

# SANDLER REIFF

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January 29, 2020

Federal Election Commission  
Office of Complaints Examination and Legal Administration  
Attn: Christal Dennis, Paralegal  
1050 First Street, NE  
Washington, D.C. 20463

Re: MUR 7666

Ms. Dennis:

The undersigned serves as counsel to VoteVets Action Fund (“VoteVets”), a 501(c)(4) social welfare organization. This letter responds on behalf of VoteVets to the Commission’s notification of a complaint from the Foundation for Accountability and Civic Trust (the “Complaint”) alleging that VoteVets violated the Federal Election Campaign Act (the “Act”) and Federal Election Commission (the “Commission”) regulations.

*As described below, the allegations made in the Complaint are baseless and not supported by any facts whatsoever.* The Complaint makes one core allegation, regarding two television advertisements – that VoteVets “coordinated” (as defined in Commission rules and precedent) the advertisements with Senator Gary Peters and his campaign committee, Peters for Michigan (collectively “Peters”).<sup>1</sup>

One advertisement is entitled “Sen. Gary Peters has always been there for veterans” (script attached as **Attachment A**, referred to as “Secure”), and the other “Raise” (whose script is attached as **Attachment C**, collectively the “Advertisements”).

The Complaint’s allegation rings false. Neither Advertisement expressly advocates for Peters’ re-election, and are not otherwise regulated by federal campaign finance law. VoteVets did not “republish campaign materials” under the Commission’s extensive precedent on the issue. Additionally, VoteVets did not communicate with Peters in any way regarding the “Raise” or “Secure” advertisements.

As such, the Complaint’s analysis of a “request or suggestion” (or of the conduct standard for “coordinated communications” in general) is moot, as the content standards in the

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<sup>1</sup> Majority Forward, added to the Complaint in a supplemental response, is represented by other counsel. Allegations that are specific to Peters are not addressed in this response.

Commission’s coordination rule are not met. The Commission should find no reason to believe that VoteVets committed any violation, and close the file.

**1. The Advertisements do not meet the criteria for a “coordinated communication” under 11 C.F.R. § 109.21.**

**a. “Coordinated Communications”**

Under the FEC’s rules, a “coordinated communication” and an in-kind contribution results when a communication meets *all of the following criteria*:

- I. *[Public Communication]* the communication is a “public communication” – a paid medium;<sup>2</sup>
- II. *[Third Party]* the communication is paid for by a third party (other than that candidate or party);
- III. *[Content Standard]* it contains certain content;
- IV. *[Conduct Standard]* was produced as a result of certain conduct; and
- V. *[Safe Harbor]* is not protected by a safe harbor, such as a firewall.<sup>3</sup>

The Advertisements are “public communications,” as they were disseminated on television. VoteVets is “a person other than that candidate, authorized committee, or political party committee” under 11 C.F.R. § 109.21(a)(1). However, neither Advertisement meets the FEC’s content standard, as they do not expressly advocate for Peters’ election, nor do they republish his campaign’s materials under the FEC’s guidance.

Even if it the FEC were to find that one or both of the advertisements does meet the content standard, the conduct standard is not met. Despite the Complaint’s attempts to fit the communication into each of the tests above for its own purposes, the Advertisements are *not* “coordinated communications,” and are *not* in-kind contributions to Peters.

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<sup>2</sup> 52 U.S.C. § 30101(22); 11 C.F.R. §§ 100.26 (definition of “public communication”, spacing added), 100.27 (definition of “mass mailing”), 100.28 (definition of “telephone bank”).

<sup>3</sup> See 11 C.F.R. §§ 109.20-23.

## b. Analysis of Content Standard

### i. Overview

Under the FEC’s rules, only certain communications can be considered coordinated:

- a) *[Electioneering Communications]* television, satellite, or radio advertisements that mention a clearly identified candidate within 30 days of a primary or 60 days of a general election;<sup>4</sup>
- b) *[Reference Test]* Public Communications that reference candidates or parties – for House or Senate, within 90 days of their primary or general election, or nominating convention or caucus.<sup>5</sup>
- c) *[Express Advocacy]* Public Communications that contain express advocacy, or the functional equivalent of express advocacy for a candidate *at any time*;<sup>6</sup> or
- d) *[Republication of Candidate Materials]* Public Communications that disseminate, or republish campaign materials prepared by a candidate.<sup>7</sup>

Neither Advertisement is an “electioneering communication” and were not disseminated within 90 days of Peters’ primary election – as Michigan’s Congressional primary is not until August 4, 2020.<sup>8</sup> The “Secure” advertisement was disseminated in November of 2019, and the

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<sup>4</sup> 11 C.F.R. § 100.29 (definition of “electioneering communication”)

<sup>5</sup> 11 C.F.R. § 109.21(c)(4).

