

BEFORE THE FEDERAL ELECTION COMMISSION

Foundation for Accountability and Civic Trust
1717 K Street NW, Suite 900
Washington, D.C. 20006

v.

MUR No. _____

Gary Peters
Peters for Michigan
PO Box 32072
Detroit, MI 48244

and

VoteVets.Org Action Fund
2201 Wisconsin Ave NW #320
Washington, D.C. 20007

COMPLAINT

The Foundation for Accountability and Civic Trust (FACT) is a nonprofit organization dedicated to promoting accountability, ethics, and transparency in government and civic arenas. We achieve this mission by hanging a lantern over public officials who put their own interests over the interests of the public good. This complaint is submitted, upon information and belief, to request the Federal Election Commission (FEC) investigate and take appropriate enforcement actions to address apparent violations of the Federal Election Campaign Act by VoteVets.Org Action Fund (a 501(c)(4) political action committee)¹, Senator Gary Peters, and his campaign committee, Peters for Michigan.²

Senator Gary Peters appears to be using his campaign website to illegally coordinate with outside organizations that support his candidacy.³ Through postings on a designated webpage, Peters instructs organizations with which he is not permitted to coordinate to run advertisements beneficial to his campaign. This is not general candidate or campaign information and not in the usual format as that provided to the general public. Rather, Peters provides detailed content for ads

¹ VoteVets.Org Action Fund, Federal Election Commission ID: C90010620.

² This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1).

³ 52 U.S.C. § 30116(a)(7)(B)(i). *See also* Ryan Lovelace, 'Dark Money' Ad Raises Questions Over Peters Campaign for Senate, Washington Times, Nov. 18, 2019, available at: <https://www.washingtontimes.com/news/2019/nov/18/dark-money-ad-raises-questions-over-gary-peters-ca/> (Exhibit G).

and markets in which to run the ads based upon the campaign's internal data and advertising needs, and provides it in a format designed to directly communicate with outside organizations. In this case, VoteVets.Org Action Fund then republished campaign materials in the form of ads. This type of behavior is contrary to federal law that prohibits candidates from coordinating with outside groups⁴ and is a prohibited campaign contribution. As such, the Commission must immediately investigate and enforce the law.

Additionally, VoteVets.Org Action Fund has made an illegal contribution to Peters for Michigan by financing the dissemination, distribution, or republication of campaign materials.⁵ The 501(c)(4) organization has republished Peters for Michigan campaign materials, spending at least \$1,450,000 to run ads, in violation of federal law. The ads are currently running and the Commission must immediately investigate and enforce the law by requiring VoteVets.Org Action Fund to stop publishing campaign materials.

I. Facts

In recent years, several United States Senate candidates have used their campaign websites to request ads to be produced and run by outside organizations, with which the campaign is prohibited from coordinating.⁶ The websites use obscure pages to instruct outside groups on the content of the ad and where to run it (statewide or in a smaller media market).⁷ These webpages often provide photographs and video of the candidate to be used in the advertisement.⁸ The pages tend to identify themselves by using the "code words" of "voters need to know" or "people from state X should know," and identify the media market with specific geographical descriptions.⁹ The

⁴ See 52 U.S.C. § 30109(a)(2); 11 C.F.R. § 111.4(a).

⁵ 52 U.S.C. § 30116(a)(7)(B)(iii).

⁶ See Maggie Severns, *Democratic Candidates Writing Instructions to Super PACs on Their Websites*, Politico (July 15, 2016) (Exhibit A); see also, e.g., James Arkin, Twitter, Nov. 6, 2019 ("The new ad from VoteVets focusing on his service and defense focus . . . tracks closely w/ this post that went up on Peters campaign website 11/1 [link to "What Michiganders Need to Know" Webpage]") (Exhibit F); Ryan Lovelace, *'Dark Money' Ad Raises Questions Over Peters Campaign for Senate*, Washington Times, Nov. 18, 2019 (Exhibit G).

