

FEDERAL ELECTION COMMISSION
FIRST GENERAL COUNSEL’S REPORT

MUR 7920

DATE COMPLAINT FILED: 08/04/2021
DATE OF NOTIFICATION: 08/10/2021
LAST RESPONSE RECEIVED: 08/11/2021
DATE ACTIVATED: 11/30/2021
EXPIRATION OF SOL: 07/28/2025
ELECTION CYCLE: 2020

COMPLAINANT:

Burt Holmes

RESPONDENTS:

Oklahomans for Truth, Responsibility, Unity,
Markets, & Prosperity PAC and James Tackett, in
his official capacity as treasurer

Conservatives for a Great Broken Arrow (dba Vote
Safe)

Init2, LLC (dba Win Mail & Design)

**RELEVANT STATUTES
AND REGULATIONS:**

52 U.S.C. § 30116
52 U.S.C. § 30118

INTERNAL REPORTS CHECKED: Disclosure Reports**FEDERAL AGENCIES CHECKED:****STATE AGENCIES CHECKED:****I. INTRODUCTION**

The Complaint alleges that Oklahomans for Truth, Responsibility, Unity, Markets, & Prosperity (T.R.U.M.P.) and James Tackett, in his official capacity as treasurer (“the Committee”) which initially registered with the Commission as a traditional nonconnected political committee, but later clarified that it had intended to register as an independent expenditure only political committee (“IEOPC” or “Super PAC”), accepted \$94,000 in excessive and prohibited contributions from two corporations controlled by its treasurer James Tackett,

1 Conservatives for a Great Broken Arrow d/b/a Vote Safe ("Vote Safe") and Init2 LLC d/b/a Win
2 Mail & Design ("Init2 LLC"). The Response denies the allegations, stating that the Committee
3 had intended to register as an IEOPC.

4 For the reasons set forth below, we recommend that the Commission find no reason to
5 believe that Oklahomans for T.R.U.M.P. and James Tackett, in his official capacity as treasurer
6 violated 52 U.S.C. §§ 30116(f) or 30118 by knowingly accepting excessive or prohibited
7 contributions and also find no reason to believe that Conservatives for a Great Broken Arrow
8 d/b/a Vote Safe or Init2 LLC d/b/a Win Mail & Design violated 52 U.S.C. §§ 30116(a)(1)(C) or
9 30118 by making excessive or prohibited contributions.

10 **II. FACTUAL BACKGROUND**

11 On June 15, 2020, the Committee registered with the Commission as a nonconnected
12 committee (*i.e.*, a committee that "supports/opposes one or more Federal candidates, and is NOT
13 a separate segregated fund or party committee").¹ Benjamin Minor was treasurer and custodian
14 of records.² On June 16, 2020, the Committee filed an amendment designating James David
15 Tackett as its treasurer and custodian of records.³ Neither the original nor amended Statement of
16 Organization included a letter expressing an intent to accept unlimited contributions for the
17 purpose of making only independent expenditures.⁴

¹ FEC Form 1, Oklahomans for T.R.U.M.P. Statement of Organization (June 15, 2020),
<https://docquery.fec.gov/pdf/658/202006159239784658/202006159239784658.pdf>.

² *Id.* at 2.

³ FEC Form 1, Oklahomans for T.R.U.M.P. Amended Statement of Org. (June 16, 2020),
<https://docquery.fec.gov/pdf/537/202006169239794537/202006169239794537.pdf>.

⁴ See Registering as a Super PAC, Federal Election Commission, <https://www.fec.gov/help-candidates-and-committees/filing-pac-reports/registering-super-pac/>.

During its existence, the Committee received \$94,000 in total contributions. Those contributions came from Vote Safe and Init2 LLC. Vote Safe contributed \$15,500 on June 19, 2020, and Init2 LLC contributed \$3,500 on June 23, 2020.⁵ Vote Safe contributed another \$75,000 on July 28, 2020.⁶ The Committee's disclosure reports show that it disbursed all of its funds received in 2020 (\$94,000) to Init2 LLC d/b/a Win Mail & Design for communications supporting or opposing state candidates.⁷ The Committee reported these disbursements with the State of Oklahoma as a "Non-Oklahoma PAC."⁸

On August 5, 2020, the Commission's Reports Analysis Division ("RAD") sent a Request for Additional Information ("RAFI") to the Committee regarding its disclosure of apparent corporate contributions.⁹ On August 26, 2020, the Committee's treasurer telephoned RAD regarding the RAFI and informed RAD that the Committee had intended to register as an IEOPC.¹⁰ RAD informed the treasurer that the Committee did not properly register as an IEOPC and advised that it could file a Miscellaneous Report (Form 99) stating that the

⁵ Oklahomans for T.R.U.M.P., 2020 July Quarterly Report (July 15, 2020), <https://docquery.fec.gov/pdf/798/202007159244661798/202007159244661798.pdf>.

