

1 **FEDERAL ELECTION COMMISSION**

2 **FIRST GENERAL COUNSEL'S REPORT**

3 **MUR 7908**

4 DATE COMPLAINT FILED: May 21, 2021

5 DATE OF NOTIFICATION: May 25, 2021

6 DATE OF LAST RESPONSE: September 24, 2021

7 DATE ACTIVATED: November 30, 2021

8 EXPIRATION OF SOL: December 3-27, 2025

9 ELECTION CYCLE: 2020

10 **COMPLAINANTS:**

11 Common Cause

12 Paul S. Ryan

13 **RESPONDENTS:**

14 Marjorie Taylor Greene

15 Stop Socialism Now PAC and Jason D. Boles in  
his official capacity as treasurer

16 **RELEVANT STATUTES**

17 **AND REGULATIONS:**

18 52 U.S.C. § 30116(a)(1)

19 52 U.S.C. § 30118

20 52 U.S.C. § 30125(e)

21 11 C.F.R. § 300.2(m)

22 11 C.F.R. § 300.61

11 C.F.R. § 300.64

23 **INTERNAL REPORTS CHECKED:**

Disclosure Reports

24 **FEDERAL AGENCIES CHECKED:**

None

25 **I. INTRODUCTION**

26 The Complaint alleges that U.S. Representative Marjorie Taylor Greene violated the  
27 Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations  
28 by soliciting non-federal funds to Stop Socialism Now PAC and Jason D. Boles in his official  
29 capacity as treasurer ("Stop Socialism Now"), an independent expenditure-only political  
30 committee ("IEOPC"). Greene appeared in a digital advertisement posted online in December  
31 2020 that contains unrestricted solicitations of contributions to Stop Socialism Now related to the  
32 runoff and special runoff elections for U.S. Senate in Georgia held on January 5, 2021.

1           As explained below, whether or not Greene's participation and statements in the  
2 communication, in context, constitute a solicitation of non-federal funds by Greene under the  
3 Commission's objective standard, the subsequent sharing on Facebook and retweeting of the  
4 digital advertisement containing requests for contributions of unrestricted funds constitute a  
5 solicitation under the Act and the Commission's regulations and precedent. Therefore, we  
6 recommend that the Commission find reason to believe that Marjorie Taylor Greene violated  
7 52 U.S.C. § 30125(e)(1)(A) and 11 C.F.R. § 300.61 by soliciting non-federal funds and authorize  
8 pre-probable cause conciliation with her. Because the available information is not sufficient to  
9 determine whether Stop Socialism Now violated the Act and the recommended course of pre-  
10 probable cause conciliation with Greene may reveal additional information, we recommend that  
11 the Commission take no action at this time as to Stop Socialism Now PAC and Jason D. Boles in  
12 his official capacity as treasurer.

## 13   **II.   FACTUAL BACKGROUND**

14           Marjorie Taylor Greene was a first-time candidate for the U.S. House of Representatives  
15 from Georgia in 2020.<sup>1</sup> On November 3, 2020, she won election as the U.S. Representative from  
16 Georgia's 14th Congressional District.<sup>2</sup> Greene for Congress is her principal campaign  
17 committee.<sup>3</sup> Stop Socialism Now is an IEOPC registered with the Commission.<sup>4</sup>

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<sup>1</sup> Marjorie Taylor Greene, Statement of Candidacy (May 29, 2019), <https://docquery.fec.gov/pdf/890/201905299149840890/201905299149840890.pdf>.

<sup>2</sup> *November 3, 2020, General Election — Results*, GA. SEC'Y OF STATE BRAD RAFFENSPERGER, (Nov. 20, 2020, 3:37 PM), <https://results.enr.clarityelections.com/GA/105369/web.264614/#!/summary>; see Compl. ¶ 5 (May 21, 2021).

<sup>3</sup> Greene for Congress, Statement of Organization (June 4, 2019), <https://docquery.fec.gov/pdf/026/201906049149878026/201906049149878026.pdf>.

<sup>4</sup> Stop Socialism Now PAC, Statement of Organization (Aug. 19, 2020), <https://docquery.fec.gov/pdf/187/202008199261410187/202008199261410187.pdf>.

1           Greene appeared in a digital advertisement posted by Stop Socialism Now on its  
 2 Facebook page on December 3, 2020 (the “Advertisement”).<sup>5</sup> Greene speaks and appears on  
 3 screen for approximately 47 seconds out of the Advertisement’s 60-second runtime.<sup>6</sup> The  
 4 remaining 13 seconds — the first three seconds and the final ten seconds — of the  
 5 Advertisement feature a narrator’s voiceover and on-screen text.<sup>7</sup>

6           The Advertisement opens with a narrator stating that “Stop Socialism Now PAC paid for  
 7 this ad[vertisement] and is solely responsible for its content” against the backdrop of on-screen  
 8 text “STOP SOCIALISM NOW” and a boxed text disclaimer “PAID FOR BY STOP  
 9 SOCIALISM NOW PAC. NOT AUTHORIZED BY ANY CANDIDATE OR CANDIDATE  
 10 COMMITTEE.”<sup>8</sup> Greene then appears on screen, identifies herself by name, and says:

11           Imagine. Biden and Harris in the White House. Pelosi is Speaker.  
 12           And Schumer runs the Senate. All because Georgia lost our two  
 13           Senate runoff seats to Democrats Jon Ossoff and Raphael  
 14           Warnock. First off, Democrats will end the filibuster so no one  
 15           can stop them. Then they’ll add new Democrat states. They’ll  
 16           pack the Supreme Court. They’ll take away our guns. Then  
 17           they’ll add their open borders, Green New Deal, pro-abortion,  
 18           socialist agenda. Stop Socialism Now PAC is fighting back, not  
 19           quitting, by exposing Ossoff’s and Warnock’s radical agenda.  
 20           Stop Socialism Now PAC will stop Ossoff and Warnock from  
 21           stealing our Senate seats. It’s time to fight back now, before it’s  
 22           too late.<sup>9</sup>

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<sup>5</sup> Stop Socialism Now PAC, FACEBOOK (Dec. 3, 2020) [hereinafter Facebook Video], <https://www.facebook.com/StopSocialismNow/videos/206692941117651/> (including link to Stop Socialism Now’s Facebook page where the Advertisement was posted). Compl. ¶ 7 & n.6

<sup>6</sup> Facebook Video; Compl. ¶ 9.

<sup>7</sup> Facebook Video; Compl. ¶ 9.

<sup>8</sup> Facebook Video; Compl. ¶ 8.

<sup>9</sup> Facebook Video; Compl. ¶ 8 (transcribing the audio of the Advertisement); *id.* ¶¶ 10-12.

1           The Advertisement then cuts away from Greene and a narrator asks the viewer to “help  
2 save America and stop socialism. Make a contribution today to Stop Socialism Now PAC,  
3 because if Democrats win in Georgia, it’s all over for America.”<sup>10</sup> Accompanying on-screen text  
4 reads “SAVE AMERICA” and “STOP SOCIALISM” before encouraging the audience to  
5 “DONATE NOW” and to “STOP SOCIALISM NOW.”<sup>11</sup>



<sup>10</sup> Facebook Video; Compl. ¶¶ 8, 12.

<sup>11</sup> Facebook Video.

