

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2
3
4 In the Matter of)
5) MUR 6997
6 Americans Socially United and)
7 Cary L. Peterson in his official capacity)
8 as treasurer)
9 Cary L. Peterson in his personal capacity)

10
11 **SECOND GENERAL COUNSEL'S REPORT**

12 **I. ACTIONS RECOMMENDED**

13 We recommend that the Commission: (1) take no further action against Americans
14 Socially United and Cary L. Peterson in his official capacity as treasurer ("ASU") except for
15 issuing a letter of admonishment; (2) take no further action against Cary L. Peterson in his
16 personal capacity except for issuing a letter of admonishment; (3) instruct the Reports Analysis
17 Division ("RAD") to administratively terminate ASU as a federal political committee; (4)
18
19 and (5) close the file and send the appropriate letters.

20 **II. BACKGROUND**

21 On April 24 and August 7, 2018, the Commission found reason to believe that ASU
22 violated 52 U.S.C. §§ 30102(c), 30104(b)(3)(A), and 30124(b) by failing to maintain committee
23 records, failing to file accurate disclosure reports, and by fraudulently soliciting contributions
24 using a website designed to mislead visitors into believing that it represented Bernie Sanders's
25 2016 authorized presidential campaign; and that ASU founder and treasurer, Cary Lee Peterson,
26 personally violated 52 U.S.C. § 30104(b) in connection with the ASU reporting discrepancies.¹

¹ See Certification, MUR 6997 (Apr. 25, 2018); Factual and Legal Analysis ("F&LA") at 7-10 (May 8, 2018), MUR 6997; Certification, MUR 7469 (formerly RR 18L-13) (Aug. 8, 2018) (this matter was also merged into MUR 6997); F&LA at 6-8 (Aug. 22, 2018), MUR 6997.

1 The investigation revealed that Peterson utilized numerous accounts held at multiple
2 financial institutions to operate various business enterprises and political committees. The
3 information we obtained indicates that ASU received at least \$76,864.26, but it underreported
4 those receipts by over \$50,000. ASU disclosed \$143,258.83 in disbursements on the one report
5 it filed with the Commission, but only \$5,420.66 in disbursements appear in the available bank
6 records.² Further, some donors believed that ASU's representations indicated it was affiliated
7 with the Bernie Sanders campaign.

8 During the course of the Commission's investigation, Peterson was criminally prosecuted
9 for unrelated federal securities fraud charges,³ and was found guilty of two counts of False
10 Certification in Securities and Exchange Commission ("SEC") filings and one count of
11 Securities Fraud.⁴ On December 20, 2018, Peterson was sentenced to 52 months in prison, three
12 years of probation upon his release, and ordered to pay \$250,167 in restitution.⁵ Peterson will be

² ASU disclosed in-kind contributions totaling \$67,700 but we have been unable to confirm the veracity of those transactions. The Commission's Audit Division helped analyze ASU's financial records and discovered that ASU's designated accounts were rarely used, Peterson appeared to conduct committee business using personal accounts, and even then, many of the transactions disclosed on ASU's disclosure report could not be supported by the available bank records.

³ Indictment, *United States v. Cary Lee Peterson*, No. 3:16-cr-00230-AET (D. N.J. May 10, 2016).

⁴ See Verdict Form, *United States v. Cary Lee Peterson*, No. 3:16-cr-00230-AET (D. N.J. May 23, 2018) (finding Peterson guilty of 18 U.S.C. § 1350, 15 U.S.C. §§ 78j(b) and 78ff, and 17 C.F.R. § 240.10b-5); *Microcap Company CEO Convicted of Securities Fraud for Falsely Claiming Millions in Revenue From Contracts with Foreign Countries*, DOJ Press Release (May 24, 2018), <https://www.justice.gov/usao-nj/pr/microcap-company-ceo-convicted-securities-fraud-falsely-claiming-millions-revenue> (noting that Peterson also falsely claimed that his non-profit, ECCO2 Corp, was a United Nations ("UN") affiliate organization and was asked by the UN to cease such claims).

