



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

November 14, 2024

VIA EMAIL

Gary M. Lawkowski
Dhillon Law Group Inc.
2121 Eisenhower Ave., Ste. 608
Alexandria, VA 22314
GLawkowski@dhillonlaw.com

RE: MUR 8168
Donald J. Trump
Save America Committee and
Bradley T. Crate, Treasurer
Trump Save America Committee and
Bradley T. Crate, Treasurer

Dear Mr. Lawkowski:

On August 1, 2023, the Federal Election Commission notified your clients, Donald J. Trump, Save America and Bradley T. Crate in his official capacity as treasurer, and Trump Save America Joint Fundraising Committee and Bradley T. Crate in his official capacity as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act").

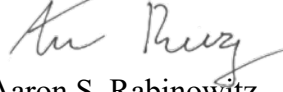
On October 8, 2024, the Commission considered the complaint and decided by a vote of 6-0 to dismiss the allegation that Donald J. Trump improperly filed his Statement of Candidacy as a result of disqualification from federal office under Section 3 of the Fourteenth Amendment to the U.S. Constitution. The Commission was equally divided on whether to find reason to believe or dismiss the allegations that (1) Donald J. Trump violated 52 U.S.C. § 30102(e)(1) and 11 C.F.R. § 101.1(a) by failing to timely file a Statement of Candidacy and designate a principal campaign committee; (2) Save America and Bradley T. Crate in his official capacity as treasurer and Trump Save America Joint Fundraising Committee and Bradley T. Crate in his official capacity as treasurer made excessive contributions in violation of 52 U.S.C. § 30116(a)(2)(A) and 11 C.F.R. § 110.9; and (3) Donald J. Trump knowingly accepted excessive contributions in violation of 52 U.S.C. § 30116(f) and 11 C.F.R. § 110.9. Accordingly, the Commission voted to close its file in this matter effective November 14, 2024. Any applicable Factual and Legal Analyses and Statements of Reasons available at the time of this letter's transmittal are attached.

Documents related to the case will be placed on the public record today. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016), effective September 1, 2016.

MUR 8168 (Donald J. Trump, *et al*)
Letter to Gary M. Lawkowski, Counsel
Page 2 of 2

If you have any questions, please contact Allen H. Coon, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron Rabinowitz", written in a cursive style.

Aaron S. Rabinowitz
Assistant General Counsel

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS****RESPONDENT:** Donald J. Trump**MUR 8168****I. INTRODUCTION**

The Complaint in this matter requests that the Commission investigate whether Donald J. Trump is constitutionally disqualified from federal office and, if the Commission finds that Trump is disqualified, reject his Statement of Candidacy.

Federal court precedent establishes that the Commission lacks the authority to determine whether a candidate is constitutionally disqualified from federal office or reject a candidate's Statement of Candidacy for such reason. Accordingly, the Commission dismisses the allegation that Donald J. Trump is constitutionally disqualified from federal office.

II. FACTUAL AND LEGAL ANALYSIS

The Complaint requests that the Commission determine whether Trump is disqualified from federal office under Section 3 of the Fourteenth Amendment and, if it finds that he is disqualified, "reject his statement of candidacy."¹ As the U.S. District Court for the District of Columbia previously determined in *Castro v. FEC*, the Commission lacks the authority to reject a candidate's Statement of Candidacy because that candidate is constitutionally disqualified from federal office.² There, the court considered a claim that the Commission unlawfully failed to act on an administrative complaint requesting that the Commission reject Trump's Statement of Candidacy based on Section 3 of the Fourteenth Amendment.³ In its decision, the court held that

¹ Compl at 10 (Sept. 18, 2023)

² *Castro v. FEC*, No. 22-2176 (RC), 2022 WL 17976630, at *2-3 (D.D.C. Dec. 6, 2022), *summary affirmance granted* *Castro v. FEC*, No. 22-5323, 2023 WL 2899541 (D.C. Cir. 10, 2023).

³ *Id.* at *1.

1 the plaintiff's "alleged injury . . . is not traceable to the Commission" because "[n]othing in the
2 statement of candidacy, FEC Form 2, lends credence to Mr. Castro's belief that it plays a role in
3 determining Mr. Trump's eligibility to run for office."⁴ The district court also held that the
4 plaintiff's injury is not redressable because "the Commission has no jurisdiction to reject
5 Trump's candidacy filings."⁵

6 *Castro* is directly on point and establishes that the Commission lacks authority to
7 determine whether a candidate is disqualified from federal office or to reject a candidate's
8 statement of candidacy on that basis.⁶ Therefore, because a court has determined that the
9 Commission lacks the power to determine Trump's eligibility for federal office and has no
10 jurisdiction to reject Trump's candidacy, the Commission dismisses the allegation that Trump
11 improperly filed his Statement of Candidacy as a result of disqualification from federal office
12 under Section 3 of the Fourteenth Amendment.

⁴ *Id.* at *2 (alteration added).

⁵ *Id.* at *3 (internal quotation marks omitted).

