

FEDERAL ELECTION COMMISSION
FIRST GENERAL COUNSEL’S REPORT

MUR: 7718
DATE COMPLAINT FILED: March 12, 2020
DATE OF NOTIFICATION: March 18, 2020
LAST RESPONSE RECEIVED: May 19, 2020
DATE ACTIVATED: June 3, 2020

EXPIRATION OF SOL: 8/29/2024 – 9/6/2024
ELECTION CYCLE: 2020

COMPLAINANT: Don “K” Kaltschmidt, Chairman, Montana
Republican State Central Committee

RESPONDENTS: Montana Conservation Voters Action Fund and
Sally Ericsson as treasurer (non-federal
committee)
League of Conservation Voters Action Fund and
Patrick Collins in his official capacity as treasurer

**RELEVANT STATUTE AND
REGULATION:** 52 U.S.C. § 30121
11 C.F.R. § 110.20

INTERNAL REPORTS CHECKED: LCV Victory Fund and League of Conservation
Voters Action Fund Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. INTRODUCTION

The Complaint alleges that Montana Conservation Voters Action Fund (“MCV Action Fund”),¹ a non-federal committee registered with the Montana Commissioner of Political Practices, may have knowingly received a prohibited donation from a foreign national by accepting \$38,000 from League of Conservation Voters Action Fund (“LCVAF”), a federal political committee, and used some of it to finance activities supporting the election of local city

¹ The text of the Complaint mistakenly refers to the MCV Action Fund as “Montana Conservation Voters Fund” (*see* Compl. at 1 and 2), but the state reports attached reflect the correct name. Compl., Exs. 1 and 2.

council candidates.² The Complaint bases its allegation on a text message exchange involving a canvasser from Montana Conservation Voters, the organization that operates MCV Action Fund,³ about the source of MCV's funding. Specifically, when asked about the League of Conservation Voters, an apparent major donor of MCV Action Fund, the canvasser replied that the League's support "comes from big foundations and donors around the country and world."⁴ As discussed below, the \$38,000 donation to MCV Action Fund was actually from LCV Victory Fund, an independent expenditure-only political committee ("IEOPC") that is registered and files disclosure reports with the Commission. LCV Victory Fund's relevant disclosure reports reflect no apparent receipts from a foreign national, the Complaint has identified none, and LCV Victory Fund states that it does not solicit, accept, or receive such funds. Accordingly, we recommend that the Commission find no reason to believe that MCV Action Fund and LCVAF ("Respondents") violated 52 U.S.C. § 30121(a) and close the file.

II. FACTUAL AND LEGAL ANALYSIS

MCV Action Fund reported receiving a \$38,000 donation from LCV Victory Fund, an IEOPC, on September 6, 2019.⁵ In late September and October 2019, MCV Action Fund made disbursements in support of several city council candidates, including donations to the candidates; payments to MCV Action Fund's connected organization, Montana Conservation

² Compl. at 2-4.

³ See Montana Conservation Voters website at <https://mtvoters.org/tools-resources/endorsements/> (identifying MCV Action Fund as one of its PACs).

⁴ Compl. at 3, Ex. 4.

⁵ *Id.* at 2, Ex.1; LCV Victory Fund, Statement of Organization (July 30, 2010) (registering as an IEPOC). See also LCV Victory Fund, 2019 September Monthly Report at 30 (Sept. 20, 2019) (disclosing a \$38,000 disbursement to MCV Action Fund on August 29, 2019).

Voters (“MCV”), apparently to partially reimburse it for payroll expenses related to canvassing activities; and payments to vendors for mailers and endorsement cards.⁶

In an undated exchange, a canvasser identifying himself as “Ross with Montana Conservation Voters” texted that MCV is supporting a specific candidate in the upcoming city council election and asked if MCV could count on the recipient to vote for the candidate.⁷ The recipient asked the canvasser whether MCV discloses its donors, and specifically asked who funds “[L]eague of [C]onservation [V]oters” in Washington, D.C.⁸ The canvasser responded that the League works on Federal races and receives support from “big foundations and donors from around the country and world.”⁹ The canvasser added that MCV receives support grants from them “from time to time” and stated that “this is all legal work.”¹⁰

Based only on the text exchange with the canvasser about the League of Conservation Voters’s stated international sources of funds, the Complaint infers that MCV Action Fund received contributions knowing “the League,” identified in the body of the Complaint as LCVAF, received funding that “could include” funds from foreign nationals in violation of 52 U.S.C. § 30121(a).¹¹

⁶ Compl., Ex. 2.

