



FEDERAL ELECTION COMMISSION
Washington, DC 20463

November 9, 2021

1
2 **TO:** The Commission
3
4 **FROM:** Lisa J. Stevenson *LJS by JS*
5 Acting General Counsel
6
7 Charles Kitcher *CK by JS*
8 Associate General Counsel for Enforcement
9
10 Jessica Selinkoff *JS*
11 Special Counsel to the Associate General Counsel for Enforcement
12
13 **SUBJECT:** MURs 7427, 7497, 7524, 7553, 7558, 7560, and 7621 (National Rifle Association
14 of America Political Victory Fund, *et al.*) and MURs 7654 and 7660 (America
15 First Action, Inc., *et al.*)
16 Waiver of Confidentiality
17

18
19 On November 4, 2021, Vice Chair Dickerson forwarded to this Office requests to waive
20 confidentiality from the following Respondents:
21

- 22 • National Rifle Association of America Political Victory Fund and National Rifle
23 Association of America Institute for Legislative Action¹ (in MURs 7427, 7497,²
24 7524, 7553, 7558, and 7560);
- 25 • OnMessage, Inc., and Starboard Strategic, Inc.³ (in MURs 7427, 7497, and 7524);

¹ The NRA entities' waiver request is signed by an individual identified as "General Counsel" for an unspecified entity. The waiver request is not signed by the NRA Respondents' counsel of record and in this and all similar instances in which waiver requests were executed by parties other than counsel of record described herein, this Office does not have information indicating that counsel of record transmitted the waiver request.

² The Complainant in MUR 7497 submitted correspondence labeled "Additional Facts Relevant to MUR #7497" that this Office addressed as a separate MUR, designated MUR 7621. *See* First Gen. Counsel's Rpt. at n. 1, MURs 7558, 7560, and 7621 (National Rifle Association of America Political Victory Fund, *et al.*); *see also* Mem. Op. (unredacted) at 5, *Giffords v. FEC*, Civ. No. 19-1192 (D.D.C. Oct. 1, 2021) (describing the "supplement to the [MUR 7497] complaint . . . on February 8, 2019," which corresponds to the date of what is designated the MUR 7621 Complaint). We construe the NRA entities' request to waive confidentiality in MUR 7497 to extend to MUR 7621.

³ OnMessage and Starboard Strategic's confidentiality waiver request is signed by an individual identified as "partner," for an unspecified entity.

MURs 7427, 7497, 7524, 7553, 7558, 7560, and 7621 (National Rifle Association of America Political Victory Fund, *et al.*) and MURs 7654 and 7660 (America First Action, Inc., *et al.*)

Confidentiality Waivers

Page 2 of 4

- 1 • National Media Research and Placement, LLC, Red Eagle Media Group, and
- 2 American Media & Advocacy Group, LLC⁴ (in MURs 7524, 7553, 7558, and
- 3 7560⁵);
- 4 • Richard Burr and Richard Burr Committee (in MUR 7560);
- 5 • Josh Hawley for Senate⁶ (in MURs 7524 and 7560); and
- 6 • Thom Tillis Committee (in MUR 7427).

7
8 Additionally, on November 4, 2021, this Office received requests to waive confidentiality
9 from the following Respondents:

- 10 • Ron Johnson for Senate (in MURs 7427, 7497, and 7524); and
- 11 • Make America Great Again PAC, f/k/a Donald J. Trump for President (in MUR
- 12 7553⁷).

13
14
15 From November 7-9, 2021, Vice Chair Dickerson forwarded to this Office three
16 additional requests to waive confidentiality from the following Respondents:

- 17 • Cory Gardner for Senate (in MUR 7427⁸);
- 18 • Cotton for Senate (in MUR 7427⁹); and
- 19 • Matt Rosendale for Montana¹⁰ (in MURs 7497, 7560, 7621, and 7654).

20
21
22 The waiver requests we received pertain solely to the information in the MUR or MURs
23 identified in the requests concerning the person or persons requesting to waive confidentiality.
24 MURs 7427, 7497, 7524, 7553, 7558, 7560, 7621, and 7654 each have multiple Respondents.
25 All Respondents in MUR 7427 have submitted requests to waive confidentiality. The following
26 Respondents in other MURs have not requested waiving confidentiality:
27

⁴ The National Media entities' confidentiality waiver request is signed by an individual identified as "CFO" for an unspecified entity.

⁵ The National Media entities' confidentiality waiver request includes neither MUR 7497 nor MUR 7621. *See supra*, n. 2.

⁶ Josh Hawley for Senate's confidentiality waiver request does not include Hawley, individually. The Hawley committee's waiver request is signed by the committee treasurer.

