FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 6462
Donald J. Trump;	)	
Michael Cohen;	)	
Stewart Rahr;	)	
The Trump Organization, LLC; and	)	
Should Trump Run Committee, Inc. f/k/a ShouldTrumpRun.com	)	

STATEMENT OF REASONS
VICE CHAIRMAN DONALD F. McGAHN and
COMMISSIONER CAROLINE C. HUNTER

The complaint in this matter alleged that Donald Trump violated the Federal Election Campaign Act of 1971, as amended ("the Act"), by failing to file a statement of candidacy for a "de facto" campaign for the 2012 Republican nomination for President of the United States.[1] The Complaint further alleges that Mr. Trump violated the Act by accepting excessive or impermissible contributions from The Trump Organization, LLC in connection with the website, www.ShouldTrumpRun.com, created by Trump LLC employee Michael Cohen, and legal services provided by Mr. Cohen to ShouldTrumpRun.com; and from Stewart Rahr, who paid for a flight Mr. Cohen took on Mr. Trump's privately owned jet. Finally, the Complaint alleges that ShouldTrumpRun.com violated the Act by failing to register as a political committee.

The respondents in this matter submitted a joint response rebutting the complaint by demonstrating that Mr. Trump never became a federal candidate, and therefore, the Commission lacks jurisdiction to scrutinize the activities of the respondents.[2] The response asserts that:

> The provisions of the Act do not extend to persons traveling for purposes not in connection with a federal election. Nor does a website paid for personally by an individual asking his fellow citizens if a person should run for office trigger any

[1] MUR 6462 (Trump), Complaint.

[2] MUR 6462 (Trump), Response (May 20, 2011).

reporting or compliance obligations on the part of the individual paying for the website.[3]

Respondents also demonstrate that Mr. Trump was the sole owner of the aircraft at issue, exempting candidate travel aboard such aircraft from federal payment and reimbursement requirements.[4]

The Office of the General Counsel ("OGC") prepared a First General Counsel's Report ("FGCR") that made five recommendations. We agree with our colleagues in supporting three of OGC's recommendations, finding:

- No reason to believe Mr. Trump became a candidate for federal office, thus no reason to believe he needed to file a statement of candidacy or designate a principle campaign committee;

- No reason to believe the Respondents made or accepted excessive or impermissible contributions or expenditures; and

- No reason to believe that ShouldTrumpRun.com improperly failed to register and report as a political committee.[5]

As presented in the complaint and response, the facts in this case do not amount to a violation of the law as to OGC's two remaining recommendations:

- Reason to believe that Mr. Rahr, The Trump Organization, LLC, Mr. Cohen, and Should Trump Run Committee, Inc. violated 11 C.F.R. § 100.131(a) by making and accepting disbursements with impermissible funds; and

- Reason to believe that Mr. Trump violated 11 C.F.R. § 100.72 by making and accepting disbursements with impermissible funds;

Thus, we write separately to address two points. First, as a preliminary matter, we write to express our frustration with the time it took to resolve this matter, and the process which has contributed to this considerable delay. Second, we write to explain that since Mr. Trump never became a federal candidate, the activity described in the complaint falls outside the scope of the Act and its source and amount limitations.

[3] MUR 6462 (Trump), Response (May 20, 2011) at 1.

[4] MUR 6462 (Trump), Response (May 20, 2011) at 2.

[5] MUR 6462 (Donald J. Trump, Factual & Legal Analysis.

I. OGC's Extra-Statutory Pre-RTB Investigation

Before turning to the merits, we note that the actions taken by OGC in the course of preparing the FGCR in this matter took entirely too much time and were well beyond the scope of the Act. The complaint in this matter was filed on March 16, 2011,[6] a response was received on May 20, 2011,[7] and OGC prepared its first FGCR on September 8, 2011.[8] That report was withdrawn by OGC on September 22, 2011.[9] According to a withdrawal memorandum, "[s]ince [OGC] circulated the [First General Counsel's] Report, additional material has been posted on [ShouldTrumpRun.com] that should be reflected in the Report and may require additional legal analysis. [OGC] intend[s] to resubmit a Report with appropriate recommendations once we complete that review."[10]

