

**BEFORE THE FEDERAL ELECTION COMMISSION**

CAMPAIGN LEGAL CENTER  
1411 K Street NW, Suite 1400  
Washington, DC 20005  
(202) 736-2200

GIFFORDS  
P.O. Box 51196  
Washington, DC 20091  
(571) 295-7807

v.

MUR No. \_\_\_\_\_

NATIONAL RIFLE ASSOCIATION  
OF AMERICA INSTITUTE FOR  
LEGISLATIVE ACTION  
Mary Rose Adkins, Treasurer  
11250 Waples Mill Road  
Fairfax, VA 22030

NATIONAL RIFLE ASSOCIATION  
OF AMERICA POLITICAL VICTORY FUND  
Robert G. Owens, Treasurer  
11250 Waples Mill Road  
Fairfax, VA 22030

**COMPLAINT**

1. This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) and is based on information and belief that the National Rifle Association of America Institute for Legislative Action (“NRA-ILA”) (ID: C90013301) and the National Rifle Association of America Political Victory Fund (“NRA-PVF”) (ID:C00053553) have violated the Federal Election Campaign Act (“FECA”), 52 U.S.C. § 30101, *et seq.*
2. During the 2016 election cycle, the NRA-ILA and NRA-PVF together spent over \$25 million on independent expenditures supporting Trump, and distributed and placed those advertisements using the same employees that were placing Donald J. Trump for President,

Inc.'s own advertisements. Specifically, according to records on file with the Federal Communication Commission, the NRA-ILA and NRA-PVF placed pro-Trump ads using the firm Red Eagle Media Group ("Red Eagle"), which is a trade name for a firm called National Media Research, Planning and Placement ("National Media"), and the Trump campaign placed ads using the firm American Media & Advocacy Group ("AMAG"), which is located at the same address as Red Eagle/National Media and has the same registered agent and the same employees. In the final stretch of the 2016 election, four high-ranking National Media employees repeatedly placed ads on behalf of both the NRA and the Trump campaign, in some cases on the same stations or programs, thereby ensuring that spending by both the NRA and the Trump campaign would be complementary and advance a unified, coordinated election strategy.

3. As a result, there is reason to believe that the NRA-ILA and NRA-PVF made illegal, unreported, and excessive in-kind contributions to Donald J. Trump for President, Inc. in the form of coordinated communications, 11 C.F.R. § 109.21, in violation of FECA's source prohibitions, reporting requirements, and contribution limits.
4. "If the Commission, upon receiving a complaint . . . has reason to believe that a person has committed, or is about to commit, a violation of [FECA] . . . [t]he Commission *shall* make an investigation of such alleged violation . . . ." 52 U.S.C. § 30109(a)(2) (emphasis added); *see also* 11 C.F.R. § 111.4(a).
5. Campaign Legal Center ("CLC") is a nonpartisan, nonprofit 501(c)(3) organization whose mission is to protect and strengthen the U.S. democratic process through litigation and other legal advocacy. CLC participates in judicial and administrative matters throughout the nation regarding campaign finance, voting rights, redistricting, and government ethics issues.

6. Giffords is a nonpartisan, nonprofit 501(c)(4) organization headquartered in Washington, D.C.<sup>1</sup> Founded by former Congresswoman Gabrielle Giffords and retired Navy combat veteran and NASA astronaut Captain Mark Kelly, Giffords researches, writes, and proposes policies designed to reduce gun violence and mobilizes voters and lawmakers in support of safer gun laws. Giffords educates political candidates about issues and policies related to gun violence, and endorses candidates for local, state, and federal office who support strong gun-violence-prevention laws. Giffords opposed candidate Trump in his 2016 campaign.<sup>2</sup> Congresswoman Giffords and Captain Kelly endorsed candidate Trump's general election opponent.

#### FACTS

7. Donald Trump was a candidate for president in the 2016 election. His designated presidential campaign committee is Donald J. Trump for President, Inc. (I.D. C00580100).<sup>3</sup>
8. The NRA-ILA is a tax-exempt organization under Section 501(c)(4) of the Internal Revenue Code that describes itself as “the ‘lobbying’ arm of the NRA.”<sup>4</sup> It reports independent expenditures to the Commission.<sup>5</sup> In the 2016 election cycle, it reported approximately \$21.1

---

<sup>1</sup> Giffords was founded in 2013 under the name Americans for Responsible Solutions, and was renamed Giffords in October 2017.

<sup>2</sup> Giffords has a sister organization, Giffords Law Center to Prevent Gun Violence, a nonprofit, nonpartisan 501(c)(3) based in San Francisco that works to research, write, enact, and defend laws, policies, and programs proven to reduce gun violence and save lives. Giffords' political action committee, Giffords PAC, works to support candidates and elected officials who promote policies to reduce gun violence and oppose the influence of the gun industry and the NRA, including by making political contributions and independent expenditures.

<sup>3</sup> Donald J. Trump for President, Inc., Statement of Organization, FEC Form 1, at 1 (amended Jan. 20, 2017), <http://docquery.fec.gov/pdf/839/201701209041435839/201701209041435839.pdf>.

<sup>4</sup> NATIONAL RIFLE ASSOCIATION INSTITUTE FOR LEGISLATIVE ACTION, <https://www.nraila.org/> (last visited Dec. 4, 2018).

<sup>5</sup> National Rifle Association Institute for Legislative Action, Financial Summary, 2015-16, <https://www.fec.gov/data/committee/C90013301/?cycle=2016>.

million in independent expenditures supporting Trump or opposing his opponent, Hillary Clinton.<sup>6</sup>

9. The NRA-PVF is the National Rifle Association of America’s lobbyist/registrant PAC.<sup>7</sup> In the 2016 cycle it reported approximately \$9.31 million in independent expenditures supporting Trump or opposing Clinton.<sup>8</sup>
10. On December 7, 2018, *Mother Jones* and *The Trace* reported that during the 2016 elections, the NRA-ILA and NRA-PVF placed independent expenditures supporting Trump through a network of consulting firms also employed by Donald J. Trump for President, Inc.<sup>9</sup> Specifically, the firm Red Eagle placed the NRA-PVF and NRA-ILA television ads supporting Trump, and the Trump campaign placed ads using American Media & Advocacy Group (“AMAG”); as described *infra* ¶¶13-16, both entities are functionally indistinguishable from the media strategy firm National Media, and employ the same officials. The article noted that the Trump campaign’s ads “were aimed at precisely the same demographic as the NRA spots, and often ran during the same shows”:

During the last week of October, for instance, Red Eagle bought \$36,250 worth of ads on the ABC affiliate in Cleveland, Ohio, on behalf of the NRA. A form the NRA filed with the station described spots mentioning the Second Amendment, Hillary Clinton, and the 2016 presidential election.

At the same time, AMAG spent almost the exact same amount — \$36,150 — on a series of Trump campaign ads on the same Cleveland station during the same week.

---

<sup>6</sup> National Rifle Association Institute for Legislative Action, Spending, 2015-16, <https://www.fec.gov/data/committee/C90013301/?cycle=2016&tab=spending> (describing \$12,307,930 in independent expenditures opposing Clinton and \$8,778,720 in independent expenditures supporting Trump).

<sup>7</sup> National Rifle Association of America Political Victory Fund, Statement of Organization, FEC Form 1, at 2, 3 (amended Sept. 5, 2018), <http://docquery.fec.gov/pdf/507/201809059121558507/201809059121558507.pdf>.

<sup>8</sup> National Rifle Association Political Victory Fund, Spending, 2015-16, <https://www.fec.gov/data/committee/C00053553/?cycle=2016&tab=spending> (describing \$7,448,184 in independent expenditures opposing Clinton and \$1,865,453 in independent expenditures supporting Trump).