⁷ Make America Great Again PAC's confidentiality waiver request does not include Trump, individually.

⁸ Cory Gardner for Senate's confidentiality waiver request is signed by the committee treasurer.

⁹ Cotton for Senate's confidentiality waiver request is signed by the committee treasurer.

¹⁰ Matt Rosendale for Montana's confidentiality waiver request does not include Rosendale, individually.

MURs 7427, 7497, 7524, 7553, 7558, 7560, and 7621 (National Rifle Association of America Political Victory Fund, *et al.*) and MURs 7654 and 7660 (America First Action, Inc., *et al.*)

Confidentiality Waivers

Page 3 of 4

- 1 • MUR 7497: Cotton for Senate; Cory Gardner for Senate; and Thom Tillis
- 2 Committee
- 3 • MUR 7524: Cotton for Senate; Cory Gardner for Senate; and Thom Tillis
- 4 Committee
- 5 • MUR 7553: OnMessage, Inc.; and Starboard Strategic, Inc.
- 6 • MUR 7558: Donald J. Trump; and Make America Great Again PAC
- 7 • MUR 7560: Matt Rosendale; Joshua David Hawley
- 8 • MUR 7621: Matt Rosendale; National Media Research and Placement, LLC; Red
- 9 Eagle Media Group; and American Media & Advocacy Group, LLC
- 10 • MUR 7654: America First Action, Inc.; OnMessage, Inc.; Starboard Strategic,
- 11 Inc.; Josh Hawley for Senate; Pete Sessions for Congress; and National Media
- 12 Research and Placement, LLC.¹¹
- 13

14 By requesting these waivers, National Rifle Association of America Political Victory
 15 Fund, National Rifle Association of America Institute for Legislative Action, OnMessage, Inc.,
 16 Starboard Strategic, Inc., National Media Research and Placement, LLC, Red Eagle Media
 17 Group, American Media & Advocacy Group, LLC, Richard Burr, Richard Burr Committee, Josh
 18 Hawley for Senate, Thom Tillis Committee, Ron Johnson for Senate, Make America Great
 19 Again PAC, f/k/a Donald J. Trump for President, Cory Gardner for Senate, Cotton for Senate,
 20 and Matt Rosendale for Montana have requested that the Commission not apply the
 21 confidentiality provision of 52 U.S.C. § 30109(a)(12)(A) to the matter or matters in which each
 22 waiver was made. However, that section merely provides that any notification or investigation
 23 shall not be made public by the Commission without the written consent of the person receiving
 24 such notification or the person with respect to whom such investigation is made. By its terms,
 25 Section 30109(a)(12)(A) does not impose an affirmative duty on the Commission to publicize
 26 any of these matters at this time as it pertains to the Respondents who have waived
 27 confidentiality in those matters. Therefore, this Office will respond to requests for information
 28 subject to the following considerations. First, requests must be in writing. Second, such requests
 29 will be considered by the Commission subject to the provisions of the Freedom of Information
 30 Act, the Government in the Sunshine Act, and all relevant privileges that would limit or preclude
 31 the release of such requested information.

32
 33 This Office typically recommends the Commission accept Respondents' requests to
 34 waive confidentiality by approving the appropriate letters acknowledging the waivers; those
 35 letters recite the matter or matters in which the Commission acknowledges the Respondent has
 36 waived confidentiality, summarize the process by which this Office may release information, and
 37 remind Respondents in multi-Respondent MURs that the waiver extends only to the named

¹¹ MUR 7654 is addressed in a report with MUR 7660, for which we have received no waivers. MUR 7660 Respondents are National Rifle Association of America Political Victory Fund; National Rifle Association of America Institute for Legislative Action; OnMessage, Inc.; Starboard Strategic, Inc.; Cory Gardner for Senate; and Cory Gardner.

MURs 7427, 7497, 7524, 7553, 7558, 7560, and 7621 (National Rifle Association of America Political Victory Fund, *et al.*) and MURs 7654 and 7660 (America First Action, Inc., *et al.*)

Confidentiality Waivers

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1 Respondent.¹² Because this Office does not have letters or emails from counsel of record
2 transmitting some waiver requests signed by Respondents' officers,¹³ we are modifying the
3 acknowledgment letters to such Respondents' counsel to ask counsel to confirm the waiver; we
4 will not treat confidentiality waived by such Respondents until we receive that confirmation.¹⁴
5 We have attached, as examples, draft letters to Respondents with and without such additional
6 language.

8 **RECOMMENDATION**

- 9
10 1. Approve the appropriate letters acknowledging waivers by Respondents (to be
11 sent to counsel of record).

