

BEFORE THE FEDERAL ELECTION COMMISSION

COMMON CAUSE GEORGIA
250 Georgia Ave SE #202
Atlanta, GA 30312

TREAUNNA C. DENNIS
c/o Common Cause Georgia
250 Georgia Ave SE #202
Atlanta, GA 30312

CAMPAIGN LEGAL CENTER ACTION
1101 14th Street NW, Suite 400
Washington, DC 20005
(202) 736-2200

v.

MUR No. **7894**

TRUE THE VOTE
P.O. Box 3109 #19128
Houston, TX 77253

GEORGIA REPUBLICAN PARTY INC.
Joseph Brannan, Treasurer
P.O. Box 550008
Atlanta, GA 30355

COMPLAINT

1. This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) and is based on information and belief that True the Vote and the Georgia Republican Party (ID: C00150672) have violated the Federal Election Campaign Act (“FECA”), 52 U.S.C. § 30101, *et seq.*
2. True the Vote stated in late 2020 that it had received a “request” from the Georgia Republican Party for assistance with the 2021 Senate runoff election, and announced via press release a “partnership” with the party to provide a variety of services in connection with the election, including a voter hotline, ballot-curing support, signature verification

training, absentee ballot drop box monitoring, and “other election integrity initiatives.” True the Vote’s activities in Georgia were “expenditures” since they constituted payments and/or services “in connection with” the Senate runoff elections, 11 C.F.R. § 114.1(a)(1), and those expenditures were “coordinated” because they were made at the “request” of and in “partnership” with the Georgia Republican Party, 11 C.F.R. § 109.20. As a result, there is reason to believe True the Vote violated 52 U.S.C. § 30118 by making prohibited in-kind contributions to the Georgia Republican Party in the form of coordinated expenditures, and the Georgia Republican Party violated 52 U.S.C. § 30118(a) and 52 U.S.C. § 30104(b)(3)(A) by knowingly accepting those prohibited contributions and failing to report them.

3. “If the Commission, upon receiving a complaint . . . has reason to believe that a person has committed, or is about to commit, a violation of [FECA] . . . [t]he Commission *shall* make an investigation of such alleged violation” 52 U.S.C. § 30109(a)(2) (emphasis added); *see also* 11 C.F.R. § 111.4(a).
4. Common Cause Georgia is a state office of Common Cause, a nonprofit, nonpartisan organization with more than 1.5 million members and supporters nationally and more than 25,000 members and supporters in Georgia. Common Cause uses litigation, public education, and grassroots advocacy to uphold the core values of American democracy. Common Cause works to create open, honest, and accountable government that serves the public interest; promote equal rights, opportunity, and representation for all; and empower all people to make their voices heard in the political process. Transparency of money in politics and enforcement of campaign finance laws is crucial to advancement of Common Cause’s mission.

5. Treanna C. Dennis is the executive director of Common Cause Georgia and a registered voter in Fulton County, Georgia.
6. Campaign Legal Center Action (“CLCA”) is a nonpartisan, nonprofit 501(c)(4) organization whose mission is to protect and strengthen the U.S. democratic process through litigation and other legal advocacy. CLCA relies on the accurate and complete reporting of campaign finance information to carry out activities central to its mission, including research, analysis, and reporting about campaign spending and the true sources and scope of candidates’ financial support. CLCA participates in judicial and administrative matters throughout the nation regarding campaign finance, voting rights, redistricting, and government ethics issues.

FACTS

7. True the Vote is a nonprofit corporation organized under section 501(c)(3) of the tax code that describes itself as “the country’s largest voters’ rights organization and well known for our ability to lead unified national plans to protect election integrity. Since our founding in 2009, we have been on the front lines of election fraud prevention by building action-oriented election integrity movements in key states, counties, and precincts.”¹
8. The Georgia Republican Party is the state party committee of the Republican Party.²
9. In an email to supporters sent early on December 14, 2020, True the Vote founder and president Catherine Engelbrecht wrote that the organization had received “a request from the Georgia Republican Party” for assistance:

For the past two weeks, I’ve been in Georgia with a small team from True the Vote, working on specific, tangible ways to help ensure transparency and accuracy in the critical run-off elections that will determine the balance of power in the Senate.

¹ True the Vote, Mission, <https://truethevote.org/mission/> (last visited Mar. 22, 2021).

² Georgia Republican Party Inc., Statement of Organization, FEC Form 1 at 2 (Jul. 14, 2020), <https://docquery.fec.gov/pdf/003/202007149244564003/202007149244564003.pdf>.

