

**RECEIVED**

By OGC-CELA at 6:18 pm, Dec 12, 2023

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December 8, 2023

*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: RR 23L-34R

On behalf of CatholicVote.org, this letter responds to the referral from the Reports Analysis Division for possible enforcement action for alleged violations of the Federal Election Campaign Act of 1971, as amended (the "Act"). For the reasons set forth below, no action should be taken based on the matter referred by the RAD and the matter should be dismissed.

CatholicVote.org is a membership organization independent expenditure filer that is not a committee. The "C" number assigned to it is C90011800. CatholicVote.org has periodically engaged in regulated independent expenditures as defined under the Act since 2010. During that time, it has always fully complied with the reporting requirements of the Act imposed on non-committees. It has filed dozens of quarterly Form 5 reports as well as 24- and 48-hour notices and these reports have always been timely and complete. In filing its independent expenditure reports, CatholicVote.org uses the FECFile software provided by the FEC and has always carefully followed all of the published instructions and guidance for non-committee filers.

The situation described in the RAD referral here was the result of an unknown technological error. CatholicVote.org did, in fact, properly and timely file 24-hour reports disclosing all of the independent expenditures it made prior to the 2022 general election and listed on its 2022 Year-End Form 5 report. The 24-hour report in question was filed the evening of the day before the election on November 8, 2022, which is a particularly busy time for the FEC's servers. It is not uncommon, in CatholicVote.org's many years of experience filing reports, to find that the FECFile software will time-out or otherwise experience slowdowns while interacting with the FEC's servers during times immediately before elections as well as on filing deadlines. For some reason that is still unknown to CatholicVote.org, despite providing a copy of its FECFile datafile to the FEC's technical support division and several conversations with technical support, the copy of the report in question that shows up on the FEC's database is blank and contains no transactions.

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Based on CatholicVote.org's long history of full and timely compliance with the reporting requirements of the Act and the facts surrounding the matter in question, the only logical explanation for the report showing up as blank is some kind of software or server related error that was beyond CatholicVote.org's control or knowledge. Accordingly, CatholicVote.org should not be found to be in violation of the Act.

On the evening of November 7, 2022, CatholicVote.org prepared and filed two 24-hour Form 5 reports using FECFile, as it has done for many years. The first report was filed at 5:23PM, disclosing four independent expenditures disseminated on December 6, 2022, and totaling \$12,803.38. The second report, which is the subject of this referral from the RAD, was filed at 10:15PM and disclosed three additional independent expenditures, also disseminated on December 6, 2022, and totaling \$300,000. As with all independent expenditure reports generated in FECFile, the procedure involves entering the disbursements into the appropriate quarterly Form 5 report, then creating a 24-notice and tying those disbursements to the 24-hour notice. Prior to filing each report, CatholicVote.org generated a print preview of the 24-hour notices using the "Render a Paper Image of your Report" function in FECFile and saved the file as a PDF. Each of the three independent expenditures, totaling \$300,000 show up accurately on the print preview for the report filed at 10:15PM. CatholicVote.org received email confirmation receipts from the FEC as proof of filing its reports.

True and correct copies of CatholicVote.org's FECFile datafile, the PDF print preview, and the email confirmation are attached to this letter.

Despite following all the recommended procedures outlined in the FEC's published guidance, including "Getting Started with FECFile User Manual" for Independent Expenditure filers, this second report shows up as blank on the FEC's database and is not what was prepared and submitted by CatholicVote.org. CatholicVote.org had no way of knowing this was the case based on the filing procedures outlined by the FEC. Upon being advised of the situation by the RAD, CatholicVote.org promptly submitted another 24-hour notice through the FECFile software, verifying that it showed up correctly on the FEC's database side through the method demonstrated by the RAD.

CatholicVote.org had no reasonable way of knowing that the report was showing up as blank on the FEC database side. The email confirmation from the FEC does not include a file-stamped copy of the report as an attachment or link to the report on the FEC's database. Indeed, the report would not have shown up in CatholicVote.org's reports listing on the FEC's website before the following day anyway. In addition, nowhere in its published guidance does the FEC recommend to filers that they check the FEC's database to see how a filing shows up and to make sure it shows up correctly on the database. To the contrary, the guidance states:

**Email receipts confirm filing has been received**

- After uploading the report electronically, a receipt will be sent to the email address or fax entered when uploading the report. Assume that the report was not successfully filed if no receipt is received. Call the Electronic Filing

Office (800-424-9530 Ext. 1307) if more than a few minutes pass without receiving a receipt.

