

BEFORE THE FEDERAL ELECTION COMMISSION

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MUR NO 7605

IN THE MATTER OF CHAD E. PRICE

**CONFIDENTIAL  
SENSITIVE**

*Respondent.*

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### **RESPONSE TO AMENDED COMPLAINT**

On behalf of Respondent Chad E. Price ("Mr. Price"), the undersigned counsel hereby responds to the Complaint filed with the Federal Election Commission ("Commission") by Larry Price. This response is submitted pursuant to 52 U.S.C. § 30109(a)(1) and in accordance with the Commission's letters to Mr. Price dated May 9, 2019 and August 7, 2020.

For the reasons stated below, the Commission should find "no reason to believe" that Mr. Price violated the Federal Election Campaign Act, as amended (the "Act"), and that the Commission take no action on the basis of the Complaint. Absent the existence of a violation of the Act, the Commission should find no reason to believe that further proceedings are warranted in this matter.

#### **I. THE COMPLAINT**

On May 6, 2019, a complaint was filed with the Commission against Chad E. Price by his father, Larry Price, alleging various violations of the federal election laws. In particular, the Complaint alleged that Mr. Price knowingly and willfully violated 52 U.S.C. § 30122 by making a single federal contribution in his sister's name and that he exceeded the annual federal contribution limit for individuals contained in 11 C.F.R. § 110.5(b) by making the contribution in his sister's name.

On June 7, 2020 and June 8, 2020, Mr. Price responded in writing to the Commission, demonstrating why no action should be taken against him in response to the Complaint. At that time, Mr. Price did not have the benefit of legal counsel in responding to the Complaint.

Over a year later, on August 5, 2020, the Commission received additional information from Larry Price, amending/supplementing the original Complaint. The additional information contains a February 6, 2020 article from a local newspaper, entitled “CEO of Raleigh NC based Mako Medical tied to campaign money.” The article was written by Dan Kane of the News & Observer. Mr. Kane has stated publically that it is “his mission to take down Mako Medical,” and subsequently Mr. Price as well. It appears Mr. Kane’s mission is partisan in nature.

Mako Medical is one of the fastest growing health care companies in the Raleigh area, which Mr. Price co-founded. Mako Medical credits much of its initial success to its philanthropic commitment to the local community and focus on hiring military veterans. Like other growing health care companies, Mako Medical requires legal counsel for regulatory compliance and corporate governance. Undersigned counsel’s law firm represents Mako Medical on such matters.

The article Larry Price forwarded to the Commission is part of what appears to be a coordinated smear campaign seeking to discredit a company based upon a disagreement with its founders’ political beliefs. If anything, the article confirms that no violation of the Act occurred. *See* Supplement, 15 (“a spokesman for Georgia’s election board, said the Prices’ complaint against their son was unfounded. He said the money ‘almost absolutely’ came from a financial account in Jessica Price’s name”).

The Complaint as supplemented provides no persuasive arguments, factual support, or legal analysis detailing how Mr. Price arguably violated any provision of the Act. The Complaint correctly notes that “Jessica Price is a severely disabled adult” for whom Mr. Price “is currently

guardian, who lives with him at \_\_\_\_\_ in Apex, North Carolina.” (Complaint ¶ 1).

The Complaint does not, however, explain that Mr. Price’s sister, Jessica Price, was born June 22, 1982 with a very rare developmental disability; Jessica Price suffers from macular degeneration and Common Variable Immune Deficiency (CVID), and her mental status unfortunately remains that of a 3-4 year old. The Complaint likewise fails to inform the Commission that in 2013, Mr. Price was awarded full custody and guardianship of his sister Jessica

\_\_\_\_\_ and consequently, Chad Price now is legally responsible for making all of Jessica’s decisions. When Chad Price became Jessica’s guardian, her parents lost the ability to claim Jessica’s Social Security benefits, something that angered his parents greatly.

The entirety of the Complaint alleges that Mr. Price, as full legal guardian of his sister Jessica Price, violated 52 U.S.C. § 30122 by contributing \$2,700 on behalf of his sister to Georgia congressional candidate Judson Hill’s 2017 campaign. Since Mr. Price is her full legal guardian, this is not a violation of the Act. Consequently, the Commission should find no reason to believe a violation of the Act has occurred, and should close the file in this matter.

