

October 5, 2024

Federal Election Commission
ao@fec.gov

Re: Comment on Advisory Opinion 2024-13

Dear Federal Election Commission:

On behalf of End Citizens United, I write regarding Advisory Opinion 2024-13. A core mission of ECU is to prevent the corruption of our political system. The Federal Election Commission's decision in this matter will have enormous implications on the integrity – or lack thereof – of our democracy. We write to urge the FEC to consider this request with their eyes wide open.

As we understand the question, it asks if television advertising on behalf of a candidate can be paid for by a joint fundraising committee according to the overall funds received by that committee, so long as the ad asks for a donation at some point. The way this is already playing out in the political ecosystem is nothing short of appalling.

It appears that the National Republican Senatorial Campaign Committee (“NRSC”) is currently financing tens of millions of dollars in television advertising for U.S. Senate candidates without treating any of that spending as a contribution. These are not fundraising ads, they are just regular candidate ads. And the NRSC is paying for them not just out of its general account, but out of accounts created by Congress only to finance legal proceedings and the operations of a headquarters building.

For example, the following advertisement ran in Wisconsin:

“Politician Tammy Baldwin doesn't share our Wisconsin values. Baldwin's life partner is a Wall Street executive who has invested in industries that Tammy oversees in Washington. But Senator Baldwin refuses to disclose her partner's financial assets. That's a conflict of interest. They're getting richer while you're paying more. Tammy Baldwin's not on your side. She's in bed with Wall Street. I'm Eric Hovde and I approve this message. Join the team and give today.”

Here is a link to the full advertisement:

<https://host2.adimpact.com/admo/viewer/11285890-8d49-4fda-b7d3-ee14f8b2fdde>

When the language “join the team and give today” is spoken, a QR code appears. If you take out your cell phone, capture the QR code and then visit an external website you can

tell that the joint fundraising committee sponsoring the ad is raising up to \$292,400 per individual donor and dividing incoming money as follows¹:

- \$3,300 to Hovde for Wisconsin
- \$41,300 to the NRSC general account
- \$123,900 to the NRSC Legal Proceedings Fund
- \$123,900 to the NRSC Building Fund

When you run the math, this means the NRSC can pay for up to 98.9% of the advertising and use its building and legal accounts to pay for 84.7% of it.

Under the law, the NRSC's legal account is only supposed to be used to pay for "the preparation for and the conduct of election recounts and contests and other legal proceedings" and the building account "solely to defray expenses incurred with respect to the construction, purchase, renovation, operation, and furnishing of one or more headquarters buildings."²

Nothing in that advertisement is designed to motivate a viewer to donate to the NRSC, much less to accounts that can only pay for legal proceedings or headquarters operations. It is a pure candidate attack ad. Yet, 85% of its costs can be paid for by a legal proceedings and headquarters account and 99% by the NRSC. **The FEC already said last cycle that these accounts cannot pay for candidate advocacy. This is a plain violation of the law.**

This advertisement is not a one-off. It is the same story across the country, to the tune of tens of millions of dollars in advertising.

Here are more examples for your consideration:

<https://host2.adimpact.com/admo/viewer/0e9a24b0-20ca-4335-8237-b4b0f27f4d8b>

<https://host2.adimpact.com/admo/viewer/3021cbbc-3543-47ea-9bf6-2da865b36e59>

<https://host2.adimpact.com/admo/viewer/48179a76-828e-4ffe-84c9-bb6b9592a34f>

<https://host2.adimpact.com/admo/viewer/e530892d-8oad-422e-92e5-4c1f033f98c1>

<https://host2.adimpact.com/admo/viewer/5e808a7f-a743-47c1-a6fe-de9b5169b4c2>

<https://host2.adimpact.com/admo/viewer/7c415fe7-0615-4bbe-8bfd-87bebo47ebd>

¹ https://secure.winred.com/wisconsin-victory-committee/website-p?utm_source=proc&utm_medium=hf&utm_campaign=website&sc=20240927_WVC_PROC_WEBSITE_WEBSITE_DEFAULT&exitintent=true

² 52 U.S.C. 30116.

<https://host2.adimpact.com/admo/viewer/f1dbb8fd-6014-470c-a7db-21d2fd8d54fe>

<https://host2.adimpact.com/admo/viewer/1dbec44e-ba10-4146-bef9-a2ef8b817084>

<https://host2.adimpact.com/admo/viewer/263839c3-6342-494e-8994-70813391foef>

<https://host2.adimpact.com/admo/viewer/11285890-8d49-4fda-b7d3-ee14f8b2fddc>

This conduct is illegal. The Commission should refuse to approve it.

Regards,

A handwritten signature in black ink, appearing to read "Tiffany Muller". The signature is written in a cursive, flowing style with a large initial "T" and "M".

Tiffany Muller
President, End Citizens United
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Washington, DC 20003