



FEDERAL ELECTION COMMISSION  
 1050 FIRST STREET, N.E.  
 WASHINGTON, D.C. 20463

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of )  
 ) MUR 7535  
 Leah for Senate, *et al.* )  
 )

**STATEMENT OF REASONS OF CHAIRMAN ALLEN DICKERSON  
 AND COMMISSIONER JAMES E. "TREY" TRAINOR, III**

In this Matter, our Office of General Counsel ("OGC") recommended that we dismiss allegations that Leah Vukmir, her campaign committee, and others had violated the Federal Election Campaign Act ("FECA" or the "Act") by conspiring to raise, give, and spend illegal funds to further Ms. Vukmir's campaign for the U.S. Senate in 2018.<sup>1</sup> The Commission ultimately adopted that recommendation.<sup>2</sup>

We would have gone further and found no reason to believe that any of the respondents had violated FECA.

**I. Factual Background**

In mid-August 2018, after winning the Republican primary for one of Wisconsin's seats in the United States Senate, Ms. Vukmir appeared on a podcast and a public access television program. On both shows, Ms. Vukmir was asked to evaluate whether financial supporters of her primary opponent would ultimately back her general election bid.<sup>3</sup> Ms. Vukmir gave a series of relatively bland responses,

<sup>1</sup> First Gen'l Counsel's Report ("FGCR") at 2, 18, MUR 7535 (Leah for Senate), Mar. 9, 2020.

<sup>2</sup> Certification at 2, MUR 7535 (Leah for Senate), Nov. 9, 2021, Certification at 1, MUR 7535 (Leah for Senate), Dec. 1, 2021.

<sup>3</sup> FGCR at 3-4 ("Do you have any information as to whether or not they're going to come around and back you, so you can unify the party not just the two of you candidates, but get the kind of money that's necessary to beat [incumbent Senator Tammy] Baldwin?"); ("I have to ask you, you said \$11 million was spent against you. It was spent largely by one person, Richard Uihlein, who is a prominent

noting that there would be an upcoming “unity dinner” for Wisconsin Republicans where she anticipated seeing her erstwhile adversary and his financial supporters and that, ultimately, both candidates agreed that the most important thing was ousting the incumbent.<sup>4</sup>

The complaint in this matter suggested that these innocuous statements violated federal law. Specifically, the complaint argued that Ms. Vukmir’s public statements “suggest that she...illegally solicited soft money for Restoration PAC and Americas PAC” from Richard Uihlein, in the hope that these funds would be used to support her candidacy.<sup>5</sup> It is uncontested that Mr. Uihlein donated nearly \$3 million to those PACs, which, in turn, went on to spend \$736,000 on ads that advocated against Ms. Vukmir’s general election opponent.

Our solicitation regulations are hardly a model of clarity. They require a “clear message,” but one which may be “made...indirectly.”<sup>6</sup> They do “not turn on the subjective interpretations of the speaker or the recipients”<sup>7</sup> but “hinge[] on whether the recipient should have reasonably understood that a solicitation was made.”<sup>8</sup> OGC, however, gave more credence to our amorphous guidance than it should have when it stated that “[t]here is some force to the Complaint’s contention that Vukmir’s

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Republican, conservative donor. Do you anticipate he will ultimately support your campaign, ultimately spend money on your behalf?”)

<sup>4</sup> *Id.* at 4 (“Well we are already reaching out to Dick Uihlein and I hope that he will want to continue with his commitment, let’s face it, he wants to defeat Tammy Baldwin, and so I look forward to having that conversation with him. We have a unity dinner on Friday, with Dick Uihlein and Diane Hendricks, Kevin and I, and we will be bringing people together there, and Kevin’s commitment to help as well is very important. I have already received several phone calls from US Senators who have offered to come to the state and we’ll be talking and continuing those discussions”); (“Well that is ultimately what we want. We signed a unity pledge. There was a unity dinner recently and we are looking forward to working together. Kevin was gracious in calling me the night of the election, offered to help and I think that’s ultimately what’s so important here, is Kevin and I both got into this race because we wanted to defeat Tammy Baldwin. We believe that she’s not right for Wisconsin and now we need to unify and ultimately finish the work that we started”).

