

**FEDERAL ELECTION COMMISSION**  
**FIRST GENERAL COUNSEL'S REPORT**

**MUR: 7370**

DATE COMPLAINT FILED: April 23, 2018

DATE OF NOTIFICATION: April 27, 2018

LAST RESPONSE RECEIVED: June 18, 2018

DATE ACTIVATED: December 12, 2018

EXPIRATION OF SOL: May 1, 2022

ELECTION CYCLE: 2018

**COMPLAINANT:**

Matt Burgess, End Citizens United

**RESPONDENT:**

New Republican PAC and Gentry Collins in his  
official capacity as treasurer,  
Rick Scott for Florida and Salvatore Purpura in his  
official capacity as treasurer,  
Rick Scott

**MUR: 7496**

DATE COMPLAINT FILED: September 14, 2018

DATE OF NOTIFICATION: September 19, 2018

LAST RESPONSE RECEIVED: November 9, 2018

DATE ACTIVATED: December 12, 2018

EXPIRATION OF SOL: May 3, 2023

ELECTION CYCLE: 2018

**COMPLAINANT:**

Deanna Nesburg, End Citizens United

**RESPONDENT:**

New Republican PAC and Gentry Collins in his  
official capacity as treasurer,  
Rick Scott for Florida and Salvatore Purpura in his  
official capacity as treasurer,  
Rick Scott

**RELEVANT STATUTES AND  
REGULATIONS:**

52 U.S.C. § 30101(2), (8)(A)

52 U.S.C. §30102(e)(1)

52 U.S.C. § 30103(a)

52 U.S.C. § 30104(a)

52 U.S.C. § 30116(a), (f)

52 U.S.C. § 30118(a)

52 U.S.C. § 30125(e)

11 C.F.R. § 100.52(a), (d)(1)

11 C.F.R. § 100.72

11 C.F.R. § 100.131

1 11 C.F.R. § 101.1(a)  
 2 11 C.F.R. § 101.3  
 3 11 C.F.R. § 102.1(a)  
 4 11 C.F.R. § 104.1(a)  
 5 11 C.F.R. § 109.21(b), (d)  
 6 11 C.F.R. § 300.2(c)(2)  
 7 11 C.F.R. § 300.61  
 8 11 C.F.R. § 300.64  
 9

10 **INTERNAL REPORTS CHECKED:** Disclosure Reports

11  
 12 **FEDERAL AGENCIES CHECKED:** None  
 13

14 **I. INTRODUCTION**

15 These matters involve allegations that Rick Scott, Rick Scott for Florida and Salvatore  
 16 Purpura in his official capacity as treasurer (“the Committee”), and New Republican PAC and  
 17 Gentry Collins in his official capacity as treasurer (“New Republican”), an independent  
 18 expenditure-only political committee, violated the soft money prohibitions of the Federal  
 19 Election Campaign Act of 1971, as amended (“the Act”). The Complaint in MUR 7370  
 20 specifically alleges that Scott, as New Republican’s Chair, improperly used New Republican to  
 21 support his candidacy for U.S. Senate before officially declaring his candidacy, and that New  
 22 Republican raised and spent nonfederal funds as an entity controlled by a federal candidate. In  
 23 addition, the Complaint in MUR 7496 alleges that after Scott declared his candidacy in April  
 24 2018, Respondents engaged in impermissible coordination resulting in an excessive contribution  
 25 from New Republican to the Committee.

26 Respondents deny violating the Act. They assert that Scott stepped down as Chair of  
 27 New Republican in December 2017, over four months before he became a federal candidate, and  
 28 that he had no involvement in New Republican’s management or decision-making after that  
 29 time.

1           As discussed below, the available information supports a reasonable inference that after  
2 Scott became the Chair of New Republican in 2017, New Republican served as a vehicle to  
3 amass funds that would benefit Scott's candidacy for U.S. Senate, and Scott became a candidate  
4 much earlier than the date of his official announcement. Further, it appears that Scott did not  
5 step down from New Republican in December 2017, as respondents contend, but continued his  
6 involvement with New Republican well into 2018.

7           Accordingly, we recommend the Commission find reason to believe that Scott violated  
8 52 U.S.C. § 30102(e)(1) by failing to timely file his Statement of Candidacy and designate a  
9 principal campaign committee and that the Committee violated 52 U.S.C. §§ 30103(a) and 30104  
10 by failing to timely file a Statement of Organization and disclosure reports. In addition, we  
11 recommend that the Commission find reason to believe that New Republican violated 52 U.S.C.  
12 § 30125(e) by soliciting, receiving, or spending soft money in connection with a federal election.  
13 We also recommend that the Commission take no action at this time as to the allegations that  
14 Scott violated 52 U.S.C. § 30125(e) by soliciting, receiving, directing, or spending soft money or  
15 that New Republican made in-kind contributions to Scott and the Committee in the form of  
16 coordinated communications concerning the advertisements that New Republican aired in May  
17 and June 2018, after Scott declared his candidacy.

## 18   **II.    FACTUAL BACKGROUND**

### 19       **A.    Scott's Stated Testing-the-Waters Activities**

20           Rick Scott was Governor of Florida from January 2011 to January 2019. By May 2017,  
21 news reports discussed Scott as a potential 2018 candidate for U.S. Senate.<sup>1</sup> Scott's Response

---

<sup>1</sup> See, e.g., Ed O'Keefe, *Rick Scott on a Potential 2018 Senate Campaign: I Don't Feel Any Pressure to Get In*, WASHINGTON POST (May 10, 2017), available at [https://www.washingtonpost.com/news/powerpost/wp/2017/05/10/rick-scott-on-a-potential-2018-senate-campaign-i-dont-feel-any-pressure-to-get-in/?utm\\_term=.f1cf28817991](https://www.washingtonpost.com/news/powerpost/wp/2017/05/10/rick-scott-on-a-potential-2018-senate-campaign-i-dont-feel-any-pressure-to-get-in/?utm_term=.f1cf28817991); Gary Rohrer, *Gov. Scott Forms a New PAC Ahead of a Likely U.S. Senate Run*, ORLANDO SENTINEL (May 22,

1 states that he began testing the waters activities in January 2018, personally paid over \$166,500  
 2 for his testing-the-waters expenses, and accepted no contributions to his campaign during the  
 3 testing-the-waters period.<sup>2</sup> The Committee's disclosure reports are consistent with Scott's  
 4 assertions, reflecting no itemized contributions prior to April 4, 2018, and testing-the-waters  
 5 disbursements of \$166,573.26, all of which Scott reportedly paid for using personal funds.<sup>3</sup>  
 6 These disbursements start on January 1, 2018, and are described as political strategy consulting,  
 7 video production, survey research, travel, and finance consulting.<sup>4</sup>

8 Scott's Response states that he became a candidate for the U.S. Senate on March 26,  
 9 2018.<sup>5</sup> On April 9, 2018, he filed his statement of candidacy and designated Rick Scott for  
 10 Florida as his principal campaign committee.<sup>6</sup>

---

2017), available at <http://www.orlandosentinel.com/politics/os-gov-scott-political-committee-20170518-story.html>;  
 Matt Dixon and Marc Caputo, *Trump's New Year's Resolution: Getting Scott to Run for Senate in Florida*, POLITICO  
 (Dec. 31, 2017), available at <https://www.politico.com/states/florida/story/2017/12/31/scott-to-meet-dine-with-trump-at-mar-a-lago-165109>.

