



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

May 1, 2025

By Electronic Mail

stefan.passantino@electionlawllc.com

Stefan Passantino, Esq.
Elections LLC
1050 Connecticut Avenue, NW
Suite 500
Washington, DC 20036

RE: MUR 7978
Mullin for America and Lisa Lisker in her
official capacity as treasurer
Markwayne Mullin

Dear Mr. Passantino:

On April 19, 2022, the Federal Election Commission notified your clients, Mullin for America and Lisa Lisker in her official capacity as treasurer and Markwayne Mullin, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On March 25, 2025, the Commission considered the complaint but there was an insufficient number of votes to dismiss the allegations that your clients violated 52 U.S.C. § 30118(a). Accordingly, the Commission voted to close the file in this matter effective May 1, 2025. Any applicable Statements of Reasons available at the time of this letter's transmittal are enclosed.

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

If you have any questions, please contact Kenneth Sealls, the attorney assigned to this matter, at (202) 694-1210 or ksealls@fec.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Anne B. Robinson".

Anne B. Robinson
Assistant General Counsel



FEDERAL ELECTION COMMISSION
1050 FIRST STREET, N.E.
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	:	
	:	MUR 7978
Mullin for Am, <i>et al.</i>	:	
	:	
	:	

STATEMENT OF REASONS OF VICE CHAIRMAN JAMES E. "TREY" TRAINOR, III AND COMMISSIONER ALLEN J. DICKERSON

“Administrative agencies are creatures of statute. They accordingly possess only the authority that Congress has provided.”¹ In the Commission’s governing statute, the Federal Election Campaign Act (“FECA” or “Act”), Congress vested this agency with the power to act only upon complaints filed by a “person who *believes* a violation of this Act...has occurred.”² Our regulations implement this statutory restriction, stating that a “person who believes that a violation of any statute or regulation over which the Commission has jurisdiction has occurred” may file a complaint, which “should contain a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction.”³

Against that backdrop, the Commission received two pieces of paper, on complainant’s letterhead, dated March 16, 2022 and April 1, 2022. The first page (March 16), addressed to all members of the Commission, queried: “Why does Congressman Markwayne Mullin run television advisement [*sic*] on television while he is running for office. We hear his voice requesting that we call his plumbing company for service. Please keep me informed about this very curious matter.” The second page (April 1), similarly addressed, asked us: “Congressman Markwayne Mullin is running for the U.S Senate in Oklahoma. In each advertisement his

¹ *Nat'l Fed'n of Indep. Bus. v. U.S. Dep't of Labor*, 595 U.S. 109, 117 (2022).

² 52 U.S.C. § 30109(a)(1) (emphasis supplied).

³ 11 C.F.R. § 111.4.

company vehicles with the business name and logo is [sic] clearly visitable [sic]. Is this a violation of federal campaign laws? Please keep me informed about this very curious matter.”

We do not believe these documents qualify as a complaint under FECA, because it is plain from the text of both letters that the purported complainant is not making an allegation. We concede that this conclusion is one upon which reasonable minds may differ, but, in the final analysis, an inchoate uncertainty about the application of FECA is not sufficient to trigger our complaint-driven enforcement procedures.⁴ Complaints must clearly allege a violation of the Act.

While this outcome may appear formalistic, it is imperative that law enforcement agencies strictly adhere to their proper jurisdiction.⁵ The rule of law requires bright lines and certainty, especially at the point at which a person formally comes under scrutiny by the federal government for breaking the law. Here, Congress has given us specific instructions concerning the triggers for our authority. We must give them effect.

Moreover, the submission of a proper complaint, laying out a specific allegation concerning violations of FECA, is necessary to give respondents proper notice. The Act gives respondents only one bite at the apple before the Commission’s initial consideration of a Matter – a response to the complaint as written, not OGC’s eventual (much supplemented) analysis.⁶ Permitting bare-boned questions to serve as a complaint fails to give respondents the meaningful opportunity for response contemplated by the statute.

As this very case demonstrates, *ultra vires* action is not costless. Respondents waited nearly *three years* for our Office of General Counsel to consider the purported complaint in this Matter and ultimately recommend a dismissal. Because there is no jurisdiction, we do not take a position on the General Counsel’s dismissal recommendation. But the delay is especially egregious where a Matter should not have moved forward in the first instance.

For these reasons, we voted to dismiss.

⁴ In fact, Congress separately authorized the Commission to issue advisory opinions for such cases. 52 U.S.C. §§ 30107; 30108.

⁵ U.S. Const. amend. V.

⁶ 52 U.S.C. § 30109(a)(2).



