

MURs 8016 & 8018 (Jarome Bell for Congress, *et al.*)

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1
2 **FEDERAL AGENCIES CHECKED:** None

3 **I. INTRODUCTION**

4 MURs 8016 and 8018 arise from complaints alleging a violation of the disclaimer
5 provision of the Federal Election Campaign Act of 1971, as amended (the “Act”), and
6 Commission regulations. The Complaints allege that Virginia residents received mailers without
7 proper disclaimers advocating Jarome Bell’s candidacy during the 2022 Republican primary in
8 Virginia’s 2nd Congressional District. The Complaints include samples of the distributed
9 mailers bearing a logo of Allied Printing Trades Council Washington, owned by International
10 Allied Printing Trades Association (“IAPTA”), and a presort stamp with “MVP” initials, which
11 allegedly signify Mount Vernon Printing (“Mt. Vernon”), the company responsible for printing
12 and distributing the mailers.

13 In its Response, Jarome Bell for Congress (the “Committee”), Bell’s principal campaign
14 committee for the 2022 election cycle, claims that it did not authorize any disbursements to
15 produce the mailers and that it was “unaware of the [mailers’] existence” until the Committee
16 was notified of the Complaints. The Committee states that it intends to file a disavowal notice
17 with the Commission relating to these mailers, but because the mailers lack any disclaimer, the
18 Committee is “unable to identify which group [to] disavow[.]”

19 IAPTA denies any involvement with the creation and distribution of the mailers,
20 explaining that it only licenses its logo to printing companies that employ IAPTA’s union
21 members and produce goods approved by the union. IAPTA states that its logo appears on
22 materials when a customer, who hires a printing company licensed to use the logo, requests the
23 logo to be affixed on the printed material. IAPTA contends that the inclusion of its logo on the
24 mailers does not signify its involvement in or approval of the mailers’ contents.

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1 Mt. Vernon states that it printed the mailers referenced in the Complaints for a customer,

2 GDA Wins.¹ Mt. Vernon denies any affiliation with GDA Wins, stating that its role was limited
3 to printing the mailers, affixing the IAPTA logo, and mailing the materials.

4 GDA Wins claims that it is a mail vendor who produced and distributed the mailers at the
5 behest of a paying customer. Because it did not pay for the mailers, GDA Wins claims that it is
6 not responsible for the alleged violation of the disclaimer provisions of the Act. Without
7 disclosing the identity of its client, GDA Wins states that its customer is not a federal political
8 committee, and to its knowledge the mailers were not coordinated with any federal candidate or
9 party committee. GDA Wins argues that, based on the content of the mailers, the disseminated
10 materials are not subject to the disclaimer requirements because they do not expressly advocate
11 the election or defeat of one or more clearly identified candidate, even though the mailers
12 exhorted readers to vote.

13 As explained below, six of the seven mailers attached to the Complaints do not appear to
14 expressly advocate the election or defeat of a clearly identified federal candidate, and therefore
15 did not require disclaimers. However, because one mailer did contain express advocacy and
16 lacked the requisite disclaimers, we recommend that the Commission find reason to believe that
17 Unknown Respondent(s) violated 52 U.S.C. § 30120(a) and 11 C.F.R. § 110.11(a). Further,
18 because the expenditures made in connection with the mailer requiring disclaimers do not appear
19 to have been reported to the Commission, we recommend that the Commission find reason to
20 believe that Unknown Respondent(s) violated 52 U.S.C. § 30104(b) or (c), and/or (g). We

¹ In Mt. Vernon's Response, it misidentified GDA Wins as "GDS Wins." *See* Mt. Vernon Resp. at 1 (July 7, 2022).

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1 recommend that the Commission conduct an investigation to determine who paid for the mailer
 2 and its cost.

3 As for IAPTA and Mt. Vernon Printing, because the Complaints do not articulate a
 4 cognizable violation of the Act by these identified respondents, and available information do not
 5 support that they violated the Act, we recommend dismissal with respect to these respondents.

6 As for the Committee and GDA Wins, we recommend that the Commission take no further
 7 action at this time because it is unclear, based on current available information, what
 8 involvement, if any, these Respondents had in the creation and distribution of the mailers in
 9 question.

10 **II. FACTUAL BACKGROUND**

11 Jarome Bell was a candidate in the June 21, 2022 Republican primary election for the
 12 U.S. House of Representatives to represent Virginia's 2nd Congressional District.²

13 The Complaints for MURs 8016 and 8018 allege that various mailers distributed to voters
 14 appear to advocate for Bell, "at the expense of" his primary election opponents, without proper
 15 disclaimers.³ Based on the timing of the receipt of the Complaints and their supplements, the
 16 mailers appear to have been disseminated within a month before the Republican Primary election
 17 in 2022.⁴

² *Jarome Bell*, BALLOTPEDIA, https://ballotpedia.org/Jarome_Bell%20 (last visited Mar. 5, 2024).

³ See Comp. ¶¶ 3-4, MUR 8016 (June 6, 2022); Amended Comp. ¶ 3, MUR 8016 (June 6, 2022); Comp. ¶¶ 2-4, MUR 8018 (June 16, 2022). The mailers cite to the source of its information, which includes Jarome Bell's campaign website, last accessed on May 24, 2022. See e.g., Attach. 1, Mailer 5; see also Third Supp. Comp. at 2-3, MUR 8016; Comp. at 2-3, MUR 8018.

⁴ See Comp. at 1, MUR 8016.

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1 The MUR 8016 Complaints included seven sample mailers that allegedly lacked
 2 disclaimers;⁵ MUR 8018 submitted three of the same mailers included in MUR 8016 and no
 3 other mailers.⁶

4 One mailer solely highlights Jarome Bell's position on three issues: support for Donald
 5 Trump, police funding, and abortion, and invites the reader to “[l]earn more about Jarome Bell's
 6 Conservative Record,” calling him “[a]n America-First, Conservative Republican from Virginia
 7 Beach.”⁷ That mailer also claims that Bell had been “endorsed” by Lt. Gen. Michael Flynn,⁸
 8 “[f]ormer ICE Director under President Trump, Tom Homan,” and “Congressman Bob Good.”⁹
 9 A second mailer solely features Jen Kiggans, asking the reader, “[d]oes Jen Kiggans share your
 10 values?” while noting her position on the three same issues and her disavowal of Donald Trump.⁹
 11 The full text of these mailers is as follows:

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| Mailer 1 | <p>The frontside of the mailer features a blown-up picture of Bell and his name, with the caption “An America-First Conservative Republican from Virginia Beach.”</p> <p>The backside of the mailer includes the caption, “As you get ready for Election Day, Learn more about Jarome Bell's Conservative Record.” The left side of the mailer includes pictures of Bell standing in front of Donald Trump, who appears to be addressing him from a podium, and another picture of him posing with military personnel. At the center right of the mailer, it lists Bell's position, i.e., “Proudly stands with Donald Trump;” “Opposes</p> |
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⁵ The Complaint in MUR 8016 was filed as a series of amended and supplemented Complaints, each of which appended additional mailers. Compl. at 2-8, MUR 8016; Amended Compl. at 1-2, MUR 8016; First Supp. Compl. at 1-2 (June 22, 2022), MUR 8016; Second Supp. Compl. at 1-2 (June 22, 2022), MUR 8016; Third Supp. Compl. at 1-2 (June 29, 2022), MUR 8016; Fourth Supp. Compl. at 1-2 (June 29, 2022), MUR 8016; Fifth Supp. Compl. at 1-2 (July 6, 2022), MUR 8016. These complaints are collectively referred to as MUR 8016. The mailers have been compiled into one attachment. *See* Attach. 1.

⁶ *See* Attach. 1, Mailer 2; First Supp. Compl. at 2-3, MUR 8016 (June 22, 2022); Compl. at 6-7, MUR 8018; Attach. 1, Mailer 5; Third Supp. Compl. at 2-3, MUR 8016 (June 29, 2022); Compl. at 2-3, MUR 8018; Attach. 1, Mailer 6; Fourth Supp. Compl. at 2-3, MUR 8016 (June 29, 2022).

⁷ *See* Attach. 1, Mailer 1; Amended Compl. at 2-3, MUR 8016.

⁸ Attach. 1, Mailer 1; Amended Compl. at 2-3, MUR 8016.

⁹ *See* Attach. 1, Mailer 2; First Supp. Compl. at 2-3, MUR 8016; Compl. at 6-7, MUR 8018.

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| | <p>abortion in all cases;” “A champion for police.” Below this list is a list of endorsers for Bell’s candidacy, i.e., “Lt. Gen. Michael Flynn,” “Former ICE Director under President Trump, Tom Homan,” and “Congressman Bob Good.” Below this list of endorsers, is a final caption, “On June 21 vote for the candidate who shares your values.”</p> |
| Mailer 2 | <p>The frontside of the mailer shows a blown-up picture of a radio microphone, with a cartoon bubble signifying someone’s comment. The first comment in the bubble says, “Jen Kiggans . . . you can’t even say Trump’s name? Are you serious?” The follow-up comment, states “The guy’s name is Trump, Jen. . . It’s called MAGA, Jen. You can say it, Jen.” These quoted statements were attributed to “Conservative Radio Host John Frederick’s response after Congressional candidate Jen Kiggans refused to publicly say President Trump’s name on air.”</p> <p>The backside of the flyer includes a top caption, asking “Does Jen Kiggans share your values?” Below it, on the left side, it shows Kiggan’s picture publicly speaking, holding a microphone. On the right side of the flyer, it lists her position on the three above-named issues: (1) “Refuses to support Donald Trump. . .”; (2) “Criticized by pro-life leaders. . .”; (3) “Voted against police funding. . .” At the bottom of the flyer is a final caption, “Election Day is June 21. Polls are open 6:00 am – 7:00 pm.”</p> |

- 1 The five remaining mailers describe themselves as “2022 Conservative Voter Guide[s]”
- 2 encouraging voters to vote “on June 21, 2022 for the candidate who shares [their] values,”
- 3 comparing Jarome Bell’s to Jen Kiggans’s stance on abortion, police funding, and their
- 4 respective affiliation with Donald Trump:¹⁰

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| Mailer 3 | <p>Frontside of the mailer: Indicates that the mailer is a “2022 Conservative Voter Guide”. Subheading states “See Which Candidate for Congress Shares Your Values.”</p> <p>The page is vertically split: on the left side it shows a picture of Jarome Bell shaking Donald Trump’s hand; on the right side it shows a picture of Jen Kiggans with her supporters in the background.</p> <p>The bottom of the page says, “Make your choice on June 21.”</p> |
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¹⁰ See Attach. 1, Mailer 3; Compl. at 2-3, MUR 8016; Attach. 1, Mailer 4; Second Supp. Compl. at 2-3, MUR 8016; Attach. 1, Mailer 5; Third Supp. Compl. at 2-3, MUR 8016; Compl. at 2-3, MUR 8018. Attach. 1, Mailer 6; Fourth Supp. Compl. at 2-3, MUR 8016; Compl. at 4-5, MUR 8018; Attach. 1, Mailer 7; Fifth Suppl. Compl. at 2-3, MUR 8016.

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| | <p>Backside of the mailer: Includes a banner, stating “Who is the true conservative?” with pictures of Jarome Bell on the left side and Jen Kiggans on the right.</p> <p>Under Bell’s picture, the mailer states: (1) “Proudly stands with Donald Trump” “Is running for Congress ‘to carry [] Donald J. Trump’s torch to make America Great Again;’ (2) “Opposes abortion in all cases. . . [b]elieves life begins at conception without exception. . .”; (3) “A champion for police . . . [w]ill always stand proudly with law enforcement officers, defend the rule of law, and support hiring more police.</p> <p>Under Kiggans’s picture, it states: (1) “Refuses to support Donald Trump . . . [c]riticized Trump during his reelection campaign, acknowledged Biden [was] legitimately elected, and refuses to support a Trump reelection in 2024;” (2) “Criticized by pro-life leaders. . . [v]oted for Equal Rights Amendment, which pro-life groups say could ‘lead to unrestricted abortions’ and removed language promising to fight ‘infanticide’ from her website;” (3) “Voted against police funding. . . [o]pposed funding for new police vehicles and voted against providing raises and one-time bonuses to State Police, Correctional Officers, and Sherrifs.”</p> <p>At the bottom of the page is a caption: “On June 21 vote for the candidate who shares your values.”</p> |
| Mailer 4 | <p>Frontside of mailer: Top banner states: “2022 Conservative Voter Guide”. The entire page features a picture of Donald Trump with the American Flag in the backdrop. On the lower left-hand portion of the page, it states: “See which candidate for Congress stands with President Trump.” On the lower right-hand section, it features an arrow directing the reader to flip the page with instructions: “Learn more about Jarome Bell and Jen Kiggans. . .”</p> <p>Backside of the mailer: The mailer is vertically split in half with a picture of Donald Trump at the center of the page. On the left side of Trump’s picture, the mailer features Bell with a snapshot of Bell shaking Trump’s hand and a caption, “100% with Donald Trump.” Next to Bell’s snapshot picture, it states “Bell is running for Congress ‘to carry the Donald J. Trump torch to Make America Great Again and he is championing Trump’s election audit of every state to find out exactly what happened on Nov. 3, 2020.’”</p> <p>On the right side of Trump’s picture, the mailer features Jen Kiggans, with her snapshot picture and a caption, stating “refuses to support Donald Trump.” Next to Kiggans’s picture, it states, “Kiggans criticized Trump during his reelection campaign, acknowledged Biden was legitimately elected and refuses to support a Trump reelection in 2024.”</p> |

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| | <p>The bottom caption of the page reads, “On June 21 Vote For the Candidate Who Shares Your Values.”</p> |
| Mailer 5 | <p>Frontside of the mailer: Top caption states, “2022 Conservative Voter Guide.” On the left side it shows a blown-up background image of a woman placing her hands on her womb. On the right side, it shows Bell’s snapshot picture with his name and a caption, “100% pro-life”. Below his image and caption is Kiggans’s picture and her name with the caption “Criticized by pro-life leaders.”</p> <p>Backside of the mailer: Top caption states: “Which candidate shares your values?” At the center of the page is a picture of an infant, vertically dividing the page. On the left side of the picture is “Jarome Bell” and “100% pro-life”. On the right side is “Jen Kiggans” and “Criticized by pro-life leaders.”</p> |
| Mailer 6 | <p>Frontside of the mailer: Picture of an elderly White male voter and the American flag. Under the flag is “Vote.” On the right-hand side of the page is a boxed caption: “Make a Plan to Vote Your Values.”</p> <p>Backside of the mailer: Top header states “2022 Conservative Voter Guide”. The page is split vertically with three snapshot pictures at the center dividing the page: Donald Trump, an infant, and two police men.</p> <p>On the left side, the mailer features Bell, with a picture of him shaking Trump’s hand. Below his name, it lists his positions on three issues (same information featured in the backside of Mailer 3.)</p> <p>On the right side, the mailer features Kiggans, and her position on the three issues (same information featured in the backside of Mailer 3.)</p> <p>At the bottom of the page, a caption reads, “WHO IS THE CONSERVATIVE CANDIDATE THAT WILL EARN YOUR VOTE ON JUNE 21?”</p> |
| Mailer 7 | <p>Frontside of the mailer: Top caption reads, “2022 Conservative Voter Guide” with a sub-caption, “See where the candidates for Congress stand on supporting law enforcement.” In the backdrop, the mailer shows a picture of police cars in a row.</p> <p>Backside of mailer: Top caption reads, “Which candidate shares your values?” Below it, the page is vertically divided: on the left side is Bell’s name and his picture shaking Donald Trump’s hand, with a side caption, “A champion for police” and “Will always stand proudly with law enforcement offices, defend the rule of law, and support hiring more police.” On the right side, it shows Kiggans picture with her supporters in the background, with a side caption, “Voted against police funding” and “Opposed funding for new</p> |

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| | <p>police vehicles and voted against providing raises and one-time bonuses to State Police, Correctional Officers, and Sheriff.”</p> <p>At the bottom of the page, a caption reads, “On June 21 vote for the candidate who shares your values.”</p> |
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1 In its Response, the Committee claims that it made no disbursements for these mailers,
 2 citing its filing of “FEC Form 3s . . . show[ing] . . . no expenditures on these postcard mailers”
 3 by the Committee.¹¹ Additionally, the Committee submitted a copy of its depositories’
 4 statements, which include its Chainbridge account, the campaign’s operational account, and First
 5 Virginia Community Bank account, the campaign’s “fundraising mail program.”¹² The
 6 Committee further contends that it was unaware of the existence of the materials until they were
 7 notified of the Complaints, and it claims that it continues to be unaware of who produced and
 8 distributed the materials.¹³ The Committee states that it intends to file a disavowal notice on
 9 record but “will not be able to identify which group the Committee is disavowing because of the
 10 absence of such disclaimers.”¹⁴

¹¹ Committee Resp. at 1, MUR 8016 (June 23, 2022). A review of the Committee’s filings appears to confirm that there are no disbursements for “postcard mailers” or payments to Mt. Vernon. Instead, the Committee’s FEC filings show that it disbursed payments to MDI Imaging and Mail, Virginia Printing, AMH Print Group, and Directmail.com, for printing costs before June 1, 2022. *See FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?committee_id=C00725267&two_year_transaction_period=2022&data_type=processed (last visited May 15, 2024) (Committee disbursements for 2022 election cycle).

¹² *See* Committee Resp., Attach. 3, MUR 8016. Additionally, review of the Committee’s disclosure reports appear to confirm that no payments were made to Mt. Vernon or GDA Wins. *See FEC Disbursements: Filtered Results*, FEC.GOV, <https://www.fec.gov/data/candidate/H0VA02175/?tab=spending#disbursement-transactions> (last visited May 8, 2024) (reflecting disbursements by Jarome Bell for Congress through March 30, 2022). Conversely, a review of FEC filings does not reveal disbursements to GDA Wins from Jarome Bell’s committee or any affiliated committees. *See FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&recipient_name=GDA+Wins&two_year_transaction_period=2022 (last visited May 8, 2024) (reflecting disbursements to GDA Wins during the 2021-2022 election cycle).

¹³ Committee Resp. at 1, MUR 8016.

¹⁴ *Id.* The Committee filed a Miscellaneous Form 99 on June 23, 2022, “disavow[ing] any association with the[] postcards,” but noted that “[d]ue to a lack of identifying information, the Committee can not (sic) identify particular organization to disavow.” Committee, Form 99 (June 23, 2022).

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1 The International Allied Printing Trades Association (“IAPTA”) submitted a Response,
2 claiming that “it was incorrectly named” in the matter.¹⁵ IAPTA, “an unincorporated association
3 [...] operated by two trade unions [...] for the purpose of having an association to jointly own
4 and license the Allied Printing Trades Union Label,” states that it owned the Allied Printing
5 Trades Union label, licensed to printing establishments.¹⁶ Apparently, in order for the label to
6 appear on printed materials, customers must hire a print shop that has a license agreement with
7 IAPTA and must request the label to be printed on its materials.¹⁷ IAPTA claims that political
8 candidates specifically request a bona fide union label to be affixed on their campaign literature
9 to ensure that the product was printed by members of a labor union and to project to the public
10 that they support labor unions.¹⁸ Further, IAPTA states that the appearance of the label does not
11 mean that IAPTA paid for, sponsored, authorized, or contributed to the campaign materials, or
12 has any association with the candidate.¹⁹ IAPTA claims that it has no knowledge of the print
13 shop that produced the mailers in this case, but it confirms that it issued a license to Mt.
14 Vernon.²⁰ IAPTA contends that it has “no legal obligation to place a disclaimer on the campaign
15 material and did not violate the Act” because it did not pay for, sponsor, or contribute to the
16 mailers’ production and distribution.²¹ Instead, IAPTA contends that the FEC should ask Mt.
17 Vernon to learn who paid for the campaign material.²²

¹⁵ IAPTA Resp. ¶ 1 (July 3, 2022).

¹⁶ *Id.* ¶ 2-4.

¹⁷ *Id.* ¶ 5.

¹⁸ *Id.* ¶ 2-4.

¹⁹ *Id.* ¶ 5-7.

²⁰ *Id.* ¶ 10.

²¹ *Id.* ¶ 11.

²² *Id.* ¶ 10.

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1 Mt. Vernon responded to one of the supplemental complaints for MUR 8016, confirming
2 that “the print piece referenced in the Complaint is an item that [it] printed for a customer,
3 GD[A]Wins.”²³ According to its Response, neither Mt. Vernon Printing nor its owner, “RR
4 Donnelley, a Fortune 500 commercial printing company” was “part of or related to GD[A]
5 Wins, any political party, candidate, PAC or consulting firm.”²⁴ Mt. Vernon states that its “role
6 was only to provide printing and mailing [services],” using “the content and artwork provided by
7 GD[A],” and “then add[ing] the union label and indicia,” before sending the mailers via the U.S.
8 Postal System.²⁵

9 GDA Wins submitted a Response, identifying itself as a “mail vendor” hired by a
10 “paying customer” to “produce and disseminate six mailers at issue.”²⁶ Because it contends that
11 it did not pay for the mailers, GDA Wins asserts that it is not responsible for any of the alleged
12 disclaimer violations.²⁷ In addition, without naming its client, GDA Wins argues that the six
13 mailers it produced for its customer do “not require disclaimers . . . because they were not paid
14 for by a political committee, are not electioneering communications, and do not expressly
15 advocate for the election or defeat of any clearly identified federal candidate or solicit
16 contributions in connection with a federal election.”²⁸

²³ Mt. Vernon Resp. at 1, MUR 8016 (July 7, 2022).

