



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Friends of Laura Ruderman, et al.) MUR 6611
)

**STATEMENT OF REASONS
OF CHAIR ELLEN L. WEINTRAUB AND
COMMISSIONERS CYNTHIA L. BAUERLY AND STEVEN T. WALTHER**

In this matter, the complaint alleges that Margaret Rothschild, through her super PAC,¹ Progress for Washington (“PFW”), coordinated advertisements with her daughter, Laura Ruderman, a candidate in the 2012 Democratic primary in Washington’s first congressional district. Specifically, the allegations are based on access Rothschild may have had to the Ruderman campaign’s plans, projects, activities or needs due to Rothschild and Ruderman’s pre-existing relationship and Rothschild’s simultaneous participation in both a Ruderman campaign advertisement and the super PAC’s activities. The Office of General Counsel (“OGC”) recommended that the Commission find no reason to believe that coordination occurred.² However, we could not support that recommendation. These facts raise a troubling issue that the Commission has yet to squarely address: when a person with a close relationship to a candidate establishes a nominally independent political committee supporting that candidate, how should the Commission respond to allegations of coordination? At a minimum, we believe that the Commission has a responsibility to closely scrutinize the record to determine whether the alleged coordination took place.³ The record here leaves several significant issues

¹ Progress for Washington is an independent expenditure-only political committee, or “IEOPC,” commonly referred to as a super PAC.

² The Act provides that an expenditure made by any person “in cooperation, consultation, or concert with, or at the request or suggestion of” a candidate or his authorized committee or agent is considered a contribution made to the candidate. See 2 U.S.C. §§ 441a(a)(7)(B)(i) and 441a(f); see also 11 C.F.R. § 109.21. The cost of such a coordinated expenditure, when aggregated with other contributions to a particular federal candidate or committee, could not exceed \$2,500 per election in the 2012 election cycle. 2 U.S.C. § 441a(a)(1)(A); see also 2 U.S.C. § 441a(c) (providing that the limit is adjusted for inflation every odd-numbered year); Price Index Adjustments for Contribution and Expenditure Limits and Lobbyist Bundling Disclosure Threshold, 76 Fed. Reg. 8368, 8369 (Feb. 14, 2011).

³ See also Statement of Reasons of Chair Ellen L. Weintraub and Commissioners Cynthia L. Bauerly and Steven T. Walther in MUR 6368 (Friends of Roy Blunt, et al.); Statement of Reasons of Chair Ellen L.

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unresolved, and for that reason we could not support OGC's recommendation without first conducting a limited investigation.⁴

On June 1, 2011, Ruderman registered her candidacy with the Commission. About a year later, on June 18, 2012, Rothschild established PFW for the sole purpose of running ads supporting her daughter's candidacy and criticizing her daughter's opponents. Rothschild both served as the primary funder of PFW and an active participant in the organization. She contributed \$355,000 of the \$360,000 in funds that PFW reported on its 2012 October Quarterly Report. Although Rothschild states that she "did not participate in the management of PFW or the creation of the substance of PFW advertisements," she did "occasionally comment[] on a non-substantive element of an advertisement," and "approved scripts for political advertisements before PFW ran those advertisements."⁵ It is not clear what "non-substantive" feedback Rothschild provided or what criteria she used for her approval of advertisements. However, it is clear that, to the extent that Rothschild gained knowledge relevant to the Ruderman campaign, she was in a position to use that knowledge to influence PFW's proposed advertisements.

For over a year before establishing PFW, Rothschild knew that her daughter was running for Congress. Unless Rothschild also knew, this far in advance, that she would eventually register an independent political committee to support her daughter's candidacy, mother and daughter would have had no reason to avoid conversations about the campaign. Moreover, common sense suggests that a mother and daughter would have some conversation about such a significant moment in the daughter's career. Though it is clear that Rothschild had a close relationship with Ruderman and a strong interest in her candidacy, the affidavits provided do not clearly address whether or not Ruderman and Rothschild discussed the campaign during the long period before PFW was established. Whether or not such discussions occurred and whether or not they influenced the choices that Rothschild made during her involvement with PFW are questions that could be answered in an appropriately limited investigation.

Furthermore, Ruderman decided to make her family's struggle with cancer part of the message of her campaign and asked her mother to appear in an advertisement discussing that history in the context of Ruderman's position on healthcare reform.⁶ On

Weintraub and Commissioner Cynthia L. Bauerly in MUR 6570 (Berman for Congress, et al.); and Statement of Reasons of Commissioner Steven T. Walther in MUR 6570 (Berman for Congress, et al.).

⁴ The Commission failed, by a vote of 3-3, to find no reason to believe that Rothschild and PFW violated 2 U.S.C. §§ 441a(a) and 441a(f) and that Ruderman and Friends of Laura Ruderman violated 441a(f). Vice Chair McGahn and Commissioners Hunter and Petersen supported the motion. We dissented. See Certification in MUR 6611, dated January 10, 2013. Subsequently, we voted to find reason to believe that Rothschild and PFW violated 2 U.S.C. §§ 441a(a) and 441a(f) and that Ruderman and Friends of Laura Ruderman violated 441a(f) and supported a limited investigation to determine whether or not coordination occurred. Vice Chair McGahn and Commissioners Hunter and Petersen dissented. *Id.*

⁵ Rothschild Affidavit ¶¶ 3-4.

⁶ In the ad, Ruderman makes the statement that "like protecting the president's healthcare law, no matter what challenge your family faces, in Congress, it will be personal to me."

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July 26, 2012, about a month after establishing PFW, Rothschild appeared in that advertisement, paid for by the Ruderman campaign. The advertisement ends with footage of Ruderman and Rothschild walking together in a hospital ward. Rothschild's affidavit states that she "did not obtain any non-public information regarding the campaign's plans, projects or needs in connection with [her] participation in the advertisement."⁷ However, unless the Ruderman campaign publically announced the subject matter, timing, or placement of the advertisement while it was in production, it is unclear how Rothschild would not have known that information before it was publically available. This raises questions that warrant further factual development.

Circumstances like this one, in which a person with a close pre-existing relationship to a candidate finances and actively participates in the activities of a purportedly independent political committee, raise particularly troubling questions about independence and coordination. The information available to the Commission at this stage leaves significant factual questions concerning the allegations unanswered. Based upon the facts currently available, as discussed above, we voted to find that there was reason to believe that coordination occurred in this instance in order to conduct a targeted investigation.⁸ For that reason, we could not support OGC's recommendation to find no reason to believe in this matter.

2/4/13
Date

Ellen L. Weintraub
Ellen L. Weintraub
Chair

2/1/2013
Date

Cynthia L. Bauerly
Cynthia L. Bauerly
Commissioner

2/1/13
Date

Steven T. Walther
Steven T. Walther
Commissioner

⁷ Rothschild Affidavit ¶ 9.

⁸ See Certification in MUR 6611, dated January 10, 2013. "Reason to believe" is a threshold determination that by itself does not establish that the law has been violated. See Guidebook for Complainants and Respondents on the FEC Enforcement Process, May 2012, available at http://www.fec.gov/em/respondent_guide.pdf. In fact, a "reason to believe" determination indicates only that the Commission has found sufficient legal justification to open an investigation to determine whether there is probable cause to believe that a violation of the Act has occurred. See Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 F.R. 12545 (March 16, 2007).

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