

BEFORE THE FEDERAL ELECTION COMMISSION

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

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

v.

MUR No. _____

UNKNOWN OWNER OF “TRUMP 2020” FACEBOOK PAGE

COMPLAINT

1. This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1), based on information and belief that an unknown person made undisclosed independent expenditures in connection with the 2020 presidential election and failed to identify the funding and authorizing source of the public communication independent expenditures, in violation of the Federal Election Campaign Act (“FECA”), 52 U.S.C. § 30101, *et seq.* and Commission regulations.
2. Specifically, based on publicly available data and published reports, complainants have reason to believe the owner of the Facebook page “Trump 2020” made approximately \$34,000 in undisclosed independent expenditures in connection with the 2020 presidential election in the form of public communications—specifically, communications placed for a fee on Facebook—expressly advocating the election of Donald Trump, in violation of 52 U.S.C. § 30104(c), and failed to identify the funding and authorizing source of the public communications, in violation of 52 U.S.C. § 30120.

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).

FACTS

4. The “Trump 2020” Facebook page is a self-described “political organization” and community dedicated to supporting President Donald Trump’s reelection in the 2020 presidential election.¹ The page regularly posts messages, images, and videos in support of President Trump’s policies and candidacy or in opposition to his detractors. Currently, it claims 358,837 subscribers.² The “Trump 2020” Facebook page does not identify its funding and authorizing sources.
5. On September 25, 2017, a *VICE News* report revealed that the page’s anonymous owner has created nine other similar pro-Trump Facebook pages, with a combined total of 1,758,173 “likes” from Facebook users for the ten pages.³ According to receipts shown by the Facebook page owner to *VICE News*, the owner has paid Facebook at least \$34,100 to promote the pages on the site.⁴ “The owner of the Trump 2020 page told *VICE News* that he did not report the spending to the FEC”⁵

¹ https://www.facebook.com/pg/ElectTrump2020/about/?ref=page_internal.

² *Id.*

³ Alex Thompson and Noah Kulwin, “No one is tracking the illegal political ads in your Facebook feed,” *VICE NEWS*, September 25, 2017, available at <https://news.vice.com/story/facebook-political-ads>.

⁴ *Id.*

⁵ *Id.*

SUMMARY OF THE LAW

6. FECA requires that every person who “makes independent expenditures in an aggregate amount or value in excess of \$250 during a calendar year” shall file a statement with the Commission containing information about the expenditure. 52 U.S.C. § 30104(c)(1).
7. That statement must include information indicating whether the expenditure is in support of or opposition to the candidate involved, certifying whether or not it was made in cooperation with any candidate, and identifying any person who contributed in excess of \$200 to further the expenditure. 52 U.S.C. § 30104(c)(2).
8. FECA defines “expenditure” to include “any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election[.]” 52 U.S.C. § 30101(9)(A)(i).
9. FECA defines “independent expenditure” to mean an expenditure by a person “expressly advocating the election or defeat of a clearly identified candidate; and . . . that is not made in concert or cooperation with or at the request or suggestion” of a candidate or party committee. 52 U.S.C. § 30101(17).
10. Commission regulation defines “expressly advocating” to include any communication that uses phrases such as “support the Democratic nominee,” “Smith for Congress,” “defeat” accompanied by a picture of a candidate, or communications that “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, advertisements, etc. which say ‘Nixon’s the One,’ ‘Carter ‘76,’ ‘Reagan/Bush’ or ‘Mondale!’” 11 C.F.R. § 100.22(a). Commission regulation further defines “expressly advocating” to include any communication when:

[T]aken as a whole and with limited reference to external events, such as the proximity to the election, could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s) because . . . [t]he electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning; and . . . [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.

Id. at § 100.22(b).

11. Commission regulation defines “disbursement” to include “any purchase or payment” made by any person that is subject to FECA. 11 C.F.R. § 300.2(d).
12. FECA requires that when any person “makes a disbursement for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate,” and the communication is not authorized by a candidate or authorized candidate committee, that person “shall clearly state the name and permanent street address, telephone number, or World Wide Web address of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate’s committee.” 52 U.S.C. § 30120.
13. Commission regulation requires public communications by any person that expressly advocate the election or defeat of a clearly identified candidate to include disclaimers. 11 C.F.R. § 110.11.
14. Commission regulation defines “public communication” as:

[C]ommunication by means of any broadcast, cable, or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone bank to the general public, or any other form of general public political advertising. The term *general public political advertising* shall not include communications over the Internet, except for communications placed for a fee on another person's Web site.

11 C.F.R. § 100.26 (emphasis added).

CAUSES OF ACTION

COUNT I:

THE OWNER OF THE “TRUMP 2020” FACEBOOK PAGE FAILED TO DISCLOSE INDEPENDENT EXPENDITURES IN CONNECTION WITH THE 2020 PRESIDENTIAL ELECTION IN VIOLATION OF THE FEDERAL ELECTION CAMPAIGN ACT

15. Federal law requires every person who makes independent expenditures in an aggregate amount or value in excess of \$250 during a calendar year to file a disclosure statement with the Commission including information regarding contributions received by such person, information indicating whether the independent expenditure is in support of, or in opposition to, the candidate involved and a certification whether such independent expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate. 52 U.S.C. § 30104(c).
16. Based on publicly available data and published reports, there is reason to believe that the owner of the “Trump 2020” Facebook page made independent expenditures by paying Facebook at least \$34,000 to distribute its public communications expressly advocating the election of 2020 presidential candidate Donald Trump, and did not file required disclosure statements for such independent expenditures, in violation of 52 U.S.C. § 30104(c).

COUNT II:

THE OWNER OF THE “TRUMP 2020” FACEBOOK PAGE FAILED TO IDENTIFY THE FUNDING AND AUTHORIZING SOURCE OF HIS EXPRESS ADVOCACY PUBLIC COMMUNICATIONS IN VIOLATION OF THE FEDERAL ELECTION CAMPAIGN ACT

17. Federal law requires that when any public communication expressly advocating the election or defeat of a clearly identified candidate and not authorized by a candidate or authorized candidate committee must be accompanied by a disclaimer that “shall clearly state the name and permanent street address, telephone number, or World Wide Web

address of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate’s committee.” 52 U.S.C. § 30120.

18. Based on published reports and the available evidence, there is reason to believe the “Trump 2020” Facebook page failed to include a disclaimer in its express advocacy public communications identifying its funding and authorizing sources, in violation of 52 U.S.C. § 30120.

PRAYER FOR RELIEF

19. Wherefore, the Commission should find reason to believe that the owner of the “Trump 2020” Facebook page violated 52 U.S.C. § 30101, *et seq.*, including 52 U.S.C. §§ 30104(c) and 30120, 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(s) 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.

September 26, 2017

Respectfully submitted,

Common Cause, by
Karen Hobert Flynn
805 Fifteenth Street, NW, Suite 800
Washington, DC 20005
(202) 833-1200

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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 Karen
Hobert Flynn**

Karen Hobert Flynn

Sworn to and subscribed before me this ____ day of September 2017.

Notary Public