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June 15, 2015

Via E-Mail

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

Re: MUR 6930

Dear Mr. Jordan:

I serve as counsel to Prakazrel "Pras" Michel, SPM Holdings LLC/SPM 2012 Holdings LLC (collectively referred to herein as "SPM Holdings, LLC" or "SPM Holdings"), Black Men Vote, and William Kirk, Jr. in his official capacity as Treasurer (collectively referred to as "Respondents"). I write in response to the Commission's letter, dated April 22, 2015, regarding the above referenced matter and a complaint from the Campaign Legal Center ("CLC") enclosed with that correspondence. Black Men Vote is an independent expenditure only committee that has been registered with the Federal Election Commission ("the Commission") since September of 2012.

In their complaint, the CLC alleges that Mr. Michel violated 52 U.S.C. § 30122 when SPM Holdings made contributions to Black Men Vote in October of 2012. The complaint merely alleges such without any supporting facts and cites a "report" by the Center for Public Integrity on the issue corporate contributions to independent expenditure committees. In that report, Mr. Michel and Black Men Vote unambiguously and without reservation acknowledge contributions to the committee both from Mr. Michel personally and from SPM Holdings LLC, a limited liability company of which Mr. Michel is the sole member. The complaint does not allege, and Mr. Michel emphatically denies, that any of the contributions from SPM Holdings were made from this entity in order to conceal or hide Mr. Michel's identity and/or his support for Black Men Vote.

Mr. Michel was legally permitted to make unlimited contributions to Black Men Vote, either personally or through any other business entity controlled or owned by Mr. Michel.

However, neither the complaint, nor the report relied upon by CLC dispute this nor do either proffer any facts to support the assertion that (a) the contributions at issue or (b) Mr. Michel's conduct and (c) the conduct of Black Men Vote in reporting them violated any provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). As further discussed below, the actual facts show that the CLC assertions are baseless and have no merit. Accordingly and respectfully, the Commission should dismiss the complaint on its face as lacking any substantive foundation. See MUR 4960 (Hillary Rodham Clinton for U.S. Senate Exploratory Committee, Inc.), Statement of Reasons of Commissioners David M. Mason, Karl J. Sandstrom, Bradley A. Smith and Scott E. Thomas, December 21, 2000.

FACTS

During September and October of 2012, Mr. Michel sought to support Black Men Vote through several contributions. Mr. Michel made contributions from personal accounts as well as through SPM Holdings, LLC as follows:

9/7/12 - \$250,000.00 from Pras Michel
10/5/12 - \$100,000 from Pras Michel
10/12/12 - \$400,000.00 from SPM Holdings, LLC
10/24/12 - \$475,000.00 from SPM Holdings, LLC

Black Men Vote properly disclosed each contribution from its actual source on the date of the contributions.

SPM Holdings, LLC is a single member LLC organized under the laws of Delaware and was created on July 2, 2012. As you know, under the law SPM Holdings itself is a legal person. SPM Holdings, LLC was created for commercial business reasons and serves as a holding company for a variety of investments and is a consulting business platform for Mr. Michel. SPM Holdings investment activities include real estate, private equity transactions, as well as entertainment holdings. In addition, SPM Holdings owns Mr. Michel's primary residence in Coconut Creek, Florida. As Mr. Michel's holding company, SPM Holdings, LLC was not required to register as a foreign business in the state of Florida.

SPM Holdings, LLC's net income is derived exclusively from the income earned from its business activities. None of SPM Holdings' income consisted of any funds transferred by Mr. Michel or from any other individual, let alone such transfers for the purpose of making political contributions. As alluded to previously, CLC's complaint contains no information to the contrary. Attached to this response is a declaration from Mr. Michel that attests to the fact that all income of SPM Holdings, LLC in 2012 were exclusively from business income and that no funds were transferred to SPM Holdings from any personal account of Mr. Michel.