<sup>9</sup> Mike Spies, *Documents Point to Illegal Campaign Coordination Between Trump and the NRA*, MOTHER JONES (Dec. 6, 2018), <https://www.motherjones.com/politics/2018/12/nra-trump-2016-campaign-coordination-political-advertising/>.

Both the NRA ads and the Trump ads aired during many of the same programs, including local newscasts, Good Morning America, and NCAA football.<sup>10</sup>

11. The article noted that Ben Angle, a senior buyer at National Media, has been a proponent of sports as a way to reach conservative audiences, and had previously stated that “Every time we assist a Republican candidate, we advise him to advertise at sports events”:

On September 15, for instance, Red Eagle executed an \$86,000 deal for the NRA with Raycom Sports Network, a syndicator of sports programs, for slots during seven ACC college football games airing during the final weeks of the presidential race . . . . Less than a week later, another National Media staffer authorized virtually the same purchase for Trump.<sup>11</sup>

12. Additionally, the article continued:

Effectively placing ads is among the most important tasks in getting a candidate elected to office. “The creative content is only part of the equation,” Rick Wilson, a Republican media strategist, said. “Political advertising relies on smart media placement at every stage. Anything else and you might as well just throw your money in a bonfire.”<sup>12</sup>

13. “National Media” describes itself as “a nationally recognized leader in media research, planning, and placement” that “work[s] with [its] clients to develop and execute research-based, targeted, and efficient media plans”; its website lists examples of its work, the names and titles of approximately 20 employees, and a contact address of 817 Slaters Lane, Alexandria, VA, 22314.<sup>13</sup> According to Virginia Corporation Commission filings, National Media uses the address 815 Slaters Lane, Alexandria, VA, 22314, and its registered agent is

---

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> NATIONAL MEDIA, [www.natmedia.com](http://www.natmedia.com) (last visited Dec. 6, 2018).

Joel L. Dahnke.<sup>14</sup> Dahnke is a Virginia-based lawyer who highlights National Media on his website's list of "representative clients."<sup>15</sup>

14. According to Virginia Corporation Commission records, "Red Eagle Media" is a "fictitious name" or a "trade name" associated with the firm "National Media Research Planning and Placement, LLC," located at 815 Slaters Lane, Alexandria VA.<sup>16</sup> According to the Commonwealth of Virginia State Corporation Commission:

A fictitious name is a name that a person (individual or business entity) uses instead of the person's true name, usually in the course of transacting or offering to transact business. It is sometimes referred to as an "assumed name" or "trade name," and it is often identified after a person's true name with the abbreviation "t/a" ("trading as"), "dba" ("doing business as"), or "aka" ("also known as").<sup>17</sup>

15. Records on file with the Federal Communications Commission ("FCC") indicate that Red Eagle placed the NRA-ILA and NRA-PVF ads supporting Trump or attacking his opponent in the 2016 presidential race, using the address 815 Slaters Lane, Alexandria, VA, 22314.<sup>18</sup> It appears that Red Eagle was subcontracted by the consulting firm Starboard Strategic, Inc. ("Starboard"), to which the NRA-ILA and NRA-PVF paid more than \$25 million for independent expenditures supporting Trump or attacking his opponent in the 2016

---

<sup>14</sup> *National Media Research Planning and Placement, LLC*, Commonwealth of Virginia State Corporation Commission, <https://sccefile.scc.virginia.gov/Business/S207052> (last visited Dec. 4, 2018).

<sup>15</sup> *Representative Clients*, Joel L. Dahnke, Esquire PLC, <http://www.dahnkelaw.com/styled-7/> (last visited Dec. 4, 2018).

<sup>16</sup> A business entity search for "Red Eagle Media" on the Virginia Corporation Commission website produces a list of results that includes "Red Eagle Media Group (Alexandria CI)," with an SCC ID number of S2070524, and a status of "fictitious name." Business Entity Search for "Red Eagle Media," Commonwealth of Virginia State Corporation Commission, [https://sccefile.scc.virginia.gov/Find/Business?SearchTerm=red+eagle+media&SearchPattern=K&as\\_fid=71a314ab0f8a83563c7a4633b7f34602942d6fb4](https://sccefile.scc.virginia.gov/Find/Business?SearchTerm=red+eagle+media&SearchPattern=K&as_fid=71a314ab0f8a83563c7a4633b7f34602942d6fb4) (last visited Dec. 7, 2018). Clicking on that search result leads to the page for National Media Research Planning and Placement, LLC, and the same SCC ID number, S2070524. *National Media Research Planning and Placement, LLC*, Commonwealth of Virginia State Corporation Commission, <https://sccefile.scc.virginia.gov/Business/S207052> (last visited Dec. 7, 2018).

<sup>17</sup> *Frequently Asked Questions: Fictitious Names*, Commonwealth of Virginia State Corporation Commission, <http://www.scc.virginia.gov/clk/befaq/fict.aspx> (last visited Dec. 7, 2018).

<sup>18</sup> *See, e.g.*, Exhibit E at 1.

presidential race.<sup>19</sup> (The NRA-PVF’s and NRA-ILA’s reports filed with the Commission do not reflect direct payments to Red Eagle.<sup>20</sup>) Reporting by *POLITICO* and previous CLC complaints describe how Starboard is functionally indistinguishable from the political consulting firm OnMessage, whose Alexandria, Virginia office is also located at 815 Slaters Lane.<sup>21</sup> The NRA-ILA paid Starboard at OnMessage’s Alexandria, VA address, 817 Slaters Lane; the NRA-PVF paid Starboard at OnMessage’s Annapolis, MD address, 705 Melvin Ave. #105.<sup>22</sup>

16. According to Virginia Corporation Commission records, American Media & Advocacy Group, LLC (“AMAG”) has a principal office at the same address as National Media and Red Eagle, 815 Slaters Lane, Alexandria, VA, 22314.<sup>23</sup> Its registered agent is Joel L. Dahnke, who is also National Media’s registered agent.<sup>24</sup> In a 2016 *Daily Beast* article, a

---

<sup>19</sup> See NRA-PVF and NRA-ILA, Independent expenditures mentioning candidates Trump or Clinton paid to Starboard Strategic (regularly scheduled reports), FEC.gov [https://www.fec.gov/data/independent-expenditures/?data\\_type=processed&committee\\_id=C00053553&committee\\_id=C90013301&is\\_notice=false&cand\\_idate\\_id=P00003392&candidate\\_id=P80001571&payee\\_name=starboard](https://www.fec.gov/data/independent-expenditures/?data_type=processed&committee_id=C00053553&committee_id=C90013301&is_notice=false&cand_idate_id=P00003392&candidate_id=P80001571&payee_name=starboard).

<sup>20</sup> A handful of other outside groups and super PACs—namely, America First Action, America First Policies, With Honor Fund, Inc., and New Republican PAC—have reported to the FEC paying Red Eagle for independent expenditures in 2018, and the NRCC reported paying Red Eagle in 2017. See Independent Expenditures to Red Eagle Media Group (24- and 48-Hour Reports), 2017-18, FEC.GOV, [https://www.fec.gov/data/independent-expenditures/?data\\_type=processed&is\\_notice=true&payee\\_name=red+eagle&min\\_date=01%2F01%2F2017&max\\_date=12%2F31%2F2018](https://www.fec.gov/data/independent-expenditures/?data_type=processed&is_notice=true&payee_name=red+eagle&min_date=01%2F01%2F2017&max_date=12%2F31%2F2018) (last visited Oct. 10, 2018).

<sup>21</sup> See Mike Spies, *The Mystery Firm That Became the NRA’s Top Election Consultant*, *POLITICO* (July 13, 2018), <https://www.politico.com/magazine/story/2018/07/13/mystery-firm-nra-consultant-219004>; see generally Campaign Legal Center, Complaint Against the NRA-PVF and Josh Hawley for Senate (Oct. 22, 2018), <https://campaignlegal.org/sites/default/files/2018-10/10-22-18%20NRA%20Hawley%20Complaint%20%28final%29.pdf>.

