

DCCC Files FEC Complaint Against NRCC and Freedom's Watch

Dems charge GOP groups with collusion [Politico]:

House Democrats will file a complaint with the Federal Election Commission on Wednesday charging that the National Republican Congressional Committee and the conservative organization Freedom's Watch are illegally coordinating campaign activities.

What do you think?



UPDATE: The DCCC just released this statement:

The DCCC filed a complaint today with the Federal Election Commission (FEC) against Freedom's Watch and the National Republican Congressional Committee (NRCC). Freedom's Watch, a shadowy outside group, and the NRCC illegally coordinated their political attack ads against Democratic candidate Don Cazayoux (LA-06).

The Freedom's Watch and the NRCC's television ads are stunningly similar. A little digging revealed why -- electronic identifiers show that the NRCC wrote the Freedom's Watch ad.

"The DCCC is filing this FEC complaint to hold Freedom's Watch and the NRCC accountable for their illegal coordination that is being used to mislead voters about Democratic candidates' positions," said Brian Wolff, Executive Director of the Democratic Congressional Campaign Committee. "Tom Cole may have gotten his wish when Freedom's Watch came to the NRCC's rescue, but breaking the law will be the NRCC's worst nightmare. Freedom's Watch own Word document clearly shows that the script for their ad came from the NRCC -- that's clearly illegal."

Freedom's Watch is operating as the cash-strapped NRCC's de facto independent expenditure campaign:

The script that Freedom's Watch provided television stations running their ads included electronic identifiers indicating that the NRCC created the Word document.

The NRCC's ad buy in LA-06 ended the day the nearly identical Freedom's Watch ad began airing. The NRCC ad ran from 4/10/08 through 4/16/08. The Freedom's Watch ad began airing as the NRCC went dark -- 4/16/08 and is scheduled to run through the special election on 5/03/08.

The message, images, and citations in both the Freedom's Watch ad and NRCC ad are nearly identical. See for yourself -- click [here](#) to see images of the ads side by side.

Freedom's Watch is being run by Carl Forti, a longtime NRCC veteran who was responsible for the NRCC's independent expenditure campaigns and communications for nearly a decade. [Washington Post, 3/30/08] This is the same Forti who's responsible for attacks that led Republican Members and Republican candidates to call the NRCC "a rogue attack shop," responsible for "smears," "over-the-top accusations," "demonstrably false" and "misleading" attacks and "political mudslinging." [Boston Globe, 3/04/07]

For the first time in memory, NRCC Chairman Tom Cole welcomed the participation of Freedom's Watch and other outside groups like it in House campaigns, saying "We hope we see them in political races all across the board." [Washington Post, 3/30/08]

The text of the FEC complaint follows:

Thomasenia Duncan, Esq.
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Dear Ms. Duncan:

This complaint alleges violations of the Federal Election Campaign Act of 1971, as amended ("FECA" or the "Act"), 2 U.S.C. §§ 431 et seq. and related regulations of the Federal Election Commission ("FEC" or the "Commission"), 11 C.F.R. §§ 100.1 et seq. by Freedom's Watch and the National Republican Congressional Committee ("NRCC").

Freedom's Watch purports to be an independent, nonprofit social welfare organization. In fact, it exists to support Republican candidates for Congress. Moreover, it appears to be coordinating its ads with the Republican Party. It provided television stations in Louisiana with an ad script attacking a Democratic House candidate -- but with metadata indicating NRCC authorship. The Commission should begin an immediate investigation.

Facing a severe fundraising disadvantage, allegations of embezzlement, and the remains of a huge debt from the 2006 election cycle, the NRCC has benefited during the current election cycle from the unregulated spending of a group called Freedom's Watch. The group brags that it will spend as much as \$250 million during 2008. See Paul Kane and Jonathan Weisman, A Conservative Answer to MoveOn, Wash. Post, Jan. 20, 2008, at A5.

Purporting to promote the social welfare, Freedom's Watch instead has played Santa Claus to Republican House candidates in special elections. Commission records show that it spent approximately \$80,000 on ads attacking Robin Weirauch, the Democratic candidate in the December 11, 2007, special election in Ohio's 5th District. On information and belief, Freedom's Watch is now running \$120,000 worth of ads attacking Democratic House candidate Don Cazayoux in the May 3, 2008, special election in Louisiana's 6th District.

The head of Freedom's Watch is Carl Forti. Previously a longtime veteran of the NRCC, Forti reportedly ran the NRCC's independent expenditure program during the 2006 cycle while serving also as its communications director. He left the NRCC to work on Mitt Romney's presidential campaign, and then joined Freedom's Watch in March 2008.

When it went on the air in Louisiana, Freedom's Watch emailed local television stations a copy of the script of the ad it proposed to run. This is a common practice among political ad sponsors. Not so common, however, were the indicia of political party coordination that were contained in the electronic file that Freedom's Watch sent to the stations.

The script that Freedom's Watch sent the stations was in Microsoft Word format. Like all Word documents, it contained metadata with information about who wrote it, and when it had been modified. If one were to open the script, click on the "File" menu, click on "Properties," and then click on "Summary," one would see "NRCC" in the "Title" field, and "Valued Sony Customer" as "Author." See Exhibit A. If one were to click "File," "Properties," and then "Statistics," one would see that the document had been last modified by "cforti.

On information and belief, the "Title" field in Word is often used by companies to identify itself as the entity responsible for the creation of a document. It is impossible to know from the available facts the exact nature of the relationship between the NRCC and the Freedom's Watch script. However, any number of scenarios are consistent with the presence of "NRCC" in the metadata of the script. The NRCC may have created the script and sent it to Freedom's Watch. Freedom's Watch may have created the script using a file or computer provided by the NRCC. In any event, the metadata tend to show that the NRCC was involved in some way in preparing the ad.

Political party committees cannot coordinate with outside groups on ads that refer to federal candidates within 90 days of an election. See 11 C.F.R. § 109.21. Coordination occurs if the party requested or suggested the ad; if the party was materially involved in decisions about it; if the party and the sponsor had substantial discussions in which information material to the ad was conveyed; or if a former party employee, former party consultant or common vendor used party information in producing the ad for the sponsor. See *id.* § 109.21(d).

The presence of the NRCC metadata in the Freedom's Watch script is *prima facie* evidence of coordination. It shows that the NRCC was involved somehow in the very content of the ad. That Freedom's Watch is run by a former senior NRCC employee, and has spent lavishly in House races while the NRCC's budget is stretched thin, shows the motive and opportunity for coordination.

Thus, we call upon the Commission to conduct an immediate and complete investigation to determine just how the NRCC came to be involved in this ad, and to determine the nature of the relationship between the party committee and the shadowy outside group that does its bidding. The Commission should seek injunctive relief and the highest penalties allowed by law.

Respectfully submitted,

Brian Wolff
Executive Director
Democratic Congressional Campaign Committee



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