APPLICATION OF LAW

1. Mr. Michel did not make a contribution in the name of another

Section 320 of the Act (52 U.S.C. § 30122) prohibits any person from making a contribution “in the name of another person or knowingly permit[ing] his name to be used to effect such a contribution. . . [or] knowingly accept[ing] a contribution by one person in the name of another.”

Commission regulations provide the following examples of violations of this provision:

Giving money or anything of value, all of part of which was provided to the contributor by another person (the true contributor) without disclosing the source of money or the thing of value to the recipient of money or the thing of value to the recipient or committee at the time the contribution is made or

Making a contribution of money or anything of value and attributing as the source of money or thing of value another person when in fact the contributor is the source.

11 C.F.R. § 110.4(b)(2).

The contributions received by Black Men Vote and referred to in the report relied upon by the CLC are from two distinct sources. The first two contributions were made by Mr. Michel personally, and were fully and properly reported to the Commission by Black Men Vote. The second two contributions were made by SPM Holdings, LLC and were likewise properly reported. These two latter contributions in no way violated Section 30122 of the Act. In order for Section 30122 to apply and a violation of the act to be found, funds must be provided by one person to another for the purpose of making a contribution, or a person must provide a contribution under a fictitious name. See United States v. O'Donnell, 608 F.3d 546 (9th Cir. 2010); See e.g. MURs 4960, 6463, 6541.

In this instance, the two contributions received by Black Men Vote from SPM Holdings were properly reported and attributed to the appropriate “person” who made the contribution. The facts demonstrate that Mr. Michel did not transfer or otherwise provide any funds to SPM Holdings, LLC for any purpose whatsoever, including for the purpose of making any political contributions.

To be sure, the contributions received by Black Men Vote from SPM Holdings were for valid and bona fide business reasons that had nothing to do with an intent to hide the identity of Mr. Michel. During this period, Mr. Michel was in the process of phasing out certain personal accounts which he had previously used to conduct business in favor of corporate vehicles (such as SPM Holdings LLC) that provided more liability protection. Essentially, at the time of the third and fourth contributions to Black Men Vote were made, Mr. Michel had merely depleted the funds remaining in his personal account and used the LLC account, which had sufficient funds to make the contributions. Moreover, it is fairly nonsensical to believe that having made

two earlier substantial contributions (the last one being on October 7, 2012) and being reported as the source in Commission filings and in the press that one week later (on October 12th) that Mr. Michel would be concerned about disclosure.

Thus, Mr. Michel had no reason or intent to conceal that his company was the source of the contributions, but rather, the contributions were drawn from which funds were available at the time. Mr. Michel's declaration confirms that disclosure considerations were not a motivation. Mr. Michel attests that sole consideration for choosing which account to contribute from was a matter of cash flow and business convenience. In addition to debunking unsubstantiated allocations of secrecy, the declaration confirms that not only was Mr. Michel generally unaware of FEC reporting requirements but also that he did not provide any instructions to Mr. Kirk or any other agent of Black Men Vote as to how to report any of the contributions..

Again, neither the "report" created by the Center for Public Integrity nor the complaint filed by CLC, any facts that would suggest that Mr. Michel provided any funds to SPM Holdings, LLC for the purpose of making the contribution or that Mr. Michel had made any attempt to otherwise obfuscate the true source of the funds provided to Black Men Vote. Rather, the report and CLC are using Mr. Michel as a pawn to conduct a public relations campaign regarding their own discontent with Commission rules regarding the reporting of LLC contributions to independent expenditure only PACs. In this regard, the CLC is abusing the Commission's complaint process and should be held account for doing so.

