

Alan R. Ostergren
Attorney at Law
500 Locust Street – Suite 199
Des Moines, Iowa 50309
alan.ostergren@ostergrenlaw.com (515) 207-0134
ostergrenlaw.com

OCTOBER 21, 2020 2:20 PM

MUR 7826

October 21, 2020

Federal Election Commission
Office of the General Counsel
1050 First Street NE
Washington, DC 20002

U.S. Attorney's Office for the Southern District of Iowa
U.S. Courthouse Annex
110 East Court Avenue, Suite #286
Des Moines, Iowa 50309-2053

BY OVERNIGHT MAIL

Re: Complaint Against the Iowa Democratic Party and
Greenfield for Iowa

1. Introduction

As a concerned citizen of Iowa, I am submitting this complaint and request for investigation of the Iowa Democratic Party ("IDP") and Theresa Greenfield for Iowa. By falsely claiming to use volunteers, IDP and the Greenfield campaign are able to unfairly and illegally inflate their political spending, comparatively disadvantaging any opponents in a way that is prohibited under the Federal Election Campaign Act ("FECA"). They also do damage to the American public by deceiving and perverting the function of the FEC and potentially defrauding the Postal Service. Because of this and the proximity to the upcoming election, I request an immediate investigation by the U.S. Attorney's Office for the Southern District of Iowa.

Pursuant to 11 C.F.R. § 111.4, Alan R. Ostergren ("Complainant") submits this complaint against the IDP¹ and Theresa Greenfield for Iowa² for review by the Federal Election Commission and U.S. Attorney's Office for the Southern District of Iowa. It is my belief, based on the information set out below, that the IDP and Greenfield

¹ FEC Filer ID: C00035600

² FEC Filer ID: C00708164

campaign have violated the FECA with respect to federal candidate mailings, attached as Exhibit A. Eyewitness, recorded evidence, available at <https://www.youtube.com/watch?v=sydNF2Sxpqo>, demonstrate that the IDP and Greenfield campaigns engaged in purposeful deception to falsely manipulate and use volunteer mail exemptions contained in the FECA. They may also have done so to qualify for lower postal rates when they would otherwise be ineligible to do so.

The evidence here demonstrates that the IDP knowingly engaged in deceptive acts to pervert the Federal Election Commission and Postal Service's functions. The recorded evidence illustrates that the IDP funded Greenfield mailings under the volunteer mail exemption when it was not allowed to do so. See 52 U.S.C. § 30101(8)(B) and (9)(B); 11 C.F.R. §§100.87; 100.147. That is, the evidence suggests that the IDP and Greenfield campaigns knowingly staged artificial volunteer sessions to make it appear real volunteers were used in substantial ways to create and distribute these mailings. See 18 U.S.C. § 1001. This scheme would also appear to violate 11 C.F.R. § 110.11(b)'s disclaimer requirements as the mailers do not state whether a candidate or committee authorized the communications. Lastly, by combining mail services between a state party committee and a federal candidate committee, it would appear that the parties have likely violated postal rules for discounted rates applicable to qualified political committees. See, e.g., Domestic Mail Manual § 703 ("Nonprofit USPS Marketing Mail and Other Unique Eligibility") at 1.6.3 ("Cooperative Mailing").

2. The Facts

On September 17, 2020, an undercover reporter with Accuracy in Media ("AIM") attended an Iowa Democratic Party event. The IDP asked individuals to attend a 30-minute event to help stage pictures and make it appear volunteers helped with mail operations.

In the AIM video, an individual appearing to be Bob Ward explained volunteers would "pretend" to help with mailings in order to qualify for lower postal rates and produce evidence for the FEC. AIM video at 00:10-00:36. The video explains that volunteers are used for photo opportunity purposes—with literature having been pre-assembled by banding machines and volunteers being asked to stand by them holding mailers for photographs to be taken. *Id.* It also appears that volunteers are asked to wear different candidate stickers, such that it appears volunteers worked on each of the different campaigns. *Id.* at 1:04-1:15. Throughout this video, it appears that volunteers offered no real assistance with mailers.

The video makes clear that the event lasted a short duration, wherein scores of photographs are taken for the purpose of manipulating federal election law and falsely securing lower postage rates. Indeed, Bob Ward of the IDP even admits on video that this process is just to “pretend” to use volunteers to satisfy the FEC’s legal requirements. *Id.* at 00:10-00:36. Throughout the reporting, no indication is given that volunteers actually help the IDP or Greenfield campaigns with the mailers, let alone substantially help them.

