

1 **FEDERAL ELECTION COMMISSION**

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

4
5 **MUR 7502**

6 DATE COMPLAINT FILED: September 24, 2018

7 DATE OF NOTIFICATION: September 27, 2018

8 DATE OF LAST RESPONSE: November 26, 2018

9 DATE OF ACTIVATION: March 19, 2019

10
11 ELECTION CYCLE: 2018

12 SOL EXPIRATION: Apr. 21, 2023/Oct. 15, 2023

13
14 **COMPLAINANT:** Alliance for a Better Utah

15 **RESPONDENTS:** Utah Love PAC f/k/a Friends of Mia Love and
16 Robert F. Carlin in his official capacity as
17 treasurer¹
18 Mia Love

19
20 **RELEVANT STATUTES AND**

21 **REGULATIONS:** 52 U.S.C. § 30116(f)

22 11 C.F.R. § 110.1

23 11 C.F.R. § 110.2

24
25 **INTERNAL REPORTS CHECKED:** Disclosure Reports

26
27 **FEDERAL AGENCIES CHECKED:** None

28 **I. INTRODUCTION**

29 Mia Love was a candidate for election in Utah's Fourth Congressional District in 2018.
30 Love won the nomination at the Utah Republican Party convention and faced no opponents in
31 the scheduled primary election. As a result, the primary election was canceled. The Complaint
32 alleges that Love's principal campaign committee, Friends of Mia Love (now known as Utah

¹ On February 18, 2019, after Love lost the 2018 general election in Utah's Fourth Congressional District, Friends of Mia Love filed an amended Statement of Organization changing its name to Utah Love PAC and became a nonconnected committee. *See* Utah Love PAC, Amended Statement of Organization (Feb. 18, 2019). Although Paul Kilgore is named as the treasurer on the February 18, 2019, Amended Statement of Organization, Robert F. Carlin, treasurer of record at the time of the activity at issue, was re-designated as treasurer. *See* Utah Love PAC, Amended Statement of Organization (Mar. 29, 2019); Utah Love PAC, Amended Statement of Organization (Feb. 20, 2018) (then known as Friends of Mia Love).

1 Love PAC) (“Committee”), impermissibly accepted contributions for the primary election in
2 violation of the Federal Election Campaign Act of 1971, as amended (the “Act”).² The
3 Committee contends that it was permitted to raise contributions for the primary election, and,
4 after that election was canceled, it appropriately remedied the primary election contributions it
5 received after the convention.³

6 As explained below, the Committee was permitted to retain contributions for the primary
7 election received before the convention. The Committee’s disclosure reports, however, indicate
8 that the Committee did not timely remedy the \$367,793.42 it received for the primary election on
9 or after the date of Love’s nomination at the convention, when it was clear there would be no
10 primary election.⁴ Accordingly, we recommend that the Commission find reason to believe that
11 the Committee violated 52 U.S.C. § 30116(f) by failing to timely redesignate, reattribute, or
12 refund contributions designated for the primary election that were received on or after the date of
13 the convention. Further, we recommend that the Commission authorize compulsory process.
14 Finally, we recommend that the Commission take no action as to Love at this time pending the
15 outcome of the proposed investigation.

16 **II. FACTUAL BACKGROUND**

17 The Committee was the principal campaign committee of former Representative Mia
18 Love, who ran for reelection in 2018 in Utah’s Fourth Congressional District.⁵ The deadline for

² Compl. at 1 (Sept. 24, 2018).

³ Resp. at 3-4 (Nov. 26, 2018).

⁴ See Compl. at 3.

⁵ See Utah Love PAC, Amended Statement of Organization (Feb. 18, 2019); Utah Love PAC, Amended Statement of Organization (Feb. 20, 2018) (then known as Friends of Mia Love).

1 filing a Declaration of Candidacy in Utah was March 15, 2018.⁶ The Utah Republican Party
 2 nominating convention was held on April 21, 2018.⁷ For federal candidates in Utah facing a
 3 primary election, that election was held on June 26, 2018.⁸

4 Love was the only candidate to declare her candidacy for the Republican Party
 5 nomination for Utah's Fourth Congressional District, and she declared her intent to pursue the
 6 nomination through both the convention and signature-gathering processes as provided for by
 7 Utah law.⁹ Love, however, was unopposed at her party's nominating convention and declared
 8 the nominee by acclamation on April 21, 2018.¹⁰ The Utah Republican Party's post-convention

⁶ See *Notice of Election for the 2018 Regular General Election* at 1, OFFICE OF THE UTAH LT. GOV. SPENCER J. COX (NOV. 15, 2017), <https://elections.utah.gov/Media/Default/2018%20Election/2018%20Election%20Notice.pdf> ("2018 Notice of General Election").

⁷ Compl. at 2 (citing *Post Convention Newsletter* at 5, UTAH REPUBLICAN PARTY (2018) (available in VBM) ("Post Convention Newsletter"); see Calendar, UTAH REPUBLICAN PARTY, <https://utgop.org/calendar/> (select April 2018).

⁸ UTAH CODE ANN. § 20A-9-403-9(1) (West 2019) (stating that the primary election is held on the fourth Tuesday of June); see Calendar, UTAH REPUBLICAN PARTY, <https://utgop.org/calendar/> (select June 2018).

⁹ Compl. at 2. As explained in detail later, a candidate can earn a political party's nomination in one of two ways, either through nomination at a party convention or by collecting sufficient petition signatures to have his or her name placed on the primary election ballot, and a candidate may pursue both means. See UTAH CODE ANN. § 20A-9-403, 407 (West 2019); see also *2018 Candidate Manual* at 5, OFFICE OF THE UTAH LT. GOV. SPENCER J. COX (May 8, 2018), <https://elections.utah.gov/Media/Default/2018%20Election/2018%20Candidate%20Manual.pdf> ("2018 Candidate Manual"). Love filed notices indicating that she would use both methods. See Mia B. Love, Utah 2018 Notice of Intent to Gather Signatures (Jan. 4, 2018), <https://elections.utah.gov/Media/Default/2018%20Election/Intent%20to%20Gather%20Signatures/Federal%20Candidates/US%20House%204%20-%20Mia%20B.%20Love.pdf> ("Love Notice of Intent"); Mia B. Love, Utah 2018 Qualified Political Party U.S. House of Representatives Declaration of Candidacy (Mar. 12, 2018), <https://elections.utah.gov/Media/Default/2018%20Election/Declarations%20of%20Candidacy/US%20House%20Candidates/US%20House%204%20-%20Mia%20B.%20Love.pdf> ("Love Declaration of Candidacy"). The signature-gathering process enables a candidate to qualify for the primary election ballot. See UTAH CODE ANN. § 20A-9-403(3)(a), 408 (West 2019); see also *2018 Candidate Manual* at 9.

