

FEDERAL ELECTION COMMISSION
FIRST GENERAL COUNSEL’S REPORT

MUR: 7936
DATE COMPLAINT FILED: Oct. 22, 2021
DATE OF NOTIFICATION: Oct. 28, 2021
LAST RESPONSE RECEIVED: Nov. 22, 2021
DATE ACTIVATED: Mar. 29, 2022

ELECTION CYCLE: 2022
EXPIRATION OF SOL: Aug. 17, 2026

COMPLAINANTS:

End Citizens United
Tiffany Muller

RESPONDENTS:

Greene for Congress and Jason D. Boles, Treasurer
Save America Stop Socialism PAC and Jason D.
Boles, Treasurer
Marjorie Taylor Greene

**RELEVANT STATUTES
AND REGULATIONS:**

52 U.S.C § 30104(a), (b)
52 U.S.C. § 30116(a), (f)
52 U.S.C. § 30120(a)
11 C.F.R. § 104.3(a), (b)
11 C.F.R. § 110.2(b)
11 C.F.R. § 110.9
11 C.F.R. § 110.11

INTERNAL REPORTS CHECKED:

Disclosure Reports

FEDERAL AGENCIES CHECKED:

None

I. INTRODUCTION

The Complaint in this matter alleges that Save America Stop Socialism PAC and Jason D. Boles in his official capacity as Treasurer (“SASS PAC”), which is Representative Marjorie Taylor Greene’s leadership PAC, made an excessive and unreported contribution to Greene and her authorized committee, Greene for Congress and Jason D. Boles in his official capacity as Treasurer (“Greene for Congress”), when SASS PAC paid to air an advertisement on One America News Network that Greene for Congress previously published on YouTube. The

1 Complaint further alleges that SASS PAC's version of the advertisement included an inaccurate
2 disclaimer by stating that it was not authorized by any candidate or candidate's authorized
3 committee. The Response contends that Greene for Congress's publication of the advertisement
4 was a mistake and that the advertisement instead was paid for by SASS PAC for its own use.
5 The Response argues that the advertisement was therefore not a contribution because it was not
6 "prepared by" the campaign and the content prong of the coordinated communications test is not
7 met.

8 The available information indicates that SASS PAC made an unreported and excessive
9 in-kind contribution to Greene and Greene for Congress under either of the factual scenarios
10 articulated in the Complaint and Response. If, as the Response contends, the advertisement was
11 paid for by SASS PAC, then it made an in-kind contribution by permitting Greene for Congress
12 to access and use the advertisement without charge. If, on the other hand, the advertisement was
13 in fact prepared by Greene for Congress, then SASS PAC's airing of the commercial appears to
14 have been a coordinated communication through republication and therefore still an in-kind
15 contribution to the campaign. Neither SASS PAC nor Greene for Congress reported any
16 contributions from one committee to the other. In addition, it appears that SASS PAC's
17 advertisement featured an inaccurate disclaimer in that it stated that the advertisement was not
18 authorized by any candidate or candidate's committee. However, the available information
19 indicates that the amounts at issue were relatively modest — likely \$12,400, \$6,200, or less.
20 Accordingly, we recommend that the Commission dismiss this matter as an exercise of its
21 prosecutorial discretion and send a letter of caution to the Respondents.

II. FACTUAL BACKGROUND

Marjorie Taylor Greene is a U.S. House member representing Georgia's 14th Congressional District and a candidate for reelection in 2022.¹ Greene for Congress is her principal campaign committee, and Jason D. Boles is its treasurer.² SASS PAC is Greene's Leadership PAC, and Jason D. Boles is its treasurer.³ SASS PAC filed a notice that it had qualified for multicandidate status on February 22, 2022.⁴

According to the Complaint, on August 17, 2021, Greene for Congress aired a 60-second advertisement on YouTube that began with a disclaimer stating that she "approve[s] this message so that you know the facts."⁵ The advertisement discussed the infrastructure bill that had recently been approved by the Senate and urged House Republicans to vote against the bill.⁶ Then, on September 29, 2021, SASS PAC aired the same advertisement on One America News Network, which was also posted to YouTube.⁷ The content of the second advertisement is the same, except that there is no opening disclaimer by Greene, and instead it begins with a voiceover stating: "Save America Stop Socialism PAC paid for and is responsible for the

¹ Greene, Statement of Candidacy (May 3, 2021).

² Greene for Congress, Am. Statement of Organization (Nov. 16, 2021).

³ SASS PAC, Statement of Organization (Feb. 24, 2022).

⁴ SASS PAC, Notification of Multicandidate Status (Feb. 24, 2022).

⁵ Compl. at 2-3 (Oct. 22, 2021) (citing *Marjorie Taylor Greene Attacks Senate Republicans Who Voted for Infrastructure in New Ad*, YOUTUBE, <https://www.youtube.com/watch?v=jkgpl-NvBgc> (Aug. 17, 2021) (the linked video was not available as of our review of the Complaint)).

⁶ *Id.*

⁷ *Id.* (citing Team Punchbowl News, *Marjorie Taylor Greene Urges Republicans to Vote No on Infrastructure Bill*, YOUTUBE, <https://www.youtube.com/watch?v=CfWSR8rDaHs> (Sep. 29, 2021)).

content of this advertisement.”⁸ During the voiceover, the video displays a written disclaimer that states: “Paid for by Save America Stop Socialism PAC. Not authorized by any candidate or candidate’s committee. www.saveamericastopsocialism.com.”⁹

The Complaint claims that SASS PAC made an excessive contribution to Greene for Congress and Greene by republishing campaign materials when it paid to disseminate the advertisement on One America News Network.¹⁰ The Complaint further claims that SASS PAC’s disclaimer was misleading and inadequate.¹¹

The Response acknowledges that Greene for Congress first published the ad on its YouTube page, but represents that the “video was prepared and paid for by the Leadership PAC [SASS PAC] to be run as a Leadership PAC ad” and was “mistakenly posted by the Campaign.”¹² The Response contends that the advertisement was therefore not republished campaign material because it was not prepared by Greene for Congress.¹³ The Response stated that “[t]he Leadership PAC’s \$6,200 disbursement for the ad w[ould] be reported on its next periodic report.”¹⁴ SASS PAC’s next report, its 2021 Year-End Report, did not list a disbursement for that amount; however, it lists a \$12,400 disbursement on August 23, 2021, to

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* at 5.

¹¹ *Id.* at 6-7.

¹² Resp. at 2 (Nov. 22, 2021).

¹³ *Id.*

¹⁴ *Id.*

Neighborhood Research & Media for “Television Advertising.”¹⁵ SASS PAC has not reported any other disbursements to Neighborhood Research and Media. SASS PAC did not report any disbursement that it described as for the purpose of advertisement production prior to September 29, 2021.¹⁶

Greene for Congress reported 111 disbursements to Neighborhood Research and Media for, *inter alia*, “Television Advertising,” “Television Advertising Buy,” and “Radio and Television Production” between February 25, 2020, and December 13, 2021.¹⁷ In the period around the time of the infrastructure ad, Greene for Congress reported four disbursements to Neighborhood Research and Media for “Television Ad Buy[s]” in the following amounts and on the following dates: \$22,150 on September 25, 2021; \$6,200 on September 29, 2021; \$7,600 on October 6, 2021; and an additional \$6,000 on October 6, 2021.¹⁸ Neither Greene for Congress nor SASS PAC have reported any contributions from SASS PAC to Greene for Congress, or vice-versa, during the 2022 election cycle.