<sup>22</sup> See NRA-PVF and NRA-ILA, *supra* note 19. This practice follows the NRA-ILA’s and NRA-PVF’s practices in past cycles—namely, to report expenditures to Starboard, which is associated with both addresses—at its Alexandria and Annapolis addresses, which are also both linked to another Starboard alter ego, OnMessage. See generally Campaign Legal Center, Complaint Against the NRA-PVF and Josh Hawley for Senate (Oct. 22, 2018), <https://campaignlegal.org/sites/default/files/2018-10/10-22-18%20NRA%20Hawley%20Complaint%20%28final%29.pdf>.

<sup>23</sup> *American Media & Advocacy Group, LLC*, Commonwealth of Virginia State Corporation Commission, <https://sccefile.scc.virginia.gov/Business/S416256> (last visited Dec. 4, 2018).

<sup>24</sup> *Id.*

lawyer for National Media and AMAG “confirmed” that the two entities are “affiliated” but “didn’t detail the nature of their relationship.”<sup>25</sup>

17. According to reports filed with the Commission, Donald J. Trump for President, Inc. paid \$74.2 million to AMAG for “placed media” in the 2016 cycle.<sup>26</sup> Records filed with the FCC also reflect that AMAG placed the Trump campaign’s advertisements in the 2016 cycle.<sup>27</sup>
18. According to records filed with the FCC, during the 2016 cycle, at least four National Media employees placed the NRA-ILA’s and NRA-PVF’s pro-Trump ads as “Red Eagle” employees, and also placed Donald J. Trump for President, Inc.’s ads as “AMAG” employees. Those employees were:

- a) Ben Angle, who is described on National Media’s website as a “senior media buyer” who “strategically place[s] efficient and effective media buys,” and “has helped national media develop strategies to combat the challenges of the online public file by identifying new ways to negotiate with stations on placement and location.”<sup>28</sup> In the 2018 book *Inside Campaigns: Elections through the Eyes of Political Professionals*, Angle is described as an architect of the Trump campaign’s television advertising strategy. “In mid-September,” the book says, “Angle and his boss were summoned to Trump Tower and told their firm would

---

<sup>25</sup> Betsy Woodruff, *Trump’s Already Part of the D.C. Swamp, Whether He Knows It or Not*, DAILY BEAST (Oct. 26, 2016), <https://www.thedailybeast.com/trumps-already-part-of-the-dc-swamp-whether-he-knows-it-or-not?ref=scroll>.

<sup>26</sup> Donald J. Trump for President, Inc., Disbursements to American Media & Advocacy Group, 2015-16, FEC.GOV, [https://www.fec.gov/data/disbursements/?two\\_year\\_transaction\\_period=2016&data\\_type=processed&committee\\_id=C00580100&recipient\\_name=american+media&recipient\\_name=amag&min\\_date=01%2F01%2F2015&max\\_date=12%2F31%2F2016](https://www.fec.gov/data/disbursements/?two_year_transaction_period=2016&data_type=processed&committee_id=C00580100&recipient_name=american+media&recipient_name=amag&min_date=01%2F01%2F2015&max_date=12%2F31%2F2016) (last visited Dec. 3, 2018). The address at which the Trump campaign paid AMAG was 817 Slaters Lane, Alexandria, Virginia, 22314. *See, e.g.*, Donald J. Trump for President, Inc., Post-General 2016, FEC Form 3, at 46745 (amended May 12, 2017), <http://docquery.fec.gov/cgi-bin/fecimg/?201705129053687680>.

<sup>27</sup> *See, e.g.*, Exhibit M at 1, 4.

<sup>28</sup> NATIONAL MEDIA, *supra* note 13. (Attached as Exhibit A.)



be placing all of the Trump campaign’s television advertising during the last seven weeks of the campaign.”<sup>29</sup>

b) Kristy Kovatch, who is described on National Media’s website as a “senior media buyer” who “specializes in television media buying for political candidates, issue/advocacy groups and public affairs clients.”<sup>30</sup>

c) Jon Ferrell, who is described on National Media’s website as National Media’s “director of accounting,” in a profile that emphasizes that Ferrell “ensures that every penny allocated for media is spent according to election laws.”<sup>31</sup>

d) Caroline Kowalski, whose LinkedIn page identifies her as a former “media specialist” at National Media from March 2016 until May 2017.<sup>32</sup> On LinkedIn, Kowalski emphasizes that she “[a]cted as liaison between media buyers and TV, radio, and cable networks” and “[r]esearched voter demographic data to help create national, statewide and local advertising campaigns for Presidential, senatorial, and congressional candidates, issue-advocacy groups, and PACs,” among other duties.<sup>33</sup>

19. On May 24, 2016, **Kovatch** appeared as Red Eagle’s contact person on a Station Issue Advertising Request Sheet for a flight of NRA-PVF ads mentioning “Hillary Clinton” and pertaining to the “Presidential General Election 11/8/16.”<sup>34</sup>

---

<sup>29</sup> WILLIAM J. FELTUS, KENNETH M. GOLDSTEIN, & MATTHEW DALLEK, *INSIDE CAMPAIGNS: ELECTIONS THROUGH THE EYES OF POLITICAL PROFESSIONALS* 115 (2d ed. 2018); *see also* Spies, *supra* note 9.

<sup>30</sup> *Id.* (Attached as Exhibit B.)

<sup>31</sup> *Id.* (Attached as Exhibit C.)

<sup>32</sup> Caroline Kowalski, LINKEDIN, <https://www.linkedin.com/in/caroline-kowalski-8b98a546/> (last visited Dec. 3, 2018). (Attached as Exhibit D.)

<sup>33</sup> *Id.*

<sup>34</sup> Exhibit E at 1.

20. On June 28, 2016, **Angle** was listed as a Red Eagle representative for a Political Inquiry Form for NRA-PVF ads labeled “Anti-Clinton (D)” and “Pro-Trump (R).”<sup>35</sup> The next day, on June 29, 2016, *USA Today* reported that the NRA-PVF “is launching its first ad campaign of the 2016 presidential race” with an anti-Clinton ad focused on Benghazi.<sup>36</sup>
21. In its reporting on this new ad a few days later, the *New York Times* described the NRA as “coming to the rescue” with an ad buy that would “provide air cover for Mr. Trump’s campaign in June and early July” and that also provided “desperately needed television presence on behalf of the Trump campaign, which spent nothing in June in battleground states.”<sup>37</sup> The *New York Times* further noted that the message of the ad did not pertain to gun rights or the Second Amendment; rather, it criticized Clinton for the Benghazi incident, “an unusual tactic for the interest group” that would appear to have the group “playing a role often filled by ‘super PACs’ aligned with candidates.”<sup>38</sup>
22. On July 11, 2016, **Ferrell** signed an agreement form on behalf of the NRA-PVF and Red Eagle for ads pertaining to the “2016 Presidential Election, 11/8/2016 Hillary Clinton & Donald Trump.”<sup>39</sup>
23. On August 5, 2016, **Ferrell** signed another agreement form on behalf of the NRA-PVF and Red Eagle related to “Hillary Clinton for U.S. President, Nov. 8, 2016 General Election, Gun Control” and slated to run August 8 through August 14, 2016.<sup>40</sup>

---

<sup>35</sup> Exhibit F at 1.

<sup>36</sup> Donovan Slack, *Exclusive: NRA to run \$2 million Benghazi-themed ad campaign for Trump*, USA TODAY (June 29, 2016), <https://www.usatoday.com/story/news/politics/elections/2016/06/29/nra-2-million-ad-campaign-trump-benghazi/86484306/>.

