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September 20, 2023

Lisa J. Stevenson
Acting General Counsel
Federal Election Commission
1050 First Street, NE
Washington, D.C. 20463

Re: Response of Passionforest, LLC – MUR 8150

Dear Ms. Stevenson:

We write on behalf of our client, Passionforest, LLC (“Passionforest” or “the LLC”), in response to your letter dated August 1, 2023 and the accompanying complaint (“the Complaint”). The Commission should find no reason to believe that Passionforest violated the Federal Election Campaign Act of 1971, as amended (“the Act”).

The Complaint alleges two violations of the Act. First, the Complaint contends that Passionforest acted as a “straw donor” used by “unknown persons” to “funnel” a contribution to an independent expenditure-only political committee, SOS America PAC (“SOS America”) in violation of 52 U.S.C. § 30122 (“Section 30122”).¹ Second, based on a series of online searches and the fact that the LLC appears to share a name (if nothing else) with an artificial flower retailer located in China, the Complaint infers that the true source of the funds may have been a foreign national, which would violate 52 U.S.C. § 30121 (“Section 30121”).

These allegations are not supported by the facts. As the Commission recognized in MUR 7965 (Iho Araise LLC), the use of an LLC to make an otherwise permissible political contribution does not automatically give rise to a violation of Section 30122.² Instead, the essence of a Section 30122 violation is the use of a “straw donor” to conceal the true source of a contribution.

¹ See MUR 8150, Complaint Submitted by Campaign Legal Center (July 25, 2023), at 1.

² See generally MUR 7965 (Iho Araise LLC), Notification with Factual and Legal Analysis to Iho Araise LLC (Oct. 6, 2022) (“MUR 7965 F&LA”).

The circumstances of the LLC’s contribution to SOS America (“the Contribution”) clearly demonstrate the absence of a straw donor scheme. As in MUR 7965, this matter involves: (i) a longstanding LLC; (ii) established for legitimate estate planning and tax purposes; (iii) that made a contribution for administrative convenience using funds it held for a significant period of time (here, over a year before the date of the contribution); and (iv) with no other circumstances indicating that funds were otherwise funneled through the LLC, or that efforts were made to conceal the true source of the funds. The sole member of the LLC—a business executive with essentially no experience of making political contributions—has declared under penalty of perjury that he did not funnel money through Passionforest to conceal the true source of funds used to make the Contribution, and this statement is corroborated by the circumstances of the Contribution. Given these facts, the Commission should find no reason to believe Passionforest violated Section 30122.

As for the alleged violations of Section 30121, they appear to be the product of nothing more than coincidence, conjecture, and mistaken assumptions. While Passionforest appears (purely coincidentally) to share a name with a seller of artificial flower arrangements based in Guangzhou, that is where the connection ends. The LLC is not engaged in the business of selling plastic plants, has no presence in the People’s Republic of China, and has received no funding whatsoever from foreign nationals. As such, the Complaint’s allegations regarding Section 30121 are based on wild speculation, are wholly without merit, and should also be dismissed.

I. Factual Background

Passionforest was established on November 13, 2021 at the direction of Ivan Soto-Wright, a successful entrepreneur who is the Co-Founder and Chief Executive Officer of MoonPay, Inc.³ The decision to establish the LLC was the product a long-term estate-planning and tax efficiency process conducted by Mr. Soto-Wright together with his legal counsel and tax advisors.⁴ In brief, the purpose of Passionforest is to hold funds, investment accounts, and other assets which ultimately belong solely to Mr. Soto-Wright, as opposed to other vehicles established by Mr. Soto-Wright to hold assets that are jointly owned with other persons.⁵ In this capacity, Passionforest holds certain long-term investments, such as valuable works of art.⁶ The LLC also holds liquid accounts which are regularly used to pay Mr. Soto-Wright’s expenses, such as expenses related to the upkeep and maintenance of Mr. Soto-Wright’s home.⁷

In October 2022, Passionforest made the Contribution to SOS America, which is an independent-expenditure only political committee registered with the Commission.⁸ Mr. Soto-Wright is not an experienced political contributor—in fact, before the Contribution was made on

³ Declaration of Ivan Soto-Wright (“Soto-Wright Decl.”), at 3, 5.

⁴ Soto-Wright Decl., at 4.

