

**FEDERAL ELECTION COMMISSION**

**FIRST GENERAL COUNSEL'S REPORT**

MUR: 7808

DATE COMPLAINT FILED: September 30, 2020  
DATE OF NOTIFICATIONS: October 5, 2020  
LAST RESPONSE RECEIVED: October 29, 2020  
DATE ACTIVATED: December 1, 2020

EXPIRATION OF SOL: November 1, 2023  
ELECTION CYCLE: 2018

**COMPLAINANT:** End Citizens United PAC, Tiffany Muller

**RESPONDENTS:** John James for Senate, Inc. and Timothy Caughlin in his official capacity as Treasurer  
John E. James  
Renaissance Global Logistics, LLC  
Outsider PAC and Julie Dozier in her official capacity as Treasurer

## **RELEVANT STATUTES AND REGULATIONS:**

- 52 U.S.C. § 30116(f)
- 52 U.S.C. § 30118(a)
- 52 U.S.C. § 30125(e)(1)(A)
- 11 C.F.R. § 109.21
- 11 C.F.R. § 300.2(c)(2)
- 11 C.F.R. § 300.60
- 11 C.F.R. § 300.61

## **INTERNAL REPORTS CHECKED:** Disclosure Reports

**FEDERAL AGENCIES CHECKED:** None

## I. INTRODUCTION

37 The Complaint alleges that the Respondents in this matter violated the Federal Election  
38 Campaign Act of 1971, as amended, (“the Act”) in two ways. First, the Complaint alleges that  
39 John E. James, who in 2018 was a candidate for U.S. Senate and Chief Executive Officer  
40 (“CEO”) of Renaissance Global Logistics, LLC (“RGL”), improperly authorized the spending of  
41 corporate funds when RGL made a \$10,000 contribution to Outsider PAC, an independent-

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1 expenditure only political committee ("IEOPC"). Second, the Complaint alleges that James and  
2 Outsider PAC coordinated a communication resulting in a prohibited contribution when the  
3 IEOPC paid \$8,000 for an advertisement attacking James's opponent on the same day it received  
4 the RGL contribution.

5 Respondents deny the allegations. Although Respondents do not dispute that RGL made  
6 the \$10,000 contribution, they contend that James was not involved in the decision to make the  
7 contribution to Outsider PAC and therefore he did not direct or spend corporate money in  
8 violation of the law. James and Outsider PAC also deny coordinating on the ad.

9 As discussed further below, the available information suggests RGL was an entity that  
10 was controlled by a federal candidate and thus made a contribution outside of the limits and  
11 prohibitions of the Act. Based upon the apparent low-dollar amount in violation, however, this  
12 matter does not warrant further use of the Commission's resources. In addition, there is  
13 insufficient information indicating that Outsider PAC paid for a coordinated communication at  
14 the request or suggestion of James. We therefore recommend that the Commission: (1) exercise  
15 its prosecutorial discretion and dismiss the allegation that James and RGL violated 52 U.S.C.  
16 § 30125(e)(1)(A);<sup>1</sup> and (2) dismiss the allegation that Outsider PAC made, and James and John  
17 James for Senate Inc. and Timothy Caughlin in his official capacity as treasurer accepted, a  
18 prohibited contribution in violation of 52 U.S.C. § 30116(a) and (f).

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<sup>1</sup> See *Heckler v. Chaney*, 470 U.S. 821, 831 (1985).

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1    **II. FACTUAL SUMMARY**

2        In 2018, John E. James was a candidate for U.S. Senate in Michigan where he ran against

3        incumbent Debbie Stabenow.<sup>2</sup> John James for Senate Inc. and Timothy Caughlin in his official

4        capacity as treasurer ("John James for Senate" or "James Committee") was James's principal

5        campaign committee.<sup>3</sup> James was also a candidate for the U.S. Senate in Michigan in 2020, but

6        this matter pertains to activities from the 2018 election.<sup>4</sup> James is, and was at the time of his

7        2018 candidacy, CEO of RGL, which is a limited liability company based in Detroit, Michigan.<sup>5</sup>

8        Since 1998, RGL has been a wholly-owned subsidiary of James Group International, Inc.

9        ("JGI").<sup>6</sup> James also serves as president of JGI; his father, John A. James, was Chairman and

10      Owner of JGI in 2018.<sup>7</sup> Outsider PAC registered with the Commission as an IEOPC on May 16,

11      2018 and supported James during the 2018 cycle.<sup>8</sup> Julie Dozier is the treasurer of Outsider

12      PAC.<sup>9</sup>

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<sup>2</sup>        John James, Amended Statement of Candidacy (June 6, 2018); Debbie Stabenow, Amended 2018 Statement of Candidacy (Aug. 15, 2018).

