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September 16, 2016

Federal Election Commission
Office of Complaints Examination
and Legal Administration
Attn: Donna Rawls, Paralegal
999 E Street, NW
Washington, DC 20463

Re: MUR 7101

Dear Mr. Jordan:

This response is filed on behalf of our client, Mr. S. Donald Sussman, to the above-referenced Complaint. For the reasons set forth below, this Complaint fails to allege any violation of the Federal Election Campaign Act (the "Act") or Federal Election Commission ("FEC" or "Commission") regulations and should be dismissed.

FEC regulations state that a properly filed complaint "should contain a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction." (11 C.F.R. §111.4(d)(3)). This Complaint makes only three references to Mr. Sussman, all three of which describe permissible contributions made by Mr. Sussman, and more generally only contains blanket statements about the current practices involving contributions to, and expenditures by, Super PACs. It does not allege any facts that support a conclusion that Mr. Sussman violated any provision of the law and is procedurally devoid of any claims that if found to be true would demonstrate Mr. Sussman, or any other similarly situated individual, violated any provision of the Act or FEC regulations. Accordingly, this Complaint must be dismissed by the Commission as failing to demonstrate a violation of the law.

Moreover, the Complaint itself demonstrates there is no reason to believe that Mr. Sussman violated any provision of the Act as the Complaint concedes that his actions, and those of other individual donors, are in line with FEC guidance and relevant court decisions. The Act and FEC regulations state that any person involved in an activity which is indistinguishable in all its material aspects from the transactions or activity with respect to which an advisory opinion is rendered may rely on that advisory opinion. (*See* 11 C.F.R. §112.5, *See also* 52 U.S.C. S30108(c)). As the Complainants correctly state, the activities in question here have been

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deemed by the FEC to comply with the Act and individuals such as Mr. Sussman are within their rights to rely on such guidance when making contributions to Super PACs:

“In July 2010, the FEC issued Advisory Opinion No. 2010-11 (*Commonsense Ten*) (July 22, 2010), <http://1.usa.gov/298r8dg>, to a political committee that later became respondent Senate Majority PAC. The FEC opined that the political committee’s “planned course of action, which involves soliciting and accepting unlimited contributions from individuals, political committees, corporations, and labor organizations for the purpose of making independent expenditures . . . complies with the Act.” *Id.* at 2.” (Complaint at 3).

Accordingly, because this Complaint fails to allege a violation of the Act or FEC regulations, and correctly states that the actions of Mr. Sussman are in line with guidance provided by the FEC and court decisions that regulate this area of the law, this Complaint should be dismissed as there is no reason to believe Mr. Sussman has violated any law under which the FEC has jurisdiction.

Respectfully Submitted,



Lyn Utrecht
Greg Holger

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