

April 2, 2021

SENT VIA EMAIL

Federal Election Commission
 Office of Complaints Examination & Legal Administration
 Jeff S. Jordan, Assistant General Counsel
 Attn: Kathryn Ross, Paralegal
 1050 First Street NE
 Washington, DC 20463
Cela@fec.gov

RECEIVED

By OGC-CELA at 5:37 pm, Apr 02, 2021

RE: Response to MUR 7874

Dear Mr. Jordan:

On behalf of Patriots of America PAC (“Patriots” or “Committee”), Dan Backer (“Backer”) in both his personal and/or official capacity as former Treasurer of the Committee, Henry Foley (“Foley”) in both his personal and/or official capacity as Treasurer of the Committee, and Timothy Viens (“Viens”), collectively “Respondents”, please accept this Response to MUR 7874. The Complaint incorrectly alleges Patriots and Backer violated 11 C.F.R. § 104.14 by filing a false report with the Federal Election Commission (“Commission”). As discussed in detail below, Patriots and Backer did not file an inaccurate report and therefore request the Commission refrain from taking any further action and conclude there is no reason to believe Patriots and Backer violated 11 C.F.R. § 104.14.

BACKGROUND

The Complaint details a twisted tale of allegations, including many irrelevant “factual” statements, to support the incorrect conclusion Respondents filed a false July Quarterly 2020 Report with the Commission. As factually demonstrated by the signed Affidavits of those personally involved in the transaction at issue, the independent expenditure was properly documented, correctly reported, and timely filed. Moreover, this is a blatantly retaliatory Complaint, filed by a bitter and disgruntled former officer of the Committee, herself the subject of an FEC Complaint, seeking to impose burdens on some imagined and personal enemies list.

Patriots PAC of America, a now terminated hybrid political action committee, filed its original Form 1 on January 10, 2020.¹ On February 15, 2020, an Independent Expenditure Report was filed by Patriots PAC of America disclosing an in-kind Carey contribution made by Viens related to a race truck sponsorship.² Viens paid Mike Affarano Motorsports twenty-five thousand dollars (\$25,000) related to this race truck sponsorship on Patriots PAC of America’s behalf, which was to feature a communication in support of President Donald J. Trump’s reelection.³ The truck was scheduled to race in the NextEra Energy 250 race occurring the weekend of February 15, 2020.⁴ As was widely reported in the news, the truck did not ultimately race as planned as it failed to arrive at the track in time.⁵ The Independent Expenditure Report disclosing this transaction was filed by Patriots PAC of America before it learned the truck did not race as

¹ Original Form 1 filed on January 10, 2020, located at <https://docquery.fec.gov/pdf/426/202001109167141426/202001109167141426.pdf>.

² 24/48 Hour Report of Independent Expenditures filed February 15, 2020, located at <https://docquery.fec.gov/pdf/912/202002159186506912/202002159186506912.pdf>.

³ *Id.* See also Viens Affidavit, Paras. 2-3 and Exhibit A.

⁴ Viens Affidavit, Para. 3.

⁵ “President Trump delivers the command to start the Daytona 500 to loud cheers”, by Michelle R. Martinelli and published by USA Today on February 16, 2020, located at <https://www.usatoday.com/story/sports/nascar/2020/02/16/president-donald-trump-2020-daytona-500-grand-marshall/4777461002/>.

planned and the independent expenditure did not ultimately disseminate.⁶ This Independent Expenditure Report was properly filed to document the transaction. Viens paid Mike Affarano Motorsports for the purpose of displaying mobile signage on a race truck calling for the reelection of a federal candidate and the signage also included the logo and insignia of Patriots PAC of America.⁷ Soon thereafter, Patriots PAC of America elected to terminate.⁸ As Patriots PAC of America was unable to remove this filed Independent Expenditure Report from the Form 3x, Patriots PAC of America spoke to its Reports and Analysis Division Analyst about the issue and was advised to file a Form 99 explaining the transaction and to include the explanation on the Form 3x Termination Report.⁹ The Form 99 was filed on February 24, 2020¹⁰ and the Termination Report was filed on March 2, 2020.¹¹ The Commission approved the Termination Report on March 19, 2020.¹² The in-kind Carey contribution from Viens and paid to Mike Affarano Motorsports was not thereafter used in connection with any election-related activity.¹³

Patriots of America PAC is a hybrid political action committee organized on February 18, 2020.¹⁴ The Committee organized to “rall[y] Americans who yearn for a return to our founding values, knowing that our only hope for a better future is President Donald J. Trump.”¹⁵ The Committee targeted its efforts on NASCAR fan voter registration. “This audience is 75 million strong with conservative values. However, 20% of race fans are not registered voters. . . We need every one of these loyal, conservative, silent majority fans to register to vote.”¹⁶ The Committee partnered with Go Fas Racing to enter a “Trump 2020” racecar¹⁷ in various NASCAR races¹⁸ and encourage NASCAR fans to register to vote.¹⁹

Sometime thereafter, it came to the attention of the Patriots Board of Directors that a “Trump 2020” racecar participated in the NASCAR Xfinity Series race on June 6, 2020. The Complaint correctly states the “Trump 2020” racecar participated in that race, bearing the paint scheme and disclaimers of Patriots of America PAC, without the knowledge of the full Board of Directors or Patriots’ Treasurer.²⁰ The participation of the “Trump 2020” racecar was brought to Backer’s attention by Karyn Kay Griffin (“Griffin”).²¹ Upon learning of this, Backer advised Griffin about the law and reporting requirements related to independent expenditures and, at Griffin’s request, Backer then investigated the circumstances surrounding the race. Upon speaking with Viens, Backer learned Viens had worked with Mike Harmon (“Harmon”) of Mike Harmon Racing to have a “Trump 2020” racecar participate in the Xfinity Series race. Viens was informed by Backer of the same reporting requirements Backer relayed to Griffin regarding independent expenditures and requested information related to this transaction.²² Viens advised Backer that

⁶ Viens Affidavit, Para. 4.

⁷ Exhibit A.

⁸ Id.

⁹ Id.

¹⁰ FEC Form 99, FEC File Number FEC-1385890, located at <https://docquery.fec.gov/pdf/294/202002249203317294/202002249203317294.pdf>.

