

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2
3 In the Matter of)
4)
5 Ron Paul 2012 Presidential Campaign Committee, Inc.)
6 and Lori Pyeatt in her official capacity as treasurer)
7 Dimitri Kesari) MUR 6800
8 Designer Goldsmiths, Inc.)
9 Kent Sorenson)

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11 **SECOND GENERAL COUNSEL’S REPORT**

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14 **I. ACTIONS RECOMMENDED**

15 Authorize the Office of General Counsel to enter into pre-probable cause conciliation
16 with Ron Paul 2012 Presidential Campaign Committee, Inc. and Lori Pyeatt in her official
17 capacity as treasurer (“Committee”), and with Dimitri Kesari and Designer Goldsmiths, Inc.
18 (“DGI”) prior to a finding of probable cause to believe, and approve the attached proposed
19 conciliation agreements. Close the file with respect to respondent Kent Sorenson.

20 **II. BACKGROUND**

21 This matter relates to allegations that the Committee,¹ Dimitri Kesari, DGI, and Iowa
22 state senator Kent Sorenson violated the Federal Election Campaign Act of 1971, as amended
23 (the “Act”), in connection with payments the respondents made to Sorenson to switch his support
24 from Michele Bachmann to Ron Paul leading up to the 2012 Iowa presidential caucus. The
25 Commission previously found reason to believe that the Committee knowingly and willfully
26 violated 52 U.S.C. §§ 30118 and 30104(b)(5) by accepting a prohibited corporate in-kind
27 contribution and failing to properly report its disbursements, that DGI knowingly and willfully
28 violated 52 U.S.C. § 30118 by making a prohibited in-kind corporate contribution, and that

¹ The Committee was Representative Ron Paul’s authorized committee during his 2012 presidential campaign. *See* Ron Paul 2012 Presidential Campaign Committee, Inc., Statement of Organization (May 13, 2011).

Kesari, an officer and director of DGI, knowingly and willfully violated 52 U.S.C. § 30118 by consenting to DGI making a prohibited corporate in-kind contribution.²

Sorenson, Kesari, Ron Paul campaign chairman Jesse Benton, and Ron Paul campaign manager John Tate were criminally prosecuted for their participation in the scheme to conceal payments to Sorenson for his services to benefit the Committee. On September 16, 2014, Sorenson pleaded guilty to causing the filing of false disclosure reports with the Commission and obstructing a federal investigation.³ On May 5, 2016, Kesari, Benton, and Tate were convicted of causing false campaign contribution reports to be filed with the Commission.⁴ On June 30, 2016, the Commission notified Kesari, DGI, and the Committee (collectively, "Respondents") that it found reason to believe they violated the Act.⁵ Counsel for Respondents requested extensions until after the criminal appeals had concluded to respond to the Commission's findings because they asserted that certain information needed for their responses was under seal

² See Second Amended Certification at ¶ 1.a.-e., MUR 6800 (Ron Paul 2012 Presidential Campaign Committee, Inc.) (July 19, 2016).

³ See *United States v. Kent Leroy Sorenson*, Case No. 4:2014cr00103 (S.D. Iowa Sept. 16, 2014). The district court sentenced Sorenson to 15 months in prison for each count to be served concurrently and assessed a fine of \$200. See Judgment, *Sorenson*, 4:2014cr00103 (S.D. Iowa Jan. 17, 2017). The Eighth Circuit Court of Appeals affirmed the district court's sentence on December 12, 2017. See *United States v. Kent Leroy Sorenson*, 705 Fed. Appx. 481 (8th Cir. Dec. 12, 2017).

⁴ See *United States v. Dimitrios N. Kesari*, 4:2015cr00103 (S.D. Iowa Sept. 21, 2016); *United States v. Jesse R. Benton*, 4:15-cr-00103-001 (S.D. Iowa Sept. 20, 2016); *United States v. John Frederick Tate*, 4:2015cr00103-002 (S.D. Iowa Oct. 3, 2016). Kesari was sentenced to three months incarceration, supervised release and fined \$10,400. Judgment, *United States v. Dimitrios N. Kesari*, 4:2015cr00103 (S.D. Iowa Sept. 21, 2016). Benton and Tate were each sentenced to two years of probation and fined. See Judgment, *United States v. Jesse R. Benton*, 4:2015cr00103 (S.D. Iowa Sept. 20, 2016); Judgment, *United States v. John Frederick Tate*, 4:2015cr00103 (S.D. Iowa Oct. 3, 2016).

