



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

VIA ELECTRONIC MAIL

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September 16, 2024

RE: MUR 7800

Dear Mr. Backer and Ms. Mangini:

On September 25, 2020, the Federal Election Commission notified your client, Kanye 2020 and its treasurer, of a complaint indicating violations of the Federal Election Campaign Act of 1971, as amended. The Commission forwarded a copy of the complaint to your client at that time.

Upon further review of the allegations contained in the complaint and information supplied by your client, the Commission, on August 13, 2024, voted to dismiss the Complaint. Any applicable Factual and Legal Analysis or Statements of Reasons available at the time of this letter's transmittal are enclosed.

The Commission will place documents related to the case on the public record today. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). If you have any questions, please contact Justine A. di Giovanni, the attorney assigned to this matter, at (202) 694-1574.

Sincerely,

Lisa Stevenson
Acting General Counsel

Ana J. Peña-Wallace

BY: Ana J. Peña-Wallace
Assistant General Counsel



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Kanye 2020 and Stella Denn in her official
capacity as treasurer

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MUR 7800

STATEMENT OF REASONS OF COMMISSIONERS DARA LINDENBAUM AND SHANA M. BROUSSARD

This matter arises from a Complaint alleging that Kanye 2020 and Stella Denn in her official capacity as treasurer (the “Committee”), the principal campaign committee of 2020 presidential candidate Ye,¹ failed to report the ultimate payee for at least \$1.6 million in violation of the Federal Election Campaign Act of 1971, as amended (the “Act”). For the following reasons, we voted to dismiss the Complaint.

In August and July of Ye’s campaign for U.S. President in 2020, the Committee reported \$2,697,598.89 in disbursements to the political consulting firm Millennial Strategies, LLC (“Millennial”) for, *inter alia*, “campaign management consulting,” “ballot access services,” “campaign website services,” and “legal fees, notary, printing.”² The Complaint cites a *New York Times* article which reported that Mercury was among a number of consulting firms “aiding [Kanye West’s] candidacy” and that it “played an organizing role,” providing “substantial professional services.”³ Based on the information contained in *The New York Times* article, the Complaint alleges that the Committee failed to report its disbursements to Mercury.⁴

¹ Kanye West legally changed his name to Ye in October 2021. *Kanye West Officially Changes His Name to Ye*, BBC (Oct. 19, 2021), <https://www.bbc.com/news/entertainment-arts-58965500>.

² Other purposes reported by the Committee include “ballot access digital services”; “election law research”; “GOTV consulting”; “legal fees & ballot access filing fee”; “list acquisition”; “polling”; “printing/scanning services”; and “travel expenses.” *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00751701&recipient_name=Millennial (last visited July 25, 2024) (showing all disbursements by the Committee to Millennial).

³ Compl. at 1 (Sept. 21, 2020); Danny Hakim & Maggie Haberman, *Kanye West’s Perplexing Run as a Potential 2020 Spoiler*, N.Y. TIMES (Sept. 16, 2020) (“NYT Article”), <https://www.nytimes.com/2020/09/16/us/politics/kanye-west-president-2020.html> (cited in and attached to the Complaint as an exhibit).

⁴ Compl. at 1-2.

The Response acknowledges that Mercury performed work for the Committee “to assist in obtaining ballot access in states throughout the country.”⁵ However, the Committee argues that it was not required to disclose any payments to Mercury because Millennial hired Mercury as a sub-vendor.⁶

Following the submission of the Response, *The Daily Beast* published an article reporting, based on anonymous sources, that the Committee’s relationship with Millennial was “designed in part to mask the extent of other companies’ work for the West campaign.”⁷ The article states that “[t]he wall between Millennial and Mercury was apparently so thin that multiple campaign sources told *The Daily Beast* they did not realize Millennial was an independent firm at all; they believed it was a shell company created by Mercury specifically for disguising the payments.”⁸ The article describes the anonymous sources only as “campaign sources” and contains almost no direct quotes from these campaign sources.

