



**IN AND BEFORE THE  
FEDERAL ELECTION COMMISSION**

In Re: )  
)  
North Carolina Republican Party and ) MUR 7382 & 7357  
Jason Lemons in his official capacity as )  
Treasurer )  
Respondent )

**RESPONSE TO COMPLAINTS<sup>1</sup> AND MOTION TO DISMISS ALL  
COMPLAINTS AS AGAINST NORTH CAROLINA REPUBLICAN PARTY AND  
JASON LEMONS IN HIS OFFICIAL CAPACITY AS TREASURER**

---

The North Carolina Republican Party (“NCGOP”), through Jason Lemons, in his official capacity as Treasurer of NCGOP (collectively “Respondent”) files this Response and its Objections to the Complaint filed with the Federal Election Commission (“Commission” or “FEC”) in Matter Under Review (“MUR”), MUR 7382. Respondent denies the allegations in the Complaint.

In addition, the NCGOP was served with a copy of the Complaint in MUR 7357 to which the NCGOP filed a Response. This Response shall also serve as a supplemental Response to the allegations in MUR 7357.

The Complaints allege that Respondent violated the Federal Election Campaign Laws, Title 52 United States Code, Subtitle III, Chapter 301, Subchapter I, and regulations thereunder (“FECA” or “the Act”).

Respondent affirmatively states that neither the NCGOP nor its Treasurer has committed any violation of the Act. For the reasons set out herein, Respondent moves for a dismissal of the Complaints and for the Commission to find no reason to believe a violation has occurred.

**Summary of Factual Assertions in MUR 7382 and 7357 relating to NCGOP**

The Complaint alleges that NCGOP contracted with Cambridge Analytica to provide data targeting and media consulting services, that Cambridge Analytica’s political consulting team was primarily comprised of foreign nationals, such that data modeling employees of Cambridge Analytica were foreign nationals who made strategic

---

<sup>1</sup> NCGOP is responding to the Complaint in MUR 7382, as well as supplementing its Response previously filed in MUR 7357.

decisions regarding messaging and advised the NCGOP regarding advertising expenditures and other campaign resources.

The Complaint further alleges that Cambridge Analytica participated in expenditures and disbursements made by NCGOP by analyzing voter behaviors, designing communications, and participating in strategic decision making related to how the NCGOP should expend resources and that Cambridge Analytica provided strategic consulting services to the NCGOP. The Complaint alleges that after providing strategic consulting services to the Thom Tillis Committee and the NCGOP, Cambridge Analytica appears to have used the same information in support of the Bolton SuperPAC's communications in support of Senator Tillis. Finally the Complaint alleges that Cambridge Analytica used the psychographic models it built to design concepts for advertisements for candidates supported by Bolton's PAC, including the Tillis campaign.

The Complaint further alleges that NCGOP accepted illegal and excessive in-kind contributions from the John Bolton SuperPAC, through the use of Cambridge Analytica as a common vendor, resulting in illegal coordinated expenditures.

**Summary Response:**

NCGOP disputes and denies the allegations of facts set forth in the Complaint and states that it has not committed a violation of federal law as alleged in MUR 7382 and MUR 7357.

**NCGOP RESPONSE  
TO THE  
ALLEGATIONS IN THE COMPLAINT**

The allegations made in the Complaint are based upon the unsubstantiated marketing hyperbole in Cambridge Analytica marketing materials and related statements made by Cambridge Analytica owners and employees that are designed to make Cambridge Analytica look good in order to attract future clients and news media reports regarding the company's claims. However even when the media did report on Cambridge Analytica's claims, portions of the stories indicated that the Cambridge Analytica narrative could not be believed.

For example, one story located at <https://www.motherjones.com/politics/2018/03/cloack-and-data-cambridge-analytica-robert-mercero> included quotes discussing the lies and misrepresentations from Cambridge Analytica and its employees, and reporting that there was "a consensus Cambridge Analytica had overhyped their supposed accomplishments."

The Mother Jones article also included a discussion of the claims of Cambridge Analytica employees and managers that included this quote from Cambridge Analytica's president: "Marketing materials aren't given under oath."

In response to the allegations of MUR 7382 and MUR 7357, NCGOP offers the following facts, supported by an affidavit of W. Todd Poole, the 2014 Executive Director:

1. The “Services Agreement” (hereinafter “Agreement”) entered into by and between NCGOP and Cambridge Analytica, which was prepared by Cambridge Analytica, identified Cambridge Analytica as “a Delaware corporation with its principal executive office at the News Corporation Building, Suite 2703, 1211 6<sup>th</sup> Avenue, New York, NY.”

2. Under the Agreement, Cambridge Analytica provided – or was supposed to provide –

- Voter data, based upon publicly available information from government and commercial data sources.
- A secure database.
- Voter modeling and voter targeting information (to assist with identifying voters who may benefit from additional information about the candidates).
- Analytical information regarding voter trends and reactions.