The 2018 Candidate Manual was updated after the date of the convention; however, the Utah Lieutenant Governor issued the 2018 Notice of General Election on November 15, 2017, which contained the deadlines for filing a Declaration of Candidacy, Declaration of Intent to Gather Signatures, and submitting gathered nomination petition signatures. See *2018 Notice of Election* at 1.

¹⁰ Compl. at 2 (citing *Post Convention Newsletter* at 5).

1 newsletter stated “Mia Love advances – No primary,” indicating that Love’s primary election
2 was canceled.¹¹

3 During the 2017-2018 election cycle, the Committee disclosed a total of \$1,157,829.95 in
4 contributions designated for the primary election.¹² The Committee disclosed a total of
5 \$790,036.53 in primary election contributions received before the nominating convention. The
6 Committee continued to accept contributions designated for the primary after Love became the
7 Republican Party nominee, disclosing the receipt of \$367,793.42 in contributions designated for
8 the primary election that were received on or after April 21, 2018.¹³

9 On August 6, 2018, the Reports Analysis Division (“RAD”) sent a Request for
10 Additional Information (“RFAI”) to the Committee stating that the Committee needed to
11 redesignate, reattribute, or refund all contributions designated for the primary election.¹⁴ The
12 Committee responded to the RFAI on September 6, 2018, stating that it was entitled to retain
13 primary election contributions made before the convention and “will refund, or process re-
14 designations for, all contributions designated for the primary election that were received after
15 April 21, 2018, which will be reflected on subsequently filed amended reports.”¹⁵ RAD
16 contacted the Committee on September 14, 2018, and informed the Committee it was seeking

¹¹ *Id.*

¹² *See* Utah Love PAC, 2017-2018 Disclosure Reports; Compl. at 3 (stating that the Committee disclosed \$1.1 million in 2018 primary contributions).

¹³ *See* Utah Love PAC, 2017-2018 Disclosure Reports. Included in this sum is \$3,450 (designated to the 2018 primary) that was transferred to the Committee on May 31, 2018 by Love Victory Committee, a joint fundraising committee of which the Committee was a participant. The \$3,450 comprised of two individual contributions dated May 21, 2018. *See* Utah Love PAC, 2018 12-Day Pre-Primary Report at 606-07 (June 14, 2018).

¹⁴ Utah Love PAC, RFAI (Aug. 6, 2018).

¹⁵ Utah Love PAC, Resp. to RFAI (Sept. 6, 2018).

1 informal guidance from OGC regarding the Committee's September 6 response and would notify
2 the Committee of that guidance.¹⁶ On October 15, 2018, RAD informed the Committee that,
3 based on the Commission's 2017 guidance to another authorized committee ("LRA 1044"), the
4 Committee could retain the primary contributions received before the convention ("LRA
5 1087").¹⁷ Later that day, the Committee amended its 2018 Pre-Primary and July Quarterly
6 Reports to show that the primary election contributions received on or after April 21, 2018, had
7 been redesignated to the 2018 general election.¹⁸

8 The Committee contends that it permissibly raised funds simultaneously for the
9 convention and primary election, relying on LRA 1044, the Commission guidance given in 2017
10 to Friends of Mike Lee.¹⁹ Further, the Committee states that the guidance it received from RAD,
11 which was informed by RAD's consultation with OGC, controls in this matter, that is, the facts
12 presented by the Committee appeared materially indistinguishable from the facts in LRA 1044.²⁰

¹⁶ RAD also stated that the Committee could file a request for legal consideration with the Commission or wait for RAD to notify them of OGC's analysis.

¹⁷ See Informal Guidance to RAD, LRA 1087 (Friends of Mia Love); Email from Matthew Sanderson, Counsel for Committee, to Michael Dobi, RAD, FEC (Oct. 16, 2018).

¹⁸ See Utah Love PAC, Amended 2018 12-Day Pre-Primary Report (Oct. 15, 2018) (filed at 11:29 p.m.); Utah Love PAC, Amended 2018 July Quarterly Report (Oct. 15, 2018) (filed at 11:30 p.m.).

¹⁹ Resp. at 2-3; see Request for Consideration of a Legal Question Submitted by Friends of Mike Lee (LRA 1044), Letter from Lisa J. Stevenson, FEC, to Cleta Mitchell, Counsel for Friends of Mike Lee (Aug. 1, 2017).

²⁰ Resp. at 3.

1 Finally, the Committee states that as of November 26, 2018, it had “already properly remedied
2 all [primary] contributions received after” the primary was canceled.²¹

3 **III. LEGAL ANALYSIS**

4 No person may make a contribution that exceeds the limits of the Act to any candidate
5 and his or her authorized committee, which were \$2,700 per election for individuals and \$5,000
6 per election for multicandidate political committees during the 2017-2018 election cycle.²²
7 Candidates and political committees are prohibited from knowingly accepting contributions in
8 excess of these limits.²³ Contributions designated for an election that does not occur, or in which
9 a person is not a candidate, must be refunded or redesignated for another election in which the
10 candidate has participated or is participating, or reattributed to another contributor.²⁴

11 **A. Primary Election Contributions Made Before the Convention**

12 The Complaint alleges that as of the candidate declaration deadline (March 15, 2018),²⁵
13 the Committee impermissibly raised funds designated for the primary election because it should
14 have known by that time that Love would not face a challenger at the convention or in the

²¹ *Id.* at 4.

²² *See* 52 U.S.C. § 30116(a)(1)(A); 11 C.F.R. § 110.1(b)(1).

²³ *See* 52 U.S.C. § 30116(f); 11 C.F.R. § 110.9.

²⁴ *See* 11 C.F.R. §§ 102.9(e)(3), 110.1(b)(5), (k)(3), 110.2(b)(5).

²⁵ *See* Utah Code ANN. § 20A-9-407(3), 408(3) (West 2019); *see also* 2018 Notice of General Election at 1; 2018 Candidate Manual at 7.

1 primary and would not need to participate in a primary election.²⁶ Thus, the Committee should
2 have redesignated or refunded all 2018 primary election contributions at that time.²⁷

3 Under Utah state law, a candidate may earn his or her political party's nomination in one
4 of two ways.²⁸ First, the party may nominate a candidate at the party's convention.²⁹ Second,
5 regardless of who the party nominates at its convention, a candidate may use a petition process to
6 bypass the convention results and have his or her name included on the primary election ballot.³⁰
7 If a candidate gathers a sufficient number of signatures on his or her petition by a certain date,
8 the candidate's name will be placed on the ballot for a primary election to be held after the
9 convention.³¹ However, if the party nominates a candidate at the party convention and no other
10 candidates qualify for the primary election ballot, the party-nominated candidate becomes that
11 party's candidate for the general election without participating in a primary election, *i.e.*, the
12 primary election for that race is canceled.³² In general, because the convention has the authority

²⁶ Compl. at 4, 6 (citing 11 C.F.R. § 110.1(j)(4), which provides that “[a] primary election which is not held because a candidate was nominated by a caucus or convention with authority to nominate is not a separate election for the purposes of the limitations on contributions”).