Rather than revise the report based upon specific changes to the website as noted in its withdrawal memorandum – itself a dubious practice under the Act – OGC took it upon itself to conduct a drawn out investigation. For example, on October 5, 2012 – over a year after OGC withdrew its first FGCR – OGC sent respondents a notification letter with forty-three pages of supplemental materials discovered by OGC in the course of its "review." This included fifteen press articles, nine of which were dated *after* the Complaint.[11]

This investigation runs contrary to the Act's requirements that an investigation be conducted only after the Commission has determined by a vote of at least four affirmative votes that there is reason to believe a violation has occurred, and further serves to delay the resolution of this matter. The Act establishes only two methods by which an enforcement proceeding may be initiated: (1) by a sworn complaint; or (2) "on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities...."[12] A complaint must be under oath and notarized.[13] Commission regulations state that complaints should specify what is alleged is based upon personal knowledge, or merely information or belief.[14] Unsworn

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[6] MUR 6462 (Trump), Complaint.

[7] MUR 6462 (Trump), Response of Donald J. Trump, Michael Cohen, Stewart Rahr, ShouldTrumpRun.com, and The Trump Organization, LLC (May 20, 2011).

[8] MUR 6462 (Trump), First General Counsel's Report (Sept. 8, 2011).

[9] MUR 6462 (Trump), Withdrawal of First General Counsel's Report (Sept. 22, 2011).

[10] MUR 6462 (Trump), Withdrawal of First General Counsel's Report (Sept. 22, 2011).

[11] MUR 6462 (Trump), Letter from Mark Allen, Attorney, Enforcement Division to Cleta Mitchell (Oct. 5, 2012).

[12] 2 U.S.C. § 437g(a)(2). *See also* 11 CFR § 111.3.

[13] 2 U.S.C. § 437g(a)(1); 11 C.F.R. § 111.4(b)(3).

[14] 11 C.F.R § 111.4(d).

complaints are considered defective, and will be returned to the complainant.[15] Under the Act, a proper complaint must be forwarded to a respondent within five days of receipt, and a respondent is afforded fifteen days to respond, with reasonable extensions routinely granted.[16] At that point, per Commission regulations, OGC is instructed to prepare a report on the matter and recommend whether the Commission ought to find RTB or not.[17]

Matters initiated "on the basis of information ascertained in the normal course of [the Commission's] supervisory responsibility" are governed by Directive 6.[18] Under Directive 6, if news articles are the source for an internally-generated enforcement matter:

> The Commission will take the ultimate responsibility for determining whether or not to open a MUR based on such accounts. A staff member must request the General Counsel, the Staff Director, or a Commissioner to prepare a memorandum to the General Counsel outlining the alleged violation. The supporting news accounts should be attached to this memorandum. This signed originating memorandum and accompanying news account will be submitted by the General Counsel to the Commission along with his recommendation as to whether or not a MUR should be initiated.[19]

What OGC has done in this and other cases is to conflate the two distinct statutory mechanisms to begin a matter. Complaints seem to be a starting point for OGC-initiated discovery. There are several reasons why this is improper:[20]

- The statute requires four votes to investigate. Given the bipartisan structure of the Commission, any investigation must have bipartisan support. This serves to prevent Commission investigations from being used for partisan targeting. Circumventing the Act's requirements by allowing one unaccountable attorney to unilaterally launch an investigation undermines this check on partisan mischief, and risks precisely the sort of abuses the Commission was structured to prevent;

- Directive 6 states that it is *the Commission*, not the staff, that decides whether to open a MUR based upon press articles. Pre-RTB investigations ignore this directive;[21]

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[15] *See* 11 C.F.R. § 111.5(b).

[16] 2U.S.C. § 437g(a)(1). *See also* 11 C.F.R. §§ 111.5-111.6.

[17] 11 C.F.R. § 111.7.

[18] Federal Election Commission, Directive 6 "Handling of Internally Generated Matters" (Apr. 21, 1978).

[19] *Id.* at 5.

[20] For a more detailed discussion of the problems associated with OGC's pre-RTB investigations, *see* MUR 6540 (Rick Santorum for President), Statement of Vice Chairman Donald F. McGahn and Commissioner Caroline C. Hunter.

[21] This issue was discussed when the Commission adopted its regulations concerning internally generated matters. At that time, the General Counsel made clear that the procedure for handling newspaper articles was unchanged.

