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June 12, 2019

CONFIDENTIAL
COMMUNICATION

VIA E-MAIL TO CELA@FEC.GOV

Federal Election Commission
Office of Complaints Examination & Legal Administration
Attn: Christal Dennis
1050 First Street, N.E.
Washington, DC 20463

Re: Matter Under Review 7266

Dear Office of Complaints Examination & Legal Administration:

On behalf of Donald J. Trump for President, Inc. and Treasurer Bradley T. Crate,
enclosed is a response to the Supplemental Complaint in the above-captioned MUR.

Very truly yours,

/s/ E. Stewart Crosland

E. Stewart Crosland

Enclosure

BEFORE THE FEDERAL ELECTION COMMISSION

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MUR 7266

RESPONSE OF DONALD J. TRUMP FOR PRESIDENT, INC. AND BRADLEY T. CRATE, AS TREASURER, TO THE SUPPLEMENTAL COMPLAINT

Donald J. Trump for President, Inc., and Bradley T. Crate, as Treasurer (“the Campaign”), hereby respond to the Supplemental Complaint filed in the above-captioned Matter Under Review.

On April 18, 2019, the Department of Justice released Special Counsel Robert S. Mueller III’s *Report on the Investigation Into Russian Interference In The 2016 Presidential Election* (hereinafter “the Special Counsel Report” or “the Report”). The Report could not be any clearer: *“the investigation did not establish that [any] member[] of the Trump Campaign conspired or coordinated with the Russian government in its election interference activities.”* Special Counsel Report: Volume I at 2 (emphasis added). Despite this and other clear statements in the Special Counsel Report, complainants remain undeterred and double down on their strained legal theories in this MUR, spuriously claiming the Report “confirmed” the allegations in their original complaint. (*See* Suppl. Compl. 1.) The Supplemental Complaint distorts the Special Counsel’s findings, which in reality confirm what was already clear: no violation of the Federal Election Campaign Act (“FECA” or “the Act”) has occurred, and the FEC must dismiss this matter.

The Supplemental Complaint asserts that the Special Counsel Report “concluded” that individuals associated with the Campaign solicited a “thing of value” under FECA from a foreign national, in the form of falsely offered “documents and information” damaging to Hillary Clinton. (*See* Suppl. Compl. 6.) That is false. The Report actually finds no controlling authority for treating the offered information as a “thing of value” under the Act’s definition of “contribution.” *See* Special Counsel Report: Volume I at 187 (“[N]o judicial decision has treated the voluntary

provision of uncompensated opposition research or similar information as a thing of value that could amount to a contribution under campaign-finance law.”). The Report also warns that “[s]uch an interpretation could have implications beyond the foreign-source ban” and would raise “especially difficult” questions under the First Amendment. *Id.* The Campaign explained those concerns, and why the First Amendment precludes treating the offered information as a “contribution” under FECA, in its original response in this matter. (*See* Resp. 7–9.)

The Supplemental Complaint also misrepresents the Special Counsel Report’s statements concerning valuation of the falsely offered information, suggesting it had value. In fact, the Report concludes that it likely would be impossible to ascertain *any* value of such non-existent information, which was merely described by a third party in a “quite general,” “non-specific” fashion over email. *See* Special Counsel Report: Volume I at 188 (“The type of evidence commonly used to establish the value of non-monetary contributions—such as pricing the contribution on a commercial market or determining the upstream acquisition cost or the cost of distribution—would likely be unavailable or ineffective in this factual setting.”). As explained in the Campaign’s original response, a violation of FECA demands that an alleged contribution have ascertainable monetary value. (*See* Resp. 9–12.) That is not the case here, and the FEC has no basis for further enforcement efforts. *See, e.g.*, MUR 6958 (Senator Claire McCaskill et al.), Statement of Reasons of Comm’rs Goodman, Hunter & Petersen 6–7 (dismissing complaint because merely “discussing poll results ‘in general’” does not provide ascertainable value); *see also* MUR 6651 (Murray Energy Corp.), First General Counsel’s Report at 19 (recommending the Commission dismiss complaint against campaign where, among other things, a purported contribution was of “difficult-to-ascertain value”).

For the foregoing reasons, the Supplemental Complaint—just like the original complaint in this MUR—fails to demonstrate any reason to believe the Campaign has violated the law, and the Commission should dismiss the Complaint and close the file in this matter.