



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

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| In the Matters of |) | |
| |) | |
| Donald J. Trump for President, Inc. and |) | MURs 7324, 7332, 7364, and 7366 |
| Bradley T. Crate in his official capacity as |) | |
| treasurer; Donald J. Trump; A360 Media, |) | |
| LLC f/k/a American Media, Inc.; David J. |) | |
| Pecker; Dylan Howard; Michael D. |) | |
| Cohen; Timothy Jost |) | |

**STATEMENT OF REASONS OF
CHAIR SHANA M. BROUSSARD AND COMMISSIONER ELLEN L. WEINTRAUB**

Another day, another failed effort to hold Donald Trump and his campaign accountable for violating federal election law. In the last several years, the Commission’s Office of General Counsel has recommended we investigate Trump or his committee for violations ranging from accepting prohibited contributions through Trump’s role in the Stormy Daniels payoff,¹ to soliciting excessive contributions to a super PAC supportive of Trump,² to illegally soliciting a contribution from Russian nationals.³ The Commission has repeatedly deadlocked on our lawyers’ recommendations, effectively turning a blind eye to the apparent misconduct.

This time, the Complaint alleged that Donald J. Trump for President, Inc. (the “Trump Committee”) and American Media, Inc. (“AMI”), now known as A360 Media, Inc. – parent company of the National Enquirer – violated the law in connection with AMI’s payments to two individuals in advance of the 2016 presidential election. The payments were purportedly intended to suppress negative stories about then-presidential candidate Trump’s relationship with several women through “catch and kill” arrangements. The Commission agreed that the available information indicated AMI and its executives, David J. Pecker and Dylan Howard, paid \$150,000 to Karen McDougal to purchase the rights to her claim that she engaged in a relationship with Trump.⁴ And we agreed the available information indicated that AMI’s payment was coordinated with the Trump campaign.⁵ AMI admitted in its non-prosecution agreement with the Department of Justice that it made the payment to McDougal “in cooperation, consultation, and concert with, and at the request and suggestion of one or more members or agents of a candidate’s 2016 presidential campaign, to ensure that a woman did not publicize damaging allegations about that candidate

¹ See MURs 7313, 7319, 7379 (Michael D. Cohen, *et al.*).

² See MUR 7135 (Donald J. Trump for President, Inc. *et al.*).

³ See MURs 7265 and 7266 (Donald J. Trump for President, Inc., *et al.*).

⁴ See MURs 7324, 7332, and 7366 (Donald J. Trump for President, *et al.*), Factual and Legal Analysis for A360 Media, Inc. (“F&LA”) at 3.

⁵ *Id.* at 11, 13.

MURs 7324, 7332, 7364, and 7366 (Donald J. Trump for President, Inc., *et al.*)
Statement of Chair Shana M. Broussard and Commissioner Ellen L. Weintraub

before the 2016 presidential election and thereby influence that election.”⁶ The Commission unanimously found reason to believe that AMI and Pecker knowingly and willfully made prohibited corporate in-kind contributions to the Trump Committee.⁷

It is illegal to knowingly accept prohibited contributions.⁸ The Commission unanimously found that “the available information supports the conclusion that AMI’s payment to McDougal was coordinated with the Trump Committee and was made for the purpose of influencing Trump’s election, resulting in AMI making ‘coordinated expenditures’ under the [Federal Election Campaign Act of 1971, as amended].”⁹ But our Republican colleagues inexplicably voted against our attorneys’ recommendations to find reason to believe that Trump and the Trump campaign knowingly accepted and failed to report prohibited contributions.¹⁰ You read that right. We all agreed that the payment was coordinated – coordination inherently involves at least two parties – but only three of us voted to hold the persons on both sides of the transaction accountable. Without a fourth vote, we could not investigate Trump’s role in the “catch and kill” scheme, despite AMI admitting that the payment was made in cooperation with one or more members or agents of the campaign and despite Michael Cohen’s sworn testimony to Congress that the arrangement was “done at the direction of Mr. Trump and in accordance with his instructions.”¹¹

Though these matters represent yet another example of the Commission failing to pursue credible allegations against Donald Trump, we want to applaud our attorneys for what they were able to accomplish with the deck very much stacked against them. With not much time left before the expiration of the statute of limitations, our attorneys successfully negotiated a conciliation agreement with AMI requiring them to pay a \$187,500 penalty. This is among the Commission’s largest penalties and is appropriate for the seriousness of the allegations. It is a job well done and a testament to the excellent work our attorneys do every day. It also shows that, even when up against the clock and negotiating with sophisticated legal counsel, the Commission has the resources to hold Respondents accountable for breaking the law – at least, when we have the votes necessary to do so.¹²

⁶ *Id.* at 11 (citing non-prosecution agreement).

⁷ See Certification in MURs 7324, 7332, 7364, and 7366 (Donald J. Trump for President, Inc., *et al.*) (“Cert.”).

⁸ See 52 U.S.C. § 30118(a).

⁹ F&LA at 13.


¹⁰ See Cert.

¹¹ U.S. House of Representatives Permanent Select Committee on Intelligence, Executive Session, Michael Cohen Dep. at 117, 119 (Feb. 28, 2019), <https://docs.house.gov/meetings/IG/IG00/20190520/109549/HMTG-116-IG00-20190520-SD002.pdf>; see also Tr. of Proceedings before Hon. William H. Pauley III at 23, *United States v. Cohen*, No. 1:18-cr-00602-WHP (S.D.N.Y. Aug. 21, 2018), <https://s3.documentcloud.org/documents/4780185/Cohen-Court-Proceeding-Transcript.pdf> (“[O]n or about the summer of 2016, in coordination with, and at the direction of, a candidate for federal office, I and the CEO of a media company at the request of the candidate worked together to keep an individual with information that would be harmful to the candidate and to the campaign from publicly disclosing this information. After a number of discussions, we eventually accomplished the goal by the media company entering into a contract with the individual under which she received compensation of \$150,000.”).


¹² Several of our colleagues have cited an approaching statute of limitations deadline as a reason to dismiss matters. See, e.g., Statement of Reasons of Vice Chair Allen Dickerson and Commissioners Sean J. Cooksey and James E. “Trey” Trainor, III in Matters Under Review 7324, 7332, 7364, and 7366 (Donald J. Trump for President, *et al.*); Statement of Reasons of Commissioners Sean J. Cooksey and James E. “Trey” Trainor III in Matters Under Review 7313, 7319, and 7379 (Michael D. Cohen, *et al.*) at 3; Statement of Reasons of Vice Chair Allen Dickerson and Commissioners Sean J. Cooksey and James E. “Trey” Trainor, III in Matters Under Review 7265 and 7266 (Donald J. Trump for President, Inc., *et al.*) at 2. As demonstrated by the conciliation agreement with AMI, a running clock does not preclude the agency from successfully enforcing the law.

MURs 7324, 7332, 7364, and 7366 (Donald J. Trump for President, Inc., *et al.*)
Statement of Chair Shana M. Broussard and Commissioner Ellen L. Weintraub

July 1, 2021
Date


Shana M. Broussard
Chair

July 1, 2021
Date


Ellen L. Weintraub
Commissioner