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April 8, 2004

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COURIER

Marianne Abely, Esquire
Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MUR 5026
Tom Blakely

Dear Ms. Abely:

This responds to the Federal Election Commission's reason to believe finding against our client, Tom Blakely, in the above referenced matter.

Initially, we must protest the Office of General Counsel's ("OGC") decision to proceed with an investigation of events that occurred approximately four years ago and irrespective of whatever our client responded to the OGC's Factual and Legal Analysis. On March 22, 2004, and again on April 2, 2004, you informed Bill McGinley that the OGC intends to issue subpoenas in this matter no matter what information or legal arguments are contained in our client's response. That would seem to fly in the face of the protections afforded Respondents under the Federal Election Campaign Act, but would appear necessary because the Commission let this matter stand idle for such a lengthy time.

The decision to proceed after this lengthy delay is even harder to understand in light of the Commission's dismissal of other cases under the Christian Coalition coordination standard – the applicable standard for the transactions at issue in this matter. FEC v. Christian Coalition, 52 F. Supp. 2d 45 (D.C.D.C. 1999). For example, in MUR 4982 the Commission found no reason to believe that an issue ad committee improperly coordinated advertisements despite the fact that the individual funding the issue ad was a major fundraiser for the campaign involved. See First General Counsel's Report, MUR 4982 (Dec. 20, 2001) ("MUR 4982 Report").

As noted in the MUR 4982 Report, the OGC must satisfy a significant factual and legal burden for establishing coordination under the Christian Coalition standard. See id. at 24-25. The Report cites the coordination allegations against principal campaign committee of J.D. Hayworth and Tom Grabinski, Chairman of the Arizona Christian Coalition as an illustrative example. See Christian Coalition, 52 F. Supp. 2d at 79-80. Mr. Grabinski served on the campaign's finance committee and also was responsible for identifying churches where voter guides would be

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Marianne Abely, Esquire

April 8, 2004

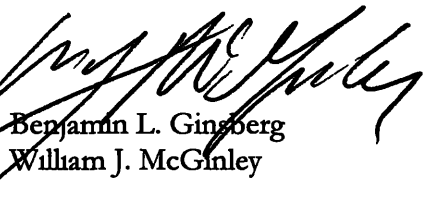
Page 2

distributed and for recruiting individuals to distribute the guides. In determining that these facts do not give rise to a conclusion that coordination occurred, the court stated "coordination cannot be inferred merely from the fact that the Coalition's voter guide distributor wore two hats. . . Some discussion or negotiation is required." Christian Coalition, 52 F. Supp. 2d at 96-97.

If the Christian Coalition test standard is objectively applied to the allegations against our client, this matter should be dismissed as a matter of law. The Factual and Legal Analysis does not allege that the advertisements at issue contained express advocacy. See Factual and Legal Analysis at 9 n. 12. On this basis alone, the Commission should dismiss the complaint and take no further action. Moreover, the coordination allegations contained in the Factual and Legal Analysis do not rise to the level held by the district court in Christian Coalition as necessary to convert issue advocacy advertisements into campaign contributions or excessive contributions. In fact, John Sheridan, the spokesman for Citizens for Tax Reform, is quoted in the articles attached to the complaint as specifically denying any connection to the Zimmer campaign. Accordingly, the Commission should dismiss this matter and take no further action, especially since the Christian Coalition standard cannot be used as precedent for enforcement actions brought under the Bipartisan Campaign Reform Act of 2002.

Please do not hesitate to call with any questions.

Respectfully submitted,



Benjamin L. Ginsberg
William J. McGinley

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