

# UTRECHT, KLEINFELD, FIORI, PARTNERS

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June 26, 2020

Federal Election Commission  
Office of Complaints Examination  
& Legal Administration  
Attn: Jeff S. Jordan, Assistant General Counsel  
1050 First Street, NE  
Washington, DC 20463

*via email, cela@FEC.gov*

***Re: MUR 7740, Teresa Tomlinson for Senate, and Sheri Labovitz, as Treasurer***

Dear Mr. Jordan,

This is the response of our clients, Teresa Tomlinson for Senate and Sheri Labovitz, as Treasurer (hereinafter collectively, the “Committee” or “Respondents”) to the Complaint filed in the above-captioned Matter Under Review (“MUR”). For the reasons stated below, the Committee respectfully requests that the Commission find no reason to believe that any violation of the Federal Election Campaign Act of 1971 (“Act” or “FECA”), as amended, or of the Federal Election Commission’s (“FEC” or “Commission”) regulations, was committed by these Respondents and close this matter as it pertains to them as expeditiously as possible.

## **A. Background**

Respondent Committee is the principal campaign committee of Teresa Tomlinson, a former candidate for the U.S. Senate in the State of Georgia.<sup>1</sup> Complainant alleges that there are “similarities in consulting firms” between those used by the campaign and those used by an independent expenditure committee, Undivided Purpose, but provides no instance, example or other documentation of direct contacts between the two committees or of information being improperly shared. In support of this vague allegation, Complainant references one firm, Berger Hirschberg Strategies (“BHS”), that provided services to both committees and one firm, Trippi Norton Rossmessl Campaigns (“TNR”) that provided services to the Committee and that shares an address with another firm, Mad River Communications (“Mad River”) that provided services to the independent expenditure committee. BHS was a commercial fundraising vendor to the Committee, and TNR<sup>2</sup> was a political consultant to the Committee. The Committee had no arrangement with Mad River.<sup>3</sup>

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<sup>1</sup> Ms. Tomlinson was a candidate in the Democratic Primary held on June 9, 2020, but finished second in a multi-candidate race, and is not a candidate in the 2020 General Election.

<sup>2</sup> Upon information and belief, Respondents understand that TNR may be the d/b/a for Joe Trippi & Associates.

<sup>3</sup> The Committee’s FEC reports reflect no disbursements made directly to Mad River. However, upon information and belief, Mad River is associated with TNR.

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In short and as more fully explained below, TNR, pursuant to the coordination and common vendor regulation at 11 C.F.R. §109.21(h), implemented and maintained a bona fide firewall separating staff assigned to work on matters relating to the Committee from staff working on matters relating to independent activity and preventing non-public material information from being shared between them or being used for independent activity. BHS, to which the common vendor regulation does not, in fact, apply, also chose to implement reasonable precautions to prevent the sharing of non-public material information between the Committee and the independent expenditure committee.

Because (1) appropriate steps were implemented to prevent the sharing and use of non-public material information, (2) no such information was, in fact, shared or used, and (3) there is no information to the contrary in the Complaint, Respondents respectfully request that the Commission find no reason to believe that any violation occurred and close this matter as expeditiously as possible.

## **B. Discussion**

### **1. Under FECA, the use of common vendors is permissible, provided that material non-public information is not shared, and a bona fide firewall will rebut the presumption of coordination.**

As indicated above, the Complainant's sole piece of information upon which to request an investigation is that there are two common vendors between the Committee and an independent expenditure committee. This information is simply not enough for the Commission to proceed to an investigation under the applicable legal standard, as explained below.<sup>4</sup>

Under the Act and Commission regulations, an authorized committee of a candidate may not coordinate with an entity making independent expenditures on its behalf. If certain conditions are met, a common vendor could indicate coordination under the Commission's regulations at 11 C.F.R. § 109.21(d)(4). Paragraphs (d)(4)(i) and (ii) provide that a common vendor is a commercial vendor who is contracted to create, produce, or distribute a communication by someone after that vendor has, during the same election cycle, provided any one of a number of listed services to a candidate who is clearly identified in that communication.<sup>5</sup> 11 C.F.R. § 109.21; *See also* Explanation and Justification ("E&J"), Coordinated and Independent Expenditures, 68 Fed. Reg. 421, 435 (2003).

