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March 19, 2013

William Powers, Esq.
Assistant General Counsel for Enforcement
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MUR 6596 (Crossroads GPS)

Dear Mr. Powers,

We are in receipt of your letter dated March 5, 2013, inviting Crossroads Grassroots Policy Strategies (GPS) to submit additional materials to the Commission regarding MUR 6596. You write in your letter:

As part of our review of the allegations raised in the complaint, the Office of General Counsel is considering available information pertaining to activities conducted by your client during calendar year 2012, including information about advertisements and other activity reported to the Commission or available on Crossroads GPS's website. The Commission is providing your client with the opportunity to address these activities from 2012, or any other activity, if it so chooses.

It is difficult, if not impossible, to determine based on this description exactly what materials the Office of General Counsel ("OGC") is reviewing that were not part of the original complaint. Due to the lack of specificity, we can only respond in general terms at this time.

I. General Observations On OGC Procedure

Before discussing the activities of Crossroads GPS, we would like to comment on OGC's procedures in this matter.

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We certainly support the Commission's policy of providing respondents with an opportunity to respond to information and materials considered by OGC as part of its pre-RTB review/investigation that were not part of the initial complaint. The result of this policy is a fuller and more informative record and a process that is fairer to respondents. However, the generalized nature of your letter does not (or should not), in our view, comport with this informal policy.¹ Respondents cannot respond and comment meaningfully unless informed *specifically* what materials OGC is reviewing.

Crossroads GPS is an organization that exists continuously, and it continuously engages in new activities. Providing Crossroads GPS with an opportunity to respond in general terms to more recent materials that OGC may be reviewing is a process that could continue in perpetuity. At some point, the Commission must act on the Complaint. Failure to do so leaves Crossroads GPS under the Commission's continuing review, which is absolutely inconsistent with the statutory requirement that a complaint must allege a particular, discrete violation of the law.² (With respect to the question of whether Crossroads GPS must register and report as a "political committee," the organization has actually been under the Commission's continuing review since October 2010 when the first of these "political committee status" complaints (MUR 6396) was filed.)

In this matter, Obama for American and the Democratic National Committee filed a complaint with the Commission on June 20, 2012 (the "Complaint"). While the Complaint itself was broad and generalized in several respects, it alleged that one or more violations of the law occurred at some point prior to June 20, 2012, namely, that Crossroads GPS was, or had become, a "political committee" prior to June 20, 2012. It is this alleged violation that the Commission is supposed to be reviewing. Your letter indicates that OGC is "considering available information pertaining to activities conducted by your client during *calendar year 2012*" (emphasis added). We do not believe that Crossroads GPS's activity subsequent to June 20, 2012, is in any way relevant to the Complaint in this matter.

We presume that OGC is examining Crossroads GPS's activities subsequent to the filing of the Complaint because OGC believes, or is at least entertaining the theory, that political committee status is considered and determined by reference to the full calendar year in which the activity described in the complaint occurred. If this is the legal theory that OGC is pursuing, or intends to pursue, we request to be notified so that we may more fully respond. We did not address this novel legal theory in our initial response, and do not fully address it here, because

¹ As we understand it, this policy exists informally at this time, but has been in effect for several years.

² See 2 U.S.C. § 437(g)(a)(1) ("Any person who believes a violation of this Act ... *has occurred*, may file a complaint with the Commission.") (emphasis added); 11 C.F.R. § 111.4.

we are not aware of any past instances in which the Commission has applied that theory, at least not expressly.

Rather, and to the best of our knowledge, political committee status has been judged in the past according to whatever time frame is most appropriate to the case at hand, as opposed to simply applying an inflexible or predetermined time frame (such as the full calendar year in which the activity at issue occurred). *See* Supplemental Explanation and Justification of Political Committee Status, 72 Fed. Reg. 5595, 5597 (Feb. 7, 2007) (“Applying the major purpose doctrine, however, requires the flexibility of a case-by-case analysis of an organization’s conduct that is incompatible with a one-size-fits-all rule.”).

To apply a legal theory that requires the Commission to consider the activities of the Respondent during the remainder of the calendar year following the filing of a Complaint raises a number of statutory problems. First, continuing to review an organization’s activities until the end of a calendar year (at least when that review extends beyond a period of 120 days) technically makes available an action under 2 U.S.C. § 437g(a)(8). Second, continuing to review an organization’s activities that occur after the filing of a complaint necessarily requires the Commission to undertake the sort of investigation that is supposed to take place only *after* the Commissioners vote to file reason to believe a violation occurred. *See* 2 U.S.C. § 437g(a)(2). If OGC is examining materials that relate to the activities of Crossroads GPS subsequent to June 20, 2012, OGC is necessarily conducting an “investigation” of matters not raised in the Complaint.