²⁴ *Id.*

²⁵ *Id.*

²⁶ GDA Wins Resp. at 1.

²⁷ *Id.*

²⁸ *Id.*

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1 **III. LEGAL ANALYSIS**

2 The Act and Commission regulations require a disclaimer on certain types of
 3 communications identifying who paid for the communication and, where applicable, whether a
 4 communication was authorized by a candidate. Among other communications, disclaimers are
 5 required on all “public communications” made by a political committee and on all publicly
 6 available internet websites of a political committee.²⁹ Disclaimers are also required on all
 7 “public communications” made by any person that expressly advocate the election or defeat of a
 8 clearly identified³⁰ federal candidate or solicit contributions.³¹ The term “public
 9 communication” is defined as a communication by means of any broadcast, cable, or satellite
 10 communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone
 11 bank to the general public, or any other form of general public political advertising.³² “Mass
 12 mailing” means “a mailing by United States mail or facsimile of more than 500 pieces of mail
 13 matter of an identical or substantially similar nature within any 30-day period.”³³

14 The record does not conclusively establish that each mailer meets the definition of a
 15 “mass mailing,” but such proof is not required at the preliminary stage of administrative
 16 enforcement.³⁴ Recently, in MUR 7543, the Commission determined that the record sufficiently
 17 indicated a mass mailing despite the fact that the Complaint did not specify the number of

²⁹ 11 C.F.R. § 110.11(a)(1).

³⁰ The term “clearly identified” means “the candidate’s name, nickname, photograph, or drawing appears, or the identity of the candidate is otherwise apparent through an unambiguous reference such as ‘the President,’ ‘your Congressman,’ or the ‘the incumbent,’ or through an unambiguous reference to his or her status as a candidate such as ‘the Democratic presidential nominee’ or ‘the Republican candidate for Senate in the State of Georgia.’” 11 C.F.R. § 100.17.

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

³² 11 C.F.R. § 100.26.

³³ *Id.* § 100.27.

³⁴ See Factual and Legal Analysis (“F&LA”) at 5, MUR 7543 (Jefferson United, Inc.).

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1 mailings.³⁵ In that case, the Commission considered the mailer's professional appearance, the
 2 inclusion of a U.S. Postal Service ("USPS") permit imprint, and the level of voter turnout in the
 3 relevant election as indicative of a mass mailing.³⁶

4 Like in MUR 7543, each mailer in both MURs 8016 and 8018 was sent via USPS
 5 Marketing Mail (formerly Standard Mail), which means, at a minimum, *at least* 200 copies of
 6 each mailer were distributed.³⁷ Second, as in MUR 7543, each mailer in these matters appears
 7 professionally produced. Indeed, Mt. Vernon, the printing company alleged to have printed the
 8 mailers at issue, is "a full-service [...] organization backed by print and mail production, . . .
 9 [s]erving DC-Baltimore area since 1917."³⁸ Finally, the voter turnout in the relevant election —
 10 the Republican primary election for Virginia's 2nd Congressional District — was 41,544, which
 11 indicates that the mailers likely exceeded 500 pieces.³⁹ Hence, it appears likely that the mailers
 12 meet the definition of a "mass mailing."

13 Because each mailer appears to meet the definition of a "mass mailing" and qualifies as a
 14 "public communication," any mailer that expressly advocates must include a disclaimer.⁴⁰ A
 15 communication expressly advocates under 11 C.F.R. § 100.22(a) if it:

16 "[u]ses phrases such as 'vote for the President,' 're-elect your
 17 Congressman,' 'support the Democratic nominee,' 'cast your ballot
 18 for the Republican challenger for U.S. Senate in Georgia,' 'Smith
 19 for Congress,' 'Bill McKay in '94,' 'vote Pro-Life' or 'vote Pro-

³⁵ *Id.*

³⁶ *Id.*; *see also* F&LA at 10, MUR 7537 (Unknown Respondents) (concluding mailers were likely public communications because they appeared professionally produced and were sent via USPS bulk mail).

³⁷ See USPS, <https://pe.usps.com/businessmail101?ViewName=StandardMail> (last visited May 15, 2024).

³⁸ See Mount Vernon Printing Company, <https://www.rrd.com/locations/mount-vernon-printing> (last visited April 30, 2024); *see also* Amended Comp. at 1, MUR 8016 (alleging that Mt. Vernon printed the mailers at issue).

³⁹ Virginia's 2nd Congressional District election, 2022, https://ballotpedia.org/Virginia%27s_2nd_Congressional_District_election,_2022 (last visited May 15, 2024).

⁴⁰ 11 C.F.R. §110.11 (a)(2).

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1 ‘Choice’ accompanied by a listing of clearly identified candidates
 2 described as Pro-Life or Pro-Choice, ‘vote against Old Hickory,’
 3 ‘defeat’ accompanied by a picture of one or more candidate(s),
 4 ‘reject the incumbent,’ or communications of campaign slogan(s) or
 5 individual word(s), which in context can have no other reasonable
 6 meaning than to urge the election or defeat of one or more clearly
 7 identified candidate(s), such as posters, bumper stickers,
 8 advertisements, etc. which say “‘Nixon’s the One,’ ‘Carter ’76,’
 9 ‘Reagan/Bush’ or ‘Mondale!’”⁴¹

10 A communication expressly advocates under 11 C.F.R. § 100.22(b) if:

11 “[w]hen taken as a whole and with limited reference to external
 12 events, such as the proximity to the election, could only be
 13 interpreted by a reasonable person as containing advocacy of the
 14 election or defeat of one or more clearly identified candidate(s)
 15 because—

16 (1) The electoral portion of the communication is unmistakable,
 17 unambiguous, and suggestive of only one meaning; and

18 (2) Reasonable minds could not differ as to whether it
 19 encourages actions to elect or defeat one or more clearly identified
 20 candidate(s) or encourages some other kind of action.”⁴²

21 GDA Wins represents that its client is not a federal political committee and that the

22 mailers were not coordinated with any federal candidate or party committee.⁴³ If GDA Wins’

23 representation is true, and there is no information in the record contradicting this representation,

24 then the communication – which does not appear to be authorized by a candidate or an

25 authorized committee – must clearly state the name and permanent street address, telephone

26 number, or web address of the person who paid for the communication and must state that the

27 communication was not authorized by any candidate or candidate’s committee, if the content of

⁴¹ *Id.* § 100.22 (a).

⁴² *Id.* § 100.22(b). 11 C.F.R. § 100.22(b); *see Real Truth About Abortion v. FEC*, 681 F.3d 544, 552-56 (4th Cir. 2012) (upholding 11 C.F.R. § 100.22(b) against a constitutional challenge).

⁴³ GDA Wins Resp. at 1.

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1 the mailer constitutes express advocacy.⁴⁴ Disclaimers in printed materials must be presented in
2 a clear and conspicuous manner and meet specific requirements, such as being of sufficient type
3 size to be clearly readable and being placed in a printed box set apart from the other parts of the
4 communication.⁴⁵

5 **A. Unknown Respondents Violated the Disclaimer Requirement of The Act.**

6 1. One Mailer Contains Express Advocacy and Should Have Included a
7 Disclaimer

8 The mailer appended to the MUR 8016, Amended Complaint and attached to this report
9 as “Mailer 1,” appears to contain express advocacy under 11 C.F.R. § 100.22(a) and (b). With
10 respect to section 100.22(a), a communication expressly advocates for a candidate when it is a
11 “communication[] of campaign slogan(s).”⁴⁶ The front of Mailer 1 consists solely of an image of
12 Bell, his name, and the phrase “An America-First, Conservative Republican from Virginia
13 Beach.”⁴⁷

⁴⁴ 52 U.S.C. § 30120(a)(3); 11 C.F.R. § 110.11(a)(2); (b)(3).

⁴⁵ 52 U.S.C. § 30120(c); 11 C.F.R. § 110.11(c).

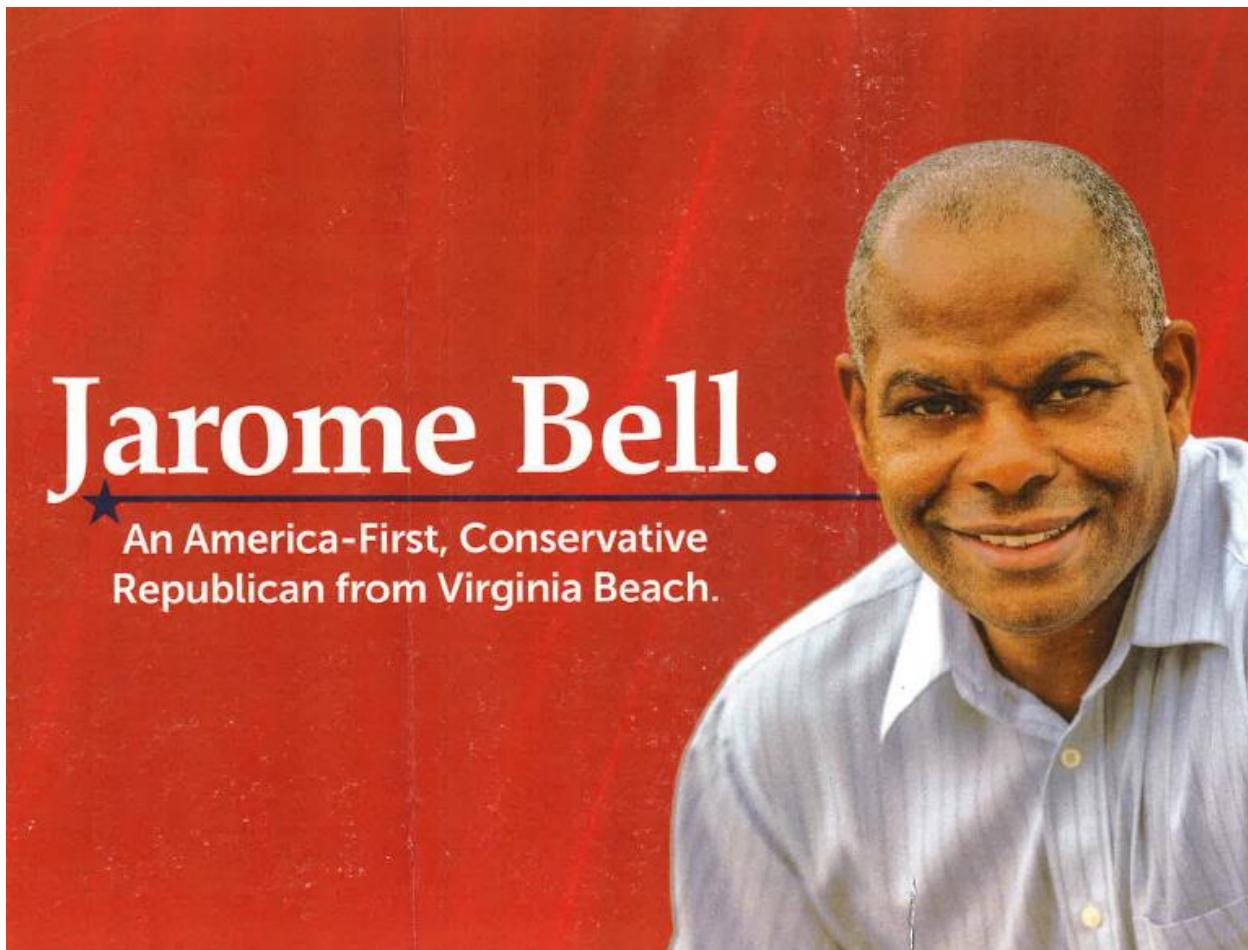
⁴⁶ 11 C.F.R. § 100.22(a).

⁴⁷ Attach. 1, Mailer 1.

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1

- 2 This phrase appears to be a campaign slogan, as it was also featured at the head of Bell's
3 campaign website:⁴⁸

⁴⁸ <https://jaromebellforcongress.com/>
[<https://web.archive.org/web/20220510160425/https://jaromebellforcongress.com/>].

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CHIEF JAROME BELL - FIGHTING FOR ALL AMERICANS

I'm Jarome Bell. I'm an America-First, Conservative Republican from Virginia Beach, running in Virginia's 2nd congressional district. Having dedicated my life to a career in the Navy, retired as Chief Petty Officer after 27 years, I'm turning my attention to once again serve this great nation by working to continue to carry the Donald J Trump torch to Make America Great Again in the United States House of Representatives.

I'm running for Congress to defend our republic against the foreign and domestic enemies to our Constitution, to which I swore an oath as a member of our Armed Forces — an oath that does not expire. Join our America First Movement.



1

- 2 Moreover, the picture of Bell featured on the mailer appears to be a taken from his campaign
 3 website:⁴⁹



- 4
- 5 The unambiguous inclusion of a campaign slogan is sufficient to establish that a communication
 6 is express advocacy under 100.22(a).⁵⁰ The slogan used in this mailer, promoting Bell's

⁴⁹ *Id.*

⁵⁰ See F&LA at 11, MUR 7982 (LUPE Votes, *et al.*) (the Commission noted that “the mailers and the door hangers expressly advocate for the election of Vallejo by stating ‘Michelle Vallejo Democrat For U.S. Congress,’” citing 11 C.F.R. § 100.22(a) [,] “a communication contains express advocacy when, among other things, it uses

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1 candidacy as “An America-First Conservative” along with the electoral portion, exhorting the
 2 viewer to vote on June 21, which, taken in context can have no other reasonable meaning than to
 3 urge the election or defeat of one or more candidates, is comparable to advertisements bearing
 4 statements such as ‘*Smith for Congress*’ and ‘*Bill McKay in '94*,’ which are examples cited
 5 under 100.22(a).

6 In addition, this mailer appears to meet the definition of express advocacy under
 7 100.22(b) because it advocates Bell’s candidacy, “[w]hen taken as a whole and with limited
 8 reference to external events, such as the proximity to the election.”⁵¹ First, the electoral portion
 9 of the mailer is clear because, in addition to the unambiguous slogan and image of Bell on the
 10 front side of the mailer, the back side of the mailer exhorts the reader to, “[a]s you get ready for
 11 Election Day, Learn more about Jarome Bell’s Conservative Record.”⁵² It further reminds voters
 12 to “get ready for Election Day . . . on June 21.”⁵³

13 Second, reasonable minds could not differ as to whether the mailer encourages the
 14 election of Bell. The mailer includes endorsements by three prominent Republican-affiliated
 15 figures: Lieutenant General Michael Flynn, Tom Homan (former ICE Director under Donald
 16 Trump), and Congressman Bob Goodman which constitute express advocacy. The Commission
 17 has consistently determined that an endorsement of a federal candidate constitutes express

campaign slogans or individual words such as “Smith for Congress,” and “Bill McKay in ‘94,” which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate); F&LA at 8, MUR 5831 (Softer Voices) (finding that Softer Voices’ advertisement contains express advocacy under 11 C.F.R. § 100.22 (a) by using a slogan that identifies Santorum, and references his office while exhorting the defeat of that candidate’s opposition, noting that the slogan was “centered on the candidate and references personal characteristics” to encourage the viewers “to vote for Santorum”).

⁵¹ 11 C.F.R. § 100.22(b).

⁵² Attach 1, Mailer 1.

⁵³ *Id.*

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1 advocacy.⁵⁴ For example, in MUR 6861 (Williams, *et al.*), the Commission explained that
 2 “billboards, yard signs, flyers, advertisements, and radio and television advertisements to the
 3 general public. . .that endorsed federal candidates . . . expressly advocated the election of clearly
 4 identified federal candidates and therefore qualified as public communications that required
 5 proper disclaimers.”⁵⁵

6 Moreover, Mailer 1 solely features Bell and introduces his position to the Republican
 7 electorate within a month of the Republican primary election, while referring to him as “[a]n
 8 America-First Conservative,” appear to be an unambiguous endorsement of his campaign. The
 9 caption, “America-First Conservative,” which extols Bell as a premier conservative, without
 10 comparing him to another candidate whose position on certain issues may challenge his claim as
 11 a first-rate conservative, appears to be an unmistakable promotion of his candidacy. Unlike
 12 Mailers 3-7 discussed below, which introduce Bell’s position alongside the position of another
 13 Republican candidate that could challenge his brand of conservatism, Mailer 1 includes
 14 superlative characterization of Bell’s position, unchallenged, which, short of instructing the voter
 15 to vote for Bell, amounts to advocacy.⁵⁶

16 In addition, Commission regulations specify that “proximity to the election” is a
 17 permissible external event to consider when determining whether a communication has a

⁵⁴ See, e.g., F&LA at 6-7, MUR 6861 (Williams, *et al.*) (yard sign saying respondent “has endorsed” candidate is express advocacy); Gen. Counsel’s F&LA at 2 (sign stating candidate was “endorsed by Christian Voice” was express advocacy) & Cert. ¶ 2 (Nov. 27, 1984), MUR 1711 (Christian Voice Moral Government Fund).

⁵⁵ F&LA at 7, MUR 6861 (Williams, *et al.*).

⁵⁶ See *MCFL and FEC v. Christian Coalition*, 52 F. Supp. 2d 45, 62 (D.D.C. 1999) (noting the Court’s finding that MCFL newsletter’s exhortation to “VOTE PRO-LIFE” provided “in effect an explicit directive” to vote for the candidates favored by MCFL, and that “[t]he fact that [a] message is marginally less direct than ‘Vote for Smith’ does not change its essential nature.”).

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1 reasonable, non-electoral meaning.⁵⁷ Here, the mailers were reportedly mailed to complainants
 2 around June 1, 2022 until the run-up to the election on June 21, 2022.⁵⁸ The timing of the
 3 mailers' release during the Republican primary election make clear its electoral meaning to its
 4 recipient.

5 Mailer 1 therefore constitutes express advocacy, subject to the disclaimer provision of the
 6 Act. Therefore, it appears that the unknown producer(s) of the mailer violated the Act by
 7 circulating a public communication containing express advocacy without proper disclaimers.⁵⁹
 8 There is no information on the materials indicating who paid for this mailer and, notwithstanding
 9 GDA Wins' claim, it remains unverified whether this particular mailer was authorized by a
 10 candidate's committee.⁶⁰ Accordingly, we recommend that the Commission find reason to
 11 believe that Unknown Respondent(s) violated 52 U.S.C. § 30120(a) by failing to include a
 12 disclaimer on the mailer.⁶¹

13 2. The “Does Jen Kiggans Share Your Values?” Mailer Does Not Clearly
 14 Advocate for the Election or Defeat of a Federal Candidate

15 Mailer 2 describes Kiggan's position on several issues – it does not mention Bell at all –
 16 and asks the reader “Does Jen Kiggans share your values?”⁶² On its face, this mailer lacks an

⁵⁷ 11 C.F.R. § 100.22(b); *FEC v. Furgatch*, 807 F.2d 857, 865 (9th Cir. 1987) (“The ad . . . fails to state expressly the precise action called for, leaving an obvious blank that the reader is compelled to fill in. . . . Timing the appearance of the advertisement less than a week before the election left no doubt of the action proposed.”).

⁵⁸ See Compl. at 1, MUR 8016; Amended Compl. at 1, MUR 8016; First Supp. Compl. at 1, MUR 8016; Second Supp. at 1, MUR 8016; Third Supp. at 1, MUR 8016; Fourth Supp. at 1, MUR 8016; Fifth Supp. at 1, MUR 8016; Comp. at 1, MUR 8018.

⁵⁹ See Attach. 1, Mailer 1.

⁶⁰ See GDA Wins Resp. at 1.

⁶¹ See F&LA at 2, MUR 6642 (Christopher Kauffman) (finding reason to believe that unknown respondents violated the Act by providing insufficient disclaimers on a billboard and failing to report an independent expenditure but ultimately taking no action as to the later-identified respondent because the \$3,000 cost of the billboard was *de minimis* and the respondent was a private citizen acting alone).

⁶² Attach. 1, Mailer 2; First Supp. Compl. at 2-3, MUR 8016.

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1 explicit and unambiguous directive against Kiggans such as “Vote for” or “Defeat” followed by
 2 a clearly identified candidate,⁶³ and therefore would not constitute as express advocacy under
 3 11 C.F.R. § 100.22 (a). Mailer 2’s contents also do not amount to express advocacy under
 4 11 C.F.R. § 100.22 (b) because “[w]hen taken as a whole and with limited reference to external
 5 events, such as the proximity to the election,” the information could not be solely interpreted as
 6 calling for the Kiggans’s defeat. The electoral portion of the communication is unmistakable in
 7 that the mailer informs the reader of the June 21 election.⁶⁴ Despite the negative slant in
 8 describing her position, i.e. “[r]efuses to support Donald Trump,” “[c]riticized by pro-life
 9 leaders,” “[v]oted against police funding,” such criticism does not equate to a directive to vote
 10 against the candidate.⁶⁵ As such, it appears that reasonable minds could differ as to whether the

⁶³ 11 C.F.R. § 100.22 (a); Express Advocacy; Independent Expenditures; Corporate and Labor Organization Expenditures, 60 Fed. Reg. 35,292, 35,294-95 (July 6, 1995) (“Express Advocacy E&J”); *see also* F&LA at 4-5, MUR 6170 (Tuscola County Democratic Committee) (determining that advertisements contained express advocacy under 11 C.F.R. § 100.22(a) because “[t]he use of the words “Elect” and “Re-elect” next to the names of Federal candidates fall squarely within the definition of express advocacy”); Conciliation Agreement ¶ 8, MUR 4313(Coalition for Good Government, Inc.) (“By prominently displaying Senator Lugar’s image and campaign bumper sticker reading “Lugar for President” in a television advertisement, the [Respondent] expressly advocated Senator Lugar’s election.”).

