



FEDERAL ELECTION COMMISSION
Washington, DC

1 **TO:** The Commission
2 **FROM:** Lisa J. Stevenson
3 Acting General Counsel
4 Charles Kitcher
5 Associate General Counsel for Enforcement
6 **BY:** Mark Allen *MA*
7 Assistant General Counsel
8 Justine A. di Giovanni *JAG*
9 Attorney
10 **DATE:** December 5, 2022
11 **SUBJECT:** MURs 7968, 7969 (Donald J. Trump, *et al.*)
12 Supplemental Circulation to the Commission

13 The Office of General Counsel (“OGC”) is circulating a supplement to its First General
14 Counsel’s Report dated October 13, 2022 in MURs 7968, 7969 (Donald J. Trump, *et al.*) to
15 reflect recent developments relating to the substance of the Report. The attached supplement
16 retains the recommendations from the First General Counsel’s Report except that it recommends
17 that the Commission approve the revised Factual and Legal Analysis attached to this supplement
18 rather than the version attached to the October 13, 2022 Report.

19 In light of the votes already filed in this matter with respect to the First General Counsel’s
20 Report, OGC requests that the attached supplement be made an automatic agenda item for
21 consideration in conjunction with the First General Counsel’s Report.

22 Attachment:
23 Supplement to First General Counsel’s Report



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 12 Supplement to First General Counsel's Report

13 **I. INTRODUCTION**

14 The Office of General Counsel circulated a First General Counsel's Report in these
 15 matters to the Commission, dated October 13, 2022, recommending that the Commission find
 16 reason to believe that: (1) Donald J. Trump violated 52 U.S.C. § 30102(e)(1) and 11 C.F.R.
 17 § 101.1(a) by failing to timely file a Statement of Candidacy and designate a principal campaign
 18 committee; (2) Save America and Save America Joint Fundraising Committee made excessive
 19 contributions in violation of 52 U.S.C. § 30116(a)(2)(A) and 11 C.F.R. § 110.2(b); and (3)
 20 Trump knowingly accepted excessive contributions in violation of 52 U.S.C. § 30116(f) and
 21 11 C.F.R. § 110.9. We also recommended that the Commission take no action at this time with
 22 respect to the allegation that Make America Great Again PAC ("MAGA PAC") violated
 23 52 U.S.C. § 30116(a)(2)(A) and 11 C.F.R. § 110.2(b) by making excessive contributions to
 24 Donald J. Trump. Finally, we recommended that the Commission approve compulsory process
 25 in the proposed investigation.

26 The First General Counsel's Report and Factual and Legal Analysis attached thereto state
 27 that Trump has not yet filed a Statement of Candidacy or designated an authorized campaign
 28 committee. Since the First General Counsel's Report circulated, Trump has formally declared
 29 his candidacy for the 2024 presidential election and designated Donald J. Trump for President
 30 2024 and Bradley T. Crate in his official capacity as treasurer (the "2024 Trump Committee") as
 31 his authorized committee. As explained in greater detail below, these developments do not

1 significantly change our legal analysis and recommendations, and we therefore recommend the
2 Commission approve recommendations 1-4, 6, and 7 set forth in the First General Counsel's
3 Report. In order to update the Factual and Legal Analysis to reflect, among other things, that
4 Trump has made an announcement about his candidacy and filed documents with the
5 Commission including a Statement of Candidacy, we withdraw recommendation 5 in the First
6 General Counsel's Report and instead recommend the Commission approve the revised Factual
7 and Legal Analysis attached hereto.¹ A redline showing the changes made in the revised Factual
8 and Legal Analysis is also attached.²

9 II. ADDITIONAL FACTS AND ANALYSIS

10 On November 15, 2022, subsequent to the October 14, 2022 circulation of the First
11 General Counsel's Report in these matters, Trump made an announcement that he is running for
12 president in 2024.³ On the same day, Trump filed a Statement of Candidacy with the
13 Commission in which he designated the 2024 Trump Committee as his principal campaign
14 committee.⁴ The Statement also designates Trump Save America Joint Fundraising Committee,
15 f/k/a Save America Joint Fundraising Committee ("Trump Save America JFC"),⁵ as another
16 authorized committee.⁶ The 2024 Trump Committee filed its Statement of Organization the
17 same day,⁷ and it identifies Trump Save America Joint Fundraising Committee as a joint
18 fundraising representative.⁸ The 2024 Trump Committee replaces MAGA PAC as a committee
19 participating in Trump Save America JFC's joint fundraising.⁹ In addition, we have incorporated
20 more up-to-date information on the Save America Committees' receipts and disbursements from

¹ Attach. 1.