⁶ Oklahomans for T.R.U.M.P., 2020 October Quarterly Report (Oct. 15, 2020), <https://docquery.fec.gov/pdf/120/202010159294144120/202010159294144120.pdf>.

⁷ The July 2020 and October 2020 Quarterly Reports are the only reports in which the Committee disclosed disbursements or independent expenditures.

⁸ Committee Search, Oklahoma Ethics Commission, <https://guardian.ok.gov/PublicSite/SearchPages/Search.aspx?SearchTypeCodeHook=4E059E51-A3C3-45F5-A1BC-EA50C2AF9973> (search "Oklahomans for Truth").

⁹ Oklahomans for T.R.U.M.P., RAFI (Aug. 5, 2020), <https://docquery.fec.gov/pdf/710/202008050300081710/202008050300081710.pdf>.

¹⁰ Oklahomans for T.R.U.M.P., RAD Communications Log (Aug. 26, 2020).

Committee intended to register as an IEOPC.¹¹ On that same day, the treasurer, submitted a Form 99 stating that the Committee meant to file as an IEOPC.¹²

On August 2, 2021, the Committee treasurer telephoned RAD and inquired how he could terminate the Committee.¹³ RAD informed him that in order to terminate he would need to file a termination report.¹⁴ The Committee filed its Termination Report that same day.¹⁵ It disclosed zero financial activity, zero cash on hand, and zero debts from January 1, 2021 through July 31, 2021.¹⁶ Two days later RAD notified the Committee that its Termination Report was valid and that it no longer needed to file periodic reports.¹⁷

The Commission received the Complaint the same day the Committee terminated.¹⁸ The Complaint alleges the Committee violated 52 U.S.C. § 30116 and 30118 by accepting excessive and prohibited contributions.¹⁹ The Complaint argues that the Committee's claim in its Form 99 that it meant to be an IEOPC should not be accepted because its *modus operandi* is "deception."²⁰ To support this assertion, the Complaint points to the following: (1) Vote Safe and Win Mail & Design were trade names ("obfuscation"); (2) the Committee's only vendor,

¹¹ *Id.*

¹² FEC Form 99, Oklahomans for T.R.U.M.P. Miscellaneous Report (August 26, 2020), <https://docquery.fec.gov/pdf/192/202008269267005192/202008269267005192.pdf>.

¹³ Oklahomans for T.R.U.M.P., RAD Communications Log (Aug. 2, 2021).

¹⁴ *Id.*

¹⁵ Oklahomans for T.R.U.M.P., Termination Report (Aug. 2, 2021), <https://docquery.fec.gov/pdf/664/202108029465820664/202108029465820664.pdf>.

¹⁶ *Id.*

¹⁷ Termination Approval, RAD (Aug. 4, 2021), <https://docquery.fec.gov/pdf/452/202108040300122452/202108040300122452.pdf>.

¹⁸ *See id.*; Compl.at 1.

¹⁹ Compl. at 1. The Complaint was dated June 29, 2021 but was not received by the Commission until August 4, 2021. *Id.*

²⁰ *Id.* at 3.

1 Win Mail & Design, is the same entity as contributor Init2 LLC; (3) Tackett is connected to each
 2 organization; (4) the Committee is a federal PAC that only made state-level independent
 3 expenditures and failed to disclose its donors on its state-level independent expenditure reports;
 4 and (5) the Committee “masqueraded for months as a standard non-connected PAC.”²¹ The
 5 Complaint requests that the Commission require the Committee disgorge its unlawful
 6 contributions pursuant to 11 C.F.R. § 103.3(b)(2).²²

7 Respondents’ joint submission states that the Committee “inten[ded] to file as a
 8 [IEOPC].”²³ Further, Tackett states that he spoke with a RAD analyst on August 25, 2020 in
 9 response to the RFAI and asked if he needed to refund contributions and have them
 10 recontributed.²⁴ He says RAD advised that it was not needed since his intention was to file as a
 11 Super PAC at the formation of the committee on June 15, 2020 and that his Form 99 filing would
 12 suffice in covering the earlier donations.²⁵ Finally, Tackett claims that the intention at the time
 13 of filing was for the Committee to spend money in both federal and state races, but “the need to
 14 participate in the federal race changed at a later date.”²⁶

15 **III. LEGAL ANALYSIS**

16 A nonconnected committee is a political committee that is not a party committee, an
 17 authorized committee of a candidate or a separate segregated fund established by a corporation
 18 or labor organization.²⁷ Traditional nonconnected committees may receive up to \$5,000 per

21 *Id.*

22 *Id.* at 4.