In early 2018, Scott indicated "that he'll make up his mind about the race after the March 9 end of his last regular 60-day legislative session as governor" and that he "won't say which way he's leaning." Marc Caputo and Matt Dixon, *Scott Takes Big Step Toward Florida Senate Challenge*, POLITICO (Feb. 1, 2018), available at <https://www.politico.com/story/2018/02/01/rick-scott-florida-senate-bill-nelson-midterms-381262>. A month later, Scott's associates were reported as saying that "Scott could launch a Senate bid soon after the scheduled end of the Florida legislative session on March 9." Sean Sullivan, *Florida Gov. Rick Scott to Put In Face Time with GOP Donors Ahead of Possible Senate Run*, WASHINGTON POST (Mar. 3, 2018) available at [https://www.washingtonpost.com/news/powerpost/wp/2018/03/03/florida-gov-rick-scott-to-put-in-face-time-with-gop-donors-ahead-of-possible-senate-run/?noredirect=on&utm\\_term=.b0139a4341a1](https://www.washingtonpost.com/news/powerpost/wp/2018/03/03/florida-gov-rick-scott-to-put-in-face-time-with-gop-donors-ahead-of-possible-senate-run/?noredirect=on&utm_term=.b0139a4341a1).

<sup>2</sup> Rick Scott for Florida and Rick Scott MUR 7370 Resp. at 2 (Jun. 14, 2018) (hereinafter, Scott MUR 7370 Resp.).

<sup>3</sup> See Rick Scott for Florida, 2018 July Quarterly Report at 1868-1870 (Jul. 16, 2018).

<sup>4</sup> *Id.* at 1868-1870.

<sup>5</sup> Scott MUR 7370 Resp. at 2. News reports stated that Scott would likely make a decision about his candidacy after the conclusion of the Florida Legislative Session on March 9, 2018, and on March 26, 2018. *Id.*; Marc Caputo and Matt Dixon, *Scott Takes Big Step Toward Florida Senate Challenge*, POLITICO (Feb. 1, 2018), available at <https://www.politico.com/story/2018/02/01/rick-scott-florida-senate-bill-nelson-midterms-381262>.

<sup>6</sup> Rick Scott Statement of Candidacy (Apr. 9, 2018).

1           **B.       New Republican PAC and Its Activities After Scott Became Chair**

2           New Republican is an independent expenditure-only political committee (“IEOPC”) that  
3 registered with the Commission on May 8, 2013, and was established by Alex Castellanos.<sup>7</sup> Its  
4 stated purpose was to advance “ideas of what the next generation of Republicans” should  
5 represent and to support candidates who fit the “New Republican” model.<sup>8</sup>

6           In the 2013-2014 election cycle, New Republican received \$1,354,250.00 in  
7 contributions from 18 contributors and \$379.00 in unitemized contributions.<sup>9</sup> It spent  
8 \$1,353,239.55 during the 2013-2014 election cycle, \$507,078.01 of which was for independent  
9 expenditures in support of Monica Wehby, a candidate for the Senate in Oregon.<sup>10</sup> In the 2015-  
10 2016 election cycle, New Republican received \$610,348.72 in contributions from seven donors  
11 and \$100.00 in unitemized contributions, all of which was received prior to May 2016.<sup>11</sup> New  
12 Republican spent \$595,254.82 during the 2015-2016 election cycle, none of which was for

---

7           *See* New Republican PAC Statement of Organization (May 8, 2013); New Republican MUR 7370 Resp. at  
2.

8           New Republican Resp., MUR 7370 at 2.

9           New Republican PAC, Financial Summary for 2013-2014, *available at* <https://www.fec.gov/data/committee/C00544544/?cycle=2014>; New Republican PAC, Raising for 2013-2014, *available at* <https://www.fec.gov/data/committee/C00544544/?tab=raising&cycle=2014>.

10          New Republican PAC, Financial Summary for 2013-2014, *available at* <https://www.fec.gov/data/committee/C00544544/?cycle=2014>; Wehby Statement of Candidacy *available at* <https://docquery.fec.gov/pdf/339/13020521339/13020521339.pdf>.

11          New Republican PAC, Financial Summary for 2015-2016, *available at* <https://www.fec.gov/data/committee/C00544544/?cycle=2016>; New Republican PAC, Raising for 2015-2016, *available at* <https://www.fec.gov/data/committee/C00544544/?cycle=2016&tab=raising>.

1 independent expenditures.<sup>12</sup> As of May 2017, New Republican had not received any  
2 contributions for over a year.<sup>13</sup>

3 On May 11, 2017, New Republican announced that then-Governor Scott would be its  
4 new Chair.<sup>14</sup> In a press release making that announcement, New Republican stated that it would  
5 “rebrand the way the Republican Party approaches the challenges of the future” with the goal “to  
6 make the Republican Party Great Again” and support President Trump.<sup>15</sup> The press release also  
7 announced that Scott had hired his former staff to work for New Republican: Melissa Stone,  
8 Scott’s former chief of staff and 2014 re-election campaign manager, would become New  
9 Republican’s new executive director; and Taylor Teepell, who previously served in Scott’s  
10 administration, would be the new finance director.<sup>16</sup> In addition, New Republican hired Deborah  
11 Aleksander, Scott’s longtime fundraiser, and a number of consulting firms who had previously  
12 done work for Scott’s campaigns, including On Message, the firm of longtime Scott consultant  
13 Curt Anderson.<sup>17</sup>

14 According to a news report cited by the Complaint, however, political strategists in both  
15 parties viewed New Republican “as a vehicle to raise money ahead of Scott’s anticipated bid to

---

<sup>12</sup> New Republican PAC, Financial Summary for 2015-2016, *available at* <https://www.fec.gov/data/committee/C00544544/?cycle=2016>.

<sup>13</sup> New Republican raised \$150,000 in 2016, all of which was received in April. New Republican PAC, 2017 Am. May Monthly Report (Jul. 20, 2016); New Republican PAC, 2016 Year-End Report (Feb. 1, 2017). Similarly, New Republican received no contributions in 2017 until it was announced that Scott was becoming its Chair. *See* New Republican PAC, 2017 Am. Mid-Year Report (Oct. 2, 2017).

<sup>14</sup> MUR 7370 Compl. at 1, Ex. A.

<sup>15</sup> *Id.* at Ex. A.

<sup>16</sup> *Id.* at 2, Exs. A, B, D.

<sup>17</sup> *Id.* at 2, Exs. B, E.

1 unseat Democratic U.S. Sen. Bill Nelson in 2018.”<sup>18</sup> Brian Burgess, a former spokesman for  
2 Scott, was quoted as stating, “[h]e is running for Senate. That’s all this is about.”<sup>19</sup>

3           Once Scott became Chair, New Republican’s contributions significantly increased. After  
4 not receiving a contribution for over a year, New Republican raised over \$275,000 in the three  
5 weeks after its May 11 announcement.<sup>20</sup> New Republican received almost \$1.2 million in 2017  
6 — an eight-fold increase over 2016 contributions.<sup>21</sup> New Republican’s increased fundraising  
7 continued in 2018. During the first quarter of 2018, New Republican raised over \$1.2 million.<sup>22</sup>  
8 As an IEOPC, New Republican accepted both corporate and excessive contributions during the  
9 2018 election cycle.

