



FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 13, 2019

MEMORANDUM

TO: The Commission

FROM: Lisa J. Stevenson
Acting General Counsel

Charles Kitcher
Acting Associate General Counsel

Stephen Gura
Deputy Associate General Counsel for Enforcement

BY: Mark Allen *MA*
Assistant General Counsel

Dawn M. Odrowski *dmo*
Attorney

SUBJECT: MUR 7555 (America Comes First PAC.) -- Pre-Probable Cause Conciliation Agreement

I. INTRODUCTION

The Commission found reason to believe that America Comes First PAC and David W. Schamens in his official capacity as treasurer (the “Committee”) violated 52 U.S.C. § 30104(g)(2) by failing to file two 48-Hour Independent Expenditure Reports (“IE Reports”) disclosing \$68,297.60 in independent expenditures in connection with the 2016 general election.¹ The Commission also authorized pre-probable cause conciliation with the Committee and approved a conciliation agreement.² We recommend that the Commission accept the attached negotiated agreement and close the file in this matter.³

¹ Certification, MUR 7555 (Dec. 7, 2018). *See also* MUR 7555 Factual and Legal Analysis at 3 (setting out the independent expenditures at issue).

2 *Id.*

3 Attachment 1.

MUR 7555 (America Comes First PAC)

Memorandum to the Commission

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3 As to the other 48-Hour IE Report, the Committee treasurer
4 provided a sworn statement and supporting documentation in response to the Commission's
5 reason to believe finding establishing that the communication underlying the \$50,000
6 independent expenditure was not distributed.⁵ As a result, the vendor refunded \$45,000 to the
7 Committee within the same reporting period, as disclosed on the Committee's amended 2016
8 October Quarterly Report.⁶ The Committee filed a Form 99 clarifying that it received a refund
9 for the IE that was reported, but not distributed.⁷

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13 **II. RECOMMENDATIONS**

14 1. Accept the attached signed conciliation agreement with America Comes First
15 PAC and David W. Schamens in his official capacity as treasurer;

16 2. Approve the appropriate letter; and

17 3. Close the file.

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⁵ See Affidavit of David Schamens ¶¶ 1-3 (Apr. 26, 2019) ("Schamens Aff."); America Comes First PAC, Bank of America Statement, Sept. 1-30, 2016 at 2, 4 (both available in VBM). Although Schamens also states in his affidavit that he does not believe the communication underlying the reported \$18,282.60 independent expenditure was distributed, the vendor declined to confirm his belief. See Schamens Aff. ¶¶ 4-6. Respondents did not provide any corroborating documentation supporting Schamens's belief, and they agreed to conciliate the violation involving that expenditure.

⁶ Amended 2016 October Quarterly Report at 9 (Dec. 11, 2016).

⁷ FEC Form 99 (Misc. Text), America Comes First PAC (Nov. 4, 2019), <https://docquery.fec.gov/pdf/525/201911049165325525/201911049165325525.pdf>. The Form 99 mistakenly refers to the filing date of the 2016 October Quarterly Report in which the refund was reported as October 11, 2016, rather than December 11, 2016. The Committee did not file any reports in October 2016.

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NAME OF COMMITTEE (In Full)
AMERICA COMES FIRST PAC

FEC IDENTIFICATION NUMBER
C00623256

Mailing Address POB 201

On the 2016 October Quarterly Report, filed on October 11, 2016, the Committee reported a \$45,000 refund from Sokol Media Group. That amount is related to the previously disclosed \$50,000 independent expenditure. However, no independent expenditure was ever actually distributed related to that expense, which is why the refund was provided.