²⁷ *Id.* at 6.

²⁸ UTAH CODE ANN. §§ 20A-9-403, 407 (West 2019).

²⁹ *Id.* § 20A-9-407.

³⁰ *Id.* § 20A-9-403(3)(a).

³¹ *Id.* §§ 20A-9-403(3)(a), 408.

³² *Id.* § 20A-9-403-4(a)(ii), 5(c).

1 to nominate a candidate, it qualifies as an “election” separate from the primary election, and
2 therefore has its own separate contribution limit.³³

3 The Commission determined in 2017 that the principal campaign committee of Mike Lee,
4 a Utah candidate for federal office who, like Love, also won his party’s nomination at the
5 convention, could “retain the contributions designated for the primary and received before the
6 party convention” due to “the unique facts” presented.³⁴ In making its decision, the Commission
7 concluded that

8 the [c]ommittee had no choice but to prepare for both the primary election and the
9 party convention at the same time because of the short time frame between the
10 party convention and the primary election. The subsequent cancellation of the
11 primary election was out of the [c]ommittee’s control. Even though the candidate
12 did not have any opponents in the primary election, they still were required to
13 spend money and campaign because they did not know at the time whether they
14 would have any opponents.³⁵

15
16 Applying that framework to the available record here, we conclude that the Committee is
17 permitted to retain funds designated for the primary election that it received prior to April 21,
18 2018, the day of the convention, because the facts presented here are materially indistinguishable
19 from those in the Lee matter. First, as in the Lee matter, there were just 66 days between the
20 date of the convention and the date of the primary election.

21 Second, as in the Lee matter, cancellation of the primary election was beyond Love’s
22 control. Even though she did not have any opponents in the primary election, she spent money

³³ See 52 U.S.C. § 30101(1)(A)-(B) (defining “election” in pertinent part to include “convention or caucus . . . [with] authority to nominate a candidate”); 11 C.F.R. § 100.2; Advisory Op. 1992-25 (Owens) (concluding that Utah convention is an election and subject to a contribution limit separate from the primary election) (“AO 1992-25”).

³⁴ Request for Consideration of a Legal Question Submitted by Friends of Mike Lee (LRA 1044), Letter from Lisa J. Stevenson, FEC, to Cleta Mitchell, Counsel for Friends of Mike Lee (Aug. 1, 2017).

³⁵ *Id.*

1 to prepare for the possibility of an opponent.³⁶ Consequently, Love chose to pursue nomination
2 through both the convention and primary election processes and had to expend funds and
3 campaign for both.³⁷ Love filed a Notice of Intent to Gather Signatures for Candidacy on
4 January 4, 2018, and a Declaration of Candidacy on March 12, 2018.³⁸ Love's Declaration of
5 Candidacy indicates that she would seek her party's nomination using both the convention and
6 signature-gathering processes.³⁹ The Committee states that it disclosed the payment of \$36,300
7 to a signature-gathering firm for the purpose of obtaining signatures to qualify for the primary
8 election ballot.⁴⁰ Although Love chose not to submit the petition signatures gathered on her
9 behalf,⁴¹ she indicated her intent to participate in the primary on her March 12 Declaration of
10 Candidacy.⁴²

11 Finally, neither Love nor Lee had an opponent in the primary election at the time of the
12 nominating convention. Lee, who was running as an incumbent, did have an opponent at one
13 point before the convention, William R. Gaskill; however, Gaskill signed a letter on April 5,
14 2016, withdrawing from the race, 18 days before the convention.⁴³ The Complaint alleges that
15 the Love Committee knew as of March 15, 2018, the candidate declaration deadline, that it

³⁶ See Letter from Lisa J. Stevenson, FEC, to Cleta Mitchell, Counsel for Friends of Mike Lee (Aug. 1, 2017)

³⁷ Resp. at 2.

³⁸ See Love Notice of Intent; Love Declaration of Candidacy.

³⁹ See Love Declaration of Candidacy.

⁴⁰ Resp. at 2.

⁴¹ Utah Love PAC, Resp. to RFAI at 4 (Sept. 6, 2018).

⁴² See Love Declaration of Candidacy.

⁴³ See <https://elections.utah.gov/election-resources/2016-candidate-filings#Federal>.

1 would not face an opponent in the primary election.⁴⁴ The Committee asserts that “a primary
2 election candidate *could have* filed petition signatures up until April 7, two weeks before the date
3 of the convention.”⁴⁵ Further, the Committee notes that signatures were not certified until the
4 day before the convention, and that therefore, the Committee learned only the day before the
5 convention that no other candidate had qualified for the primary election.⁴⁶

6 The Commission determined in the Lee matter that his campaign committee could retain
7 the funds designated for the primary that it received before the party convention, and the facts in
8 the instant matter are materially indistinguishable from those in the Lee matter. Thus, as the
9 Committee contends in its Response, it was permitted to retain the primary election contributions
10 it received before April 21, 2018, the date Love became the party's nominee at the convention.⁴⁷

11 **B. Primary Election Contributions Made After the Convention**

12 The Complaint also alleges that the Committee violated the Act by accepting
13 approximately \$370,000 in primary election contributions after the convention, when it was clear
14 there would be no primary election.⁴⁸

15 The treasurer of an authorized committee may seek written redesignation of contributions
16 for a different election if: (a) the contribution was designated for a particular election and the
17 contribution, either alone or when aggregated with other contributions from the same contributor,

⁴⁴ Compl. at 6.

⁴⁵ Utah Love PAC, Resp. to RFAI (Sept. 6, 2018).

⁴⁶ Utah Love PAC, Resp. to RFAI (Sept. 6, 2018). Regardless of whether Love or Lee had an opponent in the nomination process, the convention qualifies as a separate election given that both have the authority to nominate a candidate. *See* AO 1992-25 at 1-2.

⁴⁷ *See* Resp. at 2-3; *see also* Letter from Lisa J. Stevenson, FEC, to Cleta Mitchell, Counsel for Friends of Mike Lee (Aug. 1, 2017).

⁴⁸ Compl. at 3.

