



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matters of )  
 )  
Great America Committee and Cabell ) MURs 7340 and 7609  
Hobbs as treasurer; America First )  
Policies, Inc.; America First Action, Inc. )  
and Jon Proch as treasurer; President )  
Donald J. Trump; Donald J. Trump for )  
President, Inc. and Bradley T. Crate as )  
treasurer; Vice President Michael R. )  
Pence; Republican National Committee )  
and Ronald C. Kaufman as treasurer; )  
Parscale Strategy, LLC; Bradley J. )  
Parscale; MO Strategies, Inc.; Marty Obst )

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

American First Action, Inc. (“AFA”) is a pro-Trump super PAC. During the 2020 election cycle, it spent just under \$134 million on ads opposing Joe Biden.<sup>1</sup> As a super PAC, AFA receives and spends money from sources prohibited from contributing directly to campaign committees and well in excess of the limits governing campaign contributions. For example, during the 2020 cycle AFA received \$21 million from a related dark money section 501(c)(4) entity, America First Policies, Inc. (“AFP”).<sup>2</sup>

The Complaints in these matters allege that AFA and AFP were established by and acting on behalf of Trump and his campaign committee. It is illegal for federal candidates, their agents, and entities directly or indirectly established, financed, maintained, or controlled by or acting on behalf of one or more candidates to solicit, receive, direct, transfer, or spend funds in connection with a federal election unless those funds are subject to the limitations, prohibitions, and reporting requirements of the Federal Election Campaign Act, as amended (“FECA” or the “Act”).<sup>3</sup>

The allegations are based on multiple reports suggesting the America First groups worked closely with the Trump campaign. For example, in December 2016, shortly after the 2016 election, Trump campaign manager Kellyanne Conway made public the plan to form a nonprofit

<sup>1</sup> See America First Action, Inc., spending overview <https://www.fec.gov/data/committee/C00637512/?tab=spending> (last visited June 4, 2021). Prior to 2020, the group reported spending more than \$29 million for independent expenditures to influence the 2018 midterm elections. *Id.*

<sup>2</sup> See America First Action, Inc., raising overview filtered by contributor, [https://www.fec.gov/data/individual-contributions/?committee\\_id=C00637512&contributor\\_name=america+first&contributor\\_name=america+first+policy&two\\_year\\_transaction\\_period=2020](https://www.fec.gov/data/individual-contributions/?committee_id=C00637512&contributor_name=america+first&contributor_name=america+first+policy&two_year_transaction_period=2020) (last visited June 4, 2021).

<sup>3</sup> 52 U.S.C. § 30125(e).

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organization to bolster the new administration’s political and policy goals. She reportedly said it would be important for the organization to be run by someone “close to the president” and was at that time considering whether she would join the White House or run the organization.<sup>4</sup> And, Complainants claim that Brad Parscale and Corey Lewandowski worked for both the Trump campaign and AFA or AFP.

Parscale in particular appears to have worked closely with both the campaign and the AF entities. He was a senior staffer for the 2016 and 2020 Trump campaigns and is a reported founder of AFP.<sup>5</sup> His consulting firm has been retained at various times by AFP, AFA, and the Trump campaign.<sup>6</sup> As Digital and Data Director for the 2016 campaign, Parscale boasted about his success overseeing the campaign’s large online fundraising program.<sup>7</sup> His role as a senior advisor continued after the campaign. He appears to have been on the campaign’s payroll around the time of AFP’s formation, with his last paycheck dated four days after the founding of AFP. After that his firm continued to receive disbursements from the campaign.<sup>8</sup> A trusted senior advisor, he returned as campaign manager of the 2020 Trump campaign in February 2018.<sup>9</sup>

If Parscale was an agent of Trump or the campaign when he reportedly established AFP, or if he or any other agent of Trump or the campaign established, financed, maintained, or controlled the AF entities, it would be illegal for those groups to solicit, receive, direct, transfer, or spend money not subject to the Act’s limits and prohibitions (*i.e.*, “soft” money) in connection with a federal election, as they did. The AF entities, Trump, and the Trump committee would all have violated the law’s soft money prohibitions.

