



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C.

**MEMORANDUM**

November 27, 2023

**TO:** The Commission

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**SUBJECT:** Request for Consideration of a Legal Question Submitted by Stop These Oppressive People: Tyrants Racists Unqualifieds Misogynists Propogandists ("STOP TRUMP") (C00847673) (LRA 1193)

**I. INTRODUCTION**

On October 18, 2023, the Commission received a Request for Consideration of a Legal Question ("Request") from Stop These Oppressive People: Tyrants Racists Unqualifieds Misogynists Propogandists ("STOP TRUMP") (the "Committee"), a Hybrid PAC.<sup>1</sup> The Reports Analysis Division ("RAD") issued a Request for Additional Information ("RAFI") to the Committee requiring corrective action because the Committee's name on its Statement of Organization includes the name of a candidate.<sup>2</sup> The Request contends that the Committee's name is permissible because it disputes that its name includes the name of a federal candidate.

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<sup>1</sup> See Attachment.

<sup>2</sup> See Committee, RAFI at 1 (Aug. 27, 2023) (citing 52 U.S.C. § 30102(e)(4)); Committee, Statement of Organization at 1 (Aug. 9, 2023) (disclosing "Stop These Oppressive People: Tyrants Racists Unqualifieds Misogynists Propogandists ('STOP TRUMP') on Line 1 as 'NAME OF COMMITTEE (in full)'; see also Committee, Form 99 (Oct. 2, 2023) (RAFI Response).

We have considered the Committee’s arguments and the relevant law, and we recommend that the Commission conclude that the Committee’s name in its Statement of Organization includes the name of a federal candidate as proscribed by 52 U.S.C. § 30102(e)(4).

## **II. UNAUTHORIZED COMMITTEES MAY NOT INCLUDE THE NAME OF A FEDERAL CANDIDATE IN THEIR NAMES ON THEIR STATEMENTS OF ORGANIZATION**

Section 30102(e)(4) of the Federal Election Campaign Act, 52 U.S.C. §§ 30101-45 (the “Act”), states that “[i]n the case of any political committee which is not an authorized committee, such political committee shall not include the name of any candidate in its name.” The Committee is not an authorized committee of any candidate. It does not name on its Form 1 a candidate who authorizes the Committee<sup>3</sup> and it does not dispute that it is an unauthorized committee.

The Committee also does not dispute that “Trump” is the name of a federal candidate or that Donald Trump is the only active federal candidate with the name “Trump.”<sup>4</sup> Instead, the Committee argues that its name “forms the name of a federal candidate” and that “simply indicat[ing]” Trump, which the Request characterizes as an acronym, on Line 1 does not constitute a “name” of a candidate for purposes of section 30102(e)(4).<sup>5</sup> The plain language of the Act, its legislative history, court decisions, and the Commission’s application of section 30102(e)(4) in enforcement actions, advisory opinions, and the RAD Review and Referral Procedures consistently demonstrate that the Committee may not use “Trump” in its name on its Statement of Organization because the Committee is not an authorized committee of federal candidate Donald Trump.

### **A. The Act, its Legislative History, and Court Cases**

Prior to 1980, although the Act contained various provisions differentiating political committees that are authorized by a federal candidate from those that are unauthorized,<sup>6</sup> the Act did not include a formal name identification requirement. In legislative recommendations, the Commission explained to Congress that the name of most principal campaign committees identified the candidate supported by the committee, but that, “in some cases, it [was] difficult to

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<sup>3</sup> Committee, Statement of Organization at 2. The Committee does name three other unauthorized committees with which it is affiliated. *See id.* at 3, 5-6 (naming Progressive Turnout Project, Progressive Takeover, and Stop Republicans as affiliated committees).

<sup>4</sup> *See* Candidates, Campaign finance data, [https://www.fec.gov/data/candidates/?q=trump&election\\_year=2023&election\\_year=2024&election\\_year=2026&election\\_year=2028](https://www.fec.gov/data/candidates/?q=trump&election_year=2023&election_year=2024&election_year=2026&election_year=2028) (search of candidate database for “Trump” showing only Donald J. Trump as a 2023, 2024, 2026, or 2028 candidate) (last visited Nov. 27, 2023).

<sup>5</sup> Attachment at 1, 3.

<sup>6</sup> *Compare* 52 U.S.C. § 30102(e)(1) (requiring candidates to “designate in writing a political committee . . . to serve as the principal campaign committee of such candidate” and authorizing them to designate other “authorized” committees), *with id.* § 30203(a) (establishing separate requirements for “other committees”).

determine which candidate a principal campaign committee support[ed]” because the committees’ names did “not contain the candidate’s name as, for example, ‘Good Government Committee’ or ‘Spirit of ’76.’”<sup>7</sup> The Commission concluded that “[i]n order to avoid confusion the Act should require the name of the principal campaign committee to include in its name the name of the candidate which designated the committee.”<sup>8</sup>

Based on this recommendation, in the Federal Election Campaign Act Amendments of 1979,<sup>9</sup> Congress provided that the name of each authorized committee “shall include the name of the candidate who authorized such committee,” while any committee not so authorized “shall not include the name of any candidate in its name.”<sup>10</sup> The U.S. Court of Appeals for the District of Columbia Circuit explained in *Common Cause v. FEC* that Congress’s restriction on unauthorized committees “was understandably advanced as a further step in the clarification process designed to allow anyone reading the name of a political committee to determine immediately whether or not it is an authorized committee by the presence or absence of a candidate’s name.”<sup>11</sup> The Act’s name identification requirements, including the prohibition on an unauthorized committee’s inclusion of a federal candidate’s name in its name, remain unchanged by Congress and are now codified at 52 U.S.C. § 30102(e)(4).