² Attach. 2.

³ See Steve Holland & Andy Sullivan, *Trump Launches 2024 U.S. Presidential Run, Getting Jump on Rivals*, REUTERS (Nov. 16, 2022), <https://www.reuters.com/world/us/trump-launch-new-white-house-bid-while-his-party-licks-its-wounds-2022-11-15/> (including video of Trump's speech).

⁴ Donald J. Trump, Amended Statement of Candidacy at 1 (Nov. 15, 2022) [hereinafter Trump 2024 Statement of Candidacy], <https://docquery.fec.gov/pdf/249/202211159546802249/202211159546802249.pdf>.

⁵ The entity referred to in the First General Counsel's Report as Save America Joint Fundraising Committee changed its name to Trump Save America Joint Fundraising Committee on the same day Trump declared his candidacy. See Trump Save America Joint Fundraising Committee, Amended Statement of Organization at 1, 2 (Nov. 15, 2022) [hereinafter Trump Save America JFC Statement of Organization], <https://docquery.fec.gov/pdf/250/202211159546802250/202211159546802250.pdf> (showing FEC identification number of C00770941 and checking box for "Check if name is changed"); see Save America Joint Fundraising Committee, Amended Statement of Organization at 1, 2 (Feb. 27, 2021) [hereinafter Save America JFC Statement of Organization], <https://docquery.fec.gov/pdf/111/202102279429078111/202102279429078111.pdf> (reflecting FEC identification number of C00770941).

⁶ Trump 2024 Statement of Candidacy at 1.

⁷ Donald J. Trump for President 2024, Statement of Organization (Nov. 15, 2022), <https://docquery.fec.gov/pdf/243/202211159546802243/202211159546802243.pdf>.

⁸ *Id.* at 3.

⁹ Compare Trump Save America JFC Statement of Organization at 2 (listing the Trump 2024 Committee and Save America as committees participating in joint fundraiser), with Save America JFC Statement of Organization at 2 (listing Save America and MAGA PAC as committees participating in joint fundraiser).

1 their most recent disclosure reports, as well as updated information concerning advertisements
2 placed on Facebook. The updated information is provided in order to keep the stated facts
3 current, and does not affect OGC's analysis or conclusions.

4 First, with respect to Trump's failure to timely file a Statement of Candidacy, the Act
5 requires candidates to file a Statement of Candidacy and authorize a principal campaign
6 committee within 15 days of becoming a candidate.¹⁰ As the First General Counsel's Report
7 states, the available information indicates that Trump became a candidate no later than June 30,
8 2021, in light of his public statements acknowledging that he had made an affirmative decision to
9 run for president in 2024 and in light of the Commission's precedent.¹¹ Accordingly, Trump's
10 Statement of Candidacy remains late filed; using the above June 30, 2021 date, Trump's
11 Statement of Candidacy was filed 488 days late. Thus, our recommendation to find reason to
12 believe that Trump violated 52 U.S.C. § 30102(e)(1) and 11 C.F.R. § 101.1(a) by failing to
13 timely file a Statement of Candidacy and designate a principal campaign committee is
14 unchanged.

15 Second, with respect to the apparent excessive contributions made by Save America and
16 Trump Save America JFC, and knowingly accepted by Trump, Trump's announcement is
17 consistent with the First General Counsel's Report's analysis that Trump had decided to run for
18 president in 2024 when he was asked whether he had made the decision.¹² The Act provides that
19 no multicandidate committee shall make contributions to any candidate or the candidate's
20 authorized committee with respect to any election for Federal office which in the aggregate
21 exceed \$5,000.¹³ The available information indicates that Save America and Trump Save
22 America JFC have spent at least \$245,500 on in-kind contributions in the form of Facebook
23 advertisements asking if readers would "vote for Trump a [t]hird [t]ime."¹⁴ Accordingly, our

¹⁰ 52 U.S.C. § 30102(e)(1); 11 C.F.R. § 101.1(a).

