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

Re: MUR 7879 Response from NRA Victory Fund, Inc. and Robert Owens

We represent NRA Victory Fund, Inc. (“NRA Victory”) and Robert Owens, in his official capacity as Treasurer (collectively, “Respondents”) in this matter. The Complainants, Giffords and Campaign Legal Center Action (collectively “Complainants”), hyperbolically allege that Respondents engaged in a “systematic effort” to evade disclosing the employer and occupation information for certain donors on NRA Victory’s reports filed with the Federal Election Commission (“the Commission” or “FEC”).¹ The only “deliberate” activity in this matter is the Complainant’s mischaracterization of the law and facts to create the illusion that NRA violated the Federal Election Campaign Act (FECA) and/or Commission regulations. Based on the information provided below, we ask the Commission to dismiss the Complaint and close the file.

First, all required and requested information has been provided by the Respondents. Missing employer-occupation information, which is the only issue presented in the Complaint, has been disclosed on the Respondents’ amended year-end report.² Since the Complaint’s sole issue has been addressed, the Complaint is essentially moot. Additionally, despite the Complainant’s efforts to dramatize the facts at issue, there was no intentional attempt by Respondents to use anything less than best efforts in collecting donor information. That claim is speculative with no supporting factual evidence.

Second, assuming *arguendo* that the Respondents did not timely provide all employer-occupation information, it is not required under the law to do so.³ In *RNC v. FEC*, 76 F.3d 400,

¹ Compl. ¶¶ 1 and 2.

² See NRA Victory, Inc. Amended 2020 Year End Report (filed March 9, 2021).

³ The Complainants incorrectly assert throughout the Complaint that the Respondents failed to provide “legally required information.” See generally Compl.

406 (D.C. Cir. 1996), the D.C. Circuit determined that “[t]he statute does not require political committees to report the information for ‘each’ donor. It only requires committees to use their *best efforts* to gather the information and then report to the Commission whatever information donors choose to provide.” (emphasis in original). Further, the Court stated that “[t]he law only requires political committees to *ask* donors for the information; no federal law requires donors to report their name, address, occupation, and employer as a condition of supporting the political party of their choice.” (emphasis in original).

Third, to avoid any future delays in obtaining employer-occupation information from NRA Victory donors, Respondents, with the assistance of counsel, have implemented an internal policy to require each donor to complete a donor form—including complete occupation and employer information—before a contribution is deposited by NRA Victory. Respondents are committed to following the “best efforts” requirements, and this new policy is intended to ensure NRA Victory staff and consultants follow their “best efforts” obligations with a renewed seriousness.

Before concluding, we echo the statements made by other Respondents who have faced identical complaints to the one at issue here, expressing that the Commission should cease to entertain this type of complaint.⁴ Stating that there is no employer or occupation information reported for “42 contributors” on a report is not enough to establish *any* violation of the Act, because as discussed, neither the donor nor the political committee is legally required to provide it. Even assuming arguendo, this information could be considered evidence of a violation of the Commission’s “best efforts” requirements, the Complaint still needs to provide specific evidentiary support for such claim. As the Commission has stated repeatedly, 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 FECA or Commission regulations.⁵ If the Commission were to accept the missing employer-occupation information for donors, in and of itself, as sufficient to find reason to believe against the Respondents, the Commission would not only be supporting a blatant mischaracterization of the law, but also be defying longstanding precedent by shifting the burden of proof from the Complaint to the Respondent.

The irony is not lost on us that the Complainants are complaining about “systematic efforts” to avoid donor disclosure, when both Complainants are specifically organized to evade their own donor disclosure.⁶ However, turning to the specifics of this Complaint, the Complainants have clearly failed to meet their evidentiary burden of establishing a violation of FECA or Commission regulations by the Respondents. They have not only mischaracterized the law at issue, but have also provided zero factual evidence to support any of their claims. In addition, to the extent the Commission has concerns with the shortage of occupation and employer information identified by Complainants, Respondents have already implemented a remedial policy to prevent this issue in the future, which would also be the likely outcome if the

⁴ Response of McSally for Senate, Inc. and Paul Kilgore, in his capacity as Treasurer, at 3, MUR 7665 (Dec. 19, 2019).

⁵ Statement of Reasons of Commissioners David M. Mason, Karl J. Sandstrom, Bradley A. Smith, and Scott E. Thomas at 1, MUR 4960 (Hillary Rodham Clinton for U.S. Senate Exploratory Committee, Inc.).

⁶ Compl. ¶¶ 4 and 5. Both organizations self-identify as “nonprofit 501(c)(4) organizations.”

matter was referring for ADR. Consequently, we urge the Commission to not waste its resources and follow its own precedent⁷ by dismissing this case and promptly closing the file.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Charlie Spies". The signature is fluid and cursive, with the first name "Charlie" being more prominent than the last name "Spies".

Charlie Spies
Katie Reynolds
Counsel to Respondents

⁷ See MUR 7665 (McSally for Senate, Inc.) (EPS Dismissal) (Mar. 27, 2020).