⁵ Soto-Wright Decl., at 5.

⁶ Soto-Wright Decl., at 5.

⁷ Soto-Wright Decl., at 7.

⁸ As the Complaint notes, in the memo field accompanying its report of the Contribution, SOS America reported “flower wholesaler.” We can only assume that SOS America’s compliance team conducted similar online searches as the complainants, and made a similar assumption about the identity of Passionforest. In any event, we can confirm that Mr. Soto-Wright never suggested to SOS America that Passionforest was a flower wholesaler.

October 28, 2022, Mr. Soto-Wright had **never** made a political contribution of any kind.⁹ As such, when determining how to support SOS America, Mr. Soto-Wright turned to a vehicle that he regularly used to pay his personal expenses: Passionforest.

At the time Passionforest made the Contribution to SOS America, the LLC had been in existence for over a year.¹⁰ The funds used to make the contribution were transferred to Passionforest shortly after it was established—again, over a year before the date of the Contribution.¹¹ The circumstances of the Contribution clearly show that Mr. Soto-Wright used Passionforest to contribute to SOS America purely as a matter of administrative convenience, and without any design to conceal the true source of the funds.¹²

Mr. Soto-Wright was aware that SOS America could accept contributions from an LLC such as Passionforest. However, given his relative inexperience in matters of campaign finance, he was not aware of the Commission’s rules regarding attribution of LLC contributions. In December 2022 (over a month after the date of the Contribution), SOS America sent Mr. Soto-Wright an attribution form.¹³ Being entirely unfamiliar with the form, Mr. Soto-Wright forwarded the form to his employee, as is his general practice with such requests.¹⁴ Mr. Soto-Wright’s employee was also unfamiliar with the form, and consulted with legal counsel.¹⁵ Ultimately, the form was not completed.¹⁶ SOS America did not follow up on the issue further until this summer. Based on these facts, Mr. Soto-Wright reasonably assumed that he was not required to complete the form, and that he had no further obligations in the matter.¹⁷

The funds and other assets held by Passionforest were provided to the LLC by Mr. Soto-Wright, who is a U.S. citizen.¹⁸ Passionforest is used to hold funds, investment accounts, and other assets—it is not engaged in the business of selling artificial flowers, or in online commerce of any kind.¹⁹ Similarly, Passionforest does not do any business in the People’s Republic of China, and no funds or other assets have ever been provided to Passionforest by a foreign national.²⁰

II. Analysis

Section 30122 provides that no person “shall make a contribution in the name of another person.”²¹ The most common fact patterns involving a violation of Section 30122 are set out as examples in the Commission’s regulations. First, Section 30122 is violated where a person gives “money or anything of value, all or part of which was provided to the contributor by another

⁹ Soto-Wright Decl., at 11.

¹⁰ Soto-Wright Decl., at 3, 9.

¹¹ Soto-Wright Decl., at 6.

¹² Soto-Wright Decl., at 11.

¹³ Soto-Wright Decl., at 12.

¹⁴ Soto-Wright Decl., at 12.

¹⁵ Soto-Wright Decl., at 12.

¹⁶ Soto-Wright Decl., at 12.

¹⁷ Soto-Wright Decl., at 12.

¹⁸ Soto-Wright Decl., at 16.

¹⁹ Soto-Wright Decl., at 15.

²⁰ Soto-Wright Decl., at 16.

²¹ 52 U.S.C. § 30122.

person (the true contributor).”²² The second fact pattern involves “[m]aking a contribution of money or anything of value and attributing as the source of the money or thing of value another person when in fact the contributor is the true source.”²³ Both fact patterns involve affirmative steps on the part of the persons involved to conceal the true source of a campaign contribution, either by giving money to pay for a contribution wrongly attributed to another party, or by misrepresenting the identity of a contributor.

The development of independent expenditure-only political committees complicated this previously well-settled area. For the first time, corporations could give to political committees without such contributions being prohibited or subject to any monetary limit. But corporations are ultimately controlled by individuals, and corporate funds often derive from other sources. This raises the question of when a contribution made by a corporate entity using funds that it possesses should nonetheless be treated as a straw donor contribution.

