

FEDERAL ELECTION COMMISSION
FIRST GENERAL COUNSEL'S REPORT

MUR 7401

DATE COMPLAINT FILED: June 4, 2018

DATE OF NOTIFICATIONS: June 11, 2018-
September 7, 2018

DATE OF LAST RESPONSE: August 25, 2018

DATE ACTIVATED: September 5, 2018

EXPIRATION OF SOL: June 1, 2020

ELECTION CYCLES: 2016, 2018

COMPLAINANTS:

Karen Piper

Victoria Johnson

RESPONDENTS:

George G. Lombardi

America First-Team Manatee, Inc.

Citizens for Trump

Coalition for Trump

Coalition for Trump Superstore

Corey Lewandowski

Donald J. Trump

Donald J. Trump for President, Inc. and Bradley T. Crate in
his official capacity as treasurer

Jack Posobiec

Latinos for Trump (aka Latinos with Trump)

Madeline Moreira

Michael Cernovich

Patriotic Warriors LLC

Reince Priebus

Robert Jeter

Sam Clovis

Tim Clark

Tim Selaty, Sr.

**RELEVANT STATUTES
AND REGULATIONS:**

52 U.S.C. § 30101(4)(A)

52 U.S.C. § 30102

52 U.S.C. § 30103

52 U.S.C. § 30104

52 U.S.C. § 30116(a)

52 U.S.C. § 30118

52 U.S.C. § 30121

52 U.S.C. § 30124(b)

11 C.F.R. § 100.5

11 C.F.R. § 104.13(a)

11 C.F.R. § 109.21

11 C.F.R. § 110.16(b)

11 C.F.R. § 110.20

INTERNAL REPORTS

Disclosure Reports

CHECKED:

AGENCIES CHECKED:

None

I. INTRODUCTION

The Complaint alleges that Citizens for Trump, an organization that supported Donald J. Trump during the 2016 election cycle, failed to register and report as a political committee with the Commission. The Complaint further alleges that Citizens for Trump, and Coalition for Trump, a network of organizations and internet platforms that supported Trump during the 2016 election, as well as individuals associated with these organizations coordinated communications with Trump and his principal campaign committee, Donald J. Trump for President, Inc. and Bradley T. Crate in his official capacity as treasurer ("Trump Committee").¹ Finally, in a series of vague allegations, the Complaint also alleges that Respondents Jack Posobiec and Michael Cernovich solicited and accepted foreign contributions.

The two primary organizations identified in the Complaint are Citizens for Trump and Coalition for Trump. Citizens for Trump's co-founder, Tim Selaty, Sr., represented in court filings that it had spent \$10,000 planning a political rally to support Trump as of June 13, 2016, shortly before the Republican National Convention ("RNC") of July 18, 2016. Based on the available evidence in the record, Citizens for Trump appears to have existed for no other purpose than to support the Trump campaign. Therefore, we recommend that the Commission find

¹ The Complaint alleges that such coordination took place through individuals allegedly acting on behalf of the Trump Committee, including Sam Clovis, Corey Lewandowski, Tim Clark, and Reince Priebus.

1 reason to believe that Citizens for Trump failed to register and report as a PAC in violation of
2 52 U.S.C. §§ 30102, 30103, and 30104. Because the available record fails to give rise to a
3 reasonable inference that Coalition for Trump, Coalition for Trump Superstore, Latinos for
4 Trump, or any other respondent coordinated any communications or expenditures with the
5 Trump Committee, we recommend that the Commission dismiss the coordination allegations.
6 As to the allegations against Respondents Jack Posobiec and Michael Cernovich, we recommend
7 that the Commission find no reason to believe that Posobiec and Cernovich violated 52 U.S.C.
8 § 30121 since there is no evidence that they solicited foreign national contributions.

9 Finally, the available record also suggests that Coalition for Trump, and the affiliated
10 Coalition for Trump Superstore, solicited contributions by suggesting that they were
11 organizations authorized by the Trump campaign.² While they held themselves out as pro-
12 Trump grassroots support organizations, there is no evidence of any actual grassroots support,
13 nor does it appear that the Coalition for Trump Superstore was a legitimate enterprise. For these
14 reasons, we recommend that the Commission find reason to believe that Coalition for Trump and
15 Coalition for Trump Superstore, and their founder Robert Jeter, fraudulently solicited
16 contributions in violation of 52 U.S.C. § 30124.

² The Complaint contains factual allegations that Coalition for Trump presented itself as a pro-Trump organization that appeared to be authorized by the Trump Committee and included both the candidate's name, image and slogan. *See* Compl. at 3-4, Attachs. 20-26 (June 4, 2018). In responding to the allegations in the Complaint, the Trump Committee noted that during the course of the campaign it sent multiple letters to organizations allegedly affiliated with Lombardi disavowing any connection between the groups and the campaign. As an example, the Trump Committee Response attaches a letter to Citizens for Trump noting that the group used Trump's name, image, and slogan for fundraising activity "in a way that is likely to cause confusion." Trump Committee Resp., Attach. 1 (July 18, 2018).

II. FACTUAL BACKGROUND

A. Citizens for Trump

The Complaint alleges that Citizens for Trump was co-founded by Respondents George Lombardi and Tim Selaty, Sr., through a company operated by Selaty, Patriotic Warriors LLC (“Patriotic Warriors”).³ Selaty appears to be the Chief Operating Officer and Founder of Patriotic Warriors,⁴ a for-profit company with \$1 million in reported revenue generated by “selling memberships . . . direct donations and generating internet merchandise sales.”⁵ The Complaint cites to a Declaration dated June 13, 2016, that Selaty filed in a federal court proceeding to obtain a parade permit for a planned July 18, 2016, rally to support Trump at the Republican convention (“Selaty Decl.”).⁶ In this Declaration, Selaty represents that he was a co-founder of Citizens for Trump, that the organization was “founded in July 2015 by Patriotic Warriors LLC,” and that Citizens for Trump had spent \$10,000 as of June 13, 2018, organizing the rally to support Trump at the convention.⁷

³ Compl. at 1. An old version of the Citizens for Trump website also lists Michelle Selaty as a “Co-Founder.” *See* Citizens for Trump, Pro-Trump Efforts, <http://www.p2016.org/trump/citizensfortrump.html> (last visited Feb. 21, 2019). Lombardi listed himself as the “Manager” of Citizens for Trump on his Facebook page. Compl., Attach. 10.

⁴ Tim Selaty, Sr., ZOOMINFO, <https://www.zoominfo.com/p/Tim-Selaty/1560524897> (last visited Feb. 21, 2019). Patriotic Warriors is an Arkansas company with a license status listed as “revoked.” The webpage states that LLC members are confidential pursuant to Arkansas law. *See* Arkansas Secretary of State, Patriotic Warriors LLC, https://www.sos.arkansas.gov/corps/search_corps.php?DETAIL=433125&corp_type_id=&corp_name=iot&agent_search=&agent_city=&agent_state=&filing_number=&cmd= (last visited Feb. 21, 2019).

⁵ Compl. at 2, n.6.

⁶ *See* Compl. at 2, n.4 (citing Selaty Decl. ¶¶ 4, 7, *Citizens for Trump v. City of Cleveland*, Case No. 1:16-cv-01465-JG (N.D. Oh. 2016), http://www.acluohio.org/wp-content/uploads/2016/06/CitizensForTrump.v.Cleveland-Declaration-TimothySelaty2016_0614.pdf).

⁷ *See* Selaty Decl. ¶¶ 4, 7. We do not have any information concerning the tax status of Patriotic Warriors.

1 It is not clear from the publicly available information whether Citizens for Trump was a
 2 separate entity from Patriotic Warriors because the groups operated in tandem and used both
 3 names to conduct their operations. A Patriotic Warriors press release states that the “Patriotic
 4 Warriors conservative activist organization has launched the ‘Citizens for Trump’ website to take
 5 an active role in helping to elect Donald J. Trump as the next President of the United States.”⁸
 6 The Patriotic Warriors website solicited contributions for Citizens for Trump.⁹ The contribution
 7 landing page is entitled “Support the Citizens for Trump Campaign” with a subtitle of
 8 “https://patrioticwarriors.com.”¹⁰ The URL of the website contains the name “Patriotic Warriors
 9 LLC.”¹¹

10 In his Response, Lombardi states that, “to his knowledge,” Citizens for Trump was
 11 merely a Facebook group to which he would post pictures and comments.¹² Although he
 12 concedes that the Citizens for Trump website listed him as a co-founder “for a short time” which
 13 he claims was “erroneous,” Lombardi denies any involvement with Citizens for Trump other
 14 than posting on social media.¹³ However, on Twitter Lombardi held himself out to be the co-

⁸ *Patriotic Warriors Officially Launch “Citizens for Trump” Grassroots Campaign*, CITIZENS FOR TRUMP, (Aug. 19, 2015), <https://citizensfortrump.com/2015/08/19/patriotic-warriors-officially-launch-citizens-trump-grassroots-campaign/> [<https://web.archive.org/web/20150820174023/https://citizensfortrump.com/2015/08/19/patriotic-warriors-officially-launch-citizens-trump-grassroots-campaign/>]. During the writing of this report, the Citizens for Trump website has been deleted.

⁹ Compl. at 2, Attach. 17.

¹⁰ *Id.* (depicting a website that fails to display a disclaimer).

¹¹ *Id.*

¹² Lombardi Resp. at 1 (June 27, 2018).

¹³ *Id.* at 3-4.

founder of Citizens for Trump.¹⁴ Lombardi also asserts that he was not “associated with the raising of funds for any of [Selaty’s] enterprises,” and that he “parted ways” with Selaty shortly before the Republican convention following a disagreement regarding Selaty’s associates.¹⁵

On its solicitation page, Citizens for Trump describes itself as a campaign of Patriotic Warriors, a grassroots organization created to support Trump’s campaign for president:

The Citizens for Trump campaign was created by Patriotic Warriors to help bring grassroots conservatives on board with supporting Donald J. Trump for President.

We are kindly asking for your financial help, and thank you for your gracious support of our efforts to get Mr. Trump elected as our next President.¹⁶

Neither Citizens for Trump nor Patriotic Warriors is registered as a political committee with the Commission.