1 exceeds the contribution limitations for that election; (b) the contribution was designated for a
2 particular election, was made after that election, and the contribution cannot be accepted under
3 the net debts outstanding provisions of 11 C.F.R. § 110.1(b)(3) or 11 C.F.R. § 110.2(b)(3);
4 (c) the contribution was not designated for a particular election and exceeds the contribution
5 limitations; or (d) the contribution was not designated for a particular election and was received
6 after the date of an election for which there are net debts outstanding on the date the contribution
7 is received.⁴⁹

8 A contribution shall be considered to be redesignated for another election if: (a) the
9 treasurer of the recipient political committee requests that the contributor provide a written
10 redesignation of the contribution and informs the contributor that the contributor may request a
11 refund of the contribution as an alternative to providing a written redesignation; and (b) within
12 60 days after the treasurer's receipt of the contribution, the contributor provides the treasurer
13 with a written and signed redesignation of the contribution for another election.⁵⁰

14 The Commission has found reason to believe that committees knowingly accepted
15 excessive contributions in cases involving untimely redesignations, reattributions, or refunds. In
16 MUR 7075 (Strong Country for Today & Tomorrow ("SCOTTPAC")), the Commission found
17 reason to believe that the committee, which was the former principal campaign committee of
18 Scott Brown, failed to timely refund, reattribute, or redesignate excessive contributions totaling
19 \$62,800 from 27 individuals and one political committee.⁵¹ SCOTTPAC argued that it had

⁴⁹ See 11 C.F.R. § 110.1(b)(5)(i) (contributions by persons other than multicandidate political committees); 11 C.F.R. § 110.2(b)(5)(i) (contributions by multicandidate political committees).

⁵⁰ See 11 C.F.R. § 110.1(b)(5)(ii) (contributions by persons other than multicandidate political committees); 11 C.F.R. § 110.2(b)(5)(ii) (contributions by multicandidate political committees).

⁵¹ Factual & Legal Analysis at 6, MUR 7075 (SCOTTPAC).

1 remedied the contributions and requested dismissal, but the record showed that the committee
2 remedied the contributions between 77 and 113 days late.⁵² In MUR 6887 (McCotter
3 Congressional Committee), the Commission found reason to believe that the committee failed to
4 timely refund \$60,500 in general election contributions within 60 days of McCotter's withdrawal
5 from the primary election.⁵³ In MUR 5263 (Florio for Senate Committee, Inc.), where the
6 candidate did not participate in the general election, the committee knowingly accepted nearly
7 \$370,000 in excessive contributions by failing to timely redesignate, reattribute, or refund those
8 contributions.⁵⁴

9 The Committee contends that it "has already properly remedied all contributions received
10 after" the cancellation of the primary election, which occurred on the date of the convention.⁵⁵
11 However, the available record shows that the Committee did not do so timely. Pursuant to
12 Commission regulations, the contributions designated for the primary that were received on or

⁵² *Id.*; *see also* Conciliation Agreement, MUR 7075 (SCOTTPAC).

⁵³ Factual & Legal Analysis at 5, MUR 6887 (McCotter Congressional Committee).

⁵⁴ *See* Conciliation Agreement at 4-5, MUR 5263 (Florio for Senate Committee, Inc.); *see also* MUR 6112 (John McCain 2008, Inc.) (reason to believe committee failed to timely redesignate, reattribute, or refund \$5.7 million in contributions; subsequent audit by the Commission determined that the committee received \$377,657 in excessive contributions by failing to timely remedy the contributions); MUR 5176 (Dave Wu for Congress) (reason to believe committee received \$69,682 in excessive contributions that were not remedied within 60 days of receipt); MUR 5161 (Lincoln Diaz-Balart for Congress Committee) (reason to believe committee received \$17,000 in excessive contributions by failing to redesignate, reattribute, or refund the contributions within 60 days); MUR 5066 (Benton for Congress) (reason to believe committee received \$13,488 in excessive contributions by failing to redesignate, reattribute, or refund the contributions within 60 days); MUR 4850 (Committee to Re-Elect Vito Fossella) (reason to believe committee accepted \$14,500 in excessive contributions by failing to redesignate, reattribute, or refund the contributions within 60 days); MUR 3803 (Ferraro for U.S. Senate) (reason to believe committee failed to timely redesignate \$4,400 in excessive contributions by failing to redesignate, reattribute, or refund the contributions within 60 days); MUR 3472 (People for Boschwitz 1990) (probable cause to believe committee accepted over \$87,000 in excessive contributions by failing to redesignate, reattribute, or refund the contributions within 60 days). *But see* Factual & Legal Analysis at 3, MUR 7040 (Bernie 2016) (dismissal for failure to timely redesignate, reattribute, or refund excessive contributions totaling \$7,462 where most of the excessive contributions were remedied within 120 days and amount in violation was "small").

⁵⁵ Resp. at 3-4.

1 after April 21, 2018, should have been remedied by either redesignation or refund within 60 days
2 of receipt. Accordingly, the earliest primary contributions should have been remedied by
3 June 20 and the latest primary contributions, received on June 29, should have been remedied by
4 August 28, 2018. The Committee's response to RAD's RFAI on September 6, 2018, stated that
5 it "will refund, or process re-designations for, all contributions designated for the primary
6 election that were received after April 21, 2018."⁵⁶ More than five weeks later, on October 15,
7 2018, the Committee filed its Amended 2018 12-Day Pre-Primary and Amended 2018 July
8 Quarterly Reports, in which the Committee changed the designation from "2018 primary" to
9 "2018 general" for contributions received after April 21, 2018. The apparent redesignations
10 were between 108 and 177 days after the contributions were made, well beyond the 60-day
11 limit.⁵⁷ Further, the Committee has not provided any documentation regarding the
12 redesignations, raising a question as to whether the Committee followed the redesignation
13 procedures outlined in Commission regulations.⁵⁸

14 As stated above, the Committee disclosed receiving \$367,793.42 designated for the
15 primary on or after April 21, 2018, and did not timely redesignate, reattribute, or refund those
16 contributions.⁵⁹ Accordingly, we recommend that the Commission find reason to believe that

⁵⁶ Utah Love PAC, Response to RFAI (Sept. 6, 2018).

⁵⁷ The Committee should have amended its reports to properly disclose any redesignations made pursuant to 11 C.F.R. § 110.1(b)(5), 11 C.F.R. § 110.2(b)(5) and 11 C.F.R. § 104.8(d)(2).

⁵⁸ The Commission's presumptive redesignation provisions do not apply to the post-convention primary contributions because the next scheduled election at the time that the contributions were made was the general election since the primary election had been canceled. *See* 11 C.F.R. § 110.1(b)(5)(ii)(B), (C). In addition, there is no provision for the presumptive redesignation of contributions from multi-candidate committees, so the \$122,840 in contributions from multicandidate political committees made on or after the date of the convention could not be presumptively redesignated regardless of the election schedule. *See* 11 C.F.R. § 110.2.

⁵⁹ The Committee states in its Response that it "has already properly remedied all contributions received after" "the cancellation of the primary election" and that "[n]o primary-election contributions raised by the Committee remain at issue." Resp. at 3-4.

