



FEDERAL ELECTION COMMISSION
Washington, DC 20463

April 19, 2023

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Saurav Ghosh, Esq.
Campaign Legal Center
1101 14th Street N.W.
Suite 400
Washington, D.C. 20005

RE: MUR 8010
Medical Place, Inc.

Dear Mr. Ghosh:

This is in reference to the complaint you filed with the Federal Election Commission on June 7, 2022, alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). On February 6, 2023, the Commission found reason to believe that Medical Place, Inc. violated 52 U.S.C. § 30119(a) and 11 C.F.R. § 115.2(a) of the Act and Commission regulations by making prohibited federal contractor contributions. On April 13, 2023, the Commission accepted the signed conciliation agreement with Medical Place, Inc. On that same date, the Commission found no reason to believe that Alabama Conservatives Fund and Kaylen Melton in his official capacity as treasurer violated 52 U.S.C. § 30119(a)(2) by knowingly soliciting the federal contractor contributions at issue. Accordingly, the Commission has closed the file in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). A copy of the Factual and Legal Analysis and conciliation agreement is enclosed for your information.

If you have any questions, please contact me at (202) 746-8564 or khart@fec.gov.

Sincerely,

Kimberly D. Hart
Kimberly D. Hart
Attorney

Enclosures
Conciliation Agreement
Factual and Legal Analysis

**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

Respondent: Medical Place, Inc.

MUR 8010

I. INTRODUCTION

This matter was generated by a Complaint filed with the Federal Election Commission alleging that Medical Place, Inc. (“Medical Place”), a medical supplies company, made two \$50,000 prohibited contributions, totaling \$100,000, to Alabama Conservatives Fund and Kaylen Melton in her official capacity as treasurer (“ACF”), while Medical Place was a federal contractor in 2022. The Federal Election Campaign Act of 1971, as amended (the “Act”) prohibits federal contractors from making such contributions.

Medical Place acknowledges holding several federal contracts at the time it made the contributions but argues that the Commission should exercise its prosecutorial discretion and dismiss the matter for several reasons, including the prompt refund of the contributions from ACF. Medical Place also argues that the contractor contribution ban is unconstitutional as applied to contributions made to an independent expenditure-only political committee (“IEOPC”).

As explained below, the Commission finds reason to believe that Medical Place violated 52 U.S.C. § 30119(a) and 11 C.F.R. § 115.2(a) by making prohibited contributions.

II. FACTUAL BACKGROUND

Medical Place is a business located in Montgomery, Alabama specializing in medical, respiratory, pharmaceutical, laboratory, and telemedicine equipment and supplies.¹ Federal spending data confirms that Medical Place held several Indefinite Delivery Contract (“IDC”) and

¹ See Medical Place, Inc., <https://www.medicalplace.us/> (last visited November 2, 2022).

Federal Supply Schedule (“FSS”) contracts at the time the contributions were made and received orders on the contracts from the U.S. Department of Veteran’s Affairs (“VA”) and Defense Logistics Agency.² Two of the IDCs were with the VA and were in effect from September 16, 2021 to September 30, 2022, and February 1, 2022 through February 28, 2022, respectively; and the two FSS contracts (also known as “IDVs,” which stands for Indefinite Delivery Vendors) were in effect from August 30, 2021 to March 30, 2022, and from March 7, 2022 to May 31, 2022, respectively.³

IDC contracts facilitate the delivery of supply and service orders during a set timeframe.⁴ FSS contracts are “indefinite delivery/indefinite quantity type contracts,” meaning that sales are not guaranteed; instead, once an FSS contract is awarded, a vendor is added to a list of approved suppliers from which multiple agencies may choose to make purchases.⁵ In this instance, federal spending data shows that the Medical Place has been awarded \$249.5 million in federal contracts pursuant to IDV contracts from the VA, U.S. Department of Defense, U.S. Department of

² Compl.at 3 (July 7, 2022); *see also* Compl., Attach. C.

³ Compl., Attach. C.

⁴ *See* “Indefinite Delivery Contract,” <https://www.usaspending.gov/?glossary=indefinite-delivery-contract-idc> (last visited November 2, 2022); *see also* Compl., Attach. C.

