FIRST GENERAL COUNSEL'S REPORT

MUR: 7061
DATE COMPLAINT FILED: 05/09/2016
DATING OF NOTIFICATION: 05/13/2016, 08/12/2016
LAST RESPONSE RECEIVED: 08/01/2016
DATE ACTIVATED: 08/08/2016
ELECTION CYCLE: 2016
EXPIRATION OF SOL: 04/15/2021

COMPLAINANT:
Cherunda Fox

RESPONDENTS:
Hillary Victory Fund and Elizabeth Jones in her official capacity as treasurer
Hillary for America and Jose Villarreal in his official capacity as treasurer

RELEVANT STATUTES AND REGULATIONS:
52 U.S.C. § 30116(a)(1)(D)
11 C.F.R. § 102.17(c)(5)
11 C.F.R. § 110.1(c)(5)
11 C.F.R. § 110.3(a), (b)

INTERNAL REPORTS CHECKED:
Disclosure Reports

AGENCIES CHECKED:
None

I. INTRODUCTION

The Complaint alleges that a "Hillary Clinton fundraiser" held on April 15, 2016, raised contributions in excess of the applicable limits. For the reasons set forth below, we recommend that the Commission find no reason to believe that the Respondents violated the Commission's regulations or the Federal Election Campaign Act of 1971, as amended (the "Act"), and close the file.

See Compl. at 1 (May 9, 2016).
II. FACTUAL AND LEGAL ANALYSIS

The Hillary Victory Fund ("HVF"), a joint fundraising committee, held the described fundraiser in San Francisco, California. HVF's participants included Hillary for America ("HFA"), Hillary Clinton's principal campaign committee for the 2016 presidential election, the Democratic National Committee ("DNC"), and 32 state Democratic Party committees.

According to HVF's website, it distributes its contributions using the following formula:

1) The first $2,700/$5,000 of each donation from an individual/PAC is allocated to HFA;

2) The next $33,400/$15,000 of each donation from an individual/PAC is allocated to the DNC;

3) Additional amounts are divided equally among the participating Democratic state party committees, with a maximum contribution of $10,000/$5,000 per state party.

The Complaint alleges that the fundraiser accepted $353,000 from individuals in excess of the contribution limits at 11 C.F.R. § 110.3(a) because the state party participants were affiliated and subject to a single $10,000 contribution limit. Respondents maintain that the

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2 See Hillary for America Resp. ("Resp.") at 1. As the Complaint makes its allegations against a "Hillary Clinton fundraiser," the Office of Complaints Examination and Legal Administration ("CELA") originally notified Hillary for America, Clinton's principal campaign committee. Hillary for America's Response indicated that the fundraiser was held by HVF, so CELA then notified HVF, which did not separately respond to the Complaint.

3 FEC Form 1, Statement of Organization, Hillary Victory Fund, (amended Nov. 2, 2015). This statement of organization was amended on July 1, 2016, to show that 38 state committees are now participating in HVF. See FEC Form 1, Statement of Organization, Hillary Victory Fund (amended July 1, 2016).

4 If a donation was made before the relevant primary election, then the second $2,700/$5,000 will be allocated to HFA's general election campaign fund, followed by the allocation set forth in parts 2 and 3. See https://www.hillaryclinton.com/donate/go/ (last visited Nov. 29, 2016).

5 See https://www.hillaryclinton.com/donate/go/ (last visited Nov. 29, 2016).

6 Compl. at 1.
participating state party committees are not affiliated and do not share a single $10,000

contribution limit. We agree.

The Act imposes a $10,000 limit on a person's contributions to a state party committee in
any calendar year: "[n]o person shall make contributions ... to a political committee established
and maintained by a State committee of a political party in any calendar year which, in the
aggregate, exceed $10,000." This language indicates that the $10,000 limit applies to
contributions made to each state party committee; it does not apply the $10,000 limit, in the
aggregate, to all of the state party committees of a political party. Further, the regulations that
apply to joint fundraising committees do not restrict an individual's ability to contribute up to the
limit to multiple participating state party committees.

The Complainant relies on 11 C.F.R. § 110.3(a) and (b), which govern the contribution
limits for affiliated committees and political party committees, respectively, but that position is
not supported by those provisions. While subpart (a) applies to most committees and
membership organizations, it explicitly excludes political party committees. Subpart (b)
affiliates state party committees with their subordinate committees and clarifies that national and

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7 See Resp. at 1.

8 52 U.S.C. § 30116(a)(1)(D) (emphasis added); see also 11 C.F.R. § 110.1(c)(5).

9 See 11 C.F.R. § 102.17(c)(5) ("Except to the extent that the contributor has previously contributed to any of the
participants, a contributor may make a contribution to the joint fundraising effort which contribution represents
the total amount that the contributor could contribute to all of the participants under the applicable limits of 11 CFR
110.1 and 110.2."). See also Advisory Op. 2004-12 (Democrats for the West) (advising that contributors could
contribute up to $10,000 to "one or more" of nine state party committees that were each affiliated with a common
committee).

