

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

CITIZENS FOR RESPONSIBILITY  
AND ETHICS IN WASHINGTON, *et al.*,

Plaintiffs,

V.

FEDERAL ELECTION COMMISSION

Defendant.

Civil Action No. 19-2753

**PLAINTIFFS' MOTION FOR DEFAULT JUDGMENT AGAINST  
DEFENDANT FEDERAL ELECTION COMMISSION**

Plaintiffs Citizens for Responsibility and Ethics in Washington (“CREW”) and Noah Bookbinder, pursuant to Rule 55(b) of the Federal Rules of Civil Procedure, respectfully move for the entry of default judgment against defendant Federal Election Commission (“FEC” or “Commission”). Plaintiffs brought this action against the FEC for failure to act on a pending administrative complaint that alleges violations of the Federal Election Campaign Act (“FECA”). The FEC failed to appear, answer, plead, or otherwise defend this action as required by the Federal Rules of Civil Procedure, and the Clerk of the Court entered a default against the FEC on February 3, 2020. Doc. 7. As required by Rule 55(d) of the Federal Rules of Civil Procedure, Plaintiffs put forth this submission containing evidence sufficient to establish that the FEC has failed to act, which is contrary to law, and establishes their right to relief against the FEC. Accordingly, Plaintiffs request that the Court enter judgment against the FEC and in favor of Plaintiffs declaring that the FEC’s failure to act is contrary to law in violation of 52 U.S.C. § 30109(a)(8)(C) and direct the Commission to conform with such declaration within 30 days. Plaintiffs further request that the Court assess \$400 in court costs, pursuant to 28 U.S.C. § 1920.

In support of this motion, Plaintiffs submit the attached Declaration of Attorney Laura C. Beckerman (Beckerman Decl.) and Exhibits 1-10.

**I. Statement of Facts**

***Plaintiffs' Administrative Complaints***

1. On June 29, 2018, Plaintiffs filed an administrative complaint with the FEC against SEALs for Truth, Nicholas Britt, individually and in his capacity as Treasurer for SEALs for Truth, American Policy Coalition, Inc., LG PAC, Richard Monsees, individually and in his capacity as Treasurer for LG PAC, Freedom Frontier, and Unknown Respondents (collectively "Respondents"), which is attached as Exhibit 1.<sup>1</sup>
2. The complaint and amended complaints detail a plan, unearthed by the Missouri House of Representatives Special Investigative Committee on Oversight ("Oversight Committee") during an investigation of scandals related to Eric Greitens, former governor of Missouri who was running for governor at the time, to use FEC-registered political committees to conceal donor identities. Through campaign documents and the sworn testimony of a former campaign consultant, the Oversight Committee discovered that the Greitens campaign and its supporters devised a scheme to conceal donors by allowing donors who did not want their identities to be disclosed, as is required by campaign finance law, to donate to outside groups that would then funnel the money to the Greitens campaign or spend funds in support of the campaign. *See* Doc. 1, Complaint at ¶¶ 23-43.

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<sup>1</sup> Plaintiffs amended their administrative complaint on August 8, 2018 and again on November 20, 2018. Both amended complaints were filed to include new facts that had come to light since the filing of the previous complaint. The amended complaints are attached as Exhibits 2 and 3, respectively.

3. Specifically, Plaintiffs alleged that the Greitens campaign engaged in a scheme to conceal the identities of donors to the campaign by routing more than \$6 million in donations through two nonprofits, American Policy Coalition and Freedom Frontier, to two federal super PACs, SEALs for Truth and LG PAC. SEALs for Truth then directly contributed \$1.975 million to the Greitens Campaign, while LG PAC spent more than \$4.3 million on advertisements and other media supporting Mr. Greitens and attacking its opponents. Plaintiffs alleged that all of these groups were closely connected to the Greitens campaign and to each other and shared consultants and officers. The effect of this conduit contribution scheme was to illegally conceal the identity of significant Greitens campaign donors from the public. *See* Exhibit 1, ¶ 2.
4. Plaintiffs' administrative complaint and amended complaints described the Greitens campaign scheme in great detail and with reference to supporting documentation. *See* Doc. 1, at ¶ 44; Exhibits 1-3.
5. On July 6, 2018, the FEC acknowledged receipt of Plaintiffs' administrative complaint and assigned the matter MUR No. 7422. *See* Exhibit 4.
6. Besides acknowledging receipt of the administrative complaints, CREW has received no further communication from the FEC regarding MUR No. 7422. Beckerman Affidavit at ¶ 10.
7. Plaintiffs awaited a determination of their administrative complaint, to no avail, for over 14 months before filing the above-captioned suit on September 16, 2019. Doc. 1.
8. In this suit, Plaintiffs seek declaratory relief that the FEC's failure to act on Plaintiffs' administrative complaint (MUR No. 7422) is contrary to law; Plaintiffs further seek

injunctive relief that the FEC be ordered to act on the administrative complaint within 30 days, pursuant to 52 U.S.C. § 30109(a)(8)(C). Doc. 1.

***FEC's Inaction, Gridlock, and Loss of a Quorum***

9. To date, the FEC has not taken any public action with respect to MUR No. 7422. *See* FEC, Enforcement Query System, available at <https://eqs.fec.gov/eqs/searcheqs> (search for “MUR 7422” yields the response “No Matches Found”).<sup>2</sup>
10. On September 1, 2019, the FEC lost a quorum of four commissioners following the resignation of Commissioner Matthew Petersen. Exhibit 5, Press Release, FEC remains open for business despite lack of quorum, Sept. 11, 2019; *see* Exhibit 6, FEC, Commission Directive No. 10, Rules of Procedure of the Federal Election Commission Pursuant to 2 U.S.C. 437c(e) (June 8, 1978), Am. Dec. 20, 2007.
11. The loss of a quorum deprived the FEC of the ability to “launch any new investigations, issue any advisory opinions, promulgate any rules, or render any decisions on pending enforcement actions.” *See* Exhibit 7, Ellen L. Weintraub, *The State of the Federal Election Commission* (Nov. 1, 2019).
12. Even prior to the loss of a quorum, however, commissioners sufficient to prevent a majority vote (“controlling commissioners”) at the FEC failed to take meaningful steps to review and investigate the complaints submitted to it. Rather, “the Commission frequently closed matters without so much as making a phone call to investigate potential wrongdoing.” Exhibit 8, Ellen L. Weintraub, *The State of the Federal Election Comm’n: 2019 End of Year Report*, at 2 (Dec. 20, 2019).

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<sup>2</sup> The Query system contains “completed enforcement cases and their public documents.” FEC, Enforcement Query System, available at <https://eqs.fec.gov/eqs/searcheqs>

13. With regard to enforcement matters, many “languished for months or years at the request of [Commissioner Weintraub’s] Republican colleagues, causing some to near the end of their statutory limitations, only for these Commissioners to then decline to investigate at all,” and this included “some of the most alarming allegations of campaign-finance violations [the FEC] considered in 2019.” Exhibit 8 at 2.
14. Unfortunately, this pattern of deadlock and inaction at the FEC is nothing new. In 2017, then-Commissioner Ann M. Ravel issued a report establishing, based on ten years of analysis, that the FEC “is not performing the job that Congress intended, and violators of the law are given a free pass.” Exhibit 9, Office of Comm’r Ann M. Ravel, *Dysfunction and Deadlock: The Enforcement Crisis at the Federal Election Comm’n Reveals the Unlikelihood of Draining the Swamp* (Feb. 2017).
15. This report detailed a concerning pattern of delay and inaction regarding enforcement matters:
  - a. In enforcement matters, the number of deadlocked substantive votes had increased more than ten-fold from just 2.9% of substantive votes in enforcement cases closed in 2006 to over 37% in enforcement matters closed in 2016. Exhibit 9 at 1.
  - b. From 2006 to 2016, the FEC dramatically reduced the fines levied in enforcement matters from more than \$5.5 million in 2006 to less than \$600,000 in 2016. Exhibit 9 at 2.
  - c. Also during this time period, the controlling bloc of commissioners “unilaterally imposed higher requirements to find [reason to believe that a violation may have

occurred].” The effect of this change is to “stymie[] the Commission’s ability to even *open* an investigation and uphold the law in major cases.” Exhibit 9 at 7.

16. At this time, the FEC remains in default with respect to this lawsuit and has not appeared, answer, or otherwise defended the action. *See* Docket activity.

17. Plaintiffs have incurred \$400 in court costs, as defined under 28 U.S.C. § 1920, in seeking this default judgment. *See* Ex. 10, Docket Activity as of March 6, 2020 (Doc. 1 shows receipt number for filing fee paid).

## **II. Argument**

### **A. Default Judgment**

Rule 55(b) of the Federal Rules of Civil Procedure permits default judgment to be entered if the party against whom judgment is sought has failed to plead or otherwise defend in the action. While the law generally favors decisions on the merits, when unresponsive parties threaten to halt the progress of litigation, judgment by default is available to protect the responsive party “lest he be faced with interminable delay and continued uncertainty as to his rights.” *Gilmore v. Palestinian Interim Self-Gov’t Authority*, 843 F.3d 958, 965 (D.C. Cir. 2016) (citing *H. F. Livermore Corp. v. Aktiengesellschaft Gebruder Loepfe*, 432 F.2d 689, 691 (D.C. Cir. 1970) (per curiam)).

Where the party in default is the United States, default judgment may be entered “only if the claimant establishes a claim or right to relief by evidence that satisfies the court.” Fed. R. Civ. P. 55(d). This rule, however, “does not relieve the government from the duty to defend cases or obey the court’s orders. Indeed this privilege against default judgment . . . heightens the government’s duty to defend cases . . . .” *Payne v. Barnhart*, 725 F. Supp. 2d 113, 119 (D.D.C. 2010) (quoting *Alameda v. Sec’y of Health, Ed. And Welfare*, 622 F.2d 1044, 1048 (1st Cir.

1980)). Nor is this evidentiary burden an especially high one. After entry of default against the government, “the quantum and quality of evidence that might satisfy a court can be less than that normally required.” *Alameda*, 622 F.2d at 1048 (discussing Rule 55(e), which is now Rule 55(d)).

### **B. FEC’s Failure to Act Is Contrary To Law**

Under the FECA, this Court may “declare that the . . . [FEC’s] failure to act is contrary to law, and may direct the Commission to conform with such declaration within 30 days . . . .” 52 U.S.C. § 30109(a)(8)(C). When the issue before a court is “failure to act,” “[c]ourts must determine whether the Commission has acted ‘expeditiously.’” *Common Cause v. FEC*, 489 F. Supp. 738, 744 (D.D.C. 1980). This analysis involves examination of “[1] the credibility of the allegation, [2] the nature of the threat posed, [3] the resources available to the agency and the information available to it, [4] as well as the novelty of the issues involved.” *Common Cause*, 489 F. Supp. at 744. Courts also consider the factors outlined in *Telecommunications Research & Action Center v. FCC*, 750 F. 2d 70, 80 (D.C. Cir. 1984) (“*TRAC*”), which include the [1] “rule of reason” regarding the time elapsed as informed by the [2] statutory timetable, [3] the reasonableness of delay given the stakes, [4] the effect expedition would have on agency priorities, and [6] the interests prejudiced by delay. 750 F.2d at 80. While the *TRAC* Court stated that it “need not find” agency impropriety, should impropriety exist, that would constitute a factor in favor of finding that the delay was contrary to law. *Id.*

Although the Commission’s decision whether to investigate “is entitled to considerable deference, the failure to act in making such a determination is not.” *DSCC v. FEC*, No. CIV. A. 95-0349, 1996 WL 34301203, at \*4 (D.D.C. Apr. 17, 1996). Here, an application of either the

*Common Cause* factors or the *TRAC* factors demonstrates that the FEC has failed to act expeditiously, rendering its failure contrary to law.

**1. Plaintiffs’ Administrative Complaints State Credible, Well-Supported Allegations.**

First, Plaintiffs’ administrative complaint and amended complaint state credible and amply supported allegations. *See Common Cause*, 489 F. Supp. at 744 (factor 1). In *Citizens for Percy ’84 v. FEC*, No. 84-cv-2653, 1984 WL 6601, at \*4 (D.D.C. Nov. 19, 1984), the court found the allegations credible where the plaintiff waited to file the complaint until after it had “amassed a considerable amount of evidence” and the complaint contained documentation of the amounts spent and the purposes of the spending. *Id.* Given this, the *Percy* Court found that the “evidence provided by the plaintiffs in the complaint was more than sufficient to guide the FEC’s investigations as well as underscore the credibility of the allegations.” *Id.*

Likewise, here, CREW’s complaint provides extensive, reliable evidence to guide the FEC’s investigation and establish the credibility of the allegations. CREW’s administrative complaint and amended administrative complaints cite extensively from the sworn testimony of Missouri political consultant and former-Greitens campaign aide, Michael Hafner, regarding the scheme to use nonprofits and super PACs to hide the identity of donors to Greitens’ campaign. Exhibit 1, ¶¶ 19-28; Exhibit 2, ¶¶ 18-32; Exhibit 3, ¶¶ 18-32. To trace the flow of funds, the complaints further cite to the FEC’s own records of the specific amounts of contributions and expenditures made by the super PACs, Missouri Ethics Commission contribution reports, and contemporaneous news accounts describing the political contributions. Exhibit 1, ¶¶ 30-45; Exhibit 2, ¶¶ 33-48; Exhibit 3, ¶¶ 33-49. To establish the political advertising expenditures, the complaint details evidence from Missouri Ethics Commission reports, contemporaneous news accounts, and the information the super PACs reported to the FEC. *Id.* By submitting a detailed



and specific compilation of relevant evidence in its administrative complaint, CREW both provided the FEC with guidance to conduct its investigation and left no doubt that its claims deserve to be regarded as credible. Nor has the FEC appeared in this action to dispute the credibility of CREW's claims.

The assertions made in Plaintiffs' administrative complaints have recently been further corroborated by the Missouri Ethics Commission. Following receipt of a complaint, the Missouri Ethics Commission investigated numerous allegations against the Greitens campaign for the Missouri governorship ("Greitens Campaign") relating to failure to report contributions from a super PAC and a non-profit organization. Joint Stipulation of Facts, Waiver of Hearing Before the Missouri Ethics Commission, and Consent Order with Joint Proposed Findings of Fact and Conclusions of Law, at 2, ¶¶ 67, 72, *Missouri Ethics Commission v. Greitens for Missouri*, No. 18-0064 & 18-0065 (Mo. Ethics Comm'n Feb. 13, 2020), available at <https://bit.ly/2IQ71jR>. At the conclusion of its investigation, the Missouri Ethics Commission and Greitens for Missouri stipulated, *inter alia*, that contributions from Freedom Frontier to LG PAC "appear to correlate to LG PAC's media buys" and that LG PAC's media buys constituted an in-kind contribution to Greitens for Missouri, which the campaign failed to report. *Id.* ¶¶ 21, 41-43. The Missouri Ethics Commission further found probable cause to believe that the Greitens campaign violated Missouri law by accepting in-kind contributions from another non-profit corporation, A New Missouri, as well as a polling data organization. *Id.* ¶ 72. The Greitens Campaign agreed to pay fines totaling over \$178,000 as part of the consent order resolving the allegations, though the order stipulates that upon timely payment of \$38,000, the rest will be stayed. *Id.* at 16, III.c.-d. While the results of the state investigation were not available to the FEC during the time when it

failed to act, they serve to corroborate and bolster the credibility of Plaintiffs' allegations that were before the FEC.

**2. The Threat to the Electoral System Posed by the FEC's Delay in Investigating the Scheme is Significant and Ongoing.**

Second, the nature of the threat posed by the FEC's failure to act on CREW's claims is significant. *Common Cause*, 489 F. Supp. at 744 (factor 2); *TRAC*, 750 F.2d at 80 (factor 3). In analyzing this factor, courts look at both the significance of the threat and the likelihood that illegal activity will continue. *See Percy*, 1984 WL 6601, at \*3; *DSCC*, 1996 WL 34301203, at \*5 (“The threat to the electoral system is highlighted not only by the amounts of money involved and the impact upon close elections, but by the serious threat of recurrence.”).<sup>3</sup>

CREW's allegations that the Greitens Campaign engaged in a deliberate scheme to hide the true source of over \$6 million in campaign spending presents an ongoing threat to the integrity of the electoral process. Deliberately hiding the true source of campaign funds is conduct contrary “to the principal purpose of FECA,” *DSCC*, 1996 WL 34301203, at \*5, to ensure voters know “who is speaking about a candidate . . . before an election,” *Citizens United v. FEC*, 558 U.S. 310, 369 (2010). Disclosure is crucial to allow “citizens [to] see whether elected official are ‘in the pocket’ of so-called moneyed interests,” *id.* at 370, and to prevent “corruption and avoid the appearance of corruption,” *Buckley v. Valeo*, 424 U.S. 1, 66-67 (1976).

The purpose of the FEC disclosure regime is not simply to punish the bad actors, such as the Greitens campaign and the nonprofits and super PACs involved in the scheme, but also to

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<sup>3</sup> In *TRAC*, the court noted that “delays that might be reasonable in the sphere of economic regulation are less tolerable when human health and welfare are at stake.” 750 F.2d at 80 (citations omitted). Here, the injury is to the wellbeing of the body politic, to the integrity of the electoral process, and, ultimately, to the functioning of our democracy, which is certainly more imminent and less tolerable of delay than garden-variety economic threats. *DSCC*, 1996 WL 34301203, at \*8 (“threats to the health of our electoral processes also require timely action”).

serve the interests of the voters through ensuring disclosure. Here, the FEC's failure to take timely action in this case emboldens the donors who are the true source of the \$6 million in political funding to continue harming the interests of voters. Absent FEC action, there is no reason to believe that they will be deterred from continuing to violate the FECA by spending in future elections in the name of another and without disclosing their identities.

**3. The FEC's Failure to Act Cannot Be Excused by Lack of Information, Resource Constraints, or Competing Priorities.**

There is no evidence to suggest that the FEC lacks the resources or information to complete its investigation of Respondents in a timely manner or has competing priorities that would be harmed by moving forward with this matter. *See Common Cause*, 489 F. Supp. at 744 (factor 3); *TRAC*, 750 F.2d at 80 (factor 4). As an initial matter, the FEC has not appeared in this case, so it has not pointed to resource constraints or competing priorities as a potential excuse for its ongoing failure. The FEC has thus failed in its burden to justify delay based on lack of resources, which lies on the agency because “[k]nowledge as to the limits of [agency] resources is exclusively within the control of the Commission.” *Citizens for Percy '84*, 1984 WL 6601, at \*4. But, even if the FEC pled poverty, “whatever deference an agency is due in resource allocation decisions, it is entitled to substantially less deference when it fails to take any meaningful action within a reasonable time period.” *DSCC*, 1996 WL 34301203, at \*5-\*6.<sup>4</sup>

Further, the FEC has more than enough information available to move forward expeditiously on Plaintiffs' administrative complaint. Plaintiffs' administrative complaint and

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<sup>4</sup> Furthermore, there is reason for the Court to place little emphasis on this factor, notwithstanding its mention in *Common Cause*, 489 F. Supp. at 744. If the FEC lacks the resources to act, it may choose not to conform to the Court's judgment within thirty days. Failure to conform would simply open the door for a citizens' suit brought by Plaintiffs. *See* 52 U.S.C. § 30109(a)(8)(C). That citizens suit would have no impact on the FEC's resources and would not impact the agency's competing priorities. Indeed, such citizen suits exist to “enforce compliance without federal expense.” *Sierra Club v. Whitman*, 268 F.3d 898, 905 (9th Cir. 2001).

amended complaints set forth the allegations in exhaustive detail and provide extensive citation to evidence in support of the factual allegations. *See* Exhibit 1, ¶¶ 30-45; Exhibit 2, ¶¶ 33-48; Exhibit 3, ¶¶ 33-49 (citing FEC forms, newspaper reports, and Missouri Ethics Commission contribution data). Further, much of the evidence comes from the FEC’s own records, rendering any claim of lack of access to information unreasonable. *See Citizens for Percy ’84*, 1984 WL 6601, at \*4 (finding delay unreasonable where “[m]uch of the information in the complaint could be verified from the FEC’s own records”). Even if the FEC required additional information, it has now had over 20 months to investigate.<sup>5</sup> Given that the FECA contemplates that “some cases can be dealt with in the 120 day period,” a delay of 20 months to gather information is not likely to be reasonable. *See Citizens for Percy ’84*, 1984 WL 6601, at \*4 (“If not, we fail to understand why Congress created jurisdiction in this court upon the passage of 120 days from filing of the administrative complaint.”).

#### **4. The Issues Raised Are Far From Novel.**

The FEC has recently investigated the very same types of violations that the Plaintiffs raise here, rendering the issues far from novel. *See Common Cause*, 489 F. Supp. at 744 (factor 4). Plaintiffs’ administrative complaints raise credible allegations of violations of the statute and regulations against knowingly accepting a contribution made by one person in the name of another, 52 U.S.C. § 30122; 11 C.F.R. § 110.4(b), requiring political committees to report the identity of those who make contributions and anyone who acted as a conduit for the contributions, 52 U.S.C. § 30104(b)(2); 11 C.F.R. § 104.3(a), (j), knowingly permitting one’s

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<sup>5</sup> It is of note that the Missouri Ethics Commission’s investigation commenced with a complaint filed on July 10, 2018 and concluded with a Consent Order dated February 13, 2020. Accordingly, the state investigation regarding substantially similar allegations proceeded from complaint to consent order in less time than the FEC has been inactive with regard to Plaintiffs’ administrative complaints. *See Joint Stipulation, Missouri Ethics Commission v. Greitens for Missouri*.

name to be used to affect a contribution in the name of another or knowingly helping or assisting any person in doing so, 52 U.S.C. § 30122; 11 C.F.R. § 110.4(b), and making a contribution in the name of another person, 52 U.S.C. § 30122; 11 C.F.R. § 110.4(b). None of these are novel provisions and each have been the subject of recent FEC action.

In *In the Matter of American Conservative Union, et. al* (“ACU”), the FEC investigated a conduit contribution scheme, as detailed in an administrative complaint filed by CREW. Complaint, *In re American Conservative Union, et al.*, MUR No. 6920 (Feb. 27, 2015), available at <https://bit.ly/2wwaX6y>. This scheme was similar to the present case in that it likewise involved funneling money from donors who wished to remain hidden, through a 501(c)(4) social welfare organization to a super PAC. *Id.* ¶¶ 13-20. CREW’s administrative complaint in *ACU* alleged violations of the same statutes and regulations at issue in the above-captioned suit. The FEC’s Office of General Counsel analyzed these provisions at length in the course of three Office of General Counsel reports. *Id.*, First General Counsel’s Report (Jan. 20, 2016), available at <https://bit.ly/2W1N6GD>; Second General Counsel’s Report (July 5, 2017), available at <https://bit.ly/2VP7H0t>; Third General Counsel’s Report (Sept. 15, 2017), available at <https://bit.ly/2TrWJfW>. Following three detailed Office of General Counsel reports, the FEC ultimately found probable cause to believe that ACU violated 52 U.S.C. § 30122 and that other respondents violated 52 U.S.C. §§ 30122 and 30104(b)(3)(A) and authorized a conciliation agreement that resulted in the payment of a \$350,000 fine. *Id.*, Conciliation Agreement (Nov. 3, 2017), available at <https://bit.ly/2PSntE8>. See also First General Counsel’s Report, *In re Prakazrel “Pras” Michel, et al.*, MUR No. 6930 (Nov. 19, 2015), available at <https://bit.ly/33ihAph> (analyzing complaint regarding alleged conduit contribution scheme and recommending, based on facts, no finding of reason to believe a violation had occurred).

Given the similarities of the accusations and the extensive work that the FEC has already done to research and familiarize itself with the relevant law and regulations, along with the fact that the regulations at issue date back to the 1980s, it cannot be said that the current case is so novel as to justify the ongoing delay.

**5. Continued, Unexplained Delay Violates the “Rules of Reason” and Is Out-of-Sync with the FECA’s Statutory Timetable.**

Continued delay runs contrary to the “rule of reason” and Congress’s intent as evidenced through the statutory timetable. *TRAC*, 750 F.2d at 80 (factors 1, 2). The “rule of reason . . . assumes that an agency matter “will be finally decided within a reasonable time encompassing months, occasionally a year or two, but not several years or a decade.” *Rose v. Federal Election Comm’n*, 608 F. Supp. 1, 10 (D.D.C. 1984), *on remand from In re Nat’l Congressional Club*, Nos. 84-5701, 84-5719, 1984 WL 148396 (D.C. Cir. Oct. 24, 1984). Here, we are fast-approaching the two-year mark with no evidence from the FEC that it has taken any substantive action to advance the investigation called for by Plaintiffs’ administrative complaint. Furthermore, the current lack of a quorum at the FEC guarantees that it is unable to take any meaningful action to advance an investigation into Plaintiffs’ complaint, and its history of deadlocking on substantial votes indicates that it might not take action in a reasonable time even if it had a quorum.

While Congress “did not impose specific constraints upon the Commission to complete final action, . . . it did expect that the Commission would fulfill its statutory obligations so that [FECA] would not become a dead letter.” *DSCC*, 1996 WL 34301203, at \*7. To this end, the language of the FECA, which contains many “*short* deadlines governing the speed with which such complaints must be handled,” *Rose*, 608 F. Supp. at 11 (emphasis in original), evidences an expectation of movement within a reasonable time. In fact, “some cases can be dealt with in the

120 day period” proscribed by the FECA, *Citizens for Percy* ’84, 1984 WL 6601, at \*4, and there is no reason to believe that this should not have been one such case.

Here, Plaintiffs filed their administrative complaint over 20 months ago and have received no communication from the FEC since it acknowledged receipt of that complaint on July 6, 2018. (Facts ¶¶ 1, 5, 6). The FEC’s failure to appear in this case deprives this Court and the Plaintiffs of any further insight into the FEC’s process. Given this, there is no evidence to suggest that the FEC has taken meaningful action on the administrative complaint.

Furthermore, the FEC’s current lack of a quorum precludes them from taking actions crucial to authorizing and advancing any investigation regarding the allegations in the administrative complaint.<sup>6</sup> Thus, even absent any information from the FEC, it is evident that, unless or until further commissioners are confirmed by the Senate, no meaningful action can take place. *See* Facts ¶ 10 (lack of a quorum).<sup>7</sup> Accordingly, this factor mediates in favor of a finding that the FEC’s delay is unreasonable and confirms that the delay is likely to continue.

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<sup>6</sup> For example, when the FEC receives a complaint, it must first consider whether it has “reason to believe” that a person has violated or is about to violate the FECA, and an investigation may proceed only if at least four commissioners find reason to believe. 52 U.S.C. § 30109(a)(2); Directive 10 (enumerating actions FEC may take absent a quorum). Following a “reason to believe” vote, the FEC’s Office of General Counsel prepares a report in preparation for a vote on whether probable cause exists to believe a violation has occurred. The “probable cause” vote also cannot take place absent a quorum. 52 U.S.C. § 30109(a)(4)(A)(i); Directive 10. If the FEC votes to find that probable cause exists, then the Commission must attempt to resolve the violation by informal methods and enter into a conciliation agreement with the offending party. The FEC needs a vote of four members, constituting a quorum, to enter into a conciliation agreement. 52 U.S.C. § 30109(a)(4)(A)(i); Directive 10. If a conciliation agreement is insufficient to “correct or prevent violation” of the FECA, then the FEC may institute a civil action. Again, however, a vote of four members is required to take this step. 52 U.S.C. § 30109(a)(6)(A); Directive 10. In fact, the only meaningful action that can take place on a complaint absent a quorum is for the complainant to file suit in federal court to challenge the FEC’s failure to act on the complaint. 52 U.S.C. § 30109(a)(8).

<sup>7</sup> James E. Trainor III has been nominated to the Commission but has not been confirmed. *See* 166 Cong. Rec. S1236 (daily ed. Feb. 27, 2020) (executive nominations receive by the Senate).

## **6. The FEC's Delay Prejudices Plaintiff and Gives Rise to the Appearance of Impropriety.**

Plaintiffs and voters will be and have been severely prejudiced by the FEC's inability to proceed with its investigation of the Respondents, and this delay, much of which occurred before the FEC lost a quorum, gives rise to the appearance of agency impropriety. *See TRAC*, 750 F.2d at 80 (factors 5 and 6). The fact that the elections in which the Respondents illegally funneled money through nonprofits to benefit the Greitens campaign and hide the identity of donors have passed "does not make the 'nature' or 'extent' of the threat any less significant." *Rose*, 608 F. Supp. at 12. Rather, absent enforcement, there is no reason to believe that the same donors, entities, and treasurers who sought to hide their identities and perpetrate this scheme in this instance will not be empowered to do so again, despite the illegality, in future elections. Furthermore, the continued and excessive delay in all enforcement gives rise to an appearance of agency impropriety.

The FEC lost quorum on September 1, 2019, nearly 14 months after Plaintiffs filed the original administrative complaint. Facts ¶¶ 5, 10. Thus, a substantial delay had already occurred prior to the loss of a quorum, and that delay gives rise to the appearance of agency impropriety. *See TRAC*, 750 F.2d at 80. To be sure, "the court need not find any impropriety lurking behind agency lassitude in order to hold that agency action is unreasonably delayed, *id.* (internal quotation marks omitted), so the Court need not reach this factor to find the FEC's failure to act contrary to law, *see Rose*, 209 F. Supp. at 12 ("[T]he Court need not and does not make such findings."). Here, however, the regular practice of the FEC has become one of inaction and enforcement deadlock. Because, as detailed in section II.B.5, above, an affirmative vote of four commissioners is required to take actions such as issuing subpoenas or finding "reason to believe" that a violation may have occurred, deadlocked votes can and do result in delays at



nearly all substantive stages in the FEC enforcement process. As then-FEC Chair Ellen L. Weintraub stated in her 2019 End of Year Report, “the Commission frequently closed matters without so much as making a phone call to investigate potential wrongdoing.” Facts ¶ 12. With regard to enforcement matters, many “languished for months or years at the request of [her] Republican colleagues, causing some to near the end of their statutory limitations, only for these Commissioners to then decline to investigate at all,” including “some of the most alarming allegations of campaign-finance violations [the FEC] considered in 2019.” *Id.*

This pattern of inaction and enforcement deadlock started long before CREW filed the complaint at issue in this case. In 2017, then-Commissioner Ann M. Ravel released a report entitled: *Dysfunction and Deadlock: The Enforcement Crisis at the Federal Election Commission Reveals the Unlikelihood of Draining the Swamp*. Facts ¶ 14. In this extensive report, Commissioner Ravel detailed the alarming increase in gridlock and decrease in enforcement at the FEC. From 2006 to 2016, the number of deadlocked votes increased more than ten-fold from just 2.9% of substantive votes to over 37% of substantive votes in enforcement matters closed in 2016. Facts ¶ 15.a. at 1. When a vote deadlocks, the result is that enforcement cannot move forward. *See generally*, 52 U.S.C. § 30109. As a result of the dramatic increase in deadlocked votes, enforcement has dropped precipitously, as demonstrated by the nearly ten-fold decrease in fines levied. In 2006, the FEC levied more than \$5.5 million in enforcement fines, while in 2016, that had dropped to less than \$600,000 in enforcement fines. Facts ¶ 15.a. at 2.

Accordingly, for years prior to the loss of a quorum, enforcement has declined significantly due to agency deadlock, resulting in both lack of enforcement and increasing delays in enforcement. The persistent deadlock gives rise to the appearance of agency impropriety and is now compounded by the loss of a quorum. These factors combine to severely prejudice the

ability of Plaintiffs to have their complaint fairly reviewed, investigated, and acted upon by the FEC.

### **III. Conclusion**

Accordingly, Plaintiffs respectfully request that the Court enter judgment that the FEC's failure to act is contrary to law and assess \$400 in court costs, pursuant to 28 U.S.C. § 1920.

Respectfully submitted,

/s/ Laura C. Beckerman

Laura C. Beckerman

(D.C. Bar No. 1008120)

Stuart McPhail

(D.C. Bar No. 1032529)

Citizens for Responsibility and Ethics  
in Washington

1101 K Street, N.W., Suite 201

Washington, DC 20005

Phone: (202) 408-5565

Fax: (202) 588-5020

[lbeckerman@citizensforethics.org](mailto:lbeckerman@citizensforethics.org)

**Certificate of Service**

I certify that on March 16, 2020, I caused service of the Request for Entry of Default and attachments to be made on defendant Federal Election Commission by U.S.P.S. First Class Mail as follows:

Federal Election Commission  
1050 First Street, N.E.  
Washington, DC 20463

/s/ Laura C. Beckerman  
Laura C. Beckerman

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

CITIZENS FOR RESPONSIBILITY  
AND ETHICS IN WASHINGTON, *et al.*,

Plaintiffs,

v.

FEDERAL ELECTION COMMISSION

Defendant.

Civil Action No. 19-2753

**ENTRY OF DEFAULT JUDGMENT AGAINST FEDERAL ELECTION COMMISSION**

The defendant Federal Election Commission (“FEC”), having failed to plead or otherwise defend in this action, and its default having been entered,

Now upon the application of the plaintiffs, Citizens for Responsibility and Ethics in Washington (“CREW”) and Noah Bookbinder (collectively “Plaintiffs”), a declaration from attorney Laura C. Beckerman and supporting exhibits demonstrating, by a claim or right to relief by evidence that satisfies the Court, that the FEC’s failure to act on the administrative complaints identified as MUR 7422 is contrary to law, that the FEC is not an infant or incompetent person or in the military service of the United States, and that the Plaintiffs have incurred court costs in the amount of \$400, as defined by 28 U.S.C. § 1920,

It is here by **ORDERED, ADJUDGED, AND DECREED** that defendant FEC’s failure to act on the Plaintiffs’ administrative complaints, MUR 7422, is contrary to law in violation of 52 U.S.C. § 30109(a)(8)(C), that defendant FEC is directed to conform with this declaration within 30 days, and that Plaintiffs shall recover from the defendant \$400 in court costs, pursuant

to 28 U.S.C. § 1920.