⁵ See Judgment in a Criminal Case, *United States v. Cary Lee Peterson*, No. 3:16-cr-00230-AET-1 (D. N.J. Dec. 28, 2018) ("Judgment"); see also *Microcap Company CEO Sentenced to 52 Months in Prison for Securities Fraud*, DOJ Press Release (Dec. 20, 2018), <https://www.justice.gov/usao-nj/pr/microcap-company-ceo-sentenced-52-months-prison-securities-fraud>. The Bureau of Prison's Inmate Locator currently shows that Peterson's release date is December 25, 2021, which likely accounts for credit for time he served while awaiting trial. See <https://www.bop.gov/inmateloc/>. Peterson is currently serving his sentence at a federal facility in Seattle, where he arrived on February 7, 2020.

1 under supervised release until at least 2024, which places conditions on the type of employment
2 he can pursue (*i.e.*, conditions prohibiting his employment in the financial investment industry),
3 requires him to seek pre-approval for any self-employment “including any independent,
4 entrepreneurial, or freelance employment or business activity,” and mandates his full disclosure
5 of financial and business records to the probation office while under their supervision.⁶

6 As discussed below, the overall circumstances suggest that further investigation or
7 conciliation efforts would not be an efficient use of Commission resources. ASU has been
8 inactive since mid-2016 and has no assets; Peterson’s criminal conviction, incarceration, and
9 future probation will limit his ability to engage in similar conduct in the future; and there appears
10 to be no likelihood that further investigation or conciliation will produce information that would
11 allow ASU to amend its reports.⁷ In addition, the statute of limitations expired as to most of the
12 activity while the Commission lacked a quorum. In light of these circumstances, we recommend
13 that the Commission exercise its prosecutorial discretion to determine the proper ordering of its
14 priorities and use of agency resources and take no further action other than to issue letters of
15 admonishment to Peterson and ASU, administratively terminate ASU as a federal political
16 committee,

17 **III. RESULTS OF INVESTIGATION**

18 Our investigation utilized both formal and informal discovery to obtain information to
19 ascertain the accuracy of ASU’s disclosure report, determine whether ASU fraudulently solicited

⁶ See Judgment at 3-4 (also prohibiting Peterson from opening financial accounts or lines of credit for either personal or business purposes without the knowledge of his probation officer).

⁷ Judgment at 3-4.

1 contributions, and establish the scope of the violations.⁸ The investigation was sometimes
2 delayed because it was difficult to locate Peterson, who was transferred to several different
3 facilities after he was sentenced. Nonetheless, the evidence collected during the investigation
4 supports the Commission's findings that ASU and Peterson violated the recordkeeping,
5 reporting, and fraudulent misrepresentation provisions of the Federal Election Campaign Act of
6 1971, as amended (the "Act").

7 **A. Cary Lee Peterson**

8 Cary Lee Peterson describes himself as a trained legal professional with an LL.D.
9 (Doctor of Laws) degree,⁹ and a principal at Roberts Peterson Fields & Associates, P.C. (the
10 "Firm"), which purports to be an international law firm based in California.¹⁰ Peterson also

⁸ We requested, and the Commission issued, 21 subpoenas: three to payment processing vendors; one to a website domain name company; 16 to financial institutions; and one to the Federal Reserve Bank of New York. We also interviewed several witnesses, and reached out to additional witnesses and vendors.

⁹ See *Cary Lee Peterson: Google Profile Article* ("Peterson Google Profile"), <https://sites.google.com/site/caryleepetersonprofilearticle/> (last accessed Dec. 17, 2020); Cary Lee Peterson, LINKEDIN ("Peterson LinkedIn Profile"), <https://www.linkedin.com/in/cary-lee-peterson-66b41441/es> (last accessed Dec. 17, 2020). Peterson's profiles do not indicate where he earned his LL.D. or whether it was granted as an honorary degree. See also Cary Lee Peterson, WIKIMEDIA COMMONS, https://commons.wikimedia.org/wiki/Category:Cary_Lee_Peterson (displaying photos of Peterson identifying him as a "U.S. Senate lobbyist").

