



LEAGUE OF CONSERVATION VOTERS

March 19, 2008

Jeff S. Jordan, Supervisory Attorney  
Complaints Examination & Legal Administration  
Federal Election Commission  
Washington, D.C. 20463

Re: MUR 5970

Dear Mr. Jordan:

Thank you for granting the League of Conservation Voters ("LCV") an extension through March 20 of the fifteen-day response period. This letter is LCV's response to your February 5 notification of a complaint filed with the Federal Election Commission ("FEC") resulting in the above MUR. For the reasons stated below and based on the substantive weakness of the complaint itself, the FEC should take no further action against LCV under this MUR.

**No Evidence of a Violation: Baseless and Unsupported Allegations**

It is difficult for LCV to respond to this complaint because it does not make clear allegations of either statutory or regulatory violations or of any facts, which, if proven true, would constitute a violation of the Federal Election Campaign Act. *See Statement of Reasons*, MUR 4960 (December 2000) (summary dismissal during 15 day response period).

Section 111.4(d)(2) - (4) of 11 C.F.R. clearly states that statements based on information and belief, such as Ms. Sherwood's complaint, should include (1) an identification of the source of information which gives rise to the belief in the truth of the allegations, (2) a clear and concise recitation of the facts which describe a violation of statute or regulation and (3) documentation supporting the facts alleged if available or known to the complainant. These requirements exist in order to help prevent the FEC from devoting resources to baseless claims and to protect the public from costly, harassing charges.

The claimant offers none of these suggested items to support her allegations. Complainant's sole basis for coordination is: (1) Ms. Edwards is Executive Director of the Arca Foundation, which has given grants to LCV<sup>1</sup>, and (2) Ms. Edwards is a board member of LCV. Therefore, Ms. Edwards exerted influence and coordination must have occurred. Without proffering sufficient specific facts, allegations and unsupported conclusions like these do not raise a "reason to believe" a violation occurred and should not be investigated by the FEC. *See Statement of Reasons*, MUR 4960 (December 2000) (on summary dismissal). In fact, such complaints should be dismissed outright. *Id.*

<sup>1</sup> Ms. Sherwood's basis for her "influence" claim is premised on the erroneous statement that LCV received \$100,000 in grants from The Arca Foundation. Ms. Sherwood's own supporting exhibit, however, clearly names The League of Conservation Voters *Education Fund* as the grant recipient - not LCV.

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The complainant produces no example of an event, no document, no statement of fact, and no explanation of how the alleged coordination occurred. There is no description of collusion, complicity, participation, common vendors, consent or other "acting in concert" scenario between the LCV and the Edwards' campaigns. "Unwarranted legal conclusions from asserted facts . . . or mere speculation . . . will not be accepted as true." *Statement of Reasons*, MUR 4960 (December 2000).

### **Speculation of Coordination**

#### **Arca Foundation Grants**

LCV's IEC was conducted well within the limits of the law. The Arca Foundation's grantor-grantee relationship with the League of Conservation Voters *Education Fund*, an entirely separate organization from LCV, *predates* Ms. Edwards' tenure as Executive Director of Arca by several years.<sup>2</sup> These grants funded charitable activities run by the Education Fund. Ms. Sherwood provides no evidence to the contrary nor any explanation as to how grants to an entirely separate organization resulted in coordination between LCV and the Edwards campaign.

#### **Leave of Absence from LCV Board**

With respect to Donna Edwards' directorship of LCV, Donna Edwards asked for and was immediately granted a leave of absence from LCV's board as soon as she filed for her candidacy. As a result, from April 2007, Ms. Edwards has been excluded from all board, program and other LCV business. Immediately upon deciding to run an IEC, board and staff were given specific instructions and reminders on firewall procedures. Those included but were not limited to no communication with Ms. Edwards, any of her campaign staff or volunteers; no unauthorized, unapproved comments to press; and no unauthorized volunteer efforts for her campaign. In sum, LCV ex-communicated Ms. Edwards from LCV's programs and governance – to a greater degree of exclusion than it would for other candidates considering the circumstances.

#### **No Coordination: All Activities Properly Reported**

With no statute or regulation cited in the complaint, and with no facts, which, if proven true, would constitute a violation of FECA cited, LCV must unfortunately submit this letter requesting no further action by speculating on which statutory section(s) Ms. Sherwood's alleged violations rest. Ostensibly, the complaint implies coordination by LCV and the Donna Edwards campaign beyond the limitations of the Act as well as unreported contributions by LCV to the Edwards campaign.

LCV's independent expenditure campaign in no way coordinated with or otherwise acted in concert with Donna Edwards' campaign at any time. Not one of the complaint's explanations or documents indicate otherwise. As noted above, LCV implemented an aggressive firewall around staff and board from very early on to protect the independence of its campaign. All of its independent expenditures were reported as such, and all monetary and any in-kind

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<sup>2</sup> The Education Fund has applied for and received grants from The Arca Foundation since 1999 - Ms. Edwards began working at Arca in 2002.

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contributions to the Edwards campaign were within legal limits and also properly reported. LCV acted wholly within the limits of the law while conducting its independent expenditure campaign ("IEC") for Donna Edwards. The complaint offers no evidence or explanation to the contrary.

### **Conclusion**

The complaint was filed by Lori Sherwood, the campaign manager for Rep. Al Wynn, of Maryland's 4<sup>th</sup> District.

At the time of the filing and for the second consecutive election cycle, Rep. Wynn was in a very tight race to defend his seat against a primary election challenger, Ms. Donna Edwards. Mr. Wynn's campaign made the filing of this complaint a very public account, including paying for well-publicized press release.

The timing of filing this complaint – two weeks prior to the primary election on February 12 – and the failure to include even a single document or explanation to help corroborate such a damaging accusation as illegal coordination, is circumspect. LCV acted wholly within the spirit and letter of campaign finance laws. LCV has serious questions regarding whether this complaint was filed based on a true belief that violations occurred, or whether, as LCV believes, Ms. Sherwood filed this complaint not as an "individual", but as part of a strategy in her capacity as campaign manager for Mr. Wynn who was narrowly trailing in polls.

LCV's activities were not coordinated. The claimant produced no evidence or explanation as to why she believes they were, no evidence of excess contributions and no evidence of failure to report expenses or contributions. As detailed throughout this letter, LCV's IEC was conducted completely within the bounds of all campaign finance laws, including maintaining complete independence of the candidate's campaign; all activities were correctly and fully reported to the FEC. Due to these facts, the standard for summary dismissal of MUR 4960 is met and this complaint should be dismissed.

Sincerely,



Barbara G. McIntosh  
General Counsel

Cc: Gene Karpinski, President, LCV

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