



FEDERAL ELECTION COMMISSION
Washington, DC 20463

July 20, 2022

VIA ELECTRONIC MAIL

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Charlie Spies
 Katherine Reynolds
 Dickinson Wright
 1825 Eye Street, NW Suite 900
 Washington, DC 20006

RE: MUR 7808
 John James for Senate, *et al.*

Dear Mr. Spies and Ms. Reynolds:

On October 5, 2020, the Federal Election Commission notified your clients, John James, John James for Senate and Timothy Caughlin in his official capacity as treasurer, of a complaint alleging that your clients violated certain sections of the Federal Election Campaign Act of 1971, as amended.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on July 14, 2022, voted to dismiss the allegation that John James and John James for Senate and Timothy Caughlin in his official capacity as treasurer violated 52 U.S.C. § 30116(f), and to dismiss the allegation that John James violated 52 U.S.C. § 30125(e)(1). Accordingly, the Commission closed the file in this matter. A Factual and Legal Analysis explaining the Commission's decision is attached.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016), effective September 1, 2016.

If you have any questions, please contact me at (202) 694-1617.

Sincerely,

Peter G. Blumberg
 Peter G. Blumberg
 Assistant General Counsel

Attachment as stated.

FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

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

MUR 7808

I. INTRODUCTION

13 The Complaint alleges that the Respondents in this matter violated the Federal Election
14 Campaign Act of 1971, as amended, (“the Act”) in two ways. First, the Complaint alleges that
15 John E. James, who in 2018 was a candidate for U.S. Senate and Chief Executive Officer
16 (“CEO”) of Renaissance Global Logistics, LLC (“RGL”), improperly authorized the spending of
17 corporate funds when RGL made a \$10,000 contribution to Outsider PAC, an independent-
18 expenditure only political committee (“IEOPC”). Second, the Complaint alleges that James and
19 Outsider PAC coordinated a communication resulting in a prohibited contribution when the
20 IEOPC paid \$8,000 for an advertisement attacking James’s opponent on the same day it received
21 the RGL contribution.

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

26 Based upon the apparent low-dollar amount in violation, this matter does not warrant
27 further use of the Commission's resources. In addition, there is no information indicating that
28 Outsider PAC paid for a coordinated communication at the request or suggestion of James.
29 Therefore, the Commission: (1) exercises its prosecutorial discretion and dismisses the

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1 allegation that James and RGL violated 52 U.S.C. § 30125(e)(1)(A);¹ and (2) exercises its
 2 prosecutorial discretion and dismisses the allegation that Outsider PAC made, and James and
 3 John James for Senate Inc. and Timothy Caughlin in his official capacity as treasurer accepted, a
 4 prohibited contribution in violation of 52 U.S.C. § 30116(a) and (f).²

5 **II. FACTUAL SUMMARY**

6 In 2018, John E. James was a candidate for U.S. Senate in Michigan where he ran against
 7 incumbent Debbie Stabenow.³ John James for Senate Inc. and Timothy Caughlin in his official
 8 capacity as treasurer (“John James for Senate” or “James Committee”) was James’s principal
 9 campaign committee.⁴ James was also a candidate for the U.S. Senate in Michigan in 2020, but
 10 this matter pertains to activities from the 2018 election.⁵ James is, and was at the time of his
 11 2018 candidacy, CEO of RGL, which is a limited liability company based in Detroit, Michigan.⁶
 12 Since 1998, RGL has been a wholly-owned subsidiary of James Group International, Inc.
 13 (“JGI”).⁷ James also serves as president of JGI; his father, John A. James, was Chairman and
 14 Owner of JGI in 2018.⁸ Outsider PAC registered with the Commission as an IEOPC on May 16,

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

² *Id.*

³ John James, Amended Statement of Candidacy (June 6, 2018); Debbie Stabenow, Amended 2018 Statement of Candidacy (Aug. 15, 2018).

⁴ John James for Senate Inc., Amended 2018 Statement of Org. (Oct. 4, 2018).

⁵ John James, Amended Statement of Candidacy (Sept. 11, 2020); *see* Compl. at 1-3 (Sept. 30, 2020).

⁶ RGL Resp. at 2 (Oct. 29, 2020).

⁷ 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.”).

⁸ 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).

