



FEDERAL ELECTION COMMISSION
Washington, DC 20463

July 20, 2022

VIA ELECTRONIC MAIL

fbmelmsesq@gmail.com

Frederick Melms, Attorney at Law
6329 Spindrift Foam Ave.
Las Vegas, NV 89139

RE: MUR 7930
Minocqua Brewing Co., *et al.*

Dear Mr. Melms:

On October 18, 2021, the Federal Election Commission notified your clients, Minocqua Brewing Company LLC, Minocqua Brewing Company SuperPAC and Kirk Bangstad in his official capacity as treasurer, Bangstad in his personal capacity, and Sarah Yacoub, the Executive Director of MBC SuperPAC, of a complaint alleging that your clients violated certain sections of the Federal Election Campaign Act of 1971, as amended.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on July 14, 2022, voted to dismiss allegations that Minocqua Brewing Company SuperPAC and Kirk Bangstad in his official capacity as treasurer, Minocqua Brewing Company LLC, Sarah Yacoub, and Kirk Bangstad violated 52 U.S.C. § 30122 and voted to dismiss the allegations that Minocqua Brewing Company SuperPAC and Kirk Bangstad in his official capacity as treasurer violated 52 U.S.C. §§ 30104(b), 30120, and 11 C.F.R. § 110.11. Finally, the Commission found no reason to believe that Minocqua Brewing Company LLC and Kirk Bangstad violated 52 U.S.C. § 30118(a). Accordingly, the Commission closed the file in this matter. A Factual and Legal Analysis explaining the Commission's decision is attached.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016), effective September 1, 2016.

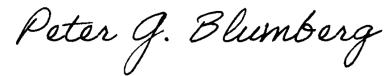
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Letter to Frederick Melms

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If you have any questions, please contact me at (202) 694-1617.

Sincerely,

A handwritten signature in cursive script that reads "Peter G. Blumberg".

Peter G. Blumberg
Assistant General Counsel

Attachment as stated.

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FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Minocqua Brewing Company MUR 7930
 SuperPAC and Kirk Bangstad
 in his official capacity as treasurer
 Minocqua Brewing Company LLC
 Sarah Yacoub
 Kirk Bangstad

I. INTRODUCTION

The Complaint in this matter alleges that Minocqua Brewing Company LLC (“MBC”), Minocqua Brewing Company SuperPAC and Kirk Bangstad in his official capacity as treasurer (“MBC SuperPAC”), Bangstad in his personal capacity, and Sarah Yacoub, the Executive Director of MBC SuperPAC, violated the Federal Election Campaign Act of 1971, as amended (the “Act”) in the following ways: 1) By advertising that 5% of MBC’s profits would be donated to the MBC SuperPAC, the Respondents acted as a conduit for unreported contributions from MBC patrons to MBC SuperPAC; 2) MBC SuperPAC violated the Act’s reporting requirements; 3) MBC SuperPAC failed to include a disclaimer on an email communication and MBC SuperPAC’s website; and 4) Bangstad and MBC illegally made contributions to Joe Biden’s 2020 presidential campaign committee by hanging a large “Biden Harris” banner on MBC’s building.

The Respondents deny they violated the Act. While MBC confirms its policy of giving 5% of its profits to MBC SuperPAC, it argues that sales of MBC products cannot constitute contributions to MBC SuperPAC.¹ Moreover, Respondents deny any substantial reporting

¹ Resp. at 2-3 (Nov. 3, 2021).