¹¹ FEC Form 3x, FEC Filing ID FEC-1387394, located at <https://docquery.fec.gov/pdf/276/202003029203555276/202003029203555276.pdf>.

¹² FEC Notice dated March 19, 2020, located at <https://docquery.fec.gov/pdf/647/202003190300061647/202003190300061647.pdf>.

¹³ Viens Affidavit, Para. 5.

¹⁴ Original Form 1 filed on February 18, 2020, located at <https://docquery.fec.gov/pdf/111/202002189186514111/202002189186514111.pdf>.

¹⁵ Patriots of America PAC website, “Who We Are”, located at <https://patriotsofamericapac.org/#who-we-are>.

¹⁶ Id., “Why Racing”, located at <https://patriotsofamericapac.org/#why-racing>.

¹⁷ Exhibit B.

¹⁸ Id., “Corey LaJoie”, located at <https://patriotsofamericapac.org/#corey>.

¹⁹ Id., “How You Can Help”, located at <https://patriotsofamericapac.org/#corey>.

²⁰ Complaint, Pg. 5.

²¹ Id.

²² Viens Affidavit, Para. 9.

he approached Harmon shortly before the June 6, 2020 Xfinity race and asked whether Mike Harmon Racing would be interested in a last-minute Carey in-kind sponsorship contribution to Patriots.²³ This race and racecar was separate and distinct from the partnership between Patriots and Go Fas Racing. Viens indicated Harmon agreed to the sponsorship shortly before the event and a Mike Harmon Racing racecar featuring the “Trump 2020” car wrap participated in the Xfinity Series race.²⁴ Viens was told by Backer that Harmon needed to complete an in-kind contribution form documenting the purpose and value of the transaction and the contributor’s identifying information (Harmon and/or his team) and that the form needed to be signed and returned for the Committee’s records.²⁵ The in-kind contribution form was completed by Mike Harmon Racing, personally signed by Harmon, and returned.²⁶

The value of the in-kind contribution from Mike Harmon Racing was determined by Harmon based upon his decades of NASCAR racing experience and the last-minute nature of the sponsorship.²⁷ Harmon specified the value of the in-kind contribution was nine thousand five hundred dollars (\$9,500). Upon receipt of the in-kind contribution form from Harmon, Patriots disclosed the independent expenditure, including the value determined by Harmon, on its July Quarterly 2020 Report.²⁸ Due to the limitations of FECFile, which automatically populates which schedule in-kind contributions appear on, the in-kind contribution for this sponsorship was reported on Schedule A and Schedule B.²⁹

This duty to report the transaction was based upon the following factors: (1) the racecar participated in the Xfinity Series race; (2) the racecar featured a clear call to elect a federal candidate; (3) the racecar featured the Committee’s disclaimer and other indicia that it was associated and/or affiliated with – and to the layman paid for by – the Committee; (4) the request that the racecar participate in the race originated from a Director on the Committee’s Board of Directors who was publicly associated with the Committee and thus had actual, or at least apparent authority from Harmon’s perspective, to make such a request; and (5) the dissemination of this independent expenditure would appear to be an in-kind contribution to the Committee upon the Committee’s own request, which must be reported to the Commission.

DISCUSSION

The treasurer of a political committee “shall be personally responsible for the timely and complete filing of the report or statement and for the accuracy of any information or statement contained in it.”³⁰ In reporting an in-kind contribution, the value “of [an] in-kind contribution shall be equal to the usual and normal value on the date received.”³¹ The value of such in-kind contribution must also be reported as an expenditure at this same usual and normal value.³² “When a committee makes independent expenditures aggregating less than \$10,000 for an election in any calendar year, up to and including the 20th day before an election, the committee must report those independent expenditures on Schedule E of the applicable FEC Form, at the time of its regular reports...”³³

²³ Viens Affidavit, Para. 7.

²⁴ Viens Affidavit, Paras. 7-8.

²⁵ Viens Affidavit, Para. 10.

²⁶ Harmon Affidavit, Paras. 5 and 8.

²⁷ Harmon Affidavit, Para. 6.

²⁸ July Quarterly 2020 Report, FEC File Number FEC-1414405, located at <https://docquery.fec.gov/pdf/327/202007159249869327/202007159249869327.pdf>.

²⁹ In FECFile, in-kind contributions automatically populate on Schedule A with a corresponding entry on Schedule B. This cannot be changed.

³⁰ 11 C.F.R. § 104.14(d).

³¹ 11 C.F.R. 104.13(a)(1).

³² 11 C.F.R. 104.13(a)(2).

³³ 11 C.F.R. § 104.4(b)(1).

The “Trump 2020” racecar was in all likelihood an independent expenditure.³⁴ It was a communication that expressly advocated for the election of a clearly identified federal candidate and was “not made in consultation or cooperation with, or at the request or suggestion of any candidate, or his or her authorized committees or agents, or a political party committee or its agents.”³⁵ The use of a color scheme which largely reflected the same color scheme utilized by others at the request of Patriots and the inclusion of Patriots’ disclaimer language on the “Trump 2020” racecar sponsored by Harmon indicates it was clearly intended to serve as an independent expenditure in support of President Trump by Patriots. Patriots properly requested Harmon document this transaction by completing and signing an in-kind contribution form regarding the transaction. Patriots then correctly reported the sponsorship in-kind contribution from Harmon and disclosed the transaction on the Committee’s July Quarterly 2020 Report. The software limitations of FECFile prevented the Committee from reporting the transaction on Schedule E, but the transaction was properly reported as an in-kind contribution on Schedule A and Schedule B. The specified value of nine thousand five hundred dollars (\$9,500) was determined by Harmon to be the “usual and normal value” based upon Harmon’s decades of experience and the potential for future business from either Patriots or other, non-political commercial opportunities.³⁶ As indicated in Harmon’s Affidavit, he personally signed the in-kind contribution form attesting to the value of such sponsorship. Patriots properly relied upon Harmon’s representation as to the provided value and the transaction was correctly reported.

