

From: [Robert Byrd](#)
To: [CELA](#)
Cc: terrisa@terrisa2024.com
Subject: Re: MUR 8272 Response to FEC Complaint
Date: Friday, September 20, 2024 2:45:52 PM
Attachments: [Per MUR 8272 Federal Election Commission Complaint Notification \(PAAU & Terissa Bukovinac\).pdf](#)
[nationbuilder conversation w Robert.pdf](#)
[Emails with Robert Explaining FEC contacts.pdf](#)
[Initial Emails with PAAU.pdf](#)
[FEC Call Log.pdf](#)
[Signed PAAU BFP Contract.pdf](#)

RECEIVED

By OGC/CELA at 3:06 pm, Sep 20, 2024

Hello Kathryn,

Attached below is a summary of our activities in relation to the complaint.

The five PDFs listed below the summary correspond to the other attachments I've included here.

Additionally, I've included the following email text from Bukovinac for President campaign manager Stephanie Luiz to PAAU Executive Director Caroline Smith which confirms our understanding of the finance law.

Thanks for taking the time to talk to me today regarding the campaign renting a list! As we discussed, for list rental the email list owner conducts the sending of the email so that we do not own the list (per Aenedot).

Additionally, here are the [IRS rules](#) regarding a section 501(c)(3) organization conducting business activities with a candidate for public office:

A business activity such as selling or renting of mailing lists, the leasing of office space or the acceptance of paid political advertising may constitute prohibited political campaign activity. Some factors to consider in determining whether an organization is engaged in prohibited political activity campaign include:

- a. Whether the good, service or facility is available to candidates in the same election on an equal basis,
- b. Whether the good, service or facility is available only to candidates and not to the general public,
- c. Whether the fees charged to candidates are at the organization's customary and usual rates, and
- d. Whether the activity is an ongoing activity of the organization or whether it is conducted only for a particular candidate.

Please let me know when you're ready to proceed! Thanks!

--

Stephanie Luiz

We await your response,
 Robert Byrd
 Treasurer
 Bukovinac for President



Robert Byrd <robert@terrisa2024.com>

Per MUR 8272 Federal Election Commission Complaint Notification (PAAU & Terrisa Bukovinac)

Stephanie Luiz <stephanie@terrisa2024.com>

Wed, Jun 12, 2024 at 1:06 PM

To: mcannon@thomasmoresociety.org

Cc: Robert Byrd <robert@bfp2024.com>, Caroline Smith <Carolinesmith@paaunow.org>, Terrisa Bukovinac <terrisa@bfp2024.com>

Hello.

Thank you so much for your assistance with this matter.

In the fall of 2023, Terrisa asked me to find a platform through which we could rent lists from PAAU. We were told by our advisors that the campaign could not purchase lists and that, with list rental, we would not be allowed to look at the emails from the nonprofits we were renting from. We looked at various platforms to see whether they could support this kind of email campaign, but companies like Mail Chimp, Nation Builder, Aenedot, etc. could not support these kind of communications. By January, we asked Robert, our treasurer, to reach out to the FEC to inquire about what platforms they allow candidates to use for this purpose. In the interim, I looked into the FEC and IRS policies regarding a 501(c)(3) organization conduct business activities with a candidate for public office and discovered that there are four conditions that determine whether this is acceptable (which are listed in my preliminary emails with PAAU). This information, in conjunction with what Robert received from the FEC, led us to conclude that it would be acceptable for a 501(c)(3) to send an email on the campaigns behalf so long as it clearly communicated that the email was not an endorsement, and that list rental is an ongoing activity of PAAU, available at the same rate to all candidates in the same election on an equal basis and to the general public at that time.

To corroborate these facts, I attached below Robert's FEC communications and preliminary emails with PAAU (which describe a slightly different deal than the one we settled on that is represented in our contract), and our final signed contract.

Below, I have also included a statement from Robert, our treasurer, detailing his interactions with the FEC.

