

**BEFORE THE
FEDERAL ELECTION COMMISSION**

Tiffany Muller
End Citizens United
PO Box 66005
Washington, DC 20035

Complainant,

v.

Sam Brown for Nevada
PO Box 750844
Las Vegas, NV 89136

Chrissie Hastie, in her official capacity as Treasurer of Sam Brown for Nevada.
PO Box 750844
Las Vegas, NV 89136

Duty First Nevada PAC
PO Box 94722
Las Vegas, NV 89193

Mike McCauley, in his official capacity as Treasurer of Duty First Nevada PAC
PO Box 94722
Las Vegas, NV 89193

Respondents.

COMPLAINT

This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) against Sam Brown for Nevada, Chrissie Hastie, in her official capacity as Treasurer for Sam Brown for Nevada (the “*Brown Campaign*”), Duty First Nevada PAC, and Mike McCauley, in his official capacity as treasurer of Duty First Nevada PAC, (collectively “*Respondents*”) for violations of the Federal Election Campaign Act of 1971, as amended (the “*Act*”) and Federal Election Commission (“*FEC*” or “*Commission*”) regulations.

The Act prohibits super PACs, including Duty First Nevada PAC, from making a contribution to a federal candidate. This ban includes not just direct monetary contributions, but also providing anything of value for less than full charge. Yet, publicly available information suggests that Duty First Nevada PAC paid to produce high quality video footage and provided such footage free of charge to Sam Brown's campaign for U.S. Senate, who then used the footage in its own advertisement. If true, then Duty First Nevada PAC and the Brown Campaign have violated federal campaign finance law. Sam Brown cannot be permitted to let a Super PAC illegally subsidize his campaign. The Commission should immediately investigate this matter and take all necessary steps to ensure compliance with the law.

FACTUAL BACKGROUND

Mr. Brown is the Republican nominee for U.S. Senate in Nevada.¹ His principal campaign committee is Sam Brown for Nevada.² The Brown Campaign's official account on X.com, formerly Twitter, is @CaptainSamBrown.³

Duty First Nevada PAC ("*DFN*") was a Super PAC registered with the FEC.⁴ DFN was formed in August 2023 to support Sam Brown's Senate candidacy.⁵ DFN spent over \$1,000,000

¹ Sam Brown, Statement of Candidacy, FEC Form 2 (amended Aug. 7, 2024), available at <https://docquery.fec.gov/pdf/719/202408079666111719/202408079666111719.pdf>.

² *Id.*

³ See Sam Brown, @CaptainSamBrown, <https://x.com/captainsambrown>; see also Sam Brown U.S. Senate, <https://captainsambrown.com/>, last accessed Aug. 13, 2024 (The Brown Campaign's official website which links to @CaptainSamBrown on X.com under the header "Follow on social media").

⁴ Duty First Nevada PAC, FEC Form 1 (Aug. 2, 2023), <https://docquery.fec.gov/pdf/838/202308029596494838/202308029596494838.pdf>. The Super PAC accepted contributions in amounts that exceeded the contribution limits for traditional PACs and from sources, such as corporations, not permitted to contribute to traditional PACs. See Duty First Nevada PAC, Receipts, https://www.fec.gov/data/receipts/?two_year_transaction_period=2024&committee_id=C00847236&data_type=processed

⁵ See Duty First Nevada PAC, FEC Form 1 (Aug. 2, 2023); see also April Corbin Girus, Nevada billionaire megadonor pumps \$2 million into Sam Brown super PAC, Nev. Current (Oct. 19, 2023), <https://nevadacurrent.com/2023/10/19/nevada-billionaire-megadonor-pumps-2-million-into-sam-brown-super-pac/>.

on independent expenditures supporting Sam Brown.⁶ It did not make expenditures to support any other candidate.

The Brown Campaign and DFN shared a common vendor, Pathfinder Strategic LLC (“*Pathfinder*”). DFN paid Pathfinder over \$440,000 from August 2023 through June 2024.⁷ These payments included over \$34,000 in disbursements for “Film B-Roll” and “Video Production.”⁸ The Brown Campaign also retained Pathfinder. The campaign has paid Pathfinder about \$118,000, roughly a quarter of what DFN paid to the vendor.⁹ The Brown Campaign paid just \$1,500 in total to Pathfinder for “Video Production,” a transaction that took place in October 2023.¹⁰

In June and July of 2024, it appears that in a short time frame DFN produced video footage, transmitted such footage to the Brown Campaign and shut down operations. The timeline is as follows:

- On June 12, 2024, the day after Sam Brown secured the Republican nomination for Senate, DFN posted an advertisement called “Service.”¹¹ It included four seconds of high-quality video footage of a man identified as Redmond Barnes speaking directly to the camera.¹²

⁶ See Duty First Nevada PAC, Independent expenditures, https://www.fec.gov/data/independent-expenditures/?data_type=processed&most_recent=true&q_spender=C00847236&is_notice=true.

