MURs 6955 and 6983

COMPLAINT DATES: 8/10/15; 11/10/15; 3/30/16
NOTIFICATION DATES: 8/14/15; 11/18/15; 4/6/16
LAST RESPONSE DATE: 1/15/16
ACTIVATION DATE: 6/16/16

ELECTION CYCLE: 2016

COMPLAINANT: American Democracy Legal Fund

RESPONDENTS: John R. Kasich
Kasich for America, Inc. and J. Matthew Yuskewich in his capacity as treasurer
New Day For America and J. Matthew Yuskewich in his capacity as treasurer

RELEVANT STATUTES AND REGULATIONS:
52 U.S.C. § 30101(4), (8)
52 U.S.C. § 30102(e)
52 U.S.C. § 30103(a)
52 U.S.C. § 30104(b)
52 U.S.C. § 30116(a), (f)
52 U.S.C. § 30118(a)
52 U.S.C. § 30120(d)
52 U.S.C. § 30125(e)(1)
11 C.F.R. § 100.72
11 C.F.R. § 100.131
11 C.F.R. § 109.20
11 C.F.R. § 109.21
11 C.F.R. § 110.11
11 C.F.R. § 300.2(e)(2)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

1 After Kasich for America filed its responses in these matters, it filed an amended Statement of Organization changing its name to Kasich for America, Inc. and naming J. Matthew Yuskewich as its new treasurer.
# TABLE OF CONTENTS

1. INTRODUCTION ........................................................................................................... 3

2. FACTUAL BACKGROUND .............................................................................................. 4

3. A. Kasich’s Activities before Candidacy Announcement ................................................. 4

4. B. New Day’s Activities .................................................................................................. 7

5. C. Kasich for America’s Earliest Reported Activities ................................................... 11

6. LEGAL ANALYSIS ........................................................................................................ 12

7. A. There is Reason to Believe that New Day Made, and Kasich and the Committee Accepted, Impermissible and Excessive In-Kind Contributions and the Committee Failed to Report Them ...................................................... 12

8. B. There Is Reason to Believe Kasich Filed His Statement of Candidacy Late ............ 17

9. C. Take No Action at This Time as to Whether New Day Timely Filed Its Statement of Organization ................................................................................................................. 21

10. D. There Is Reason to Believe the New Day Advertisements Were Coordinated Communications .............................................................................................................. 23

11. E. There is Reason to Believe that the New Day Ads Failed To Include Complete Disclaimers ......................................................................................................................... 29

12. F. Take No Action at This Time as to Whether Kasich and New Day Solicited, Received, Directed, Transferred, or Spent Soft Money ................................................................. 30

13. INVESTIGATION .......................................................................................................... 32

14. RECOMMENDATIONS ................................................................................................. 33
I. INTRODUCTION

These matters involve allegations that John R. Kasich, Kasich for America and J. Matthew Yuskewich in his capacity as treasurer (the “Committee”), and New Day For America and J. Matthew Yuskewich in his official capacity as treasurer (“New Day”), an independent expenditure only political committee, violated the Federal Election Campaign Act of 1971, as amended (the “Act”) when: (1) New Day paid for Kasich’s testing-the-waters activities with impermissible and excessive funds; (2) Kasich failed to timely file his Statement of Candidacy with the Commission; (3) New Day failed to timely file its Statement of Organization with the Commission; (4) New Day made in-kind contributions to Kasich and the Committee by coordinating its communications; (5) New Day failed to include proper disclaimers on its communications; and (6) Kasich established, controlled, and solicited soft money for New Day.

Based on the available information, we recommend that the Commission: (1) find reason to believe that Kasich violated 52 U.S.C. §§ 30116(f) and 30118(a) and 11 C.F.R. §§ 100.72(a) and 100.131(a), that the Committee violated 52 U.S.C. §§ 30104(b), 30116(f), and 30118(a) and 11 C.F.R. §§ 100.72 and 100.131, and that New Day violated 52 U.S.C. §§ 30116(f) and 30118(a) in connection with making and accepting impermissible, excessive, and unreported contributions for testing-the-waters activities; (2) find reason to believe that Kasich violated 52 U.S.C. § 30102(e)(1) by failing to timely file his Statement of Candidacy; (3) take no action at this time as to whether New Day violated 52 U.S.C. § 30103(a) by failing to timely file its Statement of Organization; (4) find reason to believe that New Day made, and Kasich and the Committee accepted, prohibited and excessive in-kind contributions in the form of coordinated communications in violation of 52 U.S.C. §§ 30116 and 30118(a), and that New Day and the Committee did not disclose those contributions in violation of 52 U.S.C. § 30104(b); (5) find
reason to believe that New Day violated 52 U.S.C. § 30120(d)(1)(B) by failing to include
complete disclaimers on three television advertisements; and (6) take no action at this time as to
the allegation that Kasich and New Day solicited, received, directed, transferred, or spent soft

II. FACTUAL BACKGROUND

On July 21, 2015, Ohio Governor John Kasich publicly announced his candidacy for
President of the United States and filed a Statement of Candidacy with the Commission on July
23, 2015.² The Committee registered as Kasich’s authorized committee for the presidential
election on July 23, 2015.³ As discussed in more detail below, in the months leading up to his
announcement, Kasich traveled extensively to a number of states on trips unrelated to his role as
governor of Ohio to discuss national policy issues. Some of these activities were conducted
through New Day, an organization established in April 2015.

A. Kasich’s Activities before Candidacy Announcement

Beginning in January 2015 through the date he publicly announced his candidacy for
president on July 21, 2015, Kasich made numerous trips out of Ohio, including to several key
early primary and caucus states. Kasich’s travels included trips to Montana, North Dakota,
South Dakota, Utah (twice), Wyoming, South Carolina (four times), New Hampshire (five
times), Michigan (twice), Washington, DC (four times), California, New York, Georgia, Texas,

² MUR 6955 Committee Resp. at 3 (Oct. 8, 2015); John Kasich, Statement of Candidacy (July 23, 2015).
³ MUR 6955 Committee Resp. at 3; Kasich for America, Statement of Organization (July 23, 2015). On July
1, 2015, prior to its designation as Kasich’s authorized committee, the Committee incorporated as an Ohio non-
profit organization, and then registered with the IRS as a section 527 organization. MUR 6955 Committee Resp. at
2.
Nevada, Illinois, Iowa, and Tennessee. On these trips, Kasich advocated for a variety of nationwide policies, including a balanced budget amendment to the U.S. Constitution, and also reportedly engaged in fundraising.

