

JONES DAY

51 LOUISIANA AVENUE, N.W. • WASHINGTON, D.C. 20001.2113
TELEPHONE: +1.202.879.3939 • FACSIMILE: +1.202.626.1700

DIRECT NUMBER: (202) 879-3773
BGINSBERG@JONESDAY.COM

December 14, 2016

VIA EMAIL

Jeff Jordan, Esquire
Assistant General Counsel
Complaints Examination & Legal Administration
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MUR 7101
Ms. Marlene Ricketts

Dear Mr. Jordan:

This letter will respond on behalf of Ms. Marlene Ricketts to the above-captioned Matter Under Review.

First, we note that Ms. Ricketts is not listed as a Respondent in the Complaint and thus we believe she has no obligation to respond to this MUR. That being said, Ms. Ricketts has not violated the Federal Election Campaign Act of 1971, as amended ("FECA"), and is referenced only by Complainants in an obvious attempt to stifle Ms. Ricketts and other donors from exercising their clear First Amendment right to participate in the political process.

Second, the activity in which Ms. Ricketts engaged is making contributions in amounts explicitly permitted by federal law and the Commission's own guidance. Ms. Ricketts contributed to ESAFund, which is registered with the Federal Election Commission as an independent expenditure-only political action committee. ESAFund's Statement of Organization includes an addendum that tracks the model language that the FEC's Reports Analysis Division prescribes for independent expenditure-only committees seeking to register with the Commission.

In accordance with this Statement, federal case law and multiple Advisory Opinions, ESAFund has raised funds from Ms. Ricketts and other donors in unlimited amounts. See *SpeechNow.org v. FEC*, 599 F.3d 686, 689 (D.C. Cir. 2010) (en banc) ("SpeechNow"); see also *EMILY's List v. FEC*, 581 F.3d 1, 10 (D.C. Cir. 2009) ("... individual citizens may spend money without limit (apart from the limit on their own contributions to candidates or parties) in support of the election of particular candidates"); Advisory Opinion 2010-11 (Commonsense Ten) (concluding that a committee may solicit and accept unlimited contributions for the purpose

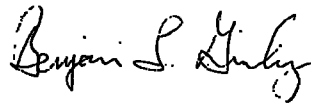
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of making independent expenditures in compliance with the Federal Election Campaign Act of 1971 ("FECA"), as amended).

In fact, Complainants concede that in light of the precedents cited above ESAFund and the other Respondents have not violated the law by accepting contributions such as the one that Ms. Ricketts made to ESAFund and they therefore, "do not ask the FEC to seek civil penalties or other sanctions for past conduct." MUR 7101 Complaint, Paragraph 7.

In conclusion, the Complaint does not state a violation of FECA by Ms. Ricketts. Therefore, there is no factual or legal basis for the Commission to find reason to believe Ms. Ricketts violated FECA for activity that the Commission itself says is permissible.

Very truly yours,



Benjamin L. Ginsberg

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