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January 27, 2021

BY ELECTRONIC MAIL

 Federal Election Commission
 Office of Complaints Examination and
 Legal Administration
 Attn: Christal Dennis, Paralegal
 1050 First Street, NE
 Washington, D.C. 20463

Re: MUR 7861

Dear Ms. Dennis:

On behalf of The Government Integrity Fund, Inc. ("GIF") and Joel Riter, in his official capacity as Chairman of GIF, this letter responds to the Complaint filed by Citizens for Responsibility and Ethics in Washington ("CREW") against numerous Respondents, including GIF and Joel Riter. As elaborated below, because there is no evidence that GIF acted as a conduit for earmarked contributions and the allegations are merely unsupported legal conclusions, the Commission should find no reason to believe that a violation occurred and dismiss the Complaint against GIF and Joel Riter.

52 U.S.C. § 30122 prohibits GIF from knowingly making a contribution in the name of another person. The Commission and federal courts have consistently interpreted the statute to require a "*specific purpose*" of making "a campaign contribution in another person's name." MUR 6485, MURs 6487 & 6488, MUR 6711, MUR 6930 (W Spann LLC, *et al.*), Supplemental Statement of Reasons of Chairman Petersen and Commissioners Hunter and Goodman at 3 (emphasis added). The proper focus in matters alleging violations of the concealment statute in this context "is whether the funds used to make a contribution were intentionally funneled through a ... corporation ... for the purpose of making a contribution that evades [FECA's] reporting requirements, making the individual [or other entity], not the corporation ... the true source of the funds." MUR 6485, MURs 6487 & 6488, MUR 6711, MUR 6930 (W Spann LLC, *et al.*), Statement of Reasons of Chairman Petersen and Commissioners Hunter and Goodman at 2.

To demonstrate that the original source of the funds had a specific purpose of contributing through a conduit, there must be evidence that the donor "earmarked" or

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“designat[ed]” the contribution to be passed on to the ultimate recipient. 52 U.S.C. § 30116(a)(8), 11 C.F.R. § 110.6(b)(1). The Commission has held that “contributions were earmarked where there was ‘clear documented evidence’ of a designation or instruction by the donor to the recipient committee.” MUR 7304 (Hillary Victory Fund), First General Counsel’s Report at 32. For example, in MUR 4831, 5274 (Nixon Campaign Fund, *et al.*), funds donated to the Missouri Democratic State Committee (“MDSC”) were clearly earmarked by the donors for the U.S. Senate campaign of Jeremiah Nixon by inserting “Nixon” in the memo line of the checks, and the intent to receive the earmarked contributions was evidenced by MDSC on the deposit slips, which were labeled “Nixon.” Conciliation Agreement with Nixon Campaign Fund and John C. Lanham, as Treasurer, at 2. *See also* MUR 5732 (Matt Brown, *et al.*), Factual and Legal Analysis at 6.

While it is hard to imagine a more egregious example than in MUR 4831, other matters considered by the Commission (similar to this one) have lacked the “clear documented evidence” of an earmarked contribution, leaving the Commission with no legitimate option other than to dismiss them. Indeed, the Commission “has rejected earmarking allegations where the complaint provided no information beyond alleged similarities in contribution amounts and timing, and where credible information suggested that the similar contributions were not earmarked.” MUR 7304 at 32. In MUR 7304 (“HVF”), the complainants alleged that transfers from the HVF to the DNC Services Corporation/Democratic National Committee (“DNC”) via state party committees showed that HVF donors directly or indirectly earmarked their contributions for the DNC. *Id.* at 30. However, the complaint made only general allegations without identifying any particular contributions that included “any explicit indicia of earmarking.” *Id.* at 33. Thus, the Commission found no reason to believe a violation had been committed and dismissed the matter. MUR 7304, Certification at 12. Similarly, the Commission has found no reason to believe when contributions had no “designation or instruction by the donor,” despite a newspaper article asserting that a Party had acknowledged it had a “wink and a nod” arrangement with donors. MUR 5732 (Matt Brown, *et al.*), Factual and Legal Analysis at 6.

