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December 9, 2010

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

OFFICE OF GENERAL
COUNSEL

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FEDERAL ELECTION
COMMISSION

Re: MUR 6411, American Federation of Teachers, AFL-CIO Committee on Political Education, and Antonia M. Cortese, as Treasurer

Dear Mr. Hughey:

This is the response of our client, the American Federation of Teachers, AFL-CIO Committee on Political Education (the "Committee"), and Antonia M. Cortese, as treasurer, (collectively, the "respondents") to the complaint in the above-captioned matter under review. For the reasons stated below, we respectfully request that the Federal Election Commission (the "Commission" or "FEC") find no reason to believe that any violations of the Federal Election Campaign Act of 1971, as amended, (the "Act" or "FECA") have occurred and close this file as soon as possible.

Introduction and Summary

This complaint, filed by Let Freedom Ring, Inc., a politically active 501(c)(4) organization, alleges coordination by numerous political committees and groups making independent expenditures, including respondents, in connection with the 2010 general election for the U.S. House of Representatives. The allegation is simple: based entirely on publicly made statements, complainant asserts that legitimate, bona fide independent expenditures become converted into coordinated activity made at the request or suggestion of House leadership. The dearth of factual support for this allegation, as well as the blatant disregard for prior Commission guidance and rulings, is striking.

In summary, respondents implemented a bona fide effective firewall, in accordance with the Commission's regulations at 11 CFR 109.21(h); that insulates respondents' independent activities from either further investigation or any determinations of coordination. In addition, with or without the firewall, none of respondents' independent activities were conducted at the request or suggestion of any

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candidate, candidate committee or political party or otherwise constituted coordinated activities. None of respondents' actions or activities triggered the Commission's coordination standard -- or otherwise indicates that respondents' firewall was ineffective - and no information to the contrary has been provided in the complaint.

Legal Discussion

- A. In order for independent expenditures to be converted to coordinated expenditures under the Act, one of the Commission's conduct standards must be triggered.

Under the Act, as well as rulings of the U.S. Supreme Court, political committees have long been permitted to make expenditures in the form of communications that are considered independent, unless made "in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents." 2 U.S.C. 441a(a)(7)(B)(i). To examine and determine that a particular independent expenditure is, in fact, a coordinated expenditure, the Commission's "coordinated communication" regulation at 11 CFR 109.21 implements a three-pronged test: (1) the communication must be paid for by a person other than a Federal candidate, a candidate's authorized committee, or political party committee, or any agent of any of the foregoing; (2) one or more of the four content standards set forth in 11 CFR 109.21(c) must be satisfied; and (3) one or more of the six conduct standards set forth in 11 CFR 109.21(d) must be satisfied. See 11 CFR 109.21(a).¹ The Commission explained that, in this fact based analysis, if one or more of the three prongs are not met, then the communication is not a coordinated communication and thereby does not constitute a contribution under 2 U.S.C. 441a(a)(7)(B)(i) and (ii). Coordinated and Independent Expenditures, Final Rules, 68 Fed. Reg. 421, 427 (Jan. 3, 2003) (Explanation and Justification for 11 CFR 109.21(b)) ["E & J, Coordinated Expenditures F"].

Only one of the six conduct standards contained in 11 CFR 109.21(d)(1)-(6) is alleged by complainant to be at issue in this matter, the so-called *request or suggestion* conduct standard.² In pertinent part, as alleged by complainant, a communication is

¹ The Commission was directed to promulgate this regulation pursuant to the Bipartisan Campaign Reform Act of 2002, Pub. Law No. 107-155, sec. 214(a), 116 Stat. 81, 94 (Mar. 27, 2002) ["BCRA"]. Most recently, the Commission was directed to revise the coordinated communications regulation and the expiration thereof, pursuant to *Shays v. FEC* ("Shays III"), which the final rules became effective December 1, 2010. Those revisions and explanations affect matters other than the specific provisions at issue here.

² None of the other five conduct standards have been alleged by complainant to be at issue here, including (2) a candidate, candidate's committee, or agent is *materially involved* in decisions regarding six specifically delineated aspects of the communication; (3) a communication is created, produced, or distributed after one or more *substantial discussions* about the communication between the payor, including its employees or agents, and the candidate, candidate's committee or agent, if information about the candidate's campaign plans, projects, activities, or needs is conveyed to a payor and that information is material to the communication's creation, production or distribution; (4) the payor or its agent contracts with or employs a *common vendor* of certain delineated services and the common vendor uses or conveys

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created, produced, or distributed at the *request or suggestion* of a candidate, candidate's committee, political party committee, or agent thereof or is created, produced, or distributed at the *suggestion* of the person paying for the communication, and the candidate, candidate's committee, political party committee, or agent assents to the suggestion, the conduct standard will be met. (Shorthand reference appears above in italics.) 11 C.F.R. §109.21(d)(1).