**SO ORDERED, ADJUDGED, AND DECREED**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Hon. Royce C. Lamberth  
U.S. District Court Judge

**Index of Exhibits**

1. Administrative Complaint (June 29, 2018)
2. Amended Administrative Complaint (Aug. 8, 2018)
3. Second Amended Administrative Complaint (Nov. 20, 2018)
4. Letters from FEC Acknowledging Administrative Complaint and Amended Administrative Complaints (July 6, 2018, Aug. 15, 2018, and Nov. 29, 2018)
5. Press Release, FEC remains open for business despite lack of quorum, (Sept. 11, 2019)
6. FEC, Commission Directive No. 10, Rules of Procedure of the Federal Election Commission Pursuant to 2 U.S.C. 437c(e) (June 8, 1978), Am. Dec. 20, 2007.
7. Ellen L. Weintraub, *The State of the Federal Election Comm'n* (Nov. 1, 2019)
8. Ellen L. Weintraub, *The State of the Federal Election Comm'n: 2019 End of Year Report* (Dec. 20, 2019)
9. Office of Comm'r Ann M. Ravel, *Dysfunction and Deadlock: The Enforcement Crisis at the Federal Election Comm'n Reveals the Unlikelihood of Draining the Swamp* (Feb. 2017)
10. Docket Report as of March 6, 2020

## FEDERAL ELECTION COMMISSION

In the matter of:

SEALs for Truth  
Nicholas Britt, Treasurer, SEALs for Truth  
American Policy Coalition, Inc.  
LG PAC  
Richard Monsees, Treasurer, LG PAC  
Freedom Frontier  
Unknown Respondents

MUR \_\_\_\_\_

## COMPLAINT

1. Citizens for Responsibility and Ethics in Washington (“CREW”) and Noah Bookbinder bring this complaint before the Federal Election Commission (“FEC” or “Commission”) seeking an immediate investigation and enforcement action against SEALs for Truth, Nicholas Britt, American Policy Coalition, Inc., LG PAC, Richard Monsees, Freedom Frontier, and Unknown Respondents for direct and serious violations of the Federal Election Campaign Act (“FECA”).

2. The FECA prohibits making and knowingly accepting a contribution in the name of another person, as well as knowingly permitting one’s name to be used to effect a contribution in the name of another person. This complaint concerns a deliberate effort to use federal super PACs and nonprofit organizations to execute a conduit contribution scheme in order to conceal the identity of donors supporting the election of now-former Missouri Gov. Eric Greitens in 2016.

3. This scheme to circumvent disclosure was hatched by Mr. Greitens’ campaign and his supporters in early 2015. As described in the sworn testimony of one of Mr. Greitens’ campaign aides, the plan they devised involved using nonprofit organizations that are not

required to disclose their donors to accept contributions of money to be spent supporting the campaign. The scheme, executed in the summer of 2016, involved routing more than \$6 million through two nonprofits, American Policy Coalition and Freedom Frontier, to two federal super PACs, SEALs for Truth and LG PAC. SEALs for Truth in turn directly contributed \$1.975 million to Mr. Greitens' campaign, while LG PAC spent more than \$4.3 million on advertisements and other media attacking Mr. Greitens' opponents and supporting his candidacy. All of these groups were closely connected to the Greitens campaign and to each other, sharing consultants and officers.

4. By using federal rather than state-based super PACs to funnel money into the Missouri gubernatorial election, Mr. Greitens' supporters were able to deny Missouri voters timely information about the identities of those trying to influence the gubernatorial election. And routing the money through nonprofits and super PACs ensured that the ultimate source of the funds boosting Mr. Greitens would remain secret. These apparent violations of law deprive the public of important information and demand investigation.

#### Complainants

5. Complainant CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the right of citizens to be informed about the activities of government officials and to ensuring the integrity of government officials. CREW is dedicated to empowering voters to have an influential voice in government decisions and in the governmental decision-making process. CREW uses a combination of research, litigation, and advocacy to advance its mission.



6. In furtherance of its mission, CREW seeks to expose unethical and illegal conduct of those involved in government. One way CREW does this is by educating citizens regarding the integrity of the electoral process and our system of government. Toward this end, CREW monitors the campaign finance activities of those who run for federal and state office and publicizes those who violate federal campaign finance laws through its website, press releases, and other methods of distribution. CREW also files complaints with the FEC when it discovers violations of the FECA. Publicizing campaign finance violators and filing complaints with the FEC serve CREW's mission of keeping the public informed about individuals and entities that violate campaign finance laws and deterring future violations of campaign finance law.

7. In order to assess whether an individual, candidate, political committee, or other regulated entity is complying with federal campaign finance law, CREW needs the information contained in receipts and disbursements reports that political committees and others must file pursuant to the FECA, 52 U.S.C. § 30104; 11 C.F.R. §§ 104.1–22, 109.10. CREW is hindered in its programmatic activity when an individual, candidate, political committee, or other regulated entity fails to disclose campaign finance information in reports of receipts and disbursements required by the FECA.

8. CREW relies on the FEC's proper administration of the FECA's reporting requirements because the FECA-mandated disclosure reports are the only source of information CREW can use to determine if an individual, candidate, political committee, or other regulated entity is complying with the FECA. The proper administration of the FECA's reporting requirements includes mandating that all disclosure reports required by the FECA are properly

and timely filed with the FEC. CREW is hindered in its programmatic activity when the FEC fails to properly administer the FECA's reporting requirements.

9. Complainant Noah Bookbinder is the executive director of Citizens for Responsibility and Ethics in Washington. At all times relevant to the complaint, he has been and remains a citizen of the United States and a registered voter and resident of Maryland. As a registered voter, Mr. Bookbinder is entitled to receive information contained in disclosure reports required by the FECA, 52 U.S.C. § 30104; 11 C.F.R. §§ 104.1–22, 109.10. Mr. Bookbinder is harmed in exercising his right to vote when an individual, candidate, political committee, or other regulated entity fails to report campaign finance activity as required by the FECA. *See FEC v. Akins*, 524 U.S. 11, 19 (1998), *quoting Buckley v. Valeo*, 424 U.S. 1, 66-67 (1976) (political committees must disclose contributors and disbursements help voters understand who provides which candidates with financial support). Mr. Bookbinder is further harmed when the FEC fails to properly administer the FECA's reporting requirements, limiting his ability to review campaign finance information.

10. Mr. Bookbinder also is harmed in his ability to communicate to the public and to other voters information about the source of funds used for political activities.

#### Respondents

11. SEALs for Truth is a federal independent-expenditure only committee ("super PAC") formed under the FECA in June 2016. SEALs for Truth, FEC Form 1, Statement of Organization, June 15, 2016, <https://bit.ly/2rRu4m5>.

12. Nicholas Britt is the treasurer of SEALs for Truth. *Id.*

13. American Policy Coalition, Inc. is a tax-exempt organization, organized under

section 501(c)(4) of the Internal Revenue Code. It was established in Kentucky in 2011 as BluegrassVotes.org, Inc. BluegrassVotes.org, Inc., Articles of Incorporation, Kentucky Secretary of State, Aug. 30, 2011, <https://bit.ly/2JXJQ9g>, and changed its name to American Policy Coalition in November 2015. BluegrassVotes.org, Inc., Articles of Amendment, Kentucky Secretary of State, Nov. 17, 2015, <https://bit.ly/2rSIAdw>.

14. LG PAC is a federal independent-expenditure only committee formed under the FECA in May 2016. LG PAC, FEC Form 1, Statement of Organization, May 16, 2016, <https://bit.ly/2rRyLMJ>.

15. Richard “Hank” Monsees is the treasurer of LG PAC. LG PAC, FEC Form 1, Statement of Organization, Amended, June 6, 2016, <https://bit.ly/2wQlzg0>; James Dornbrook, Local PAC received \$1.5M donation, but its goals remain secret, *Kansas City Business Journal*, Oct. 31, 2016, <https://bit.ly/2Le30Wt>.

16. Freedom Frontier is a tax-exempt organization, organized under section 501(c)(4) of the Internal Revenue Code. It was established in Texas in 2011. Freedom Frontier, 2015 Form 990, Amended, <https://bit.ly/2tajxC>.

17. Unknown Respondents are the individuals who are the true sources of funds American Policy Coalition transferred to SEALs for Truth and Freedom Frontier transferred to LG PAC, as well as any individual(s), entity, or entities that served as conduits through which such funds passed before reaching American Policy Coalition and Freedom Frontier.

#### Factual Allegations

##### *The Plan to Conceal Donor Identities*

18. Michael Hafner is a Missouri-based political consultant.

19. Mr. Hafner worked as an informal political advisor to Mr. Greitens between December 2013 and January 2015, as Mr. Greitens developed his plans to run for office. Transcript of interview with Michael Hafner, Missouri House of Representatives Special Investigative Committee on Oversight, Mar. 14, 2018, Tr. 6:9-17, <https://bit.ly/2IN2hND> (“Hafner Tr.”). Mr. Hafner started working for Mr. Greitens in a paid capacity in January 2015. *Id.* Tr. 7:3-8. After Mr. Greitens officially launched his campaign in February 2015, Mr. Hafner was compensated by Greitens for Missouri for his work. Greitens for Missouri, Missouri Ethics Commission April Quarterly Report, Apr. 15, 2015, <https://bit.ly/2wZqZFU>.

20. After leaving the Greitens campaign in March 2015, Mr. Hafner later joined the campaign of one of Mr. Greitens’ opponents in the Republican gubernatorial primary, John Brunner. Hafner Tr. 93:15-20.

21. On March 14, 2018, the Missouri House of Representatives Special Investigative Committee on Oversight interviewed Mr. Hafner under oath about allegations that Mr. Greitens used a list of charitable donors for campaign fundraising purposes during his 2016 gubernatorial campaign. *See generally*, Hafner Tr.; Report 2 of the Missouri House Special Investigative Committee on Oversight, Apr. 24, 2018, <https://bit.ly/2LeYXcj>. Mr. Hafner was interviewed again by the committee, also under oath, on May 29, 2018. Video of Missouri House of Representatives Special Investigative Committee on Oversight Hearing – Tuesday, May 29, 2018, <https://bit.ly/2Jq9jbu> (“Hafner Video”).

22. During the interviews, Mr. Hafner revealed the scheme to conceal donor identities during the gubernatorial campaign. When asked whether, based on his work on the Greitens campaign, Hafner believed that “there was a strategy employed to conceal donors,” he testified,

"I believe that was an intention of the campaign's early on." Hafner Tr. 45:1-5. Mr. Hafner said the strategy was "intended to get a group of people that didn't want to disclose who they were" to contribute "individually or through their companies" by giving "directly to a certain entity," which he described as a "freedom group," in a "way that conceals donors." *Id.* at 62:23-64:6. Nonprofits and section 501(c)(4) social welfare organizations were discussed as vehicles for concealing donors, Mr. Hafner also testified, saying, "there were specific donors that I reached out to, who [Mr. Greitens] connected me with, and we discussed specifically nonprofits and c4s, and what the process would be to establish entities like that to accept contributions, for bundling contributions." Hafner Video, at 1:53:57.

23. Mr. Hafner further testified that he was led to believe campaign staff would coordinate with donors seeking to support the Greitens campaign while remaining anonymous, saying, "I had had conversations with people associated with [Mr. Greitens] in January and February and March when I was employed and working out of that office that I knew that I was led to believe that . . . they were planning on concealing donors in some way or having people . . . on their campaign having staff associated with on their campaign reach out and coordinate donors" who would support the campaign while being kept secret. Hafner Tr. 116:3-10.

24. Mr. Hafner said that Mr. Greitens directed him "to have conversations with donors who intended to raise significant amounts of money and conceal the donors, conceal the identity of those donors." *Id.* at 40:22-25. In particular, Mr. Hafner said he had two phone conversations with a donor named Monu Joseph who "wanted to discuss with me how the campaign was going to bundle contributions and conceal the identity of donors." *Id.* at 41:9-11. According to Mr. Hafner, he "was connected with Monu, who was planning on raising a

substantial amount of money for the campaign. I think somewhere between 250 and half a million dollars. And my conversations with him, he wanted to know if there were avenues set up where, that were nonprofits or c4s, that they could bring money in and not disclose the source of those contributions.” Hafner Video, at 1:58:40. Mr. Hafner also said he had contact with other individuals who were discussing ways to conceal donations and that he had conversations with Mr. Greitens “about reaching out to specific donors who were intending to raise a lot of money and wanting to know how to do it.” Hafner Tr. 43:11-13.

25. Mr. Hafner also testified about possible motivations for the scheme to set up entities to conceal the identity of donors. In one interview, Mr. Hafner commented on “a memo developed on people in financial services contributing” to Mr. Greitens’ campaign, which he said would have been sent to Mr. Joseph. Acknowledging that people in the financial services industry are sometimes referred to as restricted donors due to Securities and Exchange Commission regulations, Mr. Hafner said Mr. Joseph “had a lot of contacts in that world and wanted to look at avenues for ways that they could contribute.” Hafner Video, at 1:08:16. Mr. Hafner also said “there were conversations that we had where foreign money was discussed, where foreign money was discussed, and the possibility of foreign money, you know, being contributed to an entity. There were those discussions that were being had in the early stages.” Hafner Video, at 1:56:17.<sup>1</sup>

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<sup>1</sup> Mr. Hafner acknowledged that he had no “direct knowledge” of any contributions by foreign nationals being made to the Greitens campaign since he left the campaign in its early stages. Hafner Video, at 3:47:45. However, he testified he had discussions related to two individuals associated with Mr. Greitens regarding foreign contributions. Hafner Video, at 3:00:43. First, he said one discussion involved Mr. Joseph indicating to Mr. Hafner that he and Mr. Greitens “had a lot of buddies” from Oxford University, where “most” of the students are not American citizens, that “were interested in contributing to the race.” *Id.* According to Mr. Hafner, Mr. Joseph “specifically asked about how, what would be the way to get, you know, foreign money, contributions from abroad, into the campaign.” *Id.* at 4:23:16. Second, Mr. Hafner testified that the other discussion involved an associate of Mr. Greitens who lived in

26. Mr. Hafner further said that because at the time of the 2016 gubernatorial election there were no contribution limits in Missouri, he believed there could only be “one reason” to set up “another entity” outside of the candidate’s campaign committee that “could accept unlimited contributions” and “that’s to conceal the identity of a specific donor or groups of donors.” Hafner Interview, at 2:59:30.

27. Mr. Hafner testified that he believed the scheme was carried out. Hafner Tr. 45:6-7. During his testimony, he referenced both SEALs for Truth and LG PAC when asked about politically-active entities whose donors are not publicly identified. “There’s the other element to it that, yeah, I don’t think anyone’s aware other than internally those organizations, how much money they raised and spent. And I’m referring to, you know, the SEALs for Truth, which we don’t know where that money came from. That was disclosed in [Missouri Ethics Commission filings], but the way they did it was, I think, through a super PAC which then contributed to the [Greitens campaign committee]. And then the LG PAC, which was making enormous expenditures in that race and that was routed through ghost corporations in Texas, I think.” Hafner Video, at 2:58:00. Mr. Hafner also appeared to refer to the two federal super PACs funded by nonprofits in an interview with *St. Louis Public Radio* when he estimated that Mr. Greitens “had (at least) \$6 million in untraceable money” that supported his campaign. Jo Mannies and Jason Rosenbaum, Former aide says Greitens relied on charity donor list, ‘dark money’ to kick-start campaign, *St. Louis Public Radio*, May 9, 2018, <https://bit.ly/2L93uNn>.

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Hong Kong and had made commitments “early on in the campaign to contribute a lot of money and to raise a lot of money.” *Id.* at 3:00:43. Mr. Joseph’s attorney denied Mr. Hafner’s account, telling the *Columbia Daily Tribune* that “at no time did Mr. Joseph request donations from anyone living abroad, U.S. citizens or otherwise.” Rudi Keller, Greitens campaign sought foreign contributions, consultant testified, *Columbia Daily Tribune*, May 3, 2018, <https://bit.ly/2HV4TZW>.

28. Mr. Hafner's estimate of "\$6 million in untraceable money" corresponds with the support Mr. Greitens received from SEALs for Truth and LG PAC, which combined raised \$6.395 million solely from nonprofits that do not disclose their donors and spent almost all of that sum to boost Mr. Greitens' campaign. SEALs for Truth, Receipts, 2015-2016, Federal Election Commission, <https://bit.ly/2L9nhw6>; LG PAC, Receipts, 2015-2016, Federal Election Commission, <https://bit.ly/2Izn2c2>; Jason Hancock, Greitens campaign adviser linked to nonprofit that funded attacks against GOP rivals, *Kansas City Star*, Dec. 18, 2017, <https://bit.ly/2kkKsI9>.

29. As explained below, supporters of Mr. Greitens' campaign appear to have executed the planned conduit contribution scheme in mid-2016.

*American Policy Coalition/SEALs for Truth*

30. On July 18, 2016, American Policy Coalition transferred \$2 million to SEALs for Truth. SEALs for Truth, FEC Form 3X, October Quarterly Report, Oct. 14, 2016, <https://bit.ly/2IQshHW>. That same day, SEALs for Truth contributed \$1.975 million to Greitens for Missouri. Greitens for Missouri, Missouri Ethics Commission 48 Hour Report of Contribution Received Over \$5,000, July 18, 2016, <https://bit.ly/2KAi2oc>. The contribution was described at the time as "by far, the single largest political contribution in Missouri history to an individual candidate. And we have absolutely no idea who it came from." Kevin McDermott, Who made the biggest political donation in Missouri history? Ask after the election, *St. Louis Post-Dispatch*, July 20, 2016, <https://bit.ly/29XaKZY>. The money appears to have been put to immediate use by the Greitens campaign. On the day of the contribution, the campaign made two payments totaling a little more than \$2 million for "media" to Target Enterprises, a media buying



firm affiliated with Mr. Greitens' general consultant, Nick Ayers. Greitens for Missouri, Missouri Ethics Commission 8 Days Before Primary Election - 8/2/2016, July 25, 2016, <https://bit.ly/2rSHfn3>; Vicky Ward, *Swamp Thing*, *HuffPost Highline*, Mar. 15, 2018, <https://bit.ly/2xHeRcV>.

31. Since SEALs for Truth is a federal super PAC and files its disclosure reports with the FEC rather than the Missouri Ethics Commission, the source of SEALs for Truth's money was not revealed until after the August 2, 2016 Missouri gubernatorial primary. If SEALs for Truth had been registered with the Missouri Ethics Commission, it would have been required to file an 8 Days Before Report on July 25, 2016 that would have disclosed the source of the money the PAC used for its July 18, 2016 contribution to Greitens for Missouri. Missouri Ethics Commission 2016 Campaign Finance Filing Requirements and Dates, Missouri Ethics Commission, June 2015, <https://bit.ly/2Jj0Ljn>. Instead, American Policy Coalition's \$2 million transfer to SEAL for Truth was not revealed until October 14, 2016, when SEALs for Truth filed its 2016 October Quarterly report with the FEC. American Policy Coalition was the only contributor to SEALs for Truth during the relevant reporting period, and the nonprofit group was responsible for all of the money that was ultimately contributed to Greitens for Missouri.<sup>2</sup> SEALs for Truth, *FEC Form 3X, October Quarterly Report*, Oct. 14, 2016, <https://bit.ly/2IQshHW>.

32. Before the nonprofit's contribution was revealed, SEALs for Truth suggested it had knowledge of the true source of the money that was routed through American Policy

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<sup>2</sup> SEALs for Truth has never reported another contribution other than \$152 in unitemized individual contributions. SEALs for Truth, Financial Summary, 2015-2016, Federal Election Commission, <https://bit.ly/2lsHwcN>.

Coalition, saying that the contribution to Greitens for Missouri had largely come from former Navy SEALs. In an unsigned statement sent to reporters on the day after the contribution was made, SEALs for Truth claimed it “was formed to support veterans as candidates for public office” and former Navy SEALs made up “the largest number of donors to our organization.” Jason Rosenbaum, Twitter, July 19, 2016, <https://bit.ly/2GvwFGQ>. Members of the Greitens campaign also made statements suggesting they may have had knowledge of the true source of the money that passed through the federal super PAC. After the contribution was first reported, Austin Chambers, Mr. Greitens’ campaign manager, told the *St. Louis Post-Dispatch* that “Eric is proud to stand with his fellow Navy SEALs, and he is grateful to have their support in this campaign.” McDermott, *St. Louis Post-Dispatch*, July 20, 2016.

*Freedom Frontier/LG PAC*

33. Similar to SEALs for Truth, LG PAC was also completely funded by a nonprofit, thus executing the planned scheme to hide the true source of the funds.<sup>3</sup> Between June 1, 2016 and July 29, 2016, LG PAC reported contributions totaling \$4.37 million from Freedom Frontier. LG PAC, Receipts, 2015-2016, Federal Election Commission, <https://bit.ly/2Izn2c2>. During that same time, the super PAC reported spending \$4.361 million on “media,” labeling some of the expenditures as for a “state race.” LG PAC, Disbursements, 2015-2016, Federal Election Commission, <https://bit.ly/2IuTSyK>.

34. The super PAC did not specify which candidates it was supporting or opposing. *Id.* If LG PAC had been registered with the Missouri Ethics Commission rather than the FEC, it

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<sup>3</sup> LG PAC never reported another contributor other than \$4 in unitemized individual contributions. LG PAC, Financial Summary, 2015-2016, <https://bit.ly/2Kd0hyD>.

would have been required to file reports detailing direct expenditures made to support or oppose a candidate. Political action committees registered in Missouri, which are known as continuing committees, are required to report expenditures made on behalf of a candidate or ballot measure issue, detailing the candidate's name and address, the office sought, whether the expenditure was in support of or opposition to the candidate, the expenditure date, and the expenditure amount. Missouri Ethics Commission Campaign Finance (Candidates/Committees) Frequently Asked Questions, Missouri Ethics Commission, May 2, 2016, <https://bit.ly/2J8oCpI>; Blank Committee Disclosure Report, Missouri Ethics Commission, <https://bit.ly/2sE0oIQ>. Despite the fact that LG PAC was spending in a state race, because it registered as a federal super PAC the organization shielded itself from the level of disclosure required of Missouri state continuing committees. Thus, it was not required to disclose the name of the candidates its expenditures targeted and whether they were made in support or opposition.

35. A week after LG PAC received its first contribution of \$1.5 million from Freedom Frontier, *St. Louis Public Radio* reported that the super PAC was spending \$1 million on a statewide television ad attacking Mr. Greitens' primary opponent, Republican gubernatorial candidate John Brunner, as a tax dodger. Jo Mannies, You can't find out who paid for new attack ads on Missouri TV. Laws keep them secret., *St. Louis Public Radio*, June 8, 2016, <https://bit.ly/2ITmzF9>.

36. An analysis of TV ad spending by the Center for Public Integrity found that LG PAC spent at least \$3.9 million on ads in the Missouri gubernatorial race, not including the cost of making ads or of funding ads aired on local cable systems. Missouri leads nation in TV ad spending for governor's race, *Associated Press*, Oct. 13, 2016, <https://bit.ly/2KCJ5iS>. This

included an ad attacking Catherine Hanaway, an opponent of Mr. Greitens, and an ad attacking Mr. Brunner for his allies' supposed "smear campaign" against Mr. Greitens. Tim Curtis, LG PAC sets sights on Hanaway, *The Missouri Times*, July 19, 2016, <https://bit.ly/2KElcYj>; Jason Rosenbaum, YouTube, July 14, 2016, <https://bit.ly/2wUXnsX>.

*Ties Between the Greitens Campaign, the Nonprofit Organizations, and the Super PACs*

37. There are significant ties between Mr. Greitens' campaign, the nonprofit organizations, and the super PACs that together conceived and executed the conduit contribution scheme.

38. Nick Ayers, one of Mr. Greitens' top campaign consultants, was directly involved with both the Greitens campaign and Freedom Frontier, the nonprofit that funded LG PAC. Until April 2018, Mr. Ayers owned a political consulting firm called C5 Creative Consulting. Lindsay Wise and Steve Vockrodt, Pence's chief of staff sells consulting firm to GOP 'kingmaker', *McClatchy*, May 4, 2018, <https://bit.ly/2IMZ0xP>. Greitens for Missouri paid C5 Creative Consulting \$30,060 for "media planning" during the 2016 election. Greitens for Missouri, Missouri Ethics Commission 8 Days Before General Election-11/8/2016 Report, Oct. 31, 2016, <https://bit.ly/2xBPU2w>. Mr. Ayers also formerly was a partner in the media buying firm Target Enterprises, Inc. and maintained a "business partnership" with the company through C5 Creative Consulting. Target Enterprises, Dec. 22, 2014, available at the Internet Archive Wayback Machine, <https://bit.ly/2IRWypv>; James N. Ayers, Public Financial Disclosure Report, Oct. 19, 2017, Part 4, Line 8 ("Ayers OGE 278e"), <https://bit.ly/2wQWWzO>. Greitens for Missouri paid Target Enterprises millions of dollars for media work during the 2016 campaign, Kevin

McDermott, Greitens pal and 'dark money' expert both involved in record donation – but still no disclosure, *St. Louis Post-Dispatch*, Oct. 26, 2016, <https://bit.ly/2LRrvJk>.

39. On July 26, 2017 Mr. Ayers was appointed Assistant to the President and Chief of Staff to the Vice President. Ayers OGE 278e.

40. In addition to being compensated by Greitens for Missouri, Mr. Ayers, through his firm C5 Creative Consulting, was also paid by Freedom Frontier between 2015 and late 2017. Ayers OGE 278e, Part 4, Lines 15, 18.

41. Mr. Ayers was also seemingly involved with LG PAC. According to a profile of Greitens' campaign manager, Mr. Chambers, that featured an interview with Mr. Ayers, Mr. Ayers was both the "general consultant" for the Greitens campaign and also "managed an outside group that spent money in the Greitens race" – presumably LG PAC, the group that spent millions on media and ads supporting Mr. Greitens. Rachael Herndon Dunn, Austin Chambers: Missouri is the backdrop for another national political star, *The Missouri Times*, Dec. 30, 2016, <https://bit.ly/2IUess4>.

42. The treasurer of LG PAC, Richard Monsees, further had ties to Mr. Greitens and his campaign. Soon after the super PAC's creation, Mr. Monsees was spotted attending the opening of a Greitens campaign office and speaking to Mr. Greitens at the event, Micheal Mahoney, Man tied to anti-Brunner ad appears at event with Brunner rival, *KMBC 9 News*, June 17, 2016, <https://bit.ly/2kgZv53>, and a photo of Mr. Monsees was later posted on Facebook that appeared to show him making phone calls for the Greitens campaign at the event. Tim Curtis, New information links LG PAC and Greitens, *The Missouri Times*, June 18, 2016, <https://bit.ly/2s2k0WG>; Alex Kuehler, Facebook, May 23, 2016, <https://bit.ly/2x61jYe>. While

Mr. Monsees denied that he made phone calls for the campaign, Mr. Greitens' campaign manager told the *Associated Press* that Mr. Monsees "made about 10 calls at the event that day." PAC treasurer denies ties to gubernatorial hopeful Greitens, *Associated Press*, June 21, 2016, <https://bit.ly/2s0AQGn>.

43. The treasurer of SEALs for Truth, Nicholas Britt, also had personal connections to Mr. Greitens. Following the revelation that American Policy Coalition was the sole funder of SEALs for Truth, Mr. Greitens encouraged a reporter who asked about the contribution to "reach out to Nick Britt, the treasurer, if you have any questions at all about the filing. Nick was a Navy SEAL, he went through Navy SEAL training with me, and I'm sure he'd be happy to talk with you." Lucas Geisler, Missouri governor candidate addresses \$1.9M donation, *KMIZ*, Oct. 22, 2016, <https://bit.ly/2k9P7vY>.

44. American Policy Coalition and Freedom Frontier also are significantly connected to each other, with the two organizations sharing officers and directors. During the relevant time period, Freedom Frontier's Director, John Jude, also served as American Policy Coalition's Treasurer, while Freedom Frontier's Secretary, Jim Robey, served as American Policy Coalition's President. Freedom Frontier, 2015 Form 990, Amended; BluegrassVotes.org, Inc., Annual Report Online Filing, Kentucky Secretary of State, June 29, 2015, <https://bit.ly/2rXF15D>.

45. Additional information about American Policy Coalition's and Freedom Frontier's activities and personnel during the period in which the two nonprofits funded two federal super PACs supporting Mr. Greitens' election with more than \$6 million in anonymously-sourced money is currently unavailable. Both organizations are long past due in

filing their required tax returns with the Internal Revenue Service. Citizens for Responsibility and Ethics in Washington, CREW files IRS Complaint Against Greitens-Backing Nonprofits, Mar. 22, 2018, <https://bit.ly/2IYcirb>. American Policy Coalition's tax return covering October 1, 2015 to September 30, 2016, was due no later than August 15, 2017, and Freedom Frontier's tax return covering all of 2016 was due no later than November 15, 2017. Neither one has been filed. Those public records may shed more light on the links between the two groups.

#### Count I

46. The FECA and FEC regulations prohibit knowingly accepting a contribution made by one person in the name of another. 52 U.S.C. § 30122; 11 C.F.R. § 110.4(b). The FECA and FEC regulations further require political committees to report the identity of those who make contributions, as well as anyone who acted as a conduit for a contribution. 52 U.S.C. § 30104(b)(2); 11 C.F.R. § 104.3(a), (j) (political committees must report "earmarked contributions"); *see also Instructions for FEC Form 3X and Related Schedules* at 11 (revised May 2016), <https://bit.ly/2F19VxP> (any political committee receiving an earmarked contribution through conduit entities must "report each conduit through which the earmarked contribution passed, including the name and address of the conduit, and whether the contribution was passed on in cash, by the contributor's check, or by the conduit's check"); 52 U.S.C. § 30107(a)(8) (FEC forms have force of law).

47. SEALs for Truth and LG PAC, independent expenditure-only political committees established under the FECA, each violated the prohibition on knowingly accepting a contribution made by one person in the name of another and their obligations to report the identity of those who make contributions and anyone who acted as a conduit for a contribution.

The close ties between the Greitens campaign, the nonprofits, and the super PACs suggest that the violations were both knowing and willful.

48. At the beginning of Mr. Greitens' campaign for governor, his supporters in and out of the campaign devised a scheme to keep the names of donors secret by routing their contributions through conduits. As detailed above, they planned to "get a group of people that didn't want to disclose who they were" to contribute "individually or through their companies" by giving "directly to a certain entity" in a "way that conceals donors." The plan for the scheme involved establishing "nonprofits and c4s . . . to accept contributions" of money to be spent supporting Mr. Greitens' campaign.

49. SEALs for Truth executed part of the planned scheme in July 2016. On July 18, 2016, the super PAC accepted a \$2 million transfer from American Policy Coalition, a section 501(c)(4) organization that is not required to disclose its donors. On that same day, SEALs for Truth contributed nearly the same amount, \$1.975 million, to Greitens for Missouri, concealing the identities of Unknown Respondents who were either the true sources of the money or served as conduits through which the funds passed. Greitens for Missouri appears to have immediately spent the money on media buys supporting the campaign.

50. Accordingly, SEALs for Truth, by and through its treasurer, Nicholas Britt, knowingly accepted a contribution made by one person in the name of another in violation of 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b). If SEALs for Truth and Mr. Britt's violations were knowing and willful, they also are subject to criminal penalties and referral to the Department of Justice. 52 U.S.C. §§ 30109(a)(5)(C), (d)(1).



51. SEALs for Truth, by and through its treasurer, Mr. Britt, also failed to report the identities of the true source of contributions and the identities of each conduit for the contributions falsely attributed to American Policy Coalition, violating 52 U.S.C. § 30104(b)(2) and 11 C.F.R. § 104.3(a) and (j). If SEALs for Truth and Mr. Britt's violations were knowing and willful, they also are subject to criminal penalties and referral to the Department of Justice. 52 U.S.C. §§ 30109(a)(5)(C), (d)(1).

52. LG PAC similarly executed part of the planned scheme in June and July 2016. Between June 1 and July 29, 2016, LG PAC accepted \$4.37 million in transfers from Freedom Frontier. During that same period, LG PAC spent \$4.361 million on "media" attacking Mr. Greitens' opponents in the Missouri Republican gubernatorial primary as well as defending him against criticism. Routing the money through LG PAC concealed the identities of Unknown Respondents who were either the true sources of the money or served as conduits through which the funds passed.

53. Accordingly, LG PAC by and through its treasurer, Richard Monsees, knowingly accepted a contribution made by one person in the name of another in violation of 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b). If LG PAC and Mr. Monsees' violations were knowing and willful, they also are subject to criminal penalties and referral to the Department of Justice. 52 U.S.C. §§ 30109(a)(5)(C), (d)(1).

54. LG PAC, by and through its treasurer, Mr. Monsees, also failed to report the identities of the true source of contributions and the identities of each conduit for the contributions falsely attributed to Freedom Frontier, violating 52 U.S.C. § 30104(b)(2) and 11 C.F.R. § 104.3(a) and (j). If LG PAC and Mr. Monsees's violations were knowing and willful,

they also are subject to criminal penalties and referral to the Department of Justice. 52 U.S.C. §§ 30109(a)(5)(C), (d)(1).

Count II

55. The FECA and FEC regulations also prohibit knowingly permitting one's name to be used to effect a contribution in the name of another person and knowingly helping or assisting any person in making a contribution in the name of another. 52 U.S.C. § 30122; 11 C.F.R. § 110.4(b).

56. American Policy Coalition and Freedom Frontier each violated this law by allowing their names to be used to effect one or more contributions to super PACs by Unknown Respondents. The close ties between the Greitens campaign, the nonprofits, and the super PACs suggest that the violations were both knowing and willful.

57. As detailed above, Mr. Greitens' supporters in and out of his campaign devised a scheme to keep the names of donors secret by routing their contributions through conduits.

58. American Policy Coalition executed part of the planned scheme in July 2016. On July 18, 2016, American Policy Coalition transferred \$2 million to SEALs for Truth. On that same day, SEALs for Truth contributed nearly the same amount, \$1.975 million, to Greitens for Missouri, concealing the identities of Unknown Respondents who were either the true sources of the money or served as conduits through which the funds passed. Greitens for Missouri appears to have immediately spent the money on media buys supporting the campaign.

59. Accordingly, American Policy Coalition knowingly permitted its name to be used to effect the contribution and knowingly helped the undisclosed donor make the contribution, in violation of 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b). If these violations were knowing and

willful, they also are subject to criminal penalties and referral to the Department of Justice. 52 U.S.C. §§ 30109(a)(5)(C), (d)(1).

60. Freedom Frontier similarly executed part of the planned scheme in June and July 2016. Between June 1 and July 29, 2016, Freedom Frontier transferred \$4.37 million to LG PAC. During that same period, LG PAC spent \$4.361 million on “media” attacking Mr. Greitens’ opponents in the Missouri Republican gubernatorial primary as well as defending him against criticism. Routing the money through Freedom Frontier concealed the identities of Unknown Respondents who were either the true sources of the money or served as conduits through which the funds passed.

61. Accordingly, Freedom Frontier knowingly permitted its name to be used to effect the contribution and knowingly helped the undisclosed donor make the contribution, in violation of 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b). If these violations were knowing and willful, they also are subject to criminal penalties and referral to the Department of Justice. 52 U.S.C. §§ 30109(a)(5)(C), (d)(1).

