

FEDERAL ELECTION COMMISSION
FIRST GENERAL COUNSEL'S REPORT

MUR 7784

DATE COMPLAINT FILED: July 28, 2020

SUPPLEMENTAL COMPLAINT FILED:

Jan. 28, 2021

DATE OF NOTIFICATIONS:

Aug. 28, 2020, and Feb. 1, 2021

LAST RESPONSE RECEIVED: Mar. 12, 2021

DATE ACTIVATED: Apr. 15, 2021

EXPIRATION OF SOL:

April 18, 2023-Jan. 31, 2026

ELECTION CYCLE: 2020

COMPLAINANTS:

Campaign Legal Center

Margaret Christ

RESPONDENTS:

Make America Great Again PAC f/k/a Donald J.

Trump for President, Inc. and Bradley T.

Crate in his official capacity as treasurer

Trump Make America Great Again Committee and

Bradley T. Crate in his official capacity as

treasurer

American Made Media Holding Corporation, Inc.

American Made Media Consultants, LLC

Parscale Strategy, LLC

Sean Dollman

Kimberly Guilfoyle

Jared Kushner

Bradley J. Parscale

John Pence

Lara Trump

**RELEVANT STATUTE AND
REGULATION:**

52 U.S.C. § 30104(b)(5)(A)

11 C.F.R. § 104.3(b)(4)(i), (vi)

INTERNAL REPORTS CHECKED:

Disclosure Reports

FEDERAL AGENCIES CHECKED:

None

I. INTRODUCTION

The Complaint alleges that Make America Great Again PAC f/k/a Donald J. Trump for President, Inc. and Bradley T. Crate in his official capacity as treasurer (the “Trump Committee”) and Trump Make America Great Again Committee and Bradley T. Crate in his official capacity as treasurer (the “TMAGA Committee”) (collectively, the “Committees”) violated the Federal Election Campaign Act of 1971, as amended (the “Act”), and Commission regulations by misreporting hundreds of millions of dollars in payments to two vendors — American Made Media Consultants, LLC (“AMMC”), and Parscale Strategy, LLC (“Parscale Strategy”) — controlled by campaign staff. Specifically, the Complaint alleges that the vendors were used as what the Complaint characterizes as “conduits” to conceal payments that were made by the vendors to the ultimate payees or subvendors.

As discussed below, the available information indicates, *inter alia*, that despite appearing to be a separate legal entity, AMMC shared staff with the Committees, was devoted to their purposes, and served to make payments for work performed by subvendors who worked directly for the Committees; it also shows that Parscale Strategies made salary payments to Trump Committee staff without disclosing that purpose. Accordingly, we recommend that the Commission: (1) find reason to believe that the Trump Committee violated 52 U.S.C. § 30104(b)(5)(A) and 11 C.F.R. § 104.3(b) by misreporting the payee of payments made to AMMC and Parscale Strategy; (2) find reason to believe that the TMAGA Committee violated 52 U.S.C. § 30104(b)(5) and 11 C.F.R. § 104.3(b) by misreporting the payee of payments made to AMMC; (3) find reason to believe that the Trump Committee violated 52 U.S.C. § 30104(b)(5)(A) and 11 C.F.R. § 104.3(b) by misreporting the purpose of payments made to Parscale Strategy; (4) take no action at this time as to whether the Trump Committee violated

52 U.S.C. § 30104(b)(5)(A) and 11 C.F.R. § 104.3(b) by misreporting the purpose of payments made to AMMC; and (5) find no reason to believe respecting the allegations as to American Made Media Holding Corporation, Inc. (“AMMHC”), AMMC, Parscale Strategy, Sean Dollman, Kimberly Guilfoyle, Jared Kushner, Bradley Parscale, John Pence, and Lara Trump. Additionally, we recommend that the Commission authorize compulsory process.

II. FACTUAL BACKGROUND

The Trump Committee was the principal campaign committee for 2020 presidential candidate Donald J. Trump.¹ The TMAGA Committee is a joint fundraising committee consisting of the Trump Committee, Save America,² and the Republican National Committee (the “RNC”).³ Bradley J. Parscale was the Trump Committee’s Campaign Manager from February 2018 until July 15, 2020, and he subsequently served as its Senior Campaign Adviser for Data and Digital Operations.⁴ Parscale founded Parscale Strategy in 2017.⁵

AMMC was registered in Delaware on April 19, 2018.⁶ AMMHC was registered in Delaware on April 18, 2018, by Sean Dollman and Alex Cannon.⁷ Dollman also served as the

¹ Compl. at 3 (July 28, 2020); Donald J. Trump for President, Amended Statement of Organization (Mar. 4, 2020). After the Complaint was filed in this matter, Donald J. Trump for President changed its name to Make America Great Again PAC. Make America Great Again PAC, Amended Statement of Organization (Feb. 27, 2021). Therefore, we make recommendations as to Make America Great Again PAC f/k/a Donald J. Trump for President.

² Save America is a leadership PAC sponsored by Trump Make America Great Again Committee that was added to the joint fundraising committee after the 2020 election. *See* Save America, Statement of Organization (Nov. 9, 2020).

³ Compl. at 3; Trump Make America Great Again Committee, Amended Statement of Organization (Nov. 18, 2020).

⁴ Compl. at 3.

⁵ Trump Committee & TMAGA Committee Resp. at 7 (Oct. 19, 2020).

⁶ Compl. at 3-4; *Entity Details for American Made Media Consultants, LLC*, STATE OF DEL., DEP’T OF STATE: DIV. OF CORPS., <https://icis.corp.delaware.gov/ecorp/entitysearch/NameSearch.aspx> (last visited Mar. 31, 2022) (enter “American Made Media Consultants” in “Entity Name” field).

⁷ Compl. at 3; *see also Entity Details for American Made Media Holding Corporation, Inc.*, STATE OF DEL., DEP’T OF STATE: DIV. OF CORPS., <https://icis.corp.delaware.gov/ecorp/entitysearch/NameSearch.aspx> (last visited

Trump Committee's Director of Operations, Assistant Treasurer, and Designated Agent as well as the Trump Committee's Chief Financial Officer.⁸ Cannon also served as Special Counsel for the Trump Committee.⁹ AMMHC's principal place of business and AMMC's address were both identified as at the same address as the Trump Committee's compliance firm, Red Curve Solutions.¹⁰

The Trump Committee and AMMC appear to have entered into a contract on May 1, 2018.¹¹ The Trump Committee began reporting disbursements to AMMC made that month related to the 2020 presidential election.¹² Between April 2018 and November 20, 2020, the Trump Committee reported disbursements totaling over \$519 million to AMMC, with over \$308 million disbursed after September 1, 2020.¹³ The reported purposes of the disbursements

Mar. 31, 2022) (enter "American Made Media Holding" in "Entity Name" field). AMMHC is the holding corporation for AMMC and operates exclusively through AMMC. *See* AMMC & AMMHC Resp. at 1. (Nov. 16, 2020).

⁸ Compl. at 3; AMMC & AMMHC Resp., Sean Dollman Decl. ("Dollman Decl.") ¶ 4 (declaring Dollman is Trump campaign CFO); *see also* *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00580100&recipient_name=dollman&min_date=04%2F01%2F2018 (last visited Mar. 31, 2022) (showing that the Trump Committee disclosed \$527,000 in payroll disbursements to Dollman between April 1, 2018 and November 30, 2021).

⁹ Compl. at 6; *see also* Alex Cannon *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00580100&recipient_name=alex+cannon&min_date=04%2F01%2F2018&disbursement_description=payroll (last visited Mar. 31, 2022) (showing that the Trump Committee disclosed \$251,818.30 in payroll disbursements to Cannon between April 1, 2018 and November 30, 2020).

¹⁰ *Compare* Compl., Exs. B, C (listing AMMCH address as "138 Conant St., Beverly, MA"), and Compl., Ex. E (listing AMMC address as "138 Conant St., Beverley, MA), *with* RED CURVE SOLUTIONS, <https://www.redcurve.com/> (last visited Mar. 31, 2022) (listing same address as company "headquarters" in website footer).

¹¹ Trump Committee & TMAGA Committee Resp., Bradley Crate Decl. ("Crate Decl.") ¶¶ 2-3; AMMC & AMMHC Resp., Attach. (attaching contract between Trump Committee and AMMC); Dollman Decl. ¶ 7.

¹² *See* Trump Committee, Amended 2018 July Quarterly Report at 26,955 (Sept. 21, 2018).

¹³ *FEC Disbursements: Filtered Results*, FEC.gov, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00580100&recipient_name=American+Made+Media+Consultants&min_date=04%2F01%2F2018&max_date=11%2F20%2F2020 (last visited Mar. 31, 2022) (reflecting disbursements the Trump Committee made to AMMC between April 1, 2018 and November 20, 2020).

1 included “placed media,” “online advertising,” and “SMS advertising.”¹⁴ Between November
 2 2018 and December 2020, the TMAGA Committee reported over \$255 million in disbursements
 3 to AMMC for purposes including “online advertising.”¹⁵ The RNC reported making one
 4 disbursement to AMMC during the same period in the amount of \$141,211.63 that was reported
 5 as for “list acquisition.”¹⁶ No other federal committees disclosed payments to AMMC.¹⁷ The
 6 Complaint alleges that AMMC does not have a public website.¹⁸

7 The Complainants filed a Supplemental Complaint with the Commission on January 28,
 8 2021, that quotes a subsequent news report stating that “the creation of a campaign shell
 9 company” — AMMC — was “approved” by Trump’s son-in-law, Jared Kushner.¹⁹ According
 10 to the cited article, AMMC made payments to “some of Trump’s top advisors and family
 11 members, while shielding financial and operational details from scrutiny.”²⁰ Trump’s daughter-
 12 in-law, Lara Trump, and Vice President Michael Pence’s nephew, John Pence, both “senior
 13 advisors” to the Trump Committee, reportedly were made president and vice president of

¹⁴ *Id.*; Compl. at 7 (presenting Trump Committee’s reported purposes by percentage of its disbursements to AMMC).

¹⁵ *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00618371&recipient_name=american+made+media+consultants&min_date=04%2F01%2F2018&max_date=12%2F31%2F2020 (last visited: Mar. 31, 2022) (reflecting disbursements the TMAGA Committee made to AMMC between November, 2018 and December 2020).

¹⁶ RNC, 2019 October Monthly Report at 27,344 (Oct. 20, 2019).

¹⁷ *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&recipient_name=American+Made+Media+Consultants, (last visited Mar. 31, 2022) (reflecting all disbursements to AMMC). Additionally, a query of the Commission’s independent expenditure database for AMMC as a payee fails to return any results.

¹⁸ Compl. at 8. None of the responses addresses this allegation, and we were unable to identify any AMMC website.

¹⁹ Supp. Compl. at 3 (Jan. 28, 2021) (citing Tom LoBianco & Dave Levinthal, *Jared Kushner Helped Create a Trump Campaign Shell Company that Secretly Paid the President’s Family Members and Spent \$617 Million in Reelection Cash*, BUS. INSIDER (Dec. 18, 2020), <https://www.businessinsider.com/jared-kushner-trump-campaign-shell-company-family-ammc-lara-2020-12> (“Dec. 18 Business Insider Article”)).

²⁰ Dec. 18 Business Insider Article.

AMMC, respectively, when it was created.²¹ Dollman appears to have served as treasurer, secretary, president, and director of AMMC.²² Cannon reportedly “worked closely to run” AMMC with Kushner, Parscale, and Lara Trump.²³ The Trump Committee’s counsel reportedly suggested that the campaign create a “pass-through company” to purchase television advertisements.²⁴

The Complaint — relying on publicly available information such as Securities and Exchange Commission (“SEC”) filings, Federal Communication Commission (“FCC”) filings, social media ad library archives, and press reports — identifies specific entities that it alleges served as subvendors to AMMC to provide services to the Trump and TMAGA Committees: Phunware, Realtime Media, Opn [*sic*] Sesame, and Harris Sikes Media.²⁵ In their disclosure reports filed with the Commission, the Trump Committee and the TMAGA Committee, with one exception, did not report making payments to these entities from the time AMMC was formed through the 2020 general election.²⁶

²¹ Supp. Compl. at 3, 5.

²² *Id.*; AMMC & AMMHC Resp., Attach. at 6 (showing May 2018 AMMC-Trump Committee contract signed by Dollman, for AMMC, as its “Treasurer and Secretary”); Compl., Exs. E, F (identifying Dollman, on October 2019 FCC filings, as AMMC’s “Director/President/Treasurer” and “Director/President,” respectively).

²³ Tom LoBianco and Dave Levinthal, *A Deputy to Eric Trump Helped Build a Campaign Shell Company to Protect the President from Grift. But the Secretive Operation Morphed into a Mystery — Even for Top Trump Campaign Staffers*, BUS. INSIDER (Dec. 23, 2020), <https://www.businessinsider.com/eric-trump-deputy-kushner-campaign-spending-shell-company-2020-12> (“Dec. 23 Business Insider Article”); *see also* Compl., Ex. E (identifying Cannon, on October 2019 FCC filing, as AMMC’s “Vice President/Secretary”).

²⁴ Dec. 18 Business Insider Article (reporting that counsel compared the strategy to one employed by former presidential candidate Mitt Romney’s campaign).

²⁵ Compl. at 10-18.