¹⁰ See Peterson LinkedIn Profile (listing title as Co-Managing Director of the Firm, and describing himself as a legal and professional adviser); Firm Data Card, LOBBYFACTS.EU, <https://lobbyfacts.eu/representative/a5fcddbe59284663ae6d0ec5b4edc996/robert-peterson-fields-associates-p-c> (listing Firm's data for 2016). It is unclear whether the Firm still operates. The Firm's website was inactive for a period during the investigation but now appears to be active again; the Firm's most recent post on its Facebook page is dated May 27, 2018. See www.rpflegal.com (last accessed Dec. 17, 2020) and <https://www.facebook.com/petersonfieldslaw/> (last accessed Dec. 17, 2020). The Firm and ASU use addresses that appear to be virtual office spaces. See Pl. Ex. I at 3, *Cary Lee Peterson v. Donald J. Trump, et al.*, (D. D.C. Sept. 22, 2020) ("Peterson Ex.") (including email acknowledging ASU used a virtual office); Regus Website, <https://www.regus.com/en-us/united-states/california/beverly-hills/9465-wilshire-boulevard-2037> (property management company offering virtual and traditional office space at the Firm's address).

1 operated a number of business ventures, including serving as CEO of RVPlus, Inc., and as
2 Chairman, President, and Founder of ECCO2 Corporation.¹¹

3 Peterson established and operated eleven different political committees registered with
4 the Commission, including ASU, and served as treasurer for all but two of those committees.¹²
5 Peterson established new committees even after his arrest on securities fraud charges and while
6 awaiting trial, listing a business associate as treasurer and himself as a designated agent and
7 custodian of records.¹³

8 Peterson has responded to the Commission's notifications in this case, but his oral and
9 written statements contain inaccuracies about his conversations with this Office, contradict
10 previous representations to the Commission, and, in some instances, appear to be attempts to
11 distance himself from ASU. For example, in a letter to the Commission's Information Division,
12 Peterson states that he was ending his "involvement with [ASU] as Treasurer and Chief

¹¹ See Peterson Google Profile; Peterson LinkedIn Profile; *ECCO2 Corp, Bloomberg Company Profile*, <https://www.bloomberg.com/profile/company/0374512D:US> (last accessed Dec. 18, 2020). RVPlus appears to have acquired ECCO2 in 2012. *RVPL Completes Acquisition of ECCO2 and Has Change in Control* (May 4, 2012), <https://www.businesswire.com/news/home/20120504006187/en/RVPL-Completes-Acquisition-ECCO2-Change-Control>.

¹² Peterson registered the following additional committees with the Commission in 2015 and 2016: Alliance Against Disabled Inmate Abuse; American Friends for Micronesia; Congressional Committee on Eurasian Affairs; Congressional Committee on Cuban Affairs; Congressional Committee on Law Enforcement and Public Safety; Congressional Task Force on Human Trafficking; Democrats Socially United; Every Vote Counts Restoring America Super PAC; Independent National Alliance Committee; and TrumpIsTruth, US Voters Alliance. All but ASU have been administratively terminated.

¹³ Two of these committees were established just days after he was released on bond in his criminal case. See Order Setting Conditions of Release, *United States v. Cary Lee Peterson*, No. 3:16-cr-00230-AET (D. N.J. June 6, 2016); Statement of Org. (June 14, 2016), Alliance Against Disabled Inmate Abuse (listing Peterson as treasurer); Statement of Org. (June 16, 2016), Democrats Socially United (listing Alexander Pidgeon as treasurer); Statement of Org. (Sept. 30, 2016), TrumpIsTruth, US Voters Alliance (listing Alexander Pidgeon as treasurer). Pidgeon is a Canadian resident and held a position with ECCO2 until 2014; it appears that Pidgeon has been banned by various Canadian provinces from trading and purchasing securities, and from serving as a corporate director or officer. See Alexander Pidgeon, LINKEDIN Profile; *see also*, Alex Pidgeon, Disciplined List (Jan. 22, 2014), Canadian Securities Administration, <https://www.securities-administrators.ca/disciplinedpersons.aspx?id=74> (search "Pidgeon").

