

**BEFORE THE
FEDERAL ELECTION COMMISSION**

Rep. Tom Sullivan
200 E. Colfax Avenue
Denver, CO 80203

Complainant,

v.

MUR # 7755

Senator Cory Gardner
9227 E. Lincoln Ave. #200-234
Lone Tree, CO 80124

Cory Gardner for Senate and Lisa Lisker, Treasurer
9227 E. Lincoln Ave. #200-234
Lone Tree, CO 80124

Krug Champagne (Maison Krug)
LVMH Moët Hennessy Louis Vuitton, Inc.
5 Rue Coquebert
51100 Reims
France

Respondents.

COMPLAINT

This complaint is filed under 52 U.S.C. § 30109(a)(1) against Senator Cory Gardner, Cory Gardner for Senate (the “Campaign”) and Lisa Lisker in her official capacity as treasurer, and Krug Champagne (collectively, “Respondents”) for violating the Federal Election Campaign Act of 1971, as amended (the “Act”), and Federal Election Commission (the “Commission”) regulations. In late February 2020, Senator Gardner attended a ritzy, exclusive event hosted by Krug Champagne at a mansion in Palm Beach, Florida (the “Champagne Event”). After a Colorado state lawmaker filed an ethics complaint alleging that Senator Gardner’s attendance violated a prohibition on gifts

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from lobbyists, the Campaign told the press that it paid for Senator Gardner's attendance at the Champagne Event—though the party was clearly neither a campaign event nor an officially-connected event. Then, in an apparent attempt to disguise the payment, the Campaign reported an expenditure to LaForce Company LLC, rather than to Krug Champagne. Consequently, Senator Gardner and the Campaign converted campaign funds to personal use and violated the Act's reporting requirements.

Alternatively, if Senator Gardner and the Campaign claim that the Champagne Event was a fundraising opportunity for which the Campaign could properly expend campaign funds, then Krug Champagne violated the Act by illegally facilitating a corporate contribution and Senator Gardner and the Campaign violated the Act by accepting an illegal corporate contribution. Depending on how Krug paid for the event, Respondents may also have violated the prohibition on contributions from foreign nationals, as Krug Champagne and its parent company are headquartered in France. The Commission should immediately investigate these violations and take appropriate remedial action against Respondents.

FACTS

Cory Gardner is a current U.S. Senator from the State of Colorado. Senator Gardner is a candidate for re-election in 2020. Cory Gardner for Senate is Gardner's principal campaign committee and Lisa Lisker is its treasurer.

In late February 2020, Senator Gardner attended an invitation-only event hosted by Krug Champagne ("Krug")—a French company and holding of the French-headquartered luxury conglomerate LVMH Moët Hennessy Louis Vuitton, Inc.—at a Palm Beach, Florida mansion. The event was part of Krug's series of "Encounters," and

it featured musical performances paired with Krug champagnes, hors d'oeuvres, and a four-course meal prepared by a chef from the Eau Palm Beach Resort & Spa. Reportedly, the champagne menu included Krug's 2004 Clos Du Mesnil, which averages \$1,132 per bottle, and Krug's Grand Cuvée 161st Edition, which sells for an average of \$204 per bottle. Photos and video of the event show Senator Gardner in attendance, seated across from GOP megadonor Steve Wynn at a long table dotted with plates and champagne flutes, watching a pianist perform.

After a Colorado state representative filed a Senate ethics complaint against Senator Gardner for his attendance at the Champagne Event, the Campaign responded by confirming that Senator Gardner was at the "Encounter" and stating that it paid LaForce, a New York City public relations firm that represents Krug, \$350 to cover his attendance. Indeed, the Campaign reported a \$350 expenditure to LaForce Company LLC on its 2020 April Quarterly Report. The Campaign reported making the expenditure on March 15, 2020 for the purpose of "food/beverage." The Campaign also itemized numerous travel expenses during the reporting period, including for airline tickets and lodging, such as a stay at a Marriott in Florida.

LEGAL DISCUSSION

A. Respondents' Payment for the Champagne Event

The Act prohibits people, including candidates, from converting campaign funds to personal use. "Personal use" occurs when a person uses a contribution "to fulfill any commitment, obligation, or expense . . . that would exist irrespective of the candidate's election campaign or individual's duties as a holder of Federal office." The Commission's regulations list a number of expenses that are *per se* personal use. One of

those expenses is admission fees to attend a concert or other form of entertainment, unless the event is “part of a specific campaign or officeholder activity.” The Commission’s Explanation and Justification for this prohibition clarifies that a “leisure outing” where “the discussion occasionally focuses on the campaign or official functions” is not a “campaign or officeholder activity.” Furthermore, the Commission analyzes meal expenses and travel expenses on a case-by-case basis, and will find payments to be personal use if they are not connected to “legitimate campaign or officeholder related business.”

Separately, the Act prohibits corporations from making contributions to federal candidates and federal candidates from accepting contributions from corporations. A “contribution” includes, in relevant part: (i) “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office;” and (ii) “any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value . . . to any [Federal] candidate . . . in connection with any election.”

The Commission’s regulations also prohibit, as a corporate contribution, the use of corporate funds, including resources and facilities funded with corporate donations, to “facilitat[e] the making of contributions” to federal candidates. Prohibited corporate facilitation broadly means using corporate “resources or facilities to engage in fundraising activities in connection with any federal election.” Corporate facilitation can take the form of officials or employees directing subordinates to plan, organize or carry out fundraising projects that benefit a candidate; allowing a candidate to use the corporation’s list of customers, clients, or vendors to solicit contributions; allowing the candidate to use

meeting spaces that are not customarily available to other clubs, civic or community organizations, or other groups; obtaining catering for an event, which the candidate has not paid for in advance; or any other use of corporate resources or facilities in connection with fundraising activities that is not paid for or reimbursed by the candidate.

