

RECEIVED  
FEDERAL ELECTION  
COMMISSIONBEFORE THE  
FEDERAL ELECTION COMMISSION

2016 NOV 10 AM 8:52

Brad Woodhouse  
American Democracy Legal Fund  
455 Massachusetts Avenue, NW  
Washington, DC 20001

OFFICE OF GENERAL  
COUNSEL

Complainant,

v.

MUR # 7196

Great America PAC  
Dan Backer, Treasurer  
107 S. West St.  
Suite 555  
Alexandria, VA 22314

Respondents.

## COMPLAINT

Complainant files this complaint with the Federal Election Commission (the "FEC" or "Commission") under 52 U.S.C. § 30109(a)(1) against Great America PAC and Dan Backer, in his official capacity as Treasurer (collectively "Respondents") for violating the Federal Election Campaign Act of 1971, as amended (the "Act") and Commission regulations. Publicly available news reports strongly indicate that the pro-Trump super PAC, Great America PAC, knowingly and willfully violated the Act by soliciting contributions from a foreign national and attempting to obscure the source of the funds through a 501(c)(4) organization. In a previous matter, the Commission found reason to believe that a campaign committee and its treasurer knowingly and willfully violated 11 C.F.R. 110.20 by participating in a nearly identical scheme. Accordingly, we request that the Commission do the same in this instance and immediately investigate these clear violations of law.

## A. Factual Background

Eric Beach currently serves as the Co-Chairman of Great America PAC, a super PAC supporting Donald J. Trump for President.<sup>1</sup> According to publicly available news reports, Mr. Beach was contacted on October 4, 2016, by a representative of a foreign national who was interested in making a political contribution to support Mr. Trump, but “was not a U.S. national.”<sup>2</sup> The same source says Mr. Beach “agreed that making such a donation to the PAC could be difficult. But he did, however, have a suggestion involving a 501(c)(4)” organization, which Mr. Beach described as a “non-disclose entity” that the foreign national could make a “specific purpose” contribution through in order to achieve the same ends as a direct contribution.<sup>3</sup>

The representative who contacted Mr. Beach was actually an undercover reporter with the Telegraph who made the same offer and claim to a pro-Clinton super PAC, alleging a foreign national was interested in making a contribution.<sup>4</sup> According to the Telegraph’s Investigative Team, who eventually published the story, the pro-Clinton super PAC never responded to the undercover reporter. However, on October 5, 2016, a Republican strategist named Jesse Benton sent an email to the undercover reporter with the subject “From Eric Beach” and the opening line: “Eric Beach asked me to reach out.”<sup>5</sup>

The October 5 email sent by Mr. Benton included a more detailed version of the plan Mr. Beach previously suggested, though Mr. Benton explained that Mr. Beach “needed to maintain a

---

<sup>1</sup> Great America PAC, Statement of Organization (filed Feb. 8, 2016); *see also* Press Release, *Great America PAC Doubles Fundraising in June, Raising a Total of \$5 Million to Date*, Great America PAC (Jul. 1, 2016), available at <https://www.greatamericanpac.com/press/>.

<sup>2</sup> Investigative Team, *Exclusive Investigation: Donald Trump Faces Foreign Donor Fundraising Scandal*, Telegraph (Oct. 24, 2016), available at <http://www.telegraph.co.uk/news/2016/10/24/exclusive-investigation-donald-trump-faces-foreign-donor-fundrai/>.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

‘deliberate disengagement.’’<sup>6</sup> Mr. Benton suggested the foreign donor first use a conduit for the gift; he recommended first giving \$2 million through a communications consulting group to Mr. Benton’s own public affairs firm, Titan Strategies LLC, “in order to mask the fact that the money was coming from abroad.”<sup>7</sup> From there, Mr. Benton “explained how he would direct the funds evenly to two 501(c)(4)s which could donate the money to the Great America PAC in their name, or spend it on activities the PAC would otherwise have funded.”<sup>8</sup>

The Telegraph quotes Mr. Benton stating ‘[t]here’s no prohibition against what we’re doing, but you could argue that the letter of the law says that it is originating from a foreign source and even though it can legally go into a 501(c)(4) then it shouldn’t be done.’<sup>9</sup> Mr. Benton also warned the undercover reporters not to “put any of this on paper.”<sup>10</sup>

## B. Legal Analysis

Federal law prohibits foreign nationals from making any contribution or expenditure in connection with an election to public office.<sup>11</sup> A foreign national is defined as an “individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence.”<sup>12</sup> The Act also prohibits persons from knowingly soliciting, accepting, or receiving a contribution or donation from a foreign national.<sup>13</sup> “For the purpose of this prohibition, the regulation defines ‘knowingly’ as (i) having actual knowledge the person solicited is a foreign national, (ii) being aware of facts that would lead a reasonable person to conclude that there is a substantial probability that the person solicited is a foreign national, or (iii) being aware of facts

---

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> 11 C.F.R. § 110.20(b); 52 U.S.C. § 30121(b).

<sup>12</sup> 11 C.F.R. § 110.20(a)(3)(ii).

<sup>13</sup> 11 C.F.R. § 110.20(g); 52 U.S.C. § 30121(a)(2).

that would lead a reasonable person to inquire whether the person solicited is a foreign national, but failing to make such an inquiry.”<sup>14</sup> “Solicit” is defined as asking, requesting, or recommending - either implicitly or explicitly- that another person make a contribution, donation, transfer of funds, or otherwise provide anything of value.<sup>15</sup> Commission regulations also prohibit knowingly providing “substantial assistance” in the solicitation of contributions from a foreign national.<sup>16</sup> “Substantial assistance” is defined as “active involvement in the solicitation, making, receipt or acceptance of a foreign national contribution or donation with an intent to facilitate successful completion of the transaction.”<sup>17</sup>

As the facts above indicate, Mr. Beach knowingly solicited a donation from a foreign national, and provided substantial assistance in completing the transaction despite knowledge that the contribution was illegal. In fact, the Commission has already found reason to believe that this exact scheme violates 11 C.F.R. § 110.20. In Matter Under Review 6528 (Michael Grimm for Congress) former Congressman Michael Grimm informed a foreign national that “he could not contribute to [Grimm’s] Committee, but that he could provide the funds to third parties who in turn could make the contribution to Grimm’s campaign.”<sup>18</sup> Congressman Grimm then provided the foreign national’s name to an intermediary, who then contacted the foreign national about making a contribution.<sup>19</sup> Because Grimm “expressly instruct[ed]...foreign nationals that they could not contribute unless they concealed the true source of their contribution by using intermediaries to make them,” the Commission determined such conduct constituted a knowing

---

<sup>14</sup> FEC Adv. Op. 2016-10 (Parker) (citing 11 C.F.R. § 120(a)(4)). This section also includes a safe harbor provision, though it is not applicable here, as the person soliciting the funds had actual knowledge of the donor’s citizenship status as a foreign national.

<sup>15</sup> 11 C.F.R. § 110.20(a)(6).

<sup>16</sup> 11 C.F.R. § 110.20(h)(1).

<sup>17</sup> *Contribution Limitations and Prohibitions*, 67 Fed. Reg. 69,928, 69,945 (Nov. 19, 2002).

<sup>18</sup> Factual and Legal Analysis, Matter Under Review 6528 (Michael Grimm for Congress, *et al.*) at 3.

<sup>19</sup> *Id.* at 4, 6.

and willful violation of the Act, as his “acts were committed with full knowledge of all the relevant facts and a recognition that the action is prohibited by law.”<sup>20</sup>

The same exact facts are at issue here. Mr. Beach was contacted by a foreign national purportedly interested in making a contribution to his political committee.<sup>21</sup> Mr. Beach was expressly told by the donor’s representative that the donor was not a U.S. citizen.<sup>22</sup> Nonetheless, Mr. Beach suggested the donor use a 501(c)(4) organization to shield the true source of the contribution, and Mr. Beach then shared the representative’s contact information with Mr. Benton to finalize the details of the plan.<sup>23</sup> Mr. Benton then came up with an elaborate scheme to hide the fact that these contributions were illegal by using a conduit organization and two separate 501(c)(4) organizations to obscure the source of the donation.<sup>24</sup>

#### **REQUESTED ACTION**

Respondents participated in an identical scheme to that of Congressman Grimms, which the Commission already determined was a direct, knowing, and willful violation of the Act. Like Congressman Grimms, Mr. Beach “expressly instruct[ed]...foreign nationals that they could not contribute unless they concealed the true source of their contribution by using intermediaries to make them.”<sup>25</sup> We respectfully request that the Commission investigate these violations and that Respondents be enjoined from further violations and fined the maximum amount permitted by law. Given the FEC’s authority to refer potentially criminal matters to the U.S. Department of Justice (“DOJ”) when it “determines that there is probable cause to believe that a knowing and

---

<sup>20</sup> Investigative Team, *supra* note 2.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> Matter Under Review 6528, *supra* note 18.

willful violation of this Act" has occurred, we also request a determination from the Commission as to whether the facts provided constitute a knowing and willful violation such that a referral to the DOJ is appropriate.<sup>26</sup>

Sincerely,

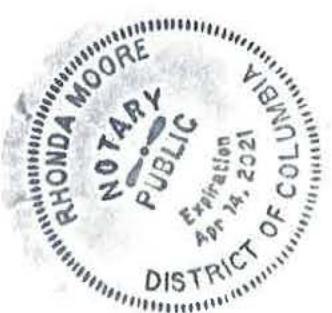


SUBSCRIBED AND SWORN to before me this 2<sup>nd</sup> day of October, 2016.

Rhonda Moore  
Notary Public

My Commission Expires:

4-14-2021



<sup>26</sup> 52 U.S.C. § 30109(5)(C).