1           In the final seven seconds of the Advertisement, on-screen text includes a link directing  
2 to KeepGeorgiaRed.us (the “Donation Web Page”).<sup>12</sup> An archived version of that web address  
3 redirects to a web page hosted by Anedot — an online fundraising platform<sup>13</sup> — that states that  
4 the viewer should “[r]ush [their] emergency donation of \$5,000, \$2,500, \$1,000, \$500, \$100,  
5 \$50, or even as little as \$10 right away” and states that “[w]e must re-elect Senators Kelly  
6 Loeffler and David Perdue and KEEP GEORGIA RED!”<sup>14</sup> Beneath the donation form and  
7 “Donate” button, the Donation Web Page includes smaller print stating the donor certifies certain  
8 information by clicking “Donate”: that the donor is 18 years of age and is a U.S. citizen or  
9 lawful permanent resident, the donation is not made on the credit or debit card of another, the  
10 donor will not be reimbursed for the contribution, and the donation is not made from funds of a  
11 federal contractor.<sup>15</sup> The smaller print also states that contributions to Stop Socialism Now are  
12 not tax deductible, that Stop Socialism Now is independent and does not make contributions to  
13 or coordinate with candidates or political parties, and that by virtue of Stop Socialism Now’s  
14 status as an IEOPC registered with the Commission, it “may accept unlimited contributions from  
15 individuals, corporations, PACs, unions and trade associations.”<sup>16</sup>

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<sup>12</sup> Facebook Video.

<sup>13</sup> See ANEDOT, <https://www.anedot.com/> (last visited Feb. 13, 2023).

<sup>14</sup> *Stop Socialism Now PAC!*, ANEDOT (Jan. 14, 2021) [hereinafter Donation Web Page] (emphasis in original), [keepgeorgiaread.us \[https://web.archive.org/web/20210114185834/https://secure.anedot.com/stop-socialism-now/keep-ga-red-rd\]](https://web.archive.org/web/20210114185834/https://secure.anedot.com/stop-socialism-now/keep-ga-red-rd).

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

1 Stop Socialism Now posted the Advertisement on YouTube on December 12, 2020.<sup>17</sup>  
 2 Stop Socialism Now tweeted the Advertisement on December 26, 2020.<sup>18</sup> The text captions  
 3 accompanying Stop Socialism Now's posts of the Advertisement on Facebook, YouTube, and  
 4 Twitter all contain slightly revised and/or truncated versions of Greene's statements in the  
 5 Advertisement.<sup>19</sup>  
 6 Greene's official Facebook page, which appears to be administered by Greene for  
 7 Congress,<sup>20</sup> shared Stop Socialism Now's Facebook post of the Advertisement on December 8,  
 8 2020 — five days after Stop Socialism Now originally posted the Advertisement on Facebook.<sup>21</sup>  
 9 Greene retweeted Stop Socialism Now's tweet of the Advertisement on or about December 27,  
 10 2020 — one day after Stop Socialism Now originally tweeted it.<sup>22</sup> Greene's Facebook share and

<sup>17</sup> Stop Socialism Now PAC, *Help Stop Socialism NOW PAC Stop Schumer From Taking Over the Senate! DEFEAT THE DEMOCRATS!*, YOUTUBE (Dec. 12, 2020) [hereinafter YouTube Video], <https://www.youtube.com/watch?app=desktop&v=yBLLZulM27s> The Complaint alleges that the Advertisement was posted on YouTube on January 11, 2021. Compl. ¶ 7. It appears that the video identified by the Complaint was posted by an account with the handle @MountaintopMedia nearly a month after the Advertisement was posted under Stop Socialism Now's YouTube profile and six days after the date of the U.S. Senate runoff elections in Georgia. Neighborhood Research and Media (@MountaintopMedia), *Stop Socialism NOW PAC: Fight Back Now!*, YOUTUBE (Jan. 11, 2021) [hereinafter MountaintopMedia Video], <https://www.youtube.com/watch?v=rS9y4RgV7MU>

<sup>18</sup> Stop Socialism Now PAC (@SSNPAC), TWITTER (Dec. 26, 2020, 1:45PM) [hereinafter Twitter Video], <https://twitter.com/SSNPAC/status/1342904503574659077?s=20&t=txr0uFEFqdo-tidqQ464Dw>

<sup>19</sup> Facebook Video; YouTube Video; Twitter Video.

<sup>20</sup> Marjorie Taylor Greene, *About: Page Transparency*, FACEBOOK, [https://www.facebook.com/MarjorieTaylorGreene/about\\_profile\\_transparency](https://www.facebook.com/MarjorieTaylorGreene/about_profile_transparency) (last visited Feb. 13, 2023) (stating that Greene for Congress is "responsible for" the page and indicating that the page was created on October 3, 2017, and that from that date until January 6, 2021, the page name was Marjorie Taylor Greene for Congress).

<sup>21</sup> Marjorie Taylor Greene, FACEBOOK (Dec. 8, 2020) [hereinafter Greene Facebook Share], [https://www.facebook.com/permalink.php?story\\_fbid=2611592879130806&id=1809715209318581](https://www.facebook.com/permalink.php?story_fbid=2611592879130806&id=1809715209318581).

<sup>22</sup> See Twitter Video (listing Greene (@mtgreenee) as the first retweet). Twitter's Advanced Search feature does not appear to reflect retweets when searching for a Twitter handle's activity within a date range or have an option to search for retweets by date. See *Advanced Search*, TWITTER, <https://twitter.com/search-advanced?lang=en> (last visited Feb. 13, 2023). However, Stop Socialism Now's original tweet of the Advertisement still lists Greene as the first account to retweet and an archived version of Greene's Twitter feed on December 28, 2020, shows the retweet on her feed as of December 27, 2020. Twitter Video; Marjorie Taylor Greene (@mtgreenee), TWITTER (Dec. 28, 2020, 12:23 PM) [hereinafter Greene Retweet], <https://twitter.com/mtgreenee> [<https://web.archive.org/web/20201228122322/https://twitter.com/mtgreenee>].

1 retweet both include the full Advertisement as well as the captions, repeating truncated versions  
2 of her statements, as originally appearing in Stop Socialism Now's Facebook post and tweet.<sup>23</sup>  
3 Greene's Facebook share adds the following text caption: "SAVE AMERICA. STOP  
4 SOCIALISM. DEFEAT THE DEMOCRATS!" signed with Greene's initials "-- MTG."<sup>24</sup> The  
5 statements by the Advertisement's narrator are not transcribed in the text of Stop Socialism  
6 Now's Facebook post or tweet, and therefore not in Greene's Facebook share or retweet, but the  
7 Advertisement itself is included in full, which contains the narrator's request that the viewer  
8 "help save America and stop socialism. Make a contribution today to Stop Socialism Now PAC,  
9 because if Democrats win in Georgia, it's all over for America," and the on-screen text

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<sup>23</sup> Greene Facebook Share; Greene Retweet.

<sup>24</sup> Greene Facebook Share.

1 “DONATE NOW.”<sup>25</sup> Screenshots of Greene’s Facebook share and retweet appear below:



2 The timeline of Stop Socialism Now and Greene’s various communications are  
 3 represented in the table below:

Date	Event
December 3, 2020	Stop Socialism Now Posts the Advertisement on Facebook
December 8, 2020	Greene Shares the Advertisement on Facebook
December 12, 2020	Stop Socialism Now Posts the Advertisement on YouTube
December 26, 2020	Stop Socialism Now Tweets the Advertisement
December 27, 2020	Greene Retweets the Advertisement
January 5, 2021	U.S. Senate Runoff and Special Runoff Elections in Georgia

4 Stop Socialism Now’s publicly available social media pages reflect that Stop Socialism  
 5 Now disseminated several other digital advertisements, similar to the Advertisement, featuring

<sup>25</sup> Greene Facebook Share; Greene Retweet.



