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June 14, 2013

**BY HAND DELIVERY**

Mr. Jeff S. Jordan  
Supervisory Attorney,  
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Federal Election Commission  
999 E Street, NW  
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Attn: Kim Collins

**Re: Matter Under Review 6711 (Richard J Stephenson, Respondent)**

Dear Mr. Jordan:

This letter is a response by counsel on behalf of Richard J Stephenson ("Respondent") to the Amended Complaint in Matter Under Review ("MUR") 6711 (captioned as "Campaign Legal Center, et al. v. Specialty Investments Group, Inc., et al.").

Simply put, the Amended Complaint in this matter is legally and factually insufficient for the Federal Election Commission (the "FEC" or "Commission") to find reason to believe that Respondent violated 2 U.S.C. § 441f, as alleged.<sup>1</sup> The allegations in the Amended Complaint pertaining to the Respondent consist of nothing more than four excerpted paragraphs from a December 2012 news article.<sup>2</sup> This short excerpt contains only vague reports attributed to anonymous sources. With this as its sole factual basis, the Amended Complaint falls far short of providing a reason to believe the Respondent violated section 441f.

<sup>1</sup> See 2 U.S.C. § 437g(a)(2).

<sup>2</sup> Am. Compl. at ¶ 2. The news article complainants rely on is attached to the Amended Complaint but is not incorporated by reference thereto and is only selectively quoted in the Amended Complaint. Accordingly, we refer only to those portions of the article quoted in the Amended Complaint as being incorporated in complainants' allegations.

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Perhaps because the sources cited in the article are anonymous, complainants concede that they themselves cannot be sure of the veracity of the news article, alleging that there is only reason to believe Respondent may have violated section 441f “[i]f the information presented in the article is true.”<sup>3</sup> With this news report as complainants’ sole basis for alleging violations, it is clear that the Amended Complaint is little more than unadorned speculation pegged to vague allegations by anonymous sources in a news story.

Far more is required to justify a FEC inquiry. As an initial matter, anonymously sourced news articles are disfavored and have been found by the Commission to be insufficient to support a reason to believe finding.<sup>4</sup> The Commission’s position is not surprising, given that the Federal Election Campaign Act (“FECA” or the “Act”) expressly bars the Commission from taking any enforcement action based on an anonymous complaint.<sup>5</sup>

Further, the Commission’s guidelines explicitly encourage allegations based on “first-hand knowledge.”<sup>6</sup> Reinforcing this point, federal regulations require complainants to differentiate between allegations founded on personal knowledge and those that are merely based upon belief or second-hand information.<sup>7</sup> Although complaints may be based “in whole or in part upon information contained in a[] . . . news article,” complaints are required to be “as factually specific as possible.”<sup>8</sup> Pursuant to the FEC’s guidelines, a finding of “no reason to believe” a violation has occurred is proper when the complaint and any additional information, such as the response, taken together, “fail to give rise to a reasonable inference that a violation has occurred.”<sup>9</sup> Specific examples of where a “no reason to believe” finding would be appropriate include when “a complaint alleges a violation but is either not credible or so vague that an investigation would be unwarranted,” or when “a complaint fails to describe a violation of the Act.”<sup>10</sup>

<sup>3</sup> *Id.* at ¶ 3 (emphasis added).

<sup>4</sup> *Protect Colorado Jobs, Inc.*, MUR 6056 (Fed. Election Comm’n June 2, 2009) (Statement of Reasons of Vice Chairman Matthew S. Petersen and Commissioners Caroline C. Hunter and Donald F. McGahn) (finding that an anonymously sourced news article presented by the Office of General Counsel as a “second, unsworn complaint” consisted of “unsubstantiated allegations of dubious reliability” and concluding the article “does not provide an adequate foundation on which to base [a reason to believe] finding”).

<sup>5</sup> 2 U.S.C. § 437g(a)(1) (prohibiting the Commission from initiating an investigation or from “tak[ing] any other action under this section solely on the basis of a complaint of a person whose identity is not disclosed to the Commission.”).

<sup>6</sup> See FEC Guidebook for Complainants and Respondents on the FEC Enforcement Process at 6 [hereinafter “*FEC Guidebook*”] (“Providing sworn affidavits from persons with first-hand knowledge of the facts alleged is encouraged.”).

<sup>7</sup> 11 C.F.R. § 111.4(c) (“The complaint should differentiate between statements based upon personal knowledge and statements based upon information and belief.”)

<sup>8</sup> *FEC Guidebook* at 6.

<sup>9</sup> *Id.* at 13.

<sup>10</sup> *Id.*

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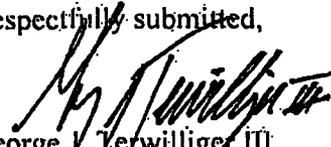
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The news article excerpt that provides the sole basis for the Amended Complaint is simply insufficient for the Commission to find reason to believe Respondent violated the Act. The Amended Complaint contains nothing more than a hearsay account of anonymous individuals relaying second-hand information that, even if true, would not state a violation of section 441f. Without specific factual allegations tied to the elements of section 441f, any further action by the Commission would be unwarranted. The complainants' allegations are simply too vague and speculative to sustain a belief that Respondent violated section 441f.

If such scant allegations were adequate to justify a FEC investigation for violations of section 441f, inquiries could be launched based on any online news report citing anonymous sources claiming, based on hearsay, that corporate contributions to an independent expenditure organization or political action committee were "arranged" by a third party.<sup>11</sup> That is clearly not the purpose of the Act, nor is it the Commission's proper role in enforcing it.

For the foregoing reasons, there is no reason to believe that Respondent violated any laws as alleged in the Amended Complaint. Both to conserve the Commission's resources and avoid putting Respondent through a burdensome and costly ordeal of an inquiry founded on speculative allegations that lack any credible or specific factual support, this matter should be closed.

Respectfully submitted,

  
George J. Verwilliger III  
Matthew S. Miner  
Counsel for Richard J Stephenson

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<sup>11</sup> Cf. *Protect Colorado Jobs, Inc.*, *supra* note 4 ("[H]ad [the Commission] voted to find [reason to believe] in this matter, we have no doubt that astute observers would have quickly realized that they could 'juice up' their complaints, and thus increasing the likelihood of [reason to believe] findings, by whispering into a friendly reporter's ear additional allegations that they would not otherwise be willing to include in a sworn, notarized complaint submitted under penalty of perjury. This would not have been a positive development.").