



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Jack Posobiec

**JUL 18 2019**

Mead, MD 20755

RE: MUR 7401

Dear Mr. Posobiec:

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

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 RESPONDENT: Jack Posobiec MUR: 7401

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5 **I. FACTUAL BACKGROUND**

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

11 The Complaint alleges that Posobiec, as a “Special Projects Director” for Citizens for  
12 Trump, solicited contributions from foreign nationals. In support of the allegations, the  
13 Complaint cites to Posobiec’s Patreon page – a website that specializes in soliciting contributions  
14 from “patrons” – requesting donations to support journalism he intended to complete in Eastern  
15 Europe.<sup>1</sup> The Complaint also generally alleges that Posobiec was part of a group of individuals  
16 and organizations who coordinated communications with the Trump Committee.

17 **II. LEGAL ANALYSIS**

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

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22 The Act and Commission regulations prohibit any “foreign national” from directly or  
23 indirectly making a contribution or donation of money or other thing of value, or an expenditure,  
24 independent expenditure, or disbursement, in connection with a federal, state, or local election.<sup>2</sup>

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<sup>1</sup> Compl., Attach. 27.

<sup>2</sup> 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*

1 The Act’s definition of “foreign national” includes an individual who is not a citizen or national  
2 of the United States and who is not lawfully admitted for permanent residence, as well as a  
3 “foreign principal” as defined at 22 U.S.C. § 611(b).<sup>3</sup> Commission Regulations also provide that  
4 no person shall “knowingly solicit, accept, or receive from a foreign national any contribution or  
5 donation . . . .”<sup>4</sup>

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

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

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16 The Act prohibits corporations from making, and candidates or their committees from  
17 knowingly accepting, contributions in connection with any election to political office.<sup>6</sup>  
18 Expenditures made by any person “in cooperation, consultation, or concert with, or at the request  
19 or suggestion of” a candidate or his authorized committee or agent qualify as an in-kind

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*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).

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

<sup>4</sup> 11 C.F.R. § 110.20(g).

<sup>5</sup> Compl., Attach. 27.

1 contribution to the candidate and must be reported as expenditures made by the candidate's  
2 authorized committee.<sup>7</sup>

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.<sup>8</sup> 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 under Commission regulations.<sup>9</sup>

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

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<sup>6</sup> 52 U.S.C. § 30118(a).

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

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

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