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

purpose and effect of these webpages is clear: to give explicit instructions to outside organizations on the content and audiences for advertisements supporting their campaigns.

On November 1, 2019, Senator Gary Peters, who is running for re-election in 2020, uploaded material on a subpage of his campaign website that contains photographs, b-roll footage, messaging, and instructions on the audience to target with the material.¹⁰ The Peters subpage is entitled, “An Important Update[:] WHAT MICHIGANDERS NEED TO KNOW.”¹¹ This subpage also includes a link to a document that obviously highlights six specific points within nine pages of research material.¹²

In order to find this new material, you must scroll down on the Peters homepage and click a specific image that is highlighted in bright red with the language “important update.” To find the six specific messages, you must scroll down from the update page, click a link, and look for black boxes that include capitalized text in white. The subpage and document focus entirely on a single issue: the military.¹³ Of the seven photographs posted on the subpage, six feature a younger Peters in military uniform.¹⁴ The seventh picture is a recent one of Peters in a Navy polo shirt.¹⁵ The b-roll footage includes scenes of Peters shaking hands with Navy veterans and touring what looks like an industrial plant and a control center.¹⁶ The subpage also includes new instructions about the particular media markets that should be targeted with the materials. This was accomplished by adding a note at the outset of the post specifying, “What Michiganders *from all parts of the state* need to know.”¹⁷

¹⁰ Peters for Michigan, An Important Update[:] What Michiganders Need To Know, available at <https://petersformichigan.com/what-michiganders-need-to-know/> (Exhibit B).

¹¹ *Id.*

¹² Peters for Michigan, <https://petersformichigan.com/wp-content/uploads/2019/11/191101-Security-Doc.pdf>.

¹³ Peters for Michigan, An Important Update[:] What Michiganders Need To Know, available at <https://petersformichigan.com/what-michiganders-need-to-know/> (Exhibit B).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.* (emphasis added).

Just days after the new material was uploaded, VoteVets.Org Action Fund, a 501(c)(4) group supporting Peters' re-election, released a statewide television ad praising Peters on military issues and relying almost entirely on the new material from Peters' website.¹⁸ VoteVets.Org Action Fund spent nearly \$750,000 on the media buy, entitled "Sen. Gary Peters Has Always Been There for Veterans."¹⁹ The advertisement utilized each kind of material posted on the "WHAT MICHIGANDERS NEED TO KNOW" webpage: messaging language, photographs, and b-roll footage. Specifically, the ad featured two of the six pictures of Peters as a young man in uniform, and the footage of Peters touring facilities and talking to veterans.²⁰ Lastly, the voiceover in the VoteVets.Org Action Fund advertisement reads from a transcript that is almost identical to the six specific messages highlighted and found within the document from the Peters' subpage.²¹

VoteVets.Org Action Fund released a second ad on December 3, 2019 entitled "Raise" that also uses material from the Peters' campaign "MICHIGANDERS NEED TO KNOW" webpage, such as b-roll of Peters riding a motorcycle and b-roll of Peters wearing a Navy cap, in addition to similar narration from the text on Peters' website subpage.²² VoteVets.Org Action Fund spent \$700,000 on the ad that will air for two weeks.²³

¹⁸ VoteVets.Org Action Fund, *Sen. Gary Peters Has Always Been There for Veterans*, <https://www.youtube.com/watch?v=a17K-i31q-c> (Exhibit C); see also, Beth LeBlanc and Craig Mauger, *Insider: Dark Money Veterans Group Backs Peters With Ads*, The Detroit News, Nov. 7, 2019, available at <https://www.detroitnews.com/story/news/local/michigan/2019/11/07/political-insider-dark-money-veterans-group-backs-peters-ads/2510254001/> (Exhibit E); James Arkin, Twitter, Nov. 6, 2019 ("The new ad from VoteVets focusing on his service and defense focus . . . tracks closely w/ this post that went up on Peters campaign website 11/1 [link to "What Michiganders Need to Know" Webpage]") (Exhibit F).

