

BEFORE THE FEDERAL ELECTION COMMISSION

COMMON CAUSE
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PAUL S. RYAN
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v.

MUR No. _____

The Honorable Marjorie Taylor Greene
1023 Longworth House Office Building
Washington, DC, 20515-1014

COMPLAINT

1. This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) and is based on information providing reason to believe that U.S. Representative Marjorie Taylor Greene (FEC I.D.# HOGA06192) has violated the “soft money” prohibition of the Federal Election Campaign Act (FECA), which provides that a federal candidate or officeholder shall not “solicit ... funds in connection with an election for Federal office ... unless the funds are subject to the limitations, prohibitions, and reporting requirements” of FECA. 52 U.S.C. § 30125(e)(1)(A).
2. Specifically, based on publicly available information and published reports, complainants have reason to believe that Rep. Greene made an unrestricted solicitation of contributions for Stop Socialism NOW PAC (FEC I.D.# C00755629), an independent expenditure-only political

committee (*i.e.*, “IEOPC” or “super PAC”), in a 1-minute video opposing the candidacies of Jon Ossoff and Rafael Warnock to the U.S. Senate in the January 5, 2021 Georgia runoff election,¹ in violation of 52 U.S.C. § 30125(e)(1)(A).

3. “If the Commission, upon receiving a complaint ... has reason to believe that a person has committed, or is about to commit, a violation of [the FECA] ... [t]he Commission **shall** make an investigation of such alleged violation” 52 U.S.C. § 30109(a)(2) (emphasis added); *see also* 11 C.F.R. § 111.4(a).
4. “A ‘reason to believe’ finding followed by an investigation would be appropriate when a complaint credibly alleges that a significant violation may have occurred, but further investigation is required to determine whether a violation in fact occurred and, if so, its exact scope.” Federal Election Commission (hereinafter “Commission” or “FEC”), Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 12545 (March 16, 2007).

FACTS

5. Rep. Greene has been a federal candidate since at least May 2019, when she filed a Statement of Candidacy for Georgia’s 6th Congressional District seat in the 2020 election,² and became a candidate in the 2022 election immediately following the November 2020 election through

¹ Stop Socialism NOW PAC posted the video to its Facebook page on December 3, 2020, <https://www.facebook.com/watch/?v=206692941117651>, and the video was later posted on YouTube, <https://www.youtube.com/watch?v=rS9y4RgV7MU>.

² Mrs. Marjorie Taylor Greene, FEC Form 2 Statement of Candidacy, May 29, 2019, <https://docquery.fec.gov/pdf/890/201905299149840890/201905299149840890.pdf>.

acceptance of contributions in excess of \$5,000 in support of 2022 candidacy.³ Rep. Greene became a federal officeholder upon election to the U.S. House of Representatives in November 2020. See 11 C.F.R. § 113.1(c).

6. On May 21, 2021, *ProPublica* published an article explaining that “[n]ot long after her election to Congress, Rep. Marjorie Taylor Greene, R-Ga., helped raise money for a super PAC by appearing in a video ad” that “explicitly asks for money for the Stop Socialism Now PAC[.]”⁴ According to *ProPublica*, “Greene made the ad with Rick Shaftan, a North Carolina-based consultant whose company also handled ads for Greene’s campaign and works with a gun activism group that has been closely aligned with the freshman lawmaker.”⁵
7. Stop Socialism NOW PAC posted the video to its Facebook page on December 3, 2020,⁶ and on January 11, 2021, the video was posted on YouTube.⁷
8. Complainants have transcribed the spoken audio portion of the 1-minute communication:

0:00-0:03, Voiceover: “Stop Socialism Now PAC paid for this ad and is solely responsible for its contents.”

