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December 22, 2020

VIA EMAIL

Lisa Stevenson
Acting General Counsel
Federal Election Commission
1050 First Street, NE
Washington, DC 20463

Re: MUR 7062 – Response to Notice Letter

Dear Ms. Stevenson:

We write on behalf of Numero, Inc. (“Numero”) in response to a letter from your staff dated October 1, 2020 (the “Notice Letter,”) referencing MUR 7062.¹

Pursuant to an Asset Purchase Agreement dated January 13, 2020, Numero acquired certain assets from RevUp Software (ABC), LLC (“RevUp ABC,”)² which included the RevUp platform, technology and corresponding source code. Notably, Numero did not purchase the corporate entity – RevUp Software, Inc. (“RevUp Software”) – from RevUp ABC, but rather only certain RevUp Software assets.

Numero initially launched in February 2019, with its “Call Time App.”³ Then, in April 2019, Numero expanded its platform to include “payment processing,” thereby allowing candidates to manage campaign payment processing, accounting and compliance. In February 2020, Numero expanded its platform yet again to include a Customer Relationship Management (CRM) tool designed to help

¹ The staff granted an initial extension of time to file a response and then, on November 24, 2020, Numero consented to a limited tolling of the applicable statute of limitations.

² RevUp Software (ABC), LLC, was a California limited liability company serving as *Assignee for the Benefit of Creditors* of RevUp Software, Inc., as its sole and limited capacity.

³ Numero’s Call Time App maximizes candidate call time efficiency using a smartphone from anywhere.

Ms. Stevenson
 December 22, 2020
 Page 2

candidates build out their call lists and manage their database of donors. Access to the newly acquired RevUp Software assets was included, without additional charge, as one component of Numero's new CRM tool.

The Notice Letter indicates that Numero's use of the newly acquired RevUp Software assets "may be in violation [of] the 'sale and use' provisions of the Act and Commission regulations."⁴ Although, as discussed below, Numero is confident that there has been no such violation, Numero must take this opportunity to inform the Commission that it was not until Numero received the Notice Letter that it had any knowledge whatsoever that the Commission had a pending enforcement matter related to RevUp Software – let alone that it had been pending since May 2016.⁵

Numero's inclusion of access to the RevUp Software assets in Numero's CRM tool does not violate the "sale and use" provisions of the Act and Commission regulations because:

- Numero is not a list broker, and neither its CRM nor the RevUp Software assets can be used for generating new prospects or for "list making."⁶
- The RevUp Software assets only provide access to charitable and political contribution history for pre-existing contacts that are provided and uploaded by the client.⁷
- Numero does not provide its clients with any new names or addresses.⁸ Additionally, FEC data is not used to revise or correct any names or addresses in a client's pre-existing contact list.
- The charitable and political contribution history provided by the RevUp Software assets is not downloadable or exportable outside of the RevUp portal.
- Clients are only able to view the charitable and political contribution of one pre-existing contact at a time and clients are not able to search or sort charitable and political contribution for each pre-existing contact in any way.

⁴ See 52 U.S.C. § 30111(a)(4); 11 C.F.R. § 104.15(a).

⁵ The May 2016 date is derived from the MUR number designation of 7062. Specifically, because the complaint in now-public MUR 7061 was filed May 3, 2016, and the complaint in now-public MUR 7063 was filed May 10, 2016, Numero interpolates that the instant MUR was generated sometime between May 3 and May 10, 2016.

⁶ This fact, standing alone, distinguishes Numero's use of the RevUp Software assets from both MURs 6960 & 6991 (SW Technology, LLC) and Advisory Opinion 1985-16 (Weiss) – the only two Commission matters cited as precedent in the Notice Letter.

⁷ The stated purpose behind the "sale and use" restriction in 52 U.S.C. § 30111(a)(4) is "to protect the privacy of the generally public-spirited citizens who make a contribution . . ." 117 Cong. Rec. 30,057-58 (1971) (statement of Sen. Bellmon). The RevUp Software assets do not implicate any privacy concerns because it does not provide clients with any contact information that they don't already have. And, ironically, use of the RevUp Software assets can only lead to *fewer* solicitations of a client's pre-existing contacts after the software's algorithm suggests that a given pre-existing contact is not likely to yield support.

⁸ See Advisory Opinion 2014-07 (Crowdpac); see also Advisory Opinions 2015-12 (Ethiq) and 1981-05 (Findlay).

Ms. Stevenson
December 22, 2020
Page 3

In sum, Numero's inclusion of access to the RevUp Software assets in Numero's CRM tool is indistinguishable from the use of contribution history in platforms previously approved by the Commission in several past Advisory Opinions,⁹ and as comprehensively addressed in recent Statements of Reasons.¹⁰

Accordingly, for the above-stated reasons, the Commission should find no reason to believe that Numero violated the Act or Commission regulations.

Sincerely,



Brad C. Deutsch
Counsel to Numero, Inc.

⁹ See, e.g., Advisory Opinions 2017-08 (Point Bridge Capital); 2014-07 (Crowdpac); 2015-12 (Ethiq); 1981-38 (Campac Publications); 1981-05 (Findley); and 1980-101 (Weinberger).

¹⁰ See Statement of Reasons of Commissioners Petersen, Hunter and McGahn in MUR 5625 (2016) (Aristotle International, Inc.) and Statement of Reasons of Commissioners Petersen and Hunter in MUR 6334 (2019) (Aristotle International, Inc.).