican Party was and is permitted to accept unlimited funds from a candidate committee, including Representative Love’s campaign committee, and the Party may use those funds to pay for any specific candidate’s volunteer materials.

3. Conclusion

The Complaint alleges unlawful coordination between Representative Love’s campaign and the Utah Republican Party, conveniently without once mentioning the “volunteer materials” exemption. The mailings featuring Representative Love qualified for this exemption and therefore allowed the Utah Republican Party to distribute them without possibility of making a “contribution” or “coordinated expenditure.” The Utah Republican Party may also receive transfers in unlimited amounts from the Love Campaign to defray costs associated with these mailings and any other activities. We therefore respectfully ask that the Commission find no reason to believe a violation occurred and promptly dismiss this Matter.

Respectfully Submitted,



Matthew T. Sanderson
Member
Caplin & Drysdale, Chartered

¹⁰ Statement of Reasons, MUR 6691 (Apr. 8, 2015) at 5.

APPENDIX A

Subject: Re: Mia Love Mailing this afternoon

Date: Thursday, September 8, 2016 at 4:11:40 PM Mountain Daylight Time

From: Mattie Tueller <mattueller@utah.gop>

To: Ian Aldous <ian@arenacomm.com>

My cell number is Please give it to Val so that we can coordinate for future mailings. Thanks for your help today.

On Thursday, September 8, 2016, Ian Aldous <ian@arenacomm.com> wrote:
Hello,

We have a mailing for Mia Love that will be ready to mail out this afternoon. I have been advised that I will need to meet a volunteer at the post office. I'm just confirming that a volunteer will be available to meet us for acceptance at the post office at 3:00. If you have any questions, feel free to let me know.

Thanks.

--
Ian Aldous
Arena Communications
ian@arenacomm.com
801-924-4017 office

--
Mattie Tueller
Political Director
Utah Republican Party
office: 801.533-9777

Subject: Re: Volunteers for Love mailing

Date: Tuesday, September 13, 2016 at 11:33:41 AM Mountain Daylight Time

From: Ian Aldous <ian@arenacomm.com>

To: Mattie Tueller <mtueller@utah.gop>

That will be fine. We'll see you at 2:00.

Thanks.

--
Ian Aldous
Arena Communications
ian@arenacomm.com
801-924-4017 office

On Sep 13, 2016, at 11:33 AM, Mattie Tueller <mtueller@utah.gop> wrote:

I won't be able to get the volunteers by 1:00. Can we do 2:00?

On Tue, Sep 13, 2016 at 11:17 AM, Ian Aldous <ian@arenacomm.com> wrote:
i Hey there,

If you can have volunteers meet us at the post office at 1:00 today that would be perfect. If it needs to be later, please let me know.

Thanks.

--

Ian Aldous
Arena Communications
ian@arenacomm.com
801-924-4017 office

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Mattie Tueller
Political Director
Utah Republican Party
office:801.533-9777

Subject: Re: Volunteers for Monday

Date: Sunday, September 25, 2016 at 9:39:33 PM Mountain Daylight Time

From: Ian Aldous <ian@arenacomm.com>

To: Mattie Tueller <mtueller@utah.gop>

Great. I will have it on our first load. Just meet Val over at the post office mailing at 10 and you'll be set.

We will have another mailing like this one on Thursday if you want to make sure you have volunteers for that morning as well.

Thanks!

--
Ian Aldous
Arena Communications
ian@arenacomm.com
801-924-4017 office

On Sep 25, 2016, at 5:45 PM, Mattie Tueller <mtueller@utah.gop> wrote:

I can have a couple of volunteers there at 10:00.

On Saturday, September 24, 2016, Ian Aldous <ian@arenacomm.com> wrote:
Mattie,

We have a mailing ready to head out on Monday. We can have it on our first load at 10 in the morning if you can have a couple of volunteers ready. If you don't have any temps available until later in the day, please let me know. I'm anticipating three post office trips at this time.

Thanks.

--

Ian Aldous
Arena Communications
ian@arenacomm.com
801-924-4017 office

--
Mattie Tueller
Political Director
Utah Republican Party
office: 801.533-9777