The Complaint pieces together various isolated allegations, which according to CREW “appear” (¶¶ 3, 4, 53) to lead to the conclusion that the Respondents engaged in a deliberate conduit contribution scheme to conceal the identity of donors to a Super PAC that made independent expenditures supporting then-Rep. Scott Taylor. Yet, in support of this wildly imaginative conclusion, the Complaint offers no evidence, or even any credible allegations, to demonstrate that funds were solicited or received by GIF with the intention to contribute them to American Jobs and Growth PAC (“AJG PAC”). Instead, the Complaint relies on pure speculation and innuendo to conclude that GIF’s contributions to AJG PAC were meant to disguise the true source of funds. Typical of CREW, the Complaint even tries to expand on this speculative basis by labelling GIF’s contributions as part of a “pattern” of contributions from nonprofits to AJG PAC, speciously insinuating that GIF *must* be guilty of concealment if other nonprofits also made contributions to the same Super PAC.

Not only does the Complaint lack any evidence of earmarked contributions, but such contributions would be contrary to GIF’s longstanding policy prohibiting the solicitation or

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acceptance of “contributions that are designated for any particular political purpose.” This policy is evidenced in the statement that GIF provides to all potential donors. *See* GIF Disclosure Statement (Ex. A). Additionally, all consultants engaged by GIF are informed of this policy and instructed to provide all potential donors with a copy the statement. Mr. Sisk, who has worked as a consultant for GIF, has been informed of this policy and was provided with GIF’s standard Disclosure Statement.

Moreover, GIF has a policy that all general contributions are deposited in one account, its general operating (or “general treasury”) account. If a contribution is restricted in some fashion, GIF deposits it in a separate restricted account. In 2018, all contributions to GIF (totaling more than \$3 million, from numerous donors) were deposited and commingled in GIF’s general operating account. No contribution was earmarked or otherwise restricted. All expenses—including the contributions to AJG PAC and other organizations—were made solely at the discretion of GIF’s board and officers, in accordance with its spending policy. (*See* Ex. A.)

This evidence of GIF’s policies and practices, together with the lack of any credible evidence or allegations in the Complaint indicating a conduit scheme or that GIF received contributions with an “indicia of earmarking,” can lead the Commission to but one conclusion: that there is no reason to believe a violation of 52 U.S.C. § 30122 occurred. Indeed, the Commission has repeatedly taken the position that unwarranted legal conclusions from asserted facts or mere speculation will not be accepted as true. *See, e.g.*, MUR 4960, Statement of Reasons of Commissioners Mason, Sandstrom, Smith and Thomas (Dec. 21, 2001). CREW’s Complaint—which is replete with “mere speculation”—should therefore be dismissed.

If the Commission requires any additional information or clarifications from Respondents to evaluate the allegations in this matter, please do not hesitate to contact me.

Sincerely,


LANGDON LAW LLC



David R. Langdon
Counsel for Respondents The Government
Integrity Fund, Inc. and Joel Riter

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Under 28 U.S.C. § 1746, I declare under penalty of perjury that each of the factual statements in this letter concerning The Government Integrity Fund, Inc. is true and correct.



Joel Riter
Former Chairman¹

¹ GIF has ceased operations and dissolved. See <https://bizimage.ohiosos.gov/api/image/pdf/202035703064>.



Disclosure Statement

1. The Government Integrity Fund, Inc. is a nonprofit corporation that is recognized by the IRS as exempt from federal taxation under section 501(c)(4) of the Internal Revenue Code. Its principal purpose is to promote the common good and general welfare.
2. The Government Integrity Fund may accept unlimited contributions from any source, including corporations, trade associations, and labor organizations, but does not accept contributions from foreign nationals (except individuals who are not citizens of the United States but who are lawfully admitted for permanent residence) or federal contractors.
3. The Government Integrity Fund does not solicit or accept contributions that are designated for any particular political purpose. Contributions to Government Integrity Fund will be spent at the discretion of the board of directors and officers, in furtherance of its mission.
4. As a 501(c)(4), The Government Integrity Fund is not legally required to publicly disclose its contributors and, as a matter of policy, it does not voluntarily disclose them.
5. There are no limitations or restrictions on general contributions to The Government Integrity Fund from individuals or entities that are subject to Securities and Exchange Commission Rule 206(4)-5, Municipal Securities Rulemaking Board Rule G-37, or Commodity Futures Trading Commission Rule 23.451.
6. The IRS does not allow contributions to The Government Integrity Fund to be deducted as a charitable contribution for federal income tax purposes. Contributions to The Government Integrity Fund are not subject to the federal gift tax. Please consult your tax adviser for more details.

Thank you for your interest in contributing to The Government Integrity Fund.