<sup>6</sup> 11 C.F.R. § 109.21(c)(3), (c)(5). It should be noted that the Commission previously provided a definition of “functional equivalent of express advocacy” in its electioneering communications regulations, but removed this regulation in 2015. See 76 Fed. Reg. 80814 – 80815. Therefore, there is no statutory or regulatory definition of the “functional equivalent of express advocacy” such that the regulated community can discern between the Commission’s definition of “express advocacy” and section (c)(5), which appears to derive from the Commission’s deleted regulation. See 11 C.F.R. § 114.15 (effective December 26, 2007 to January 26, 2015); 75 Fed. Reg. 55952 – 55957.

Given this, our analysis in this response is solely confined to the Commission’s regulatory guidance found in 11 C.F.R. § 100.22 and related opinions.

<sup>7</sup> 11 C.F.R. § 109.21(c).

<sup>8</sup> See Commission’s “2020 Preliminary Presidential and Congressional Primary Dates” (August 8, 2019), available at <https://transition.fec.gov/pubrec/fe2020/2020pdates.pdf> (last accessed January 29, 2020).

“Raise” advertisement was disseminated in December of 2019.<sup>9</sup> Given this, the focus of this analysis will be on express advocacy, and republication of candidate materials.

## ii. Express Advocacy

Despite the Complaint’s claims to the contrary, the Advertisements *are not* express advocacy, nor its functional equivalent. The Complaint simply assumes that the Advertisements are express advocacy, as it states in a footnote that “*Peters desired this specific information be conveyed to specific voters as he requested on his campaign website.*” However, intent is irrelevant in the examination of express advocacy, clearly evidenced by Commission precedent and the Supreme Court’s opinions on the matter.<sup>10</sup>

The FEC’s regulations provide two tests to determine whether a communication is express advocacy”:

- a) [**“Magic Words” and their “functional equivalents”**]– clear exhortations to vote for or against a candidate, such as “vote for the President,” “Smith for Congress,” “defeat” accompanied by a picture of a candidate, or communications “which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate” such as “Jeb!”, “Reagan/Bush”, or “Obama ‘08”.<sup>11</sup>
  
- b) [**“No Other Reasonable Interpretation”**] – “when taken as a whole and with limited reference to external event, such as proximity to the election, [the communication] could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s) because -
  - (1) The electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning; and

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<sup>9</sup> VoteVets, “Sen. Gary Peters has always been there for veterans” (November 6, 2019), at <https://www.youtube.com/watch?v=a17K-i31q-c> ; “Gary Peters MI Ad – ‘Raise” (December 4, 2019), at <https://www.youtube.com/watch?v=oz1jZqkX85E> (last accessed January 29, 2020).

<sup>10</sup> See Federal Election Commission v. Wisconsin Right to Life, 551 U.S. at 474 n.7 (“emphasiz[ing] that (1) there can be no free-ranging intent-and-effect test; (2) there generally should be no discovery or inquiry into the sort of 'contextual' factors highlighted by the FEC and intervenors; (3) discussion of issues cannot be banned merely because the issues might be relevant to an election; and (4) in a debatable case, the tie is resolved in favor of protecting speech”).

<sup>11</sup> 11 C.F.R. § 100.22(a) (emphasis added); see Buckley v. Valeo, 424 U.S. 1, at 44 fn. 52 (1976).

- (2) reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidate(s) or encourages some other kind of action.”<sup>12</sup>

In addition to these regulatory tests, the FEC and the courts have extensive precedent on *which* communications are and are not express advocacy. While these judicial determinations and FEC opinions and enforcement actions have varying views on the scope of “express advocacy”, there is one common thread throughout them all – that at the very least, there must be *some* exhortation to elect or defeat a candidate to qualify as “express advocacy.”<sup>13</sup>

<sup>12</sup> 11 C.F.R. § 100.22(b); see Federal Election Commission v. Furgatch, 807 F.2d 857, 864 (9th Cir. 1987).