62. Certain Unknown Respondents may have served as conduits for the funds transferred to American Policy Coalition or Freedom Frontier, further concealing the identities of other Unknown Respondents who were the true sources of the money. If any Unknown Respondents knowingly permitted their names to be used to effect the contributions or knowingly helped other Unknown Respondents make the contributions, they violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b). If these violations were knowing and willful, the Unknown Respondents also are subject to criminal penalties and referral to the Department of Justice. 52 U.S.C. §§ 30109(a)(5)(C), (d)(1).

Count III

63. The FECA and FEC regulations further prohibit making a contribution in the name of another person. 52 U.S.C. § 30122; 11 C.F.R. § 110.4(b).

64. Unknown Respondents provided funds to American Policy Coalition, which American Policy Coalition transferred to SEALs for Truth. By making one or more contributions to SEALs for Truth in the name of American Policy Coalition, Unknown Respondents violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b). If Unknown Respondents' violations were knowing and willful, they also are subject to criminal penalties and referral to the Department of Justice. 52 U.S.C. §§ 30109(a)(5)(C), (d)(1).

65. Unknown Respondents provided funds to Freedom Frontier, which Freedom Frontier transferred to LG PAC. By making one or more contributions to LG PAC in the name of Freedom Frontier, Unknown Respondents violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b). If Unknown Respondent's violations were knowing and willful, they also are subject to criminal penalties and referral to the Department of Justice. 52 U.S.C. §§ 30109(a)(5)(C), (d)(1).

Conclusion

WHEREFORE, Citizens for Responsibility and Ethics in Washington and Noah Bookbinder request that the FEC conduct an investigation into these allegations; declare the respondents to have violated the FECA and applicable FEC regulations; and order respondents to correct these violations by filing reports identifying the true source of and any conduits for any transfers to SEALs for Truth improperly attributed to American Policy Coalition as well as the true source of and any conduits for any transfers to LG PAC improperly attributed to Freedom Frontier. In addition, the complainants request that the FEC impose sanctions appropriate to

these violations, and take such further action as may be appropriate, including referring this matter to the Department of Justice for criminal prosecution.



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ON BEHALF OF COMPLAINANTS

Noah Bookbinder

Executive Director

Citizens for Responsibility and Ethics  
in Washington

455 Massachusetts Ave. N.W.

Washington, D.C. 20001

(202) 408-5565 (phone)

(202) 588-5020 (fax)

Verification

Citizens for Responsibility and Ethics in Washington and Noah Bookbinder hereby verify that the statements made in the attached Complaint are, upon information and belief, true. Sworn pursuant to 18 U.S.C. § 1001.

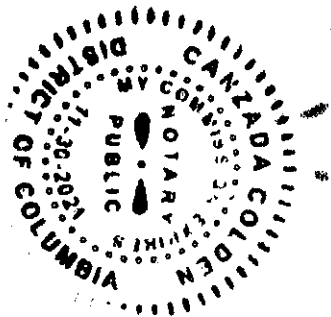


Noah Bookbinder

Sworn to and subscribed before me this 27 day of June, 2018



Notary Public



August 8, 2018

Federal Election Commission  
Office of Complaints Examination  
and Legal Administration  
1050 First Street, N.E.  
Washington, D.C. 20002

Re: MUR 7422/Amended Complaint

Dear Sir or Madam:

Please find under cover of this letter an amended complaint in MUR 7422. We file this amended complaint to supplement the complainants provided in CREW's original complaint, dated June 27, 2018. In the time during which CREW's complaint has been pending, new information relevant to CREW's original complaint has come to light, necessitating an update to the complaint. CREW submits this amended complaint to add this new information. Accordingly, the amended complaint includes new allegations (*see* Am. Compl. ¶¶ 3, 25, 28 and 29). The exhibits to the amended complaint are identical to the exhibits to the original complaint and are incorporated therein, but, in the interest of not duplicating copies in the administrative record, CREW has not resubmitted the exhibits.

Sincerely,



Noah Bookbinder  
Executive Director  
Citizens for Responsibility and Ethics  
in Washington  
455 Massachusetts Ave., N.W.  
Washington, D.C. 20001  
(202) 408-5565 (phone)  
(202) 588-5020 (fax)  
nbookbinder@citizensforethics.org

Encl.

FEDERAL ELECTION COMMISSION

In the matter of:

SEALs for Truth  
Nicholas Britt, Treasurer, SEALs for Truth  
American Policy Coalition, Inc.  
LG PAC  
Richard Monsees, Treasurer, LG PAC  
Freedom Frontier  
Unknown Respondents

MUR \_\_\_\_\_

AMENDED COMPLAINT

1. Citizens for Responsibility and Ethics in Washington (“CREW”) and Noah Bookbinder bring this amended complaint before the Federal Election Commission (“FEC” or “Commission”) seeking an immediate investigation and enforcement action against SEALs for Truth, Nicholas Britt, American Policy Coalition, Inc., LG PAC, Richard Monsees, Freedom Frontier, and Unknown Respondents for direct and serious violations of the Federal Election Campaign Act (“FECA”).

2. The FECA prohibits making and knowingly accepting a contribution in the name of another person, as well as knowingly permitting one’s name to be used to effect a contribution in the name of another person. This complaint concerns a deliberate effort to use federal super PACs and nonprofit organizations to execute a conduit contribution scheme in order to conceal the identity of donors supporting the election of now-former Missouri Gov. Eric Greitens in 2016.

3. This scheme to circumvent disclosure was hatched by Mr. Greitens’ campaign and his supporters in early 2015. As shown in the sworn testimony of one of Mr. Greitens’ campaign aides and in evidence collected by an investigative committee of the Missouri House



of Representatives, the plan they devised involved using nonprofit organizations that are not required to disclose their donors to accept contributions of money to be spent supporting the campaign. The scheme, executed in the summer of 2016, involved routing more than \$6 million through two nonprofits, American Policy Coalition and Freedom Frontier, to two federal super PACs, SEALs for Truth and LG PAC. SEALs for Truth in turn directly contributed \$1.975 million to Mr. Greitens' campaign, while LG PAC spent more than \$4.3 million on advertisements and other media attacking Mr. Greitens' opponents and supporting his candidacy. All of these groups were closely connected to the Greitens campaign and to each other, sharing consultants and officers.

4. By using federal rather than state-based super PACs to funnel money into the Missouri gubernatorial election, Mr. Greitens' supporters were able to deny Missouri voters timely information about the identities of those trying to influence the gubernatorial election. And routing the money through nonprofits and super PACs ensured that the ultimate source of the funds boosting Mr. Greitens would remain secret. These apparent violations of law deprive the public of important information and demand investigation.

#### Complainants

5. Complainant CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the right of citizens to be informed about the activities of government officials and to ensuring the integrity of government officials. CREW is dedicated to empowering voters to have an influential voice in government decisions and in the governmental decision-making process. CREW uses a combination of research, litigation, and advocacy to advance its mission.

6. In furtherance of its mission, CREW seeks to expose unethical and illegal conduct of those involved in government. One way CREW does this is by educating citizens regarding the integrity of the electoral process and our system of government. Toward this end, CREW monitors the campaign finance activities of those who run for federal and state office and publicizes those who violate federal campaign finance laws through its website, press releases, and other methods of distribution. CREW also files complaints with the FEC when it discovers violations of the FECA. Publicizing campaign finance violators and filing complaints with the FEC serve CREW's mission of keeping the public informed about individuals and entities that violate campaign finance laws and deterring future violations of campaign finance law.

7. In order to assess whether an individual, candidate, political committee, or other regulated entity is complying with federal campaign finance law, CREW needs the information contained in receipts and disbursements reports that political committees and others must file pursuant to the FECA, 52 U.S.C. § 30104; 11 C.F.R. §§ 104.1–22, 109.10. CREW is hindered in its programmatic activity when an individual, candidate, political committee, or other regulated entity fails to disclose campaign finance information in reports of receipts and disbursements required by the FECA.

8. CREW relies on the FEC's proper administration of the FECA's reporting requirements because the FECA-mandated disclosure reports are the only source of information CREW can use to determine if an individual, candidate, political committee, or other regulated entity is complying with the FECA. The proper administration of the FECA's reporting requirements includes mandating that all disclosure reports required by the FECA are properly

and timely filed with the FEC. CREW is hindered in its programmatic activity when the FEC fails to properly administer the FECA's reporting requirements.

9. Complainant Noah Bookbinder is the executive director of Citizens for Responsibility and Ethics in Washington. At all times relevant to the complaint, he has been and remains a citizen of the United States and a registered voter and resident of Maryland. As a registered voter, Mr. Bookbinder is entitled to receive information contained in disclosure reports required by the FECA, 52 U.S.C. § 30104; 11 C.F.R. §§ 104.1–22, 109.10. Mr. Bookbinder is harmed in exercising his right to vote when an individual, candidate, political committee, or other regulated entity fails to report campaign finance activity as required by the FECA. *See FEC v. Akins*, 524 U.S. 11, 19 (1998), *quoting Buckley v. Valeo*, 424 U.S. 1, 66-67 (1976) (political committees must disclose contributors and disbursements help voters understand who provides which candidates with financial support). Mr. Bookbinder is further harmed when the FEC fails to properly administer the FECA's reporting requirements, limiting his ability to review campaign finance information.

10. Mr. Bookbinder also is harmed in his ability to communicate to the public and to other voters information about the source of funds used for political activities.

#### Respondents

11. SEALs for Truth is a federal independent-expenditure only committee ("super PAC") formed under the FECA in June 2016. SEALs for Truth, FEC Form 1, Statement of Organization, June 15, 2016, <https://bit.ly/2rRu4m5>.

12. Nicholas Britt is the treasurer of SEALs for Truth. *Id.*

13. American Policy Coalition, Inc. is a tax-exempt organization, organized under

section 501(c)(4) of the Internal Revenue Code. It was established in Kentucky in 2011 as BluegrassVotes.org, Inc. BluegrassVotes.org, Inc., Articles of Incorporation, Kentucky Secretary of State, Aug. 30, 2011, <https://bit.ly/2JXJQ9g>, and changed its name to American Policy Coalition in November 2015. BluegrassVotes.org, Inc., Articles of Amendment, Kentucky Secretary of State, Nov. 17, 2015, <https://bit.ly/2rSIAdw>.

14. LG PAC is a federal independent-expenditure only committee formed under the FECA in May 2016. LG PAC, FEC Form 1, Statement of Organization, May 16, 2016, <https://bit.ly/2rRyLMJ>.

15. Richard “Hank” Monsees is the treasurer of LG PAC. LG PAC, FEC Form 1, Statement of Organization, Amended, June 6, 2016, <https://bit.ly/2wQlzg0>; James Dornbrook, Local PAC received \$1.5M donation, but its goals remain secret, *Kansas City Business Journal*, Oct. 31, 2016, <https://bit.ly/2Le30Wt>.

16. Freedom Frontier is a tax-exempt organization, organized under section 501(c)(4) of the Internal Revenue Code. It was established in Texas in 2011. Freedom Frontier, 2015 Form 990, Amended, <https://bit.ly/2tajxC>.

17. Unknown Respondents are the individuals who are the true sources of funds American Policy Coalition transferred to SEALs for Truth and Freedom Frontier transferred to LG PAC, as well as any individual(s), entity, or entities that served as conduits through which such funds passed before reaching American Policy Coalition and Freedom Frontier.

#### Factual Allegations

##### *The Plan to Conceal Donor Identities*

18. Michael Hafner is a Missouri-based political consultant.

19. Mr. Hafner worked as an informal political advisor to Mr. Greitens between December 2013 and January 2015, as Mr. Greitens developed his plans to run for office. Transcript of interview with Michael Hafner, Missouri House of Representatives Special Investigative Committee on Oversight, Mar. 14, 2018, Tr. 6:9-17, <https://bit.ly/2IN2hND> (“Hafner Tr.”). Mr. Hafner started working for Mr. Greitens in a paid capacity in January 2015. *Id.* Tr. 7:3-8. After Mr. Greitens officially launched his campaign in February 2015, Mr. Hafner was compensated by Greitens for Missouri for his work. Greitens for Missouri, Missouri Ethics Commission April Quarterly Report, Apr. 15, 2015, <https://bit.ly/2wZqZFU>.

20. After leaving the Greitens campaign in March 2015, Mr. Hafner later joined the campaign of one of Mr. Greitens’ opponents in the Republican gubernatorial primary, John Brunner. Hafner Tr. 93:15-20.

21. On March 14, 2018, the Missouri House of Representatives Special Investigative Committee on Oversight interviewed Mr. Hafner under oath about allegations that Mr. Greitens used a list of charitable donors for campaign fundraising purposes during his 2016 gubernatorial campaign. *See generally*, Hafner Tr.; Report 2 of the Missouri House Special Investigative Committee on Oversight, Apr. 24, 2018, <https://bit.ly/2LeYXcj>. Mr. Hafner was interviewed again by the committee, also under oath, on May 29, 2018. Video of Missouri House of Representatives Special Investigative Committee on Oversight Hearing – Tuesday, May 29, 2018, <https://bit.ly/2Jq9jbu> (“Hafner Video”).

22. During the interviews, Mr. Hafner revealed the scheme to conceal donor identities during the gubernatorial campaign. When asked whether, based on his work on the Greitens campaign, Mr. Hafner believed that “there was a strategy employed to conceal donors,” he

“I believe that was an intention of the campaign’s early on.” Hafner Tr. 45:1-5. Mr. Hafner said the strategy was “intended to get a group of people that didn’t want to disclose who they were” to contribute “individually or through their companies” by giving “directly to a certain entity,” which he described as a “freedom group,” in a “way that conceals donors.” *Id.* at 62:23-64:6. Nonprofits and section 501(c)(4) social welfare organizations were discussed as vehicles for concealing donors, Mr. Hafner also testified, saying, “there were specific donors that I reached out to, who [Mr. Greitens] connected me with, and we discussed specifically nonprofits and c4s, and what the process would be to establish entities like that to accept contributions, for bundling contributions.” Hafner Video, at 1:53:57.

23. Mr. Hafner further testified that he was led to believe campaign staff would coordinate with donors seeking to support the Greitens campaign while remaining anonymous, saying, “I had had conversations with people associated with [Mr. Greitens] in January and February and March when I was employed and working out of that office that I knew that I was led to believe that . . . they were planning on concealing donors in some way or having people . . . on their campaign having staff associated with on their campaign reach out and coordinate donors” who would support the campaign while being kept secret. Hafner Tr. 116:3-10.

24. Mr. Hafner said that Mr. Greitens directed him “to have conversations with donors who intended to raise significant amounts of money and conceal the donors, conceal the identity of those donors.” *Id.* at 40:22-25. In particular, Mr. Hafner said he had two phone conversations with a donor named Monu Joseph who “wanted to discuss with me how the campaign was going to bundle contributions and conceal the identity of donors.” *Id.* at 41:9-11. According to Mr. Hafner, he “was connected with Monu, who was planning on raising a

substantial amount of money for the campaign. I think somewhere between 250 and half a million dollars. And my conversations with him, he wanted to know if there were avenues set up where, that were nonprofits or c4s, that they could bring money in and not disclose the source of those contributions.” Hafner Video, at 1:58:40. Mr. Hafner also said he had contact with other individuals who were discussing ways to conceal donations and that he had conversations with Mr. Greitens “about reaching out to specific donors who were intending to raise a lot of money and wanting to know how to do it.” Hafner Tr. 43:11-13.

25. Mr. Hafner also testified about possible motivations for the scheme to set up entities to conceal the identity of donors. In one interview, Mr. Hafner commented on “a memo developed on people in financial services contributing” to Mr. Greitens’ campaign, which he said would have been sent to Mr. Joseph. Acknowledging that people in the financial services industry are sometimes referred to as restricted donors due to Securities and Exchange Commission regulations, Mr. Hafner said Mr. Joseph “had a lot of contacts in that world and wanted to look at avenues for ways that they could contribute.” Hafner Video, at 1:08:16. The Greitens campaign’s interest in courting restricted donors was confirmed by evidence gathered and publicly released by the Missouri House of Representatives Special Investigative Committee on Oversight. In a December 4, 2015 e-mail exchange obtained by the committee, the Greitens campaign’s finance director, Meredith Gibbons, wrote to Greitens campaign consultant Nick Ayers about a “restricted donor” that the campaign wanted him to “reach out to.” Complaint Against Greitens for Missouri, and A New Missouri, Inc. for Violations of Missouri Campaign Finance Law, submitted by Missouri state Rep. Jay Barnes to the Missouri Ethics Commission, July 10, 2018, at 20, *available at* <https://bit.ly/2NdCtc3> (“Barnes Complaint”). Mr. Ayers wrote

that he would “buzz” her soon regarding the “restricted donor.” *Id.*

26. Mr. Hafner also said “there were conversations that we had where foreign money was discussed, where foreign money was discussed, and the possibility of foreign money, you know, being contributed to an entity. There were those discussions that were being had in the early stages.” Hafner Video, at 1:56:17.<sup>1</sup>

27. Mr. Hafner further said that because at the time of the 2016 gubernatorial election there were no contribution limits in Missouri, he believed there could only be “one reason” to set up “another entity” outside of the candidate’s campaign committee that “could accept unlimited contributions” and “that’s to conceal the identity of a specific donor or groups of donors.” Hafner Interview, at 2:59:30.

28. Though Mr. Hafner left the Greitens campaign in March 2015, evidence collected by the Missouri House of Representatives Special Investigative Committee on Oversight shows that the Greitens campaign continued to discuss routing donors whose identities they wanted to conceal for political or legal reasons to section 501(c)(4) nonprofits that are not required to disclose their donors. On July 10, 2018, Missouri state Rep. Jay Barnes (R), who served as the chairman of the Missouri House of Representatives Special Investigative Committee on

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<sup>1</sup> Mr. Hafner acknowledged that he had no “direct knowledge” of any contributions by foreign nationals being made to the Greitens campaign since he left the campaign in its early stages. Hafner Video, at 3:47:45. However, he testified he had discussions related to two individuals associated with Mr. Greitens regarding foreign contributions. Hafner Video, at 3:00:43. First, he said one discussion involved Mr. Joseph indicating to Mr. Hafner that he and Mr. Greitens “had a lot of buddies” from Oxford University, where “most” of the students are not American citizens, that “were interested in contributing to the race.” *Id.* According to Mr. Hafner, Mr. Joseph “specifically asked about how, what would be the way to get, you know, foreign money, contributions from abroad, into the campaign.” *Id.* at 4:23:16. Second, Mr. Hafner testified that the other discussion involved an associate of Mr. Greitens who lived in Hong Kong and had made commitments “early on in the campaign to contribute a lot of money and to raise a lot of money.” *Id.* at 3:00:43. Mr. Joseph’s attorney denied Mr. Hafner’s account, telling the *Columbia Daily Tribune* that “at no time did Mr. Joseph request donations from anyone living abroad, U.S. citizens or otherwise.” Rudi Keller, Greitens campaign sought foreign contributions, consultant testified, *Columbia Daily Tribune*, May 3, 2018, <https://bit.ly/2HV4TZW>.



Oversight that investigated Mr. Greitens, filed a complaint with the Missouri Ethics Commission alleging that Mr. Greitens' campaign committee, Greitens for Missouri, and a nonprofit group that his aides formed after his election, A New Missouri, Inc., had violated Missouri campaign finance law. Barnes Complaint. In the complaint, Rep. Barnes wrote that evidence obtained by the committee "strongly suggests that Greitens for Missouri engaged in activity purposefully designed to conceal donor identities." *Id.* at 17.

29. That evidence includes a November 17, 2015 email sent by Greitens campaign manager Austin Chambers in which he discussed potential donors to the campaign who were Democrats. "If they want to give, C4 would probably be better so that they don't appear on our reports," Mr. Chambers wrote. *Id.* at 19. A second email exchange similarly shows an intent to use a nonprofit organization to keep donors secret. On June 27, 2016, "an early supporter and fundraiser" of Mr. Greitens emailed the campaign's finance director, Ms. Gibbons, about an individual who the fundraiser believed was "not allowed to give" money to the Greitens campaign "due to compliance reasons" because the individual "manages money for the state of Missouri." *Id.* at 21. The fundraiser advised Ms. Gibbons that Mr. Greitens could "mention the 501(c)(4) if applicable[.]" *Id.* As Rep. Barnes noted in his complaint, two days after the fundraiser emailed Ms. Gibbons suggesting Mr. Greitens could "mention the 501(c)(4)" to an apparently restricted donor, Freedom Frontier, a section 501(c)(4) organization, contributed \$500,000 to a super PAC that spent millions to support Mr. Greitens' campaign. *Id.* at 26.

30. Mr. Hafner testified that he believed the scheme was carried out. Hafner Tr. 45:6-7. During his testimony, he referenced both SEALs for Truth and LG PAC when asked about politically-active entities whose donors are not publicly identified. "There's the other element to

it that, yeah, I don't think anyone's aware other than internally those organizations, how much money they raised and spent. And I'm referring to, you know, the SEALs for Truth, which we don't know where that money came from. That was disclosed in [Missouri Ethics Commission filings], but the way they did it was, I think, through a super PAC which then contributed to the [Greitens campaign committee]. And then the LG PAC, which was making enormous expenditures in that race and that was routed through ghost corporations in Texas, I think."

Hafner Video, at 2:58:00. Mr. Hafner also appeared to refer to the two federal super PACs funded by nonprofits in an interview with *St. Louis Public Radio* when he estimated that Mr. Greitens "had (at least) \$6 million in untraceable money" that supported his campaign. Jo Mannies and Jason Rosenbaum, Former aide says Greitens relied on charity donor list, 'dark money' to kick-start campaign, *St. Louis Public Radio*, May 9, 2018, <https://bit.ly/2L93uNn>.

31. Mr. Hafner's estimate of "\$6 million in untraceable money" corresponds with the support Mr. Greitens received from SEALs for Truth and LG PAC, which combined raised \$6.395 million solely from nonprofits that do not disclose their donors and spent almost all of that sum to boost Mr. Greitens' campaign. SEALs for Truth, Receipts, 2015-2016, Federal Election Commission, <https://bit.ly/2L9nhw6>; LG PAC, Receipts, 2015-2016, Federal Election Commission, <https://bit.ly/2Izn2c2>; Jason Hancock, Greitens campaign adviser linked to nonprofit that funded attacks against GOP rivals, *Kansas City Star*, Dec. 18, 2017, <https://bit.ly/2kkKsI9>.

32. As explained below, supporters of Mr. Greitens' campaign appear to have executed the planned conduit contribution scheme in mid-2016.

*American Policy Coalition/SEALs for Truth*

33. On July 18, 2016, American Policy Coalition transferred \$2 million to SEALs for Truth. SEALs for Truth, FEC Form 3X, October Quarterly Report, Oct. 14, 2016, <https://bit.ly/2IQshHW>. That same day, SEALs for Truth contributed \$1.975 million to Greitens for Missouri. Greitens for Missouri, Missouri Ethics Commission 48 Hour Report of Contribution Received Over \$5,000, July 18, 2016, <https://bit.ly/2KAi2oc>. The contribution was described at the time as “by far, the single largest political contribution in Missouri history to an individual candidate. And we have absolutely no idea who it came from.” Kevin McDermott, Who made the biggest political donation in Missouri history? Ask after the election, *St. Louis Post-Dispatch*, July 20, 2016, <https://bit.ly/29XaKZY>. The money appears to have been put to immediate use by the Greitens campaign. On the day of the contribution, the campaign made two payments totaling a little more than \$2 million for “media” to Target Enterprises, a media buying firm affiliated with Mr. Greitens’ general consultant, Mr. Ayers. Greitens for Missouri, Missouri Ethics Commission 8 Days Before Primary Election - 8/2/2016, July 25, 2016, <https://bit.ly/2rSHfn3>; Vicky Ward, Swamp Thing, *HuffPost Highline*, Mar. 15, 2018, <https://bit.ly/2xHeRcV>.

34. Since SEALs for Truth is a federal super PAC and files its disclosure reports with the FEC rather than the Missouri Ethics Commission, the source of SEALs for Truth’s money was not revealed until after the August 2, 2016 Missouri gubernatorial primary. If SEALs for Truth had been registered with the Missouri Ethics Commission, it would have been required to file an 8 Days Before Report on July 25, 2016 that would have disclosed the source of the money the PAC used for its July 18, 2016 contribution to Greitens for Missouri. Missouri Ethics

Commission 2016 Campaign Finance Filing Requirements and Dates, Missouri Ethics Commission, June 2015, <https://bit.ly/2Jj0Ljn>. Instead, American Policy Coalition's \$2 million transfer to SEAL for Truth was not revealed until October 14, 2016, when SEALs for Truth filed its 2016 October Quarterly report with the FEC. American Policy Coalition was the only contributor to SEALs for Truth during the relevant reporting period, and the nonprofit group was responsible for all of the money that was ultimately contributed to Greitens for Missouri.<sup>2</sup> SEALs for Truth, FEC Form 3X, October Quarterly Report, Oct. 14, 2016, <https://bit.ly/2IQshHW>.

35. Before the nonprofit's contribution was revealed, SEALs for Truth suggested it had knowledge of the true source of the money that was routed through American Policy Coalition, saying that the contribution to Greitens for Missouri had largely come from former Navy SEALs. In an unsigned statement sent to reporters on the day after the contribution was made, SEALs for Truth claimed it "was formed to support veterans as candidates for public office" and former Navy SEALs made up "the largest number of donors to our organization." Jason Rosenbaum, Twitter, July 19, 2016, <https://bit.ly/2GvwFGQ>. Members of the Greitens campaign also made statements suggesting they may have had knowledge of the true source of the money that passed through the federal super PAC. After the contribution was first reported, Mr. Chambers, Mr. Greitens' campaign manager, told the *St. Louis Post-Dispatch* that "Eric is proud to stand with his fellow Navy SEALs, and he is grateful to have their support in this campaign." McDermott, *St. Louis Post-Dispatch*, July 20, 2016.

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<sup>2</sup> SEALs for Truth has never reported another contribution other than \$152 in unitemized individual contributions. SEALs for Truth, Financial Summary, 2015-2016, Federal Election Commission, <https://bit.ly/2lsHwcN>.

*Freedom Frontier/LG PAC*

36. Similar to SEALs for Truth, LG PAC was also completely funded by a nonprofit, thus executing the planned scheme to hide the true source of the funds.<sup>3</sup> Between June 1, 2016 and July 29, 2016, LG PAC reported contributions totaling \$4.37 million from Freedom Frontier. LG PAC, Receipts, 2015-2016, Federal Election Commission, <https://bit.ly/2Izn2c2>. During that same time, the super PAC reported spending \$4.361 million on “media,” labeling some of the expenditures as for a “state race.” LG PAC, Disbursements, 2015-2016, Federal Election Commission, <https://bit.ly/2IuTSyK>.

37. The super PAC did not specify which candidates it was supporting or opposing. *Id.* If LG PAC had been registered with the Missouri Ethics Commission rather than the FEC, it would have been required to file reports detailing direct expenditures made to support or oppose a candidate. Political action committees registered in Missouri, which are known as continuing committees, are required to report expenditures made on behalf of a candidate or ballot measure issue, detailing the candidate’s name and address, the office sought, whether the expenditure was in support of or opposition to the candidate, the expenditure date, and the expenditure amount. Missouri Ethics Commission Campaign Finance (Candidates/Committees) Frequently Asked Questions, Missouri Ethics Commission, May 2, 2016, <https://bit.ly/2J8oCpI>; Blank Committee Disclosure Report, Missouri Ethics Commission, <https://bit.ly/2sE0oIQ>. Despite the fact that LG PAC was spending in a state race, because it registered as a federal super PAC the organization shielded itself from the level of disclosure required of Missouri state continuing committees.

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<sup>3</sup> LG PAC never reported another contributor other than \$4 in unitemized individual contributions. LG PAC, Financial Summary, 2015-2016, <https://bit.ly/2Kd0hyD>.

Thus, it was not required to disclose the name of the candidates its expenditures targeted and whether they were made in support or opposition.

38. A week after LG PAC received its first contribution of \$1.5 million from Freedom Frontier, *St. Louis Public Radio* reported that the super PAC was spending \$1 million on a statewide television ad attacking Mr. Greitens' primary opponent, Republican gubernatorial candidate John Brunner, as a tax dodger. Jo Mannies, *You can't find out who paid for new attack ads on Missouri TV. Laws keep them secret.*, *St. Louis Public Radio*, June 8, 2016, <https://bit.ly/2ITmzF9>.

39. An analysis of TV ad spending by the Center for Public Integrity found that LG PAC spent at least \$3.9 million on ads in the Missouri gubernatorial race, not including the cost of making ads or of funding ads aired on local cable systems. *Missouri leads nation in TV ad spending for governor's race*, *Associated Press*, Oct. 13, 2016, <https://bit.ly/2KCJ5iS>. This included an ad attacking Catherine Hanaway, an opponent of Mr. Greitens, and an ad attacking Mr. Brunner for his allies' supposed "smear campaign" against Mr. Greitens. Tim Curtis, *LG PAC sets sights on Hanaway*, *The Missouri Times*, July 19, 2016, <https://bit.ly/2KElcYj>; Jason Rosenbaum, YouTube, July 14, 2016, <https://bit.ly/2wUXnsX>.

*Ties Between the Greitens Campaign, the Nonprofit Organizations, and the Super PACs*

40. There are significant ties between Mr. Greitens' campaign, the nonprofit organizations, and the super PACs that together conceived and executed the conduit contribution scheme.

41. Mr. Ayers, one of Mr. Greitens' top campaign consultants, was directly involved with both the Greitens campaign and Freedom Frontier, the nonprofit that funded LG PAC. Until

April 2018, Mr. Ayers owned a political consulting firm called C5 Creative Consulting. Lindsay Wise and Steve Vockrodt, Pence's chief of staff sells consulting firm to GOP 'kingmaker', *McClatchy*, May 4, 2018, <https://bit.ly/2IMZ0xP>. Greitens for Missouri paid C5 Creative Consulting \$30,060 for "media planning" during the 2016 election. Greitens for Missouri, Missouri Ethics Commission 8 Days Before General Election-11/8/2016 Report, Oct. 31, 2016, <https://bit.ly/2xBPU2w>. Mr. Ayers also formerly was a partner in the media buying firm Target Enterprises, Inc. and maintained a "business partnership" with the company through C5 Creative Consulting. Target Enterprises, Dec. 22, 2014, available at the Internet Archive Wayback Machine, <https://bit.ly/2IRWypv>; James N. Ayers, Public Financial Disclosure Report, Oct. 19, 2017, Part 4, Line 8 ("Ayers OGE 278e"), <https://bit.ly/2wQWWzQ>. Greitens for Missouri paid Target Enterprises millions of dollars for media work during the 2016 campaign. Kevin McDermott, Greitens pal and 'dark money' expert both involved in record donation – but still no disclosure, *St. Louis Post-Dispatch*, Oct. 26, 2016, <https://bit.ly/2LRrvJk>.

42. On July 26, 2017 Mr. Ayers was appointed Assistant to the President and Chief of Staff to the Vice President. Ayers OGE 278e.

43. In addition to being compensated by Greitens for Missouri, Mr. Ayers, through his firm C5 Creative Consulting, was also paid by Freedom Frontier between 2015 and late 2017. Ayers OGE 278e, Part 4, Lines 15, 18.

44. Mr. Ayers was also seemingly involved with LG PAC. According to a profile of Mr. Greitens' campaign manager, Mr. Chambers, that featured an interview with Mr. Ayers, Mr. Ayers was both the "general consultant" for the Greitens campaign and also "managed an outside group that spent money in the Greitens race" – presumably LG PAC, the group that spent

millions on media and ads supporting Mr. Greitens. Rachael Herndon Dunn, Austin Chambers: Missouri is the backdrop for another national political star, *The Missouri Times*, Dec. 30, 2016, <https://bit.ly/2IUess4>.

45. The treasurer of LG PAC, Richard Monsees, further had ties to Mr. Greitens and his campaign. Soon after the super PAC's creation, Mr. Monsees was spotted attending the opening of a Greitens campaign office and speaking to Mr. Greitens at the event, Micheal Mahoney, Man tied to anti-Brunner ad appears at event with Brunner rival, *KMBC 9 News*, June 17, 2016, <https://bit.ly/2kgZv53>, and a photo of Mr. Monsees was later posted on Facebook that appeared to show him making phone calls for the Greitens campaign at the event. Tim Curtis, New information links LG PAC and Greitens, *The Missouri Times*, June 18, 2016, <https://bit.ly/2s2k0WG>; Alex Kuehler, Facebook, May 23, 2016, <https://bit.ly/2x61jYe>. While Mr. Monsees denied that he made phone calls for the campaign, Mr. Greitens' campaign manager told the *Associated Press* that Mr. Monsees "made about 10 calls at the event that day." PAC treasurer denies ties to gubernatorial hopeful Greitens, *Associated Press*, June 21, 2016, <https://bit.ly/2s0AQQn>.

46. The treasurer of SEALs for Truth, Nicholas Britt, also had personal connections to Mr. Greitens. Following the revelation that American Policy Coalition was the sole funder of SEALs for Truth, Mr. Greitens encouraged a reporter who asked about the contribution to "reach out to Nick Britt, the treasurer, if you have any questions at all about the filing. Nick was a Navy SEAL, he went through Navy SEAL training with me, and I'm sure he'd be happy to talk with you." Lucas Geisler, Missouri governor candidate addresses \$1.9M donation, *KMIZ*, Oct. 22, 2016, <https://bit.ly/2k9P7vY>.



47. American Policy Coalition and Freedom Frontier also are significantly connected to each other, with the two organizations sharing officers and directors. During the relevant time period, Freedom Frontier's Director, John Jude, also served as American Policy Coalition's Treasurer, while Freedom Frontier's Secretary, Jim Robey, served as American Policy Coalition's President. Freedom Frontier, 2015 Form 990, Amended; BluegrassVotes.org, Inc., Annual Report Online Filing, Kentucky Secretary of State, June 29, 2015, <https://bit.ly/2rXF15D>.

48. Additional information about American Policy Coalition's and Freedom Frontier's activities and personnel during the period in which the two nonprofits funded two federal super PACs supporting Mr. Greitens' election with more than \$6 million in anonymously-sourced money is currently unavailable. Both organizations are long past due in filing their required tax returns with the Internal Revenue Service. Citizens for Responsibility and Ethics in Washington, CREW files IRS Complaint Against Greitens-Backing Nonprofits, Mar. 22, 2018, <https://bit.ly/2IYc1rb>. American Policy Coalition's tax return covering October 1, 2015 to September 30, 2016, was due no later than August 15, 2017, and Freedom Frontier's tax return covering all of 2016 was due no later than November 15, 2017. Neither one has been filed. Those public records may shed more light on the links between the two groups.

#### Count I

49. The FECA and FEC regulations prohibit knowingly accepting a contribution made by one person in the name of another. 52 U.S.C. § 30122; 11 C.F.R. § 110.4(b). The FECA and FEC regulations further require political committees to report the identity of those who make contributions, as well as anyone who acted as a conduit for a contribution. 52 U.S.C.