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violations² and argue that MBC SuperPAC did not violate the Act's disclaimer requirements³ nor did MBC violate the ban on corporate contributions.⁴

It does not appear that any of these allegations warrant further Commission action. Although MBC may have solicited contributions to MBC SuperPAC, Commission records indicate that the funds ultimately contributed to MBC SuperPAC were drawn from MBC's profits from the sale of its products in the ordinary course of its business. Even assuming *arguendo* that some of MBC's customers should have been treated as contributors to MBC SuperPAC, rather than MBC customers buying beer, it is doubtful that even a few, if any, of them would have met the itemization threshold for disclosure in reports filed with the Commission. The Commission therefore dismisses the allegation that the Respondents violated 52 U.S.C. § 30122.⁵ Similarly, the Commission exercises its prosecutorial discretion to dismiss the allegations that MBC SuperPAC violated 52 U.S.C. § 30104(b) by incorrectly reporting contributions and expenditures and 52 U.S.C. § 30120 and 11 C.F.R. § 110.11(a)(1) by failing to include required disclaimers because of the low amounts at issue. Finally, the Commission finds no reason to believe that MBC and Bangstad made a prohibited in-kind contribution in violation of 52 U.S.C. § 30118(a) by displaying a "Biden Harris" sign.

² *Id.* at 3-4, 6.

³ *Id.* at 4-5.

⁴ *Id.* at 5.

⁵ *See Heckler v. Chaney*, 470 U.S. 821 (1985).

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II. FACTUAL BACKGROUND

MBC is a limited liability company registered in Wisconsin,⁶ and Kirk Bangstad is its sole shareholder.⁷ Although official records are unclear, Bangstad appears to have publicly declared that MBC is a corporation.⁸ MBC SuperPAC is an independent expenditure-only political committee that registered with the Commission on January 3, 2021, and Bangstad is its treasurer.⁹ Sarah Yacoub is the Executive Director of MBC SuperPAC.¹⁰

The Complaint attaches a January 4, 2021 mass email from Bangstad explaining his rationale for founding MBC SuperPAC. In it, Bangstad says he created MBC SuperPAC in the wake of “the historically awful Supreme Court decision ‘Citizen’s United’” to use “dark money meant for good” to oppose Republican candidates at the state and federal level.¹¹ Specifically, this email criticizes the policy positions of U.S. Senator Ron Johnson and Congressman Tom Tiffany, as well as two Wisconsin state officeholders, and says that MBC SuperPAC will work to oppose their reelection.¹² Bangstad further declares his commitment to donate 5% of MBC’s profits to MBC SuperPAC.¹³ Bangstad ends the email by expressing his hope that other small business owners will publicly support Democratic candidates and providing a link to donate to

⁶ *Corporate Records*, WIS. DEP’T OF FIN. INSTS., <https://www.wdfi.org/apps/corpsearch/search.aspx> (last visited May 15, 2022) (search for “Minocqua Brewing Company”).

⁷ *See Resp.* at 1.

⁸ *See Compl.*, Attach. C (Oct. 12, 2021) (attaching email from Bangstad stating “[s]ince the Minocqua Brewing Company is a corporation . . .”).

⁹ Minocqua Brewing Company SuperPAC, Statement of Organization (Jan. 3, 2021); Minocqua Brewing Company SuperPAC, Amended Statement of Organization (Jan. 8, 2021).

¹⁰ *See Resp.* at 1.

¹¹ *Compl.*, Attach. C.

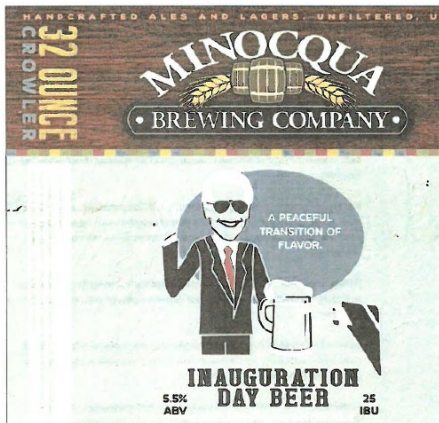
¹² *Id.*

¹³ *Id.*

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1 MBC SuperPAC, accompanied by the statement, “[i]f you agree with me, please donate to
 2 Minocqua Brewing Company SuperPAC.”¹⁴

3 In addition, the email embedded two images apparently showing MBC’s support for 2020
 4 Presidential candidate Joe Biden, including a cartoon of Biden drinking beer as well as a “Biden
 5 Harris” banner that appears to be on the side of MBC’s building:¹⁵



6 The Complaint also attaches a Facebook post from MBC SuperPAC’s account
 7 announcing Yacoub’s appointment as Executive Director¹⁶ and what appears to be a donation

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Compl., Attach. A.

