



FEDERAL ELECTION COMMISSION
 1050 FIRST STREET, N.E.
 WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 7717
 Theresa Greenfield for Iowa, *et al.*)
)

**STATEMENT OF REASONS OF CHAIRMAN ALLEN DICKERSON
 AND COMMISSIONER JAMES E. “TREY” TRAINOR, III**

This Matter involved the alleged republication of campaign materials produced by the campaign committee of Theresa Greenfield, who sought election to the United States Senate in the 2020 general election, by an independent-expenditure-only committee known as SMP.¹

The complaint alleged that SMP issued communications using video footage and talking points that had been circulated on publicly accessible web pages by Greenfield’s campaign committee.² Our Office of General Counsel (“OGC”), relying upon 11 C.F.R. § 109.23, argued that such republication would convert SMP’s duly-reported independent expenditures into illegal in-kind campaign contributions.³

As we have stated elsewhere, that regulation “contradicts [the Federal Election Campaign Act’s] text and is therefore contrary to law.”⁴ Accordingly, “in order to remain faithful to our enabling legislation,” the Commission may only find that republished campaign materials are in-kind contributions where OGC can

¹ SMP, the committee’s official name, is an acronym for “Senate Majority PAC.” SMP supports the election of Democratic candidates, such as Ms. Greenfield, to the Senate.

² First Gen’l Counsel’s Report (“FGCR”) at 2-5, MUR 7717 (Theresa Greenfield for Iowa), Oct. 19, 2020.


³ FGCR at 13 (recommending that the Commission “[f]ind reason to believe that SMP...violated [the law] by making excessive in-kind contributions to Theresa Greenfield for Iowa and...by failing to report the in-kind contributions”).

⁴ Statement of Reasons of Chairman Dickerson and Comm’r Trainor at 3, MUR 7781 (Fight for the Am. Dream PAC), April 11, 2022.

“establish actual coordination using the same standards applied to any other form of public communication.”⁵

The record before the Commission does not meet that standard. As OGC itself advised us in recommending that we decline to enforce against Ms. Greenfield’s campaign committee on the theory that it violated our garden-variety coordination rules, “the record contains no information that any direct or private communications were made between the Greenfield Committee and SMP.”⁶ Therefore, we determined that “[w]ere the Commission to pursue enforcement on the theory that [SMP]’s non-coordinated republication of Committee materials was an in-kind contribution, it seem[ed]...highly probable that a reviewing court would simply invalidate § 109.23 as directly contradictory to FECA.”⁷

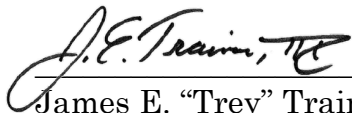
Accordingly, as we have done elsewhere,⁸ we voted to dismiss the allegations against SMP pursuant to the Commission’s prosecutorial discretion.⁹



Allen Dickerson
Chairman

April 15, 2022

Date



James E. “Trey” Trainor, III
Commissioner

April 15, 2022

Date

⁵ *Id.* at 4.

⁶ FGCR at 12.

⁷ Statement of Reasons of Chairman Dickerson and Comm’r Trainor at 4, MUR 7781 (Fight for the Am. Dream PAC), April 11, 2022.

⁸ *Id.*

⁹ *Heckler v. Chaney*, 470 U.S. 821 (1985).