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December 17, 2014

**VIA ELECTRONIC MAIL**

Federal Election Commission  
Office of Complaints Examination  
and Legal Administration  
Attn: Frankie Hampton, Paralegal  
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CELA

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COMMISSION

Re: MUR 6904

Cat Ping for Congress (the "Committee"), through counsel, provides the following response to the complaint filed by Lauren Ganapini ("Complainant") and designated by the Federal Election Commission (the "Commission") as MUR 6904. The Committee respectfully requests that the Commission dismiss this complaint due to the Complainant's failure to state facts that support a finding of any violation of the Federal Election Campaign Act of 1971, as amended (the "Act"), or Commission Regulations. Even if the Commission were to determine that a violation has occurred, this is the type of matter that the Commission should exercise its prosecutorial discretion under *Heckler v. Chaney*, 470 U.S. 821 (1985) to avoid wasting its valuable time and resources.

**Allegation 1: Website Disclaimer Contained Wrong Name**

The Committee's website disclaimer states:

*This website is approved and paid for by the Cat Ping for Congress Committee 2014.*

The Complainant alleges that the Committee violated 52 U.S.C. § 30120 because this disclaimer used the name "Cat Ping for Congress Committee 2014" rather than "Cat Ping for Congress." This allegation is absurd because the website is plainly that of Ms. Ping's campaign. The fact that the website disclaimer used the name "Cat Ping for Congress Committee 2014" and not "Cat Ping for Congress" in no way: (1) deprives the reader of

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information about the source or sponsor of the website; (2) misleads the reader; or (3) creates confusion. As such, this minor variation on the Committee's name is not sufficient to support a finding that the Committee violated the disclaimer requirements of the Act and or Commission Regulations.

**Allegation 2: Website Disclaimer Not Contained in Printed Box**

The Complainant alleges that the Committee violated 52 U.S.C. § 30120 because the disclaimer is not contained in a printed box. This allegation is baseless because the "contained in a printed box" requirement explicitly applies to printed communications, not to websites.

To be clear, 11 C.F.R. § 110.11(a) applies to "all Internet websites of political committees available to the general public." In turn, 11 C.F.R. § 110.11(b) states:

*A disclaimer required by paragraph (a) of this section must contain the following information:*

*(1) If the communication, including any solicitation, is paid for and authorized by a candidate, an authorized committee of a candidate, or an agent of either of the foregoing, the disclaimer must clearly state that the communication has been paid for by the authorized political committee;*

*(2) If the communication, including any solicitation, is authorized by a candidate, an authorized committee of a candidate, or an agent of either of the foregoing, but is paid for by any other person, the disclaimer must clearly state that the communication is paid for by such other person and is authorized by such candidate, authorized committee, or agent; or*

*(3) If the communication, including any solicitation, is not authorized by a candidate, authorized committee of a candidate, or an agent of either of the foregoing, the disclaimer must clearly state the full name and permanent street address, telephone number, or World Wide Web address of the person who paid for the communication, and that the communication is not authorized by any candidate or candidate's committee.*

Further, 11 C.F.R. § 110.11(c)(1) states:

*... A disclaimer required by paragraph (a) of this section must be presented in a clear and conspicuous manner, to give the reader, observer, or listener adequate notice of the identity of the person or political committee that paid for and, where required, that authorized the communication. A disclaimer is not clear and conspicuous if it is difficult to read or hear, or if the placement is easily overlooked.*

The disclaimer included on the Committee's website clearly satisfies the disclaimer requirements specified in 11 C.F.R. §§ 110.11(b)-(c). In contrast, the Complainant erroneously alleges that the disclaimer requirements contained in 11 C.F.R. § 110.11(c)(2) apply to the Committee's website, when in fact those requirements apply only to printed communications. Therefore, the Committee's website disclaimer was not required to be "contained in a printed box set apart from the other contents of the communication" as alleged by the Complainant.

### **Allegation 3: No "Paid For By" Disclaimer on Online Solicitation Page**

The Complainant alleges that the Committee "violated 52 U.S.C. § 30120 because the Committee's "solicitation page [on the website] does not include any "paid for by" disclaimer notice. As specified above, the Committee already satisfied the applicable disclaimer requirements for the website, and there is no requirement that the Committee duplicate the disclaimer on every single page of the website.

### **Allegation 4: Failing to Exercise Best Efforts**

The Complainant alleges that the Committee violated 52 U.S.C. § 30102(i) because the Committee's "solicitation page does not include the required 'best efforts' statement required by the Act and FEC regulations." The Complainant, however, fails to identify a single contributor record in which the Committee failed to properly disclose the information specified in 11 C.F.R. § 100.12. In fact, the Complainant has not provided evidence that the Committee received any online contributions from this solicitation page, much less online contributions that were required to be itemized.

Rather, the Committee's records demonstrate that only two donors were required to be itemized in accordance with 11 C.F.R. § 104.3(a)(4), and the Committee disclosed those contributors' first names, last names, mailing addresses, occupations, and the name of their employers in accordance with 11 C.F.R. §§ 100.12, 104.3(a)(4), and 104.8(a). Therefore, the Commission should presume that the Committee used "best efforts" to obtain the required information.

### **Allegation 5: Expenditures by Concerned 7th District Neighbors**

The Committee had no prior knowledge of Concerned 7th District Neighbors's planned expenditure and did not authorize any expenditures by this group, including the newspaper advertisement referenced in the complaint. Accordingly, the Committee was not required to report an in-kind contribution from this organization, and to speculate or imply otherwise is wholly inaccurate and without any merit. Therefore, this allegation cannot form the basis for a complaint.

The Committee does not have specific knowledge of the cost incurred for the newspaper advertisement referenced in the complaint; however, it is worth noting that the Committee called the *Franklin Township Informer* on December 17, 2014, and it was quoted \$60.00 to

run a 4" x 5" advertisement (which is comparable to the size of the newspaper advertisement referenced in the complaint) in their newspaper. Based upon this knowledge, it seems highly unlikely that the cost of the newspaper advertisement referenced in the complaint cost more than \$250.00, which is the reporting threshold for independent expenditures specified in 11 C.F.R. § 109.10(b).

### Conclusion

The Complainant fails to allege facts to support a finding that the Committee violated the Act or Commission Regulations. Even if the Commission were to determine that a violation occurred, the Commission has broad discretion under *Heckler*, 470 U.S. 821 to determine how to proceed with respect to complaints or referrals. The Commission has exercised its prosecutorial discretion under *Heckler* to dismiss matters that do not merit the additional expenditure of Commission resources, and this exactly the type of matter where the amounts in question are insubstantial. Therefore, in consideration of the Commission's valuable time and resources, as well as the specific the facts and allegations at issue in this matter, we respectfully ask the Commission to exercise its prosecutorial discretion and dismiss this matter in its entirety.

If you require additional information or if I can be of any assistance, then I can be reached at (512) 354-1783.

Sincerely,



Chris K. Gober  
Counsel to Cat Ping for Congress