

# JustLaws

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May 29, 2019

CONFIDENTIAL

Via Email

Jeff Jordan, Assistant General Counsel, CELA  
Federal Election Commission  
Office of Complaints Examination and Legal Administration  
Attn: Christal Dennis , Paralegal  
1050 First Street, NE  
Washington , DC 20463

Re: MUR 7495

Dear Mr. Jordan:

This letter is on behalf of Friends of Jess King and Juzer Rangoonwala, in his official capacity as Treasurer (collectively referred to as "Friends of Jess King") in response to the complaint filed in the above-captioned matter by Michael Stoll, Executive Director, Republican Party of Pennsylvania regarding the use of common employees, Becca Rast ("Rast") and Nicholas Martin ("Martin") and a common vendor, MiddleSeat Consulting LLC ("MiddleSeat"), that also provided services to a political committee, Common Defense / Beyond the Choir Action Fund.

The Commission should dismiss this complaint outright because there were no factual allegations set forth in the complaint purporting to demonstrate that there was illegal coordination between the Friends of Jess King and Common Defense / Beyond the Choir Action Fund. Furthermore, Friends of Jess King was at all times utilizing a written firewall policy applicable to the safe harbor provision at 11 C.F.R. § 109.21(h), in order to ensure compliance with the law.

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### Discussion

The "conduct standard" of demonstrating coordinated communications,<sup>1</sup> is not met if there is a written firewall policy consistent with the requirements set forth in 11 C.F.R. § 109.21(h):

(h) *Safe harbor for establishment and use of a firewall.* The conduct standards in paragraph (d) of this section are not met if the commercial vendor, former employee, or political committee has established and implemented a firewall that meets the requirements of paragraphs (h)(1) and (h)(2) of this section. This safe harbor provision does not apply if specific information indicates that, despite the firewall, information about the candidate's or political party committee's campaign plans, projects, activities, or needs that is material to the creation, production, or distribution of the communication was used or conveyed to the person paying for the communication.

(1) The firewall must be designed and implemented to prohibit the flow of information between employees or consultants providing services for the person paying for the communication and those employees or consultants currently or previously providing services to the candidate who is clearly identified in the communication, or the candidate's authorized committee, the candidate's opponent, the opponent's authorized committee, or a political party committee; and

(2) The firewall must be described in a written policy that is distributed to all relevant employees, consultants, and clients affected by the policy.

As stated in the affidavit of Becca Rast, Friends of Jess King's campaign manager (Attachment 1), Friends of Jess King had in place a written "Legal Firewall Policy" in compliance with 11 C.F.R. § 109.21(h) that was distributed to all personnel and contractors and was a focus for every new staff training. Ms. Rast further states that this firewall policy was adhered to at all times in relation to the representations that are the subject of this complaint.

Ms. Rast also describes in detail how the policy was effected. For example, Ms. Rast states:

Friends of Jess King rigorously trained staff on the legal firewall between Lancaster Stands Up and Common Defense / Beyond the

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<sup>1</sup> 11 C.F.R. § 109.21(d)(4).

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Choir Action Fund and Friends of Jess King. Every time a new staff member joined the campaign a training was given that included the importance of the legal firewall. Volunteers were also briefed on this, and volunteers with access to any non-public data or strategy signed a non-disclosure agreement.

Rast added: "The firewall was very personal for me – it meant I never discussed any strategy, numbers, non-public information of the Jess King campaign with my husband, Jonathan Smucker, who was Executive Director of Common Defense / Beyond the Choir Action Fund."

As for MiddleSeat, Rast explained:

I had numerous conversations with MiddleSeat to ensure that MiddleSeat was properly complying with its own FEC compliant Legal Firewall policy. MiddleSeat explained to me that their firewall policy would not permit the same staff to work on Friends of Jess King's projects and on the projects of any IE group active in the former PA 16 and new PA 11 race and I monitored their operations to ensure they kept in compliance with their firewall.

While the foregoing analysis rebuts the common vendor and common employee claims in the complaint, Ms. Rast's affidavit also explicitly states that Friends of Jess King at no time issued any request, suggestion, communication or consent to Common Defense / Beyond the Choir Action Fund concerning any of their electoral activities in PA 16.

### **Conclusion**

In summary, the complainant has provided no basis whatsoever for the Commission to make a finding of "reason to believe" against Friends of Jess King. Due to that, and to the fact that Friends of Jess King has demonstrated its utilization of a written firewall policy to ensure compliance with the law, the Commission should dismiss this matter.

