

**FEDERAL ELECTION COMMISSION**  
**FIRST GENERAL COUNSEL’S REPORT**

**MUR 8168**

DATE RECEIVED: Sept. 18, 2023

DATES OF NOTIFICATIONS: Sept. 21, 2023

Mar. 26, 2024

DATE OF LAST RESPONSE: Apr. 10, 2024

DATE ACTIVATED: Jan. 30, 2024

EARLIEST EXPIRATION OF SOL: June 30, 2026

LATEST EXPIRATION OF SOL: Nov. 15, 2027

ELECTION CYCLE: 2024

**COMPLAINANT:**

Roy L. Perry-Bey

**RESPONDENTS:**

Donald J. Trump  
Save America and Bradley T. Crate  
in his official capacity as treasurer  
Trump Save America Joint Fundraising  
Committee and Bradley T. Crate in his  
official capacity as treasurer

**RELEVANT STATUTES  
AND REGULATIONS:**

52 U.S.C. § 30102(e)(1)

52 U.S.C. § 30116(a)(2)(A), (f)

11 C.F.R. § 101.1(a)

11 C.F.R. § 110.2(b)

11 C.F.R. § 110.9(b)

**INTERNAL REPORTS CHECKED:**

Disclosure Reports

**FEDERAL AGENCIES CHECKED:**

None

**I. INTRODUCTION**

The Complaint in this matter (the “MUR 8168 Complaint”) is a near verbatim copy of the complaint in MUR 7968 (Donald J. Trump, *et al.*) (the “MUR 7968 Complaint”), which alleged that Donald J. Trump failed to timely file a Statement of Candidacy and improperly used a multicandidate committee, Save America and Bradley T. Crate in his official capacity as treasurer (“Save America”), and a joint fundraising committee, Trump Save America Joint

1 Fundraising Committee (f/k/a Save America Joint Fundraising Committee) and Bradley T. Crate  
2 in his official capacity as treasurer (“Save America JFC”) (collectively the “Save America  
3 Committees”), to raise and spend millions of dollars to further his 2024 presidential campaign.  
4 The only differences between the two complaints are the complainants and that the MUR 8168  
5 Complaint adds a request that the Commission investigate whether Trump is constitutionally  
6 disqualified from federal office and, if the Commission finds that Trump is disqualified, reject  
7 his Statement of Candidacy. The Commission addressed MUR 7968 along with MUR 7969  
8 (Donald J. Trump, *et al.*). In those matters, the Office of General Counsel (“OGC”)  
9 recommended that: (1) Trump failed to timely file a Statement of Candidacy and designate a  
10 principal campaign committee; (2) the Save America Committees made excessive contributions;  
11 and (3) Trump knowingly accepted excessive contributions. The Commission was equally  
12 divided whether to find reason to believe as to the allegations and closed the file in that matter.  
13 Following the Commission’s split vote,<sup>1</sup> the group of Commissioners that voted not to find  
14 reason to believe issued Statements of Reasons explaining their votes.<sup>2</sup>

15 Because the two complaints are identical in most respects, we incorporate by reference  
16 the First General Counsel’s Report (the “First GCR”) in MURs 7968 and 7969, dated  
17 October 13, 2022, as well as this Office’s supplemental submissions, as they relate to the  
18 allegations in the MUR 8168 Complaint that are verbatim repetitions of the allegations in the  
19 MUR 7968 Complaint.<sup>3</sup> Because the request in the MUR 8168 Complaint regarding Trump’s

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<sup>1</sup> Certification ¶¶ 1-2 (Oct. 6, 2023), MURs 7968, 7969 (Donald J. Trump, *et al.*).

<sup>2</sup> Statement of Reasons of Vice Chairman Sean J. Cooksey, and Comm’rs Allen J. Dickerson and James E. “Trey” Trainor, III, MURs 7968, 7969 (Donald J. Trump, *et al.*).

<sup>3</sup> The First GCR in MURs 7968 and 7969 is also included as an attachment to this Report.

disqualification from federal office under Section 3 of the Fourteenth Amendment to the U.S. Constitution presents a new argument, we address that separately below.

As discussed below, federal court precedent establishes that the Commission has no authority to reject a candidate's Statement of Candidacy because the candidate is constitutionally disqualified from office. Accordingly, we incorporate by reference the recommendations from the First GCR in MURs 7968 and 7969, dated October 13, 2022, and we recommend that the Commission dismiss the allegation that Trump's Statement of Candidacy is invalid.

## **II. FACTUAL BACKGROUND**

The MUR 8168 Complaint alleges that Donald J. Trump failed to timely register and report as a candidate for President in the 2024 election cycle despite public statements indicating that he had made a decision to run.<sup>4</sup> The Complaint further alleges that the Save America Committees raised more than \$100 million "for the purpose of influencing" Trump's campaign,<sup>5</sup> and that Trump knowingly accepted excessive and prohibited contributions from the Save America Committees.<sup>6</sup> The MUR 8168 Complaint also requests that the Commission investigate whether Trump is disqualified from federal office under Section 3 of the Fourteenth Amendment to the U.S. Constitution and, if the Commission finds that he is disqualified, "reject his statement of candidacy to participate in the 2024 Presidential Primary election(s)."<sup>7</sup>

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<sup>4</sup> Compl. at 8 (Sept. 18, 2023) [hereinafter MUR 8168 Compl.]. The MUR 8168 Complaint incorrectly states that Trump has not yet filed his Statement of Candidacy with the Commission. *Id.* at 8. Trump formally declared his candidacy for the 2024 presidential election on November 15, 2022, and filed his Statement of Candidacy that same day. Isaac Arnsdorf & Michael Scherer, *Trump, Who as President Fomented an Insurrection, Says He is Running Again*, WASH. POST (Nov. 15, 2022, 11:00 PM), <https://www.washingtonpost.com/politics/2022/11/15/trump-2024-announcement-running-president/>; Donald J. Trump, Statement of Candidacy at 1 (Nov. 15, 2022).

<sup>5</sup> MUR 8168 Compl. at 3-4.

<sup>6</sup> *Id.* at 6-7, 9.

<sup>7</sup> *Id.* at 10.

The Responses deny that Trump triggered candidacy status by raising or spending more than \$5,000 before November 2022.<sup>8</sup> The Responses also deny that Save America's events and financial activity were expenditures or testing-the-waters activities for Trump's campaign.<sup>9</sup> The Responses do not address whether Trump is disqualified from federal office.

### III. LEGAL ANALYSIS

The MUR 8168 Complaint is a near verbatim copy of the MUR 7968 Complaint and asserts no new factual information or legal arguments with respect to the allegations that Trump failed to timely file a Statement of Candidacy and improperly used the Save America Committees to raise and spend funds to further his 2024 presidential campaign.<sup>10</sup> Accordingly, we incorporate by reference the recommendations from the First GCR in MURs 7968 and 7969, dated October 13, 2022, as they relate to the allegations in MUR 8168.<sup>11</sup> The MUR 8168 Complaint also requests that the Commission determine whether Trump is disqualified from

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<sup>8</sup> Resp. at 6 (Nov. 20, 2023) [hereinafter Save America Resp.]; Resp. at 2-3 (Apr. 10, 2024) [hereinafter Save America JFC Resp.].

<sup>9</sup> Save America Resp. at 2-5; Save America JFC Resp. at 2-3.

<sup>10</sup> Compare MUR 8168 Compl., with Compl. (Mar. 17, 2022), MUR 7968 (Donald J. Trump, *et al.*).

<sup>11</sup> The Commission previously considered duplicative complaints like those here in MURs 6869 and 6942 (Commission on Presidential Debates, *et al.*). The complaint in MUR 6942 was a verbatim copy of the complaint in MUR 6869, compare Compl. (Sept. 11, 2014), MUR 6869 (Commission on Presidential Debates, *et al.*), with Compl. (June 17, 2015), MUR 6942 (Commission on Presidential Debates, *et al.*), but the complainants in MUR 6942 also submitted a supplemental providing additional evidence, which was not included in the complaint in MUR 6869. Supp. Compl. at 1-2 (Oct. 21, 2015), MUR 6942 (Commission on Presidential Debates, *et al.*). In MUR 6942, the Commission incorporated by reference its Factual and Legal Analysis in MUR 6869 and only briefly addressed the new evidence. See Factual & Legal Analysis ("F&LA") at 1 n.1, 6-7, MUR 6942 (Commission on Presidential Debates, *et al.*). The complainants in both matters challenged the Commission's decisions in *Level the Playing Field v. FEC (LPF)*, 232 F. Supp. 3d 130 (D.D.C. 2017). The *LPF* court concluded that the Commission had acted contrary to law by failing to address the additional evidence or articulate its analysis and ordered the Commission to issue a new decision consistent with the court's opinion, *id.* at 133, 138-43, which the Commission ultimately did on remand, see F&LA, MURs 6869R & 6942R (Commission on Presidential Debates, *et al.*). This Report fully addresses all new arguments and information in the MUR 8168 Complaint, and the attached proposed Factual and Legal Analysis includes all relevant analysis from the proposed Factual and Legal Analysis in MUR 7968 along with an analysis of the new argument raised here.

federal office under Section 3 of the Fourteenth Amendment and, if it finds that he is disqualified, “reject his statement of candidacy.”<sup>12</sup>

As the U.S. District Court for the District of Columbia previously determined in *Castro v. FEC*, the Commission lacks the authority to reject a candidate’s Statement of Candidacy because that candidate is constitutionally disqualified from federal office.<sup>13</sup> There, the court considered a claim that the Commission unlawfully failed to act on an administrative complaint requesting that the Commission reject Trump’s Statement of Candidacy based on Section 3 of the Fourteenth Amendment.<sup>14</sup> In its decision, the court held that the plaintiff’s “alleged injury . . . is not traceable to the Commission” because “[n]othing in the statement of candidacy, FEC Form 2, lends credence to Mr. Castro’s belief that it plays a role in determining Mr. Trump’s eligibility to run for office.”<sup>15</sup> The district court also held that the plaintiff’s injury is not redressable because “the Commission has no jurisdiction to reject Trump’s candidacy filings.”<sup>16</sup>

*Castro* is directly on point and establishes that the Commission lacks authority to determine whether a candidate is disqualified from federal office or to reject a candidate’s statement of candidacy on that basis.<sup>17</sup> Therefore, because a court has determined that the

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<sup>12</sup> MUR 8168 Compl. at 10.

<sup>13</sup> *Castro v. FEC*, No. 22-2176 (RC), 2022 WL 17976630, at \*2-3 (D.D.C. Dec. 6, 2022), *summary affirmance granted* *Castro v. FEC*, No. 22-5323, 2023 WL 2899541 (D.C. Cir. Apr. 10, 2023).

<sup>14</sup> *Id.* at \*1.

<sup>15</sup> *Id.* at \*2 (alteration added).

<sup>16</sup> *Id.* at \*3 (internal quotation marks omitted).

<sup>17</sup> See also *Trump v. Anderson*, 144 S. Ct. 662, 670 (U.S. 2024) (overruling state supreme court order that excluded Trump from 2024 presidential primary ballots and holding that only Congress may enforce Section 3 of the Fourteenth Amendment against federal officeholders and candidates, and stating that: “Section 5 [of the Fourteenth Amendment] limits *congressional* legislation enforcing Section 3, because Section 5 is strictly ‘remedial.’ To comply with that limitation, Congress ‘must tailor its legislative scheme to remedying or preventing’ the specific conduct the relevant provision prohibits. . . . Neither we nor the respondents are aware of any other legislation by Congress to enforce Section 3”) (alteration added) (emphasis in original) (citations omitted).

Commission lacks the power to determine Trump's eligibility for federal office and has no jurisdiction to reject Trump's candidacy, we recommend that the Commission dismiss the allegation that Trump improperly filed his Statement of Candidacy as a result of disqualification from federal office under Section 3 of the Fourteenth Amendment. We also incorporate by reference the recommendations from the First GCR in MURs 7968 and 7969, dated October 13, 2022.

#### **IV. RECOMMENDATIONS**

1. Find reason to believe that Donald J. Trump violated 52 U.S.C. § 30102(e)(1) and 11 C.F.R. § 101.1(a) by failing to timely file a Statement of Candidacy and designate a principal campaign committee;
2. Find reason to believe that Save America and Bradley T. Crate in his official capacity as treasurer and Trump Save America Joint Fundraising Committee and Bradley T. Crate in his official capacity as treasurer made excessive contributions in violation of 52 U.S.C. § 30116(a)(2)(A) and 11 C.F.R. § 110.9;
3. Find reason to believe that Donald J. Trump knowingly accepted excessive contributions in violation of 52 U.S.C. § 30116(f) and 11 C.F.R. § 110.9;
4. Dismiss the allegation that that Trump improperly filed his Statement of Candidacy as a result of disqualification from federal office under Section 3 of the Fourteenth Amendment; and

5. Approve the attached Factual and Legal Analysis.

Lisa J. Stevenson  
Acting General Counsel

May 24, 2024

Date

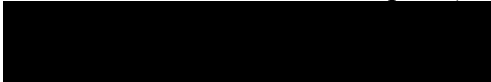
Charles Kitcher  
Charles Kitcher  
Associate General Counsel for Enforcement

Aaron Rabinowitz  
Aaron Rabinowitz  
Assistant General Counsel

Allen H. Coon  
Allen H. Coon  
Attorney

Attachment:

First General Counsel's Report (MURs 7968, 7969)



**FEDERAL ELECTION COMMISSION**  
**FIRST GENERAL COUNSEL'S REPORT**

**MUR 7968**

DATE COMPLAINT FILED: Mar. 17, 2022

DATES OF NOTIFICATIONS: Mar. 23 2022,  
Aug. 23, 2022

LAST RESPONSE RECEIVED: Aug. 25, 2022

DATE ACTIVATED: June 15, 2022

EXPIRATION OF SOL: June 30, 2026-ongoing  
ELECTION CYCLE: 2024

**COMPLAINANTS:**

Jessica Floyd  
AB PAC

**RESPONDENTS:**

Donald J. Trump  
Save America and Bradley T. Crate in his official  
capacity as treasurer  
Save America Joint Fundraising Committee and  
Bradley T. Crate in his official capacity as  
treasurer

**MUR 7969**

DATE COMPLAINT FILED: Mar. 23, 2022

DATES OF NOTIFICATIONS: Mar. 24 2022;  
Aug. 10, 2022

LAST RESPONSE RECEIVED: Aug. 25, 2022

DATE ACTIVATED: June 15, 2022

EXPIRATION OF SOL: June 30, 2026-ongoing  
ELECTION CYCLE: 2024

**COMPLAINANT:**

John Anthony Castro

**RESPONDENTS:**

Donald J. Trump  
Save America and Bradley T. Crate in his official  
capacity as treasurer  
Save America Joint Fundraising Committee and  
Bradley T. Crate in his official capacity as  
treasurer  
Make America Great Again PAC and Bradley T.  
Crate in his official capacity as treasurer



**1 RELEVANT STATUTES****2 AND REGULATIONS:**

52 U.S.C. § 30102(e)(1)

52 U.S.C. § 30116(a)(2)(A), (f)

11 C.F.R. § 101.1(a)

11 C.F.R. § 110.2(b)

11 C.F.R. § 110.9

**8 INTERNAL REPORTS CHECKED:** Disclosure Reports**10 FEDERAL AGENCIES CHECKED:** None**11 I. INTRODUCTION**

12 These matters arise from Complaints alleging that Donald J. Trump has become a  
 13 candidate for President in the 2024 election cycle and has failed to file a Statement of Candidacy  
 14 with the Commission within 15 days of becoming a candidate in violation of the Federal Election  
 15 Campaign Act of 1971, as amended (the “Act”). The Complaint in MUR 7968 (the “MUR 7968  
 16 Complaint”) specifically alleges that, by July 2021, Trump had made statements indicating that  
 17 he is a candidate for President in 2024 and improperly used a multicandidate leadership PAC,  
 18 Save America and Bradley T. Crate in his official capacity as treasurer (“Save America”), and  
 19 Save America Joint Fundraising Committee and Bradley T. Crate in his official capacity as  
 20 treasurer (“Save America JFC”) to raise and spend millions of dollars to further his 2024  
 21 presidential campaign. The Complaint in MUR 7969 (the “MUR 7969 Complaint”) makes  
 22 similar allegations and adds that Make America Great Again PAC (f/k/a Donald J. Trump for  
 23 President, Inc.) and Bradley T. Crate in his official capacity as treasurer (“MAGA PAC”) also  
 24 accepted contributions on behalf of Trump’s 2024 alleged candidacy.<sup>1</sup> The MUR 7969  
 25 Complaint raises additional arguments, including that the Commission’s testing-the-waters

<sup>1</sup> The MUR 7969 Complaint alleges that MAGA PAC, Save America, and Save America JFC have engaged in “improper coordination” with Trump, which appears to constitute allegations of the making and receipt of excessive and prohibited in-kind contributions.

1 regulations are in conflict with the plain language of the Act, and that Trump is disqualified from  
2 running for federal office due to his participation in the events of January 6, 2021, at the U.S.  
3 Capitol. We do not make any recommendations with respect to these additional allegations.

4 Respondents submitted brief joint Responses stating that Trump is not a candidate; that  
5 he is not testing the waters; and that he uses Save America's platform to maintain a public image,  
6 support other candidates, and advance policy issues.

7 As discussed below, the available information indicates that Trump has made public  
8 statements indicating that he has decided to become a 2024 presidential candidate, at least as  
9 early as June 30, 2021. Further, Save America and Save America JFC (collectively, the "Save  
10 America Committees") appear to have made excessive in-kind contributions to Trump by  
11 spending in excess of \$5,000 in support of his 2024 campaign. Accordingly, we recommend that  
12 the Commission: (1) find reason to believe that Donald J. Trump violated 52 U.S.C.  
13 § 30102(e)(1) and 11 C.F.R. § 101.1(a) by failing to timely file a Statement of Candidacy and  
14 designate a principal campaign committee; (2) find reason to believe that the Save America  
15 Committees violated 52 U.S.C. § 30116(a)(2)(A) and 11 C.F.R. § 110.2(b) by making excessive  
16 contributions to Donald J. Trump; (3) find reason to believe that Donald J. Trump violated  
17 52 U.S.C. § 30116(f) and 11 C.F.R. § 110.9 by knowingly accepting excessive contributions; and  
18 (4) take no action at this time with respect to the allegation that MAGA PAC violated 52 U.S.C.  
19 § 30116(a)(2)(A) and 11 C.F.R. § 110.2(b) by making excessive and prohibited contributions to  
20 Donald J. Trump.

21 If the Commission approves our recommendations, we intend to engage in an  
22 investigation to assess when Trump should have registered as a candidate as well as the total

amount of Save America and Save America JFC's potentially excessive contributions to Trump.  
We recommend that the Commission authorize the use of compulsory process.

## II. FACTUAL BACKGROUND

### A. Statements Made by Trump Regarding a 2024 Presidential Candidacy

Donald J. Trump was elected the 45th President of the United States in 2016.<sup>2</sup> Trump ran for re-election as President in 2020, but was unsuccessful.<sup>3</sup> Because Trump served one term, he is not term-limited from running for the same office in 2024.<sup>4</sup> To date, Trump has not formally declared his candidacy for the 2024 presidential election, nor has he filed a Statement of Candidacy with the Commission or designated an authorized committee.