¹⁵ SASS PAC, 2021 Year-End Report (Jan 27, 2022). The report lists other disbursements for digital advertisements, but no others for television. Neighborhood Research & Media describes itself as a “political and commercial market research” firm. *Neighborhood Research and Media*, FACEBOOK, <https://www.facebook.com/NeighborhoodResearchMedia> (last visited June 30, 2022).

¹⁶ FEC, *Reported Disbursements*, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00708289&committee_id=C00755199&disbursement_description=production (showing disbursements by SASS PAC and Greene for Congress for “production”). SASS PAC did report disbursements for “digital advertising production and placement” to a different firm, RTA Strategy, shortly after the advertisement.

¹⁷ *Id.*

¹⁸ FEC, *Reported Disbursements*, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00708289&committee_id=C00755199&recipient_name=neighborhood (showing disbursements to Neighborhood Research and Media during by SASS PAC and Greene for Congress).

III. LEGAL ANALYSIS

A. In-Kind Contribution

A “contribution” includes “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.”¹⁹ Under Commission regulations, “anything of value” includes all in-kind contributions, which include “the provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services.”²⁰ Expenditures made by any person “in cooperation, consultation, or concert with, or at the request or suggestion of” a candidate or his authorized committee or agent qualify as an in-kind contribution to the candidate and must be reported as expenditures made by the candidate’s authorized committee.²¹

A communication that is coordinated with a candidate or his authorized committee is considered to be an in-kind contribution and is subject to the limits, prohibitions, and reporting requirements of the Act.²² The Commission’s regulations provide that a communication is coordinated with a candidate, his authorized committee, or agent of either, if it meets a three-prong test: (1) it is paid for, in whole or in part, by a person other than the candidate or authorized committee; (2) it satisfies a content standard in 11 C.F.R. § 109.21(c);²³ and (3) it

¹⁹ 52 U.S.C. § 30101(8)(A).

²⁰ 11 C.F.R. § 100.52(d).

²¹ 52 U.S.C. § 30116(a)(7)(B)(i); 11 C.F.R. § 109.20(b).

²² 52 U.S.C. § 30116; 11 C.F.R. § 109.21(b).

²³ The content standards include: (1) a communication that is an electioneering communication under 11 C.F.R. § 100.29(a); (2) a public communication that disseminates, distributes, or republishes campaign materials; (3) a public communication containing express advocacy; (4) a public communication that, in relevant part, refers to a clearly identified House or Senate candidate, is publicly distributed or disseminated 90 days or fewer before a

satisfies a conduct standard in 11 C.F.R. § 109.21(d).²⁴ All three prongs must be satisfied for a communication to be considered coordinated.²⁵

For the 2022 election cycle, non-multicandidate political committees are limited to contributing \$2,900 per election to candidates, while multicandidate committees are limited to \$5,000.²⁶ The Act also prohibits any candidate or political committee from knowingly accepting any excessive contribution.²⁷ Political committees, including authorized committees and leadership PACs, are required to report all contributions made and received, including in-kind contributions and coordinated communications.²⁸

A leadership PAC is a political committee that “is directly or indirectly established, financed, maintained or controlled by a candidate for Federal office or an individual holding Federal office but which is not an authorized committee of the candidate or individual.”²⁹ The Commission has explained that any expenditure made by a leadership PAC for the benefit of the sponsoring candidate’s principal campaign committee “are in-kind contributions, subject to the

primary or general election, and is directed to voters in the jurisdiction of the clearly identified candidate; and (5) a public communication that is the functional equivalent of express advocacy. 11 C.F.R. § 109.21(c).

²⁴ The six types of conduct between the payor and the candidate’s committee, whether or not there is formal agreement or collaboration, which can satisfy the conduct prong, include: (1) a request or suggestion; (2) material involvement; (3) substantial discussion; (4) common vendor; (5) former employee or independent contractor; and (6) dissemination, distribution, or republication of campaign material. 11 C.F.R. § 109.21(d).

²⁵ 11 C.F.R. § 109.21(a); *see also* Coordinated and Independent Expenditures, 68 Fed. Reg. 421, 453 (Jan. 3, 2003) (Explanation and Justification) (“E&J”).

²⁶ 52 U.S.C. § 30116(a); Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold, 86 Fed. Reg. 7867 (Feb. 2, 2021).

²⁷ 52 U.S.C. § 30116(f).

²⁸ *Id.* § 30104(a)-(b); 11 C.F.R. § 104.3(a)-(b); 11 C.F.R. § 109.21(b)(3).

²⁹ 11 C.F.R. § 100.5(e)(6).

1 Act's contribution limits and reporting requirements.”³⁰ Further, if a candidate engages in
2 activities on behalf of a multicandidate political committee that also supports his or her
3 candidacy, the candidate must allocate any expenses between the multicandidate committee and
4 the candidate's campaign committee pursuant to 11 C.F.R. § 106.1(a).³¹

5 The Complaint and Response in this matter each propose differing accounts of the facts,
6 but under either account Respondents appear to have violated the Act: either SASS PAC paid
7 for the production of the advertisement, and therefore made an unreported in-kind contribution to
8 Greene for Congress and Greene by allowing the campaign to use the advertisement and failing
9 to allocate costs between the committees; or Greene for Congress is the source of the
10 advertisement, in which case SASS PAC made an in-kind contribution to Greene for Congress
11 by making a coordinated communication when it republished the advertisement on One America
12 News Network.

13 If, as the Response contends, “[t]he video was prepared and paid for by the Leadership
14 PAC to be run as a Leadership PAC ad” and “an initial cut of the video for the ad was mistakenly
15 posted by the Campaign on YouTube,”³² then it would appear that SASS PAC provided an in-
16 kind contribution to the campaign by providing Greene for Congress with the use of the

³⁰ Leadership PACs, 68 Fed. Reg. 67,013, 67,017 (Dec. 1, 2003) (“To the extent that leadership PACs are used to pay for costs that could and should otherwise be paid for by a candidate's authorized committee, such payments are in-kind contributions, subject to the Act's contribution limits and reporting requirements.”).

³¹ Advisory Opinion 1985-40 at 8–9 (Republican Majority Fund) (stating that a leadership PAC would be required to allocate travel costs when the potential candidate holds private meetings for testing-the-waters activities in conjunction with appearances on behalf of federal candidates).

³² Resp. at 3.

advertisement for the period of time it was posted on YouTube.³³ The Response does not explain how much SASS PAC paid to produce the advertisement, and there are no disbursements reflected in its reports filed with the Commission that are expressly for the purpose of advertisement production. However, SASS PAC's \$12,400 disbursement on August 23, 2021 to Neighborhood Research & Media could have been for both the cost of producing the video and of airing it.