23 Response (Aug. 11, 2021).

24 *Id.*

25 *Id.*

26 *Id.*

27 11 C.F.R. §§ 100.5(a), 106.6(a)

calendar year from any permissible contributor and may make contributions to candidates.²⁸

Traditional nonconnected committees may not knowingly accept or receive contributions from corporations.²⁹

IEOPCs are committees that are permitted to solicit and raise unlimited contributions, as well as contributions from corporations and labor unions, *i.e.*, funds outside the Act's contribution limits and source prohibitions.³⁰

Neither the Act nor Commission regulations address IEOPCs.³¹ Nor do they distinguish between a traditional nonconnected committee's Statement of Organization and a IEOPC's Statement of Organization. In Advisory Opinion 2010-11 (Commonsense Ten), the Commission noted that, as a result of recent court decisions, the Commission may need to update its registration and reporting forms to account for IEOPCs but that "in the meantime, the [requestor] may include a letter with its Form 1 Statement of Organization clarifying that it intends to accept unlimited contributions for the purpose of making independent expenditures."³²

²⁸ 52 U.S.C. § 30116(a)(1)(C) (establishing \$5,000 contribution limit for political committees that are not authorized committees, political committees established and maintained by a national political party, or political committees established and maintained by a state committee of a political party), (f) (prohibiting the knowing acceptance of excessive contributions).

²⁹ 52 U.S.C. § 3011(a).

³⁰ See *Citizens United v. FEC*, 558 U.S. 310 (2010); *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010); Advisory Op. 2010-11 (Commonsense Ten).

³¹ In 2014 Commission said that it intended to engage in a separate rulemaking in response to *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010) (en banc), which held contribution limits inapplicable to individual contributions to non-connected political committees making only independent expenditures. See Independent Expenditures and Electioneering Communications by Corporations and Labor Organizations, 79 Fed. Reg. 62797, 62800 (Oct. 21, 2014).

On January 13, 2022, the Commission approved a motion instructing staff to prepare a modified Form 1 giving filers the option to register with the Commission as an IEOPC. See Commission Open Meeting (Jan. 13, 2022) (approving Agenda Document No. 22-01-A).

³² Advisory Opinion 2010-11 (Commonsense Ten) at 3 n.3.

1 The Commission currently advises, via its website, that an organization registering as an
 2 IEOPC include with their Statement of Organization the following language in an accompanying
 3 letter:

4 *The committee intends to make independent expenditures, and consistent with the*
 5 *U.S. Court of Appeals for the District of Columbia Circuit decision in SpeechNow*
 6 *v. FEC, it therefore intends to raise funds in unlimited amounts. This committee*
 7 *will not use those funds to make contributions, whether direct, in-kind, or via*
 8 *coordinated communications, to federal candidates or committees [the*
 9 *“SpeechNow statement”]*³³

10 Persons filing a Statement of Organization via the Commission's online webform are not
 11 *required* to include an accompanying letter. Instead, the Commission's online webform *requests*
 12 persons desiring to register as an IEOPC to check a box. If they check the box, registrants are
 13 then prompted to add the provided *SpeechNow* statement in the form of memo text.³⁴ If they do
 14 not check the box, they may still register as a nonconnected PAC, but will not be registered as an
 15 IEOPC.

16 Here, the record indicates that the Committee intended to file as an IEOPC. First, the
 17 source and amount that was contributed immediately after the Committee's registration —
 18 \$15,500 from the corporation Vote Safe — suggests a belief that the Committee was operating as
 19 an IEOPC. Second, the Committee engaged in none of the activities permitted for traditional
 20 nonconnected committees, but prohibited for IEOPCs, namely contributions to candidates.
 21 Third, the fact that Tackett called and spoke with the Committee's RAD analyst after receiving
 22 the Commission's August RFAI and filed a Form 99 the same day, supports his assertion that the

³³ Registering as a Super PAC, Federal Election Commission, <https://www.fec.gov/help-candidates-and-committees/filing-pac-reports/registering-super-pac/>.

³⁴ Please note the webform provides the statement to the registrant, they do not need to type in the statement on their own.

Committee was intended as an IEOPC. Finally, we have no direct evidence calling into question the Committee's claim that, at the time it registered, it intended to participate in federal elections.

