

Congress of the United States  
Washington, DC 20510

July 10, 2019

Jason Torchinsky  
Michael Bayes  
Jessica F. Johnson  
Holtzman, Vogel, Josefiak, Torchinsky, PLLC  
45 North Hill Drive, Suite 100  
Warrenton, VA 20186

Dear Mr. Torchinsky, Mr. Bayes, and Ms. Johnson,

We write in response to your letter on behalf of the National Rifle Association of America, OnMessage, Inc., Starboard Strategic, National Media Research, Planning & Placement, Red Eagle Media Group, and American Media & Advocacy Group (collectively, “your clients”), and to address additional information that has recently come to light. Your letter responds to ours of February 6, 2019, seeking information from these organizations about possible illegal coordination of independent expenditures with political campaigns. Given the nature of the claims, we find it of interest that the six legally distinct entities that received our letters appear to be coordinating their response through common counsel.

Your letter maintains that your clients are unwilling to provide us with the information and materials we have requested because complaints about this conduct are currently under review by the Federal Elections Commission (“FEC”). You cite no legal authority that compels that position. Congress has broad investigative authority rooted in Article I of the United States Constitution that is not supplanted by the existence of a parallel investigation by an administrative agency.<sup>1</sup> In fact, while the Federal Election Campaign Act prohibits the FEC from making public information from an ongoing investigation, the statute expressly allows your clients, the subjects of the investigation, to speak publicly about it.<sup>2</sup>

You maintain that your clients “take campaign finance rules seriously and have *not* engaged in any improper coordination.” If that were the case, then we would expect they would want to offer documentary evidence to rebut the allegations made by the Campaign Legal Center and reported in the media. Instead, you suggest producing to Congress supposedly exonerating

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<sup>1</sup> *Watkins v. U.S.*, 354 U.S. 178 (1957) (“[The] power of the Congress to conduct investigations is inherent in the legislative process. That power is broad. It encompasses inquiries concerning the administration of existing laws as well as proposed or possibly needed statutes.”); *McGrain v. Daugherty*, 273 U.S. 135 (1927) (“A legislative body cannot legislate wisely or effectively in the absence of information respecting the conditions which the legislation is intended to affect or change; and where the legislative body does not itself possess the requisite information – which not infrequently is true – recourse must be had to others who do possess it.”).

<sup>2</sup> See 51 U.S.C. 30109(a)(12)(a) (“Any 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.*”)(emphasis added).

FEC. We do not see why that would be the case. We further note that it will likely be months, if not years, before the matter is resolved and the records become public.<sup>3</sup> Nevertheless, we are willing to work with you to accommodate whatever legitimate interest your clients have to prevent the untimely disclosure of information while allowing Congress to assess whether federal campaign finance laws are effective at preventing coordination between independent expenditures and political campaigns.

We are also concerned by additional reports published since our last letter indicating similar potentially illegal coordination has continued since the 2016 election. As recently as May 2019, the Trump 2020 presidential campaign made several payments to an entity called Harris Sikes Media LLC (“Harris Sikes”) for placement of radio ads. A Harris Sikes employee has described the firm as a “‘firewall entity’ used... to distance teams of buyers from campaigns so there is no conflict.”<sup>4</sup> The firewall does not appear to be effective. Opensecrets reports, “the Trump campaign and NRA made ad buys at the same local radio station within days of each other in FCC filings that list the same individual ad buyers at different National Media affiliates, including Harris Sikes Media.” Harris Sikes employs many of the same individuals as American Media & Advocacy Group,<sup>5</sup> and as we noted in our previous letter, American Media & Advocacy Group, Red Eagle, and National Media appear to be closely related entities.

In addition to the requests in our last letter, we ask that you provide comparable information for Harris Sikes, including communications and emails between Harris Sikes and the NRA or its employees between June 2015 and June 2019.

Ches Garrison of Senator Whitehouse’s office and Devon Ombres of Mr. Raskin’s office are the appropriate points of contact to discuss the terms under which you are willing to provide Congress the information we requested. We request the courtesy of a response no later than July 30, 2019.

Sincerely,

  
SHELDON WHITEHOUSE  
United States Senator

  
JAMIE RASKIN  
Member of Congress

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<sup>3</sup> As you may be aware, the Campaign Legal Center filed suit against the Federal Election Commission over its failure to act on the complaint. *See Giffords v. FEC*, No. 19-cv-01192 (D.D.C. April 24, 2019).

<sup>4</sup> Anna Massoglia, “Trump 2020 campaign ad payments hidden by layers of shell companies,” OpenSecrets.org (June 13, 2019), <https://www.opensecrets.org/news/2019/06/trump-2020-campaign-ad-payments-hidden-by-layers-of-shell-companies/>

<sup>5</sup> *Id.*