

**AZZOLINI & BENEDETTI, LLC**  
ATTORNEYS AT LAW

THOMAS J. BENEDETTI\*  
tbenedetti@abllclaw.com  
STEVEN AZZOLINI  
sazzolini@abllclaw.com

Admitted in NJ/NY\*

OF COUNSEL  
FRANK VIOLA\*  
ALAN J. ZAKIN  
RONALD J. WRONKO\*

134 COLUMBIA TURNPIKE  
FLORHAM PARK, NJ 07932

(973) 765-0700

FAX (973) 765-9694  
WWW.ABLCLAW.COM

NEW YORK OFFICE  
133 WEST 25TH STREET  
SUITE 6E  
NEW YORK, NY 10001

October 5, 2020

Jeff S. Jordan, Esq.  
Assistant General Counsel  
Complaints Examination & Legal Administration  
Federal Election Commission  
1050 First Street, NE  
Washington, DC. 20463

Dear Mr. Jordan,

RE: John McCann Complaint, July 7 Republican Congressional Primary (NJ-5)  
MUR 7788

Dear Mr. Jordan,

I am an attorney licensed to practice in the state of New Jersey and I have been retained by Pallotta for Congress in the above referenced matter. Mr. McCann has alleged a number of improprieties in his complaint of September 1, 2020, many against Pallotta for Congress.

First, he wrongly alleges that blogs that advocate for or against candidates are making legally reportable contributions. Second, he wrongly alleges that Dora Louise Collier coordinated illegal donations when the campaign has no knowledge of her whatsoever. Finally, he wrongly alleges, without proof, that various campaign employees and / or consultants are coordinating illegal expenditures to benefit Pallotta for Congress. This letter response and the attached Affidavit from Campaign Manager Kelly Ann Hart demonstrate that none of these charges have any factual or legal basis.

I will address the fatal flaws in each of Mr. McCann's arguments point by point, as each fails on a factual and / or legal basis for the following reasons.

1. Mr. McCann alleged improper coordination by the Pallotta campaign with

## AZZOLINI & BENEDETTI, LLC

- a. Jersey Conservative (Blog)
- b. Sussex County Watchdog (Blog)
- c. Trump Revolution (Facebook Page)

Response: Blogging is not an expenditure: According to Section 11 CFR Sec. 100.155 "Uncompensated internet activity by individuals that is not an expenditure". Therefore Mr. McCann's premise regarding Blog posts as illegal coordinated expenses is flawed on its face. To the extent Mr. McCann's argument is that those associated with the campaign were paid for their blogging: a) he provides no proof these individuals are associated with the blog and b) they were paid by the campaign itself ... the campaign cannot coordinate with itself. However Ms. Hart was paid to be a campaign manager, not to blog; and Mr. Winkler was hired to provide strategic consulting, not to blog. However, even if they had blogged on their own, in addition to the services for which they were hired, this activity is not a donation per Sec. 100.155.

Small grass roots political opposition such as the grassroots outreach contained in these blogs have a longstanding tradition in the United States, dating back to prerevolutionary times as affirmed by the Supreme Court in *McEntyre*<sup>[1]</sup> and *Lovell*<sup>[2]</sup>, citing the legality Thomas Paige's pamphleteering during the American Revolution.

---

<sup>[1]</sup> Under our Constitution, anonymous pamphleteering is not a pernicious, fraudulent practice, but an honorable tradition of advocacy and of dissent. Anonymity is a shield from the tyranny of the majority. See generally J. S. Mill, *On Liberty*, in *On Liberty and Considerations on Representative Government* 1, 3-4 (R. McCallum ed.1947). It thus exemplifies the purpose behind the Bill of Rights, and of the First Amendment in particular: to protect unpopular individuals from retaliation--and their ideas from suppression--at the hand of an intolerant society. *McIntyre v. Ohio Elections Commission*, 1155 Ct. 151 (1995), Section VI

<sup>[2]</sup> The liberty of the press is not confined to newspapers and periodicals. It embraces pamphlets and leaflets. *Lovell v. Griffin*, 303 US at 452 (1938).

These specific blogs have been well known for many years in the region of the current 5<sup>th</sup> Congressional District, and have existed many years before Mr. McCann and Mr. Pallotta engage in their primary campaign. For Mr. McCann to imply that these blogs exist as a front or shell for the Pallotta campaign is also to deny their history of many years of commentary in the public arena.

