

BEFORE THE FEDERAL ELECTION COMMISSION

***GAGOP
P.O. Box 5500008
Atlanta, GA 30355***

v. MUR No. _____

***The Georgia Way
700 13th Street NW
Suite 800
Washington, DC 20005***

***Jon Ossoff for Senate
P.O. Box 450326
Atlanta, GA 31145***

COMPLAINT

The Georgia Way is a Super-PAC that was recently organized on November 16, 2020 in an apparent effort by the Senate Majority PAC and Senator Chuck Schumer to make targeted campaign efforts for Senatorial candidate, Jon Ossoff, in the Georgia Senatorial run-offs. With receipts of over \$5,050,000.00 to date, Georgia Way has already disbursed \$4,922,487.00 on federal operating expenditures and independent expenditures, all of which appear to have been coordinated with Jon Ossoff for Senate in efforts to defame Senator David Perdue.¹ This complaint is submitted, upon information and belief, to urge the Federal Election Commission (FEC) to investigate and take appropriate enforcement actions to address apparent violations of the Federal Election Campaign Act (FECA), as amended, and FEC regulations by Jon Ossoff for Senate and The Georgia Way, a 501(c)(4) political action committee.

The Georgia Way has released an advertisement directly tracking language, sources, and claims made on Jon Ossoff for Senate's campaign website. The sudden organization and immediate sequence of The Georgia Way's advertisement indicates that it is in coordination with Jon Ossoff

¹ See <https://docquery.fec.gov/cgi-bin/forms/C00763185/1481053/>.

for Senate in publishing communications of similar conduct and content. This type of behavior is contrary to federal law prohibiting candidates from coordinating with super PACs, and the Commission must immediately investigate and enforce the law.

I. Facts

On November 12, 2020, Jon Ossoff for Senate published a campaign update on its website, electjon.com.² The campaign update stated that:

All Voters need to know:

The virus is spreading faster than ever. Hundreds of thousands more will die and millions will lose their jobs if we don't get it under control. But David Perdue is only looking out for himself.

He bought medical and vaccine stocks to profit from the pandemic, while telling us COVID-19 was no deadlier than the common flu.

He fought against the \$1,200 stimulus checks for workers. And now Perdue is blocking economic relief for workers and small businesses.

To defeat the virus, we need to defeat David Perdue.

Id. The campaign update referenced a link for individuals to click to learn more. That link directs users to a “Campaign Update: What Georgians Need to Know” newsletter including other research links.

Four days later, on November 16, 2020, The Georgia Way filed their statement of organization.³ According to the statement, The Georgia Way is an affiliated committee with SMP (i.e. the Senate Majority PAC). SMP was “founded by experienced, aggressive Democratic strategists with one mission: to win Senate races.”⁴ The SMP is closely associated with Senate Minority Leader Chuck Schumer. Although the statement of organization indicates that the committee supports/opposes

¹ See 52 U.S.C. § 30109(a)(2); 11 C.F.R. § 111.4(a).

² See <https://electjon.com/campaign-update/>.

See <https://electjon.com/wp-content/uploads/2020/11/2020.11.12.Campaign-Update-.pdf>.

³ See <https://docquery.fec.gov/pdf/453/202011169336992453/202011169336992453.pdf>.

⁴ See <https://www.senatemajority.com/about/>.

more than one Federal candidate, its efforts to date only focus *solely* on helping Jon Ossoff and his attempts to attack Senator David Perdue.

On November 24, 2020, The Georgia Way released an ad titled “Cashed In.”⁵ The ad concerned the same conduct and context as Ossoff’s campaign update on Senator Perdue:

VO: “He lied to us.” Perdue: “The risk of this virus still remains low.” VO: “All while David Perdue cashed in – the same day his committee got a closed-door briefing. Perdue bought stocks in a maker of masks and gloves and went on to make 383 individual stock trades – with up to \$14 million dollars. Now Perdue’s blocking help for small businesses and stopping stimulus checks for Georgians. David Perdue: he’s never been for you.”

Id. The Georgia Way’s advertisement and Jon Ossoff for Senate’s update are coordinated political attacks – same message, same mission to drag down Senator Perdue. This advertisement by The Georgia Way is the *only* known advertisement to date that it has published, and the publication thereof is in direct coordination with Jon Ossoff for Senate.

II. *Law*

Under the FECA, candidates for federal office are subject to regulations that limit or prohibit contributions from and interactions with individuals, groups, and organizations. Among these regulations, federal candidates are prohibited from accepting contributions from an individual or a non-multicandidate PAC in excess of \$2,800, from a multicandidate PAC in excess of \$5000, or from any corporation or labor organization in any amount.⁶ Federal candidates are also prohibited from accepting contributions from entities that accept contributions from corporations or labor organizations.⁷ Contributions are broadly defined to

⁵ See *supra* at note 5.

