

1 **FEDERAL ELECTION COMMISSION**

2  
3 **FIRST GENERAL COUNSEL'S REPORT**

4  
5 MUR: 7413  
6 DATE COMPLAINT FILED: June 18, 2018  
7 DATE OF NOTIFICATION: June 21, 2018  
8 DATE OF LAST RESPONSE: N/A<sup>1</sup>  
9 DATE ACTIVATED: Oct. 24, 2018

10  
11 EXPIRATION OF SOL: Jan. 18, 2023  
12 (earliest) /June 18, 2023 (latest)  
13 ELECTION CYCLE: 2018

14  
15 **COMPLAINANT:**

Paul Simpson

16  
17 **RESPONDENTS:**

Jonathan Jenkins  
Jonathan Jenkins for Senate and Chris  
Ehlinger in his official capacity as treasurer  
Indie Party, Co.

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19  
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22 **RELEVANT STATUTES:**

52 U.S.C. § 30102, (h)(1)  
52 U.S.C. § 30103  
52 U.S.C. § 30104  
52 U.S.C. § 30125(e)

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27 **INTERNAL REPORTS CHECKED:**

Disclosure Reports

28  
29 **FEDERAL AGENCIES CHECKED:**

30  
31 **I. INTRODUCTION**

32 The Complaint alleges that Jonathan Jenkins, a U.S. Senate candidate who did not qualify  
33 for the Texas primary ballot, founded a corporation, the Indie Party, Co. ("IPC"), that failed to  
34 register and report as a political committee with the Commission, in violation of the Federal  
35 Election Campaign Act of 1971, as amended (the "Act"). The Complaint also alleges that:

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<sup>1</sup> Although Jenkins, on behalf of all the Respondents, received an extension of time to respond to the Complaint, he never responded.

1 (1) IPC made corporate contributions to Jenkins and his authorized committee; (2) IPC and  
2 Jenkins violated the Act's soft money provisions; and (3) Jenkins's authorized committee  
3 violated the Act through the use of "Indie Tokens," a cryptocurrency.

4 Based on the available information, we recommend that the Commission find reason to  
5 believe that IPC failed to register and report with the Commission as a political committee. We  
6 further recommend that the Commission take no action at this time as to the allegations that IPC  
7 and Jenkins violated the Act's soft money provisions, that IPC made, and Jenkins for Senate  
8 accepted, prohibited in-kind contributions, and that Jenkins for Senate violated the depository  
9 accounts requirements of the Act and regulations in connection with the use of cryptocurrency.

## 10 **II. FACTUAL BACKGROUND**

11 Jonathan Jenkins, a tech entrepreneur, incorporated IPC on January 18, 2018.<sup>2</sup> According  
12 to a press release announcing its March 2018 launch, IPC raised \$6.5 million for its goal "[t]o  
13 provide a new alternative to the traditional two-party system . . . . [T]he crux of our [technology-  
14 driven] movement is the creation of a political marketplace powered by the Indie Token, a new  
15 cryptocurrency that engages voters, volunteers and donors, and supports Indie candidates who are  
16 trying to bust up the two-party duopoly by winning elections."<sup>3</sup> Jenkins filed a Statement of  
17 Candidacy on May 2, and a Statement of Organization for Jonathan Jenkins for Senate and Chris  
18 Ehlinger in his official capacity as treasurer (the "Committee") on the same day. The Statement  
19 of Organization listed two depositories, Bank of America and Branch Banking and Trust

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<sup>2</sup> See Complaint, Exhs. B, C (IPC incorporation documents).

<sup>3</sup> See Indie Party press release, available at [https://www.bizjournals.com/houston/prnewswire/press\\_releases/Texas/2018/03/16/DC41502](https://www.bizjournals.com/houston/prnewswire/press_releases/Texas/2018/03/16/DC41502) (cited in Complaint fn. 19).