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<sup>4</sup> To be sufficient, valid, and appropriate for filing and consideration by the Commission under the Act and Commission Regulations, a complaint must conform to certain provisions set forth at 11 C.F.R. § 111.4(d), including a clear and concise recitation of the facts which describe a violation of a statute or regulation, and documentation supporting the facts alleged. 11 C.F.R. § 111.4(d)(3)-(4). Contrary to these requirements, the hyperbolic complaint in this matter merely speculates and infers, based on wholly permissible arrangements, that impermissible coordination must have occurred through the use of two vendors. Beyond the minimal speculation and incomplete research, no actual information is provided. There is nothing provided in the complaint to indicate that any coordination whatsoever occurred.

<sup>5</sup> This refers to the "conduct" standard, which is one of three prongs of the coordination regulation. These Respondents are addressing this response to that standard. These Respondents have no information as to whether the "content" standard may have been met here and reserve the right to argue the content standard should the Commission determine to open an investigation and review this matter further.

Importantly, the mere existence of a common vendor alone is insufficient for a conclusion of coordination to be made, and the Commission has considered – since the very inception and promulgation of this regulation – that the use of a common vendor is not per se prohibited nor a violation of FECA. The Commission made this clear in the Explanation & Justification to 11 C.F.R. § 109.21(d)(4), when it was promulgated:

After considering the wide range of comments, the Commission has decided to promulgate a final rule that is similar in many respects to the proposed rule, with certain modifications discussed below. It *disagrees* with those commenters who contended the proposed standard created any “*prohibition*” on the use of common vendors, and *likewise disagrees* with the commenters who suggested it established a *presumption of coordination*...But under this final rule, *even those vendors who provide one or more of the specified services are not in any way prohibited from providing services to both candidates or political party committees and third-party spenders*. E&J, 68 Fed. Reg. 421, 436 (emphasis added).

Thus, not only did the Commission acknowledge that it would not prohibit the use of common vendors, it recognized that the mere fact of common vendors is insufficient, as a matter of law, to create a presumption of coordination, without something more. Here, the complainant alleges only the mere fact of common vendors without anything further; hence, there can be no presumption of coordination in this case, and Complainant’s statements inferring otherwise are contrary to law and the Commission’s own statements.

In fact, as a matter of long-established law and precedent, to satisfy the common vendor standard, all of the following must be true: (1) the person paying for the communication employs a commercial vendor to create, produce or distribute a communication, (2) the vendor has provided certain delineated services to the campaign during the 120 days preceding the communication, and (3) the vendor conveys non-public information about the campaign’s plans, projects, activities or needs and that information is material to the creation, production or distribution of the communication.<sup>6</sup> MUR 6916 (Democratic National Committee, et al.) First General Counsel’s Report at 17; MUR 7403 and 7441, (Dr. John Joyce for Congress et al.) First General Counsel’s Report at 6.

For vendors that do satisfy the first two prongs of the common vendor standard, by providing services to create, produce or distribute a communication, then the Commission requires additional information – none of which has been provided or even alleged by Complainant here – in order to conclude that coordination occurred, namely, the conveyance or use of material information about the plans, projects, activities or needs of a campaign by the common vendor in providing services to another entity, in this case, an independent expenditure committee. See E& J, 68 Fed. Reg. 421 at 436-7 (*Paragraph (d)(4)(iii) requires that the commercial vendor ‘uses or conveys information about the candidate’s campaign plans,*

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<sup>6</sup> In FEC Advisory Opinion (“AO”) 2016-21, the Commission has explained that the term ‘material’ is included to safeguard against the inclusion of incidental participation that is not important to, or does not influence, decisions regarding a communication... The provision’s reference to information that is “material to the creation, production, or distribution of the communication” therefore covers circumstances where the information is material to decisions such as those regarding the content, means or mode, specific media outlet, timing or frequency, or size, prominence or duration of the communication. *Id.* at 6.

