



November 30, 2018

VIA EMAIL: CELA@FEC.GOV

Jeff S. Jordan, Assistant General Counsel
Federal Election Commission
Office of Complaints Examination
& Legal Administration
Attn: Kathryn Ross, Paralegal
1050 First Street, NE
Washington, DC 20463

Re: MUR 7512

Dear Mr. Jordan:

This statement is submitted on behalf of the Oregon Business & Industry Candidate PAC ("OBI PAC") in response to Wim de Vriend's complaint dated October 9, 2018 ("Complaint") and his amended complaint dated November 1, 2018 ("Amended Complaint").

Allegations of the Complaints

The complaints and their attachments (totaling 80 pages) allege that "Jordan Cove LNG"¹ is a foreign national and has violated the Federal Election Campaign Act of 1971 (the "Act") by making contributions in connection with various State and local elections. The complaints primarily focus on Jordan Cove LNG and do not allege any specific facts against OBI PAC. Attachments to the complaints include the names of organizations that received contributions from Jordan Cove LNG and these attachments show that OBI PAC received three contributions totalling \$15,505 (\$505 on September 11, 2017, \$10,000 on August 21, 2018, and \$5,000 on October 2, 2018). Amended Complaint, Attachment 2. The Complaint also alleges that Jordan Cove LNG is wholly owned by Pembina Pipeline Corporation, a Canadian corporation.

Factual Background

Oregon Business & Industry Association ("OBI") is a 501(c)(6) nonprofit membership organization. OBI's business records show that Jordan Cove LNG has been an active member of

¹ "Jordan Cove LNG" is a name commonly used in Oregon to refer to Jordan Cove LNG L.P. and its subsidiaries.

OBI since 2014 and its address on file with OBI has always been 125 Central Avenue, Suite 250, Coos Bay, Oregon. OBI PAC is OBI's political action committee.

OBI PAC received the three contributions at issue via ACH (automated clearing house) deposits. This means the contributions were directly deposited into OBI PAC's bank account and OBI PAC became aware of the contributions when it later reviewed its bank statements. In each instance, the ACH deposit information indicated the amount of the contribution and that it was from "Jordan Cove Energy." The source of all contributions was Jordan Cove Energy Project L.P. *See* Complaint, Attachment 15 at page 3. In compliance with Oregon campaign finance reporting laws, OBI PAC reported each contribution to the Oregon Secretary of State.

As the Amended Complaint discusses, there are at least six Jordan Cove business entities registered in Oregon:

- Jordan Cove Energy Group
- Jordan Cove Energy Project
- Jordan Cove Energy Project L.L.C.
- Jordan Cove Energy Project L.P.
- Jordan Cove LNG L.P.
- Jordan Cove LNG L.L.C.

The Amended Complaint attaches corporate filings that show all of these entities were organized in Delaware, except Jordan Cove Energy Group was organized in Oregon, and their principal places of business are in Portland, Oregon. Amended Complaint, Attachment 1.

Legal Discussion

The Act, as amended, prohibits a person from knowingly accepting or receiving a contribution from a foreign national in connection with a Federal, State, or local election. 2 U.S.C. 441e(a)(2); 11 CFR 110.20(g). The Act and Federal Election Commission regulations define "foreign national" to include "foreign principals" and individuals who are not citizens or nationals of the United States and who are not lawfully admitted to the United States for permanent residence. 2 U.S.C. 441e(b); 11 CFR 110.20(a)(3). Under 22 U.S.C. 611(b)(3), "foreign principal" includes corporations organized under the laws of or having its principal place of business in a foreign country.

The complainant does not mention OBI PAC in his complaints and does not allege or put forward any facts that show OBI PAC knowingly accepted a contribution from a foreign national. Knowledge is a critical component to this violation it must be established by showing one of the following: 1) actual knowledge; 2) substantial reason to know; or 3) willful blindness. 11 CFR 110.20(a)(4). "Actual knowledge" is self-explanatory and OBI PAC had no actual knowledge that Jordan Cove Energy Project L.P. (the source of the contributions) is a foreign national. In fact, based on information submitted by the complainant, it is not; it is a domestic

limited partnership that has a domestic principal place of business. Complaint, Attachment 10; Amended Complaint, Attachment 1. “Substantial reason to know” and “willful blindness” standards both require “pertinent facts” such as those included as examples in the regulatory text, such as “the contributor or donor uses a foreign passport,” or “the contributor or donor provides a foreign address,” or “the contributor or donor makes a contribution or donation . . . drawn on a foreign bank.” 11 C.F.R. 110.20(a)(5). None of those facts are present here. To the contrary, OBI PAC was very familiar with the contributor as a local member of OBI and had no information that would have put it on notice to inquire further regarding the contributions.

The complainant alleges that a Canadian company wholly owns Jordan Cove LNG but, even if this is true, that would not prohibit the contributions because a domestic subsidiary of a foreign corporation may make political donations to State and local elections when the funds originated in the United States and are controlled by United States citizens. FEC Adv. Op. 2009-14 (Mercedes-Benz); FEC Adv. Op. 2006-15 (TransCanada). The complainant also appears to confuse “foreign limited partnerships” and “foreign limited liability companies” with “foreign nationals” for purposes the Act. The Amended Complaint states that all six Jordan Cove entities registered with the Oregon Secretary of State are “foreign,” and cites to the entities’ state business filings. However, these business filings designate the Jordan Cove entities as “foreign” simply because they were organized outside Oregon - in Delaware. Amended Complaint, Attachment 1. This designation does not mean the Jordan Cove entities were organized in a foreign country. In fact, these filings show that the entities were organized in Delaware and have principal places of business in the United States; thus, they are not foreign nationals. Moreover, the Complaint attaches an application dated October 4, 2017, to the Federal Energy Regulatory Commission submitted by Jordan Cove Energy Project L.P. (the source of contributions) that shows it is a Delaware limited partnership with a primary place of business in Houston, Texas.

Conclusion

The complaints do not even purport to allege a violation of the Act by OBI PAC and the information attached to the complaints shows the opposite. Accordingly, OBI PAC should be immediately dismissed from this matter.

Very truly yours,



Jill Gibson
Counsel to OBI PAC