⁶ *See also Trump v. Anderson*, 144 S. Ct. 662, 670 (U.S. 2024) (overruling state supreme court order that excluded Trump from the 2024 presidential primary ballot, holding that only Congress may enforce Section 3 of the Fourteenth Amendment against federal officeholders and candidates, and stating that: "Section 5 [of the Fourteenth Amendment] limits *congressional* legislation enforcing Section 3, because Section 5 is strictly 'remedial.' To comply with that limitation, Congress 'must tailor its legislative scheme to remedying or preventing' the specific conduct the relevant provision prohibits. . . . Neither we nor the respondents are aware of any other legislation by Congress to enforce Section 3.") (alteration added) (emphasis in original) (citations omitted).



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Donald J. Trump, *et al.*

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MUR 8168

**STATEMENT OF REASONS OF CHAIRMAN SEAN J. COOKSEY AND
COMMISSIONERS ALLEN J. DICKERSON AND JAMES E. “TREY” TRAINOR, III**

This matter arose from a complaint filed on September 18, 2023. However, the complaint’s allegations are not new to the Commission. In fact, the complaint in MUR 8168 is “a near verbatim copy” of a prior complaint in MUR 7968 (Donald J. Trump, *et al.*).¹ The present complaint also makes similar constitutional disqualification allegations as the complaint in MUR 7969 (Donald J. Trump, *et al.*).² In fact, the only material differences in the present complaint and the previous complaints are the complainants themselves.

Taken together, the two prior complaints and present complaint allege that (1) presidential candidate Donald J. Trump failed to timely file a Statement of Candidacy and designate a principal campaign committee; (2) Save America and its treasurer and Save America Joint Fundraising Committee and its treasurer made excessive contributions in violation of the Act and Commission regulations; (3) Trump knowingly accepted excessive contributions in violation of the Act and Commission regulations; and (4) Trump is constitutionally disqualified from holding federal office.³

On October 5, 2023, the Commission considered MURs 7968 and 7969 (Donald J. Trump, *et al.*) together.⁴ In both matters, the Office of General Counsel (“OGC”) recommended the Commission find reason to believe that (1) Donald J. Trump failed to timely file a Statement of Candidacy and designate a principal campaign committee; (2) the Save America Committees made

¹ First General Counsel’s Report at 1 (May 24, 2024), MUR 8168 (Donald J. Trump, *et al.*).

² *Compare* Complaint (Mar. 23, 2022), MUR 7969 (Donald J. Trump, *et al.*), *with* Complaint (Sept. 18, 2023), MUR 8168 (Donald J. Trump, *et al.*).

³ Complaint (Mar. 17, 2022), MUR 7968 (Donald J. Trump, *et al.*) and Complaint (Mar. 23, 2022), MUR 7969 (Donald J. Trump, *et al.*).

⁴ Certification (Oct. 6, 2023), MURs 7968, 7969 (Donald J. Trump, *et al.*).

excessive contributions; and (3) Donald J. Trump knowingly accepted excessive contributions.⁵ We voted against OGC’s recommendations and instead voted to find no violation occurred.⁶ We issued a Statement of Reasons explaining our votes.⁷

Almost exactly one year later, in MUR 8168, the same allegations and the same OGC recommendations were before the Commission. This time, the Commission also unanimously declined the complainant’s invitation to opine upon former President Trump’s qualification for office under Section 3 of the Fourteenth Amendment, a question outside the Commission’s jurisdiction.⁸ And we once again disagreed with OGC’s recommendations⁹ and voted to dismiss the remainder of the complaint for the same reasons previously articulated.¹⁰

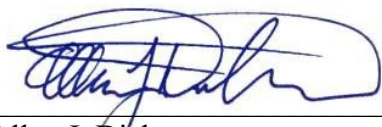
Because the complaint in this matter raises the same allegations against the same respondent as the complaints in MURs 7968 and 7969 (Donald J. Trump, *et al.*), we incorporate by reference our reasoning as set forth in our previously published Statement of Reasons.¹¹



Sean J. Cooksey
Chairman

November 7, 2024

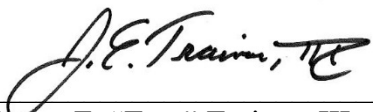
Date



Allen J. Dickerson
Commissioner

November 7, 2024

Date



James E. “Trey” Trainor, III
Commissioner

November 7, 2024

Date

⁵ First General Counsel’s Report at 48 (Oct. 13, 2022), MURs 7968, 7969 (Donald J. Trump, *et al.*).

⁶ Certification (Oct. 6, 2023), MURs 7968, 7969 (Donald J. Trump, *et al.*).

⁷ Statement of Reasons of Vice Chairman Sean J. Cooksey and Commissioners Allen J. Dickerson and James E. “Trey” Trainor, III (Oct. 6, 2023), MURs 7931/8059 and 7968/7969 (Donald J. Trump, *et al.*).

⁸ Certification (Oct. 15, 2024), MUR 8168 (Donald J. Trump, *et al.*).

⁹ First General Counsel’s Report at 6 (May 24, 2024), MUR 8168 (Donald J. Trump, *et al.*).

¹⁰ Certification (Oct. 15, 2024), MUR 8168 (Donald J. Trump, *et al.*).

¹¹ Statement of Reasons of Vice Chairman Sean J. Cooksey and Commissioners Allen J. Dickerson and James E. “Trey” Trainor, III (Oct. 6, 2023), MURs 7931/8059 and 7968/7969 (Donald J. Trump, *et al.*).