

2016 FEB -9 PM 2:51

February 9, 2016

Brian G. Svoboda
BSvoboda@perkinscoie.com
D. +1.202.434.1654
F. +1.202.654.9150Federal Election Commission
Jeff S. Jordan, Esq., Assistant General Counsel
Office of Complaints Examination
and Legal Administration
999 E. Street, NW
Washington, DC 20463

Re: MUR 6993

Dear Mr. Jordan:

On behalf of Van Hollen for Senate (the "Committee"), Stacey Maud in her official capacity as treasurer, and Rosalyn Levy Jonas (collectively "Respondents"), this letter responds to the Complaint in MUR 6993. Because the Complaint fails to present a violation of the Federal Election Campaign Act, as amended, 52 U.S.C. § 30101 *et seq.* (2015), the Commission should find no reason to believe a violation occurred, dismiss the Complaint, and close the file.

As the Complaint acknowledges, its genesis was an email, sent to approximately 5,000 people by EMILY's List, that opposed Representative Van Hollen, supported one of his opponents in the Democratic primary for United States Senate in Maryland, and misidentified Representative Van Hollen as a Republican. To spike any confusion about Representative Van Hollen's Democratic party identification, the Committee complained publicly about the errant email.¹ The Committee asked Rosalyn Levy Jonas, a former Board Chair of NARAL Pro Choice America, to lend her name to a letter denouncing the errant email and vouching for Representative Van Hollen's Democratic credentials.²

It was clear that the Committee paid for and sent the letter.³ First, the package that included the letter contained a disclaimer on the return envelope reading "Paid for by Van Hollen for Senate."⁴ Second, while the primary envelope contained Ms. Jonas's name, it also contained the

¹ The Complaint correctly notes that the sender "offered to send a corrected version of the original email." Complaint at 1. However, the Complaint does not say why the Committee "declined the offer," which was because the original email sought contributions to defeat Representative Van Hollen, and resending the email would only elicit more contributions toward that end. *Id.*; see also Complaint Exh. A.

² The Complaint is styled as against the Committee and its treasurer in her official capacity. It alleges no conduct by Ms. Jonas that would have violated the Act or any Commission regulation.

³ See Complaint Exh. B.

⁴ See Complaint Exh. C. The context of the letter shows that its purpose was not to raise funds, but rather to respond to the misidentification of Representative Van Hollen's party affiliation and to promote his candidacy. The return

RECEIVED
FEDERAL ELECTION
COMMISSION
2016 FEB -9 PM 3:08
OFFICE OF GENERAL
COUNSEL

1700447411-1670

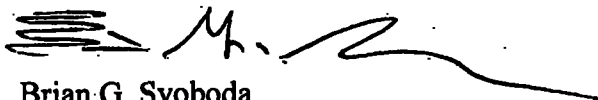
Jeff S. Jordan, Assistant General Counsel
February 9, 2016
Page 2

Committee's address as the return address.⁵ Finally, the complainant was able to identify the Committee as the sponsor of the mailing with no investigation.

The Complaint provides no facts to support its claim of a violation of 52 U.S.C. § 30111(a)(4). It says only that an unspecified number of the political committee's donors received the letter and appeared also on the political committee's reports, while declining to identify them.⁶ Nor does the law support the Complaint's claim of a violation of 52 U.S.C. § 30120. The law does not require a disclaimer on every piece of a multi-piece mailing. To the contrary, Commission regulations specifically provide that an item "that is included in a package of materials" need only carry a disclaimer if it is "[a] communication that would require a disclaimer if distributed separately...."⁷ (In its publications, the Commission uses "a campaign poster [that] is mailed with a solicitation for contributions" as an example.⁸) Moreover, a disclaimer need not "appear on the front or cover page of a communication as long as it appears within the communication."⁹ Here, the communication contained three pieces: the primary envelope, the letter and the reply envelope. They were sent together, and the last of them carried the required disclaimer, as the regulation permits, thus providing full notice to the recipients—and the Complainant—of who paid for the mailing.

Accordingly, Respondents respectfully submit that the Complaint presents no reason to believe that a violation of the Act occurred. We respectfully request the Commission to find accordingly, dismiss the complaint and close the file.

Very truly yours,



Brian G. Svoboda
Rachel L. Jacobs
Counsel to Van Hollen for Senate and Rosalyn Levy Jonas

envelope was included incidentally. Because this was the case, the letter generated only approximately \$3,000 in contributions.

⁵ See Complaint Exh. B.

⁶ See 11 C.F.R. § 111.4(d)(2) (instructing that statements not based on personal knowledge "should be accompanied by an identification of the source of information which gives rise to the complainants belief in the truth of such statements").

⁷ *Id.* § 110.11(c)(2)(v).

⁸ Fed. Election Comm'n, Campaign Guide for Congressional Candidates and Committees 66 (June 2014).

⁹ 11 C.F.R. § 110.11(c)(2)(iv).