



FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 5, 2021

E. Stewart Crosland, Esq.
Jones Day
51 Louisiana Avenue, N.W.
Washington, D.C. 20001

scrosland@jonesday.com

RE: MUR 7595
Donald J. Trump for
President, Inc., and Bradley
T. Crate in his official
capacity as treasurer

Dear Mr. Crosland:

On April 18, 2019, the Federal Election Commission notified you of a complaint concerning your client, Donald J. Trump for President, Inc., and Bradley T. Crate in his official capacity as treasurer ("Committee"), alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was forwarded to you at that time. On April 26, 2019, we received your response to the Complaint.

Upon review of the allegations contained in the complaint, and information supplied by you, the Commission, on April 20, 2021, voted to dismiss the allegations as they pertain to your client. The Factual and Legal Analysis, which more fully explains the Commission's decision, is enclosed for your information.

If you have any questions, please contact me at (202) 694-1650.

Sincerely,

Elena Paoli

Elena Paoli
Attorney

Enclosure
Factual and Legal Analysis

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FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Paul J. Manafort, Jr. MUR 7595
 Donald J. Trump for President, Inc., and Bradley
 T. Crate in his official capacity as treasurer

I. INTRODUCTION

This matter was generated by a complaint filed with the Federal Election Commission (“Commission”) by Angela Marie Walls-Windhauser. *See* 52 U.S.C. § 30109(a)(1). Complainant, a third-party 2016 U.S. Senate candidate, alleges that a television station cancelled her campaign television advertisement shortly before its scheduled November 4, 2016 airtime and replaced it with a campaign advertisement for Donald Trump’s presidential campaign. Complainant alleges that the Trump advertisement was paid for with foreign funds provided by and through Trump campaign official Paul J. Manafort, Jr.¹

II. FACTUAL SUMMARY

Complainant filed a statement of candidacy for the U.S. Senate seat in Florida on March 9, 2016, and designated Angie for U.S. Senate PRO LIFE (“the Committee”) as her principal campaign committee.² The Committee never filed any disclosure reports with the Commission, and it was administratively terminated on April 25, 2019.³

The Trump Committee is the presidential campaign committee of Donald J. Trump and Bradley T. Crate in his official capacity as treasurer. Manafort was a political consultant and

¹ Compl. at 2 (April 15, 2019).

² *See* Walls-Windhauser Form 2, available at: <https://docquery.fec.gov/pdf/022/201603110200080022/201603110200080022.pdf>.

³ *See* Walls-Windhauser Committee Termination Letter, available at: <https://docquery.fec.gov/pdf/004/201904250300038004/201904250300038004.pdf>.

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1 lobbyist who served as chairman of Trump’s 2016 presidential campaign from approximately
2 May to August 2016.⁴ In 2018, Manafort was convicted of various criminal offenses and
3 incarcerated as a result of investigations by the Office of Special Counsel.⁵

4 Walls-Windhauser alleges that she contracted with Bright House Media Strategies to
5 place a 30-second campaign advertisement on television Channel 13 in the Orlando, Florida
6 area.⁶ The ad was paid for and scheduled to air on Friday, November 4, 2016, at approximately
7 8:30 p.m., the last Friday before the 2016 election.⁷ This was to be her last ad in the 2016
8 campaign.⁸ The Complaint alleges that on November 4, as she and her family were watching
9 Channel 13 waiting for her ad, Walls-Windhauser received a call on her cell phone from “Scott”
10 at Bright House telling her, “Angie, I’m sorry, it’s not going to run, one of Trump’s guys just
11 came into the Studio and plopped down about a Million bucks to take your spot! I’m so sorry.”⁹

12 Walls-Windhauser alleges that her ad was cancelled, she did not receive a refund, and
13 “millions of Florida voters were deprived of seeing another good Candidate to represent them for

⁴ Superseding Criminal Information, *United States v. Manafort*, 1:17-cr-00201 (D.D.C. Sept. 14, 2018) ¶ 1 (“Superseding Criminal Information”) (basis of guilty plea, listing elements of the charges).

⁵ See, e.g., Indictment, *United States v. Paul J. Manafort, Jr. and Richard W. Gates III*, 1:17-cr-00201 (D.D.C. Oct. 30, 2017); Superseding Criminal Information; Superseding Indictment, *United States v. Manafort and Konstantin Kilimnik*, 1:17-cr-00201 (D.D.C. June 08, 2018). The Office of Special Counsel subsequently filed a second, related indictment in the District Court for the Eastern District of Virginia. Superseding Indictment, *United States v. Manafort and Gates*, 1:18-cr-00083 (E.D. Va. Feb. 22, 2018).

See also Plea Agreement, *United States v. Manafort*, 1:17-cr-00201 (D.D.C. Sept. 14, 2018); Statement of the Offenses and Other Acts, *United States v. Manafort*, 1:17-cr-00201 (D.D.C. Sept. 14, 2018) (“Statement of the Offense”).

⁶ Compl. at 1 and attachments, including purported advertising contract.

⁷ Compl. at 1.

⁸ *Id.*

⁹ *Id.*

the U.S. Senate.”¹⁰ She alleges that because Manafort, a Trump campaign “representative,” acquired “millions of dollars in Foreign funds from Russia and others,” he “impact[ed]” the 2016 U.S. election and her campaign.¹¹

In alleging that Manafort used foreign funds in violation of the Act, the Complaint points to guilty verdicts obtained against Manafort, which evidently are references to the proceedings brought by the Special Counsel’s Office.¹² Information obtained in those proceedings indicate that beginning in approximately 2006, Manafort (assisted by others) engaged in a multi-million dollar global lobbying and influence campaign at the direction of Ukrainian officials and the Government of Ukraine.¹³ From February 2012 through early 2014, Manafort directed two lobbying firms to “lobb[y] dozens of Members of Congress, their staff, and White House and State Department officials about Ukraine sanctions, the validity of Ukraine elections, and the propriety of President Yanukovich’s imprisoning [Yulia] Tymoshenko, his presidential rival.”¹⁴ According to a Statement of Offense in Manafort’s criminal prosecution, he arranged for a front organization to serve as the nominal client of the lobbying firms and used offshore accounts that apparently obscured the true origin of the funds paid to him.¹⁵ None of the charges brought by the Office of Special Counsel against Manafort involved any campaign finance violations.¹⁶

¹⁰ Compl. at 1-2.

¹¹ *Id.*

¹² *Id.* at 2.

¹³ Statement of the Offense ¶ 4.

¹⁴ *Id.* ¶ 25.

¹⁵ See Statement of the Offense ¶¶ 24, 37; see also *id.* ¶ 12 (indicating that Ukraine was the true origin of the funds used to pay the lobbyists for their work).

¹⁶ See generally Statement of the Offense.

1 A jury in the Eastern District of Virginia found Manafort guilty on eight counts involving
2 various financial crimes, including subscribing to a false income tax return, failure to file reports
3 of foreign accounts, and bank fraud, and he later admitted guilt on ten additional counts related
4 to financial crimes. Manafort subsequently pleaded guilty ahead of a scheduled second trial on
5 one count of conspiracy against the United States based, in part, on failing to register as a foreign
6 agent, and one count of conspiracy to obstruct justice (witness tampering).¹⁷

7 Manafort did not file a response in this MUR. The Trump Committee responds that the
8 Complaint does not set forth a “clear and concise recitation of the facts which describe a
9 violation of statute or regulation over which the Commission has jurisdiction,” citing 11 C.F.R.
10 § 111.4(d)(3), and requests dismissal.¹⁸

11 **III. LEGAL ANALYSIS**

12 The Act provides that a contribution includes “any gift, subscription, loan, advance, or
13 deposit of money or anything of value made by any person for the purpose of influencing any
14 election for Federal office.”¹⁹ The Act and Commission regulations prohibit any “foreign
15 national” from directly or indirectly making a contribution or donation of money or other thing
16 of value, or an expenditure, independent expenditure, or disbursement, in connection with a

¹⁷ *See supra* n.5; *see also* <https://www.justice.gov/sco> (Department of Justice website containing the Special Counsel’s Report and related documents).

¹⁸ Committee Response at 1 (Apr. 26, 2019).

¹⁹ 52 U.S.C. § 30101(8)(A).

1 federal, state, or local election.²⁰ It is also not permitted for a person to solicit, accept, or receive
 2 a contribution or donation from a foreign national.²¹ The regulations further provide that no
 3 person shall “knowingly provide substantial assistance” in the solicitation, making, acceptance,
 4 or receipt of a prohibited foreign national contribution or donation, or the making of a prohibited
 5 foreign national expenditure, independent expenditure, or disbursement.²²

6 The Complaint appears to allege that foreign national funds helped to pay for the Trump
 7 Committee’s advertisement, which allegedly bumped Walls-Windhauser’s scheduled campaign
 8 advertisement from airing. These foreign funds were allegedly contributed to the Trump
 9 Committee by or through Manafort, as reflected in Manafort’s criminal proceedings. But these
 10 allegations misperceive the nature of Manafort’s criminal conviction, which involved foreign
 11 lobbying activities earlier in time (2012-2014) and did not involve making prohibited foreign
 12 national contributions to the Trump Committee or other federal campaigns in the 2016 elections.
 13 There is no information in this Complaint that Manafort solicited or assisted in obtaining foreign
 14 national funds for the Trump Committee advertisement at issue. Indeed, there is no information
 15 that Manafort had any involvement in the Florida advertisement at issue in this matter, which
 16 accords with his departure from the Trump campaign in August 2016, several months before the

²⁰ 52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.20(b), (c), (e), (f). Courts have consistently upheld the provisions of the Act prohibiting foreign national contributions on the ground that the government has a clear, compelling interest in limiting the influence of foreigners over the activities and processes that are integral to democratic self-government, which include making political contributions and express-advocacy expenditures. *See Bluman v. FEC*, 800 F. Supp. 2d 281, 288-89 (D.D.C. 2011), *aff’d* 132 S. Ct. 1087 (2012); *United States v. Singh*, 924 F.3d 1030, 1040-44 (9th Cir. 2019).

²¹ 52 U.S.C. § 30121(a)(2); 11 C.F.R. § 110.20(g).

²² 11 C.F.R. § 110.20(h). The Commission has explained that substantial assistance “means active involvement in the solicitation, making, receipt or acceptance of a foreign national contribution or donation with an intent to facilitate successful completion of the transaction.” Assisting Foreign National Contributions or Donations, 67 Fed. Reg. 66928, 66945 (Nov. 19, 2002). Moreover, substantial assistance “covers, but is not limited to, those persons who act as conduits or intermediaries for foreign national contributions or donations.” *Id.* at 66945.

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1 alleged November 4 incident that caused Walls-Windhauser's ad not to air. The Complaint's
2 allegations also do not set forth any facts that would establish a reasonable inference that
3 prohibited foreign national funds were used by Manafort or others to purchase the Trump
4 campaign advertisement at issue. Therefore, the Commission dismisses the allegation that Paul
5 J. Manafort, Jr., and Donald J. Trump for President, Inc., and Bradley T. Crate in his official
6 capacity as treasurer violated 52 U.S.C. § 30121(a)(2) with respect to the advertisement at issue
7 in this Complaint.