



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

May 30, 2025

VIA EMAIL

Michael Columbo
Dhillon Law Group Inc.
177 Post Street, Suite 700
San Francisco, CA 94108
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RE: MUR 8301
Never Surrender, Inc. f/k/a Donald J.
Trump for President 2024, Inc. and
Bradley T. Crate in his official
capacity as treasurer

Dear Mr. Columbo:

On August 20, 2024, the Federal Election Commission notified your client, Donald J. Trump and Never Surrender, Inc. f/k/a Donald J. Trump for President 2024, Inc. and Bradley T. Crate in his official capacity as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On April 29, 2025, the Commission, on the basis of the information in the complaint and information provided by respondents, voted to dismiss the allegation that your client violated 52 U.S.C. § 30118(a) and 11 C.F.R. § 114.2(d). Accordingly, the Commission voted to close its file in this matter effective May 30, 2025.

Documents related to the case will be placed on the public record today. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). Any applicable Factual and Legal Analysis or Statements of Reasons available at the time of this letter's transmittal are enclosed.

If you have any questions, please contact Allen H. Coon, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "A.B.R.", written in a cursive style.

Anne B. Robinson
Assistant General Counsel

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: X Corp. MUR 8301
Never Surrender, Inc. f/k/a Donald J. Trump for
President 2024, Inc. and Bradley T. Crate in his
official capacity as treasurer
Donald J. Trump

I. INTRODUCTION

This matter arises from a Complaint alleging that the social media platform X Corp. (“X”) made, and 2024 presidential candidate Donald J. Trump and his principal campaign committee, Never Surrender, Inc. f/k/a Donald J. Trump for President 2024, Inc. and Bradley T. Crate in his official capacity as treasurer (the “Trump Committee”) (collectively, the “Trump Respondents”), knowingly accepted, prohibited corporate contributions in violation of the Federal Election Campaign Act of 1971, as amended (the “Act”). Specifically, the Complaint alleges that, on August 12, 2024, X livestreamed a conversation between Elon R. Musk, the owner of X, and Trump, during which Musk expressly advocated for Trump’s election. The Trump Committee submitted a Response arguing that the Trump Respondents did not accept a corporate contribution because the livestream is exempt from the Act’s definition of “contribution.” Neither Trump nor Musk submitted a response.

As explained below, the available information indicates that the livestream does not satisfy the content prong of the coordinated communications test because the internet exemption applies; therefore, the livestream was not a prohibited corporate contribution. Accordingly, Commission dismisses the allegations that X made a prohibited corporate contribution in violation of 52 U.S.C. § 30118(a) and 11 C.F.R. § 114.2(b), and that the Trump Respondents knowingly accepted a prohibited corporate contribution in violation of 52 U.S.C. § 30118(a) and 11 C.F.R. § 114.2(d).

1 **II. FACTUAL BACKGROUND**

2 X is a social media platform and private corporation that, at the time of the livestream,
3 was wholly owned by X Holdings Corp.; Elon Musk appears to be the majority shareholder of X
4 Holdings Corp.¹ Donald J. Trump is the President of the United States and was a candidate in
5 the 2024 presidential election.² Donald J. Trump for President 2024 was Trump’s principal
6 campaign committee during the 2024 election cycle; it has since converted to a leadership PAC
7 and changed its name to Never Surrender, Inc.³

8 On August 12, 2024, X livestreamed an over two-hourlong conversation between Musk
9 and Trump. The livestream was hosted on Spaces, a feature of X allowing its users to host live,
10 audio-only conversations that “can be listened to by anyone on the Internet.”⁴ During the
11 livestream, Musk and Trump discussed the presidential campaign, and Musk expressed his
12 support for Trump’s candidacy and opposition to Kamala D. Harris, Trump’s general election
13 opponent.⁵ According to a post on X by Musk, “a massive DDOS [distributed denial of service]
14 attack on X” caused the event to start late. Before the livestream, the Trump Respondents

¹ See Resp’t’s Notice of Submission of Unredacted Suppl. Corporate Disclosure Statement Ex. A at 1-2, *Anoke v. Twitter, Inc.*, No. 3:23-cv-02217 (N.D. Cal. 2023), ECF No. 54 (stating that “Twitter, Inc. has been merged into X Corp” and “X Corp. is wholly owned by X Holdings Corp.” and disclosing Musk as “owner[]/shareholder[] of X Holdings Corp.”)