Based primarily on the information contained in *The Daily Beast* article, the Office of General Counsel (“OGC”) recommended that the Commission find reason to believe that the Committee violated 52 U.S.C. § 30104(b)(6) and 11 C.F.R. § 104.3(b)(4) by failing to accurately report disbursements.⁹ OGC concluded that the Committee arranged for Mercury to provide services directly to the Committee and used Millennial as a conduit to “obscure that Mercury was the true vendor.”¹⁰ We disagreed and instead voted to dismiss the allegations because *The Daily Beast* article lacked the indicia of credibility necessary to rebut the Response and *The New York Times* article to support a reason to believe finding.¹¹

The Act and Commission regulations require authorized political committees to report the name and address of each person to whom they make disbursements aggregating more than \$200 per election cycle, as well as the date, amount, and purpose of such payments.¹² Ordinarily, the Commission has found it sufficient for a committee to report payments to its primary vendors and not those made to sub-vendors.¹³ However, the Commission has determined that reporting the immediate recipient of a disbursement will not satisfy the Act’s reporting requirements when the facts indicate that the reported recipient is “merely a conduit for

⁵ Resp. at 1 (Nov. 10, 2020).

⁶ *Id.*

⁷ William Bredderman & Roger Sollenberger, *The Big Red Flag Under Kanye West’s Democratic Fig Leaf*, DAILY BEAST (Jan. 4, 2022) (“Daily Beast Article”), <https://www.thedailybeast.com/the-big-red-flag-under-the-kanye-west-campaigns-democratic-fig-leaf>.

⁸ *Id.*

⁹ First Gen. Counsel’s Rpt. at 13 (July 30, 2024).

¹⁰ *Id.*

¹¹ Certification at 1 (Aug. 16, 2024).

¹² 52 U.S.C. § 30104(b)(6); 11 C.F.R. § 104.3(b)(4).

¹³ Advisory Opinion (“AO”) 1983-25 at 2 (Mondale); *see also* F&LA at 12, MUR 6510 (Kirk for Senate, *et al.*) (holding that “a committee need not separately report its consultant’s payments to other persons — such as those payments for services or goods used in the performance of the consultant’s contract with the committee”).

the intended recipient of the funds.”¹⁴ In prior matters, the Commission has found reason to believe where the available information suggested an intent to conceal the ultimate payee.¹⁵

Here, the only information concerning the Committee’s intent is derived from *The Daily Beast* article, but the article lacks the specificity necessary to credibly support a finding of reason to believe that the Committee intended to use Millennial as a conduit to conceal Mercury from disclosure reports. For one, the article describes the anonymous sources only as “campaign sources” – it does not state whether these sources were senior ranking campaign officials with first-hand knowledge of the situation. The article is almost devoid of direct quotes from the anonymous sources, instead vaguely characterizing their understandings, and at times, undermining their credibility with internal inconsistencies. For example, the article states that multiple anonymous sources “did not realize Millennial was an independent firm at all; they believed it was a shell company created by Mercury specifically for disguising the payments.”¹⁶ Later, however, the article describes Millennial as an established “staunchly progressive firm.”¹⁷ Disclosure reports indicate that Millennial has received \$3.8 million for services to federal political committees starting in early 2013 through late 2022, hardly indicia of a “shell company.”¹⁸

In another example of unreliability, the article candidly acknowledges that the anonymous sources had inconsistent understandings. “[O]ne source told *The Daily Beast* that Millennial was a hub between the campaign and its various Republican consultants,” akin to a vendor/sub-vendor arrangement, while “multiple [other] sources contradicted that claim, claiming the main connection between Millennial and [the Committee] was [Mercury’s Senior Vice President, Ted] Anastasiou and Mercury.”¹⁹ Other information in the record tends to contradict the allegation that the parties had an intent to conceal Mercury from the public eye. For example, *The New York Times* article quoted Michael McKeon, a Mercury partner, describing Mercury “as a liaison between the campaign and the [ballot access] team until they established independent relationships.”²⁰ If the Committee intended to conceal its relationship with Mercury, one would presume that Mercury leadership would not disclose the relationship in on-the-record comments to a *New York Times* reporter.

We also note that the Committee was not notified of or given an opportunity to provide any response to *The Daily Beast* article. Although OGC may consider publicly available

¹⁴ F&LA at 9, MUR 6724 (Bachmann for President, *et al.*).

¹⁵ *E.g.*, F&LA at 15, MUR 7923 (Friends of David Schweikert); F&LA at 9, MUR 6724 (Bachmann for President, *et al.*); Conciliation Agreement ¶ IV.6, MUR 4872 (Jenkins for Senate).

¹⁶ Daily Beast Article.

¹⁷ *Id.*

¹⁸ *FEC Disbursements: Filtered Results*, FEC.Gov, https://www.fec.gov/data/disbursements/?data_type=processed&recipient_name=Millennial+Strategies (last visited July 25, 2024) (showing all reported disbursements to “Millennial Strategies”).