Robert's Statement (treasurer):

I was tasked by the Campaign in the Fall of 2023 to ask Nationbuilder, the vendor hosting the website and donation landing page, about services they provide in the area of purchasing email contacts to send emails to. They informed me that they had no such service. Additionally, they told me that their embedded email communication tool is only allowed to send to people who opt in — that Nationbuilder's policy precludes sending anything to a rented or purchased list. Because of this, the Campaign never used Nationbuilder's email tool and we continued our research in the future.

Between January and April 2024, I was tasked by the campaign to call the FEC Information Division to ask about how to purchase access to contacts. I was told that there are third party companies who offer temporary access to lists of contacts for a standard fee. When asking them about contacting nonprofits to provide this service, I was told that as long as no discount is offered — that we're not cut a break in terms of how much we must pay them — the same arrangement can be made with 501(c)3 organizations as with a company centered on this activity.

Thanks so much again! Please let me know if you require anything else from me.

--

Stephanie Luiz

Campaign Manager

e. Stephanie@bfp2024.comw. [Terrisa 2024](#)

5 attachments



nationbuilder conversation w: Robert.pdf

70K



Emails with Robert Explaining FEC contacts.pdf

54K



Initial Emails with PAAU.pdf

115K



FEC Call Log.pdf

210K



Signed PAAU_BFP Contract.pdf

254K

Conversation with NationBuilder

Started on November 21, 2023 at 10:32 AM Pacific Time (US & Canada)
time PST (GMT-0800)

--- November 21, 2023 ---

10:32 AM | NBot: Hi Robert 🖐️

What can we help you with? Please feel free to share as much detail as possible so we can get you the information you need.

10:32 AM | Robert Byrd: Does nationbuilder assist with renting email lists for one-time use?

10:32 AM | NBot: [Article: "Authenticate your email"]
[Article: "How to import"]
[Article: "Connect an email address to a broadcaster"]
More in the Help Center (https://support.nationbuilder.com?conversation_id=468602296641&utm_content=suggestions-fallback&utm_source=operator)

10:32 AM | NBot: Did that answer help, or are you looking for something else?

10:32 AM | Robert Byrd: Talk to a person 👤

10:32 AM | NBot: No problem! Our support team will be in touch soon. Please add any context or other information here that might be helpful in resolving your issue.

10:33 AM | Robert Byrd: I am starting to research the practice of renting lists for sending out emails. Does nationbuilder have a paid service for this, or at least have information on best practices.

10:34 AM | Robert Byrd: *?

02:47 PM | Dominique from NationBuilder: Hi Robert,

Thank you for reaching out. I hope your day is going well so far.

Using rented or purchased lists is actually against our Acceptable Use Policy. For more details, I'll link our email AUP here (https://nationbuilder.com/email_acceptable_use)

If you have any other questions or need further clarification, please let me know and I would be happy to assist.

Thank you,
Dom - NationBuilder Support

03:01 PM | Robert Byrd: Thank you. Does Nationbuilder advise on this topic at all if we're not using this platform to send messages? For example, giving a referral?

--- November 22, 2023 ---

06:44 PM | Dominique from NationBuilder: I'm sorry - I'm not too sure what you mean by a referral. You are able to use the email blast capabilities for sending out messages, but it can only be to prospects or supporters that have opted in. In other words, they should be expecting to hear from you

Thank you,
Dom - NationBuilder Support

--- June 12, 2024 ---

07:37 AM | Robert Byrd: Hello, can you email me a transcript of this conversation. Our campaign manager requested it for our records.

09:32 AM | Robert Byrd: Oh, never mind. After clicking your name at the top of the chat pop up banner, the download button appeared for me. Thanks.

Exported from NationBuilder on June 12, 2024 at 09:32 AM Pacific Time (US & Canada) time PDT (GMT-0700)



Stephanie Luiz <stephanie@terrisa2024.com>

Call Logs

2 messages

Robert Byrd <robert@terrisa2024.com>

Wed, Jun 12, 2024 at 12:00 PM

To: Stephanie Luiz <stephanie@bfp2024.com>

Cc: Stephanie Luiz <stephanie@terrisa2024.com>, Robert Byrd <robert@bfp2024.com>

Hello Stephanie,

This phone call log (attached) from AT&T contains 3 phone calls I made in early April 2024 to the [FEC Information Division](#), 800.424.9530. These may be the conversations where I spoke at length about regulations surrounding purchasing access to email contacts. The 3 calls here total 20 minutes.