10 Compl. at 1.

11 See 11 C.F.R. § 110.3(a)(2)(iv).
state committees are not affiliated. Neither subpart (b) nor any other provision of the
Commission’s regulations affiliates state party committees from different states.

Thus, the Complainant’s allegations are not supported by the applicable law. We
recommend that the Commission find no reason to believe that the Respondents violated the Act
or Commission regulations, and close the file.

III. RECOMMENDATIONS

1. Find no reason to believe that Hillary Victory Fund and Elizabeth Jones in her,
official capacity as treasurer violated the Act or Commission regulations;

2. Find no reason to believe that Hillary for America and Jose Villarreal in his
official capacity as treasurer violated the Act or Commission regulations;

3. Approve the attached Factual and Legal Analysis;

4. Approve the appropriate letters; and

5. Close the file.

11/3/16

Date

Attachment:
Factual and Legal Analysis

12 See 11 C.F.R. § 110.3(b).
FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Hillary Victory Fund
Elizabeth Jones in her official capacity as treasurer
Hillary for America
Jose Villerral in his official capacity as treasurer

1. INTRODUCTION

The Complaint alleges that a "Hillary Clinton fundraiser" held on April 15, 2016, raised contributions in excess of the applicable limits. The available information does not indicate that any of the Respondents violated the Federal Election Campaign Act of 1971, as amended (the "Act"), because Hillary Victory Fund ("HVF") was able to solicit the fundraiser's maximum donation of $353,400 per person.

II. FACTUAL AND LEGAL ANALYSIS

HVF, a joint fundraising committee, held the described fundraiser in San Francisco, California. HVF's participants included Hillary for America ("HFA"), Hillary Clinton's principal campaign committee for the 2016 presidential election, the Democratic National Committee ("DNC"), and 32 state Democratic Party committees. According to HVF's website, it distributes its contributions using the following formula:

1) The first $2,700/$5,000 of each donation from an individual/PAC is allocated to HFA;

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1 See Compl. at 1 (May 9, 2016).
2 See Hillary for America Resp. ("Resp.") at 1.
3 FEC Form 1, Statement of Organization, Hillary Victory Fund, (amended Nov. 2, 2015). This statement of organization was amended on July 1, 2016, to show that 38 state committees are now participating in HVF. See FEC Form 1, Statement of Organization, Hillary Victory Fund (amended July 1, 2016).
2) The next $33,400/$15,000 of each donation from an individual/PAC is allocated to the DNC;\(^4\)

3) Additional amounts are divided equally among the participating Democratic state party committees, with a maximum contribution of $10,000/$5,000 per state party.\(^5\)

The Complaint alleges that the fundraiser accepted $353,000 from individuals in excess of the contribution limits at 11 C.F.R. § 110.3(a) because the state party participants were affiliated and subject to a single $10,000 contribution limit.\(^6\) Respondents maintain that the participating state party committees are not affiliated and do not share a single $10,000 contribution limit.\(^7\) The Commission agrees.

The Act imposes a $10,000 limit on a person's contributions to a state party committee in any calendar year: "[n]o person shall make contributions . . . to a political committee established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $10,000."\(^8\) This language indicates that the $10,000 limit applies to contributions made to each state party committee; it does not apply the $10,000 limit, in the aggregate, to all of the state party committees of a political party. Further, the regulations that apply to joint fundraising committees do not restrict an individual's ability to contribute up to the limit to multiple participating state party committees.\(^9\)

\(^4\) If a donation was made before the relevant primary election, then the second $2,700/$5,000 will be allocated to HFA's general election campaign fund, followed by the allocation set forth in parts 2 and 3. See https://www.hillaryclinton.com/donate/go/ (last visited Nov. 1, 2016).


\(^6\) Compl. at 1.

\(^7\) See Resp. at 1.

\(^8\) 52 U.S.C. § 30116(a)(1)(D) (emphasis added); see also 11 C.F.R. § 110.1(c)(5).

\(^9\) See 11 C.F.R. § 102.17(c)(5) ("Except to the extent that the contributor has previously contributed to any of the participants, a contributor may make a contribution to the joint fundraising effort which contribution represents the total amount that the contributor could contribute to all of the participants under the applicable limits of 11 CFR 110.1 and 110.2."). See also Advisory Op. 2004-12 (Democrats for the West) (advising that contributors could
The Complainant relies on 11 C.F.R. § 110.3(a) and (b), which govern the contribution limits for affiliated committees and political party committees, respectively, but that position is not supported by those provisions.\textsuperscript{10} While subpart (a) applies to most committees and membership organizations, it explicitly excludes political party committees.\textsuperscript{11} Subpart (b) affiliates state party committees with their subordinate committees and clarifies that national and state committees are not affiliated.\textsuperscript{12} Neither subpart (b) nor any other provision of the Commission's regulations affiliates state party committees from different states.

Thus, the Complainant's allegations are not supported by the applicable law. The Commission therefore finds no reason to believe that the Respondents violated the Act or Commission regulations as a result of the activities described in the Complaint.

\textsuperscript{10} Compl. at 1.

\textsuperscript{11} See 11 C.F.R. § 110.3(a)(2)(iv).

\textsuperscript{12} See 11 C.F.R. § 110.3(b).