Beginning in 2021, Trump has made a number of public statements indicating that he has made a decision regarding whether to run for President in 2024. As early as June 30, 2021, in an interview posted on Sean Hannity's YouTube channel with the title "Trump Says He Made Up His Mind About Running in 2024," Hannity began an interview with Trump in front of a live audience as follows:

*Hannity:* Let's talk about your future plans. [crowd cheers] Let me ask the crowd of everybody here, would you like to see the President run again in 2024? [crowd cheers] You're not going to answer but I have to ask, where are you in the process of, or have — let me ask you this, without giving the answer, what the answer is, have you made up your mind?

*Trump:* Yes. [crowd cheers]

*Hannity:* I think you got it right. [Hannity laughs]<sup>5</sup>

<sup>2</sup> Donald Trump: The 45th President of the United States, WHITE HOUSE, <https://www.whitehouse.gov/about-the-white-house/presidents/donald-j-trump/> (last visited Oct. 12, 2022).

<sup>3</sup> PUB. RECORDS BRANCH, FEC, OFFICIAL 2020 PRESIDENTIAL GENERAL ELECTION RESULTS (2021), <https://www.fec.gov/resources/cms-content/documents/2020presgeresults.pdf>.

<sup>4</sup> U.S. CONST. amend. XXII, § 1.

<sup>5</sup> Fox News, *Trump Says He Made Up His Mind About Running in 2024 During "Hannity" Exclusive* at 0:14, YOUTUBE (June 30, 2021), <https://www.youtube.com/watch?v=k0-HOCbRMDQ>; Lexi Lonas, *Trump Says*

1 Later, in August 2021, Trump participated in another interview with Hannity in which he was  
2 asked whether he would run for office in 2024; Trump replied:

3 So because the campaign finance laws are extremely complicated  
4 and unbelievably stupid, I'm actually not allowed to answer that  
5 question, can you believe that? I'd love to answer it. . . . But, let  
6 me put it this way; I think you'll be happy and I think that a lot of  
7 our friends will be very happy but I'm not actually allowed to  
8 answer it. It makes it very difficult if I do. So, people, you're  
9 gonna be happy, 'cause I love this country and I hate to see what's  
10 happening to it.<sup>6</sup>

11 A month later, in September 2021, Trump reiterated in response to a similar question: "I mean, I  
12 know what I'm going to do, but we're not supposed to be talking about it yet from the standpoint  
13 of campaign finance laws. . . . But I think you're going to be happy."<sup>7</sup> Taylor Budowich, a  
14 Trump spokesman, has further stated that "President Trump is incredibly well positioned to look  
15 beyond November as the need for his leadership has never been more important."<sup>8</sup>

16 On January 26, 2022, during a golf game of which video was uploaded to Instagram,  
17 Trump corrected an individual who called him the 45th President, stating, "45th and 47th."<sup>9</sup> A

*He's Made Decision on 2024*, HILL (July 1, 2021, 11:36 AM), <https://thehill.com/homenews/campaign/561117-trump-says-hes-made-decision-on-2024/> (cited in Compl. at 2 n.1, MUR 7968 (Mar. 17, 2022) [hereinafter MUR 7968 Compl.]) (reporting on June 30, 2021 *Hannity* interview).

<sup>6</sup> *Hannity* at 35:11 (Fox News television broadcast Aug. 17, 2021) [REDACTED] see Greg Evans, *Trump Claims He Is "Not Allowed to Say" If He Will Be Running for President in 2024*, INDY100 (Aug. 18, 2021), <https://www.indy100.com/news/trump-president-2024-interview-hannity-b1904465> (cited in MUR 7968 Compl. at 2 n.2) (reporting on August 17, 2021 *Hannity* Interview).

<sup>7</sup> *Former President Trump Visits New York City on September 11* at 0:22, C-SPAN (Sept. 11, 2021), <https://www.c-span.org/video/?c4976508/president-trump-visits-york-city-september-11> (quoted in MUR 7968 Compl. at 2 & n.3).

<sup>8</sup> See Shane Goldmacher, *Trump Entered 2022 With \$122 Million in the Bank*, N.Y. TIMES (Jan. 31, 2022), <https://www.nytimes.com/2022/01/31/us/politics/trump-campaign-filing.html> (cited in MUR 7968 Compl. at 4 n.9).

<sup>9</sup> TheYeshivaWorld.com (@theyeshivaworld), INSTAGRAM, <https://www.instagram.com/p/CZMJsY1hZIQ/> (Jan. 26, 2022); Cheryl Teh, *Trump Drops the Biggest Hint Yet That He'll Be Running in 2024, Calling Himself the "45th and 47th President" in a Video*, BUS. INSIDER (Jan. 26, 2022, 10:00 PM), <https://www.businessinsider.com/trump-drops-hint-about-2024-run-calling-himself-47th-president-2022-1> (cited in MUR 7968 Compl. at 2-3 & n.4) (discussing Instagram video); Compl. ¶ 52, MUR 7969 (Mar. 23, 2022) [hereinafter MUR 7969 Compl.].

1 month later, at the Conservative Political Action Conference (“CPAC”) in February 2022, Trump  
2 stated:

3 But [the socialists, globalists, Marxists, and communists] are going  
4 to find out the hard way starting on November 8th[, 2022], and  
5 then again even more so on November 2024, they will find out like  
6 never before. We did it twice and we’ll do it again. We’re going  
7 to be doing it again a third time.<sup>10</sup>

8 In July 2022, Trump reiterated that he has made his decision regarding the 2024 election  
9 cycle: When asked about what would factor into his decision to run, Trump reportedly replied,  
10 “Well, in my own mind, I’ve already made that decision, so nothing factors in anymore. In my  
11 own mind, I’ve already made that decision.”<sup>11</sup> Shortly thereafter, Trump appeared to make  
12 statements concerning a second term in office. At the America First Policy Institute Summit  
13 later that month, Trump stated: “I ran the first time and I won. Then I ran a second time and I  
14 did much better. . . . And you know what? . . . We may just have to do it again. We have to  
15 straighten out our country.”<sup>12</sup> He subsequently stated that “we have to abolish all COVID  
16 mandates and lockdowns and rehire every patriot who was fired from the military,”<sup>13</sup> “we need

<sup>10</sup> *Former President Trump Speaks at Conservative Political Action Conference* at 2:50, C-SPAN (Feb. 26, 2022), <https://www.c-span.org/video/?518150-1/pres-trump-criticizes-nato-nations-amid-russian-invasion-ukraine>; see Kadia Goba, *CPAC Republicans Are All In for Trump After He Hinted at Running in 2024*, BUZZFEED NEWS (Feb. 28, 2022, 7:58 AM), <https://www.buzzfeednews.com/article/kadiagoba/cpac-trump-2024-desantis-presidential-election> (cited in MUR 7968 Compl. at 3 & n.5) (discussing Trump’s CPAC speech); Warren Rojas & Sarah Al-Arshani, *Trump Again Signals Another Presidential Bid in CPAC Speech: “We Did It Twice. And We’ll Do It Again,”* BUS. INSIDER (Feb. 27, 2022, 1:31 AM), <https://www.businessinsider.com/trump-signals-another-presidential-bid-during-cpac-speech-2022-2> (cited in MUR 7968 Compl. at 3 n.6) (same).

<sup>11</sup> Olivia Nuzzi, *Donald Trump on 2024: “I’ve Already Made That Decision,”* N.Y. MAG. (July 14, 2022), <https://nymag.com/intelligencer/article/donald-trump-2024-decision.html>.

<sup>12</sup> *Former President Trump Speaks at America First Policy Institute Summit* at 1:09:18, C-SPAN (July 26, 2022) [hereinafter Trump AFPI Speech], <https://www.c-span.org/video/?521940-1/president-trump-speaks-america-policy-institute-summit>; see also Thomas B. Edsall, Opinion, *Trump Has Big Plans for 2025, and He Doesn’t Care Whether You Think He’ll Win*, N.Y. TIMES (Aug. 3, 2022), <https://www.nytimes.com/2022/08/03/opinion/trump-has-big-plans-for-2025.html> (discussing Trump AFPI Speech).

<sup>13</sup> Trump AFPI Speech at 1:10:12.

1 to restore my administration's initiatives to target and eliminate Chinese espionage,"<sup>14</sup> and that  
 2 "Washington will be an entirely different place."<sup>15</sup>

3 Most recently, Trump stated at a September 23, 2022 rally in North Carolina:

4 This is the year, we're going to take back the House, we're going  
 5 to take back the Senate, we're going to take back our country,  
 6 we're gonna take back America. And in 2024, most importantly, I  
 7 gotta say, Ted [Budd, Republican candidate for Senate in North  
 8 Carolina,] I'm sorry but, most importantly, I shouldn't say that,  
 9 Ted, but most importantly, we're going to take back our  
 10 magnificent White House, we're gonna take it back.<sup>16</sup>

11 Trump subsequently posted a clip of this statement on the social media platform Truth Social.<sup>17</sup>

12 In addition to the above clip, Trump has posted and re-posted a number of articles and  
 13 polls regarding a 2024 Trump presidential run on Truth Social. Between September 22 and 24,  
 14 2022, he linked to four separate articles by and about individuals pressing him to run, including  
 15 an August 9, 2022 *CNN* article entitled "Trump Fields Calls from Republican Allies to Speed Up  
 16 2024 Bid After FBI Raid";<sup>18</sup> a July 26, 2022 article published in *America Greatness* entitled  
 17 "Trump Should Announce His Candidacy Before the Midterms";<sup>19</sup> and two pieces in *American*

<sup>14</sup> *Id.* at 1:13:23.

<sup>15</sup> *Id.* at 1:11:27.

<sup>16</sup> Right Side Broadcasting Network, *President Donald Trump Rally Live in Wilmington, NC 9/23/22* at 9:02:29, RUMBLE (Sept. 23, 2022, 12:01 PM), <https://rumble.com/v1k3jy5-president-donald-trump-rally-live-in-wilmington-nc-92322.html>.

<sup>17</sup> Donald J. Trump (@realDonaldTrump), TRUTH SOCIAL, <https://truthsocial.com/@realDonaldTrump> (scroll down to posts from September 24, 2022, to post from @RSBN); see RSBN (@RSBN), TRUTH SOCIAL (Sept. 23, 2022, 21:07), <https://truthsocial.com/@RSBN/posts/109050702418278571> (post including clip of speech that Trump "reTruthed").

<sup>18</sup> Donald J. Trump (@realDonaldTrump), TRUTH SOCIAL (Sept. 22, 2022, 12:21), <https://truthsocial.com/@realDonaldTrump/posts/109042971879924525> (linking to Gabby Orr, *et al.*, *Trump Fields Calls from Republican Allies to Speed Up 2024 Bid After FBI Raid*, CNN (Aug. 9, 2022), <https://www.cnn.com/2022/08/09/politics/trump-2024-bid/index.html>).

<sup>19</sup> Donald J. Trump (@realDonaldTrump), TRUTH SOCIAL (Sept. 22, 2022, 12:23), <https://truthsocial.com/@realDonaldTrump/posts/109042977233026318> (linking to Ned Ryun, *Trump Should Announce His Candidacy Before the Midterms*, AM. GREATNESS (July 26, 2022), <https://amgreatness.com/2022/07/26/trump-should-announce-his-candidacy-before-the-midterms/>).

1 *Thinker* entitled “History Is Calling Donald Trump”<sup>20</sup> and “Donald Trump Must Be the 2024  
 2 Republican Nominee.”<sup>21</sup> He also posted a screenshot from an account reporting Emerson polling  
 3 results regarding 2024 general election preferences in North Carolina and Kansas showing  
 4 results only for Trump and Biden.<sup>22</sup> Subsequently, he linked to an article from the *Express*, a  
 5 U.K. tabloid, entitled “Farage Hails Trump Poll Lead and Says ‘Western Civilisation [sic] Is at  
 6 Stake’ in Midterm Race”<sup>23</sup> and a video showing a clip from the 2020 presidential debates with an  
 7 overlay noting that while Trump was in office, the NASDAQ stock exchange was “+44.17,” and  
 8 that under Biden, it is “-19.24%.”<sup>24</sup>

9 Since the 2020 general election, Trump has attended at least 24 rallies, including the  
 10 September 23, 2022 rally discussed above, at which he was the keynote speaker and for which  
 11 his attendance was highly advertised.<sup>25</sup> Tickets for these events were available for purchase via

<sup>20</sup> Donald J. Trump (@realDonaldTrump), TRUTH SOCIAL (Sept. 22, 2022, 12:25), <https://truthsocial.com/@realDonaldTrump/posts/109042985224584436> (linking to M.B. Mathews, *History Is Calling Donald Trump*, AM. THINKER (Aug. 10, 2022), [https://www.americanthinker.com/blog/2022/08/history\\_is\\_calling\\_donald\\_trump.html](https://www.americanthinker.com/blog/2022/08/history_is_calling_donald_trump.html)).

<sup>21</sup> Donald J. Trump (@realDonaldTrump), TRUTH SOCIAL (Sept. 22, 2022, 12:21), <https://truthsocial.com/@realDonaldTrump/posts/109042970762966473> (linking to Ted Noel, *Donald Trump Must Be the 2024 Republican Nominee*, AM. THINKER (Aug. 10, 2022), [https://www.americanthinker.com/articles/2022/08/donald\\_trump\\_must\\_be\\_the\\_2024\\_republican\\_nominee.html](https://www.americanthinker.com/articles/2022/08/donald_trump_must_be_the_2024_republican_nominee.html)).

<sup>22</sup> Donald J. Trump (@realDonaldTrump), TRUTH SOCIAL (Sept. 23, 2022, 11:22), <https://truthsocial.com/@realDonaldTrump/posts/109048401682467438> (posting North Carolina general election poll results showing Trump “+5” over Biden); Donald J. Trump (@realDonaldTrump), TRUTH SOCIAL (Sept. 23, 2022, 11:22), <https://truthsocial.com/@realDonaldTrump/posts/109048400526923971> (posting Kansas general election poll results showing Trump “+16” over Biden).

<sup>23</sup> Donald J. Trump (@realDonaldTrump), TRUTH SOCIAL (Sept. 22, 2022, 12:24), <https://truthsocial.com/@realDonaldTrump/posts/109042984041686929> (linking to David Maddox, *Farage Hails Trump Poll Lead and Says ‘Western Civilisation Is at Stake’ in Midterm Race*, EXPRESS (Sept. 13, 2022, 14:40), <https://www.express.co.uk/news/politics/1668730/donald-trump-nigel-farage-joe-biden-poll-lead-white-house-midtem-elections-update>).

<sup>24</sup> Donald J. Trump (@realDonaldTrump), TRUTH SOCIAL (Sept. 24, 2022, 18:03), <https://truthsocial.com/@realDonaldTrump/posts/109055642164163509>.

<sup>25</sup> See, e.g., Camryn Justice, *Donald Trump to Hold “Save America” Rally at Lorain County Fairgrounds*, NEWS 5 CLEVELAND (June 26, 2021, 6:46 PM), <https://www.news5cleveland.com/news/local-news/oh-lorain/donald-trump-to-hold-save-america-rally-in-lorain-county> (discussing June 26, 2021 “Save America” rally in Lorain County, Ohio); Drew Taylor, *Alabama GOP: 50,000 People Attended Weekend Trump Rally in Cullman*, CBS42 (Aug. 25, 2021, 11:48 AM), <https://www.cbs42.com/news/local/alabama-gop-50000-people-attended-weekend-trump-rally-in-cullman/> (reporting on “Save America” rally held August 21, 2021 in Cullman, Alabama); *Former*



1 Trump’s website.<sup>26</sup> From our review of certain of these rallies, it appears that Trump generally  
 2 speaks for over an hour, using the majority of the time to speak about his first term in office,  
 3 comparing his presidency with that of current-President Biden, and touting the success of the  
 4 “MAGA movement.”<sup>27</sup> He generally spends the remainder of the time discussing issues of  
 5 relevance to the Republican Party and state and federal Republican candidates.<sup>28</sup>

*President Donald Trump to Hold Rally in Arizona in January 2022*, ABC 15 ARIZ. (Dec. 30, 2021, 5:14 PM), [https://www.abc15.com/news/region-central-southern-az/florence/former-president-donald-trump-to-hold-rally-in-arizona-in-january-2022?\\_amp=true](https://www.abc15.com/news/region-central-southern-az/florence/former-president-donald-trump-to-hold-rally-in-arizona-in-january-2022?_amp=true) (discussing planned Trump rally scheduled for Jan. 15, 2022, in Florence, Arizona); Tim Bryant, *Trump Rally to Be Held in Commerce*, WGAU (Mar. 14, 2022, 9:14 AM), <https://www.wgau.com/news/local/trump-rally-be-held-commerce/6G3XFV4WMBFXLF5N3INUTMSWHI/?outputType=amp> (discussing scheduled March 26, 2022 rally featuring Trump in Banks County, Georgia); Gina Dvorak, *Trump Reschedules Nebraska Rally Because of Severe Weather*, 6 NEWS WOWT (Apr. 29, 2022, 6:59 PM), <https://www.wowt.com/2022/04/29/trump-supporters-head-nebraska-rally/> (reporting that a “Save America” rally at the I-80 Speedway in Nebraska had been rescheduled for May 1, 2022); Paul Choate, *Former President Trump to Hold Rally in Anchorage*, ALASKA’S NEWS SOURCE (June 29, 2022, 4:22 PM), <https://www.alaskasnewsresource.com/2022/06/29/former-president-trump-hold-rally-anchorage/> (discussing Trump rally scheduled for July 9, 2022, in Anchorage, Alaska); see generally *List of Post-2016 Election Donald Trump Rallies*, WIKIPEDIA, [https://en.wikipedia.org/wiki/List\\_of\\_post%E2%80%932016\\_election\\_Donald\\_Trump\\_rallies#2022\\_midterm\\_rallies\\_\(June\\_2021%E2%80%93present\)](https://en.wikipedia.org/wiki/List_of_post%E2%80%932016_election_Donald_Trump_rallies#2022_midterm_rallies_(June_2021%E2%80%93present)) (last visited Oct. 12, 2022).

<sup>26</sup> See, e.g., *Events*, SAVE AMERICA (June 17, 2021), <https://www.donaldjtrump.com/events> [<https://web.archive.org/web/20210617015320/https://www.donaldjtrump.com/events>] (offering tickets for a Saturday, June 26, 2021 rally at the Lorain County Fair in Wellington, Ohio); *Events*, SAVE AMERICA (July 1, 2021), <https://www.donaldjtrump.com/events> [<https://web.archive.org/web/20210701045410/https://www.donaldjtrump.com/events>] (offering tickets for a July 3, 2021 rally in Sarasota, Florida); *Events*, SAVE AMERICA (Sept. 15, 2021), <https://www.donaldjtrump.com/events> [<https://web.archive.org/web/20210915045746/https://www.donaldjtrump.com/events>] (offering tickets for a September 25, 2021 rally in Perry, Georgia, and an October 9, 2021 rally in Des Moines, Iowa).

