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Nick Curcio | 16905 Birchview Drive | Nunica, MI 49448
616.430.2201 | ncurcio@curciofirm.com

September 25, 2023

Federal Election Commission
Office of Complaints Examination
& Legal Administration
Attn: Trace Keeys, Paralegal
1050 First Street, NE
Washington, DC 2043

Via Email
cela@fec.gov

Re: Supplemental Response to Complaint (MUR 8130)

To whom it may concern,

I am writing as legal counsel to Angela Thornton and Joseph Brungardt regarding the above-referenced complaint filed by Libertarian National Committee (“LNC”) Chair Angela McArdle on April 18, 2023. After filing our initial response to the complaint on May 23, 2023, we have now been given the opportunity to submit additional information to the Commission.

In considering the complaint, the Commission should be aware that on August 24, 2023, a district court in the Eastern District of Michigan entered a preliminary injunction prohibiting Mr. Brungardt, Ms. Thornton from using the mark “Libertarian Party” in connection with their political activities.¹ Importantly, the decision was based on a finding that the Libertarian National Committee has the right to prohibit party members from using its marks, if it chooses to do so.² The court expressly declined to make any ruling regarding Ms. Thornton’s and Mr. Brungardt’s claims to be members of the state party’s legitimately elected executive committee.³ As a result, the intra-party governance dispute is still ongoing and the subject of a state-court lawsuit.

¹ *Libertarian National Committee, Inc. v. Saliba*, Case No 5:23-cv-11074 (E.D. Mich.), ECF No 21.

² See *Libertarian National Committee, Inc. v. Saliba*, Case No 5:23-cv-11074 (E.D. Mich.), ECF No 22 at 23.

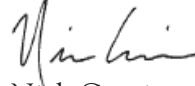
³ *Id.* at 6-7.

Mr. Brunghardt, Ms. Thornton, and the other defendants in the trademark case disagree with the court's ruling and have appealed it to the United States Court of Appeals for the Sixth Circuit, with *pro bono* assistance from the University of Illinois College of Law's First Amendment Clinic. Since the injunction took effect, the defendants have ceased using the "Libertarian Party" mark in connection with any of their fundraising efforts. Further, those fundraising efforts are currently limited to raising funds to pay legal expenses for the trademark suit, the state-court suit, the proceedings before this Commission, and other matters relating to the intra-party governance dispute. The defendants have not engaged in any fundraising for 2024 federal elections. If they ultimately choose to do so while the injunction is still in effect, they will use individual candidate accounts that are not affiliated with the name "Libertarian Party."

As a final note, Ms. Thornton would like to state that, while she still believes she is the legitimately elected treasurer of the Libertarian Party of Michigan, she no longer has FEC filing access. Her filing credentials have been removed and transferred to an individual named Gregory Black, who is a member of the rival faction. Accordingly, Ms. Thornton is not responsible for any federal campaign violations that may have occurred since her filing credentials were revoked, or that may occur in the future before that access is restored.

For the reasons stated above, as well as those stated in our May 23, 2023 submission, the Commission should dismiss the pending complaint for legal and factual inadequacy or as a matter of prosecutorial discretion under *Heckler v. Chaney*.⁴

Sincerely,



Nick Curcio

⁴ 470 U.S. 821, 831-32 (1985).