## **B. Regulatory History**

In 1980, the Commission adopted an implementing regulation for the authorized and unauthorized committee name provision at 11 C.F.R. § 102.14(a) that “follows [52 U.S.C. § 30102(e)(4)].”<sup>12</sup> Following the decision in *Common Cause*, the Commission amended section 102.14(a) to extend the prohibition beyond political committee’s names on their Statements of Organizations to include any names under which a committee conducts activities, such as a special project.<sup>13</sup> The Commission further amended section 102.14 in 1994 to add paragraph

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<sup>7</sup> Federal Election Campaign Act Amendments of 1979, Hearing Before the Senate Committee on Rules and Administration, 96<sup>th</sup> Cong., 1<sup>st</sup> Sess., 23 (1979) (FEC’s Legislative Recommendations) (Appendix to Statement of Robert Tiernan, Charman of the FEC).

<sup>8</sup> *Id.*

<sup>9</sup> Federal Election Campaign Act Amendments of 1979, Pub. L. No. 96-187, § 102, 93 Stat. 1339, 1346 (1980).

<sup>10</sup> *Id.* (now codified at 52 U.S.C. § 30102(e)(4)).

<sup>11</sup> *Common Cause v. FEC*, 842 F.2d 436, 450 (D.C. Cir. 1988) (summarizing legislative history and concluding that Commission could reasonably interpret section 30102(e)(4)’s restriction on unauthorized committees’ names to apply only to the names of committees itself and not to names of any fundraising projects sponsored by committee).

<sup>12</sup> Amendments to Federal Election Campaign Act of 1971; Regulations Transmitted to Congress, 45 Fed. Reg. 15,080, 15,085 (Mar. 7, 1980) (also allowing unauthorized committee names to include candidate names as allowed under paragraph (b) of section 102.14, which addressed delegate and draft committees).

<sup>13</sup> See Special Fundraising Projects and Other Use of Candidate Names by Unauthorized Committees, 57 Fed. Reg. 31,424 (July 15, 1992) (amending paragraph (a) to state that “name” includes names, such as special project

(b)(3), which allowed unauthorized committees to include a candidate name in the title of a special project name or communication if the title showed opposition to the named candidate.<sup>14</sup>

In 2019, the U.S. District Court for the District of Columbia found the opposition exception applicable to titles of a special project name or other communication at paragraph (b)(3) to be impermissibly content-based and, on this basis, declared that section 102.14(a) was unconstitutional and permanently enjoined the Commission from enforcing it.<sup>15</sup> The court in *Pursuing America’s Greatness* did not address the validity of 52 U.S.C. § 30102(e)(4), however, and did not enjoin the Commission from enforcing the statutory requirements for political committees’ names on their Statements of Organization. Since the *Pursuing America’s Greatness* decision, the Commission has applied only the statute, and not the enjoined regulatory provision, in conducting its analyses of committee uses of candidate names.<sup>16</sup>

### C. Court Treatment of Section 30102(e)(4)

In *Common Cause*, the U.S. Court of Appeals for the D.C. Circuit upheld the Commission’s interpretation of section 30102(e)(4) “as applying only to the official name of a political committee.”<sup>17</sup> In *Stop Hillary PAC v. FEC*, the U.S. District Court of the Eastern District of Virginia held that the plaintiffs — an unauthorized committee seeking to use the name “Stop Hillary PAC” as its registered name and a voter — did not show a likelihood of success on the merits of their claim that the naming restrictions for unauthorized political committees are an impermissible content-based restriction on speech or violate their First Amendment rights.<sup>18</sup> The *Stop Hillary PAC* decision found that section 30102(e)(4) serves only as a “narrow and specific” prohibition on committees’ registered names to “limit[] public confusion about which person, group, or candidate the PAC represents.”<sup>19</sup> The court, citing the legislative history discussed

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names, under which committees conduct activities); and see *Common Cause*, 842 F.2d 436.

<sup>14</sup> Special Fundraising Projects and Other Use of Candidate Names by Unauthorized Committees, 59 Fed. Reg. 17,267 (Apr. 12, 1994) (adding paragraph (b)(3)).

<sup>15</sup> *Pursuing America’s Greatness v. FEC*, 363 F. Supp. 3d 94 (D.D.C. 2019).

<sup>16</sup> See Advisory Opinion 2019-16 (Shemanski) (analyzing, after *Pursuing America’s Greatness*, statutory language and concluding that the initials “DT” do not constitute the “name” of a candidate under 52 U.S.C. § 30101(e)(4)).

<sup>17</sup> *Common Cause*, 842 F.2d at 448 (noting that “adherence” to section 30102(e)(4) includes applying provision to any name under which the Committee has registered); and see *id.* at n.5 (describing name on Statement of Organization as the “officially registered name” of the committee).

<sup>18</sup> 166 F. Supp. 3d 643 (E.D. Va. 2015). In *Stop Hillary PAC*, the unauthorized committee, like the Committee at issue in this Request, had received an RFAI directing it to amend its Statement of Organization to remove the name of a federal candidate. See Complaint ¶ 15, *Stop Hillary PAC, v. FEC*, 1:15-cv-01208 (E.D. Va. Sept. 22, 2015), ECF No.1 (discussing procedural history of case).