⁶⁴ *See, e.g.*, F&LA at 11, MUR 7839 (Westerleigh Press, Inc., et al.) (finding no reason to believe a violation occurred because “[t]he mailings do not contain any reference to an election or call on the reader to take any electoral action”); F&LA at 6-8, MUR 6122 (Nat’l Ass’n of Home Builders) (finding no reason to believe respondent made prohibited in-kind contribution because, on the whole, the subject mailing lacked a clear directive to take electoral action and was, therefore, not express advocacy); F&LA at 5-6, MUR 5854 (The Lantern Project) (finding no express advocacy where the communications “lack . . . any electoral directives”); *see also FEC v. Furgatch*, 807 F.2d 857, 865 (9th Cir. 1987) (“The ad . . . fails to state expressly the precise action called for, leaving an obvious blank that the reader is compelled to fill in. . . . Timing the appearance of the advertisement less than a week before the election left no doubt of the action proposed.”).

⁶⁵ *See* F&LA at 2, MUR 7839 (Westerleigh Press, Inc., et al.) (stating that criticism on a purported position does not constitute express advocacy); *see also* F&LA at 5-6, MUR 5854 (The Lantern Project) (finding no express advocacy where “the overwhelming focus of the communication is on issues and [the officeholder’s] policies or positions on those issues” and the communications “lack . . . any electoral directives”); *cf.* F&LA at 4-5, MUR 7150 (New Yorkers Together) (finding no reason to believe the respondent violated the disclaimer or independent expenditure reporting requirements of the Act, where the mailing included a candidate’s statements on abortion and alleged disregard for women’s health, yet did not contain express advocacy because it did not mention the candidate as a federal candidate, did not mention the federal election, and did not exhort recipients to vote for the candidate, and contained an exhortation to vote against a state candidate); F&LA at 6-8, MUR 6122 (Nat’l Ass’n of Home Builders) (finding no reason to believe respondent made prohibited in-kind contribution because, on the whole, the subject mailing lacked a clear directive to take electoral action and was, therefore, not express advocacy).

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1 mailer expressly advocates for the defeat of Kiggans. Accordingly, Mailer 2 appended to this
 2 report did not require a disclaimer under the Act.

3 3. Five of the Seven Mailers Are Not Subject to Disclaimer Requirements
 4 Because They Are Reasonably Interpreted as Voter Guides That Do Not
 5 Contain Express Advocacy

6 The Commission's regulations allow for the "prepar[ation] and distribut[ion] to the
 7 general public voter guides consisting of two or more candidates' positions on campaign issues"
 8 provided that they comply with certain restrictions set forth in the regulation, including that they
 9 not expressly advocate the election or defeat of a clearly identified candidate.⁶⁶ Five of the
 10 mailers in these cases claim to be "2022 Conservative Voter Guides"⁶⁷ and appear to qualify
 11 under the applicable regulation.

12 Based on the language of these mailers, and taking into account their relevant context, on
 13 balance, these mailers do not expressly advocate the election or defeat of a clearly identified
 14 candidate. First, these guides do not include words that "in effect" serve as explicit directives,
 15 urging the election or defeat of any of the identified candidates, e.g., *vote for the President*, '*re-*
 16 *elect your Congressman*,' or '*vote against Old Hickory*,' '*reject the incumbent*,' under
 17 11 C.F.R. 100.22(a).⁶⁸ Because none of these mailers use the sorts of phrases, campaign slogans,
 18 or individual words that constitute express advocacy under 11 C.F.R. § 100.22(a), we analyze
 19 whether the mailers expressly advocate under 11 C.F.R. § 100.22(b).

20 Under 11 C.F.R. 100.22(b), reasonable minds could differ as to whether the voter guides
 21 expressly advocate for any specific candidate. The electoral portion of these mailers is clear in

⁶⁶ 11 C.F.R. § 114.4(c)(5).

⁶⁷ See Attach. 1, Mailers 3-7.

⁶⁸ See *supra* note 63.

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1 that they are labeled as “Voter Guides” and exhort the reader to “vote for a candidate that shares
 2 their values . . . on June 21.”⁶⁹ However, they do not appear to expressly advocate for Bell or
 3 against Kiggan.

4 The guides compare Bell’s and Kiggans’s positions with respect to three issues without
 5 necessarily marking a preference for a particular candidate.⁷⁰ In Mailers 3-7, the voter guides list
 6 Bell’s and Kiggans’ position with respect to Donald Trump, abortion, and police funding, while
 7 asking the voter to determine who is the “true conservative,”⁷¹ illustrating Bell as supportive of
 8 Trump, and Kiggans as critical of him.⁷² While the mailers represent themselves as
 9 “Conservative Voter Guide[s],” it does not indicate whether support of Trump constitutes a
 10 “conservative” position. With regard to abortion and police funding, based on the information
 11 contained within the mailers, they do not take a position on whether increased governmental
 12 regulation of abortion, or support for additional governmental spending on police force would
 13 constitute true conservatism, nor does it exhort readers to align themselves with Bell’s or
 14 Kiggans’s position on these issues. Instead, the mailers instruct the electorate to “vote for the
 15 candidate who shares [their] values.”

⁶⁹ See Attach. 1, Mailers 3-7.

⁷⁰ See F&LA at 6-7, MUR 7557 (Center for Voter Information) (determining voter guide did not expressly advocate because “each candidate was given equal space without markings indicating a preference for either candidate. The information about the candidates’ positions are stated only as “yes” or “no,” . . . and are based on information contained on the candidates’ website or the public record”); F&LA at 5, MUR 5874 (Gun Owners of America, Inc.) (noting that the voter guide did not contain express advocacy under 11 C.F.R. § 100.22(a) for failing to “mark a preference for a . . . candidate.”); First GCR at 12 (website’s display of candidate’s voting records in relation to organization’s preferred positions, even if considered a voter guide, did not expressly advocate despite failing to “present the candidates’ positions in a neutral manner”) & Cert. ¶ 1 (Feb. 27, 2004), MUR 5342 (U.S. Chamber of Commerce) (adopting OGC’s recommendations).

⁷¹ See Attach. 1, Mailers 3-7.

⁷² *Id.*

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1 In MUR 5874, (Gun Owners of America), the Commission examined a voter guide that
 2 rated each Senate and Congressional candidate based on his or her position on gun issues, and
 3 each candidate was rated on a scale from “A+” to “F” with an additional rating of “NR” for
 4 candidates who refused to answer the questionnaire seeking information for the ratings, or had
 5 no record on gun issues.⁷³ The Commission concluded that because the guide did not contain
 6 markings of preference for any particular candidate, there was no language encouraging voters to
 7 vote for an identified candidate, and because the guide did not contain “extraneous commentary
 8 about voting or about the candidates,” reasonable minds could differ as to whether the voter
 9 guide expressly advocates for any specific candidate.⁷⁴ More recently, in MUR 7557 (Center for
 10 Voter Information), the Commission determined that a voter guide did not expressly advocate
 11 because “each candidate was given equal space without markings indicating a preference for
 12 either candidate. The information about the candidates’ positions is stated only as ‘yes’ or
 13 ‘no,’ . . . and are based on information contained on the candidates’ website or the public
 14 record.”⁷⁵

15 Here, the mailers do not appear to expressly advocate for Bell, for the same reasons
 16 articulated in MUR 5874. Mailers 3-7 show that: (1) the space on the mailers is divided equally

⁷³ F&LA at 4-6, MUR 5874 (Gun Owners of America, Inc.).

⁷⁴ *Id.* at 5; *see also* F&LA at 8-10, MUR 6683 (Fort Bend County Democratic Party) (allocating costs of voter guide that expressly advocated the election of a federal candidate); F&LA at 4, MUR 5820 (ACORN) (materials used for voter registration and GOTV efforts that did not include express advocacy and were not partisan did not trigger political committee status). More recently, in MUR 7416 (Unknown Respondents), the Commission split on the question of whether a voter guide had “unambiguous, unmistakable meaning” when it described one candidate as being a “[s]trong supporter of President Trump” and claimed he would “fight for additional tax cuts in Congress” and a second candidate as having “[c]riticized Trump during the 2016 campaign” and as someone who “[b]roke his promise to never raise out taxes. Statement of Reasons (“SOR”), Comm’rs. Petersen & Hunter at 1-2, MUR 7416 (Unknown Respondent) (Aug. 29, 2019).

⁷⁵ F&LA at 6-7, MUR 7557 (Center for Voter Information); *See also* in relation to organization’s preferred positions, even if considered a voter guide, did not expressly advocate despite failing to “present the candidates’ positions in a neutral manner”).

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1 to feature Bell's and Kiggans's positions on the same issues; (2) there are no marks that signal a
 2 preference for one candidate; and (3) the discussion of the issues as it pertains to each candidate
 3 does not advocate the election of one or the other.⁷⁶ In comparing each candidate's stance on the
 4 issues, the mailers also do not exhibit content that clearly maligns a candidate's character or
 5 qualifications.⁷⁷ Because Mailers 3-7 do not appear to constitute express advocacy, a disclaimer
 6 was not required.

7 **B. It Does Not Appear That IAPTA and Mt. Vernon Had An Obligation to**
 8 **Place Disclaimers on the Mailers or Report Independent Expenditures**

9 IAPTA and Mt. Vernon do not appear to have violated the disclaimer provision of the
 10 Act because they had no obligation to place a disclaimer on the mailers.⁷⁸ Available information
 11 does not indicate that IAPTA and Mt. Vernon funded and authorized the creation and
 12 distribution of the mailers.⁷⁹ Because of their role as mere vendors acting at the behest of
 13 Unknown Respondent(s) to produce and/or disseminate the mailers, these Respondents were not
 14 bound by the disclaimer provision of the Act.⁸⁰ We therefore recommend dismissing the
 15 allegation that IAPTA and Mt. Vernon violated 52 U.S.C. § 30120(a) and the related allegation

⁷⁶ See Attach. 1, Mailers 3-7.

⁷⁷ See Express Advocacy E&J at 35,295. In MURs 5511, 5525 (Swift Boat Veterans, *et al.*), the Commission concluded that attacks on a candidate's character, fitness for public office, and capacity to lead, including phrases such as "JOHN KERRY CANNOT BE TRUSTED" and "unfit for command" were indicative of an electoral portion. Conciliation Agreement ¶¶ IV.25-28, MURs 5511, 5525; *cf.* F&LA at 12, MUR 7839 (Westerleigh Press, Inc., *et al.*) (finding communications were not express advocacy under 11 C.F.R. § 100.22(b) when, among other factors, they "do not refer to the incumbents as candidates in a federal election and do not mention their political opponents" and the "focus of the communications is on the incumbents' stances on policy or pending legislation, and the target of the advertisement is a current officeholder with the ability to effect change on the policy").

⁷⁸ See MUR 7839 (Westerleigh Printing Press, Inc., *et al.*) (finding by a vote of 6-0 no reason to believe that the mail vendor failed to include the required disclaimers where mailers and vendor did not pay for the mailers).

⁷⁹ See IAPTA Resp., MUR 8016; Mt. Vernon Resp., MUR 8016; and GDA Wins Resp., MUR 8016.

⁸⁰ See 52 U.S.C. § 30120(a); *see also* 11 C.F.R. § 110.11(a)(2).

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1 that they violated 52 U.S.C. § 30104(c) and (g) by failing to report the mailers as independent
 2 expenditures.⁸¹

3 **C. The Commission Should Take No Action At This Time With Regard to the**
 4 **Committee and GDA Wins**

5 The available information appears inadequate to ascertain if the Committee and GDA
 6 Wins, respectively, had any material involvement that substantiates liability in the creation and
 7 dissemination of the mailer that requires a disclaimer. Although the Committee claims that it
 8 intended to disavow the unknown party that made and distributed the material, and that it did not
 9 disburse any funds that relate to the mailer-in-question,⁸² because the current information
 10 appears inconclusive, we recommend that the Commission postpone taking any action with
 11 regard to the Committee until the Commission has conducted its investigation.

12 As for GDA Wins, this respondent has admitted that it had direct dealings with the
 13 unknown party that authorized the creation and dissemination of the mailer-in-question, although
 14 it denies that it created the mailers.⁸³ Given the ambiguities in the record that would be resolved
 15 through the recommended investigation we likewise recommend that the Commission postpone
 16 taking any action with regard to this respondent.

17 **D. Unknown Respondents Who Produced Mailers Subject to the Disclaimer**
 18 **Requirements Are Subject to Reporting Requirements Under 52 U.S.C.**
 19 **§ 30104(b) or (c), (g)**

20 According to GDA Wins, its client, the Unknown Respondent, is not a federal political
 21 committee, and the mailers were not coordinated with any federal candidate or party

⁸¹ *Infra* Part III.F.

⁸² Committee Resp. at 1.

⁸³ See GDA Wins Resp. at 1.

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1 Committee.⁸⁴ If GDA Wins' representation is true, given that the mailer contained in Mailer 1
 2 constitutes express advocacy, under 11 C.F.R. § 100.22(a) or (b), Unknown Respondent(s) may
 3 be subject to reporting violations for failing to report the mailers as independent expenditures
 4 under 52 U.S.C. § 30104(b) or (c), (g). Independent expenditures are expenditures by a person
 5 for a communication that expressly advocates the election or defeat of a clearly identified
 6 candidate, and that is not made in cooperation, consultation, or concert with, or at the request or
 7 suggestion of a candidate, their authorized committee, their agents, or a political party committee
 8 or its agents.⁸⁵ The Act and Commission regulations set out reporting requirements for persons
 9 other than political committees who make independent expenditures aggregating more than \$250
 10 in a given election in a calendar year.⁸⁶ Political committees and other persons that make or
 11 contract to make independent expenditures after the 20th day, but more than 24 hours before an
 12 election must disclose the activity within 24 hours each time that the expenditures aggregate
 13 \$1,000 or more.⁸⁷

14 The available information suggests that the expenditures for the mailer likely exceeded
 15 \$250 because it appears that the mailer was part of a mass mailing.⁸⁸ Therefore, it should have

⁸⁴ *Id.*

⁸⁵ 11 C.F.R. § 100.16(a).

⁸⁶ 52 U.S.C. § 30104(c); *see also* 11 C.F.R. § 109.10(b), (e) (requiring the filing of disclosure reports containing, among other things, the reporting person's identification information; identification of the person to whom the expenditure is made, and the amount, date, and purpose of the expenditure; and whether the expenditure was in support of or in opposition to a candidate, together with the candidate's name and office sought).

⁸⁷ 52 U.S.C. § 30104(g); 11 C.F.R. § 109.10(d). The MUR 8016 Amended Complaint was dated June 6, 2022, and the mailer was most likely received around end of May or early June, 2022. The Republican Primary election was held on June 21, 2022, *see Republican Primaries in Virginia, 2022*, Ballotpedia, https://ballotpedia.org/Republican_Party_primaries_in_Virginia,_2022 (last visited Mar. 7, 2024). Based on this information, it appears that party responsible for the mailers may have been subject to 52 U.S.C. § 30104(g); 11 C.F.R. § 109.10(d) because it is likely that the persons who produced the mailers made or contracted to make independent expenditures after the 20th day, but more than 24 hours before an election.

⁸⁸ *Supra* p. 12.

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1 been disclosed to the Commission, either as an independent expenditure or as a communication
 2 made by a political committee. However, the Commission's database shows no independent
 3 expenditures paid to GDA Wins, IAPTA, or Mt. Vernon in connection with Bell.⁸⁹ Moreover,
 4 the only disbursements paid to any of these three respondents around the time of the mailers in
 5 question were to GDA Wins from the Ohio Democratic Party, which do not appear to be related
 6 to these mailers.⁹⁰ Accordingly, we recommend that the Commission find reason to believe that
 7 Unknown Respondent(s) violated 52 U.S.C. § 30104(b) or (c) by failing to report expenditures
 8 made in connection with the mailer and 52 U.S.C. § 30104(g) by failing to file a 48-hour or 24-
 9 hour report.

10 **IV. INVESTIGATION**

11 Because the available information does not reveal the source of the funding and
 12 authorization of the mailers, we therefore propose a limited investigation to identify the unknown
 13 entity who paid for and authorized the anonymous mailer containing express advocacy (Mailer
 14 1), identify its costs, and determine the scope of its distribution. GDA Wins' Response
 15 represents that it knows the identity of the Unknown Respondent(s) based on its commercial
 16 dealings, as the authorized vendor that executed the clients' request and acted as liaison between
 17 the Unknown Respondent and Mt. Vernon.⁹¹ In addition, because of its apparent direct business
 18 relationship with the Unknown Respondent(s), GDA Wins may likely have information as to the

⁸⁹ *FEC Independent Expenditures: Filtered Results*, FEC.GOV, https://www.fec.gov/data/independent-expenditures/?data_type=processed&most_recent=true&is_notice=true&candidate_id=H0VA02175 (reflecting independent expenditures in support of or opposition to Bell).

⁹⁰ *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&recipient_name=International+Allied+Printing+Trades+Association&recipient_name=Mt.+Vernon+Printing&recipient_name=gda+wins (reflecting disbursements to GDA Wins, IAPTA, and Mr. Vernon).

⁹¹ See GDA Wins Resp. at 1-2, MUR 8016; Mt. Vernon Resp. at 1, MUR 8016.

MURs 8016 & 8018 (Jarome Bell for Congress, *et al.*)

First General Counsel's Report

Page 29 of 30

1 cost of the mailer and the scope of its distribution. Such information should reveal the exact
2 scope of the violations at issue. We believe the following types of documents from GDA Wins
3 related to the purchase of the mailers would provide the necessary information: contracts, order
4 forms, invoices, payment confirmations, receipts, and communications. Such information should
5 reveal the exact scope of the reporting and disclaimer violations at issue. Assuming these
6 documents identify the purchasers of the mailers, we will then follow the procedures outlined in
7 Directive 74 to alert the Commission to the addition of new respondents with the intent to
8 thereafter provide them copies of the relevant complaint and the corresponding Commission
9 Factual and Legal Analysis and offer them an opportunity to respond in writing.

10 **V. RECOMMENDATIONS**

- 11 1. Dismiss the allegation that International Allied Printing Trades Association and
12 Mount Vernon Printing violated 52 U.S.C. § 30120(a) and 11 C.F.R. § 110.11(a)
13 by failing to include disclaimers, and 52 U.S.C. § 30104(b), (c), and/or (g) by
14 failing to report an independent expenditure;
- 15 2. Take no action at this time with respect to the allegations that GDA Wins and
16 Jarome Bell for Congress, and Elizabeth Curtis, in her official capacity as
17 treasurer violated 52 U.S.C. § 30120(a) and 11 C.F.R. § 110.11(a) by failing to
18 include disclaimers, and 52 U.S.C. § 30104(b), (c), and/or (g) by failing to report
19 an independent expenditure;
- 20 3. Find reason to believe that Unknown Respondents violated 52 U.S.C. § 30120(a)
21 and 11 C.F.R. § 110.11(a) by failing to include disclaimers, and 52 U.S.C.
22 § 30104(b), (c), and/or (g) by failing to report an independent expenditure;
- 23 4. Direct the Office of General Counsel to circulate an Investigative Plan pursuant to
24 Directive 74 following the receipt of a response to the Reason-to-Believe letter or
25 in the event it appears no response will be made;
- 26
- 27
- 28
- 29

MURs 8016 & 8018 (Jarome Bell for Congress, *et al.*)

First General Counsel's Report

Page 30 of 30

1 5. Approve the attached Factual and Legal Analyses.

