



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Americans for Job Security)

) MUR 6538R
)
)
)

STATEMENT OF REASONS OF CHAIR ELLEN L. WEINTRAUB

Justice delayed is justice denied. In 2010, the dark-money group, Americans for Job Security (“AJS”), deprived American voters of information about millions of dollars in electoral spending.¹ Finally, after *more than seven years* of drawn-out legal wrangling within the Commission, almost two years of legal proceedings in federal court, and a belated investigation hobbled by lengthy delays and the lack of complete records, AJS paid no penalty and to date has still failed to disclose its 2010 election activities to the American public.² Even if they do ultimately provide some disclosure, it will be *more than nine years* too late to meaningfully inform the 2010 voters that AJS sought to influence. And to reach this inadequate outcome, my Republican colleagues had to be dragged, virtually kicking and screaming, into enforcing the disclosure laws at the heart of the agency’s mission.

Back in 2014, the Commission deadlocked on OGC’s recommendation to investigate when the Commission’s Republican commissioners refused to recognize that AJS spent the majority of its funds in 2010 for the nomination or election of a federal candidate.³ The Commission was subsequently sued in federal court.⁴ The court determined that the Republican commissioners’

¹ In March 2012, a complaint was filed with the Commission alleging that AJS spent millions of dollars in connection with the 2010 federal elections—almost \$5 million on independent expenditures and almost \$4.6 million on electioneering communications—but that it failed to register and report as a political committee. First Gen. Counsel’s Rpt. at 4–5, MUR 6538 (Americans for Job Security) (May 2, 2013) [hereinafter First GCR].

² AJS had until October 9, 2019, to complete the registration and disclosure requirements set forth in the conciliation agreement, but has requested an extension from the Office of General Counsel (“OGC”). See Closing Ltr. to William Canfield, Counsel to AJS (Sept. 9, 2019).

³ See Certification ¶ 1, MUR 6538 (Americans for Job Security) (June 26, 2014); First GCR at 21–22. Compare Statement of Reasons of Comm’rs Goodman, Hunter & Petersen at 21–26 (July 30, 2014), <https://go.usa.gov/xVeav> with Statement of Reasons of Comm’rs Ravel, Walther & Weintraub at 5–6, MUR 6538 (July 30, 2014), <https://go.usa.gov/xVeaf>.

⁴ Compl., *CREW v. FEC*, No. 14-cv-1419 (D.D.C. Aug. 20, 2014). The lawsuit was filed in connection with this and a companion matter involving another dark-money group, American Action Network (“AAN”).

refusal to find that AJS was a political committee had been contrary to law and remanded the case to the Commission.⁵

Under a court order, the Republican commissioners finally agreed to apply the appropriate legal standard and found reason to believe that AJS violated the law as OGC originally recommended (and I had supported)—by now more than seven years after AJS’s spending took place.⁶ In 2017, the Commission began its investigation into AJS’s 2010 spending. By this time AJS was practically defunct, the money was gone, and complete records were no longer available.⁷ In 2019, the Commission ultimately approved a settlement that imposed *no penalty* on AJS, but required the registration and disclosure that should have taken place in 2010.⁸ My Republican colleagues’ intransigence tied the Commission’s hands and ensured the improbability of a penalty commensurate with an over \$9 million violation.

More than seven years of procedural maneuvering produced a pale shadow of real enforcement in connection with a nine-year-old election that has since faded from the public’s memory. Justice purposefully and systematically delayed is justice obstructed. Delay means witnesses forget and evidence disappears. Delay ensures that illegal activity comes to light only after the public loses interest. Delay enables dark-money brokers to get away with keeping their political influence enshrouded. Was this the goal all along? The American people deserve transparency and information in a timely fashion, not delay and obstruction.



Ellen L. Weintraub
Chair

October 11, 2019

⁵ *CREW v. FEC*, 209 F. Supp. 3d 77, 95 (D.D.C. Sept. 19, 2016). The court explained that my Republican colleagues “relied on a faulty premise”: they incorrectly excluded electioneering communications that did not contain express advocacy from their analysis of whether the group’s major purpose was to influence a federal election, and gave undue weight to the lifetime spending of the group rather than examining the problematic time period at issue—the 2010 calendar year. *Id.* In a separate opinion involving AAN, the court noted that electioneering communications inherently have the purpose of influencing a federal election, but that the Commission can use “its case-by-case approach, to deem an *extraordinary* ‘electioneering communication’ as lacking an election-related purpose.” *CREW v. FEC*, 299 F. Supp. 3d 83, 97 (D.D.C. Mar. 20, 2018) (emphasis added).

⁶ *See* Certification, MUR 6538R (Americans for Job Security) (Oct. 19, 2016); *See* Factual & Legal Analysis, MUR 6538R (Apr. 27, 2017).

⁷ Despite incomplete records OGC uncovered substantial evidence that AJS spent the vast majority of its funds in 2010—over 83%—on federal campaign activity and that most of that spending was never reported to the Commission. Second Gen. Counsel’s Rpt. at 12-13, MUR 6538R (Feb. 15, 2019). By the time of the investigation, AJS had also already lost its corporate status in the District of Columbia in 2016, and lost its tax exempt status with the Internal Revenue Service in 2018. *Id.* at 16; Americans for Job Security (Initial File No. 973603), *Business Filings Search*, D.C. Department of Consumer and Regulatory Affairs Corp. Div., <https://corponline.dcra.dc.gov/Home.aspx> (showing revoked status).

⁸ Certification ¶ 1, MUR 6538R (Sept. 3, 2019); Conciliation Agreement, ¶ VI.1–4 (Sept. 9, 2019). A penalty was not included in light of representations from AJS that it was defunct, with no money and no ability to raise new funds. Conciliation Agreement ¶ VI.4.