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Re: MUR 7067, Floridians for a Strong Middle Class

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explanation as to how the complainant arrived at such a conclusion, nor any evidence demonstrating coordination. The Act and the accompanying FEC regulations are very specific about the circumstances in which an expenditure will be treated as independent. *See* 52 U.S.C. § 30101(17); 11 C.F.R. § 100.16. A communication paid for by a super PAC is considered to be coordinated with a candidate only if it satisfies one of the content standards set forth in section 109.21(c) of the Commission's regulations, and one of the conduct standards set forth in section 109.21(d).

The Complaint does not identify any communication by FSMC that satisfies any prong of the content standard, nor does it allege any instance in which any of the conduct standards were satisfied. Rather, the Complaint merely claims that the fact Rep. Murphy's father and his father's company<sup>2</sup> have supported FSMC "is indicative of coordination." Complaint at 2. Further, the Complaint asserts: "It is simply unrealistic to believe that [Coastal Construction Group] and his father are funding the super PAC without coordinating in any way with Murphy or his campaign." *Id.* But, in fact, the contributions by Thomas P. Murphy, Jr. and Coastal Construction Group do not indicate coordination. Coordination only occurs when a communication is created at the request or suggestion of a candidate, or when another prong of the conduct standard is evident. *See* 11 C.F.R. § 109.21(d). Contributions themselves are not evidence of coordination, even when they come from a person related to a candidate. The contributions are indicative only of the fact that a father wanted to support an entity advocating his son's re-election.

When confronted with a Complaint that fails to provide evidence to substantiate its allegations, the Commission will not find reason to believe a violation has occurred. "The Commission will make a determination of 'no reason to believe' a violation has occurred when the available information does not provide a basis for proceeding with the matter." FEC, "Agency Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process," 72 Fed. Reg. 12,545, 12,546 (Mar. 16, 2007) ("RTB Policy Statement").

Unwarranted legal conclusions from asserted facts, or mere speculation, will not be accepted as true, and "[s]uch speculative charges, especially when accompanied by direct refutation, do not form an adequate basis to believe that a violation of FECA has occurred."

Factual and Legal Analysis in MUR 6077 (Norm Coleman and Coleman for Senate '08), issued May 19, 2009) (citing Statement of Reasons in MUR 4960 (Hillary Rodham Clinton for U.S. Senate Exploratory Committee), issued December 21, 2000). The Complaint against FSMC arises from mere speculation, providing no evidence of coordination and not even specifying the legal basis for its allegation of coordination.

Not only does the Complaint fail to rise above mere speculation regarding coordination, but no actual coordination has occurred. As of the date of this response, FSMC has not made any public communications. *See* 11 C.F.R. § 109.21(c)(3). As such, coordination could not have occurred. Moreover, FSMC has taken no actions that would satisfy the conduct standard. *See id.* at § 109.21(d). Nothing in the Complaint indicates otherwise.

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<sup>2</sup> The Complaint insinuates that the contribution from Coastal Construction Group to FSMC was directed and controlled by Rep. Murphy. FSMC has no knowledge or insights regarding the operations of that company or its internal decision-making processes. From the perspective of FSMC, nothing about the contribution raised questions that would require further examination. *See* 11 C.F.R. 103.3(b). As Coastal Construction Group is a multi-billion-dollar business established in 1988, *see* <http://coastalconstruction.com/profile/about-us/philosophy> and <http://www.coastalconstruction.com/wp-content/uploads/2013/03/SFBJ-06.21.2015.pdf>, FSMC had no reason to question whether the entity was established for the purpose of transmitting funds without disclosing the donor's identity, *contra* First General Counsel's Report in MUR 6485 (W Spann LLC and Edward Conard), issued August 28, 2012.

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When it receives a complaint whose allegations are "not credible" or "vague," the Commission will make a determination of "no reason to believe" a violation has occurred. RTB Policy Statement at 12546. The Complaint provides no basis for proceeding with an investigation. Rather, it offers mere speculation regarding coordination, based solely on the complainant's view that large contributions from a businessman to a super PAC supporting his son, and from the company controlled by the businessman, are, without more evidence, "indicative" of coordination, and that "[i]t is simply unrealistic to believe" a person could contribute without engaging in coordination. The FEC has clearly defined coordination, and no violation of the conduct prong has been alleged. For those reasons, the RTB Policy Statement clearly directs a finding of "no reason to believe," or, in the alternative, a simple dismissal.

Respectfully submitted,



Allen H. Mattison

Counsel for Respondents

Floridians for a Strong Middle Class

and Jennifer May, as Treasurer

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