

Ronald M. Jacobs
Associate

(202) 344-8215

rmjacobs@venable.com

July 2, 2004

Via Hand Delivery

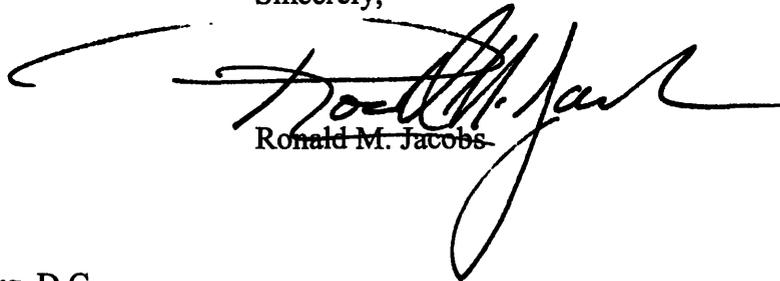
Jeff S. Jordan, Esq.
Supervisory Attorney
Complains Examination & Legal Administration
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 5449 Amended Response

Dear Mr. Jordan:

Attached please find an Amended Response from Chiropractors for Wellness Care PAC and Dr. Terry Rondberg as treasurer in the above-referenced MUR. The Amended Response and accompanying Exhibit 1 should replace the Response and the original Exhibit 1. Exhibits 2 through 8 from the original Response remain the same. Please call or email if you have any questions.

Sincerely,


Ronald M. Jacobs

Enclosure

cc: Terry A. Rondberg, D.C.

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**BEFORE THE
FEDERAL ELECTION COMMISSION**

IN THE MATTER OF)

Chiropractors for Wellness Care PAC)

MUR 5449

and)

Terry A. Rondberg as Treasurer)

**AMENDED RESPONSE OF CHIROPRACTORS FOR WELLNESS CARE PAC
AND TERRY A. RONDBERG, AS TREASURER
TO THE COMPLAINT OF JAMES C. SMITH**

Pursuant to 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.6, Respondents Chiropractors for Wellness Care PAC (“CWC PAC”) and Terry A. Rondberg, as Treasurer of CWC PAC (“Dr. Rondberg”) respectfully submit this response to the Complaint filed by James C. Smith, a copy of which is attached as Exhibit 1. The Complaint has no basis in law or fact and should therefore be dismissed by the Federal Election Commission (“Commission”).

INTRODUCTION

The Complaint alleges that CWC PAC, which is registered with the Commission as a non-connected political committee, is actually functioning as separate segregated fund connected to the World Chiropractic Alliance (“WCA”). To support this allegation, the Complaint asserts: (1) that WCA solicited contributions to CWC PAC on its website and (2) that Dr. Rondberg solicited contributions to CWC PAC at a WCA event. CWC PAC is organized and operated as a non-connected political committee pursuant to 11 C.F.R. § 100.5(a). It has received nothing of value from WCA for which it has not paid fair market value. As such, neither CWC PAC, nor

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Dr. Rondberg have violated any of the provisions of the Federal Election Campaign Act ("FECA"). The Commission should find that there is no reason to believe the allegations in the complaint and dismiss it.

FACTUAL BACKGROUND

A. Dr. Rondberg's Activities

For many years, Dr. Rondberg was a licensed chiropractor in California. (Declaration of Terry A. Rondberg ¶ 3 ("Rondberg Decl.") (attached as Exhibit 2).) He is currently involve in a number of business entities related to the chiropractic profession. (*Id.*) He is a prominent member of the chiropractic community who is actively involved in the many political issues that surround the practice of chiropractics. (*Id.*) Because of his political interests, in addition to his work as a chiropractor and businessman, Dr. Rondberg has been involved in a variety of different organizations, on both a formal and an informal basis, in order to be an outspoken advocate for a variety of different chiropractic constituencies. (*Id.*)