§ 30104(b)(2); 11 C.F.R. § 104.3(a), (j) (political committees must report “earmarked contributions”); *see also Instructions for FEC Form 3X and Related Schedules* at 11 (revised May 2016), <https://bit.ly/2F19VxP> (any political committee receiving an earmarked contribution through conduit entities must “report each conduit through which the earmarked contribution passed, including the name and address of the conduit, and whether the contribution was passed on in cash, by the contributor’s check, or by the conduit’s check”); 52 U.S.C. § 30107(a)(8) (FEC forms have force of law).

50. SEALs for Truth and LG PAC, independent expenditure-only political committees established under the FECA, each violated the prohibition on knowingly accepting a contribution made by one person in the name of another and their obligations to report the identity of those who make contributions and anyone who acted as a conduit for a contribution. The close ties between the Greitens campaign, the nonprofits, and the super PACs suggest that the violations were both knowing and willful.

51. At the beginning of Mr. Greitens’ campaign for governor, his supporters in and out of the campaign devised a scheme to keep the names of donors secret by routing their contributions through conduits. As detailed above, they planned to “get a group of people that didn’t want to disclose who they were” to contribute “individually or through their companies” by giving “directly to a certain entity” in a “way that conceals donors.” The plan for the scheme involved establishing “nonprofits and c4s . . . to accept contributions” of money to be spent supporting Mr. Greitens’ campaign.

52. SEALs for Truth executed part of the planned scheme in July 2016. On July 18, 2016, the super PAC accepted a \$2 million transfer from American Policy Coalition, a section

501(c)(4) organization that is not required to disclose its donors. On that same day, SEALs for Truth contributed nearly the same amount, \$1.975 million, to Greitens for Missouri, concealing the identities of Unknown Respondents who were either the true sources of the money or served as conduits through which the funds passed. Greitens for Missouri appears to have immediately spent the money on media buys supporting the campaign.

53. Accordingly, SEALs for Truth, by and through its treasurer, Nicholas Britt, knowingly accepted a contribution made by one person in the name of another in violation of 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b). If SEALs for Truth and Mr. Britt's violations were knowing and willful, they also are subject to criminal penalties and referral to the Department of Justice. 52 U.S.C. §§ 30109(a)(5)(C), (d)(1).

54. SEALs for Truth, by and through its treasurer, Mr. Britt, also failed to report the identities of the true source of contributions and the identities of each conduit for the contributions falsely attributed to American Policy Coalition, violating 52 U.S.C. § 30104(b)(2) and 11 C.F.R. § 104.3(a) and (j). If SEALs for Truth and Mr. Britt's violations were knowing and willful, they also are subject to criminal penalties and referral to the Department of Justice. 52 U.S.C. §§ 30109(a)(5)(C), (d)(1).

55. LG PAC similarly executed part of the planned scheme in June and July 2016. Between June 1 and July 29, 2016, LG PAC accepted \$4.37 million in transfers from Freedom Frontier. During that same period, LG PAC spent \$4.361 million on "media" attacking Mr. Greitens' opponents in the Missouri Republican gubernatorial primary as well as defending him against criticism. Routing the money through LG PAC concealed the identities of Unknown

Respondents who were either the true sources of the money or served as conduits through which the funds passed.

56. Accordingly, LG PAC by and through its treasurer, Richard Monsees, knowingly accepted a contribution made by one person in the name of another in violation of 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b). If LG PAC and Mr. Monsees' violations were knowing and willful, they also are subject to criminal penalties and referral to the Department of Justice. 52 U.S.C. §§ 30109(a)(5)(C), (d)(1).

57. LG PAC, by and through its treasurer, Mr. Monsees, also failed to report the identities of the true source of contributions and the identities of each conduit for the contributions falsely attributed to Freedom Frontier, violating 52 U.S.C. § 30104(b)(2) and 11 C.F.R. § 104.3(a) and (j). If LG PAC and Mr. Monsees's violations were knowing and willful, they also are subject to criminal penalties and referral to the Department of Justice. 52 U.S.C. §§ 30109(a)(5)(C), (d)(1).

## Count II

58. The FECA and FEC regulations also prohibit knowingly permitting one's name to be used to effect a contribution in the name of another person and knowingly helping or assisting any person in making a contribution in the name of another. 52 U.S.C. § 30122; 11 C.F.R. § 110.4(b).

59. American Policy Coalition and Freedom Frontier each violated this law by allowing their names to be used to effect one or more contributions to super PACs by Unknown Respondents. The close ties between the Greitens campaign, the nonprofits, and the super PACs suggest that the violations were both knowing and willful.

60. As detailed above, Mr. Greitens' supporters in and out of his campaign devised a scheme to keep the names of donors secret by routing their contributions through conduits.

61. American Policy Coalition executed part of the planned scheme in July 2016. On July 18, 2016, American Policy Coalition transferred \$2 million to SEALs for Truth. On that same day, SEALs for Truth contributed nearly the same amount, \$1.975 million, to Greitens for Missouri, concealing the identities of Unknown Respondents who were either the true sources of the money or served as conduits through which the funds passed. Greitens for Missouri appears to have immediately spent the money on media buys supporting the campaign.

62. Accordingly, American Policy Coalition knowingly permitted its name to be used to effect the contribution and knowingly helped the undisclosed donor make the contribution, in violation of 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b). If these violations were knowing and willful, they also are subject to criminal penalties and referral to the Department of Justice. 52 U.S.C. §§ 30109(a)(5)(C), (d)(1).

63. Freedom Frontier similarly executed part of the planned scheme in June and July 2016. Between June 1 and July 29, 2016, Freedom Frontier transferred \$4.37 million to LG PAC. During that same period, LG PAC spent \$4.361 million on "media" attacking Mr. Greitens' opponents in the Missouri Republican gubernatorial primary as well as defending him against criticism. Routing the money through Freedom Frontier concealed the identities of Unknown Respondents who were either the true sources of the money or served as conduits through which the funds passed.

64. Accordingly, Freedom Frontier knowingly permitted its name to be used to effect the contribution and knowingly helped the undisclosed donor make the contribution, in violation

of 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b). If these violations were knowing and willful, they also are subject to criminal penalties and referral to the Department of Justice. 52 U.S.C. §§ 30109(a)(5)(C), (d)(1).

65. Certain Unknown Respondents may have served as conduits for the funds transferred to American Policy Coalition or Freedom Frontier, further concealing the identities of other Unknown Respondents who were the true sources of the money. If any Unknown Respondents knowingly permitted their names to be used to effect the contributions or knowingly helped other Unknown Respondents make the contributions, they violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b). If these violations were knowing and willful, the Unknown Respondents also are subject to criminal penalties and referral to the Department of Justice. 52 U.S.C. §§ 30109(a)(5)(C), (d)(1).

### Count III

66. The FECA and FEC regulations further prohibit making a contribution in the name of another person. 52 U.S.C. § 30122; 11 C.F.R. § 110.4(b).

67. Unknown Respondents provided funds to American Policy Coalition, which American Policy Coalition transferred to SEALs for Truth. By making one or more contributions to SEALs for Truth in the name of American Policy Coalition, Unknown Respondents violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b). If Unknown Respondents' violations were knowing and willful, they also are subject to criminal penalties and referral to the Department of Justice. 52 U.S.C. §§ 30109(a)(5)(C), (d)(1).

68. Unknown Respondents provided funds to Freedom Frontier, which Freedom Frontier transferred to LG PAC. By making one or more contributions to LG PAC in the name of

Freedom Frontier, Unknown Respondents violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b). If Unknown Respondent's violations were knowing and willful, they also are subject to criminal penalties and referral to the Department of Justice. 52 U.S.C. §§ 30109(a)(5)(C), (d)(1).

Conclusion

WHEREFORE, Citizens for Responsibility and Ethics in Washington and Noah Bookbinder request that the FEC conduct an investigation into these allegations; declare the respondents to have violated the FECA and applicable FEC regulations; and order respondents to correct these violations by filing reports identifying the true source of and any conduits for any transfers to SEALs for Truth improperly attributed to American Policy Coalition as well as the true source of and any conduits for any transfers to LG PAC improperly attributed to Freedom Frontier. In addition, the complainants request that the FEC impose sanctions appropriate to these violations, and take such further action as may be appropriate, including referring this matter to the Department of Justice for criminal prosecution.




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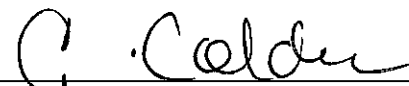
ON BEHALF OF COMPLAINANTS  
Noah Bookbinder  
Executive Director  
Citizens for Responsibility and Ethics  
in Washington  
455 Massachusetts Ave. N.W.  
Washington, D.C. 20001  
(202) 408-5565 (phone)  
(202) 588-5020 (fax)

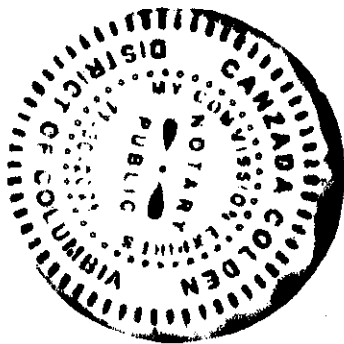
Verification

Citizens for Responsibility and Ethics in Washington and Noah Bookbinder hereby verify that the statements made in the attached Complaint are, upon information and belief, true. Sworn pursuant to 18 U.S.C. § 1001.

  
\_\_\_\_\_  
Noah Bookbinder

Sworn to and subscribed before me this 8 day of aug, 2018

  
\_\_\_\_\_  
Notary Public







November 20, 2018

Federal Election Commission  
Office of Complaints Examination  
and Legal Administration  
1050 First Street, N.E.  
Washington, D.C. 20002

Re: MUR 7422/Amended Complaint

Dear Sir or Madam:

Please find under cover of this letter an amended complaint in MUR 7422. We file this amended complaint to supplement the information complainants provided in CREW's original complaint, dated June 27, 2018. In the time during which CREW's complaint has been pending, new information relevant to CREW's original complaint has come to light, necessitating an update to the complaint. CREW submits this amended complaint to add this new information. Accordingly, the amended complaint includes new allegations (*see* Am. Compl. ¶¶ 34 n.2, 36 n.3, 43, 47, 48, and 49). The exhibits to the amended complaint are identical to the exhibits to the original complaint and are incorporated therein, but, in the interest of not duplicating copies in the administrative record, CREW has not resubmitted the exhibits.

In addition, please note the changed address below. Please use the new address in any further correspondence.

Sincerely,

Noah Bookbinder  
Executive Director Executive Director  
Citizens for Responsibility and Ethics  
in Washington  
1101 K Street, N.W., Suite 201  
Washington, D.C. 20005  
(202) 408-5565 (phone)  
(202) 588-5020 (fax)  
nbookbinder@citizensforethics.org

Encls.

FEDERAL ELECTION COMMISSION

In the matter of:

SEALs for Truth  
Nicholas Britt, Treasurer, SEALs for Truth  
American Policy Coalition, Inc.  
LG PAC  
Richard Monsees, Treasurer, LG PAC  
Freedom Frontier  
Unknown Respondents

MUR 7422

AMENDED COMPLAINT

1. Citizens for Responsibility and Ethics in Washington (“CREW”) and Noah Bookbinder bring this amended complaint before the Federal Election Commission (“FEC” or “Commission”) seeking an immediate investigation and enforcement action against SEALs for Truth, Nicholas Britt, American Policy Coalition, Inc., LG PAC, Richard Monsees, Freedom Frontier, and Unknown Respondents for direct and serious violations of the Federal Election Campaign Act (“FECA”).

2. The FECA prohibits making and knowingly accepting a contribution in the name of another person, as well as knowingly permitting one’s name to be used to effect a contribution in the name of another person. This complaint concerns a deliberate effort to use federal super PACs and nonprofit organizations to execute a conduit contribution scheme in order to conceal the identity of donors supporting the election of now-former Missouri Gov. Eric Greitens in 2016.

3. This scheme to circumvent disclosure was hatched by Mr. Greitens’ campaign and his supporters in early 2015. As shown in the sworn testimony of one of Mr. Greitens’ campaign aides and in evidence collected by an investigative committee of the Missouri House

of Representatives, the plan they devised involved using nonprofit organizations that are not required to disclose their donors to accept contributions of money to be spent supporting the campaign. The scheme, executed in the summer of 2016, involved routing more than \$6 million through two nonprofits, American Policy Coalition and Freedom Frontier, to two federal super PACs, SEALs for Truth and LG PAC. SEALs for Truth in turn directly contributed \$1.975 million to Mr. Greitens' campaign, while LG PAC spent more than \$4.3 million on advertisements and other media attacking Mr. Greitens' opponents and supporting his candidacy. All of these groups were closely connected to the Greitens campaign and to each other, sharing consultants and officers.

4. By using federal rather than state-based super PACs to funnel money into the Missouri gubernatorial election, Mr. Greitens' supporters were able to deny Missouri voters timely information about the identities of those trying to influence the gubernatorial election. And routing the money through nonprofits and super PACs ensured that the ultimate source of the funds boosting Mr. Greitens would remain secret. These apparent violations of law deprive the public of important information and demand investigation.

#### Complainants

5. Complainant CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the right of citizens to be informed about the activities of government officials and to ensuring the integrity of government officials. CREW is dedicated to empowering voters to have an influential voice in government decisions and in the governmental decision-making process. CREW uses a combination of research, litigation, and advocacy to advance its mission.

6. In furtherance of its mission, CREW seeks to expose unethical and illegal conduct of those involved in government. One way CREW does this is by educating citizens regarding the integrity of the electoral process and our system of government. Toward this end, CREW monitors the campaign finance activities of those who run for federal and state office and publicizes those who violate federal campaign finance laws through its website, press releases, and other methods of distribution. CREW also files complaints with the FEC when it discovers violations of the FECA. Publicizing campaign finance violators and filing complaints with the FEC serve CREW's mission of keeping the public informed about individuals and entities that violate campaign finance laws and deterring future violations of campaign finance law.

7. In order to assess whether an individual, candidate, political committee, or other regulated entity is complying with federal campaign finance law, CREW needs the information contained in receipts and disbursements reports that political committees and others must file pursuant to the FECA, 52 U.S.C. § 30104; 11 C.F.R. §§ 104.1–22, 109.10. CREW is hindered in its programmatic activity when an individual, candidate, political committee, or other regulated entity fails to disclose campaign finance information in reports of receipts and disbursements required by the FECA.

8. CREW relies on the FEC's proper administration of the FECA's reporting requirements because the FECA-mandated disclosure reports are the only source of information CREW can use to determine if an individual, candidate, political committee, or other regulated entity is complying with the FECA. The proper administration of the FECA's reporting requirements includes mandating that all disclosure reports required by the FECA are properly

and timely filed with the FEC. CREW is hindered in its programmatic activity when the FEC fails to properly administer the FECA's reporting requirements.

9. Complainant Noah Bookbinder is the executive director of Citizens for Responsibility and Ethics in Washington. At all times relevant to the complaint, he has been and remains a citizen of the United States and a registered voter and resident of Maryland. As a registered voter, Mr. Bookbinder is entitled to receive information contained in disclosure reports required by the FECA, 52 U.S.C. § 30104; 11 C.F.R. §§ 104.1–22, 109.10. Mr. Bookbinder is harmed in exercising his right to vote when an individual, candidate, political committee, or other regulated entity fails to report campaign finance activity as required by the FECA. *See FEC v. Akins*, 524 U.S. 11, 19 (1998), *quoting Buckley v. Valeo*, 424 U.S. 1, 66-67 (1976) (political committees must disclose contributors and disbursements help voters understand who provides which candidates with financial support). Mr. Bookbinder is further harmed when the FEC fails to properly administer the FECA's reporting requirements, limiting his ability to review campaign finance information.

10. Mr. Bookbinder also is harmed in his ability to communicate to the public and to other voters information about the source of funds used for political activities.

#### Respondents

11. SEALs for Truth is a federal independent-expenditure only committee (“super PAC”) formed under the FECA in June 2016. SEALs for Truth, FEC Form 1, Statement of Organization, June 15, 2016, <https://bit.ly/2rRu4m5>.

12. Nicholas Britt is the treasurer of SEALs for Truth. *Id.*

13. American Policy Coalition, Inc. is a tax-exempt organization, organized under

section 501(c)(4) of the Internal Revenue Code. It was established in Kentucky in 2011 as BluegrassVotes.org, Inc. BluegrassVotes.org, Inc., Articles of Incorporation, Kentucky Secretary of State, Aug. 30, 2011, <https://bit.ly/2JXJQ9g>, and changed its name to American Policy Coalition in November 2015. BluegrassVotes.org, Inc., Articles of Amendment, Kentucky Secretary of State, Nov. 17, 2015, <https://bit.ly/2rSIAdw>.

14. LG PAC is a federal independent-expenditure only committee formed under the FECA in May 2016. LG PAC, FEC Form 1, Statement of Organization, May 16, 2016, <https://bit.ly/2rRyLMJ>.

15. Richard “Hank” Monsees is the treasurer of LG PAC. LG PAC, FEC Form 1, Statement of Organization, Amended, June 6, 2016, <https://bit.ly/2wQlzg0>; James Dornbrook, Local PAC received \$1.5M donation, but its goals remain secret, *Kansas City Business Journal*, Oct. 31, 2016, <https://bit.ly/2Le30Wt>.

16. Freedom Frontier is a tax-exempt organization, organized under section 501(c)(4) of the Internal Revenue Code. It was established in Texas in 2011. Freedom Frontier, 2015 Form 990, Amended, <https://bit.ly/2tajxC>.

17. Unknown Respondents are the individuals who are the true sources of funds American Policy Coalition transferred to SEALs for Truth and Freedom Frontier transferred to LG PAC, as well as any individual(s), entity, or entities that served as conduits through which such funds passed before reaching American Policy Coalition and Freedom Frontier.

#### Factual Allegations

##### *The Plan to Conceal Donor Identities*

18. Michael Hafner is a Missouri-based political consultant.

19. Mr. Hafner worked as an informal political advisor to Mr. Greitens between December 2013 and January 2015, as Mr. Greitens developed his plans to run for office. Transcript of interview with Michael Hafner, Missouri House of Representatives Special Investigative Committee on Oversight, Mar. 14, 2018, Tr. 6:9-17, <https://bit.ly/2IN2hND> (“Hafner Tr.”). Mr. Hafner started working for Mr. Greitens in a paid capacity in January 2015. *Id.* Tr. 7:3-8. After Mr. Greitens officially launched his campaign in February 2015, Mr. Hafner was compensated by Greitens for Missouri for his work. Greitens for Missouri, Missouri Ethics Commission April Quarterly Report, Apr. 15, 2015, <https://bit.ly/2wZqZFU>.

20. After leaving the Greitens campaign in March 2015, Mr. Hafner later joined the campaign of one of Mr. Greitens’ opponents in the Republican gubernatorial primary, John Brunner. Hafner Tr. 93:15-20.

21. On March 14, 2018, the Missouri House of Representatives Special Investigative Committee on Oversight interviewed Mr. Hafner under oath about allegations that Mr. Greitens used a list of charitable donors for campaign fundraising purposes during his 2016 gubernatorial campaign. *See generally*, Hafner Tr.; Report 2 of the Missouri House Special Investigative Committee on Oversight, Apr. 24, 2018, <https://bit.ly/2LeYXcj>. Mr. Hafner was interviewed again by the committee, also under oath, on May 29, 2018. Video of Missouri House of Representatives Special Investigative Committee on Oversight Hearing – Tuesday, May 29, 2018, <https://bit.ly/2Jq9jbu> (“Hafner Video”).

22. During the interviews, Mr. Hafner revealed the scheme to conceal donor identities during the gubernatorial campaign. When asked whether, based on his work on the Greitens campaign, Mr. Hafner believed that “there was a strategy employed to conceal donors,” he

testified, “I believe that was an intention of the campaign’s early on.” Hafner Tr. 45:1-5. Mr. Hafner said the strategy was “intended to get a group of people that didn’t want to disclose who they were” to contribute “individually or through their companies” by giving “directly to a certain entity,” which he described as a “freedom group,” in a “way that conceals donors.” *Id.* at 62:23-64:6. Nonprofits and section 501(c)(4) social welfare organizations were discussed as vehicles for concealing donors, Mr. Hafner also testified, saying, “there were specific donors that I reached out to, who [Mr. Greitens] connected me with, and we discussed specifically nonprofits and c4s, and what the process would be to establish entities like that to accept contributions, for bundling contributions.” Hafner Video, at 1:53:57.

23. Mr. Hafner further testified that he was led to believe campaign staff would coordinate with donors seeking to support the Greitens campaign while remaining anonymous, saying, “I had had conversations with people associated with [Mr. Greitens] in January and February and March when I was employed and working out of that office that I knew that I was led to believe that . . . they were planning on concealing donors in some way or having people . . . on their campaign having staff associated with on their campaign reach out and coordinate donors” who would support the campaign while being kept secret. Hafner Tr. 116:3-10.

24. Mr. Hafner said that Mr. Greitens directed him “to have conversations with donors who intended to raise significant amounts of money and conceal the donors, conceal the identity of those donors.” *Id.* at 40:22-25. In particular, Mr. Hafner said he had two phone conversations with a donor named Monu Joseph who “wanted to discuss with me how the campaign was going to bundle contributions and conceal the identity of donors.” *Id.* at 41:9-11. According to Mr. Hafner, he “was connected with Monu, who was planning on raising a



substantial amount of money for the campaign. I think somewhere between 250 and half a million dollars. And my conversations with him, he wanted to know if there were avenues set up where, that were nonprofits or c4s, that they could bring money in and not disclose the source of those contributions.” Hafner Video, at 1:58:40. Mr. Hafner also said he had contact with other individuals who were discussing ways to conceal donations and that he had conversations with Mr. Greitens “about reaching out to specific donors who were intending to raise a lot of money and wanting to know how to do it.” Hafner Tr. 43:11-13.

25. Mr. Hafner also testified about possible motivations for the scheme to set up entities to conceal the identity of donors. In one interview, Mr. Hafner commented on “a memo developed on people in financial services contributing” to Mr. Greitens’ campaign, which he said would have been sent to Mr. Joseph. Acknowledging that people in the financial services industry are sometimes referred to as restricted donors due to Securities and Exchange Commission regulations, Mr. Hafner said Mr. Joseph “had a lot of contacts in that world and wanted to look at avenues for ways that they could contribute.” Hafner Video, at 1:08:16. The Greitens campaign’s interest in courting restricted donors was confirmed by evidence gathered and publicly released by the Missouri House of Representatives Special Investigative Committee on Oversight. In a December 4, 2015 e-mail exchange obtained by the committee, the Greitens campaign’s finance director, Meredith Gibbons, wrote to Greitens campaign consultant Nick Ayers about a “restricted donor” that the campaign wanted him to “reach out to.” Complaint Against Greitens for Missouri, and A New Missouri, Inc. for Violations of Missouri Campaign Finance Law, submitted by Missouri state Rep. Jay Barnes to the Missouri Ethics Commission, July 10, 2018, at 20, *available at* <https://bit.ly/2NdCtc3> (“Barnes Complaint”). Mr. Ayers wrote

that he would “buzz” her soon regarding the “restricted donor.” *Id.*

26. Mr. Hafner also said “there were conversations that we had where foreign money was discussed, where foreign money was discussed, and the possibility of foreign money, you know, being contributed to an entity. There were those discussions that were being had in the early stages.” Hafner Video, at 1:56:17.<sup>1</sup>

27. Mr. Hafner further said that because at the time of the 2016 gubernatorial election there were no contribution limits in Missouri, he believed there could only be “one reason” to set up “another entity” outside of the candidate’s campaign committee that “could accept unlimited contributions” and “that’s to conceal the identity of a specific donor or groups of donors.” Hafner Interview, at 2:59:30.

28. Though Mr. Hafner left the Greitens campaign in March 2015, evidence collected by the Missouri House of Representatives Special Investigative Committee on Oversight shows that the Greitens campaign continued to discuss routing donors whose identities they wanted to conceal for political or legal reasons to section 501(c)(4) nonprofits that are not required to disclose their donors. On July 10, 2018, Missouri state Rep. Jay Barnes (R), who served as the chairman of the Missouri House of Representatives Special Investigative Committee on

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<sup>1</sup> Mr. Hafner acknowledged that he had no “direct knowledge” of any contributions by foreign nationals being made to the Greitens campaign since he left the campaign in its early stages. Hafner Video, at 3:47:45. However, he testified he had discussions related to two individuals associated with Mr. Greitens regarding foreign contributions. Hafner Video, at 3:00:43. First, he said one discussion involved Mr. Joseph indicating to Mr. Hafner that he and Mr. Greitens “had a lot of buddies” from Oxford University, where “most” of the students are not American citizens, that “were interested in contributing to the race.” *Id.* According to Mr. Hafner, Mr. Joseph “specifically asked about how, what would be the way to get, you know, foreign money, contributions from abroad, into the campaign.” *Id.* at 4:23:16. Second, Mr. Hafner testified that the other discussion involved an associate of Mr. Greitens who lived in Hong Kong and had made commitments “early on in the campaign to contribute a lot of money and to raise a lot of money.” *Id.* at 3:00:43. Mr. Joseph’s attorney denied Mr. Hafner’s account, telling the *Columbia Daily Tribune* that “at no time did Mr. Joseph request donations from anyone living abroad, U.S. citizens or otherwise.” Rudi Keller, *Greitens campaign sought foreign contributions, consultant testified*, *Columbia Daily Tribune*, May 3, 2018, <https://bit.ly/2HV4TZW>.

Oversight that investigated Mr. Greitens, filed a complaint with the Missouri Ethics Commission alleging that Mr. Greitens' campaign committee, Greitens for Missouri, and a nonprofit group that his aides formed after his election, A New Missouri, Inc., had violated Missouri campaign finance law. Barnes Complaint. In the complaint, Rep. Barnes wrote that evidence obtained by the committee "strongly suggests that Greitens for Missouri engaged in activity purposefully designed to conceal donor identities." *Id.* at 17.

29. That evidence includes a November 17, 2015 email sent by Greitens campaign manager Austin Chambers in which he discussed potential donors to the campaign who were Democrats. "If they want to give, C4 would probably be better so that they don't appear on our reports," Mr. Chambers wrote. *Id.* at 19. A second email exchange similarly shows an intent to use a nonprofit organization to keep donors secret. On June 27, 2016, "an early supporter and fundraiser" of Mr. Greitens emailed the campaign's finance director, Ms. Gibbons, about an individual who the fundraiser believed was "not allowed to give" money to the Greitens campaign "due to compliance reasons" because the individual "manages money for the state of Missouri." *Id.* at 21. The fundraiser advised Ms. Gibbons that Mr. Greitens could "mention the 501(c)(4) if applicable[.]" *Id.* As Rep. Barnes noted in his complaint, two days after the fundraiser emailed Ms. Gibbons suggesting Mr. Greitens could "mention the 501(c)(4)" to an apparently restricted donor, Freedom Frontier, a section 501(c)(4) organization, contributed \$500,000 to a super PAC that spent millions to support Mr. Greitens' campaign. *Id.* at 26.

30. Mr. Hafner testified that he believed the scheme was carried out. Hafner Tr. 45:6-7. During his testimony, he referenced both SEALs for Truth and LG PAC when asked about politically-active entities whose donors are not publicly identified. "There's the other element to

it that, yeah, I don't think anyone's aware other than internally those organizations, how much money they raised and spent. And I'm referring to, you know, the SEALs for Truth, which we don't know where that money came from. That was disclosed in [Missouri Ethics Commission filings], but the way they did it was, I think, through a super PAC which then contributed to the [Greitens campaign committee]. And then the LG PAC, which was making enormous expenditures in that race and that was routed through ghost corporations in Texas, I think.”

Hafner Video, at 2:58:00. Mr. Hafner also appeared to refer to the two federal super PACs funded by nonprofits in an interview with *St. Louis Public Radio* when he estimated that Mr. Greitens “had (at least) \$6 million in untraceable money” that supported his campaign. Jo Mannies and Jason Rosenbaum, Former aide says Greitens relied on charity donor list, ‘dark money’ to kick-start campaign, *St. Louis Public Radio*, May 9, 2018, <https://bit.ly/2L93uNn>.

31. Mr. Hafner’s estimate of “\$6 million in untraceable money” corresponds with the support Mr. Greitens received from SEALs for Truth and LG PAC, which combined raised \$6.395 million solely from nonprofits that do not disclose their donors and spent almost all of that sum to boost Mr. Greitens’ campaign. SEALs for Truth, Receipts, 2015-2016, Federal Election Commission, <https://bit.ly/2L9nhw6>; LG PAC, Receipts, 2015-2016, Federal Election Commission, <https://bit.ly/2Izn2c2>; Jason Hancock, Greitens campaign adviser linked to nonprofit that funded attacks against GOP rivals, *Kansas City Star*, Dec. 18, 2017, <https://bit.ly/2kkKsI9>.

32. As explained below, supporters of Mr. Greitens’ campaign appear to have executed the planned conduit contribution scheme in mid-2016.

*American Policy Coalition/SEALs for Truth*

33. On July 18, 2016, American Policy Coalition transferred \$2 million to SEALs for Truth. SEALs for Truth, FEC Form 3X, October Quarterly Report, Oct. 14, 2016, <https://bit.ly/2IQshHW>. That same day, SEALs for Truth contributed \$1.975 million to Greitens for Missouri. Greitens for Missouri, Missouri Ethics Commission 48 Hour Report of Contribution Received Over \$5,000, July 18, 2016, <https://bit.ly/2KAi2oc>. The contribution was described at the time as “by far, the single largest political contribution in Missouri history to an individual candidate. And we have absolutely no idea who it came from.” Kevin McDermott, Who made the biggest political donation in Missouri history? Ask after the election, *St. Louis Post-Dispatch*, July 20, 2016, <https://bit.ly/29XaKZY>. The money appears to have been put to immediate use by the Greitens campaign. On the day of the contribution, the campaign made two payments totaling a little more than \$2 million for “media” to Target Enterprises, a media buying firm affiliated with Mr. Greitens’ general consultant, Mr. Ayers. Greitens for Missouri, Missouri Ethics Commission 8 Days Before Primary Election - 8/2/2016, July 25, 2016, <https://bit.ly/2rSHfn3>; Vicky Ward, Swamp Thing, *HuffPost Highline*, Mar. 15, 2018, <https://bit.ly/2xHeRcV>.

34. Since SEALs for Truth is a federal super PAC and files its disclosure reports with the FEC rather than the Missouri Ethics Commission, the source of SEALs for Truth’s money was not revealed until after the August 2, 2016 Missouri gubernatorial primary. If SEALs for Truth had been registered with the Missouri Ethics Commission, it would have been required to file an 8 Days Before Report on July 25, 2016 that would have disclosed the source of the money the PAC used for its July 18, 2016 contribution to Greitens for Missouri. Missouri Ethics

Commission 2016 Campaign Finance Filing Requirements and Dates, Missouri Ethics Commission, June 2015, <https://bit.ly/2Jj0Ljn>. Instead, American Policy Coalition's \$2 million transfer to SEAL for Truth was not revealed until October 14, 2016, when SEALs for Truth filed its 2016 October Quarterly report with the FEC. American Policy Coalition was the only contributor to SEALs for Truth during the relevant reporting period, and the nonprofit group was responsible for all of the money that was ultimately contributed to Greitens for Missouri.<sup>2</sup> SEALs for Truth, FEC Form 3X, October Quarterly Report, Oct. 14, 2016, <https://bit.ly/2IQshHW>.

35. Before the nonprofit's contribution was revealed, SEALs for Truth suggested it had knowledge of the true source of the money that was routed through American Policy Coalition, saying that the contribution to Greitens for Missouri had largely come from former Navy SEALs. In an unsigned statement sent to reporters on the day after the contribution was made, SEALs for Truth claimed it "was formed to support veterans as candidates for public office" and former Navy SEALs made up "the largest number of donors to our organization." Jason Rosenbaum, Twitter, July 19, 2016, <https://bit.ly/2GvwFGQ>. Members of the Greitens campaign also made statements suggesting they may have had knowledge of the true source of the money that passed through the federal super PAC. After the contribution was first reported, Mr. Chambers, Mr. Greitens' campaign manager, told the *St. Louis Post-Dispatch* that "Eric is

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<sup>2</sup> SEALs for Truth has never reported another contribution other than \$152 in unitemized individual contributions. SEALs for Truth, Financial Summary, 2015-2016, Federal Election Commission, <https://bit.ly/2IsHwcN>. American Policy Coalition's contribution to SEALs for Truth accounted for 42 percent of the nonprofit's total expenditures between October 1, 2015 and September 30, 2016, the group's 2015 tax year. American Policy Coalition, 2015 Form 990, <https://bit.ly/2AOWUbJ>.

proud to stand with his fellow Navy SEALs, and he is grateful to have their support in this campaign.” McDermott, *St. Louis Post-Dispatch*, July 20, 2016.

*Freedom Frontier/LG PAC*

36. Similar to SEALs for Truth, LG PAC was also completely funded by a nonprofit, thus executing the planned scheme to hide the true source of the funds.<sup>3</sup> Between June 1, 2016 and July 29, 2016, LG PAC reported contributions totaling \$4.37 million from Freedom Frontier. LG PAC, Receipts, 2015-2016, Federal Election Commission, <https://bit.ly/2Izn2c2>. During that same time, the super PAC reported spending \$4.361 million on “media,” labeling some of the expenditures as for a “state race.” LG PAC, Disbursements, 2015-2016, Federal Election Commission, <https://bit.ly/2IuTSyK>.

37. The super PAC did not specify which candidates it was supporting or opposing. *Id.* If LG PAC had been registered with the Missouri Ethics Commission rather than the FEC, it would have been required to file reports detailing direct expenditures made to support or oppose a candidate. Political action committees registered in Missouri, which are known as continuing committees, are required to report expenditures made on behalf of a candidate or ballot measure issue, detailing the candidate’s name and address, the office sought, whether the expenditure was in support of or opposition to the candidate, the expenditure date, and the expenditure amount. Missouri Ethics Commission Campaign Finance (Candidates/Committees) Frequently Asked Questions, Missouri Ethics Commission, May 2, 2016, <https://bit.ly/2J8oCpI>; Blank Committee Disclosure Report, Missouri Ethics Commission, <https://bit.ly/2sE0oIQ>. Despite the fact that LG

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<sup>3</sup> LG PAC never reported another contributor other than \$4 in unitemized individual contributions. LG PAC, Financial Summary, 2015-2016, <https://bit.ly/2Kd0hyD>. Freedom Frontier’s contributions to LG PAC accounted for 74 percent of the nonprofit’s total expenditures in 2016. Freedom Frontier, 2016 Form 990, <https://bit.ly/2yWGywr>.

PAC was spending in a state race, because it registered as a federal super PAC the organization shielded itself from the level of disclosure required of Missouri state continuing committees. Thus, it was not required to disclose the name of the candidates its expenditures targeted and whether they were made in support or opposition.