⁵ Letter to Jesse R. Binnall, Counsel for Dimitri Kesari, from Chairman Matthew S. Petersen, FEC (June 30, 2016); Letter to Dimitri Kesari, Registered Agent for DGI, from Chairman Matthew S. Petersen, FEC (June 30, 2016); Letter to David Warrington, Counsel for Ron Paul 2012 Presidential Campaign Committee, from Chairman Matthew S. Petersen, FEC (June 30, 2016).

1 or unavailable pending appeal.⁶ In return for the extension, Respondents provided tolling of the
2 statute of limitations for the relevant period. In August 2017, while the appeals were still
3 pending, the Department of Justice (“DOJ”) provided trial materials, including transcripts and
4 trial exhibits; these materials provided additional information about the payments to Sorenson
5 needed to confirm the Commission’s findings.⁷ The convictions of Kesari, Benton, and Tate
6 were affirmed by the United States Court of Appeals for the Eighth Circuit on May 11, 2018.⁸
7 The Respondents have indicated that they seek to enter into pre-probable cause conciliation and
8 have agreed to toll the statute of limitations for the duration of the conciliation process.⁹

9 **III. ANALYSIS**

10 On March 11, 2011, Iowa state senator Kent Sorenson became the first elected official in
11 Iowa to endorse Michelle Bachmann’s candidacy for the Republican presidential nomination.¹⁰
12 Several months later, Sorenson was named chairman of Bachmann’s Iowa campaign.¹¹ In the
13 fall of 2011, Sorenson began secret negotiations with Ron Paul Committee officials including
14 Dimitri Kesari, Jesse Benton, and John Tate, about switching his support to Ron Paul in

⁶ See, e.g., Letter from David Warrington, Counsel for the Committee, to Marianne Abely, Staff Attorney, FEC (Aug 8, 2017).

⁷ These materials are available in the Voting Ballot Matters folder for MUR 6800..

⁸ See *United States v. Jesse Benton, John Tate, and Dimitrios Kesari*, 890 F.3d 697 (8th Cir. May 11, 2018).

⁹ The violations date from December 2011 through July 2012. Kesari, DGI, and the Committee have signed a series of agreements that toll the statute of limitations for a total of 501 days of tolling for DGI and Kesari and 420 days for the Committee. In addition, Kesari, DGI, and the Committee signed agreements tolling the statute of limitations through pre-probable cause conciliation.

¹⁰ Factual and Legal Analysis at 2, MUR 6800 (Kesari and Designer Goldsmiths, Inc.) (“Kesari and DGI F&LA”).

¹¹ *Id.*; *United States v. Jesse Benton, et al.*, Transcript of Trial, Vol. 4 at 748 (“Trial Tr.”).

exchange for concealed payments.¹² On December 26, 2011, Kesari — who was Sorenson's primary point of contact with the Ron Paul campaign — had dinner with Sorenson and Sorenson's wife, during which Kesari gave Sorenson's wife a \$25,000 check drawn on a bank account held by DGI.¹³ The check, which was made out to Sorenson's consulting firm, "Grass Roots Strategies,"¹⁴ was intended to secure both the state senator's endorsement of Ron Paul in the Iowa Caucus and future services on behalf of the campaign.¹⁵ On December 28th, Sorenson appeared at a veterans' rally where he endorsed Paul's candidacy.¹⁶

DGI violated 52 U.S.C. § 30118 by paying Sorenson for services provided to the Committee.¹⁷ Kesari also violated section 30118 by giving his consent to the corporate

¹² Trial Tr., Vol. 4 at 754-56, 760; *see also* Trial Exhibits ("Ex.") 5-8, 10, 11, 13, 14, 16-19, 21, 24-27, 31, 33; Kesari and DGI F&LA at 2.

¹³ Trial Tr., Vol. 4 at 765-67, Vol. 5 at 981. Sorenson and Kesari first met during Sorenson's 2008 campaign for the Iowa House of Representatives while Kesari was director of government affairs for the National Right to Work Committee ("NRTW"). *Id.*, Vol. 4 at 754; *see also* Kesari and DGI F&LA at 3.