<sup>3</sup>        John James for Senate Inc., Amended 2018 Statement of Org. (Oct. 4, 2018).

<sup>4</sup>        John James, Amended Statement of Candidacy (Sept. 11, 2020); *see Compl. at 1-3 (Sept. 30, 2020).*

<sup>5</sup>        RGL Resp. at 2 (Oct. 29, 2020).

<sup>6</sup>        Compl. at 2; RGL Resp. at 2; Resp. of John James and John James for Senate Inc. at 1-2 (Oct. 22, 2020) ("James Resp.").

<sup>7</sup>        RGL Resp. at 2; James Resp. at 1-2; *see also* JAMES GROUP, LEADERS & COLLABORATORS, <https://www.jamesgroupintl.com/leadership> (last visited Mar. 30, 2021).

<sup>8</sup>        *See* Outsider PAC, Statement of Organization at 5 (May 16, 2018); Outsider PAC Resp. at 2 (Oct. 22, 2020). All of Outsider PAC's reported IEs supported James or opposed his primary and general election opponents. *See Independent Expenditures: Filtered Results*, FEC.GOV [https://www.fec.gov/data/independent-expenditures/?data\\_type=processed&committee\\_id=C00678920&cycle=2018&is\\_notice=false&most\\_recent=true](https://www.fec.gov/data/independent-expenditures/?data_type=processed&committee_id=C00678920&cycle=2018&is_notice=false&most_recent=true) (reflecting all 2017-2018 IEs reported by Outsider PAC) (last visited Mar. 30, 2021).

<sup>9</sup>        *See* Outsider PAC, Statement of Organization at 1; Outsider PAC Resp. at 1.

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1        On November 1, 2018, RGL made a \$10,000 contribution to Outsider PAC.<sup>10</sup> In his  
 2        declaration submitted with the RGL Response, John A. James states that in or around late  
 3        October 2018, he spoke with a fundraiser of Outsider PAC and decided that RGL would make a  
 4        \$10,000 contribution to Outsider PAC.<sup>11</sup> John A. James states that as Chairman and Owner of  
 5        JGI, he possessed the authority to direct RGL to make the expenditure without the need to  
 6        consult with or get approval from his son, James, the CEO of RGL.<sup>12</sup> In its response, Outsider  
 7        PAC states that it received the contribution, which resulted from a solicitation directed at John A.  
 8        James by an Outsider PAC fundraiser.<sup>13</sup>

9            In addition to accepting the contribution from RGL on November 1, 2018, Outsider PAC  
 10        reported spending \$8,000 on “media production” as an independent expenditure opposing  
 11        Debbie Stabenow on the same day.<sup>14</sup> RGL’s \$10,000 contribution was one of five that Outsider  
 12        PAC received on November 1, for a total daily fundraising amount of \$75,000.<sup>15</sup>  
 13        According to the Complaint, given James’s role as CEO of RGL, he improperly directed  
 14        corporate funds to Outsider PAC in violation of the Act.<sup>16</sup> Furthermore, because of the timing  
 15        between RGL’s contribution and Outsider PAC’s independent expenditure targeting James’s

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<sup>10</sup>        Compl. at 2-3; RGL Resp. at 2; Outsider PAC Resp. at 2; *see also* Outsider PAC, 2018 Amended Post-General Report at 10 (Feb. 21, 2019) (“Outsider PAC Post-General Report”).

<sup>11</sup>        RGL Resp., Decl. of John A. James ¶¶ 4-8 (“John A. James Decl.”).

<sup>12</sup>        John A. James Decl. ¶ 6.

<sup>13</sup>        Outsider PAC Resp. at 2.

