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February 21, 2019

Federal Election Commission  
Office of General Counsel  
Office of Complaints Examination  
& Legal Administration  
attn: Kathryn Ross, Paralegal  
1050 First Street, NE  
Washington, DC 20002

**Re: Supplemental Response in MURs 7427, 7497, 7524, and 7553**

Dear Ms. Ross,

This Supplemental Response is submitted in the above-referenced matters by the undersigned counsel on behalf of the National Rifle Association of America Political Victory Fund (NRA-PVF), National Rifle Association Institute for Legislative Action (NRA-ILA), OnMessage, Inc., Starboard Strategic, Inc., and National Media Research Planning and Placement LLC. The Campaign Legal Center is a complainant in each of these matters, along with Giffords. We wish to bring to the Commission's attention comments made by Campaign Legal Center representatives in 2012-2013 in response to a substantially similar scenario. The Campaign Legal Center's response in 2012-2013 was quite different than it is today, and their representatives' past statements strongly indicate that the present complaints include false statements in violation of 18 U.S.C. § 1001.

In 2012, *Huffington Post* published an article that included details about the media consulting firm GMMB.<sup>1</sup> GMMB is a media consulting vendor that is aligned with Democrat candidates, party committees, and outside organizations. According to the *Huffington Post*, "Waterfront Strategies" is an "internal branch of GMMB," a "firm within a firm." As the *Huffington Post* explained:

Waterfront is not actually an independent outfit. The building in Georgetown where it is located is the home of GMMB, the powerhouse media consulting shop

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<sup>1</sup> Michael McAuliff and Paul Blumenthal, *Political Consultants From Mysterious Firm Tread Fine Legal Line 'Putting The Lie To Reality,'* *Huffington Post* (June 8, 2012), [https://www.huffingtonpost.com/2012/06/08/political-consultants-2012-campaign-big-money\\_n\\_1579661.html](https://www.huffingtonpost.com/2012/06/08/political-consultants-2012-campaign-big-money_n_1579661.html).

that produces President Barack Obama's ads, and where Obama's top consultant there, Jim Margolis, boasts that he represents more Democratic senators than anyone else, among them Majority Leader Harry Reid.<sup>2</sup>

*Huffington Post* noted a third associated entity as well, Great American Media, which it characterized as "another firm from inside GMMB."<sup>3</sup> According to unnamed "consultants who sometimes do business with ... GMMB,"

Waterfront Strategies, they explained, exists so that GMMB has a separate corporate entity where it can employ people to handle outside expenditures — in this case mostly from the House Majority PAC that aims to retake control of the House from Republicans, and the Majority PAC that is trying to preserve Democratic control of the Senate. The arrangement keeps the money legally separate from people who may be working more directly with Senate or House candidates. Thus campaign laws barring coordination are not violated.<sup>4</sup>

Stated differently, the arrangement helps to enforce the companies' firewall policies by separating employees working for different types of clients. When asked about the arrangement, Meredith McGehee, then the policy director at the Campaign Legal Center, offered another explanation for why a vendor might do this: "If they had a Blue Dog [conservative Democrat], for example, they wouldn't necessarily want it to come up that the parent company works for, say, Barbara Boxer or Obama."<sup>5</sup> While Ms. McGehee was generally critical of the FEC's coordination rules, she did not accuse GMMB/Waterfront of any wrongdoing. In fact, she held them blameless, stating: "**I can't think it would be fair to say it's the fault of the companies.**"

The Center for Public Integrity published an article in 2013 that again noted the business practices of GMMB. The article explained that in 2012, "[b]oth Waterfront and its parent company, GMMB, worked to elect Democrat Richard Carmona in his unsuccessful bid for Arizona's open U.S. Senate seat. Majority PAC hired Waterfront to purchase airtime for ads supporting Carmona and attacking his Republican opponent, then-Rep. and now Sen. Jeff Flake. Carmona's campaign hired GMMB for its ad buys in the same race."<sup>6</sup> This is exactly the same scenario described in the Campaign Legal Center's various complaints (MURs 7427, 7497, 7524, and 7553); all that differs is the names and party affiliations. Of course, the Campaign

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<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> Reity O'Brien and Andrea Fuller, *Court Opened Door To \$933 Million In New Election Spending*, The Center for Public Integrity (Jan. 16, 2013, updated May 19, 2014), <https://publicintegrity.org/federal-politics/court-opened-door-to-933-million-in-new-election-spending/>.

Legal Center did not file any complaints then. At the time, it was Campaign Legal Center senior counsel Paul S. Ryan who brushed aside the matter: **“Setting up spinoffs is more about ‘optics’ than skirting coordination rules, said Paul S. Ryan, senior counsel for the nonpartisan Campaign Legal Center.”**<sup>7</sup>

The Campaign Legal Center’s response to the 2012-2013 articles about GMMB/Waterfront Strategies/Great American Media and their current treatment of OnMessage, Inc. and National Media could not be more different. When confronted with the exact same business practices and arrangements a few years ago, two different Campaign Legal Center representatives made statements that were supportive of the Democratic firm and its Democratic clients. In the current matters, however, with Republican firms, Republican candidates, and an outside organization that generally supports Republicans at issue, the Campaign Legal Center’s reaction has been utterly hysterical.