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- 1 page for MBC SuperPAC on MBC's website, which also has a picture of a billboard apparently
- 2 paid for by MBC SuperPAC.¹⁷



- 3
- 4 As of the date of this Report, MBC's website has a page labeled "Super PAC," which displays a
- 5 similar graphic:¹⁸



It's time for small businesses to take a stand and stick their necks out. If you agree with me, please join us. With your help, we will make politics in the Northwoods look a little bit more like our lakes—clean and healthy.

**SUPPORT THE MINOCQUA BREWING COMPANY SUPERPAC BY
 CLICKING HERE**

¹⁷ Compl., Attach. B.

¹⁸ *Super PAC*, MINOCQUA BREWING CO., <https://minocquabrewingcompany.com/pages/super-pac> (last visited May 16, 2022).

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MBC's business model appears to highlight its political affiliations, promoting itself with the hashtag #ProgressiveBeer. MBC's website features beer named after politicians and political issues:¹⁹



In addition, MBC appears to sell merchandise featuring both prominent politicians as well as issues:²⁰



Bernie Brew T-Shirt
 \$29.00



Love Is Love T-Shirt
 \$29.00



Kamala T-Shirt
 \$29.00



Coasters (Set of 4)
 \$6.00

III. LEGAL ANALYSIS

A. The Commission Dismisses the Allegation that MBC Illegally Facilitated Conduit Contributions

A “[c]ontribution” is defined to include any gift of money or “anything of value” for the

¹⁹ MINOCQUA BREWING CO., <https://minocquabrewingcompany.com/> (last visited May 16, 2022).

²⁰ *Get Merch*, MINOCQUA BREWING CO., <https://minocquabrewingcompany.shop/> (last visited May 16, 2022).

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purpose of influencing a federal election.²¹ The Act prohibits a person from making a contribution in the name of another person, knowingly permitting his or her name to be used to effect such a contribution, or knowingly accepting such a contribution.²² The Commission has included in its regulations illustrations of activities that constitute making a contribution in the name of another:

- (i) Giving money or anything of value, all or part of which was provided to the contributor by another person (the true contributor) without disclosing the source of money or the thing of value to the recipient candidate or committee at the time the contribution is made; or
- (ii) Making a contribution of money or anything of value and attributing as the source of the money or thing of value another person when in fact the contributor is the source.²³

Both the Act and the Commission's implementing regulations provide that a person who furnishes another with funds for the purpose of contributing to a candidate or committee "makes" the resulting contribution.²⁴ Because the concern of the law is the true source from which a contribution to a candidate or committee originates, the Commission looks to the structure of the transaction itself and the arrangement between the parties to determine who in fact "made" a given contribution.

²¹ 52 U.S.C. § 30101(8)(A); 11 C.F.R. §§ 100.52(a), 100.111(a). "Expenditure" is likewise defined to include "any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office." 52 U.S.C. § 30101(9).

²² 52 U.S.C. § 30122.

²³ 11 C.F.R. § 110.4(b)(2)(i)–(ii).

²⁴ See *United States v. Boender*, 649 F.3d 650, 660 (7th Cir. 2011) (holding that to determine who made a contribution "we consider the giver to be the *source* of the gift, not any intermediary who simply conveys the gift from the donor to the donee." (emphasis added)); *United States v. O'Donnell*, 608 F.3d 546, 550 (9th Cir. 2010) ("To identify the individual who has made the contribution, we must look past the intermediary's essentially ministerial role to the substance of the transaction."); *Goland v. United States*, 903 F.2d 1247, 1251 (9th Cir. 1990) ("The Act prohibits the use of 'conduits' to circumvent . . . [the Act's reporting] restrictions." (quoting then-Section 441f)).

