

**FEDERAL ELECTION COMMISSION**

June 14, 2024

**VIA UPS**

Mario Nicolais  
7830 W. Alameda Avenue  
Suite 103-301  
Lakewood, Colorado 80226

RE: MUR 8080  
Pericle Communications Co.

Dear Mr. Nicolais:

This is in reference to the complaint you filed with the Federal Election Commission on October 14, 2022, alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). On January 11, 2024, the Commission found reason to believe that Pericle Communications Company violated 52 U.S.C. § 30119(a) and 11 C.F.R. § 115.2(a) of the Act and Commission regulations by making a prohibited federal contractor contribution. On May 15, 2024, the Commission accepted the signed conciliation agreement with Pericle Communications Company. On that same date, the Commission voted to dismiss the allegation that the Committee violated 52 U.S.C. § 30119(a)(2) and 11 C.F.R. § 115.2(c) by knowingly soliciting a federal contractor contribution. Accordingly, the Commission has closed the file in this matter, effective today.

Documents related to the case will be placed on the public record today. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). A copy of the Factual and Legal Analysis and conciliation agreement is enclosed for your information.

If you have any questions, please contact me at (202) 746-8564 or [khart@fec.gov](mailto:khart@fec.gov).

Sincerely,  
*Kimberly D. Hart*  
Kimberly D. Hart  
Attorney

Enclosures  
Conciliation Agreement  
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.<sup>1</sup> Jay Jacobsmeyer is the President & Owner of Pericle.<sup>2</sup> Federal spending data confirms that Pericle was the recipient of a purchase order contract, beginning on September 21, 2021 and

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

<sup>2</sup> 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.<sup>3</sup>

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

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.<sup>6</sup> 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.<sup>7</sup> Upon learning that Pericle was a federal contractor the Committee issued a refund.

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<sup>3</sup> 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).

<sup>4</sup> 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.

<sup>5</sup> 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).

<sup>6</sup> Pericle Resp. at 2.

<sup>7</sup> *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.”<sup>8</sup> 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.<sup>9</sup> The prohibition covers contributions to any political party, political committee, federal candidate, or “any person for any political purpose or use.”<sup>10</sup> The Act also bars any person from knowingly soliciting a contribution from a federal contractor during the prohibited period.<sup>11</sup>

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.<sup>12</sup> 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.

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

<sup>9</sup> 11 C.F.R. § 115.1(b).

<sup>10</sup> *Id.* § 115.2(a).

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

<sup>12</sup> 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, 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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Factual & Legal Analysis

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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.<sup>13</sup>

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<sup>13</sup> 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).

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of

Pericle Communications Company

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)  
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MUR 8080

**CONCILIATION AGREEMENT**

This matter was initiated by a signed, sworn, and notarized Complaint filed with the Federal Election Commission. The Commission found reason to believe that Pericle Communications Company (“Respondent”) violated 52 U.S.C. § 30119(a) and 11 C.F.R. § 115.2(a)(1) by making contributions while Respondent was a federal government contractor.

NOW, THEREFORE, the Commission and Respondent, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over Respondent and the subject matter of this proceeding, and this Agreement has the effect of an agreement entered under 52 U.S.C. § 30109(a)(4)(A)(i).

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this Agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Respondent is a wireless engineering services company based in Colorado Springs, Colorado. Jay Jacobsmeyer is the President & Owner of Pericle.

2. Respondent held a one-year purchase order contract (September 21, 2021 through August 31, 2022), totaling \$1.2 million, with the National Institute of Standards and Technology, U.S. Department of Commerce.

3. On June 24, 2022, Respondent made a \$25,000 contribution to For Colorado's Future and Paul Kilgore in his official capacity as treasurer ("Committee"), an independent expenditure-only political committee.

4. On November 5, 2022, the Committee refunded the \$25,000 contribution to Respondent.

V. The pertinent law in this matter is as follows:

1. The Federal Election Campaign Act of 1971, as amended (the "Act") and the Commission's regulations bar 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." 52 U.S.C. § 30119(a)(1); 11 C.F.R. § 115.2(a). 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. 11 C.F.R. § 115.1(b).

2. These prohibitions apply to a federal contractor who makes contributions to any political party, political committee, federal candidate, or "any person for any political purpose or use." 11 C.F.R. § 115.2(a).

VI. Respondent violated 52 U.S.C. § 30119(a)(1) and 11 C.F.R. § 115.2(a) by making federal contractor contributions.

VII. Respondent will take the following actions:

1. Respondent will pay a civil penalty to the Commission in the amount of Four Thousand Seven Hundred Dollars (\$4,700) pursuant to 52 U.S.C. § 30109(a)(5)(A).

2. Respondent will cease and desist from violating 52 U.S.C. § 30119(a)(1) and 11 C.F.R. § 115.2(a).

VIII. The Commission, on request of anyone filing a complaint under 52 U.S.C. § 30109(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this Agreement. If the Commission believes that this Agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

IX. This Agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire Agreement.

X. Respondent shall have no more than 30 days from the date this Agreement becomes effective to comply with and implement the requirements contained in this Agreement and to so notify the Commission.

XI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written Agreement shall be enforceable.

FOR THE COMMISSION:

Lisa J. Stevenson  
 Acting General Counsel

BY: **Charles Kitcher**  
 Charles Kitcher  
 Associate General Counsel  
 for Enforcement

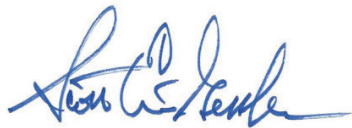
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 Charles Kitcher  
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Conciliation Agreement  
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FOR THE RESPONDENT:

A handwritten signature in blue ink, appearing to read "Scott Gessler". The signature is fluid and cursive, with the first name "Scott" and last name "Gessler" clearly distinguishable.

Scott Gessler  
Counsel for Pericle Communications Co.

Dated May 3, 2024