6 Charles Kitcher
7 Associate General Counsel for
8 Enforcement

10 6/5/2024
11 _____
12 Date

Adrienne C. Baranowicz
Adrienne C. Baranowicz

Adrienne C. Baranowicz
Deputy Associate General Counsel for
Enforcement

An Peuz

Aaron Rabinowitz
Assistant General Counsel

Rocelyn Halili

Rocelyn Halili
Attorney

26 Attachments:

- 27 1. Mailers
 - 28 2. Factual and Legal Analysis – Unknown Respondents
 - 29 3. Factual and Legal Analysis – IAPTA
 - 30 4. Factual and Legal Analysis – Mt. Vernon

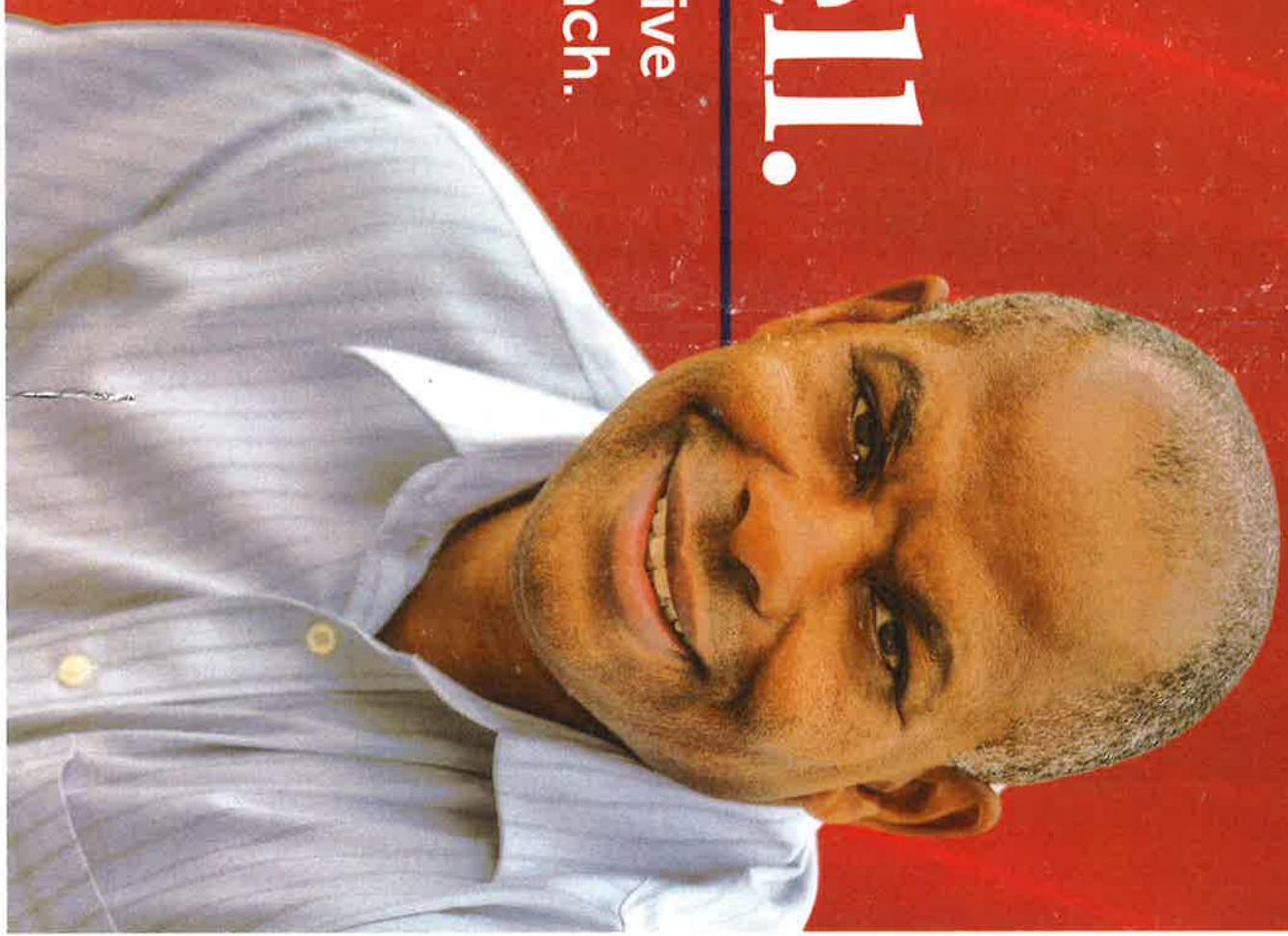
ATTACHMENT 1:

MAILERS 1-7

MAILER 1

Jakome Bell.

An America-First, Conservative
Republican from Virginia Beach.



P-2 P169 35485*****SCH 5-DIGIT 23456 FSSB
CYNTHIA STELLA TAMAYO FREE[REDACTED] [REDACTED]
VIRGINIA BEACH, VA 23456-0001

© 14 VA02_22



As you get ready for Election Day,
**Learn more about Jarome Bell's
 Conservative Record.**

Proudly stands with Donald Trump

is running for Congress "to carry the Donald J. Trump torch to Make America Great Again."

Opposes abortion in all cases

Believes life begins at conception without exception, supports defunding Planned Parenthood, and will fight to restrict abortion at every opportunity.

A champion for police

Will always stand proudly with law enforcement officers, defend the rule of law, and support hiring more police.

Q Source: Jarome Bell campaign website, accessed 5/22/22; The Washington Post, 3/7/22; Virginian-Pilot, 6/20/20

Jarome's campaign for Congress is endorsed by:



Lt. Gen.
Michael Flynn



Former ICE Director
under President Trump
Tom Homan



Congressman
Bob Good

On June 21 vote for the candidate who shares your values.

MAILER 2



**“Jen Kiggans...you can’t even say
Trump’s name? Are you serious?”**

**“The guy’s name is Trump, Jen...
It’s called MAGA, Jen.
You can say it, Jen.”**

Conservative Radio Host John Frederick’s response after
**Congressional candidate Jen Kiggans refused to publicly
say President Trump’s name on air.**

Source: John Fredericks Radio, 4/8/22

P-2 P169 35485*****SCH 5-DIGIT 23456 FSSB
CYNTHIA STELLA TAMAYO FREE
OR CURRENT RESIDENT
[REDACTED] [REDACTED]

VIRGINIA BEACH, VA 23456-[REDACTED]

[REDACTED]

PRSR STD
MVPRT
20708

Does Jen Kiggans share your values?



Refuses to support Donald Trump

Criticized Trump during his reelection campaign, acknowledged Biden was legitimately elected, and refuses to support a Trump reelection in 2024.¹

Criticized by pro-life leaders

Voted for the Equal Rights Amendment, which pro-life groups say could “lead to unrestricted abortions” and removed language promising to fight “infanticide” from her website.²

Voted against police funding

Opposed funding for new police vehicles and voted against providing raises and one-time bonuses to State Police, Correctional Officers, and Sheriffs.³

ELECTION DAY IS JUNE 21. Polls are open 6:00 am - 7:00 pm.

1. Richmond Times-Dispatch, 8/30/19; Washington Post, 3/30/22; Facebook, John Fredericks Show 11/24/21; 2. SJ 1, 1/15/20; The Family Foundation Action, 5/21; National File, 5/4/22; Blue Virginia, 7/17/19; 3. Richmond Times-Dispatch 2/25/21; HB 1803, 4/7/21.

MAILER 3

2022 CONSERVATIVE VOTER GUIDE:
**SEE WHICH CANDIDATE FOR
CONGRESS SHARES YOUR VALUES.**



Jarome Bell



Jen Kiggans

Make your choice on June 21.

P-2 P169 35485*****SCH 5-DIGIT 23456 FSSB
CYNTHIA STELLA TAMAYO FREE[REDACTED]
VIRGINIA BEACH, VA 23456-[REDACTED]

Jarome Bell

Who is the true conservative?



Jen Kiggans

Proudly stands with Donald Trump

Is running for Congress "to carry the Donald J. Trump torch to Make America Great Again."¹



Refuses to support Donald Trump

Criticized Trump during his reelection campaign, acknowledged Biden was legitimately elected, and refuses to support a Trump reelection in 2024.²

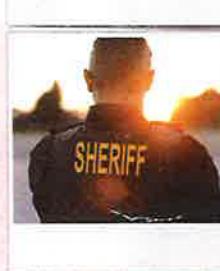


Opposes abortion in all cases

Believes life begins at conception without exception, supports defunding Planned Parenthood, and will fight to restrict abortion at every opportunity.³

Criticized by pro-life leaders

Voted for the Equal Rights Amendment, which pro-life groups say could "lead to unrestricted abortions" and removed language promising to fight "infanticide" from her website.⁴



A champion for police

Will always stand proudly with law enforcement officers, defend the rule of law, and support hiring more police.⁵

Voted against police funding

Opposed funding for new police vehicles and voted against providing raises and one-time bonuses to State Police, Correctional Officers, and Sheriffs.⁶

On June 21 vote for the candidate who shares your values.

1. Jarome Bell campaign website, accessed 5/22/22; 2. Richmond Times-Dispatch, 8/30/19, Washington Post, 3/30/22, YouTube, WJFN Radio, 11/24/21; 3. Jarome Bell campaign website, accessed 04/20/22; 4. SJ 1, 1/15/20, The Family Foundation Action, 5/21, Blue Virginia, 7/17/19, NationalFile.com, 5/4/22; 5. Jarome Bell campaign website, accessed 04/20/22 Virginian-Pilot, 6/20/20; 6. Richmond Times-Dispatch, 2/25/21, HB 1800, 4/7/21

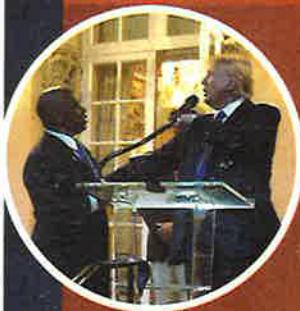
MAILER 4

P-2 P169 35485-----SCH 5-DIGIT 23456 FSSB
CYNTHIA STELLA TAMAYO FREE

VIRGINIA BEACH, VA 23456-
[REDACTED]

[REDACTED]

JAROME BELL *is 100% with Donald Trump.*



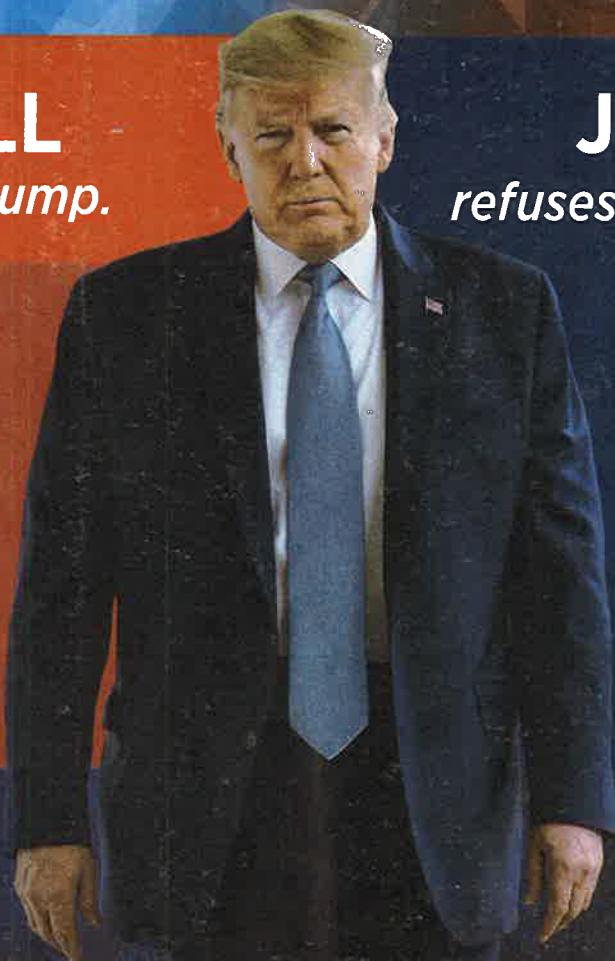
Bell is running for Congress “to carry the Donald J. Trump torch to Make America Great Again” and he is championing Trump’s election audit of every state to find out exactly what happened on Nov. 3, 2020.¹

JEN KIGGANS *refuses to support Donald Trump.*



Kiggans criticized Trump during his reelection campaign, acknowledged Biden was legitimately elected, and refuses to support a Trump reelection in 2024.²

SOURCES: 1) JAROME BELL CAMPAIGN WEBSITE, ACCESSED 5/24/22; VIRGINIAN-PILOT, 5/9/22; 2) RICHMOND TIMES-DISPATCH, 8/30/19, WASHINGTON POST, 3/30/22; FACEBOOK, JOHN FREDERICKS SHOW, 11/24/21.



ON JUNE 21 VOTE FOR THE
CANDIDATE WHO SHARES YOUR VALUES.

2022 CONSERVATIVE VOTER GUIDE.



See which candidate
for Congress stands
with President Trump.



Learn
more about
Jarome Bell and
Jen Kiggans...

MAILER 5

2022 CONSERVATIVE VOTER GUIDE



Jarome Bell
100% pro-life



Jen Kiggans
Criticized by
pro-life leaders

5 FSSC

PRESORT STD
MVPRINT
20708

VA02_2204

Which candidate shares your values?

JAROME BELL

100% Pro-Life

Believes life begins at conception without exception, supports defunding Planned Parenthood, and will fight to restrict abortion at every opportunity.

JEN KIGGANS

Criticized by pro-life leaders

Voted for the Equal Rights Amendment, which pro-life groups say could "lead to unrestricted abortions" and removed language promising to fight "infanticide" from her website.²

Sources: 1. Jarome Bell campaign website, accessed 5/22/22; 2. SJ 1, 1/15/20, The Family Foundation Action, 5/21, Blue Virginia, 7/17/19, NationalFile.com, 5/4/22.
Jarome Bell is a former member of the U.S. Navy. Use of his military rank, job titles, and photographs in uniform does not imply endorsement by the U.S. Navy or the Department of Defense.

MAILER 6



VOTE



A close-up photograph of a man's face in profile, facing left. He is wearing a red baseball cap with the word 'REPUBLICAN' visible on the front, a pair of glasses, and a blue denim shirt. The background is a plain, light-colored wall.

**MAKE A
PLAN TO
VOTE YOUR
VALUES.**

P-2 P169 35485 SCH 5-DIGIT 23456 FSSB
CYNTHIA STELLA TAMAYO FREE
OR CURRENT RESIDENT

VIRGINIA BEACH, VA 23456-1



2022 CONSERVATIVE VOTER GUIDE

JAROME BELL

Stands with Donald Trump 100%

Is running for Congress “to carry the Donald J. Trump torch to Make America Great Again.”¹



JEN KIGGANS

Refuses to support Donald Trump

Criticized Trump during his reelection campaign, acknowledged Biden was legitimately elected, and refuses to support a Trump reelection in 2024.²



Opposes abortion in all cases

Believes life begins at conception without exception, supports defunding Planned Parenthood, and will fight to restrict abortion at every opportunity.³



Criticized by pro-life leaders

Voted for the Equal Rights Amendment, which pro-life groups say could “lead to unrestricted abortions” and removed language promising to fight “infanticide” from her website.⁴

A champion for police

Will always stand proudly with law enforcement officers, defend the rule of law, and support hiring more police.⁵

Voted against police funding

Opposed funding for new police vehicles and voted against providing raises and one-time bonuses to State Police, Correctional Officers, and Sheriffs.⁶

WHO IS THE CONSERVATIVE CANDIDATE THAT WILL EARN YOUR VOTE ON JUNE 21?

MAILER 7

2022 Conservative Voter Guide

★ See where the candidates for Congress stand on supporting law enforcement. ★



P-2 P169 35485*****SCH 5-DIGIT 23456 FSSB
CYNTHIA STELLA TAMAYO FREE
OR CURRENT RESIDENT
[REDACTED]

VIRGINIA BEACH, VA 23456 [REDACTED]

[REDACTED]

Which candidate shares your values?

Jarome Bell

A champion for police.

Will always stand proudly with law enforcement officers, defend the rule of law, and support hiring more police.¹



Jen Kiggans

Voted against police funding.

Opposed funding for new police vehicles and voted against providing raises and one-time bonuses to State Police, Correctional Officers, and Sheriffs.²



On June 21 vote for the candidate who shares your values.

FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Unknown Respondents MURs 8016 and 8018

I. INTRODUCTION

8 MURs 8016 and 8018 arise from complaints alleging a violation of the disclaimer
9 provision of the Federal Election Campaign Act of 1971, as amended (the “Act”), and
10 Commission regulations. The Complaints allege that Virginia residents received mailers without
11 proper disclaimers advocating Jarome Bell’s candidacy during the 2022 Republican primary in
12 Virginia’s 2nd Congressional District. The Complaints include samples of the distributed
13 mailers bearing a logo of Allied Printing Trades Council Washington, owned by International
14 Allied Printing Trades Association (“IAPTA”), and a presort stamp with “MVP” initials, which
15 allegedly signify Mount Vernon Printing (“Mt. Vernon”), the company responsible for printing
16 and distributing the mailers.

17 As explained below, six of the seven mailers attached to the Complaints do not appear to
18 expressly advocate the election or defeat of a clearly identified federal candidate, and therefore
19 did not require disclaimers. However, because one mailer did contain express advocacy and
20 lacked the requisite disclaimers, the Commission finds reason to believe that Unknown
21 Respondent(s) violated 52 U.S.C. § 30120(a) and 11 C.F.R. § 110.11(a). Further, because the
22 expenditures made in connection with the mailer requiring disclaimers do not appear to have
23 been reported to the Commission, the Commission finds reason to believe that Unknown
24 Respondent(s) violated 52 U.S.C. § 30104(b) or (c), and/or (g).

MURs 8016 and 8018 (Unknown Respondents)

Factual and Legal Analysis

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1 II. FACTUAL BACKGROUND

2 Jarome Bell was a candidate in the June 21, 2022 Republican primary election for the
3 U.S. House of Representatives to represent Virginia's 2nd Congressional District.¹

4 The Complaints for MURs 8016 and 8018 allege that various mailers distributed to voters
5 appear to advocate for Bell, "at the expense of" his primary election opponents, without proper
6 disclaimers.² Based on the timing of the receipt of the Complaints and their supplements, the
7 mailers appear to have been disseminated within a month before the Republican Primary election
8 in 2022.³

9 The MUR 8016 Complaints included seven sample mailers that allegedly lacked
10 disclaimers;⁴ MUR 8018 submitted three of the same mailers included in MUR 8016 and no
11 other mailers.⁵

12 One mailer solely highlights Jarome Bell's position on three issues: support for Donald
13 Trump, police funding, and abortion, and invites the reader to "[l]earn more about Jarome Bell's
14 Conservative Record," calling him "[a]n America-First, Conservative Republican from Virginia

¹ *Jarome Bell*, BALLOTPEDIA, https://ballotpedia.org/Jarome_Bell%20 (last visited Mar. 5, 2024).

² *See* Comp. ¶¶ 3-4, MUR 8016 (June 6, 2022); Amended Comp. ¶ 3, MUR 8016 (June 6, 2022); Comp. ¶¶ 2-4, MUR 8018 (June 16, 2022). The mailers cite to the source of its information, which includes Jarome Bell's campaign website, last accessed on May 24, 2022. *See, e.g.*, Attach. 1, Mailer 5; *see also* Third Supp. Comp. at 2-3, MUR 8016; Comp. at 2-3, MUR 8018.

³ *See* Comp. at 1, MUR 8016.

⁴ The Complaint in MUR 8016 was filed as a series of amended and supplemented Complaints, each of which appended additional mailers. Compl. at 2-8, MUR 8016; Amended Compl. at 1-2, MUR 8016; First Supp. Compl. at 1-2 (June 22, 2022), MUR 8016; Second Supp. Compl. at 1-2 (June 22, 2022), MUR 8016; Third Supp. Compl. at 1-2 (June 29, 2022), MUR 8016; Fourth Supp. Compl. at 1-2 (June 29, 2022), MUR 8016; Fifth Supp. Compl. at 1-2 (July 6, 2022), MUR 8016. These complaints are collectively referred to as MUR 8016. The mailers have been compiled into one attachment. *See* Attach. 1.

⁵ *See* Attach. 1, Mailer 2; First Supp. Compl. at 2-3, MUR 8016 (June 22, 2022); Compl. at 6-7, MUR 8018; Attach. 1, Mailer 5; Third Supp. Compl. at 2-3, MUR 8016 (June 29, 2022); Compl. at 2-3, MUR 8018; Attach. 1, Mailer 6; Fourth Supp. Compl. at 2-3, MUR 8016 (June 29, 2022).

MURs 8016 and 8018 (Unknown Respondents)

Factual and Legal Analysis

Page 3 of 21

- 1 Beach.”⁶ That mailer also claims that Bell had been “endorsed” by Lt. Gen. Michael Flynn,”
- 2 “[f]ormer ICE Director under President Trump, Tom Homan,” and “Congressman Bob Good.”⁷
- 3 A second mailer solely features Jen Kiggans, asking the reader, “[d]oes Jen Kiggans share your
- 4 values?” while noting her position on the three same issues and her disavowal of Donald Trump.⁸
- 5 The full text of these mailers is as follows:

| | |
|----------|---|
| Mailer 1 | <p>The frontside of the mailer features a blown-up picture of Bell and his name, with the caption “An America-First Conservative Republican from Virginia Beach.”</p> <p>The backside of the mailer includes the caption, “As you get ready for Election Day, Learn more about Jarome Bell’s Conservative Record.” The left side of the mailer includes pictures of Bell standing in front of Donald Trump, who appears to be addressing him from a podium, and another picture of him posing with military personnel. At the center right of the mailer, it lists Bell’s position, i.e., “Proudly stands with Donald Trump;” “Opposes abortion in all cases;” “A champion for police.” Below this list is a list of endorsers for Bell’s candidacy, i.e., “Lt. Gen. Michael Flynn,” “Former ICE Director under President Trump, Tom Homan,” and “Congressman Bob Good.” Below this list of endorsers, is a final caption, “On June 21 vote for the candidate who shares your values.”</p> |
| Mailer 2 | <p>The frontside of the mailer shows a blown-up picture of a radio microphone, with a cartoon bubble signifying someone’s comment. The first comment in the bubble says, “Jen Kiggans . . . you can’t even say Trump’s name? Are you serious?” The follow-up comment, states “The guy’s name is Trump, Jen. . . It’s called MAGA, Jen. You can say it, Jen.” These quoted statements were attributed to “Conservative Radio Host John Frederick’s response after Congressional candidate Jen Kiggans refused to publicly say President Trump’s name on air.”</p> <p>The backside of the flyer includes a top caption, asking “Does Jen Kiggans share your values?” Below it, on the left side, it shows Kiggan’s picture publicly speaking, holding a microphone. On the right side of the flyer, it lists her position on the three above-named issues: (1) “Refuses to support Donald Trump. . .”; (2) “Criticized by pro-life leaders. . .”; (3) “Voted against police funding. . .” At the bottom of the flyer is a final caption, “Election Day is June 21. Polls are open 6:00 am – 7:00 pm.”</p> |

⁶ See Attach. 1, Mailer 1; Amended Compl. at 2-3, MUR 8016.

⁷ Attach. 1, Mailer 1; Amended Compl. at 2-3, MUR 8016.

⁸ See Attach. 1, Mailer 2; First Supp. Compl. at 2-3, MUR 8016; Compl. at 6-7, MUR 8018.