<sup>14</sup>        Compl. at 3; Outsider PAC Resp. at 3; *see also* Outsider PAC Post-General Report at 21.

<sup>15</sup>        Outsider PAC Post-General Report at 9-11. In the final reporting period of the cycle, Outsider PAC reported raising a total of \$477,750 between October 21 and November 2. Outsider PAC Post-General Report at 6-12.

<sup>16</sup>        Compl. at 4.

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1 opponent, the Complaint alleges that James and Outsider PAC made a coordinated expenditure  
 2 resulting in a prohibited contribution to James and his campaign.<sup>17</sup>

3 Respondents deny the allegations. Both James and John A. James contend that James  
 4 had no knowledge of or involvement in the decision to make the contribution,<sup>18</sup> and James  
 5 asserts that during his candidacy he was “fire-walled from all corporate political spending  
 6 decisions.”<sup>19</sup> In a sworn statement attached to the response, James states that he learned of the  
 7 contribution when it was publicly disclosed.<sup>20</sup> Outsider PAC states that it specifically solicited  
 8 John A. James, and as far as it was aware, John A. James solely authorized the making of the  
 9 contribution.<sup>21</sup> It further notes that the activity at issue arises from James’s earlier, 2018  
 10 candidacy and was filed “solely for the purpose of harming Mr. James’[s] current bid for the  
 11 United States Senate.”<sup>22</sup> As to the coordination allegation, James declares that he “[had] no  
 12 relationship with Outsider PAC, and [has] never solicited funds from anyone on its behalf.”<sup>23</sup>  
 13 Outsider PAC similarly states that there was no coordination between James and the IEOPC.<sup>24</sup>

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<sup>17</sup> *Id.* at 4-5.

<sup>18</sup> James Resp., Decl. of John James (“James Decl.”) ¶¶ 5-7; John A. James. Decl. ¶¶ 4-8.

<sup>19</sup> James Decl. ¶ 5.

<sup>20</sup> *Id.* ¶ 6.

<sup>21</sup> Outsider PAC Resp. at 1.

<sup>22</sup> *Id.* at 2.

<sup>23</sup> James Decl. ¶ 7.

<sup>24</sup> Outsider PAC Resp. at 2-3.

1    **III.    LEGAL ANALYSIS**2    **A.    The Commission Should Dismiss the Allegation that James and RGL**  
3    **Violated the Act's Soft-Money Prohibitions and Limitations**4       1.    The Available Information Suggests that RGL Was an Entity Directly or  
5    Indirectly Established, Financed, Maintained, or Controlled by James

6       The Act provides that federal candidates, officeholders, agents of candidates, or “an  
 7       entity directly or indirectly established, financed, maintained or controlled by or acting on behalf  
 8       of” a candidate or officeholder shall not “solicit, receive, direct, transfer, or spend funds in  
 9       connection with an election for Federal office, including funds for any Federal election activity,  
 10      unless the funds are subject to the limitations, prohibitions, and reporting requirements of this  
 11      Act.”<sup>25</sup> To determine whether an entity is “established, financed, maintained or controlled by” a  
 12      person, the Commission considers ten non-exhaustive factors “in the context of the overall  
 13      relationship between sponsor and the entity.”<sup>26</sup> These factors include, among others, “[w]hether  
 14      a sponsor, directly or through its agent, has the authority or ability to direct or participate in the  
 15      governance of the entity through provisions of constitutions, bylaws, contracts, or other rules, or  
 16      through formal or informal practices or procedures” and “[w]hether a sponsor, directly or  
 17      through its agent, has the authority or ability to hire, appoint, demote, or otherwise control the  
 18      officers, or other decision-making employees or members of the entity.”<sup>27</sup>

19       The available information suggests that RGL may have been an entity that was  
 20      established, financed, maintained, or controlled by James, a federal candidate. There is no  
 21      dispute that James was the CEO of RGL and president of its parent company at the time the

<sup>25</sup>       52 U.S.C. § 30125(e)(1)(A); 11 C.F.R. §§ 300.60, 300.61.

<sup>26</sup>       11 C.F.R. § 300.2(c)(2).

<sup>27</sup>       *Id.* § 300.2(c)(2)(ii)-(iii).