If the Commission (or an office within the Commission) is examining Crossroads GPS’s activities *after* June 20, 2012, that inquiry is, in effect, a separate, internally-generated matter which is not legitimately related to normal and usual pre-RTB review/investigation that precedes the preparation of the First General Counsel’s Report.

Here, the implications of OGC’s broader investigation into the activities of Crossroads GPS are quite serious, and quite objectionable. The Complaint alleges that Crossroads GPS is a “political committee” for purposes of the Federal Election Campaign Act. In the Response, and in past responses in similar matters, Crossroads GPS has conceded making more than \$1,000 in expenditures. Accordingly, the critical question is whether Crossroads GPS has the requisite “major purpose” that would qualify it as a “political committee.” The Complaint in this matter premises its “major purpose” allegations on “[t]he text of three recent Crossroads GPS advertisements – illustrative of the character of their public communications.” According to the Complaint, these advertisements “demonstrate that reasonable minds simply cannot differ over the electoral aim of the organization.” The Complaint then presents the text of four advertisements.³

³ A handful of other ads may be referenced in cited press accounts that appear in the Complaint.

The Commission should limit its review to the four advertisements referenced in the Complaint, and perhaps to the ads referenced in the cited press accounts, if those accounts are deemed reliable. The Complaint was written and submitted by one of the preeminent election lawyers in the country, and if Mr. Bauer and his clients had intended to present a full and serious complaint that thoroughly examined and challenged the legality of Crossroads GPS's activities, they certainly had the resources and experience needed to do so. They chose not to, and instead prepared a document that could be easily digested and quoted by the media.

OGC should not, in these circumstances, undertake – on its own initiative – the broad review of Crossroads GPS's activities that the Complainants knowingly declined to undertake and which the Complainants (or at least Complainants' counsel) certainly knew was necessary to properly support the violations alleged. It is simply not possible that Mr. Bauer believes the "major purpose" of Crossroads GPS can be demonstrated by reference to four advertisements and the accounts of a few biased reporters.⁴ The Commission has no business supplementing the Complaint in this matter in order to make it plausible.⁵ As three Commissioners recently noted, "[t]he RTB 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." MUR 6056 (Protect Colorado Jobs, Inc.), Statement of Reasons of Matthew S. Petersen, Caroline C. Hunter, and Donald F. McGahn at 6, n.12.

The question for the Commission is whether the Complaint, as it actually exists, and not as supplemented by OGC, makes a sufficiently compelling demonstration of reason to believe the respondent violated the law. It *should be* quite obvious that the "major purpose" of a large, active organization that has produced and aired hundreds of advertisements since June 2010 simply cannot be demonstrated by reference to four ads aired in the summer of 2012.

⁴ Mr. Bauer acknowledged as much in the initial Complaint. As we noted in our Response, the Complaint observed: "To make this [major purpose] determination, the FEC looks comprehensively at the organization's documents, regulatory filings, public statements, appeals for fundraising, and political activities." Complaint at 3. We explained in our Response that the Complaint "fails to present to the Commission any sort of record that even approaches a comprehensive review of Crossroads GPS's activities," and offered only conclusory statements in lieu of "the considered analysis required under the law." Response at 22. Now, however, it appears that OGC has taken it upon itself to perform at least part of the comprehensive review that the Complainant chose not to undertake.

⁵ In some instances, it may be sensible or "fair" for OGC to undertake some modest efforts to flesh out a complaint. A former campaign worker, not represented by counsel, who has come forward to blow the whistle on his or her former employer's wrongdoing may perhaps be forgiven a failure to include certain legally important, publicly available basic facts in a complaint. On the other hand, a billion dollar presidential campaign and national party committee represented by a leading election law practitioner does not deserve this sort of assistance when filing a complaint for the sake of planting a story in the *New York Times*.

The Complaint in this matter was filed on behalf of Obama for America and the Democratic National Committee at the height of a presidential election, and it achieved its purpose: the media ran stories about it. Since then, the complainants won their election and have now adopted the same organizational model as Crossroads GPS. This Complaint is now just a remaining vestige of a campaign that is now over. It was never something to be taken seriously by the Commission, and to continue pretending otherwise is to engage in a fool's errand.

II. Supplemental Comments on the Complaint and Crossroads GPS Activities

A. Current Circumstances

Reviewing the Complaint filed by the Obama for America and the Democratic National Committee roughly nine months later makes perfectly clear that the Complaint was a political stunt. Following President Obama's re-election, his campaign committee transformed into a Section 501(c)(4) issue advocacy and grassroots lobbying organization⁶ – just like Crossroads GPS. The media, meanwhile, has finally taken notice of the President's stunning hypocrisy on campaign finance matters.

For example, NBC's Chuck Todd noted, "When it comes to Barack Obama's views on money and politics, his actions have rarely matched his words." See NBC's Chuck Todd: On Campaign Finance, Obama's Words Rarely Match His Actions, *The Right Sphere* (March 11, 2012).⁷ *The Atlantic* observed that the President "talks out of both sides of his mouth on campaign finance." David Rhode, Obama Talks Out of Both Sides of His Mouth on Campaign Finance, *The Atlantic* (March 1, 2013).⁸

The changed circumstances since last summer are quite ironic. In the Complaint, the President's campaign directed ridiculous and over-the-top Watergate rhetoric at Crossroads GPS. See Complaint at 2 ("Forty years after Watergate, the election financing scandal that prompted the creation of this agency, covert corporate and wealthy individual spending is becoming once

⁶ See Organizing For Action "Statement of Purpose," available at <http://www.barackobama.com/about/about-ofa?source=footer-nav>; see also Jeff Zeleny, Obama to Turn Campaign Machinery to Promoting Policy, *New York Times*, January 18, 2013 ("The aim of the group, which will be overseen by a small inner circle of former campaign advisers, will be to promote Mr. Obama's policies and to give Democratic activists and other allies a way to rally behind his agenda.") available at <http://www.nytimes.com/2013/01/19/us/politics/obamas-campaign-machinery-turns-to-promoting-policy.html>.

⁷ Available at <http://www.therightsphere.com/2013/03/nbcs-chuck-todd-on-campaign-finance-obamas-words-rarely-match-his-actions/>.

⁸ Available at <http://www.theatlantic.com/politics/archive/2013/03/obama-talks-out-of-both-sides-of-his-mouth-on-campaign-finance/273626/>.

again standard operating procedure.”). Today, Fred Wertheimer is directing the same foolish Watergate rhetoric at President Obama. See Peter Overby, Obama’s Record On Political Money One Of Ambivalence, *Public Radio East* (February 13, 2013) (“Nixon did an awful lot of stuff. But as far as I know, President Nixon never did something like this nor did anyone else.”).⁹

For the past few years, the hand-wringing speech police at Democracy 21 and the Campaign Legal Center have sent letter after letter (sent every few months to keep the story alive) to the IRS complaining about Crossroads GPS. Now, the Campaign Legal Center wonders if President Obama’s involvement with Organizing For Action “may well contravene the solicitation ban of the Ethics in Government Act.” See Campaign Legal Center Press Release, Watchdogs Question Whether President Obama is Complying with Ethics in Government Act (March 13, 2013).¹⁰ The liberal editorial boards are now tarring Organizing For Action with the same legally illiterate rhetoric that Crossroads GPS has been subjected to for years. See, e.g., *USA Today*, Pro-Obama group follows GOP’s sleazy path; political groups masquerade as ‘social welfare’ organizations (March 13, 2013).¹¹

Organizing For Action’s first advertisements were very similar in nature to any number of Crossroads GPS ads – including the very ads aired by Crossroads GPS that were the subject of the Complaint in this matter. Organizing For Action’s first advertisements sought to pressure lawmakers deemed “persuadable” toward the President’s current position on gun control. See Matea Gold, Organizing for Action targets GOP lawmakers in first ad buy, *Los Angeles Times* (Feb. 22, 2013).¹² In one example, Organization For Action placed an online advertisement consisting of the following language: “Tell Congressman Pittenger: It’s Time To Close Background Check Loopholes.” The ad includes a button that allows the viewer to automatically send the following “tweet”: “@Robert Pittenger Will you take action on gun violence? We need universal background checks for all gun sales! #WeDemandAVote”. See *id.*

Compare this online ad to any of the advertisements referenced in the Complaint. For example, one Crossroads GPS advertisement included in the Complaint featured this text:

⁹ Available at <http://publicradiocast.org/post/obamas-record-political-money-one-ambivalence>.