If, on the other hand, one of these six conduct standards is not triggered by the circumstances of a particular communication, then the requirements for coordination have not been satisfied, and the communication itself will not be deemed to be a coordinated communication.³ Consequently, a communication that is, on its face, purported to be independent will, in fact, be considered an independent expenditure by the Commission, and the candidate on whose behalf the communication is broadcast or made will not have accepted an in-kind contribution. See, e.g., FEC Monitor Under Review 5506, *First General Counsel's Report*, (August 9, 2005) (Based on an analysis of the conduct standards, the Commission found no reason to believe that Emily's List made or Betty Castor for U.S. Senate received excessive in-kind contributions in the form of coordinated expenditures.)

B. An effective firewall will prevent the conduct standards from being triggered and will maintain the independence of activities conducted in accordance with the firewall.

In addition, the Commission has adopted a safe harbor for the establishment and use of a firewall by a political committee in order to insulate that committee's independent activities from allegations of coordination, and specifically from contravention of the conduct standards. The conduct standards of 11 CFR 109.21(d) will not be met if a political committee has established and implemented a firewall that is (1) designed and implemented to prohibit the flow of information between employees who may be assigned to work with a candidate, candidate's committee or party committee and employees assigned to work on the independent expenditures and (2) described in a

certain information in the creation, production or distribution of the communication; (5) the person is or employs a former employee or independent contractor of the candidate, candidate's committee or agent and that person uses or conveys certain information in the creation, production or distribution of the communication; or (6) the dissemination, distribution, or republication of certain campaign material. 11 C.F.R. §109.21(d)(2)-(6). Despite the absence of such an allegation, should the Commission *sua sponte* determine that one or more of these standards are at issue, the respondents reserve the right to rebut such a determination at that time. For purposes of this response, however, respondents deny that any one of these other standards was triggered.

³ Respondents have not analyzed the content prong of 109.21 at this stage, because complainant's allegations rest solely on the request and suggestion conduct standard. However, it is important to note for the Commission that of the seven (7) independent expenditures attributed to respondents in complainant's attachment, only three (3) are for a public communication covered by the content prong. The remaining four (4) are for door-to-door canvassing which are not covered by the regulation cited by complainant. Respondents reserve the right to address this more fully in the future, should the Commission pursue this matter.

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written policy that is then distributed to the relevant employees and consultants. 11 CFR 109.21(n). *See also* MUR 5586, *First General Counsel's Report* at 7. In fact, the Commission has clearly stated that it is possible and permissible for an entity, including a political committee, to create an effective firewall between different employees or between different units within its organization that prevents information from being used or conveyed by those working with candidates to those working on independent communications. Coordinated and Independent Expenditures, Final Rules, 71 Fed. Reg. 33206 (June 8, 2006) (Explanation and Justification for 11 CFR 109.21(b)) ["E & J, Coordinated Expenditures I"].

Thus, the Commission has established that, as a matter of both law and fact, the above-discussed conduct standards will not be met where a political committee has formed and implemented an effective firewall. *Id.* In order to void this presumption, the particular circumstances must give rise to specific facts that support a finding that the firewall has been vitiated, and one or more of the conduct standards has been met. In the enforcement context, the Commission will weigh the credibility and specificity of the allegations of coordination against the credibility and specificity of the facts presented in the response showing that the elements of the safe harbor are satisfied. E & J, Coordinated Expenditures II, 71 Fed. Reg. at 33206-7. However, where the safe harbor is shown to be in place, a communication that is intended to be independent cannot be converted to one that is uncoordinated.

C. Respondents implemented an effective firewall, and thus, pursuant to the Commission's safe harbor rule, all of their activities remain completely independent.

