

**BEFORE THE
FEDERAL ELECTION COMMISSION**

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

Complainant,

v.

Sam Brown
PO Box 750844
Las Vegas, NV 89136

Citizens for Nevada PAC Inc
701 S Carson St.
Ste 200
Carson City, NV 89701

Respondents.

COMPLAINT

This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) against Sam Brown and Citizens for Nevada PAC Inc (“*Respondents*”) for apparent violations of the Federal Election Campaign Act of 1971, as amended (the “*Act*”) and Federal Election Commission (“*FEC*” or “*Commission*”) regulations.

In 2002, Congress passed the Bipartisan Campaign Reform Act (“*BCRA*”) to curb the use of “soft money” (i.e., funds not subject to federal source and amount restrictions) in federal elections. Among various restrictions, BCRA limits the ability of federal candidates to establish, finance, maintain, or control entities that raise and spend soft money. It appears that Mr. Brown does not think BCRA applies to him or entities supporting him.

In the midst of the 2022 primary election for U.S. Senate—which Mr. Brown ultimately lost—a Super PAC stepped in to spend on Mr. Brown’s behalf. This Super PAC, Citizens for Nevada PAC Inc (“*CFN*”), was funded exclusively by donors who had previously contributed the maximum legal amount to his 2022 campaign committee (the “*Campaign*”) for the primary election.¹ In addition to only soliciting Campaign donors, CFN and the Campaign even used the same fundraising consultant.

The public record provides substantial reason to believe that Mr. Brown financed CFN and CFN then spent soft money to promote his campaign in violation of federal campaign finance law. We urge the Commission to investigate this arrangement immediately; action is made all the more urgent as Mr. Brown is currently seeking federal office and may be engaging in the same practices once again.

FACTUAL BACKGROUND

Sam Brown was an unsuccessful candidate in the 2022 Republican primary election for Senate in Nevada.² Mr. Brown filed his statement of candidacy for the 2022 election on July 7, 2021.³ CFN registered with the FEC as a Super PAC on February 24, 2022, and spent to support Mr. Brown on June 7, 2022.⁴ The Nevada primary election was held on June 14, 2022.⁵

¹ During the 2022 election, Mr. Brown’s authorized campaign committee was called Sam Brown for Nevada. After losing the primary election, Mr. Brown changed the committee’s name to Sam Brown PAC. The committee terminated in February 2023.

² Nevada U.S. Senate Primary Election Results, NY TIMES (June 15, 2022), <https://www.nytimes.com/interactive/2022/06/14/us/elections/results-nevada-us-senate.html>.

³ FEC, Form 1, Statement of Organization, Sam Brown for Nevada (July 7, 2021), <https://docquery.fec.gov/cgi-bin/forms/C00783936/1523063/>.

⁴ FEC, Form 1, Statement of Organization, Citizens for Nevada PAC Inc (Feb. 24, 2022), <https://docquery.fec.gov/pdf/935/202202249493705935/202202249493705935.pdf>. CFN has since terminated. FEC, Form 3X, Citizens for Nevada PAC Inc (Jan. 24, 2023), <https://docquery.fec.gov/pdf/677/202301249574939677/202301249574939677.pdf>; See FEC, 24/48 Hour Report Of Independent Expenditures, Citizens for Nevada PAC Inc (June 8, 2022), <https://docquery.fec.gov/pdf/159/202206089514804159/202206089514804159.pdf>.

⁵ Nev. Sec. of State, 2022 Election Information, <https://www.nvsos.gov/sos/elections/election-information/2022-election-information>.

During the 2022 election, CFN was entirely funded by just four donors.⁶ Each donor had previously given the maximum permitted by law to the Campaign for the primary.⁷ Three of the four donors contributed to CFN in excess of the federal “hard money” limits to political committees.⁸

During the 2022 election, CFN supported Sam Brown through independent expenditure spending.⁹ This includes spending over \$35,000 on a mailer distributed to Nevada voters in support of the Campaign.¹⁰ CFN only supported Mr. Brown; it did not support or oppose any other candidate.

