



**FEDERAL ELECTION COMMISSION**  
Washington, DC 20463

September 16, 2021

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Tiffany Muller  
End Citizens United  
P.O. Box 66605  
Washington, DC 20035  
1629 K Street, NW, Suite 300  
Washington, DC 20006

RE: MUR 7815

Dear Ms. Muller:

The Federal Election Commission has considered the allegations contained in your complaint dated October 7, 2020. On August 30, 2021, based upon the information provided in the complaint, and information provided by the respondents, the Commission decided to dismiss the allegation that Darrell Issa and Darrell Issa for Congress and Jen Slater in her official capacity as treasurer violated 52 U.S.C. § 30125(e)(1) and 11 C.F.R. §§ 300.62, 300.64(b)-(c). The Factual and Legal Analysis, which more fully explains the basis for the Commission's decision, is enclosed.

Documents related to the case will be placed on the public record within 30 days. *See Disclosure of Certain Documents in Enforcement and Other Matters*, 81 Fed. Reg. 50,702 (Aug. 2, 2016), effective September 1, 2016.

The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. *See* 52 U.S.C. § 30109(a)(8). If you have any questions, please contact Aaron Rabinowitz, the attorney assigned to this matter, at (202) 694-1476.

Sincerely,

Lisa J. Stevenson  
Acting General Counsel

Page 2  
MUR 7815 (Darrell Issa for Congress, *et al.*)

A handwritten signature in cursive script that reads "Jin Lee".

BY: Jin Lee  
Acting Assistant General Counsel

Enclosures  
Factual and Legal Analysis

**FEDERAL ELECTION COMMISSION****FACTUAL AND LEGAL ANALYSIS**

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6 RESPONDENTS: Darrell Issa for Congress and Jen Slater MUR 7815  
7 in her official capacity as treasurer  
8 Darrell Issa  
9

**I. INTRODUCTION**

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12 This matter was generated by a Complaint filed with the Federal Election Commission  
13 (the “Commission”), which alleges violations of the Federal Election Campaign Act of 1971, as  
14 amended (the “Act”), relating to an invitation to an event at which Darrell Issa, a federal  
15 candidate, solicited funds on behalf of a local party and local candidates. The Complaint in this  
16 matter alleges that, while running for election to Congress, Darrell Issa and his congressional  
17 campaign, Darrell Issa for Congress and Jen Slater in her official capacity as treasurer (the  
18 “Committee”), sent an email invitation to his campaign mailing list for a fundraiser to benefit the  
19 Republican Party of San Diego County and various local candidates. The Complaint further  
20 alleges that the invitation did not indicate that contributions were limited to amounts and from  
21 sources that complied with the requirements of the Federal Election Campaign Act of 1971, as  
22 amended (the “Act”) and, on that basis, alleges that Issa and the Committee violated the  
23 prohibition against federal candidates soliciting such funds and associated disclaimer  
24 requirements.

25 Although an initial email invitation to the event did not contain a disclaimer, Issa and the  
26 Committee provide information demonstrating that other invitations sent soon after contained a  
27 disclaimer explaining that attendees could make donations only in accordance with the amount  
28 limitations and source prohibitions of the Act. It also appears that notices and an oral disclaimer

1 made at the event satisfy Commission regulations governing the solicitation of contributions by a  
2 candidate at a non-federal event. Accordingly, the Commission dismisses the allegations that  
3 Issa and the Committee violated 52 U.S.C. § 30125(e)(1) and 11 C.F.R. §§ 300.62, 300.64(b)-  
4 (c).

## 5 **II. FACTUAL BACKGROUND**

6 Congressman Darrell Issa ran for California’s Fiftieth Congressional District in the 2020  
7 election cycle; his campaign committee was Darrell Issa for Congress.<sup>1</sup> On October 6, 2020,  
8 while Issa was campaigning, the Committee sent out an email invitation to a fundraiser in  
9 support of various local party candidates to take place on October 8 at a local Republican party  
10 office.<sup>2</sup> The invitation asked recipients “to support East County Candidates that need your  
11 help.”<sup>3</sup> It prominently displayed the Committee’s name and logo and Issa’s photograph and  
12 stated that contributions “are payable to the Republican Party of San Diego County or to the  
13 candidate of your choice.”<sup>4</sup> The invitation did not instruct recipients as to how to donate prior to  
14 the event, and it did not specify that there was a required or suggested donation to attend.<sup>5</sup>

15 Respondents then sent two subsequent email invitations later that day and the next day,  
16 which were substantially identical to the first except that they included the following disclaimer:  
17 “Contributions in connection with this invitation and event in excess of federally permissible

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<sup>1</sup> Committee, Am. Statement of Organization (Jan. 8, 2020).

