



FEDERAL ELECTION COMMISSION
Washington, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 7605
Chad E. Price)

**SUPPLEMENTAL STATEMENT OF REASONS OF
COMMISSIONER ELLEN L. WEINTRAUB**

In this matter, Chad Price (“Chad”) sent the maximum \$2,700 contribution *twice* to Judson Hill for Congress (“Hill Committee”) for a special election to fill a vacancy in the U.S. House. Chad attributed the first one to himself. He attributed the second one to his mentally disabled adult sister, Jessica Price (“Jessica”), over whom he has legal guardianship.¹

My Republican colleagues blocked the Commission from pursuing this matter in September. They have just released a statement explaining themselves.² They so badly mangle the law and our Office of General Counsel’s analysis that I am compelled to write again on this matter to set the record straight.³

My colleagues worked hard to portray Chad’s offense as much more novel than it was. But contrary to their protestations, this matter did *not* present “an issue of first impression.” Pursuing this matter would *not* amount to an “ad hoc, unannounced prohibition.” *Nor* would the Commission be “prohibit[ing] or regulat[ing] conduct without an enabling provision in the Act.” The Commission would *not* be “enforc[ing] legal rules it has never before articulated.”⁴

The law here is uncomplicated: The Act clearly states that “[n]o person shall make a contribution in the name of another.”⁵ The Commission has enforced this bedrock provision of federal campaign-finance law for decades. The facts are also uncomplicated: Chad literally made

¹ The Complaint alleged, and Chad did not dispute, that Jessica was born with a rare developmental disability that limits her mental age to that of a 3- or 4-year-old. Compl. at 2, MUR 7605 (Chad E. Price) (May 6, 2018); Suppl. Resp. at 2, MUR 7605 (Chad E. Price) (Sept. 14, 2020).

² Statement of Reasons of Vice Chair Dickerson and Commissioners Cooksey and Trainor (Dec. 7, 2021), MUR 7605 (Chad E. Price), found at https://www.fec.gov/files/legal/murs/7605/7605_22.pdf.

³ For further details on why the Commission should have pursued the complaint, *see* Statement of Reasons of Chair Shana M. Broussard and Commissioners Ellen L. Weintraub and Steven T. Walther (Oct. 27, 2021), MUR 7605 (Chad E. Price), found at https://www.fec.gov/files/legal/murs/7605/7605_21.pdf.

⁴ Statement of Reasons of Vice Chair Dickerson and Commissioners Cooksey and Trainor at 1, MUR 7605 (Chad E. Price); *id.* at 2; *id.* at 3; *id.*

⁵ 52 U.S.C. §30122.

a contribution in the name of another. He chose the amount, timing, and recipient; his sister appears to have had no role, expressed no view, yet he attached her name to the contribution.

There are other circumstances in which a guardian might be appointed to handle the finances of someone who is capable of expressing knowing and voluntary choices (think Britney Spears). While there might be other situations in which a ward might make a knowing, voluntary choice to make a political contribution and might communicate that choice to her guardian to effectuate, that plainly did not happen here.

In applying the law to the facts in this matter, the Commission's Office of General Counsel ("OGC") concluded: "Jessica did not make a knowing, voluntary contribution to the Hill Committee. Instead, the contribution should be viewed as having been made by Chad in Jessica's name." My Republican colleagues ignored OGC's straightforward legal conclusion. They instead pulled a straw man elsewhere from OGC's analysis and then beat the stuffing out of it.

My colleagues claim that OGC "argues that, because Jessica Price is intellectually disabled, the Commission should apply regulations governing the permissibility of contributions by minors. Under that regulation, OGC claims that because Jessica Price – like a minor child – could not knowingly make a contribution, therefore Chad Price made the contribution in the name of another."⁶

This is flatly false. Nowhere in its report does OGC recommend that the regulation regarding contributions from minors be applied in this matter. What it *does* say is that "the factors the Commission considers regarding contributions involving minors *are a useful framework for the consideration of this issue.*"⁷ There is an enormous difference between the two.

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⁶ Statement of Reasons of Vice Chair Dickerson and Commissioners Cooksey and Trainor at 2, MUR 7605 (Chad E. Price), (internal citations removed; had cited First General Counsel's Rpt at 8, MUR 7605 (Chad E. Price)).

⁷ First General Counsel's Rpt at 7-8, MUR 7605 (Chad E. Price) (emphasis added).

After the Supreme Court invalidated the blanket federal ban on political contributions from minors,⁸ the Commission wrote a regulation⁹ “to assure that minors are not conduits for contributions which should be attributed to others, *e.g.* parents, guardians or other adults.”¹⁰

This particular regulation is used to determine which contributions from minors really *are* from those minors. But the principles it contains are not specific to contributions from minors. They apply to *every* contribution made under the Act:

- The contributor must have made a knowing and voluntary decision to contribute the funds.
- The funds contributed must be owned or controlled by the contributor.
- The contribution may not have been controlled by another individual.