Dr. Rondberg is the president of the World Chiropractic Alliance ("WCA"), a nonprofit professional association that is exempt from taxation pursuant to Section 501(c)(6) of the Internal Revue Code. (*Id.* ¶ 4.) He founded the World Chiropractic Alliance ("WCA") in 1989 in order to unite members of the chiropractic profession who have similar ideas of how to better the chiropractic profession. The WCA is governed by a board of directors, of which Dr. Rondberg is a member. (*Id.*)

Dr. Rondberg has also formed an *ad hoc* coalition of a number of different chiropractic organizations to advance the interests of the chiropractic profession by lobbying the United States Congress on a variety of issues important to the chiropractic community. (*Id.* ¶ 5.) The

coalition does not have any standing membership and does not incur any expenses or raise any income on its own. (*Id.*)

B. The Decision to Create CWC PAC

Given his interest in the chiropractic profession, at the beginning of 2004, Dr. Rondberg decided that in addition to his legislative efforts, he was interested in electing and retaining Members of Congress who have philosophies similar to his regarding chiropractic care for patients. (*Id.* ¶ 6.) Therefore, he decided that the chiropractic community needed a political committee with which to make contributions to such candidates. Dr. Rondberg first consulted with the Board of Directors of the WCA to ascertain whether the WCA should create a connected political committee. (*Id.*) The Board of directors and Dr. Rondberg decided that the WCA membership was not sufficient to support a political committee and decided not to create a connected political committee. (*Id.*)

Given his prominence in the chiropractic community, Dr. Rondberg decided to create a non-connected political committee. (*Id.*) Carefully studying the FECA and the Commission's regulations, he determined that such a committee would have to fund all of its efforts with money raised subject to the prohibitions and limitations of the FECA. (*Id.*) Because such a committee cannot accept corporate contributions, including in-kind contributions, Dr. Rondberg understood that a non-connected political committee would have to pay for all resources it obtained from corporations. (*Id.*) Chief among those resources would be advertising to conduct fundraising for a political committee. Therefore, Dr. Rondberg determined that the political committee would have to purchase any advertising space at fair market value from various corporations. (*Id.*)

After careful consideration of all the limits the FECA imposes on non-connected committees, Dr. Rondberg established the Chiropractors for Wellness Care PAC. (*Id.* ¶ 7.) On March 5, 2004, CWC PAC filed a statement of organization with the Commission, establishing itself as a non-connected political committee (a copy of FEC Form 1 is attached as Exhibit 3). As a non-connected PAC, CWC PAC does not receive any financial support from any organizations. It raises all of its money pursuant to the FECA in amounts of \$5,000 or less per individual contributor per year. It does not accept corporate contributions or contributions from foreign nationals. (*Id.*)

ARGUMENT

The Complaint alleges that WCA is the connected organization of CWC PAC even though CWC PAC is registered with the Commission as a nonconnected political committee. The Commission's regulations define a connected organization as "any organization which is not a political committee but which directly or indirectly establishes, administers, or financially supports a political committee." 11 C.F.R. § 100.6(a). WCA in no way established, administered, or financially supported CWC PAC. First, CWC PAC paid a usual and normal charge for the email advertisement in question. Second, neither CWC PAC nor Dr. Rondberg made use of any corporate resources when promoting the CWC PAC in Washington.

A. **CWC PAC Paid the Usual and Normal Charge for Advertising in the HealthWatch Newsletter.**

Because the WCA produces publications that reach a number of chiropractic professionals, Dr. Rondberg decided to purchase advertising space in *The Chiropractic Journal*, a printed publication mailed to members of the chiropractic community, as well as space in various email publications that the WCA produces. (*Id.* ¶ 8.) Because WCA sells its advertising space to any organization that does not espouse views contradictory to those of WCA, it agreed

to sell CWC PAC advertising space on terms that are materially identical to those it offers other organizations. (Declaration of Linda Bevel ¶ 2 (“Bevel Decl.”) (attached as Exhibit 3).) On April 4, 2004, Dr. Rondberg, as treasurer of the CWC PAC, entered into a contract with the WCA for a series of one-half page advertisements in *The Chiropractic Journal* and several email advertisements in the *WCANews.com HealthWatch Newsletter* (“*HealthWatch*”). (Rondberg Decl. ¶ 8; Bevel Decl. ¶ 3.) Using money that was contributed to the CWC PAC pursuant to the prohibitions and limitations of the FECA, CWC PAC paid \$ 3,269.00 to the WCA for that advertising space. This payment is reflected on Schedule B of the May 20, 2004 Monthly Report (a copy of which is attached as Exhibit 4).

