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**FEDERAL ELECTION COMMISSION**

**FIRST GENERAL COUNSEL'S REPORT**

MUR 7810

COMPLAINT DATE: October 1, 2020

NOTIFICATION DATE: October 8, 2020

LAST RESPONSE RECEIVED: October 23, 2020

ACTIVATION DATE: May 14, 2021

EXPIRATION OF STATUTE OF LIMITATIONS:

Earliest: August 3, 2025

Latest: September 29, 2025

ELECTION CYCLE: 2020

**COMPLAINANT:**

Dan Backer, Patriots of America PAC

**RESPONDENTS:**

Karyn Kay Griffin, Executive Director  
Shout Out America PAC and Mike McCauley  
in his official capacity as treasurer

**RELEVANT STATUTES  
AND REGULATIONS:**

52 U.S.C. § 30102(i)

52 U.S.C. § 30103(a)

52 U.S.C. § 30118

52 U.S.C. § 30120

11 C.F.R. § 102.1(d)

11 C.F.R. § 104.7

11 C.F.R. § 110.11

11 C.F.R. § 114.2

**INTERNAL REPORTS CHECKED:** Disclosure Reports

**AGENCIES CHECKED:**

**I. INTRODUCTION**

38 The Complaint in this matter alleges that Shout Out America PAC (“Shout Out”) failed to  
39 register with the Commission despite operating a website that solicited funds to support the  
40 reelection of Donald J. Trump for President.<sup>1</sup> It further alleges that Shout Out’s website, and a  
41 printed communication accessible through its website, failed to include disclaimers or best  
42 efforts language requesting contributor identification information, that it solicited prohibited

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<sup>1</sup> Compl. at 5-6 (Oct. 1, 2020).

1 corporate contributions, and that Shout Out's director, Karyn Kay Griffin, committed wire fraud  
2 by soliciting funds based on fraudulent misrepresentations.<sup>2</sup>

3 In their Response, Shout Out and Griffin assert that Shout Out registered as a nonfederal  
4 political committee with the State of New Mexico in August 2020.<sup>3</sup> Shout Out registered as an  
5 independent expenditure-only political committee ("IEOPC") with the Commission shortly after  
6 being notified of the Complaint. Respondents assert that Shout Out did not make \$1,000 in  
7 federal expenditures until mid-September, and that its registration with the Commission was only  
8 15 days late.<sup>4</sup> Further, Respondents assert that Shout Out filed its first disclosure report in a  
9 timely fashion.<sup>5</sup> Respondents deny the remaining allegations.<sup>6</sup>

10 As discussed in further detail below, we recommend that the Commission exercise its  
11 prosecutorial discretion and dismiss the allegations that Shout Out failed to register with the  
12 Commission and failed to include proper disclaimers but that it issue a letter of caution.<sup>7</sup> We  
13 also recommend that the Commission find no reason to believe that Shout Out failed to follow  
14 the regulation's best efforts provisions or that Shout Out or Griffin solicited prohibited  
15 contributions.<sup>8</sup>

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<sup>2</sup> *Id.* at 7-13.

<sup>3</sup> Resp. at 2 (Oct. 23, 2020).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 2-4.

<sup>7</sup> *See Heckler v. Chaney*, 470 U.S. 821 (1985).

<sup>8</sup> The Complaint's allegation that Griffin committed wire fraud, in violation of 18 U.S.C. § 1343, by allegedly misrepresenting Shout Out's association with Go Fas Racing on its website, is not within the Commission's jurisdiction. Therefore, we make no recommendation regarding the alleged activity.

