FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
Murray Energy Corporation	)	MUR 6661
Murray Energy Corporation PAC and Michael G. Ruble in his official capacity as treasurer	)	
Robert E. Murray	)	

STATEMENT OF REASONS OF CHAIRMAN MATTHEW S. PETERSEN AND COMMISSIONERS CAROLINE C. HUNTER AND LEE E. GOODMAN

This matter arose from a complaint and several supplements alleging that Murray Energy Corporation ("Murray Energy") and Robert E. Murray—the company's president—illegally coerced contributions to the Murray Energy Corporation Political Action Committee ("MECPAC")—the company's separate segregated fund ("SSF"). The allegations are based on (1) an article published in the *New Republic* in the fall of 2012,[1] which quotes two anonymous individuals claiming to be Murray Energy managers who felt pressured to make contributions, as well as (2) a wrongful termination suit claiming that Murray and Murray Energy fired an employee for not contributing to MECPAC.

The coercion of a person's political contributions to a separate segregated fund is not merely a violation of the law, it is a grave interference of a person's core constitutional rights. However, the facts in the record before the Commission do not support the Office of General Counsel's recommendation to find reason to believe that the respondents in this matter unlawfully coerced employees to contribute to MECPAC. The Federal Election Campaign Act of 1971, as amended ("FECA" or "the Act"), and Commission regulations require more than a mere showing that an employer solicited employees to contribute to its SSF or candidate committees, which is wholly lawful, or that a solicited employee felt pressure to contribute. Rather, when a solicitation clearly indicates that contributions are voluntary, evidence of specific acts or statements constituting threats of physical force, job discrimination, or financial reprisal

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[1] The Complaint has been amended and supplemented several times since it was first filed, requiring the Office of General Counsel to notify the respondents of any substantive changes, allow respondents an opportunity to respond, and re-analyze the information in a revised First General Counsel's Report. *See* Compl. (Oct. 9, 2012); *Errata* to Compl. (Oc. 12, 2012); Amended Compl. (Nov. 18, 2012); Supplement to Compl. (Sept. 16, 2014). The Commission's vote in this matter was based on the most recent revised First General Counsel's Report, submitted on February 1, 2016. Two prior First General Counsel's Reports had been submitted and withdrawn. *See* First General Counsel's Report (Jan. 14, 2014); Withdrawal and Resubmission of First General Counsel's Report (March 31, 2015); First General Counsel's Report (Feb. 1, 2016).

is necessary to establish a violation under the Act.[2] As explained below, the communications in the record do not meet this standard. Moreover, even if the Commission interpreted the solicitations in the record as potentially coercive, they are outside the statute of limitations and thus would not warrant further use of the Commission's resources.

Thus, we voted against the Office of General Counsel's recommendations to find reason to believe respondents violated 52 U.S.C. § 30118(b)(3) and voted to close the file. At the conclusion of this Statement, we further address the mischaracterizations of law and fact in a Statement by our colleagues that criticizes our decision.

The Complaint also included an allegation that Murray Energy reimbursed contributions to MECPAC, but the record evidence was not sufficient for the Office of General Counsel to recommend a reason to believe finding that respondents violated 52 U.S.C. § 30122.[3]

I. BACKGROUND

Based in Ohio, Murray Energy reportedly is one of the largest privately held coal-mining companies in the United States, operating eight mines in six states.[4] Robert E. Murray is its Chairman, President, and CEO.[5] MECPAC is Murray Energy's SSF.

The Complaint, as supplemented over several years, alleges that Robert Murray, Murray Energy, and MECPAC coerced contributions to MECPAC and used the company's bonus program to reimburse contributions in violation of the Act. The basis for the original Complaint's allegation is an October 2012 *New Republic* article that purported to quote an unnamed Murray Energy manager, who stated he or she felt "pressure" to make contributions, and was told that bonuses would "more than make up for" what he or she was going to be asked to contribute.[6] Also in the record before us are three solicitation letters from MECPAC and internal memoranda from Murray to managers.

In the fall of 2014, a Supplemental Complaint provided new information that derived from a civil suit against Murray and Murray Energy that alleged wrongful termination. According to the Supplemental Complaint, a former prep plant foreman named Jean Cochenour alleged that she worked for a company that Murray purchased in late 2013. Cochenour alleged that another employee told her that failing to contribute as Murray requested could adversely

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2 52 U.S.C. § 30118(b)(3); 11 C.F.R. § 114.5(a).

3 *See* First General Counsel's Report at 19 (recommending that the Commission take no action but noting that the proposed investigation into the Respondents' alleged coercion would "affect the factual record"). Because we are not opening an investigation, we voted to close the file as to these allegations.

4 Alec MacGillis, *Coal Miner's Donor*, THE NEW REPUBLIC (Oct. 4, 2012) (*found in* Compl., Ex. A at 2, MUR 6661 (Murray Energy) (Oct. 9, 2012)).

5 *Id.* at 3.

6 *Id.*

affect their jobs. Cochenour further alleged she may have been terminated for not contributing to MECPAC.[7] On July 27, 2015, after Cochenour and the alleged source of the coercive statement were deposed, the parties dismissed Cochenour's suit. The Commission agreed to consider evidence adduced in Cochenour's civil action to determine whether there was reason to believe that she was coerced to make political contributions.

In a joint Response, the Respondents denied the allegations and submitted several documents to demonstrate that their solicitations complied with the law. The Response also included the sworn statement of Michael Ruble, MECPAC's treasurer and a human resources official at one of Murray Energy's component subsidiaries, who stated that MECPAC's solicitation practices were carefully tailored to comply with the law and that he was unaware of any coercion or reimbursement of political contributions.[8] The Respondents also submitted Supplemental Responses with new information, including excerpts of depositions taken in the Cochenour lawsuit, which rebutted the allegations in the Supplemental Complaint arising from Cochenour's wrongful termination suit.

II. ANALYSIS

A. The Record Does Not Establish Reason to Believe that MECPAC Made Contributions or Expenditures Using Coerced Contributions.

