

FOLEY
FOLEY & LARDNER LLP

RECEIVED
2010 OCT 22 PM 1:18
FEC MAIL CENTER

RECEIVED
FEDERAL ELECTION COMMISSION
ATTORNEYS AT LAW
WASHINGTON HARBOUR
3000 K STREET, N.W.
SUITE 600
WASHINGTON, D.C. 20007-5109
202.672.5300 TEL
202.672.5399 FAX

OFFICE OF GENERAL COUNSEL
October 22, 2010
WRITER'S DIRECT LINE
202.295.4081
cmitchell@foley.com EMAIL
CLIENT/MATTER NUMBER
999100-0130

VIA HAND DELIVERY

Mr. Christopher Hughey, Esq.
Acting General Counsel
Federal Election Commission
999 E Street NW
Washington, DC 20463

MUR # 6411

Re: Illegal Coordinated Public Communications Demanded by Democratic Congressional Leaders Rep. Nancy Pelosi (D-CA), Rep. John Larson (D-CT), and other unnamed Members of Congress, and Provided by 2010 Leadership Council, Advancing Wisconsin, Blue America PAC Independent Expenditure Committee, Blue Green Alliance, Majority Action PAC, Matthew 25 Network, National Wildlife Federation Action Fund, Sierra Club Political Committee, The American Worker, Inc, VoteVets.org Action Fund, Accountability 2010, American Federation of Teachers, Communications Workers of American Working Voices, NEA Fund for Children and Public Education, Planned Parenthood Votes, SEIU COPE, League of Conservation Voters, Inc., Defenders of Wildlife, American Federation Of State County & Municipal Employees P E O P L E, America's Families First Action Fund, Women Vote, Citizens for Strength and Security, Citizens for Strength and Security Action Fund, and Campaign Money Watch.

Dear Mr. Hughey:

Pursuant to 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4, Let Freedom Ring, Inc., hereby files this Complaint against Respondents Representative Nancy Pelosi, Representative John Larson, and other members of Congress identified, but not named, in press reports, and the following outside organizations: 2010 Leadership Council, Advancing Wisconsin, Blue America PAC Independent Expenditure Committee, Blue Green Alliance, Majority Action PAC, Matthew 25 Network, National Wildlife Federation Action Fund, Sierra Club Political Committee, The American Worker, Inc,

BOSTON
BRUSSELS
CHICAGO
DETROIT

JACKSONVILLE
LOS ANGELES
MADISON
MIAMI

MILWAUKEE
NEW YORK
ORLANDO
SACRAMENTO

SAN DIEGO
SAN DIEGO/DEL MAR
SAN FRANCISCO
SHANGHAI

SILICON VALLEY
TALLAHASSEE
TAMPA
TOKYO
WASHINGTON, D.C.

11044294324

Mr. Chris Hughes

October 22, 2010

Page 2

VoteVets.org Action Fund, Accountability 2010, American Federation of Teachers, Communications Workers of American Working Voices, NEA Fund for Children and Public Education, Planned Parenthood Votes, SEIU COPE, League of Conservation Voters, Inc., Defenders of Wildlife, American Federation Of State County & Municipal Employees P E O P L E, America's Families First Action Fund, Women Vote, Citizens for Strength and Security, Citizens for Strength and Security Action Fund, and Campaign Money Watch (collectively, "Respondents").

Complainant is Let Freedom Ring, Inc., a tax exempt, non-profit grassroots citizens organization based in Wilmington, Delaware.

This complaint is filed against Respondents for violations of the Federal Election Campaign Act of 1971, as amended ("the Act" or "FECA"), and corresponding Federal Election Commission ("the Commission" or "FEC") regulations. Respondents engaged in the deliberate, willful and intentional violation of the Act by specifically requesting that outside organizations make public communications in support of Democratic candidates for Congress. The public communications subsequently made by these organizations constitute coordinated communications, which in turn, constitute excessive or prohibited in-kind contributions to the benefiting federal candidates. See 11 C.F.R. §109.21 *et seq.*

Facts of the Violation(s)

In recent weeks, several news articles have been published detailing complaints by Democratic members of Congress regarding the "absence" of third party spending in support of Democratic candidates seeking election.¹

On September 17, 2010, *Roll Call* quoted various Democratic members and unnamed leadership aides demanding that ostensibly independent, outside organizations increase their spending on behalf of Democratic members of Congress.

"Rank-and-file House Democrats used a Caucus meeting Thursday to complain to leaders that liberal groups aren't doing enough to help them this election cycle and that conservative third-party groups are vastly outgunning them.

"The message from liberal groups was that they would be there for Democrats," one

¹ In fact, such conversations appear to have taken place at official meetings of the House Democratic caucus, in violation of House ethics rules prohibiting the use of House facilities for political purposes.