38. A week after LG PAC received its first contribution of \$1.5 million from Freedom Frontier, *St. Louis Public Radio* reported that the super PAC was spending \$1 million on a statewide television ad attacking Mr. Greitens' primary opponent, Republican gubernatorial candidate John Brunner, as a tax dodger. Jo Mannies, You can't find out who paid for new attack ads on Missouri TV. Laws keep them secret., *St. Louis Public Radio*, June 8, 2016, <https://bit.ly/2ITmzF9>.

39. An analysis of TV ad spending by the Center for Public Integrity found that LG PAC spent at least \$3.9 million on ads in the Missouri gubernatorial race, not including the cost of making ads or of funding ads aired on local cable systems. Missouri leads nation in TV ad spending for governor's race, *Associated Press*, Oct. 13, 2016, <https://bit.ly/2KCJ5iS>. This included an ad attacking Catherine Hanaway, an opponent of Mr. Greitens, and an ad attacking Mr. Brunner for his allies' supposed "smear campaign" against Mr. Greitens. Tim Curtis, LG PAC sets sights on Hanaway, *The Missouri Times*, July 19, 2016, <https://bit.ly/2KElcYj>; Jason Rosenbaum, YouTube, July 14, 2016, <https://bit.ly/2wUXnsX>.

*Ties Between the Greitens Campaign, the Nonprofit Organizations, and the Super PACs*

40. There are significant ties between Mr. Greitens' campaign, the nonprofit organizations, and the super PACs that together conceived and executed the conduit contribution scheme.



41. Mr. Ayers, one of Mr. Greitens' top campaign consultants, was directly involved with both the Greitens campaign and Freedom Frontier, the nonprofit that funded LG PAC. Until April 2018, Mr. Ayers owned a political consulting firm called C5 Creative Consulting. Lindsay Wise and Steve Vockrodt, Pence's chief of staff sells consulting firm to GOP 'kingmaker', *McClatchy*, May 4, 2018, <https://bit.ly/2IMZ0xP>. Greitens for Missouri paid C5 Creative Consulting \$30,060 for "media planning" during the 2016 election. Greitens for Missouri, Missouri Ethics Commission 8 Days Before General Election-11/8/2016 Report, Oct. 31, 2016, <https://bit.ly/2xBPU2w>. Mr. Ayers also formerly was a partner in the media buying firm Target Enterprises, Inc. and maintained a "business partnership" with the company through C5 Creative Consulting. Target Enterprises, Dec. 22, 2014, available at the Internet Archive Wayback Machine, <https://bit.ly/2IRWypv>; James N. Ayers, Public Financial Disclosure Report, Oct. 19, 2017, Part 4, Line 8 ("Ayers OGE 278e"), <https://bit.ly/2wQWWzO>. Greitens for Missouri paid Target Enterprises millions of dollars for media work during the 2016 campaign. Kevin McDermott, Greitens pal and 'dark money' expert both involved in record donation – but still no disclosure, *St. Louis Post-Dispatch*, Oct. 26, 2016, <https://bit.ly/2LRrvJk>.

42. On July 26, 2017 Mr. Ayers was appointed Assistant to the President and Chief of Staff to the Vice President. Ayers OGE 278e.

43. In addition to being compensated by Greitens for Missouri, Mr. Ayers, through his firm C5 Creative Consulting, was also paid by Freedom Frontier between 2015 and late 2017. Ayers OGE 278e, Part 4, Lines 15, 18. Mr. Ayers was also compensated by Clark Fork Group, LLC, the company that Freedom Frontier reported to the Internal Revenue Service ("IRS") as its highest compensated independent contractor during 2016. *Id.*, Part 4, Line 22; Freedom Frontier,

2016 Form 990, Part VII, Section B, Line 1. Freedom Frontier reported paying Clark Fork Group, LLC \$354,000 for “consulting.” *Id.*

44. Mr. Ayers was also seemingly involved with LG PAC. According to a profile of Mr. Greitens’ campaign manager, Mr. Chambers, that featured an interview with Mr. Ayers, Mr. Ayers was both the “general consultant” for the Greitens campaign and also “managed an outside group that spent money in the Greitens race” – presumably LG PAC, the group that spent millions on media and ads supporting Mr. Greitens. Rachael Herndon Dunn, Austin Chambers: Missouri is the backdrop for another national political star, *The Missouri Times*, Dec. 30, 2016, <https://bit.ly/2IUess4>.

45. The treasurer of LG PAC, Richard Monsees, further had ties to Mr. Greitens and his campaign. Soon after the super PAC’s creation, Mr. Monsees was spotted attending the opening of a Greitens campaign office and speaking to Mr. Greitens at the event, Micheal Mahoney, Man tied to anti-Brunner ad appears at event with Brunner rival, *KMBC 9 News*, June 17, 2016, <https://bit.ly/2kgZv53>, and a photo of Mr. Monsees was later posted on Facebook that appeared to show him making phone calls for the Greitens campaign at the event. Tim Curtis, New information links LG PAC and Greitens, *The Missouri Times*, June 18, 2016, <https://bit.ly/2s2k0WG>; Alex Kuehler, Facebook, May 23, 2016, <https://bit.ly/2x6ljYe>. While Mr. Monsees denied that he made phone calls for the campaign, Mr. Greitens’ campaign manager told the *Associated Press* that Mr. Monsees “made about 10 calls at the event that day.” PAC treasurer denies ties to gubernatorial hopeful Greitens, *Associated Press*, June 21, 2016, <https://bit.ly/2s0AQGn>.

46. The treasurer of SEALs for Truth, Nicholas Britt, also had personal connections to Mr. Greitens. Following the revelation that American Policy Coalition was the sole funder of SEALs for Truth, Mr. Greitens encouraged a reporter who asked about the contribution to “reach out to Nick Britt, the treasurer, if you have any questions at all about the filing. Nick was a Navy SEAL, he went through Navy SEAL training with me, and I’m sure he’d be happy to talk with you.” Lucas Geisler, Missouri governor candidate addresses \$1.9M donation, *KMIZ*, Oct. 22, 2016, <https://bit.ly/2k9P7vY>.

47. American Policy Coalition and Freedom Frontier also are significantly connected to each other, with the two organizations reporting to the IRS that they are “related tax-exempt organizations.” American Policy Coalition, 2015 Form 990, Schedule R, Part II, Line 1; Freedom Frontier, 2016 Form 990, Schedule R, Part II, Line 1. The two organizations shared officers and directors, with Freedom Frontier’s Treasurer, John Jude, also serving as American Policy Coalition’s Treasurer, and Freedom Frontier’s Secretary, Jim Robey, also serving as American Policy Coalition’s President. Freedom Frontier, 2016 Form 990, Part VII, Section A, Lines 1 and 3; American Policy Coalition, 2015 Form 990, Part VII, Section A, Lines 2 and 3. American Policy Coalition also reported contributing \$381,000 to Freedom Frontier. American Policy Coalition, 2015 Form 990, Schedule I, Part II, Line 4.

48. On its 2015 tax return, American Policy Coalition claimed that “American Policy Coalition and Freedom Frontier ceased being related on April 5, 2016.” American Policy Coalition, 2015 Form 990, Schedule R, Part VII. Freedom Frontier’s 2016 tax return did not, however, make any assertions about ending its relationship with American Policy Coalition. Freedom Frontier, 2016 Form 990. American Policy Coalition’s claim that the relationship

between the two groups ended in April 2016 appears to be based on changes the organization made to its officers and directors. Mr. Jude, along with Director Jeremy Hughes and Secretary David R. Langdon, are described as only serving for a “partial year,” while Mr. Robey apparently served for a full year. American Policy Coalition, 2015 Form 990, Part VII, Section A, Lines, 1-4. Changes to American Policy Coalition’s officers and directors, however, were not reported to the Kentucky Secretary of State until long after the close of the group’s 2015 tax year when, in September 2017, the organization submitted a Reinstatement Application and Reinstatement Annual Report that crossed out the names of Mr. Robey, Mr. Jude, Mr. Langdon, and Mr. Hughes, and replaced them with Justin Myers, Steve Fairbank, and Ken Caubble. American Policy Coalition, Inc., Reinstatement Application and Reinstatement Annual Report, Kentucky Secretary of State, Sept. 18, 2017, <https://bit.ly/2yWYGpS>.

49. Much of the information about American Policy Coalition’s and Freedom Frontier’s activities and personnel during the period in which the two nonprofits funded two federal super PACs supporting Mr. Greitens’ election with more than \$6 million in anonymously-sourced money was unavailable until mid-2018. Both organizations failed to file their required tax returns with the IRS on time. Citizens for Responsibility and Ethics in Washington, CREW files IRS Complaint Against Greitens-Backing Nonprofits, Mar. 22, 2018, <https://bit.ly/2IYcirb>. American Policy Coalition’s tax return covering October 1, 2015 to September 30, 2016, was due February 15, 2017, and Freedom Frontier’s tax return covering all of 2016 was due on May 15, 2017. Neither one was filed until 2018. American Policy Coalition, 2015 Form 990; Freedom Frontier, 2016 Form 990. Though American Policy Coalition’s 2015 tax return does not contain a signature date, Freedom Frontier’s 2016 tax return, which was

prepared by the same paid preparer as American Policy Coalition's, was signed on July 2, 2018, exactly three days after CREW first announced its administrative complaint to the FEC naming both American Policy Coalition and Freedom Frontier as respondents. Citizens for Responsibility and Ethics in Washington, CREW Files FEC Complaint Against Dark Money Groups That Boosted Greitens Campaign, Jun. 29, 2018, <https://bit.ly/2yQXlZy>.

### Count I

50. The FECA and FEC regulations prohibit knowingly accepting a contribution made by one person in the name of another. 52 U.S.C. § 30122; 11 C.F.R. § 110.4(b). The FECA and FEC regulations further require political committees to report the identity of those who make contributions, as well as anyone who acted as a conduit for a contribution. 52 U.S.C. § 30104(b)(2); 11 C.F.R. § 104.3(a), (j) (political committees must report “earmarked contributions”); *see also Instructions for FEC Form 3X and Related Schedules* at 11 (revised May 2016), <https://bit.ly/2F19VxP> (any political committee receiving an earmarked contribution through conduit entities must “report each conduit through which the earmarked contribution passed, including the name and address of the conduit, and whether the contribution was passed on in cash, by the contributor’s check, or by the conduit’s check”); 52 U.S.C. § 30107(a)(8) (FEC forms have force of law).

51. SEALs for Truth and LG PAC, independent expenditure-only political committees established under the FECA, each violated the prohibition on knowingly accepting a contribution made by one person in the name of another and their obligations to report the identity of those who make contributions and anyone who acted as a conduit for a contribution. The close ties between the Greitens campaign, the nonprofits, and the super PACs suggest that

the violations were both knowing and willful.

52. At the beginning of Mr. Greitens' campaign for governor, his supporters in and out of the campaign devised a scheme to keep the names of donors secret by routing their contributions through conduits. As detailed above, they planned to "get a group of people that didn't want to disclose who they were" to contribute "individually or through their companies" by giving "directly to a certain entity" in a "way that conceals donors." The plan for the scheme involved establishing "nonprofits and c4s . . . to accept contributions" of money to be spent supporting Mr. Greitens' campaign.

53. SEALs for Truth executed part of the planned scheme in July 2016. On July 18, 2016, the super PAC accepted a \$2 million transfer from American Policy Coalition, a section 501(c)(4) organization that is not required to disclose its donors. On that same day, SEALs for Truth contributed nearly the same amount, \$1.975 million, to Greitens for Missouri, concealing the identities of Unknown Respondents who were either the true sources of the money or served as conduits through which the funds passed. Greitens for Missouri appears to have immediately spent the money on media buys supporting the campaign.

54. Accordingly, SEALs for Truth, by and through its treasurer, Nicholas Britt, knowingly accepted a contribution made by one person in the name of another in violation of 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b). If SEALs for Truth and Mr. Britt's violations were knowing and willful, they also are subject to criminal penalties and referral to the Department of Justice. 52 U.S.C. §§ 30109(a)(5)(C), (d)(1).

55. SEALs for Truth, by and through its treasurer, Mr. Britt, also failed to report the identities of the true source of contributions and the identities of each conduit for the

contributions falsely attributed to American Policy Coalition, violating 52 U.S.C. § 30104(b)(2) and 11 C.F.R. § 104.3(a) and (j). If SEALs for Truth and Mr. Britt's violations were knowing and willful, they also are subject to criminal penalties and referral to the Department of Justice. 52 U.S.C. §§ 30109(a)(5)(C), (d)(1).

56. LG PAC similarly executed part of the planned scheme in June and July 2016. Between June 1 and July 29, 2016, LG PAC accepted \$4.37 million in transfers from Freedom Frontier. During that same period, LG PAC spent \$4.361 million on "media" attacking Mr. Greitens' opponents in the Missouri Republican gubernatorial primary as well as defending him against criticism. Routing the money through LG PAC concealed the identities of Unknown Respondents who were either the true sources of the money or served as conduits through which the funds passed.

57. Accordingly, LG PAC by and through its treasurer, Richard Monsees, knowingly accepted a contribution made by one person in the name of another in violation of 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b). If LG PAC and Mr. Monsees' violations were knowing and willful, they also are subject to criminal penalties and referral to the Department of Justice. 52 U.S.C. §§ 30109(a)(5)(C), (d)(1).

58. LG PAC, by and through its treasurer, Mr. Monsees, also failed to report the identities of the true source of contributions and the identities of each conduit for the contributions falsely attributed to Freedom Frontier, violating 52 U.S.C. § 30104(b)(2) and 11 C.F.R. § 104.3(a) and (j). If LG PAC and Mr. Monsees's violations were knowing and willful, they also are subject to criminal penalties and referral to the Department of Justice. 52 U.S.C. §§ 30109(a)(5)(C), (d)(1).

Count II

59. The FECA and FEC regulations also prohibit knowingly permitting one's name to be used to effect a contribution in the name of another person and knowingly helping or assisting any person in making a contribution in the name of another. 52 U.S.C. § 30122; 11 C.F.R. § 110.4(b).

60. American Policy Coalition and Freedom Frontier each violated this law by allowing their names to be used to effect one or more contributions to super PACs by Unknown Respondents. The close ties between the Greitens campaign, the nonprofits, and the super PACs suggest that the violations were both knowing and willful.

61. As detailed above, Mr. Greitens' supporters in and out of his campaign devised a scheme to keep the names of donors secret by routing their contributions through conduits.

62. American Policy Coalition executed part of the planned scheme in July 2016. On July 18, 2016, American Policy Coalition transferred \$2 million to SEALs for Truth. On that same day, SEALs for Truth contributed nearly the same amount, \$1.975 million, to Greitens for Missouri, concealing the identities of Unknown Respondents who were either the true sources of the money or served as conduits through which the funds passed. Greitens for Missouri appears to have immediately spent the money on media buys supporting the campaign.

63. Accordingly, American Policy Coalition knowingly permitted its name to be used to effect the contribution and knowingly helped the undisclosed donor make the contribution, in violation of 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b). If these violations were knowing and willful, they also are subject to criminal penalties and referral to the Department of Justice. 52 U.S.C. §§ 30109(a)(5)(C), (d)(1).



64. Freedom Frontier similarly executed part of the planned scheme in June and July 2016. Between June 1 and July 29, 2016, Freedom Frontier transferred \$4.37 million to LG PAC. During that same period, LG PAC spent \$4.361 million on “media” attacking Mr. Greitens’ opponents in the Missouri Republican gubernatorial primary as well as defending him against criticism. Routing the money through Freedom Frontier concealed the identities of Unknown Respondents who were either the true sources of the money or served as conduits through which the funds passed.

65. Accordingly, Freedom Frontier knowingly permitted its name to be used to effect the contribution and knowingly helped the undisclosed donor make the contribution, in violation of 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b). If these violations were knowing and willful, they also are subject to criminal penalties and referral to the Department of Justice. 52 U.S.C. §§ 30109(a)(5)(C), (d)(1).

66. Certain Unknown Respondents may have served as conduits for the funds transferred to American Policy Coalition or Freedom Frontier, further concealing the identities of other Unknown Respondents who were the true sources of the money. If any Unknown Respondents knowingly permitted their names to be used to effect the contributions or knowingly helped other Unknown Respondents make the contributions, they violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b). If these violations were knowing and willful, the Unknown Respondents also are subject to criminal penalties and referral to the Department of Justice. 52 U.S.C. §§ 30109(a)(5)(C), (d)(1).

Count III

67. The FECA and FEC regulations further prohibit making a contribution in the name of another person. 52 U.S.C. § 30122; 11 C.F.R. § 110.4(b).

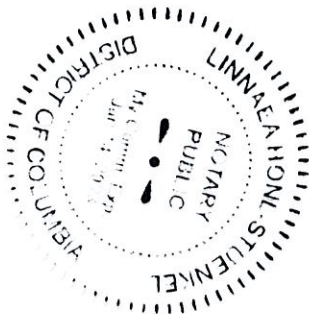
68. Unknown Respondents provided funds to American Policy Coalition, which American Policy Coalition transferred to SEALs for Truth. By making one or more contributions to SEALs for Truth in the name of American Policy Coalition, Unknown Respondents violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b). If Unknown Respondents' violations were knowing and willful, they also are subject to criminal penalties and referral to the Department of Justice. 52 U.S.C. §§ 30109(a)(5)(C), (d)(1).

69. Unknown Respondents provided funds to Freedom Frontier, which Freedom Frontier transferred to LG PAC. By making one or more contributions to LG PAC in the name of Freedom Frontier, Unknown Respondents violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b). If Unknown Respondent's violations were knowing and willful, they also are subject to criminal penalties and referral to the Department of Justice. 52 U.S.C. §§ 30109(a)(5)(C), (d)(1).

Conclusion

WHEREFORE, Citizens for Responsibility and Ethics in Washington and Noah Bookbinder request that the FEC conduct an investigation into these allegations; declare the respondents to have violated the FECA and applicable FEC regulations; and order respondents to correct these violations by filing reports identifying the true source of and any conduits for any transfers to SEALs for Truth improperly attributed to American Policy Coalition as well as the true source of and any conduits for any transfers to LG PAC improperly attributed to Freedom Frontier. In addition, the complainants request that the FEC impose sanctions appropriate to

these violations, and take such further action as may be appropriate, including referring this matter to the Department of Justice for criminal prosecution.



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ON BEHALF OF COMPLAINANTS

Noah Bookbinder

Executive Director

Citizens for Responsibility and Ethics  
in Washington

455 Massachusetts Ave. N.W.

Washington, D.C. 20001

(202) 408-5565 (phone)

(202) 588-5020 (fax)

Verification

Citizens for Responsibility and Ethics in Washington and Noah Bookbinder hereby verify that the statements made in the attached Complaint are, upon information and belief, true. Sworn pursuant to 18 U.S.C. § 1001.



Noah Bookbinder

Sworn to and subscribed before me this 20 day of November, 2018



Notary Public





FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Noah Bookbinder, Executive Director  
Citizens for Responsibility and Ethics in Washington  
455 Massachusetts Avenue, NW  
Washington, DC 20001

JUL 06 2018

RE: MUR 7422

Dear Mr. Bookbinder:

This letter acknowledges receipt of your complaint on July 2, 2018, alleging possible violations of the Federal Election Campaign Act of 1971, as amended. The respondents will be notified of this complaint within five business days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be notarized and sworn to in the same manner as the original complaint. We have numbered this matter MUR 7422. Please refer to this number in all future communications. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Any correspondence sent to the Commission must be addressed to one of the following:

**Mail**

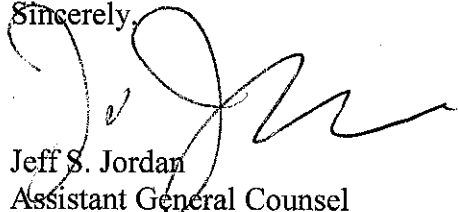
Federal Election Commission  
Office of Complaints Examination  
& Legal Administration  
Attn: Kathryn Ross, Paralegal  
1050 First Street, NE  
Washington, DC 20463

OR

**Email**

[cela@fec.gov](mailto:cela@fec.gov)

Sincerely,

  
Jeff S. Jordan  
Assistant General Counsel  
Complaints Examination &  
Legal Administration

Enclosure:  
Procedures



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Noah Bookbinder, Executive Director  
Citizens for Responsibility and Ethics in Washington  
455 Massachusetts Avenue, NW  
Washington, DC 20001

AUG 15 2018

RE: MUR 7422

Dear Mr. Bookbinder:

This letter acknowledges receipt on August 9, 2018, of the Amendment to the complaint you filed on June 29, 2018. The respondents will be sent copies of the Amendment. You will be notified as soon as the Federal Election Commission takes final action on your complaint.

Any correspondence sent to the Commission must be addressed to one of the following (note, if submitting via email, this Office will provide an electronic receipt by email):

**Mail**  
Federal Election Commission  
Office of Complaints Examination  
& Legal Administration  
Attn: Kathryn Ross, Paralegal  
1050 First Street, NE  
Washington, DC 20463

OR

**Email**  
[cela@fec.gov](mailto:cela@fec.gov)

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff S. Jordan".

Jeff S. Jordan  
Assistant General Counsel  
Complaints Examination &  
Legal Administration



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Noah Bookbinder, Executive Director  
Citizens for Responsibility and Ethics in Washington  
455 Massachusetts Avenue, NW  
Washington, DC 20001

NOV 29 2018

RE: MUR 7422

Dear Mr. Bookbinder:

This letter acknowledges receipt on November 21 2018, of the Amendment to the complaint you filed on June 29, 2018. The respondents will be sent copies of the Amendment. You will be notified as soon as the Federal Election Commission takes final action on your complaint.

Any correspondence sent to the Commission must be addressed to one of the following (note, if submitting via email, this Office will provide an electronic receipt by email):

**Mail**  
Federal Election Commission  
Office of Complaints Examination  
& Legal Administration  
Attn: Kathryn Ross, Paralegal  
1050 First Street, NE  
Washington, DC 20463

OR

**Email**  
cela@fec.gov

Sincerely,

A handwritten signature in black ink, appearing to be "JSJ", with a long horizontal stroke extending to the right.

Jeff S. Jordan  
Assistant General Counsel  
Complaints Examination &  
Legal Administration

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Home › Press releases: Other agency actions › FEC remains open for business, despite lack of quorum

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PRESS RELEASE

## FEC remains open for business, despite lack of quorum

September 11, 2019

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WASHINGTON—On September 1, 2019, the Federal Election Commission began working without a quorum of four Commissioners. While the Federal Election Campaign Act of 1971, as amended (the Act), requires an affirmative vote by four Commissioners to make decisions in many areas, including regulations, advisory opinions, audit matters and enforcement, the Commission remains open for business. Staff continues to further the agency's vital mission of administering the nation's campaign finance laws.

The requirements of the Act and Commission regulations remain in effect, and political committees and other filers must continue to disclose their campaign finance activity to the Commission on the regular schedule. FEC staff remains ready to help committees and the public understand and comply with the law, process and review committee reports including issuing Requests for Additional Information and provide public access to campaign finance data. While the Commission cannot take action on many legal matters, staff continues to litigate ongoing court cases, process new enforcement complaints and responses, and investigate matters previously authorized by the Commission.

Commission Directive 10, Section L sets forth the rules of procedure to be followed when the Commission has fewer than four sitting members and includes a list of matters on which the Commission may still act. These include notices of filing dates, non-filer notices, debt settlement plans, administrative terminations, and appeals under the Freedom of Information and Privacy Acts. The Commission intends to comply with the statutory requirement set forth at 52 USC §30106(d) that the Commission meet at least once each month.


The complete text of Directive 10 is available on the Commission's website, which will continue to be updated regularly to fulfill the agency's disclosure, education and compliance duties.




*The Federal Election Commission (FEC) is an independent regulatory agency that administers and enforces federal campaign finance laws. The FEC has jurisdiction over the financing of campaigns for the U.S. House of Representatives, the U.S. Senate, the Presidency and the Vice Presidency. Established in 1975, the FEC is composed of six Commissioners who are nominated by the President and confirmed by the U.S. Senate.*

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## CONTACT

Judith Ingram   
Press Officer

Christian Hilland   
Deputy Press Officer

Myles Martin   
Public Affairs Specialist

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This information is not intended to replace the law or to change its meaning, nor does this information create or confer any rights for or on any person or bind the Federal Election Commission or the public.

The reader is encouraged also to consult the Federal Election Campaign Act of 1971, as amended (52 U.S.C. 30101 et seq.), Commission regulations (Title 11 of the Code of Federal Regulations), Commission advisory opinions and applicable court decisions.

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FEDERAL ELECTION COMMISSION		
MANUAL OF DIRECTIVES	COMMISSION DIRECTIVE	
	REVOKES:	NO. 10
		EFFECTIVE DATE: June 8, 1978 Amended December 20, 2007
RULES OF PROCEDURE OF THE FEDERAL ELECTION COMMISSION PURSUANT TO 2 U.S.C. 437c(e)		

A. Meetings

The Commission shall meet at least once every month and also at the call of any Member, pursuant to U.S.C. 437c(d).

1. For the purpose of these rules, the word Member means a Commissioner appointed by the President with the advice and consent of the Senate pursuant to 2 U.S.C. 437c(a)(1).
2. For the purpose of these rules, the word meeting means the collegiate deliberation of at least four Members of the Commission pursuant to 2 U.S.C. 437c(d).

B. Quorum

Four Members of the Commission shall constitute a quorum for the consideration and resolution of matters that involve the exercise of its duties and powers under the Federal Election Campaign Act of 1971 as amended and Chapters 95 and 96 of the Internal Revenue Code of 1954 (the Act). If less than four Members of the Commission are present at any time during a Commission meeting, the Chairman shall declare a temporary recess until a quorum is again present at which time the meeting may resume.

C. Presiding Officer

1. The Chairman of the Commission shall be the presiding officer over meetings of the Commission.
2. He or she shall call meetings to order.

3. The Vice-Chairman shall act as presiding officer in the absence or disability of the Chairman or in the event of a vacancy in the office of Chairman. In the absence of the Chairman and Vice-Chairman, the Members of the Commission present shall select a presiding officer, to act during the absence of the Chairman and Vice-Chairman.

D. Introduction of Business

1. Meetings of the Commission shall be called to order by the Chairman.
2. The Chairman shall ascertain the presence of a quorum before proceeding with the business of any meeting.
3. All business before the Commission shall be brought by the presiding officer.

E. Motions

1. Any motion shall be reduced to writing at the request of any Member of the Commission.
2. Any motion may be withdrawn or modified by the movant at any time before it is amended or voted upon.
3. Any principal or secondary motion that exercises a duty or power of the Commission under the Act shall require four votes for approval.
4. Any motion to adjourn or recess shall require a majority vote of at least three Members of the Commission for approval.
5. Any principal or secondary motion regarding a procedural matter shall require a majority vote of at least three Members of the Commission for approval.
6. For the purpose of these rules, a procedural motion is any matter not exercising the powers of the Commission under the Federal Election Campaign Act, as amended or Chapter 95 or 96 of the Internal Revenue Code of 1954, including but not limited to any motion to delay a vote on a matter to any subsequent meeting; or any motion requesting a status report; or directing further studies, information and reports from the

General Counsel, the Staff Director or any division thereof; or any motion to waive the timely submission requirement for circulation of material for the agenda of the Commission.

7. Motions to Consider

The introduction of a principal motion puts a matter before the Commission for deliberation. When any such matter is under debate the Chairman shall entertain no motion except:

- (a) A motion to adjourn.
- (b) A motion to recess.
- (c) A motion to call for the order of the day.
- (d) Motion to Reconsider. The effect of the adoption of a motion to reconsider is to place before the Commission again the question on which the vote to reconsider was taken in the exact position in which it was before the original vote. Four votes are necessary to adopt a motion to reconsider. It is in order for any such motion to be offered by a member who was on the prevailing side of the question when it was initially adopted.
- (e) A motion to lay a matter over. Any such motion shall require a majority vote of at least three members of the Commission; at least three votes will be required for any subsequent motion to take any such matter from the table. Any such motion shall be undebatable. Any such matter which is laid on the table pursuant to these rules shall be taken from the table pursuant to these rules at the next subsequent meeting or the matter dies. In order to table any agenda item which was placed on the agenda for a particular meeting by a Member of the Commission who is absent at that meeting a vote of a majority of at least three members of the Commission is required for approval. A motion to lay a matter over takes precedence over any motion to move the previous question.

(f) A motion to postpone consideration of a matter to a date certain. Any such motion shall require a majority vote of at least three members of the Commission.

(g) A motion to move the previous question.

(h) A motion in the nature of a substitute.

(i) A motion to amend. Any motion to amend takes precedence over the motion that it proposes to amend but is subordinate to all other motions. The effect of the foregoing is that the adoption of any such motion to amend does not result in the adoption of the motion to be amended; instead, that motion remains pending in its modified form. Rejection of a motion to amend leaves the pending motion as it was before the amendment was offered.

F. Personal Privilege

Any Commissioner may as a matter of personal privilege obtain recognition to speak upon any subject matter which in his or her judgment may affect the Commission~ or the Commissioner.

G. General Consent

In cases where there appear to be no opposition, the Chairman may state that in the absence of objection, action shall be considered taken on a matter.

H. Members Subsequently Recorded as Voting

Whenever any Member of the Commission who was absent when a vote was taken subsequently requests consent to be recorded as having voted on the matter, he or she shall place the reason for his or her absence on the record. Any such request shall be in order only on the same day on which the vote was taken.

I. Points of Order

Points of order shall be debatable at the discretion of the chair. Any Member of the Commission may appeal any decision of the chair but for any such appeal to prevail it must receive a majority vote of at least three Members of the Commission.

J. Proxies

No vote by any Member of the Commission with respect to any matter may be cast by proxy; 2 U.S.C. 437c(c).

K. Miscellany

Any parliamentary situation or circumstance not addressed in these Rules shall be governed by Roberts Rules of Order, Newly Revised or if not covered therein by a decision of the Chairman. Any Member of the Commission may appeal any such decision of the Chair but for any such appeal to prevail it must receive a majority vote of at least three Members of the Commission.

L. Special Rules to apply only when the Commission has fewer than four Members

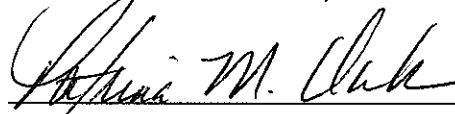
When the Commission has fewer than four Members, all of the foregoing provisions of this directive shall apply, except as follows:

1. Notwithstanding section A.2 of this directive, the word “meeting” shall mean the collegiate deliberation of two or more Members.
2. Notwithstanding section B of this directive, all Members of the Commission must be present to constitute a quorum for the consideration or resolution of any matter. If any Member of the Commission is absent at any time during a Commission meeting, the Chairman shall automatically declare a temporary recess (notwithstanding the absence of a call for a quorum) until a quorum is again present at which time the meeting may resume.
3. When these special rules are in effect, the Commission may discuss any matter otherwise in order for discussion pursuant to the other provisions of this Directive. However, the Commission may not act on any matter except for the following:

- (a) Documents such as *Campaign Guides* and any other brochures or public education materials that may customarily be voted on by the Commission;
- (b) Notices of filing dates, including filing dates for special elections;
- (c) Any action otherwise requiring Commission approval with respect to FEC Conferences or invitations for public appearances;
- (d) Election of which Members shall serve as chairman and vice chairman solely for the period during which the Commission has fewer than four Members, provided that in each instance that there is a Member eligible to hold the position pursuant to the eligibility requirements of 2 U.S.C. § 437c(a)(5);
- (e) Appointment of an acting general counsel, an acting staff director, an acting chief financial officer or an acting inspector general, approval of temporary personnel actions at the GS-15 level and above, and approval of other personnel actions;
- (f) Budget estimates or requests for concurrent submission to the President and Congress, and other budget related matters requiring Commission approval;
- (g) Minutes of previous meetings;
- (h) Non-filer notices issued pursuant to 2 U.S.C. § 438(a)(7);
- (i) Debt settlement plans pursuant to 11 C.F.R. Part 116;
- (j) Administrative terminations pursuant to 11 C.F.R. § 102.4 and Commission Directive 45;
- (k) Systems of Records Notices pursuant to the Privacy Act;
- (l) Policies, procedures and directives pursuant to the Privacy Act or Section 522 of the Consolidated Appropriations Act, 2005;
- (m) Agency head review of labor-management agreements;
- (n) Any other action where a statute imposes a duty of “agency head review” on the Commission;
- (o) Appeals under the Freedom of Information and Privacy Acts;
- (p) Sunshine Act recommendations for items on an agenda;

- (q) Contracts;
  - (r) The FEC Management Plan, pursuant to OMB Circular A-123 and the Federal Managers' Financial Integrity Act;
  - (s) Corrective action plans prepared in response to audits both financial and non-financial pursuant to FEC Directive 50 and/or the Accountability of Tax Dollars Act; or,
  - (t) EEO-related Federal Register notices.
4. Notwithstanding any provision of sections E, I or K of this directive, approval of any motion or appeal properly before the Commission under this section L shall require the affirmative vote of a majority of the Members of the Commission. However, if such majority comprises exclusively the affirmative votes of Members affiliated with the same political party (or Members whose positions are aligned for the purpose of nomination by the President), then the motion or appeal shall be deemed not approved.
5. Section H of this directive shall not be operative during any period in which these special rules are in effect.

The Commission approved the amendment to Directive 10 on December 20, 2008.

A handwritten signature in black ink, appearing to read "Patrina M. Clark", is written over a horizontal line.

PATRINA M. CLARK  
STAFF DIRECTOR





CHAIR ELLEN L. WEINTRAUB  
FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

## The State of the Federal Election Commission

*Chair Ellen L. Weintraub*

November 1, 2019

As of September 1, 2019, the Federal Election Commission, which should have six commissioners, dropped to three. It takes four votes to make most major Commission decisions.<sup>1</sup> While the resignation of a commissioner at the end of August precipitated the loss of the quorum, this crisis was completely avoidable. The Commission has been operating with less than the full complement of commissioners for more than two and a half years.

For the last two months, the hardworking staff of the Commission have continued their work for the American people: reviewing and posting disclosure reports on the FEC's website, responding to questions from the public, educating the regulated community, and analyzing incoming allegations of potential campaign-finance violations. They continue to pursue audits and enforcement actions – conducting witness interviews and depositions and reviewing documents obtained through subpoenas – as approved by the Commission before it lost its quorum. I am thankful to the Commission's dedicated staff who continually work to fulfill the agency's mission, even during these challenging times.

However, without four commissioners, the FEC cannot conduct some of its most consequential business. For the last two months, the FEC has been unable to launch any new investigations, issue any advisory opinions, promulgate any rules, or render any decisions on pending enforcement actions. With only three commissioners presently serving, the agency charged with administering and enforcing the federal campaign-finance laws that will govern the 2020 election is hamstrung as we approach that election.