¹¹ See, e.g., Fox News, *Trump Says He Made Up His Mind About Running in 2024 During "Hannity" Exclusive* at 0:15-0:58, YOUTUBE [hereinafter Hannity Interview] (June 30, 2021), <https://www.youtube.com/watch?v=k0-HOCbRMDQ> (showing Sean Hannity asking, regarding a 2024 run for President, "[H]ave you made up your mind?" and Trump replying "Yes"); Factual & Legal Analysis ("F&LA") at 4-5, MUR 5908 (Duncan Hunter) (finding that an individual who stated, *inter alia*, "while I've announced that I am preparing to run for president, I have not made a formal announcement of my candidacy" had, in fact, become a candidate); F&LA at 17, MURs 6955, 6983 (John R. Kasich, *et al.*) (stating that, when determining whether an individual "has made a decision to run for federal office, [the Commission] assesses an individual's objectively deliberate actions to discern whether and when an individual decided to become a candidate"); see also F&LA at 7-9, MUR 6449 (Jon Bruning, *et al.*); F&LA at 7-8, MUR 6735 (Joseph A. Sestak, *et al.*); Advisory Opinion 2015-09 at 5 (Senate Majority PAC & House Majority PAC).

¹² See, e.g., Hannity Interview, *supra* note 11; Former President Trump Visits New York City on September 11 at 0:22, C-SPAN (Sept. 11, 2021), <https://www.c-span.org/video/?c4976508/president-trump-visits-york-city-september-11> (showing Trump, when asked if he was going to run in 2024, stating "I mean, I know what I'm going to do, but we're not supposed to be talking about it yet from the standpoint of campaign finance laws. . . . But I think you're going to be happy").

¹³ See 52 U.S.C. § 30116(a)(2)(A).

¹⁴ See META AD LIBRARY, https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&q=save%20america%20joint%20fundraising%20would%20you%20vote%20for%20

1 recommendations to find reason to believe that Save America and Trump Save America JFC
2 made, and Trump knowingly accepted, excessive contributions in violation of 52 U.S.C.
3 § 30116(a)(2)(A) and (f) and 11 C.F.R. §§ 110.2(b) and 110.9 are also unchanged.

4 Third, with respect to MAGA PAC, the subsequent developments in these matters do not
5 shed any further light on its alleged excessive contributions to Trump. Two days after Trump's
6 declaration, MAGA PAC filed an amended Statement of Organization to reflect that Trump Save
7 America JFC is no longer its joint fundraising representative.¹⁵ This change does not implicate
8 the allegations regarding MAGA PAC. Thus, in the absence of additional information, our
9 recommendation to take no action at this time with respect to the allegation that MAGA PAC
10 violated 52 U.S.C. § 30116(a)(2)(A) and 11 C.F.R. § 110.2(b) by making excessive contributions
11 to Trump is unchanged.

12 Finally, the new information does not resolve the outstanding questions raised by the
13 Complaints discussed in the First General Counsel's Report regarding when Trump should have
14 registered as a candidate and the amount of potentially excessive contributions made by Save
15 America and Trump Save America JFC. Accordingly, we maintain our recommendation to
16 authorize compulsory process in the proposed investigation.

17 **III. CONCLUSION**

18 The new information provided by Trump's announcement subsequent to the circulation
19 of the First General Counsel's Report is consistent with the recommendations in that Report.
20 Therefore, we recommend the Commission approve the substantive recommendations in the First
21 General Counsel's Report and the attached revised Factual and Legal Analysis.

22 **IV. RECOMMENDATIONS**

- 23 1. Approve recommendations 1, 2, 3, 4, 6, and 7 in the First General Counsel's
24 Report in MURs 7968, 7969 dated October 13, 2022; and
- 25 2. Approve the attached Factual and Legal Analysis.

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[trump&sort_data\[direction\]=desc&sort_data\[mode\]=relevancy_monthly_grouped&search_type=keyword_unorderd&media_type=all](https://www.fec.gov/disclosure/search/trump&sort_data[direction]=desc&sort_data[mode]=relevancy_monthly_grouped&search_type=keyword_unorderd&media_type=all) (last visited Nov. 21, 2022).

¹⁵ Make America Great Again PAC, Amended Statement of Organization (Nov. 17, 2022), <https://docquery.fec.gov/pdf/784/202211179546823784/202211179546823784.pdf>.