¹⁴ At that time, Sorenson was the sole principal of Grassroots Strategy, Inc., which was incorporated in Iowa as a domestic for-profit corporation. *See* IOWA SEC'Y OF STATE, [http://sos.iowa.gov/search/business/\(S\(jrga3zehwupqh55oa0xrwne\)\)/summary.aspx](http://sos.iowa.gov/search/business/(S(jrga3zehwupqh55oa0xrwne))/summary.aspx) (last visited June 4, 2018); *see also* Kesari and DGI F&LA at 3.

¹⁵ Trial Tr., Vol. 4 at 771; Stipulated Statement of Facts ¶ 11, *United States v. Sorenson*, 4:14-cr-103 (S.D. Iowa Aug. 27, 2014) ("Sorenson Statement of Facts"). The record indicates that Sorenson never cashed the check and viewed it as concealed security against the loss of anticipated payments from the Bachmann campaign as well as security for future payments from the Committee. Kesari and DGI F&LA at 3; Sorenson Statement of Facts ¶ 12. It also appears that Kesari instructed Sorenson not to cash the corporate check because Sorenson had told too many people about it and its existence would conflict with a press release issued by the Committee on December 29, 2011, denying Bachmann's allegations that Sorenson had been paid by the Committee in exchange for his endorsement. Tr. Vol. 4 at 799, 817-18. The fact that Sorenson did not cash the DGI check is immaterial under the plain language of the definition of "contribution," which includes "money," a term which in turn expressly includes "checks . . . or any other negotiable instruments payable on demand." 11 C.F.R. § 100.52(c). Even if "checks" were not plainly included within the definition of contribution, the \$25,000 check would be considered a loan, and thus a contribution, because it was intended as a "form of security." 11 C.F.R. § 100.52(b); *see* Kesari and DGI F&LA at 8.

¹⁶ Trial Tr., Vol. 4 at 784-86; Ex. 170.

¹⁷ Kesari and DGI F&LA at 7.

1 contribution.¹⁸ Further, the Committee knowingly accepted an in-kind contribution from DGI
2 because Committee officials, including but not limited to Kesari, knew of Sorenson's demands
3 for payment before Kesari delivered the \$25,000 corporate check to Sorenson.¹⁹

4 The Committee, through Benton, Tate, and Kesari, later authorized payments to Sorenson
5 using a business called Interactive Communications Technologies, Inc. ("ICT") as a conduit.²⁰
6 Between February 8, 2012 and June 27, 2012, the Committee made five payments totaling
7 \$82,357 to ICT.²¹ Within days of receiving each payment, ICT sent wire transfers to Sorenson
8 via Grassroots aggregating to \$73,000.²² The Committee reported the five payments to ICT on
9 its disclosure reports as disbursements for audio visual expenses.²³ The Committee used ICT
10 merely to serve as a conduit for payment thereby concealing Sorenson as the true, intended
11 recipient of the disbursements.²⁴ Accordingly, the Committee failed to accurately report
12 disbursements in violation of 52 U.S.C. § 30104(b)(5) when it failed to report to the Commission
13 that these payments were actually made to Sorenson.²⁵

¹⁸ *Id.* at 8.

¹⁹ Ron Paul 2012 Campaign Committee Factual and Legal Analysis at 8, MUR 6800 ("Committee F&LA").

²⁰ *Id.* at 4, 8; Trial Tr., Vol. 4 at 786-87, 820 (noting that Tate and Kesari were present for a conversation between Sorenson and Benton in the moments before Sorenson endorsed Paul, during which Sorenson was led to believe that he would be "financially taken care of" and stating that Kesari instructed Sorenson to bill ICT); *see also* Exs. 5, 7, 8, 10-14, 16-21, 24-27, 31, 33, 105.

²¹ Committee F&LA at 4-5.

²² *Id.* at 5.

²³ *See* Ron Paul 2012 Presidential Campaign Committee, Inc., Amended 2012 March Monthly Report, Schedule B, line 23; 2012 May Monthly Report, Schedule B, line 23; 2012 June Monthly Report, Schedule B, line 23; 2012 July Monthly Report, Schedule B, line 23. ICT did not provide any audio visual services to the Committee during the 2012 primary campaign. Trial Tr. Vol. 5 at 1052-57.

²⁴ Committee F&LA at 11.