10           During 2017, New Republican spent \$313,919.91 on operating expenses,<sup>23</sup> and during  
11 the first quarter of 2018, New Republican spent \$295,698.30 on operating expenses.<sup>24</sup> During  
12 Scott’s tenure as Chair of New Republican, it reported making no independent expenditures.

---

<sup>18</sup> Gary Rohrer, *Gov. Scott Forms New PAC Ahead of Likely U.S. Senate Run*, ORLANDO SENTINEL (May 22, 2017), MUR 7370 Compl at Ex. I.

<sup>19</sup> *Id.*

<sup>20</sup> New Republican PAC, 2017 Am. Mid-Year Report (Oct. 2, 2017).

<sup>21</sup> New Republican PAC, 2017 Am. Year-End Report (Feb. 23, 2018).

<sup>22</sup> New Republican PAC, 2018 April Quarterly Report (Apr. 15, 2018).

<sup>23</sup> New Republican PAC, 2017 Am. Year-End Report (Feb. 23, 2018); New Republican PAC, Disbursements, available at [https://www.fec.gov/data/disbursements/?committee\\_id=C00544544&two\\_year\\_transaction\\_period=2018&data\\_type=processed](https://www.fec.gov/data/disbursements/?committee_id=C00544544&two_year_transaction_period=2018&data_type=processed). The money was spent on items such as rent, credit card processing fees, printing, phone service, political strategy consulting, fundraising consulting, and compliance consulting. *Id.*

<sup>24</sup> New Republican PAC, 2018 April Quarterly Report (Apr. 15, 2018); New Republican PAC, Disbursements, available at [https://www.fec.gov/data/disbursements/?committee\\_id=C00544544&two\\_year\\_transaction\\_period=2018&data\\_type=processed](https://www.fec.gov/data/disbursements/?committee_id=C00544544&two_year_transaction_period=2018&data_type=processed). The money was spent on items such as rent, credit card processing fees, printing, postage, database management, compliance consulting, graphic design services, political strategy consulting, fundraising consulting, compliance consulting, and survey research. *Id.*

1 Respondents state that Scott “stepped down” as Chair of New Republican in December  
2 2017.<sup>25</sup> Stone remained in her position as New Republican’s Executive Director, and Blaise  
3 Hazelwood served as a Senior Advisor.<sup>26</sup> On February 1, 2018, Hazelwood became the  
4 Executive Director, and Stone became a Senior Advisor and remained with New Republican  
5 through at least June 2018.<sup>27</sup> Hazelwood submitted an affidavit in connection with New  
6 Republican’s response and asserts that she has “made all decisions regarding New Republican  
7 PAC’s operations and activities” since becoming the executive director on February 1, 2018.<sup>28</sup>

8 As support for their statement that Scott left New Republican in December 2017,  
9 Respondents assert that Scott’s name was removed from the New Republican website as of  
10 January 2, 2018.<sup>29</sup> Respondents did not provide copies of the website from that time, and  
11 publicly available historical views of the website indicate that the website continued to reference  
12 Scott until at least January 18, 2018.<sup>30</sup> Based on those archived pages, we could only confirm  
13 that Scott’s name had been removed by February 2, 2018.<sup>31</sup> Further, in an article discussing the  
14 Complaint filed in this matter, a spokesperson for Scott’s Senate campaign told a reporter in

---

<sup>25</sup> Scott MUR 7370 Resp. at 2; New Republican PAC MUR 7370 Resp. at 4. New Republican asserts that Scott’s departure was formalized when New Republican personnel met on December 7-8, 2018. *Id.* Based on the available information, it appears that no one replaced Scott as Chair of New Republican.

<sup>26</sup> New Republican PAC MUR 7370 Resp. at 6.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*, Hazelwood Aff. at ¶ 3.

<sup>29</sup> Scott MUR 7370 Resp. at 2; New Republican PAC MUR 7370 Resp. at 4.

<sup>30</sup> See New Republican PAC, WAYBACK MACHINE (Jan. 18, 2018), available at <https://web.archive.org/web/20180118222610/https://newrepublican.org/>.

<sup>31</sup> See New Republican PAC, WAYBACK MACHINE (Feb.2, 2018), available at <https://web.archive.org/web/20180202221556/https://newrepublican.org/>.



1 early April 2018 that “Scott stepped down as Chair [of New Republican] in February” 2018.<sup>32</sup>  
2 In addition, Scott continued to be identified as the Chair of New Republican in the press at least  
3 as late as March 2018.<sup>33</sup> We are aware of no information suggesting that New Republican  
4 attempted to correct the press’s identification of Scott as its Chair after December 2017.

### 5 C. New Republican’s Activities After December 2017

6 Although Scott stated he had stepped down as Chair sometime in early 2018, Scott  
7 continued to participate in a number of New Republican’s activities. Respondents acknowledge  
8 that Scott continued to attend New Republican fundraising events after stepping down as Chair<sup>34</sup>  
9 and do not dispute that he may have “incidentally” discussed his potential candidacy at those  
10 events.<sup>35</sup> In particular, on March 3, 2018, Scott was a featured guest at a New Republican  
11 fundraiser that he hosted in his own home.<sup>36</sup> It is unclear whether he solicited funds at these  
12 events, as Respondents do not state whether Scott solicited contributions at New Republican  
13 fundraisers.

---

<sup>32</sup> John Kennedy, *Election Complaint Filed Against Rick Scott PAC*, THE GAINESVILLE SUN (Apr. 10, 2018), available at <https://www.gainesville.com/news/20180410/elections-complaint-filed-against-rick-scott-pac>. There are also news reports identifying Scott as Chair of New Republican as late as March 3, 2018, but it is unclear what information is used to draw this conclusion. *See, e.g.*, Sean Sullivan, *Florida Gov. Rick Scott to put in Face Time With GOP Donors Ahead of Possible Senate run*, WASHINGTON POST (Mar. 3, 2018) available at [https://www.washingtonpost.com/news/powerpost/wp/2018/03/03/florida-gov-rick-scott-to-put-in-face-time-with-gop-donors-ahead-of-possible-senate-run/?noredirect=on&utm\\_term=.b0139a4341a1](https://www.washingtonpost.com/news/powerpost/wp/2018/03/03/florida-gov-rick-scott-to-put-in-face-time-with-gop-donors-ahead-of-possible-senate-run/?noredirect=on&utm_term=.b0139a4341a1).

<sup>33</sup> MUR 7496 Compl. at 2 (citing Sullivan, *supra* note 1).

<sup>34</sup> Scott MUR 7370 Resp. at 2; New Republican PAC MUR 7370 Resp. at 5-6; Rick Scott for Florida and Rick Scott MUR 7496 Resp. at 2 (Nov. 14, 2018) (hereinafter, Scott MUR 7496 Resp.).

<sup>35</sup> Scott Resp., MUR 7370 at 4 (“Scott’s attendance at NR PAC events, for instance, does not amount to the receipt of a contribution simply because a potential Senate bid may have been incidentally discussed.”).

