

**MUR 7937**

Matthew M. Weiss
d: (404) 523-6988
mweiss@phrd.com

October 25, 2021

VIA ELECTRONIC MAIL & FIRST CLASS MAIL

Office of General Counsel
Federal Election Commission
1050 First Street, NE
Washington, DC 20463
EnfComplaint@fec.gov

RE: Federal Elections Commission Complaint – *Scott Hogan v. Marjorie Taylor Greene et al.*

To Whom It May Concern in the Office of General Counsel:

I am writing on behalf of Scott Hogan to submit his Complaint to the Federal Elections Commission ("FEC") (the "Complaint") naming Marjorie Taylor Greene, Greene for Congress, Herschel Walker, and Team Hershel, Inc. as Respondents. An electronic copy of the Complaint is also being submitted to the FEC at the e-mail address listed above.

Should you have any questions or concerns, please do not hesitate to contact me.

Sincerely Yours,

A handwritten signature in blue ink that reads "Matthew Weiss".

Matthew M. Weiss

MMW

Enclosure

cc: VIA ELECTRONIC MAIL ONLY

Scott Hogan (sahogan1@georgiademocrat.org)
Sachin Varghese, Esq. (varghese@bmelaw.com)

**BEFORE THE
FEDERAL ELECTION COMMISSION**

Scott Hogan
Democratic Party of Georgia
501 Pulliam St SW
Suite 400
Atlanta, GA, 30312

Complainant.

v.

Marjorie Taylor Greene
3 Central Plaza, #142
Rome, GA 30161

Greene for Congress
3 Central Plaza, #142
Rome, GA 30161

Herschel Walker
P.O Box 501707
Atlanta, GA 31150

Team Herschel, Inc.
P.O Box 501707
Atlanta, GA 31150

Respondents.

COMPLAINT

This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) against Representative Marjorie Taylor Greene, Greene for Congress, Inc. (“the Greene campaign”), Herschel Walker, and Team Herschel, Inc. (“the Walker campaign”) (together, “Respondents”) for violations of the Federal Election Campaign Act of 1971, as amended (the “Act”) and Federal Election Commission (“FEC” or “Commission”) regulations. Representative Greene’s campaign appears

to have over \$3,000 in excessive and unreported in-kind contributions to Herschel Walker's campaign by producing and distributing digital advertisements promoting Mr. Walker's candidacy. Because the advertisements expressly advocate for Herschel Walker's candidacy, to the extent they were coordinated with Walker or his campaign, they constitute in-kind contributions to the Walker campaign. And yet, neither campaign reported the value of the advertisements as contributions, and their cost far exceeds the applicable contribution limit provided by law. The failure to report this in-kind contribution appears to be an attempt by the Greene campaign to circumvent those contribution limits and provide additional support to Mr. Walker's campaign in violation of the Act and Commission regulations. Federal contribution limits and disclosure requirements exist to provide transparency in political spending and guard against corruption; the FEC should immediately investigate both campaigns' blatant disregard of these rules and federal law.

FACTUAL BACKGROUND

Herschel Walker is a candidate in the Republican U.S. Senate primary in Georgia.¹ His principal campaign committee is Team Herschel, Inc.² Marjorie Taylor Greene is the U.S. Representative from Georgia's 14th Congressional district, and is currently running for re-election.³ Her principal campaign committee is Greene for Congress, Inc.⁴ On September 14, 2021, the Greene campaign posted a paid advertisement on its Facebook that included a photograph of Representative Greene and Herschel Walker together. It also featured a sign with

¹ FEC.gov, Mr. Herschel Walker, FEC Form 2 (amended Oct. 14, 2021), <https://docquery.fec.gov/pdf/240/202110149467288240/202110149467288240.pdf>.

² *Id.*

³ FEC.gov, Mrs. Marjorie Taylor Greene, FEC Form 2 (amended May 3, 2021), <https://docquery.fec.gov/pdf/268/202105039446141268/202105039446141268.pdf>.

⁴ *Id.*

Herschel Walker's campaign logo in the background, and was accompanied by the following text:

Herschel Walker is the AMERICA FIRST fighter who will defeat radical socialist Raphael Warnock!

...

Hershel is the fighter Georgia needs and will hold the line in the Senate.