¹⁹ Daily Beast Article.

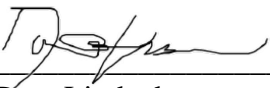
²⁰ NYT Article.

information in framing its analysis and recommendations, where, as here, information obtained by OGC after the Respondent has filed its Response forms almost the entire factual basis for OGC's reason to believe recommendation, we believe that the Respondent should be notified and given an opportunity to provide a supplemental Response.

In sum, while we believe that news reporting based on anonymous sources can support a reason-to-believe finding under certain circumstances, *The Daily Beast* article lacked the indicia of credibility and reliability sufficient to make a reason-to-believe finding here. Therefore, we voted to dismiss the Complaint.²¹

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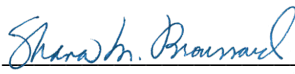
Date



Dara Lindenbaum
Commissioner

September 9, 2024

Date



Shana M. Broussard
Commissioner

²¹ Certification at 1 (Aug. 16, 2024).



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Kanye 2020, *et al.*

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MUR 7800

STATEMENT OF REASONS OF CHAIRMAN SEAN J. COOKSEY

In this matter, the Commission voted to dismiss a Complaint alleging that Kanye 2020 and Stella Denn in her official capacity as treasurer—the principal campaign committee of 2020 presidential candidate Kanye West—failed to report at least \$1.6 million in payments to the firm Mercury Public Affairs for services Mercury provided to the Committee.¹ The Complaint was based entirely on a single news article in *The New York Times*,² and the Respondents denied the allegations and explained that Mercury was a subvendor of another principal vendor, Millennial Strategies, LLC.³

The Office of General Counsel recommended the Commission find reason to believe a violation occurred and launch an investigation.⁴ It did so, however, not based on the substance of the Complaint, but instead on two outside news articles published in *The Daily Beast*. Both articles relied on anonymous sources described as, for example, “people with knowledge,” to allege that Mercury’s subvendor relationship with Millennial Strategies was, in essence, a sham.⁵

The Federal Election Campaign Act of 1971, as amended (the “Act”), requires that complaints filed with the Commission shall be “signed and sworn to by the person filing such complaint, shall be notarized, and shall be made under penalty of perjury and subject to the provisions of section 1001 of title 18.”⁶ The Act further states that the “Commission may not conduct any investigation or take any other action under this section solely on the basis of a

¹ Certification (Aug. 16, 2024), MUR 7800 (Kanye 2020).

² Complaint (Sept. 21, 2020), MUR 7800 (Kanye 2020).

³ Response (Nov. 9, 2020), MUR 7800 (Kanye 2020).

⁴ First General Counsel’s Report at 13–14 (July 30, 2024), MUR 7800 (Kanye 2020).

⁵ *Id.* at 5–12.

⁶ 52 U.S.C. § 30109(a)(1).

complaint of a person whose identity is not disclosed to the Commission.”⁷ Together, these two provisions create a basic due process protection for respondents against false and malicious complaints. By mandating that complainants put their names on information submitted and affirm that it is true, subjecting themselves to potential criminal liability, the Act deters individuals from attempting to spoof the federal government into investigating a political opponent or innocent target.

The Act also provides that the Commission may not investigate a complaint unless it “determines, by an affirmative vote of four of its members, that it has reason to believe that a person has committed, or is about to commit, a violation of this Act.”⁸ This standard is “higher than the Federal Rules of Civil Procedure standard regarding the sufficiency of a complaint, which allows discovery on virtually every complaint that identifies any potential legal or equitable claim.”⁹ Rather, the Commission will find reason to believe “only if a complaint sets forth sufficient separate facts, which, if proven true, would constitute a violation of [the Act].”¹⁰ As a result, before finding reason to believe, the Commission must scrutinize both the law and the credibility of the facts alleged.¹¹

Here, the Commission correctly concluded that the thin factual record in support of the Complaint—based almost entirely on questionable reporting relying on anonymous sources—was insufficient to support a reason-to-believe finding. I joined colleagues in voting to dismiss the Complaint as a result.¹²

First, the plain language of the Act prohibits the Commission from considering complaints based entirely on anonymous sources. No one denies that, had the same anonymous sources that participated in *The Daily Beast* article filed an administrative complaint with the Commission and left it unsigned, the filing would have been rejected as incomplete. It is entirely perverse, therefore, for the Commission to allow functionally the same thing to happen by allowing anonymous allegations in a news article to form the basis for a First General Counsel’s Report and reason-to-believe finding. Such an end run around the Act would deny respondents their due process rights to meaningfully respond to the allegations and their accusers.¹³

⁷ 52 U.S.C. § 30109(a)(1); *see also* 11 C.F.R. § 111.4(b)–(d).