²⁵ *Id.*

The record supports the Commission's findings that Respondents' violations were knowing and willful.²⁶ First, the record indicates that Kesari (individually and in his capacity as principal of DGI) was a sophisticated political actor who knew the \$25,000 corporate in-kind contribution was illegal.²⁷ Second, as discussed above, Kesari, Tate, and Benton — all Ron Paul campaign officials — were convicted of causing false campaign contribution reports to be filed with the Commission in connection with their roles in actively concealing the fact that campaign funds were disbursed to Sorenson to secure his services on behalf of the Committee during the 2012 primary election campaign.²⁸

At the time of its initial findings in this matter, the Commission took no action with respect to Sorenson pending an investigation.²⁹ Sorenson received payments from the Committee that were falsely reported to the Commission, and was part of the scheme to falsely report those payments, but had no direct role in filing the reports. For his role in the scheme,

²⁶ *Id.* at 12-13; Kesari and DGI F&LA at 9-10. The Act addresses violations of law that are knowing and willful. *See* 52 U.S.C. § 30109(a)(5)(B), (d). The knowing and willful standard requires knowledge that one is violating the law. *Federal Election Commission v. John A. Dramesi for Congress Committee*, 640 F. Supp. 985, 987 (D.N.J. 1986). A violation of the Act is considered knowing and willful if the "acts were committed with full knowledge of all the relevant facts and a recognition that the action is prohibited by law." 122 Cong. Rec. 12,197, 12,199 (May 3, 1976). Evidence does not have to show that the respondent had knowledge of the specific statute or regulation allegedly violated, just that the respondent acted voluntarily and was aware that his conduct was unlawful; an inference of knowing and willful conduct may be drawn from the defendant's scheme to disguise the source of funds used in illegal activities. *United States v. Danielczyk*, 917 F. Supp. 2d 573 (E.D. Va. 2013).

²⁷ The available information indicates that, in addition to serving as a high-ranking official with the Ron Paul presidential campaign, Kesari had been both the director of government relations and a registered lobbyist for the NRTW. *See* United States House of Representatives, Office of the Clerk, *Lobbying Disclosure Search* (Search Field: Lobbyist Name, Criteria: Kesari), <http://disclosures.house.gov/ld/ldsearch.aspx> (yielding nineteen quarterly reports filed by NRTW from 2006 through 2011 listing Kesari as a lobbyist); *Profile of Dimitri Kesari*, BLOOMBERG (last visited Oct. 25, 2018), <https://www.bloomberg.com/profiles/people/17537439-dimitri-kesari> (listing Director, Government Affairs, NRTW, 2006-2011, in Kesari's work history); *see also* Trial Tr. at Vol. 4 at 746, 754 (confirming that Kesari worked for the NRTW).

²⁸ *See supra* nn.6, 9 and accompanying text.

²⁹ Second Amended Certification, MUR 6800 (Ron Paul 2012 Presidential Campaign Committee, Inc.) (July 19, 2016); *see also* First Gen. Counsel's Rpt. at 3, MUR 6800 (Ron Paul 2012 Presidential Campaign Committee, Inc.) (recommending that the Commission take no action at that time as to Sorenson).

MUR 6800 (Ron Paul 2012 Presidential Campaign Committee, Inc., *et al.*)
Second General Counsel's Report
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1 Sorenson pleaded guilty to willfully causing the filing of false disclosure reports in violation of
2 52 U.S.C. § 30104(a)(1) and (b)(5)(A), 52 U.S.C. § 30109(d)(1)(A)(i), and 18 U.S.C. § 2. The
3 Act, however, does not have a provision akin to 18 U.S.C. § 2 that holds an individual liable for
4 “willfully causing” reporting violations or for aiding and abetting or assisting a reporting
5 violation, and therefore, we recommend the Commission close the file as to Sorenson.

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V. RECOMMENDATIONS

1. Enter into pre-probable cause conciliation with Ron Paul 2012 Presidential Campaign Committee and Lori Pyeatt in her official capacity as treasurer prior to a finding of probable cause to believe;
2. Enter into pre-probable cause conciliation with Designer Goldsmiths, Inc. and Dimitri Kesari prior to a finding of probable cause to believe;
3. Approve the attached proposed Conciliation Agreements;

4. Close the file with respect to Kent Sorenson; and

5. Approve the appropriate letters.

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11.7.2018

Date

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