



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
America Progress Now, *et al.*) MUR 7643
)

**STATEMENT OF REASONS OF
COMMISSIONER ELLEN L. WEINTRAUB**

The Complaint in this matter alleged: “In the final weeks of the 2018 elections, a Facebook page called America Progress Now was created, ran ads expressly advocating for Green Party candidates in five competitive U.S. Senate and House races, reached hundreds of thousands of Facebook users through its ads, and then fell silent shortly after Election Day.”¹ The Complaint further alleged that the ads failed to include adequate disclaimers.² At the time, it was unclear who was responsible for the page, and no reports were filed with the Commission disclosing the independent expenditures.

After the Commission received the Complaint, the Office of General Counsel (“OGC”) located and notified an organization called America Progress Now (“APN”) in Arizona and received a response from Evan Muhlstein. Mr. Muhlstein forthrightly acknowledged establishing APN for the purpose of running the ads, apologized for any failures of compliance due to his inexperience, and immediately offered to make any necessary corrections. Mr. Muhlstein stated that he spent just under \$2,500 on ads supporting candidates.³ Given this information and the ads’ likely small impact on the election, I voted to support OGC’s recommendation to dismiss this matter for the reasons more fully explained in the Factual and Legal Analysis drafted by OGC and attached hereto.⁴

With the benefit of the Mr. Muhlstein’s response, the Commission was able to determine that this matter was not worth the further expenditure of Commission resources. Without the Complaint, however, neither we nor the public would have known who was behind the ads, or even if they were funded by a legal source. Mr. Muhlstein appears to have been under the impression that he “needed to establish an entity” to run

¹ Compl. at 1.

² *Id.*

³ Resp. at 1.

⁴ The Commission ultimately approved a streamlined version of the Factual and Legal Analysis. *See* Certification, MUR 7643 (America Progress Now, *et al.*) (June 23, 2020).

his ads, but he seems to have been the true source of the funds.⁵ If so, his name should be disclosed on the Form 5, when he files it. The response also notes his frustration with not being able to find clear instructions on the Commission’s website relating to digital ad disclaimers. The Commission has made it clear that Facebook ads require disclaimers.⁶ Nevertheless, more can be done in the area of digital advertising. In a world where more and more political advertising is migrating online, completing the Commission’s long-stalled internet disclaimer rulemaking should be a priority – when the Commission regains its quorum.

July 10, 2020



Ellen L. Weintraub
Commissioner

⁵ *Id.*

⁶ *See* 11 C.F.R. § 100.26 (defining “public communication” to include “communications placed for a fee on another person’s Web site”); 11 C.F.R. § 110.11 (disclaimer rules apply to public communications); Internet Communications, 71 Fed. Reg. 18,589-90, 18,593-94 (Apr. 12, 2006); Advisory Op. 2017-12 (Take Back Action Fund) (application of disclaimer rules to paid Facebook image and video ads); Chair Ellen L. Weintraub, *The Law of Internet Communication Disclaimers*, Dec. 18, 2019, <https://www.fec.gov/resources/cms-content/documents/2019-12-18-The-Law-of-Internet-Communication-Disclaimers.pdf>.

ATTACHMENT

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 RESPONDENTS: America Progress Now
4 Evan Muhlstein

MUR: 7643

5 **I. INTRODUCTION**

6 The Complaint alleges that unknown persons operating a Facebook page called America
7 Progress Now (“APN”) violated the Federal Election Campaign Act of 1971, as amended (the
8 “Act”), by failing to disclose independent expenditures and failing to include required
9 disclaimers on Facebook ads.¹ The Complaint alleges that APN has not reported any
10 independent expenditures, and questions whether an organization by that name exists.²

11 Evan Muhlstein responded on behalf of APN, and acknowledged that he set up the APN
12 Facebook page and placed the ads to advocate for candidates he supported.³ Muhlstein states
13 that any errors were due to his inexperience, the amounts spent were small, and he intends to
14 take remedial action.⁴

¹ Compl. at 1-4 (September 12, 2019); *see also* America Progress Now, FACEBOOK, <https://www.facebook.com/AmericaProgressNow/>, and America Progress Now, Facebook Ad Library, FACEBOOK, https://www.facebook.com/ads/library/?active_status=all&ad_type=all&country=US&impression_search_field=has_impressions_lifetime&view_all_page_id=751228941880577 (“America Progress Now, Facebook Ad Library”).