1. Respondent established a bona fide firewall.

Respondents designed and implemented an effective firewall that satisfies all of the requirements of the Commission's regulation. *See* Exhibit 1 (*Memorandum from John M. Ost, AFT Political Director, Establishment of General Election Firewall and Operating Instructions for AFT Behind the Wall ("BTW") Staff*).⁴ Respondents initiated the establishment of a firewall to cover all general election activity on or about September 1, 2010.⁵ Respondents adopted the firewall on September 17, 2010, and notified all staff of not only the firewall, but, in addition, the specific parameters and

⁴ Because the Commission's guidance to the regulated community indicates that, in the enforcement context and, particularly, in the confidential nature of this proceeding, it will examine the reliability of the information provided, the respondents are providing this Exhibit. However, respondents contend that this Exhibit is privileged under attorney-client privilege, and their provision thereof should not be construed as a waiver of the privilege with respect to any other context either in connection with this enforcement action or otherwise. Respondents reserve all rights to assert this privilege in the future. Further, respondents request that this document not be made part of the public record in this matter.

⁵ Respondents had established and maintained a firewall for certain primary election activities not at issue herein.

guidelines to which they were required to adhere, in order to ensure the firewall's effectiveness. See Exhibits 2, 3 and 4, *Memorandum of John M. Ost to AFT Staff, et al., AFT General Election Independent Expenditure Staff Wall and Affidavits of Harina Flournoy and John M. Ost.*

The rules of the firewall included, in applicable part, the following excerpt from Exhibit 1 herein:

You will remain part of the BTW staff until the November 2010 general election. As a member of the BTW group, you must adhere to the following ground rules applicable to your communications with AFT officers, AFT staff, state affiliate officers, state affiliate staff, and AFT consultants who are not behind-the-wall:

1. *You may not have any campaign-related or any other non-social communication with any state or federal candidate, candidate's staff, party committee, party committee staff or representatives or agents thereof;*
2. *You may not have any communication with non-walled off AFT officer, AFT staff member, State affiliate officer, state affiliate staff member, or AFT consultant or representative concerning:*
 - a. *The plans, projects, activities, campaign strategy, or needs of any state or federal candidate, political party committee, or agent or representative thereof;*
 - b. *The creation, planning, production, or distribution of any independent expenditure or any grassroots lobbying or public issue communication naming any candidate or any non-public information that might be used in creating, planning, producing, or distributing such communications;*
 - c. *The message, structure, timing, format, or intended audience for any independent expenditure, grassroots lobbying or public issue communication that names a candidate;*
 - d. *Outside organizations engaged in making independent expenditures or independent issue communications; and*
 - e. *Any aspect of AFT'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.*

If someone who is not part of the BTW staff at AFT attempts to engage you in a conversation or communicates with you about the topics listed above, you should reject their attempts and refrain from having any such conversation or communication.

Similar, but converse, guidelines were made part of the notification to the staff of respondents who were not working on independent activities, as excerpted from Exhibit 2 herein:

In order to protect the integrity of AFT's wall and to ensure that AFT does not engage, or appear to engage, in improper coordination, I am asking you not to have any communication with staff members assigned to work "behind the wall" at AFT about the following subjects:

1. *The plans, projects, activities, campaign strategy, or needs of any state or federal candidate, political party committee, or agent or representative thereof;*
2. *The creation, planning, production, or distribution of any independent expenditure or any grassroots lobbying or public issue communication naming any candidate or any non-public information that might be used in creating, planning, producing, or distributing such communications;*
3. *The message, structure, timing, format, or intended audience for any independent expenditure, grassroots lobbying or public issue communication that names a candidate;*

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4. *Outside organizations engaged in making independent expenditures or independent issue communications; and*
5. *Any aspect of AFT'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.*

Plainly, the required element of an effective firewall was met, i.e., the firewall was designed to prevent and prohibit information flow by restricting communications in both directions, from those working on independent activities and vice versa. These restrictions prevented information about candidate or party related activities that may have been known to employees of respondent who were not working on independent activities from being conveyed to those employees who were working on independent activities. See Exhibit 3, ¶7 and Exhibit 4, ¶4. Similarly, these restrictions prevented information about Committee "non-independent" activities from being conveyed to those employees who were working on independent activities. *Id.* These restrictions were mandatory on any person working on the independent activities. See, e.g., Exhibit 1, ("You may not have any communication . . .").

In addition, the firewall was distributed to all employees in advance of any expenditure or actual work thereon, so that all would be fully aware of the nature of the restrictions and would adhere to them. See Exhibit 2. All of the expenditures listed by complainant as being made in a "coerced" manner by respondents occurred after the establishment and notification to all staff of the firewall. Accordingly, respondents had established a valid, bona fide, working firewall in full accordance with the Commission's rules.

