

SANDLER REIFF

SANDLER REIFF LAMB
ROSENSTEIN & BIRKENSTOCK, P.C.

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Washington, DC 20005
www.sandlerreiff.com
T: 202-479-1111
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November 13, 2019

Mr. Jeff S. Jordan
Assistant General Counsel
Office of Complaints Examination
and Legal Administration
Federal Election Commission
1050 First Street, N.E.
Washington, D.C. 20463

Re: MUR 7638

Dear Mr. Jordan:

The undersigned serves as counsel to the Maine Democratic Party and Betty Johnson, in her official capacity as Treasurer (“the Committee”). This letter responds on behalf of the Committee to the Commission’s notification that it received a complaint (the “Complaint”) alleging that the Committee violated the Federal Election Campaign Act (the “Act”) and Federal Election Commission (the “Commission”) regulations.

Background

The Complaint alleges that Sara Gideon and her former state leadership PAC, Gideon Leadership PAC (the “PAC”), violated the Act by “knowingly devising a conduit-contribution scheme” in relation to four federal contributions made in 2016.¹ It also alleges that the PAC failed to register and report as a federal political committee, including failing to open a separate bank account to segregate federally impermissible funds. The Committee received two of the federal contributions at issue. In its prayer for relief, the Complainant requests that the Commission require the Committee to disgorge those funds.²

The Committee received two apparently personal contributions from Sara Gideon in 2016: one for \$1,000.00 on July 11th and a second contribution for \$500.00 on October 3rd. The Committee disclosed the contributions on its August Monthly 2016 and Pre-General 2016 Report of Receipts and Disbursements (FEC Form 3X) as contributions from Sara Gideon.

On or about August 6, 2019, the undersigned counsel received a letter from counsel to Sara Gideon indicating that the PAC had received incorrect guidance on how to process the contributions and had reimbursed Sara Gideon for her contributions.³ After discovering the error,

¹ Complaint at 3.

² *Id.* at 6.

³ *See*, Exhibit A, Letter from Counsel to Sara Gideon for Maine.

Sara Gideon disgorged the funds paid to her by the PAC to the U.S. Treasury. The letter also states that the “PAC had sufficient federally permissible funds at the time of each contribution to make the contribution directly to the Maine Democratic Party.”⁴

After receiving the letter, the Maine Democratic Party subsequently amended its August Monthly 2016 and Pre-General 2016 Report of Receipts and Disbursements to correctly identify Gideon Leadership PAC as the contributor.⁵ These amendments were filed on September 4, 2019 and September 5, 2019 respectively.

Legal Analysis

Commission regulations require that a political committee examine each contribution for “evidence of illegality” at the time of receipt.⁶ If the contribution shows no indicia of illegality, the committee is under no further obligation to investigate the source of the funds. The regulations go on to state that if a committee later discovers a contribution may be illegal because of newly received evidence, it has thirty days to refund the contribution if it is determined to be illegal.⁷ At the time the Committee received the two contributions at issue, there was no evidence of any potential illegality on the face of the contributions, so the Committee deposited the contributions in ordinary course.

The Committee later received, through counsel, a letter explaining a processing error on the part of the contributor and indicating that Gideon Leadership PAC was the intended contributor. The letter also indicated that the PAC had sufficient federally permissible funds to make each contribution to the Committee. Federal political committees may accept contributions from non-federal committees, so long as the non-federal committee can “demonstrate through a reasonable accounting method that, [when making a contribution], the organization has received sufficient funds subject to the limitations and prohibitions of the Act to make such contribution...”⁸ The August 6, 2019 letter stated that the PAC had sufficient federally permissible funds to make the two contributions at issue. Based on this assertion, and within thirty days, the Committee amended its relevant reports to the Commission to disclose the corrected contributor information.

Conclusion

For the reasons described above, the Committee should find no reason to believe that a violation of the Act has occurred and should dismiss the matter. Even if the Commission were to find reason to believe that a violation had occurred, the Commission has broad discretion under Heckler v. Chaney to determine whether it is worth using additional Commission resources to move forward.⁹ Due to the *de minimis* nature of the contributions at issue, the Commission should exercise its prosecutorial discretion and dismiss this Complaint.

⁴ *Id.*

⁵ *See*, Exhibit B Amendments to Form 3X

⁶ 11 C.F.R. § 103.3(b).

⁷ *See* 11 C.F.R. § 103.3(b)(2)

⁸ 11 C.F.R. § 102.5(b).

⁹ *Heckler v. Chaney*, 470 U.S. 821 (1985).