He has my support 100%!⁵

According to Facebook's records, the ad aired between September 14 and September 15, and the Greene campaign spent \$100-\$199 to promote the ad.⁶ Between September 15 and October 8, the Greene campaign sponsored two additional Facebook ads featuring photographs of Mr. Walker, both of which included similar language.⁷ The Greene campaign spent up to \$1,500-\$2,000 on each of the additional ads.⁸

LEGAL ANALYSIS

The Greene campaign has made over \$3,000 in excessive and unreported in-kind contributions to the Walker campaign by financing advertisements for the purpose of influencing Mr. Walker's election to the United States Senate. Under Commission regulations, "[a] payment for a coordinated communication is made for the purpose of influencing a Federal election, and

⁵ See Exhibit A.

⁶ See Facebook.com, Ads from Marjorie Taylor Greene, *available at* [facebook.com/ads/library/?active_status=all&ad_type=all&country=US&view_all_page_id=1809715209318581&search_type=page&media_type=all](https://www.facebook.com/ads/library/?active_status=all&ad_type=all&country=US&view_all_page_id=1809715209318581&search_type=page&media_type=all).

⁷ See Exhibit A.

⁸ *Id.*

is an in-kind contribution”⁹ A communication is a “coordinated communication,” if it meets a three-pronged test: (1) the communication must be paid for by an entity other than the campaign (the “payment prong”);¹⁰ (2) it must satisfy any one of an enumerated list of content standards (the “content prong”) which includes a public communication that contains express advocacy;¹¹ and (3) it must satisfy any one of an enumerated list of conduct standards that establish coordination occurred (the “conduct prong”), which includes that the communication is made at the request or suggestion of the benefitting campaign, the benefitting campaign is materially involved in decisions regarding the communication, or that the communication is distributed after substantial discussion about the communication between the payor and the benefitting campaign.¹²

All three advertisements featuring Mr. Walker included a disclaimer stating they were “Paid for by Greene for Congress.”¹³ Although Greene for Congress is a principal campaign committee, the advertisements expressly advocated not for Representative Greene’s election, but for Herschel Walker’s.

A communication contains express advocacy if, “[w]hen taken as a whole and with limited reference to external events, such as the proximity to the election, [it] could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s).”¹⁴ The advertisements distributed by the Greene campaign

⁹ 11 C.F.R. § 109.21(b)(2).

¹⁰ *Id.* § 109.21(a)(1).

¹¹ *Id.* § 109.21(c)(5).

¹² *Id.* § 109.21(d).

¹³ *See* Exhibit A.

¹⁴ 11 C.F.R. § 100.22(b).

clearly identify Herschel Walker, both by name and by using his image. They also expressly advocate Mr. Walker's election to the United States Senate (and the defeat of the incumbent Senator, Raphael Warnock), by saying Mr. Walker "is the AMERICA FIRST fighter who will defeat radical socialist Raphael Warnock!" and that he "is the fighter Georgia needs and will hold the line in the Senate." There is no other interpretation of these advertisements other than as advocating for Mr. Walker's election to the U.S. Senate, and Senator Warnock's defeat.

Finally, the advertisements meet the conduct prong if they were made at the request or suggestion of the benefitting campaign, the benefitting campaign was materially involved in decisions regarding the advertisements, or the advertisements were distributed after substantial discussion about the communication between the payor and the benefitting campaign.¹⁵ The ads feature photographs of Representative Greene and Mr. Walker together, including at least one photograph that was taken after Mr. Walker announced his candidacy, as is evident due to the presence of a Walker campaign sign. These photographs indicate the two campaigns are participating in discussions and communicating about resources, making it highly likely that the campaigns coordinated in the distribution of the advertisements.¹⁶

A political committee that makes a coordinated communication "must report the payment for the communication as a contribution made to the candidate . . . with whom . . . it was coordinated. . . ."¹⁷ The benefitting candidate's campaign must "must report the usual and normal

¹⁵ *Id.* § 109.21(d).

¹⁶ Note that even if the communications do not meet the conduct prong, they would be independent expenditures in support of Herschel Walker's campaign and would be subject to the reporting requirements for independent expenditures. Greene for Congress has not reported any independent expenditures in support of Herschel Walker's campaign, so these would still be unreported expenditures by Greene for Congress. *See id.* § 104.4.

¹⁷ *Id.* § 109.21(b)(3).

value of the communication as an in-kind contribution”¹⁸ However, neither the Greene campaign nor the Walker campaign reported the value of the advertisements on their campaign finance reports.¹⁹ Both committees’ failure to report these in-kind contributions is in clear violation of federal law and FEC regulations.

