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Federal Election Commission
1050 First Street NE
Washington, DC 20463

VIA E-MAIL: cela@fec.gov

Re: MUR 7853: Response from Lance Harris, Lance Harris for Congress and Campaign to Elect Lance Harris.

We write on behalf of Lance Harris, Lance Harris for Congress, Campaign to Elect Lance Harris, and Blaine Hebert, in his official capacity as Treasurer (collectively “the Respondents”) in response to a complaint alleging a range of violations of the Federal Election Campaign Act of 1971, as amended (“FECA”) and Commission regulations. First, the Complaint alleges that Lance Harris “financed” Stand for Truth, an independent-expenditure-only political committee that disseminated advertisements in support of Mr. Harris, through a contribution made by his state committee, Campaign to Elect Lance Harris (hereinafter “the State Committee”). Second, the Complaint accuses Harris’ federal committee, Lance Harris for Congress (hereinafter “the Federal Committee”), of coordinating expenditures and communications with Stand for Truth. The Complaint’s allegations are without merit, as the Respondents have been in full compliance with all applicable federal and state laws. We therefore ask the Federal Election Commission (“the Commission” or “FEC”) to find no reason to believe and promptly close the file.

I. Facts

Lance Harris is a Member of Louisiana’s House of Representatives.¹ On March 3, 2020, Lance Harris announced his candidacy for Louisiana’s Fifth Congressional District.² Over six months later, the State Committee, in the process of winding down its operations, made a

¹ Who Is Lance?, Lance Harris for Congress, <https://electlance.com/> (last accessed Dec. 17, 2020).

² Lance Harris filed his Statement of Candidacy on March 12, 2020. Lance Harris Statement of Candidacy, FEC Form 2 (Mar. 12, 2020), available at <https://docquery.fec.gov/cgi-bin/forms/H0LA05112/1389280/>. The Federal Committee filed its Statement of Organization with the Commission on March 12, 2020. Lance Harris for Congress Statement of Organization, FEC Form 1 (Mar. 12, 2020), available at <https://docquery.fec.gov/pdf/226/202003129203825226/202003129203825226.pdf>.

contribution in the amount of \$120,000 to Stand for Truth, a nationally-known Super PAC that has spent over \$10 million independently supporting multiple candidates. One month after the contribution was made, Stand for Truth released one television advertisement, costing roughly \$89,500, that independently supported Harris's candidacy.³ The independent expenditures were created in consultation with Go BIG Media, a political media firm that works with a litany of federal and state candidates and political committees.⁴ The Federal Campaign also worked with Go BIG Media on its political advertising. Pursuant to the Campaign's contract with Go BIG Media, Go BIG Media is prohibited from providing non-public information about the Campaign's plan, projects, materials, or needs to *any* organization, including Stand for Truth.

II. Legal Analysis

Based on the information above, the Complaint alleges that (1) Lance Harris "financed" Stand for Truth through the State Committee making a \$120,000 contribution to Stand for Truth; and (2) that the Federal Committee coordinated expenditures and/or communications with Stand for Truth through the use of a common vendor, Go BIG Media. Both allegations are inaccurate for several reasons, which are explained in detail below.

A. Stand for Truth Was Not "Financed" By Lance Harris.

Under FECA and Commission regulations, a candidate, agent of a candidate, or an entity directly or indirectly established, financed, maintained or controlled by or acting on behalf of a *federal candidates*, shall not solicit, receive, direct, transfer, or spend funds in connection with an election for Federal office unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act.⁵

The Complaint alleges that Stand for Truth was financed by Mr. Harris in violation of FECA when the State Campaign made a contribution in the amount of \$120,000 to Stand for Truth. However, Mr. Harris was not involved with the State Campaign at the time the contribution to Stand for Truth was made. Mr. Harris' involvement with the State Campaign ended on March 12, 2020 when he decided to run for federal office. Since announcing his federal campaign, Mr. Harris has had no involvement with the State Campaign and specifically has had no decision-making role regarding the State Campaign's spending.

The Complainant is hoping that the Commission will assume an association solely based on the State Committee previously being Mr. Harris' campaign committee. However, an previous association does not equate to a violation of FECA or Commission regulations. Any assumption that "an individual's pre-candidacy association with an organization necessarily taints the independence of the organization's later expenditures in support of that individual's election is just that — an assumption."⁶ The State Committee's contribution was made

³ Stand for Truth, Inc. 48-Hour Notification (FEC Form 24), available at <https://docquery.fec.gov/cgi-bin/forms/C00592337/1444268/>.

⁴ *About Us*, Go BIG Media (last accessed Nov. 18, 2020), available at <https://www.gobigmediainc.com/our-team>. Go BIG Media has assisted clients in over 250 political races across 33 states.

⁵ 52 U.S.C. § 30125(e)(1)

⁶ Statement of Reasons for Vice Chairman Matthew S. Petersen and Caroline C. Hunter, MURs 6789 and 6852 (Special Operations for America, et al) at 4 (May 28, 2019). See also Statement of Reasons of Vice Chairman

independently and without any influence from Mr. Harris, and the Complaint's evidentiary support is based on *assumptions*, not facts, regarding the State Committee's contribution. Given that the Complainant cannot show an affiliation between Mr. Harris and the State Campaign at the time the contribution was made, there was nothing prohibiting the State Committee's contribution to Stand for Truth.

