

FEDERAL ELECTION COMMISSION
FIRST GENERAL COUNSEL’S REPORT

MUR 8218

DATE COMPLAINT FILED: Feb. 20, 2024
DATE OF NOTIFICATIONS: Feb. 27, 2024
LAST RESPONSE RECEIVED: Apr. 15, 2024
DATE ACTIVATED: Dec. 31, 2024

EXPIRATION OF SOL: April 18, 2027

June 7, 2027

ELECTION CYCLE: 2022

COMPLAINANTS:

End Citizens United
Tiffany Muller

RESPONDENTS:

Sam Brown
MWE Group, LLC
Citizens for Nevada PAC Inc. and Mike McCauley
in his official capacity as treasurer

RELEVANT STATUTES AND REGULATIONS:

52 U.S.C. § 30125(e)
11 C.F.R. § 300.61

INTERNAL REPORTS CHECKED:

Disclosure Reports

FEDERAL AGENCIES CHECKED:

None

I. INTRODUCTION

The Complaint alleges that 2022 U.S. Senate candidate Sam Brown — acting either directly or indirectly through his agent, a political fundraising firm called MWE Group, LLC (“MWE”) — established, financed, maintained, or controlled (“EFMC’d”) Citizens for Nevada PAC, Inc. and Mike McCauley in his official capacity as treasurer (“CFN”), an independent-expenditure only committee (“IEOPC”), and that Brown, MWE and CFN violated 52 U.S.C. § 30125(e)(1) of the Federal Election campaign Act of 1971, as amended (the “Act”), when Brown and/or MWE caused four individual donors to provide CFN with non-federal funds later used to make independent expenditures in support of Brown’s campaign. Specifically, the

1 Complaint alleges that Brown and MWE, as Brown's agent, impermissibly directed non-federal
2 funds to CFN and that CFN, as entity EFMC'd by a federal candidate, impermissibly spent those
3 non-federal funds in connection with a federal election.

4 Respondents deny the allegations. MWE states that, although one of its two partners
5 worked for the Brown campaign, the other partner, operating in accordance with a firewall
6 policy, worked for CFN. Accordingly, MWE asserts that its partner who solicited funds on
7 behalf of CFN did not act as Brown's agent, and that neither Brown, nor the MWE partner acting
8 as Brown's agent, impermissibly directed non-federal funds to CFN. Further, CFN argues that
9 campaign donors are not prohibited from also contributing to an IEOPC supporting the same
10 candidate, nor are campaign committees and IEOPCs prohibited from using the same fundraising
11 consulting firm which uses a firewall policy. Brown similarly asserts that he did not have
12 anything to do with CFN's fundraising and that the affidavits submitted by the two MWE
13 partners establish that the partner working for CFN, who was separated from the partner working
14 for Brown, obtained the donor information for CFN's solicitations from MWE's database.

15 As explained below, the available information does not provide a basis to reasonably
16 conclude that Brown directly or indirectly was involved with CFN's fundraising. Therefore, we
17 recommend that the Commission dismiss the allegation that Brown, MWE, and CFN violated
18 52 U.S.C. § 30125(e)(1) by directing, soliciting, receiving, or spending non-federal funds in
19 connection with a federal election.

1 **II. FACTUAL BACKGROUND**

2 Sam Brown was a 2022 U.S. Senate candidate in Nevada and Sam Brown for Nevada is
3 his principal campaign committee.¹

4 CFN was an IEOPC that raised \$45,801.23 from four donors during the 2022 election
5 cycle and made one independent expenditure for mailers in support of Brown for \$35,460.50.²
6 CFN filed its final termination report on January 24, 2023.³

7 MWE is a fundraising consultant partnership that includes two partners, Falicia Mandel
8 and Lindsey Seitchik.⁴ During the 2022 election cycle, MWE contracted to provide fundraising
9 services to both Sam Brown for Nevada and CFN.⁵ MWE states that it operated with a firewall
10 policy to prevent non-public campaign information from being shared between the two
11 committees.⁶ In order to adhere to the firewall policy, MWE assigned its two members to
12 different clients for the 2022 election cycle, Mandel was assigned to the Brown campaign and
13 Seitchik was assigned to CFN.⁷ Mandel and Seitchik both submitted affidavits affirming that
14 neither was involved in the fundraising decisions related to the other's client and that non-public

¹ Sam Brown for Nevada, Statement of Organization at 2 (July 7, 2021), <https://docquery.fec.gov/pdf/155/202107079450988155/202107079450988155.pdf>. The Sam Brown for Nevada committee established for the 2022 campaign was converted to a non-qualified PAC named Sam Brown PAC and filed its final termination report February 16, 2023. Sam Brown PAC, FEC Form 3 at 1 (February 16, 2023), <https://docquery.fec.gov/pdf/243/202302169578647243/202302169578647243.pdf>. A new committee for Sam Brown's 2024 campaign registered using the name Sam Brown for Nevada. Sam Brown for Nevada, Statement of Organization at 2 (July 10, 2023), <https://docquery.fec.gov/pdf/187/202307109582471187/202307109582471187.pdf>.

² CFN, FEC Form 3X at 2-4 (Dec. 6, 2022), <https://docquery.fec.gov/pdf/548/202212069547170548/202212069547170548.pdf>.

³ CFN, FEC Form 3X at 1 (Feb. 24, 2022), <https://docquery.fec.gov/pdf/677/202301249574939677/202301249574939677.pdf>.

⁴ MWE Resp. at 2 (Apr. 12, 2024).

⁵ *Id.* at 3.

⁶ Compl. at 2.

⁷ *Id.* at 3.

1 information about campaign plans, projects, and activities were not shared between the two sides
2 of the firewall.⁸ In her affidavit, Seitchik affirmed that she personally solicited each of the four
3 CFN donors using data from MWE's donor database and that she did not consult with Mandel
4 regarding fundraising strategy for CFN.⁹ Three of the four CFN donors had previously
5 contributed amounts equal to or in excess of the maximum contributions to the Brown campaign
6 and additionally contributed \$5,800; \$5,000; and \$20,000 to CFN; the remaining donor
7 contributed \$2,900 to the Brown campaign and \$15,000 to CFN.¹⁰

8 The Complaint alleges that Brown, acting either directly or through MWE, directed funds
9 to CFN, thus EFMC'ing CFN and subjecting it to the Act's soft money prohibition; and that
10 CFN in turn impermissibly received and spent these non-federal funds when it made independent
11 expenditures in support of Brown.¹¹ Specifically, the Complaint alleges two alternative theories
12 regarding the allegation that Brown financed CFN.¹² First, the Complaint alleges that Brown
13 may have directly provided the names of four donors to his campaign to CFN and in doing so,
14 arranged for CFN to receive non-federal funds which comprised all of its contributions for the
15 election cycle.¹³ The Complaint does not provide any specific information regarding Brown's

⁸ *Id.*

⁹ *Id.*

¹⁰ See *FEC Individual Contributions: Filtered Results*, FEC.GOV, https://www.fec.gov/data/individual-contributions/?committee_id=C00806562&two_year_transaction_period=2022 (last visited Feb. 18, 2025) (reflecting contributions to Citizens for Nevada PAC Inc. between 2021-2022); *FEC Individual Contributions: Filtered Results*, FEC.GOV, https://www.fec.gov/data/individual-contributions/?committee_id=C00783936&committee_id=C00806562&contributor_name=David+Henderson&contributor_name=Larry+Scheffler&contributor_name=Mark+Jones&contributor_name=Robert+Beadles&two_year_transaction_period=2022 (last visited Feb. 18, 2025) (reflecting contributions made to Sam Brown PAC (C00783936) and Citizens for Nevada (C00806562) for 2021-2022 by "Robert Beadles," "David Henderson," "Larry Scheffler," and "Mark Jones.>").

¹¹ Compl. at 2.

¹² *Id.* at 5.

¹³ *Id.*

1 actions but appears to speculate that this occurred based on the fact that the four donors had
2 previously contributed to Brown's campaign and the "close ties and ongoing relationship"
3 between Brown's campaign, CFN, and MWE.¹⁴ Alternatively, the Complaint alleges that MWE
4 acting as Brown's agent provided donor names to CFN and thus arranged for CFN to receive
5 non-federal funds.¹⁵ Again, the Complaint does not provide specific information that Brown
6 authorized MWE to act as his agent for this purpose but rather bases the allegation on the fact
7 that MWE was a common vendor for both Brown's campaign and CFN, and that Mandel was
8 both an MWE partner and finance director for Brown for Nevada.¹⁶

9 In response, Brown argues that the Complaint fails to establish that MWE acted as his
10 agent in soliciting funds to finance CFN.¹⁷ The Response asserts that CFN and Brown's
11 campaign received separate fundraising services from different members of MWE pursuant to a
12 firewall policy.¹⁸ Brown asserts that neither he nor any agent of his campaign were involved in
13 CFN's fundraising.¹⁹

14 In response, MWE asserts that it did not provide any funding to CFN, and that Brown, as
15 a matter of law, cannot be considered to have EFMC'd CFN through the contributions of third-
16 party individuals under the Act.²⁰ MWE states that its efforts to assist CFN with fundraising
17 were completely separate from the services it provided Brown's campaign and provides copies
18 of its firewall policy prohibiting the sharing of information between the two committees signed

¹⁴ *Id.* at 6.

¹⁵ *Id.* at 5.

¹⁶ *Id.* at 4.

¹⁷ Brown Resp. at 1-5.

¹⁸ *Id.* at 1.

¹⁹ *Id.* at 2.

²⁰ MWE Resp. at 3-6.

1 by each of its two partners.²¹ In its Response, MWE explains that Mandel was assigned to the
2 Brown campaign and Seitchik was assigned to CFN during the 2022 election cycle in order to
3 comply with the firewall policy.²² Additionally, MWE includes with its Response affidavits
4 from its partners, Mandel and Seitchik, affirming their adherence to the firewall policy, that
5 neither was involved in the fundraising decisions related to the other's respective client, and that
6 non-public information about campaign plans, projects, and activities were not shared between
7 the two sides of the firewall.²³ Seitchik's affidavit states that she solicited the CFN donors using
8 donor information from MWE's own donor database.²⁴

9 In response, CFN asserts that the Complaint fails to provide sufficient evidence to
10 support the allegations.²⁵ The Response asserts that there is no prohibition regarding the shared
11 contributors or shared vendor between the committees given that the firewall that was in place.²⁶
12 Accordingly, the response urges the Commission to dismiss the Complaint.

13 **III. LEGAL ANALYSIS**

14 The Act prohibits federal candidates and officeholders, their agents, and entities directly
15 or indirectly established, financed, maintained or controlled by or acting on behalf of one or
16 more candidates or individuals holding federal office, from "solicit[ing], receiv[ing], direct[ing],
17 transfer[ing], or spend[ing] funds in connection with an election for Federal office, . . . unless the
18 funds are subject to the limitations, prohibitions, and reporting requirement of [the] Act."²⁷ The

²¹ *Id.* at 1-3, 13-23.

²² *Id.* at 3.

²³ *Id.* at 24-28.

²⁴ *Id.* at 24-26.

²⁵ CFN Resp. at 1.

²⁶ *Id.*

²⁷ *See* 52 U.S.C. §30125(e)(1)(A); 11 C.F.R. § 300.61.

1 Act limits contributions to non-authorized, non-party committees to \$5,000 in any calendar
 2 year.²⁸ The Commission's regulations define "to solicit" as to ask, request or recommend,
 3 explicitly or implicitly, that another person make a contribution, donation, transfer of funds or
 4 otherwise provide anything of value.²⁹ "To direct" means to guide, directly or indirectly, a
 5 person who has expressed an intent to make a contribution, donation, transfer of funds or
 6 otherwise provide anything of value, by identifying a candidate, political committee or
 7 organization for the receipt of such funds or things of value.³⁰

8 To determine whether a candidate or his or her agent directly or indirectly EFMCs an
 9 entity, the Commission considers ten non-exhaustive factors "in the context of the overall
 10 relationship between the sponsor and the entity."³¹ These factors include, among other factors,
 11 whether a sponsor, directly or through its agent, causes or arranges for funds in a significant
 12 amount or on an ongoing basis to be provided to the entity.³² Soliciting funds from individuals
 13 does not alone establish that such individuals "financed" an entity.³³ As discussed above, to
 14 determine whether a sponsor directly or indirectly "finances" an entity, certain factors must be
 15 examined to assess the overall relationship between sponsor and the entity.³⁴ For instance, such

²⁸ 52 U.S.C. § 30116(a)(1)(C).

²⁹ 11 C.F.R. § 300.2(m).

³⁰ *Id.* § 300.2(n).

³¹ *Id.* § 300.2(c)(2).

³² *Id.* § 300.2(c)(2)(viii).

³³ *Id.* § 300.2(m); *see also* Prohibited and Excessive Contributions: Non-Federal Funds or Soft Money, 67 Fed. Reg. 49,064, 49,086 (July 29, 2002) (defining "to solicit" as to "ask another person to make a contribution or donation, or transfer of funds, or to provide anything of value, including through a conduit or intermediary"); Advisory Opinion 2015-09 (Senate Majority PAC/House Majority PAC) (permitting agents of federal candidates to solicit funds when doing so independently and not at the request or suggestion of a federal candidate).

³⁴ 11 C.F.R. § 300.2(c)(2); MUR 7006 (Heany for Congress, *et al.*) (finding candidate "financed" IEOPC because his companies were the "sole source of funding" for expenses in its first month and provided it with "substantial seed money to fund its initial existence.").

1 factors include whether a sponsor, directly or through its agent owns controlling interest in the
2 entity, whether a sponsor causes or arranges for funds in a significant amount or on an ongoing
3 basis to be provided to the entity, or whether such sponsor has common or overlapping officers
4 or employees with the entity.³⁵

5 “Agency” is defined as any person who has actual authority, either express or implied, to
6 engage in certain activities on behalf of another including to “solicit, receive, direct, transfer, or
7 spend funds in connection with any election.”³⁶ The agent must in fact be acting on behalf of the
8 principal to create potential liability, and the mere existence of a relationship or contract is not
9 sufficient to create liability on the part of the principal.³⁷ Indeed, an agent of a federal candidate
10 may solicit non-federal funds for another entity if operating independently or on behalf of
11 another entity, and not at the request or suggestion of the federal candidate.³⁸

12 The Complaint alleges that Brown indirectly EFMC'd, *i.e.*, financed, CFN by either
13 personally providing the names of four individual contributors to CFN or else by authorizing
14 MWE to do the same, which resulted in CFN receiving contributions from those individuals

³⁵ See 11 C.F.R. § 300.2(c)(2)(i)-(x).

³⁶ *Id.* § 300.2(b)(3). In defining “agency” the Commission explained “a principal can only be held liable for the actions of an agent when the agent is acting on behalf of the principal, and not when the agent is acting on behalf of other organizations or individuals.” 67 Fed. Reg. 49, 064, 49,083. The Commission further stated, “it is not enough that there is some relationship or contact between the principal and agent; rather, the agent must be acting on behalf of the principal to create potential liability for the principal.” *Id.*

³⁷ *Prohibited and Excessive Contributions: Non-Federal Funds or Soft Money*, 67 Fed. Reg. 49, 064, 49,083 (July 29, 2002); see also Advisory Opinion 2015-09 at 7 (Senate Majority PAC/House Majority PAC) (permitting agents of federal candidates to solicit funds when doing so independently and not at the request or suggestion of a federal candidate); Factual and Legal Analysis at 8, MUR 8099 (Kevin McCarthy *et al.*) (finding insufficient information to establish a candidate EFMC'd an IEOPC where no information was provided to establish the factors set forth in 11 C.F.R. § 300.2(c)(2)); Factual and Legal Analysis at 2-6, MUR 7808 (John James for Senate, Inc., *et al.*) (dismissing the soft money allegation based on prosecutorial discretion and the relatively low amount at issue rather than using the Commission's limited resources to determine whether James controlled the entity, given his roles as its CEO and the president of the entity to which it was a wholly-owned subsidiary, despite the existence of a firewall).

³⁸ Advisory Opinion 2015-09 at 7 (Senate Majority PAC/House Majority PAC).

1 amounting to the entirety of its receipts for the 2022 election cycle, thereby resulting in Brown
2 financing CFN and thus CFN being subject to the soft money prohibition which is violated when
3 it raised and then spent the spent the funds, which were in excess of the Act's limitations, in
4 connection with a federal election.

5 The available information does not suggest that Brown personally gave CFN the names
6 of potential contributors.³⁹ The Complaint presumes this may have happened because the
7 individuals who contributed to CFN previously contributed to Brown for Nevada, but to assume
8 based on this connection that Brown must have provided CFN with their names or solicited the
9 individuals is speculative.⁴⁰ Further, in his Response, Brown asserted that neither he nor any of
10 his agents were involved in CFN's fundraising.⁴¹ Moreover, Seitchik explains in her affidavit
11 that she solicited the CFN donors using donor information from MWE's own donor database and
12 adhered to the firewall in place to ensure that non-public information was not shared between the
13 committees.⁴²

14 Second, the available information does not suggest that MWE, acting as Brown's agent,
15 solicited the four contributors. While an MWE partner provided CFN with the individuals'
16 names, the record suggests that MWE partner was not acting as Brown's agent or on Brown's
17 behalf.⁴³ As stated above, Seitchik, the MWE partner assigned to CFN, affirmed that she used
18 donor information from MWE's database to personally solicit donors for CFN and that, when
19 doing so, she operated under a firewall policy that prevented her from communicating about her

³⁹ Brown Resp. at 3; *see* MWE Resp. at 25.

⁴⁰ Compl. at 5.

⁴¹ Brown Resp, at 2.

⁴² MWE Resp. at 24-26.

⁴³ *Id.* at 5, 24-28.

1 actions with the Brown campaign.⁴⁴ The statements from the two partners contend that
2 information from Brown for Nevada was not shared with CFN and that the solicitations for each
3 entity were done entirely independently.⁴⁵

4 In short, the available information does not provide a reasonable basis to conclude that
5 Brown directly or indirectly through MWE assisted CFN with its fundraising. As such, it does
6 not appear that Brown or MWE as his agent violated the soft money provision or that Brown
7 EFMC'd CFN and thus no basis to conclude that CFN was subject to the soft money provision as
8 an EFMC'd entity. Therefore, we recommend that the Commission dismiss the allegations that
9 Brown, MWE or CFN violated 52 U.S.C. § 30125(e)(1) by directing, soliciting, receiving, and
10 spending non-federal funds in connection with a federal election.

11 **IV. RECOMMENDATIONS**

- 12 1. Dismiss the allegation that Sam Brown and MWE violated 52 U.S.C. § 30125(e),
13 by directing non-federal funds in connection with a federal election;
- 14 2. Dismiss the allegation that Citizens for Nevada and Mike McCauley in his official
15 capacity as treasurer violated 52 U.S.C. § 30125(e) by soliciting, receiving, and
16 spending non-federal funds in connection with a federal election;
- 17 3. Approve the attached Factual & Legal Analysis;
- 18 4. Approve the appropriate letters; and
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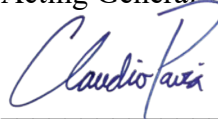
⁴⁴ *Id.* at 24-26.

⁴⁵ *Id.*

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- 5. Close the file effective 30 days from the date the certification of this vote is signed (or on the next business day after the 30th day, if the 30th day falls on a weekend or holiday).

Lisa J. Stevenson
Acting General Counsel



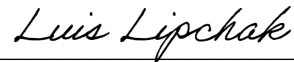
March 26, 2025

Date

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