

November 7, 2019

To: Mr. Jeff S. Jordan, Esq.
Assistant General Counsel
Complaints Examination &
Legal Administration
Federal Election Commission
Washington, D.C. 20463

From: Christine O'Donnell

Villas, NJ 08251

Re: Response to MUR 7640 filed by Mr. Dan Backer, Esq.

Dear Mr. Jordan:

Please accept this letter as my response to MUR 7640, which I believe is a retaliatory complaint filed by Dan Backer as a fulfillment of a 2015 threat made after I inquired about the possible financial misconduct of one of Dan Backer's clients, ALM. For this reason, along with the reasons stated below, it is my position that MUR 7640 is a baseless, retaliatory complaint that should be dismissed, and if possible, deemed an abuse of the regulatory system by Dan Backer.

Because I understand how serious an FEC complaint it, please know that I do not make this charge lightly. The FEC plays a crucial role in safeguarding the integrity of the election process, and safeguarding the trust donors place in candidates. This is why in 2015 I originally intended to contact the FEC about the events leading up to MUR 7640. That is when I was threatened with the "major wrath" if I went to the FEC, as detailed later in this response.

The below response first provides a short explanation of my position that MUR 7640 is a retaliatory complaint; then it addresses the merits (or lack thereof) of the Dan Backer's complaint; then it concludes with more details and documentation of my allegations that MUR 7640 is retaliatory.

Summary of Retaliatory Motive Behind MUR 7640

In a nutshell, in 2014 and 2015, I suspected potential financial misconduct on the part of Dan Backer's client, ALM. ALM advertised the rental of the "Christine O'Donnell Masterfile." Yet, I never heard of ALM, nor was I aware of any contract with them, whether on my behalf, or behalf of any political committees bearing my name. Therefore, I wanted to know precisely what ALM considered the "Christine O'Donnell Masterfile" and how they acquired it.

Long before I ever ran for public office, I had an extensive supporter list created from over a decade of advocacy work. Additionally, I had a marketing list that was created during my 2011 book tour. Which "Christine O'Donnell" list was ALM pedaling? How was the rental income disbursed? How did they acquire the list?

In 2014, I contacted ALM directly to get the answers to these questions. ALM then put me in touch with their attorney, Dan Backer. Ultimately, Mr. Backer refused to turn over any information about ALM's use of the "Christine O'Donnell Masterfile" without a court order.

Additionally, prior to my inquiry into the possible financial misconduct of Dan Backer's client, I owned ChristineODonnell.com, my personal domain name. Then, around 2014 or 2015, after my inquiry into misconduct, *all* domain names bearing my name were taken hostage, and I was threatened with retaliation if I continued my inquiry. (More details below.)

While all this was going on, my mother was diagnosed with terminal cancer. Everything else was put on the back burner so that I could serve as my mother's fulltime, live-in caregiver. Sadly, she passed away in 2016, and I subsequently enrolled in law school.

Now, as I prepare to graduate in May 2020, I am tackling all the issues that were put on the back burner in 2015. Hence, in July 2019, I filed an action asking a Virginia Court to compel ALM to turn over an accounting of their use of the "Christine O'Donnell Masterfile." Shortly thereafter, Dan Backer filed his FEC complaint against me.

Thus, September 2019 FEC complaint filed by Dan Backer is clearly the fulfillment of the 2015 retaliation threat. Furthermore, shortly after Dan Backer filed his retaliatory complaint, my former campaign manager informed me that my personal, professional and political domain names are being held hostage unless I submit written proof that I withdrew my Petition for an Accounting of their use of "Christine O'Donnell Masterfile."

MUR 7640 Is Based On Arbitrary Speculation, Not Facts

The fact that Mr. Backer's complaints rest on disputed facts that are the subject of ongoing litigation -- not tangentially but on the very core issues that are unknown and in dispute -- compels the FEC to dismiss MUR 7640.

Mr. Backer alleges I am trying to convert campaign assets into personal use. Yet, this allegation assumes the "Christine O'Donnell Masterfile" ALM advertised was a campaign asset. This is the information I have been trying to uncover for years! Yet, Mr. Backer instructed his client not to disclose this information to me, so whether ALM rented the campaign list or my personal list is still unknown. This is the subject of the aforementioned pending litigation.

