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FEDERAL ELECTION COMMISSION
OCT 12 12:47
CELA

October 4, 2018

Mr. Jeff S. Jordan
Assistant General Counsel
Office of Complaints Examination
& Legal Administration
Federal Election Commission
1050 First Street, NE
Washington, DC 20463

2018 OCT 4 11:12:50
CELA
FEDERAL ELECTION COMMISSION

VIA EMAIL

Re: *Response of Ohio First PAC, Julie Dozier in her capacity as Treasurer of Ohio First PAC, Majority Strategies, Inc., and Grassroots Targeting LLC in MUR 7476*

Dear Mr. Jordan:

This Response is submitted by the undersigned counsel on behalf of Ohio First PAC, Julie Dozier in her capacity as Treasurer of Ohio First PAC, Majority Strategies, Inc., and Grassroots Targeting LLC (“Respondents”) in response to the August 9, 2018, complaint from Campaign Legal Center and Margaret Christ, designated as Matter Under Review 7476 (“Complaint”). For the reasons set forth below, the Commission should find no reason to believe that the Respondents violated the Federal Election Campaign Act of 1971, as amended (the “Act”), or any Commission regulation (“Regulations”), other than as previously disclosed to the Commission through the *sua sponte* submissions of Ohio First PAC. Accordingly, the Complaint warrants no further consideration and should be promptly dismissed.

Certain Claims Against Ohio First PAC as Reported via Sua Sponte Submission

First, the Complaint alleges that Ohio First PAC failed to meet its reporting obligations as required by the Act. Ohio First PAC fully disclosed this matter to the Commission promptly upon learning about its missed filings and subsequently made all required filings. Ohio First PAC first notified the Commission of its missed filings on June 29, 2018, and provided

Mr. Jeff Jordan
October 4, 2018
Page 2

supplemental information to the Commission regarding its *sua sponte* filings on September 28, 2018. That matter has been designated as P-MUR 613. For the Commission's convenience and efficient review of this matter, I have attached those submissions to this Response at Exhibit A.

Claims Against Majority Strategies, Inc. and Ohio First PAC

Next, the Complaint alleges that Ohio First PAC did not report in-kind contributions from, and corresponding disbursements to, Majority Strategies, Inc. ("Majority Strategies"). The Complaint based this information upon a supposition regarding the method by which Majority Strategies invoices, sets payment terms, and extends credit to its clients. Having no apparent awareness of Majority Strategies' business practices, the Complaint presumes a violation where none exists.

The Complaint asserts, without any shred of evidence, that debts owed by Ohio First PAC to Majority Strategies are contributions as extensions of credit under 11 C.F.R. § 100.55. This could not be further from the truth. An extension of credit constitutes a contribution, in relevant part, "unless the credit is extended in the ordinary course of the person's business and the terms are substantially similar to extensions of credit to nonpolitical debtors that are of similar risk and size of obligation." 11 C.F.R. § 100.55. Moreover, the Commission has recognized that campaign vendors can "extend credit to a candidate, a political committee . . . provided that the credit is extended in the ordinary course of the corporation's business and the terms are substantially similar to extensions of credit to nonpolitical debtors that are of similar risk and size of obligation." 11 C.F.R. § 116.3(b). Such an extension of credit does not constitute a contribution. *See id.*

Majority Strategies billed Ohio First PAC in the ordinary billing practice for its similarly situated political and nonpolitical clients.¹ Majority Strategies has routinely granted credit to hundreds of similarly situated clients during its roughly twenty-five years in business, and typically uses extended repayment terms. *Id.* Further, this practice is common throughout the political consulting industry. *Id.* While the Complaint simply assumes to know the inner workings and business methods of Majority Strategies, the Commission should not be persuaded to believe that Majority Strategies' adherence to its ordinary business practices subjects it to liability under the Act. *See, e.g.,* MUR 5939 (*New York Times*, MoveOn.org), First General Counsel's Report at 7-8 (recommending no reason to believe a contribution resulted where MoveOn.org paid the *New York Times* for an advertisement in its newspaper after an extended time period usual and normal for the *New York Times*, and the *New York Times* extended credit to the political committee in the ordinary course of its business.).