Before losing the quorum on September 1, the Commission was making progress to reduce its significant enforcement backlog (even despite the government shutdown that disabled the FEC for most of January). The year had begun with 344 matters on the enforcement docket, with 101 of those matters awaiting a decision requiring the participation of at least four Commissioners.<sup>2</sup> By the time the quorum was lost in September, the backlog of cases pending

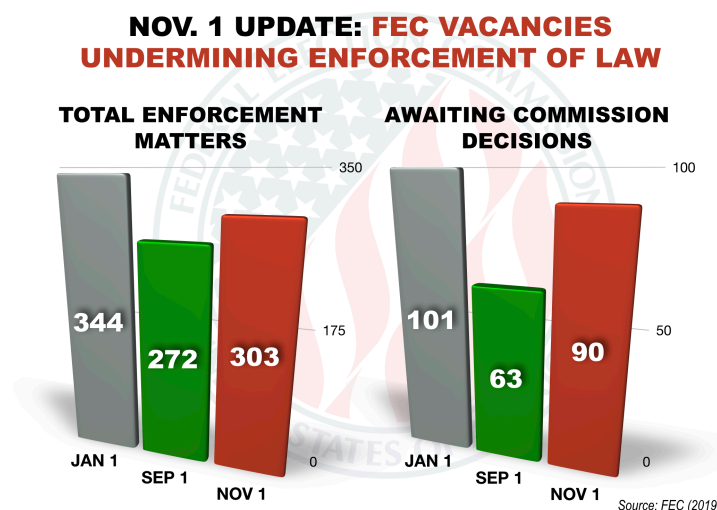
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<sup>1</sup> Under the Federal Election Campaign Act, as amended, the Commission is comprised of six members, with no more than three commissioners from the same political party. 52 U.S.C. § 30106(a). In order to exercise some of the Commission's most important duties and powers, the Act requires at least four affirmative votes from members of the Commission. 52 U.S.C. § 30106(c).

<sup>2</sup> Figures include both external complaints filed with the Commission and internally generated matters. These are matters to be resolved via both the traditional enforcement process and alternative dispute resolution. Eighty-eight of the 344 enforcement matters involved alleged violations that were due to expire under the statute of limitations within a year and a half, absent tolling. Of the 344 matters, 28 alleged a violation of the prohibition against foreign-national political spending.

before the Commission for a vote had been reduced from 101 to 63 matters.<sup>3</sup> We resolved approximately 200 of the original 344 matters in the first eight months of this year.

Two months after losing the quorum, the total number of matters pending on the enforcement docket has grown and continues to grow every day. New complaints are filed. The legal staff prepares their recommendations. And the Commission remains unable to act. The rate that complaints are filed will only increase as we approach the election. As of today, November 1, 2019, the Commission has 303 matters on its enforcement docket, with 90 awaiting Commission action.<sup>4</sup> We cannot launch new investigations in any of them, even if the three remaining commissioners agreed to do so. And sadly, the progress we had made to reduce the Commission's significant backlog is being eroded on a daily basis.



The loss of quorum has halted the Commission's policy work as well. Regulatory initiatives cannot be pursued. Advisory opinion requests must go unanswered. Without a quorum, the Commission cannot help those active in politics determine whether their plans run the risk of violating the law. The FEC's inability to issue regulations and guidance may cause confusion and disjointed approaches to problems common to political actors of every party.

I remain fully vigilant to all threats to the integrity of our elections – and Americans' faith in them – and fully dedicated to educating the public about campaign-finance laws. But this nation requires a functioning FEC. The presidential election is just 368 days away. The President and the Senate need to act to restore the Commission's quorum immediately.

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<sup>3</sup> The Commission lost its quorum in September with 272 matters on its docket. Sixty-two of those 272 matters involved alleged violations due to expire under the statute of limitations within a year and a half, absent tolling. Of the 272 matters, 31 alleged a violation of the prohibition against foreign-national political spending.

<sup>4</sup> Sixty-two of these 303 matters involve alleged violations due to expire under the statute of limitations within a year and a half, absent tolling. Of the 303 matters, 35 allege a violation of the prohibition against foreign-national political spending.



CHAIR ELLEN L. WEINTRAUB  
FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

## The State of the Federal Election Commission 2019 END OF YEAR REPORT

*Chair Ellen L. Weintraub*

December 20, 2019

2019 has been a tough year for the Federal Election Commission (“FEC”). We lost the first month to a government shutdown. We have spent the last four months without enough commissioners to do our most important work.<sup>1</sup> And the seven months in between were burdened by the ideological obstruction that has plagued the Commission since 2008.

Still, the FEC managed to score some significant successes this year, and we continue to press ahead even as we await more commissioners from the President and the Senate:

- **Reduced the enforcement backlog.** At the beginning of 2019, the Commission had 344 enforcement matters in the building, with 101 of them awaiting Commission action.<sup>2</sup> By the beginning of September, the backlog of cases pending before the Commission for a vote had been whittled down to 63 matters, a trend that likely would have continued but for a resignation at the beginning of September that left the Commission without enough votes to decide enforcement matters.<sup>3</sup> In the intervening seven months, we resolved about 200 of the year’s original 344 enforcement matters.<sup>4</sup>

Regrettably, our commissioner shortage has erased every bit of the progress we made on the backlog. As of December 1, 2019, that stack of 63 matters pending before the Commission had grown right back to 101<sup>5</sup>, and until we get more commissioners, it has nowhere to go but up.

- **Launched investigations.** The Commission voted to pursue matters involving allegations of some of the most serious types of violations within our jurisdiction. By August, we had more than doubled the number of active FEC investigations. Regardless of the number of commissioners left in the building, these investigations remain fully authorized: Witness interviews, depositions, and document subpoenas are proceeding.
- **Enforced foreign-national matters.**<sup>6</sup> As of December 1, 2019, thirty-five foreign-national matters are under consideration. The Commission has voted in nine of those matters to find reason to believe the law may have been violated,<sup>7</sup> and seven matters await a vote from a reconstituted Commission.
- **Protected campaigns from cyberattack.** We approved a significant advisory opinion

that will allow critical cybersecurity resources to flow to federal campaigns in 2020.<sup>8</sup> This step was especially important as my colleagues remained unwilling throughout the year to consider the regulatory proposals I have put forward to help protect our elections from foreign interference.

Some of the FEC's most significant successes are the hardest to spot. Fortunately, two examples of these everyday miracles require no Commission votes and are thus unhindered by Commission vacancies:

1. The ongoing excellence with which FEC staff received, analyzed, and made available to the public more than 22 million financial transactions and the more than 38 million pages of campaign-finance data we received from the roughly 15,000 political committees and other entities currently disclosing their finances with the Commission, and
2. The expert advice we were able to provide through more than 24,000 compliance calls and emails handled this year with the regulated community and general inquiries from the public, the press, and Congress.

Obviously, though, all is not well at the FEC. As in most of the last 11 years, the Commission frequently closed matters without so much as making a phone call to investigate potential wrongdoing.<sup>9</sup> Enforcement actions pending before the Commission languished for months or years at the request of my Republican colleagues, causing some to near the end of their statutory limitations, only for these Commissioners to then decline to investigate at all – or for us to end up with inadequate outcomes years too late to make a meaningful difference to the public.<sup>10</sup>

In fact, my Republican colleagues blocked any investigation of some of the most alarming allegations of campaign-finance violations we considered in 2019. They shot down two matters regarding alleged Russian interference in the 2016 elections.<sup>11</sup> Allegations of massive joint fundraising operations that appeared to circumvent the limits on individual contributions in connection with the 2016 Democratic and Republican presidential candidates were also ignored.<sup>12</sup> My Republican colleagues blocked investigation of serious allegations regarding coordinated communications and expenditures<sup>13</sup> and whether certain organizations improperly failed to register as political committees.<sup>14</sup> In each of these matters, I voted to take action, but there were not the requisite four votes to proceed.

While the overwhelming credit for the Commission's successes can be laid at the feet of the FEC's hardworking staff, and the overwhelming share of our failures belong to the Commissioners, I am wrapping up my shortened year as Chair with some achievements I am proud of. My concerted efforts to reduce the Commission's enforcement backlog were quite successful during the seven months we were meeting and voting. I was able to keep focus on matters involving foreign nationals and matters imperiled by statute-of-limitation issues. I furthered the FEC's public education and outreach mission: I convened two public symposiums with outside experts at the FEC (one looking back at the 2018 election and one addressing digital disinformation).<sup>15</sup> I provided significant testimony before local, national and international

audiences.<sup>16</sup> I gave voice to the law of foreign election interference,<sup>17</sup> ‘things of value,’<sup>18</sup> and internet ad disclaimers<sup>19</sup> to ensure that those engaged in politics and the public have ready access to the information they need to be informed and active participants in our democracy. I moved the nation’s public conversation forward on the microtargeting of online political advertisements.<sup>20</sup>

• • •

Today, we are 319 days from the 2020 presidential election. The nation is bitterly split along partisan lines and our democracy remains under sustained attack from foreign adversaries. And the agency charged with administering and enforcing the federal campaign laws that will govern the 2020 election remains without the four Commissioners it needs to make most of its major decisions. It is, to be charitable, less than ideal.

But plenty of enforcement activity occurs at the FEC without a need for a Commission vote. FEC staff are continuing to process all complaints coming in the door and advance already-authorized investigations. Our lawyers are continuing to prepare their recommendations for the Commission to address as soon as the commissioner shortage is remedied.

An election lawyer would be committing professional malpractice if they advised a client to ignore federal campaign-finance laws while the Commission is short on commissioners. The FEC can pursue respondents *civilly* anytime for five years after a violation. The U.S. Department of Justice can do so *criminally* – and is fully able to do so right now. And the campaign-finance reports that FEC staff are continuing to review and post on our website will empower political opponents, the press, and the public to discover misbehavior and hold candidates accountable *politically* for it.

Still, America deserves a fully functioning FEC – one fully vigilant to all threats to the integrity of our elections, fully dedicated to enforcing existing laws and improving them with appropriate regulations, and fully committed to educating the public about their campaign-finance laws.

This is not as simple as just filling seats. If the President and Senate send over new commissioners who share the obstructionist approach that my Republican colleagues have taken since 2008, the next 11 years will look just like the last 11. The FEC’s current vacancies present the President and the Senate with an opportunity to break the gridlock and appoint commissioners who will honestly assess the state of campaign-finance law and the facts on the ground – commissioners who will work to achieve consensus to solve the tough problems that keep our elections from being as transparent and fair as they could be. This is not a problem I, nor any of the other commissioners, nor even the FEC’s dedicated staff, can solve. This really is a problem that only the President and the Senate can fix. I urge them to do so.

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<sup>1</sup> Under the Federal Election Campaign Act, as amended (the “Act”), the Commission is comprised of six members, with no more than three commissioners from the same political party. 52 U.S.C. § 30106(a). In order to exercise some of the Commission’s most important duties and powers, the Act requires at least four affirmative votes from members of the Commission. 52 U.S.C. § 30106(c). As of September 1, 2019, the Federal Election Commission, which, when fully staffed, has six commissioners, dropped to three with the resignation of Vice Chairman Matthew S. Petersen. Since his resignation, the FEC has been unable to launch any new investigations, issue any advisory opinions, promulgate any rules, grant any matching funds request, or render any decisions on pending enforcement actions.

<sup>2</sup> Eighty-eight of those 344 enforcement matters involved alleged violations that were due to expire under the statute of limitations within a year and a half, absent tolling. Of the 344 matters, 28 alleged a violation of the prohibition against foreign-national political spending. Figures include both external complaints filed with the Commission and internally generated matters. These are matters to be resolved via both the traditional enforcement process and alternative dispute resolution.

<sup>3</sup> At the time of Vice Chairman Petersen’s resignation, the Commission had 272 matters on its enforcement docket. Sixty-two of those 272 matters involved alleged violations due to expire under the statute of limitations within a year and a half, absent tolling. Of the 272 matters, 31 alleged a violation of the prohibition against foreign-national political spending. Figures include both external complaints filed with the Commission and internally generated matters. These are matters to be resolved via both the traditional enforcement process and alternative dispute resolution.

<sup>4</sup> Penalties assessed totaled almost \$1.7 million. This included a \$940,000 civil penalty against respondents in a matter involving large donations illegally given by foreign nationals in 2016 to Right to Rise USA, a super PAC supporting Jeb Bush for President (MUR 7122 (Right to Rise USA/American Pacific International Capital, Inc.)). The Commission assessed a \$129,600 civil penalty against a state party for using over half a million dollars in non-federal funds to support federal election activity (MUR 7214 (Ohio Republican Party)), a \$100,000 civil penalty against a non-connected political committee for failing to accurately report over \$700,000 of independent expenditures and properly disclose its debt and obligations in the 2016 election (MUR 7545 (Team Party Majority Fund)), and an \$81,000 civil penalty against respondents in a matter involving an employee reimbursement scheme carried out at a West Virginia coal company (MUR 7221 (Mepco Holdings, LLC)).

<sup>5</sup> Sixty-eight of the total of 313 matters involve alleged violations due to expire under the statute of limitations within a year and a half, absent tolling. Of the 313 matters, 35 allege a violation of the prohibition against foreign-national political spending. Figures include both external complaints filed with the Commission and internally generated matters. These are matters to be resolved via both the traditional enforcement process and alternative dispute resolution.

<sup>6</sup> In September 2016, the Commission agreed to my proposal to direct the Office of General Counsel to “prioritize cases involving allegations of foreign influence.”

<sup>7</sup> The Act requires that the Commission find “reason to believe that a person has committed, or is about to commit, a violation” of the Act as a precondition to opening an investigation into the alleged violation. 52 U.S.C. § 30109(a)(2). A “reason to believe” finding is not a finding that the respondent violated the Act, but instead simply means that the Commission believes a violation may have occurred. *See* Guidebook for Complainants and Respondents on the FEC Enforcement Process, [https://transition.fec.gov/em/respondent\\_guide.pdf](https://transition.fec.gov/em/respondent_guide.pdf).

<sup>8</sup> Advisory Opinion 2018-12 (Defending Digital Campaigns) (nonprofit corporation may provide cybersecurity services, software, and hardware for free or at a reduced cost to federal candidates and national parties on a nonpartisan basis according to pre-determined, objective criteria due to unusual and exigent circumstances and the demonstrated threat of foreign cyberattacks against party and candidate committees).

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<sup>9</sup> See, e.g., Statement of Reasons of Chair Ellen L. Weintraub at 3, MUR 7314 (NRA, Torshin, Butina, *et al.*), <https://go.usa.gov/xVV9Y>. The Commission received a credible allegation indicating that the FBI was investigating whether Russian nationals had illegally funneled millions of dollars into the 2016 presidential election. My Republican colleagues refused to allow so much as a phone call to the FBI to determine whether such an investigation existed.

<sup>10</sup> See, e.g., Statement of Reasons for Chair Ellen L. Weintraub, MUR 6538R (Americans for Job Security), [https://eqs.fec.gov/eqsdocsMUR/6538R\\_1.pdf](https://eqs.fec.gov/eqsdocsMUR/6538R_1.pdf).

<sup>11</sup> See, e.g., Statement of Reasons of Chair Ellen L. Weintraub, MUR 7272 (Party of Regions, *et al.*); <https://go.usa.gov/xVVfa>; Statement of Reasons of Chair Ellen L. Weintraub, MUR 7314 (NRA, Torshin, Butina, *et al.*), <https://go.usa.gov/xVVfr>.

<sup>12</sup> See Statement of Reasons of Chair Ellen L. Weintraub, MUR 7304, *et al.* (Hillary Victory Fund, *et al.*) & MUR 7339 (Trump Victory, *et al.*), <https://go.usa.gov/xVVfb>.

<sup>13</sup> Statement of Reasons of Chair Ellen L. Weintraub, MUR 6940, *et al.* (Correct the Record, *et al.*), <https://go.usa.gov/xVV6V>; Statement of Reasons of Chair Ellen L. Weintraub, MUR 6908 (NRCC, *et al.*), <https://go.usa.gov/xVV6y>.

<sup>14</sup> Statement of Reasons of Chair Ellen L. Weintraub, MUR 6596 (Crossroads GPS), <https://go.usa.gov/xVV6d>; First Gen. Counsel's Rpt., MUR 6596 (Crossroads GPS), <https://go.usa.gov/xVV6G>.

<sup>15</sup> See Feb. 21, 2019 panel discussion on 2018 campaign spending, *found at* [https://www.fec.gov/resources/cms-content/documents/2019-02\\_Invitation\\_ELW-Krumholz-Malbin\\_Event.pdf](https://www.fec.gov/resources/cms-content/documents/2019-02_Invitation_ELW-Krumholz-Malbin_Event.pdf); "Digital Disinformation and the Threat to Democracy: Information Integrity in the 2020 Elections" (Sept. 17, 2019), <https://www.fec.gov/about/leadership-and-structure/ellen-l-weintraub/symposium-digital-disinformation-and-threat-democracy-information-integrity-2020-elections/>.

<sup>16</sup> See, e.g., Testimony Before the House Oversight and Reform Subcommittee on National Security (May 22, 2019), [https://www.fec.gov/resources/cms-content/documents/Ellen\\_L.\\_Weintraub\\_Written\\_Testimony\\_for\\_05-22-19\\_HOGR.pdf](https://www.fec.gov/resources/cms-content/documents/Ellen_L._Weintraub_Written_Testimony_for_05-22-19_HOGR.pdf).

<sup>17</sup> See, e.g., Statement Regarding Illegal Contributions From Foreign Governments (June 14, 2019), [https://www.fec.gov/resources/cms-content/documents/Chair\\_Weintraub\\_on\\_Illegal\\_Foreign\\_Contributions.pdf](https://www.fec.gov/resources/cms-content/documents/Chair_Weintraub_on_Illegal_Foreign_Contributions.pdf); "Foreign spending in our elections is a threat to our national sovereignty," WASH. POST (June 20, 2019), [https://www.washingtonpost.com/opinions/foreign-spending-in-our-elections-is-a-threat-to-our-national-sovereignty/2019/06/20/80ecb2a8-9372-11e9-b58a-a6a9afaa0e3e\\_story.html](https://www.washingtonpost.com/opinions/foreign-spending-in-our-elections-is-a-threat-to-our-national-sovereignty/2019/06/20/80ecb2a8-9372-11e9-b58a-a6a9afaa0e3e_story.html); Draft Interpretive Rule Concerning Prohibited Activities Involving Foreign Nationals (Sept. 26, 2019), [https://www.fec.gov/resources/cms-content/documents/mtgdoc\\_19-41-A.pdf](https://www.fec.gov/resources/cms-content/documents/mtgdoc_19-41-A.pdf).

<sup>18</sup> "The Law of a 'Thing of Value'" (Oct. 18, 2019) ("Federal courts have consistently applied an expansive reading to the term 'thing of value' in a variety of statutory contexts to include goods and services that have tangible, intangible, or even merely perceived benefits, for example: promises, information, testimony, conjugal visits, and commercially worthless stock"), <https://www.fec.gov/resources/cms-content/documents/2019-10-ELW-the-law-of-a-thing-of-value.pdf>.

<sup>19</sup> "The Law of Internet Communication Disclaimers" (Dec. 18, 2019) ("So going into 2020, the existing law of internet communication disclaimers will still apply. Fortunately, the law remains simple and clear: Virtually all paid political advertising on the internet must contain a full, clear, and conspicuous disclaimer on its face"), <https://www.fec.gov/resources/cms-content/documents/2019-12-18-The-Law-of-Internet-Communication-Disclaimers.pdf>.

<sup>20</sup> "Don't abolish political ads on social media. Stop microtargeting," WASH. POST (Nov. 1, 2019), *found at* <https://www.washingtonpost.com/opinions/2019/11/01/dont-abolish-political-ads-social-media-stop-microtargeting/>.



# Dysfunction and Deadlock:

The Enforcement Crisis at the  
Federal Election Commission  
Reveals the  
Unlikelihood of Draining the Swamp



Office of Commissioner Ann M. Ravel  
Federal Election Commission

February 2017



## EXECUTIVE SUMMARY

The Federal Election Commission (“FEC”) is an independent regulatory agency established to enforce and administer federal campaign finance laws.

Over the past ten years—as the results of this new study lay bare—the effectiveness of the FEC has deteriorated. It appears that these trends could accelerate in 2017, so it is important for the public to know about its failures.

While the FEC’s employees strive to fulfill its mission, the Commission itself—made up of six Commissioners—is not performing its duty. A bloc of three Commissioners routinely thwarts, obstructs, and delays action on the very campaign finance laws its members were appointed to administer. This bloc voted in lockstep 98% of the time, according to a recent news analysis of cases closed since 2015.<sup>1</sup>

Due to the bloc’s ideological opposition to campaign finance law, major violations are swept under the rug and the resulting dark money has left Americans uninformed about the sources of campaign spending.

The Commission’s work is essential to the integrity and fairness of the political process and to ensure public trust in government. As the FEC explains on its website, campaign finance law seeks to “limit the disproportionate influence of wealthy individuals and special interest groups in the outcome of federal elections; regulate spending in campaigns for federal office; and deter abuses by mandating public disclosure of campaign finances.”<sup>2</sup>

**Statistics about deadlocked 3-3 votes do not tell the whole story. For nearly every case of major significance over the past several years, the Commission has deadlocked on investigating serious allegations or has failed to hold violators fully accountable. This report highlights some of the most recent examples of deadlock and dysfunction.**

This incredibly significant Commission is not performing the job that Congress intended, and violators of the law are given a free pass. Because of this, candidates and committees are aware that they can ignore the laws enacted to protect the integrity of our elections.

This report exposes, among other things, how the Commission and some of its members have:

***Dramatically Increased the Number of Deadlocked Substantive Votes From 2006 - 2016.*** The bloc has used the four vote requirement to take most action as unchecked veto power to delay and dismiss flagrant violations, impose significantly lower penalties, and leave major cases without resolution. In 2006, commissioners deadlocked in just 2.9% of substantive votes in Matters Under Review (“MURs”—also known as enforcement cases) closed that year. For MURs closed in 2016, the Commissioners deadlocked on 30% of all substantive votes taken in those matters. In 2006, only 4.2% of MURs closed had at least one deadlocked vote. However, in 2016, 37.5% of all MURs closed had at least one deadlocked vote.

***Dramatically Reduced Fines Over the Past Decade.*** In 2006, the Commission assessed more than \$5.5 million in MUR civil monetary penalties. In 2016, MUR civil penalties imposed totaled only \$595,425. By comparison, this is significantly less than the nearly \$900,000 that California’s Fair Political Practices Commission, an agency for one state, assessed in 2016.

***Failed to Enact New Regulations Post-Citizens United Concerning Secret Campaign Spending.*** In *Citizens United*, the Supreme Court approved disclosure so that voters can be informed about who is behind political campaigns. Since the Court’s decision in 2010, more than \$800 million in federal campaign spending has come from undisclosed sources. Yet the bloc has prevented any enactment of rules to ensure that all campaign spending is disclosed.

***Ideologically Opposed the Agency’s Purpose.*** Commissioner Goodman told the *New York Times* that “Congress set this place up to gridlock. This agency is functioning as Congress intended. The democracy isn’t collapsing around us.” White House Counsel Don McGahn, a former Commissioner himself, said during his FEC tenure that he would “plead guilty as charged” to “not enforcing the law as Congress passed it.”

***Blocked Investigations of Serious Campaign Finance Violations by Changing the Standard of Proof.*** When a complaint is filed and the alleged violator responds, if there are indications that a violation of the law may have occurred, the Commission is supposed to investigate to gather additional facts to determine if there was—or was not—wrongdoing in important cases. The bloc of Commissioners, however, has blocked even a preliminary investigation. Consequently, major violators are routinely let off the hook at this early stage.

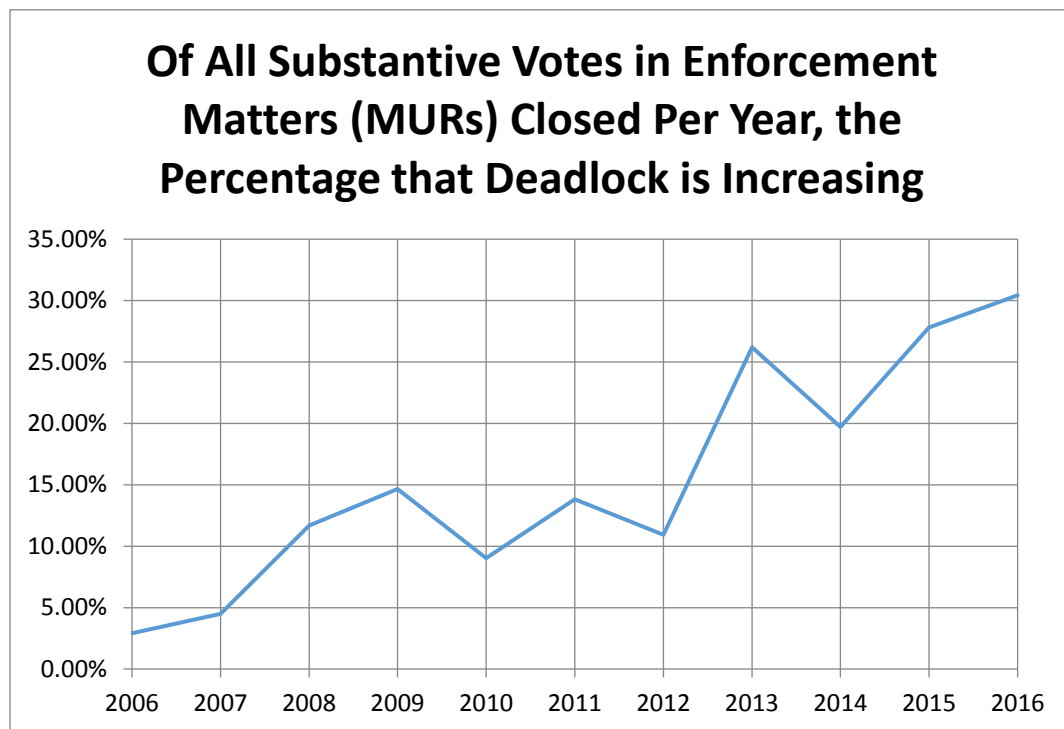
This report also highlights 18 illustrative enforcement complaints that have come before the Commission recently in which the agency failed to require meaningful accountability from individuals, corporations, labor unions, and dark money groups. These cases are not an exhaustive list, but show the serious consequences of gridlock, including lack of disclosure and political committee registration, employer coercion, candidates’ personal use of campaign funds, and foreign national contributions. Although many of these cases captured public attention, in none did the Commission hold wrongdoers accountable for the full extent of their misconduct.

These matters include:

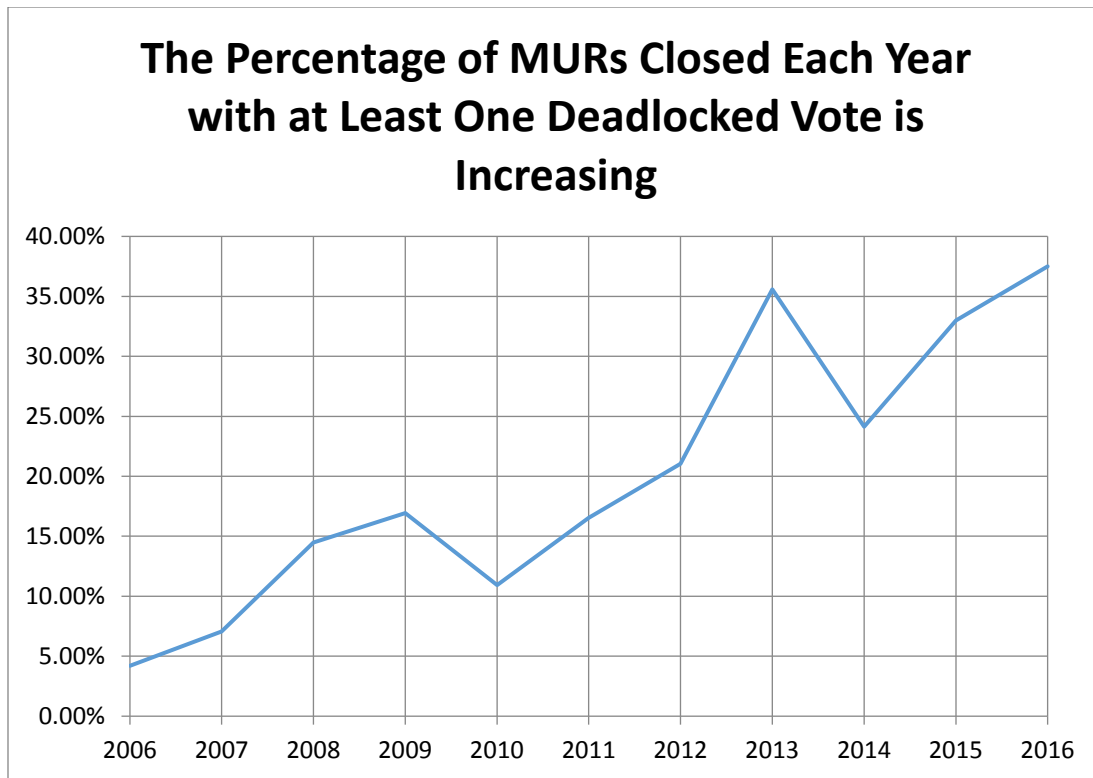
- **EMPLOYEE COERCION: Robert E. Murray and Murray Energy Corp. [MURs 6661, 6651]** In October 2012, a complaint alleged that Murray Energy and its CEO coerced employees, including by threats of being fired, to pressure them to contribute to Gov. Mitt Romney’s presidential campaign. Although the nonpartisan Office of General Counsel (“OGC”) recommended that there was reason to believe that this violated the law and that the Commission should authorize an investigation, the three Commissioners in the anti-enforcement bloc voted to do nothing. Similar allegations against the same company in another case were also not investigated.
- **PASS-THROUGHS TO KEEP CONTRIBUTORS’ IDENTITIES SECRET: The “LLC Cases” [MURs 6485, 6487, 6488, 6711, 6930]** Five separate complaints alleged that several limited liability companies (“LLCs”) contributed to Super PACs supporting a

presidential candidate in order to hide the true identity of the contributor. The complaints alleged that the LLCs were created as a pass-through for millions of dollars in contributions from individuals who wished to keep their identities secret. One contributor openly admitted that he gave to his newly formed LLC for the sole purpose of hiding his identity and evading disclosure. OGC recommended that the Commission find reason to believe the LLCs had violated the law in all but one of the matters. As several cases were pending for four years, three Commissioners made more than 10 motions to open an investigation. The anti-enforcement bloc of Commissioners abstained or voted against OGC's recommendations, preventing disclosure of the source of the money.

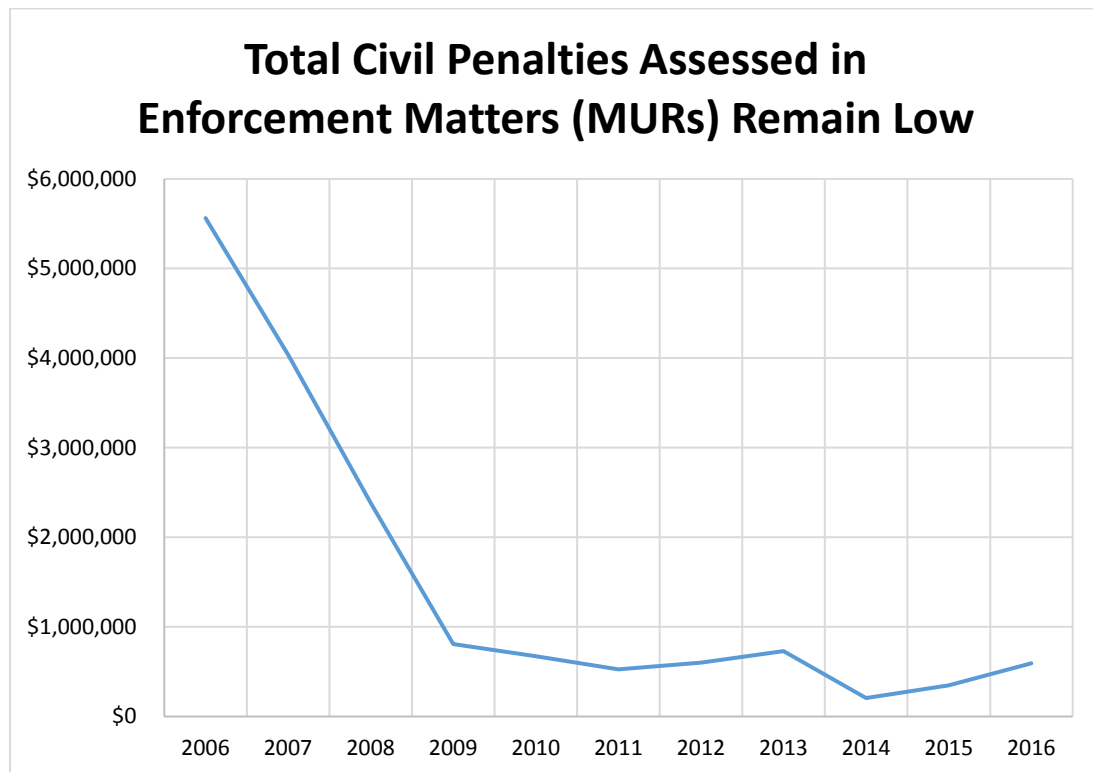
- FAILURE OF "SOCIAL WELFARE" ORGANIZATIONS TO REGISTER AS POLITICAL COMMITTEES AND DISCLOSE: Commission on Hope Growth and Opportunity ("CHGO") [MURs 6391 and 6471]** A complaint alleged that CHGO, a 501(c)(4) "social welfare" organization, failed to report and include required disclaimers on more than \$2 million of advertisements. OGC recommended that the Commission find reason to believe that CHGO violated the law by failing to disclose spending on the ads and omitting the proper disclaimers. OGC also recommend finding reason to believe that CHGO should have registered as a political committee, which would have required it to inform the public about how it raises and spends money to influence elections. The Commission deadlocked on some of OGC's recommendations, but authorized a limited investigation. The investigation found voluminous evidence that CHGO's major purpose was to influence federal elections and that 85% of the money it spent in 2010 — \$4.77 million — funded political advertisements. The anti-enforcement bloc of Commissioners refused to find a violation, and refused to enter into settlement negotiations with CHGO. Nothing was done about this clear violation.



Source: Analysis of Vote Certifications in the FEC's Enforcement Query System ("EQS")



Source: Analysis of Vote Certifications in the FEC's Enforcement Query System ("EQS")



Source: Analysis of FEC Enforcement Statistics, Total MUR Civil Penalties,  
<http://www.fec.gov/press/bkgnd/EnforcementStatistics.shtml>.

