

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 7495
 Common Defense Action Fund (f/k/a)
 Common Defense/Beyond the Choir)
 Action Fund) and Perry O'Brien in his)
 official capacity as treasurer; Lancaster)
 Stands Up; Friends of Jess King and)
 Juzer Rangoonwala in his official)
 capacity as treasurer)

CERTIFICATION

I, Vicktoria J. Allen, recording secretary of the Federal Election Commission executive session, do hereby certify that on December 15, 2022, the Commission took the following actions in the above-captioned matter:

1. Failed by a vote of 2-4 to:
 - a. Find reason to believe that Common Defense Action Fund and Perry O'Brien, in his official capacity as treasurer, violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.4(b) by misreporting independent expenditures.
 - b. Find reason to believe that Common Defense Action Fund and Perry O'Brien, in his official capacity as treasurer, violated 52 U.S.C. § 30120 and 11 U.S.C. § 110.11 by failing to include proper disclaimers on public communications in the form of paid advertisements on Facebook.
 - c. Dismiss the allegation that Lancaster Stands Up violated 52 U.S.C. § 30104 and 11 C.F.R. § 104.4(b) by failing to report independent expenditures.
 - d. Dismiss the allegation that Lancaster Stands Up violated 52 U.S.C. § 30120 and 11 U.S.C. § 110.11 by failing to include proper disclaimers on public communications containing express advocacy.

- e. Find reason to believe that Common Defense Action Fund and Perry O'Brien, in his official capacity as treasurer, and Lancaster Stands Up violated 52 U.S.C. § 30118 by making prohibited in-kind contributions to the King Committee in the form of coordinated communications.
- f. Find reason to believe that Friends of Jess King and Juzer Rangoonwala, in his official capacity as treasurer, violated 52 U.S.C. § 30116 by accepting prohibited in-kind contributions in the form of coordinated communications.
- g. Direct the Office of General Counsel to revise the proposed Factual and Legal Analysis to consistent with these findings.
- h. Authorize the use of compulsory process.
- i. Approve the appropriate letters.

Commissioners Broussard and Weintraub voted affirmatively for the motion.

Commissioners Cooksey, Dickerson, Lindenbaum, and Trainor dissented.

2. Failed by a vote of 2-4 to:

- a. Find reason to believe that Common Defense Action Fund and Perry O'Brien, in his official capacity as treasurer, violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.4(b) by misreporting independent expenditures.
- b. Find reason to believe that Common Defense Action Fund and Perry O'Brien, in his official capacity as treasurer, violated 52 U.S.C. § 30120 and 11 U.S.C. § 110.11 by failing to include proper disclaimers on public communications in the form of paid advertisements on Facebook.
- c. Dismiss the allegation that Lancaster Stands Up violated 52 U.S.C. § 30104 and 11 C.F.R. § 104.4(b) by failing to report independent expenditures.
- d. Dismiss the allegation that Lancaster Stands Up violated 52 U.S.C. § 30120 and 11 U.S.C. § 110.11 by failing to include proper disclaimers on public communications containing express advocacy.

- e. Direct the Office of General Counsel to revise the proposed Factual and Legal Analysis to consistent with these findings.
- f. Authorize pre-probable cause conciliation with Common Defense Action Fund and Perry O'Brien, in his official capacity as treasurer.
- g. Approve the proposed conciliation agreement, as recommended in the First General Counsel's Report dated February 20, 2020.
- h. Approve the appropriate letters.

Commissioners Broussard and Weintraub voted affirmatively for the motion.

Commissioners Cooksey, Dickerson, Lindenbaum, and Trainor dissented.

3. Decided by a vote of 5-1 to:

- a. Dismiss the allegations pursuant to *Heckler v. Chaney* as an exercise of prosecutorial discretion.
- b. Close the file.
- c. Issue appropriate letters.

Commissioners Broussard, Cooksey, Dickerson, Lindenbaum, and Trainor voted affirmatively for the decision. Commissioner Weintraub dissented.



Attest:

**Vicktoria J
Allen**

Digitally signed by Vicktoria
J Allen
Date: 2022.12.19 14:58:00
-05'00'

Vicktoria J. Allen
Acting Deputy Secretary of the
Commission