<sup>2</sup> Compl. Ex. A (Oct. 7, 2020).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> The email, which was sent from Issa’s campaign’s email address, ends with what appears to be an automatically generated link to a donation page for Issa’s campaign. *Id.*

1 amounts or from corporations, labor organizations, national banks, federal government  
2 contractors or foreign nationals are prohibited.”<sup>6</sup> Respondents also represent and provide  
3 photographs from the event itself showing that they posted the same statement on “11x17 posters  
4 in 44 point font conspicuously in at least 8 prominent locations at the event.”<sup>7</sup> Finally, a video of  
5 the event posted on YouTube by the Committee appears to show Issa verbally making  
6 approximately the same statement at the beginning of the event.<sup>8</sup>

7       The Complaint contends that Issa and the Committee violated the Act and Commission  
8 regulations prohibiting candidates from soliciting contributions on behalf of local parties and  
9 candidates outside of the contribution limits and source restrictions of the Act.<sup>9</sup> It contends that  
10 the original invitation “plainly” violated this rule because it was a general request for  
11 contributions to local candidates, who were permitted by California law to accept donations in  
12 greater amounts than federally permitted and from federally-impermissible sources.<sup>10</sup> The  
13 Response represents that: (1) the event was free to attend; (2) no specific dollar amount was  
14 mentioned or requested to be given by persons attending the event; (3) the Commission’s chart  
15 of federally permissible contributions “was distributed to all candidates in attendance, posted  
16 conspicuously, and candidates were verbally instructed to accept contributions compliant with  
17 federal law only;” and (4) the various notices and disclaimers described above satisfy

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<sup>6</sup> Issa and Committee Resp., Attachs. (Oct. 23, 2020).

<sup>7</sup> Resp. at 1& Attachs. The disclaimer also was included in Facebook postings advertising the event. *Id.*

<sup>8</sup> *Id.* at 1 (citing Congressman Darrell Issa, *Darrell Issa Disclaimer*, YOUTUBE (Oct. 16, 2020), <https://www.youtube.com/watch?v=wdOkUnnfej8&feature=youtu.be>). The event appears to have taken place in the parking lot outside the party office building.

<sup>9</sup> Compl. at 2.

<sup>10</sup> *Id.* at 2–3.

1 Commission regulations governing solicitations and attendance by federal candidates at non-  
2 federal fundraising events.<sup>11</sup>

### 3 **III. LEGAL ANALYSIS**

4 The Act and Commission regulations prohibit federal candidates and officeholders from  
5 soliciting funds in connection with a non-federal election unless those solicitations are restricted  
6 to funds that are from sources permitted by the Act, that are in amounts that do not exceed the  
7 Act's contribution limits, and that are consistent with state law.<sup>12</sup> Federal candidates and  
8 officeholders may participate in fundraising events held in connection with a non-federal election  
9 at which federally non-compliant funds are solicited and in publicity for those events, but their  
10 participation is governed by Commission regulations at 11 C.F.R. § 300.64.<sup>13</sup> Specifically,  
11 federal candidates and officeholders are permitted to attend, speak, or be a featured guest at  
12 fundraising events for non-federal elections and may solicit funds, but they must limit any  
13 solicitations to amounts and sources permissible under the Act.<sup>14</sup> A federal candidate or  
14 officeholder may limit his or her solicitation by displaying at the fundraiser a clear and  
15 conspicuous written notice or by making a clear and conspicuous oral statement that the  
16 solicitation does not seek funds in excess of the federal contribution limits and does not seek

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<sup>11</sup> Resp. at 1.