MURs 8016 and 8018 (Unknown Respondents)

Factual and Legal Analysis

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- 1 The five remaining mailers describe themselves as “2022 Conservative Voter Guide[s]”
- 2 encouraging voters to vote “on June 21, 2022 for the candidate who shares [their] values,”
- 3 comparing Jarome Bell’s to Jen Kiggans’s stance on abortion, police funding, and their
- 4 respective affiliation with Donald Trump:⁹

| | |
|----------|---|
| Mailer 3 | <p>Frontside of the mailer: Indicates that the mailer is a “2022 Conservative Voter Guide”. Subheading states “See Which Candidate for Congress Shares Your Values.”</p> <p>The page is vertically split: on the left side it shows a picture of Jarome Bell shaking Donald Trump’s hand; on the right side it shows a picture of Jen Kiggans with her supporters in the background.</p> <p>The bottom of the page says, “Make your choice on June 21.”</p> <p>Backside of the mailer: Includes a banner, stating “Who is the true conservative?” with pictures of Jarome Bell on the left side and Jen Kiggans on the right.</p> <p>Under Bell’s picture, the mailer states: (1) “Proudly stands with Donald Trump” “Is running for Congress ‘to carry [] Donald J. Trump’s torch to make America Great Again;’ (2) “Opposes abortion in all cases. . . [b]elieves life begins at conception without exception. . .”; (3) “A champion for police . . . [w]ill always stand proudly with law enforcement officers, defend the rule of law, and support hiring more police.</p> <p>Under Kiggans’s picture, it states: (1) “Refuses to support Donald Trump . . . [c]riticized Trump during his reelection campaign, acknowledged Biden [was] legitimately elected, and refuses to support a Trump reelection in 2024;” (2) “Criticized by pro-life leaders. . . [v]oted for Equal Rights Amendment, which pro-life groups say could ‘lead to unrestricted abortions’ and removed language promising to fight ‘infanticide’ from her website;” (3) “Voted against police funding. . . [o]pposed funding for new police vehicles and voted against providing raises and one-time bonuses to State Police, Correctional Officers, and Sheriffs.”</p> <p>At the bottom of the page is a caption: “On June 21 vote for the candidate who shares your values.”</p> |
|----------|---|

⁹ See Attach. 1, Mailer 3; Compl. at 2-3, MUR 8016; Attach. 1, Mailer 4; Second Supp. Compl. at 2-3, MUR 8016; Attach. 1, Mailer 5; Third Supp. Compl. at 2-3, MUR 8016; Compl. at 2-3, MUR 8018. Attach. 1, Mailer 6; Fourth Supp. Compl. at 2-3, MUR 8016; Compl. at 4-5, MUR 8018; Attach. 1, Mailer 7; Fifth Suppl. Compl. at 2-3, MUR 8016.

MURs 8016 and 8018 (Unknown Respondents)

Factual and Legal Analysis

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| | |
|----------|---|
| Mailer 4 | <p>Frontside of mailer: Top banner states: “2022 Conservative Voter Guide”. The entire page features a picture of Donald Trump with the American Flag in the backdrop. On the lower left-hand portion of the page, it states: “See which candidate for Congress stands with President Trump.” On the lower right-hand section, it features an arrow directing the reader to flip the page with instructions: “Learn more about Jarome Bell and Jen Kiggans. . .”</p> <p>Backside of the mailer: The mailer is vertically split in half with a picture of Donald Trump at the center of the page. On the left side of Trump’s picture, the mailer features Bell with a snapshot of Bell shaking Trump’s hand and a caption, “100% with Donald Trump.” Next to Bell’s snapshot picture, it states “Bell is running for Congress ‘to carry the Donald J. Trump torch to Make America Great Again and he is championing Trump’s election audit of every state to find out exactly what happened on Nov. 3, 2020.”</p> <p>On the right side of Trump’s picture, the mailer features Jen Kiggans, with her snapshot picture and a caption, stating “refuses to support Donald Trump.” Next to Kiggans’s picture, it states, “Kiggans criticized Trump during his reelection campaign, acknowledged Biden was legitimately elected and refuses to support a Trump reelection in 2024.”</p> <p>The bottom caption of the page reads, “ On June 21 Vote For the Candidate Who Shares Your Values.”</p> |
| Mailer 5 | <p>Frontside of the mailer: Top caption states, “2022 Conservative Voter Guide.” On the left side it shows a blown-up background image of a woman placing her hands on her womb. On the right side, it shows Bell’s snapshot picture with his name and a caption, “100% pro-life”. Below his image and caption is Kiggans’s picture and her name with the caption “Criticized by pro-life leaders.”</p> <p>Backside of the mailer: Top caption states: “Which candidate shares your values?” At the center of the page is a picture of an infant, vertically dividing the page. On the left side of the picture is “Jarome Bell” and “100% pro-life”. On the right side is “Jen Kiggans” and “Criticized by pro-life leaders.”</p> |
| Mailer 6 | <p>Frontside of the mailer: Picture of an elderly White male voter and the American flag. Under the flag is “Vote.” On the right-hand side of the page is a boxed caption: “Make a Plan to Vote Your Values.”</p> <p>Backside of the mailer: Top header states “2022 Conservative Voter Guide”. The page is split vertically with three snapshot pictures at the center dividing the page: Donald Trump, an infant, and two police men.</p> |

MURs 8016 and 8018 (Unknown Respondents)

Factual and Legal Analysis

Page 6 of 21

| | |
|----------|---|
| | <p>On the left side, the mailer features Bell, with a picture of him shaking Trump's hand. Below his name, it lists his positions on three issues (same information featured in the backside of Mailer 3.)</p> <p>On the right side, the mailer features Kiggans, and her position on the three issues (same information featured in the backside of Mailer 3.)</p> <p>At the bottom of the page, a caption reads, "WHO IS THE CONSERVATIVE CANDIDATE THAT WILL EARN YOUR VOTE ON JUNE 21?"</p> |
| Mailer 7 | <p>Frontside of the mailer: Top caption reads, "2022 Conservative Voter Guide" with a sub-caption, "See where the candidates for Congress stand on supporting law enforcement." In the backdrop, the mailer shows a picture of police cars in a row.</p> <p>Backside of mailer: Top caption reads, "Which candidate shares your values?" Below it, the page is vertically divided: on the left side is Bell's name and his picture shaking Donald Trump's hand, with a side caption, "A champion for police" and "Will always stand proudly with law enforcement offices, defend the rule of law, and support hiring more police." On the right side, it shows Kiggans picture with her supporters in the background, with a side caption, "Voted against police funding" and "Opposed funding for new police vehicles and voted against providing raises and one-time bonuses to State Police, Correctional Officers, and Sheriff."</p> <p>At the bottom of the page, a caption reads, "On June 21 vote for the candidate who shares your values."</p> |

1 **III. LEGAL ANALYSIS**

2 The Act and Commission regulations require a disclaimer on certain types of
 3 communications identifying who paid for the communication and, where applicable, whether a
 4 communication was authorized by a candidate. Among other communications, disclaimers are
 5 required on all "public communications" made by a political committee and on all publicly
 6 available internet websites of a political committee.¹⁰ Disclaimers are also required on all
 7 "public communications" made by any person that expressly advocate the election or defeat of a

¹⁰

11 C.F.R. § 110.11(a)(1).

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1 clearly identified¹¹ federal candidate or solicit contributions.¹² The term “public
2 communication” is defined as a communication by means of any broadcast, cable, or satellite
3 communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone
4 bank to the general public, or any other form of general public political advertising.¹³ “Mass
5 mailing” means “a mailing by United States mail or facsimile of more than 500 pieces of mail
6 matter of an identical or substantially similar nature within any 30-day period.”¹⁴

7 The record does not conclusively establish that each mailer meets the definition of a
8 “mass mailing,” but such proof is not required at the preliminary stage of administrative
9 enforcement.¹⁵ Recently, in MUR 7543, the Commission determined that the record sufficiently
10 indicated a mass mailing despite the fact that the Complaint did not specify the number of
11 mailings.¹⁶ In that case, the Commission considered the mailer’s professional appearance, the
12 inclusion of a U.S. Postal Service (“USPS”) permit imprint, and the level of voter turnout in the
13 relevant election as indicative of a mass mailing.¹⁷

14 Like in MUR 7543, each mailer in both MURs 8016 and 8018 was sent via USPS
15 Marketing Mail (formerly Standard Mail), which means, at a minimum, *at least* 200 copies of

¹¹ The term “clearly identified” means “the candidate’s name, nickname, photograph, or drawing appears, or the identity of the candidate is otherwise apparent through an unambiguous reference such as ‘the President,’ ‘your Congressman,’ or the ‘the incumbent,’ or through an unambiguous reference to his or her status as a candidate such as ‘the Democratic presidential nominee’ or ‘the Republican candidate for Senate in the State of Georgia.’” 11 C.F.R. § 100.17.

¹² 52 U.S.C. § 30120(a); 11 C.F.R. § 110.11(a)-(c).

¹³ 11 C.F.R. §100.26.

¹⁴ *Id.* §100.27.

¹⁵ See Factual and Legal Analysis (“F&LA”) at 5, MUR 7543 (Jefferson United, Inc.).

¹⁶ *Id.*

¹⁷ *Id.*; see also F&LA at 10, MUR 7537 (Unknown Respondents) (concluding mailers were likely public communications because they appeared professionally produced and were sent via USPS bulk mail).

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1 each mailer were distributed.¹⁸ Second, as in MUR 7543, each mailer in these matters appears
 2 professionally produced. Indeed, Mt. Vernon, the printing company alleged to have printed the
 3 mailers at issue, is “a full-service [. . .] organization backed by print and mail production, . . .
 4 [s]erving DC-Baltimore area since 1917.”¹⁹ Finally, the voter turnout in the relevant election —
 5 the Republican primary election for Virginia’s 2nd Congressional District — was 41,544, which
 6 indicates that the mailers likely exceeded 500 pieces.²⁰ Hence, it appears likely that the mailers
 7 meet the definition of a “mass mailing.”

8 Because each mailer appears to meet the definition of a “mass mailing” and qualifies as a
 9 “public communication,” any mailer that expressly advocates must include a disclaimer.²¹ A
 10 communication expressly advocates under 11 C.F.R. § 100.22(a) if it:

11 “[u]ses phrases such as ‘vote for the President,’ ‘re-elect your
 12 Congressman,’ ‘support the Democratic nominee,’ ‘cast your ballot
 13 for the Republican challenger for U.S. Senate in Georgia,’ ‘Smith
 14 for Congress,’ ‘Bill McKay in ‘94,’ ‘vote Pro-Life’ or ‘vote Pro-
 15 Choice’ accompanied by a listing of clearly identified candidates
 16 described as Pro-Life or Pro-Choice, ‘vote against Old Hickory,’
 17 ‘defeat’ accompanied by a picture of one or more candidate(s),
 18 ‘reject the incumbent,’ or communications of campaign slogan(s) or
 19 individual word(s), which in context can have no other reasonable
 20 meaning than to urge the election or defeat of one or more clearly
 21 identified candidate(s), such as posters, bumper stickers,
 22 advertisements, etc. which say “‘Nixon’s the One,’ ‘Carter ’76,’
 23 ‘Reagan/Bush’ or ‘Mondale!’”²²

24 A communication expressly advocates under 11 C.F.R. § 100.22(b) if:

¹⁸ See USPS, <https://pe.usps.com/businessmail101?ViewName=StandardMail> (last visited May 15, 2024).

¹⁹ See Mount Vernon Printing Company, <https://www.rrd.com/locations/mount-vernon-printing> (last visited April 30, 2024); *see also* Amended Comp. at 1, MUR 8016 (alleging that Mt. Vernon printed the mailers at issue).

²⁰ Virginia’s 2nd Congressional District election, 2022,
https://ballotpedia.org/Virginia%27s_2nd_Congressional_District_election,_2022 (last visited May 15, 2024).

²¹ 11 C.F.R. §110.11 (a)(2).

²² *Id.* § 100.22 (a).

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1 “[w]hen taken as a whole and with limited reference to external
2 events, such as the proximity to the election, could only be
3 interpreted by a reasonable person as containing advocacy of the
4 election or defeat of one or more clearly identified candidate(s)
5 because—

6 (1) The electoral portion of the communication is unmistakable,
7 unambiguous, and suggestive of only one meaning; and

8 (2) Reasonable minds could not differ as to whether it
9 encourages actions to elect or defeat one or more clearly identified
10 candidate(s) or encourages some other kind of action.”²³

11 The available information indicates that the communication – which does not appear to

12 be authorized by a candidate or an authorized committee – must clearly state the name and

13 permanent street address, telephone number, or web address of the person who paid for the

14 communication and must state that the communication was not authorized by any candidate or

15 candidate’s committee, if the content of the mailer constitutes express advocacy.²⁴ Disclaimers

16 in printed materials must be presented in a clear and conspicuous manner and meet specific

17 requirements, such as being of sufficient type size to be clearly readable and being placed in a

18 printed box set apart from the other parts of the communication.²⁵

19 **A. Unknown Respondents Violated the Disclaimer Requirement of The Act.**

20 1. One Mailer Contains Express Advocacy and Should Have Included a
21 Disclaimer

22 The mailer appended to the MUR 8016, Amended Complaint and attached to this report

23 as “Mailer 1,” appears to contain express advocacy under 11 C.F.R. § 100.22(a) and (b). With

24 respect to section 100.22(a), a communication expressly advocates for a candidate when it is a

²³ *Id.* § 100.22(b). 11 C.F.R. § 100.22(b); *see Real Truth About Abortion v. FEC*, 681 F.3d 544, 552-56 (4th Cir. 2012) (upholding 11 C.F.R. § 100.22(b) against a constitutional challenge).

²⁴ 52 U.S.C. § 30120(a)(3); 11 C.F.R. § 110.11(a)(2); (b)(3).

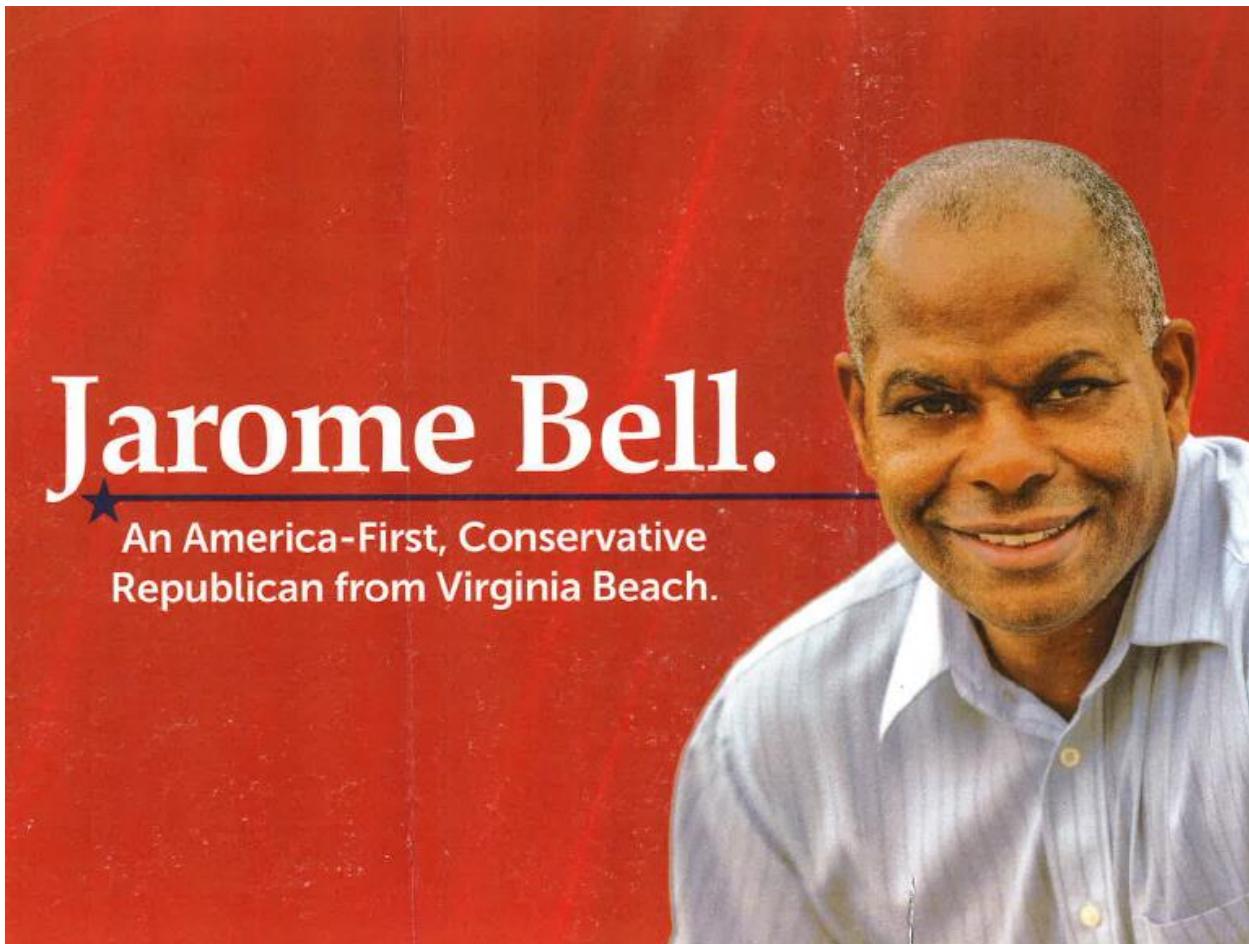
²⁵ 52 U.S.C. § 30120(c); 11 C.F.R. § 110.11(c).

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- 1 “communication[] of campaign slogan(s).”²⁶ The front of Mailer 1 consists solely of an image of
- 2 Bell, his name, and the phrase “An America-First, Conservative Republican from Virginia
- 3 Beach:”²⁷



4

- 5 This phrase appears to be a campaign slogan, as it was also featured at the head of Bell’s
- 6 campaign website:²⁸

²⁶ 11 C.F.R. § 100.22(a).

²⁷ Attach. 1, Mailer 1.

²⁸ <https://jaromebellforcongress.com/>
[<https://web.archive.org/web/20220510160425/https://jaromebellforcongress.com/>].

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CHIEF JAROME BELL - FIGHTING FOR ALL AMERICANS

I'm Jarome Bell. I'm an America-First, Conservative Republican from Virginia Beach, running in Virginia's 2nd congressional district. Having dedicated my life to a career in the Navy, retired as Chief Petty Officer after 27 years, I'm turning my attention to once again serve this great nation by working to continue to carry the Donald J Trump torch to Make America Great Again in the United States House of Representatives.

I'm running for Congress to defend our republic against the foreign and domestic enemies to our Constitution, to which I swore an oath as a member of our Armed Forces — an oath that does not expire. Join our America First Movement.



1

- 2 Moreover, the picture of Bell featured on the mailer appears to be a taken from his campaign
3 website:²⁹



- 4
5 The unambiguous inclusion of a campaign slogan is sufficient to establish that a communication
6 is express advocacy under 100.22(a).³⁰ The slogan used in this mailer, promoting Bell's

²⁹ *Id.*

³⁰ See F&LA at 11, MUR 7982 (LUPE Votes, *et al*) (the Commission noted that “the mailers and the door hangers expressly advocate for the election of Vallejo by stating ‘Michelle Vallejo Democrat For U.S. Congress,’” citing 11 C.F.R. § 100.22(a) [,] “a communication contains express advocacy when, among other things, it uses

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1 candidacy as “An America-First Conservative” along with the electoral portion, exhorting the
 2 viewer to vote on June 21, which, taken in context can have no other reasonable meaning than to
 3 urge the election or defeat of one or more candidates, is comparable to advertisements bearing
 4 statements such as ‘*Smith for Congress*’ and ‘*Bill McKay in '94*,’ which are examples cited
 5 under 100.22(a).

6 In addition, this mailer appears to meet the definition of express advocacy under
 7 100.22(b) because it advocates Bell’s candidacy, “[w]hen taken as a whole and with limited
 8 reference to external events, such as the proximity to the election.”³¹ First, the electoral portion
 9 of the mailer is clear because, in addition to the unambiguous slogan and image of Bell on the
 10 front side of the mailer, the back side of the mailer exhorts the reader to, “[a]s you get ready for
 11 Election Day, Learn more about Jarome Bell’s Conservative Record.”³² It further reminds voters
 12 to “get ready for Election Day . . . on June 21.”³³

13 Second, reasonable minds could not differ as to whether the mailer encourages the
 14 election of Bell. The mailer includes endorsements by three prominent Republican-affiliated
 15 figures: Lieutenant General Michael Flynn, Tom Homan (former ICE Director under Donald
 16 Trump), and Congressman Bob Goodman which constitute express advocacy. The Commission
 17 has consistently determined that an endorsement of a federal candidate constitutes express

campaign slogans or individual words such as “Smith for Congress,” and “Bill McKay in ‘94,” which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate); F&LA at 8, MUR 5831 (Softer Voices) (finding that Softer Voices’ advertisement contains express advocacy under 11 C.F.R. § 100.22 (a) by using a slogan that identifies Santorum, and references his office while exhorting the defeat of that candidate’s opposition, noting that the slogan was “centered on the candidate and references personal characteristics” to encourage the viewers “to vote for Santorum”).

³¹ 11 C.F.R. § 100.22(b).

³² Attach 1, Mailer 1.

