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FEDERAL ELECTION
COMMISSION

July 25, 2011

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BEFORE THE FEDERAL ELECTION COMMISSION
In response to MUR #6477
OFFICE OF GENERAL
COUNSEL

EXECUTIVE SUMMARY

At the heart of the complaint is whether or not the video "Give me your cash B—tch!" was a coordinated campaign effort and therefore an in-kind contribution to the Craig Huey for Congress Campaign which is prohibited by Federal Campaign Finance law and Turn Right USA's charter as filed with the Federal Election Commission.

First, we are not lawyers, do not play lawyers on television and for the purposes of exercising our free speech, quote the majority opinion of the United States Supreme Court in *Citizen's United v FEC*:

"The First Amendment does not permit laws that force speakers to retain a campaign finance attorney, conduct demographic marketing research, or seek declaratory rulings before discussing the most salient political issues of our day."

We ask you to receive our response to MUR #6477 in that light.

We do not believe this complaint warrants the attention of Federal Election Commission staff or the Federal Election Commissioner's time and this complaint should be properly dismissed for three reasons:

1. the video in question was not a public communication as defined by Title 11 of the Code of Federal Regulations and is therefore exempt from FEC regulation as pertaining to coordination with the Craig Huey for Congress campaign.
2. the standard for coordination as set forth in Title 11 of the Code of Federal Regulations with the Craig Huey for Congress campaign was not met.
3. The record demonstrates that the Craig Huey for Congress campaign in roundly condemning us and our video, did not wish to be associated with, benefit from or coordinate with us.

We therefore respectfully ask that the complaint against us be dismissed as failing to meet the test for a coordinated campaign expenditure with either the Craig Huey for Congress or the Janice Hahn for Congress campaign. We are aware that the Janice Hahn for Congress used VIDEO to raise substantial funds for her campaign of which we had no knowledge until after the fact. We respectfully request that the FEC require the Janice Hahn for Congress campaign to divulge that information.

ADDENDUM

We received an amended complaint with DVD. We were unable to read the disc with either a computer or a DVD player. What it contains we are unsure. TRUSA had no knowledge of what HUEY would do once our VIDEO was released. We understand from news reports that the video(s) distributed door-to-door to 36th District voters by HUEY contained a copy the FOX 11 REPORT after VIDEO became public. We don't know if it contained our VIDEO. We believe HUEY's actions are responsible for HAHN's amended complaint (see definitions below).

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DEFINITIONS

Anytime VIDEO is used it means the video at issue in the complaint that established MUR #6477 and is titled "Give us your cash B--chi" produced and paid for by Turn Right USA accessible at <http://www.youtube.com/watch?v=EZ3B8WVVL4>.

Anytime TRUSA is used it means the Non-Connected Expenditure Only Political Action Committee formed on June 8, 2011 and named Turn Right USA.

Anytime HAHN is used it means the Janice Hahn for Congress Campaign.

Anytime HUEY is used it means the Craig Huey for Congress Campaign in California's 36th District Special Election.

Anytime FEC is used, it shall mean the Federal Election Commission

Anytime FOX 11 REPORT is used, it shall mean the video report first broadcast by Fox News Channel 11 in Los Angeles on June 6, 2008. The video of that report is publicly available on the Fox 11 news site at http://www.myfoxla.com/dpp/news/investigative/investigation_Los_Angeles_Gang_Intervention_Money_Goin_g_to_Gang_Members.

Anytime COMPLAINT is used, it shall mean the complaint filed by Janice Hahn for Congress on June 27, 2011 and the amendment to the complaint filed on July 5th, 2011, currently referenced by the FEC as MRU 6477.

All citations are from the Title 11 Code of Federal Regulations, Revised as of January 1, 2011 and begin with the title 11 CFR, published by the Office of the Federal Register, National Archives and Records Administration as a Special Edition of the Federal Register.