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*projects, activities, or needs'' . . . where that information is material to the creation, production, or distribution of the communication).* Thus, this provision requires the vendor to assume the role of a conduit of material non-public information from the campaign to a third party or to actually make use of material information regarding the candidate's plans, projects, activities or needs. *Id.*

In addition, a bona fide firewall will rebut any presumption of coordination. *See* 11 C.F.R. § 109.21(h). The firewall must be designed and implemented by the vendor to prohibit the flow of information about the candidate's campaign plans, projects, activities, or needs between those employees providing services for the person paying for the communication and those employees providing services for the candidate who is clearly identified in the communication. *See* 11 C.F.R. § 109.21(h)(1); *see also* E&J, Coordinated Communication, 71 Fed. Reg. 33190, 33206. Once a bona fide firewall has been established, for the firewall to be vitiated and the safe harbor to be inapplicable, material information about the candidate's or political party committee's campaign plans, projects, activities or needs must pass between persons on either side of the firewall. *Id.* at 33207.

For the following reasons, the Committee's arrangements with the two vendors cited in the Complainant is in full compliance with the Act and Commission regulations, and there is no reason to believe that any violation occurred.

**2. TNR implemented a bona fide firewall, and there is no indication or information that the wall was in any way vitiated.**

One vendor cited by Complainant, TNR established and distributed a written firewall in connection with this race, and the Committee received a copy of it. *See* Declaration of Julia Norton and Attached Firewall, Exhibit A. The firewall, as written and implemented, prevented the sharing of non-public information about the Committee's plans, projects, activities and needs. In pertinent part, the firewall states:

*Any employee or consultant working on behalf of an independent group that disseminates communications that refer to candidates or political parties must not:*

- *Use material information about the plans, projects or needs of a political party committee, a candidate, or a candidate's committee that was obtained from someone who was an employee, independent contractor or vendor of a political party committee, a candidate, or a candidate's committee during the previous 120 days.*

*...  
 Any employee or consultant working on behalf of a candidate or the "coordinated side" of a party committee should cooperate to ensure that the prohibited conduct described above is avoided by employees or consultants working on behalf of non-party, non-candidate groups or political party independent expenditure teams. These employees and consultants may not share information about their client's projects, plans or needs outside of their team.*

The TNR firewall was clearly designed and implemented to prevent the sharing of non-public information, and the Complaint provides no information indicating that any material information – or for that matter, any information whatsoever – passed between persons on either side of the firewall. Separate staff were assigned to work on Committee matters from those working on the independent expenditure. *Id.*, at para. 3. As an extra precaution, the independent expenditure was run out of a separate, albeit associated company, providing an additional degree of separation.<sup>7</sup> The Committee’s communications were only with those TNR staff assigned to the candidate side of the firewall.<sup>8</sup> TNR staff who worked on providing services to the Committee are unaware of any information being shared with Mad River staff or with the independent expenditure committee and had no involvement in the creation, production or distribution of any independent expenditures.<sup>9</sup> *Id.* at para. 6-7.

In the absence of specific information that the firewall has been vitiated, it will serve as a safe harbor, and it should do so here. 71 Fed. Reg. 33190, 33207. The Commission should follow its many precedents and consider the firewall in place here as a safe harbor against the meritless allegations of the Complaint. *See, e.g.*, MUR 5506 (EMILY’s List), First General Counsel’s Report at 5-8 (concluding that there was no reason to believe that the respondent organization made excessive contributions in the form of coordinated communications, based primarily on the organization’s establishment of “firewall” measures); MURs 7403 and 744, First General Counsel’s Report at 7, *See also* AO 2010-09 fn. 8, p. 4.