The Complaint later alleges that Ohio First PAC has made illegal, excessive and unreported in-kind contributions to Renacci for Senate through, in part, the use of a "common vendor" under Commission regulations. *See* 11 C.F.R. § 109.21(d)(4). Based on publicly filed reports, both Ohio First PAC and Renacci for Senate have retained Majority Strategies for

¹ *See* Affidavit of Brett Buerck, Chief Executive Officer of Majority Strategies, Inc., at Exhibit B.

Mr. Jeff Jordan
October 4, 2018
Page 3

various projects. However, that alone is not enough to raise a coordination problem. Instead, a campaign's "plans, projects, activities, or needs" must be shared, and such shared information must be material to the creation, production or dissemination of a covered communication to demonstrate coordination.

There is no factual support here that any information was shared or used by Majority Strategies among these clients, nor could there be. Majority Strategies maintains an internal firewall to ensure its compliance with Commission regulations related to coordination, and has done so since May 19, 2017.² This firewall prohibits any shared information among the individuals assigned to the Ohio First PAC account and that for Renacci for Senate. In that firewall, employees that deal with independent expenditure-only committees do not deal with a candidates' authorized committees, and those employees that deal with candidates' authorized committees do not deal with independent expenditure-only committees. *See* MUR 5823 (Club for Growth, Inc.), Factual & Legal Analysis at 6 ("Importantly, [Respondents] assert that, as a matter of policy and practice, they isolate consultants or employees who also provide services to the candidates clearly identified in their advertisements (or their opponents and authorized committees]").

Majority Strategies' firewall contains several key features that demonstrate its compliance with the Commission's coordination regulations, including prohibitions on:

- "[P]rincipals and employees working on opposite sides of the 'firewall'" from communicating information about their clients, including their clients' "private plans, projects, projects, activities, or needs, including message."
- Discussing "private political plans, projects, activities, or needs, including messages, of a candidate or state or national party committee with an MS employee who is providing services to any independent expenditure or issue advocacy group or party committee independent expenditure unit whose communications mention the same candidate or party or the candidate's opponent;" *and*
- Discussing the "private political plans, projects, activities, or needs, including messaging, of any independent expenditure or issue advocacy group or party independent expenditure unit with an MS employee who is providing services to a candidate or party committee whose candidates or opponents may be mentioned in any issue advocacy or independent expenditure group's communications."

Majority Strategies and its employees have complied with these prohibitions in the course of providing services to its various clients.

Because Majority Strategies has only extended credit to Ohio First PAC in the ordinary course of its business, and because it has not engaged in the type of conduct covered by the

² This firewall is reprinted at Exhibit C.

Mr. Jeff Jordan
October 4, 2018
Page 4

Commission's coordination regulation, the portions of the Complaint against Majority Strategies and Ohio First PAC relating to Majority Strategies should be dismissed.

Claims Against Grassroots Targeting LLC and Ohio First PAC

The Complaint goes on to claim that Ohio First PAC failed to report contributions from, or debts to, Grassroots Targeting LLC. Once again, the Complaint provides no compelling substantiation for its claims. Indeed, the Complaint cites directly to Ohio First PAC's own 2018 July Quarterly report in which Ohio First PAC fully listed its debts to Grassroots Targeting LLC for all services rendered.

A committee, other than an authorized committee, must list the purpose for any disbursement, which need only be "a brief statement or description of why the disbursement was made." 11 C.F.R. § 104.3(b)(3)(i). Pursuant to guidance issued by the Commission, the descriptor "Political Strategy Consulting" is an adequate description of consulting services provided by a vendor. Grassroots Targeting LLC did provide to Ohio First PAC Political Strategy Consulting, for which it billed \$60,000, as reported on the Ohio First PAC 2018 July Quarterly Report.

Grassroots Targeting invoiced Ohio First PAC for services rendered on June 22, 2018, which is typical and ordinary according to its regular business practices. This date was the first date on which the Ohio First PAC Treasurer became aware of the fee for services provided by Grassroots Targeting. Generally, in its report filed with the Commission, Ohio First PAC referred to these services as "political strategy consulting," which incorporates all political strategy consulting performed, including the performance of survey research. Because Ohio First PAC fully and accurately reported the services provided by Grassroots Targeting, the portions of the Complaint against Grassroots Targeting and Ohio First PAC relating to Grassroots Targeting should be dismissed

Conclusion

Through its prior submissions to the Commission, Ohio First PAC has taken responsibility for its failure to timely file reports required under the Act and Commission regulations, and has implemented new policies to ensure that similar issues do not arise going forward. However, the litany of other allegations in the Complaint fail to withstand scrutiny. Majority Strategies extended credit to Ohio First PAC only in the ordinary course of its business, and further implemented and adhered to a firewall policy that would have prevented any "coordination" under Commission regulations that would have resulted in impermissible or unreported contributions as alleged in the Complaint. Further, Grassroots Targeting timely invoiced Ohio First PAC for its services, and Ohio First PAC itemized that invoice on its reports with an accurate description of the services provided.