Even assuming *arguendo* that Mr. Harris had some control over the State Campaign at the time of the contribution, the State Campaign did not "finance" Stand for Truth. In determining whether an entity is "financed" by a federal candidate (or an agent of the candidate), the Commission will consider the ten factors identified in 11 C.F.R. § 300.2(c)(2)(i) through (x), as well as any other relevant factors, regarding the context of the overall relationship between the Federal candidate and the entity.

Based on the facts provided in the Complaint, the most significant factor among those specified by Commission regulations is whether the State Campaign provided funds "in a significant amount" to Stand for Truth. While the Commission has answered this question on a case-by-case basis, prior precedent shows that the Commission makes this determination by examining the percentage of the State Campaign's donation compared to the *total donations* received by Stand for Truth.⁷

Stand for Truth is a well-known Super PAC that was active in multiple races long before the State Campaign made its contribution. In fact, in the 2016 election cycle, it spent over \$11 million to independently support Senator Ted Cruz's presidential campaign.⁸ Based on the Commission's precedent, the determination for whether a federal candidate "financed" an entity is not based on a specific period of time, as the Complaint claims, but rather based on the total amount of funds received. Based on this standard, the State Campaign's contribution of \$120,000 constituted roughly 1% of all funds received by Stand for Truth. This is not enough to "finance" a political committee.⁹

B. Lance Harris for Congress Did Not Coordinate Any Expenditures or Communications With Stand for Truth

The Complaint also alleges that Stand for Truth made up to \$102,000 in illegal in-kind contributions to the Federal Campaign in the form of coordinated expenditures and coordinated communications. "Coordination" is defined as something "made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or a political party committee."¹⁰ Furthermore, a communication is considered coordinated if it meets a three-part test: (1) the communication is paid for by an entity other than the campaign

Matthew S. Petersen and Commissioner Caroline C. Hunter at 8, MUR 6928 (Santorum) ("Thus, an individual's mere association with an organization prior to becoming a candidate does not give rise to a violation of the Act or Commission regulations[.]").

⁷ Advisory Opinions 2006-04 (Tancredo), 2004-29, n.4 (Akin), 2004-25 (Corzine).

⁸ Raising (2015-2016 Election Cycle), Stand for Truth, Inc., available at <https://www.fec.gov/data/committee/C00592337/?tab=raising&cycle=2016#total-receipts>; Theodore Schleifer, *Cruz Super PAC Network Gets New, High-Dollar Fundraising Arm*, CNN (Mar. 4, 2016).

⁹ Advisory Opinion 2006-04 (Tancredo).

¹⁰ 11 C.F.R. § 109.20(a).

(“payment prong”); (2) it must satisfy any one of an enumerated list of content standards (“content prong”); and (3) it must satisfy any one of an enumerated list of conduct standards (“conduct prong”).¹¹ **All three must be established for a communication to be considered coordinated.**

The Complaint alleges that the Federal Committee violated Commission regulations by coordinating communications through the use of a common vendor, Go BIG Media. This is inaccurate for several reasons. First, pursuant to Federal Committee’s agreement with Go BIG Media, Go BIG Media was responsible for implementing and adhering to an internal firewall policy that prevented the *exact* coordination at issue in this Complaint. Second, having a common vendor, in and of itself, does not cause an automatic violation of Commission regulations. Under the common vendor prong, the Commission will find a violation if the political committee paying for the communication (1) uses a commercial vendor to create, produce, or distribute the communications; (2) during the previous 120 days also provided certain services to the candidate identified in the communication; *and* (3) the vendor uses or conveys to the political committee information about the candidate’s “plans, projects, activities or needs” and that information is “material” to the creation, production, or distribution of that communication.¹² While the Federal Committee acknowledges that a common vendor was used, it is well aware of the Commission’s coordination regulations, and never conveyed any non-public information about its plans, projects, activities or needs to anyone involved with Stand for Truth and significantly, the Complainant has provided no evidence to the contrary.

III. Conclusion.

This Complaint is just another example of Campaign Legal Center attempting to silence the voices of individuals and entities it does not support. The Commission has required a complaint to set forth sufficient specific facts which, if proven true, would constitute a violation of FECA or Commission regulations.¹³ Unsurprisingly, this Complaint, once again for Campaign Legal Center, fails to demonstrate any evidence beyond its own conjecture to establish that the Respondent violated FECA or Commission regulations.¹⁴ Therefore, we ask the Commission to find no reason to believe against the Respondent and close the file.

Respectfully submitted,



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Counsel to Respondents

¹¹ *Id.* at § 109.21(a)(1)-(3).

¹² 11 C.F.R. § 109.21(d)(4).

¹³ Statement of Reasons, Comm'rs. Mason, Sandstrom, Smith & Thomas at 1, MUR 4960 (Hillary Rodham Clinton for Senate).

¹⁴ *Id.* at 3 (“[P]urely speculative charges, especially when accompanied by a direct refutation, do not form an adequate basis to find reason to believe that a violation of the FECA has occurred.”)