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BEFORE THE FEDERAL ELECTION COMMISSION

American Democracy Legal Fund
455 Massachusetts Avenue, NW
Washington, DC 20001

OFFICE OF GENERAL
COUNSEL

Complainant,

v.

Rick Wilson
Reform Washington
610 South Boulevard
Tampa, FL 33606

MUR # 7018

Nancy H. Watkins, Treasurer
Reform Washington
610 South Boulevard
Tampa, FL 33606

Paul Kilgore
Carlos Lopez-Cantera for Senate
2300 Coral Way
Miami, FL 33131

Respondents.

COMPLAINT

This complaint is filed under 52 U.S.C. § 30109(a)(1) against Rick Wilson; Reform Washington PAC and its Treasurer, Nancy H. Watkins, in her official capacity; and Carlos Lopez-Cantera for Senate, and its treasurer, Paul Kilgore, in his official capacity (collectively, "Respondents"), for violating the Federal Election Campaign Act of 1971, as amended (the "Act") and Federal Election Commission ("FEC" or "Commission") regulations. According to their own statements, Respondents appear to have engaged in or will soon be engaging in illegal coordination through the use of a common vendor, and the Commission should act immediately

to investigate the full scope of these violations, ensure they cease immediately, and seek the appropriate financial penalties.

1. FACTUAL BACKGROUND

Carlos Lopez-Cantera ("Lopez-Cantera") is a declared candidate for Florida's 2016 senatorial campaign.¹ His principal campaign committee is Carlos Lopez-Cantera for Senate.² Reform Washington is an independent expenditure-only committee or Super PAC supporting Lopez-Cantera's federal candidacy.³ Rick Wilson is the Officer/Director of Intrepid Media, Inc., a company registered in Tallahassee, Florida.⁴ In fiscal year 2015, the Carlos Lopez-Cantera for Senate Committee reported two disbursements totaling \$2,958 on August 11, 2015 and September 2, 2015 to Intrepid Media, Inc. for "marketing consulting."⁵ Also in fiscal year 2015, Reform Washington PAC reported a disbursement of \$7,500 on December 18, 2015 to Intrepid Media, Inc. for "media consulting."⁶ Until recently, Rick Wilson worked as a consultant advising Lopez-Cantera's campaign.⁷ On January 18, 2016, news media reported that Rick

¹ FEC Form 2, Statement of Candidacy, Carlos Lopez-Cantera (July 22, 2015), available at: <http://docquery.fec.gov/pdf/054/201507220200230054/201507220200230054.pdf>.

² *Id.*

³ See FEC Form 1, Statement of Organization, Reform Washington (April 8, 2015), available at: <http://docquery.fec.gov/pdf/148/15951114148/15951114148.pdf#navpanes=0>; see also Andrea Drusch, *Republican Candidate Adopts Jeb Bush Super-PAC Strategy for the Senate*, The National Journal (May 19, 2015), available at: <http://www.nationaljournal.com/politics/2015/05/19/Republican-Candidate-Adopts-Jeb-Bush-Super-PAC-Strategy-Senate>.

⁴ See "Intrepid Media, Inc.", Florida Department of State, Division of Corporations (last visited Jan. 28, 2016), <http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=INTREPIDMEDIA%20P020000775660&aggregateId=domp-p02000077566-6a47a6b1-5934-403e-86e0-66ca7ef6badf&searchTerm=Intrepid%20Media&listNameOrder=INTREPIDMEDIA%20P020000775660> (registered to "Frederick G. Wilson").

⁵ See FEC Form 3, Report of Receipts and Disbursements, Carlos Lopez-Cantera for Senate (October 20, 2015), available at <http://docquery.fec.gov/pdf/982/201510200200289982/201510200200289982.pdf>.

⁶ See FEC Form 3X, Report of Receipts and Disbursements, Reform Washington (January 31, 2016), available at: <http://docquery.fec.gov/pdf/493/201601319004975493/201601319004975493.pdf>.

⁷ See Lloyd Dunkelberger, *Running from No. 2 Post a Tough Task*, Herald Tribune (July 13, 2015), available at <http://politics.heraldtribune.com/2015/07/13/running-from-no-2-post-a-tough-task/>.

Wilson is leaving the Carlos Lopez-Cantera campaign to work at Reform Washington.⁸ And not only is he “transitioning from serving as an advisor to Lopez-Cantera in his bid for the U.S. Senate to working for Reform Washington,” the news reports made clear that “he’ll still be working on getting CLC [Lopez-Cantera] elected this fall.”⁹

2. LEGAL ANALYSIS

It is clear that Respondents either are engaging in, or will imminently be engaging in, illegal coordination through the use of a common vendor, Rick Wilson and/or Intrepid Media, Inc. Federal law treats expenditures by a non-party, non-candidate sponsor that are coordinated with a campaign as in-kind contributions to the candidates or political party with whom they were coordinated. Specifically, “expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate.”¹⁰ An expenditure for a communication is a “coordinated communication” and an in-kind contribution to a campaign if it is (1) paid for by an entity other than the candidate or candidate’s campaign; (2) meets certain content standards, including by being a public communication that expressly advocates the election or defeat of a clearly identified candidate; and (3) meets certain conduct standards, including the payor and the candidate, the candidate’s opponent, or a political party using a common vendor.¹¹

Respondents will imminently satisfy the paid-for and content prongs of the coordinated

⁸ See Mitch Perry, *Rick Wilson Transitions to Carlos Lopez-Cantera’s Super PAC*, Florida Politics (January 18, 2016), <http://floridapolitics.com/archives/198899-198899>.