For some time, Commissioners differed on the appropriate standard to apply in such cases.²⁴ In MURs 7965 and 7903 (Tomfoolery, LLC), however, the Commission has established a clear standard for applying Section 30122 to LLC contributions. Under this standard, “the Commission will examine the structure of the transaction itself and the arrangement between the parties to determine who in fact ‘made’ a given contribution.”²⁵

The two MURs identify a number of factors that indicate whether or not there is reason to believe that a contribution by an LLC was made in violation of Section 30122. These include the following:

- Whether the LLC in question was **established for a legitimate purpose** (e.g., “long-term estate planning” as in the case of MUR 7965), or for the specific purpose of making the contribution.²⁶
- Whether **funds were transferred** to the LLC to enable it to make the contribution. In MUR 7903, for example, the fact that “the provision of outside funds was necessary for [the LLC] to make the contributions” provided strong evidence of a Section 30122

²² 11 CFR § 110.4(b)(2)(i).

²³ 11 CFR § 110.4(b)(2)(ii).

²⁴ In a Statement of Reasons accompanying five enforcement matters involving potential Section 30122 violations, three Commissioners argued that the standard should be “whether the funds used to make a contribution were intentionally funneled through a closely held corporation or corporate LLC for the purpose of making a contribution that evades the Act’s reporting requirements, making the individual, not the corporation or corporate LLC, the true source of the funds.” MURs 6485 (W Spann LLC), 6487 and 6488 (F8 LLC), 6711 (Specialty Investments Group, Inc.), and 6930 (SPM Holdings LLC), Statement of Reasons of Chairman Matthew S. Petersen and Commissioners Caroline C. Hunter and Lee E. Goodman (Apr. 1, 2016), at 2. Three other Commissioners argued that a violation is present where “an individual is the source of the funds for a contribution and the LLC merely conveys the funds at the direction of that person.” MURs 6485 (W Spann LLC), 6487 and 6488 (F8 LLC), 6711 (Specialty Investments Group, Inc.), and 6930 (SPM Holdings LLC), Statement of Reasons of Vice Chairman Steven T. Walther, Commissioner Ann M. Ravel, and Commissioner Ellen L. Weintraub (Apr. 1, 2016), at 4.

²⁵ MUR 7965 F&LA, at 7.

²⁶ MUR 7965 F&LA, at 8.

violation.²⁷ By contrast, in MUR 7965, the Commission pointed to the absence of “information indicating that the funds used to make the contribution in fact belonged to some other individual or individuals *and was transferred* to [the LLC] for the purpose of making a contribution.”²⁸

- Whether the LLC was **formed only a short time before** the making of the contribution. In MUR 7965, the Commission noted that “a short timeline between formation of an organization and its contribution” could be probative of a conduit contribution, but also found that a gap of “five months” was long enough that this factor was not present.²⁹

The Commission’s analysis in these MURs is also useful in demonstrating what factors are not required to disprove a Section 30122 violation. In MUR 7965, in particular, the Commission held that the “lack of an online presence” and the absence of independent business activities does not demonstrate that an LLC is acting as a straw donor.³⁰

This matter falls clearly within the precedent set by MUR 7965. Just as in that matter, Passionforest was established for a legitimate purpose—i.e., long-term estate and tax efficiency planning. As in MUR 7965, the funds used to make the Contribution were not transferred to enable the LLC to make the contribution—instead, they had been held by the LLC for a significant period of time before the contribution was made (in this case, over a year). Like Iho Araise LLC (the LLC at issue in MUR 7965), Passionforest was established significantly before the date of the Contribution—in fact, the time period here (over one year) is significantly longer than that at issue in MUR 7965 (five months).

Overall, the circumstances of the Contribution from Passionforest to SOS America do not support a conclusion that Mr. Soto-Wright funneled money through the LLC to the recipient in order to conceal his identity as the true contributor.³¹ Mr. Soto-Wright is an inexperienced political contributor, and did not realize the potential for an LLC to act as a straw donor.³² Just like Arjun Sethi and Harshita Pant (the members of Iho Araise LLC), Mr. Soto-Wright arranged for a longstanding LLC established for legitimate purposes to use its long-held funds to make a contribution for administrative ease. This is not a straw donor scheme, and just as in MUR 7965 the Commission should find no reason to believe Section 30122 was violated.