In his Declaration filed in support of Citizen for Trump’s parade permit, Selaty described Citizens for Trump’s purpose as “organiz[ing] massive grassroots volunteer support to assist the official Trump presidential campaign”¹⁷ He also represented that Citizens for Trump had spent \$10,000 as of June 13, 2016, organizing the July 18, 2016, RNC rally to “pay deposits to secure lodging in hotels and rental homes for the main organizers and four guest speakers.”¹⁸

¹⁴ See Compl., Attach. 3.

¹⁵ Lombardi Resp. at 2-3.

¹⁶ See Citizens for Trump, “Why Donate,” <https://citizensfortrump.com/why-donate/> [<https://web.archive.org/web/20160703025414/https://citizensfortrump.com/why-donate/>] (emphasis in original).

¹⁷ Selaty Decl. ¶ 9; Tim Selaty, Sr., ZOOMINFO, *supra* note 2.

¹⁸ Selaty Decl. ¶ 22.

Selaty estimated spending an additional \$50,000 on the rally if the permit was approved.¹⁹

Citizens for Trump eventually settled the lawsuit and held the rally, but we do not have any information about whether the additional \$50,000 was in fact spent.²⁰

In its Response, the Trump Committee denies any involvement with Citizens for Trump, and attaches a letter sent to Citizens for Trump, care of Lombardi, dated June 16, 2016, explicitly disavowing any connection with Citizens for Trump and requesting that, due in part to voter confusion, “you refund all funds received by you in connection with any fundraising activities undertaken to support . . . Trump.”²¹ Citizens for Trump, Selaty and Trump did not file responses.

B. Coalition for Trump

Coalition for Trump was allegedly co-founded by Lombardi and Robert Jeter.²²

Although Coalition for Trump appears to be nothing more than a pro-Trump Facebook page, it is in fact the name for a network of approximately 100 Facebook pages and social media groups, as well as a pro-Trump online periodical called the Trump Times, and the Coalition for Trump Superstore, an online store that sells pro-Trump and other political merchandise.²³

¹⁹ *Id.* ¶¶ 23-25.

²⁰ See Notice of Filing of Settlement Agreement, July 15, 2016, *Citizens for Trump v. City of Cleveland*, Case No. 1:16-cv-01465-JG (N.D. Oh. 2016), http://www.acluohio.org/wp-content/uploads/2016/07/CitizensForTrump.v.Cleveland-028-SettlementAgreement-2016_0715.pdf; see also William Douglas and David Goldstein, *GOP convention protests small, peaceful on 1st day*, THE NEWS & OBSERVER, July 18, 2016, <https://www.newsobserver.com/news/politics-government/article90408907.html>.

²¹ Trump Committee Resp. at 4-5 (July 18, 2018). The Trump Committee claims that it sent “multiple letters” disavowing any connection with Lombardi’s “groups.” *Id.* at 2, n.1.

²² Compl. at 2-3.

²³ Coalition Groups, THE TRUMP TIMES, <http://www.thetrumptimes.com/coalition-groups/> [<https://web.archive.org/web/20160729200742/http://www.thetrumptimes.com/coalition-groups/>]. The Trump

The “About Us” page of the Coalition for Trump Superstore states:

Our web site www.coalitionfortrumpsuperstore.com is a way for our organization to raise funds for us to use to do boots on the ground work for conservative activism.

For more info on how we spend profits visit AmericaFirstCoalition.org. After discussions with Corey Lewandowski and Michael Cohen, Trump's legal counsel, they approve of our efforts to earn funds to help. We are following all guidelines set for us so that we use all funds in an efficient manner to achieve the most benefit taking the fight to liberals. If you would like to learn more, or make a donation to help, please fill out the form below, or make you [sic] donation thru Pay Pal to coalitionfortrump@gmail.com.²⁴

Until the end of September 2018, while the Facebook groups were still active, they contained the following logo:²⁵

Times is a pro-Trump online publication founded by Jeter. The Coalition for Trump Superstore is the creator of many of these Facebook groups. *See, e.g.*, Compl., Attach. 29. As of September 20, 2018, the websites and social media pages Jeter founded were fully functional. By September 24, 2018, however, many of the pages had been deleted, including the Coalition for Trump and Coalition for Trump Superstore Facebook pages, the America First Coalition website, and the Trump Times. Moreover, Jeter updated his Facebook page to exclude any reference to the Coalition for Trump or America First networks.

²⁴ About Us, COALITION FOR TRUMP SUPERSTORE, (Sept. 24, 2018), <https://www.coalitionfortrumpsuperstore.com/about-us> [<https://web.archive.org/web/20180924114529/coalitionfortrumpsuperstore.com/about-us>]. For a prior version of the “About us” section of the Coalition for Trump Superstore website, see Compl., Attach. 26. Jeter claims to be the Founder of the America First Coalition. Compl., Attach. 6. The website does not contain any specific information concerning how the profits from the Coalition for Trump Superstore were spent. However, “the mission of America First Coalition is to protect and promote the conservative values of our Founding Fathers, as well as individual rights and freedoms as set forth in the United States Constitution.” America First Values, AMERICA FIRST COALITION, (May 9, 2017), <https://web.archive.org/web/20170509222052/http://americafirstcoalition.org:80/index.php/america-first-values/> [<https://web.archive.org/web/20170509222052/http://americafirstcoalition.org:80/index.php/america-first-values/>]. It is unclear whether the America First Coalition is the parent organization.

²⁵ Compl., Attach. 6.



Before the websites were deleted after the filing of the Complaint, they had updated the logo for 2020 as follows:



Apart from pro-Trump content, the unifying factor among most of the Coalition for Trump organizations is the prominent display of a “shop now” button at the Coalition for Trump Superstore, along with posts soliciting contributions to Coalition for Trump.²⁶ Publicly available information suggests that Coalition for Trump Superstore may not have been a legitimate commercial enterprise. Several customers have lodged complaints with the Better Business Bureau stating that they either did not receive their purchased merchandise or that the delivered merchandise was defective.²⁷ After the Complaint was filed, Coalition for Trump and Coalition for Trump Superstore’s Facebook pages and websites were deleted, and a google search for

²⁶ See, e.g., Compl., Attach. 29.

²⁷ Better Business Bureau, Coalition for Trump Super Store, <https://www.bbb.org/us/oh/sylvania/profile/online-retailer/coalition-for-trump-super-store-0422-90167499/customer-reviews> (last visited Feb.21, 2019). The BBB has continued to receive complaints throughout the writing of this report. As of February 21, 2019, there are 52 complaints.

Coalition for Trump reveals a Facebook page that states “This page is a scam.”²⁸ None of the Coalition organizations are registered as political committees with the FEC.²⁹

Lombardi denies any involvement with Coalition for Trump apart from posting on Facebook.³⁰ However, Lombardi’s Facebook page claimed that he “manages” Coalition for Trump.³¹ Coalition for Trump, Coalition for Trump Superstore, and Jeter did not submit responses.

C. Remaining Allegations

The remainder of the Complaint contains a series of vague and conclusory allegations regarding the solicitation of foreign national contributions by Posobiec and Cernovich and that Coalition for Trump, Citizens for Trump, and affiliated organizations and individuals coordinated communications with the Trump Committee.³²

First, the Complaint alleges that Posobiec, a “Special Projects Director” for Citizens for Trump, and Cernovich, a political radio host and activist, solicited contributions from foreign nationals. In support of the Posobiec allegations, the Complaint cites to Posobiec’s Patreon page – a website that specializes in soliciting contributions from “patrons” – requesting donations to support journalism he intended to complete in Eastern Europe.³³ The Complaint contends that

²⁸ Google search screenshot on file. It is unclear whether Facebook or someone else is responsible for writing “[t]his page is a scam.”

²⁹ America First Coalition is a Florida LLC, but it is unclear whether America First Coalition is the “parent” organization. America First Coalition is not a respondent.

³⁰ Lombardi Resp. at 2.

³¹ Compl., Attach. 10.

³² The Complaint also vaguely alleges that Coalition for Trump “encouraged participation from foreign nationals . . .” via Facebook. *See* Compl. at 4, Attach. 29.

³³ *Id.*, Attach. 27.

1 Cernovich accepted contributions from “the Czech Republic,” but those allegations are
 2 unsupported in the record before the Commission.

3 Second, the Complaint alleges that Citizens for Trump, Coalition for Trump, affiliate
 4 organizations, and individuals associated with those organizations, coordinated communications
 5 with the Trump Committee. For example, the Complaint alleges that Latinos for Trump –
 6 allegedly a Coalition for Trump organization – and Madeline Moreira, its co-founder, shared
 7 office space with the California branch of the Trump campaign located in Los Angeles.³³
 8 According to the Latinos for Trump meeting minutes, Tim Clark, the California State Director
 9 for the Trump campaign, attended and was directly involved in decision-making and planning for
 10 the organization.³⁴ The available record, however, does not contain any paid communications or
 11 expenditures by Latinos for Trump. Similarly, the Complaint alleges that America First – Team
 12 Manatee, Inc. (“Team Manatee”) coordinated fundraising operations with the Trump Committee.

³³ The Complaint alleges that Latinos for Trump is within the Coalition for Trump network, however, it is not included in the Trump Times’s list of Coalition groups. Compl. at 3; Coalition Groups, THE TRUMP TIMES, <http://www.thetrumpetimes.com/coalition-groups/> [<https://web.archive.org/web/20160729200742/http://www.thetrumpetimes.com/coalition-groups/>]. Tim Clark, the California State Director of the Trump campaign, denies being “affiliated” with Latinos for Trump and specifically denies being “aware” of any shared office space. *See* Clark Resp. at 1 (June 28, 2018).

