



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of )  
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Greene for Congress, *et al.* ) MUR 7936  
 )

**STATEMENT OF REASONS OF VICE CHAIR DARA LINDENBAUM,  
COMMISSIONER SHANA M. BROUSSARD,  
AND COMMISSIONER ELLEN L. WEINTRAUB**

Approximately one month after Greene for Congress (the “Committee”) aired an advertisement featuring Marjorie Taylor Greene<sup>1</sup> on YouTube, Save America Stop Socialism PAC (“SASS PAC”)<sup>2</sup> paid for the same advertisement to run on One America News Network (“OANN”).<sup>3</sup> The two advertisements were identical except for the disclaimer.<sup>4</sup> The first advertisement featured a disclaimer read by Greene, while the second advertisement featured a voice-over disclaimer, read by someone else, and an on-screen disclaimer that the advertisement was “not authorized by any candidate or candidate’s committee.”<sup>5</sup> The Complaint in this matter alleged that, among other things, SASS PAC made excessive in-kind contributions to the Committee by paying for that advertisement to be aired, in violation of the Federal Election Campaign Act of 1971, as amended (the “Act”).<sup>6</sup> Together, Greene, the Committee, and SASS PAC responded, arguing that the advertisement at issue was created exclusively for SASS PAC and that the Committee had mistakenly published the advertisement.<sup>7</sup> Specifically, the Response contended that SASS PAC prepared and paid for the advertisement and that an “initial cut” of the

<sup>1</sup> Marjorie Taylor Greene is a U.S. House member representing Georgia’s 14<sup>th</sup> Congressional District and a candidate for reelection in 2022. First Gen. Couns. Rep. MUR 7936 (July 28, 2022) at 3 (“FGCR”).

<sup>2</sup> SASS PAC is Greene’s leadership PAC. *Id.* A leadership PAC is “directly or indirectly established, financed, maintained, or controlled by a candidate for Federal office or an individual holding Federal office.” 11 C.F.R. § 100.5(e)(6).

<sup>3</sup> FGCR at 3.

<sup>4</sup> FGCR at 3-4.

<sup>5</sup> *Id.* Because the first advertisement, posted by the Committee, appears to have been removed from YouTube, it is not clear what language Representative Greene used in her disclaimer. The Complaint alleges that she said she “approve[s] this message so that you know the facts.” Compl. (Oct. 22, 2021) at 2. The FGCR also notes that the disclaimer included in the second advertisement was insufficient because it did not state that the advertisement was authorized by Greene, and it was included at the beginning of the advertisement instead of the end. FGCR at 12-13; *see also* 11 C.F.R. § 110.11(c)(3).

<sup>6</sup> Compl. at 1-2.

<sup>7</sup> Resp. (Nov. 21, 2021) at 2.

advertisement was posted by the Committee on YouTube by mistake.<sup>8</sup> Regardless, either one of these scenarios would have resulted in SASS PAC making an excessive contribution to the Committee.<sup>9</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 to such candidate.”<sup>10</sup> Commission regulations also treat the financing of republished campaign materials as in-kind contributions to the campaign.<sup>11</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 in the regulation; and (3) satisfies at least one of the “conduct” standards in the coordination regulation.<sup>12</sup>

Our Office of General Counsel (“OGC”) concluded that regardless of who paid for the advertisement, SASS PAC made an unreported and excessive in-kind contribution to the Committee.<sup>13</sup> If the Committee paid for the advertisement, SASS PAC’s republishing of the advertisement on OANN was a coordinated communication.<sup>14</sup> If SASS PAC paid for the advertisement, SASS PAC’s allowing the Committee to access and use the advertisement without charge was an unreported in-kind contribution to the Committee.<sup>15</sup> Because SASS PAC was limited to making \$2,900 in contributions per election to the Committee, either scenario would result in excessive contributions under the Act.<sup>16</sup> Further, neither the Committee nor SASS PAC reported making or receiving this contribution.<sup>17</sup>

Due to the relatively low amount of money at issue in this matter, OGC recommended that the Commission exercise its prosecutorial discretion and dismiss the allegations.<sup>18</sup> However, due to the apparent admission that SASS PAC violated the Act by making an excessive, coordinated in-kind contribution and failing to report it, OGC also recommended that the Commission issue caution letters

<sup>8</sup> *Id.*; see FGCR at 11 (noting that SASS PAC’s explanation that the Committee’s use of the advertisement was a mistake “strains credulity”).

<sup>9</sup> During the 2022 election cycle, non-multicandidate political committees are limited to contributing \$2,900 per election to candidates, while multicandidate committees are limited to \$5,000. At the time of the activity in question, SASS PAC was a non-multicandidate political committee and thus limited to \$2,900. 52 U.S.C. § 30116(a); Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold, 86 Fed. Reg. 7867 (Feb. 2, 2021).