⁶ See <https://host2.adimpact.com/admo/viewer/4787320>

⁷ 52 U.S.C. §§ 30116, 30118.

⁸ 52 U.S.C. §§ 30101, 30118.

include cash donations, but also “anything of value . . . for the purpose of influencing any election for Federal office.”⁸ Federal law specifically provides that certain expenditures are contributions, including: (i) communications “made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents.”⁹ In order to determine whether a communication was made in cooperation with a candidate under subsection (i), FEC regulations provide a three—part test: (1) the communication is paid for by a third-party; (2) the communication satisfied a “content” standard of 11 C.F.R. § 109.21(c); and (3) the communication satisfies one of the “conduct” standards of 11 C.F.R. § 109.21(d).¹⁰

III. Analysis

Based on information and belief, it appears that Jon Ossoff for Senate has accepted an unlawful contribution from The Georgia Way by coordinating an approximately \$690,200 communication.

Looking to the three-prong “coordinated communication” test, the first prong is satisfied when a communication is paid for by an entity “other than that candidate.” Here, the advertisement’s disclaimer clearly states: “PAID FOR BY THE GEORGIA WAY. THEGEORGIAWAY.ORG.”¹¹ From the face of the advertisement alone, it is clear that the advertisement was run and paid for by The Georgia Way, not Jon Ossoff for Senate.

Secondly, the advertisement must meet one of the various “content” prongs under 11 C.F.R. § 109.21(c) in order to be considered a coordinated communication. This prong is also clearly met.

⁸ 52 U.S.C. § 30101(8)(A).

⁹ 52 U.S.C. § 30116(a)(7)(B)(i).

¹⁰ 11 C.F.R. § 109.21.

¹¹ See *supra* at note 8.

Under 11 C.F.R. § 109.21(c)(2), the content prong is satisfied when a person or entity “disseminates, distributes or republishes, in whole or in part, campaign materials prepared by a candidate or the candidate’s authorized committee.” The Georgia Way’s advertisement clearly disseminates Jon Ossoff for Senate campaign materials. Both publications advocate against Perdue on the same topics, in the same order. For instance, the publications both focus on: (a) Perdue lying about the corona virus (i.e. *compare* “He lied to us [that the risk of the virus remains low]” *with* “while telling us COVID-19 was no deadlier than the common flu”), (b) Perdue profiting off of the coronavirus (i.e. *compare* “David Perdue is only looking out for himself. He bought medical and vaccine stocks to profit from the pandemic” *with* “[a]ll while David Perdue cashed in – the same day his committee got a closed-door briefing. Perdue bought stocks in a maker of masks and gloves and went on to make 383 individual stock trades – with up to \$14 million dollars”), and (c) Perdue stopping stimulus for Georgians and small businesses (i.e. *compare* “[h]e fought against the \$1,200 stimulus checks for workers. And now Perdue is blocking economic relief for workers and small businesses” *with* “[n]ow Perdue’s blocking help for small businesses and stopping stimulus checks for Georgians”).¹² Furthermore, the substance of the information within The Georgia Way advertisement all appears within the research links of the “Campaign Update: What Georgians Need to Know” newsletter.

Lastly, the communication must meet one of the “conduct” standards as laid out in 11 C.F.R. § 109.21(d). A communication meets one of these standards when there has been a “request or suggestion,” “material involvement,” or a “substantial discussion” between a campaign and the purchaser of the communication. From public information alone, the timing and similarity between

¹² See *supra* at notes 3 and 8.

supra at note 4.

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the advertisement and campaign update suggest that this element has been met. Jon Ossoff for Senate published its campaign update on November 12, 2020. Four days later, The Georgia Way was organized as an effort to defeat Senator Perdue by the Senate Majority PAC, and only eight days later after The Georgia Way's organization, it disseminated the content and conduct of Jon Ossoff for Senate's campaign update in its own video advertisement. Furthermore, this is the *only* advertisement known to be published by The Georgia Way to date, which is additional evidence that the Senate Majority PAC organized The Georgia Way to provide needed support to Jon Ossoff for Senate.

IV. Conclusion

Based on the timing, messaging, conduct, and context of the campaign update and the advertisement, Jon Ossoff for Senate is coordinating its message against Senator Perdue with the Senate Majority PAC's newly formed committee, The Georgia Way. This conduct has resulted in the airing of at least one advertisement that likely constitutes an illegal \$690,200 in-kind donation to Jon Ossoff for Senate's campaign. The Commission should investigate what we see as a clear violation, otherwise we believe that candidates will continue coordinating with outside groups in violation of the FECA. As such, GAGOP respectfully requests the Commission immediately investigate and hold the Respondents accountable.

Respectfully submitted,



Stewart Bragg

GAGOP Executive Director

