FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

June 10, 2019

MEMORANDUM

TO: The Commission

THROUGH: Alec Palmer
Staff Director AP by MMH

FROM: Patricia C. Orrock PCO
Chief Compliance Officer

Krista J. Roche KJR
Director, ADR Office

Rosa Marshall RM
Assistant Director, ADR Office

SUBJECT: ADR 895 Haworth, Inc., and Outsider PAC and Julie Dozier, Treasurer; Recommendation to Dismiss

The Office of General Counsel transferred MUR 7480 on December 17, 2018, and the ADR Office designated the matter as ADR 895. The ADR Office recommends the Commission exercise prosecutorial discretion and dismiss the matter. *Heckler v. Chaney* 470 U.S. 821 (1985). We include a summary and discussion of the matter for your information.

Summary and Analysis of Case: Campaign Legal Center ("Complainant") filed a Complaint, dated August 16, 2018, alleging that Haworth, Inc. ("Respondent Haworth"), a federal contractor, made a $10,000 contribution to Outsider PAC (the "Committee"), an independent expenditure-only political committee, in violation of the Federal Election Campaign Act of 1971, as amended (the "Act" or the "FECA").

Respondent Haworth filed a *sua sponte* submission, dated August 21, 2018, stating that it was brought to the attention of Haworth, Inc. executives on August 16, 2018, that the $10,000 contribution to Outsider PAC, dated July 18, 2018, violated the FECA's prohibition on federal contractors making contributions to political committees. The *sua sponte* submission states that after an internal investigation

was conducted, Respondent Haworth requested a full refund from the Committee. The full refund was received from the Committee on August 17, 2018. The refund check, dated August 16, 2018, is provided along with the *sua sponte* submission.

The Act prohibits federal contractors from "directly or indirectly" making a contribution to any political party, political committee, federal candidate, or "any person for any political purpose or use."[1] In their response to the Complaint, Respondent Haworth states that they were unaware of the prohibition as it related to independent expenditure-only political committees. They also state in part that they "...relied on the statement included in the Outsider PAC's written contribution request that such a corporate contribution was permitted, without confirming the statement with the Haworth legal department." As a measure to ensure future compliance with the FECA, Respondent Haworth has conducted education to ensure that its employees involved in the contribution approval process obtain the approval of the company's legal department beforehand.

In addition, the Act prohibits any person from knowingly soliciting such a contribution from any person who is negotiating or performing a contract with the United States government.[2] In the Committee's response to the Complaint, they state that they were unaware that Respondent Haworth was a federal contractor, and thus the Committee did not knowingly solicit a contribution from a federal contractor in violation of the law. Moreover, the response states that the Committee's donor forms, which are required for all contributions, instruct federal contractors to seek the advice of counsel as to whether they are permitted to make contributons under federal law.

If a committee treasurer deposits a contribution that appears to come from a federal contractor, the treasurer has thirty days to refund the contribution after using best efforts to determine the legality of the contribution. If a committee treasurer deposits a contribution that does not appear to come from a federal contractor, but the treasurer "later discovers that it is illegal based on new evidence not available to the political committee at the time of receipt and deposit," the treasurer shall refund the contribution within thirty days of the date the illegality was discovered.[3] The contribution from Respondent Haworth was made on July 18, 2018 and refunded by the Committee via a check, dated August 16, 2018, within 30 days of receipt and the same day as notification of Respondent Haworth's federal contractor status. The Committee had enough funds in their account at the time of receipt to cover both the refund and any expenses that were made during the reporting period.[4]

Because of the timing of the refund, the Committee's lack of awareness of Respondent Haworth's federal contractor status, and the remedial action

1 52 U.S.C. § 30119(a)(1); 11 C.F.R. § 115.2(a).
2 52 U.S.C. § 30119(a)(2); 11 C.F.R. § 115.2(c).
3 11 CFR §103.3(b).
4 See 11 CFR §103.3(b)(4).

undertaken by Respondent Haworth, the ADR Office recommends that the Commission exercise its prosecutorial discretion and dismiss the matter. *Heckler v. Chaney. Id*

RECOMMENDATIONS:

1. Dismiss ADR 895 (MUR 7480).
2. Close the file on this matter.