<sup>19</sup> *Stop Hillary PAC*, 166 F. Supp. 3d at 649-50 (also finding that section 30102(e)(4) cannot be considered to target speech based on its communicative content, because it leaves unauthorized political committees “entirely free to discuss candidates” through their websites, solicitations, special projects, and various other communications).

above, noted that section 30102(e)(4), which had been “well-established law...for the last 35 years,” serves “to alleviate constant public confusion” surrounding misleading committee names and concluded that, even where a political committee’s name unambiguously opposes a candidate, “the possibility of public confusion still exists.”<sup>20</sup> As the court further explained, the plaintiffs failed to “address the possibility that members of the public would see the PAC unambiguously opposing one candidate — for example “Stop Hillary” — and mistakenly get the impression that the PAC was in fact an authorized PAC supporting one of Hillary Clinton’s opponents.”<sup>21</sup>

#### **D. Commission’s Application of Section 30102(e)(4) to Committee Names on Statements of Organization**

##### *1. In Commission MURs and AOs*

The Commission has consistently applied section 30102(e)(4) in enforcement matters and advisory opinions to prohibit unauthorized committees’ inclusion of candidate names in their names, including in MUR 7086 (Stop Hillary PAC), which followed the court case discussed above.<sup>22</sup> In one such matter, the Commission squarely addressed and rejected the argument raised in the Request that characterization of a candidate’s name as an acronym removes the name from the ambit of the statutory provision. In MUR 6213 (Decidedly Unhappy Mainstream Patriots Rejecting Evil-mongering Incompetent Democrats Political Action Committee (DUMPREID PAC), the Commission stated that, “[t]he Committee’s assertion that ‘Dump Reid’ is an ‘acronym or abbreviation’ ... do[es] not change the fact that Senator Reid’s name is listed as part of the official name of the Committee.”<sup>23</sup> The Commission concluded that the committee may have violated section 30102(e)(4) “by including Senator Reid’s last name as part of its official name on its Form 1,” though dismissed the complaint in its prosecutorial discretion and cautioned the committee to comply with the Act and Commission regulations by removing the parenthetical “(DUMPREID PAC)” from its Statement of Organization.<sup>24</sup> Similarly, in Advisory Opinion 1995-09 (NewtWatch PAC), the Commission concluded that “NewtWatch” could not be used as part of an unauthorized committee’s name, because it included the name of Speaker of the House Newt Gingrich, a federal candidate.<sup>25</sup>

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<sup>20</sup> *Id.* at 646-47, 649 (internal alterations omitted).

<sup>21</sup> *Id.* at 649 (internal alterations omitted).

<sup>22</sup> *See* Conciliation Agreement ¶¶ V-VI, MUR 7086 (Stop Hillary PAC) (conciliating violation of 52 U.S.C. § 30102(e)(4) with payment of \$5,500 penalty and agreement to cease and desist from further violations, with acknowledgment that “Hillary” could remain in committee name if the reference to “Hillary” was exclusively to Hillary Clinton and Hillary Clinton was no longer a candidate).

<sup>23</sup> Factual and Legal Analysis, MUR 6213 (DUMPREID PAC) at 4.

<sup>24</sup> *Id.* at 5; Notification Letter attaching Factual and Legal Analysis at 1-2, MUR 6213 (DUMPREID PAC); *and see* Certification ¶ 1, MUR 6213 (DUMPREID PAC) (Apr. 27, 2010).

<sup>25</sup> Advisory Opinion 1995-09 (NewtWatch PAC) at 5-6.

## 2. Under the RAD Review and Referral Procedures

The Commission-approved RAD Review and Referral Procedures are grounded in, and set forth a ministerial application of, the law set out above. The relevant part of Standard 2: Statement of Organization (FORM 1) of the 2023-2024 RAD Review and Referral Procedures states that “an RFAI will be sent” to an unauthorized committee if “the committee’s name includes a Federal candidate’s name, or a portion thereof that clearly identifies the candidate (with the exception of joint fundraising committees that have an authorized committee as a recipient).”<sup>26</sup> The “portion thereof” language was added to the standard in the 2015-2016 RAD Review and Referral Procedures. Following the *Pursuing America’s Greatness* decision in 2019, RAD modified its RFAI’s under Standard 2 to delete reference to 11 C.F.R. § 102.14(a) and cite only 52 U.S.C. § 30102(e)(4) as the authority for the RFAI.<sup>27</sup>

Applying this standard, RAD sends RFAIs to all unauthorized committees that include the full name, first name, or last name of a federal candidate if that name clearly identifies a federal candidate. If there is more than one candidate seeking election with that full, first, or last name, RAD will not send an RFAI.<sup>28</sup> Since 2019, following the *Pursuing America’s Greatness* decision, RAD has sent 13 RFAIs (in addition to the one sent to the Committee) to unauthorized committees that included at least a portion of a candidate’s name in the committees’ names on their Statements of Organization in all capital letters similar to the Committee’s name, in what the Request has characterized as an acronym.<sup>29</sup>

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<sup>26</sup> Standard 2, 2023-2024 RAD Review and Referral Procedures (Redacted) at 39, <https://www.fec.gov/resources/cms-content/documents/Final-Redacted-2023-2024-RAD-Review-Referral-Procedures.pdf>.