These are the essential qualities of a contribution made in one’s own name. If the contributions-from-minors regulation did not exist, these principles would apply just as strongly and the underlying statute would still just as absolutely bar parents and guardians from making contributions in the name of the persons in their charge.

My Republican colleagues do not seem entirely sure of this. They note in their statement that the Commission’s regulation on contributions from minors requires that “the contribution be ‘made knowingly and voluntarily,’”¹¹ but because the regulation applies only to minors, they write, it is “inapposite in the case at hand”¹² with its adult contributor. The regulation itself may be inapposite, but the principle it contains is not. Does the Republican half of the Federal

⁸ *McConnell v. Federal Election Commission*, 540 U.S. 93, 231-32 (2003).

⁹ 11 C.F.R. §110.19 (“An individual who is 17 years old or younger (a Minor) may make contributions to any candidate or political committee that in the aggregate do not exceed the limitations on contributions of 11 CFR 110.1, if — (a) The decision to contribute is made knowingly and voluntarily by the Minor; (b) The funds, goods, or services contributed are owned or controlled by the Minor, such as income earned by the Minor, the proceeds of a trust for which the Minor is the beneficiary, or funds withdrawn by the Minor from a financial account opened and maintained in the Minor’s name; and (c) The contribution is not made from the proceeds of a gift, the purpose of which was to provide funds to be contributed, or is not in any other way controlled by another individual.”)

¹⁰ 70 Fed. Reg. 5568 (Feb. 3, 2005), *found at* <https://www.federalregister.gov/documents/2005/02/03/05-2003/contributions-and-donations-by-minors>. *See also* Advisory Opinion 1983-13, *found at* <https://www.fec.gov/files/legal/aos/1983-13/1983-13.pdf>.

¹¹ Statement of Reasons of Vice Chair Dickerson and Commissioners Cooksey and Trainor at 2, MUR 7605 (Chad E. Price), *citing* 11 C.F.R. §110.19.

¹² They also cite 52 U.S.C. §30126 as the statute underlying 11 C.F.R. §110.19. *Id.* at n. 15. This cannot be the case; the Commission had a regulation regarding contributions from minors long before the Bipartisan Campaign Reform Act of 2002, Pub. L. No. 107-155, 116 Stat. 81, banned such contributions altogether by adding §30126 to the Act. That regulation was rewritten and moved to §110.19 after §30126 was enacted and rewritten again after the *McConnell* court declared §30126 unconstitutional. The Commission wrote the current version of §110.19 “to assure that minors are not conduits for contributions which should be attributed to others,” *supra* n.10, and noted that “conduit contributions through Minors remain a serious violation of both the Act and the Commission’s regulations, which continue to prohibit contributions in the name of another.” 70 Fed. Reg. 5567-78. The statute underlying §110.19, then, is 52 U.S.C. §30122: the ban on contributions in the name of another.

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Election Commission really not believe that the law requires *all* contributions to be made knowingly and voluntarily by their contributors?

The guardian-ward situation presents risks similar to the parent-child relationship. Considering the guardian-ward relationship through the parent-child lens is analytically helpful in determining whether a given transaction by a guardian amounts to a contribution in the name of another. But it is *not* the same thing as directly enforcing that regulation against guardians.

Because the Republican commissioners stopped the investigation of this matter in its tracks, we do not know such basic facts as: Whose money was Chad spending? My Republican colleagues appear to rest their analysis on the assumption that Chad was spending Jessica's money, but the Commission does not know whether that is the case.¹³ Whether it was his money or her money, both situations violate the Act, but if the money were *not* Jessica's, then this was a dead simple matter of Chad contributing his own money in his sister's name.

The mission of the Federal Election Commission is "to protect the integrity of the federal campaign finance process by providing transparency and fairly enforcing and administering federal campaign finance laws."¹⁴ At the macro level, that includes protecting the nation's campaign-finance system as a whole. At the micro level, it includes safeguarding the First Amendment political rights of every U.S. citizen.

Jessica is one of the most vulnerable people the Commission has encountered in recent years. Her disability does not render her First Amendment rights available for someone else to scoop up and use for their own political purposes. Regardless of whether Chad misappropriated Jessica's money, he definitely misappropriated her political rights. The rights and the violation at issue here are uniquely within the province of this agency to address.

In this matter, my colleagues' legal sophistry has wounded both macro and micro: They have blocked punishment of Chad's clear violation of a provision that lies at the heart of the Act. And they have given cover to Chad's usurpation of Jessica's political rights. That is doubly shameful.



December 20, 2021

Ellen L. Weintraub
Commissioner

¹³ See First General Counsel's Rpt at 5, MUR 7605 (Chad E. Price) ("It is undisputed that the funds used to make the contribution were controlled by her guardian, Chad, although it is not clear whether those funds belonged to Jessica").

¹⁴ See <https://www.fec.gov/about/mission-and-history/>