³³ *Id.*

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1 advocacy.³⁴ For example, in MUR 6861 (Williams, *et al.*), the Commission explained that
2 “billboards, yard signs, flyers, advertisements, and radio and television advertisements to the
3 general public. . .that endorsed federal candidates . . . expressly advocated the election of clearly
4 identified federal candidates and therefore qualified as public communications that required
5 proper disclaimers.”³⁵

6 Moreover, Mailer 1 solely features Bell and introduces his position to the Republican
7 electorate within a month of the Republican primary election, while referring to him as “[a]n
8 America-First Conservative,” appear to be an unambiguous endorsement of his campaign. The
9 caption, “America-First Conservative,” which extols Bell as a premier conservative, without
10 comparing him to another candidate whose position on certain issues may challenge his claim as
11 a first-rate conservative, appears to be an unmistakable promotion of his candidacy. Unlike
12 Mailers 3-7 discussed below, which introduce Bell’s position alongside the position of another
13 Republican candidate that could challenge his brand of conservatism, Mailer 1 includes
14 superlative characterization of Bell’s position, unchallenged, which, short of instructing the voter
15 to vote for Bell, amounts to advocacy.³⁶

16 In addition, Commission regulations specify that “proximity to the election” is a
17 permissible external event to consider when determining whether a communication has a

³⁴ See, e.g., F&LA at 6-7, MUR 6861 (Williams, *et al.*) (yard sign saying respondent “has endorsed” candidate is express advocacy); Gen. Counsel’s F&LA at 2 (sign stating candidate was “endorsed by Christian Voice” was express advocacy) & Cert. ¶ 2 (Nov. 27, 1984), MUR 1711 (Christian Voice Moral Government Fund).

³⁵ F&LA at 7, MUR 6861 (Williams, *et al.*).

³⁶ See *MCFL and FEC v. Christian Coalition*, 52 F. Supp. 2d 45, 62 (D.D.C. 1999) (noting the Court’s finding that MCFL newsletter’s exhortation to “VOTE PRO-LIFE” provided “in effect an explicit directive” to vote for the candidates favored by MCFL, and that “[t]he fact that [a] message is marginally less direct than ‘Vote for Smith’ does not change its essential nature”).

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1 reasonable, non-electoral meaning.³⁷ Here, the mailers were reportedly mailed to complainants
2 around June 1, 2022 until the run-up to the election on June 21, 2022.³⁸ The timing of the
3 mailers' release during the Republican primary election make clear its electoral meaning to its
4 recipient.

5 Mailer 1 therefore constitutes express advocacy, subject to the disclaimer provision of the
6 Act. Therefore, it appears that the unknown producer(s) of the mailer violated the Act by
7 circulating a public communication containing express advocacy without proper disclaimers.³⁹
8 There is no information on the materials indicating who paid for this mailer and it remains
9 unverified whether this particular mailer was authorized by a candidate's committee.⁴⁰
10 Accordingly, the Commission finds reason to believe that Unknown Respondent(s) violated
11 52 U.S.C. § 30120(a) by failing to include a disclaimer on the mailer.⁴¹

12 2. The “Does Jen Kiggans Share Your Values?” Mailer Does Not Clearly
13 Advocate for the Election or Defeat of a Federal Candidate

14 Mailer 2 describes Kiggan's position on several issues – it does not mention Bell at all –
15 and asks the reader “Does Jen Kiggans share your values?”⁴² On its face, this mailer lacks an
16 explicit and unambiguous directive against Kiggans such as “Vote for” or “Defeat” followed by

³⁷ 11 C.F.R. § 100.22(b); *FEC v. Furgatch*, 807 F.2d 857, 865 (9th Cir. 1987) (“The ad . . . fails to state expressly the precise action called for, leaving an obvious blank that the reader is compelled to fill in. . . . Timing the appearance of the advertisement less than a week before the election left no doubt of the action proposed.”).

³⁸ See Compl. at 1, MUR 8016; Amended Compl. at 1, MUR 8016; First Supp. Compl. at 1, MUR 8016; Second Supp. at 1, MUR 8016; Third Supp. at 1, MUR 8016; Fourth Supp. at 1, MUR 8016; Fifth Supp. at 1, MUR 8016; Comp. at 1, MUR 8018.

³⁹ See Attach. 1, Mailer 1.

⁴⁰ See GDA Wins Resp. at 1.

⁴¹ See F&LA at 2, MUR 6642 (Christopher Kauffman) (finding reason to believe that unknown respondents violated the Act by providing insufficient disclaimers on a billboard and failing to report an independent expenditure but ultimately taking no action as to the later-identified respondent because the \$3,000 cost of the billboard was *de minimis* and the respondent was a private citizen acting alone).

⁴² Attach. 1, Mailer 2; First Supp. Compl. at 2-3, MUR 8016.

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1 a clearly identified candidate,⁴³ and therefore would not constitute as express advocacy under
 2 11 C.F.R. § 100.22 (a). Mailer 2's contents also do not amount to express advocacy under
 3 11 C.F.R. § 100.22 (b) because “[w]hen taken as a whole and with limited reference to external
 4 events, such as the proximity to the election,” the information could not be solely interpreted as
 5 calling for the Kiggans's defeat. The electoral portion of the communication is unmistakable in
 6 that the mailer informs the reader of the June 21 election.⁴⁴ Despite the negative slant in
 7 describing her position, i.e. “[r]efuses to support Donald Trump,” “[c]riticized by pro-life
 8 leaders,” “[v]oted against police funding,” such criticism does not equate to a directive to vote
 9 against the candidate.⁴⁵ As such, it appears that reasonable minds could differ as to whether the

⁴³ 11 C.F.R. § 100.22 (a); Express Advocacy; Independent Expenditures; Corporate and Labor Organization Expenditures, 60 Fed. Reg. 35,292, 35,294-95 (July 6, 1995) (“Express Advocacy E&J”); *see also* F&LA at 4-5, MUR 6170 (Tuscola County Democratic Committee) (determining that advertisements contained express advocacy under 11 C.F.R. § 100.22(a) because “[t]he use of the words “Elect” and “Re-elect” next to the names of Federal candidates fall squarely within the definition of express advocacy”); Conciliation Agreement ¶ 8, MUR 4313(Coalition for Good Government, Inc.) (“By prominently displaying Senator Lugar’s image and campaign bumper sticker reading “Lugar for President” in a television advertisement, the [Respondent] expressly advocated Senator Lugar’s election.”).

⁴⁴ *See, e.g.*, F&LA at 11, MUR 7839 (Westerleigh Press, Inc., et al.) (finding no reason to believe a violation occurred because “[t]he mailings do not contain any reference to an election or call on the reader to take any electoral action”); F&LA at 6-8, MUR 6122 (Nat'l Ass'n of Home Builders) (finding no reason to believe respondent made prohibited in-kind contribution because, on the whole, the subject mailing lacked a clear directive to take electoral action and was, therefore, not express advocacy); F&LA at 5-6, MUR 5854 (The Lantern Project) (finding no express advocacy where the communications “lack . . . any electoral directives”); *see also FEC v. Furgatch*, 807 F.2d 857, 865 (9th Cir. 1987) (“The ad . . . fails to state expressly the precise action called for, leaving an obvious blank that the reader is compelled to fill in. . . . Timing the appearance of the advertisement less than a week before the election left no doubt of the action proposed.”).

⁴⁵ *See* F&LA at 2, MUR 7839 (Westerleigh Press, Inc., et al.) (stating that criticism on a purported position does not constitute express advocacy); *see also* F&LA at 5-6, MUR 5854 (The Lantern Project) (finding no express advocacy where “the overwhelming focus of the communication is on issues and [the officeholder’s] policies or positions on those issues” and the communications “lack . . . any electoral directives”); *cf.* F&LA at 4-5, MUR 7150 (New Yorkers Together) (finding no reason to believe the respondent violated the disclaimer or independent expenditure reporting requirements of the Act, where the mailing included a candidate’s statements on abortion and alleged disregard for women’s health, yet did not contain express advocacy because it did not mention the candidate as a federal candidate, did not mention the federal election, and did not exhort recipients to vote for the candidate, and contained an exhortation to vote against a state candidate); F&LA at 6-8, MUR 6122 (Nat'l Ass'n of Home Builders) (finding no reason to believe respondent made prohibited in-kind contribution because, on the whole, the subject mailing lacked a clear directive to take electoral action and was, therefore, not express advocacy).

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1 mailer expressly advocates for the defeat of Kiggans. Accordingly, Mailer 2 appended to this
2 report did not require a disclaimer under the Act.

3 3. Five of the Seven Mailers Are Not Subject to Disclaimer Requirements
4 Because They Are Reasonably Interpreted as Voter Guides That Do Not
5 Contain Express Advocacy

6 The Commission’s regulations allow for the “prepar[ation] and distribut[ion] to the
7 general public voter guides consisting of two or more candidates’ positions on campaign issues”
8 provided that they comply with certain restrictions set forth in the regulation, including that they
9 not expressly advocate the election or defeat of a clearly identified candidate.⁴⁶ Five of the
10 mailers in these cases claim to be “2022 Conservative Voter Guides”⁴⁷ and appear to qualify
11 under the applicable regulation.

12 Based on the language of these mailers, and taking into account their relevant context, on
13 balance, these mailers do not expressly advocate the election or defeat of a clearly identified
14 candidate. First, these guides do not include words that “in effect” serve as explicit directives,
15 urging the election or defeat of any of the identified candidates, e.g., *vote for the President*, ‘*re-*
16 *elect your Congressman*,’ or ‘*vote against Old Hickory*,’ ‘*reject the incumbent*,’ under
17 11 C.F.R. 100.22(a).⁴⁸ Because none of these mailers use the sorts of phrases, campaign slogans,
18 or individual words that constitute express advocacy under 11 C.F.R. § 100.22(a), we analyze
19 whether the mailers expressly advocate under 11 C.F.R. § 100.22(b).

20 Under 11 C.F.R. 100.22(b), reasonable minds could differ as to whether the voter guides
21 expressly advocate for any specific candidate. The electoral portion of these mailers is clear in

⁴⁶ 11 C.F.R. § 114.4(c)(5).

⁴⁷ See Attach. 1, Mailers 3-7.

⁴⁸ See *supra* note 63.

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1 that they are labeled as “Voter Guides” and exhort the reader to “vote for a candidate that shares
2 their values . . . on June 21.”⁴⁹ However, they do not appear to expressly advocate for Bell or
3 against Kiggan.

4 The guides compare Bell’s and Kiggans’s positions with respect to three issues without
5 necessarily marking a preference for a particular candidate.⁵⁰ In Mailers 3-7, the voter guides list
6 Bell’s and Kiggans’ position with respect to Donald Trump, abortion, and police funding, while
7 asking the voter to determine who is the “true conservative,”⁵¹ illustrating Bell as supportive of
8 Trump, and Kiggans as critical of him.⁵² While the mailers represent themselves as
9 “Conservative Voter Guide[s],” it does not indicate whether support of Trump constitutes a
10 “conservative” position. With regard to abortion and police funding, based on the information
11 contained within the mailers, they do not take a position on whether increased governmental
12 regulation of abortion, or support for additional governmental spending on police force would
13 constitute true conservatism, nor does it exhort readers to align themselves with Bell’s or
14 Kiggans’s position on these issues. Instead, the mailers instruct the electorate to “vote for the
15 candidate who shares [their] values.”

⁴⁹ See Attach. 1, Mailers 3-7.

⁵⁰ See F&LA at 6-7, MUR 7557 (Center for Voter Information) (determining voter guide did not expressly advocate because “each candidate was given equal space without markings indicating a preference for either candidate. The information about the candidates’ positions are stated only as “yes” or “no,” . . . and are based on information contained on the candidates’ website or the public record”); F&LA at 5, MUR 5874 (Gun Owners of America, Inc.) (noting that the voter guide did not contain express advocacy under 11 C.F.R. § 100.22(a) for failing to “mark a preference for a . . . candidate.”); First GCR at 12 (website’s display of candidate’s voting records in relation to organization’s preferred positions, even if considered a voter guide, did not expressly advocate despite failing to “present the candidates’ positions in a neutral manner”) & Cert. ¶ 1 (Feb. 27, 2004), MUR 5342 (U.S. Chamber of Commerce) (adopting OGC’s recommendations).

⁵¹ See Attach. 1, Mailers 3-7.

⁵² *Id.*

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1 In MUR 5874, (Gun Owners of America), the Commission examined a voter guide that
 2 rated each Senate and Congressional candidate based on his or her position on gun issues, and
 3 each candidate was rated on a scale from “A+” to “F” with an additional rating of “NR” for
 4 candidates who refused to answer the questionnaire seeking information for the ratings, or had
 5 no record on gun issues.⁵³ The Commission concluded that because the guide did not contain
 6 markings of preference for any particular candidate, there was no language encouraging voters to
 7 vote for an identified candidate, and because the guide did not contain “extraneous commentary
 8 about voting or about the candidates,” reasonable minds could differ as to whether the voter
 9 guide expressly advocates for any specific candidate.⁵⁴ More recently, in MUR 7557 (Center for
 10 Voter Information), the Commission determined that a voter guide did not expressly advocate
 11 because “each candidate was given equal space without markings indicating a preference for
 12 either candidate. The information about the candidates’ positions is stated only as ‘yes’ or
 13 ‘no,’ . . . and are based on information contained on the candidates’ website or the public
 14 record.”⁵⁵

15 Here, the mailers do not appear to expressly advocate for Bell, for the same reasons
 16 articulated in MUR 5874. Mailers 3-7 show that: (1) the space on the mailers is divided equally

⁵³ F&LA at 4-6, MUR 5874 (Gun Owners of America, Inc.).

⁵⁴ *Id.* at 5; *see also* F&LA at 8-10, MUR 6683 (Fort Bend County Democratic Party) (allocating costs of voter guide that expressly advocated the election of a federal candidate); F&LA at 4, MUR 5820 (ACORN) (materials used for voter registration and GOTV efforts that did not include express advocacy and were not partisan did not trigger political committee status). More recently, in MUR 7416 (Unknown Respondents), the Commission split on the question of whether a voter guide had “unambiguous, unmistakable meaning” when it described one candidate as being a “[s]trong supporter of President Trump” and claimed he would “fight for additional tax cuts in Congress” and a second candidate as having “[c]riticized Trump during the 2016 campaign” and as someone who “[b]roke his promise to never raise out taxes. Statement of Reasons (“SOR”), Comm’rs. Petersen & Hunter at 1-2, MUR 7416 (Unknown Respondent) (Aug. 29, 2019).

⁵⁵ F&LA at 6-7, MUR 7557 (Center for Voter Information); *See also* in relation to organization’s preferred positions, even if considered a voter guide, did not expressly advocate despite failing to “present the candidates’ positions in a neutral manner”).

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1 to feature Bell's and Kiggans's positions on the same issues; (2) there are no marks that signal a
2 preference for one candidate; and (3) the discussion of the issues as it pertains to each candidate
3 does not advocate the election of one or the other.⁵⁶ In comparing each candidate's stance on the
4 issues, the mailers also do not exhibit content that clearly maligns a candidate's character or
5 qualifications.⁵⁷ Because Mailers 3-7 do not appear to constitute express advocacy, a disclaimer
6 was not required.

7 **B. Unknown Respondents Who Produced Mailers Subject to the Disclaimer
8 Requirements Are Subject to Reporting Requirements Under 52 U.S.C.
9 § 30104(b) or (c), (g)**

10 According to GDA Wins, its client, the Unknown Respondent, is not a federal political
11 committee, and the mailers were not coordinated with any federal candidate or party
12 Committee.⁵⁸ If GDA Wins' representation is true, given that the mailer contained in Mailer 1
13 constitutes express advocacy, under 11 C.F.R. § 100.22(a) or (b), Unknown Respondent(s) may
14 be subject to reporting violations for failing to report the mailers as independent expenditures
15 under 52 U.S.C. § 30104(b) or (c), (g). Independent expenditures are expenditures by a person
16 for a communication that expressly advocates the election or defeat of a clearly identified
17 candidate, and that is not made in cooperation, consultation, or concert with, or at the request or
18 suggestion of a candidate, their authorized committee, their agents, or a political party committee

⁵⁶ See Attach. 1, Mailers 3-7.

⁵⁷ See Express Advocacy E&J at 35,295. In MURs 5511, 5525 (Swift Boat Veterans, et al.), the Commission concluded that attacks on a candidate's character, fitness for public office, and capacity to lead, including phrases such as "JOHN KERRY CANNOT BE TRUSTED" and "unfit for command" were indicative of an electoral portion. Conciliation Agreement ¶¶ IV.25-28, MURs 5511, 5525; cf. F&LA at 12, MUR 7839 (Westerleigh Press, Inc., et al.) (finding communications were not express advocacy under 11 C.F.R. § 100.22(b) when, among other factors, they "do not refer to the incumbents as candidates in a federal election and do not mention their political opponents" and the "focus of the communications is on the incumbents' stances on policy or pending legislation, and the target of the advertisement is a current officeholder with the ability to effect change on the policy").

⁵⁸ *Id.*

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1 or its agents.⁵⁹ The Act and Commission regulations set out reporting requirements for persons
2 other than political committees who make independent expenditures aggregating more than \$250
3 in a given election in a calendar year.⁶⁰ Political committees and other persons that make or
4 contract to make independent expenditures after the 20th day, but more than 24 hours before an
5 election must disclose the activity within 24 hours each time that the expenditures aggregate
6 \$1,000 or more.⁶¹

7 The available information suggests that the expenditures for the mailer likely exceeded
8 \$250 because it appears that the mailer was part of a mass mailing.⁶² Therefore, it should have
9 been disclosed to the Commission, either as an independent expenditure or as a communication
10 made by a political committee. However, the Commission's database shows no independent
11 expenditures paid to GDA Wins, IAPTA, or Mt. Vernon in connection with Bell.⁶³ Moreover,
12 the only disbursements paid to any of these three respondents around the time of the mailers in
13 question were to GDA Wins from the Ohio Democratic Party, which do not appear to be related

⁵⁹ 11 C.F.R. § 100.16(a).

⁶⁰ 52 U.S.C. § 30104(c); *see also* 11 C.F.R. § 109.10(b), (e) (requiring the filing of disclosure reports containing, among other things, the reporting person's identification information; identification of the person to whom the expenditure is made, and the amount, date, and purpose of the expenditure; and whether the expenditure was in support of or in opposition to a candidate, together with the candidate's name and office sought).

⁶¹ 52 U.S.C. § 30104(g); 11 C.F.R. § 109.10(d). The MUR 8016 Amended Complaint was dated June 6, 2022, and the mailer was most likely received around end of May or early June, 2022. The Republican Primary election was held on June 21, 2022, *see Republican Primaries in Virginia, 2022*, Ballotpedia, https://ballotpedia.org/Republican_Party_primaries_in_Virginia,_2022 (last visited Mar. 7, 2024). Based on this information, it appears that party responsible for the mailers may have been subject to 52 U.S.C. § 30104(g); 11 C.F.R. § 109.10(d) because it is likely that the persons who produced the mailers made or contracted to make independent expenditures after the 20th day, but more than 24 hours before an election.

⁶² *Supra* p. 11.

⁶³ FEC *Independent Expenditures: Filtered Results*, FEC.GOV, https://www.fec.gov/data/independent-expenditures/?data_type=processed&most_recent=true&is_notice=true&candidate_id=H0VA02175 (reflecting independent expenditures in support of or opposition to Bell).

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- 1 to these mailers.⁶⁴ Accordingly, the Commission finds reason to believe that Unknown
- 2 Respondent(s) violated 52 U.S.C. § 30104(b) or (c) by failing to report expenditures made in
- 3 connection with the mailer and 52 U.S.C. § 30104(g) by failing to file a 48-hour or 24-hour
- 4 report.

⁶⁴ *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&recipient_name=International+Allied+Printing+Trades+Association&recipient_name=Mt.+Vernon+Printing&recipient_name=gda+wins (reflecting disbursements to GDA Wins, IAPTA, and Mr. Vernon).

FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENT: International Allied Printing MUR 8016
Trades Association

I. INTRODUCTION

9 MUR 8016 arise from complaints alleging a violation of the disclaimer provision of the
10 Federal Election Campaign Act of 1971, as amended (the “Act”), and Commission regulations.
11 The Complaints allege that Virginia residents received mailers without proper disclaimers
12 advocating Jarome Bell’s candidacy during the 2022 Republican primary in Virginia’s 2nd
13 Congressional District. The Complaints include samples of the distributed mailers bearing a
14 logo of Allied Printing Trades Council Washington, owned by International Allied Printing
15 Trades Association (“IAPTA”), and a presort stamp with “MVP” initials, which allegedly signify
16 Mount Vernon Printing (“Mt. Vernon”), the company responsible for printing and distributing
17 the mailers.

18 IAPTA denies any involvement with the creation and distribution of the mailers,
19 explaining that it only licenses its logo to printing companies that employ IAPTA's union
20 members and produce goods approved by the union. IAPTA states that its logo appears on
21 materials when a customer, who hires a printing company licensed to use the logo, requests the
22 logo to be affixed on the printed material. IAPTA contends that the inclusion of its logo on the
23 mailers does not signify its involvement in or approval of the mailers' contents.

24 Because the Complaints do not articulate a cognizable violation of the Act by this
25 identified respondent, and available information do not support that it violated the Act, the
26 Commission dismisses the allegations with respect to this respondent.

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1 **II. FACTUAL BACKGROUND**

2 Jarome Bell was a candidate in the June 21, 2022 Republican primary election for the
 3 U.S. House of Representatives to represent Virginia's 2nd Congressional District.¹

4 The Complaints for MUR 8016 allege that various mailers distributed to voters appear to
 5 advocate for Bell, "at the expense of" his primary election opponents, without proper
 6 disclaimers.² Based on the timing of the receipt of the Complaints and their supplements, the
 7 mailers appear to have been disseminated within a month before the Republican Primary election
 8 in 2022.³

9 The MUR 8016 Complaints included seven sample mailers that allegedly lacked
 10 disclaimers;⁴ MUR 8018 submitted three of the same mailers included in MUR 8016 and no
 11 other mailers.⁵

12 One mailer solely highlights Jarome Bell's position on three issues: support for Donald
 13 Trump, police funding, and abortion, and invites the reader to "[l]earn more about Jarome Bell's
 14 Conservative Record," calling him "[a]n America-First, Conservative Republican from Virginia

¹ See *Jarome Bell*, BALLOTPEDIA, https://ballotpedia.org/Jarome_Bell%20 (last visited Mar. 5, 2024).