If you have any questions regarding this Response, my daytime number is (202) 479-1111. My email address is reiff@sandlerreiff.com.

Sincerely,

A handwritten signature in blue ink, appearing to read 'N. Reiff', with a stylized flourish at the end.

Neil P. Reiff
Erin Tibe
Counsel to the Maine Democratic Party and
Betty Johnson, in her official capacity as
Treasurer

EXHIBIT A



700 13th Street, NW
Suite 600
Washington, D.C. 20005-3960

T +1.202.654.6200
F +1.202.654.6211
PerkinsCoie.com

August 6, 2019

Jacquelyn K. Lopez
JacquelynLopez@perkinscoie.com
D. +1.202.654.6371
F. +1.202.654.9949

VIA MAIL AND EMAIL

Sandler Reiff Lamb Rosenstein & Birkenstock, P.C.
Attn: Neil Reiff, Esquire
1090 Vermont Ave. NW
Washington, DC 20005

Re: Gideon Leadership PAC Contributions

Dear Mr. Reiff:

I write to provide you with additional information regarding two contributions received by your client, the Maine Democratic Party (FEC ID No. C00179408): (i) a \$1,000 contribution from Sara Gideon on July 11, 2016; and (ii) a \$500 contribution from Sara Gideon on October 3, 2016.

As a result of incorrect guidance on how to process these contributions, Gideon Leadership PAC (the "PAC") reimbursed Sara Gideon for each contribution on July 25, 2016 and October 12, 2016, respectively. Sara Gideon wrote a check to the U.S. Department of the Treasury the week of July 29, 2019 to disgorge the funds paid to her by the PAC for these contributions.

The PAC had sufficient federally permissible funds at the time of each contribution to make the contribution directly to the Maine Democratic Party.¹

Please let us know if you have any additional questions.

Sincerely,

Marc E. Elias
Jacquelyn K. Lopez
Counsel to Sara Gideon for Maine

¹ The week of July 29, 2019, the PAC used a reasonable accounting method to confirm, based on currently available information, that the PAC had sufficient federally permissible funds at the time of each contribution to directly make the contribution.

EXHIBIT B

Image# 201909049163142973

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**FEC
FORM 3X****REPORT OF RECEIPTS
AND DISBURSEMENTS**
For Other Than An Authorized Committee

Office Use Only

1. NAME OF COMMITTEE (in full) TYPE OR PRINT ▼ Example: If typing, type over the lines.

12FE4M5

Maine Democratic Party

ADDRESS (number and street)

PO Box 5258

320 Water St 3rd Floor

Check if different
than previously
reported. (ACC)

Augusta

ME

04330-5258

2. FEC IDENTIFICATION NUMBER ▼

CITY ▲

STATE ▲

ZIP CODE ▲

C

C00179408

3. IS THIS
REPORTNEW
(N)

OR

AMENDED
(A)

4. TYPE OF REPORT

(Choose One)

(a) Quarterly Reports:

April 15
Quarterly Report (Q1)July 15
Quarterly Report (Q2)October 15
Quarterly Report (Q3)January 31
Year-End Report (YE)July 31 Mid-Year
Report (Non-election
Year Only) (MY)Termination Report
(TER)(b) Monthly
Report
Due On:

Feb 20 (M2)



May 20 (M5)



Aug 20 (M8)

Nov 20 (M11)
(Non-Election
Year Only)

Mar 20 (M3)



Jun 20 (M6)



Sep 20 (M9)

Dec 20 (M12)
(Non-Election
Year Only)

Apr 20 (M4)



Jul 20 (M7)



Oct 20 (M10)



Jan 31 (YE)

(c) 12-Day
PRE-Election
Report for the:

Primary (12P)



General (12G)



Runoff (12R)



Convention (12C)



Special (12S)

Election on

M M /

D D /

Y Y Y Y Y Y

in the
State of(d) 30-Day
POST-Election
Report for the:

General (30G)



Runoff (30R)



Special (30S)

Election on

M M /

D D /

Y Y Y Y Y Y

in the
State of

5. Covering Period

M M /

D D /

Y Y Y Y Y Y

through

M M /

D D /

Y Y Y Y Y Y

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Johnson, Betty, , ,

Type or Print Name of Treasurer

Signature of Treasurer

Johnson, Betty, , ,

[Electronically Filed]

Date

M M /

D D /

Y Y Y Y Y Y

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 52 U.S.C. § 30109.