Mr. Jeff Jordan
October 4, 2018
Page 5

For the foregoing reasons, we respectfully urge the Commission to promptly dismiss the matter without further action.

Sincerely,

A handwritten signature in blue ink, appearing to read "S. Roberts", with a long horizontal flourish extending to the right.

Steve Roberts
Counsel to Ohio First PAC, Julie Dozier as
Treasurer, Grassroots Targeting LLC, and Majority
Strategies Inc.

EXHIBIT B

AFFIDAVIT OF BRETT BUERCK

I, Brett Buerck, declare as follows pursuant to 28 § U.S.C. 1746:

1. My name is Brett Buerck. I have personal knowledge of the facts set forth herein and am otherwise competent to testify.
2. I am the Chief Executive Officer of Majority Strategies, Inc. ("Majority Strategies"), located in Jacksonville, Florida. I have been in the position of Chief Executive Officer for ten years and am aware of the business practices of Majority Strategies.
3. Majority Strategies has been operating for twenty-two years, providing consulting services to political, not-for-profit, and for-profit clients.
4. Throughout its existence, Majority Strategies has routinely extended credit to its clients as an ordinary part of its business, regardless of whether that entity is a political, not-for-profit, or for-profit client.
5. Clients of Majority Strategies are expected to repay their extensions of credit in full, and in nearly all cases have promptly repaid those extensions of credit.
6. In my experience, it is common for political consultants to extend credit for varying terms of payment. Based on my understanding, the practices of Majority Strategies regarding the extension of credit to its clients are usual and normal among consulting firms that choose to extend credit to their clients.
7. Pursuant to these established business practices, Majority Strategies extended credit to Ohio First PAC for work completed in 2018.
8. Majority Strategies implemented a firewall policy for the 2018 election cycle on May 19, 2017, ("Firewall") and has maintained compliance with the Firewall at all times since that date with regard to all of its clients covered by the Firewall.
9. The purpose of the Majority Strategies Firewall is to ensure compliance with the coordination regulations of the Federal Election Commission, particularly the "common vendor" provisions.
10. Each Majority Strategies employee is required to sign the Firewall, indicating their understanding and acceptance of that policy.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed this October 4, 2018.


Brett Buerck

EXHIBIT C



12854 Kenan Drive, Suite 145
Jacksonville, Florida 32258
Office 904.567.2008

To: Majority Strategies, LLC Employees
From: Brett T. Buerck
Subject: Federal Campaign Finance Law Firewall Policy
Date: March 6, 2018

Majority Strategies, LLC (“MS”) has enjoyed success providing political consulting services for a wide range of clients, from federal and state candidates and political parties to PACs and trade associations as well as issue advocacy and independent expenditure committees. Federal campaign finance laws impose difficult challenges on the way we conduct our business. It is important that you read and understand this memo because our continued success depends on complying with the prohibitions, limitations, and requirements of the Bipartisan Campaign Reform Act of 2002 Act and corresponding Federal Election Commission (“FEC”) regulations (collectively, “BCRA”). MS takes these issues seriously, and no individual candidate or party committee or issue advocacy/independent expenditure committee client is worth exposing the firm to potential legal liability. Note that this memo discusses federal law only. If you are considering working with a state or local candidate or a group making expenditures in a state or local election or issue campaign, please contact me so that we can seek appropriate legal guidance.

Recognizing that BCRA places limits on vendors with a wide range of clients engaged in political activities, we at MS must keep our work for candidate and party committees separate from our work for groups engaged in issue advocacy or independent expenditures. This means that MS personnel need to maintain “firewalls” to ensure that we do not inadvertently provide or transmit non-public information (1) about candidate/party committee clients to our issue advocacy/independent expenditure group clients or party committee independent expenditure unit clients; (2) about issue advocacy/independent expenditure group or party committee independent expenditure unit clients to our candidate/party committee clients; or (3) about party committee independent expenditure unit clients to our candidate committee clients, regular party committee, or issue advocacy/independent expenditure group clients.