2. Respondents' firewall remained effective at all times through the general election and was never violated.

Nothing in the complaint indicates that respondents' firewall was ineffective or violated in any way. To the best of respondents' recollection and in accordance with the available information, their internal rules and guidelines were complied with. See Exhibits 3 and 4. Respondents are not aware of any instances where the guidelines were ineffective or not complied with, and complainant makes no such allegation, inasmuch as they are relying on public statements not made by respondents.⁶ Specifically, respondents are not aware of any non-public information -- that would otherwise be covered by the firewall -- passing to the staff working on the independent activities either from other staff internally at respondents' office or from candidates, candidate committees or party committees directly.

The Commission has affirmatively stated that "[o]nce a firewall has been established, for the firewall to be violated and the safe harbor to be inapplicable, material

⁶ Even if the Commission were to deem these public statements sufficient to establish coordination, there is not one iota of information to suggest that respondents' staff working on independent activities were aware of the statements, and, to the best of their recollection, they were not so aware.

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information about the candidate's or political party's campaign plans, projects, activities or needs must pass between persons on either side of the firewall." E & J, Coordinated Expenditures II, 71 Fed. Reg. at 33207. The credible information here, as established by respondents' affidavits at Exhibits 3 and 4, is that no such information passed through respondents' firewall. There is no information to suggest that a *request or suggestion* passed through the respondents' firewall. There is simply no credible information that coordination occurred at all.

If the Commission applies its own stated analysis and weighs the credibility and specificity of the allegations of coordination against the credibility and specificity of the facts presented in the response showing that the elements of the safe harbor are satisfied, the fair and, in fact, only conclusion is that an effective firewall was in place and the safe harbor provision fully applies to these respondents. Respondents should not be required to prove a negative, i.e., that no material information passed through the firewall, in order to have this matter dismissed. Where, as here, respondents are unaware of any instance of information pertaining to candidate or party plans, projects, activities or needs, or of any request or suggestion by a candidate or party, being passed through an effectively established firewall -- and have provided affidavits to support their belief -- such a response should be sufficient for dismissal of the matter. See Exhibits 3, ¶7 and Exhibit 4, ¶5.

- D. ~~Even if the Commission were to disregard respondent's firewall, none of the independent activities of respondents were made at the request or suggestion of any candidate or party, nor satisfy any other conduct standard.~~

Complainant alleges that certain independent expenditures made by respondents were not independent, but, rather, were coordinated expenditures, because such expenditures were made at the *request or suggestion* of a candidate. Even if the Commission were to disregard the respondents' firewall, this allegation in substance is false and entirely without merit, as demonstrated below.

Complainant bases its allegations on the statements of two members of the leadership of the U.S. House of Representatives purportedly made in a meeting to other members of the House, and then subsequently made public through news reports. As a basis for the complaint, this information is significantly flawed and, in fact, irrelevant to the appropriate Commission analysis for a number of reasons.

First, respondents were not in attendance at the meetings where the remarks were purportedly made, and it is not alleged that they were. See, e.g., Complaint at 2-3 (reference to "closed-door meeting", "Cancel Meeting", and "meeting with freshman Democrat"). Respondents were not invited nor entitled to attend those private, closed-door sessions, nor did they. See Exhibit 3, ¶4. No information has been provided

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suggesting that respondents heard or were aware of these remarks at the time made.⁷ *Id.* The Commission has clearly stated that request or suggestion is to be *directly made by communicating the desires to the person who effectuates them.* See E & J, Coordinated Expenditures I at 432 ("In the NPRM, the Commission noted that this provision would not apply to a speech at a campaign rally, but, in appropriate cases, would apply to requests or suggestions directed to specific individuals or small groups for the creation, production, or distribution of communications.") The staff of respondents assigned to work on the independent expenditures were not in attendance at any private meeting at which a request or suggestion was directed to them to make independent expenditures, nor were they, to the best of their recollection and information available, the recipient of such a request or suggestion through any other means. Accordingly, there is simply no information or evidence that respondents were aware of these remarks at the time they were privately made.

Second, the remarks were publicly reported in the news media. As such, they became part of the public domain. Although respondents -- and in particular, the staff working on independent activity behind the firewall -- do not recall reading or hearing the public reporting of these remarks, once the remarks became part of the public domain, they were irrelevant to the coordination analysis. Moreover, respondents initiated steps to form the firewall before the public reporting of these remarks.⁸ See Exhibits J and 4, ¶ 2.

