



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

JUL 13 2017

**ELECTRONIC MAIL AND FIRST CLASS U.S. MAIL**

James C. Thomas, III, agent  
Government Integrity, LLC  
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RE: MUR 6920  
Government Integrity, LLC  
James C. Thomas, agent

Dear Mr. Langhofer:

On April 20, 2017, the Federal Election Commission notified your client, James C. Thomas, III in his official capacity as agent of Government Integrity, LLC, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your client at that time.

Upon review of the allegations contained in the complaint, and information provided by your client, the Commission, on July 11, 2017, found that there is reason to believe that your client violated 52 U.S.C. § 30122, a provision of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is enclosed for your information.

Your client may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the Office of the General Counsel within 15 days of receipt of this notification. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. See 52 USC § 30109(a)(4).

Please note that you and your client have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519.

If your client is interested in pursuing pre-probable cause conciliation, you should make such a request by letter to the Office of the General Counsel. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the

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Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into in order to complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been delivered to the respondent(s). Requests for extensions of time are not routinely granted. Requests must be made in writing at least five days prior to the due date of the response and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days. Extensions will not be granted absent your client's agreement to toll the statute of limitations. Pre-probable cause conciliation, extensions of time, and other enforcement procedures and options are discussed more comprehensively in the Commission's "Guidebook for Complainants and Respondents on the FEC Enforcement Process," which is available on the Commission's website at [http://www.fec.gov/em/respondent\\_guide.pdf](http://www.fec.gov/em/respondent_guide.pdf).

Please be advised that, although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.<sup>1</sup>

This matter will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Antoinette Fuoto, the attorney assigned to this matter, at (202) 694-1634 or [afuoto@fec.gov](mailto:afuoto@fec.gov).

On behalf of the Commission,

  
Steven T. Walther  
Chairman

Enclosures  
Factual and Legal Analysis

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<sup>1</sup> The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

1 **FEDERAL ELECTION COMMISSION**

2  
3 **FACTUAL AND LEGAL ANALYSIS**

4  
5 MUR: 6920

6 RESPONDENT: Government Integrity LLC

7 **I. INTRODUCTION**

8 This matter was generated by a Complaint alleging that an Unknown Respondent made a  
9 \$1.71 million contribution to Now or Never PAC in the name of American Conservative Union  
10 (“ACU”), in violation of 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b). The Commission found  
11 reason to believe that Unknown Respondent violated 52 U.S.C. § 30122. Based on the available  
12 information, the Commission now substitutes Government Integrity LLC in the place of  
13 “Unknown Respondent” in the Commission’s previous reason-to-believe finding.

14 **II. FACTUAL BACKGROUND**

15 Now or Never PAC, an independent expenditure only committee, reported that on  
16 October 31, 2012, it received a \$1.71 million contribution from ACU,<sup>1</sup> a 501(c)(4) social welfare  
17 organization.<sup>2</sup> In May 2014, apparently after an independent auditor reviewed its 2012 finances,<sup>3</sup>  
18 ACU filed an Amended 2012 IRS Form 990 that disclosed the \$1.71 contribution to Now or  
19 Never PAC as “a political contribution received by the Organization and promptly and directly  
20 delivered to a separate political organization.”<sup>4</sup> The Complaint alleged that Unknown  
21 Respondent is the true source of the \$1.71 million contribution made in ACU’s name to Now or

<sup>1</sup> Now or Never PAC, 2012 Post-General Report (Dec. 6, 2012) at 6; *see also* Compl. ¶ 14 (Feb. 27, 2015).

<sup>2</sup> ACU Resp. at 1 (Apr. 23, 2015).

<sup>3</sup> Compl. ¶¶ 15-17, Exs. B (Conlon & Associates Independent Auditor’s Report, Apr. 9, 2014) and C (ACU Amended Form 990, May 12, 2014).

<sup>4</sup> Compl Ex. C at Schedule O, Schedule C.

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1 Never PAC.<sup>5</sup> Based on ACU's representation that the contribution to Now or Never PAC was "a  
2 political contribution received by the Organization and promptly and directly delivered to a  
3 separate political organization,"<sup>6</sup> the Commission found reason to believe that an Unknown  
4 Respondent violated 52 U.S.C. § 30122 and commenced an investigation.

5 During the investigation, the Commission learned that James C. Thomas, III, who is also  
6 the treasurer of Now or Never PAC, wired \$1,800,000 to ACU from an account with the name  
7 Government Integrity LLC and provided an employee of ACU instructions for wiring the  
8 \$1,710,000 contribution to Now or Never PAC. Based on this information, OGC designated GI  
9 LLC and Thomas, as agent of GI LLC, as respondents and notified them of the Complaint. GI  
10 LLC did not respond to the notification.

### 11 III. LEGAL ANALYSIS

12 The Act prohibits a person from knowingly permitting his or her name to be used to  
13 effect a contribution in the name of another.<sup>7</sup> The requirement that a contribution be made in the  
14 name of its true source promotes Congress's objective of ensuring the complete and accurate  
15 disclosure by candidates and committees of the political contributions they receive.<sup>8</sup> Courts have  
16 uniformly rejected the assertion that "only the person who actually transmits funds . . . makes the  
17 contribution,"<sup>9</sup> recognizing that "it is implausible that Congress, in seeking to promote

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<sup>5</sup> Compl. ¶¶ 12, 17.

<sup>6</sup> ACU Resp. at 2 (Apr. 23, 2015).

<sup>7</sup> 52 U.S.C. § 30122; *see also* 11 C.F.R. § 110.4(b). The term "person" includes partnerships, corporations, and other organizations. 52 U.S.C. § 30101(11); 11 C.F.R. § 100.10.

<sup>8</sup> *See, e.g., United States v. O'Donnell*, 608 F.3d 546, 553 (9th Cir. 2010) ("[T]he congressional purpose behind [section 30122] — to ensure the complete and accurate disclosure of the contributors who finance federal elections — is plain.").

<sup>9</sup> *United States v. Boender*, 649 F.3d 650, 660 (7th Cir. 2011).

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1 transparency, would have understood the relevant contributor to be [an] intermediary who  
2 merely transmitted the campaign gift.”<sup>10</sup> Accordingly, the Act and the Commission’s regulations  
3 provide that a person who provides funds to another for the purposes of contributing to a  
4 candidate or committee “makes” the resulting contribution.<sup>11</sup> If an intermediary merely plays a  
5 “ministerial role” in transmitting a contribution, the contribution should not be attributed to the  
6 intermediary but instead to the original source.<sup>12</sup>

7 Based on ACU’s representation that the contribution to Now or Never PAC was “a  
8 political contribution received by the Organization and promptly and directly delivered to a  
9 separate political organization,” the Commission found reason to believe that Unknown  
10 Respondent violated 52 U.S.C. § 30122. Because the Commission identified Government  
11 Integrity LLC as the “Organization” that provided ACU with the political contribution that it  
12 immediately delivered to Now or Never PAC, the Commission substitutes Government Integrity  
13 LLC in the place of “Unknown Respondent” in the Commission’s previous finding that there is  
14 reason to believe that Unknown Respondent violated 52 U.S.C. § 30122 by making a  
15 contribution in the name of another.

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<sup>10</sup> *O’Donnell*, 608 F.3d at 554.

<sup>11</sup> *See, e.g., Boender*, 649 F.3d at 660 (“[W]e consider the giver to be the source of the gift, not any intermediary who simply conveys the gift from the donor to the donee.”).

<sup>12</sup> *O’Donnell*, 608 F.3d at 550.

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