CFN paid just one vendor for fundraising consulting, a business called MWE Group LLC (“MWE”).¹¹ MWE is a two-member LLC registered in Arizona.¹² According to FEC records, MWE’s largest client in the 2021-2022 election cycle was the Campaign.¹³ The Campaign paid MWE over \$150,000, almost twice the amount that MWE received from its next largest client during that cycle. Mr. Brown’s close association with MWE has continued beyond the 2022

⁶ See FEC, Form 3X, Citizens for Nevada PAC Inc (July 13, 2022), <https://docquery.fec.gov/pdf/453/202207139518406453/202207139518406453.pdf#navpanes=0>. These donors were Robert Beadles, David Henderson, Mark Jones, and Larry Scheffler. Certain contributions were made through Limited Liability Companies, but the contributions were attributed to the named member of the Limited Liability Companies. CFN also received one contribution after the 2022 election from Red Rock Group.

⁷ See FEC, Form 3, Report of Receipts and Disbursements for an Authorized Committee, Sam Brown for Nevada (Mar. 9, 2022) at 34-35, 217-218, 372-373, <https://docquery.fec.gov/cgi-bin/fecimg/?202203099493751609>; FEC, Form 3, Report of Receipts and Disbursements for an Authorized Committee, Sam Brown for Nevada (Oct. 15, 2021) at 127, <https://docquery.fec.gov/pdf/935/202110159467653935/202110159467653935.pdf#navpanes=0>.

⁸ See *supra* note 6.

⁹ See FEC, 24/48 Hour Report Of Independent Expenditures, Citizens for Nevada PAC Inc (June 8, 2022), <https://docquery.fec.gov/pdf/159/202206089514804159/202206089514804159.pdf>.

¹⁰ *Id.*

¹¹ FEC, Form 3X, Citizens for Nevada PAC Inc (July 13, 2022) at 8, <https://docquery.fec.gov/pdf/453/202207139518406453/202207139518406453.pdf#navpanes=0>.

¹² See Arizona Corporation Commission, Entity Information, MWE Group, LLC, <https://ecorp.azcc.gov/BusinessSearch/BusinessInfo?entityNumber=23181548>.

¹³ See FEC, Disbursements, https://www.fec.gov/data/disbursements/?data_type=processed&recipient_name=MWE+Group&two_year_transaction_period=2022. Note, Mr. Brown’s authorized campaign committee changed its name from Sam Brown for Nevada to Sam Brown PAC on August 18, 2021. See FEC, Form 1, Statement of Organization, Sam Brown PAC (Aug. 18, 2022), <https://docquery.fec.gov/pdf/742/202208189525533742/202208189525533742.pdf>.

election; one of MWE's two members, Falcia Mandel, serves as Mr. Brown's finance director in his current campaign.¹⁴

LEGAL ANALYSIS

Upon receipt of a complaint, the Commission must decide merely whether the existing record demonstrates a "reason to believe" a violation of the Act occurred.¹⁵ This standard sets a "low bar."¹⁶ The available facts provide ample reason to believe that Mr. Brown, either directly or through his agent, financed CFN, which went on to spend soft money to influence his election in violation of BCRA.

Entities that are "directly or indirectly established, financed, maintained, or controlled by" a federal candidate or an agent of a federal candidate may not spend soft money in connection with a federal election.¹⁷ Therefore, the Act plainly prohibited CFN from spending soft money to influence Mr. Brown's election while being financed by either him or agents of his campaign.

The Commission analyzes the question of whether a federal candidate has established, financed, maintained, or controlled an entity on case-by-case basis, considering a number of factors to reach a conclusion.¹⁸ One key factor is whether a candidate, directly or through an agent, causes or arranges for funds in a "significant amount or on an ongoing basis" to be provided to the entity.¹⁹ While the FEC has yet to identify a bright line rule or percentage for these purposes, it has advised that a federal officeholder would have "financed" an entity if their

¹⁴ See Exhibit A at 7.

¹⁵ 52 U.S.C. 30109(a)(2).

¹⁶ *Campaign Legal Ctr.*, 2022 WL 17496220 at *8 (D.D.C. Dec. 23, 2022); *see also Common Cause Georgia v. Fed. Election Comm'n*, 2023 WL 6388883, at *6 (D.D.C. Sept. 29, 2023) (citing same).

