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BEFORE THE FEDERAL ELECTION COMMISSION

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OFFICE OF GENERAL
COUNSEL

**RESPONSE TO THE COMPLAINT FROM ALEXANDRA CHALUPA
AND CHALUPA & ASSOCIATES, LLC,**

I, Alexandra Chalupa, respond on behalf of myself and my limited liability corporation, Chalupa & Associates, LLC (“the LLC”), to the Complaint filed in this matter. I respectfully request that the Commission find that there is no reason to believe a violation has occurred and dismiss the Complaint.

I. BACKGROUND

Through an agreement between the Democratic National Committee (“DNC”) and the LLC, I served as a contractual consultant for ethnic outreach for the DNC prior to the 2016 election. My duties under the agreement involved performing consulting services for the DNC related to outreach to various ethnic communities around the United States.

The Complaint relies extensively on a *Politico* article, which is filled with speculation and contains numerous factual errors. *See* Complaint, pp. 3-4, 8. What is accurate is that I worked with officials at the Ukrainian Embassy regarding a proposal for a women’s networking event at the Embassy. As reported in the *Politico* article attached to the Complaint, during that interaction I also discussed with Embassy personnel then-Trump campaign official Paul Manafort’s activities in Ukraine. These informal discussions were unrelated to the duties prescribed by my consulting agreement with the DNC. At the request of a DNC official, I also asked an official at the Ukrainian Embassy if President Petro Poroshenko would field a question

concerning Manafort at an event at the U.S. Capitol Visitor Center; the Embassy declined the request.

II. ANALYSIS

The Complaint restates numerous factual errors and unfounded assumptions that it derives from media reports. This Response should not be construed as an admission of any of the allegations in the Complaint—or the media reports on which it is based—regarding my work for the DNC or my interaction with Ukrainian embassy officials. However, even if the FEC were to accept all of the allegations as true, the Complaint does not provide the FEC with reason to believe that a violation of federal election law occurred.

In its single cause of action, the Complaint alleges that I “knowingly solicited, accepted and received contributions from a foreign national in violation of the Federal Election Campaign Act.” Complaint, ¶ 23. Specifically, the Complaint states that the purpose of my interactions with Ukrainian officials was to obtain “a valuable in-kind contribution” to the DNC. *Id.* Evidently, that contribution consisted of information relating to Mr. Manafort.

This claim evinces a fundamental misunderstanding of the federal election law regulating the sharing of information. As the FEC knows, anyone, including a foreign national, can engage in “issue speech” about a candidate or anyone else without violating the law. *See Bluman v. FEC*, 800 F. Supp. 2d 281 (D.D.C. 2011). The contribution issue arises only when the information provided unambiguously advocates the election or defeat of a clearly identified federal candidate, 11 CFR § 100.22 (defining “expressly advocating”), and thus becomes a contribution of “anything of value made by any person for the purpose of influencing any election for Federal office.” 52 U.S.C. § 30101(8)(A)(i). Information regarding Mr. Manafort’s activities in Ukraine—described in the Complaint as “opposition research and information on a

Trump campaign official”— does not constitute the type of express advocacy or its functional equivalent that forms the basis for a contribution. The same analysis would apply to any public statements regarding Mr. Manafort made by a Ukrainian official. Simply put, the Complaint alleges no express advocacy that would implicate the contribution provision.

The Complaint also overstates the law’s coverage of information provided by foreign nationals that does not expressly advocate for or against a federal candidate. The Complaint never alleges that Ukrainian officials made expenditures to attack any federal candidate or engaged in any campaign speech to expressly benefit a Democratic campaign. Rather, the Complaint describes efforts to solicit information about a non-candidate that could potentially be converted into speech by the DNC or others. Quoting from the *Politico* article, the Complaints notes that I “traded information and leads with foreign nationals at the Ukrainian Embassy.” Complaint, ¶ 25. This exchange of information is entirely permissible under federal election law, as it involved issues-oriented—not campaign—speech. *See Bluman*, 800 F. Supp. 2d at 284 (“This statute, as we interpret it, does not bar foreign nationals from issue advocacy.”). Nothing in the Complaint implicates any speech or other information that could be considered express advocacy or its functional equivalent.

The FEC has also authorized the receipt of information unrelated to express advocacy from foreign nationals. In FEC Advisory Opinion 2007-22 (Hurysz), the Commission *unanimously* authorized a campaign to interview Canadian nationals who had participated in successful “third-party” campaigns. The FEC authorized transmission of relevant information from Canadian nationals to a federal campaign for use by the candidate, and declined to hold that such information was intended to influence an election under federal law. Ironically, the Complaint cites this Advisory Opinion for the general ban on contributions from foreign

nationals while ignoring its clearly relevant holding regarding the permissible transmission of information from such individuals. *See* Complaint, ¶ 16.

III. CONCLUSION

The facts stated in the Complaint—even if accepted as accurate—do not establish a violation of federal campaign law. Despite the Complaint’s extensive factual recitation, it contains no allegation suggesting that I ever solicited or received “anything of value made by any person for the purpose of influencing any election for Federal office.” 52 U.S.C. § 20101(8)(A)(i). As such, I respectfully request that the Commission find no reason to believe a violation occurred, dismiss the Complaint and close its file.

Respectfully,



Alexandra Chalupa
Chalupa & Associates, LLC

Washington, DC 20008