Complainant alleged that MECPAC made contributions and expenditures using coerced contributions.[9] The Act prohibits SSF from making contributions and expenditures "secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal."[10] The record evidence, however, fails to demonstrate that any contributions to MECPAC were secured by physical force, job discrimination, financial reprisals, or threats thereof. The evidence before us includes:

- Three solicitations from MECPAC and Robert Murray, dated June 27, 2008, August 28, 2010, and September 15, 2010;
- An anonymous allegation in the *New Republic* article concerning statements made in a job interview to the anonymous source;
- Anonymous allegations in the *New Republic* article concerning the sources' perception of pressure to contribute;

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7 Compl., ¶¶ 8, 19, 34, *Cochenour v. Murray, et al.*, Civ. No. 14-681 (Monongalia Cty, W. Va. Cir. Ct. Sept. 4, 2014) (*found in* Suppl. Compl., Ex. A, MUR 6661 (Murray Energy) (Sept. 16, 2014)).

8 Additionally, the *New Republic* article also quoted statements by Murray Energy's general counsel, Mike McKown, asserting that there was no coercion or reimbursement of contributions.

9 Compl. at 5.

10 52 U.S.C. § 30118(b)(3)(A); *see also* 11 C.F.R. § 114.5(a).

- Internal memoranda between Robert Murray and managers;
- Information from a wrongful termination suit filed against Murray and Murray Energy; and
- Statements attributed to Murray Energy's general counsel, as well as a sworn declaration of the MECPAC treasurer, who also served as a human resources officer in a subsidiary of Murray Energy.

We review this information below.

1. MECPAC's Written Solicitations Complied With the Act and Commission Regulations And, In Any Event, Are Beyond the Statute of Limitations.

A corporation may freely solicit members of the restricted class for contributions to the corporation's SSF.[11] The Act and Commission regulations, however, seek to prevent coerced contributions to SSFs by requiring employers and SSFs, at the time of each solicitation, to inform the employee of "the political purposes of the fund at the time of such solicitation" and "his or her right to refuse to so contribute without any reprisal."[12] The Commission has concluded that a solicitation that clearly indicates that contributions are voluntary satisfies the Act and these regulations.[13] Commission regulations further require that, if a solicitation to an SSF also suggests a contribution amount, then the solicitation must also inform the employee "[t]hat the [contribution amount] guidelines are merely suggestions," "the individual is free to contribute more or less," and "the corporation . . . will not favor or disadvantage anyone by reason of the amount of their contribution or their decision not to contribute."[14]

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11 52 U.S.C. § 30118(b)(2)(C).

12 52 U.S.C. § 30118(b)(3)(B)-(C); 11 C.F.R. § 114.5(a)(3)-(5). These requirements apply to all solicitations directed to any employee for SSF contributions. Section 30118(b)(4), however, draws a distinction between solicitations directed to executive or administrative personnel and those sent to rank-and-file employees and limits to twice annually the number of SSF solicitations that may be directed to rank-and-file employees. *See* 52 U.S.C. § 30118(b)(4); *see also* 52 U.S.C. § 30118(b)(7) (defining "executive or administrative personnel" to be "individuals employed on a salary, rather than hourly, basis and who have policymaking, managerial, professional, or supervisory responsibilities"). Because the solicitation practices in this matter appear to have been aimed only at Murray Energy's executive or administrative personnel, we agree with the Office of General Counsel's conclusion that section 30118(b)(4)'s limitation on the number of solicitations to other employees is not at issue. *See* First General Counsel's Report at n.61.

13 *See* Commission Certification, MUR 5666 (MZM) (July 24, 2007) (approving General Counsel recommendation); General Counsel's Rpt. #2 at 12-13, 19, MUR 5666 (MZM) (recommending that the Commission find no violation where, without evidence of specific threats or reprisals, SSF solicitation "clearly indicated that contributions were voluntary").

14 11 C.F.R. § 114.5(a)(2), (5).

Though outside the statute of limitations, the record evidence in this matter includes three MECPAC solicitations from 2008 and 2010, each of which included the necessary voluntariness disclaimers.

a. June 27, 2008 Letter from Michael Ruble

The earliest solicitation is a letter dated June 27, 2008, from Michael Ruble,[15] the MECPAC treasurer. Ruble served as a human resources official at a subsidiary of Murray Energy. Ruble's letter contains the following language:

> We have previously identified one percent (1%) as a suggested contribution level. Of course, you may contribute more or less than the suggested guideline and all contributions are strictly voluntary. You will not be favored or disadvantaged in your employment based on the amount contributed or the decision not to contribute.

Because the solicitation occurred eight years ago (and approximately four years before the Complaint was filed), it was made well outside the Act's five-year statute of limitations and thus any potential violation arising from a 2008 solicitation would be time-barred. Although the solicitation appears to concern a payroll deduction plan for contributions to MECPAC that might have continued into the limitations period,[16] it closely tracks and thus satisfies the disclaimer requirements set forth in 52 U.S.C. § 30118(b)(3)(B)-(C) and 11 C.F.R. § 114.5(a)(2), (5).

b. August 28, 2010 Letter from Robert Murray

The second MECPAC solicitation is an August 28, 2010 letter addressed to Murray Energy's restricted class.[17] It states contributions are "strictly voluntary."[18] The Commission has previously concluded solicitations that clearly indicate that contributions are voluntary satisfy the Commission's anti-coercion disclaimer regulation in the absence of other evidence of coercion.[19] And in any event, any potential violation in connection with this solicitation is beyond the statute of limitations.

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15 Ltr. from Michael Ruble, MECPAC Treasurer (June 27, 2008) (attached to the Response as Exhibit 4). Additionally, Ruble's sworn declaration is included in the initial Response.

16 Resp. at 9 (referring to this letter as containing the "standard" disclaimer language in MECPAC's solicitations).

17 Ltr. from Robert E. Murray (Aug. 28, 2010) (attached to the Response as Exhibit 3) (referring to the recipients as the "Executive Class").

18 *Id.*

19 *See* Commission Certification, MUR 5666 (MZM) (July 24, 2007) (approving General Counsel recommendation that the Commission find no violation where, without evidence of specific threats or reprisals, an SSF solicitation "clearly stated" that contributions were voluntary); General Counsel's Rpt. #2 at 12-13, n. 11, MUR 5666 (MZM).

c. September 15, 2010 Letter from Robert Murray

The third MECPAC communication in the record is a September 15, 2010 letter, which enclosed the lawful August 28, 2010 letter. In the September 15, 2010 letter, Murray writes: "The response to [the enclosed August 28, 2010] letter has been poor . . . If we do not win this election, the coal industry will be eliminated and so will your job, if you want to remain in this industry. Please positively respond to our request." Significantly, because the September 15, 2010 letter included as an attachment the August 28, 2010 letter, the September 15 letter included the disclaimer that contributions were "strictly voluntary" and thus it too sufficiently complied with the anti-coercion disclaimer requirements.

