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FEDERAL ELECTION COMMISSION

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OFFICE OF GENERAL COUNSEL

**BEFORE THE
FEDERAL ELECTION COMMISSION**

End Citizens United
Tiffany Muller
100 M St. SE
Washington, DC 20003
Complainant,

MUR 7933

v.

Alek Skarlatos
PO Box 347
Winchester, OR 97495

Alek for Oregon and Chris Marston, Treasurer
PO Box 347
Winchester, OR 97495

15:17 Fund
PO Box 26141
Alexandria, VA 22313¹

Respondents.

COMPLAINT

This complaint is filed under 52 U.S.C. § 30109(a)(1) against Alek Skarlatos, Alek for Oregon and Chris Marston in his official capacity as treasurer, and 15:17 Fund (collectively, “Respondents”), for violating the Federal Election Campaign Act of 1971, as amended (the “Act”) and Federal Election Commission (the “FEC” or “Commission”) regulations.

Skarlatos founded 15:17 Fund, a 501(c)(4) organization, in December 2020, after a failed run for Congress. He transferred \$93,000 of leftover funds from his campaign committee to 15:17 Fund. Subsequently, after Skarlatos decided to run for Congress again in 2022, 15:17 Fund transferred \$65,000 to the committee, disguised as a partial “refund” of the charitable

¹ 15:17 Fund retains 2652 Group LLC as its registered agent. The registered agent’s address is 320 South Henry Street, Alexandria, VA 22314.

contribution made months prior. However, this “refund” appears to have been a prohibited dark money contribution. Further, this disbursement of funds, made after Skarlatos decided to run for office, is a clear violation of the Act’s “soft money” prohibition at 52 U.S.C. § 30125(e)(1)(A), which prohibits an organization established, financed, maintained, or controlled by a federal candidate from spending funds on a federal election that are outside of the Act’s amount, source, and reporting restrictions. A candidate using a nonprofit’s money for the benefit of his own election is the precise harm the Bipartisan Campaign Reform Act sought to prevent, and Skarlatos’s actions seriously undermine the Act’s anti-corruption and anti-circumvention rationales. Consequently, the FEC should immediately investigate these violations and take appropriate remedial action against Respondents.

FACTUAL BACKGROUND

Alek Skarlatos ran for Oregon’s fourth congressional district in 2020 and registered Alek for Oregon (the “Committee”) as his principal campaign committee.² After losing the 2020 election, Skarlatos founded 15:17 Fund, a 501(c)(4) nonprofit corporation.³ The Virginia nonprofit, which uses “15:17 Trust” as its fictitious name, incorporated on December 11, 2020.⁴ Shortly thereafter, on February 12, 2021, the Committee donated \$93,000 of excess 2020 campaign funds to 15:17 Fund.⁵ In March 2021, Skarlatos signed multiple fundraising emails for 15:17 Fund, in which he stated that he was the person who started or founded the organization,

² Alek for Oregon, FEC Form 1, Statement of Organization (Aug. 15, 2019), <https://docquery.fec.gov/pdf/745/201908159162879745/201908159162879745.pdf>.

³ 15:17 Fund, State Corporation Commission Clerk’s Information System, Virginia Secretary of State, <https://cis.scc.virginia.gov/EntitySearch/BusinessInformation?businessId=11145770>.

⁴ *Id.*

⁵ Alek for Oregon, Amended April Quarterly Report at 8 (Sept. 2, 2021), <https://docquery.fec.gov/pdf/329/202109029466601329/202109029466601329.pdf>.

which purportedly advocates for veterans.⁶ However, the organization does not appear to have undertaken any activities other than fundraising: it has not appeared in any news articles, has one Tweet but no followers, has a Facebook page with only nine “likes,” and its website is offline.⁷

On May 3, 2021, Skarlatos announced that he was going to run for Congress again in Oregon’s fourth district.⁸ He designated the Committee as his campaign committee for the 2022 election cycle.⁹ The treasurer of the Committee, Christopher Marston, is also the treasurer of 15:17 Fund.¹⁰ Just a few weeks later, on May 19, 2021, 15:17 Fund disbursed \$65,000 to the Committee.¹¹ The Committee reported the contribution as a partial “return of charitable contribution.”¹²

LEGAL ANALYSIS

The Act prohibits corporations (including dark money section 501(c)(4) organizations) from making contributions to candidates and candidates from knowingly accepting contributions from these groups.¹³ Further, the Act’s soft money provisions prohibit federal candidates, their agents, and entities directly or indirectly established, financed, maintained, or controlled by federal candidates from soliciting, receiving, directing, transferring, or spending funds in connection with any federal election, unless the funds are subject to the limitations, prohibitions, and reporting requirements of the Act.¹⁴ The Commission has identified factors to consider in

⁶ See Email from Alek Skarlatos, Help Me Help Veterans (March 2, 2021), <https://electionemails2020.org/email/c5e3cd7f4b2f5ff28e48873bab50dd55>; Email from Alek Skarlatos, Is This Acceptable to You? (Mar. 25, 2021), <https://electionemails2020.org/email/fe8b83f9003b5c93a5035adae2f1afbc>.