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1 contribution was made.<sup>28</sup> Although we lack information as to the specific roles and  
 2 responsibilities that James possessed with respect to RGL at the time of the contribution, his  
 3 position as the CEO of RGL could support a reasonable inference that James controlled RGL,  
 4 given that a CEO ordinarily exercises some control over the entity that he or she manages, such  
 5 as participating in the governance of the organization and having the power to hire and appoint  
 6 other decision making employees.<sup>29</sup> Thus, assuming that James controlled RGL, RGL would  
 7 have been subject to the restrictions at section 30125(e)(1)(A).

8 James's claim that he was firewalled from political spending decisions and thus not  
 9 aware of the contribution does not immunize him from section 30125(e)(1)(A) liability. The  
 10 plain language of the statute and Commission regulations does not indicate that any respondent,  
 11 much less the CEO of a company making political contributions, could use a firewall to avoid  
 12 liability under section 30125(e)(1)(A). Unlike other provisions of Commission regulations that  
 13 explicitly recognize a safe harbor for the establishment of a firewall,<sup>30</sup> there is no such  
 14 comparable provision with respect to the soft-money rules. Further, we are not aware of any  
 15 Commission precedent recognizing a firewall in the context of the Act's soft-money prohibition.

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<sup>28</sup> James Resp. at 1-2; RGL Resp. at 2. We also note that according to James's 2018 U.S. Senate Financial Disclosure Statement, James reported a salary of \$752,283.51 from RGL from Jan. 1, 2018 through Oct. 4, 2019. *See Candidate Report of Mr. John E. James*, U.S. SENATE FINANCIAL DISCLOSURES (Oct. 4, 2019), <https://efdsearch.senate.gov/search/view/annual/ef2edeb3-eb5c-4fef-952a-e0de18d99361/>.

<sup>29</sup> *See, e.g.*, *Chief Executive Officer*, BLACK'S LAW DICTIONARY (11th ed. 2019) (defining the role as “[a] corporation's highest-ranking administrator or manager, who reports to the board of directors”).

<sup>30</sup> *See, e.g.*, 11 C.F.R. § 109.21(h) (creating safe harbor with regard to coordinated communications for the establishment and use of a firewall).

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1                   2.    RGL's Contribution Appears to Have Been Subject to the Act's Soft  
 2                   Money Prohibitions

3                   Corporations, labor organizations, political committees, and individuals may make  
 4                   unlimited contributions to IEOPCs.<sup>31</sup> However, in Advisory Opinion 2011-12 (Majority PAC),  
 5                   the Commission advised that while IEOPCs may accept unlimited contributions from  
 6                   corporations, labor organizations, and individuals — federal office holders and candidates, their  
 7                   agents, and entities directly or indirectly established, financed, or maintained or controlled by  
 8                   federal office holders and candidates remain subject to the soft money prohibitions at  
 9                   section 30125(e) of the Act.<sup>32</sup> Thus, the Commission determined that when soliciting funds for  
 10                  an IEOPC, federal candidates could only solicit funds that complied with the Act's contribution  
 11                  limits and prohibitions.<sup>33</sup>

12                  Here, RGL, as an entity that appears to have been controlled by a federal candidate, could  
 13                  only make a contribution to Outsider PAC with federally compliant funds. And as a limited  
 14                  liability company ("LLC"), RGL was subject to rules for contributions made by LLCs at  
 15                  section 110.1(g) of the Commission's regulations. An LLC that elects to be treated as a  
 16                  corporation by the IRS is treated as a corporation for contribution purposes under the Act and is  
 17                  prohibited from making contributions to a candidate or candidate committee.<sup>34</sup> In contrast,

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<sup>31</sup>                  *SpeechNow.org v. FEC*, 599 F.3d 686, 696 (D.C. Cir. 2010) (*en banc*); Advisory Op. 2010-11 (Commonsense Ten) at 3 ("AO 2010-11").

