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By OGC/CELA at 6:00 pm, Feb 22, 2022

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February 22, 2022

Sent by email cela@fec.govRoy Q. Lockett, Esq.
Acting Assistant General Counsel
Office of Complaints Examination and Legal Administration
Federal Election Commission
1050 First Street, NE
Washington, DC 20463

Attn: Trace Keeys, Paralegal

Re: MUR 7946 - Center for Tech and Civic Life and Tiana Epps-Johnson

Dear Mr. Lockett:

On behalf of the Center for Tech and Civic Life (“CTCL”) and is Executive Director, Tiana Epps-Johnson (together, the “CTCL Respondents”), this responds to a complaint and supplemental complaint filed with the Federal Election Commission (“FEC” or the “Commission”) by Barbara W. Palmer (the “Complainant”) in the above-referenced matter (the “Complaint”). Because the Complaint fails to set forth facts alleging any violation of the Act or the Commission’s regulations and amounts to a conspiracy theory, the Commission should dismiss the Complaint and take no further action against the CTCL Respondents in this matter.

I. INTRODUCTION

The Complaint alleges that CTCL, “aided and abetted by” Ms. Epps-Johnson and the U.S. Elections Assistance Commission (“EAC”), violated sections 30119 and 30122 of the Federal Election Campaign Act of 1971, as amended (“FECA” or the “Act”). Complaint at ¶5. The Complaint’s lack of clarity makes it difficult to fully discern the basis for this allegation, but Complainant appears to imply that CTCL’s nonpartisan election administration grants to state and local government agencies in the 2020 elections somehow resulted in contributions to “political candidates and campaigns,” including “one political party and its candidate(s) for U.S.

President and various federal offices across multiple States,”¹ and that, not only were these alleged “contributions” unlawful because CTCL was a federal contractor in 2020, but that CTCL was a “straw donor” and the true source of those “contributions” was actually the EAC. *See* Complaint at ¶¶ 6, 47 -57, 64, 80. Complainant seems to further allege that Facebook CEO Mark Zuckerberg was also somehow involved in this scheme to “[use] a federal government contractor as a straw man” to funnel “vast amounts of cash, for the benefit of specific campaigns and candidates.” Complaint at ¶¶ 8, 63-64. Presumably, this is alleged due to CTCL’s receipt of grants from Mr. Zuckerberg and Priscilla Chan, but Complainant also asserts that Mr. Zuckerberg’s funds were “funneled through a federal agency” in a manner that “would affect the reporting requirements of campaigns and political action committees[.]” Complaint at ¶ 64.

The Complaint also alleges that CTCL “has mischaracterized itself as a § 501(c)(3)” organization. Complaint supp. at 2.

This response addresses the Complaint only with respect to the CTCL Respondents.

II. FACTS

CTCL, established in 2014, is a nonpartisan, nonprofit, charitable and educational organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code.² Its purpose is to promote civic engagement by modernizing election administration and engagement between local governments and the people they serve. CTCL “connects Americans with the information they need to become and remain civically engaged, and helps ensure elections are professional, inclusive, and secure.”³ In service to its mission, it collects, standardizes and makes available to the public information about elections, and routinely conducts in-person and on-line trainings for election officials to help them best serve their communities.⁴ CTCL also makes grants to state and local election offices to support election administration.⁵

Respondent Tiana Epps-Johnson, is a CTCL Founder and its Executive Director. She has deep expertise in election administration and voting rights.⁶

In 2020, in furtherance of its charitable and educational purposes, CTCL created a COVID-19 Response Grant Program (the “Grant Program”) to help state and local governments address the unprecedented challenges to election administration posed by the global pandemic. The Grant Program was made possible, in large part, by the generous financial support of Priscilla Chan and Mark Zuckerberg. CTCL Grants were made available on a nonpartisan, non-

¹ The Complaint never expressly states precisely which political party and candidates received the alleged contributions from CTCL.

² Because CTCL’s tax status is beyond the Commission’s jurisdiction, this response does not address CTCL’s status, except to say that the Internal Revenue Service determined in 2015 that CTCL is exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code, effective October 23, 2014. CTCL continues to operate in accordance with that status, and its exemption has never been revoked.