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1 2018 and supported James during the 2018 cycle.⁹ Julie Dozier is the treasurer of Outsider
2 PAC.¹⁰

3 On November 1, 2018, RGL made a \$10,000 contribution to Outsider PAC.¹¹ In his
4 declaration submitted with the RGL Response, John A. James states that in or around late
5 October 2018, he spoke with a fundraiser of Outsider PAC and decided that RGL would make a
6 \$10,000 contribution to Outsider PAC.¹² John A. James states that as Chairman and Owner of
7 JGI, he possessed the authority to direct RGL to make the expenditure without the need to
8 consult with or get approval from his son, James, the CEO of RGL.¹³ In its Response, Outsider
9 PAC states that it received the contribution, which resulted from a solicitation directed at John A.
10 James by an Outsider PAC fundraiser.¹⁴

11 In addition to accepting the contribution from RGL on November 1, 2018, Outsider PAC
12 reported spending \$8,000 on “media production” as an independent expenditure opposing
13 Debbie Stabenow on the same day.¹⁵ RGL’s \$10,000 contribution was one of five that Outsider
14 PAC received on November 1, for a total daily fundraising amount of \$75,000.¹⁶

⁹ 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 (reflecting all 2017-2018 IEs reported by Outsider PAC) (last visited Mar. 30, 2021).

¹⁰ See Outsider PAC, Statement of Organization at 1; Outsider PAC Resp. at 1.

¹¹ 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”).

¹² RGL Resp., Decl. of John A. James ¶¶ 4-8 (“John A. James Decl.”).

¹³ John A. James Decl. ¶ 6.

¹⁴ Outsider PAC Resp. at 2.

¹⁵ Compl. at 3; Outsider PAC Resp. at 3; *see also* Outsider PAC Post-General Report at 21.

¹⁶ 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.

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1 According to the Complaint, given James's role as CEO of RGL, he improperly directed
 2 corporate funds to Outsider PAC in violation of the Act.¹⁷ Furthermore, because of the timing
 3 between RGL's contribution and Outsider PAC's independent expenditure targeting James's
 4 opponent, the Complaint alleges that James and Outsider PAC made a coordinated expenditure
 5 resulting in a prohibited contribution to James and his campaign.¹⁸

6 Respondents deny the allegations. Both James and John A. James contend that James
 7 had no knowledge of or involvement in the decision to make the contribution,¹⁹ and James
 8 asserts that during his candidacy he was "fire-walled from all corporate political spending
 9 decisions."²⁰ In a sworn statement attached to the response, James states that he learned of the
 10 contribution when it was publicly disclosed.²¹ Outsider PAC states that it specifically solicited
 11 John A. James, and as far as it was aware, John A. James solely authorized the making of the
 12 contribution.²² It further notes that the activity at issue arises from James's earlier, 2018
 13 candidacy and was filed "solely for the purpose of harming Mr. James'[s] current bid for the
 14 United States Senate."²³ As to the coordination allegation, James declares that he "[had] no
 15 relationship with Outsider PAC, and [has] never solicited funds from anyone on its behalf."²⁴
 16 Outsider PAC similarly states that there was no coordination between James and the IEOPC.²⁵

¹⁷ Compl. at 4.

¹⁸ *Id.* at 4-5.

¹⁹ James Resp., Decl. of John James ("James Decl.") ¶¶ 5-7; John A. James. Decl. ¶¶ 4-8.

²⁰ James Decl. ¶ 5.

²¹ *Id.* ¶ 6.

²² Outsider PAC Resp. at 1.

²³ *Id.* at 2.

²⁴ James Decl. ¶ 7.

²⁵ Outsider PAC Resp. at 2-3.

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1 **III. LEGAL ANALYSIS**

2 **A. The Commission Dismisses the Allegation that James and RGL Violated the**
 3 **Act's Soft-Money Prohibitions and Limitations**

4 The Act provides that federal candidates, officeholders, agents of candidates, or “an
 5 entity directly or indirectly established, financed, maintained or controlled by or acting on behalf
 6 of” a candidate or officeholder shall not “solicit, receive, direct, transfer, or spend funds in
 7 connection with an election for Federal office, including funds for any Federal election activity,
 8 unless the funds are subject to the limitations, prohibitions, and reporting requirements of this
 9 Act.”²⁶ To determine whether an entity is “established, financed, maintained or controlled by” a
 10 person, the Commission considers ten non-exhaustive factors “in the context of the overall
 11 relationship between sponsor and the entity.”²⁷ These factors include, among others, “[w]hether
 12 a sponsor, directly or through its agent, has the authority or ability to direct or participate in the
 13 governance of the entity through provisions of constitutions, bylaws, contracts, or other rules, or
 14 through formal or informal practices or procedures” and “[w]hether a sponsor, directly or
 15 through its agent, has the authority or ability to hire, appoint, demote, or otherwise control the
 16 officers, or other decision-making employees or members of the entity.”²⁸