11044294325

Mr. Chris Hughes

October 22, 2010

Page 3

leadership aide said. "There's a growing unease that these people are AWOL."

Speaker Nancy Pelosi (D-Calif.) also addressed the issue in her weekly meeting with freshman Democrats, according to the leadership aide.

Democratic Caucus Chairman John Larson (Conn.) acknowledged that there is a frustration among Members about the amount of money that is pouring into Congressional races from GOP-aligned interest groups.

"There's no way with the spigot of money that the right wing has that we can compete with that, but we hope and trust that people who are inclined to support us get out there and do the job that's going to need to be done," Larson said.

He said they ask groups on a "regular basis" to get involved in the effort to support Democrats this election.

"We can't win, but they have to decide," Larson said.

See Attachment #1, *Roll Call*, article by Anna Palmer, September 17, 2010

<http://www.rollcall.com/news/49939-1.html?CMP=OTC-RSS>

Five days later, *Politico* reported:

Twice in the past week, House Democrats used closed-door meetings with Speaker Nancy Pelosi to deliver an urgent message: They're being crushed on the airwaves by outside groups, and they need her to do something about it.

In the meetings, according to people present, Democrats cited the nearly unmatched advantage Republicans are enjoying from conservative, third-party organizations. A sympathetic Pelosi vowed to pressure liberal groups to do more — and quickly.

"I'm saying get out there," she told a group of Democratic freshmen, according to a source familiar with the meeting. "We need more."

Pelosi acknowledged the problem and assured the Democrats that, while organized labor was helping with field operations, she was trying to get allied liberal groups to give House Democrats some air cover, too.

11044294326

Mr. Chris Hughes

October 22, 2010

Page 4

These officials are particularly angered by the relative absence of support from the environmental and pro-health care groups that were so aggressive in lobbying House Democrats to support energy and health care reform legislation.

"Where are those guys?" a top House Democratic aide demanded. "There is very real and growing resentment over these groups being AWOL."

And this Democratic aide fired a warning shot at liberal groups, suggesting that their absence from the campaign could have "long-term ramifications."

See Attachment #2, Jonathan Martin, "Dems Lag Badly In Outside Spending", Politico, September 22, 2010.

Around the same time as these press reports emerged, spending by outside organizations on behalf of Democratic candidates for Congress increased, making it perfectly clear that several organizations yielded to the demands of Democratic leaders and staffers. The following organizations began making independent expenditures in support of Democratic candidates or in opposition to Republican candidates after these reports surfaced.

- **2010 Leadership Council- independent expenditures began on 10/18/2010**
- **Advancing Wisconsin- first independent expenditures of this election cycle on 10/2/2010**
- **Blue America PAC Independent Expenditure Committee- first independent expenditure for House candidates made on 10/18/2010**
- **Blue Green Alliance- first independent expenditure for House candidates made on 10/8/2010**
- **Majority Action PAC- independent expenditures began on 10/12/2010**
- **Matthew 25 Network- independent expenditures began on 10/13/2010**
- **National Wildlife Federation Action Fund- independent expenditures began on 10/7/2010**
- **Sierra Club Political Committee- independent expenditures began on 9/30/2010**
- **The American Worker, Inc. - independent expenditures began on 10/7/2010**
- **VoteVets.org Action Fund- independent expenditures began on 9/20/2010**
- **Accountability 2010- independent expenditures began on 10/19/2010**
- **American Federation of Teachers- first independent expenditures on behalf of House candidates made on 10/8/2010**
- **Communications Workers of American Working Voices- independent expenditures began on 9/21/2010**
- **NEA Fund for Children and Public Education- independent expenditures began on 10/5/2010**

11044294327

Mr. Chris Hughes

October 22, 2010

Page 5

Respondents Planned Parenthood Votes, SEIU COPE, League of Conservation Voters, Inc., Defenders of Wildlife, American Federation Of State County & Municipal Employees P E O P L E, Women Vote, and America's Families First Action Fund saw a significant increase in their independent expenditure activity after the reports in *Roll Call* and *Politico*. See Attachment #3, Independent Expenditures by certain Democratic and liberal interest groups and Labor Unions.

Defendants Citizens for Strength and Security and its affiliated 501(c)(4) organization Citizens for Strength and Security Action Fund (CSS Action Fund, Inc.) began airing electioneering communications pertaining to the 2010 general election on October 18, 2010 and September 30, 2010, respectively. This increase in funding for a "last-minute" effort to support Democratic candidates was reported on October 21, 2010 in BNA Money and Politics report. See Attachment #4. Defendant Campaign Money Watch began airing electioneering communications designed to influence the election of Democratic candidates on September 26, 2010. In addition to increasing its funding of independent expenditures, Defendant VoteVets.org Action Fund also began making electioneering communications on October 8, 2010. See Attachment #5, Electioneering Communications by certain Democratic and liberal interest groups.

