

FEDERAL ELECTION COMMISSION

In the matter of:

Dean 24, Inc.

Pass The Torch USA Inc.

MUR No.:

Steve Schmidt

COMPLAINT

1. Campaign for Accountability (“CfA”) and Michelle Koppersmith bring this complaint before the Federal Election Commission (“FEC” or “Commission”) seeking an immediate investigation and enforcement action against Dean 24, Inc., Pass the Torch USA Inc., and Steve Schmidt for direct and serious violations of the Federal Election Campaign Act (“FECA” or “the Act”) and Commission regulations. Evidence strongly suggests that Pass the Torch and Steve Schmidt have made over \$450,000 in coordinated communications with Dean 24, Inc. expressly advocating the election of Dean Phillips to be President of the United States and that Pass the Torch USA Inc. falsely reported these coordinated communications as independent expenditures in violation of the FECA and Commission regulations. The Commission should immediately investigate Dean 24, Inc., Pass the Torch USA, Inc. and Steve Schmidt to determine whether the respondents violated the FECA and Commission regulations and, if so, impose appropriate sanctions.

Complainants

2. Complainant CfA is a Section 501(c)(3) organization dedicated to ensuring accountability of public officials and compliance with federal laws. Toward this end, CfA seeks to protect and advance the right of citizens to be informed about the activities of government officials and to ensure the integrity of government officials and the government decision-making process by exposing unethical and illegal conduct of those involved in government. CfA uses research, litigation, and communications to advance its mission.

3. In furtherance of its mission, CfA also monitors campaign finance activities of those who finance federal elections and publicizes information regarding those who violate federal campaign finance laws. In order to assess whether an individual or entity is complying with federal campaign finance laws, CfA needs the information contained in disclosure reports political committees must file pursuant to FECA, 52 U.S.C. § 30104(a)&(b); 11 C.F.R. §§ 104.1, 104.3. CfA is hindered in its programmatic activity when an individual or entity fails to disclose campaign finance information in reports required by the FECA.

4. CfA relies on the FEC's proper administration of the FECA's reporting requirements because the FECA-mandated disclosure reports are the only source of information CfA can use to determine if an individual or entity is complying with the FECA. The proper administration of the FECA's reporting requirements includes mandating that all disclosure reports required by the FECA are properly and timely filed with the FEC. CfA is hindered in its programmatic activity when the FEC fails to properly administer the FECA's reporting requirements.

5. Complainant Michelle Koppersmith is Executive Director of Campaign for Accountability, a citizen of the United States, and a registered voter and resident of the State of New York. As a registered voter, Ms. Koppersmith is entitled to receive information contained in disclosure reports required by the FECA, 52 U.S.C. § 30104; 11 C.F.R. §§ 104.2, 104.3. Ms. Koppersmith is harmed when an individual, candidate, political committee, or other entity fails to report campaign finance activity as required by the FECA. *See FEC v. Akins*, 524 U.S. 11, 19 (1998), *quoting Buckley v. Valeo*, 424 U.S. 1, 66-67 (1976) (“[P]olitical committees must disclose contributors and disbursements to help voters understand who provides which candidates with financial support.”). Ms. Koppersmith is further harmed when the FEC fails to properly administer the FECA's reporting requirements, limiting her ability to review campaign finance information.

Respondents

6. Dean 24, Inc. (“the Phillips campaign”) is the principal campaign committee of Dean Phillips, who is seeking the Democratic Party nomination for President of the United States. Dean 24, Inc. filed its Statement of Organization with the Federal Election Commission on October 26, 2023.¹

7. Pass the Torch USA Inc. (“Pass the Torch”) is an independent expenditure-only committee (Super PAC). Pass the Torch filed its Statement of Organization with the Federal Election Commission on November 20, 2023.² As of December 1, 2023, Pass the Torch has made over \$450,000 in alleged independent expenditures expressly advocating the election of Dean Phillips to be President of the United States.³

8. Steve Schmidt is a nationally recognized political strategist and consultant and a veteran of multiple presidential campaigns.⁴

FACTUAL BACKGROUND

9. In the two weeks prior to the launch of his presidential campaign, Dean Phillips, by his own admission, had multiple substantial discussions with Steve Schmidt regarding the strategy and messaging his campaign should use to win the Democratic nomination. Less than two weeks after the launch of the Phillips campaign, Schmidt left his position with the campaign to launch the Pass the Torch USA Inc. Super PAC, which immediately began disseminating advertisements echoing the messaging that Schmidt had discussed with the candidate. There could scarcely be a more blatant and egregious example of a presidential campaign illegally coordinating with a Super PAC.

