



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

January 18, 2024

Via: Electronic Mail

bethc@corporonlaw.com

Beth Chambers
Law Offices of Randy B. Corporon, PC
2821 S. Parker Road
Suite 555
Aurora, CO 80014

RE: MUR 8080
Pericle Communications Co.

Dear Ms. Chambers:

On October 21, 2022, the Federal Election Commission (the "Commission") notified your client, Pericle Communications Co., of a complaint alleging that your client violated the Federal Election Campaign Act of 1971, as amended (the "Act"), and provided your client with a copy of the complaint.

After reviewing the allegations contained in the complaint, the response submitted on behalf of your client, and publicly available information, the Commission on January 11, 2024, found reason to believe that your client violated 52 U.S.C. § 30119(a) and 11 C.F.R. § 115.2(a), a provision of the Act and Commission regulations, by making prohibited federal contractor contributions. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is enclosed for your information.

We have also enclosed a brief description of the Commission's procedures for handling possible violations of the Act. In addition, please note that the Committee has a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. *See* 18 U.S.C. § 1519. This matter will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. Please be advised that, although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.¹

¹ The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

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In order to expedite the resolution of this matter, the Commission has authorized the Office of General Counsel to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a voluntary step in the enforcement process that the Commission is offering to your client as a way to resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that your client violated the law.

If the Committee is interested in engaging in pre-probable cause conciliation, please contact Kimberly D. Hart, the attorney assigned to this matter, at (202) 694-1618 or (800) 424-9530, within seven days of receipt of this letter. During conciliation, you may submit any factual or legal materials that you believe are relevant to the resolution of this matter. Because the Commission only enters into pre-probable cause conciliation in matters that it believes have a reasonable opportunity for settlement, we may proceed to the next step in the enforcement process if a mutually acceptable conciliation agreement cannot be reached within sixty days. *See* 52 U.S.C. § 30109(a); 11 C.F.R. Part 111 (Subpart A). Conversely, if the Committee is not interested in pre-probable cause conciliation, the Commission may conduct formal discovery in this matter or proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding.

Pre-probable cause conciliation, extensions of time, and other enforcement procedures and options are discussed more comprehensively in the Commission's "Guidebook for Complainants and Respondents on the FEC Enforcement Process," which is available on the Commission's website at <http://www.fec.gov/respondent.guide.pdf>.

We look forward to your response.

On behalf of the Commission,



Sean J. Cooksey
Chairman

Enclosures
Factual and Legal Analysis



**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

Respondent: Pericle Communications Co.

MUR 8080

I. INTRODUCTION

This matter was generated by a Complaint filed with the Federal Election Commission alleging that Pericle Communication Co. (“Pericle”), a wireless engineering services company, made a \$25,000 prohibited contribution to For Colorado’s Future and Paul Kilgore in his official capacity as treasurer (“Committee”), while Pericle was a federal contractor in 2022. The Federal Election Campaign Act of 1971, as amended (the “Act”) prohibits federal contractors from making such contributions.

Pericle acknowledges holding a federal contract at the time it made the contribution but argues that the Commission should exercise its prosecutorial discretion and dismiss the Complaint based on its lack of knowledge of the federal contractor ban and the Committee’s prompt refund of the contribution.

As explained below, the Commission finds reason to believe that Pericle violated 52 U.S.C. § 30119(a) and 11 C.F.R. § 115.2(a) by making a prohibited contribution.

II. FACTUAL BACKGROUND

Pericle is a wireless engineering services company based in Colorado Springs, Colorado.¹ Jay Jacobsmeyer is the President & Owner of Pericle.² Federal spending data confirms that Pericle was the recipient of a purchase order contract, beginning on September 21, 2021 and

¹ See Company Overview, Pericle Communications Company, <https://www.pericle.com/company/> (last visited on Dec. 6, 2023).

