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December 17, 2014

SENT VIA OVERNIGHT DELIVERY

Mr. Jeff S. Jordan
Assistant General Counsel
Complaints Examination & Legal Administration
Federal Elections Commission
Office of the General Counsel
999 E Street, NW
Washington D.C. 20436

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FEDERAL ELECTIONS
COMMISSION
2014 DEC 19 AM 10:50
OFFICE OF GENERAL
COUNSEL

RE: MUR 6895

Dear Mr. Jordan:

On behalf of Inhofe Victory Committee 2014, Friends of Jim Inhofe, and Fund for a Conservative Future, and Timothy A. Koch in his official capacity as Treasurer (collectively the "Respondents"), this letter responds to the correspondence dated November 4, 2014, from the Federal Elections Commission (the "Commission") regarding a complaint dated October 29, 2014 (the "Complaint"), filed by Rebecca West (the "Complainant").

Based on the material set forth below, the Respondents respectfully requests that the Commission find no reason to believe that the facts alleged in the Complaint pose a violation of the Federal Elections Campaign Act of 1971, as amended (the "Act") or its implementing regulations and that this matter be dismissed and the Commission take no further action.

The Complaint makes only one accusation of a violation of federal law—that the presence of two individuals from the Kiowa County [Oklahoma] Sheriff's Office at a political fundraiser for sitting U.S. Senator Jim Inhofe constituted a "contribution" to the campaign, and thus, should be subject to the contribution limits provided by the Act. *See* 52 U.S.C. § 30116(a)(1)(A). Specifically, the Complaint alleges that the Kiowa County Sheriff's Office make an in-kind contribution based upon the presence of two individuals, Officer Clay

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Farrington and Officer David Tosh, at the event. Complainant provides no facts of her own personal knowledge, and instead relies upon a series of assumptions and second hand evidence provided by a member of the animal rights group Showing Animals Respect and Kindness ("SHARK").

As will be explained in this letter, the attendance of both individuals from the Kiowa County Sheriff's Office was permissible under Oklahoma law, and neither constituted an unlawful in-kind contribution to the campaign. Thus, the Commission should dismiss this Complaint without delay.

I. Factual Corrections

The Complaint correctly asserts that there were two individuals at the event from the Kiowa County Sheriff's Office. However, the presence of these individuals did not constitute an in-kind contribution to the campaign. Both individuals, Officer Farrington and Officer Tosh, were attending the event as private security, and were compensated by the campaign for services providing "event security." (See Respondent's Exhibit "A," Payment to Clay Farrington¹).

However, the Complaint omits a *key* piece of information from its recitations of the facts. As evidenced on page 3 of Exhibit A to the Complaint, prior to the event, the Kiowa County Sheriff's Office had received *numerous requests* by members of the People for the Ethical Treatment of Animals ("PETA") asking them to be present at and investigate the campaign event for alleged animal rights abuses. As evidenced in an August 28, 2014 e-mail from Kent Stein, Cruelty Investigations Department, PETA, to Sheriff Devin Huckabay, Greer County Sheriff's Office, and The Honorable John Wampler, Oklahoma District #3 Attorney, PETA gave the particular date and location of the Dove Hunt, and called for the direct involvement of the local law enforcement officials and encouraged them to both attend and investigate the event. (See Respondents' Exhibit "B," E-mail from PETA). In particular, Kent Stein states:

We respectfully request that your agencies advise the organizer(s) to cease and desist from moving forward with this event to ensure humane disposition for any birds already collected. Please tell us how we might advise or assist.

In fact, this call to action by PETA was squarely admitted in Exhibit "A" of the Complaint. As stated on page 3 of the Complaint's Exhibit A:

Prior to the fundraiser, PETA had complained to the District Attorney and Sheriff's office about the pigeon shoot.

