

**BEFORE THE
FEDERAL ELECTION COMMISSION**

End Citizens United
Tiffany Muller
100 M St. SE
Washington, DC 20003

Complainant,

v.

Senator Joni Ernst
910 N. 6th St.
Red Oak, Iowa 51566

Joni for Iowa
P.O. Box 93441
Des Moines, IA 50393

Cabell Hobbs, Treasurer, Joni for Iowa
P.O. Box 93441
Des Moines, IA 50393

Respondents.

COMPLAINT

This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) against Senator Joni Ernst, Joni for Iowa, the principal campaign committee for Senator Joni Ernst (the “Committee”) and Cabell Hobbs in his official capacity as treasurer of the Committee.¹ Senator Ernst and the Committee are ignoring fundamental FEC disclosure requirements in order to hide the Committee’s list of employees from the general public by disclosing only a disbursement to a payroll vendor on its FEC reports and failing to itemize the actual campaign staffers receiving salary payments through the payroll vendor. Senator Ernst and her Committee have already been

¹ Joni for Iowa, FEC Form 1 Statement of Organization (filed July 15, 2019)
<https://docquery.fec.gov/pdf/420/201907159150936420/201907159150936420.pdf>.

subject to allegations this cycle that they engaged in illegal coordination with Iowa Values, a 501(c)(4) dark money organization, related to an overlap in personnel between Senator Ernst’s campaign organizations and the dark money organization. This blatant disregard for required disclosure raises serious concerns that the Committee is hiding its list of staffers in order to cover up violations of the coordination rules set forth in the Federal Election Campaign Act (the “Act”) and Federal Election Commission (“FEC”) regulations.

The Committee failed to itemize salary disbursements on its 2019 October Quarterly, 2019 Year-End report, and its 2020 April Quarterly (the “Reports”), in an apparent violation of 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.3(b). Federal law and Federal Election Commission (the “Commission”) regulations are carefully drafted to require authorized committees to disclose the names of campaign employees, even when a payroll vendor is used. These itemization requirements are more than technicalities. They ensure public access to the true recipients of salary payments, rather than just the name of a committee’s human resources paycheck vendor. Without itemizing the names of the Committee’s staff, there is no way for the public to discover whether there are additional connections between Ernst and Iowa Values or other dark money groups. The Commission should act immediately to require the Committee to disclose its full itemized disbursements and further investigate these potential violations.

FACTUAL BACKGROUND

Senator Joni Ernst is a current United States Senator from Iowa; she is running for re-election to the U.S. Senate in Iowa in 2020.² Her principal campaign committee is Joni for Iowa.³ On October 15, 2019, Joni for Iowa filed with the Federal Election Commission (“FEC”) its October Quarterly 2019 report.⁴ On January 31, 2020, the Committee filed its Year-End 2019 report.⁵ On April 15, 2020, the Committee filed its April Quarterly 2020 report. The Reports do not disclose a single individual as receiving a disbursement for the purpose of salary or payroll for nine months - between July 1, 2019 and March 31, 2020.⁶ Instead, the Committee reports hundreds of thousands of dollars to a payroll services vendor, Insperity Inc., without any accompanying memo entries.⁷ The Reports disclose eighteen total expenditures to Insperity, Inc. with the purpose of disbursement listed for each as “Payroll Service.”⁸ According to Insperity’s website, the company provides “full-service HR solutions,” including processing payroll and payroll management reports.⁹

The Reports’ eighteen disbursements to Insperity total in excess of \$390,000, far more than an amount that is reasonable to pay a vendor only for payroll processing services.¹⁰ Accordingly, the only logical conclusion is that the Campaign is paying Insperity, which is in turn paying each Committee employee their salary. Yet, none of the disbursements to Insperity

² Joni K. Ernst, FEC Form 2 Statement of Candidacy (filed July 15, 2019) <https://docquery.fec.gov/pdf/437/201907159150937437/201907159150937437.pdf>.

³ Joni for Iowa, FEC Form 1 Statement of Organization (filed July 15, 2019) <https://docquery.fec.gov/pdf/420/201907159150936420/201907159150936420.pdf>.

⁴ See Fed. Election Comm’n., Joni For Iowa — Committee filings 2019-2020, <https://www.fec.gov/data/committee/C00546788/?tab=filings>. An amended October quarterly report was filed on January 31, 2020. *See id.* However, the changes to the report are not material to this Complaint.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ Insperity, www.insperity.com.

¹⁰ See Fed. Election Comm’n., Joni For Iowa — Committee filings 2019-2020, <https://www.fec.gov/data/committee/C00546788/?tab=filings>.

include a memo entry itemizing the ultimate recipient of the salary payment.¹¹ Therefore, Respondents are failing to properly disclose the true recipients of its disbursements, as required by law – and in the process, depriving the public of important information.

LEGAL ANALYSIS

Federal law requires that each report filed by a campaign committee includes the full name and address of each person to whom the committee made an expenditure in excess of \$200 in value to meet its operating expenses, together with the date, amount and purpose of each expenditure.¹² It is common for campaign committees to use a payroll vendor that the committee pays to then distribute salary to its staff. The FEC, recognizing the commonality of this situation, published clear guidance entitled “Using a Payroll Company” that makes clear that using a payroll company does not absolve a committee of its responsibility to disclose the name and address of individual recipients of salary from the campaign.¹³ The FEC guidance explains how the disclosure requirements work when a payroll vendor is used as follows:

House and Senate committees report using a payroll company to pay staff salaries in the “Operating expenditures” category on Form 3, Line 17. The payroll disbursement will be itemized on Schedule B, supporting Line 17, once payments to the payroll company aggregate more than \$200 in an election cycle. The committee will also itemize the ultimate recipients of the salary payments as memo entries on Schedule B, supporting Line 17, once aggregate payments made to the individual are more than \$200 in an election cycle.¹⁴

¹¹ *Id.*

¹² 52 U.S.C. § 30104(b)(5)(a); 11 C.F.R. § 104.3(b)(4)(i).

¹³ Fed. Election Comm’n., Using a Payroll Company, <https://www.fec.gov/help-candidates-and-committees/filing-reports/using-payroll-company/>.

¹⁴ *Id.* Emphasis added.

The requirement for campaigns to disclose the ultimate recipient of salary payments is also in accordance with FEC regulations more broadly. Section 102.9(b)(2) requires political committee treasurers to obtain a receipt or invoice from a payee for each disbursement in excess of \$200.¹⁵ A “payee” means the person who provides the goods or services to the committee or agent thereof in return for payment.¹⁶ This “payee” provision is in addition to Section 102.9(b)(1), which requires an account be kept of all disbursements made on behalf of the political committee. Therefore, the additional “payee” records are required to be obtained in order to ensure the accounting of persons actually providing services, rather than just the service vendor.

Here, the Committee failed to itemize the ultimate recipients of its salary payments, instead reporting bulk payroll disbursements to Insperity, Inc. Assuming that the Committee paid even a single employee over \$200 within the six-month period covered by the Reports, the Committee is in plain violation of 52 U.S.C. § 30104(b)(5)(a). This lack of disclosure is especially alarming given the recent reports that former Ernst consultants and staff may have been involved in establishing and operating a dark money organization, possibly in violation of federal law and IRS regulations, including 26 U.S.C. § 501(c)(4) and 52 U.S.C. § 30125. The reports indicate that Senator Ernst and her former staff and consultants have connections with Iowa Values, a controversial 501(c)(4) non-profit corporation that is supporting Senator Ernst’s re-election campaign.¹⁷ According to the Associated Press, this group has been directed and

¹⁵ 11 CFR § 102.9(b)(2).

¹⁶ 11 CFR § 102.9(b)(2)(i)(A).

¹⁷ Associated Press, “Dark money” ties raise questions for GOP Sen. Ernst of Iowa (Dec. 6, 2019), <https://apnews.com/eeb44fc06b0cb202bc1edbd1adee7f7d>; Open Secrets, Iowa Sen. Joni Ernst denounced ‘dark money’ as her campaign privately embraced it (Dec. 23, 2019), <https://www.opensecrets.org/news/2019/12/iowa-sen-joni-ernst-denounced-dark-money/>.

controlled by political operatives that were being paid by the Ernst Committees at the same time that they were founding and operating Iowa Values. ¹⁸ The “undeniable” close connection between Senator Ernst and a group with undisclosed donors only intensifies the public need to identify the Committee’s salaried staff.¹⁹ The same personnel could simultaneously be working for the Committee and a dark money group, and, absent proper disclosure, there would be no way for the public, or the Commission, to know.

The purpose of the Act’s basic public disclosure requirements is to ensure public accountability for federal candidates and officeholders. Unless the information about the recipients of salary payments is disclosed, there is no way for the public, or the Commission, to determine whether Senator Ernst and her operatives are maintaining the strict separation required between the campaign and any outside groups.

REQUESTED ACTION

In light of the foregoing, I respectfully request that the Commission immediately investigate the above allegations to determine to what extent the Committee acted in violation of federal law and FEC regulations by failing to properly disclose its salaried employees.

Sincerely,



Tiffany Muller
End Citizens United
100 M St. SE

¹⁸ *Id.*

¹⁹ *Id.*

Washington, DC 20003

SUBSCRIBED AND SWORN to before me this 30th day of April, 2020.

Notary Public

My Commission Expires:
