

**FEDERAL ELECTION COMMISSION**

Washington, D.C. 20463

VIA EXPRESS MAIL AND EMAIL

November 2, 2022

Christina Obiajulu-Skinner, General Counsel
Care in Action, Inc.
45 Broadway, Suite 320
New York, NY 10006
christinaobiajulu@domesticworkers.org

RE: MUR 7537

Dear Ms. Obiajulu-Skinner:

The Federal Election Commission (the “Commission”) is the regulatory agency that administers and enforces the Federal Election Campaign Act of 1971, as amended (the “Act”). Based on complaints filed by Friends of Erik Paulsen Committee and Raymond Bozarth, Executive Director of the Missouri Republican Party, the Commission, on October 4, 2021, found reason to believe that Unknown Respondents violated the Act by failing to include proper disclaimers on mailers and internet video ads concerning candidates Erik Paulsen and Ann Wagner. *See* 52 U.S.C. §§ 30104(b), (c), and (g), 30120(a).¹ The Complaints and the Factual and Legal Analysis, which formed the basis for the Commission’s finding, are attached for your information.²

The Commission authorized the Office of General Counsel to conduct an investigation concerning the source and cost of the mailers and internet video ads in question. During our investigation, we obtained information indicating that Care in Action, Inc. (“Care in Action”), was the source of the mailers and internet video ads concerning candidates Erik Paulsen and Ann Wagner, and that Care in Action may be the Unknown Respondent as to which the Commission made findings. We are now preparing to make a recommendation to the Commission in connection with that information. Prior to making our recommendation, we offer a respondent an opportunity to provide in writing a response to the Complaints and the Commission’s Factual and Legal Analysis. Should Care in Action choose to respond, you may also submit any materials — including documents or affidavits from persons with relevant knowledge — that you believe may be relevant or useful to the Commission’s consideration of this matter.

¹ A “reason to believe” finding is not a finding that any person violated the Act. Rather, it means that the Commission believes a violation may have occurred. *See* 52 U.S.C. § 30109(a)(2).

² On October 4, 2021, the Commission decided to merge MUR 7532 into MUR 7537.

Care in Action, Inc.
Page 2 of 2

Your submission, if Care in Action chooses to make one, must be submitted within 15 days of receipt of this letter. You should address any response to the Office of General Counsel, and the response should reference MUR 7537. After 15 days, we will prepare recommendations to the Commission, taking into account any response you submit in making our recommendations.

Please note that Care in Action has a legal obligation to preserve all documents, records and materials relating to this matter. *See* 18 U.S.C. § 1519. This matter will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) unless you notify the Commission in writing that Care in Action wishes the matter to be made public. Please be advised that, although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.³

For your information, enforcement procedures and options are discussed in the Commission's "Guidebook for Complainants and Respondents on the FEC Enforcement Process," which is available on the Commission's website at http://www.fec.gov/em/respondent_guide.pdf.

If you have any questions, please contact Donald E. Campbell, the attorney handling this matter, at (202) 694-1551 or dcampbell@fec.gov.

Sincerely,

Charles Kitcher 

Charles Kitcher
Associate General Counsel for
Enforcement

Enclosures:
Complaints
Factual and Legal Analysis

³ The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

THE JACOBSON LAW GROUP
JACOBSON · MAGNUSON · ANDERSON
& HALLORAN P.C.

R. Reid LeBeau II | Shareholder
 Attorney at Law
 Phone: 651-644-4710
 Cell: 612-483-1507
 Email: rlebeau@thejacobsonlawgroup.com

OFFICE OF
 GENERAL COUNSEL

2018 NOV -1 PM 11: 00

October 25, 2018

MUR # 7532

Office of General Counsel
 Federal Election Commission
 1050 First Street, NE
 Washington, DC 20463

Re: Sua Sponte Submission of Complaint Regarding Disclaimer Violations

Complainant: Friends of Erik Paulsen (FEC No. C00439661)
P.O. Box 44369
250 Prairie Center Drive
Eden Prairie, MN 55344

Respondent: Care in Action

To Whom It May Concern:

The Friends of Erik Paulsen Committee submits Complaint against the Care in Action Committee for violating federal election law.

Failure to Provide Disclaimer

On or about October 17, 2018, Representative Erik Paulsen received at his private residence a political communication in the form of campaign literature from an unidentified political committee. The public communication advocated for the defeat of Representative Erik Paulsen, incumbent for election to the 3rd Congressional District of Minnesota. See attached Exhibit A – October 17, 2018 Communication. The public communication failed to contain a campaign communication disclaimer as required by 11 CFR § 110.11.

Upon information and belief, the public communication was paid for and prepared by Care in Action. The content of the mailer matched in substance and style to content presented in two digital political advertisements published on Facebook.com by a group called “Reunify Families Now.” See attached Exhibit B – Screenshot of October 12th Digital Advertisement; Exhibit C – Screenshot of Reunify Families Now Ad Archive; Exhibit D – Ad Performance for October 12th Digital Advertisement; Exhibit E – Ad Performance for October 7th Digital Advertisement. The digital advertisements state in their header “Paid for by Care in Action” and link to www.paulsenfailedfamilies.com. The digital advertisements ran from October 7, 2018 and October 12, 2018 to October 23, 2018, respectively, and are currently listed as inactive. Both digital advertisements failed to state contact information for Care in Action and failed to

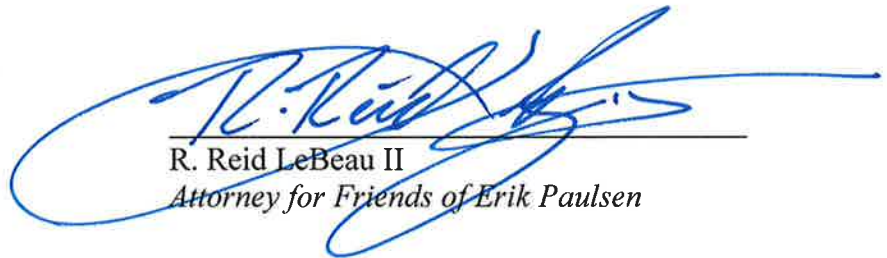
state whether or not the political advertisement was authorized by any candidate, as required by 11 CFR § 110.11(b)(3).

Content presented on www.paulsenfailedfamilies.com is similar to, and in instances identical to, the public communications presented on the mailer and digital advertisement. See attached Exhibit F – Screenshot of Website. The website contains the following disclaimer:

PAID FOR BY CARE IN ACTION. INDEPENDENT EXPENDITURE, NOT APPROVED BY ANY CANDIDATE OR CANDIDATE’S COMMITTEE.

The communication received on October 17, 2018 violates 11 CFR § 110.11 because it does not contain a disclaimer. Furthermore, the digital advertisements violates 11 CFR § 110.11(b)(3) because (1) the disclaimer fails to state the “permanent street address, telephone number, or World Wide Web address of the persona who paid for the communication” and (2) the disclaimer does not state “that the communication is not authorized by any candidate or candidate’s committee.”

Respectfully submitted,


R. Reid LeBeau II
Attorney for Friends of Erik Paulsen

Subscribed and sworn to before
me this 25th day of
October, 2018.


Notary Public

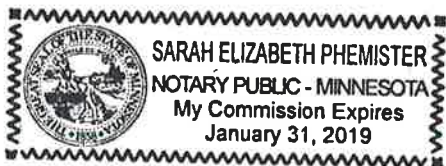


Exhibit A

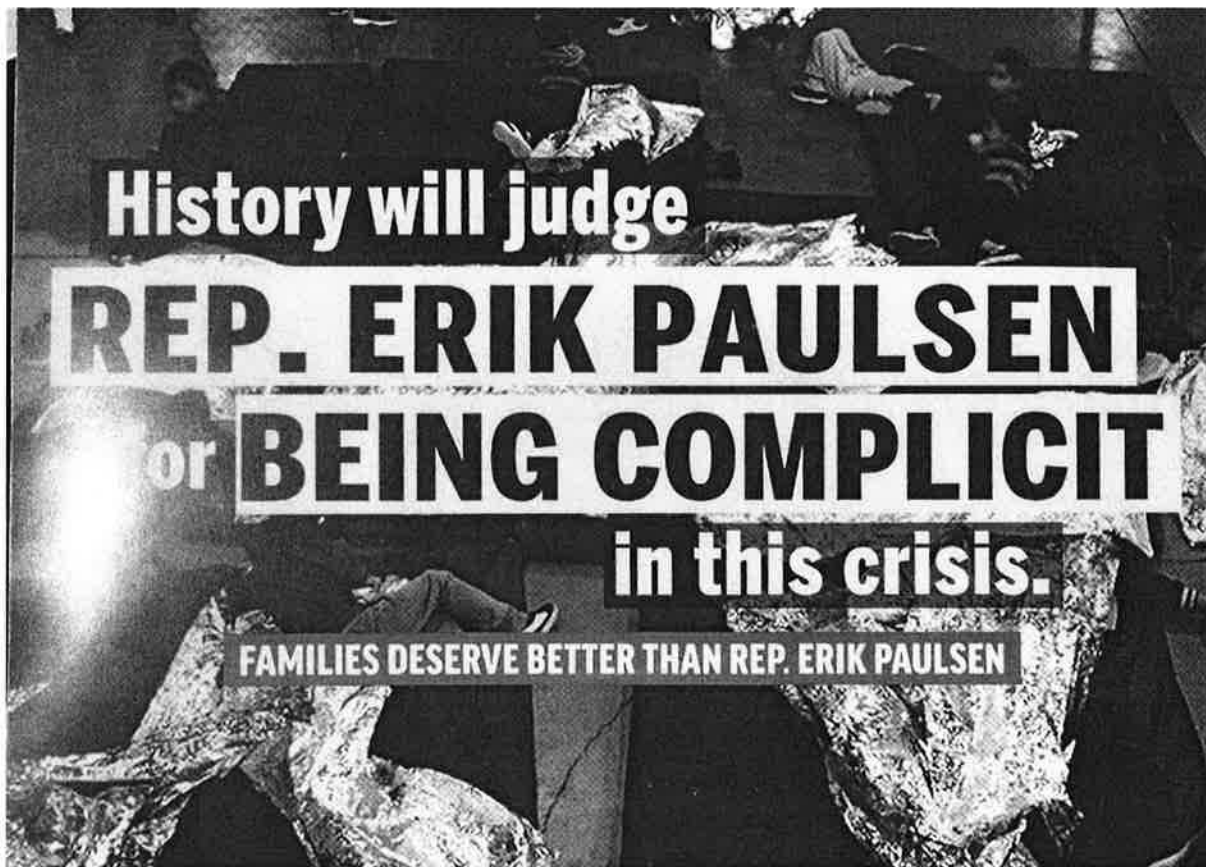
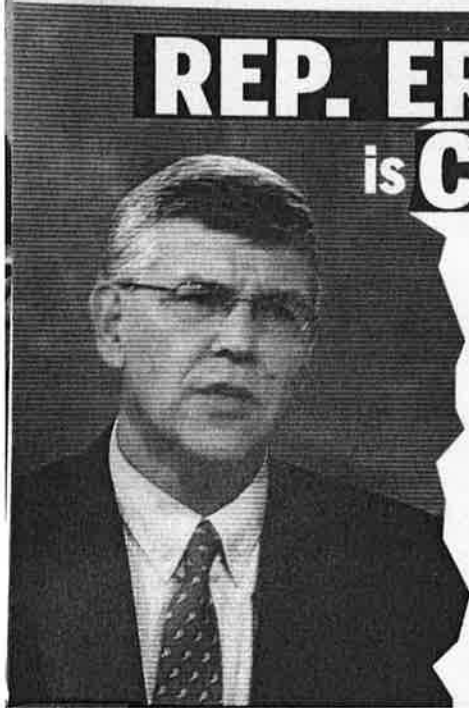


Photo of October 17, 2018 Communication, Front

© PLEASE RECYCLE AFTER READING / RECICLA DESPUÉS DE LEER

PERMIT NO. 2093
PAID
85040
US POSTAGE

1164 *****8075 DIGIT 85044 PS8C
ERIK PAULSEN
L I F I
EDEN PRAIRIE MN 55347-2518



REP. ERIK PAULSEN is **COMPLICIT** in the separation of families.

UN-AMERICAN

Throughout history, America has fought to protect families in jeopardy. But now our government is locking up thousands of children in military detention centers along our own border.¹

UNJUST

As an elected member of Congress, Paulsen has the power to act against this crisis. But he has refused to introduce or support legislation to keep families safe and together.

UNWORTHY

Paulsen voted to let the Trump administration lock up children and families indefinitely, and make it harder for these children to ever see their families again. Paulsen is making this crisis worse.²

FAMILIES DESERVE BETTER THAN REP. ERIK PAULSEN

CHECK THE FACTS:

1) U.S. Dept. of Health and Human Services, 7/13/18;
2) Vote on HR 6136, 6/27/18

Photo of October 17, 2018 Communication, Back

Exhibit B

Reunify Families Now
Sponsored · Paid for by Care in Action ·

Throughout history, Americans have stood up against human rights abuses and crimes against children. By letting his party take children and babies from their parents and lock them in prisons, Erik Paulsen has betrayed American values.

WHAT DID ERIK PAULSEN DO?

Families deserve better than Rep. Erik Paulsen. [Learn More](#)

11 5 Comments 3 Shares 3K Views

Screenshot of October 12th Digital Advertisement

Exhibit C

Ad Library Return to Facebook

Q Reunify Families Now ✕

Filter results by 4 results
 Showing ads from the Page Reunify Families Now. [Learn more](#)

Country

- All
- Brazil
- United Kingdom
- U.S.

Ad Status

- All
- Active Ads 👁
- Inactive Ads 👁


Ads launched in October 2018

● Inactive
Oct 12, 2018 – Oct 23, 2018

Paid for by Care In Action

Reunify Families Now
Sponsored - Paid for by Care in Action

Throughout history, Americans have stood up against human rights abuses and crimes against children. By letting his party take children and babies from their parents and lock them in prisons, Erik Paulsen has betrayed American values.



Families deserve better than Rep. Erik Paulsen.
WWW.REUNIFYFAMILIES.COM [Learn More](#)


[See Ad Performance](#)

● Inactive
Oct 12, 2018 – Oct 23, 2018

Paid for by Care In Action

Reunify Families Now
Sponsored - Paid for by Care in Action

Throughout history, Americans have stood up against human rights abuses and crimes against children. By letting her party take children and babies from their parents and lock them in prisons, Ann Wagner has betrayed American values.



Families deserve better than Rep. Ann Wagner.
WWW.REUNIFYFAMILIES.COM [Learn More](#)


[See Ad Performance](#)

● Inactive
Oct 7, 2018 – Oct 23, 2018

Paid for by Care In Action

Reunify Families Now
Sponsored - Paid for by Care in Action

If Rep. Ann Wagner won't fight to protect children from being ripped away from their parents, she doesn't deserve to speak for Missouri families.



Families deserve better than Rep. Ann Wagner.
WWW.REUNIFYFAMILIES.COM [Learn More](#)

[See Ad Performance](#)

● Inactive
Oct 7, 2018 – Oct 23, 2018

Paid for by Care In Action

Reunify Families Now
Sponsored - Paid for by Care in Action

If Rep. Erik Paulsen won't fight to protect children from being ripped away from their parents, he doesn't deserve to speak for Minnesota families.

Screenshot of Reunify Families Now Ad Archive

Reunify Families Now

Filter results by

Country

- All
- Brazil
- United Kingdom
- U.S.

Ad Status

- All
- Active Ads
- Inactive Ads



Families deserve better than Rep. Erik Paulsen
[Learn More](#)



Families deserve better than Rep. Ann Wagner
[Learn More](#)



Families deserve better than Rep. Ann Wagner
[Learn More](#)
[See Ad Performance](#)

[See Ad Performance](#)

[See Ad Performance](#)

Inactive Oct 7, 2016 - Oct 23, 2018

Paid for by Care in Action

Reunify Families Now
 Sponsored - Paid for by Care in Action

If Rep. Erik Paulsen won't fight to protect children from being ripped away from their parents, he doesn't deserve to speak for Minnesota families.



Families deserve better than Rep. Erik Paulsen
[Learn More](#)

[See Ad Performance](#)

Screenshot of Reunify Families Now Ad Archive, cont.


Exhibit D

Ad Performance



Reunify Families Now
Sponsored - Paid for by Care in Action

Throughout history, Americans have stood up against human rights abuses and crimes against children. By letting his party take children and babies from their parents and lock them in prisons, Erik Paulsen has betrayed American values.



Families deserve better than Rep. Erik Paulsen.
WWW.PAULSENFAILEDFAMILIES.COM

[Learn More](#)

Reunify Families Now
View more ads from this Page

Paid for by Care in Action

When an advertiser categorizes their ad as being related to politics or issues of national importance, they are required to disclose who paid for the ad. [Learn more](#)

[See additional disclaimer information](#)

Ad Performance

● Inactive
Oct 12, 2018 - Oct 23, 2018

10K - 50K
Impressions

\$500 - \$999
Money spent (USD)

Audience Breakdown

Age and Gender

| Age Group | Men | Women | Unknown |
|-----------|-----|-------|---------|
| 18-24 | 2% | 2% | 0% |
| 25-34 | 8% | 11% | 0% |
| 35-44 | 8% | 14% | 0% |
| 45-54 | 6% | 15% | 0% |
| 55-64 | 5% | 14% | 0% |
| 65+ | 2% | 5% | 0% |

Screenshot of October 12th Ad Performance

Ad Performance

X

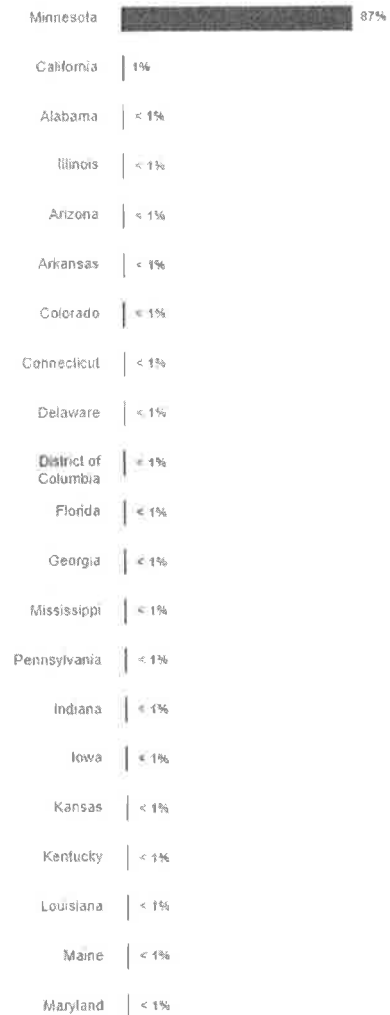
Reunify Families Now
Sponsored • Paid for by Care in Action

Throughout history, Americans have stood up against human rights abuses and crimes against children. By letting his party take children and babies from their parents and lock them in prisons, Erik Paulsen has betrayed American values.



Families deserve better than Rep. Erik Paulsen.
WWW.PAULSENFAILEDFAMILIES.COM [Learn More](#)

Location



Screenshot of October 12th Ad Performance, cont.

Ad Performance



Reunify Families Now

Sponsored • Paid for by Care in Action

Throughout history, Americans have stood up against human rights abuses and crimes against children. By letting his party take children and babies from their parents and lock them in prisons, Erik Paulsen has betrayed American values.



Families deserve better than Rep. Erik Paulsen.

WWW.PAULSENFAILEDFAMILIES.COM

[Learn More](#)

| | |
|----------------|------|
| New York | < 1% |
| North Carolina | < 1% |
| North Dakota | < 1% |
| Ohio | < 1% |
| Oklahoma | < 1% |
| Oregon | < 1% |
| Montana | < 1% |
| Nebraska | < 1% |
| South Carolina | < 1% |
| South Dakota | < 1% |
| Tennessee | < 1% |
| Texas | < 1% |
| Utah | < 1% |
| Vermont | < 1% |
| Virginia | < 1% |
| Washington | < 1% |
| Wisconsin | < 1% |
| Wyoming | < 1% |

Additional Disclaimer Information

Advertisers provide this information voluntarily.

Disclaimer
Care in Action

Screenshot of October 12th Ad Performance, cont.

Exhibit E

Ad Performance



Reunify Families Now
Sponsored · Paid for by Care in Action

If Rep. Erik Paulsen won't fight to protect children from being ripped away from their parents, he doesn't deserve to speak for Minnesota families.



Families deserve better than Rep. Erik Paulsen

WWW.PAULSENFAILEDFAMILIES.COM

[Learn More](#)



Reunify Families Now
View more ads from this Page

Paid for by Care in Action

When an advertiser categorizes their ad as being related to politics or issues of national importance, they are required to disclose who paid for the ad. [Learn more](#)

[See additional disclaimer information](#)

Ad Performance



Inactive

Oct 7, 2018 - Oct 23, 2018

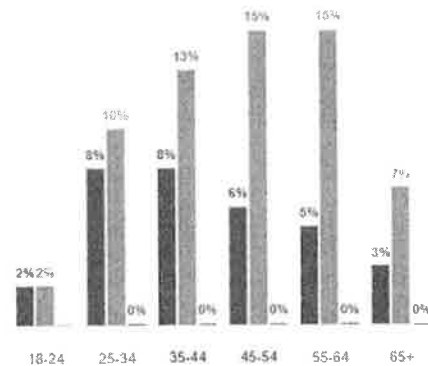
10K - 50K
Impressions

\$500 - \$999
Money spent (USD)

Audience Breakdown

Age and Gender

Men Women Unknown



Screenshot of October 7th Ad Performance

Ad Performance

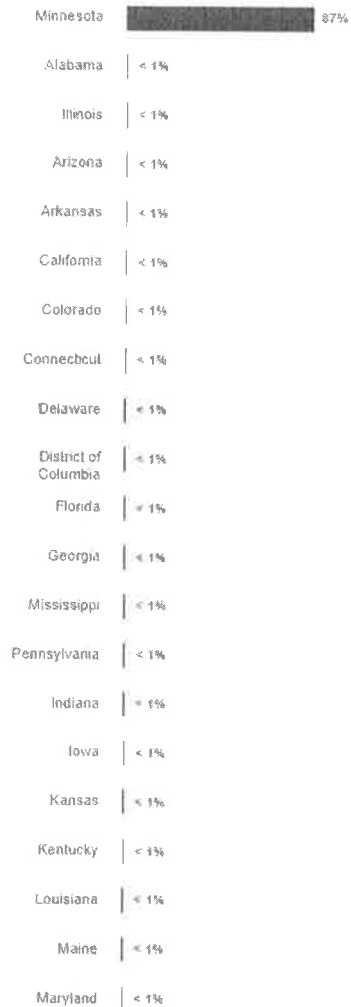


Reunify Families Now
Sponsored • Paid for by Care in Action

If Rep. Erik Paulsen won't fight to protect children from being ripped away from their parents, he doesn't deserve to speak for Minnesota families.

Families deserve better than Rep. Erik Paulsen
WWW.PAULSENFAILEDFAMILIES.COM [Learn More](#)

Location




Screenshot of October 7th Ad Performance, cont.

Ad Performance



Reunify Families Now
Sponsored · Paid for by Care in Action

If Rep. Erik Paulsen won't fight to protect children from being ripped away from their parents, he doesn't deserve to speak for Minnesota families.



Families deserve better than Rep. Erik Paulsen
WWW.PAULSENFAILEDFAMILIES.COM [Learn More](#)

| | |
|----------------|------|
| New York | < 1% |
| North Carolina | < 1% |
| North Dakota | < 1% |
| Ohio | < 1% |
| Oklahoma | < 1% |
| Oregon | < 1% |
| Rhode Island | < 1% |
| Montana | < 1% |
| South Carolina | < 1% |
| South Dakota | < 1% |
| Tennessee | < 1% |
| Texas | < 1% |
| Utah | < 1% |
| Vermont | < 1% |
| Virginia | < 1% |
| Washington | < 1% |
| Wisconsin | < 1% |
| Wyoming | < 1% |

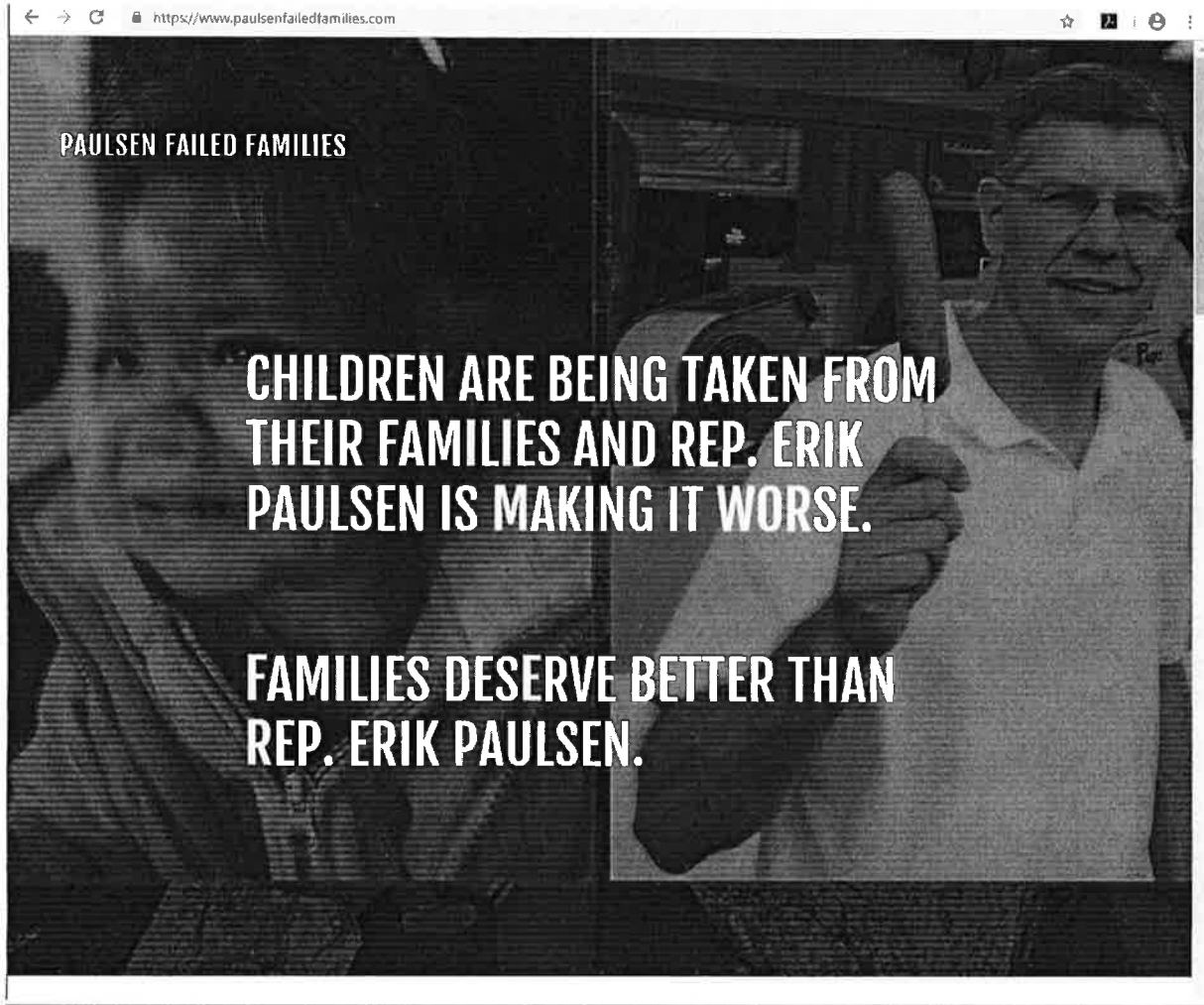
Additional Disclaimer Information

Advertisers provide this information voluntarily.

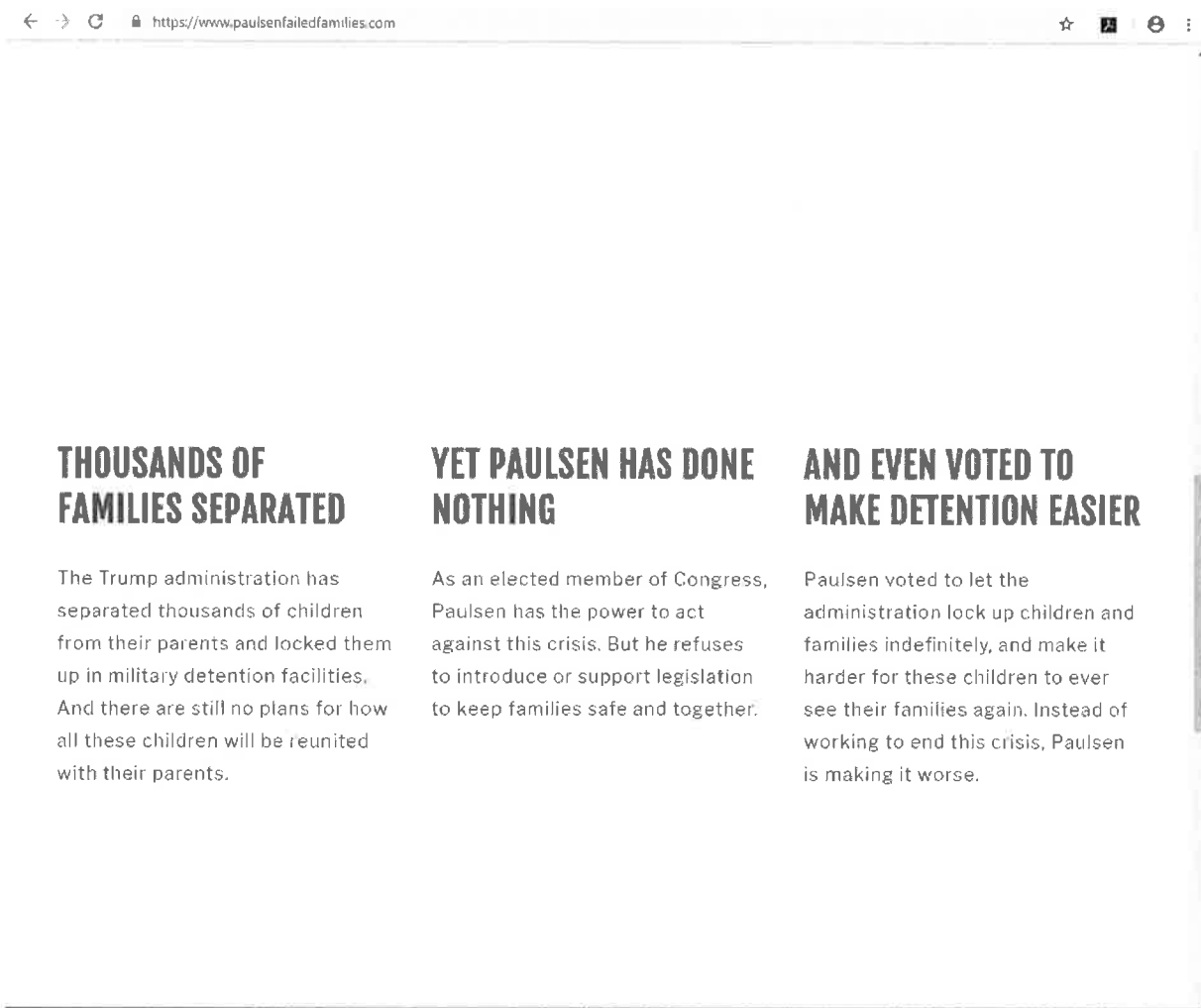
 Disclaimer
Care in Action

Screenshot of October 7th Ad Performance, cont.

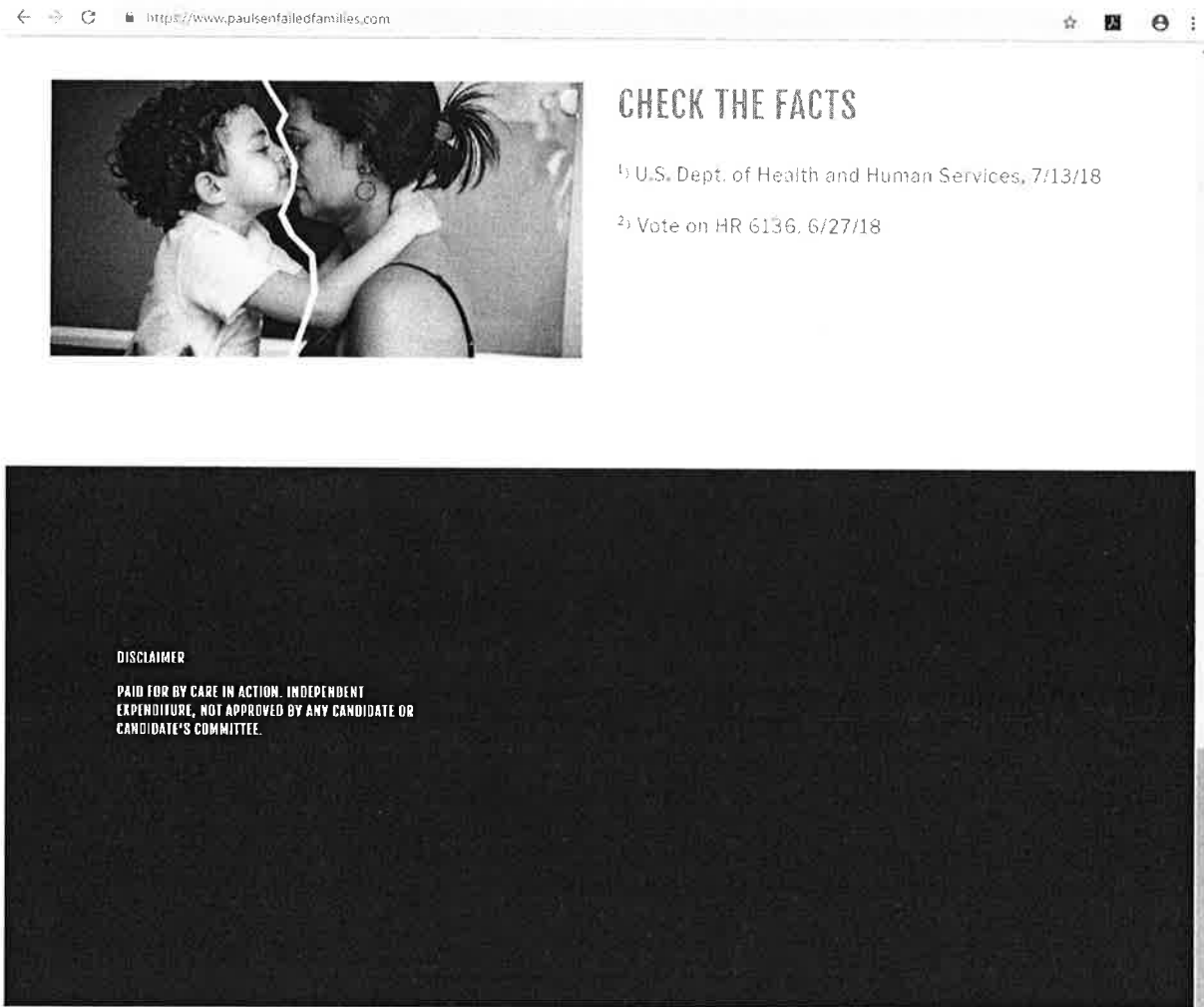
Exhibit F



Screenshot of Website



Screenshot of Website, cont.



Screenshot of Website, cont.

OFFICE OF
GENERAL COUNSEL

2018 NOV -6 PM 11: 47

Office of General Counsel
Federal Election Commission
1050 First Street, NE
Washington, DC 20463

November 5, 2018

MUR # 7537**Re: Missouri Political Mailers Lacking Disclaimers**

To Whom It May Concern:

Complainant requests that the Office of General Counsel of the Federal Election Commission investigate political mailers that do not have a disclaimer that is required by law (52 U.S.C. 30120).

Facts

During the month of October, numerous mass mailings have been sent out in Missouri that are critical of Republican candidates Congresswoman Ann Wagner and Attorney General Josh Hawley. The U.S. Senate mass mailings in question promote third-party candidates while criticizing Attorney General Josh Hawley. The mass mailings in question do not have any disclaimer that alerts recipients of who paid for the communications. Several of these mass mailers have been traced back to James Mulligan Printing Co. based on the postal codes.

These illegal mass mailings are having a direct impact on two elections under the jurisdiction of the Federal Election Commission. Complainant accordingly requests that the Federal Elections Commission immediately investigate these violations and take whatever action it deems appropriate to investigate and bring the perpetrators to justice.

Sincerely,



Raymond Bozarth
Executive Director, Missouri Republican Party

NOTARY FORM

STATE OF MO)

COUNTY OF Cole)

I, Merry J Marshall a Notary Public, do hereby certify that on this 5th day of November, 2018 personally appeared before me Raymond Bozarth known to me to be the person whose name is subscribed to the foregoing instrument, and swore and acknowledged to me that he executed the same for the purpose and in the capacity therein expressed, and that the statements contained therein are true and correct.

Merry J Marshall

Notary Public, State of Missouri

MERRY J MARSHALL
Notary Public - Notary Seal
State of Missouri
County of Cole
My Commission Expires: July 26, 2022
Commission # 18510357

Name, Typed or Printed: Merry J. Marshall

My Commission Expires: July 26, 2022

EXHIBIT A





JOSH HAWLEY: LIVING THE HIGH LIFE ON TAXPAYER TIME



Josh Hawley has been traveling around the country to swanky places like a resort in Palm Springs and a fancy hotel in New York City.¹ He even flew on a lobbyist's private plane to an out-of-state fundraiser. But that is not all - his campaign spent thousands of dollars on several private charter flights this fall.² All the while he has been spotted doing lengthy workouts at the gym and buying booze during peak office hours.³ No wonder he refused to support efforts to crack down on lobbyists' influence in Jefferson City.⁴

"Hawley has still surprised his fellow gym rats by showing up for lengthy workouts during peak office hours."
RFT
April 25, 2018

CALL JOSH HAWLEY AT (573) 751-3321 AND TELL HIM TO STOP STANDING UP FOR LOBBYISTS AND START SUPPORTING ETHICS REFORM.

1. McClatchy 10/13/17 USA Today 1/31/2017 2. Politico 10/20/2018 3. Riverfront Times 4/25/2018 4. St. Louis Dispatch 5/19/2018

WE JUST CAN'T COUNT ON JOSH HAWLEY
TO PROTECT OUR GUN RIGHTS.



Josh HAWLEY

- Gave to the liberals who want to restrict our right to bear arms.¹
- Wants the government to have more involvement in gun sales.²
- Refuses to oppose raising the age required to purchase firearms.³



Japheth CAMPBELL

- Believes that you don't need the government's permission to defend yourself and your family.⁴
- Opposes any new restrictions on the right of citizens to purchase firearms.⁵
- Knows that a good guy with a gun is the only way to stop a bad guy with a gun.⁶

1. Springfield News-Leader 2/27/18 2. The Washington Post 3/12/18 3. Springfield News-Leader 2/27/18 4. Twitter @japheth 7/31/17 5. Twitter @japheth 7/31/17 6. Facebook, campbellberry 5/25/18

Call Josh Hawley at (573) 751-3321
and tell him to stop restricting our gun rights.

EXHIBIT B



EXHIBIT D

JOSH HAWLEY
IS FLYING HIGH ON LOBBYISTS' PRIVATE PLANES
WHILE THE ATTORNEY GENERAL'S OFFICE SITS EMPTY.

PHSHT STD
 US POSTAGE
 PAID
 SAINT LOUIS MO
 PERMIT NO. 258

5-DIGIT 65109
 477
 296 303852

JOSH HAWLEY:
LIVING THE HIGH LIFE ON TAXPAYER TIME

Josh Hawley has been traveling around the country to swanky places like a resort in Palm Springs and a fancy hotel in New York City.¹ He even flew on a lobbyist's private plane to an out-of-state fundraiser. But that is not all -- his campaign spent thousands of dollars on several private charter flights this fall.² All the while he has been spotted doing lengthy workouts at the gym and buying booze during peak office hours.³ No wonder he refused to support efforts to crack down on lobbyists' influence in Jefferson City.⁴

"Hawley has still surprised his fellow gym rats by showing up for lengthy workouts during peak office hours."
RFT
 April 25, 2018

CALL JOSH HAWLEY AT (573) 751-3321 AND TELL HIM TO STOP STANDING UP FOR LOBBYISTS AND START SUPPORTING ETHICS REFORM.

1. McClatchy, 10/13/17, 254 Expy. 1/31/2017. 2. Politico, 11/29/2018. 3. Bloomberg News, 10/26/2018. 4. St. Louis Dispatch, 10/26/2018.

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 RESPONDENTS: Unknown Respondents

MUR: 7537

4
5 **I. INTRODUCTION**

6 Two separate complaints filed with the Commission involve virtually identical
7 advertisements criticizing two different congressional candidates.¹ The Complaint in MUR 7532
8 alleges that unknown respondents, possibly an organization named Care in Action,² sent a
9 mailing on or before October 17, 2018, advocating the defeat of former Rep. Erik Paulsen.³ The
10 mailer did not include a disclaimer or any information identifying who authorized or paid for it.⁴
11 The Complaint also alleges that internet video (“digital”) ads and a website criticizing Paulsen,
12 which are very similar to the mailer, did not contain proper disclaimers.⁵

13 In MUR 7537, the Complaint alleges that numerous mailings distributed in October 2018
14 that criticized Republican candidate Ann Wagner—mailers very similar to those at issue in MUR
15 7532—lacked disclaimers.⁶

16 The Paulsen and Wagner communications should have contained proper disclaimers and
17 been reported to the Commission because they are public communications containing express

¹ The Commission merged MUR 7532 into MUR 7537.

² A search of the FEC disclosure database indicates that Care in Action has never filed an independent expenditure report.

³ MUR 7532 Compl. at 1-2 (Nov. 1, 2018). Paulsen was the incumbent congressman and Republican candidate for Minnesota’s third congressional district seat in the U.S. House in 2018. Paulsen lost in the November 6, 2018 general election. Paulsen is also the Complainant in MUR 7532.

⁴ *Id.*, Ex. A.

⁵ *Id.* at 1-2; Ex. B-E.

⁶ MUR 7537 Compl. at 1 (Nov. 6, 2018). Wagner was re-elected in the November 6, 2018 general election to represent Missouri’s second congressional district seat in the U.S. House with 51.1% of the vote.

1 advocacy. Therefore, the Commission finds reason to believe that Unknown Respondents in
 2 MURs 7532 and 7537 violated 52 U.S.C. §§ 30120(a) and 30104(b) or (c), and (g).

3 **II. FACTUAL BACKGROUND**

4 **A. Mailers Opposing Paulsen (MUR 7532) and Wagner (MUR 7537)**

5 The mailers attached to the Complaints show that unknown respondents disseminated
 6 nearly identical mailers targeting federal candidates Paulsen and Wagner. The front of each
 7 mailer shows a photo of children lying on mats in a large room.⁷

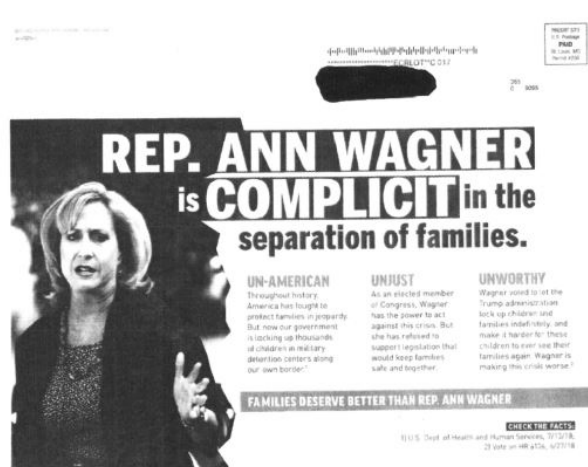


10 As shown below, the backs of the Paulsen and Wagner mailers read “REP.
 11 [CANDIDATE] is COMPLICIT in the separation of families,” and list three categories: “UN-
 12 AMERICAN,” “UNJUST,” AND “UNWORTHY.”⁸ The text of the mailers is virtually the

⁷ MUR 7532 Compl., Ex. A; MUR 7537 Compl., Ex. C.

⁸ *Id.*

1 same.⁹ Neither mailer contains a disclaimer.¹⁰ Both mailers were sent via bulk mail with no
 2 return address.¹¹



3
 4 The MUR 7532 Complaint also states that “[u]pon information and belief, the public
 5 communication was paid for and prepared by Care in Action,” alleging “[t]he content of the mailer
 6 matched in substance and style to content presented in two digital political advertisements
 7 published on Facebook.com by a group called ‘Reunify Families Now.’”¹²

⁹ *Id.* The mailers read: “UN-AMERICAN: Throughout history, America has fought to protect families in jeopardy. But now our government is locking up thousands of children in military detention centers along our own border;” “UNJUST: As an elected member of Congress, [Paulsen/Wagner] has the power to act against this crisis. But he/she has refused to introduce or support legislation to keep families safe and together;” and “UNWORTHY: [Paulsen/Wagner] voted to let the Trump administration lock up children and families indefinitely, and make it harder for those children to ever see their families again. [Paulsen/Wagner] is making this crisis worse.”

¹⁰ *Id.*

¹¹ *Id.* The Paulsen mailer’s postmark, set apart in a box, reads: “PRSR STANDARD U.S. POSTAGE PAID 85040 PERMIT NO. 2691.” The address label bears the imprint “SCH 5-DIGIT 55344 FSSC” (indicating “5-Digit Scheme,” “Carrier Route — Periodicals and Marketing Mail basic FSS (Flats Sequencing System)), see https://about.usps.com/postal-bulletin/2016/pb22457/html/updt1_003.htm, and features an Intelligent Mail barcode above the address, indicating the mail was prepared for automation prices, see <https://postalpro.usps.com/mailing/intelligent-mail-barcode>. The Wagner mailer’s postmark, set apart in a box, reads: “PRSR STD U.S. POSTAGE PAID St. Louis, MO, PERMIT NO. 256.” The address label bears the imprint “ECRLT **C 017” (indicating “Enhanced Carrier Route — Marketing Mail basic), and features an Intelligent Mail barcode above the address, indicating the mail was prepared for automation prices.

¹² MUR 7532 Compl. at 1, ¶ 3.

1 **B. Internet Video Ads Opposing Paulsen and Wagner (MUR 7532)**

2 The Reunify Families Now ads are identical, except for references to either Paulsen or
 3 Wagner. Specifically, the dates of publication, format, language, text, and images used in both
 4 the Paulsen and Wagner internet video ads (except for references to the candidate) are the same.

5

The image displays four screenshots of Facebook video advertisements. Each ad is from the organization 'Reunify Families Now' and is sponsored by 'Care in Action'. The ads are arranged in a 2x2 grid. The top-left ad targets Rep. Erik Paulsen, with a video thumbnail showing a child behind a chain-link fence and the text 'ERIK PAULSEN VOTED TO DETAIN FAMILIES INDEFINITELY'. The top-right ad targets Rep. Ann Wagner, with a similar video thumbnail and the text 'ANN WAGNER VOTED TO DETAIN FAMILIES INDEFINITELY'. The bottom-left ad features a portrait of Erik Paulsen and the text 'ERIK PAULSEN'S REPUBLICAN PARTY TOOK CHILDREN FROM PARENTS'. The bottom-right ad features a portrait of Ann Wagner and the text 'ANN WAGNER'S REPUBLICAN PARTY TOOK CHILDREN FROM PARENTS'. Each ad includes a 'Learn More' button and a URL: 'WWW.PAULSENFAILEDFAMILIES.COM' for the Paulsen ads and 'WWW.WAGNERFAILEDFAMILIES.COM' for the Wagner ads.

6 The MUR 7532 Complaint attaches screenshots of Facebook ads, Ad Archives, and
 7 charts of Ad Performance statistics related to Reunify Families Now, and alleges that the internet
 8 charts of Ad Performance statistics related to Reunify Families Now, and alleges that the internet
 9 video ads failed to include contact information for Care in Action, and does not state whether the

1 communications are authorized by any candidate or candidate’s committee.¹³ The image at the
 2 top of the October 7 ad reads “Reunify Families Now; Sponsored · Paid for by Care in Action,”
 3 and the bottom of the ad links to www.paulsenfailedfamilies.com and
 4 www.wagnerfailedfamilies.com.¹⁴ The October 7 ad is transcribed here:

5 (image): headshot of Paulsen/Wagner
 6 (voiceover) “If [Paulsen/Wagner] won’t speak up when children are in pain...”
 7 (text): Rep. [Erik Paulsen/Ann Wagner]
 8 (text in red): SILENT when children are in pain
 9
 10 (image): Young family of four — man, woman, girl, infant — walking in the park
 11 (voiceover) “What makes you think [he’d/she’d] speak up for yours?”
 12 (text): What makes you think [he’d/she’d] speak up for yours?
 13
 14 (image): crying toddler behind glass
 15 (voiceover) “Our children are in pain, taken from their parents by our own government.”
 16 (text): Children taken from their parents
 17
 18 (image): image of crying child; frame rips open to reveal headshot of Paulsen/Wagner
 19 (voiceover) “And [Erik Paulsen/Ann Wagner] is complicit.”
 20 (text): [Erik Paulsen/Ann Wagner] is complicit
 21
 22 (image): video of children behind fence
 23 (voiceover) “[He/She] even voted to lock families up indefinitely...”
 24 (text): [Erik Paulsen/Ann Wagner] voted to detain families indefinitely
 25
 26 (image): alternate video of different children behind fence
 27 (voiceover) “...and make it harder for children to be reunited with their families.”
 28 (text): [Erik Paulsen/Ann Wagner] keeping families apart
 29
 30 (image): headshot of Paulsen/ Wagner
 31 (voiceover) “Families deserve better than [Congressman Erik Paulsen/Congresswoman
 32 Ann Wagner].”
 33 (text): Families deserve better than [Paulsen/Wagner]
 34 (text): Paid for by Care in Action.
 35

¹³ *Id.*, Ex. B-E, *Id.* at 1-2. *See supra* at 4. *See also*:
https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&q=%22Reunify%20Families%20Now%22.

¹⁴ *Id.* The URL <http://www.paulsenfailedfamilies.com/> and <http://www.wagnerfailedfamilies.com/> do not link to currently active websites, and are not accessible via the Archive.org Wayback Machine search feature.

1 There are also October 12, 2018, internet videos allegedly posted by the “Reunify
 2 Families Now” Facebook account each bearing photos of Paulsen or Wagner.¹⁵ The October 12

3 ad is transcribed here:

4 (image): *Split screen — video of children behind fence (L)/headshot of the candidate (R)*
 5 (voiceover) “[Erik Paulsen’s/Ann Wagner’s] Republican Party took small children away
 6 from their parents.”

7 (text): [Erik Paulsen’s/Ann Wagner’s] Republican Party **took children from parents**

8 (voiceover) “They locked children in prisons.”

9 (text): [Erik Paulsen’s/Ann Wagner’s] Republican Party **locked children in prisons**

10

11 (image): *headshot of Paulsen/Wagner*

12 (voiceover) “And what did [Erik Paulsen/Ann Wagner] do?”

13 (text): What did [**Erik Paulsen/Ann Wagner**] do?”

14

15 (image): *video of jail door closing superimposed over American flag*

16 (voiceover) “[He/She] voted to let the government lock up children and their families
 17 indefinitely.”

18 (text): [Erik Paulsen/Ann Wagner] **voted to lock up families indefinitely**

19

20 (image): *videos of American military scenes (D-Day, Vietnam) superimposed over*
 21 *American flag*

22 (voiceover) “Throughout history, Americans have taken a brave stand against human
 23 rights abuses and crimes against children.”

24 (text): Americans stand against **human rights abuses**

25

26 (image): *headshot of Paulsen/Wagner*

27 (voiceover) “By letting his/her party lock up children, [Erik Paulsen/Ann Wagner] has
 28 betrayed our American values.”

29 (text): [Erik Paulsen/Ann Wagner] betrayed **American values**

30 (voiceover) “Families deserve better than [Erik Paulsen/Ann Wagner].”