¹⁰ Available at http://www.campaignlegalcenter.org/index.php?option=com_content&view=article&id=2077:march-13-2013-watchdogs-question-whether-president-obama-is-complying-with-ethics-in-government-act&catid=63:legal-center-press-releases&Itemid=61.

¹¹ Available at <http://www.usatoday.com/story/opinion/2013/03/12/organizing-for-action-president-obama/1983321/>.

¹² Available at <http://www.latimes.com/news/politics/la-pn-ofa-ads-target-gop-legislators-20130221.0.3967818.story>.

Since Joe Donnelly went to Washington, America's debt has increased \$3.5 billion per day – up \$7 trillion in less than six years. How? Donnelly has voted for trillions of Barack Obama's wasteful spending. For Obama's \$1.7 trillion health care law. For his wasteful \$1 trillion stimulus. Donnelly even voted to raise the debt limit four times. Tell Donnelly, stop spending and cut the debt. Support the New Majority Agenda, at NewMajorityAgenda.org.

Just like Crossroads GPS's advertising that was the subject of the Complaint in this matter, the Organizing for Action ads urged a sitting Member of Congress to adopt a certain position on a certain "live" issue. The Complainant is now actively engaged in precisely the same activities that it complained to the Commission about last summer.

B. Crossroads GPS's "Major Purpose"

In our initial Response dated August 8, 2012, we submitted extensive materials demonstrating that Crossroads GPS is not a "political committee," as that term is used in FECA and as interpreted by the courts and the Commission. Since that Response was submitted, Crossroads GPS has continued to engage in the same types of activities that it has repeatedly described in various submissions to the FEC.

The November 2012 elections have come and gone, and Crossroads GPS has maintained its commitment to advancing its "New Majority Agenda." Crossroads GPS was active during the lame duck session last December and urged Members of Congress and citizens to support certain positions during the so-called "fiscal cliff" negotiations. First, Crossroads GPS produced and aired advertisements "on national cable pushing back on President Obama's insistence on massive tax hikes coupled with insignificant spending cuts in the 'fiscal cliff' negotiations." See *Crossroads GPS Launches New TV Ad Criticizing Obama's Lack of Balance in Fiscal Cliff Talks*, December 5, 2012.¹³ Less than one week later, Crossroads GPS "launched new radio ads urging Senators to insist on the balanced plan that President Obama promised to avoid the fiscal cliff and help the economy." See *Crossroads GPS Launches New Radio Ads Urging Senators to Support A Truly Balanced Fiscal Cliff Plan*, December 11, 2012.¹⁴

As we have noted before, Crossroads GPS acknowledges that it satisfies the statutory element of the "political committee" standard. See 2 U.S.C. §431(4)(A). And as we have noted before, Crossroads GPS does not have the requisite "major purpose" of engaging in federal

¹³ Available at <http://www.crossroadsgps.org/2012/12/crossroads-gps-launches-new-tv-ad-criticizing-obamas-lack-of-balance-in-fiscal-cliff-talks/>.

¹⁴ Available at <http://www.crossroadsgps.org/2012/12/crossroads-gps-launches-new-radio-ads-urging-senators-to-support-a-truly-balanced-fiscal-cliff-plan/>.

campaign activities¹⁵ required to satisfy *Buckley*'s extra-statutory narrowing of the "political committee" definition. Crossroads GPS produces and distributes a limited amount of express advocacy communications, and reports these communications as independent expenditures, but these communications *do not* constitute the majority of Crossroads GPS's overall activity. This express advocacy activity is substantially outweighed by Crossroads GPS's issue advocacy, grassroots lobbying, and other non-express advocacy activities. Accordingly, Crossroads GPS does not have the major purpose of engaging in federal campaign activity, and is not a "political committee."

Although the Internal Revenue Service's standard for what constitutes "political" or "campaign" spending is broader than the Commission's express advocacy standard, the figures below are instructive. They show clearly that IRS "political" or "campaign" spending does not represent the majority of Crossroads GPS's overall activity. In addition, it can also be easily observed that federal express advocacy spending does not represent the majority of Crossroads GPS's overall activity.

