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December 14, 2020

Mr. Jeffrey Jordan
Federal Election Commission
Office of Complaints Examination
and Legal Administration
1050 First Street, NE
Washington, D.C. 20463**Re: Matter Under Review 7833 (Mark E. Rizik)**

Dear Mr. Jordan:

We write on behalf of our client, Mr. Mark E. Rizik, in response to the Federal Election Commission's October 29, 2020 letter regarding a complaint that suggested Mr. Rizik may have been involved in activity that violated the Federal Election Campaign Act of 1971, as amended (the "Act"). The complaint alleged that a contribution in the name of another person was made by Montcalm LLC to the Congressional Leadership Fund ("CLF"), and that Montcalm LLC failed to register and report as a political committee. Although the complaint makes no specific factual allegations of wrongdoing by Mr. Rizik, it speculates, "based on published reports," that unnamed individuals "who created" Montcalm LLC violated the Act, and states Mr. Rizik was the registered agent and organizer of Montcalm LLC. While the complaint does not allege that Mr. Rizik was the "unnamed individual" responsible for this alleged violation, that is the impression it seeks to create.

Aside from stating no facts that would support a conclusion that Mr. Rizik violated the Act, the facts conclusively demonstrate that he did not. Though Mr. Rizik created and was the registered agent for Montcalm LLC, Mr. Rizik did not control the use of Montcalm LLC and was not involved in suggesting, approving, or transmitting the contribution at issue. Nor did Mr. Rizik have any knowledge of CLF or that the contribution was made until he was contacted by a reporter two weeks after the contribution was made. For the reasons discussed below, the Commission should conclude that there is no reason to believe that Mr. Rizik engaged in any activity that violated the Act and dismiss this complaint with respect to Mr. Rizik.

I. BACKGROUND

On September 28, 2020, Mr. Rizik filed paperwork with the State of Michigan to organize two corporate entities, including Montcalm LLC, for his client, Greenville Partners

Mr. Jeffrey Jordan
December 14, 2020
Page 2

LLC.¹ Within the scope of his work as counsel for Greenville Partners LLC, Mr. Rizik regularly created LLC entities to be used by Greenville Partners LLC for various business purposes.

At the time of Montcalm LLC's creation, Mr. Rizik was not aware of any discussion or plans involving the potential use of Montcalm LLC for federal political contributions generally, or the contribution in question here. In fact, Mr. Rizik first learned of the contribution from Montcalm LLC to CLF on October 23, 2020, when he received a telephone call from a reporter asking about the contribution.

We note that according to Commission public records, CLF filed a pre-general election disclosure report with the Commission on October 22, 2020, and amended it the next day to reflect the source of the funds used to make the contribution in question. Thus, any informational harm that could be alleged as to the original filing was remedied within a day.

II. ANALYSIS

The Commission may find a "reason to believe" that a respondent has committed or is about to commit a violation of the Act when a complaint sets forth specific facts, which if proven true, would constitute a violation of the Act. 52 U.S.C. 30119(a)(2). Complaints must be based on personal knowledge or identify a source of information that "reasonably gives rise to a belief in the truth of the allegations presented." MUR 4960 (Hillary Rodham Clinton For U.S. Senate Exploratory Committee, Inc.), Statement of Reasons, Commissioners David M. Mason, Karl J. Sandstrom, Bradley A. Smith, and Scott E. Thomas.

"Unwarranted legal conclusions from asserted facts, see SOR in MUR 4869 (American Postal Workers Union), or mere speculation, see SOR of Chairman Wold and Commissioners Mason and Thomas in MUR 4850 (Fossella), will not be accepted as true. In addition, while credibility will not be weighed in favor of the complainant or the respondent, a complaint may be dismissed if it consists of factual allegations that are rebutted with sufficiently compelling evidence provided in the response to the complaint, see MUR 4852 (Wiebe), or available from public sources such as the Commission's reports database." *Id.*

In short, the Commission must conclude, based on the evidence before it, that it believes a violation may have occurred. *Guidebook for Complainants and Respondents on the FEC Enforcement Process*, at p. 12, Federal Election Commission, May 2012. The D.C. Circuit has found that "mere 'official curiosity' will not suffice as the basis for FEC investigations[.]" *FEC v. Machinists Non-Partisan Political League*, 655 F.2d 380, 388 (D.C. Cir. 1981); see also MUR 6296 (Kenneth Buck), Statement of Reasons, Commissioners Caroline Hunter, Donald McGahn and Mathew Petersen, at 5-6. ("To [find reason to believe], the Commission must identify the sources of information and examine the facts and reliability of those sources to determine whether they 'reasonably [give] rise to a belief in the truth of the allegations presented.' Only once this standard is met may the Commission investigate whether a violation occurred.")

¹ A copy of Mr. Rizik's declaration affirming these facts is included as Attachment A.

Mr. Jeffrey Jordan
December 14, 2020
Page 3

The complaint fails to provide any evidence Mr. Rizik violated the Act. Instead, it provides only conjecture that someone must have violated the Act, and Mr. Rizik, who had a ministerial role in creating Montcalm LLC, is included to give the complaint the appearance of substance. Instead, the Commission now has before it facts that Mr. Rizik did not create Montcalm LLC for the purpose of making federal political contributions in general, or this contribution specifically. The Commission also has before it facts that Mr. Rizik was unaware of the contribution or of CLF in general until October 23, 2020, when contacted by a news reporter. With only speculation as to the existence of a violation, and facts demonstrating no violation occurred, the Commission should find that there is no reason to believe Mr. Rizik engaged in a violation of the Act, and dismiss the complaint as to him.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Robert Lenhard", with a stylized flourish at the end.

Robert Lenhard
Jessica Jensen

Attachment

Attachment A

BEFORE THE FEDERAL ELECTION COMMISSION

In re MUR 7833

DECLARATION OF MARK E. RIZIK

1. My name is Mark E. Rizik. This declaration is made upon my personal knowledge and belief. I am over the age of 18 and competent to make this declaration.
2. I am an attorney specializing in tax and business law with the law firm of Miller, Johnson, Snell & Cummiskey, P.L.C., in Grand Rapids, Michigan.
3. I serve as counsel to Greenville Partners LLC. As part of my work for Greenville Partners LLC, I regularly create LLC entities upon the request of Greenville Partners LLC, to be used for various business purposes.
4. In September of 2020, I endeavored to create three LLC entities organized under the laws of Michigan. The entities were to be named Montcalm LLC, Mastodon LLC, and Marathon LLC.
5. On September 28, 2020, I caused articles of organization to be filed with the Michigan Department of Licensing and Regulatory Affairs for Montcalm LLC and Mastodon LLC, and I was listed as the registered agent and organizer for both entities. I determined that the name Marathon LLC was not available and did not create an entity by that name.
6. At the time Montcalm LLC was organized, I understood the creation of Montcalm LLC to be for purposes other than federal political contributions. I was unaware of

any discussion or plans involving the potential use of Montcalm LLC for any federal political contributions.

7. On October 23, 2020, I received a telephone call from a reporter asking about a contribution made by Montcalm LLC to the Congressional Leadership Fund. This telephone inquiry was the first time I had heard of the Congressional Leadership Fund or any contribution by Montcalm LLC to the Congressional Leadership Fund.

I declare under penalty of perjury that the foregoing is true and correct, to the best of my knowledge and belief.

A handwritten signature in black ink, appearing to read "Mark E. Rizik", written over a horizontal line.

Mark E. Rizik

Date: December 12, 2020