## **II. ARGUMENT**

### **A. Background**

Prior to Jessica Price’s contribution to the Georgia congressional campaign of Judson Hill in 2017, Mr. Price contacted Judson Hill’s campaign itself to ensure his sister’s contribution was compliant with the provisions of the Act. Mr. Price was assured by multiple campaigns, including Judson Hill’s congressional campaign, that the act of him contributing on behalf of his sister as her judicially-appointed legal guardian was legally permissible under both federal and state laws. There was also nothing on the Hill campaign website that indicated this contribution was in any way inappropriate. It was pursuant to this information that Mr. Price acted in his sister’s capacity

as her legal guardian to make the single federal campaign contribution in her name that is complained of herein. Mr. Price did not act knowingly or willfully in violation of the Act. His actions were exclusively on behalf of his sister, through his capacity as her legal guardian.

**B. Mr. Price did not violate the Federal Election Campaign Act.**

Congress passed the Federal Election Campaign Act in 1971. 52 U.S.C. §§ 30101-46. The Act placed limits on the amount of money a person is allowed to contribute to a candidate for federal<sup>1</sup> office. Section 30122 states:

No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

52 U.S.C. § 30122.

Shortly thereafter, Congress created the Federal Election Commission as an independent agency to civilly enforce the Act's monetary limits and disclosure requirements. In 1976, the Commission promulgated a regulation regarding the Act's ban on contributions made in the name of another, which made specific reference to the two most common forms of such contributions: false name and conduit contributors. 11 C.F.R. § 110.4(b). A false name contribution occurs when a person contributes to a candidate but falsely attributes another person as the source of the contribution. A conduit contribution reaches the same result when a person provides funds to another person (the conduit) who contributes the funds to the candidate.

The Complaint (as supplemented) fails to articulate how Mr. Price's actions constitute a violation of the Act, and specifically 52 U.S.C. § 30122. Mr. Price is his sister's full legal guardian. When he acts on her behalf, it is as if she is acting herself. When Mr. Price effected on

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<sup>1</sup> The Commission has jurisdiction over the financing of campaigns for the United States House of Representatives, the United States Senate, the Presidency and the Vice Presidency. The Complaint alleges one violation of the Act upon which the Commission has jurisdiction.



his sister's behalf a campaign contribution of \$2,700 to Judson Hill's 2017 congressional campaign, he acted in his judicially-ordered capacity as her full legal guardian. The complaint fails to explain why Mr. Price's action was a violation under the Act, in accordance with his role as his sister's full legal guardian.

Legal guardianship is assigned by a court according to state laws. The North Carolina General Assembly has determined that "[i]ncompetent persons who are not able to act effectively on their own behalf have a right to a qualified, responsible guardian." N.C. Gen. Stat. § 35A-1201(a)(2). In 2013, Mr. Price became his sister's full legal guardian pursuant to the procedures set forth in North Carolina's General Statutes. Every day of his life, Mr. Price cares for, supports, and acts in his sister's best interest. Mr. Price's actions in his capacity as his sister's legal guardian, enable his sister to enjoy the same opportunities that others have to exercise their basic rights.

To say otherwise would fundamentally disregard Jessica Price's First Amendment right to free speech. Ratified in 1791, the First Amendment provides that "Congress shall make no law ... abridging the freedom of speech." U.S. Const. amend. 1. This guarantee "has its fullest and most urgent application precisely to the conduct of campaigns for political office." *Buckley v. Valeo*, 424 U.S. 1, 15, 96 S.Ct. 612, 46 L.Ed.2d 659 (1976) (internal quotation marks omitted). The Amendment "protects political association as well as political expression." *Id.*; see also *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449, 460, 78 S.Ct. 1163, 2 L.Ed.2d 1488 (1958).

For these reasons, the Commission should find no reason to believe that Mr. Price violated the Act, and take no action on the basis of the Complaint.

**C. Larry Price has filed related campaign finance claims against Mr. Price related to donations made on behalf of Jessica Price in various states, and all have been dismissed.**

Throughout Mr. Price's life, he (and his siblings) have had a contentious and volatile relationship with their mother and father. For years, his parents have battled mental health issues

as well as alcoholism and drug addiction. These troubles exacerbated their inability to adequately care and provide for their daughter, Jessica Price, who needs constant, around-the-clock support due to her rare developmental condition. In 2013, following an incident involving Mr. Price's mother that jeopardized the health, safety and well-being of his sister, Mr. Price brought an action in North Carolina Superior Court challenging his parents' guardianship of his sister Jessica Price. Thereafter, Chad Price was awarded full legal guardianship of his sister. Since then, Jessica has lived with Chad Price at his home in Apex, North Carolina and he provides for all of her needs.

Following the change of Jessica's legal guardianship, Larry Price began filing campaign finance complaints against Mr. Price in various states, including in North Carolina and Georgia. The substance of these alleged campaign finance violations is the same – Mr. Price violated campaign finance laws by contributing on behalf of his sister Jessica Price. All of the state complaints filed by Larry Price alleging Mr. Price illegally contributed in his sister's name have been dismissed. *See Exhibit A*. Just as the baseless state-level allegations have been rejected, the federal claims against Mr. Price should be thoroughly dismissed because Mr. Price's actions do not constitute a violation of the Act.