<sup>12</sup> 52 U.S.C. § 30125(e)(1)(B); 11 C.F.R. §§ 300.60, 300.62; *see also* 52 U.S.C. §§ 30116(a)(1)(A), (a)(2)(B) (limiting per-election contributions to \$2,800 from individuals and \$5,000 from non-party multi-candidate political committees during the 2020 election cycle), 30118(a) (prohibiting corporate, labor organization, and national bank contributions), 30119 (prohibiting contributions from federal contractors and prohibiting any person from knowingly soliciting such contributions), 30121 (prohibiting contributions and donations from foreign nationals and prohibiting any person from soliciting, accepting, or receiving such contributions).

<sup>13</sup> *See also* Participation by Federal Candidates and Officeholders at Non-Federal Fundraising Events, 75 Fed. Reg. 24,375, 24,377 (May 5, 2010) (Explanation & Justification) (“Non-Federal Fundraising Events E&J”).

<sup>14</sup> 52 U.S.C. § 30125(e)(3); 11 C.F.R. § 300.64.

1 funds from sources prohibited by the Act.<sup>15</sup> The oral statement can be made by the federal  
2 candidate or officeholder or an event official before any solicitations are made by the federal  
3 candidate or officeholder, such as in opening remarks.<sup>16</sup>

4       Publicity for such a non-federal fundraising event, including “pre-event invitation  
5 materials,” may feature the federal candidate under the following conditions: (1) if the publicity  
6 does not itself contain a solicitation, the federal candidate’s name and likeness may be used  
7 without further restriction; or (2) if the publicity does contain a solicitation, the federal  
8 candidate’s name and likeness may be used only if the solicitation is “limited to funds that  
9 comply with the amount limitations and source prohibitions of the Act” or the publicity “includes  
10 a clear and conspicuous disclaimer that the solicitation is not being made by the [f]ederal  
11 candidate” and the candidate is identified in a “manner not specifically related to fundraising.”<sup>17</sup>

12       Regardless of whether the initial email invitation contained a solicitation, the  
13 Commission dismisses the allegation as a matter of prosecutorial discretion. The Commission  
14 notes that: (1) the respondents sent a follow-on invitation hours later — and another on the day  
15 of the event — that included an adequate disclaimer; (2) adequate disclaimers were made at the  
16 event itself, as discussed below; and (3) there is no information suggesting that donations not in  
17 compliance with the Act’s source and amount limits were made at the event.<sup>18</sup> Given these facts,

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<sup>15</sup> See 11 C.F.R. § 300.64(b)(2)(i).

<sup>16</sup> Non-Federal Fundraising Events E&J, 75 Fed. Reg. at 24,380.

<sup>17</sup> 11 C.F.R. § 300.64.

<sup>18</sup> See *Heckler v. Chaney*, 470 U.S. 821, 831–32 (1985); see also Factual and Legal Analysis at 3, MUR 6841 (Friends for Harry Reid, *et al.*) (dismissing allegation that solicitation from federal candidate that was not specifically limited to contributions that complied with the Act where, among other reasons, the candidate sent “a follow-up email explaining that all contributions had to comply with the Act’s limitations and source prohibitions”).

1 the Commission’s interest in ensuring that federal candidates do not solicit funds outside the  
2 source restrictions and amount limitations of the Act was adequately served, and this matter does  
3 not warrant the further use of Commission resources.

4 Further, the event itself appears to have complied with Commission regulations  
5 governing the participation of a federal candidate at an event that solicits donations towards a  
6 local party and local candidates. The video and photographs from the event show that both  
7 Issa’s statements and event signage satisfied the requirement that a federal candidate soliciting at  
8 a non-federal event “display[] at the fundraising event a clear and conspicuous written notice, or  
9 mak[e] a clear and conspicuous oral statement, that the solicitation . . . does not seek funds in  
10 excess of \$[Federally permissible amount], and does not seek funds from corporations, labor  
11 organizations, national banks, federal government contractors, or foreign nationals.”<sup>19</sup>

12 Accordingly, the Commission dismisses the allegations that Issa and the Committee  
13 violated 52 U.S.C. § 30125 and 11 C.F.R. §§ 300.62, 300.64(b)-(c).

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<sup>19</sup> 11 C.F.R. § 300.64(b)(2)(i) (brackets in original).