¹⁹ Malachi Barrett, *Partisan Attack Websites, Independent Groups Enter Michigan Senate Race*, Michigan Live (Nov. 7, 2019), <https://www.mlive.com/politics/2019/11/partisan-attack-websites-independent-groups-enter-michigan-senate-race.html> (Exhibit D).

²⁰ VoteVets.Org Action Fund, *Sen. Gary Peters Has Always Been There for Veterans*, <https://www.youtube.com/watch?v=a17K-i31q-c> (Exhibit C).

²¹ The communication uses photos, b-roll footage, and messaging content prepared by the Peters for Michigan campaign committee and posted on its website as discussed below.

²² VoteVets.Org Action Fund, *Raise*, <https://www.youtube.com/watch?v=oz1jZqkX85E>; Zach Montellaro, *Court Allows North Carolina Congressional Map To Stand*, POLITICO, Dec. 3, 2019, <https://www.politico.com/newsletters/morning-score/2019/12/03/court-allows-north-carolina-congressional-map-to-stand-783269>.

²³ *Id.*

II. Law

Under federal law, 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 \$5,000, or from any corporation or labor organization in any amount.²⁴ Federal candidates are also prohibited from accepting contributions from entities that accept contributions from corporations or labor organizations.²⁵ On the other hand, individuals, groups, and organizations are also prohibited from making any illegal contribution.²⁶ Contributions are broadly defined to include cash donations, but also “anything of value . . . for the purpose of influencing any election for Federal office.”²⁷

Additionally, federal law sets forth three specific expenditures that are defined as contributions:

(i) expenditures 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, shall be considered to be a contribution to such candidate;

(ii) expenditures made by any person (other than a candidate or candidate's authorized committee) in cooperation, consultation, or concert with, or at the request or suggestion of, a national, State, or local committee of a political party, shall be considered to be contributions made to such party committee; and

(iii) the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered to be an expenditure for the purpose of this paragraph[.]²⁸

²⁴ 52 U.S.C. §§ 30116, 30118.

²⁵ 52 U.S.C. §§ 30101, 30118.

²⁶ *See, e.g.*, 52 U.S.C. § 30116(a)(7)(B).

²⁷ 52 U.S.C. § 30101(8)(A).

²⁸ 52 U.S.C. § 30116(a)(7)(B).

In order to determine whether a communication was made in cooperation with a candidate under subsection (i), a three-part test applies: (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).²⁹

In order to determine whether a communication was a dissemination, distribution, or republication of campaign materials under subsection (iii), the “general rule” applies:

a. General Rule. The financing of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, the candidate's authorized committee, or an agent of either of the foregoing shall be considered a contribution for the purposes of contribution limitations and reporting responsibilities of the person making the expenditure. The candidate who prepared the campaign material does not receive or accept an in-kind contribution, and is not required to report an expenditure, unless the dissemination, distribution, or republication of campaign materials is a coordinated communication under 11 CFR 109.21 or a party coordinated communication under 11 CFR 109.37.³⁰

The only exceptions to the general rule are specifically enumerated:

b. Exceptions. The following uses of campaign materials do not constitute a contribution to the candidate who originally prepared the materials:

1. The campaign material is disseminated, distributed, or republished by the candidate or the candidate's authorized committee who prepared that material;
2. The campaign material is incorporated into a communication that advocates the defeat of the candidate or party that prepared the material;
3. The campaign material is disseminated, distributed, or republished in a news story, commentary, or editorial exempted under 11 CFR 100.73 or 11 CFR 100.132;
4. The campaign material used consists of a brief quote of materials that demonstrate a candidate's position as part of a person's expression of its own views; or
5. A national political party committee or a State or subordinate political party committee pays for such dissemination, distribution, or

²⁹ 11 C.F.R. § 109.21.

³⁰ 11 C.F.R. § 109.23(a).

republishing of campaign materials using coordinated party expenditure authority under 11 CFR 109.32.³¹

The contributions specified in subsections (i) and (iii) are separate and distinct ways to make an illegal contribution.

III. Analysis

A. Illegal Contribution of Coordinated Communication (52 U.S.C. § 30116(a)(7)(B)(i)).

Peters and Peters for Michigan have solicited and accepted an illegal contribution from VoteVets.Org Action Fund by coordinating communications valued at a minimum of \$1,450,000. Applying the three-prong “coordinated communication” test to the first ad entitled “Sen. Gary Peters Has Always Been There for Veterans,” the first “payment” prong is satisfied when a communication is paid for by an entity “other than that candidate, authorized committee, or political party committee.”³² Here, from the face of the advertisement, it is clear that the advertisement was paid for by VoteVets.Org Action Fund, and not Peters for Michigan. The advertisement’s disclaimer clearly states: “Paid for by VoteVets Action Fund.”³³

Second, the ad meets several of the “content” standards under 11 C.F.R. § 109.21(c): the communication is a public communication that “disseminates, distributes or republishes, in whole or in part, campaign materials prepared by a candidate or the candidate’s authorized committee,”³⁴ is a public communication that expressly advocates for the election or defeat of a clearly identified candidate for Federal office,³⁵ and “is the functional equivalent of express advocacy.”³⁶ All three

³¹ 11 C.F.R. § 109.23(b).

³² 11 C.F.R. § 109.21.

³³ VoteVets.Org Action Fund, *Sen. Gary Peters Has Always Been There for Veterans*, <https://www.youtube.com/watch?v=a17K-i31q-c> (Exhibit C).

³⁴ 11 C.F.R. § 109.21(c)(2). The communication uses photos, b-roll footage, and messaging content prepared by the Peters for Michigan campaign committee and posted on its website as discussed below. *See also, e.g.*, James Arkin, Twitter, Nov. 6, 2019 (“The new ad from VoteVets focusing on his service and defense focus . . . tracks closely w/ this post that went up on Peters campaign website 11/1 [link to “What Michiganders Need to Know” Webpage]”) (Exhibit F).

³⁵ 11 C.F.R. § 109.21(c)(3).

³⁶ 11 C.F.R. § 109.21(c)(5). The ads are clearly “an appeal to vote for or against a clearly identified Federal candidate.” This is evidenced by the fact that Peters desired this specific information be conveyed to specific voters as he requested on his campaign website.

of these standards are demonstrated by the ad—the ad reproduces the campaign material (as fully discussed in the following section), contains information that can only be understood to be providing information to convince a voter to vote for Peters, and the ad conveys information the candidate wanted voters to know because it is advocacy.

Third, the communication meets one of the “conduct” standards of 11 C.F.R. § 109.21(d): “The communication is created, produced, or distributed at the request or suggestion of a candidate, authorized committee, or political party committee.”³⁷ Although the content of the ad demonstrates it includes campaign materials, additionally the ad is clearly in response to a request by Peters to disseminate, distribute, and republish the campaign materials, and where to do so. Circumstances showing the request include: (1) the campaign using “code words” to identify the provided materials for the ad and identify the market in which to run the ad; (2) VoteVets.Org Action Fund reproducing the campaign materials specially identified and provided by the campaign; and (3) the close proximity in time between the campaign providing the materials and VoteVets.Org Action Fund running the ad.³⁸

Specifically, Peters appears to have uploaded content to a specific subpage of his website in order to communicate with VoteVets.Org Action Fund about the production and dissemination of the first \$750,000 political advertisement. Peters’ webpage uses the same “what voters need to know” language as other candidates who have communicated with super PACs via specific website posts to coordinate advertisements.³⁹ The website subpage contains no information about any issues other than the military, making it clear what the ad should use for its content. It is unlikely the only thing Peters wants Michiganders to know about him is his record on military issues. In addition, the subpage goes out of its way to clarify that Michiganders “*from all parts of the state*” should hear this message—the inclusion of this superfluous language makes sense only as an indicator of which markets to target. The campaign materials and advertisement also shared nearly identical messaging language (as detailed in the section below) and used the same photographs and b-roll footage. And finally, the temporal proximity between the November 1 webpage post

³⁷ 11 C.F.R. § 109.21(d)(1).