Further, it is clear that the expenditures by such groups are being tracked by Democratic leaders and their agents. According to the *Politico* article,

"...And, according to an internal Democratic spreadsheet obtained by POLITICO, there is a canyon-size gap between the two parties right now when it comes to spending by outside groups Democratic third-party groups have placed \$1.2 million in television ads on behalf of Democrats in seven Congressional districts from Sept. 14 through Oct. 24, according to a Democratic strategist... Electioneering Monday, the only third-party group supporting Democrats that has taken to the airwaves is the National Association of Realtors political action committee, which will be on television in three districts, the strategist said." See *Politico* article, Attachment #2.

Finally, Democratic leaders and their aides are tracking such expenditures for purposes of making official decisions in the next Congress, in violation of House ethics rules and federal law that prohibits *quid pro quo* actions or decisions based on political support or opposition.

Democratic leadership members and staff have expressed their intent to actually punish organizations who do not respond to the illegal demands of the Democrats to make campaign-related expenditures:

11044294328



FOLEY & LARDNER LLP

Mr. Chris Hughes

October 22, 2010

Page 6

"Where are those guys?" a top House Democratic aide demanded. "There is very real and growing resentment over these groups being AWOL."

And this Democratic aide fired a warning shot at liberal groups, suggesting that their absence from the campaign could have "long-term ramifications."

"When these interest groups come to Democrats and say, 'We need you to do this,' a lot of Democrats who survived 2010 will say, 'You weren't there for us then.'"

Using the information regarding the political expenditures of organizations as the basis for official conduct by Members and employees of the House of Representatives violates the rules of the House and federal law.

Legal Basis for Complaint

The expenditures made by Respondent organizations for public communications in support of Democratic candidates or in opposition to their Republican opponents, following specific requests by House Democratic leaders are clear instances of coordinated public communications. See 11 C.F.R. §109.21.

Under Commission regulations, a public communication is coordinated" when it is paid for, in whole or in part, by a person other than a candidate, authorized committee, or political party committee, satisfies one of the content standards, and one of the conduct standards. See 11 C.F.R. §109.21(a), the Definition of a "coordinated communication."

The expenditures by Respondent organizations and unions that reference or depict Democratic candidates or their Republican opponents plainly satisfy the first two requirements for a coordinated public communication.

The demands by Democratic leaders that third parties make candidate-related expenditures and which have been *admitted publicly* by Pelosi, Larson and others constitute illegal conduct in violation of Commission regulations and clearly constitute actions which meet the "Conduct Prong" of the FEC's regulations establishing coordination.

In order for the conduct prong of the Commission's coordination regulations to be satisfied, one of five conduct standards must be met. The aforementioned press reports clearly establish that Representatives Pelosi and Larson "requested" that outside organizations spend on behalf of Democratic candidates, while unnamed aides reiterated the requests and added retaliatory threats.

11044294329



FOLEY & LARDNER LLP

Mr. Chris Hughes
October 22, 2010
Page 7

Request or Suggestion. The conduct prong is met if the person creating, producing, or distributing the communication does so at the request or suggestion of a candidate, authorized committee, or any agent thereof; or if the person paying for the communication suggests the creation, production, or distribution of the communication to the candidate, authorized committee, or any agents thereof, and the candidate assents to the suggestion. See 11 C.F.R. § 109.21(d)(1).

Clearly, the actions and statements of named and unnamed Democrats satisfy the "request or suggestion" conduct standard set forth in the Commission's regulations regarding coordinated communications.

All expenditures by the third-party Respondents following the demands of Pelosi and her henchmen are illegal in-kind corporate and union contributions to the campaigns of the referenced Democratic candidates.

Conclusion

Accordingly, based upon the public information and admissions by Respondents Pelosi, Larson and others unnamed, and the expenditures by third party Respondents in support of Respondent campaigns, Respondents have engaged in knowing and willful violation of the Federal Election Campaign Act of 1971, as amended. Respondents' actions have resulted in illegal corporate and union contributions to candidates and campaigns identified herein, and others to be identified by the Commission in a thorough investigation of the scheme described herein.

This complaint is based upon information and belief of the undersigned, Colin A. Hanna, President, Let Freedom Ring, Inc., as more fully described in the Attachments to the Complaint. Please contact me if you have further questions.

Sincerely,

Clea Mitchell, Esq., Counsel to
Let Freedom Ring, Inc.