<sup>27</sup> See, e.g., *Former President Trump Rally in Iowa*, C-SPAN (Oct. 9, 2021) [hereinafter *Iowa Rally*], <https://www.c-span.org/video/?515118-1/president-trump-rally-iowa> (showing Trump speaking for one hour and 42 minutes, with over an hour of the speech addressing Trump’s record as compared to Biden’s, Trump’s performance in the 2020 election, and Trump’s popularity); *Former President Trump Texas Rally*, C-SPAN (Jan. 29, 2022) [hereinafter *Texas Rally*], <https://www.c-span.org/video/?517404-1/president-trump-texas-rally> (showing Trump speaking for approximately one hour and ten minutes, with over 55 minutes devoted to discussing Trump, his supporters, Biden, and comparisons between Biden and himself); *Former President Trump Rally in Anchorage, Alaska*, C-SPAN (July 9, 2022) [hereinafter *Alaska Rally*], <https://www.c-span.org/video/?521436-1/president-trump-rally-anchorage-alaska> (showing Trump speaking for approximately one hour and 30 minutes, with over 50 minutes addressing his first term, comparing his presidency to Biden’s, and discussing the 2020 election).

<sup>28</sup> See *Iowa Rally* (spending over 28 minutes of a speech lasting one hour and 42 minutes discussing state and federal Republican candidates and issues of importance in the 2022 midterm election); *Texas Rally* (spending 23 minutes of an 80-minute speech discussing state and federal candidates Trump supports and issues on the 2022 Republican platform); *Alaska Rally* (spending almost 41 minutes of a 91-minute speech discussing state and federal candidates, campaigning against federal candidate Lisa Murkowski, and addressing issues supported by the Republican party).



1           **B.     MAGA PAC**

2           During the 2016 and 2020 presidential elections, Trump’s principal campaign committee  
3   was Donald J. Trump for President, Inc.<sup>29</sup> After Trump lost the general election in 2020, on  
4   February 27, 2021, Donald J. Trump for President, Inc., converted to an unauthorized,  
5   multicandidate committee and renamed itself MAGA PAC.<sup>30</sup>

6           From January 1, 2021, to June 30, 2022, MAGA PAC has reported raising \$15.85 million  
7   and spending \$24.23 million.<sup>31</sup> Of this amount, \$4.6 million (nearly 20%) has been disbursed to  
8   2M Document Management and Imaging, LLC, for “research consulting” and “recount: research  
9   consulting,”<sup>32</sup> and a further \$2.5 million (over 10%) to Kasowitz, Benson, Torres LLP for  
10   “general: legal consulting.”<sup>33</sup> Other large disbursements also appear to be associated with  
11   consulting work for “recount.”<sup>34</sup> Press reports indicate that MAGA PAC is primarily involved in  
12   spending associated with Trump’s 2020 campaign.<sup>35</sup> According to MAGA PAC’s Amended

<sup>29</sup> Donald J. Trump for President, Inc., Statement of Organization at 2 (June 29, 2015), <https://docquery.fec.gov/pdf/501/201506299000000501/201506299000000501.pdf> (registering the committee as the principal campaign committee of Donald J. Trump).

<sup>30</sup> MAGA PAC, Amended Statement of Organization (Feb. 27, 2021), <https://docquery.fec.gov/pdf/093/202102279429078093/202102279429078093.pdf>; see also Donald J. Trump for President, Inc., Amended Statement of Organization (Mar. 4, 2020), <https://docquery.fec.gov/pdf/510/202003049203747510/202003049203747510.pdf> (showing former name and candidate committee designation of MAGA PAC).

<sup>31</sup> *Make America Great Again PAC: Financial Summary 2021-2022*, FEC.GOV, <https://www.fec.gov/data/committee/C00580100/?tab=summary&cycle=2022> (last visited Oct. 12, 2022).

<sup>32</sup> *Make America Great Again PAC: Spending 2021-2022*, FEC.GOV, <https://www.fec.gov/data/committee/C00580100/?tab=spending&cycle=2022> (last visited Oct. 11, 2022) (under “Disbursements,” select “Group By: Recipient Name”).

<sup>33</sup> *Id.*; see MAGA PAC, Amended 2021 Mid-Year Report, Sched. B at 74,876 (Dec. 2, 2021), <https://docquery.fec.gov/cgi-bin/fecimg/?202112029469645517>.

<sup>34</sup> *Make America Great Again PAC: Spending 2021-2022*, FEC.GOV, <https://www.fec.gov/data/committee/C00580100/?tab=spending&cycle=2022> (last visited Oct. 12, 2022) (under “Disbursements,” sort by “Amount”) (showing, e.g., \$379,715.73 disbursement to the Hilbert Law Firm, LLC, for “recount: legal consulting”; \$296,160.47 to Greenberg Traurig, LLP, for the same; and \$272,567.54 to True North Law, LLC, for the same).

<sup>35</sup> See Michael Scherer & Josh Dawsey, *Trump Looks to 2024, Commanding a Fundraising Juggernaut, as He Skirts Social Media Bans*, WASH. POST (Oct. 30, 2021, 6:00 AM), [https://www.washingtonpost.com/politics/trump-fundraising/2021/10/29/5b5a2e64-31b1-11ec-a1e5-07223c50280a\\_story.html](https://www.washingtonpost.com/politics/trump-fundraising/2021/10/29/5b5a2e64-31b1-11ec-a1e5-07223c50280a_story.html) (cited in MUR 7968 Compl. at 8 n.27).

Statement of Organization, MAGA PAC identifies Save America and the Save America JFC as affiliated committees, along with Trump Victory, Trump Make America Great Again Committee, Georgia Trump Victory, Colorado Trump Victory, New Jersey Trump Victory, and South Carolina Trump Victory.<sup>36</sup>

### C. Save America and Save America JFC

On November 9, 2020, shortly after Trump lost the November 3, 2020 election, Save America registered as a leadership PAC and identified Trump as its sponsor.<sup>37</sup> Beyond Save America JFC and MAGA PAC, among its affiliated committees it lists Trump Make America Great Again Committee; Max Miller Victory; APL Victory Fund; Team Herschel Victory Committee; Save Wyoming; and Trump-Graham Majority Fund.<sup>38</sup>

Since its inception, Save America has reported raising over \$130 million, and it currently reports having just under \$100 million cash on hand.<sup>39</sup> Between January 1, 2021, and August 31, 2022, it has reported spending \$42,158,271, of which over a fifth was disbursed to “Event Strategies, Inc.,” for, *inter alia*, “audio visual services, event staging expense & travel

<sup>36</sup> MAGA PAC, Amended Statement of Organization at 3, 5-11 (Feb. 27, 2021), <https://docquery.fec.gov/pdf/093/202102279429078093/202102279429078093.pdf>

<sup>37</sup> Save America, Amended Statement of Organization at 11 (May 17, 2022), <https://docquery.fec.gov/pdf/174/202205179512384174/202205179512384174.pdf> (naming “TRUMP, DONALD J.” as a “Leadership PAC Sponsor”); *see also* Save America, Statement of Organization at 5 (Nov. 9, 2020), <https://docquery.fec.gov/pdf/422/202011099336977422/202011099336977422.pdf> (same).

<sup>38</sup> Save America, Amended Statement of Organization at 3, 5-10, 12 (May 17, 2022), <https://docquery.fec.gov/pdf/174/202205179512384174/202205179512384174.pdf>.

<sup>39</sup> *Save America: Financial Summary 2019-2020*, FEC.GOV, <https://www.fec.gov/data/committee/C00762591/?tab=summary&cycle=2020> (last visited Oct. 12, 2022) (showing total receipts of over \$31 million in the 2020 election cycle); *Save America: Financial Summary 2021-2022*, FEC.GOV, <https://www.fec.gov/data/committee/C00762591/?tab=summary&cycle=2022> (last visited Oct. 12, 2022) (showing total receipts of over \$103 million in the 2022 election cycle); Save America, 2022 August Monthly Report at 2 (Aug. 20, 2022), <https://docquery.fec.gov/pdf/781/202208209525773781/202208209525773781.pdf> (reporting \$99,127,575.85 cash on hand as of July 31, 2022); *see* Jason Lange & Alexandra Ulmer, *Trump Fundraising Slows But Still Yields Over \$100 Million in Cash*, REUTERS (Feb. 1, 2022, 1:55 AM), <https://www.reuters.com/world/us/trumps-fundraising-groups-have-over-122-mln-cash-2022-01-31/> (cited in MUR 7968 Compl. at 8 n.30).

expenses.”<sup>40</sup> The MUR 7968 Complaint alleges and press reports indicate that Event Strategies is the company that stages Trump’s rallies and that the disbursements thereto included Trump’s travel.<sup>41</sup> Save America has given a total of \$8,291,500 to other political causes, including \$4,995,000 in federal campaign contributions, \$150,000 to the Republican National Committee, and \$3,296,500 to non-federal campaigns.<sup>42</sup> Taylor Budowich, a Trump spokesman, reportedly described Save America to *The Washington Post* as “the primary political vehicle of President Donald J. Trump.”<sup>43</sup>

On February 27, 2021, three and a half months after Save America first registered with the Commission, Save America JFC registered as a joint fundraising committee for MAGA PAC and Save America.<sup>44</sup> Between its establishment on February 27, 2021, and June 30, 2022, Save America JFC reported raising over \$107 million dollars and disbursing \$99.55 million, of which \$49.16 million was transferred to Save America and \$5.46 million was transferred to MAGA

<sup>40</sup> *Save America: Spending*, FEC.GOV, <https://www.fec.gov/data/committee/C00762591/?tab=spending> (last visited Oct. 12, 2022) (under “Disbursements,” select “Group By: Recipient Name”) (showing \$9,477,791.45 disbursed to Event Strategies, Inc.); *FEC Disbursements: Filtered Results*, FEC.GOV, [https://www.fec.gov/data/disbursements/?committee\\_id=C00762591&recipient\\_name=EVENT+STRATEGIES%2C+INC.&data\\_type=processed](https://www.fec.gov/data/disbursements/?committee_id=C00762591&recipient_name=EVENT+STRATEGIES%2C+INC.&data_type=processed) (last visited Oct. 12, 2022) (showing 41 disbursements by Save America to Event Strategies, Inc. in the 2022 election cycle); see Goldmacher, *supra* note 8 (“Federal records show that Mr. Trump spent nearly \$1.5 million from his main political account, the Save America PAC, with the company that stages his rallies.”).

<sup>41</sup> Peter Stone, “A One-Man Scam PAC”: Trump’s Money Hustling Tricks Prompt Fresh Scrutiny, *GUARDIAN* (Aug. 2, 2021, 03:00), <https://www.theguardian.com/us-news/2021/aug/02/donald-trump-fundraising-schemes-campaign-finance-scrutiny-criticism> (cited in MUR 7968 Compl. at 3 n.8).

<sup>42</sup> *FEC Disbursements: Filtered Results*, FEC.GOV, [https://www.fec.gov/data/disbursements/?data\\_type=processed&committee\\_id=C00762591&disbursement\\_description=federal+contribution&disbursement\\_description=non-federal+contribution](https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00762591&disbursement_description=federal+contribution&disbursement_description=non-federal+contribution) (last visited Oct. 12, 2022) (showing 199 disbursements by Save America with purpose of “federal contribution” or “non-federal contribution”); see Meredith McGraw, *et al.*, *How Trump’s Political Groups Are Spending Their Huge Cash Haul*, *POLITICO* (Feb. 1, 2022, 10:39 AM), <https://www.politico.com/news/2022/02/01/trump-political-groups-spending-00004057> (cited in MUR 7968 Compl. at 4 n.9).

<sup>43</sup> Scherer & Dawsey, *supra* note 35.

<sup>44</sup> Save America JFC, Statement of Organization at 2 (Feb. 27, 2021), <https://docquery.fec.gov/pdf/111/202102279429078111/202102279429078111.pdf>.

PAC.<sup>45</sup> Its other major expenditures include \$15.06 million to Tatango, Inc., for “SMS advertising” and \$5.72 million to WinRed Technical Services LLC for “merchant fees.”<sup>46</sup>

The Facebook Ad Library contains content paid for by Save America JFC consisting of approximately 8,100 Facebook advertisements, which cost between \$1,312,300 and \$2,162,111, and which were credited to accounts called, *inter alia*, Florida for Trump, New York for Trump, Team Trump, Texas for Trump, Trump Alerts, Trump Team, Trump Updates, and Wisconsin for Trump.<sup>47</sup> Among these are more than 250 ads, costing between \$164,600 and \$222,936, containing a “live poll” asking some variation of “Would you vote for Trump a Third Time?” as shown in Figure 1, below.<sup>48</sup>

<sup>45</sup> *Save America Joint Fundraising Committee: Financial Summary 2021-2022*, FEC.GOV, <https://www.fec.gov/data/committee/C00770941/?tab=summary> (last visited Oct. 12, 2022); *Save America Joint Fundraising Committee: Spending 2021-2022*, FEC.GOV, <https://www.fec.gov/data/committee/C00770941/?tab=spending> (last visited Oct. 12, 2022) (under “Disbursements,” click “Group by: Recipient Name”).

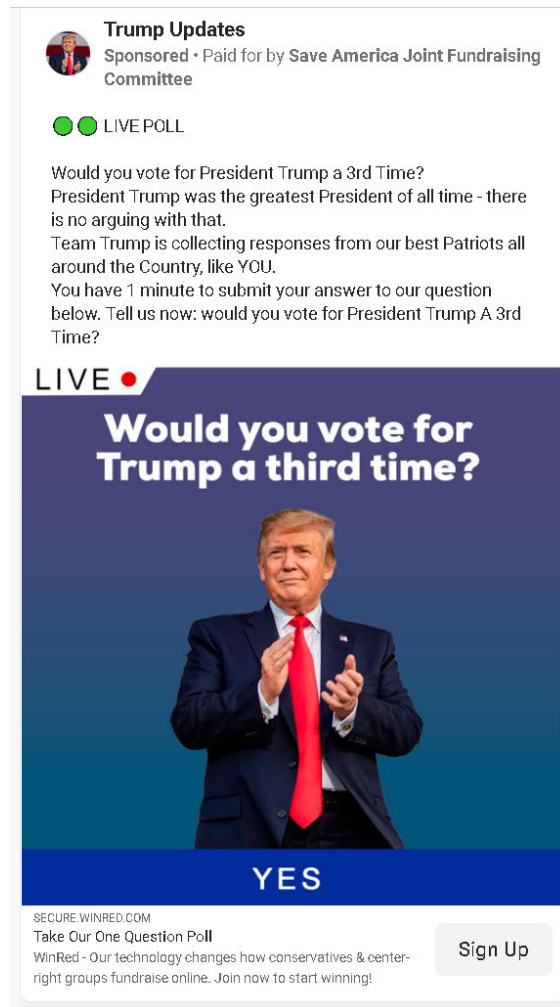
<sup>46</sup> *FEC Disbursements: Filtered Results*, FEC.GOV, [https://www.fec.gov/data/disbursements/?data\\_type=processed&committee\\_id=C00770941&recipient\\_name=TATANGO%2C+INC](https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00770941&recipient_name=TATANGO%2C+INC) (last visited Oct. 12, 2022) (showing 36 disbursements by Save America JFC to Tatango, Inc.); *FEC Disbursements: Filtered Results*, FEC.GOV, [https://www.fec.gov/data/disbursements/?data\\_type=processed&committee\\_id=C00770941&recipient\\_name=WINRED+TECHNICAL+SERVICES+LLC](https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00770941&recipient_name=WINRED+TECHNICAL+SERVICES+LLC) (last visited Oct. 12, 2022) (showing 385 disbursements by Save America JFC to WinRed Technical Services LLC); *Save America Joint Fundraising Committee: Spending 2021-2022*, FEC.GOV, <https://www.fec.gov/data/committee/C00770941/?tab=spending> (last visited Oct. 11, 2022) (under “Disbursements,” click “Group by: Recipient Name”) (showing Tatango, Inc., and WinRed Technical Services LLC as second- and third-largest recipients of disbursements by Save America JFC after Save America).

<sup>47</sup> See META AD LIBRARY, [https://www.facebook.com/ads/library/?active\\_status=all&ad\\_type=political\\_and\\_issue\\_ads&country=US&q=save%20america%20joint%20fundraising&sort\\_data\[direction\]=desc&sort\\_data\[mode\]=relevancy\\_monthly\\_grouped&start\\_date\[min\]=2021-01-01&start\\_date\[max\]=&search\\_type=keyword\\_unordered&media\\_type=all](https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&q=save%20america%20joint%20fundraising&sort_data[direction]=desc&sort_data[mode]=relevancy_monthly_grouped&start_date[min]=2021-01-01&start_date[max]=&search_type=keyword_unordered&media_type=all) (last visited Oct. 12, 2022) (showing all ads paid for by Save America JFC since January 1, 2021). Though the Ad Library does not share the precise cost of each advertisement, it provides a range under “Amount spent,” e.g., “<\$100,” “\$500-599,” “\$8K-\$9K.”

<sup>48</sup> See META AD LIBRARY, [https://www.facebook.com/ads/library/?active\\_status=all&ad\\_type=political\\_and\\_issue\\_ads&country=US&q=save%20america%20joint%20fundraising%20would%20you%20vote%20for%20trump&sort\\_data\[direction\]=desc&sort\\_data\[mode\]=relevancy\\_monthly\\_grouped&search\\_type=keyword\\_unordered&media\\_type=all](https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&q=save%20america%20joint%20fundraising%20would%20you%20vote%20for%20trump&sort_data[direction]=desc&sort_data[mode]=relevancy_monthly_grouped&search_type=keyword_unordered&media_type=all) (last visited Oct. 12, 2022) (showing “live poll” ads paid for by Save America JFC).

1

*Figure 1. Save America JFC “Live Poll” Facebook Advertisement*



2

3 Clicking on these ads redirects to a page with “yes” or “no” response options, and that requires

4 the user to sign up for text messages “from President Trump” sent by Save America JFC.<sup>49</sup>

5 Submitting the poll response then leads to a WinRed contribution page for Save America JFC.<sup>50</sup>

<sup>49</sup> *Would You Vote for President Trump a 3rd Time?* WINRED, <https://secure.winred.com/save-america-joint-fundraising-committee/trump-3x/> (last visited Oct. 12, 2022).

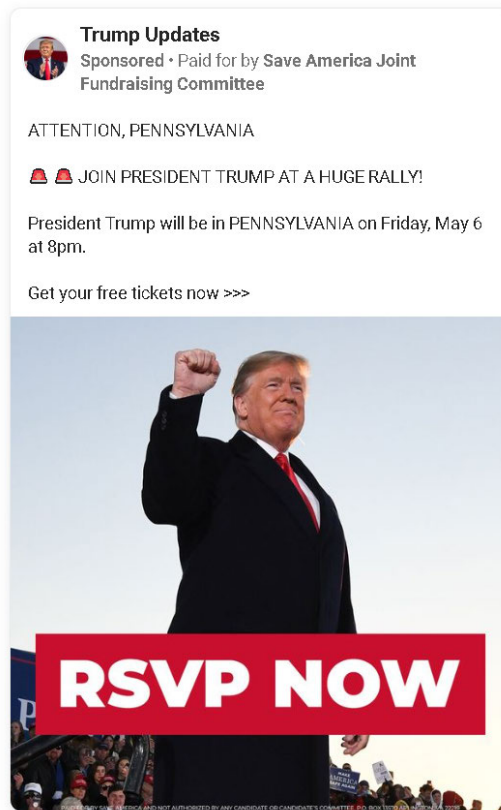
<sup>50</sup> *Trump Cash Blitz 10X-Impact*, WINRED, <https://secure.winred.com/save-america-joint-fundraising-committee/trump-cash-blitz-10-rd-poll-0622/?recurring=true&&> (last visited Oct. 12, 2022).

The Save America JFC also publishes Facebook advertisements promoting Trump's rallies, each of which is a variation on the same format: A photo of Trump, accompanied by text reading

ATTENTION, [STATE]  
 JOIN PRESIDENT TRUMP AT A HUGE RALLY!  
 President Trump will be in [STATE] on [date] at [time].  
 Get your free tickets now >>><sup>51</sup>

The ads do not depict or name any other individuals or candidates for federal office.<sup>52</sup> Figure 2, below, shows an example of the advertisements.

*Figure 2. Save America JFC Rally Advertisement*



<sup>51</sup> META AD LIBRARY, [https://www.facebook.com/ads/library/?active\\_status=all&ad\\_type=political\\_and\\_issue\\_ads&country=US&q=save%20america%20joint%20fundraising%20trump%20huge%20rally&sort\\_data\[direction\]=desc&sort\\_data\[mode\]=relevancy\\_monthly\\_grouped&search\\_type=keyword\\_unordered&media\\_type=all](https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&q=save%20america%20joint%20fundraising%20trump%20huge%20rally&sort_data[direction]=desc&sort_data[mode]=relevancy_monthly_grouped&search_type=keyword_unordered&media_type=all) (last visited Oct. 12, 2022)

<sup>52</sup> *Id.*

1 During the 2016 and 2020 election cycles, Trump’s campaign website was located at  
2 donaldjtrump.com. In September 2015, for instance, during Trump’s 2016 presidential  
3 campaign, the website showed a banner reading “Make America Great Again” over a photograph  
4 of Trump, listed Trump’s policy positions, linked to his merchandise shop and contribution page,  
5 and bore a disclaimer stating that it was paid for by Donald J. Trump for President, Inc.<sup>53</sup> In  
6 October 2020, shortly before the 2020 general election, it contained similar information,  
7 including a banner reading “President Trump[.] Together, we are rebuilding our nation,” a list of  
8 “promises kept,” a link to Trump’s contribution page, and a disclaimer stating that it was “[p]aid  
9 for by Donald J. Trump for President, Inc.”<sup>54</sup> At the time of this Report, donaldjtrump.com  
10 bears a prominent logo reading “SAVE AMERICA PRESIDENT DONALD J. TRUMP,” as  
11 shown in Figure 3, below, and the disclaimer indicates that it is paid for by Save America JFC.<sup>55</sup>  
12 The banner on the website’s homepage reads “Together, we are rebuilding our nation,” as it did  
13 during Trump’s 2020 campaign, and it includes links to merchandise and contribution pages, as  
14 well as events featuring Trump as a speaker.<sup>56</sup>

<sup>53</sup> TRUMP MAKE AMERICA GREAT AGAIN! (Sept. 17, 2015), <https://www.donaldjtrump.com> [<https://web.archive.org/web/20150917005137/https://www.donaldjtrump.com/>].

<sup>54</sup> DONALD J. TRUMP FOR PRESIDENT (Oct. 29, 2020), <https://www.donaldjtrump.com> [<https://web.archive.org/web/20201029050200/https://www.donaldjtrump.com/>].

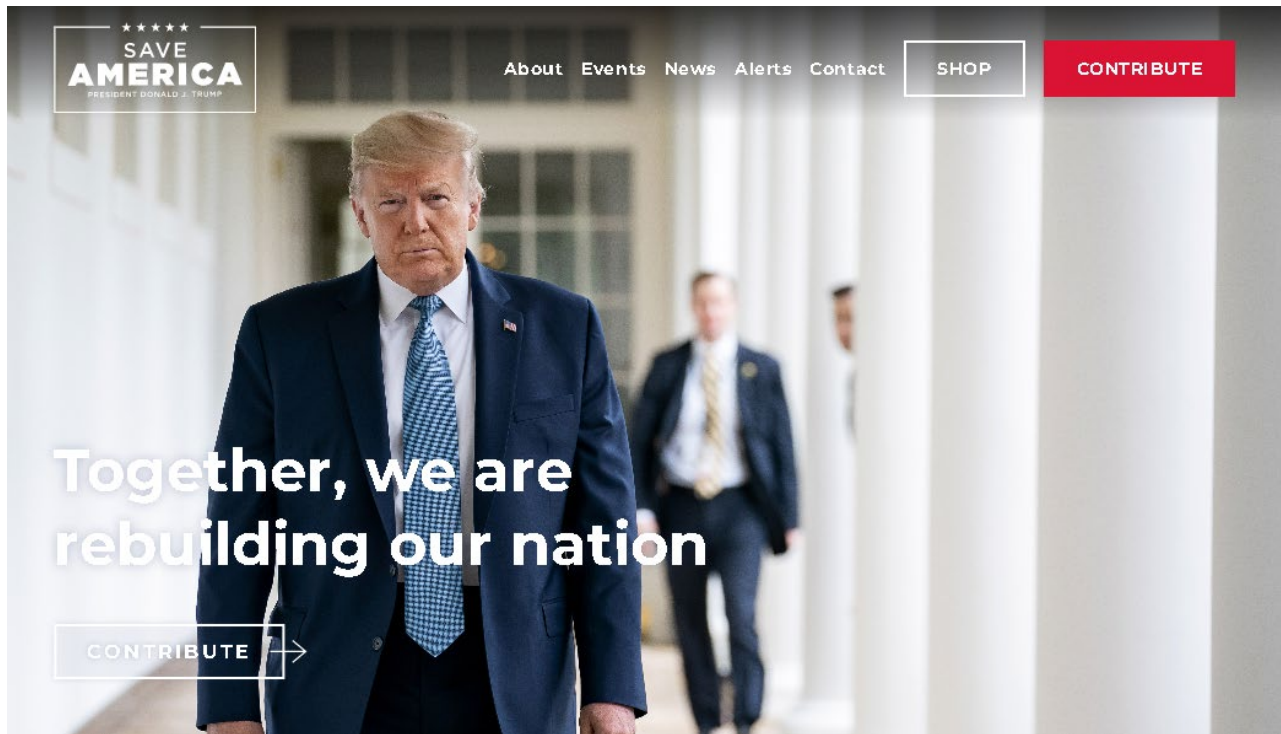
<sup>55</sup> *About*, DONALD J. TRUMP, <https://www.donaldjtrump.com/about> (last visited Oct. 12, 2022).

<sup>56</sup> DONALD J. TRUMP, <https://www.donaldjtrump.com/> (last visited Oct. 12, 2022).



1

Figure 3. Current donaldjtrump.com Homepage



2

3 Trump's website also links to news articles, blogs, and statements from Trump, including  
 4 articles reporting on Trump's standing with respect to a 2024 presidential run, such as "It Would  
 5 Be Foolish of Conservatives Not to Support Trump in 2024";<sup>57</sup> "Mar-a-Lago Raid Gave Trump a  
 6 10-Point Boost Over DeSantis with Republican Primary Voters, Poll Shows";<sup>58</sup> "CD Media Big  
 7 Data Poll: Trump Leads Biden by 7 Points in Pennsylvania";<sup>59</sup> "Ted Cruz Says Trump

<sup>57</sup> ICYMI: "It Would Be Foolish of Conservatives Not to Support Trump in 2024," DONALD J. TRUMP (Sept. 17, 2022) (linking to Frank Filocomo, It Would Be Foolish of Conservatives Not to Support Trump in 2024, AM. THINKER (Aug. 15, 2022), [https://www.americanthinker.com/blog/2022/08/it\\_would\\_be\\_foolish\\_of\\_conservatives\\_not\\_to\\_support\\_trump\\_in\\_2024.html](https://www.americanthinker.com/blog/2022/08/it_would_be_foolish_of_conservatives_not_to_support_trump_in_2024.html)).

<sup>58</sup> ICYMI: "Mar-a-Lago Raid Gave Trump a 10-Point Boost Over DeSantis with Republican Primary Voters, Poll Shows," DONALD J. TRUMP (Sept. 7, 2022), <https://www.donaldjtrump.com/news/news-wdysxc53qt2440> (linking to Joshua Zitser, Mar-a-Lago Raid Gave Trump a 10-Point Boost Over DeSantis with Republican Primary Voters, Poll Shows, BUS. INSIDER (Aug. 14, 2022), <https://www.businessinsider.com/donald-trump-mar-a-lago-raid-boost-ron-desantis-poll-2022-8>).

<sup>59</sup> ICYMI: "CD Media Big Data Poll: Trump Leads Biden by 7 Points in Pennsylvania," DONALD J. TRUMP (Sept. 3, 2022), <https://www.donaldjtrump.com/news/news-mqmvzvktcb2437> (linking to CD Media Big Data Poll: Trump Leads Biden by 7 Points in Pennsylvania, CREATIVE DESTRUCTION MEDIA (Sept. 2, 2022), <https://creative>



1 Announcing 2024 Run Would ‘Significantly’ Clear GOP Field”;<sup>60</sup> “Straw Poll: Donald Trump  
 2 Is Undisputed Favorite in 2024 Republican Primary Field”;<sup>61</sup> and “Poll: Donald Trump  
 3 Maintains Commanding Lead Over Potential 2024 Primary Field.”<sup>62</sup>

4 Trump has reportedly fundraised for the Save America Committees and MAGA PAC by  
 5 calling donors and holding events such as golf tournaments to raise money.<sup>63</sup> Press reports  
 6 indicate that these fundraising efforts include promises to supporters of “the same perks he has  
 7 long offered to donors — chances to meet him, trips to his rallies, signed memorabilia, and  
 8 membership to ‘exclusive’ donor clubs.”<sup>64</sup> The “CONTRIBUTE” button on Trump’s website  
 9 redirects to Save America JFC’s WinRed contribution page:<sup>65</sup>

[destructionmedia.com/news/politics/2022/09/02/cd-media-big-data-poll-trump-leads-biden-by-7-points-in-pennsylvania/](https://destructionmedia.com/news/politics/2022/09/02/cd-media-big-data-poll-trump-leads-biden-by-7-points-in-pennsylvania/)).

<sup>60</sup> ICYMI: “Ted Cruz Says Trump Announcing 2024 Run Would ‘Significantly’ Clear GOP Field,” DONALD J. TRUMP (Aug. 17, 2022) <https://www.donaldjtrump.com/news/news-tucgrsdbag2371> (linking Sarah Rumpf, *et al.*, *Ted Cruz Says Trump Announcing 2024 Run Would “Significantly” Clear GOP Field*, FOX NEWS (July 22, 2022), <https://www.foxnews.com/politics/ted-cruz-trump-announcing-presidency-significantly-clear-gop-field>).

<sup>61</sup> ICYMI: “Straw Poll: Donald Trump Is Undisputed Favorite in 2024 Republican Primary Field,” DONALD J. TRUMP (July 27, 2022), <https://www.donaldjtrump.com/news/news-uvxvuacujg2302> (linking Nick Gilbertson, *Straw Poll: Donald Trump Is Undisputed Favorite in 2024 Republican Primary Field*, BREITBART (July 24, 2022), <https://www.breitbart.com/politics/2022/07/24/straw-poll-donald-trump-undisputed-favorite-2024-gop-primary/>).

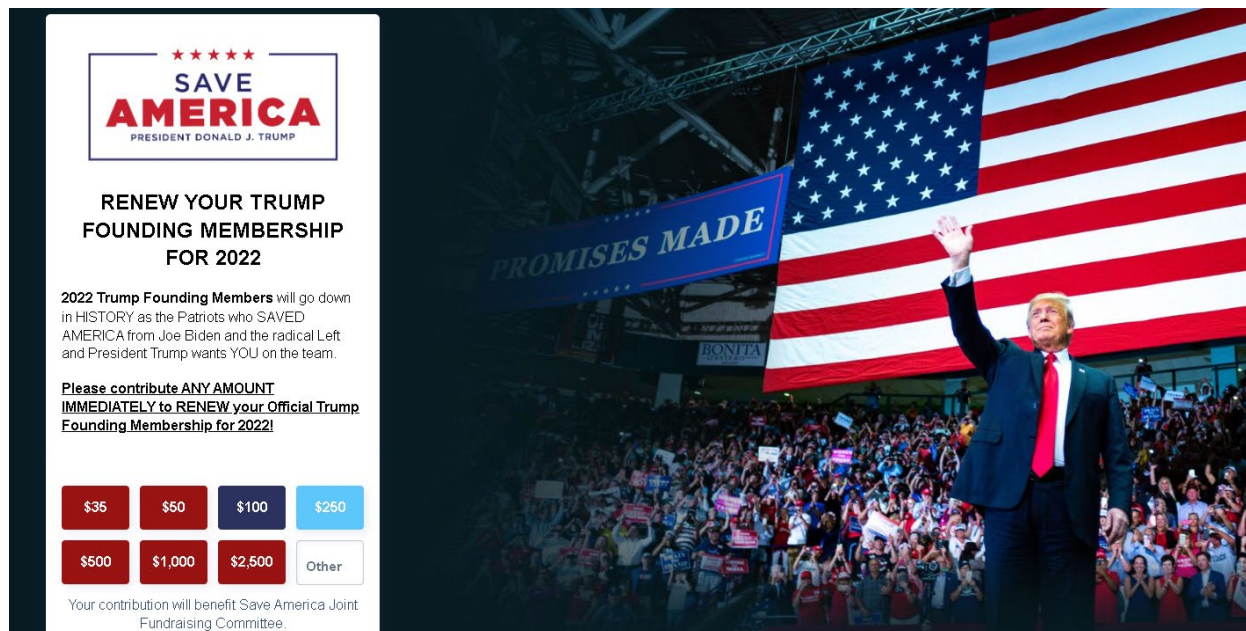
<sup>62</sup> ICYMI: “Poll: Donald Trump Maintains Commanding Lead Over Potential 2024 Primary Field,” DONALD J. TRUMP (July 21, 2022), <https://www.donaldjtrump.com/news/news-vzzass2xpp2278> (linking Wendell Husebø, *Poll: Donald Trump Maintains Commanding Lead Over Potential 2024 Primary Field*, BREITBART (July 20, 2022), <https://www.breitbart.com/politics/2022/07/20/poll-donald-trump-maintains-commanding-lead-potential-2024-primary-field/>).

<sup>63</sup> Scherer & Dawsey, *supra* note 35.

<sup>64</sup> *Id.*

<sup>65</sup> *About*, SAVE AMERICA, <https://www.donaldjtrump.com/about> (last visited Oct. 12, 2022) (click “CONTRIBUTE” at top right, which redirects to *Save America President Donald J. Trump, Renew Your Trump Founding Membership for 2022*, WINRED, [https://secure.winred.com/save-america-joint-fundraising-committee/early-renewal-founding-membership/?recurring=true&money\\_pledge=true&amount=100](https://secure.winred.com/save-america-joint-fundraising-committee/early-renewal-founding-membership/?recurring=true&money_pledge=true&amount=100) (last visited Oct. 12, 2022) (noting “[y]our contribution will benefit Save America Joint Fundraising Committee”)); MUR 7969 Compl. at 14.

Figure 4. donalddjtrump.com Contribute Page



As shown above, the page states “2022 Trump Founding Members will go down in HISTORY as the Patriots who SAVED AMERICA from Joe Biden and the radical Left and President Trump wants YOU on the team.”<sup>66</sup>

#### D. The Complaints and Responses

The Complaints allege that Trump has become a candidate for President in the 2024 election cycle and has failed to file a Statement of Candidacy and designate a principal campaign committee despite public statements indicating that he has made a decision to run and has raised over \$100 million through the Save America Committees.<sup>67</sup> Both Complaints allege that Trump has consented to others raising funds for his 2024 candidacy; the MUR 7968 Complaint states

<sup>66</sup> *Save America President Donald J. Trump, Renew Your Trump Founding Membership for 2022*, WINRED, [https://secure.winred.com/save-america-joint-fundraising-committee/early-renewal-founding-membership/?recurring=true&money\\_pledge=true&amount=100&utm\\_medium=homepage&utm\\_source=na\\_na\\_na&utm\\_campaign=homepage-button\\_na\\_saveamerica&utm\\_content=donate\\_cpyrs\\_na&\\_ga=2.178969388.949753229.1657646187-1986029425.1657646187](https://secure.winred.com/save-america-joint-fundraising-committee/early-renewal-founding-membership/?recurring=true&money_pledge=true&amount=100&utm_medium=homepage&utm_source=na_na_na&utm_campaign=homepage-button_na_saveamerica&utm_content=donate_cpyrs_na&_ga=2.178969388.949753229.1657646187-1986029425.1657646187) (last visited Oct. 12, 2022).

<sup>67</sup> MUR 7968 Compl at 1; MUR 7969 Compl. ¶¶ 48-54.

1 that, by sponsoring Save America, Trump has “consented to Save America’s expenditures on his  
 2 behalf,”<sup>68</sup> and the MUR 7969 Complaint states that Trump has given his “consent to permit  
 3 others to raise funds on his behalf to amass funds in anticipation of an inevitable candidacy.”<sup>69</sup>  
 4 In support of this assertion, the MUR 7968 Complaint points to the Save America JFC’s  
 5 spending on Facebook advertisements and the Save America Committee’s disbursements to  
 6 Event Strategies, which it states is “the company that stages his rallies.”<sup>70</sup> The MUR 7968  
 7 Complaint also alleges that Save America has raised more than \$100 million “for the purpose of  
 8 influencing” Trump’s campaign.<sup>71</sup>

9 Both Complaints further allege that Trump has knowingly accepted excessive and  
 10 prohibited contributions from different entities: The MUR 7968 Complaint makes this allegation  
 11 as to the Save America Committees,<sup>72</sup> and the MUR 7969 Complaint as to those entities and  
 12 MAGA PAC.<sup>73</sup>

13 The Responses deny that Trump has “triggered registration as a candidate for federal  
 14 office in an upcoming election, including the 2024 election for President of the United States”<sup>74</sup>  
 15 by raising or spending more than \$5,000 and argue that the Complaints are based on a “few out  
 16 of context comments.”<sup>75</sup> They deny that Trump has “made any statement referring to Donald J.

<sup>68</sup> MUR 7968 Compl. at 8

<sup>69</sup> MUR 7969 Compl. ¶ 8.

<sup>70</sup> MUR 7968 Compl. at 6-7.

<sup>71</sup> *Id.* at 3-4.

<sup>72</sup> MUR 7968 Compl. at 6-7, 9.

<sup>73</sup> MUR 7969 Compl. ¶¶ 69-71.

<sup>74</sup> Trump & Save America Resp. at 2, MUR 7968 (Apr. 8, 2022) [hereinafter MUR 7968 Resp.]; *see* Trump & Save America JFC Resp. at 1, MUR 7969 (Apr. 8, 2022) [hereinafter MUR 7969 Resp.].

<sup>75</sup> MUR 7968 Resp. at 1; *see* MUR 7969 Resp. at 3. Though only Save America JFC had been notified as a respondent at the time of the MUR 7969 Response, counsel submitted it “on behalf of Donald J. Trump, Save America, and Bradley Crate, in his capacity as Treasurer of Save America.” MUR 7969 Resp. at 1. On August 25,

Trump as a candidate”; “used general public advertising to publicize his intent to campaign”; or “taken any action to qualify for any ballot.”<sup>76</sup> Both Responses deny that Trump is testing the waters, and state that he has not “raised any money for testing[-]the[-]waters activities.”<sup>77</sup> Instead, the Responses state that Trump “frequently engages in activities, such as public speaking, for reasons other than a potential political campaign,”<sup>78</sup> and that Trump uses Save America’s platform to “maintain a public image, support other candidates, [and] advance certain issues.”<sup>79</sup>

### III. LEGAL ANALYSIS

#### A. The Commission Should Find Reason to Believe That Trump Failed to Timely File a Statement of Candidacy

##### 1. The Available Information Indicates that Trump Has Decided to Run for President in 2024

Under the Act and Commission regulations, an individual becomes a candidate when the person (1) decides to run for office<sup>80</sup> and (2) receives contributions or makes expenditures

2022, Save America JFC submitted a response incorporating by reference the arguments made in the original MUR 7968 Response. Save America JFC Resp. at 1, MUR 7968 (Aug. 25, 2022). On the same day, Save America did the same with respect to the original MUR 7969 Response. Save America Resp. at 1, MUR 7969 (Aug. 25, 2022). MAGA PAC did not submit a response.

<sup>76</sup> MUR 7968 Resp. at 2; MUR 7969 Resp. at 2.

<sup>77</sup> MUR 7968 Resp. at 2; MUR 7969 Resp. at 2.

<sup>78</sup> MUR 7968 Resp. at 2; MUR 7969 Resp. at 2.

<sup>79</sup> MUR 7968 Resp. at 2; MUR 7969 Resp. at 2.

<sup>80</sup> 11 C.F.R. §§ 100.72(b), 100.131(b). Though the Act defines candidacy in terms of crossing the \$5,000 threshold discussed below in note 81 and the accompanying text, by definition, a contribution or expenditure must be “for the purpose of influencing any election for Federal office.” See 52 U.S.C. § 30101(8)(A) (defining contribution); 11 C.F.R. § 100.52(a) (same); 52 U.S.C. § 30101(9)(A) (defining expenditure); 11 C.F.R. § 100.111(a) (same). Until an individual has decided to run for Federal office, the money they raise and spend for themselves cannot be “for the purpose of influencing any election for Federal office.” Accordingly, an individual must have made this determination in order to cross the contribution or expenditure threshold at 52 U.S.C. § 30101(2).

1 exceeding \$5,000, either directly or through an entity the candidate has consented to receive  
 2 contributions or make expenditures on their behalf.<sup>81</sup>

3 Commission regulations set forth a non-exhaustive set of “[e]xamples of activities that  
 4 indicate that an individual has decided to become a candidate.”<sup>82</sup> Such indicia include: (1) using  
 5 “general public political advertising to publicize his or her intention to campaign for federal  
 6 office”;<sup>83</sup> (2) raising “funds in excess of what could reasonably be expected to be used for  
 7 exploratory activities or undertak[ing] activity designed to amass campaign funds that would be  
 8 spent after he or she becomes a candidate”<sup>84</sup>; (3) making or authorizing “written or oral  
 9 statements that refer to the individual as a candidate for a particular office”;<sup>85</sup> (4) conducting  
 10 “activities in close proximity to the election or over a protracted period of time”;<sup>86</sup> and (5) taking  
 11 “action to qualify for the ballot under state law.”<sup>87</sup>

12 In previous matters, the Commission has found reason to believe that an individual had  
 13 become a candidate and failed to timely file a Statement of Candidacy when public statements  
 14 and other indicia showed that the respondent had determined to run for office. In MUR 6449  
 15 (Jon Bruning, *et al.*), the Commission found that an individual who had publicly said “I want to  
 16 run. I’m ready to run” and made a solicitation to “help [him] defeat” his primary opponent had  
 17 made the decision to campaign for office and become a candidate under the Act.<sup>88</sup> In MUR 6735

81 52 U.S.C. § 30101(2).

82 11 C.F.R. §§ 100.72(b), 100.131(b).

83 *Id.* §§ 100.72(b)(1), 100.131(b)(1).

84 *Id.* §§ 100.72(b)(2), 100.131(b)(2).

85 *Id.* §§ 100.72(b)(3), 100.131(b)(3).

86 *Id.* §§ 100.72(b)(4), 100.131(b)(4).

87 *Id.* §§ 100.72(b)(5), 100.131(b)(5).

88 Factual & Legal Analysis (“F&LA”) at 7-9, MUR 6449 (Jon Bruning, *et al.*).

(Joseph A. Sestak, *et al.*), the Commission found that an individual who had solicited funds via emails asking for support in his attempt to “seek the U.S. Senate” and to “help [him] serve you, again” indicated that he had determined to run and was not testing the waters.<sup>89</sup> And in MUR 5908 (Duncan Hunter, *et al.*), the Commission found that an individual who stated, *inter alia*, “while I’ve announced that I am preparing to run for president, I have not made a formal announcement of my candidacy” had, in fact, become a candidate.<sup>90</sup> Further, in Advisory Opinion 2015-09, the Commission advised that an individual becomes a candidate when the individual passes the \$5,000 threshold and “when he or she makes a private determination that he or she will run for federal office.”<sup>91</sup> When determining whether an individual “has made a decision to run for federal office, [the Commission] assesses an individual’s objectively deliberate actions to discern whether and when an individual decided to become a candidate.”<sup>92</sup>

Here, Trump’s activities indicate that he has decided to run for President in 2024, and that he made that decision no later than June 30, 2021.

a. Public Statements

As set forth in the Commission’s non-exhaustive list of activities that indicate when an individual has decided to become a candidate, one such indication is that the individual has made or authorized statements that refer to the individual as a candidate for a particular office.<sup>93</sup>

<sup>89</sup> F&LA at 7-8, MUR 6735 (Joseph A. Sestak, *et al.*).

<sup>90</sup> F&LA at 4-5, MUR 5908 (Duncan Hunter).

<sup>91</sup> Advisory Opinion 2015-09 at 5 (Senate Majority PAC & House Majority PAC) (“AO 2015-09”).

<sup>92</sup> F&LA at 17, MURs 6955, 6983 (John R. Kasich, *et al.*); *see* AO 2015-09 at 5 (noting that an individual becomes a candidate when she exceeds the \$5,000 threshold and “makes a private determination that . . . she will run for federal office”).

<sup>93</sup> 11 C.F.R. §§ 100.72(b)(3), 100.131(b)(3).



- 1 Trump's public statements consistently indicate that he has decided to run for president in 2024.
- 2 Below is a chart detailing some of his statements since June 2021, discussed in Part II.A, above:

Date	Statement
June 30, 2021	<i>Hannity</i> : "Let's talk about your future plans. Let me ask the crowd of everybody here, [to crowd:] would you like to see the President run again in 2024? [to Trump:] You're not going to answer but I have to ask, . . . have you made up your mind?" <i>Trump</i> : "Yes." <sup>94</sup>
August 17, 2021	<i>Hannity</i> : "I know the obvious question . . . is will you, are you considering a run again in 2024? . . ." <i>Trump</i> : "So because the campaign finance laws are extremely complicated and unbelievably stupid, I'm actually not allowed to answer that question, can you believe that? I'd love to answer it. . . . But, let me put it this way; I think you'll be happy and I think that a lot of our friends will be very happy but I'm not actually allowed to answer it. It makes it very difficult if I do. So, people, you're gonna be happy, 'cause I love this country and I hate to see what's happening to it." <sup>95</sup>
September 11, 2021	<i>Unidentified</i> : "Are you going to run again in 2024?" <i>Trump</i> : "I mean, I know what I'm going to do, but we're not supposed to be talking about it yet from the standpoint of campaign finance laws. . . . But I think you're going to be happy." <sup>96</sup>
January 26, 2022	<i>Unidentified</i> : "First on tee: The 45th President of the United States." <i>Trump</i> : "45th and 47th." <sup>97</sup>
February 26, 2022	<i>Trump</i> : "But [the socialists, globalists, Marxists, and communists] are going to find out the hard way starting on November 8th[, 2022], and then again even more so on November 2024, they will find out like never before. We did it twice and we'll do it again. We're going to be doing it again a third time." <sup>98</sup>

<sup>94</sup> Fox News, *Trump Says He Made Up His Mind About Running in 2024 During "Hannity" Exclusive* at 0:15-0:58, YOUTUBE (June 30, 2021), <https://www.youtube.com/watch?v=k0-HOCbRMDQ>; see MUR 7968 Compl. at 2 (discussing statement).

<sup>95</sup> *Hannity* at 35:11 (Fox News television broadcast Aug. 17, 2021) [REDACTED]; see MUR 7968 Compl. at 2 (discussing statement).

<sup>96</sup> *Former President Trump Visits New York City on September 11* at 0:22, C-SPAN (Sept. 11, 2021), <https://www.c-span.org/video/?c4976508/president-trump-visits-york-city-september-11>; see MUR 7968 Compl. at 2 (discussing statement).

<sup>97</sup> TheYeshivaWorld.com (@theyeshivaworld), INSTAGRAM, <https://www.instagram.com/p/CZMJsY1hZIQ/> (Jan. 26, 2022); see MUR 7968 Compl. at 2-3 (discussing statement); MUR 7969 Compl. ¶ 52 (same).

<sup>98</sup> *Former President Trump Speaks at Conservative Political Action Conference* at 2:50-3:56, C-SPAN (Feb. 26, 2022), <https://www.c-span.org/video/?518150-1/pres-trump-criticizes-nato-nations-amid-russian-invasion-ukraine>; see MUR 7968 Compl. at 3 (discussing statement).



Date	Statement
July 14, 2022 (approx.)	<i>Trump, in response to question of “[w]hat would factor into” his decision to run: “Well, in my own mind, I’ve already made that decision, so nothing factors in anymore. In my own mind, I’ve already made that decision.”</i> <sup>99</sup>
July 26, 2022	<i>Trump: “I ran the first time and I won. Then I ran a second time and I did much better. . . . And you know what? . . . We may just have to do it again. We have to straighten out our country.”</i> <sup>100</sup> . . . We have to abolish all COVID mandates and lockdowns and rehire every patriot who was fired from the military. <sup>101</sup> . . . Washington will be an entirely different place. <sup>102</sup> . . . We need to restore my administration’s initiatives to target and eliminate Chinese espionage.” <sup>103</sup>
September 23, 2022	<i>Trump: “This is the year, we’re going to take back the House, we’re going to take back the Senate, we’re going to take back our country, we’re gonna take back America. And in 2024, most importantly, I gotta say, Ted, I’m sorry but, most importantly, I shouldn’t say that, Ted, but most importantly, we’re going to take back our magnificent White House, we’re gonna take it back.”</i> <sup>104</sup>

1           The Responses argue that the Respondents have not “made any statement referring to  
2 Donald J. Trump as a candidate.”<sup>105</sup> Though Trump and the committees associated with him  
3 have refrained from using the word “candidate” in reference to Trump, the question is whether  
4 he has decided to run for office, not whether he has declared his intention to do so. Here, there is  
5 no other reasonable interpretation of Trump’s statements than that he intends to run for President  
6 in 2024: First, when asked whether he had made a decision to run in 2024, Trump stated,

<sup>99</sup> Olivia Nuzzi, *Donald Trump on 2024: “I’ve Already Made That Decision,”* N.Y. MAG. (July 14, 2022), <https://nymag.com/intelligencer/article/donald-trump-2024-decision.html>.

<sup>100</sup> *Former President Trump Speaks at America First Policy Institute Summit* at 1:09:18, C-SPAN (July 26, 2022) [hereinafter Trump AFPI Speech], <https://www.c-span.org/video/?521940-1/president-trump-speaks-america-policy-institute-summit>.

<sup>101</sup> *Id.* at 1:10:12.

<sup>102</sup> *Id.* at 1:11:27.

<sup>103</sup> *Id.* at 1:13:23.

<sup>104</sup> Right Side Broadcasting Network, *President Donald Trump Rally Live in Wilmington, NC 9/23/22* at 9:02:29, RUMBLE (Sept. 23, 2022, 12:01 PM), <https://rumble.com/v1k3jy5-president-donald-trump-rally-live-in-wilmington-nc-92322.html>.

<sup>105</sup> MUR 7968 Resp. at 2; MUR 7969 Resp. at 2.



1 without equivocation, “Yes.”<sup>106</sup> As noted above, when determining whether an individual has  
 2 decided to run for federal office, the Commission “assesses an individual’s objectively deliberate  
 3 actions to discern whether and when an individual decided to become a candidate.”<sup>107</sup> Trump  
 4 told Sean Hannity on June 30, 2021, that he had made a decision, and both in context and in  
 5 reference to his subsequent conduct, his objectively deliberate actions indicate that Trump’s  
 6 decision is to run in 2024.

7 In direct response to a question regarding whether he would run for office in 2024,  
 8 Trump told Sean Hannity, who has vocally and consistently supported Trump and his  
 9 candidacies,<sup>108</sup> “I think you’ll be happy and I think that a lot of our friends will be very  
 10 happy . . . . So, people, you’re gonna be happy.”<sup>109</sup> The context makes clear that Trump has  
 11 decided to run, because if Trump had decided *not* to run, that decision would not make Hannity  
 12 or his audience “happy.”

13 Additionally, Trump’s references to campaign finance laws, as he has mentioned multiple  
 14 times, appear to confirm his decision to run. If he were not going to run, talking about his  
 15 decision would not cause a change from the *status quo* with respect to Trump’s campaign

<sup>106</sup> Fox News, *Trump Says He Made Up His Mind About Running in 2024 During “Hannity” Exclusive* at 0:15-0:58, YOUTUBE (June 30, 2021), <https://www.youtube.com/watch?v=k0-HOCbRMDQ>.

<sup>107</sup> F&LA at 17, MURs 6955, 6983 (John R. Kasich, *et al.*); *see* AO 2015-09 at 5 (noting that an individual becomes a candidate when she exceeds the \$5,000 threshold and “makes a private determination that . . . she will run for federal office”).

<sup>108</sup> *See* Hannity at 0:12 (Fox News television broadcast June 29, 2016) [REDACTED] (“I don’t hold back that I’ll be voting for Donald Trump in November.”); Philip Bump, *Sean Hannity is Exactly Who We Might Have Assumed*, WASH. POST (Apr. 29, 2022), <https://www.washingtonpost.com/politics/2022/04/29/sean-hannity-is-exactly-who-we-might-have-assumed/> (quoting Hannity as stating, “The world knows that Sean Hannity supports Donald Trump”).

<sup>109</sup> *Former President Trump Visits New York City on September 11* at 0:22, C-SPAN (Sept. 11, 2021), <https://www.c-span.org/video/?c4976508/president-trump-visits-york-city-september-11> (quoted in MUR 7968 Compl. at 2 & n.3).

1 finance obligations, whereas deciding to run would immediately implicate the Act's Statement of  
 2 Candidacy and committee designation requirements.<sup>110</sup>

3         Similar to the Commission's findings in MUR 5908 that a statement that the individual  
 4 had "announced that I am preparing to run for president, [but] I have not made a formal  
 5 announcement of my candidacy" was sufficient basis on which to determine the individual had  
 6 decided to run for office and become a candidate,<sup>111</sup> Trump's similar statements that he has  
 7 decided whether to run and that the decision will make those who want him to run happy is  
 8 likewise a sufficient basis for the Commission to conclude that Trump has decided to become a  
 9 candidate. Similarly instructive are MURs 6955, 6983 (John R. Kasich, *et al.*), in which the  
 10 Commission found that a "'non-conditional statement' by an individual . . . that he or she 'will  
 11 announce his or her candidacy on a given date unambiguously indicates that the individual has  
 12 decided to become a candidate,'"<sup>112</sup> Here, Trump has analogously asserted that he has "already  
 13 made my decision" as to which "nothing factors in anymore," evincing the same kind of  
 14 decisiveness that the Commission found determinative with respect to Kasich's decision to  
 15 announce his candidacy on a set date.<sup>113</sup>

<sup>110</sup> See 52 U.S.C. § 30102(e)(1); 11 C.F.R. § 101.1(a).

<sup>111</sup> F&LA at 4-5, MUR 5908 (Duncan Hunter).

<sup>112</sup> F&LA at 17-18, MURs 6955, 6983 (John R. Kasich, *et al.*) (quoting AO 2015-09 at 6 (emphasis in original) (internal quotation marks omitted)).

<sup>113</sup> In MURs 6460, 6482, 6484 (Mitt Romney, *et al.*), Mitt Romney had replied to a question from a radio host whether he would form an exploratory committee with "I have an idea . . . , but I'd tell you quietly, but I'm afraid you'd let your listeners know, so I'll have to be giving that some thought, but no definitive plans right now." First Gen. Counsel's Rpt. ("FGCR") at 7, MURs 6460, *et al.* In the same interview, when asked if he would attend a future debate, Romney replied, "Well, that depends on when we get things organized, and that's not something I'm ready to come out with right now. But I can tell you that I'm doing what I've got to do to make sure that if we decide to go ahead, that we'll have a successful effort." *Id.* This Office wrote that these statements were "consistent with conduct designed to test the waters," and, because testing-the-waters allegations had not been made in the original complaint, recommended the Commission take no action but notify the Respondents of the new allegations and provide them a chance to respond. *Id.* at 18-19. The Commission was unable to garner sufficient votes to approve this recommendation, and in their Statement of Reasons, the controlling Commissioners did not address

1 Further, Trump’s statement that his opponents are “going to find out the hard way” in the  
 2 midterm elections, “and then again even more so [i]n November 2024,” followed by the  
 3 statement that he and his supporters “did it twice and we’ll do it again. We’re going to be doing  
 4 it again a third time”<sup>114</sup> is even more unequivocal:<sup>115</sup> Trump’s well-known claim that he won the  
 5 2020 presidential election appears to be the context of his statement that “[w]e did it [*i.e.*, won  
 6 the presidential election] twice.”<sup>116</sup> By stating that “we” will do so again in 2024, “a third time,”  
 7 Trump cannot be referring to a Republican presidential victory (Republicans have won 19 times).

Romney’s statements, but wrote that they had voted to exercise their prosecutorial discretion and dismiss the allegations due largely to the relatively small amount in violation. Statement of Reasons, Chairman Peterson & Comm’rs Hunter & Goodman at 10, MURs 6460, *et al.*; *see* Certification (“Cert.”) (Nov. 2, 2015), MURs 6460, *et al.*; Amended Cert. ¶ 1 (Dec. 1, 2015), MURs 6460, *et al.* Here, the concerns that motivated the controlling Commissioners’ decision to exercise their prosecutorial discretion are not at issue, as this matter presents both significantly more statements regarding Trump’s candidacy and an amount in violation that may exceed 100 million dollars; further, the testing-the-waters exception is not at issue, as Trump has expressly denied that it applies and his statements indicate that he has made a decision to run for office.

<sup>114</sup> *Former President Trump Speaks at Conservative Political Action Conference* at 2:50-3:56, C-SPAN (Feb. 26, 2022), <https://www.c-span.org/video/?518150-1/pres-trump-criticizes-nato-nations-amid-russian-invasion-ukraine>.

<sup>115</sup> *Accord* FGCR at 17, MURs 6915, 6927 (John Ellis Bush, *et al.*) (reasoning that, with respect to Bush’s statement that he “was all in and had a plan to win” the campaign, “[t]he most reasonable, and only credible, conclusion to draw from this exchange is that Bush had already made a decision and was trying to convince [Mitt] Romney not to run against him”). The Commission, at various times, had the four votes necessary to find reason to believe that Bush had failed to timely file a statement of candidacy, but no single motion to so find succeeded, and the Commission ultimately closed the file. *See* Cert. ¶ 1 (Dec. 7, 2018), MURs 6915, 6927 (reflecting votes by Commissioners Walther and Weintraub to find reason to believe that Bush violated 52 U.S.C. § 30102(e)(1), with Commissioners Hunter and Peterson voting against); Cert. ¶ 1.a (Dec. 14, 2018), MURs 6915, 6927 (reflecting votes by Commissioners Hunter and Peterson to find reason to believe that Bush violated 52 U.S.C. § 30102(e)(1), with Commissioners Walther and Weintraub voting against); Cert. (Aug. 29, 2022), MURs 6915, 6927 (closing the file).

<sup>116</sup> *See, e.g.*, Donald J. Trump, (@realDonaldTrump), TRUTH SOCIAL (July 12, 2022, 5:33 AM), <https://truthsocial.com/@realDonaldTrump/posts/108633681378578710> (“Isn’t it INCREDIBLE that the people who Cheated, Rigged, and Stole the 2020 Presidential Election, for which there is massive and incontestable evidence and proof . . . are totally protected from harm (the FIX is in!), and the people that caught them cheating are being investigated.”); Kayla Gogarty, *Facebook Is Letting Trump’s PAC Run Ads Implying He Is the “True President,”* MEDIA MATTERS FOR AM. (Oct. 4, 2021), <https://www.mediamatters.org/facebook/facebook-letting-trumps-pac-run-ads-implying-he-true-president> (cited in MUR 7968 Compl. at 7 n.21, 8 n.28) (“Less than nine months into his suspension on Facebook, former President Donald Trump is using his political action committee to run ads on the platform containing election misinformation, including claiming ‘the election was tainted’ and implying that Trump is ‘the true president.’”).

Trump’s statement to a fellow golfer that he should be called the “45th and 47th” President of the United States<sup>117</sup> is even less ambiguous: Trump was elected the 45th President in 2016, and any individual other than Joe Biden who wins the 2024 Presidential election will become the 47th President. Thus, Trump’s statement indicates that he intends to run in (and win) the 2024 election and reflects his decision to become a candidate, in accordance with the Commission’s previous conclusion that another individual’s statements, including “it’s time to do it again,” indicated a decision to become a candidate.<sup>118</sup> Trump’s subsequent statement in September 2022 that “we’re going to take back our magnificent White House”<sup>119</sup> appears to reflect the same intent, as does his series of posts and reposts from the same time period discussing direct comparisons of him with Biden, as well as calls for him to declare his candidacy for 2024.<sup>120</sup> As in MUR 6735, where the Commission found that statements that the individual wanted to “seek the U.S. Senate” and “serve you, again” were indicia of candidacy,<sup>121</sup> and in MURs 6917, 6929 (Scott Walker, *et al.*), where the Commission found that Walker’s statement that “we’re excited about where we can take this country” was indicative of his interest in exploring candidacy under the testing-the-waters exemption,<sup>122</sup> the above, as well as plans to

<sup>117</sup> TheYeshivaWorld.com (@theyeshivaworld), INSTAGRAM, <https://www.instagram.com/p/CZMJsY1hZIQ/> (Jan. 26, 2022).

<sup>118</sup> See F&LA at 10, MUR 6999 (Larsen) (concluding that an individual’s statement that “it’s time to do it again” and “we’ll win this time” were indications that the individual had decided to run for office). The Commission concluded that the respondent in that matter had filed his Statement of Candidacy “147 days late,” but dismissed as a matter of prosecutorial discretion because the amount in violation did “not warrant the additional use of Commission resources” and cautioned the respondents against similar violations. See *id.* at 10-11.

<sup>119</sup> Right Side Broadcasting Network, *President Donald Trump Rally Live in Wilmington, NC 9/23/22* at 9:02:29, RUMBLE (Sept. 23, 2022, 12:01 PM), <https://rumble.com/v1k3jy5-president-donald-trump-rally-live-in-wilmington-nc-92322.html>.

<sup>120</sup> See *supra* notes 18-24 and accompanying text.

<sup>121</sup> F&LA at 7-8, MUR 6735 (Joseph A. Sestak, *et al.*).

<sup>122</sup> F&LA at 9-10, MURs 6917, 6929 (Scott Walker, *et al.*). The Commission ultimately voted against finding probable cause in MURs 6917, 6929 and voted to dismiss the matter as a matter of prosecutorial discretion because

1 “abolish all COVID mandates and lockdowns,” “restore [his] administrations initiatives to target  
 2 and eliminate Chinese espionage,” and to make Washington “an entirely different place”<sup>123</sup>  
 3 reflect Trump’s determination to run for the White House in 2024.

4 The Responses do not dispute the accuracy of any of the statements attributed to Trump  
 5 in the Complaints, and instead assert that neither Trump nor “any other Respondent has . . . made  
 6 any statement referring to Donald J. Trump as candidate.”<sup>124</sup> However, the Commission has  
 7 previously advised that, “[w]here the circumstances demonstrate that an individual’s statement  
 8 regarding candidacy reflects that individual’s decision to run for office, mere assertions that the  
 9 individual’s subjective intent differs from his or her statement generally will not negate the  
 10 objective indication of candidacy arising from the statement.”<sup>125</sup> Here, as in the matters  
 11 discussed above in which the Commission evaluated candidate statements using objective  
 12 criteria, Trump’s public statements have made clear that he has determined to run for President  
 13 in 2024. Though these statements alone would be sufficient to indicate that Trump has “made a  
 14 decision to become a candidate,”<sup>126</sup> he has also satisfied further indicia of candidacy.

the statute of limitations had expired with respect to the Commission’s ability to seek a monetary penalty. *See* Cert. ¶¶ 1-3 (Mar. 31, 2021), MURs 6917, 6929 (voting against finding probable cause 4-2); Cert. ¶ 1 (Mar. 31, 2021), MURs 6917, 6929 (dismissing the matter under *Heckler v. Chaney*); Statement of Reasons, Vice Chair Dickerson & Comm’rs. Cooksey & Trainor at 4, MURs 6917, 6929 (“Against this background, and considering the significant case backlog the Commission amassed while it lacked a quorum, we concluded that it would not be prudent to continue to expend valuable Commission resources to pursue probable cause conciliation with Respondents and instead voted to dismiss the matters in an exercise of our prosecutorial discretion under *Heckler v. Chaney*, 470 U.S. 821, 831 (1985).”).

<sup>123</sup> *See supra* notes 12-15 and accompanying text.

<sup>124</sup> MUR 7968 Resp. at 2; MUR 7969 Resp. at 2.

<sup>125</sup> AO 2015-09 at 6.

<sup>126</sup> F&LA at 17, MURs 6955, 6983 (John R. Kasich, *et al.*).

1                                   b.       Amassing Funds

2           Another of the factors enumerated by the Commission that indicate when an individual  
3   has decided to become a candidate is raising “funds in excess of what could reasonably be  
4   expected to be used for exploratory activities or undertak[ing] activity designed to amass  
5   campaign funds that would be spent after he or she becomes a candidate.”<sup>127</sup> Trump has raised  
6   more than \$100 million through the Save America Committees, far beyond what could  
7   “reasonably be expected to be used for exploratory activities;”<sup>128</sup> indeed, as of this date of this  
8   Report, Save America not only has nearly ten times the cash on hand of the next-most-successful  
9   leadership PAC, but more than all 706 of the other leadership PACs active in the 2022 election  
10   cycle combined.<sup>129</sup> Because of the amount of money Trump has raised via the Save America  
11   Committees, the available information therefore indicates that Trump is amassing funds for his  
12   2024 candidacy.

13           The Responses deny that Trump is testing the waters,<sup>130</sup> and state that the Save America  
14   Committees “provide[] Donald J. Trump with a platform for his political activities and [have]  
15   expended significant amounts of money supporting candidates and committees who have been

<sup>127</sup> 11 C.F.R. §§ 100.72(b)(2), 100.131(b)(2).

<sup>128</sup> *Id.*; cf. F&LA at 6-7, MURs 7689, 7794 (Amanda Adkins for Congress, *et al.*) (declining to find that the candidate had spent in excess of what could reasonably be expected to be used for exploratory activities where she had spent \$140,000); F&LA at 6, MUR 6224 (Carly Fiorina) (declining to find reason to believe where the candidate had raised over \$600,000 while testing the waters); F&LA at 4, MUR 5693 (Paul Aronsohn) (declining to find that raising \$100,000 is in excess of what could reasonably be expected to be used for exploratory activities); cf. F&LA at 10, MUR 6449 (Jon Bruning, *et al.*) (declining to address whether more than \$610,663.03 raised by the candidate’s committee is in excess of what would be required to conduct testing-the-waters activities, deciding that the respondent had become a candidate on other grounds).

<sup>129</sup> See *FEC Political Action and Party Committees: Filtered Results*, FEC.GOV, [https://www.fec.gov/data/committees/pac-party/?cycle=2022&committee\\_designation=D](https://www.fec.gov/data/committees/pac-party/?cycle=2022&committee_designation=D) (last visited Oct. 12, 2022) (sort by: Ending cash on hand) (showing ending cash-on-hand balances for all leadership PACs active in the 2022 election cycle). The next highest cash-on-hand balance is that of Senate Majority Leader Nancy Pelosi’s PAC to the Future at \$9,901,901.76. *Id.* The total cash on hand for all leadership PACs, excluding Save America and three PACs with negative cash-on-hand balances, is \$86,810,392.50. *Id.*

<sup>130</sup> MUR 7968 Resp. at 2-3; MUR 7969 Resp. at 2.

1 endorsed by or otherwise supported by Donald J. Trump.”<sup>131</sup> However, Commission reports  
 2 indicate that the Save America Committees have spent no funds on any independent  
 3 expenditures, and a low proportion of their disbursements have been spent on contributions to  
 4 other candidates, discussed further below.<sup>132</sup> Most critically, of the significant sums raised by  
 5 the Save America Committees, as of the writing of this Report, they retain over \$100 million  
 6 cash on hand: \$92,788,822 by Save America,<sup>133</sup> and \$7,507,762 by Save America JFC.<sup>134</sup> As  
 7 the 2022 midterm elections are imminent, it does not appear that the Save America Committees  
 8 intend to disburse significant additional funds to advocate for other candidates in this election  
 9 cycle. These circumstances strongly indicate that the Save America Committees are “amass[ing]  
 10 campaign funds that would be spent after [Trump] . . . becomes a candidate.”<sup>135</sup>

11 Of the \$42.16 million spent by Save America since 2020, \$8.29 million, or 19.67%, has  
 12 been spent on contributions to other candidates.<sup>136</sup> Excluding funds transferred to Save America

<sup>131</sup> MUR 7968 Resp. at 2; MUR 7969 Resp. at 2.

<sup>132</sup> See *supra* notes 40-41 and accompanying text.

<sup>133</sup> Save America, 2022 September Monthly Report at 2 (Sept. 20, 2022), <https://docquery.fec.gov/pdf/744/202209209528821744/202209209528821744.pdf>.

<sup>134</sup> Save America JFC, 2022 July Quarterly Report at 2 (July 15, 2022), <https://docquery.fec.gov/pdf/247/202207159521632247/202207159521632247.pdf>.

<sup>135</sup> 11 C.F.R. §§ 100.72(b)(2), 100.131(b)(2). *Contra* F&LA at 5, MUR 6948 (Nancy Rotering, *et al.*) (finding no reason to believe in matter where 2016 congressional candidate raised \$247,180 before filing her Statement of Candidacy); FGCR at 6-7 & Cert. ¶ 1 (June 22, 2006), MUR 5703 (Martha T. Rainville, *et al.*) (finding no reason to believe in matter where 2006 congressional candidate raised \$100,000 over six months); FGCR at 14-16 & Cert. ¶¶ 8-9 (Oct. 27, 2006), MUR 5661 (Keith Butler, *et al.*) (finding no reason to believe in matter where a 2006 senatorial candidate raised \$100,000). This matter is distinct from MUR 7191 (Rand Paul, *et al.*), in which the Commission dismissed allegations relating to spending by Rand Paul’s leadership PAC in connection with his testing-the-waters activities that resulted in apparent excessive and unreported in-kind contributions. There, the statute of limitations had entirely run with respect to the Commission’s ability to seek a monetary penalty, and this Office recommended dismissing the relevant allegations with caution; the Commission voted against sending letters of caution. See Second Gen. Counsel’s Rpt. at 27, 37, 39-40, MUR 7191; Cert. ¶ 1 (Apr. 21, 2021), MUR 7191. By contrast, the activity at issue here is ongoing as of the writing of this Report, and the earliest known activity indicating that Trump decided to run for office in 2024 will not expire until June 30, 2026.

<sup>136</sup> See *supra* note 42 and accompanying text.  $\$8,291,500$  [the amount spent by Save America on other political campaigns]  $\div$   $\$42,158,271$  [the total amount spent by Save America] = 0.19668.  $0.19668 \times 100 = 19.668\%$ .

1 and MAGA PAC, Save America JFC has spent a total of \$44.93 million, none of which was  
 2 spent on or contributed to other political campaigns.<sup>137</sup> Taken together, the Save America  
 3 Committees have spent 9.5% of their disbursements on other campaigns.<sup>138</sup> Though a number of  
 4 Trump’s rallies have featured other candidates, under Commission guidance, where a potential  
 5 candidate engages in activities on behalf of a non-connected multicandidate committee, such as a  
 6 leadership PAC, but also undertakes activities relating to his own candidacy, the candidate must  
 7 allocate any expenses between that committee and his candidacy pursuant to 11 C.F.R.  
 8 § 106.1(a).<sup>139</sup> As discussed above, Trump appears to spend the majority of his speeches at these  
 9 rallies discussing his own record from his term as President and criticizing President Biden by  
 10 comparing his record to Trump’s own, with only a minority of the time dedicated to other  
 11 Republican candidates.<sup>140</sup> And as Trump stated at his September rally in North Carolina, his  
 12 2024 run is “most important[.]” when compared to the 2022 races in which the candidates with

<sup>137</sup> See *Save America Joint Fundraising Committee: Financial Summary 2021-2022*, FEC.GOV, <https://www.fec.gov/data/committee/C00770941/?tab=summary> (last visited Oct. 12, 2022). Though Commission regulations do not expressly forbid joint fundraising committees from making contributions to committees other than the joint fundraising participants, they do require that contributions received by the joint fundraising representative be allocated in accordance with an agreement entered into by all participants, and that all participants in the fundraising activity be named in a notice included with every solicitation made as a joint fundraising activity, thereby functionally requiring that the joint fundraising representative raise funds solely for the benefit of the joint fundraising participants. See 11 C.F.R. § 102.17.

<sup>138</sup>  $\$8,291,500$  [the amount spent by the Save America Committees on other political campaigns]  $\div$   $(\$42,158,271$  [the total amount spent by Save America]  $+ \$44,933,696$  [the total amount spent by Save America JFC, excluding transfers to Save America and MAGA PAC])  $= \$87,091,967) = 0.09520$ .  $0.09520 \times 100 = 9.520\%$ .

<sup>139</sup> See Statement of Reasons of Chairman Petersen & Comm’rs Hunter, McGahn, Walther, & Weintraub at 3, MUR 5908 (Duncan Hunter) (finding that travel disbursements benefitting presidential campaign and leadership PAC “would have been allocable between the two committees”); Advisory Opinion 1985-40 at 8 (Republican Majority Fund) (“AO 1985-40”) (advising that leadership PAC was required to allocate travel costs where individual holds private meetings for testing-the-waters activities in conjunction with appearances on behalf of federal candidates).

<sup>140</sup> See *supra* notes 27-28 and accompanying text; see also, e.g., Iowa Rally; Texas Rally; Alaska Rally.



1 which he appears are running.<sup>141</sup> Accordingly, though a proportion of the funds the Save  
 2 America Committees have apparently spent on Trump's rallies should properly be allocated to  
 3 the other candidates who appeared at them, a proportion of the spending potentially should be  
 4 allocated to Trump. While the precise sums for such an allocation are unclear based on the  
 5 available information, it is evident that Trump, through the Save America Committees, has spent  
 6 a portion of the sums raised and disbursed on advancing his own candidacy.

7 Further, while most or all of ads placed by the Save America JFC on Facebook depict or  
 8 name Trump,<sup>142</sup> a minority appear to advocate for particular policies or candidates other than  
 9 Trump. Our limited review of these advertisements reveals that, of the approximately 8,100  
 10 Facebook ads the Save America JFC has placed since January 1, 2021, approximately 2,000  
 11 appear to address specific policy issues:<sup>143</sup> Approximately 300 relate to gas prices, all of which  
 12 also refer to Joe Biden;<sup>144</sup> 58 refer to guns and the second amendment;<sup>145</sup> approximately 720

<sup>141</sup> See *supra* note 16 and accompanying text (regarding Trump's statement to Ted Budd, the Republican candidate for Senate in North Carolina with whom he appeared at his September 23 rally, that he was "sorry, but, most importantly, I shouldn't say that, Ted, but most importantly, we're going to take back our magnificent White House").

<sup>142</sup> META AD LIBRARY, [https://www.facebook.com/ads/library/?active\\_status=all&ad\\_type=political\\_and\\_issue\\_ads&country=US&q=save%20america%20joint%20fundraising&sort\\_data\[direction\]=desc&sort\\_data\[mode\]=relevancy\\_monthly\\_grouped&start\\_date\[min\]=2021-01-01&start\\_date\[max\]=&search\\_type=keyword\\_unordered&media\\_type=all](https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&q=save%20america%20joint%20fundraising&sort_data[direction]=desc&sort_data[mode]=relevancy_monthly_grouped&start_date[min]=2021-01-01&start_date[max]=&search_type=keyword_unordered&media_type=all) (last visited Oct. 12, 2022) (showing all ads placed by Save America JFC between January 1, 2021, and September 27, 2022).

<sup>143</sup> It is possible that Save America JFC placed other ads that promoted additional issues or candidates, but were removed from Facebook for violating Meta's advertising policies. Those advertisements are not available in the Meta ad library and are not addressed in this Report.

<sup>144</sup> META AD LIBRARY, [https://www.facebook.com/ads/library/?active\\_status=all&ad\\_type=political\\_and\\_issue\\_ads&country=US&q=Save%20America%20Joint%20Fundraising%20Committee%20gas&sort\\_data\[direction\]=desc&sort\\_data\[mode\]=relevancy\\_monthly\\_grouped&search\\_type=keyword\\_unordered&media\\_type=all](https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&q=Save%20America%20Joint%20Fundraising%20Committee%20gas&sort_data[direction]=desc&sort_data[mode]=relevancy_monthly_grouped&search_type=keyword_unordered&media_type=all) (last visited Oct. 12, 2022) (showing ads placed by Save America JFC including the word "gas").

<sup>145</sup> META AD LIBRARY, [https://www.facebook.com/ads/library/?active\\_status=all&ad\\_type=political\\_and\\_issue\\_ads&country=US&q=Save%20America%20joint%20fundraising%20committee%20guns&sort\\_data\[direction\]=desc&sort\\_data\[mode\]=relevancy\\_monthly\\_grouped&search\\_type=keyword\\_unordered&media\\_type=all](https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&q=Save%20America%20joint%20fundraising%20committee%20guns&sort_data[direction]=desc&sort_data[mode]=relevancy_monthly_grouped&search_type=keyword_unordered&media_type=all) (last visited Oct. 12, 2022) (showing ads placed by Save America JFC including the word "guns").

1 relate to election integrity;<sup>146</sup> approximately 190 refer to immigration, most of which also refer  
 2 to Biden;<sup>147</sup> 22 relate to COVID mask mandates;<sup>148</sup> and approximately 400 refer to “big tech.”<sup>149</sup>  
 3 Fewer than 100 name candidates other than Trump: 48 reference Glen Youngkin, 2021 Virginia  
 4 gubernatorial candidate, all of which were placed after Youngkin won the general election;<sup>150</sup>  
 5 and 46 reference 2022 Georgia Senate candidate Herschel Walker.<sup>151</sup> Save America JFC has

<sup>146</sup> META AD LIBRARY, [https://www.facebook.com/ads/library/?active\\_status=all&ad\\_type=political\\_and\\_issue\\_ads&country=US&q=Save%20America%20joint%20fundraising%20election%20integrity&sort\\_data\[direction\]=desc&sort\\_data\[mode\]=relevancy\\_monthly\\_grouped&search\\_type=keyword\\_unordered&media\\_type=all](https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&q=Save%20America%20joint%20fundraising%20election%20integrity&sort_data[direction]=desc&sort_data[mode]=relevancy_monthly_grouped&search_type=keyword_unordered&media_type=all) (last visited Oct. 12, 2022) (showing ads placed by Save America JFC including the words “election integrity”); META AD LIBRARY, [https://www.facebook.com/ads/library/?active\\_status=all&ad\\_type=political\\_and\\_issue\\_ads&country=US&q=Save%20America%20joint%20fundraising%20elections&sort\\_data\[direction\]=desc&sort\\_data\[mode\]=relevancy\\_monthly\\_grouped&search\\_type=keyword\\_unordered&media\\_type=all](https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&q=Save%20America%20joint%20fundraising%20elections&sort_data[direction]=desc&sort_data[mode]=relevancy_monthly_grouped&search_type=keyword_unordered&media_type=all) (last visited Oct. 12, 2022) (showing ads placed by Save America JFC including the word “elections”).

<sup>147</sup> META AD LIBRARY, [https://www.facebook.com/ads/library/?active\\_status=all&ad\\_type=political\\_and\\_issue\\_ads&country=US&q=save%20america%20joint%20fundraising%20immigration&sort\\_data\[direction\]=desc&sort\\_data\[mode\]=relevancy\\_monthly\\_grouped&start\\_date\[min\]=2021-01-01&start\\_date\[max\]=&search\\_type=keyword\\_unordered&media\\_type=all](https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&q=save%20america%20joint%20fundraising%20immigration&sort_data[direction]=desc&sort_data[mode]=relevancy_monthly_grouped&start_date[min]=2021-01-01&start_date[max]=&search_type=keyword_unordered&media_type=all) (last visited Oct. 12, 2022) (showing ads placed by Save America JFC including the word “immigration”).

<sup>148</sup> META AD LIBRARY, [https://www.facebook.com/ads/library/?active\\_status=all&ad\\_type=political\\_and\\_issue\\_ads&country=US&q=Save%20America%20joint%20fundraising%20masks&sort\\_data\[direction\]=desc&sort\\_data\[mode\]=relevancy\\_monthly\\_grouped&search\\_type=keyword\\_unordered&media\\_type=all](https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&q=Save%20America%20joint%20fundraising%20masks&sort_data[direction]=desc&sort_data[mode]=relevancy_monthly_grouped&search_type=keyword_unordered&media_type=all) (last visited Oct. 12, 2022) (showing ads placed by Save America JFC including the word “masks”).

<sup>149</sup> META AD LIBRARY, [https://www.facebook.com/ads/library/?active\\_status=all&ad\\_type=political\\_and\\_issue\\_ads&country=US&q=Save%20American%20Joint%20Fundraising%20big%20tech&sort\\_data\[direction\]=desc&sort\\_data\[mode\]=relevancy\\_monthly\\_grouped&search\\_type=keyword\\_unordered&media\\_type=all](https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&q=Save%20American%20Joint%20Fundraising%20big%20tech&sort_data[direction]=desc&sort_data[mode]=relevancy_monthly_grouped&search_type=keyword_unordered&media_type=all) (last visited Oct. 12, 2022) (showing ads placed by Save America JFC including the words “big tech”); META AD LIBRARY, [https://www.facebook.com/ads/library/?active\\_status=all&ad\\_type=political\\_and\\_issue\\_ads&country=US&q=Save%20America%20joint%20fundraising%20CEOs%20of%20Facebook&sort\\_data\[direction\]=desc&sort\\_data\[mode\]=relevancy\\_monthly\\_grouped&search\\_type=keyword\\_unordered&media\\_type=all](https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&q=Save%20America%20joint%20fundraising%20CEOs%20of%20Facebook&sort_data[direction]=desc&sort_data[mode]=relevancy_monthly_grouped&search_type=keyword_unordered&media_type=all) (last visited Oct. 12, 2022) (showing ads placed by Save America JFC including the words “CEOs of Facebook”).

<sup>150</sup> META AD LIBRARY, [https://www.facebook.com/ads/library/?active\\_status=all&ad\\_type=political\\_and\\_issue\\_ads&country=US&q=Save%20America%20joint%20fundraising%20youngkin&sort\\_data\[direction\]=desc&sort\\_data\[mode\]=relevancy\\_monthly\\_grouped&search\\_type=keyword\\_unordered&media\\_type=all](https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&q=Save%20America%20joint%20fundraising%20youngkin&sort_data[direction]=desc&sort_data[mode]=relevancy_monthly_grouped&search_type=keyword_unordered&media_type=all) (last visited Oct. 12, 2022) (showing ads placed by Save America JFC including the word “Youngkin”); *2021 November General — Official Results*, VA. DEP’T OF ELECTIONS (Dec. 16, 2021), <https://results.elections.virginia.gov/va/elections/2021%20November%20General/Site/Statewide.html> (reporting results of November 2, 2021 general election).

<sup>151</sup> META AD LIBRARY, [https://www.facebook.com/ads/library/?active\\_status=all&ad\\_type=political\\_and\\_issue\\_ads&country=US&q=Save%20America%20joint%20fundraising%20committee%20walker&sort\\_data\[direction\]=desc&sort\\_data\[mode\]=relevancy\\_monthly\\_grouped&search\\_type=keyword\\_unordered&media\\_type=all](https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&q=Save%20America%20joint%20fundraising%20committee%20walker&sort_data[direction]=desc&sort_data[mode]=relevancy_monthly_grouped&search_type=keyword_unordered&media_type=all) (last visited Oct. 12, 2022) (showing ads placed by Save America JFC including the word “Walker”).

1 also placed approximately 1,400 Facebook ads referencing Joe Biden, all of which also name or  
2 depict Trump.<sup>152</sup>

3         Given that the Save America Committees affiliated with Trump have spent little of their  
4 total receipts on other candidates or policy advocacy, and that Trump and the Save America  
5 committees have explicitly denied raising funds for testing-the-waters activities, it appears that  
6 Trump has “undertak[en] activity designed to amass campaign funds,”<sup>153</sup> and has spent  
7 significant funds in support of his undeclared candidacy.

8                     c.         Activity Over a Protracted Period of Time

9         Another of the five factors the Commission chose to list as indicia that a candidate has  
10 determined to run for office is whether the individual is “conducting activities in close proximity  
11 to the election or over a protracted period of time.”<sup>154</sup> As discussed in Part III.A.1.a, above, at  
12 the time of this Report, Trump has made public statements indicating that he has determined to  
13 run for president over a period spanning more than 15 months. Further, between June 2021, just  
14 days before he first publicly stated that he had made his decision, and October 2022, Trump has  
15 been the keynote speaker at no fewer than 24 rallies, many of which were advertised under the  
16 “Save America” banner and tickets for which were available on Trump’s website.<sup>155</sup> Indeed,  
17 Save America has disbursed nearly \$9.5 million to “Event Strategies, Inc.,” the vendor that

<sup>152</sup> META AD LIBRARY, [https://www.facebook.com/ads/library/?active\\_status=all&ad\\_type=political\\_and\\_issue\\_ads&country=US&q=save%20america%20joint%20fundraising%20biden&sort\\_data\[direction\]=desc&sort\\_data\[mode\]=relevancy\\_monthly\\_grouped&search\\_type=keyword\\_unordered&media\\_type=all](https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&q=save%20america%20joint%20fundraising%20biden&sort_data[direction]=desc&sort_data[mode]=relevancy_monthly_grouped&search_type=keyword_unordered&media_type=all) (last visited Oct. 12, 2022) (showing ads placed by Save America JFC including the word “Biden”). A number of these advertisements appear to overlap with the issue-related ads discussed above, *e.g.*, those relating to gas prices.

<sup>153</sup> 11 C.F.R. §§ 100.72(b), 100.131(b).

<sup>154</sup> *Id.* §§ 100.72(b), 100.131(b).

<sup>155</sup> *See supra* notes 25-26 and accompanying text.

1 stages Trump’s rallies and pays for some of his travel.<sup>156</sup> Though the Commission has not  
 2 elaborated on what constitutes a “protracted period of time,” and noted in the testing-the-waters  
 3 context that “the length of time that an individual spends deliberating whether to become a  
 4 candidate is one factor and does not, in and of itself, determine whether the individual has  
 5 become a candidate,”<sup>157</sup> 15 months, well more than a quarter of a presidential term, appears to  
 6 falls within the scope of “protracted period of time.”<sup>158</sup>

## 7                   2.       Trump Has Surpassed the \$5,000 Threshold for Candidacy

8           As discussed above, once an individual decides to run for office, the individual becomes  
 9 a candidate under the Act when: (a) such individual receives contributions or makes  
 10 expenditures in excess of \$5,000; or (b) such individual gives their consent to another person to  
 11 receive contributions or make expenditures on behalf of such individual and if such person has  
 12 received such contributions or has made such expenditures in excess of \$5,000.<sup>159</sup> Once the  
 13 \$5,000 threshold has been met, the candidate has 15 days to designate a principal campaign  
 14 committee by filing a Statement of Candidacy with the Commission.<sup>160</sup> The principal campaign

<sup>156</sup> See *supra* notes 40-41 and accompanying text.

<sup>157</sup> AO 2015-09 at 6.

<sup>158</sup> Cf. F&LA at 2, 12, MUR 6776 (Niger Innis, *et al.*) (dismissing where candidate had tested the waters for a period of approximately six months); F&LA at 8-9, MURs 7689, 7794 (Amanda Adkins for Congress, *et al.*) (same). The Commission has previously advised that, if an individual engaged in testing-the-waters activities for “several months” in one year, and his activities extended into the next year, the duration of those activities “would be very significant in determining the applicability of the [testing-the-waters] exemptions” in the latter year. See Advisory Opinion 1981-32 at 5 (Askew) (“AO 1981-32”). This would appear to indicate that periods of time greater than a year are generally a “protracted period of time” as contemplated by 11 C.F.R. §§ 100.72(b)(4), 100.131(b)(4).

<sup>159</sup> 52 U.S.C. § 30101(2); see also AO 2015-09 at 5 (reiterating the “consent” standard).

<sup>160</sup> 52 U.S.C. § 30102(e)(1); 11 C.F.R. § 101.1(a).

committee must file a Statement of Organization within ten days of its designation,<sup>161</sup> and it must file disclosure reports with the Commission.<sup>162</sup>

The Commission has established “testing-the-waters” regulations excepting from the definitions of “contribution” and “expenditure” funds received and payments made solely to determine whether an individual should become a candidate, thereby permitting an individual to test the feasibility of a campaign for federal office without becoming a candidate under the Act.<sup>163</sup> These testing-the-waters regulations seek to draw a distinction between activities directed to evaluating the feasibility of one’s candidacy and conduct signifying that a decision to become a candidate has been made.<sup>164</sup> The testing-the-waters exceptions are not available to an individual who has decided to become a candidate, even if the individual has made only “a private determination that he or she will run for federal office.”<sup>165</sup>

The available information indicates that Trump has passed the \$5,000 threshold triggering status as a candidate via funds raised and spent by the Save America Committees in support of his 2024 candidacy. As a preliminary matter, Trump has given his consent to the Save America Committees to “receive contributions or make expenditures” on his behalf.<sup>166</sup> Save America is Trump’s leadership PAC, and it names him as its sponsor on its Statement of

<sup>161</sup> See 52 U.S.C. § 30103(a); 11 C.F.R. § 102.1(a).

<sup>162</sup> 52 U.S.C. § 30104(a), (b); *see, e.g.*, F&LA at 6, MUR 6735 (Joseph A. Sestak, *et al.*); F&LA at 5, MUR 6449 (Jon Bruning, *et al.*); F&LA at 2, MUR 5363 (Alfred C. Sharpton).

<sup>163</sup> See 11 C.F.R. §§ 100.72, 100.131; F&LA at 8, MUR 6776 (Niger Innis, *et al.*); F&LA at 7, MUR 6775 (Hillary Clinton, *et al.*); F&LA at 6, MUR 6735 (Joseph A. Sestak, *et al.*).

<sup>164</sup> See AO 1981-32.

<sup>165</sup> See AO 2015-09 at 5. *See also* Payments Received for Testing the Waters Activities, 50 Fed. Reg. 9992, 9993 (Mar. 13, 1985) (noting exemption “explicitly limited ‘solely’ to activities designed to evaluate a potential candidacy”).

<sup>166</sup> 52 U.S.C. § 30101(2).

1 Organization.<sup>167</sup> As Trump’s spokesperson stated, Save America is “the primary political  
 2 vehicle of President Donald J. Trump.”<sup>168</sup> Most clearly, the “contribute” button on Trump’s  
 3 website, [www.donaldjtrump.com](http://www.donaldjtrump.com), redirects to the WinRed contribution page for Save America  
 4 JFC.<sup>169</sup> Save America JFC raises money for only two entities: Save America and MAGA PAC,  
 5 Trump’s former principal campaign committee.<sup>170</sup> Trump reportedly personally fundraised for  
 6 the Save America Committees by calling donors and holding events to raise money.<sup>171</sup>

7 Having established that Trump has consented to the Save America Committees receiving  
 8 contributions and making expenditures on his behalf, the question becomes whether the Save  
 9 America Committees have raised or spent in excess of \$5,000 in support of Trump’s 2024  
 10 candidacy.<sup>172</sup> The Responses argue that Trump has “not accepted contributions or made  
 11 expenditures in excess of \$5,000 for the purpose of supporting an alleged candidacy.”<sup>173</sup>

<sup>167</sup> Save America, Statement of Organization at 1 (Nov. 9, 2020), <https://docquery.fec.gov/pdf/422/202011099336977422/202011099336977422.pdf>.

<sup>168</sup> Scherer & Dawsey, *supra* note 35.

<sup>169</sup> DONALD J TRUMP, [www.donaldjtrump.com](http://www.donaldjtrump.com) (last visited Oct. 12, 2022); MUR 7969 Compl. ¶ 48.

<sup>170</sup> Save America JFC, Statement of Organization at 2 (Feb. 27, 2021), <https://docquery.fec.gov/pdf/111/202102279429078111/202102279429078111.pdf>.

<sup>171</sup> Scherer & Dawsey, *supra* note 35.

<sup>172</sup> 52 U.S.C. § 30101(2).

<sup>173</sup> MUR 7968 Resp. at 2; MUR 7969 Resp. at 3. The Responses state that the Commission has “historically found no reason to believe a violation of the Act of FEC Regulation occurred under similar circumstances and should do so again here.” MUR 7968 Resp. at 3 & n.5; MUR 7969 Resp. at 3 & n.4. This Report distinguishes from one of the matters the Responses cite as support for this proposition elsewhere, as appropriate. *See supra* note 122 and accompanying text (discussing MUR 6929 (Scott Walker, *et al.*)). With respect to the other four matters to which the Responses refer, they present circumstances that are not analogous to those at issue here. MUR 6928 (Rick Santorum, *et al.*) involved testing the waters, which the Responses explicitly disclaim, and on which the Commission ultimately split because Commissioners did not agree on whether Santorum had spent any funds evaluating his potential candidacy. *See* First Gen. Counsel’s Rpt. at 18, MUR 6928; Statement of Reasons, Chairman Peterson & Comm’r Hunter at 13, MUR 6928 (writing that “*thinking* about running for office is not the same as *spending money to evaluate a possible run for office*” (emphasis in original)); Cert. ¶ 2 (Feb. 6, 2019), MUR 6928. MUR 7381 (Rick Scott, *et al.*) involved allegations that a candidate had failed to file a report covering the first three days of his candidacy, and resulted in a dismissal under the Commission’s Enforcement Priority System. *See* Gen. Counsel’s Rpt. at 1-2 & Cert. (Nov. 15, 2018), MUR 7381. MUR 6750 (Carl DeMaio, *et al.*) involved allegations that a candidate had used a state ballot measure committee he had founded to fund his



1 However, the Save America Committees have done so on his behalf, and have raised more than  
 2 \$100 million in the process. Further, Save America JFC has spent at least \$1.3 million on  
 3 Facebook advertisements under pages named, *e.g.*, “Team Trump,” more than 250 of which ask  
 4 whether users would “Vote for Trump” a third time.<sup>174</sup> As the Commission has previously  
 5 advised, funds received or payments made by third-party organizations such as multicandidate  
 6 political committees for “activity indicating that an individual has decided to become a  
 7 candidate” may trigger the Act’s registration and reporting requirements associated with  
 8 candidacy.<sup>175</sup> These contributions and expenditures discussed above, far exceed the \$5,000  
 9 threshold triggering candidacy under the Act.

10 Though the Commission has established a “testing-the-waters” exception to the definition  
 11 of “contribution” and “expenditure” such that testing-the-waters expenses do not trigger the  
 12 \$5,000 threshold for candidacy, the Responses explicitly deny that Trump is testing the waters,  
 13 and state that he has not “raised any money for testing[-]the[-]waters activities.”<sup>176</sup> Further, the  
 14 testing-the-waters exceptions are not available to an individual who has decided to become a  
 15 candidate.<sup>177</sup>

candidacy, on which the Commission found no reason to believe a violation had occurred because the available information indicated that the subject committee had spent all its funds prior to the candidate’s decision to run for office, and could not have funded any such activity. F&LA at 9-10, MUR 6750. And MUR 6960 (Peter DiCianni, *et al.*) involved allegations that a candidate had begun testing the waters and used a non-federal committee to pay for associated expenses, as to which the Commission found no reason to believe because the complaint was “conclusory” and “the Commission [had] no information that credibly suggests” that the complaint’s allegations were true. F&LA at 8-9, MUR 6970.

<sup>174</sup> META AD LIBRARY, [https://www.facebook.com/ads/library/?active\\_status=all&ad\\_type=political\\_and\\_issue\\_ads&country=US&q=save%20america%20joint%20fundraising%20vote%20for%20trump&sort\\_data\[direction\]=desc&sort\\_data\[mode\]=relevancy\\_monthly\\_grouped&search\\_type=keyword\\_unordered&media\\_type=all](https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&q=save%20america%20joint%20fundraising%20vote%20for%20trump&sort_data[direction]=desc&sort_data[mode]=relevancy_monthly_grouped&search_type=keyword_unordered&media_type=all) (last visited Oct. 12, 2022).

<sup>175</sup> AO 1985-40 at 3.

<sup>176</sup> MUR 7968 Resp. at 2; MUR 7969 Resp. at 3.

<sup>177</sup> See AO 2015-09 at 5. See also Payments Received for Testing the Waters Activities, 50 Fed. Reg. at 9993 (noting exemption “explicitly limited ‘solely’ to activities designed to evaluate a potential candidacy”).

Accordingly, because the available information indicates that Trump has made a determination to run for office, discussed in Part III.A.1, above, the contributions and expenditures discussed here are not subject to the testing-the-waters exception, and the available information indicates that Trump has exceeded the \$5,000 candidacy threshold.<sup>178</sup>

\* \* \*

Because the available information indicates that he became a candidate no later than June 30, 2021, we recommend that the Commission find reason to believe that Donald J. Trump violated 52 U.S.C. § 30102(e)(1), 11 C.F.R. § 101.1(a) by failing to file a Statement of Candidacy with the Commission and designate an authorized committee within 15 days of becoming a candidate.<sup>179</sup>

**B. The Commission Should Find Reason to Believe that the Save America Committees Made, and Trump Knowingly Accepted, Excessive Contributions**

The Act provides that no multicandidate committee shall make contributions to any candidate or the candidate's authorized committee with respect to any election for Federal office which in the aggregate exceed \$5,000.<sup>180</sup> Further, no candidate or political committee shall

<sup>178</sup> This matter is distinct from MUR 6907 (Mike Huckabee, *et al.*), in which it was alleged that Mike Huckabee used a 501(c)(4) organization with which he was intimately connected to fund testing-the-waters expenses prior to forming an exploratory committee, as doing so would have jeopardized his employment as a host on Fox News. There, the Office of General Counsel recommended that the Commission find no reason to believe that the organization made, and Huckabee knowingly accepted, excessive contributions because the Complaint relied on "conclusory assertions about [the organization]'s purpose," unproven allegations regarding Huckabee's association with the 501(c)(4), and unsubstantiated claims regarding the organization's efforts on Huckabee's behalf. FGCR at 8, MUR 6907. The Commission split on the Report's recommendations. Cert. ¶¶ 1-2 (Apr. 28, 2016), MUR 6907. Here, as discussed in Part II, above, there is significant information available regarding the Save America Committees' spending, their affiliation with Trump, and their activities on his behalf.

<sup>179</sup> With respect to Trump's principal campaign committee, the facts discussed above indicate that this committee has violated the Act's reporting requirements by failing to file a Statement of Organization and disclosure reports with the Commission. However, given that Trump has not at this time designated any committee as his principal campaign committee, and that the record appears to indicate that it is more likely than not that Trump intends to create a new committee to serve as his principal campaign committee once he formally declares, we do not consider it prudent to make recommendations as to the potential principal campaign committee at this time.

<sup>180</sup> See 52 U.S.C. § 30116(a)(2)(A).

1 knowingly accept any contribution or make any expenditure in violation of the provisions of  
 2 52 U.S.C. § 30116.<sup>181</sup> The Commission’s regulations at 11 C.F.R. § 106.1 require that  
 3 expenditures on behalf of more than one clearly identified federal candidate be attributed to each  
 4 such candidate according to the benefit reasonably expected to be derived.<sup>182</sup> Under  
 5 Commission guidance, where a potential candidate engages in activities on behalf of a non-  
 6 connected multicandidate committee, such as a leadership PAC, but also undertakes activities  
 7 relating to his own candidacy, the candidate must allocate any expenses between that committee  
 8 and his candidacy pursuant to 11 C.F.R. § 106.1(a).<sup>183</sup> If the multicandidate committee spends  
 9 more than \$5,000 on an individual’s candidacy, that committee makes excessive in-kind  
 10 contributions to the candidate in violation of 52 U.S.C. § 30116(a)(2)(A).

11 The Complaints allege that the Save America Committees funded Trump’s campaign-  
 12 related activities well in excess of the \$5,000 contribution limit since June 2021, including via  
 13 “expenditures for Mr. Trump’s travel, events at Trump properties, rallies where Mr. Trump is a  
 14 featured speaker, and consulting payments to former Trump campaign staff” “made for the  
 15 purpose of influencing [the 2024] federal election.”<sup>184</sup> The MUR 7968 Complaint states that  
 16 Save America JFC spent “more than \$93,000 on Facebook advertisements” in the fall of 2021  
 17 alone, “many of which were promoting Mr. Trump’s rallies. And last year Save America spent

<sup>181</sup> See *id.* § 30116(f).

<sup>182</sup> 11 C.F.R. § 106.1(a).

<sup>183</sup> See Statement of Reasons of Chairman Petersen & Comm’rs Hunter, McGahn, Walther & Weintraub at 3, MUR 5908 (Duncan Hunter) (finding that travel disbursements benefitting presidential campaign and leadership PAC “would have been allocable between the two committees”); AO 1985-40 at 8 (advising that a leadership PAC was required to allocate travel costs of an individual holding private meetings for testing-the-waters activities in conjunction with appearances on behalf of federal candidates as contributions to both the individual and the federal candidates).

<sup>184</sup> MUR 7968 Compl. at 9; *accord* MUR 7989 Compl. ¶¶ 69-71.

1 more than \$1 million with the company that stages his rallies.”<sup>185</sup> The Responses deny the  
 2 allegations, stating:

3 Trump is a prominent political figure who has used the platform of  
 4 Save America to assist the mission of Save America to build upon  
 5 the accomplishments of the Trump administration and support  
 6 other candidates who will define the future of the America First  
 7 Movement, the Republican Party, and the United States of  
 8 America.<sup>186</sup>

9 Because we recommend that the Commission find reason to believe that Trump became a  
 10 candidate no later than June 30, 2021, we likewise recommend that the Commission should  
 11 consider Trump to have become subject to the Act’s contribution limits no later than that date.  
 12 The available information shows that, from June 2021 to present, Trump has traveled extensively  
 13 for more than 24 rallies, appeared at CPAC and the America First Policy Institute Summit, and  
 14 spoken repeatedly at these events about his decision to run for office in the 2024 election cycle  
 15 and his plans for a second term as President.<sup>187</sup> The Complaints allege, and the Responses do  
 16 not dispute, that the Save America Committees have financed a significant portion of the  
 17 expenses associated with these activities. Further, this Office has confirmed that the Save  
 18 America Committees spent at least \$1,312,300 and as much as \$2,162,111 on Facebook  
 19 advertisements from accounts called, *inter alia*, Florida for Trump, New York for Trump, Team  
 20 Trump, Texas for Trump, Trump Alerts, Trump Team, Trump Updates, and Wisconsin for  
 21 Trump, including more than 200 ads containing a “live poll” asking some variation of “Would

<sup>185</sup> MUR 7968 Compl. at 6-7.

<sup>186</sup> MUR 7968 Resp. at 3; *accord* MUR 7969 Resp. at 2.

<sup>187</sup> See Part III.A.1.a, c, *supra*. Given Trump’s fundraising on behalf of the Save America Committees, which the available information indicates he has used to finance his candidacy, and which are subject to a higher contribution limit than that applicable to candidates and their authorized committees, it appears that Trump may have used the Save America Committees to solicit contributions “not subject to the limitations . . . of [the] Act” as they apply to him in violation of 52 U.S.C. § 30125(e). If an investigation uncovers information relevant to a violation of 52 U.S.C. § 30116(f) in this respect, we will make an appropriate recommendation.

you vote for Trump a Third Time?”<sup>188</sup> Taken together with the limited proportion of funds the Save America Committees have spent advancing other candidates,<sup>189</sup> the Responses’ claim that Trump is “support[ing] other candidates who will define the future” describes only a fraction of the Save America Committees’ activity. Instead, at least a portion of these expenditures appear to reflect the purpose of advancing Trump’s 2024 candidacy, and the available information indicates that the Save America Committees have contributed far in excess of \$5,000 to supporting those efforts.<sup>190</sup>

Accordingly, we recommend the Commission find reason to believe that the Save America Committees made, and Donald J. Trump knowingly accepted, excessive contributions in violation of 52 U.S.C. § 30116(a)(2)(A), (f), and 11 C.F.R. §§ 110.2(b), 110.9.

<sup>188</sup> META AD LIBRARY, [https://www.facebook.com/ads/library/?active\\_status=all&ad\\_type=political\\_and\\_issue\\_ads&country=US&q=save%20america%20joint%20fundraising&sort\\_data\[direction\]=desc&sort\\_data\[mode\]=relevancy\\_monthly\\_grouped&start\\_date\[min\]=2021-01-01&start\\_date\[max\]=&search\\_type=keyword\\_unordered&media\\_type=all](https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&q=save%20america%20joint%20fundraising&sort_data[direction]=desc&sort_data[mode]=relevancy_monthly_grouped&start_date[min]=2021-01-01&start_date[max]=&search_type=keyword_unordered&media_type=all) (last visited Oct. 12, 2022) (showing all ads placed by Save America JFC since January 1, 2021); META AD LIBRARY, [https://www.facebook.com/ads/library/?active\\_status=all&ad\\_type=political\\_and\\_issue\\_ads&country=US&q=save%20america%20joint%20fundraising%20would%20you%20vote%20for%20trump&sort\\_data\[direction\]=desc&sort\\_data\[mode\]=relevancy\\_monthly\\_grouped&search\\_type=keyword\\_unordered&media\\_type=all](https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&q=save%20america%20joint%20fundraising%20would%20you%20vote%20for%20trump&sort_data[direction]=desc&sort_data[mode]=relevancy_monthly_grouped&search_type=keyword_unordered&media_type=all) (last visited Oct. 12, 2022) (showing “live poll” ads placed by Save America JFC).

<sup>189</sup> See *supra* notes 136-138 and accompanying text.

<sup>190</sup> The Commission has previously advised that payments for candidate events constitute contributions to that candidate. See Advisory Opinion 1988-22 at 6 (San Joaquin Valley Republican Assocs.) (stating that a corporation’s payment of costs for a candidate’s public appearance was “campaign[-]related” and, thus, presumptively constituted a “contribution” subject to corporate prohibition on contributions in connection with federal elections); see also Advisory Opinion 1986-37 at 4 (Nat’l Conservative Found.) (stating that public appearances by candidates at sponsored events will be campaign-related “if such events include any express advocacy of the election or defeat of any candidate or the solicitation of contributions to any candidate or political committee,” and that “the absence of express advocacy or solicitations will not preclude a determination that public appearances by candidates are campaign[-]related”); Advisory Opinion 1994-15 at 2 (Byrne) (stating that the Commission has determined that financing particular activities involving the participation of a Federal candidate will result in a contribution to or expenditure on behalf of a candidate if the activities involve (i) the solicitation, making or acceptance of contributions to the candidate’s campaign, or (ii) communications expressly advocating the nomination, election or defeat of any candidate, and that the absence of those factors will not preclude a determination that an activity is “campaign-related”); Advisory Opinion 1996-11 at 4 (Nat’l Right to Life Comm.) (stating that Commission public funding regulations consider other factors, including the “setting, timing and expressions of the purpose of an event, and the substance of the remarks or speech made . . . in determining whether a stop is campaign-related”).

**C. The Commission Should Take No Action at his Time with Respect to the Allegations as to MAGA PAC**

The MUR 7969 Complaint alleges that MAGA PAC has also made excessive contributions to Trump.<sup>191</sup> However, neither the Complaint, nor the available information, provide any details regarding any contributions, in-kind or otherwise, made by MAGA PAC to Trump. Though the Save America JFC fundraises on behalf of both Save America and MAGA PAC, it has transferred approximately 10% of the amount transferred to Save America to MAGA PAC.<sup>192</sup> Further, the majority of MAGA PAC's expenditures appear to be focused on expenses associated with resolving post-electoral activity relating to the 2020 election cycle. However, it is unclear whether MAGA PAC's expenditures relating to consulting and legal fees associated with recounting and disputing the 2020 election are for the purpose of influencing Trump's 2024 presidential run.

Accordingly, as we recommend the Commission authorize an investigation into the other allegations at issue in this matter, we recommend the Commission take no action at this time with respect to the allegations that MAGA PAC made excessive contributions to Trump in violation of 52 U.S.C. § 30116(a)(2)(A) and 11 C.F.R. § 110.2(b).

**D. We Make No Recommendations as to the Other Allegations in the MUR 7969 Complaint**

The MUR 7969 Complaint raises additional arguments and seeks additional relief as to which we make no recommendations. First, the MUR 7969 Complaint argues that the Act

<sup>191</sup> MUR 7969 Compl. ¶¶ 48, 69-71 (referring to MAGA PAC and Save America together as the "Trump Junta Committees").

<sup>192</sup> *Save America Joint Fundraising Committee: Spending 2021-2022*, FEC.GOV, <https://www.fec.gov/data/committee/C00770941/?tab=spending> (last visited Oct. 12, 2022) (under "Disbursements," click "Group by: Recipient Name") (showing \$49.16 million in transfers to Save America and \$5.46 million in transfers to MAGA PAC).



dictates that an individual is deemed a candidate once the person gives “consent” to another to raise \$5,000 or more in contributions, which that individual does receive; as such, the Complaint argues that the Commission’s testing-the-waters regulations “exceed the unambiguously expressed intent of Congress, conflict with the plain meaning of the statute, and contravene the explicit statutory language and are, therefore, invalid as a matter of law.”<sup>193</sup>

We make no recommendations with respect to this allegation for several reasons. Initially, the Commission’s testing-the-waters regulations are an appropriate exercise of its congressionally delegated rulemaking authority.<sup>194</sup> Moreover, the testing-the-waters regulations are not at issue here, as the Respondents explicitly deny that their activities fall under the testing-the-waters exemption. Because the testing-the-waters regulations do not cause the MUR 7969 Complainant’s purported injury, his challenge to that regulation in this context is inapposite and would likely fail for lack of standing in a judicial context.<sup>195</sup> Accordingly, we make no recommendations as to this allegation.

Second, the MUR 7969 Complaint argues that Section 3 of the Fourteenth Amendment to the United States Constitution disqualifies Trump as a candidate in the 2024 election for his

<sup>193</sup> MUR 7969 Compl. ¶¶ 9-16.

<sup>194</sup> See *Payments Received for Testing the Waters Activities*, 50 Fed. Reg. at 9993 (“The Commission has concluded, on the basis of its experience and the comments received on the Notice of Proposed Rulemaking, that these examples further illustrate the line drawn between ‘testing the waters’ activities and campaigning after an individual has decided to become a candidate.”); see also *Chevron U.S.A., Inc. v. Nat’l Res. Def. Council, Inc.*, 467 U.S. 837, 843 (1984) (quoting *Morton v. Ruiz*, 415 U.S. 199, 231 (1974)) (“‘The power of an administrative agency to administer a congressionally created . . . program necessarily requires the formulation of policy and the making of rules to fill any gap left, implicitly or explicitly, by Congress.’”).

<sup>195</sup> See *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560-61 (1992) (“Over the years, our cases have established that the irreducible constitutional minimum of standing contains three elements. First, the plaintiff must have suffered an ‘injury in fact’ — an invasion of a legally protected interest which is (a) concrete and particularized, and (b) ‘actual or imminent, not “conjectural” or “hypothetical.”’ Second, there must be a causal connection between the injury and the conduct complained of — the injury has to be ‘fairly . . . trace[able] to the challenged action of the defendant, and not . . . th[e] result [of] the independent action of some third party not before the court.’ Third, it must be ‘likely,’ as opposed to merely ‘speculative,’ that the injury will be ‘redressed by a favorable decision.’” (internal citations omitted)).

1 participation in the events of January 6th, 2021, at the U.S. Capitol, and demands that the  
2 Commission “block the acceptance of Mr. Trump’s FEC Form 2 ‘Statement of Candidacy.’”<sup>196</sup>  
3 Despite the MUR 7969 Complaint being directed to the Commission, the MUR 7969 Complaint  
4 defeats itself with respect to this request by acknowledging that “the United States Supreme  
5 Court would be the only authority that the drafters of [the Constitution] could have possibly  
6 envisioned as being the most competent and legitimate body to determine whether an individual  
7 is ineligible under the Anti-Insurrection Qualification Clause.”<sup>197</sup>

8 As the MUR 7969 Complaint acknowledges, it does not appear that Congress intended to  
9 confer on the Commission the authority to determine the underlying question of whether an  
10 individual is ineligible for public office under Section 3 of the Fourteenth Amendment. For this  
11 reason, we make no recommendations as to the MUR 7969’s proposal that the Commission  
12 reject any Statement of Candidacy Trump files.

#### 13 **IV. INVESTIGATION**

14 We plan to seek information to investigate (1) information regarding Trump’s alleged  
15 candidacy, including when Trump should have registered as a candidate; and (2) the amount of  
16 potentially excessive contributions made by the Save America Committees and received by  
17 Trump. We will request communications with Trump relating to his candidacy, as well as with  
18 representatives of the Save America Committees. We will also request financial records from  
19 the Save America Committees to supplement the disclosure reports available on the FEC’s  
20 website. While we will first pursue informal discovery methods, we also request that the

<sup>196</sup> MUR 7969 Compl. ¶¶ 21-35.

<sup>197</sup> *Id.* ¶ 47.

Commission authorize the use of compulsory process, including the issuance of appropriate interrogatories, document subpoenas, and deposition subpoenas, as necessary.

**V. RECOMMENDATIONS**

1. Find reason to believe that Donald J. Trump violated 52 U.S.C. § 30102(e)(1) and 11 C.F.R. § 101.1(a) by failing to timely file a Statement of Candidacy and designate a principal campaign committee;
2. Find reason to believe that Save America and Bradley T. Crate in his official capacity as treasurer and Save America Joint Fundraising Committee and Bradley T. Crate in his official capacity as treasurer made excessive contributions in violation of 52 U.S.C. § 30116(a)(2)(A) and 11 C.F.R. § 110.2(b);
3. Find reason to believe that Donald J. Trump knowingly accepted excessive contributions in violation of 52 U.S.C. § 30116(f) and 11 C.F.R. § 110.9;
4. Take no action at this time with respect to the allegation that Make America Great Again PAC and Bradley T. Crate in his official capacity as treasurer violated 52 U.S.C. § 30116(a)(2)(A) and 11 C.F.R. § 110.2(b) by making excessive contributions to Donald J. Trump;
5. Approve the attached Factual and Legal Analysis;
6. Authorize compulsory process; and

1           7.       Approve the appropriate letters.

2  
3       October 13, 2022

4       Date

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