Respectfully submitted,



Steve Masters, Esquire

Counsel to Friends of Jess King and Juzer  
Rangoonwala, Treasurer

# ATTACHMENT 1

## AFFIDAVIT OF BECCA RAST

**FEDERAL ELECTION COMMISSION****MUR 7495****AFFIDAVIT OF BECCA RAST**

Comes the Affiant, Becca Rast (“Rast”), and after having first been duly sworn, deposes and states as follows:

1. I am over the age of 18 and competent to make this affidavit.
2. I was the first employee hired by Friends of Jess King and served as Jess King’s campaign manager. Nicholas Martin (“Martin”) was the second employee hired by Friends of Jess King.
3. Prior to her employment with Friends of Jess King, Rast was never compensated for her work with Lancaster Stands Up. Martin was paid \$600 in April 2017 by Beyond the Choir, a (c)(4), as an independent contractor for entirely (c)(3) non-electoral work. Neither Rast nor Martin were ever an employee of Lancaster Stands Up or Common Defense / Beyond the Choir Action Fund.
4. Rast and Martin were both members of the leadership team and ended their work with Lancaster Stands Up as soon as the Jess King Campaign commenced.
5. Immediately upon staffing our campaign, we adopted and implemented a written Firewall Policy pursuant to and compliant with 11 CFR 109.21(h).
6. This Policy was adopted and implemented to comply with 11.CFR 109.21(h) by prohibiting the flow of information between Lancaster Stands Up and Common Defense / Beyond the Choir Action Fund and Friends of Jess King.
7. The firewall was very personal for me – it meant I never discussed any strategy, numbers, non-public information of the Jess King campaign with my husband, Jonathan Smucker, who was Executive Director of Common Defense / Beyond the Choir Action Fund.
8. Friends of Jess King rigorously trained staff on the legal firewall between Lancaster Stands Up and Common Defense / Beyond the Choir Action Fund and Friends of Jess King. Every

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time a new staff member joined the campaign a training was given that included the importance of the legal firewall. Volunteers were also briefed on this, and volunteers with access to any non-public data or strategy signed a non-disclosure agreement.

9. This slide is from our staff training on the firewall:

## LEGAL FIREWALL

*In federal campaigns there are COORDINATED political groups & INDEPENDENT EXPENDITURE political groups.*

COORDINATED	INDEPENDENT EXPENDITURE
<ul style="list-style-type: none"> <li>Can coordinate directly with the campaign about strategy.</li> <li>Can spend up to \$5000 on the campaign, either in direct contribution or in-kind contributions</li> <li>Can communicate with their base about voting for Jess, contributing directly to the campaign.</li> </ul> <p>Who? Most orgs who have endorsed us.</p>	<ul style="list-style-type: none"> <li>CANNOT coordinate with the campaign about strategy</li> <li>Can spend as much money as they want supporting Jess.</li> <li>We literally cannot talk about any internal strategy with these folks.</li> </ul> <p>Who? Lancaster Stands Up, SEIU, CASA</p>

10. The Legal Firewall Policy was adhered to at all times. No information about Friends of Jess King's plans, projects, activities or needs was ever shared with Lancaster Stands Up, Common Defense / Beyond the Choir nor with any other organization engaged in independent expenditures.

11. When I personally entered into a contract between Friends of Jess King and MiddleSeat Consulting LLC, I was informed by MiddleSeat that they were also a political

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communications vendor for Common Defense / Beyond the Choir.

12. I had numerous conversations with MiddleSeat to ensure that MiddleSeat was properly complying with its own FEC compliant Legal Firewall policy. MiddleSeat explained to me that their firewall policy would not permit the same staff to work on Friends of Jess King's projects and on the projects of any IE group active in the former PA 16 and new PA 11 race and I monitored their operations to ensure they kept in compliance with their firewall.


13. The book *Beautiful Trouble* is a publicly available manual to any person in the world. The book additionally has no strategy pertaining to electoral politics.

Further, Affiant sayeth naught.

  
Becca Rast

State of SOUTH CAROLINA }  
 }  
County of RICHLAND }

Signed and sworn to before me on May 29, 2019 by Becca Rast.

  
Signature of Notarial Officer  
CARL A. HILTON JR.  
Notary Public, State of South Carolina  
My Commission Expires 12/12/2027  
NOTARY PUBLIC  
Title of Office



My commission expires: 12 DEC 2027