Additionally, while the letter expresses Murray's belief that the election is important to the continued existence of the coal industry, and thus the recipients' jobs, it does not threaten a reprisal if employees do not contribute. Rather, the reference to jobs seems part of a broader statement regarding the effect of public policy on the coal industry and the relative importance of the election to the coal industry, not a threat to fire employees who fail to contribute. To interpret such a statement as coercive would vitiate the right of companies and their SSFs to solicit the restricted class, or otherwise discuss public policy issues affecting a company.

Finally, like the prior two solicitations, the record does not include any allegation of threats or reprisals in connection with this solicitation.[20] In any event, any potential violation arising from this solicitation is beyond the statute of limitations.

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The Commission has previously concluded that, in the absence of other evidence of coercion, solicitations clearly indicating that contributions are voluntary satisfy the Commission's anti-coercion disclaimer regulation.[21] Each of these solicitations did so. Therefore, because the MECPAC solicitations comply with the anti-coercion disclaimer requirements, we could not support the recommendation to find reason to believe that MECPAC violated 52 U.S.C. § 30118(b)(3)(B)-(C) or 11 C.F.R. § 114.5(a)(3)-(5) and proceed with an investigation. And in any event, any violations would be beyond the five-year statute of limitations

[20] Moreover, MECPAC's 2010 October Quarterly Report disclosed that MECPAC received approximately the same amount of contributions after this solicitation as it did in the same period addressed in its 2014 October Quarterly Report (the next non-presidential general election year). The absence of an unusual amount of contributions does not support a finding that contributions were in fact coerced at the time of the September 15, 2010 letter.

[21] *See infra* II.A.3; Commission Certification, MUR 5666 (MZM) (July 24, 2007) (approving General Counsel recommendation); General Counsel's Rpt. #2 at 12-13, 19, MUR 5666 (MZM) (recommending that the Commission find no violation where, without evidence of specific threats or reprisals, SSF solicitation "clearly indicated that contributions were voluntary").

2. An Anonymous Allegation About a Statement Made by an Unknown Person at an Unknown Time and Location Fails to Establish Reason To Believe That Respondents Coerced Contributions to MECPAC.

The *New Republic* article on which the original Complaint was based asserted that "[a]t the time of hiring, supervisors tell employees that they are expected to contribute to the company PAC by automatic payroll deduction—typically one percent of their salary[.]"[22] The article cited Source A, an unidentified person. Source A claimed that, in an employment "interview," he or she "was told that I would be expected to make political contributions—that [Murray] just expected that."[23] For several reasons, Source A's assertions are an insufficient basis to find reason to believe.

First, an anonymous, unsworn, hearsay statement (reprinted in a news article or not) presents legal and practical problems for the Commission and respondents. The Act requires complaints to be sworn subject to penalty of perjury, and the Commission may not take any action, let alone conduct an investigation, solely on the basis of an anonymous complaint.[24] Thus, allegations based upon unsworn news reports, anonymous sources, and an author's summary conclusions and paraphrases provide questionable legal basis to substantiate a reason to believe finding. Further, the Commission may not be able to readily locate an anonymous source to verify the accuracy of the person's statements, the context of the purported statements, or assess credibility.[25] Accordingly, any probative and evidentiary value of the *New Republic* article cited in the complaint is quite limited.

Second, even if we were to credit the anonymous statements in the unsworn article, neither of the two sources stated that they in fact made contributions to MECPAC, much less that they did so because they were coerced through offhand statements made by unnamed supervisors at unidentified facilities during their employment interviews.

Third, there are strong reasons to question the significance of Source A's statements. The article contends that Source A's allegation is confirmed by the June 27, 2008 MECPAC solicitation addressed above. But that letter states that a one-percent contribution is merely *suggested*, and as the article itself notes, that letter includes all of the required anti-coercion statements. And the article states that each employee signed a form acknowledging that their MECPAC contributions were voluntary. This raises the prospect that Source A (as well as the article's author) characterized a wholly *lawful* MECPAC solicitation as coercive.

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22 Compl., Ex. A at 3, MUR 6661 (Murray Energy) (Oct. 9, 2012). The author of the article is not a witness before the Commission. The assertions in the article are unsworn and anonymously sourced, limiting the propriety and probative value of the article.

23 *Id.*

24 52 U.S.C. § 30109(a)(1).

25 We would decline to pierce a reporter's privilege in this case.

Finally, even if the remark to Source A was accurate and constituted an impermissible threat or reprisal, it is outside the statute of limitations. The article did not indicate when this alleged statement was made to Source A. Other information in the article, however, strongly suggests that Source A was hired before the 2008 election, and Source A said he was told this during an initial job *interview*.[26] Thus, even assuming the statement was impermissible, it appears to have been made prior to 2008—outside the five-year statute of limitations.

For these reasons, the statements in the *New Republic* article regarding Source A's job interview are legally problematic and do not provide reason to believe that contributions to MECPAC were coerced.[27]

3. There is No Reason To Believe That Murray Energy Coerced Contributions to MECPAC Because Employees Felt Pressured By Receiving Multiple Non-Coercive Solicitations.

The original Complaint also bases its allegations on the fact that Source A in the *New Republic* article stated that he or she felt pressure to contribute—but provided no specific examples of threats or reprisals that would give rise to a reason to believe finding that Respondents actually coerced a contribution to MECPAC. Source A stated: "There's a lot of coercion . . . I just wanted to work, but you feel this constant pressure that, if you don't contribute, your job's at stake. You're compelled to do this whether you want to or not." Source B similarly states that "[i]t's expected you give Mr. Murray what he asks for" and that "[t]hey will give you a call if you are not giving." Source B, too, provided no specific examples of statements or actions constituting coercive threats or reprisals for not contributing. Thus, at bottom, Source A and Source B allege that they felt pressured because they received repeated solicitations. Source A is less clear about the number of solicitations, but Source B provides some specificity in that he or she noted that those who do not contribute when solicited may receive a second solicitation.

There are several reasons not to pursue enforcement on these allegations. First, for the same reasons noted above, allegations based upon unsworn news reports, anonymous sources, and an author's summary conclusions and paraphrases are of questionable legal basis to substantiate a reason to believe finding.