<sup>13</sup> Buckley v. Valeo, 424 U.S. 1 at 44 fn. 52 (1976); Federal Election Commission v. Wisconsin Right to Life, Inc., 551 U.S. 449, 470-473 (2007) (rejecting that an ad that simply promotes or criticizes a candidate could be express advocacy without other factors present); see also Free Speech v. Federal Election Commission, 720 F.3d 788, 793-95 (10th Cir. 2013); Real Truth About Abortion v. Federal Election Commission, 681 F.3d 544 (4th Cir. 2012); Maine Right to Life Committee, Inc. v. Federal Election Commission, 98 F.3d 1 (1st Cir. 1996); Federal Election Commission v. Furgatch, 807 F.2d 857 (9th Cir. 1987);

#### Federal Election Commission, Advisory Opinions:

- 2012-27 (National Defense Committee) at 4 (finding that an ad stating “Veterans and service men and women know better than to trust Harry Reid. This November: support new voices, support your military, support Nevada values” *did not* constitute express advocacy), available at <https://www.fec.gov/files/legal/aos/2012-27/AO-2012-27.pdf>;
- 2012-11 (Free Speech) (evaluating multiple advertisements for express advocacy), at <https://www.fec.gov/files/legal/aos/2012-11/AO-2012-11.pdf>, also Statement by Republican Commissioners Hunter, McGahn and Petersen (an in-depth history on express advocacy), at <https://www.fec.gov/files/legal/aos/2012-11/1209339.pdf>, and Statement by Democratic Commissioners Weintraub, Bauerly, and Walther, at <https://www.fec.gov/files/legal/aos/2012-11/1209340.pdf>;
- See also 1977-42 (Hechler) at <https://www.fec.gov/files/legal/aos/1977-42/1977-42.pdf>; 1984-17 (NRLC) (regarding voter guides), at <https://www.fec.gov/files/legal/aos/1984-17/1984-17.pdf>.

#### Federal Election Commission Matters Under Review:

- 5831 (Softer Voices), Statement of Reasons of Republican Commissioner McGahn (an extensive history of the caselaw and FEC actions on the express advocacy standard, arguing that intent is irrelevant in an analysis of express advocacy), at <https://www.fec.gov/files/legal/murs/5831/11044284676.pdf>;
- 6402 (American Future Fund), Statement of Reasons of Republican Commissioners Hunter and Petersen at 12-14 (analysis of express advocacy standard), at <https://www.fec.gov/files/legal/murs/6402/14044364910.pdf>;

Neither Advertisement contains *any* electoral portion whatsoever, and no exhortation to vote for or against Peters – only stating that Peters is “standing up for Michigan” and has “made keeping Michigan safe a priority” (“Secure”), as well as that he “has been called one of the most effective members of the U.S. Senate”, and that he “has voted to give our troops the pay raise they deserve and worked to keep Michigan safe” (“Raise”).

The Advertisements then encourage the public to thank Peters for “sponsoring the Securing America’s Ports of Entry Act”, and provides his official office’s phone number.<sup>14</sup> The focus of the Advertisements are on Peters’ actions as a United States Senator, including but not limited to security issues such as the Securing America’s Ports of Entry Act.

There is simply no electoral exhortation whatsoever in either Advertisement – and far more than one other reasonable interpretation of the communication than to vote for Peters. Peters’ work on the Securing America’s Ports of Entry Act has been widely reported, both in and outside of Michigan.<sup>15</sup> VoteVets is simply thanking Senator Peters for protecting our nation’s borders.

In addition, neither Advertisement references the election, does not reference a candidacy, or anything that could indicate express advocacy. Advisory Opinions 2012-27 and 2012-11 are best illustrative of this, finding that the below were *not* express advocacy as they do not contain electoral elements:

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- 6346 (Cornerstone Action), Statement of Reasons of Republican Commissioners McGahn, Hunter, and Petersen at 9-18, available at <https://www.fec.gov/files/legal/murs/6346/13044342645.pdf>, also Statement of Reasons of Democratic Commissioners Bauerly, Walther, and Weintraub, at <https://www.fec.gov/files/legal/murs/6346/11044304055.pdf>;
  - See also 6729 (Checks and Balances for Economic Growth), Statement of Reasons of Republican Commissioners Goodman, Hunter, and Petersen (also regarding the internet exemption), at <https://www.fec.gov/files/legal/murs/6729/14044363864.pdf>; 6391 and 6471 (The Commission on Hope, Growth, and Opportunity); 6543 (Unknown Respondents), Statement of Reasons of Democratic Commissioner Weintraub, at <https://www.fec.gov/files/legal/murs/6543/13044331493.pdf>, and Republican Commissioner McGahn, at <https://www.fec.gov/files/legal/murs/6543/13044342690.pdf> (last accessed January 29, 2020).

<sup>14</sup> See Senator Gary Peters, “Contact”, available at <https://www.peters.senate.gov/contact/email-gary> (last accessed January 29, 2020).

