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1050 First Street, N.E.
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RE: MUR 8206

This letter is submitted on behalf of We Deserve Better, Inc. and Justin Phillips in his official capacity as Treasurer (collectively, the “Committee”) in response to a Complaint filed by Campaign Legal Center (the “Complainant”) on January 29, 2024, alleging violations of the Federal Election Campaign Act of 1971, as amended (the “Act”) and Federal Election Commission (the “Commission”) regulations.

The complaint asserts that the Committee unlawfully coordinated ads with Rep. Dean Phillips’s 2024 presidential campaign committee (the “Campaign”) through two individuals who formed the Committee after briefly volunteering for the Campaign. The Complaint speculates that “at least some” of the Committee’s communications may have been coordinated with the Campaign but does not identify any nonpublic information that the Committee relied upon or a single ad that was plausibly coordinated. The lone ad cited by the complaint includes the phrase “Medicare for All,” which the complaint asserts is “one of the slogans for universal healthcare that the campaign tested while [the two individuals] were serving as advisers.” But the phrase, “Medicare for All,” has been ubiquitous in campaign parlance for more than a decade and appeared numerous times in a press release posted on the Campaign’s website prior to the airing of the Committee’s ad. Use of such a common phrase, particularly one that appeared on the Campaign’s website before any ads were aired, is not evidence of coordination.

While Complainant speculates that this *lawful* activity indicates that other ads “may have been informed by the private campaign discussions” between the two individuals and the Campaign, lawful activity is not a predicate for a Commission investigation. Moreover, Respondents deny that they used *any* nonpublic information in creating and disseminating the Committee’s ads. The Complaint is wholly speculative and insufficient to establish reason to believe a violation of the Act took place. In the face of the Respondent’s specific denial, such a baseless complaint should be dismissed.

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I. Factual Background

In October 2023, Matt Krisiloff and Scott Krisiloff (the “Krisiloffs”), both of whom are technology entrepreneurs and newcomers to the world of politics, briefly volunteered their technology expertise to the Campaign. In doing so, they did speak directly with the candidate and senior Campaign leadership, including through Signal messages, but never served as employees or independent contractors of the Campaign, and received no compensation for their services. They were not given Campaign titles or email addresses and did not work in any official capacity as representatives for the Campaign.¹

In November 2023, the Krisiloffs ceased volunteering for the Campaign and independently decided to launch the Committee, an independent-expenditure only political committee.²

During and after their time as Campaign volunteers, the Krisiloffs never received any strategic nonpublic information from the Campaign that was used to create, produce, or distribute the Committee’s communications.³ Campaign representatives also never requested, suggested, or assented to any of the Committee’s communications.⁴ Moreover, prior to making any expenditures, the Committee conducted several of its own focus groups,⁵ and later conducted its own polling, the costs of which are reported on the Committee’s Year-End disclosure report to the FEC.⁶ None of the Committee’s focus group or polls relied on nonpublic Campaign materials, information or input.

II. Legal Analysis

To find reason to believe that the Committee has made a “coordinated communication” under 11 C.F.R. § 109.21, and therefore an in-kind contribution, the Commission must find *sufficient specific facts* that meet all three prongs of the regulation: the payment prong, the content prong, and the conduct prong.⁷ As for the conduct prong, the complaint must show that the Campaign conveyed information regarding its “plans, projects, activities, or needs” to the Committee, and that this information was both nonpublic and “material” to the “creation,

¹ Affidavit of Matt Krisiloff at ¶2.

² We Deserve Better, Inc., FEC Form 1 – Statement of Organization (Dec. 1, 2023).

³ Affidavit of Matt Krisiloff at ¶4-5.

⁴ Affidavit of Matt Krisiloff at ¶4-5.

⁵ Affidavit of Matt Krisiloff at ¶4.

⁶ We Deserve Better, Inc., FEC Form 3X – Year-End 2023 Report (Jan. 31, 2023, amended Feb. 26, 2024). Focus groups are disclosed as disbursements for the purpose of consulting.

⁷ 11 CFR 109.21(a).

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production, or distribution” of a particular communication disseminated by the Committee.⁸ A complaint is insufficient if it “presents nothing more than idle, unsupported speculation”⁹ and “especially when accompanied by a direct refutation.”¹⁰ Nor is speculation sufficient launch investigations into Americans’ political activities.¹¹ The complaint here falls well short of the mark, failing to identify any nonpublic information that the Committee relied upon or a single ad that was plausibly coordinated.

