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December 23, 2010

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 Federal Election Commission
 999 E Street, NW
 Washington, D.C. 20463

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 COMMISSION
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 OFFICE OF GENERAL
 COUNSEL

Re: MUR 6411

Dear Mr. Jordan:

On behalf of the [REDACTED] Speaker of the United States House of Representatives, I write in response to the Complaint and Supplemental Complaint filed by Let Freedom Ring, Inc., dated October 22, 2010.¹ An executed Statement of Designation of Counsel to that effect accompanies this response.

The Speaker has not coordinated any public communication on behalf of herself or any other candidate or committee. And the Complaint presents no credible reason to believe that she did. Relying on two news articles, which in turn drew on hearsay accounts of remarks the Speaker was said to have made in closed House Democratic Caucus meetings, the Complaint seems to allege that every independent expenditure made thereafter in support of any House Democratic candidate was illegally coordinated. This offers no reason to believe that there was any violation of the Federal Election Campaign Act of 1971, 2 U.S.C. § 431 *et seq.*, and the Commission should dismiss the Complaint.

FACTS

The Complaint hinges on two news articles: one in *Roll Call* on September 17, 2010, and another in *Politico* on September 22, 2010. The articles claim to describe two private meetings of the

¹ The Complaint was initially misdirected, and was ultimately received by the Speaker's personal representative on December 8, 2010.

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House Democratic Caucus, in which Members of Congress complained about the gap between Republican and Democratic outside group advertising. Neither article directly quotes the Speaker.

The *Politico* article relies on anonymous sources to describe the Speaker's remarks at the meetings. It claimed that "[a] sympathetic Pelosi vowed to pressure liberal groups to do more – and quickly." It said that "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."

With no other factual basis, and with no evidence of any actual contact, the Complaint assumes that unnamed "Democratic leaders and staffers" made "demands" for spending by outside organizations, to which "several organizations yielded ..." Compl. at 4. It asserts that fourteen non-party organizations made independent expenditures to support Democratic House candidates or oppose Republican candidates after the news reports were published. *See id.* It claims that seven groups increased their independent expenditures after publication, and that three organizations began making electioneering communications. *See id.* at 5. It provides an eighteen-page exhibit showing pro-Democratic expenditures made in September and October, apparently to suggest that each was illegally coordinated. And, based on a lone news account, the Supplemental Complaint notes the formation of "yet another liberal group," and claims without support that this group was "apparently formed by Democratic operatives for the purposes of carrying out the demands of Speaker Pelosi and others to raise and spend funds ..."

ANALYSIS

The Commission will not find reason to believe that a violation occurred based on "mere speculation." *See* Statement of Reasons, MUR 4960. Rather, it looks to whether the Complaint presents "facts which describe a violation of a statute or regulation ..." 11 C.F.R. § 111.4(d)(3) (2010). Here, whether a violation occurred hinges on whether a candidate, an authorized committee, a political party committee, or its agent made a request or suggestion for a communication that meets one of the four content standards set forth in 11 C.F.R. § 109.21(c). *See* 11 C.F.R. §§ 109.21(a), 109.21(d)(1); Compl. at 6-7.

The Complaint presents no credible basis to believe that this happened. It alleges no actual contact between the Speaker and any of the identified sponsors. As a matter of law, it cannot say that the remarks attributed to her in the *Roll Call* and *Politico* articles resulted in a prohibited request or suggestion: the conduct standard extends only to those "made to a select audience ... not those offered to the public generally." Coordinated and Independent Expenditures, 68 Fed. Reg. 432 (2003). Nor can it rely on the blind quotes attributed to the Speaker by the news articles. As the General Counsel said in another matter, "purported information from 'several anonymous sources on the campaign trail' regarding allegations of coordination can and should

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be afforded no weight, as no details are provided and there is no way to verify the information." Factual and Legal Analysis, Friends of Mike Sodrel, MUR 5845, at 5.

Finally, the Complaint's claim of a surge in pro-Democratic advertising after publication of the news accounts offers no credible evidence of coordination. The Commission itself has recognized, after extensive notice and comment, that "nearly all Senate and House candidate advertising takes place within 60 days of an election." See Coordinated Communications, 71 Fed. Reg. 33194 (2006). An increase in Democratic non-party, non-candidate spending in September and October would have occurred anyway. The Complaint presents no evidence that the increase was higher than it otherwise would have been – or, if it was, that it had anything whatsoever to do with the Speaker.

Thus, the Complaint fails to present the essential elements of a coordination claim. It alleges no actual contact between any individual and any non-party group. Rather, it assumes that every non-party independent expenditure in support of any Democratic candidate must have been made at the Speaker's request or suggestion, without offering any specific facts to support that assumption. This is just the sort of "mere speculation" that the Commission does not accept as true. See MUR 5845, MUR 4960.

For the reasons set forth above, we respectfully request that the Commission find no reason to believe that the Speaker violated the Act, and dismiss the matter immediately.

Very truly yours,



Brian G. Svoboda
Counsel to the Honorable Nancy Pelosi



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STATEMENT OF DESIGNATION OF COUNSEL
 Please use one form for each Respondent/Entity/Treasurer
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MUR # 6411

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The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

12/8/10
 Date

Nancy Pelosi
 Respondent/Agent - Signature

 Title (Treasurer/Candidate/Owner)

NAMED RESPONDENT: NANCY PELOSI, Speaker of the House

MAILING ADDRESS: US Capitol, House of Representatives
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Washington, DC 20515

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Information is being sought as part of an investigation being conducted by the Federal Election Commission and the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. This section prohibits making public any investigation conducted by the Federal Election Commission without the express written consent of the person under investigation

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