<sup>15</sup> See Albuquerque Journal, “Bills offer practical fixes for border security needs” (January 13, 2020), at <https://www.abqjournal.com/1409116/bills-offer-practical-fixes-for-border-security-needs.html>; KRWG Public Media, “Important Border Legislation Before Congress” (January 13, 2020), at <https://www.krwg.org/post/important-border-legislation-congress>; Times Herald, “Peters bill targets border personnel shortage — even if it hasn’t reached crossings like Port Huron”, at <https://www.thetimesherald.com/story/news/2019/04/10/sen-peters-bill-targets-border-personnel-shortage-even-though-hasnt-reached-crossings-like-port-huro/3422768002/> (last accessed January 29, 2020).

*Nydia Velazquez. Ethically challenged. A key supporter of the Troubled Asset Relief Program. Calls bailed-out Wall Street greedy one day, but takes hundreds of thousands from it the next. A leader you can believe in? Call Nydia Velazquez and let's make sure we end the bailouts that bankrupt America.*<sup>16</sup>

*President Obama supports socialized medicine, but socialized medicine kills millions of people worldwide. Even as Americans disapproved of ObamaCare, he pushed ahead to make socialized medicine a reality. Put an end to the brutality and say no to socialized medicine in the United States.*<sup>17</sup>

Neither Advertisement could be express advocacy even under the broadest (and still constitutionally permissible) interpretations of the term – whatever VoteVets’ or Peters’ intent might be. The Complaint’s assumption that Peters’ intent *imputes* express advocacy to VoteVets betrays decades of precedent to the contrary. From this, neither Advertisement meets the content test.

### iii. Republication of Candidate Materials

The Advertisements also do not “republish” Peters’ campaign materials. While both Advertisements make use of materials that Peters’ campaign has publicly disseminated, they do so in a manner consistent with FEC precedent – only using brief segments of materials from the campaign’s website.

“Republication of candidate materials” is a legal term of art that the Commission has opined on in multiple different situations.<sup>18</sup> While the Commission has not set out one test as to

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<sup>16</sup> FEC Advisory Opinion 2012-27 (National Defense Committee) at 3, available at <https://www.fec.gov/files/legal/aos/2012-27/AO-2012-27.pdf> (last accessed January 29, 2020).

<sup>17</sup> FEC Advisory Opinion 2012-11 (Free Speech) at 5 available at <https://www.fec.gov/files/legal/aos/2012-11/AO-2012-11.pdf> (last accessed January 29, 2020).

<sup>18</sup> See 52 U.S.C. § 30116(a)(7)(B)(iii); 11 C.F.R. § 109.23;

See also, e.g., Federal Election Commission Matters Under Review:

- 6902 (Al Franken for Senate 2014) (FEC did not find reason to believe on an independent communication that utilized **similar themes and branding** as a campaign advertisements), Certification (November 9, 2015), available at <https://www.fec.gov/files/legal/murs/6902/15044382611.pdf>, Statement of Reasons of Republican Commissioners Petersen, Hunter, and Goodman in MURs 6603, 6777, 6801, 6870, 6902 (December 17, 2015), at <https://www.fec.gov/files/legal/murs/6902/15044382837.pdf>;
- 6801 (Senate Majority PAC) (FEC did not find reason to believe on a communication using **16 seconds of campaign materials in a 30-second advertisement**), Certification (November 19,

the extent to which a third-party *can* “republish” campaign materials, recent enforcement actions indicate that there is not a consensus on the Commission on whether communications containing 50 percent candidate materials or less (based on time and space) are “republication”.<sup>19</sup>

To this point, a 2015 Statement of Reasons by former Commissions Petersen and Goodman (as well as Commissioner Hunter) clearly states that “republication requires more than respondents creating and paying for advertisements that incorporate as background footage brief segments of video footage posted on publicly accessible websites by authorized committees of federal candidates.”<sup>20</sup>

Both “Secure” and the “Raise” advertisement’s images were taken from multiple sources, with full Source Sheets attached as **Attachments B and D**. Candidate materials make up 48%, or slightly less than fifteen seconds, of the “Raise” Advertisement (and about the same in “Secure”, 49%). In both Advertisements, footage of Peters was used to supplement VoteVets’ communication regarding his effectiveness in Congress – as incidental background to the core message of the communication.

From this, the FEC should follow the logic of the opinions cited throughout this Section, which resulted in the FEC *not* finding reason to believe that a violation occurred for similar uses of candidate materials in a third-party communication.

Given the analysis above, the Advertisements do not meet any of the content standards outlined in 11 C.F.R. § 109.21(c). As such, neither Advertisement can be considered a “coordinated communication,” nor an in-kind contribution to Peters.

