

**IN AND BEFORE THE  
FEDERAL ELECTION COMMISSION**

Conservative Solutions PAC,  
Nancy Watkins, Treasurer  
in her official capacity

MUR 7013 & MUR 7015

**RESPONSE TO MUR 7013 & MUR 7015;  
MOTION TO DISMISS COMPLAINTS**

Conservative Solutions PAC ("the Committee") and its Treasurer, Nancy Watkins, in her official capacity as Treasurer of the Committee ("Treasurer"), ("Respondent"), files this joint Response to the complaint filed with the Federal Election Commission ("Commission") by Citizens for Responsibility and Ethics in Washington ("CREW") and Noah Bookbinder, its Executive Director, in Matter Under Review 7013 ("MUR 7013"), and the complaint filed by the Campaign Legal Center, Democracy 21, J. Gerald Hebert, Paul S. Ryan, and Tara Malloy in Matter Under Review 7015 ("MUR 7015"), (collectively, "the Complaints")<sup>1</sup>.

Both Complaints falsely allege that Conservative Solutions PAC has committed a violation of the Federal Election Campaigns Act, Title 52 United States Code, Subtitle III, Chapter 301, Subchapter I, ("the Act") and the FEC's regulations by accepting and reporting a legally permissible contribution.

Respondent submits that the facts of the Complaints do not constitute a violation of the Act or the Commission's regulations and, accordingly, the Complaints must be dismissed.

**FACTS OF THE COMPLAINTS**

1. The CREW complaint (MUR 7013) states that a contribution from IGX, LLC in the amount of \$500,000 was received by Conservative Solutions PAC on October 26, 2015. See ¶2, CREW Complaint.
2. The Campaign Legal Center complaint (MUR 7015) relies solely on news articles and reports of third parties for its 'assumption' that the respondents named in its complaint contributed to the Committee. There are no specific allegations in

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<sup>1</sup> While the complaint in MUR 7015 did not identify or name the Committee as a respondent, the Commission has forwarded the complaint to Conservative Solutions PAC for response. This response is submitted and should be deemed a joint response to the Complaints in both MUR 7013 and 7015.

MUR 7015 stating that the Committee was the recipient of the contribution from IGX, LLC. *See* Complaint in MUR 7015.

3. Conservative Solutions PAC reported on its 2015 Year End Report that IGX, LLC contributed \$500,000 to the Committee on October 26, 2015. *See* p. 26A, Conservatives Solutions PAC 2015 Year End Report.
4. Conservative Solutions PAC also reported receipt of 37 *other* itemized contributions from LLCs, partnerships and/or corporations, which comprised approximately 30% of all itemized contributions reported by the Committee as received during the reporting period. *See* Conservative Solutions PAC 2015 Year End Report.
5. Conservative Solutions PAC also reported receipt of numerous LLC, partnership and corporate contributions on its Mid-Year 2015 Report. *See* Conservative Solutions PAC 2015 Mid-Year Report.
6. The contributions from LLCs, partnerships and corporations received by the Committee and reported to the FEC identified each of the donors as the party whose name appeared on the bank account from which the funds were drawn. *See* Affidavit of Nancy Watkins, Treasurer, Conservative Solutions PAC.
7. The FEC Reports Analysis Division ("RAD") has not inquired about or questioned the accuracy of the reporting of any contribution to Conservative Solutions PAC, including (but not limited to) the contributions from LLCs, partnerships, and/or corporations. *See* Reports Index, Conservative Solutions PAC  
<http://www.fec.gov/fecviewer/CandidateCommitteeDetail.do?candidateCommitteeId=C00541292&tabIndex=3>
8. Nancy Watkins, Treasurer of Conservative Solutions PAC, has represented over 100 political committees registered with and reporting to the FEC and has attended numerous training sessions conducted by the FEC. *See* Affidavit of Nancy Watkins, Treasurer of Conservative Solutions PAC.
9. It is Ms. Watkins' professional, educated and historic practice since 2010 that the donor to Independent Expenditures Only committees, such as Conservative Solutions PAC, are considered and reported to be the entity or individual(s) whose name appears on the written donation instrument and identified as the owner of the bank account from which the funds are drawn. *See* Affidavit of Nancy Watkins, Treasurer of Conservative Solutions PAC.
10. Prior to the receipt of these complaints, at no time has Ms. Watkins received any inquiry or questions from RAD or any other office within the FEC regarding the manner in which contributions to Independent Expenditures Only Committees

from LLCs, partnerships and corporations have been reported. *See* Affidavit of Nancy Watkins, Treasurer of Conservative Solutions PAC.