1 Greene reading a script and speaking directly to the audience for the majority of the  
 2 advertisement's runtime.<sup>26</sup> At least one other advertisement includes Greene encouraging the  
 3 audience to "fight back" as well as a subsequent textual request to "DONATE NOW" and the  
 4 identification of the web address for the Donation Web Page, similar to the Advertisement.<sup>27</sup> In  
 5 other advertisements, Greene and on-screen text encourage the audience to register and vote in  
 6 the runoff elections,<sup>28</sup> or to support Loeffler and Purdue.<sup>29</sup>

7 The Complaint alleges that Greene violated 52 U.S.C. § 30125(e)(1)(A) by "solicit[ing]  
 8 funds in connection with elections for federal office not subject to the limitations and  
 9 prohibitions of [the Act]."<sup>30</sup> Specifically, the Complaint alleges that Greene's statements and

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<sup>26</sup> See, e.g., Socialism Now PAC, FACEBOOK (Dec. 9, 2020) [hereinafter Marjorie Taylor Greene Has A Message For Georgia Republicans Facebook Video], <https://www.facebook.com/StopSocialismNow/videos/485438645754461/>; Socialism Now PAC, Register. Vote. Let's Save the Senate. And Save America., YOUTUBE (Dec. 12, 2020) [hereinafter Register & Vote YouTube Video], <https://www.youtube.com/watch?v=wdRawb7XTYY>; Stop Socialism Now PAC, Georgia Voters: GET OUT AND VOTE!, (Dec. 12, 2020) [hereinafter Support Loeffler & Purdue YouTube Video], [https://www.youtube.com/watch?v=0\\_tyD1QuIu8](https://www.youtube.com/watch?v=0_tyD1QuIu8).

<sup>27</sup> Stop Socialism Now posted this additional advertisement on its Facebook page on December 9, 2020, six days after the Advertisement was posted on Facebook, and on YouTube on December 12, 2020, the same day the Advertisement was posted on YouTube. See Marjorie Taylor Greene Has A Message For Georgia Republicans Facebook Video; Stop Socialism Now PAC, Marjorie Greene has a message for Georgia Republicans! Stop Stacey Abrams. DEFEAT THE DEMOCRATS!, YOUTUBE (Dec. 12, 2020) [hereinafter Marjorie Taylor Greene Has A Message For Georgia Republicans YouTube Video], [https://www.youtube.com/watch?v=2\\_hke4hUIKA](https://www.youtube.com/watch?v=2_hke4hUIKA). Stop Socialism Now also tweeted this advertisement on December 26, 2020 — in what appears to be Stop Socialism Now's first tweet. Stop Socialism Now PAC (@SSNPAC), TWITTER (Dec. 26, 2020, 1:38 PM), <https://twitter.com/SSNPAC/status/1342902579160879104>. Additionally, Stop Socialism Now paid between \$1,000 and \$1,500 for this advertisement on Facebook between January 1 and 4, 2021. Stop Socialism Now PAC, META AD LIBRARY (Jan. 1-4, 2021), <https://www.facebook.com/ads/library/?id=223772579309275>.

<sup>28</sup> Register & Vote YouTube Video; Stop Socialism Now PAC, FACEBOOK (Dec. 2, 2020) [hereinafter Register & Vote Facebook Video], <https://www.facebook.com/watch/?v=385990166012917&ref=sharing>.

<sup>29</sup> Support Loeffler & Purdue YouTube Video; Stop Socialism Now PAC, FACEBOOK (Dec. 22, 2020) [hereinafter Support Loeffler & Purdue Facebook Video], <https://www.facebook.com/StopSocialismNow/videos/1170191796732601>. Stop Socialism Now paid between \$2,000 and \$2,500 for this advertisement on Facebook between January 1 and 4, 2021. Stop Socialism Now PAC, META AD LIBRARY (Jan. 1-4, 2021), <https://www.facebook.com/ads/library/?id=104892351450657>.

<sup>30</sup> Compl. ¶ 40; *see id.* ¶¶ 1-2, 27-40. The Complaint also cites the Act's relevant contribution limit, 52 U.S.C. § 30116(a)(1)(C), and prohibition on corporate and union contributions to candidates and non-IEOPC committees, 52 U.S.C. § 30118. See Compl. ¶¶ 19-20, 40. These citations appear corollary to the primary allegation that Greene solicited funds not subject to the Act's limitations and prohibitions. *See id.*

1 appearance in the majority of the Advertisement, in context of the subsequent requests for  
2 donations by the narrator, the on-screen text encouraging the viewer to “donate now,” and a link  
3 to a web page dedicated to making contributions, constitute solicitations by Greene under the Act  
4 and Commission regulations.<sup>31</sup>

5 Respondents contend that Greene did not violate the Act’s soft money prohibition  
6 because her statements in the Advertisement did not constitute a solicitation and the solicitations  
7 in the Advertisement occurred in a portion in which Greene did not appear.<sup>32</sup> Respondents  
8 characterize Greene’s statements in the Advertisement as statements of political support for Stop  
9 Socialism Now.<sup>33</sup> Respondents further contend that Greene did not review or approve of the  
10 Advertisement.<sup>34</sup>

11 Additionally, Greene asserts that her appearance in the Advertisement is equivalent to a  
12 federal candidate or officeholder’s attendance at a fundraising event for an IEOPC in that Greene  
13 appeared, made general remarks, and left the event before the solicitation occurred.<sup>35</sup> Greene  
14 also argues that the Commission, “[e]ven if [it] concludes that a violation may have occurred,”  
15 should dismiss the Complaint because, between the date of the Advertisement and the runoff  
16 elections, Stop Socialism Now received no corporate contributions and only one contribution —  
17 in the amount of \$10,000 — that appears to exceed the applicable federal limit.<sup>36</sup>

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<sup>31</sup> See Compl. ¶¶ 31-37.

<sup>32</sup> Marjorie Taylor Greene Resp. at 3 (Sept. 24, 2021) [hereinafter Greene Resp.]; Stop Socialism Now PAC Resp. at 1-2 (July 14, 2021) [hereinafter Stop Socialism Now Resp.].

<sup>33</sup> Greene Resp. at 3; Stop Socialism Now Resp. at 2.

<sup>34</sup> Greene Resp. at 3; Stop Socialism Now Resp. at 2.

<sup>35</sup> Greene Resp. at 3 (citing Advisory Opinion 2011-12 (Majority PAC, *et al.*) [hereinafter AO 2011-12]).

<sup>36</sup> *Id.* at 3-4 (citing Factual & Legal Analysis (“F&LA”) at 6-7, MUR 6866 (Mark Udall)).