⁷ Slodysko, *supra* note 5.

⁸ KATU Staff, *Alek Skarlatos Announces Another Run for Congress in 2022*, KATU2 (May 4, 2021), <https://katu.com/news/local/alek-skarlatos-announces-another-run-for-congress-in-2022>.

⁹ Alek for Oregon, FEC Form 1, Amended Statement of Organization (Apr. 29, 2021), <https://docquery.fec.gov/pdf/552/202104299446135552/202104299446135552.pdf>.

¹⁰ *Id.*; Slodysko, *supra* note 5.

¹¹ Alek for Oregon, Amended July Quarterly Report at 190 (Sept. 2, 2021), <https://docquery.fec.gov/pdf/405/202109029466601405/202109029466601405.pdf>.

¹² *Id.*

¹³ 52 U.S.C. § 30118(a).

¹⁴ *Id.* § 30125(e)(1)(A).

determining whether a candidate or campaign has established, financed, maintained, or controlled an organization.¹⁵ Among those factors are: (1) whether the candidate has the authority or ability to participate in the governance of the organization, through formal or informal means; (2) whether the candidate has the authority to hire, appoint, demote, or otherwise control the officers or decision-making employees of the organization; (3) whether the campaign and the organization have common or overlapping officers or employees; and (4) whether the campaign and the organization have similar patterns of receipts or disbursements that indicate an ongoing relationship.¹⁶

A. The transfer of funds from 15:17 Fund to the Committee is an illegal dark money corporate contribution

Although the Committee labeled the funds it received from 15:17 Fund as a “return of charitable contribution,” the facts strongly suggest that the \$65,000 disbursement was an unlawful dark money contribution rather than a permissible refund. The Commission has examined the permissibility of refunds in past advisory opinions, and the May 2021 transaction between 15:17 Fund and the Committee does not meet the established criteria.

In Advisory Opinion 2010-28 (Hill), Representative Hill transferred money to a state party committee’s federal account, with the understanding that the party committee was going to conduct certain projects on behalf of all of its candidates.¹⁷ However, the party committee changed its mind and offered to refund Representative Hill’s money so that his campaign could undertake the planned activities.¹⁸ The Commission concluded that the transaction would be appropriately characterized as a refund rather than a contribution because: (1) the funds were not

¹⁵ 11 C.F.R. § 300.2(c).

¹⁶ *See id.* § 300.2(c)(2).

¹⁷ Advisory Op. 2010-28 (Hoosiers for Hill) at 1.

¹⁸ *Id.* at 1-2.

commingled with federally impermissible funds at any point; (2) the circumstances underpinning the original transfer were “materially altered;” and (3) the committees sought the refund within weeks of the original transaction, which suggested it was a legitimate refund, and it fell within the thirty- and sixty-day periods prescribed in the Commission’s regulations for refunding contributions.¹⁹

Similarly, in Advisory Opinion 2002-08 (Vitter), Congressman Vitter transferred money from his federal campaign committee to a state exploratory committee.²⁰ The state committee held the money in a separate account so that none of the funds would be commingled with federally impermissible funds.²¹ Within two months of the transfer, Congressman Vitter determined he would not seek state office, and he asked the FEC whether he could refund the money back to his federal committee.²² He had not spent any of the money and it remained in the segregated account.²³ The Commission allowed the refund because the money “effectively remained Federal funds at all relevant times.”²⁴

Finally, in Advisory Opinion 1995-43 (Packwood), the FEC concluded that a law firm providing legal services to a candidate could refund a portion of the fees paid because the firm had to unexpectedly withdraw from the representation.²⁵ The Commission stated that the refund would not be a contribution because the scope of the firm’s engagement was “materially altered” and the adjustment would bring the amount paid down to fair market value.²⁶ It analogized the situation to an instance “where a vendor of campaign services to a political committee receives

¹⁹ *Id.* at 3.