- Seeking out additional allegations and/or arbitrarily supplementing the factual record transforms OGC from an umpire seeking to call balls and strikes into an active participant, in effect functioning as counsel to the complainant, or as a complainant in their own right rather than presenting an objective recommendation as contemplated by Commission regulations;[22]

- The Act permits complainants aggrieved by the dismissal of a complaint to challenge that dismissal in district court. The Act does not contemplate the legal or factual record being supplemented by additional allegations raised by OGC on its own initiative, raising questions as to whether the complainant now-plaintiff, would have standing to sue on the claims and information that arose during OGC's pre-RTB investigation;[23]

- OGC is tasked with defending the Commission against lawsuits from complainants when the Commission decides not to go forward on an alleged violation of the Act. Thus, OGC's extracurricular research places it and the Commission in an untenable position whereby OGC would be tasked with challenging the standing of the complainant to raise arguments that OGC identified and arguing against the sufficiency of a complaint that OGC itself developed and advocated for while serving as a *de facto* complainant; and

- Pre-RTB investigations drag out the time for resolving complaints. The Act provides that the Commission shall notify respondents in writing within five days of receiving a complaint, and that respondents shall have fifteen days to respond to such complaint.[24] The Act in no way contemplates OGC then taking an additional year to supplement the complaint.[25] The Act contemplates a rather tight turnaround on complaints, and in its early days, the Commission resolved matters much quicker.[26] The delays that occur

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See Meeting of the Federal Election Commission, Jan. 31, 1980 (Commissioner Joan D. Aikens: "Are we saying here that, particularly on a referral from another agency, that we're not going to have any more Pre-Murs, it will just go to the – automatically go to the first stage, or will we continue to Pre-Mur?" Assistant General Counsel Patricia Fiori: "The Pre-Mur procedure has not been put into the regulations, but that would still be a part of the Commission's procedures the same way it is now."); *id.* (Special Deputy to the Clerk of the House Douglas Patton, representing Edmund L. Henshaw, Commissioner Ex Officio: "How would you handle what is, if not in terms of, that sort of fall in between internally generated and a complaint? We've had some in the past like, you know, employees of the Commission, in terms of bringing attention, I think, to a newspaper article for example and . . ." General Counsel Charles N. Steel: "That's the Pre-MUR procedure, basically.").

[22] *See* 11 C.F.R. 111.7.

[23] 2 U.S.C. § 437g(a)(8). *See also Citizens for Responsibility and Ethics in Washington v. FEC*, 799 F.Supp.2d 78, at 85-90 (D.D.C. 2011) (discussing the standing requirements for complainants to sue under 2 U.S.C. § 436g(a)(8)).

[24] 2 U.S.C. § 437g(a)(1).

[25] In fact, it contemplates quite the opposite. *See, e.g.*, 2 U.S.C. § 437g(a)(8)(A) ("Any party aggrieved . . . by the failure of the Commission to act on such complaint [filed by such party] during the 120-day period beginning on the date the complaint is filed, may petition with the United States District Court for the District of Columbia.").

[26] *See e.g.* MUR 001 (Grndison) Letter from Congressman Bill Frenzel to Thomas Curtis, Chairman, FEC (January 23, 1976) ("Nevertheless, I can't conceive of any combination of circumstances that would require 7 months for the Commission to come to a determination.") (January 23, 1976). As previously noted, it took nearly two years from

today as a result of unsanctioned pre-RTB investigations are incompatible with "resolv[ing] cases efficiently and at a pace the public doserves."[27]

Most troublesome about OGC's practice is its randomness. It is an unwritten, standardless process whereby OGC can review whatever articles and other documents not contained in the complaint that they wish, and send whatever they wish to the respondent for comment. There is nothing mandatory about the practice, nor is there a specified list of what must be consulted or sent to respondents. This *ad hoc* approach belies claims that OGC's pre-RTB investigations are "in the normal course" of carrying out the Commission's supervisory responsibilities. There is nothing "normal" about a standardless process. And the process continues to evolve. What was once seen as mere background material,[28] is now being used for its truth. Apparently, the scope of the investigation is left entirely to the discretion of individual OGC attorneys, as in some cases a voluminous amount of materials is sent to respondents, while in other cases, nothing is sent. This practice creates an acute risk of exposure to accusations of partisanship and selective prosecution.[29]

The proper course of action in this matter would have been for OGC to follow the procedure set forth in Directive 6 and request that the Commission initiate a separate, non-complaint generated matter based on the newspaper articles it identified as supplementary.[30] If the Commission, by at vote of at least four members, agreed with OGC's view, the Commission could open a non-complaint generated matter based on those articles, and, if appropriate, vote to merge that proceeding with this matter. Rather than follow this established procedure, OGC opted to deviate from the normal course by conducting an unsanctioned pre-RTB investigation. Such an investigation is contrary to the Act and Commission procedures, drags out enforcement

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the date the Complaint was submitted in this matter to the date when OGC circulated its ultimate recommendation to the Commission.