10. On September 25, 2023, Steve Schmidt interviewed Dean Phillips about the possibility of him running for the Democratic nomination for President on Schmidt's podcast *The Warning*.⁵ That interview led to Schmidt advising Phillips on the launch of his campaign. As Dean later told a reporter with *Time*,

Phillips [stepped down](#) in the fall from a minor role in House Democratic leadership in protest of his party closing ranks around Biden. About a week later, he says, he got a message from the

¹ Dean 24, Inc., FEC Form 1, Statement of Organization, October 26, 2023, *available at* <https://docquery.fec.gov/cgi-bin/forms/C00854778/1733728/>. *See also* <https://www.dean24.com>.

² Pass The Torch USA Inc, FEC Form 1, Statement of Organization, November 20, 2023, *available at* <https://docquery.fec.gov/cgi-bin/forms/C00857383/1736320/>. *See also* <https://www.passthatorchusa.com>.

³ *See, e.g.*, Pass The Torch USA Inc, FEC Form 24, 48-Hour Notice, Schedule E, December 1, 2023, *available at* <https://docquery.fec.gov/cgi-bin/forms/C00857383/1737489/se>.

⁴Leading Authorities, <https://www.leadingauthorities.com/speakers/steve-schmidt>, accessed December 22, 2023.

⁵Steve Schmidt, [Congressman Dean Phillips on whether he would consider running for president](#), *The Warning Substack*, Sept. 25, 2023, *available at* <https://steveschmidt.substack.com/p/congressman-dean-phillips-on-whether>.

political operative Steve Schmidt, John McCain's former campaign manager, who had started the Lincoln Project to convince Republicans to break from Trump. Phillips went on Schmidt's podcast, and the next day Schmidt called him and suggested he talk to his family about running for President. Phillips did so over the Yom Kippur holiday, and came back to say he was in. But he was concerned about how the campaign would actually work.

"I don't have name recognition. I don't have a national profile. And I just don't see how we could do this within two weeks," he recalls telling Schmidt. "*And we sat at my kitchen table, and in two weeks, we stood up a presidential campaign.*" Just after Thanksgiving, [he announced](#) he would not run for re-election to the House.⁶

11. The Phillips campaign launched on October 27, 2023.⁷ That same day, Steve Schmidt posted a lengthy article on his Substack newsletter admitting his role in the Phillips campaign and revealing the substantial discussions he had with the candidate regarding the campaign's plans, projects, activities, and needs.

I will be perfectly straight. I am going to help Dean Phillips run for president I am joining Dean Phillips in this urgent moment of political crisis because we must try to make campaigns big and inspiring again. We must try and bring some nobility, decency and inspiration back into the business of politics. We must engage young people, and meet every American where they are. We must talk about the real issues that people in the country are facing. I'm going to do my utmost to help him do it.

The Dean Phillips campaign intends to win the New Hampshire, South Carolina and Michigan primaries. Congressman Phillips will campaign with integrity and toughness. He will seek to inspire and unite, while calling for every American to serve their country in the coming era of national renewal that lies ahead — if America passes the test ahead.

Here is what I told Congressman Phillips about the presidential campaign ahead:

I told him it will be hard, punishing and unforgiving.

He did not blink.

I told him it would be joyful and inspiring because the American people are so.

More than anything else, I told him that this would be a character test.

The American people will decide if Congressman Phillips is a stronger nominee than President Biden. Let the election begin.

I plan to continue writing The Warning every day and keep it pointed at the fascists, racists and opportunists who would gladly watch it all burn down for either amusement or power.