<sup>36</sup> Sean Sullivan, *Florida Gov. Rick Scott to Put in Face Time with GOP Donors Ahead of Possible Senate Run*, WASHINGTON POST (Mar. 3, 2018) available at [https://www.washingtonpost.com/news/powerpost/wp/2018/03/03/florida-gov-rick-scott-to-put-in-face-time-with-gop-donors-ahead-of-possible-senate-run/?noredirect=on&utm\\_term=.b0139a4341a1](https://www.washingtonpost.com/news/powerpost/wp/2018/03/03/florida-gov-rick-scott-to-put-in-face-time-with-gop-donors-ahead-of-possible-senate-run/?noredirect=on&utm_term=.b0139a4341a1).

1           In addition to the fundraising events described above, New Republican commissioned a  
2 poll on March 2, 2018, to test Scott's competitiveness in a match-up against incumbent Senator  
3 Nelson.<sup>37</sup> The poll was conducted among likely voters in Florida "between March 10 and 13,  
4 2018," and was paid for by New Republican on March 14, 2018.<sup>38</sup>

5           On April 9, 2018, the same day that Scott announced his candidacy, New Republican  
6 issued a press release describing itself as "focused on the election of Rick Scott in the race for  
7 Florida United States Senate"<sup>39</sup> and launched a new pro-Scott website.<sup>40</sup> New Republican  
8 acknowledges that it contacted New Republican's website vendor about the redesign on or about  
9 February 22, 2018.<sup>41</sup>

10           Further, many months after he declared his candidacy, Scott was scheduled to participate  
11 in a conference call with New Republican donors on August 29, 2018.<sup>42</sup> The invitation for the  
12 call identified New Republican as "an Independent Expenditure Only PAC (i.e., a Super PAC)  
13 working to elect Rick Scott in the race for Florida United States Senate."<sup>43</sup>

---

<sup>37</sup> MUR 7370 Suppl. Compl. at 1, Ex. N.

<sup>38</sup> *Id.*; New Republican PAC MUR 7370 Resp. at 7, Hazelwood Aff. at ¶ 6.

<sup>39</sup> MUR 7370 Compl. at Ex. K

<sup>40</sup> *Id.* at 3; New Republican PAC, WAYBACK MACHINE (Apr. 13, 2018), available at [https://web.archive.org/web/20180413152004/https://newrepublican.org/..](https://web.archive.org/web/20180413152004/https://newrepublican.org/)

<sup>41</sup> New Republican PAC MUR 7370 Resp. at 7, Hazelwood Aff. at ¶ 7.

<sup>42</sup> MUR 7496 Compl. at 3; Alex Leary, *Rick Scott's Involvement with Super PAC Shows Blurred Lines*, TAMPA BAY TIMES (Aug. 23, 2018), available at <https://www.tampabay.com/florida-politics/buzz/2018/08/23/rick-scotts-involvement-with-super-pac-shows-blurred-lines/>.

<sup>43</sup> *Id.*

1 In addition, New Republican released its first television advertisement in support of  
2 Scott's candidacy on May 3, 2018.<sup>44</sup> New Republican released another advertisement in support  
3 of Scott's candidacy on June 11, 2018.<sup>45</sup>

4 After reporting no independent expenditures since May 14, 2014, New Republican  
5 reported making its first independent expenditure in almost four years on May 3, 2018, which  
6 opposed Bill Nelson, Scott's opponent for U.S. Senate. Between May and November 2018, New  
7 Republican spent \$30,508,261.17 on independent expenditures.<sup>46</sup> Almost all of the money that  
8 New Republican spent in 2018 on independent expenditures was focused on the U.S. Senate race  
9 in Florida, with \$29,538,077.40 opposing Nelson, the Democratic candidate, and \$201.17  
10 supporting Scott.<sup>47</sup>

### 11 **III. LEGAL ANALYSIS**

#### 12 **A. The Commission Should Find Reason to Believe that Scott Filed His** 13 **Statement of Candidacy Late**

14  
15 An individual becomes a candidate under the Act if: (a) such individual receives  
16 contributions or makes expenditures in excess of \$5,000, or (b) such individual gives his or her  
17 consent to another person to receive contributions or make expenditures on behalf of such  
18 individual and if such person has received such contributions or has made such expenditures in

---

<sup>44</sup> MUR 7496 Compl. at 3; New Republican PAC MUR 7496 Resp, at 3.

<sup>45</sup> *Id.*

<sup>46</sup> New Republican PAC, 2018 Year-End Report (Jan. 31, 2019).

<sup>47</sup> Since Scott and Nelson were the only candidates to receive at least 1% of the votes in the race, we discuss New Republican's independent expenditures opposing Nelson and those supporting Scott collectively as independent expenditures in support of Scott's candidacy. *See* Florida Department of Senate, Division of Elections, November 6, 2018 General Election Official Results, available at <https://results.elections.myflorida.com/Index.asp?ElectionDate=11/6/2018&DATAMODE>.

The remaining \$969,982.60 that New Republican spent on independent expenditures in 2018 was in opposition to Katherine Porter, a candidate for the U.S. House of Representatives for California's 45<sup>th</sup> congressional district.

1 excess of \$5,000.<sup>48</sup> Once the \$5,000 threshold has been met, the candidate has fifteen days to  
2 designate a principal campaign committee by filing a Statement of Candidacy with the  
3 Commission.<sup>49</sup> The principal campaign committee must then file a Statement of Organization  
4 within ten days of its designation,<sup>50</sup> and must file disclosure reports with the Commission in  
5 accordance with 52 U.S.C. § 30104(a) and (b).<sup>51</sup>

6         The Commission has established limited “testing the waters” exemptions that permit an  
7 individual to test the feasibility of a campaign for federal office without becoming a candidate  
8 under the Act.<sup>52</sup> These exemptions exclude from the definitions of “contribution” and  
9 “expenditure” those funds received and payments made solely to determine whether an  
10 individual should become a candidate.<sup>53</sup> These regulations seek to draw a distinction between  
11 activities directed to an evaluation of the feasibility of one’s candidacy and conduct signifying  
12 that a decision to become a candidate has been made.<sup>54</sup> Testing the waters activities include, but  
13 are not limited to, payments for polling, telephone calls, and travel, and only funds permissible  
14 under the Act may be used for such activities.<sup>55</sup> An individual who is testing the waters need not  
15 register or file disclosure reports with the Commission unless and until the individual

---

<sup>48</sup> 52 U.S.C. § 30101(2).

<sup>49</sup> *Id.* § 30102(e)(1); 11 C.F.R. § 101.1(a).

<sup>50</sup> 52 U.S.C. § 30103(a); 11 C.F.R. § 102.1(a).

<sup>51</sup> 52 U.S.C. § 30104(a); 11 C.F.R. § 104.1(a).

<sup>52</sup> *See* 11 C.F.R. §§ 100.72 and 100.131; Factual and Legal Analysis at 7, MUR 6775 (Hillary Clinton); Factual and Legal Analysis at 8, MUR 6776 (Niger Innis); Factual and Legal Analysis at 6, MUR 6735 (Joseph A. Sestak).

<sup>53</sup> *See* 11 C.F.R. §§ 100.72(a); 100.131(a).

<sup>54</sup> *See* Advisory Op. 1981-32 (Askew) (“AO 1981-32”).

