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VIA E-MAIL (CELA@FEC.GOV)

Roy Q. Lockett
Acting Assistant General Counsel
Office of Complaints Examination & Legal Administration
Federal Election Commission
1050 First Street NE
Washington, DC 20463

Re: MUR 8071 (NRSC)

Dear Mr. Lockett:

We represent the NRSC and Keith Davis in his official capacity as Treasurer of the NRSC in the above-captioned matter.

We have reviewed the complaint filed on September 19, 2022 by Campaign Legal Center and End Citizens United PAC (the "Complaint") alleging that the NRSC violated the Federal Election Campaign Act of 1971, as amended (the "Act" or "FECA"), by making 12 disbursements totaling \$3,605,923 from its legal proceedings account for purported "campaign expenses."¹

These allegations have no merit. The disbursements identified in the Complaint were for either (1) services directly related to the conduct of recounts or preparations for potential legal proceedings; or (2) bona fide fundraising expenses on behalf of the NRSC's legal proceedings account. The Complaint ignores the role that certain communications can play in recounts and legal proceedings and completely fails to consider that communications-related expenses can support and be connected to bona fide fundraising activities. Although the Federal Election Commission (the "Commission" or "FEC") has yet to promulgate any regulations addressing national party committee segregated accounts, it is nevertheless clear as a matter of law that a national party committee may solicit funds for its legal proceedings account and may pay for these fundraising costs from its legal proceedings account.² In the absence of regulations, or any substantive guidance on segregated accounts whatsoever,³ national party committees have looked to the statutory text and the accompanying legislative history to attempt to discern the legal

¹ Compl. ¶¶ 7-9.

² See *infra* n.27.

³ After the Complaint was filed, the Democratic Senatorial Campaign Committee ("DSCC") requested an advisory opinion concerning TV advertisements that would solicit funds for the DSCC's legal proceedings account. The FEC issued an advisory opinion on October 20, 2022. See AO 2022-21 (DSCC, *et al.*).

parameters on the operation of their segregated accounts. Should the Commission in the future wish to impose any limitations on national party committee segregated account fundraising—let alone regulate or restrict the method, medium, or content of fundraising solicitations for segregated accounts—it can only do so by initiating a rulemaking and promulgating regulations of prospective application.

In any event, the NRSC communications at issue constitute fundraising solicitations for its legal proceedings account and not “campaign expenses” as the Complaint alleges. Each of the public communications contains an explicit call to donate. In addition, none of the communications republish campaign materials or expressly advocate the election or defeat of any clearly identified federal candidates. Moreover, none of the communications qualify as party coordinated communications. Rather, the fundraising communications at issue discussed incumbent officeholder positions on policy issues in an effort to motivate the audience to donate to the NRSC’s legal proceedings account.

For all the foregoing reasons, the Commission should find no reason to believe that the NRSC violated the Act and should promptly dismiss this matter. At the very least, and in the alternative, the Commission should dismiss this matter as an exercise of prosecutorial discretion.

FACTUAL BACKGROUND

The NRSC, also commonly referred to as the National Republican Senatorial Committee, is the Republican Party’s Senate campaign committee and is registered with the Commission as a national party committee. Following the enactment of the Consolidated and Further Continuing Appropriations Act, 2015 (the “Appropriations Act”), the NRSC established “[a] separate, segregated account . . . which is used to defray expenses incurred with respect to the preparation for and the conduct of election recounts and contests and other legal proceedings” (the “Legal Proceedings Account”).⁴ The NRSC uses the Legal Proceedings Account to pay for expenses related to recounts, contests, and other legal proceedings. Consistent with both the Appropriations Act and Commission precedents concerning pre-Appropriations Act recount funds, the NRSC also pays for costs attributable to fundraising for the Legal Proceedings Account from the Legal Proceedings Account.

The Complaint alleges that 12 disbursements the NRSC made from its Legal Proceedings Account are improper because the “descriptions of these disbursements belie any inference that the spending . . . is related to any election recount or legal proceeding.”⁵ Contrary to the Complaint’s assumption, “digital consulting” can directly relate to recounts, contests, and other legal proceedings. It is also undeniable that “research” can and frequently does relate to litigation. The Complaint completely overlooks the reality that communications-related expenses can and commonly are connected with bona fide fundraising activities. As detailed below, the disbursements identified in the Complaint fall into these two core categories: (1) expenses related

⁴ Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. No. 113-235, 128 Stat. 2130, 2773 (2014) (codified at 52 U.S.C. § 30116(a)(9)(C)).

⁵ Compl. ¶¶ 8-9.

to potential litigation and recounts; and (2) fundraising expenses for the Legal Proceedings Account.⁶

I. Litigation and Recount-Related Expenses

A. January 5, 2021 Georgia Senate Runoff Expenses

In the weeks leading up to the January 5, 2021 runoff election for two U.S. Senate seats from Georgia, the NRSC actively engaged in litigation and simultaneously prepared for a potential recount and other post-election proceedings. The following disbursements relate to these activities:

Date	Recipient	Purpose	Amount
1/19/2021	TAG LLC	LEGAL PROC – DIGITAL CONSULTING	\$7,750.00
1/19/2021	AMERICA RISING LLC	LEGAL PROC – RESEARCH	\$27,709.23

The disbursement to TAG LLC was for the creation of a website that provided voters with information on how to cure their absentee ballots *after* the runoff election.⁷ The disbursement to America Rising LLC was for research related to preparing for potential litigation.⁸

B. May 17, 2022 Pennsylvania Senate Republican Primary Recount Expenses

The May 17, 2022 primary to determine the Republican nominee for U.S. Senator from Pennsylvania resulted in a recount; Dr. Mehmet Oz ultimately won the nomination. The following disbursement relates to the Pennsylvania Republican Primary recount:

Date	Recipient	Purpose	Amount
6/22/2022	TAG LLC	LEGAL PROC – DIGITAL CONSULTING	\$207,851.51

This expense was for services rendered to Dr. Mehmet Oz's principal campaign committee, Doctor Oz for Senate, *after* the May 17, 2022 primary and in connection with Doctor Oz for Senate's participation in the primary recount.⁹

II. Legal Proceedings Account Fundraising Expenses

Over the years, the NRSC has employed a variety of tactics to raise funds for the Legal Proceedings Account ranging from major donor solicitations to joint fundraising to direct mail to digital fundraising. In the 2021-22 election cycle, the NRSC tried a new fundraising tactic for the

⁶ The NRSC has identified two *de minimis* expenses totaling \$4,025.50 that should have been paid from the NRSC's general account and were inadvertently paid from the Legal Proceedings Account. The NRSC made a corrective transfer to properly pay for these minor expenses on December 19, 2022. These expenses are discussed further below.

⁷ Declaration of Ryan Dollar ¶ 4 (attached hereto as Exhibit A).

⁸ *Id.* ¶ 5.

⁹ *Id.* ¶ 6.

Legal Proceedings Account—television advertising—in addition to continuing other methods, such as major donor solicitations and direct mail.

A. Fundraising Direct Mail Piece

In the summer of 2022, the NRSC sent a direct mail fundraising appeal to raise funds for the Legal Proceedings Account. The following disbursement relates to this fundraising activity:

Date	Recipient	Purpose	Amount
6/8/2022	SIMIO CLOUD	LEGAL PROC - DIRECT MAIL PRODUCTION	\$3,250.00

The mail piece (attached hereto as Exhibit B) expressly solicits funds for the “NRSC Legal Fund” and does not reference any clearly identified federal candidates.¹⁰ As discussed below, the mail piece does not contain express advocacy and is not a party coordinated communication.

B. Spring 2021 Fundraising TV Advertisements (“Power Grab” and “Quieren Más Poder”)

In the spring of 2021, the NRSC sponsored a television advertising campaign focused on S.B. 1 to raise funds for the Legal Proceedings Account. The following disbursements relate to this fundraising activity:

Date	Recipient	Purpose	Amount
3/26/2021	ON MESSAGE INC	LEGAL PROC - MEDIA PLACEMENT	\$999,982.00
4/7/2021	ON MESSAGE INC	LEGAL PROC - MEDIA	\$27,650.00 ¹¹

The fundraising TV advertisements, titled “Power Grab,” focused on incumbent senators’ support of S.B. 1, solicited funds for the Legal Proceedings Account via the NRSC’s short code, and ran in Arizona, Georgia, Nevada, and New Hampshire from March 29, 2021 – April 9, 2021.¹² A script for the version of “Power Grab” that was disseminated in New Hampshire is attached hereto as Exhibit C.¹³ Spanish versions, titled “Quieren Más Poder,” ran in Arizona and Nevada

¹⁰ *Id.* ¶ 7.

¹¹ \$7,500.00 of this disbursement was for the production costs of an “election reform” digital video, which featured NRSC Chairman Senator Rick Scott discussing S.B. 1 and which was disseminated over the Internet at no cost. The digital video complemented the “Power Grab” ad campaign and was shared with NRSC major donors. The NRSC also used the “election reform” digital video to gauge the reaction of Republican constituents and voters to the issues discussed in the video, which helped inform the NRSC’s legal priorities and operation of the Legal Proceedings Account. The digital video was not a public communication and, accordingly, was not a party coordinated communication. *Id.* ¶ 9.

¹² *Id.* ¶ 8.

¹³ The versions of “Power Grab” that were disseminated in Arizona, Georgia, and Nevada mirror the New Hampshire version and simply swap out the incumbent Senator’s name and likeness. See NRSC, *Power Grab – Hassan*, <https://www.youtube.com/watch?v=SpxvYVEffR0>; NRSC, *Power Grab – Kelly*, <https://www.youtube.com/watch?v=BIO25ggEgcM>; NRSC, *Power Grab – Warnock*, <https://www.youtube.com/watch?v=c0-XNca8Rh4>; NRSC, *Power Grab – Cortez Masto*, <https://www.youtube.com/watch?v=-7HcKoMkaMI>.

from March 29, 2021 – April 9, 2021.¹⁴ A script for the version of “Quieren Más Poder” that was disseminated in Arizona is attached hereto as Exhibit D.¹⁵ As discussed below, the fundraising TV advertisements did not contain express advocacy and are not party coordinated communications.

C. Summer 2021 Fundraising TV Advertisements (“Welfare for Politicians” and “No One”)

In the summer of 2021, the NRSC sponsored two additional television advertisements that focused on S.B. 1 to raise funds for the Legal Proceedings Account. The following disbursement relates to this fundraising activity:

Date	Recipient	Purpose	Amount
6/23/2021	ON MESSAGE INC	LEGAL PROC - MEDIA	\$223,978.00

The fundraising TV ads, titled “Welfare for Politicians” and “No One” (scripts attached hereto as Exhibits E and F), solicited donations for the Legal Proceedings Account via the NRSC’s short code and ran in Georgia and New Hampshire, respectively, from June 24 – 30, 2021.¹⁶ As explained below, the fundraising TV advertisements do not contain express advocacy and are not party coordinated communications.