Office
Use
Only**FEC FORM 3X**
Rev. 05/2016

Image# 201909049163142978

PAGE 6 / 105

FEC MISCELLANEOUS TEXT RELATED TO A REPORT, SCHEDULE OR ITEMIZATION**Form/Schedule: F3XA****Transaction ID :**

Amended to correctly disclose a contribution from Gideon Leadership PAC that was previously disclosed as being from Sara Gideon.

Form/Schedule:**Transaction ID:**

Image# 201909049163143008

SCHEDULE A (FEC Form 3X) **ITEMIZED RECEIPTS**

Use separate schedule(s)
for each category of the
Detailed Summary Page

FOR LINE NUMBER: PAGE 36 OF 105

(check only one)

<input type="checkbox"/> 11a	<input type="checkbox"/> 11b	<input checked="" type="checkbox"/> 11c	<input type="checkbox"/> 12
<input type="checkbox"/> 13	<input type="checkbox"/> 14	<input type="checkbox"/> 15	<input type="checkbox"/> 16
			<input type="checkbox"/> 17

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)
Maine Democratic Party

Full Name of Individual (Last, First, Middle Initial) or Full Organization Name

A. Gideon Leadership PAC

Mailing Address 37 South Freeport Rd

City
FreeportState
MEZip Code
04032FEC ID number of contributing
federal political committee.

C

Name of Employer (for Individual)

Occupation (for Individual)

Receipt For:

☐ Primary ☐ General
☐ Other (specify) ▼

Aggregate Year-to-Date ▼

1000.00

Date of Receipt

M M	/	D D	/	Y Y Y Y Y Y
07		11		2016

Transaction ID : 11c-000038451

Amount of Each Receipt this Period

1000.00

☐ Memo Item

Certified Permissible Funds

Full Name of Individual (Last, First, Middle Initial) or Full Organization Name

B.

Mailing Address

City

State

Zip Code

FEC ID number of contributing
federal political committee.

C

Name of Employer (for Individual)

Occupation (for Individual)

Receipt For:

☐ Primary ☐ General
☐ Other (specify) ▼

Aggregate Year-to-Date ▼

Date of Receipt

M M	/	D D	/	Y Y Y Y Y Y

Amount of Each Receipt this Period

☐ Memo Item

Full Name of Individual (Last, First, Middle Initial) or Full Organization Name

C.

Mailing Address

City

State

Zip Code

FEC ID number of contributing
federal political committee.

C

Name of Employer (for Individual)

Occupation (for Individual)

Receipt For:

☐ Primary ☐ General
☐ Other (specify)

Aggregate Year-to-Date ▼

Date of Receipt

M M	/	D D	/	Y Y Y Y Y Y

Amount of Each Receipt this Period

☐ Memo Item

SUBTOTAL of Receipts This Page (optional)..... ►

TOTAL This Period (last page this line number only)..... ►

1000.00

1000.00

Image# 201909059163147994

PAGE 1 / 672

**FEC
FORM 3X****REPORT OF RECEIPTS
AND DISBURSEMENTS**
For Other Than An Authorized Committee

Office Use Only

1. NAME OF COMMITTEE (in full) TYPE OR PRINT ▼ Example: If typing, type over the lines.

12FE4M5

Maine Democratic Party

ADDRESS (number and street)

PO Box 5258

320 Water St 3rd Floor

Check if different
than previously
reported. (ACC)

Augusta

ME

04330-5258

2. FEC IDENTIFICATION NUMBER ▼

CITY ▲

STATE ▲

ZIP CODE ▲

C C00179408

3. IS THIS
REPORTNEW
(N)

OR

AMENDED
(A)

4. TYPE OF REPORT

(Choose One)

(a) Quarterly Reports:

☐ April 15
Quarterly Report (Q1)☐ July 15
Quarterly Report (Q2)☐ October 15
Quarterly Report (Q3)☐ January 31
Year-End Report (YE)☐ July 31 Mid-Year
Report (Non-election
Year Only) (MY)☐ Termination Report
(TER)(b) Monthly
Report
Due On:☐ Feb 20 (M2)☐ May 20 (M5)☐ Aug 20 (M8)☐ Nov 20 (M11)
(Non-Election
Year Only)☐ Mar 20 (M3)☐ Jun 20 (M6)☐ Sep 20 (M9)☐ Dec 20 (M12)
(Non-Election
Year Only)☐ Apr 20 (M4)☐ Jul 20 (M7)☐ Oct 20 (M10)☐ Jan 31 (YE)

(c) 12-Day

PRE-Election

Report for the:

☐ Primary (12P)☐ Convention (12C)☒ General (12G)☐ Special (12S)☐ Runoff (12R)

Election on

M M / D D / Y Y Y Y Y Y
11 06 2018in the
State of

ME

(d) 30-Day

POST-Election

Report for the:

☐ General (30G)☐ Runoff (30R)☐ Special (30S)

Election on

M M / D D / Y Y Y Y Y Y

in the
State of

5. Covering Period

M M / D D / Y Y Y Y Y Y
10 01 2016

through

M M / D D / Y Y Y Y Y Y
10 19 2016

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Johnson, Betty, , ,

Type or Print Name of Treasurer

Signature of Treasurer

Johnson, Betty, , ,

[Electronically Filed]

Date

M M / D D / Y Y Y Y Y Y
09 05 2019

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 52 U.S.C. § 30109.

Office
Use
Only**FEC FORM 3X**
Rev. 05/2016

FEC MISCELLANEOUS TEXT RELATED TO A REPORT, SCHEDULE OR ITEMIZATION**Form/Schedule: F3XA****Transaction ID :**

Amended to correctly disclose a contribution from Gideon Leadership PAC that was previously disclosed as being from Sara Gideon. -- Please note that the employees that were disclosed on Schedule H4 supporting Line 21(a) as payroll spent less than 25% of their time during the period working on Federal Election Activity or activities in connection with a Federal Election. This also includes fringe benefits for those specific employees. - All fundraising and event activity on this report were for the sole benefit of the committee and not attributable to any candidate for federal office. - This report includes Memo Schedule A entries for contributions received by the Hillary Victory Fund, ASDC Dollars for Democrats and DNC Victory Fund Joint Fundraising Program. The Committee may not have received its share of the proceeds as of the end of the reporting period. If not, the Committee expects to receive transfers at some point in time in the near future.- Regarding donors who provide an address outside of the United States, Hillary Victory Fund has thorough procedures in place to confirm that all contributions are made from permissible sources. - No national party transfers were designated for any activity that meets the definition of exempt.

Form/Schedule:**Transaction ID:**

Image# 201909059163148570

SCHEDULE A (FEC Form 3X) **ITEMIZED RECEIPTS**

Use separate schedule(s)
for each category of the
Detailed Summary Page

FOR LINE NUMBER: PAGE 577 OF 672

(check only one)

☐ 11a ☐ 11b ☒ 11c ☐ 12
☐ 13 ☐ 14 ☐ 15 ☐ 16 ☐ 17

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)
Maine Democratic Party

Full Name of Individual (Last, First, Middle Initial) or Full Organization Name

A. Gideon Leadership PAC

Mailing Address 37 South Freeport Rd

City
 Freeport

State
 ME

Zip Code
 04032

FEC ID number of contributing
 federal political committee.

C

Name of Employer (for Individual)

Occupation (for Individual)

Receipt For:

☐ Primary ☐ General
☐ Other (specify) ▼

Aggregate Year-to-Date ▼

1500.00

Date of Receipt

10 / 03 / 2016

Transaction ID : 11c-000040589

Amount of Each Receipt this Period

500.00

☐ Memo Item

Certified Permissible Funds

Full Name of Individual (Last, First, Middle Initial) or Full Organization Name

B. End Citizens United PAC

Mailing Address 1050 17th St NW Ste 590

City
 Washington

State
 DC

Zip Code
 20036-5592

FEC ID number of contributing
 federal political committee.

C C00573261

Name of Employer (for Individual)

Occupation (for Individual)

Receipt For:

☐ Primary ☐ General
☐ Other (specify) ▼

Aggregate Year-to-Date ▼

5000.00

Date of Receipt

10 / 04 / 2016

Transaction ID : 11c-000040502

Amount of Each Receipt this Period

5000.00

☐ Memo Item

Full Name of Individual (Last, First, Middle Initial) or Full Organization Name

C. Ironworkers Political Education Fund

Mailing Address 1750 New York Ave NW Suite 400

City
 Washington

State
 DC

Zip Code
 20006

FEC ID number of contributing
 federal political committee.

C

Name of Employer (for Individual)

Occupation (for Individual)

Receipt For:

☐ Primary ☐ General
☐ Other (specify)

Aggregate Year-to-Date ▼

5000.00

Date of Receipt

10 / 04 / 2016

Transaction ID : 11c-000040503

Amount of Each Receipt this Period

5000.00

☐ Memo Item

SUBTOTAL of Receipts This Page (optional)..... ►

TOTAL This Period (last page this line number only)..... ►

10500.00