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April 22, 2021

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Via Email to cela@fec.gov

Federal Election Commission
Office of Complaints Examination & Legal Administration
Attn: Christal Dennis, Paralegal
1050 First Street, NE
Washington, DC 20463

Re: Response to MUR 7891 for Leadership for Educational Equity

Dear Mr. Jordan:

On behalf of Leadership for Educational Equity (“LEE”), this letter responds to the Complaint filed by Randal Schreiner on March 12, 2021. Based solely on titles on LinkedIn profiles, the Complaint alleges that LEE made in-kind contributions for services performed by Micah Joselow and Christina Beros (each a “Fellow”) to Daniel Feehan and his campaign committee, Dan Feehan for Congress (the “Campaign”). The Federal Election Commission (the “Commission”) should find no reason to believe a violation of the Federal Election Campaign Act (the “Act”) occurred and dismiss this matter promptly for two reasons. First, because the Complaint fails to provide any facts—only completely unsubstantiated assertions—from which a violation could possibly be found. Second, even if the Commission were to use the magic math found in the Complaint to find a violation, the actual facts demonstrate that there was no in-kind contribution made.

I. The Complaint is Filled with Speculation but no Facts and Should be Dismissed.

The Complaint magically suggests these individuals “would have been compensated for the labor at \$30 per hour (which is a conservative rate)” without any substantiation or basis.¹ Using that number, it alleges in-kind contributions of \$20,000 per staffer, but does the math

¹ Where \$30 an hour for a Congressional race comes from is not clear; then candidate Biden agreed when asked that \$15 per hour was appropriate as the minimum wages for presidential candidate staff. *Biden says he Agrees with a \$15 Minimum wage for Campaign Workers*, Wash. Post (July 20, 2019), https://www.washingtonpost.com/politics/biden-says-he-agrees-with-a-15-minimum-wage-for-campaign-workers/2019/07/20/d2c239f8-ab51-11e9-a3a6-ab670962db05_story.html

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without having any idea whatsoever how many hours a week they actually worked on the Campaign.

Simply put, there is nothing in the Complaint that comes close to the level of proof needed for the Commission to find a reason to believe a violation occurred. 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* MUR 4960, Commissioners Mason, Sandstrom, Smith and Thomas, Statement of Reasons, at 1 (Dec. 21, 2000) (“MUR 4960”). Unwarranted legal conclusions from asserted facts or mere speculation will not be accepted as true. *See id* at 2. A complaint must contain a “clear and concise recitation of the facts which describe a violation” of the Act. 11 C.F.R. § 111.4(d)(3). A “reason to believe” finding requires “a minimum evidentiary threshold [providing] “at least some legally significant facts[.]” *Democratic Senatorial Campaign Comm. v. FEC*, 745 F. Supp. 742, 745-46 (D.D.C. 1990). Complaints that state charges “only in the most conclusory fashion,” without supporting evidence, are dismissed by the Commission. *In re Fed. Election Campaign Act Litig.*, 474 F. Supp. 1044, 1047 (D.D.C. 1979). A “reason to believe” finding must be based on the complaint, information included in “other sworn complaints,” or evidence from actual “wrongdoing” learned in the Commission’s routine review of the reporting data. 52 U.S.C. § 30109(a); *FEC v. Machinists Non-Partisan Political League*, 655 F.2d 380, 387 (D.C. Cir. 1981); *In re Fed. Election Campaign Act Litig.*, 474 F. Supp. at 1046. As noted above, complaints may not be “conclusory” and must contain “legally significant facts” to support the charges alleged in the complaint. There are no legally significant facts in the Complaint:

- There is no evidence offered that LEE paid any salary to the Fellows or that they were LEE employees in any way.
- Even if the titles in their LinkedIn profiles somehow established a position with LEE, there are no facts offered about their compensation, again, just rank speculation.
- Even if they were compensated by LEE, there are no facts offered about the amount of work they performed.
- Nothing prevents LEE from serving as a “matchmaker” for campaigns and volunteers, which appears to be about all that can be gleaned from the Complaint.