13 Attachments

- 14 1. Waiver from National Rifle Association of America Political Victory Fund
15 and National Rifle Association of America Institute for Legislative Action
16 2. Waiver from OnMessage, Inc., and Starboard Strategic, Inc.
17 3. Waiver from National Media Research and Placement, LLC, Red Eagle Media
18 Group, and American Media & Advocacy Group, LLC
19 4. Waiver from Richard Burr and Richard Burr Committee
20 5. Waiver from Josh Hawley for Senate
21 6. Waiver from Thom Tillis Committee
22 7. Waiver from Ron Johnson for Senate
23 8. Waiver from Make America Great Again PAC, f/k/a Donald J. Trump for
24 President
25 9. Waiver from Cory Gardner for Senate
26 10. Waiver from Cotton for Senate
27 11. Waiver from Matt Rosendale for Montana
28 12. Letter to Thom Tillis Committee
29 13. Letter to Make America Great Again PAC, f/k/a Donald J. Trump for
30 President

¹² See, e.g., Gen. Counsel's Rpt. at 2-5, MUR 4646 (In re: Lewis) (June 10, 1998); Certification (July 6, 1998), MUR 4646; Memorandum to Commission Re: Waiver of Confidentiality, MUR 3325 (Dec. 17, 1991), <https://www.fec.gov/files/legal/murs/3325.pdf> (including the Memorandum (followed by the vote certification and letter) at PDF pages 556-60).

¹³ See *supra*, n. 1.

¹⁴ See 11 C.F.R. § 111.23(b).

**WAIVER OF RESPONDENT'S RIGHTS OF CONFIDENTIALITY
GRANTED UNDER 52 U.S.C. § 30109**

Pursuant to 52 U.S.C. § 30109(a)(12), “[a]ny notification or investigation made under [Section 30109] shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.”

Furthermore, 11 C.F.R. § 111.21(a) provides that “no complaint filed with the Commission, nor any notification sent by the Commission, nor any investigation conducted by the Commission, nor any findings made by the Commission shall be made public by the Commission or by any person or entity without the written consent of the respondent with respect to whom the complaint was filed, the notification sent, the investigation conducted, or the finding made.” 11 C.F.R. § 111.21(b) provides that “no action by the Commission or by any person, and no information derived in connection with conciliation efforts pursuant to 11 CFR 111.18, may be made public by the Commission except upon a written request by respondent and approval thereof by the Commission.” Finally, 11 C.F.R. § 111.21(c) provides that “[n]othing in these regulations shall be construed to prevent the introduction of evidence in the courts of the United States which could properly be introduced pursuant to the Federal Rules of Evidence or Federal Rules of Civil Procedure.”

The **National Rifle Association of America Political Victory Fund** and the **National Rifle Association Institute of Legislative Action** are Respondents in the following related matters: MUR 7427; MUR 7497; MUR 7524; MUR 7553; MUR 7558; and MUR 7560. MUR 7427, MUR 7497, MUR 7524, and MUR 7553 are currently the subject of litigation in *Giffords v. FEC*, 1:19-cv-01192 (D.D.C.).

Respondents National Rifle Association of America Political Victory Fund and National Rifle Association Institute of Legislative Action do hereby waive any and all rights to confidentiality afforded to them under 52 U.S.C. § 30109 and 11 C.F.R. § 111.21, effective as of the date below, with respect to MUR 7427, MUR 7497, MUR 7524, and MUR 7553.

The Federal Election Commission, either as an agency or through individual Commissioners, is authorized by the Respondents to disclose information regarding: (1) complaints filed with the Commission in the above stated matters; (2) notifications sent by the Commission in the above stated matters; (3) investigations conducted by the Commission in the above stated matters; and (4) findings made by the Commission in the above stated matters.

The Federal Election Commission, either as an agency or through individual Commissioners, is further authorized by the Respondents to disclose Responses filed on behalf of the Respondents in the above stated matters, in whole or in part.

For Respondents National Rifle Association of America Political Victory Fund and National Rifle Association Institute of Legislative Action:



John Frazer
General Counsel



Date

**WAIVER OF RESPONDENT'S RIGHTS OF CONFIDENTIALITY
GRANTED UNDER 52 U.S.C. § 30109**

Pursuant to 52 U.S.C. § 30109(a)(12), “[a]ny notification or investigation made under [Section 30109] shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.”

