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BEIJING BRUSSELS DUBAI FRANKFURT JOHANNESBURG
LONDON LOS ANGELES NEW YORK PALO ALTO
SAN FRANCISCO SEOUL SHANGHAI WASHINGTON

Covington & Burling LLP
One CityCenter
850 Tenth Street, NW
Washington, DC 20001-4956
T +1 202 662 6000

Via Electronic Mail

August 19, 2020

Mr. Jeff S. Jordan
Federal Election Commission
Office of Complaints Examination
and Legal Administration
1050 1st Street NE
Washington, DC 20463

Re: Response of Moët Hennessy USA, Inc. - MUR 7755

Dear Mr. Jordan:

We write on behalf of our client, Moët Hennessy USA, Inc. ("MH USA"), in response to your letter dated June 30, 2020. Although the complaint made allegations as to Krug Champagne, MH USA was the organizer and financial sponsor of the event and therefore, is responding in lieu of Krug Champagne. All references in this letter to MH USA *vis à vis* the complaint, refer to references to "Krug Champagne" in the complaint.

This complaint should be dismissed as to MH USA with no further action because it is not a violation of federal campaign finance law for a corporation to host a commercial event at which a federal candidate is in attendance. As detailed below, there was no solicitation, transfer, or acceptance of contributions by anyone employed or paid by MH USA at the event and no express advocacy was made regarding the senator or his campaign. Consequently, MH USA engaged in no conduct that is prohibited by the Federal Election Campaign Act of 1971, as amended ("the Act").

I. Factual Background

Krug Champagne is produced by Moët Hennessy, which in turn is the wine and spirits subsidiary of LVMH Moët Hennessy Louis Vuitton SE ("LVMH"). Moët Hennessy USA, Inc. is an independently operated U.S.-based subsidiary of LVMH that is incorporated in Delaware. MH USA distributes Krug champagne in the United States, and its operating budget derives from revenue from its U.S. operations.¹ MH USA purchases Krug champagne from MHCS, a

¹ As noted above, MH USA, not Krug Champagne, sponsored and paid for the event at issue in this matter. Because MH USA is a United States company and the event at issue was paid for with U.S. funds, the sponsorship of this event involved no foreign nationals or foreign funds, thus the suggestion that there was foreign national involvement is mistaken speculation and will not be further addressed.

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French-based Krug affiliate, and then resells the champagne to local distributors or state run alcohol beverage control boards in the United States for a profit.

MH USA organizes periodic brand awareness events to promote the Krug champagnes it sells in the United States. These events are hosted in private homes—private individuals allow an event to be hosted in their home at no cost to them, and in return are permitted to select the majority of the event's guests. MH USA has a small number of staff attend to assist with the event and also invites a small number of journalists to report on the event. These events generally consist of a champagne reception, opening remarks by a MH USA employee, and a seated dinner during which each course is paired with a champagne and live musical performance. MH USA pays for the costs associated with the event, including the food, champagne, entertainment, and related planning and public relations services, provided by LaForce & Company ("LaForce"). LaForce, a public relations firm, assists with the event planning and management, including coordination with the private homeowner, caterer, and musical guests.

The event that is the subject of this complaint is one such champagne promotional event, held on February 26, 2020 at a private home in Palm Beach, Florida. Approximately forty guests attended, as well as a small number of MH USA and LaForce representatives and a small number of journalists. Senator Cory Gardner was invited by the host family to attend as a guest. MH USA employee, Jamie Soriano (Brand Director at MH USA for Krug Champagne products), made opening remarks but did not mention Senator Gardner's presence, nor his campaign or opponent. Nor to the best of MH USA's knowledge, did anyone else. Senator Gardner made no remarks at the event and his presence was in no way highlighted by MH USA during or after the event. No contributions to Senator Gardner's campaign were solicited or accepted by any MH USA employee, or at all, to MH USA's knowledge.

On June 18, 2020, Colorado State Representative Tom Sullivan filed a complaint against Senator Cory Gardner, Cory Gardner for Senate ("the Campaign"), Lisa Lisker (in her capacity as Treasurer), and Krug Champagne.² After stating, "the party was clearly neither a campaign event nor an officially-connected event," the complaint asserts, in the alternative, that "Krug Champagne violated the Act by illegally facilitating a corporate contribution." Under the illegal corporate contribution theory, the complaint further asserts that Krug "may have ... violated the prohibition on contributions from foreign nationals, as Krug Champagne and its parent company are headquartered in France."

II. Analysis

The complaint contains no sworn facts that allege conduct by MH USA that constitute a violation of the Act. The facts are that MH USA did not solicit or facilitate contributions to Senator Gardner or the Campaign, nor did it advocate on behalf of him or the Campaign, or against his senatorial opponent. The event in question was a purely commercial event for MH USA at which Senator Gardner merely happened to be a guest.

² See *supra* n.1.

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The Federal Election Campaign Act and Commission regulations prohibit corporations from making contributions to federal candidates. 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(b). A “contribution” includes any “direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value . . .” for the purpose of influencing any federal election. 52 U.S.C. § 30118(b)(2); 11 C.F.R. § 114.2(b), 100.52(a). “Anything of value” includes all in-kind contributions, such as the provision of goods and services without charge or at a charge that is less than the usual and normal charge. See 11 C.F.R. § 100.52(d)(1).

The FEC has long held that an event at which a candidate attends is not “for the purposes of influencing any election” or “in connection with any election” if (1) there is an absence of any communication expressly advocating the nomination or election of the federal candidate appearing or the defeat of any other candidate, and (2) there is no solicitation, making, or acceptance of a campaign contribution for the federal candidate in connection with the event. Fed. Election Comm’n, AO 1980–89 (Coelho); see also *Orloski v. Fed. Election Comm’n*, 795 F.2d 156, 160 (D.C. Cir. 1986).

