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Embry Merritt Shaffar Womack, PLLC
Attorneys at Law

December 28, 2020

VIA EMAIL: cela@fec.govJeff S. Jordan, Assistant General Counsel
Complaints Examination
& Legal Administration
Federal Election Commission
Attn: Christal Dennis, Paralegal
1050 First Street, NE
Washington, DC 20463Re: MUR 7853; Stand For Truth, Inc. Response to Complaint

Dear Mr. Jordan:

We are writing this letter on behalf of Stand For Truth, Inc. ("SFT") in response to the Complaint filed in the above-referenced matter by the Campaign Legal Center ("CLC") and Margaret Christ (collectively "Complainant") against John Lance Harris, Lance Harris for Congress, Campaign to Elect Lance Harris, and SFT.

The Commission must find no reason to believe a violation by SFT because (1) no allegations were made against SFT which, if true, could result in a violation of the Federal Election Campaign Act of 1971, as amended ("the Act"), and (2) because SFT did in fact make its disbursement for the subject communication in compliance with the Act.

The Commission may find "reason to believe" only if a Complaint sets forth sufficient specific facts, which, if proven true, would constitute a violation of the Act. *See* 11 C.F.R. 111.4(a), (d). There is no specific fact alleged in this Complaint that, if true, would establish wrongdoing by SFT; rather, there is only conjecture and speculation that a communication *could have been* coordinated. As a matter of supposition, Complainant alleges as fact one of several possible scenarios, and asks the Commission to move forward on the basis of that speculation.

The Commission has taken the position that unwarranted legal conclusions from asserted facts or mere speculation will not be accepted as true. *See* MUR 4960, Commissioners Mason, Sandstrom, Smith and Thomas, Statement of Reasons (Dec. 21, 2001). Moreover, the Commission will dismiss a complaint when the allegations are refuted with sufficiently

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compelling evidence. *Id.* We consequently respectfully request that the Commission recognize the legal and factual insufficiency of the Complaint on its face and dismiss it as regards SFT.

I. Stand For Truth Did Not Make A Coordinated Communication

A. No Information Was Shared, and CLC Has No Specific Allegation Or Evidence

Count III of the Complaint is easily dispensed with, because it includes no specific allegation that the candidate or Go BIG Media [hereafter "GBM"] used or conveyed to SFT (a) information on the campaign plans, projects, activities, or needs of Lance Harris for Congress that was material to the creation, production, or distribution of SFT's communication; or (b) information used previously by GBM in providing services to Lance Harris that is material to the creation, production, or distribution of SFT's communication.

There is no specific allegation or evidence that SFT created, produced, or distributed the communication (1) at the request or suggestion of a candidate, (2) after the candidate had been materially involved in decisions pertaining to the communication's content, intended audience, means or mode, timing, frequency, or duration, or (3) after one or more substantial discussions about the communication between SFT and the candidate. No evidence of a request or suggestion is identified. No evidence of the candidate's involvement, much less *material* involvement, in SFT's decisions is specified. No evidence of any discussions with the candidate, much less *substantial* discussions, about SFT's communication is detailed. The Complaint contains no allegations of specific facts, or of facts at all; rather, they are merely CLC's biased value judgment that, out of multiple possible explanations, the explanation that fits its narrative is the only possibility.

The Complaint makes additional conclusory allegations that SFT's expenditures satisfy the conduct prong on account of SFT's use of the common vendor Go BIG Media, Complaint ¶36, because "the *most plausible* explanation" (emphasis added) is that SFT contracted with GBM "because the super PAC expected that the firm's employees would use information about the Harris campaign's 'plans, projects, activities or needs' to create, produce, or distribute the super PAC's ads supporting Harris." Complaint, ¶37. There is no specific fact alleged, or evidence provided, that SFT expected anything of the sort, *much less that any such expectation became reality* to rise to the level of a violation.

Stand For Truth did not receive or use any information regarding Lance Harris' plans, projects activities or needs, did not make a disbursement for a communication at the request or suggestion of, with the material involvement of, or after substantial

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discussions with, Lance Harris or Lance Harris for Congress. There is no evidence or even the required specific allegation otherwise; therefore, the Commission should find no reason to believe that Stand for Truth committed a violation and close its file.

B. GBM's Firewall Is Safe Harbor from the Allegation of Common Vendor Coordination

The Commission has determined that the "mere presence of a common vendor" does not "presume coordination." 68 Fed. Reg. 436-437 (Jan. 3, 2003). There must be proven the "sharing of information about plans, projects, activities, or needs of a candidate or political party through a common vendor to the spender who pays for a communication that could not then be considered to be made 'totally independently' from the candidate." *Id.* Stand for Truth's communications were conducted independently from the candidate, and without the sharing of such information by GBM. That is the reason CLC offers no proof or even specific allegation of coordination by SFT – through GBM or otherwise.

While SFT was not privy to GBM's contract with Lance Harris for Congress, it did confirm the fact that GBM had adopted and implemented a common vendor coordination firewall policy. Pursuant to the 11 CFR 109.21(h) "safe harbor" provision, the common vendor conduct standard is not met if a commercial vendor such as BGM has established and implemented a written firewall policy that meets certain requirements, so long as material information is not shared. *See* MUR 5506 (EMILY's List), First General Counsel's Report at 5-8; MUR 6120 (Darren White for Congress), Factual and Legal Analysis at 6 (no reason to believe coordination allegations where the media vendor had in place a firewall to prevent the sharing of information between the committees).

