



April 17, 2023

Lisa J. Stevenson  
Acting General Counsel  
Federal Election Commission  
1050 First St. NE  
Washington, DC 20463

Kenneth A. Polite, Jr.  
Assistant Attorney General, Criminal Division  
U.S. Department of Justice  
950 Pennsylvania Ave., NW  
Washington, DC 20530

**Re: Memorandum of Understanding between the Commission  
and Department of Justice**

Dear Ms. Stevenson and Mr. Polite,

We congratulate the Department of Justice and the Federal Election Commission on entering into a new Memorandum of Understanding. We hope this agreement marks the beginning of a new era of collaboration between your agencies on vigorous enforcement of the nation's campaign finance laws.

We respectfully write to call your attention to a legal error in the MOU. In paragraph 3, the MOU refers to the Commission as having "exclusive jurisdiction over civil enforcement of the Acts." However, pursuant to 52 U.S.C. § 30109(a)(8)(C), a complainant — who can be "any person," *id.* at § 30109(a)(1) — may bring a civil enforcement action "in the name of such complainant" to remedy a violation under certain circumstances. Thus, while the Commission is the only federal agency with civil enforcement jurisdiction over federal campaign finance laws, the Commission's civil enforcement jurisdiction is not "exclusive." Indeed, most of the civil actions to enforce FECA currently pending in federal courts were brought by private

complainants rather than by the Commission. *See, e.g., Campaign Legal Ctr. v. Heritage Action for Am.*, No. 22-cv-01248-CJN (D.D.C.); *Giffords v. National Rifle Assoc. of Am. Political Victory Fund, et al.*, No. 21-cv-02887-EGS (D.D.C.); *Campaign Legal Ctr. v. Iowa Values*, No. 21-cv-00389-RCL (D.D.C.).

To ensure the MOU and the public record are clear and consistent with law, we respectfully recommend the words “has exclusive” be struck and replaced with “is the only federal agency with” in paragraph 3 of the MOU, as indicated below:

The Commission ~~has exclusive~~ **is the only federal agency with** jurisdiction over civil enforcement of the Acts. 52 U.S.C. §§ 30106(b)(1), 30107(e).

Thank you for your attention to this matter.

Sincerely,

*/s/ Adav Noti* \_\_\_\_\_

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