11. Each donor to Conservative Solutions PAC is deemed to be the individual or entity whose name appears on the bank account from which the funds are drawn and that is the donor name reported to the FEC. *See* Affidavit of Nancy Watkins, Treasurer of Conservative Solutions PAC.

#### Legal Argument and Analysis

The 'allegation' underlying the Complaints is that IGX, LLC contributed \$500,000 to Conservative Solutions PAC on October 26, 2015. That is true.

There is no evidence that IGX, LLC was not the source of the funds contributed to the Committee.

There is no legal issue arising from a) the contribution or b) the reporting of the contribution from IGX, LLC. Accordingly, the Complaints must be dismissed.

*A. Independent Expenditures Only Committees are allowed to receive contributions from LLCs, partnerships and corporations.*

All the regulations cited by the Complaints as the basis for the claimed violations are inapplicable to Independent Expenditures Only committees ("IE Only Committees"). The regulations relied upon by the Complainants were promulgated prior to the Supreme Court's decision in *Citizens United v. FEC*, 558 U.S. 310 (2010) and *Speech Now v. FEC*, 599 F.3d 686 (D.C. Cir. 2010), the two judicial decisions that gave rise to IE Only Committees. The regulations at issue apply to political committees that are not *allowed* to receive contributions from corporations, may accept only certain LLC contributions and must allocate a partnership contribution in such a manner as to clearly provide that the contribution is from a specific individual<sup>2</sup>. None of those premises or procedures are present when a corporation, partnership or LLC makes a contribution to an IE Only Committee. Thus, the regulations relied upon in the Complaints are inapplicable and nonsensical in this context, where the contribution is given to an IE Only Committee, one which is permitted to accept such contributions.

If the Commission has some notion that these types of contributions to IE Only Committees should be subject to some new method of review and reporting, that has never been communicated to the public. The Commission has had more than six years to promulgate new regulations that distinguish the treatment of *prohibited* contributions from LLCs and corporations when made to 'hard dollar' committees (*i.e.*, candidate committees, national party committees or PACs that contribute to candidates) from the treatment and reporting of

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<sup>2</sup> See 11 C.F.R. §§110.1(e) and (g); 11 C.F.R. §114.2(b). These regulations are each premised upon the prohibition against corporate contributions to political committees, which is inaccurate when applied to IE Only committees.

permissible, legal contributions from those sources when made to Independent Expenditures Only Committees<sup>3</sup>.

Nor has the Commission provided any guidance to the regulated community with regard to some specialized reporting requirements of contributions to IE Only Committees from LLCs, corporations and/or partnerships. In fact, the *only* guidance from the FEC regarding contributions from LLCs is the wholly inapplicable material contained in the Commission's publications for candidates, corporations and labor organizations and party committees, none of which make sense for IE Only Committees, since the underlying principle and directives in all of those publications are that corporate contributions are illegal and certain LLC contributions are also illegal.

See Campaign Guide for Congressional Candidates and Committees (June 2014), Chapter 4, Section 9 "Contributions from Partnerships" and Section 10 "Contributions from Limited Liability Companies". <http://www.fec.gov/pdf/candgui.pdf>;

Campaign Guide for Corporations and Labor Organizations (January 2007), Appendix E: "Contributions from Partnerships and LLCs"  
<http://www.fec.gov/pdf/colagui.pdf#search=Contributions%20from%20LLCs>

Campaign Guide for Non-connected Committee (May 2008) Chapter 4, "Prohibited Contributions" pp. 18-19, and Appendix C: "Partnership Contributions"  
<http://www.fec.gov/pdf/nongui.pdf>

Campaign Guide for Political Party Committees (August 2013), Chapter 2 "Prohibited Contributions" and Appendix C, "Partnership Contributions".  
<http://www.fec.gov/pdf/partygui.pdf>

Even in the Notice to All Campaign Guide Users (October 2011), <http://www.fec.gov/law/recentdevelopments.shtml#IECommittees>, in the section on 'updates' related to IE Only committees, there is no guidance or information which relates to processing and reporting of LLC, corporate and partnership contributions to IE Only Committees.