<sup>10</sup> 52 U.S.C. § 30116(a)(7)(B)(i).

<sup>11</sup> 11 C.F.R. §§ 109.23(a), 109.21(b); see also FGCR at 6-7.

<sup>12</sup> 11 C.F.R. § 109.21(a).

<sup>13</sup> FGCR at 8.

<sup>14</sup> *Id.* SASS PAC’s republication of the advertisement would likely meet all three prongs of the coordinated communication test because (1) SASS PAC acknowledged that it paid to publish the advertisement on OANN; (2) SASS PAC republished campaign materials prepared by the Committee when it broadcast the advertisement on OANN; and (3) the fact that SASS PAC is Greene’s leadership PAC suggests, among other things, that she requested or suggested that SASS PAC republish the advertisement. *Id.* at 8-9.

<sup>15</sup> *Id.* Expenditures made by leadership PACs for the benefit of the sponsoring candidate’s principal campaign committee “are in-kind contributions, subject to the Act’s contribution limits and reporting requirements.” Leadership PACs, 68 Fed. Reg. 67,017 (Dec. 1, 2003).

<sup>16</sup> FGCR at 11-12.

<sup>17</sup> *Id.* at 11.

<sup>18</sup> The amount in violation “appears to be \$12,400, \$6,200, or less.” *Id.* at 11-12. See also *Heckler v. Chaney*, 470 U.S. 821, 831 (1985).

to the Respondents to point out their violations of the Act and to direct SASS PAC and the Committee to work with the Commission's Reports Analysis Division to amend their reports.<sup>19</sup> The Commission agreed that dismissal was appropriate but differed in terms of the legal rationale behind the dismissal and did not agree to issue caution letters.<sup>20</sup>

We voted to support the Factual and Legal Analysis as drafted by OGC.<sup>21</sup> That analysis correctly applied the law and our regulations concerning coordinated expenditures and coordinated communications to the facts, which showed a likely violation of our coordination and/or in-kind contribution regulations.<sup>22</sup> We further agreed that caution letters were necessary in this matter because the Committee's response admitted to accepting an excessive in-kind contribution, and believe that it is important that the Commission alert committees to violations of the Act or regulations, even when those violations do not carry enforcement consequences.<sup>23</sup>

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<sup>19</sup> FGCR at 12.

<sup>20</sup> Cert. ¶¶1-3.

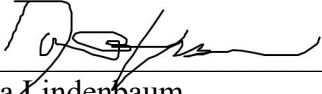
<sup>21</sup> *Id.* ¶ 1.

<sup>22</sup> FGCR at 8-11.

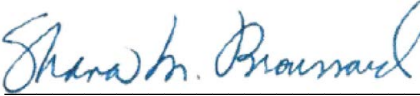
<sup>23</sup> *See also* Compl. at 6 (noting that the disclaimer at the beginning of the SASS PAC advertisement did not comply with Commission regulations); Compl. at 7 (noting that the Committee did not report any contributions from SASS PAC during the time period covering the advertisement); Resp. at 2 (acknowledging that SASS PAC did not report a disbursement for running the advertisement on OANN). The Response did not dispute the insufficiencies in its disclaimer. *See* Resp; FGCR at 13.

Make no mistake – our votes to dismiss this matter do not indicate that we considered the activity at issue to be legal or permissible.<sup>24</sup> A reason to believe finding would have been particularly appropriate here because both the Complaint and the Response identify a clear and undisputed violation of the Act and our regulations.<sup>25</sup> PACs that wish to support candidates cannot republish the candidate committee’s media materials without making an in-kind contribution, and they certainly cannot pay for the production of media favorable to the candidate, let the candidate’s committee air the material, and then use it themselves, without making an in-kind contribution. Nevertheless, pursuing a violation of this size, even an apparent one, would not be a worthwhile use of Commission resources. Accordingly, we voted to dismiss the matter and close the file.


11/3/2022  
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 Dara Lindenbaum  
 Vice Chair

11/3/2022  
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 Shana M. Broussard  
 Commissioner

11/3/2022  
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 Ellen L. Weintraub  
 Commissioner

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<sup>24</sup> Cert. ¶¶ 2-3.

<sup>25</sup> The bar for finding reason to believe is not high; it simply means that the Commission found sufficient legal justification to believe that a violation *may* have occurred, and that further investigation is needed to know for sure. Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 12,545 (Mar. 16, 2007) (“A ‘reason to believe’ finding followed by an investigation would be appropriate when a complaint credibly alleges that a significant violation may have occurred, but further investigation is required to determine whether a violation in fact occurred and, if so, its exact scope.”); 52 U.S.C. § 30109(a)(2) (explaining that the Commission must find “reason to believe that a person has committed, or is about to commit, a violation of this Act” before opening an investigation); 11 C.F.R. § 111.9(a).