In the so-called report, Mr. Michel and Black Men Vote proudly acknowledge the Mr. Michel's personal contributions and those made by his company and they explain this to report's author. Nevertheless, the author insinuates a secrecy motive on the part of Mr. Michel and the PAC even though the author was easily able to determine that Mr. Michel was connected to all four of the contributions --with minimal research (although he appears to act like it was a herculean task to figure it out). Mr. Michel had absolutely no reason to hide his connection to his contributions made to Black Men Vote and again, it would make no sense for Mr. Michel to first contribute hundreds of thousands of dollars personally and then decide to hide the true source of subsequent contributions to Black Men Vote. When Mr. Michel was directly contacted by CPI for their report, Mr. Michel explained that SPM Holdings, LLC was a holding company for his personal affairs and was more than happy to acknowledge the full amount of the contributions. Undaunted, Complainant filed this baseless and frivolous complaint for the sole purpose of demonstrating its apparent dissatisfaction with current Commission regulations regarding contributions by LLC's to independent expenditure only committees.

2. Black Men Vote appropriately and correctly reported contributions received by Mr. Michel and SPM Holdings, LLC

Commission regulations require that contributions be disclosed and attributed to the "person" who made a contribution. 11 C.F.R. § 104.3(a)(4). Commission regulations do not assume that every person is a natural person, but rather, a person is "an individual, partnership, committee, association, corporation, labor organization, and any other organization, or group of

persons....” 11 C.F.R. § 100.10. Here, in each instance, Black Men Vote disclosed the correct “person” who made a contribution to the committee. Each contribution was made by check and the disclosures were made based upon the source indicated on the check. Mr. Michel did not provide any instructions to Black Men Vote on the preferred disclosure of any of his contributions and assumed that Black Men Vote would file the necessary and appropriate disclosures with the Commission.

The complainant appears to allege that Black Men Vote mis-reported the disclosure of the SPM Holdings, LLC contributions by not disclosing those contributions as originating from Mr. Michel. The complaint incorrectly relies upon 11 C.F.R. § 110.1(g) for this proposition. Section 110.1(g), which was promulgated in 1999, was intended by the Commission as a way to distinguish those LLCs that were a permissible source under the Act and those that were not. Under section 110.1(g), the regulation divided LLCs into two categories. First, it provided that LLCs that were taxed as a corporation were not a permissible source and that those that were taxed as a partnership were a permissible source under the Act. Second, it provided that those LLCs that were a permissible source were required to attribute the contribution against the limits of both the LLC, as well as the LLC’s member, consistent with the treatment of contribution limits for partnership contributions. 11 C.F.R. § 110.1(g)(5). Section 110.1(g) does not specifically provide for any special provisions for reporting by LLCs. Rather, the Commission, as a matter of apparent practice, applies the same reporting requirements to LLCs taxed as partnerships as it does to contributions that are made directly from partnerships. This makes sense in light of the same contribution limit treatment of each.

The complainant asserts that the Commission’s regulations should be interpreted as requiring, even in the case of a contribution to a candidate committee from a single member LLC, such as SPM Holdings, that Black Men Vote had an affirmative obligation to identify the natural person(s) holding an LLC ownership. This is simply not the law. Rather the Commission’s regulations merely provide that a single member LLC’s contribution should be “attributed” to that single member. It does not negate the fact that the LLC itself is the contributor and the “person” who made the contribution. Moreover, as further discussed below, if the Commission decides that such an interpretation is appropriate in the future it should not be applied retroactively in this case.

It is clear that the full reporting provisions for LLCs should not, and need not apply to contributions made to independent expenditure only committees. First, since all LLCs can give to independent expenditure only committees, the Commission does not need to monitor compliance with the appropriate election between corporate and partnership taxation made by the LLC for such contributions. Second, since there are no limitations on contributions to an independent expenditure only committee, the Commission need not monitor the contribution limits of each member of the LLC. Therefore, the Commission’s regulations limit the required disclosure to the “person” who made the contribution. Third, it appears that the clear Commission practice is not to require such LLC attributions to independent expenditure only committees. If the Commission wished to require Black Men Vote to provide an LLC attribution to its members, it would have sent a Request for Additional Information to the committee asking it to amend its reports to provide those attributions. Commission records indicate that no such