⁷ See Duty First Nevada PAC, Disbursements, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00847236&recipient_name=PATHFINDER+STRATEGIC+LLC&two_year_transaction_period=2024.

⁸ See Duty First Nevada PAC, FEC Form 3X (July 5, 2024), <https://docquery.fec.gov/pdf/474/202407059652570474/202407059652570474.pdf#navpanes=0>; Duty First Nevada PAC, FEC Form 3X (July 5, 2024), <https://docquery.fec.gov/pdf/491/202407059652570491/202407059652570491.pdf#navpanes=0>.

⁹ See Sam Brown for Nevada, Disbursements, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00845032&recipient_name=PATHFINDER+STRATEGIC+LLC&two_year_transaction_period=2024.

¹⁰ See Sam Brown For Nevada, FEC Form 3 (Jan. 31, 2024), <https://docquery.fec.gov/pdf/641/202401319619363641/202401319619363641.pdf#navpanes=0>.

¹¹ See Duty First Nevada PAC, “Service” (June 12, 2024), <https://www.youtube.com/watch?v=Gz8YesXmcgA>.

¹² See *id.* at 0:17-0:20.

- On July 5, 2024, DFN filed its termination report with the Commission, indicating that it had ceased operations.¹³
- On July 25, 2024, weeks after DFN’s termination, the video of Mr. Barnes’ interview, along with 11 other videos, were shared online in a difficult to find corner of the internet. It was posted on a Vimeo.com by “Chariot LLC.”¹⁴ On information and belief, Chariot LLC is the name of a precursor to Pathfinder Strategic LLC, the vendor that worked for both DFN and the Brown Campaign.¹⁵
- On August 5, 2024, the Brown Campaign posted a video on X.com that included a 45-second video of Mr. Barnes speaking to the camera.¹⁶ It is readily apparent that this video comes from the same interview as the clip used in DFN’s “Service” advertisement. Yet, the clip is much longer – clearly indicating that the Brown Campaign possessed additional video of Mr. Barnes’ interview beyond the four seconds posted by DFN.

¹³ Duty First Nevada PAC, FEC Form 3X (July 5, 2024)
<https://docquery.fec.gov/pdf/491/202407059652570491/202407059652570491.pdf>.

¹⁴ See Veterans interviews A cam, Chariot LLC, <https://vimeo.com/990214677> (uploaded July 25, 2024).

¹⁵ The president of Pathfinder, James Fisfis, lists “Chariot Campaigns” as his position until 2022, at which time he lists serving as president of Pathfinder. LinkedIn, James Fisfis, <https://www.linkedin.com/in/jamesfisfis/>. It appears Chariot Campaigns has been dormant since Mr. Fisfis started Pathfinder. See e.g., FEC, Disbursements, https://www.fec.gov/data/disbursements/?data_type=processed&recipient_name=Chariot+Campaigns&recipient_name=Chariot+LLC&max_date=12%2F31%2F2024 (showing no payments to Chariot Campaigns since a payment by Sam Brown PAC in June 2022); See also Chariot Campaigns, <https://chariotcampaigns.com/> (showing no news posts since June 2021).

¹⁶ See Sam Brown, @CaptainSamBrown (Aug. 5, 2024), <https://x.com/CaptainSamBrown/status/1820561818433229100>.

Image from DFN's Ad "Service"

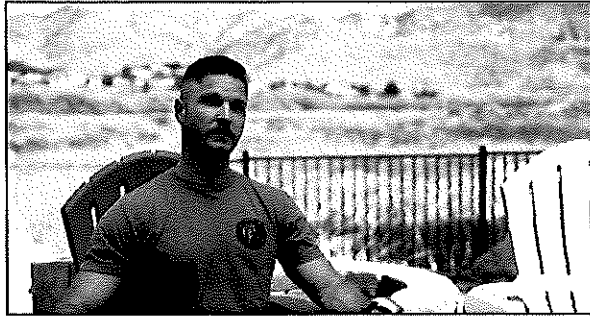


Image from Brown Campaign's Video



LEGAL ANALYSIS

Publicly available facts suggest that the Brown Campaign accepted an illegal in-kind contribution from DFN by using video footage provided by DFN free of charge. A super PAC is prohibited from making a contribution to a federal candidate¹⁷ and a federal candidate is prohibited from accepting such a contribution.¹⁸ A "contribution" broadly 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."¹⁹ Anything of value includes an in-kind contribution, which in turn includes providing "goods or services [] without charge or at a charge that is less than the usual and normal charge."²⁰ The Commission has held video footage is a thing of value and determines if its transfer results in a contribution "based on an examination on

¹⁷ See *Carey v. FEC*, Civ. No. 11-259-RMC (D. D.C. 2011); 52 U.S.C. § 30116(a) (prohibition on excessive contributions); *id.* § 30118(a) (prohibition on corporate contributions); *id.* § 30116(f) (prohibition on accepting impermissible contributions); Advisory Op. 2017-10 (Citizens Against Plutocracy) at 2 (quoting Advisory Op. 2016-21 (Great America PAC) at 3-4; Advisory Op. at 2010-11 (Commonsense Ten) at 2-3.