1 Advisor,” while also indicating the possibility that he would still file ASU’s reports by mail.¹⁴
2 Peterson also called this Office from a New Jersey jail where he was awaiting his criminal trial
3 and stated that he had spoken with the assigned staff attorney in 2015, even though the
4 MUR 6997 Complaint was not filed until 2016, and we have no record that the 2015 call ever
5 took place.¹⁵ Some of his written submissions make tangential factual assertions that are
6 difficult to verify and legal arguments that are difficult to understand. For example, he accused
7 the U.S. Attorney’s Office (“USAO”) in New Jersey of tortious interference, contended that the
8 USAO and FEC are “aiding and abetting,” and claimed that Sanders’s counsel engaged in
9 malicious conduct toward him.¹⁶ Peterson’s *pro se* filings in numerous associated civil actions,
10 discussed below, are similarly difficult to understand.

11 This Office also sent Peterson questions and document requests seeking additional
12 information about ASU’s financial activities and scheduled a telephone interview with him after
13 he failed to respond to the written requests.¹⁷ When this Office was able to contact Peterson, he
14 was either uncooperative, or he made promises that he did not keep. For example, Peterson

¹⁴ Email with Ltr. from Cary Peterson (May 31, 2017). Peterson’s letter was in response to collection notices he received in connection with Administrative Fines assessed for ASU’s failure to file reports; the letter states that the Firm registered for a June 7, 2017, FEC webinar to aid with ASU’s compliance. *Id.* The Information Division confirmed that Peterson registered to attend the webinar, but their log-in reports do not show a record of Peterson or anyone else from the Firm logging into the webinar that day.

¹⁵ Peterson’s call was in response to letters regarding the reason to believe (“RTB”) findings and Right to Financial Privacy Act (“RFPA”) notifications. *See* Directive 68 Ltr. to Cary Peterson (May 5, 2017); RTB Notification Ltr. to Peterson (May 8, 2018); RTB Notification Ltr. and Email to Peterson (Aug. 22 and Aug. 27, 2018); RFPA Notification Ltr. and Email to Peterson (Aug. 29 and Aug. 30, 2018); Ltr. to Peterson with RTB Notifications and RFPA Notification (Sept. 12, 2018).

¹⁶ *See* Ltrs. from Cary Peterson (Sept. 24, 2018, Oct. 1, 2018, and Oct. 11, 2018). The letters refer to a May 1, 2018 response, which this Office does not have record of receiving directly from Peterson, although we now possess because it was attached to a recent court filing. *See* Peterson Ex. at 6.

¹⁷ Ltr. to Cary Peterson (Mar. 18, 2020);

1 objected to the Commission's request for his bank records, but he would not help us untangle the
2 web of bank accounts and payment processors ASU used or provide details regarding ASU's
3 contributions and expenditures.¹⁸ Further, Peterson has consistently stated that he lost access to
4 ASU's records when he was arrested in March 2016, yet he made several statements about his
5 purported willingness to file amended reports.¹⁹ However, if Peterson does not have access to
6 ASU's records, it will be extremely difficult, if not impossible, to file amended reports. Indeed,
7 despite his stated willingness to do so, Peterson did not file reports in late 2016 and in 2017,
8 while he was out of jail awaiting his criminal trial.²⁰

9 Peterson's appeal of his criminal conviction was recently denied.²¹ In addition, Peterson
10 has been a party to no fewer than fifteen federal court actions since 2016, most of which he filed
11 *pro se*. Most recently, Peterson filed a Complaint naming the Commission and specific staff as

¹⁸ Peterson Resp. to RFPA Notification at 2-3 (Oct. 11, 2018) (accusing this Office of "fishing" because the bank subpoenas requested records from January 2015, even though ASU did not register with the Commission until February 2015).

¹⁹ Email with Ltr. from Cary Peterson (May 31, 2017) (offering to submit ASU's filings by mail); Peterson Ex. at 6 (stating in a 2018 email "the government recently returned the electronic devices containing the financial data for ASU" but did not return "other financial documents related to banking and accounting that are needed to complete the delinquent FEC filings for ASU").

