



1825 EYE STREET, N.W. SUITE 900  
 WASHINGTON, DC 20006-5403  
 TELEPHONE: (202) 457-0160  
 FACSIMILE: (844) 670-6009  
<http://www.dickinsonwright.com>

CHARLES R. SPIES  
[CSPIES@DICKINSONWRIGHT.COM](mailto:CSPIES@DICKINSONWRIGHT.COM)  
 (202) 466-5964

October 15, 2019

Jeff S. Jordan  
 Assistant General Counsel  
 Complaints & Examination & Legal Administration  
 1050 1<sup>st</sup> Street, NE  
 Washington, DC 20463

**VIA EMAIL: [CELA@fec.gov](mailto:CELA@fec.gov)**

**Re: MUR 7613: Roger B. Schagrin Response to Complaint**

Dear Mr. Jordan,

We write on behalf of Roger B. Schagrin in response to the Complaint filed in the above referenced matter by self-styled campaign “reform” group, the Campaign Legal Center (“CLC”) and CLC “Investigator”, Margaret Christ (collectively the “Complainants”) against Wheatland Tube, LLC, Barry Zekelman and Zekelman Industries (collectively the “Named Respondents”).

This response is limited to the propriety of Mr. Schagrin’s status as a respondent. Mr. Schagrin is not a named respondent in the complaint, and there are no stated allegations of wrongdoing by Mr. Schagrin. In fact, the complaint was sent to Mr. Schagrin over four (4) months after it was submitted apparently due to an “administrative oversight.” This is more likely not an oversight, but instead the case of an intake clerk in the FEC’s Office of General Counsel taking it upon him or herself to attempt to also include Mr. Schagrin as a respondent, along with the multiple Named Respondents for which there are actually stated accusations against. The complaint fails on its face to present a legal theory under which Mr. Schagrin could have possibly violated the Federal Election Campaign Act of 1971, as amended (“FECA” or the “Act”), or the Federal Election Commission’s (“FEC” or “Commission”) regulations and consequently should be immediately dismissed as regards Mr. Schagrin as a respondent.

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). In this case, despite naming three respondents, and Complainants’ vast resources and motivation to create some sort of scenario in the Complaint that, if proven, would constitute a violation of the Act by Mr. Schagrin, complainants were nonetheless unable to even assert a theory by which Mr. Schagrin could have violated the Act. Complainants frequently make public their disagreements with First Amendment protections for political speech and are committed advocates for restrictions on political speech. As such, CLC raises funds for its pro-regulatory lobbying efforts through periodically filing FEC complaints hyperbolically asserting violations of the Act by conservative-leaning organizations

and candidates. We note this ideological agenda and practice not to pass judgement upon Complainants, but instead to reinforce that if any of the forty-seven (47) staff listed on the CLC website (including Ms. Christ) could have come up with some sort of theory under which Mr. Schagrin might have violated the Act, they would have undoubtedly named him as a respondent.

The failure to name Mr. Schagrin as a respondent and/or assert any facts which, if true, would constitute a violation of the Act by Mr. Schagrin, is not merely a technical mistake. The contents of the complaint are sworn to and signed in the presence of a notary public as required by 11 C.F.R. § 111.4(b)(2). However, because the complaint names only the three stated Named Respondents, Mr. Schagrin cannot after-the-fact be added as a respondent in this matter by Commission staff. To do so would broaden the Complaint beyond what has been sworn to and signed, which would be impermissible under 11 C.F.R. § 111.4(b)(2) because there are not even asserted facts regarding Mr. Schagrin. The standard here is high because the Commission has taken the position that 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). Moreover, the Commission will dismiss a complaint when allegations are refuted with sufficiently compelling evidence, but here there are no allegations regarding Mr. Schagrin to respond to or provide evidence to factually refute.

In the instant case, no allegations have been made against Mr. Schagrin, so there are no allegations to refute and no refutation is necessary for the dismissal of him from this matter. That being said, the best we can guess as to why Mr. Schagrin is forced to respond here is because he has been a longstanding attorney for Zekelman Industries, and has regular communications with approximately a dozen Zekelman Industries executives, including Barry Zekelman, as to trade litigation, customs, and trade policy issues. Mr. Schagrin and Schagrin Associates are not involved in political fundraising, and instead represent Zekelman Industries and other clients before the DOC, ITC, USTR, Customs, CIT and CAFC to ensure that filings before such agencies are factually accurate and in accordance with U.S. law. Mr. Schagrin has provided contact information for his legal client Mr. Zekelman to individuals who ask, including potentially to a representative of the America First Action super PAC supporting President Trump. Mr. Schagrin has not solicited funds for or had further interaction with that PAC, other than the previously mentioned: potentially providing contact information for Mr. Zekelman. Just as a Google search is not soliciting funds and/or facilitating a solicitation when it provides an e-mail address or phone number in search results, there is no legal standard whereby Mr. Schagrin providing contact information for a client could be a solicitation under the FECA.

We consequently and respectfully request that the Commission recognize the legal and factual insufficiency of the complaint on its face and dismiss it as regards the newfound inclusion of Mr. Schagrin as a respondent, and promptly dismiss Mr. Schagrin from this matter. Please do not hesitate to contact me directly at (202) 466-5964 with any questions.

Respectfully submitted,



Charles R. Spies  
*Counsel to Roger B. Schagrin*

DC 99998-3652 480354v1

---

ARIZONA	CALIFORNIA	FLORIDA	KENTUCKY	MICHIGAN
NEVADA	OHIO	TENNESSEE	TEXAS	TORONTO
				WASHINGTON DC