The Commission adopted this firewall "safe harbor" to prevent "speculative complaints alleging coordination when organizations are faced with trying to 'prove a negative' by showing that coordination did not occur." Coordinated Communications, 71 Fed. Reg. 33206 (2006). When a firewall has been adopted and implemented, only "specific information" showing the flow of material information about a candidate's plans, projects, activities or needs to the sponsor is sufficient to defeat the presumption that the conduct standard has not been met. *See id.* § 109.21(h). Complainant has provided no "specific information" to show a flow of material information about the Campaign's plans, projects, activities or needs to SFT. Its suppositions and conjecture are exactly the type of "speculation" the safe harbor was designed to prevent; therefore, the Commission should find no reason to believe that Stand for Truth committed violation and close its file.

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II. Stand For Truth Was Not Financed By Lance Harris or His Federal Committee

The allegation that Lance Harris or his federal committee caused or arranged for the funds is based on speculation, for which there is no evidence and which has been specifically denied. There is simply no evidence for the notion that Lance Harris arranged for the funds to be contributed to SFT. It is not a stretch to envision that a person involved in a past election committee might be motivated - independent of any urging by the candidate - to support him or her in a future election. Instead, CLC again chooses the one possibility that satisfies its predetermined belief that such activity must have taken place.

Even if it could be shown that Lance Harris controls his state committee, it cannot be said that Lance Harris has "financed" or "controls" Stand For Truth. "Whether an officeholder or candidate 'controls' an independent expenditure-only committee" will depend on "the overall relationship between the [candidate or officeholder] and the entity" by applying the ten-factor test found in 11 C.F.R. § 300.2(c)(2). See MUR 5952 (Clinton Committee), Factual & Legal Analysis at 12. CLC's complaint fails to mention - much less provide factual support for - nine of those ten factors. The Complaint does not argue that the other nine factors support a finding of impermissible control; in fact, Complainant goes to great lengths to show that SFT in its entire existence had no previous relationship with Lance Harris. Complaint, ¶36 ("Stand for Truth had never reported any disbursements to Go BIG Media, and had never reported independent expenditures in a congressional race (much less in Louisiana's 5th district).")

The Complaint contains neither evidence nor allegation that either Lance Harris or any of the candidate committees:

- (i) owns controlling interest in the voting stock of SFT;
- (ii) has the authority or ability to participate in the governance of SFT;
- (iii) has the authority to control the decision-makers of SFT,;
- (iv) has a common membership with SFT that indicates a formal or ongoing relationship;
- (v) has common officers or employees with SFT that indicates a formal or ongoing relationship;
- (vi) has any persons who were employees of SFT that indicates a formal or ongoing relationship or the creation of a successor entity;
- (vii) provides funds in a significant amount or on an ongoing basis to the entity, such as through direct or indirect payments for administrative, fundraising, or other costs;
- ...
- (ix) had an active or significant role in the formation of the entity; and
- (x) have similar patterns of activity that indicate a formal or ongoing relationship between them.

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The Commission should find no reason to believe and the Complaint should be dismissed because there is no specific allegation of fact, much less evidence, supporting the conclusion that federal candidate Lance Harris or his federal committee controlled or financed SFT. *See* MUR 5943 (Take Initiative America LLC), Factual and Legal Analysis at 8-9 (dismissing "establish, finance, maintain, or control" allegation where the complaint's cited facts drew only "tenuous connections" to a violation and other components of the ten-factor test were inapplicable); MUR 4960 (Hillary Rodham Clinton for US Senate Exploratory Committee), Statement of Commissioners David Mason, Karl Sandstrom, Bradley Smith, and Scott Thomas (Dec. 21, 2000) (finding no reason to believe, in part, where the complaint "failed completely to address, much less provide any evidence regarding, [an] essential element of the violation it alleged").

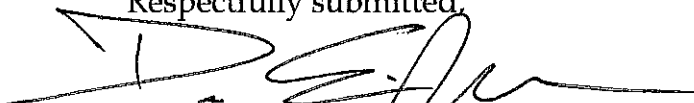
The sole factor cited by the Complaint is factor (viii): "Whether a sponsor, directly or through its agent, causes or arranges for funds in a significant amount or on an ongoing basis to be provided to the entity..." The state committee's one-time donation does not establish that the committee - much less Harris himself - controls SFT. Were that the case, there are over twenty individual contributors who have a far greater claim to exercising such control, and another twenty or more six-figure contributors who would argue the point. Complainant has not shown that Lance Harris controlled or financed Stand For Truth.

III. Conclusion

Complainant has produced no evidence and no specific allegation of fact that Stand For Truth coordinated its communication with Lance Harris for Congress, either by using information supplied by the campaign or through the common vendor GBM. FEC regulations grant a safe harbor, absent specific allegations that information was nonetheless supplied and used in a paid communication, based on GBM's adopted and implemented firewall policy. Stand for Truth is an independent political committee with a long and significant history. It is not controlled or "financed" by Lance Harris for Congress, but made its communications on its own accord. Having been given nothing other than speculation and conjecture, the Commission should find no reason to believe a violation by Stand for Truth and dismiss this Complaint.

Thank you for your prompt consideration of this matter, and please do not hesitate to contact me directly with any questions.

Respectfully submitted,



D. Eric Lycan
Counsel for Stand For Truth, Inc.