Alternatively, if Greene for Congress paid to create the advertisement, as the Complaint alleges, then SASS PAC appears to have made an in-kind contribution to the campaign by republishing the advertisement, as all three of the coordinated communication prongs would be met. The Response appears to agree that the payment prong is satisfied, as it represents that SASS PAC paid to publish the advertisement on One America News Network.³⁴ The content prong would be met because the advertisement "disseminates, distributes, or republishes, in whole or in part, campaign materials prepared by a candidate or the candidate's authorized committee."³⁵ The conduct prong would also appear to be met because: the advertisement

³³ First Gen. Counsel's Rpt. at 10, MUR 5409 (Norquist, *et al.*) (dispositive Commission opinion) (recommending finding reason to believe that a nonprofit corporation made prohibited in-kind contributions by providing a campaign with its private lists of conservative organizations and individuals, which the corporation "utilized its resources to obtain and compile"), and Certification, MUR 5409 (Oct. 19, 2004) (approving recommendation); Advisory Opinion 2007-22 (Hurysz) at 6 ("The provision of . . . materials without charge would relieve your campaign of the expense that it would otherwise incur to obtain such materials. Thus, the provision of such items without charge would constitute a contribution . . ."); Advisory Opinion 1992-33 (DNC/RNC) at 3 ("As a general rule, an in-kind donation for Federal elections is treated as if funds equal to the value of the donation were received by the committee and then the committee expended those funds to purchase the goods or services."); *see also* Factual & Legal Analysis at 8-9, MUR 7207 (Taub) (finding reason to believe that a foreign national made a contribution by providing "research reports" that were prepared by commercial vendors and were "commercial products of the sort routinely prepared by professional vendors on behalf of Congressional campaigns").

³⁴ *Supra* n. 12 and accompanying text.

³⁵ 11 C.F.R. § 109.21(c)(2).

1 features Greene; the version of the advertisement posted to YouTube by Greene for Congress
2 reportedly includes a disclaimer stating that she approved the advertisement; and SASS PAC is
3 Greene's leadership PAC, meaning that, by definition, it is "directly or indirectly established,
4 financed, maintained, or controlled" by her.³⁶ These facts, particularly SASS PAC being
5 Greene's leadership PAC, would indicate that SASS PAC's broadcast of the ad was made at the
6 request or suggestion of Greene; that Greene was materially involved in the content of the
7 communication; and that Greene may have had substantial discussions regarding the
8 republication with agents or employees of SASS PAC.³⁷ The common vendor standard may also
9 have been met here, as the only disbursement reported by SASS PAC that would appear to
10 correspond to the distribution of the advertisement was to Neighborhood Research and Media,
11 which received over 100 disbursements from Greene for Congress.³⁸

12 Also of note, there is contradicting information in the record about the source of the
13 payments to produce and air the advertisement. The Response contends that SASS PAC paid to
14 produce the advertisement and then paid \$6,200 to air it on One America News Network.³⁹
15 SASS PAC did report one disbursement of \$12,400 to Neighborhood Research and Media for
16 "television advertising,"⁴⁰ which might correspond to a payment both for the production of the
17 advertisement and for its distribution. But Greene for Congress also reported numerous

³⁶ *See id.* § 100.5(e)(6).

³⁷ *See id.* § 109.21(d)(1)-(3).

³⁸ *Id.* § 109.21(d)(4)(ii); *supra* notes 18-16 and accompanying text.

³⁹ Resp. at 2.

⁴⁰ SASS PAC, 2021 Year-End Report (Jan 27, 2022).

1 disbursements to the same recipient around the same time, including a \$6,200 disbursement on
2 the same day that SASS PAC's advertisement ran on One America News Network.⁴¹ And
3 Greene for Congress reported disbursements for "Television Production" to the same firm.⁴²
4 Moreover, while Respondents contend that Greene for Congress's use of the advertisement was
5 inadvertent, this representation strains credulity in light of the Complaint's allegation, which the
6 Response does not address, that the Greene committee's version of the advertisement published
7 by the campaign featured a different disclaimer than the version published by SASS PAC.

8 At the time the advertisement ran on September 29, 2021, SASS PAC had not met the
9 requirements to qualify as a multicandidate committee and therefore was limited to making
10 \$2,900 in contributions per election to Greene and Greene for Congress.⁴³ Respondents state
11 that SASS PAC paid \$6,200 to distribute the advertisement but reported a \$12,400 disbursement
12 that appears to best correspond to costs associated with the advertisement under Respondents'
13 version of events. Under such facts, it thus appears that SASS PAC made an excessive
14 contribution to Greene for Congress. It also appears that the Respondents have failed to
15 adequately disclose the activity, as neither committee reported a contribution from SASS PAC to
16 Greene for Congress. Nevertheless, given that the potential amounts at issue appears to be
17 \$12,400, \$6,200, or less, we do not believe it is in the Commission's interests to expend further
18 resources to address this violation and therefore recommend that the Commission dismiss as a

⁴¹ *Supra* notes 18-16 and accompanying text. *Compare* Resp. at 2 (stating that "[t]he *Leadership PAC's* \$6,200 disbursement for the ad will be reported on its next periodic report" (emphasis added)).

⁴² *Id.*

⁴³ Subsequently, on February 22, 2022, SASS PAC reportedly became a multicandidate committee, SASS PAC, Notification of Multicandidate Status (Feb. 24, 2022), and thus may make up to \$5,000 in contributions per election.

1 matter of prosecutorial discretion⁴⁴ the allegations that: SASS PAC violated 52 U.S.C. §§ 30104
 2 (a), (b), and 30116(a) and 11 C.F.R. §§ 104.3(b) and 110.2(b) by making and failing to report an
 3 excessive contribution; Greene and Greene for Congress violated 52 U.S.C. § 30116(f) and 11
 4 C.F.R. § 110.9 by knowingly accepting an excessive in-kind contribution; and Greene for
 5 Congress violated 52 U.S.C. § 30104 (a) and (b) and 11 C.F.R. § 104.3(a) by failing to report
 6 receiving the contribution. Because the Committees' reports appear not to have adequately
 7 disclosed the activity as described above, we further recommend that the Commission send
 8 Respondents a cautionary letter directing them to work with the Reports Analysis Division to file
 9 the appropriate amended reports.⁴⁵

10 **B. Disclaimer**

11 The Act requires that all public communications made by a political committee include
 12 a disclaimer.⁴⁶ "Public communications" include "communication by means of any broadcast,
 13 cable, or satellite communication."⁴⁷ Where required, disclaimers must be "presented in a clear
 14 and conspicuous manner, to give the reader, observer, or listener adequate notice of the identity
 15 of the person or political committee that paid for, and where required, that authorized the
 16 communication."⁴⁸ If a communication is authorized by a candidate or candidate's authorized
 17 committee or agent thereof but is not paid for by another person, it must clearly state that the

⁴⁴ See *Heckler v. Chaney*, 470 U.S. 821, 831 (1985).

⁴⁵ See MUR 7639 (Ilhan for Congress, *et al.*) (directing respondent committee to work with RAD to amend its disbursement reporting).

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

⁴⁷ 11 C.F.R. § 100.26.

⁴⁸ *Id.* § 110.11(c).

communication is paid for by such other person and is authorized by such candidate, authorized committee, or agent.⁴⁹

Here, the available information indicates that the advertisement distributed by SASS PAC did not include a compliant disclaimer. As the Complaint contends, given that SASS PAC is Greene's leadership PAC, and Greene is featured throughout the advertisement, it appears that the disclaimer should have stated that the advertisement was authorized by Greene. Moreover, as the Complaint points out, the disclaimer is technically deficient because it appears at the beginning, rather than the end, of the advertisement.⁵⁰ The Response does not dispute that the disclaimer was inaccurate. However, given the low amount at issue and the short period of time during which the advertisement ran, we recommend that the Commission dismiss as a matter of prosecutorial discretion⁵¹ the allegation that SASS PAC violated 52 U.S.C. § 30120(a) and 11 C.F.R. § 110.11 by failing to include an adequate disclaimer and send Respondents a cautionary letter explaining their obligations to include appropriate disclaimers.