Mr. Backer attached a copy of my Virginia Petition for An Accounting to his FEC complaint. In my Petition for An Accounting, I clearly ask the court to compel ALM to provide an explanation and accounting of ALM's use of the list in question. Which list ALM used, and how the profits were disbursed is still unknown -- all because Dan Backer instructed his clients to withhold that information from me. Yet now Mr. Backer is asking the FEC to make a serious determination based in information that still in dispute and unknown.

Mr. Backer bases his entire FEC complaint on an unsupported claim that the ALM rental income was generated by the campaign donor list, while he simultaneously refuses to provide any documentation whatsoever about ALM's use of the "Christine O'Donnell Masterfile" nor what the masterfile contained.

Further, the entirety of MUR 7640 consists of the same meritless allegation by Dan Backer:

3. Christine O'Donnell and Friends of Christine O'Donnell are attempting to convert campaign committee assets, in the form of mail and email lists developed by her committee with campaign funds, to personal use as evidenced by representations made in a Virginia court by Ms. O'Donnell that the mail and email lists belong to "her." ¹

This core claim is repeated in slightly expanded form in paragraphs 13 through 21.

The complaint lacks candor because ALM and their attorney Dan Backer *refused* to provide information about ALM's use of the 'Christine O'Donnell Masterfile,' yet are basing their entire FEC complaint on the very information they refuse to provide to me. Having steadfastly refused to identify what the "Christine O'Donnell Masterfile" actually is or how ALM got it, Dan Backer now asks the FEC to make a grave determination based **solely on the unknown, disputed facts that he refuses to disclose** – the same disputed facts that are the subject of ongoing litigation.

The lawsuit in Loudoun County Circuit Court in Virginia, Civil Case Number 19-1561, *Christine O'Donnell v. Allegiance List Marketing, LLC*, is explicitly based upon the 2014 discovery that Allegiance List Marketing, LLC, was advertising for rent what ALM called the "Christine O'Donnell Masterfile."

Dan Backer is an attorney representing ALM, the Defendant in that dispute. Although a different lawyer appeared directly in the Loudoun County Circuit Court lawsuit, Dan Backer has been representing ALM -- replete with threats – since 2015.

A copy of ALM's advertisement of the "Christine O'Donnell Masterfile" is attached here and was attached as the main exhibit of the Petition for Accounting.

ALM's advertised the rental of the "Christine O'Donnell Masterfile." The ALM advertisement boasts of my personal role as an author, speaker, political commentator, and non-profit marketing consultant. The ALM advertisement says that the donors who comprise the list "have a variety of interests including humanitarian, Christian missions, supporting our troops, and healthcare."

My non-profit and political activities run over two decades from 1993 through 2013. My career spans over 20 years of non-profit and issue advocacy work, all of which generated supporter lists. Only about 4 of my 20 years in advocacy work were spend as a candidate.

Nothing in ALM's advertisement links the "Christine O'Donnell Masterfile" to any entity other than me, Christine O'Donnell, as an individual. It does not identify the list as coming from the campaign committee, Friends of Christine O'Donnell, (FOCO.) It does not identify the list as coming from ChristinePAC. The clear focus is on "Christine O'Donnell" as an individual, not on any particular entity.

Additionally, in 2011 and 2012, I published a book and conducted a nationwide book tour that including an extensive on-line / email marketing campaign run by the publisher's public relations team. This marketing effort generated new lists of contacts through premium sales,

public appearances, and other promotional events. Email sign-up lists were circulated at public events and the book tour appearances – events that took place *after* the 2010 campaign and were unrelated to the campaign.

The “Christine O’Donnell Masterfile” that ALM advertised could be any one of these lists. Since ALM refused to voluntarily disclose this information, I filed a Petition for Accounting against ALM and its principals. (At the time of suit, Allegiance List Marketing, LLC, had lapsed and gone inactive with the Virginia State Corporation Commission, and since renewed and is active again as a limited liability company.)

Further, in MUR 7640, Mr. Backer frivolously implies impropriety because the Virginia lawsuit was not filed on behalf of FOCO or ChristinePAC. However, at this point, there is no indication whatsoever that FOCO or ChristinePAC are required to be a party in that suit. While the Petition for Accounting may very well reveal that ALM misused the campaign list, or PAC list, at this stage the only known use was of a “Christine O’Donnell Masterfile.”