<sup>5</sup> Complaint at 2-4.

<sup>6</sup> 11 C.F.R. § 300.2(m).

<sup>7</sup> Statement of Reasons of Vice Chairman Petersen and Comm’r Hunter at 8, MUR 6798 (Vitter), Aug. 30, 2019.

<sup>8</sup> Definitions of “Solicit” and “Direct,” 71 Fed. Reg. 13926, 13928, Mar. 20, 2006.

statements amounted to a solicitation”<sup>9</sup> even as it counseled us that “there are also reasons to conclude that the statements did not contain the requisite clear message of solicitation.”<sup>10</sup> While ultimately recommending dismissal, OGC clearly struggled with our less-than-clear regulatory scheme.

While we cannot fault the complainant for its creative reading of these facts, we could not agree that this matter presents anything remotely approaching a legal violation. In both of her appearances, Ms. Vukmir was not speaking directly to any contributor. On *The Mark Belling Show*, she stated that her campaign was “reaching out” to Uihlein. Presumably, any solicitation would have occurred upon successfully “reaching out” to Uihlein—not through the uncertain medium of a press interview.<sup>11</sup> On *UpFront with Mike Gousha*, she answered a question about whether Uihlein *might* support her by replying that “ultimately” she would want a former political opponent’s support.<sup>12</sup> Only the most strained reading would yield the conclusion that Ms. Vukmir was using these unremarkable statements during general media interviews to ask a particular individual to contribute to outside spenders.<sup>13</sup>

Moreover, we have conclusive evidence that no specific solicitation was ever made. Ms. Vukmir and Mr. Uihlein both provided the Commission with categorical, sworn denials that they ever spoke to one another, let alone that Ms. Vukmir solicited Mr. Uihlein to make contributions to the respondent independent-expenditure-only committees. And “[a]t the RTB stage,” when speculation that is “not premised on whistleblower testimony or any other sworn statement from someone with direct, personal knowledge” is “pitched against a contradictory sworn statement from someone with personal knowledge of the matter at hand, we must credit the sworn statement.”<sup>14</sup>

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<sup>9</sup> FGCR at 11.

<sup>10</sup> *Id.* at 12.

<sup>11</sup> *Id.* at 4.

<sup>12</sup> *Id.*

<sup>13</sup> Such a rule would also reach an enormous number of routine press statements. The Commission would risk being swamped with complaints and would be put in the difficult, and lawfully suspect, position of acting only on such statements as drew the attention of complainants – which may, or may not, reflect partisan or ideological bias that might skew the practical effects of our enforcement efforts.

<sup>14</sup> Statement of Reasons of Vice Chair Dickerson and Comm’rs Cooksey and Trainor at 9, MURs 7370/7496 (New Republican PAC, *et al.*), July 21, 2021 (emphasis omitted); *id.* at 9, n.45.

**CONCLUSION**

This matter involved a specious theory of solicitation and speculation directly refuted by sworn statements. Such a combination merited a finding of no reason-to-believe, rather than a simple dismissal.<sup>15</sup> We voted accordingly.



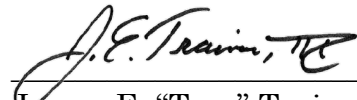
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Allen Dickerson  
Chairman

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March 28, 2022

Date



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James E. "Trey" Trainor, III  
Commissioner

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March 28, 2022

Date

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<sup>15</sup> Certification at 2, MUR 7535 (Leah for Senate), Nov. 9, 2021; Certification at 1, MUR 7535 (Leah for Senate), Dec. 1, 2021.