Attachments

11044294330

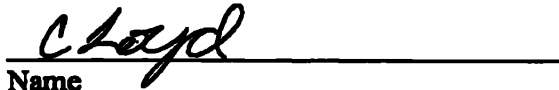
District of Columbia

Signed and sworn to before me this 22 day of October, 2010:



Colin Hanna, President
Let Freedom Ring, Inc.

Notary Public:


Name

My Commission Expires: February 14, 2015

SEAL



CATHERINE LOYD
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires February 14, 2015

CATHERINE LOYD
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires February 14, 2015

11044294331

**Democrats Angry That Liberal Groups Aren't Helping
Roll Call**

Anna Palmer

September 17, 2010

<http://www.rollcall.com/news/49939-1.html?CMP=OTC-RSS>

Rank-and-file House Democrats used a Caucus meeting Thursday to complain to leaders that liberal groups aren't doing enough to help them this election cycle and that conservative third-party groups are vastly outgunning them.

"The message from liberal groups was that they would be there for Democrats," one leadership aide said. "There's a growing unease that these people are AWOL."

Speaker Nancy Pelosi (D-Calif.) also addressed the issue in her weekly meeting with freshman Democrats, according to the leadership aide.

Democratic Caucus Chairman John Larson (Conn.) acknowledged that there is a frustration among Members about the amount of money that is pouring into Congressional races from GOP-allied interest groups.

"There's no way with the spigot of money that the right wing has that we can compete with that, but we hope and trust that people who are inclined to support us get out there and do the job that's going to need to be done," Larson said.

He said they ask groups on a "regular basis" to get involved in the effort to support Democrats this election.

"We can ask, but they have to decide," Larson said.

Conservative third-party groups have placed ads targeting House Democrats in 43 districts, according to the leadership aide.

"When you put aside the third-party expenditures, Democrats are doing well across the board," the aide said, pointing to party committee fundraising and individual candidates' fundraising. "In almost every case, we're out performing them."

The 60 Plus Association, American Future Fund and Americans for Job Security have reserved \$9 million in television ads attacking Democrats in 27 Congressional districts from Sept. 6 through Oct. 7, according to a spending analysis on third-party groups circulating on K Street.

Democratic third-party groups have placed \$1.2 million in television ads on behalf of Democrats in seven Congressional districts from Sept. 14 through Oct. 24, according to a Democratic strategist.

Beginning Monday, the only third-party group supporting Democrats that has taken to the airwaves is the National Association of Realtors political action committee, which will be on television in three districts, the strategist said.

Reps. Allen Boyd (Fla.), Baron Hill (Ind.) Heath Shuler (N.C.), Michael McMahon (N.Y.), Zack Space (Ohio), Jason Altmire (Pa.) and Rick Boucher (Va.) are among the House Democrats the conservative groups are targeting.

Boucher said he isn't too concerned about the ads because they refuse to name the donors who are behind them. He said his constituents are suspicious of the groups.

"To a large extent this matter takes care of itself," Boucher said.

The 60 Plus Association's Tom Kise said his group is more actively involved in advertising against incumbents this cycle.

"Each of the incumbents that we are focusing our ads on has taken votes that raise senior taxes, cut their Medicare benefits and are costing America a trillion dollars in debt that we don't need," Kise said.

Americans for Job Security President Stephen DeMaura said his group is more involved in issue advocacy than in previous cycles.

"All we've seen from the Democratic Congress is an approach of higher taxes, more spending and more debt," DeMaura said. "That is counterproductive to creating a pro-jobs economy."

1-10-44294333

POLITICO

Dems lag badly in outside spending

By: Jonathan Martin
September 22, 2010 04:31 AM EDT

Twice in the past week, House Democrats used closed-door meetings with Speaker Nancy Pelosi to deliver an urgent message: They're being crushed on the airwaves by outside groups, and they need her to do something about it.

In the meetings, according to people present, Democrats cited the nearly unmatched advantage Republicans are enjoying from conservative, third-party organizations. A sympathetic Pelosi vowed to pressure liberal groups to do more — end quickly.

"I'm saying get out there," she told a group of Democratic freshmen, according to a source familiar with the meeting. "We need more."

While the spending in Senate races gets much of the attention, it's the House whose majority is unquestionably up for grabs — and in which big money can have an outsize impact on races typically overshadowed by statewide contests.

And, according to an internal Democratic spreadsheet obtained by POLITICO, there is a canyon-size gap between the two parties right now when it comes to spending by outside groups.

As of Monday, pro-Republican third-party organizations had paid for a total of \$23.6 million worth of ads, while Democratic-aligned groups had spent just \$4.8 million on TV.