²⁶ The Trump Committee reported making one payment, for \$3,061, to Opn Sesame in 2018. Trump Committee, Amended 2018 July Quarterly Report at 27115 (Sept. 21, 2018). *FEC Disbursements: Filtered Results*, FEC.GOV https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00580100&recipient_name=phunware&recipient_name=Realtime+Media&recipient_name=Harris+Sikes+Media&recipient_name=opn+sesame&min_date=04%2F01%2F2018&max_date=11%2F20%2F2020 (showing one disbursement from the Trump Committee to Opn Sesame and none to Phunware, Realtime Media, or Harris Sikes Media); *see also* *FEC Disbursements: Filtered Results*, FEC.GOV https://www.fec.gov/data/disbursements/?data_type=processed&

1 Publicly available information, including Phunware's representations to the SEC,²⁷
 2 indicates that the Trump Committee hired Phunware to create an app for the campaign, and
 3 Parscale is quoted in the media as taking credit for the creation of the app.²⁸ The Complaint
 4 alleges that Realtime Media and Opn Sesame were additional "campaign vendor[s] being paid
 5 through AMMC" and run by the Trump Committee's "digital director," Gary Coby.²⁹ Opn
 6 Sesame is a peer-to-peer text messaging firm; the Trump Committee reported making payments
 7 totaling over \$6 million to AMMC for the purpose of "SMS," an acronym for Short Message
 8 Service, a text message composed of up to 160 alphanumeric characters.³⁰ Harris Sikes Media,
 9 LLC, is reportedly affiliated with National Media, an advertising firm, and Harris Sikes Media
 10 reportedly facilitated many of the Trump Committee's ad buys; the Complaint attaches FCC
 11 filings by Harris Sikes Media signed by "Jon Ferrell, agent of Donald J. Trump for President,

[committee_id=C00618371&recipient_name=Harris+Sikes+Media&recipient_name=Realtime+Media&recipient_name=opn+sesame&recipient_name=phunware&min_date=04%2F01%2F2018&max_date=11%2F20%2F2020](https://www.fec.gov/disclosure/committee_id=C00618371&recipient_name=Harris+Sikes+Media&recipient_name=Realtime+Media&recipient_name=opn+sesame&recipient_name=phunware&min_date=04%2F01%2F2018&max_date=11%2F20%2F2020)
 (showing zero disbursements from the TMAGA Committee to Phunware, Realtime Media, Opn Sesame or Harris Sikes Media).

²⁷ See, e.g., PHUNWARE, INC., CURRENT REPORT (FORM 8-K) (Aug. 14, 2020), Ex. 99.1, <https://www.sec.gov/Archives/edgar/data/0001665300/000162828020012727/phunwareannounces2020s.htm> (highlighting announcement of "Strategic Relationship with American Made Media Consultants for the Trump-Pence 2020 Reelection Campaign's Mobile Application Portfolio"); Compl. at 10 (citing additional Phunware SEC filings detailing business with AMMC in 2019 and 2020).

²⁸ Compl. at 10 (citing Jarrett Renshaw & James Oliphant, *With Rallies Halted and Tweets Fact-Checked, Trump Campaign Turns to Smartphone App*, REUTERS (June 2, 2020), <https://www.reuters.com/article/us-usa-election-trump/with-rallieshalted-and-tweets-fact-checked-trump-campaign-turns-to-smartphone-app-idUSKBN2391FT>); *id.* at 11-12 (citing Dana Bash & Bridget Nolan, *Trump's New Campaign App Gamifies Voter Outreach*, CNN (Apr. 23, 2020), <https://www.cnn.com/2020/04/23/politics/trump-campaign-app/index.html>).

²⁹ *Id.* at 14-15 (citing Gary Coby, LINKEDIN, <https://www.linkedin.com/in/garycoby/> (last visited Mar. 31, 2022)); Alex Thompson, *Politico Playbook Power List 2019: Gary Coby*, POLITICO (2018), <https://www.politico.com/interactives/2018/politico-power-list-2019/gary-coby/>; see also *id.*, Exs. E, F (showing FCC filings for "American Made Media Consultants, LLC/Realtime Media" ad placements for TMAGA).

³⁰ *Id.* at 16-17 (citing *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00580100&recipient_name=american+made+media&disbursement_description=sms (last visited Mar. 31, 2022) (showing all Trump Committee disbursements to AMMC for "SMS" across all election cycles)).

1 Inc.”³¹ The Complaint alleges that the Trump Committee reported payments made during the
 2 2016 election cycle to another National Media affiliate for ad buys, but did not report payments
 3 to Harris Sikes Media from the time of AMMC’s formation through the 2020 general election.³²

4 The Complaint also alleges that the Trump Committee made over \$2.2 million in
 5 payments to Parscale Strategy for “strategy consulting” and “consulting and media services” and
 6 that the TMAGA Committee made almost \$400,000 in payments to Parscale Strategy.³³ News
 7 reports state that Parscale Strategy paid the salaries of some Trump Committee staff, including
 8 Lara Trump, Guilfoyle, and Parscale himself.³⁴ The Trump Committee did not disclose any
 9 disbursements to Lara Trump, Guilfoyle, or Parscale for payroll in the 2020 election cycle.³⁵

10 The Trump Committee and the TMAGA Committee state in their Response (the
 11 “Committees’ Response”) that past campaigns have used “umbrella vendors” like AMMC and
 12 assert that the Commission should find no reason to believe Respondents violated the Act.³⁶ The
 13 Committees’ Response states that AMMC is “a private company run by individuals whom the

³¹ *Id.* at 17-18, Exs. J-K.

³² *Id.* at 18. The Trump Committee reported making approximately \$214,320 in disbursements to Harris Sikes Media, LLC in 2017 for “placed media.” *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00580100&recipient_name=harris+sikes (last visited Mar. 31, 2022) (showing disbursements from Trump Committee to “Harris Sikes”).

³³ Compl. at 19.

³⁴ *Id.* at 20-22.

³⁵ *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00580100&recipient_name=Bradley+Parscale&recipient_name=Guilfoyle&recipient_name=lara+trump (last visited Mar. 31, 2022) (showing that the Trump Committee did not disclose any payroll disbursements to these staff members).

³⁶ Trump Committee & TMAGA Committee Resp. at 2-5.

Campaign knows and trusts” that has worked with the Trump Committee “as a vendor for digital and other media marketing, ad placements, and related vendor services.”³⁷

AMMC and AMMHC (collectively, the “AMMC Respondents”) filed a joint Response asserting that the AMMC Respondents are distinct entities from the Trump Committee and the TMAGA Committee, that AMMC has always had separate counsel, and that “AMMC provides the Campaign with ‘media sub-vendor planning and coordination services.’”³⁸ The AMMC Respondents state that Dollman runs AMMC and “has served as the President, Treasurer, and Secretary of the organization throughout AMMC’s existence.”³⁹ The AMMC/AMMHC Response is silent as to whether, as reported in the press,⁴⁰ AMMC has no other staff or whether other individuals were involved in the creation of AMMC and AMMHC. The AMMC Respondents state that both the Trump Committee and the TMAGA Committee contracted with AMMC.⁴¹ The Trump Committee’s contract with AMMC includes language providing that where Dollman, a Trump Committee staffer, represents AMMC in its dealings with the Trump

³⁷ *Id.* at 5. Respondents Parscale Strategy, Parscale, Lara Trump, Guilfoyle, Kushner, and Pence did not respond to the Complaint or Supplement. Dollman did not respond but did provide a declaration attached to the AMMC/AMMHC Response.

³⁸ AMMC & AMMHC Resp. at 2 (citing AMMC/Trump Committee contract, which is attached to the AMMHC/AMMC Response); *see also* Trump Committee & TMAGA Committee Resp. at 7, Crate Decl. ¶ 2; *compare* Crate Decl. ¶ 4 (quoting contract provision that “[AMMC] shall contract directly with media sub-vendors on behalf of [Respondents]”) (alteration in declaration), *and* Dollman Decl. ¶ 8 (quoting contract provision that “[AMMC] shall contract directly with media sub-vendors on behalf of [the Campaign and the Committee]”) (alteration in declaration), *with* AMMC & AMMHC Resp., Attach., Ex. A (providing that “Vendor shall contract directly with media sub-vendors on behalf of DJTFP”), *and* AMMC & AMMHC Resp., Attach. at 1 (defining “DJTFP” as “Donald J. Trump for President, Inc.”).

³⁹ AMMC & AMMHC Resp. at 2.

⁴⁰ *See supra* notes 19-24.

⁴¹ AMMC & AMMHC Resp. at 2 n.2, Ex. 3 (Decl. of Sean Dollman), Attach. (Trump Committee contract with AMMC).

Committee, the Trump Committee consents to his representation of AMMC and acknowledges that Dollman is considered to be acting on behalf of AMMC in such situations.⁴²

III. LEGAL ANALYSIS

The Act and Commission regulations require political committees to report the name and address of each person to whom they make expenditures or other disbursements aggregating more than \$200 per calendar year, or per election cycle for authorized committees, as well as the date, amount, and purpose of such payments.⁴³ The relevant reporting requirements under the Act and Commission regulations are intended to ensure public disclosure of “where political campaign money comes from and how it is spent.”⁴⁴ Disclosure requirements also “deter[] and help[] expose violations” of the Act and Commission regulations.⁴⁵ The Commission has explained that the reporting of a disbursement payee, in conjunction with the description of purpose of that disbursement, should be sufficient to allow “a person not associated with the committee [to] easily discern why the disbursement was made when reading the name of the recipient and the purpose.”⁴⁶

⁴² *Id.* at 2-3, Decl. of Sean Dollman ¶ 9.

⁴³ 52 U.S.C. § 30104(b)(5), (6); 11 C.F.R. § 104.3(b)(4)(i), (vi) (authorized committees); *id.* § 104.9(a), (b) (all political committees).

⁴⁴ *Buckley v. Valeo*, 424 U.S. 1, 66 (1976); *see also Citizens United v. FEC*, 558 U.S. 310, 369-71 (2010) (describing importance of disclosure requirements to serve informational interest, because “transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages”).

⁴⁵ *SpeechNow.org v. FEC*, 599 F.3d 686, 698 (D.C. Cir. 2010) (en banc); *see also Buckley*, 424 U.S. at 67-68 (explaining that disclosure requirements “deter actual corruption and avoid the appearance of corruption by exposing large contributions and expenditures to the light” and that “recordkeeping, reporting, and disclosure requirements are an essential means of gathering the data necessary to detect violations” of the Act); *McConnell v. FEC*, 540 U.S. 93, 196 (2003) (concurring with the stated government interests in disclosure requirements described in *Buckley* — “providing the electorate with information, deterring actual corruption and avoiding any appearance thereof, and gathering the data necessary to enforce” the Act and Commission regulations).

⁴⁶ Statement of Policy: “Purpose of Disbursement” Entries for Filings with the Commission, 72 Fed. Reg. 887, 888 (Jan. 9, 2007) (“Purpose Statement of Policy”).

A. The Commission Should Find Reason to Believe that the Trump Committee and the TMAGA Committee Failed to Accurately Disclose the Ultimate Payees of Disbursements

The available information and consideration of Commission precedent indicates that the Trump Committee and the TMAGA Committee disclosed a total of \$781,584,527.57 in disbursements to AMMC⁴⁷ in the type of vendor relationship that should have required itemization of AMMC's payments to subvendors. In analyzing an allegation that a committee should have reported the identity of a subvendor, the Commission has applied the analytical framework first laid out in Advisory Opinion 1983-25 (Mondale) ("AO 1983-25"). In AO 1983-25, the Commission found a series of facts and circumstances to be significant in determining that the committee was not required to separately report or itemize payments to its vendor's subvendors: (1) the vendor at issue had a legal existence as a corporation separate and distinct from the operations of the committee; (2) the vendor's principals did not hold any staff positions with the committee; (3) the committee conducted arm's length negotiations with the vendor that resulted in formation of a final contract; (4) the vendor was not required to devote its "full efforts" to the contract and expected to have contracts with other campaigns and entities; and (5) the committee had no interest in the vendor's other contracts.⁴⁸ The Act states that an advisory opinion "rendered by the Commission . . . may be relied upon by . . . any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is

⁴⁷ *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&recipient_name=American+Made+Media+Consultants, (last visited Mar. 31, 2022) (reflecting all disbursements to AMMC). The RNC, a joint fundraising participant in TMAGA, was the only other committee to disclose a disbursement to AMMC. The RNC disclosed a \$141,211.63 disbursement to AMMC on September 27, 2019. *Id.*

⁴⁸ AO 1983-25 at 3.

1 rendered.”⁴⁹ The Act further states that any person who relies on and acts in good faith in
2 accordance with the advisory opinion “shall not, as a result of any such act, be subject to any
3 sanction provided by the [the Act].”⁵⁰

4 The Commission has subsequently applied the AO 1983-25 framework and found reason
5 to believe that committees violated the Act’s reporting requirements in matters where the record
6 suggests facts materially distinguishable from those considered in AO 1983-25, such as when a
7 committee reported a vendor that merely served as a stand-in for payments to another particular
8 recipient the committee avoided disclosing. For instance, in MUR 4872 (Jenkins), a committee
9 directly hired a vendor — Impact Mail — to perform phone bank services on the committee’s
10 behalf. When the committee discovered that David Duke’s name and phone number appeared on
11 caller identification for calls placed by Impact Mail’s phone bank, the committee took measures
12 to conceal its relationship with Impact Mail by routing its payments to Impact Mail through a
13 second vendor, Courtney Communications, and reporting Courtney Communications as the
14 payee on disclosure reports.⁵¹ Although Courtney Communications was a vendor that provided
15 media services for the committee during the period in question, Impact Mail was not a subvendor
16 of Courtney Communications because Courtney Communications “had no involvement
17 whatsoever with the services provided by Impact Mail.”⁵² Its only role was “to serve as a
18 conduit for payment to Impact Mail so as to conceal the transaction with Impact Mail.”⁵³

⁴⁹ 52 U.S.C. § 30108(c).