0:04-0:50, Rep. Marjorie Taylor Greene: “This is Marjorie Taylor Greene. **Imagine.** Biden and Harris in the White House. Pelosi is Speaker. And Schumer runs the Senate. **All because Georgia lost our two Senate runoff seats to Democrats Jon Ossoff and Rafael Warnock.** First off, Democrats will end the

³ See FEC Disavowal Notice, Jan. 26, 2021, <https://docquery.fec.gov/pdf/046/202101260300102046/202101260300102046.pdf>; see also Mrs. Marjorie Taylor Greene, FEC Form 2 Statement of Candidacy, amended Feb. 3, 2021 (redesignating Rep. Greene’s 2020 campaign committee as 2022 campaign committee), <https://docquery.fec.gov/pdf/282/202102039424927282/202102039424927282.pdf>.

⁴ Isaac Arnsdorf, “Marjorie Taylor Greene Appeared in a Super PAC Ad Asking for Money. That Might Break the Rules,” *PROPUBLICA*, May 21, 2021, <https://www.propublica.org/article/marjorie-taylor-greene-appeared-in-a-super-pac-ad-asking-for-money-that-might-break-the-rules>.

⁵ *Id.*

⁶ <https://www.facebook.com/watch/?v=206692941117651>.

⁷ <https://www.youtube.com/watch?v=rS9y4RgV7MU>.

filibuster so no one can stop them. Then they'll add new Democrat states. They'll pack the Supreme Court. They'll take away our guns. Then they'll add their open borders, Green New Deal, pro-abortion, socialist agenda. Stop Socialism Now PAC is fighting back, not quitting, by exposing Ossoff's and Warnock's radical agenda. **Stop Socialism Now PAC will stop Ossoff and Warnock from stealing our Senate seats. It's time to fight back now, before it's too late.**"

0:50-1:00 Voiceover: "Help save America and stop socialism. **Make a contribution today** to Stop Socialism Now PAC, because if Democrats win in Georgia, it's all over for America."⁸

9. Rep. Greene speaks and is visible on-screen for approximately 47 seconds of the 60-second video communication (78%), with a voiceover speaking the other 13 seconds (22%).
10. Rep. Greene urges viewers to "imagine" a scenario: "Biden and Harris in the White House. Pelosi is Speaker. And Schumer runs the Senate. All because Georgia lost our two Senate runoff seats to Democrats Jon Ossoff and Rafael Warnock."



⁸ Stop Socialism NOW PAC: Fight Back NOW!, January 11, 2021, YouTube, <https://www.youtube.com/watch?v=rS9y4RgV7MU> (emphasis added).

11. Rep. Greene then predicts the policy changes that she says would result from victories by Ossoff and Warnock. Rep. Greene says that “Stop Socialism Now PAC is fighting back, not quitting, by exposing Ossoff’s and Warnock’s radical agenda” and assures viewers that “Stop Socialism Now PAC will stop Ossoff and Warnock from stealing our Senate seats.”



12. Finally, Rep. Greene tells viewers “It’s time to fight back now, before it’s too late.” A voiceover then urges viewers to “Make a contribution today to Stop Socialism Now PAC, because if Democrats win in Georgia, it’s all over for America,” while on-screen text urges viewers to “DONATE NOW” and directs them to StopSocialismNowPAC.com/donate/. The secure donation page on the Stop Socialism Now PAC’s website explains: “Stop Socialism Now PAC is registered with the Federal Election Commission as an independent expenditure-only

committee, otherwise known as a ‘Super PAC.’ Accordingly, we may accept unlimited contributions from individuals, corporations, PACs, unions and trade associations.”⁹



SUMMARY OF THE LAW

“SOFT MONEY” PROHIBITION

13. The FECA “soft money” prohibition provides that a “candidate, individual holding Federal office, agent of a candidate or an individual holding Federal office ... shall not solicit ... funds in connection with an election for Federal office ... unless the funds are subject to the limitations, prohibitions, and reporting requirements” of FECA. 52 U.S.C. § 30125(e)(1)(A); see *also* 11 C.F.R. § 300.61.
14. Commission regulations implementing this FECA provision defines “to solicit” to mean:

⁹ See <https://secure.anedot.com/stop-socialism-now/donate> (last visited May 18, 2021).