- The receipt is proof of filing. Print it out and keep it.

CatholicVote.org received the email confirmation and had no reason to think that the report would show up differently than it did when generating a print preview.

Supposedly, there is a way to search the FEC database for “Raw” filings that show up contemporaneously with when the filing is submitted, rather than the “Processed” ones that show up on a committee’s reports page and can take several days. CatholicVote.org was informed of this method by an analyst when it discussed the matter with RAD. CatholicVote.org has now added these instructions to its filing procedures. Instructions for finding these “Raw” filings in the FEC database are not contained in any of the FEC’s published filing guidance, however. Indeed, CatholicVote.org has not been able to find instructions for searching “Raw” filings as described by the analyst anywhere on the FEC’s website. And furthermore, nowhere in the FEC’s published filing guidance does it advise filers to verify their filings by confirming the database version through this “Raw” search function. CatholicVote.org will be doing so in the future given that it has now become apparent that the email confirmation alone is quite insufficient to ensure that a filing came through to the FEC database correctly.

Attached to this letter please find:

1. The FECFile datafile for the filing entity. Note that this is the original version of the datafile current as of 2/28/2023. CatholicVote.org created this copy of the datafile before filing the April 20, 2023 report in order to preserve a copy of the file as it existed before that later filing.
2. A print preview of the 7 November 2023 Form 5 filing. This print preview was generated by the print function within FECFile prior to filing the report at 10:06pm on 7 November 2022. The metadata from both Windows and Adobe Acrobat (also attached) show that this preview was created on 11/7/2022 with a timestamp. The discrepancy between the timestamps being off by one hour is due to the Daylight Savings function in Windows.
3. The email receipt from the FEC showing proof of filing at 10:15pm on 7 November 2022 and assigning the Filing ID: FEC-1660893.

Based on the facts presented in this matter, the Commission should not find “reason to believe” that a violation of the Act has occurred. Rather, the filing entity was subject to technological circumstances outside of its control for which it is not responsible, despite following all published guidance and procedure related to independent expenditure filing, as it has done for many years. Accordingly, CatholicVote.org respectfully requests that the Commission dismiss this referral.


**LANGDON LAW** LLC

December 8, 2023  
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If the Commission requires any additional information or clarifications to evaluate the allegations in this referral, please do not hesitate to contact me.

Sincerely,

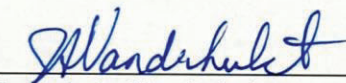
LANGDON LAW LLC

  
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Joseph A. Vanderhulst  
Counsel for CatholicVote.org

**Declaration**

Under 28 U.S. 1746, I declare under penalty of perjury that the factual statements in the foregoing are true and correct.

Executed on December 8, 2023

  
\_\_\_\_\_  
Joseph A. Vanderhulst

## To Be Used by Persons (Other than Political Committees)

FEC Schedule 5 (REV. 09/2013)

**SCHEDULE 5-E**  
**ITEMIZED INDEPENDENT EXPENDITURES**

 PAGE 2 OF 2  
 FOR LINE 7 OF FORM 5

NAME OF FILER (In Full)

CatholicVote.org

Full Name (Last, First, Middle Initial) of Payee Majority Strategies		Date of Public Distribution/Dissemination MM / DD / YYYY 11 / 06 / 2022	
Mailing Address 12854 Kenan Dr Ste 145		Amount 41500.00	
City Jacksonville	State FL	Zip Code 32258	Transaction ID : F57.4929
Purpose of Expenditure Digital advertising (production and placement)	Category/ Type 004	Office Sought: <input type="checkbox"/> House State: NV <input checked="" type="checkbox"/> Senate District: 00 <input type="checkbox"/> President	
Name of Federal Candidate Supported or Opposed by Expenditure: LAXALT, ADAM, , ,		Check One: <input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose	
Calendar Year-To-Date Per Election for Office Sought 55910.00		Disbursement For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General 2022 <input type="checkbox"/> Other (specify) ▶	

