



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 26, 2023

MEMORANDUM

TO: The Commission

FROM: Neven F. Stipanovic *NS* for NFS
Associate General Counsel
Policy Division

Jessica Selinkoff *JS*
Assistant General Counsel
Compliance Advice

Danita Alberico *DA*
Attorney

Joshua Blume *JB*
Attorney

SUBJECT: Request for Consideration of Legal Questions Submitted by the Madison Project, Inc. (LRA 1163)

I. INTRODUCTION

On December 27, 2022, the Commission received a Request for Consideration of Legal Questions (“Request”) from Madison Project, Inc. (the “Committee”), a nonconnected committee that is currently undergoing a Commission audit.¹ The Request questions the legal validity of the proposed “Reporting of Apparent Independent Expenditures” audit finding that would categorize some of the Committee’s fundraising communications referencing candidates for President, the U.S. House of Representatives, and the U.S. Senate as independent expenditures. The Request asserts that the cost of these fundraising communications are not

¹ See Attachment (including the Committee’s December 5, 2022, response to the exit conference held on November 18, 2022, at Attachment 3-7 and a spreadsheet the Committee sent with that response, at Attachment 8-10, both of which the Committee reference in, and forwarded with, the Request).

independent expenditures as a matter of law.² The Committee does not challenge the preliminary conclusions that the communications contain language satisfying the express advocacy definition but, rather, challenge whether solicitations, generally, and solicitations to recipients outside of the district or state in which referenced candidates are seeking election, more specifically, can be independent expenditures.

We have considered the Committee's arguments and the relevant law, and we recommend that the Commission conclude that the costs of these fundraising communications should be included in the reporting of apparent independent expenditures audit finding, as proposed.

II. FUNDRAISING SOLICITATION COMMUNICATIONS AS INDEPENDENT EXPENDITURES

The Committee first argues that the communications in the proposed finding are not independent expenditures as a matter of law because the communications solicit funds for the Committee's general operations and references to candidates in those communications "are incidental to action that is urged, *i.e.*, the giving of funds."³ We conclude that the costs of fundraising communications by political committees are not, as a matter of law, categorically exempt from being treated as independent expenditures.

As defined in the Federal Election Campaign Act, 52 U.S.C. §§ 30101-45 (the "Act"), and Commission regulations, an "independent expenditure" is an expenditure for a communication expressly advocating the election or defeat of a clearly identified candidate that is not coordinated with a candidate, a party committee, or one of their agents.⁴ A communication expressly advocates the election or defeat of a clearly identified federal candidate if it uses phrases such as "vote for the President," "re-elect your Congressman," "support the Democratic nominee," "cast your ballot for the Republican challenger for U.S. Senate in Georgia," "Smith for Congress," "Bill McKay in '94," "vote Pro-Life" or "vote Pro-Choice" accompanied by a listing of clearly identified candidates described as Pro-Life or Pro-Choice, "vote against Old Hickory," "defeat" accompanied by a picture of one or more candidate(s), "reject the incumbent" or communications of campaign slogan(s) or individual word(s), which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate(s), such as posters, bumper stickers,

² The Request also made a specific argument that a subset of communications referencing Senator Mitt Romney are not independent expenditures. Attachment at 1-2. This Office and the Audit Division agreed with the Committee that these communications should be removed from the proposed finding. *See* Policy Statement Regarding a Program for Requesting Consideration of Legal Questions by the Commission, 84 Fed. Reg. 36,602 (July 29, 2019) (allowing informal resolution). Because the inclusion of the Romney communications in the proposed finding was informally resolved, we do not address legal issues relating to that in this memorandum.

³ Attachment at 4.

⁴ 52 U.S.C. § 30101(17); 11 C.F.R. § 100.16.

advertisements, etc., which say “Nixon’s the One”, “Carter ‘76”, “Reagan/Bush” or “Mondale!”⁵ A communication also constitutes express advocacy if, when taken as a whole and with limited reference to external events, such as the proximity to the election, it could only be interpreted by a reasonable person as containing advocacy for the election or defeat of one or more clearly identified candidate(s), because: “(1) [t]he electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning; and (2) [r]easonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidate(s) or encourages some other kind of action.”⁶

In adopting the definition of express advocacy in section 100.22, the Commission explained that the “subjective intent of the speaker” is not a relevant consideration when deciding whether a communication contains express advocacy.⁷ Moreover, the Commission explained that urging recipients to contribute money to a candidate may be deemed express advocacy, stating that “exhortations to contribute time or money to a candidate would also fall within the revised definition of express advocacy. The expressions enumerated in *Buckley* included ‘support,’ a term that encompasses a variety of activities beyond voting.”⁸

Though the Commission’s explanation of section 100.22 focused on solicitations of contributions *to candidates* as express advocacy, the Commission has also addressed solicitations of contributions *to nonconnected committees* in the audit and MUR contexts. In the last decade, the Commission has approved findings in six audits of nonconnected committees relating to the costs of fundraising communications as independent expenditures.⁹ The Commission has also been unable to agree by four votes on including independent expenditure findings for fundraising

⁵ 11 C.F.R. § 100.22(a).

⁶ *Id.* § 100.22(b).

⁷ Express Advocacy; Independent Expenditures; Corporate and Labor Expenditures, 60 Fed. Reg. 35,292, 35,295 (July 6, 1995) (“Express Advocacy E&J”).

⁸ *Id.* at 35,294 (referencing *Buckley v. Valeo*, 424 U.S. 1 (1976)); *see also* *FEC v. Christian Coalition*, 52 F.Supp.2d 45, 61-62 (D.D.C. 1999) (“The most obvious electoral action is to vote for or against the candidate. But as the *Buckley* Court recognized when it included the verb ‘support’ in its non-exclusive list, express advocacy also includes verbs that exhort one to campaign for, or contribute to, a clearly identified candidate.”) (internal citation omitted).