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2015) at <https://www.fec.gov/files/legal/murs/6801/15044382446.pdf>, First General Counsel’s Report (October 31, 2014) at <https://www.fec.gov/files/legal/murs/6801/15044382435.pdf>;

- 6603 (Ben Chandler for Congress) (FEC did not find reason to believe on a communication using *13 seconds of campaign materials in a 30-second advertisement*), Certification (November 19, 2015) at <https://www.fec.gov/files/legal/murs/6603/15044382398.pdf>, First General Counsel’s Report (August 22, 2014), at <https://www.fec.gov/files/legal/murs/6603/15044382376.pdf>;
- 6535 (Restore Our Future) (an independent expenditure committee was fined \$50,000 for republishing *nearly 100%* of a 2008 Romney campaign advertisement in 2012), First General Counsel’s Report (February 26, 2013) at <https://www.fec.gov/files/legal/murs/6535/15044382228.pdf>, Conciliation Agreement (November 19, 2015) at <https://www.fec.gov/files/legal/murs/6535/15044382292.pdf>, Vote (November 16, 2015) at <https://www.fec.gov/files/legal/murs/6535/15044382269.pdf> (last accessed January 29, 2020).

<sup>19</sup> See Footnote 18, above.

<sup>20</sup> FEC MURs 6603 (Ben Chandler for Congress), 6777 (Kirkpatrick for Arizona), 6801 (Senate Majority PAC), 6870 (American Crossroads), 6902 (Al Franken for Senate 2014), Statement of Reasons of Commissioners Petersen, Hunter, Goodman (December 17, 2015), at <https://www.fec.gov/files/legal/murs/6870/15044382832.pdf> (last accessed January 29, 2020).



### c. Analysis of Conduct Standard

Despite this – assuming *arguendo* that the “content standard” is met for one or either of the Advertisements – there is not the requisite conduct to find a “coordination communication.” In order to find a “coordinated communication,” Peters and VoteVets would have been required to engage in certain conduct:

- a) ***[Request or Suggestion]*** Peters would have needed to request or suggest that VoteVets engage in a communication meeting the content standards;
- b) ***[Material Involvement]*** Peters would have needed to have material involvement in the communication. There is an exception from this prong if the “information material to the creation, production, or distribution of the communication was obtained from a publicly available source.”
- c) ***[Substantial Discussion]*** Peters and VoteVets would have needed to engage in substantial discussions regarding the communication. There is an exception from this prong if “information material to the creation, production, or distribution of the communication was obtained from a publicly available source.”
- d) ***[Common Vendor and Former Campaign Employees]*** Use of a common vendor between VoteVets and Peters working on the communication, or a former employee of Peters worked on VoteVets’ communication.
- e) ***[Republication of Candidate Materials]***, solely based on the conduct standards as above.<sup>21</sup>

None of these conduct standards are met in this situation – there was simply no coordination nor involvement by Peters in VoteVets’ Advertisements. As to “request or suggestion”, the FEC has previously found that a website posting cannot “request or suggest” particular activity from a viewer, making the Complaint’s assertions in this area hollow:

*The Commission has expressly stated, however, that a communication resulting from a general request to the public or the use of publicly available information, including information contained on a candidate's campaign website, does not satisfy the conduct standards.*<sup>22</sup>

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<sup>21</sup> 11 C.F.R. § 109.21(d).

<sup>22</sup> See, e.g., FEC MUR 6821 (Shaheen for Senate), First General Counsel’s Report at 8-9 (January 21, 2015) citing Coordinated and Independent Expenditures, 68 Fed. Reg. 421,432 (Jan. 3, 2003) (explanation and justification); Coordinated Communications, 71 Fed. Reg. 33,190, 33,205 (Jun. 8, 2006)

VoteVets used materials “obtained from a publicly available source” – Peters’ website – to produce its Advertisements, and did not otherwise communicate or “coordinate” its Advertisements with Peters. The Complaint has presented no facts to the contrary, outside of mere speculation.

#### **d. Similarities Between Peters’ website and the Advertisements**

While the Complaint also seeks to tie the similarities between the Advertisements and Peters campaign website, as well as the timing of the posting of Peters’ materials on its website to its use by VoteVets, OGC has previously stated that *similarities and timing are irrelevant in the analysis of “republication”*:

*“[T]he alleged similarities of the two communications at issue and their rough temporal proximity do not give rise to a reasonable inference that any of the conduct standards were satisfied under the facts presented here, particularly where no other information indicating that the Respondents engaged in any of the activities outlined in the relevant conduct standards.”<sup>23</sup>*

The Office of General Counsel’s analysis in MUR 6849 on the subject is also persuasive (of note, the FEC dismissed the allegations in this matter 6-0):

*“Although there are similarities in the themes and words used in the Tiahrt campaign website and the radio advertisement, under the circumstances presented here, such similarity does not on its own sufficiently show that the content of the radio advertisement was coordinated.*

*Because the information on Tiahrt’s website was publicly available, KRG did not necessarily need to discuss its own advertisement with Tiahrt in order to include similar themes in its own advertisement and thus, absent other information, the similarities alone do not sufficiently establish that the conduct prong is met.”<sup>24</sup>*

The Complaint has simply failed to state any additional information that would indicate that Peters and VoteVets “coordinated” the either the “Secure” or the “Raise” advertisements – likely because it does not exist.