We've met with voters and state leaders, leading ultimately to a request from the Georgia Republican Party to provide publicly available nonpartisan signature verification training, a 24x7 voter hotline, ballot-curing support, and more.

The email ended with an appeal for donations, pledging that “your donation will be used to fund the work in Georgia.”³

10. Later that day, True the Vote issued a press release announcing its “partnership with the Georgia Republican Party to assist with the Senate runoff election process:”

True the Vote today announced its partnership with the Georgia Republican Party to assist with the Senate runoff election process, including publicly available signature verification training, a statewide voter hotline, monitoring absentee ballot drop boxes, and other election integrity initiatives. Early in-person voting began today, December 14, for the January 5 runoff, and mail-in voting has already started.⁴

11. The press release quoted Georgia Republican Party Chairman David Shafer, who said, “We are grateful for the help of the True the Vote team in the fight for election integrity,” and that “[t]he resources of True the Vote will help us organize and implement the most comprehensive ballot security initiative in Georgia history.”⁵
12. True the Vote President Catherine Engelbrecht also was quoted in the press release saying that, “We have focused our ‘Eyes On Georgia’ in these critical final days before the runoff, and we are thrilled to partner with the Georgia Republican Party, Chairman Shafer, and his team to ensure the law is upheld and law-abiding voters have their voices heard.”⁶
13. According to an archived version of the December 14, 2020 press release, its subheader originally read, “*True the Vote to Assist Georgia Voters With Critical Election Training and*

³ Email from True the Vote, *Weekly Update | Validate the Vote GA | 12.13.20* (Dec. 14, 2020, 12:26am), available at <https://politicalemails.org/messages/318884> (emphasis added).

⁴ Press Release, True the Vote, *True the Vote Partners With Georgia GOP to Ensure Transparent, Secure Ballot Effort for Senate Runoff Elections*, (Dec. 14, 2020), <https://truethethevote.org/true-the-vote-partners-with-georgia-gop-to-ensure-transparent-secure-ballot-effort-for-senate-runoff-elections/>.

⁵ *Id.*

⁶ *Id.*

Resources.⁷ On or around January 7, 2021, True the Vote altered the press release’s subheader to instead read, “*True the Vote Reached Out to Both Parties to Offer Assistance With Critical Election Training and Resources*.”⁸

14. The altered press release—still dated December 14, 2020—additionally added a new paragraph at the bottom stating, “An offer to extend the same support to the Georgia Democratic Party by partnering in the interest of non-partisan election integrity has not received a reply to date. The letter, addressed to the party and to party chair Senator Nikema Williams, is available here [PDF].”⁹ The linked letter was dated December 20, 2020,¹⁰ although the letter’s metadata showed that it was created at 12:27 p.m. on December 21, 2020:

⁷ Press Release, True the Vote, *True the Vote Partners With Georgia GOP to Ensure Transparent, Secure Ballot Effort for Senate Runoff Elections*, (Dec. 14, 2020) (archived Dec. 14, 2020), <https://web.archive.org/web/20201214222722/https://truethevote.org/true-the-vote-partners-with-georgia-gop-to-ensure-transparent-secure-ballot-effort-for-senate-runoff-elections/>.

⁸ Press Release, True the Vote, *True the Vote Partners With Georgia GOP to Ensure Transparent, Secure Ballot Effort for Senate Runoff Elections*, (Dec. 14, 2020) (archived Jan. 7, 2021), <https://web.archive.org/web/20210107214913/https://truethevote.org/true-the-vote-partners-with-georgia-gop-to-ensure-transparent-secure-ballot-effort-for-senate-runoff-elections/>.

⁹ Press Release, True the Vote, *supra* note 3.

¹⁰ Letter from Catherine Engelbrecht, True the Vote Founder, to Senator Nikema Williams, Democrat (sic) Party of Georgia (Dec. 20, 2020), <https://truethevote.org/wp-content/uploads/True-the-Vote-Letter-to-GA-Democrat-Party-12-20-2020-Partnership.pdf>.

Description	
File:	True-the-Vote-Letter-to-GA-Democrat-Party-12-20-2020-Partnership.pdf
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Author:	
Subject:	
Keywords:	
Created:	12/21/20, 12:27:52 PM
Modified:	12/21/20, 12:28:54 PM
Application:	Pages
Additional Metadata...	