² See Comp. ¶¶ 3-4, MUR 8016 (June 6, 2022); Amended Comp. ¶ 3, MUR 8016 (June 6, 2022); Comp. ¶¶ 2-4, MUR 8018 (June 16, 2022). The mailers cite to the source of its information, which includes Jarome Bell's campaign website, last accessed on May 24, 2022. See, e.g., Attach. 1, Mailer 5; see also Third Supp. Comp. at 2-3, MUR 8016; Comp. at 2-3, MUR 8018.

³ See Comp. at 1, MUR 8016.

⁴ The Complaint in MUR 8016 was filed as a series of amended and supplemented Complaints, each of which appended additional mailers. Compl. at 2-8, MUR 8016; Amended Compl. at 1-2, MUR 8016; First Supp. Compl. at 1-2 (June 22, 2022), MUR 8016; Second Supp. Compl. at 1-2 (June 22, 2022), MUR 8016; Third Supp. Compl. at 1-2 (June 29, 2022), MUR 8016; Fourth Supp. Compl. at 1-2 (June 29, 2022), MUR 8016; Fifth Supp. Compl. at 1-2 (July 6, 2022), MUR 8016. These complaints are collectively referred to as MUR 8016. The mailers have been compiled into one attachment. See Attach. 1.

⁵ See Attach. 1, Mailer 2; First Supp. Compl. at 2-3, MUR 8016 (June 22, 2022); Compl. at 6-7, MUR 8018; Attach. 1, Mailer 5; Third Supp. Compl. at 2-3, MUR 8016 (June 29, 2022); Compl. at 2-3, MUR 8018; Attach. 1, Mailer 6; Fourth Supp. Compl. at 2-3, MUR 8016 (June 29, 2022).

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- 1 Beach.”⁶ That mailer also claims that Bell had been “endorsed” by Lt. Gen. Michael Flynn,”
 2 “[f]ormer ICE Director under President Trump, Tom Homan,” and “Congressman Bob Good.”⁷
 3 A second mailer solely features Jen Kiggans, asking the reader, “[d]oes Jen Kiggans share your
 4 values?” while noting her position on the three same issues and her disavowal of Donald Trump.⁸
 5 The full text of these mailers is as follows:

| | |
|----------|---|
| Mailer 1 | <p>The frontside of the mailer features a blown-up picture of Bell and his name, with the caption “An America-First Conservative Republican from Virginia Beach.”</p> <p>The backside of the mailer includes the caption, “As you get ready for Election Day, Learn more about Jarome Bell’s Conservative Record.” The left side of the mailer includes pictures of Bell standing in front of Donald Trump, who appears to be addressing him from a podium, and another picture of him posing with military personnel. At the center right of the mailer, it lists Bell’s position, i.e., “Proudly stands with Donald Trump;” “Opposes abortion in all cases;” “A champion for police.” Below this list is a list of endorsers for Bell’s candidacy, i.e., “Lt. Gen. Michael Flynn,” “Former ICE Director under President Trump, Tom Homan,” and “Congressman Bob Good.” Below this list of endorsers, is a final caption, “On June 21 vote for the candidate who shares your values.”</p> |
| Mailer 2 | <p>The frontside of the mailer shows a blown-up picture of a radio microphone, with a cartoon bubble signifying someone’s comment. The first comment in the bubble says, “Jen Kiggans . . . you can’t even say Trump’s name? Are you serious?” The follow-up comment, states “The guy’s name is Trump, Jen. . . It’s called MAGA, Jen. You can say it, Jen.” These quoted statements were attributed to “Conservative Radio Host John Frederick’s response after Congressional candidate Jen Kiggans refused to publicly say President Trump’s name on air.”</p> <p>The backside of the flyer includes a top caption, asking “Does Jen Kiggans share your values?” Below it, on the left side, it shows Kiggan’s picture publicly speaking, holding a microphone. On the right side of the flyer, it lists her position on the three above-named issues: (1) “Refuses to support Donald Trump. . .”; (2) “Criticized by pro-life leaders. . .”; (3) “Voted against police funding. . .” At the bottom of the flyer is a final caption, “Election Day is June 21. Polls are open 6:00 am – 7:00 pm.”</p> |

⁶ See Attach. 1, Mailer 1; Amended Compl. at 2-3, MUR 8016.

⁷ Attach. 1, Mailer 1; Amended Compl. at 2-3, MUR 8016.

⁸ See Attach. 1, Mailer 2; First Supp. Compl. at 2-3, MUR 8016; Compl. at 6-7, MUR 8018.

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- 1 The five remaining mailers describe themselves as “2022 Conservative Voter Guide[s]”
- 2 encouraging voters to vote “on June 21, 2022 for the candidate who shares [their] values,”
- 3 comparing Jarome Bell’s to Jen Kiggans’s stance on abortion, police funding, and their
- 4 respective affiliation with Donald Trump:⁹

| | |
|----------|---|
| Mailer 3 | <p>Frontside of the mailer: Indicates that the mailer is a “2022 Conservative Voter Guide”. Subheading states “See Which Candidate for Congress Shares Your Values.”</p> <p>The page is vertically split: on the left side it shows a picture of Jarome Bell shaking Donald Trump’s hand; on the right side it shows a picture of Jen Kiggans with her supporters in the background.</p> <p>The bottom of the page says, “Make your choice on June 21.”</p> <p>Backside of the mailer: Includes a banner, stating “Who is the true conservative?” with pictures of Jarome Bell on the left side and Jen Kiggans on the right.</p> <p>Under Bell’s picture, the mailer states: (1) “Proudly stands with Donald Trump” “Is running for Congress ‘to carry [] Donald J. Trump’s torch to make America Great Again;’ (2) “Opposes abortion in all cases. . . [b]elieves life begins at conception without exception. . .”; (3) “A champion for police . . . [w]ill always stand proudly with law enforcement officers, defend the rule of law, and support hiring more police.</p> <p>Under Kiggans’s picture, it states: (1) “Refuses to support Donald Trump . . . [c]riticized Trump during his reelection campaign, acknowledged Biden [was] legitimately elected, and refuses to support a Trump reelection in 2024;” (2) “Criticized by pro-life leaders. . . [v]oted for Equal Rights Amendment, which pro-life groups say could ‘lead to unrestricted abortions’ and removed language promising to fight ‘infanticide’ from her website;” (3) “Voted against police funding. . . [o]pposed funding for new police vehicles and voted against providing raises and one-time bonuses to State Police, Correctional Officers, and Sheriffs.”</p> <p>At the bottom of the page is a caption: “On June 21 vote for the candidate who shares your values.”</p> |
|----------|---|

⁹ See Attach. 1, Mailer 3; Compl. at 2-3, MUR 8016; Attach. 1, Mailer 4; Second Supp. Compl. at 2-3, MUR 8016; Attach. 1, Mailer 5; Third Supp. Compl. at 2-3, MUR 8016; Compl. at 2-3, MUR 8018. Attach. 1, Mailer 6; Fourth Supp. Compl. at 2-3, MUR 8016; Compl. at 4-5, MUR 8018; Attach. 1, Mailer 7; Fifth Suppl. Compl. at 2-3, MUR 8016.

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| Mailer 4 | <p>Frontside of mailer: Top banner states: “2022 Conservative Voter Guide”. The entire page features a picture of Donald Trump with the American Flag in the backdrop. On the lower left-hand portion of the page, it states: “See which candidate for Congress stands with President Trump.” On the lower right-hand section, it features an arrow directing the reader to flip the page with instructions: “Learn more about Jarome Bell and Jen Kiggans. . .”</p> <p>Backside of the mailer: The mailer is vertically split in half with a picture of Donald Trump at the center of the page. On the left side of Trump’s picture, the mailer features Bell with a snapshot of Bell shaking Trump’s hand and a caption, “100% with Donald Trump.” Next to Bell’s snapshot picture, it states “Bell is running for Congress ‘to carry the Donald J. Trump torch to Make America Great Again and he is championing Trump’s election audit of every state to find out exactly what happened on Nov. 3, 2020.”</p> <p>On the right side of Trump’s picture, the mailer features Jen Kiggans, with her snapshot picture and a caption, stating “refuses to support Donald Trump.” Next to Kiggans’s picture, it states, “Kiggans criticized Trump during his reelection campaign, acknowledged Biden was legitimately elected and refuses to support a Trump reelection in 2024.”</p> <p>The bottom caption of the page reads, “ On June 21 Vote For the Candidate Who Shares Your Values.”</p> |
| Mailer 5 | <p>Frontside of the mailer: Top caption states, “2022 Conservative Voter Guide.” On the left side it shows a blown-up background image of a woman placing her hands on her womb. On the right side, it shows Bell’s snapshot picture with his name and a caption, “100% pro-life”. Below his image and caption is Kiggans’s picture and her name with the caption “Criticized by pro-life leaders.”</p> <p>Backside of the mailer: Top caption states: “Which candidate shares your values?” At the center of the page is a picture of an infant, vertically dividing the page. On the left side of the picture is “Jarome Bell” and “100% pro-life”. On the right side is “Jen Kiggans” and “Criticized by pro-life leaders.”</p> |
| Mailer 6 | <p>Frontside of the mailer: Picture of an elderly White male voter and the American flag. Under the flag is “Vote.” On the right-hand side of the page is a boxed caption: “Make a Plan to Vote Your Values.”</p> <p>Backside of the mailer: Top header states “2022 Conservative Voter Guide”. The page is split vertically with three snapshot pictures at the center dividing the page: Donald Trump, an infant, and two police men.</p> |

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| | <p>On the left side, the mailer features Bell, with a picture of him shaking Trump's hand. Below his name, it lists his positions on three issues (same information featured in the backside of Mailer 3.)</p> <p>On the right side, the mailer features Kiggans, and her position on the three issues (same information featured in the backside of Mailer 3.)</p> <p>At the bottom of the page, a caption reads, "WHO IS THE CONSERVATIVE CANDIDATE THAT WILL EARN YOUR VOTE ON JUNE 21?"</p> |
| Mailer 7 | <p>Frontside of the mailer: Top caption reads, "2022 Conservative Voter Guide" with a sub-caption, "See where the candidates for Congress stand on supporting law enforcement." In the backdrop, the mailer shows a picture of police cars in a row.</p> <p>Backside of mailer: Top caption reads, "Which candidate shares your values?" Below it, the page is vertically divided: on the left side is Bell's name and his picture shaking Donald Trump's hand, with a side caption, "A champion for police" and "Will always stand proudly with law enforcement offices, defend the rule of law, and support hiring more police." On the right side, it shows Kiggans picture with her supporters in the background, with a side caption, "Voted against police funding" and "Opposed funding for new police vehicles and voted against providing raises and one-time bonuses to State Police, Correctional Officers, and Sheriff."</p> <p>At the bottom of the page, a caption reads, "On June 21 vote for the candidate who shares your values."</p> |

1 The International Allied Printing Trades Association ("IAPTA") submitted a Response,
 2 claiming that "it was incorrectly named" in the matter.¹⁰ IAPTA, "an unincorporated association
 3 [. . .] operated by two trade unions [. . .] for the purpose of having an association to jointly own
 4 and license the Allied Printing Trades Union Label," states that it owned the Allied Printing
 5 Trades Union label, licensed to printing establishments.¹¹ Apparently, in order for the label to
 6 appear on printed materials, customers must hire a print shop that has a license agreement with

¹⁰ IAPTA Resp. ¶ 1 (July 3, 2022).

¹¹ *Id.* ¶ 2-4.

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1 IAPTA and must request the label to be printed on its materials.¹² IAPTA claims that political
 2 candidates specifically request a bona fide union label to be affixed on their campaign literature
 3 to ensure that the product was printed by members of a labor union and to project to the public
 4 that they support labor unions.¹³ Further, IAPTA states that the appearance of the label does not
 5 mean that IAPTA paid for, sponsored, authorized, or contributed to the campaign materials, or
 6 has any association with the candidate.¹⁴ IAPTA claims that it has no knowledge of the print
 7 shop that produced the mailers in this case, but it confirms that it issued a license to Mt.
 8 Vernon.¹⁵ IAPTA contends that it has “no legal obligation to place a disclaimer on the campaign
 9 material and did not violate the Act” because it did not pay for, sponsor, or contribute to the
 10 mailers’ production and distribution.¹⁶ Instead, IAPTA contends that the FEC should ask Mt.
 11 Vernon to learn who paid for the campaign material.¹⁷

12 **III. LEGAL ANALYSIS**

13 The Act and Commission regulations require a disclaimer on certain types of
 14 communications identifying who paid for the communication and, where applicable, whether a
 15 communication was authorized by a candidate. Among other communications, disclaimers are
 16 required on all “public communications” made by a political committee and on all publicly
 17 available internet websites of a political committee.¹⁸ Disclaimers are also required on all
 18 “public communications” made by any person that expressly advocate the election or defeat of a

¹² *Id.* ¶ 5.

¹³ *Id.* ¶ 2-4.

¹⁴ *Id.* ¶ 5-7.

¹⁵ *Id.* ¶ 10.

¹⁶ *Id.* ¶ 11.

¹⁷ *Id.* ¶ 10.

¹⁸ 11 C.F.R. § 110.11(a)(1).

MURs 8016 and 8018 (Unknown Respondents)

Factual and Legal Analysis

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1 clearly identified¹⁹ federal candidate or solicit contributions.²⁰ The term “public
2 communication” is defined as a communication by means of any broadcast, cable, or satellite
3 communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone
4 bank to the general public, or any other form of general public political advertising.²¹ “Mass
5 mailing” means “a mailing by United States mail or facsimile of more than 500 pieces of mail
6 matter of an identical or substantially similar nature within any 30-day period.”²²

7 The record does not conclusively establish that each mailer meets the definition of a
8 “mass mailing,” but such proof is not required at the preliminary stage of administrative
9 enforcement.²³ Recently, in MUR 7543, the Commission determined that the record sufficiently
10 indicated a mass mailing despite the fact that the Complaint did not specify the number of
11 mailings.²⁴ In that case, the Commission considered the mailer’s professional appearance, the
12 inclusion of a U.S. Postal Service (“USPS”) permit imprint, and the level of voter turnout in the
13 relevant election as indicative of a mass mailing.²⁵

14 Like in MUR 7543, each mailer in both MURs 8016 and 8018 was sent via USPS
15 Marketing Mail (formerly Standard Mail), which means, at a minimum, *at least* 200 copies of

¹⁹ The term “clearly identified” means “the candidate’s name, nickname, photograph, or drawing appears, or the identity of the candidate is otherwise apparent through an unambiguous reference such as ‘the President,’ ‘your Congressman,’ or the ‘the incumbent,’ or through an unambiguous reference to his or her status as a candidate such as ‘the Democratic presidential nominee’ or ‘the Republican candidate for Senate in the State of Georgia.’” 11 C.F.R. § 100.17.

²⁰ 52 U.S.C. § 30120(a); 11 C.F.R. § 110.11(a)-(c).

²¹ 11 C.F.R. §100.26.

²² *Id.* §100.27.

²³ See Factual and Legal Analysis (“F&LA”) at 5, MUR 7543 (Jefferson United, Inc.).

²⁴ *Id.*

²⁵ *Id.*; see also F&LA at 10, MUR 7537 (Unknown Respondents) (concluding mailers were likely public communications because they appeared professionally produced and were sent via USPS bulk mail).

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1 each mailer were distributed.²⁶ Second, as in MUR 7543, each mailer in these matters appears
 2 professionally produced. Indeed, Mt. Vernon, the printing company alleged to have printed the
 3 mailers at issue, is “a full-service [. . .] organization backed by print and mail production, . . .
 4 [s]erving DC-Baltimore area since 1917.”²⁷ Finally, the voter turnout in the relevant election —
 5 the Republican primary election for Virginia’s 2nd Congressional District — was 41,544, which
 6 indicates that the mailers likely exceeded 500 pieces.²⁸ Hence, it appears likely that the mailers
 7 meet the definition of a “mass mailing.”

8 Because each mailer appears to meet the definition of a “mass mailing” and qualifies as a
 9 “public communication,” any mailer that expressly advocates must include a disclaimer.²⁹ A
 10 communication expressly advocates under 11 C.F.R. § 100.22(a) if it:

11 “[u]ses phrases such as ‘vote for the President,’ ‘re-elect your
 12 Congressman,’ ‘support the Democratic nominee,’ ‘cast your ballot
 13 for the Republican challenger for U.S. Senate in Georgia,’ ‘Smith
 14 for Congress,’ ‘Bill McKay in ‘94,’ ‘vote Pro-Life’ or ‘vote Pro-
 15 Choice’ accompanied by a listing of clearly identified candidates
 16 described as Pro-Life or Pro-Choice, ‘vote against Old Hickory,’
 17 ‘defeat’ accompanied by a picture of one or more candidate(s),
 18 ‘reject the incumbent,’ or communications of campaign slogan(s) or
 19 individual word(s), which in context can have no other reasonable
 20 meaning than to urge the election or defeat of one or more clearly
 21 identified candidate(s), such as posters, bumper stickers,
 22 advertisements, etc. which say “‘Nixon’s the One,’ ‘Carter ’76,’
 23 ‘Reagan/Bush’ or ‘Mondale!’”³⁰

24 A communication expressly advocates under 11 C.F.R. § 100.22(b) if:

²⁶ See USPS, <https://pe.usps.com/businessmail101?ViewName=StandardMail> (last visited May 15, 2024).

²⁷ See Mount Vernon Printing Company, <https://www.rrd.com/locations/mount-vernon-printing> (last visited April 30, 2024); *see also* Amended Comp. at 1, MUR 8016 (alleging that Mt. Vernon printed the mailers at issue).

²⁸ Virginia’s 2nd Congressional District election, 2022,
https://ballotpedia.org/Virginia%27s_2nd_Congressional_District_election,_2022 (last visited May 15, 2024).

²⁹ 11 C.F.R. §110.11 (a)(2).

³⁰ *Id.* § 100.22 (a).

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1 “[w]hen taken as a whole and with limited reference to external
2 events, such as the proximity to the election, could only be
3 interpreted by a reasonable person as containing advocacy of the
4 election or defeat of one or more clearly identified candidate(s)
5 because—

6 (1) The electoral portion of the communication is unmistakable,
7 unambiguous, and suggestive of only one meaning; and

8 (2) Reasonable minds could not differ as to whether it
9 encourages actions to elect or defeat one or more clearly identified
10 candidate(s) or encourages some other kind of action.”³¹

11 The available information indicates that the communication – which does not appear to

12 be authorized by a candidate or an authorized committee – must clearly state the name and

13 permanent street address, telephone number, or web address of the person who paid for the

14 communication and must state that the communication was not authorized by any candidate or

15 candidate’s committee, if the content of the mailer constitutes express advocacy.³² Disclaimers

16 in printed materials must be presented in a clear and conspicuous manner and meet specific

17 requirements, such as being of sufficient type size to be clearly readable and being placed in a

18 printed box set apart from the other parts of the communication.³³

19 **A. It Does Not Appear That IAPTA Had An Obligation to Place Disclaimers on
20 the Mailers or Report Independent Expenditures**

21 IAPTA does not appear to have violated the disclaimer provision of the Act because it

22 had no obligation to place a disclaimer on the mailers.³⁴ Available information does not indicate

23 that IAPTA funded and authorized the creation and distribution of the mailers. Because of its

³¹ *Id.* § 100.22(b). 11 C.F.R. § 100.22(b); *see Real Truth About Abortion v. FEC*, 681 F.3d 544, 552-56 (4th Cir. 2012) (upholding 11 C.F.R. § 100.22(b) against a constitutional challenge).

³² 52 U.S.C. § 30120(a)(3); 11 C.F.R. § 110.11(a)(2); (b)(3).

³³ 52 U.S.C. § 30120(c); 11 C.F.R. § 110.11(c).

³⁴ *See MUR7839* (Westerleigh Printing Press, Inc., *et al.*) (finding by a vote of 6-0 no reason to believe that the mail vendor failed to include the required disclaimers where mailers and vendor did not pay for the mailers).

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- 1 role as a mere vendor this Respondent was not bound by the disclaimer provision of the Act.³⁵
- 2 The Commission therefore dismisses the allegation that IAPTA violated 52 U.S.C. § 30120(a)
- 3 and the related allegation that it violated 52 U.S.C. § 30104(c) and (g) by failing to report the
- 4 mailers as independent expenditures.³⁶

³⁵ See 52 U.S.C. § 30120(a); *see also* 11 C.F.R. § 110.11(a)(2).

³⁶ *Infra* Part III.F.

FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Mt. Vernon Printing MUR 8016

I. INTRODUCTION

8 MUR 8016 arise from complaints alleging a violation of the disclaimer provision of the
9 Federal Election Campaign Act of 1971, as amended (the “Act”), and Commission regulations.
10 The Complaints allege that Virginia residents received mailers without proper disclaimers
11 advocating Jarome Bell’s candidacy during the 2022 Republican primary in Virginia’s 2nd
12 Congressional District. The Complaints include samples of the distributed mailers bearing a
13 logo of Allied Printing Trades Council Washington, owned by International Allied Printing
14 Trades Association (“IAPTA”), and a presort stamp with “MVP” initials, which allegedly signify
15 Mount Vernon Printing (“Mt. Vernon”), the company responsible for printing and distributing
16 the mailers.