⁶ Charlotte Alter, [Dean Phillips Is the Other Guy Running for President. Does He Have a Chance?](https://time.com/6339824/dean-phillips-2024-campaign/), *Time*, December 4, 2023, available at <https://time.com/6339824/dean-phillips-2024-campaign/>

⁷ Dean Phillips for President YouTube, Pass the Torch, November 3, 2023, available at <https://www.youtube.com/watch?v=ZdOAXc2-R2w>

I will also give all of you an insight into a real presidential campaign.

Though you may not like the message it will always be delivered straight and truthfully. It will always be delivered with respect towards you.

There is nothing quite like a presidential campaign. It was not something I thought I would be doing, but the hour is late and the danger great.

Dean Phillips for president.⁸

12. The following day, Steve Schmidt shared with his Substack readers the Phillips campaign's launch announcement video – a video that he was apparently involved in producing. The theme of the announcement was that “It is time for the torch to be passed to a new generation of American leaders.”⁹ This messaging theme that would be used by both the Phillips campaign and the Pass the Torch Super PAC.

13. On November 8, 2023, less than two weeks after he promised his Substack readers that he would continue to give them the inside story on the Phillips campaign every day, Steve Schmidt quit to form the Pass the Torch Super PAC. “Steve Schmidt — who aided Phillips’s launch and previously served as a top adviser to John McCain’s 2008 presidential campaign — plans to decamp from Phillips’s orbit to form an independent super PAC, which can raise and spend money in unlimited amounts, the people said. It will focus on supporting Phillips through advertising in New Hampshire, South Carolina and Michigan, they said.”¹⁰

14. The Pass the Torch USA Inc. Super PAC filed its Statement of Organization with the Commission on November 20, 2023.¹¹ Steve Schmidt sent out a tweet announcing its launch two days later.¹² Dean Phillips responded by sending out a tweet admitting that Schmidt had helped launch his presidential campaign, but claiming the Super PAC was “a Lincoln Project-like group to ensure Trump gets defeated.”¹³ On November 27, 2023, Pass the Torch disseminated an ad expressly advocating the election of Dean Phillips and echoing the “time to pass the torch to a new generation of American

⁸ Steve Schmidt, President Biden deserves a primary because the practice of democracy is necessary for its preservation, *The Warning Substack*, October 27, 2023, available at <https://steveschmidt.substack.com/p/president-biden-deserves-a-primary>.

⁹ Steve Schmidt, I believe in choice, *The Warning Substack*, October 28, 2023, available at <https://steveschmidt.substack.com/p/i-believe-in-choice>.

¹⁰ Michael Scherer and Tyler Pager, Dean Phillips hires top Bernie Sanders and Andrew Yang advisers - Former John McCain adviser Steve Schmidt plans to launch super PAC to support the Democratic challenge to Joe Biden, *The Washington Post*, November 8, 2023, available at <https://www.washingtonpost.com/politics/2023/11/08/dean-phillips-sanders-yang-advisers/>.

¹¹ Pass The Torch USA Inc, FEC Form 1, Statement of Organization, November 20, 2023, available at <https://docquery.fec.gov/cgi-bin/forms/C00857383/1736320/>

¹² Steve Schmidt, Launch, *X*, Nov. 22, 2023, available at: <https://twitter.com/SteveSchmidtSES/status/1727390596304920589?s=20>

¹³ Dean Phillips, Disinformation. Steve Schmidt helped me get started, but is not affiliated with my campaign, *X*, Nov. 25, 2023, available at: <https://twitter.com/deanbphillips/status/1728580133173211642>.

leaders” message from the Phillips campaign announcement video.¹⁴ The Pass the Torch ad even included much of the b-roll from the Phillips campaign announcement video.¹⁵

15. As of December 1, 2023, Pass the Torch had spent over \$450,000 on communications expressly advocating the election of Dean Phillips to be President of the United States.¹⁶