15. On December 22, 2020, the *Associated Press* and *Atlanta Journal-Constitution* reported that True the Vote had challenged the eligibility of 360,000 Georgia voters.¹¹
16. On its reports filed with the Commission, Georgia Republican Party has not disclosed any contributions received from True the Vote,¹² or payments to True the Vote for services.¹³

SUMMARY OF THE LAW

17. A corporation is prohibited from making a contribution to a political committee (other than to a super PAC). 52 U.S.C. § 30118; 11 C.F.R. § 114.2(a).
18. For purposes of the corporate contribution ban, both “contribution” and “expenditure” are defined as “any direct or indirect payment, distribution, loan, advance, deposit, or gift of

¹¹ Bill Barrow, *GOP Activist's Voter Challenges Raise Questions in Georgia*, ASSOCIATED PRESS (Dec. 22, 2020), <https://apnews.com/article/georgia-elections-political-organizations-voter-registration-atlanta-3a8989df44c323ce798e0a5d34cb9876>; Mark Niese, *Eligibility of 364,000 Voters Challenged Before Senate Runoff*, Atlanta Journal-Constitution (Dec. 22, 2020), <https://www.ajc.com/politics/eligibility-of-364000-georgia-voters-challenged-before-senate-runoff/3UIMDOVRFVERXOJ3IBHYWZBWYI/>.

¹² Georgia Republican Party, Individual Contributions from “True the Vote,” 2019-21, FEC.GOV, https://www.fec.gov/data/receipts/?data_type=processed&committee_id=C00150672&contributor_name=True+the+Vote&two_year_transaction_period=2020&two_year_transaction_period=2022 (last visited Mar. 22, 2021) (showing no contributions from True the Vote to the Georgia Republican Party).

¹³ Georgia Republican Party, Disbursements to “True the Vote,” 2019-21, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00150672&recipient_name=True+the+Vote&two_year_transaction_period=2020&two_year_transaction_period=2022 (last visited Mar. 22, 2021) (showing no disbursements to True the Vote from the Georgia Republican Party).

money, or any services, or anything of value . . . *in connection with any election.*” 11 C.F.R. § 114.1(a)(1).

19. A corporate expenditure made in coordination with a party committee—*i.e.*, “in cooperation, consultation, or concert, with, *or at the request or suggestion of*” the party or its agents—is a prohibited in-kind contribution to that party committee. 52 U.S.C. § 30116(a)(7)(B)(i); 11 C.F.R. § 109.20 (emphasis added); *see also* 11 C.F.R. § 114.10 (“corporations . . . are prohibited from making coordinated expenditures as defined in 11 CFR 109.20”).
20. The Commission has emphasized that “payments which are coordinated with candidates constitute expenditures and in-kind contributions to those candidates even if the communications do not contain express advocacy.” 64 Fed. Reg. 65211, 64262 (Dec. 14, 1995).¹⁴ “A corporation or labor organization that engages in election-related activities directed at the general public must avoid most forms of coordination with candidates, as this will generally result in prohibited in-kind contributions, and will compromise the independence of future communications to the general public.” *Id.* at 64263.
21. In 2014, following *Citizens United v. FEC*, 558 U.S. 310 (2010), the Commission updated its regulations to reflect that the Supreme Court had permitted corporations to make unlimited independent expenditures, yet in doing so emphasized that “the holding in *Citizens United* applies to all corporate and labor organization expenditures that are not coordinated and do not otherwise constitute in-kind contributions.” 79 Fed. Reg. 62797, 62804 (Oct. 21, 2014) (emphasis added).¹⁵
22. Among other things, the Commission in 2014 revised 11 C.F.R. § 114.4(c), which governs corporate communications to the general public in connection with a federal election, to

¹⁴ Available at <https://www.govinfo.gov/content/pkg/FR-1995-12-14/pdf/95-30381.pdf#page=15>.

¹⁵ Available at <https://www.govinfo.gov/content/pkg/FR-2014-10-21/pdf/2014-24666.pdf>.

remove the pre-*Citizens United* prohibition on express advocacy, but to add “an explicit prohibition on corporations and labor organizations coordinating with candidates or party committees, pursuant to the Commission’s coordination regulations, on communications to the general public.” *Id.* at 62805.

23. The corporate communications regulated by 11 C.F.R. § 114.4(c) include the distribution of voter registration or get-out-the-vote (“GOTV”) communications, 11 C.F.R. § 114.4(c)(2)(ii), (c)(2)(ii)(B), and of registration or voting information produced by official election administrators, 11 C.F.R. §§ 114.4(c)(3)(i), (c)(3)(iv)(B). The Commission emphasized that it “is removing the prohibitions on express advocacy in 11 CFR 114.4(c)(2)–(6) but continuing the prohibition on corporations and labor organizations coordinating with any candidate or political party in making these communications.” 79 Fed. Reg at 62806-07. Towards that end, the Commission added at 11 C.F.R. § 114.4(a)(1) “a general prohibition on corporations or labor organizations acting in cooperation, consultation, or concert with or at the request or suggestion of a candidate, a candidate’s committee or agent, or a political party committee or its agent regarding the preparation, content, and distribution of any of the specific types of communications” described in 11 C.F.R. §§ 114.4(c)(2)–(6).