Furthermore, 11 C.F.R. § 111.21(a) provides that “no complaint filed with the Commission, nor any notification sent by the Commission, nor any investigation conducted by the Commission, nor any findings made by the Commission shall be made public by the Commission or by any person or entity without the written consent of the respondent with respect to whom the complaint was filed, the notification sent, the investigation conducted, or the finding made.” 11 C.F.R. § 111.21(b) provides that “no action by the Commission or by any person, and no information derived in connection with conciliation efforts pursuant to 11 CFR 111.18, may be made public by the Commission except upon a written request by respondent and approval thereof by the Commission.” Finally, 11 C.F.R. § 111.21(c) provides that “[n]othing in these regulations shall be construed to prevent the introduction of evidence in the courts of the United States which could properly be introduced pursuant to the Federal Rules of Evidence or Federal Rules of Civil Procedure.”

OnMessage, Inc. and Starboard Strategic, Inc. are Respondents in the following related matters: MUR 7427; MUR 7497; and MUR 7524. MUR 7427, MUR 7497, and MUR 7524 are currently the subject of litigation in *Giffords v. FEC*, 1:19-cv-01192 (D.D.C.).

Respondents OnMessage, Inc. and Starboard Strategic, Inc. do hereby waive any and all rights to confidentiality afforded to them under 52 U.S.C. § 30109 and 11 C.F.R. § 111.21, effective as of the date below.

Without limiting the foregoing, the Federal Election Commission, either as an agency or through individual Commissioners, is authorized by the Respondents to disclose information regarding: (1) complaints filed with the Commission in the above stated matters; (2) notifications sent by the Commission in the above stated matters; (3) investigations conducted by the Commission in the above stated matters; and (4) findings made by the Commission in the above stated matters.

In addition, the Federal Election Commission, either as an agency or through individual Commissioners, is authorized by the Respondents to disclose Responses filed on behalf of the

Respondents in the above stated matters, in whole or in part, and any votes taken in connection with the above stated matters.

For Respondents OnMessage, Inc. and Starboard Strategic, Inc.:

Bradley A. Todd

11-3-21

[NAME] Bradley A. Todd
[Position] Partner

Date

**WAIVER OF RESPONDENT'S RIGHTS OF CONFIDENTIALITY
GRANTED UNDER 52 U.S.C. § 30109**

Pursuant to 52 U.S.C. § 30109(a)(12), “[a]ny notification or investigation made under [Section 30109] shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.”

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National Media Research Planning and Placement, LLC, Red Eagle Media Group, and American Media & Advocacy Group are Respondents in the following related matters: MUR MUR 7524; MUR 7553; MUR 7558; MUR 7560. MUR 7524 and MUR 7553 are currently the subject of litigation in *Giffords v. FEC*, 1:19-cv-01192 (D.D.C.).

Respondents National Media Research Planning and Placement, LLC, Red Eagle Media Group, and American Media & Advocacy Group do hereby waive any and all rights to confidentiality afforded to them under 52 U.S.C. § 30109 and 11 C.F.R. § 111.21, effective as of the date below.

Without limiting the foregoing, the Federal Election Commission, either as an agency or through individual Commissioners, is authorized by the Respondents to disclose information regarding: (1) complaints filed with the Commission in the above stated matters; (2) notifications sent by the Commission in the above stated matters; (3) investigations conducted by the Commission in the above stated matters; and (4) findings made by the Commission in the above stated matters.

In addition, the Federal Election Commission, either as an agency or through individual Commissioners, is authorized by the Respondents to disclose Responses filed on behalf of the

Respondents in the above stated matters, in whole or in part, and any votes taken in connection with the above stated matters.

For Respondents National Media Research Planning and Placement, LLC, Red Eagle Media Group, and American Media & Advocacy Group:

Jon Ferrell, CFO

[NAME]
[Position]

11-3-21

Date

**WAIVER OF RESPONDENT'S RIGHTS OF CONFIDENTIALITY
GRANTED UNDER 52 U.S.C. § 30109**

Pursuant to 52 U.S.C. § 30109(a)(12), “[a]ny notification or investigation made under [Section 30109] shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.”

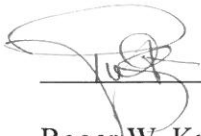
Furthermore, 11 C.F.R. § 111.21(a) provides that “no complaint filed with the Commission, nor any notification sent by the Commission, nor any investigation conducted by the Commission, nor any findings made by the Commission shall be made public by the Commission or by any person or entity without the written consent of the respondent with respect to whom the complaint was filed, the notification sent, the investigation conducted, or the finding made.” 11 C.F.R. § 111.21(b) provides that “no action by the Commission or by any person, and no information derived in connection with conciliation efforts pursuant to 11 CFR 111.18, may be made public by the Commission except upon a written request by respondent and approval thereof by the Commission.” Finally, 11 C.F.R. § 111.21(c) provides that “[n]othing in these regulations shall be construed to prevent the introduction of evidence in the courts of the United States which could properly be introduced pursuant to the Federal Rules of Evidence or Federal Rules of Civil Procedure.”