<sup>55</sup> *Id.*

1 subsequently decides to run for federal office.<sup>56</sup> However, an individual who tests the waters  
2 must keep financial records and, if he or she becomes a candidate, all funds received or payments  
3 made in connection with testing the waters become contributions and expenditures under the Act  
4 and must be reported as such in the first report filed by the candidate's principal campaign  
5 committee.<sup>57</sup> Only funds permissible under the Act may be used for testing-the-waters  
6 activities.<sup>58</sup>

7         The testing-the-waters exemptions are not available to individuals who have made a  
8 decision to become a candidate.<sup>59</sup> Commission regulations set forth a non-exhaustive list of  
9 activities that indicate that an individual is no longer testing the waters and has decided to  
10 become a candidate. Such indicia include: (1) using general public political advertising to  
11 publicize his or her intention to campaign for federal office; (2) raising funds in excess of what  
12 could reasonably be expected to be used for exploratory activities or undertaking activity  
13 designed to amass campaign funds that would be spent after he or she becomes a candidate;  
14 (3) making or authorizing written or oral statements that refer to him or her as a candidate for a  
15 particular office; (4) conducting activities in close proximity to the election or over a protracted  
16 period of time;<sup>60</sup> and (5) taking action to qualify for the ballot under state law.<sup>61</sup> The

---

<sup>56</sup> *Id.*; *see also* Advisory Op. 2015-09 (Senate Maj. PAC, *et al.*) (“AO 2015-09”).

<sup>57</sup> 11 C.F.R. § 101.3.

<sup>58</sup> *Id.* §§ 100.72, 100.131.

<sup>59</sup> *See* AO 2015-09 at 5; *see also* Payments Received for Testing the Waters Activities, 50 Fed Reg. 9992, 9993 (Mar. 13, 1985) (exemption “explicitly limited ‘solely’ to activities designed to evaluate a potential candidacy”).

<sup>60</sup> The Commission has advised that there is no specific time limit for such activities, and the length of time spent testing the waters is but one factor in determining whether an individual becomes a candidate. AO 2015-09 at 6.

<sup>61</sup> 11 C.F.R. §§ 100.72(b), 100.131(b).

1 Commission, in deciding whether an individual is no longer testing the waters and has made a  
2 decision to run for federal office, assesses an individual's objectively deliberate actions to  
3 discern whether and when an individual decided to become a candidate.<sup>62</sup>

4 As discussed below, the available information indicates that Scott became a federal  
5 candidate as early as 2017 because, as Chair of New Republican, he undertook activities  
6 designed to amass funds that were to be spent on supporting his Senate candidacy after he  
7 declared such candidacy in April 2018.

8 First, from the time Scott became Chair of New Republican to when Scott publicly  
9 announced his candidacy for Senate, New Republican amassed a significant sum of money that it  
10 subsequently spent on independent expenditures opposing Nelson, Scott's opponent. In the year  
11 prior to Scott joining New Republican, it reported raising no money. But between May 12, 2017,  
12 and April 8, 2018, New Republican reported raising over \$2.3 million and spending \$615,735 on  
13 operating expenditures with no money being spent on independent expenditures.<sup>63</sup> The  
14 remaining \$1.6 million-plus was spent on independent expenditures supporting Scott's candidacy  
15 *after* he publicly announced he was running for Senate.<sup>64</sup> In fact, New Republican reported

---

<sup>62</sup> *See id.*

<sup>63</sup> New Republican PAC, Raising for 2017-2018, available at <https://www.fec.gov/data/committee/C00544544/?tab=raising&cycle=2018>; New Republican PAC, Disbursements for 2017-2018, available at [https://www.fec.gov/data/disbursements/?committee\\_id=C00544544&two\\_year\\_transaction\\_period=2018&data\\_type=processed](https://www.fec.gov/data/disbursements/?committee_id=C00544544&two_year_transaction_period=2018&data_type=processed).

<sup>64</sup> New Republican PAC, Independent expenditures for 2017-2018, available at [https://www.fec.gov/data/independent-expenditures/?min\\_date=01%2F01%2F2017&max\\_date=12%2F31%2F2018&data\\_type=processed&is\\_notice=true&committee\\_id=C00544544](https://www.fec.gov/data/independent-expenditures/?min_date=01%2F01%2F2017&max_date=12%2F31%2F2018&data_type=processed&is_notice=true&committee_id=C00544544). New Republican spent money in October 2018 on independent expenditures opposing Katherine Porter, a candidate for the U.S. House of Representatives for California's 45 congressional district. However, under a first-in, first-out accounting analysis, all of the money raised prior to April 2018 had been spent on independent expenditures in support of Scott's candidacy prior to any of the Porter independent expenditures.

In total, New Republican spent \$30,508,261.17 on independent expenditures between May and November 2018. New Republican PAC, 2018 Year-End Report (Jan. 31, 2019). This was over sixty times the total amount that New Republican had spent on independent expenditures in its entire history prior to 2018.

MURs 7370 & 7496 (New Republican PAC, *et al.*)

First General Counsel's Report

Page 15 of 27

1 making no independent expenditures from May 2014 until four years later in May 2018, when  
2 New Republican reported its first independent expenditure supporting Scott.<sup>65</sup>

3         Second, there is no available information suggesting that while Scott was New  
4 Republican's Chair, it spent any money on its stated purpose of supporting President Trump and  
5 his ideals. New Republican spent no money on independent expenditures in support of Trump or  
6 any other candidate during this time, and there is no available information suggesting that New  
7 Republican spent money on issue ads or other efforts to advance its purported purpose during  
8 this time. Further, despite its stated purpose of supporting "New Republicans," New Republican  
9 focused almost exclusively on Scott's candidacy after he became Chair. Even though there were  
10 32 other Senate races in 2018, New Republican did not make an independent expenditure  
11 regarding any other Senate race during the entire 2018 election cycle, and of the over \$30 million  
12 New Republican spent on independent expenditures during that cycle, 97% was spent in support  
13 of Scott's candidacy. Thus, these circumstances indicate that the main purpose of New  
14 Republican after Scott became Chair was to support Scott's candidacy by amassing funds for his  
15 future campaign. Scott's participation in New Republican's efforts to amass substantial funds to  
16 use after he became a candidate is strong indicia that he had already decided to become a  
17 candidate before March 26, 2018.<sup>66</sup>

---

<sup>65</sup> New Republican PAC, 48 Hour Notification (May 9, 2018).

<sup>66</sup> The regulations specifically state that one indicia of a decision to run is raising funds in excess of what could reasonably be expected to be used for exploratory activities or undertaking activity designed to amass campaign funds that would be spent after he or she became a candidate. 11 C.F.R. §§ 100.72(b), 100.131(b); *see also* Advisory Op. 1985-40 (Republican Majority Fund, *et al.*) at 4 (determining that that an individual would not trigger candidacy where solicitations for a testing-the-waters fund would "not result in amassing campaign funds for [requester's] use if he should become a candidate.").

1           Third, while circumstances indicate that the vast majority of funds that New Republican  
2 raised were to be used after Scott announced his candidacy, as described above, New Republican  
3 spent some funds to further his candidacy before then as well. For instance, New Republican  
4 commissioned a poll on March 2, 2018, to test Scott's competitiveness in a match-up against  
5 incumbent Senator Nelson.<sup>67</sup> New Republican paid for the poll on March 14, 2018, almost a  
6 month before Scott publicly announced his candidacy on April 9, 2018.<sup>68</sup> There is no available  
7 information to suggest that New Republican conducted polls regarding any other Republicans  
8 being discussed as potential candidates for Senate.

