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September 4, 2018

Federal Election Commission  
Office of Complaints Examination  
And Legal Administration  
1050 First Street, NE  
Washington, DC 20463

OFFICE OF  
GENERAL COUNSEL  
2018 SEP 11 PM 12:36

Attn: Ms. Kathryn Ross,  
Paralegal

Re: MUR 7479

Dear Ms. Ross,

This will acknowledge receipt of your letter to me dated August 22, 2018, which we received on August 27, 2018.

Complaints are merely accusations that unless proven, can sully the reputation of those who have been accused – particularly those such as our clients – who have not yet had an opportunity to respond. Recognizing this, Congress required that these matters remain confidential pursuant to 52 U.S.C. §30109(a)(4)(B) and §30109(a)(12)(A) unless the respondent waives confidentiality.

Apparently, the complainant subscribes to a different system of values. It values the publicity it can derive from filing a complaint such as MUR 7479 more than the ethics and propriety of not besmirching the reputation of H. Russell Taub by accusing him of committing a fraud-based crime in the absence of a factual basis for doing so. The figurative “ink” wasn’t even dry on the complaint before the complainant contacted *Politico* and a *Greenberg Traurig* blog accusing KAIRC (Keep America in Republican Control) and H. Russell Taub of operating a “scam PAC” that has allegedly raised \$85 million without either registering as a political committee with the FEC or contributing any of the funds it allegedly raised to candidates for federal office. Indeed, complainant’s statement quotes its director Kendra Arnold that: “[t]here is no doubt KAIRC PAC and Russell Taub are engaged in nefarious and potentially criminal activities.”<sup>1</sup>

<sup>1</sup> Those who click on complainant’s website are told that “[p]roceeds of donations will be used to fulfill our mission to strengthen our democracy by demanding the truth...These donations allow fact to bring on more internal staff and reach more media venues, ...”

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Complainant made these scurrilous and defamatory accusations in the face of the internal inconsistency that undermines the urgency of the its complaint, and that should have given complainant pause. Complainant is quoted at pages 2-3 of the *Greenberg Traurig* blog as asking: “How an organization can claim to raise over \$1.5 million and spend it with no public accounting or paper trail of any kind leads to just two conclusions. Either KAIRC PAC didn’t actually raise the money it claims it raised, or it is being spent on non-political activities.” Had complainant been less interested in generating revenue for itself through publicity and more interested in the truth, it would have availed itself of digital resources to search for publicly available corporate or business records establishing that an organization styled as KAIRC PAC actually existed.

We have appended an affidavit by H. Russell Taub sworn to on September 4, 2018 to this Response. It provides evidence that the members of an unincorporated association styled as Keeping America in Republican Control “KAIRC” individually raised funds in support of various State and local candidates; that KAIRC as an entity did not seek contributions for the purpose of making contributions to candidates or their political committee; that no organization styled as KAIRC PAC has ever existed; that the references to KAIRC PAC on Exhibit “A” were the product of clumsy wording in which the members of KAIRC unsuccessfully tested whether KAIRC could successfully solicit contributions for a fledgling political action committee styled as “KAIRC PAC” to influence a federal election; that KAIRC was not successful in soliciting contributions to KAIRC PAC, and; that during any calendar year the alleged KAIRC PAC never received any contributions, never made expenditures and therefore did not qualify as a political committee. 11 CFR§100.5(a).

It is our hope that after CELA reviews Mr. Taub’s affidavit and particularly the doubts it demonstrates about the validity of the Complaint; and after CELA reviews how quickly and irresponsibly complainant spread its false charges about our clients in the media to raise funds, CELA will recommend that the Commission dismiss the complaint.

Very truly yours,



Lawrence A. Mandelker

LAM:vc  
Enc.

OFFICE OF  
GENERAL COUNSEL

2018 SEP 11 PM 12:37

Federal Election Commission

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In the Matter of the Complaint by the  
Foundation for Accountability and Civic  
Trust,

MUR # 7479

Complainant

Affidavit of H. Russell Taub

-----X

State of New York )

) SS.:

County of New York )

H. Russell Taub, being duly sworn, makes the following statement: I am the one of the individuals named in the complaint involved in MUR # 7479 (the "Complaint"). I am fully familiar with the facts involved alleged in the Complaint and make this affidavit to set forth the facts in evidentiary form upon which our Response to the Complaint is based.

