



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Michael Cernovich

JUL 18 2019

Kewanee, IL 61443

RE: MUR 7401

Dear Mr. Cernovich:

On June 11, 2018, the Federal Election Commission notified you of a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was forwarded to you at that time.

Upon further review of the allegations contained in the complaint, the Commission, on July 11, 2019, found no reason to believe that you violated 52 U.S.C. § 30121 by soliciting contributions from foreign nationals and voted to dismiss the allegation that you made prohibited contributions to Donald J. Trump and Donald J. Trump for President and Bradley T. Crate in his official capacity as treasurer in the form of coordinated communications or expenditures. The Factual and Legal Analysis, which more fully explains the Commission's decision, is enclosed for your information.

You are advised that the confidentiality provisions of 52 U.S.C. § 30109(a)(12)(A) remain in effect, and that this matter is still open with respect to other respondents. The Commission will notify you when the entire file has been closed.

If you have any questions, please contact Nicholas Bamman, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Lynn Y. Tran".

Lynn Y. Tran
Assistant General Counsel

Enclosure:
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Michael Cernovich MUR: 7401

I. FACTUAL BACKGROUND

The Complaint in this matter contains a series of vague and conclusory allegations alleging that Michael Cernovich solicited foreign national contributions and coordinated communications with 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.

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

The Act and Commission regulations prohibit any “foreign national” from directly or indirectly making a contribution or donation of money or other thing of value, or an expenditure, independent expenditure, or disbursement, in connection with a federal, state, or local election.¹ The Act’s definition of “foreign national” includes an individual who is not a citizen or national of the United States and who is not lawfully admitted for permanent residence, as well as a

¹ 52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.20(b), (c), (e), (f). 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 the activities and processes that are integral to democratic self-government, which include making political contributions and 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); *United States v. Singh*, 924 F.3d 1030, 1040-44 (9th Cir. 2019).

1 “foreign principal” as defined at 22 U.S.C. § 611(b).² Commission regulations also provide that
2 no person shall “knowingly solicit, accept, or receive from a foreign national any contribution or
3 donation”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 record does not appear to
8 support a finding that a violation of the Act or Commission regulations occurred, the
9 Commission finds no reason to believe that Cernovich solicited, accepted, or received
10 contributions from foreign nationals in violation of 52 U.S.C. § 30121.

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

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

² 52 U.S.C. § 30121(b); 22 U.S.C. § 611(b)(3); *see also* 11 C.F.R. § 110.20(a)(3).

³ 11 C.F.R. § 110.20(g).

⁴ 52 U.S.C. § 30118(a).

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

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 under Commission regulations.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 indicate that a violation occurred, the
12 Commission dismisses the allegations that Cernovich made, and the Trump Committee accepted,
13 prohibited contributions in the form of coordinated communications or expenditures in violation
14 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).