Complainant asserts that the conduct prong has been met because the Committee “appears to have used nonpublic information obtained through the Krisiloffs’ substantial discussions with the Phillips campaign to develop the core content of at least some of [the Committee’s] communications.”¹² For evidence, the Complaint points to (1) a single article in which anonymous sources refer to Matt and Scott Krisiloff as former high-level strategic advisors to the Campaign and (2) a handful of Signal messages indicating that the Krisiloffs commented on one internal Campaign memo, had conversations on unspecified subjects with Rep. Phillips, and conducted focus groups of early primary voters before and after the launch of the Campaign.¹³

The complaint offers no evidence — because there is none — that the Committee derived any nonpublic information from discussions between the Krisiloffs and the Campaign. In fact, the article cited in the complaint acknowledges that the polling memo referenced was “remarkable for the fact that it contemplate[d] the kinds of questions that a typical presidential

⁸ 11 CFR 109.21(d); [MUR 4960](#) (Hillary Rodham Clinton for U.S. Senate Exploratory Committee, et al.), Statement of Reasons of Comm’rs David M. Mason, Karl J. Sandstrom, Bradley A. Smith, and Scott E. Thomas at 1 (Dec. 21, 2000) (emphasis added).

⁹ See [MUR 5467](#) (Michael Moore), First General Counsel’s Report at 6.

¹⁰ [MUR 4960](#) (Hillary Rodham Clinton for U.S. Senate Exploratory Committee, et al.), Statement of Reasons of Comm’rs David M. Mason, Karl J. Sandstrom, Bradley A. Smith, and Scott E. Thomas (Dec. 21, 2000); see also [MUR 7868](#) (Twitter), Supplemental Statement of Reasons, Vice Chair Dickerson & Comm’r Trainor at 4 (Sept. 13, 2021); see also [MURs 6789/6852](#) (Special Operations for America, et al.), Statement of Reasons, Vice Chairman Petersen & Comm’r Hunter at 4 (May 28, 2019) (“We do not authorize Commission investigations based on mere speculation.”).

¹¹ Statement of Reasons of Vice Chair Allen Dickerson and Commissioners Sean J. Cooksey and James E. “Trey” Trainor III at 2 (June 28, 2021), MUR 7501 (Bill Nelson for U.S. Senate, et al.) (quoting Statement of Reasons of Vice Chair Caroline C. Hunter and Commissioners Lee E. Goodman and Matthew S. Petersen at 2 (Feb. 15, 2017), MUR 6747 (Rick Santorum for President)): “[M]ere ‘official curiosity’ will not suffice as the basis for FEC investigations.” Therefore, “[t]he Commission cannot launch investigations into Americans’ political activities based on speculation or official curiosity or shift the burden to respondents to prove their innocence.”

¹² 11 CFR 109.21(d).

¹³ Attempts to bootstrap sensational, but utterly irrelevant, allegations concerning the Krisiloffs’ prior business ventures, only underscores the weakness of the Complaint. Complaint at 4 (Jan. 29, 2024), MUR 8206 (We Deserve Better, Inc., et al.) (“Complaint”).

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campaign would have answered well before launching.”¹⁴ That the Krisiloffs spoke with the candidate is equally unremarkable. The Commission has never held that merely interacting with a candidate supports a finding that coordination occurred. Indeed, the conduct standard is crafted precisely to prevent sweeping such common interactions into the realm of prohibited conduct. Finally, even if the Krisiloffs offered their expertise in focus groups with the Campaign, Complainant offers no evidence that nonpublic information relating to focus groups was ever discussed with the Campaign, let alone used in the Committee’s ads. Moreover, as set forth above, the Committee conducted its own focus groups prior to creating and airing its ads. The Complaint vainly attempts to spin these scant allegations into evidence of violative conduct, asserting that the Committee’s ads “may have been informed by the private campaign discussions that the Krisiloffs had recently been partaking in.” But rank speculation is not a substitute for facts.¹⁵

Alternatively, Complainant invites the Commission to find reason to believe that a violation occurred based on the “former employee” prong of the coordination regulation, as set forth in 11 C.F.R. § 109.21(d)(5). It is well-settled that to meet the former employee standard, a communication must be paid for by a person, or by the employer of a person, who was an *employee or independent contractor* of the candidate who is clearly identified in the communication, or the candidate's authorized committee ... during the previous 120 days.¹⁶ While the regulation does not define the term “employee,” in promulgating 11 C.F.R. § 109.21, the Commission plainly stated that the term former “employee” *does not* apply to individuals who are “volunteers.”¹⁷

The Complaint also fails to draw any connection between the Krisiloffs’ volunteer activity and a specific ad it believes was coordinated. As its sole support, the complaint alleges that the

¹⁴ Tessa Stuart, *Did These ‘Tech Bros’ Break the Law Backing Biden’s Rival?*, ROLLING STONE, Jan. 18, 2024, <https://www.rollingstone.com/politics/politics-features/dean-phillips-biden-challenger-super-pac-sam-altman-1234949460>.