What is clear is that the Commission's regulations that form the basis of the Complaints are inapplicable to contributions to IE Only Committees and further that the Commission has offered no guidance or changes in the manner of reviewing, processing, or reporting of these legal contributions.

Unless and until the Commission decides to provide due process to the citizenry and promulgate new regulations that detail how IE Only Committees are to manage, treat and report

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<sup>3</sup> In October 2014, the Commission issued final rules that implemented a portion of the *Citizens United* decision. Those regulations are wholly silent on the subject of LLC and corporate contributions to Independent Expenditures Only committees. Independent Expenditures and Electioneering Communications by Corporations and Labor Organizations, Fed. Reg. Vol. 79, No. 203, October 21, 2014

the *legal* contributions from LLCs and corporations, the only reasonable approach for IE Only Committee treasurers is to report the donor as the name of the entity or individual whose name appears on the check or other written instrument through which the contribution is made.

It is completely arbitrary for the Commission to prosecute donors who make legally permissible contributions to IE Only committees drawn from LLC, corporate or partnership accounts. It is even more capricious for the Commission to investigate and punish IE Only Committees and their treasurers who report the account holders of such contributions as the donors to the IE Only Committee.

As former FEC Chairman Bradley Smith wrote earlier this month, the Commission has applied a strict rule for decades that any contribution from a corporate bank account is treated as a contribution from the corporation, even where the funds were actually from an individual. LLC contributions have been analyzed and treated under the FEC regulations from the perspective of whether the LLC is taxed as a corporation, to ensure that corporate contributions in all forms are prohibited.

According to Chairman Smith:

“Historically, treating LLC donations as corporate donations has worked in favor of “strict” enforcement of straw donor prohibition rules. By keeping the corporation and the individual separate, the Commission could easily identify violations of the rules prohibiting contributions in the name of another. For example, in *United States v. Danielczyk*, 683 F.3d 611, 614 (4th Cir. 2012) cert denied, 133 S. Ct. 1459 (2013), a corporation reimbursed employees who gave to then-Senator Hillary Clinton’s 2008 campaign. But because the money was really coming from the LLC, not the individual “contributors,” and because corporations are barred from contributing to candidates, the violation was clear. In this case, FEC rules regarding LLCs prevented illegal corporate donations. While this is the opposite result from the current debate (whether LLCs can make legal corporate donations to super PACs), it was more than reasonable to believe that the FEC’s rules regarding how to treat these groups would remain constant, regardless of result”. See “LLCs and Politics at the FEC” by Bradley Smith, April 12, 2016, Center for Competitive Politics.

<http://www.campaignfreedom.org/2016/04/12/llcs-and-politics-at-the-fec/>

The Complaints attempt to shoehorn regulations governing *illegal* corporate and LLC contributions into a violation for completely *legal* corporate and LLC contributions to IE Only Committees. It is an absurd application of the law and cannot possibly be the basis for a finding of reason to believe that a violation has occurred in this instance.

B. *There is no evidence that the IGX, LLC contribution is or was not from IGX, LLC or that Conservative Solutions PAC had any reason to report the contribution in some manner other than as being from IGX, LLC.*

Conservative Solutions PAC treasurer Nancy Watkins duly reported the contribution from IGX, LLC in the same manner she reported every *other* LLC, corporate and partnership contribution during the same reporting period. She has provided sworn testimony attached to this response that she had no reason to treat the IGX, LLC contribution any differently from more than two dozen other contributions to the Committee from similar entities. The contribution was drawn on the IGX, LLC bank account and she reported it as such. In the six years since IE Only Committees have existed, RAD has *never once* communicated to Ms. Watkins that there are any issues or problems in the manner in which she reports contributions to IE Only Committees from such entities.

