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January 10, 2020

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 7425

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 matter.

Very truly yours,

E. Stewart Crosland

Enclosure

BEFORE THE FEDERAL ELECTION COMMISSION

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)	**MUR 7425**
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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 Treasurer Bradley T. Crate (collectively, "the Campaign") hereby respond to the Supplemental Complaint in the above-captioned MUR.

The Supplemental Complaint tries again to give saliency to complainant's initial misguided effort to turn acts of charity by President Trump and his agents into violations of federal campaign-finance law. As explained in detail in the Campaign's initial response in this matter, the complainant's arguments must be rejected as a matter of law. The Federal Election Campaign Act, as amended ("the Act"), and FEC regulations expressly permit candidates and their agents to solicit funds for charities of their choosing without such funds constituting so-called "soft money." *See* 52 U.S.C. § 30125(e)(4)(A); 11 C.F.R. § 300.65. The only restriction is that the charities' "principal purpose" must not be to engage in federal election activity. *See, e.g.*, Comment of McCain, Feingold, Shays & Meehan, REG 2002-09 Non-Federal Funds, at 35–36 (Apr. 10, 200) ("[T]he Federal candidate . . . solicitation restrictions in the Act with regard to 501(c) tax-exempt organizations apply only to Federal candidates . . . making solicitations for 501(c) tax-exempt organizations engaged in either Federal election activity or activities in connection with elections."). The Commission thus has declared that the Act must "not be misinterpreted to prohibit candidates, officeholders, or their agents from soliciting funds for a 501(c) organization . . . such as the Red Cross." Explanation & Justification, *Prohibited and Excessive Contributions: Non-Federal Funds or Soft Money; Final Rule*, 67 Fed. Reg. 49,064, 49,109 (July 29, 2002). Yet that is exactly what the complainant asks the Commission to do.

In 2016, President Trump, in his capacity as a federal candidate, and certain individuals acting on his behalf raised millions of dollars for charities supporting military veterans as part of an event at Drake University paid for (as reported on its FEC disclosures) by the Campaign. The funds were raised to support the general activities of the veterans' charities – not for federal election activity – and therefore complied with the Act.[1] Nearly half of the funds raised went directly to charities identified on the night of the event, while the remaining proceeds were deposited with the Trump Foundation, another 501(c)(3) organization, until additional veterans' charities could be identified by President Trump or his agents. The Trump Foundation transferred *all* of the funds received to such charities consistent with donor intent. In fact, the stipulations and judicial findings from the New York state court proceeding relied on by the Supplemental Complaint – a matter concerning state-law charitable governance and tax issues – explicitly found that all of "*the Funds [(deposited with the Trump Foundation)] did ultimately reach their intended destinations, i.e., charitable organizations supporting veterans.*" Decision & Order on Petition for Declaratory Judgment at 6, *The People of the State of New York v. Donald J. Trump*, No. 451130/2018 (N.Y. Sup. Ct. N.Y. Co. Nov. 7, 2019) (emphasis added).

The complainant's allegations thus boil down to finding fault with any potential political goodwill that may have been derived from the 2016 veterans' charity fundraising effort. Yet, as discussed in the Campaign's initial response, it is beyond dispute that practically every action of a federal candidate – including charity – may affect that candidate's public image. The Act and regulations nonetheless permit candidates to engage in unlimited charitable fundraising. *See* 52

[1] As in the original complaint, none of the veterans' charities that received funds is alleged to have been organized to conduct federal election activity, and the solicitations did not specify how the groups would or should spend any donated funds. *See* Advisory Op. 2003-12 (Flake), at 12. These were general solicitations, made to raise funds to support the overall operations of veterans' charities. *See, e.g.*, Advisory Op. 2003-5 (Nat'l Assoc. of Home Builders of the United States), at 6 (distinguishing general solicitations from specific solicitations). The funds raised in response therefore were permissible under the Act.

U.S.C. § 30125(e)(4)(A); 11 C.F.R. § 300.65. Whether such philanthropic efforts ultimately influence the public perception of a candidate, favorably or unfavorably, is simply not a concern of the law or FEC.

* * *

For the reasons set forth above and in the Campaign's initial response, the complainant's allegations relating to the 2016 fundraising effort for veterans' charities are specious. Federal election law expressly permits candidates and their agents to solicit funds for the general operations of charities without limit. Under the law and consistent with its own admonition that the Act never "be misinterpreted to prohibit candidates, officeholders, or their agents from soliciting funds for a 501(c) organization," the Commission must dismiss this matter (as well as the related Pre-MUR 611) and close the file.