

Our American Century PAC  
P.O. Box 365  
McLean, VA 22101

February 1, 2021

Federal Election Commission  
Mr. Jeff S. Jordan  
Assistant General Counsel  
Complaints Examination & Legal Administration

Dear Mr. Jordan:

The Our American Century Committee (“Committee,” or “OAC”), FEC ID C00532630, is in receipt of MUR 7867 containing a complaint from the Campaign Legal Center alleging various regulatory transgressions by the Committee. The Committee responds to the complaint below.

**There Was No In-Kind Contribution to a Political Candidate Committee**

First, the Committee is an “Independent Expenditure Only” committee. As such, and as shown by its history of publicly disclosed campaign finance reports, it has never engaged in any activity that even resembles either direct or indirect contributions to any federal (or otherwise) candidate committees. In fact, OAC has engaged in only those kinds of activities for which it is registered – making (and reporting) communications in support of or opposition to candidates within the federal guidelines that govern such activity. The Committee’s history shows no evidence of any intent to conduct its operations in any manner except as an Independent Expenditure Only committee exercising its First Amendment rights via communications as it is permitted to do.

Specifically, the complaint alleges an in-kind contribution from OAC to the Donald J. Trump, Inc. (DJT) committee by way of “coordination” via a re-published advertisement. The complaint cites 11 CFR § 109.23(a) as the basis for the claim.

A full reading of 11 CFR § 109.23(a) plainly states that “The candidate who prepared the campaign material does not receive or accept an in-kind contribution, and is not required to report an expenditure, **unless the dissemination, distribution, or republication of campaign materials is a coordinated communication under 11 CFR § 109.21** (emphasis added) or a party coordinated communication under 11 CFR § 109.37.”

The Commission’s website <https://www.fec.gov/help-candidates-and-committees/making-independent-expenditures/> summarizes “coordination” (11 CFR § 109.21) as follows:

“FEC regulations provide for a three-pronged test to determine whether a communication is coordinated. Under these regulations, a communication is considered to be a coordinated communication (and, as a result, counts against contribution limits) if it satisfies a three-prong test.”

The first two prongs, Source of Payment & Subject Matter are not at issue so are irrelevant as points of discussion. The final prong, which can be summarized as the interaction between the person paying for the communication and the candidate or political party committee (conduct prong).

**There was absolutely no interaction between OAC and the DJT committee which is shown below.**

The guidance and regulations lay out those activities that would satisfy the conduct prong of the analysis. These activities include Request or Suggestion, Material Involvement, Substantial Discussion, Employment of a Common Vendor, Former Employee/Independent Contractor, or Dissemination, Distribution, or Republication of Campaign Material:

The Committee had no contact with the DJT campaign prior to nor after any projects, nor ever employed any common vendors, former employees or independent contractors. Thus, these potential activities are not applicable to the discussion.

Further, the Commission's guidance and regulations establish a "safe harbor" for the republication of campaign materials that are republished. Specifically, a safe harbor exists for materials obtained from "any publicly available website."

As could any person or entity with access to the world wide web, OAC obtained the referenced video clip literally from conducting a "Google Search" on the particular issue (candidate positions on fracking) about which the Committee wanted to "speak." OAC republished the publicly available clip as a very minor part of a larger communication expenditure which was properly conducted and reported. OAC had no contact before, during, or after the creation or dissemination of its own communications with anyone associated with the DJT campaign committee. The manner in which the materials were obtained and subsequently used were conducted at the sole discretion of OAC.

As such, there was not and could never have been any coordination between OAC and the DJT committee relative to any matter.

**Therefore, the "coordination" aspect of the complaint is entirely without merit, and, as such, there is no possibility of an in-kind contribution. The Commission should decline to pursue any further action with regard to this portion of the complaint.**

**The Video Clip Did Indicate that OAC Paid for the Ad**

The complaint alleges that OAC's advertisement did not contain a disclaimer indicating who paid for the advertisement. This is factually incorrect. This is not true because the digital platform (Google) upon which the clip was aired had specific & strict requirements for any person or entity desiring to "air" communications via their platform. Google will not accept an advertisement unless it contains information as to who paid for the advertisement. The particular clip has a "Transparency Report" associated with it that prominently indicates that OAC is responsible for the advertisement.

**Therefore, the “disclaimer” aspect of the complaint is entirely without merit, and, the Commission should decline to pursue any further action with regard to this portion of the complaint.**

**The Committee requests the Commission to take no further action on the “complaint” as set forth in MUR 7867.**

Respectfully submitted,



Cabell Hobbs  
Treasurer