Because IEOPCs may, with certain exceptions,³⁵ accept contributions from corporations in unlimited amounts, and because the record supports Tackett's assertion that the Committee intended to register as an IEOPC, we recommend that the Commission find no reason to believe that the Committee and James David Tackett, in his official capacity as treasurer, violated 52 U.S.C. §§ 30116(f) and 30118.³⁶ For the same reasons, we recommend that the Commission find no reason to believe Vote Safe and Init2 LLC, violated 52 U.S.C. §§ 30116(a)(1)(C) and 30118.

IV. OTHER ISSUES

Although not alleged in the Complaint, several facts call into question whether Vote Safe and Init2 LLC are the true source of the Committee's reported contributions. First, the Committee disclosed receiving zero contributions from Oklahoma residents.³⁷ Given Tackett's role with each organization, he had to know that Vote Safe and Init2 LLC (both Oklahoma organizations) funded the Committee's state-level independent expenditures. Second, Vote Safe reported \$0 in income in 2019, the year of its formation, and does not appear to have engaged in

³⁵ For example, federal contractors and foreign nationals are prohibited from making contributions to Super PACs. *See, e.g.*, Factual & Legal Analysis at 3, MUR 7568 (Alpha Marine Services Holdings, LLC); Contributions to Super PACs in the name of another are also prohibited. *See, e.g.*, Factual & Legal Analysis at 3, MUR 6920 (Government Integrity LLC).

³⁶ *See* Factual and Legal Analysis at 6, 11-14, MUR 7101 (House Majority PAC) (finding no reason to believe Super PAC violated 52 U.S.C. § 30116 by accepting large contributions from corporations); *see also Lieu v. FEC*, 370 F. Supp. 3d 175 (D.D.C. 2019) (holding the Commission's unanimous no reason to believe determination in MUR 7101 was not contrary to law).

³⁷ Committee Search, Oklahoma Ethics Commission, <https://guardian.ok.gov/PublicSite/SearchPages/Search.aspx?SearchTypeCodeHook=4E059E51-A3C3-45F5-A1BC-EA50C2AF9973> (search "Oklahomans for Truth").

any other activities beyond its contribution to the Committee.³⁸ This raises the question of whether it served as a pass through for another person's contribution to the Committee. Finally, another organization connected to Tackett, Oklahoma MAGA Coalition ("OMC"), appears to have paid him for Oklahoma state-level independent expenditures just days after its formation in Delaware.³⁹ In total, OMC appears to have paid Init2 LLC/Win Mail \$292,500 within a month and a half of its formation for state-level expenditures.⁴⁰ Taken together, these facts raise the question of whether Vote Safe and Init2 LLC served as a pass through for another person's contribution to the Committee.

The Committee's name contains an acronym for the last name of Donald Trump. As a result, it appears to have violated 52 U.S.C. § 30102(e)(4) and the Commission's naming regulation at 11 C.F.R. 102.14(a).⁴¹ However, in 2016 the United States Court of Appeals for the D.C. Circuit ruled 11 C.F.R. 102.14(a) likely violates the First Amendment.⁴² In 2019, the U. S. District Court for the District of Columbia declared it unconstitutional and enjoined the

³⁸ Exempt Organizations Master File, Internal Revenue Service, <https://www.irs.gov/charities-non-profits/exempt-organizations-business-master-file-extract-co-bmf> (select "Oklahoma" and search "Conservatives for a Great Broken Arrow"). If Vote Safe filed a 2020 tax return, it is not yet available on the IRS's public database. The website address disclosed to the IRS (cgbaok.com), does not appear to be a working webpage.

³⁹ See State of Delaware, Department of State: Division of Corporations, General Information Name Search, <https://icis.corp.delaware.gov/ecorp/entitysearch/namesearch.aspx> (search "Oklahoma MAGA Coalition"); Independent Expenditures, Electioneering Communications or State Question Communications Reports, Oklahoma Ethics Commission, <https://guardian.ok.gov/PublicSite/SearchPages/Search.aspx?SearchTypeCodeHook=3FF86095-94E1-4145-A34F-248A7C4B4540> (search "Oklahoma MAGA Coalition" and select "View Report" for report filed Oct. 23, 2020). Tackett serves as filing agent for OMC. *Id.*

⁴⁰ Init2 LLC/Win Mail was the sole recipient of OMC's independent expenditures in 2020. Independent Expenditures, Electioneering Communications or State Question Communications Reports, Oklahoma Ethics Commission, <https://guardian.ok.gov/PublicSite/SearchPages/Search.aspx?SearchTypeCodeHook=3FF86095-94E1-4145-A34F-248A7C4B4540> (search "Oklahoma MAGA Coalition").