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[26] The article addressed Murray Energy practices based upon the sources' complaints about the frequency of solicitations before the *2008 election*, including the 2008 MECPAC solicitations analyzed above.

[27] Additionally, even if accurate, the anonymous sources' allegations raise practical investigatory concerns. As noted, the anonymous sources did not state when the allegedly coercive representations were made, who made them, or in which facility or state they were made. To pursue an investigation without any such leads would present numerous practical difficulties. Additionally, the alleged violations are outside the Commission's five-year statute of limitations at 28 U.S.C. § 2462. Had we not concluded that there was no reason to believe the allegations, these circumstances would nonetheless have supported a conclusion that the matter should be dismissed as a matter of prosecutorial discretion. *See Heckler v. Chaney*, 470 U.S. 821, 832 (1985).

Second, and more significantly, the Act and Commission regulations permit multiple solicitations directed to an employer's restricted class without any express limit. In contrast, the Act limits to two per calendar year the number of times "any . . . employee of a corporation [other than a member of the restricted class]" may be solicited.[28] We cannot infer a violation of the Act from conduct that the Act permits.

Third, we cannot find that an employer coerced contributions solely upon an employee's subjective perception, particularly where that perception stems from the receipt of an otherwise lawful solicitation that substantially complies with the Act and the Commission's anti-coercion disclaimer requirements. Soliciting another person to give money to a candidate or political committee may naturally be uncomfortable to the solicited individual. That is no less true in the context of a supervisor-subordinate relationship.[29] But a solicitation is at its core a protected First Amendment activity with only modest requirements and limitations imposed by the Act. Thus, a Commission reason-to-believe finding on the Act's anti-coercion provision demands objective, demonstrable evidence, and cannot singularly rest on the subjective perceptions of the solicited individual. To conclude otherwise risks converting any permissible solicitation of an individual in the restricted class (or, for that matter, outside the restricted class) into a coercive solicitation, and would depend entirely on the subjective perception of the solicited individual.[30]

Indeed, in order to draw a clear, objective line between permissible restricted-class solicitations and prohibited coercion, the Act and Commission regulations require workplace solicitations to contain certain voluntariness disclaimers. Absent demonstrable, objective evidence of threats or reprisals, employers may rest on their compliance with the Commission's anti-coercion regulations.

Our conclusion here is in line with prior matters. In MUR 5666 (MZM; Mitchell Wade, *et al.*), the Commission found reason to believe the respondents coerced contributions because: (1) the allegations were "quite specific as to the degree of coercion and the amounts expected to be given by the MZM employees"; (2) the alleged coercion scheme was "substantially similar to the scheme Wade engaged in to direct straw contributions . . . as admitted in his [prior criminal] plea agreement"; (3) and the respondents did not answer the allegations in the complaint.[31] There is no comparison between the record before the Commission in *MZM* and the one presented here, which comprises vague, unsubstantiated, and stale allegations that are rebutted by the solicitations in the record and the Response and its accompanying sworn statement.

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[28] 52 U.S.C. § 30118(b)

[29] The Commission has countenanced supervisor solicitations of subordinates notwithstanding the possible pressure that might be perceived in such solicitations. Explanation and Justification for 11 C.F.R. § 114.5 (*found in* Communication from the Chairman, Federal Election Commission, H.R. Doc. No. 95-44, at 106-109 (1977), *available at* http://www.fec.gov/law/cfr/ej_compiliation/1977/95-44.pdf.

[30] The Supreme Court has observed that "the law could not 'control the mental reaction'" of those solicited under the Act's precursor. *Pipefitters Local Union No. 562 v. United States*, 407 U.S. 385, 431 (1972).

[31] Factual and Legal Analysis at 9, MUR 5666 (MZM).

The Commission's subsequent "extensive investigation" in *MZM* revealed even more egregious circumstances than those alleged here—and yet there was no coercion. Specifically: (1) "employees described an environment where MZM and Wade emphasized the importance of MZM's political activities"; (2) MZM "newsletters regularly highlighted MZM's political activities, including congressional fundraisers and other events, as well as the fundraising efforts of MZM PAC"; (3) employees made contributions to MZM PAC "because they believed it was expected that executives contribute"; (4) "employees described a situation where they felt pressure to contribute to MZM PAC in part because Wade had a volatile personality and they were afraid that they would not be able to advance in the company if they were on bad terms with Wade"; and (5) "MZM employees were motivated to make contributions in part because of what they described as their fear of Wade's volatile personality.[32] OGC nevertheless concluded that the "pressure" some employees felt "to make contributions to MZM PAC . . . was created primarily by the nature of MZM as a highly-compartmentalized company run by a temperamental boss and not by any specific actions or statements by Wade or MZM officials."[33] Thus, "there is insufficient evidence to establish that MZM employees were coerced into contributing to MZM PAC . . . . it appears that many MZM employees made contributions to MZM PAC in part to stay on good terms with Mitchell Wade and not because they were coerced to contribute by Wade or any corporate officers of MZM."[34] On OGC's recommendation, the Commission took no further action and closed the file as to the coercion allegation.[35] The allegations against Murray, Murray Energy, and MECPAC similarly comprise subjective statements about perceived pressure but lack "any specific actions or statements" by the Respondents that provide reason to believe employees were coerced.

MUR 5337 (First Consumers National Bank), in which the Commission and respondent conciliated allegations that the bank coerced contributions, is distinguishable but instructive. Not only did a bank president publish the names of managers who had not yet made a contribution, his assistant sent an email to managers stating that "quite a few" had not turned in their contribution and the bank president "would appreciate your contribution check[.]" The solicitations did not include the necessary disclaimers. The Commission concluded that the absence of the anti-coercion disclaimer required by 11 C.F.R. § 114.5(a)(4), combined with the president's strong language and circulation of the names of non-contributing managers, was coercive and failed to satisfy the requirements of 11 C.F.R. § 114.5(a)(2)-(4).[36] No similar solicitation lacking disclaimers is before us here, either directly from Murray or from one of his subordinates; nor is there evidence that Murray similarly published a list of individuals who had not yet contributed.

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32 General Counsel's Rpt. #2 at 12-13, MUR 5666 (MZM)

33 *Id.* at 13 (emphasis added). OGC also found no "evidence that any employee was subject to financial retribution, adverse employment action or other reprisals for failing to contribute to MZM PAC." *Id.* at 13-14.

34 *Id.* at 19.

35 *Id.*; Commission Certification, MUR 5666 (MZM) (July 24, 2007).

