



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

May 12, 2025

VIA UPS AND ELECTRONIC MAIL

brian@endcitizensunited.org

Tiffany Muller
End Citizens United
100 M Street SE, Suite 1050
Washington, DC 20003

RE: MUR 8313
Sam Brown for Nevada, *et al.*

Dear Ms. Muller:

This is in reference to the complaint filed with the Federal Election Commission on September 9, 2024, concerning Sam Brown for Nevada, *et al.* Based on that complaint, and after considering the circumstances of this matter and information provided in response to the complaint, the Commission determined to dismiss this matter and close the file effective May 12, 2025.

The General Counsel's Report, which more fully explains the basis for the Commission's decision, is enclosed. 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).

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action within 60 days of the dismissal, which became effective today. *See* 52 U.S.C. § 30109(a)(8).

Sincerely,

Lisa J. Stevenson
Acting General Counsel

Wanda D. Brown

BY: Wanda D. Brown
Assistant General Counsel

Enclosure
General Counsel's Report

BEFORE THE FEDERAL ELECTION COMMISSION

ENFORCEMENT PRIORITY SYSTEM

DISMISSAL REPORT

MUR 8313

Respondents: Sam Brown for Nevada and Chrissie Hastie in her official capacity as treasurer
Duty First Nevada PAC and Mike McCauley in his official capacity as treasurer

Complaint Receipt Date: Sept. 9, 2024

Response Dates: Sept. 27, 2024; Oct. 24, 2024



**Alleged Statutory/
Regulatory Violations:**

52 U.S.C. §§ 30104(a)-(b), 30116(a), (f)
11 C.F.R. §§ 104.3, 109.20, 109.21

The Complaint alleges that Duty First Nevada PAC and Mike McCauley in his official capacity as treasurer (“Duty First”), an independent expenditure-only political committee that has since terminated,¹ made, and Sam Brown for Nevada and Chrissie Hastie in her official capacity as treasurer (the “Committee”), the principal campaign committee of Sam Brown,² 2024 candidate for Senator from Nevada,³ knowingly accepted, a prohibited and unreported in-kind contribution in the form of video footage, in violation of the Federal Election Campaign Act of 1971, as amended (the “Act”).⁴ Specifically, the Complaint alleges that Duty First paid a vendor “over \$34,000” to produce at least 12 videos and placed the videos in “a difficult to find corner of the internet,” *i.e.*, on

¹ Duty First Nevada PAC, Amended Statement of Organization at 2 (Aug. 2, 2023), <https://docquery.fec.gov/pdf/838/202308029596494838/202308029596494838.pdf>; Duty First Nevada PAC, Termination Approval 2024 at 1 (July 10, 2024), <https://docquery.fec.gov/pdf/784/202407100300214784/202407100300214784.pdf>.

² Sam Brown for Nevada, Amended Statement of Organization at 2 (Oct. 14, 2024), <https://docquery.fec.gov/pdf/902/202410149685131902/202410149685131902.pdf>.

³ Sam Brown, Statement of Candidacy at 1 (July 10, 2023), <https://docquery.fec.gov/pdf/223/202307109582477/223/202307109582477223.pdf>.

⁴ Compl. at 7 (Sept. 9, 2024).

Vimeo.com posted by a user with a name previously used by the vendor, and that the Committee subsequently used a portion of one of the videos (a 45-second clip of a Brown supporter speaking to the camera) in its own advertisement.⁵

In Response, Duty First argues that the Complaint is founded on “mere speculation and inference” and that the Commission should dismiss the Complaint because it makes no allegation and provides no evidence of coordination.⁶ Duty First argues that it posted material in a public online forum, and that while it shared a common vendor with the Committee, such an arrangement is not prohibited so long as “appropriate procedures” are in place.⁷

In Response, the Committee states that the video footage at issue was publicly available and easily findable by searching the name of the Brown supporter in the Vimeo search bar.⁸ Further, the Response includes an affidavit from an employee of the vendor who produced the video stating that an internal firewall was maintained regarding operations for Duty First and the Committee,⁹ and argues that the internet exemption in the Commission’s regulations applies.¹⁰ Further, the Response states that the video was posted without a copyright and was in the public domain.¹¹

Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and

⁵ *Id.* at 3-4.

⁶ Duty First Resp. at 1 (Sept. 27, 2024).

⁷ *Id.*

⁸ Committee Resp. at 1 (Oct. 24, 2024).

⁹ *Id.*, Ex. B.

¹⁰ *Id.* at 6. The Committee argues that because Duty First did not pay to distribute its video, the vendor who produced the video did not pay to distribute the video on Vimeo.com, and the Committee did not pay to distribute its video which incorporated the video footage at issue here, that there was no public communication as defined by the Commission’s regulations. *Id.*

¹¹ *Id.* at 5.

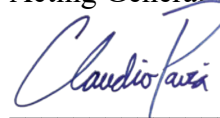
1 assess whether particular matters warrant further administrative enforcement proceedings. These
2 criteria include (1) the gravity of the alleged violation, taking into account both the type of activity
3 and the amount in violation; (2) the apparent impact the alleged violation may have had on the
4 electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in
5 potential violations and other developments in the law. This matter is rated as low priority for
6 Commission action after application of these pre-established criteria. Given that low rating and low
7 apparent dollar amount at issue, we recommend that the Commission dismiss the Complaint,
8 consistent with the Commission's prosecutorial discretion to determine the proper ordering of its
9 priorities and use of agency resources.¹² We also recommend that the Commission close the file
10 effective 30 days from the date the certification of this vote is signed (or on the next business day
11 after the 30th day, if the 30th day falls on a weekend or holiday) and send the appropriate letters.

12
13
14
15 March 27, 2025
16 _____

17 Date

Lisa J. Stevenson
Acting General Counsel

BY:



Claudio J. Pavia
Deputy Associate General Counsel

19
20
21 *Wanda D. Brown*

Wanda D. Brown
Assistant General Counsel

22
23
24
25 *Gordon King*

Gordon King
Attorney

12 _____
Heckler v. Chaney, 470 U.S. 821, 831-32 (1985).