Kasich’s own public statements indicate that he was considering a presidential run during this time. On May 17, 2015, CNN reported that “a source close to Governor Kasich told the media outlet that he is ‘very likely’ to run for President.” The same story indicated that Kasich said in late April that “If I can win, I’m likely to run.” The report further stated that, as of May 2015, “sources close to Kasich have been sending out positive signals,” and that in late April, Kasich stated that “[o]ne good thing about thinking of running for President is that I get invited to stuff like this, where I can talk about what I care about.”

On June 28, 2015, Politico published an article stating that Kasich’s “advisers” said Kasich would announce his candidacy on July 21, 2015. The article attributes several other statements to Kasich’s advisers, including that Kasich “combines establishment appeal with a conservative record,” that qualifying for the Cleveland debate “will be tough, even with his announcement bump,” and that Kasich “will be positioned ‘in Jeb’s back right pocket’ — with...

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5 Id.

6 Id. at 2.


8 Id.

establishment appeal, but slightly more conservative.”10 The article also revealed the location and start time of Kasich’s July 21 announcement, the names of three of his strategists, and the schedule for his “announcement tour that includes Iowa, New Hampshire, South Carolina and Michigan.”11

The Complaint states that Kasich, on one of his trips in April 2015, appeared at the New Hampshire Republican Party’s “First in the Nation” Leadership summit and stated that “‘America regains its strength’ if it can tackle its immigration problem, balance the budget, lower the corporate tax rate, and invest in infrastructure.”12 The Complaint further states that Kasich “asked attendees at the end of his appearance to ‘think about me, would you . . . don’t commit too soon . . . let us all have a chance to breath[e] and get out, and you know what I really look forward to, being out in your homes again, letting you get to know me and see me, that’s what it’s really all about, it’s why I love New Hampshire . . .’”13

Kasich and the Committee assert that Kasich did not become a candidate before July 21, 2015, and that Kasich “did not conduct or authorize any activities that triggered candidacy” before that date.14 Notably, no response from Kasich or the Committee addresses other testing-the-waters activities (i.e., those that Kasich argues did not trigger candidacy) or addresses how

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10 Id.
11 Id.
13 Id. at 8.
14 MUR 6955 Committee Resp. at 4-5 (emphasis added).
Kasich’s pre-candidacy testing-the-waters activities were funded, including whether New Day had paid for Kasich’s pre-candidacy travel or other testing-the-waters activities.

B. New Day’s Activities before and around Registering as a Political Committee

In the midst of Kasich’s travels during the first half of 2015, New Day was established as an Ohio non-profit corporation on April 14, 2015, and then registered with the IRS as a section 527 organization. Matthew Carle, Executive Director of New Day, avers that once it registered with the IRS, it discussed issues of general public importance, made non-candidate related expenditures, did not support or oppose any candidate for federal office, and disclosed all expenditures and contributions to the IRS.

When it was founded, New Day launched a website that featured Kasich’s picture and biography, and a video of Kasich announcing the creation of New Day and discussing a variety of policy goals. Kasich’s complete statement in the video is as follows:

Hi, I’m John Kasich, and I believe it’s time for a new day for America. You know, it’s time to put aside the petty differences that divide us and rediscover the values that we all share which have made America great. Values like personal responsibility,
community, respect, courage, and of course, faith. There’s so much more that brings us together than that that divides us. When we remember that, we can come together and do what we all know needs to be done. We can balance our nation’s budget. We can create jobs by cutting taxes and streamlining regulations and, of course, reforming our tax code. We can help our fellow Americans who live in the shadows move up and lead self-sufficient lives and get smart about making healthcare affordable. And help make the world a safer place by spreading freedom and prosperity. Those are some of my thoughts, but I would like to hear what yours are, too. And I’d like to talk to you about them. And that’s why I’m announcing that we’ve created the New Day for America committee. We’re going to start getting around the country more, meeting and talking with more people, and see if by coming together we can put in motion the solutions that will get this great idea called America working the right way again. I hope you’ll visit our website at NewDayforAmerica.com. While there, I hope you’ll sign up to join our team. You can find out more. Take a moment to share your thoughts. You know, we’re all in this together, and together we can bring a new day for America.

New Day’s initial Mid-Year disclosure report to the IRS reported that New Day received $11,130,730 and spent $823,809 between its founding on April 20, 2015 and June 30, 2015. New Day’s Year-End Report disclosed that it received an additional $3,981.570 and spent $7,842,778 between July 1 and December 31, 2015. In its 2015 disclosure reports, New Day disclosed that it routinely accepted donations that exceeded $5,000, including some as large as $1 million. New Day also reported numerous disbursements both prior to and immediately following the time periods covered by its disclosure reports.
after Kasich’s July 21, 2015, announcement of his candidacy, for which the purpose was described as media consulting, phone banks, polling, airfare, travel, and travel expense reimbursements. New Day’s responses to the Complaints, like Kasich’s and the Committee’s, denied that Kasich was a candidate before July 21, 2015, but did not address whether New Day had paid for Kasich’s travel or other testing-the-waters activities.

On July 8, 2015, New Day purchased $58,400 of television air time in a New Hampshire media market. New Day completed a form documenting two separate ad buys on July 8, with each listing “John Kasich for the Republican Presidential Primary” as the “name of the legally qualified candidate(s) the programming refers to”; the form for the WMUR ad buy also says the advertisement includes a “candidate (Republican) discussing his values/beliefs.”

The first advertisement, “Us,” which reportedly aired on July 8, 2015, features Kasich speaking directly to the camera. Kasich states:

We turned Ohio around. And we’ve created jobs and cut taxes and balanced our budgets. I spent 18 years on the Armed Services Committee with some of the finest defense minds in the world. I was one of the chief architects of balancing the budget, it’s the first time we did it since man walked on the moon, we haven’t done it since. It can happen again.

The advertisement ends with a voiceover stating “John Kasich’s for us.” It does not include a “stand-by-your-ad disclaimer.” New Day asserts that the advertisement used footage from

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24 MUR 6955 Compl. at 2-3; MUR 6983 Supp. Compl. at 3.

interviews with Kasich filmed prior to July 8, 2015, and that the stations categorized the ad buys as “Non-Candidate Issue Ads.”

On July 23, 2015, two days after Kasich announced his candidacy and the same day on which Kasich for America registered as Kasich’s authorized committee, New Day registered with the Commission as an independent-expenditure-only political committee (“IEOPC”).

On July 26 and August 5, 2015, New Day ran two additional advertisements featuring Kasich. The July 26 advertisement, titled “Balancing the Budget,” begins with a succession of images and sound clips of several Democratic and Republican presidential candidates and continues with the following script:

Female Announcer: No one running for president has balanced the federal budget for us but John Kasich.

Kasich: I spent ten years of my life fighting to balance the budget, not because it was about numbers, but it was about values. We don’t have a right to live beyond our means, and make sure that our children pay the debt.

Female Announcer: John Kasich helped balance the federal budget, turned around the Ohio economy, and has 18 years’ experience on the Armed Services Committee. No one else comes close.

Kasich: And I was willing to take beatings when I offered my own budget proposals for America because I believed in it. The most important thing in leadership is not what you say, it’s what you do.

26 MUR 6955 New Day Resp. at 3. Although we do not know the exact date on which the footage was filmed, in a July 21, 2015, interview, Fred Davis, a strategist for New Day, stated that he filmed multiple advertisements featuring footage of Kasich that were paid for by New Day, and that he had worked with Kasich for about two months. See MUR 6983 Supp. Compl. at 4. New Day reported making disbursements to Davis’s firm, Strategic Perception, Inc., on June 5, 2015 ($60,000), and June 26, 2015 ($148,835). See New Day for America, IRS 2015 Form 8872 Mid-Year Disclosure Report.


28 See “Balancing the Budget,” available at https://newrepublic.com/political-ad-database/john-kasich-balancing-the-budget/Ny8yMS8xNTpCYWxhbmNpbmcgdGhlIEJ1ZGJldA.
Female Announcer: John Kasich’s for us.

The script for the August 5 advertisement, “John Kasich is for Us – National Security,” is as follows:

Female Announcer: [over images of President Obama and Hillary Clinton] Weakness, handwringing, inexperience. They’re looking out for us?

Kasich: You know, I spent 18 years on the Armed Services Committee with some of the finest defense minds in the world. I learned how we get the services to work together. And I’ll never forget my experience meeting with soldiers out in the desert. There’s no substitute for experience. [Caption reads: “John Kasich. President 2016.”]

C. Kasich for America’s Earliest Reported Activities

As noted above, Kasich formally announced his presidential candidacy on July 21, 2015, and filed a Statement of Candidacy on July 23, 2015. Kasich for America also registered as Kasich’s authorized committee for the presidential election on July 23, 2015. The Committee’s first disclosure report was the October 2015 Quarterly Report. That report disclosed that the Committee began receiving contributions for the 2016 presidential primary election on July 3, 2015, and that it exceeded $5,000 in contributions on July 13, 2015. It also

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30 MUR 6955 Committee Resp. at 3; John Kasich, Statement of Candidacy (July 23, 2015).

31 MUR 6955 Committee Resp. at 3; Kasich for America, Statement of Organization (July 23, 2015).


33 Id. at Schedule A-P (Itemized Receipts).
showed that the Committee’s first disbursement occurred on July 10, 2015, only eleven days before Kasich publicly announced his candidacy. The report disclosed a small number of disbursements between July 10 and July 21, 2015, mostly for expenses related to travel to New Hampshire, though it is not clear from the face of the reports when that travel occurred. The Committee did not report receiving any in-kind contributions from New Day in this report, nor did it designate any disbursements as having been made for testing-the-waters expenses.

III. LEGAL ANALYSIS

A. There is Reason to Believe that New Day Made, and Kasich and the Committee Accepted, Impermissible and Excessive In-Kind Contributions and the Committee Failed to Report Them

An individual becomes a candidate under the Act if: (a) such individual receives contributions or makes expenditures in excess of $5,000, or (b) such individual gives his or her consent to another person to receive contributions or make expenditures on behalf of such individual and if such person has received such contributions or has made such expenditures in excess of $5,000.34

The Commission has established limited testing-the-waters exemptions that permit an individual to test the feasibility of a campaign for federal office without becoming a candidate under the Act.35 These exemptions exclude from the definitions of “contribution” and “expenditure” those funds received and payments made solely to determine whether an

34 52 U.S.C. § 30101(2).

35 See 11 C.F.R. §§ 100.72 and 100.131; Factual and Legal Analysis at 7, MUR 6775 (Hillary Clinton); Factual and Legal Analysis at 8, MUR 6776 (Niger Innis); Factual and Legal Analysis at 6, MUR 6735 (Joseph A. Sestak).
individual should become a candidate. These regulations seek to draw a distinction between activities directed to an evaluation of the feasibility of one’s candidacy and conduct signifying that a decision to become a candidate has been made. However, only funds permissible under the Act may be used for testing-the-waters activities.

Testing-the-waters activities for which only funds permissible under the Act may be used include, but are not limited to, payments for polling, telephone calls, and travel. In advisory opinions, the Commission has stated that “travel throughout the country for speaking to political and non-political groups on a variety of public issues and meeting with opinion makers and others interested in public affairs for the purpose of determining whether potential political support exists for a national campaign” fits within testing-the-waters activities, and that expenses for such activities should be allocated to the individual’s potential candidacy.

Additionally, in MUR 5908 (Duncan Hunter), the Commission found reason to believe that a candidate’s spending on travel to early primary states “to publicize his Presidential campaign, and/or gauge support for his campaign” before declaring his candidacy, should have been reported as testing-the-waters or campaign expenses.

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36 11 C.F.R. §§ 100.72(a); 100.131(a).
38 11 C.F.R. §§ 100.72, 100.131.
39 11 C.F.R. §§ 100.72(a); 100.131(a).
40 AO 1981-32 at 2, 4; see also id. at 5 (stating that events “oriented to ascertaining whether there is an initial base of support adequate to launch a campaign effort” are testing-the-waters activities).
41 See AO 1985-40 at 9.
42 Factual & Legal Analysis at 4-7, MUR 5908 (Hunter). The Commission took no further action in this matter where the investigation revealed that the leadership committee’s excessive contributions to the candidate
An individual who is testing the waters need not register or file disclosure reports with
the Commission unless and until the individual subsequently decides to run for federal office.43
However, an individual who tests the waters must keep financial records and, if he or she
becomes a candidate, all funds received or payments made in connection with testing the waters
become contributions and expenditures under the Act and must be reported as such in the first
report filed by the candidate’s principal campaign committee.44
The Complaint alleges that New Day, after its founding in April 2015, illegally paid for
Kasich’s testing-the-waters activities such as travel and “political advertising that allowed him to
convey his policy prerogatives and solicit support for his nascent candidacy.”45 The Kasich and
New Day responses do not confirm or deny the allegation that New Day paid for Kasich’s
testing-the-waters activity. The Committee’s initial report to the Commission shows that it
received $40,050 in contributions and made $19,180 in disbursements prior to July 21, 2015, but
it does not specifically designate any of these entries as in-kind contributions made to Kasich for
testing-the-waters activities, and the first reported disbursement occurred only 11 days prior to

were likely de minimis. See Statement of Reasons, Comm’rs Petersen, Hunter, McGahn, Walther & Weintraub at 2-3, id.

43 Id., see also Advisory Op. 2015-09 (Senate Maj. PAC, et al.) (“AO 2015-09”). The testing-the-waters
exemption is not available to individuals who have made a decision to become a candidate. 11 C.F.R. §§ 100.72(b),
100.131(b). See also AO 2015-09 at 5; Payments Received for Testing the Waters Activities, 50 Fed. Reg. 9992,
9993 (Mar. 13, 1985) (exemption “explicitly limited ‘solely’ to activities designed to evaluate a potential
candidacy”).

44 11 C.F.R. § 101.3.

45 MUR 6983 Supp. Compl. at 9; see also Henry J. Gomez, Ohio Gov. John Kasich begins raising money
cleveland.com/open/index.ssf/2015/04/ohio_gov_john_kasich_begins_ra.html (the creation of New Day “takes the
Ohio Republican Party, which paid for Kasich’s recent trips to the early primary states of New Hampshire and
South Carolina, off the hook for his travel expenses.”); Chrissie Thompson, Kasich’s 2016 fundraising starts,
Kasich’s announcement of his candidacy. Nonetheless, New Day’s IRS disclosure reports indicate that New Day made substantial disbursements for the types of expenses traditionally associated with testing-the-waters activities, including media consulting, phone banks, polling, airfare, travel, and travel expense reimbursements.

The available information indicates that Kasich did spend funds to test the waters prior to declaring his candidacy in July 2015, and that New Day likely paid for at least a portion of those expenses. In January 2015, Kasich began traveling the country to speak about his policy positions on nationwide issues such as balancing the budget, tax reform and healthcare. During this time, Kasich reportedly engaged in fundraising and made statements indicating that he was considering running for President. For example, CNN reported that Kasich said in late April that “If I can win, I’m likely to run,” and stated that “[o]ne good thing about thinking of running for President is that I get invited to stuff like this, where I can talk about what I care about.” Further, Kasich’s travel included stops in key early primary states including South Carolina (four times), New Hampshire (five times), and Iowa, where, among other things, he held news conferences, addressed Republican caucuses and chambers of commerce, held private meetings, and spoke at the Republican Leadership Summit.

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47 New Day’s first FEC disclosure report, the 2015 Year-End Report, does not include any disbursements made prior to the date of Kasich’s announcement. See New Day Amend. 2015 Year-End Report (July 11, 2016).

48 Higgs Timeline.


50 Id.

51 See supra, Section II.A.
Based on this information, it appears that Kasich was testing the waters by discussing a potential candidacy and testing his policy positions, and traveling the country to attend events and meet fundraisers at least as early as January 2015. Kasich, however, never established a testing-the-waters account, and the Committee did not report any testing-the-waters activities once Kasich declared his candidacy. As a result, we recommend that the Commission find reason to believe that Kasich violated 11 C.F.R. §§ 100.72 and 100.131 and that the Committee violated 52 U.S.C. § 30104(b) and 11 C.F.R. §§ 100.72 and 100.131.

Further, it appears that New Day, once it was formed in April 2015, may have paid for at least a portion of Kasich’s testing-the-waters expenses. Kasich was the face of New Day and it appears that New Day was formed as a vehicle for Kasich to present his platform of ideas for the country’s future. In Kasich’s April 20, 2015, video message announcing the formation of New Day, Kasich stated, “Those are some of my thoughts, but I would like to hear what yours are too, and I’d like to talk to you about them. And that’s why I’m announcing that we’ve created the New Day for America committee. We’re going to start getting around the country more, meeting and talking with more people, and see if by coming together we can put in motion the solutions that will get this great idea called America working the right way again.”

Thus, it appears likely New Day funded Kasich’s travel, which was at least in part connected to his own potential candidacy. Even if Kasich’s travel on behalf of New Day was partially unrelated to his potential candidacy, he would have to allocate any expenses between New Day and his potential candidacy. Because New Day is an IEOPC that accepted contributions from corporations and

contributions in excess of the Act’s limits, and because an “independent expenditure-only political committee may not make contributions to candidates … including in-kind contributions,” New Day may not make contributions to Kasich, including by making payments that are later required to be reported by the Committee as contributions for testing-the-waters activities. Therefore, we also recommend that the Commission find reason to believe that Kasich and the Committee violated 52 U.S.C. §§ 30116(f) and 30118(a) by accepting, and the Committee violated 52 U.S.C. § 30104(b) by failing to report, excessive and prohibited in-kind contributions from New Day for testing-the-waters activities. Finally, we recommend that the Commission find reason to believe that New Day violated 52 U.S.C. §§ 30116(f) and 30118(a) by making excessive and prohibited in-kind contributions to the Committee for testing-the-waters activity.

B. There Is Reason to Believe Kasich Filed His Statement of Candidacy Late

Once an individual meets the $5,000 threshold for contributions received or expenditures made, the candidate has fifteen days to designate a principal campaign committee by filing a Statement of Candidacy with the Commission. The principal campaign committee must file a


Statement of Organization within ten days of its designation and must file disclosure reports with the Commission in accordance with 52 U.S.C. §§ 30104(a) and (b).

Commission regulations set forth a non-exhaustive list of activities that indicate that an individual is no longer testing the waters and has decided to become a candidate. Such indicia include: (1) using general public political advertising to publicize his or her intention to campaign for federal office; (2) raising funds in excess of what could reasonably be expected to be used for exploratory activities or undertaking activity designed to amass campaign funds that would be spent after he or she becomes a candidate; (3) making or authorizing written or oral statements that refer to him or her as a candidate for a particular office; (4) conducting activities in close proximity to the election or over a protracted period of time; and (5) taking action to qualify for the ballot under state law.

1. Kasich Appears To Have Made a Decision To Become A Candidate at Least as Early as June 28, 2015

As noted above, the Commission, in deciding whether an individual is no longer testing the waters and has made a decision to run for federal office, assesses an individual’s objectively deliberate actions to discern whether and when an individual decided to become a candidate. The Commission has stated that “[a] non-conditional statement” by an individual (either directly or through an adviser) that he or she “will” announce his or her candidacy on a given date

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56 See 52 U.S.C. § 30103(a); 11 C.F.R. § 102.1(a)

57 See, e.g., Factual and Legal Analysis at 6, MUR 6735 (Joseph A. Sestak); Factual and Legal Analysis at 5, MUR 6449 (Jon Brunning); Factual and Legal Analysis at 2, MUR 5363 (Alfred C. Sharpton).

58 11 C.F.R. §§ 100.72(b), 100.131(b).

59 AO 2015-09 at 6.
unambiguously indicates that the individual has decided to become a candidate."\(^{60}\) The fact that
the public announcement postdates the individual’s statement of intent “do[es] not eradicate the
registration and reporting requirements that have been triggered” by the decision.\(^{61}\)

Applying these criteria here, the purported statements by Kasich “advisers” in the June
28, 2015, Politico article provide reason to believe that Kasich had decided to run for president at
least as early as June 28, 2015, when the advisers reportedly stated that Kasich would be
announcing his candidacy approximately three weeks later. The June 28, 2015, Politico article
reports that Kasich’s “advisers” stated that Kasich “will jump into the crowded Republican
presidential field on July 21 at the student union at his alma mater, The Ohio State University, in
Columbus.” The article also reports that Kasich’s advisers provided information about Kasich’s
plans for positioning himself as a candidate, as well as his travel plans following his public
announcement. Respondents contest that Kasich’s advisers provided specific information about
Kasich’s purported planned announcement or subsequent campaign plans, asserting that the
journalist simply “conceive[d]” of this information.\(^ {62}\) These statements, however, use direct
quotes from the purported advisers and, compellingly, the information regarding Kasich’s
planned announcement was accurate — Kasich did in fact announce his presidential candidacy
on July 21, 2015, at Ohio State University. As a result, there is ample support for the

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\(^{60}\) Id. (emphasis in original).

\(^{61}\) Id. (citing Factual and Legal Analysis at 8, MUR 5363 (Sharpton)).

\(^{62}\) MUR 6955 Committee Resp. at 4.
Commission to find reason to believe that Kasich may have already decided to become a candidate at least as early as June 28, 2015, when the Politico article was published.63

Further, Kasich’s participation in the filming of video intended to be used to promote his federal candidacy could also evidence the making of “a decision . . . to seek nomination for election, or election, to a Federal office.” New Day argues that the interviews of Kasich that appear in the New Day ads “only discussed issues of national importance, and . . . did not promote any potential candidacy for President of the United States.” The New Day ads themselves, however, focus on Kasich’s positions and promote his candidacy; two were aired after the Committee had registered as Kasich’s authorized committee and New Day had registered with the Commission as an IEOPC.66 If Kasich understood at the time of the filming that the footage of him discussing his experience and achievements would be used in ads that would promote his candidacy, then that would “signify[ ] that a private decision to become a candidate [had] been made” even before the appearance of the Politico article.67

63 AO 2015-09 at 6.

AO 1981-32 at 4. But see Factual and Legal Analysis at 6, MUR 6533 (Haney) (explaining that “the mere preparation, rather than dissemination, of campaign materials in advance of a declaration of candidacy” does not by itself indicate that an individual has “decided to become a candidate” when the materials were distributed only to a small group of advisers in order to obtain their reactions); Factual and Legal Analysis at 9, MUR 6430 (Daines) (concluding that individual’s mere appearance in issue ad aired during previous election cycle did not, by itself, trigger candidacy in the following election cycle) (emphasis added).

65 MUR 6955 New Day Resp. at 3, 7, 9; MUR 6983 New Day Resp. at 4. New Day also states that neither Kasich nor the Committee was involved in decisions about the content or placement of the August 5 ad, but that contention does not address whether the footage featuring Kasich was filmed to promote Kasich’s eventual candidacy. MUR 6983 New Day Resp. at 4. Likewise, the contention by all Respondents that the footage was filmed before Kasich was a candidate does not refute the allegation that the footage was filmed for use in communications that would promote Kasich’s candidacy. See, e.g., id. at 3.

66 See infra at 19-21.

67 See AO 1981-32 at 3; see also 11 C.F.R. §§ 100.72(b), 100.131(b).
2. Kasich Appears To Have Raised or Spent In Excess of $5,000

Given the amount of travel apparently undertaken by Kasich — nearly two dozen trips out of Ohio on non-state business between January and July 2015 to meet with potential donors, participate in forums, and speak at various events — expenses likely exceeded $5,000 well before the formal announcement of Kasich’s candidacy on July 21, 2015. Further, Kasich may have accepted an in-kind contribution from New Day on the date that New Day incurred expenses to film the footage, and that in-kind contribution may have been more than $5,000. Depending on the date that Kasich decided to become a candidate (which appears to have been June 28, 2015, at the latest), these expenses may have triggered candidacy under the Act. Accordingly, we recommend that the Commission find reason to believe that Kasich violated 52 U.S.C. § 30102(e)(1) by failing to timely file his Statement of Candidacy.

C. Take No Action at This Time as to Whether New Day Timely Filed Its Statement of Organization

The Act requires political committees not authorized by a candidate to file a statement of organization within 10 days after becoming a political committee under the Act. The Act and Commission regulations define a “political committee” as “any committee, club, association or other group of persons which receives contributions aggregating in excess of $1,000 during a calendar year or which makes expenditures aggregating in excess of $1,000 during a calendar year.” In Buckley v. Valeo, the Supreme Court held that the term “political committee” “need

68 Higgs Timeline.

69 52 U.S.C. § 30103(a).

70 Id. § 30101(4)(A); 11 C.F.R. § 100.5.

only encompass organizations that are under the control of a candidate or the major purpose of which is the nomination or election of a candidate.” Accordingly, an organization that is not controlled by a candidate must register as a political committee only if (1) it crosses the $1,000 threshold and (2) it has as its “major purpose” the nomination or election of federal candidates. The Complaint alleges that on July 8, 2015, New Day purchased ad buys supporting Kasich, and that it therefore should have registered with the Commission as an IEOPC by July 18, 2015, as required by 52 U.S.C. § 30103(a). Instead, New Day registered with the Commission as an IEOPC on July 23, 2015. Despite the fact that New Day referred to Kasich as a candidate in the July 8 ad buys, New Day states that it was unaware of the June 28 article in Politico indicating that Kasich’s candidacy announcement was imminent, and it understood Kasich to be a non-candidate as of July 8. New Day explains that it referred to Kasich as a candidate when it made the July 8 media buy because the form was incorrectly filled out by a third-party media vendor. New Day further argues that the July 8 media buy was for a non-candidate issue advertisement, not an independent expenditure.

Beyond what it paid for the advertisements featuring Kasich, we have little information about the extent or type of New Day’s spending prior to it registering with the Commission as an IEOPC on July 23, 2015. As discussed above, it appears that New Day paid for Kasich’s travel

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72 Id. at 79.  
73 MUR 6955 Compl. at 6.  
74 See generally MUR 6955 New Day Resp., Carle Decl. at ¶ 16 (stating that New Day first learned of Kasich’s candidacy when he announced on July 21, 2015).  
75 MUR 6955 New Day Resp. at 7.  
76 Id.
to numerous states in the months leading up to his candidacy announcement, though any
expenses paid for Kasich to test the waters were not reportable as contributions or expenditures
until Kasich became a candidate. And though we conclude above that Kasich became a
candidate at least as early as June 28, 2015, we do not yet have enough information to determine
precisely when Kasich became a candidate. We therefore recommend that the Commission take
no action at this time as to the allegation that New Day was a political committee prior to July
13, 2015, and thus failed to timely register as such with the Commission; further
recommendations on this allegation should await the results of an investigation into whether
New Day paid for expenses related to Kasich’s candidacy and when Kasich became a candidate.

D. There Is Reason to Believe the New Day Advertisements Were Coordinated
Communications

The Act defines a “contribution” to include “any gift . . . or anything of value made by
any person for the purpose of influencing any election for Federal office.”\textsuperscript{77} IEOPCs are
prohibited from making contributions to candidates and their authorized committees,\textsuperscript{78} and it is
unlawful for candidates, political committees, and their officers and employees to knowingly accept
an excessive or prohibited contribution.\textsuperscript{79}

A “coordinated expenditure” — which is an expenditure made by any person “in
cooperation, consultation, or concert, with, or at the request or suggestion of,” a candidate, a
candidate’s authorized committee, or the agents of either — is also a contribution to the

\textsuperscript{77} 52 U.S.C. § 30101(8)(A); 11 C.F.R. § 100.52(a).

\textsuperscript{78} See 52 U.S.C. §§ 30116(a), 30118(a); Advisory Op. at 2010-11 (Commonsense Ten) at 2-3.

\textsuperscript{79} 52 U.S.C. §§ 30116(f), 30118(a)
A “coordinated communication” is one form of coordinated expenditure. Thus, a “coordinated communication” is one form of coordinated expenditure. Thus, “[a]n independent expenditure-only political committee may not make contributions to candidates or political party committees, including in-kind contributions such as coordinated communications.”

Commission regulations provide a three-prong test to determine if a communication is a “coordinated communication.” First, a person other than the federal candidate or the candidate’s authorized committee must pay for all or part of the communication. Second, the communication must satisfy at least one content standard. Third, the communication must satisfy at least one conduct standard.

The Complaint alleges that the three New Day advertisements featuring Kasich ("Us," "Balancing the Budget," and "John Kasich is for Us – National Security," collectively, the “New Day Ads”) are coordinated communications and thus, because New Day accepts soft money, they are prohibited in-kind contributions to the Committee. Respondents argue that there was no coordinated communication because the footage used in the video appearing on New Day’s

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81 See 11 C.F.R. § 109.21(b).
82 AO 2017-10.
83 11 C.F.R. § 109.21(a).
84 Id. § 109.21(a)(1).
85 Id. § 109.21(a)(2), (c).
86 Id. § 109.21(a)(3), (d).
87 MUR 6955 Compl. at 9-12; MUR 6983 Compl. at 3-7.
website and in the New Day advertisements was filmed before Kasich became a candidate, and thus was not made “in cooperation, consultation or concert with” a candidate.\textsuperscript{88}

Here, each of the three New Day advertisements — “Us,” “Balancing the Budget,” and “John Kasich is for Us – National Security” — appear to be coordinated communications. First, the ads were paid for by a third party, thereby satisfying the first prong of the coordination analysis. Second, all three ads satisfy the content standard as “public communications”\textsuperscript{89} that contain express advocacy or its functional equivalent.\textsuperscript{90} Under the Commission’s regulations, a communication expressly advocates the election or defeat of a clearly identified federal candidate if it:

\begin{itemize}
\item \textbf{[u]ses phrases such as} ‘vote for the President,’ ‘re-elect your Congressman,’ ‘support the Democratic nominee,’ ‘cast your ballot for the Republican challenger for U.S. Senate in Georgia,’ ‘Smith for Congress,’ ‘Bill McKay in ’94,’ ‘vote Pro-Life’ or ‘vote Pro-Choice’ accompanied by a listing of clearly identified candidates described as Pro-Life or Pro-Choice, ‘vote against Old Hickory,’ ‘defeat’ accompanied by a picture of one or more candidate(s), ‘reject the incumbent,’ or communications of campaign slogan(s) or individual word(s), which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate(s), such as posters, bumper stickers, advertisements, etc. which say ‘Nixon’s the One,’ ‘Carter ’76,’ ‘Reagan/Bush’ or ‘Mondale!’\textsuperscript{91}
\item \textbf{or if:}
\end{itemize}

\textbf{[w]hen taken as a whole and with limited reference to external events, such as the proximity to the election, could only be}

\begin{itemize}
\item \textsuperscript{88} MUR 6955 New Day Resp. at 8-9; MUR 6955 Committee Resp. at 7.
\item \textsuperscript{89} “Public communication” includes “a communication by means of any broadcast, cable, or satellite communication . . . .” 11 C.F.R. \textsection 100.26.
\item \textsuperscript{90} \textit{Id.} \textsection 109.21(c)(4)-(5).
\item \textsuperscript{91} \textit{Id.} \textsection 100.22(a).
\end{itemize}
interpreted by a reasonable person as containing advocacy of the
election or defeat of one or more clearly identified candidate(s)
because — (1) [t]he electoral portion of the communication is
unmistakable, unambiguous, and suggestive of only one meaning;
and (2) [r]easonable minds could not differ as to whether it
encourages actions to elect or defeat one or more clearly identified
candidate(s) or encourages some other kind of action.92

“Us,” which aired in New Hampshire on July 8 (before Kasich’s July 21 announcement
event but after the June 28 Politico article), features Kasich discussing his qualifications and
experience “creat[ing] jobs,” “cut[ting] taxes,” “balanc[ing] our budgets,” and serving on the
Armed Services Committee (“John Kasich looked out for America”), before concluding, “John
Kasich’s for us.” The advertisement discusses only Kasich’s accomplishments and does not
express any views on issues of public policy. The tagline “John Kasich’s for us” appears to be
the communication of a campaign slogan (akin to “Nixon’s the One”) which in context —
paired with a recitation of Kasich’s political experience and the absence of an identifiable issue
beyond the qualifications of Kasich himself — can have no other reasonable meaning than to
urge Kasich’s election.93

“Balancing the Budget” aired on July 26, 2015, five days after Kasich’s announcement
event on July 21, and three days after New Day’s registration with the Commission as an IEOPC

92 Id. § 100.22(b); see also Express Advocacy; Independent Expenditures; Corporate and Labor Organization
U.S. 238, 249 (1986) (a communication is express advocacy when “it provides, in effect, an explicit directive” to
vote for the named candidates).

93 See id. § 100.22(a); see also Factual and Legal Analysis at 8, MUR 5831 (Softer Voices) (Mar. 26, 2009)
(identifying a slogan “centered on the candidate and referenc[ing] personal characteristics unrelated to any issue” as
evidence of 100.22(a) express advocacy). As an express advocacy communication, the “Us” ad also satisfies the
functional equivalent of express advocacy content standard, which “necessarily encompasses more than express
advocacy.” Coordinated Communications, 75 Fed. Reg. 55947, 55954 (Sept. 15, 2010); see also id. at 55953
(providing example of communication that the Supreme Court determined was the functional equivalent of express
advocacy).
on July 23. It explicitly refers to Kasich as a candidate for President (“No one running for
president has balanced the federal budget for us but John Kasich”), discusses his experience
balancing the budget and serving on the Armed Services Committee, and compares him
favorably to other candidates for President (“No one else comes close”), before concluding,
“John Kasich’s for us.” The phrase “John Kasich’s for us” appears to be the campaign slogan
(akin to “Nixon’s the One”). In context, the slogan can have no other reasonable meaning than
to urge Kasich’s election.94

Likewise, the “John Kasich is for Us – National Security” advertisement discusses
Kasich’s qualifications for office in the context of the upcoming election, contrasting them with
the “weakness, handwringing, [and] inexperience” of fellow candidate Hillary Clinton as well as
President Obama, before closing with an image of Kasich over the caption “John Kasich.
President 2016.” The caption is akin to the “magic words” enumerated in section 100.22(a)
(such as “Bill McKay in ‘94”) and in context can have no other reasonable meaning than to urge
Kasich’s election.95

Third, the conduct prong of the coordination test is satisfied if: (1) the communication
was created, produced, or distributed at the request or suggestion of a candidate, campaign, or
political party committee, or the payor suggests the communication and the candidate, campaign

94 See 11 C.F.R. § 100.22(a); see also Factual and Legal Analysis at 8, MUR 5831 (Softer Voices) (Mar. 26,
2009) (identifying a slogan “centered on the candidate and referencing personal characteristics unrelated to any
issue” as evidence of 100.22(a) express advocacy).

95 See 11 C.F.R. § 100.22(a); see also Factual and Legal Analysis at 13, MUR 5024R (Tom Kean, Jr.) (Apr.
13, 2005) (an advertisement featuring a candidate wearing a campaign button identifying him as a candidate (“Tom
Kean Jr. for Congress”) followed by the word “NEVER” can have no other reasonable meaning than to urge the
candidate’s defeat). New Day appears to have filed an independent expenditure report for “John Kasich is for Us –
or political party committee assents to the suggestion (the “request or suggestion” standard); (2) the candidate, campaign, or political party committee was materially involved in decisions regarding the communication (the “material involvement” standard); or (3) the communication was created, produced, or distributed after one or more substantial discussions between the payor and the candidate, campaign, or a political party committee involving information that is material to the communication (the “substantial discussion” standard).96

It appears that all three New Day Ads may satisfy the “material involvement” standard. As the Commission has previously concluded, a federal candidate’s appearance in an advertisement renders “highly implausible” any claim that he or she was not “materially involved” in its creation.97 Indeed, because the candidate would decide what statements to give on camera, this arrangement would inherently grant the candidate a material amount of control over the content of the eventual communications. Therefore, if Kasich was a candidate at the time the footage was created, then he would have met the requirements of the “material involvement” standard, satisfying the conduct prong of the coordinated communications analysis. The information provided by the Respondents does not establish the date the footage was filmed, except to say that it was prior to July 8, 2015. As discussed previously, it appears

96 11 C.F.R. § 109.21(d)(1)-(3). The conduct prong may also be satisfied in other ways, such as if the parties contracted with or employed a common vendor that used or conveyed material information about the campaign’s plans, projects, activities or needs, or used material information gained from past work with the candidate to create, produce, or distribute the communication. See id. at § 109.21(d)(4).

97 Advisory Op. 2003-25 (Weinzapfel for Mayor Committee) (“AO 2003-25”); see also Advisory Op. 2004-01 (Bush-Cheney ’04, et al.) (“AO 2004-01”) (citing AO 2003-25)). After issuing these advisory opinions, the Commission amended the coordinated communication regulations to create a “safe harbor” for certain public communications in which federal candidates merely endorse other candidates or solicit funds for other persons. See 11 C.F.R. § 109.21(g); see also Coordinated Communications, 71 Fed. Reg. 33,190, 33,202 (Jun. 8, 2006) (superseding AO 2004-01 and AO 2003-25 to extent they apply to such communications). That regulatory revision is not relevant to the communications at issue here, which do not endorse other candidates.
that Kasich triggered candidacy by June 28, 2015, at the latest, leaving open the possibility that
Kasich was a candidate at the time the footage was created.

Kasich’s apparent relationship with New Day provides further reason to believe he was
either materially involved in decisions regarding the communications, or that his conduct
satisfies the request or suggestion, or substantial discussion standards of the Commission’s
regulations. As the public face of New Day, Kasich appears to have been heavily involved with
the origination of New Day, as evidenced by his presence on the group’s website and in the
video announcing its creation.

Based on the available information, we recommend that the Commission find reason to
believe that New Day made, and the Committee and Kasich accepted, excessive and prohibited
contributions in the form of coordinated communications in violation of 52 U.S.C. §§ 30116 and
30118(a), and that New Day and the Committee failed to disclose those contributions in violation
of 52 U.S.C. § 30104(b).

E. There is Reason to Believe that the New Day Ads Failed To Include Complete
Disclaimers

Under the Act and Commission regulations, any public communication that expressly
advocates the election or defeat of a clearly identified federal candidate must include a
disclaimer. If the communication is paid for by other persons but authorized by a candidate, an
authorized political committee of a candidate, or its agents, the communication shall clearly state
that the communication has been paid for by such other persons and authorized by such
authorized political committee.

