



FEDERAL ELECTION COMMISSION
Washington, DC 20463

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

January 19, 2022

Robert C. Sinnot

Medford, OR 97504

RE: MURs 7266 & 7268

Dear Mr. Sinnot:

This is in reference to the complaint you filed with the Federal Election Commission on August 8, 2017, and its supplements, filed September 15, 2017, January 9 and October 29, 2018, and January 16, 2020. We note that the Office of General Counsel administratively severed from your MUR 7268 complaint the allegation that officials from the Donald J. Trump campaign met with Russian nationals on June 9, 2016, in Trump Tower to obtain opposition research and merged that allegation into pre-existing MUR 7266.

On March 9, 2021, the Commission considered the allegations in MUR 7266 but were equally divided on whether to find reason to believe that Donald J. Trump and Make America Great Again PAC (f/k/a Donald J. Trump for President, Inc.), and Bradley T. Crate in his official capacity as treasurer (the "Trump Committee") and Donald J. Trump, Jr. violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) by knowingly soliciting a contribution from a foreign national in connection with the Trump Tower meeting. Accordingly, the Commission closed its file in MUR 7266. A Statement of Reasons providing a basis for the Commission's decision is enclosed.

On April 22, 2021, the Commission considered the allegations raised in your complaint and voted to dismiss the allegation that Cambridge Analytica, LLC violated the Act by providing information to the Russian Federation. A copy of the Factual and Legal Analysis which formed a basis for the Commission's decision regarding Cambridge Analytica, LLC is enclosed.

In addition, the Commission was equally divided on whether to find reason to believe that the Trump Committee violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) by knowingly soliciting, accepting or receiving an in-kind contribution from the Russian Federation in connection with Trump's press conference statement; that the Russian Federation violated 52 U.S.C. § 30121(a)(1)(A) and 11 C.F.R. § 110.20(b) by making a prohibited in-kind contribution to the Trump Committee by expending resources to hack Hillary Clinton-related servers in response to Trump's press conference statement; that the Trump Committee violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) by knowingly soliciting a prohibited in-kind contribution

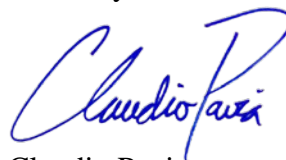
Robert C. Sinnot
MURs 7266 & 7268
Page 2

from WikiLeaks; that Paul Manafort and the Trump Committee violated 52 U.S.C. § 30114(b) and 11 C.F.R. § 113.1(g)(3) by transferring a campaign committee asset without charge in connection with the alleged transmission of polling data; and that Manafort and the Trump Committee violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) by knowingly soliciting a prohibited in-kind foreign national contribution in connection with the alleged transmission of polling data. In addition, the Commission voted to dismiss the Russian Federation as a matter of prosecutorial discretion. Accordingly, on August 10, 2021, the Commission closed its file in MUR 7268. On September 28, 2021, the Commission reopened the file in MUR 7268 for further consideration. On January 13, 2022, the Commission closed the file without making any additional findings. A Statement of Reasons providing a basis for the Commission's decision will follow.

Documents related to MUR 7266 have been placed on the public record and documents related to MUR 7268 will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016).

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. *See* 52 U.S.C. § 30109(a)(8). If you have any questions, please contact Nicholas Bamman, the attorney assigned to this matter, at (202) 694-1650 or nbamman@fec.gov.

Sincerely,



Claudio Pavia
Acting Deputy Associate General Counsel

Enclosures:
Factual and Legal Analysis
Statement of Reasons



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MURs 7265 and 7266
Donald J. Trump for President, Inc. and)
Bradley T. Crate in his official capacity as treasurer;)
Donald Trump, Jr.; Paul Manafort;)
Jared Kushner; Rob Goldstone)

**STATEMENT OF REASONS OF VICE CHAIR ALLEN DICKERSON AND
COMMISSIONERS SEAN J. COOKSEY AND JAMES E. "TREY" TRAINOR, III**

The Complaints in these matters claim that Donald J. Trump for President, Inc. and Bradley T. Crate in his official capacity as treasurer ("Trump Committee"),¹ through its agents, solicited a prohibited foreign-national contribution in the form of negative information about the committee's 2016 election opponent. The allegations center around a meeting between Trump Committee representatives and various foreign nationals on June 9, 2016, at Trump Tower in New York City.²

The Commission received the first complaint on July 10, 2017, and the second complaint three days later, but it did not immediately assess their merits.³ Instead, the Commission opted to hold the matters in abeyance for nearly two years pending the outcome of other publicly known government investigations. By the time the relevant investigations finished in mid-2019 with no civil or criminal charges, however, the Office of General Counsel ("OGC") still had not evaluated the complaints to make recommendations to the Commission as to how to proceed. Shortly thereafter, the Commission lost its quorum to do business, leaving it, except for a few weeks, unable to deliberate or vote to open any investigations until December 2020.⁴ The current Commission finally received a First General Counsel's Report recommending enforcement and

¹ These Complaints were originally filed against, among others, the political committee Donald J. Trump for President, Inc. After the 2020 election, the committee changed its name to Make America Great Again PAC. *See* Trump Committee, Amend. Statement of Org. (Feb. 27, 2021).

² *See* Complaint at 2–4 (July 10, 2017), MUR 7265 (Donald J. Trump for President, Inc., *et al.*); Complaint at 2–9 (July 13, 2017), MUR 7266 (Donald J. Trump for President, Inc., *et al.*).

³ Complaint (July 10, 2017), MUR 7265 (Donald J. Trump for President, Inc. *et al.*).

⁴ *See* Statement of Commissioner Ellen L. Weintraub on the Senate's Votes to Restore the Federal Election Commission to Full Strength (Dec. 9, 2020), *available at* <https://www.fec.gov/resources/cms-content/documents/2020-12-Quorum-Restoration-Statement.pdf> ("We have had enough commissioners to vote on enforcement matters for only 28 days since September 2019.").

conciliation with the Respondents on February 5, 2021, and OGC’s recommendations were first placed on the agenda for discussion at our March 9, 2021, executive session.⁵

By that point, the statute of limitations had nearly run: a mere 92 days remained, despite our having received the complaints 1,332 days prior.⁶ Being only at the initial stage of enforcement—considering whether there was reason to believe the law had been violated—there was no reasonable chance for the Commission to bring an enforcement action to fruition in the remaining time.⁷ Moreover, attempting to press enforcement in these matters would have required expending significant resources and forgoing critical Commission deliberation. All this, in pursuit of a tenuous legal theory of what constitutes a “thing of value” under our statutes—a legal theory that would likely be the subject of protracted and costly litigation.⁸

In short, the Commission had no viable course of action but to dismiss these matters. Indeed, the Commission recently unanimously dismissed another matter that faced a nearly identical statute-of-limitations problem.⁹

Nonetheless, it is regrettable that the Commission did not have the opportunity to consider these matters with the luxury of time. This outcome should prompt the Commission to reflect on when, and under what circumstances, it abates its own investigations pending the work of other agencies. In many cases, the Commission does so to its own detriment, and this is perhaps one example.

⁵ First General Counsel’s Report at 36–37 (Feb. 5, 2021), MURs 7265 and 7266 (Donald J. Trump for President, Inc., *et al.*); Certification (March 9, 2021), MURs 7265 and 7266 (Donald J. Trump for President, Inc., *et al.*).

⁶ See 28 U.S.C. § 2462 (“[A]n action, suit or proceeding for the enforcement of any civil fine, penalty, or forfeiture, pecuniary or otherwise, shall not be entertained unless commenced within five years from the date when the claim first accrued.”). The Complainants might have brought a delay suit against the Commission for failing to act on their complaints after 120 days under 52 U.S.C. § 30109(a)(8), but did not in this case.

⁷ After finding reason to believe a violation has occurred, the Commission must undertake additional investigatory and deliberative steps before it can bring an enforcement action in federal court in a matter. After any attempt to conciliate with Respondents fails, OGC would then need to draft probable-cause briefs recommending that the Commission pursue enforcement. Respondents would be given fifteen days to respond to those briefs, as well as the right to request a probable-cause hearing. Following any hearing, the Commission would need to deliberate again over whether to find probable cause to believe Respondents violated the law. If the Commission found probable cause, under the Federal Election Campaign Act, it must then attempt to conciliate with respondents again for no less than thirty days. See 52 U.S.C. § 30109(a)(6). Only after that effort would the Commission consider whether to file a civil enforcement suit. Completing these steps within the remaining statute of limitations in these matters was a practical impossibility.

⁸ OGC’s theory of a violation relied upon an expansive and novel definition of what constitutes a “thing of value” and, consequently, a “contribution” under the Federal Election Campaign Act. 52 U.S.C. § 30101(8)(A). The Commission has previously divided over whether general information that is helpful to a campaign is a “thing of value.” See Statement of Reasons of Vice Chair Caroline C. Hunter and Commissioners Lee E. Goodman and Matthew S. Petersen at 6–7, MUR 6958 (Senator Claire McCaskill, *et al.*) (concluding that general advice from polling was not a “thing of value”).

⁹ See Certification (April 9, 2021), MUR 7395 (Heller for Senate, *et al.*) (dismissing under *Heckler v. Chaney* a matter with 88 days remaining on the statute of limitations); see also Statement of Chair Shana M. Broussard and Commissioner Ellen L. Weintraub at 2, MUR 7395 (Heller for Senate, *et al.*) (“[I]n light of the imminent statute of limitations and other priorities on the Commission’s docket, we voted to dismiss the allegations.”).