[T]o ask, request, or recommend, **explicitly or implicitly**, that another person make a contribution, donation, transfer of funds, or otherwise provide anything of value. A solicitation is an oral or written communication that, **construed as reasonably understood in the context in which it is made**, contains a clear message asking, requesting, or recommending that another person make a contribution, donation, transfer of funds, or otherwise provide anything of value. A solicitation may be made directly or indirectly. The **context includes the conduct of persons involved in the communication**. A solicitation does not include mere statements of political support or mere guidance as to the applicability of a particular law or regulation.

11 C.F.R. § 300.2(m) (emphasis added).

15. This Commission regulation explains further that the following type of communication constitutes a solicitation:

A communication that **identifies a Web address where the Web page displayed is specifically dedicated to facilitating the making of a contribution** or donation, or automatically redirects the Internet user to such a page, or exclusively displays a link to such a page. However, a communication does not, in and of itself, satisfy the definition of “to solicit” merely because it includes the address of a Web page that is not specifically dedicated to facilitating the making of a contribution or donation.

11 C.F.R. § 300.2(m)(1)(iii) (emphasis added).

16. The U.S. Supreme Court upheld the “soft money” prohibition against constitutional challenge in *McConnell v. FEC*, 540 U.S. 93 (2003). The Court explained that funds raised under FECA’s contribution limits were known as “hard” money and that funds raised outside of federal limits were known as “soft” money. *Id.* at 122-23. The Court further explained:

No party seriously questions the constitutionality of [the] general ban on donations of soft money made directly to federal candidates and officeholders, their agents, or entities established or controlled by them. Even on the narrowest reading of *Buckley*, a regulation restricting donations to a federal candidate, regardless of the ends to which those funds are ultimately put, qualifies as a contribution limit subject to less rigorous scrutiny. Such donations

have only marginal speech and associational value, but at the same time pose a substantial threat of corruption.

[FECA's] **restrictions on solicitations are justified as valid anticircumvention measures**. Large soft-money donations at a candidate's or officeholder's behest give rise to **all of the same corruption concerns** posed by contributions made directly to the candidate or officeholder. Though the candidate may not ultimately control how the funds are spent, the value of the donation to the candidate or officeholder is evident from the fact of the solicitation itself. Without some restriction on solicitations, federal candidates and officeholders could easily avoid FECA's contribution limits by soliciting funds from large donors and restricted sources to like-minded organizations engaging in federal election activities. As the record demonstrates, even before the passage of BCRA, federal candidates and officeholders had already begun soliciting donations to state and local parties, as well as tax-exempt organizations, in order to help their own, as well as their party's, electoral cause.

Id. at 182-83 (emphasis added). Given the "substantial threat of corruption or its appearance posed by donations to or at the behest of federal candidates and officeholders," the Court held that the "soft money" prohibition is "clearly constitutional." *Id.* at 183-84.

17. In 2010, the U.S. Court of Appeals for the D.C. Circuit's decision in *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010), gave rise to independent expenditure-only political committees (*i.e.*, "IEOPCs" or "super PACs"). Soon thereafter, the super PACs Majority PAC and House Majority PAC filed an advisory opinion request with the Commission asking: "Despite the Supreme Court's decision in *McConnell v. FEC* upholding the soft money solicitation ban, may Federal officeholders and candidates ... solicit unlimited individual, corporate, and union contributions on behalf of [super] PACs without violating" FECA's soft money solicitation prohibition? Ad. Op. Req. 2011-12 at 1.

18. In response to Majority PAC's request, the Commission stated unanimously¹⁰ and unequivocally:

No, Federal officeholders, candidates, and officers of national party committees may not solicit unlimited contributions from individuals, corporations, or labor organizations on behalf of independent expenditure-only political committees ("IEOPCs"). However, Federal officeholders and candidates, and officers of national party committees, may solicit up to \$5000 from individuals (and any other source not prohibited by the Act from making a contribution to a political committee) on behalf of an IEOPC, because those funds are subject to the Act's amount limitations and source prohibitions.

Ad. Op. 2011-12 at 3 (emphasis added) (footnote omitted).

19. FECA limits to \$5,000 per calendar year the amount of a contribution that a person can make to a non-candidate, non-party committee. 52 U.S.C. § 30116(a)(1)(C).¹¹
20. FECA prohibits a corporation or labor union from making a contribution to a federal candidate or political committee (other than an IEOPC) and prohibits a candidate or committee (other than an IEOPC) from accepting or receiving a contribution from a corporation or labor union. 52 U.S.C. § 30118(a).
21. Notwithstanding the prohibition on federal candidates and officeholders soliciting unlimited contributions in connection with elections, FECA provides that a candidate or officeholder

¹⁰ See Ad. Op. 2011-12 Certification <https://www.fec.gov/files/legal/aos/2011-12/1176948.pdf>.

¹¹ However, the Commission in Advisory Opinion 2010-11 (Commonsense Ten) interpreted and applied court decisions in *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010) (*en banc*) and *Citizens United v. FEC*, 558 U.S. 310 (2010), and opined that a committee that "intends to make only independent expenditures" and that "will not make any monetary or in-kind contributions (including coordinated expenditures) to any other political committee or organization"—i.e. a so-called "independent expenditure-only political committee," a.k.a. "super PAC"—is permitted to solicit and accept unlimited contributions from individuals, corporations, labor organizations and other political committees. Ad. Op. 2010-11 at 2-3.

“may attend, speak, or be a featured guest at a fundraising event for a State, district, or local committee of a political party.” 52 U.S.C. § 30125(e)(3).

22. Senators John McCain and Russell D. Feingold, Representatives Christopher Shays and Marty Meehan were the primary Congressional sponsors of the Bipartisan Campaign Reform Act of 2002 (BCRA), the legislation that created both the soft money prohibition and the “fundraising event” provision. They explained the purpose of the provision to the Commission in rulemaking comments filed in 2005.

Congress also recognized that Federal candidates and officeholders are often important political figures in their states. It did not wish to prohibit state political parties from including Federal candidates or officeholders in their fundraising events. It is entirely appropriate for a State party to honor such individuals, or ask them to appear or speak, at fundraising events.¹²

23. Importantly, FECA prohibits state, district, or local party committees from spending any funds raised outside FECA’s limitations, prohibitions, and reporting requirements on federal election activity. 52 U.S.C. § 30125(b)(1).
24. In 2010, the Commission amended its regulations¹³ to interpret FECA’s “fundraising event” provision as applying not only to political party events, but to any event at which funds outside FECA’s contribution limits and prohibitions are raised, as well as participation in publicity related to such events. 11 C.F.R. § 300.64; see *also* Ad. Op. 2011-12.

¹² Sen. John McCain, Sen. Russell D. Feingold, Rep. Christopher Shays, Rep. Marty Meehan, “Comments on the Commission’s Notice of Proposed Rulemaking 2005-6,” at 2, filed Mar. 28, 2005.

¹³ “Participation by Federal Candidates and Officeholders at Non-Federal Fundraising Events,” Explanation & Justification, 75 Fed. Reg. 24375, May 5, 2010, <https://sers.fec.gov/fosers/showpdf.htm?docid=540#page=3>.

25. Neither the revised regulation, nor any of the draft proposed regulations, nor the Commission's "Explanation and Justification" for the revised regulation applied, discussed or even contemplated applying this "fundraising event" provision to 1-minute video ads soliciting unlimited contributions to be used to influence federal elections.¹⁴ Doing so would conflict with and undermine the plain language of the statute and regulations, as well as the purpose and legislative intent to prohibit federal candidates and officeholders from soliciting funds in connection with federal elections that do not comply with FECA's contribution amount limits and source prohibitions.
26. Even if the Commission were to construe such a 1-minute video as a "fundraising event" (which it is not) under the regulation, a federal candidate or officeholder may "[a]ttend, speak at, or be a featured guest at a non-Federal fundraising event" and "[s]olicit funds at a non-Federal fundraising event, **provided that the solicitation is limited** to funds that comply with the amount limitations and source prohibitions of the Act and that are consistent with State law." 11 C.F.R. § 300.64(b) (emphasis added).¹⁵ Further, a federal candidate or officeholder's name or likeness can only be used in publicity for such a fundraising event that contains a solicitation of unlimited funds **only if:**

¹⁴ See 11 C.F.R. § 300.64; "Participation by Federal Candidates and Officeholders at Non-Federal Fundraising Events," Explanation & Justification, 75 Fed. Reg. 24375, May 5, 2010, <https://sers.fec.gov/fosers/showpdf.htm?docid=540#page=3>.