AFFIRMATIVE DEFENSES

Public Communication, 11 CFR 100.26. Because HAHN saw our VIDEO and made the complaint to the FEC, they believe it a public communication. The VIDEO was released on the Internet and specifically posted on the TRUSA Youtube.com video channel. TRUSA disputes the assertion that the VIDEO is a public communication. We rely on 11 CFR 100.26, specifically, "The term general public political advertising shall not include communications over the Internet, except for communications placed for a fee on another person's Web site (emphasis ours)." As such TRUSA believes the VIDEO is outside the scope of the FEC's regulatory power because our VIDEO was posted by TRUSA on a public website (without payment) and had to be specifically requested by the consumer for viewing. While our VIDEO was mentioned in numerous media outlets, none were paid for by TRUSA. At no time, was there any payment for posting on any website.

Coordination Standard Was Not Met, 11 CFR 109. According to the definition paragraph a of this section, a public communication is coordinated (and thus is a contribution to the federal candidate benefiting from the communication coordinated with) if:

1. someone other than the candidate, party, or official campaign pays for it;
2. the communication itself meets at least one of the specified "content standards" of paragraph c; and

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3. the payer's interaction with the candidate/party satisfies at least one of the specified "conduct standards" of paragraph c.

TRUSA admits paying for the communication, but denies that the content standard or the conduct standard as defined in 11 CFR 109.21 Subpart C are met with respect to VIDEO. This failure to meet the applicable standards for coordinated communication does not allow a finding of coordinated communication between TRUSA and HUEY with respect to MUR 6477.

ARGUMENT

Our reasoning as to the inapplicability of the coordinated communication finding is as follows:

1. Payment Standard. TRUSA admits that VIDEO was paid for by TRUSA and has filed Federal Form 311 as required by law identifying that fact. The VIDEO contains a disclaimer required by 11 CFR 110.11 for "all Internet websites of political committees available to the general public." While not specifically required by 11 CFR 110.11(a) for VIDEO, the disclaimer states "Paid for by Turn Right USA (<http://turnrightusa.org>). Definitely NOT authorized by any candidate or candidate's committee." The appropriate disclaimer as required by 11 CFR 110.11(a) with the content required by 11 CFR 110.11(b)(3) does appear on our websites, www.hahnshomeboyz.org and www.turnrightusa.org that promoted the VIDEO.

2. Content Standard. The content standard as defined by 11 CFR 109.21(c) is not applicable, specifically the VIDEO is not an electioneering communication, and it is not a public communication. It therefore fails to satisfy any of the rules for making the content standard applicable for the coordination standard. In the following paragraphs of this section, we explain why each test of the content standard of paragraph c is inapplicable to the VIDEO.

Electioneering Communication. 11 CFR 109.21(c)(1) VIDEO was uploaded to youtube.com and accessed by viewers with links to VIDEO either through email, links in news stories about VIDEO or through our website www.hahnshomeboyz.org. We fairly believe VIDEO is exempt from classification as an electioneering communication according to 11 CFR 100.29(c)(1) that exempts communications from the definition of electioneering communications if they are "communications over the Internet, including electronic mail" or "Appears in a news story, commentary or editorial" as defined by 11 CFR 110.29(c)(2). At no time were the facilities used in appearances "owned or controlled by any political party, political committee or candidate."

Public Communication. We fairly believe VIDEO is not a public communication as it was not broadcast over any of the defined mediums listed in 11 CFR 100.26 by TRUSA or HUEY.

The remaining 4 tests of the content standard all address advertising as a public communication, which we have demonstrated above that VIDEO does not meet the test in that it was distributed over the internet. On that basis alone the remaining rules fail to be applicable. We shall however, discuss how VIDEO still does not meet each test's threshold even if it is adjudged a public communication.

Distributes Campaign Material. 11 CFR 109.21(c)(2) Notwithstanding the fact that VIDEO is not a public communication as defined by 11 CFR 100.26, VIDEO is based on FOX 11 REPORT of Janice Hahn's involvement in a gang violence task force by the City of Los Angeles while she was a Los Angeles city councilwoman. In

addition to the news site, the FOX 11 REPORT is available from youtube.com and popmodal.com channels other than TRUSA's channel on youtube.com.

Janice Hahn's opponent for California's 36th Congressional District Special Election, Craig Huey did not, nor anyone on his authorized committee nor anyone on his campaign staff prepare or distribute VIDEO.