Accordingly, the information cited by Complainant is insufficient as a matter of law to the analysis as to whether coordination occurred and cannot support such a conclusion or even serve as the basis for further investigation. Because of the bona fide firewall in place, and because there is no information indicating that TNR acted as a conduit of material information to the independent expenditure committee, or otherwise used material information in performing their services for the independent expenditure committee, the Commission should find no reason to believe that any violation of FECA occurred.

### **3. The common vendor provision does not apply to BHS, who still took reasonable precautions to prevent the sharing of material non-public information.**

The second vendor cited by Complainant as a common vendor, BHS, is a fundraising vendor, whose usual and normal business is to raise funds for clients, and not to create, produce or distribute public communications. *See* Declaration of Stephanie Berger, Exhibit B, para. 5. The first prong of the common vendor standard makes clear that this standard only applies to a vendor who is providing services involving the creation, production, or distribution of

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<sup>7</sup> The Commission has held that common leadership or overlapping administrative personnel does not defeat the use of a firewall. *Id.* at 33207

<sup>8</sup> Upon information and belief, the Committee staff had no discussions with Mad River staff.

<sup>9</sup> Complaint also makes no allegations of any direct contacts between the Committee and the independent expenditure committee, and, upon information and belief, the Committee is unaware of any. Moreover, it goes hand-in-hand that since the Complaint failed to even allege that information was shared, either directly or through a common vendor, it also fails to meet the requirement that such information is material to the creation of public communications.

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communications, and does not apply to the activities of persons who do not create, produce, or distribute communications as a commercial venture. E&J, 68 Fed. Reg. 421, 436; *See also* MUR 6916, First General Counsel's Report at 17 (finding that the common vendor standard is not met when there is no information to suggest that the vendor provided services to create, produce or distribute communications); *See also* MUR 6077 (Norm Coleman et al).

In fact, BHS did not engage in the creation, production or distribution of public communications here or provide services, other than fundraising, for those purposes to the Committee or to the independent expenditure committee. Declaration of Berger, para. 5. There is no other information or indication provided by Complainant that BHS is a commercial vendor employed to create, produce or distribute communications for the Committee or the independent expenditure committee. Because under Commission precedent all three factors above must be satisfied in order to meet the definition of common vendor, there is no need to analyze further with respect to BHS. The information before the Commission is insufficient to satisfy the conduct prong with respect to BHS.

Even so, BHS took direct steps and reasonable precautions in this case to avoid the sharing of non-public information about the Committee with the independent expenditure committee, including the complete separation of personnel working on each client's fundraising.<sup>10</sup> *Id.* at para. 6 Fundraising activities for each client were conducted out of separate offices of BHS to further eliminate any possibility of the sharing of non-public information that might be material to a public communication, with campaign fundraising occurring out of the New York office of BHS, and fundraising for Undivided Purpose occurring out of the firm's DC office. *Id.* at para. 7. BHS instituted precautions, such as password protections, to ensure that network access was separate between the fundraising that was being conducted for each client, and that information on the BHS computer network was not shared. *Id.* at para. 7. All of these steps were implemented to ensure that material non-public information was not shared, and in fact, BHS is unaware of any such information or communications having occurred. *Id.* at para. 8.

Finally, although not part of the Commission's common vendor analysis, the provision of fundraising services to both a campaign and an independent expenditure committee, has been directly sanctioned by the Commission. *See* AO 2015-09 at p.7-8 (finding individuals who are agents of candidate committees may solicit funds for independent expenditure committees involved in the same race without regard to limitations and source prohibitions, as long as they are not acting as an agent of the candidate committees in doing so). Where, as here, reasonable precautions are taken to separate the fundraising services being provided to multiple clients, the Commission has recognized that such services may and do occur without running afoul of any provisions of the Act.