1 Utah Love PAC violated 52 U.S.C. § 30116(f) by knowingly accepting excessive contributions.
2 We also recommend that the Commission take no action at this time as to the allegations that
3 Mia Love violated 52 U.S.C. § 30116(f) by knowingly accepting excessive contributions
4 pending the outcome of the proposed investigation.

5 **IV. PROPOSED INVESTIGATION**

6 We intend to investigate whether the Committee complied with the resignation and
7 refund procedures described above. We would seek information from the Committee regarding
8 the contributions designated for the 2018 primary election that were received on or after
9 April 21, 2018, including, but not limited to, copies of the contribution records, notices sent to
10 contributors regarding the requested redesignations, and communications with contributors
11 regarding the redesignations. We will also seek the Committee's internal communications
12 regarding the contributions designated for the 2018 primary election that were received on or
13 after April 21, 2018. We will seek to conduct our investigation through voluntary means but
14 recommend that the Commission authorize the use of compulsory process, if informal means
15 prove ineffective.

16 **V. RECOMMENDATIONS**

- 17 1. Find reason to believe that Utah Love PAC f/k/a Friends of Mia Love and Robert
18 F. Carlin in his official capacity as treasurer violated 52 U.S.C. § 30116(f) by
19 knowingly accepting excessive contributions after Love secured the Republican
20 Party nomination at the party convention;
- 21 2. Take no action at this time as to the allegation that Mia Love violated 52 U.S.C.
22 § 30116(f) by knowingly accepting excessive contributions;
- 23 3. Approve the attached Factual and Legal Analyses;
- 24 4. Authorize compulsory process; and

1 5. Approve the appropriate letters.

2 Lisa J. Stevenson
3 Acting General Counsel

4
5 Charles Kitcher
6 Acting Associate General Counsel for
7 Enforcement

8
9
10
11 August 23, 2019
12 DATE *Stephen A. Gura by MA*
13 Stephen A. Gura
14 Deputy Associate General Counsel for
15 Enforcement

16
17
18 *Mark Allen*
19 Mark Allen
20 Assistant General Counsel

21
22
23 *Anne B. Robinson*
24 Anne B. Robinson
25 Attorney

27 Attachment:
28 Factual and Legal Analysis for Utah Love PAC

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Utah Love PAC f/k/a Friends of Mia Love MUR 7502
and Robert F. Carlin in his official capacity
as treasurer

I. INTRODUCTION

Mia Love was a candidate for election in Utah’s Fourth Congressional District in 2018. Love won the nomination at the Utah Republican Party convention and faced no opponents in the scheduled primary election. As a result, the primary election was canceled. The Complaint alleges that Love’s principal campaign committee, Friends of Mia Love (now known as Utah Love PAC) (“Committee”), impermissibly accepted contributions for the primary election in violation of the Federal Election Campaign Act of 1971, as amended (the “Act”).¹ The Committee contends that it was permitted to raise contributions for the primary election, and, after that election was canceled, it appropriately remedied the primary election contributions it received after the convention.²

As explained below, the Committee was permitted to retain contributions for the primary election received before the convention. The Committee’s disclosure reports, however, indicate that the Committee did not timely remedy the \$367,793.42 it received for the primary election on or after the date of Love’s nomination at the convention, when it was clear there would be no primary election.³ Accordingly, the Commission finds reason to believe that the Committee

¹ Compl. at 1 (Sept. 24, 2018).

² Resp. at 3-4 (Nov. 26, 2018).

³ See Compl. at 3.

1 violated 52 U.S.C. § 30116(f) by failing to timely redesignate, reattribute, or refund contributions
 2 designated for the primary election that were received on or after the date of the convention.

3 **II. FACTUAL BACKGROUND**

4 The Committee was the principal campaign committee of former Representative Mia
 5 Love, who ran for reelection in 2018 in Utah’s Fourth Congressional District.⁴ The deadline for
 6 filing a Declaration of Candidacy in Utah was March 15, 2018.⁵ The Utah Republican Party
 7 nominating convention was held on April 21, 2018.⁶ For federal candidates in Utah facing a
 8 primary election, that election was held on June 26, 2018.⁷

9 Love was the only candidate to declare her candidacy for the Republican Party
 10 nomination for Utah’s Fourth Congressional District, and she declared her intent to pursue the
 11 nomination through both the convention and signature-gathering processes as provided for by
 12 Utah law.⁸ Love, however, was unopposed at her party’s nominating convention and declared

⁴ See Utah Love PAC, Amended Statement of Organization (Feb. 18, 2019); Utah Love PAC, Amended Statement of Organization (Feb. 20, 2018) (then known as Friends of Mia Love).

⁵ See *Notice of Election for the 2018 Regular General Election* at 1, OFFICE OF THE UTAH LT. GOV. SPENCER J. COX (Nov. 15, 2017), <https://elections.utah.gov/Media/Default/2018%20Election/2018%20Election%20Notice.pdf> (“2018 Notice of General Election”).

⁶ Compl. at 2 (citing *Post Convention Newsletter* at 5, UTAH REPUBLICAN PARTY (2018) (“Post Convention Newsletter”); see Calendar, UTAH REPUBLICAN PARTY, <https://utgop.org/calendar/> (select April 2018).

⁷ UTAH CODE ANN. § 20A-9-403-9(1) (West 2019) (stating that the primary election is held on the fourth Tuesday of June); see Calendar, UTAH REPUBLICAN PARTY, <https://utgop.org/calendar/> (select June 2018).

⁸ Compl. at 2. As explained in detail later, a candidate can earn a political party’s nomination in one of two ways, either through nomination at a party convention or by collecting sufficient petition signatures to have his or her name placed on the primary election ballot, and a candidate may pursue both means. See UTAH CODE ANN. § 20A-9-403, 407 (West 2019); see also *2018 Candidate Manual* at 5, OFFICE OF THE UTAH LT. GOV. SPENCER J. COX (May 8, 2018), <https://elections.utah.gov/Media/Default/2018%20Election/2018%20Candidate%20Manual.pdf> (“2018 Candidate Manual”). Love filed notices indicating that she would use both methods. See Mia B. Love, Utah 2018 Notice of Intent to Gather Signatures (Jan. 4, 2018), <https://elections.utah.gov/Media/Default/2018%20Election/Intent%20to%20Gather%20Signatures/Federal%20Candidates/US%20House%204%20-%20Mia%20B.%20Love.pdf> (“Love Notice of Intent”); Mia B. Love, Utah 2018 Qualified Political Party U.S. House of Representatives Declaration of Candidacy (Mar. 12, 2018), <https://elections.utah.gov/Media/Default/2018%20Election/Declarations%20of%20Candidacy/US%20House%20Candidates/US%20House%204%20-%20Mia%20B.%20Love.pdf> (“Love Declaration of Candidacy”). The signature-