³⁴ *See e.g.*, Compl. at 3, n.14 (citing <https://www.scribd.com/document/329132460/Latinos-With-Trump-Meetings-Minutes-1-2>). According to minutes from a meeting held on July 13, 2016, “Natalie Davis is working on the wording of a script for our group, that will show our allegiance with the campaign, (Still waiting approval from Tim Clark).” Natalie Davis was a Trump campaign employee. According to minutes from August 9 & 10, Tim Clark was in attendance, and “is planning an event for Latinos for trump . . . Tim requested a few Spanish speakers that will be trained to appear in Univision and Telemundo to be advocates for the Latinos message . . . Tim is working to find a wording we all can use to pass our message and that we be approved by the campaign.” *Id.* Minutes from August 10 state that “Still waiting on word from Natalie Davis about the wording that we can use for all of our marketing.” *Id.*

However, there is no support for this allegation, and Team Manatee denies any coordination in its response.³⁵

The Complaint also contains conclusory coordination allegations against “Trump top advisor” Sam Clovis, Corey Lewandowski, and Reince Priebus.³⁶ Based on alleged meetings between these individuals and agents of Citizens for Trump and Coalition for Trump, the substance of which is vague and unsubstantiated by the Complaint’s attachments, the Complaint concludes that Citizens for Trump and Coalition for Trump coordinated communications with the Trump Committee.³⁷

III. LEGAL ANALYSIS

A. There Is Reason to Believe that Citizens for Trump Failed to Register and Report as a Political Committee

The Act defines a political committee as “any committee, club, association, or other group of persons” that receives aggregate contributions or makes aggregate expenditures in excess of \$1,000 during a calendar year.³⁸ Notwithstanding the threshold for contributions and expenditures, an organization will be considered a political committee only if its “major purpose is Federal campaign activity (*i.e.*, the nomination or election of a Federal candidate).”³⁹ Political

³⁵ See Team Manatee Resp. at 1 (June 22, 2018).

³⁶ Compl. at 3.

³⁷ See *id.* at 1, 3.

³⁸ 52 U.S.C. § 30101(4)(A).

³⁹ Political Committee Status: Supplemental Explanation and Justification, 72 Fed. Reg. 5595, 5597 (Feb. 7, 2007); see *Buckley v. Valeo*, 424 U.S. 1, 79 (1976); *FEC v. Mass. Citizens for Life, Inc.*, 479 U.S. 238, 262 (1986).

committees are required to register with the Commission, meet organizational and recordkeeping requirements, and file periodic disclosure reports.⁴⁰

Citizens for Trump crossed the statutory threshold for political committee status by making more than \$1,000 in expenditures to support Trump's campaign in 2016. An "expenditure" is defined as "any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value made by any person for the purpose of influencing any election for Federal office."⁴¹ Selaty declared that Citizens for Trump had spent \$10,000 for a rally to support Trump during the Republican convention as of June 13, 2016, and planned to spend approximately \$50,000 more once the parade permit was granted.⁴² The Complaint alleges that Citizens for Trump held other rallies during Trump's campaign in 2016, which presumably carried additional costs.⁴³ The record is clear that Citizens for Trump crossed the \$1,000 expenditure threshold in 2016 by making payments in support of Trump's election to Federal office.

Furthermore, Citizens for Trump appears to have had the major purpose of electing or nominating Trump. To determine an entity's "major purpose," the Commission considers a group's "overall conduct," including public statements about its mission, organizational documents, government filings (*e.g.*, IRS notices), the proportion of spending related to "federal

⁴⁰ See 52 U.S.C. §§ 30102, 30103, 30104.

⁴¹ 52 U.S.C. §§ 30101(9)(A)(i); 11 C.F.R. § 100.111.

⁴² Selaty Decl. ¶¶ 22-25; Tim Selaty, Sr., ZOOMINFO, *supra* note 2.

⁴³ Compl. at 2. It appears that Citizens for Trump continued to hold rallies after the election of Trump in support of candidates that shared his agenda. Compl., Attach. 5. However, there is no information in the record regarding the amounts spent on those rallies or for whom the rallies were held.

campaign activity,” and the extent to which fundraising solicitations indicate funds raised will be used to support or oppose specific candidates.⁴⁴ In assessing an organization’s major purpose, the Commission has previously considered how much of an organization’s spending is for “federal campaign activity” as compared to “activities that [a]re not campaign related.”⁴⁵

Here, the Citizens for Trump website and Selaty’s Declaration both describe the group’s purpose from its inception in July 2015 as supporting the nomination or election of Trump.⁴⁶ The publicly available information supports a conclusion that Citizens for Trump’s sole purpose was the nomination and election of Trump during the 2016 election cycle, and all of its known expenditures were for the purpose of supporting Trump’s federal campaign.

Because Citizens for Trump surpassed \$1,000 in expenditures during 2016 and meets the major purpose test, we recommend that the Commission find reason to believe that Citizens for Trump failed to register and report as a political committee in violation of 52 U.S.C. §§ 30102, 30103, and 30104.⁴⁷

B. There Is Reason to Believe that Coalition for Trump, Coalition for Trump Superstore, and Jeter Engaged in Fraudulent Misrepresentation in Violation of Section 30124

The Act prohibits persons from fraudulently misrepresenting themselves as speaking, writing, or otherwise acting for or on behalf of any candidate or agent thereof for the purpose of

⁴⁴ Political Committee Status, 72 Fed. Reg. 5595, 5605 (Feb. 7, 2007) (“PC Status E&J”).

⁴⁵ *Id.*

⁴⁶ Selaty Decl. ¶ 9; Tim Selaty, Sr., ZOOMINFO, *supra* note 2.

⁴⁷ We recommend taking no action at this time against Selaty, Lombardi, and Patriotic Warriors pending the results of the proposed investigation, although an investigation into the major purpose and financial activity of Citizens for Trump will necessarily require some investigation of Patriotic Warriors.

1 soliciting contributions or donations.⁴⁸ Further, no person shall willfully and knowingly
 2 participate in or conspire to participate in any plan or scheme to engage in such behavior.⁴⁹
 3 Although the Act requires that the violator have the intent to deceive, it does not require proof of
 4 the common law fraud elements of justifiable reliance and damages.⁵⁰ “Even absent an express
 5 misrepresentation, a representation is fraudulent if it was reasonably calculated to deceive
 6 persons of ordinary prudence and comprehension.”⁵¹

7 In prior matters involving alleged violations of section 30124, the Commission has
 8 considered whether the organization solicited contributions in a manner confusingly similar to
 9 the candidate, used a name that was misleading, mimicked the candidate’s website or logo, failed
 10 to contain an adequate disclaimer, misrepresented itself as grassroots support for the candidate,
 11 ignored a contributor’s request for a refund, did not appear to be a legitimate enterprise, or failed
 12 to file reports with the Commission.⁵²

13 The evidence in the record here supports reason to believe that Coalition for Trump
 14 violated section 30124. The Coalition for Trump Superstore’s website was calculated to create

⁴⁸ 52 U.S.C. § 30124(b)(1); *see also* 11 C.F.R. § 110.16(b)(1).

⁴⁹ 52 U.S.C. § 30124(b)(2); *see also* 11 C.F.R. § 110.16(b)(2).

⁵⁰ *See FEC v. Novacek*, 739 F. Supp. 2d 957, 961 (N.D. Tex. 2010) (finding that defendants knowingly and willfully violated 2 U.S.C. § 441h(b) (now 52 U.S.C. § 30124(b))); Disclaimers, Fraudulent Solicitation, Civil Penalties, and Personal Use of Campaign Funds, 67 Fed. Reg. 76,962, 76,969 (Dec. 13, 2002) (explanation and justification) (citing *Neder v. United States*, 527 U.S. 1, 24-25 (1999)) (distinguishing fraud in federal campaign finance abuses from common law tort action on the basis of Congress intending to penalize schemes as well as actions taken to defraud and the damaging effect of misrepresentation); F&LA at 4, MUR 5472 (Jody Novacek).

⁵¹ *Novacek*, 739 F. Supp. 2d at 961.

⁵² *See, e.g.*, F&LA at 5, MUR 7194 (Unknown Respondent); F&LA at 14-15, MUR 7140 (Americans for Sensible Solutions PAC); F&LA at 7-8, MUR 7011/7092 (HC4President); F&LA at 7-9, MUR 6997 (Americans Socially United).

1 the impression that either the Trump campaign authorized the group or the Coalition for Trump
 2 Superstore was part of the Trump campaign.⁵³ The website's reference to individuals closely
 3 associated with the Trump campaign – Michael Cohen and Corey Lewandowski – approving of
 4 their fundraising gave potential contributors the illusion that the Trump campaign not only
 5 authorized the organization but encouraged it with fundraising advice.⁵⁴ The Coalition logo
 6 further confuses potential contributors by using Trump's campaign phrase "make America great
 7 again" and prominently displaying "Trump" in large lettering, while using small lettering for
 8 "Coalition for."⁵⁵ Coalition for Trump also used Trump's name without permission and failed to
 9 include an appropriate disclaimer that Coalition for Trump was an unauthorized organization.⁵⁶
 10 Coalition for Trump has not registered with the FEC or filed any disclosure reports.⁵⁷

11 Moreover, the Coalition for Trump Superstore does not appear to be a legitimate
 12 enterprise. It has amassed several complaints not only for failing to deliver purchased

⁵³ See About Us, COALITION FOR TRUMP SUPERSTORE, (Sept. 24, 2018), <https://www.coalitionfortrumpsuperstore.com/about-us> [<https://web.archive.org/web/20180924114529/coalitionfortrumpsuperstore.com/about-us>]; see also F&LA at 7-8, MUR 6997 (Americans Socially United) (finding reason to believe, in part, based on the fact that the website misled the contributor to think the committee was either the official website of the candidate or authorized by the candidate).

⁵⁴ *Id.* Michael Cohen was the personal attorney for Trump and Corey Lewandowski was Trump's former campaign manager.

⁵⁵ See Compl., Attach. 6; see also F&LA at 9, MUR 7011/7092 (HC4President) (finding reason to believe where the committee solicited contributions in a manner confusingly similar to that of the candidate).

⁵⁶ See F&LA at 8, MUR 5472 (Republican Victory 2004 Committee) (using "Republican" in committee's name was one factor considered in finding reason to believe).

⁵⁷ F&LA at 15, MUR 7140 (Americans for Sensible Solutions PAC) (citing F&LA at 9, MUR 5472 (Republican Victory 2004 Committee)) ("Failure to file reports with the Commission indicating on what, if anything the money raised has been spent may be probative of the Committee's intent to misrepresent itself to the public.").

merchandise, but also for failing to respond to customers' emails and requests for refunds.⁵⁸ The Coalition for Trump Superstore represents itself as Trump's largest grassroots organization and claims that "the store helps us raise funds for boots on the ground," but there is no evidence of any actual grassroots activity on behalf of the Trump campaign.⁵⁹

Accordingly, we recommend finding reason to believe that Coalition for Trump, Coalition for Trump Superstore and Jeter violated 52 U.S.C. § 30124(b).⁶⁰

C. There Is No Reason to Believe that Posobiec or Cernovich Solicited, Accepted, or Received Contributions From Foreign Nationals

The Act prohibits any "foreign national" from "directly or indirectly" making a contribution or donation of money or any other thing of value in connection with a Federal, State, or local election.⁶¹ Commission Regulations also provide that no person shall "knowingly solicit, accept, or receive from a foreign national any contribution or donation"⁶² "Foreign

⁵⁸ Better Business Bureau, Coalition for Trump Super Store, <https://www.bbb.org/us/oh/sylvania/profile/online-retailer/coalition-for-trump-super-store-0422-90167499/customer-reviews> (last visited Feb. 21, 2019); *see also* F&LA at 9, MUR 6997 (Americans Socially United) (ignoring a contributor's attempts at a refund was considered as a factor in finding reason to believe).

⁵⁹ *See* F&LA at 8, MUR 5385 (Groundswell Voters PAC) (finding reason to believe because, in part, the committee misrepresented itself as grassroots support for a candidate).

⁶⁰ In prior matters, the Commission has pursued not just the committee or entity for violations of Section 30124(b), but also the individual who is responsible for such a committee or entity. *See, e.g.*, F&LA at 9, MUR 7011/7092 (HC4President) (finding reason to believe against PAC's treasurer). Further, we recommend taking no action against Lombardi pending the results of the proposed investigation.

⁶¹ 52 U.S.C. § 30121(a)(1); *see also* 11 C.F.R. § 110.20(b), (c). Courts have consistently upheld the provisions of the Act prohibiting foreign national contributions, on the ground that the government has a clear, compelling interest in limiting the influence of foreigners over activities and processes integral to democratic self-government, which include making political contributions or express-advocacy expenditures. *See Bluman v. FEC*, 800 F. Supp. 2d 281, 288-89 (D.D.C. 2011), *aff'd* 132 S. Ct. 1087 (2012).

⁶² 11 C.F.R. § 110.20(g).

national” includes anyone who “is not a citizen of the United States or a national of the United States . . . and who is not lawfully admitted for permanent residence[.]”⁶⁴

The Complaint alleges that Posobiec and Cernovich solicited contributions from foreign nationals, however, there is no information in the record to support the allegation. The lone document cited in the Complaint is a copy of a website soliciting contributions to support journalism Posobiec intended to complete in Eastern Europe.⁶⁵ However, there is no information that this journalism work was done in connection with any Federal, State, or local election. There is no substantiation of the allegation that Cernovich received a donation from the Czech Republic, nor is there any information that, even assuming such a donation existed, that it was in connection with a Federal, State or local election. Because available information does not appear to support a finding that a violation of the Act or Commission regulations occurred, we recommend that the Commission find no reason to believe that Posobiec or Cernovich solicited, accepted or received contributions from foreign nationals in violation of 52 U.S.C. § 30121.⁶⁶

D. The Commission Should Dismiss the Coordination Allegations

The Act prohibits corporations and independent expenditure-only political committees from making, and candidates or their committees from knowingly accepting, contributions in connection with any election to political office.⁶⁷ Expenditures made by any person “in cooperation, consultation, or concert with, or at the request or suggestion of” a candidate or his

⁶⁴ 52 U.S.C. § 30121(b); *see also* 11 C.F.R. § 110.20(a)(3).

⁶⁵ Compl., Attach. 27.

⁶⁶ We recommend taking no further action at this time against Coalition for Trump regarding the foreign national allegations in light of our proposed investigation into Coalition for Trump for fraudulent misrepresentation. *See supra* Part III.B.

⁶⁷ 52 U.S.C. § 30118(a).

1 authorized committee or agent qualify as an in-kind contribution to the candidate and must be
2 reported as expenditures made by the candidate's authorized committee.⁶⁶

3 A communication that is coordinated with a candidate or his authorized committee is
4 considered an in-kind contribution and is subject to the limits, prohibitions, and reporting
5 requirements of the Act.⁶⁷ A communication is coordinated with a candidate, his authorized
6 committee, or agent of either, if it meets a three-prong test set forth in the Commission's
7 regulations: (1) it is paid for, in whole or in part, by a person other than the candidate or
8 authorized committee; (2) it satisfies a content standard in 11 C.F.R. § 109.21(c); and (3) it
9 satisfies a conduct standard in 11 C.F.R. § 109.21(d). All three prongs must be satisfied for a
10 communication to be considered coordinated.⁶⁸

11 Here, the Complaint does not identify any specific communications with which to
12 conduct a coordination analysis. Nor is there any information in the record to suggest that there
13 was a coordinated communication between any of the Respondents as alleged in the Complaint.
14 Although the Latinos for Trump meeting minutes suggest that Latinos for Trump relied heavily
15 on the Trump campaign's direction, the available record does not contain a paid communication
16 or any other expenditure by Latinos for Trump. Nor do the conclusory allegations of meetings
17 between individuals from the Trump campaign, including Lewandowski and Clovis, and
18 individuals associated with Citizens for Trump and Coalition for Trump, including Lombardi and
19 Jeter, indicate based on the available information in the record any impermissible coordination

⁶⁶ 52 U.S.C. § 30116(a)(7)(B); 11 C.F.R. § 109.20(a), (b).

⁶⁷ 52 U.S.C. § 30116; 11 C.F.R. § 109.21(b).

⁶⁸ 11 C.F.R. § 109.21(a); *see also* Explanation and Justification, *Coordinated and Independent Expenditures*, 68 Fed. Reg. 421, 453 (Jan. 3, 2003).

1 under the Act or Commission regulations. Moreover, there is no support for the allegation that
2 Team Manatee coordinated fundraising with the Trump Committee. Because the allegations fail
3 to give rise to a reasonable inference that a violation occurred, we recommend that the
4 Commission dismiss the allegations that Respondents made and Trump Committee accepted
5 prohibited contributions in the form of coordinated communications or expenditures in violation
6 of 52 U.S.C. §§ 30116 and 30118 and 11 C.F.R. § 109.21.

7 **IV. INVESTIGATION**

8 The investigation would seek to establish Citizens for Trump's ownership structure,
9 receipts and disbursements, information related to Citizens for Trump's major purpose, as well
10 as the amount that Citizens for Trump raised and spent for the purpose of influencing the 2016
11 election and whether their activities continued after 2016. We would also examine Coalition for
12 Trump and Coalition for Trump Superstore's ownership structure, their receipts and
13 disbursements, the legitimacy of the enterprise, Jeter's involvement with the organizations, as
14 well as how much money Coalition for Trump raised from its fraudulent solicitations. We will
15 seek to conduct the investigation by voluntary means, but we recommend that the Commission
16 authorize compulsory process, as necessary.

17 **V. RECOMMENDATIONS**

- 18 1. Find reason to believe that Citizens for Trump violated 52 U.S.C. §§ 30102, 30103,
19 and 30104;
20
- 21 2. Take no action at this time with regard to the allegations that George G. Lombardi,
22 Patriotic Warriors, and Tim Selaty, Sr. violated 52 U.S.C. §§ 30102, 30103, and
23 30104;
24
- 25 3. Find reason to believe that Coalition for Trump, Coalition for Trump Superstore, and
26 Robert Jeter violated 52 U.S.C. § 30124(b);
27
- 28 4. Take no action at this time with regard to whether George G. Lombardi violated
29 52 U.S.C. § 30124(b);

5. Find no reason to believe that Jack Posobiec and Michael Cernovich violated 52 U.S.C. § 30121;
6. Dismiss the allegations that America First-Team Manatee, Inc., Citizens for Trump, Coalition for Trump, Coalition for Trump Superstore, Corey Lewandowski, Donald J. Trump, Donald J. Trump for President, Inc., and Bradley T. Crate in his official capacity as treasurer, George G. Lombardi, Jack Posobiec, Latinos for Trump (aka Latinos with Trump), Madeline Moreira, Michael Cernovich, Patriotic Warriors LLC, Reince Priebus, Robert Jeter, Sam Clovis, Tim Clark, and Tim Selaty, Sr. violated 52 U.S.C. §§ 30116 and 30118 and 11 C.F.R. § 109.21 by making and accepting prohibited contributions in the form of coordinated communications or expenditures;
7. Approve the attached Factual and Legal Analyses;
8. Authorize the use of compulsory process, including the issuance of appropriate interrogatories, document subpoenas, and deposition subpoenas, as necessary;
9. Approve the appropriate letters.

2/28/19

Date

Lisa J. Stevenson

Lisa J. Stevenson
Acting General Counsel

Lynn Y. Tran

Lynn Y. Tran
Assistant General Counsel for Enforcement

Nicholas I. Bamman

Nicholas I. Bamman
Attorney

Attachments:

1. Factual and Legal Analysis for Citizens for Trump related entities
2. Factual and Legal Analysis for Coalition for Trump related entities
3. Factual and Legal Analysis for Jack Posobiec
4. Factual and Legal Analysis for Michael Cernovich
5. Factual and Legal Analysis sample for respondents with only coordination allegations

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Citizens for Trump MUR: 7401

I. INTRODUCTION

This matter was generated by a complaint filed with the Federal Election Commission by Karen Piper and Victoria Johnson. *See* 52 U.S.C. § 30109(a)(1). The Complaint alleges that Citizens for Trump, an organization that supported Donald J. Trump during the 2016 election cycle, failed to register and report as a political committee with the Commission. The Complaint further alleges that Citizens for Trump coordinated communications with Trump and his principal campaign committee, Donald J. Trump for President, Inc. and Bradley T. Crate in his official capacity as treasurer (“Trump Committee”).

Citizens for Trump’s co-founder, Tim Selaty, Sr., represented in court filings that it had spent \$10,000 planning a political rally to support Trump as of June 13, 2016, shortly before the Republican National Convention (“RNC”) of July 18, 2016. Based on the available evidence in the record, Citizens for Trump appears to have existed for no other purpose than to support the Trump campaign. Therefore, the Commission finds reason to believe that Citizens for Trump failed to register and report as a political committee in violation of 52 U.S.C. §§ 30102, 30103, and 30104. Because the available record fails to give rise to a reasonable inference that Citizens for Trump coordinated any communications or expenditures with the Trump Committee, the Commission dismisses the coordination allegations.

II. FACTUAL BACKGROUND**A. Citizens for Trump**

The Complaint alleges that Citizens for Trump was co-founded by Respondents George Lombardi and Tim Selaty, Sr., through a company operated by Selaty, Patriotic Warriors LLC (“Patriotic Warriors”).¹ Selaty appears to be the Chief Operating Officer and Founder of Patriotic Warriors,² a for-profit company with \$1 million in reported revenue generated by “selling memberships . . . direct donations and generating internet merchandise sales.”³ The Complaint cites to a Declaration dated June 13, 2016, that Selaty filed in a federal court proceeding to obtain a parade permit for a planned July 18, 2016, rally to support Trump (“Selaty Decl.”) at the Republican convention.⁴ In this Declaration, Selaty represents that he was a co-founder of Citizens for Trump, that the organization was “founded in July 2015 by Patriotic Warriors LLC,” and that Citizens for Trump had spent \$10,000 as of June 13, 2018, organizing the rally to support Trump at the RNC convention.⁵

¹ Compl. at 1 (June 4, 2018). An old version of the Citizens for Trump website also lists Michelle Selaty as a “Co-Founder.” See Citizens for Trump, Pro-Trump Efforts, <http://www.p2016.org/trump/citizensfortrump.html> (last visited Feb. 21, 2019). Lombardi listed himself as the “Manager” of Citizens for Trump on his Facebook page. Compl., Attach. 10.

² Tim Selaty, Sr., ZOOMINFO, <https://www.zoominfo.com/p/Tim-Selaty/1560524897> (last visited Feb. 21, 2019). Patriotic Warriors is an Arkansas company with a license status listed as “revoked.” The webpage states that LLC members are confidential pursuant to Arkansas law. See Arkansas Secretary of State, Patriotic Warriors LLC, https://www.sos.arkansas.gov/corps/search_corps.php?DETAIL=433125&corp_type_id=&corp_name=iot&agent_search=&agent_city=&agent_state=&filing_number=&cmd= (last visited Feb. 21, 2019).

³ Compl. at 2, n.6.

⁴ See *id.* at 2, n.4 (citing Selaty Decl. ¶¶ 4, 7, *Citizens for Trump v. City of Cleveland*, Case No. 1:16-cv-01465-JG (N.D. Oh. 2016), http://www.acluohio.org/wp-content/uploads/2016/06/CitizensForTrump.v.Cleveland-Declaration-TimothySelaty2016_0614.pdf).

⁵ See Selaty Decl. ¶¶ 4, 7. We do not have any information concerning the tax status of Patriotic Warriors.

1 It is not clear from the publicly available information whether Citizens for Trump was a
 2 separate entity from Patriotic Warriors because the groups operated in tandem and used both
 3 names to conduct their operations. A Patriotic Warriors press release states that the “Patriotic
 4 Warriors conservative activist organization has launched the ‘Citizens for Trump’ website to take
 5 an active role in helping to elect Donald J. Trump as the next President of the United States.”⁶
 6 The Patriotic Warriors website solicited contributions for Citizens for Trump.⁷ The contribution
 7 landing page is entitled “Support the Citizens for Trump Campaign” with a subtitle of
 8 “https://patrioticwarriors.com.”⁸ The URL of the website contains the name “Patriotic Warriors
 9 LLC.”⁹

10 On its solicitation page, Citizens for Trump describes itself as a campaign of Patriotic
 11 Warriors, a grassroots organization created to support Trump’s campaign for president:

12 **The Citizens for Trump campaign was created by Patriotic**
 13 **Warriors to help bring grassroots conservatives on board with**
 14 **supporting Donald J. Trump for President.**

15 We are kindly asking for your financial help, and thank you for
 16 your gracious support of our efforts to get Mr. Trump elected as
 17 our next President.¹⁰

⁶ Patriotic Warriors Officially Launch “Citizens for Trump” Grassroots Campaign, CITIZENS FOR TRUMP, (Aug. 19, 2015), <https://citizensfortrump.com/2015/08/19/patriotic-warriors-officially-launch-citizens-trump-grassroots-campaign/> [<https://web.archive.org/web/20150820174023/https://citizensfortrump.com/2015/08/19/patriotic-warriors-officially-launch-citizens-trump-grassroots-campaign/>]. During the writing of this report, the Citizens for Trump website has been deleted.

⁷ Compl. at 2, Attach. 17.

⁸ *Id.* (depicting a website that fails to display a disclaimer).

⁹ *Id.*

¹⁰ See Citizens for Trump, “Why Donate,” <https://citizensfortrump.com/why-donate/> [<https://web.archive.org/web/20160703025414/https://citizensfortrump.com/why-donate/>] (emphasis in original).

Neither Citizens for Trump nor Patriotic Warriors is registered as a political committee with the Commission.

In his Declaration filed in support of Citizen for Trump's parade permit, Selaty described Citizens for Trump's purpose as "organiz[ing] massive grassroots volunteer support to assist the official Trump presidential campaign" ¹¹ He also represented that Citizens for Trump had spent \$10,000 as of June 13, 2016, organizing the July 18, 2016, RNC rally to "pay deposits to secure lodging in hotels and rental homes for the main organizers and four guest speakers." ¹² Selaty estimated spending an additional \$50,000 on the rally if the permit was approved. ¹³ Citizens for Trump eventually settled the lawsuit and held the rally, but we do not have any information about whether the additional \$50,000 was in fact spent. ¹⁴

B. Coordination Allegations

The Complaint alleges that Citizens for Trump coordinated communications with the Trump Committee. Based on alleged meetings between individuals associated with the Trump Committee and agents of Citizens for Trump, the substance of which is vague and unsubstantiated by the Complaint's attachments, the Complaint concludes that Citizens for Trump coordinated communications with the Trump Committee. ¹⁵

¹¹ Selaty Decl. ¶ 9; Tim Selaty, Sr., ZOOMINFO, *supra* note 2.

¹² Selaty Decl. ¶ 22.

¹³ *Id.* ¶¶ 23-25.

¹⁴ See Notice of Filing of Settlement Agreement, July 15, 2016, *Citizens for Trump v. City of Cleveland*, Case No. 1:16-cv-01465-JG (N.D. Oh. 2016), http://www.acluohio.org/wp-content/uploads/2016/07/CitizensForTrump.v.Cleveland-028-SettlementAgreement-2016_0715.pdf; see also William Douglas and David Goldstein, *GOP convention protests small, peaceful on 1st day*, THE NEWS & OBSERVER, July 18, 2016, <https://www.newsobserver.com/news/politics-government/article90408907.html>.

¹⁵ See Compl. at 1, 3.

III. LEGAL ANALYSIS**A. There Is Reason to Believe that Citizens for Trump Failed to Register and Report as a Political Committee**

The Act defines a political committee as “any committee, club, association, or other group of persons” that receives aggregate contributions or makes aggregate expenditures in excess of \$1,000 during a calendar year.¹⁶ Notwithstanding the threshold for contributions and expenditures, an organization will be considered a political committee only if its “major purpose is Federal campaign activity (*i.e.*, the nomination or election of a Federal candidate).”¹⁷ Political committees are required to register with the Commission, meet organizational and recordkeeping requirements, and file periodic disclosure reports.¹⁸

Citizens for Trump crossed the statutory threshold for political committee status by making more than \$1,000 in expenditures to support Trump’s campaign in 2016. An “expenditure” is defined as “any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value made by any person for the purpose of influencing any election for Federal office.”¹⁹ Selaty declared that Citizens for Trump had spent \$10,000 for a rally to support Trump during the Republican convention as of June 13, 2016, and planned to spend approximately \$50,000 more once the parade permit was granted.²⁰ The Complaint alleges that

¹⁶ 52 U.S.C. § 30101(4)(A).

¹⁷ Political Committee Status: Supplemental Explanation and Justification, 72 Fed. Reg. 5595, 5597 (Feb. 7, 2007); *see Buckley v. Valeo*, 424 U.S. 1, 79 (1976); *FEC v. Mass. Citizens for Life, Inc.*, 479 U.S. 238, 262 (1986).

¹⁸ *See* 52 U.S.C. §§ 30102, 30103, 30104.

¹⁹ 52 U.S.C. § 30101(9)(A)(i); 11 C.F.R. § 100.111.

²⁰ Selaty Decl. ¶¶ 22-25; Tim Selaty, Sr., ZOOMINFO, *supra* note 2.

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1 Citizens for Trump held other rallies during Trump’s campaign in 2016, which presumably
2 carried additional costs.²¹ The record is clear that Citizens for Trump crossed the \$1,000
3 expenditure threshold in 2016 by making payments in support of Trump’s election to Federal
4 office.

5 Furthermore, Citizens for Trump appears to have had the major purpose of electing or
6 nominating Trump. To determine an entity’s “major purpose,” the Commission considers a
7 group’s “overall conduct,” including public statements about its mission, organizational
8 documents, government filings (*e.g.*, IRS notices), the proportion of spending related to “federal
9 campaign activity,” and the extent to which fundraising solicitations indicate funds raised will be
10 used to support or oppose specific candidates.²² In assessing an organization’s major purpose,
11 the Commission has previously considered how much of an organization’s spending is for
12 “federal campaign activity” as compared to “activities that [a]re not campaign related.”²³

13 Here, the Citizens for Trump website and Selaty’s Declaration both describe the group’s
14 purpose from its inception in July 2015 as supporting the nomination or election of Trump.²⁴
15 The publicly available information supports a conclusion that Citizens for Trump’s sole purpose
16 was the nomination and election of Trump during the 2016 election cycle, and all of its known
17 expenditures were for the purpose of supporting Trump’s federal campaign.