The reports of campaign agents establishing the America First groups, overlapping staff between the groups and campaign staff, and public statements from campaign officials regarding campaign staff involvement provide sufficient reason to believe Respondents committed the alleged violations. I voted accordingly.<sup>10</sup> “Reason to believe” is a threshold determination that does not *itself* establish that the law has been violated. The Commission has stated that it will find reason to believe “in cases where the available evidence in the matter is at least sufficient to warrant conducting an investigation, and where the seriousness of the alleged violation warrants either further investigation or immediate conciliation” — as was the case here.<sup>11</sup>

Complainants also allege that the Trump campaign itself impermissibly solicited soft money for AFA. On May 17, 2019, the Trump campaign issued the following public statement warning against “scam groups” using Trump’s name to raise funds:

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<sup>4</sup> Matea Gold and Ed O’Keefe, *New pro-Trump group takes form, with Kellyanne Conway possibly at the helm*, WASHINGTON POST (Dec. 5, 2016), available at <https://www.washingtonpost.com/news/post-politics/wp/2016/12/05/new-pro-trump-group-takes-form-with-kellyanne-conway-possibly-at-the-helm/>.

<sup>5</sup> See First General Counsel’s Report in MURs 7340 and 7609 (Great America Committee, *et al.*) (“FGCR”) at 5-7 and internal citations.

<sup>6</sup> See *id.* at 7.

<sup>7</sup> See, e.g., Holly Ellyatt, *How I helped get Trump elected: The president’s digital guru*, CNBC (Nov. 8, 2017), <https://www.cnbc.com/2017/11/08/how-i-helped-get-trump-elected-the-presidents-digital-guru-brad-parscale.html>.

<sup>8</sup> See FGCR at 14; Donald J. Trump for President, Inc., spending summary, <https://www.fec.gov/data/committee/C00580100/?tab=spending&cycle=2016>.

<sup>9</sup> See FGCR at 6-7.

<sup>10</sup> See Certification in MURs 7340 and 7609 (Great America Committee, *et al.*) (April 20, 2021).

<sup>11</sup> 72 F.R. 12545, Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process (Mar. 16, 2007).

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There are only four official fundraising organizations authorized by President Trump or the RNC: Donald J. Trump for President, the Republican National Committee, and two joint fundraising committees with the RNC, The Make America Great Again Committee (TMAGAC) and Trump Victory. In addition, there is one approved outside non-campaign group, America First Action, which is run by allies of the President and is a trusted supporter of President Trump’s policies and agendas.<sup>12</sup>

Complainants argue, and I agree, that this statement illegally solicited or directed soft money for AFA. The Trump committee asserts that it “merely provid[ed] the identity of an appropriate recipient, without any attempt to motivate another person to contribute or donate funds” and that such a statement is not a solicitation.<sup>13</sup> But, as the Commission’s nonpartisan Office of General Counsel concluded, referring to AFA as an “approved” group in the context of fundraising is a clear message recommending that the reader contribute to the authorized and approved fundraising organizations and not contribute to other groups.<sup>14</sup> I therefore voted to find reason to believe that the Trump campaign solicited soft money contributions.

I also voted to find reason to believe that AFP made, and the Trump campaign accepted, illegal coordinated expenditures in the form of disbursements for polling expenses. Complainants allege that AFP conducted polls about Trump in coordination with the campaign. This allegation is based on the following: the campaign reported no disbursements for polling during the relevant period; AFP used Kellyanne Conway’s polling firm; AFP consultants Parscale and Lewandowski reportedly attended a White House meeting to discuss the 2018 mid-term elections; and AFP posted the polling results on a relatively obscure website and then took the results down after reporters inquired about the polls.<sup>15</sup> Given these facts, an investigation was warranted to determine whether the campaign coordinated with AFP.

These matters involve many varied and complex allegations, but they all share one common theme: The Trump campaign benefitting from a super PAC working closely with alleged agents of the campaign. Prohibitions on soliciting soft money and coordinating with super PACs are core provisions of the FECA. Limits and prohibitions on candidate contributions become meaningless if campaigns can work with outside groups financed in large part by dark money. Nevertheless, two of my colleagues voted to dismiss the matters entirely.<sup>16</sup> With one recusal, once again, the Commission did not have the required four votes to even investigate allegations of potentially multi-million dollar violations.

June 11, 2021  
Date

  
Ellen L. Weintraub  
Commissioner

<sup>12</sup> See FGCR at 9.

<sup>13</sup> See *id.* at 9-10.

<sup>14</sup> See *id.* at 27.

<sup>15</sup> See *id.* at 20-21.

<sup>16</sup> See Certification in MURs 7340 and 7609 (Great America Committee, *et al.*) (April 22, 2021).