



April 17, 2024

Chairman Christopher A. Coons
Vice Chairman James Lankford
U.S. Senate Select Committee on Ethics
220 Hart Building
United States Senate, Washington, DC 20510

Submitted via email (mailbox_office@ethics.senate.gov)

Dear Chairman Coons and Vice Chairman Lankford:

Campaign Legal Center (“CLC”) respectfully requests that the U.S. Senate Select Committee on Ethics (“Ethics Committee”) investigate whether Senator Ted Cruz is disguising speaking fees as payments to a super PAC in violation of the honorarium ban in the Ethics in Government Act (“EIGA”) and Senate rules. Specifically, Sen. Cruz hosts a podcast sponsored by iHeartMedia (“iHeart”), which includes exclusive live taping access sold by the Premier Speakers Bureau. Sen. Cruz reports receiving no income from iHeart, but iHeart reported paying over \$600,000 in “digital revenue” to a super PAC supporting Sen. Cruz’s reelection campaign. The Ethics Committee should investigate whether these donations to the super PAC are illegally being made as compensation for Sen. Cruz in lieu of honoraria.¹

¹ See Jared Gans, *Cruz picks up corporate partner for podcast*, The Hill (Oct. 12, 2022), <https://thehill.com/homenews/senate/3684482-cruz-picks-up-corporate-partner-for-podcast/> (“Cruz described iHeartRadio as a ‘monster’ that has 850 stations across the country. He said they were not looking for the partnership, but iHeartRadio saw the podcast and said they want to take it to ‘the next level,’ promoting it on their radio stations and podcasts.”); see also Todd J. Gillman, *Texas Sen. Ted Cruz partners with iHeartRadio, expands to three podcasts a week*, Dallas Morning News (Oct. 10, 2022), <https://www.dallasnews.com/news/politics/2022/10/10/texas-sen-ted-cruz-partners-with-iheartradio-expands-to-three-podcasts-a-week/> (“Cruz aides and iHeart executives didn’t provide details of the deal, including how much Cruz will be paid for rights to the podcast, which is available on the popular iHeartRadio app.”).

The same federal law that prohibits iHeart from paying Sen. Cruz directly for appearing on a podcast also prohibits iHeart from paying Sen. Cruz indirectly. The honorarium ban only allows a corporate sponsor to make a charitable donation of \$2,000 or less in lieu of giving an honorarium directly to a senator. Such payments cannot be given to a political committee instead. The Ethics Committee is responsible for guarding the integrity of the Senate, and it should take that responsibility seriously by investigating such a blatant attempt to circumvent the law. The public has a right to know that all senators who have openly engaged in unethical activities will be held accountable by the Ethics Committee.

I. Senators are Prohibited from Directing Payments to Political Committees in Lieu of Honoraria

Senators are banned from receiving payments for making appearances or speeches. Pursuant to EIGA, as adopted by Senate Rule 36, “[a]n individual may not receive any honorarium while that individual is a [Senator].”² Honorarium is defined as “a payment of money or any thing of value for an appearance, speech or article (including a series of appearances, speeches, or articles if the subject matter is directly related to the individual’s official duties or the payment is made because of the individual’s status with the Government).”³

With respect to activities covered under the ban, the Committee defines a speech to include “an address, oration, talk, lecture, or other form of oral presentation . . . broadcast over the media”⁴

An exception to this ban is that a senator may direct the sponsor of an appearance to make a payment to a charity instead of paying the senator. Pursuant to 5 U.S.C. § 13143(c), any honorarium which may have otherwise been paid to a member of Congress “but which is paid instead on behalf of such Member . . . to a charitable organization, shall be deemed not to be received by such Member.” This exception only applies to charitable payments up to \$2,000.⁵

This charitable donation is a narrow exception that does not apply to payments made to political committees or for-profit entities. The exception only applies to certain tax-exempt entities that do “not participate in, or intervene in

² 5 U.S.C. § 13143(b).

³ 5 U.S.C. § 13141(2).

⁴ Select Committee on Ethics, *Senate Ethics Manual* 99 (2003). The House Committee on Ethics’ examples of such speeches include appearances on broadcast talk shows, “The Talk” and “After Midnight.” House Committee on Ethics, *2024 Instruction Guide* SF-10 (2024), https://ethics.house.gov/sites/ethics.house.gov/files/documents/FDInstructionGuide_current.pdf.

