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FEDERAL ELECTION COMMISSION
Washington, DC 20463

AGENDA DOCUMENT NO. 17-59-C
AGENDA ITEM
For meeting of December 14, 2017
SUBMITTED LATE

December 14, 2017

MEMORANDUM

TO: The Commission

FROM: Lisa J. Stevenson *LJS by NFS*
Acting General Counsel

Erin Chlopak *EC*
Acting Associate General Counsel

Neven F. Stipanovic *NFS*
Acting Assistant General Counsel

Jessica Selinkoff *JS*
Attorney

Subject: AO 2017-12 (Take Back Action Fund) Draft C

Attached is a proposed draft of the subject advisory opinion.

Members of the public may attend the Commission meeting at which the draft will be considered. The advisory opinion requestor may appear before the Commission at this meeting to answer questions.

For more information about how to submit comments or attend the Commission meeting, go to <https://www.fec.gov/legal-resources/advisory-opinions-process/>

Attachment

1 ADVISORY OPINION 2017-12

2

3 John Pudner

DRAFT C

4 President

5 Take Back Action Fund

6 246B East Glenn Avenue

7 Auburn, AL 36830

8

9 Brendan Fischer, Esq.

10 Director, Federal and FEC Reform

11 Campaign Legal Center

12 1411 K Street, NW, Suite 1400

13 Washington, DC 20005

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16 Dear Messrs. Pudner and Fischer:

17 We are responding to your request on behalf of Take Back Action Fund (“TBAF”).

18 TBAF asks whether, and under what conditions, the Federal Election Campaign Act, 52 U.S.C.

19 §§ 30101-46 (the “Act”), and Commission regulations require TBAF to include disclaimers on

20 its proposed Facebook Image and Video advertisements. The Commission concludes that, under

21 the circumstances described in the request, TBAF must include all of the disclaimer information

22 specified by 52 U.S.C. § 30120(a) on its proposed paid Facebook Image and Video advertising,

23 although the Commission did not agree by the required four affirmative votes on the basis for or

24 scope of its conclusion.¹ Further explanation is provided in the draft advisory opinions and in any

25 Commissioner statements.

26 This response constitutes an advisory opinion concerning the application of the Act and

27 Commission regulations to the specific transaction or activity set forth in your request. *See* 52

28 U.S.C. § 30108. The Commission emphasizes that, if there is a change in any of the facts or

¹ *See* Agenda Doc. No. 17-59-A [vote count]; Agenda Doc. No. 17-59-B [vote count]; Vote Certification [date], available at [website address]. Because the affirmative vote of four members of the Commission is required to render an advisory opinion under the Act, neither agenda document is a Commission advisory opinion. 52 U.S.C §§ 30106(c), 30107(a)(7); 11 C.F.R. § 112.4(a).

1 assumptions presented, and such facts or assumptions are material to a conclusion presented in
2 this advisory opinion, then the requestor may not rely on that conclusion as support for its
3 proposed activity. Any person involved in any specific transaction or activity which is
4 indistinguishable in all its material aspects from the transaction or activity with respect to which
5 this advisory opinion is rendered may rely on this advisory opinion. *See* 52 U.S.C.
6 § 30108(c)(1)(B). Please note that the analysis or conclusions in this advisory opinion may be
7 affected by subsequent developments in the law including, but not limited to, statutes,
8 regulations, advisory opinions, and case law. Any advisory opinions cited herein are available
9 on the Commission's website.

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On behalf of the Commission,

Steven T. Walther
Chairman