<sup>27</sup> The Commission took the same approach in 2021 when it approved the Campaign Guide for Congressional Candidates and Committees, which removed the reference to 11 C.F.R. § 102.14(a) and replaced it with a reference to 52 U.S.C. § 30102(e)(4). See Campaign Guide for Congressional Candidates and Committees, Federal Election Commission, Oct. 2021, at 9 n.7, <https://www.fec.gov/resources/cms-content/documents/policy-guidance/candgui.pdf>.

<sup>28</sup> *Accord* Advisory Opinion 2019-16 (Shemanski) at 2 (concluding that an unauthorized committee could use the initials “DT” in its registered name because those initials are “not commonly used to refer to President Trump,” and “there [were] at least two other federal officeholders with the initials ‘DT’ who [were] also candidates for re-election in 2020, Representative David Throne of Maryland and Representative Dina Titus of Nevada”).

<sup>29</sup> See RFAI, ASA PAC, INC. (May 30, 2023); RFAI, MARLIN PAC (Apr. 27, 2023); RFAI, DANA PAC (Feb. 13, 2023); RFAI, MADISON PAC (Dec. 20, 2022); RFAI, REPUBLICANS UNITED TO DEFEND YOU PAC (RUDY PAC) (Sept. 13, 2022); RFAI, DOSE OF REALITY, OPTIMISM AND ZEAL PA PAC (DR OZ PA PAC) (Aug. 17, 2022); RFAI, Fung Yeah (Aug. 4, 2022); RFAI, KILEY ELECTION VICTORY PAC (KEVPAC) (June 22, 2022); RFAI, KYLE PAC Knowledgeable unYielding Leadership Experienced (June 14, 2022); RFAI, Making A Difference In Service to Our Nation (MADISON PAC) (Sept. 15, 2020); RFAI, Forever Youth Organization Utilizing a New Generation PAC (Forever Y.O.U.N.G. PAC) (Sept. 14, 2020); RFAI, Traitorous Racist Unqualified Megalomaniac Puppet (TRUMP) Super PAC (June 30, 2020); RFAI, Freedom Rings Every Day PAC (aka FRED PAC) (July 10, 2019).

### **III. THE COMMITTEE MAY NOT INCLUDE “TRUMP” IN ITS NAME ON ITS STATEMENT OF ORGANIZATION**

#### **A. RAD’s Consistent Application of Standard 2**

The Request contends that RAD inconsistently sends RFAs for including candidate names in committee names, pointing to several unauthorized committees that did not receive RFAs although their “names constitute acronyms that spell out the name of a federal candidate or include the actual candidate’s name.”<sup>30</sup> Each of the committee names identified in the Request are distinguishable from the Committee’s inclusion of “Trump” in its name.

As discussed above, “Trump” is a name that clearly refers to only one person registered as a candidate, former President Donald Trump; there are currently no other candidates in any election with the name of “Trump” for the current or any upcoming election cycle.<sup>31</sup> The Request contends that its use of “Trump” is similar to the use of “Ron” in the name of “Ron Response PAC,” which did not receive an RFA.<sup>32</sup> But unlike “Trump,” who is the only registered candidate for an upcoming election with that name, there are presently four federal candidates with the name “Ron” (De Santis, Vitiello, Estes, and Johnson), and four additional candidates with the name “Ronald,” “Ronda,” or “Ronny” (Tupa, Kennedy, Jackson, and Wyden).<sup>33</sup> Accordingly, RAD, consistent with its practice as stated in the 2023-2024 RAD Review and Referral Procedures, found the inclusion of “Ron” in Ron Response PAC to be ambiguous and did not send an RFA.

The Request also identifies four unauthorized committees, all leadership PACs, that did not receive RFAs although their names include the name of a federal candidate, and questions whether leadership PACs are treated more leniently than it has been.<sup>34</sup> They are not.<sup>35</sup> Two of these committees’ names spell an acronym of a federal candidate’s name formed from the initial letter of each word in the committee name.<sup>36</sup> But these committees do not include the

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<sup>30</sup> Attachment at 3.

<sup>31</sup> *See supra*, note 4 and related text.

<sup>32</sup> Attachment at 3 (arguing that “Ron” is not ambiguous because it includes the first name of a candidate “the committee is organized to oppose”).

<sup>33</sup> *See* Candidates, Campaign finance data, [https://www.fec.gov/data/candidates/?q=ron&election\\_year=2023&election\\_year=2024&election\\_year=2025&election\\_year=2026&election\\_year=2027&election\\_year=2028&is\\_active\\_candidate=true&has\\_raised\\_funds=true](https://www.fec.gov/data/candidates/?q=ron&election_year=2023&election_year=2024&election_year=2025&election_year=2026&election_year=2027&election_year=2028&is_active_candidate=true&has_raised_funds=true) (search of candidate database for “Ron” in 2023-2028) (last visited Nov. 15, 2023).

<sup>34</sup> *See* Attachment at 2, 3-4; *see also* 52 U.S.C. § 30104(i)(8) (providing that a leadership PAC “is not an authorized committee of [a] candidate”).

<sup>35</sup> RAD sends RFAs to leadership PACs that meet the criteria in Standard 2 of the 2023-2024 RAD Review and Referral Procedures. *See, e.g., supra*, note 29 and related text (identifying application of Standard 2 RFAI practice for past four years consistent, including to several leadership PACs).