I'll be sending you the Nationbuilder conversation from last Fall that I texted you about earlier today in a separate email.

Thanks,
Robert Byrd
Campaign Treasurer
Bukovinac for President

 **Usage details.pdf**
210K

Robert Byrd <robert@terrisa2024.com>

Wed, Jun 12, 2024 at 12:39 PM

To: Stephanie Luiz <stephanie@bfp2024.com>

Cc: Stephanie Luiz <stephanie@terrisa2024.com>, Robert Byrd <robert@bfp2024.com>

Hi Stephanie,

Here I've attached a downloaded text file of the conversation I had with Nationbuilder, from the time the Campaign began researching this topic of email lists.


Also, here is a copy of the text message I sent you earlier today -- the detailed overview you requested of our process:

I was tasked by the Campaign in the Fall of 2023 to ask Nationbuilder, the vendor hosting the website and donation landing page, about services they provide in the area of purchasing email contacts to send emails to. They informed me that they had no such service. Additionally, they told me that their embedded email communication tool is only allowed to send to people who opt in — that Nationbuilder's policy precludes sending anything to a rented or purchased list. Because of this, the Campaign never used Nationbuilder's email tool and we continued our research in the future.

Between January and April 2024, I was tasked by the campaign to call the FEC Information Division to ask about how to purchase access to contacts. I was told that there are third party companies who offer temporary access to lists of contacts for a standard fee. When asking them about contacting nonprofits to provide this service, I was told that as long as no discount is offered — that we're not cut a break in terms of how much we must pay them — the same arrangement can be made with 501(c)3 organizations as with a company centered on this activity.

Thanks,
Robert Byrd

[Quoted text hidden]

 **nationbuilder_2023_11_21_468602296641.txt**
3K



Stephanie Luiz <stephanie@terrisa2024.com>

List Rental Follow-Up

7 messages

Stephanie Luiz <stephanie@terrisa2024.com>

Wed, Mar 27, 2024 at 3:47 PM

To: Carolinesmith@paaunow.org

Hey!

Thanks for taking the time to talk to me today regarding the campaign renting a list!

As we discussed, for list rental the email list owner conducts the sending of the email so that we do not own the list (per Aenedot).

Additionally, here are the [IRS rules](#) regarding a section 501(c)(3) organization conducting business activities with a candidate for public office:

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- d. Whether the activity is an ongoing activity of the organization or whether it is conducted only for a particular candidate.

Please let me know when you're ready to proceed! Thanks!

—
 Stephanie Luiz
 Campaign Manager
 e. Stephanie@bfp2024.com
 w. [Terrisa 2024](#)


Caroline Smith <carolinesmith@paaunow.org>

Fri, Mar 29, 2024 at 4:06 PM

To: Stephanie Luiz <stephanie@terrisa2024.com>

Hey Steph!

I spoke with my board this morning and they approved our rental of the list to TFP for y'all to send an email inviting people on my list to learn about the campaign and to join your list.

One thing I want to clarify is if you plan for this to be a one time thing or if you have intentions to do more than one email? I know the rules state that after saying yes I have to accept future inquiries but if you had the intention to do this multiple times I would have to go back to the board to ask about that.

Can you remind me the price range you mentioned? I think you said 4-20 cents per email but I wanted to confirm.

The way I'd like to do it is for us to have a contract or agreement written up, and I can do a PayPal or Quickbooks invoice. I'd then want to know what date you want the email to be sent out so I can plan for that. Then I'd just ask you to share with me the text and content of the email you are planning for so I can get it into MailChimp and send you a test email.

Let me know what you think! Thanks!

Caroline T. Smith
Executive Director
Progressive Anti-Abortion Uprising
919-525-4431

[Quoted text hidden]

Stephanie Luiz <stephanie@terrisa2024.com>
To: Caroline Smith <carolinesmith@paaunow.org>
Cc: Robert Byrd <robert@bfp2024.com>

Mon, Apr 1, 2024 at 9:45 AM

Awesome! Thank you so much.