⁸ 52 U.S.C. § 30109(a)(2).

⁹ Statement of Reasons of Vice Chairman Petersen and Commissioners Hunter and McGahn at 4 n.12 (July 8, 2009), MURs 5977 and 6005 (American Leadership Project).

¹⁰ Statement of Reasons of Commissioners Mason, Sandstrom, Smith and Thomas at 1 (Dec. 21, 2000), MUR 4960 (Hillary Rodham Clinton for U.S. Senate Exploratory Committee, Inc.).

¹¹ Statement of Reasons of Vice Chair Hunter and Commissioners McGahn and Petersen at 5 (June 14, 2011), MUR 6296 (Kenneth R. Buck).

¹² Certification (Aug. 16, 2024), MUR 7800 (Kanye 2020).

¹³ *Cf. Greene v. McElroy*, 360 U.S. 474, 508 (1959). The most appropriate approach for the Commission is to refuse to consider any materials gathered by the Office of General Counsel through unauthorized outside investigations prior to the Commission finding reason to believe. *See* Statement of Reasons of Vice Chairman Cooksey and Commissioners Dickerson and Trainor (January 20, 2023), MUR 7889 (SIG SAUER, *et al.*). But if a majority of Commissioners insists on considering such materials, I agree that it is incumbent upon the Commission to afford the Respondents some opportunity to respond to it, and I hope the Commission does so consistently in those circumstances. *See* Statement of Reasons of Commissioners Lindenbaum and Broussard at 3–4 (Sept. 9, 2024), MUR

In addition to the legal barrier to proceeding based on anonymous accusations, the Commission must know complainant's identity, the details of alleged conduct, and the basis for the complainant's knowledge to assess the allegations' credibility. As other Commissioners have written, "The Commission must have more than anonymous suppositions, unsworn statements, and unanswered questions before it can vote to find [reason to believe] and thereby commence an investigation."¹⁴ Here, there are strong reasons to doubt the reliability of the anonymous sources' allegations in the relevant articles. Among other things, conflicting factual assertions and vague descriptions of the sources' positions gives reason to doubt their actual knowledge.¹⁵ The Commission's skepticism should only be reinforced, too, by its recent enforcement history with news-based complaints. In more than one matter predicated largely or entirely on anonymous press accounts, the Commission has launched investigations that proved faulty.¹⁶

Finally, while a dismissal is the appropriate outcome for this matter, it is regrettable that the Commission's decision took so long. The responsibility for this delay lies with the Commissioners themselves, but it works another kind of injustice separate and apart from the respondents being haled into the enforcement process by a dubious Complaint. In many cases, a dismissal delayed is a dismissal denied, and the Commission should give greater weight to the parties' interest of speedy adjudication in future matters. For all these reasons, I voted to dismiss the Complaint in this matter and to close the file.


 Sean J. Cooksey
 Chairman

September 10, 2024
 Date

7800 (Kanye 2020) ("[W]here, as here, information obtained by OGC after the Respondent has filed its Response forms almost the entire factual basis for OGC's reason to believe recommendation, we believe that the Respondent should be notified and given an opportunity to provide a supplemental Response.").

¹⁴ Statement of Reasons of Vice Chair Petersen and Commissioners Hunter and McGahn at 6 n.12 (June 1, 2009), MUR 6056 (Protect Colorado Jobs, Inc.).

¹⁵ See, e.g., First General Counsel's Report at 6 (July 30, 2024), MUR 7800 (Kanye 2020) (noting one contradiction among the anonymous sources on basic facts of the allegations).

¹⁶ See Statement of Reasons of Commissioner Weintraub at 1–2 (June 12, 2021), MUR 7271 (DNC, *et al.*) (noting that the Commission found reason to believe based on a news article, the source of which was "part of a Russian intelligence disinformation operation that 'leveraged U.S. media, U.S.-based social media platforms, and influential U.S. persons to spread misleading and unsubstantiated allegations' against Americans to impact the 2020 U.S. election"); Statement of Reasons of Commissioner Cooksey at 8–10 (Oct. 5, 2021), MURs 7165 & 7196 (Great America PAC, *et al.*) (discussing, among other issues, the legal and practical problems posed by predicated an investigation on suspect news accounts).



