

PERKINScoie

700 13th Street, NW
Suite 600
Washington, DC 20005-3960

① +1.202.654.6200
② +1.202.654.6211
perkinscoie.com

RECEIVED
FEC MAIL CENTER

December 22, 2016

2016 DEC 22 PM 4: 17

Marc Erik Elias
MElias@perkinscoie.com
D. (202) 434-1609
F. (202) 654-9126

VIA MESSENGER

Jeff Jordan
Assistant General Counsel
Complaints Examination & Legal Administration
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Re: MUR 7169, MUR 7170, MUR 7171, MUR 7172, MUR 7173, MUR 7174, MUR 7175,
MUR 7176, MUR 7177, MUR 7178, MUR 7179, MUR 7182, MUR 7187, MUR 7188

Dear Mr. Jordan:

On behalf of Hillary for America and Jose H. Villarreal in his official capacity as Treasurer ("Respondents"), we submit this letter in response to the complaints filed by the Foundation for Accountability and Civic Trust ("FACT") in MURs 7169, 7170, 7171, 7172, 7173, 7174, 7175, 7176, 7177, 7178, 7179, 7182, 7187, and 7188 (the "Complaints"), alleging violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), or Federal Election Commission ("FEC" or "Commission") regulations. The Complaints fail to include any facts, which, if proven true, would constitute a violation of the Act.¹ The Commission should accordingly dismiss the Complaints and take no further action.

FACT filed fourteen different complaints all stemming from a series of advertisements paid for by the DCCC, the campaigns of several candidates for U.S. House in the general election in 2016, and in the case of MUR 7177, the Colorado Democratic Party. Each complaint ended with a sweeping allegation that "in light of the close and ongoing coordination occurring between the DCCC and Hillary for America," the advertisements at issue must have been coordinated with Respondents, resulting in an in-kind contribution.² In a footnote, each complaint then cited the Commission's three-prong test for party coordinated communications, noting that the advertisement at issue "satisfies one or more conduct standards (material involvement and substantial discussion)."³ Notably absent from each complaint is even a single fact suggesting that Respondents coordinated these advertisements with the DCCC, the Colorado Democratic Party or any of the named campaign committees. And in fact, no such coordination occurred.

¹ See 11 C.F.R. § 111.4(d)(3).

² See e.g. MUR 7169 Compl. at 9. In MUR 7177, the sweeping allegation involved the "close and ongoing coordination occurring between the Colorado Democratic Party and Hillary for America." See MUR 7177 Compl. at 8.

³ *Id.*

Jeff Jordan
December 22, 2016
Page 2

The Commission may find "reason to believe" only if a complaint sets forth sufficient specific facts, which, if proven true, would constitute a violation of the Act.⁴ For claims of coordination, the Commission requires an even stronger showing: that Complainant provide "probative information of coordination."⁵ Additionally, the Commission has made clear that "unwarranted legal conclusions [drawn] from asserted facts" or "mere speculation" are *not* sufficient to find reason to believe that Respondents violated the Act.⁶

Here, FACT alleges that Respondents coordinated the ads with the sponsors, but it does not present a single fact to support that allegation. Instead, FACT merely recites the coordination standard, asserting that it has been met by stating that there was "close and ongoing coordination." This is precisely the type of mere speculation which the Commission has consistently rejected. Accordingly, we request the Commission find no reason to believe Respondents committed any violation of the Act and dismiss this matter immediately.

Very truly yours,



Marc Erik Elias

⁴ FEC Matter Under Review 4960, Statement of Reasons of Commissioners David M. Mason, Karl J. Sandstrom, Bradley A. Smith, and Scott E. Thomas at 1 (Dec. 21, 2000).

⁵ FEC Matter Under Review 5999, Factual and Legal Analysis (Dec. 15, 2008); see also FEC Matter Under Review 6059, Factual and Legal Analysis at 6 (Feb. 3, 2009).

⁶ FEC Matter Under Review 4960, *supra* note 4.