

BEFORE THE FEDERAL ELECTION COMMISSION
ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT

MUR 7820

Respondent: Grey Outdoor, LLC

Complaint Receipt Date: October 14, 2020

Response Date: November 2, 2020

EPS Rating:

Alleged Statutory

52 U.S.C. § 30120(a);

Regulatory Violations:

11 C.F.R. §§ 100.22(a); 100.26; 110.11(a), (b), (c)

The Complaint alleges that two billboards in North Carolina owned by Grey Outdoor, LLC, support the reelection of President Donald Trump, but do not contain proper disclaimers identifying who paid for the advertisements.¹ The Complaint focuses on a billboard on North Carolina Highway 211 that states “Brunswick County for TRUMP 2020” and includes the text “Paid for by Duckndown.”² The Complainant contends the disclaimer is not in a printed box, is not of sufficient size, and does not provide required information about who paid for the advertisement.³



¹ Compl. at 1, 6 (Oct. 14, 2020).

² *Id.*

³ *Id.* at 1-2. The Complaint further states that the Complainant has been unable to find additional information on Duckndown and suggests it may not be a legal entity. *Id.* at 2-3. The Complaint does not indicate the duration of time that the Brunswick County billboard was displayed, but it appears to have been up for at least a five-week span: the Complainant first contacted the Commission regarding the Brunswick County billboard on October 2, 2020, and the Response from Grey Outdoor, LLC states that the sign “will be removed 11/4/20.” Resp. at 1 (Nov. 2, 2020).

The Complaint also points to a second, similar billboard in New Hanover County, North Carolina.⁴ The Complaint does not provide additional information regarding the New Hanover County billboard, however, contemporaneous news articles identify a billboard in Wilmington, North Carolina, a city in New Hanover County, which appears to be nearly identical to the Brunswick County billboard.⁵ The New Hanover County billboard included the same design, flag imagery, colors, and typefaces as the Brunswick County billboard, with “Wilmington for TRUMP 2020” displayed instead of “Brunswick County for TRUMP 2020.”⁶ An online news article provides an image of the New Hanover County billboard⁷:



Neither the Complaint nor the news articles indicate the duration of time that the New Hanover County billboard was displayed, although news articles indicate that it was first displayed in Wilmington on September 30, 2020, at the latest,⁸ and that it was torn down by vandals during

⁴ *Id.* at 6. The Complaint suggests that the signs may be part of centrally funded campaign. *Id.*

⁵ Michael Praats, *County GOP Takes Over Trump Billboard in Wilmington That Appeared to Violate Federal Law*, WECT6NEWS (Sept. 30, 2020), <https://www.wect.com/2020/09/30/trump-billboard-wilmington-appears-violate-federal-law-billboard-owner-working-fix-problem/>.

⁶ *Id.*

⁷ *Id.* News reports indicate that the New Hanover County billboard is also owned by Grey Outdoor, LLC. Jeff Rivenbark, *New Hanover GOP Fixes Error on 'Wilmington For Trump 2020' Billboard*, (Oct. 1, 2020), <https://www.wwaytv3.com/new-hanover-gop-fixes-error-on-wilmington-for-trump-2020-billboard/>.

⁸ Praats, *supra* note 5.

the overnight hours of October 8-9.⁹

Grey Outdoor, LLC (“Grey Outdoor”), responds that the Brunswick County sign was misprinted, and states that the disclaimer that was intended to read “not endorsed by any candidate or political party,” but this text was “somehow omitted before [Grey Outdoor] went to print.”¹⁰ The Response further states that the sign would be removed by November 4, 2020.¹¹

Available information suggests that the cost of renting a billboard in Brunswick County can range from \$971 to \$5,398 for a 4-week period, depending on location, with an average price of \$3,141.¹² Thus, if Grey Outdoor charged “Duckndown” a comparable rate for the Brunswick County billboard, the cost for the five-week period that the sign in question was known to be displayed could be as much as approximately \$6,750. Additionally, a survey of publicly available prices for billboards in Wilmington, NC, suggests that the cost of renting a billboard in Wilmington appears to range between \$2,500 to \$8,500 per month.¹³ Accordingly, if Grey Outdoor charged a comparable rate for the New Hanover County billboard, the amount in value for the nine-day period that the sign was known to be displayed could be as much as approximately \$2,500.

⁹ *4 Charged After Trump Campaign Billboard Destroyed in Wilmington*, CBS17 (Oct. 20, 2020), <https://www.cbs17.com/news/north-carolina-news/4-charged-with-vandalizing-trump-campaign-billboard-in-wilmington/>. The article states that the damaged New Hanover County billboard was replaced, but does not indicate if it was replaced by another billboard advocating for the re-election of Donald Trump. *Id.*

¹⁰ Resp at 1.

¹¹ *Id.* The Response acknowledges that the sign reads “paid for by Duckndown” and explains that the entity “Duckndown” is a legal entity for tax purposes, but is not a registered LLC and “operates as a DBA.” *Id.*

¹² *Out-of-Home Advertising in Brunswick County, NC*, OUTDOOR ADVERTISING GUIDE, <https://www.outdooradvertisingguide.com/north-carolina-billboards/brunswick.php#pricing> (last visited Apr. 3, 2023); *Bulletin Billboards in Brunswick*, National Outdoor Advertising, <https://www.nationaloutdooradvertising.com/bulletin-billboards/brunswick-nc.php> (last visited Apr. 3, 2023).

¹³ *Out of Home Advertising in Wilmington Made Easy*, TIMES OOH MEDIA, <https://www.timesoohmedia.com/billboard-costs/nc/wilmington.php> (last visited Apr. 3, 2023); *Billboards Around Wilmington Mean Business!*, BILLBOARD CONNECTIONS ATLANTA GEORGIA, <https://www.billboardadsatlanta.com/billboards-wilmington-nc/> (last visited Apr. 3, 2023).

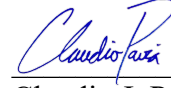
Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and assess whether particular matters warrant further administrative enforcement proceedings. These criteria include (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating, and the low dollar amount, we recommend that the Commission dismiss the Complaint consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources.¹⁴ We also recommend that the Commission close the file as to the respondent and send the appropriate letters.

Lisa J. Stevenson
Acting General Counsel

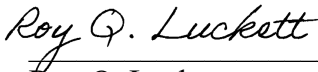
Charles Kitcher
Associate General Counsel

April 3, 2023
Date

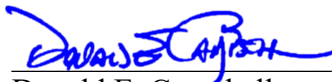
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¹⁴ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).