## 1 II. FACTUAL BACKGROUND

2 Shout Out was founded by Karyn Kay Griffin and registered with the state of New Mexico  
3 as a nonfederal political committee on August 28, 2020.<sup>9</sup> After the filing of the Complaint in  
4 this matter, Shout Out registered with the Commission as an IEOPC on October 14, 2020.<sup>10</sup> It  
5 filed its first disclosure report with the Commission on October 15, 2020.<sup>11</sup> During the 2020  
6 election cycle, Shout Out disclosed \$6,874.06 in receipts (consisting of \$624.06 in unitemized  
7 contributions and \$6,250 in itemized contributions from three individuals) and \$6,289.99 in  
8 disbursements, all of which were issued for operating expenditures.<sup>12</sup> Shout Out has had no  
9 activity in 2021 and only has \$584.07 in cash on hand.<sup>13</sup>

10 According to the Respondents, Griffin previously served as a board member and co-chair  
11 of Patriots of America PAC, the Complainant in this matter, and that the Complaint was “a  
12 tactical and retaliatory filing” made “in an attempt to silence” Shout Out and harass Griffin.<sup>14</sup>

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<sup>9</sup> See Resp. at 2 and Ex. 1. According to Respondents, Shout Out acted on the advice of previous counsel when it registered with New Mexico. *Id.* at 2.

<sup>10</sup> See Shout Out America PAC, Statement of Organization (Oct. 14, 2020); Compl. at 1. See also *Shout Out America, A New Political Action Committee, Overview*, available at <https://shoutoutamericapac.org/wp-content/uploads/2020/09/Shout-Out-America-PAC-One-Sheet-August-2020.pdf> (last accessed July 21, 2020) (listing Griffin as Executive Director).

<sup>11</sup> Shout Out America PAC, 2020 October Quarterly Report (Oct. 15, 2020).

<sup>12</sup> See Shout Out America PAC, *2019-2020 Financial Summary Page*, FEC.gov (last accessed July 21, 2021).

<sup>13</sup> See Shout Out America PAC, *2021-2022 Financial Summary Page*, FEC.gov (last accessed July 21, 2021). Griffin registered Shout Out with the state of New Mexico as an independent expenditure political committee on August 28, 2020 and filed its first state report on September 13, 2020, disclosing one \$500 contribution that it received on September 4, 2020. See State of New Mexico Committee Registration Form (Aug. 28, 2020) and Shout Out America PAC, 2020 First General Report, New Mexico Office of the Sec. of State (Sept. 13, 2020). For the 2020 election cycle, it disclosed \$6,975 in contributions and \$6,870.06 in expenditures on its state reports, which is \$101 in additional receipts and \$580 in additional disbursements than what was disclosed on its Commission filings; it has disclosed no state activity in 2021. See Shout Out America PAC filings, New Mexico Secretary of State, <https://login.cfis.sos.state> (search “Shout Out America PAC”).

<sup>14</sup> Resp. at 4. Patriots of America PAC is a hybrid PAC registered with the Commission. See Patriots of America PAC, Statement of Organization and attached Miscellaneous Text (Feb. 18, 2020) (registering as an IEOPC); Statement of Organization and attached Miscellaneous Text (Apr. 14, 2020) (amending statement to

1 Griffin explains that while she was associated with Patriots of America PAC, she raised \$1  
 2 million for the committee and also helped negotiate a contract with Go Fas Racing.<sup>15</sup> Griffin  
 3 states that she left Patriots of America PAC following a disagreement with the Complainant after  
 4 she “attempted to prevent him from filing improper FEC reports” for the PAC.<sup>16</sup> She further  
 5 explains that after departing Patriots of America PAC, she began negotiations with the owner of  
 6 Go Fas Racing on behalf of Shout Out in order to run Trump 2020 ads on its #32 stock car, but  
 7 the parties never entered into a contract.<sup>17</sup> It appears that Go Fas Racing car number 32 ran in a  
 8 number of races wrapped with a Trump 2020 message, but that the advertisement was paid for  
 9 by Patriots of America PAC.<sup>18</sup>

10 Shout Out operated a website at [www.shoutoutamericapac.org](http://www.shoutoutamericapac.org), which the Complaint  
 11 alleges failed to display disclaimers.<sup>19</sup> Screenshots attached to the Complaint show that a  
 12 disclaimer appears on its homepage, while the “Learn More,” “Donate,” and payment pages did

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indicate it would establish a separate non-contribution account, allowing it to operate as a hybrid political committee).

