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May 25, 2011

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Complaint Examination & Legal Administration  
Federal Election Commission  
Washington, D.C. 20463

RE: Jay Fields  
MRU 6465

Dear Mr. Jordan:

Administrative complaint MRU 6465 filed against Jay Fields by CREW should be dismissed because

- the Complaint fails to meet the minimal requirements set by federal law;
- neither Count I nor Count II of the Complaint contain substantive allegations against Mr. Fields;
- there is no evidence regarding reimbursement with regard to a campaign contribution to John McCain; and
- there is no evidence of reimbursement with regard to a campaign contribution to J.D. Hayworth.

- Reference to Citizens for Responsibility and Ethics in Washington will be to "CREW."
- Reference to the Arizona Sports Foundation, a nonprofit corporation doing business as the Fiesta Bowl, will be to the "Fiesta Bowl."
- Reference to administrative complaint MRU 6465 will be to "Complaint at \_\_\_\_."
- Reference to Exhibit A to MRU 6465, the Final Report to the Special Committee of the Board of Directors of the Fiesta Bowl will be to "EX A at \_\_\_\_" or "Final Report at \_\_\_\_."

via facsimile: 202-219-3923

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Mr. Jordan  
RE: MRU 6465; Response of Jay Fields

May 25, 2011  
Page 2

Each of these factors is sufficient to warrant dismissal of the Complaint against Mr. Fields. Before discussing each of these points in turn, it is important to understand the Complaint's genesis. As noted by the Fiesta Bowl in its separate response, the administrative complaint contains no factual allegations beyond those found in the Final Report.

### ***The Special Committee***

The Board of Directors of the Fiesta Bowl created a Special Committee to investigate concerns regarding the management of the Fiesta Bowl. The Special Committee defined "Investigation" to mean "an investigation of any and all potential violations of internal Fiesta Bowl policies, state laws, and/or federal laws relating to the Fiesta Bowl." The investigation included, *inter alia*, "(1) political contributions, particularly in Arizona and to Arizona candidates, [and] (2) allegations raised by Playoff PAC regarding conduct of Fiesta Bowl personnel." [Admin. Complaint, EX A at 12-13]

Pursuant to the mandate, "Counsel to the Special Committee reviewed more than 55GB of electronic data, roughly 10,000 additional documents that had been scanned and coded, and thousands of pages of additional paper materials gathered from the Fiesta Bowl's offices or from its employees' or consultants' records." [EX A at 1] "Counsel to the Special Committee interviewed 52 individuals, some on multiple occasions, for a total of 87 interviews." [EX A at 5] Mr. Fields cooperated with the investigation and was interviewed three separate times. [EX A at 3]

As discussed below, despite this amazing expenditure of time and money, neither the Final Report nor the Complaint justify further investigation of Mr. Fields.

### ***The Complaint fails to meet the minimal requirements set by federal law.***

The Complaint is fatally flawed because it first lumps together as "respondents" a corporate entity—the Fiesta Bowl—and individual persons, and then it makes sweeping allegations against the aggregate without differentiating between the very different parties. This aggregation is in violation of 11 C.F.R. 111.4 (d)(1) and (3) that require a complaint to "clearly identify as a respondent each person or entity who is alleged to have committed a violation" and "contain a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction." By conflating the corporate entity with the divergent individuals, the complaint obscures the lack of evidence against the individual respondents, especially Mr. Fields.

### ***Neither Count I nor Count of the Complaint contain substantive allegations against Mr. Fields.***

CREW alleges, "the Fiesta Bowl, under the direction of President and Chief Executive Officer John H. Junker, had used corporate funds to reimburse thirteen individuals ... [including, *inter alia*,] Jay Fields" for contributions of \$600 to J.D. Hayworth on October 18, 2006 and \$1,000 to John McCain on March 28, 2008. [Complaint ¶ 17] Even if this allegation were true, it does not impugn Mr. Fields. While this allegation might require further investigation into the Fiesta Bowl or Mr. Junker, it states no

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independent wrongdoing by Mr. Fields. Further investigation of Mr. Fields is neither warranted nor required.

The two counts of the complaint suffer the same deficiency as the factual allegations: they do not specify *any* behavior by Mr. Fields that violated federal law.

Count I alleges, "By reimbursing employees for contributions made to federal candidates and committees, the respondents violated 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(1)(i)." [Complaint ¶ 21] This allegation, even if true, would apply only to the Fiesta Bowl, the sole respondent that employed anyone. Even if this allegation could be construed to apply to an individual, it does not apply to Mr. Fields, who – as Senior Vice President of Marketing – was not in a position to reimburse other employees. On this point, the Fiesta Bowl's separate response is instructive. The Fiesta Bowl acknowledges that while it had in place rules that would have prevented the activities alleged in the Complaint, there was lack of enforcement by the Fiesta Bowl's then-President and Chief Executive Officer, John Junker and former Chief Operating Officer Natalie Wisneski.

Count II similarly fails to allege any improper activity by Mr. Fields. It asserts, "By reimbursing employees and others with corporate funds for contributions made to federal candidates and committees and by using corporate resources and facilities to raise funds for federal candidates and committees, the respondents violated 2 U.S.C. § 441b(a), 11 C.F.R. § 114.2(a) and 11 C.F.R. § 114.2(f)." [¶ 23] Again, this allegation relates to alleged misfeasance by the Fiesta Bowl in "reimbursing" and "using corporate resources and facilities." There is no allegation that Mr. Fields improperly reimbursed anybody or independently expended corporate funds.

