

Fax: 07-219-3923

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A Public Interest and Fundamental Rights Law Firm

Staff Counsel
Barry A. Bostrom
Noel H. Johnson
Zachary S. Kester
Kaylan L. Phillips
Joseph A. Vanderhulst

Of Counsel
J. Christian Adams
Eric C. Bohnet
Cleta Mitchell
Michael Wilkins

September 11, 2013

Mr. Jeff S. Jordan
Office of the General Counsel
Federal Elections Commission
999 E Street, N.W.
Washington, DC 20463

OFFICE OF THE
GENERAL COUNSEL
FEDERAL ELECTIONS COMMISSION
2013 SEP 27 PM 12:30
FBI/DOJ

Re: MUR 6740 Supplemental Response

Dear Mr. Jordan,

We have been retained to represent the National Organization for Marriage ("NOM") and Mr. Brian Brown (collectively "Respondents") in MUR 6740. The Statements of Designation of Counsel were previously provided with Respondents initial response dated July 11, 2013. On August 12, 2013, we received the supplemental complaint filed with the FEC on July 29, 2013. Please accept this supplemental response on behalf of both NOM and Mr. Brown.

No action should be taken against NOM or Mr. Brown in this matter. Neither the complaint nor the supplemental complaint submitted by Mr. Karger contains any evidence or substantiation to support the allegation that the Federal Election Campaign Act of 1971 has been violated in any way. These submissions do not recite any facts which describe a violation of a statute or regulation over which the Commission has jurisdiction. 11 C.F.R. § 111.4(d)(4). The complaint and supplement are frivolous and should be dismissed.

Responses to Supplemental Allegations

Respondents will not address again the allegations made in the original complaint dated June 13, 2013. Those allegations were addressed in Respondents' July 11, 2013 response.

The July 25 supplement adds nothing legally relevant to this complaint. The complainant has still failed to satisfy the requirements of the laws and rules governing complaints. The complaint does not contain any "recitation of facts which describe a violation of a statute or regulation." 11 C.F.R. § 111.4(d)(3). None of the facts recited in the complaint, even if true, would constitute a violation of federal campaign finance law. The complaint does nothing more than speculate that NOM must have given money to the Family Leader for the purpose of securing an endorsement,

but provides no evidence and recites no facts that support this speculation. The complaint presents a syllogism with no premises.

The bare fact that The Family Leader experienced an upswing in donations received during its fiscal year starting on October 1, 2011, and closing on September 30, 2012, does not support the allegation that NOM paid Mr. Vander Plaats to endorse Senator Santorum for President in the 2012 primaries, much less that it did so with the candidate's knowledge.

There is nothing illegal or untoward about a prominent conservative leader endorsing his preferred candidate in a presidential primary. Neither is it illegal for a nonprofit organization to receive contributions, including from other social welfare organizations that have similarities in their missions. On the contrary, these actions are protected by the rights to freedom of speech and association guaranteed by the Fourteenth Amendment to the U.S. Constitution.

The complaint demands that the FEC uncover the sources of The Family Leader's donations, determine whether NOM has given additional donations to The Family Leader (which they did not), and delve into whether there are individuals who have supported both NOM and The Family Leader. But none of this information, in any conceivable way, would serve as evidence that NOM paid for an endorsement or that Senator Santorum had knowledge of the payment. It would, however, be a serious infringement upon the constitutional rights of The Family Leader, NOM, and any individuals involved. Federal law protects the identities of individuals who give to nonprofit organizations and their unauthorized disclosure is punishable as a felony. *See* 26 U.S.C. § 7213(a)(3). This complaint, therefore, would appear to be nothing more than an attempt to obtain private information about the associational actions of individuals and organizations, information that is protected from exploitation by our Constitution and our laws.

The Respondents have not violated any campaign finance laws or regulations. No communications took place between The Family Leader, Mr. Vander Plaats, NOM, and Mr. Brown concerning the purchase of an endorsement. By dismissing this complaint, the FEC can reinforce the principle that our country's laws cannot be used to harass political opponents.

Conclusion

In conclusion, this complaint should be dismissed and the FEC should take no further action against NOM or Mr. Brown.

Sincerely,



Joseph A. Vanderhulst