⁵ 5 U.S.C. 13143(c).

(including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.”⁶

The Senate Ethics Committee is authorized to “receive complaints and investigate allegations of improper conduct which may reflect upon the Senate, violations of law, violations of the Senate Code of Official Conduct, and violations of rules and regulations of the Senate, relating to the conduct of individuals in the performance of their duties as Members of the Senate.”⁷ As such, it is within the Committee’s jurisdiction to investigate violations of the honoraria ban.

II. Senator Cruz Appears on a Podcast Sponsored by iHeartMedia

On January 23, 2020, Sen. Cruz started a podcast called Verdict with Ted Cruz (“Verdict”).⁸ On the podcast, Sen. Cruz and his co-host discuss the news and take listeners “behind the scenes of the biggest political debates that define our country.”⁹

On or about October 10, 2022, reports surfaced that iHeart entered into a syndication deal to produce Verdict.¹⁰ iHeart is a media company with multiple listening platforms, including podcasting. It is publicly traded on NASDAQ and retains lobbyists.¹¹ The syndication deal between iHeart and Sen. Cruz includes iHeart promoting his podcast across 850 stations, providing Verdict with a new co-host, and expanding the number of episodes from one to three per week.¹² According to public statements on the podcast, the funding Verdict is receiving from iHeart is enough to “fund production, dump a whole bunch of money into marketing” and “make this show sustainable . . . for the next years.”¹³

In addition to producing the podcast, iHeart generates advertising revenue for the podcast. The co-host, Ben Ferguson, receives a share of the revenue.¹⁴ Another share of the advertising revenue is paid to Sen. Cruz’s Super PAC, Trust

⁶ 26 U.S.C. § 170(c)(2)(D); Select Committee on Ethics, *Senate Ethics Manual* 99 (2003); 5 U.S.C. § 13143.

⁷ Select Committee on Ethics, *Senate Ethics Manual* 4 (2003).

⁸ @tedcruz, Twitter (Jan. 22, 2020), <https://twitter.com/tedcruz/status/1220069926595190792?s=20>.

⁹ Ted Cruz and Ben Ferguson, *Verdict with Ted Cruz*, iHeart Podcasts (last updated Apr. 17, 2024), <https://www.iheart.com/podcast/867-verdict-with-ted-cruz-56253661/>.

¹⁰ Nicole Silverio, *Ted Cruz Gets Syndication Deal, Expands Podcast to Three Times a Week*, Daily Caller (Oct. 10, 2022) <https://dailycaller.com/2022/10/10/ted-cruz-syndication-deal-expands-podcast-three-times-a-week/>.

¹¹ iHeartMedia LD-2 Lobbying Report (Q4 2018), <https://lda.senate.gov/filings/public/filing/a24b9f7f-80b6-4696-b6c6-cc364869dcef/print/>.

¹² *The Future of Verdict*, Verdict with Ted Cruz 6:16-8:31 (Oct. 7, 2022).

¹³ Silverio, *supra* note 10.

¹⁴ Roger Sollenberger and Mini Racker, *The Ugly Truth Behind Ted Cruz’s Super PAC Podcast*, The Daily Beast (Apr. 9, 2024), <https://www.thedailybeast.com/ted-cruz-is-turning-an-allied-super-pac-into-a-media-company>.

and Courage PAC (“TC PAC”). Sen. Cruz has stated that he is not paid to appear on his podcast, but rather “volunteers his time to host [the] podcast and isn’t compensated for it.”¹⁵

Additional revenue is generated by the Premiere Speakers Bureau (“Premiere”), which is a booking agency website. Premiere offers exclusive tapings of the podcast for an unknown price, as well as a “[s]pecial audience Q&A with Senator Ted Cruz” following the podcast recording.¹⁶ Whether the money from these appearances is paid directly to Sen. Cruz, or if the money goes to TC PAC through iHeart is unclear.

III. iHeartMedia Makes Payments from the Podcast’s Revenue to a Political Committee Supporting Senator Cruz

TC PAC is an independent-expenditure-only political committee, also known as a super PAC.¹⁷ According to its official website, “Truth and Courage PAC’s focus is ensuring that Ted Cruz is re-elected to the United States Senate in 2024.”¹⁸

On March 1, 2023, iHeart made an initial contribution to TC PAC, described as “Digital Income,” on TC PAC’s report filed with the Federal Election Commission.¹⁹ From April 2023 to February 2024, iHeart made additional payments to TC PAC for “Digital Income” and “Digital Revenue,” totaling \$630,859.09.²⁰

¹⁵ James Bickerton, *Ted Cruz Payments Raise Alarm Bells*, Newsweek (Apr. 2, 2024), <https://www.newsweek.com/ted-cruz-payments-raise-alarm-bells-iheart-media-1885862>.

¹⁶ Premiere Speakers Bureau, *Verdict with Ted Cruz*, <https://premierespeakers.com/verdict-podcast> (last visited Apr. 16, 2024).

¹⁷ Truth and Courage PAC, Amended Statement of Org. at 2 (Jan. 5, 2024), <https://docquery.fec.gov/pdf/833/202401059599977833/202401059599977833.pdf>.

¹⁸ Truth and Courage PAC, <https://truthandcouragepac.com/> (last viewed Apr. 16, 2024).

¹⁹ Truth and Courage PAC, Receipts, “Other Federal Receipts (Line 17),” 2023-24, https://www.fec.gov/data/receipts/?+committee_id=C00796045&cycle=2024&data_type=processed&data_type=processed&committee_id=C00796045&line_number=F3X-17 (last viewed Apr. 16, 2024).

²⁰ *Id.*

iHeartMedia Payments to Truth and Courage PAC

Contributor	Description	Date	Amount
iHeart Media Management Services Inc.	Digital Income	3/1/2023	\$48,797.87
iHeart Media Management Services Inc.	Digital Income	4/24/2023	\$77,352.33
iHeart Media Management Services Inc.	Digital Revenue	8/30/2023	\$129,030.56
iHeart Media Management Services Inc.	Digital Revenue	11/16/2023	\$160,916.35
iHeart Media Management Services Inc.	Digital Revenue	2/15/2024	\$214,752.98
Total			\$630,850.09

IV. Sen. Cruz Appears to be Disguising Honoraria as Payments to a Political Committee

Honorarium is defined as “a payment of money or any thing of value” for such appearances, regardless of whether those payments are given directly to the senator in the form of income or are provided in another way.²¹ If Sen. Cruz appears on a podcast in exchange for contributions to a super PAC to support his reelection campaign, that conduct violates the honorarium ban. The facts here strongly support this assertion and should prompt an investigation by the Ethics Committee.

First, Sen. Cruz’s hosting of Verdict podcast falls under the scope of conduct contemplated by the honorarium ban. The Senate Ethics Manual specifically mentions a series of appearances broadcast over the media, and regular podcast hosting fits squarely within that description.²²

Second, iHeart is donating money derived from Sen. Cruz’s appearances on the podcast to TC PAC, seemingly in lieu of paying Sen. Cruz directly. Not only has iHeart acknowledged that the funds it contributed to TC PAC were derived from ad sales associated with Sen. Cruz’s podcast;²³ it also had *never* donated to TC PAC

²¹ 5 U.S.C. § 13141(2).

²² Select Committee on Ethics, *Senate Ethics Manual* 99 (2003).

²³ Molly Bohannon, *Super PAC Backing Ted Cruz Received \$215,000 From iHeartMedia—Fueling Ethics Concerns After Podcast Deal*, *Forbes* (updated Apr. 4, 2024), <https://www.forbes.com/sites/mollybohannon/2024/03/20/super-pac-backing-ted-cruz-received-215000-from-iheartmedia-fueling-ethics-concerns-after-podcast->

prior to Sen. Cruz's and Verdict's partnership with iHeart.²⁴ TC PAC's disclosure reports show that since March 1, 2023, shortly after iHeart began platforming Sen. Cruz's podcast, it has received just over \$630,000 from iHeart.²⁵ Additionally, not only is iHeart financially contributing to Sen. Cruz's reelection via TC PAC, it has also agreed to pay costs associated with the production, marketing, and distribution of Sen. Cruz's podcast—undoubtedly things of value in exchange for his appearances.