I think we're planning on starting with one email, but we will reach out again if we desire to do more.

The common price range is between 4-10 cents per email. If you could let us know your rate and how large your list is so we have a price range, that would be great.

I totally agree about the agreement. I am CC'ing Robert to connect with you regarding the financials.

We will get you a date and the content of the email later this week depending on Terrisa's schedule! Thank you so much! Have a great week!

Steph

[Quoted text hidden]

Stephanie Luiz <stephanie@terrisa2024.com>
To: nathanieljstuart@gmail.com

Tue, Apr 16, 2024 at 10:01 AM

[Quoted text hidden]

Stephanie Luiz <stephanie@terrisa2024.com>
To: Terrisa Bukovinac <terrisa@bfp2024.com>

Mon, Apr 22, 2024 at 10:36 AM

----- Forwarded message -----

From: **Stephanie Luiz** <stephanie@terrisa2024.com>
Date: Wed, Mar 27, 2024 at 3:47 PM
Subject: List Rental Follow-Up
To: <Carolinesmith@paaunow.org>

[Quoted text hidden]

[Quoted text hidden]

Caroline Smith <carolinesmith@paaunow.org>
To: Stephanie Luiz <stephanie@terrisa2024.com>
Cc: Robert Byrd <robert@bfp2024.com>

Wed, Apr 24, 2024 at 4:46 PM

Hey Steph!

Last time we talked we had discussed the email being for talking about the campaign, and then inviting people to join your email list. I read over the doc you sent and this looks like just a fundraising email, and I didn't see a mention of joining your list to learn more, so I just wanted to hear where that change happened and make sure that's allowed, and I'd have to recheck with my board quickly because they approved just an info/invitation email specifically. Let me know what you think, thanks!

Caroline T. Smith
Executive Director
Progressive Anti-Abortion Uprising
919-525-4431

[Quoted text hidden]

Stephanie Luiz <stephanie@terrisa2024.com>
To: Caroline Smith <carolinesmith@paaunow.org>
Cc: Robert Byrd <robert@bfp2024.com>

Wed, Apr 24, 2024 at 5:19 PM

Hey! The idea was that they would opt in to receive emails from us in the future so that they would join our list. Terrisa wrote the email, so speaking to her directly about what edits you'd like to see if there are any would be ideal. Thanks!

[Quoted text hidden]

1

The codes shown in this legend are the codes most commonly used with Wireless service from AT&T. Additional codes may be present.

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This Agreement ("Agreement") is entered into on April 24, 2024, between Progressive Anti-Abortion Uprising ("PAAU") and Bukovinac for President ("Candidate").

1. Purpose of Agreement:

PAAU agrees to send 4 emails to its supporters spread out over the course of the next 6 weeks on behalf of the Candidate with consideration of the IRS rules regarding a section 501(c)(3) organization conducting business activities with a candidate for public office. These emails would not constitute an endorsement of the Bukovinac for President Campaign and would clearly state the following:

"This email does not constitute an endorsement of the Bukovinac for President Campaign by Progressive Anti-Abortion Uprising per the IRS rules regarding a section 501(c)(3) organization conducting business activities with a candidate for public office. List rental is an ongoing activity of this organization, available at the same rate to all candidates in the same election on an equal basis and to the general public at this time."

2. Use of List:

The Candidate agrees to use the rented list exclusively for campaign-related activities, including but not limited to fundraising, outreach, and voter engagement efforts. The Candidate shall not use the list for any other purposes, including commercial or non-political activities. The Candidate will provide PAAU with email copy 24 hours or more before the email is to be sent to the list.

4. Confidentiality:

Candidate agrees to maintain the confidentiality of the rented list and to not disclose, sell, or otherwise distribute the list to any third parties. The Candidate shall take all necessary measures to safeguard the privacy and security of the supporter information contained in the list.

5. Payment:

The Candidate will pay Nonprofit an agreed-upon rate of 20 percent of all proceeds from the use of the supporter list. Payment will be made digitally or via check after the second and fourth emails.