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According to its website, MBC predates the MBC SuperPAC by several years, and it operates as a legitimate commercial brewery.²⁵ MBC’s corporate policy of donating 5% of its “profits” to support the MBC SuperPAC²⁶ is legal because a corporation is permitted to use its treasury funds to make contributions to an independent expenditure-only political committee.²⁷ Thus, a customer’s purchase of MBC’s products alone would not result in a contribution by the customer as defined by the Act.²⁸

Even if MBC accepted contributions, it is not a prudent use of Commission resources to pursue this allegation because MBC pledged only that 5% of its *profits* — and presumably something less than 5% of its gross revenue — would eventually be donated to MBC SuperPAC. Customers would have to spend thousands of dollars on MBC products just to exceed the \$200 itemization threshold for MBC SuperPAC.²⁹ In fact, in its Year-End Report for 2021, MBC SuperPAC reported a contribution of \$2,486.20 from MBC with a memo entry “proceeds from sales,” which appears to be MBC’s pledged contribution.³⁰ Thus, to meet the itemization threshold, a potential contributor would have had to account for over 8% of MBC’s entire business for the year.³¹ The Commission therefore exercises its prosecutorial discretion to

²⁵ See *supra* note **Error! Bookmark not defined.** and accompanying text.

²⁶ Resp. at 2.

²⁷ See Advisory Opinion 2010-11 (Commonsense Ten) (analyzing federal court decisions on independent expenditures and concluding that corporations “may make unlimited contributions to organizations . . . that make only independent expenditures”) (citing *Citizens United*, 130 S. Ct. at 913; *SpeechNow.org v. FEC*, 599 F.3d 686, 692-96 (D.C. Cir. 2010) (*en banc*)).

²⁸ 52 U.S.C. § 30101(8)(A).

²⁹ See 52 U.S.C. § 30104(b)(3)(A) (stating that political committees are required to provide certain identifying information about persons whose contributions have an aggregate value in excess of \$200 within the calendar year).

³⁰ See Minocqua Brewing Company SuperPAC, Amended 2021 Year-End Report at 360 (April 15, 2022).

³¹ \$200 represents 8.04% of \$2,486.20.

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dismiss the allegation that Respondents violated 52 U.S.C. § 30122 by effecting a contribution in the name of another.³²

B. The Commission Dismisses the Allegation that MBC SuperPAC Violated the Act's Reporting Requirements

1. Contributions from MBC

Political committees must file reports disclosing receipts and disbursements in accordance with the provisions of 52 U.S.C. § 30104(b). The Complaint alleges that, except for an upfront contribution of \$1,000, “MBC SuperPAC failed to disclose any transfer of 5% of profits” from MBC.³³ In its Response, MBC SuperPAC argues that it did not disclose any such profits because MBC intends to make them “at the end of fiscal year 2021, and the contributions will be reported in the appropriate 2022 report.”³⁴ There is nothing in the record to cast doubt on the explanation that MBC had not made significant contributions to MBC SuperPAC prior to its year-end contribution.

The Complaint also alleges that MBC SuperPAC failed to report an in-kind contribution from MBC for the use of its corporate resources in creating and disseminating the January 4, 2021 email, as well as developing MBC SuperPAC’s website and “other expenditures.” The Response concedes that it should have reported an in-kind contribution related to using MBC’s email list and reported the list as a \$3,000 in-kind contribution in its Amended 2021 Mid-Year Report.³⁵ With regard to the other allegations about MBC SuperPAC’s website and possible

³² See *Heckler*, 470 U.S. 821.

³³ Compl. at 1.

³⁴ Resp. at 3. As referenced above, MBC SuperPAC has since reported a contribution of \$2,486.20 from MBC dated December 16, 2021 — two months after the Complaint in this matter was filed.

³⁵ *Id.* at 5; Minocqua Brewing Company SuperPAC, Amended 2021 Mid-Year Report at 172 (April 15, 2022).

