



FEDERAL ELECTION COMMISSION
Washington, DC

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	
Salt River Valley Water Users' Association)	MUR 7864
Salt River Valley Water Users' Association)	
Political Involvement Committee)	
and Heidi Rowe Schaefer in her official capacity as treasurer)	
Mike Jones)	
)	

**STATEMENT OF REASONS OF CHAIRMAN ALLEN J. DICKERSON AND
COMMISSIONERS SEAN J. COOKSEY AND JAMES E. "TREY" TRAINOR, III**

This Matter involves allegations that the Salt River Valley Water Users' Association ("SRVWUA"), which operates the Salt River Project ("SRP"), a water and power utility, violated the Federal Election Campaign Act, as amended (the "Act") when a member of its management team suggested that the Complainant become involved with Salt River Valley WUA's separate segregated fund, Salt River Valley Water Users' Association Political Involvement Committee ("SRP PIC").¹ Specifically, the Complainant alleges that she was improperly coerced to become involved with SRP PIC, in violation of 52 U.S.C. § 30118(b)(3) and 11 C.F.R. §§ 114.2(f) and 114.5(a).

Our Office of General Counsel ("OGC") recommended that we dismiss these allegations on the basis that the available evidence did not show that SRP improperly solicited or coerced the Complainant.² Although we agreed that this Matter should not be pursued further, we believed that a finding of no reason to believe was more appropriate than a dismissal. In our view, when a complaint, on its face, lacks information or evidence indicating that a violation of the Act has occurred, a finding of no reason to believe is the correct outcome. In this Matter, the Complainant alleges that SRP improperly solicited or coerced her to contribute to SRP PIC, but the information provided in the Complaint itself does not indicate that SRP's communications rose to the level of improper solicitation or coercion as defined by the Act. Therefore, given the absence of evidence supporting the inference that a violation occurred, we voted to find no reason to believe.

¹ See generally Compl., MUR 7864 (Salt River Valley Water Users Association, *et al.*).

² First Gen. Counsel's Rpt. at 2, MUR 7864.

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I. FACTUAL BACKGROUND

Complainant Nevada Jack asserts that she has been employed at SRP since October 2002.³ Her position at SRP at the time she filed the Complaint was Manager of Operations Planning.⁴ In her Complaint, Jack states that on February 1, 2019, she applied for the position of Manager of Transmission System Planning (a lateral position) to gain experience that she hoped would further advance her career at SRP.⁵

Jack states that after being notified she had not been hired for the position, she met with Mike Jones, Senior Director of Corporate Strategy, Planning & Innovation (and the hiring director for the lateral position), to discuss feedback on her application.⁶ Jack asserts that at this meeting, which occurred on February 20, 2019, Jones suggested Jack become "involved" with SRP PIC to help advance her career. Jack specifically alleges that "[Jones] stated that becoming involved in the PIC events is a way to show that I am approachable and can talk with one of SRP's Associate General Managers, Kelly Barr, about her kids. He stated that 'young people are joining PIC, and they're getting a leg up over me.'"⁷ Jack contends that involvement in SRP PIC includes donating time and financial contributions in amounts that are suggested for employees, and that the recommendation that she become involved with SRP PIC to help advance her career was coercive.⁸

Respondent SRP PIC is registered both with the Commission and the Arizona Secretary of State and is administered as a separate segregated fund.⁹ The Complaint includes a web link to SRP PIC's June 2020 Monthly Report and other disclosures filed with the Commission and attaches printed pages of SRP PIC materials that are posted on its internal employee website.¹⁰ In these materials, SRP PIC describes itself as a political action committee that was organized in 1976, which "fosters employee engagement in public policy issues and gives SRP employees a voice in electing federal, state and local officials."¹¹ The materials also explain the purpose of PIC and state that "contributions will be used solely to support the election campaigns of candidates running for federal, state, county and local offices and NOT used for administrative purposes,"¹² that "requested contributions are merely a suggestion," and that "those contributing are free to contribute more or less than

³ Compl. at 1, MUR 7864.

⁴ Resp. at 2, MUR 7864.

⁵ Compl. at 1, MUR 7864.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ Salt River Valley Water Users' Association Political Involvement Committee, Statement of Organization (Dec. 10, 2019), <https://docquery.fec.gov/pdf/373/201912109166172373/201912109166172373.pdf>.