3. The Agreement does not include consulting services or provide at any point that Cambridge Analytica will make decisions for or on behalf of NCGOP with respect to directing resources or campaign messaging. NCGOP had already decided on the main themes for its 2014 campaign messages when it contracted with Cambridge Analytica. Contrary to the self-serving marketing materials and statements made by its executives and employees, as far as NCGOP is concerned, Cambridge Analytica was a data and voter-modeling vendor that assisted in identifying an environment for swing voters and identifying trends.

4. No one from Cambridge Analytica was invited to or attended NCGOP staff meetings, nor were representatives of Cambridge Analytica present in or at meetings in which messaging and spending were discussed.

5. No person from Cambridge Analytica created “communications across platforms” used by the NCGOP.

6. With respect to the NCGOP’s strategy regarding communications and expenditures during the 2014 election cycle, each and every decision with respect to the content of the communications was made by Executive Director W. Todd Poole.<sup>2</sup> Spending decisions can only be executed by the Chair of the NCGOP, the Executive Director and the Treasurer, and Executive Director W. Todd Poole consulted with the Chair and the Treasurer on spending decisions. NCGOP does not allow outside vendors to direct spending or execute checks.

---

<sup>2</sup> See Affidavit of W. Todd Poole, dated July 6, 2018.

7. There were no services provided to NCGOP by Cambridge Analytica that gave rise to “common vendor” status because (i) Cambridge Analytica made no decisions and played no significant role in the creation, production or dissemination of public communications for or on behalf of NCGOP; and (ii) NCGOP may make coordinated party expenditures on behalf or in support of the NCGOP candidates for federal offices.

8. The “facts” cited in the Complaint are actually not facts at all, but are (i) unsupported statements made by persons associated with and profiting from Cambridge Analytica that are intended to draw attention to Cambridge Analytica; or (ii) media reports citing the unsupported and self-serving statements made by Cambridge Analytica representatives. This Commission surely requires more than the “facts” cited in the Complaint upon which to base an inquiry.

### **Legal Authorities In Support of a Finding of No Reason to Believe a Violation of Law Was Committed By The NCGOP**

#### **I. No Violation of 52 U.S.C. Section 30121(a)**

##### **A. Cambridge Analytica Was or Presented Itself as a Legal U.S. Corporation:**

The Complaint alleges that the NCGOP entered into a contract with a foreign entity. That is incorrect. The Contract on its face identifies Cambridge Analytica as “a Delaware corporation” with its principal office in New York, NY. Upon information and belief, all payments were sent to the New York offices. There was no reason to believe that Cambridge Analytica was anything other than a legally resident U.S. corporate entity. In fact Cambridge Analytica was established as a U.S. company on December 31, 2013 according to the records of the Delaware Secretary of State.

##### **B. A State Party Committee is Not Barred From Engaging a Foreign Contractor or Commercial Vendor if the Foreign Commercial Vendor is Paid for its Services and Products and if the Vendor is Not Involved in the Management or Strategy of the Committee.**

A State Party Committee is not completely barred from engaging or utilizing a foreign vendor or contractor as long as the vendor is paid a reasonable or customary fee for the goods or services, and is not involved in any decision-making or management role. This Commission has found that engaging a foreign vendor is legal. *See MUR 5998, First General Counsel’s Report.* In MUR 5998, the Commission specifically ruled that a foreign-owned commercial vendor is not prohibited from providing goods and services to a federal political committee as long as the vendor is not involved in the decision-making or management of the committee.

In this case Cambridge Analytica, legally a Delaware corporation, provided services and data products to a State Party Committee but as stated in the affidavit of W.

Todd Poole, it was not involved in management or decisions, so the same logic applies. There is no violation of 11 C.F.R. Section 110.20, as there was no involvement of Cambridge Analytica in the control of the NCGOP's political or campaign strategies, decision making, or management of the NCGOP's strategies or assistance to party candidates. The concept that NCGOP would allow a contract vendor to control or play a significant role in spending and communications strategy is absurd.

No one from Cambridge Analytica was involved in any decisions about spending or messaging. Cambridge Analytica provided data and some voter modeling that "helped identify and define the political environment."<sup>3</sup> Contrary to the allegations in MUR 7382 and MUR 7357, Cambridge Analytica was engaged to compile data, do voter modeling and provide the data and models to the NCGOP. Todd Poole, in consultation with the NCGOP Chairman, made ALL the decisions with respect to the use of the data and the development of the messaging and communications. Furthermore, as shown herein, the Cambridge Analytica that NCGOP engaged is a legally-chartered Delaware corporation with its main offices in New York.