Senator Richard Burr, the Richard Burr Committee and Timothy W. Gupton, in his capacity as Treasurer of the Richard Burr Committee, are Respondents in the following related matters: **MUR 7560** currently the subject of litigation in *Giffords v. FEC*, 1:19-cv-01192 (D.D.C.).

Respondents do hereby waive any and all rights to confidentiality afforded under 52 U.S.C. § 30109 and 11 C.F.R. § 111.21, effective as of the date below.

The Federal Election Commission, either as an agency or through individual Commissioners, is authorized by the Respondent to disclose information regarding: (1) complaints filed with the Commission in the above stated matters; (2) notifications sent by the Commission in the above stated matters; (3) investigations conducted by the Commission in the above stated matters; and (4) findings made by the Commission in the above stated matters. The Federal Election Commission, either as an agency or through individual Commissioners, is further authorized by the Respondent to disclose Responses filed on behalf of the Respondent in the above stated matters, in whole or in part.

For Senator Richard Burr, the Richard Burr Committee and Timothy W. Gupton in his capacity as Treasurer of the Richard Burr Committee



Roger W. Knight
Attorney for Respondents

11-3-21

Date

**WAIVER OF RESPONDENT'S RIGHTS OF CONFIDENTIALITY
GRANTED UNDER 52 U.S.C. § 30109**

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Cotton For Senate is a Respondent in MUR 7427. MUR 7427 is currently a subject of litigation in *Giffords v. FEC*, 1:19-cv-01192 (D.D.C.).

Respondent Cotton For Senate does hereby waive any and all rights to confidentiality afforded to it under 52 U.S.C. § 30109 and 11 C.F.R. § 111.21, effective as of the date below, in the above stated matter.

Without limiting the foregoing, the Federal Election Commission, either as an agency or through individual Commissioners, is authorized by the Respondent to disclose information regarding: (1) complaints filed with the Commission in the above stated matters; (2) notifications sent by the Commission in the above stated matters; (3) investigations conducted by the Commission in the above stated matters; and (4) findings made by the Commission in the above stated matters.

In addition, the Federal Election Commission, either as an agency or through individual Commissioners, is authorized by the Respondent to disclose Responses filed on behalf of the

Respondent in the above stated matters, in whole or in part, and any votes taken in connection with the above stated matters.

For Respondent Cotton For Senate:

Theodore V. Koch

11-4-2021

[NAME] Theodore V. Koch
[Position] Treasurer

Date

**WAIVER OF RESPONDENT'S RIGHTS OF CONFIDENTIALITY
GRANTED UNDER 52 U.S.C. § 30109**

Pursuant to 52 U.S.C. § 30109(a)(12), “[a]ny notification or investigation made under [Section 30109] shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.”

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Cory Gardner For Senate is a Respondent in MUR 7427. MUR 7427 is currently a subject of litigation in *Giffords v. FEC*, 1:19-cv-01192 (D.D.C.).

Respondent Cory Gardner For Senate does hereby waive any and all rights to confidentiality afforded to it under 52 U.S.C. § 30109 and 11 C.F.R. § 111.21, effective as of the date below, in the above stated matter.

Without limiting the foregoing, the Federal Election Commission, either as an agency or through individual Commissioners, is authorized by the Respondent to disclose information regarding: (1) complaints filed with the Commission in the above stated matters; (2) notifications sent by the Commission in the above stated matters; (3) investigations conducted by the Commission in the above stated matters; and (4) findings made by the Commission in the above stated matters.

In addition, the Federal Election Commission, either as an agency or through individual Commissioners, is authorized by the Respondent to disclose Responses filed on behalf of the

Respondent in the above stated matters, in whole or in part, and any votes taken in connection with the above stated matters.

For Respondent Cory Gardner For Senate:


Type text here

11/3/2021

Lisa Lisker
Treasurer

Date

**WAIVER OF RESPONDENT'S RIGHTS OF CONFIDENTIALITY
GRANTED UNDER 52 U.S.C. § 30109**

Pursuant to 52 U.S.C. § 30109(a)(12), “[a]ny notification or investigation made under [Section 30109] shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.”