⁹ *See* Final Audit Report on Conservative Majority Fund at 16-17 (Dec. 6, 2017); Final Audit Report on Freedom’s Defense Fund at 12-13 (Dec. 6, 2017); Final Audit Report on Conservative Campaign Committee at 5-10 (Feb. 22, 2017); Final Audit Report on TeaPartyExpress.org at 10-15 (Jan. 23, 2017); Final Audit Report on National Campaign Fund at 9, 12-13 (Oct. 12, 2012); Final Audit Report on Legacy Committee Political Action Committee at 8, 10 (July 31, 2012).

solicitations in audits of two nonconnected committees¹⁰ and two party committees.¹¹ All of these audits followed an enforcement matter where the Commission found reason to believe that a failure to file independent expenditure reports for the costs of fundraising letters expressly advocating the election or defeat of clearly identified candidates violated the Act.¹² Finally, in another MUR concerning an organization's failure to organize, register, and report as a political committee, the Commission conciliated those violations with the organization based, in part, on a conclusion that the costs of the organization's fundraising communications were expenditures containing express advocacy.¹³ The signed and accepted conciliation agreement states that the "Commission concludes that SwiftVets' fundraising letters unmistakably exhort the recipients to contribute funds to prevent Kerry from becoming President" and, furthermore, that an example fundraising communication constitutes express advocacy under 11 C.F.R. § 100.22(a) "because it references an election and specific candidates, and it advocates action — in this case contributing funds — designed to lead to the candidate's defeat in the election."¹⁴

The Committee argues that because the Commission previously divided 3-3 on the question of whether fundraising communications in the audit of the Mississippi Republican Party could be characterized as independent expenditures, it should not make such a finding now.¹⁵

¹⁰ See Certification in the Matter of Request for Consideration of a Legal Question by 21st Century Democrats, ADR Case # 1083 (Apr. 9, 2021) (splitting 3-3 on recommendation to proceed with independent expenditure audit finding for fundraising solicitations); Certification in the Matter of 21st Century Democrats – Audit Update and Rescind Authority to Audit, ADR Case # 1083 (June 27, 2022) (directing transfer of audit to Alternative Dispute Resolution, with the exception of a finding concerning fundraising communications as independent expenditures); Certification in the Matter of Rightmarch.com PAC, Inc. (LRA 842) (Apr. 7, 2011) (splitting 3-3 on recommendation to include cost of fundraising communications in independent expenditure finding, which was the subject of a Request for Consideration of a Legal Question that also split 3-3); Final Audit Report on Rightmarch.com PAC, Inc., at 13-18 (Feb. 26, 2013) (identifying independent expenditure reporting as an additional issue).

¹¹ See Certification, Proposed Final Audit Report on Republican Party of Minnesota (Jan. 26, 2022) (approving edit to Final Audit Report to state that some commissioners voted to not approve independent expenditure reporting finding); Certification, Audit Division Recommendation Memorandum on the Mississippi Republican Party (Jan. 28, 2021) (failing to agree by four votes to include a finding relating to the reporting of fundraising communications as independent expenditures).

¹² See Factual & Legal Analysis, MUR 5809 (Christian Voter Project) (Sept. 20, 2006) (finding reason to believe that committee failed to file independent expenditure reports); General Counsel's Report #2, MUR 5809 (Christian Voter Project) (Apr. 16, 2007) (identifying the communications as mailed fundraising letters).

¹³ See Conciliation Agreement ¶¶ IV.24, IV.31, MURs 5511 and 5525 (Swiftboat Veterans and POWs for Truth) (Dec. 13, 2006).

¹⁴ *Id.* ¶ IV.24.

¹⁵ See Attachment at 4; *see also supra*, note 11 and related text.

In support of its argument, the Committee cites a Statement of Reasons by two Commissioners in MUR 5564 for the proposition that “when the Commission fails to proceed against a respondent on a certain legal theory, it should not proceed against subsequent respondents in the future on that legal theory absent promulgation of a new regulation.”¹⁶ We do not agree that the Commission’s ability to include the Committee’s communications in the proposed independent expenditure reporting finding is precluded, barring a rulemaking, because of the split votes in the Mississippi Republican Party and 21st Century Democrats audits. First, the Statement of Reasons in MUR 5564 represents the views of two Commissioners and is not, therefore, dispositive.¹⁷ Second, the regulatory terms at issue here — “independent expenditure” and “express advocacy” — have long been defined in both the Act and Commission regulations, and those same definitions have been applied to communications similar to the Committee’s in support of audit and MUR findings for over a decade.¹⁸ This differs from the regulatory environment considered in MUR 5564, which concerned coordinated communication and party coordinated expenditure rules that were the subject of a contemporaneous series of court challenges and rulemakings following the Bipartisan Campaign Reform Act of 2002 (“BCRA”).¹⁹

The Committee also cites *Motor Vehicle Manufacturers Ass’n v. State Farm Mutual Automobile Insurance Co.*, in support of its argument that the Commission is constrained in this matter from including the Committee’s communications in an independent expenditure finding because of the Commission’s prior split vote in the Mississippi Republican Party audit.²⁰ In the *State Farm* case, which concerned an agency’s inadequately reasoned or grounded rescission of a safety standard promulgated under the Administrative Procedure Act’s rulemaking provisions, the Supreme Court concluded that agencies must supply reasoned grounds for their changed rulemaking decisions.²¹ *State Farm* is not applicable to the proposed audit finding now under consideration. The proposed audit finding does not concern a change in the rules to be applied.

¹⁶ Attachment at 4 (citing Statement of Reasons of Vice Chairman Mason and Commissioner von Spakovsky at 2-3, 10, MUR 5564 (Alaska Democratic Party and Tony Knowles for Senate) (Dec. 21, 2007) (explaining those commissioners’ understanding of effect of post-RTB vote to not proceed to conciliation).

¹⁷ See 52 U.S.C. § 30109(a)(4) (requiring four affirmative votes to proceed to probable cause and conciliation in an enforcement matter).

¹⁸ See *supra*, notes 7, 9, 12, and 13 and related text. The earliest MUR we are aware of in which the Commission conciliated a violation for a committee’s failure to identify the costs of solicitation communications as independent expenditures was conciliated in 1978. See Conciliation Agreement at 1-2, MUR 503 (Fund for a Conservative Majority), <https://www.fec.gov/files/legal/murs/503.pdf> (“Case File PDF”) at 30-31; Gen. Counsel’s Memorandum at 2, MUR 503(Fund for a Conservative Majority), Case File PDF at 78 (identifying the communications as “fund-raising solicitations”)

¹⁹ Bipartisan Campaign Reform Act of 2002, Pub. L. 107-155, 116 Stat. 81 (2002).

²⁰ 463 U.S. 29 (1983).

²¹ *Id.* at 57.