¹⁵ The regulation further provides that such a solicitation may be so limited "by displaying at the fundraising event a clear and conspicuous written notice, or making a clear and conspicuous oral statement, that the solicitation ... does not seek funds in excess of \$[Federally permissible amount], and does not seek funds from corporations, labor organizations, national banks, federal government contractors, or foreign nationals." 11 C.F.R. § 300.64(b)(2)(i).

(A) The Federal candidate or officeholder is identified as a featured guest, honored guest, special guest, featured speaker, or honored speaker, or in any other manner not specifically related to fundraising; and

(B) The publicity includes a **clear and conspicuous disclaimer** that the solicitation is not being made by the Federal candidate or officeholder.

11 C.F.R. § 300.64(c)(3) (emphasis added).

CAUSES OF ACTION

COUNT ONE

Reason to believe that Representative Marjorie Taylor Greene has solicited funds in connection with an election for federal office not subject to the contribution limitations and prohibitions of FECA in violation of 52 U.S.C. §§ 30125(e), 30116(a)(1)(C), and 30118.

27. Paragraphs 1 through 26 are incorporated herein.
28. FECA's "soft money" prohibition provides that a federal candidate or officeholder shall not "solicit ... funds in connection with an election for Federal office ... unless the funds are subject to the limitations, prohibitions, and reporting requirements" of FECA. 52 U.S.C. § 30125(e)(1)(A).
29. Rep. Marjorie Taylor Greene is a federal candidate and officeholder subject to the "soft money" solicitation prohibition of 52 U.S.C. § 30125(e)(1)(A).
30. Under 52 U.S.C. §§ 30125(e)(1) as interpreted by the Commission, Rep. Greene may solicit only "up to \$5000 from individuals (and any other source not prohibited by the Act from making a contribution to a political committee) on behalf of an IEOPC [such as Stop Socialism NOW PAC], because those funds are subject to the Act's amount limitations and source prohibitions." Ad. Op. 2011-12 at 3.

31. During Rep. Greene’s and Stop Socialism Now PAC’s 60-second video communication, Rep. Greene is on screen speaking for approximately 47 seconds (78%) urging viewers to “imagine” what would happen if Jon Ossoff and Rafael Warnock won the January 5, 2021 Senate runoff elections in Georgia. Rep. Greene assures viewers that “Stop Socialism Now PAC will stop Ossoff and Warnock from stealing our Senate seats,” and concludes by telling viewers: “It’s time to fight back now, before it’s too late.” Immediately following Rep. Greene’s 47-second commentary expressly advocating the defeat of Jon Ossoff and Rafael Warnock, a voiceover urges viewers to “Make a contribution today to Stop Socialism Now PAC, because if Democrats win in Georgia, it’s all over for America,” while on-screen text urges viewers to “DONATE NOW” and directs them to StopSocialismNowPAC.com/donate/.

32. The Commission by regulation defines “solicit” to mean:

[T]o ask, request, or recommend, **explicitly or implicitly**, that another person make a contribution, donation, transfer of funds, or otherwise provide anything of value. A solicitation is an oral or written communication that, **construed as reasonably understood in the context in which it is made**, contains a clear message asking, requesting, or recommending that another person make a contribution, donation, transfer of funds, or otherwise provide anything of value. A solicitation may be made directly or indirectly. The **context includes the conduct of persons involved in the communication.**

11 C.F.R. § 300.2(m) (emphasis added).

33. In the video communication in question, Rep. Greene expressly advocates the defeat of candidates Jon Ossoff and Rafael Warnock, assuring viewers that Stop Socialism Now PAC will “stop” Ossoff and Warnock, and tells viewers to “fight back now.” The voiceover tells viewers how to fight back: “Make a contribution today to Stop Socialism Now PAC.”

