

Holtzman Vogel

HOLTZMAN VOGEL BARAN TORCHINSKY & JOSEFIAK PLLC

April 15, 2022

Roy Q. Lockett
Acting Assistant General Counsel
Complaints Examination &
Legal Administration
Federal Election Commission
1050 First Street, NE
Washington, DC 20463

Re: Response of Saving Arizona PAC and Janna Rutland in MUR 7965

Dear Mr. Lockett:

This response is submitted by the undersigned counsel on behalf of Saving Arizona PAC (the “PAC”) and Janna Rutland (collectively, “Respondents”) in connection with Matter Under Review (“MUR”) 7965. The Complaint in this matter, filed on or about February 28, 2022, alleges that the PAC accepted an unlawful contribution from an LLC that was not properly attributed to the actual donors. As shown below, the Complaint objects to an entry on the PAC’s initial year-end disclosure report while ignoring relevant information included in that very report as well as the amended report filed one week later. Because the sole contribution challenged in the Complaint has already been appropriately attributed to the partners of the LLC in question in compliance with the Federal Election Campaign Act of 1971, as amended (“FECA” or the “Act”) and Federal Election Commission (“FEC” or the “Commission”) regulations, the Commission should summarily close the file in this matter with respect to Respondents.

I. FACTUAL BACKGROUND

The PAC is an independent expenditure-only federal political committee (i.e., “Super PAC”) established in 2021 that is authorized to accept unlimited contributions subject to the Act’s applicable source prohibitions.¹ While the PAC and its treasurer Janna Rutland were not named as respondents in the Complaint in this matter,² they submit this response because the Complaint alleges that the PAC accepted an unlawful contribution from an LLC. Respondents do not submit any response on behalf of the LLC that is the subject of the Complaint.

On January 31, 2022, the PAC timely filed its year-end disclosure report for the period from October 1, 2021, through December 31, 2021.³ One of the contributions reported on Schedule A of the PAC’s year-end report was a \$50,000 receipt from Iho Araise LLC.⁴ The LLC’s

¹ Saving Arizona PAC, *Statement of Organization*, available at: <https://docquery.fec.gov/pdf/114/202107239451978114/202107239451978114.pdf> (last visited Apr. 6, 2022).

² See Compl. at 1.

³ Fed. Election Comm’n, *Saving Arizona PAC – Schedule A*, available at: <https://docquery.fec.gov/cgi-bin/forms/C00777185/1565000/sa/ALL> (last visited Apr. 6, 2022).

⁴ *Id.*

HOLTZMAN VOGEL BARAN TORCHINSKY & JOSEFIAK PLLC

name, address, and the amount of the contribution were provided, and in the memo line, the PAC treasurer—while awaiting confirmation of the the LLC’s tax status—recorded the following notation: “CONTRIBUTION: ATTRIBUTION INFORMATION REQUESTED.”⁵

On February 7, 2022, only seven days after filing its initial year-end report, the PAC filed an amended report.⁶ The only change reflected in the amended report was an attribution of the \$50,000 contribution from Iho Araise LLC. Half of the contribution was attributed to LLC Partner Arjun Sethi, and the other half was attributed to LLC Partner Harshita Pant.⁷ An explanation that this change constituted a “PARTNERSHIP CONTRIBUTION” attributable to both the LLC and its individual partners was recorded in the memo line for each relevant entry.⁸

On February 28, 2022, a full three weeks after the amended report detailing attribution information for the LLC contribution had been filed by the PAC, the Complaint in this matter was filed alleging that the contribution was improperly unattributed.

II. LEGAL BACKGROUND

FECA prohibits any person from “mak[ing] a contribution in the name of another person” and from “knowingly accept[ing] a contribution made by one person in the name of another person.”⁹ Furthermore, FEC regulations require that contributions received from an LLC that has elected to be treated as a partnership for federal tax purposes “shall be considered a contribution from a partnership pursuant to 11 CFR 110.1(e).”¹⁰ Section 110.1(e) further explains that contributions by partnerships “shall be attributed to the partnership and to each partner,” either “[i]n direct proportion to his or her share of the partnership profits” or “[b]y agreement of the partners[.]”¹¹

The onus is on the donor to provide the complete information required under FECA at the time of their contribution; if any of the required information is lacking, however, the responsibility to obtain the missing data then passes to the committee’s treasurer. The Act recognizes, however, that such information is not always easily obtainable, particularly when a PAC is faced with an impending filing deadline. Therefore, FECA includes a safe harbor provision to protect diligent treasurers: “When the treasurer of a political committee shows that best efforts have been used to obtain, maintain, and submit the information required by this Act for the political committee, any report or any records of such committee shall be considered in compliance with this Act[.]”¹²

⁵ *Id.*

⁶ Fed. Election Comm’n, *Saving Arizona PAC – Schedule A*, available at: <https://docquery.fec.gov/cgi-bin/forms/C00777185/1567768/sa/ALL> (last visited Apr. 6, 2022).