<sup>37</sup> Nick Corasaniti, *NRA Comes to Rescue of Donald Trump With Ad*, N.Y. TIMES (July 3, 2016), <https://www.nytimes.com/2016/07/03/us/politics/nra-comes-to-rescue-of-donald-trump-with-ad.html>.

<sup>38</sup> *Id.*

<sup>39</sup> Exhibit G at 2-4.

<sup>40</sup> Exhibit H at 1-2, 4.

24. On August 9, 2016, *USA Today* reported that the NRA-PVF had released a new ad attacking Clinton in an ad buy costing \$3 million.<sup>41</sup> The ad’s voiceover said, among other things: “Protected by armed guards for thirty years. But she doesn’t believe in your right to keep a gun at home for self-defense.”<sup>42</sup> *USA Today* also noted that “[t]he ad was released the same day that Trump drew fire for suggesting that ‘Second Amendment people’ could stop Clinton.”<sup>43</sup>
25. On an August 11, 2016 “traffic instructions” document for an NRA-PVF ad purchase on a Florida station, **Kowalski** is the Red Eagle contact, with a @redeagleteam.com email address.<sup>44</sup> **Ferrell** signed a check paid to the station, and signed an agreement form.<sup>45</sup> The instructions do not state whether they relate to a Trump/Clinton ad, but searching for one of the ID numbers listed on the traffic instructions<sup>46</sup> shows that that same ID number is associated with the NRA-PVF’s “Hillary Will Leave You Defenseless” ad,<sup>47</sup> also called “Jet.”<sup>48</sup>
26. On August 16, 2016, *POLITICO* reported that the Trump campaign would be launching its “first barrage of television ads in the battleground states starting this Friday [August 29,

---

<sup>41</sup> Eliza Collins, *NRA launches \$3 million anti-Clinton ad buy*, USA TODAY (Aug. 9, 2016), <https://www.usatoday.com/story/news/politics/onpolitics/2016/08/09/nra-ad-hillary-clinton-trump/88489624/>.

<sup>42</sup> *Id.*

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

<sup>44</sup> Exhibit I at 14.

<sup>45</sup> *Id.* at 11, 15.

<sup>46</sup> *See id.* (showing ID # NRATV080316H, with accompanying instructions to run the ad with that ID number beginning August 12, 2016).

<sup>47</sup> *Hillary Will Leave You Defenseless*, NRA-PVF (Aug. 10, 2016), <https://www.nrapvf.org/media/20160810/video/nratv080316h-ytmp4> (showing the identifier “nratv080316h” in the URL).

<sup>48</sup> This is one of the ads OnMessage features on its website as producing for the NRA. *Our Work: Jet*, OnMessage, Inc., <https://onmessageinc.com/our-work/jet/> (last visited July 16, 2018). The disclaimer at the end of “Jet” states it was paid for by the NRA-ILA, but an otherwise identical version of the ad stated it was paid for by NRA-PVF. *See* Collins, *supra* note 41.

2016].”<sup>49</sup> The report noted that these ads came “[m]ore than 100 days after he became the presumptive Republican nominee and with fewer than 90 days until the election,” and that, to that point in the campaign, “Trump ha[d] been buoyed by ads from the National Rifle Association and two super PACs.”<sup>50</sup>

27. On a September 16, 2016 NBC/Telemundo Political Inquiry Record, **Kovatch** appeared as AMAG’s contact person purchasing the ads on behalf of “Donald Trump, RNC/Trump for President.”<sup>51</sup>

28. On a Station Issue Advertising Request Sheet dated three days later, September 19, 2016, **Kovatch** also appeared as Red Eagle’s contact person for a flight of NRA-ILA ads mentioning Clinton and Trump and pertaining to the 2016 presidential election.<sup>52</sup>

29. The next day, on September 20, 2016, *CNN* reported, “The NRA is launching a \$5 million TV ad campaign Tuesday [September 20, 2016], the group says, meant to turn out pro-Second Amendment voters at a time when Trump is being attacked for his language about firearms.”<sup>53</sup> *CNN* further reported:

The NRA’s Political Victory Fund is tasked with spending half the money on five swing states -- Ohio, Nevada, Virginia, North Carolina and Pennsylvania -- while its Institute for Legislative Action, its lobbying arm, is spending the second-half on national cable. All of the money is going to a harrowing ad that shows what the NRA says would happen if Hillary Clinton appoints her chosen justices to the Supreme Court.<sup>54</sup>

30. The article included an embedded copy of the ad itself, titled “Don’t Let Hillary Clinton Leave You Defenseless,” which the NRA also posted to its YouTube channel that same

---

<sup>49</sup> Shane Goldmacher, *Trump campaign to air first TV ads starting Friday*, POLITICO (Aug. 16, 2016), <https://www.politico.com/story/2016/08/donald-trump-tv-ads-227092>.

<sup>50</sup> *Id.*

<sup>51</sup> Exhibit J at 1.

<sup>52</sup> Exhibit K at 1.

<sup>53</sup> Theodore Schleifer, *NRA returns to Trump’s defense with \$5 million ad buy*, CNN (Sept. 20, 2016), <https://www.cnn.com/2016/09/20/politics/nra-donald-trump-television/index.html>.

<sup>54</sup> *Id.*

day.<sup>55</sup> Also on September 20, 2016, the NRA-ILA issued a press release announcing the NRA’s “most expensive ad buy to date” that “underscores what’s at stake for the Second Amendment if Hillary Clinton is elected president.”<sup>56</sup> That press release called the ad “Nightstand” and linked to the same video on YouTube, where it was titled “Don’t Let Hillary Clinton Leave You Defenseless.”<sup>57</sup>

31. On September 15, 2016, Red Eagle placed \$101,200 in NRA-ILA campaign ads on the Raycom Sports Network, a syndicator of sports programming, for seven college football games in September, October, and November 2016.<sup>58</sup> **Ferrell** signed the accompanying agreement form.<sup>59</sup> The NRA-ILA ads identified on the schedule were “Nightstand,”<sup>60</sup> “Kristi,”<sup>61</sup> and “Classified,”<sup>62</sup> all of which opposed Clinton.
32. Five days later, on September 20, 2016, AMAG placed \$30,000 in Donald J. Trump for President, Inc. ads on Raycom Sports Network, with the ads slated to run during six football

---

<sup>55</sup> See NRA, *Don’t Let Hillary Clinton Leave You Defenseless*, YOUTUBE (published Sept. 20, 2016), [https://www.youtube.com/watch?time\\_continue=28&v=hPM8e\\_DauUw](https://www.youtube.com/watch?time_continue=28&v=hPM8e_DauUw).

<sup>56</sup> Press Release, NRA-ILA, *NRA Launches 4th Trump Ad in Presidential Election Cycle* (Sept. 20, 2016), <https://www.nra-ila.org/articles/20160920/nra-launches-4th-trump-ad-in-presidential-election-cycle>.

<sup>57</sup> *Id.* OnMessage, Starboard’s alter ego, OnMessage, won awards for this ad. See Brad Todd, *Two NRA Presidential Ads in Running for Top Reed Award*, ONMESSAGE, INC. (Jan. 20, 2017), <https://onmessageinc.com/blog/012017/> (last visited Dec. 7, 2018). See also *Our Work: Nightstand*, ONMESSAGE, INC., <https://onmessageinc.com/our-work/nightstand/> (last visited July 16, 2018). The disclaimer at the end of “Nightstand” states it was paid for by the NRA-ILA; Guy Harrison, *OnMessage Wins Five Pollie Awards for TV and Digital Work*, ONMESSAGE, INC. (Mar. 20, 2017), <https://onmessageinc.com/blog/03202017/> (last visited Dec. 7, 2018).