²⁰ Peterson was out of jail for over a year during which time he could have filed ASU's missing reports and ASU could have continued to collect contributions. Peterson was in custody from April through June 2016, when he was released on bond. Order Setting Conditions of Release, No. 16-cr-00230-AET (D. N.J. June 6, 2016). His bond was revoked in September 2017, and he was incarcerated until October 2017, when he was again released and placed on electronic location monitoring. *See* Order, No. 16-cr-00230-AET (D. N.J. Sept 13, 2017); Order on Bail Modification, No. 16-cr-00230-AET (D. N.J. Oct. 24, 2017). His bail was revoked after his criminal conviction and he remains incarcerated. Order, No. 16-cr-00230-AET (D. N.J. July 24, 2018). There is information that he was handling committee business in 2016. *See* Square, Inc., Subpoena Resp. at 11-17 (Oct. 16, 2018) (including an email exchange with Peterson and the company from May 2016).

²¹ A three-judge panel of the U.S. Court of Appeals for the Third Circuit affirmed Peterson's criminal conviction in October 2020 and the full court subsequently denied Peterson's petition for a rehearing in November 2020. *See* Judgment (Oct. 8, 2020) and Sur Petition for Rehearing (Nov. 3, 2020), *United States v. Cary Lee Peterson*, No. 19-1093, 824 Fed. Appx. 138 (Mem) (3rd Cir.). Peterson's petition for writ of certiorari to the Supreme Court was recently denied. *See Cary Lee Peterson v. United States*, No. 19-1093 (3rd Cir. 2020), *cert. denied*, 592 U.S. __ (U.S. Feb. 22, 2021) (No. 20-6707).

1 Defendants, along with President Donald J. Trump and Former Attorney General William Barr.²²
2 In that complaint, Peterson alleges that the Commission and its staff are part of a sprawling
3 interagency conspiracy against him. Since his criminal conviction, he also has filed lawsuits
4 against the Federal Public Defender in New Jersey, Foster Garvey P.C. (the law firm
5 representing Sanders's 2016 Presidential campaign), and Bureau of Prisons staff.²³

6 **B. ASU's Political and Financial Activities**

7 1. Organization and Establishment of ASU

8 Peterson told us that beginning in 2014, he coordinated efforts with a group of
9 individuals whose collective goal was to raise awareness about Bernie Sanders, and his work
10 with this informal group led him to register ASU as a political committee.²⁴ ASU registered
11 with the Commission in February 2015, but he states that it did not formally begin public
12 fundraising efforts until May 2015.²⁵ Still, Peterson tweeted that the group paid for a digital

²² See *Cary Lee Peterson v. Donald J. Trump, et al.* (D. D.C. Sept. 22, 2020). This matter is not listed on PACER, but another matter Peterson filed more recently on Dec. 15, 2020, against the State of Texas Attorney General does appear listed. It is our understanding that although the Commission received a copy of a complaint from Peterson, Peterson failed to properly file the complaint with the court. As such, there does not appear to be any pending litigation by Peterson against the Commission as of the date of this report.

²³ See, e.g., *Cary Lee Peterson v. John Doe 1, et al.*, No. 2020-cv-00808 (D. Nev. Sept. 22, 2020) (closed); *Cary Lee Peterson v. Doe*, No. 2020-cv-00787 (D. Nev. July 29, 2020) (closed); *Cary Lee Peterson v. Federal Public Defender of New Jersey, et al.*, No. 2019-cv-00436 (D. Or. Apr. 12, 2019) (closed); *Cary Lee Peterson, v. Foster Garvey*, No. 2019-cv-03662 (D. D.C. 2019) (open); *Cary Lee Peterson v. RVPlus, Inc., et al.*, No. 2018-cv-00704 (D. Del. May 14, 2018) (closed).

²⁴ See Statement of Org. (Feb. 11, 2015) (using name "Ready for Bernie Sanders 2016"); Amended Statement of Org. (June 18, 2015) (filing as ASU after first changing name to "Bet on Bernie 2016");

²⁵ ; see also Peterson Resp. to RFPA Notification at 2 (Oct. 11, 2018) (stating that ASU did not accept political donations until April 30, 2015, but that the "Sanders PAC" received contributions before that date, consisting of "personal funds, funds from [Peterson's] business, and binded contributions and loans from co-founders" of the prior group).

