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March 2, 2023

Ana J. Peña-Wallace
Assistant General Counsel
Federal Election Commission, Office of General Counsel
1050 First St, NE
Washington, D.C. 20463
APena-Wallace@fec.gov
VIA EMAIL ONLY

Re: MUR 7987

Dear Ms. Peña-Wallace:

I write on behalf of Phil Rizzo for Congress and David Satterfield, in his official capacity as its Treasurer (collectively, the “Rizzo Campaign”), in response to your letter of February 15, 2023, which enclosed a Factual & Legal Analysis in which the Commission concluded there was reason to believe the Rizzo Campaign violated 52 U.S.C. § 30120 and 11 C.F.R. § 110.11 by failing to include a disclaimer on a “robocall” that was placed on or around April 19, 2022.

Upon making further inquiries of the vendor responsible for conducting the robocall, the Rizzo Campaign believes that the call likely did **not** constitute a “public communication” because it was placed to fewer than 500 persons. *See* 11 C.F.R. § 100.26, 100.28.¹ The vendor has provided to the Rizzo Campaign the attached statement, which, according to the vendor, was generated in May 2022 and itemizes texts and robocalls placed during April 2022. The statement indicates that only 75 robocalls (at a cost of \$0.5862 each) were placed during April. The vendor has represented that this item corresponds to the April 19, 2022 robocall, which apparently was released accidentally.

Nevertheless, in the interest of facilitating an expeditious resolution, the Rizzo Campaign requests pre-probable cause conciliation. We believe this penalty, which is more than ten times the estimated expenditure amount of \$43.97, is reasonable under the circumstances, particularly given (a) substantial doubt as to whether the robocall even qualified as a “public communication,” (b) the Rizzo Campaign’s lack of assets, and (c) the imminent termination of the Rizzo Campaign, which will be completed upon the resolution of this matter.

Please do not hesitate to contact me should you require any additional information.

Respectfully,

/s/ Thomas Basile

Thomas Basile

¹ The Complaint does not allege that any “identical or substantially similar,” 11 C.F.R. § 100.28, robocalls lacking a disclaimer were placed within the same 30-day period.

All Product Usage

Costs listed here may exclude taxes, fees, support fees, expert services costs, and certain other products. You have some products that have recurring costs. [View your recurring items.](#)

May 2022

As of 18:22:48 UTC 2023-03-06

PRODUCT	UNITS	QUANTITY	COST
All accounts total			\$1,184.8785
Phil Rizzo for Congress			\$1,184.8785
▶ Programmable Messaging Go to SMS Logs		229585	\$1,183.2923
▶ Programmable Voice Go to Voice Logs		75	\$0.5862
▶ Phone Numbers Go to Phone Numbers		1	\$1.00