1 Finally, Stop Socialism Now argues that the Complaint fails to allege any violation of the  
2 Act by Stop Socialism Now.<sup>37</sup>

### 3 III. ANALYSIS

#### 4 A. Applicable Law

5 The Act prohibits federal candidates and officeholders, their agents, and entities directly  
6 or indirectly established, financed, maintained, or controlled by or acting on behalf of federal  
7 candidates and officeholders, from soliciting funds in connection with a federal election “unless  
8 the funds are subject to the limitations, prohibitions, and reporting requirements of the Act.”<sup>38</sup>  
9 The Act limits contributions to non-authorized, non-party committees to \$5,000 in any calendar  
10 year.<sup>39</sup> Although an IEOPC may accept contributions from corporations and individuals without  
11 regard to that \$5,000 limitation,<sup>40</sup> federal officeholders and candidates may only solicit up to  
12 \$5,000 from permissible sources on behalf of such a committee.<sup>41</sup>

13 Through regulation, the Commission has defined “to solicit” broadly to mean “to ask,  
14 request, or recommend, explicitly or implicitly, that another person make a contribution,

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<sup>37</sup> Stop Socialism Now Resp. at 2.

<sup>38</sup> See 52 U.S.C. § 30125(e)(1)(A); *see also* 11 C.F.R. §§ 300.60, 300.61.

<sup>39</sup> 52 U.S.C. § 30116(a)(1)(C).

<sup>40</sup> See *SpeechNow.org v. FEC*, 599 F.3d 686, 696 (D.C. Cir. 2010) (*en banc*) (holding that contribution limits are unconstitutional as applied to individuals' contributions to political committees that only make independent expenditures); Advisory Opinion 2010-11 at 2-3 (Commonsense Ten) [hereinafter AO 2010-11] (concluding that corporations, labor organizations, political committees, and individuals may each make unlimited contributions to IEOPCs).

<sup>41</sup> AO 2011-12 at 3 (“Federal officeholders and candidates . . . may solicit up to \$5[, ]000 from individuals (and any other source not prohibited by the Act from making a contribution to a political committee) on behalf of an IEOPC, because those funds are subject to the Act’s amount limitations and source prohibitions.”); *see also* F&LA at 4, MUR 7682 (Honor Bound PAC (f/k/a Amy McGrath for Senate, Inc.), *et al.*) (citing AO 2011-12 at 3); F&LA at 11, MURs 6563, 6733 (Aaron Schock) (“[F]ederal candidates, officeholders, and other covered person . . . only may solicit contributions of \$5,000 or less for [IEOPCs].”) (citing AO 2011-12); Conciliation Agreement ¶¶ IV.7-8, MUR 7048 (Cruz for President, *et al.*) (explaining that “[t]he Act’s solicitation restrictions under [section] 30125(e)(1)(A),” including the contribution limit of \$5,000 to non-authorized, non-party committees, “remain applicable to agents acting on behalf of federal candidates and individuals holding federal office”) (citing, *inter alia*, AO 2011-12).

1 donation, transfer of funds, or otherwise provide anything of value.”<sup>42</sup> The regulation further  
2 provides that a “solicitation” is “an oral or written communication that, construed as reasonably  
3 understood in the context in which it is made, contains a clear message asking, requesting, or  
4 recommending that another person make a contribution” and “may be made directly or  
5 indirectly” but “does not include mere statements of political support.”<sup>43</sup> The context of the  
6 solicitation “includes the conduct of persons involved in the communication.”<sup>44</sup>

7 In 2006, the Commission revised the definition of “to solicit” following a decision by the  
8 United States Court of Appeals for the District of Columbia Circuit in *Shays v. FEC*<sup>45</sup> holding  
9 that the Commission’s former regulation, promulgated in 2002, was too narrow and failed to  
10 include “implicit requests for money.”<sup>46</sup> In promulgating the revised definition, the Commission  
11 explained that the revision is broad in order to “ensure[ ] that candidates and parties may not,  
12 implicitly and indirectly, raise unregulated funds for either themselves, or subject to statutory  
13 exceptions, ‘friendly outsiders.’”<sup>47</sup> The Commission further stated: “By covering implicit and  
14 indirect requests and recommendations, the new definition forecloses parties and candidates from  
15 using circumlocutions ‘that make their intention clear without overtly “asking” for money’” and

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<sup>42</sup> 11 C.F.R. § 300.2(m); *see also* Prohibited and Excessive Contributions: Non-Federal Funds or Soft Money, 67 Fed. Reg. 49,064, 49,086 (July 29, 2002) (defining “to solicit” as to “ask another person to make a contribution or donation, or transfer of funds, or to provide anything of value, including through a conduit or intermediary”).

<sup>43</sup> 11 C.F.R. § 300.2(m); *see also* Definitions of “Solicit” and “Direct,” 71 Fed. Reg. 13,926, 13,928 (Mar. 20, 2006) [hereinafter Solicit Explanation & Justification].

<sup>44</sup> 11 C.F.R. § 300.2(m).

<sup>45</sup> *Shays v. FEC*, 414 F.3d 76, 104-06 (D.C. Cir. 2005).

<sup>46</sup> Solicit Explanation & Justification, 71 Fed. Reg. at 13,927 (quoting *Shays*, 414 F.3d at 104-06).

<sup>47</sup> *Id.* at 13,928 (quoting *Shays*, 414 F.3d at 106).

1 “also squarely addresses the central concern of the Court of Appeals in *Shays* that ‘indirect’ as  
2 well as ‘direct’ requests for funds or anything of value must be covered.”<sup>48</sup>

3 The standard for determining whether a communication is a solicitation is objective and  
4 does not turn on the subjective interpretations of the person making the communication or its  
5 recipients.<sup>49</sup> This objective standard “hinges on whether the recipient should have reasonably  
6 understood that a solicitation was made.”<sup>50</sup>

7 Commission regulations provide that the following types of communications constitute  
8 solicitations: (i) communications that “provide[] a method of making a contribution or donation,  
9 regardless of the communication,” including but not limited to “providing a separate card,  
10 envelope, or reply device that contains an address to which funds may be sent”;  
11 (ii) communications that “provide[] instructions on how or where to send contributions or  
12 donations, including providing a phone number specifically dedicated to facilitating the making  
13 of contributions or donations”; and (iii) communications that “identif[y] a Web address where  
14 the Web page displayed is specifically dedicated to facilitating the making of a contribution or  
15 donation or automatically redirects the Internet user to such a page, or exclusively displays a link  
16 to such a page.”<sup>51</sup>

17 Commission regulations further provide specific examples of statements that constitute  
18 solicitations, which include, but are not limited to, the following:

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<sup>48</sup> *Id.*

<sup>49</sup> 11 C.F.R. § 300.2(m); *see also* Solicit Explanation & Justification, 71 Fed. Reg. at 13,928.

<sup>50</sup> Solicit Explanation & Justification, 71 Fed. Reg. at 13,929.

<sup>51</sup> 11 C.F.R. § 300.2(m)(1)(i)-(iii); *see also* Solicit Explanation & Justification, 71 Fed. Reg. at 13,931 (describing the addition of 11 C.F.R. § 300.2(m)(1) to “specify three types of ‘solicitation’ that result from components of a communication that are intended to provide instructions about how to contribute or otherwise facilitate the making of a contribution”).