⁵⁰ *Id.*

⁵¹ Conciliation Agreement at 2-4, MUR 4872 (Jenkins).

⁵² *Id.* at 3-4.

⁵³ *Id.* at 4.

1 Similarly, in MUR 3847 (Stockman), the Commission laid out the facts relevant to its
2 conclusion, in AO 1983-25, that the Mondale committee need not further itemize payments to
3 subvendors, found the Stockman facts distinguishable, and conciliated after finding probable
4 cause to believe that Stockman's committee violated the reporting requirements of the Act by not
5 itemizing payments to subvendors.⁵⁴ Stockman's committee had reported payments to a vendor,
6 which was an unincorporated proprietorship run by two committee officials, for approximately
7 \$470,000 in committee expenses for a variety of purposes, including the costs of at least one
8 "subvendor" who created communications pursuant to a direct contract between the subvendor
9 and the candidate and his committee.⁵⁵ The Commission rested its determination on the facts
10 that the reported vendor's principals held positions with the committee; the vendor was not
11 incorporated; there was no formal contract between the vendor and the committee; the vendor
12 was devoted largely to the committee, worked out of the committee's headquarters, and used its
13 facilities; and the principals of the vendor held themselves out to the public as officials of the
14 committee.⁵⁶ The Commission concluded that under the Act, the committee was required to
15 report the true purpose and recipients of the payments made through the vendor.⁵⁷

16 More recently, in MUR 6800 (Ron Paul 2012), committee officials directly hired Iowa
17 state senator Kent Sorenson and negotiated the terms of his compensation.⁵⁸ Sorenson was
18 compensated through an intermediary — ICT, Inc. — so that the committee could conceal

⁵⁴ See Conciliation Agreement at 6-7, MUR 3847 (Stockman), <https://www.fec.gov/files/legal/murs/3847.pdf> ("Case File PDF") at 1581; Gen. Counsel's Report at 1, MUR 3847 (Stockman), Case File PDF at 1560.

⁵⁵ Amended Certification (Dec. 8, 1997), MUR 3847, Case File PDF at 1539; Gen. Counsel's Brief at 33-37, MUR 3847, Case File PDF at 1416.

⁵⁶ Conciliation Agreement at 6-7, MUR 3847 (Stockman), Case File PDF at 1576.

⁵⁷ Amended Certification (Dec. 8, 1997), MUR 3847, Case File PDF at 1539; Gen. Counsel's Brief at 33-37, MUR 3847, Case File PDF at 1416.

⁵⁸ Factual & Legal Analysis ("F&LA") at 1-6, 10, MUR 6800 (Ron Paul 2012).

1 payments made to him.⁵⁹ Similarly, in MUR 6724 (Bachmann), Bachmann's committee and
 2 Sorenson agreed that he would be paid by the committee through an intermediary — C&M —
 3 that simply added Sorenson's monthly payments to the monthly fees it was already collecting
 4 from the committee.⁶⁰

5 In contrast, in MUR 6510 (Kirk), the Commission found no reason to believe that the
 6 respondent committee failed to adequately report disbursements in connection with payments to
 7 a media firm that subcontracted various media services.⁶¹ Considering the relevant facts outlined
 8 in AO 1983-25, the Commission concluded that the committee did not need to report the media
 9 vendor's payments to the subvendor.⁶² In MUR 6894 (Russell), the respondents reported
 10 payments to a media consulting firm, which purchased media buys on behalf of the
 11 respondents.⁶³ The Commission found that the media consultant separately contracted with the

⁵⁹ *Id.* at 4, 10.

⁶⁰ F&LA at 2-3, MUR 6724 (Bachmann for President); *see* Conciliation Agreement at 2, MUR 6724 (Bachmann for President).

⁶¹ F&LA at 12, MUR 6510 (Kirk for Senate, *et al.*); *cf.* F&LA at 4-6, MUR 6818 (Allen Weh for Senate) (dismissing allegation that committee violated the Act by failing to itemize payments to a payroll company after committee quickly amended reports in response to Requests for Additional Information to include itemization and where committee allegedly intentionally hid said payments).

⁶² F&LA at 12-13, MUR 6510 (Kirk for Senate, *et al.*); *see also* *United States v. Benton*, 890 F.3d 697, 709 (8th Cir. 2018), *cert. denied*, *Benton v. U.S.*, 139 S.Ct. 1318 (2019), *Tate v. U.S.*, 139 S.Ct. 1322 (2019); *Kesari v. U.S.*, 139 S.Ct. 1322 (2019) (noting that in AO 1983-25 and MUR 6510, "the Commission concluded that the vendors and subvendors had provided the services described by the campaign").

⁶³ F&LA at 1-2, MUR 6894 (Steve Russell for Congress); *see also* First Gen. Counsel's Rpt. at 3, MUR 6894 (Steve Russell for Congress) (noting that the payments in question were disbursements made by the media consultant "to a subvendor in connection with services the vendor provided to the Committee").

stations for air time and paid them accordingly, while also receiving commissions from the respondents and concluded that the reporting did not violate the Act.⁶⁴

Here, the available information and the foregoing precedents indicate that the Trump Committee and the TMAGA Committee improperly failed to itemized AMMC's payments to subvendors in connection with their disclosures of more than three quarters of a billion dollars (\$781,584,527.57) in disbursements to AMMC.⁶⁵ The AMMC disbursements by the Trump Committee constituted 69% of its 2019-2020 reported spending.⁶⁶ The AMMC disbursements by the TMAGA Committee constituted 31% of its reported spending during that period and 55% of its reported operating expenditures after subtracting transfers to affiliated committees.⁶⁷ AMMC appears to have a legal existence separate from the Committees, in that it is formally organized as a separate legal entity, like the vendor arrangement in AO 1983-25 that the Commission concluded would not require subvendor itemization. But the available information

⁶⁴ F&LA at 1, MUR 6894 (Steve Russell for Congress).

⁶⁵ *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&recipient_name=American+Made+Media+Consultants, (last visited Mar. 31, 2022) (reflecting all disbursements to AMMC). The RNC, a joint fundraising participant in TMAGA, was the only other committee to disclose a disbursement to AMMC. The RNC disclosed a \$141,211.63 disbursement to AMMC on September 27, 2019. *Id.*

⁶⁶ The 69% figure was derived by dividing the \$516,697,606.57 the Trump Committee disbursed to AMMC in 2019 and 2020 by the Trump Committee's \$752,889,328.62 in total expenditures for the 2020 election cycle. *See FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00580100&recipient_name=American+Made+Media+Consultants&two_year_transaction_period=2020 (last visited Mar. 31, 2022) (reflecting the Trump Committee's disbursements to AMMC for the 2019-2020 cycle); *Make America Great Again Committee: Financial Summary, 2019-2020*, FEC.GOV, <https://www.fec.gov/data/committee/C00580100/?cycle=2020> (last visited Mar. 31, 2022).

⁶⁷ The 31% and 55% figures were derived by dividing the \$255,004,391.03 the TMAGA Committee disbursed to AMMC in 2019 and 2020 by the TMAGA Committee's \$ 833,822,955.34 in total expenditures for the 2019-2020 cycle and the TMAGA Committee's \$461,144,680.67 in total operating expenditures for the 2019-2020 cycle. *See FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00618371&recipient_name=American+Made+Media+Consultants&two_year_transaction_period=2020 (last visited Mar. 31, 2022) (reflecting the TMAGA Committee's disbursements to AMMC for the 2019-2020 cycle); *Trump Make America Great Again Committee: Financial Summary, 2019-2020*, FEC.GOV, <https://www.fec.gov/data/committee/C00618371/?cycle=2020#total-spent> (last visited Mar. 31, 2022).

1 also indicates that AMMC, unlike the vendor arrangement in AO 1983-25, was created by
2 individuals who had staff positions with the Trump Committee, and that these individuals
3 continued in those staff positions while acting as principals of AMMC.⁶⁸ While serving as
4 directors of AMMC, the Trump Committee paid Dollman a \$20,000 monthly salary and Cannon
5 a \$15,000 monthly salary.⁶⁹ Because of the overlap of AMMC principals and Trump Committee
6 officials, AMMC and the Trump Committee do not appear to have negotiated a contract at arm's
7 length. Further, the available information indicates that AMMC was created to serve the needs
8 of the Trump Committee. Its only clients appear to have been the Trump Committee, the
9 TMAGA Committee, and the RNC (for list rental only), three entities which form the TMAGA
10 Committee joint fundraising committee. No other federal committee disclosed payments to
11 AMMC.⁷⁰ AMMC thus appears to have devoted its "full efforts" to the contracts with the
12 Trump and TMAGA Committees, in contrast to the vendor considered in AO 1983-25.

13 The information in this matter is similar to the facts of MUR 3847 (Stockman), where
14 campaign staff created an entity that received substantial disbursements from the campaign
15 committee. The Commission determined in that matter that the facts were distinguishable from
16 the facts in AO 1983-25, because, *inter alia*, there was staff overlap, staff held themselves out as
17 campaign officials, the entity was largely devoted to the campaign, and the entity shared offices
18 with the campaign.⁷¹ Similarly, in the instant matter, the available information indicates that
19 AMMC was run by Alex Cannon, Sean Dollman, Jared Kushner, Bradley J. Parscale, and Lara

⁶⁸ John Pence and Lara Trump reportedly resigned their AMMC board positions in October 2019. *See* Dec. 18 Business Insider Article.

⁶⁹ *See supra* nn. 8-9.

⁷⁰ *Id.*

⁷¹ Conciliation Agreement at 6-7, MUR 3847 (Stockman), Case File PDF at 1576.

Trump — all persons with senior roles on the Trump Committee.⁷² Furthermore, some apparent AMMC subvendors, such as Realtime Media, and Opn Sesame, were themselves owned or controlled by Trump Committee senior staff and it appears that the Trump Committee, not AMMC, hired or directly controlled the provision of services by other subvendors, such as Phunware and Harris Sikes Media, but paid them through AMMC.⁷³ This dynamic is similar to the facts in MUR 6800 (Ron Paul 2012) and MUR 6724 (Bachmann), in which the Commission found that such direct interaction between the committee and the subvendor supported a conclusion that the committees had violated the Act's reporting requirement by not identifying subvendors in their FEC disclosure reports.⁷⁴

The AMMC Respondents assert that because AMMC is a distinct legal entity from the Trump Committee and the TMAGA Committee, with separate contracts with each committee, neither committee was required to report AMMC's payments to subvendors.⁷⁵ The AMMC/AMMHC Response and the Committees' Response further contend that using a separate entity to place substantial media-related payments is something that has been done by past presidential campaigns, citing several examples.⁷⁶ However, the examples cited do not appear to have been the subjects of prior Matters Under Review before the Commission, in contrast to the above-discussed actual precedents including MUR 3847 (Stockman). The Commission has

⁷² See Dec. 23 Business Insider Article; *see also supra nn. 8-9.*

⁷³ See *supra* pages 6-8.

⁷⁴ F&LA at 1-6, 10, MUR 6800 (Ron Paul 2012); F&LA at 2-3, MUR 6724 (Bachmann for President).

⁷⁵ AMMC & AMMHC Resp. at 3-6.

⁷⁶ *Id.* at 4-5; Trump Committee & TMAGA Committee Resp. at 2-4 (referencing the 1984 Reagan campaign and the Tuesday Team, the 1992 Bush campaign and the November Company, the 1996 Clinton campaign and the November 5 Group, the 2004 Bush campaign and Maverick Media, the 2008 and 2012 Obama campaigns and GMMB Inc., the 2012 Romney campaign and American Rambler Productions, LLC., and the 2020 Biden campaign and Media Buying & Analytics LLC).

1 explained in both advisory opinions and enforcement matters the facts it considers relevant
2 (including, but not limited to, a vendor's separate legal status) in determining whether a
3 committee must report its subvendors; this includes AO 1983-25, which concerned Mondale's
4 presidential committee. In accordance with these prior analyses, even assuming that AMMC is
5 distinct, the overlapping staff, exclusive devotion to the efforts of the Committees, and evidence
6 of direct interaction between the Committees and subvendors, taken together, are strongly
7 indicative of the type of direct subvendor relationship that the Commission has previously found
8 a committee is required to disclose.⁷⁷

9 The Committees' Response also contends that this matter is akin to matters in which the
10 Commission found that committees were not required to itemize payments made by a vendor to
11 subvendors used by the vendor in the performance of its contract with the committee, citing,
12 among others, MUR 6510 (Kirk for Senate) and MUR 6894 (Russell for Congress).⁷⁸ The
13 Committees assert that "AMMC provides Respondents with ad placement and other media
14 services that include AMMC directly making media buys on behalf of its clients and that AMMC
15 contracts with subvendors to provide the contracted services."⁷⁹ But AMMC differs from the
16 vendors in MURs 6510 and 6894 with respect to the relationship between the committees,
17 vendors, and subvendors. For example, in MUR 6510, the vendor was unlike AMMC because it
18 was formed as a separate legal entity in 1998, more than a decade prior to the candidate's 2010
19 campaign; had provided media services to a variety of political and other clients, including an

⁷⁷ F&LA at 1-6, 10, MUR 6800 (Ron Paul 2012); F&LA at 2-3, MUR 6724 (Bachmann for President); Conciliation Agreement at 6-7, MUR 3847 (Stockman), Case File PDF at 1581.

