

**BEFORE THE
FEDERAL ELECTION COMMISSION**

End Citizens United by,
Deanna Nesburg
P.O. Box 66005 Washington, DC 20035

Complainant,

v.

Rick Scott
PO Box 3791
Tallahassee, FL 32315;

Rick Scott for Florida and Salvatore Purpura, Treasurer
PO Box 3791
Tallahassee, FL 32315; and

New Republican PAC and Julie Dozier, Treasurer
204 S Monroe St. Suite 201-A
Tallahassee, FL 32301

Respondents.

COMPLAINT

This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) against Rick Scott; Rick Scott for Florida; Salvatore Purpura, Treasurer of Rick Scott for Florida; New Republican PAC; and Julie Dozier, Treasurer of New Republican PAC (collectively, “Respondents”) for violating the Federal Election Campaign Act of 1971, as amended (the “Act”) and Federal Election Commission (“Commission”) regulations by engaging in impermissible coordination resulting in an excessive in-kind contribution from New Republican PAC to Rick Scott for Florida.

FACTUAL BACKGROUND

Rick Scott is the former Governor of Florida and a current candidate for the United States Senate in Florida. In May 2017, amid widespread rumors of a potential run for Senate, Rick

Scott “unveil[ed] a new PAC, New Republican, that he...chair[ed].”¹ New Republican PAC was “stocked . . . with top consultants from his previous campaigns” and was considered to be “the clearest sign he’s ready to challenge Democratic Sen. Bill Nelson.”² According to press reports, Scott raised over \$1.1 million for New Republican PAC (“the PAC”) by February 2018.³

Scott formally declared his candidacy for U.S. Senate on April 9, 2018.⁴ However, Scott began making disbursements of personal funds for political strategy consulting, video production and survey research as early as January 2018.⁵ Scott’s campaign claimed that Scott stepped down as chair of the PAC in February of 2018, after these expenditures.⁶ Moreover, publicly available information casts doubt on whether Scott did in fact step down in February - press reports identified Scott as chair of the organization as late as March 3, 2018.⁷ Accordingly, all of the available evidence suggests that Scott was actively formulating potential campaign strategy and preparing communications while he was still chair of the PAC.

Scott’s involvement with the PAC has apparently continued well into his candidacy for U.S. Senate; he was scheduled to participate in a conference call with the PAC as recently as

¹ Ed O’Keefe, *Rick Scott on a potential 2018 Senate campaign: ‘I don’t feel any pressure to get in’*, Washington Post (May 10, 2017) https://www.washingtonpost.com/news/powerpost/wp/2017/05/10/rick-scott-on-a-potential-2018-senate-campaign-i-dont-feel-any-pressure-to-get-in/?utm_term=.cfe5b8405e7a.

² Marc Caputo and Matt Dixon, *Scott takes big step toward Florida Senate challenge*, Politico (Feb. 1, 2018) <https://www.politico.com/story/2018/02/01/rick-scott-florida-senate-bill-nelson-midterms-381262>.

³ *Id.*

⁴ See Maegan Vazquez and Eric Bradner, *Florida Gov. Rick Scott formally announces run for Senate, challenging Bill Nelson*, CNN (April 9, 2018) <https://www.cnn.com/2018/04/09/politics/rick-scott-running-senator/index.html>.

⁵ Rick Scott for Florida, 2018 July Quarterly at 1864-1865, <http://docquery.fec.gov/pdf/391/201807180200568391/201807180200568391.pdf>; Alex Leary, *Rick Scott’s political spending began months before he was an official candidate*, Tampa Bay Times (July 20, 2018) <https://www.tampabay.com/florida-politics/buzz/2018/07/20/rick-scotts-political-spending-began-months-before-he-was-an-official-candidate/>.

⁶ John Kennedy, *Elections complaint filed against Rick Scott PAC*, The Gainesville Sun (April 10, 2018) <https://www.gainesville.com/news/20180410/elections-complaint-filed-against-rick-scott-pac>.

⁷ Sean Sullivan, *Florida Gov. Rick Scott to put in face time with GOP donors ahead of possible Senate run*, Washington Post (Mar. 3, 2018) https://www.washingtonpost.com/news/powerpost/wp/2018/03/03/florida-gov-rick-scott-to-put-in-face-time-with-gop-donors-ahead-of-possible-senate-run/?utm_term=.a68c5ea231e0.

August 29, 2018.⁸ The PAC has also been closely tied with former employees and allies of Gov. Scott. Most importantly, the PAC tapped Calvary Strategies, which is run by Scott's former chief of staff and campaign manager Melissa Stone, for its "political strategy consulting," arguably the most important strategic role within a political committee. Calvary Strategies began consulting for the PAC as early as May of 2017, when Scott became chair, and Stone continues to serve as the PAC's "adviser."⁹

Since Scott entered the race for U.S. Senate, the PAC has been focused on supporting his election to U.S. Senate.¹⁰ On May 3, 2018, just 24 days after Scott's official announcement of his Senate run, and less than two months after he was still being publicly identified as the PAC's chair, the PAC released a TV advertisement to begin airing the following week that attacked Senator Bill Nelson, Scott's presumptive Democratic opponent, urging voters to "term limit Bill Nelson."¹¹ On June 11, the PAC launched another TV and social media advertising blitz opposing Nelson, again urging voters to "Term Limit Career Politician Bill Nelson."¹²

Put together, this timeline based off publicly available information demonstrates that Rick Scott began developing political and communications strategy for a potential campaign for

⁸ Alex Leary, *Rick Scott's involvement with super PAC shows blurred lines*, Tampa Bay Times (Aug. 23, 2018) <https://www.tampabay.com/florida-politics/buzz/2018/08/23/rick-scotts-involvement-with-super-pac-shows-blurred-lines/>.