1 the nominee by acclamation on April 21, 2018.⁹ The Utah Republican Party’s post-convention
 2 newsletter stated “Mia Love advances – No primary,” indicating that Love’s primary election
 3 was canceled.¹⁰

4 During the 2017-2018 election cycle, the Committee disclosed a total of \$1,157,829.95 in
 5 contributions designated for the primary election.¹¹ The Committee disclosed a total of
 6 \$790,036.53 in primary election contributions received before the nominating convention. The
 7 Committee continued to accept contributions designated for the primary after Love became the
 8 Republican Party nominee, disclosing the receipt of \$367,793.42 in contributions designated for
 9 the primary election that were received on or after April 21, 2018.¹²

10 On August 6, 2018, the Reports Analysis Division (“RAD”) sent a Request for
 11 Additional Information (“RFAI”) to the Committee stating that the Committee needed to
 12 redesignate, reattribute, or refund all contributions designated for the primary election.¹³ The
 13 Committee responded to the RFAI on September 6, 2018, stating that it was entitled to retain

gathering process enables a candidate to qualify for the primary election ballot. *See* UTAH CODE ANN. § 20A-9-403(3)(a), 408 (West 2019); *see also* 2018 Candidate Manual at 9.

The 2018 Candidate Manual was updated after the date of the convention; however, the Utah Lieutenant Governor issued the 2018 Notice of General Election on November 15, 2017, which contained the deadlines for filing a Declaration of Candidacy, Declaration of Intent to Gather Signatures, and submitting gathered nomination petition signatures. *See* 2018 Notice of Election at 1.

⁹ Compl. at 2 (citing Post Convention Newsletter at 5).

¹⁰ *Id.*

¹¹ *See* Utah Love PAC, 2017-2018 Disclosure Reports; Compl. at 3 (stating that the Committee disclosed \$1.1 million in 2018 primary contributions).

¹² *See* Utah Love PAC, 2017-2018 Disclosure Reports. Included in this sum is \$3,450 (designated to the 2018 primary) that was transferred to the Committee on May 31, 2018 by Love Victory Committee, a joint fundraising committee of which the Committee was a participant. The \$3,450 comprised of two individual contributions dated May 21, 2018. *See* Utah Love PAC, 2018 12-Day Pre-Primary Report at 606-07 (June 14, 2018).

¹³ Utah Love PAC, RFAI (Aug. 6, 2018).

1 primary election contributions made before the convention and “will refund, or process re-
2 designations for, all contributions designated for the primary election that were received after
3 April 21, 2018, which will be reflected on subsequently filed amended reports.”¹⁴ On October
4 15, 2018, RAD informed the Committee that, based on the Commission’s 2017 guidance to
5 another authorized committee (“LRA 1044”), the Committee could retain the primary
6 contributions received before the convention.¹⁵ Later that day, the Committee amended its 2018
7 Pre-Primary and July Quarterly Reports to show that the primary election contributions received
8 on or after April 21, 2018, had been redesignated to the 2018 general election.¹⁶

9 The Committee contends that it permissibly raised funds simultaneously for the
10 convention and primary election, relying on LRA 1044, the Commission guidance given in 2017
11 to Friends of Mike Lee.¹⁷ Further, the Committee states that the guidance it received from RAD,
12 which was informed by RAD’s consultation with OGC, controls in this matter, that is, the facts
13 presented by the Committee appeared materially indistinguishable from the facts in LRA 1044.¹⁸

¹⁴ Utah Love PAC, Resp. to RFAI (Sept. 6, 2018).

¹⁵ See Email from Matthew Sanderson, Counsel for Committee, to Michael Dobi, RAD, FEC (Oct. 16, 2018).

¹⁶ See Utah Love PAC, Amended 2018 12-Day Pre-Primary Report (Oct. 15, 2018) (filed at 11:29 p.m.); Utah Love PAC, Amended 2018 July Quarterly Report (Oct. 15, 2018) (filed at 11:30 p.m.).

¹⁷ Resp. at 2-3; see Request for Consideration of a Legal Question Submitted by Friends of Mike Lee (LRA 1044), Letter from Lisa J. Stevenson, FEC, to Cleta Mitchell, Counsel for Friends of Mike Lee (Aug. 1, 2017).

¹⁸ Resp. at 3.

1 Finally, the Committee states that as of November 26, 2018, it had “already properly remedied
2 all [primary] contributions received after” the primary was canceled.¹⁹

3 **III. LEGAL ANALYSIS**

4 No person may make a contribution that exceeds the limits of the Act to any candidate
5 and his or her authorized committee, which were \$2,700 per election for individuals and \$5,000
6 per election for multicandidate political committees during the 2017-2018 election cycle.²⁰
7 Candidates and political committees are prohibited from knowingly accepting contributions in
8 excess of these limits.²¹ Contributions designated for an election that does not occur, or in which
9 a person is not a candidate, must be refunded or redesignated for another election in which the
10 candidate has participated or is participating, or reattributed to another contributor.²²

11 **A. Primary Election Contributions Made Before the Convention**

12 The Complaint alleges that as of the candidate declaration deadline (March 15, 2018),²³
13 the Committee impermissibly raised funds designated for the primary election because it should
14 have known by that time that Love would not face a challenger at the convention or in the

¹⁹ *Id.* at 4.

²⁰ *See* 52 U.S.C. § 30116(a)(1)(A); 11 C.F.R. § 110.1(b)(1).

²¹ *See* 52 U.S.C. § 30116(f); 11 C.F.R. § 110.9.

²² *See* 11 C.F.R. §§ 102.9(e)(3), 110.1(b)(5), (k)(3), 110.2(b)(5).

²³ *See* Utah Code ANN. § 20A-9-407(3), 408(3) (West 2019); *see also* 2018 Notice of General Election at 1; 2018 Candidate Manual at 7.

1 primary and would not need to participate in a primary election.²⁴ Thus, the Committee should
2 have redesignated or refunded all 2018 primary election contributions at that time.²⁵

3 Under Utah state law, a candidate may earn his or her political party's nomination in one
4 of two ways.²⁶ First, the party may nominate a candidate at the party's convention.²⁷ Second,
5 regardless of who the party nominates at its convention, a candidate may use a petition process to
6 bypass the convention results and have his or her name included on the primary election ballot.²⁸
7 If a candidate gathers a sufficient number of signatures on his or her petition by a certain date,
8 the candidate's name will be placed on the ballot for a primary election to be held after the
9 convention.²⁹ However, if the party nominates a candidate at the party convention and no other
10 candidates qualify for the primary election ballot, the party-nominated candidate becomes that
11 party's candidate for the general election without participating in a primary election, *i.e.*, the
12 primary election for that race is canceled.³⁰ In general, because the convention has the authority
13 to nominate a candidate, it qualifies as an "election" separate from the primary election, and
14 therefore has its own separate contribution limit.³¹

²⁴ Compl. at 4, 6 (citing 11 C.F.R. § 110.1(j)(4), which provides that "[a] primary election which is not held because a candidate was nominated by a caucus or convention with authority to nominate is not a separate election for the purposes of the limitations on contributions").

