

**Confidential**

November 10, 2020

**VIA ELECTRONIC MAIL**

cela@fec.gov

**RECEIVED**

By OGC-CELA at 4:18 pm, Nov 12, 2020

Federal Election Commission  
Office of Complaints Examination & Legal Administration  
ATTN: Jeff Jordan, Assistant General Counsel  
1050 First Street, NE  
Washington, DC 20463

**RE: Response to Complaint in MUR 7842**

Dear Mr. Jeff Jordan:

I am writing to respond on behalf of our client, TonerQuest, Inc., to the complaint filed by Campaign Legal Center, in the above referenced Matter Under Review.

**I. STATEMENT OF FACTS**

On October 28, 2020, Campaign Legal Center filed a complaint against TonerQuest, Inc. (“TonerQuest”) asserting violation of the Federal Election Campaign Act (“FECA”) prohibitions related to federal contractors making contributions to political action committees due to a \$25,000 contribution received by America First Action, a federal independent expenditure only political action committee, on November 13, 2019 (the “Contribution”).

TonerQuest is a New York corporation that offers an online destination for office and professional supplies to both non-government entities as well as government customers under a federal government contract.<sup>1</sup> TonerQuest met the definition of government contractor at the time the Contribution was made.

TonerQuest was not aware of the prohibition of the FECA related to its Contribution and did not knowingly and willfully make such Contribution in violation of the FECA. *See* Attachment Affidavit of Jacob Fried.

TonerQuest believed it was engaged in a lawful exercise of its First Amendment right to contribute to an independent expenditure only committee, and it had sufficient non-government contract funds to make the Contribution. *See* Attachment Affidavit.

Upon being made aware of the applicable law, TonerQuest retained counsel, and sent a letter requesting a refund of the Contribution from America First Action. *See* Attached Refund Request. TonerQuest has no intention of making further contributions, or of replacing this contribution with an individual contribution.

**II. DISCUSSION**

TonerQuest requests the Commission use its prosecutorial discretion and authority to interpret and apply the law to dismiss the complaint. *See, e.g., MUR 6430* (Artic Slope) (exercising prosecutorial discretion to dismiss a complaint against an entity who leased office space and provided supplies to the

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<sup>1</sup> Contract No. GS-02F0132X/GS-21F-117BA details available <https://www.tonerquest.com/GSA>

federal government, despite the entity meeting the definition of government contractors under the FECA and applicable regulations).

TonerQuest provides office and professional supplies to both non-government entities as well as government customers. TonerQuest did not knowingly and willfully make such Contribution in violation of the FECA as it was not aware of the prohibitions related to entities holding federal government contracts. Although TonerQuest holds such government contract, the amount paid by the federal government for such contract is relatively small taking into consideration TonerQuest's other income and assets as a result of its operations supplying non-government entities. TonerQuest had sufficient non-government contract funds to make the Contribution. *See* Attachment Affidavit.

While Complainant requests "civil penalties sufficient to deter future violations and an injunction prohibiting TonerQuest from any and all violations in the future" (Complaint at 9), any enforcement action seeking to impose penalties or an injunction would be excessive, unjust, and unnecessary considering the facts in this matter. TonerQuest did not knowingly violate the applicable prohibitions, immediately sought a refund upon being made aware of the prohibition, and has no intention of making any future contributions that would violate the FECA and applicable regulations of the Federal Election Commission.

### III. CONCLUSION

The Commission should therefore find no reason to believe a violation occurred and should dismiss this Matter.

In the alternative, TonerQuest requests the conciliation of this matter prior to finding probable cause to believe in order to expedite the resolution of this matter.

Should you have any questions about this response, please contact me.

Sincerely,

*Dan Backer*

Dan Backer, Esq.  
202-210-5431  
dan@political.law

Christina Needham, Esq.  
571-207-6451  
christina@political.law

Enclosure:                      Affidavit of TonerQuest, Inc. Chief Financial Officer  
   Copy of Refund Request sent to America First Action

**ATTACHMENT  
TONERQUEST, INC. RESPONSE (MUR 7842)  
AFFIDAVIT OF JACOB FRIED**

The undersigned, Jacob Fried, hereby affirms, and certifies under the penalty of perjury the following:

1. TonerQuest, Inc. made a \$25,000 contribution to America First Action, a federal independent expenditure only political action committee, reported as received on November 13, 2019 (the "Contribution").
2. At the time TonerQuest, Inc. made such Contribution, TonerQuest, Inc. was not aware of the prohibitions of the Federal Election Campaign Act related to federal contractors making contributions to SuperPACs (Independent Expenditure Only Political Action Committees).
3. At the time TonerQuest, Inc. made such Contribution, TonerQuest, Inc. did not knowingly and willfully make such contribution in violation of the FECA.
4. At the time TonerQuest, Inc. made such Contribution, TonerQuest, Inc. had sufficient non-government contract funds to make the Contribution as approximately 80% of its total revenue during fiscal year 2019 was attributable to activities and operations not related to federal government contracting.

**I HEREBY AFFIRM AND CERTIFY, UNDER PENALTY OF PERJURY, THAT THE ABOVE STATEMENTS ARE TRUE TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.**

**SIGNATURE:** 

Jacob Fried, Chief Financial Officer

TonerQuest, Inc.

Signed and sworn to before me this 10<sup>th</sup> day of November, 2020.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**DAVID SCHWARTZ**  
Notary Public State of New York  
No. 01SC6050513  
Qualified in Kings County  
Commission Expires 11/6/2022



November 5, 2020

**SENT VIA USPS PRIORITY**

America First Action, Inc.  
c/o Mr. Jon Proch, Treasurer  
1400 Crystal Drive, Suite 850  
Arlington, VA 22202

**RE: REQUEST FOR REFUND**

Dear Mr. Jon Proch:

Our firm has been retained by TonerQuest Inc. with respect to an FEC complaint filed against TonerQuest by the lovely people at the Campaign Legal Center (MUR#7842). TonerQuest is a federal government contractor, and at the time of its November 13, 2019 Contribution to America First Action, was unaware that federal government contractors may not make contributions to SuperPACs.

Having now been made aware that 52 U.S.C. 30119(a)(1) prohibits a federal government contractor from making contributions to political committees, TonerQuest requests America First Action refund their \$25,000 contribution, in full, and mail it to the address below:

TonerQuest, Inc.  
241 37<sup>th</sup> Street Suite 302  
Brooklyn, NY 11232

Please contact me if you have any questions about this request.

Sincerely,

A handwritten signature in black ink that reads "Dan Backer".

Dan Backer, Esq.  
dan@political.law  
202-210-5431

cc: client@bulldogcompliance.com