⁵ *See* U.S. Dep’t of Veterans Affairs, *VA Federal Supply Schedule Service*, <https://www.fss.va.gov/>; Compl., Attach. C; *see also* <https://www.usaspending.gov/recipient/78ae7b8d-4fea-93a6-9e16-b31d62927309-C/all> (last visited Nov. 2, 2022) (detailing Medical Place’s IDV and FSS contracts). The VA recommends that prospective contractors “conduct market research to identify and assess your competition prior to submitting a proposal,” as contract holders must market their products to federal purchasers once an FSS is awarded, and the competition is “fierce.” Dep’t of Veterans Affairs, *Prospective Contractors*, <https://www.va.gov/opal/nac/fss/prospective.asp> (last visited Oct. 29, 2021); Dep’t of Veterans Affairs, *Marketing to the Federal Government*, <https://www.va.gov/opal/nac/fss/marketing.asp> (last visited Oct. 29, 2021).

Justice, U.S. Department of Health and Human Services and U.S. Department of Homeland Security.⁶

On February 2 and April 6, 2022, Medical Place, while holding the above-referenced IDC and FSS contracts, made two separate \$50,000 corporate contributions to ACF.⁷ Neither Medical Place nor ACF have provided information regarding whether or how ACF solicited the contributions or the circumstances under which the contributions were made.⁸ On June 21, 2022, approximately two weeks after the Commission notified Respondents of the Complaint in this matter, ACF refunded the contributions to Medical Place.⁹

The Complaint contends that Medical Place made prohibited government contractor contributions to ACF.¹⁰ Medical Place acknowledges that it was a government contractor but asks that the Commission nonetheless exercise its prosecutorial discretion and dismiss this matter.¹¹ Medical Place states that upon learning of the potential impermissibility of the contributions, it promptly requested and received a refund of the contributions on June 21,

⁶ USASpending.gov, *Award Profile – Indefinite Delivery Vehicle*, https://www.usaspending.gov/award/CONT_IDV_V797D30296_3600 (last visited Oct. 29, 2021) (showing approximately \$3 million in purchases under “Child Award Orders” tab).

⁷ Alabama Conservatives Fund, April 2022 Quarterly Report at 7 (Apr. 15, 2022), <https://docquery.fec.gov/pdf/243/202204159496531243/202204159496531243.pdf>; Medical Place Resp. at 1 (“MP Resp.”) (July 21, 2022); Alabama Conservatives Fund, 12-Day Pre-Primary Report at 6 (May 12, 2022), <https://docquery.fec.gov/pdf/223/202205129502793223/202205129502793223.pdf>; MP Resp. at 1.

⁸ MP Resp., generally. A review of the Commission’s contribution database does not indicate that any other contributions were made by Medical Place to ACF or any other committee. *See* Commission Contr. Database for Medical Place.

⁹ Alabama Conservatives Fund, 2022 July Quarterly Report at 15 (July 15, 2022), <https://docquery.fec.gov/pdf/378/202207159521490378/202207159521490378.pdf> (reporting a refund disbursed on June 21, 2022); Medical Place Notif. Letter at 1 (June 8, 2022).

¹⁰ Compl. at 1.

¹¹ MP Resp. at 1-3.

2022.¹² Medical Place further contends that the federal contractor contribution prohibition is unconstitutional as applied to its contributions to IEOPCs and that prosecutorial discretion is additionally warranted because “pursuing enforcement necessarily would rest on a constitutionally questionable application of the law.”¹³

III. LEGAL ANALYSIS

The Act and the Commission’s regulations prohibit contributions to political committees by any person who enters into a contract with the United States or its departments or agencies for “furnishing any material, supplies, or equipment,” if payment on such contract “is to be made in whole or in part from funds appropriated by Congress.”¹⁴ Such contributions are barred for the period between (1) the earlier of commencement of negotiations or when requests for proposal are sent out, and (2) the later of the completion of performance on or termination of negotiations for the contract.¹⁵ The prohibition covers contributions to any political party, political committee, federal candidate, or “any person for any political purpose or use.”¹⁶ The Act also bars any person from knowingly soliciting a contribution from a federal contractor during the prohibited period.¹⁷

Medical Place acknowledges that it was a federal contractor at the time it made the \$100,000 contributions to ACF.¹⁸ Specifically, at the relevant times, Medical Place held several Indefinite Delivery Contract (“IDC”) and Federal Supply Schedule (“FSS”) contracts with the

¹² *Id.* at 1-2.