Period	Total Spending (\$)	Reported Federal Independent Expenditures (\$)	Reported IRS "political"/"campaign" spending (\$)
June 1, 2010 – May 31, 2011 (from first 990)	42,344,884		15,465,017 (36.52% of total period spending)
June 1, 2011 – December 31, 2011 (from second 990)	22,375,630		1,641,345 (7.34% of total period spending)
CY 2010	40,243,235*	14,028,775.48 (34.86% of estimated* CY2010 spending)	15,722,971* (39.07% of estimated* CY2010 spending)

¹⁵ The Commission often uses the phrase "federal campaign activity" to describe the "major purpose" that qualifies an organization as a political committee. As we understand that phrase, it is nothing more than a shorthand description of the "major purpose" standard found in *Buckley*. See Supplemental Explanation and Justification of Political Committee Status, 72 Fed. Reg. 5595, 5597 (Feb. 7, 2007) ("Therefore, determining political committee status under FECA, as modified by the Supreme Court, requires an analysis of both an organization's specific conduct – whether it received \$1,000 in contributions or made \$1,000 in expenditures – as well as its overall conduct – *whether its major purpose is Federal campaign activity (i.e., the nomination or election of a Federal candidate)*" (emphasis added)). Accordingly, we assume the two different phrasings are synonymous and without any substantive differences in terms of meaning or scope.

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Period	Total Spending (\$)	Reported Federal Independent Expenditures (\$)	Reported IRS "political"/"campaign" spending (\$)
CY 2011	24,475,660*	0 (0% of estimated* CY2011 spending)	1,832,410* (7.49% of estimated* CY2011 spending)
June 1, 2010 – December 31, 2011	64,720,514	14,028,775.48 (21.66% of total period spending)	17,106,362 (26.43% of total period spending)
January 1, 2012 – December 31, 2012	188,886,899**	50,410,783.25 (26.69% of total 2012 spending)	74,510,334** (39.45% of total 2012 spending)
Life of Organization Total (through 2012)	253,607,413***	64,439,558.73 (25.41% of total, life of organization spending)	91,616,969*** (36.13% of total, life of organization spending)

*Estimate derived from fiscal year figures, as reported to the IRS.

**This is a pre-audit figure based on existing calculations, and is subject to change.

***Includes 2012 pre-audit figure based on existing calculations, and is subject to change.

These figures reflect the extent of Crossroads GPS's activity that is "campaign-related" and targeted to "the nomination or election of a candidate," as those phrases are used in the Supreme Court's discussion of "major purpose" in *Buckley*. See *Buckley v. Valeo*, 424 U.S. 1, 79 (1976). The content-standard to be applied in determining what communications are "campaign-related" and aimed at "the nomination or election of a candidate" is not explicitly set forth in *Buckley*. It appears the Court had express advocacy communications in mind, and we would concede (for the sake of argument) the inclusion of the functional equivalent of express advocacy and Section 100.22(b)/*Furgatch* express advocacy. Together, these are the types of content (and the only types of content) that are "unambiguously related to the campaign of a particular federal candidate," see *Buckley* at 80, and they correspond directly to the Court's "major purpose" concept.¹⁶

¹⁶ See also Statement of Reasons of Vice Chairman Petersen and Commissioners Hunters and McGahn in MURs 5694 and 5910 (Americans for Job Security) at 6 ("Thus, the definition of 'political committee' is narrow. The Supreme Court has construed the term to 'only encompass organizations that are under the

Crossroads GPS reported its independent expenditures to the Commission. Those reports are available on the public record. Crossroads GPS's other communications – *i.e.*, those that contain neither express advocacy nor its functional equivalent – are all legitimate issue ads that fall within the constitutionally protected category described by the Supreme Court as genuine grassroots advocacy and lobbying communications. In *Wisconsin Right to Life II*, Chief Justice Roberts described advertisements that:

are plainly *not* the functional equivalent of express advocacy. First, their content is consistent with that of a genuine issue ad: The ads focus on a legislative issue, take a position on that issue, exhort the public to adopt that position, and urge the public to contact public officials with respect to that matter. Second, their content lacks indicia of express advocacy: The ads do not mention an election, candidacy, political party, or challenger; and they do not take a position on a candidate's character, qualifications, or fitness for office.

WRTL II, 551 U.S. at 469-470 (emphasis added). The Commission's regulation at 11 C.F.R. § 114.15(b), while no longer enforceable, was designed to capture this same concept. Communications that satisfy this standard simply cannot serve as evidence that an organization has a "major purpose" of nominating or electing a candidate, even though communications falling within this category *may* present an officeholder who is also a candidate in a positive or negative light, and perhaps even promote, attack, support, or oppose that officeholder's *policies or positions on issues*.