Mr. McCann cites the three-pronged test of 11 CFR 109.21 for illegal coordinated expenditures. However his allegation fails on the very first prong:

The communication must be paid for by a person other than a federal candidate, authorized committee, or a political party committee, or any

## AZZOLINI & BENEDETTI, LLC

agents of the aforementioned entities with whom the communication is coordinated.

Per Section 100.155, articulated above, internet activity such as blogs are not considered a campaign expenditure.

2. Mr. McCann alleged guilty parties connected with the campaign include:
  - a. Kelly Ann Hart
  - b. Bill Winkler (Baseline Research)
  - c. William Collier (Intellz, LLC)
  - d. Dora Louise Collier (Allegedly purchased Facebook Ads on "The Trump Revolution")

Response: Coordinated media efforts between consultants and campaign staff consists of legal and customary efforts of the personnel being paid by the campaign to implement a successful campaign plan, including to obtain earned (unpaid) media and to obtain paid media by contracting with legal vendors who provide messaging, media and outreach services. These legal and transparent expenditures have comprised the bulk of the Pallotta for Congress campaign expenditures, including, but not limited to:

- a. McLoughlin Associates (Pollster/Consulting) \$48,950
- b. Checkmate Strategies (Direct Mail Outreach) \$103,324
- c. Telephone Townhall Strategies (Phone / Text Outreach) \$43,471
- d. Issue Management Inc (Strategic Consulting) \$6,000
- e. IHeart Media (Radio/Digital/Email Advertising) \$35,040
- f. Dux Strategies (Press Consulting) \$23,276
- g. Facebook (Ads) \$10,430
- h. Capitol Promotions Inc (Signs) \$4,635
- i. Jamestown Associates (Media) \$5,847
- j. Royal Printing (Printing & Postage) \$24,794
- k. Red Maverick (Campaign General Consulting) \$35,313

\$341,080 – well over \$300,000 in outreach transparently disclosed on FEC reports

Further, all payments to the questioned vendors / employees was for work to benefit the campaign (to the full knowledge of the campaign), was fully and transparently disclosed and paid solely by the campaign:

1. Baseline Research (Messaging / Strategy) \$9,700
2. Intellz (Online Media Consultant) \$10,000
3. Kelly Ann Hart (Campaign Manager) \$30,791

Mr. Winkler is the owner of Baseline Research with whom the campaign interacted exclusively regarding activity for the campaign regarding Messaging /

## AZZOLINI & BENEDETTI, LLC

Strategy consulting within the bounds of the fee paid to them as indicated above. Mr. Collier is one of the employees of Intellz with whom the campaign interacted exclusively regarding activity for the campaign regarding media consulting within the bounds of the fee paid to them as indicated above. Ms. Hart is one of the employees of Pallotta for Congress with whom the campaign contracted with through the entity K Hart Consulting, LLC exclusively regarding activity for the campaign regarding campaign management for a minimum of 40 hours per week within the bounds of the fee paid to her as indicated above.

3. Mr. McCann alleged wrongdoing and FEC violations following the meeting at BCRO Headquarters.

Response: There is a clear implication Kelly Ann Hart and / or Bill Winkler wrote Blog posts, yet no evidence is furnished. There is an implication the Pallotta campaign "chose" to have information about the meeting released on the blog, yet no evidence is furnished. However, even if such implications were true, and there is no evidence that they are, such blog posts are not considered a contribution according to FEC regulations as cited above.

4. Mr. McCann alleged a violation of the Pallotta campaign regarding an ad paid for by Dora Louise Collier for which no proof or copy of the ad was proffered.

Response:

- a. Until this complaint the Pallotta campaign was not familiar with the website "The Trump Revolution"
- b. Until this complaint the Pallotta campaign was not familiar with Dora Louise Collier
- c. While the campaign had retained Intellz / Bill Collier, they have never been, or are they now familiar with, Dora Louise Collier; Mr. Collier's company was hired as one of many professional vendors. The campaign's candidate and their senior staff have no personal relationship with Mr. Collier and are unfamiliar with any of his family members including his spouse, they are unaware if he is even married.
- d. No evidence is provided that indicates that Ms. Collier has any relationship with the campaign, nor even that any such as was placed, or that if such ad was placed, it was done with the knowledge or assent of the Campaign.
- e. No one on the Campaign ever had any discussions with Ms. Collier regarding any campaign activity, and in fact, no campaign official or strategic media or campaign consultant is even familiar with Ms. Collier
- f. To the extent that Mr. Collier of Intellz may have spoken to Ms. Collier if, in fact, they are related, he did so without the knowledge, consent or interest of Pallotta for Congress. Involvement with Ms. Collier and / or the "Trump Revolution" website were not, nor are they now, any part of the campaign's strategy and tactics; nor did she have their consent to do so.