¹³ *Id.* at 5; *see also id.* at 2-4.

¹⁴ 52 U.S.C. § 30119(a)(1); 11 C.F.R. § 115.2(a).

¹⁵ 11 C.F.R. § 115.1(b).

¹⁶ *Id.* § 115.2(a).

¹⁷ 52 U.S.C. § 30119(a)(2); 11 C.F.R. § 115.2(c).

¹⁸ MP Resp. at 1.

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Factual & Legal Analysis

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VA and DLA.¹⁹ Accordingly, the Commission finds reason to believe that Medical Place violated 52 U.S.C. § 30119(a) and 11 C.F.R. § 115.2(a) by making prohibited contributions totaling \$100,000 to ACF.

¹⁹ See U.S. Dep't of Veterans Affairs, *VA Federal Supply Schedule Service*, <https://www.fss.va.gov/>; Compl., Attach. C; see also <https://www.usaspending.gov/recipient/78ae7b8d-4fea-93a6-9e16-b31d62927309-C/all> (last visited Nov. 2, 2022) (detailing Medical Place's IDV and FSS contracts).

also held two Federal Supply Schedule (“FSS”) contracts between August 30, 2021, to March 30, 2022, and from March 7, 2022, to May 31, 2022.

2. On February 2, 2022, Respondent made a \$50,000 contribution to Alabama Conservatives Fund PAC and Kaylen Melton in her official capacity as treasurer (“ACF”), an independent expenditure-only political committee. Respondent made a second \$50,000 contribution to ACF on April 6, 2022.

3. On June 21, 2022, ACF refunded the \$100,000 in contributions to Respondent.

V. The pertinent law in this matter is as follows:

1. The Federal Election Campaign Act of 1971, as amended (the “Act”) and the Commission’s regulations bar contributions to political committees by any person who enters into a contract with the United States or its departments or agencies for “furnishing any material, supplies, or equipment,” if payment on such contract “is to be made in whole or in part from funds appropriated by Congress.” 52 U.S.C. § 30119(a)(1); 11 C.F.R. § 115.2(a). Such contributions are barred for the period between (1) the earlier of commencement of negotiations or when requests for proposal are sent out, and (2) the later of the completion of performance on or termination of negotiations for the contract. 11 C.F.R. § 115.1(b).

2. These prohibitions apply to a federal contractor who makes contributions to any political party, political committee, federal candidate, or “any person for any political purpose or use.” 11 C.F.R. § 115.2(a).

VI. Respondent violated 52 U.S.C. § 30119(a)(1) and 11 C.F.R. § 115.2(a) by making federal contractor contributions.

VII. Respondent will take the following actions:

1. Respondent will pay a civil penalty to the Commission in the amount of seventeen thousand five hundred dollars (\$17,500) pursuant to 52 U.S.C. § 30109(a)(5)(A).

2. Respondent will cease and desist from violating 52 U.S.C. § 30119(a)(1) and 11 C.F.R. § 115.2(a).

VIII. The Commission, on request of anyone filing a complaint under 52 U.S.C. § 30109(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this Agreement. If the Commission believes that this Agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

IX. This Agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire Agreement.

X. Respondent shall have no more than 30 days from the date this Agreement becomes effective to comply with and implement the requirements contained in this Agreement and to so notify the Commission.

XI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written Agreement shall be enforceable.

FOR THE COMMISSION:

Lisa J. Stevenson
 Acting General Counsel

BY: **Charles Kitcher**
 Charles Kitcher
 Associate General Counsel
 for Enforcement

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Date

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Conciliation Agreement
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FOR THE RESPONDENT:



Jessica Furst Johnson
Counsel for Medical Place, Inc.

2-24-2023

Date