²¹ Compl. at 2. It appears that Citizens for Trump continued to hold rallies after the election of Trump in support of candidates that shared his agenda. Compl., Attach. 5. However, there is no information in the record regarding the amounts spent on those rallies or for whom the rallies were held.

²² Political Committee Status, 72 Fed. Reg. 5595, 5605 (Feb. 7, 2007).

²³ *Id.*

²⁴ Selaty Decl. ¶ 9; Tim Selaty, Sr., ZOOMINFO, *supra* note 2.

1 Because Citizens for Trump surpassed \$1,000 in expenditures during 2016 and meets the
2 major purpose test, the Commission finds reason to believe that Citizens for Trump failed to
3 register and report as a political committee in violation of 52 U.S.C. §§ 30102, 30103, and
4 30104.

5 **B. Coordination Allegations**

6
7 The Act prohibits corporations and independent expenditure-only political committees
8 from making, and candidates or their committees from knowingly accepting, contributions in
9 connection with any election to political office.²⁵ Expenditures made by any person “in
10 cooperation, consultation, or concert with, or at the request or suggestion of” a candidate or his
11 authorized committee or agent qualify as an in-kind contribution to the candidate and must be
12 reported as expenditures made by the candidate’s authorized committee.²⁶

13 A communication that is coordinated with a candidate or his authorized committee is
14 considered an in-kind contribution and is subject to the limits, prohibitions, and reporting
15 requirements of the Act.²⁷ A communication is coordinated with a candidate, his authorized
16 committee, or agent of either, if it meets a three-prong test set forth in the Commission’s
17 regulations: (1) it is paid for, in whole or in part, by a person other than the candidate or
18 authorized committee; (2) it satisfies a content standard in 11 C.F.R. § 109.21(c); and (3) it

²⁵ 52 U.S.C. § 30118(a).

²⁶ 52 U.S.C. § 30116(a)(7)(B); 11 C.F.R. § 109.20(a), (b).

²⁷ 52 U.S.C. § 30116; 11 C.F.R. § 109.21(b).

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1 satisfies a conduct standard in 11 C.F.R. § 109.21(d). All three prongs must be satisfied for a
2 communication to be considered coordinated.²⁸

3 Here, the Complaint does not identify any specific communications with which to
4 conduct a coordination analysis. Nor do the conclusory allegations of meetings between
5 individuals from the Trump campaign and individuals associated with Citizens for Trump,
6 indicate, based on the available information in the record, any impermissible coordination under
7 the Act or Commission regulations. Because the allegations fail to give rise to a reasonable
8 inference that a violation occurred, the Commission dismisses the allegations that Citizens for
9 Trump made and the Trump Committee accepted prohibited contributions in the form of
10 coordinated communications or expenditures in violation of 52 U.S.C. §§ 30116 and 30118 and
11 11 C.F.R. § 109.21.

²⁸ 11 C.F.R. § 109.21(a); *see also* Explanation and Justification, *Coordinated and Independent Expenditures*,
68 Fed. Reg. 421, 453 (Jan. 3, 2003).

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: Coalition for Trump MUR: 7401
Coalition for Trump Superstore
Robert Jeter

I. INTRODUCTION

This matter was generated by a complaint filed with the Federal Election Commission by Karen Piper and Victoria Johnson. *See* 52 U.S.C. § 30109(a)(1). The available record suggests that Coalition for Trump, and the affiliated Coalition for Trump Superstore, solicited contributions by suggesting that they were organizations authorized by the Trump campaign. While they held themselves out as pro-Trump grassroots support organizations, there is no evidence of any actual grassroots support, nor does it appear that the Coalition for Trump Superstore was a legitimate enterprise. For these reasons, the Commission finds reason to believe that Coalition for Trump and Coalition for Trump Superstore, and their founder Robert Jeter, fraudulently solicited contributions in violation of 52 U.S.C. § 30124.

The Complaint also alleges that Coalition for Trump, Coalition for Trump Superstore, and Jeter coordinated communications with Donald J. Trump for President, Inc. and Bradley T. Crate in his official capacity as treasurer (“Trump Committee”). Because the available record fails to give rise to a reasonable inference that Respondents Coalition for Trump, Coalition for Trump Superstore, or Jeter coordinated any communications or expenditures with the Trump Committee, the Commission dismisses the coordination allegations.

II. FACTUAL BACKGROUND**A. Coalition for Trump**

Coalition for Trump was allegedly co-founded by George Lombardi and Robert Jeter.¹

Although Coalition for Trump appears to be nothing more than a pro-Trump Facebook page, it is in fact the name for a network of approximately 100 Facebook pages and social media groups, as well as a pro-Trump online periodical called the Trump Times, and the Coalition for Trump Superstore, an online store that sells pro-Trump and other political merchandise.²

The “About Us” page of the Coalition for Trump Superstore states:

Our web site www.coalitionfortrumpsuperstore.com is a way for our organization to raise funds for us to use to do boots on the ground work for conservative activism.

For more info on how we spend profits visit AmericaFirstCoalition.org. After discussions with Corey Lewandowski and Michael Cohen, Trump's legal counsel, they approve of our efforts to earn funds to help. We are following all guidelines set for us so that we use all funds in an efficient manner to achieve the most benefit taking the fight to liberals. If you would like to learn more, or make a donation to help, please fill out the form below, or make you [sic] donation thru Pay Pal to coalitionfortrump@gmail.com.³

¹ Compl. at 2-3.

² Coalition Groups, THE TRUMP TIMES, <http://www.thetrumptime.com/coalition-groups/> [<https://web.archive.org/web/20160729200742/http://www.thetrumptime.com/coalition-groups/>]. The Trump Times is a pro-Trump online publication founded by Jeter. The Coalition for Trump Superstore is the creator of many of these Facebook groups. *See, e.g.*, Compl., Attach. 29. As of September 20, 2018, the websites and social media pages Jeter founded were fully functional. By September 24, 2018, however, many of the pages had been deleted, including the Coalition for Trump and Coalition for Trump Superstore Facebook pages, the America First Coalition website, and the Trump Times. Moreover, Jeter updated his Facebook page to exclude any reference to the Coalition for Trump or America First networks.

³ About Us, COALITION FOR TRUMP SUPERSTORE, (Sept. 24, 2018), <https://www.coalitionfortrumpsuperstore.com/about-us> [<https://web.archive.org/web/20180924114529/coalitionfortrumpsuperstore.com/about-us>]. For a prior version of the “About us” section of the Coalition for Trump Superstore website, see Compl., Attach. 26. Jeter claims to be the Founder of the America First Coalition. Compl., Attach. 6. The website does not contain any specific information concerning how the profits from the Coalition for Trump Superstore were spent. However, “the mission of America First Coalition is to protect and promote the conservative values of our Founding Fathers, as

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Until the end of September 2018, while the Facebook groups were still active, they contained the following logo:⁴



Before the websites were deleted after the filing of the Complaint, they had updated the logo for 2020 as follows:



Apart from pro-Trump content, the unifying factor among most of the Coalition for Trump organizations is the prominent display of a “shop now” button at the Coalition for Trump Superstore, along with posts soliciting contributions to Coalition for Trump.⁵

Publicly available information suggests that Coalition for Trump Superstore may not have been a legitimate commercial enterprise. Several customers have lodged complaints with the Better Business Bureau stating that they either did not receive their purchased merchandise

well as individual rights and freedoms as set forth in the United States Constitution.” America First Values, AMERICA FIRST COALITION, (May 9, 2017), <https://web.archive.org/web/20170509222052/http://americafirstcoalition.org:80/index.php/america-first-values/> <https://web.archive.org/web/20170509222052/http://americafirstcoalition.org:80/index.php/america-first-values/>. It is unclear whether the America First Coalition is the parent organization.

⁴ Compl., Attach. 6. The Complaint also vaguely alleges that Coalition for Trump “encouraged participation from foreign nationals . . .” via Facebook. *See* Compl. at 4, Attach. 29.

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or that the delivered merchandise was defective.⁶ After the Complaint was filed, Coalition for Trump and Coalition for Trump Superstore's Facebook pages and websites were deleted, and a google search for Coalition for Trump reveals a Facebook page that states, "This page is a scam."⁷ None of the Coalition organizations are registered as political committees with the FEC.⁸

B. Coordination Allegations

The Complaint alleges that Coalition for Trump, Coalition for Trump Superstore, and Jeter coordinated communications with the Trump Committee. Based on alleged meetings between individuals associated with the Trump Committee and agents of Coalition for Trump, the substance of which is vague and unsubstantiated by the Complaint's attachments, the Complaint concludes that Coalition for Trump coordinated communications with the Trump Committee.⁹

⁵ See, e.g., Compl., Attach. 29.

⁶ Better Business Bureau, Coalition for Trump Super Store, <https://www.bbb.org/us/oh/sylvania/profile/online-retailer/coalition-for-trump-super-store-0422-90167499/customer-reviews> (last visited Feb.21, 2019). The BBB has continued to receive complaints throughout the writing of this report. As of February 21, 2019, there are 52 complaints.

⁷ Google search screenshot on file. It is unclear whether Facebook or someone else is responsible for writing "[t]his page is a scam."

⁸ America First Coalition is a Florida LLC, but it is unclear whether America First Coalition is the "parent" organization. America First Coalition is not a respondent.

⁹ See Compl. at 1, 3.