²⁵ *Id.* at 6.

²⁶ UTAH CODE ANN. §§ 20A-9-403, 407 (West 2019).

²⁷ *Id.* § 20A-9-407.

²⁸ *Id.* § 20A-9-403(3)(a).

²⁹ *Id.* §§ 20A-9-403(3)(a), 408.

³⁰ *Id.* § 20A-9-403-4(a)(ii), 5(c).

³¹ *See* 52 U.S.C. § 30101(1)(A)-(B) (defining "election" in pertinent part to include "convention or caucus . . . [with] authority to nominate a candidate"); 11 C.F.R. § 100.2; Advisory Op. 1992-25 (Owens) (concluding that Utah convention is an election and subject to a contribution limit separate from the primary election) ("AO 1992-25").

1 The Commission determined in 2017 that the principal campaign committee of Mike Lee,
2 a Utah candidate for federal office who, like Love, also won his party’s nomination at the
3 convention, could “retain the contributions designated for the primary and received before the
4 party convention” due to “the unique facts” presented.³² In making its decision, the Commission
5 concluded that

6 the [c]ommittee had no choice but to prepare for both the primary election and the
7 party convention at the same time because of the short time frame between the
8 party convention and the primary election. The subsequent cancellation of the
9 primary election was out of the [c]ommittee’s control. Even though the candidate
10 did not have any opponents in the primary election, they still were required to
11 spend money and campaign because they did not know at the time whether they
12 would have any opponents.³³

13
14 Applying that framework to the available record here, the Commission concludes that the
15 Committee is permitted to retain funds designated for the primary election that it received prior
16 to April 21, 2018, the day of the convention, because the facts presented here are materially
17 indistinguishable from those in the Lee matter. First, as in the Lee matter, there were just 66
18 days between the date of the convention and the date of the primary election.

19 Second, as in the Lee matter, cancellation of the primary election was beyond Love’s
20 control. Even though she did not have any opponents in the primary election, she spent money
21 to prepare for the possibility of an opponent.³⁴ Consequently, Love chose to pursue nomination
22 through both the convention and primary election processes and had to expend funds and
23 campaign for both.³⁵ Love filed a Notice of Intent to Gather Signatures for Candidacy on

³² Request for Consideration of a Legal Question Submitted by Friends of Mike Lee (LRA 1044), Letter from Lisa J. Stevenson, FEC, to Cleta Mitchell, Counsel for Friends of Mike Lee (Aug. 1, 2017).

³³ *Id.*

³⁴ *See* Letter from Lisa J. Stevenson, FEC, to Cleta Mitchell, Counsel for Friends of Mike Lee (Aug. 1, 2017)

³⁵ Resp. at 2.

1 January 4, 2018, and a Declaration of Candidacy on March 12, 2018.³⁶ Love’s Declaration of
2 Candidacy indicates that she would seek her party’s nomination using both the convention and
3 signature-gathering processes.³⁷ The Committee states that it disclosed the payment of \$36,300
4 to a signature-gathering firm for the purpose of obtaining signatures to qualify for the primary
5 election ballot.³⁸ Although Love chose not to submit the petition signatures gathered on her
6 behalf,³⁹ she indicated her intent to participate in the primary on her March 12 Declaration of
7 Candidacy.⁴⁰

8 Finally, neither Love nor Lee had an opponent in the primary election at the time of the
9 nominating convention. Lee, who was running as an incumbent, did have an opponent at one
10 point before the convention, William R. Gaskill; however, Gaskill signed a letter on April 5,
11 2016, withdrawing from the race, 18 days before the convention.⁴¹ The Complaint alleges that
12 the Love Committee knew as of March 15, 2018, the candidate declaration deadline, that it
13 would not face an opponent in the primary election.⁴² The Committee asserts that “a primary
14 election candidate *could have* filed petition signatures up until April 7, two weeks before the date
15 of the convention.”⁴³ Further, the Committee notes that signatures were not certified until the

³⁶ See Love Notice of Intent; Love Declaration of Candidacy.

³⁷ See Love Declaration of Candidacy.

³⁸ Resp. at 2.

³⁹ Utah Love PAC, Resp. to RFAI at 4 (Sept. 6, 2018).

⁴⁰ See Love Declaration of Candidacy.

⁴¹ See <https://elections.utah.gov/election-resources/2016-candidate-filings#Federal>.

⁴² Compl. at 6.

⁴³ Utah Love PAC, Resp. to RFAI (Sept. 6, 2018).

1 day before the convention, and that therefore, the Committee learned only the day before the
2 convention that no other candidate had qualified for the primary election.⁴⁴

3 The Commission determined in the Lee matter that his campaign committee could retain
4 the funds designated for the primary that it received before the party convention, and the facts in
5 the instant matter are materially indistinguishable from those in the Lee matter. Thus, as the
6 Committee contends in its Response, it was permitted to retain the primary election contributions
7 it received before April 21, 2018, the date Love became the party's nominee at the convention.⁴⁵

8 **B. Primary Election Contributions Made After the Convention**

9 The Complaint also alleges that the Committee violated the Act by accepting
10 approximately \$370,000 in primary election contributions after the convention, when it was clear
11 there would be no primary election.⁴⁶

12 The treasurer of an authorized committee may seek written redesignation of contributions
13 for a different election if: (a) the contribution was designated for a particular election and the
14 contribution, either alone or when aggregated with other contributions from the same contributor,
15 exceeds the contribution limitations for that election; (b) the contribution was designated for a
16 particular election, was made after that election, and the contribution cannot be accepted under
17 the net debts outstanding provisions of 11 C.F.R. § 110.1(b)(3) or 11 C.F.R. § 110.2(b)(3);
18 (c) the contribution was not designated for a particular election and exceeds the contribution
19 limitations; or (d) the contribution was not designated for a particular election and was received

⁴⁴ Utah Love PAC, Resp. to RFAI (Sept. 6, 2018). Regardless of whether Love or Lee had an opponent in the nomination process, the convention qualifies as a separate election given that both have the authority to nominate a candidate. *See* AO 1992-25 at 1-2.

⁴⁵ *See* Resp. at 2-3; *see also* Letter from Lisa J. Stevenson, FEC, to Cleta Mitchell, Counsel for Friends of Mike Lee (Aug. 1, 2017).

⁴⁶ Compl. at 3.