<sup>15</sup> Resp. at 1, 4. Go Fas Racing is a stock car racing team that currently races car number 32 in the NASCAR Cup Series. See <https://gofasracing.com/>; @GoFASRacing32, TWITTER, <https://twitter.com/GoFasRacing32> (describing itself as @FordPerformance team in the @NASCAR Cup Series); Kelly Crandall, *Go Fas to Run Part-Time in 2021* (Oct. 22, 2020), <https://racer.com/2020/10/22/go-fas-to-run-part-time-in-2021/>; *Go Fas Racing*, WIKIPEDIA, [https://en.wikipedia.org/wiki/Go\\_Fas\\_Racing](https://en.wikipedia.org/wiki/Go_Fas_Racing).

<sup>16</sup> Resp. at 4.

<sup>17</sup> *Id.* (explaining that Shout Out was unable to raise sufficient funds to meet the terms of the contract). Respondents have not provided a copy of the proposed contract with Go Fas Racing. The Complaint states that Go Fas Racing contracted with the Complainant and “upon information and belief, has not worked with any other political action committees, including Respondents,” but does not state whether Respondents ever attempted to negotiate for services with Go Fas Racing. Compl. at 12.

<sup>18</sup> See Patriots for America PAC Website, <https://patriotsofamericapac.org/> (displaying car number 32 wrapped with a Trump 2020 message). Archived pages of the Go Fas Racing team reveals that Shout Out America PAC was never one of its sponsors, but that Patriots of America PAC was. See, e.g., <https://gofasracing.com/partner> (current page); <https://web.archive.org/web/20200930185309/https://gofasracing.com/partner> (Sept. 30, 2020 snapshot).

<sup>19</sup> See *infra* Sec. III.B (discussing alleged disclaimer violations).

1 not.<sup>20</sup> A pdf document accessible through the site's "Learn More" button also did not display a  
2 full disclaimer.<sup>21</sup> The disclaimer on the home-page states "Paid for by Shout Out America PAC,  
3 Not authorized by any candidate or candidate's committee, ShoutOutAmericaPAC.org."<sup>22</sup> The  
4 current version of Shout Out's website now displays the disclaimer on each of its active pages  
5 and includes "best efforts" language on its donation page; Respondents indicate that the  
6 disclaimers and "best efforts" language were added after receipt of the Complaint.<sup>23</sup>

### 7 **III. LEGAL ANALYSIS**

8 The Complaint alleges that Shout Out failed to register as a political committee with the  
9 Commission, failed to include disclaimers on its website and on a printed communication  
10 accessible through the website, failed to include best efforts language on the donation page of its  
11 website, and improperly solicited corporate contributions.<sup>24</sup>

#### 12 **A. Failure to Register as a Political Committee**

13 The Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission  
14 regulations define a "political committee" as "any committee, club, association, or other group of  
15 persons which receives contributions aggregating in excess of \$1,000 during a calendar year or  
16 which makes expenditures aggregating in excess of \$1,000 during a calendar year."<sup>25</sup> Political  
17 committees are required to register with the Commission by filing a statement of organization

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<sup>20</sup> Compl. at Exs. B, D, E, and F.

<sup>21</sup> *Id.* at Ex. D.

<sup>22</sup> *Id.* at Ex. B.

<sup>23</sup> *See* Resp. at 2-3; <https://shoutoutamericapac.org/> and <https://shoutoutamericapac.org/donate/>; *see infra* at Sec. III.C (discussing alleged best efforts violation).

<sup>24</sup> Compl. at 1, 7-11.

<sup>25</sup> 52 U.S.C. § 30101(4)(A); 11 C.F.R. § 100.5.

1 with the Commission no later than 10 days after designation, must meet organizational and  
2 recordkeeping requirements, and file periodic disclosure reports.<sup>26</sup>

3 Shout Out acknowledges that it should have registered with the Commission at an earlier  
4 point. It registered with the state of New Mexico on August 28, 2020, but did not register with  
5 the Commission until October 14, 2020, after receipt of the Complaint in this matter.<sup>27</sup>

6 Respondents concede that Shout Out's registration was untimely because it passed the Act's  
7 \$1,000 threshold for political committee status on September 19, 2020.<sup>28</sup> Based on that date,  
8 Shout Out's Statement of Organization was due on September 29, 2020, but was filed 15 days  
9 late.