² See FEC, OFFICIAL 2024 PRESIDENTIAL GENERAL ELECTION RESULTS (Jan. 16, 2025), <https://www.fec.gov/resources/cms-content/documents/2024presgeresults.pdf>; Donald J. Trump, Amended Statement of Candidacy (Nov. 15, 2022).

³ Donald J. Trump for President 2024, Inc., Amended Statement of Organization at 1 (Aug. 20, 2024), <https://docquery.fec.gov/pdf/680/202408209674127680/202408209674127680.pdf>; Never Surrender, Inc., Amended Statement of Organization at 1-2 (Nov. 12, 2024), <https://docquery.fec.gov/pdf/551/202411129719967551/202411129719967551.pdf>.

⁴ *About X Spaces*, X, <https://help.x.com/en/using-x/spaces> (last visited Mar. 10, 2025).

⁵ Elon Musk (@elonmusk), at 2:46, X (Aug. 13, 2024, 3:03 AM), <https://x.com/elonmusk/status/1823254086126608862>; see Donald J Trump, *President Trump’s Interview with Elon Musk on X*, YOUTUBE (Aug. 13, 2024), <https://youtu.be/QzWjFzRMQNA?si=JuGiKOSbj2XyRB0K>.

1 apparently promoted the event through advertisements on X. According to press reporting,
2 approximately a million people listened to the livestream.

3 The Complaint alleges that the livestream “amounted to a virtual campaign event for
4 Donald J. Trump financed by X” and “featured express advocacy by X owner Elon Musk to
5 support the Trump Campaign.”⁶ The Complaint also alleges that “X employees were assigned to
6 facilitate, monitor, and in real time fix the technical issues with the livestream event.”⁷ The
7 Complaint argues that, “[b]ecause X spent considerable resources to host an event to expressly
8 advocate for Trump,”⁸ X made and the Trump Respondents knowingly accepted a prohibited
9 corporate contribution.⁹ The Complaint does not specify the cost of the event, the equipment
10 used to livestream the event, or the total personnel employed to support the event. Additionally,
11 the Complaint argues that, because the event “is not ‘comparable in form’ to X’s regular
12 activities,” “X was not acting in its legitimate press function” when it livestreamed the
13 conversation between Musk and Trump and thus it is not covered by the press exemption to the
14 Act’s definitions of “contribution” and “expenditure.”¹⁰

15 The Trump Committee submitted a Response arguing that the event was not a
16 “contribution” under the Act because it was covered by the internet exemption or the press
17 exemption.¹¹ The Response asserts that the internet exemption applies here because the event “is

6 Compl. at 1-2 (citation omitted).

7 *Id.* at 2.

8 *Id.* at 5.

9 *Id.*

10 *Id.* at 4 (quoting Advisory Opinion 2010-08 (Citizens United) at 6).

11 Resp. at 1-5 (Nov. 27, 2024).

1 an uncompensated internet communication hosted on the company’s own website.”¹² The
2 Response also asserts that the press exemption applies because X is a press or media entity that is
3 not owned or controlled by any political party, committee, or candidate, and it was acting in its
4 legitimate press function by hosting the livestream.¹³

5 **III. LEGAL ANALYSIS**

6 The Act prohibits corporations from making contributions to federal candidates, and
7 further prohibits candidates, political committees (other than independent expenditure-only
8 political committees and committees with hybrid accounts), and other persons from knowingly
9 accepting or receiving corporate contributions.¹⁴

10 Under the Act, a “contribution” includes “any gift, subscription, loan, advance, or deposit
11 of money or anything of value made by any person for the purpose of influencing any election
12 for Federal office.”¹⁵ A communication that is coordinated with a candidate or candidate’s
13 committee is considered an in-kind contribution to that candidate or candidate’s committee and
14 subject to the limitations, prohibitions, and reporting requirements of the Act and Commission
15 regulations.¹⁶

16 Commission regulations provide that a communication is coordinated if it (1) is paid for
17 by a third-party (the “payment prong”),¹⁷ (2) satisfies one of five content standards (the “content

¹² *Id.* at 3. The Response discusses the internet exemption in the context of the “coordinated communication” test under Commission regulations. *See id.* at 2.

¹³ *Id.* at 3-4.

¹⁴ 52 U.S.C. § 30118(a); *accord* 11 C.F.R. § 114.2(b), (d).

