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May 22, 2023

VIA E-MAIL

Mr. Roy Q. Lockett
Acting Assistant General Counsel
Office of Complaints Examination & Legal Administration
Federal Election Commission
Attn: Christal Dennis, Paralegal (cela@fec.gov)
1050 First Street, N.E.
Washington, D.C. 20463

Re: MUR 8123 – Response of Marc Polymeropoulos, Douglas Wise, Paul Kolbe,
John Sipher, Ronald Marks, Emile Nakhleh & Gerald O'Shea

Dear Mr. Lockett:

I represent the above seven named individuals in response to former President Donald J. Trump's March 14, 2023, complaint to the Federal Election Commission that was received by your office on March 22, 2023, and assigned case number MUR 8123 ("Complaint"). Respectfully, Mr. Trump's complaint is frivolous and should be dismissed outright with no further action required.

Mr. Trump alleges that my clients, along with forty-four other individual signatories to the October 19, 2020 "Public Statement on the Hunter Biden Emails" ("Public Statement"), conspired with the Biden for President campaign and violated the Federal Election Campaign Act ("FECA"). I am aware that many of the other individuals/entity listed in the complaint have already formally filed their responses. Given that there is little, if anything, to distinguish my clients from each other or the other signatories, I respectfully adopt the arguments espoused by my colleagues.

But to summarize our response, it is our assertion that the following reasons, but not necessarily limited to these, mandate dismissal of Mr. Trump's complaint:

- While FECA bars federal contractors from making contributions to federal campaigns, *see* 52 U.S.C. § 30119; 11 CFR § 115.2(a), none of my clients should be considered "federal contractors" under the Act simply because they previously executed secrecy non-disclosure agreements during their course of their federal employment, or afterwards, that requires in perpetuity protection of classified information;
- As a matter of law and policy, the mere act of private citizens signing a statement on a matter of public interest cannot reasonably be considered as an in-kind "contribution" or "expenditure" under FECA. *See* 52 U.S.C. § 30101(8)(A), 11 C.F.R. §§ 100.52(a), 100.111(a);
- None of my clients coordinated their involvement with the Public Statement with the Biden campaign, and only Mr. Polymeropoulos was aware that co-signor Michael Morrell had even vaguely been in contact with someone at the campaign. Even so, there was no knowledge of any actual substantive coordination, nor is there believed to have been any (particularly since Mr. Polymeropoulos authored the initial talking points that comprised the Statement); and,
- The Commission's precedents require that a Complaint must present facts sufficient to show a violation has occurred. On its face, the Complaint offers nothing more than speculative conclusory allegations that completely lack even a scintilla of supporting evidence. If any characterization can be attributed to Mr. Trump's Complaint, it is frivolous, absurd and politically crafted to promote his own self-interests.

Based on the above, and any discretionary authority the Commission chooses to apply to this matter, we respectfully request this Complaint be dismissed outright.

If any additional information is desired, please do not hesitate to contact me and we will be happy to cooperate. Thank you for your consideration.

Sincerely,

s/Mark S. Zaid

Mark S. Zaid

cc: Clients