<sup>36</sup> *See* Statement of Organization, Building Leadership & Inspiring New Enterprise PAC (July 18, 2018) (not

candidate’s name (in the form of an acronym or any other form) on Line 1 of Form 1 and, therefore, did not meet the criteria for sending an RFAI. The Committee’s name, which includes the candidate’s name “Trump” in its name on Line 1 of its Statement of Organization, is materially distinguishable. The Request further identifies two unauthorized committees that include acronyms that spell out the name of a federal candidate on Line 1 of their Form 1s and did not receive an RFAI.<sup>37</sup> Both of these committees were organized and registered with committee names that included portions of candidate names prior to the inclusion of the “portion thereof” language in the 2015-2016 RAD Review and Referral Procedures: CAROLYN’S PAC in 1998 and COLE PAC in 2004. While RAD did review existing committees for adherence to the revised standard when it was adopted, these two committees were apparently overlooked and were not sent RFAs retroactively. Since they have been brought to RAD’s attention, they will now be reviewed for adherence to the same RAD Review and Referral Procedures applied to the Committee’s Statement of Organization and other committees over the years since the “portion thereof” language was adopted.<sup>38</sup> The Commission should conclude that the RFAI sent to the Committee is well-within RAD’s current practices and procedures.

## **B. Legal Correctness of RAD’s Application of Standard 2**

The only legal authority the Request cites in support of its position that the RFAI was improper is MUR 6213 (DUMPREID PAC). As discussed above, the Commission explicitly found in MUR 6213 that an unauthorized committee may have violated section 30102(e)(4) by including the name of federal candidate Reid in the committee’s name and cautioned the committee to change its name. The Commission also unequivocally stated that “‘an acronym or abbreviation’ do[es] not change the fact that [a candidate’s] name is listed as part of the official name of the Committee.”<sup>39</sup> With respect to the use of an acronym, the Committee’s inclusion of “Trump” in its name is materially indistinguishable from the use of “Reid” in Decidedly Unhappy Mainstream Patriots Rejecting Evil-mongering Incompetent Democrats Political Action Committee (DUMPREID PAC) in MUR 6213. Both committees include in their names, in all capital letters, a name that clearly identifies a candidate; both committees characterize the candidate’s name as an acronym. The Request does not offer any authority or cite any changes in the law that warrant revisiting the approach the Commission took in MUR 6213, *i.e.*, to treat what is characterized by the committee as an acronym as a name and to assess its use in the committee’s name on its Statement of Organization under 52 U.S.C. § 30102(e)(4).

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including “Blaine” acronym formed by committee name on Line 1 of Statement of Organization); Amended Statement of Organization, Support Taxfighters & Elect Effective Leaders PAC (Jan. 14, 2023) (not including “Steele” acronym formed by committee name on Line 1 of Statement of Organization).

<sup>37</sup> See Statement of Organization, Conservative Opportunity Leadership and Enterprise PAC (COLE PAC) (Aug. 4, 2004); Amended Statement of Organization, CAROLYN’S PAC (Mar. 31, 2010).

<sup>38</sup> See *supra*, note 29 and related text (identifying application of Standard 2 RFAI practice for past four years consistent with the RFAI sent to the Committee).

<sup>39</sup> Factual and Legal Analysis, MUR 6213 (DUMPREID PAC) at 4.



Moreover, MUR 6213 was followed by both the court decision in *Stop Hillary PAC* and the subsequent MUR conciliation with Stop Hillary PAC in MUR 7086, in which the Commission found the inclusion of “Hillary” in the name of “Stop Hillary PAC” violated 52 U.S.C. § 30102(e)(4). The Request, citing no legal authority, argues that there is no risk of public confusion with the Committee’s use of “Trump” in its name because acronyms<sup>40</sup> in long names of political committees are “so common that news articles often write about them” and the Committee’s name “unequivocally shows opposition to Donald Trump.”<sup>41</sup> But as discussed above, in concluding that an unauthorized committee could not use the name “Stop Hillary PAC,” the U.S. District Court of the Eastern District of Virginia explained that “the possibility of public confusion still exists” and that members of the public could see a political committee unambiguously opposing one candidate and “mistakenly get the impression that the PAC was in fact an authorized PAC supporting one of [the candidate’s] opponents.”<sup>42</sup> The Commission’s subsequent finding and conciliation of a violation by Stop Hillary PAC demonstrates that the bright line of 52 U.S.C. § 30102(e)(4) is clear for even committees opposing the clearly identified candidate in the committee’s name.

Finally, the Request argues that the “ordinary textbook definition of ‘acronym’ does not support the notion that an acronym is a ‘name.’”<sup>43</sup> The Committee cites two dictionary definitions of “acronym,” including Merriam-Webster Dictionary, which defines “acronym” as a “word (such as NATO, radar, or laser) formed from the initial letter or letters of each of the successive parts or major parts of a compound term.”<sup>44</sup> But this argument is unpersuasive because the Request does not provide any authority in support of its contention that an acronym cannot also be a name, which is the relevant term in section 30102(e)(4).

The dictionaries cited in the Request define “name” as a “word that a person, thing, or place is known by”<sup>45</sup> or “a word or phrase that constitutes the distinctive designation of a person or thing.”<sup>46</sup> The definitions of “acronym” and “name,” when looked at in conjunction, indicate that a word (such as “NATO”) can be both an acronym and a name by which a person is known.<sup>47</sup> Thus, despite the Request’s attempt to redefine or recharacterize the name “Trump” as

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<sup>40</sup> The Request does not address that an acronym can also be a name, which is discussed below.

