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September 1, 2017

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VIA EMAIL

Jeff S. Jordan
Assistant General Counsel
Complaints Examination & Legal Administration
Federal Election Commission
999 E Street, NW
Washington, DC 20436

Re: RR-17L-23

Dear Mr. Jordan:

We are counsel to Applegate for Congress ("AFC" or the "Committee") and Jane Leiderman, in her official capacity as Treasurer (the "Committee"). We write in response to your letter of August 9. The letter indicates that the Committee has been referred to the Office of General Counsel after it amended its 2016 12 Day Pre-General Report to disclose additional disbursements of $95,094.32, and after it amended its 2016 30 Day Post-General Report to disclose additional disbursements of $278,435.82. The circumstances behind these amendments were previously explained to the Commission in detail in the Committee's response to MUR 7223, submitted April 13, 2017. And for the same reasons explained therein, no action should be taken against the Committee.

As explained previously, in order to ensure that it filed timely and accurate disclosure reports with the Commission, the Committee, like many committees, originally contracted with an outside compliance firm that purported to have extensive experience providing reporting and other compliance services for political campaigns, Crummitt & Associates ("Crummitt"). The Committee provided Crummitt with ongoing access to the information it needed to prepare the Committee's reports, reconcile them to bank statements, and file them timely. Among its duties was to review the Committee's bank accounts for disbursements and input that activity into the filing software that it would use to file the Committee's reports with the Commission.

As is frequently the case, the Committee paid for television media buys by wire transfer. The Committee specifically notified Crummitt of this fact, and instructed it to review the Committee's bank information to make sure that all wires were reported to the Commission. Despite this specific instruction, as the Committee later learned, Crummitt failed to enter several disbursements into AFC's campaign reporting software during the Pre-General reporting period. The vast majority of this was due to a $93,629.25 wire disbursement to New Media on October 3.

After the November 2016 election, in mid-November, the Committee, dissatisfied with Crummitt's performance to date, retained a new professional compliance firm, Next Level Partners ("Next Level"), to take over the accounting and reporting for the Committee beginning with the Committee's Post-General Report. The Committee repeatedly asked Crummitt to provide it with access to the campaign finance

database software that it used to prepare the reports, but Crummitt did not do so until February of 2017. Accordingly, before it filed the Post-General Report, Next Level had to recreate the Committee's reporting database from scratch from its banking and other records, all in short order. In the process, some additional disbursements were inadvertently omitted. The majority of this was due to a $211,868.00 disbursement to New Media on October 27, as well as a $10,000.00 disbursement to the San Diego County Democratic Party on October 29.

In the course of preparing the Post-General Report, Next Level identified that Crummitt had previously filed incomplete reports, and notified the Committee. At this point, it became clear to the Committee that Crummitt had not been reconciling its reports to the bank statements, as was its responsibility. Accordingly, the Committee instructed Next Level to conduct a complete reconciliation of the Committee's 2016 reports, and to file a comprehensive set of amendments to correct the public record. The Committee filed these amendments *sua sponte* between March 3 and March 24, 2017. In addition, the Committee has revised its internal procedures to require that its reports are reconciled both by its compliance consultant and by Committee staff prior to filing. Finally, because the omissions on the Post-General Report occurred on Next Level's watch, the Committee has since ended its engagement with that firm, and has hired a new professional firm, Leiderman and Associates, to take over its reporting and accounting.

As the Committee has stated before, it regrets the omissions in its reports, but respectfully submits that enforcement would be inappropriate here. In order to ensure that its reports were timely and accurate, the Committee incurred the extra expense of hiring an outside compliance firm that held itself out as having the skill and capacity to handle its accounting and report preparation. The error here was due to the firm's failure to abide by the Committee's instructions and respond to the Committee's requests. It involved a relatively limited number of transactions. And when the Committee learned that it had filed incomplete reports due to vendor error, it promptly took corrective action.

In light of the Committee's *sua sponte* corrective action and the fact that the public record is now complete and accurate, the Commission should not impose any civil penalty here, and should close the matter. If, however, the Commission believes that enforcement is necessary here, this matter should be consolidated with MUR 7223, and both matters should be referred to the Commission's Alternative Dispute Resolution program. This matter involves the same reporting issues raised in that MUR, and the Committee should not be required to respond to those same allegations twice.

Sincerely,

Andrew Harris Werbrock

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