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Federal Election Commission
1050 First Street NE
Washington, DC 20463
VIA E-MAIL: CELA@fec.gov

Re: MURs 7679 and 7695—Response to Complaints from Jeff Coleman and Jeff Coleman for Congress

Mr. Jordan,

We write on behalf of Jeff Coleman, Jeff Coleman for Congress and Joseph Johnson in his official capacity as Treasurer (hereinafter “the Campaign”) in response to recent complaints filed that alleged that the Campaign violated the Federal Election Campaign Act of 1974, as amended (“FECA” or “the Act”) by accepting prohibited in-kind contributions. Specifically, the Complaints allege that (1) the Campaign used a corporation’s (presumably Coleman Worldwide) equipment free-of-charge; and (2) the Campaign’s use of Coleman Worldwide imagery in its advertising was a violation of FECA. These Complaints were ginned up and politically timed to impact the outcome of the primary election on March 3. Substantively, however, the Complaints were prematurely filed, are speculative, and have no evidentiary support. One complaint even goes as far as making malicious allegations not even remotely relevant to the Commission’s jurisdiction.¹ The Campaign has not violated the Act, and has fully complied with FECA and Commission regulations. Therefore, we ask the Commission to review the Campaign’s 2020 April Quarterly Report, and then dismiss the Complaints and close the file.

¹ The Complaint in MUR 7695 references an alleged non-election law complaint with the Department of Justice, for which we will not waste the Commission’s time with a discussion of in this response. Such allegation is not only irrelevant to the matters at issue here, but also is made without any evidentiary support that such complaint even exists.

I. Any Use of Equipment Did Not Result in an In-Kind Contribution

The Complaints allege that the Campaign accepted prohibited in-kind contributions in the form of moving trucks and trailers from what the Complaints presume to be Coleman Worldwide² to promote the Campaign. The Complaints provide two examples: (1) the use of trailers parked throughout the district with campaign messaging (analogous to a billboard advertisement);³ and (2) the use of these trailers in several parades throughout the Fall of 2019.⁴ The Complaints then assert, without any evidentiary support, that the use of this equipment was not paid for, which thereby constitutes a prohibited in-kind contribution under 52 U.S.C. § 30118(a).

Contributions are defined as “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office.”⁵ “Anything of value” includes in-kind contributions, which are defined as “services or property offered free or at less than the usual and normal charge.”⁶ However, if a campaign pays fair market value for a good or service, it is not considered a contribution under FECA.⁷

The Campaign leased the trailers identified in the Complaints from The Eagle Leasing Company.⁸ The Campaign paid fair market value for the leased equipment, and properly disclosed the amounts on its quarterly report.⁹ Because the Campaign has paid fair market value for all equipment used, the trailers are not contributions from Eagle Leasing Company to the Campaign, and the Campaign’s use of the equipment was not a violation of FECA.

II. The Appearance of Coleman Worldwide in Campaign Advertising Did Not Result in an In-Kind Contribution

The Complaint in MUR 7679 also broadly claims that the Campaign is in violation of FECA because images of Coleman’s company, Coleman Worldwide, appeared in the Campaign’s Facebook advertisement.¹⁰ Although it is unclear exactly what law the Campaign is being accused of violating, the Campaign has not violated the Act (or any other law) by including biographical images of Coleman’s company in its advertising.¹¹

² Complaint at 1, MUR 7679 (“It is my belief that these trucks are owned by a company and not owned personally by Coleman.”); Complaint at 1, MUR 7695 (stating that the trucks were “conclusively” owned by Coleman Worldwide, while simultaneously asking the Commission to investigate who owns the trucks)

³ Complaint, MUR 7679; Complaint, MUR 7695.

⁴ Complaint, MUR 7679.

⁵ 11 C.F.R. §§ 100.52(a), 100.54.

⁶ 11 C.F.R. § 100.52(d)(1).

⁷ Fair market value is defined as “the usual or normal charge” for a specific good or service. 11 C.F.R. § 100.52(d)(2).

⁸ Eagle Leasing, Inc. sells trailers identical to the ones shown in both Complaints. Their website is <https://www.eagleleasing.com/>.

⁹ See Jeff Coleman for Congress Year End Report. The transaction was properly reported as a debt on its Year End Report. The debt was shown as paid on the Campaign’s Pre-Primary FEC Report. See Jeff Coleman for Congress Pre-Primary Report.

¹⁰ Compl. at 1, MUR 7679.

¹¹ Compl. at 1-2, MUR 7679 (“This would *appear* to be a campaign finance violation.”)

The Campaign's use of biographical Coleman Worldwide imagery in its advertising is not an in-kind contribution to Mr. Coleman's campaign. The Commission has consistently allowed the use of corporations to identify individuals appearing in campaign advertisements when no fundraising solicitation occurs.¹² This is exactly what happened here. In the advertisement, Coleman Worldwide is used to discuss Mr. Coleman's family history ("My mom and dad started their life together in this truck"), his years working for the family company ("I started working when I was ten") and the success of his company during his tenure as CEO ("Our revenues have increased ten-fold").¹³ Nowhere in that advertisement was there any implication of a corporate endorsement or a solicitation for funds, or even an allusion to one. Therefore, in following prior precedent, the use of Coleman Worldwide to provide viewers with biographical information about Mr. Coleman should not be treated as an in-kind contribution.

Alternatively, assuming *arguendo* that the use of Coleman Worldwide in campaign advertising could constitute some kind of an in-kind contribution, the value associated with it is *de minimis*. The use of a candidate's company in campaign advertising is not a new practice, and the Commission has consistently dismissed cases analogous to this one because the value associated with it is minimal.¹⁴

III. Conclusion

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 FECA.¹⁵ The Complaint has failed to meet that standard, which is why we ask the Commission to promptly dismiss this case and close the file.

Respectfully submitted,



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¹² Advisory Opinion 2007-10 (Reyes) at 3 (citing Advisory Opinions 1984-43 and 1978-77).; *see also* First General Counsel's Report at 17-18, MUR 6110 (Obama VictoryFund) (Aug. 26, 2009) (discussing AO 2007-10 (Reyes), noting that "the Commission distinguished AO 1984-43 ... and AO 1978-77..., in which the Commission concluded that a candidate's endorsers may be identified with their corporate positions in campaign-funded advertisements, noting that neither involved the use of corporate resources to facilitate contributions...")

¹³ *See* "Jeff Coleman for Congress" Political Advertisement, Facebook, *available at* <https://www.facebook.com/JeffColemanAL/videos/vb.111891756832652/2530826963817911/?type=2&theater>.

¹⁴ *See, e.g.* AO 2007-10 (Reyes); MUR 7302 (Tom Campbell for North Dakota); MUR 6542 (Mullin for Congress); MUR 6110 (Obama Victory Fund); MUR 5243 (Oberweis); MURs 6287, 6288, and 6297 (Liberatore for Congress).

¹⁵ Statement of Reasons of Commissioners Mason, Sandstrom, Smith, and Thomas at 1, MUR 4960.