For the next month — the crucial period during which many voters begin to consider their choices and make up their minds — the disparity is even more daunting for Democrats: Between now and Oct. 20, groups backing Republicans have \$9.4 million worth of TV ads reserved across 40 districts, while outfits supporting Democrats have put down only \$1.3 million in five districts.

"It's frustrating down here because we know if we get our message out, people will agree with us, but when airwaves are flooded like they are, democracy and public debate lags," said Rep. Tom Perriello (D-Va.), a heavily targeted freshman, in a phone interview in between campaign events in his Southside Virginia district.

While they are outgunned by outside groups, House Democrats are not being shut out on the airwaves. Many of their candidates in competitive races have more cash than their Republican opponents, and the Democratic Congressional Campaign Committee has reserved \$49 million in TV ads.

Still, with conservative-leaning outside groups ratcheting up their TV campaigns since Labor Day, Democrats are growing frustrated — and angry.

Pelosi was confronted last week by concerned members who wanted to know what the party could do to match the groups on the right. Florida Rep. Alan Grayson, saying that he was being hit with hundreds of thousands of dollars in ads from a senior-citizens group backed by the drug industry, used the freshman class's regular meeting with Pelosi last week to ask what the party was doing to respond. And Rep. Lucille Roybal-Allard of California inquired during the House Democratic Caucus meeting about the heavy spending by right-wing groups, particularly the new American Crossroads.

Pelosi acknowledged the problem and assured the Democrats that, while organized labor was helping

with field operations, she was trying to get allied liberal groups to give House Democrats some air cover, too.

Both Pelosi and DCCC Chairman Chris Van Hollen of Maryland also counseled Democrats under fire from the outside groups to try to turn the attacks around and frame them as corporate special interests trying to buy the election.

Perriello, a populist in a rural district, is attempting to do just that.

"The people writing the checks for these ads are the people sending American jobs overseas," he said. "They care more about jobs in southern China than in southern Virginia."

But House Democratic aides are candid about the disadvantage they're facing --- and fuming about the lack of financial support they're receiving after their members have cast a series of tough votes.

These officials are particularly angered by the relative absence of support from the environmental and pro-health care groups that were so aggressive in lobbying House Democrats to support energy and health care reform legislation.

"Where are those guys?" a top House Democratic aide demanded. "There is very real and growing resentment over these groups being AWOL."

And this Democratic aide fired a warning shot at liberal groups, suggesting that their absence from the campaign could have "long-term ramifications."

"When these interest groups come to Democrats and say, 'We need you to do this,' a lot of Democrats who survived 2010 will say, 'You weren't there for us then.'"

Liberal-leaning organizations answer that it's not a matter of desire but something more simple: They don't have the money.

And that's partly because, even after the historic accomplishments of the current Congress, some on the left are unhappy that priorities, such as a climate change bill, weren't passed.

"I do honestly think that environmental donors, like a lot of progressive donors, are a little discouraged," said Rodger Schlickeisen, president and CEO of Defenders of Wildlife. "They were hoping for more and are now saying, 'Jesus, what do we have to do to make a difference here?'"

The political arm of Schlickeisen's group, Defenders of Wildlife Action Fund, has been one of the few groups to air ads for candidates, such as Rep. Harry Teague (D-N.M.), who voted for the energy bill.

It will do more for Teague and his fellow freshman, Rep. Martin Heinrich of New Mexico, and perhaps help a few other House Democrats. But all told, it will spend only about \$1 million.

"I wish I had the money," Schlickeisen said.

Other groups sound a similar refrain.

Health Care for Americans Now, for example, was a major player during the health care debate and aired a series of TV ads. But it's not going on the air for any House candidates this fall, according to an official, and will instead focus on its efforts on phone calls to seniors. Another progressive group that has frequently been on TV in the Obama era, Americans United for Change, said it also wouldn't be on

the air in any individual races.

Some organizations are holding back at the moment but signal that they'll engage soon.

"There's no doubt that Big Oil and the polluters are going to spend more money," said Gene Karpinski, president of the League of Conservation Voters. "But we've spent some money, and we'll definitely spend some more."

Karpinski wouldn't say specifically what his group would do on the airwaves, though.

There have been some ads for House Democrats paid for by organized labor, but much of its money is going to traditional get-out-the-vote activities.

Service Employees International Union, the country's largest union, is targeting from 15 to 20 House races, according to spokesman Teddy Davis. But it won't air TV ads in every one of those districts, and much of its effort will be on the ground.

"When you're looking at House races that can be decided by 1,000 to 2,000 votes, doing field and GOTV is our bread and butter and what the other side can't match," AFL-CIO spokesman Eddie Vale said.

A Democratic campaign official said labor's ground game is appreciated — but might be muted if their candidates can't first close the gap in the polls heading into Election Day.

