



FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 15, 2017

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 2017-12

John Pudner
President
Take Back Action Fund
246B East Glenn Avenue
Auburn, AL 36830

Brendan Fischer, Esq.
Director, Federal and FEC Reform
Campaign Legal Center
1411 K Street, NW, Suite 1400
Washington, DC 20005

Dear Messrs. Pudner and Fischer:

We are responding to your request on behalf of Take Back Action Fund (“TBAF”). TBAF asks whether, and under what conditions, the Federal Election Campaign Act, 52 U.S.C. §§ 30101-46 (the “Act”), and Commission regulations require TBAF to include disclaimers on its proposed Facebook Image and Video advertisements. The Commission concludes that, under the circumstances described in the request, TBAF must include all of the disclaimer information specified by 52 U.S.C. § 30120(a) on its proposed paid Facebook Image and Video advertising.¹

This response constitutes an advisory opinion concerning the application of the Act and Commission regulations to the specific transaction or activity set forth in your request. *See* 52 U.S.C. § 30108. The Commission emphasizes that, if there is a change in any of the facts or

¹ In reaching this conclusion, Commissioners relied on different rationales, some of which are reflected in Agenda Doc. No. 17-59-A-1 (garnering a vote of 2-3) and Agenda Doc. No. 17-59-B (garnering a vote of 3-2). *See* Vote Certification (Dec. 15, 2017), available at <https://www.fec.gov/files/legal/aos/83700.pdf>. Because the affirmative vote of four members of the Commission is required to render an advisory opinion under the Act, neither agenda document is a Commission advisory opinion. 52 U.S.C §§ 30106(c), 30107(a)(7); 11 C.F.R. § 112.4(a).

assumptions presented, and such facts or assumptions are material to a conclusion presented in this advisory opinion, then the requestor may not rely on that conclusion as support for its proposed activity. Any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which this advisory opinion is rendered may rely on this advisory opinion. *See* 52 U.S.C. § 30108(c)(1)(B). Please note that the analysis or conclusions in this advisory opinion may be affected by subsequent developments in the law including, but not limited to, statutes, regulations, advisory opinions, and case law. Any advisory opinions cited herein are available on the Commission's website.

On behalf of the Commission,

A handwritten signature in black ink, appearing to read "Steven T. Walther". The signature is written in a cursive style with a large initial "S".

Steven T. Walther
Chairman