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John I. Wilson
Executive Director

December 20, 2010

Christopher Hughey, Acting General Counsel
Office of the General Counsel
Federal Election Commission
999 E St. NW
Washington, DC 20463

Re: MUR 6411 - The NEA Fund for Children and Public Education

Dear Mr. Hughey:

On November 4, 2010, John Wilson, Treasurer of the NEA Fund for Children and Public Education ("the NEA Fund"),¹ received a letter dated November 1, 2010, from Jeff S. Jordan, Supervisory Attorney of Complaints Examination & Legal Administration for the Federal Election Commission ("Commission"), stating that his office had received a complaint ("Complaint") alleging that The NEA Fund may have violated the Federal Election Campaign Act ("The Act"). We have been authorized to represent The NEA Fund and Mr. Wilson in this matter and submit this response on their behalf.

Enclosed with the letter from Mr. Jordan was the Complaint, which was filed by Cleta Mitchell of the law firm Foley & Lardner LLP, on behalf of an organization calling itself "Let Freedom Ring." The Complaint alleges that the NEA Fund, along with more than twenty other entities, made expenditures for campaign ads that were coordinated with Nancy Pelosi (D-CA), John Larson (D-CA), and other unnamed Members of Congress.

As we now show, the Complaint is without merit, and no action should be taken against the NEA Fund or its treasurer. The Complaint rests entirely on unsupported

¹ The NEA Fund is a federal political committee that is registered with the Commission. Its connected organization is the National Education Association ("NEA"), a labor organization within the meaning of 2 U.S.C. § 441b(b)(1).

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speculation, spun off of two news stories and unsupported by any actual evidence, and has evidently been lodged with the goal of intimidating the complainant's ideological adversaries with the threat of intrusive and wide-ranging discovery. The Commission should follow its well-established practice and decline the Complainant's invitation to engage in a "fishing expedition" to find the factual premise that should have been, but is not, identified in the Complaint.² Such an investigation would be particularly inappropriate here because the speculations on which the Complaint rests are to the direct contrary of the actual facts regarding the NEA Fund's independent expenditures as demonstrated by the sworn declarations attached hereto.

FACTS

A. The NEA Fund Maintained a Written Firewall Policy that Insulated the Team Responsible for Independent Expenditure Communications from All Non-Public Information about the Plans, Projects, Activities, or Needs of Candidates, Campaigns, or Parties.

On May 11, 2010, Mr. Wilson—who is also NEA's Executive Director—created a "behind-the-wall" (BTW) team for NEA and the NEA Fund.³ The BTW team was responsible for independent expenditures on behalf of state and federal candidates, as well as certain grassroots lobbying and other public issue communications, ballot measure communications, nonpartisan voter registration and get-out-the-vote activity, and work with outside organizations engaging in independent activity in connection with the 2010 election.⁴

Executive Director Wilson assigned Lynne Garramone-Mason to work as the head of the BTW team.⁵ Upon making that assignment, Executive Director Wilson sent an email memorandum to all NEA staff and Executive Committee members setting forth the written BTW policy.⁶ As explained in the memorandum, the purpose of the policy was "to avoid illegal coordination, or even the appearance of such coordination" by establishing a "firewall" between staff working on independent expenditures and all other staff, including

² This is not the first time that Ms. Mitchell has, in the service of one of her clients, filed a patently meritless complaint against the NEA Fund. In MDR 5855, Ms. Mitchell, acting on behalf of then-Rep. J.D. Hayworth, filed a complaint alleged that the NEA Fund violated the Act by failing to report within 48 hours its independent expenditures for television advertisements that were critical of Hayworth. The Commission unanimously found that the complaint was without merit because (a) it was filed even before the NEA Fund's 48-hour report was due; and (b) the NEA Fund did, in fact, file timely the required 48-hour report. See MUR 5855 (*NEA Fund for Children & Pub. Educ.*) Statement of Reasons at 1-2 (2007).

³ Sworn Declaration of Lynne Garramone-Mason (Tab A), at ¶ 2.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* ¶ 3 & Tab 1.

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those working on lobbying or membership communications.⁷ Under the terms of the policy, staff members were prohibited from communicating with the BTW team about any of the following subjects:

- the plans, projects, activities, campaign strategy, or needs of any state or federal candidate, political party committee, or agent or representative thereof;
- the creation, planning, production, or distribution of any independent expenditure or any, grassroots lobbying or public issue communication naming any candidate, nonpartisan voter registration or get-out-the-vote activity aimed at the public, ballot measure communication, or any non-public information that might be used in creating, planning, producing, or distributing such communications;
- the message, structure, timing, format, or intended audience for any independent expenditure, grassroots lobbying or public issue communication that names a candidate, nonpartisan voter registration or get-out-the vote activity, or ballot measure activity aimed at the general public;
- outside organizations engaged in making independent expenditures or independent issue communications or ballot measure committees; and
- any aspect of NEA's or any state affiliate's 2010 internal membership campaign including, but not limited to, communications that are planned or made to members and their families as part of that membership campaign or membership activities that are planned or conducted as part of that campaign.⁸

The NEA Fund's BTW team for independent expenditures in connection with the 2010 election for the House of Representatives consisted of Ms. Garramone-Mason, and NEA staff members Rick Farfaglia, Bob Burke, Jack Polidori, Marc Egan, Ray McInerney, and Brian Washington.⁹

Mr. Farfaglia, Mr. Burke, and Mr. Polidori were all assigned to the BTW team on May 11, 2010,¹⁰ and their assignment was announced along with Ms. Garramone-Mason's in Executive Director Wilson's May 11 memorandum to all NEA staff.¹¹ As noted above, that memorandum set forth the terms of the BTW policy.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* ¶ 4.

¹⁰ *Id.* ¶ 5.

¹¹ *Id.* ¶ 5 & Tab 1.

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On September 17, 2010, Executive Director Wilson added Mr. Washington to the BTW team.¹² Mr. Washington's assignment was accompanied by an announcement from Executive Director Wilson to all NEA staff that reiterated the terms of the BTW policy.¹³ On September 23, 2010, Executive Director Wilson added Mr. Egan and Mr. McInerney to the BTW team.¹⁴ Their assignment was also accompanied by an announcement from Executive Director Wilson to all NEA staff that reiterated the terms of the BTW policy.¹⁵

B. In Accordance with the BTW policy, the NEA Fund's Independent Expenditures in Connection with the 2010 Races for the House of Representatives Were Completely Free from Coordination with any Candidate, Campaign, or Party Committee.

