



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	
)	MUR 7867
Our American Century PAC and)	
Cabell Hobbs in his official capacity as)	
treasurer)	

STATEMENT OF REASONS OF COMMISSIONERS
SHANA M. BROUSSARD AND ELLEN L. WEINTRAUB

In this matter, the Commission rightly found reason to believe that Our American Century PAC and Cabell Hobbs in his official capacity as treasurer (“Our American Century”) violated section 30120(a) of the Federal Election Campaign Act, as amended (the “Act”)¹ when it failed to include necessary disclaimers in advertisements that it disseminated.² The law requires that the American people be informed of who is behind the political advertising that they see, and the negotiated conciliation agreement resolves the disclaimer violation. However, this agreement does not address the fact that the materials requiring the disclaimer had been created by Donald J. Trump’s presidential campaign committee and Our American Century republished those materials wholesale (to the point where they still contained the Trump Committee’s disclaimer).³ In so doing, Our American Century made an excessive and prohibited in-kind contribution to the Trump Committee by paying to air the Trump Committee’s advertisements. Unfortunately, the Commission lacked sufficient support to move forward on this flagrant violation.⁴

The law on republication is clear. The Act provides that the “financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committee, or their authorized agents shall be considered to be an expenditure.”⁵ In promulgating

¹ 52 U.S.C. § 30101, et seq.

² Certification (April 26, 2022).

³ See Our American Century, “*As Per Your Request, Joe...*,” (disseminated in Michigan Oct. 23, 2020 – Oct. 30, 2020), Google Transparency Report, GOOGLE, <https://adstransparency.google.com/advertiser/AR15258670938871300097/creative/CR17938967613770039297?political=®ion=US>.

⁴ *Id.*

⁵ *Id.* § 30116(a)(7)(B)(iii) (emphasis added); see also 11 C.F.R. § 109.23(a). For republication, the Commission has concluded that “campaign materials” include any material belonging to or emanating from a campaign. See, e.g., MUR 5672 (Save American Jobs) (video produced and used by candidate’s campaign subsequently hosted on association’s website).

these regulations, the Commission made it clear that republication “is considered a contribution for the purposes of the contribution limitations and reporting responsibilities by the person making the expenditure.”⁶ Republication is an in-kind contribution by that person, even when there is no coordination.⁷ And independent expenditure-only committees (“IEOPCs,” commonly called super PACs) are prohibited from making contributions to federal candidates.⁸

In this matter, within hours of Trump posting a link to a YouTube video containing a campaign advertisement, Our American Century purchased Google advertisements and republished in full the same video to the point that it contained the disclaimer “Paid for by Donald J. Trump for President, Inc.”⁹ Make no mistake, the Trump Committee paid to create an advertisement and Our American Century paid to air the Trump Committee’s message in multiple swing states in the 2020 election. That is republication, plain and simple, and it resulted in Our American Century making excessive and prohibited contributions to the Trump Committee. Without an investigation, we cannot know the precise amount of the violation, but it appears to have been between \$5,000 and \$250,000. It was good that the Commission was able to enforce the requirement that Our American Century needed to have included their own disclaimer when they purchased additional airtime for a Trump Committee advertisement. Unfortunately, the Commission did not have four votes to pursue the more egregious violations concerning republication and excessive, in-kind contributions.

September 16, 2022

Date



Shana M. Broussard
 Commissioner

September 16, 2022

Date



Ellen L. Weintraub
 Commissioner

⁶ Explanation and Justification, Coordinated and Independent Expenditures, 68 Fed. Reg. 421, 441 (Jan. 3, 2003) (“Coordination E&J”).

⁷ In the absence of coordination, the candidate who originally prepared the materials is not considered to have received or accepted the contribution. 11 C.F.R. § 109.23(a).

⁸ See 52 U.S.C. § 30116(a) (prohibition on excessive contributions); *id.* § 30118(a) (prohibition on corporate contributions); Advisory Op. 2017-10 (Citizens Against Plutocracy) at 2 (quoting Advisory Op. 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)); see also Advisory Op. at 2010-11 (Commonsense Ten) at 2-3.

⁹ First General Counsel’s Report at 5 (Our American Century PAC, *et al.*).