² Compl. at 1-2, 5, 7, 9-10.

³ Resp. at 1 (April 15, 2020). Although the Complaint was filed against unknown persons, the Office of General Counsel located an entity in Arizona named America Progress Now and notified it of the Complaint. Muhlstein filed a response on behalf of APN. *Id.*

⁴ *Id.*

1 The APN Facebook ads are public communications containing express advocacy that
2 should have contained proper disclaimers, and should have been reported to the Commission as
3 independent expenditures. However, the amount spent appears to have been between \$2,400 and
4 \$8,000, the Respondents have indicated that they are unlikely to participate in election activity
5 again, and they will take any necessary remedial action. Therefore, the Commission exercises its
6 prosecutorial discretion and dismisses the allegations that America Progress Now and Evan
7 Muhlstein violated 52 U.S.C. §§ 30120(a); 30104(c), and (g).

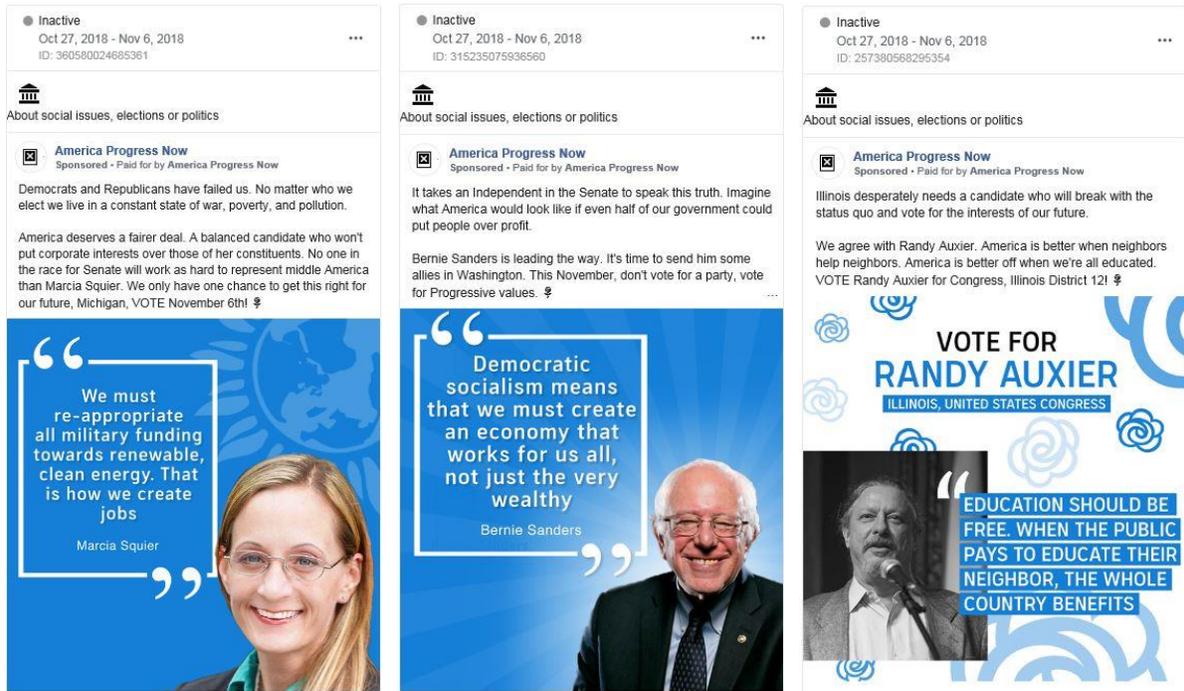
8 **II. FACTUAL BACKGROUND**

9 The Complaint states that on October 15, 2018, approximately three weeks before the
10 2018 midterm elections, a Facebook page labeled America Progress Now was created.⁵
11 According to the Complaint, that page ran ads expressly advocating for federal candidates in five
12 U.S. Senate or House races in Michigan, Missouri, Illinois, Iowa, and Ohio; the ads reached
13 hundreds of thousands of Facebook users; and the ads stopped running a week after Election
14 Day.⁶ A selection of the ads is shown below:⁷

⁵ Compl. at 1, 3.