In this position, however, our agency's limited enforcement resources are better directed toward other investigations with better odds of success. Commission staff time and funds are especially precious in light of the significant backlog of enforcement cases that the Commission accrued while lacking a quorum.¹⁰ Considering the foregoing, three Commissioners declined to pursue this quixotic enforcement effort and instead voted to dismiss the complaints as a matter of prosecutorial discretion under *Heckler v. Chaney*.¹¹



 Allen Dickerson
 Vice Chair

_____ May 10, 2021

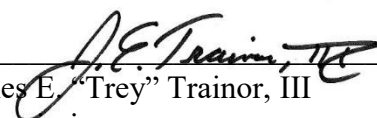
 Date



 Sean J. Cooksey
 Commissioner

_____ May 10, 2021

 Date



 James E. "Trey" Trainor, III
 Commissioner

_____ May 10, 2021

 Date

¹⁰ Statement of Commissioner Ellen L. Weintraub, *supra* n.4.

¹¹ 470 U.S. 821, 831 (1985).

1 **FEDERAL ELECTION COMMISSION**
2
3 **FACTUAL AND LEGAL ANALYSIS**
4
5

6
7 RESPONDENT: Cambridge Analytica, LLC

MUR: 7268

8
9 **I. INTRODUCTION**

10 The Complaint in this matter alleges that Cambridge Analytica, LLC, a former political
11 consulting company, provided illegally sourced social profiles to the Russian Federation.¹ The
12 allegation here is vague, speculative, and unsupported by the available information. Therefore,
13 the Commission dismisses the allegation that Cambridge Analytica, LLC, violated the Act, as
14 alleged.

15 **II. FACTUAL BACKGROUND**

16 Cambridge Analytica, LLC was a limited liability company organized in Delaware on
17 December 31, 2013.² Its parent company, SCL Group LTD, was based in England and
18 registered in the United Kingdom on July 20, 2005.³ Cambridge reportedly began working for
19 political committees in the United States during the 2014 election cycle, which continued
20 through the 2016 election cycle.⁴

21 The Supplemental Complaint in MUR 7268 alleges that “Cambridge Analytica . . .
22 provided illegally sourced social profiles to the Russians as reported in the British investigation

¹ Supp. Compl. at 1, MUR 7268 (Jan. 16, 2020) (“Supp. Compl.”).

² Cambridge Analytica LLC, Delaware Div. of Corps., <https://icis.corp.delaware.gov/ecorp/entitysearch/NameSearch.aspx> (viewed Feb. 18, 2021).

³ SCL Group Limited, U.K. Companies House Registration, Company No. 05514098, <https://beta.companieshouse.gov.uk/company/05514098> (last visited Feb. 18, 2021).

⁴ Craig Timberg and Tom Hamburger, *Former Cambridge Analytica Workers Say Firm Sent Foreigners to Advise U.S. Campaigns*, WASH. POST (Mar. 25, 2018).

1 of Cambridge Analytica.”⁵ The Supplemental Complaint does not provide any additional
2 information regarding the allegation or cite to a particular source.⁶

3 **III. LEGAL ANALYSIS**

4 The Supplemental Complaint in MUR 7268 does not provide any factual basis in support
5 of its allegation that Cambridge Analytica “provided illegally sourced social profiles to the
6 Russians”⁷ and we are not aware of any source that otherwise supports this allegation.

7 Therefore, because the Supplemental Complaint is vague, speculative, and unsupported by the
8 available information, the Commission dismisses the allegation that Cambridge Analytica, LLC
9 violated the Act, as alleged.

⁵ Supp. Compl. at 1.

⁶ The term “British investigation” may be a reference to an investigation conducted by the Information Commissioner’s Office of the United Kingdom into Cambridge Analytica, LLC. *See* Ltr from Elizabeth Denham CBE, UK Information Commissioner, to Julian Knight MP, Chair, Digital, Cultural and Media Sport Select Comm., House of Commons (Oct. 2, 2020) (announcing the findings of investigation into Cambridge Analytica, LLC’s alleged “use of personal information and political influence”), *available at* https://ico.org.uk/media/action-weve-taken/2618383/20201002_ico-o-ed-l-rtl-0181_to-julian-knight-mp.pdf. The Information Commissioner’s Office “referred details of reported possible Russia-located activity to access data linked to the investigation to the National Crime Agency,” but the findings as stated in the October 2, 2020, report do not describe any specifics or otherwise corroborate the Supplemental Complaint’s claim that Cambridge Analytica provided illegally sourced social profiles to Russian actors. *See id.* at 3.

⁷ Supp. Compl. at 1.