9           Fourth, New Republican rebranded itself as a pro-Scott IEOPC on the same day that  
10 Scott announced his candidacy, and it had already redesigned its website to reflect its changed  
11 status before then. This timing is consistent with the other information indicating that New  
12 Republican was dedicated to Scott's election. Indeed, New Republican admits that it began  
13 redesigning its website in February 2018 to reflect that it had become a pro-Scott committee,<sup>69</sup>  
14 over a month before the date on which Scott asserts that he in fact decided to become a  
15 candidate.

16           New Republican's executive director Hazelwood avers that she decided to redesign the  
17 website and did not discuss the website redesign with Scott or any other person who was not a

---

<sup>67</sup> MUR 7370 Suppl. Compl. at 1, Ex. N.

<sup>68</sup> *Id.*; New Republican PAC MUR 7370 Resp. at 7, Hazelwood Aff. at ¶ 6.

<sup>69</sup> New Republican MUR 7370 Resp. at 7.



1 contracted vendor of New Republican.<sup>70</sup> Yet Hazelwood's affidavit does not address how or  
2 why New Republican made the decision to redesign the website or prepared itself to re-brand as  
3 an IEOPC dedicated to supporting Scott before Scott announced he was running for Senate, and  
4 the phrasing of Hazelwood's affidavit leaves open the possibility that New Republican's staff,  
5 vendors, or consultants may have discussed the website redesign with Scott or any of his agents.  
6 For instance, Hazelwood does not state whether Melissa Stone, a staffer Scott retained when he  
7 became Chair of New Republican and who continued to work for New Republican after Scott's  
8 departure,<sup>71</sup> discussed New Republican's website with Scott at any point. Nor does the affidavit  
9 address whether Hazelwood had access to New Republican's plans and strategies that Scott  
10 developed as Chair. Thus, notwithstanding the limited disavowal contained in the affidavit, the  
11 overall available information indicates that New Republican redesigned its website and released  
12 it the day Scott announced his candidacy because Scott and New Republican worked together to  
13 advance his Senatorial candidacy long before he publicly announced he was running.<sup>72</sup>

14 In sum, it appears that Scott's activities as Chair of New Republican were in preparation  
15 for his candidacy. In particular, the current record indicates that New Republican, with Scott at  
16 the helm, amassed over \$1.9 million dollars in contributions to spend in support of his election,  
17 and it accepted \$5,000 in such contributions as early as May 2017.<sup>73</sup> Although we do not  
18 currently know the precise date on which Scott legally became a candidate, the available  
19 information indicates that Scott triggered candidacy sometime in the latter half of 2017, given  
20 that by the end of 2017, New Republican, under Scott's direction, raised over \$1.1 million, a

---

<sup>70</sup> New Republican PAC MUR 7370 Resp. at 7, Hazelwood Aff. at ¶ 7.

<sup>71</sup> New Republican MUR 7370 Resp. at 6.

<sup>72</sup> MUR 7370 Compl. at 3, Ex. K; MUR 7496 Compl. at 3.

<sup>73</sup> Rick Scott for Florida, 2018 July Quarterly Report at 1868 (Jul. 16, 2018).

1 significant portion of which was to be spent on independent expenditures supporting Scott's  
2 candidacy. An investigation will help determine the date on which Scott should have registered  
3 as a candidate.

4 Under these circumstances, we recommend that the Commission find reason to believe  
5 that Scott violated 52 U.S.C. § 30102(e)(1) and 11 C.F.R. § 101.1(a) by failing to timely file a  
6 statement of candidacy. Further, we recommend that the Commission find reason to believe that  
7 the Committee violated 52 U.S.C. § 30103(a) by failing to timely file a Statement of  
8 Organization and violated 52 U.S.C. § 30104 by failing to file required disclosure reports.

9 **B. The Commission Should Find Reason to Believe that New Republican**  
10 **Violated the Act by Soliciting and Receiving Non-Federal Funds**

11 The Act prohibits federal candidates and officeholders, their agents, and entities directly  
12 or indirectly established, financed, maintained or controlled by or acting on behalf of one or  
13 more candidates or individuals holding federal office, from “solicit[ing], receiv[ing], direct[ing],  
14 transfer[ing], or spend[ing] funds in connection with an election for Federal office, . . . unless the  
15 funds are subject to the limitations, prohibitions, and reporting requirements of [the] Act.”<sup>74</sup> The  
16 prohibition applies only after an individual becomes a candidate or officeholder.

17 To determine whether a candidate or his or her agent “directly or indirectly establishes,  
18 finances, maintains, or controls” an entity, the Commission considers ten non-exhaustive factors  
19 “in the context of the overall relationship between the sponsor and the entity.”<sup>75</sup> Some of the  
20 factors include whether the candidate or his or her agent “has the authority or ability to hire,  
21 appoint, demote, or otherwise control the officers, or other decision-making employees or  
22 members of the entity,” “has common or overlapping officers or employees with the entity that

---

<sup>74</sup> 52 U.S.C. § 30125(e)(1)(A); *see also* 11 C.F.R. § 300.61.

<sup>75</sup> 11 C.F.R. § 300.2(c)(2).

1 indicates a formal or ongoing relationship,” “has authority or ability to direct or participate in the  
2 governance of the entity,” or “provides funds or goods in a significant amount or an ongoing  
3 basis to the entity, such as through direct or indirect payments for administrative, fundraising, or  
4 other costs . . . .”<sup>76</sup>

5 As discussed above, the available information appears to indicate that Scott likely  
6 became a candidate while he was Chair of New Republican in 2017.<sup>77</sup> Therefore, the available  
7 information supports a reasonable inference that Scott controlled New Republican and that New  
8 Republican and Scott were thus subject to the Act’s soft money prohibitions from the time that  
9 Scott became a federal candidate.<sup>78</sup>

10 First, as Chair, Scott was involved in the staffing, governance, and financing of New  
11 Republican from May 2017 until at least December 2017. Scott hired the employees of New  
12 Republican starting in May 2017. For instance, when Scott announced that he would chair New  
13 Republican on May 11, 2017, Scott also announced that he had hired his former staff to work for  
14 New Republican in senior positions.<sup>79</sup> While Scott was Chair, New Republican also announced  
15 that it hired Scott’s longtime fundraiser and a number of consulting firms who had previously  
16 done work for Scott.<sup>80</sup> Thus, Scott had the authority to “hire, appoint, demote, or otherwise

---

<sup>76</sup> *Id.* § 300.2(c)(2)(iii), (v), (vii).

<sup>77</sup> It is unknown from the available information when exactly Scott became a candidate, it appears that Scott became a candidate as early as 2017. *See* Section III.A.

<sup>78</sup> Although New Republican was not initially established by Scott, it is not necessary that every factor be established for the Commission to find that a candidate or his or her agent “directly or indirectly establishes, finances, maintains, or controls” an entity.

<sup>79</sup> MUR 7370 Compl. at 2, Ex. A.

<sup>80</sup> *Id.* at 2, Exs. B, E.

MUR  
6957 (Isadore Hall III) (finding reason to believe that an entity was established, financed, maintained or controlled by a candidate when the candidate controlled the entity).