1 Company.<sup>4</sup> In a May 3, 2018, press release, Jenkins announced that he would run for the 2018  
2 U.S. Senate seat in Texas as an independent.<sup>5</sup>

3 According to contemporaneous press reports and the Committee's July 2018 Quarterly  
4 Report, in late April 2018, Jenkins and the Committee began collecting the more than 47,000  
5 signatures necessary to qualify for the Texas ballot.<sup>6</sup> The Committee made payments totaling  
6 \$100,000 to IPC and \$245,000 to Arno Petition Consultants for that purpose.<sup>7</sup> Jenkins failed to  
7 submit enough signatures by the June 21, 2018, deadline, and on June 18, the Committee made  
8 its last expenditure and accepted its last contribution.

9 The Complaint alleges multiple violations of the Act in connection with the establishment  
10 and operation of IPC and the Committee. First, the Complaint alleges that IPC failed to register  
11 and report as a federal political committee.<sup>8</sup> The Complaint states that IPC is a group of  
12 individuals that raised more than \$1,000 and spent more than \$1,000 and existed "solely to  
13 promote and finance the candidacy of Jonathan Jenkins."<sup>9</sup> The Complaint quotes from IPC  
14 materials that state its purpose "was to provide 'financial, physical and digital tools . . . designed  
15 for use by candidates and organization who want to engage . . . Americans who are ready for a

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<sup>4</sup> Statement of Organization, Jenkins for Senate, available at <http://docquery.fec.gov/pdf/320/201805020200363320/201805020200363320.pdf>.

<sup>5</sup> See Jenkins Press Release, available at <https://www.prweb.com/releases/2018/05/prweb15460016.htm>.

<sup>6</sup> See Jonathan Jenkins for Senate July 2018 Quarterly Report, available at <http://docquery.fec.gov/pdf/102/201807190200622102/201807190200622102.pdf> ("July Quarterly"). See also Patrick Svitek, *Independent U.S. Senate candidate with unconventional campaign misses filing deadline*, THE TEXAS TRIBUNE, available at <http://docquery.fec.gov/pdf/102/201807190200622102/201807190200622102.pdf>.

<sup>7</sup> See July Quarterly. The Committee accepted \$524,678 in contributions, all but \$391 from Jenkins.

<sup>8</sup> Although IPC has "party" in its name and calls itself a new political party, there is no information available that it sought party status in Texas or that it qualifies as a political party under the Act and Commission regulations.

<sup>9</sup> Compl. at 5.

1 new political party.”<sup>10</sup> The Complaint alleges that IPC’s only activities were the creation of a  
2 website to promote candidates and its signature-gathering effort for Jenkins.<sup>11</sup> The Complaint  
3 included attachments showing IPC’s job postings for campaign canvassers and fundraisers.<sup>12</sup>

4 Second, the Complaint alleges that the Committee received prohibited corporate  
5 contributions from IPC.<sup>13</sup> The Complaint alleges that IPC provided the Committee with a logo, a  
6 bus, a website that looked very similar to IPC’s website, and signature-collection services to get  
7 Jenkins on the ballot.<sup>14</sup>

8 Third, the Complaint alleges that Jenkins established and financed IPC, and likely  
9 controls and maintains it, and that Jenkins and IPC violated the Act because IPC spent  
10 impermissible funds in connection with Jenkins’s election.<sup>15</sup> The Complaint points to IPC’s  
11 press release that announced that Jenkins created IPC, and the fact that IPC has only worked to  
12 further Jenkins’s campaign.<sup>16</sup> Moreover, the Complaint attached an SEC filing, in which Jenkins

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<sup>10</sup> *Id.* at 4.

<sup>11</sup> *Id.* at 5. The Complaint cites to IPC’s website, but it is no longer available, and only a partial homepage is available on the internet archive. That homepage includes a disclaimer stating that it was, “Paid for by Super Indie PAC. [www.indieparty.com](http://www.indieparty.com). Not authorized by any candidate or candidate’s committee.” There is a Super Indie PAC registered with the Commission as an independent expenditure-only committee. *See* <https://www.fec.gov/data/committee/C00672683/>. We have no information about whether the Commission-registered IEOPC is connected to the Respondents.

<sup>12</sup> Compl., Exhs. E, F.