"Field only gets you so far if you're getting buried," the aide said.

Perhaps most frustrating for Democrats is the absence of a pure, campaign-oriented third-party group along the lines of American Crossroads, the group founded in part by Karl Rove and Ed Gillespie and now run by veteran Republicans Steven Law and Mike Duncan. No organization on the left will do anything like what American Crossroads, with a fundraising goal of \$52 million, is doing now for GOP Senate candidates. And what worries some House Democratic officials is that if Law and Duncan, seeing better prospects for carrying the House than the Senate, shift some of their money away from the statewide races into less expensive congressional campaigns.

Jim Jordan and two other Democratic operatives have started an independent expenditure group called Commonsense Ten that has begun airing ads in Senate races and may offer some help to a few House candidates.

But Jordan said it wouldn't be able to match American Crossroads.

"The progressive donor base has stopped writing checks," he explained.



© 2010 Capital News Company, LLC

11044294336



Source: Money & Politics Report: News Archive > 2010 > October > 10/21/2010 > News > Congressional Campaigns: Pro-Democratic Unit Reveals \$5.2 Million In Donations for Last-Minute Political Ads

Congressional Campaigns

Pro-Democratic Unit Reveals \$5.2 Million In Donations for Last-Minute Political Ads

Countering big campaign spending by pro-Republican groups, a Democratic-leaning group has collected over \$5.2 million from such donors as the Democratic Governors Association, labor unions, and the Pharmaceutical Research and Manufacturers Association (PhRMA) to sponsor political ads in key races in the last two weeks before the Nov. 2 congressional elections.

New "electioneering communications" reports filed with the Federal Election Commission Oct. 19 detailed the receipts of and initial spending by the pro-Democratic group, called Citizens for Strength and Security.

So far, the organization has spent a total of less than \$500,000 for broadcast ads in the U.S. Senate race in Delaware and a half-dozen U.S. House races nationwide. The filings indicate, however, that Citizens for Strength and Security still has over \$4.7 million left for last-minute political ads.

The FEC reports indicate donations totaling over \$2.5 million have come from the Democratic Governors Association, which is listed simply as "DGA" on the report. Donations totaling \$729,000 came from unions including the Laborers Union, the Service Employees International Union, and the American Federation of Teachers.

In addition, the FEC reports listed a \$775,000 donation from PhRMA, the association of major drug companies. The pharmaceutical industry was largely supportive of the health care reform bill pushed by President Obama and congressional Democrats, though many others in the business community opposed the health care bill.

An additional \$180,000 came from "ASQC"—believed to be Americans for Stable Quality Care, reportedly a PhRMA-backed group that previously sponsored ads backing the health care reform legislation. Another \$250,000 was listed as coming from "FPR," an unidentified entity with the same address as Citizens for Strength and Security. The group could not be reached for comment about its FEC filings.

Most Funding for Ads Not Revealed This Year

Citizens for Strength and Security revealed its donations in FEC filings, even though many other organizations reporting electioneering communications or other campaign spending have refused to reveal their funding sources. Past FEC rulings have narrowed the requirement for disclosure of funding sources to only those donations specifically earmarked for political ads.

Also, Citizens for Strength and Security is registered as a so-called Section 527 group, meaning that it must disclose its contributors in periodic reports filed with the Internal Revenue Service.

Republican-leaning groups have spent far more money on political advertising this year than pro-Democratic groups. However, many of the GOP-friendly groups are established as so-called Section 501(c) organizations and claim exemption from detailed disclosure requirements.

A study by the nonprofit Sunlight Foundation posted on that organization's website Oct. 20 found that, of \$189 million in independent campaign spending so far in this year's campaigns, more than half — or \$97.5 million — has come from groups that do not disclose any donors.

The foundation analyzed FEC reports on electioneering communications and "independent expenditures" to make its findings. Independent expenditures include spending for all types of campaign messages that contain "express advocacy" for or against candidates, while electioneering communications include spending for targeted radio or television ads that simply refer to specific

11044294337

candidates in the weeks before an election.

Of the 218 non-party organizations that have spent money on independent expenditures or electioneering communications, the Sunlight Foundation found, only 100 have disclosed their donors to the FEC.

Kenneth P. Doyle

FEC electioneering reports are available online at http://www.fec.gov/finance/disclosure/ec_table.shtml. The Sunlight Foundation's analysis is posted at <http://reporting.sunlightfoundation.com/2010/quarterly-filings-fec-reveals-big-power-behind-big-money>.