Accordingly, under the common vendor standard of the Commission's coordination rules and under other Commission precedent, there is no reason to believe that the activities of BHS,

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<sup>10</sup> Even though BHS did not establish a firewall for this purpose, such a step was not necessary, given that BHS is not a commercial vendor in the business of creating, producing or distributing public communications, and, as the Commission recognized, the addition of this firewall safe harbor provision to the coordinated communication rules does not require commercial vendors, former employees and political committees to use a firewall. The Commission will not draw a negative inference from the lack of such a screening policy. E & J, 71 Fed. Reg. 33190, 33206

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as a common fundraising vendor, resulted in the violation of any provision of the Act or Commission regulations.

### **C. Conclusion**

In sum, with respect to the Respondents Teresa Tomlinson for Senate and Sheri Labovitz, as Treasurer, the Complaint and the information provided therein is purely speculative, hyperbolic and clearly does not support a violation of the Act. Complainant provides no facts or information that the vendors here acted as conduits of information from the Committee to the independent expenditure committee. Similarly, Complainant provides no facts or information that the vendors here made use of any information acquired from the Committee in performing services for the independent expenditure committee. Complainant would have the Commission infer this through speculation and innuendo, but zero information has been provided, precisely because it did not occur here.

For these reasons, and as demonstrated above, Respondents respectfully request that the Commission find no reason to believe that they violated any provision of the Federal Election Campaign Act of 1971 (the "Act"), as amended, or the Commission regulations and close this MUR as it pertains to these Respondents as expeditiously as possible.

Respectfully submitted,



Eric Kleinfeld  
Adam Clark  
Utrecht, Kleinfeld, Fiori Partners  
Counsel for Teresa Tomlinson for Senate, and  
Sheri Labovitz, as Treasurer

Exhibits

# EXHIBIT A



BEFORE THE FEDERAL ELECTION COMMISSION

\_\_\_\_\_)
In re MUR 7740, Teresa Tomlinson for Senate )
\_\_\_\_\_)

DECLARATION OF JULIA NORTON

I, Julia Norton, do hereby certify:

- 1. I am a Partner at Trippi, Norton, Rossmeissl Campaigns ("Firm"), a political consulting firm.
2. Teresa Tomlinson for Senate ("Client") was our client for the 2020 primary election for US Senate from the state of Georgia, and I was the lead person at the Firm assigned to and responsible for working directly with the Client on campaign matters in connection with this election.
3. In March 2020, I initiated steps to create a firewall in order to separate and wall-off Firm staff who would be working on the Client's matters from others who may be working on primary election independent expenditures in connection with this race. As an additional pre-caution, the separate staff who were assigned to work on the independent expenditures in connection with this race did so out of an associated, but distinct, company, Mad River Communications.
4. On or about March 30, 2020, the Firm finalized the firewall and notified all staff. I certify that the attached is a correct copy of the firewall.
5. Upon information and belief, and to the best that I can recall and determine at this date, our Firm firewall was at all times complied with.
6. Upon information and belief, and to the best that I can recall and determine at this date, neither I nor anyone else that I am aware of, shared or provided non-public information about the Client's plans, projects, activities or needs, with anyone working on independent expenditures in connection with this race, or made any requests or suggestions that a public communication be made by an independent expenditure group in connection with this race.
7. Upon information and belief, and to the best that I can recall and determine at this date, I and others at the Firm who were working on campaign matters had no active involvement in the making of independent expenditures in connection with this race or discussions about such independent expenditures with persons who may have been working on that activity.

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

Signed: [Signature]
Julia Norton

Date: 6/25/2020

March 30, 2020

TO: Affected Employees, Consultants & Clients  
FROM: Trippi Norton Rossmeissl  
RE: **Firewall Policy for 2019-2020**

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To comply with the Federal Election Commission's coordination rules affecting federal political advertising, Trippi Norton Rossmeissl ("**TNR**") has implemented the firewall policy described below.