In connection with all of their activities relating to the 2010 elections, the NEA Fund's BTW team faithfully followed the requirements of the BTW policy. The BTW Team had no direct or indirect communications with the candidates or campaigns in which the NEA Fund made independent expenditures for the 2010 election—or with persons who themselves had communications with the candidates or campaigns—concerning: the plans, projects, activities, campaign strategy, or needs the candidates, party committees, or agents or representatives thereof; the creation, planning, production, or distribution of any independent expenditure or any non-public information that might be used in creating, planning, producing, or distributing such communications; the message, structure, timing, format, or intended audience for any independent expenditures; outside organizations engaged in making independent expenditures; or any aspect of NEA's or any state affiliate's 2010 internal membership campaigns.¹⁶

When making independent expenditures, the NEA Fund relied on outside vendors for media production, media buys, and postage.¹⁷ All vendors working with the NEA Fund on independent expenditures were informed of the written BTW policy and were contractually obligated to maintain the integrity of the "firewall" created by the BTW policy.¹⁸ Accordingly, vendors warranted that they had not performed any services for a candidate in race in which the NEA Fund made independent expenditures; furthermore, they agreed not use or communicate to the BTW team any campaign's strategy, plans,

¹² *Id.* ¶ 6.

¹³ *Id.* ¶ 6 & Tab 2.

¹⁴ *Id.* ¶ 7.

¹⁵ *Id.* ¶ 7 & Tab 3.

¹⁶ *Id.* ¶¶ 8, 11, 16-18; Sworn Declaration of Rick Farfaglia (Tab B), at ¶¶ 5-8; Sworn Declaration of Bob Burke (Tab C), at ¶¶ 5-8; Sworn Declaration of Jack Polidori (Tab D), at ¶¶ 5-8; Sworn Declaration of Brian Washington, (Tab E), ¶¶ 5-8; Sworn Declaration of Marc Egan (Tab F), at ¶¶ 5-8; Sworn Declaration of Ray McInerney (Tab G), at ¶¶ 5-8.

¹⁷ Garramone-Mason Decl. ¶ 9;

¹⁸ *Id.* ¶ 9 & Tabs 4-7.

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activities, needs, or communications for races in which the NEA Fund made independent expenditures.¹⁹

In determining which candidates to support with independent expenditures, the BTW team relied on several factors, including:

- whether the incumbent candidate had an "A" grade on NEA's legislative report card for the 111th Congress;
- whether the incumbent candidate voted in favor of legislation, including the Education Jobs Fund, Public Law No. 111-226;
- whether the candidate was an NEA member;
- whether the candidate was a member of the "Blue Dog" caucus;
- whether the race was in a key electoral state (Colorado, New Mexico, Ohio, Pennsylvania, Florida, or Minnesota); and
- whether the election was sufficiently close to warrant a significant expenditure from the NEA Fund.²⁰

Applying these factors, the BTW team made the following independent expenditures in the 2010 campaign:

In Ohio's 13th District, the NEA Fund made an independent expenditure for a television advertisement opposing Thomas Ganley. Representative Betty Sutton, Ganley's opponent, has an "A" grade on NEA's legislative report card. She also voted in favor of the Education Jobs Fund. Publicly available polls showed this to be a close race.²¹

In Arizona's 5th District, the NEA Fund made an independent expenditure for a television advertisement opposing David Schweikert. Representative Harry Mitchell, Schweikert's opponent, has an "A" grade on NEA's legislative report card and is a member of the "Blue Dog" caucus. He also voted in favor of the Education Jobs Fund. Publicly available polls also showed this to be a close race.²²

In North Carolina's 8th District, the NEA Fund made several independent expenditures for political mail and television advertisements opposing Harold Johnson.

¹⁹ *Id.*

²⁰ *Id.* ¶ 10.

²¹ *Id.* ¶ 12 & Tab 8.

²² *Id.* ¶ 13 & Tab 8.

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Representative Larry Kissel, Johnson's opponent, is an NEA member and has an "A" grade on NEA's legislative report card. He also voted in favor of the Education Jobs Fund. Publicly available polls showed this to be a close race.²³

In Florida's 22nd District, the NEA made several independent expenditures for political mail opposing Harold Johnson. Representative Ron Klein, West's opponent, is an NEA member and has an "A" grade on NEA's legislative report card. He also voted in favor of the Education Jobs Fund. Publicly available polls showed this to be a close race.²⁴

C. The Two News Stories on which the Complaint is Premised.

On September 17, 2010, *Roll Call* published a story in which Democratic Caucus Chairman Representative John Larson (D-CT) is quoted as saying, "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."²⁵ The same article quotes Larson as saying that he asked groups on a "regular basis" to get involved in the effort to support Democrats the 2010 election, and that, "We can ask, but they have to decide."²⁶ Five days later, on September 22, 2010, *Politico* published a story in which unnamed sources state that House Speaker Nancy Pelosi (D-CA) "vowed to pressure liberal groups to do more—and quickly," and that "she was trying to get allied liberal groups to give House Democrats some air cover . . ."²⁷

Notwithstanding the stories in *Roll Call* and *Politico*, the NEA Fund's independent expenditures were *not* made in coordination with Pelosi, Larson, Sutton, Mitchell, Kissel, or Klein.²⁸ The NEA Fund's BTW team responsible for those independent expenditures had no direct or indirect contact with Pelosi, Larson, Sutton, Mitchell, Kissel, Klein, or their agents regarding the races in which the NEA Fund made independent expenditures for the 2010 election.²⁹ Nor did the BTW team have any direct or indirect contact with the staff or campaign for any Member of Congress regarding the races in which the NEA Fund made independent expenditures for the 2010 election.³⁰ In fact, the BTW team received no non-public information concerning the strategy, plans, activities, needs, or communications of

²³ *Id.* ¶ 14 & Tabs 9-11.

²⁴ *Id.* ¶ 15 & Tabs 12-13.

²⁵ Complaint, Attachment 1.

²⁶ *Id.*

²⁷ Complaint, Attachment 2.

²⁸ Garramone-Mason Decl. ¶¶ 8, 11, 16-18; Farfaglia Decl. ¶¶ 5-8; Burke Decl. ¶¶ 5-8; Polidori Decl. ¶¶ 5-8; Washington Decl. ¶¶ 5-8; Egan Decl. ¶¶ 5-8; McInerney Decl. ¶¶ 5-8.