- 1           • “Please give \$100,000 to Group X.”  
 2           • “Group X has always helped me financially in my elections. Keep them in mind this  
 3 fall.”  
 4           • “X is an effective State party organization; it needs to obtain as many \$100,000  
 5 donations as possible.”  
 6           • “Send all contributions to the following address.”  
 7           • “You have reached the limit of what you may contribute directly to my campaign, but  
 8 you can further help my campaign by assisting the State Party.”<sup>52</sup>

9 In addition, Commission regulations provide specific examples of statements that do not  
 10 constitute solicitations:

- 11           • At a ticket-wide rally, the candidate says: “Thank you for support of my campaign.”  
 12           • At a ticket-wide rally, the candidate says: “It is critical that we support the entire  
 13 Democratic ticket in November.”  
 14           • A federal officeholder says: “Our Senator has done a great job for us this year. The  
 15 policies she has vigorously promoted in the Senate have really helped the economy of  
 16 the State.”<sup>53</sup>

17 The Commission explained that these latter examples of statements that are not solicitations “are  
 18 specific to the context in which they are made, and similar statements may result in solicitations  
 19 in other situations.”<sup>54</sup>

20           **B.       The Commission Should Find Reason to Believe That Marjorie Taylor**  
 21           **Greene Solicited Non-Federal Funds**

22           Greene was a federal candidate in 2020 who won the general election for U.S.  
 23 Representative from Georgia’s 14th Congressional District on November 3, 2020.<sup>55</sup> As a federal  
 24 officeholder, Greene is prohibited from soliciting non-federal funds in connection with a federal  
 25 election and was prohibited from doing so as an incoming federal officeholder at the time the

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<sup>52</sup> 11 C.F.R. § 300.2(m)(2).

<sup>53</sup> *Id.* § 300.2(m)(3).

<sup>54</sup> Solicit Explanation & Justification, 71 Fed. Reg. at 13,931.

<sup>55</sup> *See supra* notes 1-2 and accompanying text.

1 Advertisement was posted on December 3, 2020.<sup>56</sup> The Advertisement explicitly requests  
2 contributions in connection with the U.S. Senate runoff elections in Georgia and contains no  
3 written or oral disclaimer limiting the solicitations therein to federally permissible funds.<sup>57</sup> In  
4 fact, the Donation Web Page linked in the Advertisement contains smaller print stating that, as  
5 an IEOPC, Stop Socialism Now “may accept unlimited contributions from individuals,  
6 corporations, PACs, unions and trade associations.”<sup>58</sup>

7 The Complaint alleges that, “[c]onstrued as reasonably understood in the context in  
8 which [her statements are] made, Rep. Greene’s communication contains a clear message  
9 recommending that viewers make a contribution to Stop Socialism Now” and thus constituted a  
10 solicitation.<sup>59</sup> Respondents do not contest that the Advertisement contains solicitations for  
11 contributions to Stop Socialism Now in connection with federal elections. Respondents contend,  
12 however, that Greene *herself* did not make any statements that constitute solicitations and “did  
13 not participate in and was in no way involved with the portion” of the Advertisement that  
14 contained the solicitations.<sup>60</sup>

15 Greene speaks and appears on screen for approximately 47 seconds of the Advertisement  
16 — over 75% of the Advertisement’s 60-second runtime.<sup>61</sup> After making statements criticizing

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<sup>56</sup> See 52 U.S.C. § 30125(e)(1)(A); *see also* 11 C.F.R. §§ 300.60, 300.61. The soft money prohibition applies to “individual[s] holding Federal office,” 52 U.S.C. § 30125(e)(1), 11 C.F.R. § 300.60(b), which Commission regulations define as “an individual *elected to* or serving in the office of . . . a Representative in . . . the Congress of the United States.” 11 C.F.R. § 300.2(o) (emphasis added).

<sup>57</sup> Facebook Video; YouTube Video; Twitter Video; Compl. ¶¶ 37-38; *see* AO 2011-12 at 3; F&LA at 11, MURs 6563, 6733 (Aaron Schock); F&LA at 7, MUR 7682 (Honor Bound PAC (f/k/a Amy McGrath for Senate, Inc.), *et al.*).

<sup>58</sup> Donation Web Page; Compl. ¶ 38.

<sup>59</sup> Compl. ¶¶ 35-37.

<sup>60</sup> Greene Resp. at 3; *accord* Stop Socialism Now Resp. at 1-2 (“The solicitation occurred outside of the portion of the video Hon. Greene taped and appeared in.”).

<sup>61</sup> Facebook Video; YouTube Video; Twitter Video; Compl. ¶ 9.

1 the Democratic candidates for U.S. Senate in the Georgia runoff elections and warning of the  
2 consequences if they were elected, the music and tone shifts as Greene explicitly references Stop  
3 Socialism Now and states that it is “fighting back,” “will stop Ossoff and Warnock from stealing  
4 our Senate seats,” and that “it’s time to fight back now, before it’s too late.”<sup>62</sup> The reference to  
5 Stop Socialism Now, the statement that Stop Socialism Now is “fighting back,” and the message  
6 that the consequences of Democratic candidates being elected can be avoided by “fight[ing] back  
7 now, before it’s too late” are immediately followed by requests for contributions to Stop  
8 Socialism Now, made in three ways: (1) the on-screen text “DONATE NOW,” (2) the  
9 identification of the web address for the Donation Web Page, and (3) the narrator’s statement to  
10 “make a contribution today to Stop Socialism Now PAC.”<sup>63</sup>

11 The Commission’s definition of “to solicit” specifies that a communication is to be  
12 “construed as reasonably understood in the context in which it is made,” and that such context  
13 “includes the conduct of persons involved in the communication.”<sup>64</sup> The footage of Greene does  
14 not appear to be republished or taken from a publicly available source; Greene appears to have  
15 been filmed reading from a script prepared by or for Stop Socialism Now.<sup>65</sup> The footage of  
16 Greene accounts for over 75% of the Advertisement’s runtime and is the only content of the  
17 Advertisement beyond the disclaimer at the beginning stating that Stop Socialism Now is  
18 responsible for the Advertisement and the requests for contributions at the end.<sup>66</sup> Greene’s  
19 statements specifically reference Stop Socialism Now, state that it is “fighting back” and that it is

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<sup>62</sup> Facebook Video; YouTube Video; Twitter Video; Compl. ¶¶ 8, 10-12.

<sup>63</sup> Facebook Video; YouTube Video; Twitter Video; Compl. ¶¶ 8, 12.

<sup>64</sup> 11 C.F.R. § 300.2(m).

<sup>65</sup> *See* Stop Socialism Now Resp. at 2 (describing “the portion of the video Hon. Greene taped and appeared in”).

<sup>66</sup> *See* Facebook Video; YouTube Video; Twitter Video.



1 “time to fight back now, before it’s too late” are immediately followed by requests for  
 2 contributions to Stop Socialism Now.<sup>67</sup> The only manner presented in the Advertisement to  
 3 “fight back” is the requested contributions to Stop Socialism Now;<sup>68</sup> there is no reference to  
 4 voting, registering to vote, volunteering, organizing, calling officeholders or candidates, or any  
 5 other action which might be interpreted as a way to “fight back,” as is the case in the other Stop  
 6 Socialism Now advertisements featuring Greene.<sup>69</sup>

7 Respondents contend that Greene did not violate the Act’s soft money prohibition  
 8 because her participation in the Advertisement was limited to her statements therein, which they  
 9 contend did not constitute a solicitation, and because Greene “did not review and/or approve” of

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<sup>67</sup> Facebook Video; YouTube Video; Twitter Video; Compl. ¶¶ 8, 11-12, 31.