The *request or suggestion* conduct standard is intended to cover requests or suggestions made to a select audience, but not those offered to the public generally. See E & J, Coordinated Expenditures I at 432 ("For example, a request that is posted on a web page that is available to the general public is a request to the general public and does not trigger the conduct standard in paragraph (d)(1).") The Commission goes on to note that, similarly, "a request in a public campaign speech or newspaper advertisement is a request to the general public and is not covered." *Id.* The public reporting of the remarks in this case means that they fall squarely within the Commission's clearly delineated examples of what instances do not constitute request or suggestion. In fact, complainant highlights the public nature of the remarks, Complaint at 6, but then disingenuously ignores the Commission's clear and precise advice to the regulatory community as to the import of public remarks: The appearance of the remarks online in *Politico*, as well as in print in *Roll Call*, are identical to the Commission's examples of information appearing in a public webpage or newspaper. As the Commission recognized, the provisions of the

⁷ For purposes of this response, respondents will accept that the purported remarks were made and accurately reported, but should the Commission decide to investigate further, respondents reserve the right to question and challenge the accuracy of these remarks.

⁸ As indicated earlier, respondents' firewall was put in effect as an extension of the firewall that respondents had established for certain primary election activities and not in response to the public reporting of the remarks.

request or suggestion conduct standard would not intended to apply to such circumstances.

Third, the remarks were not made by any candidate on whose behalf respondents made the independent expenditures that are the subject of the complaint. The remarks are purported to have been made by Speaker Pelosi and Congressman Larson, neither of whom were supported by respondents' independent expenditures.⁹ With respect to the candidates that respondents did support with independent activities, there are no allegations whatsoever of a request or suggestion made by any of those candidates. In fact, there is no allegation of any communication whatsoever between those candidates and respondents. The Commission has stated that the request or suggestion conduct standard cannot be satisfied without some link between the request or suggestion and the candidate who is clearly identified in the communication. *Id.* at 431.¹⁰ Respondents deny that the independent expenditure staff attended any meetings or had any communications where independent expenditures were requested, suggested or assented to by the candidates that respondents supported. See Exhibit 3, ¶5.

Moreover, there is no information whatsoever to suggest that Speaker Pelosi, Congressman Larson or any of the candidates whom respondents supported through independent activities were aware of the independent expenditures before they were made. There is no reason to believe that they were either informed of the activity or otherwise assented to it, and complainant makes no such allegation. Consequently, the "assent" portion of the request or suggestion conduct standard has not been triggered.

Complainant further alleges that the request or suggestion conduct standard is met simply because respondents increased its independent expenditures after the remarks were made. Such an assertion is irrelevant and, logically speaking as applied to these respondents, nonsensical. Respondents' independent expenditures were made during the peak time of the general election period, as would logically be expected, and is the common, and usually only, pattern of practice for any entity making independent expenditures. The Commission may not draw a negative inference from the timing in the absence of information to suggest otherwise. In fact, under complainant's theory, should such a negative inference be drawn, respondents would be effectively barred from making any independent expenditures after the publication of the news stories cited, a nonsensical and clearly chilling position. Respondents conducted their own political

⁹ Nor were Pelosi's or Larson's opponents opposed by respondents' independent expenditures.

¹⁰ Even assuming, *arguendo*, that Speaker Pelosi and Congressman Larson made their remarks as titular party leaders, there is no indication to suggest that Speaker Pelosi or Congressman Larson were acting as agents of the candidates on whose behalf respondents made the independent expenditures, and since their remarks were directed not to respondents in any form or fashion, but to the candidates themselves, it is not possible to establish an agency relationship. Moreover, according to publicly available records, neither Pelosi nor Larson hold official positions within a political party committee, such as the Democratic Congressional Campaign Committee, the applicable party committee here, which, instead was chaired by Cong. Chris Van Hollen. See <http://www.dccc.org/pages/leadership/>.

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analysis and used their own judgment and expertise as to the appropriate timing for their activities, as is completely permissible under the Act. *Id.* at ¶8.

Thus, there is no evidence or other information to suggest that the request or suggestion prong of the conduct standard has been triggered. While the Commission has stated that this is, of necessity, a fact-based inquiry, the complainant must allege, at minimum, sufficient facts that, if true, would trigger these standards.¹¹ That they have failed to do, and the Commission should dismiss this complaint for that reason.