36 *See* Conciliation Agreement ¶¶ IV.10-12, MUR 5337 (First Consumers National Bank).

The present matter is also distinguishable from MUR 5681 (High Point Regional Association of Realtors). In that matter, the Commission concluded that the respondent coerced contributions by publishing the names of non-contributing individual members. The solicitations, too, failed to include the anti-coercion disclaimers.[37]

And this matter is distinguishable from the extreme facts in MUR 5379 (Care Plus). There, one solicitation from a CEO both lacked an anti-coercion disclaimer and made a point of warning the solicitation's recipients that their responsiveness would be tracked. A second solicitation also lacked the required disclaimers, while supervisors affirmatively informed employees that contributions were expected.[38] While tracking contributions in itself is required to satisfy the Act's reporting and recordkeeping provisions, the coercive nature of the solicitation was established by the CEO's call for contributions in conjunction with an admonition in the solicitation that responses would be tracked and the lack of anti-coercion disclaimers. There are no comparable facts here.

4. Internal Memoranda Between Murray and Certain Managers About the Employee Participation in Candidate Fundraisers Are Not MECPAC Solicitations And Do Not Establish A Reason To Believe That MECPAC Contributions Were Coerced.

Although the original Complaint focused on allegedly coerced contributions to MECPAC as described in the *New Republic*, OGC's recommendations are based also on documents submitted by Respondent; specifically, two communications from Murray to certain Murray Energy managers, which were not MECPAC solicitations.[39]

The first was an August 3, 2011 Memo to a set of managers reminding them of an upcoming fundraiser. Murray writes that he is "asking" Murray Energy managers "to rally all of your salaried employees and have them make their contribution to our event as soon as possible."[40] In this memo, Murray stated that contribution checks should be made payable directly to the candidates and that "[w]e need both their contribution and their attendance at this special evening. Our efforts in Washington, D.C. cannot be accomplished without everyone's

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37 Factual and Legal Analysis at 1-4, MUR 5681 (High Point Regional Association of Realtors). In MUR 6129 (ARDA-ROC PAC), the Commission similarly determined that there was reason to believe that respondent violated the Act because three of four SSF solicitations made by the respondent did not include the assurances required in the Commission's regulations at 11 C.F.R. § 114.5. Factual and Legal Analysis at 4, MUR 6129 (ARDA-ROC PAC).

38 Factual and Legal Analysis at 1-4, MUR 5379 (Care Plus Medical Centers, Inc.).

39 *See* Revised First General Counsel's Report at 5-6 (Feb. 1, 2016).

40 Resp. Ex. 8.

help. Please see that our salaried employees 'step up', for their own sakes and those of their employees."[41]

This Memo does not solicit contributions to MECPAC. And although Murray's Memo did not mince words about his view of the importance of the fundraiser to the industry, he does not direct managers to coerce employees' contributions and there is no evidence in the record that any manager subsequently coerced contributions.

The record also includes a March 7, 2012 Memo from Murray to his managers in which he laments the "very bad," and worsening, attendance at the fundraisers and states that they must stop hosting them.[42] Murray's statements that the events were poorly attended and that they must be discontinued is in tension with the proposition that Murray's employees were coerced into attending fundraisers—or even that employees attended because they felt coerced. The Memo refers to certain managers "asking" the "salaried employees" to give three hours of time every two months. A plain reading of Murray's statement ("What is so difficult about asking . . .") suggests that Murray was upset because he concluded that the low attendance was due to the managers *not even asking* the employees to attend. (This further suggests that the earlier memo and solicitation practices were not coercing contributions.) And although Murray also says that "[w]e have been insulted by every salaried employee who does not support our efforts," he does not tell his managers to remedy the situation through threats or reprisals, and there is no evidence that indicates any threats, reprisals, or coerced contributions arose in response to this memo. In any event, this memo did not address the subject of this matter—contributions to MECPAC.

In sum, the two internal memos are not solicitations, much less MECPAC solicitations, and while they are strongly worded, they do not evidence acts of coercion. Thus, they do not provide us reason to believe employees were actually threatened or fired in order to extract non-voluntary political contributions.

5. Information from a Wrongful Termination Suit Does Not Corroborate the Allegations.

In addition to the original Complaint, a Supplemental Complaint was filed on September 16, 2014. It is based on allegations made in a wrongful termination suit filed by a former employee, Jean Cochenour, against Murray and Murray Energy on September 4, 2014. According to the Supplemental Complaint, Cochenour was a foreperson who alleged she was threatened "with the loss of employment in an effort to influence her political action . . . . and

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[41] Although "salaried employees" is not a perfect match for "restricted class," it does appear that the subsequent solicitations that this memo encouraged the recipient managers to make would be solicitations of the restricted class.

[42] Resp. Ex. 9.

that she was wrongfully terminated because of her failure to contribute to the candidates and committees of Murray's choice."[43]

Because this fact-specific allegation made by an identified employee, if true, would constitute coercion under the Act, and was asserted pursuant to Rule 11 of the Federal Rules of Civil Procedure, we considered this supplement to be significant. Therefore, we authorized the Office of General Counsel to collect information about the pending lawsuit. Upon further review, however, Cochenour's allegations did not substantiate a reason to believe finding.

a. Cochenour Was Not a Murray Energy Employee

First, Cochenour stipulated that she was not a Murray Energy employee. Thus, her suit does not generally corroborate the allegation that MECPAC used coerced contributions from Murray Energy employees.[44]

b. Cochenour Made No Contribution to MECPAC and Provided No Evidence She Was Subjected to a Reprisal

Furthermore, Cochenour's allegation was equivocal. She alleged that she was fired "because of an animus against her as the only female foreman at the mine *and/or* because of her failure to donate to the candidates of Murray's choice."[45] In her deposition, Cochenour testified that she hardly read Murray's solicitations before discarding them (like the solicitations described above, they did not contain coercive language), did not remember for whom they solicited contributions, and did not make any contributions. During discovery, Cochenour produced a solicitation from Murrary, dated August 27, 2011—over two years before the mine where she worked was purchased by a Murray-affiliated company.[46] Subsequently, during a deposition, counsel for Murray showed the solicitation to Cochenour; she testified that she had never seen the letter until her lawyer showed it to her.[47] That letter had been given to Cochenour's counsel with the recipient's name already redacted and Cochenour did not know who the recipient was.[48] Her counsel also possessed a Murray solicitation letter dated March 7, 2012—21 months before her mine was purchased by a Murray company. Again Cochenour knew nothing about it.[49] The recipient's name was redacted on that letter as well.[50]

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43 Supp. Compl. at 1.

