

**IN AND BEFORE THE  
FEDERAL ELECTION COMMISSION**

	)	
In re:	)	
	)	MUR 7427
Cotton for Senate, and	)	
Theodore V. Koch, Treasurer	)	
In his official capacity	)	

**RESPONSE OF COTTON FOR SENATE TO COMPLAINT AND  
MOTION TO DISMISS COMPLAINT**

Cotton for Senate (“the Committee”) and its Treasurer, Theodore V. Koch, in his official capacity as Treasurer of the Committee (“Treasurer”), (collectively hereafter “Cotton Respondents”), file this Response and Objection(s) to the Complaint/ Supplement to Complaint (“the Complaint”) filed with the Federal Election Commission (“Commission” or “FEC”) by the Campaign Legal Center and Sandhya Bathija. The Complaint alleges that Respondents have committed a violation of the Federal Election Campaign Laws, Title 52 United States Code, Subtitle III, Chapter 301, Subchapter I (“the Act”) and the regulations promulgated thereunder by the Commission.

Cotton Respondents affirmatively state that neither the Committee nor its Treasurer has committed any violation of the Act and the Complaint should be dismissed.

SUMMARY OF THE COMPLAINT

The Complainants allege that the Cotton Respondents received an unspecified illegal in-kind contribution during the 2014 election cycle by virtue of having retained OnMessage, Inc (“OMI”) and its principal, Brad Todd (“Mr. Todd”) to serve as a consultant to its 2014 campaign. Complainants’ theory is that because OMI served as a vendor to the Cotton campaign, while simultaneously serving as a vendor to the National Rifle Association of America (“NRA”), there was created “common vendor status”, hence all communications by the NRA Political Victory Fund (“NRA-PVF”) in support of Sen. Cotton’s candidacy were illegally coordinated in violation of Commission regulations at 11 C.F.R. §109.21.

RESPONSE TO COMPLAINT

Complainants’ theory is mere illusion, not factual. Not a single fact is even alleged by Complainants that would give rise to a violation of the Commission’s regulations involving coordinated public communications.

Cotton Respondents hereby adopt and incorporate by reference in its entirety the Response filed with the Commission on September 10, 2018 by and on behalf of Respondents NRA-PVF and Mary Rose Adkins in her capacity as Treasurer, National Rifle Association Institute for Legislative Action (“NRA-ILA”); OnMessage, Inc., and Starboard Strategies, Inc., (“NRA / OMI Respondents”) as well as the sworn Affidavit of Bradley Todd, attached thereto (“Todd Affidavit”).

Mr. Todd’s sworn affidavit states unequivocally that at no time did he convey to the NRA, or NRA-PVF, or its personnel, any proprietary, non-public information regarding the needs, activities, plans or projects of the Cotton campaign. See Todd Affidavit, ¶¶4 and 5.

The arguments and authorities contained in the NRA / OMI Respondents’ Response, together with Mr. Todd’s sworn testimony are entirely correct regarding and applicable to the Cotton Respondents.

Absent any factual basis for the bare allegations contained in the Complaint, and the uncontroverted statements from Mr. Todd that OMI Respondents established and implemented proper firewall procedures at all times during the 2014 election cycle, there is no reason to believe that Respondents Cotton for Senate and its treasurer Theodore V. Koch have committed any violation of the Act.

#### CONCLUSION

The Complainants have failed to establish either a factual or a legal basis for the Commission to find any reason to believe a violation of law has occurred with respect to the Cotton Respondents. Accordingly, the Complaint must be dismissed.



Cleta Mitchell, Esq., Counsel  
Cotton for Senate and  
Theodore V. Koch, Treasurer  
in his official capacity.

Submitted this 19<sup>th</sup> day of September, 2018.