Contact us at <http://www.bna.com/contact/index.html> or call 1-800-372-1033

ISSN 1523-570X

Copyright © 2010, The Bureau of National Affairs, Inc.. Reproduction or redistribution, in whole or in part, and in any form, without express written permission, is prohibited except as permitted by the BNA Copyright Policy. <http://www.bna.com/corp/index.html#V>

11044294338

October 22, 2010

WRITER'S DIRECT LINE
202.295.4081
cmitchell@foley.com EMAIL

CLIENT/MATTER NUMBER
999100-0130

VIA HAND DELIVERY

Federal Election Commission
999 E Street NW
Washington, DC 20463

Re: Supplement to Complaint Naming Additional Respondent
America's Families First Action Fund

To Whom It May Concern:

After preparation of the Complaint filed by Let Freedom Ring, Inc. vs. Nancy Pelosi *et al* for illegally coordinating expenditures for public communications with and among various liberal organizations and unions, a news report was published which identifies yet *another* liberal group, America's Families First Action Fund, apparently formed by Democratic operatives for the purposes of carrying out the demands of Speaker Pelosi and others to raise and spend funds in support of Democratic candidates and in opposition to their Republican opponents. See Attachment #1, *BNA Money & Politics*, October 22, 2010 "Democratic-Leaning 'Super-PAC' Spends \$1.1 Million in Key Races, FEC Filings Show"

Accordingly, please consider this a supplement to the Complaint and incorporated fully therein, naming America's Families First Action Fund as a Respondent to said Complaint.

Sincerely,


Clea Mitchell, Esq., Counsel
Let Freedom Ring, Inc.

CMI:cmi
Enclosure

BOSTON
BRUSSELS
CHICAGO
DETROIT

JACKSONVILLE
LOS ANGELES
MADISON
MIAMI

MILWAUKEE
NEW YORK
ORLANDO
SACRAMENTO

SAN DIEGO
SAN DIEGO/DEL MAR
SAN FRANCISCO
SHANGHAI

SILICON VALLEY
TALLAHASSEE
TAMPA
TOKYO
WASHINGTON, D.C.

11044294339



Source: Money & Politics Report: News Archive > 2010 > October > 10/15/2010 > Lead Report > Congressional Campaigns: Democratic-Leaning 'Super-PAC' Spends \$1.1 Million in Key Races, FEC Filings Show

Congressional Campaigns

Democratic-Leaning 'Super-PAC' Spends \$1.1 Million in Key Races, FEC Filings Show

A new Democratic-leaning group called America's Families First Action Fund has begun sponsoring broadcast ads and mailings in a half-dozen key House races, pushing back against an onslaught of spending by Republican-leaning groups, according to new Federal Election Commission filings.

The FEC "independent expenditure" reports indicate that the new group, which reportedly is being spearheaded by former Democratic Party operations, spent \$1.1 million through Oct. 13 on messages opposing Republican candidates in Arizona, Colorado, Florida, Illinois, and Pennsylvania.

A spokesperson for the new group, Ramona Oliver, told BNA Oct. 14 that there was little more information available about the group's efforts beyond what was contained in the FEC reports. She said the group was "part of a larger Democratic effort" to preserve the current majority control of Congress. Oliver added that the current campaign situation was "dynamic" and suggested it was difficult to know exactly how many races would be targeted or how much would be spent by the new organization.

No contributors to the group have been disclosed so far but America's Families First Action Fund is expected to provide more details about its finances to the FEC soon. The fund has registered with the FEC as an "independent expenditure" committee — dubbed a "super-PAC" by some — and thus is expected to follow campaign finance reporting rules for political action committees.

All PACs are required to file pre-election reports with the FEC by Oct. 21, detailing contributions and spending up to Oct. 13 — 20 days before the Nov. 2 general election.

Recent court decisions and FEC rulings have allowed PACs that make independent expenditures supporting or opposing candidates to collect unlimited funds from corporations, unions, and wealthy individuals. These rulings also are being taken advantage of by so-called Section 501(c) groups, which claim exemption from campaign finance rules and are exempt under tax law from publicly disclosing details of their finances.

Leaked Document Described Formation

A document leaked to the *New York Times* early this month, which described the formation of America's Families First Action Fund, indicates the action fund would be an independent expenditure committee and would follow the FEC's PAC rules. The document indicated, however, that the action fund would also have a companion 501(c)(4) organization, called simply America's Families First, which would claim exemption from disclosure.

"Gifts to the independent expenditure committee are disclosed but can be anonymous," the document explained. "Gifts to a 501(c)(4) advocacy organization can be anonymous."

The overall goal was described as an "effort [to] both oppose Republicans with issue-based communication and support Democrats with targeted persuasion and turnout of progressive minded voters," according to the leaked document, which was titled "Sustaining the House Majority: An Independent Effort for the 2010 Election."