On April 28, 2004, the first email advertising for CWC PAC ran in the *HealthWatch* newsletter. (Rondberg Decl. ¶ 9.) This advertisement is the first item referred to in the Complaint to evidence the fact that WCA was acting as the connected organization of CWC PAC. Although the Complaint refers to a web site, the site is an archive of the *HealthWatch* newsletters. That is, all of the *HealthWatch* email messages remain on the WCA web site in exactly the form in which they were sent. A copy of the *HealthWatch* newsletter in email form is attached as Exhibit 5 and a copy of the archived *HealthWatch* newsletter is attached as Exhibit 6.

The advertisement is clearly separate from the content of the newsletter. As is clearly visible from the color printouts in Exhibits 5 and 6, the CWC PAC solicitation advertisement appeared in a light blue box, which contrasts with the yellow background of the newsletter. The text of the solicitation also appears in a different font than the editorial content. Although there is a generic reference to the topic of the newsletter, this is similar to other contextual advertising that the Internet offers. *See, e.g.*, Exhibit 7 at 3 (showing an online article from

Washingtonpost.com about the Fourth of July fireworks show on the Mall and three advertisement links for fireworks related merchandise). As noted in the Complaint, the advertisement paid for by CWC PAC included a link to a website operated by CWC PAC for the express purpose of collecting contributions via credit card. CWC PAC contracted with an independent third-party to operate this website. See April 20, 2004 Report to FEC Sched. B (attached as Exhibit 8) (showing payment to Campaign Solutions for web site expenses).

If WCA had provided the solicitation in question free of charge, then WCA would have been facilitating a contribution to CWC PAC, which would be tantamount to providing financial support as a connected organization. See 11 C.F.R. § 114.2(f)(1) (prohibiting the facilitation of contributions as a form of corporate contribution). However, “[a] corporation does not facilitate the making of a contribution to a candidate or political committee if it provides goods or services in the ordinary course of business as a commercial vendor in accordance with 11 C.F.R. part 116 at the usual and normal charge.” *Id.* Part 116 then defines commercial vendor as, “any persons providing goods or services to a candidate or political committee whose usual and normal business involves the sale, rental, lease or provision of those goods or services.” *Id.* § 116.1(c).

As explained above, CWC PAC paid for advertisements to appear in electronic newsletters and in newspapers. WCA has an established policy to sell advertising space to any entity that wishes to place an advertisement that is “congruent with WCA’s stated mission and goals.” (Bevel Decl. ¶ 2). Therefore, WCA was acting as a commercial vendor, pursuant to 11 C.F.R. § 116.1. Furthermore, the terms of the advertising agreement were “commercially reasonable for WCA and [were] similar in all material aspects to terms that WCA would provide to other organizations.” *Id.* ¶ 4. Thus, WCA sold the advertising space to CWC PAC at “the usual and normal charge.” The advertising in no way caused WCA to facilitate a contribution to

CWC PAC. As such, WCA was not acting as the connected organization of CWC PAC as alleged in the Complaint.

B. Dr. Rondberg Acted in his Personal Capacity at The Coalition Meeting and No WCA Resources Were Used to Solicit Contributions to CWC PAC.