1 after the date of an election for which there are net debts outstanding on the date the contribution
2 is received.⁴⁷

3 A contribution shall be considered to be redesignated for another election if: (a) the
4 treasurer of the recipient political committee requests that the contributor provide a written
5 redesignation of the contribution and informs the contributor that the contributor may request a
6 refund of the contribution as an alternative to providing a written redesignation; and (b) within
7 60 days after the treasurer's receipt of the contribution, the contributor provides the treasurer
8 with a written and signed redesignation of the contribution for another election.⁴⁸

9 The Commission has found reason to believe that committees knowingly accepted
10 excessive contributions in cases involving untimely redesignations, reattributions, or refunds. In
11 MUR 7075 (Strong Country for Today & Tomorrow ("SCOTTPAC")), the Commission found
12 reason to believe that the committee, which was the former principal campaign committee of
13 Scott Brown, failed to timely refund, reattribute, or redesignate excessive contributions totaling
14 \$62,800 from 27 individuals and one political committee.⁴⁹ SCOTTPAC argued that it had
15 remedied the contributions and requested dismissal, but the record showed that the committee
16 remedied the contributions between 77 and 113 days late.⁵⁰ In MUR 6887 (McCotter
17 Congressional Committee), the Commission found reason to believe that the committee failed to
18 timely refund \$60,500 in general election contributions within 60 days of McCotter's withdrawal

⁴⁷ See 11 C.F.R. § 110.1(b)(5)(i) (contributions by persons other than multicandidate political committees);
11 C.F.R. § 110.2(b)(5)(i) (contributions by multicandidate political committees).

⁴⁸ See 11 C.F.R. § 110.1(b)(5)(ii) (contributions by persons other than multicandidate political committees);
11 C.F.R. § 110.2(b)(5)(ii) (contributions by multicandidate political committees).

⁴⁹ Factual & Legal Analysis at 6, MUR 7075 (SCOTTPAC).

⁵⁰ *Id.*; see also Conciliation Agreement, MUR 7075 (SCOTTPAC).

1 from the primary election.⁵¹ In MUR 5263 (Florio for Senate Committee, Inc.), where the
2 candidate did not participate in the general election, the committee knowingly accepted nearly
3 \$370,000 in excessive contributions by failing to timely redesignate, reattribute, or refund those
4 contributions.⁵²

5 The Committee contends that it “has already properly remedied all contributions received
6 after” the cancellation of the primary election, which occurred on the date of the convention.⁵³
7 However, the available record shows that the Committee did not do so timely. Pursuant to
8 Commission regulations, the contributions designated for the primary that were received on or
9 after April 21, 2018, should have been remedied by either redesignation or refund within 60 days
10 of receipt. Accordingly, the earliest primary contributions should have been remedied by
11 June 20 and the latest primary contributions, received on June 29, should have been remedied by
12 August 28, 2018. The Committee’s response to RAD’s RFAI on September 6, 2018, stated that
13 it “will refund, or process re-designations for, all contributions designated for the primary

⁵¹ Factual & Legal Analysis at 5, MUR 6887 (McCotter Congressional Committee).

⁵² See Conciliation Agreement at 4-5, MUR 5263 (Florio for Senate Committee, Inc.); see also MUR 6112 (John McCain 2008, Inc.) (reason to believe committee failed to timely redesignate, reattribute, or refund \$5.7 million in contributions; subsequent audit by the Commission determined that the committee received \$377,657 in excessive contributions by failing to timely remedy the contributions); MUR 5176 (Dave Wu for Congress) (reason to believe committee received \$69,682 in excessive contributions that were not remedied within 60 days of receipt); MUR 5161 (Lincoln Diaz-Balart for Congress Committee) (reason to believe committee received \$17,000 in excessive contributions by failing to redesignate, reattribute, or refund the contributions within 60 days); MUR 5066 (Benton for Congress) (reason to believe committee received \$13,488 in excessive contributions by failing to redesignate, reattribute, or refund the contributions within 60 days); MUR 4850 (Committee to Re-Elect Vito Fossella) (reason to believe committee accepted \$14,500 in excessive contributions by failing to redesignate, reattribute, or refund the contributions within 60 days); MUR 3803 (Ferraro for U.S. Senate) (reason to believe committee failed to timely redesignate \$4,400 in excessive contributions by failing to redesignate, reattribute, or refund the contributions within 60 days); MUR 3472 (People for Boschwitz 1990) (probable cause to believe committee accepted over \$87,000 in excessive contributions by failing to redesignate, reattribute, or refund the contributions within 60 days). *But see* Factual & Legal Analysis at 3, MUR 7040 (Bernie 2016) (dismissal for failure to timely redesignate, reattribute, or refund excessive contributions totaling \$7,462 where most of the excessive contributions were remedied within 120 days and amount in violation was “small”).

⁵³ Resp. at 3-4.

1 election that were received after April 21, 2018.”⁵⁴ More than five weeks later, on October 15,
2 2018, the Committee filed its Amended 2018 12-Day Pre-Primary and Amended 2018 July
3 Quarterly Reports, in which the Committee changed the designation from “2018 primary” to
4 “2018 general” for contributions received after April 21, 2018. The apparent redesignations
5 were between 108 and 177 days after the contributions were made, well beyond the 60-day
6 limit.⁵⁵ Further, the Committee has not provided any documentation regarding the
7 redesignations, raising a question as to whether the Committee followed the redesignation
8 procedures outlined in Commission regulations.⁵⁶

9 As stated above, the Committee disclosed receiving \$367,793.42 designated for the
10 primary on or after April 21, 2018, and did not timely redesignate, reattribute, or refund those
11 contributions.⁵⁷ Accordingly, the Commission finds reason to believe that Utah Love PAC f/k/a
12 Friends of Mia Love violated 52 U.S.C. § 30116(f) by knowingly accepting excessive
13 contributions.

⁵⁴ Utah Love PAC, Response to RFAI (Sept. 6, 2018).

⁵⁵ The Committee should have amended its reports to properly disclose any redesignations made pursuant to 11 C.F.R. § 110.1(b)(5), 11 C.F.R. § 110.2(b)(5) and 11 C.F.R. § 104.8(d)(2).

⁵⁶ The Commission’s presumptive redesignation provisions do not apply to the post-convention primary contributions because the next scheduled election at the time that the contributions were made was the general election since the primary election had been canceled. *See* 11 C.F.R. § 110.1(b)(5)(ii)(B), (C). In addition, there is no provision for the presumptive redesignation of contributions from multi-candidate committees, so the \$122,840 in contributions from multicandidate political committees made on or after the date of the convention could not be presumptively redesignated regardless of the election schedule. *See* 11 C.F.R. § 110.2.

⁵⁷ The Committee states in its Response that it “has already properly remedied all contributions received after” “the cancellation of the primary election” and that “[n]o primary-election contributions raised by the Committee remain at issue.” Resp. at 3-4.