Because the Complaint contains no allegations of wrongdoing by Mr. Fields, he should be dismissed as a respondent.

***There is no evidence regarding reimbursement with regard to the campaign contribution to John McCain.***

If this Commission decides to overlook the deficiencies in the administrative complaint, this matter should nevertheless be dismissed because the Final Report does not support the conclusion that Mr. Fields was improperly reimbursed for a campaign contribution to John McCain made on March 28, 2008.<sup>2</sup> The Final Report lists "Fields' potential reimbursements" on page 62. There is no reference to a campaign contribution to Mr. McCain on March 28, 2008.

This table does reference a campaign contribution made by *Jaime* Fields, Mr. Fields' spouse, on

<sup>2</sup> In an effort to find evidence regarding this contribution, the Final Report was searched using the terms "Fields," "McCain," "3/28/08," "03/28/08," "28/08," "-08," "/08," "3-", "3/" and "March." None of these searches revealed reference to Mr. Field's contribution to John McCain's campaign on March 28, 2008, nor to reimbursement of this contribution. Mr. McCain is mentioned on pages 32, 50, 56, 57, 59, 60, 62, 64, 72, 76, 137, 142-143, 147, 148, and 188. None of these references concern a campaign contribution to John McCain by Mr. Fields on March 28, 2008 or any other date.

April 28, 2006 to Straight Talk America. Even if this Commission were to rewrite the Complaint to somehow conclude that the allegation against Mrs. Fields applies to Mr. Fields, there is no reason to believe that this contribution was reimbursed.

The Final Report acknowledges at several points that Mr. Fields denied knowledge of a reimbursement scheme or that he knowingly received reimbursement for campaign contributions. [e.g. Final Report at 30, 47] The Report alleges that Mr. Fields received a check on May 19, 2006 as "reimbursement" for Mrs. Fields' \$1,000 donation. That check reflects a gross bonus of \$1,600.00; the net \$1,408.67. The Report's authors do not explain why Mr. Fields was "reimbursed" \$1,408.67 for a \$1,000 donation, thereby severely undercutting the inference that this check was a reimbursement. Moreover, the check itself has a notation documenting the source of the bonus: "Bonus Frito-lay NFL." As the Report acknowledges, while Mr. Fields did not recall the specific check (which had been issued five years earlier), he "provided documentation showing that the agreement between the Insight Bowl and the NFL was signed on April 21, 2006, and that there were emails regarding the local agreement between the Fiesta Bowl and Tostitos in the early May 2006 time frame." [Report at p. 64]

Given all of these facts, there is no evidence, not in the Complaint nor in the Final Report, that Mr. Fields was improperly reimbursed for campaign contributions to John McCain or Straight Talk America.

*There is no evidence of reimbursement with regard to the campaign contribution to J.D. Hayworth.*

CREW alleges that Mr. Fields was reimbursed for a campaign contribution made to J.D. Hayworth on October 18, 2006. As with the allegation with regard to John McCain, neither the Complaint nor the Final Report support this allegation. There is no reference in the Final Report to a campaign contribution made by Mr. Fields on October 18, 2006 to J.D. Hayworth.<sup>3</sup>

In fact, the Final Report supports the conclusion that there was no reimbursement for such a contribution. The Final Report acknowledges that the Special Committee could not find any alleged reimbursement bonuses relating to donations on October 28, 2006 to Weiss and J.D. Hayworth. [Final Report at 48, footnote omitted] Grasping at straws, the Special Committee asserts "it is possible" that a withdrawal made by Mr. Aguilar on October 28, 2006 in the amount of \$6,484 could have been to reimburse campaign contributions totaling \$4,484. That the Fiesta Bowl had sloppy record keeping and failed to enforce minimal accounting standards does not prove that Mr. Fields knowingly accepted reimbursement for a campaign contribution to J.D. Hayworth.

<sup>3</sup> In an effort to find evidence regarding reimbursement of this contribution, the Final Report was searched using the terms "Fields," "Hayworth," "10/18/2006," "October 18, 2006." As noted above, while the *date* October 18, 2006 is mentioned in the report, such reference does not implicate the alleged reimbursement claimed by CREW. Mr. Hayworth is mentioned on pages 32-33; 48; 54, FN 244; 56; and 185. None of these references specifically relate to a campaign contribution to J.D. Hayworth by Mr. Fields on October 18, 2006 or any other date.

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**Mr. Jordan**  
**RE: MRU 646S; Response of Jay Fields**

May 25, 2011  
Page 5

Since neither the Complaint nor the Final Report support the conclusion that Mr. Fields was reimbursed for a donation to J.D. Hayworth, the Complaint should be dismissed.

## Conclusion

**CREW has made serious allegations against Mr. Fields based on nothing more than matters of public record: that Mr. Fields and his wife made campaign contributions and that Mr. Fields was mentioned in the Final Report. While these facts are true, they do not support an inference that Mr. Fields knowingly accepted reimbursement for federal campaign contributions. Further investigation concerning Mr. Fields would only encourage other organizations to make similarly flimsy accusations, ultimately chilling citizens' exercise of their First Amendment right to free speech.**

**The Complaint against Mr. Fields should be dismissed, and no further action or investigation taken.**

**Sincerely,**

9-27-20

**Jose de Jesus Rivera**  
**HARALSON, MILLER, PITT,**  
**FELDMAN & MCANALLY, P.L.C.**

**cc: Jay Fields**