



FEDERAL ELECTION COMMISSION

Washington, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matters of)	
)	PRE-MUR 611 and MUR 7425
Donald J. Trump Foundation)	
Donald J. Trump for President, Inc. and)	
Bradley T. Crate in his official capacity)	
as treasurer)	
Donald J. Trump)	

STATEMENT OF REASONS OF COMMISSIONERS SHANA M. BROUSSARD AND ELLEN L. WEINTRAUB

In 2016, presidential candidate Donald J. Trump, his campaign committee, and Trump’s family foundation exploited a charitable event for veterans, illegally using the foundation to benefit the campaign. These matters arose from a referral by the New York State Attorney General’s Office (“NYAG”) and a Complaint filed with the Commission alleging that Trump, his campaign committee, and the Donald J. Trump Foundation (the “Foundation”) solicited, received, and disbursed soft money in violation of the Federal Election Campaign Act of 1971, as amended (the “Act”).¹ The Act bans federal candidates and officeholders, their agents, and entities directly or indirectly established, financed, maintained, or controlled by them from soliciting, receiving, directing, transferring, or spending funds in connection with a federal election unless the funds are subject to the limitations, prohibitions, and reporting requirements of the Act.² Funds that are subject to the Act’s amount limitations, source prohibitions, and reporting requirements, also known as “federal” or “hard money,” are treated differently under the Act than “nonfederal” or “soft money” that is not subject to these same prohibitions and limitations.

The facts set forth in the referral and the Complaint stem from an investigation conducted by the NYAG into the circumstances surrounding the Trump campaign’s involvement in funds raised and disbursed in connection with the Foundation’s nationally televised fundraiser on January 28, 2016. According to public filings, the Foundation held the fundraiser “to raise funds for veterans’ organizations.”³ In June 2016, the NYAG began investigating the Foundation for possible violations of state law. During the course of its investigation, the NYAG discovered evidence that Trump and his campaign committee, Donald J. Trump for President, Inc. (the

¹ Referral, Pre-MUR 611 (June 15, 2018); Compl., MUR 7425 (July 11, 2018).

² See 52 U.S.C. § 30125(e)(1)(A); 11 C.F.R. §§ 300.60, 300.61.

³ Referral at 3 (quotation omitted).

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“Committee”), “extensively directed and coordinated the Foundation’s activities” in connection with the fundraiser.⁴ Specifically, the investigation found that the fundraiser was “planned, organized, financed, and directed by the Trump campaign, with administrative assistance from the Foundation.”⁵ In total, the fundraiser raised approximately \$5.6 million. Of that amount, the Foundation received \$2.8 million directly,⁶ and donors gave approximately \$1.8 million payable directly to veterans’ organizations.⁷ The investigation further determined that the Committee “dictated the manner in which the Foundation would disburse those proceeds, including the timing, amounts, and recipients.”⁸

The NYAG commenced a special proceeding in New York state court to dissolve the Foundation for multiple violations of state law.⁹ The NYAG, Trump, and the Foundation reached an agreement in which the Foundation agreed to dissolve under judicial supervision. On October 1, 2019, Trump and the Foundation entered into a Stipulation of Final Settlement in which they stipulated to several key facts relevant to these matters,¹⁰ including the following:

- On January 26, 2016, Mr. Trump, then a candidate in the primary elections for the Republican party nomination for president of the United States, announced that he would conduct the Iowa Fundraiser on January 28, 2016, in lieu of participating in a televised debate featuring other Republican presidential candidates. The Iowa Fundraiser was presented as the “Donald J. Trump Special Event for Veterans.” The website for the Iowa Fundraiser, DonaldTrumpForVets.com, was developed by Campaign personnel and, with the agreement of the Foundation, featured the name of the Foundation at the top of the home page and informed visitors that “the Donald J. Trump Foundation is a 501(c)(3) nonprofit organization;”
- The Campaign planned, organized, and paid for the Iowa Fundraiser, with administrative assistance from the Foundation; and the Campaign directed the timing, amounts, and recipients of the Foundation’s grants to charitable organizations supporting military veterans; and
- The Iowa Fundraiser raised approximately \$5.6 million in donations for veterans’ groups, of which \$2.823 million was contributed to the Foundation; the balance was contributed by donors directly to various veterans’ groups. At Campaign events in Iowa on January 30, January 31, and February 1, 2016, Mr. Trump personally displayed presentation copies of Foundation checks to Iowa veterans’ groups. On May 31, 2016, at a Campaign press conference, Mr. Trump announced the grants the Foundation made to veterans’ groups with

⁴ *Id.* at 2.

⁵ *Id.* at 3.

⁶ *Id.* The Foundation received four checks totaling \$1.2 million, and \$1.6 million in online donations in undisclosed amounts and sources. The four checks ranged from \$50,000 up to a \$1,000,000. *Id.*, Ex. 14.

⁷ Referral at 3, Ex. 14.

⁸ *Id.* at 4.

⁹ *Id.* at 1, Verified Petition ¶ 8.