1 billboard in Times Square in New York City in April 2015.²⁶ ASU has only filed one disclosure
 2 report with the Commission, its 2015 Mid-Year Report, covering the period of February 11,
 3 2015 through June 30, 2015.²⁷

4 Since establishing ASU, Peterson has alternated between presenting himself as ASU's
 5 founder and indicating that he merely represents ASU as client of the Firm.²⁸ Peterson, however,
 6 has acknowledged to us that he founded the group, and he still appears to consider himself
 7 responsible for ASU's filings.²⁹

8 2. ASU's Financial Activities

9 Although ASU was established in February 2015, Peterson told us that it did not conduct
 10 any public fundraising until May 2015 and that it ceased operating by March or April 2016.³⁰
 11 However, its website, including its donation page, appeared to continue operating until at least

²⁶ See @caryleepeterson (Apr. 24, 2015), TWITTER, <https://twitter.com/caryleepeterson/status/591624887287959552>; @INC4US (Apr. 24, 2015), TWITTER, <https://twitter.com/INC4US/status/591624082120052736>. The billboard appears to list the "betonbernie.com" URL but does not display a disclaimer.

²⁷ ASU, 2015 Mid-Year Report (Sept. 3, 2015).

²⁸ In media interviews, Peterson discussed his efforts to establish the PAC, and identified himself as "Chief Director" of the committee. See David De Livera Interview of Cary Peterson, NEW WORLD ORDER YOUTUBE CHANNEL (Sept. 19, 2016) ("Livera Interview"), https://www.youtube.com/channel/UCFR7wNQ0WExy9vQ_yI-ktYA; see also, Peterson Google Profile (described as Chief Director for Ready for Bernie Sanders 2016); Amended Statement of Org. (June 18, 2015) (listing "Chairman" as his title). In other submissions, he refers to ASU only as a client. See, e.g., Form 99, Miscellaneous Text (Oct. 15, 2016) (referring to himself as ASU's "former Chief Director and treasurer"); Email with Ltr. from Cary Peterson (May 31, 2017) (referring to "discontinuation of [his] involvement . . . as Treasurer and Chief Advisor");

²⁹ During his interview, Peterson named Amanda Liu as his office spokesperson and assistant but would not give us her contact information. We suggested that Liu might be able to locate information or documents needed to complete the record for the investigation, but Peterson stated that she was a foreign lawyer and was not licensed to practice in the U.S.

³⁰ See, also, Form 99, Miscellaneous Text (Oct. 15, 2016) (stating ASU was inactive since March 31, 2016); Email with Ltr. from Cary Peterson (May 31, 2017) (stating ASU was active from February 2015 to March 2016);

1 June 2016, and one of its payment processing vendors collected contributions until
2 September 2016.³¹ Peterson states that ASU's fundraising was conducted entirely online.³²
3 Peterson also states that ASU spent between \$50,000 and \$60,000 to support Sanders, but
4 he has not provided sufficient details regarding those expenditures.³³ For example, and as
5 mentioned above, Peterson told this Office that in April 2015, ASU put up a digital billboard in
6 Times Square supporting Bernie Sanders, but he declined to provide further details about
7 payment or the vendors used for the display.³⁴ It remains unclear who paid for the billboard;
8 Peterson told counsel for the Sanders campaign years earlier that he spent \$100,000 of his own
9 funds on the billboard, but ASU's disclosure report only lists one contribution from Peterson
10 totaling \$2,000, and neither Peterson nor the committee have filed any independent expenditure
11 reports.³⁵ Peterson also told a reporter that ASU had spent more than \$1 million in support of

³¹ See ASU Website (June 10, 2016 web capture), <https://web.archive.org/web/20160610030647/http://www.voteberniesanders2016.com/donate> (including a donation page operated by Authorize.net). Records produced show that Authorize.net collected a final set of fees on October 1, 2016, for payments processed in September, but it is unclear whether those payments were for ASU or another entity. Authorize.net Subpoena Resp. at AUTH00003 (Nov. 26, 2018) (showing Peterson opened two merchant accounts tied to a personal bank account: one was closed one in November 2016 due to a delinquent payment status, and the other, opened in December 2016, was written off and sent to collections in April 2017).

