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Federal Election Commission
1050 First Street NE
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VIA E-MAIL: cela@fec.gov

Re: MUR 7844: Response for Restore Oklahoma

We write on behalf of Restore Oklahoma and Cabell Hobbs, in his official capacity as Treasurer (collectively “the Respondents”) in response to a complaint alleging that Kirby-Smith Machinery (“Kirby-Smith”), a heavy equipment and crane distribution company, made a prohibited contribution to Restore Oklahoma, an independent-expenditure-only political committee. Specifically, the Complaint alleges that Kirby-Smith is a federal government contractor, and therefore was prohibited from making a contribution to Restore Oklahoma.

This matter, as to the Respondents, is an open-and-shut dismissal for the Commission. The Complainant never alleges Respondents violated the Federal Election Campaign Act of 1971, as amended (“FECA”) or Commission regulations. In fact, the Complainant does not even list them as Respondents.¹ The Complainant’s allegations are limited to Kirby-Smith only, and its potential violations of FECA.

It is well established that FECA and Commission regulations only prohibit committees, such as Respondent, from *knowingly* soliciting federal contractor contributions.² There is no

¹ The reason why we are even writing this Response is because the Commission’s Office of General Counsel (OGC) unilaterally decided to make Restore Oklahoma a Respondent. This sort of practice is unfortunately common, and has been previously been discussed by former Commissioners. *See generally* Statement of Reasons of Vice Chair Caroline C. Hunter and Commissioner Lee E. Goodman, MUR 6920 (American Conservative Union, *et al.*); Statement of Lee E. Goodman, MUR 7073 (Melusky, *et al.*). While there have been drafts proposed to make this sort of conduct Commission policy, these items have not been approved by the Commission. *See* Agency procedure for Notice to Potential Respondents in Enforcement Matters, Draft Circulated by Steven T. Walther (July 15, 2009), available at <https://www.fec.gov/resources/updates/agendas/2009/mtgdoc0947.pdf/>. We hope that the Commission will review and change this practice.

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

evidence to show Restore Oklahoma had knowledge that Kirby-Smith was a government contractor, and the Complaint does not make any such allegation. In fact, the Complainant acknowledges that the disclaimer on Restore Oklahoma's donation page explicitly states "[f]ederal government contractors should consult counsel prior to making a contribution to Restore Oklahoma."³ Restore Oklahoma did not have such knowledge of Kirby-Smith's federal contractor status until after this Complaint was filed, and immediately refunded Kirby-Smith's contribution upon receiving such information.

Campaign Legal Center, the Complainant, has a business built upon the constant filings of FEC complaints, and is well-known for using extreme and far-fetched legal theories to allege its targets are in violation of FECA and Commission regulations. The fact they filed this Complaint, and deliberately chose not to include Respondents in this Complaint, speaks volumes. Well-established precedent supports Respondent's position and explains why the Complainant did not lodge any allegations against the Respondents. The Commission has never found a violation of FECA by the receiving committee with facts identical to this matter.⁴ Without evidence that a knowing solicitation occurred, there are no grounds to find that Respondents violated FECA or Commission regulations.

It is unfortunate that the Commission's Office of General Counsel ignored the Complainant, as well as the Commission's long-standing precedent of not finding violations of the law by receiving committees in identical circumstances, when it decided to add Restore Oklahoma as a Respondent in this matter. However, this matter is easy for the Commission to resolve. Based on the information presented in this Response, coupled with the Commission precedent, the Commission should find no reason to believe against the Respondent and close the file.

Respectfully submitted,



Charlie Spies
Katie Reynolds
Counsel to Restore Oklahoma

³ See Donate, RestoreOklahoma.com, <https://secure.anedot.com/restore-oklahoma/donate> (last visited Oct. 26, 2020).

⁴ MUR 7099 (Suffolk Construction) (finding no reason to believe against Priorities USA, an independent expenditure only political committee, knowingly solicited a contribution from a government contractor); MUR 7451 (Ring Power) (finding no reason to believe against New Republican PAC for knowingly soliciting funds); MUR 7568 (Alpha Marine Services) (finding no reason to believe that Congressional Leadership Fund knowingly solicited a contribution from a federal government contractor).