

1 **FEDERAL ELECTION COMMISSION**

2
3 **FIRST GENERAL COUNSEL'S REPORT**

4 **MUR 7345**

5 **DATE COMPLAINT FILED: 3/8/2018**

6 **DATE OF NOTIFICATION: 3/14/2018**

7 **DATE OF LAST RESPONSE: 5/3/2018**

8 **DATE ACTIVATED: 8/16/2018**

9
10 **EXPIRATION OF SOL: 1/31/2023**

11 **ELECTION CYCLE: 2018**

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14 **COMPLAINANTS:**

Rhode Island Republican State Central
Committee
Brandon S. Bell

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17
18 **RESPONDENTS:**

Providence Democratic City Committee
Friends of Gina Raimondo

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20
21 **RELEVANT STATUTES
AND REGULATIONS:**

52 U.S.C. § 30101(4), (8), & (9)
11 C.F.R. § 102.17

22
23
24 **INTERNAL REPORTS CHECKED:**

Disclosure Reports

25
26 **FEDERAL AGENCIES CHECKED:**

None

27
28 **I. INTRODUCTION**

29 The Complaint alleges that a local party committee, the Providence Democratic City
30 Committee ("PDCC"), and a gubernatorial candidate's committee, Friends of Gina Raimondo
31 ("Raimondo Committee"), violated Commission regulations by entering into a joint fundraising
32 agreement without complying with the requirements of 11 C.F.R. § 102.17. Based on the
33 available information, it does not appear that Respondents engaged in any joint fundraising
34 activity subject to the Commission's joint fundraising regulations. Therefore, we recommend
35 that the Commission find no reason to believe the Respondents violated 11 C.F.R. § 102.17.

1 **II. FACTS**

2 PDCC is a local political party committee registered in the state of Rhode Island.¹ The
3 Raimondo Committee is the state candidate committee for Governor Gina Raimondo's 2018
4 gubernatorial re-election campaign.² Neither PDCC, nor the Raimondo Committee, is registered
5 with the Commission.

6 On January 31, 2018, the Respondents entered into a mutual support agreement ("MSA")
7 stating that "Governor Raimondo intends to raise funds for the [PDCC] to support its programs
8 for the 2018 elections to elect Democrats up and down the ballot"³ The MSA states that
9 PDCC and the Raimondo Committee planned to collaborate to develop a budget for a
10 "coordinated campaign" to allow PDCC to raise funds to support Democratic candidates.⁴
11 Under the MSA, PDCC agreed to open three accounts, including a "federal account to be named
12 Victory 2018 Federal."⁵

13 To date, neither PDCC nor the Raimondo Committee appears to have reported any funds
14 raised or spent from a "Victory 2018 Federal" account or in connection with a joint fundraising
15 effort between the committees. PDCC's filings with the State of Rhode Island indicate that

¹ See Amendment of Organization, Providence Democratic City Committee (Feb. 2, 2017), available at <https://secure.ricampaignfinance.com/RhodeIslandCF/Candidate/FilingAmendmentSelect.aspx?X=T&FilingID=158075&FormName=RICF1>; <http://www.providencedems.com/> (last visited Oct. 5, 2018) (describing PDCC as "the local committee . . . of Providence" and "an entity of the Rhode Island Democratic Party").

² See Amendment of Organization, Friends of Gina Raimondo (July 13, 2018), available at <https://secure.ricampaignfinance.com/RhodeIslandCF/Candidate/FilingAmendmentSelect.aspx?X=T&FilingID=169970&FormName=RICF1>.

³ Compl., Ex B.

⁴ *Id.*

⁵ *Id.* (noting, also, that PDCC's chairman has exclusive authority to spend, transfer, and distribute funds in accounts established under the MSA).

1 PDCC has made disbursements during 2018 only for bank fees, for a total of \$22.⁶ At the time
2 of its most recent report, PDCC reported a cash balance of \$920.⁷

3 The Complaint alleges that the Respondents violated Commission regulations on joint
4 fundraising at 11 C.F.R. § 102.17 because they engaged in a federal joint fundraising effort but
5 failed to (1) establish a fundraising representative, either by establishing a separate political
6 committee to serve as the joint fundraising committee or selecting an additional participating
7 registered political committee, (2) establish a written fundraising agreement, and (3) state an
8 allocation formula providing the percentage of each contribution received that would be
9 distributed to each participant.⁸

10 The Joint Response states that the MSA was not a joint fundraising agreement because it
11 addressed only how the Raimondo Committee would assist PDCC in raising/spending funds to
12 support PDCC's programs, *i.e.*, the Raimondo Committee was not entitled to any proceeds —
13 and “fundraising *for only one entity* is not ‘joint fundraising.’”⁹ The Joint Response also asserts
14 that no funds were ever raised pursuant to the MSA.¹⁰

⁶ See 2018 On-Going Quarterly Report (1st), Providence Democratic City Committee (Mar. 5, 2018); 2018 On-Going Quarterly Report (2nd), Providence Democratic City Committee (July 31, 2018); 2018 28 Days Before Primary Report, Providence Democratic City Committee (Aug. 15, 2018); 2018 7 Days Before Primary Report, Providence Democratic City Committee (Sept. 5, 2018); 2018 28 Days Before Election Report, Providence Democratic City Committee (Oct. 9, 2018), all available at <http://ricampaignfinance.com/RIPublic/Filings.aspx>.