Rather, it concerns the application of long-existing rules. As discussed above, the express advocacy definition to be applied in the proposed audit finding was adopted in 1995. The independent expenditure definition was last amended in 2003, to conform the regulation to statutory changes made the prior year in BCRA.²² Moreover, as discussed above, there is a long history of the Commission applying these regulations in audits and MURs to make findings similar to the proposed audit finding now under consideration. While it is true that the Commission has not agreed by four votes to apply these regulations to the facts before it in a smaller number of audits, the Commission has not determined, by four affirmative votes, that it will not include fundraising solicitations in independent expenditure reporting findings. Thus, we do not find the Committee's first argument against the proposed apparent independent expenditure finding persuasive.

The Committee's second argument against the proposed finding is focused on the subset of its communications that clearly identify candidates for only the U.S. House of Representatives and Senate.²³ The Committee asserts that communications referencing a candidate and sent to "persons who are not lawful voters for that candidate cannot be express advocacy of the election of that candidate."²⁴ In support of its assertion that "the overwhelming number" of its communications were not mailed to recipients in the named candidates' electoral districts, the Committee submitted a spreadsheet which it states shows the "mail pieces sent into the electoral district of the referenced candidate, as compared to the total number sent."²⁵

We disagree that the definition of "express advocacy" excludes communications mailed to recipients with addresses in states or districts other than the ones in which the clearly identified candidates are seeking office. Neither the definition of "independent expenditure" nor the definition of "express advocacy" contains any reference to the targeting of a specific electorate.²⁶ This is in stark contrast with the definition of "electioneering communication" and the coordinated communication regulation's fourth content prong standard, which both require that the communication merely "refers" to a clearly identified candidate and both expressly require the communication "target" the relevant electorate.²⁷ As the Commission explained

²² Coordinated and Independent Expenditures, 68 Fed. Reg. 421,422 (Jan. 3, 2003) ("Coordination E&J").

²³ This Office confirmed with Committee's counsel that the Committee is making this argument only with respect to the communications in the proposed finding that do not reference a presidential candidate. *Cf.* Attachment at 8-10 (indicating that 100% of communications referencing presidential candidate were sent to that candidate's "district").

²⁴ *Id.* at 1.

²⁵ *Id.* at 1, 4; *id.* at 8-10.

²⁶ 52 U.S.C. § 30101(17); 11 C.F.R. §§ 100.16, 100.22.

²⁷ 52 U.S.C. § 30104(f)(3)(A)(i)(III) (electioneering communication definition); 11 C.F.R. § 100.29(a)(3) (same); 11 C.F.R. § 109.21(c)(4) (coordinated communication content prong standard including requirement that communication be directed to voters in the jurisdiction of the clearly identified candidate); *see also* Coordination

when adopting the coordinated communication regulation, this jurisdictional targeting element serves “as an indication of whether [the communication] is election-related.”²⁸ The “express advocacy” definition, on the other hand, requires more than mere reference to a clearly identified candidate; such communications must include phrases or words that, in context, “have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate(s)” or contain an “electoral portion.”²⁹ Thus, because express advocacy communications must include language in the communication itself indicating that the communication is election-related, the definition neither requires (nor includes) an external jurisdictional targeting element as a proxy for indicating relation to an election.

The Committee argues that *FEC v. Furgatch*, in which the 9th Circuit concluded that speech cannot be express advocacy when reasonable minds could differ as to whether it encourages a vote for or against a candidate or encourages the reader to take some other type of action, supports its argument.³⁰ Specifically, the Committee argues that all communications to out-of-district recipients reference candidates “in an effort to explain to the recipient why they ought to contribute” to the Committee itself.³¹

The Committee observes that the *Furgatch* decision “served as the basis for the Commission’s current regulatory express advocacy definition.”³² Indeed, when adopting the “express advocacy” definition, the Commission explained that it was drawing from “language in the *Buckley*, *MCFL*, and *Furgatch* opinions emphasizing the necessity for communications to be susceptible to no other reasonable interpretation but as encouraging actions to elect or defeat a specific candidate.”³³ In that same paragraph, however, the Commission explained that “exhortations to contribute time or money to a candidate would also fall within the revised definition of express advocacy.”³⁴ Thus, the precise words of *Furgatch*, in a vacuum, are not dispositive of the question under consideration, given this subsequent regulatory history.

E&J, 68 Fed. Reg. at 429 (explaining that content standard “is largely based on, but is somewhat broader than, Congress’s definition of an electioneering communication”).

²⁸ Coordination E&J, 68 Fed. Reg. at 431.

²⁹ 11 C.F.R. §100.22.

³⁰ Attachment at 5 (citing *FEC v. Furgatch*, 807 F.2d 857, 863 (9th Cir. 1987)).

³¹ *Id.* at 1.

³² *Id.* at 5.

³³ Express Advocacy E&J, 60 Fed. Reg. at 35,294 (referencing *FEC v. Massachusetts Citizens For Life* (“MCFL”), 479 U.S. 238 (1986)).

³⁴ *Id.*; see also *supra*, note 8 and related text; accord Conciliation Agreement ¶ IV.24, MURs 5511 and 5525 (Swiftboat Veterans and POWs for Truth) (concluding exhortations to contribute funds to a non-registered

Furthermore, we find unpersuasive the Committee’s argument, implicit in its *Furgatch* discussion, that a communication cannot advocate two actions — one of which is soliciting contributions — while “expressly advocating.” The Commission has explained that a communication may serve more than one purpose and still contain express advocacy, writing that it will “treat communications that include express electoral advocacy as express advocacy, despite the fact that the communications happen to include issue advocacy, as well.”³⁵ Moreover, the Commission, in an advisory opinion after *Furgatch*, concluded that advertisements with two calls to action — one advocating a candidate’s defeat and another advocating contacting that candidate/officeholder — satisfies the express advocacy definition because the second call to action “does not negate the fact that the advertisements contain express advocacy under 11 C.F.R. 100.22(a).”³⁶ Although the reasoning of the Commission in these rulemaking and advisory opinion contexts concerned communications containing both electoral and issue or legislative content, we see no reason why mixed electoral and fundraising content communications should be treated differently.

In further support of its argument, the Committee cites the discussion in *Emily’s List v. FEC* of the effect of the regulation then at 11 C.F.R. § 106.7(f) on one of Emily’s List’s communications.³⁷ The court described that regulation as requiring nonconnected committees to use “hard money” for public communications “that merely ‘refer’ to federal candidates.”³⁸ In invalidating that regulation, the court illustrated the regulation’s flaws with the example of an Emily’s List communication “featuring Senator Stabenow,” then a candidate for reelection to the U.S. Senate in Michigan, “in order to support Democratic women candidates for state legislative offices.”³⁹ The communication “would not be distributed in Michigan, would not reference Senator Stabenow’s federal candidacy, would not solicit funds for her federal candidacy, and would not refer to any clearly identified non-federal candidate. Rather, it would support non-federal Democratic women candidates as a class.”⁴⁰

This *Emily’s List* example is not persuasive in support of the argument that communications mailed to recipients outside the district in which a candidate referenced in the

nonconnected committee that are “designed to lead to the candidate’s defeat in the election” contain express advocacy).

³⁵ Express Advocacy E&J, 60 Fed. Reg. at 35,295.

³⁶ Advisory Opinion 2012-11 (Free Speech) at 5 (explaining that this conclusion was similar to *MCFL*’s conclusion that “disclaimer” of endorsement did not “negate” the express advocacy).

³⁷ Attachment at 5 (citing *Emily’s List v. FEC*, 581 F.3d 1, 21 (D.C. Cir. 2009)).

³⁸ *Emily’s List*, 581 F.3d at 20.

³⁹ *Id.* at 21.

⁴⁰ *Id.*

communication seeks election must be excluded from the “express advocacy” definition. First, *Emily’s List* addresses restrictions on the raising and spending of “soft money”; the Committee is a hard money committee, notwithstanding the soft money options available to it after *Emily’s List*. Second, *Emily’s List* explicitly “does not involve reporting and disclosure obligations”;⁴¹ the proposed audit finding addresses only the proper reporting of the Committee’s activity. Third, the regulation at issue in *Emily’s List*, and the example communication discussed in the opinion, “merely refer” to a federal candidate without expressly advocating for that candidate’s election; the Committee does not challenge the preliminary audit determination that the communications in the proposed finding contain language satisfying the “express advocacy” definition at section 100.22.⁴² Fourth, the *Emily’s List* opinion considers problematic other facts in addition to distribution of the communication outside of the candidate’s home state, including that the communication advocated the election of state-office candidates and did not solicit candidate contributions; each of the Committee’s communications referencing House and Senate candidates expressly advocated for the election of at least two federal candidates, while soliciting contributions to the Committee.

Finally, we note that our conclusion in this memorandum does not assert that the Commission is foreclosed, in all circumstances, from concluding that the location of the audience receiving a communication provides context in evaluating whether that communication urges election or defeat of a clearly identified candidate.⁴³ Rather, consideration of such context should be assessed on a case-by-case basis and not as the categorical rule that the Committee now requests. In this regard, the data provided by the Committee in the spreadsheet is insufficient because it is unsupported by underlying documentation and because it does not also represent that recipients with addresses outside the district in which the referenced candidate sought election were registered to vote in the districts of their addresses.

In sum, the Committee has not presented persuasive argument as to why the plain language of the express advocacy and independent expenditure definitions should not apply to its communications both soliciting contributions and expressly advocating for the election of clearly identified federal candidates, regardless of where the recipients received the mail.

⁴¹ *Id.* at 19 n.16 (observing that the Commission “has a freer hand in imposing reporting and disclosure requirements than it does in limiting contributions and expenditures”).

⁴² *See also supra* notes 28-29 and related text.

⁴³ *See* 11 C.F.R. § 100.22(a) (referring to words “which *in context* can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate(s)”) (emphasis added); *and see id.* § 100.22(b) (referring to a communication “[w]hen taken as a whole and *with limited reference to external events*, such as the proximity to the election”) (emphasis added).

III. RECOMMENDATION

For the reasons above, we recommend that the Commission conclude that the costs of these fundraising communications should be included in the reporting of apparent independent expenditures audit finding.

Attachment

Attachment – Email from Donald F. McGahn II, Request for Consideration of Legal Questions by the Commission – Madison Project (Dec. 27, 2022) (including attached letter and spreadsheet).

From: [McGahn II, Donald F.](#)
To: [LegalRequestProgram](#); [Kendrick Smith](#); [Dayna Brown](#)
Subject: Request for Consideration of Legal Questions by the Commission - Madison Project
Date: Tuesday, December 27, 2022 10:18:55 AM
Attachments: [Madison Project audit letter 12042022.pdf](#)
[Madison Project Data Report Updated.xlsx](#)
[Statement of Availability of Records.pdf](#)
[Statement of Bank Accounts.pdf](#)

On behalf of the Madison Project, we request consideration of legal questions by the Commission in connection with the on-going audit of that political committee.

Attached is correspondence submitted on December 5, 2022 submitted to the audit division in response to the audit exit conference, that elaborates on the legal issues related to proposed finding 2. Proposed finding 2 concerns the alleged reporting of independent expenditures, where the audit division appears to have gone too far. We say “appears” since we have not yet seen an initial draft of an interim audit report, and all that has happened is an exit conference. We hope that perhaps our correspondence and materials submitted to the audit division may allow some of the legal issues to be worked out in the ordinary course, but nonetheless submit this request so as to ensure timeliness under the Commission’s policy.

The legal question regarding independent expenditures manifests itself in three ways:

1. The audit division appears to be taking the position that solicitations ought to be reported as independent expenditures. This same recommendation was made in a recent audit (Mississippi Republican Party), and the Commission did not adopt that recommendation. As explained more fully in the attached correspondence, the same ought to happen here.
2. In the alternative, the audit division appears to be overreading the Commission’s express advocacy definition, by ignoring that it requires advocacy of voting for or against a candidate for federal office. Here, the Madison Project sent personally addressed, national solicitation mailings, the overwhelming number of which were not mailed into the relevant electoral district of the referenced individual. In other words, and as more fully explained in the attached correspondence, referencing a candidate in connection with soliciting funds from persons who are not lawful voters for that candidate cannot be express advocacy of the election of that candidate. To illustrate by example: Mailing a solicitation to someone in California that says “please give us money so we can support Michigan candidate X” cannot be express advocacy of Michigan candidate X, as the California recipient cannot vote for candidate X. All solicitations of this sort will reference candidates, in an effort to explain to the recipient why they ought to contribute. Further, “give us money so we can support candidate X” is not the same as urging a voter to “support candidate X.” The action urged in the first asks for funds; the action urged in the second when made to a voter advocates election.
3. Finally, there are a handful of solicitations that concern Mitt Romney that the audit division appears to believe are express advocacy, which are not. Those pieces do not advocate for the defeat of Senator Romney in a future federal election. Instead, they urge the recipient to support removing Romney from the Republican party. That is not a federal election, and as explained more

fully in the attached correspondence, the Commission has already dealt with this issue in the past.

In sum, the audit division appears to be focusing on certain language within each mail piece, while ignoring other language in the mail pieces that urge non-electoral action (such as solicitation or removal from the Republican party or caucus). Perhaps a timely example makes the point: Assume a sign says "Vote for McCarthy." Under the audit division's apparent read, that would be deemed express advocacy. But what if that sign was used in connection with House leadership elections? In other words, "Vote for McCarthy" has nothing to do with a House election in California. Certainly, the sign says "vote for," and the sign contains advocacy that is express – but express advocacy of what? The advocacy – or, as the courts have called it, the "action urged" – is support in a leadership election. The same is true here of most of the Madison Project mail pieces – which solicit funds, and in some instances, urge supporting the removal of Mitt Romney from the Republican party or caucus. Certainly, the mail pieces advocate – but advocating for funds or over intra-party squabbles is not express advocacy of election or defeat of a federal candidate for federal office.

Again, we have not yet seen a draft interim audit report, and remain hopeful that much of this can be worked out short of Commission consideration. And to state what is (hopefully) obvious: This audit is of a political committee that disclosed the spending at issue. The dispute is over how it was disclosed.

Please do not hesitate to contact us with any questions or concerns.

Respectfully,

Don McGahn
Counsel for the Madison Project

From: McGahn II, Donald F.
Sent: Monday, December 5, 2022 10:56 AM
To: Brenda Wheeler [REDACTED]
Cc: 'Kelly Amarin' [REDACTED]
Subject: Madison Project Exit Conference Materials

Ms. Wheeler:

Attached please find materials following up on the recent exit conference for the Madison Project.

Please do not hesitate to contact me with any questions or concerns.

*****This e-mail (including any attachments) may contain information that is private, confidential, or protected by attorney-client or other privilege. If you received this e-mail in error, please delete it from your system without copying it and notify sender by reply e-mail, so that our records can be corrected.*****

JONES DAY

51 LOUISIANA AVENUE, N.W. • WASHINGTON, DC 20001.2113

TELEPHONE: +1.202.879.3939 • JONESDAY.COM

DIRECT NUMBER: 2028793717
DMCGAHN@JONESDAY.COM

CONFIDENTIAL

December 5, 2022

VIA E-MAIL

Brenda Wheeler
Federal Election Commission
Audit Division
1050 First Street, NE
Washington, DC 20463

Re: Madison Project Audit – Exit Conference

Dear Ms. Wheeler:

This correspondence follows the November 18, 2022 exit conference regarding the audit of the Madison Project. Thank you for your time and explanation of your proposed findings. Enclosed are a signed Statement of Cash on Hand and Statement of Availability of Records, as well as information relevant to your second proposed finding (regarding date of dissemination and other information).

Turning to each proposed finding:

Finding 1: The first proposed finding regarding efforts to obtain occupation/employer information for contributors has three subparts:

First, regarding contributor information already obtained (per your numbers, regarding 142 contributions totaling \$54,372), the Madison Project will file amendments with the information at the appropriate time.

Second, regarding best efforts documentation allegedly not provided (per your numbers, regarding 222 contributions totaling \$59,841), we have confirmed, to the best of the treasurer's knowledge and belief, that (1) all Madison Project solicitations included the requisite best efforts language seeking the relevant information, and (2) in the event a contributor did not provide occupation and employer information to be itemized on a report, the treasurer sent a follow-up letter seeking the omitted information. As you know, committees are not obligated to obtain such information; all that is required is that a treasurer use her "best efforts" to obtain and submit it. *See* 52 U.S.C. § 30102(i); 11 C.F.R. § 104.7(a). Here, the treasurer made the separate follow-up request required by regulation. 11 C.F.R. § 104.7(b)(2). Although the treasurer did not log the sending

Brenda Wheeler
Federal Election Commission, Audit Division
December 5, 2022
Page 2

of the follow-up letters, maintain copies or the like, such additional efforts are not required. In sum, the treasurer's recollection confirms that the Commission's "best efforts" requirements were satisfied.

Third, regarding alleged untimely best efforts (per your numbers, regarding 194 contributions totaling \$74,639), the treasurer did send follow-up letters within thirty days of being made aware of the particular contribution with outstanding information.¹ The company that the Madison Project hired to create the solicitations, mail them, and receive any resulting contributions, only provided the Madison Project with contributor information every thirty days. As soon as the treasurer received notice of omitted contributor information, she would send the requisite letter to the contributor within thirty days.

Proposed Finding 2: The second proposed finding concerns the alleged reporting of apparent independent expenditures. We note at the outset that these mailers are solicitations for contributions to the general operation of the Madison Project, and to the extent the solicitations reference candidates, those references are incidental to action that is urged, *i.e.*, the giving of funds to the Madison Project. We note that the Audit Division made the same recommendation in the recently concluded Mississippi Republican Party Audit (A17-15), and the Commission did not adopt that finding. There, Commissioners drew a distinction between independent expenditures and solicitations of the sort at issue here. The same ought to govern in this matter. *See* MUR 5564 (Alaska Democratic Party), Statement of Reasons of Commissioners David Mason and Hans von Spakovsky at 2-3 & 10 (when the Commission fails to proceed against a respondent on a certain legal theory, it should not proceed against subsequent respondents in the future on that legal theory absent promulgation of a new regulation); *see also Motor Vehicle Manufacturers Assoc. v. State Farm Mutual Automobile Ins. Co.*, 436 U.S. 29 (1983).

The enclosed spreadsheet makes an additional point. In addition to the date of dissemination, the spreadsheet includes a break-down of the number of specific mail pieces sent into the electoral district of the referenced candidate, as compared to the total number sent. As the spreadsheet establishes, in almost all instances, the number of pieces mailed to voters within the relevant electoral district of the referenced candidate is miniscule and below any alleged reporting threshold. For example, take the last listed mail piece, regarding David Valadao (listed as number 93). This was a national mailing of 75,000 pieces with a total cost of \$50,742.46. But of that national mailing, only 214 pieces were mailed to voters within Valadao's congressional district, at a total cost of \$144.79—or a mere 0.285% of the national cost.

Why does this matter? The test for whether a mail piece is an independent expenditure is not "express advocacy" in the abstract. Although the test is often shorthand as "express

¹ We note that the current treasurer became treasurer in May 2020, during the audit period.