<sup>13</sup> Compl. at 1-2.

<sup>14</sup> *Id.* at 2-3. The Complaint attaches photos of a bus that it alleges show that IPC made, and the Committee accepted, corporate in-kind contributions from IPC. The Complainant alleges the pictures are of the same bus; in the first photo the bus is wrapped in IPC promotional materials, and in the second, the bus is wrapped in materials that promote both the Committee and IPC. *Id.*, Exhs. G-I.

<sup>15</sup> *Id.* at 3-4.

<sup>16</sup> *Id.* at 4.

1 is listed as the Executive Officer and Director and states that he would be paid \$600,000 for his  
2 work.<sup>17</sup>

3 Fourth, the Complaint alleges that the Committee is illegally using a cryptocurrency,  
4 “Indie Tokens,” that is not being deposited into a Commission-required depository account.<sup>18</sup>  
5 No responses were filed.

### 6 **III. LEGAL ANALYSIS**

#### 7 **A. There is Reason to Believe IPC is an Unregistered Political Committee**

8 The Act defines a political committee as “any committee, club, association, or other  
9 group of persons” that receives aggregate contributions or makes aggregate expenditures in  
10 excess of \$1,000 during a calendar year.<sup>19</sup> Notwithstanding the threshold for contributions and  
11 expenditures, an organization that is not controlled by a candidate will be considered a political  
12 committee only if its “major purpose is Federal campaign activity (*i.e.*, the nomination or  
13 election of a Federal candidate).”<sup>20</sup> Political committees are required to register with the  
14 Commission, comply with organizational and recordkeeping requirements, and file periodic  
15 disclosure reports.<sup>21</sup>

16 IPC appears to meet the statutory definition of a political committee based on the  
17 contributions it received and the purpose set forth in public statements and its activities.<sup>22</sup> IPC

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<sup>17</sup> *Id.*, Exh. D.

<sup>18</sup> Compl. at 6.

<sup>19</sup> 52 U.S.C. § 30101(4)(A).

<sup>20</sup> Political Committee Status: Supplemental Explanation and Justification, 72 Fed. Reg. 5,595, 5,597 (Feb. 7, 2007) (“Political Committee Status E&J”); *see Buckley v. Valeo*, 424 U.S. 1, 79 (1976); *FEC v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238, 262 (1986).

<sup>21</sup> *See* 52 U.S.C. §§ 30102, 30103, 30104.

<sup>22</sup> *See* Political Committee Status E&J, 72 Fed. Reg. at 5,597.

1 raised more than \$6 million in contributions from four investors for the major purpose of  
2 influencing elections, and it engaged in activities to support Jenkins, a clearly identified federal  
3 candidate.<sup>23</sup>

4 Although the record is not clear whether IPC raised funds from sources other than the  
5 start-up contributors, for the purpose of establishing political committee status, the Commission  
6 previously stated that “start-up capital” donated for the purpose of “financing and organizing” a  
7 corporation with the major purpose of nominating federal candidates “would be considered  
8 contributions.”<sup>24</sup> Here, IPC raised \$6 million, publicly announced that it was created for the  
9 purpose of influencing elections, and the available information indicates that its activities  
10 focused exclusively on nominating Jenkins by trying to qualify him for the ballot.<sup>25</sup> In addition,  
11 IPC may be a political committee because there is information suggesting that it is under  
12 Jenkins’s control.<sup>26</sup> Therefore, we recommend that the Commission find reason to believe that  
13 IPC violated 52 U.S.C. §§ 30102, 30103, and 30104(a) by failing to register as a political  
14 committee and file disclosure reports with the Commission.

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<sup>23</sup> Jay Root, *A third party trying to crash the Beto O’Rourke and Ted Cruz race is actually a for-profit corporation* (June 13, 2018), available at <https://www.texastribune.org/2018/06/13/indie-party-trying-crash-texas-us-senate-race-ted-cruz-beto-orourke/>. See also Compl., Exh. D (SEC Edgar, Notice of Exempt Offering of Securities).