¹ The three hundred dollar (\$300) payment made to Officer Farrington was for payment of his time and of the time of Officer Tosh. Officer Farrington previously represented to the campaign that if it paid him with a single check, he would keep one hundred fifty dollars (\$150) as compensation for his time, and provide Officer Tosh with one hundred and fifty dollars (\$150). See also #6 & #7 of Exhibit "D," Affidavit of Rusty Appleton, Campaign Manager.

(See Respondent's Exhibit "C," Page 3 of Complaint's Exhibit A). As will be explained later, *even if* the members of the Kiowa County Sheriff's Office had not been compensated for their time, their presence was both *specifically requested* by members of PETA and would have been wholly within the purview of their official duties under Oklahoma law as the official peacekeeping forces for the county. However, because both individuals were compensated for their time, there is no doubt that their presence at the event did not constitute an in-kind contribution.

The actions of PETA and of a similar animal-rights group, SHARK, clearly show an attempt to lay a trap for a sitting U.S. Senator. Prior to the event, PETA called and encouraged the attendance and investigation of individuals from the Kiowa County Sheriff's Office. In response, the campaign hired off-duty officers on the reasonable suspicion that peacekeeping forces may be necessary. Now, the Complainant is attempting to use the Sheriff Office's *requested* attendance at the event to give rise to a presumption of unlawfulness.

II. Legal Argument

The Complaint should be dismissed because the Officer's attendance at the event was both paid for by the campaign and reasonable given the previous complaints and requests made by animal rights groups.

First, even if the Officers had not been paid to attend the event, their attendance would have been within the scope of their official duties as Officers of Kiowa County. The Sheriff's Office had been *implored* by PETA prior to the event to attend and investigate the fundraiser. Oklahoma law states that "it shall be the duty of the sheriff, undersheriffs and deputies to keep and preserve the peace of their respective counties, and to quiet and suppress all affrays, riots and unlawful assemblies and insurrections." *See* 19 Okla. Stat. § 516(A). Title 47, Section 15-116 of the Oklahoma Statutes further instruct that municipalities are authorized to investigate and enforce the law "on public property, or private property where the public is invited." *See* 47 Okla. Stat. § 15-116. Thus, even if the Officers had not been compensated for their time, their attendance at the event would have been within the scope of their peacekeeping duties as County Officers, thus taking it outside of the realm of an in-kind contribution of goods or services to the campaign.

Moreover, the Complaint fails to realize that the Officers in attendance were *required* by Oklahoma law to wear their official uniforms in order to carry concealed firearms. Title 21, Section 1289.23 of the Oklahoma Statutes proscribes the guidelines for carrying a concealed firearm as an off-duty police officer. Specifically, Section 1289.23 requires that "when an off-duty reserve police officer carries a certified weapon, the officer shall be wearing the law enforcement uniform prescribed by the employing agency." *See* 21 Okla. Stat. § 1289.23(E). Thus, the Officers' use of their uniforms at the event did not constitute an in-kind contribution and was required by Oklahoma law.

Additionally, this Complaint should be dismissed because the accusations made by the Complainant are questions of State law that are outside of the jurisdiction of this Commission. Even assuming *arguendo*, that either of the Officers were without proper authorization to be in attendance or in uniform, this is a question of state law that is most properly left for the Oklahoma Courts. As evidenced in the Affidavit of Rusty Appleton, Campaign Manager for Senator Inhofe, the decision to hire local off-duty officers was made for security purposes after PETA had made complaints. (See #5 of Exhibit "D," Affidavit of Rusty Appleton, Campaign Manager). Respondents acted on their reasonable believe that Officers were properly in attendance and reported the amounts paid to the Officers for providing private security in a campaign report that was timely filed with the Commission.

III. Conclusion

The Complaint rests on a series of assumptions that, even if true, do not lead to a violation of the Act. The first assumption the Complaint makes is that the Officers could not attend in their official uniform while being paid as a private security guard. This assumption is proven false by the clear directives of Oklahoma State law, as previously discussed, which requires an officer to wear his official uniform while carrying a concealed weapon. See 21 Okla. Stat. §1289.23(E).