31 (text): [Erik Paulsen/Ann Wagner] betrayed **American families**

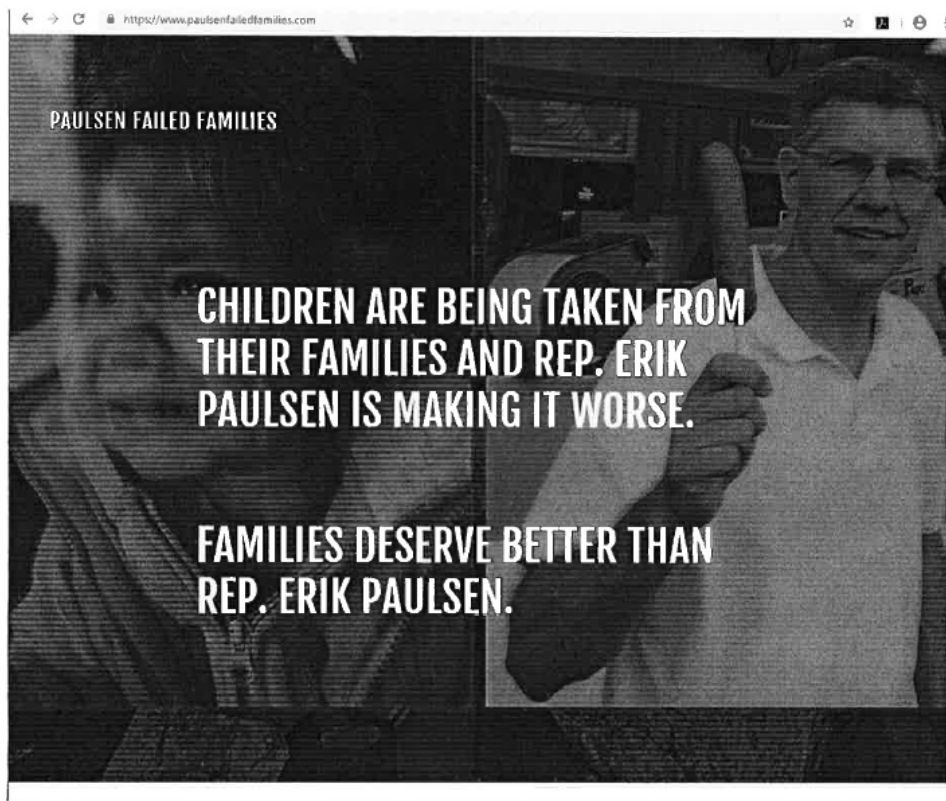
32 (text): Paid for by Care in Action.

33

¹⁵ *Id.*, Ex. B-D. The October 12 ad screenshot that is attached to the Complaint reads “What did Erik Paulsen do?” *Id.*, Ex. B. *See also*:

https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&q=%22Reunify%20Families%20Now%22.

- 1 Finally, the MUR 7532 Complaint attaches a screenshot of the website
2 www.paulsenfailedfamilies.com (now unavailable), that displays a photo of Paulsen.¹⁶



- 3
4 The website also lists three columns criticizing Paulsen, similar to those on the back of
5 mailer.¹⁷ In addition to using the same language as the mailer attached to the Complaint, the
6 website states: “Disclaimer: Paid for by Care in Action. Independent expenditure, not approved
7 by any candidate or candidate’s committee.”¹⁸

¹⁶ *Id.*, Ex. F. Because the MUR 7532 Complaint only addresses materials opposing Erik Paulsen, it does not include screenshots of the website www.wagnerfailedfamilies.com.

¹⁷ *Id.*

¹⁸ *Id.*

The screenshot shows a webpage with a white background and a thin grey border. At the top, there is a browser address bar with the URL "https://www.paulsenfailedfamilies.com". The main content is organized into three vertical columns. Each column has a bold heading followed by a paragraph of text.

THOUSANDS OF FAMILIES SEPARATED
The Trump administration has separated thousands of children from their parents and locked them up in military detention facilities. And there are still no plans for how all these children will be reunited with their parents.

YET PAULSEN HAS DONE NOTHING
As an elected member of Congress, Paulsen has the power to act against this crisis. But he refuses to introduce or support legislation to keep families safe and together.

AND EVEN VOTED TO MAKE DETENTION EASIER
Paulsen voted to let the administration lock up children and families indefinitely, and make it harder for these children to ever see their families again. Instead of working to end this crisis, Paulsen is making it worse.

1

2

The screenshot shows a webpage with a white background and a thin grey border. At the top, there is a browser address bar with the URL "https://www.paulsenfailedfamilies.com". Below the address bar is a black and white photograph of a woman kissing a young child on the cheek. To the right of the photo is the heading "CHECK THE FACTS" followed by two bullet points. Below the photo and text is a large black rectangular box containing white text.

CHECK THE FACTS

- ↳ U.S. Dept. of Health and Human Services, 7/13/18
- ↳ Vote on HR 6136. 6/27/18

DISCLAIMER
PAID FOR BY CARE IN ACTION. INDEPENDENT EXPENDITURE, NOT APPROVED BY ANY CANDIDATE OR CANDIDATE'S COMMITTEE.

3

4

1 **III. LEGAL ANALYSIS**

2 **A. Disclaimers**

3 The Federal Election Campaign Act of 1971, as amended (the “Act”), requires that
4 whenever a political committee makes a disbursement for the purpose of financing any
5 communication through any mailing, or any other type of general public political advertising, such
6 communication must clearly state who paid for the communication.¹⁹ A communication
7 authorized and paid for by a candidate, an authorized committee of a candidate, or an agent of
8 either, must clearly state that the communication was paid for by the authorized political
9 committee.²⁰ A communication authorized by a candidate, an authorized committee of a
10 candidate, or an agent of either but paid for by another person, must clearly state that the
11 communication was paid for by such person but authorized by the political committee.²¹

12 The Act also requires that all public communications that expressly advocate the election or
13 defeat of a clearly identified candidate include a disclaimer.²² “Public communications” include
14 “mass mailings,” which are mailings of more than 500 pieces of mail of an identical or
15 substantially similar nature within any 30-day period.²³ “Public communications” also include
16 communications over the Internet that have been placed for a fee on another person’s Web site.”²⁴

17 Where required, disclaimers must be “presented in a clear and conspicuous manner, to give
18 the reader, observer, or listener adequate notice of the identity of the person or political committee

¹⁹ 52 U.S.C. § 30120(a).

²⁰ 52 U.S.C. § 30120(a)(1).

²¹ 52 U.S.C. § 30120(a)(2); *see also* 11 C.F.R. § 110.11(b)(2).

²² 52 U.S.C. § 30120(a); *see* 11 C.F.R. § 110.11(a)(2).

²³ 52 U.S.C. § 30101(22), (23); 11 C.F.R. §§ 100.26, 100.27.

²⁴ 11 C.F.R. § 100.26.

1 that paid for, and where required, that authorized the communication.”²⁵ If a communication is not
2 authorized by a candidate’s authorized committee, it must clearly state the name and permanent
3 address, telephone number or website address of the person who paid for the communication and
4 state that the communication is not authorized by any candidate or candidate’s committee.²⁶

5 The Complaints allege that the Paulsen and Wagner mailers violated the Act’s disclaimer
6 requirements.²⁷ The Paulsen and Wagner mailers appear to constitute public communications
7 because they appear professionally produced and carry a U.S. Postal Service (“USPS”) bulk mail
8 permit and, therefore, likely exceeded 500 pieces for each mailing.²⁸ The mailers, however, do not
9 include any disclaimers.²⁹

10 Additionally, the MUR 7532 Complaint alleges that the internet videos related to Paulsen
11 violated 11 C.F.R. § 110.11(b)(3).³⁰ The Paulsen videos, and the nearly identical Wagner videos,
12 also appear to constitute public communications because they each advocate the defeat of a
13 clearly identified candidate, and the available information indicates they were internet

²⁵ 11 C.F.R. § 110.11(c). For printed communications, disclaimers must be clear and conspicuous, be of sufficient type size to be clearly readable, be contained in a printed box set apart from the other contents of the communication, and must clearly state who paid for the communication. *Id.* § 110.11(c)(2).

²⁶ *Id.* § 110.11(b)(3).

²⁷ MUR 7532 Compl. at 1-2; MUR 7537 Compl. at 1

²⁸ Neither Complaint specifies the number of mailings, but the MUR 7532 Complaint does categorize the Paulsen mailer as a “public communication.” MUR 7532 Compl. at 1. It is clear that at least 200 copies of the mailers were distributed because the bulk mail permit imprints indicate that the mailers were sent by Standard Mail, and USPS requires a minimum of 200 pieces or 50 pounds of mail to qualify for the Standard Mail bulk mail discount. MUR 7532 Compl., Ex. A, MUR 7537 Compl., Ex. C. *See* <https://pe.usps.com/businessmail101?ViewName=StandardMail>. (Last visited September 4, 2019).