17 Mt. Vernon states that it printed the mailers referenced in the Complaints for a customer,
18 GDA Wins.¹ Mt. Vernon denies any affiliation with GDA Wins, stating that its role was limited
19 to printing the mailers, affixing the IAPTA logo, and mailing the materials.

20 Because the Complaints do not articulate a cognizable violation of the Act by this
21 identified respondent, and available information do not support that it violated the Act, the
22 Commission dismisses the allegations with respect to this respondent.

¹ In Mt. Vernon’s Response, it misidentified GDA Wins as “GDS Wins.” See Mt. Vernon Resp. at 1 (July 7, 2022).

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1 II. FACTUAL BACKGROUND

2 Jarome Bell was a candidate in the June 21, 2022 Republican primary election for the
3 U.S. House of Representatives to represent Virginia's 2nd Congressional District.²

4 The Complaints for MURs 8016 and 8018 allege that various mailers distributed to voters
5 appear to advocate for Bell, "at the expense of" his primary election opponents, without proper
6 disclaimers.³ Based on the timing of the receipt of the Complaints and their supplements, the
7 mailers appear to have been disseminated within a month before the Republican Primary election
8 in 2022.⁴

9 The MUR 8016 Complaints included seven sample mailers that allegedly lacked
10 disclaimers;⁵ MUR 8018 submitted three of the same mailers included in MUR 8016 and no
11 other mailers.⁶

12 One mailer solely highlights Jarome Bell's position on three issues: support for Donald
13 Trump, police funding, and abortion, and invites the reader to "[l]earn more about Jarome Bell's
14 Conservative Record," calling him "[a]n America-First, Conservative Republican from Virginia

² *Jarome Bell*, BALLOTPEDIA, https://ballotpedia.org/Jarome_Bell%20 (last visited Mar. 5, 2024).

³ *See* Comp. ¶¶ 3-4, MUR 8016 (June 6, 2022); Amended Comp. ¶ 3, MUR 8016 (June 6, 2022); Comp. ¶¶ 2-4, MUR 8018 (June 16, 2022). The mailers cite to the source of its information, which includes Jarome Bell's campaign website, last accessed on May 24, 2022. *See, e.g.*, Attach. 1, Mailer 5; *see also* Third Supp. Comp. at 2-3, MUR 8016; Comp. at 2-3, MUR 8018.

⁴ *See* Comp. at 1, MUR 8016.

⁵ The Complaint in MUR 8016 was filed as a series of amended and supplemented Complaints, each of which appended additional mailers. Compl. at 2-8, MUR 8016; Amended Compl. at 1-2, MUR 8016; First Supp. Compl. at 1-2 (June 22, 2022), MUR 8016; Second Supp. Compl. at 1-2 (June 22, 2022), MUR 8016; Third Supp. Compl. at 1-2 (June 29, 2022), MUR 8016; Fourth Supp. Compl. at 1-2 (June 29, 2022), MUR 8016; Fifth Supp. Compl. at 1-2 (July 6, 2022), MUR 8016. These complaints are collectively referred to as MUR 8016. The mailers have been compiled into one attachment. *See* Attach. 1.

⁶ *See* Attach. 1, Mailer 2; First Supp. Compl. at 2-3, MUR 8016 (June 22, 2022); Compl. at 6-7, MUR 8018; Attach. 1, Mailer 5; Third Supp. Compl. at 2-3, MUR 8016 (June 29, 2022); Compl. at 2-3, MUR 8018; Attach. 1, Mailer 6; Fourth Supp. Compl. at 2-3, MUR 8016 (June 29, 2022).

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- 1 Beach.”⁷ That mailer also claims that Bell had been “endorsed” by Lt. Gen. Michael Flynn,”
 2 “[f]ormer ICE Director under President Trump, Tom Homan,” and “Congressman Bob Good.”⁸
 3 A second mailer solely features Jen Kiggans, asking the reader, “[d]oes Jen Kiggans share your
 4 values?” while noting her position on the three same issues and her disavowal of Donald Trump.⁹
 5 The full text of these mailers is as follows:

| | |
|----------|---|
| Mailer 1 | <p>The frontside of the mailer features a blown-up picture of Bell and his name, with the caption “An America-First Conservative Republican from Virginia Beach.”</p> <p>The backside of the mailer includes the caption, “As you get ready for Election Day, Learn more about Jarome Bell’s Conservative Record.” The left side of the mailer includes pictures of Bell standing in front of Donald Trump, who appears to be addressing him from a podium, and another picture of him posing with military personnel. At the center right of the mailer, it lists Bell’s position, i.e., “Proudly stands with Donald Trump;” “Opposes abortion in all cases;” “A champion for police.” Below this list is a list of endorsers for Bell’s candidacy, i.e., “Lt. Gen. Michael Flynn,” “Former ICE Director under President Trump, Tom Homan,” and “Congressman Bob Good.” Below this list of endorsers, is a final caption, “On June 21 vote for the candidate who shares your values.”</p> |
| Mailer 2 | <p>The frontside of the mailer shows a blown-up picture of a radio microphone, with a cartoon bubble signifying someone’s comment. The first comment in the bubble says, “Jen Kiggans . . . you can’t even say Trump’s name? Are you serious?” The follow-up comment, states “The guy’s name is Trump, Jen. . . It’s called MAGA, Jen. You can say it, Jen.” These quoted statements were attributed to “Conservative Radio Host John Frederick’s response after Congressional candidate Jen Kiggans refused to publicly say President Trump’s name on air.”</p> <p>The backside of the flyer includes a top caption, asking “Does Jen Kiggans share your values?” Below it, on the left side, it shows Kiggan’s picture publicly speaking, holding a microphone. On the right side of the flyer, it lists her position on the three above-named issues: (1) “Refuses to support Donald Trump. . .”; (2) “Criticized by pro-life leaders. . .”; (3) “Voted against police funding. . .” At the bottom of the flyer is a final caption, “Election Day is June 21. Polls are open 6:00 am – 7:00 pm.”</p> |

⁷ See Attach. 1, Mailer 1; Amended Compl. at 2-3, MUR 8016.

⁸ Attach. 1, Mailer 1; Amended Compl. at 2-3, MUR 8016.

⁹ See Attach. 1, Mailer 2; First Supp. Compl. at 2-3, MUR 8016; Compl. at 6-7, MUR 8018.

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- 1 The five remaining mailers describe themselves as “2022 Conservative Voter Guide[s]”
- 2 encouraging voters to vote “on June 21, 2022 for the candidate who shares [their] values,”
- 3 comparing Jarome Bell’s to Jen Kiggans’s stance on abortion, police funding, and their
- 4 respective affiliation with Donald Trump:¹⁰

| | |
|----------|---|
| Mailer 3 | <p>Frontside of the mailer: Indicates that the mailer is a “2022 Conservative Voter Guide”. Subheading states “See Which Candidate for Congress Shares Your Values.”</p> <p>The page is vertically split: on the left side it shows a picture of Jarome Bell shaking Donald Trump’s hand; on the right side it shows a picture of Jen Kiggans with her supporters in the background.</p> <p>The bottom of the page says, “Make your choice on June 21.”</p> <p>Backside of the mailer: Includes a banner, stating “Who is the true conservative?” with pictures of Jarome Bell on the left side and Jen Kiggans on the right.</p> <p>Under Bell’s picture, the mailer states: (1) “Proudly stands with Donald Trump” “Is running for Congress ‘to carry [] Donald J. Trump’s torch to make America Great Again;’ (2) “Opposes abortion in all cases. . . [b]elieves life begins at conception without exception. . .”; (3) “A champion for police . . . [w]ill always stand proudly with law enforcement officers, defend the rule of law, and support hiring more police.</p> <p>Under Kiggans’s picture, it states: (1) “Refuses to support Donald Trump . . . [c]riticized Trump during his reelection campaign, acknowledged Biden [was] legitimately elected, and refuses to support a Trump reelection in 2024;” (2) “Criticized by pro-life leaders. . . [v]oted for Equal Rights Amendment, which pro-life groups say could ‘lead to unrestricted abortions’ and removed language promising to fight ‘infanticide’ from her website;” (3) “Voted against police funding. . . [o]pposed funding for new police vehicles and voted against providing raises and one-time bonuses to State Police, Correctional Officers, and Sheriffs.”</p> <p>At the bottom of the page is a caption: “On June 21 vote for the candidate who shares your values.”</p> |
|----------|---|

¹⁰ See Attach. 1, Mailer 3; Compl. at 2-3, MUR 8016; Attach. 1, Mailer 4; Second Supp. Compl. at 2-3, MUR 8016; Attach. 1, Mailer 5; Third Supp. Compl. at 2-3, MUR 8016; Compl. at 2-3, MUR 8018. Attach. 1, Mailer 6; Fourth Supp. Compl. at 2-3, MUR 8016; Compl. at 4-5, MUR 8018; Attach. 1, Mailer 7; Fifth Suppl. Compl. at 2-3, MUR 8016.

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| Mailer 4 | <p>Frontside of mailer: Top banner states: “2022 Conservative Voter Guide”. The entire page features a picture of Donald Trump with the American Flag in the backdrop. On the lower left-hand portion of the page, it states: “See which candidate for Congress stands with President Trump.” On the lower right-hand section, it features an arrow directing the reader to flip the page with instructions: “Learn more about Jarome Bell and Jen Kiggans. . .”</p> <p>Backside of the mailer: The mailer is vertically split in half with a picture of Donald Trump at the center of the page. On the left side of Trump’s picture, the mailer features Bell with a snapshot of Bell shaking Trump’s hand and a caption, “100% with Donald Trump.” Next to Bell’s snapshot picture, it states “Bell is running for Congress ‘to carry the Donald J. Trump torch to Make America Great Again and he is championing Trump’s election audit of every state to find out exactly what happened on Nov. 3, 2020.”</p> <p>On the right side of Trump’s picture, the mailer features Jen Kiggans, with her snapshot picture and a caption, stating “refuses to support Donald Trump.” Next to Kiggans’s picture, it states, “Kiggans criticized Trump during his reelection campaign, acknowledged Biden was legitimately elected and refuses to support a Trump reelection in 2024.”</p> <p>The bottom caption of the page reads, “ On June 21 Vote For the Candidate Who Shares Your Values.”</p> |
| Mailer 5 | <p>Frontside of the mailer: Top caption states, “2022 Conservative Voter Guide.” On the left side it shows a blown-up background image of a woman placing her hands on her womb. On the right side, it shows Bell’s snapshot picture with his name and a caption, “100% pro-life”. Below his image and caption is Kiggans’s picture and her name with the caption “Criticized by pro-life leaders.”</p> <p>Backside of the mailer: Top caption states: “Which candidate shares your values?” At the center of the page is a picture of an infant, vertically dividing the page. On the left side of the picture is “Jarome Bell” and “100% pro-life”. On the right side is “Jen Kiggans” and “Criticized by pro-life leaders.”</p> |
| Mailer 6 | <p>Frontside of the mailer: Picture of an elderly White male voter and the American flag. Under the flag is “Vote.” On the right-hand side of the page is a boxed caption: “Make a Plan to Vote Your Values.”</p> <p>Backside of the mailer: Top header states “2022 Conservative Voter Guide”. The page is split vertically with three snapshot pictures at the center dividing the page: Donald Trump, an infant, and two police men.</p> |

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| | |
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| | <p>On the left side, the mailer features Bell, with a picture of him shaking Trump's hand. Below his name, it lists his positions on three issues (same information featured in the backside of Mailer 3.)</p> <p>On the right side, the mailer features Kiggans, and her position on the three issues (same information featured in the backside of Mailer 3.)</p> <p>At the bottom of the page, a caption reads, "WHO IS THE CONSERVATIVE CANDIDATE THAT WILL EARN YOUR VOTE ON JUNE 21?"</p> |
| Mailer 7 | <p>Frontside of the mailer: Top caption reads, "2022 Conservative Voter Guide" with a sub-caption, "See where the candidates for Congress stand on supporting law enforcement." In the backdrop, the mailer shows a picture of police cars in a row.</p> <p>Backside of mailer: Top caption reads, "Which candidate shares your values?" Below it, the page is vertically divided: on the left side is Bell's name and his picture shaking Donald Trump's hand, with a side caption, "A champion for police" and "Will always stand proudly with law enforcement offices, defend the rule of law, and support hiring more police." On the right side, it shows Kiggans picture with her supporters in the background, with a side caption, "Voted against police funding" and "Opposed funding for new police vehicles and voted against providing raises and one-time bonuses to State Police, Correctional Officers, and Sheriff."</p> <p>At the bottom of the page, a caption reads, "On June 21 vote for the candidate who shares your values."</p> |

- 1 Mt. Vernon responded to one of the supplemental complaints for MUR 8016, confirming
 2 that "the print piece referenced in the Complaint is an item that [it] printed for a customer,
 3 GD[A]Wins."¹¹ According to its Response, neither Mt. Vernon Printing nor its owner, "RR
 4 Donnelley, a Fortune 500 commercial printing company" was "part of or related to GD[A]
 5 Wins, any political party, candidate, PAC or consulting firm."¹² Mt. Vernon states that its "role
 6 was only to provide printing and mailing [services]," using "the content and artwork provided by

¹¹ Mt. Vernon Resp. at 1, MUR 8016 (July 7, 2022).

¹² *Id.*

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1 GD[A]," and "then add[ing] the union label and indicia," before sending the mailers via the U.S.

2 Postal System.¹³

3 **III. LEGAL ANALYSIS**

4 The Act and Commission regulations require a disclaimer on certain types of
 5 communications identifying who paid for the communication and, where applicable, whether a
 6 communication was authorized by a candidate. Among other communications, disclaimers are
 7 required on all "public communications" made by a political committee and on all publicly
 8 available internet websites of a political committee.¹⁴ Disclaimers are also required on all
 9 "public communications" made by any person that expressly advocate the election or defeat of a
 10 clearly identified¹⁵ federal candidate or solicit contributions.¹⁶ The term "public
 11 communication" is defined as a communication by means of any broadcast, cable, or satellite
 12 communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone
 13 bank to the general public, or any other form of general public political advertising.¹⁷ "Mass
 14 mailing" means "a mailing by United States mail or facsimile of more than 500 pieces of mail
 15 matter of an identical or substantially similar nature within any 30-day period."¹⁸

16 The record does not conclusively establish that each mailer meets the definition of a
 17 "mass mailing," but such proof is not required at the preliminary stage of administrative

¹³ *Id.*

¹⁴ 11 C.F.R. § 110.11(a)(1).

¹⁵ The term "clearly identified" means "the candidate's name, nickname, photograph, or drawing appears, or the identity of the candidate is otherwise apparent through an unambiguous reference such as 'the President,' 'your Congressman,' or the 'the incumbent,' or through an unambiguous reference to his or her status as a candidate such as 'the Democratic presidential nominee' or 'the Republican candidate for Senate in the State of Georgia.'" 11 C.F.R. § 100.17.

¹⁶ 52 U.S.C. § 30120(a); 11 C.F.R. § 110.11(a)-(c).

¹⁷ 11 C.F.R. §100.26.

¹⁸ *Id.* §100.27.

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1 enforcement.¹⁹ Recently, in MUR 7543, the Commission determined that the record sufficiently
 2 indicated a mass mailing despite the fact that the Complaint did not specify the number of
 3 mailings.²⁰ In that case, the Commission considered the mailer's professional appearance, the
 4 inclusion of a U.S. Postal Service ("USPS") permit imprint, and the level of voter turnout in the
 5 relevant election as indicative of a mass mailing.²¹

6 Like in MUR 7543, each mailer in both MURs 8016 and 8018 was sent via USPS
 7 Marketing Mail (formerly Standard Mail), which means, at a minimum, *at least* 200 copies of
 8 each mailer were distributed.²² Second, as in MUR 7543, each mailer in these matters appears
 9 professionally produced. Indeed, Mt. Vernon, the printing company alleged to have printed the
 10 mailers at issue, is "a full-service [...] organization backed by print and mail production, . . .
 11 [s]erving DC-Baltimore area since 1917."²³ Finally, the voter turnout in the relevant election —
 12 the Republican primary election for Virginia's 2nd Congressional District — was 41,544, which
 13 indicates that the mailers likely exceeded 500 pieces.²⁴ Hence, it appears likely that the mailers
 14 meet the definition of a "mass mailing."

¹⁹ See Factual and Legal Analysis ("F&LA") at 5, MUR 7543 (Jefferson United, Inc.).

²⁰ *Id.*

²¹ *Id.*; see also F&LA at 10, MUR 7537 (Unknown Respondents) (concluding mailers were likely public communications because they appeared professionally produced and were sent via USPS bulk mail).

²² See USPS, <https://pe.usps.com/businessmail101?ViewName=StandardMail> (last visited May 15, 2024).

²³ See Mount Vernon Printing Company, <https://www.rrd.com/locations/mount-vernon-printing> (last visited April 30, 2024); see also Amended Comp. at 1, MUR 8016 (alleging that Mt. Vernon printed the mailers at issue).

²⁴ Virginia's 2nd Congressional District election, 2022,
https://ballotpedia.org/Virginia%27s_2nd_Congressional_District_election,_2022 (last visited May 15, 2024).

THIS PROPOSED DRAFT WAS VOTED ON BUT
NOT APPROVED BY THE COMMISSION.

1 Because each mailer appears to meet the definition of a “mass mailing” and qualifies as a
 2 “public communication,” any mailer that expressly advocates must include a disclaimer.²⁵ A
 3 communication expressly advocates under 11 C.F.R. § 100.22(a) if it:

4 “[u]ses phrases such as ‘vote for the President,’ ‘re-elect your
 5 Congressman,’ ‘support the Democratic nominee,’ ‘cast your ballot
 6 for the Republican challenger for U.S. Senate in Georgia,’ ‘Smith
 7 for Congress,’ ‘Bill McKay in ‘94,’ ‘vote Pro-Life’ or ‘vote Pro-
 8 Choice’ accompanied by a listing of clearly identified candidates
 9 described as Pro-Life or Pro-Choice, ‘vote against Old Hickory,’
 10 ‘defeat’ accompanied by a picture of one or more candidate(s),
 11 ‘reject the incumbent,’ or communications of campaign slogan(s) or
 12 individual word(s), which in context can have no other reasonable
 13 meaning than to urge the election or defeat of one or more clearly
 14 identified candidate(s), such as posters, bumper stickers,
 15 advertisements, etc. which say “‘Nixon’s the One,’ ‘Carter ’76,’
 16 ‘Reagan/Bush’ or ‘Mondale!’”²⁶

17 A communication expressly advocates under 11 C.F.R. § 100.22(b) if:

18 “[w]hen taken as a whole and with limited reference to external
 19 events, such as the proximity to the election, could only be
 20 interpreted by a reasonable person as containing advocacy of the
 21 election or defeat of one or more clearly identified candidate(s)
 22 because—

23 (1) The electoral portion of the communication is unmistakable,
 24 unambiguous, and suggestive of only one meaning; and

25 (2) Reasonable minds could not differ as to whether it
 26 encourages actions to elect or defeat one or more clearly identified
 27 candidate(s) or encourages some other kind of action.”²⁷

28 The available information indicates that the communication – which does not appear to
 29 be authorized by a candidate or an authorized committee – must clearly state the name and

²⁵ 11 C.F.R. §110.11 (a)(2).

²⁶ *Id.* § 100.22 (a).

²⁷ *Id.* § 100.22(b). 11 C.F.R. § 100.22(b); *see Real Truth About Abortion v. FEC*, 681 F.3d 544, 552-56 (4th Cir. 2012) (upholding 11 C.F.R. § 100.22(b) against a constitutional challenge).

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1 permanent street address, telephone number, or web address of the person who paid for the
 2 communication and must state that the communication was not authorized by any candidate or
 3 candidate's committee, if the content of the mailer constitutes express advocacy.²⁸ Disclaimers
 4 in printed materials must be presented in a clear and conspicuous manner and meet specific
 5 requirements, such as being of sufficient type size to be clearly readable and being placed in a
 6 printed box set apart from the other parts of the communication.²⁹

7 **A. It Does Not Appear That Mt. Vernon Had An Obligation to Place
 8 Disclaimers on the Mailers or Report Independent Expenditures**

9 Mt. Vernon does not appear to have violated the disclaimer provision of the Act because
 10 it had no obligation to place a disclaimer on the mailers.³⁰ Available information does not
 11 indicate that Mt. Vernon funded and authorized the creation and distribution of the mailers.
 12 Because of its role as a mere vendor acting at the behest of Unknown Respondent(s) to produce
 13 and/or disseminate the mailers, this Respondent was not bound by the disclaimer provision of the
 14 Act.³¹ The Commission therefore dismisses the allegation that Mt. Vernon violated 52 U.S.C.
 15 § 30120(a) and the related allegation that it violated 52 U.S.C. § 30104(c) and (g) by failing to
 16 report the mailers as independent expenditures.³²

²⁸ 52 U.S.C. § 30120(a)(3); 11 C.F.R. § 110.11(a)(2); (b)(3).

²⁹ 52 U.S.C. § 30120(c); 11 C.F.R. § 110.11(c).

³⁰ See MUR7839 (Westerleigh Printing Press, Inc., *et al.*) (finding by a vote of 6-0 no reason to believe that the mail vendor failed to include the required disclaimers where mailers and vendor did not pay for the mailers).

³¹ See 52 U.S.C. § 30120(a); *see also* 11 C.F.R. § 110.11(a)(2).

³² *Infra* Part III.F.