1 control the officers, or other decision-making employees or members of' New Republican, and  
2 the hiring of Scott's former staff suggests an ongoing relationship with Scott.<sup>81</sup>

3 Second, the available information suggests Scott continued to exercise control over New  
4 Republican's operations as its Chair until at least February 2018.<sup>82</sup> Among other things, the  
5 archived websites identified Scott as New Republican's Chair at least until January 18, 2018<sup>83</sup> —  
6 less than three months before New Republican transformed itself into an independent  
7 expenditure-only committee dedicated to supporting his federal election. Moreover, a  
8 Committee spokesperson told a reporter that Scott stepped down as Chair of New Republican in  
9 February 2018.<sup>84</sup>

10 Although Respondents contend that Scott stepped down as Chair from New Republican  
11 in "early December 2017,"<sup>85</sup> they do not provide persuasive support for their contention. Neither  
12 Scott nor anyone representing New Republican has submitted a sworn statement regarding  
13 Scott's departure, and the contemporaneous information reflected in the archived websites  
14 contradict Respondents' assertion that he left in December 2017.<sup>86</sup> Further, Respondents do not  
15 explain why the Committee spokesperson told a reporter that Scott stepped down as Chair of  
16 New Republican in February 2018. Thus, the available information suggests that Scott had an

---

<sup>81</sup> 11 C.F.R. § 300.2(c)(2)(iii), (iv).

<sup>82</sup> MUR 7370 Compl. at 2, Ex. A.

<sup>83</sup> See New Republican PAC, WAYBACK MACHINE (Jan. 18, 2018), available at <https://web.archive.org/web/20180118222610/https://newrepublican.org/>.

<sup>84</sup> See John Kennedy, *Election Complaint Filed Against Rick Scott PAC*, THE GAINESVILLE SUN (Apr. 10, 2018), available at <https://www.gainesville.com/news/20180410/elections-complaint-filed-against-rick-scott-pac>.

<sup>85</sup> Scott MUR 7370 Resp. at 2; *see also* New Republican MUR 7370 Resp. at 4.

<sup>86</sup> See Section I.B.

1 “ongoing relationship” with New Republican and the “ability to direct or participate in the  
2 governance of” New Republican until at least February 2018.<sup>87</sup>

3 Third, Scott appears to have continued to have authority or the ability to direct or  
4 participate in the governance of New Republican’s fundraising after stepping down as Chair.  
5 Scott’s participation in the March 2018 New Republican fundraiser in his own home indicates  
6 that Scott continued to maintain a relationship with New Republican and actively supported its  
7 fundraising activities. Although Respondents contend that he was a “guest” at this event,<sup>88</sup> New  
8 Republican fails to explain how he could be a guest in his own home, where he provided free  
9 space to hold the event. Respondents do not deny that Scott solicited funds at this event, and  
10 even if Scott was not directly asking for funds at these events, Scott’s involvement in a  
11 fundraiser at his home suggests that he likely had a role in planning it. Consequently, given  
12 Scott’s involvement with New Republican’s fundraising even after he formally stepped down as  
13 Chair, the current record raises legitimate questions as to whether he continued to play a role  
14 with respect to New Republican’s activities.<sup>89</sup>

15 Further, it is clear from the available information that New Republican “solicit[ed],  
16 receive[d], direct[ed], transfer[red] or spen[t]” funds that were not subject to the limitations and

---

<sup>87</sup> 11 C.F.R. § 300.2(c)(2)(ii), (V).

<sup>88</sup> New Republican MUR 7370 Resp. at 5.

<sup>89</sup> Although federal candidates generally may not solicit nonfederal funds, a federal candidate may attend, speak at, or appear as a featured guest at non-Federal fundraising events without violating the soft money provisions of the Act at 52 U.S.C. § 30125(e). 11 C.F.R. § 300.64. There is insufficient information available to determine whether Scott’s role at the March 2018 fundraiser was limited to appearing as a special guest pursuant to 11 C.F.R. § 300.64. However, based on fact that the fundraiser took place in Scott’s own home, it appears likely that Scott had a larger role in the event.

We also note that while Scott participated as a “special guest” in a conference call with New Republican donors in August 2018, *see* Section II.C, the Commission has not been able to agree that such conduct is permissible in similar circumstances. In AO 2015-09 (Senate Majority PAC), the Commission could not agree as to whether a candidate could appear as a special guest pursuant to section 300.64 at a fundraiser held by a “single candidate committee,” which was formed to support that candidate. *Id.* at 8 n. 7.

1 prohibitions of the Act during the time Scott was its Chair. New Republican accepted both  
2 corporate and excessive contributions throughout the 2018 election cycle.<sup>90</sup> In addition, New  
3 Republican solicited contributions in unlimited amounts on its website in December 2017.<sup>91</sup>

4         Although the available information does not conclusively establish that New Republican  
5 violated section 30125(e), there is ample information in the current record that supports a  
6 reasonable inference that Scott, as a federal candidate, controlled New Republican, which raised  
7 and spent significant sums of non-federal funds during that time. Under these circumstances, an  
8 investigation is warranted to determine exactly what role Scott played in New Republican's  
9 governance, management, and fundraising events during the 2018 election cycle.<sup>92</sup> Accordingly,  
10 we recommend that the Commission find that there is reason to believe that New Republican  
11 violated 52 U.S.C. § 30125(e) by soliciting, receiving, directing, transferring, or spending non-  
12 federal funds to advance Scott's candidacy.

13         It appears likely that Scott also solicited, received, directed, transferred, or spent non-  
14 federal funds on behalf of New Republican during his time as Chair and at the two fundraising  
15 events he attended in 2018. However, there is no available information about specific  
16 solicitations that Scott made on behalf of New Republican or what his specific role was with  
17 respect to the raising and spending by New Republican. Given that information discovered

---

<sup>90</sup> See, e.g., New Republican PAC, 2017 Am. Year-End Report (Feb. 23, 2018); New Republican PAC, 2018 April Quarterly Report (April 15, 2018).

<sup>91</sup> See New Republican PAC, WAYBACK MACHINE (Dec. 9, 2017), available at [https://web.archive.org/web/20171209062614/https://secure.newrepublican.org/new\\_rep\\_website](https://web.archive.org/web/20171209062614/https://secure.newrepublican.org/new_rep_website) (New Republican "can accept unlimited contributions from individuals who are U.S. Citizens or foreign nationals with permanent resident status in the U.S., as well as from U.S. chartered corporations and other business entities.").

<sup>92</sup> See Statement of Policy Regarding Commission Act in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 12,545 (Mar. 16, 2007) ("Commission 'reason to believe' findings have caused confusion in the past because they have been viewed as definitive determinations that a respondent violated the Act. In fact, 'reason to believe' findings indicate only that the Commission found sufficient legal justification to open an investigation to determine whether a violation of the Act has occurred.").

1 during our proposed investigation into Scott's involvement with New Republican in 2017 and  
2 2018 may inform our analysis of whether Scott solicited, received, directed, transferred, or spent  
3 non-federal funds, we recommend that the Commission take no action at this time as to the  
4 allegation that Scott violated 52 U.S.C. § 30125(e).