In addition to failing to report the contributions, by distributing these advertisements, the Greene campaign has made, and the Walker campaign has accepted, contributions in excess of the FEC’s contribution limits in connection with Walker’s primary election. A candidate’s principal campaign committee may only contribute up to \$2,000 per election to another principal campaign committee.²⁰ According to the Walker campaign’s most recent campaign finance report filed with the FEC, the Greene campaign had already donated the maximum \$2,000 to support Walker’s primary election by the time the first advertisement was posted.²¹ As a result, the entire value of the advertisements (at least \$3,100 and up to \$4,199) was an excessive contribution from the Greene campaign to the Walker campaign.

REQUESTED ACTION

In light of the foregoing, the Commission should immediately investigate whether the Greene campaign made over \$3,000 in excessive and unreported contributions to the Walker campaign by publishing coordinated communications advocating for Walker’s election to the

¹⁸ *Id.*

¹⁹ See FEC.gov, Team Herschel, Inc., October 2021 Quarterly Report, <https://docquery.fec.gov/pdf/694/202110159467710694/202110159467710694.pdf>; Greene for Congress, Inc., October 2021 Quarterly Report, <https://docquery.fec.gov/pdf/191/202110159467706191/202110159467706191.pdf>.

²⁰ FEC.gov, Contribution Limits, <https://www.fec.gov/help-candidates-and-committees/candidate-taking-receipts/contribution-limits/>.

²¹ FEC.gov, Team Herschel, Inc., October 2021 Quarterly Report, <https://docquery.fec.gov/pdf/694/202110159467710694/202110159467710694.pdf>

United States Senate. If a violation is found, we respectfully request that the Commission fine Respondents the maximum amount permitted by law.

Sincerely,


Scott Hogan
 Democratic Party of Georgia
 501 Pulliam St SW
 Suite 400
 Atlanta, GA, 30312

SUBSCRIBED AND SWORN to before me this 25th day of October 2021.



Notary Public Peta-Gaye Anderson

My Commission Expires:

03/09/2025

State of Florida

County of Broward

Notarized online using audio-video communication

Type of ID produced: Drivers License

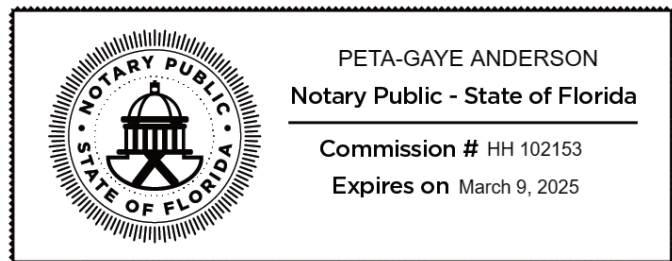





EXHIBIT A

<p>Inactive Sep 14, 2021 - Sep 15, 2021 ID: 4273380759406049</p>	<p>Marjorie Taylor Greene Sponsored - Paid for by GREENE FOR CONGRESS</p> <p>Herschel Walker is the AMERICA FIRST fighter who will defeat radical socialist Raphael Warnock!</p> <p>President Trump taught Republicans to fight back and never back down in the face of left-wing attacks or Fake News Media hit pieces.</p> <p>Herschel is the fighter Georgia needs and will hold the line in the Senate.</p> <p>He has my support 100%!</p>		<p>Amount spent (USD): \$100 - \$199 Potential Reach: Not Available</p> <p>See Ad Details</p>
<p>Inactive Sep 15, 2021 - Sep 21, 2021 ID: 4367190376692859</p>	<p>Marjorie Taylor Greene Sponsored - Paid for by GREENE FOR CONGRESS</p> <p>Herschel Walker is the AMERICA FIRST fighter who will defeat radical socialist Raphael Warnock!</p> <p>President Trump taught Republicans to fight back and never back down in the face of left-wing attacks or Fake News Media hit pieces.</p> <p>Herschel is the fighter Georgia needs and will hold the line in the Senate.</p> <p>He has my support 100%!</p>		<p>Amount spent (USD): \$1.5K - \$2K Estimated Audience Size: 100K - 500K people</p> <p>See Ad Details</p>
<p>Inactive Sep 26, 2021 - Oct 8, 2021 ID: 1032568570827358</p>	<p>Marjorie Taylor Greene Sponsored - Paid for by GREENE FOR CONGRESS</p> <p>Herschel Walker is the America First fighter who will DEFEAT socialist Democrat Raphael Warnock!</p> <p>America needs Herschel in the Senate to hold the line.</p> <p>AMERICA FIRST. DEFEAT THE DEMOCRATS. IMPEACH BIDEN.</p>		<p>Amount spent (USD): \$1.5K - \$2K Estimated Audience Size: 100K - 500K people</p> <p>See Ad Details</p>