While the initial actions of the America's Families First Action Fund have now been revealed in the new FEC reports reviewed by BNA, no political spending by the America's Families First 501(c)(4) organization has yet been reported. If a 501(c) organization sponsors broadcast ads targeting candidates in the remaining weeks before the election, it would have to report this spending to the

11044294340

FEC. However, such groups generally do not report any donors funding their ads, even when they file "electioneering communications" spending reports with the FEC.

Oliver, the spokesperson for America's Families First Action Fund, said the 501(c)(4) organization, America's Families First, pre-dated the action fund. She indicated she could provide little information about the 501(c)(4) organization, except to say that there were no plans for it to become involved in direct campaign advocacy of the type that some other such organizations have done.

Modeled on RUP's Crossroads Groups

The Democratic-leaning group's plans are similar to a model pioneered earlier this year by key Republican-leaning groups, which are now pouring millions into ad campaigns attacking Democratic House and Senate candidates.

A prime example is the group American Crossroads and its companion Crossroads Grassroots Policy Strategies (GPS). American Crossroads has registered as an independent expenditure committee with the FEC and has reported its donors, while Crossroads GPS has said it is a 501(c)(4) organization and refused to disclose its finances.

Both American Crossroads and Crossroads GPS have reported spending on ads opposing Democratic candidates and have even stepped up their efforts recently, in the face of criticism from Democrats and liberal groups. Several of the groups' critics have sent letters or filed complaints asking for investigations of the Crossroads groups and other GOP-leaning groups by the FEC or the Internal Revenue Service.

The Crossroads groups insist that they have followed all tax and campaign finance rules and said the attacks against them have galvanized their supporters and increased their fundraising beyond original targets.

The Crossroads groups, along with such other GOP-leaning 501(c) groups such as Americans for Job Security, American Future Fund, the 00-Plus Association, and others already have spent tens of millions of dollars on television and radio advertising and other messages that explicitly oppose Democratic candidates or support Republicans. Meanwhile, some 501(c) groups, like the U.S. Chamber of Commerce, also have spent tens of millions on ads sponsoring messages that skirted words of "express advocacy" for or against candidates.

Complaints From Democrats, Liberal Groups

The most recent complaints from Democrats and liberal organizations about these GOP-leaning groups include an Oct. 11 letter to the IRS from Sen. Richard Durbin (D-Ill.), the Senate's majority whip. Durbin's letter said Crossroads GPS, the 501(c)(4) unit of the Crossroads groups, has spent nearly \$20 million on TV ads specific to Senate campaigns. He said the IRS should determine whether Crossroads GPS has a "purpose and primary activities" that violate tax laws. These laws state that campaign activity must not be the "primary purpose" of such a tax-exempt organization.

Durbin's letter was similar to a previous complaint filed with the IRS Oct. 5 about Crossroads GPS by the campaign reform groups Democracy 21 and the Campaign Legal Center. The groups' letter to the IRS also emphasized that Crossroads GPS is operating under Section 501(c)(4) of the tax code — the category for tax-exempt "social welfare" organizations that are not supposed to be primarily involved in campaign activities (2862 Money & Politics Report, 10/6/10).

A similar letter also was sent to the IRS Sept. 29 by Senate Finance Committee Chairman Max Baucus (D-Mont.). The Baucus letter did not mention specific groups but asked the IRS generally to investigate whether tax-exempt organizations are being utilized for political activity or personal interests (2858 Money & Politics Report, 9/30/10).

In addition, a complaint was filed with the FEC Oct. 13 by the watchdog group Public Citizen, along with another group called Protect Our Elections. The FEC complaint singled out Crossroads GPS and suggested there was reason to believe the GOP-leaning group is operating as a "political committee" under campaign finance rules. Such a designation would require Crossroads GPS to relinquish its 501(c) status and report details of its finance to the FEC.

Separately, an IRS complaint was filed by the Human Rights Campaign, a national gay rights group. The Human Rights Campaign targeted the National Organization for Marriage and a related group called the Ruth Institute. The complaint charged that the Ruth Institute, a 501(c)(3) charity barred from any campaign advocacy, was involved in promoting the U.S. Senate candidacy of Republican

11044294341

Carly Fiorina, who is challenging incumbent Sen. Barbara Boxer (D-Calif.).

Kenneth P. Doyle

Contact us at <http://www.bna.com/contact/index.html> or call 1-800-372-1033

ISSN 1523-570X

Copyright © 2010, The Bureau of National Affairs, Inc.. Reproduction or redistribution, in whole or in part, and in any form, without express written permission, is prohibited except as permitted by the BNA Copyright Policy. <http://www.bna.com/corp/index.html#V>

11044294342