⁷ *Id.*

⁸ *Id.*

⁹ 52 U.S.C. § 30122; 11 C.F.R. § 110.4(b).

¹⁰ 11 C.F.R. § 110.1(g).

¹¹ 11 C.F.R. § 110.1(e).

¹² 52 U.S.C. § 30102(i); 11 C.F.R. § 104.7(a).

III. LEGAL ANALYSIS

The Commission has previously explained that it “may find reason to believe [a violation of the Act has occurred] only if a complaint sets forth sufficient specific facts, which, if proven true, would constitute a violation of the FECA.”¹³ The Complaint in this matter—which makes no allegations that the PAC violated the Act—fails to satisfy this standard. The Complaint ignores relevant law and relevant facts to advance its unsupported allegation of a violation. In short, as explained below, the manner in which the PAC reported the LLC contribution at issue fully complied with the Act.

The PAC treasurer’s handling of the LLC contribution clearly fits within the safe harbor provisions codified in 52 U.S.C. § 30102(i) and 11 C.F.R. § 104.7(a). When the PAC received the LLC contribution without the accompanying attribution information, the PAC treasurer diligently sought the missing information but was unable to obtain it before the PAC’s filing deadline. So the treasurer submitted the report on time and, to provide full transparency, included a notation indicating that attribution information had been requested for the LLC contribution in question. In other words, the treasurer used “best efforts” to obtain the required attribution information, which ensured the PAC’s initial year-end report was “in compliance with th[e] Act.”¹⁴ This is precisely the kind of situation for which the safe harbor provision was designed.

Even assuming for the sake of argument that there was a technical violation on the initial year-end report (though there was not), this matter would still merit dismissal pursuant to the Commission’s prosecutorial discretion. Faced with an encroaching filing deadline and incomplete information from an LLC donor, the PAC filed the original report in a manner that ensured both timeliness and transparency: the report was filed prior to the deadline, and a memo notification was included indicating that attribution was being sought. Then upon receiving the requested information, the PAC filed an amended report within a week of the original deadline with the full attribution information—long before the instant Complaint was filed.¹⁵ That amended report has now been available for review by the general public for over two months.

In describing the challenged contribution, the Complaint notes simply the date that it was received and that the PAC listed the contributor’s address; it completely fails to acknowledge the explanation that the PAC treasurer included on the memo line indicating that the PAC had properly sought attribution information before the filing deadline.¹⁶ Most importantly, the Complaint *never* even mentions the amended report containing attribution information for the LLC contribution that was filed by the PAC on February 7, 2022, even though the updated contributor data was available to the Complainant at the time the Complaint was prepared. Instead, the Complaint repeatedly refers to “John Doe, Jane Doe, or other person(s),” as if it had no way of identifying the LLC’s partners,¹⁷ notwithstanding the fact that, for several weeks before the Complaint was filed, the

¹³ Statement of Reasons of Commissioners David M. Mason, Karl J. Sandstrom, Bradley A. Smith, and Scott E. Thomas (Dec. 21, 2000), MUR 4960 (Hillary Rodham Clinton for U.S. Senate Exploratory Committee, Inc.) at 1-2.

¹⁴ 52 U.S.C. § 30102(i); 11 C.F.R. § 104.7(a).

¹⁵ Fed. Election Comm’n, *Saving Arizona PAC – Schedule A*, available at: <https://docquery.fec.gov/cgi-bin/forms/C00777185/1567768/sa/ALL> (last visited Apr. 6, 2022).

¹⁶ Compl. ¶ 4.

¹⁷ See Compl. ¶¶ 1-2.

HOLTZMAN VOGEL BARAN TORCHINSKY & JOSEFIAK PLLC

information was readily available *on the same webpage* from which the Complainant obtained the PAC's initial year-end report.¹⁸ When all the relevant evidence is considered, it is clear that the PAC acted at all times in accordance with applicable law.

IV. CONCLUSION

The Complaint in this matter makes no allegation against the PAC, nor could it, because the PAC treasurer used "best efforts" to obtain the required attribution information before the filing deadline and explained as much in a notation on Schedule A of the PAC's initial report. Accordingly, the PAC committed no FECA violation here. In any event, seven days after filing the original report and weeks before the Complaint was filed, the PAC filed an amended report that included the required attribution information for the LLC contribution. For these reasons, the Commission should close the file in this matter with respect to the Respondents.

Sincerely,



Jason Torchinsky
Matthew Petersen
*Counsel to Saving Arizona PAC and
Janna Rutland*

¹⁸ See Fed. Election Comm'n, *Saving Arizona PAC*, <https://www.fec.gov/data/committee/C00777185/?tab=filings> (recording both the original year-end report filed on January 31 as well as the amendment filed on February 7).