34. For the purpose of the solicitation legal analysis, the context of Rep. Greene’s communication “includes the conduct of persons involved in the communication”—namely the voiceover actor who urges viewers to “make a contribution today to Stop Socialism Now PAC.”
35. Construed as reasonably understood in the context in which it is made, Rep. Greene’s communication contains a clear message recommending that viewers make a contribution to Stop Socialism Now PAC and, consequently, constitutes a solicitation under 52 U.S.C. § 30125(e)(1)(A) and 11 C.F.R. § 300.2(m).
36. This Commission regulation explains further that the following type of communication constitutes a solicitation: “A communication that identifies a Web address where the Web page displayed is specifically dedicated to facilitating the making of a contribution or donation” 11 C.F.R. § 300.2(m)(1)(iii).
37. On-screen text at the end of the video in question urges viewers to “DONATE NOW” and directs them to StopSocialismNowPAC.com/donate/. Neither the audio nor text of the video communication limit Rep. Greene’s solicitation in any way.
38. Rep. Greene did not limit her solicitation of contributions to \$5,000 per donor per year and did not foreclose in her solicitation corporation and labor organization contributions. Stop Socialism NOW PAC’s contribution processing page explicitly states that the PAC “may accept unlimited contributions from individuals, corporations, PACs, unions and trade associations.”
39. Stop Socialism NOW PAC’s 1-minute video communication featuring Rep. Greene does not constitute a “fundraising event” for the purposes of 52 U.S.C. § 30125(e)(3) and 11 C.F.R. § 300.64. These statutory and regulatory provisions for “events” are irrelevant to the

determination that Rep. Greene solicited unlimited contributions for Stop Socialism Now PAC. Even if the Commission were to deem the video a “fundraising event,” which it is not, Rep. Greene did not limit her solicitation to funds that comply with the amount and source prohibitions of the Act.

40. Based on published reports, there is reason to believe that Rep. Greene, a federal candidate and officeholder, has solicited funds in connection with elections for federal office not subject to the limitations and prohibitions of FECA in violation of 52 U.S.C. §§ 30125(e)(1)(A) (soft money solicitation prohibition), 30116(a)(1)(C) (\$5,000 PAC contribution limit), and 30118 (corporate/union contribution prohibition).

PRAYER FOR RELIEF

41. Wherefore, the Commission should find reason to believe that Representative Marjorie Taylor Greene violated 52 U.S.C. § 30101, *et seq.*, and conduct an immediate investigation under 52 U.S.C. § 30109(a)(2). Further, the Commission should determine and impose appropriate sanctions for any and all violations, should enjoin respondent from any and all violations in the future, and should impose such additional remedies as are necessary and appropriate to ensure compliance with the FECA.

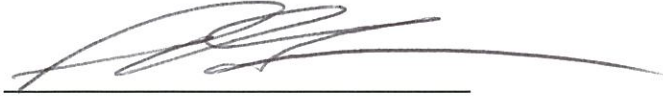
May 21, 2021

Respectfully submitted,



Common Cause, by
Paul S. Ryan

805 Fifteenth Street, NW, Suite 800
Washington, DC 20005
(202) 833-1200

A handwritten signature in black ink, appearing to read 'Paul Ryan', written over a horizontal line.

Paul S. Ryan
805 Fifteenth Street, NW, Suite 800
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VERIFICATION

The complainants listed below hereby verify that the statements made in the attached Complaint are, upon their information and belief, true. Sworn pursuant to 18 U.S.C. § 1001.

For Complainants Common Cause and Paul S. Ryan



Paul S. Ryan

Sworn to and subscribed before me this 21st day of May 2021.



Notary Public

Mohamed Saleck, Ahmed Ould Sneyba