Additionally, the Complaint incorrectly alleges Viens used the credit paid to Mike Affarano Motorsports to pay for the independent expenditure at issue and that the failure to report the use of this credit is in violation of the law. As specified in Viens’ Affidavit, his Patriots PAC of America credit for the race truck that did not ultimately participate in the NextEra Energy 250 race was not later used in furtherance any election-related activity.³⁷ This conclusion is further supported by the fact that the in-kind contribution payee at issue in the Complaint (Mike Harmon Racing) is a completely separate entity from Mike Affarano Motorsports. These in-kind contributions are completely separate and distinct transactions. The Harmon in-kind sponsorship contribution was properly documented and reported by Patriots.

Finally, as Griffin acknowledges in the Complaint, Griffin was removed as Co-Chair from the Patriots’ Board of Directors.³⁸ The removal was due to various misconduct by Griffin and dereliction of duties owed by an individual serving in such a position. As acknowledged by Griffin through her own admissions in the Complaint, she attempted to prevent the July Quarterly 2020 Report from being filed as required and with the information provided to the Committee specifically for compliance with federal law and its required independent expenditure reporting disclosure.³⁹ As discussed above, the independent expenditure occurred and the Committee and Backer, who then served in the official capacity as the Committee’s Treasurer, would have likely violated federal law had the independent expenditure information been omitted from the July Quarterly 2020 Report as desired and demanded by Griffin. While the specifics regarding such removal are immaterial to this matter, Patriots believes this baseless Complaint was filed as petty revenge for Patriots’ Counsel, Backer, having filed a complaint against Griffin subsequent to her termination based on the grounds her new political entity was in violation of various federal laws, including: failure to register as a political committee with the FEC, failure to include required campaign finance disclaimers, failure to include required campaign finance best efforts language, accepting prohibited corporate contributions, and

³⁴ Erring on the side of caution, the Committee elected to treat this transaction as an independent expenditure as the underlying intent of the “Trump 2020” racecar was to call for the reelection of President Trump. The Committee has further adopted the position that this transaction was an independent expenditure for purposes of this Response. However, the Committee acknowledges the Commission could determine or otherwise advise that the “Trump 2020” racecar in the instant race was not required to be considered an independent expenditure .

³⁵ 11 C.F.R. 100.16.

³⁶ Harmon Affidavit, Paras. 6-7.

³⁷ Viens Affidavit, Para. 5.

³⁸ Complaint, Pg. 6.

³⁹ Id.

wire fraud.⁴⁰ Additionally, as clearly demonstrated through the inclusion of completely irrelevant vitriol in the Compliant, Griffin has a negative perception of Viens and the two are not on amiable terms. The Complaint filed by Griffin following her efforts to prevent the disclosure of the independent expenditure and her subsequent removal from the Board of Directors appears to be little more than petty, childish vengeance.

CONCLUSION

Patriots correctly and properly disclosed the in-kind sponsorship contribution from Mike Harmon and the July Quarterly 2020 Report was accurate as filed. As such, Respondents respectfully request the Commission dismiss this matter.

Respectfully submitted,



Dan Backer, Esq.
(202) 210-5431
dan@political.law

Caitlin Contestable

Caitlin Contestable, Esq.
(703) 705-2773
caitlin@political.law

Counsel for Patriots of America PAC, Dan Backer, Henry Foley (Treasurer), and Timothy Viens

⁴⁰ Exhibit C.

TIMOTHY VIENS AFFIDAVIT**AFFIDAVIT**

The undersigned, Timothy Viens, hereby affirms and certifies, under the penalty of perjury, the following:

1. My name is Timothy Viens and I serve as Co-Chair for Patriots of America PAC.
2. On or about February 14, 2020, I made an in-kind contribution to the now terminated Patriots PAC of America (FEC ID C00733899). This in-kind Carey contribution was reported on a 48-Hour Report of Independent Expenditures filed on February 15, 2020. The anticipated dissemination date was February 15, 2020 and the payee was Mike Affarano Motorsports.
3. This in-kind contribution was to sponsor a truck in the NextEra Energy 250 race in support of the re-election of President Donald Trump and Vice President Pence. As was widely reported in the news, the truck did not ultimately compete as the truck did not arrive in Daytona Beach in time (<https://www.usatoday.com/story/sports/nascar/2020/02/16/president-donald-trump-2020-daytona-500-grand-marshall/4777461002/>).
4. The independent expenditure report disclosing the in-kind Carey contribution was filed by Patriots PAC of America before learning the truck was ineligible to race due to its failure to arrive at the track. Patriots PAC of America was unable to amend the filed independent expenditure report to remove this previously reported transaction. After this race, Patriots PAC of America decided to terminate and consulted with Patriots PAC of America's FEC Analyst to determine how to properly file a termination report given this reported independent expenditure could not be removed from the Form 3x. The Analyst advised Patriots PAC of America to file a Form 99 indicating what occurred and to include the explanation in memo text on the Form 3x Termination Report. Patriots PAC of America followed the Analyst's instructions, filed a Form 99 explanation on February 24, 2020, filed its Termination Report on March 2, 2020, and the termination was approved by the FEC on March 19, 2020.
5. The funds I personally paid to Mike Affarano Motorsports for this sponsorship were not later used in connection with any additional election-related activity.
6. Patriots of America PAC formed on February 18, 2020.
7. Shortly before June 6, 2020, I spoke with Mike Harmon of Mike

Harmon Racing and asked whether he would consider making a last-minute in-kind sponsorship contribution to Patriots of America PAC.

This sponsorship was for a car that would race in the NASCAR Xfinity Series Race occurring in Atlanta, Georgia on June 6, 2020.

8. I did not speak with Patriots PAC of America's Counsel about this in-kind sponsorship contribution before the race occurred.
9. At some point after the race, our Counsel became aware of the sponsorship, he contacted me to explain how Independent Expenditures must be reported and requested details related to the independent expenditure, and advised Mr. Harmon needed to complete an in-kind contribution form provided by counsel to document the transaction.
10. Mr. Harmon provided Patriots of America PAC with the completed and signed in-kind contribution form as requested.
11. Patriots of America PAC reported the in-kind contribution on its July Quarterly FEC Report.