¹⁸ See *Carey v. FEC*, Civ. No. 11-259-RMC (D. D.C. 2011); 52 U.S.C. § 30116(a) (prohibition on excessive contributions); *id.* § 30118(a) (prohibition on corporate contributions); *id.* § 30116(f) (prohibition on accepting impermissible contributions); Advisory Op. 2017-10 (Citizens Against Plutocracy) at 2 (quoting Advisory Op. 2016-21 (Great America PAC) at 3-4; Advisory Op. at 2010-11 (Commonsense Ten) at 2-3.

¹⁹ *Id.* § 30101(8)(A)(i) (emphasis added).

²⁰ 11 C.F.R. § 100.52(d)(1).

whether transfer of [the] footage was conducted under current market practices or whether payment was made at the usual and normal charge.”²¹

Here, the available facts suggest that DFN paid for high quality video footage and then transmitted it to the Brown Campaign free of charge by using a shared media vendor to post it online. The online posting of the video served no readily apparent purpose apart from transmitting the video to the Brown Campaign – in fact, DFN had already shut operations down when it was posted. This is in sharp contrast to the established market practice of charging for high quality video.

In MUR 6792, under strikingly similar facts to the matter at hand, the Commission found reason to believe a transfer of video footage from a corporation to a campaign resulted in a prohibited in-kind contribution under the Act. The campaign used video from the corporation in its campaign communications without evidence that it paid for such footage. The campaign’s videos showed “extended video footage” of an individual making a statement “in the same clothing” that did “not appear in the” corporation’s advertisement, mirroring the facts of Sam Brown’s video.²² The Commission found that the use of this additional footage “reasonably suggest[ed] that the [campaign] may have had access to a larger quantity of footage,” than what appeared in the campaign’s video, indicating a greater in-kind contribution.²³ The Commission noted that close ties between the candidate and the company that created the footage “reasonably suggest[ed] that the Committee may have obtained the footage for its use directly.”²⁴

²¹ MUR 6792 (Sean Eldridge for Congress), Notification with Factual and Legal Analysis to Sean Eldridge et. al. (March 29, 2016).

²² *Id.* at 5.

²³ *Id.* at 9.

²⁴ *Id.* at 8.

Publicly available facts paint a similar picture here. The two advertisements show that the Brown Campaign had in its possession a much larger amount of video footage than what was posted in the original DFN advertisement. Further, the Brown Campaign used the same media vendor as DFN. While the video footage was posted publicly, it was done by the shared media vendor and after DFN terminated its operations. The timing thus clearly suggests that it was posted solely to transmit the footage to the Brown Campaign and not for any legitimate DFN function.²⁵ Moreover, even though the video was posted publicly, because the video is copyrighted material, use by the Brown Campaign without paying the vendor fair market value was a prohibited in-kind contribution. Accordingly, publicly available information suggests that: (1) DFN transmitted the video footage to the Brown Campaign for its use without charge, making a prohibited contribution in violation of the Act; (2) by using such footage without paying fair market value, the Brown Campaign accepted a prohibited contribution.

REQUESTED ACTION

In light of the foregoing, the Commission should immediately investigate whether DFN made, and the Brown Campaign accepted, a prohibited contribution in the form of video footage. Failure of the Commission to investigate this issue would pave a path for Super PACs to contribute directly to candidates. If the Commission does not punish illegal schemes, Super PACs going forward could spend unlimited amounts of money to produce assets like video footage for campaigns and use common vendors to subtly pass these assets to the campaigns. If a

²⁵ The facts are in sharp contrast to Matter Under Review 8009 (Protect Ohio Values PAC). In that case, the Commission dismissed allegations that a Super PAC had made in-kind contributions to a campaign when the Super PAC posted materials as part of its strategic operations for a broad public audience. Here, DFN had the videos posted obscurely, after it had terminated. There is no plausible argument that DFN shared these materials publicly as part of its ongoing mission.

violation is found, we respectfully request that the Commission fine Respondents the maximum amount permitted by law.

Sincerely,



Tiffany Muller
End Citizens United
PO Box 66005
Washington, DC 20035

SUBSCRIBED AND SWORN to before me this 9th day of September 2024.



Notary Public

My Commission Expires:

MARK ANDREWS
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires July 14, 2029