As such, the Commission should find no reason to believe and dismiss this matter promptly.

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But, if the Commission thinks there is enough on the face of the Complaint to find reason to believe, it will still dismiss a complaint when the allegations are refuted with sufficiently compelling evidence. *See* MUR 4960, at 2. LEE now presents that evidence.

II. The Educational Fellowship Program Did Not Provide an In-Kind Contribution to the Campaign.

The Fellows were not LEE employees and LEE did not pay them. LEE created the fellow program (the “Program”) to provide skills development and leadership training. The Program involved education check-ins and other training to ensure appropriate educational content. Consistent with Advisory Opinion 2015-14 (Hillary for America), LEE did provide the Fellows with a modest stipend to cover living costs while they volunteered. Based on those facts, the Commission should find that there is no reason to believe a violation of the Act occurred and dismiss this Complaint promptly.

A. LEE and its Educational Mission.

LEE is a nonprofit organization, exempt from taxation under Section 501(c)(4) of the Internal Revenue Code. It has a related Section 501(c)(3) educational organization. Together these organizations focus on developing leadership skills and inspiring and supporting a network of civic leaders to end the injustice of educational inequity. Through one-on-one coaching, fellowships, workshops and resources, LEE works to develop and inspire its members individually and collectively to serve as a transformative force for and with students, communities, and the broader movement for educational equity.

B. The Educational Fellowship Program.

In furtherance of its nonprofit mission to develop leadership skills, LEE created the Program to allow some of its members the opportunity to gain practical, direct, in-the-field experience and learn demonstrable campaign skills while volunteering on a political campaign and completing training and curriculum developed by LEE. The Program was available to LEE members who applied on a first come, first serve basis and who expressed interest in receiving leadership training and learning campaign skills to help achieve their personal and professional goals.

1.) *The Program was a matchmaking program to connect interested fellows with campaigns that would provide a good learning experience.* LEE reviewed the applications to determine whether the skills training would help benefit the member’s learning objectives

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and interests. LEE identified well-run campaigns that would provide extra leadership development and allow its fellows to learn skills, including budgeting and data fundraising. The Program connected fellows with a political campaign of their choice, and fellows were expected to work full time (40 hours a week) for the campaign for six to eight weeks on a volunteer basis.

LEE did not make any in-kind contributions to the Campaign. The Act defines a “contribution” as “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.” 52 U.S.C. § 30101(8)(A)(i); 11 C.F.R. § 100.52. A “contribution,” however, does not include “the value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee.” 52 U.S.C. § 30101(8)(B)(i); 11 C.F.R. § 100.74; *see also* Advisory Opinion 1975-100 (Moss) (finding that unpaid services provided by students to a Senate campaign for academic credit did not constitute in-kind contributions to the campaign); Advisory Opinion 2019-08 (Omar2020) (citing several Commission advisory opinions finding that the value of uncompensated volunteer time and assistance to Federal candidates and party committees is not considered a contribution).

2.) *The Program provided important educational and skills benefits to the Fellows.* The Program was structured and conducted as an educational, development, and skills-building training program. The Program was a combination of virtual learning on the political campaign and blended learning through curriculum and content developed by LEE. Fellows were required to attend skills training and to complete generalized assignments during the Program to demonstrate the actual, hard skills learned while volunteering. The Program included frequent check-in calls and monitoring of the fellows to make sure that the fellows were provided an immersive training experience and learning actual campaign skills. During the Program, fellows performed the tasks assigned by the campaign, took surveys about their experiences, provided feedback to LEE, and completed LEE’s training and curriculum assignments to demonstrate the skills learned during the Program. The Program was designed to give fellows comprehensive leadership and educational training with an immersive campaign experience.

