



DAVID R. LANGDON  
Direct: 513.733.1038  
dlangdon@langdonlaw.com

January 28, 2019

*BY ELECTRONIC MAIL*

Federal Election Commission  
Office of Complaints Examination and  
Legal Administration  
Attn: Christal Dennis  
1050 First Street, NE  
Washington, D.C. 20436

Re: MUR 7535

Dear Ms. Dennis:

On behalf of Restoration PAC and its Treasurer, Sherry Gaskill, in her official capacity (collectively, "RPAC"), this letter responds to the complaint filed by Deanna Nesburg on November 6, 2018. For the following reasons, the Commission should dismiss the complaint.

The complaint alleges that Leah Vukmir, a candidate for U.S. Senate in Wisconsin, engaged in illegal coordination with RPAC and, as a result, received an illegal contribution to her campaign from RPAC in violation of 52 U.S.C. § 30109(a)(1). The Complainant offers the following as evidence in support of her accusation that the Respondents engaged in illegal coordination:

- in response to a question (during a radio interview) whether she would be supported by "outside groups," Vukmir allegedly stated that she had reached out to a major donor "and I hope that he will want to continue with his commitment, let's face it, he wants to defeat Tammy Baldwin ...";
- in response to a question (during a second radio interview) whether she anticipated the donor "will ultimately support your campaign," Vukmir allegedly stated, "Well that is ultimately what we want. We signed a unity pledge ... and we are looking forward to working together";
- the major donor at issue accounted for most of RPAC's contributions; and
- RPAC made independent expenditures opposing Sen. Baldwin, Vukmir's opponent.

8913 Cincinnati-Dayton Road  
West Chester, Ohio 45069-3131  
T 513.577.7380 · F 513.577.7383  
www.langdonlaw.com

January 28, 2019

Page 2 of 3

Based solely on these allegations, the Complainant concludes that Vukmir “requested or suggested” that RPAC make the independent expenditures and thus they constituted illegal in-kind contributions.

The Commission should not expend resources investigating a complaint alleging a violation of federal campaign finance law based solely on a candidate’s statements that she had “reached out” to a donor to a Super PAC that had previously made independent expenditures against the candidate’s general election opponent and that she had signed a “unity pledge” with her primary opponent, who had been independently supported by that Super PAC.

While there is no validity to the Complainant’s unsupported legal conclusion that the donor “exercised control” over the Super PAC because he accounted for most of its contributions, even assuming it is valid, there is no allegation in the complaint that Vukmir “requested or suggested” that RPAC make an independent expenditure supporting her campaign. Viewed in a light most favorable to the Complainant, at best Vukmir’s statement in the first radio interview amounts to nothing more than Vukmir conveying an *intention* to request that the donor “continue his commitment.” There is no allegation that she actually made that request, let alone that she requested that the donor “exercise control” over RPAC and direct it to make a public communication supporting Vukmir’s campaign.

Moreover, in the second interview, Vukmir did not mention any discussion with the donor. She allegedly said “we signed a unity pledge,” but did not say if she ever actually spoke with the donor, let alone that she carried out her previously expressed intention to ask him “to continue his commitment.” Based on the rest of the interview, the pledge appears to have been between Vukmir and her primary opponent, Kevin Nicholson, rather than with the donor, and there is no indication (in the interview) or allegation that the donor was even at the dinner at which the pledge was allegedly signed. (According to Ron Johnson, U.S. Senator from Wisconsin, the donor doesn’t typically attend such events.<sup>1</sup>)

None of this comes even remotely close to illegal coordination.

To be sure, the coordination regulations are very specific about the conduct that is required for a violation, and the allegations in the complaint do not support or even suggest that such conduct occurred. A candidate is permitted to ask a donor to contribute to a Super PAC, within the amount and source limitations of the Act. There is no mention in the radio interview, and no allegation in the complaint, that Vukmir even spoke to the donor, let alone solicited funds. But even if she had, this is perfectly legal, as long as the candidate’s solicitation is within the Act’s amount and source limitations. And even if she had spoken to the donor and asked him to make a contribution to RPAC in excess of contribution limits, this is not the same as requesting or suggesting that the Super PAC make an independent expenditure supporting the candidate, as prohibited under the conduct prong of 11 CFR §109.21. Nor is there any allegation

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<sup>1</sup>See <https://www.chicagotribune.com/news/nationworld/midwest/ct-wisconsin-senate-race-uihleiln-20180818-story.html>.

January 28, 2019

Page 3 of 3

that any public communications at issue were made by RPAC after substantial discussions between the Vukmir campaign and RPAC, or with the material involvement of the Vukmir campaign. Instead, the complaint audaciously asks the Commission to illogically conclude that, because (i) Vukmir said she had “reach[ed] out” to the donor and intended to ask him “to continue his commitment” to defeat Tammy Baldwin, (ii) the donor is a substantial contributor to RPAC, and (iii) RPAC continued making independent expenditures (as they had throughout the primary<sup>2</sup>), Vukmir and RPAC therefore should be investigated to determine if they engaged in illegal coordination. This is a leap too far, and if the Commission were to find reason to believe that a violation has been committed, it would establish precedent that no evidence of wrongdoing is needed, and would encourage the filing of frivolous, politically-motivated complaints like this one.

Based on the foregoing, Restoration PAC and its Treasurer respectfully submit that the Commission find no reason to believe a violation was committed and dismiss the complaint.

Sincerely,

LANGDON LAW LLC



Counsel for Restoration PAC and Sherry  
Gaskill, in her official capacity as Treasurer  
of Restoration PAC

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<sup>2</sup> Prior to the primary election on August 14, 2018, RPAC had reported at least seventeen different independent expenditures supporting Kevin Nicholson and opposing Sen. Tammy Baldwin, totaling \$4,279,422 (\$3,672,547 in support of Nicholson and \$606,875 in opposition to Baldwin).