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1 other expenditures, there is not enough information in the record to conclude that any unreported
 2 corporate resources MBC may have expended on behalf of the SuperPAC were significant. It
 3 appears that MBC SuperPAC occupies only a single page on MBC's website, and the content of
 4 that website focuses primarily on MBC beer and merchandise. As such, the proportion of
 5 MBC's website spending that could reasonably be considered a contribution to MBC SuperPAC
 6 would be low. Given both the uncertainty and the relatively low amount in violation, it does not
 7 appear that this allegation merits the expenditure of further Commission resources. Accordingly,
 8 the Commission exercises its prosecutorial discretion to dismiss the allegation that MBC
 9 SuperPAC failed to report contributions from MBC.³⁶

10 2. Independent Expenditures

11 The Act requires a political committee to report its independent expenditures ("IEs").³⁷
 12 An IE is an expenditure "for a communication expressly advocating the election or defeat of a
 13 clearly identified candidate" that is not coordinated with the candidate or the candidate's
 14 committee.³⁸ Under Commission regulations at 11 C.F.R. § 100.22, the term "expressly
 15 advocating" means any communication that: (1) uses phrases or words such as "vote for,"
 16 "elect," "defeat," etc., "which in context can have no other reasonable meaning than to urge the
 17 election or defeat of one or more clearly identified candidate(s);" or (2) "[w]hen taken as a whole
 18 and with limited reference to external events, such as the proximity to the election, could only be

³⁶ See *Heckler*, 470 U.S. 821.

³⁷ 52 U.S.C. § 30104(b)(4)(H)(iii) (regarding regularly scheduled reports); *id.* § 30104(g)(2) (regarding reporting within 48 hours of making \$10,000 worth of IEs, referred to as "48-Hour Reports"); 11 C.F.R. §§ 104.3(b)(1)(vii), 104.4(b)(2).

³⁸ 11 C.F.R. § 100.16(a) (providing definition of independent expenditure); *see also* 52 U.S.C. § 30101(17) (same).

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1 interpreted by a reasonable person as containing advocacy of the election or defeat of one or
 2 more clearly identified candidate(s).”³⁹

3 The Complaint alleges that MBC SuperPAC failed to properly report Bangstad’s January
 4 4, 2021 email as an independent expenditure and that it failed to report its disbursements for
 5 digital advertising, billboards, media production, and other forms of advertising as IEs or direct
 6 contributions to candidates.⁴⁰ Respondents contend that none of the challenged communications
 7 contained express advocacy.⁴¹ As discussed below, the dollar value of such communications
 8 does not warrant Commission action.

9 In the January 4, 2021 email, Bangstad is critical of two clearly identified federal
 10 candidates, Ron Johnson and Tom Tiffany; states MBC SuperPAC’s intent to “defeat these
 11 people in 2022”; describes a plan to “target” Republicans “up for election,” specifically at the
 12 “federal level”;⁴² and requests contributions to the SuperPAC to help defeat those candidates.⁴³
 13 The email uses words such as “defeat,” “target,” and “up for election,” that in context have no
 14 other reasonable meaning than to urge the election or defeat of the specified candidates under
 15 100.22(a). Nonetheless, there is no information in any of the Complaints suggesting that MBC
 16 SuperPAC incurred any direct costs associated with preparing or sending the email, and the
 17 Commission has stated that, generally speaking, “there is virtually no cost associated with

³⁹ 11 C.F.R. § 100.22(a).

⁴⁰ Compl. at 2.

⁴¹ Resp. at 3-4.

⁴² Compl., Attach C. (“Since the Minocqua Brewing Company is a corporation, and since I think my Republican representation in the Northwoods is poisonous for the people that live here, I’m creating a SuperPAC to help defeat these people in 2022. The Republicans up for election at the state and federal level that we will target with our ‘dark money meant for good’ is Ron Johnson, Tom Tiffany, and Rob Swearingen. Mary Felzkowski is not up for reelection in 2022.”).

⁴³ *Id.* (“If you agree with me, please donate to the Minocqua Brewing Company SuperPAC. With your help, we will make politics in the Northwoods look a little bit more like our lakes — clean and healthy.”).