## AZZOLINI &amp; BENEDETTI, LLC

- g. Further, Mr. McCann has not provided any evidence that this ad, which the Pallotta Campaign remains unaware of, actually exists.
- h. Due to the totality of the above articulated facts, the allegations of Mr. McCann regarding Ms. Collier and "The Trump Revolution" violates the third prong cited by Mr. McCann for 11 CFR 109.21:

One or more of the five conduct standards set forth in 11 CFR 109.21(d) must be satisfied.

- i. According to Mr. McCann "Trump Revolution" is a Facebook page. As indicated above, the campaign paid over \$10,000 directly to Facebook for ads and would have no reason to disguise or hide, what would amount to a de minimis expenditure, compared to their legally disclosed expenditures for Facebook and other messaging and outreach.

The campaign is extremely dedicated to ethical legal honest conduct. To that end, they have hired a professional who has years of experience working with multiple federal election candidates and campaigns, including incumbent Congresspersons. This individual, Amberle Gilroy's, name appears on Mr. Pallotta's, and many other federal campaigns, for compliance services and she has a well-earned reputations as an honest effective professional dedicated to maintaining the legal and ethical integrity of the campaigns that she serves.

For all these reasons stated herein and in the attached Affidavit, no further action should be taken against Pallotta for Congress. They and their agents have acted in conformance with the letter and the spirit of the Federal Election Commission Act.

Thank you for your kind consideration and attention.

Very Truly Yours,



Alan J. Zakin

CC: Amberle Gilroy, Pallotta for Congress

Attachment: Affidavit of Kelly Ann Hart

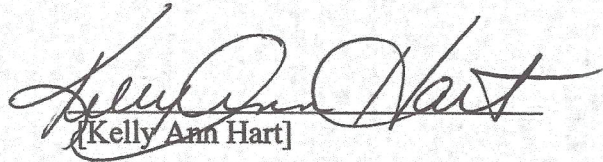


8. I did not write any articles about that or any other topic for the Blogs referenced in the complaint including "The Jersey Conservative Blog" and the "Sussex County Watchdog".
9. I am familiar with both of these Blogs and understand that they are sites that do not charge a subscription fee, nor do they take advertising. My further understanding is that they publish submissions, without compensation, at their discretion from any member of the public.
10. As Campaign Manager for Pallotta for Congress my goal is to try to raise and spend funds as efficiently and effectively as possible to get out campaign message out in order to persuade the majority of the electorate to support our candidate.
11. To that end, we hired specially targeted messaging, strategy and media consultants in order to achieve our message.
12. Our goal is to receive as much earned and paid media as possible to advance our message and achieve our goal. In fact, we spent well over \$300,000 on such consultants – all these expenditures for such outreach were transparently disclosed as required by the FEC.
13. Among these consultants, we paid \$9,700 to "Baseline Research" who performed messaging and strategic consulting to earn their fee; and we hired Intellz \$10,000 to provide online / internet media consulting in order to earn their fee.

14. I am not at all familiar with "Dora Louise Collier" or the website "Trump Revolution" and I had not even heard of them until I read Mr. McCann's complaint.

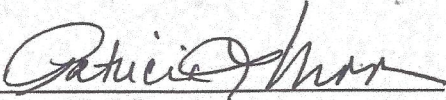
15. The Pallotta for Congress campaign and candidate Frank Pallotta strive to conduct an ethical, effective issue oriented campaign in which the campaign staff conducts themselves in an exemplary way in compliance with all local, state and federal law, including that of the Federal Election Campaign Act.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I may be subject to punishment.



[Kelly Ann Hart]

Sworn and subscribed to before me  
this 29th day of September, 2020



Notary Public *An Attorney at Law*  
*of the State of New Jersey*