³ CTCL, *CTCL Partners with U.S. Election Assistance Commission to Deliver Cybersecurity Training Nationwide*, <https://www.techandciviclelife.org/eac-cybersecurity-training/>.

⁴ *See* CTCL, *Our Work: Election Officials*, <https://www.techandciviclelife.org/our-work/election-officials/>, and *Our Work: Civic Data*, <https://www.techandciviclelife.org/our-work/civic-data/>,

⁵ *See* CTCL, *COVID-19 Response Grants*, <https://www.techandciviclelife.org/our-work/election-officials/grants/>.

⁶ *See* CTCL, *Tiana Epps-Johnson*, <https://www.techandciviclelife.org/team/tiana-epps-johnson/>.

discriminatory basis to any U.S. election office responsible for administering election activities and which chose to apply for a grant.⁷ Every such applicant was guaranteed a grant of at least \$5,000.⁸ (For additional information about the Grant Program, please see CTCL’s Response filed with the Commission in MUR 7854, which is incorporated herein by reference.)

Despite the fact that the Grant Program was a nonpartisan effort directed at meeting the needs of state and local election administrators, CTCL’s Grant Program has become the subject of frivolous litigation and conspiracy theories,⁹ not unlike that set out in the Complaint, fixated on the false claim that it was a partisan effort to defeat Donald Trump. On the contrary, the facts demonstrate that the Grant Program operated on an entirely nonpartisan basis. No state or local election administration office that applied for a grant consistent with the Grant Program received less funding than it requested. The Grant Program made grants to more than 2,500 state and local government entities to ensure those entities were able to “cover expenses like personal protective equipment, additional election worker recruitment and training, and absentee voting equipment and supplies.”¹⁰ Grants were made to rural, suburban and urban communities and in 49 states and the District of Columbia.¹¹ And, a review of the Grant Program conducted by former FEC Commissioner Michael Toner found that more jurisdictions that voted for President Donald J. Trump in 2020 received CTCL grants than did jurisdictions that voted for President Joseph R. Biden, Jr.¹²

Additionally, in 2020, CTCL *was* a federal contractor. It contracted with the EAC to develop cybersecurity trainings made available without cost to elections officials and administrators nationwide.¹³ The three cybersecurity courses are comprised entirely of nonpartisan content and remain available and accessible online.¹⁴

In sum, in 2020, CTCL, a federal contractor, made grants to state and local government agencies which were awarded on a nonpartisan basis in response to grant applications submitted by those agencies. It did not make “contributions” governed by the Act. Nor did it or participate in a byzantine scheme to funnel “contributions” from the EAC or Mr. Zuckerberg to any candidate, political committee, or political party as seems to be alleged in the Complaint.

⁷ See CTCL, *COVID-19 Response Grants*, <https://www.techandciviclelife.org/our-work/election-officials/grants/>.

⁸ See CTCL, *CTCL Grant Program Receives Over 2,100 Applications and Counting*, <https://www.techandciviclelife.org/grant-update-october/>.

⁹ CTCL, *10 Facts About CTCL & the COVID-19 Response Grant Program*, <https://www.techandciviclelife.org/10-facts-about-ctcl-grants/>

¹⁰ CTCL, *CTCL Program Awards Over 2,500 COVID-19 Response Grants*, <https://www.techandciviclelife.org/our-work/election-officials/grants/>.

¹¹ CTCL, *10 Facts About CTCL & the COVID-19 Response Grant Program*, <https://www.techandciviclelife.org/10-facts-about-ctcl-grants/>

¹² David M. Drucker, *Zuckerberg-funded elections group awarded more grants to GOP counties*, WASHINGTON EXAMINER, Dec. 15, 2021 (7:10 p.m.), https://www.washingtonexaminer.com/news/campaigns/zuckerberg-funded-elections-group-awarded-more-grants-to-gop-counties?utm_source=msn&utm_medium=referral&utm_campaign=msn_feed

¹³ CTCL, *CTCL Partners with U.S. Election Assistance Commission to Deliver Cybersecurity Training Nationwide*, <https://www.techandciviclelife.org/eac-cybersecurity-training/>.

¹⁴ The courses, Cybersecurity 101: Introduction, Cybersecurity 201 Intermediate, and Cybersecurity 301: Communications, are on CTCL’s website: <https://learn.techandciviclelife.org/library/?category=Cybersecurity>.