3. Violations of the Law

Based on FEC filings, between July 17, 2020 and August 24, 2020, the IDP claimed some \$1,044,183.80 in allegedly proper exempt mail on behalf of Greenfield for Iowa, a federal congressional candidate committee.³ To claim such an exemption, there must be “substantial volunteer involvement.”⁴ Absent real volunteer involvement, state party payments for mailings on behalf of a federal candidate constitute either contributions or coordinated party expenditures, both subject to limits. *See* 52 U.S.C. § 30116(a)(2)(A), 30116(d).

a. Federal Election Campaign Act Violations

If the IDP is only staging volunteers to simulate mailing operations, it is subject to either a \$5,000 contribution limit to Greenfield or a \$251,800.00 party expenditure limit.⁵ Even under a

³ In support of this, see the Iowa Democratic Party’s Form 3x reports from July 20 and August 20 claiming \$1,044,183.80 in exempt mailings for Greenfield and with miscellaneous text entered on the report that “all payments on Line 30b for Exempt Mail/Greenfield, Exempt Mail/Hart, Exempt Mail/Axne and Exempt Mail/Finkenauer fully comply with the requirements of exempt activities including the use of volunteers.”

⁴ See Factual and Legal Analysis in Matter Under Review (“MUR”) 5841 at 7 (Arizona Democratic Party) (FEC Nov. 5, 2007) (describing past enforcement matters as examining whether there was “substantial volunteer involvement” in the distribution of the materials); Statement of Reasons in MUR 5837 at 4 (Missouri Democratic State Committee) (FEC Dec. 19, 2007) (observing that in past matters the Commission has emphasized that “substantial volunteer involvement” is required for the exemption to apply).

⁵ Federal Election Commission, Coordinated party expenditure limits, <https://www.fec.gov/help-candidates-and-committees/making-disbursements->

best-case scenario implicating party expenditure limits, the IDP is knowingly making \$792,383.80 in excessive party expenditures under 52 U.S.C. § 30116(d). Any knowing violation of the FECA involving amounts \$25,000 or more trigger fines and possible imprisonment up to five years. 52 U.S.C. § 30109(d)(1)(A)(i). Any knowing violation between \$2,000 but less than \$25,000 triggers fines and possible imprisonment up to one year. 52 U.S.C. § 30109(d)(1)(A)(ii). Because of the high dollar amount of likely violations and proximity to the election, I believe an investigation by the U.S. Attorney's Office for the Southern District of Iowa is warranted.⁶

Beyond the staggering amounts of prohibited party coordinated expenditures or contributions sponsored by the IDP, the mailers fail to indicate whether or not the Greenfield campaign authorized them. 11 C.F.R. § 110.11(b). Because the mailings fail to include that information, they violate necessary disclaimer requirements.

b. Deceiving and Impairing the Functions of Federal Agencies

Where a party sets out to knowingly deceive and impair the functions of a federal agency, serious criminal considerations come into play. 18 U.S.C. § 1001 prohibits the issuance of false statements or information, such as falsely labeling mailings as exempt in FEC reports, or falsely qualifying for reduced postal rates⁷, with accordingly severe penalties. 18 U.S.C. § 371 provides that where a party seeks to impede a federal agency in its operations, criminal penalties may be appropriate. Notably, this implicates not just the Federal Election Commission, but also potential abuse of the Postal Service's allowance of reduced rate mailings for qualified political committees. *See* 39 U.S.C. § 3626(e) (authorizing certain qualified political committees for reduced postage rates); and implementing regulations, Domestic Mail Manual § 703 ("Nonprofit USPS Marketing Mail and Other Unique Eligibility") at 1.3.1 ("Qualified Political Committees"); 1.6.3 ("Cooperative Mailing"); United States Postal Service Customer Support Ruling, PS-055 (703.1.6), <https://pe.usps.com/text/csr/PS-055.htm>. Knowingly

[political-party/coordinated-party-expenditures/coordinated-party-expenditure-limits/](#).

⁶ Because the FEC currently lacks a legally required quorum to act on such complaints, referral to the U.S. Attorney's Office for the Southern District of Iowa is also required.

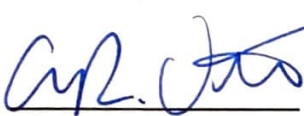
⁷ 39 U.S.C. § 410(b)(2) makes 18 U.S.C. § 1001 applicable to Postal Service operations.

setting out to deceive and impair the functioning of federal agencies triggers serious criminal concerns, which implicates the U.S. Attorney's Office for the Southern District of Iowa's oversight.

4. Election Implications and Need for an Immediate Investigation

As a politically active resident of Iowa, I am concerned that the Iowa Democratic Party and Greenfield for Iowa may have illegally manipulated the law to gain an advantage in this November's election. By falsely claiming to use volunteers, these parties are able to unfairly inflate their political spending, comparatively disadvantaging any opponents. They also do damage to the American public by deceiving and perverting the function of the FEC and potentially defrauding the Postal Service. Because the general election is closeby, I request an immediate investigation into this wrongdoing.

Sincerely,



Alan R. Ostergren
500 Locust St., Suite 199
Des Moines, Iowa 50309

Subscribed to me and sworn to before me on this 21 day of October, 2020.



Notary Public

My commission expires on: 9-21-2021