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(explanation and justification), at <https://www.fec.gov/files/legal/murs/6821/15044382919.pdf> (last accessed January 29, 2020).

<sup>23</sup> FEC MUR 6821 (Shaheen for Senate), First General Counsel’s Report at 8-9 (January 21, 2015), at <https://www.fec.gov/files/legal/murs/6821/15044382919.pdf> (last accessed January 29, 2020).

<sup>24</sup> FEC MUR 6849 (Kansans for Tiahrt), First General Counsel’s Report at 7-8 (May 13, 2015) at <https://www.fec.gov/files/legal/murs/6849/15044385448.pdf>; Vote (December 23, 2015) at <https://www.fec.gov/files/legal/murs/6849/15044385470.pdf> (last accessed January 29, 2020).

## 2. The Commission should dismiss the Complaint and close the file.

A complaint is required to allege facts that give rise to a violation of the Act or Commission regulations.<sup>25</sup> As the Complaint does not do so – and only speculates and assumes wrongdoing on the part of VoteVets – we request that the Commission determine that there is no reason to believe that VoteVets committed any violation alleged in the Complaint, and close the file in this matter.

Sincerely,



Neil Reiff



David Mitrani

Counsel for VoteVets Action Fund

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<sup>25</sup> See FEC MUR 7135 (Donald J. Trump for President, et. al.), Statement of Reasons of Commissions Hunter and Petersen at fn 31 (September 6, 2018, spacing for clarity), citing MURs 6296, 6056, 5467 (“We have on multiple occasions shown that the reason to believe standard found at 52 U.S.C. § 30109(a)(2) means more than merely a reason to suspect.

See, e.g., MUR 6296 (Buck for Colorado), Statement of Reasons of Vice-Chair Caroline C. Hunter and Commissioners Donald F. McGahn and Matthew S. Petersen at 7 (“[T]he Act’s complaint requirements and limits on Commission investigative authority serve no purpose if the Commission proceeds anytime it can imagine a scenario under which a violation may have occurred.”). . .

MUR 5467 (Michael Moore), First Gen. Counsel’s Rpt. at 5 (“Purely speculative charges, especially when accompanied by a direct refutation, do not form an adequate basis to find reason to believe that a violation of the [Act] has occurred.”); see also FEC v. Machinists Non-Partisan Political League, 655 F.2d 380,388 (D.C. Cir. 1981) (“[M]ere ‘official curiosity’ will not suffice as the basis for FEC investigations”); id. at 387 (distinguishing the Commission from other administrative agencies that are “vested with broad duties to gather and compile information and to conduct periodic investigations concerning business practices .... the FEC has no such roving statutory functions”), available at [https://eqs.fec.gov/eqsdocsMUR/7135\\_2.pdf](https://eqs.fec.gov/eqsdocsMUR/7135_2.pdf) (last accessed January 29, 2020).

## Attachment A

### Script for “Secure” Advertisement

<https://www.youtube.com/watch?v=a17K-i31q-c>

#### Video

Drone shot of Michigan mixed with American flag.

#### **STANDING UP FOR MICHIGAN SECURING AMERICA**

Fade on still of Peters on duty in uniform. **SERVED IN THE U.S. NAVY RESERVE** and then still of Peters in uniform with son.

Peters from b-roll in monitoring center.

#### **HEADLINE: Trump Signs Peters Bill Requiring Review Of Ports Of Entry**

*Detroit News, 12/26/18*

B-roll footage of Michigan work in the defense industry w/  
HEADLINES about jobs announcements (if exists or)  
SUPER: **Helping support over  
126,000 Michigan jobs**

B-roll of Peters w/ constituents:  
**Thank Gary Peters for  
Sponsoring The Securing  
America’s Ports of Entry Act.  
202-224-6221**

#### Audio

Standing up for Michigan, and helping secure America, that’s how Gary Peters has spent his life.

After serving as a Lieutenant Commander in the Navy Reserve, Gary Peters volunteered again after the September 11<sup>th</sup> attacks.

In the Senate, Peters has made keeping Michigan safe a priority.





