

A-G79 @B9CI G'H9LH'fl 97 : cfa ' - - Ł

PITTA & GIBLIN LLP  
Attorneys at Law  
120 Broadway, 28th Floor  
New York, New York 10271  
Tel: (212) 652-3890  
Facsimile: (212) 652-3891

Robert J. Bishop  
Partner  
Direct Dial: (212) 652-3824  
rbishop@pittagiblin.com

December 20, 2012

BY ELECTRONIC SUBMISSION

Ms. Jill I. Sugarman  
Sr. Campaign Finance & Reviewing Analyst  
Reports Analysis Division  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

Re:Transfers of Contributions Collected for the 2012 General Election Made by Elizabeth Crowley for Congress

Dear Ms. Sugarman:

We submit this letter on behalf of Elizabeth Crowley for Congress (?Committee?) in order to respond to your concerns regarding various transfers made by the Committee of contributions it had originally accepted for the 2012 General Election.

Ms. Crowley was a candidate for the 2012 Primary Election for the 6th Congressional District of New York. In order to support that candidacy, Ms. Crowley?s authorized campaign committee accepted contributions for both the 2012 Primary and General Elections, in accordance with the restrictions imposed on such contributions by the Federal Campaign Finance Act (?FECA?) and Federal Election Commission?s (?FEC?) regulations. After losing the Primary Election, Ms. Crowley terminated her candidacy, and the Committee undertook a winding down of its operations. One part of such winding down was the disposition of contributions accepted by the Committee for the General Election.

Although candidates for Federal office have the benefit of a separate contribution limit for each the Primary and General Election in which they participate, once Ms. Crowley lost her Primary Election contest, she was prevented from being a candidate in the General Election. Therefore, she could not have the benefit of the General Election contribution limit. Pursuant to FEC regulations 11 CFR 102.9(e)(3), 110.1(b)(3)(i), and 110.2(b)(3)(i), the Committee had to either refund, redesignate, or reattribute the contributions received for the General Election. Had the Committee not undertaken such action, contributions received for the General Election would have constituted contributions above the legal contribution limit for the Primary Election, since Ms. Crowley did not participate in the General Election.

In its effort to comply with the law and regulations, the Committee relied upon FEC Advisory Opinion 2012-06 which addressed a materially indistinguishable set of facts. The Opinion was in response to a request from Rickperry.org. In

\*\*\*\*\*

A-G79 @5 B9CI G'H9LH'fl 97 : cfa ' - - Ł

Advisory Opinion 2012-06, the FEC, considering redesignations of contributions accepted for the Presidential General Election to Governor Perry's state campaign committee, chose not to prohibit the course of action. Beyond the FEC's Advisory Opinion 2012-06, we believe the procedure implemented by the Committee comports with FECA and FEC regulations,

as well as the policy that governs them. The FEC has expressly acknowledged that redesignations to federal campaign committees for future elections for federal office are permissible. See Advisory Opinion 2008-04. There is nothing in FECA or in FEC regulations that requires a redesignation to a campaign committee for state office be treated differently.

FEC regulation 11 CFR 102.9(e)(3) provides, "If a candidate is not a candidate in the general election, any contributions made for the general election shall be refunded to the contributors, redesignated in accordance with 11 CFR 110.1(b)(5) or 110.2(b)(5), or reattributed in accordance with 11 CFR 110.1(k)(3), as appropriate." Although FEC regulations define election as one for federal office, the rationale for the above-cited regulation suggests that, in the context of a redesignation (i.e. obtaining the express authorization of the original contributor to use funds contributed for a different election), "election" should be construed broadly to encompass any future election. As previously mentioned, the reason for the requirement in 11 CFR 102.9(e)(3) that contributions be refunded, redesignated, or reattributed is that those contributions would otherwise exceed the contribution limits of the Primary Election.

Therefore, with respect to the contributions the Committee had received for the General Election, the Committee, in good faith reliance on Advisory Opinion 2012-06:

- 1) contacted each contributor;
- 2) notified the contributor of the impending termination of the Committee; and
- 3) offered the contributor the option of a refund of his or her contribution or the ability to redesignate the contribution to a different (New York State) election.

Ms. Crowley, at the time of the refunds and redesignations, was a candidate for New York State district leader and state committeewoman in the September 13, 2012 and November 4, 2012 elections. Ms Crowley is currently a candidate for New York City Council, the elections for which will take place in September and November of 2013. For contributors that chose to redesignate their contributions to a different election, the Committee obtained signed authorization forms that expressly authorize such redesignations. Please note that the contributions which were redesignated to the state committee race have been spent and the account is now closed.

The Committee never treated the contributions designated for the General Election as the Committee's funds. At all times, General Election funds were segregated from Primary Election funds, not used in connection with the Primary Election, and not converted to personal use. Indeed, by contacting contributors, offering them a refund, and seeking affirmative authorization of any redesignation, the Committee believed itself to be in full compliance with FEC regulations. Ultimately, one contribution totaling \$1,500 was refunded to contributor John Farrell; an additional six contributions totaling \$14,752 still must be refunded to contributors that have so requested refunds. Eight contributions, totaling \$19,950 were redesignated to different state and local election campaign accounts. In effect the Committee took steps to efficiently combine the process of issuing refunds of all General Election contributions and resoliciting new state and local election contributions from those same contributors. It is very clear that had those steps not been combined into one that the Committee would not be subject to the current compliance question. Attached to this submission is a chart ("Exhibit A") that shows which contributions

A-G79 @B9CI G'H9LH'fl 97 : cfa ' - - L

were refunded; which contributions must still be refunded; and which contributions were redesignated to the candidate's state and local campaign committee accounts. Should you need any backup documentation demonstrating the refunds, written authorizations for redesignation, and transfer of funds, the Committee is happy to provide it.

We respectfully request that you reconsider your position that the redesignations undertaken by the Committee run afoul of FEC regulations. We again emphasize the Committee's reliance on Advisory Opinion 2012-06, which involved transactions which are materially indistinguishable from the actions described above. By a vote of 2-3, the FEC failed to find that the proposed actions were prohibited by FECA and FEC regulations. On behalf of the Committee we submit that it has acted in good faith in accordance with that advisory opinion and should not be subject to any sanction provided by the Federal Election Campaign Act.

Should you have any additional questions, please do not hesitate to contact me.

Very truly yours,

Robert J. Bishop

Cc: Hon. Elizabeth Crowley  
Ms. Moira McDermott  
Vito R. Pitta, Esq.

EXHIBIT A

Refunded Contribution Made

1.\$1,500 to Mr. John Farrell

Refunded Contributions to be Made

1.\$500 to IUPAT PAC

2.\$1,752 to Mr. Brendan Murray

3.\$2,500 to UFA Federal FIREPAC

4. \$5,000 to NYS Laborers PAC

5.\$2,500 to Sheet Metal Workers Local 28 PAC

6.\$2,500 to Sheet Metal Workers International Union PAC

Contributions Redesignated to Friends of Elizabeth Crowley

1.\$4,500 from IUPAT PAC

2.\$2,500 from UFA Federal FIREPAC

3.\$1,000 from Metal Lathers Local 46 PAC

Contributions Redesignated to Elizabeth Crowley 2013

1.\$2,500 from Mr. James Nederlander

2.\$2,500 from Mr. James Bell

3.\$2,500 from Mrs. Margaret Bell

4.\$1,000 from Mr. John Farrell

5.\$1,500 from Mr. John Rappaport

6.\$1,950 from Metal Lathers Local 46 PAC

A-G7 9 @ B9CI G'H9LH'fl 97 : cfa ' - - Ł

\*\*\*\*\*