Furthermore, 11 C.F.R. § 111.21(a) provides that “no complaint filed with the Commission, nor any notification sent by the Commission, nor any investigation conducted by the Commission, nor any findings made by the Commission shall be made public by the Commission or by any person or entity without the written consent of the respondent with respect to whom the complaint was filed, the notification sent, the investigation conducted, or the finding made.” 11 C.F.R. § 111.21(b) provides that “no action by the Commission or by any person, and no information derived in connection with conciliation efforts pursuant to 11 CFR 111.18, may be made public by the Commission except upon a written request by respondent and approval thereof by the Commission.” Finally, 11 C.F.R. § 111.21(c) provides that “[n]othing in these regulations shall be construed to prevent the introduction of evidence in the courts of the United States which could properly be introduced pursuant to the Federal Rules of Evidence or Federal Rules of Civil Procedure.”

Josh Hawley For Senate is a Respondent in MUR 7524 and MUR 7560. MUR 7524 is currently a subject of litigation in *Giffords v. FEC*, 1:19-cv-01192 (D.D.C.).


Respondents Josh Hawley For Senate does hereby waive any and all rights to confidentiality afforded to them under 52 U.S.C. § 30109 and 11 C.F.R. § 111.21, effective as of the date below.

Without limiting the foregoing, the Federal Election Commission, either as an agency or through individual Commissioners, is authorized by the Respondent to disclose information regarding: (1) complaints filed with the Commission in the above stated matters; (2) notifications sent by the Commission in the above stated matters; (3) investigations conducted by the Commission in the above stated matters; and (4) findings made by the Commission in the above stated matters.

In addition, the Federal Election Commission, either as an agency or through individual Commissioners, is authorized by the Respondent to disclose Responses filed on behalf of the

Respondent in the above stated matters, in whole or in part, and any votes taken in connection with the above stated matters.

For Respondent Josh Hawley For Senate:



[NAME] Salvatore Puspurig
[Position] Treasurer

11/3/21

Date

From: [Newton, Megan](#)
To: [CELA](#); [ExternalCommissionSecretary](#); [Allen Dickerson](#)
Cc: [Newton, Megan](#)
Subject: Notice of Consent under 52 U.S.C. 30109(a)(12) & 11 C.F.R. 111.21 -- MUR 7427
Date: Thursday, November 4, 2021 2:02:17 PM
Attachments: [RJS Nov 4 Ltr MUR 7427.pdf](#)

Please see the attached correspondence.

Sincerely,
Megan

Megan Sowards Newton [bio](#)

Partner

[JONES DAY® - One Firm WorldwideSM](#)

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DIRECT NUMBER: (202) 879-3986
MNEWTON@JONESDAY.COM

November 4, 2021

VIA E-MAIL TO CELA@FEC.GOV

Federal Election Commission
c/o Office of Complaints Examination and Legal Administration
1050 First Street, N.E.
Washington, DC 20463

Re: Matter Under Review 7427
(Notice of Consent under 52 U.S.C. § 30109(a)(12))

Dear Commissioners:

On behalf of Ron Johnson for Senate (“the Campaign”), I write in regard to MUR 7427¹ to provide the Campaign’s consent to waive its confidentiality protections under 52 U.S.C. § 30109(a)(12) with regard to the proceedings to date.

As the Campaign made clear in its original response in this matter, the Complainants never alleged that Ron Johnson for Senate violated the law. To the contrary, their Complaint openly recognizes that the Campaign did not engage in prohibited coordination under 11 C.F.R. § 109.21. *See* Compl. ¶ 53 n.103 (citing 11 C.F.R. § 109.21(b)). Indeed, Complainants never even named the Campaign as a Respondent or sought a penalty against the Campaign. As such, there was absolutely no basis for the FEC to generate the Campaign as a Respondent in this matter let alone find reason to believe that a violation occurred. Nevertheless, the FEC generated the Campaign as a Respondent to the Complaint.

The Committee reserves its rights to rescind its consent in the event of any future FEC notification(s) or investigation(s) in connection with the MURs referenced in this letter. Thank you for your attention to this matter.

¹ In addition, to the extent the Campaign was generated as a Respondent in any of the other MURs filed by the same Complainants and raising similar issues (MURs 7497, 7524, and 7553), the Campaign hereby waives the confidentiality protections in those matters as well.

Federal Election Commission
November 4, 2021
Page 2

Respectfully,

A handwritten signature in black ink that reads "Megan Sowards Newton". The signature is written in a cursive style and is positioned above a light gray rectangular background.