IV. RECOMMENDATIONS

1. Dismiss as an exercise of prosecutorial discretion the allegation that Save America Stop Socialism PAC and Jason D. Boles in his official capacity as Treasurer violated 52 U.S.C. § 30116(a) and 11 C.F.R. § 110.2(b) by making an excessive in-kind contribution and send a letter of caution to the Committee;
2. Dismiss as an exercise of prosecutorial discretion the allegation that Save America Stop Socialism PAC and Jason D. Boles in his official capacity as Treasurer violated 52 U.S.C. § 30104 (a) and (b) and 11 C.F.R. § 104.3(b) by failing to report making an in-kind contribution and send a letter of caution to the Committee;

⁴⁹ *Id.* § 110.11(b)(3).

⁵⁰ *See id.* § 110.11(c)(3).

⁵¹ *See Heckler*, 470 U.S. at 831.

3. Dismiss as an exercise of prosecutorial discretion the allegation that Save America Stop Socialism PAC and Jason D. Boles in his official capacity as Treasurer violated 52 U.S.C. § 30120(a) and 11 C.F.R. § 110.11 by failing to include an adequate disclaimer and send a letter of caution to the Committee;
4. Dismiss as an exercise of prosecutorial discretion the allegation that Marjorie Taylor Greene and Greene for Congress and Jason D. Boles in his official capacity as Treasurer violated 52 U.S.C. § 30116(f) and 11 C.F.R. § 110.9 by knowingly accepting an excessive in-kind contribution and send a letter of caution to the Committee;
5. Dismiss as an exercise of prosecutorial discretion the allegation that Greene for Congress and Jason D. Boles in his official capacity as Treasurer violated 52 U.S.C § 30104 (a) and (b) and 11 C.F.R. § 104.3(a) by failing to report receiving a contribution and send a letter of caution to the Committee;
6. Approve the attached Factual and Legal Analysis;
7. Approve the appropriate letters; and
8. Close the file.

Lisa J. Stevenson
Acting General Counsel

Date: 7/28/2022

Charles Kitcher
Charles Kitcher
Associate General Counsel for
Enforcement

Peter G. Blumberg
Peter G. Blumberg
Assistant General Counsel

Aaron Rabinowitz
Aaron Rabinowitz
Attorney

Attachment:

- 1) Factual and Legal Analysis

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: Greene for Congress and **MUR 7936**
Jason D. Boles, Treasurer
Save America Stop Socialism PAC and
Jason D. Boles, Treasurer
Marjorie Taylor Greene

I. INTRODUCTION

This matter was generated by a complaint filed with the Federal Election Commission (the “Commission”), which alleges violations of the Federal Election Campaign Act of 1971, as amended (the “Act”), relating to allegations that Save America Stop Socialism PAC and Jason D. Boles in his official capacity as Treasurer (“SASS PAC”), which is Representative Marjorie Taylor Greene’s leadership PAC, made an excessive and unreported contribution to Greene and her authorized committee, Greene for Congress and Jason D. Boles in his official capacity as Treasurer (“Greene for Congress”), when SASS PAC paid to air an advertisement on One America News Network that Greene for Congress previously published on YouTube. The Complaint further alleges that SASS PAC’s version of the advertisement included an inaccurate disclaimer by stating that it was not authorized by any candidate or candidate’s authorized committee. The Response contends that Greene for Congress’s publication of the advertisement was a mistake and that the advertisement instead was paid for by SASS PAC for its own use. The Response argues that the advertisement was therefore not a contribution because it was not “prepared by” the campaign and the content prong of the coordinated communications test is not met.

The available information indicates that SASS PAC made an unreported and excessive in-kind contribution to Greene and Greene for Congress under either of the factual scenarios

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1 articulated in the Complaint and Response. If, as the Response contends, the advertisement was
2 paid for by SASS PAC, then it made an in-kind contribution by permitting Greene for Congress
3 to access and use the advertisement without charge. If, on the other hand, the advertisement was
4 in fact prepared by Greene for Congress, then SASS PAC's airing of the commercial appears to
5 have been a coordinated communication through republication and therefore still an in-kind
6 contribution to the campaign. Neither SASS PAC nor Greene for Congress reported any
7 contributions from one committee to the other. In addition, it appears that SASS PAC's
8 advertisement featured an inaccurate disclaimer in that it stated that the advertisement was not
9 authorized by any candidate or candidate's committee. However, the available information
10 indicates that the amounts at issue were relatively modest — likely \$12,400, \$6,200, or less.
11 Accordingly, the Commission will dismiss this matter as an exercise of its prosecutorial
12 discretion and will send a letter of caution to the Respondents.

13 **II. FACTUAL BACKGROUND**

14 Marjorie Taylor Greene is a U.S. House member representing Georgia's 14th
15 Congressional District and a candidate for reelection in 2022.¹ Greene for Congress is her
16 principal campaign committee, and Jason D. Boles is its treasurer.² SASS PAC is Greene's
17 Leadership PAC, and Jason D. Boles is its treasurer.³ SASS PAC filed a notice that it had
18 qualified for multicandidate status on February 22, 2022.⁴

¹ Greene, Statement of Candidacy (May 3, 2021).

² Greene for Congress, Am. Statement of Organization (Nov. 16, 2021).

³ SASS PAC, Statement of Organization (Feb. 24, 2022).

⁴ SASS PAC, Notification of Multicandidate Status (Feb. 24, 2022).

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1 According to the Complaint, on August 17, 2021, Greene for Congress aired a 60-second
2 advertisement on YouTube that began with a disclaimer stating that she “approve[s] this message
3 so that you know the facts.”⁵ The advertisement discussed the infrastructure bill that had
4 recently been approved by the Senate and urged House Republicans to vote against the bill.⁶
5 Then, on September 29, 2021, SASS PAC aired the same advertisement on One America News
6 Network, which was also posted to YouTube.⁷ The content of the second advertisement is the
7 same, except that there is no opening disclaimer by Greene, and instead it begins with a
8 voiceover stating: “Save America Stop Socialism PAC paid for and is responsible for the
9 content of this advertisement.”⁸ During the voiceover, the video displays a written disclaimer
10 that states: “Paid for by Save America Stop Socialism PAC. Not authorized by any candidate or
11 candidate’s committee. www.saveamericastopsocialism.com.”⁹

12 The Complaint claims that SASS PAC made an excessive contribution to Greene for
13 Congress and Greene by republishing campaign materials when it paid to disseminate the

⁵ Compl. at 2-3 (Oct. 22, 2021) (citing *Marjorie Taylor Greene Attacks Senate Republicans Who Voted for Infrastructure in New Ad*, YOUTUBE, <https://www.youtube.com/watch?v=jkgpl-NvBgc> (Aug. 17, 2021) (the linked video is no longer available)).

⁶ *Id.*

⁷ *Id.* (citing Team Punchbowl News, *Marjorie Taylor Greene Urges Republicans to Vote No on Infrastructure Bill*, YOUTUBE, <https://www.youtube.com/watch?v=CfWSR8rDaHs> (Sep. 29, 2021)).