This firewall is designed to prohibit the flow of information with respect to each election between those who provide services to candidates and those who provide services to non-party, non-candidate groups.

It is essential that all TNR employees familiarize themselves and comply with this policy.

#### **A. Background**

Federal Election Commission rules restrict coordination between federal candidates and political parties (including their independent expenditure teams) on the one hand, and non-party, non-candidate groups on the other. They also restrict coordination between the parties' independent expenditure teams, and the candidates on whose behalf they are spending. The rules are designed to restrict the flow of information to the independent spender. They apply to the following types of advertising:

- Public communications referring to a House or Senate candidate or a political party, if the advertisement is distributed within 90 days of a federal congressional election; or
- Public communications at any time that expressly advocate a federal candidate's election or defeat, contain the "functional equivalent" of express advocacy (*i.e.*, the ad has no reasonable interpretation other than as an appeal to vote for or against a candidate), or republish a supported candidate's campaign materials.

The restrictions apply to all non-public interactions about the content of advertisements distributed during the above windows, as well as their timing, placement and frequency. However, the FEC rules provide a safe harbor for commercial vendors who create a written policy, distributed to all relevant employees, consultants and clients, that prohibits the flow of information to those involved in independent spending.

To prevent improper coordination among our various clients, TNR has implemented the procedures below.

## **B. New Clients**

Any prospective client must be reviewed and approved by Julie Norton before acceptance. New clients will only be accepted upon legal review, when continued legal compliance for existing clients has been ensured.

## **C. Division of Labor & Confidentiality**

For each election, TNR employees and consultants shall be assigned to one of two teams:

1. The “Candidate Team,” which shall perform services for candidates, political party committees, and others who are working with candidates;
2. The “Independent Expenditure Team,” which shall perform services for non-party, non-candidate groups that sponsor independent advertisements;

The individuals in each team may not share information about their clients’ projects, plans or needs outside of that team. For example, individuals assigned to a team may not participate in the other team’s work, and may not discuss their work with the other team. These prohibitions shall last until the end of the 2020 election cycle, even if TNR’s relationship with a particular client terminates.

Current team assignments are attached to this policy in Exhibit A. Exhibit A will be updated as additional candidate or independent expenditure clients are retained.

### **1. Work for Independent Groups**

Any employee or consultant working on behalf of an independent group that disseminates communications that refer to candidates or political parties must not:

- Create, produce or distribute communications at the request, suggestion or with the assent of a political party committee, a candidate, a candidate’s campaign committee, or their agents.
- Allow a political party committee, a candidate, a candidate’s campaign committee, or their agents to be materially involved in decisions over a communication’s content; intended audience; means or mode; specific media outlets; timing or frequency; or size, prominence or duration;
- Have one or more substantial discussions with a political party committee, a candidate, a candidate’s campaign committee, or their agents where material information about plans, projects or needs is conveyed; or
- Use material information about the plans, projects or needs of a political party committee, a candidate, or a candidate’s committee that was obtained from someone who was an employee, independent contractor or vendor of a political party committee, a candidate, or a candidate’s committee during the previous 120 days.

Note that, under this policy, the term “political party committee” includes a political party independent expenditure team. Thus, TNR personnel working for a non-party, non-candidate group may not work with a political party independent expenditure team in that same race, even though that team may also be walled off from any candidate interaction.

When conducting any work for an independent expenditure group (even if communications do not refer to candidates) TNR should also ensure that it does not inadvertently provide some form of in-kind contribution to a candidate or a political party, such as making staff paid directly or indirectly by the outside political advocacy group available to a candidate or political party for services that exceed what they are contractually entitled to receive.

## **2. Work for Candidates and General Party Activities**

Any employee or consultant working on behalf of a candidate or the “coordinated side” of a party committee should cooperate to ensure that the prohibited conduct described above is avoided by employees or consultants working on behalf of non-party, non-candidate groups or political party independent expenditure teams. These employees and consultants may not share information about their client’s projects, plans or needs outside of their team.