¹⁵ 52 U.S.C. § 30101(8)(A); *accord* 11 C.F.R. § 100.52.

¹⁶ *See* 52 U.S.C. § 30116(a)(7)(B)(i); 11 C.F.R. § 109.21(b); *see also id.* § 100.52(d).

¹⁷ 11 C.F.R. § 109.21(a)(1).

1 prong”),¹⁸ and (3) satisfies one of five conduct standards (the “conduct prong”).¹⁹ All three
2 prongs must be met for a communication to be a coordinated communication.²⁰ In-kind
3 contributions also include “provision of any goods or services without charge or at a charge that
4 is less than the usual and normal charge for such goods or services.”²¹

5 Even assuming *arguendo* that X satisfied the payment prong by expending corporate
6 resources to host the livestream, and the conduct prong was satisfied by Trump’s involvement in
7 the livestream,²² X’s livestreamed event does not appear to satisfy the content prong because it
8 was neither an “electioneering communication” nor a “public communication.”²³

9 An “electioneering communication” is “any broadcast, cable, or satellite communication”
10 that “refers to a clearly identified candidate for Federal office;” is publicly distributed within a
11 certain time period before an election, depending on the office; and is targeted to the relevant
12 electorate, depending on the office.²⁴ Because X hosted the livestream on the internet, not
13 broadcast, cable, or satellite, the event does not qualify as an electioneering communication.

¹⁸ The content standards state that the communication at issue must be (1) a communication that is an electioneering communication; (2) a public communication that disseminates, distributes, or republishes, in whole or in part, campaign material prepared by a candidate or the candidate’s authorized committee; (3) a public communication that expressly advocates the election or defeat of a clearly identified candidate for Federal office; (4) a public communication referring to various types of federal candidates or to political parties that satisfies the requirements of 11 C.F.R. §§ 109.21(c)(4)(i), (ii), (iii) or (iv); or (5) a public communication that is the functional equivalent of express advocacy. 11 C.F.R. § 109.21(c).

¹⁹ The conduct standards are (1) request or suggestion; (2) material involvement; (3) substantial discussion; (4) common vendor; (5) former employee; and (6) republication. *Id.* § 109.21(d).

²⁰ *Id.* § 109.21(a); see Explanation and Justification for Coordinated and Independent Expenditures, 68 Fed. Reg. 421, 453 (Jan. 3, 2003).

²¹ 11 C.F.R. § 100.52(d) (listing examples of goods or services, including securities, facilities, equipment, supplies, personnel, advertising services, membership lists, and mailing lists).

²² Because he participated in the livestreamed conversation, Trump was materially involved in decisions regarding the content of the communication. See *id.* § 109.21(d)(2)(i).

²³ See *id.* § 109.21(c) (establishing content standards).

²⁴ 52 U.S.C. § 30104(f)(3) (defining electioneering communication); 11 C.F.R. § 100.29 (same).

1 A “public communication” is “a communication by means of any broadcast, cable, or
2 satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or
3 telephone bank to the general public, or any other form of general public political advertising.”²⁵
4 Commission regulations provide that public communications “shall not include communications
5 over the Internet, except for communications placed for a fee on another person’s website.”²⁶
6 Here, X hosted the livestream on its own platform, not another person’s website. Therefore, the
7 event was not a public communication.

8 X’s livestreamed event does not satisfy the content prong of the coordinated
9 communications test. Because the event was not a coordinated communication, it did not result
10 in a prohibited corporate contribution.²⁷ Accordingly, the Commission dismisses the allegations
11 that X made a prohibited corporate contribution in violation of 52 U.S.C. § 30118(a) and
12 11 C.F.R. § 114.2(b), and that the Trump Respondents knowingly accepted a prohibited
13 corporate contribution in violation of 52 U.S.C. § 30118(a) and 11 C.F.R. § 114.2(d).

²⁵ 52 U.S.C. § 30101(22) (defining public communication); 11 C.F.R. § 100.26 (same).

²⁶ 11 C.F.R. § 100.26.

²⁷ *See* Factual & Legal Analysis (“F&LA”) at 8-9, MUR 8056 (Bob Healey for Congress, *et al.*) (“A communication that is neither an electioneering communication nor a public communication fails [section] 109.21(c)’s content prong, and as a result is neither a coordinate communication nor an in-kind contribution.”) (citing F&LA at 3-4, MUR 6722, 6723 (House Majority PAC, *et al.*)).