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March 13, 2020

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VIA EMAIL AND REGULAR MAIL

Jeff S. Jordon, Esq.
 Assistant General Counsel
 Complaints Examination & Legal Administration
 Federal Election Commission
 1050 First Street NE
 Washington, DC 20463
VIA E-MAIL: CELA@fec.gov

Re: MURs 7679 (“Complaint One”) and 7695 (“Complaint Two”)—Response of Coleman Worldwide Moving, LLC and Coleman American Moving Services, Inc. to Complaints

Mr. Jordan:

I write on behalf of Coleman Worldwide Moving, LLC (the “Company”) and Coleman American Moving Services, Inc. (the “Affiliate”) in connection with the above recent Complaints and to respond to them for the Companies.

Preliminarily, Complaint One has come to my attention, but its allegations are filed against only the Jeff Coleman for Congress Campaign. It does not specifically include any claims against the Company or the Affiliate, name either of them as a respondent, nor seek any relief directly from/as to them. However, to the extent it can be read as stating any claims against the Company or the Affiliate, the Company and the Affiliate each specifically and generally deny that they have violated the Federal Election Campaign Act of 1974, as amended (“FECA” or “the Act”) as purportedly described in Complaint One. However, we will address the allegations set forth in Complaint One to avoid any further issues with the Commission.

Both Complaint One and Complaint Two allege that the Company provided prohibited in-kind contributions to Jeff Coleman, individually, Jeff Coleman for Congress, and Joseph Johnson in his official capacity as Treasurer (collectively, the “Campaign”). Specifically, Complaint Two apparently alleges that (1) the Company permitted the Campaign to use one or more pieces of the Company’s equipment free-of-charge; and (2) the Company permitted the Campaign to use the Company’s imagery in its advertising, each of which was a violation of FECA.

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As a prelude to the details of its position, the Company contends that the Complaints were calculated political maneuvers intended to impact the outcome of the primary election in Alabama on March 3, 2020, in which Jeff Coleman was a candidate for Congress. Of course, neither the Company nor the Affiliate were a party to said election and had absolutely no stake in its outcome.

Also, Complaint Two vaguely references a separate, non-election, “complaint” involving “Coleman Worldwide” and says it was filed by the United States Department of Justice. The allegations are not supported by any evidence, and they are entirely irrelevant to either of the Complaints here or the subject election. The allegations are vile, unwarranted and malicious, and they are beyond the Commission’s jurisdiction.

The Company has not violated the Act as alleged in both Complaints, and in all areas it has fully complied with FECA and Commission regulations. Therefore, for the above and following reasons, we ask the Commission to dismiss both Complaints and to close its file.

I. Campaign Rental of the Companies’ Equipment Did Not Result in an In-Kind Contribution

Both Complaints basically allege that the Campaign accepted prohibited in-kind contributions in the form of moving trucks and trailers from the Company.¹ Complaint Two provides an example: the use of trailers parked throughout the district with campaign messaging (analogous to a billboard advertisement).² Complaint One alleges that such trailers were provided for several parades throughout the Fall of 2019.³ Both Complaints then assert, without any evidentiary support (because the claim is factually wrong), 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.”⁴ “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.”⁵ However, if a

1 Complaint Two at 1, MUR 7695 (stating that the trucks were “conclusively” owned by Coleman Worldwide, but while asking at the same time that the Commission investigate who owns the trucks). Complaint One presumes the equipment to be from Coleman Worldwide Moving, LLC, Coleman American Moving Services, Inc. or some other unnamed entity--see Complaint One at 1, MUR 7679 (“It is my belief that these trucks are owned by a company and not owned personally by Coleman.”).

2 Complaint Two, MUR 7695. Complaint One makes a similar allegation, MUR 7679.

3 Complaint One, MUR 7679.

4 11 C.F.R §§ 100.52(a), 100.54.

5 11 C.F.R. § 100.52(d)(1).

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campaign pays fair market value for a good or service, it is not considered a contribution under FECA.⁶

The Campaign leased the trailers identified in the Complaints from Eagle Leasing, Inc.⁷ Eagle Leasing has invoiced the Campaign for the use of the trailers, and the Campaign has paid fair market value for the leased equipment, and appears to have properly disclosed the amounts on its campaign reports.⁸ Because the Campaign has paid fair market value for all equipment used, the trailers are not contributions from Eagle Leasing, Inc. to the Campaign, nor from the Company nor the Affiliate, and the Campaign's leasing 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

While Complaint One does not seek relief from the Company or the Affiliate, it nonetheless claims that images of the Company and the Affiliate appeared in the Campaign's Facebook advertisement, so the Company and Affiliate also respond to those factual assertions here.⁹ Although it is unclear exactly what law the Company and the Affiliate are being accused of violating, neither of them has violated the Act (or any other law) by not somehow preventing a third-party (the Campaign) from including the name and images of the Company for biographical purposes in its advertising.¹⁰

Not preventing the Campaign from using biographical Coleman Worldwide imagery in its advertising is not an in-kind contribution by the Company or the Affiliate 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.¹¹ This is exactly what happened here. In the advertisement, Mr. Coleman uses the Company's imagery to discuss his 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

⁶ 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).

⁷ Eagle Leasing, Inc. sells trailers identical to the ones shown in both Complaints. Their website is <https://www.eagleleasing.com/>.

⁸ 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.

⁹ Complaint One, at 1, MUR 7679.

¹⁰ Complaint One, at 1-2, MUR 7679 ("This would *appear* to be a campaign finance violation.")

¹¹ 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...")

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of his company during his tenure as CEO (“Our revenues have increased ten-fold”).¹² Nowhere in that advertisement was there any implication of the Company’s endorsement, any other corporate endorsement or a solicitation for funds, or an allusion to either one. The Company is not involved in the creation of Mr. Coleman’s campaign materials and advertisements, and would be hard-pressed to prevent Mr. Coleman from mentioning his past business successes with the Company. Even if, however, the Company had affirmatively allowed such use of biographical imagery, there is Commission precedent which supports the Company’s permitting the Campaign to use its name to provide viewers with biographical information about Mr. Coleman and should not be treated as an in-kind contribution.

Alternatively, assuming *arguendo* that the use of the Company’s identity 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.¹³

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.¹⁴ Complaint Two has failed to meet that standard, and Complaint One, even if read as seeking relief from either the Company or the Affiliate (which it does not), similarly fails. Thus, the Company asks that the Commission promptly dismiss Complaint Two and close the file, and the Company and the Affiliate ask the Commission to do likewise as to Complaint One, if the Commission construes it to state a claim against the Company and/or the Affiliate.

Sincerely,

LEWIS, BRACKIN, FLOWERS & JOHNSON



Daniel F. Johnson

DFJ/bmw

¹² See “Jeff Coleman for Congress” Political Advertisement, Facebook, *available at* <https://www.facebook.com/JeffColemanAL/videos/vb.111891756832652/2530826963817911/?type=2&theater>.

¹³ 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).

¹⁴ Statement of Reasons of Commissioners Mason, Sandstrom, Smith, and Thomas at 1, MUR 4960.