10 We have no information that Shout Out's registration status was triggered at an earlier  
11 date. The Complaint alleges, however, that the website was likely designed at a considerable  
12 cost and because the website URL was obtained on July 24, 2020, Shout Out may have triggered  
13 political committee status around that date.<sup>29</sup> Whether Shout Out's registration requirement was  
14 triggered around July 24 or September 19 would not change the fact that the 2020 October  
15 Quarterly Report was its first disclosure report due to the Commission and was timely filed.<sup>30</sup>  
16 Based on the short period involved with Shout Out's untimely registration and the fact that it still  
17 timely filed its initial disclosure report, we recommend that the Commission dismiss as a matter

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<sup>26</sup> See 52 U.S.C. §§ 30102, 30103, 30104.

<sup>27</sup> Resp. at 2 and Ex. 1; Shout Out America PAC, Statement of Organization (Oct. 14, 2020).

<sup>28</sup> Resp. at 2.

<sup>29</sup> Compl. 6 and Ex. C. Shout Out's disclosure reports do not include any website related costs; therefore, we are unable to determine whether it exceeded the statutory threshold at an earlier date based on expenses related to website development or maintenance.

<sup>30</sup> See Shout Out America PAC, 2020 October Quarterly Report (Oct. 15, 2020).

1 of prosecutorial discretion the allegation that Shout Out violated 52 U.S.C. § 30103(a) and  
2 11 C.F.R. § 102.1(d) by filing a late registration and that it issue a letter of caution.<sup>31</sup>

3 **B. Failure to Include Disclaimers**

4 All public communications made by a political committee and all public communications  
5 made by any person that expressly advocate the election or defeat of a clearly identified  
6 candidate are required to include a disclaimer as set forth in the Act and Commission  
7 regulations.<sup>32</sup> Disclaimers are required on all Internet websites of a political committee available  
8 to the general public.<sup>33</sup> If the communication, including any solicitation, is not authorized by a  
9 candidate, authorized committee of a candidate, or an agent of either, the disclaimer must clearly  
10 state the full name and permanent street address, telephone number, or World Wide Web address

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<sup>31</sup> The Commission has dismissed violations and issued caution letters in matters involving late filed statements of organization. *See, e.g.*, Factual and Legal Analysis (“F&LA”) at 11, MUR 7367 (Charlotte County Republican Executive Committee and West Charlotte Club) (dismissing with caution allegations that respondents failed to organize, register, and report as political committees where although some respondents triggered political committee status, the amount in violation for each was small); F&LA at 6-7, MUR 7261 (Levi for Colorado) (dismissing with caution where although Respondents missed deadline to file as a candidate and register as a candidate committee by about a month, they began filing well in advance of the primary election); F&LA at 6 and Certification (Feb. 9, 2017), MUR 7041 (Arizona Pipe Trades Local 469, *et al.*) (dismissing with caution where though some reporting violations remained, the statute of limitations had expired on respondent’s failure to timely register as a political committee, it had registered nine months late, made no other federal contributions, and had reported all of its transactions on its state disclosures); F&LA at 1 and 11, MUR 6999 (David Larsen) (dismissing with caution allegations of a late Statement of Candidacy, late Statement of Organization, and failure to file a quarterly report where the amount at issue was small); Closing Ltr. (May 5, 2011) and General Counsel’s Rpt. at 6 (Feb. 22, 2011), MUR 6367 (Veterans for the Constitution) (dismissing allegations and reminding respondents about the registration and reporting requirements where “loose affiliation” of three individuals raised \$1,350 that may have been used to fund two billboards and respondents took remedial action to register and report as a political committee). Similarly, in the context of late Statements of Candidacy, the Commission has dismissed matters where the statement was filed just a few days late and did not result in any missed disclosure reports. *See, e.g.*, F&LA at 4-5, MUR 6785 (Kwasman for Congress, *et al.*) (dismissing as a matter of prosecutorial discretion where the Statement of Candidacy was filed only a few days late and did not cause the committee to miss filing a scheduled disclosure report); F&LA at 6, MUR 6533 (Perry Haney) (dismissing as a matter of prosecutorial discretion because regardless of the dates of the candidate’s public statements that may have triggered candidacy, the committee still timely filed its initial disclosure report).