⁷⁸ Trump Committee & TMAGA Committee Resp. at 9-10.

⁷⁹ *Id.* at 10.

unrelated campaign during the same election cycle; and did not employ committee staff.⁸⁰

Unlike the media firms in those matters, where the disclosed payee vendors appear to have been established media firms that did not devote their “full efforts” to the respondent committees, and did not appear to have leadership drawn from the committees with which they contracted to provide media services, AMMC does not appear to be similarly separate and distinct, as discussed above. As such, AMMC appears to have served more like a pass-through that is closely analogous to the circumstances the Commission considered in the Stockman MUR.⁸¹

Finally, as to the particular disbursements made by the Trump Committee and the TMAGA Committee to Parscale Strategy that allegedly included salary payments from Parscale Strategy to Trump Committee staff, the Commission has previously concluded that a committee should disclose salary payments to specific, individually identified employees.⁸² The Commission has also determined that reporting the immediate recipient of a disbursement will not satisfy the Act’s reporting requirements when the facts indicate that the recipient is “merely a conduit for the intended recipient of the funds.”⁸³ Although the Trump and TMAGA

⁸⁰ F&LA at 12-13, MUR 6510 (Kirk for Senate, *et al.*) (characterizing facts as materially similar to those in AO 1983-25 before concluding that subvendor did not have to be separately reported). The record in MUR 6894 does not include an allegation that the media vendor was a pass-through entity, or that it was not separate and distinct from the committee.

⁸¹ Amended Certification (Dec. 8, 1997), MUR 3847 (Stockman), Case File PDF at 1539; Gen. Counsel’s Brief at 33-37, MUR 3847, Case File PDF at 1416. The pass-through nature of AMMC is also analogous to a check payment processing vendor who manages the payment of committee funds to other vendors, analyzed by the Commission in an advisory opinion. *See* Advisory Opinion 1983-04 at 1-3 (Cox) (concluding that a check payment processing vendor could be utilized by the committee but still requires reporting of each vendor as it normally would).

⁸² *See* F&LA at 4-6, MUR 6818 (Allen Weh for Senate) (reporting lump-sum disbursements to a committee’s payroll vendor without identifying the individual employees who received salary payment is a violation of the Act); F&LA at 10, MUR 6724 (Bachman for President, *et al.*) (concluding that the committee violated section 30104(b)(5) when it paid a salary through a vendor because the vendor was merely a conduit to conceal the payment).

⁸³ F&LA at 9, MUR 6724 (Bachmann for President, *et al.*).

Committees assert that Guilfoyle and Lara Trump were employees of Parscale Strategy and argue that the Committees need not itemize their vendor's payroll payments,⁸⁴ the Committees' Response does not address the allegations that Guilfoyle and Lara Trump were also employed by the Trump Committee or that Parscale reportedly stated that his firm paid Trump campaign staff.⁸⁵ Reports that payments to Guilfoyle and Lara Trump were made from Parscale Strategy to keep the payments "out of public view,"⁸⁶ make it appear that Parscale Strategy was used a pass-through to conceal the Trump Committee's true recipients, like in the Bachman and Jenkins MURs.⁸⁷ Therefore, the available information indicates that salary payments made by Parscale Strategy on behalf of the Trump Committee to Trump Committee staff should have been reported as salary payments to the ultimate individual payees rather than consulting service payments to Parscale Strategy.

Accordingly, we recommend that the Commission find reason to believe that the Trump Committee violated 52 U.S.C. § 30104(b)(5)(A) by failing to accurately report ultimate payees with regard to disbursements made to AMMC and Parscale Strategy.

For the same reasons that there does not appear to have been an arm's length contractual relationship between AMMC and the Trump Committee, it similarly appears likely that there was not an arm's length contract negotiated between AMMC and the TMAGA Committee given

⁸⁴ Trump Committee & TMAGA Committee Resp. at 11.

⁸⁵ See Compl. at 20 (citing Julie Bykowicz, *Trump's Campaign Machine Has Two-Year Head Start*, WALL ST. J. (Apr. 14, 2019), <https://www.wsj.com/articles/trumps-campaign-machine-has-two-year-head-start-11555243200>).

⁸⁶ Compl. at 38 (quoting Danny Hakim & Glenn Thrush, *How the Trump Campaign Took Over the G.O.P.*, N.Y. TIMES (Mar. 9, 2020), <https://www.nytimes.com/2020/03/09/us/trump-campaign-brad-parscale.html>).

⁸⁷ Moreover, Parscale Strategy, like AMMC, was in a vendor relationship with the Trump Committee distinguishable from that considered in AO 1983-25. Most significantly, the available information indicates that Parscale Strategy, unlike the vendor arrangement in AO 1983-25, was created by an individual who was a senior Trump Committee official and who continued working for the Trump Committee as Campaign Manager while acting as principal of Parscale Strategy.

the joint fundraising relationship between the Trump Committee and the TMAGA Committee. For the reasons discussed above with respect to the Trump Committee, the available information indicates that AMMC exists solely to serve the interests of the Trump Committee, directly and through its joint fundraising TMAGA Committee, and therefore under these circumstances, the TMAGA Committee was required to separately report payments that AMMC made to subvendors, which it did not do. Therefore, we also recommend that the Commission find reason to believe that the TMAGA Committee violated 52 U.S.C. § 30104(b)(5)(A) and 11 C.F.R. § 104.3(b) by failing to accurately report the ultimate payee with regard to disbursements made to AMMC.

B. The Commission Should Find Reason to Believe that the Trump Committee Failed to Accurately Disclose The Purpose of Disbursements To Parscale Strategy

The Act and Commission regulations additionally require political committees to report the purpose of expenditures or other disbursements aggregating more than \$200 per calendar year, or per election cycle for authorized committees.⁸⁸ As discussed above, the relevant reporting requirements under the Act and Commission regulations are intended to ensure public disclosure of how political money is spent.⁸⁹ Commission regulations define “purpose” as a “brief statement or description of why the disbursement was made.”⁹⁰ “The ‘purpose of disbursement’ entry, when considered along with the identity of the disbursement recipient, must

⁸⁸ 52 U.S.C. § 30104(b)(5), (6); 11 C.F.R. § 104.3(b)(3)(i), (ix) (political committees other than authorized committees); *id.* § 104.3(b)(4)(i), (vi) (authorized committees); *id.* § 104.9(a), (b) (all political committees).

⁸⁹ *Buckley v. Valeo*, 424 U.S. 1, 66 (1976); *see also Citizens United*, 558 U.S. at 369-71 (describing importance of disclosure requirements to serve informational interest, because “transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages”).

⁹⁰ 11 C.F.R. § 104.3(b)(3)(i)(A), (B); *id.* § 104.3(b)(4)(i)(A).

be sufficiently specific to make the purpose of the disbursement clear.”⁹¹ The Commission has determined that a purpose description should be sufficient to allow “a person not associated with the committee [to] easily discern why the disbursement was made when reading the name of the recipient and the purpose.”⁹² Examples of sufficient statements of purpose include, but are not limited to, “dinner expenses, media, salary, polling, travel, party fees, phone banks, travel expenses, travel expense reimbursement, and catering costs.”⁹³ In addition to the non-exhaustive list of examples included in the regulation, the Commission has provided guidance that a description of purpose such as “Consultant-Legal” is sufficient for a disbursement to a consultant; the sufficiency of the description is read in context with the name of the payee.⁹⁴ Additional information set forth on the Commission’s website includes “Media” and “Strategy Consulting” as a sufficient description of purpose.⁹⁵

The available information indicates that the Trump Committee failed to accurately report the purpose of payments made to Parscale Strategy. In 2020, the only reported purpose of those disbursements is “strategy consulting.”⁹⁶ In 2019, the reported purposes included “video production services,” “photography services,” and “consulting—management/strategy/

⁹¹ See Purpose Statement of Policy, 72 Fed. Reg. at 887 (citing 11 C.F.R. § 104.3(b)(3)(i)(B), (4)(i)(A)).

⁹² Purpose Statement of Policy, 72 Fed. Reg. at 888.

⁹³ 11 C.F.R. § 104.3(b)(3)(i)(B); *id.* § 104.3(b)(4)(i)(A).

⁹⁴ Purpose Statement of Policy, 72 Fed. Reg. at 888; *see also* FEC, CAMPAIGN GUIDE: CONGRESSIONAL CANDIDATES AND COMMITTEES at 115 (Oct. 2021), <https://www.fec.gov/resources/cms-content/documents/candgui.pdf> (the description of purpose must be sufficiently specific such that it makes clear the reason for the disbursement when considered in conjunction with the payee’s identity).

⁹⁵ *Purposes of Disbursement*, FEC.GOV (last updated Aug. 21, 2018), <https://www.fec.gov/help-candidates-and-committees/purposes-disbursement>; *see also* Purpose Statement of Policy, 72 Fed. Reg. at 888 (indicating that additional guidance will be posted at the URL in this footnote).

⁹⁶ *See FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&recipient_name=parscale+strategy (last visited Mar. 31, 2022) (reflecting all disbursements to Parscale Strategy).

communications/political/digital.”⁹⁷ Lara Trump, Guilfoyle, and others were reportedly paid salaries by Parscale Strategy.⁹⁸ None of the stated purposes at issue in this matter would allow a person unrelated to the campaign to discern from the reported disbursements to Parscale Strategy that salaries were paid to Lara Trump, Guilfoyle, or other campaign staff, but the available record indicates that the reported disbursements to Parscale Strategy were to pay for such salaries.⁹⁹ The Trump Committee’s reports did not disclose any disbursements for salaries paid to Lara Trump or Guilfoyle,¹⁰⁰ but Lara Trump and Guilfoyle appear to have worked for the Trump Committee.¹⁰¹ The Trump Committee reported \$8,162,790.86, in payments to Parscale Strategy none of which were for the stated purpose of payroll or salary.¹⁰² The available information supports an inference that Guilfoyle’s (and others’) Trump Committee salary was paid by Parscale Strategy, which is not apparent from The Trump Committee disclosure reports.

The circumstances here, involving the authorized committee of a presidential candidate making payments to a vendor and in which contemporaneous news reporting compellingly indicated was for a purpose other than as disclosed, are analogous to those considered in MURs

⁹⁷ *Id.*

⁹⁸ See *supra* page 20; Compl. at 21 (citing Danny Hakim & Glenn Thrush, *How the Trump Campaign Took Over the G.O.P.*, N.Y. TIMES (Mar. 9, 2020), <https://www.nytimes.com/2020/03/09/us/trump-campaign-brad-parscale.html> that “[a]ccording to two people with knowledge of the matter, Parscale Strategy has also been used to make payments out of public view to Lara Trump...and Kimberly Guilfoyle”).

⁹⁹ See *supra* page 20; Compl. at 21.

¹⁰⁰ See *supra* n. 35.

¹⁰¹ See *supra* page 20.

¹⁰² See *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&recipient_name=parscale+strategy (last visited Mar. 31, 2022) (reflecting all disbursements from the Trump Committee to Parscale Strategy). Between 2018 and 2020, the TMAGA Committee disclosed an additional \$998,344.80 and a joint fundraiser committee consisting of Make America Great Again PAC, the RNC, and 45 state republican committees plus one for the District of Columbia, the Trump Victory Committee, disclosed \$701,319.72 to Parscale Strategy. See *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&recipient_name=parscale+strategy, (last visited Mar. 31, 2022) (reflecting all disbursements to Parscale Strategy).

7291 and 7449 (DNC Services Corp., *et al.*), which were recently conciliated by the Commission.¹⁰³ In MURs 7291 and 7449, it was alleged that two committees, the Democratic National Committee and Hillary for America, made payments to a law firm for the reported purpose of “legal services” but in fact appeared to have been pass-through payments for opposition research conducted by a subvendor, Fusion GPS.¹⁰⁴ Here, analogously, the payments to Parscale Strategy for what appears to have been for salary payments to various Trump Committee staff, appear to have been incorrectly disclosed in FEC disclosure reports as “strategy consulting” (2020) or “video production services,” “photography services,” and “consulting—management/strategy/ communications/political/digital” (2019).¹⁰⁵ Accordingly, we recommend that the Commission find reason to believe that the Trump Committee violated 52 U.S.C. § 30104(b)(5)(A) and 11 C.F.R. § 104.3(b) by misreporting the purpose of disbursements made to Parscale Strategy for what appear to have been payments for Trump Committee staff salaries.¹⁰⁶

The Complaint alleges that the Trump Committee also failed to accurately report the purpose of payments made to AMMC.¹⁰⁷ The available information does not indicate whether

¹⁰³ F&LA at 8, MURs 7291, 7449 (DNC Services Corp., *et al.*).

¹⁰⁴ Conciliation Agreement & Cert. ¶¶ 1-2 (Feb. 17, 2022), MURs 7291 and 7449 (DNC Services Corp., *et al.*). These matters involved an issue, not presented here, that the payments to the law firm implicated the various privileges claimed by the respondents in that matter. *See* Conciliation Agreement ¶IV.7, MURs 7291 and 7449 (DNC Services Corp., *et al.*).

¹⁰⁵ *See FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&recipient_name=parscale+strategy (last visited Mar. 31, 2022) (reflecting all disbursements to Parscale Strategy).

¹⁰⁶ *See* F&LA, MURs 7291 and 7449 (DNC Services Corp., *et al.*) (finding reason to believe that respondent committees failed to properly report the purpose of over \$1 million in disbursements to vendor); *accord* First Gen. Counsel's Rpt.,

¹⁰⁷ Compl. at 35 n.122 (“Moreover, CLC cannot discern the amounts paid to Phunware, Realtime Media, Opn Sesame, and Harris Sikes Media, nor can it discern the nature or purpose of all such payments.”).

1 the Trump Committee failed to accurately report the purpose of the payments to AMMC's
2 subvendors such as Phunware, Realtime Media, Opn Sesame, and Harris Sikes Media. The
3 Trump Committee used varying purpose descriptions such as "SMS advertising," "placed
4 media," "video production services," and "software services." Without knowing which
5 expenditure correspondents to which subvendor we are unable to determine whether these
6 purpose descriptions are accurate. Therefore, we recommend that the Commission take no
7 action at this time regarding the allegation that the Trump Committee violated 52 U.S.C.
8 § 30104(b)(5)(A) and 11 C.F.R. § 104.3(b) by misreporting the purpose of disbursements made
9 to AMMC.

10 **C. Other Respondents**

11 We recommend that the Commission find no reason to believe that AMMC, AMMHC,
12 Parscale Strategy, Guilfoyle, Parscale, and Lara Trump, as intermediate or ultimate payees of
13 payments from the Trump Committee and TMAGA Committee, violated the Act with respect to
14 the allegations raised by the Complaint. Because the Act's reporting requirements at issue apply
15 only to political committees and committee treasurers, we recommend that the Commission find
16 no reason to believe that these respondents violated 52 U.S.C. § 30104(b)(5)(A) and 11 C.F.R.
17 § 104.3(b).

18 We further recommend that the Commission find no reason to believe that Dollman,
19 Kushner, Lara Trump, and Pence violated the Act in relation to their dual involvement in both
20 the Committees and AMMC/AMMHC, because the Act's reporting requirements at issue apply
21 only to political committees and committee treasurers.

IV. PROPOSED INVESTIGATION

In order to determine whether the Committees failed to accurately report payees and purposes, we would investigate the relationships between the Committees, the vendors, and the subvendors. This would include seeking facts relevant to an analysis of the contractual agreements between the entities and their staff, an analysis of who was making the decisions for these entities, and a review of whether the vendors or subvendors did in fact pay the Committee's staff salaries, for what purpose and in what amounts, and what purpose the vendors served in the relationship between the subvendors and the Committees. This targeted investigation would shed additional light on the allegations. We will seek to conduct our investigation through voluntary means but recommend that the Commission authorize the use of compulsory process as necessary.

IV. RECOMMENDATIONS

1. Find reason to believe that the Make America Great Again PAC f/k/a Donald J. Trump for President and Bradley T. Crate in his official capacity as treasurer violated 52 U.S.C. § 30104(b)(5)(A) and 11 C.F.R. § 104.3(b) by misreporting the payees of payments made to America Made Media Consultants, LLC., and Parscale Strategy, LLC;
2. Find reason to believe that the Trump Make America Great Again Committee and Bradly T. Crate in his official capacity as treasurer violated 52 U.S.C. § 30104(b)(5)(A) and 11 C.F.R. § 104.3(b) by misreporting the payees of payments made to America Made Media Consultants, LLC;
3. Find reason to believe that the Make America Great Again PAC f/k/a Donald J. Trump for President and Bradley T. Crate in his official capacity as treasurer violated 52 U.S.C. § 30104(b)(5)(A) and 11 C.F.R. § 104.3(b) by misreporting the purpose of payments made to Parscale Strategy;
4. Take no action at this time with regard to whether the Make America Great Again PAC f/k/a Donald J. Trump for President and Bradley T. Crate in his official capacity as treasurer violated 52 U.S.C. § 30104(b)(5)(A) and 11 C.F.R. § 104.3(b) by misreporting the purpose of payments made to America Made Media Consultants, LLC;

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5. Find no reason to believe the allegation that American Made Media Holding Corporation, Inc., America Made Media Consultants, LLC, Parscale Strategy, LLC, Sean Dollman, Kimberly Guilfoyle, Jared Kushner, Bradley Parscale, John Pence, and Lara Trump violated 52 U.S.C. § 30104(b)(5)(A) and 11 C.F.R. § 104.3(b) and close the file as to these Respondents;
6. Approve the attached Factual and Legal Analyses;
7. Authorize compulsory process; and
8. Approve the appropriate letters.

Lisa J. Stevenson
Acting General Counsel

April 6, 2022
Date

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FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: Make America Great Again PAC MUR 7784
f/k/a Donald J. Trump for President, Inc.
and Bradley T. Crate in his official capacity
as treasurer
Trump Make America Great Again Committee
and Bradley T. Crate in his official capacity
as treasurer

I. INTRODUCTION

The Complaint alleges that Make America Great Again PAC f/k/a Donald J. Trump for President, Inc. and Bradley T. Crate in his official capacity as treasurer (the “Trump Committee”) and Trump Make America Great Again Committee and Bradley T. Crate in his official capacity as treasurer (the “TMAGA Committee”) (collectively, the “Committees”) violated the Federal Election Campaign Act of 1971, as amended (the “Act”), and Commission regulations by misreporting hundreds of millions of dollars in payments to two vendors — American Made Media Consultants, LLC (“AMMC”), and Parscale Strategy, LLC (“Parscale Strategy”) — controlled by campaign staff. Specifically, the Complaint alleges that the vendors were used as what the Complaint characterizes as “conduits” to conceal payments that were made by the vendors to the ultimate payees or subvendors.

As discussed below, the available information indicates, *inter alia*, that despite appearing to be a separate legal entity, AMMC shared staff with the Committees, was devoted to their purposes, and served to make payments for work performed by subvendors who worked directly for the Committees; it also shows that Parscale Strategies made salary payments to Trump Committee staff without disclosing that purpose. Accordingly, the Commission finds:

(1) reason to believe that the Trump Committee violated 52 U.S.C. § 30104(b)(5)(A) and 11 C.F.R. § 104.3(b) by misreporting the payee of payments made to AMMC and Parscale

1 Strategy; (2) reason to believe that the TMAGA Committee violated 52 U.S.C. § 30104(b)(5)
2 and 11 C.F.R. § 104.3(b) by misreporting the payee of payments made to AMMC; and (3) reason
3 to believe that the Trump Committee violated 52 U.S.C. § 30104(b)(5)(A) and 11 C.F.R.
4 § 104.3(b) by misreporting the purpose of payments made to Parscale Strategy.

5 II. FACTUAL BACKGROUND

6 The Trump Committee was the principal campaign committee for 2020 presidential
7 candidate Donald J. Trump.¹ The TMAGA Committee is a joint fundraising committee
8 consisting of the Trump Committee, Save America,² and the Republican National Committee
9 (the “RNC”).³ Bradley J. Parscale was the Trump Committee’s Campaign Manager from
10 February 2018 until July 15, 2020, and he subsequently served as its Senior Campaign Adviser
11 for Data and Digital Operations.⁴ Parscale founded Parscale Strategy in 2017.⁵

12 AMMC was registered in Delaware on April 19, 2018.⁶ AMMHC was registered in
13 Delaware on April 18, 2018, by Sean Dollman and Alex Cannon.⁷ Dollman also served as the

¹ Compl. at 3 (July 28, 2020); Donald J. Trump for President, Amended Statement of Organization (Mar. 4, 2020). After the Complaint was filed in this matter, Donald J. Trump for President changed its name to Make America Great Again PAC. Make America Great Again PAC, Amended Statement of Organization (Feb. 27, 2021). Therefore, the Commission makes findings as to Make America Great Again PAC f/k/a Donald J. Trump for President.

² Save America is a leadership PAC sponsored by Trump Make America Great Again Committee that was added to the joint fundraising committee after the 2020 election. *See* Save America, Statement of Organization (Nov. 9, 2020).

³ Compl. at 3; Trump Make America Great Again Committee, Amended Statement of Organization (Nov. 18, 2020).

⁴ Compl. at 3.

⁵ Trump Committee & TMAGA Committee Resp. at 7 (Oct. 19, 2020).

⁶ Compl. at 3-4; *Entity Details for American Made Media Consultants, LLC*, STATE OF DEL., DEP’T OF STATE: DIV. OF CORPS., <https://icis.corp.delaware.gov/ecorp/entitysearch/NameSearch.aspx> (last visited Mar. 31, 2022) (enter “American Made Media Consultants” in “Entity Name” field).

⁷ Compl. at 3; *see also Entity Details for American Made Media Holding Corporation, Inc.*, STATE OF DEL., DEP’T OF STATE: DIV. OF CORPS., <https://icis.corp.delaware.gov/ecorp/entitysearch/NameSearch.aspx> (last visited

Trump Committee’s Director of Operations, Assistant Treasurer, and Designated Agent as well as the Trump Committee’s Chief Financial Officer.⁸ Cannon also served as Special Counsel for the Trump Committee.⁹ AMMHC’s principal place of business and AMMC’s address were both identified as at the same address as the Trump Committee’s compliance firm, Red Curve Solutions.¹⁰

The Trump Committee and AMMC appear to have entered into a contract on May 1, 2018.¹¹ The Trump Committee began reporting disbursements to AMMC made that month related to the 2020 presidential election.¹² Between April 2018 and November 20, 2020, the Trump Committee reported disbursements totaling over \$519 million to AMMC, with over \$308 million disbursed after September 1, 2020.¹³ The reported purposes of the disbursements

Mar. 31, 2022) (enter “American Made Media Holding” in “Entity Name” field). Information available to the Commission indicates that AMMHC is the holding corporation for AMMC and operates exclusively through AMMC.

⁸ Compl. at 3; *see also* *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00580100&recipient_name=dollman&min_date=04%2F01%2F2018 (last visited Mar. 31, 2022) (showing that the Trump Committee disclosed \$527,000 in payroll disbursements to Dollman between April 1, 2018 and November 30, 2021).

⁹ Compl. at 6; *see also* *Alex Cannon FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00580100&recipient_name=alex+cannon&min_date=04%2F01%2F2018&disbursement_description=payroll (last visited Mar. 31, 2022) (showing that the Trump Committee disclosed \$251,818.30 in payroll disbursements to Cannon between April 1, 2018 and November 30, 2020).

¹⁰ *Compare* Compl., Exs. B, C (listing AMMCH address as “138 Conant St., Beverly, MA”), and Compl., Ex. E (listing AMMC address as “138 Conant St., Beverley, MA), *with* RED CURVE SOLUTIONS, <https://www.redcurve.com/> (last visited Mar. 31, 2022) (listing same address as company “headquarters” in website footer).

¹¹ Trump Committee & TMAGA Committee Resp., Bradley Crate Decl. (“Crate Decl.”) ¶¶ 2-3.

¹² *See* Trump Committee, Amended 2018 July Quarterly Report at 26,955 (Sept. 21, 2018).

¹³ *FEC Disbursements: Filtered Results*, FEC.gov, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00580100&recipient_name=American+Made+Media+Consultants&min_date=04%2F01%2F2018&max_date=11%2F20%2F2020 (last visited Mar. 31, 2022) (reflecting disbursements the Trump Committee made to AMMC between April 1, 2018 and November 20, 2020).

1 included “placed media,” “online advertising,” and “SMS advertising.”¹⁴ Between November
2 2018 and December 2020, the TMAGA Committee reported over \$255 million in disbursements
3 to AMMC for purposes including “online advertising.”¹⁵ The RNC reported making one
4 disbursement to AMMC during the same period in the amount of \$141,211.63 that was reported
5 as for “list acquisition.”¹⁶ No other federal committees disclosed payments to AMMC.¹⁷ The
6 Complaint alleges that AMMC does not have a public website.¹⁸

7 The Complainants filed a Supplemental Complaint with the Commission on January 28,
8 2021, that quotes a subsequent news report stating that “the creation of a campaign shell
9 company” — AMMC — was “approved” by Trump’s son-in-law, Jared Kushner.¹⁹ According
10 to the cited article, AMMC made payments to “some of Trump’s top advisors and family
11 members, while shielding financial and operational details from scrutiny.”²⁰ Trump’s daughter-
12 in-law, Lara Trump, and Vice President Michael Pence’s nephew, John Pence, both “senior
13 advisors” to the Trump Committee, reportedly were made president and vice president of

¹⁴ *Id.*; Compl. at 7 (presenting Trump Committee’s reported purposes by percentage of its disbursements to AMMC).

¹⁵ *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00618371&recipient_name=american+made+media+consultants&min_date=04%2F01%2F2018&max_date=12%2F31%2F2020 (last visited: Mar. 31, 2022) (reflecting disbursements the TMAGA Committee made to AMMC between November, 2018 and December 2020).