<sup>58</sup> Exhibit L at 5-6.

<sup>59</sup> *Id.* at 3.

<sup>60</sup> See Press Release, NRA-ILA (Sept. 20, 2016), *supra* note 56. According to the Raycom schedule, this ad was slated to run on that station on September 24, 2016 and October 1, 2016.

<sup>61</sup> This ad, slated to run on Raycom Sports on October 8 and October 15, appears to correspond to the NRA’s “Kristi’s Story” ad, first announced October 5, 2016 and also referred to simply as “Kristi.” See Press Release, NRA-ILA, *NRA’s Largest Trump Ad Buy* (Oct. 5, 2016), <https://www.nra-ila.org/articles/20161005/nras-largest-trump-ad-buy-featuring-armed-citizen-kristi-mcmains>.

<sup>62</sup> See Press Release, NRA-ILA, *NRA Launches New Ad Emphasizing Importance of Supreme Court in Presidential Election* (Oct. 20, 2016), <https://www.nra-ila.org/articles/20161020/nra-launches-new-ad-emphasizing-importance-of-supreme-court-in-presidential-election>.

games, with **Angle** listed as AMAG's contact on the accompanying invoice.<sup>63</sup> Six separate Trump campaign ads were named on the attached schedule,<sup>64</sup> slated to run between September 24 and November 5. The ads named correspond to records of Trump campaign ads in *New Republic's* 2016 political ad collection: "Movement,"<sup>65</sup> "Why,"<sup>66</sup> "Change,"<sup>67</sup> "Laura,"<sup>68</sup> "Corruption,"<sup>69</sup> and "Choice."<sup>70</sup>

33. Five AMAG-placed Trump campaign ads and five Red Eagle-placed NRA-ILA ads were slated to appear the same afternoons, on the same stations, and during the same five games.<sup>71</sup>

As *Mother Jones/The Trace* reported:

The purchases were mirror images of each other. In five of the games, both the NRA and Trump bought ads. When the NRA ran two spots either attacking Clinton or promoting Trump, the Trump campaign ran just one. And when the Trump campaign ran two spots, the NRA ran one. The pattern even persisted when there was no direct overlap: In the two

---

<sup>63</sup> Exhibit M at 4-5.

<sup>64</sup> *Id.* at 5.

<sup>65</sup> Donald J. Trump for President, *Donald Trump: Movement*, THE NEW REPUBLIC (aired Sept. 20, 2016), <https://newrepublic.com/political-ad-database/donald-trump-movement/OS8yMC8xNjpNb3ZlbWVudA> (showing a Trump campaign ad advocating for Trump named "Why" with an initial air date of September 20, 2016; the Raycom Sports schedule showed it was scheduled to air on that station shortly thereafter, on September 24, 2016).

<sup>66</sup> Donald J. Trump for President, *Donald Trump: Why*, THE NEW REPUBLIC (aired Sept. 30, 2016), <https://newrepublic.com/political-ad-database/donald-trump-why/OS8zMC8xNjpXaHk> (showing a Trump campaign ad named "Why" opposing Clinton with an initial air date of September 30, 2016; the Raycom Sports schedule showed it was scheduled to air on that station shortly thereafter, on October 1 and October 8, 2016).

<sup>67</sup> Donald J. Trump for President, *Donald Trump: Change*, THE NEW REPUBLIC (aired Oct. 18, 2016), <https://newrepublic.com/political-ad-database/donald-trump-change/MTAvMTgvMTY6Q2hhbmdl> (showing a Trump campaign ad both advocating for Trump and opposing Clinton named "Change" with an initial air date of October 18, 2016; the Raycom Sports schedule showed it scheduled to air on that station shortly thereafter, on October 29, 2016).

<sup>68</sup> Donald J. Trump for President, *Donald Trump: Laura*, THE NEW REPUBLIC (aired Oct. 19, 2016), <https://newrepublic.com/political-ad-database/donald-trump-laura/MTAvMTkvMTY6TGFIcmE> (showing a Trump campaign ad named "Laura" opposing Clinton with an initial air date of October 19, 2016; the Raycom Sports schedule showed it was scheduled to air on that station shortly thereafter, on October 29, 2016).

<sup>69</sup> Donald J. Trump for President, *Donald Trump: Corruption*, THE NEW REPUBLIC (aired Nov. 2, 2016), <https://newrepublic.com/political-ad-database/donald-trump-corruption/MTEvMi8xNjpDb3JydXB0aW9u> (showing a Trump campaign ad opposing Clinton named "Corruption" with an initial air date of November 2, 2016; the Raycom Sports schedule showed it was scheduled to air on that station shortly thereafter, on November 5, 2016).

<sup>70</sup> Donald J. Trump for President, *Donald Trump: Choice*, THE NEW REPUBLIC (aired Nov. 1, 2016), <https://newrepublic.com/political-ad-database/donald-trump-choice/MTEvMS8xNjpDaG9pY2U> (showing a Trump campaign ad both opposing Clinton and advocating for Trump named "Choice" with an initial air date of November 1, 2016; the Raycom Sports schedule showed it was scheduled to air on that station shortly thereafter, on November 5, 2016).

<sup>71</sup> Compare Exhibit M at 4-5, with Exhibit L at 5-6.

games the Trump campaign sat out, the NRA ran two ads. And in the one game where the NRA didn't buy time, Trump bought two slots. Side by side, the spots aired across the country, on as many as 120 stations, according to data provided by Raycom.

After reviewing the Raycom records, [Republican media strategist Rick] Wilson said the pattern suggests that the purchases were part of a unified strategy by the NRA and the Trump campaign. "Sometimes you want to maximize the lowest unit rate on the campaign side," Wilson said. "But you still need more fire on the target. This is why the FEC says coordination is illegal."<sup>72</sup>

34. On a document dated September 28, 2016, **Kowalski** was listed as the AMAG contact for advertisements purchased on behalf of Donald J. Trump for President, Inc., where she was listed with an "@americanmediaag.com" email address.<sup>73</sup> The "traffic instructions" document for this ad buy is printed on AMAG letterhead, and very closely resembles the Red Eagle "traffic instructions" document dated August 11, 2016 and also listing Kowalski; while ostensibly coming from different entities, both are formatted identically, both list Kowalski, and both list the same mailing address, phone number, and fax number in the header.<sup>74</sup>
35. On October 4, 2016, **Ferrell** signed a Trump campaign/AMAG agreement form as an "agent for Donald J. Trump for President, Inc."<sup>75</sup>
36. On October 5, 2016, the NRA-ILA announced the launch of "a \$6.5 million ad buy in support of Donald Trump for President, its largest of the 2016 election cycle" with an ad called "Kristi" that "illustrates [the] consequences of an anti-second amendment president."<sup>76</sup> *CBS News* reported that the "organization is more aggressively targeting undecided voters" than in previous cycles.<sup>77</sup> An NRA spokeswoman said that "[w]e've done our advertising a

---

<sup>72</sup> Spies, *supra* note 9.

<sup>73</sup> Exhibit N at 1.

<sup>74</sup> *Compare id.*, with Exhibit I at 14.

<sup>75</sup> Exhibit O at 3.

<sup>76</sup> Press Release, NRA-ILA (Oct. 5, 2016), *supra* note 61.

