



William J. Quinlan

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April 4, 2022

Via Email

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

Re: MUR 7960 – Response to Complaint against Michael Garton

Dear General Counsel's Office,

I am counsel for and represent Michael Garton regarding the complaint received by the Federal Election Commission ("FEC") against Mr. Garton, numbered as matter MUR 7960, and served on Mr. Garton on February 18, 2022 ("Complaint"). On March 2, 2022, Mr. Garton submitted to the FEC a Statement of Designation of Counsel designating me as his counsel regarding MUR 7960.

On March 4, 2022, the FEC granted an extension of time for Mr. Garton to respond to the Complaint until April 4, 2022. This letter, along with the Affidavit of Michael Garton Submitted in Support of Response ("Affidavit"), constitutes Mr. Garton's timely response to the Complaint against Mr. Garton. Mr. Garton's Affidavit is attached hereto as Exhibit 1. By this response, Mr. Garton seeks to demonstrate that no action should be taken against him by the FEC with respect to the Complaint.

The Complaint alleges Casten for Congress, the federal candidate committee for Sean Casten, through its agent and campaign manager, Michael Garton, impermissibly coordinated with federal Super PAC SunshinePAC on paid communications targeting Kelly Mazeski, a candidate for Congress and an opponent of Sean Casten in the Illinois 6th District 2018 Democratic primary election, resulting in a contribution exceeding federal limits. Throughout this letter, Casten for Congress will be referred to as simply "the Committee". The federal law implicated by the allegation in the Complaint is 11 C.F.R. § 109.21 ("Section 109.21") within Title 11 – Federal Elections within the Code of Federal Regulations.

The factual evidence Mr. Garton submits in support of his response consists entirely of his Affidavit. In the interest of space and brevity, I will not repeat here the entirety of the Affidavit, which should be read and considered in close conjunction with this letter. Rather, the Affidavit

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lays out the factual circumstances that are within Mr. Garton's personal knowledge as related to the time period and conduct at issue and as alleged in the Complaint.

To be clear, besides what Mr. Garton states in the Affidavit on his personal knowledge, Mr. Garton does not have personal knowledge of the other alleged facts in the Complaint other than what Mr. Garton can glean from publicly available information. Aff. ¶ 28. Furthermore, Mr. Garton does not have personal knowledge of the documents attached to the Complaint other than what Mr. Garton can glean from reviewing the documents attached to the Complaint or what Mr. Garton can glean from publicly available information. Aff. ¶ 29.

Mr. Garton's recitation of facts within his personal knowledge in the Affidavit conclusively demonstrate the Complaint's charge against Mr. Garton is erroneous and without merit under the standard for finding a "coordinated communication" under Section 109.21. As the General Counsel's Office is aware, for the FEC to find an impermissible "coordinated communication" involving Mr. Garton, the FEC must find the standard under 11 C.F.R. § 109.21(a) is met:

A communication is coordinated with a candidate, an authorized committee, a political party committee, or an agent of any of the foregoing when the communication:

- (1) Is paid for, in whole or in part, by a person other than that candidate, authorized committee, or political party committee;
- (2) Satisfies at least one of the content standards in paragraph (c) of this section; and
- (3) Satisfies at least one of the conduct standards in paragraph (d) of this section.

Here, the "communications" described in the Complaint do not satisfy at least one of the conduct standards in paragraph (d) of Section 109.21. As a result, there can be no finding of a "coordinated communication" involving Mr. Garton.

The communications do not satisfy the conduct standard in paragraph (d)(1) because Mr. Garton never requested or suggested to Tom Casten or to any employee, officer, or representative of the SunshinePAC that such mailers or other communications that are described in the Complaint be created, produced, or distributed. Aff. ¶ 19. Furthermore, Mr. Garton never assented to a suggestion by Tom Casten or any employee, officer, or representative of the SunshinePAC to create, produce, or distribute such mailers or other communications that are described in the Complaint. Aff. ¶ 20.