²⁹ *Id.*

³⁰ *Id.*

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any candidate or campaign in the races in which the NEA Fund made independent expenditures for the 2010 election.³¹

THE COMMISSION'S STANDARDS FOR DETERMINING WHETHER TO INVESTIGATE A COMPLAINT

The Act provides that "[a]ny person who believes a violation of [the] Act . . . has occurred" may file a complaint with the Commission.³² Such a complaint must "contain a clear and concise recitation of the facts which describe a violation."³³ Furthermore, the complaint must "differentiate between statements based upon personal knowledge and statements based upon information and belief."³⁴ To that end, statements not based upon personal knowledge must be "accompanied by an identification of the source of information which gives rise to the complainant's belief in the truth of such statements."³⁵

Upon receiving a complaint, the Commission can proceed with an investigation of the alleged violation only if it determines, by a vote of at least four members, that there is "reason to believe" the violation occurred.³⁶ If the Commission determines there is "no reason to believe" the violation occurred, its inquiry comes to an end and the file is closed without further action.³⁷

A complaint satisfies the statutory "reason to believe" standard "only if [it] sets forth sufficient specific facts, which, if proven true, would constitute a violation of the [Act]."³⁸ Conversely, the Commission will conclude there is "no reason to believe" a violation occurred when the well-pleaded allegations of the complaint fail to describe a violation of the Act or where the allegations are so vague as to render a focused investigation effectively impossible.³⁹ The Commission's standard "does not permit a complainant to present mere allegations that the Act has been violated and request that the Commission undertake an investigation to determine whether there are facts to support the charges

³¹ *Id.*

³² 2 U.S.C. § 437g(a)(1).

³³ 11 C.F.R. § 111.4(d)(3).

³⁴ *Id.* § 111.4(c).

³⁵ *Id.* § 111.4(d)(2).

³⁶ 2 U.S.C. § 437g(a)(2).

³⁷ 11 C.F.R. § 111.9(b); *Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process*, 72 Fed. Reg. 12545, 12546 (Mar. 16, 2007).

³⁸ MUR 4960 (*Hillary Rodham Clinton For U.S. Sen. Exploratory Comm., Inc.*), Statement of Reasons of Commissioners Mason, Sandstrom, Smith, and Thomas at 1-2 (2000).

³⁹ 72 Fed. Reg. at 12546.

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The Commission must have more than anonymous suppositions, unsworn statements, and unanswered questions before it can vote to . . . commence an investigation.⁴⁰

By its plain terms, the Commission's statutory standard for initiating an investigation "is *higher* than the Federal Rules of Civil Procedure standard regarding sufficiency of a complaint."⁴¹ Thus, any complaint that would not survive a motion to dismiss under Federal Rule of Civil Procedure 12 must *a fortiori* result in a finding of "no reason to believe." In other words, a complaint does not suffice if it "tenders 'naked assertion[s]' devoid of 'further factual enhancement.'"⁴² Nor is the Commission bound to accept as true a complaint's "legal conclusion[s] couched as a factual allegation[s]."⁴³ Instead, a properly pleaded complaint must contain "sufficient factual matter, accepted as true, to 'state a claim . . . that is *plausible* on its face."⁴⁴ "The plausibility standard . . . asks for more than a sheer possibility that a [respondent] has acted unlawfully."⁴⁵ If a complaint "pleads facts that are 'merely consistent with' a [respondent's] liability," it "stops short of the line between possibility and plausibility."⁴⁶

Finally, even where the complaint properly alleges a violation of the Act, the Commission will conclude there is "no reason to believe" the violation occurred when the respondent's response refutes the complaint's well-pleaded allegations with sufficiently compelling evidence.⁴⁷

ANALYSIS OF THE COMPLAINT

The Complaint alleges that the NEA Fund—along with more than twenty other entities—made expenditures for campaign ads that were coordinated with Pelosi, Larson, and "unnamed" other Members of Congress. The allegations in the complaint are based on the fact that the NEA Fund ran independent expenditures in the critical October time period, when virtually all independent expenditures are run, coupled with the two September news stories in which Pelosi and Larson reportedly made statements urging liberal-leaning groups to air ads supporting Democratic candidates who were being out-

⁴⁰ MUR 1056 (*Protect Cash Jobs*) Statement of Reasons of Vice Chairman Petersen and Commissioners Hunter and McGahn at 6 n.12 (2009). See also MUR 5467 (*Michael Moore*), First General Counsel's Report, at 5 (2004) ("Purely speculative charges, especially when accompanied by a direct refutation, do not form an adequate basis to find a reason to believe that a violation of the [Act] has occurred.")

⁴¹ MURs 5977 & 6005 (*American Leadership Project*) Statement of Reasons of Vice Chairman Petersen and Commissioners Hunter and McGahn at 4-5 n.12 (2009) (emphasis added).

⁴² *Ashcroft v. Iqbal*, 129 S.Ct. 1937, 1949 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 597 (2007)).

⁴³ *Twombly*, 550 U.S. at 555.

⁴⁴ *Iqbal*, 129 S.Ct. at 1949 (quoting *Twombly*, 550 U.S. at 570) (emphasis added).

⁴⁵ *Id.* (quoting *Twombly*, 550 U.S. at 556).

⁴⁶ *Id.* (quoting *Twombly*, 550 U.S. at 557).

⁴⁷ *Id.*; see also 72 Fed. Reg. at 12546.

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spent by conservative groups.⁴⁸ An attachment to the complaint specifically identifies hundreds of ads that ran in the days and weeks following these two stories—including the NEA Fund's ads opposing Republican House candidates Ganley, Schweikert, Johnson, and West.⁴⁹ The Complaint concludes that all of these ads were made at the "request or suggestion" of "Pelosi and her henchmen" and must therefore be treated as in-kind contributions to the candidates.⁵⁰

Although the First Amendment assures a right to make unlimited independent expenditures expressly advocating the election or defeat of a candidate,⁵¹ expenditures made in coordination with a candidate or campaign constitute in-kind contributions that are subject to the source and amount limitations of the Act.⁵² Generally speaking, coordination occurs when an individual or entity makes a decision about spending on election advertising in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, the candidate's campaign, the candidate's agents, or a political party committee.⁵³

Under the Commission's extant regulations, a communication will be considered coordinated if it satisfies both a "content"-based standard and a "conduct"-based standard.⁵⁴ The "content" standards include electioneering communications, republished campaign materials, ads expressly advocating the election or defeat of a candidate, and materials that refer to a candidate within particular timeframes.⁵⁵ The "conduct" standards include a candidate's suggestion or request to make the communication, a candidate's material involvement in the communication, a candidate's substantial discussion concerning the communication with the entity that makes it, the use of the same vendor as the candidate to create or distribute the communication, the involvement of a candidate's former employee in making the communication, and formal agreement or collaboration between the candidate and the entity making the communication.⁵⁶

The Commission's regulations also provide a "safe harbor" for communications made pursuant to a written "firewall" policy that prevents information from flowing

⁴⁸ Complaint at 2-6.