⁷ 2018 28 Days Before Election Report, Providence Democratic City Committee (Oct. 9, 2018), available at <http://ricampaignfinance.com/RIPublic/Filings.aspx>. PDCC also has liabilities totaling \$23,544.51, which were accrued before 2018. *See id.*

⁸ Compl. at 1-3.

⁹ Joint Resp. at 1-2 (May 4, 2018) (emphasis in original).

¹⁰ *Id.* at 3.

1 **III. LEGAL ANALYSIS**

2 The Commission regulation at 11 C.F.R. § 102.17 set forth guidelines for joint
3 fundraising by political committees other than separate segregated funds. These regulations
4 specify that “[p]olitical committees may engage in joint fundraising with other political
5 committees or with unregistered committees or organizations” and set forth procedures for such
6 joint fundraising efforts.¹¹ These regulations, however, only apply to joint fundraising activity
7 involving at least one “political committee,” as that term is defined by the Federal Election
8 Campaign Act of 1971, as amended (the “Act”).¹²

9 The Act defines a “political committee” as “any committee, club, association or other
10 group of persons which receives contributions aggregating in excess of \$1,000 during a calendar
11 year or which makes expenditures aggregating in excess of \$1,000 during a calendar year” or
12 “any local committee of a political party which receives contributions aggregating in excess of
13 \$5,000 during a calendar year, or makes payments exempted from the definition of contribution
14 or expenditure . . . aggregating in excess of \$5,000 during a calendar year, or makes
15 contributions aggregating in excess of \$1,000 during a calendar year or makes expenditures
16 aggregating in excess of \$1,000 during a calendar year.”¹³ In *Buckley v. Valeo*, the Supreme
17 Court held that defining political committee status “only in terms of the annual amount of
18 ‘contributions’ and ‘expenditures’” might be overbroad, reaching “groups engaged purely in
19 issue discussion.”¹⁴ To cure that infirmity, the Court concluded that the term “political

¹¹ 11 C.F.R. § 102.17(a)(1)(i).

¹² *See id.*

¹³ 52 U.S.C. § 30101(4)(A), (C); *see also id.* at § 30101(8), (9) (defining “contribution” and “expenditure,” respectively).

¹⁴ *Buckley v. Valeo*, 424 U.S. 1, 79 (1976).

1 committee" "need only encompass organizations that are under the control of a candidate or the
2 major purpose of which is the nomination or election of a candidate."¹⁵ Accordingly, under the
3 statute as thus construed, an organization that is not controlled by a candidate must register as a
4 political committee only if it (1) crosses the relevant statutory monetary threshold, and (2) has as
5 its "major purpose" the nomination or election of federal candidates.

6 Neither PDCC nor the Raimondo Committee has registered with the Commission as a
7 political committee and the available information does not support a conclusion that either
8 Respondent is a political committee. The Raimondo Committee's major purpose appears to be
9 the election of Raimondo to state, not federal, office. And PDCC's filings with the state of
10 Rhode Island do not provide evidence that PDCC has triggered the Act's monetary threshold for
11 political committee status.

12 Moreover, there is no indication that the MSA has altered the status of either Respondent
13 such that one or both of them is now a political committee. Specifically, we have no information
14 that Respondents solicited or received federal funds pursuant to the MSA, to the "Federal"
15 account or otherwise, and nothing contradicts Respondents' assertions that they did not engage in
16 any fundraising pursuant to the MSA.¹⁶

17 In sum, there is no basis for concluding that the Respondents engaged in joint
18 fundraising activity that is within the scope of 11 C.F.R. § 102.17. We therefore recommend that
19 the Commission find no reason to believe that the Respondents violated 11 C.F.R. § 102.17.

¹⁵ *Id.*

¹⁶ *See Joint Resp. at 1-2.*

1 **IV. RECOMMENDATIONS**

- 2 1. Find no reason to believe that Providence Democratic City Committee and
3 Friends of Gina Raimondo violated 11 C.F.R. § 102.17;
4
5 2. Approve the attached Factual and Legal Analysis;
6
7 3. Approve the appropriate letters; and
8
9 4. Close the file.

10
11
12 Lisa J. Stevenson
13 Acting General Counsel

14
15
16 Date: 10/18/18

Kathleen M. Guith
17 Kathleen M. Guith
18 Associate General Counsel

19
20
21 *Lynn Y. Tran*
22 Lynn Y. Tran
23 Assistant General Counsel

24
25 *Christopher L. Edwards*
26 Christopher L. Edwards
27 Christopher L. Edwards
28 Attorney

29
30 Attachments:
31 Factual and Legal Analysis

10047414001

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

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2
3 RESPONDENTS: Providence Democratic City Committee MUR 7345
4 Friends of Gina Raimondo
5

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13 **II. FACTUAL AND LEGAL ANALYSIS**

14 **A. Factual Background**

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