44 Stipulation, *Cochenour v. Murray, et al.*, Civ. No. 14-681 (Monongalia Cty, W. Va. Cir. Ct. Dec. 12, 2014).

45 Cochenour Compl. ¶ 34 (italics added).

46 Cochenour Dep. at 100-101.

47 *Id.*

48 *Id.* at 102-103.

49 *Id.* at 104.

50 *Id.*

Cochenour's counsel acknowledged that these letters were documents appended to the 2012 *New Republic* article.[51] In response to an interrogatory asking for the basis of her allegation that she was fired for not making contributions, Cochenour responded that it was "still under investigation."[52]

Accordingly, on this record, information from the Cochenour lawsuit does not support finding reason to believe that she was terminated as a reprisal for failing to contribute to MECPAC, that she ever contributed to MECPAC, much less that she was coerced into making any contribution, or indeed that she was employed by Murray Energy at the time of the solicitations.

c. Alleged Hearsay Was Not Coercion

Available evidence fails to support other allegations made in the Supplemental Complaint. The Supplemental Complaint alleges that "[a]t least one manager at the Marion County mine told Ms. Cochenour and other foremen that failing to contribute as Mr. Murray requested could adversely affect their jobs."[53] The allegation is phrased in such a way that a reader could infer that the manager thus threatened Cochenour and the other forepersons with a reprisal if they did not contribute. In Cochenour's deposition, however, she testified only that "on a couple of occasions" during a shift change, an employee named Randy Tenant "said that if we didn't contribute that it could affect our jobs."[54] She clarified that he said "You guys do what you want, but it could affect your jobs if you don't do it."[55] The alleged statement in context thus appears to be Tenant stating his own personal opinion, in general terms, not threats made while soliciting contributions to MECPAC.

According to Cochenour, Tenant did not say what the basis of his comment was, did not say he had spoken with Murray, and did not say how he could know what Murray expected.[56] Cochenour also could not remember whether Tenant identified any employee whose job was adversely affected by not making a contribution.[57] And Cochenour could not name a single employee who, to her knowledge, had their job adversely affected because they did not attend a fundraiser.[58] Cochenour chose not to make a contribution and told others at the time that she

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51 *Id.* at 105.

52 Cochneour Dep. at 144.

53 Supp. Compl. at 1; Cochenour Compl. ¶ 19.

54 Cochenour Dep. at 114-115.

55 *Id.* at 115.

56 *Id.*.

57 *Id.* at 116.

58 *Id.* at 118.

was not going to contribute.[59] Other than Tenant's ambiguous comments during these two occasions, nobody made any other statements that could even possibly be interpreted to say that political contributions were a condition of employment or threatened her job if she refused to make a contribution.[60]

Randy Tenant was also deposed and testified that there were rumors and discussions among coal miners about Murray wanting people to make contributions and whether or not contributing could affect their jobs when Murray's company took over their mine.[61] He "heard it from all the foremen[.]"[62] Cochenour's attorney asked him "And isn't it true, Mr. Tenant, that you, at one or more times, expressed your own personal feeling that it could affect your job?"[63] To which he responded that "I never really believed that [] you would get fired if you didn't pay into the contribution. I believed that as far as affecting your job, if you donated and the right people got into office, it could help your job."[64] He told people, "probably" including Cochenour, that he was donating, but not that he thought it would affect his job.[65] He testified that nobody in authority ever told him that if he did not contribute, it could affect his job, and he never talked to any managers about their contributions.[66]

d. The Evidence Does Not Suggest that Coercion Took Place at the Murray College for Managers

The Supplemental Complaint also alleges that "Ms. Cochenour specifically corroborates the allegations of the Complaint in MUR 6661" because she "alleges Mr. Murray and [Murray Energy] told managers at the company's 'college' for managers that managers are expected to contribute one percent of their salaries to [MECPAC]."[67] In her deposition, however, Cochenour testified that she never attended the Murray College.[68] When asked if Murray said he demands contributions, Cochenour testified she did not "know if [Murray] said he demands it," but that she heard from a foreman who "was in a meeting with Mr. Murray at his Murray College when Murray asked for a show of hands of who was contributing and who wasn't."[69] Other than that,

59 *Id.* at 116, 124, 147.

60 *Id.* at 124-125.

61 Tenant Dep. at 40-41, 49, 51.

62 *Id.* at 42.

63 *Id.*

64 *Id.* at 49-50.

65 *Id.* at 50.

66 *Id.* at 51, 53.

67 Supp. Compl. at 1; Cochenour Compl. ¶ 17.

68 Cochenour Dep. at 145.

69 *Id.* at 119-121, 123.

Cochenour had no testimony to provide regarding coercion and testified repeatedly that her "lawyers may have that information."[70]

Tenant testified in his deposition in the Cochenour litigation that he attended the Murray College.[71] When first asked, he did not remember political contributions being discussed at all, but he then testified that "I think [Murray] did ask people to contribute . . . I remember him talking about the war on coal and that he – he was having certain politicians – he was checking them out, and – he would have us donate or offer to donate to those people to help the war – help us retain our jobs, for the war on coal."[72] According to Tenant, Murray said that "it could help save our jobs as far as coal to get the right politicians into office to help try to get some of the – the EPA from pretty well destroying our – our jobs, regulating us out of business."[73] Tenant testified that Murray asked people to raise their hands if they donated and then explained why they should donate "to help these politicians get into office to help us[.]"[74] Of the 40 or 50 people present, Tenant testified that 80 percent raised their hands.[75] Tenant did not recall the subject of MECPAC coming up at the meeting.[76]

The sworn testimony of Cochenour and Tenant, therefore, does not support the allegation in the Supplemental Complaint that at the Murray College, Murray told employees that they must contribute 1% of their salary to MECPAC. This allegation appears to have been based instead upon either the similar claim of an anonymous source in the *New Republic* article and/or upon the MECPAC contribution solicitation that indeed "suggested" that amount but, as established above, did so in compliance with the Commission's anti-coercion regulations.

Accordingly, the testimony of Cochenour and Tenant does not support the allegation that Murray Energy or Murray coerced contributions to MECPAC, or that MECPAC used coerced contributions.