The Commission has previously rejected an approach in which communications that contain neither express advocacy nor its functional equivalent, but which are subjectively deemed "excessively partial" toward one candidate, can serve as evidence of the sponsor's "major purpose" to elect that candidate. *See* Statements of Reasons of Vice Chairman Petersen and Commissioners Hunter and McGahn in MURs 5977, 6005, and 6094 (American Leadership Project). In the American Leadership Project matters, OGC speculated that "the true objective of ALP was to influence the outcome of the 2008 Democratic presidential primary elections by supporting Senator Clinton." *See* First General Counsel's Report in MURs 5977 and 6005 at 11. The Commission lacked sufficient votes to find that American Leadership Project had made any

control of a candidate or the major purpose of which is the nomination or election of a candidate.' In other words, the Act does not reach those 'engaged purely in issue discussion,' but instead can only reach 'that spending that is unambiguously related to the campaign of a particular federal candidate' – specifically, 'communications that expressly advocate the election or defeat of a clearly identified candidate.' The purpose of this narrowing construction is to restrict the number of groups that must 'submit to an elaborate panoply of FEC regulations requiring the filing of dozens of forms, the disclosing of various activities, and the limiting of the group's freedom of political action to make expenditures or contributions.'" (footnotes and internal citations to *Buckley* omitted).

express advocacy communications or to adopt a theory that “supporting Senator Clinton” evidenced the organization’s major purpose. The Commission also declined to adopt an OGC recommendation to make a “major purpose” finding based on OGC’s assessment that an organization’s advertisements “appear to be negative attack advertisements targeted at vulnerable Democratic incumbents, as reported in the press.” See MUR 5842 (Economic Freedom Fund), First General Counsel’s Report at 13.

An approach that utilizes an express advocacy (or functional equivalent) content standard as evidence of an organization’s “major purpose” of electing or defeating federal candidates is also consistent with *FEC v. GOPAC, Inc.* *GOPAC* is one of the few cases that actually applies the “major purpose” test, as opposed to merely referencing its existence in the abstract. In *GOPAC*, the court explained: “[c]onfining the definition of ‘political committee’ to an organization whose major purpose is the election of a particular federal candidate or candidates provides an appropriate ‘bright-line’ rule; attempting to determine what is an ‘issue advocacy’ group versus an ‘electoral politics’ group — as the Commission proposes — does not.” *FEC v. GOPAC*, 917 F. Supp. 851, 861 (D.D.C. 1996). See also Statement of Reasons of Commissioner McGahn in MUR 5831 (Softer Voices) at 36-45.

While the mission and activities of Crossroads GPS are not the same as, or even comparable to, those of *GOPAC* in the mid-1990s, it remains the case that the court in *GOPAC* rejected the Commission’s approach to the major purpose test that emphasized engagement in “partisan politics,” “electoral activity,” or “electioneering,” as opposed to focusing on whether the organization engaged in activities to support the “nomination or election of a candidate.” Ultimately, the court determined that *GOPAC*’s “genuine issue advocacy which nonetheless mentioned the name of a federal candidate (who was inextricably linked to the issues)” did not render it subject to regulation as a federal political committee. See Statement of Reasons of Vice Chairman Petersen and Commissioners Hunters and McGahn in MURs 5694 and 5910 (Americans for Job Security) at 17.

Accordingly, the appropriate and legally correct central component of measuring “major purpose” is a comparison of the sum of the organization’s express advocacy communications (or functional equivalent of express advocacy communications) to the organization’s overall activities and spending. (Crossroads GPS’s public statements regarding its mission and objectives are available on its website, and were thoroughly reviewed in our Response of August 8, 2012. See Response at 11-14, Exhibit B, Exhibit C, Exhibit D(1) (Response of Crossroads GPS in MUR 6396) at 15-18, Exhibit D(2), and Exhibit E.) This simple comparison demonstrates that Crossroads GPS does not have the requisite “major purpose” that would qualify it as federal political committee.

Despite our objections to OGC's (apparent) actions in this matter, we appreciate the opportunity to provide further comment and response.

Sincerely,



Thomas J. Josefiak
Michael Bayes

cc: Chair Weintraub
Vice Chair McGahn
Commissioner Hunter
Commissioner Petersen
Commissioner Walther