

COMPASS

LEGAL SERVICES, INC.

September 24, 2021

Federal Election Commission
Office of Complaints Examination
& Legal Administration
Attn: Christal Dennis, Paralegal
1050 First Street, NE
Washington, DC 20463

VIA EMAIL at cela@fec.gov

Re: MUR 7908: Response of Hon. Marjorie Taylor Greene

Dear Ms. Dennis:

We represent Representative Marjorie Taylor Greene, and we write in response to your letter regarding the Complaint filed in the above-referenced matter by Common Cause, a “nonpartisan” organization that routinely (and almost exclusively) files complaints against Republican Members of Congress and conservative organizations. The politically-motivated Complaint alleges that Representative Greene violated the prohibition on Federal candidate or officeholder “soft money” solicitations in the Federal Election Campaign Act of 1971, as amended (the “Act”) when she appeared in a Stop Socialism Now PAC (the “PAC”) digital ad (the “Ad”) in the leadup to the 2021 special runoff elections for Georgia’s two United States Senate seats. Representative Greene, however, did not make any solicitation as the term is defined by the Act, and no reasonable viewing of the Ad could conclude that she did. Because Representative Greene did not solicit any contributions, there is no violation of the Act’s soft money rules, and the Commission should find no reason to believe a violation occurred and close the file.

As you know, the Bipartisan Campaign Reform Act of 2002 (“BCRA”) established limitations on the solicitation of soft money donations by national political party committees and federal officeholders. BCRA amended the Act to provide that a federal officeholder shall not “solicit, receive, direct, transfer, or spend funds in connection with an election for Federal office ... unless the funds are subject to the limitations, prohibitions, and reporting requirements of [the] Act.” 52 U.S.C. § 30125(e)(1)(A).

With regard to the limits placed on the solicitation of funds, Commission regulations define “to solicit” to mean:

to 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

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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).

Commission regulations go on to list a series of example statements that constitute solicitations under BCRA:

- (i) "Please give \$100,000 to Group X."
- (ii) "It is important for our State party to receive at least \$100,000 from each of you in this election."
- (iii) "Group X has always helped me financially in my elections. Keep them in mind this fall."
- (iv) "X is an effective State party organization; it needs to obtain as many \$100,000 donations as possible."
- (v) "Giving \$100,000 to Group X would be a very smart idea."
- (vi) "Send all contributions to the following address * * *."
- (vii) "I am not permitted to ask for contributions, but unsolicited contributions will be accepted at the following address * * *."
- (viii) "Group X is having a fundraiser this week; you should go."
- (ix) "You have reached the limit of what you may contribute directly to my campaign, but you can further help my campaign by assisting the State party."
- (x) A candidate hands a potential donor a list of people who have contributed to a group and the amounts of their contributions. The candidate says, "I see you are not on the list."
- (xi) "I will not forget those who contribute at this crucial stage."
- (xii) "The candidate will be very pleased if we can count on you for \$10,000"
- (xiii) "Your contribution to this campaign would mean a great deal to the entire party and to me personally."
- (xiv) "Candidate says to potential donor: "The money you will help us raise will allow us to communicate our message to the voters through Labor Day."
- (xv) "I appreciate all you've done in the past for our party in this State. Looking ahead, we face some tough elections. I'd be very happy if you could maintain the same level of financial support for our State party this year."

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- (xvi) The head of Group X solicits a contribution from a potential donor in the presence of a candidate. The donor asks the candidate if the contribution to Group X would be a good idea and would help the candidate's campaign. The candidate nods affirmatively. *Id.* at 300.2(m)(2).

The Commission has made clear that although Super PACs are permitted to accept contributions outside the amount and source limitations of the Act, federal candidates and officeholders may still attend fundraisers for or even solicit contributions on behalf of Super PACs. *See* AO 2011-12 (Majority PAC and House Majority PAC). “So long as the officeholders ... restrict any solicitations *they make* to funds subject to the limitations, prohibitions, and reporting requirements of the Act,” the Commission gives wide latitude for officeholder/Super PAC interaction and participation. *See id.* at 4 (emphasis added).

Despite Complainant’s creative description of the contents of the Ad and several-page commentary on the constitutionality of the soft money rules (which no one is contesting here), the facts of this matter are quite simple. In the leadup to the 2021 Georgia U.S. Senate runoff elections, the PAC posted the Ad on its social media. The Ad begins with a voiceover stating that the PAC is “solely responsible” for the content of the Ad. Representative Greene appears in the Ad and makes general statements about her political support for the PAC, the dangers of socialism, and the implications of a Democrat majority in the House and Senate. The Ad then cuts away from Representative Greene, who does not appear again. The voiceover returns and requests, among other things, that the viewer “donate now” and directs them to StopSocialismNowPAC.com/donate.¹

No reasonable viewing of Representative Greene’s statements in the Ad could conclude that her statements, either implicitly or explicitly, contained a “clear message asking, requesting, or recommending that another person make a contribution” to the PAC. Instead, Representative Greene’s statements were limited to statements of political support of the PAC and implications of the Georgia runoff elections. Representative Greene’s statements do not come remotely close to any of the sixteen examples of solicitations contained in Commission regulations. Further, Representative Greene did not participate in and was in no way involved with the portion of the Ad that contained the solicitation. Representative Greene did not review and/or approve the communication, which instead was reviewed and approved by the PAC’s counsel. Much like attending a PAC fundraiser, Representative Greene made an appearance, gave general remarks of support, and left the event before others solicited contributions for the PAC. This is in clear compliance with the Commission guidance, and the Commission should find no reason to believe a violation occurred.

Even if the Commission concludes that a violation may have occurred, the Complaint should be dismissed because this matter does not warrant further use of Commission resources. A review of the PAC’s periodic reports shows that between December 3, 2020, when the Ad was posted, and the date of the runoff elections, the PAC did not receive any corporate contributions and only one individual contribution over the federal limit. Aside from that lone \$10,000

¹ Contrary to the Complaint’s narrative, the website page to which the Ad directs the viewer does not actually contain a mechanism to contribute to the PAC nor does it automatically direct to such a page.

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contribution, the PAC's receipts during this period were relatively small dollar individual contributions. In MUR 6866, the Commission dismissed a complaint alleging a violation of the soft money solicitation prohibition because it found "only \$1,850 in identifiable federally prohibited funds apparently attributable to the fundraiser in question." Factual & Legal Analysis, MUR 6866 (Udall). Similarly here, at most only \$5,000 in funds outside of the Act's amount limitations could possibly be attributed to Representative Greene's participation in the Ad. The Commission should decline to pursue such a small violation and dismiss the Complaint.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Derek H. Ross". The signature is stylized and fluid, with a long horizontal stroke extending to the right.

Derek H. Ross
Scott Gast
Counsel to Hon. Marjorie Taylor Greene