<sup>24</sup> See Advisory Opinion 1994-25 at 3 (Libertarian National Committee) (corporation organized to arrange 1996 convention should register and report as a political committee).

<sup>25</sup> See *FEC v. Unity08*, No. 1:07-cv-00053-RWR (D.C. Cir. Mar. 2, 2010) (Unity08 not required to register with the Commission as a political committee because it had not selected a clearly identified candidate); MUR 6660 (Americans Elect) (Commission found no reason to believe Americans Elect required to register as a political committee where it had not clearly identified a federal candidate).

<sup>26</sup> Jenkins’s announcement press release states that, “As a Senate candidate, Jenkins has resigned his position as Indie Party CEO.” See <https://www.prweb.com/releases/2018/05/prweb15460016.htm>. Because he continued to be tied to IPC, *see infra* n. 35, we will seek further information about his control over it after he became a federal candidate.

1           **B.       Acceptance of Prohibited Contributions**

2           The Act prohibits corporations from making contributions to federal political committees  
3 (other than independent-expenditure-only political committees)<sup>27</sup> and further prohibits political  
4 committees from accepting such contributions.<sup>28</sup> A contribution includes anything of value made  
5 by any person for the purpose of influencing any federal election.<sup>29</sup> IPC was a registered  
6 corporation and thus was not permitted to make any contributions to the Jenkins Committee.

7           The Complaint alleges that IPC made prohibited corporate in-kind contributions to the  
8 Committee in the form of corporate resources, including a website, logo, and bus.<sup>30</sup> This  
9 allegation was made before the Committee filed its first disclosure report, which shows that the  
10 Committee paid IPC for signature gathering (\$100,000) and campaign consulting (\$67,000). The  
11 Committee's disclosure reports, however, do not provide further detail about the disbursements,  
12 making it impossible to know at this time whether they encompass the alleged in-kind  
13 contributions.<sup>31</sup> Because additional information is needed to determine whether IPC made a  
14 contribution to the Committee, we recommend that the Commission take no action at this time as  
15 to whether IPC made and the Committee accepted prohibited in-kind contributions in violation of  
16 52 U.S.C. § 30118(a).

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<sup>27</sup>       *See, e.g.*, Advisory Op. 2010-11 (Commonsense Ten) (concluding that corporations and unions may make unlimited contributions to independent-expenditure-only political committees because "independent expenditures do not lead to, or create the appearance of *quid pro quo* corruption") (citing *Citizens United v. FEC*, 558 U.S. 310, 359 (2010)).

<sup>28</sup>       52 U.S.C. § 30118(a); *see also* 11 C.F.R. § 114.2(b), (e).

<sup>29</sup>       52 U.S.C. § 30101(8)(A)(1).

<sup>30</sup>       Compl. at 1-2.

<sup>31</sup>       Political committees can engage in commercial services. *See, e.g.*, 11 C.F.R. § 300.35 (state or local party committee may lease portion of party office building).

1           **C.     Soft money violations**

2           The Act prohibits a candidate, candidate's agent, or entity "directly or indirectly  
3 established, financed, maintained or controlled by or acting on behalf of" a candidate from  
4 soliciting, receiving, directing, transferring, or spending funds in connection with an election for  
5 federal office, unless the funds are subject to the Act's amount limitations, source prohibitions,  
6 and reporting requirements.<sup>32</sup> Commission regulations identify several factors that the  
7 Commission will consider "in the context of the overall relationship" between a candidate or  
8 candidate's agent and an entity to determine whether the candidate or agent directly or indirectly  
9 established, financed, maintained, or controlled the entity, including "whether a sponsor, directly  
10 or through its agent, had an active or significant role in the formation of the entity."<sup>33</sup>

11           Jenkins founded IPC, appeared to be its primary representative at its launch, and  
12 continues to be listed as the registered agent for IPC.<sup>34</sup> It is not clear, however, the extent to  
13 which Jenkins financed, maintained, or controlled IPC during its short period of activity.<sup>35</sup> An  
14 investigation into IPC's activities may yield additional information as to Jenkins's role with IPC.