Dr. Rondberg and other prominent members of the chiropractic profession organized a program in Washington, DC for those who participate in the *ad hoc* coalition of chiropractors who share similar legislative concerns. (Rondberg Decl. ¶ 11.) Those who attended the event included members of WCA, the International Chiropractic Association, and other members of the profession. (*Id.*) On April 29, 2004, the coalition held a reception for those attending the legislative meeting at the J.W. Marriott Hotel in Washington, D.C. Because the reception included a cash bar, the hotel did not charge for the room space involved. (*Id.*)

As one of the founders of the coalition, Dr. Rondberg served as the Master of Ceremonies. He made clear that although he was the President of the WCA, he was acting as a private individual working to advance the legislative agenda of the chiropractic community that evening. (*Id.*) To that end, he had a number of different individuals speak, including many who are not WCA members. (*Id.*)

At one point during the evening, Dr. Rondberg discussed the fact that he had created a PAC for the purpose of supporting candidates who shared his beliefs in what was important for the chiropractic community. (*Id.*) Given his diverse audience, he was very clear that this was not a WCA PAC, but a political committee that he had formed for like-minded members of the chiropractic community. (*Id.*) He was very clear that he was acting in his capacity as an individual and not as president of the WCA when he made this announcement. (*Id.*)

In order for Dr. Rondberg's solicitation to cause WCA to become the connected organization of CWC PAC, WCA would have had to have provided some form of support to

CWC PAC. Yet, there was no cost to WCA for the room. Dr. Rondberg clearly was acting in an individual capacity and not as president of WCA when he discussed CWC PAC. He was very clear, in fact, that this was not a WCA PAC. As such, WCA provided nothing of value to this solicitation.

In sum, CWC PAC and Dr. Rondberg as its treasurer have carefully conducted their activities to maintain the independence of CWC PAC. Because CWC PAC has paid a commercially reasonable price for advertising space from the WCA, it has acted as a non-connected committee. As such, there have been absolutely no violations of the FECA; the Commission should find no reason to believe the unfounded allegations in the Complaint and close this MUR.

FUTURE COMPLAINTS

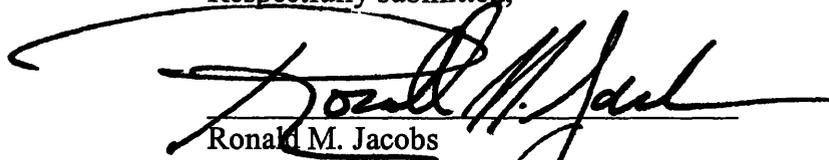
Given that he is a prominent and outspoken member of the chiropractic community, Dr. Rondberg has been the subject of a number of different personal attacks. The Complaint filed by James C. Smith is just one example of such attacks. Mr. Smith has repeatedly harassed and challenged Dr. Rondberg, as evidenced by his website www.StopRondber.org, has alerted a number of individuals about this Complaint and urged them to file similar complaints with the Commission. Given the fact that CWC PAC has demonstrated that it has not violated the FECA, it respectfully moves the Commission to consolidate any additional complaints based on the assertion that WCA is serving as a connected organization of CWC PAC with this Matter Under Review and, based on this submission, find no reason to believe that a violation has occurred and close the file. Should the Commission treat any letters based on the same facts as this Complaint as separate MURs, CWC PAC will be forced to expend its resources, which are constrained by

the prohibitions and limitations of the FECA, for legal fees rather than for making contributions to candidates or for funding additional solicitations.

CONCLUSION

For the forgoing reasons, pursuant to 2 U.S.C. § 437g(a)(1) the Commission should find that there is no reason to believe the allegations in the Complaint and close the file.

Respectfully submitted,



Ronald M. Jacobs
Venable LLP
575 7th Street, NW
Washington, DC 20004-1601
(202) 344-8215

Counsel for Respondents

July 2, 2004

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**BEFORE THE
FEDERAL ELECTION COMMISSION**

IN THE MATTER OF)	
Chiropractors for Wellness Care PAC)	MUR 5449
and)	
Terry A. Rondberg as Treasurer)	

DECLARATION OF TERRY A. RONDBERG

I, Terry A. Rondberg, do hereby certify and swear as follows:

1. I am over the age of eighteen (18) and am competent to make this Declaration. The statements contained in this Declaration are based on my personal knowledge.