<sup>77</sup> Reena Flores, *NRA pushes Donald Trump with biggest TV ad buy to date*, CBS NEWS (Oct. 5, 2016), <https://www.cbsnews.com/news/nra-pushes-donald-trump-with-biggest-tv-ad-buy-to-date/>.

little bit different than in the past” and “we’ve really tried to touch voters outside of that group who may be on the fence” because “we are the only group that has done sustained and significant advertising on behalf of Trump.”<sup>78</sup>

37. On an October 14, 2016 Station Issue Advertising Request Sheet for NRA-ILA ads mentioning Clinton, Trump, and the 2016 General Election, **Angle** is listed as Red Eagle’s contact person.<sup>79</sup>

38. On October 19, 2016, *POLITICO* reported on a new NRA ad buy attacking Clinton:

The National Rifle Association is out with one of its hardest hits on Hillary Clinton yet, just in time for the last debate on Wednesday evening, accusing her of lying repeatedly. The gun rights group is spending \$5 million on broadcasts in Ohio, North Carolina, Pennsylvania and Virginia, as well as national cable, through Oct. 31. It brings the NRA’s total television spending in support of Donald Trump up to around \$22 million.

...  
NRA spokeswoman Jennifer Baker said the group expects Clinton once again to say during the debate that she respects gun rights, which the group will seize on to further promote the ad on social media.<sup>80</sup>

This ad, called “Classified,” attacked Clinton about her emails and about her views on the Second Amendment.<sup>81</sup>

39. On October 19, 2016, **Ferrell** signed on behalf of Red Eagle and the NRA-PVF for a “pro-Trump anti-Clinton” ad buy on the Norfolk, VA ABC affiliate, WVEC.<sup>82</sup> The ads were scheduled to run from October 25 to October 31, 2016.<sup>83</sup>

---

<sup>78</sup> *Id.*

<sup>79</sup> Exhibit P at 1.

<sup>80</sup> Sarah Wheaton, *New NRA ad calls Clinton a liar*, *POLITICO* (Oct. 19, 2016), <https://www.politico.com/story/2016/10/nra-ad-clinton-liar-230012>.

<sup>81</sup> This is the same “Classified” ad that appeared on the September Raycom Sports schedule mentioned previously. *See* Exhibit L at 6; *see also* NRA-ILA, Press Release (Oct. 20, 2016), *supra* note 62. The on-ad disclaimer says it was paid for by the NRA-ILA. *Id.*

<sup>82</sup> Exhibit Q at 5-8.

<sup>83</sup> *Id.* at 1.



40. Five days later, on October 24, 2016, **Ferrell** signed on behalf of AMAG and Donald J. Trump for President, Inc. for “pro-Trump anti-Clinton” ads on the same Norfolk, VA station.”<sup>84</sup> The ads were scheduled to run from October 25 to October 31, 2016.<sup>85</sup>
41. On October 25, 2016, the NRA’s YouTube channel posted a new anti-Clinton ad focused on the Supreme Court and titled “Four Justices.”<sup>86</sup>
42. On a Station Issue Advertising Request Sheet dated October 28, 2016, for an NRA-PVF ad flight described as “anti-Clinton anti-Murphy,” **Kowalski** was listed as Red Eagle’s contact person.<sup>87</sup>
43. On a November 3, 2016 contract for a Donald J. Trump for President, Inc. ad flight scheduled the first week of November, **Kovatch** was listed as the “buyer” for AMAG.<sup>88</sup>
44. On a “traffic instructions” form, dated November 3, 2016, **Kowalski** appeared as AMAG’s contact for Donald J. Trump for President, Inc. ads.<sup>89</sup> The same filing also showed Kovatch as an AMAG contact<sup>90</sup> and Ferrell as the signatory.<sup>91</sup>
45. On a November 4, 2016 CBS Political Inquiry Form for ads purchased by Donald J. Trump for President, Inc. and the Republican National Committee (RNC), **Kovatch** again appeared as AMAG’s agency contact.<sup>92</sup> On another CBS Political Inquiry Form dated November 4, 2016 for RNC/ Donald J. Trump for President, Inc. ads, **Kowalski** appeared as the agency

---

<sup>84</sup> Exhibit R at 6-8.

<sup>85</sup> *Id.* at 1.

<sup>86</sup> NRA, *Four Justices*, YOUTUBE (published on Oct. 25, 2016), <https://www.youtube.com/watch?v=A3yO1l-7OgA>.

<sup>87</sup> Exhibit S at 1.

<sup>88</sup> Exhibit T at 13-16.

<sup>89</sup> Exhibit U at 8-9.

<sup>90</sup> *Id.* at 3.

<sup>91</sup> *Id.* at 12-13.

<sup>92</sup> Exhibit V at 1.

contact for AMAG.<sup>93</sup> Also on November 4, 2016, **Ferrell** signed an agreement form for presidential election ads placed by AMAG as an “agent of RNC/Trump for President.”<sup>94</sup>

#### SUMMARY OF THE LAW

46. Federal law limits to \$2,700 the amount of a contribution that a presidential candidate or his authorized campaign committee may accept from an individual donor. 52 U.S.C. § 30116(a)(1). FECA also prohibits a corporation or labor union from making a contribution to a federal candidate. 52 U.S.C. § 30118(a).
47. Generally, contributions from a person to political committees other than candidate and party committees may not exceed, in the aggregate, \$5,000 per calendar year, 52 U.S.C. § 30116(a)(1)(C), and candidates cannot accept contributions from a non-multicandidate political committee in excess of \$2,700, *id.* § 30116(a)(1).
48. A “contribution” includes “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.” 52 U.S.C. § 30101(8)(A)(i); *see also* 11 C.F.R. §§ 100.52(a), 114.1(a)(1). “Anything of value” includes all in-kind contributions. 11 C.F.R. § 100.52(d)(1). An in-kind contribution includes the provision without charge (or at less than the usual and normal charge) of any goods or services, including, but not limited to, “facilities, equipment, supplies, personnel, advertising services, membership lists, and mailing lists.” *Id.*
49. An “expenditure” includes “any purchase, payment . . . or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office.” 52 U.S.C. § 30101(9)(A).

---

<sup>93</sup> Exhibit W at 1.

<sup>94</sup> Exhibit X at 2, 3.

50. Any expenditure made in coordination with a candidate—i.e., “in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents”—is an in-kind contribution to the candidate, 52 U.S.C. § 30116(a)(7)(B)(i); 11 C.F.R. § 109.20, and must be reported as a contribution to that candidate by the person that made the payment, 11 C.F.R. § 109.21(b).<sup>95</sup>
51. In enacting the Bipartisan Campaign Reform Act, Congress mandated that the Commission promulgate “regulations on coordinated communications” to address, among other things, “payments for the use of a common vendor” and “payments for communications made by a person after substantial discussion about the communication with a candidate,” and that such regulations “shall not require agreement or formal collaboration to establish coordination.”<sup>96</sup> Those “coordinated communications” regulations are at 11 C.F.R. § 109.21.
52. Under the regulations, a communication is coordinated with a candidate and/or that candidate’s authorized committee, and is thus a contribution to that candidate’s committee, when the communication (1) is paid for, in whole or in part, by a person other than the candidate or committee; (2) satisfies at least one of the “content standards” in the regulation; and (3) satisfies at least one of the “conduct standards” in the regulation. *Id.* § 109.21(a).
53. The second prong, the “content standard,” is met if the communication “expressly advocates . . . the election or defeat of a clearly identified candidate for Federal office.” *Id.* § 109.21(c)(3).

---

<sup>95</sup> Contributions in the form of “coordinated communications” resulting from conduct described in 11 C.F.R. § 109.21(d)(4) (“common vendor”) need not be reported as received by the campaign committee with which the communication is “coordinated,” absent other conduct. *Id.* § 109.21(b)(2).

<sup>96</sup> See Pub. L. No. 107-155, sec. 214(c)(2), 116 Stat. 81, 94-95 (2002); see also note to 52 U.S.C. § 30116(a)(7).

