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November 25, 2015

Via Email (mdebeau@sec.gov)

Federal Election Commission  
Office of Complaints Examination and Legal Administration  
999 E Street, N.W.  
Washington, D.C. 20436

Attention: Mary Beth deBeau, Paralegal

Re: RR 15L-32, Joni for Iowa (C00546788)

To Whom It May Concern:

This letter responds to Jeff S. Jordan's September 22, 2015 letter to Mr. Cabell Hobbs, in his official capacity as treasurer of Joni for Iowa, and Joni for Iowa (collectively "JFI"). Joni for Iowa urges the Commission to take no further action on the Reports Analysis Division's ("RAD") referral to the Office of General Counsel ("Referral") for possible violations of the Federal Election Campaign Act ("Act").

I. The Referral is a flawed document.

A. The Referral presents an unfair picture of JFI's activities.

The Referral centers on late refunds for excessive or prohibited contributions. Reading the Referral, one is presented with a picture of a committee that flaunted the law by accepting many excessive and impermissible contributions. That picture is further marred by the Referral's discussion of frequent Requests for Additional Information ("RFAs") that suggest JFI made frequent errors and required the Commission to find its mistakes for it. Upon careful review, however, three things become apparent:

- First, all of the excessive and impermissible contributions referenced in the Referral have been refunded.
- Second, the Referral ultimately deals only with a relatively small number of excessive or prohibited contributions that were not refunded within the 60-day window provided for in the regulations at 11 C.F.R. §

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110.1; although untimely, they were all refunded. The contributions at issue represent three-tenths of one percent of the total money JFI raised and one-half of one percent of the contributors itemized for the 2014 election. JFI's account balance was always significantly higher than the amount of these contributions, so JFI never spent the contributions.

- Third, the RFAIs referenced in the Referral often covered issues that had already been corrected, but not yet reported. For example, the December 1, 2014 RFAI, which sought information about the 2014 October Quarterly Report, was sent three days before the Post-General Report. Had the RFAI been issued after reviewing JFI's Post-General Report, it would have been clear that, by the date of the RFAI, at least several of the issues raised in the RFAI had already been addressed, including one of the refunds at issue in the Referral. Moreover, the Referral acknowledges that "[a]t the time the [March 12, 2015] RFAI was sent, the Amended 2014 30 Day Post-General Report, received March 9, 2015, and the 2014 Year-End Report [submitted on January 31, 2015] had not been reviewed by the RAD Analyst." By failing to review the Committee's materials prior to sending another RFAI, RAD overstated excessive contributions and unnecessarily exaggerated Committee errors. As such, the Referral creates the impression that JFI has far more legal issues than it really did. Some of the RFAIs did bring matters that had not yet been corrected to JFI's attention, but in many cases, the RFAIs addressed problematic accounts that had already been resolved, causing unnecessary confusion.

**B. The Referral deprives JFI of due process by withholding factual documents supporting its contentions.**

The Referral suffers another serious flaw. It makes reference to a document called "Attachment 4," but JFI has never seen Attachment 4, and was denied access to it when requested. As such, it is impossible for JFI to fully understand the basis of the referral and respond accordingly. For that reason alone, the Commission should take no further action on this matter.

By refusing to provide Attachment 4, the Commission violates its procedures governing non-complaint generated referrals. Those procedures were created to offer "procedural protections similar to those of respondents in complaint-

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generated matters." 74 Fed. Reg. 38,617 (Aug. 4, 2009). As the Commission has said, these regulations were intended to "improv[e] the transparency, fairness and efficiency" of the Commission's "policies, practices and procedures." Fed. Election Comm'n, RECORD, Feb. 2009, at 1. The procedures state that for referrals initiated by RAD, "[t]he notice will contain a copy of the referral document." 74 Fed. Reg. 38,617 (Aug. 4, 2009). With this information in hand, "respondents in non-complaint generated enforcement matters" will have "notice of the basis of the allegations" against them "and an opportunity to respond." *Id.*

This concluding paragraph of the Referral says:

Between April 21 and June 25, 2015, the Reports Analysis Division (RAD) Analyst communicated with the Committee several times by phone and email to assist the Committee in resolving excessive contributions received during the 2013-2014 election cycle. The Analyst advised the Committee to refund those excessive contributions which had not already been refunded (Attachment 4).

It appears that Attachment 4 is a summary or log of the communications between JFI and the analyst. When Attachment 4 was not included with the Referral, JFI requested a copy Attachment 4, thinking it had inadvertently been left off (the Referral arrived without the first page of the cover letter and with several pages out of order, so this seemed likely). The Commission's response was that: "Attachment 4 of the document is classified as sensitive internal information, and cannot be distributed." E-Mail from Mary Beth deBeau, Paralegal Specialist, Office of General Counsel, to Ronald M. Jacobs, Partner, Venable LLP, Oct. 8, 2015, 8:10 EST.

The classification of Attachment 4 as "sensitive internal information" is troubling for two reasons. First, it appears to be a log of communications between JFI and the analyst. As such, it is hard to see how this could possibly be "internal information."

Second, it puts JFI at a serious disadvantage because it does not know what the analyst may have recorded in her notes, or whether there is a discrepancy between its understanding of certain events and what has been recorded by

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The second batch of contributions, which were received between October 16 and November 24, 2015, included 22 individual contributions and one multi-candidate committee. All of these were refunded on March 16, 2015. Again, the individuals at issue all made multiple contributions that had to be aggregated



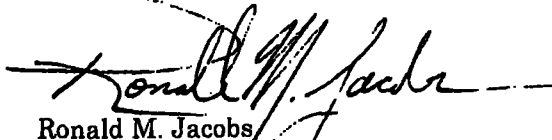
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refunds in a timely fashion. In addition to the new vendor, JFI has adopted a new database that will make aggregating contributions easier, so it will be able to determine more quickly whether there are any contributions triggering further action.

#### Conclusion

Given the lack of due process, the relatively small amounts at issue compared to the overall amount JFI raised, the fact that all excessive or impermissible contributions were never spent and were fully refunded, and JFI's remedial steps taken—including terminating and replacing the vendor that caused these issues—JFI respectfully requests the Commission exercise its prosecutorial discretion and take no further action in this matter.

Respectfully submitted,



Ronald M. Jacobs  
Counsel for Joni for Iowa and  
Cabell Hobbs in his Official Capacity as Treasurer

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