DYSFUNCTION AND DEADLOCK: ENFORCEMENT CRISIS AT THE FEDERAL ELECTION COMMISSION

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Prepared by the Office of Commissioner Ann M. Ravel<sup>3</sup>

## I. BACKGROUND: FEC ENFORCEMENT PRIMER

### A. *The Enforcement Process*

Congress created the FEC to enforce the Federal Election Campaign Act (“FECA”) in the wake of the Watergate scandal of the 1970s. The FEC’s main duties under FECA include supervising the public disclosure of money raised and spent in connection with federal campaigns, providing information about FECA, encouraging compliance, and enforcing federal campaign finance laws through audits, investigations, and civil litigation.<sup>4</sup> These laws and duties are in place to prevent corruption and protect the integrity of the political process.

Although some have criticized the agency as the “Failure to Enforce Commission” and a “toothless tiger,”<sup>5</sup> it worked to enforce the law in a bipartisan manner for many years. Congress intended the agency to be structured so that a single political party could not unduly influence the agency or its enforcement outcomes. As such, no more than three of the Commission’s six Commissioners can come from a single political party.

What follows is a general description of the Commission’s process for enforcing the law in novel, complex, or sophisticated matters. These are classified as “**Matters Under Review**” (“**MUR**”). Matters that are less complicated, depending on the circumstances, may be referred to an **Alternative Dispute Resolution** program or the Commission’s **Administrative Fines Program**. The latter calculates pre-established fines when political committees are late in filing their disclosure reports, or fail to file reports entirely.

**The enforcement process is usually triggered when an individual files a complaint or a matter is internally referred within the FEC.** Complaints must be sworn and notarized. Potential violations may also be self-reported, or referred from the agency’s Audit Division, its Reports Analysis Division (“RAD”), or another government agency.

In general, the Commission’s nonpartisan Office of General Counsel (“OGC”) provides a copy of the complaint to each named respondent that is alleged to have violated the law. The respondent can reply to the allegations in writing.

**OGC then reviews the submitted materials and recommends a response to the Commission.** Possible courses of action are to **find reason to believe** (“**RTB**”) that the respondent has committed or is about to commit a violation of the law; to **dismiss the matter** consistent with the agency’s prosecutorial discretion to preserve its resources for other cases; or to **find no reason to believe** that a violation has occurred. If the Commission dismisses the matter, or finds no reason to believe that a violation has occurred, the case is usually closed.

If four commissioners agree that there is RTB that a violation has occurred or is about to occur, the Commission may open an investigation, find probable cause that a violation has occurred or is about to occur, open settlement negotiations to resolve the matter, or, after finding probable cause, file a lawsuit in the event no alternative resolution is possible.

**Importantly, at every stage discussed above, the affirmative vote of four commissioners is necessary to move forward.** This provides ample opportunity for commissioners to block action by splitting 3-to-3.

### *B. Undermining Enforcement Standards*

**Finding RTB—the first step toward proceeding with an enforcement matter—is *not* a finding that a violation has occurred, or is about to occur.** As the Commission has itself said, “a ‘reason to believe’ finding by itself *does not establish that the law has been violated.*”<sup>6</sup> It is merely a threshold determination that permits the Commission’s staff to investigate further to establish whether there was—or was not—a violation.

Finding RTB means only that a violation *may* have occurred, on the basis of the complaint and the response. It allows the Commission to collect additional facts to make a better determination of whether a violation occurred. The standard of proof to find RTB is low. It is lower than the standard required in civil cases, such as proving something by a “preponderance of the evidence” or “clear and convincing evidence.”<sup>7</sup> And it is far lower than the “proof beyond a reasonable doubt” standard in criminal cases.<sup>8</sup>

Unfortunately, as will be shown in cases below, the anti-enforcement bloc has unilaterally imposed higher requirements to find RTB. In doing so, the bloc has shut down the Commission’s ability to even investigate serious allegations in sworn complaints. Their standard, which is contrary to the law, has stymied the Commission’s ability to even *open* an investigation and uphold the law in major cases.

### *C. The Steep Rise in Deadlocked Enforcement Votes*

The four-vote requirement for the Commission to take action on most matters ensures bipartisan oversight, but also creates multiple opportunities in a single MUR for deadlock and delay that is at cross-purposes with the agency’s mission. A deadlock could be a 3-3 vote, or anything other than four affirmative votes.

Deadlocks may prevent the Commission from resolving important matters of campaign finance enforcement. In addition to relieving violators of their obligation to follow the law, they often deprive candidates, campaigns, political parties, and others of certainty about how the law will be enforced.

As the *New York Times* reported, deadlocked votes “have created a rapidly expanding universe of unofficial law, where Republican commissioners have loosened restrictions on candidates and outside groups simply by signaling what standards they are willing to enforce.”<sup>9</sup> Last year, a campaign finance attorney whose firm represents candidates and political parties told the *Washington Post* that “we are in an environment in which there has been virtually no enforcement of the campaign finance laws.”<sup>10</sup>

Commenters have analyzed different statistics to gauge whether the Commission is deadlocking on an increasing number of matters. Most of them have found that the Commission’s rate of

deadlocked votes is increasing. For example, the Congressional Research Service found that in 2014, commissioners deadlocked on 24.4% of closed enforcement matters—nearly double the 13% it found in 2008-2009.<sup>11</sup> Public Citizen, a nonpartisan advocacy organization, found that the Commission deadlocked on 22.5% of its 204 enforcement votes in 2013, up from 0.9% of the 1,036 votes in 2003.<sup>12</sup> NBC News conducted an analysis of cases that have been closed since 2015 to determine how commissioners voted when deciding to authorize an investigation. According to its analysis, “the Republicans did vote as a bloc 98 percent of the time, only breaking rank four times when Commissioner Lee Goodman recused himself. In comparison, the other three commissioners voted as a bloc in 87% of those votes.”<sup>13</sup>

To some Commissioners, deadlocks are not an obstacle to achieving the Commission’s purpose, but a feature of its structure.

President Trump’s White House Counsel Don McGahn, a former Commissioner, said that he was “not enforcing the law as Congress passed it. I plead guilty as charged.”<sup>14</sup> Although Mr. McGahn qualified his statement by positing that he intended to enforce the law as it’s been upheld by the courts, his record speaks for itself.

Commissioner Goodman told the *New York Times* that “Congress set this place up to gridlock. This agency is functioning as Congress intended. The democracy isn’t collapsing around us.”<sup>15</sup>

At the same time, members of the anti-enforcement bloc have released their own analyses to show more bipartisan agreement than the trends otherwise suggest. For example, in September 2016, the three Republican Commissioners provided NBC News with their own evaluation of 394 certified votes that the Commission had taken by that time in 2016. They wrote that “86% of all votes taken this year have reflected bipartisan agreement of a majority of Commissioners,” and that “78% of Commission votes were *unanimous*.”<sup>16</sup>

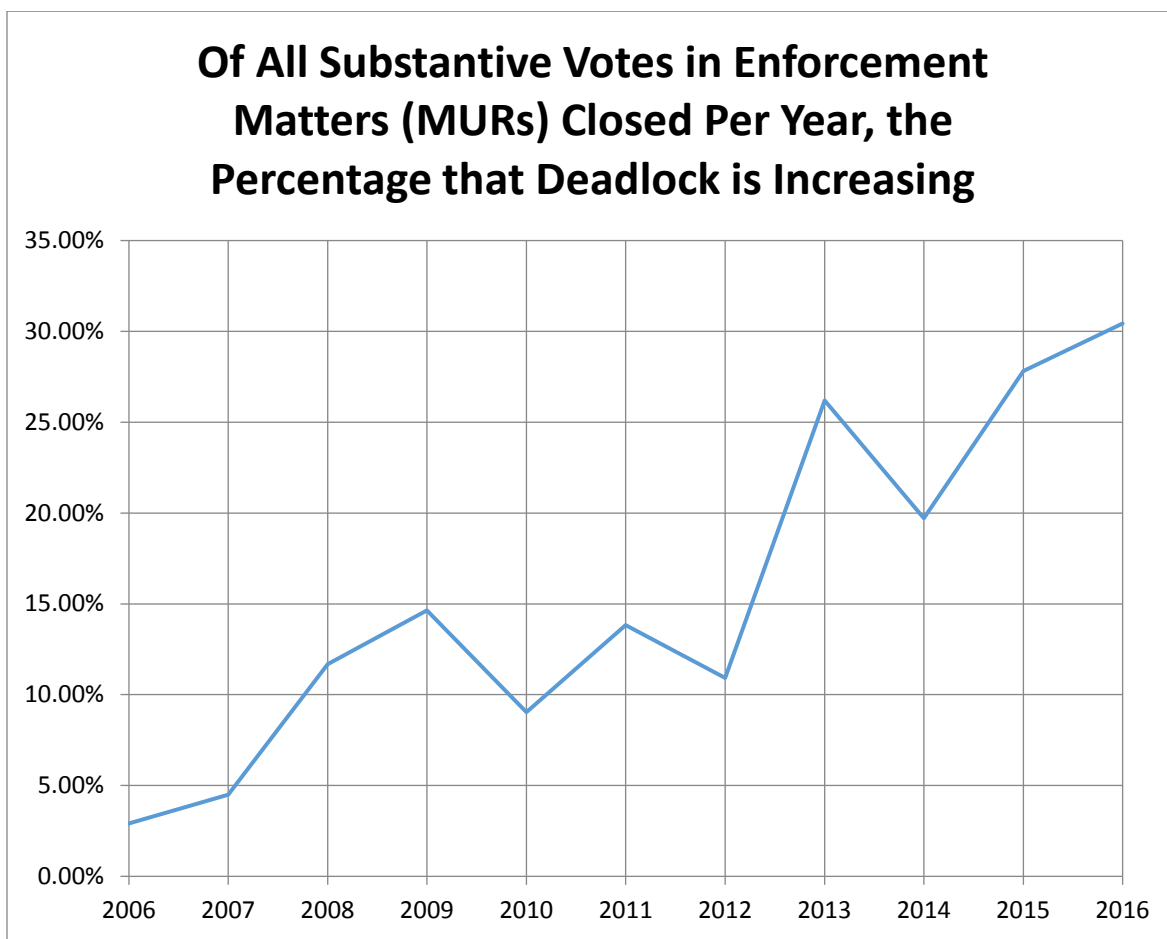
However, these numbers are deceiving. The Republican Commissioners failed to acknowledge that many of the certified votes that they counted were routine administrative or ministerial matters, not enforcement matters. For example, 20 unanimous votes indicated approval of the minutes from previous meetings of the Commission. They included dozens of votes that deal exclusively with internal personnel issues such as promotions, staff salaries and extensions of temporary appointments. They also included more than 50 noncontroversial matters related to the agency’s Administrative Fine Program, which imposes pre-determined fines when political committees are late in filing their reports or fail to file reports entirely. These routine votes are hardly indicative of a well-functioning Commission and falsely inflate their willingness to join in bipartisan compromise on novel, complex, or sophisticated enforcement matters.

The office of Commissioner Ann M. Ravel performed its own analysis of vote certifications in closed MURs, as available on the agency’s publicly-available Enforcement Query System (“EQS”). Its findings are shown in the charts below. Each year’s data set was comprised of all certified votes in MURs whose files were closed that year. This means, for example, that 2006’s data set contained matters that were opened as early as the 1990s but were not closed until 2006. The methodology used to calculate when commissioners deadlocked on at least one vote in a closed MUR is consistent with that of the Congressional Research Service.<sup>17</sup>



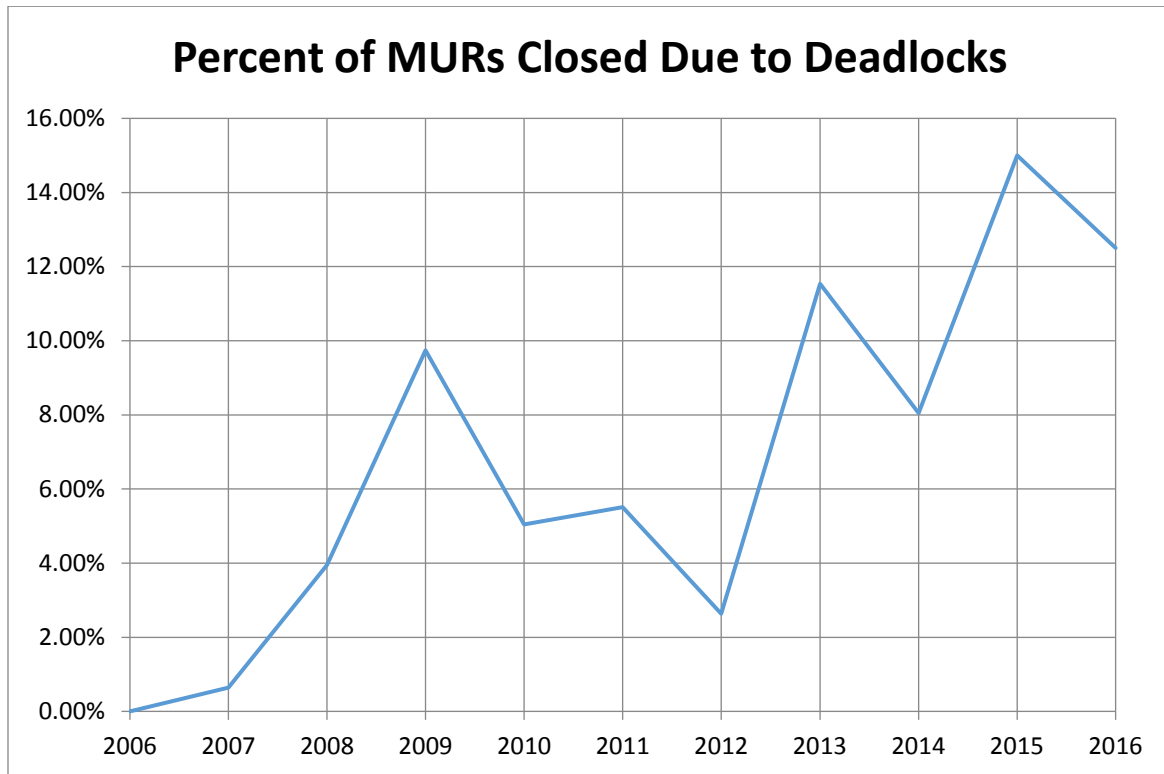
Votes were separated into “substantive” and “non-substantive” votes, where votes to close the file and send appropriate letters to the parties regarding the file’s closing were “non-substantive,”<sup>18</sup> and all other votes were “substantive.” Examples of substantive votes include to find RTB, authorize an investigation, accept a conciliation (i.e., settlement) agreement, take no further action, and to dismiss a case.

The statistics confirm that deadlocks on substantive votes are, in fact, increasing. In MURs closed in 2006, Commissioners deadlocked in just 2.9% of substantive votes. The number of deadlocked substantive votes averaged only 9.6% in MURs closed through 2012, before significantly increasing to 26.2% in MURs closed in 2013. The number has remained high. For MURs closed in 2016, Commissioners deadlocked on more than 30% of substantive votes in those matters.



Source: Analysis of Vote Certifications in the FEC’s Enforcement Query System (“EQS”)

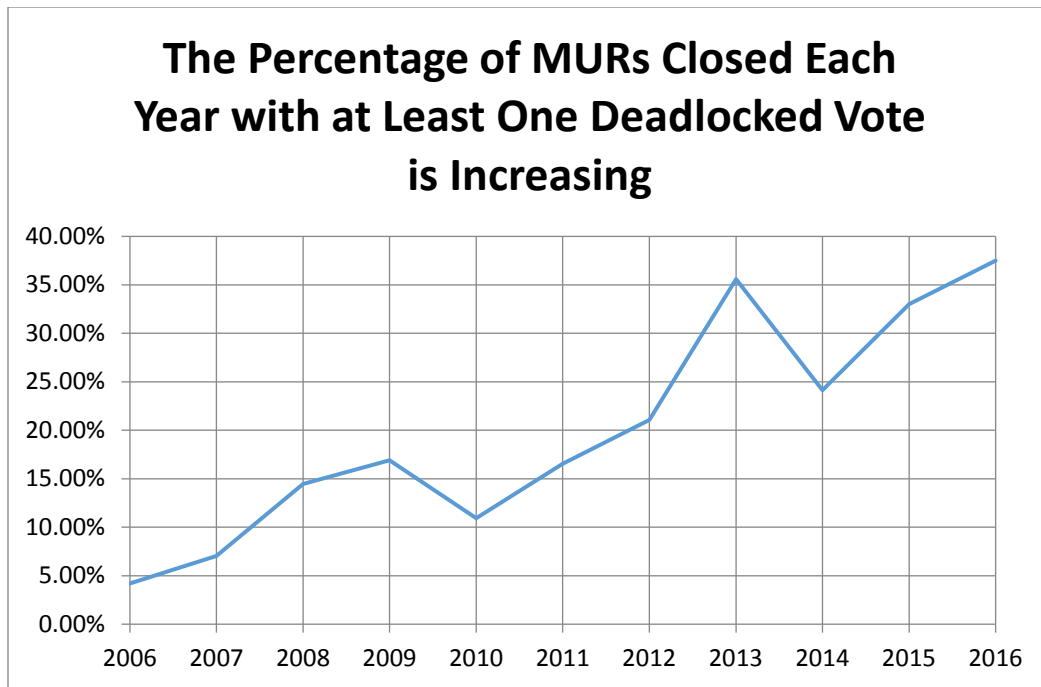
These deadlocked votes are frequently dispositive, meaning they result in case closure without any meaningful action. In 2006, no matters closed due to a deadlock; by 2016, that number rose to 12.5%.



Source: Analysis of Vote Certifications in the FEC's Enforcement Query System ("EQS")

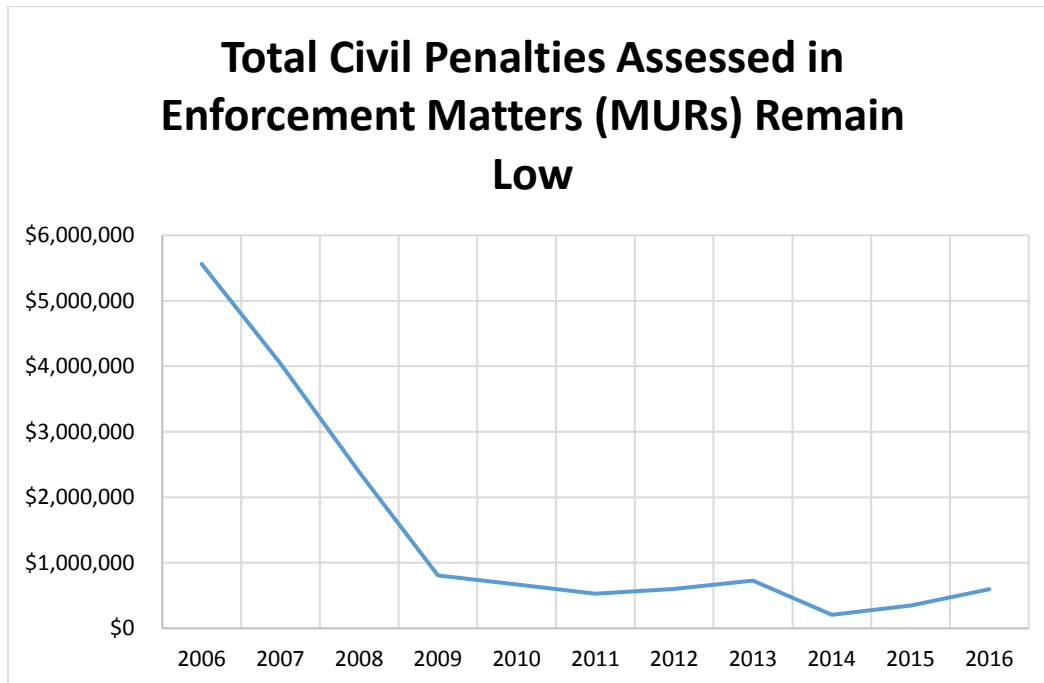
Case closure is not the only effect of the Commission's deadlocks, however. The bloc also uses deadlocks (or the threat of deadlock) to dilute enforcement results and avoid holding violators accountable for the full scope of their conduct. In these instances, the Commission still takes substantive action and proceeds to settlement or a limited investigation, but only after deadlocking on OGC's recommendation to investigate the full scope of an alleged violation. More significant violators understand that they will only get a slap on the wrist. In 2006, only 4.2% of MURs closed that year had at least one deadlocked substantive vote. In 2016, however, 37.5% of MURs closed that year had at least one deadlocked substantive vote.

In these cases, statistics do not fully illuminate the Commission's inability to uphold the law as Congress intended. For example, they do not fully account for cases where the Commission takes very limited action because Commissioners who may favor holding a violator fully accountable will have no choice but to agree to finding RTB for a minor infraction, or significantly reduced penalties.



Source: Analysis of Vote Certifications in the FEC's Enforcement Query System ("EQS")

As the number of deadlocks are increasing, the Commission is collecting fewer and fewer fines. In fiscal year 2006, the Commission assessed more than \$5.5M in civil penalties in MURs.<sup>19</sup> In fiscal year 2016, the Commission assessed civil penalties totaling only \$595,424 for all federal campaigns.<sup>20</sup> By way of comparison, this is significantly less than the nearly \$900,000 that California's Fair Political Practices Commission assessed in 2016.<sup>21</sup>



Source: Analysis of FEC Enforcement Statistics, Total MUR Civil Penalties, <http://www.fec.gov/press/bkgnd/EnforcementStatistics.shtml>.

Statistics also do not account for an unwillingness of three Commissioners to write any regulations that reflect the current state of the law. In the wake of *Citizens United* in 2010, political operatives and others have spent more than \$800 million in dark money, including through LLCs and nonprofit “social welfare” organizations that do not disclose donors to the public.<sup>22</sup> This is occurring in spite of the Court’s affirmation that disclosure of campaign spending is important to further basic democratic values of transparency and accountability.

## II. CASE STUDIES

The case studies below are illustrative of the Commission’s increasing deadlocks and their consequences. They are not exhaustive, but provide snapshots of dysfunction.

### A. *Coercion*

There are important rules to protect workers’ ability to freely participate in the political process. It is illegal for national banks, corporations, and labor organizations to use physical or economic coercion to secure money or anything of value, like membership dues, for a political contribution or expenditure.<sup>23</sup> When these organizations solicit contributions from an employee, they must inform the employee of the political purpose of their contribution and their rights to refuse to contribute without punishment.<sup>24</sup> Additionally, these organizations cannot direct subordinates to organize or carry out a fundraising project to support a particular candidate as part of their work responsibilities or use any means of coercion to compel an employee or member to make a political contribution to a candidate or political committee.<sup>25</sup>

### **MUR 6661 (Robert E. Murray, Murray Energy Corp) 2016**

In October 2012, a complaint alleged that Murray Energy Corporation, the Chairman, President, and CEO of the corporation, Robert E. Murray, and Murray Energy Corporation Political Action Committee (“MECPAC”) used coercive solicitation practices in violation of federal campaign finance laws.<sup>26</sup> News accounts reported pervasive coercion at Murray Energy Corporation and that there was “constant pressure” placed on employees “that, if you don’t contribute, your job’s at stake.”<sup>27</sup>

In an article cited in the complaint, two anonymous sources were quoted saying that Robert E. Murray solicited the employees separately for his preferred federal candidates by sending letters to their homes and that Murray Energy Corporation tracked employees’ responses to these solicitations.<sup>28</sup> Internal memos and personal letters from Robert E. Murray to managerial staff further corroborated the coercive environment at Murray Energy Corporation.<sup>29</sup> “We have been insulted by every salaried employee who does not support our efforts,” one memo stated.<sup>30</sup> Another claimed that “if we do not win this election, the coal industry will be eliminated, and so will your job, if you want to remain in this industry. Please respond to this request.”<sup>31</sup>

The FEC’s Office of General Counsel (“OGC”) recommended that the Commission authorize an investigation of Robert E. Murray, Murray Energy, and MECPAC regarding the alleged coercive actions.<sup>32</sup> Despite the compelling evidence, the Commission deadlocked.<sup>33</sup> Vice Chair Walther, and Commissioners Ravel and Weintraub voted to move forward with the case and wrote that “employees should be free to maintain their personal political beliefs and not be compelled to participate or contribute based on their employees’ interests.”<sup>34</sup> Failing to enforce the

Commission's regulations of political coercion in the workplace, they wrote, meant that "corporations will feel they may ride roughshod over the rights of their employees."<sup>35</sup>

#### **MUR 6651 (Murray Energy Corp) 2015**

In September 2012, a different complaint alleged that Murray Energy Corporation coerced employees by mandating attendance at a rally to support then-presidential candidate Mitt Romney.<sup>36</sup> Mine workers who did not attend faced retaliation and threats of retaliation for not participating. Employees were told that the event was mandatory, would be without pay, and were made aware that "letters have gone around with lists of employees who did not attend or donate to political events."<sup>37</sup> Moreover, on the day of the rally, Murray Energy shut down the mine entirely, such that workers scheduled for the affected shifts were not be paid.<sup>38</sup>

OGC observed that Murray Energy "did or may well have . . . coerc[ed] employees to attend the rally for the benefit of the Romney Committee."<sup>39</sup> Chair Ravel, and Commissioners Walther and Weintraub voted to authorize an investigation. Two of the Commissioners wrote that "this type of coercion is a real danger to our democracy — it puts citizens' right to express their political beliefs at the mercy of their employers."<sup>40</sup> Three other Commissioners did not vote to authorize an investigation. The Commission subsequently closed the case and did nothing to address workplace coercion.<sup>41</sup>

#### **MUR 6344 (United Public Workers) 2012**

Based on an April 2010 union meeting, a complaint alleged that United Public Workers, AFSCME Local 646, AFL-CIO, required its employees to participate in union activities to support 2010 Congressional candidate Colleen Hanabusa in their personal time and terminated two employees who refused to fully participate.<sup>42</sup> The union denied the allegations.<sup>43</sup> OGC found that "the union . . . may not coerce its employees to make in-kind contributions of their off-hour time."<sup>44</sup> Despite OGC's recommendation that the Commission open a limited investigation and find reason to believe United Public Workers, AFSCME Local 646, and AFL-CIO coerced its members into donating their off-hour time to influence a federal election,<sup>45</sup> the Commission deadlocked with Chair Hunter, and Commissioners McGahn and Petersen voting against OGC's recommendations concerning workplace coercion.<sup>46</sup> As such, the Commission did nothing.

#### *B. Disclosure*

The Supreme Court in *Citizens United* emphasized the importance of disclosure so that voters would know who is behind political campaigns and as a means to curb corruption. The Commission has not, however, written any new disclosure rules to account for new avenues of spending that the decision allowed. Since then, more than \$800 million from undisclosed sources has influenced federal elections.<sup>47</sup> Generally, FECA requires all political committees to file periodic reports of contributions and expenditures.<sup>48</sup> The reports include the amount of cash the committee has on hand, total amount of receipts, and the identification of donors.<sup>49</sup> The Commission makes the reports publicly available on its website.<sup>50</sup> Disclosing this information lets voters know who is behind certain messages. It helps voters make informed decisions on Election Day.

**MURs 6487 & 6488 (F8, LLC, et al), 6485 (W Spann LLC, et al), 6711 (Specialty Investment Group et. al), 6930 (Prakazrel "Pras" Michel) 2016**

In five separate complaints, the Campaign Legal Center and Democracy 21 alleged that several limited liability companies (“LLCs”), that contributed to Restore Our Future PAC, a Super PAC supporting Gov. Mitt Romney's presidential campaign, and Black Men Vote, a Super PAC supporting President Obama's reelection, were established for the sole purpose of illegally contributing in the name of another person.<sup>51</sup> When used solely as conduits for campaign contributions, such LLCs violate the law because they deprive the public of disclosure.

The allegations provided ample reason to believe that a violation occurred. For instance, one “contributor *acknowledged* that he gave through a newly formed LLC solely to hide his identity and evade disclosure.”<sup>52</sup> Another LLC contributed \$1 million to Restore Our Future PAC shortly after it was incorporated. The LLC closed its doors five months later.<sup>53</sup> In another one of the matters, a building manager told NBC News that he had never heard of the company using his building as their business address and that his firm had no record of such a tenant in their building.<sup>54</sup>

For most of the allegations in the complaints, OGC recommended that the Commission find reason to believe the LLCs violated the Act and Commission regulations and advised the Commission to open an investigation into these corporations.<sup>55</sup>

Over a period of almost four years, three Commissioners delayed the consideration, abstained, or voted against OGC’s recommendations to begin looking into whether the LLCs violated the law. Commissioners Ravel, Walther, and Weintraub made over ten motions to begin an investigation. Every motion failed.<sup>56</sup> As such, the Commission did nothing.

**MUR 6294 (Americans for Job Security) 2015**

In an earlier matter, the Commission deadlocked on finding whether there was a reason to believe Americans for Job Security (“AJS”), a 501(c)(6) organization, failed to properly disclose information related to \$4.6 million that the organization spent on electioneering communications.<sup>57</sup>

A year later, another complaint was filed against AJS alleging that the organization violated campaign finance laws by omitting the names and information of certain donors related to a specific electioneering communication in their 24-Hour Report to the Commission.<sup>58</sup>

In reviewing the allegations, OGC noted that in *Citizens United*, the Supreme Court upheld disclosure rules that require corporations to report contribution and expenditure information.<sup>59</sup> According to Commission regulations, those requirements include that entities engaging in electioneering communications disclose the name and address of each person who made at least a \$1,000 donation to the corporation.<sup>60</sup>

Despite this, the Commission again failed to reach a decision regarding AJS’ failure to disclose contribution information for \$9.5 million in federal election activity.<sup>61</sup> As Chair Ravel, and Commissioners Walther and Weintraub explained in voting to open an investigation into AJS’s improper reporting, “we continue to believe that the failure to investigate AJS contradicts the applicable law, and impairs the ability of citizens to make informed decisions in our elections.”<sup>62</sup>

**MUR 6612 and 6696 (Crossroads GPS) 2015**

In a previous matter, the Commission deadlocked on finding reason to believe that Crossroads Grassroots Policy Strategies (“Crossroads GPS”), a 501(c)(4) non-profit organization, violated campaign finance laws by failing to register as a political committee.<sup>63</sup> Given the overall political activity of Crossroads GPS by spending tens of millions of dollars to influence federal elections, Commissioners Ravel, Walther, and Weintraub voted to find reason to believe that Crossroads GPS violated the law by not registering as a political committee and reporting contributions and expenditures.

Two years later, two complaints before the Commission alleged that Crossroads GPS violated campaign finance laws by failing to disclose individual communications (MUR 6612) and an individual contribution (MUR 6696) in 2012.<sup>64</sup>

After two subsequent votes deadlocked, with Commissioners Ravel, Walther, and Weintraub finding reason to believe and authorizing an investigation and Commissioners Goodman, Hunter, and Petersen opposed, the Commission decided to close the file without taking further action.<sup>65</sup>

Citing concerns about the rapid increase of undisclosed dark money in federal elections, Commissioners Ravel and Weintraub cautioned that “the failure to enforce the law against clear violators is accelerating a troubling trend in the political system.”<sup>66</sup> Refusing to hold Crossroads GPS accountable to disclosure requirements was, they said, symptomatic of certain Commissioners’ “[unwillingness] to adhere to previously adopted Commission policy on determining political committee status.”<sup>67</sup> Had the Commission previously found Crossroads GPS to be a political committee, Crossroads GPS would have been required to report the communications and contributions complained of in this matter.<sup>68</sup>

**MUR 6729 (Checks and Balances for Economic Growth) 2014**

In 2010, Citizens for Responsibility and Ethics in Washington (“CREW”) filed a complaint against Checks and Balances for Economic Growth (“CBEG”), a 501(c)(4) non-profit “social welfare” organization, for spending nearly \$900,000 on political attack ads without reporting any of these expenses to the Commission.<sup>69</sup> Commission regulations—last updated in 2006, almost ten years before this matter—exempt from disclosure certain website communications. If the same political ad appeared on television, however, CBEG would be required to disclose their expenditures to the Commission.<sup>70</sup>

Chair Goodman, and Commissioners Hunter and Petersen found that because the ads were aired online and not placed for a fee on another person’s website, CBEG did not have to report these expenses.<sup>71</sup> The same Commissioners also found that the ads—which included photos of President Obama alongside text reading “ABSOLUTE LIES,” video footage of presidential candidate Mitt Romney standing in front of applauding mine workers, and a narrator repeating “President Obama and those like Sherrod Brown are job killers” over photos of Senator Sherrod Brown<sup>72</sup>—were “not electioneering communications” for the same reasons.<sup>73</sup> Vice Chair Ravel, and Commissioners Walther and Weintraub disagreed. Because the Commissioners could not agree on whether groups must disclose at least some information to the public about political advertisements made solely online, no action was taken and the Commission closed the matter.<sup>74</sup>

### *C. Political Committee Status*

Political committee status is closely linked to disclosure and a voter's right to know who is behind a political campaign. FECA generally defines "political committee" as any "committee, club, association, or other group of persons" which accepts contributions or makes expenditures of more than \$1,000 in a calendar year.<sup>75</sup> Every political committee must file statements of organization with the Commission, follow certain structural guidelines, and are subject to periodic reporting requirements.<sup>76</sup> The Supreme Court has clarified that only groups whose *major purpose* is the nomination or election of candidates should be considered a political committee.<sup>77</sup> Registration and reporting keeps the political process transparent to the public. Voters and the press can access data on the Commission's website about an organization's political activities and organization's donor and candidate affiliations. This valuable information can be used to make more informed decisions at the polls.

