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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

SENSITIVE**MEMORANDUM**

To: The Commission

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Subject: MUR 8017 (Unknown Respondent(s), *et al.*) – Supplement to the First General Counsel’s Report

I. BACKGROUND

This matter involves allegations that Unknown Respondent(s) violated the Federal Election Campaign Act of 1971, as amended (the “Act”), and Commission regulations by paying for mailers that lacked disclaimers. The Office of General Counsel (“OGC”) circulated the First General Counsel’s Report (“FGCR”) in this matter on June 16, 2023. The FGCR recommends that the Commission find reason to believe that Unknown Respondent(s) violated 52 U.S.C. §§ 30104(b), (c), and/or (g) and 30121 by failing to report the costs of the mailers and failing to include an appropriate disclaimer on the mailers.¹

However, the Complaint did not attach complete copies of the mailers at issue. And at the time of the circulation of the FGCR, OGC did not possess complete copies of those mailers.

On January 25, 2024, the Commission directed OGC to contact Complainant Joe O’Dea for Senate in writing and request that it provide hard copies of the mailers at issue within 30 days

¹ FGCR at 9-11, 14-17, MURs 8017 & 8023 (Unknown Respondent(s), *et al.*).

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of receipt of the request.² Although Complainant was unable to provide the requested mailers, OGC obtained copies of the mailers from a public source.

II. DISCUSSION

On January 29, 2024, the Office of Complaints Examination and Legal Administration notified Complainant of the Commission's request to provide hard copies of the mailers cited in the Complaint.³ On February 28, 2023, Complainant's counsel confirmed that his client was unable to provide hard copies of the mailers.⁴

During the 30-day period, we continued efforts to find complete copies of the mailers from publicly available sources. Upon further research, we recently discovered complete copies of the mailers at #COPolitics: Follow the Message, a publicly available website devoted to compiling campaign literature distributed in Colorado.⁵ The website also confirms that the mailers were delivered shortly before the 2022 Colorado Republican primary election.⁶ The website is run by *Colorado Sun* journalist Sandra Fish and it solicits members of the public to submit copies of campaign literature that they receive.⁷ Regarding the first mailer, labeled as Exhibits 1 and 2 in the FGCR, the website shows that Exhibits 1 and 2 are the front and back pages of one mailer folded in half; the inside two pages were not included in the Complaint but are shown on the website and attached to this memo. Regarding, the second mailer, labeled as Exhibits 3 and 4 in the FGCR, the website shows that the images in the Complaint are complete; they are the front and back of a single mailer with no additional pages. Finally, regarding the third mailer, labeled as Exhibit 5, the website shows that the image in the Complaint only reflects the front and back pages; the two inside pages of the mailer which are missing in the Complaint are shown on the website and attached below.

The newly discovered pages in the first and third mailers identify Joe O'Dea as a Republican U.S. Senate candidate and notify readers that O'Dea gave campaign contributions to members of the Democratic Party and that O'Dea supported President Joe Biden's "pork barrel

² Certification (Jan. 25, 2024), MUR 8017 (Unknown Respondent(s), *et al.*).

³ Letter from Wanda D. Brown, Assistant General Counsel, FEC to Brent R. Owen, Attorney, Squire Patton Boggs (US) LLP (Jan. 29, 2024).

⁴ Email from Brent Owen, Partner, Haynes and Boone LLP to Wanda D. Brown, Assistant General Counsel, FEC (Feb. 28, 2024).

⁵ #COPolitics: Follow the Message,
<https://ftm.copolitics.co/?contest=41&candidate=&messenger=7&cycle=>.

⁶ *Id.*, <https://ftm.copolitics.co/?contest=41&candidate=&messenger=7&cycle=>. The website does appear to include an additional mailer from Unknown Respondent(s) that was not attached to the Complaint. This additional mailer is similar to one of the mailers attached to the Complaint in that it includes the statement that Ron Hanks is "ENDORSED by the COLORADO REPUBLICAN PARTY." *Id.*, https://ftm.copolitics.co/message_detail/senate-615.

⁷ *Id.*, <https://ftm.copolitics.co/about/> ("Have you received a flier at the door or a campaign mailer? Take photos and contribute them.")

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infrastructure spending bill.”⁸ At the end they ask, “do you know liberal Joe?”⁹ The analysis in the FGCR relied on the presence of language in the first and third mailers that O’Dea’s clearly-identified primary opponent Ron Hanks had been endorsed by the Colorado Republican Party, coupled with the fact that the mailers were sent shortly before the 2022 Colorado Republican primary election. The newly-discovered pages do not countermand those endorsements and the #COPolitics: Follow the Message website confirms the mailers were sent close to the election. Accordingly, the new information does not alter any of our recommendations or analysis with respect to the MUR 8017.