² See Our People, Pericle Communications Company, <https://www.pericle.com/company/our-people/> (last visited Dec. 6, 2023).

concluding on August 31, 2022, and totaling \$1.2 million, with the National Institute of Standards and Technology, U.S. Department of Commerce.³

On June 24, 2022, Pericle, while holding the above-referenced federal government contract, made one \$25,000 contribution to the Committee.⁴ On November 2, 2022, after being notified of the Complaint in this matter, the Committee refunded the \$25,000 contribution to Pericle.⁵

The Complaint contends that Pericle made a prohibited government contractor contribution to the Committee. Pericle acknowledges that it was a government contractor at the time of the June 2022 contribution but asks that the Commission nonetheless exercise its prosecutorial discretion and dismiss this matter or allow it to enter into pre-probable cause conciliation.⁶ In addition, Pericle states that its sole owner and president, Mr. Jacobsmeyer, was unaware of the prohibition on federal contractor contributions at the time that the federal contract was active.⁷ Upon learning that Pericle was a federal contractor the Committee issued a refund.

³ Compl. at 2; *see also* USAspending.gov, Recipient Profile Pericle Communications Co., <https://www.usaspending.gov/recipient/95844a6e-dec0-8311-46d1-ee5d507701c-C/latest> (last visited Oct. 25, 2023). The website, when filtered for fiscal year 2021, indicates a one-year “purchase order” contract with the Department of Commerce with a start date of September 21, 2021, an end date of August 31, 2022, and a current total value of \$1.2 million, and showing the recipient as Pericle Communications Company. *Id.*; *see also* USAspending.gov, Purchase Order, PIID I 333ND2 I PNB 67 0M7, <https://www.usaspending.gov/search/?hash=296f4f2a672b3f3c94474fbd2b98b0f4> (last visited on Dec. 6, 2023).

⁴ For Colorado’s Future, July 2022 Quarterly Report at 6 (July 13, 2022) (“July 2022 Quarterly Report”), <https://docquery.fec.gov/pdf/581/202207139518412581/202207139518412581.pdf>; Compl. at 1.

⁵ For Colorado’s Future Resp. at 4 (Mar. 7, 2023); *see also* Pericle Resp., Attach. (copy of Committee’s refund check); For Colorado’s Future, 2022 Post-General Report at 9 (Dec. 8, 2022), <https://docquery.fec.gov/pdf/927/202212089547539927/202212089547539927.pdf> (reporting a refund disbursed on Nov. 2, 2022).

⁶ Pericle Resp. at 2.

⁷ *Id.* at 2.

III. LEGAL ANALYSIS

The Act and the Commission’s regulations prohibit contributions to political committees by any person who enters into a contract with the United States or its departments or agencies for “furnishing any material, supplies, or equipment,” if payment on such contract “is to be made in whole or in part from funds appropriated by Congress.”⁸ Such contributions are barred for the period between (1) the earlier of commencement of negotiations or when requests for proposal are sent out, and (2) the later of the completion of performance on or termination of negotiations for the contract.⁹ The prohibition covers contributions to any political party, political committee, federal candidate, or “any person for any political purpose or use.”¹⁰ The Act also bars any person from knowingly soliciting a contribution from a federal contractor during the prohibited period.¹¹

Pericle acknowledges holding an active purchase order federal contract with the Department of Commerce between September 1, 2021, and August 31, 2022, and making a contribution to the Committee on June 22, 2022, while the contract was active.¹² Accordingly, Pericle made a \$25,000 prohibited contribution on June 22, 2022, while serving as a federal contractor in violation of section 30119(a)(1) of the Act.

⁸ 52 U.S.C. § 30119(a)(1); 11 C.F.R. § 115.2(a).

⁹ 11 C.F.R. § 115.1(b).

¹⁰ *Id.* § 115.2(a).

¹¹ 52 U.S.C. § 30119(a)(2); *accord* 11 C.F.R. § 115.2(c).

¹² Pericle Resp. at 1. Federal spending data confirms that it held one active purchase order contract totaling \$1.2 million at the time the contribution. *See* [USAspending.gov](https://www.usaspending.gov), Purchase Order, PIID I 333ND2 I PNB 67 0M7, <https://www.usaspending.gov/search/?hash=296f4f2a672b3f3c94474fbd2b98b0f4> (last visited on Dec. 6, 2023).

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Therefore, the Commission finds reason to believe that Pericle violated 52 U.S.C. § 30119(a) and 11 C.F.R. § 115.2(a) by making a prohibited contribution totaling \$25,000 to the Committee.¹³

¹³ This is consistent with the Commission's actions in other federal contractor contribution matters. *See, e.g.*, MUR 7842 (TonerQuest, Inc.); MUR 7569 (3M); MUR 7451 (Ring Power).