### **MUR 6391 and 6471 (Commission on Hope Growth and Opportunity) 2015**

In October 2010, a complaint alleged that the Commission on Hope, Growth, and Opportunity ("CHGO") failed to report and include proper disclaimers on more than \$2 million in independent expenditures and electioneering communications.<sup>78</sup> CHGO is a 501(c)(4) "social welfare" organization.<sup>79</sup> In their application for tax-exempt status, CHGO informed the IRS that they had "no" plans to "spend any money attempting to influence the selection, nomination, election, or appointment of any person to any Federal, state, or local public office or to an office in a political organization."<sup>80</sup>

Yet, in 2010, CHGO spent \$4.77 million on political advertisements.<sup>81</sup> CHGO later acknowledged their political goals, noting that it sought "[t]o make an impact using express advocacy in targeted Senate races on key issues including financial reform, energy, taxes, pharmaceuticals, health care and other key concerns," and identified certain states as "potential targets."<sup>82</sup>

The complaint alleged that CHGO should have reported the costs associated with producing and disseminating these advertisements and that each advertisement should have contained a proper disclaimer.<sup>83</sup>

OGC recommended finding reason to believe CHGO violated the law by failing to report the independent expenditures and electioneering communications and by using an improper disclaimer.<sup>84</sup> OGC additionally recommended finding reason to believe that CHGO was required to register as a political committee because it had met the threshold spending amount, and its federal election activity was evidence CHGO had as its major purpose the election or nomination of one or more federal candidates.<sup>85</sup>

Despite these findings, the Commission deadlocked on whether there was reason to believe CHGO used improper disclaimers and should have registered as a political committee, but voted unanimously to authorize an investigation into whether CHGO failed to report independent expenditures and electioneering communications.<sup>86</sup> OGC's investigation unearthed even more evidence that CHGO's major purpose was to advocate for the election of particular federal candidates. At least 85% of the money CHGO spent in 2010, or \$4.77 million, was spent on



advertisements.<sup>87</sup> These ads included sound bites like, “John Salazar says he’s an independent voice. But he voted for the Pelosi agenda an astounding 97% of the time,” and “Help Scott Tipton make American work again.”<sup>88</sup>

A consultant to CHGO described it as “an organization which focuses on running independent expenditure campaigns in key districts to support the election of Republican candidates.”<sup>89</sup> Because of this additional information, OGC again recommended that the Commission find reason to believe CHGO violated campaign finance laws by failing to register and report as a political committee, and by failing to include in its advertisements the appropriate disclaimers.<sup>90</sup>

A vote on these recommendations from OGC again failed with Chair Ravel, and Commissioners Walther and Weintraub voting to approve the recommendations and Vice Chair Petersen, and Commissioners Hunter and Goodman opposed. A motion to enter into settlement negotiations for these violations and for CHGO’s reporting violation also failed with the same voting results.<sup>91</sup> Despite entering into the investigation stage for the reporting violations and finding ample evidence of other violations, the Commission was unable to muster the votes to do anything.

#### **MUR 6402 (American Future Fund) 2014**

In October 2010, a complaint alleged that the American Future Fund (“AFF”), a 501(c)(4) “social welfare” organization, spent millions of dollars on federal election campaign activity, but failed to organize, register, and report as a political committee.<sup>92</sup> As such, it deprived voters of valuable information about who is behind the spending intended to influence campaigns.

AFF acknowledged that it had spent \$21 million in 2010, reported \$7.36 million in independent expenditures, and \$1.74 million in electioneering communications—41 percent of their total expenditures<sup>93</sup>—but argued that it did not need to register as a political committee because the organization’s “major purpose” was not to influence the nomination or election of a federal candidate.<sup>94</sup>

OGC concluded that “the advertisements on which AFF spent an unknown amount in 2010 . . . provide evidence that AFF had as its major purpose the nomination or election of federal candidates.”<sup>95</sup> Consequently, OGC recommended the Commission find reason to believe AFF violated campaign finance laws.

The Commission deadlocked on this recommendation and closed the case. Regarding 501(c)(4) organizations’ unregulated and undisclosed influence of federal elections, Commissioners Ravel and Weintraub noted the FEC again failed to investigate complaints concerning some of the biggest spenders in the 2010 cycle.<sup>96</sup> “[T]his pattern of deadlocks,” they wrote “has ensured that record amounts of money continue to be spent on our elections while hidden from public view.”<sup>97</sup>

#### **MURs 6538 & 6589 (Americans for Job Security, American Action Network) 2014**

In March 2012, CREW filed complaints against Americans for Job Security (“AJS”) and the American Action Network (“AAN”).<sup>98</sup> The complaints alleged that AJS, a tax-exempt 501(c)(6) organization, and AAN, a tax-exempt 501(c)(4) organization, had both failed to register as

political committees.<sup>99</sup> As such, they were not required to report their receipts and expenditures — depriving voters of valuable information about who is behind campaign spending.

The allegations provided reason to believe that a violation had occurred. The organizations did not dispute that they had exceeded the \$1,000 threshold the Commission uses to define political committee status.<sup>100</sup> AJS spent roughly \$4.9 million in independent expenditures in 2010 and AAN spent more than \$4 million on the same. Ample evidence likewise demonstrated that each organization’s major purpose was the election of federal candidates.<sup>101</sup> Notably, out of a total of roughly \$12.4 million in overall spending in 2010, AJS spent roughly \$9.5 million—or 76.5%—on federal campaign activity.<sup>102</sup> Similarly, OGC calculated that AAN spent more than \$17 million on federal campaign activity between 2009 and 2011, approximately 62.6% of its total spending.<sup>103</sup>

OGC recommended the Commission find reason to believe that AJS and AAN violated FECA by failing to register as political committees and recommended that the Commission approve an investigation into both organizations.

The Commission deadlocked on both matters, however. With Chair Goodman, and Commissioners Hunter and Petersen refusing to open an investigation, the Commission closed both files.<sup>104</sup>

Chair Ravel, and Commissioners Walther and Weintraub highlighted the importance of enforcing the law in cases such as this, stating, “the entire purpose of the political committee status test boils down to a single, compelling policy interest: disclosure. Disclosure of donors and political spending is crucial.”<sup>105</sup>

On September 19, 2016, a federal district court held that the bloc of commissioners acted “arbitrar[ily] and caprici[ously]” as well as “contrary to law” by dismissing these actions and that their decision “blinks reality” in “conclud[ing] that many of the ads . . . were not designed to influence the election or defeat of a particular candidate in an ongoing race.”<sup>106</sup> The court remanded the case to the Commission to “conform” with the opinion “within 30 days.”<sup>107</sup> They did not do so.<sup>108</sup>

#### **MUR 6396 (Crossroads GPS) 2014**

In October 2010, a complaint was filed alleging that Crossroads GPS, a 501(c)(4) “social welfare” organization,<sup>109</sup> failed to register as a political committee.

From June 1, 2010 through December 31, 2011, Crossroads GPS spent \$39.1 million on self-described grants to other non-profits, “communications with the public,” and costs associated with these communications.<sup>110</sup> Crossroads GPS reported spending \$15.4 million of the \$39.1 million on independent expenditures, which OGC concluded expressly advocated for the election or defeat of a federal candidate.<sup>111</sup>

Although Crossroads GPS argued that they were not required to register as a political committee because they spent their remaining funds on issue advocacy and other tax-exempt activities, OGC determined that Crossroads GPS spent an additional \$5.4 million in 2010 on communications that clearly criticized or opposed an identified federal candidate.<sup>112</sup>

OGC recommended that the Commission find reason to believe that Crossroads GPS failed to register as a political committee. It also requested authorization to conduct an investigation.<sup>113</sup> Doing so, OGC believed, “may furnish evidence of additional spending on federal campaign activity that will enhance the public record.”<sup>114</sup>

Still, regardless of OGC’s conclusion that Crossroads GPS spent more than half of its \$39.1 million budget on campaign-related communications in 2010,<sup>115</sup> Commissioners Goodman, Hunter, and Petersen voted against finding reason to believe that Crossroads GPS failed to register as a political committee because the organization’s “major purpose was not the nomination or election of a federal candidate.”<sup>116</sup> The deadlocked vote, which occurred three years after the complaint was filed, blocked Commission action against Crossroads GPS.

#### *D. Personal Use*

A federal candidate may not use their campaign funds for personal use,<sup>117</sup> which is when a candidate uses a contribution or something of value given to their campaign to fulfill obligations or expenses that would “exist irrespective of the candidate’s election, campaign, or individual’s duties as a holder of Federal office.”<sup>118</sup> Violations of the personal use rules can result in criminal penalties in addition to civil penalties.<sup>119</sup>

#### **MUR 6518 (Newt 2012) 2016**

In 2012, CREW filed a complaint with the Commission alleging four campaign finance violations against former presidential candidate Newt Gingrich.<sup>120</sup> CREW believed, among other things, that Newt Gingrich converted campaign funds for his personal use when his campaign committee, Newt 2012, paid for expenses related to a mailing list belonging to Gingrich Productions, Inc., a for-profit company that promotes books and media by Newt Gingrich and his wife Callista Gingrich.<sup>121</sup> OGC’s analysis found that Newt 2012 paid staff, such as personal assistants and schedulers, to assist in Gingrich Productions events.<sup>122</sup> OGC’s analysis also found that Newt 2012 promoted Gingrich Productions products and events, like book-signings and Callista Gingrich’s books, on the Newt 2012 website and that “the record reflects that Newt 2012 posted far more than a *de minimis* amount of promotional material on its website, www.newt.org” with more than 80 links to Gingrich Productions products and events.<sup>123</sup> The Commission deadlocked on all of OGC’s recommendations, including finding reason to believe that Newt Gingrich violated campaign finance laws by promoting on his campaign website materials and events for which he could profit.<sup>124</sup> The Commission closed the file after sending allegations about reporting violations to the agency’s Office of Alternative Dispute Resolution.<sup>125</sup>

#### **MUR 6672 (Bilirakis for Congress) 2013**

In 2012, a complaint alleged that a Member of Congress (and candidate for re-election) used campaign funds to pay membership dues and event registration fees to the Royal Order of Jesters, a division of Shriners International, which is affiliated with the Masonic fraternity.<sup>126</sup> Because the campaign funds were being used for non-political activities in violation of the Commission’s regulations, OGC recommended that the Commission find reason to believe that

Rep. Bilirakis violated campaign finance laws by converting his campaign funds for personal use.<sup>127</sup> Commissioners Walther and Weintraub agreed with OGC to find reason to believe that Rep. Bilirakis may have violated the law. Commissioners Hunter, McGahn, and Petersen disagreed. The Commission then closed the case.<sup>128</sup>

#### *E. Contributions By Foreign Nationals*

Campaign finance laws have long provided extensive protection against foreign spending in American elections. The Act provides that it is unlawful for a foreign national, “directly or indirectly,” to make “a contribution or donation of money or other thing of value in connection with a Federal, State, or local election.”<sup>129</sup>

#### **MUR 6678 (Mindgeek USA, Inc.) 2015**

In 2012, a complaint alleged that foreign nationals who operated adult websites contributed funds to oppose a Los Angeles ballot measure—the “Safer Sex in the Adult Film Industry Act.”<sup>130</sup> Prior to considering this matter, the Commission had never addressed whether the current statutory language banning contributions by foreign nationals applied to ballot initiatives. Pursuant to the Act, Commission regulations, and judicial decisions, three Commissioners voted to dismiss the allegations by finding that state and local ballot initiatives were not “elections” under the Act. Chair Ravel and Commissioners Weintraub and Walther disagreed. In a statement, Chair Ravel noted that moving forward in that matter would have been “the result that best accords with the expectation of our citizens, who do not want to see money from foreign sources interfering with fundamentally local decisions.”<sup>131</sup> The Commission closed the case. Chair Ravel later expressed her concern that the involvement of foreign money in ballot initiative campaigns is a serious problem that threatens the overall integrity of elections. She asked that OGC draft a proposed rulemaking to clarify that the term “election” for the purpose of the ban on foreign national contributions and expenditures included state and local ballot measures.<sup>132</sup> The Commission deadlocked 3-3 on the proposal, and did nothing to address foreign money in ballot initiatives.

## ENDNOTES

<sup>1</sup> Tisha Thompson et al., *Deadlock: FEC Commissioners Say They're Failing to Investigate Campaign Violations*, NBC NEWS-4 WASHINGTON (Sept. 19, 2016), available at <http://www.nbcwashington.com/investigations/Deadlock-FEC-Commissioners-Say-Theyre-Failing-to-Investigate-Campaign-Violations-394014971.html>.

<sup>2</sup> Federal Election Commission, *The FEC and the Federal Campaign Finance Law*, <http://www.fec.gov/pages/brochures/fecfeca.shtml> (last accessed Jan. 13, 2017).

<sup>3</sup> For terrific research assistance, thanks to interns Amanda McFarland, Poy Winichakul, Cara Schuman, Idean Lahaji, Andrew Pepper-Anderson, and Danielle Caputo.

<sup>4</sup> Federal Election Commission, *Guidebook for Complainants and Respondents on the FEC Enforcement Process*, Federal Election Commission at 4 (May 2012), available at [http://www.fec.gov/em/respondent\\_guide.pdf](http://www.fec.gov/em/respondent_guide.pdf).

<sup>5</sup> PROJECT FEC TASK FORCE, NO BARK, NO BITE, NO POINT (2002), available at <http://www.democracy21.org/uploads/%7BB4BE5C24-65EA-4910-974C-759644EC0901%7D.pdf>.

<sup>6</sup> 72 F.R. 12545, Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process (March 16, 2007).

<sup>7</sup> See Statement of Reasons of Commissioner Steven T. Walther in the Matter of MUR 6396 (Crossroads Grassroots Policy Strategies) at 9, dated Dec. 30, 2014.

<sup>8</sup> *Id.*

<sup>9</sup> Nicholas Confessore, *Election Panel Enacts Policies by Not Acting*, N.Y. TIMES (Aug. 26, 2014), available at <http://www.nytimes.com/2014/08/26/us/politics/election-panel-enacts-policies-by-not-acting.html>.

<sup>10</sup> Matea Gold, *Trump's Deal With the RNC Shows How Big Money is Flowing Back to the Parties*, WASH. POST (May 18, 2016), available at [https://www.washingtonpost.com/politics/trumps-deal-with-the-rnc-shows-how-big-money-is-flowing-back-to-the-parties/2016/05/18/4d84e14a-1d11-11e6-b6e0-c53b7ef63b45\\_story.html](https://www.washingtonpost.com/politics/trumps-deal-with-the-rnc-shows-how-big-money-is-flowing-back-to-the-parties/2016/05/18/4d84e14a-1d11-11e6-b6e0-c53b7ef63b45_story.html).

<sup>11</sup> R. SAM GARRETT, CONG. RESEARCH SERV., R44318, THE FEDERAL ELECTION COMMISSION: ENFORCEMENT PROCESS AND SELECTED ISSUES FOR CONGRESS 12 (2015), available at <https://www.fas.org/sgp/crs/misc/R44319.pdf>.

<sup>12</sup> PUBLIC CITIZEN, ROILED IN PARTISAN DEADLOCK, FEDERAL ELECTION COMMISSION FAILING 1,4, available at <https://www.citizen.org/documents/fec-deadlock-update-april-2015.pdf>.

<sup>13</sup> Tisha Thompson et al., *Deadlock: FEC Commissioners Say They're Failing to Investigate Campaign Violations*, NBC News-4 Washington (Sept. 19, 2016), available at <http://www.nbcwashington.com/investigations/Deadlock-FEC-Commissioners-Say-Theyre-Failing-to-Investigate-Campaign-Violations-394014971.html>.

<sup>14</sup> Michael Beckel, *Federal Election Commissioner Donald McGahn Criticizes 'Overreach' of Campaign Finance Regulations*, OPENSECRETS BLOG (Mar. 21, 2011), <https://www.opensecrets.org/news/2011/03/federal-election-commissioner-donald-mcgahn-criticizes-overreach/>.

<sup>15</sup> Eric Lichtblau, *F.E.C. Can't Curb 2016 Election Abuse, Commission Chief Says*, N.Y. TIMES (May 2, 2015), available at <http://www.nytimes.com/2015/05/03/us/politics/fec-cant-curb-2016-election-abuse-commission-chief-says.html>.

<sup>16</sup> Press Statement by Chairman Matthew S. Petersen and Commissioner Caroline Hunter and Lee E. Goodman, [http://media.nbcwashington.com/documents/NBC4+Press+Statement+Sept+2016+\[Sept+7+2016\].pdf](http://media.nbcwashington.com/documents/NBC4+Press+Statement+Sept+2016+[Sept+7+2016].pdf) (last accessed Jan. 13, 2017).

<sup>17</sup> GARRETT, *supra* note 11, at 12 n.57.

<sup>18</sup> A vote to “close the file” merely indicates that the Commission will not be considering a matter any further. It does not indicate the Commission’s view on the underlying issues in the case. For example, a vote to “close the file” might come after the Commission deadlocks 3-3 on whether to open an investigation. Because there is nothing left to decide after such a deadlock, the Commission may vote unanimously to “close the file.”

<sup>19</sup> FEC Enforcement Statistics, <http://www.fec.gov/press/bkngnd/EnforcementStatistics.shtml> (last accessed Jan. 13, 2017).

<sup>20</sup> *Id.*

<sup>21</sup> Taryn Luna, *FPPC Imposes Nearly \$900,000 in Fines in 2016*, SACRAMENTO BEE (Dec. 15, 2016), available at <http://www.sacbee.com/news/politics-government/capitol-alert/article120980893.html>.

<sup>22</sup> Center for Responsive Politics, *Outside Spending by Non-Disclosing Groups*, <https://www.opensecrets.org/outsidespending/disclosure.php?range=tot> (last accessed Dec. 30, 2016).

<sup>23</sup> See 52 U.S.C. § 30118(b)(3)(A). See also 52 U.S.C. § 30118(a).

<sup>24</sup> 52 U.S.C. § 30118(b)(3)(B-C).

<sup>25</sup> See 11 C.F.R. § 114.2(f)(2).

<sup>26</sup> See First General Counsel's Report at 1 (Feb. 1, 2016), MUR 6661 (Robert E. Murray, et. al); Alec MacGillis, *Coal Miner's Donor*, THE NEW REPUBLIC (Oct. 4, 2012), <https://newrepublic.com/article/108140/coal-miners-donor-mitt-romney-benefactor>.

<sup>27</sup> See Statement of Reasons of Vice Chairman Steven T. Walther & Commissioners Ann M. Ravel and Ellen L. Weintraub in the Matter of MUR 6661 (Robert E. Murray, et. al.) at 2, dated May 20, 2016.

<sup>28</sup> *Id.* at 2-3.

<sup>29</sup> *Id.* at 3.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> See First General Counsel's Report at 1 (Feb. 1, 2016), MUR 6661 (Robert E. Murray, et. al).

<sup>33</sup> Certification (Apr. 12, 2016), MUR 6661 (Robert E. Murray, et. al).

<sup>34</sup> See *supra* note 27, at 6.

<sup>35</sup> See *id.* at 7.

<sup>36</sup> See *id.* at 1-2.

<sup>37</sup> See Statement of Reasons of Chair Ann M. Ravel & Commissioner Weintraub in the Matter of 6651 (Murray Energy Corp.) at 2, dated July 23, 2015.

<sup>38</sup> *Id.* at 2.

<sup>39</sup> See First General Counsel's Report at 18 (Mar. 20, 2014), MUR 6651 (Murray Energy Corp.).

<sup>40</sup> See *supra* note 37, at 1.

<sup>41</sup> Certification (June 16, 2015), MUR 6651 (Murray Energy Corp.).

<sup>42</sup> See Statement of Reasons of Vice Chair Ellen L. Weintraub & Commissioners Cynthia L. Bauerly and Steve T. Walther in the Matter of MUR 6344 (United Public Workers, AFSCME Local 646, AFL-CIO) at 1 (dated Aug. 8, 2012).

<sup>43</sup> See First General Counsel's Report at 4 (Jan. 31, 2011), MUR 6344 (UPW).

<sup>44</sup> *Id.* at 7.

<sup>45</sup> *Id.* at 17.

<sup>46</sup> See Statement of Reasons of Chair Caroline C. Hunter & Commissioners Donald F. McGahn II and Matthew S. Petersen in the Matter of 6344 (United Public Workers, AFSCME Local 646, AFL-CIO) (dated Aug. 8, 2012). The Commission eventually voted 6-0 to find no reason to believe on all of the coercion allegations, but agreed to find reason to believe for another allegation that the union failed to report their independent expenditures properly. Certification (Apr. 5, 2011), MUR 6344 (UPW).

<sup>47</sup> Center for Responsive Politics, *Outside Spending by Disclosure, Excluding Party Committees*, <https://www.opensecrets.org/outsidespending/disclosure.php?range=tot> (last accessed Nov. 28, 2016).

<sup>48</sup> See 52 U.S.C. § 30104(a)(1).

<sup>49</sup> See 52 U.S.C. § 30104(b).

<sup>50</sup> See generally 52 U.S.C. § 30104

<sup>51</sup> See, e.g., First General Counsel's Report in MUR 6485 (W Spann LLC, et al.), dated Aug. 28, 2012, at 3.

<sup>52</sup> See Statement of Reasons of Commissioners Ann M. Ravel & Ellen L. Weintraub in the Matters of MURs 6485 (W Spann LLC, et al.), 6487 & 6488 (F8, LLC, et al.), 6711 (Specialty Investments, Inc., et al.) at 2, dated Apr. 13, 2016).

<sup>53</sup> See Complaint at 3 (Aug. 5, 2011), MUR 6485 (W Spann).

<sup>54</sup> See Michael Isikoff, *Firm gives \$1 million to pro-Romney group, then dissolves*, NBC NEWS (Aug. 4, 2011), available at [http://today.msnbc.msn.com/id/44011308/ns/politics-decision\\_2012/](http://today.msnbc.msn.com/id/44011308/ns/politics-decision_2012/), cited in Compl. at 2 (Aug. 5, 2011), MUR 6485 (W Spann).

<sup>55</sup> See Statement of Reasons of Vice Chair Steven T. Walther, Commissioners Ann M. Ravel & Ellen L. Weintraub in the Matters of MURs 6485 (W Spann LLC, et al.), 6487 & 6488 (F8, LLC, et al.), 6711 (Specialty Investments, Inc., et al.) at 2, dated Apr. 1, 2016).

<sup>56</sup> See Certification (Feb. 23, 2016), MURs 6487 & 6488 (F8); Certification (Feb. 23, 2016), MUR 6930 (Michel); Certification (Feb. 23, 2016), MUR 6711 (Specialty Investment Group); Certification (Feb. 23, 2016), MUR 6485 (W Spann); Certification (Nov. 17, 2015), MURs 6487 & 6488 (F8); Certification (Nov. 17, 2015), MUR 6711 (Specialty Investment Group); Certification (Nov. 17, 2015), MUR 6485 (W Spann); Certification (Oct. 29, 2015), MURs 6487 & 6488 (F8); Certification (Oct. 29, 2015), MUR 6711 (Specialty Investment Group); Certification (Oct. 29, 2015), MUR 6485 (W Spann).

<sup>57</sup> See Certification in MUR 6538 (Americans for Job Security), dated June 24, 2014; Certification in MUR 6589

(American Action Network), dated June 24, 2014. In both matters, we voted to find reason to believe that the groups violated the Act. *Id.* Chairman Goodman and Commissioners Hunter and Petersen dissented. *Id.*

<sup>58</sup> See First General Counsel's Report at 1-2 (Feb. 26, 2015), MUR 6294 (Americans for Job Security).

<sup>59</sup> *Id.* at 9.

<sup>60</sup> *Id.* at 9-10.

<sup>61</sup> See Certification in MUR 6294 (Americans For Job Security), dated Apr. 21, 2015.

<sup>62</sup> See Statement of Reasons of Chair Ann M. Ravel & Commissioners Steve T. Walther and Ellen L. Weintraub in the Matter of MUR 6294 (Americans for Job Security), dated Apr. 21, 2015.

<sup>63</sup> See Certification (Dec. 3, 2013), MUR 6396 (Crossroads GPS).

<sup>64</sup> See Statement of Reasons of Chair Ann M. Ravel & Commissioner Ellen L. Weintraub in the Matter of MURs 6612 & 6696 (Crossroads GPS) at 1, dated Jan. 22, 2016.

<sup>65</sup> Certification (Nov. 17, 2015), MUR 6612 (Crossroads GPS) (producing two deadlocked votes); Certification (Nov. 17, 2015), MUR 6696 (Crossroads GPS) (producing two deadlocked votes); Certification (Dec. 17, 2015), MUR 6612 (Crossroads GPS) (voting to close the file); Certification (Dec. 17, 2015), MUR 6696 (Crossroads GPS) (voting to close the file).

<sup>66</sup> See *supra* note 64, at 2.

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> See First General Counsel's Report at 2, 4 (Aug. 6, 2014), MUR 6729 (Checks and Balances for Economic Growth).

<sup>70</sup> See Statement of Reasons of Commissioner Ann M. Ravel in the Matter of MUR 6729 (Checks and Balances for Economic Growth) at 1, dated Oct. 24, 2016.

<sup>71</sup> See Statement of Reasons of Chairman Lee E. Goodman & Commissioners Caroline C. Hunter and Matthew S. Petersen in the Matter of MUR 6729 (Checks and Balances for Economic Growth) at 2, dated Oct. 24, 2014.

<sup>72</sup> See *supra* note 69, 2-3.

<sup>73</sup> See *supra* note 71, at 4.

<sup>74</sup> See Certification in MUR 6729 (Checks and Balances), dated Sept. 16, 2014.

<sup>75</sup> 52 U.S.C. § 30101(4)(A).

<sup>76</sup> See 52 U.S.C. §§ 30103, 30104.

<sup>77</sup> See *Buckley v. Valeo*, 424 U.S. 1, 79-80 (1976).

<sup>78</sup> See First General Counsel's Report at 3 (Dec. 26, 2013), MURs 6391 & 6471 (Commission on Hope, Growth, and Opportunity).

<sup>79</sup> *Id.* at 5.

<sup>80</sup> See Statement of Reasons of Vice Chairman Steven T. Walther in the Matter of MURs 6391 & 6471 (Commission on Hope, Growth, and Opportunity) at 5 n.14.

<sup>81</sup> See Statement of Reasons of Chair Ann M. Ravel & Commissioner Ellen L. Weintraub in the Matter of MURs 6391 & 6471 (Commission on Hope, Growth, and Opportunity) at 1, dated Nov. 5, 2015.

<sup>82</sup> See *supra* note 80, at 5 n.14.

<sup>83</sup> See Complaint at 4-5 (Oct. 4, 2010), MURs 6391 & 6471 (Commission on Hope, Growth, and Opportunity).

<sup>84</sup> See First General Counsel's Report at 39 (Dec. 26, 2013), MURs 6391 & 6471 (Commission on Hope, Growth, and Opportunity).

<sup>85</sup> *Id.* at 38-39.

<sup>86</sup> See Certification (Dec. 16, 2014), MURs 6391 & 6471 (Commission on Hope, Growth, and Opportunity).

<sup>87</sup> See *supra* note 81, at 1.

<sup>88</sup> See *id.* at 2-3.

<sup>89</sup> See *id.* at 2.

<sup>90</sup> See Third General Counsel's Report at 39 (Sept. 24, 2015), MURs 6391 & 6471 (Commission on Hope, Growth, and Opportunity).

<sup>91</sup> Certification (Oct. 1, 2015), MURs 6391 & 6471 (Commission on Hope, Growth, and Opportunity).

<sup>92</sup> See First General Counsel's Report at 3 (Jan. 17, 2013), MUR 6402 (American Future Fund).

<sup>93</sup> See Statement of Reasons of Vice Chair Ann M. Ravel & Commissioner Ellen L. Weintraub in the Matter of MUR 6402 (American Future Fund) at 2, dated Dec. 18, 2014.

<sup>94</sup> See *supra* note 92, at 5.

<sup>95</sup> *Id.* at 17.

<sup>96</sup> See *supra* note 93, at 3.

<sup>97</sup> *Id.*

<sup>98</sup> See Complaint at 1 ¶ 1 (Mar. 8, 2012), MUR 6538 (Americans for Job Security); Complaint at 2 ¶ 7 (June 7, 2012), MUR 6589 (American Action Network).

<sup>99</sup> See Complaint at 3 ¶ 7-8 (Mar. 8, 2012), MUR 6538 (Americans for Job Security).

<sup>100</sup> *Id.* at 11 ¶ 36.

<sup>101</sup> *Id.* at 11 ¶ 37.

<sup>102</sup> See First General Counsel's Report at 22 (May 2, 2013), MUR 6538 (Americans for Job Security).

<sup>103</sup> *Id.* at 25.

<sup>104</sup> Certification (June 24, 2014), MUR 6538 (Americans for Job Security) & 6589 (American Action Network).

<sup>105</sup> See Statement of Reasons of Vice Chair Ann M. Ravel & Commissioners Steven T. Walther and Ellen L. Weintraub in the Matters of MURs 6538 & 6589 (Americans for Job Security and American Action Network), at 5, dated July 30, 2014.

<sup>106</sup> Citizens for Responsibility and Ethics in Washington v. Federal Election Commission, No. 1:14-cv-01419 (CRC), 2016 WL 5107018, at \*11 (D.D.C. Sept. 19, 2016).

<sup>107</sup> *Id.* at \*12.

<sup>108</sup> See Statement of Reasons of Commissioners Ann M. Ravel and Ellen L. Weintraub in the Matter of MUR 6589R (American Action Network), dated Dec. 5, 2016.

<sup>109</sup> See Complaint ¶ 24 (Oct. 12, 2010), MUR 6396 (Crossroads GPS).

<sup>110</sup> See First General Counsel's Report at 6 (Nov. 21, 2012), MUR 6396 (Crossroads GPS).

<sup>111</sup> *Id.* at 7.

<sup>112</sup> *Id.* at 7, 17.

<sup>113</sup> *Id.* at 27.

<sup>114</sup> *Id.*

<sup>115</sup> *Id.* at 26-27; Statement of Reasons of Vice Chair Ann M. Ravel & Commissioners Steven T. Walther and Ellen L. Weintraub in the Matter of MUR 6396 (Crossroads GPS) at 4, dated Jan. 10, 2014.

<sup>116</sup> See Statement of Reasons of Chairman Lee E. Goodman & Commissioners Caroline C. Hunter and Matthew S. Petersen in the Matter of MUR 6396 (Crossroads GPS) at 1, dated Jan. 8, 2014.

<sup>117</sup> 52 U.S.C. § 30114(b); 11 C.F.R. § 113.1(g).

<sup>118</sup> 52 U.S.C. § 30114(b)(2); 11 C.F.R. § 113.1(g).

<sup>119</sup> 52 U.S.C. § 30109(d).

<sup>120</sup> See First General Counsel's Report at 1-2 (Jan. 29, 2013), MUR 6518 (Newt 2012).

<sup>121</sup> *Id.* at 1-2.

<sup>122</sup> *Id.* at 13-14.

<sup>123</sup> *Id.* at 14-15.

<sup>124</sup> See Certification (June 16, 2015), MUR 6518 (Newt 2012).

<sup>125</sup> See Certification (Mar. 2, 2016), MUR 6518 (Newt 2012).

<sup>126</sup> See First General Counsel's Report at 1-2 (Feb. 13, 2013), MUR 6672 (Bilirakis for Congress).

<sup>127</sup> *Id.* at 5-6.

<sup>128</sup> See Certification (Apr. 23, 2013), MUR 6672 (Bilirakis for Congress).

<sup>129</sup> 52 U.S.C. § 30121(a).

<sup>130</sup> First General Counsel's Report in MUR 6678 (Mindgeek USA, Inc.) at 2, dated Sept. 15, 2014.

<sup>131</sup> See Statement of Reasons of Chair Ann M. Ravel in the Matter of MUR 6678 (Mindgeek USA, Inc.) at 3, dated Apr. 22, 2015.

<sup>132</sup> Minutes of an Open Meeting of the Federal Election Commission, Thursday Oct. 1, 2015 (approved Oct. 29, 2015 as Agenda Document No. 15-56-A).



**U.S. District Court**  
**District of Columbia (Washington, DC)**  
**CIVIL DOCKET FOR CASE #: 1:19-cv-02753-RCL**



CITIZENS FOR RESPONSIBILITY AND ETHICS IN  
WASHINGTON et al v. FEDERAL ELECTION COMMISSION  
Assigned to: Judge Royce C. Lamberth  
Cause: 02:431 Fed. Election Commission: Failure Enforce C

Date Filed: 09/16/2019  
Jury Demand: None  
Nature of Suit: 890 Other Statutory Actions  
Jurisdiction: U.S. Government Defendant

**Plaintiff**

**CITIZENS FOR RESPONSIBILITY  
AND ETHICS IN WASHINGTON**

represented by **Laura C. Beckerman**  
CITIZENS FOR RESPONSIBILITY AND  
ETHICS IN WASHINGTON  
1101 K St NW  
Suite 201  
Washington  
Washington, DC 20005  
202-408-5565  
Email: lbeckerman@citizensforethics.org  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**NOAH BOOKBINDER**

represented by **Laura C. Beckerman**  
(See above for address)  
**ATTORNEY TO BE NOTICED**

V.

**Defendant**

**FEDERAL ELECTION COMMISSION**

Date Filed	#	Docket Text
09/16/2019	<a href="#">1</a>	COMPLAINT against FEDERAL ELECTION COMMISSION ( Filing fee \$ 400 receipt number 0090-6379335) filed by CITIZENS FOR RESPONSIBILITY AND ETHICS IN WASHINGTON, NOAH BOOKBINDER. (Attachments: # <a href="#">1</a> Civil Cover Sheet, # <a href="#">2</a> Summons, # <a href="#">3</a> Summons, # <a href="#">4</a> Summons)(Beckerman, Laura) (Attachment 1 replaced on 9/16/2019) (zeg). (Entered: 09/16/2019)
09/16/2019	<a href="#">2</a>	LCvR 26.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by CITIZENS FOR RESPONSIBILITY AND ETHICS IN WASHINGTON (Beckerman, Laura) (Main Document 2 replaced on 9/16/2019) (zeg). (Entered: 09/16/2019)
09/16/2019		Case Assigned to Judge Royce C. Lamberth. (zeg) (Entered: 09/16/2019)
09/16/2019		SUMMONS Not Issued as to FEDERAL ELECTION COMMISSION (zeg) (Entered: 09/16/2019)
09/17/2019	<a href="#">3</a>	REQUEST FOR SUMMONS TO ISSUE filed by CITIZENS FOR RESPONSIBILITY

		AND ETHICS IN WASHINGTON, NOAH BOOKBINDER. (Attachments: # <a href="#">1</a> Summons, # <a href="#">2</a> Summons)(Beckerman, Laura) (Entered: 09/17/2019)
09/23/2019	<a href="#">4</a>	SUMMONS (3) Issued Electronically as to FEDERAL ELECTION COMMISSION, U.S. Attorney and U.S. Attorney General (znmw) (Entered: 09/23/2019)
10/01/2019	<a href="#">5</a>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. FEDERAL ELECTION COMMISSION served on 9/30/2019, RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 9/30/19., RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 9/30/2019. ( Answer due for ALL FEDERAL DEFENDANTS by 11/29/2019.) (Beckerman, Laura) (Entered: 10/01/2019)
01/06/2020	<a href="#">6</a>	AFFIDAVIT for Entry of Default by NOAH BOOKBINDER, CITIZENS FOR RESPONSIBILITY AND ETHICS IN WASHINGTON (Attachments: # <a href="#">1</a> Affidavit In Support of Request for Default, # <a href="#">2</a> Proposed Clerk Entry of Default)(Beckerman, Laura) Modified on 1/9/2020 (zjf). (Entered: 01/06/2020)
02/03/2020	<a href="#">7</a>	Clerk's ENTRY OF DEFAULT as to FEDERAL ELECTION COMMISSION (jf) (Entered: 02/03/2020)

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