⁶ *Id.* at 1-4. Detailed Facebook ad data show that the number of times the ads at issue were seen fell in a range between 81,000 and 377,000. *See* America Progress Now, Facebook Ad Library. The following federal Green Party candidates were named and depicted in the APN ads: Marcia Squier (2018 Michigan Senate candidate), Jo Crain (2018 Missouri Senate candidate), Joe Manchik (2018 candidate for Ohio's 12th Congressional District), Randy Auxier (2018 candidate for Illinois's 12th Congressional District), and Paul Knupp (2018 candidate for Iowa's 3rd Congressional District). Compl. at 3-6. Some APN ads also named and depicted Senator Bernie Sanders, who was running for re-election to the Senate in the 2018 election as an Independent. *Id.* at 5-6. All candidates except Sanders were Green Party candidates, and all except Sanders lost in their respective general elections.

⁷ Facebook promotes Location Targeting for ads placed on Facebook, encouraging advertisers to “[r]each people based on locations such as country, region or city.” *See* <https://www.facebook.com/business/help/202297959811696?id=176276233019487>. The ads for Squier, Crain, Manchik, Auxier, and Knupp targeted either primarily or only the candidates' respective states, however the ads for Sanders targeted multiple states. Compl. at 5-6. *See also* America Progress Now, Facebook Ad Library.



1
2 The Complaint states that each ad included the disclaimer “Paid for by America Progress
3 Now,” but alleges that no entity named America Progress Now exists in any form other than the
4 Facebook page.⁸ None of APN’s Facebook ads referenced in the Complaint or included in the
5 Facebook Ad Library contain compliant disclaimers within the ads’ text fields or images,
6 although it appears that all of these Facebook ads were accompanied by Facebook-generated
7 labels indicating that the ads were “Sponsored” and “Paid for by America Progress Now.”⁹

⁸ Compl. at 1-2, 7. The Complaint cites a news report that there was no record of APN at the address in the Bronx, NY, that was previously listed on APN’s Facebook page, and that after reporters spoke to the landlord of the listed Bronx address and reached out to APN, the Bronx address was removed from the Facebook page. Compl. at 7. The Office of General Counsel’s review of a corporate registrations database identified a nonprofit organization in Arizona called America Progress Now, and the Office of General Counsel notified it of the Complaint. See Arizona Corporation Commission Entity Information, available at <https://ecorp.azcc.gov/BusinessSearch/BusinessInfo?entityNumber=1873283>; see also APN, Articles of Incorporation, available at <https://ecorp.azcc.gov/CommonHelper/GetFilingDocuments?barcode=18070120287129>. APN filed a response admitting that it was responsible for the Facebook page and ads at issue. Resp. at 1.

⁹ Compl. at 3-6. See also America Progress Now, Facebook Ad Library; *Improving Enforcement and Transparency of Ads on Facebook*, FACEBOOK (Oct. 2, 2017), <https://newsroom.fb.com/news/2017/10/improving-enforcement-and-transparency/> (announcing plans to institute policy appending labels with “paid for by” language to paid political ads); *Shining a Light on Ads With Political Content*, FACEBOOK (May 24, 2018), <https://newsroom.fb.com/news/2018/05/ads-with-political-content/> (announcing implementation of label policy).