James E. "Trey" Trainor, III
Vice Chairman

April 9, 2025

Date



Allen J. Dickerson
Commissioner

April 9, 2025

Date



**FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463**

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	
Mullin for America, <i>et al.</i>)	MUR 7978
)	

STATEMENT OF REASONS OF COMMISSIONER SHANA M. BROUSSARD

The Complainant in this matter alleged that U.S. Senate candidate Markwayne Mullin used his plumbing company, including commercial advertisements for Mullin Plumbing, to campaign in the period leading up to Oklahoma’s Primary Election on June 28, 2022. After a series of votes, the Commission ultimately voted to close the file.¹ In a Statement of Reasons, my Republican colleagues explained that they voted to dismiss because they did not believe the Complainant’s submissions met the requirements under the Federal Election Campaign Act (“FECA” or “Act”) and Commission regulations to qualify as a complaint.²

My votes in this matter reflect the belief that the submissions qualify, and were appropriately treated, as a complaint under the Commission’s statute and regulations. I also believed the Complaint was sufficient because the candidate and his campaign committee filed a Response that demonstrated their ability to understand the allegations and identify the ads at issue. Nevertheless, on the merits of this matter, I agreed with the Office of General Counsel’s (“OGC”) recommendation to dismiss.

Under the Act, “[a]ny person who believes a violation of the Act [...] has occurred may file a complaint with the Commission. Such complaint shall be in writing, signed and sworn to by the person filing the complaint, shall be notarized, and shall be made under penalty of perjury [...].”³ Under Commission regulations, a complaint must provide the full name and address of the complainant and its content must be sworn to and be signed in the presence of a notary public and notarized.⁴ The regulations also state that a complaint “should” (i) clearly identify as a respondent each person or entity who is alleged to have committed a violation, (ii) accompany any statements not based on personal knowledge with an identification of the source of information that gives rise to the complainant’s belief in the truth of such statements, (iii) contain

¹ See Certification ¶ 4.a (Mar. 25, 2025), MUR 7978 (Mullin for America, *et al.*).

² See Stmt. of Reasons of Vice Chairman James E. “Trey” Trainor, III and Commissioner Allen J. Dickerson, MUR 7978 (Mullin for America, *et al.*).

³ 52 U.S.C. § 30109(a)(1).

⁴ 11 C.F.R. § 111.4(a)-(b).

Statement of Reasons of Commissioner Shana M. Broussard

MUR 7978 (Mullin for America, *et al.*)

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a clear and concise recitation of the facts which describe a violation, and (iv) be accompanied by any documentation supporting the facts alleged if documentation is known of, or available to, the complainant.⁵

The Complaint here meets all the technical requirements of the Act and Commission regulations. The Complainant submitted two documents that comprised the Complaint. The first document, dated March 16, 2022, read in full, “Why does Congressman Markwayne Mullin run television advisement [sic] on television while he is running for office. We hear his voice requesting that we call his plumbing company for service. Please keep me informed about this very curious matter.”⁶ The second, dated April 1, 2022, read in full, “Congressman Markwayne Mullin is running for the U.S. Senate in Oklahoma. In each advertisement his company vehicles with the business name and logo is clearly visitable [sic]. Is this a violation of federal campaign laws? Please keep me informed about this very curious matter.”⁷ Both documents include the Complainant’s signature with the Complainant’s sworn statement and were notarized.⁸ Both documents also identify then-Congressman Mullin, his Senate campaign, and his plumbing company as the relevant parties who committed the alleged violations and include the Complainant’s full name and address.⁹

Moreover, the complaint was sufficient to enable Respondents to identify and address at least one of the ads at issue. In their response dated June 3, 2022, Respondents address directly the apparent allegations in the Complaint about then-Congressman Mullin’s voice and image being used in content for Mullin Plumbing.¹⁰ In fact, Respondents identify a specific campaign advertisement in which “a brief, partial, image of a Mullin Plumbing truck is seen in the background.”¹¹ Additionally, based on the Complaint and the response, OGC drafted a First General Counsel’s Report that analyzed TV, radio, and digital advertisements.¹²

Finally, contrary to my colleagues’ assertion that “Complaints must clearly allege a violation of the Act,”¹³ neither the Act nor Commission regulations require a complainant to identify the specific statutory or regulatory provisions that have been violated. Further, neither

⁵ 11 C.F.R. § 111.4(d).

⁶ Compl. (Mar. 16, 2022).

⁷ Compl. (Apr. 1, 2022).

⁸ See 52 U.S.C. § 30109(a)(1); 11 C.F.R. § 111.4(b)(2).

⁹ See 11 C.F.R. § 111.4(b), (d).

¹⁰ Resp. at 1.

¹¹ *Id.* at 2-3.

¹² First Gen. Counsel’s Rep. (Mar. 7, 2025), MUR 7978 (Mullin for America, *et al.*).

¹³ See Stmt. of Reasons of Vice Chairman James E. “Trey” Trainor, III and Commissioner Allen J. Dickerson, MUR 7978 (Mullin for America, *et al.*).

Statement of Reasons of Commissioner Shana M. Broussard

MUR 7978 (Mullin for America, *et al.*)

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the Act nor the regulations set a minimum number of pages or words for a complaint. As such, the length of this Complaint has no bearing on its sufficiency. The only requirements are enumerated in the Act and Commission regulations. These requirements ensure that a complainant need not have a level of sophistication reserved only for those who can understand the complexities of the Act or have the financial resources to hire counsel that does. It's irrelevant that the Complaint does not specifically identify the statutes or regulations that the Respondents' actions implicate. The Complaint meets the requirements of the Act and Commission regulations and was appropriately treated as such.

April 25, 2025

Date



Shana M. Broussard

Commissioner