The communications do not satisfy the conduct standard in paragraph (d)(2) because Mr. Garton had no involvement whatsoever in decisions regarding the planning, creation, content, strategy, timing, frequency, media outlet, or any other possible aspect that went into the creation, production, and distribution of the mailers or other communications that are described in the Complaint. Aff. ¶ 21.

The communications do not satisfy the conduct standard in paragraph (d)(3) because Mr. Garton never had any discussion or communication—whether in person, over the phone, over

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email, or over any other medium—with either Tom Casten or any employee, officer, or representative of the SunshinePAC regarding the mailers or other communications that are described in the Complaint or any non-publicly available information regarding the committee or Sean Casten's primary campaign. Aff. ¶ 22.

The communications do not satisfy the conduct standard in paragraph (d)(4). According to the documents attached to the Complaint, SunshinePAC employed or paid Campaign Industries and Forest Printing Company in relation to the mailers or other communications that are described in the Complaint. Aff. ¶ 23. Neither Campaign Industries nor Forest Printing Company, nor any owner, officer, or employee of either Campaign Industries or Forest Printing Company, provided any services whatsoever to the Committee during the time Mr. Garton was working for the Committee for the March 2018 Democratic primary and during the previous 120 days before the communications were distributed. Aff. ¶ 24.

The communications do not satisfy the conduct standard in paragraph (d)(5). Attached to the Complaint is the Statement of Organization for SunshinePAC, and the only individual identified in that document is John Hennelly with an address in Evanston, Illinois. Aff. ¶ 25. At no point did the Committee ever utilize the Evanston address space noted for SunshinePAC for the Committee's work. Aff. ¶ 26. John Hennelly did not provide any services whatsoever to the Committee, nor was John Hennelly or SunshinePAC an employee or independent contractor of the Committee, during the time Mr. Garton was working for the Committee for the March 2018 Democratic primary and during the previous 120 days before the communications were distributed. Aff. ¶ 27.

The communications do not satisfy the conduct standard in paragraph (d)(6) because none of the conduct standards in paragraphs (d)(1) through (d)(5) are applicable, thus rendering paragraph (d)(6) inapplicable under its terms.

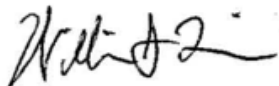
Based on the foregoing and based on Mr. Garton's Affidavit, the General Counsel's Office should find the Complaint's charge against Mr. Garton is erroneous and without merit under the standard for finding a "coordinated communication" under Section 109.21. Accordingly, Mr. Garton respectfully requests the following: (1) no action be taken against him in response to the Complaint; (2) the General Counsel's Office find the Complaint does not warrant the use of FEC resources and summarily dismiss the Complaint; and (3) should the General Counsel's Office make a report to the FEC, the General Counsel should recommend the FEC find no reason to believe the Complaint sets forth a possible violation of the Act and close the file.

Please contact me with any questions or comments you may have at
wjq@quinlanfirm.com.

or

Sincerely,

The Quinlan Law Firm, LLC



William J. Quinlan

Exhibit 1

**IN RE: FEDERAL ELECTION COMMISSION COMPLAINT
AGAINST MICHAEL GARTON – MUR 7960**

**AFFIDAVIT OF MICHAEL GARTON
SUBMITTED IN SUPPORT OF RESPONSE**

I, Michael Garton, being first duly sworn, state under oath as follows:

1. I am one of the respondents to a Complaint that was filed and received by the Federal Election Commission (“FEC”) and subsequently served upon me on February 18, 2022, which Complaint has been assigned matter MUR 7960.

2. I submit this Affidavit in support of my response to the Complaint, which response primarily consists of a letter by my designated counsel, William J. Quinlan.

3. I have personal knowledge of the matters stated in this affidavit based on my personal experiences, observations, and associations, and if called to testify in this matter, whether before the FEC or a court, I could competently testify to all such matters described in this affidavit.

4. In October 2017, I was hired by the principal federal campaign committee for Sean Casten, Casten for Congress (C00648493) (also referred to herein as “the committee”).