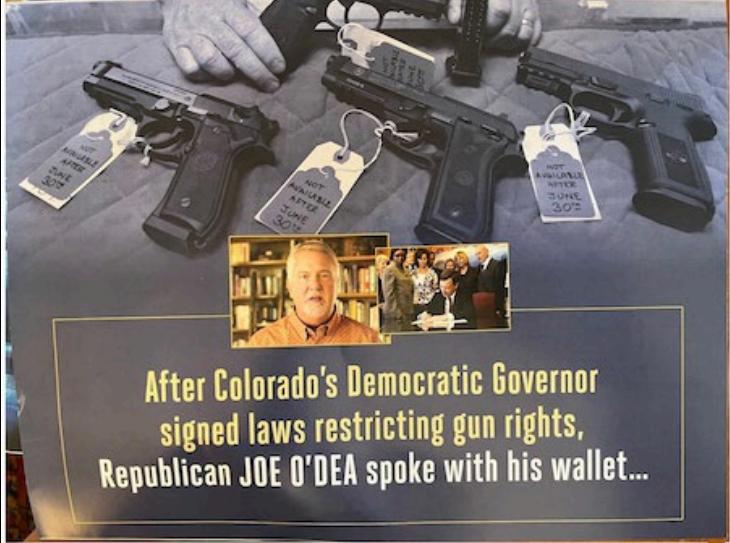
Attachment:

1. Images of mailers at issue in MUR 8017

⁸ Attach. 1.

⁹ *Id.*

MAILER 1 – Partially Included in the MUR 8017 Complaint as Exhibits 1 & 2



After Colorado's Democratic Governor signed laws restricting gun rights, Republican JOE O'DEA spoke with his wallet...

POSTAGE U.S. Postage PAID Denver, CO Permit No. 2071 47308 P-5 P-21

State Rep. Ron Hanks won the top line designation for U.S. Senate and the endorsement of the Colorado Republican Party in April 2022.





- 32 years in uniform
- Defender of the Second Amendment
- Protector of the Unborn

REPUBLICAN U.S. SENATE CANDIDATE

JOE O'DEA Gave Thousands In Campaign Contributions To Gun Control Advocate John Hickenlooper and Many Other Democrats




How much do you really know about Republican Senate candidate Joe O'Dea?

- O'Dea has given **thousands of campaign dollars** to Democratic politicians who want to take away our gun rights – from John Hickenlooper to Congressman Ed Perlmutter to former Treasurer Cary Kennedy and more!¹
- O'Dea is also the **only** Republican candidate to support Democratic President Joe Biden's \$1.2 trillion pork barrel infrastructure spending bill.²
- O'Dea even gave hundreds of dollars in campaign contributions to the very same Democratic Senator he now wants to replace, **Michael Bennet**.³

1. Federal Election Commission, Colorado Secretary of State, Colorado Public J. 35-18, 21
2. Federal Election Commission
3. Federal Election Commission

DO YOU KNOW LIBERAL JOE?

MAILER 2 - Included in the MUR 8017 Complaint as Exhibits 3 & 4

The image shows a political mailer for the U.S. Senate Voter Guide: Gun Rights. At the top, it features a portrait of Joe O'Dea and the text "JOE O'DEA". Below this, a box contains text about his campaign contributions to Democrat John Hickenlooper and his support for gun control laws. To the right, a portrait of Ron Hanks is shown with the text "RON HANKS". A list of his legislative achievements is provided. The bottom section is titled "TRUE CONSERVATIVE VOTER GUIDE" and features a large image of a woman at a shooting range. The mailer also includes the Colorado Republicans logo and a "GUN RIGHTS" section. There are also small images of bullet casings and a group of people at a shooting range.

MAILER 3 – Partially Included in the MUR 8017 Complaint as Exhibit 5

JOE O'DEA Is The ONLY Republican Senate Candidate To Support Biden's \$1.2 Trillion Pork Barrel Spending

Not a single Republican member of Congress from Colorado supported Biden's infrastructure bill.

Yet according to Colorado Politics, Joe O'Dea was the lone Bennet challenger who said he would've voted for the bill,¹ claiming that Biden's \$1.2 trillion plan "doesn't explode the national debt."²

It's not the first time O'Dea has taken a liberal stance that's out of step with Republicans in Colorado.

1. Colorado Politics, 11-8-21
2. Colorado Secretary of State
3. Federal Election Commission

94% Of Republican U.S. House Members OPPOSED Biden's \$1.2 Trillion Infrastructure Bill...

Republican Senate Candidate JOE O'DEA SUPPORTED It

U.S. SENATE VOTER GUIDE: TAXES AND SPENDING

JOE O'DEA
SUPPORTED
Biden's \$1.2 Trillion Infrastructure Bill

RON HANKS
OPPOSED
Biden's \$1.2 Trillion Infrastructure Bill

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