⁴⁹ The NEA Fund made independent expenditures in connection with other House races, as well. (See <http://images.nictusa.com/cgi-bin/fecimg/?C00003231>.) This response will not address those expenditures, however, because the attachment to the Complaint references only the NEA Fund's expenditures in connection with the OH-13, AZ-5, NC-8, and FL-22 races.

⁵⁰ Complaint at 7.

⁵¹ See *Citizens United v. FEC*, 130 S.Ct. 875, 896-913 (2010).

⁵² See 2 U.S.C. §§ 441a(a)(7)(B)(i).

⁵³ *Id.*

⁵⁴ 11 C.F.R. § 109.21(a).

⁵⁵ *Id.* § 109.21(c).

⁵⁶ *Id.* § 109.21(d).

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between the candidate and those making the communication. Under this safe harbor, the conduct prong of the coordination inquiry will not be met if a group within an organization, acting pursuant to a written policy that is adequately distributed to all relevant personnel, arranges the organization's independent expenditures while being "wall[ed] off" from candidates, campaigns, party committees, and any non-public information about candidates', campaigns', or party committees' campaign plans, projects, activities, or needs.⁵⁷

As we now explain there are two separate and independent reasons why the Commission should vote that there is "no reason to believe" the NEA Fund committed the violation alleged in the Complaint. First, the NEA Fund did not meet the conduct prong for coordination because it established and used a firewall that insulated the BTW team from the candidates named in the NEA Fund's independent expenditures, as well as from non-public information about the candidates', campaigns', or political party committees' campaign plans, projects, activities, or needs.⁵⁸ Second, even in the absence of the NEA Fund's showing that it is entitled to the firewall "safe harbor," the Complaint fails to set forth sufficiently specific factual allegations that the NEA Fund violated the Act. Instead, to the extent the Complaint alleges specific facts at all, those facts fail to describe a violation of the Act. The Complaint's bald assertion that a violation occurred is supported only by vague supposition and inferences, most of which are not even spelled out in the Complaint. The Commission has never relied upon such flimsy or scattered accusations to initiate an investigation, and it should not do so here.

A. The NEA Fund is Entitled to the "Safe Harbor" for the Establishment and Use of a Firewall.

Even if the Complaint otherwise alleged a plausible case of coordination against the NEA Fund—which it does not, *see* part B, *infra*—the Commission should still find "no reason to believe" the alleged violation occurred because the NEA Fund is entitled to the "safe harbor" for establishment and use of a firewall. As the Commission has recognized, this safe harbor provision provides "a way . . . to respond to speculative complaints alleging coordination when . . . faced with trying to 'prove a negative' by showing that coordination did not occur."⁵⁹

The NEA Fund is entitled to the safe harbor because it properly established and enforced a written firewall policy that insulated the BTW team from the candidates named in the NEA Fund's independent expenditures, as well as from non-public information about

⁵⁷ *Id.* § 109.21(h); *see also Shays v. FEC*, 528 F.3d 914, 929 (D.C. Cir. 2009).

⁵⁸ The NEA Fund does not dispute that the independent expenditures referenced in the complaint satisfy the "content" prong of the Commission's regulations, since all of the ads expressly advocated the election or defeat of an identified candidate for federal office. *See* 11 C.F.R. § 109.21(c).

⁵⁹ *Explanation and Justification for the Regulations on Coordinated Communications*, 71 Fed. Reg. 33190, 33206 (June 8, 2006).

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the candidates', campaigns', or political party committees' campaign plans, projects, activities, or needs. Furthermore, the Complaint contains no allegations—specific or otherwise—indicating that the NEA Fund should lose the protection of the safe harbor.

1. *The NEA Fund maintained a written firewall policy that insulated the BTW team from non-public information about candidates', campaigns', or political party committees' campaign plans, projects, activities, or needs.*

As explained above and in the sworn declarations attached to this response, the NEA Fund established and maintained a written firewall policy: the BTW policy. In accordance with the Commission's regulations, that policy prohibited the flow of information between the BTW team and all others—including NEA staff and vendors—concerning any non-public information about candidates', campaigns', or political party committees' campaign plans, projects, activities, or needs.⁶⁰ The BTW policy was also reduced to writing, distributed to all affected employees, consultants, and vendors, all of whom were directed to comply with the policy.⁶¹

Under the NEA Fund's BTW policy, each assignment of a new member to the BTW team was accompanied by a memorandum to all NEA and NEA Fund staff notifying them of the assignment and reminding them to comply with the specific restrictions contained in the policy. As explained in those memoranda, the purpose of this policy was "to avoid illegal coordination, or even the appearance of such coordination" by establishing a "firewall" between staff working on independent expenditures and all other staff, including those working on lobbying or membership communications.⁶² Under the terms of the policy, staff members were prohibited from communicating with the BTW team about any of the following: the plans, projects, activities, campaign strategy, or needs of the candidates, political party committees, or agents thereof; the creation, planning, production, or distribution of any independent expenditures or any non-public information that might be used in creating, planning, producing, or distributing such communications; the message, structure, timing, format, or intended audience for any independent expenditures; outside organizations engaged in making independent expenditures; or any aspect of NEA's or any state affiliate's 2010 internal membership campaigns.⁶³

⁶⁰ See 11 C.F.R. § 109.21(h)(1) ("The firewall must be designed and implemented to prohibit the flow of information between employees or consultants providing services for the person paying for the communication and those employees or consultants currently or previously providing services to the candidate who is clearly identified in the communication, or the candidate's authorized committee, the candidate's opponent, the opponent's authorized committee, or a political party committee.")

⁶¹ See *id.* § 109.21(h)(2).

⁶² Garramone-Mason Decl. ¶¶ 2-7 & Tabs 1-3.