<sup>32</sup> 52 U.S.C. § 30120(a); 11 C.F.R. § 110.11(a)(1), (a)(2).

<sup>33</sup> 11 C.F.R. § 110.11(a)(1).

1 of the person who paid for the communication, and that the communication is not authorized by  
2 any candidate or candidate's committee.<sup>34</sup> In addition, disclaimers in printed materials must be  
3 presented in a clear and conspicuous matter and meet specific requirements, such as being of  
4 sufficient type size to be clearly readable and being placed in a printed box set apart from the  
5 other parts of the communication.<sup>35</sup>

6 Shout Out's website included a full disclaimer on its homepage that stated that it was  
7 "Paid for by Shout Out America PAC," "Not Authorized by any candidate or candidate's  
8 committee," and listed the PAC's website address, ShoutOutAmericaPAC.org.<sup>36</sup> At the time of  
9 the Complaint, the donation page, which sought \$2 million in contributions to help "accomplish  
10 [Shout Out's] mission" in reelecting President Trump, and the payment page on the site did not  
11 contain disclaimers.<sup>37</sup> However, the allegations in the Complaint specifically point to a  
12 document entitled "Shout Out America, A New Political Action Committee, Overview"  
13 ("Overview Document"), which consisted of a separate pdf document that was accessible and  
14 could be downloaded through the "Learn More" button on the website's homepage.<sup>38</sup> The  
15 Overview Document expressly advocated the reelection of President Trump and solicited  
16 contributions to meet a \$2 million fundraising goal to pay for advertising on Go Fas Racing's  
17 fully wrapped car #32, voter registration, marketing, event promotion and merchandise.<sup>39</sup> While  
18 the last page of the document identifies Shout Out and provides the website address

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<sup>34</sup> *Id.* § 110.11(b)(3).

<sup>35</sup> *Id.* § 110.11(c)(2).

<sup>36</sup> Compl. at Ex. B.

<sup>37</sup> *Id.* at Ex. E and F.

<sup>38</sup> *Id.* at 4 and Ex. D.

<sup>39</sup> *Id.* at Ex. D.

1 (ShoutOutAmericaPAC.org), it does not specifically state who paid for the communication,  
2 whether it was authorized by a candidate, or contain a printed box listing any of that information,  
3 as required by the Act and Commission regulations.

4 Since the date of the Complaint, Shout Out has removed the “Learn More” button from  
5 its site, thereby effectively removing access to the Overview Document through the website  
6 homepage, and has further added full disclaimers on each remaining active page of the website.<sup>40</sup>  
7 However, the Overview Document still remains accessible through a direct hyperlink and can be  
8 downloaded as a separate printed communication.<sup>41</sup>

9 While a disclaimer was required on the Overview Document, because the document  
10 contained some identifying information and appeared on a website that did include a full  
11 disclaimer on its homepage, it is unlikely that the general public would have been misled as to  
12 who was responsible for the communication. Accordingly, we recommend that the Commission  
13 dismiss as a matter of prosecutorial discretion the allegation that Shout Out violated 52 U.S.C.  
14 § 30120(a) and 11 C.F.R. § 110.11 and that it caution Shout Out with respect to the disclaimer  
15 allegations.<sup>42</sup>

### 16 **C. Use of Best Efforts**

17 The Complaint alleges that because the website failed to request contributor information  
18 on the donation page, Shout Out failed to exercise best efforts to obtain contributors’  
19 identification information in violation of 52 U.S.C. § 30102(i) and 11 C.F.R. § 104.7(b)(1)(i-

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<sup>40</sup> See Resp. at 2; *see also* <https://shoutoutamericapac.org/> (last accessed July 21, 2021).

<sup>41</sup> Compl. at 4; <https://shoutoutamericapac.org/wp-content/uploads/2020/09/Shout-Out-America-PAC-One-Sheet-August-2020.pdf> (last accessed July 21, 2021).

<sup>42</sup> *Heckler*, 470 U.S. 821 (1985); *see F&LA* at 12, MURs 7112 and 7115 (AJ Kern for Congress) (dismissing technical disclaimer violation and sending letter of caution); Certification (Mar. 15, 2017), MUR 7095 (RGA Right Direction PAC) (same).