<sup>41</sup> Attachment at 4.

<sup>42</sup> *Stop Hillary PAC*, 166 F. Supp. 3d at 648-49 (internal alterations omitted)

<sup>43</sup> Attachment at 3.

<sup>44</sup> *Acronym*, Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/acronym> (last visited Nov. 27, 2023); see also Attachment at 3 (quoting Cambridge Dictionary definition of “acronym” as “an abbreviation consisting of the first letters of each word in the name of something, pronounced as a word”).

<sup>45</sup> *Name*, Cambridge Dictionary, <https://dictionary.cambridge.org/us/dictionary/english/name> (last visited Nov. 27, 2023).

<sup>46</sup> *Name*, Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/name> (last visited Nov. 27, 2023).

<sup>47</sup> See *About us*, North Atlantic Treaty Organization, <https://www.nato.int/cps/en/natohq/organisation.htm>

an acronym, the Request has not shown that “Trump” is not also a name. And, more importantly, the Request has not shown that the name “Trump” in the Committee’s name does not clearly identify only one person registered as a federal candidate: Donald Trump.<sup>48</sup> Consistent with MUR 6213 (DUMPREID PAC), the fact that the Committee includes “Trump” as an apparent acronym in its name on its Statement of Organization does not change that it is a name of a clearly identified candidate in the name of an unauthorized committee on its Statement of Organization, in apparent violation of section 30102(e)(4).<sup>49</sup>

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In sum, the Act, court opinions, Commission MURs and advisory opinions, the RAD Review and Referral Procedures, and RAD practice all consistently lead to the conclusion that the Commission should reject the Committee’s argument and determine that the Committee’s name on its Statement of Organization includes the name of a federal candidate as proscribed by 52 U.S.C. § 30102(e)(4).

#### IV. RECOMMENDATION

For the reasons stated above, we recommend that the Commission conclude that the Committee’s name on its Statement of Organization includes the name of a federal candidate as proscribed by 52 U.S.C. § 30102(e)(4).

#### Attachment

Letter from Jon Berkon, Request for Consideration of Legal Question, Stop These Oppressive People: Tyrants Racists Unqualifieds Misogynists Propagandists (“STOP TRUMP”) (Oct. 18, 2023).

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(last visited Nov. 27, 2023) (referring to both its full name and acronym in reference to itself).

<sup>48</sup> See *supra*, note 4 and related text.

<sup>49</sup> An additional concern with concluding that an acronym cannot, by law, be a name is possible inconsistency with or frustration of the Commission’s recent amendments to regulations concerning internet public communication disclaimers. See Internet Communication Disclaimers and Definition of “Public Communication,” 87 Fed. Reg. 77,467 (Dec. 19, 2022). The Commission approved the use of “a commonly understood abbreviation or acronym by which the person or persons are known” in lieu of the full name in adapted disclaimers that might not otherwise conveniently or practicably accommodate the payor’s full name. 11 C.F.R. § 110.11(g)(1)(i). Of note, adapted disclaimers for communications not authorized by candidates must satisfy the general disclaimer requirements, which require disclaimers to “clearly state the full name” of the payor, among other requirements. *Id.* § 110.11(b)(3); *id.* § 110.11(g)(1)(i) (requiring any adapted disclaimer to satisfy 11 C.F.R §110.11(b)).

October 18, 2023

**VIA EMAIL**

Federal Election Commission  
Attn: Commission Secretary  
1050 First Street, NE  
Washington, DC 20463  
[LegalRequestProgram@fec.gov](mailto:LegalRequestProgram@fec.gov)

**Re: Request for Consideration of Legal Question, Stop These Oppressive People:  
Tyrants Racists Unqualifieds Misogynists Propagandists**

Dear Commissioners:

Pursuant to the Reports Analysis Division Legal Question Resolution Program, 92 Fed. Reg. 30,741 (May 12, 2023), Stop These Oppressive People: Tyrants Racists Unqualifieds Misogynists Propagandists (the “**Committee**”), seeks consideration from the Federal Election Commission (“**Commission**” or “**FEC**”) on whether the use of the acronym STOP TRUMP on its Statement of Organization violates 52 U.S.C. § 30102(e)(4) because it forms the name of a federal candidate.

**Background**

The Committee is a hybrid PAC that filed its Statement of Organization with the Commission on August 9, 2023.<sup>1</sup> On August 27, 2023, the Committee received a Request for Additional Information (“**RFAI**”) from the Reports Analysis Division (“**RAD**”) concerning the Committee’s Statement of Organization and whether the Committee was in violation of 52 U.S.C. §30102(e)(4). Under 52 U.S.C. § 30102(e)(4), a statement of organization filed by authorized committees must “include the name of the candidate who authorized such committee,” but in the case of unauthorized political committees, the statement “shall not include the name of any candidate in its name.”<sup>2</sup> The RFAI directed the Committee to “amend [its] Statement of Organization to change the name of [the Committee] so that it does not include the candidate’s name and/or provide further clarification regarding the nature of [the] [C]ommittee.”<sup>3</sup>

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<sup>1</sup> Stop These Oppressive People: Tyrants Racists Unqualifieds Misogynists Propagandists (STOP TRUMP), Statement of Organization (Aug. 9, 2023),

<https://docquery.fec.gov/pdf/052/202308099596506052/202308099596506052.pdf>.