24. 11 C.F.R. § 114.4(a)(1) now states that:

The preparation, contents, and distribution of any of the communications described in paragraphs (2) through (6) below must not include coordinated expenditures as defined in 11 CFR 109.20, coordinated communications as defined in 11 CFR 109.21, or contributions as defined in 11 CFR part 100, subpart B.

25. Accordingly, a corporation that makes voter registration or get-out-the-vote communications to the general public makes a contribution when the distribution of those communications is coordinated with a political party. 11 C.F.R. § 114.4(c)(2)(ii), (c)(2)(ii)(B).

26. A corporation that distributes any “registration or voting information, such as instructional materials, that has been produced by the official election administrators” makes a contribution if the reproduction and distribution of the materials is coordinated with a political party. 11 C.F.R. §§ 114.4(c)(3)(i), (c)(3)(iv)(B).
27. In its 2014 rulemaking, the Commission also emphasized that corporations may not coordinate with a candidate or political party regarding non-communication expenditures, such as expenditures for the voter registration and GOTV drives described in 11 C.F.R. § 114.4(d). “Revised 11 CFR 114.4(a) also states that voter registration and GOTV drives, further addressed in paragraph (d), may not include coordinated expenditures, coordinated communications, or contributions, as those terms are defined in Commission regulations. This language is meant to indicate that corporations and labor organizations remain prohibited from making contributions under the Act and Commission regulations.” 79 Fed. Reg. at 62805. Accordingly, a corporation that “support(s) or conduct(s)” a voter registration or get-out-the-vote drive in coordination with a political party makes a contribution to the committee. *See* 11 C.F.R. §§ 114.4(d)(1), 114.4(a) (“Voter registration and get-out-the-vote drives as described in paragraph (d) of this section must not include coordinated expenditures as defined in 11 CFR 109.20”).
28. Political committees are prohibited from knowingly accepting or receiving a corporate contribution. 52 U.S.C. § 30118; 11 C.F.R. § 114.2(d).
29. Political committees must report all contributions over \$200 received from persons other than political committees, together with the date and amount of such contribution. 52 U.S.C. § 30104(b)(3)(A).

COUNT I:
**TRUE THE VOTE MADE ILLEGAL CORPORATE CONTRIBUTIONS TO THE GEORGIA
 REPUBLICAN PARTY IN THE FORM OF COORDINATED EXPENDITURES**

30. A corporation is prohibited from making a contribution to a political committee (other than to a super PAC). 52 U.S.C. § 30118; 11 C.F.R. § 114.2(a).
31. For purposes of the corporate contribution ban, both “contribution” and “expenditure” are defined as “any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value . . . in connection with any election.” 11 C.F.R. § 114.1(a)(1).
32. A corporate expenditure made in coordination with a party committee—*i.e.*, “in cooperation, consultation, or concert, with, *or at the request or suggestion of*” the party or its agents—is a prohibited in-kind contribution to that party committee. 52 U.S.C. § 30116(a)(7)(B)(i); 11 C.F.R. § 109.20 (emphasis added); *see also* 11 C.F.R. § 114.10 (“corporations . . . are prohibited from making coordinated expenditures as defined in 11 CFR 109.20”).
33. FECA and Commission regulations broadly prohibit corporations from coordinating expenditures with a political party committee, and make clear that a prohibited in-kind contribution results regardless of whether the coordinated expenditures include express electoral advocacy or are for communications. For example, a corporation makes a prohibited contribution when it coordinates with a political party regarding the distribution of voter registration or GOTV communications to the general public, 11 C.F.R. § 114.4(c)(2)(ii), (c)(2)(ii)(B), or regarding the distribution of registration or voting information produced by official election administrators, 11 C.F.R. §§ 114.4(c)(3)(i), (c)(3)(iv)(B), or regarding voter registration or GOTV drives, 11 C.F.R. §§ 114.4(d)(1), 114.4(a).