54. The “conduct” standard is satisfied if the political committee paying for the communication (a) uses a commercial vendor<sup>97</sup> to create, produce, or distribute the communication<sup>98</sup> that (b) during the previous 120 days also provided certain services to the candidate identified in the communication or a political party committee,<sup>99</sup> such as development of media strategy and selection of advertising slots; selection of audiences; polling; developing the content of communications; voter identification; or otherwise providing political or media advice,<sup>100</sup> and (c) the vendor uses or conveys to the political committee information about the candidate’s or party committee’s “plans, projects, activities or needs” (or information used previously by the commercial vendor in providing services to the candidate) and “that information is material to the creation, production, or distribution of the communication.”<sup>101</sup> 11 C.F.R. § 109.21(d)(4).<sup>102</sup>
55. The Commission has stressed that “a commercial vendor may qualify as a common vendor under 11 C.F.R. § 109.21(d)(4) even after reorganizing or shifting personnel . . . [the rules] focus on the use or conveyance of information used by a vendor, including its owners, officers, and employees, in providing services to a candidate [or committee], rather than the particular structure of the vendor.” Explanation & Justification, 68 Fed. Reg. 421, 435 (Jan.

---

<sup>97</sup> The regulation cross-references the definition of “commercial vendor” at 11 C.F.R. § 116.1(c), which includes “any persons providing goods or services to a candidate or political committee whose usual and normal business involves the sale, rental, lease or provision of those goods or services.” *Id.*

<sup>98</sup> 11 C.F.R. § 109.21(d)(4)(i).

<sup>99</sup> *Id.* § 109.21(d)(4)(ii). For purposes of this analysis, the commercial vendor includes “any owner, officer, or employee of the commercial vendor.” *Id.*

<sup>100</sup> *Id.* § 109.21(d)(4)(ii)(A-I).

<sup>101</sup> *Id.* § 109.21(d)(4)(iii).

<sup>102</sup> These requirements are not satisfied if the material information was obtained from a publicly available source, 11 C.F.R. § 109.21(d)(5)(ii), or if the committee establishes and implements a firewall in a written policy that prohibits the flow of information about the candidate’s campaign plans, projects, activities or needs to those responsible for the creation, production, or distribution of the communications, pursuant to 11 C.F.R. § 109.21(h). However, in promulgating the rules, the Commission emphasized that “the mere existence of a confidentiality agreement or ethical screen . . . [w]ithout some mechanism to ensure enforcement” does not “provide a *de facto* bar to the enforcement of the limits on coordinated communication imposed by Congress.” 68 Fed. Reg. 421, 437 (Jan. 3, 2003).

3, 2003); *Cf.* MUR 5546 (Progress for America Voter Fund), General Counsel’s Report #2 at 4 (“[t]he applicable rules defining common vendors emphasize substance over form; where entities . . . appear to be closely related, including possible overlapping personnel . . . their particular organizational form will not prevent an investigation of whether the entities used information in the same manner as a common vendor.”).

56. The Commission has found reason to believe that FECA has been violated if the first two parts of the common vendor test are satisfied. In MUR 5546, for example, the Commission concluded that, “[b]ecause the first two parts of the common vendor test are met, there is reason to investigate whether the use or exchange of information occurred as described in 11 C.F.R. § 109.21(D)(4)(iii).” MUR 5546 (Progress for America Voter Fund), Notification with Factual and Legal Analysis at 9 (Jul. 5, 2005);<sup>103</sup> *see also* MUR 5502 (Martinez for Senate), Notification with Factual and Legal Analysis at 8 (May 18, 2005).<sup>104</sup> Additionally, in MURs 5403 and 5406, the Commission found reason to believe that the political committee America Coming Together had engaged in coordinated communications pursuant to the § 109.21(d)(4) shared vendor “conduct standard” by contracting with the commercial vendor Dewey Square Group to run a phone bank operation supporting John Kerry’s presidential campaign, since that vendor had previously provided voter identification services to the Kerry campaign committee. *Id.*, Notification with Factual and Legal Analysis to America Coming Together at 9-13 (Oct. 20, 2004).<sup>105</sup> The fact that the vendor provided services to both the campaign and the political committee was sufficient to find reason to believe that FECA had been violated; the Commission then investigated whether the vendor

---

<sup>103</sup> Available at <http://eqs.fec.gov/eqsdocsMUR/00005ABC.pdf>.

<sup>104</sup> Available at <http://eqs.fec.gov/eqsdocsMUR/000057D4.pdf>.

<sup>105</sup> Available at <http://eqs.fec.gov/eqsdocsMUR/0000615D.pdf>.

used or conveyed to the political committee information about the candidates' plans, projects, activities, or needs. *Id.* at 12.

#### CAUSES OF ACTION

##### **I. The NRA-ILA and NRA-PVF Made Excessive, Corporate, and Unreported In-Kind Contributions to Donald J. Trump for President, Inc.**

57. There is reason to believe that the NRA-ILA and NRA-PVF violated the law by making millions of dollars in excessive, corporate, and unreported in-kind contributions to Donald J. Trump for President, Inc. in the form of coordinated communications.
58. An entity makes a “coordinated communication” when the communication (1) is paid for, in whole or in part, by a person other than the candidate or committee; (2) satisfies at least one of the “content standards” in the regulation, for example by “expressly advocat[ing] . . . the election or defeat of a clearly identified candidate for Federal office”; and (3) satisfies at least one of the “conduct standards” in the regulation, such as the use of a “common vendor,” 11 C.F.R. § 109.21(a).
59. The NRA-ILA and NRA-PVF communications in support of Trump, and in opposition to his opponent, satisfy the “payment” prong because they were paid for in whole by the NRA-ILA and NRA-PVF. *Id.* § 109.21(a)(1).
60. The communications satisfy the “content” prong because they are public communications<sup>106</sup> that expressly advocated for the election of Trump and the defeat of his opponent. *Id.* § 109.21(c)(2).

---

<sup>106</sup> A public communication is a “communication by means of any broadcast, cable, or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone bank to the general public, or any other form of general public political advertising.” 11 C.F.R. § 100.26.

61. As described *infra* ¶¶62-64, the NRA-PVF’s communications satisfy the “conduct” prong at 11 C.F.R. § 109.21(a)(3) and (d)(4) through the use of common vendors National Media/Red Eagle/AMAG, which selected and purchased the advertising slots and audiences.
62. “Red Eagle” is a trade name for the political consulting firm National Media, according to Virginia Corporation Commission records.<sup>107</sup> AMAG is “affiliated” with National Media, according to its attorney.<sup>108</sup> National Media, Red Eagle, and AMAG are located at the same “pair of adjacent brick buildings that share a parking lot”<sup>109</sup>—815 and/or 817 Slaters Lane in Alexandria, Virginia, the same address(es) associated with Starboard/OnMessage<sup>110</sup>—and documents filed with the FCC by Red Eagle and AMAG are signed by National Media employees.<sup>111</sup>
63. The NRA-ILA’s and NRA-PVF’s independent expenditures supporting Trump were placed by Red Eagle, and the relevant contracts and documents were signed by National Media employees.<sup>112</sup> Donald J. Trump for President, Inc. advertisements were placed by AMAG, and the relevant contracts and documents were signed by *those same* National Media employees. Moreover, the officials placing ads on behalf of both the NRA-ILA/NRA-PVF and the Trump campaign were not low-level employees serving administrative functions; they were senior officials with decades of experience tasked with providing the enumerated services described in the Commission’s common vendor regulations, including the “selection or purchasing of advertising slots,”<sup>113</sup> “[s]election of audiences,”<sup>114</sup> “[i]dentifying voters or

---

<sup>107</sup> See ¶14.

<sup>108</sup> See ¶16.

<sup>109</sup> Spies, *supra* note 9. See also ¶¶13-16.

<sup>110</sup> See ¶15.

<sup>111</sup> See ¶¶19-20, 22-23, 25, 27-28, 31-32, 34-35, 37, 39-40, 42-45.