D. Spring 2022 Fundraising TV Advertisements (“Against Arizona,” “Daño,” and “Gullible”)

In the spring of 2022, the NRSC sponsored additional television advertisements to raise funds for the Legal Proceedings Account. The following disbursements relate to this fundraising activity:

Date	Recipient	Purpose	Amount
4/22/2022	ON MESSAGE INC	LEGAL PROC - MEDIA PLACEMENT	\$1,067,235.02
5/10/2022	THE O'DONNELL GROUP	LEGAL PROC - MEDIA	\$19,994.90 ¹⁷
5/18/2022	THE O'DONNELL GROUP	LEGAL PROC - MEDIA	\$11,153.71

¹⁴ Dollar Decl. ¶ 8.

¹⁵ “Quieren Más Poder” is similar but not identical to “Power Grab.” The version of “Quieren Más Poder” that was disseminated in Nevada mirrors the Arizona version and simply swaps out the incumbent Senator’s name and likeness. See NRSC, *Quieren Más Poder – Kelly*, <https://www.youtube.com/watch?v=Wx9EZ5CRf7w>; NRSC, *Quieren Más Poder – Cortez Masto*, <https://www.youtube.com/watch?v=iZ97n57qZ3E>.

¹⁶ Dollar Decl. ¶ 10; NRSC, *Welfare for Politicians*, https://www.youtube.com/watch?v=n_e6loVk0Bg; NRSC, *No One*, <https://www.youtube.com/watch?v=04cHBXvDhIA>.

¹⁷ As explained below, \$1,407.50 of this disbursement was inadvertently paid from the Legal Proceedings Account and the NRSC has taken corrective action. See Dollar Decl. ¶ 12.

The fundraising TV advertisements, titled “Against Arizona,” “Daño,” and “Gullible” (scripts attached hereto as Exhibits G, H, and I), solicited donations for the Legal Proceedings Account via the NRSC’s short code and ran in Arizona from April 22 – May 1, 2022 (“Daño”) and April 25 – May 3, 2022 (“Against Arizona”) and in New Hampshire from May 18 – June 8, 2022 (“Gullible”).¹⁸ As explained below, the fundraising TV advertisements do not contain express advocacy, were not disseminated within 90 days of the primary in those states, and are not party coordinated communications.

E. Summer 2022 Fundraising TV Advertisements (“Goes Along”)

In the summer of 2022, the NRSC sponsored additional TV advertisements to raise funds for the Legal Proceedings Account. The following disbursement relates to this fundraising activity:

Date	Recipient	Purpose	Amount
7/28/2022	ON MESSAGE INC	LEGAL PROC - MEDIA	\$1,006,751.00

The fundraising TV advertisements, titled “Goes Along,” solicited donations for the Legal Proceedings Account via the NRSC’s short code and ran in Colorado and Washington from August 3 – 9, 2022.¹⁹ A script for the version of “Goes Along” that was disseminated in Colorado is attached hereto as Exhibit J.²⁰ As explained below, the fundraising TV advertisements do not contain express advocacy, were disseminated after the primaries in those states and more than 90 days before the general election, and are not party coordinated communications.

III. Other Expenses

While preparing its response to the Complaint, the NRSC identified two expenses totaling \$4,025.50 that should have been paid from the NRSC’s general account and were inadvertently paid from the Legal Proceedings Account. On December 19, 2022, the NRSC transferred \$4,025.50 from its general account to the Legal Proceedings Account to rectify this inadvertent error.²¹ This internal transfer will be reported on the NRSC’s 2022 Year End Report. The two expenses at issue relate to the following disbursements:

Date	Recipient	Purpose	Amount
5/10/2022	THE O'DONNELL GROUP	LEGAL PROC - MEDIA	\$19,994.90
6/8/2022	SRCP MEDIA INC.	LEGAL PROC - MEDIA PRODUCTION	\$2,618.00

¹⁸ Dollar Decl. ¶ 11; NRSC, *Against Arizona*, <https://www.youtube.com/watch?v=kThE0xJE3mE>; NRSC, *Daño / Damage*, <https://www.youtube.com/watch?v=W3upxdl8lc0>; NRSC, *Gullible*, <https://www.youtube.com/watch?v=HpaZzJwPM-c>.

¹⁹ Dollar Decl. ¶ 12.

²⁰ The version of “Goes Along” that was disseminated in Washington mirrors the Colorado version and simply swaps out the incumbent Senator’s name and likeness. See NRSC, *Goes Along – CO*, <https://www.youtube.com/watch?v=0yR8un4JM80>; NRSC, *Goes Along – WA*, <https://www.youtube.com/watch?v=4S7IzHh098Q>.

²¹ Dollar Decl. ¶ 13.

Specifically, \$1,407.50 of the \$19,994.90 disbursement to The O'Donnell Group was for a production cost unrelated to any Legal Proceedings Account fundraising advertisements;²² the remaining portion of this disbursement related to Legal Proceedings Account fundraising TV advertisements, as explained above. In addition, the \$2,618.00 disbursement to SRCP Media, Inc. was for production costs unrelated to any Legal Proceedings Account fundraising advertisements.²³

THE LAW

I. National Party Committee Legal Proceedings Accounts

In 2014, Congress enacted the Appropriations Act that amended FECA to permit a national party committee to establish “[a] separate, segregated account . . . which is used to defray expenses incurred with respect to the preparation for and the conduct of election recounts and contests and other legal proceedings.”²⁴ This account, often referred to as a legal proceedings account, may accept contributions under a separate limit that is 300% of the amount of a national party committee’s contribution limit.²⁵ Importantly, the Appropriations Act also provided that the coordinated party expenditure limits “shall not apply to expenditures made from any of the accounts described in subsection (a)(9),” including legal proceedings accounts.²⁶

According to the Appropriations Act’s legislative history, Congress “intended” national party committees to use legal proceedings account funds “to defray expenses incurred with respect to the preparation for and the conduct of election recounts and contests and other legal proceedings, including the costs of fundraising for this segregated account.”²⁷ Congress did “not intend[] to modify Federal Election Commission precedent permitting the raising and spending of funds by campaign or State or national party committees” in FEC Advisory Opinions 2006-24 and 2009-4, but emphasized that it “also intended to permit the national parties to use such funds for costs, fees, and disbursements associated with other legal proceedings.”²⁸ Congress noted that “it is the intent of the amendments contained herein that expenditures made from the accounts described in [Section 30116(a)(9)] of FECA, many of which, such as recount and legal proceedings expenses, are not for the purpose of influencing Federal elections, do not count against the coordinated party expenditure limits described in [Section 30116(d)] of FECA.”²⁹

²² *Id.*

²³ *Id.*

²⁴ Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. No. 113-235, 128 Stat. 2130, 2773 (2014) (codified at 52 U.S.C. § 30116(a)(9)(C)).

²⁵ 52 U.S.C. § 30116(a)(1)(B), (2)(B). In the 2021-22 election cycle, individuals and non-multicandidate PACs may contribute up to \$109,500 per calendar year to a national party committee’s legal proceedings account and multicandidate PACs may contribute up to \$45,000 per calendar year to a national party committee’s legal proceedings account. FEC, *Contribution Limits for 2021-2022* (Feb. 2, 2021), <https://www.fec.gov/updates/contribution-limits-2021-2022>.

²⁶ 52 U.S.C. § 30116(d)(5).

²⁷ 160 Cong. Rec. S6814 (daily ed. Dec. 13, 2014) (statement of Sen. Reid); 160 Cong. Rec. H9286 (daily ed. Dec. 11, 2014) (statement of Rep. Boehner).

²⁸ *Id.*

²⁹ *Id.*

Through these statements, Congress made clear that legal proceedings accounts could be used not only to pay for expenses related to recounts and contests, but also to pay for expenses related to “other legal proceedings.” “[M]any”—but not all—of these expenses “are not for the purpose of influencing Federal elections.”³⁰

Following the enactment of the Appropriations Act and the creation of legal proceedings accounts, the FEC issued guidance to national party committees on reporting receipts to and disbursements from their segregated accounts, but has not commenced a rulemaking to provide any further guidance or impose any restrictions on the operation of the accounts.³¹ In the eight years that have passed since the creation of national party committee segregated accounts, the Commission has publicly grappled with these accounts on only four occasions.

In Advisory Opinion 2019-02 (Bill Nelson for Senate), the Commission confirmed that the Senate campaign of a defeated candidate may transfer its excess recount account funds to the legal proceedings account of the Democratic Senatorial Campaign Committee (“DSCC”).³² In explaining why the Senate campaign’s proposed transfer of excess recount funds to the DSCC’s legal proceedings account “would [not] be used for the purpose of influencing a federal election, and thus would not violate the prohibition on using [campaign] recount funds for contributions and expenditures as explained above,” the Commission noted that the legislative history “indicate[s] that ‘Commission precedent’ on raising and spending of recount funds would apply to the national party committee accounts such as the DSCC’s recount account.”³³ “Given that Commission precedent prohibits the use of recount funds for campaign activities,” it reasoned that “any funds that the Committee transfers to the DSCC recount account also could not be used for the purpose of influencing a federal election.”³⁴ As discussed below, however, a more recent advisory opinion—one issued to a national party committee—eschews any “for the purpose of influencing a federal election” analysis and instead appears to contemplate legal proceedings accounts being able to pay for some expenses that could be for the purpose of influencing a federal election.

In September 2021, the FEC made public two enforcement matters involving complaints filed against national party committees alleging violations related to legal proceedings accounts. In MUR 7358 (Rosen for Nevada, *et al.*), the complainant alleged that two law firms made excessive in-kind contributions to a federal campaign.³⁵ Court records reportedly indicated that the law firms represented the campaign, but the campaign’s FEC reports did not disclose any disbursements to the law firms. The respondents in this matter explained that the DSCC and the Democratic Congressional Campaign Committee paid the law firms for their services from their respective legal proceedings accounts.³⁶ The Commission found no reason to believe that the

³⁰ *Id.*

³¹ FEC, *FEC Issues Interim Reporting Guidance for National Party Committee Accounts* (Feb. 13, 2015), <https://www.fec.gov/updates/fec-issues-interim-reporting-guidance-for-national-party-committee-accounts>; FEC, *Rulemaking Petition: Implementing the Consolidated and Further Continuing Appropriations Act, 2015*, 81 Fed. Reg. 69722 (Oct. 7, 2016).