Full Name (Last, First, Middle Initial) of Payee Majority Strategies		Date of Public Distribution/Dissemination MM / DD / YYYY 11 / 06 / 2022	
Mailing Address 12854 Kenan Dr Ste 145		Amount 93500.00	
City Jacksonville	State FL	Zip Code 32258	Transaction ID : F57.4930
Purpose of Expenditure Digital advertising (production and placement)	Category/ Type 004	Office Sought: <input type="checkbox"/> House State: AZ <input checked="" type="checkbox"/> Senate District: 00 <input type="checkbox"/> President	
Name of Federal Candidate Supported or Opposed by Expenditure: MASTERS, BLAKE, , ,		Check One: <input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose	
Calendar Year-To-Date Per Election for Office Sought 113891.68		Disbursement For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General 2022 <input type="checkbox"/> Other (specify) ▶	

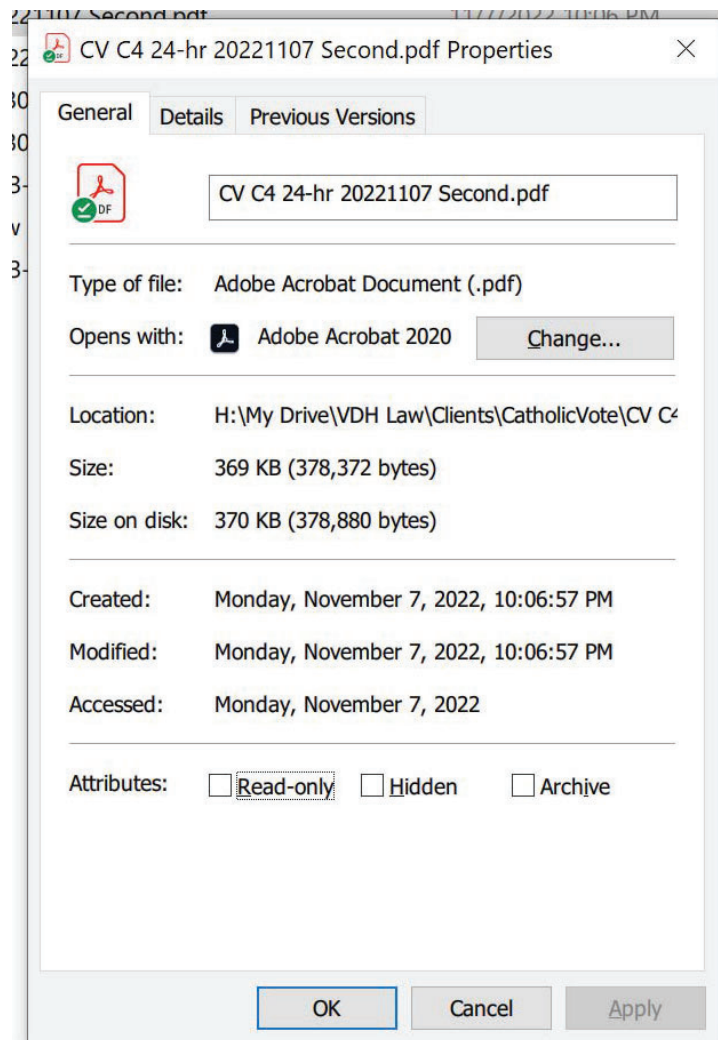
  

Full Name (Last, First, Middle Initial) of Payee Majority Strategies		Date of Public Distribution/Dissemination MM / DD / YYYY 11 / 06 / 2022	
Mailing Address 12854 Kenan Dr Ste 145		Amount 165000.00	
City Jacksonville	State FL	Zip Code 32258	Transaction ID : F57.4931
Purpose of Expenditure Digital advertising (production and placement)	Category/ Type 004	Office Sought: <input type="checkbox"/> House State: OH <input checked="" type="checkbox"/> Senate District: 00 <input type="checkbox"/> President	
Name of Federal Candidate Supported or Opposed by Expenditure: VANCE, J D, , ,		Check One: <input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose	
Calendar Year-To-Date Per Election for Office Sought 165144.10		Disbursement For: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General 2022 <input type="checkbox"/> Other (specify) ▶	

