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By OGC-CELA at 11:02 am, Nov 24, 2020

BEFORE THE FEDERAL ELECTION COMMISSION)
) **MUR 7842**
)**RESPONSE OF AMERICA FIRST ACTION AND JON PROCH AS TREASURER**

By and through undersigned counsel, America First Action and Jon Proch as Treasurer (collectively, “AFA” or “Respondents”) respond to the Complaint filed in the above-captioned Matter Under Review.

This matter must be dismissed immediately as to AFA. The Complaint does not allege that AFA violated the Federal Election Campaign Act (the “Act”) or FEC regulations – nor does it even name AFA as a respondent. It claims only that Toner Quest may have violated the Act’s prohibition on contributions by federal government contractors when it contributed to AFA on November 13, 2019. There is no allegation that AFA knew Toner Quest to be a federal government contractor. In fact, Toner Quest’s contribution was accompanied by AFA’s donor reply device that advised contributors that contributions from federal government contractors are prohibited and on which the donor attested that the contribution was not made from the treasury of an entity that is a federal government contractor. (Attachment A). Upon receipt of the Complaint in this MUR, AFA promptly investigated the contribution and immediately refunded it.¹

It is well established that the Act and FEC regulations prohibit committees’ *knowing* solicitation of federal contractor contributions.² The Commission has routinely dismissed actions

¹ The refund will be reflected on AFA’s 2020 Post-General Report.

² 52 U.S.C. § 30119; 11 C.F.R. §§ 115.1 and 115.2.

against unknowing recipients of such contributions.³ Consistent with that precedent, the Commission must do so here with respect to AFA.

Respectfully submitted,



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³ See, e.g., MUR 3110 (M.D.C. Holdings, Inc.); MUR 2582 (Birdview Satellite Communications); MUR 7099 (Suffolk Construction Company); MUR 7568 (Alpha Marine Services Holdings, LLC).

ATTACHMENT A

ALL CONTRIBUTORS MUST COMPLETE BELOW:Please check one for contribution type: ☒ Corporate/Business/Trust ☐ IndividualName of host: Toner Quest Inc.

Title (if applicable): _____

Name of guest: Jacob (JJ) FriedEmail: JJ@tonerquest.com Phone: 917-681-3484Address: 241 37th Street Suite # 302City: Brooklyn State: N.Y. Zip: 11232

Employer: _____ Occupation: _____

Please check if self-employed ☐ Amount: \$ 25,000.00

Contributions are not tax deductible. Federal law requires us to use our best efforts to collect and report the name, mailing address, occupation and name of employer of individuals whose contributions exceed \$200 in a calendar year. Contributions from foreign nationals and federal government contractors are prohibited.

By signing below, you affirm that the following statements are true and accurate:

- I am a United States citizen or permanent resident (e.g., greencard holder) or I am a representative of a corporation that is chartered and operating in the U.S., the funds are derived from U.S. revenues, and no foreign national has participated in the decision to make this contribution;
- This contribution is made from the funds of the above-listed contributor, will not be reimbursed by another, and, if this contribution is made via credit card, it is being made with a card for which the contributor has a legal obligation to pay and will not be made on the card of another;
- This contribution is not made from the treasury of an entity that is a federal government contractor.

Signature: Please make checks payable to: America First Action, Inc.**Mail to:**

America First Action, Inc.
c/o Charles Gantt
138 Conant Street, 2nd Floor
Beverly, MA 01915

FEC #: C00637512

Wiring Instructions:

Receiving Bank: Chain Bridge Bank, N.A., McLean, VA
Routing/Transit Number:
For credit to (or Beneficiary): America First Action, Inc.
Beneficiary's account number:
Account Type—Checking

(Revised 10/26/2019)

Paid for by America First Action, Inc., 138 Conant Street, 2nd Floor, Beverly, MA 01915, and
not authorized by any candidate or candidate's committee.