



**HOLTZMAN VOGEL JOSEFIAK TORCHINSKY PLLC**  
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by Donna Rawls  
Date: 2018.07.03  
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July 2, 2018

Jeff S. Jordon  
Assistant General Counsel  
Office of Complaints Examination  
& Legal Administration  
Federal Election Commission  
1050 First Street, NE  
Washington, DC 20463

***Re: Response of Anthony Gonzalez for Congress in MUR 7378***

Dear Mr. Jordon:

This Response is submitted by the undersigned counsel on behalf of Anthony Gonzalez for Congress ("Respondent") in response to the May 14, 2018, complaint from Hagan for Congress, designated as Matter Under Review 7378 ("Complaint"). The Complaint makes an incoherent and uninformed allegation of illegal coordination between Respondent and the Conservative Leadership Now PAC for wholly independent mailers disseminated by each respective party. For the reasons set forth below, the Commission should find no reason to believe that the Respondent violated the Federal Election Campaign Act of 1971, as amended (the "Act"), or any Commission regulation ("Regulations"). Accordingly, the Complaint warrants no further consideration and should be promptly dismissed.

Anthony Gonzalez for Congress (the "Campaign") is the authorized campaign committee of Anthony Gonzalez, a candidate for the U.S. House of Representatives in Ohio's 16<sup>th</sup> Congressional District. The Campaign issued a mailer to targeted voters in the district opposing Gonzalez's opponent, Christina Hagan. The piece was independently generated and paid for by the Campaign. Exhibit I. Conservative Leadership Now PAC (the "PAC"), a registered Super PAC supporting Republican candidates across the country, also disseminated a mail piece opposing Christina Hagan. Their mailer was created without any communication with the Campaign. Each of these communications was distinct from the other, utilizing different photos, layouts and verbiage. *See* Complaint at 2, 3.

Under the Act, communications or other expenditures coordinated with a candidate are treated as contributions to that candidate. 52 U.S.C. § 30116(a)(7)(B); Advisory Opinion 2016-21 (Great America PAC). The Regulations set forth a three-part test to determine whether coordination exists, which is comprised of 1) payment; 2) content; and 3) conduct. 11 C.F.R. § 109.21(a). Under this test, a communication is "coordinated" when it is paid for by someone

other than the candidate, and satisfies one of the criteria in *each* the content and conduct prongs of § 109.21(a). If, and only if, a communication meets each element of the three-pronged test, it is deemed to be coordinated and an in-kind contribution to the benefitting candidate.

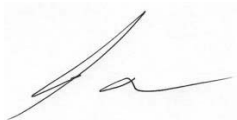
The Complaint alleges illegal coordination between the Campaign and the PAC based on some vague similarities in mailers disseminated by each entity. It fails, however, to provide evidence of any such coordination, or to demonstrate how that evidence, if it did exist, would implicate the Regulations. A brief analysis of the facts in light of the law clearly shows that the Complaint is baseless, amounting to nothing more than an attempted smear tactic in the face of opposition.

First, the Complainant not only fails to even assert that payment for the Campaign's mail piece was provided by the PAC, but blatantly overlooks the fact that the Campaign hired its own vendor to develop the mailer, and was invoiced and provided payment accordingly. Exhibit I. Because the payment prong of the test cannot be met, no coordination occurred and the inquiry should thus be concluded.

Second, even overlooking the failure to meet the payment prong as discussed above, mere similarities in content do not coordination make. Although the two mailers may appear to have vague parallels, they alone are insufficient for purposes of the content prong at § 109.21(c). Similarly, especially absent additional facts, such general thematic consistencies do not themselves indicate that the Campaign communicated any of its plans, projects, activities or needs to the PAC, or otherwise satisfied the conduct prong at § 109.21(d). As Complainant is certainly aware, the research and record of a particular candidate often develops into its own consistent narrative among the opposition. This is not necessarily indicative of cooperation among the various entities involved in a particular race, but rather a commonly identified message that has been proven to elicit a certain reaction in voters.

Based on the foregoing and Complainant's outright failure to provide any evidence supporting this outlandish allegation, it is clear that Respondent in no way illegally coordinated with the PAC to produce the mail piece at issue, nor did any impermissible in-kind contribution result. Because the Complaint is wholly devoid of merit and fails to withstand scrutiny, we urge the Commission to promptly dismiss the matter without further action.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jason Torchinsky', with a stylized flourish at the end.

Jason Torchinsky  
Counsel to Anthony Gonzalez for Congress

**EXHIBIT I**

Majority Strategies, LLC  
 12854 Kenan Drive, Suite 145  
 Jacksonville, FL 32258

**Invoice**

BILL TO
Anthony Gonzalez OH

INVOICE #	DATE	TOTAL DUE	DUE DATE	TERMS	ENCLOSED
2018-0877	04/19/2018	\$19,867.71	04/19/2018	Due on receipt	

**STRATEGIST**  
 Brett Buerck

ACTIVITY	QTY	RATE	AMOUNT
<b>Production &amp; Delivery</b> Gonzalez_OH_attack_Hagan_fraud	39,342	0.505	19,867.71

BALANCE DUE

**\$19,867.71**

Please ACH or Wire funds to:

Account #: 3111046169  
 Routing #: 111017979  
 Texas Capital Bank, N.A.  
 Dallas, TX

\*\*\*PLEASE REFERENCE INVOICE NUMBER(S)\*\*\*

Or send payment to our office via FedEx utilizing our account: 2135-4351-2

12854 Kenan Drive, Suite 145  
 Jacksonville, Florida 32258