Working with Republicans to pass stricter inspections at ports of entry.

And leading the effort to grow Michigan jobs in the defense industry.

Thank Gary Peters for fighting for Michigan and our country.

**Attachment B**

**Source Sheet for “Secure” Advertisement**

<p>0:00 - 0:07.5   iStock</p>	<p><a href="https://www.istockphoto.com/video/downtown-saline-michigan-aerial-view-gm1155309413-314478928">https://www.istockphoto.com/video/downtown-saline-michigan-aerial-view-gm1155309413-314478928</a></p>	
<p>0:07.5 - 0:10   Peters for Michigan</p>	<p><a href="https://petersformichigan.com/what-michiganders-need-to-know/">https://petersformichigan.com/what-michiganders-need-to-know/</a></p>	
<p>0:10 – 0:14   Peters for Michigan</p>	<p><a href="https://petersformichigan.com/what-michiganders-need-to-know/">https://petersformichigan.com/what-michiganders-need-to-know/</a></p>	
<p>0:14 – 0:18   CSPAN/Senate Homeland Security and Governmental Affairs Committee</p>	<p><a href="https://www.facebook.com/HSGAC/videos/668690583621500/">https://www.facebook.com/HSGAC/videos/668690583621500/</a></p>	

<p>0:18 – 0:20   Peters for Michigan</p>	<p><a href="https://petersformichigan.com/what-michiganders-need-to-know/">https://petersformichigan.com/what-michiganders-need-to-know/</a></p>	
<p>0:20 – 0:22   Peters for Michigan</p>	<p><a href="https://petersformichigan.com/what-michiganders-need-to-know/">https://petersformichigan.com/what-michiganders-need-to-know/</a></p>	
<p>0:22 – 0:24   Detroit Local 4 WDIV</p>	<p><a href="https://www.youtube.com/watch?v=tzK5miq99cg">https://www.youtube.com/watch?v=tzK5miq99cg</a></p>	
<p>0:24 – 0:26   Detroit Local 4 WDIV</p>	<p><a href="https://www.youtube.com/watch?v=tzK5miq99cg">https://www.youtube.com/watch?v=tzK5miq99cg</a></p>	
<p>0:26 - 0:30   Peters for Michigan</p>	<p><a href="https://petersformichigan.com/what-michiganders-need-to-know/">https://petersformichigan.com/what-michiganders-need-to-know/</a></p>	

## Attachment C

### Script for “Raise” Advertisement

<https://www.youtube.com/watch?v=oz1jZqkX85E>

#### Video

**U.S. Senator Peters Ranked  
As One of Most Effective**

*Fox 17, 3/6/19*

**US Troops Just Scored Their  
Largest Pay Raise In Nearly A  
Decade**

*Task and Purpose, 8/14/18*

**Trump Signs Peters Bill  
Requiring Review Of Ports Of  
Entry**

*Detroit News, 12/26/18*

**Call Gary Peters  
Thank him for sponsoring the  
Securing America’s Ports of  
Entry Act  
202-224-6221**

#### Audio

He’s been called one of the most effective members of the U.S. Senate.

Gary Peters

He served in the Navy Reserve, and after the September 11<sup>th</sup> attacks volunteered to serve again.





In the Senate Peters has voted to give our troops the pay raise they deserve and worked to keep Michigan safe.

“The way I look at this we should not be even thinking Democrat or Republican ideas, we should just be thinking of ideas that are good for the country, ideas that are great for Michigan.” (9 seconds)






Thank Gary Peters, tell him to keep fighting for Michigan.

## Attachment D





## Source Sheet for "Raise" Advertisement

0:00 - 0:01   iStock	<a href="https://www.istockphoto.com/video/motorcyclist-hand-inserting-key-for-starting-motorcycle-engine-close-up-moto-biker-gm1161404649-318238957">https://www.istockphoto.com/video/motorcyclist-hand-inserting-key-for-starting-motorcycle-engine-close-up-moto-biker-gm1161404649-318238957</a>	
0:01 - 0:02   iStock	<a href="https://www.istockphoto.com/video/biker-push-gas-pedal-of-motorcycle-gm1003743922-271154352">https://www.istockphoto.com/video/biker-push-gas-pedal-of-motorcycle-gm1003743922-271154352</a>	
0:02 - 0:04   Shutterstock	<a href="https://www.shutterstock.com/video/clip-1016059420-guy-parked-classic-style-motorcycle--biker">https://www.shutterstock.com/video/clip-1016059420-guy-parked-classic-style-motorcycle--biker</a>	
0:04 - 0:05   Peters for Michigan	<a href="https://petersformichigan.com/what-michiganders-need-to-know/">https://petersformichigan.com/what-michiganders-need-to-know/</a>	