34. True the Vote stated publicly that it received “a request from the Georgia Republican Party” to provide “nonpartisan signature verification training, a 24x7 voter hotline, [and] ballot-curing support,”¹⁶ and announced via a press release its “partnership with the Georgia Republican Party” where it would be providing those services as well as “monitoring absentee ballot drop boxes, and other election integrity initiatives.”¹⁷ True the Vote spent money on personnel, technology, and other costs to create and staff the voter hotline; to offer voters ballot curing support; to develop and implement signature verification trainings; and to livestream and monitor ballot boxes, among other activities; indeed, True the Vote specifically asked for donations to finance its activities in Georgia, and the Chairman of the Georgia Republican Party publicly thanked True the Vote for the “resources” it provided.¹⁸
35. True the Vote’s activities in Georgia were “expenditures” since they constituted payments and/or services “in connection with” the election. 11 C.F.R. § 114.1(a)(1).
36. Those expenditures were “coordinated” because they were made at the “request” of and in “partnership” with the Georgia Republican Party. 11 C.F.R. § 109.20 (defining “coordination” to mean “at the request or suggestion of” or “in cooperation, consultation, or concert” with a political party committee).
37. As a result, True the Vote made prohibited in-kind contributions to the Georgia Republican Party in the form of coordinated expenditures, in violation of 52 U.S.C. § 30118, 11 C.F.R. § 114.2(a), and 11 C.F.R. § 114.10.¹⁹

¹⁶ Email from True the Vote, *supra* note 3.

¹⁷ Press release, *supra* note 4. True the Vote also challenged the eligibility of hundreds of thousands of Georgia voters. *See* sources cited *supra* ¶15.

¹⁸ Email from True the Vote, *supra* note 3; Press Release, *supra* note 4.

¹⁹ Any nominal offer of similar services to the Georgia Democratic Party, *see* sources cited *supra* ¶¶13-14, has no effect on the conclusion that there is reason to believe the expenditures were coordinated with the Georgia Republican Party.

COUNT II:
THE GEORGIA REPUBLICAN PARTY ACCEPTED ILLEGAL AND UNREPORTED
CONTRIBUTIONS FROM TRUE THE VOTE IN THE FORM OF COORDINATED EXPENDITURES

38. Political party committees may not knowingly accept a contribution from a corporation, 52 U.S.C. § 30118(a); *see also* 11 C.F.R. § 110.9.
39. As described *supra* Count I, there is reason to believe that True the Vote made in-kind contributions to the Georgia Republican Party in the form of coordinated expenditures. There is additionally reason to believe that the Georgia Republican Party accepted those corporate contributions knowingly, since the party “requested” the contributions and acknowledged their acceptance in a press release.²⁰ The Georgia Republican Party did not report any contributions received from True the Vote, nor did it report any payments to True the Vote for services.²¹
40. There is therefore reason to believe that the Georgia Republican Party knowingly accepted contributions from True the Vote in violation of FECA’s prohibition on corporate contributions to a party committee, 52 U.S.C. § 30118(a), and in violation of FECA’s reporting requirements, 52 U.S.C. § 30104(b)(3)(A).

PRAYER FOR RELIEF

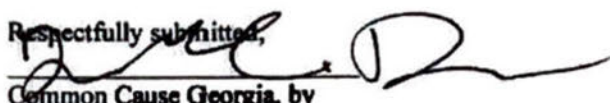
41. Wherefore, the Commission should find reason to believe that True the Vote and the Georgia Republican Party violated 52 U.S.C. § 30101, *et seq.*, and conduct an immediate investigation under 52 U.S.C. § 30109(a)(2).
42. The Commission should seek appropriate sanctions for any and all violations, including civil penalties sufficient to deter future violations and an injunction prohibiting the respondents

²⁰ Email from True the Vote, *supra* note 3; Press Release, *supra* note 4.


²¹ *See* sources cited *supra* ¶16.

from any and all violations in the future, and should seek such additional remedies as are necessary and appropriate to ensure compliance with the FECA.

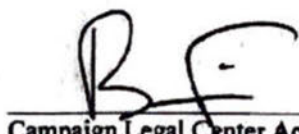
Respectfully submitted,



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Brendan M. Fischer
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1101 14th Street NW, Suite 400
Washington, DC 20005
Counsel to the Campaign Legal Center Action

March 24, 2021

VERIFICATION

The complainants listed below hereby verify that the statements made in the attached Complaint are, upon their information and belief, true.
Sworn pursuant to 18 U.S.C. § 1001.

For Complainant Common Cause Georgia

Treaunna C. Dennis
day of March 2021.

Sworn to and subscribed before me this 25th

Notary Public

For Complainant Treanna C. Dennis

Treaunna C. Dennis
day of March 2021.

Sworn to and subscribed before me this 25th

Notary Public

For Complainant Campaign Legal Center Action

Brendan M. Fischer
day of March 2021.

Sworn to and subscribed before me this 30th

Notary Public

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