³⁸ Ryan Lovelace, ‘Dark Money’ Ad Raises Questions Over Peters Campaign for Senate, Washington Times, Nov. 18, 2019 (Exhibit G).

³⁹ *Id.*

and the November 7 air date of VoteVets.Org Action Fund's advertisement demonstrates the effectiveness.

The "WHAT MICHIGANDERS NEED TO KNOW" subpage is only designed to provide content and distribution directions to entities with which coordination is prohibited. Although the information, photos, and video were provided through a public web page, this does not excuse Peters' request. First, there must have been some other communications between the candidate and outside organizations for both parties to know how the information would be formatted, i.e. make the request on a specific subpage of the campaign webpage, titled with specific language of "Michiganders Need to Know," and use the coded language to provide the desired content and media market in which to run the ad. The Peters' campaign either asked how to format the request or was told of this method to make the request and assented to it. There is no other reasonable explanation for why the candidate formatted the information in this manner other than to directly coordinate with outside organizations. Moreover, only days elapsed between posting the information and the ad airing, indicating there was some other prior communication. The facts clearly demonstrate there must have been some "privately conveyed" information along with the use of the publicly available information.⁴⁰

Moreover, under the "request or suggestion" standard, the regulation does **not** state that it does not apply if the "material was obtained from a publicly available source."⁴¹ To interpret the "request or suggestion" standard as not applying if the material was obtained from a publicly available source is directly contrary to the plain language of the regulation, and unreasonable and contrary to the statute.⁴² The 2006 E&J notes the Commission decided that the publicly-available-

⁴⁰ See Coordinated Communications, 71 Fed. Reg. 33190, 33204-05 (June 8, 2006).

⁴¹ The regulations state: "Any one of the following types of conduct satisfies the conduct standard of this section whether or not there is agreement or formal collaboration, as defined in paragraph (e) of this section: 1. REQUEST OR SUGGESTION. i. The communication is created, produced, or distributed at the request or suggestion of a candidate, authorized committee, or political party committee; or ii. The communication is created, produced, or distributed at the suggestion of a person paying for the communication and the candidate, authorized committee, or political party committee assents to the suggestion.

⁴² Compare Coordinated Communications, 71 Fed. Reg. 33190, 33204-05 (June 8, 2006) (explaining the plain language of the statute did not contain an exception for the use of publicly available information and it would be inappropriate to include this type of exception); with FEC, Factual and Legal Analysis, Shaheen for Senate, MUR 6821 (Dec. 2, 2015) (stating "that a communication resulting from a general request to the public or the use of publicly available information, including information contained on a candidate's website, does not satisfy the content standard.") and FEC, First General Counsel's Report, MUR 7136 (Oct. 24, 2017) (same).

information-safe-harbor “more appropriately applies to only four of the five conduct standards, and is being added to the paragraphs currently containing those four conduct standards.”⁴³ The “request or suggestion” conduct standard is only applicable to a candidate’s request or suggestion that a communication be created, produced, or distributed, whereas the four standards to which the publicly-available-information-safe-harbor was added “all concern conduct that conveys material information that is subsequently used to create a communication.”⁴⁴ The request or suggestion standard is different than the other four because it simply is the ask, whereas the other four require substantive information be conveyed. Thus, by its plain language a “request or suggestion” is not “information” and the publicly-available-information-safe-harbor could not apply.

Additionally, it was noted that one concern commentators expressed was if the publicly-available-information-safe-harbor was added to the “request or suggestion” conduct standard, it may allow for a loophole that could be exploited by precluding “certain communications from satisfying the coordinated communications test simply because a portion of a given communication was based on publicly available information, even if a candidate privately conveyed a request that a communication be made.”⁴⁵ The choice not to apply the publicly-available-information safe harbor to the request or suggestion conduct standard was to make the regulation stronger—it prevents the argument that some of the information was publicly available and at no point does it state that if the request or suggestion was done publicly it is allowed. In fact, the concerns addressed ensured that no part of the ask could be made publicly. The language of the statute prevails—there is no safe harbor for publicly available information.