⁶³ *Id.*

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In addition, all vendors working with the NEA Fund on independent expenditures were informed of the written BTW policy and were contractually obligated to maintain the integrity of the "firewall" created by the BTW policy.⁶⁴ Accordingly, vendors warranted that they had not performed any services for a candidate in a state in which the NEA Fund makes independent expenditures; furthermore, they agreed not to use or communicate to the BTW team any campaign's strategy, plans, activities, needs, or communications.⁶⁵

The Commission's regulations do not dictate specific procedures that must be followed to come within the firewall-policy safe harbor. Instead, the Commission has explained, "a firewall is more effective if established and implemented by each organization in light of its specific organization, clients, and personnel."⁶⁶ And, much like the firewall approved by the Commission in MUR 5506 (*EMILY's List*), the NEA Fund's BTW policy "barred [BTW team members and vendors], as a matter of policy, from interacting with Federal candidates, political party committees, or the agents of the foregoing."⁶⁷ The policy also barred BTW team members and vendors "from interacting with others within [NEA and the NEA Fund] regarding specified candidates or officeholders."⁶⁸ As a result, the policy satisfies the safe-harbor requirements by prohibiting those who worked directly or indirectly with candidates or their party committees from discussing and conveying material information to the NEA Fund staff who handled the advertising buys.⁶⁹

2. The Complaint fails to identify "specific information" indicating the NEA Fund failed to follow the BTW policy.

The Commission's regulations provide that the safe harbor provision "does not apply if specific information indicates that, despite the firewall, information about the candidate's or political party committee's campaign plans, projects, activities, or needs that is material to the creation, production, or distribution of the communication was used or conveyed to the person paying for the communication."⁷⁰ Yet, far from identifying any "specific information" of a failure to follow a firewall policy that would defeat NEA Fund's entitlement to the safe harbor, the Complaint does not mention the NEA Fund's BTW policy at all. Moreover, as demonstrated in the sworn declarations, the BTW members followed the policy faithfully and were thereby completely insulated from non-public information about the candidate's, campaign's, or party committee's plans, projects, activities, or needs.

⁶⁴ *Id.* ¶ 9 & Tables 4-7.

⁶⁵ *Id.*

⁶⁶ 71 Fed. Reg. at 33206.

⁶⁷ MUR 5506 (*EMILY's List*), First General Counsel's Report at 6-7 (2005).

⁶⁸ *Id.*

⁶⁹ See 71 Fed. Reg. at 33206-07.

⁷⁰ 11 C.F.R. § 109.21(h).

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The NEA Fund's BTW team for independent expenditures in connection with the 2010 election for the House of Representatives consisted of Mr. Garramone-Mann, Mr. Farfaglia, Mr. Burke, Mr. Polidori, Mr. Egan, Mr. McInerney, and Mr. Washington.⁷¹ As each of those individuals have sworn in the attached declarations, they faithfully followed the requirements of the BTW policy. In each race in which the NEA Fund made independent expenditures for the 2010 election, the BTW team members had no direct or indirect communications with the candidates or campaigns—or with persons who themselves had communications with the candidates or campaigns—about the plans, projects, activities, campaign strategy, or needs the candidates, campaigns, political party committees, or agents or representatives thereof; the creation, planning, production, or distribution of any independent expenditures or any non-public information that might be used in creating, planning, producing, or distributing such communications; the message, structure, timing, format, or intended audience for any independent expenditures; outside organizations engaged in making independent expenditures; and any aspect of NEA's or any state affiliate's 2010 internal membership campaign.⁷²

In determining which candidates to support with independent expenditures, the BTW team relied on several factors, such as the candidate's grade on NEA's legislative report card, whether the candidate voted in favor recent key legislation, whether the candidate was an NEA member, whether the candidate was a member of the "Blue Dog" caucus, whether the race was in a key electoral state, and whether the election was sufficiently close to warrant a significant expenditure from the NEA Fund.⁷³ Thus, contrary to the unsupported allegations in the Complaint, the NEA Fund's decisions concerning independent expenditures were based on criteria that had nothing to do with any pressure allegedly exerted on unspecified groups by Pelosi, Larson, or any other "unnamed" Member of Congress.

As the foregoing demonstrates, the written BTW policy completely insulated the NEA Fund's BTW team responsible for the independent expenditures at issue from all non-public information about candidates', campaigns', or political party committees' campaign plans, projects, activities, or needs. That being so, the NEA Fund is fully entitled to the protection of the "safe harbor" provision for establishment and use of a firewall.

R. Even Without the Safe Harbor, the NEA Fund is Entitled to Dismissal Because the Complaint Fails to Plausibly Allege a Violation of the Act.

The most remarkable feature of the Complaint is the complete absence of any specific allegations of coordinated conduct involving any particular respondent, including

⁷¹ Garramone-Mason Decl. ¶ 14.

⁷² *Id.* ¶¶ 8, 11, 16-18; Farfaglia Decl. ¶¶ 5-8; Burke Decl. ¶¶ 5-8; Polidori Decl. ¶¶ 5-8; Washington Decl. ¶¶ 5-8; Egan Decl. ¶¶ 5-8; McInerney Decl. ¶¶ 5-8.

⁷³ Garramone-Mason Decl. ¶ 10.

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the NEA Fund. Instead, the Complaint's apparent methodology is simply to identify organizations that began running independent expenditures favoring Democratic candidates after the appearance of the September *Roll Call* and *Politico* stories and to then level conclusory charges of coordination against all of them. Such a scatter-shot approach does not satisfy the Commission's "reason to believe" standard, for it "present[s] mere allegations that the Act has been violated and request[s] that the Commission undertake an investigation to determine whether there are facts to support the charges."⁷⁴

1. *The statements contained in the press reports do not support the Complaint's claim of coordination.*

To the extent the Complaint suggests that statements contained in the *Roll Call* and *Politico* stories are *by themselves* sufficient to establish the "request or suggestion" element of the conduct prong,⁷⁵ the Complaint fails on its face. Statements made to press—even unambiguous pleas for others to make expenditures advocating the election or defeat of candidates—do not qualify as a "request or suggestion" for purposes of the coordination analysis. As the Commission had explained, the "request or suggestion" standard "is intended to cover requests or suggestions made to a select audience, but not those offered to the public generally."⁷⁶ For example, "a request in a public campaign speech or a newspaper advertisement is a request to the general public and is not covered, but a request during a speech to an audience at an invitation-only dinner or during a membership organization function is a request to a select audience and thereby satisfies the conduct standard . . ."⁷⁷ Applying this clear delineation, it is readily apparent that the public statements by Larson in the *Ball Call* article do not show the type of "request or suggestion" required to meet the content prong of the coordination analysis.

