

LAW OFFICES

Trister, Ross, Schadler & Gold, PLLC

1666 CONNECTICUT AVENUE, N.W., FIFTH FLOOR

WASHINGTON, D.C. 20009

PHONE: (202) 328-1666

FAX: (202) 204-5946

www.tristerross.com

MICHAEL B. TRISTER
(1941-2018)

GAIL E. ROSS
B. HOLLY SCHADLER
LAURENCE E. GOLD
ALLEN H. MATTISON†
DAVID M. WACHTEL*
KAREN A. POST
JESSICA ROBINSON†

†ALSO ADMITTED IN MARYLAND

*ALSO ADMITTED IN
CALIFORNIA AND MARYLANDKATHY S. STROM+
Of Counsel+ALSO ADMITTED IN
NEW YORK AND MARYLANDJOSEPH W. STEINBERG‡
‡ALSO ADMITTED IN MINNESOTA

SARAH NASON*
JOHN O. SAWYKO*
*ALSO ADMITTED IN NEW YORK

May 19, 2020

VIA Electronic Mail

Federal Election Commission
Office of Complaints Examination & Legal Administration
Attn: Christal Dennis, Paralegal
1050 First Street, NE
Washington, DC 20436

Re: MUR 7718, Montana Conservation Voters Action Fund

Dear Ms. Dennis:

I write on behalf of respondents Montana Conservation Voters Action Fund and its treasurer, Sally Ericsson (together “MCVAF”), to respond to the complaint dated February 24, 2020 filed by Don Kaltschmidt, Chairman of the Montana Republican Party (the “Complaint”). MCVAF respectfully requests that the Federal Election Commission (the “Commission” or the “FEC”) promptly determine that there is no reason to believe MCVAF¹ violated the Federal Election Campaign Act (“FECA”) as the Complaint alleges, or in any other manner that might be considered from the Complaint’s factual allegations and legal contentions, because the Complaint fails to set forth any evidence that a violation has occurred.

The Complaint is based on a factually untrue text message. As Complaint Exhibit 4 demonstrates, a person texting voters in support of a candidate was asked about MCVAF’s funding, apparently in an attempt to get the person sending the texts to say something embarrassing. This texter first said MCVAF discloses all of its contributors with the “Commission of political practices” [sic]. Close enough: It’s the Montana Commissioner of Political Practices. Then, when goaded about a funding source – a subject about which the texter had no knowledge or understanding – this person inaccurately responded: “Their support comes from big foundations and donors from around the country and world.”

MCVAF is a nonfederal committee registered as an “independent committee” with the Montana Commissioner of Political Practices (“COPP”). By law, it must disclose every donor whose contributions total \$35 or more. Mont. Code Ann. § 13-37-229(1)(b). MCVAF’s reports are available to the public on the COPP website at <https://cers-ext.mt.gov>. On September 10, 2019, MCVAF reported that it received a contribution of \$38,000 from LCV Victory Fund² on September 6, 2019.

¹ The Complaint inaccurately names “Montana Conservation Voters Fund” as the target of the Complaint, despite including as Exhibits 1 and 2 campaign finance reports filed by Montana Conservation Voters Action Fund.

² The Complaint inaccurately claims MCVAF received a contribution from the League of Conservation Voters Action Fund. MCVAF’s public filings on the COPP website, which the complainant included as Exhibit 1, show this is incorrect.

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FECA prohibits foreign nationals from making “a contribution or donation of money or other thing of value ... in connection with a Federal, State, or local election.” 52 U.S.C. § 30121(a)(1)(A). Based on its understanding of the law, and on its knowledge that LCVVF has a sophisticated compliance operation, MCVAF’s leadership reasonably believed that LCVVF did not contain funds from international donors. Under the FEC regulations, no one may “knowingly solicit, accept, or receive” contributions from foreign nationals. *See* 11 CFR § 110.20(g). In soliciting and receiving its contribution from LCVVF, MCVAF had no reason to suspect the contribution was from a foreign national; no facts were present that would lead a reasonable person to conclude the funds were from a foreign national, nor were any present that would cause a reasonable person even to inquire about the source of the funds. For that reason, MCVAF had no obligation to inquire whether the funds were from foreign sources. *See id.* at § 110.20(a)(4). (And, in fact, as the response from LCVVF states, none of the LCVVF funds were from any foreign sources.)

In contrast to the MCVAF leadership, the person sending the text message in question had no such knowledge or understanding of LCVVF. Their statement about “big foundations and donors from around the ... world” was simply inaccurate.

Resting solely on a statement from an uninformed texter, the Complaint has no basis in fact. The complainant could have discerned this simply from looking at MCVAF and LCVVF’s public filings on the COPP and FEC websites. Because MCVAF did not solicit, accept or receive any contributions from foreign nationals, the Commission should determine that there is no reason to believe MCVAF violated FECA or the Commission’s regulations.

Respectfully submitted,



Allen H. Mattison

Counsel for Respondents

Montana Conservation Voters Action Fund
and Sally Ericsson, as Treasurer