Brenda Wheeler
Federal Election Commission, Audit Division
December 5, 2022
Page 3

advocacy,” that does not acknowledge the critical question: Express advocacy of what? The answer: Express advocacy to vote for or against a federal candidate for federal office. Here, the overwhelming percentage of mail pieces never went to a voter who could vote for the referenced candidate. If the recipient cannot vote for the referenced candidate, it cannot be that these fundraising pieces are an exhortation to vote for the referenced candidate, as a matter of both law and fact. Instead, the mail ought to be read for what it is, and what its text, read in context, establishes: They are solicitations, not independent expenditures.

Although the audit is not yet at the stage where disputed legal issues should be briefed, some legal level-setting is in order now.² For support that the overwhelming majority of the Madison Project’s communications do not constitute independent expenditures, one need look no further than the Commission’s proverbial favorite case, *FEC v. Furgatch*, which served as the basis for the Commission’s current regulatory express advocacy definition. As the Ninth Circuit observed, “[a] proper understanding of the speaker’s message can best be obtained by considering speech as a whole,” and “a stray comment viewed in isolation may suggest an idea that is only peripheral to the primary purpose of the speech as a whole.” 807 F.2d 857, 863 (9th Cir. 1987). The court also noted that when a communication contains an explicit call to take some type of non-electoral action (like here, a solicitation for funds by a non-connected PAC), the Commission cannot supply a meaning to the words that is incompatible with the clear import of the words. 807 F.2d at 863-64. As the court ultimately held, “express advocacy” requires “a clear plea for action,” which the court described as “an exhortation to vote for or against a specific candidate.” *Id.* at 864.

Here, the action encouraged is clear: Contribute money. Obviously, when a PAC solicits funds, it usually provides examples of the sorts things it intends to do with the funds, including the sorts of candidates it wishes to support. And when that message is sent to an individual who cannot vote for the listed candidate, it follows that such a message cannot possibly be, in the words of the Ninth Circuit, “an exhortation to vote for or against a specific candidate.” *Id.* Notably, when the Commission has attempted to ignore such geographic realities in the past, it has been rebuked. *See Emily’s List v. FEC*, 581 F.3d 1, 21 (D.C. Cir. 2009) (when nonprofit sought to run advertisements featuring a named Senator outside of that Senator’s state, the FEC insisted that such communications be paid for with 100% federally permissible “hard” dollars; the D.C. Circuit rejected the FEC’s view).

Aside from this general discussion applicable to most of the mail pieces, a handful warrant specific mention—in particular, those that reference Mitt Romney. Those pieces do not

² We offer some brief legal thoughts as a good-faith preview of what we anticipate will be a fully briefed legal issue at the appropriate time. Offering this truncated preview in no way waives or limits our ability to fully explore the issue at a later date, in accordance with the Commission’s audit procedures.

Brenda Wheeler
Federal Election Commission, Audit Division
December 5, 2022
Page 4

expressly advocate for Romney's election or defeat as a federal candidate. On the contrary, the communications make clear they are not talking about his election (hence phrases such as "we cannot wait for 2024"), but instead are merely asking recipients to submit letters to Republican Party leadership urging Romney's expulsion from the Republican Party (*i.e.*, "Expel Mitt Romney from Our Republican Party," remove him from committee assignments, and the like). Whether or not an elected official is permitted to caucus with a particular party is not a federal election, and thus any advocacy on that point, regardless of how express, does not convert the material to an independent expenditure.

As if this were not enough, considering these sorts of mail pieces to be independent expenditures is inconsistent with determinations made in past audits.³ For example, in the audit of the Legacy Committee Political Action Committee (A09-22), the Audit Division encountered letters that concerned John McCain, where recipients were asked to submit a pledge to vote for McCain. There, the Office of General Counsel stated in pertinent part:

Some letters ask the reader to cast a ballot or pledge to vote for John McCain. Letter 24 asks, "Do you support John McCain to be the next President of the United States?" The letter goes on to declare, "I hope you said 'YES!'" It also asks, "Will you help me work to elect Senator John McCain and keep the White House in Republican hands?" The letter says, "I am counting on your vote to show our Republican leaders that R.P.E.C. members are standing behind John McCain." The actual "ballot," is the Republican Presidential Elections Committee 2008 Ballot, not the Election Day ballot. The recipient is instructed to indicate their choice by checking "yes" or "no." The recipient is also asked to make a contribution, and "to check all that apply," which includes a space to check that the R.P.E.C. Ballot Completed, and also a separate space to check that a contribution is enclosed. The line "I am counting on your vote" refers to the "ballot" attached to the letter, not the actual presidential election, and therefore does not constitute express advocacy.

Office of General Counsel Memo regarding Interim Audit Report, Audit of Legacy Committee Political Action Committee at 5 (May 4, 2011).⁴

³ Culling through past audits to ascertain how either the Audit Division, OGC or the Commission viewed certain mail pieces is all but impossible, as the underlying communications in what may be relevant audits are not publicly available. Other than stray summaries of the occasional communication, the actual language of subject mail pieces remains unknown, and thus past audits cannot serve as notice to the public as to what is viewed as an independent expenditure and what is not.

⁴ Other language in the mail piece, per OGC, constituted express advocacy, such as "Will you help me to work to elect Senator John McCain and keep the White House in Republican hands. . . ." Here, there is no such electoral

Brenda Wheeler
Federal Election Commission, Audit Division
December 5, 2022
Page 5

The Madison Project's Romney-focused solicitations are a much easier call than the Legacy Committee's McCain mailers. Indeed, McCain was actively running for President and the mail piece made much of that candidacy, and as a national candidate, all recipients could actually vote for or against John McCain. Compare that to the Madison Project's Romney mailers. At the time, Romney's next potential federal election was several years in the future, he is not running for President, the mail piece specially says his federal election is in the distant future, and the pieces expressly talk about removing Romney from the Republican Party (not from elected office more generally). That is not express advocacy, and thus those mail pieces are not independent expenditures.

###

Please do not hesitate to contact us with any additional questions or concerns.

Cordially,



Donald F. McGahn II
Counsel for the Madison Project

Enclosures

Language in the Madison Project's Romney pieces; in fact, as already noted, there is language that makes clear these pieces are not talking about a federal election.

