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August 18, 2020

VIA EMAIL

Robert Lane, Deputy Executive Secretary
Government Transparency and Campaign Finance Commission
200 Piedmont Ave. SE
Suite 1402 - West Tower
Atlanta, GA 30334

Re: Supplemental Comments on Draft Advisory Opinion 2020-03

Dear Mr. Lane:

Thank you for providing me with a copy of the consent order in Case No. 2001-0115 (In the Matter of Terry Coleman) (the "Consent Order"). The following are comments on that Consent Order as they relate to draft advisory opinion AO 2020-03 (the "Draft AO"), which was prepared in response to the advisory opinion request that we submitted on April 7, 2020. Please note that these comments are mine alone, and do not necessarily reflect the views of any of our clients or third parties. These comments are a supplement to, and not in lieu of, the comments we previously provided to the Commission on the Draft AO.

The most striking aspect of the Consent Order is the inconsistency in the legal reasoning in the first two substantive paragraphs. Those paragraphs say as follows:

The applicable CCDRs list 32 "Lodging" expenditures for payment towards an Atlanta-area condominium owned by Respondent's company. While necessary lodging is a legitimate campaign expense, the payment of expenses associated with a candidate or public officer's personal assets are not authorized expenditures of campaign funds. See O.C.G.A. § 21-5-33(c) (contributions shall not constitute personal assets of such candidate). In light of the foregoing, Respondent's company has since fully reimbursed his campaign for the total amount of all such expenditures.

The applicable CCDRs also list 33 payments to Respondent's personal office account for the purpose of "Office Expenses". The expenditures were for expenses associated with a campaign office housed within Respondent's personal office building. There is no indication that these transactions were not conducted at arms

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length; however, the expenditures should have included more detailed purpose information to describe the office expenses incurred.

Consent Order at 1.

These two paragraphs are flatly inconsistent. In the first paragraph, the Commission found that, even though lodging is a valid campaign expense, it was impermissible to use campaign funds to pay for lodging in a condo owned by the candidate because “the payment of expenses associated with a candidate or public officer’s personal assets are not authorized expenditures of campaign funds” In the second paragraph, the Commission reached exactly the opposite conclusion, noting that, so long as transactions are conducted at arms length (which presumably means the payments represent fair market value), it is perfectly permissible for campaign funds to be paid to a candidate’s “personal office account” for expenses arising out of a campaign office housed in the candidate’s “personal office building.” These two conclusions are diametrically opposed. They take entirely inconsistent approaches to the question of whether campaign funds may be used to pay a candidate for the use of personal assets that he or she has provided for campaign or official purposes.

I respectfully submit that the second paragraph of the Consent Order sets out the proper analysis. If a candidate provides personal assets that are used for campaign or official purposes, it is perfectly permissible for his or her campaign to reimburse the candidate for the fair market value of the use of those assets. That is true whether the asset provided is a car or airplane for campaign or official travel; a personal office building for use as a campaign headquarters; personal office supplies such as computers or postage stamps; or real estate that is personally owned by the candidate and leased to the campaign for either campaign or official purposes. This last point is particularly true for a legislator who lives outside Atlanta and may use campaign funds to pay for lodging in Atlanta to attend the legislative session and political events.

Thank for your consideration of these comments.

Sincerely,

/s/ Douglas Chalmers, Jr.

Douglas Chalmers, Jr.