³² AO 2019-02 (Bill Nelson for Senate) (Mar. 28, 2019).

³³ *Id.* at 4 (citations omitted).

³⁴ *Id.* (citing AO 2010-14 (DSCC)).

³⁵ MUR 7358 (Rosen for Nevada, *et al.*), Factual & Legal Analysis, at 1-2 (Sept. 15, 2021).

³⁶ *Id.* at 3-4.

law firms made excessive in-kind contributions to the campaign, but dismissed as an exercise of prosecutorial discretion the allegation that the campaign accepted and failed to report the third-party payment of legal services as in-kind contributions.³⁷ The Commission explained that it “ha[d] yet to provide guidance to the regulated community on the scope of permissible uses of these accounts under 52 U.S.C. § 30116(a)(9)(C) or the effect of the payments from these accounts under 52 U.S.C. § 30101(8)(A)(ii).”³⁸

The FEC reached a similar result in MUR 7390 (Republican National Committee), in which the complainant alleged that the Republican National Committee (“RNC”) improperly spent funds from its legal proceedings account by paying for the legal expenses of then-President Donald J. Trump and his son, Donald Trump, Jr., in connection with Department of Justice (“DOJ”) and congressional investigations.³⁹ The Commission noted that “the question presented is whether the phrase ‘other legal proceedings’ includes the DOJ and related congressional investigations such that the RNC could permissibly spend funds from its segregated account established to defray costs of ‘election recounts and contests and other legal proceedings’ for legal fees incurred by Trump and Trump Jr. as a result of those investigations.”⁴⁰ The Commission dismissed the allegations as a matter of prosecutorial discretion because “[t]he RNC’s use of its segregated account implicates novel and complex legal issues regarding relatively-new statutory text for which the Commission has yet to provide guidance.”⁴¹

Most recently, the Commission opined on the permissibility of proposed fundraising TV advertisements for the DSCC’s legal proceedings account in response to an advisory opinion requested by the DSCC the day after the Complaint was filed.⁴² In its request, the DSCC had stipulated that the proposed advertisements would be coordinated with one or more federal candidates and that one version would promote, attack, support, or oppose a federal candidate and might expressly advocate the election or defeat of the coordinating candidate.⁴³ The Commission determined that the DSCC could pay for TV advertisements that solicit funds for its legal proceedings account, provided that if the TV advertisement “qualifies as both a solicitation to its Legal Proceedings Account and a party coordinated communication, the DSCC’s costs . . . must be reasonably allocated between the Legal Proceedings Account and an account other than the Legal Proceedings Account.”⁴⁴ The Commission found that one of the proposed ads, which would be disseminated in the coordinating candidate’s jurisdiction within 90 days of the general election, “must be reasonably allocated between the Legal Proceedings Account and an account other than the Legal Proceedings Account” because it “qualifie[d] as both a solicitation to its Legal Proceedings Account and a party coordinated communication.”⁴⁵ Moreover, the Commission stated that the DSCC must “treat costs for [the fundraising TV advertisements] not allocable to

³⁷ *Id.* at 6.

³⁸ *Id.*

³⁹ MUR 7390 (Republican National Committee), Factual & Legal Analysis, at 1 (Sept. 13, 2021).

⁴⁰ *Id.* at 7-8.

⁴¹ *Id.* at 2.

⁴² AOR 2022-21 (DSCC, *et al.*) (submitted Sept. 20, 2022).

⁴³ *See id.*

⁴⁴ AO 2022-21 (DSCC, *et al.*) at 4 (Oct. 20, 2022).

⁴⁵ *Id.* at 7.

the Legal Proceedings Account as either in-kind candidate contributions or coordinated party expenditures subject to the Act's limits on such contributions and expenditures."⁴⁶ Advisory Opinion 2022-21 did not analyze whether the DSCC's proposed fundraising TV advertisements would be "for the purpose of influencing a federal election," suggesting that this principle was not dispositive and that some fundraising communications for segregated accounts could theoretically be for the purpose of influencing a federal election.

II. Party Coordinated Communications

The Bipartisan Campaign Reform Act of 2002 instructed the Commission to "promulgate new regulations on coordinated communications paid for by persons other than candidates, authorized committees of candidates, and party committees."⁴⁷ The Commission, in turn, promulgated in its regulations a new defined term—"party coordinated communication"—to "determine when communications paid for by a political party committee are considered to be coordinated with a candidate, a candidate's authorized committee, or their agents."⁴⁸

A communication is a "party coordinated communication" if it meets three criteria: (1) the communication is paid for by a political party committee or its agent (the "payment" prong); (2) the communication satisfies at least one of three content standards (the "content" prong); and (3) the communication satisfies at least one of six conduct standards (the "conduct" prong).⁴⁹ Unless otherwise exempt from the definitions of "contribution" and "expenditure," a "party coordinated communication" is treated as either an in-kind contribution to the candidate with whom the communication was coordinated or a coordinated party expenditure—both of which are subject to limits.⁵⁰

As relevant here, a communication satisfies the content prong if it is a "public communication"⁵¹ that:

- (1) Disseminates, distributes, or republishes, in whole or in part, campaign materials prepared by a candidate, the candidate's authorized committee, or an agent of any of the foregoing;
- (2) Expressly advocates the election or defeat of a clearly identified federal candidate; or

⁴⁶ *Id.* at 7, 10.

⁴⁷ Public Law 107–155, sec. 214(b), (c).

⁴⁸ FEC, *Coordinated and Independent Expenditures*, 68 Fed. Reg. 421, 448 (Jan. 3, 2003).

⁴⁹ 11 C.F.R. § 109.37(a).

⁵⁰ *Id.* § 109.37(b).

⁵¹ A "public communication" is "a communication by means of any broadcast, cable, or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone bank to the general public, or any other form of general public political advertising." *Id.* § 100.26. The term "shall not include communications over the Internet, except for communications placed for a fee on another person's website." *Id.*

- (3) References a clearly identified House or Senate candidate and is publicly disseminated in the candidate's jurisdiction within 90 days of the candidate's election.⁵²

To satisfy the conduct prong, a communication must meet one of the following six conduct standards, which are more fully explained in the Commission's regulations: (1) request or suggestion; (2) material involvement; (3) substantial discussion; (4) common vendor; (5) former employee or independent contractor; or (6) dissemination, distribution, or republication of campaign material.⁵³

DISCUSSION

I. There is no reason to believe that the NRSC violated FECA by spending its Legal Proceedings Account funds on impermissible expenses.

The Complaint's sole allegation is that the NRSC "unlawfully us[ed] funds in its recount and legal proceedings account – which can only be used to pay 'expenses incurred with respect to the preparation for and conduct of election recounts and contests and other legal proceedings' – to pay for more than \$3.6 million in campaign expenses, including media placement and production, digital consulting, and direct mail."⁵⁴ The Complaint erroneously assumes that such expenses are for "campaign purposes" and overlooks the reality that such communications-related expenses can and often are related to recounts and post-election legal proceedings or bona fide fundraising expenses. The expenses identified in the Complaint fall into these two key categories.⁵⁵

A. The Complaint identified several expenses that directly involve the preparation for and conduct of recounts and preparation for potential legal proceedings.

The Complaint identifies three expenses that directly relate to preparing for a potential recount and potential legal proceedings and the conduct of an actual recount. The NRSC's Legal Proceedings Account properly paid for these expenses:

Date	Recipient	Purpose	Amount
1/19/2021	TAG LLC	LEGAL PROC – DIGITAL CONSULTING	\$7,750.00
1/19/2021	AMERICA RISING LLC	LEGAL PROC – RESEARCH	\$27,709.23
6/22/2022	TAG LLC	LEGAL PROC – DIGITAL CONSULTING	\$207,851.51

⁵² *Id.* § 109.37(a)(2).

⁵³ *Id.* § 109.37(a)(3) (referencing the six conduct standards in the definition of "coordinated communication" at 11 C.F.R. § 109.21(d)(1)-(6)).

⁵⁴ Compl. ¶ 26.

⁵⁵ As noted above, the NRSC identified two expenses totaling \$4,025.50 that should have been paid from the NRSC's main account and were inadvertently paid from the Legal Proceedings Account. The NRSC made a corrective transfer on December 19, 2022. See *supra* nn.21-23 and accompanying text.

In the weeks leading up to the January 5, 2021 runoff election for two U.S. Senate seats from Georgia, the NRSC actively engaged in litigation and simultaneously prepared for a potential recount and other post-election proceedings. The January 19, 2021 disbursement to America Rising LLC was for research related to preparing for potential litigation.⁵⁶ The Appropriations Act's legislative history explains that Congress "intended to permit the national parties to use [legal proceedings account] funds for costs, fees, and disbursements associated with other legal proceedings."⁵⁷ Research related to preparing for potential litigation undisputedly is an "expense[] incurred with respect to the preparation for and conduct of . . . other legal proceedings."⁵⁸

The January 19, 2021 disbursement to TAG LLC was for the creation of a website that provided voters with information on how to cure their absentee ballots *after* the January 5, 2021 runoff election.⁵⁹ The Appropriations Act's legislative history indicates that Congress intended legal proceedings accounts to be able to defray the types of expenses permitted to be paid from pre-Appropriations Act recount accounts.⁶⁰ In Advisory Opinion 2006-24, which the Appropriations Act's legislative history specifically cites, the Commission concluded that recount accounts may pay for a broad variety of "recount activities," including "expenses resulting from . . . counting of provisional and absentee ballots" as well as "post-election . . . administrative-proceeding expenses concerning the casting and counting of ballots during the Federal election."⁶¹ Georgia, like many states, requires absentee voters to complete and sign a certificate on the outer envelope of an absentee ballot. When an election official in Georgia rejects an absentee ballot for non-conformance with these requirements, the voter is afforded an opportunity to correct or "cure" his or her absentee ballot for a period of time after the election. Absentee ballot curing relates to the "counting of . . . absentee ballots" and also is part of a "post-election administrative-proceeding . . . concerning the casting and counting of ballots."⁶²

The May 17, 2022 primary to determine the Republican nominee for U.S. Senator from Pennsylvania resulted in a recount; Dr. Mehmet Oz ultimately won the nomination. The June 22, 2022 disbursement to TAG LLC was for services rendered to Dr. Mehmet Oz's principal campaign committee, Doctor Oz for Senate, *after* the May 17, 2022 primary and in connection with Doctor Oz for Senate's participation in the primary recount.⁶³ As noted above, the Appropriations Act's legislative history indicates that Congress intended national party committee legal proceedings accounts to be able to defray the type of expenses permitted to be paid from pre-Appropriations Act recount accounts. Here, the NRSC's Legal Proceedings Account paid for digital and

⁵⁶ Dollar Decl. ¶ 5.