¹⁵ See [MUR 5576](#) (New Democrat Network), Factual and Legal Analysis at 5 n.7 (rejecting the Complainant’s claims that it “seems likely” that substantial discussion occurred, and that it was “not possible” the vendor was “not aware” of the campaign’s activities as insufficient to support a reason to believe recommendation); MUR 6358 (Jaime for Congress) [Factual and Legal Analysis](#) at 8-9, (finding no reason to believe where respondents given “Respondents’ specific denials, the speculative nature of the complaint, and the absence of any other information suggesting coordination”).

¹⁶ 11 CFR 109.21(d)(5)(i) (emphasis added).

¹⁷ [Coordinated and Independent Expenditures](#), 68 FR 421, 439 (Jan. 3, 2003); [MUR 7147](#) (Make America Number 1, *et al.*), First General Counsel’s Report at 20; See also [Coordinated and Independent Expenditures](#), 68 FR 421, 439 (Jan. 3, 2003) (explaining that “the Commission is not extending the scope of the “former employee” standard in its final rules to encompass volunteers....The Commission views the choice of the word “employee” in section 214(c)(3) as a significant indication of Congressional intent that the regulations be limited to individuals who were in some way employed by the candidate's campaign...either directly or as an independent contractor.”).

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PAC’s name, “We Deserve Better,” was a slogan message-tested by the Campaign and “[a]t least one of [the Committee’s] ads prominently featured the phrase ‘Medicare for All’ – a term that the campaign poll tested against other terms that refer to the issue of healthcare reform because Phillips was ‘sold on the merits but not on the branding.’” But the inclusion of these phrases in the Committee’s activities is hardly remarkable, let alone the basis for coordination.

The ad at issue — “America is Not Affordable” — was made after Rep. Phillips announced his support for H.R. 3421 in a press release posted on his campaign website. The press release uses the phrase “Medicare for All” no fewer than *thirty-five* times.¹⁸ Even if it could be established that the Krisiloffs discussed this phrase with Campaign representatives while volunteering for the Campaign, Commission regulations establish a safe harbor when information used in a communication was obtained from a publicly available source, including a candidate’s press releases and website.¹⁹ In addition, the phrase, “Medicare for All” has been used extensively by health care advocates and progressive candidates for years, including virtually the entire field of Democratic candidates in at least the last three election cycles.²⁰ It is nonsense to suggest that this phrase was the product of private conversations between first-time volunteers and the Campaign.

Finally, the assertion that the name of the Committee – We Deserve Better – “appear[s] to have [been] pulled . . . directly from campaign polling information” shows that the Complainant is grasping for a connection that does not exist. This slogan has been employed for decades to express dissatisfaction with the status quo, particularly in the field of politics.²¹ More to the point, it has no relevance to a claim of unlawful coordination.

¹⁸ Press Release, Dean 24, Inc., *Dean’s vision for a more Affordable America: MEDICARE FOR ALL* (Dec. 20, 2023), <https://www.dean24.com/platform/medicare-for-all>; See also Affidavit of Matt Krisiloff at ¶5.

¹⁹ See, e.g. Robert Draper, *How ‘Medicare for All’ Went Mainstream*, N.Y. TIMES (Aug. 27, 20219), <https://www.nytimes.com/2019/08/27/magazine/medicare-for-all-democrats.html>; *Medicare for All is a Meaningless Slogan*, THE ECONOMIST (Oct. 13, 2018), <https://www.economist.com/leaders/2018/10/13/medicare-for-all-is-a-meaningless-slogan>.

²⁰ 11 CFR 109.21(d)(3); *Coordinated Communications*, 71 FR 33,205 (June 8, 2002); see also [MUR 6277](#) (Kirkland for Congress), Statement of Reasons of Vice Chair Caroline C. Hunter and Comm’rs Donald F. McGahan and Matthew S. Petersen at 8 (“Furthermore, and perhaps most importantly, each of [the Respondent’s] communications ran after the [Campaign] had already put the phrase into public use... This, along with the common and generic nature of the words in question, nullifies the case for determining that the use of similar language in some of the communications run by [the Respondent] and the [Campaign] provides sufficient evidence of coordination to justify a reason to believe...”).

²¹ See e.g., Governor Mitt Romney, Speech Accepting the Republican Presidential Nomination (Aug. 30, 2012) (“Now is the moment when we can stand up and say, ‘I’m an American. I make my destiny. And we deserve better! My children deserve better! My family deserves better. My country deserves better!’”). The Committee is also not the first to use “We Deserve Better” as its name. See Registration of “We Deserve Better PAC, Inc.,” FEC, <https://www.fec.gov/data/committees/?q=C00562819> (terminated).

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The argument that the themes of dissatisfaction with the incumbent and universal healthcare were discussed by the Krisiloffs and the Campaign is wholly unavailing. The mere fact that communications made by a campaign and a third party present similar themes do not give rise to a finding that the entities engaged in coordination²² and are further proof of the Complaint's baseless speculation.