6. The Record Evidence Corroborates the Respondents' Submissions and Public Statements.

The *New Republic* article (to the extent it were credited) quotes Murray Energy general counsel, Mike McKown, who stated that employees are not required to donate to MECPAC and

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70 *Id.* at 120-121.

71 Tenant Dep. at 42.

72 *Id.* at 43.

73 *Id.* at 48.

74 *Id.*

75 *Id.* at 44. Tenant testified that Murray also gave a two-and-a-half to three-hour speech to the employees of the Marion County Coal Company mine but Tenant did not remember Murray saying he wanted people to contribute. *Id.* at 38, 42, 47.

76 *Id.*

are not reimbursed. McKown reportedly explained that the company "follow[s] carefully" the Commission's "rules about what employees can be solicited and how they can be solicited[.]" "I've never ever seen people pay any consequence for giving or not giving to [MECPAC] or events," McKown stated.

The Response includes the declaration of Michael Ruble. He is the treasurer of MECPAC, oversees the MECPAC solicitation process, and is the human resources director at Murray Energy subsidiary American Energy Corporation. According to the contribution summary chart attached as Exhibit 10 to the Response, that subsidiary included one of the top three largest groups of solicited Murray Energy employees as of October 2011 (150 employees solicited, as compared to 6-72 at the remaining eight subsidiaries, and only behind two other subsidiaries with 225 and 161 solicited employees, respectively). In his capacity as an HR manager, Ruble is involved in conducting interviews and hiring for all employees of American Energy Corporation, disciplinary actions taken against any employees, development of pay and benefit policies, and development of company policies and procedures. Accordingly, Ruble has substantial personal knowledge about the solicitations and employment practices that are the subject of his declaration and the allegations in the Complaint.

Consistent with the contemporaneous MECPAC solicitations analyzed above, Ruble declared that solicitations to MECPAC include the required notice that making contributions is voluntary. He further stated, consistent with the record evidence, that when a guideline contribution amount is suggested "to management personnel, such as 1% of salary, care also is taken to include the required notice that this is just a suggestion and such a decision is voluntary." And, Ruble declared that he is not aware of any employee or prospective employee being told by anyone at Murray Energy or its related companies that they were "expected" to contribute to MECPAC. He notes that of 354 managers solicited, only 151 made contributions, and to his knowledge, no employee suffered reprisals for not contributing or contributing less than requested to MECPAC.

7. On This Record There Is No Reason To Believe Respondents Coerced Contributions.

Considering the number of solicited and contributing Murray Energy employees over the course of several election cycles, the absence of any evidence of threats, reprisals, or coercive solicitations attenuates the allegations in the Supplemental Complaint. Considering also the clear anti-coercion language in the MECPAC solicitation we have in the record, the Commission's past practice that distinguishes between an employer's affirmative coercive acts and the mere subjective feelings of employees, the statement of Murray Energy's general counsel, and the sworn declaration of MECPAC's treasurer, we concluded there was no reason to believe the allegation that MECPAC made contributions or expenditures using contributions secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal in violation of 52 U.S.C. § 30118(b)(3)(A).

B. The Record Does Not Establish Reason to Believe that Murray Energy Made Contributions In the Names of its Employees.

The Act and Commission regulations prohibit a person from making a contribution in the name of another or knowingly permitting his or her name to be used to effect such a contribution.[77] This prohibition extends to those who knowingly "help or assist any person in making a contribution in the name of another.[78] Commission regulations also prohibit an employer from paying an employee "for his or her [SSF] contribution through a bonus, expense account, or other form of direct or indirect compensation."[79]

The sole indication in the record of any kind of possible nexus between Murray Energy's compensation of employees and employee contributions is in the *New Republic* article, where anonymous Source A reports being told in an interview that "bonuses would more than make up" for contributions.[80] Although not clear from the article, it appears that the interview occurred either at the time that Source A was hired or shortly thereafter. The article does not indicate, however, whether Source A in fact made any contributions and, if so, whether the contributions were reimbursed, or the year in which the interview took place. Given that the solicitations discussed in the *New Republic* article took place during the 2008 election, Source A's job interview would have taken place even earlier, well outside of our five-year statute of limitations.

Additionally, a statement promising that bonuses would more than make up for contributions does not support a reason to believe that Murray Energy made contributions in the name of another. On its face, the statement merely informs a new hire that he or she will make enough money to be able to afford to make contributions, not that his or her contributions will be reimbursed. There is nothing in the complaint or elsewhere in the record indicating that the company in fact reimbursed employees for contributions or tied employee bonuses to contributions.

Weighing against this contradictory evidence, in the same *New Republic* article (to the extent it were credited) Murray Energy's general counsel reportedly denied that employees are reimbursed and disputed any suggestion that employees who contributed received larger bonuses. Additionally, Michael Ruble, MECPAC's treasurer and an MEC subsidiary's human resources official, stated under oath that he is not aware of any employee or prospective

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77 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f); 11 C.F.R. § 110.4(b)(1)(i)-(iii). Just as one may not make a contribution in the name of another, the Act and Commission regulations also prohibit a person from knowingly accepting a contribution made by one person in the name of another person. 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f); 11 C.F.R. § 110.4(b)(1)(iv).

78 11 C.F.R. § 110.4(b)(iii). This includes "those who initiate or instigate or have some significant participation in a plan or scheme to make a contribution in the name of another." Affiliated Committees, Transfers, Prohibited Contributions, Annual Contribution Limitations and Earmarked Contributions, 54 Fed. Reg. 34,098, 34,105 (Aug. 17, 1989) (explanation and justification).

79 11 C.F.R. § 114.5(b)(1).

80 Alec MacGillis, *Coal Miner's Donor*, THE NEW REPUBLIC (Oct. 4, 2012) (*found in* Compl., Ex. A at 3, MUR 6661 (Robert E. Murray, *et al.*) (Oct. 9, 2012)).

employee being told by anyone at Murray Energy or its related companies that their contributions would be—or in fact were—reimbursed through bonus payments. As a company officer responsible for all MECPAC solicitations, familiar with the political fundraising practices of company management, and involved in interviewing and hiring employees, in disciplinary actions taken against employees for violations of company policies and procedures, in developing company pay and benefits policies, and in managing employee benefits, Mr. Ruble would be in a position to know if such statements or reimbursements were being made. We are also aware of no past Commission matter in which apparent compensation has been deemed to constitute a contribution in the name of another in the absence of any evidentiary link between that compensation and a contribution.