**D. Proceeding with an Enforcement Action Based Upon One Alleged Violation Involving a Novel Issue is Not Warranted Pursuant to Commission Precedent.**

To the extent that it can be argued that Jessica Price's lone, single federal campaign contribution can be construed as a campaign finance violation by Mr. Price (which, as described above, it is not), the Commission should not pursue an enforcement action against him. First, the Commission has jurisdiction over the financing of campaigns for the United States House of Representatives, the United States Senate, the Presidency and the Vice Presidency. The Complaint (as supplemented) alleges one violation of the Act over which the Commission has jurisdiction. The Complaint also includes a number of allegations related to alleged state level campaign finance

violations. The Commission does not have the authority or jurisdiction to enforce state level campaign finance laws.

Second, the Commission has wide-discretion in its charging decisions. *See Citizens for Responsibility & Ethics in Wash. v. FEC*, 236 F.Supp.3d 378, 390 (D.D.C. 2017) (“In deciding whether to initiate or proceed with charges of alleged FECA violations, the Court gives broad prosecutorial discretion to the FEC.”); *see also La Botz v. FEC*, 61 F.Supp.3d 21, 33-34 (D.D.C. 2014) (“An agency decision not to pursue a potential violation involves a complicated balancing of factors which are appropriately within its expertise, including whether agency resources are better spent elsewhere, whether its action would result in success, and whether there are sufficient resources to undertake the action at all”). The Commission’s limited resources should not be consumed by electing to bring an enforcement action against an alleged single contribution “violation” who reached out to the campaign in question prior to contributing to ensure compliance under the Act.

Third, in exercising its discretion, the Commission has wisely elected not to pursue and/or sanction a number of cases where allegations of violations of the § 30122 provision of a far greater magnitude were present. The MURs in which the Commission has taken action are readily distinguished from Mr. Price’s situation here. For years, Mr. Price and his company’s staff have worked diligently to ensure absolute compliance under the Act. This is not a situation (as with most § 30122-violation MURs) where a “straw-donor” or “conduit” entity, corporation, or limited liability company was used to mask the true source of a contribution. Nor is this a sweeping federal campaign contribution scheme with money being contributed to federal campaigns all over the country.

Fourth, the issue of whether an individual acting on behalf and as a legal guardian of another adult can contribute to a political campaign appears novel. Historically, the Commission has found that a “fundamental principle in our legal system is that laws which regulate persons or entities must give fair notice of conduct that is forbidden or required.” (AR-87-88 (*quoting FCC v. Fox Television Stations, Inc.*, 132 S. Ct. 2307, 2317 (2012))). In *Campaign Legal Center and Democracy 21 v. Federal Election Commission*, the United States District Court for the District of Columbia, affirmed the Commission’s dismissal of a complaint because respondents “were not provided adequate notice that their conduct could potentially violate” the straw donor provision of the Act. 952 F.3d 352, 357 (2020). In that case, the Commission determined that because “principles of due process, fair notice, and First Amendment clarity counsel against applying a standard to persons and entities that were not on notice of the governing norm,” the complaints against respondents “should be dismissed in an exercise of the Commission’s prosecutorial discretion.” (AR 76-77; *see also* AR 87-88).

Commission precedent requires due process, fair notice, and clarity surrounding First Amendment-related campaign finance laws. To the extent that it can be argued that Mr. Price violated § 30122 through his actions while acting as his sister’s legal guardian, he did so unintentionally; moreover, he took all steps a reasonable person would do to ensure compliance under the Act. He researched and reviewed the regulations (albeit as a layperson, as Mr. Price is not a lawyer) and reached out to the campaign prior to contributing to confirm his sister’s contribution was lawful. It is not readily apparent that such a situation has been the subject of any enforcement action by the Commission in the past, nor have directly applicable regulations been promulgated.



### III. CONCLUSION

Mr. Price respectfully submits that the Commission should, in the exercise of its discretion, decline to act here as there is no reason to believe that Chad E. Price violated the law in this matter. Mr. Price contributed to a single Georgia Congressional campaign on behalf of his sister, Jessica Price, in his capacity as his sister's full legal guardian. Under the federal law and state law, Mr. Price's actions were legally permissible. In light of Mr. Price's demonstrated and long-standing efforts to ensure his personal compliance with the Act, the retaliatory nature of the filing of the Complaint, and historical precedent concerning respondents' due process rights, the Commission should also dismiss the Complaint against Mr. Price at this time.

Respectfully submitted,



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