

# CLARK HILL

---

Derek H. Ross  
T 202.640.6684  
F 202.640.6697  
Email: [dross@clarkhill.com](mailto:dross@clarkhill.com)

Clark Hill PLC  
1001 Pennsylvania Avenue NW  
Suite 1300 South  
Washington, DC 20004  
T 202.772.0909  
F 202.772.0919

[clarkhill.com](http://clarkhill.com)

April 10, 2019

Jeff S. Jordan  
Assistant General Counsel  
Complaints Examination & Legal Administration  
Federal Election Commission  
1050 First Street, NE  
Washington, DC 20463  
**VIA EMAIL at [cela@fec.gov](mailto:cela@fec.gov)**

**Re: MUR 7570: Outsider PAC's Response to Complaint**

Dear Mr. Jordan:

I am writing this letter on behalf of Outsider PAC and Julie Dozier in her official capacity as Treasurer (the "PAC") in response to your letter regarding the Complaint and Supplement (cumulatively, the "Complaint") filed in the above-referenced matter by Campaign Legal Center. In the letter to the PAC, you state that the Commission "received a complaint that indicates [the PAC] may have violated the Federal Campaign Act of 1971, as amended (the 'Act')." We respectfully disagree. Nothing in the Complaint in any way indicates that the PAC may have violated the Act. Indeed, the Complaint does not name the PAC as a Respondent in this matter, and it does not allege any violation of the Act on the part of the PAC.

The Complaint does not allege that the PAC violated the Act because there is no set of facts to support such an allegation. The Act's prohibitions that form the nexus of the Complaint do not encompass the PAC. Because there are no facts alleged supporting a conclusion that the PAC violated the Act, the Commission should expeditiously find no reason to believe that the PAC violated the Act.

## **I. The Complaint.**

The allegations in the Complaint are quite simple. The Complaint alleges that in its FEC filings, the PAC reported receiving a \$10,000 contribution from "Skytron" on November 1, 2018. The Complaint alleges that "Skytron" is Skytron, LLC, a Michigan-based company and federal contractor. The Complaint alleges that because Skytron, LLC is prohibited from making contributions, Skytron, LLC violated the Act when it made a contribution to the PAC. The

April 10, 2019

Page 2

Complaint does not allege that the PAC knew Skytron, LLC was a federal contractor nor that it knowingly solicited a prohibited contribution.

After the Complaint was filed, based on additional information received from the contributor, the PAC corrected its filing to reflect that the contribution was actually made by KMW Group, Inc. Complainant then filed a Supplement alleging that KMW Group is a federal contractor.

## **II. Legal Standard.**

The Act prohibits a federal contractor from making any “contribution to any political party, committee, or candidate for public office” at any time between the commencement of negotiations for a federal contract and the completion of performance or termination of negotiations for a contract. 52 U.S.C. § 30119(a)(1). The Act further prohibits any person from knowingly soliciting a contributions from a prohibited federal contractors. *Id.* § 30119(a)(2).

In Matters Under Review such as this, 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. *See* 11 C.F.R. § 111.4(a), (d). Unwarranted legal conclusions from asserted facts or mere speculation will not be accepted as true. *See* MUR 4960, Commissioners Mason, Sandstrom, Smith and Thomas, Statement of Reasons (Dec. 21, 2001).

## **III. Discussion.**

In regard to the contribution in question, the PAC has gone well beyond the legal requirements of the Act to ensure that it did not receive a contribution from a federal contractor (even though receiving a contribution from a federal contractor would not result in a violation of the Act on the part of the PAC). After it received the Complaint in MUR 7480, which involved similar allegations, the PAC reviewed all contributions and proactively reached out to every contributor the PAC believed could possibly be a federal contractor. When it reached out to Skytron/KMW Group to enquire about its federal contractor status, the PAC was explicitly assured that the contributor was not a federal contractor.

After the filing of the Complaint in this matter, the PAC again reached out to Skytron/KMW Group to enquire about its federal contractor status. The PAC was told that the contribution should have been reported as coming from KMW Group, Inc., and that KMW Group is not a federal contractor. Based on that information, the PAC amended its filing to reflect that the contribution came from KMW Group.

As stated, the PAC has gone well beyond the requirements of the Act by proactively reviewing the contributions it received to determine if any could have come from federal contractors. Moreover, the PAC’s donor forms specifically instructed all potential federal contractors to seek advice of their counsel as to whether they are permitted to make contributions under federal law.

April 10, 2019

Page 3

Although the PAC does not have the corporate information necessary to independently verify whether Skytron/KMW Group is a federal contractor, that question is ultimately irrelevant for determining whether the PAC violated the Act. The only way the PAC could have violated the Act is if it knowingly solicited a contribution from a federal contractor. There are no facts alleged in the Complaint that the PAC knew that Skytron/KMW Group was a federal contractor. That is because the PAC did not know that Skytron/KMW Group was a federal contractor, and, indeed, was told by Skytron/KMW Group that the contribution was not from a federal contractor, and to this date has no information to the contrary of those assumptions.

Because there are no facts alleging that the PAC violated the Act, and because the PAC did not knowingly solicit a prohibited contribution, the Commission should find no reason to believe the Outsider PAC and Julie Dozier in her official capacity as Treasurer violated the Act. Thank you for your prompt consideration of this matter, and please do not hesitate to contact me directly at (202) 640-6684 with any questions.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'DHR', is positioned above the typed name and title.

Derek H. Ross  
*Counsel to Outsider PAC*