Instead of telling the media “I can’t think it would be fair to say it’s the fault of the companies,” or suggesting that the arrangement “is more about ‘optics’ than skirting coordination rules,” the Campaign Legal Center has collaborated with reporters at left-wing media outlets to produce article after article, and complaint after complaint, smearing the respondents in the present matters with sensational claims of elaborate coordination conspiracies.

- Campaign Legal Center President Trevor Potter told *The Trace*, “This evidence raises substantial questions about whether OnMessage and Starboard Strategic were used as conduits for coordination between the NRA and the candidates it was supporting.”<sup>8</sup> In 2012, the exact same “evidence” raised no such questions with respect to GMMB, Waterfront Strategies and its clients.
- The Campaign Legal Center issued a press release featuring the following statement from Brendan Fischer: “There is substantial evidence that the NRA funneled millions through a shell corporation to unlawfully coordinate with candidates it was backing.”<sup>9</sup> In 2012, the Campaign Legal Center had no such concerns when the advertisers were Democratic interest groups and the “shell corporation” was Waterfront Strategies.

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<sup>7</sup> *Id.*

<sup>8</sup> Mike Spies, *The Mystery Firm That Has Become the NRA’s Top Election Consultant*, *The Trace* (July 13, 2018), <https://www.thetrace.org/2018/07/nra-campaign-finance-onmessage-starboard-strategic/>.

<sup>9</sup> Campaign Legal Center Press Release, *NRA Used Shell Company to Unlawfully Coordinate With Four U.S. Senate Candidates, Complaint Alleges* (July 16, 2018), <https://campaignlegal.org/press-releases/nra-used-shell-company-unlawfully-coordinate-four-us-senate-candidates-complaint>. Six months later, Mr. Fischer was still using the same talking point, tweeting: “The NRA routed its millions through a web of shell corporations, obfuscating that it was using the same vendors as the candidates it supported.” Message available at [https://twitter.com/brendan\\_fischer/status/1093625741634355202](https://twitter.com/brendan_fischer/status/1093625741634355202). On July 13, 2018, Mr. Fischer tweeted, “The directors at a political firm, OnMessage, set up a shell corporation, Starboard,” and “It appears Starboard was created to evade coordination rules.”

Times apparently change. In 2012, the Campaign Legal Center helpfully explained how GMMB's business practices had nothing to do with coordination. Now, they claim that the exact same practices, when undertaken by Republicans, are done "for the purpose of disguising coordinated communications," and that these firms have created "shell companies" to hide their common vendor violations.<sup>10</sup> In 2012, the Campaign Legal Center that did not care that GMMB represented Democratic candidate Richard Carmona while Waterfront Strategies represented Senate Majority PAC in the same election. Today, they say the same arrangement in the present matters is "an elaborate scheme designed to evade detection of violations of the Commission's common vendor coordination rules."<sup>11</sup> Instead of waving the matter away as it did in 2012, the Campaign Legal Center falsely claims that the NRA-PVF and OnMessage, Inc. "deliberately routed the NRA-PVF's independent expenditures ... through the corporate shell of Starboard Strategic, Inc." while "the NRA-PVF's ... communications were distributed and placed by employees of the firm National Media ... under a trade name."<sup>12</sup>

The Campaign Legal Center's hypocrisy is stunning, even by the standards of the campaign finance "watchdog" community. To the best of our knowledge, the Campaign Legal Center filed exactly zero complaints over the practices of GMMB and Waterfront Strategies, and to the best of our knowledge, the Campaign Legal Center has never collaborated with any reporters or activists to produce article after article smearing GMMB, Waterfront Strategies, and their clients – including individual employees – with sensational claims that it knows to be false.

The Campaign Legal Center has every right act as a hypocritical, phony "watchdog," and they are presumably just doing the bidding of their wealthy, left-wing benefactors as they decry the role of money in politics. However, based on the organization's own prior statements, it is exceedingly clear that the complaints filed by the Campaign Legal Center in MURs 7427, 7497, 7524, and 7553 contain knowing misrepresentations and outright lies. The Campaign Legal Center is on record saying one thing in 2012-2013 while the sworn complaints submitted over the past several months say something completely different. They are on record stating that they know exactly why GMMB does business through Waterfront Strategies and Great American Media and that they understand "setting up spinoffs is more about 'optics' than skirting coordination rules." Their sworn complaints filed over the past several months, however, say something completely different. It is impossible to reconcile their prior statements with their current characterizations of the respondents in the present matters. We therefore respectfully

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<sup>10</sup> MUR 7427, Complaint of Campaign Legal Center at ¶¶ 2, 50.

<sup>11</sup> MUR 7524, Complaint of Campaign Legal Center at ¶¶ 2, 72.

<sup>12</sup> *Id.* at ¶ 2.

renew our call for the Commission to consider whether the Campaign Legal Center and its representative, Mr. Fischer, violated 18 U.S.C. § 1001 when filing four sworn complaints (MURs 7427, 7497, 7524, and 7553) containing false statements.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael Bayes", with a long, sweeping flourish extending to the right.

Jason Torchinsky  
Michael Bayes  
Jessica Furst Johnson