UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

COMMON CAUSE, ROBERT HUNTER, SERVICE EMPLOYEES INTERNATIONAL UNION LOCAL 32BJ, and EMPIRE STATE 32BJ SEIU PAC,

Plaintiffs,

-against-

DEPARTMENT OF HOMELAND SECURITY; MARKWAYNE MULLIN, *Secretary of the Department of Homeland Security, in his official capacity*; OFFICE OF MANAGEMENT AND BUDGET; RUSSELL VOUGHT, *Director of the Office of Management and Budget, in his official capacity*; EXECUTIVE OFFICE OF THE PRESIDENT; and SUSIE WILES, *White House Chief of Staff, in her official capacity*,

Defendants.

Case No. 1:26-cv-08882 (JLR)

ORDER

JENNIFER L. ROCHON, United States District Judge:

Plaintiffs Common Cause, Robert Hunter ("Hunter"), Service Employees International Union Local 32BJ ("SEIU 32BJ"), and Empire State 32BJ SEIU PAC ("Empire PAC") (collectively, "Plaintiffs") bring this action against Defendants Department of Homeland Security ("DHS"), Markwayne Mullin, Office of Management and Budget ("OMB"), Russell Vought, Executive Office of the President, and Susie Wiles (collectively "Defendants"). *See* Dkt. 1. Plaintiffs challenge the alleged use of federal appropriations of taxpayer funds to finance a television advertisement campaign featuring President Donald Trump in the weeks before the November 2026 midterm elections, contending that the expenditures, among other things, exceed the purposes authorized by Congress and violate restrictions on publicity and propaganda. Now before the Court is a motion filed by Plaintiffs Hunter, SEIU 32BJ, and Empire PAC (the

"moving Plaintiffs") on the evening of October 8, 2026, for a temporary restraining order and stay under Section 705 of the Administrative Procedure Act ("APA"), 5 U.S.C. § 705. Dkt. 25 ("Mot.").

The Court held an initial conference to discuss the request for immediate injunctive relief on Friday, October 9, 2026, the morning after the motion was filed, because the moving Plaintiffs sought relief before the weekend when the advertisements would continue to be shown. The Court afforded the parties an opportunity to highlight or present any arguments or information related to the motion for expedited relief. Defendants did not have any relevant information at the conference and the Court permitted them additional time to respond to the motion, ordering expedited briefing through the weekend and a follow-up conference on October 13, 2026. Such briefing concluded by mid-day on October 11, 2026. Dkts. 37-40.

Based on the materials provided, the Court does not require the additional conference on October 13, 2026 and such conference is adjourned. The Court finds that (1) the present motion is not moot, (2) there is standing to proceed, and (3) the moving Plaintiffs have demonstrated that they are likely to succeed on the merits, will suffer irreparable harm in the absence of an injunction, the balance of the equities tips in their favor, and an injunction serves the public interest. A full opinion shall follow shortly. Therefore, the Court GRANTS the moving Plaintiffs' motion, and IT IS HEREBY:

ORDERED that under 5 U.S.C. § 705, the purchase order entered into on or about September 20, 2026 between Customs Border Protection ("CBP") and Lepugh, Inc., doing business as LMD Agency, Inc., ("LMD") ("September 20, 2026 purchase order") is stayed, including all future payments made thereunder; it is further

ORDERED that under 5 U.S.C. § 705, the Office of Management and Budget's ("OMB") apportionment of $20 million to fund the development, creation, and/or airing of the

advertisements covered by the September 20, 2026 purchase order, including but not limited to The Country He Loves, Celebrating the Enduring Spirit, Final Battle, To the Great Proud People of Iran, and Maduro (collectively "the challenged advertisements") is stayed; it is further

ORDERED that Defendants are enjoined from using, disbursing, or transferring funds appropriated to the Department of Homeland Security ("DHS") to develop, create, disseminate, place, distribute, publish, or air the challenged advertisements; and it is further

ORDERED that Defendants shall cancel or cause to be cancelled any slot, placement, reservation, or arrangement for the airing or dissemination of the challenged advertisements, including those placements for the evening of October 11, 2026;

ORDERED that Defendants shall not enter into, renew, or expand any agreement authorizing the development, creation, dissemination, placement, or airing of the challenged advertisements; and it is further

ORDERED that the foregoing instructions bind Defendants' officers, agents, employees, contractors, and anyone acting in concert with them. *See* Fed. R. Civ. P. 65(d)(2).

ORDERED that Defendants shall immediately provide a copy of this order to LMD, under Federal Rule of Civil Procedure 65(d)(2)(C), and that LMD, as a contractor that is in active concert and participation with Defendants, is enjoined from continuing to run or place the challenged advertisements; and it is further

ORDERED that Defendants will file a status report within 24 hours of the entry of this temporary restraining order and Section 705 stay, confirming compliance with this Order; and it is further

ORDERED that this Order shall remain in effect until 14 days from today, subject to an extension of this Court; and it is further

ORDERED that, in the Court's discretion, Plaintiffs shall not be required to post a bond.

This Order shall be effective as of 6:45 p.m. on October 11, 2026 and the Clerk of Court is respectfully requested to close the motion at Dkt. 25. The Court will reschedule the October 13, 2026 conference to discuss next steps in this matter.

Dated: October 11, 2026
New York, New York

SO ORDERED.

Jennifer Rochon

JENNIFER L. ROCHON
United States District Judge