<sup>68</sup> The Commission previously encountered similar language in Advisory Opinion 2012-27 (National Defense Committee), and its analysis therein reiterates the importance of context in determining whether language in a communication is a solicitation. There, the Commission determined a communication did not “clearly indicat[e] that the contributions w[ould] be targeted to the election or defeat of a clearly identified candidate for federal office,” where the communication requested donations to “beat back the liberal Obama agenda,” “bring about real change in Washington,” and “[h]elp America fight back in print, on the air, and against liberal deep pockets.” Advisory Opinion 2012-27 at 6 (National Defense Committee) (*quoting FEC v. Survival Educ. Fund*, 65 F.3d 285, 294-95 (2d Cir. 1995)). The Commission reasoned that the phrase “‘fight[ing] back in print, on the air, and against liberal deep pockets’ could refer to advocacy regarding legislation or executive branch action,” and concluded the donation request did not constitute a solicitation under the Act. *Id.* In contrast, Greene’s language here “clearly indicates” that the contributions to Stop Socialism Now will be targeted to the defeat of Ossoff and Warnock — clearly identified candidates for federal office. *See id.*; *Survival Educ. Fund*, 65 F.3d at 295. Specifically, Greene states that Stop Socialism Now is “fighting back” by “exposing [Democratic candidates] Ossoff’s and Warnock’s radical agenda” and “will stop Ossoff and Warnock from stealing our Senate seats.” Facebook Video; YouTube Video; Twitter Video; Compl. ¶¶ 8, 11, 31. Greene further describes the consequences of Democrats controlling Washington and warns it will be “[a]ll because Georgia lost our two Senate runoff seats to Democrats Jon Ossoff and [Raphael] Warnock.” Facebook Video; YouTube Video; Twitter Video; Compl. ¶¶ 8, 10. Compared to the communication the Commission considered in Advisory Opinion 2012-27, the nexus to the defeat of clearly identified candidates is comparatively more evident here not only by reference to their candidacies for Georgia’s seats in the U.S. Senate but also in the description of the consequences if Republicans “lost” the runoffs to Ossoff and Warnock.

<sup>69</sup> Compare Facebook Video, YouTube Video, and Twitter Video, with, e.g., Register & Vote Facebook Video; Support Loeffler & Purdue Facebook Video. *See supra* notes 26-29 and accompanying text.

1 the Advertisement.<sup>70</sup> Indeed, the available information reflects that Stop Socialism Now  
2 published numerous digital advertisements featuring Greene, in which it appears that Greene  
3 filmed footage reading from a script prepared by or for Stop Socialism Now.<sup>71</sup> Therefore,  
4 Greene may have filmed a series of scripts in support of Stop Socialism Now and advocating for  
5 the election of Loeffler and Purdue or the defeat of Ossoff and Warnock in the runoff elections  
6 for Stop Socialism Now to use as it saw fit in various advertisements or other advocacy  
7 materials, and Stop Socialism Now may have subsequently added solicitations to the  
8 Advertisements featuring Greene without her review or approval.<sup>72</sup>

9         Beyond Greene's conduct and statements within the Advertisement, however, Greene's  
10 subsequent Facebook share of the Advertisement, which remains on her page as of the date of  
11 this Report, and retweet of the Advertisement comprise a solicitation and establish her liability  
12 therefor under the Act and Commission regulations.<sup>73</sup> The Facebook share and retweet of the  
13 Advertisement are publicly available on Greene's social media pages and the Facebook share is

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<sup>70</sup> See Greene Resp. at 3 (“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.”); *id.* (stating the Advertisement “instead was reviewed and approved by [Stop Socialism Now]’s counsel”); Stop Socialism Now Resp. at 1-2 (“Nothing in Hon. Greene’s portion of the communication at issue constitutes a solicitation under the Act or Commission regulations.”); *id.* at 2 (stating Greene “did not review and/or approve of the communication prior to publication”).

<sup>71</sup> See, e.g., Marjorie Taylor Greene Has A Message For Georgia Republicans Facebook Video; Register & Vote Facebook Video; Support Loeffler & Purdue Facebook Video; *supra* notes 26-29 and accompanying text.

<sup>72</sup> The available information suggests that all of the footage of Greene used in Stop Socialism Now’s advertisements featuring Greene during this time period may have been filmed on the same day. In each of the advertisements the Office of General Counsel reviewed, Greene appears to be wearing the same clothing. See, e.g., Marjorie Taylor Greene Has A Message For Georgia Republicans Facebook Video; Register & Vote Facebook Video; Support Loeffler & Purdue Facebook Video; *supra* notes 26-29 and accompanying text.

<sup>73</sup> See Greene Facebook Share; Greene Retweet.

1 signed with Greene's initials ("-- MTG"), indicating that the Advertisement was shared by  
2 Greene herself.<sup>74</sup>

3 In MUR 6268 (Alan Grayson, *et al.*), the Commission found reason to believe that a  
4 federal officeholder and his campaign committee impermissibly solicited soft money where the  
5 officeholder was featured in an invitation to a state candidate fundraising event, his campaign  
6 committee emailed the invitation, and the committee posted the invitation — featuring the  
7 officeholder and the unrestricted solicitation without modification — on its website for at least  
8 three months after the event.<sup>75</sup> There was no dispute that the invitation constituted a solicitation  
9 because it “expressly requested” prohibited corporate contributions by suggesting a specific  
10 contribution amount from corporate entities and identified a web address for a contribution web  
11 page.<sup>76</sup> The Commission rejected an assertion by the federal officeholder that he did not give  
12 “final authorization” for the invitation because, in part, the officeholder reviewed the invitation  
13 the day before the event after being presented with the complaint in that matter and did not  
14 attempt “to retract or correct the invitation.”<sup>77</sup>

15 Similarly, here, there is no dispute that Greene was featured in the Advertisement or that  
16 the Advertisement constituted a solicitation. Although Greene alleges she did not “review” or  
17 “approve” the Advertisement, she subsequently shared it on her Facebook page, where it remains  
18 over two years later, and retweeted it. Therefore, as a covered person and in the same fashion as

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<sup>74</sup> Greene Facebook Share; Greene Retweet; *see also* F&LA at 5-6, 8-10, MUR 5568 (Empower Illinois, *et al.*) (finding reason to believe with respect to political committee status allegations in part based on review of solicitations contained in “an Internet message board posting” even though “neither the complaint nor the responses provided copies of fundraising solicitations”).

<sup>75</sup> F&LA at 5-6, MUR 6268 (Alan Grayson, *et al.*).

<sup>76</sup> *Id.* at 4, 6.

<sup>77</sup> *Id.* at 6.

1 the federal officeholder in MUR 6268, Greene “bears responsibility for the dissemination” of the  
2 Advertisement soliciting unrestricted contributions in connection with a federal election.<sup>78</sup>

3 One of the multiple requests for contributions in the Advertisement that Greene shared on  
4 her official Facebook page and retweeted is a link to the Donation Web Page.<sup>79</sup> The  
5 Commission has explained that a communication that identifies a web page specifically  
6 dedicated to facilitating contributions results in a solicitation by virtue of the identification of the  
7 web page, a “component[] of [the] communication that [is] intended to provide instructions about  
8 how to contribute.”<sup>80</sup> Similar to the activity in MUR 6268, Greene’s Facebook share and retweet  
9 of the Advertisement, which includes a link to the Donation Web Page, constitute a solicitation  
10 under Commission regulations.<sup>81</sup>

11 The Commission’s revision of the definition of “to solicit” in 11 C.F.R. § 300.2(m)(1) in  
12 2006 is instructive in this matter. In its Notice of Proposed Rulemaking (“NPRM”), the  
13 Commission sought input regarding whether the regulation should include examples of types of  
14 communications that would constitute solicitations, including a “written communication that  
15 provides a method of making a contribution or donation *regardless of the text of the*

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<sup>78</sup> See *id.*

<sup>79</sup> See Greene Facebook Share; Facebook Video; Greene Retweet; Twitter Video; 11 C.F.R. § 300.2(m)(1)(iii). Greene asserts that the web page linked in the Advertisement “does not contain a mechanism to contribute to the PAC nor does it automatically redirect to such a page.” Greene Resp. at 3 & n.1. This assertion appears to refer to StopSocialismNowPAC.com/donate, the web page linked in the MountaintopMedia post on YouTube, as discussed in the Complaint, rather than the Advertisement, which was posted by Stop Socialism Now’s YouTube account. See MountaintopMedia Video; Compl. ¶ 12 (including screenshot); Greene Resp. at 3 & n.1; *supra* note 17.