<p>0:05 – 0:08.5   Peters for Michigan</p>	<p><a href="https://petersformichigan.com/what-michiganders-need-to-know/">https://petersformichigan.com/what-michiganders-need-to-know/</a></p>	 <p><b>GARY PETERS</b></p>
<p>0:08.5– 0:11.5   Peters for Michigan</p>	<p><a href="https://petersformichigan.com/what-michiganders-need-to-know/">https://petersformichigan.com/what-michiganders-need-to-know/</a></p>	 <p><b>GARY PETERS</b></p>
<p>0:11.5 – 0:12.5   Peters for Michigan</p>	<p><a href="https://petersformichigan.com/what-michiganders-need-to-know/">https://petersformichigan.com/what-michiganders-need-to-know/</a></p>	 <p><b>US TROOPS JUST SCORED THEIR LARGEST PAY RAISE</b></p>
<p>0:12.5 – 0:15   Peters for Michigan</p>	<p><a href="https://petersformichigan.com/what-michiganders-need-to-know/">https://petersformichigan.com/what-michiganders-need-to-know/</a></p>	 <p><b>US TROOPS JUST SCORED THEIR LARGEST PAY RAISE IN NEARLY A DECADE</b></p>
<p>0:15 - 0:17   CSPAN/Senate Homeland Security and Governmental Affairs Committee</p>	<p><a href="https://www.facebook.com/HSGAC/videos/668690583621500/">https://www.facebook.com/HSGAC/videos/668690583621500/</a></p>	 <p><b>US TROOPS JUST SCORED THEIR LARGEST PAY RAISE IN NEARLY A DECADE</b></p>

<p>0:17 – 0:19   WOOD: To The Point: Senator Peters Talks Pipeline Safety, Bipartisanship</p>	<p><a href="https://www.youtube.com/watch?v=49q3CqGcnAw&amp;feature=youtu.be&amp;t=360">https://www.youtube.com/watch?v=49q3CqGcnAw&amp;feature=youtu.be&amp;t=360</a></p>	
<p>0:19 – 0:20   WWTV: Peters Visits the International Bridge in Sault Ste. Marie</p>	<p><a href="https://www.facebook.com/SenGaryPeters/videos/1001011656763485/?v=1001011656763485">https://www.facebook.com/SenGaryPeters/videos/1001011656763485/?v=1001011656763485</a></p>	
<p>0:20 - 0:22   WWTV: Peters Visits the International Bridge in Sault Ste. Marie</p>	<p><a href="https://www.facebook.com/SenGaryPeters/videos/1001011656763485/?v=1001011656763485">https://www.facebook.com/SenGaryPeters/videos/1001011656763485/?v=1001011656763485</a></p>	
<p>0:22 – 0:23.5   WBUP: Peters Tours EMP in Escanaba, Highlights Plan to Establish National Institute of Manufacturing</p>	<p><a href="https://www.youtube.com/watch?v=xsolh16yk">https://www.youtube.com/watch?v=xsolh16yk</a></p>	
<p>0:23.5 – 0:25.5   WBUP: Peters Tours EMP in Escanaba, Highlights Plan to Establish National Institute of Manufacturing</p>	<p><a href="https://www.youtube.com/watch?v=xsolh16yk">https://www.youtube.com/watch?v=xsolh16yk</a></p>	

<p>0:25.5- 0:26.5   WOOD: To The Point: Senator Peters Talks Pipeline Safety, Bipartisanship</p>	<p><a href="https://www.youtube.com/watch?v=49q3CqGcnAw&amp;feature=youtu.be&amp;t=360">https://www.youtube.com/watch?v=49q3CqGcnAw&amp;feature=youtu.be&amp;t=360</a></p>	 <p>PAID FOR BY VOTEVETS ACTION FUND</p>
<p>0:26.5 - 0:28   Peters for Michigan</p>	<p><a href="https://petersformichigan.com/what-michiganders-need-to-know/">https://petersformichigan.com/what-michiganders-need-to-know/</a></p>	 <p><b>CALL GARY PETERS</b>  VoteVets.org PAID FOR BY VOTEVETS ACTION FUND</p>
<p>0:28 - 0:30   Peters for Michigan</p>	<p><a href="https://petersformichigan.com/what-michiganders-need-to-know/">https://petersformichigan.com/what-michiganders-need-to-know/</a></p>	 <p><b>CALL GARY PETERS</b>  THANK HIM FOR SPONSORING THE SECURING AMERICA'S PORTS OF ENTRY ACT 202-224-6221 PAID FOR BY VOTEVETS ACTION FUND</p>