We can fairly make this statement because VIDEO was made and distributed before any HUEY campaign materials about gang intervention specialists in the City of Los Angeles were prepared or distributed. In fact, HUEY denounced VIDEO as racist and sexist (at the invitation of HAHN and others). The only campaign use HUEY made of subject matter was to deliver DVD copies of FOX 11 REPORT not Turn Right USA's VIDEO to the doorsteps of likely voters in California's 36th District. The provision of 11 CFR 109.21 (d) (5) disqualifies VIDEO as original preparation of HUEY campaign materials occurred after preparation and distribution of VIDEO.

Express Advocacy of Federal Candidate. 11 CFR 109.21(c)(3) Notwithstanding the fact that VIDEO is not a public communication as defined by 100 CFR 100.26, HAHN is a candidate for federal office in California's 36th congressional district special election July 12th, 2011. Whether HAHN is clearly identified as a federal candidate in the VIDEO may be an issue. The only reference in VIDEO that can possibly be construed as identifying HAHN as a federal candidate is the phrase "Keep Janice Hahn out of Congress", herein after PHRASE.

The purpose of VIDEO is to attract attention to HAHN's involvement in the City of Los Angeles gang intervention program and solicit funding to continue to publicize HAHN's activities as a Los Angeles City Councilwoman. The message of VIDEO is about HAHN's efforts at addressing the City of Los Angeles gang problem with gang intervention specialists where she is clearly not a Federal candidate. VIDEO clearly take the position that HAHN did not reduce gang violence in the City of Los Angeles and charges HAHN exacerbated the problem.

We do not believe PHRASE alone is enough to identify HAHN as a federal candidate within the meaning of the regulations due to the issue referenced in VIDEO while HAHN is a city councilwoman for the City of Los Angeles, even with respect to the upcoming federal runoff election where HAHN is a candidate.

Further, the election at issue is a special election, held on a different date (July 12th) than the normal election date for voters of California's 36th Congressional District, limiting the election date as a useful reference even when combined with PHRASE. VIDEO does not clearly specify an election or election date. We acknowledge that news reports did link the video and HAHN's status as a federal candidate. The test however is whether VIDEO made the link. We contend it did not.

Finally, PHRASE does not contain not "magic words" that would meet the test for express advocacy as defined by 11 CFR 100.22.

Publicly Distributed 90 days before an Election. 11 CFR 109.21(c)(4) Notwithstanding the fact that VIDEO is not a public communication as defined by 100 CFR 100.26, VIDEO was created and uploaded to www.youtube.com within 90 days prior to an election in which HAHN was a candidate for Federal office. HAHN is clearly identified by name and face in VIDEO. HAHN is not clearly identified as a Federal candidate.

Voters in California's 36th congressional district special election (HAHN's jurisdiction) are not specifically targeted in distribution of VIDEO and cannot be targeted with method of distribution selected. They must find VIDEO on

either youtube or hahnshomeboyz.org or a link in email that they receive from friends forwarding VIDEO link to them or link in news website story and play it for themselves.

Therefore, while VIDEO was posted on the Internet in the time period specified by this test, it was not distributed publicly within HAHN's jurisdiction being unable to limit distribution of VIDEO to HAHN's election jurisdiction and is the reason it is an exempt distribution according to 11 CFR 100.26.

Functional Equivalent of Express Advocacy. 11 CFR 109.21(c)(5). Notwithstanding the fact that VIDEO is not a public communication as defined by 100 CFR 100.26, VIDEO clearly identifies HAHN with her name and face. The issue is whether HAHN is a clearly identified federal candidate since VIDEO focuses on HAHN's involvement with a gang intervention program as a Los Angeles City Councilwoman.

The phrase "Keep Janice Hahn out of Congress", hereinafter PHRASE, could be construed as an attempt to get voters to vote against Janice Hahn, as one way to keep HAHN out of Congress. But as a Los Angeles City Councilwoman, Ms Hahn would have access to other members of Congress without being elected and could lobby them to give federal funding to her gang intervention program. It could be construed to keep Janice Hahn from talking to members of Congress.

While that is not the intent of the VIDEO, it is a reasonable interpretation, especially if the viewer does not have the context of knowing HAHN is a candidate for the July 12th runoff election. Therefore, VIDEO is not the functional equivalent of express advocacy within the meaning of 11 CFR 109.21 (c) (5).