Package	Mail Date	Total Cost	Candidate Mentioned	Quantity Mailed	Affected Names	% of zip codes in districts of the candidates mentioned	% of total cost
FMY-PH01	5/1/2020	\$ 23,743.61	Donald J. Trump - President	30,000		100%	\$ 23,743.61
FMY-PH02	6/29/2020	\$ 27,549.42	Donald J. Trump - President	40,000		100%	\$ 27,549.42
FMZ-PH01	9/10/2020	\$ 40,059.30	Donald J. Trump - President	50,000		100%	\$ 40,059.30
MITT-PH01	3/20/2020	\$ 22,799.32	Mitt Romney (R-UT)	30,000	170	0.567%	\$ 129.20
MITT-PH02	5/15/2020	\$ 35,936.62	Mitt Romney (R-UT)	50,000	379	0.758%	\$ 272.40
MITT-PH03	7/27/2020	\$ 48,670.42	Mitt Romney (R-UT)	70,000	543	0.776%	\$ 377.54
MITTB-PH01	12/7/2020	\$ 37,976.94	Mitt Romney (R-UT)	50,000	394	0.788%	\$ 299.26
TMPP-PH01	4/7/2020	\$ 5,525.13	John James R-MI	2,576	80	3.106%	\$ 171.59
TMPP-PH01	4/7/2020	\$ 5,525.13	Jason Lewis R-MN	2,576	50	1.941%	\$ 107.24
TMPP-PH02	5/14/2020	\$ 9,472.24	David Hill OK-5	4,895	23	0.470%	\$ 44.51
TMPP-PH02	5/14/2020	\$ 9,472.24	Michelle Fischbach MN-7	4,895	23	0.470%	\$ 44.51
TMPP-PH02	5/14/2020	\$ 9,472.24	Tom Tiffany WI-7	4,895	26	0.531%	\$ 50.31
TMPP-PH02	5/14/2020	\$ 9,472.24	David Valadao CA-21	4,895	12	0.245%	\$ 23.22
TMPP-PH03	6/11/2020	\$ 15,186.10	Tina Smith (D-MN)	5,389	107	1.986%	\$ 301.52
TMPP-PH03	6/11/2020	\$ 15,186.10	Gary Peters (D-MI)	5,389	182	3.377%	\$ 512.87
TMPP-PH04	7/6/2020	\$ 10,657.38	David Hill OK-5	6,105	25	0.410%	\$ 43.64
TMPP-PH04	7/6/2020	\$ 10,657.38	Michelle Fischbach MN-7	6,105	27	0.442%	\$ 47.13
TMPP-PH04	7/6/2020	\$ 10,657.38	Tom Tiffany WI-7	6,105	29	0.475%	\$ 50.62
TMPP-PH04	7/6/2020	\$ 10,657.38	David Valadao CA-21	6,105	16	0.262%	\$ 27.93
TMPP-PH05	7/28/2020	\$ 30,888.18	Ashley Hinson IA-1	7,676	40	0.521%	\$ 160.96
TMPP-PH05	7/28/2020	\$ 30,888.18	Michelle Fischbach MN-7	7,676	33	0.430%	\$ 132.79
TMPP-PH05	7/28/2020	\$ 30,888.18	Tom Tiffany WI-7	7,676	36	0.469%	\$ 144.86
TMPP-PH05	7/28/2020	\$ 30,888.18	Eric Esshaki MI-11	7,676	33	0.430%	\$ 132.79
TMPP-PH05	7/28/2020	\$ 30,888.18	Adrienne Vallejo Foster KS-3	7,676	28	0.365%	\$ 112.67
TMPP-PH05	7/28/2020	\$ 30,888.18	Nick Freitas VA-7	7,676	35	0.456%	\$ 140.84
TMPP-PH05	7/28/2020	\$ 30,888.18	Paul Junge MI-8	7,676	22	0.287%	\$ 88.53
TMPP-PH06	9/14/2020	\$ 16,632.96	Donald J. Trump - President	8,862		100.000%	\$ 16,632.96
TMPP-PH07	9/4/2020	\$ 16,271.67	Ashley Hinson IA-1	9,757	51	0.523%	\$ 85.05
TMPP-PH07	9/4/2020	\$ 16,271.67	Michelle Fischbach MN-7	9,757	41	0.420%	\$ 68.38

TMPP-PH07	9/4/2020	\$ 16,271.67	Tom Tiffany WI-7	9,757	41	0.420%	\$ 68.38
TMPP-PH07	9/4/2020	\$ 16,271.67	David Valadao CA-21	9,757	23	0.236%	\$ 38.36
TMPP-PH07	9/4/2020	\$ 16,271.67	Eric Esshaki MI-11	9,757	45	0.461%	\$ 75.05
TMPP-PH07	9/4/2020	\$ 16,271.67	Darrell Issa CA-50	9,757	33	0.338%	\$ 55.03
TMPP-PH07	9/4/2020	\$ 16,271.67	Jim Jordan OH-4	9,757	49	0.502%	\$ 81.72
TMPP-PH07	9/4/2020	\$ 16,271.67	Nick Freitas VA-7	9,757	48	0.492%	\$ 80.05
TMPP-PH07	9/4/2020	\$ 16,271.67	Paul Junge MI-8	9,757	31	0.318%	\$ 51.70
TMPP-PH08	10/7/2020	\$ 32,240.37	Ashley Hinson IA-1	10,552	53	0.502%	\$ 161.94
TMPP-PH08	10/7/2020	\$ 32,240.37	Michelle Fischbach MN-7	10,552	54	0.512%	\$ 164.99
TMPP-PH08	10/7/2020	\$ 32,240.37	Tom Tiffany WI-7	10,552	35	0.332%	\$ 106.94
TMPP-PH08	10/7/2020	\$ 32,240.37	Eric Esshaki MI-11	10,552	47	0.445%	\$ 143.60
TMPP-PH08	10/7/2020	\$ 32,240.37	Adrienne Vallejo Foster KS-3	10,552	40	0.379%	\$ 122.22
TMPP-PH08	10/7/2020	\$ 32,240.37	Nick Freitas VA-7	10,552	50	0.474%	\$ 152.77
TMPP-PH08	10/7/2020	\$ 32,240.37	Paul Junge MI-8	10,552	35	0.332%	\$ 106.94
TMPP-PH09	10/9/2020	\$ 14,892.98	John James R-MI	10,906	402	3.686%	\$ 548.96
TMPP-PH09	10/9/2020	\$ 14,892.98	Jason Lewis R-MN	10,906	231	2.118%	\$ 315.45
TMPP-PH10	10/20/2020	\$ 26,342.16	Ashley Hinson IA-1	10,811	54	0.499%	\$ 131.58
TMPP-PH10	10/20/2020	\$ 26,342.16	Michelle Fischbach MN-7	10,811	56	0.518%	\$ 136.45
TMPP-PH10	10/20/2020	\$ 26,342.16	Tom Tiffany WI-7	10,811	44	0.407%	\$ 107.21
TMPP-PH10	10/20/2020	\$ 26,342.16	Eric Esshaki MI-11	10,811	48	0.444%	\$ 116.96
TMPP-PH10	10/20/2020	\$ 26,342.16	Nick Freitas VA-7	10,811	50	0.462%	\$ 121.83
TMPP-PH10	10/20/2020	\$ 26,342.16	Paul Junge MI-8	10,811	35	0.324%	\$ 85.28
TMPP-PH12	12/30/2020	\$ 44,434.52	Ashley Hinson IA-1	12,064	57	0.472%	\$ 209.94
TMPP-PH12	12/30/2020	\$ 44,434.52	Michelle Fischbach MN-7	12,064	52	0.431%	\$ 191.53
TMPP-PH12	12/30/2020	\$ 44,434.52	Tom Tiffany WI-7	12,064	40	0.332%	\$ 147.33
TSNT-PH01	10/23/2019	\$ 18,925.30	John James R-MI	30,000	1,033	3.443%	\$ 651.66
TSNT-PH01	10/23/2019	\$ 18,925.30	Jason Lewis R-MN	30,000	615	2.050%	\$ 387.97
TSNT-PH02	12/30/2019	\$ 38,712.05	John James R-MI	60,000	1,632	2.720%	\$ 1,052.97
TSNT-PH02	12/30/2019	\$ 38,712.05	Jason Lewis R-MN	60,000	1,001	1.668%	\$ 645.85
TSNU-PH01	3/6/2020	\$ 27,891.24	John James R-MI	40,000	836	2.090%	\$ 582.93
TSNU-PH01	3/6/2020	\$ 27,891.24	Jason Lewis R-MN	40,000	519	1.298%	\$ 361.89
TSNV-PH01	6/12/2020	\$ 28,161.61	John James R-MI	40,000	1039	2.598%	\$ 731.50