⁴¹ The Act and Commission regulations provide that the name of an unauthorized committee shall not include the name of any candidate. See 52 U.S.C. § 30102(e)(4); 11 C.F.R. § 102.14(a). This applies to acronyms. See Factual and Legal Analysis at 3-4, 5, MUR 6213 (Decidedly Unhappy Mainstream Patriots Rejecting Evil-mongering Incompetent Democrats Political Action Committee (DUMPREID PAC)).

⁴² See *Pursuing America's Greatness v. FEC*, 831 F.3d 500 (D.C. Cir. 2016).

Commission from enforcing it—although it did not indicate whether the injunction applied nationwide.⁴³

The absence of specific allegations and a response, the non-federal nature of the Committee's spending and its terminated status, counsel against opening a Matter Under Review as to these other possible violations.⁴⁵

V. RECOMMENDATIONS

1. Find no reason to believe Oklahomans for Truth, Responsibility, Unity, Markets, & Prosperity PAC and James Tackett, in his official capacity as treasurer violated 52 U.S.C. §§ 30116 and 30118;
2. Find no reason to believe Conservatives for a Great Broken Arrow (dba Vote Safe) violated §§ 30116 and 30118;
3. Find no reason to believe Init2 LLC (dba Win Mail & Design) violated §§ 30116 and 30118;
4. Approve the attached Factual and Legal Analysis;
5. Approve the appropriate letters; and
6. Close the file

Lisa J. Stevenson
 Acting General Counsel

⁴³ See *Pursuing America's Greatness v. FEC*, 363 F. Supp. 3d. 94 (D.D.C. 2019).

⁴⁴ See

The Commission is not bound by a prior court's decision, in a different jurisdiction, regarding an issue of law or fact and may pursue that issue against different parties in an effort to achieve a different holding from a different court. See *United States v. Mendoza*, 464 U.S. 154, 159-63 (1984).

⁴⁵ For the same reasons, we make no recommendation regarding the Committee's reported payments to Init2 LLC d/b/a Win Mail. Because Tackett appears to control both the payor committee and immediate recipient, the Committee may not be able to rely on Advisory Opinion 1983-25 (Mondale) for not itemizing payments to Facebook. See Attachment 2 (showing paid Facebook advertisements). If the Commission disagrees, it may, of course, open a MUR pursuant to Commission Directive 6. See, e.g., MUR 6513 (opened after a review of eligibility for termination raised the possibility a committee failed to properly dispose its remaining cash-on-hand); MUR 4320 (opened because high volume of requests for contributor names from an employee of D.H. Blair raised the possibility of commercial use of contributor information); MUR 2219 (opened after information disclosed in connection with prospective advisory opinion request raised the possibility of reporting violations).

MUR 7920 (Oklahomans for T.R.U.M.P., *et al.*)
First General Counsel's Report
Page 11 of 11

Charles Kitcher
Associate General Counsel for Enforcement

2/25/2022
DATE

Peter G. Blumberg
Peter G. Blumberg
Acting Deputy Associate General Counsel for
Enforcement

Mark Shonkwiler
Mark Shonkwiler
Assistant General Counsel

Christopher S. Curran
Christopher S. Curran
Attorney

Attachments:

2. Oklahomans for T.R.U.M.P.'s Facebook ads

Oklahomans for T.R.U.M.P. - Facebook Ad Database			
Dates	Estimated Amount	Supports	Opposes
6/18/2020 - 6/22/2020	\$900 - \$999		Kevin McDugle [State]
6/22/2020 - 6/26/2020	\$700 - \$799		Kevin McDugle [State]
6/23/2020 - 6/26/2020	\$700 - \$799		Kevin McDugle [State]
6/26/2020	<\$100		Kevin McDugle [State]
6/26/2020 - 6/30/2020	\$900 - \$999		Kevin McDugle [State]
6/29/2020 - 6/30/2020	\$500 - \$599	Justin Dine [State]	Kevin McDugle [State]
8/18/2020 - 8/25/2020	\$100 - \$199	Terry Neese [Federal]	
8/21/2020 - 8/24/2020	\$1,000 - \$1,500		Kyden Creekpaum [State]
8/24/2020 - 8/25/2020	\$700 - \$799		Kyden Creekpaum [State]
8/25/2020	\$1,500 - \$2,000	Cheryl Baber [State]	
Total	\$7,001 - \$8,792		