3.) *The only money paid to the Fellows was a small living stipend.* LEE provided a small stipend of \$2,250 to each Fellow for the entirety of the Program to help offset living expenses and other incidental costs. With the current cost of living in the United States and the additional challenges presented by the global pandemic, most young professionals do not

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have the financial ability to work on an unpaid basis. The small stipend was intended to offset living expenses to allow these Fellows to participate in the Program and to benefit from LEE's leadership training when it otherwise may have been cost prohibitive. LEE's Program is similar to other programs offered by nonprofit organizations that provide campaign training and skills programs. The stipend was for the sole purpose of offsetting living expenses to allow the Fellows to participate in the Program to complete an educational training objective—to learn leadership and campaign skills for their professional development. The stipend was *not* provided to compensate the Fellows for services provided to the Campaign.

The Commission has found that a small stipend provided by a nonprofit organization for a student internship on a political campaign did not constitute a corporate contribution. In Advisory Opinion 2015-14 (Hillary for America), the nonprofit organization awarded a \$3,000 stipend to a student for an eight-week internship with Hillary Clinton's campaign committee. The student performed substantive work that the Commission concluded to be "personal services" for purposes of 52 U.S.C. § 30101(8)(A)(ii) and 11 C.F.R. § 100.54. However, the Commission ultimately found that the stipend for basic financial support allowed the student to complete a "*bona fide* educational objective" and therefore, did not constitute compensation *for* personal services within the meaning of the Act. Therefore, the stipend was not considered a "contribution" under 52 U.S.C. § 30101(8)(A)(ii) and did not result in an impermissible corporate contribution to the campaign committee.

The \$2,250 subsistence stipend provided by LEE to the Fellows is similar to the \$3,000 stipend provided to the student in Advisory Opinion 2015-14 (Hillary for America). While LEE is not an academic institution, LEE is bound to adhere to its nonprofit mission to focus on developing leadership skills and inspiring and supporting a network of civic leaders. The Program was intended to provide an immersive experience for young professional LEE members who sought skills and leadership development training to advance their personal and professional goals, and had a significant educational component to it, which is why the Fellows were willing to volunteer without pay for several months.

The living stipend was very small, was intended to offset living costs, and furthered LEE's mission of providing education and training. As such, while the Fellows provided "personal services" to the Campaign, the stipend was not provided as compensation *for* personal services within the meaning of the Act. Therefore, LEE's stipend to the Fellows is not compensation for personal services provided by the Fellows to the Campaign and is not a contribution under 52 U.S.C. § 30101(8)(A)(ii).

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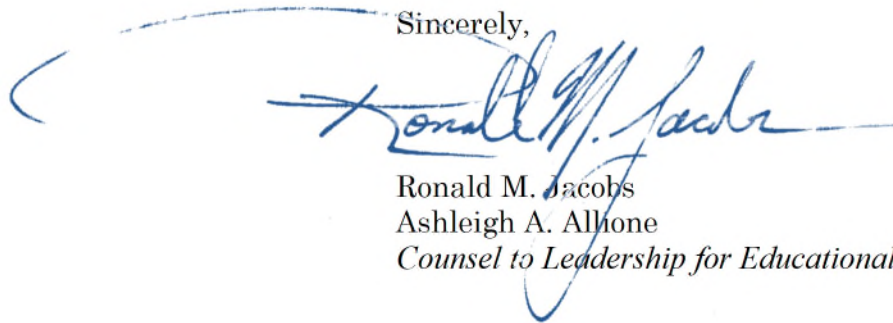
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For the foregoing reasons, the Commission should find no reason to believe that LEE made any in-kind contributions to the Campaign. The Commission has previously opined on similar educational and training programs for which stipends were provided and concluded that such programs and stipends to further educational objectives did not constitute campaign contributions. We therefore respectfully request that the Commission dismiss the Complaint.

Thank you for your consideration of this matter. Please do not hesitate to contact us with any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ronald M. Jacobs", with a large, sweeping flourish extending to the left.

Ronald M. Jacobs
Ashleigh A. Allione

Counsel to Leadership for Educational Equity