⁵⁷ 160 Cong. Rec. S6814 (daily ed. Dec. 13, 2014) (statement of Sen. Reid); 160 Cong. Rec. H9286 (daily ed. Dec. 11, 2014) (statement of Rep. Boehner).

⁵⁸ 52 U.S.C. 30116(a)(9)(C).

⁵⁹ Dollar Decl. ¶ 4.

⁶⁰ 160 Cong. Rec. S6814 (daily ed. Dec. 13, 2014) (statement of Sen. Reid); 160 Cong. Rec. H9286 (daily ed. Dec. 11, 2014) (statement of Rep. Boehner).

⁶¹ AO 2006-24 (NRSC, et al.), at 2-3 (defining "recount activities") (Oct. 5, 2006).

⁶² *Id.*

⁶³ Dollar Decl. ¶ 6.

communications consulting services rendered to Dr. Oz's campaign in connection with its participation in a recount.⁶⁴

B. The remaining expenses identified in the Complaint are bona fide fundraising expenses on behalf of the Legal Proceedings Account.

The remaining expenses identified in the Complaint are bona fide fundraising expenses on behalf of the Legal Proceedings Account. As such, the NRSC's Legal Proceedings Account properly paid for these expenses:

Date	Recipient	Purpose	Amount
6/8/2022	SIMIO CLOUD	LEGAL PROC - DIRECT MAIL PRODUCTION	\$3,250.00
3/26/2021	ON MESSAGE INC	LEGAL PROC - MEDIA PLACEMENT	\$999,982.00
4/7/2021	ON MESSAGE INC	LEGAL PROC - MEDIA	\$27,650.00
6/23/2021	ON MESSAGE INC	LEGAL PROC - MEDIA	\$223,978.00
4/22/2022	ON MESSAGE INC	LEGAL PROC - MEDIA PLACEMENT	\$1,067,235.02
5/10/2022	THE O'DONNELL GROUP	LEGAL PROC - MEDIA	\$19,994.90 ⁶⁵
5/18/2022	THE O'DONNELL GROUP	LEGAL PROC - MEDIA	\$11,153.71
7/28/2022	ON MESSAGE INC	LEGAL PROC - MEDIA	\$1,006,751.00

It is clear, as a matter of law, that a national party committee's legal proceedings account may pay the costs of raising funds for the legal proceedings account. Congress expressly stated in the Appropriations Act's legislative history that it intended legal proceedings accounts to be able to pay for "the costs of fundraising for this segregated account."⁶⁶ At the time the Complaint was filed, the Commission had issued no guidance and placed no restrictions on fundraising solicitations for national party committee segregated accounts.

After the Complaint was filed, the Commission received an advisory opinion request concerning a DSCC proposal to spend funds from its legal proceedings account to pay for two fundraising TV advertisements that would solicit donations for its legal proceedings account.⁶⁷ The DSCC's proposed TV advertisements would solicit donations for its legal proceedings account, would feature federal candidates, would be coordinated with those candidates, and one of the proposed TV ads would promote, attack, support, or oppose a federal candidate and might expressly advocate the election of the featured federal candidate. The Commission determined

⁶⁴ We note that FECA, as amended by the Appropriations Act, provides that the party coordinated expenditure limits "shall not apply" to disbursements made for national party committee legal proceedings accounts. 52 U.S.C. § 30116(d)(5). Accordingly, the NRSC's payment of Doctor Oz for Senate's recount expense is not a coordinated expenditure or in-kind contribution to Doctor Oz for Senate.

⁶⁵ As noted above, \$1,407.50 of this disbursement was inadvertently paid from the Legal Proceedings Account and corrective action has been taken. See *supra* nn.21-23 and accompanying text.

⁶⁶ 160 Cong. Rec. S6814 (daily ed. Dec. 13, 2014) (statement of Sen. Reid); 160 Cong. Rec. H9286 (daily ed. Dec. 11, 2014) (statement of Rep. Boehner).

⁶⁷ AOR 2022-21 (DSCC, *et al.*) (submitted Sept. 20, 2022).

that “[t]he DSCC may pay for television advertisements meeting the description of Solicitation 1 [and Solicitation 2], subject to reasonable cost allocation among its accounts to the extent that those communications are attributable to more than one purpose.”⁶⁸ The Commission elaborated that if a TV advertisement “qualifies as both a solicitation to its Legal Proceedings Account and a party coordinated communication, the DSCC’s costs for Solicitation 1 must be reasonably allocated between the Legal Proceedings Account and an account other than the Legal Proceedings Account.”⁶⁹ Because Solicitation 2 would be disseminated in the referenced candidate’s jurisdiction within 90 days of the general election (and might, in some circumstances, contain express advocacy), it “qualifie[d] as both a solicitation to its Legal Proceedings Account and a party coordinated communication” and, therefore, “must be reasonably allocated between the Legal Proceedings Account and an account other than the Legal Proceedings Account.”⁷⁰ Accordingly, under Advisory Opinion 2022-21, a fundraising TV advertisement for the legal proceedings account arguably must also qualify as a party coordinated communication to have “more than one purpose” that necessitates allocating the cost of the fundraising TV advertisement between the legal proceedings account and another account.

Although Advisory Opinion 2022-21 was issued after the Complaint was filed and cannot retroactively bind the NRSC, it is nevertheless instructive. Here, none of the NRSC’s Legal Proceedings Account fundraising communications at issue qualify as party coordinated communications. In addition, none of the fundraising communications at issue expressly advocate the election or defeat of clearly identified federal candidates nor do they republish campaign materials. Only the fundraising TV advertisements reference clearly identified federal candidates, but these advertisements were not disseminated in any coordinated communication reference windows. Under the framework of Advisory Opinion 2022-21, the communications at issue have only one purpose—soliciting donations for the NRSC’s Legal Proceedings Account.

1. The fundraising TV advertisements are not party coordinated communications, and the Legal Proceedings Account properly paid for these expenses.

From the spring of 2021 through the summer of 2022, the NRSC sponsored a series of TV advertisements that solicited donations for its Legal Proceedings Account. As explained below, none of the fundraising TV advertisements are party coordinated communications as each advertisement fails to satisfy the content prong. The fundraising TV advertisements are proper Legal Proceedings Account expenses.

A communication is a “party coordinated communication” if it meets three criteria: (1) the communication is paid for by a political party committee or its agent (the “payment” prong); (2) the communication satisfies at least one of three content standards (the “content” prong); and (3) the communication satisfies at least one of six conduct standards (the “conduct” prong).⁷¹ Unless otherwise exempt from the definitions of “contribution” and “expenditure,” a “party coordinated communication” is treated as either an in-kind contribution to the candidate with whom the

⁶⁸ AO 2022-21 (DSCC, *et al.*), at 4, 7 (Oct. 20, 2022).

⁶⁹ *Id.* at 4.

⁷⁰ *Id.* at 7.

⁷¹ 11 C.F.R. § 109.37(a).

communication was coordinated or a coordinated party expenditure—both of which are subject to limits.⁷² A communication satisfies the content prong if it is a “public communication” that:

- (1) Disseminates, distributes, or republishes, in whole or in part, campaign materials prepared by a candidate, the candidate’s authorized committee, or an agent of any of the foregoing;
- (2) References a clearly identified House or Senate candidate and is publicly disseminated in the candidate’s jurisdiction within 90 days of the candidate’s election; or
- (3) Expressly advocates the election or defeat of a clearly identified federal candidate.⁷³

Here, none of the NRSC’s fundraising TV advertisements satisfy the content prong and consequently are not party coordinated communications as a matter of law. First, none of the fundraising TV advertisements republish campaign materials.⁷⁴ Second, the fundraising TV advertisements were disseminated before the 90-day reference window for the November 8, 2022 general election began on August 10, 2022⁷⁵ and, as the chart below outlines, were also disseminated outside of the 90-day reference windows for the relevant primaries.⁷⁶

State	Ad Title	Dissemination Dates	Primary Reference Window ⁷⁷
Arizona	Power Grab Quieren Más Poder Against Arizona Daño	3/29/2021 – 4/9/2021 3/29/2021 – 4/9/2021 4/25/2022 – 5/3/2022 4/22/2022 – 5/1/2022	5/4/2022 – 8/2/2022
Colorado	Goes Along	8/3/2022 – 8/9/2022	3/30/2022 – 6/28/2022
Georgia	Power Grab Welfare for Politicians	3/29/2021 – 4/9/2021 6/24/2021 – 6/30/2021	2/23/2022 – 5/24/2022
Nevada	Power Grab Quieren Más Poder	3/29/2021 – 4/9/2021 3/29/2021 – 4/9/2021	3/16/2022 – 6/14/2022
New Hampshire	Power Grab No One Gullible	3/29/2021 – 4/9/2021 6/24/2021 – 6/30/2021 5/18/2022 – 6/8/2022	6/15/2022 – 9/13/2022
Washington	Goes Along	8/3/2022 – 8/9/2022	5/4/2022 – 8/2/2022

⁷² *Id.* § 109.37(b).

⁷³ *Id.* § 109.37(a)(2).

⁷⁴ See Exhibits C-J.

⁷⁵ FEC, *Coordinated Communications Periods: Congressional General Election (2022)*, <https://www.fec.gov/help-candidates-and-committees/dates-and-deadlines/2022-reporting-dates/coordinated-communications-periods-congressional-general-election-2022>.

⁷⁶ Dollar Decl. ¶¶ 8, 10-12.

⁷⁷ FEC, *Coordinated Communications Periods: Congressional Primaries (2022)*, <https://www.fec.gov/help-candidates-and-committees/dates-and-deadlines/2022-reporting-dates/coordinated-communications-periods-congressional-primaries-2022>.