Megan Sowards Newton

CC: Chair Shana M. Broussard (*via email to Commission Secretary*)
Vice Chairman Allen Dickerson (*via email to Commission Secretary*)
Commissioner Sean J. Cooksey (*via email to Commission Secretary*)
Commissioner James E. "Trey" Trainor (*via email to Commission Secretary*)
Commissioner Steven T. Walther (*via email to Commission Secretary*)
Commissioner Ellen L. Weintraub (*via email to Commission Secretary*)

From: [Crosland, Stewart](#)
To: [CELA](#); [ExternalCommissionSecretary](#); [Allen Dickerson](#)
Cc: [Crosland, Stewart](#)
Subject: Notice of Consent under 52 U.S.C. 30109(a)(12) & 11 C.F.R. 111.21 -- MUR 7553
Date: Wednesday, November 3, 2021 5:42:35 PM
Attachments: [Ltr to FEC re Notice of Consent under 52 U.S.C. 30109\(a\)\(12\) & 11 C.F.R. 111.21.pdf](#)
Importance: High

Please see the attached correspondence.

Regards,

E. Stewart Crosland

Partner

[JONES DAY® - One Firm WorldwideSM](#)

51 Louisiana Ave. NW

Washington, DC 20001

Office +1.202.879.3951

Cell

This e-mail (including any attachments) may contain information that is private, confidential, or protected by attorney-client or other privilege. If you received this e-mail in error, please delete it from your system without copying it and notify sender by reply e-mail, so that our records can be corrected.

JONES DAY

51 LOUISIANA AVENUE, N.W. • WASHINGTON, D.C. 20001.2113

TELEPHONE: +1.202.879.3939 • FACSIMILE: +1.202.626.1700

DIRECT NUMBER: (202) 879-3951
 SCROSLAND@JONESDAY.COM

November 3, 2021

VIA E-MAIL

Federal Election Commission
 C/O Office of Complaints Examination and Legal Administration
 1050 First Street, N.E.
 Washington, DC 20463

Re: Notice of Consent under 52 U.S.C. § 30109(a)(12), 11 C.F.R. § 111.21

Dear Commissioners:

On behalf of Make America Great Again PAC, f/k/a Donald J. Trump for President, Inc. (“the Committee”), we write in regard to MUR 7553.

As the Commissioners should know by now, the complaint in MUR 7553, filed by Campaign Legal Center and Giffords, openly acknowledged that there was no basis for reason to believe there had been a violation by the Committee. *See* MUR 7553, Compl. ¶ 50 n.95 (citing 11 C.F.R. § 109.21(b)(2)). In fact, the complaint did not assert any of its “Causes of Action” against the Committee, did not seek a penalty against the Committee in its “Prayer for Relief,” and did not even name the Committee as a respondent in its caption. This alone should have ended the matter as to the Committee. Yet the FEC generated the Committee as a respondent to the complaint nonetheless.

Consistent with the Statement issued by Vice Chair Dickerson on November 1, 2021, the **Committee now writes to provide its consent, effective immediately, to waive any and all of its confidentiality protections under 52 U.S.C. § 30109(a)(12) and 11 C.F.R. § 111.21 with regard to MUR 7553**—a matter which the complainants already have made a matter of public record. *See* 52 U.S.C. § 30109(a)(12); 11 C.F.R. § 111.21. **The Committee reserves its rights to rescind its consent in the event of any future notification(s) or investigation as to the Committee in connection with MUR 7553.**

Furthermore, the Committee has no record of receiving any notification that it was generated as a respondent in any of MURs 7427, 7497, or 7524, which we understand were filed by the same complainants and may involve some similar issues as MUR 7553. **In the event the FEC has generated the Committee as a respondent in either MUR 7427, 7497, or 7524, the**

JONES DAY

Federal Election Commission
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Page 2

Committee also waives any and all of its confidentiality protections under 52 U.S.C. § 30109(a)(12) and 11 C.F.R. § 111.21 with regard those matters, effective immediate. The Committee reserves its rights to rescind such consent in the event of any future notification(s) or investigation as to the Committee in connection with any of these MURs.

Respectfully,



E. Stewart Crosland

CC: Chair Shana M. Broussard (*via email to Commission Secretary*)
Vice Chair Allen Dickerson (*via email to Commission Secretary*)
Commissioner Sean J. Cooksey (*via email to Commission Secretary*)
Commissioner James E. "Trey" Trainor (*via email to Commission Secretary*)
Commissioner Steven T. Walther (*via email to Commission Secretary*)
Commissioner Ellen L. Weintraub (*via email to Commission Secretary*)



CHRIS K. GOBER

PO BOX 341016
AUSTIN, TX 78734

512.354.1783 DIRECT
CG@GOBERGROUP.COM

November 8, 2021

Federal Election Commission
1050 First Street, NE
Washington, DC 20463

Re: Waiver of Rights of Confidentiality

Dear Commissioners and Staff:

I am Matt Rosendale's for Montana's counsel of record in four pending Federal Election Commission ("Commission") MURs—7497, 7560, 7621, and 7654—that assert similar facts and allegations.