Accordingly, there was no reason to believe that the Respondents violated 52 U.S.C. § 30122, 11 C.F.R. § 110.4(b)(1)(i)-(iv), and 11 C.F.R. § 114.5(b)(1) by making or receiving contributions in the names of others.

III. OUR COLLEAGUES' STATEMENT OF REASONS MISSTATES THE FACTS AND THE LAW

On May 20, Vice Chairman Steven T. Walther and Commissioners Ann M. Ravel and Ellen L. Weintraub issued a Statement of Reasons taking issue with our decision in this matter. Their Statement contains several material errors of fact and law.[81]

First, our colleagues' Statement misstates the law of coercion. They claim that the Act prohibits "outside pressure" on an employee, that a violation occurs when an employee reports subjectively "feeling 'compelled' or 'coerced,'" and that "pressure is itself enough to constitute coercion."[82] These assertions of law are unsupported by any provision of the Act or Commission regulations. Members of the public and indeed veteran legal counsel would be hard pressed to ascertain what precisely these Commissioners would punish as forbidden "outside pressure." Because we are addressing the fundamental First Amendment rights of persons to engage in political speech, including asking one another to support or oppose one candidate or another, the proposal to punish people based upon subjective feelings, rather than objective, discernible actions, fails to give clear notice of the law and appears calculated to chill virtually all solicitations in the workplace. The Act does not authorize, and the First Amendment cannot tolerate, investigations into Americans' political activities based on unwritten and indiscernible standards.

Second, our colleagues' assertion that the record before us "clearly demonstrate[s] that there is reason to believe the allegations" because employees were "repeatedly targeted with solicitations [and] questioned if they declined to contribute"[83] similarly misstates the law and

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81 Statement of Reasons of Vice Chairman Steven T. Walther and Commissioner Ann M. Ravel and Commissioner Ellen L. Weintraub, MUR 6661 (Robert E. Murray, *et al.*) ("Walther, Ravel, and Weintraub SOR").

82 *Id.* at 1, 5.

83 *Id.* at 1-2.

facts. The recipients of these solicitations were members of Murray Energy's restricted class (that is, generally managerial personnel) and the Act and Commission regulations do not limit the number of times they may be solicited.[84] Further, there is no convincing evidence in the record that employees will be "questioned if they decline to contribute."[85] The basis for this allegation appears to be one statement by one of the *New Republic*'s anonymous sources who claimed: "They will give you a call if you're not giving" and the one example, from September 2010, of a followup MECPAC solicitation letter. Apparently, Commissioners Walther, Ravel and Weintraub would have us prohibit and investigate any time an employer follows up once on a solicitation after receiving no response. As a matter of black letter law, there is no such prohibition.

Third, the Complaint and the revised First General Counsel's Report on which the Commission voted were limited to allegations related to the solicitation practices of Murray Energy and its SSF, MECPAC. Our colleagues, however, seek to punish Robert Murray for his *personal* solicitations of others outside the workplace.[86] Again, no law is cited. Further, no personal solicitation in the record before the Commission directed employees to send their contributions to Murray Energy, as alleged in the article.[87] In any event, there is no allegation that these letters contained coercive content.

Fourth, the Statement relies on two memoranda and a letter that are either outside the statute of limitations, not solicitations, or not coercive for the reasons demonstrated above.[88]

Fifth, despite the Statement's conclusion that, "It was obvious that the facts alleged in the Complaint and supported by the available record warranted further Commission inquiry,"[89] the record far from establishes "obvious" violations that compel a full investigation. As noted above, the record evidence named no alleged victims of coercion to interview, identified no contributions that were allegedly coerced or reimbursed, and points only to solicitations outside the statute of limitations. Thus, there was no reason to believe a violation of the Act or Commission regulations occurred.

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84 First General Counsel's Report at 13, n. 61

85 Walther, Ravel, and Weintraub SOR at 2.

86 *Id.*

87 Supp. Compl. at Ex. A (attaching a May 29, 2014 Solicitation Letter from Robert Murray on his personal letterhead to Jean Cochenour directing responses to "me" at a P.O. box.); MECPAC Resp. at Ex. 5 (Sept. 29, 2008 Solicitation Letter from Robert Murray with a P.O. box as a return address). Murray Energy's general counsel was also quoted in the *New Republic* article as stating that MECPAC fundraising and Murray's personal fundraising efforts are kept separate.

88 Walther, Ravel, and Weintraub SOR at 3.

89 *Id.* at 5.

Finally, our colleagues accuse us of failing to apply what they characterize as a "modest threshold *for investigations*."[90] Curiously, their examples include one on which the Office of General Counsel recommended against pursuing.[91] But as recently observed by the U.S. Court of Appeals, the Commission's "unique prerogative [is] to safeguard the First Amendment when implementing its congressional directives,"[92] not investigate the political activities of American citizens based on anonymous and vague third-hand assertions.

IV. CONCLUSION

We condemn coercion of First Amendment activity. But when considering coercion allegations, we have the duty to impartially apply the law to the evidence before us. Our votes in this matter reflect only the conclusion that the record before us lacked persuasive evidence providing a reason to believe Respondents coerced employee contributions. Notwithstanding our sympathies, concern, and curiosity over such allegations, the unsworn, anonymous, hearsay statements recounted in the *New Republic* article, even if credited, were too vague to support a reason to believe finding and an investigation, particularly in light of the responses—supported by a sworn statement made by a company official with personal knowledge, and the compliant solicitations in the record. Moreover, the objective evidence in the record indicates that the alleged activity addressed here took place from six to nine years ago, outside the statute of limitations applicable to the Act. For the foregoing reasons, we voted to close the file.

Matthew Petersen (CJDB) — June 2, 2016
Matthew S. Petersen — Date
Chairman

Caroline C. Hunter — June 2, 2016
Caroline C. Hunter — Date
Commissioner

Lee E. Goodman — June 2, 2016
Lee E. Goodman — Date
Commissioner

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90 *Id.* at 6.

91 *Id.* at 6, n.26 (citing MUR 6930 (SPM Holdings LLC, et al)).

92 *Van Hollen v. FEC*, 811 F.3d 846, 501 (D.C. Cir. 2016) (holding that the Commission's limiting statutory interpretation of a provision in the Bipartisan Campaign Reform Act was "an able attempt to balance the competing values that lie at the heart of campaign finance law").