



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Winning Our Future)

) MUR 6756
)
)
)

**STATEMENT OF REASONS
OF VICE CHAIR ANN M. RAVEL AND COMMISSIONER ELLEN L. WEINTRAUB**

On January 30, 2014, we voted to reject a conciliation agreement with Winning Our Future, a super PAC active during the 2012 presidential election.¹ Winning Our Future failed to disclose more than \$1.6 million dollars in political advertisements—reporting the spending only *after* the relevant election was over.² This is a serious violation; Winning Our Future, a highly active political participant that raised over \$24 million during the 2012 election, denied the public access to information about at least seventeen communications at the very time that voters needed to be most informed about the source of political messages. Nonetheless, the proposed conciliation agreement would have imposed an extremely low civil penalty.³ We could not accept this agreement, which we believe would have served as merely a slap on the wrist more appropriate for a minor violation. The proposed penalty was not sufficient to vindicate the vital interest in disclosure set forth in the Act. As the Supreme Court has affirmed, the law's disclosure requirements are essential to "provid[e] the electorate with information and insure that the voters are fully informed about the person or group who is speaking."⁴ Consequently, we voted to direct our Office of General Counsel to negotiate a new conciliation agreement with a

¹ See Certification in MUR 6756 (Winning Our Future), dated Jan. 30, 2014. Chairman Goodman and Commissioners Hunter and Petersen voted to approve the conciliation agreement. Commissioner Walther was recused and did not vote.

² First General Counsel's Report in MUR 6756 (RR 12L-87) (Winning Our Future) ("FGCR") at 1. In September 2013, the Commission unanimously found reason to believe that the Committee failed to timely file six 24-Hour Reports for at least 17 independent expenditures totaling over \$1,618,146.41 and additional disbursements totaling \$163,430.10, in violation of 2 U.S.C. § 434(b) and 434(g) and 11 C.F.R. § 104.4(c). See Certification in MUR 6756 (RR 12L-87), dated Sept. 24, 2013.

³ By statute, we are prohibited from revealing information in connection with conciliation, including a proposed civil penalty that was rejected by the Commission. See 2 U.S.C. § 437g(a)(4)(B)(i).

⁴ *Citizens United v. FEC*, 558 U.S. 310, 368 (2010) (internal citations and quotation marks omitted).

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higher civil penalty.⁵ That vote failed, 3-2.⁶

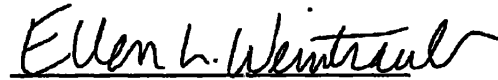
This particular case brings to the fore the reality that super PACs like Winning Our Future—created for the sole purpose of advocating for a candidate in a single election and mostly backed by a few large donors—can evade the rules with impunity simply by failing to timely disclose political activity and then disbanding after the election. On April 25, 2012, the Commission sent Winning Our Future a letter notifying them that there was a serious discrepancy in their reports regarding these communications, and warning that the Commission “may take further action concerning this matter.”⁷ One week later, on May 2, Winning Our Future refunded \$5 million to the committee’s top donor, leaving only \$529,217 in its bank account.⁸ Over the next year, the committee spent the vast majority of its remaining funds,⁹ knowing full well, for most of that time, that an enforcement action was pending.

The civil penalties provided in the Act are intended to be an incentive for accurate and timely reporting and compliance with the requirements of the law. An appropriate penalty in this matter would have reflected the severity both of the violation and of the conduct of the committee in evading enforcement. The Commission’s failure to pursue an adequate civil penalty under these circumstances risks conveying that super PACs can expect the Commission to grant them clemency regardless of their documented ability to raise funds. We are not willing to undermine the law in that manner.

2/27/14
Date


Ann M. Ravel
Vice Chair

2/27/14
Date


Ellen L. Weintraub
Commissioner

⁵ In the past, the Commission has approved penalties in similar matters that better corresponded to the severity of the violation. For example, in one prior case, the Commission approved a conciliation agreement with a respondent that had failed to file notices for just under \$1.2 million in communications. See Conciliation Agreement in MUR 5851 (DNC Services Corporation et. al.), dated Apr. 13, 2007, at 2. The respondent ultimately agreed to pay an \$82,000 penalty. *Id.* at 3.

⁶ See note 1, above.

⁷ See Request for Additional Information (“*RFAI*”) at 2, dated April 25, 2012, available at <http://images.nictusa.com/pdf/522/12330005522/12330005522.pdf#navpanes=0>.

⁸ See Amended June 2012 Monthly Report, dated May 29, 2013, available at <http://docquery.fec.gov/pdf/465/13962721465/13962721465.pdf#navpanes=0>.

⁹ Winning Our Future’s reports show that, by the end of March 2013, the committee had less than \$20,000 in its accounts. See Amended April 2012 Monthly Report, dated May 29, 2013, available at <http://docquery.fec.gov/pdf/543/13962721543/13962721543.pdf#navpanes=0>.

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