

RECEIVED
FEDERAL ELECTION
COMMISSION

2011 JAN 13 PM 2:53

OFFICE OF GENERAL
COUNSEL

LAW OFFICES
Trister, Ross, Schadler & Gold, PLLC
1666 Connecticut Avenue, N.W.
Suite 500
Washington, D.C. 20009

(202) 328-1666
Fax: (202) 328-9162

MUR 6411

11044294618

FACSIMILE TRANSMISSION

TO: Kim Collins, FEC Office of General Counsel

FAX NO.: 202-219-3923

FROM: Allen Mattison

DATE: January 13, 2011

ACCOUNT NAME/NUMBER:

NUMBER OF PAGES (Including cover page): 5

COMMENTS OR INSTRUCTIONS:

Attached please find our response on behalf of the Matthew 25 Network and Christopher Korzen, as Treasurer, regarding MUR 6411.

If there are any problems with this transmission, please contact Allen Mattison at Ext. 1349.

LAW OFFICES
TRISTER, ROSS, SCHADLER & GOLD, PLLC

1666 CONNECTICUT AVENUE, N.W.
WASHINGTON, D.C. 20009
PHONE: (202) 328-1666
FAX: (202) 328-9162

MICHAEL B. TRISTER
GAIL E. ROSS
B. HOLLY SCHADLER
LAURENCE E. GOLD

KAREN A. POST
Senior Counsel

ALLEN M. MATTISON
REA L. HOLMES
*ALSO ADMITTED IN MARYLAND
*ALSO ADMITTED IN WISCONSIN

ALEXANDER W. DEMOTS
Of Counsel

January 13, 2011

VIA FACSIMILE AND FIRST-CLASS MAIL

Jeff B. Jordan, Esq.
Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
2011 JAN 13 PM 2:53
OFFICE OF GENERAL
COUNSEL

RE: MUR 6411 – Matthew 25 Network and Christopher Korzen, as Treasurer

Dear Mr. Jordan:

This letter constitutes the response of the Matthew 25 Network and Christopher Korzen, as Treasurer (together, "Matthew 25 Network"), to the complaint filed by Let Freedom Ring, Inc. ("Complainant") in Matter Under Review 6411.

Complainant alleges that the Matthew 25 Network and more than twenty other organizations engaged in illegal coordinated expenditures in the 2010 congressional elections. Through innuendo and nothing more, the Complaint attempts to draw a connection between two unrelated events: comments by "Democratic leaders and staffers" in the news media and the Matthew 25 Network's independent expenditures in the weeks before an election. In fact, the Matthew 25 Network conducted its independent expenditures close to the election because that is when voters are paying attention and making their voting decisions. Relying solely on conjecture, the Complaint does not present any evidence to support an allegation of coordination. For these reasons, and for those more specifically presented below, we respectfully request that the Commission find no reason to believe the Matthew 25 Network violated the Federal Election Campaign Act, as amended ("FECA"), and that it dismiss this matter without further action.

A. The Complaint Alleges No Facts Sufficient to Support a Finding of Reason to Believe

The Complaint alleges no facts and presents no evidence of coordination between the Matthew 25 Network and any candidate, political party or their agents. It does not state, let alone

11044294619

Jeff S. Jordan, Esq.
 January 13, 2011
 Page 2 of 4

support, the fact that any staff, contractors or agents of the Matthew 25 Network ever communicated with any candidate, political party or their agents regarding the Matthew 25 Network's independent expenditures. Instead, the Complaint rests on two unrelated sets of events: House Speaker Nancy Pelosi's and Rep. John Larson's variously reported or public expressions of general frustration about the lack of spending for unspecified activities by independent groups regarding the election, on the one hand, and Matthew 25 Network's pre-election expenditures on the other.

Merey juxtaposing unrelated events, without supporting evidence, does not satisfy the requirement that a complaint must "contain a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction." 11 C.F.R. § 111.4(d)(3). Consistent with this requirement, under the Commission's 2007 policy, a reason to believe finding cannot be justified "when the complaint, any response filed by the respondent, and any publicly available information, when taken together, fail to give rise to a reasonable inference that a violation has occurred..." "Statement of Policy Regarding Commission Action in Matters at the Initial State in the Enforcement Process," 72 Fed. Reg. 12545, 12546 (March 16, 2007). To meet this standard, a complainant "must provide specific facts," unrefuted by the respondent, demonstrating the alleged violation. MUR 6056 (Protect Colorado Jobs, Inc.), Statement of Reasons of Vice Chairman Matthew S. Petersen and Commissioners Caroline C. Hunter and Donald F. McGaha, at 6.