TSNV-PH01	6/12/2020	\$ 28,161.61	Jason Lewis R-MN	40,000	545	1.363%	\$ 383.70
TSNW-PH01	8/20/2020	\$ 26,557.96	John James R-MI	50,000	3,511	7.022%	\$ 1,864.90
TSNW-PH01	8/20/2020	\$ 26,557.96	Jason Lewis R-MN	50,000	829	1.658%	\$ 440.33
WBTH-PH01	12/6/2019	\$ 21,077.88	David Hill OK-5	30,000	108	0.360%	\$ 75.88
WBTH-PH01	12/6/2019	\$ 21,077.88	Michelle Fischbach MN-7	30,000	112	0.373%	\$ 78.69
WBTH-PH01	12/6/2019	\$ 21,077.88	Tom Tiffany WI-7	30,000	102	0.340%	\$ 71.66
WBTH-PH01	12/6/2019	\$ 21,077.88	David Valadao CA-21	30,000	71	0.237%	\$ 49.88
WBTH-PH02	1/29/2020	\$ 33,291.27	David Hill OK-5	50,000	145	0.290%	\$ 96.54
WBTH-PH02	1/29/2020	\$ 33,291.27	Michelle Fischbach MN-7	50,000	190	0.380%	\$ 126.51
WBTH-PH02	1/29/2020	\$ 33,291.27	Tom Tiffany WI-7	50,000	131	1.67%	\$ 555.30
WBTH-PH02	1/29/2020	\$ 33,291.27	David Valadao CA-21	50,000	138	0.276%	\$ 91.88
WBTH-PH03	3/30/2020	\$ 39,796.62	David Hill OK-5	60,000	156	0.260%	\$ 103.47
WBTH-PH03	3/30/2020	\$ 39,796.62	Michelle Fischbach MN-7	60,000	208	0.347%	\$ 137.96
WBTH-PH03	3/30/2020	\$ 39,796.62	Tom Tiffany WI-7	60,000	175	0.292%	\$ 116.07
WBTH-PH03	3/30/2020	\$ 39,796.62	David Valadao CA-21	60,000	133	0.222%	\$ 88.22
WBTH-PH04	5/26/2020	\$ 19,834.02	David Hill OK-5	30,000	82	0.273%	\$ 54.21
WBTH-PH04	5/26/2020	\$ 19,834.02	Michelle Fischbach MN-7	30,000	125	0.417%	\$ 82.64
WBTH-PH04	5/26/2020	\$ 19,834.02	Tom Tiffany WI-7	30,000	83	0.277%	\$ 54.87
WBTH-PH04	5/26/2020	\$ 19,834.02	David Valadao CA-21	30,000	59	0.197%	\$ 39.01
WBTN-PH01	5/26/2020	\$ 19,115.01	David Hill OK-5	30,000	71	0.237%	\$ 45.24
WBTN-PH01	5/26/2020	\$ 19,115.01	Michelle Fischbach MN-7	30,000	113	0.377%	\$ 72.00
WBTN-PH01	5/26/2020	\$ 19,115.01	Tom Tiffany WI-7	30,000	89	0.297%	\$ 56.71
WBTN-PH01	5/26/2020	\$ 19,115.01	David Valadao CA-21	30,000	69	0.230%	\$ 43.96
WBTN-PH02	7/15/2020	\$ 51,823.57	Ashley Hinson IA-1	80,000	425	0.531%	\$ 275.31
WBTN-PH02	7/15/2020	\$ 51,823.57	Michelle Fischbach MN-7	80,000	300	0.375%	\$ 194.34
WBTN-PH02	7/15/2020	\$ 51,823.57	Tom Tiffany WI-7	80,000	228	0.285%	\$ 147.70
WBTN-PH02	7/15/2020	\$ 51,823.57	David Valadao CA-21	80,000	176	0.220%	\$ 114.01
WBTN-PH03	9/21/2020	\$ 50,742.46	David Hill OK-5	75,000	202	0.269%	\$ 136.67
WBTN-PH03	9/21/2020	\$ 50,742.46	Michelle Fischbach MN-7	75,000	225	0.300%	\$ 152.23
WBTN-PH03	9/21/2020	\$ 50,742.46	Tom Tiffany WI-7	75,000	188	0.251%	\$ 127.19
WBTN-PH03	9/21/2020	\$ 50,742.46	David Valadao CA-21	75,000	214	0.285%	\$ 144.79