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December 11, 2018

VIA EMAIL CELA@fec.gov

Jeff S. Jordan, Esq.
Assistant General Counsel
Office of Complaints Examination
and Legal Administration
Federal Election Commission
1050 First Street, NE
Washington, DC 20436

Re: FEC MUR 7522

Dear Mr. Jordan:

This law firm represents Families & Teachers for Antonio Villaraigosa for Governor 2018. This letter responds to the complaint filed by National Legal and Policy Center on or about October 18, 2018 (“the Complaint”), in MUR 7522.

Families & Teachers for Antonio Villaraigosa for Governor 2018 was a duly registered California independent expenditure committee, primarily formed to support Antonio Villaraigosa for Governor of California in 2018. As part of its efforts to support Mr. Villaraigosa’s candidacy, the committee purchased slate-mailer space with Citizens for Waters, which produces and distributes a slate mailer that expressly advocates the election of candidates, including non-Federal candidates.

Families & Teachers for Antonio Villaraigosa purchased space in the Citizens for Waters slate mailer, and reimbursed Citizens for Waters only for the space utilized by Families & Teachers for Villaraigosa in the mailer. This is consistent with the Federal Election Commission’s advice in Advisory Opinion 2004-37. The reimbursement included amounts for the production of, and transmittal of, the slate mailer.

The Complaint in this matter misleadingly alleges that the payment made by Families & Teachers for Villaraigosa to Citizens for Waters’ slate mailer payment was an improper campaign contribution to a federal campaign committee and exceeded campaign finance limits. This is patently false, and no legal basis for the allegation is contained in the Complaint. Instead, the Federal Election Campaign Act of 1971, as amended (“the Act”) and Commission regulations, as interpreted by the FEC allows such payments and the FEC has expressly advised that such

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payments are not contributions. As a result, we respectfully ask that the Complaint be dismissed forthwith.

In 2004, the FEC considered circumstances similar to those at issue here – and, indeed, the very Waters Committee named in the Complaint. In analyzing the issue, the FEC, in AO 2004-37, concluded that:

[R]eimbursements by the authorized committees of the Federal candidates listed in the brochure in amounts equal to the attributable costs associated with each candidate's listing would not constitute support of [Waters' Committee] ... because, in this situation, mere reimbursement of the costs associated with the production and distribution of the proposed brochure within a reasonable period of time would not constitute "anything of value" to [Citizens for Waters] ... Therefore such reimbursements would not be subject to the Act's limits ... To the extent that any reimbursement by a candidate's authorized committee exceeds the costs attributed to that candidate, such excess reimbursement would constitute a contribution ... to [Citizens for Waters] ... and would be subject to the Act's applicable contribution limit.

This, of course, means that Families & Teachers for Antonio Villaraigosa may purchase advertising space in Citizens for Waters' slate mailer and, so long as the amount of the reimbursement is for the pro rata cost incurred by the Waters' slate mailer, then no "contribution" has resulted. This is precisely what occurred in the present matter.

Families & Teachers for Villaraigosa reimbursed Citizens for Waters for a mailer that featured (among other candidates) Antonio Villaraigosa, a candidate for California Governor. On May 18, 2018, Families & Teachers for Villaraigosa paid Citizens for Waters \$25,000 for the costs directly related to featuring Mr. Villaraigosa in the mailer. (Citizens for Waters thereafter reimbursed Families & Teachers for the amount that exceeded the actual cost attributed to Mr. Villaraigosa's appearance in the mailer.) Families & Teachers for Villaraigosa reported the payment to Citizens for Waters as an independent expenditure supporting Antonio Villaraigosa for governor, and not as contribution to Citizens for Waters, which is consistent with the advice in AO 2004-37 and also with state law.

The Complaint reads into Advisory Opinion 2004-37, a rule that is simply not present – namely that when a payment is made from someone other than the candidate supported in the slate mailer (here Antonio Villaraigosa), the payment should be considered a contribution to the committee producing the slate. This assertion misreads the intent of AO 2004-37. AO 2004-37 provides that if the payment for production of the slate mailer is a reimbursement of the cost for

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production and distribution attributable to the candidate featured in the slate mailer, and occurs within a reasonable period of time, the reimbursement is not a “contribution.”

Advisory Opinion 2004-37 contains no requirement (or suggestion even) that a reimbursement must be made by the featured candidate. Rather, the thrust of AO 2004-37 is that the reimbursement must equal the pro rata share attributable to that candidate - which is what occurred in the present matter. As a result, the reimbursement from Families & Teachers to Citizens for Waters was not a contribution and, instead was a lawful, (and timely disclosed) independent expenditure (made by Families & Teachers) in support of Antonio Villaraigosa.

As a result of the foregoing, the Complaint does not allege facts that would result in a violation of the Act or FEC regulations. For the reasons described herein, we respectfully request that the Commission find no merit to the Complaint and immediately dismiss the matter in its entirety with no further action against Families & Teachers for Villaraigosa or any of the other respondents identified.

I appreciate your time and attention to this matter. If you would like to discuss further, please feel free to contact me at any time at (916) 442-7757.

Very truly yours,

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

Brian T. Hildreth



FEDERAL ELECTION COMMISSION
1050 First Street, NE
Washington, DC 20463

STATEMENT OF DESIGNATION OF COUNSEL

Provide one form for each Respondent/Witness

EMAIL cela@fec.gov

FAX 202-219-3923

AR/MUR/RR/P-MUR# MUR 7522

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The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

11/27/18
Date

(Signature - Respondent/Agent/Treasurer)

Dir. of Operations
Title

Richard Driver
(Name -- Please Print)

RESPONDENT: Families & Teachers for Antonio Villaraigosa for Governor 2018
(Please print Committee Name/ Company Name/Individual Named in Notification Letter)

Mailing Address: 455 Capitol Mall, Suite 600
(Please Print)

Sacramento, CA 95814

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This form relates to a Federal Election Commission matter that is subject to the confidentiality provisions of 52 U.S.C. § 30109(a)(12)(A). This section prohibits making public any notification or investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.