<sup>112</sup> See ¶¶19-20, 22-23, 25, 27-28, 31-32, 34-35, 37, 39-40, 42-45.

<sup>113</sup> 11 C.F.R. § 109.21(d)(4)(ii)(A).

<sup>114</sup> *Id.* § 109.21(d)(4)(ii)(B).

developing voter lists,”<sup>115</sup> or “otherwise providing political or media advice.”<sup>116</sup> For example:

- a) National Media’s “senior media buyer” **Ben Angle** was AMAG’s contact for a Donald J. Trump for President, Inc. ad buy on September 20, 2016, and Red Eagle’s contact for a NRA-PVF ad buy on June 28 and an NRA-ILA ad buy October 14, 2016. Angle’s bio states that he “strategically place[s] efficient and effective media buys,”<sup>117</sup> and he was publicly described as responsible for “placing all of the Trump campaign’s television advertising during the last seven weeks of the campaign”<sup>118</sup>—during the same period that he also purchased and placed the NRA-ILA’s pro-Trump ads.
- b) National Media’s “senior media buyer” **Kristy Kovatch** appeared as AMAG’s contact for Donald J. Trump for President, Inc. ad buys on September 16, November 3, November 4, 2016, and as Red Eagle’s contact for an NRA-PVF ad buy on May 24 and an NRA-ILA ad buy on September 19, 2016. Kovatch’s bio describes her as “specializ[ing] in television media buying for political candidates, issue/advocacy groups and public affairs clients,” with an “extensive knowledge of ratings, costs and seasonal trends across all time periods and dayparts.”<sup>119</sup>
- c) National Media’s “director of accounting” **Jon Ferrell** signed documents on behalf of AMAG placing placing ads for Donald J. Trump for President, Inc. on

---

<sup>115</sup> *Id.* § 109.21(d)(4)(ii)(G).

<sup>116</sup> *Id.* § 109.21(d)(4)(ii)(I).

<sup>117</sup> NATIONAL MEDIA, *supra* note 13. (Attached as Exhibit A.)

<sup>118</sup> Spies, *supra* note 9.

<sup>119</sup> NATIONAL MEDIA, *supra* note 13. (Attached as Exhibit B.)



October 4, October 24, November 3, and November 4, 2016, and on behalf of Red Eagle for NRA-PVF ad buys on July 11, August 5, and October 19, 2016, and for an NRA-ILA ad buy on September 15, 2016. He also signed a check for an August 11, 2016 NRA-PVF ad buy. Ferrell is the organization's chief financial officer charged with "managing the financial details of political campaigns."<sup>120</sup>

d) National Media's media specialist **Caroline Kowalski** appeared as AMAG's contact for Donald J. Trump for President, Inc. ad buys on September 28, November 3, and November 4, and as Red Eagle's contact for NRA ad buys on August 11 and October 28. Kowalski's LinkedIn page states that during her tenure at National Media (March 2016 to May 2017) she "[r]esearched voter demographic data to help create national, statewide and local advertising campaigns for Presidential, senatorial, and congressional candidates, issue-advocacy groups, and PACs."<sup>121</sup>

64. Moreover, the evidence indicates that these same senior National Media officials made use of their knowledge about the "plans, projects, activities or needs" of the Trump campaign to most effectively place the NRA-ILA and NRA-PVF ads supporting Trump. For example, Jon Ferrell purchased ads on the same ABC affiliate, to air during the same one-week period, on behalf of Donald J. Trump for President, Inc. and AMAG, and on behalf of the NRA-PVF and Red Eagle.<sup>122</sup> National Media officials placed five Trump campaign ads and five NRA-

---

<sup>120</sup> *Id.* (Attached as Exhibit C.)

<sup>121</sup> Caroline Kowalski, LINKEDIN, *supra* note 32. (Attached as Exhibit D.)

<sup>122</sup> *See supra* ¶¶ 39-40.

ILA ads to run on the same afternoons, on the same stations, and during the same five college football games.<sup>123</sup> As *Mother Jones/The Trace* reported:

The purchases were mirror images of each other. . . When the NRA ran two spots either attacking Clinton or promoting Trump, the Trump campaign ran just one. And when the Trump campaign ran two spots, the NRA ran one. The pattern even persisted when there was no direct overlap: In the two games the Trump campaign sat out, the NRA ran two ads. And in the one game where the NRA didn't buy time, Trump bought two slots. Side by side, the spots aired across the country, on as many as 120 stations, according to data provided by Raycom.<sup>124</sup>

65. These facts and this pattern of activity provide reason to believe that National Media employees used information about the “plans, projects, activities or needs” of Donald J. Trump for President, Inc. in placing ads for the NRA-ILA and NRA-PVF, and that such information was “material to the creation, production, [and] distribution of the communication[s].” 11 C.F.R. § 109.21(d)(4).
66. For these reasons, there is reason to believe that the NRA-ILA and NRA-PVF satisfied the “conduct” standard by coordinating their communications with Donald J. Trump for President, Inc. through a “common vendor.” 11 C.F.R. § 109.21(d)(4).
67. A payment for a coordinated communication is an in-kind contribution to the candidate committee or political party committee with which it is coordinated. 11 C.F.R. § 109.21(b).
68. Therefore, because the NRA-ILA and NRA-PVF advertisements supporting Trump satisfy Section 109.21’s three-prong test, the NRA-ILA and NRA-PVF have made in-kind contributions to Donald J. Trump for President, Inc. in the form of coordinated communications, in excess of FECA’s \$2,700 limit on contributions by a non-multicandidate political committee to a candidate, 52 U.S.C. § 30116(a)(1), in violation of FECA’s reporting requirements. 52 U.S.C. § 30104(b), and for the NRA-ILA, in violation of FECA’s

---

<sup>123</sup> Compare Exhibit M at 4-5, with Exhibit L at 5-6.

<sup>124</sup> Spies, *supra* note 9.

prohibition on contributions to a candidate using corporate funds, 52 U.S.C. § 30118(a),  
(b)(2).

**PRAYER FOR RELIEF**

69. Wherefore, the Commission should find reason to believe that the NRA-ILA and NRA-PVF violated 52 U.S.C. § 30101 *et seq.*, and should conduct an immediate investigation under 52 U.S.C. § 30109(a)(2).
70. The Commission should seek appropriate sanctions for any and all violations, including civil penalties sufficient to deter future violations and an injunction prohibiting the respondents from any and all violations in the future, and should seek such additional remedies as are necessary and appropriate to ensure compliance with the FECA.

Respectfully submitted,

---

Campaign Legal Center, by  
Brendan M. Fischer  
1411 K Street, NW, Suite 1400  
Washington, DC 20005  
(202) 736-2200

---

Giffords, by  
Alison Damaskos  
P.O. Box 51196  
Washington, DC 20091  
(571) 295-7807

Brendan M. Fischer  
Campaign Legal Center  
1411 K Street, NW, Suite 1400  
Washington, DC 20005  
Counsel to the Campaign Legal Center

David Pucino  
J. Adam Skaggs  
Giffords Law Center to Prevent Gun Violence  
223 W. 38<sup>th</sup> Street #90  
New York, NY 10018  
Counsel to Giffords

December 7, 2018

**VERIFICATION**

The complainants listed below hereby verify that the statements made in the attached Complaint are, upon their information and belief, true.

Sworn pursuant to 18 U.S.C. § 1001.

For Complainant Campaign Legal Center

\_\_\_\_\_

Brendan M. Fischer

Sworn to and subscribed before me this \_\_\_\_ day of December 2018.

\_\_\_\_\_

Notary Public

For Giffords

\_\_\_\_\_

Alison Damaskos

Sworn to and subscribed before me this \_\_\_\_ day of December 2018.

\_\_\_\_\_

Notary Public