[27] MUR 6543 (Unknown Respondents), Statement of Reasons of Chair Ellen L. Weintraub at 4 ("I will continue to do everything in my power to resolve cases efficiently and at a pace the public deserves.").

[28] *See* 1997 Enforcement Manual, ch. 2, pp. 4-6 (Providing a list of "sources available to the general public" that may be reviewed prior to a RTB finding, and stating that newspaper articles "may provide background information concerning recent developments in a matter, and may provide background information that you may not find elsewhere.").

[29] *See FEC v. Central Long Island Tax Reform Immediately*, 616 F.2d 45, 55 (2d Cir. 1980) (Kaufman, J., concurring) ("such bureaucracies feed upon speech and almost ineluctably come to view unrestrained expression as a potential 'evil' to be tamed, muzzled, or sterilized"). *See also FEC v. Machinists Non-partisan League*, 655 F.2d 380, 388 (D.C. Cir. 1981) ("Plainly, mere 'official curiosity' will not suffice as the basis for FEC investigations...").

[30] Contrary to the insinuations of some, we are not suggesting that news articles may *never* be the basis of a MUR, or that OGC may not seek to consider publicly available information. *See, e.g.*, MUR 6540 (Rick Santorum for President), Statement of Reasons of Chair Ellen L. Weintraub and Commissioner Steven T. Walther. If a press article is included with a complaint or response, it is clearly before the Commission for consideration. If it is not, then the authority to decide whether news articles warrant further consideration rests with the Commission, not staff. Efforts to incorporate press accounts beyond the complaint into a pre-existing MUR should be done in a way that does not conflate the complainant and OGC's arguments should the complainant choose to sue under 2 U.S.C. § 437g(a)(8). We believe that Directive 6 already accounts for each of these concerns and is the proper procedure for OGC to place press articles before the Commission.

matters far beyond the time frame contemplated by the Act, and creates an acute risk of partisan targeting. The news articles OGC discovered in its pre-RTB investigation were not properly before the Commission, and have thus been excluded from our analysis of this matter.

II. Analysis

We now turn to the substantive issues raised by the complaint, which alleges that the respondents both exceeded relevant contribution limits and violated the ban on corporate contributions to candidates.[31] On March 13, 2013 the Commission concluded that Mr. Trump was not a candidate for Federal office. Accordingly, the Commission unanimously found no reason to believe the respondents violated 2 U.S.C. §§ 441a or 441b by accepting impermissible or excessive contributions.[32] Rather than end the inquiry with this conclusion, OGC goes on to state "[r]egardless of whether Trump triggered candidate status under the Act, the Complaint alleges that Respondents 'testing the waters' activities may have violated the 'ban on corporate' donations as well as the 'limit of $2,500.'"[33] This is a misconstruction of the Commission's concept of "testing the waters."

The concept of "testing the waters" is not found in the Act, but rather, "[t]hrough its regulations, the Commission has established limited exceptions to [the definition of 'candidate' at 2 U.S.C. § 431(2)] which permit an individual to test the feasibility of a campaign for Federal office without becoming a candidate under the Act."[34] These regulations provide:

> Funds received solely for the purpose of determining whether an individual should become a candidate are not [contributions/expenditures]. Examples of activities permissible under this exemption if they are conducted to determine whether an individual should become a candidate include, but are not limited to, conducting a poll, telephone calls, and travel. Only funds permissible under the Act may be used for such activities. The individual shall keep records of all such funds received. See 11 CFR 101.3. If the individual subsequently becomes a candidate, the funds received are contributions subject to the reporting requirements of the Act. Such contributions must be reported with the first report filed by the principal campaign committee of the candidate, regardless of the date the funds were received.[35]

[31] MUR 6462 (Trump), Complaint at 2.