III. Conclusion

Based on the foregoing, we respectfully request the Commission find no reason to believe that the Committee engaged in unlawful coordination with the Rep. Dean Phillips, Dean 24 or any of their representatives.

Respectfully submitted,



Meredith K. McCoy
Counsel for We Deserve Better, Inc.

²² Cf. [MUR 6613](#) (Prosperity for Michigan) Factual and Legal Analysis (dismissing allegations of coordination based solely on thematic similarities in matter in which respondents denied the advertisement was coordinated); [MUR 5963](#) (Club for Growth PAC) Factual and Legal Analysis (same).

ATTACHMENT A
Affidavit of Matt Krisiloff

I, Matt Krisiloff, hereby declare the following:

1. My name is Matt Krisiloff. I am of legal age and competent to testify in this matter.
2. In October 2023, I volunteered my technology expertise to Dean 24, Inc. (the “Campaign”). While volunteering, I spoke with the candidate and senior Campaign leadership including at times through Signal, but I was never an employee, or independent contractor of the Campaign, or worked in any official capacity as a representative for the Campaign. I did not receive any compensation for my volunteer services or have an email associated with the Campaign.
3. In November 2023, I stopped volunteering for the Campaign. Independent of the Campaign, I decided to launch We Deserve Better, Inc. (the “Committee”), an independent-expenditure only political committee, filing the FEC Form 1 on December 1, 2023.
4. None of the Committee’s communications were coordinated with the Campaign, Rep. Phillips, or any of their agents. I have not used material nonpublic information obtained from the Campaign, including any information regarding the Campaign’s plans, projects, activities, or needs, to create, produce, or disseminate any Committee communications. Prior to making any expenditures, the Committee conducted several of its own focus groups to inform Committee communications strategies and later conducted its own polling. These costs are reported on the Committee’s Year-End 2023 Report.
5. “America is Not Affordable” was an advertisement the Committee made *after* Rep. Phillips publicly announced his support for the “Medicare for All Act” (H.R. 3421) in a press release posted on his public campaign website. I had no substantial discussions with the Campaign regarding the creation, production, or distribution of this advertisement, and the Campaign did not request, suggest, assent to the Committee’s advertisement, or have material involvement in any aspect of the communication, including with respect to the communication’s content, intended audience, means or mode of communication, specific media outlet, timing or frequency, size, prominence, or duration. Further, no nonpublic information obtained from the Campaign was used in the creation, production, or distribution of this advertisement.

I affirm under the penalties of perjury this 27th day of March 2024 that the contents of the foregoing are true to the best of my knowledge, information, and belief.



Matt Krisiloff

ATTACHMENT B
Affidavit of Scott Krisiloff

I, Scott Krisiloff, hereby declare the following:

1. My name is Scott Krisiloff. I am of legal age and competent to testify in this matter.
2. In October 2023, I volunteered my technology expertise to Dean 24, Inc. (the “Campaign”). While volunteering, I spoke with the candidate and senior Campaign leadership, including at times through Signal, but I was never an employee, or independent contractor of the Campaign, or worked in any official capacity as a representative for the Campaign. I did not receive any compensation for my volunteer services or have an email associated with the Campaign.
3. In November 2023, I stopped volunteering for the Campaign. I served as a director of We Deserve Better, Inc. (the “Committee”), an independent-expenditure only political committee from its launch on December 1, 2023, but resigned that position on January 5, 2024. After that time, I continued to volunteer for the Committee.
4. None of the Committee’s communications were coordinated with the Campaign, Rep. Phillips or any of their agents. I have not used material nonpublic information obtained from the Campaign, including any information regarding the Campaign’s plans, projects, activities, or needs, to create, produce, or disseminate Committee communications. Prior to making any expenditures, the Committee conducted several of its own focus groups to inform Committee communications strategies and later conducted its own polling. These costs are reported on the Committee’s Year-End 2023 Report.
5. “America is Not Affordable” was an advertisement the Committee made *after* Rep. Phillips publicly announced his support for the “Medicare for All Act” (H.R. 3421) in a press release posted on his public campaign website. I had no substantial discussions with the Campaign regarding the creation, production, or distribution of this advertisement, and the Campaign did not request, suggest, assent to the Committee’s advertisement, or have material involvement in any aspect of the communication, including with respect to the communication’s content, intended audience, means or mode of communication, specific media outlet, timing or frequency, size, prominence, or duration. Further, no nonpublic information obtained from the Campaign was used in the creation, production, or distribution of this advertisement.

I affirm under the penalties of perjury this 27th day of March 2024 that the contents of the foregoing are true to the best of my knowledge, information, and belief.

Scott Krisiloff

Scott Krisiloff