Because ALM's advertisement does not identify the "Christine O'Donnell Masterfile" as anything other than “Christine O'Donnell's” property, that had to be the starting point of litigation to begin unraveling what happened.

Therefore, the Petition for An Accounting was filed in my name since I clearly have standing to seek an accounting of how ALM used my name and likeness. Again, the very purpose of the Petition for Accounting is to uncover facts about ALM’s use of the “Christine O’Donnell Masterfile.”

Thus, the entire bases of Mr. Backer’s complaint is weak, unfounded and unsupported because it rests on an unknown assumption that the “Christine O’Donnell Masterfile” posted in ALM’s advertisement was indeed the campaign donor list. Again, this an unknown assumption that Mr. Backer himself refuses to clarify even though it is within his ability to do so.

Additionally, the MUR 7640 complaint alleges that I am seeking to convert an asset of unknown provenance to my personal use. This is a frivolous charge. The language in the Petition itself clearly demonstrates that my purpose is to obtain information needed to conduct an audit of how any and all lists bearing my name were used so that I can correct any past wrong doing on the part of ALM or my former campaign manager.

In the event the accounting reveals that ALM rented the "Christine O'Donnell Masterfile" and either paid the wrong party or did not pay anyone at all the rental fees, less commissions, then the accounting itself would demonstrate that payments are still owed.

The Petition asks that if any money was owed but not paid, that it be paid to *whatever entity* should have been paid.

My Prayer for Relief in the Petition for Accounting asks the Court to (*emphasis added*):

B. Enter judgment in favor of the Petitioner to order recovery or restitution to the Petitioner of any rental income from the use of Christine O'Donnell's list owed to O'Donnell **or any other entity which has not yet been paid to the extent revealed by the accounting.**

My Petition for Accounting explicitly asks that whatever funds may be due, that the Court require the payments be settled up with whatever entity is entitled to the payments. ALM by counsel attacks this request on the grounds that I cannot (in their view) ask for entities I created to get paid if the accounting reveals they are entitled to rental income. What is wrong with advocating for proper payment to these entities so that we can settle obligations and close down? Contradicting their own pleadings, now, before the FEC, they argue that I am trying to get the payments made to myself.

Even so, I have personally loaned a significant sum of money to both FOCO and ChristinePAC. Thus, it is my understanding that I would have a right to payments if I wanted to collect on those debts. Still, that is not my motive. I will gladly be held to the statements made in this letter that even if the accounting revealed that ALM owes ChristinePAC or FOCO rental income, those back payments will be used to settle other obligations, not obligations to me. It is my sole intent to right any past wrongs so that I can close out all former political entities and move on with my life.

It is a blatant mischaracterization on Mr. Backer's part to claim my Petition is anything other than an attempt to obtain information that will shed light on ALM's potential misuse of my likeness, image, and/or personal and political lists.

Finally, Mr. Backer mentions the April 19, 2017 United States District Court ruling. This is irrelevant to MUR 7640 for several reasons: (1) The events leading up to Mr. Backer's retaliatory complaint began long before 2017. (2) It is still unknown whether the list ALM advertised as the "Christine O'Donnell Masterfile" even contained campaign donors. This fact is still unknown because ALM refuses to disclose this information without a court order. (3) Lastly, it is my position that the April 19, 2017 ruling is based on insufficient information. For example, the townhouse was merely an address on my license, and this was done for security reasons, which is permissible when the security risks arise from the candidacy. Therefore, I intend to seek relief under Rule 60, and the April 19, 2017 ruling should not be determinative of the outcome of MUR 7640.

Event Details that Shed Light on the Motives Behind Dan Backer's Retaliatory FEC Complaint.

In spring 2014, I suspected financial misconduct on the part of political consultants and list brokers who may or may not have rented my personal and political lists without my knowledge or consent, and may or may not have subsequently misreported that income.

In series of emails dated April 2014 to March 2015, I requested records for rental transactions for all lists political and personal, that bore my name so that I could clear this up. Yet, I was denied access to them.