¹⁰ Stipulation of Final Settlement, *People v. Trump, et al.*, No. 451130/2018, Doc. No. 139 (N.Y. Sup. Ct. Nov. 7, 2019) (“Stipulation”).

the proceeds of the Iowa Fundraiser, and on or about the same day, the Campaign posted on its website a chart identifying the grant recipients.¹¹

On November 7, 2019, a New York court issued a Decision & Order that approved the settlement.¹² The court explained that Trump breached his fiduciary duty by allowing “his campaign to orchestrate the fundraiser, allowing his campaign, instead of the Foundation, to direct distribution of the funds, and using the fundraiser and distribution of the funds to further [his] political campaign.”¹³ As a result of Trump’s breach of fiduciary duty and the resulting waste of charitable assets, the Court awarded damages of \$2 million and directed Trump to pay the damages to the parties’ approved recipients.¹⁴

In its First General Counsel’s Report, the Office of General Counsel (“OGC”) recommended that the Commission find reason to believe that Trump, the Committee, and the Foundation violated 52 U.S.C. § 30125(e) by soliciting, receiving, directing, transferring, or spending soft money in connection with the fundraiser.¹⁵ We agreed with OGC’s analysis and voted in favor of the recommendations because the record contained compelling evidence to satisfy the low threshold for finding reason to believe a violation of the Act occurred.¹⁶

Despite the evidence, the Republican Commissioners, true to form, voted to block enforcement of these matters. Among other things, they purportedly were concerned with the Commission’s ability to resolve these matters before expiration of the statute of limitations. But this explanation does not withstand serious scrutiny. These matters were placed on the first executive session agenda after the Commission regained its quorum. The Commission had sufficient time to complete enforcement of these matters. The statute of limitations did not run completely on the activity in question for nearly another six months. While some activity was inevitably going to expire, nearly \$1.35 million in activity against the Trump Committee, for instance, was viable until July 8, 2021. Further, in light of the record developed in the New York case, there was no need for any additional investigation here. OGC therefore recommended that the Commission proceed to pre-probable cause conciliation. Our Republican colleagues have voted to support proceeding to conciliation in matters with similar time remaining on the statute

¹¹ Stipulation ¶¶ 5-7.

¹² *People v. Trump*, 66 Misc. 3d 200, 112 N.Y.S. 3d 467 (N.Y. Sup. Ct. 2019) (“Decision & Order”).

¹³ Decision & Order, 66 Misc. 3d at 202.

¹⁴ *Id.* at 202-205.

¹⁵ First General Counsel’s Report at 14-28, 30-31, Pre-MUR 611/MUR 7425 (Donald J. Trump Foundation); Supplemental Submissions Mem. at 8, Pre-MUR 611/MUR 7425 (Donald J. Trump Foundation).

¹⁶ Commission Certification ¶ 1 (Jan. 14, 2021). *See* Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 12,545 (Mar. 16, 2007) (stating that the Commission will find reason to believe “in cases where the available evidence in the matter is at least sufficient to warrant conducting an investigation, and where the seriousness of the alleged violation warrants either further investigation or immediate conciliation”).

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of limitations, and sometimes less.¹⁷ Similarly, a multimillion-dollar case involving a presidential candidate's soliciting, receiving, and disbursing soft money to further his candidacy and through an entity under his control commands the use of the Commission's resources and time.¹⁸ Any argument that the Commission could not have successfully conciliated this matter within the statute of limitations is nothing more than speculation.

It is cold comfort that the State of New York sent a clear message in this matter that it will not tolerate federal candidates abusing its charitable laws to promote their political campaigns. The Commission's interest in enforcing the FECA was not similarly vindicated and the political actors within the FEC's jurisdiction were not held accountable for blatant violations of that law. The result in these matters is particularly troublesome because of the well-grounded record the State of New York put before the Commission. By not joining us in holding the former President of the United States and his campaign committee accountable for significant campaign finance violations committed during his campaign, our colleagues continue to refuse to enforce the law fairly and consistently, eroding the public's trust in the integrity of the federal campaign finance process.

2/18/2022

Date



Shana M. Broussard
Commissioner

2/18/2022

Date



Ellen L. Weintraub
Commissioner

¹⁷ See, e.g., MUR 7207 (Russel Taub) (authorizing pre-probable cause conciliation with about two months left on the statute of limitations); MUR 7102 (Keefe, Keefe, & Unsell, P.C.) (authorizing probable cause conciliation with less than three months left on the statute of limitations); MURs 7165 & 7196 (Great America Committee) (authorizing pre-probable cause conciliation with about six months remaining on the statute of limitations); MUR 7923 (Friends of David Schweikert) (authorizing pre-probable cause conciliation with time expiring within two months); MURs 7324, 7332, 7364, and 7360 (A360 Media, LLC) (authorizing pre-probable cause conciliation with about five months remaining on the statute of limitations). Moreover, it is not uncommon for OGC and respondents to agree to tolling of the statute of limitations during the conciliation stage.

¹⁸ Further, the New York case did not involve federal campaign finance violations, and the Committee was not a party there.