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November 15, 2022

BY ELECTRONIC MAIL ONLY: CELA@FEC.GOV

Roy Q. Lockett, Esq.
Acting Assistant General Counsel
Complaints Examination & Legal Administration
Federal Election Commission
1050 First Street, NE
Washington, DC 20463

RE: **MUR 7772**

Dear Mr. Lockett,

I write on behalf of our client, Beam, Longest and Neff, LLC (“BLN”), in response to the complaint by Jorge Davila (“Complainant”) dated August 5, 2020 (“Complaint”) filed with the Federal Election Commission (“FEC”) in MUR 7772.

Complainant alleges that the following persons committed violations of the Federal Election Campaign Act (“FECA” or “Act”): (1) Comité Amigo Pedro Pierluisi, Inc.; (2) Salvemos A Puerto Rico; (3) Foundation for Progress; (4) Fundación Pro Igualdad; and (5) Joseph Fuentes. Nowhere in the Complaint does Complainant allege that BLN violated the Act or any of the FEC’s regulations.

Nonetheless, the FEC sent BLN a letter dated September 28, 2022 claiming that the “complaint [] indicates Beam Longest & Neff may have violated the Federal Election Campaign Act of 1971, as amended.”¹ Neither the FEC letter nor the Complaint provides any explanation for this claim; they instead place the burden on BLN to discern the allegation(s) against it. Indeed, because the Complaint does not specifically allege BLN violated the Act or FEC regulations, it comes nowhere close to including, as FEC regulations require, a “clear and concise recitation of the facts which describe a violation” of the law by BLN.² This alone is sufficient to dismiss BLN as a party to the Complaint.³

¹ Beam, Longest and Neff, LLC did not receive the FEC letter, originally dated September 28, 2022, until October 31, 2022 due to the mailing being returned to the FEC on or around October 26, 2022.

² 11 C.F.R. § 111.4(d)(3).

³ See 11 C.F.R. § 111.5(b) (“If a complaint does not comply with the requirements of 11 CFR 111.4, the General Counsel shall so notify the complainant ... that no action shall be taken on the basis of that complaint.”).

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Upon receiving the FEC's letter, BLN had our Firm search the campaign finance database on FEC.gov, and we discovered that Joseph Fuentes, on behalf of Salvemos A Puerto Rico as its Treasurer, filed an amended report with the FEC on August 19, 2022 listing all of the donors to the Foundation for Progress as the source of funds used by the Foundation for Progress to make contributions to Salvemos A Puerto Rico – an independent expenditure committee (i.e., “Super PAC”) registered with the FEC. BLN was listed as a contributor to the Foundation for Progress, which apparently contributed to Salvemos A Puerto Rico in 2020.

BLN confirmed to our Firm that it had no advance notice that the Foundation would use the funds it received to support federal election activities under the jurisdiction of the FEC. On October 27, 2020, BLN made a lawful unrestricted donation to the Foundation for Progress, a social welfare organization presenting itself as a nonprofit corporation exempt from taxation under Section 501(c)(4) of the Internal Revenue Code. Because BLN had no advance notice that the Foundation would use the funds it received to support federal election activities, the BLN donation to the Foundation for Progress was not a “contribution” or an “expenditure” as defined by 52 U.S.C. § 30101. BLN's own conduct thus does not implicate the Act or FEC regulations.

BLN is well within its legal and associational rights to contribute to nonprofit organizations and expects those organizations to comply with the law when using unrestricted donations. Corporations operating as 501(c)(4) organizations are permitted by law to contribute to Super PACs such as Salvemos A Puerto Rico. While such contributions may be controversial or unpopular, they are lawful and a constitutionally protected form of First Amendment activity. In short, (a) it is legal for BLN to contribute to a 501(c)(4) nonprofit organization, and (b) it is legal for a 501(c)(4) nonprofit organization to use its funds for independent expenditure activities so long as the nonprofit properly discloses such conduct to the appropriate regulatory bodies. But that disclosure obligation rests with the nonprofit and, as stated above, BLN had no advance notice that the Foundation intended to engage in federally regulated political activity.

For these reasons, the Federal Election Commission should find no reason to believe that Beam, Longest and Neff, LLC violated the Act and should dismiss this matter.

Sincerely,

A handwritten signature in black ink that reads "Matthew E. Morgan". The signature is written in a cursive, slightly slanted style.

Matthew E. Morgan
Counsel to Respondent