The parties that refused to give me access to these records were my former campaign manager, the compliance vendor (who was apparently acting on orders from my former campaign manager), ALM (the list broker company that rented the lists in question), ALM's attorney Dan Backer, and my own campaign attorney. Again, apparently my campaign attorney was acting on orders from my former campaign manager.

In light of the lack of cooperation to help clear up my suspicions about this activity, in October 2014, I requested that the officers of ChristinePAC settle all obligations and initiate steps to close down ChristinePAC. Although ChristinePAC was the “official” PAC that bore my name, I was then told that I did not have the authority to close down ChristinePAC, nor could I instruct anyone to stop fundraising on its behalf.

Therefore, on or around October 28, 2014, I submitted an affidavit to all relevant parties formally resigning from ChristinePAC on the grounds that I was denied access to financial records even though I could be held accountable for the accuracy of their content.

After resigning, I then requested the parties running ChristinePAC cease all claims that ChristinePAC was my “official” PAC, and that they stop soliciting donations officially in my name.

However, in 2015, I discovered my electronic signature may have been forged on one or more FEC documents dated January 2015, after I officially resigned from the PAC; and that the ChristinePAC website was still soliciting donations as my “official” PAC, although I was still denied access to any information about these donations.

Additionally, around this same time, without my knowledge, authorization or consent, the ownership and control of my personal and political domain names (ChristineODonnell.com, ChristinePAC.com, among others) were mysteriously transferred to Matt Moran. (In spite of my requests to stop as it was misleading to potential donors, ChristinePAC.com continued to solicit donations as my “official” website as recently as spring 2019.)

By July 2015, none of this was cleared up, and no one would tell me how my electronic signature ended up on January 2015 documents when I resigned from ChristinePAC in October 2014, nor give me information about donations still solicited on ChristinePAC.com. I informed the relevant parties that I planned to inform the FEC of what was going on so that the parties involved would be compelled to clean it up.

Then, I got the following reply from my former political attorney:

*Fri, Jul 31, 2015, 12:59
PM*

We are handling it. You stay out of it. If you send anything to the FEC you should be prepared for major wrath to descend upon your head. Led by me. ...

Fast Forward to July 2019, FEC retaliation threats fulfilled.

As I prepare to graduate from law school in May 2020, I am taking steps to clean up my online presence and address the issues that were put on the backburner when my mother was diagnosed with cancer. This effort includes reclaiming my personal domain name from Matt

Moran, my former campaign manager. Yet, Matt Moran ignored my numerous attempts to contact him and he retained unauthorized control over my personal and political domain names.

In July 2019, I filed the aforementioned Petition for an Accounting. In September 2019, Dan Backer filed his retaliatory FEC complaint against me. Then, on or around September 16, shortly after Dan filed his complaint, Matt Moran finally responded to my contact attempts the first time in years. In his response, Matt Moran threatened to continue to hold my domain names hostage unless I furnish written proof that I withdrew my complaint against ALM, and relieved all parties of future liability. (Please see attached screenshots of texts sent on September 16, 2019.)

Matt Moran subsequently sent similar emails repeating the same threat to hold my domain name hostage unless I withdrew my complaint against ALM and took measures to affirmatively foreclose any future action.

One may dismiss the timing of all of this as coincidence. However, if Dan Backer's and Matt Moran's actions are not an attempt to intimidate an opposing party in pending litigation, why not just turn over the financial records I keep requesting? Why not give me back my personal domain names and disclose whether or not ChristinePAC received donations in my "official" capacity?

Why does Matt Moran's contact with me for the first time in years specifically demand I withdraw the pending litigation against ALM?

I am well aware of the seriousness of my allegations. They may even sound a little far-fetched. Therefore, I spent a lot of time in prayer weighing whether this response should simply address the merits MUR 7640, or whether I should take the position that MUR 7640 it is a product of retaliation and extortion.

Ultimately, I decided to take the position that MUR 7640 is a retaliatory complaint even though my explanation may lead to a deeper investigation. I stand by my words that the FEC is vital to safeguarding the integrity of the election process. As part of that integrity, I owe my personal and political supporters a fiduciary duty to ensure the private information they entrusted to me is not misused or abused. Therefore, I feel I must be candid about the circumstances and events that lead to MUR 7640, even if it entangles me in a complicated investigation. My faith gives me the confidence that the best way to honor my fiduciary duty is to be upfront with the facts and deal with the consequences head-on.

