December 19, 2019

Federal Election Commission
Office of General Counsel
Office of Complaints Examination
& Legal Administration
attn: Kathryn Ross, Paralegal
1050 First Street, NE
Washington, DC 20002

Re: MUR 7654

Dear Ms. Ross:

This response is submitted on behalf of Josh Hawley for Senate and Salvatore Purpura in his capacity as Treasurer.

I. The Complaint’s Allegations

The Complaint alleges that the Respondent coordinated with America First Action, Inc. through a common media vendor. According to the Complaint, the Respondent paid OnMessage, Inc. a total of $7.49 million during the 2018 election cycle.\(^1\) The Complainant believes that OnMessage, Inc. subcontracted with American Media & Advocacy Group (“AMAG”) for media advertising placement services. The Complaint also asserts that America First Action, Inc., contracted with Red Eagle Media Group (“Red Eagle”) to place advertising “opposing Hawley’s opponent in the Missouri U.S. Senate race.”\(^2\) The Complaint contends that AMAG and Red Eagle are “trade names” of National Media Research, Planning and Placement (“National Media”) and that “the same high-ranking National Media employee pl[ac][ed] ads on behalf of both” America First Action and Respondent.\(^3\) The Campaign Legal Center refers to documents obtained from the Federal Communications Commission’s public database as evidence of the coordination scheme it imagines.

In MUR 7524, the Campaign Legal Center alleged that “[t]he NRA-PVF and Josh Hawley for Senate appear to have engaged in an elaborate scheme designed to evade detection of violations of the Commission’s common vendor coordination rules” when “the NRA-PVF’s pro-Hawley communications were distributed and placed by employees of the firm National Media

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\(^1\) Complaint ¶ 21.
\(^2\) Complaint ¶ 20.
\(^3\) Complaint ¶ 3.
Research Planning and Placement, LLC (‘National Media’) under a trade name, while Josh Hawley for Senate placed its own communications using National Media or an affiliate.” The Complaint in MUR 7524 also alleged that “the same National Media official placed advertisements on behalf of both the NRA-PVF and Josh Hawley for Senate.” Later, David Brock’s American Democracy Legal Fund recycled the Campaign Legal Center’s allegations regarding Senator Hawley, the NRA, and National Media and filed another complaint. This current Complaint is simply more of the same.

II. Media Service Vendors

A. OnMessage, Inc.

Josh Hawley for Senate contracted with OnMessage, Inc. in 2018 for media and consulting services. (OnMessage, Inc. subcontracted media placement services to National Media.) OnMessage, Inc. did not provide services to America First Action in connection with Josh Hawley’s 2018 election. Thus, OnMessage, Inc. was not a common vendor with respect to Josh Hawley for Senate and America First Action.

B. National Media

National Media’s ad buyers were appropriately “firewalled” during 2018 so that no information about the campaign plans, projects, or activities of Josh Hawley for Senate were shared with America First Action or the buyers assigned to America First Action. (A copy of National Media’s 2018 firewall policy is included with National Media’s response to this Complaint.)

The Complaint identifies advertisements placed by American Media & Advocacy Group (“AMAG”) on three broadcast stations: WSIL-TV; KOAM-TV; and KOLR. The Complaint contends that Red Eagle placed ads on behalf of America First Action on the same stations during the same periods.

With respect to the 2018 U.S. Senate election in Missouri, National Media’s firewalled buyers placed advertising for Josh Hawley for Senate (via American Media & Advocacy Group). Different firewalled buyers placed advertising for America First Action. National Media’s firewall policy prohibited the same employees from placing ads for both. John Jay placed advertising for Josh Hawley for Senate in the St. Louis market, while Ben Angle placed advertising for Josh Hawley for Senate in the Kansas City market. Mr. Jay and Mr. Angle were not involved in any aspect of placing America First Action advertising in connection with the 2018 Missouri Senate election.

In conjunction with the Hawley campaign, OnMessage, Inc. determined advertising markets, flight dates, and the number of “points” for each ad buy. OnMessage, Inc. conveyed this information to AMAG’s firewalled buyers (here, John Jay and Ben Angle), and those buyers worked to place the ads consistent with OMI’s instructions.

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4 See Complaint ¶ 2, MUR 7524.
5 Id.
6 See MUR 7560.
With respect to the role of Jon Ferrell, it is the understanding of the Hawley campaign that Mr. Ferrell is the longtime Chief Financial Officer (CFO) of National Media who manages accounting and financial matters for National Media, including billing and paying broadcast stations for advertisement buys. Mr. Ferrell’s position does not involve making strategic, ad-buying decisions. As was the case in MUR 7524, the Complainant refers repeatedly to “agreement forms” that were signed by Mr. Ferrell. These “agreement forms” are NAB Form PB-18. Despite what the Complainants assert here and in MUR 7524, these “agreement forms” are not contracts, have nothing whatsoever to do with the selection of audiences and time slots, and do not authorize the airing of advertisements. Rather, they are FCC-mandated disclosure forms that are placed into the public “political file” database.

III. There Is No Evidence of Coordination Through a Common Vendor

The Complaint does not provide any evidence that the Hawley campaign coordinated with America First Action through a common vendor. The common vendor at issue, National Media, appropriately firewalled its ad buyers and the supposed “smoking gun” – Mr. Ferrell’s signature on NAB Form PB-18 – is not at all what the Complainant represents. The Commission recently dismissed a similar matter after concluding that there was no evidence that a common vendor conveyed non-public information regarding a campaign’s strategies:

The available information does not appear to support the allegation that the SuperPAC coordinated activities with the Joyce Committee via a common vendor. Although both the SuperPAC and the Joyce Committee utilized the services of Maverick Media, the conduct prong of the Commission’s coordination regulation does not appear to be met because there is no information to indicate that the vendor conveyed non-public information regarding the Joyce Committee’s plans, projects, activities, or needs.7

The Commission should make the same findings here. There is no evidence that any nonpublic, material campaign information was shared through, or otherwise improperly used by, National Media personnel.

IV. Conclusion

For the reasons set forth above, the Complaint should be dismissed.

Sincerely,

Michael Bayes
Jessica Furst Johnson

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7 MURs 7403 and 7441, Factual and Legal Analysis at 6.
FEDERAL ELECTION COMMISSION
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STATEMENT OF DESIGNATION OF COUNSEL
Provide one form for each Respondent/Witness
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MUR # 7654

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The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

Treasurer

11/08/2019
Date

Signature (Respondent/Agent)  Title

RESPONDENT: Josh Hawley for Senate; Salvatore Purpura, Treasurer

(Committee Name/ Company Name/Individual Named in Notification Letter)

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This form relates to a Federal Election Commission matter that is subject to the confidentiality provisions of 52 U.S.C. § 30109(a)(12)(A). This section prohibits making public any notification or investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.

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