<sup>2</sup> 52 U.S.C. § 30102(e)(4).

<sup>3</sup> Request For Further Information (Aug. 27, 2023),

<https://docquery.fec.gov/pdf/447/202308270300191447/202308270300191447.pdf>.

On October 2, 2023, the Committee responded to the RFAI by noting that it the Committee explained that it intended to use the acronym STOP TRUMP on its website, social media, and as the name of various programs and projects.<sup>4</sup> The Committee explained that was well within its First Amendment rights to use the acronym STOP TRUMP online and in special projects,<sup>5</sup> and that it included the acronym on line 1 of its Statement of Organization to provide transparency to members of the public. The Committee further responded that it was not an authorized committee of any federal candidate and that its name did not include the name of a federal candidate.<sup>6</sup> In particular, the Committee asserted that the use of an acronym does not violate the Act's prohibition on an unauthorized committee's inclusion of a candidate's name in its name. The Committee also pointed out that committees registered with the FEC routinely use acronyms that spell out names of federal candidates.<sup>7</sup>

On October 4, 2023, a RAD analyst informed the Committee that its response to the RFAI was not sufficient because the majority of the examples cited in the response were either leadership PACs or cases where the reference to the candidate was ambiguous (*e.g.*, Ron Response PAC). Even though leadership PACs are unauthorized committees just like the Committee, the analyst claimed that leadership PACs were different because they have the candidate listed as a sponsor on the Statement of Organization. The analyst informed the Committee that it would be referred to the Alternative Dispute Resolution Office unless the Committee filed a Form 1 changing its name.

### **Analysis**

The Legal Question Resolution Program permits committees to seek Commission consideration of a determination by "RAD that a person remains obligated to take corrective action to resolve an issue that has arisen during the report review" if there is a material dispute on a question of law on the recommended corrective action and the request is submitted within 15 days of RAD's determination.<sup>8</sup> A question of law warrants Commission consideration if:

(1) the legal issue is novel, complex, or pertains to an unsettled question of law; (2) there has been intervening legislation, rulemaking, or litigation since the Commission last considered the issue; or (3) the request to take corrective action is contrary to or otherwise inconsistent with prior Commission matters dealing with the same issue.<sup>9</sup>

The Committee's request satisfies these standards. The response is timely filed because RAD informed the Committee on October 4, 2023, of its determination that the Committee remained obligated to take corrective action despite the Committee's thorough response to the

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<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> See Stop These Oppressive People: Tyrants Racists Unqualifieds Misogynists Propagandists (STOP TRUMP), Miscellaneous Text (FEC Form 99), <https://docquery.fec.gov/pdf/112/202310029597392112/202310029597392112.pdf> (Oct. 2, 2023).

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

<sup>8</sup> RAD Legal Question Resolution Program, 92 Fed. Reg. 30,741, 30,741 (May 12, 2023).

<sup>9</sup> *Id.*

RFAI. Further, there exists a material dispute on the question of whether the Committee must remove the acronym from its Statement of Organization to comply with 52 U.S.C. § 30102(e)(4). As explained below, the Committee's position is that contrary to RAD's determination, its name fully complies with 52 U.S.C. § 30102(e)(4).

*First*, as explained in its response to the RFAI, the Committee's name does not use a federal candidate's name. Rather, the Committee's name—Stop These Oppressive People: Tyrants Racists Unqualifieds Misogynists Propagandists—forms an acronym, "STOP TRUMP," which the Committee simply indicated on Line 1 of its Statement of Organization. Use of the STOP TRUMP acronym on the Form 1 cannot be reasonably viewed as the "name" of a federal candidate. To be sure, "acronym" is defined as an "abbreviation consisting of the first letters of *each word in the name of something, pronounced as a word*."<sup>10</sup> The ordinary textbook definition of "acronym" does not support RAD's determination that it is somehow a "name" and thus the Committee is in violation of 52 U.S.C. § 30102(e)(4).

*Second*, while there has been at least one enforcement action involving a committee that used an acronym as part of its official name, the Commission did not definitively settle the question on whether the acronym violated 52 U.S.C. § 30102 (e)(4). MUR 6213 involved an unauthorized committee that included the following name on its Statement of Organization: "Decidedly Unhappy Mainstream Patriots Rejecting Evil-mongering Incompetent Democrats Political Action Committee (DUMPREID PAC)."<sup>11</sup> Although the Office of General Counsel took the position that the committee "has violated, and is still violating" the Act "by including Senator Reid's last name in a parenthetical,"<sup>12</sup> the Commission did not adopt such a finding. Instead, the Commission simply noted that the Committee "*may* have violated" the Act and ultimately dismissed the matter.<sup>13</sup> As a result, the Commission has not definitively settled the question of whether the use of an acronym that forms the name of a federal candidate on the Statement of Organization violates the Act. The Committee strongly urges the Commission to resolve this question now by firmly concluding that its use of an acronym does not constitute a "name" for purposes of 52 U.S.C. § 30102(e)(4).