The ad was paid for by VoteVets.Org Action Fund, the content of the ad clearly demonstrates it is campaign materials, and the ad is clearly in response to a request by Peters to disseminate, distribute, and republish the campaign materials, and where to do so. The same analysis equally applies to the second ad entitled “Rise.”

⁴³ Coordinated Communications, 71 Fed. Reg. 33190, 33205 (June 8, 2006).

⁴⁴ *Id.*

⁴⁵ *Id.*

B. Illegal Contribution of Dissemination, Distribution, or Republication of Campaign Materials (52 U.S.C. § 30116(a)(7)(B)(iii))

VoteVets.Org Action Fund has made an illegal contribution by financing, in the amount of at least \$1,450,000,⁴⁶ “the dissemination, distribution, or republication, in whole or part” of Peters for Michigan campaign materials.⁴⁷ Specifically, for the ad entitled “Sen. Gary Peters Has Always Been There for Veterans,” VoteVets.Org Action Fund spent \$750,000 to run this ad on television. VoteVets.Org Action Fund created this ad by simply republishing campaign materials, i.e. specific message content, photos, and b-roll footage. The messaging was written by the campaign and the photos and video were created by and owned by the campaign.

When the ad is examined, it is clear that it simply republishes Peters for Michigan campaign materials from its website in the format of an ad.⁴⁸ The table below compares the ad’s voiceover with the material highlighted within the document on the Peters’ subpage six days before the ad aired.

⁴⁶ This is the total for both ads by VoteVets.Org that republished campaign materials. See Beth LeBlanc and Craig Mauger, *Insider: Dark Money Veterans Group Backs Peters With Ads*, The Detroit News, Nov. 7, 2019 (Exhibit E); Ryan Lovelace, *Dark Money’ Ad Raises Questions Over Peters Campaign For Senate*, The Washington Times, Nov. 18, 2019 (Exhibit G); Zach Montellaro, *Court Allows North Carolina Congressional Map To Stand*, POLITICO, Dec. 3, 2019, <https://www.politico.com/newsletters/morning-score/2019/12/03/court-allows-north-carolina-congressional-map-to-stand-783269>.

⁴⁷ 11 C.F.R. § 109.23.

⁴⁸ See, e.g., Malachi Barrett, *Partisan Attack Websites, Independent Groups Enter Michigan Senate Race*, Michigan Live (Nov. 7, 2019), <https://www.mlive.com/politics/2019/11/partisan-attack-websites-independent-groups-enter-michigan-senate-race.html> (Exhibit D); Ryan Lovelace, *‘Dark Money’ Ad Raises Questions Over Peters Campaign for Senate*, Washington Times, Nov. 18, 2019 (Exhibit G); James Arkin, Twitter, Nov. 6, 2019 (“The new ad from VoteVets focusing on his service and defense focus . . . tracks closely w/ this post that went up on Peters campaign website 11/1 [link to “What Michiganders Need to Know” Webpage]”) (Exhibit F).

<u>PETERS' SUBPAGE DOCUMENT</u> ⁴⁹	<u>VOTE VETS AD TRANSCRIPT</u> ⁵⁰ (Sen. Gary Peters Has Always Been There for Veterans)
"Gary served as a lieutenant commander in the U.S. Navy Reserve."	"After serving as a lieutenant commander in the Navy Reserve" (0:07 – 0:10)
"Soon after the September 11 th attacks, Gary volunteered to serve again."	"Gary Peters volunteered again after the September 11th attacks." (0:10 – 0:13)
"Gary made border security his top priority with the passage of key security bills."	"In the Senate, Peters has made keeping Michigan safe a priority." (0:14 – 0:18)
"Gary was named one of the most...bipartisan members."	"Working with Republicans" (0:18 – 0:19)
"Peters' [Bill]...enhances border inspections." "Peters' Threat Review Act ordered a review of security vulnerabilities at ports of entry."	"Pass[ed] stricter inspections at ports of entry" (0:19 – 0:22)
"[L]ed efforts to boost Michigan's defense industry."	"And leading the effort to grow Michigan jobs in the defense industry." (0:22 – 0:26)

The entire voiceover comes from the material highlighted within the document posted on the Peters' campaign website six days before its airing. In addition to the message content prepared for by Peters for Michigan, the ad also uses the campaign's photos and b-roll video footage, which are also materials owned by the campaign. There is no doubt that VoteVets.Org Action Fund has simply republished Peters for Michigan campaign materials in a video ad and thus, has disseminated, distributed, and republished campaign materials prepared by Peters for Michigan.

Then on December 3, 2019, VoteVets.Org Action Fund reportedly stated it had spent an additional \$700,000 to run a second ad on television.⁵¹ This ad also uses material from the

⁴⁹ Peters for Michigan, An Important Update[:] What Michiganders Need To Know, available at <https://petersformichigan.com/what-michiganders-need-to-know/> (Exhibit B); *see also*, <https://petersformichigan.com/wp-content/uploads/2019/11/191101-Security-Doc.pdf>.

⁵⁰ VoteVets.Org Action Fund, *Sen. Gary Peters Has Always Been There for Veterans*, <https://www.youtube.com/watch?v=a17K-i31q-c> (Exhibit C).

⁵¹ VoteVets.Org Action Fund, *Raise*, <https://www.youtube.com/watch?v=oz1jZqkX85E>; Zach Montellaro, *Court Allows North Carolina Congressional Map To Stand*, POLITICO, Dec. 3, 2019,

Peters' campaign "MICHIGANDERS NEED TO KNOW" webpage, such as b-roll of Peters riding a motorcycle and b-roll of Peters wearing a Navy cap, in addition to similar narration from the text on Peters' website subpage.⁵²

Finally, none of the exceptions of 11 CFR § 109.23 allow VoteVets.Org Action Fund to republish the campaign material. Only the exceptions expressly listed permit republication of campaign materials, and none of the five narrow circumstances⁵³ are even remotely applicable here.⁵⁴ Finally, unlike the analysis under subsection (i) above, there is no requirement the candidate knew of or requested the dissemination, distribution, or republication and there is no exception for publicly available campaign materials.

IV. Conclusion

Based on the timing, messaging, photographs, and b-roll found in the advertisement and campaign subpage, it appears that Peters is using the "WHAT MICHIGANDERS NEED TO KNOW" subpage to coordinate with outside entities. This conduct has resulted in the airing of at least two advertisements that likely constitutes an illegal \$1,450,000 in-kind contribution to Peters' campaign. If the Commission does not act and punish such a clear violation, candidates will continue coordinating with outside groups in violation of federal law.

<https://www.politico.com/newsletters/morning-score/2019/12/03/court-allows-north-carolina-congressional-map-to-stand-783269>.

⁵² *Id.*

⁵³ The exceptions are:

1. The campaign material is disseminated, distributed, or republished by the candidate or the candidate's authorized committee who prepared that material;
2. The campaign material is incorporated into a communication that advocates the defeat of the candidate or party that prepared the material;
3. The campaign material is disseminated, distributed, or republished in a news story, commentary, or editorial exempted under 11 CFR 100.73 or 11 CFR 100.132;
4. The campaign material used consists of a brief quote of materials that demonstrate a candidate's position as part of a person's expression of its own views; or
5. A national political party committee or a State or subordinate political party committee pays for such dissemination, distribution, or republication of campaign materials using coordinated party expenditure authority under 11 CFR 109.32.

11 C.F.R. § 109.23.

⁵⁴ 11 C.F.R. § 109.23.

FACT respectfully requests the Commission immediately investigate and hold the Respondents accountable.

Kendra Arnold, Executive Director
Foundation for Accountability & Civic Trust
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Subscribed and sworn to before me on December _____, 2019.

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