6. Term and Termination:

This Agreement shall commence on the date of execution and shall remain in effect until the completion of the New Jersey Primary on June 4, 2024. Either party may terminate this Agreement with written notice in the event of a material breach by the other party.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

DocuSigned by:

Caroline Smith

4EA5DD03B11D442...

4/24/2024

[Signature of Nonprofit Representative]

[Date]

DocuSigned by:

Terrisa Bukovinae

DB5A971141804C0...

4/24/2024

[Signature of Candidate]

[Date]

From: [Caroline Smith](#)
To: [CELA](#)
Subject: Response to FEC complaint - PAAU
Date: Tuesday, November 19, 2024 12:14:19 AM
Attachments: [FEC letter from PAAU \(1\).pdf](#)
[Email communication.pdf](#)
[Signed PAAU BFP Contract.pdf](#)

RECEIVED

By OGC/CELA at 7:58 am, Nov 19, 2024

ATTN: Kathryn Ross

CELA@fec.gov

To whom it may concern,

Thank you for the opportunity to demonstrate in writing that no action should be taken against PAAU in this situation concerning a complaint against us made this past summer. Here you can find my statement as well as some attached evidence for your consideration.

In 2023, I was contacted by Stephanie Luiz asking if we could discuss the possibility of the Terrisa for President campaign renting PAAU's email list in order to connect with our contacts. Stephanie and I talked at length about the legal regulations and the parameters around this type of activity, and we created a thorough contract to outline the agreement (attached here). After speaking with advisors and reviewing the laws at length, we understood that Terrisa's campaign would not be allowed to access the email addresses, but instead could rent the list and send the content of an email to be sent out by PAAU. I understand that in January the campaign treasurer Robert reached out to the FEC to inquire about what platforms they allow candidates to use for this purpose. Stephanie also looked into the FEC and IRS policies regarding a 501(c)(3) organization conducting business activities with a candidate for public office and discovered that there are four conditions that determine whether this is acceptable, which we discussed and outlined in the contract we drafted. This information, in conjunction with what Robert received from the FEC, led us to conclude that it would be acceptable for a 501(c)(3) to send an email on the campaign's behalf so long as it clearly communicated that the email was not an endorsement, and that list rental is an ongoing activity of PAAU, available at the same rate to all candidates in the same election on an equal basis and to the general public at that time.

I have included a copy of the email communication between myself and Stephanie, which discusses several different options, and I have included the contract that we finally settled on after much research. I believe you can see the caution that I expressed within these communications.

I hope we can quickly resolve this situation and I appreciate your patience and understanding.

Best,

Caroline Smith, PAAU

--

Caroline Taylor Smith

Caroline Taylor Smith
PAAU Executive Director
carolinesmith@paaunow.org
919-525-4431





Caroline Smith <carolinesmith@paaunow.org>

List Rental Follow-Up

5 messages

Stephanie Luiz <stephanie@terrisa2024.com>

Wed, Mar 27, 2024 at 3:47 PM

To: Carolinesmith@paaunow.org

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Please let me know when you're ready to proceed! Thanks!

--

Stephanie Luiz
Campaign Manager
e. Stephanie@bfp2024.com
w. [Terrisa 2024](#)



Caroline Smith <carolinesmith@paaunow.org>

Fri, Mar 29, 2024 at 4:06 PM

To: Stephanie Luiz <stephanie@terrisa2024.com>

Hey Steph!

I spoke with my board this morning and they approved our rental of the list to TFP for y'all to send an email inviting people on my list to learn about the campaign and to join your list.

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Executive Director
Progressive Anti-Abortion Uprising
919-525-4431
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Cc: Robert Byrd <robert@bfp2024.com>

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Steph
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Caroline Smith <carolinesmith@paaunow.org>
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Executive Director
Progressive Anti-Abortion Uprising
919-525-4431
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Stephanie Luiz <stephanie@terrisa2024.com>
To: Caroline Smith <carolinesmith@paaunow.org>
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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

DocuSigned by:

Caroline Smith

4EA5DD03B11D442...

4/24/2024

[Signature of Nonprofit Representative]

[Date]

DocuSigned by:

Terrisa Bukovinae

DB5A971141804C0...

4/24/2024

[Signature of Candidate]

[Date]