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<sup>32</sup> 52 U.S.C. § 30125(e)(1)(A).

<sup>33</sup> 11 C.F.R. §§ 300.2(c)(2), (c)(2)(ix).

<sup>34</sup> Given IPC's purpose as a new political party, it is possible that Jenkins became a federal candidate earlier, specifically when he founded and incorporated IPC in January 2018. We would seek this information in an investigation.

<sup>35</sup> For example, a news story about Jenkins filing an election-related complaint in Texas against the Ted Cruz campaign noted that the complaint reportedly "acknowledges a close relationship between the Indie Party and [Jenkins'] campaign." See Patrick Svitek, *After failing to crash Texas' U.S. Senate Race, independent candidates alleges his petition firm and the Cruz campaign derailed him*, The Texas Tribune, available at <https://www.texastribune.org/2018/07/07/failed-independent-candidate-says-signature-gathering-firm-misled-him/>. The press announcement about Jenkins's candidacy, however, states that he resigned his IPC position. See *supra* n. 26.

1 Accordingly, we recommend that the Commission take no action at this time as to whether  
2 Jenkins and IPC violated 52 U.S.C. § 30125(e).

3 **D. Use of cryptocurrency**

4 In support of the allegation that the Committee violated the Act's depository bank  
5 requirements, the Complaint points to the Committee's website, which allegedly read that  
6 donations of Indie Tokens would be held in a "Stellar blockchain where the donor can then direct  
7 those funds be used on specific campaign activities."<sup>36</sup>

8 The Act requires political committees to have at least one checking account at a  
9 designated depository bank or other federally insured depository institution and to receive  
10 contributions into and make disbursements (other than petty cash) from that account.<sup>37</sup> In  
11 Advisory Opinion 2014-02 (Make Your Laws PAC), however, the Commission advised that a  
12 political committee need not deposit bitcoins, another cryptocurrency, it received in a campaign  
13 depository, but could hold them in a bitcoin "wallet" until the Committee liquidated them.<sup>38</sup>

14 The available information does not indicate if the Committee actually received  
15 cryptocurrency and, if so, where such receipts were held, how such receipts (and disbursements,  
16 if any) were valued, and whether the Committee met its reporting requirements with respect to its  
17 cryptocurrency transactions. Given that the proposed investigation will seek information about

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<sup>36</sup> Compl. at 6. As noted earlier, the Committee's website is not available any longer, and the Internet archive also only shows a partial homepage.

<sup>37</sup> 52 U.S.C. § 30102(h)(1).

<sup>38</sup> AO 2014-02 at 6. The Commission also advised that its approval of the use of a bitcoin wallet did not relieve the Committee of its other obligations regarding contributions, such as returning or refunding prohibited or excessive contributions. The Commission also provided guidance as to how a contribution in bitcoin should be valued and reported. *Id.* at 6-7, 8-9. The Commission could not agree, by the required four affirmative votes, whether a committee could disburse bitcoins directly from a bitcoin wallet in order to purchase goods or services.

1 the Committee's operations in connection with IPC, we recommend that the Commission take no  
 2 action at this time as to whether Jenkins for Senate violated 52 U.S.C. § 30102(h)(1).

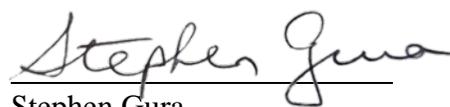
#### 3 **IV. INVESTIGATION**

4 An investigation is necessary to obtain more information about the establishment and  
 5 operation of IPC, including its role in the Jenkins campaign, the use of Indie Tokens, and  
 6 whether Jenkins continued to finance, maintain, or control it after he became a federal candidate.  
 7 Given that Jenkins did not submit a response to the Complaint notification, we recommend that  
 8 the Commission authorize compulsory process.