[32] MUR 6462 (Trump), Certification (March 14, 2013). The Commission further unanimously concluded that ShouldTrumpRun did not need to register and report as a political committee. *Id.*

[33] MUR 6462 (Trump), First General Counsel's Report at 14.

[34] *Explanation and Justification for Regulations on Payments Received for Testing the Waters Activities*, 50 Fed. Reg. 9992, 9993 (Mar. 13, 1985).

[35] 11 C.F.R. §§ 100.72(a); 100.131(a).

The scope of the testing the waters regulations is interrelated with the reach of the term "contribution." A "contribution" is a defined term that is limited to money, goods, or services given "for the purpose of influencing a federal election."[36] Money that is not given for the purpose of influencing a federal election is not, by definition, a contribution, and cannot be regulated as such by the Commission. Providing money, goods, or services for the purpose of exploring a possible candidacy is not the same as providing those resources for the purpose of influencing a federal election, nor does it implicate the anti-corruption interest identified in *Buckley*. Therefore, only those resources that are eventually used to influence a *candidate's* election may fall within the definition of "contribution."[37] Without a candidate, then, funds raised or spent – even during a testing the waters phase – cannot become contributions or expenditures and may not become subject to the Commission's jurisdiction. Said another way, the "testing the waters" regulations may not serve as a freestanding expansion of the scope of the Act.

The courts have repeatedly held that political activity in support of persons who are not candidates for federal office is outside of the FEC's jurisdiction, even if the aim of that activity is to convince a specific individual to become a candidate for federal office.[38] According to the court in *FEC v. Florida for Kennedy Committee*, "[Florida for Kennedy Committee ('KFS')] can be subject to the FEC's jurisdiction only if Senator Kennedy was a candidate during the period of FKC's activities,"[39] therefore "[t]he FEC has no jurisdiction to investigate the activities of FKS on behalf of a non-candidate."[40] Thus, "[i]n and of itself, the Supreme Court's construction of the Act focusing upon candidates convinces us that unauthorized groups electioneering on behalf of someone who is not yet a candidate for federal office cannot be covered by the Act."[41]

The court in *FEC v. Machinists Non-Partisan Political League* reached a similar conclusion, reasoning that "where a group's activities are not related in any way to a person who has decided to become a candidate, the 'actuality and potential for corruption' are far from having been 'identified.'"[42] Accordingly, if an individual is not a candidate, and/or a donation or

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[36] *See* 2 U.S.C. § 431(8)(A). *See also* 11 C.F.R. §§ 100.51-100.55. *See also generally* 2 U.S.C. § 431(8)(B); 11 C.F.R. §§ 100.71-100.94 (exceptions to the definition of "contribution").

[37] The current regulation treats all money raised by an eventual candidate prior to them becoming a candidate as being used to influence a candidate's election and thus subject to the Act's source and amount limitations once that person becomes a candidate. This Statement of Reasons does not address whether or not the regulation as written is consistent with the Act.

[38] *See FEC v. Machinists Non-Partisan Political League*, 655 F.2d 380 (D.C. Cir. 1981), *cert denied*, 454 U.S. 897 (1981); *FEC v. Citizens for Democratic Alternatives in 1980*, 655 F.2d 397 (D.C. Cir. 1981), *cert denied*, 454 U.S. 897 (1981); *FEC v. Florida for Kennedy Committee*, 681 F.2d 1281 (11th Cir. 1982); *Unity08 v. FEC*, 596 F.3d 861 (D.C. Cir. 2010).

[39] *Florida for Kennedy Committee*, 681 F.2d at 1287.

[40] *Florida for Kennedy Committee*, 681 F.2d at 1288.

[41] *Florida for Kennedy Committee*, 681 F.2d at 1287.

[42] *Machinists Non-Partisan Political League*, 655 F.2d at 392.

payment does not satisfy the statutory definition of a contribution or reportable expenditure, it is outside of the scope of the Act and Commission jurisdiction.