Conclusion

For the reasons stated above, there is simply no evidence or other information to conclude that the independent activities sponsored by respondents were in any way coordinated with any candidate, candidate's committee or party committee. An effective bona fide firewall was put in place by respondents. Notwithstanding the conclusory allegations made by complainant, none of the conduct standards promulgated by the Commission and required to establish coordination have come close to being satisfied herein. The innuendo and negative inferences posited by complainant fall far short of the information necessary to question the independence of respondents' activities. Accordingly, we respectfully request that the Commission find no reason to believe that these respondents have violated any provision of the Act or the Commission's regulations and, further, close this file as soon as possible.

Respectfully submitted,



Eric F. Kleinfeld
Counsel for Respondents

¹¹ Under the Act and Commission regulations, a complaint, to be sufficient, valid and appropriate for filing and consideration by the Commission, must conform to certain provisions set forth at 11 C.F.R. 111.4(d). Included in those minimum provisions is the requirement that the complaint contain a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction. Quite simply, even a cursory reading of the complaint reveals that it does not meet the very low threshold set forth in the Commission's regulations for supporting a valid complaint.

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EXHIBIT 2

MUR 6411, American Federation of Teachers, AFL-CIO Committee on Political Education, and Antonia M. Cortese, as Treasurer



A Union of Professionals

Memorandum

American Federation
of Teachers, AFL-CIO

AFT Teachers
AFT PSRP
AFT Higher Education
AFT Public Employees
AFT Healthcare

TO: AFT Officers, Executive Council, State Federation Presidents,
AFT Staff
FROM: John M. Ost, AFT Political Director
DATE: September 17, 2010
RE: AFT General Election and Independent Expenditure Staff Wall

555 New Jersey Ave. N.W.
Washington, DC 20001
202/879-4400
www.aft.org

The purpose of this memorandum is to let you know about AFT's plan to "wall" off a small number of staff members and consultants in order to comply with the Federal Election Commission (FEC) rules, as well as state campaign finance laws prohibiting AFT from coordinating certain types of candidate-related independent expenditures and public communications with federal or state candidates or political party committees. AFT intends to comply fully with these federal and state laws. At the same time, AFT also intends to communicate with its members and their families regarding both federal and state candidates where the law permits contact with the candidates or political parties.

FEC regulations and compliance actions make clear that an organization may both (1) conduct an internal membership campaign that may involve contacts with candidates and party committees and (2) also make public communications such as independent expenditures that may not be coordinated, provided that it sets up a "firewall" between its staff working on the membership campaign and its staff working on independent expenditures and other public communications. The establishment of the firewall, pursuant to FEC rules, can rebut charges and complaints that AFT improperly or illegally coordinated its independent political activity with candidates.

Consequently, in order to avoid improper coordination, or even the appearance of such coordination, AFT has decided to assign the responsibility for planning and implementing its independent expenditures and other public communications on behalf of state and federal candidates and work with outside organizations engaging in similar independent activity in connection with the 2010 election to a small group of staff persons and consultants who will be "walled" off from the rest of the AFT staff (and, where applicable, from state affiliate staff working on a state association's membership campaign unless the membership communications are treated as independent expenditures.)

The AFT staff assigned to work "behind-the-wall" from now until the November 2010 election is: Dave Boundy, Tina Flournoy, Chris Runge, Jay Lederer, Beth Antunez, Ann Liston, Arny Weiss, Debra DeShong Reed, and Deug Hattaway.

In order to protect the integrity of AFT's wall and to ensure that AFT does not engage, or appear to engage, in improper coordination, I am asking you not to have any communication with staff members assigned to work "behind the wall" at AFT about the following subjects:

1. The plans, projects, activities, campaign strategy, or needs of any state or federal candidate, political party committee, or agent or representative thereof;
2. The creation, planning, production, or distribution of any independent expenditure or any grassroots lobbying or public issue communication naming any candidate or any non-public information that might be used in creating, planning, producing, or distributing such communications;

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3. The message, structure, timing, format, or intended audience for any independent expenditure, grassroots lobbying or public issue communication that names a candidate;
4. Outside organizations engaged in making independent expenditures or independent issue communications; and
5. Any aspect of AFT'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.

By and large, your day-to-day work will not be affected by the existence of a "wall" at AFT. You may continue to communicate about any subject including the 2010 election with all AFT officers and other staff who are not "walled" off. You may also communicate on any subject with AFT field staff and state affiliate officers and staff who are not "walled" off at the state level. And, most importantly, you may continue to have work-related communications with "walled" off staff members as long as your communications do not involve the subject matter described immediately above.

If you have questions about AFT's wall and how it affects your work or the work of your department, please contact John Ost at 202-579-4436.

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