The same is true of the second-hand accounts of statements attributed to Pelosi in the *Politico* story. Even if those statements were made to a "select audience" of other Members of Congress, that audience did not include the NEA Fund. Thus, any press stories reporting such statements cannot qualify as a "request or suggestion" within the meaning of the Commission's regulations. In any event, anonymously-sourced hearsay of the kind contained in the *Politico* article is insufficient to support a "reason to believe" finding.⁷⁸

⁷⁴ MUR 6056 (*Protect Colo. Jobs*) Statement of Reasons of Vice Chairman Petersen and Commissioners Hunter and McGahn at 6 n.12. See also MUR 5467 (*Michael Moore*), First General Counsel's Report at 5.

⁷⁵ See Complaint at 6-7.

⁷⁶ *Explanation and Justification for Regulations on Coordinated and Independent Expenditures*, 68 Fed. Reg. 421, 432 (Feb. 3, 2003).

⁷⁷ *Id.*

⁷⁸ See MUR 6056 (*Protect Colorado Jobs*) Statement of Reasons of Vice Chairman Petersen and Commissioners Hunter and McGahn at 8 (rejecting allegations of coordination that "relie[d] upon a rather lengthy chain of unsworn suppositions and hearsay"). See also MJRs 5977 & 6005 (*American Leadership Project*) Statement of Reasons of Vice Chairman Petersen and Commissioners Hunter and McGahn at 6 n.20 (2009) ("[A]dherence to the Commission's regulations regarding sources of information contained in

(continued . . .)

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2. *The Complaint's reliance on the timing of the NEA Fund's independent expenditures does not establish a plausible case of coordination.*

Although the Complaint generally alleges that Pelosi, Larson, and unnamed other Members of Congress pressured unspecified groups to run ads in favor of Democratic Candidates, there is only a *single* factual allegation in the entire Complaint specific to the NEA Fund—namely, that the NEA Fund's "independent expenditures began on 10/5/2010."⁷⁹ Based on the timing of these independent expenditures in relation to the *Politico* and *Roll Call* stories, the Complaint baldly asserts that it is "perfectly clear" that all of the respondents, including the NEA Fund, "yielded to the demands of Democratic leaders and staffers."⁸⁰

On the contrary, the only thing made "perfectly clear" by these allegations is that the claim of coordination in the Complaint rests entirely on the textbook logical fallacy of *post hoc, ergo propter hoc* (after this, therefore because of this).⁸¹ Simply put, alleging a sequence cannot substitute for alleging specific facts of causation, particularly where that sequence of events "was not only compatible with, but indeed was more likely explained by, lawful . . . behavior."⁸²

The NEA Fund ran its independent expenditures in the remaining weeks before the election because, as anyone familiar with elections knows, that is when voters are most attentive and likely to be influenced by an ad's message.⁸³ Indeed, the data from the Commission's own Disclosure Data Catalog reveal that, of *all* the independent expenditures run for the General Election House Races in 2010, more than 90% (approximately 22,000 out of 24,000) were made *after* the appearance of the *Politico* article.⁸⁴

Furthermore, the timing of the NEA Fund's actions in the 2010 midterm elections is similar to the timing of its independent expenditures in past midterm elections. For example, during the last mid-term election, in 2006, the NEA Fund ran its first independent expenditures on October 2, 2006—5 weeks before the election,⁸⁵ and ran its first

complaints cautions against accepting as true the statements of anonymous sources (especially since the Commission's regulations expressly prohibit consideration of anonymous complaints. 2 U.S.C. § 437g(a)).

⁷⁹ Complaint at 4.

⁸⁰ *Id.*

⁸¹ See, e.g., Robert J. Gula, *Nonsense: A Handbook of Logical Fallacies* 95-96 (2002).

⁸² *Iqbal*, 129 S.Ct. at 1950.

⁸³ See *Citizens United*, 130 S. Ct. at 895 ("It is well known that the public begins to concentrate on elections only in the weeks immediately before they are held. There are short time frames in which speech can have influence.").

⁸⁴ See <http://www.fec.gov/data/IndependentExpenditure.do?format=html>.

⁸⁵ See <http://images.nictusa.com/pdf/656/26930418656/26930418656.pdf>.

independent expenditure ads 4 weeks before the 2010 election. This pattern reflects only the reality that the NEA Fund, like every other political committee, runs its independent expenditure ads at the time they are most effective—in the final weeks before any election. That reality provides no footing at all for the Complaint's conclusory assertion that the NEA Fund engaged in impermissible coordination.

3. *Any finding of a "reason to believe" that coordination occurred would depend on a lengthy and unsupported chain of inferences*

Because the Complaint cannot plausibly allege a case of coordination based solely on the timing of the NEA Fund's independent expenditures, any "reason to believe" finding would have to proceed down a lengthy chain of additional inferences to bridge the gaps in the Complaint. Those inferences would be unwarranted even in the absence of a direct refutation of the allegation of coordination.⁸⁶ And they are especially unwarranted where, as here, the conclusory allegations have been directly refuted with sworn declarations.

As noted above, the "request or suggestion" element of the conduct prong "is intended to cover requests or suggestions made to a select audience, but not those offered to the public generally."⁸⁷ Yet, the Complaint contains no allegation at all (much less one made with the required level of factual specificity) that there was any contact between Pelosi, Larson, or other Member of Congress and a "select audience" that included the NEA Fund. Thus, any finding that a violation occurred would first require an inference—without any factual support in the Complaint—that contact occurred between Members of Congress and the NEA Fund.

Moreover, even granting the unwarranted inference that the contact occurred, the Complaint contains no allegation that Members of Congress involved in the contact requested or suggested that the NEA Fund run ads for or against the *specific candidates* named in the NEA Fund's independent expenditure communications. After all, the Commission has expressly disavowed any reading of the coordination rules that would "broadly affect[] communications made with respect to *all* candidates after the person paying for such communications has received a request or suggestion from *any* candidate."⁸⁸ Rather, as the Commission has explained, the conduct prong cannot be satisfied "without some link between the request or suggestion and the candidate or political party who is, or that is, clearly identified in the communication."⁸⁹ In the absence

⁸⁶ See MUR 6059 (*Sean Parnell for Congress*) Factual and Legal Analysis at 5-6 (2010) (finding no reason to believe a violation occurred where the complaint did "not contain specific allegations as to the conduct standards" and instead "merely relied on the inference that the communication had been coordinated").

⁸⁷ 68 Fed. Reg. at 432.

⁸⁸ *Id.* at 431 (emphases added).

⁸⁹ *Id.*

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of any specific allegations in the Complaint, that link could only be supplied here by pure speculation.