This Complaint does not satisfy this standard. It provides no specific facts of coordination, relying instead purely on speculation, and that "do[es] not form an adequate basis to find reason to believe that a violation of the FECA has occurred." MUR 4960 (Hillary Rodham Clinton For U.S. Senate Exploratory Committee, Inc.), Statement of Reasons of Commissioners David M. Mason, Karl J. Sandstrom, Bradley A. Smith and Scott E. Thomas at 3. For this reason alone, the Commission should find no reason to believe with respect to the Matthew 25 Network.

B. The Matthew 25 Network Received No Request or Suggestion Regarding Independent Expenditures

The Complaint asserts that Speaker Pelosi and Rep. Larson asked organizations to become involved in the election, which the Complaint alleges would constitute a "request or suggestion" under the Commission's coordinated communication conduct standard. The Matthew 25 Network denies that Speaker Pelosi or Rep. Larson, or their staff or other agents, ever communicated directly or, as far as the Matthew 25 Network knows, even indirectly, with the Matthew 25 Network to request or suggest that the Matthew 25 Network conduct independent expenditures during the 2010 elections. Nor was there any such contact with Rep.

11044294620

Jeff S. Jordan, Esq.
 January 13, 2011
 Page 3 of 4

Thomas Perriello, the lone candidate who was supported by the Matthew 25 Network's independent expenditures, or any his or his campaign's agents.

In fact, the Matthew 25 Network had planned throughout the election cycle to conduct independent expenditures during the final weeks before the election, because that is when they would have the most impact. The Commission itself based its 2006 coordination rules on this very practice, finding that "nearly all Senate and House candidate advertising takes place within 60 days of an election. ... The data show that a minimal amount of activity occurs between 60 and 90 days before an election, and that beyond 90 days, the amount of candidate advertising approaches zero." Final Rule, "Coordinated Communications," 71 Fed. Reg. 33190, 33194 (June 8, 2006).

C. Communications Through News Reports Do Not Constitute Coordination

Lacking any specific facts of alleged coordination, the Complaint seems to suggest that statements by Speaker Pelosi and Rep. Larson in *Politico* and *Roll Call* constitute an indirect "request or suggestion" to the Matthew 25 Network and other organizations regarding campaign-related advertising. If this were the case, then any independent expenditures conducted by the Matthew 25 Network after reading these news reports would be made at the indirect request or suggestion of Speaker Pelosi and Representative Larson. This theory of the Complaint also fails to provide a sufficient basis for a reason-to-believe finding. The Commission has been clear that only communications to a "select audience," not the general public, may constitute "requests or suggestions."

A request or suggestion encompasses the most direct form of coordination, given that the candidate or political party committee communicates desires to another person who effectuates them. ... The 'request or suggestion' conduct standard in paragraph (d)(1) is intended to cover requests or suggestions made to a select audience, but not those offered to the public generally. 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) ... Similarly, a request in a public campaign speech or a newspaper advertisement is a request to the general public and is not covered ...

Final Rule, "Coordinated and Independent Expenditures," 68 Fed. Reg. 421, 432 (Jan. 3, 2003).

D. Conclusion

Presenting no specific facts credibly alleging a violation of the FECA, the Complaint does not provide the Commission with sufficient evidence to warrant conducting an investigation

11044294621

Jeff S. Jordan, Esq.

January 13, 2011

Page 4 of 4

into the activities of the Matthew 25 Network. As such, we request that the Commission find no reason to believe that the Matthew 25 Network violated the FECA with respect to the Complaint's allegations.

Respectfully submitted,



Laurence E. Gold
Allen H. Mattison

Counsel for Matthew 25 Network and
Christopher Korzen, as Treasurer

cc: Christopher Korzen
Matthew 25 Network

11044294622