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OFFICE OF GENERAL
COUNSEL

Charles R. Spies
T 202.572.8663
F 202.572.6883
Email: csplies@clarkhill.com

Clark Hill PLC
1250 Eye Street NW
Suite 900
Washington, D.C. 20005
T 202.772.0909
F 202.772.0919

clarkhill.com

September 9, 2010

Via Facsimile: 202-219-3923

Jeff S. Jordan
Supervisory Attorney
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MURs 6337 – Response for Riemersma

Dear Mr. Jordan:

On Behalf of Jay Riemersma for Congress Campaign Committee and John Faber, Treasurer (collectively "Riemersma"), this letter is submitted in response to a complaint filed by a Mr. James R. Barry in the closing days of the Republican primary election for US Congress for the 2nd District of Michigan. The Complaint, captioned MUR 6337, is based upon nothing more than innuendo and incorrect "worst case" assumptions, which are refuted by the attached sworn affidavit. No evidence whatsoever of a violation of the Federal Election Campaign Act of 1972, as amended ("Act" or "FECA") is provided, and instead circumstantial inferences are simply re-stated multiple times. These inferences are incorrect and consequently this complaint should be promptly dismissed.

I. Coordination Allegation

The Complaint makes much of, and draws multiple adverse inferences from, the fact that both John Yob and his father Charles Yob both have had roles with the company Strategic National Campaign Management LLC ("Strategic National"), including going so far as to assert that because Messrs. Yob are related, it is "an inherent impossibility for the so-called independent communication not to have been coordinated between the Riemersma campaign and the Republican Member Senate Fund." Complaint at 4. This is, of course, absurd to assume that it is impossible for two accomplished political professionals to act independently of one another because they are relatives. Under Complainant's theory, it would be an "inherent impossibility" that the famous married political consultants James Carville and Mary Matalin could have worked separately and independently on competing campaigns, notwithstanding the facts to the

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contrary that Ms. Matalin was on the Senior Staff of President George H.W. Bush's campaign and Mr. Carville was on the Senior Staff of his fierce opponent, then Governor Bill Clinton.

A. Facts

In the instant matter, John Yob is and was employed as a political consultant by Strategic National, and through Strategic National's consulting agreement with the Jay Riemersma for Congress Campaign Committee, he provided strategic and campaign management consulting services to Riemersma. See Attachment 1. In addition, John's father Charles W. "Chuck" Yob is an independent contractor with whom Strategic National has at times contracted to do work on various elections. *Id.* Chuck Yob, however, was never employed or contracted with by Strategic National to do any work regarding the Riemersma campaign. *Id.*

Notwithstanding the fact that John Yob and Chuck Yob each had employment and/or consulting relationships with Strategic National, a multi-client political consulting firm, they did not have any contact whatsoever regarding the Republican Member Senate Fund ("RMSF") radio advertisement at issue in this complaint. *Id.* In addition, although John Yob was indeed at one point on the Board of Directors of RMSF, he resigned that Board position in December 2009, *Id.*, and currently has no affiliation with RMSF and had no involvement whatsoever with the RMSF advertisement in question here.

Mr. Barry in his complaint finds it "interesting" that the broadcast agreements for the RMSF advertisement were faxed from a machine used by Nevada U.S. Senate candidate Sharon Angle. Complaint at 3. While this fact may indeed be interesting to Mr. Barry, it is of no relevance to the question of coordination, other than to prove that it was, in fact, NOT John Yob who faxed the broadcast agreements, but instead it was Jordan Gehrke, and not John Yob, who very clearly signed the Agreements. See Complaint Exhibits 18 and 19. John Yob was not in Nevada at the time Mr. Gehrke submitted the broadcast agreements for RMSF, See Attachment 1, and did not have any knowledge or involvement with those RMSF agreements.

B. Legal Analysis

In order for the RMSF advertisement to be considered to be "coordinated" with Riemersma, and consequently be treated as an "illegal excess contribution" from the RMSF as alleged in the complaint, Complaint at 1, all three prongs of the three prong test found in FEC regulations at 11 C.F.R. 109.21 must be met. In this matter, the "conduct prong" found at 11 C.F.R. 109.21(d) has not been met, and therefore RMSF's communication was not coordinated with Riemersma. Not only did John Yob not have "substantial discussions," as described in 11 C.F.R. 109.21(d)(3) with Chuck Yob or anyone else affiliated with RMSF prior to the radio advertisement in question being created, produced or distributed, in fact John Yob did not have any communications whatsoever with Chuck Yob regarding the communications at issue in this complaint, *Id.*, and therefore the RMSF communication was not coordinated with the campaign.

Further indication that the conduct prong of 11 C.F.R. 109.21(d) has not been met is found in the Complaint, which notes that the RMSF advertisement is based upon "a common

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theme of Riemersma in his stump speech and campaign website..." Complaint at 4. The conduct prong is "not satisfied if the information material to the creation, production, or distribution of the communication was obtained from a publicly available source." 11 C.F.R. 109.21(d)(3). The complaint itself acknowledged that the content of the advertisement in question was derived from Riemersma's public stump speech and public campaign website, and that fact is fatal to the complaint's coordination allegations.

II. Anonymous Donations Allegation

Mr. Barry alleges that "there are many instances in which the Committee reported accepting anonymous contributions, including four that exceeded \$50.00 each." Complaint at 5. and cites to 11 C.F.R. 110.4 (c)(3), which provides that anonymous cash contributions in excess of \$50 must be promptly disgorged by the recipient campaign. The contributions noted in the complaint, however, are batches of unitemized contributions, all of which are in amounts of less than \$50 each. See Attachment 2. The batching and caging for these contributions in question has conducted by Washington Intelligence Bureau, Inc. ("WIB"), one of the oldest and most reputable mailing & caging service companies. WIB has assured Riemersma in writing that FEC guidelines were followed regarding the acceptance of anonymous cash donations, and that contributions were fully and accurately reported by Riemersma. See Complaint Exhibit 20.

III. Conclusion

The Commission may find "Reason to Believe" only if a complaint sets forth sufficient specific facts which, if proven true, would constitute a violation of the Act. See 11 C.F.R. 111.4 (a)(d). In the case of MUR 6337, the Complaint only sets forth innuendo and incorrect "worst case" assumptions. Those assumptions and inferences are refuted by John Yob's sworn affidavit, as well as by the documents and information provided in the Complaint itself, and as a result the Complaint fails to meet the minimal threshold for the Commission to find "reason to believe," which would entail providing facts which would constitute a violation of the Act. Consequently we respectfully request that the Commission promptly dismiss this Complaint as regards the Jay Riemersma for Congress Campaign Committee and John Fisher.

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If you have any questions or concerns regarding these matters, please do not h
contact me directly at (202) 572-8663. Thank you for your consideration in this matter.

Sincerely,



Charles R. Spies
CLARK HILL PLC

Enclosures.

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