As far as the Complaint’s allegations involving Section 30121 are concerned, they are also meritless and should be dismissed. Based on a combination of online sleuthing and pure speculation, the Complaint alleges that Passionforest is engaged in the business of selling artificial flowers online, that it is affiliated with a Chinese national named Rao Juhui, and that it is based in Guangzhou, China.

²⁷ MUR 7903 (Tomfoolery, LLC), Notification with Factual and Legal Analysis to Tomfoolery, LLC and Thomas A. Chavez (Oct. 3, 2022) (“MUR 7903 F&LA”), at 5.

²⁸ MUR 7965 F&LA, at 7 (emphasis added).

²⁹ MUR 7965 F&LA, at 7-8.

³⁰ MUR 7965 F&LA, at 8.

³¹ Soto-Wright Decl., at 13.

³² Soto-Wright Decl., at 12.

This is a clear case of mistaken identity. The Passionforest that made the Contribution has no connection whatsoever with plastic flower arrangements, online commerce, Mr. Juhui, or the city of Guangzhou. Accordingly, the Commission should also find no reason to believe that Section 30121 was violated.

Sincerely,

A handwritten signature in green ink, appearing to be 'S. C. Brown'.

HOLLAND & KNIGHT LLP

Samuel C. Brown

Charles E. Borden

DECLARATION OF IVAN SOTO-WRIGHT

1. My name is Ivan Soto-Wright.
2. I am over 18 years of age, and I am competent to testify to the matters set forth herein.
3. On November 13, 2021, I directed my attorney to create Passionforest, LLC ("Passionforest"), a Delaware limited liability company. A copy of the certificate of formation is attached as Exhibit A.
4. Passionforest was established as part of a long-term estate planning and tax efficiency strategy that I have undertaken over a number of years with the advice and assistance of legal counsel and tax advisors.
5. Passionforest holds a number of assets of which I am the sole ultimate owner. A primary purpose of establishing Passionforest is to hold these assets separate from my interest in MoonPay Inc., a company of which I am co-founder and Chief Executive Officer. In particular, Passionforest holds a number of investment accounts and artworks which are held for purposes of investment.
6. The assets described above were transferred to Passionforest shortly after it was established in 2021.
7. Passionforest also pays a number of expenses that I incur. For example, Passionforest pays expenses related to the upkeep, maintenance, and improvement of my primary residence.
8. Passionforest was not created for the purpose of making political contributions. As described above, it was created to consolidate, protect, and grow certain investments and other assets of which I am the ultimate owner.
9. On October 28, 2022, Passionforest made a contribution ("the Contribution") to SOS America PAC ("SOS America"), an independent-expenditure only political committee registered with the Federal Election Commission. The Contribution was made on an expedited basis, in response to urgent requests from SOS America.
10. The Contribution was made using funds held by Passionforest since shortly after it was formed, over a year before the date of the Contribution.
11. I am inexperienced in matters of campaign finance. Aside from the Contribution, I have never made a contribution of any amount to any federal candidates, political parties, or other entities registered with the Federal Election Commission.
12. In December 2022, SOS America sent me an attribution form, asking if the contribution from Passionforest should be attributed to an individual. Being unfamiliar with this form, I forwarded the form to one of my employees, as I often do with similar forms and other requests. My employee was also unfamiliar with the form, and consulted with legal counsel, but

ultimately the form was not completed. For its part, SOS America did not follow up on the issue further (reaching out again only this summer). As such, I assumed that it was not actually necessary that I complete the form, and I did not pursue the matter further.

13. On July 25, 2023, I learned that the Campaign Legal Center ("CLC") had filed a complaint ("the Complaint") alleging that Passionforest violated 52 U.S.C. § 30122 ("Section 30122") by acting as a straw donor to effect a contribution in the name of another. Before learning of the complaint, I was not familiar with Section 30122, or the fact that federal law prohibits straw donor contributions.

14. I did not funnel money through Passionforest in order to conceal the true source of funds used to make the Contribution. Passionforest made the Contribution solely as a matter of financial convenience, and because it holds investment accounts which I use to pay certain expenses.

15. Passionforest is not involved in the business of selling artificial flowers (whether online or in any other venue).

16. All of Passionforest's funds and other assets were provided by me, a United States citizen. None of the funds or other assets were provided by any foreign national, including any national of the People's Republic of China.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on September 19, 2023


Ivan Soto-Wright