The IGX, LLC contribution to Conservative Solutions PAC is a legal contribution. It was properly reported. There was – and still is not – any reason to suspect or believe otherwise.

The Statement of Reasons of the Republican Commissioners in MURs 6485, 6487, 6488, 6711 and 6930 published on April 1, 2016, notes that, absent some facts that give rise to a suspicion or concern that the contribution from an LLC or corporation is from a source other than the donor entity whose name appears on the contribution entity, there is no violation of the law. See Statement of Reasons of Commissioners Peterson, Hunter and Goodman, April 1, 2016 in MURs 6485, 6487, 6488, 6711 and 6930. <http://eqs.fec.gov/eqsdocsMUR/16044391107.pdf>

#### Conclusion

The law and the facts demonstrate that there is no basis for a finding of reason to believe that a violation has occurred. And that is, quite simply, because no violation has occurred.

Accordingly, the Complaints should and must be dismissed.

Respectfully submitted,



Cleta Mitchell, Esq.  
Counsel for  
Conservative Solutions PAC,  
Nancy Watkins, Treasurer

Date: April 19, 2016

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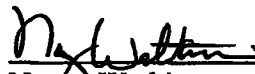
**AFFIDAVIT OF NANCY WATKINS**

**I, Nancy Watkins, of lawful age and a resident of Tampa, Florida, do hereby affirm and state:**

1. I am employed as a CPA by the certified public accounting firm of Robert Watkins & Company in Tampa, Florida.
2. I am a professional compliance vendor for political committees, candidates and other entities with filing obligations in and before the Federal Election Commission ("FEC").
3. I have represented more than 100 committees reporting to the FEC over a period of approximately 30 years.
4. I have attended multiple training sessions sponsored by the FEC on proper reporting for political committees registered with the FEC.
5. I serve as Treasurer of Conservative Solutions PAC, an Independent Expenditures Only PAC.
6. Since the Supreme Court's decision in *Citizens United v. FEC* in 2010, I have served as treasurer of multiple Independent Expenditures Only committees registered with the FEC ("IE Only Committees").
7. In the entire period since 2010, I have prepared and filed the required FEC reports of receipts and expenditures for numerous IE Only committees as specified in federal law.
8. Because *Citizens United* permits corporations and other entities to make contributions to IE Only Committees, I have consistently reported the source of the contributions as the entity from whose bank account the contribution is drawn.
9. At no time since I began preparing and filing reports for IE Only Committees has the Reports Analysis Division of the FEC ever contacted me or inquired as to any underlying source(s) of contributions from a corporation, LLC, partnership or other entity.

10. Conservative Solutions PAC reported on its Year End 2015 Report contributions from numerous corporations and other business entities.
11. I have received no questions or comments from the Reports Analysis Division regarding the manner of reporting of contributions from sources other than individuals.
12. I have reported the contributions to Conservative Solutions PAC in the same manner as for all contributions to IE Only PACs; namely, we reported the donor as the entity identified on the bank account from which the contribution is drawn.
13. The FEC has taken no steps in the past six (6) years to question or correct the method of reporting of contributions.
14. I had no reason to believe that the contribution from IGX, LLC was from any source other than IGX, LLC and it is my belief, based on my experience, that the manner of reporting of the contribution from IGX, LLC to Conservative Solutions PAC was and remains accurate and completely proper.
15. Any allegations of impropriety or unlawful reporting of this or other contributions to Conservative solutions PAC are incorrect and should be disregarded.
16. The MUR involving the reporting of the contributions to Conservative Solutions PAC should be dismissed.

Further Affiant Sayeth Not.

  
Nancy Watkins

Before me this 8<sup>th</sup> day of April, 2016, appeared Nancy Watkins who affirmed and stated under penalty of perjury that the above and foregoing statements are true and correct to the best of her knowledge and belief.



SEAL

  
NOTARY PUBLIC

My Commission Expires: