

FEDERAL ELECTION COMMISSION
FIRST GENERAL COUNSEL'S REPORT

MUR: 7354

DATE COMPLAINT FILED: March 26, 2018

DATE OF NOTIFICATION: March 30, 2018

DATE OF LAST RESPONSE: May 22, 2018

DATE ACTIVATED: July 11, 2018

EXPIRATION OF SOL: June 28, 2022 (earliest)

March 11, 2023 (latest)

ELECTION CYCLE: 2018

COMPLAINANT:

Sandhya Bathija

Campaign Legal Center

RESPONDENTS:

Friends of Chris McDaniel and Richard Conrad

in his official capacity as treasurer

Chris McDaniel

Remember Mississippi and Tommy Barnett in his

official capacity as treasurer¹**RELEVANT STATUTES
AND REGULATIONS:**

52 U.S.C. § 30101(2)

52 U.S.C. § 30102(e)

52 U.S.C. § 30103(a)

52 U.S.C. § 30104(a), (b)

52 U.S.C. § 30116(a), (f)

52 U.S.C. § 30118(a)

52 U.S.C. § 30125(e)

11 C.F.R. § 300.64

INTERNAL REPORTS CHECKED:

Disclosure Reports

FEDERAL AGENCIES CHECKED:

None

I. INTRODUCTION

The Complaint alleges that Chris McDaniel, a 2018 U.S. Senate candidate in Mississippi; his principal campaign committee, Friends of Chris McDaniel and Richard Conrad in his official

¹ Tommy Barnett replaced Susan Perkins as treasurer on October 17, 2017, as discussed below. Remember Mississippi Amended Statement of Organization (Oct. 17, 2017).

capacity as treasurer (“McDaniel Committee”); and Remember Mississippi and Tommy Barnett in his official capacity as treasurer (“Remember PAC”), an independent-expenditure-only political committee (“IEOPC”) that supported McDaniel, violated the Federal Election Campaign Act of 1971, as amended (the “Act”), and Commission regulations in four ways:

- Remember PAC made, and the McDaniel Committee accepted, excessive, corporate, and unreported in-kind contributions by organizing and paying for three McDaniel campaign events;
- Remember PAC lost its IEOPC status when it began making the in-kind contributions, and it violated the Act by accepting contributions after that date that did not comply with the Act’s amount limitations and source prohibitions;
- McDaniel failed to timely file his Statement of Candidacy, which also resulted in the McDaniel Committee’s failure to timely file its Statement of Organization; and
- McDaniel violated the Act’s soft money prohibitions by establishing, financing, maintaining, or controlling Remember PAC, which raised and spent soft money while McDaniel was a federal candidate.²

Remember PAC argues that the three events were non-federal fundraising events permitted under Commission regulations.³ It also asserts that while McDaniel had personal ties to Remember PAC staff, the political committee was formed independently of him.⁴ The McDaniel Committee’s response does not address the Complaint’s allegations; it states that it will file a full response should the Commission find reason to believe that a violation occurred.⁵ Chris McDaniel did not file a response.

² Compl. at 16, 23, 24, 26, and 28 (Mar. 26, 2018).

³ Remember PAC Resp. at 11 (May 17, 2018).

⁴ *Id.* at 11-12.

⁵ McDaniel Committee Resp. at 1 (May 22, 2018).

1 Based on the available information, we recommend that the Commission: (1) find reason
2 to believe that Remember PAC violated 52 U.S.C. §§ 30116(a)(1) and 30118(a) by making
3 excessive and prohibited in-kind contributions to the McDaniel Committee, and reason to believe
4 that Remember PAC violated 52 U.S.C. § 30104(b) by failing to report them; (2) find reason to
5 believe that McDaniel and the McDaniel Committee violated 52 U.S.C. §§ 30116(f), 30118(a),
6 and 30125(e) by accepting prohibited and excessive in-kind contributions, and reason to believe
7 that the McDaniel Committee violated 52 U.S.C. § 30104(b) by failing to report them; (3) find
8 reason to believe that Remember PAC violated 52 U.S.C. § 30116(f) by accepting excessive
9 contributions after it made the in-kind contributions to McDaniel; (4) find reason to believe that
10 McDaniel violated 52 U.S.C. § 30102(e)(1) by failing to timely file a Statement of Candidacy,
11 and the McDaniel Committee violated 52 U.S.C. §§ 30103(a) and 30104(a) by failing to timely
12 file a Statement of Organization and failing to file a 2017 Year-End Report; and (5) take no
13 action at this time as to the allegation that McDaniel violated the Act's soft money prohibitions
14 by establishing, financing, maintaining, or controlling Remember PAC.

15 **II. FACTUAL BACKGROUND**

16
17 Remember PAC filed its Statement of Organization on May 24, 2017, stating that it
18 intended to make independent expenditures ("IEs") and would not use the funds it received to
19 make contributions to federal candidates or their committees.⁶ Susan Perkins, a legal assistant to

⁶ Remember PAC Statement of Organization (May 24, 2017).

McDaniel at his law firm, states in an affidavit that she “was asked to sign paperwork with the Federal Election Commission to establish Remember Mississippi,” and she served as its first treasurer.⁷ Perkins does not identify the individual(s) who asked her to file that paperwork.⁸ Melanie Sojourner, McDaniel’s campaign manager during his 2014 bid for the U.S. Senate, states that she founded Remember PAC with Perkins on May 24, 2017, “[i]n consultation with others in the conservative movement[,]” and served as the political committee’s first director.⁹ Perkins states that she was not involved in the daily operations of Remember PAC, noting that Sojourner ran most of the political committee’s day-to-day activities.¹⁰ Both Perkins and Sojourner declare that “[a]t no point did [either person] receive direction from [State] Senator McDaniel about the foundation of [Remember PAC].”¹¹ They each also declare that at no point during their respective tenures with Remember PAC “was Chris McDaniel a candidate for federal office.”¹² Perkins and Sojourner each state that they stopped performing their respective services for Remember PAC on October 17, 2017.¹³

On June 28, 2017, Remember PAC received its first contribution, in the amount of \$50,000.¹⁴ By the end of 2017, Remember PAC received a total of \$1,349,745 in contributions,

⁷ Remember PAC Resp., Perkins Decl. ¶ 4 (May 4, 2018).

⁸ *See id.*

⁹ Remember PAC Resp., Sojourner Decl. ¶ 1 (May 7, 2018).

¹⁰ Remember PAC Resp., Perkins Decl. ¶ 5.

¹¹ Remember PAC Resp., Melanie Sojourner Decl. ¶ 5, Susan Perkins Decl. ¶ 4.

¹² Remember PAC Resp., Melanie Sojourner Decl. ¶ 7, Susan Perkins Decl. ¶ 6.

¹³ Remember PAC Resp., Perkins Decl. ¶ 5 and Sojourner Decl. ¶ 6. *See* Remember PAC Amended Statement of Organization (Oct. 17, 2017) (replacing Perkins as treasurer).

¹⁴ Remember PAC 2017 Mid-Year Report at 6 (July 31, 2017).

1 mostly from individuals in amounts that would otherwise exceed the Act's contributions limits,
 2 plus it received \$25,000 from one corporation.¹⁵ Remember PAC later made IEs supporting a
 3 single candidate—Chris McDaniel—totaling \$521,414.76, and it made IEs opposing a single
 4 type of candidate—those running against Chris McDaniel—totaling \$240,518.88.¹⁶

5 Press accounts referenced in the Complaint noted that McDaniel, a Mississippi State
 6 Senator, had engaged in discussions in the fall of 2017 with Steve Bannon and wealthy donors
 7 about running for federal office. On September 26, 2017, the *Washington Post* reported that
 8 McDaniel had confirmed meeting with Bannon and stated that the results of the recent Alabama
 9 U.S. Senate primary election “increase[d] the likelihood that [he would] jump in” to the
 10 Mississippi U.S. Senate race.¹⁷ The *Post* also reported that the Mercer family—identified as
 11 wealthy contributors associated with Bannon—had encouraged McDaniel to run.¹⁸ When
 12 McDaniel was asked about rumors that the Mercers and other donors had pledged more than \$1
 13 million to him, he responded, “[i]t may be more.”¹⁹ On October 9, 2017, McDaniel confirmed to
 14 *The Clarion-Ledger* that he had multiple meetings with Bannon and several large national
 15 conservative groups, noting “whichever race [U.S. Senate or Mississippi Lieutenant Governor]

¹⁵ Remember PAC 2017 Year-End Report at 6-9 (Jan. 31, 2018). Remember PAC disclosed disbursing \$247,262.53 for activities including political strategy consulting, legal consulting, investigative research consulting, media consulting, survey research, finance consulting, compliance consulting, list rental, and list purchase. Remember PAC 2017 Year-End Report at 12-21 (Jan. 31, 2018).

¹⁶ Remember PAC 24/48 Hour Reports of Independent Expenditures (Mar. 1, Apr. 15, May 13, July 3, July 29, Aug. 12, Aug. 15, Aug. 19, Oct. 15, Oct. 18, and Oct. 26, 2018). Remember PAC made IEs totaling \$33,000.00 opposing Roger Wicker and \$207,518.88 opposing Cindy Hyde-Smith.

¹⁷ Compl. at 4, citing Robert Costa, *After Alabama, GOP Anti-Establishment Wing Declares All-Out War in 2018*, WASHINGTON POST (Sept. 26, 2017).

¹⁸ *Id.*

¹⁹ *Id.*

1 we decide to enter, financing won't be an issue."²⁰ McDaniel further stated that he would be
 2 weighing many variables in considering a run, "but financial concerns aren't one of those
 3 variables."²¹ He also stated that the conservative groups that he had spoken with about injecting
 4 millions of dollars into a Senate race "are absolutely interested."²² On November 13, 2017, *The*
 5 *Clarion-Ledger* further quoted McDaniel as stating that he had "come to peace with one of those
 6 seats" and would "make an announcement one way or the other in a matter of weeks."²³ On
 7 December 27, 2017, the *Washington Post* reported that Dan Eberhart confirmed that he
 8 contributed \$25,000 to Remember PAC, had been meeting with McDaniel, and planned on
 9 "heavily backing him."²⁴

10 On February 28, 2018, McDaniel publicly announced that he would challenge the
 11 incumbent, Senator Roger Wicker, for the Republican nomination for U.S. Senate.²⁵ McDaniel
 12 received more than \$5,000 in contributions on March 3, 2018, and filed his Statement of
 13 Candidacy two days later.²⁶ Also on March 5, 2018, the McDaniel Committee filed its Statement

²⁰ Compl. at 4-5, citing Geoff Pender, *Will McDaniel Join Bannon's 'War on GOP?'*, THE CLARION-LEDGER (Oct. 9, 2017).

²¹ *Id.*

²² *Id.*

²³ Compl. at 3, 5, citing Geoff Pender, *McDaniel 'At Peace' With Run for Higher Office, Won't Say Which One Yet*, THE CLARION-LEDGER (Nov. 13, 2017).

²⁴ Compl. at 5, citing Sean Sullivan & Michael Scherer, *GOP Intraparty Clash Poised to Shape U.S. Senate Contest in Mississippi*, WASHINGTON POST (Dec. 27, 2017). While Remember PAC's disclosure reports reveal no contributions from Eberhart, it discloses a \$25,000 contribution made on November 20, 2017, by Canary Wellhead Equipment, Inc., a company acquired by Eberhart. See Remember PAC 2017 Year-End Report at 6 (Jan. 31, 2018); see also Ben Lefebvre, *Frontier Energy Buys Canary Wellhead, Furthers Oilfield M & A*, WALL STREET JOURNAL (Jan. 14, 2013).

²⁵ Remember PAC Resp. at 4.

²⁶ Chris McDaniel Statement of Candidacy (Mar. 5, 2018).

of Organization.²⁷ According to the McDaniel Committee's first disclosure report, the 2018 April Quarterly Report, it received its first contribution on February 28, 2018, and made its first disbursement on March 15, 2018.²⁸ That report did not disclose any "testing the waters" contributions or disbursements that pre-date McDaniel's February 28 candidacy announcement.

Within 11 days of the date McDaniel announced his candidacy, Remember PAC held three events in Mississippi featuring McDaniel as the "Special Guest." The events took place on March 9 in Tupelo, March 10 in Ellisville, and March 11, 2018, in Gulfport.²⁹

The March 2 invitation to the March 9 event in Tupelo, found on Remember PAC's Facebook page, is entitled, "Join Us for a Fish Fry with Special Guest Chris McDaniel," and displays a picture of McDaniel to the right of a larger picture of a plate of food.³⁰ The invitation describes McDaniel as a candidate for U.S. Senate, and stated in two places that the event was free.³¹ Another invitation for the March 9 Tupelo event is shown below.³²

²⁷ McDaniel Committee Statement of Organization (Mar. 5, 2018).

²⁸ Friends of Chris McDaniel Amended 2018 April Quarterly Report at 6 (July 14, 2018); Friends of Chris McDaniel 2018 April Quarterly Report at 32 (Apr. 13, 2018).

²⁹ According to Remember PAC, after McDaniel's announcement on February 28, 2018, the PAC proceeded to organize the events, and as soon as the locations were reserved, the PAC reached out to Melanie Sojourner, who at this point was working for the McDaniel Committee after her stint as director of Remember PAC, to confirm McDaniel's availability for the events. *See* Remember PAC Resp., Christopher Britton (political consultant with 365 Strategies) Decl. ¶¶ 10-11 (May 16, 2018).

³⁰ Compl. Ex. A; Remember PAC Resp. Ex. G.

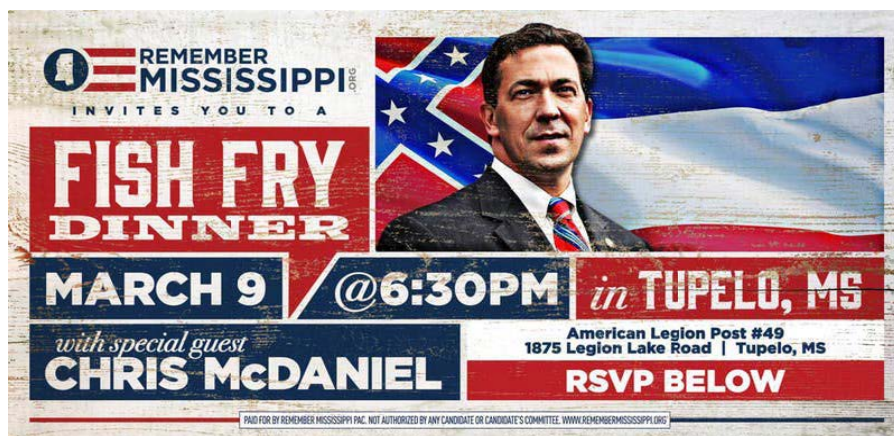
³¹ *Id.* ("Cost: FREE" and "To RSVP to this FREE event").

³² *See* Remember PAC Resp. Ex. G.

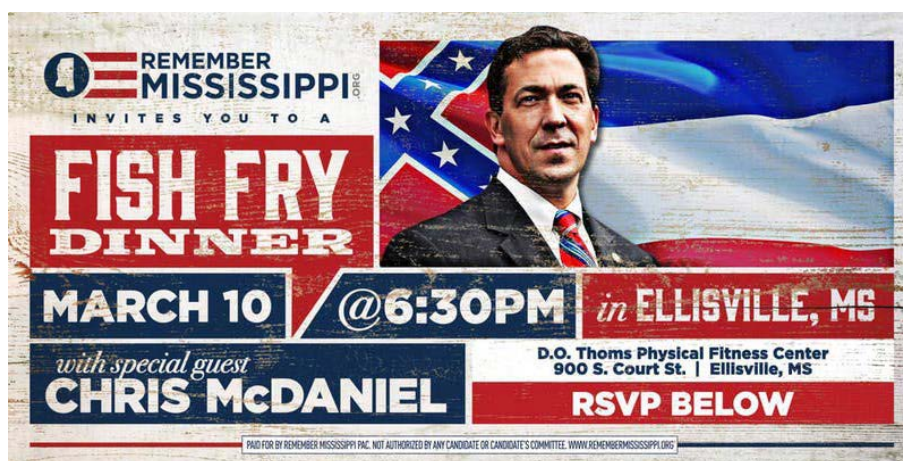
MUR 7354 (Friends of Chris McDaniel, *et al.*)

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Remember PAC's March 3, 2018, Facebook post announcing the March 10 Ellisville event similarly featured McDaniel's name and image, and referred to him as a "special guest" and as a candidate for U.S. Senate.³³ McDaniel's official Mississippi State Senate Facebook page shared the PAC's March 10 ad, with the caption "Coming home tonight! Please join us for a fish fry in Ellisville. Tickets are not required. Please bring your friends and family."³⁴ Eventbrite, an event management and ticketing service, distributed the following invitation for the event.³⁵



³³ Compl. Ex. D; Remember PAC Resp. Ex. G.

³⁴ Compl. Ex. B.

³⁵ See Remember PAC Resp. Ex. G.

Similar to its earlier posts, Remember PAC's March 6, 2018, Facebook post also promoted the March 11 Gulfport event as free, and it featured an image of McDaniel prominently in the foreground, with images of Mississippi's state flag on the left and a church on the right.³⁶ The invitation describes the third event as a "special lunch for pastors and parishioners at Faith Baptist Church in Gulfport, Mississippi."³⁷ While this post does not explicitly describe McDaniel as a U.S. Senate candidate, Eventbrite distributed an invitation for the Gulfport event that included Remember PAC's statement that "one of [its] primary goals in 2018 is to help Sen. Chris McDaniel win the GOP nomination for U.S. Senate."³⁸ A copy of the Eventbrite invitation for this event is below.³⁹



The Eventbrite invitation for each of the three events also included a "Details" page titled "Help us Help Chris-Reserved Seating."⁴⁰ Directly under that title is the phrase "\$25.00 + \$3.45

³⁶ Compl. Ex. J; Remember PAC Resp. Ex. G.

³⁷ Compl. Ex. J.

³⁸ Remember PAC Resp. Ex. G.

³⁹ See Remember PAC Resp. Ex. G.

⁴⁰ *Id.*

fee[.]” and below that, the following language precedes a paragraph regarding federal contributions:

Please help us defray the cost of this event and spread the word about Chris McDaniel. Your donation helps us spread the word about Chris McDaniel and his run for US Senate!⁴¹

Remember PAC's Response describes the \$25 donation to the political committee as a way for the donor to get better seats at the events.⁴²

McDaniel's official Mississippi State Senate Facebook page also promoted all three events. For example, McDaniel's post on the morning of the Tupelo event stated “[i]f you are near Tupelo, please come see us tonight at the Tupelo American Legion for a fish fry!”⁴³ In the comments section of this post, McDaniel appeared to respond personally to various questions about attending the event.⁴⁴

The events themselves are captured in photographs and videos showing McDaniel speaking behind a lectern displaying a “Remember Mississippi” sign, and in front of a wall covered with posters stating “McDaniel U.S. Senate 2018” in larger type and “Remember Mississippi” in smaller type, as shown below.⁴⁵

⁴¹ *Id.* The Eventbrite invitation also included a disclaimer, “Paid for by Remember Mississippi PAC. Not authorized by any candidate or candidate's committee.” *Id.*

⁴² Remember PAC Resp. at 5. Remember PAC did not itemize any contributions received around the time of the three events; the PAC disclosed \$3,699.00 in unitemized contributions received for the reporting period of January 1 through March 31, 2018. *See* Remember PAC 2018 April Quarterly Report at 3, 6.

⁴³ Compl. Ex. B.

⁴⁴ *Id.*

⁴⁵ *Id.* Compl. Exs. F, G and K; Senator Chris McDaniel, *WATCH LIVE: We're back home in Ellisville!*, FACEBOOK (Mar. 10, 2018); Senator Chris McDaniel, *We're at Faith Baptist Church in Gulfport*, FACEBOOK (Mar. 11, 2018). The Complaint refers to these videos throughout. *See* Compl. at 9, 10, 18, 20, 21.



The video from the Gulfport event, available on McDaniel's Facebook page, focuses solely on McDaniel's speech, in which he promoted his candidacy and criticized his opponent, Senator Wicker, but did not solicit contributions for his campaign.⁴⁶ The Ellisville event begins with a McDaniel supporter introducing McDaniel to the audience and urging them to support his campaign.⁴⁷ After McDaniel's speech, a Remember PAC representative joined McDaniel on stage, presented him with a commemorative T-shirt, and then made these closing remarks:

We stand behind you [McDaniel] 110% and we are ready to push across the line and we're ready to drain the swamp and we thank you for standing up for us. [Applause] Everyone, thank you for coming. We have signs, we have placards, we have it all, and we want you to take it out and we want you to push the message. Without you, he cannot win. OK? Let's get out there and fight.⁴⁸

⁴⁶ Senator Chris McDaniel, *We're at Faith Baptist Church in Gulfport*, FACEBOOK (Mar. 11, 2018).

⁴⁷ Senator Chris McDaniel, *WATCH LIVE: We're back home in Ellisville!*, FACEBOOK (Mar. 10, 2018).

⁴⁸ *Id.*

Remember PAC states that these events “were intended to raise awareness of the PAC, provide a forum for the distribution of PAC material, create a PAC library of public comments about the election for future use, develop a base of support in the individual communities, and assist in the assembly of voter lists that could be used to aid future fundraising and outreach efforts.”⁴⁹

Remember PAC’s disclosure reports list expenditures for the types of goods and services that appear to have been used for the three events:

- March 1, 2018 (\$86,245.16) -- \$50,143.17 to Danwal Inc. for printing-signs; \$17,500.00 to Fielding Creative LLC for graphic design; \$10,118.71 to Left Hand Design for graphic design/printing; \$4,441 to Thomas Graphics for printing-signs; to \$2,992.28 to PPI for printing-T-shirts; \$1,050 to Jamesdesign for graphic design.
- March 5, 2018 (\$2,000.00) -- \$2,000 to American Legion Post #49 for facility rental;
- March 6, 2018 (\$10,323) -- \$5,830.00 to Gulf South Productions for A/V services/equipment rental; \$4,493.00 to A Complete Flag Source Inc. for equipment purchase.
- March 7, 2018 (\$17,745.09) -- \$17,745.09 to Southern Hospitality Catering LLC for catering.
- March 16, 2018 (\$117.90) -- \$117.90 to Eventbrite for credit card merchant fee.⁵⁰

In comparison, the McDaniel Committee reported no disbursements on or near the dates of these events. Its reports show that as of the date of the first event, the McDaniel Committee

⁴⁹ Remember PAC Resp., Britton Decl. ¶ 10.

⁵⁰ Remember PAC 2017 April Quarterly Report at 8, 10, 14, 17, 24, 27, 35, and 38 (Apr. 15, 2018); and Remember PAC 2018 July Quarterly Report at 10 (July 15, 2018).

had received only \$8,050 in itemized contributions, and as of the date of the last event, the McDaniel Committee received only \$1,025 more.⁵¹

On March 14, 2018, McDaniel announced that, instead of running against Senator Wicker, he would run as a candidate in the special election to fill the seat of retiring U.S. Senator Thad Cochran.⁵²

III. LEGAL ANALYSIS

A. There is Reason to Believe that Remember PAC Made, and the McDaniel Committee and McDaniel Accepted, Excessive and Impermissible In-Kind Contributions that Remember PAC and McDaniel Committee Each Failed to Report

IEOPCs are prohibited from making contributions, including in-kind contributions, to candidates and their authorized committees, and it is unlawful for candidates and their authorized committees to knowingly accept an excessive or prohibited contribution.⁵³ The Act provides that a “contribution” includes “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.”⁵⁴ “Anything of value” includes all in-kind contributions.⁵⁵ An in-kind contribution includes the provision without charge (or at less than the usual and normal charge) of any goods or services,

⁵¹ Friends of Chris McDaniel Amended 2018 April Quarterly Report (July 14, 2018). The Report reflects that the McDaniel Committee received unitemized contributions totaling \$42,975 during the entire quarter, but it is unclear what amount was received during the first eight days of March, before the first event. For comparison's sake, the McDaniel Committee received 16.7% of all itemized contributions for the reporting period during the first eight days of March.

⁵² Compl. at 11.

⁵³ 52 U.S.C. §§ 30116(a), 30116(f), 30118(a); Advisory Op. 2011-11 (Commonsense Ten).

⁵⁴ 52 U.S.C. § 30101(8)(A)(i).

⁵⁵ 11 C.F.R. § 100.52(d)(1).

including, but not limited to, “facilities, equipment, supplies, personnel, advertising services, membership lists, and mailing lists.”⁵⁶

Further, under the soft money provisions of the Act, a candidate or entity established, financed, maintained, or controlled by a federal candidate shall not receive funds in connection with an election for federal office, unless the funds are subject to the limitations, prohibitions, and reporting requirements of the Act.⁵⁷

Under the Act, reports filed with the Commission must accurately disclose, *inter alia*, the total amount of all receipts and disbursements as well as total amounts in contributions and expenditures made to meet the candidate's or committee's operating expenses.⁵⁸ Committee treasurers are personally responsible for ensuring the timely and complete filing of committee reports and the accuracy of the information contained therein.⁵⁹

A federal candidate may attend, speak at, and be a featured guest at non-federal fundraising events, and may solicit funds at such events as long as the solicitation is limited to funds that comply with the amount limitations and source prohibitions of the Act.⁶⁰ The regulation covers participation by federal candidates at fundraising events in connection with an election for federal office or any non-federal election at which funds outside the amount limitations and source prohibitions of the Act are solicited.⁶¹

⁵⁶ *Id.*

⁵⁷ 52 U.S.C. § 30125(e)(1)(A).

⁵⁸ 52 U.S.C. § 30104(b)(2), (4).

⁵⁹ 52 U.S.C. § 30104(a)(1). *See also* 11 C.F.R. § 104.14(d).

⁶⁰ 11 C.F.R. § 300.64(b)(1)-(2). *See also* 52 U.S.C. § 30125(e)(3).

⁶¹ 11 C.F.R. § 300.64(a).

1 The Commission has long recognized that the payment of costs to sponsor and finance
 2 public appearances by candidates for Federal office that are “campaign-related” is considered
 3 made “for the purpose of influencing Federal elections” and constitutes a “contribution on behalf
 4 of such candidates, unless such payment is specifically exempted by the Act or regulation.”⁶² To
 5 determine whether the event is campaign-related, the Commission considers factors “including
 6 the setting, timing, and statements or expressions of the purpose of an event and the substance of
 7 the remarks or speech made.”⁶³ And the Commission has continued to deem the provision of
 8 costs for campaign events or rallies for a federal candidate to constitute in-kind contributions.⁶⁴

9 The available information indicates that the three Remember PAC events were campaign-
 10 related events in connection with McDaniel’s campaign because they primarily promoted
 11 McDaniel’s candidacy and expressly advocated his election. All three of the events featured

⁶² See Advisory Op. 1988-22 (San Joaquin Valley Republican Associates) at 6 (a corporation’s payment of costs for a candidate’s public appearance was “campaign related” and, thus, presumptively constituted a “contribution” subject to corporate prohibition on contributions in connection with federal elections). See also Advisory Op. 1986-37 (National Conservative Foundation) at 4 (public appearances by candidates at sponsored events will be campaign related if such events include any express advocacy of the election or defeat of any candidate or the solicitation of contributions to any candidate or political committee, and that the absence of express advocacy or solicitations will not preclude a determination that public appearances by candidates are campaign related); Advisory Op. 1994-15 (Byrne) at 2 (the Commission has determined that financing particular activities involving the participation of a Federal candidate will result in a contribution to or expenditure on behalf of a candidate if the activities involve (i) the solicitation, making or acceptance of contributions to the candidate’s campaign, or (ii) communications expressly advocating the nomination, election or defeat of any candidate, and that the absence of those factors will not preclude a determination that an activity is “campaign-related”); and Advisory Op. 1996-11 (National Right to Life Committee) at 4 (Commission public funding regulations consider other factors, including the “setting, timing and expressions of the purpose of an event, and the substance of the remarks or speech made . . . in determining whether a stop is campaign-related.”).

⁶³ Advisory Op. 1996-11 (National Right to Life Committee) at 4. Cf. 11 C.F.R. § 9034.7(b)(2) (applies these factors to a trip that includes a campaign-related and non-campaign related stop, noting that the portion of the cost of the trip allocable to campaign activity shall be a qualified campaign expense and a reportable expenditure).

⁶⁴ See Factual & Legal Analysis (“F&LA”) at 4, MUR 6857 (Jerry Gappens) (finding reason to believe that prohibited corporate resources were used to make an in-kind contribution in the form of payments of certain campaign event costs to Marilinda Garcia for Congress); F&LA at 2, 4, MUR 6447 (Steele for Maryland, Inc.) (finding reason to believe committee had accepted excessive in-kind contributions in the form of payments of certain campaign fundraising expenses); *accord Buckley v. Valeo*, 424 U.S. 1, 19 (1976) (per curiam) (noting that “Speeches and rallies generally necessitate hiring a hall and publicizing the event”).

1 speakers appearing in front of a backdrop covered with posters that read “McDaniel U.S. Senate
2 2018” in large, bold type. All three events included the distribution of materials expressly
3 advocating McDaniel’s election, such as yard signs and stickers. The footage from the Ellisville
4 event shows an introductory speaker advocating McDaniel’s election to the Senate and also
5 expressing the hope that the audience will go out and make sure their family and neighbors
6 “know how to contribute to the campaign.”⁶⁵ McDaniel’s speeches promoted his candidacy and
7 criticized Wicker, his primary opponent, and he mentioned no other candidates. A Remember
8 PAC representative made closing remarks expressly advocating McDaniel’s election, and the
9 representative exhorted attendees to take the posters and signs Remember PAC provided and
10 canvas for McDaniel to help him win his election. Even though Remember PAC described
11 McDaniel as a “special guest” at the events, the information in the record indicates that the
12 primary purpose of the events was to promote McDaniel’s campaign.⁶⁶

13 The timing and financing of the events further support the conclusion that Remember
14 PAC’s events were effectively McDaniel campaign events. Remember PAC organized,
15 promoted, and staged the events, giving McDaniel a platform to deliver his campaign message to
16 crowds right after he declared his candidacy—at a time when McDaniel’s campaign did *not* have
17 the funds to pay for such events, according to its reports filed with the Commission. At the time
18 of the first event, the Committee had disclosed receiving \$8,050 in contributions. And the

⁶⁵ Senator Chris McDaniel, *WATCH LIVE: We’re back home in Ellisville!*, FACEBOOK (Mar. 10, 2018), available in the Voting Ballot Matters folder.

⁶⁶ Also suggestive that the events were McDaniel campaign events is that McDaniel, or one of his staff responsible for handling his social media accounts, responded on social media to individual questions about attendance at the events.

1 Committee's biggest source of funding in its first month—McDaniel's \$55,000 loan to his
 2 campaign on March 30, 2018—came approximately three weeks after these events.⁶⁷ While the
 3 events may have also allowed Remember PAC to gather potential contributor information and
 4 raise awareness, information in the record demonstrates that the primary purpose of these events
 5 was to promote McDaniel's campaign.

6 Remember PAC argues that the three events were permissible "independent non-Federal
 7 fundraising events" that McDaniel attended as a "special guest" pursuant to 11 C.F.R. § 300.64,
 8 but this argument appears to be belied by the available facts regarding the nature of the events.
 9 The regulation applies solely to non-federal fundraising events that are in connection with an
 10 election for federal office or any non-federal election at which funds outside the limitations and
 11 source prohibitions of the Act, or Levin funds, are solicited.⁶⁸ At such events, federal candidates
 12 may solicit funds provided that the solicitation is limited to funds that comply with the amount
 13 limitations and source prohibitions of the Act.⁶⁹ But the available information does not indicate
 14 that Remember PAC solicited non-federal funds at any of the three events. Likewise, the
 15 Complaint does not allege, and the other available information does not indicate, that McDaniel
 16 solicited any funds at any of the three events.⁷⁰ The only fundraising directly related to the
 17 events were the \$25 contributions Remember PAC sought through its Eventbrite invitations, and

⁶⁷ Friends of Chris McDaniel 2018 April Quarterly Report at 31 (Apr. 19, 2018).

⁶⁸ Explanation and Justification, Participation by Federal Candidates and Officeholders at Non-Federal Fundraising Events, 75 Fed. Reg. 24,375, 24,378 (May 5, 2010).

⁶⁹ 11 C.F.R. § 300.64(b)(2). Remember PAC also cites Advisory Op. 2015-09 (Senate Majority PAC) for the proposition that federal candidates may attend PAC events so long as they do not solicit non-federal funds. Remember PAC Resp. at 9-10.

⁷⁰ Remember PAC states that the only direct solicitation of funds at any of the events were "spontaneous requests for charitable contributions" to a statewide non-profit serving children, "rather than funds for any specific political committee, whether federal or non-federal." Remember PAC Resp. at 10.

1 the political committee acknowledges that it “did not have credit card readers, a cash box, or any
 2 other equipment required to process contributions, nor did it distribute or collect contribution
 3 forms at the events.”⁷¹ Thus, the available information does not support Remember PAC’s
 4 assertion that these events were non-federal fundraisers. By paying the events’ costs, Remember
 5 PAC made substantial in-kind contributions to McDaniel and the McDaniel Committee.⁷²

6 In sum, the information in the record indicates that the three events were McDaniel
 7 campaign events paid for by an IEOPC. Consequently, Remember PAC’s disbursements
 8 constitute in-kind contributions to the McDaniel Committee, and we recommend that the
 9 Commission find reason to believe that Remember PAC violated 52 U.S.C. §§ 30104(b),
 10 30116(a)(1), and 30118(a) by making prohibited and excessive contributions to the McDaniel
 11 Committee and by failing to disclose them. As to the McDaniel Committee and McDaniel, who
 12 appear to have knowingly accepted the in-kind contributions, we recommend that the
 13 Commission find reason to believe that they violated 52 U.S.C. §§ 30116(f), 30118(a), and
 14 30125(e). Finally, since the McDaniel Committee did not disclose the receipt of the in-kind
 15 contributions, we recommend that the Commission also find reason to believe the McDaniel
 16 Committee violated 52 U.S.C. § 30104(b) by failing to report the contributions.

⁷¹ *Id.* at 5.

⁷² Remember PAC cites MUR 5918 (Delaware State Republican Committee (“DSRC”)) for the proposition that the Commission has taken “a broad approach to what constitutes a ‘fundraising event.’” Remember PAC Resp. at 10 n.35. Although the event at issue in MUR 5918 shares some characteristics with the events in the instant matter, as the invitation in MUR 5918 focused largely on the guest, then-presidential candidate Mitt Romney, and the invitation asked for a small contributions to the DSRC, the Commission dismissed MUR 5918 as a matter of prosecutorial discretion based on the small amount of contributions raised and because there was no evidence that the DSRC failed to report any in-kind contribution in connection with the event. *See* MUR 5918 F&LA at 2-3, 7. There are, however, material differences between the matters. The invitation in MUR 5918 indicates that the event was held at the home of an individual, and the record in that matter did not indicate what expenses DSRC covered for the event. MUR 5918 also did not involve excessive, impermissible, or unreported contributions, and the instant matter appears to involve substantial amounts of all three.

B. Remember PAC Ceased to Be an IEOPC When It Made In-Kind Contributions to the McDaniel Committee, Resulting in Further Violations of 52 U.S.C. §§ 30104(b) and 30116

The Complaint alleges that Remember PAC ceased to be an IEOPC on March 9, 2018, when it made in-kind contributions to the McDaniel Committee, and from that date forward was not permitted to accept contributions in unlimited amounts, and could only raise and spend funds within the Commission's contribution limits.⁷³ Remember PAC declared in its initial Statement of Organization that it intended "to make independent expenditures, and consistent with the U.S. Court of Appeals for the District of Columbia Circuit decision in *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010) (en banc), it therefore intend[ed] to raise funds in unlimited amounts."⁷⁴ Moreover, Remember PAC stated that it "[would] not use those funds to make contributions, whether direct, in-kind, or via coordinated communications, to federal candidates or committees."⁷⁵

It is well established that IEOPCs are prohibited from making contributions to candidates and their authorized committees.⁷⁶ And the Act provides that no person shall make a contribution to an unauthorized committee that exceeds \$5,000 in a calendar year⁷⁷ and that no committee shall knowingly accept excessive contributions.⁷⁸ Here, the factual record supports a finding that Remember PAC contravened its IEOPC status when it began spending money on the

⁷³ Compl. at 23-24.

⁷⁴ Remember PAC Statement of Organization at 5 (May 24, 2017).

⁷⁵ *Id.*

⁷⁶ See Advisory Op. 2010-11 (Commonsense Ten) (July 22, 2010). See also *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010) (en banc).

⁷⁷ 52 U.S.C. § 30116(a)(1)(C).

⁷⁸ 52 U.S.C. § 30116(f).

three events, which were in-kind contributions to McDaniel and the McDaniel Committee. As discussed above, Remember PAC's argument that its events featuring McDaniel were "independent" is contradicted by the available record.

Because Remember PAC contravened its representation that it would not make contributions to candidates when it paid for expenses related to the three events, any contributions that it received after that date were subject to the Act's contribution limits.⁷⁹ Since March 1, 2018, Remember PAC's disclosure reports reflect that it has accepted excessive contributions from four individuals in amounts totaling \$530,000.⁸⁰ Accordingly, we recommend that the Commission find reason to believe that Remember PAC violated 52 U.S.C.

⁷⁹ The Commission has recognized instances in which a person or entity's status and obligations change based on actions that occur. *Cf.* F&LA at 15, MUR 6538R (Americans for Job Security, *et al.*) (concluding that there was reason to believe that an organization had violated the Act's registration and reporting requirements by failing to register and report as a political committee when its spending of more than \$12 million dollars in the year before the 2010 election—more than half of which was for independent expenditures and electioneering communications—indicated that its major purpose had become the nomination or election of candidates); Certifications, MURs 6955 & 6983 (John R. Kasich, *et al.*) and MURs 6917 & 6929 (Scott Walker, *et al.*) (April 24, 2019) (finding that Respondents engaged in activities triggering candidacy registration requirements earlier than dates of statements of candidacy) (open matters).

⁸⁰ Remember PAC 2018 July Quarterly Report at 15 (July 15, 2018); Remember PAC 2018 October Quarterly Report at 6, 7 (Oct. 15, 2018); and Remember PAC 2018 12-Day Pre-General Report at 6 (Oct. 25, 2018). Since March 1, 2018, Remember PAC received one contribution from a corporation in the amount of \$1,500. *See* Remember PAC 2018 October Quarterly Report at 6 (Oct. 15, 2018). Given the modest size of this contribution and the context of this matter, however, we do not recommend further use of Commission resources to pursue Remember PAC for receipt of this corporate contribution.

1 § 30116(f) by accepting excessive contributions.⁸¹

2 **C. There Is Reason to Believe that McDaniel Failed to Timely File a Statement**
 3 **of Candidacy**

4
 5 According to the Act, an individual becomes a candidate if: (a) such individual receives
 6 contributions or makes expenditures in excess of \$5,000, or (b) such individual gives his or her
 7 consent to another person to receive contributions or make expenditures on behalf of such
 8 individual and if such person has received such contributions or has made such expenditures in
 9 excess of \$5,000.⁸² Once the \$5,000 threshold has been met, the candidate has fifteen days to
 10 designate a principal campaign committee by filing a Statement of Candidacy with the
 11 Commission.⁸³ The principal campaign committee must file a Statement of Organization within

⁸¹ The facts in this matter are materially distinguishable from those in MUR 6357 (American Crossroads), which also involved an allegation that an IEOPC made a contribution and was subject to the Act's limitations and prohibitions not ordinarily applicable to IEOPCs. Although it appeared that Crossroads' in-kind contribution to the campaign committee did not comply with the restrictions on IEOPCs, we recommended that the Commission dismiss the allegation that Crossroads violated sections 441a(f) and 441b (since renumbered at 30116(f) and 30118) by accepting excessive and prohibited contributions, given that Crossroads appeared to have believed that it was making an independent expenditure when it republished campaign material in its advertisement because it had done so without the knowledge or involvement of the campaign committee. *See* MUR 6357 FGCR at 12-13. The Commission split 3-3 on that recommendation as to Crossroads' IEOPC status. Amended Certification MUR 6357 (American Crossroads) (Jan. 26, 2012). By contrast, in the current matter, Remember PAC's in-kind contributions to McDaniel were not made independently of McDaniel, and the available facts overcome Remember PAC's asserted independence. For example, Remember PAC insists that the three events constituted "non-federal fundraising events" designed to increase the awareness of Remember PAC and McDaniel was merely a "special guest," but the political committee did not solicit any contributions, nor did it have "equipment required to process contributions, nor did it distribute or collect contribution forms at the events." Remember PAC Resp. at 10. Instead, the events were campaign related, focusing primarily on McDaniel, filled with speakers appearing in front of a backdrop covered with posters that read "McDaniel U.S. Senate 2018" in large, bold type, and the distribution of materials expressly advocating McDaniel's election, such as yard signs and stickers. In addition, Remember PAC has not filed a notice to the Commission intending to maintain a separate (non-contribution) account for the purpose of raising and spending funds in unlimited amounts for purposes other than making direct, indirect, in-kind, or coordinated contributions to federal candidates and committees pursuant to *Carey v. FEC*, 791 F.Supp.2d 121 (D.D.C. 2011).

⁸² 52 U.S.C. § 30101(2).

⁸³ *Id.* § 30102(e)(1); 11 C.F.R. § 101.1(a).

1 ten days of its designation,⁸⁴ and must file disclosure reports with the Commission in accordance
 2 with 52 U.S.C. § 30104(a) and (b).⁸⁵

3 The press articles highlighted in the Complaint suggest that McDaniel decided to run for
 4 federal office months before he filed his Statement of Candidacy on March 5, 2018. McDaniel
 5 stated to the *Washington Post* in September 2017 that his discussions with Bannon coupled with
 6 the electoral outcome in the Alabama U.S. Senate race “increase[d] the likelihood that [he
 7 would] jump” into running for federal office.⁸⁶ McDaniel’s statement to *The Clarion-Ledger* in
 8 an October 9, 2017, article that “whichever race [U.S. Senate or State office] we decide to enter”
 9 signifies that he had decided to run for public office, although he does not specify which
 10 particular office.⁸⁷ But by November 13, 2017, McDaniel indicated that he had made the
 11 decision to run for one of the two offices when he stated to *The Clarion-Ledger* he had “come to
 12 peace with one of those seats.”⁸⁸ Further, the available information reveals that his decision was
 13 geared toward federal activity. Specifically, McDaniel acknowledged meeting with Bannon, the
 14 Mercers, and other donors about challenging Wicker for federal office, and he referenced pledges
 15 from those parties to secure ample funding for a federal campaign.⁸⁹ McDaniel reportedly

⁸⁴ See 52 U.S.C. § 30103(a); 11 C.F.R. § 102.1(a).

⁸⁵ See, e.g., F&LA at 6, MUR 6735 (Joseph A. Sestak); Factual and Legal Analysis at 5, MUR 6449 (Jon Bruning); F&LA at 2, MUR 5363 (Alfred C. Sharpton).

⁸⁶ See *supra* n.17.

⁸⁷ See *supra* n.20.

⁸⁸ See *supra* n.23.

⁸⁹ See *supra* nn.17, 20.

1 confirmed that he “talked a good deal about 2018” with the Mercers in September 2017.⁹⁰ The
 2 Mississippi Lieutenant Governor election, by contrast, was not until 2019. Hence, McDaniel’s
 3 statements to the press establishing that he had decided to run for office by coming to peace with
 4 one of the two seats, coupled with his confirmation of discussions with donors who planned to
 5 support him for a Senate run, objectively indicate that McDaniel had decided to run for federal
 6 office by November 13, 2017.⁹¹

7 Regarding the \$5,000 statutory threshold for candidacy, McDaniel’s own committee did
 8 not disclose receiving or spending that amount until March 2018. McDaniel’s description of his
 9 relationship with donors who funded Remember PAC, however, supports a reasonable inference
 10 that McDaniel consented to the PAC spending on his behalf.⁹² On November 16, 2017, three
 11 days after McDaniel had apparently decided to run for U.S. Senate, Remember PAC spent
 12 \$15,500 for “political strategy consulting/web service.”⁹³ Given McDaniel’s awareness of
 13 substantial pledges to support his Senate campaign, and that Remember PAC solely supported
 14 him, there is reason to believe that McDaniel consented to Remember PAC spending on his
 15 behalf, making McDaniel a candidate for purposes of the Act. Consequently, McDaniel’s

⁹⁰ Compl. at 4, citing Adam Ganuchau, *Bannon Pushed Chris McDaniel Closer to Sen. Wicker Challenge*, MISSISSIPPI TODAY (Sept. 27, 2017).

⁹¹ See Advisory Op. 2015-09 at 6 (Senate Majority PAC) (“Where the circumstances demonstrate that an individual’s statement regarding candidacy reflects that individual’s decision to run for office, mere assertions that the individual’s subjective intent differs from his or her statement generally will not negate the objective indication of candidacy arising from the statement.”).

⁹² See 52 U.S.C. § 30101(2)(B). See, e.g., MUR 460 (Wilson for Congress) (Commission found reason to believe that Wilson may have become a candidate by consenting to others making calls on his behalf, where others referred to themselves as from the Wilson for Congress committee); and MUR 2069 (Siegelman) (Commission found reason to believe that Siegelman gave his consent to a solicitation letter and a fundraising reception and had authorized the seeking of contributions over \$5,000).

⁹³ See *id.*; Remember PAC 2017 Year-End Report at 20.

Statement of Candidacy would have been due by November 28, 2018, and the McDaniel Committee's Statement of Organization would have been due by December 8, 2018. Further, the McDaniel Committee would have been required to file a 2017 Year-End Report. Because McDaniel did not file a Statement of Candidacy and designate a principal campaign committee until March 5, 2018, we recommend that the Commission find reason to believe that McDaniel violated 52 U.S.C. § 30102(e)(1). Accordingly, we recommend that the Commission find reason to believe that Friends of Chris McDaniel violated 52 U.S.C. § 30103(a) and 30104(a) by failing to timely file a Statement of Organization and failing to file a 2017 Year-End Report.⁹⁴

D. The Commission Should Take No Action at this Time Regarding the Allegation that McDaniel Violated the Act's Soft Money Prohibitions by Establishing, Financing, Maintaining, or Controlling Remember PAC

The Act prohibits federal candidates and officeholders, their agents, and entities directly or indirectly established, financed, maintained, or controlled by or acting on behalf of one or more candidates or individuals holding federal office, from "solicit[ing], receiv[ing], direct[ing], transfer[ing], or spend[ing] funds in connection with an election for Federal office . . . unless the funds are subject to the limitations, prohibitions, and reporting requirements of [the] Act."⁹⁵ This provision, among others enacted as part of the Bipartisan Campaign Reform Act of 2002, was designed to "plug the soft-money loophole."⁹⁶

The Complaint alleges that McDaniel established Remember PAC through his agent, Susan Perkins—a part-time assistant to McDaniel at his law firm—on May 24, 2017, and

⁹⁴ The Commission recently made reason to believe findings with respect to candidates who violated the Act in connection with their respective late-filed Statements of Candidacy. *See* Certifications, MURs 6955 & 6983 (John R. Kasich, *et al.*) and MURs 6917 & 6929 (Scott Walker, *et al.*) (April 24, 2019) (open matters).

⁹⁵ 52 U.S.C. § 30125(e)(1)(A); *see also* 11 C.F.R. § 300.61.

⁹⁶ *McConnell v. FEC*, 540 U.S. 93, 133 (2003).

1 financed the PAC by causing or arranging for funds to be provided to Remember PAC through
 2 his extensive meetings and conversations with wealthy donors and intermediaries, including
 3 Bannon.⁹⁷ As such, the Complaint argues that McDaniel became a candidate as early as June 28,
 4 2017, when the PAC received its first contribution— \$50,000 from Robert Mercer—which
 5 exceeded the Act's candidacy threshold.⁹⁸

6 Remember PAC maintains that McDaniel's personal ties to Remember PAC staff are
 7 insufficient for them to be considered agents of McDaniel or his campaign at the time of the
 8 PAC's formation.⁹⁹ Sojourner, who served as director of Remember PAC until October 2017
 9 and who previously served as McDaniel's campaign manager when he ran for the U.S. Senate in
 10 2014, and Perkins, the treasurer of Remember PAC until October 2017 and a legal assistant to
 11 McDaniel at his law firm, each declared that "[a]t no point did [either person] receive direction
 12 from [State] Senator McDaniel about the foundation of [Remember PAC]."¹⁰⁰ Perkins avers that
 13 she "was asked to sign paperwork with the Federal Election Commission to establish Remember
 14 Mississippi," but does not identify who asked her.¹⁰¹ Sojourner states that she founded the PAC

⁹⁷ Compl. at 26-27. *See* 52 U.S.C. § 30125(e)(1)(A).

⁹⁸ *Id.* at 26.

⁹⁹ Remember PAC Resp. at 11-12.

¹⁰⁰ Remember PAC Resp., Melanie Sojourner Decl. ¶ 5, Susan Perkins Decl. ¶ 4. They each also assert legal conclusions about McDaniel's candidacy status, declaring that at no point during their respective time with Remember PAC "was Chris McDaniel a candidate for federal office." *Id.*, Melanie Sojourner Decl. ¶ 7, Susan Perkins Decl. ¶ 6. We note that we afford no particular weight in this analysis to legal conclusions made in the Affidavits at issue. *A.L. Pickens Co., Inc. v. Youngstown Sheet & Tube Co.*, 650 F.3d 118, 121 (6th Cir. 1981) (giving no weight to legal conclusions in affidavit because "[t]he affidavit is no place for ultimate facts and conclusions of law") (*quoting* 6 MOORE'S FEDERAL PRACTICE ¶ 56.22(1), at 56-1316 (Supp. 1979)); *Schubert v. Nissan Motor Corp. in USA*, 148 F.3d 25, 30 (1st Cir. 1998); 2A C.J.S. AFFIDAVITS § 39 ("It is improper for affidavits to embody legal arguments, and legal arguments and summations in affidavits will be disregarded by the courts.").

¹⁰¹ Remember PAC Resp., Perkins Decl. ¶ 4.

1 with Perkins on May 24, 2017, “[i]n consultation with others in the conservative movement[,]”
2 but does not identify those other people.¹⁰²

3 The current record does not support a reasonable inference that McDaniel became a
4 federal candidate at the time Remember PAC was established or that as a federal candidate he
5 established, financed, maintained, or controlled the PAC then or later, but, as noted above, there
6 are significant gaps in that record. We are, however, recommending the Commission find reason
7 to believe regarding the three PAC events and the timing of McDaniel’s Statement of Candidacy
8 (*see* Sections III.A and C), and the investigation will necessarily uncover information regarding
9 the relationship between the PAC and McDaniel that will likely shed light on McDaniel’s role in
10 forming the PAC. This evidence will inform the analysis of whether McDaniel established,
11 financed, maintained, or controlled Remember PAC. We therefore recommend that the
12 Commission take no action at this time as to the allegations that McDaniel further violated the
13 Act’s soft money prohibitions at 52 U.S.C. § 30125(e) by establishing, financing, maintaining, or
14 controlling Remember PAC.

15 **IV. INVESTIGATION**

16 The investigation will seek further information regarding the planning and costs of the
17 three events mentioned in the Complaint, and any other similar events Remember PAC paid for
18 at which McDaniel appeared. It will also seek information, including communications, bearing
19 on the relationship between Remember PAC, McDaniel, the McDaniel Committee, and
20 employees or colleagues of McDaniel’s who also worked for Remember PAC. We intend to
21 seek the information informally, but request that the Commission approve compulsory process in
22 case those efforts are unsuccessful.

¹⁰² Remember PAC Resp., Melanie Sojourner Decl. ¶ 5.

V. RECOMMENDATIONS

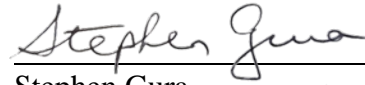
1. Find reason to believe that Remember Mississippi and Tommy Barnett in his official capacity as treasurer violated 52 U.S.C. §§ 30104(b), 30116 and 30118(a) by making prohibited, excessive, and unreported in-kind contributions to McDaniel and Friends of Chris McDaniel with respect to events in March 2018;
2. Find reason to believe that Chris McDaniel violated 52 U.S.C. §§ 30116(f), 30118(a) and 30125(e) by accepting prohibited and excessive in-kind contributions from Remember Mississippi;
3. Find reason to believe that Friends of Chris McDaniel and Richard Conrad in his official capacity as treasurer violated 52 U.S.C. §§ 30104(b), 30116(f), 30118(a) and 30125(e) by accepting prohibited, excessive, and unreported in-kind contributions from Remember Mississippi;
4. Find reason to believe that Chris McDaniel violated 52 U.S.C. § 30102(e)(1) by failing to timely file a Statement of Candidacy and designate a principal committee;
5. Find reason to believe that Friends of Chris McDaniel and Richard Conrad in his official capacity as treasurer violated 52 U.S.C. §§ 30103(a) and 30104(a) by failing to timely file a Statement of Organization and failing to file a 2017 Year-End Report;
6. Take no action at this time with respect to the allegation that Chris McDaniel violated 52 U.S.C. § 30125(e) by establishing, financing, maintaining, or controlling Remember Mississippi;
7. Approve the attached Factual and Legal Analyses;
8. Authorize the use of compulsory process; and


9. Approve the appropriate letters.

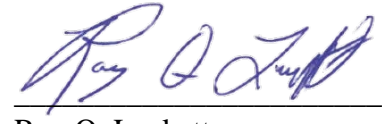
Lisa J. Stevenson
Acting General Counsel

Charles Kitcher
Acting Associate General Counsel
for Enforcement

6.26.19
Date


Stephen Gura
Deputy Associate General Counsel


Mark Allen
Assistant General Counsel


Roy Q. Lockett
Attorney