Second, the Complaint makes the assumption that neither officer would have been able to permissibly attend in their official capacities, if they had so desired. This assumption is again proven false by Oklahoma state law, which defines the parameters of an officer's official duties, the apex of which is to "keep and preserve the peace of their respective counties." See 19 Okla. Stat. § 516(A). Even *absent* the previous complaints made by PETA to the Sheriff's Office, both Officers attendance would have been within the purview of their official duties by the mere fact that a sitting United States Senator was holding an event that would involve a large group of people. However, the fact that an animal rights group which is known to attempt to disrupt large gatherings of groups it disagrees with had made numerous complaints would have made the Officers' decision to attend in their official capacity not only reasonable, but *wholly justified*.

Third and finally, the Complaint makes the assumption that the Officers were not compensated for their time. This accusation has been specifically rebutted by Rusty Appleton, Campaign Manager for the Inhofe Campaign in his attached affidavit, which states in relevant part:

Payment was made to compensate both Officers for their time. A single check was issued to Officer Farrington in the amount of three hundred dollars (\$300.00), with the understanding that one half of the payment, totaling one hundred and fifty dollars (\$150.00), was to compensate him for his time and that the remaining one hundred and fifty dollars (\$150.00) would be disbursed to Officer Tosh for compensation of his time.

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(See #7 of Exhibit "D," Affidavit of Rusty Appleton). In sum, the Complaint provides no first-hand knowledge of these events, and instead relies upon a series of assumption that are not borne out by the true facts and circumstances of the fundraiser.

There simply is no basis for a probable cause finding against the Respondents, and thus the Respondents respectfully request that this case be dismissed without further action. Should you have any additional questions with regards to this matter, please do not hesitate to contact me or Denise Davick, Counsel to Respondents, at (405) 601-1616.

Sincerely,



Glenn Coffee
Denise K. Davick
Counsel to Respondents

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fundraiser. In 2008, Mr. Buchanan donated \$250 to Senator Inhofe's campaign, so he has shown to be a supporter of the Senator's electoral ambitions.

There are serious questions about why this federally owned land was being used not just for a pigeon shoot, but for a political fundraiser for Senator Inhofe, who, it must be noted, got, "\$5,000,000 for water related infrastructure improvement projects at the Lugert-Altus Irrigation District, Altus, Oklahoma." <http://www.inhofe.senate.gov/newsroom/press-releases/inhofe-successfully-leads-effort-to-enact-wrda>

We ask you to investigate Mr. Buchanan's role in the fundraiser, as he may have abused his power to allow an electioneering event to be held on the federally owned land he manages.

While some of the concerns we have presented are related to state law, we believe the Justice Department has a vital role to play as the local authorities are refusing to take any action.

We have made multiple attempts to contact the authorities in Oklahoma, including the Kiowa County Sheriff's Department as well the Assistant District Attorney that covers the area where the shoot took place. That ADA instructed his receptionist to tell us that he would not speak to us and that we should contact his supervisor, District Attorney John Wampler. We faxed and called DA Wampler and the Sheriff's department but they have so far refused to return or any of our messages. We've also reached out to the Department of Wildlife Conservation and heard nothing back. Elected officials both Democrat and Republican have refused to respond.

We believe that these authorities will do nothing to investigate the serious issues we have presented to them. This is not speculation; the aforementioned Rusty Appleton, Inhofe's campaign manager, was recorded on audio stating that explicitly.

Prior to the fundraiser, PETA had complained to the District Attorney and Sheriff's office about the pigeon shoot. Mr. Appleton told some attendees of the pigeon shoot the following:

"But ah, but this year, is the first year that PETA like, um PETA called the District Attorney and the Sheriff on us for doing this. And of course nobody cared. Nobody is doing anything about it."

Senator Inhofe is a powerful politician. When presented with a potential violation of the law by Senator Inhofe's campaign, the local authorities chose to do nothing.