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

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	MUR 7800
Kanye 2020, <i>et al.</i>)	
)	

STATEMENT OF REASONS OF COMMISSIONERS ALLEN J. DICKERSON AND JAMES E. “TREY” TRAINOR, III

The Federal Election Commission is prohibited from taking any enforcement action, including an investigation, unless four members vote to find reason-to-believe (“RTB”) “that a person has committed, or is about to commit, a violation of” the Federal Election Campaign Act (“FECA” or “Act”).¹ This inevitably means that “the Commission makes...[its RTB] determination on a limited record—consisting only of the complaint, any response, and a report of the Office of General Counsel” (“OGC”).²

There is a temptation to search for publicly available information that supplements or backfills a complaint. The vast sea of political news and editorial content offers near limitless opportunities for these efforts, but they pose serious risks to the Commission’s processes.

First, searching for media reporting outside the four corners of a complaint violates the statute’s injunction against pre-RTB investigations. Second, even if permitted by the Act, these efforts risk leading the Commission down blind alleys. Mere publication in a media platform does not mean the contents of that reporting passes “any test of truth,”³ particularly when—as here—the relevant reporting relies entirely on anonymous sources. Rumor, in short, is not RTB.

¹ 52 U.S.C. § 30109(a)(1)-(2); *see also* Fed. Election Comm’n, “Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process,” 89 Fed. Reg. 19729, 19730, Mar. 20, 2024 (“‘Reason to believe’ findings indicate only that the Commission found sufficient legal justification to open an investigation to determine whether a violation of the Act has occurred”).

² Policy Statement of Chairman Dickerson Regarding the Commission’s Use of Anonymous Sources Reported in the Press at 1, Oct. 5, 2022 (“Anonymous Sources Statement”).

³ *N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 271 (1964).

In this Matter, OGC conceded that its RTB recommendation hinged on the reporting of anonymous sources in a *Daily Beast* article published after the complaint was filed (and after it had circulated a report recommending dismissal). The “Commission’s practice” does “not support RTB where the inculpatory information in the record before [it] consists solely of anonymously sourced press reports.”⁴ We voted accordingly,⁵ and provide this Statement to explain our reasoning.⁶

I. Standard of Review

“At the initial stage of enforcement, the Act provides that the Commission must either dismiss a complaint or find reason-to-believe.”⁷ Dismissal ends the Matter, while an RTB finding compels “the Commission [to] either authorize an investigation or engage in efforts to negotiate an end to the Matter through conciliation.”⁸

We will only “find reason-to-believe when a complaint (1) fairly invokes its jurisdiction, (2) is credible, and not merely a bare accusation of wrongdoing, (3) the response has not sufficiently answered the complaint, and (4) it determines that enforcement is a judicious use of the Commission’s scarce resources.”⁹ This standard prevents the Commission “from merely providing a rubber stamp to a complaint’s allegations, or proceeding on an RTB-of-the-gaps approach to law enforcement.”¹⁰

⁴ Anonymous Sources Statement at 10; *cf.* Statement of Reasons of Chairman Dickerson and Comm’rs Cooksey and Trainor at 1, MUR 7784 (Make Am. Great Again PAC), June 9, 2022 (“But the legal support for enforcement here is remarkably thin, and the only arguable factual support comes from inferences based upon media reports citing anonymous sources. We will not pursue enforcement-by-rumor”) (“MAGA PAC Statement”).

⁵ Certification at 1, MUR 7800 (Kanye 2020), Aug. 16, 2024.

⁶ *Democratic Cong. Campaign Comm. v. Fed. Election Comm’n*, 831 F.2d 1131, 1135 (D.C. Cir. 1987).

⁷ Statement of Reasons of Chairman Cooksey and Comm’rs Dickerson and Trainor at 1, MUR 8167 (Detroit Int’l Bridge Co.), Aug. 6, 2024.

⁸ Statement of Reasons of Chairman Cooksey and Comm’rs Dickerson and Trainor at 2, MUR 8110 (Am. Coal. for Conservative Policies), July 29, 2024 (“ACCP Statement”).