LEGAL STANDARDS

16. Independent expenditure-only committees (Super PACs) are prohibited from making contributions to candidates and their authorized committees.¹⁷ It is also unlawful for candidates, political committees and their officers and employees to knowingly accept an excessive or prohibited contribution.¹⁸ A coordinated expenditure – an expenditure made by any person “in cooperation, consultation, or concert with, or at the request or suggestion of” a candidate, a candidate’s authorized committee, or the agents of either – is also a contribution to the candidate.¹⁹ A “coordinated communication” is one type of coordinated expenditure.²⁰ Accordingly, “[a]n independent expenditure-only political committee may not make contributions to candidates or political party committees, including in-kind contributions such as coordinated communications.”²¹ Political committees, through their treasurers, are required to report all contributions made and received and treasurers are responsible for examining all contributions for evidence of illegality.²²

17. Commission regulations provide a three-part test for determining when a communication is a coordinated expenditure, which is treated as an in-kind contribution. The communication must (1) be paid for, in whole or in part, by a person other than the candidate or committee (the “payment prong”); (2) satisfy one of five “content” standards listed in 11 C.F.R. § 109.21(c)(the “content prong”); and (3) satisfy

¹⁴ Pass the Torch Vimeo, Launch, Nov. 27, 2023, available at: <https://vimeo.com/886892576>.

¹⁵ Bridget Bowman, Pro-Dean Phillips super PAC knocks Biden's electability in New Hampshire TV ad, *NBC News*, Nov. 27, 2023, available at <https://www.nbcnews.com/meet-the-press/meetthepressblog/-dean-phillips-super-pac-knocks-bidens-electability-new-hampshire-tv-a-rcna126825>.

¹⁶ Pass The Torch USA Inc, FEC Form 24, 48-Hour Notice, Schedule E, Nov. 24, 2023, available at <https://docquery.fec.gov/cgi-bin/forms/C00857383/1737039/>; Pass The Torch USA Inc, FEC Form 24, 48-Hour Notice, Schedule E, Nov. 24, 2023, available at <https://docquery.fec.gov/cgi-bin/forms/C00857383/1737038/se>; Pass The Torch USA Inc, FEC Form 24, 48-Hour Notice, Schedule E, November 24, 2023, available at <https://docquery.fec.gov/cgi-bin/forms/C00857383/1737037/se>; Pass The Torch USA Inc, FEC Form 24, 48-Hour Notice, Schedule E, Nov. 28, 2023, available at <https://docquery.fec.gov/cgi-bin/forms/C00857383/1737237/se>; Pass The Torch USA Inc, FEC Form 24, 48-Hour Notice, Schedule E, Nov. 28, 2023, available at <https://docquery.fec.gov/cgi-bin/forms/C00857383/1737239/se>; Pass The Torch USA Inc, FEC Form 24, 48-Hour Notice, Schedule E, Nov. 28, 2023, available at <https://docquery.fec.gov/cgi-bin/forms/C00857383/1737238/se>; Pass The Torch USA Inc, FEC Form 24, 48-Hour Notice, Schedule E, Dec. 1, 2023, available at <https://docquery.fec.gov/cgi-bin/forms/C00857383/1737489/se>; Pass The Torch USA Inc, FEC Form 24, 48-Hour Notice, Schedule E, Dec. 1, 2023, available at <https://docquery.fec.gov/cgi-bin/forms/C00857383/1737485/se>; and Pass The Torch USA Inc, FEC Form 24, 48-Hour Notice, Schedule E, Dec. 1, 2023, available at <https://docquery.fec.gov/cgi-bin/forms/C00857383/1737487/se>.

¹⁷ 52 U.S.C. §§ 30116(a), 30118(a). See also Advisory Opinion 2010-11 at 2-3 (Commonsense Ten).

¹⁸ 52 U.S.C. §§ 30116(f), 30118(a).

¹⁹ 52 U.S.C. § 30116(a)(7)(b). See also 11 C.F.R. § 109.20.

²⁰ 11 C.F.R. § 109.21(b).

²¹ Advisory Opinion 2017-10 at 2 (Citizens Against Plutocracy), Advisory Opinion 2016-21 at 3-4 (Great America PAC).