Principals and employees working on opposite sides of the “firewall” must not under any circumstances communicate any information whatsoever about their separate clients. Being “firewalled” off means MS personnel working on behalf of each client must not share or discuss, in any way, their separate client’s private plans, projects, activities, or needs, including messaging. This includes discussions of topics such as an ad’s content, audience, means or mode of its dissemination, media outlets, timing or frequency, size or prominence, or duration of a communication.

This “firewall” must be maintained to ensure that no principal or employee inadvertently provides or transmits non-public information to the others. Accordingly, MS has created a firewall structure that prevents the flow of information about different clients in such a way that the coordination rules would be triggered. Personnel and client information is compartmentalized so that one client’s information (e.g., federal candidate or political party committee) is not shared with, or used in, another client’s communications (e.g., issue ad group).

The firewalls are not intended to prevent MS personnel from discussing administrative issues or procedures that will improve the services we provide to our clients. Similarly, these firewalls are not intended to prevent MS personnel from maintaining management and financial controls on the company’s operations—only that the private plans, projects, activities, or needs of a client on one side of the firewall not be communicated or shared with a client on the other side of the firewall.

The coordination regulations apply to “Public Communications,” which are defined as communication by means of broadcast, cable, satellite, newspaper, magazine, outdoor advertising facility, mass mailing, telephone bank to the general public, or any other form of general public political advertising; but do not include communications over the Internet, except for communications placed for a fee on a website (e.g., paid digital advertising). 11 C.F.R. § 100.26.

Accordingly, a MS employee, officer, contractor or agent of must not:

- Discuss the private political plans, projects, activities, or needs, including messages, of a candidate or state or national party committee with an MS employee who is providing services to any independent expenditure or issue advocacy group or party committee independent expenditure unit whose communications mention the same candidate or party or the candidate's opponent; or
- Request or suggest on behalf of a campaign or political party committee that an MS employee who is providing services to any independent expenditure or issue advocacy group or party committee independent expenditure unit whose communications mention the same candidate or party or the candidate's opponent make expenditures on behalf of the candidate or national party committee; or
- Discuss the private political plans, projects, activities, or needs, including messaging, of any independent expenditure or issue advocacy group or party independent expenditure unit with an MS employee who is providing services to a candidate or party committee whose candidates or opponents may be mentioned in any issue advocacy or independent expenditure group's communications.

In addition, individual MS personnel must not perform services for any:

- Issue advocacy or independent expenditure group client within 120 days of having performed services for any federal candidate (Presidential, House, or Senate) or party committee client if the issue advocacy or independent expenditure group or party independent expenditure unit client's communications name the same candidate or party or an opposing Presidential, House, or Senate candidate or party; or
- Party committee client making independent expenditures (excluding the permissible coordinated expenditure work for that party) within 120 days of having performed services for any federal candidate committee client (Presidential, House, or Senate) if the party committee's communications name the same or an opposing candidate.

Many of the prohibitions discussed above apply specifically to clients who have become "candidates," but they generally should be followed even with respect to clients who have not yet become candidates, but may, in the future, do so. While some activities may be more permissible before a person becomes a candidate in the eyes of the law, others—such as the prohibition of a Super PAC acting at the "request or suggestion" of a candidate or after the "agreement or formal collaboration" of activities—may apply regardless of a person's status when he makes the request, suggestion, agreement, or formal collaboration with a SuperPAC. As such, it is important to avoid the impression that a client who may become a candidate is using a vendor as a means to coordinate with SuperPACs supporting their potential candidacy, even with a person who is merely testing the waters.

By signing below, you acknowledge that you have read and understand the MS firewall compliance policy outlined above. If you have any questions or concerns about how this policy applies to a specific situation, please do not hesitate to contact us so that we may consult counsel and advise you in a comprehensive and efficient manner. We will also apprise you of any changes to this policy as soon as such changes are implemented.

For Majority Strategies, LLC

For Employee



 By: Brett T. Buerck

 By:

May 19, 2017

 Date

 Date