



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

American Ethane Co., LLC, *et al.*)

) MUR 7491
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**STATEMENT OF REASONS OF
COMMISSIONERS SHANA M. BROUSSARD AND ELLEN L. WEINTRAUB**

After Russia’s repeated attempts to interfere in our elections,¹ and at a time when Russia’s contempt for democratic principles is horrifically demonstrated in Ukraine daily, keeping Russian oligarchs’ money out of our elections should be a goal upon which all members of the Federal Election Commission could agree.

Yet, sadly, in this case, half the Commission chose to reject the recommendation of the agency’s nonpartisan Office of General Counsel (“OGC”) and turned a blind eye to the documented use of Russian money for contributions to various federal and state committees in the 2018 elections.

Federal law bans foreign money from U.S. elections.² This is a cornerstone of campaign-finance law, one the Supreme Court has consistently upheld.³ When considering whether contributions by U.S. corporations constitute prohibited foreign national contributions, the Commission has consistently required that the contributions be made with funds that are “home-grown,” that is, solely generated by the corporation’s domestic operations, and that no foreign national be involved with the decision to make the contributions.⁴ Both criteria are required. Even if a U.S.

¹ See, e.g., U.S. DEP’T OF JUSTICE, *Report on the Investigation Into Russian Interference in the 2016 Presidential Election* 14 (Mar. 2019), <https://go.usa.gov/xmV6R>; U.S. Senate Select Committee on Intelligence, *Report on Russian Active Measures Campaigns and Interference in the 2016 U.S. Election, Vol. 2: Russia’s Use of Social Media* 32, 37-39; Joint Statement from DOJ, DOD, DHS, DNI, FBI, NSA, and CISA on Ensuring Security of 2020 Elections, Nov. 5, 2019, <https://www.cisa.gov/cisa/news/2019/11/05/joint-statement-doj-dod-dhs-dni-fbi-nsa-and-cisa-ensuring-security-2020>.

² See 52 U.S.C. § 30121.

³ See, e.g., *Bluman v. Federal Election Comm’n*, 800 F.Supp. 2d 281, 286-289 (D.C.Cir. 2011), *aff’d*, 565 U. S. 1104 (2012).

⁴ Sec. Gen. Counsel’s Rpt. at 1. See e.g., Conciliation Agreement, MUR 2892 (RHCC) at ¶6 (July 21, 1994); Conciliation Agreement, MUR 2892 (West Beach Estates) (Mar. 15, 1994). Like those matters, American Ethane, a U.S. corporation majority-owned by foreign nationals, had no domestically generated income and made political contributions using funds that had been obtained through loans from shareholders. See Sec. Gen. Counsel’s Rpt. at

citizen makes the decision to donate a corporation's funds, that citizen is prohibited from injecting foreign funds into the U.S. political system. The money used may not be from foreign sources.

As established by OGC's investigation, American Ethane Co., LLC ("American Ethane"), a U.S. corporation majority-owned by Russian nationals, and its CEO, John Houghtaling, made prohibited foreign national contributions.⁵ Houghtaling and three Russian nationals founded American Ethane in New Orleans in 2014.⁶ According to the company's website, its business is the exportation of ethane, primarily to China.⁷ At the time the contributions in question were made, according to American Ethane's Lobbying Disclosure Act reports, three Russian nationals owned 88% of the company.⁸

The Commission voted unanimously in 2019 to investigate whether American Ethane used foreign money to make contributions in U.S. elections. OGC's meticulous investigation, carefully laid out to the Commission in the Second General Counsel's Report, revealed American Ethane made contributions using funds derived from loans from foreign entities ultimately owned by Russian nationals; in fact, the investigation revealed that American Ethane had *zero* domestic funds available to make those contributions.⁹ We will not repeat all the facts and law laid out by OGC in the Second General Counsel's Report. In brief, while the funding mechanisms were intricate and involved layers of entities, the sources of the funds were a small number of Russian oligarchs. The investigation concluded that American Ethane made \$66,200 in prohibited foreign national contributions: \$36,200 in contributions to federal candidates and