#### 9 **V. RECOMMENDATIONS**

- 10 1. Find reason to believe that Indie Party Co. violated 52 U.S.C. §§ 30102, 30103,  
 11 and 30104;  
 12  
 13 2. Take no action at this time as to the allegations that Jonathan Jenkins for Senate  
 14 and Indie Party Co. violated 52 U.S.C. §§ 30118(a) and 30125(e)(1);  
 15  
 16 3. Take no action at this time as to the allegation that Jonathan Jenkins for Senate  
 17 violated 52 U.S.C. § 30102(h)(1);  
 18  
 19 3. Approve the attached Factual and Legal Analysis;  
 20  
 21 4. Authorize the use of compulsory process in this matter, including the issuance of  
 22 interrogatories, document subpoenas, deposition subpoenas, and orders, as  
 23 necessary; and  
 24  
 25 5. Approve the appropriate letter.  
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27 Lisa J. Stevenson  
 28 Acting General Counsel  
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33 Stephen Gura  
 34 Deputy Associate General Counsel for  
 35 Enforcement

32 2.22.19

33 Date

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Lynn Y. Tran  
Assistant General Counsel

  
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Elena Paoli  
Attorney

Attachment:  
Factual and Legal Analysis

**FEDERAL ELECTION COMMISSION****FACTUAL AND LEGAL ANALYSIS****RESPONDENT:** Indie Party, Co.**MUR 7413****I. INTRODUCTION**

This matter was generated by a Complaint filed with the Federal Election Commission alleging violations of the Federal Election Campaign Act of 1971, as amended (the “Act”). The Complaint alleges that Jonathan Jenkins, a U.S. Senate candidate who did not qualify for the Texas primary ballot, founded a corporation, the Indie Party, Co. (“IPC”), that failed to register and report as a political committee with the Commission. The Complaint also alleges that: (1) IPC made corporate contributions to Jenkins and his authorized committee; (2) IPC and Jenkins violated the Act’s soft money provisions; and (3) Jenkins’s authorized committee violated the Act through the use of “Indie Tokens,” a cryptocurrency.

**II. FACTS**

Jonathan Jenkins, a tech entrepreneur, incorporated IPC on January 18, 2018.<sup>1</sup> According to a press release announcing its March 2018 launch, IPC raised \$6.5 million for its goal “[t]o provide a new alternative to the traditional two-party system . . . . [T]he crux of our [technology-driven] movement is the creation of a political marketplace powered by the Indie Token, a new cryptocurrency that engages voters, volunteers and donors, and supports Indie candidates who are trying to bust up the two-party duopoly by winning elections.”<sup>2</sup> Jenkins filed a Statement of Candidacy on May 2, and a Statement of Organization for Jonathan Jenkins for

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1 Senate and Chris Ehlinger in his official capacity as treasurer (the “Committee”) on the same  
2 day. The Statement of Organization listed two depositories, Bank of America and Branch  
3 Banking and Trust Company.<sup>3</sup> In a May 3, 2018, press release, Jenkins announced that he would  
4 run for the 2018 U.S. Senate seat in Texas as an independent.<sup>4</sup>

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6 Report, in late April 2018, Jenkins and the Committee began collecting the more than 47,000  
7 signatures necessary to qualify for the Texas ballot.<sup>5</sup> The Committee made payments totaling  
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9 submit enough signatures by the June 21, 2018, deadline, and on June 18, the Committee made  
10 its last expenditure and accepted its last contribution.

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12 and operation of IPC and the Committee. First, the Complaint alleges that IPC failed to register  
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 2 materials that state its purpose “was to provide ‘financial, physical and digital tools . . . designed  
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<sup>8</sup> Compl. at 5

<sup>9</sup> *Id.* at 4.

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<sup>11</sup> Compl., Exhs. E, F.

<sup>12</sup> Compl. at 1-2.

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1 impermissible funds in connection with Jenkins’s election.<sup>14</sup> The Complaint points to IPC’s  
2 press release that announced that Jenkins created IPC, and the fact that IPC has only worked to  
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4 is listed as the Executive Officer and Director and states that he would be paid \$600,000 for his  
5 work.<sup>16</sup>

6 Fourth, the Complaint alleges that the Committee is illegally using a cryptocurrency,  
7 “Indie Tokens,” that is not being deposited into a Commission-required depository account.<sup>17</sup>  
8 No responses were filed.

