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By OGC-CELA at 10:40 am, Dec 09, 2022

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November 8, 2022

Federal Election Commission
Office of Complaints Examination
& Legal Administration
Attn: Trace Keeyes
1050 First Street, NE
Washington, DC 20463

Sent via email to: cela@fec.gov

Reference Matter: MUR 8080

Dear Mr. Keeyes:

I write on behalf of my client, Pericle Communications Company (“Pericle”), regarding Matter Under Review 8080 (“MUR 8080”). On November 3, 2022, Pericle received MUR 8080 which was opened by the Federal Election Commission (“Commission”) in response to a complaint (“Complaint”). The Complaint alleges Pericle violated the Federal Election Campaign Act of 1971, as amended (the “Act”). Specifically, the Complaint alleges that because Pericle was obligated pursuant to a federal contract when Pericle allegedly made a \$25,000.00 donation to For Colorado’s Future (“Super PAC”), the donation was in violation of federal law. Pericle’s position regarding the Complaint is as follows (“Response”).

Pericle is a wireless engineering services company based in Colorado Springs, CO. Jay Jacobsmeyer (“Mr. Jacobsmeyer”) is Pericle’s sole owner and President. Beginning on September 21, 2021, until August 31, 2022, Pericle had an active federal contract with the National Institute of Standards and Technology or N.I.S.T (“Contract”). On June 24, 2022, Pericle made a \$25,000.00 donation (“June Donation”) to the Super PAC. The Super PAC supported Erik Aadland, a 2022 Republican candidate for Colorado District-7 (“Candidate Aadland”).

At the time Pericle made the June Donation, Mr. Jacobsmeyer was unaware that a federal contractor is prohibited from making any “contribution to any political party, committee, or candidate for public office” at any time between the commencement of negotiations for a federal contract and a completion of performance or termination of negotiations for the contract. *See* 52 U.S.C. § 30119(a)(1). Had Mr. Jacobsmeyer been informed of the federal contractor contribution ban, he would have chosen to personally contribute to the Super PAC.

While the sole focus of MUR 8080 is the June Donation, Mr. Jacobsmeyer wishes to be fully transparent to the Commission. On September 19, 2022, Pericle made a second \$25,000.00 contribution to the Super PAC (“September Donation”). However, since August 31, 2022, Pericle has had no responsibilities pursuant to either federal contract negotiations or performance obligations. While the September Donation was lawfully made, Mr. Jacobsmeyer remained uninformed regarding the federal contractor contribution ban.

Once the Super PAC became aware of Pericle’s federal contractor status, it refunded Pericle’s June Donation (“Refund”). Mr. Jacobsmeyer received the Refund on November 5, 2022. *See* Exhibit A, a true and correct copy of the refund check. Towards the end of October 2022, after Mr. Jacobsmeyer became aware of the contribution ban, Mr. Jacobsmeyer personally contributed an additional \$25,000.00 to the Super PAC.

Mr. Jacobsmeyer understands the FEC protects the integrity of the federal campaign finance process. Mr. Jacobsmeyer also understands that Pericle’s June Donation was in violation of 52 U.S.C. § 30119(a)(1). However, Mr. Jacobsmeyer respectfully requests the Commission dismiss MUR 8080 because the violation has been remedied. *See* Ex. A. Should the Commission decide not to dismiss MUR 8080, Mr. Jacobsmeyer respectfully requests to enter into a conciliation agreement. Pursuant to 11 C.F.R. § 111.18(d), “[n]othing in these regulations shall be construed to prevent the Commission from entering into a conciliation agreement with a respondent prior to a Commission finding of probable cause if a respondent indicates by letter to the General Counsel a desire to enter into negotiations directed towards reaching such a conciliation agreement.”

Finally, Mr. Jacobsmeyer wishes to bring the following information to the Commission’s attention. Colorado Public Radio contacted Mr. Jacobsmeyer prior to Mr. Jacobsmeyer receiving MUR 8080 and requested Pericle respond to a news article which was published on October 21, 2022. *See* <https://www.cpr.org/2022/10/21/pericle-communications-erik-aadland-fec-complaint/>.

Mr. Jacobsmeyer did not respond. However, Colorado Attorney Mario Nicolais, the same person who filed the Complaint against Pericle, was interviewed by Colorado Public Radio. In Mr. Nicolais' interview he unlawfully disclosed the contents of the Complaint and the identity of Pericle. Pursuant to 52 U.S.C. § 30109(12)(A), “[a]ny notification or investigation made under this section shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.” Mr. Jacobsmeyer had no knowledge of the Complaint, nor had Mr. Jacobsmeyer given written consent to Mr. Nicolais to publicly disclose the Complaint. Pursuant to 52 U.S.C. § 30109(12)(B) “any...person, who violates the provisions of subparagraph (A) shall be fined not more than \$2,000. Any...person who knowingly and willfully violates the provisions of subparagraph (A) shall be fined not more than \$5,000.” As a campaign finance attorney who publicly supported Candidate Aadland’s opponent, Mr. Nicolais disclosed federally protected information to the general public within weeks of the November 2022 election.

Should the Commission have any questions or concerns, my contact information is as follows:

Beth Chambers
2821 S. Parker Rd., Suite 555
Aurora, CO 80014
Phone: 303.749.0062
Email: bethc@corporonlaw.com

Sincerely,



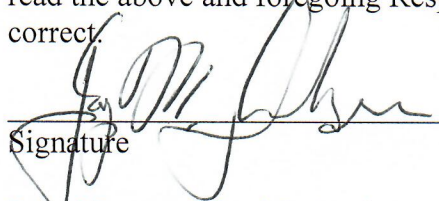
Beth Chambers
Attorney for Respondent

VERIFICATION

The respondent listed below hereby verifies that the statements made in the Response are, upon their information and belief, true.

STATE OF COLORADO)
) ss.
COUNTY OF LARIMER)

Jay Jacobsmeyer, of lawful age, being first duly sworn upon oath, alleges and states that he has read the above and foregoing Response, and that the statements and averments made are true and correct.




Signature

Print Name: Jay M. Jacobsmeyer

Acknowledged before me this 8 day of December, 2022.

My commission expires: 10/06/2026.





Notary Public

[SEAL]

THIS CHECK IS VOID WITHOUT A TWO-TONED COLORED BACKGROUND AND AN ARTIFICIAL WATERMARK ON THE BACK - HOLD AT ANGLE TO VIEW

For Colorado's Future

824 S Milledge Ave Ste 101
Athens, GA 30605
FEC ID: C00815506

Classic City Bank

1007

PAY TO THE
ORDER OF

Pericle Communications Company

11/02/2022

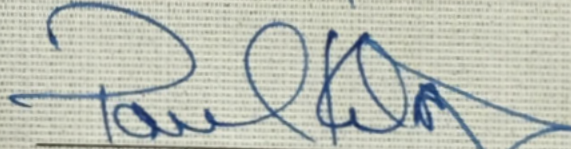
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**25,000.00

DOLLARS

Twenty-five thousand and 00/100*****

Pericle Communications Company
PO Box 50378
Colorado Springs, CO 80949


AUTHORIZED SIGNATURE

MEMO

SECURITY FEATURES INCLUDED. DETAILS ON BACK

SIGNATURE HAS A COLORED BACKGROUND • BORDER CONTAINS MICROPRINTING