There is no violation of the laws of the United States on the part of the NCGOP, and the Complaint(s) relating to NCGOP should be dismissed or rejected.

## **II. There is No Violation of 11 C.F.R. Section 109.21 Regarding Coordinated Public Communications**

As stated in the affidavit of W. Todd Poole, the NCGOP's Executive Director at the time, Cambridge Analytica was not involved in decisions regarding the creation, production or development of NCGOP's campaign-related communications. According to Poole, the data and modeling provided by Cambridge Analytica was combined with other data sources and put to use based upon Poole's experience with how best to employ the resources available. The facts in this situation are similar to the facts upon which the Commission based its findings in MUR 6888, concluding that no common vendor status is triggered by the hiring of a data company without that company being subsequently involved in the "creation, production or development" of campaign communications. Without facts that *establish* and not just allege Cambridge Analytica's significant and impactful involvement in the NCGOP's communications, the conduct standard of 11 C.F.R. Section 109.21 is not met, independent expenditures by a third party such as the Bolton PAC are not coordinated with any other campaigns and the Commission must find that there is no reason to believe there was a violation of the regulations against coordinated public communications.

---


<sup>3</sup> Poole Affidavit, paragraph 5.

**CONCLUSION**

The Complaint(s) include no facts to support a finding of reason to believe a violation of federal law has been committed by Respondent with respect to the allegations in this or any other Complaint of record. As a result, the Complaints should be dismissed as to the Respondent NCGOP.

This the 6<sup>th</sup> day of July, 2018.

Respectfully Submitted,



---

Roger W. Knight  
NC State Bar # 13010  
Counsel to  
North Carolina Republican Party  
And Jason Lemons, Treasurer  
In his official capacity

**IN AND BEFORE THE  
FEDERAL ELECTION COMMISSION**

In Re:	)	
	)	
North Carolina Republican Party and	)	MUR 7382 & MUR 7357
Jason Lemons in his official capacity as	)	
Treasurer	)	
Respondent	)	

**AFFIDAVIT OF W. TODD POOLE**

---

I, W. Todd Poole, a resident of the State of North Carolina and being of lawful age, do hereby affirm and state of my own personal knowledge, or, where stated, upon information and belief:

1. In 2014 I served as the Executive Director of the North Carolina Republican Party (hereinafter "NCGOP"). As Executive Director I was directly in charge of both the day-to-day operations of the NCGOP staff and the NCGOP efforts to support Republican candidates in the 2014 election cycle.
2. I have personal knowledge of the NCGOP's hiring of a data modeling company named Cambridge Analytica in 2014. In fact I made the decision to hire Cambridge Analytica to provide data and micro-targeting information to NCGOP for the 2014 election. As far as I knew at the time, Cambridge Analytica was a legal U.S. company with offices in New York. The contract document, provided by Cambridge Analytica, stated that it was a Delaware corporation.
3. There were (and still are) several companies or firms that offer to provide campaigns data collection, modeling and analysis. Cambridge Analytica is one of them, but from my experience they provide nothing particularly worthwhile that other firms could not provide.
4. Cambridge Analytica provided data, and information on trends for general and specific areas and helped identify and define the political environment. NCGOP used the Cambridge Analytica data, along with data from other sources, reports from local party members and publicly identifiable impact events to constantly assess or "tweak" the local political environment. The information was used to identify possible "swing" voters and/or those Republican voters who may need a "push" or additional reason to go to the polls and vote.
5. As Executive Director, every single decision with respect to campaign communications was mine. The suggestion that I would allow a data or modeling vendor

to make decisions is absurd. No matter what it is that Cambridge Analytica executives or employees claim, no one from Cambridge Analytica made decisions on behalf of the NCGOP campaign communications. NCGOP already had its campaign communications plan prior to Cambridge Analytica being under contract.

6. Any allegation or assertion that NCGOP used messages or communications prepared by Cambridge Analytica is false.

7. To the best of my knowledge and belief, the allegations in the 2018 FEC Complaints regarding the NCGOP are false and the Complaints should be dismissed.

8. I understand that these statements are made under the penalty of perjury and I swear and affirm that the statements contained herein are made of my own personal knowledge, unless otherwise made under information and belief, and are true and correct to the best of my knowledge and belief.

This the 6 day of July 2018

W. Todd Poole  
W. Todd Poole

NORTH CAROLINA  
Davie COUNTY

I, John T C Lanham, a Notary Public in and for said County and State do hereby certify that W. Todd Poole personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

WITNESS my hand and notarial seal this the 6 day of July 2018.

John TC Lanham  
NOTARY PUBLIC  
Davie County, NC  
My Commission Expires January 7, 2023

John T C Lanham  
John T C Lanham Notary Public  
Notary's Printed or Typed Name

My commission expires: January 7, 2023  
(Affix seal)