Cooksey Edits

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Oklahomans for Truth, Responsibility, **MUR: 7920**
Unity, Markets, & Prosperity PAC and
James Tackett, in his official capacity
as treasurer

Conservatives for a Great Broken Arrow
(d/b/a Vote Safe)

Init2, LLC (d/b/a Win Mail & Design)

I. INTRODUCTION

The Complaint alleges that Oklahomans for Truth, Responsibility, Unity, Markets, & Prosperity (T.R.U.M.P.) and James Tackett, in his official capacity as treasurer (“the Committee”) which initially registered with the Commission as a traditional nonconnected political committee, but later clarified that it was an independent expenditure only political committee (“IEOPC”) and intended to register as such, accepted \$94,000 in excessive and prohibited contributions from two corporations controlled by its treasurer James Tackett: Conservatives for a Great Broken Arrow d/b/a Vote Safe (“Vote Safe”) and Init2 LLC d/b/a Win Mail & Design (“Init2 LLC”). The Response denies the allegations, stating that the Committee had intended to register as an IEOPC.

For the reasons set forth below, the Commission finds no reason to believe that Oklahomans for T.R.U.M.P. and James Tackett, in his official capacity as treasurer violated 52 U.S.C. §§ 30116(f) or 30118 by knowingly accepting excessive or prohibited contributions and also finds no reason to believe that Conservatives for a Great Broken Arrow d/b/a Vote Safe or

Init2 LLC d/b/a Win Mail & Design violated 52 U.S.C. §§ 30116(a)(1)(C) or 30118 by making excessive or prohibited contributions.

I. FACTUAL BACKGROUND

On June 15, 2020, the Committee registered with the Commission as a nonconnected committee (*i.e.*, a committee that “supports/opposes one or more Federal candidates, and is NOT a separate segregated fund or party committee”).¹ Benjamin Minor was treasurer and custodian of records.² On June 16, 2020, the Committee filed an amendment designating James David Tackett as its treasurer and custodian of records.³ Neither the original nor amended Statement of Organization included a letter expressing an intent to accept unlimited contributions for the purpose of making only independent expenditures.

During its existence, the Committee received \$94,000 in total contributions. Those contributions came from Vote Safe and Init2 LLC. Vote Safe contributed \$15,500 on June 19, 2020, and Init2 LLC contributed \$3,500 on June 23, 2020.⁴ Vote Safe contributed another \$75,000 on July 28, 2020.⁵ The Committee’s disclosure reports show that it disbursed all of its funds received in 2020 (\$94,000) to Init2 LLC d/b/a Win Mail & Design for communications

¹ FEC Form 1, Oklahomans for T.R.U.M.P. Statement of Organization (June 15, 2020), <https://docquery.fec.gov/pdf/658/202006159239784658/202006159239784658.pdf>.

² *Id.* at 2.

³ FEC Form 1, Oklahomans for T.R.U.M.P. Amended Statement of Org. (June 16, 2020), <https://docquery.fec.gov/pdf/537/202006169239794537/202006169239794537.pdf>.

⁴ Oklahomans for T.R.U.M.P., 2020 July Quarterly Report (July 15, 2020), <https://docquery.fec.gov/pdf/798/202007159244661798/202007159244661798.pdf>.

⁵ Oklahomans for T.R.U.M.P., 2020 October Quarterly Report (Oct. 15, 2020), <https://docquery.fec.gov/pdf/120/202010159294144120/202010159294144120.pdf>.

1 supporting or opposing state candidates.⁶ The Committee reported these disbursements with the
2 State of Oklahoma as a “Non-Oklahoma PAC.”⁷

3 On August 5, 2020, the Commission’s Reports Analysis Division (“RAD”) sent a
4 Request for Additional Information (“RFAI”) to the Committee regarding its disclosure of
5 apparent corporate contributions.⁸ On August 26, 2020, the Committee’s treasurer telephoned
6 RAD regarding the RFAI and informed RAD that the Committee had intended to register as an
7 IEOPC.⁹ RAD informed the treasurer that the Committee could file a Miscellaneous Report
8 (Form 99) stating that the Committee was an IEOPC.¹⁰ On that same day, the treasurer,
9 submitted a Form 99 stating that the Committee meant to file as an IEOPC.¹¹

10 On August 2, 2021, the Committee treasurer telephoned RAD and inquired how he could
11 terminate the Committee.¹² RAD informed him that in order to terminate he would need to file a

⁶ The July 2020 and October 2020 Quarterly Reports are the only reports in which the Committee disclosed disbursements or independent expenditures.

