

December 27, 2021

VIA EMAIL

Federal Election Commission
Office of Complaints Examination
& Legal Administration
Attn.: Kathryn Ross, Paralegal
1050 First Street, NE
Washington, DC 20463
cela@fec.gov

Re: Federal Election Commission Complaint – MUR 7942

Dear Ms. Ross:

I am counsel to Rudy Salas, Rudy Salas for Congress, Ana Huerta in her official capacity as treasurer, and Rudy Salas for Assembly (collectively, “Respondents”). I write in response to the Complaint filed by the Foundation for Accountability and Civic Trust on November 5, 2021. The Complaint alleges that Respondents violated the Federal Election Campaign Act of 1971, as amended (“the Act”) and Commission regulations by using state campaign resources to support Mr. Salas’ federal congressional campaign. Respondents request that the Commission dismiss the complaint with no further action because, to the extent there is any truth to the allegations, the conduct was engaged in by campaign volunteers who possessed no knowledge of or intent to violate the law. Additionally, the Commission has established a clear precedent of dismissing complaints when the use or alleged use of non-federal campaign resources for federal campaign purposes are of *de minimus* value as they are here. For these reasons, we request that the Commission dismiss the complaint with no further action.

FACTUAL BACKGROUND

Rudy Salas is an elected official currently serving in the California State Assembly. On October 18, 2021, Mr. Salas announced his federal campaign for Congress at a press conference that had been organized on short notice. In advance of the press conference, a few campaign volunteers reconfigured signs that were originally created for Mr. Salas’ state Assembly campaign by covering the word “Assembly” and handwriting the word “Congress” in its place. The total number of such signs used at the press conference was approximately twelve, with an estimated value of less than \$100, if they have any value at all.

Federal Election Commission

December 27, 2021

Page 2

LEGAL BACKGROUND AND ANALYSIS

The Act and Commission regulations prohibit federal candidates from soliciting, receiving, directing, transferring, or spending funds in connection with a federal campaign unless the funds are in amounts and from sources permitted by the Act.¹ An individual who is involved in both a state and federal election is required to spend only federal funds for the federal election.² However, the Commission has dismissed multiple complaints alleging the expenditure of state funds on federal elections when the amounts at issue have been so low that, in the interest of administrative efficiency, further enforcement proceedings have not been warranted.

For instance, earlier this year, the Commission voted 6-0 to dismiss a complaint alleging that a candidate for federal office had used state campaign resources for her federal campaign.³ In MUR 7720, the Complaint alleged that Representative Madeleine Dean's state campaign committee had made approximately \$17,000 of expenditures on behalf of her federal committee while she ran for federal office.⁴ In their response to the complaint, the Respondents addressed the various expenditures identified by demonstrating that some of those costs were for state campaign purposes, not for the federal campaign, as Rep. Dean was simultaneously running for state and federal office. But, the Respondents conceded that the state committee had "paid for web hosting services that should have been paid for by the [f]ederal [c]ommittee and that the [s]tate [c]ommittee paid the entire cost of a mailbox rental when the expense should have been split between the [state and federal] committees."⁵ The cost of these services was approximately \$250, and the response from the candidate indicated that the federal committee had disgorged the amount in issue to the United States Treasury.⁶ Based on the Commission's Enforcement Priority System, the matter was deemed as "low priority," especially considering the information provided by the Respondents and the low dollar amount involved.⁷ For these reasons, the Commission dismissed the Complaint.

Similarly, in MUR 7367, a candidate's state committee made two impermissible \$1,000 contributions to the candidate's federal committee.⁸ Though the Commission noted that these contributions were impermissible, the amount at issue was deemed *de minimus*.⁹ Therefore, the Commission issued a reminder to the candidate and his campaign committees that such contributions are prohibited and dismissed the complaint.

Here, the Complaint alleges that the amount at issue for the use of the campaign signs at Mr. Salas' federal campaign event is \$160,¹⁰ even though this value is probably over-stated. Because the campaign signs were reconfigured by campaign volunteers unaware of the law and

¹ 52 U.S.C. § 30125(e)(1); 11 C.F.R. § 300.61.

² 11 C.F.R. § 300.63.

³ See MUR 7720, *Friends of Madeleine Dean et al. EPS Dismissal Report Certification* (Apr. 14, 2021).

⁴ MUR 7720, *Complaint* (Mar. 16, 2020).

⁵ MUR 7720, *Friends of Madeleine Dean, et. al. Enforcement Priority System Dismissal Report*, at 2 (Oct. 5, 2020).

⁶ *Id.*

⁷ *Id.* at 3.

⁸ MUR 7367, *Anthony J. Brindisi, et. al. General Counsel's Report* (Oct. 16, 2018).

⁹ *Id.*

¹⁰ MUR 7942, *supra* note 1.

Federal Election Commission

December 27, 2021

Page 3

given the Commission's precedent of dismissing similar complaints where the unintentional use of non-federal campaign funds was similarly *de minimus*, the complaint should be dismissed with no further action. Mr. Salas is aware that the expenditure of state campaign resources on his federal campaign is prohibited and will make every effort to ensure that such a violation does not occur in the future.

We appreciate your consideration of this request.

Sincerely,

OLSON REMCHO LLP



RICHARD R. RIOS