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May 10, 2019

Jeff S. Jordan
Assistant General Counsel
Complaints Examination & Legal Administration
Federal Election Commission
1050 First Street, NE
Washington, DC 20463
VIA EMAIL at cela@fec.gov

Re: MUR 7594: Pelican PAC's response to complaint

Dear Mr. Jordan:

We represent Pelican PAC and William Vanderbook in his official capacity as treasurer (the "Respondents"), and we write in response to your letter regarding the Complaint filed in the above-referenced matter alleging that the Respondents accepted contributions from a foreign corporation. We'll make this blunt, as a lengthy response is not warranted here. The Complaint is meritless on its face. The fact that the Commission has not administratively dismissed it is simply ridiculous. The fact that the Commission has opened an enforcement matter with (presumably) over 300 respondents based on this meritless Complaint is an abuse of the complaint process and a waste of Commission resources. The fact that the Commission is devoting the taxpayer resources necessary to process a meritless matter with over 300 respondents, or expects those respondents to incur legal costs responding to it, is inconsistent with the Commission's important disclosure and enforcement mission and an indication of a severe breakdown in the complaint intake and internal respondent naming process.

The Commission's Office of General Counsel and Office of Complaints Examination and Legal Administration have the ability to administratively dismiss a frivolous matter through its Enforcement Priority System. They should have done so here, and now should promptly do so.

The Complaint alleges that Enbridge, Inc., an apparent Canadian company, "has made hundreds of contributions *directly* to American political campaigns and dozens of American political party committees."¹ That statement is false. In actuality, Enbridge-DCP PAC, the

¹ Compl. at 1 (emphasis in original).

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connected committee of Enbridge (U.S.) Inc., made the contributions. Those contributions, based on a review of Enbridge-DCP PAC's periodic filings, appear to be derived through funds raised from Enbridge (U.S.) Inc.'s American employees. A domestic company making contributions through its connected PAC using funds derived from its American employees is on its face clearly permissible. Complainant at best has a severe misunderstanding of federal campaign finance law.

The Act and Commission regulations prohibit the making of, or **knowing** acceptance of, contributions from foreign nationals.² A foreign national is an individual who is not a U.S. citizen and who is "not lawfully admitted for permanent residence."³ The term also includes a foreign government, political party, or business entity.⁴ FEC regulations define "knowingly" as having actual knowledge or having awareness "of facts that would lead a reasonable person to conclude that there is a substantial probability that the source of the funds solicited, accepted or received is a foreign national" or being "aware of facts that would lead a reasonable person to inquire whether the source of the funds solicited, accepted or received is a foreign national" but failing to inquire.⁵

Here, the contributions from Enbridge-DCP PAC appear to be domestic funds raised by a domestic corporation's political committee, and were therefore legal. However, even if they were not, there is no allegation or indication that the Respondents herein **knowingly** accepted a foreign contribution. Enbridge-DCP PAC is a federally-registered political committee, and has been, with various name changes, since 2006. And, as stated, the funds used to make Enbridge-DCP PAC's contributions appear to have come from its American employees. In short, absent actual evidence to the contrary (which wasn't provided in the Complaint) no reasonable person could have concluded that there was even a risk that the funds were from a foreign source. Additionally, the Complaint does not allege any knowledge of facts that would have led a reasonable person to inquire about the source of the funds. That is because all facts indicate that the contributions were lawful.

This Complaint should be immediately reassigned to the Office of Complaints Examination and Legal Administration for dismissal through the Commission's Enforcement Priority System. Alternatively, because it is completely meritless, the Commission should find no reason to believe a violation occurred.

² See 52 U.S.C. 30121(a); 11 C.F.R. § 110.20.

³ See 52 U.S.C. 30121(b); 22 § U.S.C. 611(b).

⁴ See *id.*

⁵ See 11 C.F.R. § 110.20(a)(4).

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Thank you for your prompt consideration of this matter, and please do not hesitate to contact me directly at (202) 640-6684 with any questions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Chris Spies". The signature is written in a cursive, flowing style.

Charles R. Spies
Derek H. Ross
*Counsel to Pelican PAC and William Vanderbook
in his official capacity as treasurer*



FEDERAL ELECTION COMMISSION
Washington, DC 20463

Statement of Designation of Counsel

Provide one form for each Respondent/Witness
 Note: You May E-Mail Form to: CELA@fec.gov

CASE: MUR 7594

Name of Counsel: Charles R. Spies; Derek H. Ross

Firm: Clark Hill PLC

Address: 1001 Pennsylvania Ave. NW, Suite 1300 S
Washington, DC 20004

Telephone: (202) 572-8663 **Fax:** (202) 572-8683

The above named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

4/28/19 [Signature] Treasurer
Date **Signature** **Title**

RESPONDENT: Pelican PAC and William Vanderbrook in his official capacity as treasurer
 (Committee Name/Company Name/Individual Named In Notification Letter)

MAILING ADDRESS: Contact through counsel

Telephone:(H): _____ **(W):** _____

This form relates to a Federal Election Commission matter that is subject to the confidentiality provisions of 52 U.S.C. § 30109(a)(12)(A). This section prohibits making public any notification or investigation conducted by the Federal Election Commission without the express written consent of the person receiving the notification or the person with respect to whom the investigation is made.