²² 52 U.S.C. § 30104(a),(b); 11 C.F.R. § 103.3(b).

one of five conduct standards listed in 11 C.F.R. § 109.21(d)(the “conduct prong”). All three prongs must be satisfied for a communication to be considered coordinated.²³

18. A communication by a Super PAC by definition satisfies the payment prong of the coordinated communication test.²⁴ Such a communication would also satisfy the content prong of the coordinated communication test if it expressly advocates the election of a clearly identified federal candidate.²⁵

19. The conduct prong of the coordinated communication test is satisfied if any one of these forms of conduct occurred whether or not there is agreement or formal collaboration: (1) the communication is created, produced or distributed at the request or suggestion of the candidate or authorized committee or the communication is created, produced or distributed by an entity paying for the communication and the candidate or authorized committee assents to the suggestion;²⁶ (2) the candidate or authorized committee was materially involved in the creation, production or distribution of the communication by the entity paying for the communication;²⁷ (3) the communication is created, produced or distributed after one or more substantial discussions between the entity paying for the communication or its employees or agents and the candidate clearly identified in the communication or the candidate’s authorized committee;²⁸ (4) the communication was created, produced or distributed by a common vendor of the entity paying for the communication and the authorized committee;²⁹ or (5) the communication is paid for by an entity who is the employer of a person who was an employee or independent contractor of the candidate or the authorized committee during the previous 120 days.³⁰

20. For purposes of the substantial discussion factor of the conduct prong of the coordinated communication test, a discussion is considered substantial if information about the candidate’s campaign plans, projects, activities or needs is conveyed to a person paying for the communication and that information is material to the creation, production, or distribution of the communication.³¹

LEGAL ANALYSIS

21. By their own admission, Steve Schmidt and Dean Phillips engaged in multiple substantial discussions about the plans, projects, activities and needs of Dean 24, Inc. in the two weeks leading up to its launch on October 27, 2023.³² Less than two weeks later, Schmidt decamped to create Pass the Torch USA Inc, a Super PAC supporting the Phillips campaign.³³ Very shortly thereafter, Pass the Torch began

²³ 11 C.F.R. § 109.21(d)(4).

²⁴ 11 C.F.R. § 109.21(a)(1).

²⁵ 11 C.F.R. § 109.21(c)(3). The content prong would also be satisfied if it republishes, in whole or in part, campaign materials prepared by the candidate’s authorized committee. 11 C.F.R. § 109.21(c)(2).

²⁶ 11 C.F.R. § 109.21(d)(1)(i)&(ii).

²⁷ 11 C.F.R. § 109.21(d)(2).

²⁸ 11 C.F.R. § 109.21(d)(3).

²⁹ 11 C.F.R. § 109.21(d)(4).

³⁰ 11 C.F.R. § 109.21(d)(5).

³¹ 11 C.F.R. § 109.21(d)(3).

³² Charlotte Alter, Dean Phillips Is the Other Guy Running for President. Does He Have a Chance?, *Time*, Dec. 4, 2023)(“[W]e sat at my kitchen table, and in two weeks, we stood up a presidential campaign.”), available at <https://time.com/6339824/dean-phillips-2024-campaign/>; Steve Schmidt, President Biden deserves a primary because the practice of democracy is necessary for its preservation, *The Warning Substack*, Oct. 27, 2023, available at <https://steveschmidt.substack.com/p/president-biden-deserves-a-primary>.

³³ Michael Scherer and Tyler Pager, Dean Phillips hires top Bernie Sanders and Andrew Yang advisers - Former John McCain adviser Steve Schmidt plans to launch super PAC to support the Democratic challenge to Joe Biden, *The Washington Post*, Nov. 8, 2023, available at <https://www.washingtonpost.com/politics/2023/11/08/dean-phillips-sanders-yang-advisers/>.

running ads echoing the Phillips campaign's message that "It's time to pass the torch to a new generation of American leaders" – the very message that Schmidt apparently helped create for the Phillips campaign.³⁴ As of December 1, 2023, Pass the Torch had spent over \$450,000 on communications expressly advocating the election of Dean Phillips to be President of the United States.³⁵

22. If the communications by Pass the Torch were created, produced or distributed after substantial discussions between Steve Schmidt and Dean Phillips, they constitute coordinated communications and both Steve Schmidt and Pass the Torch may have violated the Act's prohibition on Super PACs making contributions to federal campaign committees.³⁶