Third, none of the NRSC's fundraising TV advertisements expressly advocate the election or defeat of a clearly identified federal candidate. The Commission has defined the term "expressly advocating" as any communication that: (a) "uses phrases or words such as 'vote for,' 'elect,' 'defeat,' etc., 'which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate(s);'" or (b) "[w]hen taken as a whole and with limited reference to external events, such as the proximity to the election, could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidates."⁷⁸ Part (a) requires the presence of slogans or "magic words," none of which are present in the NRSC's fundraising TV advertisements. Part (b)—the constitutionality of which remains uncertain⁷⁹—requires a more holistic analysis of the communications at issue. "[C]omment[s] on a candidate's character, qualifications, or accomplishments are express advocacy under section 100.22(b) 'if, in context, they have *no other reasonable meaning* than to encourage actions to elect or defeat the candidate in question."⁸⁰ A communication "does not contain express advocacy under 11 C.F.R. § 100.22(b) merely . . . because it comments on a candidate's character."⁸¹ Moreover, where a communication's "message [is] ambiguous" and the communication could have "another 'reasonable meaning' beside encouraging action to elect or defeat" the referenced candidate, the communication "does not contain express advocacy" under Section 100.22(b).⁸²

Applying this standard to the NRSC's fundraising TV advertisements at issue, each of the advertisements contains an explicit fundraising appeal coupled with an "ambiguous" message that has another "reasonable meaning" other than encouraging action to defeat the referenced candidate. These messages were, in every case, relevant to the explicit effort to raise funds for the NRSC's Legal Proceedings Account.

a. *The Spring 2021 fundraising TV advertisements ("Power Grab" and "Quieren Más Poder") do not contain express advocacy.*

The "Power Grab" advertisements focused on a discrete policy issue—opposition to the then-pending Senate Bill 1 ("S.B. 1")—in an attempt to raise funds for the NRSC's Legal Proceedings Account. The "Power Grab" advertisements expressly referenced S.B. 1 in on-screen text, describing S.B. 1's impact on election administration and campaign finance as a

⁷⁸ MUR 7930 (Minocqua Brewing Company SuperPAC, *et al.*), Factual & Legal Analysis, at 10 (July 20, 2022) (quoting 11 C.F.R. § 100.22).

⁷⁹ *Me. Right to Life Comm. Inc. v. FEC*, 914 F. Supp. 8,13 (D. Me. 1996) (holding "that 11 C.F.R. § 100.22(b) is contrary to the statute as the United States Supreme Court and the First Circuit Court of Appeals have interpreted it and thus beyond the power of the FEC"), *aff'd per curiam*, 98 F.3d 1 (1st Cir.1996) (per curiam), *cert. denied*, 522 U.S. 810 (1997); *Va. Society for Human Life, Inc. v. FEC*, 263 F.3d 379, 392 (4th Cir. 2001) (holding that § 100.22(b) "violates the First Amendment"); *but see Free Speech v. FEC*, 720 F.3d 788 (10th Cir. 2013) (holding that 11 C.F.R. § 100.22(b) is neither overly broad nor impermissibly vague); *The Real Truth About Abortion v. FEC*, 681 F.3d 544 (4th Cir. 2012) (holding that 11 C.F.R. § 100.22(b) is constitutional).

⁸⁰ MUR 7930, Factual & Legal Analysis, at 13 (emphasis added).

⁸¹ MUR 7460 (Fair People for Fair Government) & MURs 7536/7551 (Coalition for a Safe Secure America), Supplemental Statement of Reasons of Vice Chair Allen Dickerson and Commissioners Sean J. Cooksey and James E. "Trey" Trainor III (May 26, 2021).

⁸² MUR 7930, Factual & Legal Analysis, at 13.

“POWER GRAB.”⁸³ The “Power Grab” advertisements included calls to action urging the viewer to “stop” S.B. 1 (referred to as the “[Kelly/Warnock/Cortez Masto/Hassan] Pelosi plan”) and its corrupting influence by “donat[ing]” to the NRSC’s Legal Proceedings Account.⁸⁴ The advertisements sought to raise funds which might have been used to challenge S.B. 1 in court, if the legislation had been enacted.

The “Power Grab” advertisements, like the billboard analyzed in MUR 7930, identified only incumbent officeholders and “ma[de] no mention of their status as candidates” for reelection.⁸⁵ The “Power Grab” advertisements referenced the officeholders’ desire to “use your tax dollars to fund their political ads,” but did so strictly in the context of describing S.B. 1’s contents. Because the “Power Grab” advertisements made no reference to the fact that any of the identified incumbents were running for reelection and expressly solicited donations to the Legal Proceedings Account, they are easily interpreted as attempts to raise money for the NRSC’s Legal Proceedings Account rather than an unambiguous call to “action . . . to defeat” the referenced candidates.⁸⁶

The “Quieren Más Poder” advertisements were Spanish-language versions of the “Power Grab” advertisements. While they closely track the theme of the “Power Grab” advertisements, they differ slightly in the precise wording. Whereas the “Power Grab” advertisements closed with a spoken and on-screen written call to “Stop the [Kelly/Warnock/Cortez Masto/Hassan] Pelosi Plan” and “DONATE,”⁸⁷ the “Quieren Más Poder” ads closed with an on-screen written call to “DONATE” and a spoken message in Spanish stating “We need to stop Pelosi and [Kelly/Cortez Masto]’s political corruption before it’s too late.”⁸⁸ When viewed in the context of the preceding discussion of S.B. 1’s impact on election administration and campaign finance, the “Quieren Más Poder” advertisements are easily understood as a call to “DONATE” and ensure the NRSC’s Legal Proceedings Account was adequately funded.⁸⁹

b. The Summer 2021 fundraising TV advertisements (“Welfare for Politicians” and “No One”) do not contain express advocacy.

Like the “Power Grab” advertisements, the “Welfare for Politicians” and “No One” advertisements focused on the discrete issue of the then-pending S.B. 1. Both spots focused on the expense and perceived wastefulness of S.B. 1 in a call to fund the NRSC’s Legal Proceedings Account. “Welfare for Politicians” opened by referencing the economic impact of Senator Warnock’s support for the boycott of the 2021 MLB All-Star Game, which was originally scheduled to be played in Atlanta.⁹⁰ “Welfare for Politicians” then drew a parallel between that cost and the cost to taxpayers of S.B. 1’s provision permitting the use of “up to \$25 million of government

⁸³ Ex. C.

⁸⁴ *Id.*

⁸⁵ Compare Ex. C with MUR 7930, Factual & Legal Analysis, at 13.

⁸⁶ Ex. C; see also 11 C.F.R § 100.22(b).

⁸⁷ Ex. C.

⁸⁸ Ex. D.

⁸⁹ *Id.*

⁹⁰ Ex. E.

money” for political campaigns.⁹¹ The advertisement then called on the viewer to “help us stop Warnock’s welfare for politicians plan” by donating to the NRSC’s Legal Proceedings Account.

Similarly, “No One” focused on “wasteful” Washington ideas before discussing S.B. 1’s cost to taxpayers.⁹² “No One” described S.B. 1 as a “Washington Waste Plan” supported by Senator Hassan, noting that S.B. 1’s wasteful spending would include “up to \$9 million of government money” for Senator Hassan’s campaign.⁹³ It then immediately called on the viewer to “help us [i.e., the NRSC] stop the Hassan plan” by donating to the NRSC’s Legal Proceedings Account.⁹⁴

“Welfare for Politicians” and “No One” identified only incumbent officeholders. The advertisements mention the Warnock and Hassan campaigns, respectively, but did so only in the context of describing aspects of S.B. 1 that would make federal funds available to those campaigns. The advertisements are easily interpreted not as a call to oppose the reelection of Senator Warnock or Senator Hassan, but as an attempt to raise funds for the NRSC’s Legal Proceedings Account by reference to the perceived wastefulness of S.B. 1 and Senator Warnock and Senator Hassan’s respective support of S.B. 1.

c. *The Spring 2022 fundraising TV advertisements (“Against Arizona,” “Daño,” and “Gullible”) do not contain express advocacy.*

Like the spring and summer 2021 fundraising TV advertisements, “Against Arizona” solicited funds for the NRSC’s Legal Proceedings Account by appealing to a set of discrete policy issues. “Against Arizona” suggested that Senator Kelly had been hiding his record, “vot[ing] the party line in Washington” but “say[ing] the opposite when he’s home in Arizona.”⁹⁵ “Against Arizona” focused on Senator Kelly’s record of supporting President Biden on several immigration issues, specifically “sanctuary cities,” “benefits to illegals,” and the “border wall.”⁹⁶ It drew attention to these positions as part of an express appeal for the viewer to “donate today” to the NRSC’s Legal Proceedings Account.⁹⁷ “Against Arizona” identified Senator Kelly only in his role as an officeholder and did not reference his status as a candidate for reelection. Like the billboard analyzed in MUR 7930, “Against Arizona” questioned Senator Kelly’s record, but those comments alone are not sufficient to foreclose any other reasonable meaning than a call to defeat Senator Kelly—particularly as the advertisement immediately proceeded to ask the audience to donate funds to the NRSC’s Legal Proceedings Account. “Against Arizona” called on the audience to convey its disfavor with Senator Kelly’s voting record by donating to the NRSC’s Legal Proceeding Account.

“Daño,” a Spanish-language TV advertisement, took a similar approach. Like “Against Arizona,” “Daño” suggested that Senator Kelly had been hiding his Washington voting record,

⁹¹ *Id.*

⁹² Ex. F.

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ Ex. G.

⁹⁶ *Id.*

⁹⁷ *Id.*

“say[ing] nice things when he is in Arizona, but in Washington, he chickens out.”⁹⁸ “Daño” focused on Senator Kelly’s record of supporting President Biden on several policy issues, specifically “the border,” “crime,” and “overcrowded schools.”⁹⁹ “Daño” drew attention to these positions as part of a call to action to “donate today and tell Senator Kelly to stop voting with Biden because he is damaging the families of Arizona,” which was accompanied by on-screen instructions to donate by text to the NRSC’s Legal Proceedings Account.¹⁰⁰ “Daño” identified Senator Kelly only in his role as an officeholder and did not reference his status as a candidate for reelection. Like the billboard analyzed in MUR 7930, “Daño” questioned Senator Kelly’s record, but those comments alone are not sufficient to foreclose any other reasonable meaning than a call to defeat Senator Kelly—particularly as the advertisement immediately proceeded to ask the audience to donate funds to the NRSC’s Legal Proceedings Account. “Daño” called on the audience to convey its disfavor with Senator Kelly’s voting record by donating to the NRSC’s Legal Proceeding Account.

“Gullible” also solicited funds for the NRSC’s Legal Proceedings Account by drawing attention to Senator Hassan’s voting record on issues including “drilling for natural gas” and the “Keystone Pipeline,” suggesting that Senator Hassan must think that New Hampshire’s residents are “gullible.”¹⁰¹ This message was part of, and immediately followed by, an express call to action for the viewer to “donate today” to the NRSC’s Legal Proceedings Account.¹⁰² “Gullible” identified Senator Hassan only in her role as an officeholder and did not reference her status as a candidate for reelection. Like the billboard analyzed in MUR 7930, “Gullible” questioned Senator Hassan’s record, but those comments alone are not sufficient to foreclose any other reasonable meaning than a call to defeat Senator Hassan—particularly as they immediately preceded a call to donate funds to the NRSC’s Legal Proceedings Account. “Gullible” called on the audience to express its disfavor with Senator Hassan’s voting record by donating to the NRSC’s Legal Proceeding Account.

d. The Summer 2022 fundraising TV advertisements (“Goes Along”) do not contain express advocacy.

