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Lisa J. Stevenson
Acting General Counsel
Federal Election Commission
1050 First Street, NE
Washington, D.C. 20462

MUR # 7371

Re: Complaint Regarding Illegal Activity by Sandy Pensler and Pensler for Senate

Dear Ms. Stevenson,

This letter is intended to file a formal complaint, pursuant to 52 U.S.C. § 30109(a)(1), with the Federal Election Commission against Sandy Pensler and Pensler for Senate for illegally having a state campaign circulate and submit petitions on their behalf, in violation of the Federal Campaign Act of 1971, as amended (the "Act"), and Commission regulations. As discussed in detail below, the available information indicates that Sandy Pensler and Pensler for Senate (collectively "Pensler") violated the Act's prohibition on soliciting, receiving, directing, transferring, or spending non-federal funds in connection to a federal election.

I. Facts

Sandy Pensler is a candidate for U.S. Senate in Michigan. His principal campaign committee is Pensler for Senate.¹ Brian Calley is Michigan's Lieutenant Governor and a candidate for Governor. His state campaign committee is Brian Calley for Governor.²

On April 20, 2018, reports surfaced regarding Mr. Calley and his campaign submitting nominating petitions for Sandy Pensler with the Michigan Secretary of State in order for Mr. Pensler to be placed on the primary ballot for U.S. Senate. Specifically, along with his own petition filing, Calley included numerous pages of signatures gathered for other candidates.³ According to reports, at least 47 sheets of the petitions submitted by Calley were in fact signatures for Pensler.⁴

One of Calley's campaign consultants explained that the mistake occurred because the Pensler and Calley campaigns used the same circulator to gather signatures.⁵ According to the

¹ <https://www.fec.gov/data/committee/C00663278/?tab=about-committee>.

² <https://cfrsearch.nictusa.com/committees/518354>.

³ See, e.g., Jonathan Oosting, *Calley mistakenly files signatures for other candidates*, DETROIT NEWS (Apr. 20, 2018), <https://www.detroitnews.com/story/news/politics/2018/04/20/calley-signatures-pensler-michigan/34078021/>; Henry Rodgers, *EXCLUSIVE: Republican Senate Candidate Questions Trump's Wealth, Says He Speaks Like A Fourth Grader*, DAILY CALLER (Apr. 20, 2018), <http://dailycaller.com/2018/04/20/sandy-pensler-trump-fourth-grader/>.

⁴ See Oosting, *supra* note 3.

⁵ *Id.*

reports, Calley and Pensler both used a consulting firm called "190 Personnel" for "signature gathering and related services."⁶

II. Legal Standard and Discussion

Under the Act, Federal candidates, their agents, and entities directly or indirectly established, financed, maintained, or controlled by, or acting on behalf of, federal candidates may not solicit, receive, direct, transfer, or spend funds in connection with an election for Federal office unless those funds are subject to the reporting requirements and contribution limits of the Act.⁷ Because it is his authorized committee, Pensler directly maintains and controls Pensler for Senate.

A review of the Calley committee's filings shows that it has received numerous contributions that, while legal under Michigan law, are in excess of the limits of the Act and/or are from sources either prohibited by the Act or not subject to the Act's reporting requirements. For instance, the Calley committee has received dozens of \$6,800 individual contributions, which each exceed the contribution limits of the Act.⁸ Additionally, on December 30, 2017, the Calley committee received a \$25,000 contribution from MIPAC, an entity that does not appear to be registered with the Commission and an amount that greatly exceeds the limits of the Act.⁹

Based on the publicly available information, it appears that the Calley committee gathered signatures for Pensler and Pensler for Senate. Otherwise, the Calley committee would not have had possession of at least 47 pages of Pensler signatures. In order to gather those signatures, the Calley committee would have used non-federal funds to pay the cost of the signature gathering.¹⁰ As discussed above, it is violation of the Act for Pensler, Pensler for Senate, or their agents to solicit, receive, direct, transfer, or spend non-federal funds in connection with Pensler's federal election.

III. Requested Action

Sandy Pensler is a former professor at both Harvard and Yale¹¹ and has even gone so far as to mock the intelligence of President Donald Trump,¹² so it follows that Professor Pensler

⁶ *Id.*

⁷ 52 U.S.C. § 30125(e)(1)(A)-(B); 11 C.F.R. §§ 300.61, 300.62.

⁸ See <https://cfrsearch.nictusa.com/documents/454271/details/filing/contributions?schedule=%2A&changes=0>.

⁹ *Id.*

¹⁰ There is no indication that the Calley committee uses a reasonable accounting method to separate its federal and non-federal funds, and indeed it would have no reason to do so as Calley is a Michigan official running for another Michigan office.

¹¹ Todd Spangler, *Grosse Pointe businessman Sandy Pensler joins Republican race for U.S. Senate*, DETROIT FREE PRESS (Nov. 20, 2017), <https://www.freep.com/story/news/local/michigan/2017/11/20/grosse-pointe-businessman-sandy-pensler-senate/880096001/>.

¹² See Rodgers, *supra* note 3.

should know and follow the most basis of federal campaign finance laws. In addition, Professor Pensler has previously run for federal office¹³ and therefore can be presumed to be experienced in compliance rules. Professor Pensler's use of a non-federal committee to circulate and submit petitions for his federal campaign is, as discussed by Michigan election officials in the cited news reports, highly irregular at best and flat out criminal at worst. Therefore, I respectfully request that the Commission immediately open an investigation into this violation, if appropriate the matter be referred to the US Department of Justice, and Sandy Pensler and Pensler for Senate be enjoined from further violations and fined the maximum amount permitted by law.

Sincerely,


Matt Frendewey

SUBSCRIBED AND SWORN to before me this 23rd day of April, 2018



My Commission expires:

10/31/2022

¹³

Spangler, *supra* note 11.