### 9 **III. LEGAL ANALYSIS**

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11 group of persons” that receives aggregate contributions or makes aggregate expenditures in  
12 excess of \$1,000 during a calendar year.<sup>18</sup> Notwithstanding the threshold for contributions and  
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15 election of a Federal candidate).”<sup>19</sup> Political committees are required to register with the

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<sup>14</sup> *Id.* at 3-4.

<sup>15</sup> *Id.* at 4.

<sup>16</sup> *Id.*, Exh. D.

<sup>17</sup> Compl. at 6.

<sup>18</sup> 52 U.S.C. § 30101(4)(A).

<sup>19</sup> Political Committee Status: Supplemental Explanation and Justification, 72 Fed. Reg. 5,595, 5,597 (Feb. 7, 2007) (“Political Committee Status E&J”); *see Buckley v. Valeo*, 424 U.S. 1, 79 (1976); *FEC v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238, 262 (1986).

1 Commission, comply with organizational and recordkeeping requirements, and file periodic  
2 disclosure reports.<sup>20</sup>

3 IPC appears to meet the statutory definition of a political committee based on the  
4 contributions it received and the purpose set forth in public statements and its activities.<sup>21</sup> IPC  
5 raised more than \$6 million in contributions from four investors for the major purpose of  
6 influencing elections, and it engaged in activities to support Jenkins, a clearly identified federal  
7 candidate.<sup>22</sup>

8 Although the record is not clear whether IPC raised funds from sources other than the  
9 start-up contributors, for the purpose of establishing political committee status, the Commission  
10 has previously stated that “start-up capital” donated for the purpose of “financing and  
11 organizing” a corporation with the major purpose of nominating federal candidates “would be  
12 considered contributions.”<sup>23</sup> Here, IPC raised \$6 million, publicly announced that it was created  
13 for the purpose of influencing elections, and the available information indicates that its activities  
14 focused exclusively on nominating Jenkins by trying to qualify him for the ballot.<sup>24</sup> In addition,

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<sup>20</sup> See 52 U.S.C. §§ 30102, 30103, 30104.

<sup>21</sup> See Political Committee Status E&J, 72 Fed. Reg. at 5,597.

<sup>22</sup> Jay Root, *A third party trying to crash the Beto O’Rourke and Ted Cruz race is actually a for-profit corporation* (June 13, 2018), available at <https://www.texastribune.org/2018/06/13/indie-party-trying-crash-texas-us-senate-race-ted-cruz-beto-orourke/>. See also Compl., Exh. D (SEC Edgar, Notice of Exempt Offering of Securities).

<sup>23</sup> See Advisory Opinion 1994-25 at 3 (Libertarian National Committee) (corporation organized to arrange 1996 convention should register and report as a political committee).

<sup>24</sup> See *FEC v. Unity08*, No. 1:07-cv-00053-RWR (D.C. Cir. Mar. 2, 2010) (Unity08 not required to register with the Commission as a political committee because it had not selected a clearly identified candidate); MUR 6660 (Americans Elect) (Commission found no reason to believe Americans Elect required to register as a political committee where it had not clearly identified a federal candidate).

1 IPC may be a political committee because there is information suggesting that it is under  
2 Jenkins's control.<sup>25</sup> Therefore, the Commission finds reason to believe that IPC violated  
3 52 U.S.C. §§ 30102, 30103, and 30104(a) by failing to register as a political committee and file  
4 disclosure reports with the Commission.

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<sup>25</sup> Jenkins's announcement press release states that, "As a Senate candidate, Jenkins has resigned his position as Indie Party CEO." See <https://www.prweb.com/releases/2018/05/prweb15460016.htm>. There is information, however, that he may have continued to be tied to IPC. See Patrick Svitek, *After failing to crash Texas' U.S. Senate Race, independent candidates alleges his petition firm and the Cruz campaign derailed him*, The Texas Tribune, available at <https://www.texastribune.org/2018/07/07/failed-independent-candidate-says-signature-gathering-firm-misled-him-/>.