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sending e-mail communications, even thousands of e-mails to thousands of recipients.”⁴⁴ To the extent that there may have been incidental costs — such as the cost of Bangstad’s time spent to draft and send the email and the value of the use of the email list — the Commission does not reach any conclusion as to whether those costs constitute expenditures when the email communication associated with the costs is exempted from the definitions of electioneering communication and public communication.⁴⁵ Additional action would therefore not be an efficient use of Commission resources.

In addition, MBC SuperPAC paid to erect the following billboard advertisement:



This advertisement also contains pictures of two federal candidates, Senator Johnson and Congressman Tiffany, as well as a flag from what appears to be Donald Trump’s 2020 presidential campaign. Although the advertisement, including the tagline “NO UNITY UNTIL

⁴⁴ See Internet Communications, 71 Fed. Reg. 18,589, 18,594-95 (Apr. 12, 2006) (recognizing that “there is virtually no cost associated with sending e-mail communications, even thousands of e-mails to thousands of recipients”)

⁴⁵ “[E]lectronic mail” and “communications over the Internet, except for communications placed for a fee on another person’s Web site” are specifically exempted from the definitions of electioneering communication and public communication, respectively. 11 C.F.R. § 100.29(c)(1) (stating that the definition of electioneering communication “does not include ... communications over the Internet, including electronic mail ...”); *Id.* § 100.26 (stating that the definition of public communication “shall not include communications over the Internet, except for communications placed for a fee on another person’s Web site”).

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THESE GUYS STOP LYING,” does not exhort the reader to vote for or against either of the pictured candidates, it appears to criticize the character of Johnson and Tiffany, *i.e.* implying that they have a propensity to lie, and the Commission has stated that communications that comment on a candidate’s character, qualifications, or accomplishments are express advocacy under section 100.22(b) “if, in context, they have no other reasonable meaning than to encourage actions to elect or defeat the candidate in question.” However, Johnson and Tiffany were also federal officeholders at the time this advertisement was placed, the advertisement makes no mention of their status as candidates, and the message was ambiguous. The advertisement could have had another “reasonable meaning” beside encouraging action to elect or defeat Johnson and Tiffany; hence, it does not contain express advocacy under section 100.22 and is not an IE.

In sum, because of that determination and the relatively low dollar value of the communications in question the Commission exercises its prosecutorial discretion to dismiss the allegation that MBC SuperPAC violated 52 U.S.C. § 30104(b)(4)(H)(iii) or (g)(2) by failing to report IEs.⁴⁶

3. Accuracy of Filings

Finally, the Complaint alleges generally that as treasurer, Bangstad “failed to use best efforts to maintain and report accurate records.”⁴⁷ It appears that MBC SuperPAC failed to add sufficiently specific purpose descriptions for some of its expenditures,⁴⁸ and the Commission’s Reports Analysis Division (“RAD”) therefore issued a Request for Further Information to MBC

⁴⁶ See *Heckler*, 470 U.S. 821.

⁴⁷ Compl. at 3. The term “best efforts” is used in Commission regulations as a defense to incomplete filings. See 11 C.F.R. § 104.7. Because it does not appear that MBC SuperPAC’s filings contained any material omissions or errors, it is not necessary to determine whether Bangstad used “best efforts.”

⁴⁸ See 52 U.S.C. § 30104(b)(5)(A); 11 C.F.R. § 104.3(b)(3)(i) (explaining that purpose means “a brief statement or description of why the disbursement was made” and giving examples of adequate and inadequate purpose statements).

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SuperPAC.⁴⁹ MBC SuperPAC responded with an amended report addressing those issues within a few weeks.⁵⁰ The Complaint does not specifically allege any other substantial reporting violations, and there do not appear to be any that would warrant the use of further Commission resources. As such, the Commission dismisses the allegation that MBC SuperPAC failed to accurately report its disbursements in violation of 52 U.S.C. § 30104(b)(5).⁵¹

C. The Commission Dismisses the Allegation that MBC SuperPAC Failed to Include Required Disclaimers

The Act and Commission regulations provide that political committees must identify themselves through disclaimers on all of their political advertising, on their websites, and in emails of more than 500 substantially similar communications.⁵² The Complaint alleges that MBC SuperPAC violated this requirement by failing to include disclaimers on Bangstad’s January 4, 2021 email and the donation portal on MBC’s website.⁵³ The Response argues that no disclaimer was required because the email was not a public communication and MBC SuperPAC did not pay MBC for use of its website.⁵⁴

It appears, however, that MBC SuperPAC may have failed to include required disclaimers in both the email and on the website. While the Response argues that neither constitute “public communications” as defined by Commission regulations, there is a separate requirement for political committees like MBC SuperPAC to include disclaimers on mass emails

⁴⁹ Minocqua Brewing Company SuperPAC, RFAI: 2021 Year-End Report (Mar. 29, 2022).

⁵⁰ Minocqua Brewing Company SuperPAC, Amended 2021 Year-End Report (Apr. 15, 2022).

⁵¹ *See Heckler*, 470 U.S. 821; *see, e.g., F&LA*, MUR 7293 (Zinke for Congress, *et al.*) (dismissing reporting allegations with low amount in violation that were corrected by the committee).

⁵² *See* 52 U.S.C. § 30120(a); 11 C.F.R. § 110.11(a)(1).

⁵³ Compl. ¶¶ 15, 16.

⁵⁴ Resp. at 4-5.

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and official websites.⁵⁵ Nonetheless, this allegation does not warrant further Commission action. Both the email and the website refer to MBC SuperPAC in numerous places, and the likelihood of public confusion is small.⁵⁶ Accordingly, the Commission dismisses this allegation.⁵⁷

D. The Commission Finds No Reason to Believe that MBC and Bangstad Made Prohibited Corporate Contributions

The Act and Commission regulations prohibit any corporation from making contributions to a candidate's principal campaign committee.⁵⁸ A "[c]ontribution" is defined to include any gift of money or "anything of value" for the purpose of influencing a federal election.⁵⁹ Under Commission regulations, expenditures that are coordinated with a candidate, but are neither a coordinated communication nor a party coordinated communication, are in-kind contributions to that candidate.⁶⁰ Coordinated means "means made in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or a political party committee."⁶¹ The Commission's regulations, however, expressly permit corporations to endorse candidates, provided that endorsement is not coordinated with any candidate, candidate committee or its agents.⁶²

⁵⁵ 11 C.F.R. § 110.11(a)(1). MBC SuperPAC does not have its own website and instead occupies a page on MBC's website.

⁵⁶ *See, e.g.*, F&LA at 5-6, MUR 7039 (Sanders 2016, *et al.*) (dismissing alleged disclaimer violation where there was information sufficient to demonstrate that Sanders's committee had authorized the ad).

⁵⁷ *See Heckler*, 470 U.S. 821.

⁵⁸ 52 U.S.C. § 30118(a).

⁵⁹ *Id.* § 30101(8)(A); 11 C.F.R. §§ 100.52(a), 100.111(a). "Expenditure" is likewise defined to include "any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office." 52 U.S.C. § 30101(9).

⁶⁰ 11 C.F.R. § 109.20(b).

⁶¹ *Id.* § 109.20(a).

⁶² 11 C.F.R. § 114.4(c)(6).

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1 The Complaint alleges that MBC and Bangstad violated the Act’s prohibition on
2 corporate contributions by hanging what appears to be an official “Biden Harris” sign on the side
3 of MBC’s building, likening it to a “billboard.”⁶³ There is, however, no indication that this
4 action was coordinated with any candidate or that MBC typically used its building as advertising
5 space. For these reasons, the Commission finds no reason to believe that MBC or Bangstad
6 violated 52 U.S.C. § 30118(a) by making prohibited in-kind contributions.

⁶³ Compl. at 2.