1 ii).<sup>43</sup> The Act requires authorized committees to identify persons who make a contribution in  
2 excess of \$200 within the calendar year.<sup>44</sup> “Identification” means a person’s full name, mailing  
3 address, occupation, and the name of their employer.<sup>45</sup> Under the Act’s best efforts provision,  
4 when a treasurer of a political committee shows that best efforts have been used to obtain,  
5 maintain, and submit the information required by the Act, any report submitted by the committee  
6 will be considered to be in compliance with the Act.<sup>46</sup> The Commission has further explained  
7 that “the best efforts provision is an affirmative defense that a respondent must establish.”<sup>47</sup>  
8 Thus, while a committee may establish that it has exercised best efforts by including language  
9 requesting a contributor's name, address, occupation and other identifying information in its  
10 written solicitations, a committee’s failure to do so is not a violation where the Committee  
11 otherwise complied with the reporting requirements of the Act.<sup>48</sup>

12 Here, the Complaint does not allege that Shout Out failed to include contributor  
13 identification information on its disclosure reports, and there is no available information  
14 indicating that Shout Out reported inaccurate information.<sup>49</sup> Respondents acknowledge that  
15 prior to receipt of the Complaint, the website donation page did not include best efforts language

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<sup>43</sup> Compl. at 8-9.

<sup>44</sup> 52 U.S.C. § 30104(b)(3)(A); 11 C.F.R. § 104.3(a)(4).

<sup>45</sup> 52 U.S.C. § 30101(13); 11 C.F.R. § 100.12.

<sup>46</sup> 52 U.S.C. § 30102(i); *see also* 11 C.F.R. § 104.7(a).

<sup>47</sup> *See, e.g.*, F&LA at 8-9, MURs 7112 and 7115 (AJ Kern for Congress, *et al.*); F&LA at 5, MUR 7043 (Put Alaska First); *see also* Statement of Policy Regarding Treasurers’ Best Efforts to Obtain, Maintain, and Submit Information as Required by the Federal Election Campaign Act, 72 Fed. Reg. 31,438, 31,440 (June 7, 2007) (“The best efforts standard is an affirmative defense and the burden rests with the political committee and its treasurer to present evidence sufficient to demonstrate that best efforts were made.”).

<sup>48</sup> *See* 11 C.F.R. § 104.7(b)(1)(i)(A) (providing examples of acceptable best efforts statements).

<sup>49</sup> Shout Out disclosed itemized contributions from three individuals and appears to have listed all of their identification information. *See* Shout Out America PAC, Amended 2020 October Quarterly Report at 6 (Oct. 17, 2020).

1 seeking the contributor identification information, but that such language has since been added.<sup>50</sup>  
2 Nevertheless, simply not including such language on its original solicitation does not indicate  
3 that Shout Out violated the best efforts provision. Accordingly, we recommend that the  
4 Commission find no reason to believe that Shout Out violated 52 U.S.C. § 30102(i) and  
5 11 C.F.R. § 104.7.

#### 6 **D. Solicitation of Corporate Contributions**

7 The Complaint alleges that Shout Out may have improperly solicited corporate  
8 contributions based in part that at the time of the Complaint there was no information regarding  
9 whether it was operating as an IEOPC or a hybrid PAC.<sup>51</sup> Under the Act, corporations are  
10 prohibited from making contributions in connection with a federal election and a candidate,  
11 political committee, or other person is prohibited from knowingly accepting or receiving such  
12 prohibited contributions.<sup>52</sup> However, an IEOPC is permitted to accept unlimited contributions as  
13 well as contributions from sources that are otherwise prohibited for authorized campaign  
14 committees, such as corporate contributions;<sup>53</sup> a hybrid political committee, which makes both  
15 independent expenditures and direct contributions, can also accept unlimited and otherwise  
16 prohibited contributions but must maintain a separate non-contribution account for the purpose  
17 of making independent expenditures and a separate contribution account that is subject to the

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<sup>50</sup> Resp. at 3.

<sup>51</sup> Compl. at 9-11.

