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By OGC/CELA at 4:40 pm, Jun 27, 2022

June 27, 2022

VIA EMAIL at cela@fec.gov

Roy Q. Luckett
 Acting Assistant General Counsel
 Federal Election Commission
 Office of Complaints Examination
 & Legal Administration
 Attn: Christal Dennis, Paralegal
 1050 First Street, NE
 Washington, DC 20463

Re: MUR 8014: Response of Irene Armendariz Jackson, Irene for Congress, and Thomas Datwyler in his official capacity as treasurer

Dear Mr. Luckett:

We represent Irene Armendariz Jackson, Irene for Congress, and Thomas Datwyler in his official capacity as treasurer (collectively, the “Respondents”), and we write in response to your letter regarding the Complaint filed in the above-referenced matter. The Complaint alleges, based substantially on conjecture, that Respondents violated the Federal Election Campaign Act of 1971, as amended (the “Act”), by 1) taking a non-commercial plane flight in connection with her congressional campaign, and 2) accepting excessive anonymous contributions. This politically motivated Complaint, filed by Mrs. Jackson’s opponent in the congressional race, contains no evidence of wrongdoing and is insufficient on its face. The Commission should therefore find no reason to believe a violation occurred.

I. Private Air Travel

Factual Background

Irene Armendariz Jackson is a candidate for the House of Representatives for Texas’ 16th Congressional District. In addition to running for Congress, Mrs. Jackson remains active with many political organizations in and around El Paso. One such organization, Latinos for Trump, participated in an event on or about May 13, 2021, in Phoenix, AZ (the “Event”). The Event focused on promoting election integrity efforts and other conservative policies. Mrs. Jackson flew to the Event by private plane, paid for by a third party, and was among the speakers at the Event. While not particularly clear due to the low quality of the video cited in the Complaint, Mrs. Jackson’s speech contained general conservative, pro-life messaging. Although she made a fleeting reference to herself as a candidate for the 16th District, Mrs. Jackson did not otherwise mention her campaign or candidacy, did not mention her opponent, did not mention any political party, and did not solicit contributions to her campaign—and the Complaint does not allege such activities occurred.

Legal Standard

Under the Honest Leadership and Open Government Act of 2007 (“HLOGA”), candidates for the U.S. House of Representatives, their authorized committees, and their leadership PACs are, with limited exception, prohibited from making any expenditure for non-commercial air travel.¹ Commission regulations similarly prohibit House candidates from accepting in-kind contributions of non-commercial air travel.² The prohibition on House candidates’ non-commercial air travel applies to any “campaign traveler,” which includes “any candidate traveling in connection with an election for Federal office or any individual traveling in connection with an election for Federal office on behalf of a candidate or political committee.”³

To determine whether an event is campaign-related, and thus whether travelers to that event are “campaign travelers,” the Commission considers factors “including the setting, timing, and statements or expressions of the purpose of an event and the substance of the remarks or speech made.”⁴ “In particular, if an event includes express advocacy on behalf of a candidate or against the candidate’s opponent, or if the candidate solicits contributions at the event, the Commission may conclude the event is campaign-related.”⁵

In MUR 7354, the FEC General Counsel’s Office asserted that a series of events were campaign-related because 1) speakers appeared in front of a backdrop with posters featuring a candidate’s campaign logo, 2) at the event, yard signs and stickers that expressly advocated a candidate’s election were distributed, 3) event speakers solicited contributions to a candidate’s campaign, 4) the candidate promoted his own candidacy and criticized his primary opponent, and 5) the candidate “exhorted attendees … to help him win his election.”⁶ Despite these factors, the Commission failed to adopt OGC’s recommendation that the events were campaign-related.⁷ In MUR 7755, the Commission adopted OGC’s recommendation that an event was not campaign-related because, among other reasons, “the candidate did not solicit funds for his campaign at the event and the event was not structured by its hosts as a fundraising event for the candidate.”⁸

Discussion

There is no information in the Complaint to support a finding that the Event was campaign-related. Instead, it was an event focused on discussing election integrity and other conservative policy issues. There is no indication, and the Complaint does not claim, that any portion of the Event contained express advocacy or solicited contributions for any candidate, let alone for Mrs. Jackson. Other than a *de minimis* reference to herself as a candidate, Mrs. Jackson’s speech made

¹ 52 U.S.C. § 30114(c)(2). Two exceptions to the prohibition are travel on government-operated aircraft and travel on aircraft owned or leased by the candidate. 52 U.S.C. § 30114(c)(2)(B), (3).

² 11 C.F.R. §§ 100.93(c)(2), 113.5(b). Commercial travel is defined as travel aboard “an aircraft operated by an air carrier or commercial operator certificated by the Federal Aviation Administration, provided that the flight is required to be conducted under FAA air carrier safety rules....” 11 C.F.R. § 100.93(a)(3)(iv)(A).