⁸ *Id.*

⁹ *Id.*

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advertisement on One America News Network.¹⁰ The Complaint further claims that SASS PAC's disclaimer was misleading and inadequate.¹¹

The Response acknowledges that Greene for Congress first published the ad on its YouTube page, but represents that the "video was prepared and paid for by the Leadership PAC [SASS PAC] to be run as a Leadership PAC ad" and was "mistakenly posted by the Campaign."¹² The Response contends that the advertisement was therefore not republished campaign material because it was not prepared by Greene for Congress.¹³ The Response stated that "[t]he Leadership PAC's \$6,200 disbursement for the ad w[ould] be reported on its next periodic report."¹⁴ SASS PAC's next report, its 2021 Year-End Report, did not list a disbursement for that amount; however, it lists a \$12,400 disbursement on August 23, 2021, to Neighborhood Research & Media for "Television Advertising."¹⁵ SASS PAC has not reported any other disbursements to Neighborhood Research and Media. SASS PAC did not report any disbursement that it described as for the purpose of advertisement production prior to September 29, 2021.¹⁶

¹⁰ *Id.* at 5.

¹¹ *Id.* at 6-7.

¹² Resp. at 2 (Nov. 22, 2021).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ SASS PAC, 2021 Year-End Report (Jan 27, 2022). The report lists other disbursements for digital advertisements, but no others for television. Neighborhood Research & Media describes itself as a "political and commercial market research" firm. *Neighborhood Research and Media*, FACEBOOK, <https://www.facebook.com/NeighborhoodResearchMedia> (last visited June 30, 2022).

¹⁶ FEC, *Reported Disbursements*, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00708289&committee_id=C00755199&disbursement_description=production (showing

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Greene for Congress reported 111 disbursements to Neighborhood Research and Media for, *inter alia*, “Television Advertising,” “Television Advertising Buy,” and “Radio and Television Production” between February 25, 2020, and December 13, 2021.¹⁷ In the period around the time of the infrastructure ad, Greene for Congress reported four disbursements to Neighborhood Research and Media for “Television Ad Buy[s]” in the following amounts and on the following dates: \$22,150 on September 25, 2021; \$6,200 on September 29, 2021; \$7,600 on October 6, 2021; and an additional \$6,000 on October 6, 2021.¹⁸ Neither Greene for Congress nor SASS PAC have reported any contributions from SASS PAC to Greene for Congress, or vice-versa, during the 2022 election cycle.

III. LEGAL ANALYSIS

A. In-Kind Contribution

A “contribution” includes “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.”¹⁹ Under Commission regulations, “anything of value” includes all in-kind contributions, which include “the provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services.”²⁰ Expenditures made by any

disbursements by SASS PAC and Greene for Congress for “production”). SASS PAC did report disbursements for “digital advertising production and placement” to a different firm, RTA Strategy, shortly after the advertisement.

¹⁷ *Id.*

¹⁸ FEC, *Reported Disbursements*, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00708289&committee_id=C00755199&recipient_name=neighborhood (showing disbursements to Neighborhood Research and Media during by SASS PAC and Greene for Congress).

¹⁹ 52 U.S.C. § 30101(8)(A).

²⁰ 11 C.F.R. § 100.52(d).

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person “in cooperation, consultation, or concert with, or at the request or suggestion of” a candidate or his authorized committee or agent qualify as an in-kind contribution to the candidate and must be reported as expenditures made by the candidate’s authorized committee.²¹

A communication that is coordinated with a candidate or his authorized committee is considered to be an in-kind contribution and is subject to the limits, prohibitions, and reporting requirements of the Act.²² The Commission’s regulations provide that a communication is coordinated with a candidate, his authorized committee, or agent of either, if it meets a three-prong test: (1) it is paid for, in whole or in part, by a person other than the candidate or authorized committee; (2) it satisfies a content standard in 11 C.F.R. § 109.21(c);²³ and (3) it satisfies a conduct standard in 11 C.F.R. § 109.21(d).²⁴ All three prongs must be satisfied for a communication to be considered coordinated.²⁵

For the 2022 election cycle, non-multicandidate political committees are limited to contributing \$2,900 per election to candidates, while multicandidate committees are limited to

²¹ 52 U.S.C. § 30116(a)(7)(B)(i); 11 C.F.R. § 109.20(b).

²² 52 U.S.C. § 30116; 11 C.F.R. § 109.21(b).

²³ The content standards include: (1) a communication that is an electioneering communication under 11 C.F.R. § 100.29(a); (2) a public communication that disseminates, distributes, or republishes campaign materials; (3) a public communication containing express advocacy; (4) a public communication that, in relevant part, refers to a clearly identified House or Senate candidate, is publicly distributed or disseminated 90 days or fewer before a primary or general election, and is directed to voters in the jurisdiction of the clearly identified candidate; and (5) a public communication that is the functional equivalent of express advocacy. 11 C.F.R. § 109.21(c).

²⁴ The six types of conduct between the payor and the candidate’s committee, whether or not there is formal agreement or collaboration, which can satisfy the conduct prong, include: (1) a request or suggestion; (2) material involvement; (3) substantial discussion; (4) common vendor; (5) former employee or independent contractor; and (6) dissemination, distribution, or republication of campaign material. 11 C.F.R. § 109.21(d).

²⁵ 11 C.F.R. § 109.21(a); *see also* Coordinated and Independent Expenditures, 68 Fed. Reg. 421, 453 (Jan. 3, 2003) (Explanation and Justification) (“E&J”).

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1 \$5,000.²⁶ The Act also prohibits any candidate or political committee from knowingly accepting
2 any excessive contribution.²⁷ Political committees, including authorized committees and
3 leadership PACs, are required to report all contributions made and received, including in-kind
4 contributions and coordinated communications.²⁸

5 A leadership PAC is a political committee that “is directly or indirectly established,
6 financed, maintained or controlled by a candidate for Federal office or an individual holding
7 Federal office but which is not an authorized committee of the candidate or individual.”²⁹ The
8 Commission has explained that any expenditure made by a leadership PAC for the benefit of the
9 sponsoring candidate’s principal campaign committee “are in-kind contributions, subject to the
10 Act’s contribution limits and reporting requirements.”³⁰ Further, if a candidate engages in
11 activities on behalf of a multicandidate political committee that also supports his or her
12 candidacy, the candidate must allocate any expenses between the multicandidate committee and
13 the candidate’s campaign committee pursuant to 11 C.F.R. § 106.1(a).³¹

²⁶ 52 U.S.C. § 30116(a); Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold, 86 Fed. Reg. 7867 (Feb. 2, 2021).

²⁷ 52 U.S.C. § 30116(f).

²⁸ *Id.* § 30104(a)-(b); 11 C.F.R. § 104.3(a)-(b); 11 C.F.R. § 109.21(b)(3).

²⁹ 11 C.F.R. § 100.5(e)(6).

³⁰ Leadership PACs, 68 Fed. Reg. 67,013, 67,017 (Dec. 1, 2003) (“To the extent that leadership PACs are used to pay for costs that could and should otherwise be paid for by a candidate’s authorized committee, such payments are in-kind contributions, subject to the Act’s contribution limits and reporting requirements.”).