I HEREBY AFFIRM AND CERTIFY, UNDER PENALTY OF PERJURY, THAT THE ABOVE STATEMENTS ARE TRUE TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

SIGNATURE:

NAME:

TITLE:

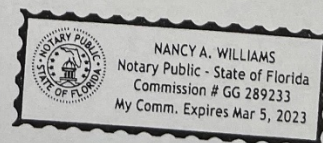
ORGANIZATION:

[Handwritten Signature]
Director

Signed and sworn to before me this 22
day of March, 2021.

Nancy A. Williams
Notary Public

My Commission Expires: 3/5/23



MIKE HARMON AFFIDAVIT**AFFIDAVIT**

The undersigned, Mike Harmon, hereby affirms and certifies, under the penalty of perjury, the following:

1. My name is Mike Harmon and I am a veteran NASCAR driver and owner of Mike Harmon Racing.
2. On or about May 31, 2020, I made a sponsorship in-kind contribution of \$9,500 to Patriots of America PAC after I was asked by Timothy Viens if I would be interested in doing so.
3. The sponsorship was to display an advertisement in support of the re-election of President Trump and Vice President Pence on a race car participating in the NASCAR Xfinity Series Race that occurred on June 6, 2020 in Atlanta, Georgia.
4. I did not discuss the matter with Patriots of America PAC's counsel before the race car wrapped with the sponsorship participated in the race.
5. Subsequent to the race, I was asked by counsel for Patriot of America PAC to complete an In-Kind Contribution form on behalf of my company, Mike Harmon Racing. I was told the PAC needed this In-Kind Contribution Form to document my sponsorship.
6. The In-Kind Contribution Form required that I specify a value for the sponsorship. Based on my decades of experience in the industry and the fact that the value of the sponsorship was last minute and limited, I determined the value was \$9,500.
7. While not discussed at the time, I also made this in-kind contribution in consideration of the potential for future business and race sponsorships with either Patriots of America PAC or other private, non-political commercial opportunities. I routinely offer such discounts in the normal course of my business operations.
8. The signature on the Patriots of America PAC In-Kind Contribution Form is my signature.

SIGNATURE:

NAME:

TITLE:

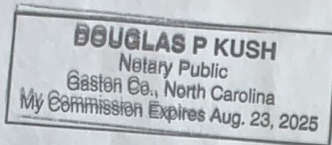
ORGANIZATION: *Mike Harmon Racing*Signed and sworn to before me this 24th
day of March, 2021.*[Signature]*
Notary PublicMy Commission Expires: 8-23-2025

EXHIBIT A

EXHIBIT B

Mike Harmon Racing at Atlanta Motor Speedway

Jun 6, 2020 • 🌐

EXHIBIT C

BEFORE THE FEDERAL ELECTION COMMISSION

PATRIOTS OF AMERICA PAC
 FEC ID Number C00739151
 441 North Lee Street, Suite 100
 Alexandria, VA 22314,

Complainant,

v.

SHOUT OUT AMERICA PAC
 griffin.kk@gmail.com

Karyn Kay Griffin, Executive Director
 Shout Out America PAC
 4253 North Rhodes Avenue
 Meridian, ID 83646
griffin.kk@gmail.com

Respondents.

VERIFIED COMPLAINT**Introduction**

1. Patriots of America PAC hereby files this Complaint against Shout Out America PAC and its “Executive Director”, Karyn Kay Griffin (See Exh. E), for failing to register as a political action committee with the Federal Election Commission (the “FEC”) in violation of 52 U.S.C. § 30101(4)(A) and 11 C.F.R. § 100.5(a) and other violations of applicable laws governing campaign finance and political action committees.

2. Additionally, Shout Out America PAC and Karyn Kay Griffin have made fraudulent representations to the public regarding how contributions it solicits will be used in violation of 18 U.S.C. § 1343 (“Fraud by wire, radio, or television”).

3. This Commission should take action to protect the general public from the willful campaign finance violations and fraudulent actions of Respondents.

PARTIES

4. Complainant PATRIOTS OF AMERICA PAC is a non-connected hybrid political action committee registered with the Federal Election Commission (“FEC”).

5. Respondent SHOUT OUT AMERICA PAC (“SOA PAC”) claims to be a political action committee.

6. Respondent Karyn Kay Griffin (“Griffin”) is the Executive Director of SOA PAC and, upon information and belief, the individual responsible for the creation, management, and affairs of SOA PAC. Exh. D, pg. 2.

RELEVANT CAMPAIGN FINANCE LAWS

7. Registration Requirements – 52 U.S.C. § 30101(4)(A) defines political committee as “any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year”. 52 U.S.C. § 30101(4)(A); *accord* 11 C.F.R. § 100.5(a). 52 U.S.C. § 30103(a) and 11 C.F.R. § 102.1(d) require a committee to register with the FEC within ten (10) days of becoming a political committee.

8. Disclaimer Requirements – 52 U.S.C. § 30120(a) provides any “general public political advertising” by a political committee or any solicitation by any person distributed through “general public political advertising” must contain a disclaimer. Commission regulations specify these requirements apply to “all Internet websites of political committees available to the general public.” 11 C.F.R. § 110.11(a)(1). If the communication, “including any solicitation, is not authorized by a candidate, authorized committee of a candidate, or an agent of either of the

foregoing,” it must “clearly state the full name and permanent street address, telephone number, or World Wide Web address of the person who paid for the communication, and that the communication is not authorized by any candidate or candidate’s committee.” 52 U.S.C. § 30120(a)(3); *accord* 11 C.F.R. § 110.11(b)(3).

9. Solicitation Best Efforts – 52 U.S.C. § 30102(i) specifies “when the treasurer of a political committee shows that best efforts have been used to obtain, maintain, and submit the information required by this Act for the political committee, any report or any records shall be considered in compliance with this Act”. 11 C.F.R. § 104.7(b)(1)(i) provides “the treasurer and the political committee will only be deemed to have exercised best efforts to obtain, maintain and report the required information if: (i) all written solicitations for contributions include a clear request for the contributor’s full name, mailing address, occupation and name of employer, and include an accurate statement of Federal law regarding the collection and reporting of individual contributor identifications.”