This conclusion was reinforced by the Court of Appeals for the District of Columbia in *Unity08 v. FEC*.[43] In *Unity08*, the court held "*Machinists'* reading of *Buckley* as limited to groups who have a 'clearly identified' candidate was essential to its outcome in *Machinists* and is therefore binding on us."[44] Thus, "[a]bsent any compelling ground for distinguishing *Machinists*, [the court] find[s] that Unity08 is not subject to regulation as a political committee unless and until it selects a 'clearly identified' candidate."[45]

The testing the waters provision relating to contribution limitations and prohibitions is not contrary to this interpretation. In 1985, the Commission amended its testing the waters regulations to state that "[o]nly funds permissible under the Act may be used [for testing the waters activities]."[46] Prior to 1985, Commission regulations permitted prospective candidates to accept and use excessive or prohibited contributions for testing the waters activities, provided they refunded such funds within 10 days of becoming a candidate.[47] This change was effectuated by the Commission, without intervening legislation, and was intended to "remedy the situation that results under the present regulations when funds that are permissible when donated subsequently become illegal and must be refunded when the individual becomes a candidate" and "clear up any misconceptions that the 'testing the waters' provisions may be used to raise 'seed money' for prospective candidates."[48] As such, it changed the procedures for individuals to ensure that any funds raised prior to becoming a candidate could be used to support their candidacy once it was realized. The revised regulations did not expand the scope of the Act to reach individuals who did not become candidates, or donations or payments that were not made for the purpose of influencing a federal election.[49] The Commission has no authority to do so.

The courts have explicitly stated that "[u]nless . . . Congress made reasonably clear its intent to bring . . . organizations whose contributions and expenditures do not relate to an

[43] 596 F.3d 861 (D.C. Cir. 2010).

[44] *Unity08*, 596 F.3d at 868.

[45] 596 F.3d 861, 869 (D.C. Cir. 2010).

[46] 11 C.F.R. §§ 100.72(a); 100.131(a).

[47] *See Explanation and Justification for Regulations on Payments Received for Testing the Waters Activities*, 50 Fed. Reg. 9992, 9994 (Mar. 13, 1985); MUR 6462 (Trump), First General Counsel's Report at 11 n.15.

[48] *Explanation and Justification for Regulations on Payments Received for Testing the Waters Activities*, 50 Fed. Reg. 9992, 9994 (Mar. 13, 1985).

[49] It is also important to note, just as testing the waters is different from being a federal candidate, not all activity undertaken by an eventual candidate is "testing the waters." For example, eventual candidates may be involved in political activities such as helping state and local candidates or establishing state political action committees that are not intended to explore whether or not an individual should become a candidate, and thus do not constitute "testing the waters."

identifiable 'candidate' – under the contribution limits of section 441a, we must decline to extend that provision to cover such groups so as to avoid the constitutional problems which Buckley and its lower court predecessors were able to avoid by narrowly construing the term 'political committees.'"[50] Such clear Congressional action is necessary because "[i]n this delicate first amendment area, there is no imperative to stretch the statutory language, or read into it oblique inferences of Congressional intent."[51] Congress has not acted to specifically provide the Commission with such authority. As the court noted in *Unity08*, "[t]he Commission's advisory opinion [concluding that Unity 08's spending to collect signatures to qualify for ballot access as an organization but not yet for any named candidate] did not identify any aspect of the text or legislative history of the 1979 amendments that might be read to abrogate *Machinist*."[52] In the absence of such clear Congressional action, the Commission cannot today run roughshod over thirty years of judicial precedent and unilaterally expand the scope of its jurisdiction to apply the Act's source and amount limitations to persons who are not federal candidates.

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III. Conclusion

In short, the Act provides for source and amount limitations for contributions to *candidates*. The courts have repeatedly held that the Commission's jurisdiction to enforce such source and amount restrictions is limited to activities that involve actual federal candidates. Mr. Trump never became a candidate. Therefore, he was never subject to the source and amount restrictions of the Act. In the absence of clear Congressional action, the Commission's testing the waters regulations did not and could not expand the scope of the Act to reach activity that was not undertaken by a federal candidate or in connection with a federal election. Therefore, there is no reason to believe the respondents violated 11 C.F.R. § 100.72(a) or 11 C.F.R. § 100.131(a).

[50] *Machinists Non-Partisan Political League*, 655 F.2d at 394.

[51] *Machinists Non-Partisan Political League*, 655 F.2d at 394.

[52] *Unity08*, 596 F.3d at 868-869 (*referencing* Advisory Opinion 2006-20 (Unity 08)).

DONALD F. McGAHN II
Vice Chairman

9/18/13
Date

CAROLINE C. HUNTER
Commissioner

9/18/13
Date