### **D. Subvendors**

TNR shall not use subvendors to perform services for clients unless it first verifies that doing so is permissible under applicable coordination rules.

### **E. Document Access and Storage**

Information specific to a particular election affected by this policy will not be available through shared libraries or files accessible to all TNR employees. Documents or other work product will be segregated by client, and only employees permitted on that client's team will have access. Accordingly, computer files will be password protected, and printed documents and work product will be maintained in a manner that guarantees their security and stored securely when not in use.

### **F. Team E-Mail Lists**

TNR will establish internal client team e-mail lists to help prevent improper correspondence between staff representing different candidates and spending organizations. Employees must refrain from using other company email lists to convey information that the teams may not share with one another

### **G. Client Notification**

TNR will inform its clients of its firewall policy. The importance of this policy to both TNR and the client should be stressed. TNR will send each client a separate letter confirming their confidentiality policy and advising clients not to circumvent the policy by disclosing proprietary information to unauthorized TNR personnel. TNR will also inform every client which individuals are authorized to discuss their account and to receive documents.

**H. Staff Briefing**

All staff will be briefed on the policy of TNR and will also retain a copy of this memo.

**I. Contact**

In the event that an employee, consultant or client has questions about these procedures, he or she should contact TNR's counsel.

**EXHIBIT A**

<b>Race</b>	<b>Independent Expenditure Team</b>	<b>Candidate Team</b>
Georgia Senate	Kobi Tirey Molly Spillman Martha Gravlee Daren Berringer	Joe Trippi Julie Norton Oliver Larkin Esteban Rodriguez-Vazquez Emily Crawford

# EXHIBIT B

**BEFORE THE FEDERAL ELECTION COMMISSION**

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*In re MUR 7740, Teresa Tomlinson for Senate* )  
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**DECLARATION OF STEPHANIE BERGER**

*I, Stephanie Berger, do hereby certify:*

1. I am Founder and Co-President at Berger Hirschberg Strategies (“Firm”), a fundraising firm.
2. Teresa Tomlinson for Senate was a Firm client for the 2020 primary election for US Senate from the state of Georgia for the purposes of fundraising.
3. I was the person at the Firm principally responsible for providing fundraising services to Client.
4. The Firm also was retained as a fundraiser for Undivided Purpose. I had no involvement and did not participate in fundraising for Undivided Purpose.
5. Our Firm did not provide services relating to the creation, production or distribution of any advertisements or other paid public communications to either client.
6. I implemented a procedure whereby separate staff at the Firm worked on fundraising for Teresa Tomlinson for Senate from those working on fundraising for Undivided Purpose. Upon information and belief, and to the best that I can recall and determine at this date, at all times separate and different staff worked on the services provided to these two clients.
7. Our Firm took other pre-cautions as well, including having the services for each client be performed out of completely separate office. Fundraising for Teresa Tomlinson for Senate was conducted out of our New York office, and fundraising for Undivided Purpose was conducted out of our Washington, D.C. office. In addition, we instituted a firewall within our computer network systems, so that staff work on one of these clients could not access information within the network pertaining to the other one of these client.
8. Upon information and belief, and to the best that I can recall and determine at this date, neither I nor anyone else that I am aware of, shared or provided non-public information about the plans, projects, activities or needs of Teresa Tomlinson for Senate, with anyone working on independent expenditures in connection with this race, or made any requests or suggestions that a public communication be made by an independent expenditure group in connection with this race.
9. Upon information and belief, and to the best that I can recall and determine at this date, I and others at the Firm who were working on fundraising for Teresa Tomlinson for Senate had no active involvement in the making of independent expenditures in connection with this race or



discussions about such independent expenditures with persons who may have been working on that activity.

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

Signed: Stephanie Berger  
Stephanie Berger

Date: 6/19/2020