2. I am the Treasurer of Chiropractors for Wellness Care PAC ("the PAC"), a political committee registered with the Federal Election Commission.

3. For many years, I was a licensed chiropractor in the state of California. Currently, I am involved in a number of different business entities that are related to the chiropractic profession, including an insurance company.

4. I am also president of the World Chiropractic Alliance ("WCA"), a nonprofit corporation exempt from taxation pursuant to Section 501(c)(6) of the Internal Revenue Code.

5. As a member of the chiropractic profession, I am concerned about state and national healthcare policies the impact chiropractors. To help chiropractors achieve a positive legal environment, I have formed a coalition of chiropractic organizations that is dedicated to supporting federal and state legislation. The coalition of organizations is an *ad hoc* group, with little formal structure and no income or expenses of its own.

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6. To further my interest in securing a positive environment for chiropractors, I decided that it was important to create a political action committee to help elect and retain candidates that share my concerns for chiropractors. After carefully considering the various options available to me, including a discussion with the board of directors of the WCA, I decided that the option that allowed me the greatest flexibility was to create a non-connected political committee. The WCA board of directors, of which I am a member, decided that it was not in its best interest to form a connected political committee because it has a limited membership and could not raise sufficient funds for a workable political committee. Both the WCA board and I understood that this decision meant that the WCA could not provide, and a nonconnected political committee could not accept, any resources or financial contributions from WCA or any other corporate entity.

7. On March 5, 2004, I formed the PAC, which is not funded by any organization and does not receive any services from any organization. All income for the PAC is comprised of contributions from individuals who are citizens of the United States that is raised in increments of no more than \$5,000 per person per year.

8. In order to publicize the PAC and solicit contributions from the chiropractic community, I purchased advertising space for the PAC from the WCA's publication, *The Chiropractic Journal* along with space in WCA's email newsletter. To that end, on April 1, 2004, as treasurer of the PAC, I signed a contract with the WCA for \$3,269.00. On the same day, the PAC sent a check for this amount to the WCA. The contract to purchase advertisements entitles the PAC to advertising in *The Chiropractic Journal* and to space in different email newsletters that the WCA sends.

9. On April 28, 2004, the PAC used its first paid email placement to solicit funds for the PAC. The *Healthwatch Newsletter* included a sidebar advertisement, paid for as part of the contract with WCA, that urged readers to click on the link provided and make a contribution to the PAC.

10. The PAC contracted with Bard Enterprises to design its web site and solicitation materials. On April 4, 2004, the PAC paid Bard Enterprises \$210.00 for the services it provided to the PAC.

11. On April 29, 2004, the WCA, the International Chiropractic Association, and other groups that are part of the coalition that I have organized led held a legislative day in Washington, DC. There was an evening reception at the J.W. Marriott Hotel for the coalition. The hotel provided a cash bar and the hotel did not charge for the use of the room. During that event, I, as an individual, promoted the PAC to those in attendance. I specifically stated that this was not a WCA PAC but a PAC for the chiropractic community and that I was specifically speaking in my role as a PAC official and not in any other capacity. I encouraged those in attendance to make contributions by visiting the PAC's web site. At no time did I suggest that I was acting as the president of the WCA and at no time did I suggest that the PAC was for the use of the WCA. Neither the WCA nor any other entity incurred any charges for the event that evening.

I declare under penalty of perjury that the foregoing is true and correct.

Terry A. Rondberg
Terry A. Rondberg

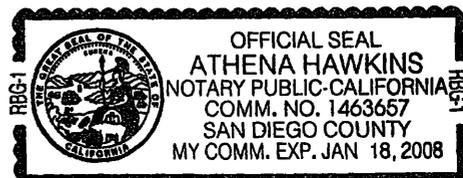
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Date

State of California }
County of San Diego } ss.

Subscribed and sworn to before me on 1st July 2004.
(date)

Athena Hawkins
Notary Public

SEAL



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