¹⁶ RNC, 2019 October Monthly Report at 27,344 (Oct. 20, 2019).

¹⁷ *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&recipient_name=American+Made+Media+Consultants, (last visited Mar. 31, 2022) (reflecting all disbursements to AMMC). Additionally, a query of the Commission’s independent expenditure database for AMMC as a payee fails to return any results.

¹⁸ Compl. at 8. None of the responses addresses this allegation, and the Commission is unable to identify any AMMC website.

¹⁹ Supp. Compl. at 3 (Jan. 28, 2021) (citing Tom LoBianco & Dave Levinthal, *Jared Kushner Helped Create a Trump Campaign Shell Company that Secretly Paid the President’s Family Members and Spent \$617 Million in Reelection Cash*, BUS. INSIDER (Dec. 18, 2020), <https://www.businessinsider.com/jared-kushner-trump-campaign-shell-company-family-ammc-lara-2020-12> (“Dec. 18 Business Insider Article”).

²⁰ Dec. 18 Business Insider Article.

AMMC, respectively, when it was created.²¹ Dollman appears to have served as treasurer, secretary, president, and director of AMMC.²² Cannon reportedly “worked closely to run” AMMC with Kushner, Parscale, and Lara Trump.²³ The Trump Committee’s counsel reportedly suggested that the campaign create a “pass-through company” to purchase television advertisements.²⁴

The Complaint — relying on publicly available information such as Securities and Exchange Commission (“SEC”) filings, Federal Communication Commission (“FCC”) filings, social media ad library archives, and press reports — identifies specific entities that it alleges served as subvendors to AMMC to provide services to the Trump and TMAGA Committees: Phunware, Realtime Media, Opn [*sic*] Sesame, and Harris Sikes Media.²⁵ In their disclosure reports filed with the Commission, the Trump Committee and the TMAGA Committee, with one exception, did not report making payments to these entities from the time AMMC was formed through the 2020 general election.²⁶

²¹ Supp. Compl. at 3, 5.

²² *Id.*; Compl., Exs. E, F (identifying Dollman, on October 2019 FCC filings, as AMMC’s “Director/President/Treasurer” and “Director/President,” respectively).

²³ Tom LoBianco and Dave Levinthal, *A Deputy to Eric Trump Helped Build a Campaign Shell Company to Protect the President from Grift. But the Secretive Operation Morphed into a Mystery — Even for Top Trump Campaign Staffers*, BUS. INSIDER (Dec. 23, 2020), <https://www.businessinsider.com/eric-trump-deputy-kushner-campaign-spending-shell-company-2020-12> (“Dec. 23 Business Insider Article”); *see also* Compl., Ex. E (identifying Cannon, on October 2019 FCC filing, as AMMC’s “Vice President/Secretary”).

²⁴ Dec. 18 Business Insider Article (reporting that counsel compared the strategy to one employed by former presidential candidate Mitt Romney’s campaign).

²⁵ Compl. at 10-18.

²⁶ The Trump Committee reported making one payment, for \$3,061, to Opn Sesame in 2018. Trump Committee, Amended 2018 July Quarterly Report at 27115 (Sept. 21, 2018). *FEC Disbursements: Filtered Results*, FEC.GOV https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00580100&recipient_name=phunware&recipient_name=Realtime+Media&recipient_name=Harris+Sikes+Media&recipient_name=opn+sesame&min_date=04%2F01%2F2018&max_date=11%2F20%2F2020 (showing one disbursement from the Trump Committee to Opn Sesame and none to Phunware, Realtime Media, or Harris Sikes Media); *see also* *FEC Disbursements: Filtered Results*, FEC.GOV https://www.fec.gov/data/disbursements/?data_type=processed&

1 Publicly available information, including Phunware’s representations to the SEC,²⁷
 2 indicates that the Trump Committee hired Phunware to create an app for the campaign, and
 3 Parscale is quoted in the media as taking credit for the creation of the app.²⁸ The Complaint
 4 alleges that Realtime Media and Opn Sesame were additional “campaign vendor[s] being paid
 5 through AMMC” and run by the Trump Committee’s “digital director,” Gary Coby.²⁹ Opn
 6 Sesame is a peer-to-peer text messaging firm; the Trump Committee reported making payments
 7 totaling over \$6 million to AMMC for the purpose of “SMS,” an acronym for Short Message
 8 Service, a text message composed of up to 160 alphanumeric characters.³⁰ Harris Sikes Media,
 9 LLC, is reportedly affiliated with National Media, an advertising firm, and Harris Sikes Media
 10 reportedly facilitated many of the Trump Committee’s ad buys; the Complaint attaches FCC
 11 filings by Harris Sikes Media signed by “Jon Ferrell, agent of Donald J. Trump for President,

[committee_id=C00618371&recipient_name=Harris+Sikes+Media&recipient_name=Realtime+Media&recipient_name=opn+sesame&recipient_name=phunware&min_date=04%2F01%2F2018&max_date=11%2F20%2F2020](https://www.fec.gov/disclosure/committee_id=C00618371&recipient_name=Harris+Sikes+Media&recipient_name=Realtime+Media&recipient_name=opn+sesame&recipient_name=phunware&min_date=04%2F01%2F2018&max_date=11%2F20%2F2020)
 (showing zero disbursements from the TMAGA Committee to Phunware, Realtime Media, Opn Sesame or Harris Sikes Media).

²⁷ See, e.g., PHUNWARE, INC., CURRENT REPORT (FORM 8-K) (Aug. 14, 2020), Ex. 99.1, <https://www.sec.gov/Archives/edgar/data/0001665300/000162828020012727/phunwareannounces2020s.htm> (highlighting announcement of “Strategic Relationship with American Made Media Consultants for the Trump-Pence 2020 Reelection Campaign’s Mobile Application Portfolio”); Compl. at 10 (citing additional Phunware SEC filings detailing business with AMMC in 2019 and 2020).

²⁸ Compl. at 10 (citing Jarrett Renshaw & James Oliphant, *With Rallies Halted and Tweets Fact-Checked, Trump Campaign Turns to Smartphone App*, REUTERS (June 2, 2020), <https://www.reuters.com/article/us-usa-election-trump/with-rallieshalted-and-tweets-fact-checked-trump-campaign-turns-to-smartphone-app-idUSKBN2391FT>); *id.* at 11-12 (citing Dana Bash & Bridget Nolan, *Trump’s New Campaign App Gamifies Voter Outreach*, CNN (Apr. 23, 2020), <https://www.cnn.com/2020/04/23/politics/trump-campaign-app/index.html>).

²⁹ *Id.* at 14-15 (citing Gary Coby, LINKEDIN, <https://www.linkedin.com/in/garycoby/> (last visited Mar. 31, 2022); Alex Thompson, *Politico Playbook Power List 2019: Gary Coby*, POLITICO (2018), <https://www.politico.com/interactives/2018/politico-power-list-2019/gary-coby/>); see also *id.*, Exs. E, F (showing FCC filings for “American Made Media Consultants, LLC/Realtime Media” ad placements for TMAGA).

³⁰ *Id.* at 16-17 (citing *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00580100&recipient_name=american+made+media&disbursement_description=sms (last visited Mar. 31, 2022) (showing all Trump Committee disbursements to AMMC for “SMS” across all election cycles)).

Inc.”³¹ The Complaint alleges that the Trump Committee reported payments made during the 2016 election cycle to another National Media affiliate for ad buys, but did not report payments to Harris Sikes Media from the time of AMMC’s formation through the 2020 general election.³²

The Complaint also alleges that the Trump Committee made over \$2.2 million in payments to Parscale Strategy for “strategy consulting” and “consulting and media services” and that the TMAGA Committee made almost \$400,000 in payments to Parscale Strategy.³³ News reports state that Parscale Strategy paid the salaries of some Trump Committee staff, including Lara Trump, Guilfoyle, and Parscale himself.³⁴ The Trump Committee did not disclose any disbursements to Lara Trump, Guilfoyle, or Parscale for payroll in the 2020 election cycle.³⁵

The Trump Committee and the TMAGA Committee state in their Response (the “Committees’ Response”) that past campaigns have used “umbrella vendors” like AMMC and assert that the Commission should find no reason to believe Respondents violated the Act.³⁶ The Committees’ Response states that AMMC is “a private company run by individuals whom the

³¹ *Id.* at 17-18, Exs. J-K.

³² *Id.* at 18. The Trump Committee reported making approximately \$214,320 in disbursements to Harris Sikes Media, LLC in 2017 for “placed media.” *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00580100&recipient_name=harris+sikes (last visited Mar. 31, 2022) (showing disbursements from Trump Committee to “Harris Sikes”).

³³ Compl. at 19.

³⁴ *Id.* at 20-22.

³⁵ *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00580100&recipient_name=Bradley+Parscale&recipient_name=Guilfoyle&recipient_name=lara+trump (last visited Mar. 31, 2022) (showing that the Trump Committee did not disclose any payroll disbursements to these staff members).

³⁶ Trump Committee & TMAGA Committee Resp. at 2-5.

Campaign knows and trusts” that has worked with the Trump Committee “as a vendor for digital and other media marketing, ad placements, and related vendor services.”³⁷

III. LEGAL ANALYSIS

The Act and Commission regulations require political committees to report the name and address of each person to whom they make expenditures or other disbursements aggregating more than \$200 per calendar year, or per election cycle for authorized committees, as well as the date, amount, and purpose of such payments.³⁸ The relevant reporting requirements under the Act and Commission regulations are intended to ensure public disclosure of “where political campaign money comes from and how it is spent.”³⁹ Disclosure requirements also “deter[] and help[] expose violations” of the Act and Commission regulations.⁴⁰ The Commission has explained that the reporting of a disbursement payee, in conjunction with the description of purpose of that disbursement, should be sufficient to allow “a person not associated with the

³⁷ *Id.* at 5. Respondents Parscale Strategy, Parscale, Lara Trump, Guilfoyle, Kushner, and Pence did not respond to the Complaint or Supplement. Dollman did not respond but did provide a declaration attached to the AMMC/AMMHC Response.

³⁸ 52 U.S.C. § 30104(b)(5), (6); 11 C.F.R. § 104.3(b)(4)(i), (vi) (authorized committees); *id.* § 104.9(a), (b) (all political committees).

³⁹ *Buckley v. Valeo*, 424 U.S. 1, 66 (1976); *see also Citizens United v. FEC*, 558 U.S. 310, 369-71 (2010) (describing importance of disclosure requirements to serve informational interest, because “transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages”).

⁴⁰ *SpeechNow.org v. FEC*, 599 F.3d 686, 698 (D.C. Cir. 2010) (en banc); *see also Buckley*, 424 U.S. at 67-68 (explaining that disclosure requirements “deter actual corruption and avoid the appearance of corruption by exposing large contributions and expenditures to the light” and that “recordkeeping, reporting, and disclosure requirements are an essential means of gathering the data necessary to detect violations” of the Act); *McConnell v. FEC*, 540 U.S. 93, 196 (2003) (concurring with the stated government interests in disclosure requirements described in *Buckley* — “providing the electorate with information, deterring actual corruption and avoiding any appearance thereof, and gathering the data necessary to enforce” the Act and Commission regulations).

committee [to] easily discern why the disbursement was made when reading the name of the recipient and the purpose.”⁴¹

A. The Commission Finds Reason to Believe that the Trump Committee and the TMAGA Committee Failed to Accurately Disclose the Ultimate Payees of Disbursements

The available information and consideration of Commission precedent indicates that the Trump Committee and the TMAGA Committee disclosed a total of \$781,584,527.57 in disbursements to AMMC⁴² in the type of vendor relationship that should have required itemization of AMMC’s payments to subvendors. In analyzing an allegation that a committee should have reported the identity of a subvendor, the Commission has applied the analytical framework first laid out in Advisory Opinion 1983-25 (Mondale) (“AO 1983-25”). In AO 1983-25, the Commission found a series of facts and circumstances to be significant in determining that the committee was not required to separately report or itemize payments to its vendor’s subvendors: (1) the vendor at issue had a legal existence as a corporation separate and distinct from the operations of the committee; (2) the vendor’s principals did not hold any staff positions with the committee; (3) the committee conducted arm’s length negotiations with the vendor that resulted in formation of a final contract; (4) the vendor was not required to devote its “full efforts” to the contract and expected to have contracts with other campaigns and entities; and (5) the committee had no interest in the vendor’s other contracts.⁴³ The Act states that an

⁴¹ Statement of Policy: “Purpose of Disbursement” Entries for Filings with the Commission, 72 Fed. Reg. 887, 888 (Jan. 9, 2007) (“Purpose Statement of Policy”).

⁴² *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&recipient_name=American+Made+Media+Consultants, (last visited Mar. 31, 2022) (reflecting all disbursements to AMMC). The RNC, a joint fundraising participant in TMAGA, was the only other committee to disclose a disbursement to AMMC. The RNC disclosed a \$141,211.63 disbursement to AMMC on September 27, 2019. *Id.*

⁴³ AO 1983-25 at 3.

