



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of )  
 )  
Make America Number 1, *et al.* ) MUR 7147  
 )

**STATEMENT OF REASONS OF COMMISSIONER ELLEN L. WEINTRAUB**

This matter involves several allegations tied together by one common theme: the Trump campaign receiving excessive and prohibited contributions from two independent expenditure-only political committees (IEOPCs, commonly known as super PACs) in the lead up to the 2016 election. The Complaint alleges that Donald J. Trump for President, Inc. (the Trump Committee) illegally coordinated its activities with Make America Number 1 (MAN1) and Rebuilding America Now (RAN), resulting in potentially millions of dollars in coordinated advertising financed by contributions the Trump Committee itself would have been prohibited from accepting.<sup>1</sup> The Complaint further claims that MAN1 paid Steve Bannon and Kellyanne Conway for their services provided to the Trump Committee, thereby resulting in additional prohibited in-kind contributions.<sup>2</sup> Finally, the Complaint alleges that RAN illegally contributed to the Trump Committee by republishing the Trump logo in its communications.<sup>3</sup>

The Federal Election Campaign Act of 1971, as amended (the Act) prohibits candidate committees from accepting contributions, including in-kind contributions, in excess of the established limits or from corporations and other prohibited services.<sup>4</sup> Because of *Citizens United*, IEOPCs are permitted to accept contributions in unlimited amounts and from some sources who are barred from contributing directly to candidates – a far departure from the laws governing candidate committees.<sup>5</sup> Thus, an IEOPC “may not make contributions to candidates or political party committees, including in-kind contributions such as coordinated communications.”<sup>6</sup> Any expenditure made in “cooperation, consultation, or concert, with, or at the request or suggestion of” a candidate, candidate’s agent, or candidate’s committee, “shall be considered to be a contribution

---

<sup>1</sup> See First Gen. Counsel’s Rpt. in MUR 7147 (Make America Number 1, *et al.*) (“FGCR”) at 4 (noting Complaint alleged RAN coordinated with the Trump campaign to spend \$1.4 million for public communications opposing Hillary Clinton) and 30 (noting that MAN1 likewise spent \$1.4 million for public communications opposing Clinton).

<sup>2</sup> *Id.* at 11.

<sup>3</sup> *Id.* at 7.

<sup>4</sup> See 52 U.S.C. §§ 30116, 30118. For example, individuals and non-multicandidate PACs were permitted to contribute \$2,700 per election to candidate committees in 2016. See *id.* § 30116(a)(1).

<sup>5</sup> See *Citizens United v. FEC*, 558 U.S. 310 (2010); *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010).

<sup>6</sup> Advisory Opinion 2017-10 (Citizens Against Plutocracy) at 2 (quoting Advisory Opinion 2016-21 (Great America PAC) at 3-4 (citing Press Release, FEC Statement on *Carey v. FEC* Reporting Guidance for Political Committees that Maintain a Non-Contribution Account (Oct. 5, 2011)).

to such candidate.”<sup>7</sup> Commission regulations also treat the financing of republished campaign materials, in whole or in part, as contributions to the campaign.<sup>8</sup>

Under Commission regulations, a communication is coordinated when the communication 1) is paid for, in whole or in part, by a person other than a candidate or committee; 2) satisfies at least one of the “content” standards; and 3) satisfies at least one of the “conduct” standards.<sup>9</sup> Relevant here, one of the activities that satisfies the “conduct” prong under the regulations is the use of a “common vendor” between a campaign committee and the payor of a communication.<sup>10</sup> More specifically, the “conduct standard” of the regulation is satisfied if the payor uses a commercial vendor to create, produce, or distribute the communication, that vendor provided certain services to the candidate during the previous 120 days, and the vendor uses or conveys to the payor information about the candidate’s plans, projects, activities, or needs, or information used previously by the vendor in providing services to the candidate, and such information is material to the creation, production, or distribution of the communication.<sup>11</sup>

The Complaint in this matter credibly alleges that the Trump Committee coordinated with at least one of the super PACs on communications opposing Trump’s opponent. MAN1 appears to be closely connected with the Trump campaign. There was sufficient evidence in the record to support a finding that the campaign may have coordinated with the PAC through their use of a common vendor, Cambridge Analytica. I therefore voted to find reason to believe MAN1 made, and the Trump Committee accepted, excessive, prohibited, and unreported contributions in the form of coordinated communications.<sup>12</sup>

MAN1 was founded and primarily financed by Trump supporter and reported owner of Cambridge Analytica Robert Mercer.<sup>13</sup> Mercer contributed \$15.5 million of the \$20.7 million in contributions reported by MAN1, and his daughter, Rebekah Mercer, served as chair of MAN1.<sup>14</sup> Both Mercers appear to have been heavily involved in running the super PAC, and both reportedly had close ties to the Trump campaign. Published reports have characterized Rebekah Mercer as “one of the most influential figures in Trump’s orbit” and noted that “her access shows how donors can easily move between a campaign and a super PAC that is supposed to operate independently.”<sup>15</sup>

The Mercers demonstrated their pull when they recommended to Trump that he elevate the positions of Stephen K. Bannon and Kellyanne Conway. Trump did so just days later.<sup>16</sup> Likewise, it was the Mercers who reportedly encouraged the Trump Committee to hire Cambridge Analytica,

---

<sup>7</sup> 52 U.S.C. § 30116(a)(7)(B)(i).

