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BEFORE THE FEDERAL ELECTION COMMISSION
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CAMPAIGN LEGAL CENTER
1411 K Street NW, Suite 1400
Washington, DC 20005

v.

MUR No. 7480

HAWORTH, INC.
One Haworth Center
Holland, MI 49423

COMPLAINT

1. This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) and is based on information and belief that Haworth, Inc. has violated FECA's prohibition on federal contractors making contributions to political committees while negotiating or performing federal contracts, 52 U.S.C. § 30119(a)(1), by contributing \$10,000 to Outsider PAC (ID: C00678920).
2. "If the Commission, upon receiving a complaint . . . has reason to believe that a person has committed, or is about to commit, a violation of [the FECA] . . . [t]he Commission *shall* make an investigation of such alleged violation" 52 U.S.C. § 30109(a)(2) (emphasis added); *see also* 11 C.F.R. § 111.4(a).

FACTS

3. Outsider PAC is an independent expenditure-only political action committee (i.e., a "super PAC") that filed a statement of organization with the Commission on May 16, 2018.¹ Its address on file with the Commission is 25 West Eighth Street, Suite 300, Holland, Michigan, 49423.²

¹ Outsider PAC, Statement of Organization, FEC Form 1, at 1, 5 (filed May 16, 2018), <http://docquery.fec.gov/pdf/347/201805169112069347/201805169112069347.pdf>.

² *Id.* at 1. The "donate" page of Outsider PAC's website advises that "Federal government contractors should consult counsel prior to making a contribution to Outsider PAC." *See* Outsider PAC website, "Donate," <https://outsiderpac.com/donate> (accessed August 15, 2018).

4. To date, Outsider PAC has reported \$346,500 in independent expenditures in the U.S. Senate primary in Michigan, which was held on August 7, 2018.³ The independent expenditures supported Republican U.S. Senate candidate John James (or opposed his challenger).
5. Haworth, Inc. is a private company based in Holland, Michigan that describes itself as a “privately held, global leader in the contract furnishings industry.”⁴ Its website includes a “Government” section, where Haworth, Inc. highlights its federal government contract work.⁵ According to USAspending.gov, “the official source for spending data for the U.S. Government,”⁶ Haworth, Inc., located at One Haworth Center, Holland, Michigan, 49423, is and has been the recipient of numerous federal contracts and grants dating back to at least 2001.⁷
6. In a 2018 pre-primary report filed with the Commission, Outsider PAC reported that on July 18, 2018 it had received a \$10,000 contribution from Haworth, Inc., One Haworth Center, Holland, Michigan, 49423.⁸ To date, Haworth, Inc. is one of only six unique contributors to Outsider PAC, and is the only Outsider PAC contributor which, like Outsider PAC, has a Holland, Michigan address.⁹

³ See Outsider PAC, 24/48 Hour Report of Independent Expenditures, FEC Schedule E, at 1 (filed July 18, 2018), <http://docquery.fec.gov/pdf/443/201807189115751443/201807189115751443.pdf>; Outsider PAC, 24/48 Hour Report of Independent Expenditures, FEC Schedule E, at 1 (filed July 28, 2018), <http://docquery.fec.gov/pdf/713/201807289119327713/201807289119327713.pdf>; Outsider PAC, 24/48 Hour Report of Independent Expenditures, FEC Schedule E, at 1 (filed July 31, 2018), <http://docquery.fec.gov/pdf/247/201807319119337247/201807319119337247.pdf>.

⁴ About Us, HAWORTH, <http://www.haworth.com/company-info/about-us> (last visited Aug. 8, 2018).

⁵ Government, HAWORTH <http://www.haworth.com/government> (last visited Aug. 8, 2018).

⁶ USAspending.gov, Mission, <https://www.usaspending.gov/#/about> (last visited July 30, 2018).

⁷ See Keyword Search for “Haworth,” USAspending.gov, https://www.usaspending.gov/#/keyword_search/%22haworth%22 (last visited Aug. 8, 2018). See also, e.g., USAspending.gov, Contract Summary, Award ID 47PM0318F0013, <https://www.usaspending.gov/#/award/66338449> (last visited Aug. 8, 2018) (showing a \$1,118,988 contract from the General Services Administration to Haworth, Inc., with a period of performance of May 23, 2018 through May 14, 2019).