¹⁷ 52 U.S.C. § 30125(e)(1)(A); 11 C.F.R. §§ 300.60(d); 300.2(c).

¹⁸ *See* FEC Adv. Op. 2006-04 (Tancredo); 11 CFR 300.2(c)(2).

¹⁹ 11 CFR 300.2(c)(2)(viii).

campaign committee contributed 25 percent of the entity's receipts.²⁰ Similarly, providing an entity's "seed money" can also be an indication of illegally financing an entity.²¹

Commission regulations define an "agent" as any person who has actual authority, either express or implied, to solicit, receive, direct, transfer, or spend funds in connection with any election.²² Because MWE was a fundraising consultant to the Campaign, with contractual obligations and authority to operate on its behalf, MWE was an agent of Mr. Brown throughout his 2022 campaign.

In this case, the evidence strongly suggests that Mr. Brown financed CFN either directly (himself) or through his agent (MWE). Every single one of CFN's donors—100% of its contributors—had previously contributed the maximum permitted amount to the Campaign for the primary election. The logical explanation for how CFN's donor base consisted entirely of Campaign donors is that either Mr. Brown or MWE provided donor names and contact information to CFN.²³ This would mean that Mr. Brown, either directly or through his agent (MWE), caused or arranged for funds in a "significant amount or on an ongoing basis" to be provided to CFN. In fact, the funds attributable to Mr. Brown or his agent would appear to not only constitute CFN's "seed money" but in fact all of the money CFN collected prior to the 2022 primary election.²⁴

²⁰ FEC Adv. Op. 2006-04 (Tancredo).

²¹ See FEC Adv. Op. 2006-4 (finding that \$50,000 contribution from the Member's campaign committee "would represent substantial 'seed money' for [the entity] and would result in [the entity] depending in large part on [the Member] for its initial existence."). See also Matter Under Review 5367 (Issa), First General Counsel's Report (Nov. 5, 2003) (finding that provision of "seed money" to ballot initiative committee meant that Member had "financed" that entity, though dismissing on other grounds).

²² 11 CFR 300.2(b).

²³ It is possible that CFN retrieved donor names and mailing addresses off publicly filed FEC reports but using such data for solicitation purposes would have violated the Act's sale and use ban and ignores the evidence of the shared fundraising agent, MWE. See 52 USC § 30111(a)(4); 11 CFR § 104.15.

²⁴ Cf. FEC Adv. Op. 2022-06 (HLT) (stating that contributions that represent a significant portion at the time they are given, but then become a small percentage shortly thereafter due to other contributions, do not "finance" an entity).

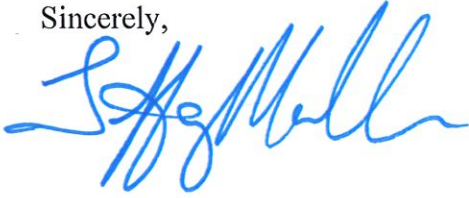
The close ties and ongoing relationship between the Campaign, CFN, and MWE make the provision of donor information by Mr. Brown or his agent highly likely. First, the Campaign itself and its finance consultant are the primary keepers of data on campaign donors, including names and contact information. Further, CFN hired MWE as its sole fundraising consultant. Considering that Mr. Brown's campaign was by far MWE's largest client and the close ties between MWE personnel and Mr. Brown have continued through today, there is a strong likelihood that information passed from the Campaign to CFN.

REQUESTED ACTION

Publicly available information provides reason to believe that Mr. Brown financed a Super PAC in the midst of a contentious primary election that went on to spend soft money to influence his election. If true, this arrangement violated BCRA's plain text and its fundamental purpose—to prohibit federal candidates from directly harnessing soft money to influence their election.

We therefore urge the Commission to fully and quickly investigate this activity, given that Mr. Brown continues to run for federal office and could be using similar impermissible tactics in his current campaign.

Sincerely,



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

SUBSCRIBED AND SWORN to before me this 14th day of February 2024.



Notary Public

MARK ANDREWS
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires July 14, 2024