²⁰ Advisory Op. 2002-08 (Vitter) at 1.

²¹ *Id.*

²² *Id.*

²³ *Id.* at 2.

²⁴ *Id.* at 3.

²⁵ See Advisory Op. 1995-43 (Packwood).

²⁶ *Id.* at 3.

payment in expectation of future events that later are modified from the original agreement or terminated,” necessitating a refund.²⁷

The circumstances surrounding the transfer of funds from 15:17 Fund to the Committee appear to be remarkably different from those in any of these opinions. First, the transfer occurred more than three months after the Committee made the initial charitable donation to 15:17 Fund, which is outside the timeframe the Commission has previously allowed for refunds.²⁸ Second, there is no evidence indicating that 15:17 Fund kept the Committee’s funds separate from other contributions it had received, meaning the funds were likely commingled with money that was not subject to the Act’s amount, source, and reporting requirements.²⁹ Although commingling is acceptable when a committee receives a refund from a vendor,³⁰ the above opinions indicate that it is not acceptable outside of the vendor context³¹—and a charitable organization is not a vendor to a campaign. Additionally, it does not appear that 15:17 Fund “materially altered” its activities in a way that impacted the Committee and would necessitate a return of funds.³² Rather, the only change that appears to have occurred between February and May 2021 is that Skarlatos decided to run for office again. This fact strongly suggests that the purpose of the transfer from 15:17 Fund to the Committee was not to rectify changed circumstances, but was instead for the purpose of influencing an election. As a payment made to influence an election is the exact definition of “contribution,”³³ the Commission should find

²⁷ *Id.*

²⁸ See Advisory Op. 2010-28 (Hoosiers for Hill) at 3; *see also* Advisory Op. 2002-08 (Vitter) at 1 (noting that Congressman Vitter sought the refund within 60 days).

²⁹ Advisory Op. 2010-28 (Hoosiers for Hill) at 3; Advisory Op. 2002-08 (Vitter) at 2.

³⁰ See Advisory Op. 1995-43 (Packwood).

³¹ See Advisory Op. 2010-28 (Hoosiers for Hill); Advisory Op. 2002-08 (Vitter).

³² See Advisory Op. 2002-08 (Vitter) at 3; Advisory Op. 1995-43 (Packwood) at 3.

³³ 52 U.S.C. § 30101(8)(A)(i).

reason to believe that 15:17 Fund made, and Skarlatos and the Committee accepted, a prohibited corporate dark money contribution.

B. 15:17 Trust and Skarlatos violated the soft money ban

Given that it appears that 15:17 Fund made a contribution to the Committee, it also appears that Skarlatos and 15:17 Fund impermissibly directed, transferred, or spent soft money in connection with Skarlatos's federal election. Skarlatos established 15:17 Fund and transferred money to it while he was not a federal candidate, but the facts strongly suggest that he has been controlling and maintaining it since becoming a candidate. He is the founder of the organization and its public face and therefore appears to have at least an informal leadership role and say in its decisions. Further, Christopher Marston is the treasurer of both the Committee and 15:17 Fund, showing that the two entities have overlapping officers and that one of Skarlatos's campaign agents is involved in governing the organization. The Committee and 15:17 Fund are also financially linked, given the flow of money from 15:17 Fund to the Committee, suggesting that there is an ongoing relationship between the two entities. The Commission should further investigate the relationship between the two entities, but based on the public record, it appears likely that Skarlatos controls and maintains 15:17 Fund within the meaning of the Act.³⁴ As such, the contribution from 15:17 Fund to the Committee—using treasury funds that were not subject to the Act's prohibitions, limitations, and reporting requirements—was a violation of 52 U.S.C. § 30125(e)(1)(A).

REQUESTED ACTION

As shown, Respondents appear to have violated the Act and Commission regulations by directing, transferring, or spending soft money in connection with a federal election and

³⁴ See 11 C.F.R. § 300.2(c)(2).

making/accepting a prohibited dark money contribution. As such, we respectfully request that the Commission immediately investigate these violations, fine Respondents the maximum amount permitted by law, require the Committee to disgorge the unlawful funds it received from 15:17 Fund, and enjoin Respondents from further violations of the law.

Sincerely,



End Citizens United

Tiffany Muller

100 M St. SE

Washington, DC 20003

SUBSCRIBED AND SWORN to before me this 13 day of October 2021.

Mark Andrews

Notary Public

My Commission Expires:

MARK ANDREWS
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires July 14, 2024