⁹ *Id.*

¹⁰ *Id.* (punctuation altered for clarity, internal citations and quotation marks omitted); *cf.* Statement of Reasons of Comm’rs Mason, Sandstrom, Smith, and Thomas at 2, MUR 4960 (Clinton for U.S. Senate Exploratory Comm.), Dec. 21, 2000 (“Unwarranted legal conclusions from asserted facts, or mere speculation, will not be accepted as true”) (internal citations omitted).

II. Facts of the Matter

In 2020, Kanye West ran for President of the United States,¹¹ and his official campaign committee was named “Kanye 2020.”¹² The West campaign committee paid a consulting firm, Millennial Strategies, just under \$2.7 million¹³ “to provide a variety of campaign services, including campaign management consulting, get out the vote consulting, polling, ballot access services, and campaign website development.”¹⁴ The complaint contended that these payments were a sham, and the funds given to Millennial were, in truth, designed to directly hire Mercury Public Affairs.¹⁵ Consequently, the complaint alleged that the Kanye 2020 committee violated the Act by “fail[ing] to report at least \$1.6 million in disbursements to Mercury.”¹⁶

The complaint in this Matter was filed in September 2020. OGC initially reviewed the complaint and circulated a Report for review in February 2021. That Report recommended that the Commission dismiss the complaint. However, the Commission did not act on that FGCR because [REDACTED] requested that we abate any action on that complaint while it pursued its own review.¹⁷

Meanwhile, OGC became aware of a 2022 article in *The Daily Beast* regarding the Kanye 2020 committee.¹⁸ This article post-dated the complaint and was based,

¹¹ Kanye West, Statement of Candidacy, Fed. Election Comm’n, July 16, 2020. Mr. West legally changed his name after the 2020 election to “Ye.” For consistency, we will refer to Mr. Ye as Mr. West throughout this Statement. Cf. Statement of Reasons of Chairman Cooksey and Comm’rs Dickerson and Trainor at 1, n. 1, MURs 8123/8182 (Biden for President), Sept. 6, 2024 (noting similar use of “former name”).

¹² Kanye 2020, Statement of Org., Fed. Election Comm’n, July 15, 2020.

¹³ First Gen’l Counsel’s Report (“FGCR”) at 4, MUR 7800 (Kanye 2020), July 30, 2024.

¹⁴ Resp. at 1 (internal acronym omitted for clarity).

¹⁵ Complaint at 1-2.

¹⁶ FGCR at 1.

¹⁷ The Commission abated this matter for 782 days at the request of [REDACTED].

¹⁸ OGC did not become aware of this article due to an amended complaint. Only one complaint was ever filed in this Matter. See Statement of Reasons of Vice Chairman Petersen and Comm’rs Hunter and McGahn at 1, MUR 6056 (Protect Colo. Jobs), June 1, 2009 (rejecting RTB recommendation where “[t]he basis for OGC’s position that coordination may have occurred is one newspaper article, which was not referenced in the complaint, in which anonymous sources from the Complainant’s campaign alleged that [Respondents]...coordinated the content and distribution of the mailer through an

substantively, on anonymous sources.¹⁹ As a result, following the conclusion of abatement, OGC withdrew its initial First General Counsel's Report and circulated a replacement recommending RTB.²⁰

III. Relevant Law

OGC recommended "that the Commission find reason to believe that the [Kanye 2020] Committee violated 52 U.S.C. § 30104(b)(6) and 11 C.F.R. § 104.3(b)(4) by failing to accurately report disbursements."²¹ As relevant here, those provisions require an authorized committee such as Kanye 2020 to file a form listing "the name and address of each person who has received any disbursement...in an aggregate amount or value in excess of \$200 within the...election cycle, together with the date and amount of any disbursement."²²

IV. The Commission Dismissed The Complaint

a. The complaint in this Matter was speculative and sufficiently answered by the Respondent.

The complaint filed in this Matter alleged actions which, if proven true, would constitute a violation of FECA.²³ But the complaint and responses, read together, did not permit a reason-to-believe finding. The complaint, which was not filed by anyone

intermediary. OGC discovered the article after searching publicly available information...the newspaper article functioned essentially as a second, unsworn complaint..." ("Protect Colorado Statement").

¹⁹ FGCR at 5-6.

²⁰ *Id.* at 5-6, 9-12 (discussing *Daily Beast* article).

²¹ *Id.* at 2, 13-14.

²² 52 U.S.C. § 30104(b)(6)(A); 11 C.F.R. § 104.3(b)(4).