10. Corporate Contributions – 11 C.F.R. § 114.2(b) specifies, “Any corporation whatever or any labor organization is prohibited from making a contribution as defined in 11 C.F.R. § 100, subpart B. Any corporation whatever or any labor organization is prohibited from making a contribution as defined in 11 C.F.R. § 114.1(a) in connection with any Federal election.”

11. Wire Fraud – 18 U.S.C. § 1343 provides “Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire . . . in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be fined under this title or imprisoned not more than 20 years, or both.”

FACTUAL BASIS

12. A search of FEC registered political action committees revealed SAO PAC is not registered with the FEC. Exh. A.

13. SOA PAC's website is located at www.shoutoutamericapac.org ("Website") as shown in Exh. B and a "WHOIS" search result indicates the URL was registered on July 24, 2020. Exh C.

14. SOA PAC's website clearly calls for the election of President Trump, and solicits contributions for that purpose. Exh. B, D, and E.

15. The disclaimer at the bottom of the Website indicates it is "Paid for by Shout Out America PAC". Exh. B.

16. When a Website visitor clicks on the "Learn More" button, the visitor is directed to <https://shoutoutamericapac.org/wp-content/uploads/2020/09/Shout-Out-America-PAC-One-Sheet-August-2020.pdf>, which is a pdf document entitled "Shout Out America[,] A New Political Action Committee[,] Overview" ("Overview"). Exh. D.¹

17. This Overview indicates SOA PAC seeks to target NASCAR fans who are currently unregistered voters through a partnership with Go Fas Racing's "fully wrapped car #32". Exh. D, pg. 2.

18. The Overview further provides "We have access to their social and email base to further spread our message. While it takes millions of dollars to create enough impressions through national television advertising, we can accomplish even more with this partnership and at a significantly reduced investment." Exh. D, pg. 2.

¹ As of September 21, 2020, the website operator has since removed the "Learn More" button as shown in Exh. B. Notwithstanding this removal, the hyperlink to the Overview pdf (Exh. D) is still operational and links to this document.

19. When a Website visitor clicks the “Donate” button, the visitor is directed to <http://shoutoutamericapac.org/donate/>. The webpage indicates contributions are needed to “Keep your liberties alive. Protect your assets. Help us re-elect President Donald J. Trump. We need \$2M to get us through the election . . .” SOA PAC further provides “Every donation is welcomed and needed to accomplish our mission.” Exh. E.

20. Contact information for “K. Kay Griffin”, including a telephone number and email address, is provided in the event a visitor wants to contribute via a wire transfer and the page also includes a button that permits contributions via Paypal. Exh. E.

21. The Paypal processing page indicates visitors can “Donate to Shout Out America PAC” and offers the option of contributing either through a Paypal account or through a debit or credit card in the amounts of \$50 USD, \$100 USD, \$250 USD, and “Other Amount”. Exh. F.

22. An amount must be entered on this initial page before a potential contributor can continue with the transaction. Exh. F.

CAUSES OF ACTION

COUNT I

AGAINST ALL RESPONDENTS

Failure to Register with the Federal Election Commission in Violation of 52 U.S.C. § 30101(4)(A) and 11 C.F.R. § 100.5(a)

23. Complainant hereby re-alleges and incorporates by reference the preceding paragraphs as if fully set forth herein.

24. 52 U.S.C. § 30101(4)(A) and 11 C.F.R. § 100.5(a) specify “the term ‘political committee’ means (A) any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year”.

25. After satisfying the requirements of 52 U.S.C. § 30101(4)(A) and 11 C.F.R. § 100.5(a) and becoming a political committee, a committee is required to register with the FEC within ten (10) days. 52 U.S.C. § 30103(a); *accord* 11 C.F.R. § 102.1(d).

26. Upon information and belief, and based upon the lack of public filings with the FEC as evidenced by Exh. A, Respondents have not registered with the FEC.

27. Upon information and belief, Complainant believes Respondents are required to do so as they have likely exceeded the one thousand dollar (\$1,000) monetary threshold for expenditures that mandates registration with the FEC. 52 U.S.C. § 30101(4)(A); *accord* 11 C.F.R. § 100.5(a).

28. The Website URL was registered on July 24, 2020 according to a “WHOIS” search and was procured and registered for a fee through the service Wild West Domains LLC. Exh. C.

29. Upon information and belief, and in evaluating the entirety of the Website, including the graphics, overall presentation, and linked Overview, the Website appears professionally constructed and at considerable cost.

30. As Respondents have likely exceeded the monetary threshold mandating registration and have not in fact registered as evidenced by Exh. A, Respondents are in violation of 52 U.S.C. § 30103(a) and 11 C.F.R. § 102.1(d).

WHEREFORE, Respondents violated 52 U.S.C. § 30101(4)(A) and 11 C.F.R. § 100.5(a) and 52 U.S.C. § 30103(a) and 11 C.F.R. § 102.1(d).

COUNT II
AGAINST ALL RESPONDENTS
Failure to Include Required Disclaimers in
Violation of 52 U.S.C. § 30120(a)(3) and 11 C.F.R. § 110.11(a)(1) and (b)(3)

31. Complainant hereby re-alleges and incorporates by reference the preceding paragraphs as if fully set forth herein.

32. The Overview accessed through the Website fails to include the required disclaimer as mandated by 52 U.S.C. § 30120(a)(3) and 11 C.F.R. § 110.11(a)(1). Exh. D.

33. 11 C.F.R. § 110.11(a)(1) further provides “all Internet websites of political committees available to the general public” must include the required disclaimer.

34. Specifically, the Overview, “if not authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state the name and permanent street address, telephone number, or World Wide Web address of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate’s committee.” 52 U.S.C. § 30120(a)(3); *accord* 11 C.F.R. § 110.11(b)(3).

35. As evidenced by Exh. D, neither page of the Overview includes this mandatory disclaimer language and Respondents have thereby failed to satisfy the requirements of 52 U.S.C. § 30120(a)(3) and 11 C.F.R. § 110.11(a)(1) and (b)(3).

WHEREFORE, Respondents violated 52 U.S.C. § 30120(a)(3) and 11 C.F.R. § 110.11(a)(1) and (b)(3).