⁹ *Id.*, FEC.gov, New Republican PAC Disbursements to Cavalry Strategies LLC, https://www.fec.gov/data/disbursements/?two_year_transaction_period=2018&data_type=processed&committee_id=C00544544&recipient_name=cavalry&min_date=01%2F01%2F2017&max_date=08%2F29%2F2018, accessed Aug. 29, 2018; Alex Leary, *Rick Scott's involvement with super PAC shows blurred lines*, Tampa Bay Times (Aug. 23, 2018) <https://www.tampabay.com/florida-politics/buzz/2018/08/23/rick-scotts-involvement-with-super-pac-shows-blurred-lines/>.

¹⁰ "Who We Are," New Republican, newrepublican.org, accessed July 22, 2018.

¹¹ A.G. Gancarski, *Pro Rick Scott Super PAC's \$2.4M ad buy slams Bill Nelson as career politician*, Florida Politics (May 3, 2018) <http://floridapolitics.com/archives/262736-pro-rick-scott-super-pacs-2-4m-ad-buy-slams-bill-nelson-as-career-politician>; New Republican PAC, "Career," YouTube (published May 3, 2018) <https://www.youtube.com/watch?v=bSfrNwLpwuw>.

¹² Scott Powers, *New Republican PAC launches \$3.5 million blitz against Bill Nelson*, Florida Politics (June 11, 2018) <http://floridapolitics.com/archives/265970-new-republican-pac-launches-3-5-million-blitz-against-bill-nelson>; New Republican PAC, "Timeline," YouTube (published Jun 11, 2018) <https://www.youtube.com/watch?v=HAJOMlpFW0c>.

Senate while serving as a chair of a super PAC that immediately after his announcement began running advertisements to aid his campaign.

LEGAL ANALYSIS

The FEC should investigate whether Rick Scott for Florida accepted, and New Republican PAC made, illegal in-kind contributions by financing communications to support Scott's Senate candidacy using strategic campaign information obtained through Scott's involvement with the PAC.¹³

Under the Act, expenditures that are coordinated with a campaign are treated as in-kind contributions to the candidate with whom they were coordinated.¹⁴ An expenditure for a communication is a "coordinated communication" and an in-kind contribution to a campaign if it is (1) paid for by an entity other than the candidate or candidate's campaign; (2) meets certain content standards, including by being a public communication that expressly advocates the election or defeat of a clearly identified candidate; and (3) meets certain conduct standards, including that the communication was created, produced, or distributed at the request or suggestion of a candidate; or was created, produced, or distributed after one or more "substantial discussions" between the candidate and the person paying for the communication.¹⁵

The television advertisements released on May 3 and June 11 clearly meet the first and second prong of the "coordinated communication" standard. Both advertisements contain a disclaimer stating that they were paid for by New Republican PAC.¹⁶ Both advertisements were

¹³ See 11 C.F.R. § 109.21.

¹⁴ 52 U.S.C. § 30116(a)(7)(B)(i).

¹⁵ See 11 C.F.R. §§ 109.21(a), (c)(3), (d)(2)-(3).

¹⁶ New Republican PAC, "Career," YouTube (published May 3, 2018) <https://www.youtube.com/watch?v=bSfrNwLpwuw>; New Republican PAC, "Timeline," YouTube (published Jun 11, 2018) <https://www.youtube.com/watch?v=HAJOMlpFW0c>.

aired on broadcast television, making them public communications,¹⁷ and expressly advocate the defeat of Democratic Senate candidate Bill Nelson by including the line “Term limit career political Bill Nelson,” a clear exhortation for voters not to vote to re-elect the incumbent Senator.¹⁸ Therefore, the payment and content prongs are met.

These advertisements also appear to meet the “conduct” prong, because they may have been the product of substantial discussions between Scott and the PAC’s employees or strategic advisors. A communication satisfies the conduct prong if it “is created, produced, or distributed after one or more substantial discussions about the communication between the person paying for the communication, or the employees or agents of the person paying for the communication, and the candidate who is clearly identified in the communication . . . [or] the candidate’s opponent.”¹⁹ A discussion is considered to be “substantial” if “information about the candidate’s . . . plans, projects, activities, or needs is conveyed to a person paying for the communication, and that information is material to the creation, production, or distribution of the communication.”²⁰ The FEC has opined that a 120-day period is required before knowledge of the “campaigns, strategy, plans, needs, and activities” of a candidate is no longer “material” to communications produced in support of that candidate’s candidacy.²¹

In the ten months that Gov. Scott was publicly identified as chairing New Republican PAC, when he was actively considering a run for U.S. Senate, he is highly likely to have

¹⁷ A “public communication” includes 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.

