FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matters of	)	
	)	MUR 6617
Christie Vilsaok, *et al.*	)	
	)	
and	)	
	)	
Cheri Bustos, *et al.*	)	MUR 6667

STATEMENT OF REASONS
Commissioners CAROLINE C. HUNTER and MATTHEW S. PETERSEN

These matters present materially indistinguishable facts from those in MUR 6357 (American Crossroads). All three involved organizations that financed independent expenditures containing snippets of campaign advertisements obtained from publicly available websites (in both instances, YouTube). In MUR 6357, we (along with former Commissioner Don McGahn) voted against finding reason to believe that the ad at issue amounted to "republication of campaign materials" under 2 U.S.C. § 441a(a)(7)(B).[1] We reasoned that "the few fleeting images" from the campaign ad were "incorporated into a communication in which [the respondent] add[ed] its own, text, graphics, audio, and narration to create its own message" and further stated:

> The Act's republication provision is designed to capture situations where third parties, in essence, subsidize a candidate's campaign by expanding the distribution of communications whose content, format, and overall message are devised by the candidate. But clearly that is not what happened here. [The respondent] did not repeat verbatim the [candidate's] message; rather, it created its own."[2]

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[1] MUR 6357 (American Crossroads), Statement of Reasons, Chair Caroline C. Hunter and Commissioners Donald F. McGahn and Matthew S. Petersen, at 4.

[2] *Id.* Our statement of reasons in MUR 6357 is attached to this statement, and we incorporate its reasoning by reference.

Our reasoning in MUR 6357 is equally applicable here—matters involving respondents that created and paid for advertisements that incorporated as background footage brief segments of YouTube videos posted by authorized committees of federal candidates. In other words, snippets of b-roll footage of Ms. Vilsack and Ms. Bustos respectively were "incorporated into [] communication[s] in which [respondents] add[ed their] own text, graphics, audio, and narration to create [their] own message."[3] Therefore, just as we voted against finding reason to believe that the respondent in MUR 6357 republished campaign materials, we voted against making a similar finding against the respondents in these matters.[4]

Caroline C. Hunter 12/2/2013
CAROLINE C. HUNTER Date
Commissioner

Matthew S. Petersen 12/2/2013
MATTHEW S. PETERSEN Date
Commissioner

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3 *See id.*

4 One point merits further mention. In MUR 6357, we agreed with the Office of General Counsel's recommendation to dismiss the allegation that respondents violated the corporate contribution ban in 2 U.S.C. § 441b(a). However, in these matters, OGC reconsidered its position and concluded that, although "section 441b does not expressly prohibit a political committee from making a corporate contribution," it now "believe[s] it appropriate to recommend that [respondent] House Majority PAC violated 2 U.S.C. § 441b." MUR 6617, First General Counsel's Report at 10-11, n. 38. The reasoning is that since the committee accepted corporate and labor funds, any subsequent republication of campaign materials by the committee resulted in prohibited corporate and labor contributions. Apart from announcing a significant shift in enforcement posture during an enforcement matter, this statement is troubling in that it exposes the tension between the Act's treatment of republication as an expenditure (2 U.S.C. § 441a(a)(7)(B)(iii)) and Commission regulations' treatment of republication as a contribution (11 C.F.R. § 109.23). Any conclusion that non-coordinated republication constitutes a contribution (and thus, potentially a prohibited corporate contribution) is problematic under a straightforward reading of the Act's plain language.