³¹ Advisory Opinion 1985-40 at 8–9 (Republican Majority Fund) (stating that a leadership PAC would be required to allocate travel costs when the potential candidate holds private meetings for testing-the-waters activities in conjunction with appearances on behalf of federal candidates).

1 The Complaint and Response in this matter each propose differing accounts of the facts,
2 but under either account Respondents appear to have violated the Act: either SASS PAC paid
3 for the production of the advertisement, and therefore made an unreported in-kind contribution to
4 Greene for Congress and Greene by allowing the campaign to use the advertisement and failing
5 to allocate costs between the committees; or Greene for Congress is the source of the
6 advertisement, in which case SASS PAC made an in-kind contribution to Greene for Congress
7 by making a coordinated communication when it republished the advertisement on One America
8 News Network.

9 If, as the Response contends, “[t]he video was prepared and paid for by the Leadership
10 PAC to be run as a Leadership PAC ad” and “an initial cut of the video for the ad was mistakenly
11 posted by the Campaign on YouTube,”³² then it would appear that SASS PAC provided an in-
12 kind contribution to the campaign by providing Greene for Congress with the use of the
13 advertisement for the period of time it was posted on YouTube.³³ The Response does not
14 explain how much SASS PAC paid to produce the advertisement, and there are no disbursements
15 reflected in its reports filed with the Commission that are expressly for the purpose of

³² Resp. at 3.

³³ First Gen. Counsel’s Rpt. at 10, MUR 5409 (Norquist, *et al.*) (dispositive Commission opinion) (recommending finding reason to believe that a nonprofit corporation made prohibited in-kind contributions by providing a campaign with its private lists of conservative organizations and individuals, which the corporation “utilized its resources to obtain and compile”), and Certification, MUR 5409 (Oct. 19, 2004) (approving recommendation); Advisory Opinion 2007-22 (Hurysz) at 6 (“The provision of . . . materials without charge would relieve your campaign of the expense that it would otherwise incur to obtain such materials. Thus, the provision of such items without charge would constitute a contribution”); Advisory Opinion 1992-33 (DNC/RNC) at 3 (“As a general rule, an in-kind donation for Federal elections is treated as if funds equal to the value of the donation were received by the committee and then the committee expended those funds to purchase the goods or services.”); *see also* Factual & Legal Analysis at 8-9, MUR 7207 (Taub) (finding reason to believe that a foreign national made a contribution by providing “research reports” that were prepared by commercial vendors and were “commercial products of the sort routinely prepared by professional vendors on behalf of Congressional campaigns”).

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1 advertisement production. However, SASS PAC's \$12,400 disbursement on August 23, 2021 to
2 Neighborhood Research & Media could have been for both the cost of producing the video and
3 of airing it.

4 Alternatively, if Greene for Congress paid to create the advertisement, as the Complaint
5 alleges, then SASS PAC appears to have made an in-kind contribution to the campaign by
6 republishing the advertisement, as all three of the coordinated communication prongs would be
7 met. The Response appears to agree that the payment prong is satisfied, as it represents that
8 SASS PAC paid to publish the advertisement on One America News Network.³⁴ The content
9 prong would be met because the advertisement "disseminates, distributes, or republishes, in
10 whole or in part, campaign materials prepared by a candidate or the candidate's authorized
11 committee."³⁵ The conduct prong would also appear to be met because: the advertisement
12 features Greene; the version of the advertisement posted to YouTube by Greene for Congress
13 reportedly includes a disclaimer stating that she approved the advertisement; and SASS PAC is
14 Greene's leadership PAC, meaning that, by definition, it is "directly or indirectly established,
15 financed, maintained, or controlled" by her.³⁶ These facts, particularly SASS PAC being
16 Greene's leadership PAC, would indicate that SASS PAC's broadcast of the ad was made at the
17 request or suggestion of Greene; that Greene was materially involved in the content of the
18 communication; and that Greene may have had substantial discussions regarding the

³⁴ *Supra* n. 12 and accompanying text.

³⁵ 11 C.F.R. § 109.21(c)(2).

³⁶ *See id.* § 100.5(e)(6).

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1 republication with agents or employees of SASS PAC.³⁷ The common vendor standard may also
2 have been met here, as the only disbursement reported by SASS PAC that would appear to
3 correspond to the distribution of the advertisement was to Neighborhood Research and Media,
4 which received over 100 disbursements from Greene for Congress.³⁸

5 Also of note, there is contradicting information in the record about the source of the
6 payments to produce and air the advertisement. The Response contends that SASS PAC paid to
7 produce the advertisement and then paid \$6,200 to air it on One America News Network.³⁹
8 SASS PAC did report one disbursement of \$12,400 to Neighborhood Research and Media for
9 “television advertising,”⁴⁰ which might correspond to a payment both for the production of the
10 advertisement and for its distribution. But Greene for Congress also reported numerous
11 disbursements to the same recipient around the same time, including a \$6,200 disbursement on
12 the same day that SASS PAC’s advertisement ran on One America News Network.⁴¹ And
13 Greene for Congress reported disbursements for “Television Production” to the same firm.⁴²
14 Moreover, while Respondents contend that Greene for Congress’s use of the advertisement was
15 inadvertent, this representation strains credulity in light of the Complaint’s allegation, which the

³⁷ *See id.* § 109.21(d)(1)-(3).

³⁸ *Id.* § 109.21(d)(4)(ii); *supra* notes 18-16 and accompanying text.

³⁹ Resp. at 2.

⁴⁰ SASS PAC, 2021 Year-End Report (Jan 27, 2022).

⁴¹ *Supra* notes 18-16 and accompanying text. *Compare* Resp. at 2 (stating that “[t]he *Leadership PAC*’s \$6,200 disbursement for the ad will be reported on its next periodic report” (emphasis added)).

⁴² *Id.*

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1 Response does not address, that the Greene committee's version of the advertisement published
2 by the campaign featured a different disclaimer than the version published by SASS PAC.

3 At the time the advertisement ran on September 29, 2021, SASS PAC had not met the
4 requirements to qualify as a multicandidate committee and therefore was limited to making
5 \$2,900 in contributions per election to Greene and Greene for Congress.⁴³ Respondents state
6 that SASS PAC paid \$6,200 to distribute the advertisement but reported a \$12,400 disbursement
7 that appears to best correspond to costs associated with the advertisement under Respondents'
8 version of events. Under such facts, it thus appears that SASS PAC made an excessive
9 contribution to Greene for Congress. It also appears that the Respondents have failed to
10 adequately disclose the activity, as neither committee reported a contribution from SASS PAC to
11 Greene for Congress. Nevertheless, given that the potential amounts at issue appears to be
12 \$12,400, \$6,200, or less, it is not in the Commission's interests to expend further resources to
13 address this violation and therefore the Commission will dismiss as a matter of prosecutorial
14 discretion⁴⁴ the allegations that: SASS PAC violated 52 U.S.C. §§ 30104 (a), (b), and 30116(a)
15 and 11 C.F.R. §§ 104.3(b) and 110.2(b) by making and failing to report an excessive
16 contribution; Greene and Greene for Congress violated 52 U.S.C. § 30116(f) and 11 C.F.R.
17 § 110.9 by knowingly accepting an excessive in-kind contribution; and Greene for Congress
18 violated 52 U.S.C § 30104 (a) and (b) and 11 C.F.R. § 104.3(a) by failing to report receiving the
19 contribution. Because the Committees' reports appear not to have adequately disclosed the

⁴³ Subsequently, on February 22, 2022, SASS PAC reportedly became a multicandidate committee, SASS PAC, Notification of Multicandidate Status (Feb. 24, 2022), and thus may make up to \$5,000 in contributions per election.