COUNT III
AGAINST ALL RESPONDENTS
Failure to Include Required Solicitation Disclaimers in
Violation of 52 U.S.C. § 30102(i) and 11 C.F.R. § 104.7(b)

36. Complainant hereby re-alleges and incorporates by reference the preceding paragraphs as if fully set forth herein.

37. Respondents failed to include required disclaimer language specified in Count II above on the contribution page. 52 U.S.C. § 30120(a)(3) and 11 C.F.R. § 110.11(a)(1) and (b)(3).

38. Further, the treasurer of a political committee is required to perform its best efforts to report “the identification as defined at 11 C.F.R. § 100.12 of each person whose contribution(s) to the political committee . . . aggregate in excess of \$200 in a calendar year”. 11 CFR §104.7(b).

39. To satisfy this requirement, “the treasurer and the political committee will only be deemed to have exercised best efforts to obtain, maintain and report the required information if: (1)(i) All written solicitations for contributions include a clear request for the contributor’s full name, mailing address, occupation and name of employer, and include an accurate statement of Federal law regarding the collection and reporting of individual contributor identifications; (1)(ii) The request and statement shall appear in a clear and conspicuous manner on any response material included in a solicitation.” 11 CFR §104.7(b)(1)(i-ii).

40. Upon clicking the “Donate” button, a Website visitor is directed to the “Donate” webpage, which articulates how contributed funds will be used and provides an option for a visitor to contribute via Paypal by clicking “DONATE VIA PAYPAL”. Exh. E.

41. The Paypal contribution page permits funds to be contributed through a Paypal account or credit or debit card. Exh. F.

42. As evidenced through Exh. F, Respondents failed to include any disclaimer or best efforts language as required by 52 U.S.C. § 30102(i) and 11 CFR §104.7(b)(1)(i-ii).

WHEREFORE, Respondents violated 52 U.S.C. § 30102(i) and 11 CFR §104.7(b)(1)(i-ii).

COUNT IV
AGAINST ALL RESPONDENTS
Solicitation of Corporate Contributions
Violation of 11 C.F.R. § 114.2(b)

43. Complainant hereby re-alleges and incorporates by reference the preceding paragraphs as if fully set forth herein.

44. Following *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010) (en banc) and *Carey v. FEC*, 791 F. Supp. 2d 121 (D.D.C. 2011), corporations and labor organizations may contribute to political committees that engage in independent expenditure only activity (“Super PAC”) or operate as a non-connected committee with a non-contribution account (“Hybrid PAC”) without violating the corporate contribution prohibition specified in 11 C.F.R. § 114.2(b).

45. Committees that desire to operate as either a Super PAC or Hybrid PAC must register with the FEC and specify the committee’s intention to operate in such a manner. *See* “Registering as a Super PAC”, located at <https://www.fec.gov/help-candidates-and-committees/filing-pac-reports/registering-super-pac/> (last accessed September 15, 2020) and “Registering as a Hybrid PAC”, located at <https://www.fec.gov/help-candidates-and-committees/filing-pac-reports/registering-hybrid-pac/> (last accessed September 15, 2020).

46. When creating a political action committee through the FEC’s Form 1 webform process, the filer must answer a series of questions about the new committee, including whether the committee is authorized by a federal candidate, and, if not, whether the committee is a party committee, joint fundraising committee, or other political action committee. FEC Online Webforms, Form 1 completion steps 10% through 25%, located at <https://webforms.fec.gov/webforms/form1/candidateoption.htm> and

<https://webforms.fec.gov/webforms/form1/unauthorizedcandidateopts.htm>, respectively (last accessed September 21, 2020).

47. If the filer indicates the non-candidate committee type is “other political action committee”, the filer must then specify whether the committee is a separate segregated fund, nonconnected committee, or single candidate independent expenditure committee. FEC Online Webforms, Form 1 process completion 30%, located at <https://webforms.fec.gov/webforms/form1/pactypeopts.htm> (last accessed September 21, 2020).

48. It is at this stage of the process that the filer must check one of the two boxes beneath the nonconnected committee selection if the committee intends to register as either a Super PAC or Hybrid PAC. FEC Online Webforms, Form 1 process completion 30%, located at <https://webforms.fec.gov/webforms/form1/pactypeopts.htm> (last accessed September 21, 2020).

49. If the filer does not select one of these two options for the committee, the committee is asked whether it is a leadership PAC or a lobbyist/registant PAC and must then provide required identifying information. FEC Online Webforms, Form 1 process completion 30% through 50%, located at <https://webforms.fec.gov/webforms/form1/nonconnectedpac.htm> and <https://webforms.fec.gov/webforms/form1/unauthorizedwizard.htm>, respectively (last accessed September 21, 2020).

50. In the absence of an affirmative action by the filer registering the committee as a nonconnected committee and specifying the committee intends to operate as a Super PAC or Hybrid PAC through the checkbox selection discussed above, the committee is registered as a traditional non-connected committee prohibited from accepting corporate contributions pursuant to 11 C.F.R. § 114.2(b).

51. “Any corporation whatever or labor organization is prohibited from making a contribution as defined in 11 C.F.R. part 11, subpart B. Any corporation whatever or any labor organization is prohibited from making a contribution as defined in 11 C.F.R. 114.1(a) in connection with any Federal election.” 11 C.F.R. § 114.2(b).

52. Upon information and belief, and as evidenced by Exh. A, Respondents have not registered with the FEC and affirmatively declared the committee will operate as either a Super PAC or a Hybrid PAC.

53. Thus, as SOA PAC has not registered as a Super PAC or Hybrid PAC, it is prohibited from accepting any corporate contributions of any kind pursuant to 11 C.F.R. § 114.2(b).

54. However, the Overview provides, “There are many perks that accompany your donation. We can be creative and utilize the space on the Trump car to further promote your business.” Exh. D, pg. 2.

55. Such a statement creates an appearance and reasonable inference that SOA PAC is engaging in impermissible conduct or may solicit impermissible funds by accepting corporate contributions in violation of 11 C.F.R. § 114.2(b).

WHEREFORE, Respondents violated 11 C.F.R. § 114.2(b).