²⁹ MUR 7532 Compl., Ex. A; MUR 7537 Compl., Ex. C.

³⁰ MUR 7532 Compl. at 1-2. The internet video ads are designated as “Sponsored,” *see id.*, Ex. B-E, indicating that they were placed for a fee on another person’s Web site. *See* 11 C.F.R. § 100.26. Additionally, the “Money spent” statistic in the Facebook Ad Performance analytics for each ad indicates that each ad cost between \$500-999. *Id.*, Ex. D-E.

1 communications that were placed for a fee on another person’s Web site. Although the videos
2 contained the disclaimer “Paid for by Care in Action,” they failed to state the name and
3 permanent address, telephone number, or website address of the person who paid for the
4 communication, and failed to state whether or not the political advertisement was authorized by
5 any candidate or candidate’s committee.

6 **The Paulsen and Wagner Communications Required Disclaimers Because They**
7 **Contain Express Advocacy**

8
9 Commission regulations provide that a communication expressly advocates the election or
10 defeat of a clearly identified candidate when it uses certain phrases or uses campaign slogans or
11 individual words, “which in context can have no other reasonable meaning than to urge the
12 election or defeat of one or more clearly identified candidate(s).”³¹ Commission regulations also
13 state, a communication constitutes express advocacy if “[w]hen taken as a whole and with limited
14 reference to external events, such as the proximity to the election, [the communication] could only
15 be interpreted by a reasonable person as containing advocacy of the election or defeat of one or
16 more clearly identified candidate(s) because — (1) [t]he electoral portion of the communication is
17 unmistakable, unambiguous, and suggestive of only one meaning; and (2) [r]easonable minds
18 could not differ as to whether it encourages actions to elect or defeat one or more clearly identified
19 candidate(s) or encourages some other kind of action.”³²

³¹ 11 C.F.R. § 100.22(a). The Commission explained that the phrases enumerated in 11 C.F.R. § 100.22(a), such as “Smith for Congress” and “Bill McKay in ‘94,” have no other reasonable meaning than to urge the election or defeat of a clearly identified candidate. *See* Express Advocacy; Independent Expenditures; Corporate and Labor Organization Expenditures, 60 Fed. Reg. 35,292, 35,294 (July 6, 1995) (“Express Advocacy E&J”); *see also* *FEC v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238, 249 (1986) (a communication is express advocacy when “it provides, in effect, an explicit directive” to vote for the named candidates).

³² 11 C.F.R. § 100.22(b).

1 In its explanation and justification for section 11 C.F.R. §100.22(b), the Commission
2 stated, “communications discussing or commenting on a candidate’s character, qualifications or
3 accomplishments are considered express advocacy under new section 100.22(b) if, in context,
4 they can have no other reasonable meaning than to encourage actions to elect or defeat the
5 candidate in question.”³³ In MUR 5024R, the Commission concluded that, in context, the
6 brochures constituted express advocacy under 11 C.F.R. § 100.22(b), because the electoral
7 portions of the brochure, including the phrase “Tell Tom Kean Jr....New Jersey Needs New
8 Jersey Leaders,” were “unmistakable, unambiguous and suggestive of only one meaning” — to
9 vote against Tom Kean.³⁴ In MURs 5511/5525, the Commission concluded that attacks on John
10 Kerry’s character, fitness for public office, and capacity to lead, including phrases such as “JOHN
11 KERRY CANNOT BE TRUSTED” and “unfit for command” were “unmistakable, unambiguous
12 and suggestive of only one meaning” — and had no reasonable meaning other than to encourage
13 actions to defeat him in the upcoming election.³⁵ Similarly, in MUR 5831, the Commission
14 concluded that, in context, the ad attacking Bob Casey’s qualifications and stating “Can we really
15 risk Bob Casey learning on the job?” constituted express advocacy under 11 C.F.R. § 100.22(b),
16 because the electoral portions were “unmistakable, unambiguous and suggestive of only one
17 meaning” — to vote against Bob Casey.³⁶ The Commission concluded that outside the context of
18 the upcoming election, these advertisements were virtually meaningless.³⁷

³³ EA E&J, 60 Fed. Reg. at 35,295.

³⁴ MUR 5024R (Council for Responsible Government) Factual and Legal Analysis at 14-15.

³⁵ MUR 5511/5525 (Swift Boat Veterans) Conciliation Agreement at IV.25-28.

³⁶ MUR 5831 (Softer Voices) Factual and Legal Analysis at 6-8.

³⁷ *Id.*

1 The available information indicates that the Paulsen and Wagner mailers, and the similar
2 internet video ads, contained express advocacy under 11 C.F.R. § 100.22(b). The mailers clearly
3 identify federal candidates Paulsen and Wagner, and contain attacks on their character and fitness
4 very similar to those the Commission has found to be express advocacy under § 100.22(b).
5 Specifically, the ads call both Paulsen and Wagner “unjust,” “unworthy,” and “un-American” and
6 state that Paulsen and Wagner “ha[ve] betrayed American values,” they do not “deserve to speak
7 for...families” and “Families deserve better than” Paulsen and Wagner.³⁸ Additionally, the
8 mailers were sent in late October 2018, close to the November 6, 2018, general election, and the
9 videos were made available online less than a month before the general election. The content of
10 the statements, along with their timing,³⁹ have an unmistakable, unambiguous meaning: vote
11 against Paulsen and Wagner in the upcoming election. Because the Paulsen and Wagner
12 communications advocate the defeat of federal candidates, those communications constitute
13 express advocacy, and should have contained disclaimers. Accordingly, the Commission finds
14 reason to believe that Unknown Respondents violated 52 U.S.C. § 30120(a) with regard to the
15 Paulsen and Wagner communications.

16 **B. Reporting**

17 Political committees, whether authorized by any candidate or not, must disclose
18 disbursements as part of their regular reporting to the Commission.⁴⁰ Political committees that

³⁸ *See supra* at 2-4.

³⁹ Commission regulations specify that the “proximity to the election” is a permissible external event to consider when determining whether a communication has a reasonable, non-electoral meaning. *See* 11 C.F.R. § 100.22(b); *FEC v. Furgatch*, 807 F.2d 857 (9th Cir. 1987) (“Timing the appearance of the advertisement less than a week before the election left no doubt of the action proposed.”).

⁴⁰ 52 U.S.C. § 30104(b)(4)(G), (H)(v). An organization that is not controlled by a candidate that (1) exceeds the \$1,000 aggregate expenditure threshold and (2) it has as its “major purpose” the nomination or election of federal candidates would also have to register and file disclosure reports with the Commission.

1 make independent expenditures, whether authorized by any candidate or not, must also disclose
2 these expenditures to the Commission as part of their regular reporting.⁴¹ Any person other than a
3 political committee that makes expenditures that expressly advocate the election or defeat of a
4 federal candidate that exceed \$250 must file an independent expenditure report with the
5 Commission pursuant to 52 U.S.C. § 30104(c).⁴² Additionally, political committees and other
6 persons that make independent expenditures aggregating \$1,000 or more made after the 20th day,
7 but more than 24 hours before, the date of an election, must report the expenditures by filing a 24-
8 hour notice.⁴³

9 The available information indicates that the Paulsen and Wagner mailers and their
10 associated internet video ads constituted express advocacy, and expenditures for the mailers and
11 ads exceeded \$250. Therefore, whether these communications were made by a political
12 committee or through independent expenditures, they should have been disclosed to the
13 Commission. Accordingly, the Commission finds reason to believe that Unknown Respondents
14 violated 52 U.S.C. § 30104(b) or (c) by failing to report expenditures made in connection with the
15 Paulsen and Wagner mailers and internet video ads. Also, because the mailers appear to have
16 been distributed in October 2018,⁴⁴ potentially 20 days before the election on November 6, 2018,
17 and appeared to cost over \$1,000, 24-hour notices would likely have been required. Accordingly,

⁴¹ 52 U.S.C. § 30104(b)(4)(G), (H)(iii).

⁴² The Act defines “independent expenditure” as “an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate; and that is not made in concert or cooperation with or at the request or suggestion of such a candidate, the candidate’s authorized political committee, or their agents, or a political party committee or its agents.” 52 U.S.C. § 30101(17).

⁴³ See 52 U.S.C. § 30104(g)(1)(A). Political committees and other persons must file 24-hour notices by 11:59 p.m. on the day following the date on which the independent expenditure communication is publicly distributed. See 11 C.F.R. §§ 104.4(c), 109.10(d).

⁴⁴ See MUR 7532 Compl. at 1-2; MUR 7537 Compl. at 1.

MUR 7537 (Unknown Respondents)
Factual and Legal Analysis
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- 1 the Commission finds reason to believe that Unknown Respondents violated 52 U.S.C.
- 2 § 30104(g) with respect to the Paulsen and Wagner communications.