⁴⁴ *See Heckler v. Chaney*, 470 U.S. 821, 831 (1985).

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activity as described above, the Commission will send Respondents a cautionary letter directing them to work with the Reports Analysis Division to file the appropriate amended reports.⁴⁵

B. Disclaimer

The Act requires that all public communications made by a political committee include a disclaimer.⁴⁶ “Public communications” include “communication by means of any broadcast, cable, or satellite communication.”⁴⁷ Where required, disclaimers must be “presented in a clear and conspicuous manner, to give the reader, observer, or listener adequate notice of the identity of the person or political committee that paid for, and where required, that authorized the communication.”⁴⁸ If a communication is authorized by a candidate or candidate’s authorized committee or agent thereof but is not paid for by another person, it must clearly state that the communication is paid for by such other person and is authorized by such candidate, authorized committee, or agent.⁴⁹

Here, the available information indicates that the advertisement distributed by SASS PAC did not include a compliant disclaimer. As the Complaint contends, given that SASS PAC is Greene’s leadership PAC, and Greene is featured throughout the advertisement, it appears that the disclaimer should have stated that the advertisement was authorized by Greene. Moreover, as the Complaint points out, the disclaimer is technically deficient because it appears at the

⁴⁵ See MUR 7639 (Ilhan for Congress, *et al.*) (directing respondent committee to work with RAD to amend its disbursement reporting).

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

⁴⁷ 11 C.F.R. § 100.26.

⁴⁸ *Id.* § 110.11(c).

⁴⁹ *Id.* § 110.11(b)(3).

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1 beginning, rather than the end, of the advertisement.⁵⁰ The Response does not dispute that the
2 disclaimer was inaccurate. However, given the low amount at issue and the short period of time
3 during which the advertisement ran, the Commission will dismiss as a matter of prosecutorial
4 discretion⁵¹ the allegation that SASS PAC violated 52 U.S.C. § 30120(a) and 11 C.F.R. § 110.11
5 by failing to include an adequate disclaimer and send Respondents a cautionary letter explaining
6 their obligations to include appropriate disclaimers.

⁵⁰ *See id.* § 110.11(c)(3).

⁵¹ *See Heckler*, 470 U.S. at 831.

AD Office Edits

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: Greene for Congress and **MUR 7936**
Jason D. Boles, Treasurer
Save America Stop Socialism PAC and
Jason D. Boles, Treasurer
Marjorie Taylor Greene

I. INTRODUCTION

This matter was generated by a complaint filed with the Federal Election Commission (the “Commission”), which alleges violations of the Federal Election Campaign Act of 1971, as amended (the “Act”), relating to allegations that Save America Stop Socialism PAC and Jason D. Boles in his official capacity as Treasurer (“SASS PAC”), which is Representative Marjorie Taylor Greene’s leadership PAC, made an excessive and unreported contribution to Greene and her authorized committee, Greene for Congress and Jason D. Boles in his official capacity as Treasurer (“Greene for Congress”), when SASS PAC paid to air an advertisement on One America News Network that Greene for Congress previously published on YouTube. The Complaint further alleges that SASS PAC’s version of the advertisement included an inaccurate disclaimer by stating that it was not authorized by any candidate or candidate’s authorized committee. The Response contends that Greene for Congress’s publication of the advertisement was a mistake and that the advertisement instead was paid for by SASS PAC for its own use. The Response argues that the advertisement was therefore not a contribution because it was not “prepared by” the campaign and the content prong of the coordinated communications test is not met.

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The available information indicates that the amounts at issue were relatively modest — likely \$6,200, but \$12,400, at the very most. Accordingly, the Commission will dismiss this matter as an exercise of its prosecutorial discretion.

II. FACTUAL BACKGROUND

Marjorie Taylor Greene is a U.S. House member representing Georgia’s 14th Congressional District and a candidate for reelection in 2022.¹ Greene for Congress is her principal campaign committee, and Jason D. Boles is its treasurer.² SASS PAC is Greene’s Leadership PAC, and Jason D. Boles is its treasurer.³ SASS PAC filed a notice that it had qualified for multicandidate status on February 22, 2022.⁴

According to the Complaint, on August 17, 2021, Greene for Congress aired a 60-second advertisement on YouTube that began with a disclaimer stating that she “approve[s] this message so that you know the facts.”⁵ The advertisement discussed the infrastructure bill that had recently been approved by the Senate and urged House Republicans to vote against the bill.⁶ On September 29, 2021, SASS PAC aired an advertisement on One America News Network, which

¹ Greene, Statement of Candidacy (May 3, 2021).

² Greene for Congress, Am. Statement of Organization (Nov. 16, 2021).

³ SASS PAC, Statement of Organization (Feb. 24, 2022).

⁴ SASS PAC, Notification of Multicandidate Status (Feb. 24, 2022).

⁵ Compl. at 2-3 (Oct. 22, 2021) (citing *Marjorie Taylor Greene Attacks Senate Republicans Who Voted for Infrastructure in New Ad*, YOUTUBE, <https://www.youtube.com/watch?v=jkqpl-NvBgc> (Aug. 17, 2021) (the linked video is no longer available)).

⁶ *Id.*

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1 was also posted to YouTube.⁷ According to the Complaint, the content of the second
2 advertisement is the same as the first, except that there is no opening disclaimer by Greene, and
3 instead it begins with a voiceover stating: “Save America Stop Socialism PAC paid for and is
4 responsible for the content of this advertisement.”⁸ During the voiceover, the video displays a
5 written disclaimer that states: “Paid for by Save America Stop Socialism PAC. Not authorized
6 by any candidate or candidate’s committee. www.saveamericastopsocialism.com.”⁹

7 The Complaint claims that SASS PAC made an excessive contribution to Greene for
8 Congress and Greene by republishing campaign materials when it paid to disseminate the
9 advertisement on One America News Network.¹⁰ The Complaint further claims that SASS
10 PAC’s disclaimer was misleading and inadequate.¹¹

11 The Response acknowledges that Greene for Congress published “an initial cut of the
12 video for the ad” on its YouTube page, but represents that the “video was prepared and paid for
13 by the Leadership PAC [SASS PAC] to be run as a Leadership PAC ad” and was “mistakenly
14 posted by the Campaign.”¹² The Response contends that the advertisement was therefore not
15 republished campaign material because it was not prepared by Greene for Congress.¹³ The

⁷ *Id.* (citing Team Punchbowl News, *Marjorie Taylor Greene Urges Republicans to Vote No on Infrastructure Bill*, YOUTUBE, <https://www.youtube.com/watch?v=CfWSR8rDaHs> (Sep. 29, 2021)).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* at 5.

¹¹ *Id.* at 6-7.

¹² Resp. at 2 (Nov. 22, 2021).