<sup>32</sup>                  See Advisory Op. 2011-12 (Majority PAC) at 4 ("AO 2011-12") (stating that section 441i (renumbered as 30125) "remains valid since it was not disturbed by either *Citizens United* or *SpeechNow.*") (citing *RNC v. FEC*, 698 F. Supp.2d 150, 156-60 (D.D.C. 2010), *aff'd* 130 S. Ct. 3554 (2010)); *see also* Factual & Legal Analysis ("F&LA") at 11, MURs 6563/6733 (Rep. Aaron Schock) (finding a federal candidate's solicitation of two \$25,000 contributions to violate section 30125(e)); F&LA at 9, MUR 7337 (Debbie Lesko, *et al.*) ("Just as a federal candidate may not solicit nonfederal funds to an IEOPC, a federal candidate may not direct or transfer non-federal funds to an IEOPC.").

<sup>33</sup>                  AO 2011-12 at 4.

<sup>34</sup>                  11 C.F.R. § 110.1(g)(3).

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1 contributions by an LLC that elects to be treated as a partnership by the IRS are treated under the  
 2 Act as partnership contributions rather than corporate contributions.<sup>35</sup> Although we do not have  
 3 information regarding RGL's tax status, the \$10,000 contribution appears to have been improper  
 4 regardless of how RGL chose to be treated under U.S. tax law. If RGL is treated as a corporation  
 5 by the IRS, then its contribution to Outsider PAC would be prohibited under 52 U.S.C.  
 6 § 30118(a), and if RGL is treated as a partnership, then the contribution would have been subject  
 7 to the \$5,000 contribution limit at 52 U.S.C. § 30116(a)(1)(C) and would have been considered  
 8 excessive.

9 While the available information suggests that RGL improperly made a contribution to  
 10 Outsider PAC, the amount in violation (\$5,000-\$10,000) appears to be relatively low.<sup>36</sup> Thus,  
 11 we do not believe that this allegation warrants further use of the Commission's limited resources.  
 12 We therefore recommend that the Commission exercise its prosecutorial discretion and dismiss  
 13 the allegations that RGL violated 52 U.S.C. § 30125(e)(1)(A).<sup>37</sup>

14 For the same prudential reasons that we do not recommend pursuing RGL, we do not  
 15 believe the Commission should expend additional resources to pursue the allegation as to James  
 16 individually. Accordingly, we recommend that the Commission exercise its prosecutorial  
 17 discretion and dismiss the allegation that John E. James violated 52 U.S.C. § 30125(e)(1)(A).<sup>38</sup>

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<sup>35</sup> See *id* § 110.1(g)(2).

<sup>36</sup>

*see also* Second Gen. Counsel's Rpt. at 3, MUR 7286 (Indivisible Kentucky, Inc.)  
 ( recommending no further action for a \$10,000 reporting violation); Certification ¶ 2.a  
 (June 20, 2019), MUR 7286 (deciding to take no further action); First Gen. Counsel's Rpt. at 16, MUR 7639 (Ilhan  
 for Congress, *et al.*) ( recommending exercise of prosecutorial  
 discretion to dismiss allegation of \$5,677.40 reporting violation).

<sup>37</sup> See *Heckler*, 470 U.S. at 831.

<sup>38</sup> See *id.*

1                   **B. The Commission Should Dismiss the Allegation that Outsider PAC Made a**  
 2                   **Prohibited In-Kind Contribution to James and the James Committee by**  
 3                   **Coordinating Expenditures**

4                   The Act defines “contribution” to include “any gift, subscription, loan, advance, or  
 5                   deposit of money or anything of value made by any person for the purpose of influencing any  
 6                   election for Federal office.”<sup>39</sup> “Anything of value” includes in-kind contributions.<sup>40</sup> When a  
 7                   person makes an expenditure in cooperation, consultation, or in concert with, or at the request or  
 8                   suggestion of, a candidate or the candidate’s authorized committee or their agents, it is treated as  
 9                   an in-kind contribution.<sup>41</sup> Any person who is otherwise prohibited from making contributions to  
 10                  candidates under the Act or Commission regulations is prohibited from making an in-kind  
 11                  contribution.<sup>42</sup> IEOPCs are prohibited from making contributions to candidates and their  
 12                  authorized committees.<sup>43</sup> Federal candidates and their authorized committees may not  
 13                  knowingly accept an excessive or prohibited contribution.<sup>44</sup>

14                  Under the Commission’s regulations, a communication is “coordinated” with a candidate,  
 15                  an authorized committee, a political party committee, or agent thereof, and is treated as an in-  
 16                  kind contribution, if the communication satisfies a three-prong test: (1) it is paid for, partly or  
 17                  entirely, by a person other than the candidate, authorized committee, political party committee,  
 18                  or agent thereof; (2) it satisfies at least one of the “content standards” at 11 C.F.R. § 109.21(c);

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<sup>39</sup>                  52 U.S.C. § 30101(8)(A)(i); *see also id.* § 30101(9)(A)(i) (similarly defining “expenditure”).