The subject matter of his appearances are directly related to his official duties, and the payments are almost certainly made to TC PAC because of Sen. Cruz's position as a senator—factors that counsel in favor of this podcast arrangement constituting a violation of the honorarium ban.²⁶ The podcast extensively talks about political issues before the Senate, clearly indicated by the titles of the episodes, such as “Schumer's Plan to Nuke the Constitution to Avoid Mayorkas Impeachment & Hide Dem's Open Borders Catastrophe”; “Historic & Tragic: Democrats Turn Their Backs on Israel, Demand that they Stop Killing Hamas Terrorists”; “Democrats Abandon Israel-Not Just the Squad, but now Schumer & Biden, plus Mexican President Tries to Blackmail America on Illegal Immigration.”²⁷ Without Sen. Cruz's insider status as a senator, it is not clear why he would appear on Verdict discussing these kinds of issues.

Third, it seems likely that Sen. Cruz has either implicitly or explicitly directed iHeart to divert any money derived from his podcast to TC PAC, conduct that the Senate has deemed to violate the honoraria ban. While the terms of iHeart's podcast agreement with Sen. Cruz are not public, and the company's recent comments do not explain why it is sending money derived from ad sales associated with Sen. Cruz's podcast to a super PAC supporting his reelection campaign, there is one reasonable and logical inference to be drawn from the circumstances: Sen. Cruz requested or directed, and iHeart agreed, that iHeart would transmit these funds to TC PAC, which then would use the funds to support Cruz's candidacy. Using a third party to circumvent honoraria limits and still derive a financial benefit from a speaking engagement is a clear violation of the law.²⁸

[deal/?sh=5a8e3cdb60ac](#); see Benjamin Wermund, *Ted Cruz campaign says he doesn't get paid to podcast. iHeartMedia gave \$630K to a PAC backing him*, Houston Chronicle (Mar. 29, 2024), <https://www.houstonchronicle.com/politics/texas/article/ted-cruz-podcast-iheartmedia-19373225.php>.

²⁴ Truth and Courage PAC, Receipts, “Other Federal Receipts (Line 17),” *supra* note 20.

²⁵ *Id.*

²⁶ 5 U.S.C. § 13141(2).

²⁷ Apple Podcasts, *Verdict with Ted Cruz*, <https://podcasts.apple.com/us/podcast/verdict-with-ted-cruz/id1495601614>.

²⁸ See S.Rept. 101-382, 101st Cong., 2d Sess. 11, 13-14 (1990). Senator Durenberger entered into an agreement with his publisher to promote his book through speaking engagements in which the

Finally, no exceptions to the honoraria ban apply in this case. The provision of anything of value in exchange for a series of appearances is prohibited except in very narrow circumstances where a payment of \$2,000 or less is directed by the Senator to be paid to a 501(c)(3) organization in lieu of payment to himself. If Sen. Cruz did direct these payments to TC PAC in lieu of direct payments to himself, this exception would not apply. The payments to TC PAC totaled more than \$600,000, well over the allowable limit, and TC PAC is a non-501(c)(3) political organization that participates in political campaigns on behalf of a candidate for office, making it an ineligible recipient for these types of payments.

In short, publicly available evidence suggests that iHeart transmitted funds to TC PAC in exchange for Sen. Cruz appearing and speaking on the podcast, likely at Sen. Cruz's request. As a result, the funds iHeart contributed to TC PAC in return for Sen. Cruz participating in the podcast appear to qualify as honorarium. An Ethics Committee investigation can uncover additional facts to determine whether a violation occurred.

V. Conclusion

There is a reasonable basis to believe that Sen. Cruz violated Senate Rules and federal law by soliciting or directing iHeartMedia's corporate funds to TC PAC. For this reason, CLC respectfully requests the Senate Ethics Committee uphold its duty to maintain the integrity of the Senate by investigating whether Sen. Cruz engaged in unethical activities.

Respectfully Submitted,

_____/s/_____

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_____/s/_____

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money made by those engagements would be given to him as "stipend" payments, to circumvent honoraria limits.