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98 See 52 U.S.C. § 30120(a); 11 C.F.R. § 110.11(a)(2).
Here, the New Day Ads each included disclaimers but did not include a “stand by your ad” portion indicating that Kasich approved the advertisements. The Complaint alleges that the New Day Ads failed to include proper disclaimers under 52 U.S.C. § 30120 because they did not state that Kasich approved the content. As noted above, we have concluded that Kasich became a candidate as least as early as June 28, 2015, prior to the airing of the advertisements, and that Kasich’s involvement with New Day, including filming footage for the advertisements, resulted in the advertisements being coordinated between Kasich and New Day. The same facts that support these conclusions support the conclusion that Kasich approved the advertisements. Accordingly, we recommend that the Commission find reason to believe that New Day violated 52 U.S.C. § 30120(d)(1)(B) by failing to include complete disclaimers.

F. Take No Action as to Whether Kasich and New Day Solicited, Received, Directed, Transferred, or Spent Soft Money

Under the Act, candidates, officeholders, and entities directly or indirectly established, financed, maintained or controlled by, or acting on behalf of, candidates or officeholders may not solicit, receive, direct, transfer, spend, or disburse funds in connection with an election unless the amounts consist of funds that are subject to the prohibitions, limitations, and reporting requirements of the Act. The ten non-exclusive factors set out at 11 C.F.R. § 300.2(c)(2) determine whether a person or entity ("sponsor") “directly or indirectly established, financed, maintained or controlled” another person or entity under 52 U.S.C. § 30125. These factors must be examined in the context of the overall relationship between the sponsor and the entity to

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100 MUR 6955 Compl. at 3; MUR 6983 Compl. at 2-3.

101 52 U.S.C. § 30125; see 11 C.F.R. §§ 300.60, 300.61.
determine whether the presence of any factor or factors is evidence that the sponsor “directly or indirectly established, financed, maintained or controlled” the entity.\textsuperscript{102}

The Complaint alleges that Kasich’s statements in the New Day launch video plainly show that he “established” New Day,\textsuperscript{103} and further alleges that Kasich solicited money outside the limits and prohibitions of the Act for an organization that he established, financed, maintained, or controlled, in violation of 52 U.S.C. § 30125(e)(1).\textsuperscript{104} Neither New Day nor Kasich address the allegation that Kasich established New Day, but each denies that Kasich solicited funds for New Day outside the limitations and prohibitions of the Act, arguing that Kasich’s video did not include any statements that could be considered a solicitation of funds for New Day.\textsuperscript{105}

Clearly Kasich had some prominent role in establishing New Day, as it appears to be a platform for his ideas and he specifically states in the launch video that he is announcing that “we’ve created the New Day for America committee.”\textsuperscript{106} And the available information shows that New Day employs several former members of Kasich’s administration and campaign.

\begin{flushleft}
\textsuperscript{102} 11 C.F.R. § 300.2(c)(2).
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\textsuperscript{103} See supra Section II.B, note 22 (“…we’ve created the New Day for America committee”; “I hope you’ll visit our website…”; “I hope you’ll sign up to join our team.”) (emphasis added).
\end{flushleft}

\begin{flushleft}
\textsuperscript{104} MUR 6955 Compl. at 7-9.
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\begin{flushleft}
\textsuperscript{105} Id. at 8; MUR 6955 Committee Resp. at 6-7.
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\textsuperscript{106} http://www.p2016.org/ads/kasichv042015.html (emphasis added).
\end{flushleft}
organization. However, Kasich is not listed as an incorporator, agent, or officer of New Day in its initial filings with either the Ohio Secretary of State or the Commission, and the Complaint provides no information beyond those statements in New Day’s online video to support its allegation.

Because we are recommending that the Commission find reason to believe that New Day, Kasich, and the Committee violated the Act relating to testing-the-waters activities, as well as coordinated communications, information obtained as part of the investigation into the relationship between New Day and Kasich in those contexts may inform our analysis of whether Kasich established, financed, maintained, or controlled New Day. We therefore recommend that the Commission take no action at this time as to whether Kasich and New Day violated 52 U.S.C. § 30125.

See supra Section II.B, note 16. The Commission has found, however, that “more than the mere fact of such informal, ongoing relationships between the personnel of the potentially sponsoring and potentially sponsored entity is necessary to support a conclusion of ‘establishment, financing, maintenance or control’” of an organization. See Factual and Legal Analysis at 8, MUR 6280 (Howard L. Berman); First Gen. Counsel’s Report at 18, MUR 5338 (The Leadership Forum) (“While former employers and colleagues may exercise influence, influence is not necessarily control”).

V. RECOMMENDATIONS

1. Find reason to believe John R. Kasich violated 52 U.S.C. §§ 30116(f) and 30118(a) and 11 C.F.R. §§ 100.72 and 100.131 by accepting impermissible and excessive in-kind contributions for testing-the-waters activity.

2. Find reason to believe that Kasich for America, Inc. and J. Matthew Yuskewich in his official capacity as treasurer violated 52 U.S.C. §§ 30104(b), 30116(f), and 30118(a) and 11 C.F.R. §§ 100.72 and 100.131 by accepting and failing to report impermissible and excessive in-kind contributions for testing-the-waters activity.

3. Find reason to believe that New Day for America and Matthew Yuskewich in his official capacity as treasurer violated 52 U.S.C. §§ 30116(f) and 30118(a) by making impermissible and excessive in-kind contributions for testing-the-waters activity.


5. Take no action at this time as to whether New Day for America and Matthew Yuskewich in his official capacity as treasurer violated 52 U.S.C. § 30103(a) by failing to timely file its Statement of Organization.

6. Find reason to believe John R. Kasich violated 52 U.S.C. §§ 30116 and 30118(a) by accepting prohibited and excessive in-kind contributions in the form of coordinated communications.

7. Find reason to believe that Kasich for America, Inc. and J. Matthew Yuskewich in his official capacity as treasurer violated 52 U.S.C. §§ 30104(b), 30116, and 30118(a) by accepting and failing to report prohibited and excessive in-kind contributions in the form of coordinated communications.

8. Find reason to believe that New Day for America and Matthew Yuskewich in his official capacity as treasurer violated 52 U.S.C. §§ 30104(b), 30116, and 30118(a) by making and failing to report impermissible and excessive in-kind-contributions in the form of coordinated communications.
9. Find reason to believe that New Day for America and Matthew Yuskewich in his official capacity as treasurer violated 52 U.S.C. § 30120(d)(1)(B) by failing to include complete disclaimers on three television advertisements.

10. Take no action at this time on the allegation that John R. Kasich and New Day for America and Matthew Yuskewich in his official capacity as treasurer violated 52 U.S.C. § 30125 by soliciting, receiving, directing, transferring, or spending soft money.

11. Approve the attached Factual and Legal Analyses.

12. Authorize the use of compulsory process.

13. Approve the appropriate letters.

Lisa J. Stevenson
Acting General Counsel

7/12/18
Date

Kathleen M. Guith
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