<sup>40</sup>                  11 C.F.R. § 100.52(d)(1).

<sup>41</sup>                  52 U.S.C. § 30116(a)(7)(B); 11 C.F.R. § 109.20; *see also Buckley v. Valeo*, 424 U.S. 1, 46-47 (1976).

<sup>42</sup>                  *See* 52 U.S.C. §§ 30116(f), 30118(a); *see also* 11 C.F.R. § 109.22 (noting that any person prohibited from making contributions is prohibited from paying for coordinated communication).

<sup>43</sup>                  *See* 52 U.S.C. §§ 30116(f), 30118(a); AO 2010-11 at 2-3.

<sup>44</sup>                  52 U.S.C. §§ 30116(f), 30118(a).

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1 and (3) it satisfies at least one of the “conduct standards” at 11 C.F.R. § 109.21(d).<sup>45</sup> All three  
 2 prongs must be satisfied for a communication to be considered coordinated.<sup>46</sup>

3         Although the Complaint does not provide information regarding the specific content of  
 4 the advertisement for which Outsider PAC paid \$8,000 on November 1, 2018,<sup>47</sup> the information  
 5 contained in Outsider PAC’s FEC filings suggests that the first two prongs of the coordination  
 6 analysis are likely satisfied. First, the advertisement satisfies the payment prong because  
 7 Outsider PAC, not James or the Committee, paid for it.<sup>48</sup> Second, the content prong is likely  
 8 satisfied because Outsider PAC reported the \$8,000 payment as an independent expenditure,  
 9 which by definition expressly advocates the defeat of a clearly identified candidate for federal  
 10 office.<sup>49</sup> While publicly available information does not allow us to definitively say that the ad  
 11 satisfies the definition of “public communication,”<sup>50</sup> the question does not need to be resolved

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<sup>45</sup>         11 C.F.R. § 109.21(a); *see also id.* § 109.21(b) (describing in-kind treatment and reporting of coordinated communications).

<sup>46</sup>         *Id.* § 109.21(a); *see also* Coordinated and Independent Expenditures, 68 Fed. Reg. 421, 453 (Jan. 3, 2003) (Explanation and Justification).

<sup>47</sup>         Compl. at 3.

<sup>48</sup>         Outsider PAC, 24-Hour Report of Independent Expenditure (Nov. 2, 2018) (reporting an independent expenditure of \$8,000 for “media production” opposing Debbie Stabenow). The Complaint suggests that James “rout[ed]” RGL’s funds through Outsider PAC. Compl. at 3-4. There is no information in the record before the Commission to suggest that RGL paid for the media production directly.

<sup>49</sup>         The Act defines an independent expenditure as “an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate” that is made independent of a candidate, candidate’s authorized committee, political party committee, or their agents. 52 U.S.C. § 30101(17); *see also* 11 C.F.R. § 100.16(a) (same). Under 11 C.F.R. § 109.21(c)(3), a “public communication, as defined in 11 C.F.R. § 100.26, that expressly advocates . . . the election or defeat of a clearly identified candidate for Federal office” satisfies one of the five content standards.

<sup>50</sup>         “Public communication means a communication by means of any broadcast, cable, or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone bank to the general public, or any other form of general public political advertising. The term general public political advertising shall not include communications over the Internet, except for communications placed for a fee on another person’s Web site.” 11 C.F.R. § 100.26. There is no information in the record identifying what kind of communication the “media production” was for. For example, if the independent expenditure in question was for a communication over the internet that was not placed for a fee on another person’s website, it would not satisfy the content prong because it would not be “a public communication as defined in 11 C.F.R. § 100.26.” *Id.* § 109.21(c)(3).