¹⁰ *See* Compl. at Ex., MUR 7864.

¹¹ *Id.*

¹² *Id.*

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the requested amount.”¹³ Finally, the materials advise that “SRP will not favor or disadvantage anyone by reason of his/her contribution amount or decision not to contribute,” and that the employee has “the right to refuse to contribute without fear of any reprisal.”¹⁴

The Response denies the allegation that Jack was solicited to make contributions or that joining PIC was a requirement for promotion at SRP, and includes a signed statement from Jones, who allegedly made the comments that form the factual basis of the Complaint.¹⁵ In his statement, Jones contends that during the February 20, 2019 meeting, he explained to Jack that she did not receive the position due to performance issues and asserts that he does not recall discussing SRP PIC at that meeting. Instead, he attests that he recalls raising SRP PIC during a subsequent meeting with Jack on December 10, 2020, during which she asked for advice on becoming a “stronger candidate for promotion opportunities” at SRP.¹⁶ Jones asserts he mentioned SRC PIC at the December 2020 meeting, along with other industry groups and non-profit boards, as examples of networking opportunities, and acknowledges that he provided Jack with names of other employees who had participated in those types of organizations.¹⁷

With respect to SRP PIC specifically, Jones denies soliciting a contribution from Jack, and avers, “I only recall stating that joining was an opportunity if Ms. Jack were interested in legislative issues, that doing so was entirely voluntary, and that involvement would give Ms. Jack opportunities to interact with SRP leaders she would not otherwise see in her day-to-day work.”¹⁸ Respondents contend that Jones did not, at any point, solicit a contribution from Jack during his meetings with her, nor did he suggest that involvement in SRP PIC was necessary or required for her advancement at SRP.¹⁹

II. APPLICABLE LAW

Under the Act and the Commission’s regulations, corporations are permitted to establish and solicit political contributions to an SSF.²⁰ The Commission has defined “solicitation” in the context of SSFs as a statement that publicizes the SSF’s right to accept unsolicited contributions from any lawful contributor; provides information on how to contribute to the SSF; or encourages support for the SSF.²¹

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *See generally* Resp., MUR 7864.

¹⁶ *See* Resp. at Ex., MUR 7864.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Resp. at 3, MUR 7864.

²⁰ 52 U.S.C. § 30118(b)(2)(C); 11 C.F.R. § 114.1(a)(2)(iii).

²¹ *See, e.g.*, Advisory Op. 1979-13 (RAYPAC) (stating that a communication that describes an SSF’s activities and encourages employee participation constitutes a solicitation); Advisory Op. 1979–13 (Assoc. Gen. Contractors PAC) (stating that a communication that encourages readers to support SSF activities or provides them with information on how they can contribute to the SSF constitutes a

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Corporations may solicit employees²² for contributions to their SSFs, so long as these contributions are entirely voluntary and not coerced.²³ In order to prevent coerced contributions to a corporation's SSF, the Act and Commission regulations require employers who solicit their employees to inform the employee at the time of each solicitation of (i) "the political purposes of the fund at the time of such solicitation"; (ii) "his or her right to refuse to so contribute without any reprisal"; (iii) "[t]hat the [contribution amount] guidelines are merely suggestions"; (iv) "[t]hat the individual is free to contribute more or less"; and (v) that "the corporation . . . will not favor or disadvantage anyone by reason of the amount of their contribution or their decision not to contribute."²⁴ "[A] solicitation that clearly indicates that contributions are voluntary satisfies the Act and these regulations."²⁵ SSFs are prohibited from "mak[ing] a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal."²⁶

III. LEGAL ANALYSIS

The Complaint attaches the materials provided by SRP PIC to its employees, which meet the requirements set forth in the Act and Commission regulations to ensure that SSF solicitations are voluntary. It provides no other documents or information that would indicate these policies are not followed at SRVWUA.²⁷ Accordingly, SRP PIC appears to have met the statutory and regulatory requirements for SSF solicitations in its materials.²⁸

As for the conversation that occurred between Jack and Jones, which forms the basis for the Complaint, certain facts are disputed. Jack alleges that Jones suggested she become involved with SRP PIC on February 20, 2019, during a conversation where the two discussed her unsuccessful application for a lateral position within SRVWUA.²⁹ Jones, however, states that he only discussed SRP PIC with Jack during a separate, later meeting, on December 10,

solicitation). The Commission has generally characterized the concept of "solicitation" as related to an SSF's fundraising activities. *See, e.g.*, Advisory Op. 1976-27 (BreadPAC).