Finally, even granting the inference that there was contact between the NEA Fund and Members of Congress who requested or suggested that the NEA Fund run ads favoring specified candidates, the conduct standard would still not be met unless those Members of Congress acted as "agents" of the candidates named in the NEA Fund's independent expenditure communications.⁹⁰ Yet, the Complaint alleges no facts whatsoever to support a finding of agency. And, it would be unwarranted for the Commission to infer those facts in determining whether there is "reason to believe" a violation occurred.

On its face, this Complaint fails to meet the statutory "reason to believe" standard because it lacks "sufficient specific facts, which, if proven true, would constitute a violation of the [Act]."⁹¹ Nor can that defect in the Complaint be remedied by piling speculation atop speculation. The Commission should therefore vote to find "no reason to believe" that the NEA Fund committed the violation alleged in the Complaint.

CONCLUSION

For the reasons stated above, the Commission should find there is "no reason to believe" that the violation alleged in the Complaint occurred. Accordingly, the Commission should close its file in this matter with no further action.

Respectfully submitted,



Alice O'Brien
Jason Walta
Counsel to the NEA Fund and
NEA Fund Treasurer John Wilson

⁹⁰ *Id.* at 432.

⁹¹ MUR 4960 (*Hillary Rodham Clinton For U.S. Sen. Exploratory Comm., Inc.*), Statement of Reasons of Commissioners Mason, Sandstrom, Smith, and Thomas at 1-2.

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24 / 48 HOUR NOTICE OF INDEPENDENT / COORDINATED EXPENDITURE, en : 10/06/2010

10/06/2010 09:10

NEA Fund for Children and Public Education

1201 16th St NW Ste 420

Washington

DC

20036

FEC ID No. C00003251

24-Hour Notice

48-Hour Notice

SCHEDULE E (FEC Form 3X)

ITEMIZED INDEPENDENT EXPENDITURES

PAGE OF 1/1

FOR LINE 24 OF FORM 3X

NAME OF COMMITTEE (In Full) NEA Fund for Children and Public Education		FEC IDENTIFICATION NUMBER C C00003251
Check if <input type="checkbox"/> 24-hour notice <input checked="" type="checkbox"/> 48-hour notice		

Full Name (Last, First, Middle, Initial) of Payee
Joe Slade White Communications Inc.

Date
MM / DD / YYYY
10 / 05 / 2010

Mailing Address
437 Franklin Street

Amount
550000.00

City State Zip Code
Buffalo NY 14202

Office Sought: House State: OH
 Senate District: 13
 Presidential

Purpose of Expenditure
Production and Media Buy

Category/Type
004

Check One: Support Oppose

Name of Federal Candidate supported or Opposed by expenditure:
Thomas D Ganley

Disbursement For: Primary General 2010

Calendar Year-To-Date Pfr Election for Office Sought
550000.00

Other (specify): _____
Transaction ID: B351306

Full Name (Last, First, Middle, Initial) of Payee
Envision Communications Inc.

Date
MM / DD / YYYY
10 / 06 / 2010

Mailing Address
2715 M Street NW Ste 100

Amount
650000.00

City State Zip Code
Washington DC 20007

Office Sought: House State: AZ
 Senate District: 05
 Presidential

Purpose of Expenditure
Production and Media Buy

Category/Type
004

Check One: Support Oppose

Name of Federal Candidate supported or Opposed by expenditure:
David Schweikert

Disbursement For: Primary General 2010

Calendar Year-To-Date Pfr Election for Office Sought
650000.00

Other (specify): _____
Transaction ID: B368782

(a) SUBTOTAL of Itemized Independent Expenditures	1200000.00
(b) SUBTOTAL of Unitemized Independent Expenditures	
(c) TOTAL Independent Expenditures	1200000.00

Under penalty of perjury I certify that the independent expenditures reported herein were not made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or authorized committee or agent of either, or (if the reporting entity is not a political party committee) any political party committee or its agent.

John I Wilson
Signature

MM / DD / YYYY
10 / 06 / 2010

11044294562

NEA Fund for Children and Public Education
 1201 16th St NW Ste 420
 Washington DC 20036

FEC ID No. C00003251 24-Hour Notice 48-Hour Notice

SCHEDULE E (FEC Form 3X)

PAGE OF 1/1
 FOR LINE 24 OF FORM 3X

ITEMIZED INDEPENDENT EXPENDITURES

NAME OF COMMITTEE (In Full) NEA Fund for Children and Public Education	FEC IDENTIFICATION NUMBER C C00003251
Check if <input type="checkbox"/> 24-hour notice <input checked="" type="checkbox"/> 48-hour notice	

Full Name (Last, First, Middle, Initial) of Payee
 Gumbinner and Davies Communications

Date
 MM / DD / YYYY
 10 / 09 / 2010

Mailing Address
 718 Seventh Street NW Ste 310

Amount
 165209.40

City State Zip Code
 Washington DC 20001

Office Sought: House State: NC
 Senate District: 08
 Presidential

Purpose of Expenditure
 Political mail

Category/ Type 004

Check One: Support Oppose

Name of Federal Candidate supported or Opposed by expenditure:
 Harald Johnson

Disbursement For: Primary General 2010
 Other (specify): _____

Calendar Year-To-Date Per Election for Office Sought
 165209.40

Transaction ID: B369497

11044294563

(a) SUBTOTAL of Itemized Independent Expenditures	165209.40
(b) SUBTOTAL of Unitemized Independent Expenditures	
(c) TOTAL Independent Expenditures	165209.40

Under penalty of perjury I certify that the independent expenditures reported herein were not made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or authorized committee or agent of either, or (if the reporting entity is not a political party committee) any political party committee or its agent.