Background

1. Keeping America in Republican Control ("KAIRC") is an unincorporated association of Republican donors who individually raise and/or make individual contributions to Republican candidates for elective office, primarily state elective office. The members meet from time to time at different venues at which they are addressed by various speakers who talk about current issues, polling and policy questions, as well as state and local races that may be of interest to some or all of them. On such occasions, the cost of the venue, including food and beverages, as well as the expenses of the speaker are defrayed by some of those in attendance, who write checks to KAIRC for that purpose. KAIRC maintains a bank account *sub nom* Russell

Taub d/b/a KAIRC, into which checks to cover such costs and expenses are deposited and from which those costs and expenses are paid. No money has been contributed to KAIRC to fund contributions from KAIRC to candidates or political committees; and no contributions have been made by KAIRC to candidates or political committees. In addition, none of those funds have ever been used by me for any personal matters.

2. On other occasions, speakers representing candidates or political committees address the group and solicit contributions from the members. On those occasions, I personally pay all the expenses from my separate personal account as an in-kind contribution to the particular candidate or political committee, as the case may be. Those members of KAIRC who are so inclined, then individually raise and/or contribute funds directly to the candidate or political committee. No contributions are made to or from KAIRC. No independent expenditures are made by KAIRC.

3. However, KAIRC does take political credit as an organization whose members have individually either raised or contributed approximately \$1.5 million to 85 separate federal, state and local candidates since January-February 2017. In their individual capacities, the members of KAIRC have collectively hosted 17 fundraisers in various states; and made in-kind contributions paying for nine (9) advertisements supporting various candidates, primarily, candidates for State or local office. None of the money used to fund the aforesaid donations, fundraisers or advertisements was contributed to KAIRC or expended by it.

#### No Good Deed Goes Unpunished

4. In December 2016, I tried to acquire "KAIRC" as a domain name. It was not available, but "KAIRC PAC" was. I acquired it. Since I could not use "KAIRC.@gmail.com" for

emails, I was forced to use the unwieldy “keepamericainrepublicancontrol@gmail.com” instead (See Complaint Exhibit “A”). I also decided that KAIRC would create a website to more effectively communicate with its members about upcoming events and about politically interesting state and local races in which they might individually wish to become involved.

5. In early 2017, I decided to test whether the members of KAIRC and others might support a political action committee styled as “Keeping America in Republican Control PAC” that would support candidates for state and local races. I used Facebook to invite individuals to a February 6, 2017 cigar dinner I was hosting. However, we decided we would have more of an impact by following KAIRC’s usual practice of raising contributions directly to state candidates from individual donors. Some contributions were made to KAIRC (not KAIRC PAC) to defray the cost of the dinner. That money was deposited in the H. Russell Taub d/b/a KAIRC account and paid for the cost of the dinner. None of the funds were used to either pay or reimburse any of expenses of mine that were unconnected with holding the dinner. There was no KAIRC PAC bank account then; and there is no KAIRC PAC bank account now.

6. My experience with the February 6, 2017 cigar dinner convinced me that we would be more effective in helping state and local republican candidates as a collection of individuals than we would be if we organized KAIRC as a political action committee and registered it as a State PAC. Accordingly, until July 2018, we continued to operate in the manner described paragraphs “1” to “3,” above.

7. In July 2018, we decided for the first time to see if we – the members of KAIRC - could obtain donations to “KAIRC PAC” for the benefit of candidates for federal office. On or about July 10, 2018, KAIRC’s titular leader Former Navy Secretary J. William Middendorf II solicited contributions to Gov. Rick Scott, a candidate for the U.S. Senate from Florida and Sen.

Ted Cruz, a candidate for re-election to the U.S. Senate from Texas. Without even mentioning KAIRC PAC, Secretary Middendorf proudly urged potential donors to “Look at what *we* did last year with your financial help.” (Emphasis added). Since he hadn’t even mentioned KAIRC PAC, the only “we” to whom he could have been referring were the members of KAIRC and the donors who had responded in the past to the fund-raising solicitations by KAIRC’s respective individual members. He wrote about “we” to identify for the readers who had: a) helped over 85 candidates; b) scheduled multiple fundraisers to help candidates in 2018; c) raised over \$1.5 million as of June 30, 2018; d) brought and hosted 17 fundraisers in various states; e) educated voters, and; launched 9 support ads.