17 Corporations, labor organizations, political committees, and individuals may make
 18 unlimited contributions to IEOPCs.²⁹ However, in Advisory Opinion 2011-12 (Majority PAC),
 19 the Commission advised that while IEOPCs may accept unlimited contributions from
 20 corporations, labor organizations, and individuals — federal office holders and candidates, their

²⁶ 52 U.S.C. § 30125(e)(1)(A); 11 C.F.R. §§ 300.60, 300.61.

²⁷ 11 C.F.R. § 300.2(c)(2).

²⁸ *Id.* § 300.2(c)(2)(ii)-(iii).

²⁹ *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”).

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1 agents, and entities directly or indirectly established, financed, or maintained or controlled by
 2 federal office holders and candidates remain subject to the soft money prohibitions at
 3 section 30125(e) of the Act.³⁰ Thus, the Commission determined that when soliciting funds for
 4 an IEOPC, federal candidates could only solicit funds that complied with the Act's contribution
 5 limits and prohibitions.³¹

6 The alleged amount in violation (\$5,000-\$10,000) is relatively low in this case.³² Thus,
 7 we do not believe that this allegation warrants further use of the Commission's limited resources
 8 to determine whether James, despite the existence of a firewall, controlled RGL within the
 9 meaning of the Act at the time of its contribution to the James Committee. Therefore, the
 10 Commission exercises its prosecutorial discretion and dismisses the allegations that RGL
 11 violated 52 U.S.C. § 30125(e)(1)(A).³³

12 For the same prudential reasons that we decline to pursue RGL, we do not believe the
 13 Commission should expend additional resources to pursue the allegation as to James
 14 individually. Accordingly, the Commission exercises its prosecutorial discretion and dismisses
 15 the allegation that John E. James violated 52 U.S.C. § 30125(e)(1)(A).³⁴

³⁰ 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)).

³¹ AO 2011-12 at 4.

³² See Second Gen. Counsel's Rpt. at 3, MUR 7286 (Indivisible Kentucky, Inc.) (citing EPS standards in recommending no further action for a \$10,000 reporting violation); Certification ¶ 2.a (June 20, 2019), MUR 7286 (deciding to take no further action).

³³ See *Heckler*, 470 U.S. at 831.

³⁴ See *id.*

1 **B. The Commission Dismisses 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.”³⁵ “Anything of value” includes in-kind contributions.³⁶ 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.³⁷ 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.³⁸ IEOPCs are prohibited from making contributions to candidates and their
 12 authorized committees.³⁹ Federal candidates and their authorized committees may not
 13 knowingly accept an excessive or prohibited contribution.⁴⁰

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);

³⁵ 52 U.S.C. § 30101(8)(A)(i); *see also id.* § 30101(9)(A)(i) (similarly defining “expenditure”).

³⁶ 11 C.F.R. § 100.52(d)(1).

³⁷ 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).

³⁸ *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).

³⁹ *See* 52 U.S.C. §§ 30116(f), 30118(a); AO 2010-11 at 2-3.

⁴⁰ 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).⁴¹ All three
 2 prongs must be satisfied for a communication to be considered coordinated.⁴²

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, 2018,⁴³ 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.⁴⁴ 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.⁴⁵ While publicly available information does not allow us to definitively say that the ad
 11 satisfies the definition of “public communication,”⁴⁶ the question does not need to be resolved

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

⁴² *Id.* § 109.21(a); *see also* Coordinated and Independent Expenditures, 68 Fed. Reg. 421, 453 (Jan. 3, 2003) (Explanation and Justification).

⁴³ Compl. at 3.

⁴⁴ 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.

⁴⁵ 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.

⁴⁶ “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.

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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).⁴⁷

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.⁴⁸ 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.⁴⁹ That inference, however, is not

8 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 \$75,000.⁵⁰ 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.⁵¹ Accordingly, the Commission exercises its prosecutorial discretion and dismisses the

⁴⁷ See *id.* § 109.21(d).

⁴⁸ Compl. at 4-5; *see also* 11 C.F.R. § 109.21(d)(1).

⁴⁹ Compl. at 4-5.

⁵⁰ 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.

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

⁵² See *Heckler*, 470 U.S. at 831.