3. Conduct Standard. The conduct standard is not applicable to this complaint, specifically that the involvement by CampaignLA in TRUSA's video production turns VIDEO into an illegal campaign contribution to HUEY. No test of the conduct standard applies. In order to satisfy the conduct standard it would have to meet one of the following rules:

Request or Suggestion. 11 CFR 109.21(d)(1). Neither Craig Huey, nor his campaign committee requested VIDEO to be created, produced or distributed nor did he assent to it. HUEY has been quoted in the media as saying "It's the most harmful thing to my campaign ever done. I thought Janice Hahn produced it."

Material Involvement. 11 CFR 109.21(d)(2). The rule states that "This paragraph, (d)(2), is not satisfied if the information material to the creation, production, or distribution of the communication was obtained from a publicly available source." The material for VIDEO was based upon FOX 11 REPORT and was a parody of the song "Shake that ass, bitch" produced by Splack Pac in the 1990's. The genre is a black rap video that can be compared as a mild version of what can be seen on Black Entertainment Television.

Substantial Discussion. 11 CFR 109.21(d)(3). The rule states that "This paragraph, (d)(3), is not satisfied if the information material to the creation, production, or distribution of the communication was obtained from a publicly available source." The material for VIDEO was based upon FOX 11 REPORT and was a parody of the song "Shake that ass, bitch" produced by Splack Pac in the 1990's. The genre is a black rap video that can be compared as a mild version of what can be seen on Black Entertainment Television.

Furthermore, HUEY had no material involvement in the planning, the intended audience, the content (HUEY labeled VIDEO racist, sexist and bigoted according to news reports), the means or mode of communication, the timing or frequency of release or broadcast because he did not know about VIDEO until it was released. TRUSA did not honor any request to take the VIDEO down and HUEY acknowledged that in news reports.

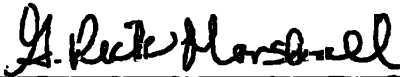
Finally, the rule also states "A discussion is substantial within the meaning of this paragraph if information about the candidate's or political party committee's campaign plans, projects, activities, or needs is conveyed to a person paying for the communication, and that information is material to the creation, production, or distribution of the communication." Craig Huey, his campaign committee never conveyed their plans, projects, activities or needs to any member of TRUSA. HUEY's campaign preferred to focus on a positive message of "Reducing [Federal] Spending and Growing Jobs" for the South Bay. VIDEO was never part of that message and HUEY considered VIDEO a distraction.

Common Vendor. 11 CFR 109.21(d)(4). COMPLAINT alleges satisfaction of the conduct standard in so far as the HUEY and TRUSA shared a common vendor. The rule states that "All of the following statements in paragraphs (d)(4)(i) through (d)(4)(iii) of this section are true". By logical deduction, it is also true that if any of the statements in paragraphs (d)(4)(i) through (d)(4)(iii) are not true then the rule does not apply.

We note briefly that (d)(4)(iii) states "This paragraph, (d)(4)(iii), is not satisfied if the information material to the creation, production, or distribution of the communication used or conveyed by the commercial vendor was obtained from a publicly available source." The material for VIDEO was based upon FOX 11 REPORT and was a parody of the song "Shake that ass, bitch" produced by Splack Pac in the 1990's. The genre is a black rap video that can be compared as a mild version of what can be seen on Black Entertainment Television.

Also, rule (d)(4)(iii) has specific requirements for the vendor services and the common vendor CampaignLA only provided 100 lawn signs to the Craig Huey campaign in the primary election before anyone even knew that HUEY would be in the runoff with HAHN. That service is not listed in the conduct covered by the rule.

Common Vendor. 11 CFR 109.21(d)(5). This rule does not apply as no member of TRUSA has ever been an independent contractor or former employee of a vendor to HUEY. HAHN complains that TRUSA vendor, CampaignLA and TRUSA share a common mailing address. We do, but not a common mailing. The location is a private postal mailbox vendor where the committee and the business each have a different mailbox, TRUSA's mailbox is 223 and CampaignLA's mailbox is 173. We point out that this is not unusual as HAHN shares the same address, including suite number with at least 20 other campaigns: 777 S. Figueroa Street, Suite 4050 Los Angeles, CA 90017-5864.

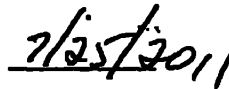


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