1 advisory opinion “rendered by the Commission . . . may be relied upon by . . . any person
2 involved in any specific transaction or activity which is indistinguishable in all its material
3 aspects from the transaction or activity with respect to which such advisory opinion is
4 rendered.”⁴⁴ The Act further states that any person who relies on and acts in good faith in
5 accordance with the advisory opinion “shall not, as a result of any such act, be subject to any
6 sanction provided by the [the Act].”⁴⁵

7 The Commission has subsequently applied the AO 1983-25 framework and found reason
8 to believe that committees violated the Act’s reporting requirements in matters where the record
9 suggests facts materially distinguishable from those considered in AO 1983-25, such as when a
10 committee reported a vendor that merely served as a stand-in for payments to another particular
11 recipient the committee avoided disclosing. For instance, in MUR 4872 (Jenkins), a committee
12 directly hired a vendor — Impact Mail — to perform phone bank services on the committee’s
13 behalf. When the committee discovered that David Duke’s name and phone number appeared on
14 caller identification for calls placed by Impact Mail’s phone bank, the committee took measures
15 to conceal its relationship with Impact Mail by routing its payments to Impact Mail through a
16 second vendor, Courtney Communications, and reporting Courtney Communications as the
17 payee on disclosure reports.⁴⁶ Although Courtney Communications was a vendor that provided
18 media services for the committee during the period in question, Impact Mail was not a subvendor
19 of Courtney Communications because Courtney Communications “had no involvement

⁴⁴ 52 U.S.C. § 30108(c).

⁴⁵ *Id.*

⁴⁶ Conciliation Agreement at 2-4, MUR 4872 (Jenkins).

1 whatsoever with the services provided by Impact Mail.”⁴⁷ Its only role was “to serve as a
2 conduit for payment to Impact Mail so as to conceal the transaction with Impact Mail.”⁴⁸

3 Similarly, in MUR 3847 (Stockman), the Commission laid out the facts relevant to its
4 conclusion, in AO 1983-25, that the Mondale committee need not further itemize payments to
5 subvendors, found the Stockman facts distinguishable, and conciliated after finding probable
6 cause to believe that Stockman’s committee violated the reporting requirements of the Act by not
7 itemizing payments to subvendors.⁴⁹ Stockman’s committee had reported payments to a vendor,
8 which was an unincorporated proprietorship run by two committee officials, for approximately
9 \$470,000 in committee expenses for a variety of purposes, including the costs of at least one
10 “subvendor” who created communications pursuant to a direct contract between the subvendor
11 and the candidate and his committee.⁵⁰ The Commission rested its determination on the facts
12 that the reported vendor’s principals held positions with the committee; the vendor was not
13 incorporated; there was no formal contract between the vendor and the committee; the vendor
14 was devoted largely to the committee, worked out of the committee’s headquarters, and used its
15 facilities; and the principals of the vendor held themselves out to the public as officials of the
16 committee.⁵¹ The Commission concluded that under the Act, the committee was required to
17 report the true purpose and recipients of the payments made through the vendor.⁵²

⁴⁷ *Id.* at 3-4.

⁴⁸ *Id.* at 4.

⁴⁹ See Conciliation Agreement at 6-7, MUR 3847 (Stockman), <https://www.fec.gov/files/legal/murs/3847.pdf>
 (“Case File PDF”) at 1581; Gen. Counsel’s Report at 1, MUR 3847 (Stockman), Case File PDF at 1560.

⁵⁰ Amended Certification (Dec. 8, 1997), MUR 3847, Case File PDF at 1539; Gen. Counsel’s Brief at 33-37,
 MUR 3847, Case File PDF at 1416.

⁵¹ Conciliation Agreement at 6-7, MUR 3847 (Stockman), Case File PDF at 1576.

⁵² Amended Certification (Dec. 8, 1997), MUR 3847, Case File PDF at 1539; Gen. Counsel’s Brief at 33-37,
 MUR 3847, Case File PDF at 1416.

1 More recently, in MUR 6800 (Ron Paul 2012), committee officials directly hired Iowa
2 state senator Kent Sorenson and negotiated the terms of his compensation.⁵³ Sorenson was
3 compensated through an intermediary — ICT, Inc. — so that the committee could conceal
4 payments made to him.⁵⁴ Similarly, in MUR 6724 (Bachmann), Bachmann’s committee and
5 Sorenson agreed that he would be paid by the committee through an intermediary — C&M —
6 that simply added Sorenson’s monthly payments to the monthly fees it was already collecting
7 from the committee.⁵⁵

8 In matters where the Commission has considered the relevant facts outlined in AO 1983-
9 25, but found no reason to believe that the respondent needed to report the media vendor’s
10 payments to the subvendor, the Commission has observed that the disclosed payee vendors
11 appear to have been established media firms that did not devote their “full efforts” to the
12 respondent committees, and did not appear to have leadership drawn from the committees with
13 which they contracted to provide media services.⁵⁶

14 Here, the available information and the foregoing precedents indicate that the Trump
15 Committee and the TMAGA Committee improperly failed to itemized AMMC’s payments to
16 subvendors in connection with their disclosures of more than three quarters of a billion dollars

⁵³ Factual & Legal Analysis (“F&LA”) at 1-6, 10, MUR 6800 (Ron Paul 2012).

⁵⁴ *Id.* at 4, 10.

⁵⁵ F&LA at 2-3, MUR 6724 (Bachmann for President); *see* Conciliation Agreement at 2, MUR 6724 (Bachmann for President).

⁵⁶ F&LA at 12-13, MUR 6510 (Kirk for Senate, *et al.*); *see also* *United States v. Benton*, 890 F.3d 697, 709 (8th Cir. 2018), *cert. denied*, *Benton v. U.S.*, 139 S.Ct. 1318 (2019), *Tate v. U.S.*, 139 S.Ct. 1322 (2019); *Kesari v. U.S.*, 139 S.Ct. 1322 (2019).

1 (\$781,584,527.57) in disbursements to AMMC.⁵⁷ The AMMC disbursements by the Trump
 2 Committee constituted 69% of its 2019-2020 reported spending.⁵⁸ The AMMC disbursements
 3 by the TMAGA Committee constituted 31% of its reported spending during that period and 55%
 4 of its reported operating expenditures after subtracting transfers to affiliated committees.⁵⁹
 5 AMMC appears to have a legal existence separate from the Committees, in that it is formally
 6 organized as a separate legal entity, like the vendor arrangement in AO 1983-25 that the
 7 Commission concluded would not require subvendor itemization. But the available information
 8 also indicates that AMMC, unlike the vendor arrangement in AO 1983-25, was created by
 9 individuals who had staff positions with the Trump Committee, and that these individuals
 10 continued in those staff positions while acting as principals of AMMC.⁶⁰ While serving as
 11 directors of AMMC, the Trump Committee paid Dollman a \$20,000 monthly salary and Cannon

⁵⁷ *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&recipient_name=American+Made+Media+Consultants, (last visited Mar. 31, 2022) (reflecting all disbursements to AMMC). The RNC, a joint fundraising participant in TMAGA, was the only other committee to disclose a disbursement to AMMC. The RNC disclosed a \$141,211.63 disbursement to AMMC on September 27, 2019. *Id.*

⁵⁸ The 69% figure was derived by dividing the \$516,697,606.57 the Trump Committee disbursed to AMMC in 2019 and 2020 by the Trump Committee's \$752,889,328.62 in total expenditures for the 2020 election cycle. *See FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00580100&recipient_name=American+Made+Media+Consultants&two_year_transaction_period=2020 (last visited Mar. 31, 2022) (reflecting the Trump Committee's disbursements to AMMC for the 2019-2020 cycle); *Make America Great Again Committee: Financial Summary, 2019-2020*, FEC.GOV, <https://www.fec.gov/data/committee/C00580100/?cycle=2020> (last visited Mar. 31, 2022).

⁵⁹ The 31% and 55% figures were derived by dividing the \$255,004,391.03 the TMAGA Committee disbursed to AMMC in 2019 and 2020 by the TMAGA Committee's \$ 833,822,955.34 in total expenditures for the 2019-2020 cycle and the TMAGA Committee's \$461,144,680.67 in total operating expenditures for the 2019-2020 cycle. *See FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00618371&recipient_name=American+Made+Media+Consultants&two_year_transaction_period=2020 (last visited Mar. 31, 2022) (reflecting the TMAGA Committee's disbursements to AMMC for the 2019-2020 cycle); *Trump Make America Great Again Committee: Financial Summary, 2019-2020*, FEC.GOV, <https://www.fec.gov/data/committee/C00618371/?cycle=2020#total-spent> (last visited Mar. 31, 2022).

⁶⁰ John Pence and Lara Trump reportedly resigned their AMMC board positions in October 2019. *See* Dec. 18 Business Insider Article.

1 a \$15,000 monthly salary.⁶¹ Because of the overlap of AMMC principals and Trump Committee
 2 officials, AMMC and the Trump Committee do not appear to have negotiated a contract at arm's
 3 length. Further, the available information indicates that AMMC was created to serve the needs
 4 of the Trump Committee. Its only clients appear to have been the Trump Committee, the
 5 TMAGA Committee, and the RNC (for list rental only), three entities which form the TMAGA
 6 Committee joint fundraising committee. No other federal committee disclosed payments to
 7 AMMC.⁶² AMMC thus appears to have devoted its “full efforts” to the contracts with the
 8 Trump and TMAGA Committees, in contrast to the vendor considered in AO 1983-25.

9 The information in this matter is similar to the facts of MUR 3847 (Stockman), where
 10 campaign staff created an entity that received substantial disbursements from the campaign
 11 committee. The Commission determined in that matter that the facts were distinguishable from
 12 the facts in AO 1983-25, because, *inter alia*, there was staff overlap, staff held themselves out as
 13 campaign officials, the entity was largely devoted to the campaign, and the entity shared offices
 14 with the campaign.⁶³ Similarly, in the instant matter, the available information indicates that
 15 AMMC was run by Alex Cannon, Sean Dollman, Jared Kushner, Bradley J. Parscale, and Lara
 16 Trump — all persons with senior roles on the Trump Committee.⁶⁴ Furthermore, some apparent
 17 AMMC subvendors, such as Realtime Media, and Opn Sesame, were themselves owned or
 18 controlled by Trump Committee senior staff and it appears that the Trump Committee, not
 19 AMMC, hired or directly controlled the provision of services by other subvendors, such as

⁶¹ See *supra* nn. **Error! Bookmark not defined.-Error! Bookmark not defined..**

⁶² *Id.*

⁶³ Conciliation Agreement at 6-7, MUR 3847 (Stockman), Case File PDF at 1576.

⁶⁴ See Dec. 23 Business Insider Article.

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Phunware and Harris Sikes Media, but paid them through AMMC.⁶⁵ This dynamic is similar to the facts in MUR 6800 (Ron Paul 2012) and MUR 6724 (Bachmann), in which the Commission found that such direct interaction between the committee and the subvendor supported a conclusion that the committees had violated the Act's reporting requirement by not identifying subvendors in their FEC disclosure reports.⁶⁶

The Committees' Response further contend that using a separate entity to place substantial media-related payments is something that has been done by past presidential campaigns, citing several examples.⁶⁷ However, the examples cited do not appear to have been the subjects of prior Matters Under Review before the Commission, in contrast to the above-discussed actual precedents including MUR 3847 (Stockman). The Commission has explained in both advisory opinions and enforcement matters the facts it considers relevant (including, but not limited to, a vendor's separate legal status) in determining whether a committee must report its subvendors; this includes AO 1983-25, which concerned Mondale's presidential committee. In accordance with these prior analyses, even assuming that AMMC is distinct, the overlapping staff, exclusive devotion to the efforts of the Committees, and evidence of direct interaction between the Committees and subvendors, taken together, are strongly indicative of the type of

⁶⁵ See *supra* pages 5-7.

⁶⁶ F&LA at 1-6, 10, MUR 6800 (Ron Paul 2012); F&LA at 2-3, MUR 6724 (Bachmann for President).

⁶⁷ Trump Committee & TMAGA Committee Resp. at 2-4 (referencing the 1984 Reagan campaign and the Tuesday Team, the 1992 Bush campaign and the November Company, the 1996 Clinton campaign and the November 5 Group, the 2004 Bush campaign and Maverick Media, the 2008 and 2012 Obama campaigns and GMMB Inc., the 2012 Romney campaign and American Rambler Productions, LLC., and the 2020 Biden campaign and Media Buying & Analytics LLC).

1 direct subvendor relationship that the Commission has previously found a committee is required
2 to disclose.⁶⁸

3 The Committees' Response also contends that this matter is akin to matters in which the
4 Commission found that committees were not required to itemize payments made by a vendor to
5 subvendors used by the vendor in the performance of its contract with the committee, citing,
6 among others, MUR 6510 (Kirk for Senate) and MUR 6894 (Russell for Congress).⁶⁹ The
7 Committees assert that "AMMC provides Respondents with ad placement and other media
8 services that include AMMC directly making media buys on behalf of its clients and that AMMC
9 contracts with subvendors to provide the contracted services."⁷⁰ But AMMC differs from the
10 vendors in MURs 6510 and 6894 with respect to the relationship between the committees,
11 vendors, and subvendors. For example, in MUR 6510, the vendor was unlike AMMC because it
12 was formed as a separate legal entity in 1998, more than a decade prior to the candidate's 2010
13 campaign; had provided media services to a variety of political and other clients, including an
14 unrelated campaign during the same election cycle; and did not employ committee staff.⁷¹
15 Unlike the media firms in those matters, AMMC does not appear to be similarly separate and
16 distinct, as discussed above. As such, AMMC appears to have served more like a pass-through

⁶⁸ F&LA at 1-6, 10, MUR 6800 (Ron Paul 2012); F&LA at 2-3, MUR 6724 (Bachmann for President); Conciliation Agreement at 6-7, MUR 3847 (Stockman), Case File PDF at 1581.

