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September 12, 2022

Federal Election Commission
Office of Complaints Examination
& Legal Administration
Attn: Christal Dennis
1050 First Street, NE
Washington, D.C. 20463**Re: FEC MUR 7901**

Dear Ms. Dennis:

The FEC should exercise its prosecutorial discretion to dismiss this matter, as Mr. Ver did not make a campaign contribution. There are two primary reasons for this.

First, Mr. Kokesh was never a serious candidate for anything. Mr. Kokesh first began to publicly discuss himself as a candidate for president in 2013 while in jail on weapons and drug possession charges that resulted from a Second Amendment protest.¹ In 2018, he re-announced his presidential campaign and was arrested the same day for drug possession.² He named his presidential campaign the Adam Kokesh American Referendum Project, with the principal campaign platform of seeking the orderly dissolution of the United States government.³ If elected, he announced, he would issue an executive order dissolving the presidency, and wind down the operations of the United States government. Six months later, he announced he was

¹ Arrienne Talma, *Adam Kokesh Says Drugs Were Planted, He Will Run for President*, WASHINGTON EXAMINER (July 19, 2013), <https://www.washingtonexaminer.com/red-alert-politics/adam-kokesh-says-drugs-were-planted-he-will-run-for-president>.

² Marc Ramirez, *Hours After Declaring Candidacy, Presidential Hopeful Arrested in Wise County*, DALLAS MORNING NEWS (Jan. 19, 2018), <https://www.dallasnews.com/news/2018/01/20/hours-after-declaring-candidacy-presidential-hopeful-arrested-in-wise-county/>.

³ Thomas Warren, *Libertarian Kokesh Pitches 'Finally Free America' to Voters*, AMARILLO PIONEER (May 20, 2020), <https://www.amarillopioneer.com/blog/2020/5/20/libertarian-kokesh-pitches-finally-free-america-to-voters>.

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seeking a seat in the U.S. Senate, but appears to have raised and spent no money doing so.⁴ His presidential campaign appears to have run no ads, and in 2019-20, in the run up to the election, its greatest expenditures appear to have been for car repairs and repaying the candidate the funds he had earlier loaned the campaign. In the end, Mr. Kokesh finished in sixth place at the convention of a political party that won 1.2% of the popular vote in 2020. In short, Mr. Kokesh was not a serious candidate for President of the United States.

Second, what Mr. Kokesh was, and what Mr. Ver funded, was an advocate for a political philosophy based on individual liberty. Mr. Ver believes that society would improve significantly—and more specifically, that liberty would be enhanced—with more limited governance and if war was no longer an instrument of public policy. Mr. Ver believes that voluntary private contract offers a morally legitimate way to order our society, and that economic transactions based on cryptocurrency are a step toward people freeing themselves from the necessity of government. In addition to Mr. Kokesh, Mr. Ver has funded many individuals and groups that advance libertarian and freedom-based political views, both in opposition to war and in building more liberty-based social organizations. While these views may run contrary to the principles of our two major political parties, they are entitled to equal protection under our First Amendment.

As the timing and nature of the payments makes clear, Mr. Ver did not make a campaign contribution to the Adam Kokesh American Referendum Project. Instead, he funded Mr. Kokesh as part of his efforts to support political advocacy for a more morally just society. Mr. Kokesh frequently and publicly engaged in political speech, and he did not operate a serious campaign for federal office. That, plus the passage of nearly five years since any of this occurred, speak to why the FEC should dismiss this matter as a function of its prosecutorial discretion.

Argument

Mr. Ver did not provide Mr. Kokesh with funds for use in his campaign. Instead, Mr. Ver sought to fund Mr. Kokesh's advocacy of a values system based on a replacement of government with private consensual agreements among individuals. After seeing Mr. Kokesh express his political views on government, liberty and war through Mr. Kokesh's numerous YouTube postings, Mr. Ver believed those views should be more broadly heard. This included offering to fund a debate between Mr. Kokesh and Senator Bernie Sanders in 2016 on the competing values of socialism and libertarianism, funding advertisements on Mr. Kokesh's on-line videos, and, beginning in December 2016, providing Mr. Kokesh with funds on a monthly basis to continue his ideological advocacy. These payments began approximately a year *before* Mr. Kokesh filed a Statement of Candidacy with the FEC in January 2018. Mr. Ver made monthly stipend payments to Mr. Kokesh every month from December 2016 to December 2018.

⁴ Steve Terrell, *Kokesh Running for U.S. Senate ... in Arizona*, SANTA FE NEW MEXICAN, (Aug. 21, 2018), https://www.santafenewmexican.com/news/blogs/roundhouse_roundup/kokesh-running-for-u-s-senate-in-arizona/article_9cedce60-a566-11e8-8f83-3bf5c858d1a8.html. While Mr. Kokesh filed a [Statement of Candidacy](#) for his Senate race, he never registered Kokesh for Senate with the FEC as a candidate committee.

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Mr. Ver has similarly supported other individuals and organizations to encourage their advocacy of ideas consistent with the view that war is inherently wrong, that individual liberty is most effectively achieved with minimal or no government, and that human beings can effectively order their social relations through private contract better than through the use of government. These views may not be popular, but Mr. Ver has thought a great deal about the moral and philosophical basis for them. This includes Mr. Ver's support of Liberland, a self-proclaimed European sovereign state operating on a governing system of individual consent, the radio program Free Talk Live, which advocates for liberty, and the group antiwar.org, which opposes state-sponsored conflict, among others.

