



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Stephen J. Kaufman, Esq.
Kaufman Legal Group
777 S. Figueroa Street, Suite 4050
Los Angeles, CA 90017

MAR 20 2018

RE: MUR 7131
Kaufman Legal Group

Dear Mr. Kaufman:

On September 1, 2016, the Federal Election Commission notified Kaufman Legal Group of a complaint alleging a violation of the Federal Election Campaign Act of 1971, as amended. On October 20, 2016, the Commission notified Kaufman Legal Group of a supplemental complaint in this matter. Copies of the complaint and supplemental complaint were provided to you at that time. Upon further review of the allegations contained in the complaint and supplemental complaint, and information supplied by Kaufman Legal Group, the Commission, on March 6, 2018, voted to dismiss the allegation that Kaufman Legal Group violated 52 U.S.C. § 30118(a). Accordingly, the Commission closed its file in this matter.

Documents related to this case will be placed on the public record within 30 days. See Disclosure of Certain Documents in Enforcement and Other Matters. 81 Fed. Reg. 50,702 (August 2, 2016). The Factual and Legal Analysis, which explains the Commission's findings, is enclosed for your information.

If you have any questions, please contact Delbert K. Rigsby, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink that reads "Mark Allen".

Mark Allen
Assistant General Counsel

Enclosure
Factual and Legal Analysis

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B. Legal Analysis

The Complaint alleges that Kaufman, a professional corporation,³ may have made in-kind contributions to SVC by not requiring SVC to pay its legal fees.⁴ The Act and Commission regulations prohibit corporations from making contributions to a federal political committee (other than independent-expenditure-only political committees),⁵ and a political committee is prohibited from knowingly accepting or receiving such contributions.⁶

The extension of credit by any person is a contribution unless the credit is extended in the ordinary course of the person's business and the terms are substantially similar to extensions of credit to nonpolitical debtors that are of similar risk and size of obligation.⁷ An extension of credit includes, but is not limited to: (1) any agreement between the creditor and political committee that full payment is not due until after the creditor provides goods or services to the political committee; (2) any agreement between the creditor and political committee that the political committee will have additional time to pay the creditor beyond the previously agreed-to due date; and (3) the failure of the political committee to make full payment to the creditor by a previously agreed-to due date.⁸ A commercial vendor is any person who provides goods or

³ Kaufman is incorporated in the State of California. See <https://businesssearch.sos.ca.gov/CBS/Detail>.

⁴ Compl. at 27.

⁵ See, e.g., Advisory Op. 2010-11 (Commonsense Ten) (citing *Citizens United v. FEC*, 558 U.S. 310, 359 (2010)); *Carey v. FEC*, 791 F. Supp. 2d 121 (D.D.C. 2011).

⁶ 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(b).

⁷ See 11 C.F.R. §§ 100.55, 116.3(b).

⁸ See 11 C.F.R. § 116.1(e).

services to a candidate or political committee, and whose usual and normal business involves the sale, rental, lease, or provision of those goods or services.⁹

In assessing whether a commercial vendor extended credit in the ordinary course of business, and thus did not make a contribution, the Commission will consider: (1) whether the commercial vendor followed its established procedures and its past practice in approving the extension of credit; (2) whether the commercial vendor received prompt payment in full if it previously extended credit to the same candidate or political committee; and (3) whether the extension of credit conformed to the usual and normal practice in the commercial vendor's trade or industry.¹⁰ A contribution also will result if a creditor fails to make a commercially reasonable attempt to collect the debt.¹¹

The Act and the Commission regulations specifically except legal and accounting services from the definition of contribution provided that "the person paying for such services is the regular employer of the individual rendering the services and if such services are solely for the purpose of ensuring compliance with this Act."¹² Kaufman is a law firm specializing in campaign finance law and legal compliance and has been providing compliance services for SVC since at least 2014.

Kaufman has denied forgiving the debt owed by SVC and has continued to provide legal and compliance services to SVC, which could be exempt under 52 U.S.C. § 30101(8)(B)(viii). Further, SVC currently reports a debt to Kaufman for \$17,736, and reports little cash on hand.

⁹ See 11 C.F.R. § 116.1(c).

¹⁰ See 11 C.F.R. § 116.3(c).

¹¹ See 11 C.F.R. § 100.55.

¹² See 52 U.S.C. § 30101(8)(B)(viii)(II); 11 C.F.R. § 100.86.

Accordingly, the Commission dismisses the allegation consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-832 (1985).