⁸ Outsider PAC, Michigan Pre-Primary Report, FEC Form 3X, at 6 (filed July 26, 2018), <http://docquery.fec.gov/pdf/583/201807269119319583/201807269119319583.pdf>.

⁹ Outsider PAC, Individual Contributions, 2017-18, FEC.GOV, https://www.fec.gov/data/individual-contributions/?two_year_transaction_period=2018&two_year_transaction_period=2018&committee_id=C006789

7. Multiple active contracts that Haworth, Inc. held on the day of its contribution to Outsider PAC listed a primary place of performance as Holland, Michigan.¹⁰ One Holland-based contract, valued at \$185,466, listed a period of performance of July 12, 2018 through October 31, 2018, and the single \$185,466 transaction in the contract's transaction history was dated July 17, 2018, the day before Haworth, Inc. gave \$10,000 to Outsider PAC.¹¹

SUMMARY OF THE LAW

8. "Contribution" is defined as "any gift . . . of money or anything of value made by any person for the purpose of influencing any election for Federal office." 52 U.S.C. § 30101(8)(A)(i).
9. Federal law prohibits a federal contractor from making any "contribution to any political party, committee, or candidate for public office" at any time between the commencement of negotiations for a federal contract and the completion of performance or termination of negotiations for the contract. 52 U.S.C. § 30119(a)(1).
10. Federal law additionally prohibits any person from knowingly soliciting such a contribution from a federal contractor. 52 U.S.C. § 30119(a)(2).

20&min_date=01%2F01%2F2017&max_date=08%2F08%2F2018 (last visited Aug. 8, 2018). On December 19, 2017, Haworth's Chairman, Matthew Haworth, and his wife Jennifer each contributed \$5,400 to John James for Senate (the authorized committee for the candidate supported by Outsider PAC), as did Haworth's Chairman Emeritus, Richard Haworth, and his wife Ethelyn. John James for Senate, 2017 Year-End Report, FEC Form 3, at 61-63 (filed Jan. 31, 2018), <http://ecquery.fec.gov/pdf/742/201802070200130742/201802070200130742.pdf>. On May 15, 2018, "Dick" & "Ethie" Haworth and Matthew and Jennifer Haworth held "an evening reception with U.S. Senate candidate John James" at the Haworth, Inc. offices, located at the same One Haworth Center address. See Campaign Resource Group, Haworth & Wierda Reception for U.S. Senate Candidate John James, https://www.campaignresourcegroup.com/james_haworth_2018/ (last visited Aug. 10, 2018).

¹⁰ See, e.g., USAspending.gov, Contract Summary, Award ID W912DY16F0375, <https://www.usaspending.gov/#/award/38056865> (last visited Aug. 8, 2018) (showing a \$3.3 million contract with a primary place of performance in Holland, Michigan, and a period of performance from September 2016 through April 2019); USAspending.gov, Contract Summary, Award ID 36C25018F2450, <https://www.usaspending.gov/#/award/65776119> (showing a \$115,277 contract with a primary place of performance in Holland, Michigan, and a period of performance from April 30, 2018 through July 31, 2018).

¹¹ USAspending.gov, Contract Summary, Award ID 12639518F0938, <https://www.usaspending.gov/#/award/67256830> (last visited Aug. 8, 2018).

11. The contractor contribution ban applies to any person “who enters into any contract with the United States or any department or agency thereof” for “the rendition of personal services” or for “furnishing any material, supplies, or equipment,” or for “selling any land or building,” if “payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress.” 52 U.S.C. § 30119(a)(1); 11 C.F.R. § 115.1(a).
12. The ban applies from when a request for proposals is sent out (or when contractual negotiations commence) until the completion of performance of the contract or the termination of negotiations. 52 U.S.C. § 30119(a)(1); 11 C.F.R. § 115.1(b).
13. Since 2011, the Commission has made clear that the government contractor prohibition applies to contributions to independent expenditure-only political committees (i.e., “super PACs”) following the U.S. Supreme Court’s decision in *Citizens United v. FEC*¹² and the D.C. Circuit decision in *SpeechNow.org v. FEC*.¹³ See, e.g., Advisory Opinion 2011-11 (Colbert) at 4-5, 10 (June 30, 2011); see also Press Release, FEC, *FEC statement on Carey v. FEC reporting guidance for political committees that maintain a non-contribution account*, n.1 (Oct. 5, 2011), <https://www.fec.gov/updates/fec-statement-on-carey-fec/>. In MUR 6403, the Commission emphasized that a contractor making a contribution to a political committee to fund independent expenditures is not itself making an expenditure; therefore, a contribution to such a committee falls “squarely within the statute’s prohibitions.” MUR 6403 (Alaskans Standing Together), Notification with Factual and Legal Analysis to Ahtna, Inc. and NANA Regional Corporation, Inc. at 5, 9 (Nov. 10, 2011). In 2017, the Commission found reason to believe that federal contractor Suffolk Construction Company, Inc. had

¹² 130 S. Ct. 876 (2010).

¹³ 599 F.3d 686 (D.C. Cir. 2010).

violated 52 U.S.C. § 30119(a)(1) by contributing \$200,000 to Priorities USA Action, a super PAC supporting then-presidential candidate Hillary Clinton. *See* MUR 7099 (Suffolk Construction Company, Inc.), Notification to Campaign Legal Center at 1 (Sep. 25, 2017). The Commission emphasized that there is no *de minimis* exception to section 30119(a)(1), finding that even if a contributor's federal contract work is only a "small fraction" of its overall business, this "does not negate the company's status as a federal contractor." MUR 7099, Factual and Legal Analysis at 4-5.

14. The federal contractor ban was upheld unanimously by the *en banc* D.C. Circuit in *Wagner v. Fed. Election Comm'n*, 793 F.3d 1 (D.C. Cir. 2015) (*en banc*). The *en banc* court stressed that "the record offers every reason to believe that, if the dam barring contributions were broken, more money in exchange for contracts would flow through the same channels already on display." *Id.* at 18.

CAUSE OF ACTION

I. HAWORTH, INC. VIOLATED THE CONTRACTOR CONTRIBUTION BAN

15. Federal law and Commission regulations prohibit a federal contractor from making any contribution to any political committee during the period in which a federal contract is being negotiated or performed. 52 U.S.C. § 30119(a)(1), 11 C.F.R. Part 115.
16. According to USAspending.gov, "the official source for spending data for the U.S. Government," Haworth, Inc. is a federal contractor and was a federal contractor when it made the \$10,000 contribution to Outsider PAC on July 18, 2018.¹⁴
17. Consequently, there is reason to believe that Haworth, Inc., as a federal contractor, violated the federal contractor contribution ban by making a "contribution to any political . . .

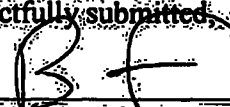
¹⁴ *See supra* ¶¶5-7.

committee," namely Outsider PAC, during the period its federal contracts were being negotiated and/or performed. 52 U.S.C. § 30119(a)(1).

PRAYER FOR RELIEF

18. Wherefore, the Commission should find reason to believe that Haworth, Inc. violated 52 U.S.C. § 30101 *et seq.*, and conduct an immediate investigation under 52 U.S.C. § 30109(a)(2).
19. The Commission should seek appropriate sanctions for any and all violations, including civil penalties sufficient to deter future violations and an injunction prohibiting the respondents from any and all violations in the future, and should seek such additional remedies as are necessary and appropriate to ensure compliance with the FECA.

Respectfully submitted,



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August 16, 2018

VERIFICATION

The complainant listed below hereby verify that the statements made in the attached Complaint are, upon their information and belief, true.

Sworn pursuant to 18 U.S.C. § 1001.

For Complainant Campaign Legal Center


Brendan M. Fischer

Sworn to and subscribed before me this 16 day of August 2018.



Notary Public