*Third*, RAD's determination that the examples included in the Committee's response are either ambiguous or involve leadership PACs, rendering them different from the Committee, is clearly erroneous and requires reversal by the Commission. There is nothing ambiguous about Ron Response PAC; it actually includes the first name of a federal candidate, and the committee is organized to oppose that candidate's presidential bid. To date, this committee has not been asked to change its name. Further, RAD's conclusion that leadership PACs are somehow different because they are sponsored by federal candidates is a distinction without any meaning under 52 U.S.C. § 30102(e)(4). Just like the Committee, a leadership PAC "*is not* an authorized committee of the candidate or officeholder and is not affiliated with an authorized committee of a candidate

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<sup>10</sup> Cambridge Dictionary, <https://dictionary.cambridge.org/us/dictionary/english/acronym> (last visited Oct. 18, 2023) (emphasis added); see also Merriam Webster, <https://www.merriam-webster.com/dictionary/acronym> (last visited Oct. 18, 2023) (similar definition).

<sup>11</sup> See First General Counsel's Report at 1, MUR 6213 (Decidedly Unhappy Mainstream Patriots Rejecting Evil-mongering Incompetent Democrats Political Action Committee (DUMPREID PAC)).

<sup>12</sup> *Id.* at 5.

<sup>13</sup> Factual & Legal Analysis at 4-5, MUR 6213 (Decidedly Unhappy Mainstream Patriots Rejecting Evil-mongering Incompetent Democrats Political Action Committee (DUMPREID PAC)).

or officeholder.”<sup>14</sup> Indeed, the Commission’s guidance states that leadership PACs “operate under the same rules as other nonconnected committees.”<sup>15</sup> As noted in the Committee’s response to the RFAI, there are several examples of unauthorized committees whose names constitute acronyms that spell out the name of a federal candidate or include the actual candidate’s name.<sup>16</sup> There is no legal reason for treating the Committee any differently from these committees.

*Finally*, there is no risk of public confusion with the Committee’s use of an acronym that spells out the name of a federal candidate. Using such acronyms is so common that news articles often write about them.<sup>17</sup> With the name (and acronym), “Stop These Oppressive People: Tyrants Racists Unqualifieds Misogynists Propagandists (STOP TRUMP),” the public will not mistake the Committee as being affiliated with or authorized by candidates Donald Trump or Joe Biden. The Committee’s name unequivocally shows opposition to Donald Trump, and any ads it disseminates to the public will include the required disclaimer stating that the ad “is not authorized by any candidate or candidate’s committee.” Thus, the name and required disclaimer eliminate any risk of confusion about the Committee’s status vis-à-vis any federal candidates.

### **Conclusion**

For the reasons outlined above, the Committee does not believe that including an acronym that forms the name of a federal candidate on a Statement of Organization violates 52 U.S.C. § 30102(e)(4).<sup>18</sup> However, RAD has determined that the Committee is in violation of 52 U.S.C. § 30102(e)(4) and has advised the Committee to take corrective action by amending its Statement

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<sup>14</sup> FEC, Types of Nonconnected PACs, <https://www.fec.gov/help-candidates-and-committees/registering-pac/types-nonconnected-pacs/#:~:text=A%20leadership%20PAC%20is%20defined,an%20authorized%20committee%20of%20a> (last visited Oct. 18, 2023).

<sup>15</sup> *Id.*

<sup>16</sup> These include:

- “Conservative Opportunity Leadership and Enterprise PAC (COLE PAC),” which is currently operating as the leadership PAC of Representative Tom Cole;
- “Building Leadership & Inspiring New Enterprise PAC,” (BLAINE PAC) which is currently operating as the leadership PAC of Representative Blaine Luetkemeyer; and
- Support Taxfighters & Elect Effective Leaders PAC” (STEEL PAC), which is currently operating as the leadership PAC of Representative Michelle Steel.
- CAROLYN’s PAC is the leadership PAC of Representative Carolyn Maloney.

<sup>17</sup> See, e.g., Herb Jackson, *Leadership PACs are often overlooked. These corny names can’t be ignored*, RollCall, (Apr. 20, 2021), <https://rollcall.com/2021/04/20/leadership-pacs-fundraising-names/> (last visited Oct. 18, 2023); Eliza Newlin Carney, *Roll Call’s Guide to the Most Clever Leadership PAC Names* (Feb. 20, 2015), <https://rollcall.com/2015/02/20/roll-calls-guide-to-the-most-clever-leadership-pac-names-2/>; Colin Campbell, *Tillis acronyms his first name, launches PAC*, The News & Observer (Jan. 7, 2015), <https://www.newsobserver.com/news/politics-government/politics-columns-blogs/under-the-dome/article10214774.html> (last visited Oct. 18, 2023).

<sup>18</sup> There is no question that the Committee is permitted to use the acronym “STOP TRUMP” in projects. Commission regulations at one time prohibited the use of a candidate’s name by nonconnected committees in any “project name or other designation,” but that regulation was found to be unconstitutional in *Pursuing America’s Greatness v. FEC*, 363 F.Supp.3d 94 (D.D.C. 2019). Even when the regulation was in effect, it permitted the use of a candidate’s name in the title of a special project if the title “clearly and unambiguously shows opposition to the named candidate.” 11 CFR § 102.14(b)(3).

of Organization to remove the acronym on Line 1. Accordingly, the Committee respectfully requests Commission consideration of whether the use of the acronym STOP TRUMP on its Statement of Organization violates 52 U.S.C. § 30102(e)(4). Thank you in advance for your consideration of this question of law.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Jon Berkon", with a stylized flourish extending to the right.

Jon Berkon  
Ellie Poston  
Jonathan Peterson

Counsel to Stop These Oppressive People: Tyrants Racists Unqualifieds  
Misogynists Propagandists (STOP TRUMP)