Finally, it is unlawful for a “foreign national” to make, directly or indirectly, an expenditure or contribution in connection with a federal election, and it is unlawful for any person to solicit, accept, or receive such a contribution. The term “foreign national” includes “a partnership, association, corporation, organization, or other combinations of persons organized under the laws of or having its principal place of business in a foreign country.”

Here, the Campaign’s \$350 payment for Senator Gardner to attend a lavish entertainment event is a *per se* personal use of campaign funds, and any travel expenses the Campaign paid in connection with the event are also personal use. The Champagne Event involved expensive champagne, decadent food, and musical entertainment, and Senator Gardner has not made any statements indicating that he was conducting campaign or officeholder activities at the event. Rather, it appears that Senator Gardner was on a personal outing for pleasure and that his attendance had nothing to do with his role as a candidate or officeholder. Even if he did occasionally discuss his campaign or officeholder functions with other guests, that sort of intermittent focus on “business” is not enough to transform Senator Gardner’s attendance into “a campaign or officeholder activity” or justify his travel and lodging for the event as a Campaign expense.

If Senator Gardner and the Campaign argue that the Campaign could pay for the Champagne Event because Senator Gardner solicited contributions from those present,

then Krug—which is a business headquartered in France and thus is a “foreign national”—violated the Act by facilitating a contribution using corporate resources and, if it paid for the event directly rather than through a domestic subsidiary, violated the prohibition on foreign national contributions; and Senator Gardner and the Campaign violated the Act by accepting an illegal corporate, and potentially foreign-national, contribution.

Krug is an arm of a corporation, and candidates cannot use corporate resources to solicit contributions, nor can they accept contributions from foreign nationals. Assuming Senator Gardner was fundraising at the Champagne Event, Krug would have provided an exclusive venue, catering, entertainment arranged by Krug employees, and hand-picked guests from Krug’s contact list for Senator Gardner’s fundraising efforts, including megadonor Steve Wynn, from whom Senator Gardner has accepted contributions from in the past on behalf of the NRSC. This type of assistance from Krug is clearly prohibited by the Act and the Commission’s regulations and constitutes a contribution, because Respondents’ \$350 fee—which was not even paid to Krug until weeks after the event—could not have possibly covered Senator Gardner’s meal and champagne, along with the meals and alcohol consumed by those who he solicited, *and* the costs associated with hosting the event. As such, if Senator Gardner and the Campaign did not violate the personal-use prohibition, then they violated the Act by accepting a corporate contribution, possibly from a foreign national, and Krug violated the Act by facilitating contributions to the Campaign, despite its status as a corporation and potentially a foreign national. Both of these scenarios are illegal and warrant immediate investigation. (And the only possible other argument that Senator Gardner and the Campaign could raise—that this was an

officially-connected event, for which the Campaign clearly did not reimburse Krug in full for Senator Gardner's meal and champagne—would result in a violation of the lobbyist-gift ban, an allegation that the Senate Ethics Committee is already investigating.)

B. Senator Gardner's and the Campaign's Reporting of the Payment for the Champagne Event

Principal campaign committees are required to itemize on their financial reports "the name and address of each person to whom an expenditure in an aggregate amount or value in excess of \$200" is made during the election cycle, and the date, amount, and purpose of the expenditure. The purpose of this requirement is to ensure public disclosure of how campaigns spend their money. Accordingly, "[t]he Commission has determined . . . that reporting only the immediate recipient of a committee's payment will not satisfy the requirements of [the Act] when the facts indicate that the immediate recipient is merely a conduit for the intended recipient of the funds."

Here, the Campaign paid LaForce, a public relations firm, for Senator Gardner's attendance at an event hosted by Krug. A person reviewing the Campaign's report would have no notice whatsoever that the \$350 expenditure was for the purpose of Senator Gardner's attendance at the Champagne Event. It appears that LaForce acted as a conduit for the Campaign's reimbursement of Krug, thereby obscuring the ultimate recipient of the Campaign's payment and thwarting the purpose of the Act's reporting requirements. Senator Gardner and the Campaign should have reported paying Krug for the event or included a memo entry on their April Quarterly Report disclosing the true recipient of the funds. Their failure to do so is a violation of 52 U.S.C. § 30104(b).

REQUESTED ACTION

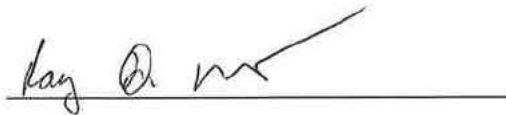
As we have shown, Senator Gardner and the Campaign appear to have violated the Act and Commission regulations by converting campaign funds to personal use, or in the alternative, unlawfully accepting a corporate and possibly foreign-national contribution that Krug also made in violation of the Act, and by misreporting a Campaign expenditure. As such, we respectfully request that the Commission immediately investigate these violations, fine Respondents the maximum amount permitted by law, require the Campaign to refund any contributions solicited with assistance from Krug, amend the April Quarterly Report, and enjoin Respondents from further violations of the law.

Sincerely,



Rep. Tom Sullivan
200 E. Colfax Avenue
Denver, CO 80203

SUBSCRIBED AND SWORN to before me this 18th day of June, 2020.



Notary Public

My Commission Expires:

10/18/2022