<sup>52</sup> 52 U.S.C. § 30118; 11 C.F.R. § 114.2(b), (d).

<sup>53</sup> See Advisory Opinion 2010-11 (Commonsense Ten) (corporations and labor organizations may contribute without limit to political committees that make only independent expenditures); see also *Citizens United v. FEC*, 130 S. Ct. 876, 913 (2010) (corporate-funded independent expenditures are constitutionally protected speech); *SpeechNow.org v. FEC*, 599 F.3d 686, 692-96 (D.C. Cir. 2010) (*en banc*) (individuals may contribute without limit to political committees that make only independent expenditures).

1 Act's amount and source limitations from which to make contributions to federal candidates.<sup>54</sup>  
2 Since the date of the Complaint, Shout Out has registered with the Commission as an IEOPC.<sup>55</sup>  
3 Therefore, because it was permitted to solicit and accept corporate contributions, we recommend  
4 that the Commission find no reason to believe that Shout Out violated the prohibition against  
5 accepting such contributions in the Act and Commission's regulations at 52 U.S.C. § 30118 and  
6 11 C.F.R. § 114.2.<sup>56</sup>

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<sup>54</sup> See *Types of nonconnected PACs* at <https://www.fec.gov/help-candidates-and-committees/registering-pac/types-nonconnected-pacs/>). The Commission issued guidance on the formation and operation of hybrid political committees following its agreement to a stipulated order and consent judgment in *Carey v. FEC*, Civ. No. 11-259-RMC (D.D.C. 2011), in which a non-connected committee sought to solicit and accept unlimited contributions in a separate bank account to make independent expenditures. See Press Release, FEC Statement on *Carey v. FEC*, Reporting Guidance for Political Committees that Maintain a Non-Contribution Account (Oct. 5, 2011) (requiring non-connected committees that make independent expenditures to maintain a separate "contribution" account to be able to make contributions to federal candidates from receipts that are subject to the Act's limitations and source prohibitions).

<sup>55</sup> See Shout Out America PAC, Statement of Organization and attached Miscellaneous Text (Oct. 14, 2020) (stating that it intends to raise funds in unlimited amounts but would not use those funds to make contributions, whether direct, in-kind or via coordinated communications, to federal candidates or committees).

<sup>56</sup> Despite being permitted to accept such contributions, based on its disclosure reports filed with the Commission, Shout Out does not appear to have accepted any corporate contributions. See Shout Out America PAC, Amended 2020 October Quarterly Report (Oct. 17, 2020) (disclosing only three itemized contributions from individuals).

1 **IV. RECOMMENDATIONS**

- 2 1. Dismiss as a matter of prosecutorial discretion the allegation that Shout Out America  
3 PAC and Mike McCauley in his official capacity as treasurer failed to register as a  
4 political committee in violation of 52 U.S.C. § 30103(a) and 11 C.F.R. § 102.1(d)  
5 and issue a letter of caution;  
6
- 7 2. Dismiss as a matter of prosecutorial discretion the allegation that Shout Out  
8 America PAC and Mike McCauley in his official capacity as treasurer failed to  
9 include disclaimers on its communications in violation of 52 U.S.C. § 30120(a) and  
10 11 C.F.R. § 110.11 and issue a letter of caution;  
11
- 12 3. Find no reason to believe that Shout Out America PAC and Mike McCauley in his  
13 official capacity as treasurer failed to exercise best efforts to obtain contributors'  
14 identification information in violation of 52 U.S.C. § 30102(i) and 11 C.F.R.  
15 § 104.7;  
16
- 17 4. Find no reason to believe that Karyn Kay Griffin and Shout Out America PAC and  
18 Mike McCauley in his official capacity as treasurer solicited prohibited corporate  
19 contributions in violation of 52 U.S.C. § 30118 and 11 C.F.R. § 114.2;  
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- 21 5. Approve the Factual and Legal Analysis;  
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- 23 6. Close the file; and

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7. Approve the appropriate letters.

Lisa J. Stevenson  
Acting General Counsel

Charles Kitcher  
Associate General Counsel for Enforcement

August 11, 2021

Date

*Peter J. Blumberg*

Peter Blumberg  
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