Pursuant to 52 U.S.C. § 30109(a)(12), "[a]ny notification or investigation made under [Section 30109] shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made." Furthermore, 11 C.F.R. § 111.21(a) provides that "no complaint filed with the Commission, nor any notification sent by the Commission, nor any investigation conducted by the Commission, nor any findings made by the Commission shall be made public by the Commission or by any person or entity without the written consent of the respondent with respect to whom the complaint was filed, the notification sent, the investigation conducted, or the finding made." 11 C.F.R. § 111.21(b) provides that "no action by the Commission or by any person, and no information derived in connection with conciliation efforts pursuant to 11 CFR 111.18, may be made public by the Commission except upon a written request by respondent and approval thereof by the Commission." Finally, 11 C.F.R. § 111.21(c) provides that "[n]othing in these regulations shall be construed to prevent the introduction of evidence in the courts of the United States which could properly be introduced pursuant to the Federal Rules of Evidence or Federal Rules of Civil Procedure."

The purpose of this letter is to formally notify the Commission that Matt Rosendale for Montana hereby waives any and all rights to confidentiality afforded to it under 52 U.S.C. §

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FEDERAL ELECTION COMMISSION

NOVEMBER 8, 2021

PAGE 2 OF 2

30109 and 11 C.F.R. § 111.21, effective as of the date below, with respect to MURs 7497, 7560, 7621, and 7654.

Without limiting the foregoing, the Commission, either as an agency or through individual Commissioners, is authorized by Matt Rosendale for Montana to disclose information regarding: (i) complaints filed with the Commission in the above stated matters; (ii) notifications sent by the Commission in the above stated matters; (iii) investigations conducted by the Commission in the above stated matters; and (iv) findings made by the Commission in the above stated matters.

In addition, the Commission, either as an agency or through individual Commissioners, is authorized by Matt Rosendale for Montana to disclose the responses filed on behalf of Matt Rosendale for Montana in MURs 7497, 7560, 7621, and 7654, in whole or in part, and any votes taken in connection with the above stated matters.

If the Commission has additional questions related to this waiver, please do not hesitate to contact me at (512) 354-1783 or cg@gobergroup.com.

Sincerely,



Chris K. Gober
Counsel to Matt Rosendale for Montana,
and Errol Galt, in his official capacity as Treasurer

**WAIVER OF RESPONDENT'S RIGHTS OF CONFIDENTIALITY
GRANTED UNDER 52 U.S.C. § 30109**

Pursuant to 52 U.S.C. § 30109(a)(12), “[a]ny notification or investigation made under [Section 30109] shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.”

Furthermore, 11 C.F.R. § 111.21(a) provides that “no complaint filed with the Commission, nor any notification sent by the Commission, nor any investigation conducted by the Commission, nor any findings made by the Commission shall be made public by the Commission or by any person or entity without the written consent of the respondent with respect to whom the complaint was filed, the notification sent, the investigation conducted, or the finding made.” 11 C.F.R. § 111.21(b) provides that “no action by the Commission or by any person, and no information derived in connection with conciliation efforts pursuant to 11 CFR 111.18, may be made public by the Commission except upon a written request by respondent and approval thereof by the Commission.” Finally, 11 C.F.R. § 111.21(c) provides that “[n]othing in these regulations shall be construed to prevent the introduction of evidence in the courts of the United States which could properly be introduced pursuant to the Federal Rules of Evidence or Federal Rules of Civil Procedure.”

The Thom Tillis Committee and Collin McMichael, in his capacity as Treasurer of the Thom Tillis Committee (collectively “Respondents”) are Respondents in the following related matters: **MUR 7427** currently the subject of litigation in *Giffords v. FEC*, 1:19-cv-01192 (D.D.C.).

Respondents do hereby waive any and all rights to confidentiality afforded under 52 U.S.C. § 30109 and 11 C.F.R. § 111.21, effective as of the date below.

The Federal Election Commission, either as an agency or through individual Commissioners, is authorized by the Respondent to disclose information regarding: (1) complaints filed with the Commission in the above stated matters; (2) notifications sent by the Commission in the above stated matters; (3) investigations conducted by the Commission in the above stated matters; and (4) findings made by the Commission in the above stated matters. The Federal Election Commission, either as an agency or through individual Commissioners, is further authorized by the Respondent to disclose Responses filed on behalf of the Respondent in the above stated matters, in whole or in part.

For the Thom Tillis Committee and Collin McMichael in his capacity as Treasurer of the Thom Tillis Committee



Roger W. Knight
Attorney for Respondents

11-3-21

Date