⁹ *Id.*

¹⁰ 52 U.S.C. § 30116(a)(7)(B)(i).

¹¹ See 11 C.F.R. §§ 109.21(a), (c)(3), (d)(4).

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communications test. Reform Washington raised \$923,642 in the last calendar year.¹² It has filed its Statement of Organization with the FEC in which it stated its intent to make independent expenditures on behalf of or in opposition to a federal candidate and engage in express advocacy. Reform Washington declared that the “committee will not use those funds to make contributions . . . via coordinated communications, to federal candidates or committees.”¹³ Yet it has impermissibly hired Wilson, whose immediate past employment of at least two weeks ago was with Lopez-Cantera’s campaign. And, as stated above, it paid Wilson’s company, Intrepid Media, Inc., \$7,500 for consulting services at a time when Wilson was employed as a consultant by the Lopez-Cantera campaign and received payment through Intrepid Media, Inc.

Lastly, Respondents are blatantly using the same vendor and/or the same employee, thereby satisfying the conduct prong. The conduct prong of the coordinated communication test for a common vendor is satisfied if:

- the entity paying for a communication, or an agent of such entity, contracts with or employs a commercial vendor to create, produce, or distribute the communication;
- that commercial vendor, including any owner, officer, or employee of that commercial vendor, has provided certain services to the candidate who is clearly identified in the communication, or the candidate’s authorized committee during the previous 120 days; and
- that commercial vendor uses or conveys to the entity paying for a communication information about the campaign plans, projects, activities, or needs of the clearly

¹² See FEC Form 3X, Report of Receipts and Disbursements, Reform Washington (January 31, 2016), available at: <http://docquery.fec.gov/pdf/493/201601319004975493/201601319004975493.pdf>.

¹³ *Supra* note 3.

identified candidate or information used previously by the commercial vendor in providing services to the candidate who is clearly identified in the communication, or the candidate's authorized committee and that information is material to the creation, production, or distribution of the communication.¹⁴

Covered services include development of media strategy; selection of audiences; polling; fundraising; developing the content of a public communication; producing a public communication; identifying voters or developing lists; selecting personnel, contractors or subcontractors; or consulting or otherwise providing political or media advice.¹⁵

Lopez-Cantera's campaign filings make clear that his campaign has recently paid Intrepid Media, Inc. for consulting and marketing services. Intrepid Media, Inc. will apparently perform the same or similar services for Reform Washington and has already received payments for its work with Reform Washington. In so doing, Respondents blatantly disregard the FEC's 120 day prohibition. The cooling off period from his time as consultant to Lopez-Cantera's campaign has barely begun. Until 120 days have passed, any communication produced by Reform Washington will be a coordinated communication under FEC regulations. Furthermore, that Reform Washington and Lopez-Cantera's campaign have both already made payments to Rick Wilson through Intrepid Media, Inc. strongly suggests that illegal coordination has already occurred in violation of FEC regulations. If Reform Washington intends to engage Rick Wilson's services without involving his company, Intrepid Media, Inc., it will still be violating the conduct prong for sharing a former employee. The conduct prong of the coordinated communication test for a former employee is satisfied if: "[t]he communication is paid for by a person, or by the employer

¹⁴ Id. § 109.21(d)(4).

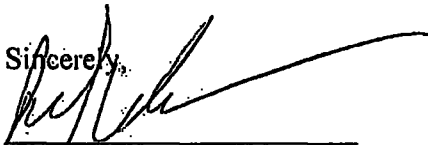
¹⁵ See *id.* § 109.21(d)(4)(ii).

of a person, who was an employee or independent contractor of the candidate who is clearly identified in the communication, or the candidate's authorized committee, the candidate's opponent, the opponent's authorized committee, or a political party committee, during the previous 120 days."¹⁶ Rick Wilson, as a former independent contractor for Lopez-Cantera's campaign, is employed by Reform Washington which will pay for communications that expressly advocate for the election of Lopez-Cantera or expressly advocate his opponents' defeat.

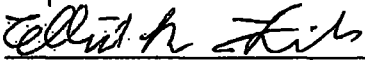
3. REQUESTED ACTION

As we have shown, Respondents either have violated the Federal Election Campaign Act or will soon so violate. We respectfully request the Commission to investigate these likely violations, including whether they were knowing and willful. Should the Commission determine that Respondents have violated FECA, we request that Respondents be enjoined from further violations and be fined the maximum amount permitted by law.

Sincerely,

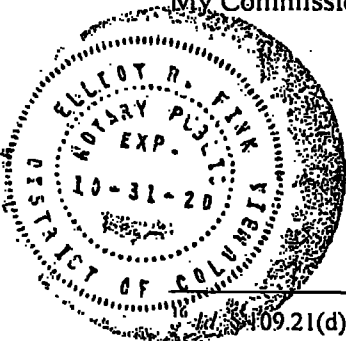


SUBSCRIBED AND SWORN to before me this 16 day of February, 2016.



Notary Public

My Commission Expires: 10/31/2020



§ 109.21(d)(5).