23. Moreover, if the communications by Pass the Torch were coordinated with the Phillips campaign, Dean 24, Inc. may have violated the Act's prohibition on knowingly accepting an excessive or prohibited contribution.³⁷

24. Finally, if the communications were coordinated Pass the Torch may have violated the Act's reporting requirements by reporting the communications as independent expenditures rather than in-kind contributions to Dean 24, Inc.³⁸

REQUESTED ACTION

25. The evidence strongly suggests that Pass the Torch and Steve Schmidt made over \$450,000 in coordinated communications with Dean 24, Inc. to expressly advocate the election of Dean Phillips in violation of the Act and Commission regulations. Moreover, it appears that the Phillips campaign knowingly accepted those illegal in-kind contributions. The evidence also indicates that Pass the Torch falsely reported these coordinated communications as independent expenditures in violation of the FECA and Commission regulations. All of the actions taken here took place in less than two months, with Steve Schmidt helping Dean Phillips launch his presidential campaign and then immediately leaving to form a Super PAC to support the Phillips campaign. There could scarcely be a more blatant and egregious example of a presidential campaign illegally coordinating with a Super PAC.

26. The Commission should immediately investigate Dean 24, Inc., Pass the Torch USA, Inc. and Steve Schmidt to determine whether the respondents violated the FECA and Commission regulations and, if so, seek appropriate sanctions. Moreover, given the brazenness of the violations the Commission should seek equitable relief to prohibit all three parties from continuing to violate the Act and Commission regulations.

ON BEHALF OF COMPLAINANTS

Michelle Kuppersmith, Executive Director
Campaign for Accountability
611 Pennsylvania Avenue, S.E. #337, Washington, D.C. 20003
(202) 780-5750

³⁴Bridget Bowman, [Pro-Dean Phillips super PAC knocks Biden's electability in New Hampshire TV ad](https://www.nbcnews.com/meet-the-press/meetthepressblog/-dean-phillips-super-pac-knocks-bidens-electability-new-hampshire-tv-a-rcna126825), *NBC News*, Nov. 27, 2023, available at <https://www.nbcnews.com/meet-the-press/meetthepressblog/-dean-phillips-super-pac-knocks-bidens-electability-new-hampshire-tv-a-rcna126825>.

³⁵ See footnote 15, *supra*.

³⁶ 52 U.S.C. §§ 30116(a), 30118(a). See also Advisory Opinion 2010-11 at 2-3 (Commonsense Ten); Advisory Opinion 2017-10 at 2 (Citizens Against Plutocracy); and Advisory Opinion 2016-21 at 3-4 (Great America PAC).

³⁷ 52 U.S.C. §§ 30116(f), 30118(a).

³⁸ 52 U.S.C. § 30104(a),(b); 11 C.F.R. § 103.3(b).

Verification

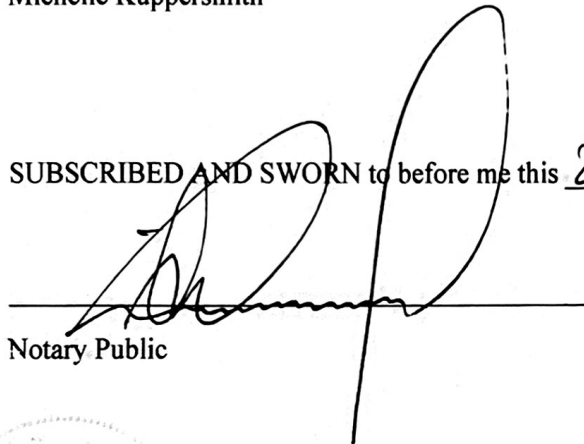
Campaign for Accountability and Michelle Kuppersmith hereby verify that the statements made in the attached Complaint are, upon information and belief, true.

Sworn to pursuant to 18 U.S.C. § 1001.



Michelle Kuppersmith

SUBSCRIBED AND SWORN to before me this 2 day of January 2024.



Notary Public

My Commission Expires:

RICHARD M CHENG
Notary Public, State of New York
Reg. No. 01CH6130110
Qualified in Kings County
Commission Expires July 05, 2025