⁷ *Id.*, Ex. 4

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 2, 4. Section 30121(a) and Commission regulations at 11 C.F.R. §§ 110.20(b) and (g) prohibit any “foreign national” from “directly or indirectly” making a contribution or donation in connection with a federal, state, or local election and prohibit any person from knowingly soliciting, accepting or receiving such a contribution or donation. The term “knowingly” is defined as having “actual knowledge” that the source is a foreign national, or being aware of “facts that would lead a reasonable person to conclude that there is a substantial probability that” or “facts that would lead a reasonable person to inquire whether” the source is a foreign national. 11 C.F.R. § 110.20(a)(4).

Respondents point out that LCV Victory Fund, not LCVAFF, made the donation at issue as shown in the copy of MCV Action Fund's state disclosure report included as Exhibit 1 to the Complaint.¹² LCVAFF states that LCV Victory Fund is an IEOPC and discloses its funding sources to the Commission, and it asserts that the Complaint fails to identify any contribution to LCV Victory Fund allegedly received from a foreign national.¹³ It further states that LCV Victory Fund does not solicit, accept, or receive contributions from foreign nationals, and it maintains that the LCV Victory Fund follows Commission regulations, including requiring committee treasurers to make their best efforts to determine the legality of contributions that present genuine questions as to whether they were made by foreign nationals.¹⁴ As to the canvasser's text message statements, Respondents state that the canvasser is associated with MCV Action Fund and has no actual knowledge of LCV Victory Fund's funding sources.¹⁵

LCV Victory Fund's disclosure reports confirm that it, not LCVAFF, made the donation at issue. The relevant disclosure reports do not reflect any apparent contributions from a foreign national or any foreign source, and the Complaint fails to identify any contribution allegedly from a foreign national.¹⁶ Based on these facts, together with Respondents' statements that LCV

¹² LCVAFF Resp. at 1; MCV Action Fund Resp. at 1, n.2.

¹³ LCVAFF Resp. at 2.

¹⁴ *Id.*

¹⁵ *Id.*; MCV Action Fund Resp. at 1. MCV Action Fund also states that, based on its knowledge of LCV Victory Fund's "sophisticated" compliance operation and the law, its leadership reasonably believed that LCV Victory Fund contained no funds from international donors and no facts were present that would lead leadership or any reasonable person to conclude that LCV Victory Fund's donation was from a foreign national. *Id.* at 2.

¹⁶ LCV Victory Fund has accepted contributions from League of Conservation Voters, Inc., a tax-exempt organization under Section 501(c)(4) of the Internal Revenue Code. To the extent the canvasser's statement and the Complaint could be read to imply that the League of Conservation Voters, Inc., accepted contributions from foreign nationals that may have flowed through LCV Victory Fund to MCV Action Fund, an examination of LCV Victory Fund's disclosure reports reveals this does not appear to be the case. Prior to LCV Victory Fund's donation to MCV Action Fund, it last received contributions from League of Conservation Voters, Inc. in October 2018. LCV Victory Fund's subsequent reports indicate it had spent those funds and other cash on hand at the time by the end of May 2019, three months before the donation at issue.

Victory Fund did not accept, solicit, or receive contributions from foreign nationals and follows Commission regulations concerning possible impermissible contributions, we recommend that the Commission find no reason to believe that Montana Conservation Voters Action Fund and League of Conservation Voters Action Fund violated 52 U.S.C. § 30121(a).

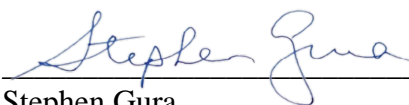
III. RECOMMENDATIONS


1. Find no reason to believe that Montana Conservation Voters Action Fund and Sally Ericsson as treasurer violated 52 U.S.C. § 30121(a);
2. Find no reason to believe that League of Conservation Voters Action Fund and Patrick Collins in his official capacity as treasurer violated 52 U.S.C. § 30121(a);
3. Approve the attached Factual and Legal Analysis;
4. Approve the appropriate letters; and
5. Close the file.


Lisa J. Stevenson
Acting General Counsel

Charles Kitcher
Acting Associate General Counsel for Enforcement

08.13.20
Date


Stephen Gura
Deputy Associate General Counsel for Enforcement


Mark Allen
Assistant General Counsel


Dawn M. Odrowski
Attorney

Attachment
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Montana Conservation Voters Action Fund and MUR 7718
 Sally Ericsson as treasurer (non-federal
 committee)
 League of Conservation Voters Action Fund and
 Patrick Collins in his official capacity as treasurer

I. INTRODUCTION

This matter was generated by a Complaint filed with the Federal Election Commission (the “Commission”) by Don “K” Kaltschmidt.¹ The Complaint alleges that Montana Conservation Voters Action Fund (“MCV Action Fund”),² a non-federal committee registered with the Montana Commissioner of Political Practices, may have knowingly received a prohibited donation from a foreign national by accepting \$38,000 from League of Conservation Voters Action Fund (“LCVAF”), a federal political committee, and used some of it to finance activities supporting the election of local city council candidates.³ The Complaint bases its allegation on a text message exchange involving a canvasser from Montana Conservation Voters, the organization that operates MCV Action Fund,⁴ about the source of MCV’s funding. Specifically, when asked about the League of Conservation Voters, an apparent major donor of MCV Action Fund, the canvasser replied that the League’s support “comes from big foundations and donors around the country and world.”⁵ As discussed below, the \$38,000 donation to MCV

¹ See 52 U.S.C. § 30109(a)(1).

² The text of the Complaint mistakenly refers to the MCV Action Fund as “Montana Conservation Voters Fund” (see Compl. at 1 and 2), but the state reports attached reflect the correct name. Compl., Exs. 1 and 2.

³ Compl. at 2-4.

⁴ See Montana Conservation Voters website at <https://mtvoters.org/tools-resources/endorsements/> (identifying MCV Action Fund as one of its PACs).

⁵ Compl. at 3, Ex. 4.

Action Fund was actually from LCV Victory Fund, an independent expenditure-only political committee (“IEOPC”) that is registered and files disclosure reports with the Commission. LCV Victory Fund’s relevant disclosure reports reflect no apparent receipts from a foreign national, the Complaint has identified none, and LCV Victory Fund states that it does not solicit, accept, or receive such funds. Accordingly, the Commission finds no reason to believe that MCV Action Fund and LCVAFF (“Respondents”) violated 52 U.S.C. § 30121(a) and closes the file in this matter.

II. FACTUAL AND LEGAL ANALYSIS

MCV Action Fund reported receiving a \$38,000 donation from LCV Victory Fund, an IEOPC, on September 6, 2019.⁶ In late September and October 2019, MCV Action Fund made disbursements in support of several city council candidates, including donations to the candidates; payments to MCV Action Fund’s connected organization, Montana Conservation Voters (“MCV”), apparently to partially reimburse it for payroll expenses related to canvassing activities; and payments to vendors for mailers and endorsement cards.⁷

In an undated exchange, a canvasser identifying himself as “Ross with Montana Conservation Voters” texted that MCV is supporting a specific candidate in the upcoming city council election and asked if MCV could count on the recipient to vote for the candidate.⁸ The recipient asked the canvasser whether MCV discloses its donors, and specifically asked who funds “[L]eague of [C]onservation [V]oters” in Washington, D.C.⁹ The canvasser responded

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⁷ Compl., Ex. 2.

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⁹ *Id.*

1 that the League works on Federal races and receives support from “big foundations and donors
 2 from around the country and world.”¹⁰ The canvasser added that MCV receives support grants
 3 from them “from time to time” and stated that “this is all legal work.”¹¹

4 Based only on the text exchange with the canvasser about the League of Conservation
 5 Voters’s stated international sources of funds, the Complaint infers that MCV Action Fund
 6 received contributions knowing “the League,” identified in the body of the Complaint as
 7 LCVAFF, received funding that “could include” funds from foreign nationals in violation of
 8 52 U.S.C. § 30121(a).¹²

9 Respondents point out that LCV Victory Fund, not LCVAFF, made the donation at issue
 10 as shown in the copy of MCV Action Fund’s state disclosure report included as Exhibit 1 to the
 11 Complaint.¹³ LCVAFF states that LCV Victory Fund is an IEOPC and discloses its funding
 12 sources to the Commission, and it asserts that the Complaint fails to identify any contribution to
 13 LCV Victory Fund allegedly received from a foreign national.¹⁴ It further states that LCV
 14 Victory Fund does not solicit, accept, or receive contributions from foreign nationals, and it
 15 maintains that the LCV Victory Fund follows Commission regulations, including requiring
 16 committee treasurers to make their best efforts to determine the legality of contributions that

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at 2, 4. Section 30121(a) and Commission regulations at 11 C.F.R. §§ 110.20(b) and (g) prohibit any “foreign national” from “directly or indirectly” making a contribution or donation in connection with a federal, state, or local election and prohibit any person from knowingly soliciting, accepting or receiving such a contribution or donation. The term “knowingly” is defined as having “actual knowledge” that the source is a foreign national, or being aware of “facts that would lead a reasonable person to conclude that there is a substantial probability that” or “facts that would lead a reasonable person to inquire whether” the source is a foreign national. 11 C.F.R. § 110.20(a)(4).

¹³ LCVAFF Resp. at 1; MCV Action Fund Resp. at 1, n.2.

¹⁴ LCVAFF Resp. at 2.

present genuine questions as to whether they were made by foreign nationals.¹⁵ As to the canvasser's text message statements, Respondents state that the canvasser is associated with MCV Action Fund and has no actual knowledge of LCV Victory Fund's funding sources.¹⁶

LCV Victory Fund's disclosure reports confirm that it, not LCVAFF, made the donation at issue. The relevant disclosure reports do not reflect any apparent contributions from a foreign national or any foreign source, and the Complaint fails to identify any contribution allegedly from a foreign national.¹⁷ Based on these facts, together with Respondents' statements that LCV Victory Fund did not accept, solicit, or receive contributions from foreign nationals and follows Commission regulations concerning possible impermissible contributions, the Commission finds no reason to believe that Montana Conservation Voters Action Fund and League of Conservation Voters Action Fund violated 52 U.S.C. § 30121(a).

¹⁵ *Id.*

¹⁶ *Id.*; MCV Action Fund Resp. at 1. MCV Action Fund also states that, based on its knowledge of LCV Victory Fund's "sophisticated" compliance operation and the law, its leadership reasonably believed that LCV Victory Fund contained no funds from international donors and no facts were present that would lead leadership or any reasonable person to conclude that LCV Victory Fund's donation was from a foreign national. *Id.* at 2.

¹⁷ LCV Victory Fund has accepted contributions from League of Conservation Voters, Inc., a tax-exempt organization under Section 501(c)(4) of the Internal Revenue Code. To the extent the canvasser's statement and the Complaint could be read to imply that the League of Conservation Voters, Inc., accepted contributions from foreign nationals that may have flowed through LCV Victory Fund to MCV Action Fund, an examination of LCV Victory Fund's disclosure reports reveals this does not appear to be the case. Prior to LCV Victory Fund's donation to MCV Action Fund, it last received contributions from League of Conservation Voters, Inc. in October 2018. LCV Victory Fund's subsequent reports indicate it had spent those funds and other cash on hand at the time by the end of May 2019, three months before the donation at issue.