A. The complaint does not allege impermissible acts by MH USA.

The complaint does not allege that campaign contributions were solicited, made, or accepted at the event, nor does it allege that any express advocacy occurred at the event. Instead, the complaint asserts that if Senator Gardner or the Campaign viewed the event as a “fundraising opportunity,” then MH USA facilitated an impermissible corporate contribution. There is no support in the law for the theory that a candidate’s subjective intent in attending a non-political event converts that event into an impermissible in-kind contribution. Instead, it has long been the rule that it is the conduct and speech of the party that is relevant, rather than their subjective intent. See, e.g., *Fed. Election Comm’n v. Wisc. Right to Life*, 551 U.S. 449 (2007)) (stating that subjective intent is not relevant and “subjective determinations have no place in the administration of campaign finance law”).

The Commission’s test for determining if a corporate-sponsored event is political requires express advocacy, or the solicitation, making, or accepting of campaign contributions in connection with the event. The complaint does not allege any of these acts to have occurred on the part of MH USA. Furthermore, the Commission correctly disregards speculative, unsupported allegations, particularly where the party, as MH USA does, refutes them. See MUR 5467 (Michael Moore), First General Counsel’s Report at 5 (“Purely speculative charges, especially when accompanied by a direct refutation, do not form the adequate basis to find reason to believe that a violation of [the Act] has occurred.”) (quoting MUR 4960 Statement of Reasons at 3); see also MUR 4850 (Deloitte & Touche, LLP), Statement of Reasons of Chairman Darryl R. Wold and Commissioners David M. Mason and Scott E. Thomas at 2 (“[a] mere conclusory allegation without any supporting evidence does not shift the burden of proof to the respondents”). Speculation in the complaint that Senator Gardner may have had private conversations where he solicited contributions does not allege conduct that would be a violation by MH USA.

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- B. MH USA did not make or facilitate a corporate contribution because it did not engage in any express advocacy, or in the solicitation, making, or accepting of contributions at the event.

MH USA put on a private event solely to promote a commercial product. This event was one in a series of such events held by MH USA. The event was in no way organized or executed "for the purpose of influencing" Senator Gardner's reelection campaign, as demonstrated by the absence of express advocacy or contribution-related activity.

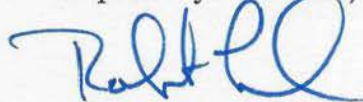
MH USA did not engage in nor is it aware of any express advocacy in connection with the event. Although Senator Gardner was in attendance, no one from or paid by MH USA even mentioned Senator Gardner when addressing the event attendees. Nor did Senator Gardner address the event attendees, no campaign literature was passed out, no campaign staff members were present, and no posters or other campaign material were available or on display.

No one employed or paid by MH USA solicited or accepted contributions on behalf of Senator Gardner, nor is MH USA aware of anyone in attendance at the event engaging in these activities. There is simply no basis to support a claim that MH USA organized or executed this event in any way as a campaign or fundraising event for Senator Gardner, aside from the fact of the senator's presence and speculation about his private conversations. As the complaint itself states, the event was "clearly neither a campaign event nor an officially-connected event."

III. Conclusion

Because there is no evidence that this event included express advocacy or the solicitation, making, or acceptance of contributions, there is no basis to find MH USA's sponsoring of the event was "for the purpose of influencing" Senator Gardner's reelection campaign, and was therefore neither a contribution nor an expenditure under the Act. The event was intended to promote Krug Champagne, a product sold by MH USA, not to influence a federal campaign. The attendance at a commercial event by a federal candidate does not convert that event into a political or campaign event. The Commission's test for finding a corporate political contribution is clearly not satisfied by the actions of MH USA in hosting this commercial event. Therefore, the Commission should find no reason to believe that the Act has been violated by MH USA and dismiss the complaint.

Respectfully submitted,



Robert Lenhard
 Elizabeth Upton
 COVINGTON & BURLING LLP
 850 Tenth Street NW
 Washington, DC 20001
 (202) 662-5940
 Counsel for Moët Hennessy USA

BEFORE THE FEDERAL ELECTION COMMISSION

In re MUR 7755

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DECLARATION OF JAMIE SORIANO

1. My name is Jamie Soriano. This declaration is made upon my personal knowledge and belief.

2. I am employed by Moët Hennessy USA, Inc. (MH USA), a U.S.-based subsidiary of LVMH, as Brand Director for Krug Champagne. MH USA distributes Krug champagne in the United States.

3. MH USA organizes periodic brand awareness events to promote Krug champagne. These events are hosted in private homes and frequently involve a champagne reception, opening remarks by an MH USA employee, and a seated dinner during which each course is paired with a champagne and live musical performance.

4. I attended the February 26, 2020 Krug Champagne event in Palm Beach, Florida, along with LaForce representatives who helped staff the event.

5. The costs of the event, including staff, entertainment and food and beverages, were paid for by MH USA.

6. The family hosting the event invited Senator Gardner to attend the event.


7. I made opening remarks at the event, and did not mention Senator Gardner's presence, nor did I mention his status as a candidate, his election or his opponent.

Nor, to my knowledge, did any other person make remarks regarding Senator Gardner or his campaign.

8. Neither I nor any MH USA employee nor any other person, to the best of my knowledge, solicited, received, or transmitted any political contribution at this event.

9. Senator Gardner did not make any formal statement or remarks at the event, no campaign literature was passed out, no campaign staff members were present, and no posters or other campaign material were available or on display.

I declare under penalty of perjury that the foregoing is true and correct.



Jamie Soriano

Date: 8/19/2020