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1 because the ad does not appear to meet any of the conduct standards set forth at section

2 109.21(d).<sup>51</sup>

3 The Complaint alleges that the ad satisfies the conduct prong because it was made by  
 4 Outsider PAC at the request or suggestion of or through substantial discussion with James.<sup>52</sup> To  
 5 support this allegation, the Complaint points to the timing of RGL's contribution relative to the  
 6 expenditure that Outside PAC made on the same day. Taken together, the Complaint suggests  
 7 that James requested the proposed spending by Outsider PAC.<sup>53</sup> That inference, however, does  
 8 not appear to be supported by the available information.

9 *First*, RGL's \$10,000 contribution was one of five that Outsider PAC received on  
 10 November 1, 2018, for a total daily fundraising amount of \$75,000.<sup>54</sup> Consequently, it is not  
 11 apparent that Outsider PAC funded its \$8,000 expenditure through RGL's contribution. *Second*,  
 12 the temporal proximity of RGL's contribution and Outsider PAC's advertisement alone appears  
 13 to be an insufficient basis on which to infer reason to believe that Respondents violated the  
 14 Act.<sup>55</sup> Accordingly, based on the circumstances set forth in this matter, we recommend that the

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<sup>51</sup> The "conduct" prong will be satisfied if: (1) the communication was created, produced, or distributed at the request or suggestion of a candidate or his campaign; (2) the candidate or his campaign was materially involved in decisions regarding the communication; (3) the communication was created, produced, or distributed after substantial discussions with the campaign or its agents; (4) the parties contracted with or employed a common vendor that used or conveyed material information about the campaign's plans, projects, activities or needs, or used material information gained from past work with the candidate to create, produce, or distribute the communication; (5) the payor employed a former employee or independent contractor of the candidate who used or conveyed material information about the campaign's plans, projects, activities or needs, or used material information gained from past work with the candidate to create, produce, or distribute the communication; or (6) the payor republished campaign material. *See id.* § 109.21(d).

<sup>52</sup> Compl. at 4-5; *see also* 11 C.F.R. § 109.21(d)(1).

<sup>53</sup> Compl. at 4-5.

<sup>54</sup> *See* Outsider PAC Post-General Report at 9-11. From October 21 through November 2, 2018, Outsider PAC raised a total of \$477,750, including a single donation of \$60,000 on November 2. *See id.* at 6-12.

<sup>55</sup> Cf. F&LA at 8, MUR 6821 (Shaheen for Senate) (dismissing allegations of coordination by republication based solely on thematic similarities and timing in matter in which respondents denied the advertisement was coordinated); F&LA at 10, MUR 7124 (Katie McGinty for Senate) (concluding that the timing of certain commercials paid for by third parties was not sufficient to support an inference that the third parties had any private

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- 1 Commission dismiss the allegations that Outsider PAC, James, and the James Committee
- 2 violated 52 U.S.C. § 30116(a) or (f) by making or accepting an excessive in-kind contribution.

3 **IV. RECOMMENDATIONS**

- 4 1. Dismiss the allegation that John James and Renaissance Global Logistics, LLC  
5 violated 52 U.S.C. § 30125(e)(1) by soliciting, receiving, directing, transferring, or  
6 spending non-federal funds in violation of the Act in connection with an election for  
7 federal office;
- 8 2. Dismiss the allegation that John James, John James for Senate, and Timothy Caughlin  
9 in his official capacity as treasurer violated 52 U.S.C. § 30116(f) by accepting an  
10 excessive in-kind contribution in the form of coordinated communications;
- 11 3. Dismiss the allegation that Outsider PAC and Julie Dozier in her official capacity as  
12 treasurer violated 52 U.S.C. § 30116(a) by making an excessive in-kind contribution  
13 in the form of coordinated communications;
- 14 4. Approve the attached Factual and Legal Analysis;
- 15 5. Approve the appropriate letters; and
- 16 6. Close the file.

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communications with the candidate they supported); F&LA at 6, MUR 7166 (Nelson for Wisconsin, *et al.*) (dismissing coordination allegation where complaint failed to allege specific facts regarding the conduct standard and finding the timing of advertisement close to the election was insufficient to support the allegation).

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