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October 1, 2018

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

VIA EMAIL: cela@fec.gov

Re: **MUR 7491: Response to Complaint from Conservative Louisiana et al.**

Dear Mr. Jordan:

We are writing this letter on behalf of Conservative Louisiana (the “Committee”) and Charles R. Spies in his official capacity as treasurer of the Committee (collectively, the “Respondents”), in response to the Complaint filed in the above-referenced matter by William Rodney Allen. There are no facts alleged in the Complaint that the funds were derived from a foreign source or directed by a foreign principal, and/or that the Respondents had knowledge of either. Thus, the Federal Election Commission (the “Commission”) should either dismiss the Complaint on its face, or find no reason to believe a violation of the Federal Election Campaign Act of 1971 (the “Act”) or the Commission’s regulations occurred with respect to the Respondents.

The Commission may find “reason to believe” only if a Complaint sets forth sufficient, specific facts, which, if proven true, would constitute a violation of the Act.¹ Unwarranted legal conclusions from asserted facts or mere speculation will not be accepted as true.² Moreover, the Commission will dismiss a complaint when the allegations are refuted with sufficiently compelling evidence.³ As explained in more detail below, the allegations made in the Complaint

¹ See 11 C.F.R. § 111.4(a), (d).

² See Statement of Reasons of Commissioners Mason, Sandstrom, Smith and Thomas, MUR 4960 (Dec. 21, 2001).

³ See *id.*

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do not support a reason to believe finding in this matter. The Complaint should be immediately dismissed.

Factual Background

The Committee is a federal independent expenditure-only committee formed in 2017 to independently support candidates for federal office. The Committee received a contribution from the Houston, Texas-based American Ethane Company, LLC (“AEC”) in April 2018.

The Complaint

The Complaint centers on an article in a local Louisiana blog, *The Bayou Brief*, and apparently attempts to contend that a foreign national and potentially foreign-owned or controlled entity contributed to Mike Johnson for Louisiana and the Committee. Neither the Complaint nor the article set forth specific facts indicating that a prohibited contribution was made, much less that the Respondents knowingly accepted such contribution.

Legal Analysis

The Respondents had and have no reason to believe that the Texas-based company, AEC, made contributions that were funded or directed by foreign nationals, and the Complaint does not assert or set forth any theory or evidence that the Respondents “knowingly” accepted or facilitated such contributions.

The Act and Commission regulations prohibit the making of, or knowing acceptance of, contributions from foreign nationals.⁴ A foreign national is an individual who is not a U.S. citizen and who is “not lawfully admitted for permanent residence.”⁵ The term also includes a foreign government, political party, or business entity.⁶ Commission regulations further provide that foreign nationals “shall not direct, dictate, control, or directly or indirectly participate in the decision-making process of any person,” with regard to that person’s election-related activities.⁷ This includes decisions concerning the making of contributions, donations, expenditures or disbursements.⁸ Thus, a domestic subsidiary of a foreign corporation may not make

⁴ See 52 U.S.C. § 30121(a); 11 C.F.R. § 110.20; see also Advisory Opinion 2006-15 (TransCanada Corp.); *Contribution Limitations and Prohibitions*, 67 Fed. Reg. 69928-01, 69941 (Nov. 19, 2002) (“Based upon its prior enforcement experience with political committees, and, in particular, with the frequent involvement of volunteers in the solicitation and receipt of contributions and donations, the Commission has determined that a knowledge requirement may produce a less harsh result than a strict liability standard.”).

⁵ See 52 U.S.C. § 30121(b); see also 22 U.S.C. § 611(b).

⁶ See 52 U.S.C. § 30121(b).

⁷ See 11 C.F.R. § 110.20(i).

⁸ See *id.*

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contributions in connection with an election if the donations are derived from foreign funds and if a foreign national held the decision-making authority concerning the making of the contribution.⁹

FEC regulations define “knowingly” as having actual knowledge or having awareness “of facts that would lead a reasonable person to conclude that there is a substantial probability that the source of the funds solicited, accepted or received is a foreign national” or being “aware of facts that would lead a reasonable person to inquire whether the source of the funds solicited, accepted or received is a foreign national” but failing to inquire.¹⁰

Here, the Respondents did not “knowingly” accept a foreign contribution. There was no reason to believe the funds were from foreign sources, or that they were directed by a foreign principal. Furthermore, even if AEC violated the Act and Commission regulations, the Respondents would not have violated the ban on foreign national contributions simply by accepting the contribution, since the Complaint does not assert, much less set forth any theory or evidence, that the Respondents “knowingly” accepted such contributions. Again, Respondents had no knowledge, and no reason to think, that the contribution from AEC may have been problematic, and the Complaint has set forth no facts alleging otherwise. Accordingly, the Commission should find no reason to believe Respondents violated the Act or dismiss the Complaint on its face.

Conclusion

In attenuated and unsubstantiated arguments, Mr. Allen failed to demonstrate that Respondents violated the Act’s ban on foreign national contributions. There are no facts alleged in the Complaint that the funds were derived from a foreign source or directed by a foreign principal, and especially that the Respondents had knowledge of either. We therefore respectfully request that the Commission recognize the legal and factual insufficiency of the Complaint on its face and immediately dismiss it.

⁹ *See id.* at § 110.20(h).

¹⁰ *See id.* at § 110.20(a)(4).

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Thank you for your prompt consideration of this matter, and please do not hesitate to contact us directly at (202) 572-8663 with any questions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Charles R. Spies". The signature is written in a cursive style with a large initial "C".

Charles R. Spies
Derek H. Ross
Sloane S. Carlough
Counsel to Conservative Louisiana