1 None of the Facebook-generated labels disclose the payor’s permanent street address, telephone
2 number, or website address, or state whether the communication is authorized by any candidate
3 or candidate’s committee.¹⁰

4 The Complaint also cites a news report that the APN ads had falsely attributed quotes to
5 the federal candidates they were supporting.¹¹ According to this article, candidate Auxier stated
6 “I did not say or write the text that is with my picture, although I do agree with the content, for
7 the most part,”¹² and candidate Squier wrote in a comment on APN’s Facebook page “This site is
8 NOT authorized to make up quotes I never said or run ads on my behalf,” and “Cease and desist
9 NOW!”¹³

10 The Complaint alleges that the ads did not provide sufficient disclaimer information, and
11 thus that APN violated 52 U.S.C. § 30120(a)(3).¹⁴ The Complaint also alleges that because APN
12 did not file reports of independent expenditures, APN violated 52 U.S.C. § 30104(c).¹⁵

13 Muhlstein, responding on behalf of APN, acknowledges that he set up the APN Facebook
14 page and placed the ads to advocate for candidates he supported.¹⁶ Muhlstein states that he was
15 unfamiliar with proper procedures for disclosure when he placed the ads, and that any errors

¹⁰ Compl. at 3-6. *See also* America Progress Now, Facebook Ad Library.

¹¹ Compl. at 6-7, citing Jeremy Merrill and William Turton, *A Mysterious Facebook Group Is Using Bernie Sanders' Image to Urge Democrats to Vote for the Green Party*, ProPublica and VICE News (Nov. 5, 2018), <https://www.propublica.org/article/a-mysterious-facebook-group-is-using-bernie-sanders-image-to-urge-democrats-to-vote-for-the-green-party>.

¹² *Id.*

¹³ *Id.* *See also* America Progress Now, FACEBOOK, October 18, 2018 at 7:21 PM, available at <https://www.facebook.com/AmericaProgressNow/posts/752920488378089>.

¹⁴ Compl. at 1, 9-10. *See also* 11 C.F.R. § 110.11(b)(3).

¹⁵ Compl. at 1, 9. *See also* 11 C.F.R. § 109.10.

¹⁶ Resp. at 1.

1 were oversights due to inexperience with the political process.¹⁷ The Response states the total
2 amount spent supporting the candidates was \$2,467.54.¹⁸ According to the Facebook ad library,
3 the total amount spent on all APN ads of any kind was \$7,665.¹⁹ A review of that ad library
4 reveals that APN’s ads were a mixture of express advocacy, such as the ads featured in the
5 Complaint, and issue advocacy, such as ads promoting democratic socialism as opposed to
6 capitalism.²⁰

7 The Response argues that APN’s ads qualify for the “small items” exception to the
8 disclaimer requirement.²¹ Muhlstein also states it is highly unlikely he will ever participate in the
9 election process again and that he intends to work with the Commission to correct the errors as
10 quickly as possible.²²

11 **III. LEGAL ANALYSIS**

12 **A. Respondents Violated the Disclaimer Provisions of the Act and Regulations.**

13 The Act and Commission regulations require a disclaimer identifying who paid for a
14 communication and, where applicable, whether a communication was authorized by a candidate,
15 on, among other communications, all “public communications” made by any person that

¹⁷ *Id.*

¹⁸ *Id.* at 1-2. The Response specified the candidates supported and amounts spent: Jo Crain, Missouri Senate candidate: \$610 total; Marcia Squier, Michigan Senate candidate: \$317.54 total; Joe Manchik, Ohio 12th District candidate: \$920 total; Randy Auxier, Illinois 12th District candidate: \$310, and Paul Knupp, Iowa 3rd District candidate: \$310.

¹⁹ *See* America Progress Now, Facebook Ad Library.

²⁰ *Id.*

²¹ *Id.* at 2.

²² *Id.*

1 expressly advocate the election or defeat of a clearly identified federal candidate.²³ “Public
2 communications” include “communications placed for a fee on another person’s Web site.”²⁴
3 Thus, disclaimer requirements apply to “all potential forms of advertising” placed for a fee
4 online, including “banner advertisements, streaming video, popup advertisements, and directed
5 search results.”²⁵

6 Where required, disclaimers must be “presented in a clear and conspicuous manner, to
7 give the reader, observer, or listener adequate notice of the identity of the person or political
8 committee that paid for, and where required, that authorized the communication.”²⁶ If a
9 communication is not authorized by a candidate or candidate’s authorized committee, it must
10 clearly state the name and permanent street address, telephone number, or website address of the
11 person who paid for the communication and state that the communication is not authorized by
12 any candidate or candidate’s committee.²⁷

13 A person paying for a public communication that expressly advocates the election of a
14 clearly identified federal candidate on an internet social networking site, such as Facebook, must
15 include all disclaimer information specified by 52 U.S.C. § 30120(a).²⁸ In Advisory Opinion

²³ 52 U.S.C. § 30120(a); 11 C.F.R. § 110.11(a)-(c); *see also* 11 C.F.R. § 100.22 (defining “expressly advocating”).

²⁴ 11 C.F.R. § 100.26.

²⁵ *See* Internet Communications, 71 Fed. Reg. 18,589, 18,594 (Apr. 12, 2006).

²⁶ 11 C.F.R. § 110.11(c).

²⁷ *Id.* § 110.11(b)(3).

²⁸ [REDACTED]

1 2017-12 (Take Back Action Fund) (“AO 2017-12”), the Commission concluded that the
2 requester was required to include all of the disclaimer information required by 52 U.S.C.
3 § 30120(a) on its paid Facebook Image and Video advertising.²⁹ The Commission had received
4 similar requests before that advisory opinion, regarding whether small, character-limited internet
5 advertisements could be exempt from the disclaimer requirements under the small items
6 exception at 11 C.F.R. § 110.11(f)(1)(i) or the impracticable exception at 11 C.F.R.
7 § 110.11(f)(1)(ii).³⁰ However, the Commission has never approved of the application of either
8 the small items exception or the impracticable exception to internet ads. Because the
9 Commission has never determined that a regulatory exception applies to Facebook
10 advertisements,³¹ and because the Commission’s most recent guidance, which pre-dates any of
11 APN’s Facebook ad purchases, unequivocally stated that a payor “must include all of the
12 disclaimer information specified by 52 U.S.C. § 30120(a)” on Facebook Image advertising, paid
13 Facebook advertisements, like those at issue in this matter, require proper disclaimers under the

²⁹ See AO 2017-12 (addressing Facebook “Image” and “Video” ads, the former of which appear to be the same type of ad product as the complained-of communications in this matter); *see also* Concurrence of Comm’r Weintraub at 1, AO 2017-12; Concurrence of Comm’rs Hunter, Goodman & Petersen at 1-2, AO 2017-12 (concluding that disclaimers would be required on Facebook Image and Video ads in cases where the specific circumstances were substantially similar to those laid out in the request).

³⁰ See Advisory Op. Req. at 1, AO 2011-09 (Facebook) (concerning application of exceptions to zero-to-160 text character ads with thumbnail size images); Advisory Op. Req., AO 2013-18 (Revolution Messaging) (concerning application of exceptions to mobile banner ads); *see also* Advisory Op. 2010-19 (Google) (concluding that Google’s proposed AdWords program, in which 95-character text-only ads that would link to the payor’s own website with a full disclaimer, “under the circumstances described . . . [was] not in violation of the Act or Commission regulations,” but not answering whether Google AdWords ads would qualify for the small items or impracticable exception).

³¹ This also includes ads that may have been created under Facebook’s previous and more restrictive size- and character-count parameters. See Advisory Op. Req., AO 2011-09 (Facebook); *see also* Internet Communication Disclaimers and Definition of “Public Communication,” 83 Fed. Reg. 12,864, 12,868 (Mar. 26, 2018) (quoting comment from Facebook representing that Facebook has expanded its advertising platform beyond what was offered at the time of its advisory opinion request in 2011, allowing users to create advertisements with larger images and more text).