¹³ *Id.*

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Response stated that “[t]he Leadership PAC’s \$6,200 disbursement for the ad w[ould] be reported on its next periodic report.”¹⁴ SASS PAC’s next report, its 2021 Year-End Report, did not list a disbursement for that amount; however, it lists a \$12,400 disbursement on August 23, 2021, to Neighborhood Research & Media for “Television Advertising.”¹⁵ SASS PAC did not report any disbursement for the purpose of advertisement production prior to September 29, 2021.¹⁶ Neither Greene for Congress nor SASS PAC have reported any contributions from SASS PAC to Greene for Congress, or vice-versa, during the 2022 election cycle.

III. LEGAL ANALYSIS

A. In-Kind Contribution

A “contribution” includes “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.”¹⁷ Under Commission regulations, “anything of value” includes all in-kind contributions, which include “the provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services.”¹⁸ Expenditures made by any person “in cooperation, consultation, or concert with, or at the request or suggestion of” a

¹⁴ *Id.*

¹⁵ SASS PAC, 2021 Year-End Report (Jan 27, 2022). The report lists other disbursements for digital advertisements, but no others for television. Neighborhood Research & Media describes itself as a “political and commercial market research” firm. *Neighborhood Research and Media*, FACEBOOK, <https://www.facebook.com/NeighborhoodResearchMedia> (last visited June 30, 2022).

¹⁶ FEC, *Reported Disbursements*, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00708289&committee_id=C00755199&disbursement_description=production (showing disbursements by SASS PAC and Greene for Congress for “production”). SASS PAC did report disbursements for “digital advertising production and placement” to a different firm, RTA Strategy, shortly after the advertisement.

¹⁷ 52 U.S.C. § 30101(8)(A).

¹⁸ 11 C.F.R. § 100.52(d).

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candidate or his authorized committee or agent qualify as an in-kind contribution to the candidate and must be reported as expenditures made by the candidate's authorized committee.¹⁹

A communication that is coordinated with a candidate or his authorized committee is considered to be an in-kind contribution and is subject to the limits, prohibitions, and reporting requirements of the Act.²⁰ The Commission's regulations provide that a communication is coordinated with a candidate, his authorized committee, or agent of either, if it meets a three-prong test: (1) it is paid for, in whole or in part, by a person other than the candidate or authorized committee; (2) it satisfies a content standard in 11 C.F.R. § 109.21(c);²¹ and (3) it satisfies a conduct standard in 11 C.F.R. § 109.21(d).²² All three prongs must be satisfied for a communication to be considered coordinated.²³

For the 2022 election cycle, non-multicandidate political committees are limited to contributing \$2,900 per election to candidates, while multicandidate committees are limited to

¹⁹ 52 U.S.C. § 30116(a)(7)(B)(i); 11 C.F.R. § 109.20(b).

²⁰ 52 U.S.C. § 30116; 11 C.F.R. § 109.21(b).

²¹ The content standards include: (1) a communication that is an electioneering communication under 11 C.F.R. § 100.29(a); (2) a public communication that disseminates, distributes, or republishes campaign materials; (3) a public communication containing express advocacy; (4) a public communication that, in relevant part, refers to a clearly identified House or Senate candidate, is publicly distributed or disseminated 90 days or fewer before a primary or general election, and is directed to voters in the jurisdiction of the clearly identified candidate; and (5) a public communication that is the functional equivalent of express advocacy. 11 C.F.R. § 109.21(c).

²² The six types of conduct between the payor and the candidate's committee, whether or not there is formal agreement or collaboration, which can satisfy the conduct prong, include: (1) a request or suggestion; (2) material involvement; (3) substantial discussion; (4) common vendor; (5) former employee or independent contractor; and (6) dissemination, distribution, or republication of campaign material. 11 C.F.R. § 109.21(d).

²³ 11 C.F.R. § 109.21(a); *see also* Coordinated and Independent Expenditures, 68 Fed. Reg. 421, 453 (Jan. 3, 2003) (Explanation and Justification) ("E&J").

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1 \$5,000.²⁴ The Act also prohibits any candidate or political committee from knowingly accepting
2 any excessive contribution.²⁵ Political committees, including authorized committees and
3 leadership PACs, are required to report all contributions made and received, including in-kind
4 contributions and coordinated communications.²⁶

5 A leadership PAC is a political committee that “is directly or indirectly established,
6 financed, maintained or controlled by a candidate for Federal office or an individual holding
7 Federal office but which is not an authorized committee of the candidate or individual.”²⁷ The
8 Commission has explained that, “[t]o the extent that leadership PACs are used to pay for costs
9 that could and should otherwise be paid for by a candidate’s authorized committee, such
10 payments are in-kind contributions, subject to the Act’s contribution limits and reporting
11 requirements.”²⁸ Further, if a candidate engages in activities on behalf of a multicandidate
12 political committee that also supports his or her candidacy, the candidate must allocate any
13 expenses between the multicandidate committee and the candidate’s campaign committee
14 pursuant to 11 C.F.R. § 106.1(a).²⁹

²⁴ 52 U.S.C. § 30116(a); Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold, 86 Fed. Reg. 7867 (Feb. 2, 2021).

²⁵ 52 U.S.C. § 30116(f).

²⁶ *Id.* § 30104(a)-(b); 11 C.F.R. § 104.3(a)-(b); 11 C.F.R. § 109.21(b)(3).

²⁷ 11 C.F.R. § 100.5(e)(6).

²⁸ Leadership PACs, 68 Fed. Reg. 67,013, 67,017 (Dec. 1, 2003) .

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Respondents state that SASS PAC paid \$6,200 to distribute the advertisement but reported a \$12,400 disbursement that appears to best correspond to costs associated with the advertisement under Respondents' version of events. Given that the potential amount at issue appears to be \$12,400, \$6,200, or less, it is not in the Commission's interests to expend further resources to address this violation and therefore the Commission will dismiss as a matter of prosecutorial discretion³⁰ the allegations that: SASS PAC violated 52 U.S.C. §§ 30104 (a), (b), and 30116(a) and 11 C.F.R. §§ 104.3(b) and 110.2(b) by making and failing to report an excessive contribution; Greene and Greene for Congress violated 52 U.S.C. § 30116(f) and 11 C.F.R. § 110.9 by knowingly accepting an excessive in-kind contribution; and Greene for Congress violated 52 U.S.C § 30104 (a) and (b) and 11 C.F.R. § 104.3(a) by failing to report receiving the contribution.

B. Disclaimer

The Act requires that all public communications made by a political committee include a disclaimer.³¹ "Public communications" include "communication by means of any broadcast, cable, or satellite communication."³² Where required, disclaimers must be "presented in a clear and conspicuous manner, to give the reader, observer, or listener adequate notice of the identity of the person or political committee that paid for, and where required, that authorized the communication."³³ If a communication is authorized by a candidate or candidate's authorized

³⁰ See *Heckler v. Chaney*, 470 U.S. 821, 831 (1985).

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

³² 11 C.F.R. § 100.26.

³³ *Id.* § 110.11(c).

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1 committee or agent thereof but is paid for by another person, it must clearly state that the
2 communication is paid for by such other person and is authorized by such candidate, authorized
3 committee, or agent.³⁴

4 Given the low amount at issue and the short period of time during which the
5 advertisement ran, the Commission will dismiss as a matter of prosecutorial discretion³⁵ the
6 allegation that SASS PAC violated 52 U.S.C. § 30120(a) and 11 C.F.R. § 110.11 by failing to
7 include an adequate disclaimer.

³⁴ *Id.* § 110.11(b)(3).

³⁵ *See Heckler*, 470 U.S. at 831.