<sup>80</sup> Solicit Explanation & Justification, 71 Fed. Reg. at 13,931; see also F&LA at 4, MUR 6268 (Alan Grayson, *et al.*) (finding an email communication constituted a solicitation where, in part, it provided a website address to contribute online).

<sup>81</sup> See F&LA at 4-6, MUR 6268 (Alan Grayson, *et al.*).

1 *communication*,” such as a reply card.<sup>82</sup> The Commission ultimately adopted a variation of the  
2 proposed example described in the NPRM: a communication, not limited to “written”  
3 communications, that provides a “method of making a contribution or donation, *regardless of the*  
4 *communication*,” including “but not limited to, providing a separate card, envelope, or reply  
5 device.”<sup>83</sup> The Commission identified two additional specific types of communications that  
6 constitute solicitations: (1) communications that provide instructions how or where to send  
7 contributions or donations (such as including a phone number), and (2) communications that  
8 identify the web address of web pages specifically dedicated to making contributions or  
9 donations.<sup>84</sup> The Commission explained that its adoption of section 300.2(m)(1) came in  
10 response to comments urging it to “specifically address communications that include reply  
11 envelopes, phone numbers, or Web pages dedicated to facilitating the making of contributions or  
12 donations.”<sup>85</sup>

13 Thus, whether or not Greene’s participation and statements in the Advertisement, in  
14 context, constitute a solicitation, the subsequent Facebook share and retweet of the  
15 Advertisement constitute a solicitation under Commission regulations because the Advertisement  
16 includes requests for contributions through on-screen text (“DONATE NOW”), a web address

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<sup>82</sup> Definitions of “Solicit” and “Direct,” 70 Fed. Reg. 56,599, 56,603 (proposed Sept. 28, 2005) [hereinafter Solicit NPRM] (emphasis added) (to be codified at 11 C.F.R. pt. 300); *see* 11 C.F.R. § 300.2(m)(1)(iii).

<sup>83</sup> 11 C.F.R. § 300.2(m)(1)(i) (emphasis added); *see also* Solicit Explanation & Justification, 71 Fed. Reg. at 13,931 (describing such a communication as a solicitation “regardless of the other text of the communication”). *Compare id.*, with Solicit NPRM at 56,603.

<sup>84</sup> 11 C.F.R. § 300.2(m)(1)(ii)-(iii).

<sup>85</sup> Solicit Explanation & Justification, 71 Fed. Reg. at 13,921.

1 for the Donation Web Page, “specifically dedicated to facilitating the making of a contribution or  
2 donation,”<sup>86</sup> and the narrator’s statement to “make a contribution today.”<sup>87</sup>

3 Respondents make two additional arguments, not already addressed above, that Greene  
4 did not make a solicitation in violation of the Act and Commission regulations. First,  
5 Respondents argue that Greene’s statements in the Advertisement were statements of political  
6 support for Stop Socialism Now.<sup>88</sup> However, the Commission, in revising the definition of “to  
7 solicit,” indicated that a statement expressing political support for an organization that would not  
8 otherwise be a solicitation could nevertheless still constitute a solicitation “[i]n the context of the  
9 entire conversation.”<sup>89</sup> Second, Greene asserts that her appearance in the Advertisement is akin  
10 to attending an IEOPC fundraiser, making an appearance, giving general remarks of political  
11 support, and departing before others solicited contributions to the IEOPC.<sup>90</sup> While the Act and  
12 Commission regulations specifically permit officeholders to appear and speak at certain  
13 fundraising events at which non-federal funds are raised, they do not likewise carve out an  
14 exception to the Act’s soft money prohibition for officeholder appearances in fundraising

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<sup>86</sup> See 11 C.F.R. § 300.2(m)(1)(i), (iii).

<sup>87</sup> Facebook Video; YouTube Video; Twitter Video; Greene Facebook Share; Greene Retweet.

<sup>88</sup> Greene Resp. at 3; *see* Stop Socialism Now Resp. at 2.

<sup>89</sup> Solicit Explanation & Justification, 71 Fed. Reg. at 13,929; *see also id.* at 13,931 (explaining that “words that would not, by their literal meaning, convey a solicitation, may in some contexts be reasonably understood as one”). In its Explanation and Justification, the Commission articulated an example in which statements made by an officeholder would be construed as an expression of political support, and not a solicitation, that become a solicitation by the officeholder “[i]n the context of the entire conversation” based on the officeholder’s *post-facto* affirmation of another individual’s solicitation. *See id.* at 13,929.

<sup>90</sup> Greene Resp. at 3 (citing AO 2011-12).

1 advertisements in which non-federal funds are solicited,<sup>91</sup> and the circumstances of a federal  
2 officeholder attending, speaking at, or being a featured guest at a fundraising event are materially  
3 different than those of a federal officeholder appearing and speaking in fundraising  
4 advertisements. In any event, neither of these arguments undercuts the fact that Greene shared  
5 the Advertisement on Facebook and retweeted it — both of which occurred after Stop Socialism  
6 Now originally posted the Advertisement with its requests for contributions on those platforms,  
7 and before the Responses were submitted — which demonstrate, at minimum, affirmation of the  
8 solicitation after the fact, which constitutes a solicitation by Greene under the Commission's  
9 regulation.<sup>92</sup>

10 Finally, Greene argues that Stop Socialism Now received no prohibited source  
11 contributions and only one contribution in excess of the Act's amount limitations in the period  
12 between the date of the Advertisement on December 3, 2020, and the runoff elections held on

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<sup>91</sup> See *Shays v. FEC*, 528 F.3d 914, 933 (D.C. Cir. 2008) (“[W]hen Congress wanted to create an exception to the ban on federal candidates soliciting soft money, it did so explicitly.”); *id.* at 934 (“Where Congress explicitly enumerates certain exceptions to a general prohibition, additional exceptions are not to be implied, in the absence of evidence of a contrary legislative intent.”) (quoting *TRW Inc. v. Andrews*, 534 U.S. 19, 28 (2001)); see also Participation by Federal Candidates and Officeholders at Non-Federal Fundraising Events, 75 Fed. Reg. 24,375, 24,376 (May 5, 2010) (explaining the *Shays* court as holding “that the Commission had ‘no basis’ to read [52 U.S.C. § 30125(e)(3)] as creating ‘an implied fourth exception’ to the solicitation restrictions . . . given that Congress had explicitly enumerated the instances in which Federal candidates and officeholders could ‘solicit’ funds outside [the Bipartisan Campaign Reform Act of 2002]’s restrictions.”).

<sup>92</sup> See Solicit Explanation & Justification, 71 Fed. Reg. at 13,929 (emphasizing the “importance of the context in which a communication is conveyed” and explaining that an officeholder’s “response” to another individual’s solicitation can constitute a solicitation by the officeholder “[i]n the context of the entire conversation”).