Like “Against Arizona” and “Gullible,” the “Goes Along” advertisements sought to raise funds for the NRSC’s Legal Proceedings Account by highlighting the voting records of Senator Murray and Senator Bennet. Specifically, these spots focused on the frequency with which each Senator “goes along with Biden” on policy matters like inflation, an “economic recession looming,” the “baby formula shortage,” “empty shelves,” and more “crime in our streets.”¹⁰³ This message was accompanied by imagery of either Senator Murray or Senator Bennet slowly morphing into President Biden on-screen. After restating that Senator Murray or Senator Bennet simply “goes along” with Biden, the advertisements asked the viewer to “donate today” while providing on-screen written instructions to donate to the NRSC’s Legal Proceedings Account.¹⁰⁴ The “Goes Along” advertisements identified Senator Murray and Senator Bennet only in their capacity as

⁹⁸ Ex. H.

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ Ex. I.

¹⁰² *Id.*

¹⁰³ Ex. J.

¹⁰⁴ *Id.*

officeholders and did not reference either Senator's status as a candidate for reelection. Like the billboard analyzed in MUR 7930, the "Goes Along" advertisements questioned Senator Murray and Senator Bennet's respective records, but those comments alone are not sufficient to foreclose any other reasonable meaning than a call to defeat Senator Murray and Senator Bennet. The "Goes Along" advertisements asked the audience to convey their disfavor with Senator Murray or Senator Bennet's policies by donating to the NRSC's Legal Proceeding Account.

2. The Legal Proceedings Account properly paid for the direct mail fundraising piece, which is not a party coordinated communication.

In the summer of 2022, the NRSC sent a direct mail fundraising appeal to raise funds for the Legal Proceedings Account. The mail piece expressly solicited donations for the "NRSC Legal Fund" by asking donors to "actively get involved in the NRSC's fight for election integrity" and "help ensure we have the financial firepower to dispatch our top-notch attorneys *whenever* and *wherever* the liberal Democrats are trying to game the system."¹⁰⁵ It did not reference any clearly identified federal candidates, let alone republish campaign materials or expressly advocate the election or defeat of a clearly identified federal candidate.¹⁰⁶ Accordingly, the fundraising mail piece is not a party coordinated communication as a matter of law and is a proper Legal Proceedings Account expense.

II. In the alternative, the Commission should exercise its prosecutorial discretion and dismiss this matter.

In the eight years that have passed since the enactment of the Appropriations Act and the creation of national party committee segregated accounts, the Commission has yet to commence a rulemaking to provide guidance or impose any restrictions whatsoever on the operation of these segregated accounts. At the time the Complaint was filed, the Commission had publicly grappled with the use of segregated accounts on only three previous occasions—none of which provided national party committees with meaningful guidance, let alone notice of any potential restrictions on the method, mode, or content of fundraising communications for segregated accounts. The first instance was an advisory opinion issued to a campaign committee confirming that the campaign committee may transfer its excess recount funds to a national party committee's legal proceedings account.¹⁰⁷ The other two instances were enforcement matters, which involved allegations of improper spending from legal proceedings accounts, and the Commission exercised its prosecutorial discretion under *Heckler v. Chaney* and dismissed both matters.¹⁰⁸ Only after the Complaint was filed did the Commission receive an advisory opinion request from the DSCC seeking confirmation that it may pay for communications that solicited donations for its legal proceedings account from its legal proceedings account.¹⁰⁹

Given that "[t]he Commission has yet to provide guidance to the regulated community on the scope of permissible uses of [legal proceedings] accounts under 52 U.S.C. § 30116(a)(9)(C),"

¹⁰⁵ Ex. B.

¹⁰⁶ *Id.*

¹⁰⁷ AO 2019-02 (Bill Nelson for Senate) (Mar. 28, 2019).

¹⁰⁸ See MUR 7358 (Rosen for Nevada, *et al.*), Factual & Legal Analysis (Sept. 15, 2021); MUR 7390 (Republican National Committee, *et al.*), Factual & Legal Analysis (Sept. 13, 2021).

¹⁰⁹ AO 2022-21 (DSCC, *et al.*) (Oct. 20, 2022).

Federal Election Commission
December 21, 2022
Page 21

the Commission at the very least should exercise its prosecutorial discretion and dismiss this matter.¹¹⁰ If the Commission wishes to impose restrictions on national party committee segregated accounts, and fundraising activities on behalf of these accounts in particular, the Commission should do so prospectively through a rulemaking proceeding and not retroactively through a pending enforcement matter. To do otherwise would raise very serious fair notice, due process, and First Amendment concerns.¹¹¹

CONCLUSION

For all the reasons set forth above, the Commission should find no reason to believe that the NRSC violated FECA and should promptly dismiss this matter. In the alternative, the Commission should dismiss this matter as an exercise of prosecutorial discretion.

Respectfully Submitted,

/s/ Michael E. Toner

Michael E. Toner
Brandis L. Zehr

¹¹⁰ MUR 7390 (Republican National Committee, *et al.*), Factual & Legal Analysis, at 9 (Sept. 13, 2021); *see also Heckler v. Chaney*, 470 U.S. 821, 831 (1985); *CREW v. FEC*, 993 F.3d 880, 882 (D.C. Cir. 2021), *reh'g denied*, No. 19-5161, 2022 WL 17578942 (D.C. Cir. Dec. 12, 2022) (“[A] Commission decision based even in part on prosecutorial discretion is not reviewable.”).

¹¹¹ *See FCC v. Fox Television Stations*, 567 U.S. 239, 253 (2012) (“A fundamental principle in our legal system is that laws which regulate persons or entities must give fair notice of conduct that is forbidden or required.”); *see also* MUR 6081 (American Issues Project, Inc.), Statement of Reasons of Vice Chairman Donald F. McGahn II and Commissioners Caroline C. Hunter and Matthew S. Petersen, at 23 (July 25, 2013) (“[D]ue process requires that the public know what is required *ex ante*, and that the Commission acknowledge and provide the public with prior notice of any regulatory change.”).

EXHIBIT INDEX

Exhibit A	Declaration of Ryan Dollar
Exhibit B	Legal Proceedings Account Fundraising Mail Piece
Exhibit C	“Power Grab” Script
Exhibit D	“Quieren Más Poder” Script
Exhibit E	“Welfare for Politicians” Script
Exhibit F	“No One” Script
Exhibit G	“Against Arizona” Script
Exhibit H	“Daño” Script
Exhibit I	“Gullible” Script
Exhibit J	“Goes Along” Script

EXHIBIT A

Declaration of Ryan Dollar
(see attached)

**BEFORE THE
FEDERAL ELECTION COMMISSION**

CITY OF WASHINGTON)	
)	MUR 8071
DISTRICT OF COLUMBIA)	

DECLARATION OF RYAN DOLLAR

I, Ryan Dollar, hereby declare as follows:

1. I am over 21 years of age, of sound mind, and I have personal knowledge of the facts stated below.
2. I am the General Counsel of the NRSC. I have held this position since January 2019. Prior to that, I was the Associate Counsel/Deputy General Counsel of the NRSC from March 2017 – December 2018.
3. As the NRSC’s General Counsel, I am knowledgeable of the disbursements made from the NRSC’s legal proceedings account established under 52 U.S.C. § 30116(a)(9)(C) (the “Legal Proceedings Account”).
4. On January 19, 2021, the Legal Proceedings Account made a disbursement to TAG LLC for \$7,750.00. This disbursement was for the creation of a website that provided voters who cast absentee ballots in the January 5, 2021 Georgia U.S. Senate runoff election with information on how to cure their absentee ballots after the runoff election.
5. On January 19, 2021, the Legal Proceedings Account made a disbursement to America Rising LLC for \$27,709.23. This disbursement was for research services rendered to the NRSC related to preparing for potential litigation in connection with the January 5, 2021 Georgia U.S. Senate runoff election.
6. On June 22, 2022, the Legal Proceedings Account made a disbursement to TAG LLC for \$207,851.51. This disbursement was for communications and digital consulting services rendered to Doctor Oz for Senate after the May 17, 2022 Pennsylvania U.S. Senate Republican Primary and in connection with Doctor Oz for Senate’s participation in the subsequent primary recount.
7. On June 8, 2022, the Legal Proceedings Account made a disbursement to Simio Cloud for \$3,250.00. This disbursement was for a direct mail fundraising appeal for the Legal Proceedings Account. A copy of the mailer is attached to the NRSC’s Response as Exhibit B.
8. The Legal Proceedings Account made disbursements to On Message Inc. on March 26, 2021 for \$999,982.00 and on April 7, 2021 for \$27,650.00. These disbursements were for TV advertisements titled “Power Grab” and “Quieren Más Poder” that solicited donations for the Legal Proceedings Account via the NRSC’s short code. “Power Grab” was

disseminated in Arizona, Georgia, Nevada, and New Hampshire from March 29, 2021 – April 9, 2021. “Quieren Más Poder” was disseminated in Arizona and Nevada from March 29, 2021 – April 9, 2021.

9. The April 7, 2021 disbursement to On Message Inc. also was for the production of an “election reform” digital video featuring NRSC Chairman Senator Rick Scott that was disseminated over the Internet at no cost. The portion of this disbursement attributable to the digital video was \$7,500.00. The digital video complemented “Power Grab” and “Quieren Más Poder” and was shared with NRSC major donors. The NRSC also used the “election reform” digital video to gauge the reaction of Republican constituents and voters to the issues discussed in the video, which helped inform the NRSC’s legal priorities and operation of the Legal Proceedings Account.

10. On June 23, 2021, the Legal Proceedings Account made a disbursement to On Message Inc. for \$223,978.00. This disbursement was for TV advertisements titled “Welfare for Politicians” and “No One” that solicited donations for the Legal Proceedings Account via the NRSC’s short code. “Welfare for Politicians” was disseminated in Georgia from June 24-30, 2021. “No One” was disseminated in New Hampshire from June 24-30, 2021.