1 Act and Commission regulations.³²

2 Here, APN admits purchasing the ads, which, as communications placed for a fee on
3 another person’s website, are “public communications.”³³ APN’s ads clearly identify Sanders,
4 Squier, Crain, Manchik, Auxier, and Knupp, all federal candidates.³⁴ The Squier, Crain,
5 Manchik, Auxier, and Knupp ads use phrases that constitute express advocacy, directly exhorting
6 the reader to “vote” in each ad (“VOTE for Marcia Squier,” “VOTE Jo Crain,” “VOTE Joe
7 Manchik,” “VOTE Randy Auxier,” “VOTE for Paul Knupp”).³⁵ Therefore, the ads are public
8 communications that expressly advocate the election of clearly identified federal candidates and
9 are subject to the disclaimer requirements. However, the APN ads did not comply with the Act’s
10 disclaimer provisions. Although the ads were accompanied by Facebook-generated labels
11 indicating that APN paid for them, the communications themselves did not include any
12 compliant disclaimers and the Facebook-generated labels did not include any of the additional
13 information required by the Act and Commission regulations for communications not paid for by
14 a candidate or party committee, that is, an authorization statement and payor’s address, phone, or
15 website.³⁶ And, as explained above, APN’s argument that its ads qualified for the small item

³² AO 2017-12. [REDACTED]

³³ 11 C.F.R. § 100.26.

³⁴ See 11 C.F.R. § 100.17 (defining “clearly identified” as meaning, among other things, the candidate’s name or photograph).

³⁵ America Progress Now, Facebook Ad Library. 11 C.F.R. § 100.22(a). The Commission explained that the phrases enumerated in 11 C.F.R. § 100.22(a), such as “vote for the President,” “Smith for Congress” and “Bill McKay in ‘94,” have no other reasonable meaning than to urge the election or defeat of a clearly identified candidate. Express Advocacy; Independent Expenditures; Corporate and Labor Organization Expenditures, 60 Fed. Reg. 35,292, 35,294 (July 6, 1995); see also *FEC v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238, 249 (1986) (a communication is express advocacy when “it provides, in effect, an explicit directive” to vote for the named candidates).

³⁶ See *supra* pp. 3-5.

1 exception is unpersuasive.

2 Though the available information indicates that the Respondents violated 52 U.S.C.
3 § 30120(a), the amount spent on the ads was between \$2,400 and \$8,000, and Respondents have
4 stated they are unlikely to repeat the activity and will take remedial actions. Under these specific
5 circumstances, the Commission exercises its prosecutorial discretion pursuant to *Heckler v.*
6 *Chaney* and dismisses the allegations that APN and Evan Muhlstein violated 52 U.S.C.
7 § 30120(a).³⁷

8 **B. Respondents Violated the Reporting Provisions of the Act and Regulations.**

9 An “independent expenditure” is an expenditure for a communication expressly
10 advocating the election or defeat of a clearly identified federal candidate that is not coordinated
11 with a candidate, a candidate’s authorized committee, or their agents, or a political party
12 committee or its agents.³⁸ Any person other than a political committee that makes independent
13 expenditures aggregating over \$250 in a calendar year with respect to a given election must file
14 an independent expenditure report with the Commission pursuant to 52 U.S.C. § 30104(c).³⁹
15 Additionally, political committees and other persons that make independent expenditures
16 aggregating \$1,000 or more with respect to a given election made after the 20th day, but more
17 than 24 hours before, the date of an election, must report the expenditures by filing a 24-hour

³⁷ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). See MUR 6404 (Stutzman) (dismissal where amount in violation was likely less than \$2,000 and billboard was likely displayed for less than one month); Gen. Counsel’s Rpt. at 3-4, MUR 6205 (Fort Bend Democrats) (EPS dismissal where the federal portion of the expenses for door hangers was “modest” and may have exceeded the \$1,000 political committee threshold for expenditures by approximately \$500); see also MUR 6642 (Unknown Respondents) (taking no further action after investigation indicated that local politician spent \$3,000 on one billboard reading “FIRE KLOBUCHAR!” and failed to report independent expenditure).

³⁸ 52 U.S.C. § 30101(17); 11 C.F.R. § 100.16.

³⁹ 52 U.S.C. § 30104(b)(4)(H)(iii).

1 notice.⁴⁰

2 Persons, other than political committees, must disclose certain information about their
3 disbursements for independent expenditures (including the name and address of each person who
4 receives disbursements aggregating over \$200 in connection with an independent expenditure),
5 and indicate the candidates the independent expenditures support or oppose.⁴¹ In addition, the
6 Act requires persons, other than political committees, reporting independent expenditures to
7 report certain information about their receipts. Under 52 U.S.C. § 30104(c)(1), a person, other
8 than a political committee, reporting independent expenditures must disclose the information
9 required under section 30104(b)(3)(A) “for all contributions received by such person”; section
10 30104(b)(3)(A) requires identification of each “person (other than a political committee) who
11 makes a contribution to the reporting committee during the reporting period [aggregating] in
12 excess of \$200 within the calendar year.”⁴² Furthermore, under 52 U.S.C. § 30104(c)(2)(C), a
13 person, other than a political committee, reporting independent expenditures must also identify
14 “each person who made a contribution in excess of \$200 . . . which was made for the purpose of
15 furthering an independent expenditure.”⁴³

⁴⁰ See 52 U.S.C. § 30104(g)(1)(A). Political committees and other persons must file 24-hour notices by 11:59 p.m. on the day following the date on which the independent expenditure communication is publicly distributed. See 11 C.F.R. §§ 104.4(c), 109.10(d).

⁴¹ 52 U.S.C. § 30104(c)(2)(A) (incorporating requirements of 52 U.S.C. § 30104(b)(6)(B)(iii)).

⁴² 52 U.S.C. § 30104(b)(3)(A), (c)(1); see also 52 U.S.C. § 30101(13) (defining “identification” to include name, address, and, for individuals, occupation and employer).

⁴³ 52 U.S.C. § 30104(c)(2)(C). The Commission’s implementing regulation at 11 C.F.R. § 109.10(e)(1)(vi) requires “[t]he identification of each person who made a contribution in excess of \$200 to the person filing such report, which contribution was made for the purpose of furthering *the* reported independent expenditure.” 11 C.F.R. § 109.10(e)(1)(vi) (emphasis added). On August 3, 2018, the District Court for the District of Columbia vacated 11 C.F.R. § 109.10(e)(1)(vi); after a brief stay, the vacatur of this regulation went into effect on September 18, 2018. See *Citizens for Responsibility and Ethics in Washington v. FEC*, 316 F. Supp. 3d 349 (D.D.C. 2018); Press Release, [FEC Provides Guidance Following U.S. District Court Decision in *CREW v. FEC*](#), 316 F. Supp. 3d 349 (D.D.C.

1 The available information shows that APN made independent expenditures for the Squier,
2 Crain, Manchik, Auxier, and Knupp ads that each aggregated over \$250, and they should have
3 been disclosed in reports filed with the Commission, but they were not. Although the ads appear
4 to have been disseminated after October 15, 2018,⁴⁴ and within 20 days before the November 6,
5 2018, primary election, the aggregate expenditure for each election contest appears not to exceed
6 \$1,000, so 24-hour notices do not appear to have been required.⁴⁵ In light of the response and the
7 particular circumstances of the matter, including the amounts at issue and Respondents' statement
8 that they are unlikely to participate in election activity again and will take remedial actions, the
9 Commission exercises its prosecutorial discretion pursuant to *Heckler v. Chaney* and dismisses
10 the allegations that APN and Evan Muhlstein violated 52 U.S.C. § 30104(c) and (g) by failing to
11 report expenditures made in connection with the Facebook ads.⁴⁶

2018) (Oct. 4, 2018) (“CREW Guidance”), available at <https://www.fec.gov/updates/fec-provides-guidance-following-us-district-court-decision-crew-v-fec-316-f-supp-3d-349-ddc-2018/>.

⁴⁴ See Compl. at 1.

⁴⁵ Independent expenditures are aggregated with respect to a given election. 11 C.F.R. §104.4(a), (b)(1)-(2), and (c); see Advisory Op. 2003-40 (Navy Veterans) (concluding that three separate advertisements for separate races, one favoring Senate Candidate A (costing \$9,000) another favoring House Candidate B (costing \$9,000), and another favoring House Candidate C (costing \$9,000), were not required to be aggregated for purposes of filing a 48-hour report because the advertisements were related to separate elections). Thus, APN was not required to aggregate all of its expenditures, because each office sought by the candidates in APN’s ads was the subject of a separate election, even though the general election for each candidate was held on the same day. See AO 2003-40 at 3.

⁴⁶ 470 U.S. 821 (1985).