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December 23, 2010

Jeff Jordan, Esq.
Supervising Attorney
Complaints Examination & Legal Administration
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

Re: MUR 6411

Dear Mr. Jordan:

As counsel to [REDACTED] I write in response to the Complaint filed by Let Freedom Ring, Inc., dated October 22, 2010. This Complaint claims that Mr. Larson coordinated communications with a wide array of non-party, non-candidate organizations. But the Complaint provides no support for this claim and presents no violation of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431 *et seq.* (the "Act"). Thus, the Commission should find no reason to believe that Mr. Larson violated the Act, and it should dismiss the Complaint.

FACTS

Representative John Larson serves Connecticut's 1st Congressional District in the United States House of Representatives. He also serves as the Chairman of the House Democratic Caucus. He ran for and won re-election in the 2010 general election.

The sole basis for Mr. Larson's involvement in this matter is a September 17, 2010 article in *Roll Call*. That article described complaints by "[r]ank-and-file House Democrats" at a caucus meeting about the gap between Republican and Democratic third party spending. The article's entire discussion of Representative Larson went as follows:

Democratic Caucus Chairman John Larson (Conn.) acknowledged that there is a frustration among Members about the amount of money that is pouring into Congressional races from GOP-allied interest groups.

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"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," Larson said.

He said they ask groups on a "regular basis" to get involved in the effort to support Democrats this election.

"We can ask, but they have to decide," Larson said.

From this alone, the Complaint apparently asserts that every independent expenditure and electioneering communication made afterwards by a non-party sponsor to support a Democratic House candidate or oppose a Republican candidate was coordinated in violation of Commission rules. The Complaint offers no evidence for this, other than the above discussion of Mr. Larson, and similar discussion in another article of Speaker Nancy Pelosi. And Mr. Larson did not coordinate any such communication – whether on behalf of himself, his campaign, or any other candidate or committee.

LEGAL ANALYSIS

To determine whether a communication is coordinated, Commission regulations provide 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 C.F.R. § 109.21(c) must be satisfied; and (3) one or more of the six conduct standards set forth in 11 C.F.R. § 109.21(d) must be satisfied. *See* 11 C.F.R. § 109.21(a).

Representative Larson does not dispute that non-party, non-candidate sponsors paid for public communications, and therefore that at least one of the elements of 11 C.F.R. § 109.21(a) may have been satisfied. But the Complaint alleges no facts to show that any conduct standard necessary for coordination under that rule was met.

Indeed, the Complaint alleges only one conduct standard to have been met. That standard involves communications made at the "request or suggestion" of a candidate, authorized committee, or political party committee. 11 C.F.R. § 109.21(d)(1). This standard is satisfied if (i) the communication is created, produced, or distributed at the request or suggestion of a candidate, authorized committee, or political party committee or (ii) the communication is created, produced, or distributed at the suggestion of a person paying for the communication and the candidate, authorized committee, or political party committee assents to the suggestion. *See id.* Any reference to a candidate, authorized committee, or political party committee includes an agent thereof. *See id.* § 109.20(a).

This standard is intended to cover "requests or suggestions made to a select audience, but not those offered to the public generally." Coordinated and Independent Expenditures, 68 Fed. Reg. 432 (2003). It focuses "on specific transactions leading to a coordinated communication, rather than general contacts between an organization and a campaign." *Id.* at 431. There must be "some link between the request or suggestion and the candidate or political party who is, or that is, clearly identified in the communication." *Id.*

The Complaint presents no evidence of any request or suggestion. Mr. Larson's comments in the article are not a "request or suggestion," because the standard does not cover statements "offered to the public generally." 68 Fed. Reg. at 432. Nor does the Complaint show any private interaction about communications. There are many ways in which groups can appropriately "get involved" in supporting candidates – as the article has Mr. Larson saying – without making a coordinated communication. "[G]eneral contacts" with such groups do not equal requests or suggestions for advertisements. *Id.* at 431.

Finally, the Complaint presents no link between Mr. Larson and any actual communication, any benefiting candidate or committee, or any sponsor. *See id.* It claims coordination, but does not even bother to say on whose behalf the ad was supposed to have been coordinated. It alleges no communication referring to Mr. Larson or his opponent. It alleges no agency relationship between Mr. Larson and any candidate or any political committee. *See* 11 C.F.R. § 109.3.

And, far from showing any link between Mr. Larson and a specific communication or sponsor, the Complaint seems to allege that every ad that favored a Democratic House candidate in the month of October must have been coordinated. But, as the Commission itself found in an extensive rulemaking, "nearly all Senate and House candidate advertising takes place within 60 days of an election." *See* Coordinated Communications, 71 Fed. Reg. 33194 (June 8, 2006). The Complaint presents no contact between Mr. Larson and any sponsor of any communication. It presents no logical or factual relationship between anything Mr. Larson said or did, and any one of the communications that it details in over 20 pages of exhibits.

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This is just the sort of speculation that the Commission has consistently found to provide an insufficient basis for further action. *See* Statement of Reasons, MUR 4960. Thus, we would respectfully request that the Commission find no reason to believe that Mr. Larson violated the Act, and that it dismiss this matter immediately.

Very truly yours,



Brian G. Svoboda
Counsel to Representative John Larson

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