III. LEGAL ANALYSIS

The Complaint must be dismissed because it fails to set forth facts that, even if true, would amount to a violation of the Act or the Commission's regulations, and because the allegations in the Complaint are baseless and unsupported by fact.

The Complaint fails to provide reason to believe that the CTCL Respondents violated the law. In order to support a reason to believe finding, a complaint must "contain a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction."¹⁵ The Complaint does not. Its convoluted allegations appear to be that CTCL, as a federal contractor, violated 52 U.S.C. § 30119, by making FECA-regulated contributions to "political candidates and campaigns," including "one political party and its candidate(s) for U.S. President and various federal offices across multiple States,"¹⁶ but that these "contributions" were not *actually* contributions from CTCL, but that rather CTCL was a "straw donor" and the true source of those "contributions" was actually the EAC and/or Mr. Zuckerberg. *See* Complaint at ¶¶ 6, 47 -57, 64, 80.

The Complaint provides no facts to support these farfetched allegations. Although the Complaint alleges that CTCL was used as a "straw man" to funnel "vast amounts of cash" "for the benefit of specific campaigns and candidates," the Complaint never explicitly identifies these "specific" campaigns or candidates. Complaint at ¶ 63.¹⁷ Nor does it explain how CTCL's grants to state and local government agencies resulted in any "contributions" governed by the Act. The Complaint never alleges that the grants were made directly to any federal candidate or committee (which they were not), or that the grants were payments for services rendered or goods provided to any federal candidate or committee (which they were not). Nor does the Complaint allege or set forth any facts stating that the grants were made in coordination with any candidate or committee (which they were not) and therefore resulted in an in-kind contribution under the Commission's coordination regulations. The Complaint simply fails to set out any facts that would render any CTCL grant a "contribution" under the Act or the Commission's regulations even if the grants had been targeted to state and local jurisdictions on a partisan basis.¹⁸ (In fact, they were not.)

Moreover, because the Complaint does not even attempt to provide factual support for the allegation that CTCL's Grant Program made even a single contribution to a federal candidate or political committee, it also fails to provide any factual basis for its claim that CTCL was used to disguise the true source of those (non-existent) contributions.¹⁹

¹⁵ 11 C.F.R. § 111.4(d)(3).

¹⁶ The Complaint never expressly states precisely which political party and candidates received the alleged contributions from CTCL.

¹⁷ Attached to the Complaint and supplement are a number of exhibits from which it can be inferred that the Complainant believes that CTCL's Grant Program was targeted to jurisdictions likely to vote for Democrats. This is contravened by the facts. *See* CTCL Response to Complaint in MUR 7854; *see also* n. 11 and n. 12, *supra*.

¹⁸ *See* 52 U.S.C. § 30101(8); *see also* 11 C.F.R. §§ 100.52, 100.54, 109.20-21.

¹⁹ If the Complaint is alleging that the EAC used CTCL to make contributions to a federal candidate or political committee in CTCL's name (which, of course, is preposterous), that allegation, even if true, is not a violation of FECA. FECA prohibits a "person" from making a contribution in the name of another "person," prohibits a "person" from knowingly permitting his name to be used to effect such a contribution, and prohibits a "person" from accepting a contribution made by one "person" in the name of another "person." 52 U.S.C. § 30122. However, the

With respect to Ms. Epps-Johnson, the Complaint simply offers no information justifying, or even related to, its conclusory statement that she “aided and abetted” CTCL in violating the Act.

Because the Complaint is without any factual basis and instead relies on “mere speculation,” the Commission must dismiss the Complaint.²⁰

IV. CONCLUSION

Because the Complaint does not set forth facts alleging a violation of the Act or the Commission’s regulations and is without factual basis, the CTCL Respondents respectfully request that the Commission dismiss the Complaint and take no further action in this matter.

Respectfully submitted,



Jessica Robinson



B. Holly Schadler
Counsel for CTCL Respondents

EAC is not a “person” because that term does not include “any authority of the Federal government.” 11 C.F.R. § 100.10. Therefore, even if CTCL permitted its name to be used by the EAC to make a contribution, the Act does not prohibit that because it is not a contribution by a “person” in the name of another person.

²⁰ See MUR 4960 SOR at 2.