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January 8, 2007

VIA FACSIMILE AND MAIL 202-219-3923

Jeff S. Jordan
General Counsel's Office
Federal Elections Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 5879
Harry Mitchell for Congress and John Bebbling, as treasurer

Dear Mr. Jordan:

This letter serves as the response from the Harry Mitchell for Congress campaign and its treasurer, John Bebbling (collectively the "campaign"), to the complaint filed by JD Hayworth for Congress in the above referenced matter.

The complaint submitted by JD Hayworth for Congress alleges that the campaign and the Democratic Congressional Campaign Committee ("DCCC") violated the Federal Election Campaign Act by coordinating in the production and dissemination of public communications. The complaint, however, should be dismissed because the campaign created the ad in question entirely independently of the DCCC.

Statement of Facts

Just eleven days before the November General Election, Phoenix's largest newspaper came out with its endorsement of the campaign. The endorsement was a surprise to everyone because, as the *Arizona Republic* Editorial Board said itself, "*The Arizona Republic* has recommended Hayworth's election each of the past six times he has run for Congress. . . . Not this time." [Editorial attached.] That political bombshell was an obvious choice for a television ad. The campaign jumped on the opportunity to show

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voters that even a long-time endorser of JD Hayworth could no longer support him in the upcoming election.¹

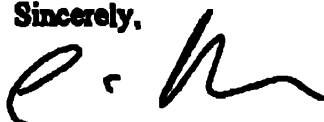
The campaign worked with its media consultants at Adelstein Liston to fully utilize the *Arizona Republic's* endorsement in a television ad and was completely unaware that the DCCC had also taken notice of the newspaper's statements, including referring to the incumbent congressman as a "bully," and was preparing its own ad. The campaign did not learn of the DCCC's ad until the campaign's staff was watching television and saw the ad come on the air.

Discussion

It is merely a coincidence – and not coordination – that the campaign and the DCCC ran somewhat similar ads based on the unexpected and strongly worded newspaper endorsement. There was no coordination because there was no communication between the campaign staff and staff members of the DCCC's independent expenditure program. See 11 C.F.R. § 109(d)(1)-(3). Furthermore, the campaign did not use the same vendor as the DCCC, see *id.* § (4), and no former employee or contractor of the campaign was involved in the DCCC's ad, see *id.* § (5). The campaign's ad was prepared and ready for dissemination before the campaign staff saw the DCCC ad. See *id.* § (6). The campaign had no involvement in the DCCC's ad and was completely unaware that the DCCC was creating an ad supporting the campaign. Accordingly, the campaign did not coordinate with the DCCC in the creation or dissemination of the ad in question, and the complaint should be dismissed.

Please contact me if I can offer any further clarification. Thank you for your assistance in this matter.

Sincerely,



Charles A. Blanchard

Enclosures

¹ All factual statements in this letter are supported by the attached Affidavit of Kelly C. Ward.

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Today | This Week

Mitchell over the bully

Oct. 27, 2008 12:00 AM

The biggest problem in Congress is extreme partisanship, and Rep. J.D. Heyworth, R-Ariz., is among Capitol Hill's worst offenders.

Heyworth always has been an enthusiast for rough-and-tumble politics.

And there's a place for that. The outraged-parisien routine works pretty well on Sean Hannity's radio show or the Fox News Channel, where Hayworth often does yeoman's work blasting anybody who doesn't agree with him. It works poorly, though, in discussions or debates - forums in which even small measures of civility can go a long way.

And that so-called approach doesn't help get anything done.

It is high time to hit this matter squarely: J. D. Hayworth is a bully. He may not yet have reached the point where you can't take him anywhere, but you certainly can't take him to a calm, civil discussion.

The Arizona Republic has recommended Hayworth's election each of the past six times he has run for Congress. In those editorials, we noted his characteristic bluster and needlessly confrontational attitude but also praised his strong work ethic and dedication to serving his district's constituents.

Not this time. This time, we're going to recommend his opponent, Harry Mitchell.

Mitchell, a Democrat, has served this community for more than three decades, as a city councilman and long-time mayor of Tempe and most recently as state senator. He is a consensus-builder, respected by community leaders and supported by high-profile Republicans in this race.

It isn't The Republic that has changed since 1984, when Hayworth was first elected to Congress. It's Hayworth. He no longer reflects the 5th Congressional District, which, while solidly Republican, has a progressive and moderate complexion. The district includes Tempe, Scottsdale, Ahwatukee, Fountain Hills and parts of the East Valley.

During this past term, Hayworth has devolved from a windy and sometimes cartoonish politician into an angry demagogue who has shamelessly and divinely exploited the immigration issue, arguably the No. 1 concern of Arizonans. Hayworth and Joe Eula, his chief of staff, rushed out a quickie border-security book, *Whatever It Takes*, and the congressman transformed himself into Mr. Tough Guy on illegal immigration, reliably appearing on the cable-TV news shows as a spokesman for the fire-breathing hardliners.

Meanwhile, other Republicans in Arizona's House delegation - most notably Jeff Flake and Jim Kolbe - have been positively statesmanlike as they pursued a comprehensive approach to dealing with this complex problem. Hayworth and like-minded allies did manage to monkey-wrench this year's hope for realistic immigration reform. Some accomplishments:

As wrongheaded as Hayworth's "enforcement first" mantra is, Americans still can disagree on public-policy strategies toward immigration and other topics. It is Hayworth's increasingly combative demeanor and high-octane partisanship that is

more troubling.

Hayworth has been in Washington for more than a decade and by now should have demonstrated some growth in office. Take a look at Rep. John Shadegg, R-Ariz. A colleague who joined the House at the same time, Shadegg is one of the conservative caucus' most respected members and a leading contender for a GOP leadership position if the Democrats regain the majority.

And what if the Democrats do regain control? Hayworth has never served in a Democrat-controlled House. If that happens, his partisan streak likely will become even more pronounced, if that's possible. The 5th District needs a representative who is eager to work with others, not an unrepentant partisan.

Hayworth's bombastic rhetoric and obnoxious behavior have gotten him into his toughest political fight yet.

In a meeting last week with *The Republic's* Editorial Board, Hayworth repeatedly positioned himself like a smirking hawk, inches from the face of his "prey," Mitchell, while the Democrat responded to questions. For that overbearing attempt at intimidation, Hayworth deserves a sound rap on the knuckles.

For his part, Mitchell may not be the political saint idolized by some of his loyal boosters. Nobody is that perfect. Still, it's hard not to be impressed by his public-service resume. He was Tempe mayor from 1978 to 1994 (and a council member for eight years before that). He oversaw the revitalization of Mill Avenue, which had become somewhat seedy by the 1970s.

Mitchell was elected to the Arizona Senate in 1998 and rose to the leadership rank of assistant minority leader. He offers a better future.

If elected, we hope Mitchell flashes back to his days as mayor, when he had to constantly work with competing interests to get results. He will need those skills in Washington where his constituents will demand that he reach across the aisle with other centrists.

The 5th Congressional District needs a bridge-builder, not a bomb-thrower.

The Republic recommends the election of Harry Mitchell.

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