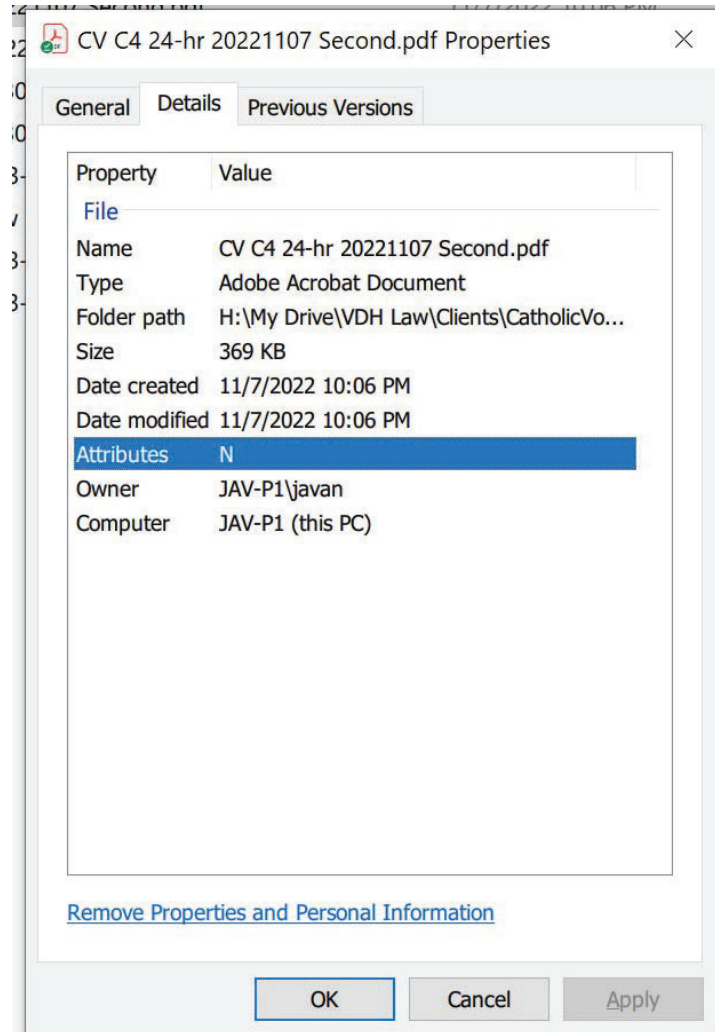
(a) SUBTOTAL of Itemized Independent Expenditures.....	300000.00
(b) SUBTOTAL of Unitemized Independent Expenditures .....	
(c) TOTAL Independent Expenditures..... (carry total from last page forward to Line 7)	300000.00



 CV C4 24-hr 20221107 Second (Amended).pdf	11/27/2022 12:23 PM	Adobe Acrobat D...	372 KB
 CV C4 24-hr 20221107 Second (Amended).pdf	4/20/2023 3:02 PM	Adobe Acrobat D...	370 KB
 CV C4 24-hr 20221107 Second.pdf	11/7/2022 10:06 PM	Adobe Acrobat D...	379 KB
 CV C4 24-hr 20221107.pdf	11/7/2022 5:20 PM	Adobe Acrobat D...	







# C FORM 5

## REPORT OF INDEPENDENT EXPENDITURES MADE AND CONTRIBUTIONS RECEIVED

Used by Persons (Other than Political Committees)

a) Name of Individual, Organization or Corporation

Document Properties

Description Security Fonts Initial View Custom Advanced

Description

File: CV C4 24-hr 20221107 Second.pdf

Title:

Author:

Subject:

Keywords:

Created: 11/7/2022 11:06:01 PM

Additional Metadata...

Modified: 11/7/2022 11:06:57 PM

Application:

Advanced

PDF Producer: iText® 5.5.9 ©2000-2015 iText Group NV (AGPL-version)

PDF Version: 1.5 (Acrobat 6.x)

Location: H:\My Drive\VDH Law\Clients\CatholicVote\CV C4 (FEC Filing)\

File Size: 369.50 KB (378,372 Bytes)

Page Size: 8.50 x 11.00 in

Number of Pages: 2

Tagged PDF: No

Fast Web View: Yes

Help

OK

Cancel

Under penalty of perjury I certify that the independent expenditures reported herein were not made in cooperation, consultation, or concert with, or at the request or suggestion of any candidate or authorized committee or agent of either, or any political party committee or its agent.

NAME OR PRINT NAME OF PERSON COMPLETING FORM

SIGNATURE

DATE

Mercer, Joshua, , ,

Mercer, Joshua, , ,