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May 14, 2018

Dunbar for Congress, Inc.
Elizabeth Curtis, Treasurer
P.O. Box 2238
Forest, VA 24551

Re: Federal Elections Commission Complaint

Cynthia,

As you are aware, I've represented clients before the FEC for almost 40 years. In addition, I've testified at FEC public hearings, drafted comments for FEC rulemaking, authored nearly a dozen law review articles regarding the federal campaign finance laws and regulations and I have successfully litigated against the FEC when those laws have overreached, including, most recently, *Citizens United v. Federal Election Commission*.

You have asked me to review the "complaint" you recently received, filed with the FEC by Joshua Johnson, and I am confident that it is without merit. Its release to the press underscores its political propaganda purpose and is itself a violation of federal law. In addition to the publication violation, there are two other violations of federal law evident in the fake email and letter that you provided me and I've reviewed.

The timing of all this—in the days leading up to the convention—is a classic political move, hoping to shift momentum and distract you and divert resources. We have secured an extension for your official response to the FEC so that you are free to focus on the campaign. After the convention, we will respond to the complaint and, with your approval, we will file a complaint with the FEC regarding the confidentiality and disclaimer violations.

Mr. Johnson's complaint is not a government-drafted complaint, but a so-called "any

person” complaint. Unfortunately, baseless complaints such as this—filed close to elections for political mileage—regularly occur because federal law allows anyone, including political opponents, to file a complaint with the FEC without meeting the legal standards applied to official law enforcement actions. Any person who subjectively “believes” a violation has occurred or is about to occur may file a complaint by simply alleging facts that attempt to show a violation of law under the FEC’s jurisdiction.

This complaint falls far short of even the lax standard applied to “any person” complaints. It does not clearly recite facts showing a violation and seems appropriate only for a political press release—consisting mainly of emotive language describing events having nothing to do with a purported violation of federal campaign finance law. Placed in its best light, Mr. Johnson’s complaint seems to be that the compensation you received for your work for an employer was actually a contribution to your campaign that violated federal source and contribution limits for candidates. It is not a well-founded claim.

Although the complaint spends much time on it, when your candidacy was legally recognized is not the determinative question. As the FEC advised nearly forty years ago, an individual may pursue gainful employment while a candidate for federal office, without the compensation from that work being a campaign contribution, when (a) the pay is from bona fide employment independent of candidacy, (b) the compensation is in consideration of services performed and (c) the amount paid does not exceed the amount which would be paid to any other similarly qualified person for the same work over the same period of time. Mr. Johnson’s opinions of the market value of three months’ consulting work are unsupported and not persuasive. You have explained to me the facts of your employment and it will be a simple matter to document that, under the actually applicable legal standard, your compensation for the work that you did for Sayre did not result in any unlawful contribution to your campaign.

In addition to the “complaint” being without merit, its publication violated the confidentiality protections of federal law. A complaint that has been filed with the FEC cannot be made public by any person without the written consent of the respondent to the complaint, which in this case is you. This prohibition is to avoid providing an incentive for exactly what happened here—the filing of a baseless complaint to be paraded in the press before it can have been subject to any real legal scrutiny. Nonetheless, on April 25, the Richmond Times Dispatch provided you with a copy of the complaint that was file-stamped as received at the FEC on April 14 and thus came from Mr. Johnson or someone associated with him. This is a clear violation of federal law since the Richmond Times Dispatch was give the complaint after it was filed. With your permission, we will file a complaint with the FEC after the convention.

As to the email sent pretending to be from you and the forged letter, neither contained the required FEC disclaimer which would identify who actually paid for and sent out these communication. This too is a clear violation of federal law. With your permission, we will file a

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complaint with the FEC after the convention.

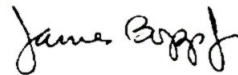
In sum, the “any person” complaint of Mr. Johnson is baseless and should be summarily dismissed. We have secured an extension for your response to the complaint until after the convention.

Furthermore, the disclosure of the complaint to the news media, after it is filed with the FEC, violates the confidentiality requirements of federal campaign finance law. The fake email and letter also violated federal campaign finance law since they did not contain the required disclaimer provisions identifying who paid for it. With your permission, we will file a complaint with the FEC regarding these three legal violations.

If you have any questions, please don't hesitate to contact us.

Sincerely,

THE BOPP LAW FIRM, PC

A handwritten signature in black ink that reads "James Bopp, Jr." in a cursive style.

James Bopp, Jr.
Jeffrey P. Gallant