COUNT IV
AGAINST ALL RESPONDENTS
Wire Fraud
in Violation of 18 U.S.C. § 1343

56. Complainant hereby re-alleges and incorporates by reference the preceding paragraphs as if fully set forth herein.

57. 18 U.S.C. § 1343 provides “Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent

pretenses, representations, or promises, transmits or causes to be transmitted by means of wire . . . in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be fined under this title or imprisoned not more than 20 years, or both.”

58. The Overview provided by SOA PAC specifically states SOA PAC requires “\$2M to take us through election day. In addition to funding the race team, proceeds will allow for the voter registration ground game, strong digital presence, national marketing, event promotion and merchandize – with the later further funding our efforts.” Exh. D, pg. 2.

59. The race team funding is to occur through an alleged partnership with Go Fas Racing and Car #32. “Our primary means of engaging NASCAR fans is through a partnership with Go Fas Racing’s fully wrapped car #32. We have access to their social media and email base to further spread our message.” Exh. D, pg. 2.

60. Upon information and belief and based on conversations with Go Fas Racing, this representation by Respondents is completely false.

61. Go Fas Racing contracted with Complainant for services during the current NASCAR season and, upon information and belief, has not worked with any other political action committees, including Respondents.

62. Upon information and belief, any partnership representations by Respondents in furtherance of SOA PAC’s fundraising efforts is an attempt to solicit funds based on fraudulent representations to an unknowing and unsuspecting public.

63. The Department of Justice has investigated and prosecuted candidates and political action committees for wire fraud pursuant to 18 U.S.C. § 1343. Examples include the prosecution of Kelley Rogers (Department of Justice Press Release dated January 17, 2020 and located at

<https://www.justice.gov/usao-edva/pr/political-consultant-sentenced-fraud-involving-scam-pacs>), Harold Russel Taub (Department of Justice Press Release dated July 24, 2019 and located at <https://www.justice.gov/usao-ri/pr/former-candidate-sentenced-fraud-and-campaign-finance>), and William Tierney (Department of Justice Press Release dated November 2, 2018 and located at <https://www.justice.gov/usao-sdny/pr/arizona-man-pleads-guilty-using-scam-political-action-committees-defraud-tens-thousands>).

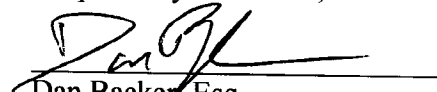
64. As enforcement of 18 U.S.C. § 1343 is beyond the purview of the FEC, Complainant hereby requests the FEC refer this matter to the Department of Justice for investigation and prosecution.

WHEREFORE, Respondents violated 18 U.S.C. § 1343.

CONCLUSION

For these reasons, Complainant Patriots of America PAC respectfully requests the Federal Election Commission commence enforcement proceedings against Respondents.

Respectfully submitted,


 Dan Backer, Esq.

political.law PLLC
 441 North Lee Street, Suite 300
 Alexandria, VA 22314
 (202) 210-5431

dan@political.law

Counsel for Complainant Patriots of America PAC

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge.

Dated September ³⁰~~29~~, 2020



Dan Backer, Esq.

Counsel for Complainant Patriots of America PAC

COMPLETED BEFORE A NOTARY PUBLIC

State of Virginia

City of Vienna

County of Fairfax

Subscribed and sworn to before me on this 30 day of Sep, 2020 by

Dan Backer

My Commission expires on 8-31-2021.

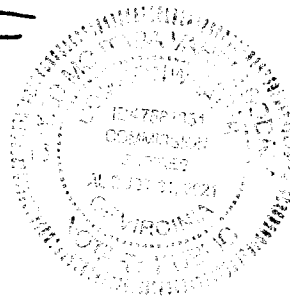



Exhibit A

Search Performed September 22, 2020 at 8:51 PM Eastern Standard Time

fec.gov/data/committees/?q=Shout+Out+America+PAC

An official website of the United States government [Here's how you know](#)

 **Federal Election Commission**
UNITED STATES - of - AMERICA

Calendar Glossary

Campaign finance data ▼ Help for candidates and committees ▼ Legal resources ▼ About ▼

Home > Campaign finance data > Browse data > Committees

Edit filters

COMMITTEE NAME OR ID

☒ "Shout Out America PAC"

YEARS ACTIVE

More ▼

Committee details +

Committee type +

Committees

0 filtered results for: "Shout Out America PAC"

0 This table has no data to export. Export

Clear all filters

Name	Committee ID	Treasurer	Type	Designation	First filing date
No data available in table					

Results per page: 30

Showing 0 to 0 of 0 entries

Feedback

Giving Voice to the Silent Majority

Shout Out AMERICA

A New Political Action Committee

Coming Soon

**Life, Liberty, Freedom and the Pursuit of Happiness
are the core values that define our nation**

We are Republicans, Independents and walk-away Democrats who are fed up with the antics of the Progressive Left. We have to win the fight for our country on November 3rd — and our time is limited. We can win by coming together. Giving voice to those unwilling to speak publicly. Uniting conservatives by rallying around common themes. And reminding those who are on the fence that only through our founding values can we “Make America Great Again.”

[LEARN MORE](#)[DONATE](#)

RACE TO THE POLLS

We're ramping up to crush the last two months of the election cycle. Join us.

[SUBMIT](#)

* Required

Paid for by Shout Out America PAC
Not authorized by any candidate or candidate's committee
ShoutOutAmericaPAC.org

Exhibit C

Search Performed September 22, 2020 at 8:58 PM Eastern Standard Time

← → ↻ godaddy.com/whois/results.aspx?checkAvail=1&domain=shoutoutamericapac.org

[Domains](#)[Websites](#)[Hosting](#)[WordPress](#)[Website Security](#)[Email & Office](#)[Phone Numbers](#)[Promos](#)

Search the WHOIS Database

shoutoutamericapac.org

WHOIS search results

Domain Name: shoutoutamericapac.org

Registry Domain ID: D402200000014202374-LROR

Registrar WHOIS Server: whois.wildwestdomains.com

Registrar URL: <http://www.wildwestdomains.com>

Updated Date: 2020-07-24T01:20:22Z

Creation Date: 2020-07-24T01:20:21Z

Registrar Registration Expiration Date: 2021-07-24T01:20:21Z

Registrar: Wild West Domains, LLC

Registrar IANA ID: 440

Registrar Abuse Contact Email: abuse@wildwestdomains.com

Registrar Abuse Contact Phone: +1.4806242505

Shout Out AMERICA

A New Political
Action Committee

OVERVIEW



RACE TO THE POLLS



Life, Liberty, Freedom and the Pursuit of Happiness are the core values that define our nation

Where the left sees “darkness,” we see greatness. When the Left punctuates “challenging times,” we believe in the boundless capacity of the American people to meet any challenge and to fight any foe to defend our freedoms. When the left talks, we “do.”