John I Wilson
 Signature

MM / DD / YYYY
 10 / 08 / 2010

24 / 48 HOUR NOTICE OF INDEPENDENT / COORDINATED EXPENDITURE, on : 10/13/2010

10/13/2010 16 : 13

NEA Fund for Children and Public Education

1201 16th St NW Ste 420

Washington

DC

20036

FEC ID No. C00003251

24-Hour Notice

48-Hour Notice

SCHEDULE E (FEC Form 3X)

ITEMIZED INDEPENDENT EXPENDITURES

PAGE OF 1/1

FOR LINE 24 OF FORM 3X

NAME OF COMMITTEE (In Full)
NEA Fund for Children and Public Education

FEC IDENTIFICATION NUMBER

C C00003251

Check if 24-hour notice 48-hour notice

Full Name (Last, First, Middle, Initial) of Payee

Shorr Johnson Magnus

Date

MM / DD / YYYY
10 / 12 / 2010

Mailing Address

1831 Chestnut Street Ste 602

Amount

305995.00

City

Philadelphia

State

PA

Zip Code

19103

Office Sought:

House

State: NC

Senate

District: 08

Presidential

Purpose of Expenditure

TV Advertising

Category/Type

004

Check One:

Support

Oppose

Name of Federal Candidate supported or Opposed by expenditure:

Harold Johnson

Disbursement For: Primary General 2010

Other (specify):

Calendar Year-To-Date Per Election for Office Sought

471204.40

Transaction ID: B369689

(a) SUBTOTAL of Itemized Independent Expenditures

305995.00

(b) SUBTOTAL of Unitemized Independent Expenditures

(c) TOTAL Independent Expenditures

305995.00

Under penalty of perjury I certify that the independent expenditures reported herein were not made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or authorized committee or agent of either, or (if the reporting entity is not a political party committee) any political party committee or its agent.

John I Wilson

Signature

MM / DD / YYYY
10 / 13 / 2010

10

11044294564

24 / 48 HOUR NOTICE OF INDEPENDENT / COORDINATED EXPENDITURE, on : 10/15/2010

10/15/2010 15 : 58

NEA Fund for Children and Public Education

1201 16th St NW Ste 420

Washington

DC

20036

FEC ID No. C00003251

24-Hour Notice 48-Hour Notice

SCHEDULE E (FEC Form 3X)
ITEMIZED INDEPENDENT EXPENDITURES

PAGE OF 1/1
FOR LINE 24 OF FORM 3X

NAME OF COMMITTEE (in Full)
NEA Fund for Children and Public Education

FEC IDENTIFICATION NUMBER

C C00003251

Check if 24-hour notice 48-hour notice

Full Name (Last, First, Middle, Initial) of Payee

Gumbinner and Davies Communications

Date

MM / DD / YYYY
10 / 13 / 2010

Mailing Address

718 Seventh Street NW Ste 310

Amount

163240.63

City

Washington

State

DC

Zip Code

20001

Office Sought:

House

State: NC

Senate

District: 08

Presidential

Purpose of Expenditure

Production and postage for political mail

Category/
Type

004

Check One:

Support

Oppose

Name of Federal Candidate supported or Opposed by expenditure:

Harold Johnson

Disbursement For: Primary General 2010

Other (specify):

Transaction ID: B370485

Calendar Year-To-Date Per Election

634445.03

for Office Sought

(a) SUBTOTAL of Itemized Independent Expenditures

163240.63

(b) SUBTOTAL of Unitemized Independent Expenditures

(c) TOTAL Independent Expenditures

163240.63

Under penalty of perjury I certify that the independent expenditures reported herein were not made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or authorized committee or agent of either, or (if the reporting entity is not a political party committee) any political party committee or its agent.

John I Wilson

Signature

MM / DD / YYYY
10 / 15 / 2010

11044294565

NEA Fund for Children and Public Education

1201 16th St NW Ste 420

Washington

DC

20036

FEC ID No. C00003251

24-Hour Notice 48-Hour Notice

12

SCHEDULE E (FEC Form 3X)
ITEMIZED INDEPENDENT EXPENDITURES

PAGE OF 1 / 1
FOR LINE 24 OF FORM 3X

NAME OF COMMITTEE (In Full)
NEA Fund for Children and Public Education

FEC IDENTIFICATION NUMBER

C C00003251

Check if 24-hour notice 48-hour notice

Full Name (Last, First, Middle, Initial) of Payee
Gumbinner and Davies

Date
MM / DD / YYYY
10 / 12 / 2010

Mailing Address
718 7th Street NW Ste 310

Amount
56626.46

City State Zip Code
Washington DC 20001

Office Sought: House State: FL
 Senate District: 22
 Presidential

Purpose of Expenditure
Political mailers
Category/ Type 004

Check One: Support Oppose

Name of Federal Candidate supported or Opposed by expenditure:
Allen B West

Disbursement For: Primary General 2010
 Other (specify):

Calendar Year-To-Date Per Election
for Office Sought 56626.46

Transaction ID: B370150
Filed to correct 10/14 48 hour
notice should have reflected
oppose instead of support

11044294566

(a) SUBTOTAL of Itemized Independent Expenditures 56626.46
(b) SUBTOTAL of Unitemized Independent Expenditures
(c) TOTAL Independent Expenditures 56626.46

Under penalty of perjury I certify that the independent expenditures reported herein were not made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or authorized committee or agent of either, or (if the reporting entity is not a political party committee) any political party committee or its agent.

John I Wilson
Signature

MM / DD / YYYY
10 / 14 / 2010

24 / 48 HOUR NOTICE OF INDEPENDENT / COORDINATED EXPENDITURE, on : 10/19/2010

10/19/2010 12 : 50

NEA Fund for Children and Public Education

1201 16th St NW Ste 420

Washington

DC

20036

FEC ID No. C00003251

24-Hour Notice

48-Hour Notice

13

SCHEDULE E (FEC Form 3X)

ITEMIZED INDEPENDENT EXPENDITURES

PAGE OF 1 / 1

FOR LINE 24 OF FORM 3X

NAME OF COMMITTEE (In Full)
NEA Fund for Children and Public Education

FEC IDENTIFICATION NUMBER

C C00003251

Check if 24-hour notice 48-hour notice

Full Name (Last, First, Middle, Initial) of Payee

Gumbinner and Davies Communications

Date

MM / DD / YYYY
10 / 18 / 2010

Mailing Address

718 Seventh Street NW Ste 310

Amount

55711.58

City

Washington

State

DC

Zip Code

20001

Office Sought:

House

State: FL

Senate

District: 22

Presidential

Purpose of Expenditure

Production and postage - political mail

Category/ Type

004

Check One:

Support

Oppose

Name of Federal Candidate supported or Opposed by expenditure:

Allen B West

Disbursement For: Primary General 2010

Other (specify):

Transaction ID: B370463

Calendar Year-To-Date Per Election for Office Sought

112338.04

(a) SUBTOTAL of Itemized Independent Expenditures

55711.58

(b) SUBTOTAL of Unitemized Independent Expenditures

(c) TOTAL Independent Expenditures

55711.58

Under penalty of perjury I certify that the independent expenditures reported herein were not made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or authorized committee or agent of either, or (if the reporting entity is not a political party committee) any political party committee or its agent.

John I Wilson

Signature

MM / DD / YYYY
10 / 19 / 2010

11044294567