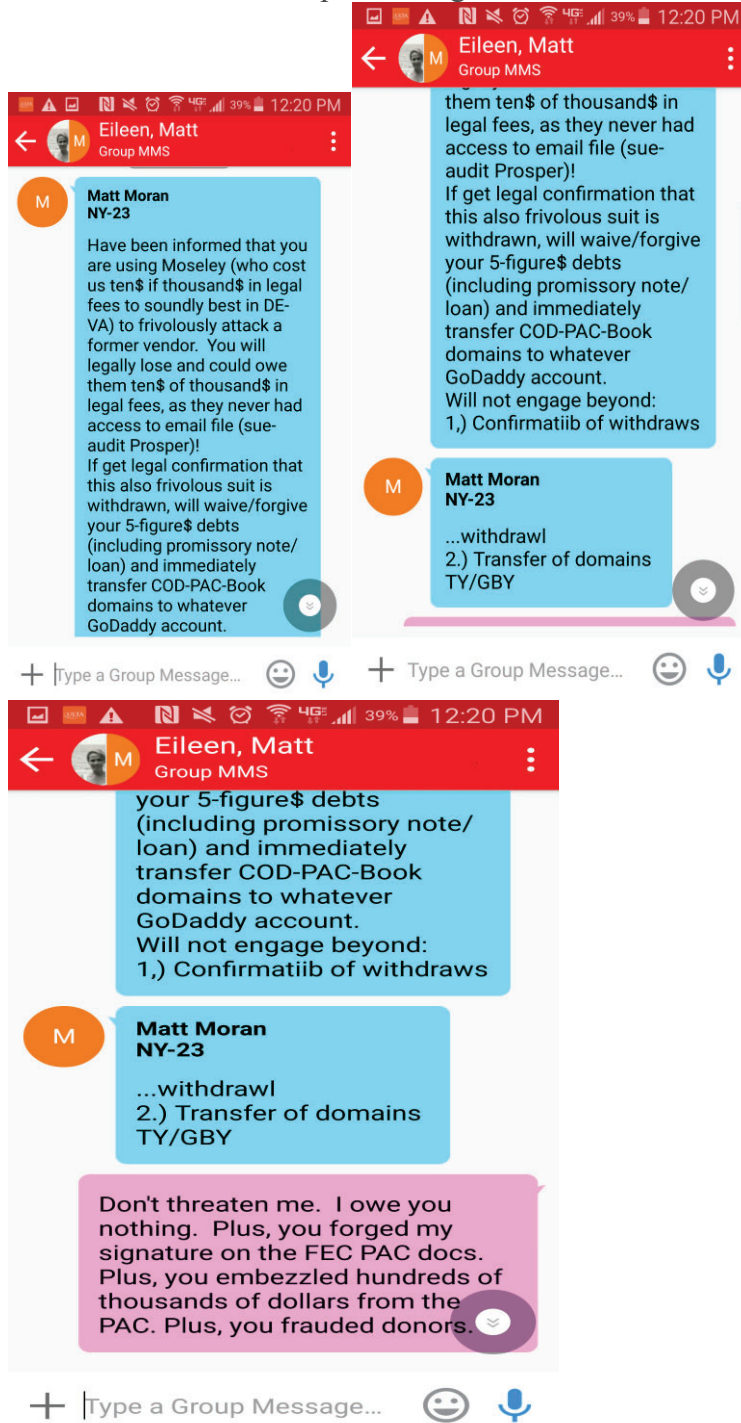
Please let me know if you have any questions, or need further documentation.

Sincerely,

Christine O'Donnell

Exhibits:

1. Screenshots of September 16, 2019 texts from Matt Moran to Christine O'Donnell in which Matt Moran threatens to continue to hold ChristineODonnell.com hostage unless Christine withdraws the complaint against ALM. (Christine's text in pink.)



2. Screenshot of ALM's advertisement for the rental of the "Christine O'Donnell Masterfile" that is at the heart of the pending litigation, and events surrounding MUR 7640.

