



Commission precedent regarding political committee status has led to this particular void being filled by a new entity, the “single-candidate (c)(4),” the latest but not the last innovation in shrouding campaign funds from public view. Emboldened by the FEC’s Republicans, these new organizations continued to flout the law throughout the 2016 election cycle.

The Republican commissioners’ failure to rein in Carolina Rising’s behavior is particularly galling because the group was so brazen about its support of Tillis. The group was founded in March 2014 and was funded almost entirely by a single \$4.8 million anonymous donation.<sup>5</sup> Between August 2014 and Election Day, the group spent \$4.7 million on three different advertisements touting Tillis’s accomplishments as Speaker of the North Carolina House of Representatives, though Tillis was not seeking reelection to state office.<sup>6</sup> The barrage of advertisements neatly coincided with Tillis’s campaign for the U.S. Senate and plainly endorsed his character and fitness for office.

Although Carolina Rising has maintained that its communications were “issue” ads, filings with the Federal Communications Commission by the group’s vendor, Crossroads Media, explicitly characterized at least one of its three ads as “Pro-Thom Tillis” and reported that the “issue” in its ad was “supporting Thom Tillis, senatorial candidate for N.C. (R)—election on 11/4/14.”<sup>7</sup> Carolina Rising could not possibly have been more clear about its purpose to elect Thom Tillis to the U.S. Senate.

Incredibly, Carolina Rising never registered with the Commission as a political committee or disclosed to the public its donors or the full scope of its political spending.<sup>8</sup> Under the law, an organization is required to register and report as a federal political committee when it receives contributions or makes expenditures in excess of \$1,000<sup>9</sup> and has as its major purpose the nomination or election of a federal candidate.<sup>10</sup> Here, Carolina Rising spent millions of dollars to advocate for Tillis’s election. Though its advertisements did not use so-called “magic words” of express advocacy, by touting his accomplishments as a state legislator, all three clearly promoted Tillis’s character and fitness to serve as a U.S. Senator. The timing of the advertisements to coincide with Tillis’s campaign for U.S. Senate, when Tillis was not simultaneously running for reelection to his state office, makes this purpose particularly clear.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*; see also Reid Wilson, *Meet Thom Tillis: 13 Things to Know about Sen. Kay Hagan's Opponent*, WASH. POST (May 6, 2014), <https://www.washingtonpost.com/blogs/govbeat/wp/2014/05/06/meet-thom-tillis-13-things-to-know-about-sen-kay-hagans-opponent/>.

<sup>7</sup> Maguire, *Political Nonprofit Spent Nearly 100 Percent of Funds to Elect Tillis in '14*.

<sup>8</sup> Carolina Rising disclosed two of the three advertisements to the Commission as electioneering communications totaling \$3.3 million.

<sup>9</sup> 52 U.S.C. § 30101(4)(A).

<sup>10</sup> *Buckley v. Valeo*, 424 U.S. 1, 79 (1976).

The Commission has previously agreed that such advocacy provides an ample basis to further investigate whether a group is in fact a political committee,<sup>11</sup> as we recommended here.

As the Commission has clearly spelled out, an organization's major purpose may be established by a variety of factors, including the group's public statements and "sufficiently extensive spending on Federal campaign activity."<sup>12</sup> Woodhouse's televised bragging about Carolina Rising and the organization's FCC filings unambiguously show that the group intended its advertisements to aid Tillis's election. And given that those advertisements represented virtually *all* of the organization's spending in 2014, it defies logic to conclude that Carolina Rising bore any purpose other than the election of a federal candidate.

"*We did it.*" The Commission is rarely handed a plainer admission. Despite that, Republican commissioners have turned a blind eye to the reality before us. They have once again failed to adhere to the law and Commission precedent and blocked any investigation into possible violations of the Federal Election Campaign Act.<sup>13</sup>

In so doing, the agency has missed an important opportunity to address an issue of great significance<sup>14</sup> and to check the shameless proliferation of groups exploiting the shelter of the U.S. tax code to trample upon federal campaign finance law. We had the opportunity to put all single-candidate nonprofits on notice that similar actions are unlawful. Instead, the Republican commissioners have denied North Carolina voters their right to know the source of millions of dollars poured into their U.S. Senate election.

"*We did it.*" Yes, you did. And the FEC's Republicans let you get away with it.

11/18/16  
Date

  
Ann M. Ravel  
Commissioner

11/18/16  
Date

  
Ellen L. Weintraub  
Commissioner

<sup>11</sup> See Factual and Legal Analysis at 7, MURs 5511, 5525 (Swift Boat Veterans) (Mar. 2, 2005) (concluding that advertisements challenging a candidate's fitness for office provide a basis for further investigating whether an entity achieved political committee status).

<sup>12</sup> *Political Committee Status*, 72 Fed. Reg. 5595, 5601-02. (Feb. 7, 2007) (Supplemental Explanation and Justification) (citing *FEC v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238, 262 (1986)).

<sup>13</sup> *Id.*

<sup>14</sup> We respectfully disagree with the Office of General Counsel's characterization of this matter as merely a question of whether Carolina Rising failed to disclose donors for the two electioneering communications reported to the Commission. See First General Counsel's Report, MUR 6880 (Carolina Rising) (June 3, 2015). This view, we believe, misses the forest for the trees. Confining the inquiry solely to the completeness of Carolina Rising's reports ignores the overwhelming evidence that has publicly surfaced demonstrating that those reports were just a piece of Carolina Rising's exploitation of the Federal Election Campaign Act.