¹⁸ New Republican PAC, “Career,” YouTube (published May 3, 2018) <https://www.youtube.com/watch?v=bSfrNwLpwuw>; “Timeline,” YouTube (published Jun 11, 2018) <https://www.youtube.com/watch?v=HAJOMlpFW0c>.

¹⁹ 11 C.F.R. § 109.21(d)(3).

²⁰ *Id.*

²¹ Coordinated Communications, 71 Fed. Reg. 33190, 33204 (June 8, 2006) <http://sers.fec.gov/fosers/showpdf.htm?docid=1229>.

engaged in “substantial discussion” about his future campaign’s “plans, projects activities, or needs” with the Super PAC’s agents and employees. Although he alleges that he did not decide to run for Senate until March 2018, Scott was paying for, among other things, “Video Production” services and “Political Strategy Consul[ting]” related to his potential Senate campaign in as early as January 2018.²² It is unclear why Scott would produce video content related to his Senate campaign unless a decision had been made to run for office. That this decision to pay for video production and strategic political consulting appears to have been made while Scott still served as chair of the PAC is highly suggestive of the fact that substantial discussions about his campaign communications strategy may have occurred with PAC staff and agents. If strategic discussion did occur between Scott and the employees or agents of the PAC, the PAC’s abrupt transition to supporting Scott’s candidacy less than 120 days after Scott stepped down as chair indicates that any communications funded by the PAC likely relied upon non-public, material information about Scott’s candidacy.

The timeline of the advertisements speaks for itself. It was publicly reported that Scott was chair of the PAC until at least March of 2018, and he remained in contact with the PAC as recently as late August 2018.²³ The first advertisement aired by the PAC was released on May 3, a mere 24 days after the announcement of Scott’s candidacy, and at most approximately two months after he was publicly reported to still be chair of the PAC. The June 11 advertisement was released just 63 days after Scott’s declaration of his candidacy and within approximately

²² Rick Scott for Florida, 2018 July Quarterly at 1864, <http://docquery.fec.gov/pdf/391/201807180200568391/201807180200568391.pdf>.

²³ See Sean Sullivan, *Florida Gov. Rick Scott to put in face time with GOP donors ahead of possible Senate run*, Washington Post (March 3, 2018) <https://www.washingtonpost.com/news/powerpost/wp/2018/03/03/florida-gov-rick-scott-to-put-in-face-time-with-gop-donors-ahead-of-possible-senate-run/>; Alex Leary, *Rick Scott’s involvement with super PAC shows blurred lines*, Tampa Bay Times (Aug. 23, 2018) <https://www.tampabay.com/florida-politics/buzz/2018/08/23/rick-scotts-involvement-with-super-pac-shows-blurred-lines/>.

four months of news reports identifying him as chair of the PAC. Both of these communications were within the 120-day window for any strategic information learned by the PAC's staff or consultants in discussion with Scott to remain material to the communications.

These advertisements also appear to have been created, produced, or distributed at the request or suggestion of candidate Rick Scott.²⁴ Scott raised over \$1 million dollars in support of New Republican PAC as its chair, and hired one of his own closest political allies to run the organization.²⁵ He remained chair of the PAC while actively exploring a run for U.S. Senate, a process that included gathering strategic political advice and making expenditures for video production. The media continued to reference his role as chair of the PAC up until less than a month before he allegedly made his final decision to run. Immediately upon his announcement, the PAC focused in on supporting Scott's Senate campaign, releasing an advertisement within 24 days of his announcement. It is difficult to believe that Scott mapped out the strategy for his campaign for U.S. Senate while simultaneously serving as chair of the PAC and did not then communicate that strategy to the PAC and ask that the PAC use the \$1.1 million dollars he raised to create, produce, and distribute communications in support of that strategy.

REQUESTED ACTION

In light of the foregoing, the evidence suggests that Respondents attempted to create an end-run around the clear coordination rules set forth in the Act and Commission Regulations. The Commission must immediately investigate to confirm whether Respondents did in fact violate the Federal Election Campaign Act by financing coordinated communications that resulted in prohibited in-kind contributions to Rick Scott for U.S. Senate. We respectfully

²⁴ 11 C.F.R. § 109.21(d)(1).

²⁵ Marc Caputo and Matt Dixon, *Scott takes big step toward Florida Senate challenge*, Politico (Feb. 1, 2018) <https://www.politico.com/story/2018/02/01/rick-scott-florida-senate-bill-nelson-midterms-381262>

request the Commission to investigate these likely violations, and if a violation is found, enjoin Respondents from further violations and fine Respondents the maximum amount permitted by law.

Sincerely,

End Citizens United by,
Deanna Nesburg
P.O. Box 66005 Washington, DC 20035

SUBSCRIBED AND SWORN to before me this ____ day of September, 2018.

Notary Public

My Commission Expires:
