

**BEFORE THE FEDERAL ELECTION COMMISSION**

THE FOUNDATION FOR ACCOUNTABILITY  
AND CIVIC TRUST  
1717 K Street NW, Suite 900  
Washington, DC 20006

Complainant,

v.

SHERROD BROWN  
600 Pennsylvania Avenue SE, #15180  
Washington, DC 20003

FRIENDS OF SHERROD BROWN  
600 Pennsylvania Avenue SE, #15180  
Washington, DC 20003

OHIO DEMOCRATIC PARTY  
697 E Broad Street, Suite 101  
Columbus, OH 43315

OHIO GRASSROOTS VICTORY FUND  
600 Pennsylvania Avenue SE, #15180  
Washington, DC 20003

Respondents.

MUR No. \_\_\_\_\_

**COMPLAINT**

1. This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) and is based on information and belief that there is reason to believe Sherrod Brown, Friends of Sherrod Brown, the Ohio Democratic Party, and Ohio Grassroots Victory Fund (“the Brown JFC”) have been unlawfully soliciting excessive contributions for Sherrod Brown’s Senate campaign in

violation of the contribution limits under the Federal Election Campaign Act of 1971 (“FECA”), as amended, and FEC regulations.

2. Violations include Respondents’ solicitation of: (i) primary election contributions long after Ohio’s primary election occurred, despite the campaign having had no apparent primary election debt, 11 C.F.R. §§ 110.1(b), and (ii) contributions to the Ohio Democratic Party that were in fact contributions to Sherrod Brown because they were either “earmarked” for his campaign or otherwise knowingly designated for spending on behalf of Brown in the 2024 general election, 11 C.F.R. §§ 110.1(h).
3. Because the record available establishes “reason to believe” that Respondents have “committed, or [are] about to commit, a violation of [FECA],” the Commission should investigate these alleged violations. 52 U.S.C. § 30109(a)(2); *see also* 11 C.F.R. § 111.4(a).

#### **FACTUAL BACKGROUND**

4. Sherrod Brown is the Democratic nominee in Ohio’s 2024 general election for the U.S. Senate, having won Ohio’s uncontested Democratic primary election on March 19, 2024. His designated principal campaign committee is Friends of Sherrod Brown.
5. At the close of the most recent reporting cycle, ending March 31, 2024, Friends of Sherrod Brown reported no debt in connection with his primary election campaign—which is consistent with the fact that Brown ran unopposed—and a nearly \$16 million cash-on-hand surplus.

6. Friends of Sherrod Brown and the Ohio Democratic party, along with Sherrod Brown’s leadership PAC, are participants in the Brown JFC, one of Sherrod Brown’s authorized committees under 11 C.F.R. § 102.17(a)(1)(i).
7. The Brown JFC has been soliciting contributions for Friends of Sherrod Brown and the Ohio Democratic Party through the ActBlue online platform. A copy of the Brown JFC’s ActBlue contribution page as of May 8, 2024 is available at <https://secure.actblue.com/donate/ogvf> and attached as Exhibit A.
8. The Brown JFC’s ActBlue contribution page provides that any contributions received by the Brown JFC will be allocated according to a specific allocation formula by which, “The first \$3,300/\$5,000 from a person/multi-candidate PAC will be allocated to Friends of Sherrod Brown and designated to the primary election.” *Id.*
9. The Brown JFC’s ActBlue contribution page further provides that all “Contributions to Ohio Grassroots Victory Fund”—including contributions of up to \$10,000 made to the Ohio Democratic Party—“will fund our get-out-the-vote and voter turnout operation to get Sherrod across the finish line this November.” *Id.*

#### **SUMMARY OF THE LAW**

10. At present, federal law limits the amount of any contribution a Senate candidate or his campaign committee may solicit or accept from an individual donor “with respect to any election” to \$3,300. 52 U.S.C. § 30116(a)(1). These limits on candidate contributions thus apply separately with respect to each election. 11 C.F.R. § 110.1(j)(1).
11. In light of the per-election limits, a campaign committee’s Treasurer is responsible for ensuring that all contributions received by the committee are lawful and do not exceed a

contributor's contribution limits for that specific election. 11 C.F.R. § 103.3(b). The knowing acceptance of excessive contributions is prohibited under FECA and the regulations. 52 U.S.C. § 30116(f); 11 C.F.R. § 110.9.

12. Furthermore, “a candidate, individual holding Federal office, agent of a candidate or an individual holding Federal office, or an entity directly or indirectly established, financed, maintained or controlled by or acting on behalf of 1 or more candidates or individuals holding Federal office” cannot “solicit, receive, direct, transfer, or spend funds in connection with an election for Federal office . . . unless the funds are subject to the limitations, prohibitions, and reporting requirements of” FECA. 52 U.S.C. § 30125(e)(1) (A).
13. FEC regulations provide for written designations of candidate campaign contributions for “a particular election.” *See* 11 C.F.R. § 110.1(b)(2)-(4). The FEC has consistently recognized that such written designations may be facilitated through language set forth on solicitation devices, donor forms, or Web-based contribution pages. *See, e.g.,* First General Counsel's Report, MUR 7220 (Donald J. Trump for President, Inc.).
14. Contributions designated for an election that has already occurred may be raised and accepted by a candidate's campaign *only if* the campaign has “net debts outstanding” from the election. 11 C.F.R. § 110.1(b)(3)(iii)(B).
15. “Absent such debts, contributions to past elections would, in reality, influence future elections.” *Contribution and Expenditure Limitations and Prohibitions; Contributions by Persons and Multicandidate Political Committees*, 52 Fed. Reg. 760, 761 (Jan. 9, 1987). Accordingly, “the net debts rule, by effectuating the contribution limits, furthers the

fundamental goal of the FECA, which is to protect the integrity of the electoral process.”

*Id.*

16. Moreover, to prevent circumvention of the base contribution limits, FECA provides that the limits apply to contributions that are “in any way earmarked or otherwise directed through an intermediary or conduit” to a candidate or campaign. 52 U.S.C. § 30116(a)(8).
17. FEC regulations construe the term “earmarked” quite broadly, to include “a designation, instruction, or encumbrance, whether direct or indirect, express or implied, oral or written, which results in all or any part of a contribution or expenditure being made to, or expended on behalf of, a clearly identified candidate or a candidate’s authorized committee.” 11 CFR §110.6(b)(1).
18. Thus, “[i]f ... a donor gives money to a party committee but directs the party committee to pass the contribution along to a particular candidate, then the transaction is treated as a contribution from the original donor to the specified candidate.” *McCutcheon v. FEC*, 572 U.S. 185, 194 (2014).
19. FEC regulations further prevent circumvention of the candidate base limits through certain “unearmarked contributions to political committees likely to contribute” to a particular candidate. *Id.* at 201.
20. For example, under 11 C.F.R. § 110.1(h)(2), contributions an individual has made to a candidate’s campaign must be aggregated with any contributions that contributor makes to a political committee which has supported or anticipates supporting the same candidate if the individual “give[s] with the knowledge that a substantial portion [of her contribution] will be contributed to, or expended on behalf of,” that candidate. 11 C.F.R.

§ 110.1(h)(2); *see also McCutcheon*, 572 U.S. at 202 (discussing same); 52 Fed. Reg. at 765 (same).

## CAUSES OF ACTION

### COUNT I:

#### **THERE IS REASON TO BELIEVE THAT SHERROD BROWN AND HIS AGENTS HAVE UNLAWFULLY SOLICITED –AND POTENTIALLY ACCEPTED – PRIMARY ELECTION CONTRIBUTIONS IN EXCESS OF CONTRIBUTION LIMITS**

21. Based on Friends of Sherrod Brown’s public reports filed with the FEC, there is reason to believe Sherrod Brown and his campaign have violated FECA and the FEC’s implementing regulations by knowingly and willfully soliciting contributions in excess of FECA’s contribution limits.
22. Friends of Sherrod Brown has reported no debts outstanding in connection with Sherrod Brown’s uncontested 2024 primary election. Yet since the March 19 primary election, Brown and his campaign, through the Brown JFC, continue to actively solicit contributions expressly designated for his primary election. As noted, the JFC’s ActBlue contribution page specifically states that “[t]he first \$3,300/\$5,000 from a person/multi-candidate PAC will be allocated to Friends of Sherrod Brown and designated to the primary election.” Exhibit A.
23. There is reason to believe that Sherrod Brown and Friends of Sherrod Brown’s continued solicitations of funds for an election that has long ago occurred, when the campaign had no debts outstanding from the election, may have resulted in several violations of FECA and FEC regulations, including 52 U.S.C. §§ 30116(a)(1), 30116(f), and § 30125(e), and 11 C.F.R. §§ 110.1(b) and 110.9.

**COUNT II:**

**THERE IS REASON TO BELIEVE THAT SHERROD BROWN, THE OHIO DEMOCRATIC PARTY, AND THEIR AGENTS HAVE KNOWINGLY SOLICITED EXCESSIVE CONTRIBUTIONS FOR THE 2024 GENERAL ELECTION**

24. As described above, all contributions of up to \$10,000 made to the Ohio Democratic Party through the Brown JFC have been designated for spending on Sherrod Brown's general election campaign. Specifically, the Brown JFC's contribution page expressly states that all contributions made to the JFC "will fund" the state party's "get-out-the-vote and voter turnout operation to get Sherrod across the finish line this November." *Id.*
25. As a result of this express designation language, there is reason to believe contributors to the Brown JFC have been making contributions to the Ohio Democratic Party with knowledge that their funds *will* be spent on the party's "get-out-the-vote and voter turnout operation" explicitly for Sherrod Brown, meaning all amounts contributed to the state party through the Brown JFC must be deemed general-election contributions to Sherrod Brown.
26. Indeed, this express designation language would appear to qualify as an express "earmark" under the FEC's broad definition at 11 C.F.R. § 110.6(b)(1). In fact, the scenario presented fits squarely within the example of prohibited earmarking described in *McCutcheon*, where "a donor gives money to a party committee but directs the party committee to pass the contribution along to a particular candidate." *McCutcheon*, 572 U.S. at 194. Accordingly, all contributions made to the state party in response to the Brown JFC's designation language should be deemed "contributions from the person to" Sherrod Brown in order to avoid direct circumvention of the limits. 11 C.F.R. § 110.6(a).

27. Given the Brown JFC's express designation language, there is no question that contributors who have donated to the Ohio Democratic Party through the Brown JFC have contributed with the "knowledge that a substantial portion" of their contribution to the Ohio Democratic Party "will be ... expended on behalf of" Sherrod Brown in the 2024 general election. Those contributions, consequently, should have been aggregated with any general election contributions the same contributors made to Sherrod Brown pursuant to 11 C.F.R. § 110.1(h), likely resulting in excessive contributions and various reporting deficiencies by Respondents.

#### **PRAYER FOR RELIEF**

28. Wherefore, the Commission should find reason to believe that Sherrod Brown, Friends of Sherrod Brown, the Ohio Democratic Party, and Ohio Grassroots Victory Fund have violated federal law and conduct an immediate investigation under 52 U.S.C. § 30109(a) (2).
29. The Commission should seek appropriate sanctions against Brown and his agents for any and all violations, including civil penalties sufficient to deter future violations.
30. The Commission should issue an injunction prohibiting Respondents from committing any and all violations in the future.
31. The Commission should seek such additional remedies as are necessary and appropriate to ensure compliance with the FECA.





# Help Re-Elect Sherrod Brown

Sherrod has long been focused on building a country that works for everyone -- not just the wealthy and well-connected. And in the Senate, he's a voice for Ohioans and Americans to strengthen wages, create job opportunities, and protect all our rights -- from restoring access to reproductive care to fighting back against voter suppression.

Sherrod is on the ballot this year -- and we'll be honest with you, this is his toughest race yet.

That's why we need your help to prepare for our most competitive and expensive race yet. It's going to take months of hard work, organizing, and fundraising.

Contributions to Ohio Grassroots Victory Fund will fund our get-out-the-vote and voter turnout operation to get Sherrod across the finish line this November.

## Choose an amount:

Your contribution will benefit Ohio Grassroots Victory Fund.

**\$1,000**

**\$2,500**

**\$3,300**

**\$5,000**

**\$10,000**

**\$15,000**

**\$18,300**


\$

## Make it monthly!

**Yes, count me in!**

**No, donate once**

## Checkout

 Have an ActBlue Express account? [Sign in to give faster.](#)



Pay with card

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**rayru**

Or

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### Contribution rules

1. I am a U.S. citizen or lawfully admitted permanent resident (i.e., green card holder).
2. This contribution is made from my own funds, and funds are not being provided to me by another person or entity for the purpose of making this contribution.
3. I am at least eighteen years old.
4. I am not a federal contractor.
5. I am making this contribution with my own personal credit card and not with a corporate or business credit card or a card issued to another person.

Contributions to Ohio Grassroots Victory Fund will be allocated as follows:

The first \$3,300/\$5,000 from a person/multi-candidate PAC will be allocated to Friends of Sherrod Brown and designated to the primary election. The next \$3,300/\$5,000 from a person/multi-candidate PAC will be allocated to Friends of Sherrod Brown and designated to the general election. The next \$10,000 from a person's/\$5,000 from a multi-candidate committee's contribution will be allocated to the Ohio Democratic Party's federal account. The next \$5,000/\$5,000 from a person/multi-candidate PAC will be allocated to America Works Federal PAC.

Any contributor may designate his or her contribution for a particular participant by contacting [zamore@capcompliance.com](mailto:zamore@capcompliance.com). The allocation formula above may change if any contributor makes a contribution that, when allocated, would exceed the amount that the contributor may lawfully give to any participant.

By proceeding with this transaction, you agree to ActBlue's [terms & conditions](#).