³ *Id.* § 100.93(a)(3)(i)(A).

⁴ See Factual & Legal Analysis (“F&LA”) at 7, MUR 7755 (Cory Gardner for Senate, *et al.*).

⁵ *Id.* at 7-8.

⁶ First General Counsel’s Report at 15-16, MUR 7354 (Friends of Chris McDaniel, *et al.*).

⁷ See May 28, 2021 Certification, MUR 7354.

⁸ F&LA at 8, MUR 7755.

no reference to her campaign, did not mention her opponent, and did not solicit contributions. Mrs. Jackson was not a scheduled or advertised speaker at the Event, which instead was open for any attendee to speak. The Complaint's exhibits show that Mrs. Jackson and others wore shirts supporting the third-party purpose of the Event as opposed to campaign shirts. The setting of the Event, taking place two states away from her district, almost a year and half before the general election, in front of an audience that likely included few if any individuals even eligible to vote in her election, further suggests that the Event was not campaign-related, but was instead a part of Mrs. Jackson's longstanding involvement in conservative causes.

The MURs cited in the Complaint to support its allegations are inapplicable to the present case. For instance, in MUR 6394, there was no dispute that the events the candidate attended were campaign-related. Instead, the respondents attempted to argue that they were not campaign travelers because they would have taken the non-commercial air travel irrespective of attending the campaign events. In MUR 6421, the candidate engaged in explicit campaign activity, recounting that he "met a lot of people, shook a lot of hands, saw a lot of constituents, and told them where I stand on the issues."⁹ With respect to MUR 7539, the Complaint's own summary of the case indicates that the respondent there engaged in significant and explicit campaign-related activity, stating the purpose of the trip was "to court voters and expound his policy positions."¹⁰ Again, this differs significantly from the single candidacy reference alleged in the Complaint.

Because the Event was not campaign-related, Mrs. Jackson was not a campaign traveler. Since she was not a campaign traveler, HLOGA's non-commercial air travel prohibition does not apply, and the Commission should find no reason to believe a violation occurred.

II. Anonymous Contributions

The Complaint also alleges that the Respondents accepted excessive anonymous contributions. Respondents believe that any reporting issues which may have once existed have been remedied through the Commission's RFAI process. Irene for Congress hired a professional compliance firm to address the issues flagged by the Commission, and as the Complaint notes, Respondents filed amended reports. If the Commission believes further amendments are necessary, Respondents welcome further RFAIs.

⁹ FGCR at 6, MUR 6421 (Dan Benishek *et al.*).

¹⁰ Compl. at 6. MUR 7539 does not appear to have yet been publicly released by the Commission, which deprives Respondents of the ability to meaningfully respond to the Complaint's allegations

For these reasons, the Commission should find no reason to believe a violation occurred and close the file.

Respectfully submitted,



Derek H. Ross
Scott Gast
*Counsel to Irene Armendariz Jackson,
Irene for Congress and Thomas
Datwyler in his official capacity as treasurer*



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1050 First Street, NE
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STATEMENT OF DESIGNATION OF COUNSEL

Provide one form for each Respondent/Witness

EMAIL cela@fec.gov

AR/MUR/RR/P-MUR# 8014

Name of Counsel: Derek Ross

Firm: Compass Legal Group

Address: 300 Independence Ave. SE

Washington, DC 20003

Office#: 202-937-2309

Fax#: _____

Mobile#: ██████████

E-mail: dross@compasslegal.org

The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

06 / 18 / 2022

Date

(Signature - Respondent/Agent/Treasurer)

Title

Irene Armendariz-Jackson

(Name – Please Print)

Irene Armendariz-Jackson

RESPONDENT:

(Please print Committee Name/ Company Name/Individual Named in Notification Letter)

Mailing Address: contact through counsel
(Please Print)

Home#: _____ Mobile#: _____

Office#: _____ Fax#: _____

E-mail: _____

This form relates to a Federal Election Commission matter that is subject to the confidentiality provisions of 52 U.S.C. § 30109(a)(12)(A). This section prohibits making public any notification or investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.

Rev. 2021



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Name of Counsel: Derek Ross

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Address: 300 Independence Ave. SE

Washington, DC 20003

Office#: 202-937-2309

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Mobile#: ██████████ _____

E-mail: dross@compasslegal.org

The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

06 / 17 / 2022

A handwritten signature in black ink, appearing to read "T. Datwyler".

Date

(Signature - Respondent/Agent/Treasurer)

Treasurer

Title

Thomas Datwyler

(Name – Please Print)

RESPONDENT:

Irene for Congress and Thomas Datwyler in his official capacity as treasurer

(Please print Committee Name/ Company Name/Individual Named in Notification Letter)

Mailing Address: contact through counsel
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