5. The office for Casten for Congress was located in Downers Grove, Illinois.

6. At that time, Sean Casten was a candidate for the Democratic nomination for the Illinois 6th Congressional District, which primary took place in March 2018.

7. After being hired by Casten for Congress, I was to report to the committee and begin working for the committee at its location in Downers Grove, Illinois, in November 2017.

8. At the time I was hired by Casten for Congress, I was residing in Louisville, Kentucky.

9. At the time I was hired by Casten for Congress, the committee and I agreed that I would report to the committee and work for the committee at its location in Downers Grove, Illinois.

10. I resided in a separate living space at the home of Tom and Judy Casten in Hinsdale, Illinois, while working on-site for the committee at its location in Downers Grove, Illinois.

11. The separate living space I occupied had its own entrance and living space separate from the primary residence that Tom Casten and Judy Casten occupied.

12. I would have dinner and other common social interactions with Tom Casten and/or Judy Casten on occasion while residing in the separate living space in their home.

13. Although I did come to learn that both Tom Casten and Judy Casten volunteered with the campaign on an unofficial and unpaid basis, any conversations I had with either Tom Casten and/or Judy Casten related to the committee or to Sean Casten's primary campaign related solely to publicly available information.

14. I never requested that Tom Casten make the donations that he made to the SunshinePAC, nor did I ever discuss such donations with Tom Casten or with Judy Casten.

15. I never coordinated or consulted with Tom Casten or with Judy Casten regarding Tom Casten's donations to the SunshinePAC.

16. I never discussed Tom Casten's donations to the SunshinePAC with any employee, officer, or representative of the SunshinePAC.

17. I never coordinated or consulted with any employee, officer, or representative of the SunshinePAC regarding Tom Casten's donations to the SunshinePAC.

18. At some point after the mailers were distributed to the public, I did see a copy of one of the mailers that I believe are the subject of the Complaint, but I am not familiar with the phone calls.

19. I never requested or suggested to Tom Casten or to any employee, officer, or representative of the SunshinePAC that such mailers or other communications that are described in the Complaint be created, produced, or distributed.

20. I never assented to a suggestion by Tom Casten or any employee, officer, or representative of the SunshinePAC to create, produce, or distribute such mailers or other communications that are described in the Complaint.

21. I had no involvement whatsoever in decisions regarding the planning, creation, content, strategy, timing, frequency, media outlet, or any other possible aspect that went into the creation, production, and distribution of the mailers or other communications that are described in the Complaint.

22. I never had any discussion or communication—whether in person, over the phone, over email, or over any other medium—with either Tom Casten or any employee, officer, or representative of the SunshinePAC regarding the mailers or other communications that are described in the Complaint or any non-publicly available information regarding the committee or Sean Casten's primary campaign.

23. According to the documents attached to the Complaint, SunshinePAC employed or paid Campaign Industries and Forest Printing Company in relation to the mailers or other communications that are described in the Complaint.

24. Neither Campaign Industries nor Forest Printing Company, nor any owner, officer, or employee of either Campaign Industries or Forest Printing Company, provided any

services whatsoever to the committee during the time I was working for the committee for the March 2018 Democratic primary and during the previous 120 days before the communications were distributed.

25. Attached to the Complaint is the Statement of Organization for SunshinePAC, and the only individual identified in that document is John Hennelly with an address in Evanston, Illinois.

26. At no point did the committee ever utilize the Evanston address space noted for SunshinePAC for the committee's work.

27. John Hennelly did not provide any services whatsoever to the committee, nor was John Hennelly or SunshinePAC an employee or independent contractor of the committee, during the time I was working for the committee for the March 2018 Democratic primary and during the previous 120 days before the communications were distributed.

28. Besides what I have stated above on personal knowledge, I do not have personal knowledge of the other alleged facts in the Complaint other than what I can glean from publicly available information.

29. I do not have personal knowledge of the documents attached to the Complaint other than what I can glean from reviewing the documents attached to the Complaint or what I can glean from publicly available information.

Under 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

FURTHER AFFIANT, SAYETH NOT.

4/4/2022
Date


Michael Garton