8. It was only after recounting those achievements that Secretary Middendorf asked readers to “join me by supporting KAIRC PAC,” the first time in the solicitation that KAIRC PAC was even mentioned. In sum, It was not our intention – nor does the language of the solicitation state -- that it was KAIRC PAC as distinguished from KAIRC’s members<sup>1</sup> --who had a) helped over 85 candidates; b) scheduled multiple fundraisers to help candidates in 2018; c) raised over \$1.5 million as of June 30, 2018; d) brought and hosted 17 fundraisers in various states; e) educated voters, and; launched 9 support ads.

8. The July 2018 solicitations each had a “DONATE” button that a potential contributor could click to make a contribution. The DONATE button for the “Rick Scott” solicitation was linked to two separate sights: the donation page of the Rick Scott website and the donation page of KAIRC’s newly redesigned website. In contrast, the DONATE button for the “Ted Cruz” solicitation was only linked to the donation page of the Ted Cruz website. KAIRC

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<sup>1</sup> The solicitations speak about “we”

PAC did not receive any contributions via the DONATE button for the Rick Scott solicitation. I have no knowledge whether Gov. Scott or Sen Cruz received any contributions via the DONATE buttons for their respective solicitations.

9. Although I am not a campaign finance lawyer, I was aware from my participation in the fund-raising community that one need not register an organization with the Commission as a political committee until 10 days after it has raised or expended \$1,000 in the aggregate in a calendar year. Given KAIRC PAC's failure to raise or expend that aggregate sum to influence a federal race since January 1, 2018, I did not bother to register KAIRC PAC with the Commission as a political committee.

10. Within approximately two weeks after the solicitations benefitting Gov. Scott and Sen. Cruz, I learned through the media that a complaint had been filed with the Commission alleging that KAIRC PAC had: allegedly received in excess of \$1.5 million in contributions; had failed to register as a political committee; had issued solicitations that did not contain the required disclaimer; failed to file periodic disclosures required by the Act and that KAIRC PAC was a scam PAC that had not contributed any of the funds it raised to candidates for election to federal office. Even though every one of the allegations was demonstrably false the Complaint alleged that KAIRC PAC and I have committed crimes and should be prosecuted, and: that our activities should be referred to the Department of Justice. The damage to my reputation having already been inflicted, I immediately took down the website; and ceased any solicitations of donations to KAIRC PAC.

11. How could a political action committee raise millions of dollars, hold multiple fund raisers, help 85 candidates and launch 9 ad campaigns without leaving either a "paper" trail of corporate or banking records, candidate disclosures, mentions or references in newspapers, or a

digital trail in social media? The answer is simple. There is no paper trail demonstrating that KAIRC PAC contributed any funds to candidates for office or political committees, and particularly candidates for federal office or political committees seeking to influence elections for federal office because KAIRC PAC never existed and never raised any money to contribute. Perhaps the statements on the website and the solicitations for Messrs. Scott and Cruz that mention KAIRC PAC were not intended to imply – and certainly did not state that KAIRC PAC had helped over 85 candidates, raised \$1.5 million and launched 9 support ads.

12. In the face of such doubts, both as to the language of the solicitation and the utter absence of a paper trail, how could complainant have filed the complaint? The answer can be found by clicking on complainant's website. "Proceeds of donations will be used to fulfill our mission to strengthen our democracy by demanding the truth.... These donations allow FACT to bring on more internal staff and reach much more media venues...."

WHEREFORE: I request that the Commission recognize: that the purpose of the complaint was to assist the complainant in its fundraising efforts and not to ensure compliance with the Act; that complainant is trying to manipulate the Commission into propping-up and supplying credibility to its fund-raising ploy, and; that Commission should not expend its limited resources to pursue this speculative and sloppily drawn complaint.

  
H. Russell Taub

Sworn to before me this  
5<sup>th</sup> day of September 2018



LAWRENCE A. MANDELKER  
Notary Public, State of New York  
No. 4941452  
Qualified in Westchester County  
Commission Expires Aug. 15, 2022