⁷ Committee Search, Oklahoma Ethics Commission,
<https://guardian.ok.gov/PublicSite/SearchPages/Search.aspx?SearchTypeCodeHook=4E059E51-A3C3-45F5-A1BC-EA50C2AF9973> (search “Oklahomans for Truth”).

⁸ Oklahomans for T.R.U.M.P., RFAI (Aug. 5, 2020),
<https://docquery.fec.gov/pdf/710/202008050300081710/202008050300081710.pdf>.

⁹ Oklahomans for T.R.U.M.P., RAD Communications Log (Aug. 26, 2020).

¹¹ FEC Form 99, Oklahomans for T.R.U.M.P. Miscellaneous Report (August 26, 2020),
<https://docquery.fec.gov/pdf/192/202008269267005192/202008269267005192.pdf>.

¹¹ FEC Form 99, Oklahomans for T.R.U.M.P. Miscellaneous Report (August 26, 2020),
<https://docquery.fec.gov/pdf/192/202008269267005192/202008269267005192.pdf>.

¹² Oklahomans for T.R.U.M.P., RAD Communications Log (Aug. 2, 2021).

1 termination report.¹³ The Committee filed its Termination Report that same day.¹⁴ It disclosed
2 zero financial activity, zero cash on hand, and zero debts from January 1, 2021 through July 31,
3 2021.¹⁵ Two days later RAD notified the Committee that its Termination Report was valid and
4 that it no longer needed to file periodic reports.¹⁶

5 The Commission received the Complaint the same day the Committee terminated.¹⁷ The
6 Complaint alleges the Committee violated 52 U.S.C. § 30116 and 30118 by accepting excessive
7 and prohibited contributions.¹⁸ The Complaint argues that the Committee's claim in its Form 99
8 that it meant to be an IEOPC should not be accepted because its *modus operandi* is
9 "deception."¹⁹ To support this assertion, the Complaint points to the following: (1) Vote Safe
10 and Win Mail & Design were trade names ("obfuscation"); (2) the Committee's only vendor,
11 Win Mail & Design, is the same entity as contributor Init2 LLC; (3) Tackett is connected to each
12 organization; (4) the Committee is a federal PAC that only made state-level independent
13 expenditures and failed to disclose its donors on its state-level independent expenditure reports;
14 and (5) the Committee "masqueraded for months as a standard non-connected PAC."²⁰ The

¹³ *Id.*

¹⁴ Oklahomans for T.R.U.M.P., Termination Report (Aug. 2, 2021),
<https://docquery.fec.gov/pdf/664/202108029465820664/202108029465820664.pdf>.

¹⁵ *Id.*

¹⁶ Termination Approval, RAD (Aug. 4, 2021),
<https://docquery.fec.gov/pdf/452/202108040300122452/202108040300122452.pdf>.

¹⁷ *See id.*; Compl.at 1.

¹⁸ Compl. at 1. The Complaint was dated June 29, 2021 but was not received by the Commission until August 4, 2021. *Id.*

¹⁹ *Id.* at 3.

²⁰ *Id.*

Complaint requests that the Commission require the Committee disgorge its unlawful contributions pursuant to 11 C.F.R. § 103.3(b)(2).²¹

Respondents' joint submission states that the Committee "inten[ded] to file as a [IEOPC]."²² Further, Tackett states that he spoke with a RAD analyst on August 25, 2020 in response to the RFAI and asked if he needed to refund contributions and have them recontributed.²³ He says RAD advised that it was not needed since his intention was to file as a IEOPC at the formation of the committee on June 15, 2020 and that his Form 99 filing would suffice in covering the earlier donations.²⁴ Finally, Tackett claims that the intention at the time of filing was for the Committee to spend money in both federal and state races, but "the need to participate in the federal race changed at a later date."²⁵

II. LEGAL ANALYSIS

A nonconnected committee is a political committee that is not a party committee, an authorized committee of a candidate or a separate segregated fund established by a corporation or labor organization.²⁶ Traditional nonconnected committees may receive up to \$5,000 per calendar year from any permissible contributor and may make contributions to candidates.²⁷

²¹ *Id.* at 4.

²² Response (Aug. 11, 2021).

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ 11 C.F.R. §§ 100.5(a), 106.6(a)

²⁷ 52 U.S.C. § 30116(a)(1)(C) (establishing \$5,000 contribution limit for political committees that are not authorized committees, political committees established and maintained by a national political party, or political committees established and maintained by a state committee of a political party), (f) (prohibiting the knowing acceptance of excessive contributions).