III. LEGAL ANALYSIS**A. There Is Reason to Believe that Coalition for Trump, Coalition for Trump Superstore, and Jeter Engaged in Fraudulent Misrepresentation in Violation of Section 30124**

The Act prohibits persons from fraudulently misrepresenting themselves as speaking, writing, or otherwise acting for or on behalf of any candidate or agent thereof for the purpose of soliciting contributions or donations.¹⁰ Further, no person shall willfully and knowingly participate in or conspire to participate in any plan or scheme to engage in such behavior.¹¹ Although the Act requires that the violator have the intent to deceive, it does not require proof of the common law fraud elements of justifiable reliance and damages.¹² “Even absent an express misrepresentation, a representation is fraudulent if it was reasonably calculated to deceive persons of ordinary prudence and comprehension.”¹³

In prior matters involving alleged violations of section 30124, the Commission has considered whether the organization solicited contributions in a manner confusingly similar to the candidate, used a name that was misleading, mimicked the candidate’s website or logo, failed to contain an adequate disclaimer, misrepresented itself as grassroots support for the candidate,

¹⁰ 52 U.S.C. § 30124(b)(1); *see also* 11 C.F.R. § 110.16(b)(1).

¹¹ 52 U.S.C. § 30124(b)(2); *see also* 11 C.F.R. § 110.16(b)(2).

¹² *See FEC v. Novacek*, 739 F. Supp. 2d 957, 961 (N.D. Tex. 2010) (finding that defendants knowingly and willfully violated 2 U.S.C. § 441h(b) (now 52 U.S.C. § 30124(b))); Disclaimers, Fraudulent Solicitation, Civil Penalties, and Personal Use of Campaign Funds, 67 Fed. Reg. 76,962, 76,969 (Dec. 13, 2002) (explanation and justification) (citing *Neder v. United States*, 527 U.S. 1, 24-25 (1999)) (distinguishing fraud in federal campaign finance abuses from common law tort action on the basis of Congress intending to penalize schemes as well as actions taken to defraud and the damaging effect of misrepresentation); F&LA at 4, MUR 5472 (Jody Novacek).

¹³ *Novacek*, 739 F. Supp. 2d at 961.

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1 ignored a contributor's request for a refund, did not appear to be a legitimate enterprise, or failed
2 to file reports with the Commission.¹⁴

3 The evidence in the record here supports reason to believe that Coalition for Trump
4 violated section 30124. The Coalition for Trump Superstore's website was calculated to create
5 the impression that either the Trump campaign authorized the group or the Coalition for Trump
6 Superstore was part of the Trump campaign.¹⁵ The website's reference to individuals closely
7 associated with the Trump campaign – Michael Cohen and Corey Lewandowski – approving of
8 their fundraising gave potential contributors the illusion that the Trump campaign not only
9 authorized the organization but encouraged it with fundraising advice.¹⁶ The Coalition logo
10 further confuses potential contributors by using Trump's campaign phrase "make America great
11 again" and prominently displaying "Trump" in large lettering, while using small lettering for
12 "Coalition for."¹⁷ Coalition for Trump also used Trump's name without permission and failed to

¹⁴ See, e.g., F&LA at 5, MUR 7194 (Unknown Respondent); F&LA at 14-15, MUR 7140 (Americans for Sensible Solutions PAC); F&LA at 7-8, MUR 7011/7092 (HC4President); F&LA at 7-9, MUR 6997 (Americans Socially United).

¹⁵ See About Us, COALITION FOR TRUMP SUPERSTORE, (Sept. 24, 2018), <https://www.coalitionfortrumpsuperstore.com/about-us> [<https://web.archive.org/web/20180924114529/coalitionfortrumpsuperstore.com/about-us>]; see also F&LA at 7-8, MUR 6997 (Americans Socially United) (finding reason to believe, in part, based on the fact that the website misled the contributor to think the committee was either the official website of the candidate or authorized by the candidate).

¹⁶ *Id.* Michael Cohen was the personal attorney for Trump and Corey Lewandowski was Trump's former campaign manager.

¹⁷ See Compl., Attach. 6; see also F&LA at 9, MUR 7011/7092 (HC4President) (finding reason to believe where the committee solicited contributions in a manner confusingly similar to that of the candidate).

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1 include an appropriate disclaimer that Coalition for Trump was an unauthorized organization.¹⁸

2 Coalition for Trump has not registered with the FEC or filed any disclosure reports.¹⁹

3 Moreover, the Coalition for Trump Superstore does not appear to be a legitimate
4 enterprise. It has amassed several complaints not only for failing to deliver purchased
5 merchandise, but also for failing to respond to customers' emails and requests for refunds.²⁰ The
6 Coalition for Trump Superstore represents itself as Trump's largest grassroots organization and
7 claims that "the store helps us raise funds for boots on the ground," but there is no evidence of
8 any actual grassroots activity on behalf of the Trump campaign.²¹

9 Accordingly, the Commission finds reason to believe that Coalition for Trump, Coalition
10 for Trump Superstore and Jeter violated 52 U.S.C. § 30124(b).²²

11 **B. Coordination Allegations**

12 The Act prohibits corporations and independent expenditure-only political committees
13 from making, and candidates or their committees from knowingly accepting, contributions in
14

¹⁸ See F&LA at 8, MUR 5472 (Republican Victory 2004 Committee) (using "Republican" in committee's name was one factor considered in finding reason to believe).

¹⁹ F&LA at 15, MUR 7140 (Americans for Sensible Solutions PAC) (citing F&LA at 9, MUR 5472 (Republican Victory 2004 Committee)) ("Failure to file reports with the Commission indicating on what, if anything the money raised has been spent may be probative of the Committee's intent to misrepresent itself to the public.").

²⁰ Better Business Bureau, Coalition for Trump Super Store, <https://www.bbb.org/us/oh/sylvania/profile/online-retailer/coalition-for-trump-super-store-0422-90167499/customer-reviews> (last visited Feb. 21, 2019); see also F&LA at 9, MUR 6997 (Americans Socially United) (ignoring a contributor's attempts at a refund was considered as a factor in finding reason to believe).

²¹ See F&LA at 8, MUR 5385 (Groundswell Voters PAC) (finding reason to believe because, in part, the committee misrepresented itself as grassroots support for a candidate).

²² In prior matters, the Commission has pursued not just the committee or entity for violations of Section 30124(b), but also the individual who is responsible for such a committee or entity. See, e.g., F&LA at 9, MUR 7011/7092 (HC4President) (finding reason to believe against PAC's treasurer).

1 connection with any election to political office.²³ Expenditures made by any person “in
2 cooperation, consultation, or concert with, or at the request or suggestion of” a candidate or his
3 authorized committee or agent qualify as an in-kind contribution to the candidate and must be
4 reported as expenditures made by the candidate’s authorized committee.²⁴

5 A communication that is coordinated with a candidate or his authorized committee is
6 considered an in-kind contribution and is subject to the limits, prohibitions, and reporting
7 requirements of the Act.²⁵ A communication is coordinated with a candidate, his authorized
8 committee, or agent of either, if it meets a three-prong test set forth in the Commission’s
9 regulations: (1) it is paid for, in whole or in part, by a person other than the candidate or
10 authorized committee; (2) it satisfies a content standard in 11 C.F.R. § 109.21(c); and (3) it
11 satisfies a conduct standard in 11 C.F.R. § 109.21(d). All three prongs must be satisfied for a
12 communication to be considered coordinated.²⁶

13 Here, the Complaint does not identify any specific communications with which to
14 conduct a coordination analysis. Nor do the conclusory allegations of meetings between
15 individuals from the Trump campaign and individuals associated with Coalition for Trump
16 indicate, based on the available information in the record, any impermissible coordination under
17 the Act or Commission regulations. Because the allegations fail to give rise to a reasonable
18 inference that a violation occurred, the Commission dismisses the allegations that Coalition for

²³ 52 U.S.C. § 30118(a).

²⁴ 52 U.S.C. § 30116(a)(7)(B); 11 C.F.R. § 109.20(a), (b).

²⁵ 52 U.S.C. § 30116; 11 C.F.R. § 109.21(b).

²⁶ 11 C.F.R. § 109.21(a); *see also* Explanation and Justification, *Coordinated and Independent Expenditures*, 68 Fed. Reg. 421, 453 (Jan. 3, 2003).

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- 1 Trump, Coalition for Trump Superstore, and Jeter made and the Trump Committee accepted
- 2 prohibited contributions in the form of coordinated communications or expenditures in violation
- 3 of 52 U.S.C. §§ 30116 and 30118 and 11 C.F.R. § 109.21.

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Jack Posobiec MUR: 7401

I. INTRODUCTION

This matter was generated by a complaint filed with the Federal Election Commission by Karen Piper and Victoria Johnson. *See* 52 U.S.C. § 30109(a)(1).

II. FACTUAL BACKGROUND

The Complaint contains a series of vague and conclusory allegations alleging that Jack Posobiec solicited foreign national contributions and coordinated communications with the Trump Committee.

The Complaint alleges that Posobiec, as a “Special Projects Director” for Citizens for Trump, solicited contributions from foreign nationals. In support of the allegations, the Complaint cites to Posobiec’s Patreon page – a website that specializes in soliciting contributions from “patrons” – requesting donations to support journalism he intended to complete in Eastern Europe.¹ The Complaint also generally alleges that Posobiec was part of a group of individuals and organizations who coordinated communications with Donald J. Trump for President, Inc. and Bradley T. Crate in his official capacity as treasurer (“Trump Committee”).

III. LEGAL ANALYSIS**A. There Is No Reason to Believe that Posobiec Solicited, Accepted, or Received Contributions From Foreign Nationals**

The Act prohibits any “foreign national” from “directly or indirectly” making a contribution or donation of money or any other thing of value in connection with a Federal, State,

¹ Compl., Attach. 27.

or local election.² Commission Regulations also provide that no person shall “knowingly solicit, accept, or receive from a foreign national any contribution or donation”³ “Foreign national” includes anyone who “is not a citizen of the United States or a national of the United States . . . and who is not lawfully admitted for permanent residence[.]”⁴

The Complaint alleges that Posobiec solicited contributions from foreign nationals; however, there is no information in the record to support the allegation. The lone document cited in the Complaint is a copy of a website soliciting contributions to support journalism Posobiec intended to complete in Eastern Europe.⁵ However, there is no information that this journalism work was done in connection with any Federal, State, or local election. Because the available information does not appear to support a finding that a violation of the Act or Commission regulations occurred, the Commission finds no reason to believe that Posobiec solicited, accepted, or received contributions from foreign nationals in violation of 52 U.S.C. § 30121.