⁶⁹ Trump Committee & TMAGA Committee Resp. at 9-10.

⁷⁰ *Id.* at 10.

⁷¹ F&LA at 12-13, MUR 6510 (Kirk for Senate, *et al.*) (characterizing facts as materially similar to those in AO 1983-25 before concluding that subvendor did not have to be separately reported). The record in MUR 6894 does not include an allegation that the media vendor was a pass-through entity, or that it was not separate and distinct from the committee.

1 that is closely analogous to the circumstances the Commission considered in the Stockman
2 MUR.⁷²

3 Finally, as to the particular disbursements made by the Trump Committee and the
4 TMAGA Committee to Parscale Strategy that allegedly included salary payments from Parscale
5 Strategy to Trump Committee staff, the Commission has previously concluded that a committee
6 should disclose salary payments to specific, individually identified employees.⁷³ The
7 Commission has also determined that reporting the immediate recipient of a disbursement will
8 not satisfy the Act's reporting requirements when the facts indicate that the recipient is "merely a
9 conduit for the intended recipient of the funds."⁷⁴ Although the Trump and TMAGA
10 Committees assert that Guilfoyle and Lara Trump were employees of Parscale Strategy and
11 argue that the Committees need not itemize their vendor's payroll payments,⁷⁵ the Committees'
12 Response does not address the allegations that Guilfoyle and Lara Trump were also employed by
13 the Trump Committee or that Parscale reportedly stated that his firm paid Trump campaign

⁷² Amended Certification (Dec. 8, 1997), MUR 3847 (Stockman), Case File PDF at 1539; Gen. Counsel's Brief at 33-37, MUR 3847, Case File PDF at 1416. The pass-through nature of AMMC is also analogous to a check payment processing vendor who manages the payment of committee funds to other vendors, analyzed by the Commission in an advisory opinion. *See* Advisory Opinion 1983-04 at 1-3 (Cox) (concluding that a check payment processing vendor could be utilized by the committee but still requires reporting of each vendor as it normally would).

⁷³ *See* F&LA at 4-6, MUR 6818 (Allen Weh for Senate) (reporting lump-sum disbursements to a committee's payroll vendor without identifying the individual employees who received salary payment is a violation of the Act); F&LA at 10, MUR 6724 (Bachman for President, *et al.*) (concluding that the committee violated section 30104(b)(5) when it paid a salary through a vendor because the vendor was merely a conduit to conceal the payment).

⁷⁴ F&LA at 9, MUR 6724 (Bachmann for President, *et al.*).

⁷⁵ Trump Committee & TMAGA Committee Resp. at 11.

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1 staff.⁷⁶ Reports that payments to Guilfoyle and Lara Trump were made from Parscale Strategy
2 to keep the payments “out of public view,”⁷⁷ make it appear that Parscale Strategy was used a
3 pass-through to conceal the Trump Committee’s true recipients, like in the Bachman and Jenkins
4 MURs.⁷⁸ Therefore, the available information indicates that salary payments made by Parscale
5 Strategy on behalf of the Trump Committee to Trump Committee staff should have been
6 reported as salary payments to the ultimate individual payees rather than consulting service
7 payments to Parscale Strategy.

8 Accordingly, the Commission finds reason to believe that the Trump Committee violated
9 52 U.S.C. § 30104(b)(5)(A) by failing to accurately report ultimate payees with regard to
10 disbursements made to AMMC and Parscale Strategy.

11 For the same reasons that there does not appear to have been an arm’s length contractual
12 relationship between AMMC and the Trump Committee, it similarly appears likely that there
13 was not an arm’s length contract negotiated between AMMC and the TMAGA Committee given
14 the joint fundraising relationship between the Trump Committee and the TMAGA Committee.
15 For the reasons discussed above with respect to the Trump Committee, the available information
16 indicates that AMMC exists solely to serve the interests of the Trump Committee, directly and
17 through its joint fundraising TMAGA Committee, and therefore under these circumstances, the

⁷⁶ See Compl. at 20 (citing Julie Bykowicz, *Trump’s Campaign Machine Has Two-Year Head Start*, WALL ST. J. (Apr. 14, 2019), <https://www.wsj.com/articles/trumps-campaign-machine-has-two-year-head-start-11555243200>).

⁷⁷ Compl. at 38 (quoting Danny Hakim & Glenn Thrush, *How the Trump Campaign Took Over the G.O.P.*, N.Y. TIMES (Mar. 9, 2020), <https://www.nytimes.com/2020/03/09/us/trump-campaign-brad-parscale.html>).

⁷⁸ Moreover, Parscale Strategy, like AMMC, was in a vendor relationship with the Trump Committee distinguishable from that considered in AO 1983-25. Most significantly, the available information indicates that Parscale Strategy, unlike the vendor arrangement in AO 1983-25, was created by an individual who was a senior Trump Committee official and who continued working for the Trump Committee as Campaign Manager while acting as principal of Parscale Strategy.

TMAGA Committee was required to separately report payments that AMMC made to subvendors, which it did not do. Therefore, the Commission finds reason to believe that the TMAGA Committee violated 52 U.S.C. § 30104(b)(5)(A) and 11 C.F.R. § 104.3(b) by failing to accurately report the ultimate payee with regard to disbursements made to AMMC.

B. The Commission Finds Reason to Believe that the Trump Committee Failed to Accurately Disclose the Purpose of Disbursements To Parscale Strategy

The Act and Commission regulations additionally require political committees to report the purpose of expenditures or other disbursements aggregating more than \$200 per calendar year, or per election cycle for authorized committees.⁷⁹ As discussed above, the relevant reporting requirements under the Act and Commission regulations are intended to ensure public disclosure of how political money is spent.⁸⁰ Commission regulations define “purpose” as a “brief statement or description of why the disbursement was made.”⁸¹ “The ‘purpose of disbursement’ entry, when considered along with the identity of the disbursement recipient, must be sufficiently specific to make the purpose of the disbursement clear.”⁸² The Commission has determined that a purpose description should be sufficient to allow “a person not associated with the committee [to] easily discern why the disbursement was made when reading the name of the recipient and the purpose.”⁸³ Examples of sufficient statements of purpose include, but are not limited to, “dinner expenses, media, salary, polling, travel, party fees, phone banks, travel

⁷⁹ 52 U.S.C. § 30104(b)(5), (6); 11 C.F.R. § 104.3(b)(3)(i), (ix) (political committees other than authorized committees); *id.* § 104.3(b)(4)(i), (vi) (authorized committees); *id.* § 104.9(a), (b) (all political committees).

⁸⁰ *Buckley v. Valeo*, 424 U.S. 1, 66 (1976); *see also Citizens United*, 558 U.S. at 369-71 (describing importance of disclosure requirements to serve informational interest, because “transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages”).

⁸¹ 11 C.F.R. § 104.3(b)(3)(i)(A), (B); *id.* § 104.3(b)(4)(i)(A).

⁸² *See Purpose Statement of Policy*, 72 Fed. Reg. at 887 (citing 11 C.F.R. § 104.3(b)(3)(i)(B), (4)(i)(A)).

⁸³ *Purpose Statement of Policy*, 72 Fed. Reg. at 888.

1 expenses, travel expense reimbursement, and catering costs.”⁸⁴ In addition to the non-exhaustive
 2 list of examples included in the regulation, the Commission has provided guidance that a
 3 description of purpose such as “Consultant-Legal” is sufficient for a disbursement to a
 4 consultant; the sufficiency of the description is read in context with the name of the payee.⁸⁵
 5 Additional information set forth on the Commission’s website includes “Media” and “Strategy
 6 Consulting” as a sufficient description of purpose.⁸⁶

7 The available information indicates that the Trump Committee failed to accurately report
 8 the purpose of payments made to Parscale Strategy. In 2020, the only reported purpose of those
 9 disbursements is “strategy consulting.”⁸⁷ In 2019, the reported purposes included “video
 10 production services,” “photography services,” and “consulting—management/strategy/
 11 communications/political/digital.”⁸⁸ Lara Trump, Guilfoyle, and others were reportedly paid
 12 salaries by Parscale Strategy.⁸⁹ None of the stated purposes at issue in this matter would allow a
 13 person unrelated to the campaign to discern from the reported disbursements to Parscale Strategy
 14 that salaries were paid to Lara Trump, Guilfoyle, or other campaign staff, but the available

⁸⁴ 11 C.F.R. § 104.3(b)(3)(i)(B); *id.* § 104.3(b)(4)(i)(A).

⁸⁵ Purpose Statement of Policy, 72 Fed. Reg. at 888; *see also* FEC, CAMPAIGN GUIDE: CONGRESSIONAL CANDIDATES AND COMMITTEES at 115 (Oct. 2021), <https://www.fec.gov/resources/cms-content/documents/candgui.pdf> (the description of purpose must be sufficiently specific such that it makes clear the reason for the disbursement when considered in conjunction with the payee’s identity).

⁸⁶ *Purposes of Disbursement*, FEC.GOV (last updated Aug. 21, 2018), <https://www.fec.gov/help-candidates-and-committees/purposes-disbursement>; *see also* Purpose Statement of Policy, 72 Fed. Reg. at 888 (indicating that additional guidance will be posted at the URL in this footnote).

⁸⁷ *See FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&recipient_name=parscale+strategy (last visited Mar. 31, 2022) (reflecting all disbursements to Parscale Strategy).

⁸⁸ *Id.*

⁸⁹ *See supra* page 7; Compl. at 21 (citing Danny Hakim & Glenn Thrush, *How the Trump Campaign Took Over the G.O.P.*, N.Y. TIMES (Mar. 9, 2020), <https://www.nytimes.com/2020/03/09/us/trump-campaign-brad-parscale.html> that “[a]ccording to two people with knowledge of the matter, Parscale Strategy has also been used to make payments out of public view to Lara Trump...and Kimberly Guilfoyle”).

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record indicates that the reported disbursements to Parscale Strategy were to pay for such salaries.⁹⁰ The Trump Committee's reports did not disclose any disbursements for salaries paid to Lara Trump or Guilfoyle,⁹¹ but Lara Trump and Guilfoyle appear to have worked on for the Trump Committee.⁹² The Trump Committee reported \$8,162,790.86, in payments to Parscale Strategy none of which were for the stated purpose of payroll or salary.⁹³ The available information supports an inference that Guilfoyle's (and others') Trump Committee salary was paid by Parscale Strategy, which is not apparent from The Trump Committee disclosure reports.

The circumstances here, involving the authorized committee of a presidential candidate making payments to a vendor and in which contemporaneous news reporting compellingly indicated was for a purpose other than as disclosed, are analogous to those considered in MURs 7291 and 7449 (DNC Services Corp., *et al.*), which were recently conciliated by the Commission.⁹⁴ In MURs 7291 and 7449, it was alleged that two committees, the Democratic National Committee and Hillary for America, made payments to a law firm for the reported purpose of "legal services" but in fact appeared to have been pass-through payments for opposition research conducted by a subvendor, Fusion GPS.⁹⁵ Here, analogously, the payments

⁹⁰ See *supra* page 7; Compl. at 21.

⁹¹ See *supra* n.35.

⁹² See *supra* page 7.

⁹³ See *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&recipient_name=parscale+strategy (last visited Mar. 31, 2022) (reflecting all disbursements from the Trump Committee to Parscale Strategy). Between 2018 and 2020, the TMAGA Committee disclosed an additional \$998,344.80 and a joint fundraiser committee consisting of Make America Great Again PAC, the RNC, and 45 state republican committees plus one for the District of Columbia, the Trump Victory Committee, disclosed \$701,319.72 to Parscale Strategy. See *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&recipient_name=parscale+strategy, (last visited Mar. 31, 2022) (reflecting all disbursements to Parscale Strategy).

⁹⁴ F&LA at 8, MURs 7291, 7449 (DNC Services Corp., *et al.*).

⁹⁵ Conciliation Agreement & Cert. ¶¶ 1-2 (Feb. 17, 2022), MURs 7291 and 7449 (DNC Services Corp., *et al.*).

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1 to Parscale Strategy for what appears to have been for salary payments to various Trump
2 Committee staff, appear to have been incorrectly disclosed in FEC disclosure reports as “strategy
3 consulting” (2020) or “video production services,” “photography services,” and “consulting—
4 management/strategy/ communications/political/digital” (2019).⁹⁶ Accordingly, the Commission
5 finds reason to believe that the Trump Committee violated 52 U.S.C. § 30104(b)(5)(A) and 11
6 C.F.R. § 104.3(b) by misreporting the purpose of disbursements made to Parscale Strategy for
7 what appear to have been payments for Trump Committee staff salaries.⁹⁷

⁹⁶ See *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&recipient_name=parscale+strategy (last visited Mar. 31, 2022) (reflecting all disbursements to Parscale Strategy).

⁹⁷ See F&LA, MURs 7291 and 7449 (DNC Services Corp., *et al.*) (finding reason to believe that respondent committees failed to properly report the purpose of over \$1 million in disbursements to vendor)..