11. The Legal Proceedings Account made disbursements on April 22, 2022 to On Message Inc. for \$1,067,235.02, on May 10, 2022 to The O’Donnell Group for \$19,994.90, and on May 18, 2022 to The O’Donnell Group for \$11,153.71. With one exception noted below in paragraph 13, these disbursements were for TV advertisements titled “Against Arizona,” “Daño,” and “Gullible” that solicited donations for the Legal Proceedings Account via the NRSC’s short code. “Against Arizona” was disseminated in Arizona from April 25 – May 3, 2022. Daño was disseminated in Arizona from April 22 – May 1, 2022. “Gullible” was disseminated in New Hampshire from May 18 – June 8, 2022.

12. On July 28, 2022, the Legal Proceedings Account made a disbursement to On Message Inc. for \$1,006,751.00. This disbursement was for TV advertisements titled “Goes Along” that solicited donations for the Legal Proceedings Account via the NRSC’s short code. “Goes Along” was disseminated in Colorado and Washington from August 3-9, 2022.

13. As noted above in paragraph 11, the Legal Proceedings Account made a disbursement on May 10, 2022 to The O’Donnell Group for \$19,994.90. The NRSC determined that \$1,407.50 of this disbursement inadvertently paid for a production cost unrelated to any Legal Proceedings Account fundraising advertisements and should have been paid from the NRSC’s general account. On June 8, 2022, the Legal Proceedings Account made a disbursement to SRCP Media Inc. for \$2,618.00. The NRSC determined that this disbursement inadvertently paid for production costs unrelated to any Legal Proceedings Account fundraising advertisements and should have been paid from the NRSC’s general account. On December 19, 2022, the NRSC took corrective action for these inadvertent payments from the Legal Proceedings Account by transferring \$4,025.50 from the NRSC’s general account to the Legal Proceedings Account.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.



Ryan Dollar

12/21/2022

Date

EXHIBIT B

Legal Proceedings Account Fundraising Mail Piece
(see attached)



U.S. SENATOR RICK SCOTT
CHAIRMAN

Tuesday, 8:51 AM

Special Invitation Enclosed
Please RSVP Immediately

Dear Fellow Patriot,

I just finished reviewing the National Republican Senatorial Committee's updated roster of faithful grassroots Republican supporters, and your name wasn't on it!

Frankly, I'm surprised. I know from your track record and long history of fighting for your principles, you aren't one to sit on the sidelines and watch.

I can't put it any more bluntly than this: your NRSC membership is vital to our efforts to deliver a Senate Republican Majority this November.

If we fail to do that, Joe Biden is going to have two more years to finish the radical remaking of America that has already caused inflation to skyrocket, violent crime to soar, our border to become a joke, and our prestige in the world to plummet.

So as NRSC Chairman I am urging you to immediately activate your Membership, and I'm also inviting you to make a difference directly in one of our most high priority battles.

My friend, I'm asking you to support the NRSC Legal Fund today!

You see, the 2022 midterm elections will likely require a truly massive effort entailing the help of thousands of lawyers and millions of dollars.

Even as I write this letter, NRSC lawyers are actively involved in lawsuits to make sure elections are fair and the rules are followed in Georgia, Iowa, Nevada, Texas, and Arizona. And their caseload is sure to swell the closer we get to Election Day.

So please take out the enclosed Membership RSVP Form, fill it out, and return it along with your most generous gift of \$2,500, \$1,000, \$500, \$250, \$100, \$50, or \$35 as soon as you finish reading this letter.

As I'm sure you'll agree, free and fair elections are a goal every American ought to support. But unsurprisingly, Joe Biden and the liberal Senate Democrats have fought tooth and nail to oppose Republican efforts to bolster election integrity at every turn.

Knowing the American people will hold them accountable in November for skyrocketing inflation, the border crisis, rising violent crime, failing public schools, and Biden's weak-kneed foreign policy, they're desperate to hold on to power any way they can -- even if it means shamelessly trying to game the system in their favor.

In fact, Democrats have fought to totally rewrite America's election laws and have vigorously opposed any commonsense election security laws, even voter ID! And we know they are planning to challenge every Republican ballot they possibly can in an effort to overturn close races this November.

Well, my colleagues and I at the NRSC flat-out refuse to stand idly by while the lawless Democrats stack the deck in their favor.

(Over, please)

425 Second Street, NE ★ Washington, DC 20002 ★ www.NRSC.org

MEMBERSHIP RSVP FORM

National Republican Senatorial Committee
c/o Senator Rick Scott, Chairman



Please make checks payable to the NRSC.
To Contribute online visit:
secure.winred.com/NRSC/LegalFund

Mr. John Smith
123 Main Street
Apartment 1234
Town, MD 32121



Dear Rick,

Yes! I will become a member of the National Republican Senatorial Committee and join the important work you're doing to ensure election integrity in the fast-approaching midterm elections. Rick, I'm officially activating my NRSC membership and supporting the important work of the NRSC Legal Fund by rushing back my most generous gift of:

- \$2,500 \$1,000 \$500
- \$250 \$100 \$50
- \$35 Best Gift: _____

Signature: _____

MAIL CODE

PIDXXXX

Please take a moment to complete the important information on the back →

Page 2

And I hope you won't either.

So please take a moment to send your most generous gift to the NRSC Legal Fund at once.

Your generous support of the NRSC Legal Fund today will help ensure we have the financial firepower to dispatch our top-notch attorneys whenever and wherever the liberal Democrats are trying to game the system.

Believe me, NRSC attorneys are sure to have their hands full.

That's because Senate seats in notoriously competitive states like North Carolina, Pennsylvania, Wisconsin, and Arizona are all up for grabs this November.

And given the potential for razor thin margins in these states, having experienced lawyers tirelessly working to make sure that every legal ballot is counted -- and fraudulent ballots found and thrown out -- could surely mean the difference between victory and defeat.

And make no mistake, with Republicans on defense in 20 out of the 34 Senate seats in the midterms, we've got zero margin for error in this crucial battle.

The loss of even one of our competitive Republican seats in Florida, North Carolina, or Pennsylvania -- or failure to pick up winnable Democrat-held seats in Arizona, Georgia, Nevada, and New Hampshire -- could make Kamala Harris the Senate's tie-breaking vote for another two years.

That's why I'm once again asking you to get actively involved in the NRSC's fight for election integrity today.

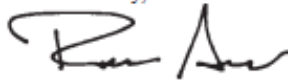
To accept this special invitation, simply fill out the Membership RSVP Form I've enclosed and rush it back along with your most generous gift made payable to the NRSC right away.

Some patriotic Republicans like you have committed as much as \$2,500, \$1,000, or \$500 to support the NRSC Legal Fund and the urgent fight for election integrity. Others have pitched in with generous gifts of \$250, \$100, \$50, and \$35.

Whatever amount is right for your family -- \$2,500, \$1,000, \$500, \$250, \$100, \$50, or \$35 -- I guarantee this is one of the most significant investments you can make to help Republicans take back the Senate this November.

However you choose to come alongside the NRSC today, I thank you in advance!

Sincerely,



Senator Rick Scott
NRSC Chairman

P.S. With so many Senate seats in swing states up for grabs, there's no doubt this November's midterm elections will require a massive legal response by the NRSC. Your generous support of the NRSC Legal Fund today will put you at the tip of the spear in this battle for free, fair, and above board elections. Please, do not delay! Immediately fill out and return the enclosed Membership RSVP Form together with your most generous gift of \$2,500, \$1,000, \$500, \$250, \$100, \$50, or \$35 payable to the NRSC today. Thank you!

CREDIT CARD PAYMENT OPTION:

You may make your contribution to NRSC by credit card if you choose by completing the required information below.
(personal credit cards only, no corporate credit cards.)

VISA MasterCard American Express Discover

Card Number: _____ CW#: _____ Exp Date: _____

Name as on Card: _____

Amount of gift: \$ _____ Signature: _____ Date: _____

Contributions to NRSC are not deductible as charitable contributions for federal income tax purposes. Contributions from corporations, labor organizations, federal government contractors, and foreign nationals (non-green card holders) are prohibited. Federal Law requires us to use our best efforts to collect and report the name, mailing address, occupation and name of employer for each individual whose contributions exceed \$200 in a calendar year. Funds received in response to this solicitation will be subject to federal contribution limitations.

OCCUPATION: _____ EMPLOYER: _____

TELEPHONE NUMBER: _____ EMAIL: _____

By providing your phone number, you are consenting to receive calls and texts, including autodialed and automated calls and texts, to that number from NRSC.

425 Second Street, NE • Washington, DC 20002

Paid for by NRSC, and not authorized by any candidate or candidate's committee. www.NRSC.org

Not printed at government expense.

EXHIBIT C

“Power Grab” Script
(see attached)

“Power Grab” – New Hampshire

On-Screen Text	Audio
THE WASHINGTON POWER GRAB	The Washington Power Grab, you’ve seen it before.
S.B. 1 THE BIGGEST POWER GRAB	But Democrats are planning the biggest one yet.
Tax Dollars Fund Their Political Ads	Pelosi, Schumer, and Hassan want to use your tax dollars to fund their political ads.
REGISTER & VOTE WITHOUT ANY I.D.	And they’d let people register and vote without showing any form of I.D.
POLITICAL CORRUPTION STOP THE GRAB STOP THE FRAUD	It’s political corruption. Stop the grab. Stop the fraud.
STOP THE HASSAN PELOSI PLAN Text DONATE to 55404 NRSC PAID FOR AND IS RESPONSIBLE FOR THE CONTENT OF THIS ADVERTISING. NOT AUTHORIZED BY ANY CANDIDATE OR CANDIDATE’S COMMITTEE. NRSC.ORG	Stop the Hassan Pelosi plan now. Donate today. NRSC is responsible for the content of this advertising.

EXHIBIT D

“Quieren Más Poder” Script
(see attached)

“Quieren Más Poder” / “They Want More Power” – Arizona

On-Screen Text	Audio
<p>Spanish: N/A</p> <p>English Translation: N/A</p>	<p>Spanish: Necesitamos que Washington trabaje por nosotros.</p> <p>English Translation: We need Washington to work for us.</p>
<p>Spanish: Pelosi Kelly Schumer Quieren más poder.</p> <p>English Translation: Pelosi Kelly Schumer They want more power.</p>	<p>Spanish: Pero Pelosi y Mark Kelly están maquinando para que nosotros trabajemos por ellos y tengan aún más poder.</p> <p>English Translation: But Pelosi and Mark Kelly are scheming for us to work for them and to have even more power.</p>
<p>Spanish: Ataque demócrata Nuestro dinero para sus campañas.</p> <p>English Translation: Democratic attack Our money for their campaigns.</p>	<p>Spanish: Tienen un plan para utilizar nuestro dinero para financiar sus campañas políticas.</p> <p>English Translation: They have a plan to use our money to finance their political campaigns.</p>
<p>Spanish: Ningún ID para votar.</p> <p>English Translation: No ID to vote.</p>	<p>Spanish: Es más, no quieren que se muestre ninguna identificación al votar.</p> <p>English Translation: What’s more, they don’t want any identification to be shown when voting.</p>
<p>Spanish: Promoviendo fraude masivo</p> <p>English Translation: Promoting massive fraud.</p>	<p>Spanish: Promoviendo el fraude masivo.</p> <p>English Translation: Promoting massive fraud.</p>

On-Screen Text	Audio
<p>Spanish: Kelly Pelosi Pare la corrupción política de Pelosi y Kelly</p> <p>Envíe un mensaje de texto con DONAR a 55404</p> <p>NRSC pagó y es responsable por el contenido de este anuncio. No autorizado por ningún candidato o comité de candidato. NRSC.org.</p> <p>English Translation: Kelly Pelosi Stop Pelosi and Kelly's political corruption</p> <p>Send a text with DONATE to 55404</p> <p>NRSC paid for and is responsible for the content of this announcement. Not authorized by any candidate or candidate's committee. NRSC.org.</p>	<p>Spanish: Tenemos que parar esta corrupción política de Pelosi y Mark Kelly antes de que sea muy tarde.</p> <p>NRSC es responsable por el contenido de este mensaje.</p> <p>English Translation: We need to stop Pelosi and Mark Kelly's political corruption before it's too late.</p> <p>NRSC is responsible for the content of this message.</p>

EXHIBIT E

“Welfare for Politicians” Script
(see attached)

“Welfare for Politicians”

On-Screen Text	Audio
RAPHAEL WARNOCK GETTING EXPENSIVE	It didn't take long, but Senator Raphael Warnock is getting pretty expensive.
WARNOCK'S BOYCOTT "MLB RELOCATION WILL COST GEORGIA \$100 MILLION"	Warnock backed the All-Star Game boycott of Georgia. It cost us \$100 million.
THE REAL COST OF RAPHAEL WARNOCK DESTROYING JOBS & SMALL BUSINESS	Destroying jobs and small businesses across Georgia.
HE'S AT IT AGAIN GOVERNMENT FUNDED \$CAMPAIGN\$	Now, Warnock's at it again.
WELFARE FOR POLITICIANS PLAN GOVERNMENT FUNDED \$CAMPAIGN\$	He voted for a welfare for politicians plan.
UP TO \$25 MILLION FOR WARNOCK'S CAMPAIGN GOVERNMENT FUNDED \$CAMPAIGN\$	Up to \$25 million of government money for Warnock's own political campaign.
STOP WARNOCK'S WELFARE FOR POLITICIANS PLAN Text DONATE to 55404 NRSC PAID FOR AND IS RESPONSIBLE FOR THE CONTENT OF THIS ADVERTISING. NOT AUTHORIZED BY ANY CANDIDATE OR CANDIDATE'S COMMITTEE. NRSC.ORG	Help us stop Warnock's Welfare for Politicians Plan. Donate today. NRSC is responsible for the Content of this advertising.

EXHIBIT F

“No One” Script
(see attached)

“No One”

On-Screen Text	Audio
[None]	Where do the most wasteful ideas on earth come from?
WASHINGTON, D.C.	Washington, D.C.
THE LATEST WASTEFUL IDEA?	The latest wasteful Washington idea?
GOVERNMENT MONEY FOR POLITICAL CAMPAIGNS	The Washington politicians want to use government money to pay for their campaigns.
THAT WON'T FLY IN NEW HAMPSHIRE	That would never fly in New Hampshire.
MAGGIE HASSAN SUPPORTS THE WASHINGTON WASTE PLAN	But Senator Maggie Hassan supports this Washington waste plan.
UP TO \$9 MILLION TO HASSAN'S CAMPAIGN.	It would give her campaign up to \$9 million of government money.
STOP THE HASSAN PLAN Text DONATE to 55404 NRSC PAID FOR AND IS RESPONSIBLE FOR THE CONTENT OF THIS ADVERTISING. NOT AUTHORIZED BY ANY CANDIDATE OR CANDIDATE'S COMMITTEE. NRSC.ORG	Help us stop the Hassan plan. Donate today. NRSC is responsible for the content of this advertising.

EXHIBIT G

“Against Arizona” Script
(see attached)

“Against Arizona”

On-Screen Text	Audio
WASHINGTON, D.C. Senate HQ	What do you call a politician who votes the party line in Washington...
ARIZONA Grand Canyon State	...but says the opposite when he's home in Arizona?
MARK KELLY SENATOR	You call him: Senator Mark Kelly.
KELLY VOTES 97% BIDEN	Kelly votes 97% with Biden.
SANCTUARY CITIES	He voted for sanctuary cities,
BENEFITS TO ILLEGALS	for benefits to illegals,
AGAINST BORDER WALL	and against a border wall.
MASSIVE NEW BORDER SURGE	Kelly voted to allow restrictions to be lifted, which will cause a massive new border surge.
SENATOR MARK KELLY	Tell Senator Kelly:
STOP VOTING AGAINST ARIZONA Text DONATE to 55404	Stop voting with Biden and against Arizona. Donate today.
NRSC PAID FOR AND IS RESONSIBLE FOR THE CONTENT OF THIS ADVERTISING. NOT AUTHORIZED BY ANY CANDIDATE OR CANDIDATE'S COMMITTEE. NRSC.ORG	NRSC is responsible for the content of this advertising.

EXHIBIT H

“Daño” Script
(see attached)

Daño / Damage

On-Screen Text	Audio
<p>Spanish: Todo más caro</p> <p>English Translation: Everything is more expensive</p>	<p>Spanish: El costo de la comida por las nubes. Y la gasolina subiendo.</p> <p>English Translation: Food prices are sky high. And gas prices are rising.</p>
<p>Spanish: Senador Mark Kelly</p> <p>English Translation: Senator Mark Kelly</p>	<p>Spanish: Mark Kelly habla bonito cuando esta en Arizona pero en Washington se acobarda.</p> <p>English Translation: Mark Kelly says nice things when he is in Arizona but in Washington, he chickens out.</p>
<p>Spanish: Kelly vota con Biden 97% de las veces.</p> <p>English Translation: Kelly votes with Biden 97% of the time.</p>	<p>Spanish: Y vota con el partido 97%. Kelly hasta vota con Biden sobre la frontera. Y nosotros sentimos el impacto.</p> <p>English Translation: And votes with the party 97%. Kelly even votes with Biden on the border. And we feel the impact.</p>
<p>Spanish: Más crimen. Escuelas abarrotadas. Menos seguridad.</p> <p>English Translation: More crime. Overcrowded schools. Less security.</p>	<p>Spanish: Más crimen, escuelas abarrotadas, y menos seguridad.</p> <p>English Translation: More crime, overcrowded schools, and less security.</p>
<p>Spanish: Para hacer una donación envíe mensaje de texto. Donacion al 55404.</p> <p>English Translation: To make a donation send a text message. "Donation" to 55404.</p>	<p>Spanish: Done hoy y dile a Senator Kelly que deje de votar con Biden porque le esta haciendo daño a las familias de Arizona.</p> <p>English Translation: Donate today and tell Senator Kelly to stop voting with Biden because he is damaging the families of Arizona.</p>

On-Screen Text	Audio
<p><i>Spanish:</i> Mark Kelly deja de hacerle daño a las familias de Arizona</p> <p>NRSC pagó por y es responsable por el contenido de este mensaje. No autorizado por ningún candidato ni comité de candidato. NRSC.org.</p> <p><i>English Translation:</i> Mark Kelly, stop damaging the families of Arizona</p> <p>NRSC paid for and is responsible for the content of this message. Not authorized by any candidate or candidate's committee. NRSC.org.</p>	<p><i>Spanish:</i> NRSC es responsable por el contenido de este mensaje.</p> <p><i>English Translation:</i> NRSC is responsible for the content of this message.</p>

EXHIBIT I

“Gullible” Script
(see attached)

“Gullible”

On-Screen Text	Audio
LET'S FACE IT	Let's face it,
(No text)	politicians think we're gullible.
SENATOR MAGGIE HASSAN VOTES AGAINST DRILLING FOR NATURAL GAS AND THE KEYSTONE PIPELINE	Take Senator Maggie Hassan: she votes against drilling for natural gas and the Keystone Pipeline.
PRICES ARE SKY HIGH	Prices are sky high, but now Hassan's trying to fool us.
HASSAN AD	(Male Voice Over): One Senator is fighting to lower your costs.
C'MON	(Female Voice Over): Come on.
HASSAN INCREASED GAS TAXES 23%	As Governor, she increased gas taxes 23%.
Maggie Hassan	(Sen. Hassan): "I'm taking on members of my own party."
NOPE	(Female Voice Over): Nope.
HASSAN VOTES 98% WITH BIDEN	She votes 98% with Biden.
HASSAN THINKS WE'RE GULLIBLE. Text DONATE to 55404 NRSC PAID FOR AND IS RESONSIBLE FOR THE CONTENT OF THIS ADVERTISING. NOT AUTHORIZED BY ANY CANDIDATE OR CANDIDATE'S COMMITTEE. NRSC.ORG.	Hassan thinks we're gullible. NRSC is responsible for the content of this advertising. Donate today.

EXHIBIT J

“Goes Along” Script
(see attached)

“Goes Along” – Colorado

On-Screen Text	Audio
[no text]	With Biden and the D.C. Politicians in charge, gas prices more than doubled.
SENATOR MICHAEL BENNET VOTES 96% WITH BIDEN	Senator Bennet votes 98% with Biden. He just goes along.
EVERYTHING COSTS MORE WITH BIDEN	Groceries, housing, everything costs more with Biden and his D.C. cronies in charge.
HE GOES WITH BIDEN 98% OF THE TIME	And Senator Bennet just goes along—98% with Biden.
ECONOMIC RECESSION EMPTY SHELVES MORE CRIME	With an economic recession looming, empty shelves, crime in our streets, Senator Bennet fades away and just goes along.
SENATOR BENNET GOES ALONG WITH BIDEN Text “DONATE” to 55404 NRSC PAID FOR AND IS RESPONSIBLE FOR THE CONTENT OF THIS ADVERTISING. NOT AUTHORIZED BY ANY CANDIDATE OR CANDIDATE’S COMMITTEE. NRSC.ORG.	NRSC is responsible for the content of this advertising. Donate today.