B. Dismissal of the Coordination Allegations

The Act prohibits corporations and independent expenditure-only political committees from making, and candidates or their committees from knowingly accepting, contributions in connection with any election to political office.⁶ Expenditures made by any person “in

² 52 U.S.C. § 30121(a)(1); *see also* 11 C.F.R. § 110.20(b), (c). Courts have consistently upheld the provisions of the Act prohibiting foreign national contributions, on the ground that the government has a clear, compelling interest in limiting the influence of foreigners over activities and processes integral to democratic self-government, which include making political contributions or express-advocacy expenditures. *See Bluman v. FEC*, 800 F. Supp. 2d 281, 288-89 (D.D.C. 2011), *aff’d* 132 S. Ct. 1087 (2012).

³ 11 C.F.R. § 110.20(g).

⁴ 52 U.S.C. § 30121(b); *see also* 11 C.F.R. § 110.20(a)(3).

⁵ Compl., Attach. 27.

⁶ 52 U.S.C. § 30118(a).

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1 cooperation, consultation, or concert with, or at the request or suggestion of' a candidate or his
2 authorized committee or agent qualify as an in-kind contribution to the candidate and must be
3 reported as expenditures made by the candidate's authorized committee.⁷

4 A communication that is coordinated with a candidate or his authorized committee is
5 considered an in-kind contribution and is subject to the limits, prohibitions, and reporting
6 requirements of the Act.⁸ A communication is coordinated with a candidate, his authorized
7 committee, or agent of either, if it meets a three-prong test set forth in the Commission's
8 regulations: (1) it is paid for, in whole or in part, by a person other than the candidate or
9 authorized committee; (2) it satisfies a content standard in 11 C.F.R. § 109.21(c); and (3) it
10 satisfies a conduct standard in 11 C.F.R. § 109.21(d). All three prongs must be satisfied for a
11 communication to be considered coordinated.⁹

12 Here, the Complaint does not identify any specific communications with which to
13 conduct a coordination analysis nor any information as to Posobiec's role in any alleged
14 coordinated communication. Because the allegations fail to give rise to a reasonable inference
15 that a violation occurred, the Commission dismisses the allegations that Posobiec made and the
16 Trump Committee accepted prohibited contributions in the form of coordinated communications
17 or expenditures in violation of 52 U.S.C. §§ 30116 and 30118 and 11 C.F.R. § 109.21.

⁷ 52 U.S.C. § 30116(a)(7)(B); 11 C.F.R. § 109.20(a), (b).

⁸ 52 U.S.C. § 30116; 11 C.F.R. § 109.21(b).

⁹ 11 C.F.R. § 109.21(a); *see also* Explanation and Justification, *Coordinated and Independent Expenditures*, 68 Fed. Reg. 421, 453 (Jan. 3, 2003).

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Michael Cernovich

MUR: 7401

I. INTRODUCTION

This matter was generated by a complaint filed with the Federal Election Commission by Karen Piper and Victoria Johnson. *See* 52 U.S.C. § 30109(a)(1).

II. FACTUAL BACKGROUND

The Complaint contains a series of vague and conclusory allegations alleging that Michael Cernovich solicited foreign national contributions and coordinated communications with the Donald J. Trump for President, Inc. and Bradley T. Crate in his official capacity as treasurer (“Trump Committee”).

The Complaint contends that Cernovich accepted contributions from “the Czech Republic,” but those allegations are unsupported in the record before the Commission. The Complaint also generally alleges that Cernovich was part of a group of individuals and organizations who coordinated communications with the Trump Committee.

III. LEGAL ANALYSIS**A. There Is No Reason to Believe that Cernovich Solicited, Accepted, or Received Contributions From Foreign Nationals**

The Act prohibits any “foreign national” from “directly or indirectly” making a contribution or donation of money or any other thing of value in connection with a Federal, State, or local election.¹ Commission regulations also provide that no person shall “knowingly solicit,

¹ 52 U.S.C. § 30121(a)(1); *see also* 11 C.F.R. § 110.20(b), (c). Courts have consistently upheld the provisions of the Act prohibiting foreign national contributions, on the ground that the government has a clear, compelling interest in limiting the influence of foreigners over activities and processes integral to democratic self-

1 accept, or receive from a foreign national any contribution or donation”² “Foreign national”
2 includes anyone who “is not a citizen of the United States or a national of the United
3 States . . . and who is not lawfully admitted for permanent residence[.]”³

4 The Complaint alleges that Cernovich solicited contributions from foreign nationals;
5 however, there is no substantiation of the allegation that Cernovich received a donation from the
6 Czech Republic, nor is there any information that, even assuming such a donation existed, that it
7 was in connection with a Federal, State, or local election. Because the available information
8 does not appear to support a finding that a violation of the Act or Commission regulations
9 occurred, the Commission finds no reason to believe that Cernovich solicited, accepted, or
10 received contributions from foreign nationals in violation of 52 U.S.C. § 30121.

11 **B. Dismissal of the Coordination Allegations**

12
13 The Act prohibits corporations and independent expenditure-only political committees
14 from making, and candidates or their committees from knowingly accepting, contributions in
15 connection with any election to political office.⁴ Expenditures made by any person “in
16 cooperation, consultation, or concert with, or at the request or suggestion of” a candidate or his
17 authorized committee or agent qualify as an in-kind contribution to the candidate and must be
18 reported as expenditures made by the candidate’s authorized committee.⁵

government, which include making political contributions or express-advocacy expenditures. *See Bluman v. FEC*,
800 F. Supp. 2d 281, 288-89 (D.D.C. 2011), *aff’d* 132 S. Ct. 1087 (2012).

² 11 C.F.R. § 110.20(g).

³ 52 U.S.C. § 30121(b); *see also* 11 C.F.R. § 110.20(a)(3).

⁴ 52 U.S.C. § 30118(a).

⁵ 52 U.S.C. § 30116(a)(7)(B); 11 C.F.R. § 109.20(a), (b).

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1 A communication that is coordinated with a candidate or his authorized committee is
2 considered an in-kind contribution and is subject to the limits, prohibitions, and reporting
3 requirements of the Act.⁶ A communication is coordinated with a candidate, his authorized
4 committee, or agent of either, if it meets a three-prong test set forth in the Commission's
5 regulations: (1) it is paid for, in whole or in part, by a person other than the candidate or
6 authorized committee; (2) it satisfies a content standard in 11 C.F.R. § 109.21(c); and (3) it
7 satisfies a conduct standard in 11 C.F.R. § 109.21(d). All three prongs must be satisfied for a
8 communication to be considered coordinated.⁷

9 Here, the Complaint does not identify any specific communications with which to
10 conduct a coordination analysis nor any information as to Cernovich's role in any alleged
11 coordinated communication. Because the allegations fail to give rise to a reasonable inference
12 that a violation occurred, the Commission dismisses the allegations that Cernovich made and the
13 Trump Committee accepted prohibited contributions in the form of coordinated communications
14 or expenditures in violation of 52 U.S.C. §§ 30116 and 30118 and 11 C.F.R. § 109.21.

⁶ 52 U.S.C. § 30116; 11 C.F.R. § 109.21(b).

⁷ 11 C.F.R. § 109.21(a); *see also* Explanation and Justification, *Coordinated and Independent Expenditures*, 68 Fed. Reg. 421, 453 (Jan. 3, 2003).

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS [SAMPLE]**

RESPONDENT: George G. Lombardi

MUR: 7401

I. INTRODUCTION

This matter was generated by a complaint filed with the Federal Election Commission by Karen Piper and Victoria Johnson. *See* 52 U.S.C. § 30109(a)(1).

II. FACTUAL BACKGROUND

The Complaint generally alleges that Lombardi coordinated communications with Trump and his principal campaign committee, Donald J. Trump for President, Inc. and Bradley T. Crate in his official capacity as treasurer (“Trump Committee”). Based on alleged meetings between individuals associated with the Trump Committee and Lombardi, the substance of which is vague and unsubstantiated by the Complaint’s attachments, the Complaint concludes that Lombardi coordinated communications with the Trump Committee.¹

III. LEGAL ANALYSIS

The Act prohibits corporations and independent expenditure-only political committees from making, and candidates or their committees from knowingly accepting, contributions in connection with any election to political office.² Expenditures made by any person “in cooperation, consultation, or concert with, or at the request or suggestion of” a candidate or his authorized committee or agent qualify as an in-kind contribution to the candidate and must be reported as expenditures made by the candidate’s authorized committee.³

¹ *See* Compl. at 1, 3.

² 52 U.S.C. § 30118(a).

³ 52 U.S.C. § 30116(a)(7)(B); 11 C.F.R. § 109.20(a), (b).

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1 A communication that is coordinated with a candidate or his authorized committee is
2 considered an in-kind contribution and is subject to the limits, prohibitions, and reporting
3 requirements of the Act.⁴ A communication is coordinated with a candidate, his authorized
4 committee, or agent of either, if it meets a three-prong test set forth in the Commission's
5 regulations: (1) it is paid for, in whole or in part, by a person other than the candidate or
6 authorized committee; (2) it satisfies a content standard in 11 C.F.R. § 109.21(c); and (3) it
7 satisfies a conduct standard in 11 C.F.R. § 109.21(d). All three prongs must be satisfied for a
8 communication to be considered coordinated.⁵

9 Here, the Complaint does not identify any specific communications with which to
10 conduct a coordination analysis. Nor do the conclusory allegations of meetings between
11 individuals from the Trump campaign and Lombardi, indicate, based on the available
12 information in the record, any impermissible coordination under the Act or Commission
13 regulations. Because the allegations fail to give rise to a reasonable inference that a violation
14 occurred, the Commission dismisses the allegations that Lombardi made and the Trump
15 Committee accepted prohibited contributions in the form of coordinated communications or
16 expenditures in violation of 52 U.S.C. §§ 30116 and 30118 and 11 C.F.R. § 109.21.

⁴ 52 U.S.C. § 30116; 11 C.F.R. § 109.21(b).

⁵ 11 C.F.R. § 109.21(a); *see also* Explanation and Justification, *Coordinated and Independent Expenditures*, 68 Fed. Reg. 421, 453 (Jan. 3, 2003).