<sup>8</sup> 11 C.F.R. § 109.23(a).

<sup>9</sup> *Id.* § 109.21(a).

<sup>10</sup> *Id.* § 109.21(d)(4).

<sup>11</sup> *Id.*

<sup>12</sup> See Certification in MUR 7147 (Make America Number 1, *et al.*), dated Feb.23, 2021 (“Cert”).

<sup>13</sup> See FGCR at 9; Compl. in MUR 7147 (Make America Number 1, *et al.*) (“Compl.”) ¶ 30 (citing Eliana Johnson, *Trump Campaign Turns to ‘Psychographic’ Data Firm Used by Cruz*, NAT’L REV., Aug. 5, 2016, <https://www.nationalreview.com/2016/08/trump-campaigns-data-firm-partner-cambridge-analytica-worked-cruz/>).

<sup>14</sup> See FGCR at 9.

<sup>15</sup> See Compl. ¶ 74 (citing Matea Gold, *The Rise of GOP Mega Donor Rebekah Mercer*, WASH. POST, Sept. 14, 2016, [https://www.washingtonpost.com/politics/the-rise-of-gop-mega-donor-rebekah-mercere/2016/09/13/85ae3c32-79bf-11e6-beac-57a4a412e93a\\_story.html](https://www.washingtonpost.com/politics/the-rise-of-gop-mega-donor-rebekah-mercere/2016/09/13/85ae3c32-79bf-11e6-beac-57a4a412e93a_story.html)).

<sup>16</sup> See Compl. ¶ 75 (citing Rebecca Ballhaus, *Trump Sons Headline Fundraisers for Different Super PACs, Stoking Donor Confusion*, WALL ST. J., Sept. 15, 2016, <https://www.wsj.com/articles/BL-WB-65482>).

the data analytics firm owned in part by Robert Mercer.<sup>17</sup> Both the Trump Committee and MAN1 disclosed hundreds of thousands of dollars in payments to Cambridge Analytica.<sup>18</sup> The firm reportedly had staff embedded in the Trump campaign and ran the campaign's digital operations.<sup>19</sup> And public reports identify Bannon, once the Trump Committee's CEO, as having served on the board of Cambridge Analytica.<sup>20</sup> Given the close connections between the Trump Committee, MAN1, and Cambridge Analytica, we had more than enough evidence to initiate an investigation into whether the campaign and super PAC coordinated through the use of Cambridge Analytica. I voted accordingly.<sup>21</sup> Unfortunately, we did not have the four votes required to proceed.<sup>22</sup>

I also voted to find reason to believe RAN republished Trump campaign materials.<sup>23</sup> The evidence is clear: RAN published a TV ad that prominently displayed the Trump campaign logo. The logo was displayed for a full eight seconds of the 60-second ad. Based on published reports, the Committee may have spent at least \$1,864,586 disseminating the ad,<sup>24</sup> but an investigation would have allowed us to determine the exact amount in violation. Again, we did not have sufficient votes to proceed with this clear violation despite our attorneys' recommendation that we find reason to believe RAN republished campaign materials.<sup>25</sup>

As I wrote following a recent matter involving the Trump campaign's relationship with yet another super PAC, the "[l]imits and prohibitions on candidate contributions become meaningless if campaigns can work with outside groups" to finance their elections.<sup>26</sup> There is reason to believe the Trump committee did just that, in this case benefitting from the deep pockets of one influential megadonor. Unsurprisingly, my Republican colleagues voted to dismiss the allegations wholesale. This has unfortunately become a trend in matters involving Donald Trump.<sup>27</sup>

February 17, 2022

Date



Ellen L. Weintraub  
Commissioner

---

<sup>17</sup> See Compl. ¶ 39 (citing Kenneth P. Vogel, Ben Schreckinger, Alex Isenstadt, & Darren Samuelsohn, *Trump Team Builds "Psychological Profile" of Clinton for Debate*, POLITICO (Sept. 23, 2016), <https://www.politico.com/story/2016/09/trump-builds-clinton-profile-debate-228578>); Compl. ¶ 30 (citing Johnson, *supra* note 13).

<sup>18</sup> See Compl. ¶ 98, 99 (citing Federal Election Commission disclosure reports).

<sup>19</sup> See *id.* ¶ 98 (citing Kate Kaye, *In D.C., Cambridge Analytica Not Exactly the Toast of the Town*, AD AGE, Aug. 18, 2016, <https://adage.com/article/campaign-trail/cambridge-analytica-toast/305439>; Johnson, *supra* note 13).

<sup>20</sup> See Compl. ¶¶ 39, 102 (citing Vogel, *et al.*, *supra* note 17 and Johnson, *supra* note 13).

<sup>21</sup> See Cert.

<sup>22</sup> See *id.*

<sup>23</sup> See *id.*

<sup>24</sup> See Compl. ¶¶ 118, 16.

<sup>25</sup> See Cert.

<sup>26</sup> See Statement of Reasons of Commissioner Ellen L. Weintraub in MURs 7340 & 7609 (Great America Committee, *et al.*) at 3.

<sup>27</sup> See, e.g., MURs 7340 & 7609 (Great America Committee, *et al.*); MURs 7313, 7319, & 7379 (Michael D. Cohen, *et al.*), MURs 7265 & 7266 (Donald J. Trump for President, *et al.*).