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FEDERAL ELECTION COMMISSION
Washington, DC 20463

AGENDA DOCUMENT NO. 20-02-A
AGENDA ITEM
For meeting of June 18, 2020
SUBMITTED LATE

June 12, 2020

MEMORANDUM

TO: The Commission

FROM: Lisa J. Stevenson *LJS*
Acting General Counsel

Neven F. Stipanovic *NFS*
Associate General Counsel

Robert Mark Knop *RMK*
Assistant General Counsel

Heather Filemyr *HF*
Attorney

Subject: Draft AO 2019-16 (Shemanski) - Draft A

Attached is a proposed draft of the subject advisory opinion.

Members of the public may submit written comments on the draft advisory opinion. We are making this draft available for comment until 12:00 pm (Eastern Time) on June 17, 2020.

Members of the public may view the virtual Commission meeting at which the draft will be considered. The advisory opinion requestor may appear remotely via telephone before the Commission at this virtual meeting to answer questions.

For more information about how to submit comments or attend the virtual Commission meeting, go to <https://www.fec.gov/legal-resources/advisory-opinions-process/>.

Attachment

1 ADVISORY OPINION 2019-16

2

3 Mr. Philip Shemanski

4 1455 Arbor Ave.

5 Los Altos, CA 94024

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8 Dear Mr. Shemanski:

DRAFT A

9 We are responding to your advisory opinion request concerning the application of
10 the Federal Election Campaign Act, 52 U.S.C. §§ 30101-45 (the “Act”), to your proposal
11 to include the first and last initials of a candidate for federal office in the name under
12 which an unauthorized political committee (the “Committee”) registers with the
13 Commission (“registered name”). The Commission concludes that the Committee may
14 include the candidate’s initials in its registered name because the initials do not constitute
15 the “name” of a candidate under the statute.

16 ***Background***

17 The facts presented in this advisory opinion are based on your letter received on
18 August 19, 2019. You propose to create an unauthorized political committee aimed at
19 “the defeat of Donald Trump’s 2020 Presidential re-election bid” and ask whether you
20 may include President Trump’s initials, “DT,” in the Committee’s registered name.
21 Advisory Opinion Request at AOR001. You indicate that “The Defeat DT Campaign”
22 and “The Campaign Committee Against DT’s Re-election” are two examples of possible
23 registered names for the Committee. *Id.*

24 ***Question Presented***

25 *May the Committee include President Trump’s initials, “DT,” in its registered*
26 *name?*

1 ***Legal Analysis***

2 Yes. The Committee may include the initials “DT” in its registered name because
3 those initials do not constitute the “name” of a candidate.

4 The Act prohibits “any political committee which is not an authorized committee” of
5 a candidate from including “the name of any candidate in its name.” 52 U.S.C.

6 § 30102(e)(4).¹ Because the requestor seeks to form an unauthorized political committee, the
7 only question before the Commission is whether the initials “DT” constitute the “name” of a
8 candidate under the statute.

9 In the circumstances presented, the Commission concludes that the initials “DT” do
10 not constitute the name of a candidate under 52 U.S.C. § 30102(e)(4), and therefore those
11 initials may be included in the Committee’s registered name. The initials are an abbreviation,
12 rather than a full first or last name or nickname, and are not commonly used to refer to
13 President Trump.² In addition, there are at least two other federal officeholders with the
14 initials “DT” who are also candidates for re-election in 2020, Representative David Trone

¹ In *Pursuing America’s Greatness v. FEC*, 363 F. Supp. 3d 94 (D.D.C. 2019), a court enjoined the Commission from enforcing its regulation at 11 C.F.R. § 102.14(a), which governs registered political committee names and other names under which political committees conduct activities. However, the court’s decision did not address the validity of 52 U.S.C. § 30102(e)(4) and did not enjoin the Commission from enforcing statutory requirements for political committee names. In this advisory opinion, the Commission applies only the statute, and not the enjoined regulatory provision, in conducting its analysis.

² This is not a circumstance in which the initials included in the committee name are commonly used by the candidate or his or her supporters to refer to the candidate (for example, the initials “JFK” to refer to President John F. Kennedy or the initials “LBJ” to refer to President Lyndon B. Johnson). The Commission need not and does not decide in this advisory opinion whether such commonly used initials would constitute the “name” of a candidate under 52 U.S.C. § 30102(e)(4).

1 of Maryland and Representative Dina Titus of Nevada.³ Accordingly the initials “DT”
2 may be included in the Committee’s registered name as proposed.

3 This response constitutes an advisory opinion concerning the application of the
4 Act to the specific transaction or activity set forth in your request. *See* 52 U.S.C.
5 § 30108. The Commission emphasizes that, if there is a change in any of the facts or
6 assumptions presented, and such facts or assumptions are material to a conclusion
7 presented in this advisory opinion, then the requestor may not rely on that conclusion as
8 support for its proposed activity. Any person involved in any specific transaction or
9 activity which is indistinguishable in all its material aspects from the transaction or
10 activity with respect to which this advisory opinion is rendered may rely on this advisory
11 opinion. *See* 52 U.S.C. § 30108(c)(1)(B). Please note that the analysis or conclusions in
12 this advisory opinion may be affected by subsequent developments in the law including,
13 but not limited to, statutes, regulations, advisory opinions, and case law. Any advisory
14 opinions cited herein are available on the Commission’s website.

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On behalf of the Commission,

Caroline C. Hunter
Chair

³ *See* FEC Form 2: Statement of Candidacy for David Trone, *available at* <https://docquery.fec.gov/pdf/746/201901029143695746/201901029143695746.pdf> (last visited Jan. 16, 2020); FEC Form 2: Statement of Candidacy for Dina Titus, *available at* <https://docquery.fec.gov/pdf/474/201811269133826474/201811269133826474.pdf> (last visited Jan. 16, 2020); Directory of Representatives, *available at* <https://www.house.gov/representatives> (last visited Jan. 16, 2020).