1 Traditional nonconnected committees may not knowingly accept or receive contributions from
2 corporations.²⁸

3 IEOPCs are committees that are permitted to solicit and raise unlimited contributions, as
4 well as contributions from corporations and labor unions, *i.e.*, funds outside the Act's
5 contribution limits and source prohibitions.²⁹

6 Neither the Act nor Commission regulations address IEOPCs.³⁰ Nor do they distinguish
7 between a traditional nonconnected committee's Statement of Organization and a IEOPC's
8 Statement of Organization. In Advisory Opinion 2010-11 (Commonsense Ten), the Commission
9 noted that, as a result of recent court decisions, the Commission may need to update its
10 registration and reporting forms to account for IEOPCs but that "in the meantime, the [requestor]
11 may include a letter with its Form 1 Statement of Organization clarifying that it intends to accept
12 unlimited contributions for the purpose of making independent expenditures."³¹

13 The Commission formerly advised, via its website, that an organization registering as an
14 IEOPC include with their Statement of Organization the following language in an accompanying
15 letter:

16 *The committee intends to make independent expenditures, and consistent with the*
17 *U.S. Court of Appeals for the District of Columbia Circuit decision in SpeechNow*
18 *v. FEC, it therefore intends to raise funds in unlimited amounts. This committee*
19 *will not use those funds to make contributions, whether direct, in-kind, or via*

²⁸ 52 U.S.C. § 3011(a).

²⁹ See *Citizens United v. FEC*, 558 U.S. 310 (2010); *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010);
Advisory Opinion 2010-11 (Commonsense Ten).

³⁰ On March 10, 2022, the Commission approved revisions to Form 1 giving filers the option to register with
the Commission as an IEOPC. See Commission Open Meeting (Mar. 10, 2022) (approving Agenda Document No.
22-06-A).

³¹ AO 2010-11 at 3 n.3.

1 *coordinated communications, to federal candidates or committees* [the
2 “*SpeechNow* statement”].

3 Persons filing a Statement of Organization via the Commission’s online webform were not
4 *required* to include an accompanying letter. Instead, the Commission’s online webform
5 *requested* persons desiring to register as an IEOPC to check a box. If they checked the box,
6 registrants were then prompted to add the provided *SpeechNow* statement in the form of memo
7 text.

8 Here, the record indicates that the Committee intended to register that it was an IEOPC.
9 First, the source and amount that was contributed immediately after the Committee’s registration
10 — \$15,500 from the corporation Vote Safe — suggests a belief that the Committee was
11 operating as an IEOPC. Second, the Committee engaged in none of the activities permitted for
12 traditional nonconnected committees, but prohibited for IEOPCs, namely contributions to
13 candidates. Third, the fact that Tackett called and spoke with the Committee’s RAD analyst
14 after receiving the Commission’s August RFAI and filed a Form 99 the same day, supports his
15 assertion that the Committee was an IEOPC. Finally, we have no direct evidence calling into
16 question the Committee’s claim that, at the time it registered, it intended to participate in federal
17 elections.

18 Because IEOPCs may, with certain exceptions,³² accept contributions from corporations
19 in unlimited amounts, and because the record supports Tackett’s assertion that the Committee

³² For example, federal contractors are prohibited from making contributions to IEOPCs. *See, e.g.*, Factual & Legal Analysis at 3, MUR 7568 (Alpha Marine Services Holdings, LLC). Contributions to Super PACs in the name of another are also prohibited. *See, e.g.*, Factual & Legal Analysis at 3, MUR 6920 (Government Integrity LLC).³³

See Factual and Legal Analysis at 6, 11-14, MUR 7101 (House Majority PAC) (finding no reason to believe IEOPC violated 52 U.S.C. § 30116 by accepting large contributions from corporations); *see also* *Lieu v. FEC*, 370 F. Supp. 3d 175 (D.D.C. 2019) (holding the Commission’s unanimous no reason to believe determination in MUR 7101 was not contrary to law).

1 iwas an IEOPC, the Commission finds no reason to believe that the Committee and James David
2 Tackett, in his official capacity as treasurer, violated 52 U.S.C. §§ 30116(f), 30118.³³ For the
3 same reasons, the Commission finds no reason to believe Vote Safe and Init2 LLC, violated 52
4 U.S.C. §§ 30116(a)(1)(C), 30118.

³³ See Factual and Legal Analysis at 6, 11-14, MUR 7101 (House Majority PAC) (finding no reason to believe IEOPC violated 52 U.S.C. § 30116 by accepting large contributions from corporations); *see also Lieu v. FEC*, 370 F. Supp. 3d 175 (D.D.C. 2019) (holding the Commission's unanimous no reason to believe determination in MUR 7101 was not contrary to law).