16. *See also* F&LA at 7, MUR 7141 (Beverly Hills Residents and Businesses to Preserve our City) (finding no foreign national contribution violation but relying on fact that U.S. subsidiary of foreign corporation borrowed funds from U.S. lender to make contributions). In more recent matters involving domestic subsidiaries of foreign corporations, the Commission has reiterated that corporate contributions must be from domestic funds, not foreign sources. *See, e.g.*, Conciliation Agreement, MUR 6093 (Transurban Grp.) (Jan. 29, 2009) (U.S. subsidiary violated foreign national provisions of the Federal Election Campaign Act, as amended ("FECA" or the "Act") by making contributions when it had no revenue from U.S. operations). It cannot be seriously argued that U.S. companies that are owned by foreign individuals are subject to fewer restrictions on the use of foreign money in U.S. elections than companies whose foreign owners have taken the legal steps necessary to insulate themselves from liability through incorporation.

⁵ *See* Sec. Gen. Counsel's Rpt., MUR 7491 (American Ethane Co., LLC, *et al.*) (Feb. 11, 2021).

⁶ *Id.* at 4-5. While seeking investors, Houghtaling, through his wife, met a number of interested Russians. Through an entity called Amshale Energy, LLC, Houghtaling and three Russian investors, Andrey Kunatbaev, Mikhail Yuriev, and Konstantin Nikolaev, borrowed funds to purchase 47.5% of the outstanding shares of American Ethane. The remaining 52.5% of American Ethane's shares were owned by a Russian individual, Alexander Voloshin, (2.500002%) and another LLC owned by Russians, primarily Roman Abramovich (49.999998%). Sec. Gen. Counsel's Rpt. at 4-5.

⁷ Factual & Legal Analysis, MUR 7491 (American Ethane Co., LLC, *et al.*) (July 23, 2019) at 1.

⁸ *Id.* at 2.

⁹ *See* Sec. Gen. Counsel's Rpt.

committees, a \$15,000 donation to a state political action committee, and a \$15,000 contribution to a super PAC.¹⁰

OGC’s recommendation that the Commission pursue the foreign-national violations was supported by the facts and decades of Commission precedent. Ignoring those longstanding precedents, three of the Commission’s current members blocked the Commission from holding American Ethane accountable for injecting foreign funds into U.S. elections. Instead, the only conciliation agreement they would approve was one that cited a different violation involving far fewer dollars: that American Ethane made prohibited *corporate* contributions¹¹ (which, make no mistake, it certainly did). Though American Ethane did pay a civil penalty, it was a slap on the wrist that failed to account for a violation of one the most fundamental provisions entrusted to this Commission to enforce.

At the Commission’s public meeting on September 15, 2016, the Commission unanimously directed the Office of General Counsel to prioritize cases involving allegations of foreign influence. The foreign-influence problem has not gone away in the meantime, to put it mildly. In this case, it is beyond unfortunate that for three of our colleagues, it was a bridge too far to penalize the use of Russian oligarchs’ money to influence U.S. elections.¹² One can only hope that in future cases, the Commission will once again muster the political will to work together to wall off our elections from the malign influence of foreign money.

Oct. 27, 2022

Shana M. Broussard
 Commissioner

Oct. 27, 2022

Ellen L. Weintraub
 Commissioner

¹⁰ *Id.* at 4. The investigation also revealed that American Ethane is taxed as a corporation. Thus, the evidence also establishes that American Ethane violated 52 U.S.C. § 30118(a) by making \$36,200 in prohibited corporate contributions. *Id.*

¹¹ Certification, MUR 7491 (American Ethane Co., LLC, *et al.*) (Feb. 15, 2022). *See* Conciliation Agreement at 1, MUR 7491 (American Ethane Co., LLC, *et al.*) (Aug. 10, 2022).

¹² *See* Stmt. of Reasons of Comm’r Ellen L. Weintraub at 2, MURs 7581 and 7614 (Li Juan “Cindy” Gong, *et al.*) (Sept. 9, 2022) (citing Stmt. of Reasons of Chair Shana M. Broussard & Comm’r Ellen L. Weintraub at 4, MURs 7350, 7351, 7357, & 7382 (Cambridge Analytica LLC, *et al.*) (Nov. 4, 2021)).