



**Republican
National
Committee**

Counsel's Office

March 26, 2020

VIA EMAIL: CELA@FEC.GOV

Federal Election Commission
Office of Complaints Examination and Legal Administration
Attn: Christal Dennis
1050 First Street, NE
Washington, DC 20463

RE: MUR 7698
Republican National Committee and
Ronald C. Kaufman, in his official capacity as treasurer
Ronna McDaniel, Chairwoman

Dear Ms. Dennis:

We write as counsel to the Republican National Committee (“RNC”) and Ronald C. Kaufman in his official capacity as treasurer and RNC Chairwoman Ronna McDaniel (“Respondents”), to respond to the complaint designated as MUR 7698. As discussed below, the complaint fails to present a violation of the Federal Election Campaign Act of 1971 (the “Act”) or Federal Election Commission regulations as to any aspect of the RNC’s 2020 fundraising solicitation accompanying the complaint (the “2020 Package”). Thus, for the reasons set forth below, Respondents respectfully request that the Commission vote to find no reason to believe any violation of the Act occurred in this matter and close the file.

I. THE COMPLAINT FAILS TO COMPLY WITH COMMISSION REGULATIONS AND SHOULD BE DISMISSED.

As a preliminary matter, the complaint is deficient because it fails to meet even the minimum threshold of Commission regulations that require a complaint “contain a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction.” 11 C.F.R. § 111.4(d)(3). The complainant affirms his violation of this requirement by stating, in his sworn complaint, that “there is no law or regulation which prevents, prohibits, or polices” the solicitation to which he refers. Complaint at 5.

Furthermore, the complainant’s allegations are ambiguous and not stated with specificity, as required by Commission rules. Section 111.4(d)(3) requires a complaint to contain a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction. The complainant’s false commentary that the 2020 Package is deceptive or defamatory – which it is not – is far outside of the Commission’s jurisdiction. For this reason, these claims must be dismissed. The complainant apparently alleges that the 2020 Package “deceiv[ed] the recipients of the package into believing the enclosed survey is related to the ongoing 2020 Census conducted by the United States Department of Commerce” and defamed certain members of the Democratic Party. These issues are not within the scope of the Act and the 2020 Package is entirely accurate, protected political speech, and fully compliant with all requirements of the Act and any other applicable provision of law with respect to such mailings. For these reasons alone, the Commission should dismiss this matter.

We further note that the complaint must be dismissed as to Chairwoman Ronna McDaniel, as there was no basis to name her as a respondent. Commission policy, in fact, requires an allegation sufficient to warrant the notification of an officer of a political committee other than treasurer (in his official capacity), and here the complainant provides none. *Statement of Policy, Statement of Policy Regarding Treasurers Name in Enforcement Matters*, 70 Fed. Reg. 3 (January 3, 2005).

II. THE 2020 PACKAGE INCLUDES ALL REQUIRED POLITICAL COMMITTEE NOTICES.

The gravamen of the complaint, to the best it may be divined, is the false allegation that the RNC distributed its 2020 Package without complying with the Act’s disclaimer requirements. The 2020 Package, however, plainly includes a clear and conspicuous disclaimer identifying the RNC as the organization paying for the communication:

Paid for by the Republican National Committee.
310 First Street, S.E. • Washington, D.C. 20003 • (202) 863-8743 • www.GOP.com
Not authorized by any candidate or candidate’s committee.

Had the complainant's attachment contained a legible version of the package, it would have demonstrated its compliance with all applicable disclaimer requirements and that this allegation has no factual basis.

The package constitutes a "public communication" within the meaning of the Commission's regulations. 11 C.F.R. § 100.26. The package is thus subject to the Commission's "general content requirements" for public communications, which for communications not authorized or financed by candidate's committee, requires that the notice state that it was not authorized by any candidate or candidate's committee, identify the entity that paid for the communication, and provide at least one of the following: the payor's permanent street address, telephone number or website address. 11 C.F.R. § 110.11(b)(3).

The package is also subject to the Commission's "specifications for all disclaimers," which require that the disclaimer "be presented in a clear and conspicuous manner" to give the reader "adequate notice of the identity of the person or political committee that paid for and, where required, authorized the communication." A disclaimer is not clear and conspicuous if it is difficult to read or if the placement is easily overlooked. 11 C.F.R. § 110.11(c)(1).

Because the package is a printed communication, it is also subject to additional requirements. Specifically, the disclaimer must be contained within a printed box set apart from the contents of the communication, the print of the disclaimer must be of sufficient size to be "clearly readable" by the recipient of the communication, and the print must have a reasonable degree of color contrast between the background and the printed statement. 11 C.F.R. § 110.11(c)(2). Furthermore, it has long been established by regulation that "[t]he disclaimer need not appear on the front or cover page of the communication *as long as it appears within the communication*, except on communications, such as billboards, that contain only a front face." 11 C.F.R. § 110.11(c)(2)(iv) (emphasis added); *accord* Advisory Opinion 2011-10 (POET, LLC).

There is no basis for the complainant's allegation that the RNC did not clearly and conspicuously identify itself as the organization paying for and sending the package.¹ The 2020 Package includes such a disclaimer, fully complies with Commission regulations, and therefore there can be no doubt as to the source of the mailing. Accordingly, the package was in full compliance of the FECA and the Commission's requirements.²

¹ The first page of the 2020 Package identifies itself clearly as originating from the "Republican Party" and includes the RNC's mailing address, phone number, and website (www.GOP.com). The reply device includes a FEC-compliant disclaimer and further denotes the 2020 Package is "Commissioned by the Republican Party."

² The Commission has routinely dismissed matters involving the appearance of similar disclaimers in packages and, consistent with such precedent, should do so here. *See* MURs 7159 (TMAGAC; RNC) and MUR 6993 (Van Hollen).

III. THE COMMISSION SHOULD CLOSE THE FILE IN THIS MATTER.

For the reasons set forth herein, Respondents respectfully request that the Commission find no reason to believe any violation of the Act occurred in this matter and the Commission close the file.

Sincerely,

Counsel to Respondents



J. Justin Riemer, Chief Counsel
Eric S. Brown, Deputy Chief Counsel
Jenna A. Kirsch, Associate Counsel

3/26/20

Date

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