²² The permitted frequency and manner of solicitation varies, depending on whether the employee is considered part of the connected corporation's "restricted class." *See* 11 C.F.R. § 114.1(j). For the purposes of this Matter, the Complainant's status as a member of SRVWUA's restricted class is not in dispute.

²³ 52 U.S.C. § 30118(b)(3); 11 C.F.R. § 114.5(a); *see also* Advisory Op. 2003-14 at 3 (Home Depot).

²⁴ 52 U.S.C. § 30118(b)(3)(B)–(C); 11 C.F.R. § 114.5(a)(2)–(4).

²⁵ *See* First Gen. Counsel's Rpt. at 12–13, 19, MUR 5666 (MZM Inc.) (2007).

²⁶ 52 U.S.C. § 30118(b)(3)(A)–(C); 11 C.F.R. § 114.5(a)(3)–(5).

²⁷ Compl. at Ex., MUR 7864.

²⁸ *See supra* n.24–25.

²⁹ Compl. at 1, MUR 7864.

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2020.³⁰ Timing aside, both Jones and Jack acknowledge that Jones suggested SRP PIC as one of several potential networking opportunities for Jack during this conversation.³¹

The Complaint's primary allegation is that Jones's suggestion that Jack become involved with SRP PIC was coercive; however, it provides no information showing a threat of detrimental job action, financial reprisal, or force if Jack did not make a contribution to SRP PIC or engage in fundraising activities on behalf of a federal candidate or political committee. Jack does not allege that her lack of participation in PIC was the reason she did not receive the promotion for which she had previously applied, but states that she filed the Complaint to ensure that her career at SRP "is not stunted [sic] because I refuse to give time or money to what I understand to be a purely volunteer endeavor. I also do not want the stigma within SRP that joining PIC can lead to advancement in the company."³² There is therefore no evidence of a tacit threat of detrimental action for Jack or other SRP employees who did not participate in PIC.

The available information suggests that Jack sought feedback and career advice after not being selected for a position, and at most, that Jones told her that joining the SSF would provide networking opportunities that might help her advance her career. These circumstances are materially distinguishable from those the Commission has found to be coercive.³³ In addition, Jack does not allege, and there is no information to indicate, that SRVWUA employees are coerced into participating in or contributing to SRP PIC. Further, there is no information to demonstrate that Jack's promotion application was disadvantaged by her not being a member of or contributor to SRP PIC. And there is no suggestion that joining SRP PIC in particular would give Jack an advantage above any of the other networking opportunities suggested by Jones.

As such, based on the Complaint's failure to provide information that, if true, would constitute a violation of the Act, we voted to find no reason to believe that Salt River Valley Water Users' Association and Heidi Rowe Schaefer in her official capacity as treasurer, and Mike Jones, violated 52 U.S.C. § 30118(b)(3) and 11 C.F.R. §§ 114.2(f) and 114.5(a).

³⁰ Resp. at Ex., MUR 7864.

³¹ Compl. at 1, MUR 7864 ("One of the few suggestions that Jones mentioned for my career was involvement in the Political Involvement Committee."); Resp. at Ex. MUR 7864 ("I recall offering examples of the types of organizations in which she could become involved: industry groups, non-profit boards, and SRP PIC.").

³² Compl. at 1, MUR 7864.

³³ See, e.g., MUR 5666 (MZM, Inc.); MUR 5379 (CarePlus Medical Centers., Inc.); MUR 5337 (First Consumers Nat'l Bank).

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Date



Allen J. Dickerson
Chairman

June 14, 2022

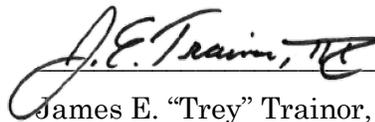
Date



Sean J. Cooksey
Commissioner

June 14, 2022

Date



James E. "Trey" Trainor, III
Commissioner