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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

April 23, 2025

ADVISORY OPINION 2025-04

Stuart Christmas
Government Accountability Institute
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Dear Mr. Christmas:

We are responding to your advisory opinion request on behalf of the Government Accountability Institute (“GAI”), regarding the application of the Federal Election Campaign Act (the “Act”),¹ and Commission regulations to its television and radio appearances and publication of books, articles, editorials, reports, documentaries, podcasts, video shorts, and commentary on websites and social media accounts and in other news outlets. The Commission concludes that GAI’s activities described in the request fall within the media exemption from the definitions of “contribution,” “expenditure,” and “electioneering communication.”

Background

The facts presented in this advisory opinion are based on your letter received on February 18, 2025.

GAI is a nonprofit corporation established in 2012 under section 501(c)(3) of the Internal Revenue Code.² GAI is not owned or controlled by any candidate, political party, or political committee, and GAI states that it “has not and will not endorse any candidate, donate funds to any candidate or committee, or oppose the election of any candidate.”³

¹ 52 U.S.C. §§ 30101-45.

² Advisory Opinion Request (“AOR”) at AOR001. GAI is incorporated in Delaware.

³ AOR003.

GAI's stated mission is to "investigate and expose crony capitalism, misuse of taxpayer monies, and other governmental corruption or malfeasance."⁴ To this end, GAI employs researchers, writers, editors, fact-checkers, and subject matter experts to investigate governmental actors and broadcast investigative findings as news.⁵ Specifically, GAI publishes books, articles, editorials, reports, documentaries, podcasts, video shorts, and commentary on websites and social media and in other media outlets.⁶ GAI authors and journalists also maintain an active schedule of television and radio appearances to discuss their investigative findings.⁷

Question Presented

Do GAI's television and radio appearances and its publication of books, articles, editorials, investigative reports, documentaries, podcasts, video shorts, and commentary qualify for the media exemption from the definitions of "contribution," "expenditure," and "electioneering communication"?

Legal Analysis

The Commission concludes that GAI's television and radio appearances and publication of books, articles, editorials, reports, documentaries, podcasts, video shorts, and commentary qualify for the media exemption from the definitions of "contribution," "expenditure," and "electioneering communication." The Commission did not agree on a rationale for this conclusion by four affirmative votes.⁸

This response constitutes an advisory opinion concerning the application of the Act and Commission regulations to the specific transaction or activity set forth in your

⁴ AOR002.

⁵ AOR004.

⁶ AOR005. GAI's work has been featured on or in CNN, NPR News, The New York Times, National Review, 60 Minutes, ABC News, New York Post, Fox News, Politico, The Washington Post, Washington Times, Forbes, The Wall Street Journal, The Daily Beast, Daily Wire, The Daily Mail, The Epoch Times, The Guardian, Esquire, and The Federalist. AOR002. GAI maintains two websites and various social media accounts. AOR010. GAI's reach, as measured through an industry analytical tool that tracks earned media coverage in real time, is significant. *See* AOR005-7

⁷ AOR009. In 2024, GAI employees made 181 media appearances through an in-house "state-of-the-art" broadcasting studio, and 70 additional appearances through other methods including video conferencing applications and mobile devices. GAI engages with news outlets "on an almost daily basis." *Id.*

⁸ The Commission made public two drafts of an advisory opinion reflecting differing rationales for this conclusion. *See* Agenda Doc. No. 25-04-A (garnering a vote of 2-2); Agenda Doc. No. 25-04-B (garnering a vote of 2-2). Because the affirmative vote of four members of the Commission is required to render an advisory opinion under the Act, 52 U.S.C. §§ 30106(c), 30107(a)(7), neither of those agenda documents is a Commission advisory opinion.

request.⁹ The Commission emphasizes that, if there is a change in any of the facts or assumptions presented, and such facts or assumptions are material to a conclusion presented in this advisory opinion, then the requestor may not rely on that conclusion as support for its proposed activity. Any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which this advisory opinion is rendered may rely on this advisory opinion.¹⁰ Please note that the analysis or conclusions in this advisory opinion may be affected by subsequent developments in the law including, but not limited to, statutes, regulations, advisory opinions, and case law. Any advisory opinions cited herein are available on the Commission's website.

On behalf of the Commission,

A handwritten signature in black ink, reading "J.E. Trainor, III". The signature is written in a cursive, flowing style.

James E. "Trey" Trainor III,
Acting Chairman

⁹ See 52 U.S.C. § 30108.

¹⁰ See *id.* § 30108(c)(1)(B).