5 **C. The Commission Should Take No Action at this Time Regarding the**  
6 **Allegation that the Committee and New Republican Coordinated**  
7 **Communications**

8 The Act defines a "contribution" to include "any gift . . . or anything of value made by  
9 any person for the purpose of influencing any election for Federal office."<sup>93</sup> IEOPCs are  
10 prohibited from making contributions to candidates and their authorized committees,<sup>94</sup> and it is  
11 unlawful for candidates, political committees, and their officers and employees to knowingly  
12 accept an excessive or prohibited contribution.<sup>95</sup>

13 A "coordinated expenditure" — which is an expenditure made by any person "in  
14 cooperation, consultation, or concert, with, or at the request or suggestion of," a candidate, a  
15 candidate's authorized committee, or the agents of either — is also a contribution to the  
16 candidate.<sup>96</sup> A "coordinated communication" is one form of coordinated expenditure.<sup>97</sup> Thus,  
17 "[a]n independent expenditure-only political committee may not make contributions to

---

<sup>93</sup> 52 U.S.C. § 30101(8)(A); 11 C.F.R. § 100.52(a).

<sup>94</sup> *See* 52 U.S.C. §§ 30116(a), 30118(a); Advisory Op. at 2010-11 (Commonsense Ten) at 2-3.

<sup>95</sup> 52 U.S.C. §§ 30116(f), 30118(a)

<sup>96</sup> 52 U.S.C. § 30116(a)(7)(B); *see also* 11 C.F.R. § 109.20.

<sup>97</sup> *See* 11 C.F.R. § 109.21(b).

1 candidates or political party committees, including in-kind contributions such as coordinated  
2 communications.”<sup>98</sup>

3 Commission regulations set forth a three-prong test to determine if a communication is a  
4 “coordinated communication.”<sup>99</sup> First, a person other than the federal candidate or the  
5 candidate’s authorized committee must pay for all or part of the communication.<sup>100</sup> Second, the  
6 communication must satisfy at least one content standard.<sup>101</sup> Third, the communication must  
7 satisfy at least one conduct standard.<sup>102</sup> Respondents do not dispute that the advertisements  
8 satisfy the payment and content requirements. We therefore focus our analysis on the conduct  
9 requirement.<sup>103</sup>

10 The Complaint alleges that New Republican paid for the May 3, 2018, and June 11, 2018,  
11 advertisements at Scott’s request or suggestion. In particular, the Complaint allege that New  
12 Republican used “strategic campaign information” obtained from Scott in the development of the  
13 advertisement and that the advertisements were “created, produced, or distributed at the request

---

<sup>98</sup> AO 2017-10.

<sup>99</sup> 11 C.F.R. § 109.21(a).

<sup>100</sup> *Id.* § 109.21(a)(1).

<sup>101</sup> *Id.* § 109.21(a)(2), (c).

<sup>102</sup> *Id.* § 109.21(a)(3), (d).

<sup>103</sup> The conduct prong of the coordination test is satisfied if: (1) the communication was created, produced, or distributed at the request or suggestion of a candidate, campaign, or political party committee, or the payor suggests the communication and the candidate, campaign or political party committee assents to the suggestion (the “request or suggestion” standard); (2) the candidate, campaign, or political party committee was materially involved in decisions regarding the communication (the “material involvement” standard); (3) the communication was created, produced, or distributed after one or more substantial discussions between the payor and the candidate, campaign, or a political party committee involving information that is material to the communication (the “substantial discussion” standard); (4) a candidate, campaign, or political party committee and the payor used a common vendor that used or conveyed material information about the campaign’s plans, projects, activities or needs, or used material information gained from past work with the candidate to create, produce, or distribute the communication; (5) a candidate, campaign, or political party committee and the payor used a former employee or independent contractor; or (6) republication of campaign materials. 11 C.F.R. § 109.21(d).



1 or suggestion of” Scott.<sup>104</sup> However, the Complaint provides no information suggesting that  
2 Scott shared strategic campaign information with New Republican or that Scott requested that  
3 New Republican create the advertisement, and instead attempts to satisfy this prong through the  
4 mere temporal relationship between when Scott left his position as Chair of New Republican and  
5 when New Republican aired the advertisements.

6 Respondents deny that any coordination occurred, and assert that the Complaint’s  
7 allegation is based on speculation.<sup>105</sup> Hazelwood, the executive director of New Republican,  
8 avers that “neither Governor Scott, nor any representative or agent of Governor Scott’s campaign  
9 committee, was not [*sic*] involved in any way with the creation, production, or distribution of  
10 either independent expenditure.”<sup>106</sup>

11 As discussed above, the available information supports a reasonable inference that Scott  
12 continued to be involved with New Republican after December 2017. However, there is no  
13 information available suggesting that Scott was specifically involved in or requested the  
14 production and distribution of the May 3 or June 11 advertisements. Given that information  
15 discovered during our proposed investigation into Scott’s involvement with New Republican in  
16 2017 and 2018 may impact our analysis of this allegation, we recommend that the Commission  
17 take no action at this time as to the allegations that Scott or the Committee accepted excessive  
18 and prohibited contributions in the form of coordinated communications in violation of 52  
19 U.S.C. §§ 30116(f), 30118(a), and 30125(e); that New Republican made excessive prohibited  
20 contributions in the form of coordinated communications in violation 52 U.S.C. §§ 30116(f),

---

<sup>104</sup> MUR 7496 Compl. at 4.

<sup>105</sup> New Republican PAC MUR 7496 Resp. at 3-4; Scott MUR 7496 Resp. at 2.

<sup>106</sup> *Id.* at 4, Hazelwood Aff. at ¶¶ 5, 7-9.

1 30118(a), and 30125(e); and that New Republican and the Committee failed to disclose those  
2 contributions in violation of 52 U.S.C. § 30104(b).

3  
4  
5  
6  
7  
8  
9  
10  
11 **IV. RECOMMENDATIONS**

- 12 1. Find reason to believe that Rick Scott violated 52 U.S.C. § 30102(e)(1) and 11  
13 C.F.R. § 101.1(a) by failing to timely file his Statement of Candidacy;  
14  
15 2. Find reason to believe that Rick Scott for Florida and Salvatore Purpura in his  
16 official capacity as treasurer violated 52 U.S.C. §§ 30103(a) and 30104 by failing  
17 to timely file a Statement of Organization;  
18  
19 3. Find reason to believe that New Republican PAC and Gentry Collins in his  
20 official capacity as treasurer violated 52 U.S.C. § 30125(e) by soliciting,  
21 receiving, directing, transferring, or spending non-federal funds;  
22  
23 4. Take no action at this time as to the allegation that Rick Scott violated 52 U.S.C.  
24 § 30125(e) by soliciting, receiving, directing, transferring, or spending non-  
25 federal funds;  
26  
27 5. Take no action at this time as to the allegation that Rick Scott violated 52 U.S.C.  
28 §§ 30116(f), 30118(a), and 30125(e) by accepting impermissible and excessive  
29 in-kind contributions in the form of coordinated communications;  
30  
31 6. Take no action at this time as to the allegation that Rick Scott for Florida and  
32 Salvatore Purpura in his official capacity as treasurer violated 52 U.S.C.  
33 §§ 30104(b), 30116(f), 30118(a), and 30125(e) by accepting and failing to report  
34 impermissible and excessive in-kind contributions in the form of coordinated  
35 communications;  
36