²³ 52 U.S.C. § 30104(b)(6).

with personal knowledge of the allegations,²⁴ was speculative, little more than a “bare accusation of wrongdoing.”²⁵

Furthermore, the complaint’s allegations were satisfactorily answered by the respondents, who explained that “[t]here were no payments to Mercury included in the disclosure report because Mercury was not a direct vendor to the Committee.”²⁶ Specifically, the Response stated that the West campaign hired Millennial to perform a suite of services and Millennial, in turn, as part of its agreement to “provid[e] a host of bona fide campaign-related services to the Committee over the course of two months, entered into an entirely conventional and entirely legitimate sub-contract with Mercury to assist with ballot access activities.”²⁷ Absent credible evidence that this sub-vendor relationship was a ruse, there is no indication of wrongdoing by Respondents.

Thus, OGC initially determined, correctly, that “the available information d[id] not provide a reasonable basis to conclude that the [Kanye 2020] Committee was required to report Millennial’s disbursements to Mercury” and urged us to dismiss the complaint.²⁸

b. We will not use news articles based entirely on anonymous sources to supplement deficient complaints.

As the Commission has long noted, anonymous sources are unreliable and have not served as the basis for RTB findings.²⁹ Relying on anonymously sourced media reporting merely allows favored news organizations to supplant the Commission’s

²⁴ The complaint was filed by a concerned citizen who read a *New York Times* article concerning Mercury’s involvement in the West campaign. That report characterized a Mercury partner as being unable to “say why Mercury was not included in the companies that received disbursements in the West campaign’s recent filing to the Federal Election Commission.” Complaint App’x. A, Danny Hakim and Maggie Haberman, “Kanye West’s Perplexing Run as a Potential 2020 Spoiler,” *N.Y. Times*, Sept. 16, 2020. The Response answered that question.

²⁵ ACCP Statement at 2.

²⁶ Resp. at 2.

²⁷ *Id.* at 4.

²⁸ Initial FGCR at 6, MUR 7800 (Kanye 2020), Feb. 10, 2021; *id.* at 8.

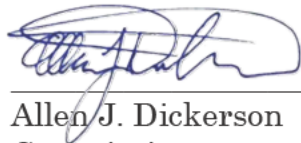
²⁹ Anonymous Sources Statement at 3, nn. 11-13 (citing to Factual & Legal Analysis at 5, MUR 5845 (Citizens for Truth); Statement of Reasons of Vice Chair Hunter and Comm’rs McGahn and Petersen at 2, 5, MUR 6279 (U.S. Dry Cleaning), Jan. 28, 2011; Protect Colorado Statement at 8).

obligation to make credibility assessments.³⁰ It “is antithetical to due process” for the Commission “to set the machinery of government in motion against respondents based upon...commissioners’ subjective views of particular publications and journalists.”³¹

We decline to play this game. We will not shadowbox with unnamed individuals in *The Daily Beast* or any other publication when making our enforcement decisions. “We will not pursue enforcement-by-rumor.”³²

CONCLUSION

For the foregoing reasons, we agree with OGC’s initial recommendation and voted accordingly.



Allen J. Dickerson
Commissioner

September 10, 2024

Date



James E. “Trey” Trainor, III
Commissioner

September 10, 2024

Date

³⁰ *Id.* at 5 (“We cannot, as a federal agency, take at face value every anonymous source cited by every publication—particularly in the constitutionally sensitive area we are charged with regulating. Efforts to distinguish among publications based upon our subjective sense of their ‘trustworthiness’ would fare no better, inevitably raising concerns that the Commission is acting capriciously”).

³¹ *Id.* at 8. *Cf.* Statement of Comm’rs Dickerson and Trainor Regarding the Commission’s Newly Adopted Directive Concerning Investigations, Nov. 2, 2023, at 4-5 (“In MUR 7271, the Commission unanimously voted to find RTB based on a complaint which relied exclusively upon a January 11, 2017 *Politico* article alleging that the DNC and Ms. Alexandra Chalupa sought and received political opposition research from Ukrainian government officials, knowing that it would be of value to the Democratic National Committee and Hillary Clinton’s presidential campaign. The Commission approved an investigation” which “quickly revealed that *Politico* was not only mistaken but, in fact, most likely the recipient of literal Russian disinformation.”) (internal citations, quotation marks, and brackets omitted).

³² MAGA PAC Statement at 1.