Mr. Ver's series of \$10,000 USD-in-cryptocurrency monthly payments preceded Mr. Kokesh's Statement of Candidacy by about a year, and ended almost two years before the 2020 election. Both the beginning and the end of Mr. Ver's payments to Mr. Kokesh was unrelated to Mr. Kokesh's campaign. Mr. Ver ceased making these monthly stipend payments after learning Mr. Kokesh was converting the cryptocurrency he was given to US dollars, reflecting, Mr. Ver believed, that Mr. Kokesh did not understand the role of cryptocurrency in freeing citizens from a tyrannical governmental monetary system.

In these years, Mr. Kokesh was broadly engaged in political advocacy. This included publishing a book entitled *Freedom*, in which he advocated a libertarian political philosophy.⁵ Mr. Kokesh produced YouTube videos and hosted an online talk show, *Adam vs. the Man*, where he advanced his views of the role of the state in civil society.⁶ Mr. Kokesh engaged in public protests, including challenging the District of Columbia's restrictions on firearms and various government bodies' restrictions on individual freedom. Mr. Kokesh, who was active in Iraq Veterans Against the War, has also participated in multiple public speaking events on the role of war in our society and the proper role of government.

Mr. Kokesh's run for the presidency was consistent with the view that our current structure of government should change. He described himself as running for "not president" and proposed that if elected, he would resign to become "Custodian of the Federal Government" and then oversee an orderly dissolution of government as a bankruptcy agent. While possibly a useful polemical tool for the broader advocacy of his views, this quixotic endeavor did not operate as a serious political campaign, and generated no significant support. Based on the Adam Kokesh American Referendum Project's FEC reports, the committee appears to have created no public communications, nor, other than attending occasional Libertarian Party

⁵ Nick Reimann, '*Freedom!*' in New Orleans: How One Man's Manifesto is Landing on More than 200,000 Doorsteps, NOLA.COM (Jan. 10, 2019), https://www.nola.com/news/article_06165cce-6d59-511e-a64d-d295da5dfb30.html.

⁶ The FEC has previously concluded that this show was part of the legitimate press functions of RTTV. ("The format of those episodes of the Show during which Kokesh promoted [Ron] Paul's candidacy are consistent with other episodes that covered a wide range of traditionally newsworthy topics, including the economy, taxes, drug policy, the Wiki Leaks affair, unions, military matters, history, law enforcement, foreign policy, and politics generally."). [FEC MUR 6481](#) (RTTV), Factual and Legal Analysis, pages 6-7.

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events, did it show evidence of engaging in active campaigning. In 2020, Mr. Kokesh did not receive enough support to qualify for one of the five positions in the candidate debate at the Libertarian Party’s national convention. He then finished in sixth place, with the support of 7.6% of those who attended. As noted above, the Libertarian Party itself was an afterthought in the 2020 Presidential election, drawing less than half the support it had four years earlier.

In the end, this matter presents the FEC with the opportunity to investigate spending nearly five years ago, by individuals who do not believe that there should be a United States president, and who have devoted much of their lives to advocating for a form of ordered liberty that is built on consent rather than coercion. Indeed, First Amendment considerations are particularly pertinent here: Mr. Ver was focused on advancing the advocacy of his sincerely held beliefs, not electing a candidate.

Unless Congress can assure itself that it is regulating electioneering, and not mere political discussion about issues of public interest, it ought to act with care. After all, as the Supreme Court noted in the landmark case of *Mills v. Alabama*, “[w]hatever differences may exist about the interpretations of the First Amendment, there is practically universal agreement that a major purpose of that Amendment was to protect the free discussion of governmental affairs. This of course includes discussions of candidates, structures and forms of government, the manner in which government is operated or should be operated, and all such matters relating to political processes.”

Oversight of Federal Political Advertisement Laws and Regulations: Hearing Before the H. Comm. on Oversight & Reform Subcomm. on Information Technology, 115th Cong. (2017) (statement of Allen Dickerson) (quoting *Mills v. Alabama*, 384 U.S. 214, 218-219 (1966)). As the FEC has recognized, foreign nationals *may* engage in issue advocacy, as opposed to seeking to elect a candidate.⁷ Mr. Ver’s payments to Mr. Kokesh were aimed at supporting Mr. Kokesh’s libertarian activism, falling squarely within the realm of issue advocacy.

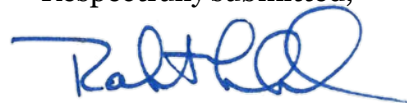
⁷ See, e.g., FEC [MUR 7523](#) (Montana Mining Ass’n., Stop I-186 to Protect Mining and Jobs), at 5 n.15 (noting that *Bluman v. FEC*, 800 F. Supp. 2d 281 (D.D.C. 2011), *aff’d*, 565 U.S. 1104 (2012) concluded that the law “does not restrain foreign nationals from speaking out about issues or spending money to advocate their views about issues,” but only from “a certain form of expressive activity closely tied to the voting process — providing money for a candidate or political party or spending money in order to expressly advocate for or against the election of a candidate.”).

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In sum, the FEC should dismiss this matter for all of the reasons stated above.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Robert D. Lenhard", with a stylized flourish at the end.

Robert D. Lenhard
Peter M. Koski
Mathias F. Heller