It's clear that Donald Trump has made America great again with:

- tax cuts
- border security
- millions of jobs
- federal judge appointments
- net-energy exports
- trade deals
- soaring stock market gains and much more

The silent majority is well aware of Trump's accomplishments. But the media unrelentingly lashes out at every act, every word and every

deed. That's all that America hears — and that's reflected in the polls.

It's Time to STEP UP, Take a Stance

We have to win this fight for our country on November 3rd — and our time is limited. We can win by coming together. Giving voice to those unwilling to speak publicly. Uniting conservatives by rallying around common themes. And reminding those who are on the fence that only through our founding values can we “Make America Great Again.”

Shout Out America PAC

We are Republicans, Independents and walk-away Democrats who are fed up with the antics of the Progressive Left. We love God and our country. We uphold the law, we honor our veterans, we respect private property, we protect the unborn and we hold strong the right to bear arms. We know that those who have worked hard to achieve their American dream should contribute

to the tax base — but not to the extent of supporting those who choose not to contribute at all. We believe in the idealistic, Rockwell view of America — baseball, apple pie and family. And when we peel back the negative news, we can see millions of American who feel the same.

Promote the Vote

To re-elect Trump, we need to capture the attention of unregistered voters — especially those in the battleground states. We need to find them where they are — in their activities of daily life — and educate them on the importance of their decision. That their vote is important — urgently realizing that what we are experiencing today will only get worse and to understand their lives will take a negative turn with a Democrat at the helm.

Our children are also at risk. We will lose the right to teach our own kids what we feel is best, including our own family morals and values.

[> more](#)

We Have Identified 15,000,000 Unregistered Voters

While the majority of national sports have gone dark, NASCAR is alive and well. Viewership, market share, digital views and engagements are up — and not only are the numbers rising but they are skyrocketing.

Here's the Opportunity

Of the 75 million loyal, conservative NASCAR fans, 15 million are unregistered voters — all glued to their TVs, watching every angle and every move. By placing our message on the racetrack, we can embed the Trump 2020/Vote message.

Partnering with NASCAR's Go Fas Racing and Car #32

Our primary means of engaging NASCAR fans is through a partnership with Go Fas Racing's fully wrapped car #32. We have access to their social and email base to further spread our message. While it takes millions of dollars to create

enough impressions through national television advertising, we can accomplish even more with this partnership and at a significantly reduced investment.

The Voice of the PAC

Go Fas Racing's owner, Archie St. Hilaire, is an outspoken Trump supporter who will speak his voice in promoting these efforts through interviews, videos and social platforms.

With enough funding, we can be on the track for the following races:

- | | | |
|---|--------------|--------------|
| ① | September 12 | Richmond |
| ② | September 27 | Las Vegas |
| ③ | October 4 | Talladega |
| ④ | October 11 | Charlotte |
| ⑤ | October 18 | Kansas |
| ⑥ | October 25 | Texas |
| ⑦ | November 1 | Martinsville |

Note: as of this writing, the above races are allowing spectators, giving us an even greater opportunity for voter engagement and registration.

We need \$2M to take us through election day

In addition to funding the race team, proceeds will allow for the voter registration ground game, strong digital presence, national marketing, event promotion and merchandise — with the latter further funding our efforts.

Benefits of Participation

There are many perks that accompany your donation. We can be creative and utilize the space on the Trump car to further promote your business.

We see this PAC continuing to gain traction well into the future — growing to become a strong voice for conservative values and the reunification of America.

Rumor has it...

that Denny Hamlin, along with other professional African American Athletes, are buying Richard Petty's race team — with Bubba Wallace as the driver.

This action further elevates NASCAR and expands the audience — proving the efficacy of NASCAR in the world of marketing.

Why is this Important to YOU?

While NASCAR may not be your sport of choice, it is the place to find an aggregate of voters necessary to make a difference and get Trump re-elected. It is only through donations of like-minded conservatives that we can push this effort to Keep America Great. If the Democrats win the presidential race, we all lose. As Pence noted in his brilliant speech at the RNC, we "won't be safe in Joe Biden's America."

America needs four more years of President Donald Trump in the White House. To keep what you have worked so diligently to build...

YOU need Trump re-elected.

Contact:
K Kay Griffin
Executive Director

303.523.3344
griffin.kk@gmail.com

Shout Out America PAC
ShoutOutAmericaPAC.org
{coming soon}

RACE WITH US

Giving Voice to the Silent Majority

Shout Out AMERICA

A New Political Action Committee

Donate

Keep your liberties alive. Protect your assets.
Help us re-elect President President Donald Trump.

We need \$2M to get us through the election to:

- Fund Go Fas Racing's NASCAR #32 car with a fully wrapped "Trump 2020/Vote" on the track and a similarly wrapped "show" car parked at events.
- Bolster the voter registration ground game
- Create a strong digital presence, marketing, event promotion and merchandise

Every donation is welcomed and needed to accomplish our mission.

For wire transfer instructions, please contact:

K Kay Griffin > 303.523.3344 > griffin.kk@gmail.com

DONATE VIA PAYPAL

VOTE

RACE TO THE POLLS

We're ramping up to crush the last two months of the election cycle. Join us.

SUBMIT

* Required



Donate to
Shout Out America PAC

\$50.00
USD

\$100.00
USD

\$250.00
USD

Other Amount

☐ Make this a monthly donation ?

Donate with PayPal

Donate with a Debit or Credit Card

Cancel and return to Shout Out America PAC