1 January 5, 2021.<sup>93</sup> Stop Socialism Now's disclosure reports filed with the Commission appear to  
 2 confirm this assertion.<sup>94</sup> Nevertheless, in the solicitation context the Commission has not  
 3 considered a violation as contingent upon the receipt of contributions, if any.<sup>95</sup> Thus, the relative  
 4 absence of soft money contributions does not negate the solicitation, the illegality of which was  
 5 complete upon its making.

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<sup>93</sup> Greene Resp. at 3-4 (citing F&LA, MUR 6866 (Mark Udall)). In MUR 6866 (Mark Udall), the federal officeholder appeared at a fundraising event for a state political committee, of which he was advertised as a "special guest," and stated that "everybody should have at least written a \$100 check." F&LA at 1, MUR 6866 (Mark Udall). The state political committee reported receiving "at most \$1,850" in contributions from prohibited sources, "including \$750 in in-kind contributions of food and drinks from incorporated small businesses listed in the invitation. *Id.* at 4. The Commission exercised its prosecutorial discretion and dismissed the complaint based on the "limited amount" of "federally prohibited funds apparently attributable to the fundraiser," and the need to investigate whether Udall's statements constituted an impermissible solicitation, whether a disclaimer was provided, and whether he consented to the use of his name as a "special guest" on the invitation. *Id.* at 6-7. This matter is distinguishable in that the solicitations were not limited by their terms to a modest amount and no investigation is necessary. While the Commission could investigate to determine the extent of Greene's knowledge that Stop Socialism Now would use the footage she filmed in conjunction with requests for contributions, doing so is unnecessary because the available information is sufficient to conclude that Greene solicited non-federal funds because of her participation and statements in the Advertisement and subsequent Facebook share and retweet thereof, and that neither she nor the Advertisement included an appropriate disclaimer.

<sup>94</sup> A review of reports filed with the Commission indicates that Stop Socialism Now received three contributions from individuals in excess of \$5,000: \$125,000 on November 13, 2020, \$10,000 on August 25, 2020, and another \$10,000 on December 9, 2020. *FEC Individual Contributions: Filtered Results*, FEC.GOV, [https://www.fec.gov/data/individual-contributions/?committee\\_id=C00755629&two\\_year\\_transaction\\_period=2020](https://www.fec.gov/data/individual-contributions/?committee_id=C00755629&two_year_transaction_period=2020) (last visited Feb. 13, 2023) (reflecting three individual contributions above \$5,000 in the 2020 election cycle). It appears that only one of those contributions was made around the time the Advertisement was first disseminated. *See id.*; Stop Socialism Now PAC, 2020 12-Day Pre-Runoff Report at 7 (Dec. 23, 2020), <https://docquery.fec.gov/pdf/401/202012239393802401/202012239393802401.pdf#navpanes=0> (reflecting a \$10,000 individual contribution on December 9, 2020).

<sup>95</sup> The Commission has previously found reason to believe and conciliated regarding soft money solicitations without reference to or reliance upon the existence of contributions, resulting from those solicitations, in amounts or from sources in violation of the Act. *See, e.g.*, F&LA at 5-7, MUR 6268 (Alan Grayson, *et al.*); Conciliation Agreement, MUR 6268 (Alan Grayson, *et al.*); F&LA at 8-11, MUR 7048 (Cruz for President, *et al.*); Conciliation Agreement, MUR 7048 (Cruz for President); *cf. also* Tr. of Public Hearing on the Definitions of "Solicit" and "Direct" at 109 (Nov. 15, 2005), <https://sers.fec.gov/fosers/showpdf.htm?docid=4847> (quoting then-Commissioner David Mason explaining that "the illegality is not the underlying activity, in other words, not the contribution that may be made to a local political party or a state candidate, but rather is the federal candidate's participation in that"). In MURs 7165, 7196 (Great America PAC, *et al.*), the Commission looked, *inter alia*, to the soft money prohibition in finding a violation of the foreign national prohibition based on a solicitation that "could not have succeeded" because no foreign national existed, "a circumstance unknown to the person soliciting the contribution or donation." F&LA at 3-10, MURs 7165, 7196 (Great America PAC). There, the Commission subsequently resolved the allegations against the political committee to which contributions were solicited through pre-probable cause conciliation but failed to garner sufficient votes to find probable cause to believe with regard to allegations against a consultant for the political committee who allegedly made solicitations. Conciliation Agreement, MURs 7165, 7196 (Great America PAC); Certification ¶¶ 1-2 (Sept. 9, 2021), MURs 7165, 7196 (Jesse Benton).



1           Accordingly, we recommend that the Commission find reason to believe that Marjorie  
2 Taylor Greene violated 52 U.S.C. § 30125(e)(1)(A) and 11 C.F.R. § 300.61 by soliciting non-  
3 federal funds.

4           **C.     The Commission Should Take No Action at This Time as to Stop Socialism**  
5           **Now PAC**

6           As an IEOPC, Stop Socialism Now may solicit and accept unlimited contributions from  
7 individuals, political committees, corporations, and labor organizations for the purpose of  
8 making independent expenditures.<sup>96</sup> Stop Socialism Now points out that the Complaint “did not  
9 name, or allege any violations” by Stop Socialism Now.<sup>97</sup> Nevertheless, in alleging that Greene  
10 made an unlawful solicitation, the Complaint raises questions about whether Stop Socialism  
11 Now made a coordinated communication with Greene in violation of 52 U.S.C. § 30116(a)(1) in  
12 connection with the Advertisement, made impermissible solicitations in violation of 52 U.S.C.  
13 § 30125(e)(1)(A) having been established, financed, maintained, or controlled by Greene, and  
14 included inaccurate or incomplete information in the Advertisement’s disclaimer in violation of  
15 52 U.S.C. § 30120(a) and 11 C.F.R. § 110.11.

16           The available information is not sufficient to determine, however, whether there was any  
17 coordinating conduct between Greene and Stop Socialism Now related to the Advertisement, the  
18 extent to which Greene or an agent established, financed, maintained, or controlled Stop  
19 Socialism Now, or the accuracy of the disclaimer that the Advertisement was “not authorized”  
20 by any candidate. The course of pre-probable cause conciliation recommended as to Greene may  
21 reveal additional information about the circumstances of the Advertisement, including Greene’s

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<sup>96</sup>     *See* AO 2010-11.

<sup>97</sup>     Stop Socialism Now Resp. at 1-2.

1 involvement with it and with Stop Socialism Now, relevant to the analysis of possible violations  
2 by Stop Socialism Now.<sup>98</sup> Accordingly, we recommend that the Commission take no action at  
3 this time as to Stop Socialism Now PAC and Jason D. Boles in his official capacity as treasurer.  
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<sup>98</sup> In a comparable scenario, the Commission routinely takes no action against the recipient committee respondents in matters involving prohibited contributions by federal contractors pending the completion of pre-probable cause conciliation with the federal contractor contributor. *See, e.g.*, First Gen. Counsel's Rpt. at 14-15, MUR 7886 (Astellas Pharma U.S., Inc., *et al.*) ("The available information is not sufficient to assess whether [the recipient committee] knowingly solicited the contribution."); Am. Certification ¶ 3 (Jan. 12, 2022), MUR 7886 (Astellas Pharma U.S., Inc., *et al.*) (taking no action as to the recipient committee).

