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December 11, 2020

Office of General Counsel
Federal Election Commission
Office of Complaints Examination
And Legal Administration
1050 First Street, NE
Washington, D.C. 20463
Attention: Christal Dennis, Paralegal

Re: MUR 7793

Dear Ms. Dennis:

This firm represents the Thom Tillis Committee, the campaign committee for United States Senator Thom Tillis (hereinafter the "Committee"), the former Thom Tillis Victory Committee and Collin McMichael ("McMichael"), Treasurer of the Thom Tillis Committee and at one time treasurer of the Thom Tillis Victory Committee that no longer exists. (Mr. McMichael and the Committee are sometimes hereinafter jointly referred to as "Respondents"). On behalf of Mr. McMichael and the Committee, this letter is submitted in response to the Complaint filed in this matter by Citizens for Responsibility and Ethics in Washington.

Statute of Limitations

This Complaint is barred by the applicable statute of limitations ("SOL"). As the Complainant readily admits, Federal law precludes agencies from imposing civil fines, penalties, or forfeitures more than five years after the claim first accrued and precludes the FEC from seeking a court order to impose fines for violations of the FECA that occurred more than five years earlier. **28 U.S.C. § 2462.** Complainants have neither alleged nor offered evidence that supports any wrongdoing or violation by Senator Tillis, the Committee or McMichael. The Commission should recognize this Complaint as simply an election year attempt to require the Committee to expend time and resources in a futile attempt to defeat a candidate, follow the statute and dismiss the Complaint as to the Committee and McMichael.

No Factual Allegations Against the Committee or McMichael

The Complaint alleges no violation on the part of the Committee or McMichael. The Complaint cites a series of allegations lifted from unsubstantiated media reports, without *any* sworn or attested-to support for those allegations and no other supporting documentation, regarding Louis DeJoy, and corporations or companies that employed Mr. DeJoy. None of the included media reports accused the Committee or McMichael of wrongdoing. Upon information and belief, the persons and organizations accused in the media reports, including Mr. DeJoy, have denied the allegations, both before this Commission and in the media. This Commission has made no finding or determination of wrongdoing on the part of Mr. DeJoy or the named companies.

Even if the allegations against Mr. DeJoy were true, the Complaint alleges only that a violation by the Committee and McMichael may be ‘inferred.’ Alleging that violations may be “inferred” is not sufficient under the FEC requirements for a complaint. *In order for the complaint to be considered complete and proper, it should clearly recite the facts that show specific violations under the Commission's jurisdiction and clearly identify each person, committee, group, or entity that is alleged to have committed a violation (the "respondent").* See www.fec.gov/legal for information required to properly file a complaint, emphasis supplied.¹

Other media sources have noted that Senator Tillis, the Committee and McMichael would not have been aware of any potential wrongdoing in this situation. “The fact that several employees donated the same amount on the same day would not alone be a red flag” Paul Ryan, vice president of policy and litigation of Common Cause told the Charlotte Observer in September, 2020. “This fact pattern tells me the company likely held a fundraising event. You would see the same pattern, minus the common employer, for any fundraising event.”²

The relevant facts in this matter include the following: Senator Tillis attended a fundraising event in 2014 sponsored by Mr. DeJoy and guests included a number of his company’s employees, business associates and many others. There were significantly more people at the event who were NOT employees of Mr. DeJoy’s company. The Committee properly documented each and every donation, which included many donations unrelated to Mr. DeJoy’s employees, and McMichael timely and properly reported the donations and required information to the Commission. This Commission has not questioned the Committee’s reporting or the way the Committee collected the required biographical information about each donor and there is no allegation in the Complaint that any of the actions by the Committee or McMichael were in violation of the statutes or the Commission’s rules and regulations.

It is a well known and accepted part of campaign finance that fundraisers are sometimes held in businesses, or that a business’ employees may be specifically invited, but in their individual capacity. Such events happen frequently during campaigns and getting checks from multiple employees of the business is quite common, so the conduct of the Committee and McMichael raises no inference of violation in this matter. The Committee was required to review the checks

¹ See www.fec.gov/legal for information required to properly file a complaint, emphasis supplied.

² Charlotte Observer, September 8, 2020.

received to make sure they are personal and not corporate checks and to document the biographical information of the donor. McMichael, as the treasurer was required to report that information along with the amount and date of the donation. Both the Committee and McMichael fulfilled their respective obligations.

As the donations were legally received by the Committee and neither Senator Tillis, anyone connected with the Committee nor McMichael had any information, knowledge or suspicion of anything improper in connection with the donations, this Complaint must be dismissed. If there was any violation of campaign finance regulations regarding the source of the money - and no such violation has been established – it was done without McMichael and the Committee's knowledge or participation. There is no allegation in any media report and not a single fact in existence that indicates otherwise.

Conclusion

The record shows the Committee complied with the campaign finance donation limitations and reporting statutes and regulations and that McMichael properly reported the donations and related information. No one employed by or acting for the Committee had then or has now any reliable information that any of the donations received in the 2014 election cycle were improper. The Complaint neither includes nor cites any evidence that the Committee or McMichael violated FEC campaign finance regulations. The Complaint should be seen for what it is, a harassing attack made during the 2020 Senate campaign and be summarily dismissed.

On Behalf of The Thom Tillis Committee and Collin McMichael, its Treasurer

Very truly yours,



Roger W. Knight
Roger W. Knight, P.A.