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³³ As mentioned above, Peterson has told us that he is unable to access any of ASU's records due to his incarceration, but he was also generally uncooperative during our telephone interview with him and did not respond to questions regarding the committee's expenditures.

³⁴ @caryleepeterson (Apr. 24, 2015), TWITTER, <https://twitter.com/caryleepeterson/status/591624887287959552>; @INC4US (Apr. 24, 2015), TWITTER, <https://twitter.com/INC4US/status/591624082120052736>.

³⁵ Email from Brad Deutsch (July 3, 2018) (attaching Peterson emails).

1 Sanders for “billboards, field organizers and pro-Sanders swag,” but we have seen no evidence
2 of that in the bank records.³⁶

3 We located images of a second billboard supporting Sanders that ASU may have
4 displayed in January 2016, but since ASU has not filed any reports with the Commission for
5 2016, we have no further information about that billboard either.³⁷ The bottom of the billboard
6 displays a statement that “This ad has been sponsored by Americans Socially United and is not
7 affiliated or authorized by any party or candidate.”³⁸ However, unlike with the billboard from
8 April 2015, Peterson did not inform us about this second display.³⁹ According to ASU’s 2015
9 Mid-Year Report, ASU paid for Google, Facebook, and Microsoft Bing ads totaling \$5,531.23
10 combined, but we do not know whether those ads were in support of Sanders or an effort to
11 generate more traffic to the committee website.⁴⁰

³⁶ Michael Beckel, *Did This Shady Pro-Bernie Sanders Super PAC Just Dupe James Bond? Daniel Craig donated to group led by man with history of financial, legal woes*, CENTER FOR PUBLIC INTEGRITY (Sept. 17, 2015), <https://publicintegrity.org/politics/did-this-shady-pro-bernie-sanders-super-pac-just-dupe-james-bond/>. Peterson has also stated that he provided personal and business funds to the PAC before April 30, 2015. Peterson Resp. to RFPA Notification at 2 (Oct. 11, 2018).

³⁷ That billboard shows a caricature drawing of Sanders dressed as a superhero flying over other Presidential candidates from the 2016 election cycle; the billboard states “Vote Fireman for President 2016” and “Feel the Bern.” See <https://twitter.com/carylepeterson/status/690658804262830080> and <https://videostorage.prnewswire.com/storage2/photos/POLITICAL-SATIRE-COMIC-SERIES.jpg>.

³⁸ *Id.*

³⁹ The company responsible for displaying the April 2015 digital billboard did not have record of the January 2016 billboard, even though it appears to have been displayed at the same location and on the same physical structure.

⁴⁰ In another fraudulent misrepresentation matter, the evidence indicated that the respondent committees paid for ads that were for the sole purpose of directing more traffic to the fraudulent committee websites in order to generate additional income. See Second General Counsel’s Rpt. at 6-7, 9 MURs 7011 and 7092 (HC4President, *et al.*).

1 subpoenaes that Peterson stopped using some of those accounts by November 2015.⁴³ Two of
2 those accounts had been listed on ASU's Statements of Organization, but ASU did not amend the
3 statement to list new bank information.

4 **D. Contributions to ASU**

5 Based on the limited information we obtained through the available bank records and
6 records obtained from payment processing vendors, we confirmed that ASU received \$76,864.26
7 in contributions (\$74,776.05 in payments through its website using BluePay as its payment
8 processing vendor in 2015 and \$2,025 by check).⁴⁴ ASU also used two other payment
9 processing vendors, but those vendors were unable to provide sufficient details on the amounts
10 processed, and we could not locate deposits from those vendors in the bank records.⁴⁵ As such,
11 we cannot ascertain the exact amount of contributions they processed for ASU. For instance,
12 Authorize.net's logo was displayed on the ASU website donation page throughout 2016,⁴⁶ but
13 Peterson's accounts with Authorize.net were held under the names TITUS Voter Alliance, which
14 we believe was shorthand for another committee Peterson operated, TrumpisTruth US Voter
15 Alliance, and TITUS Ecommerce Solutions.⁴⁷ Therefore, it appears that the contributions that

⁴³ Bank of Guam Subpoena Resp. (showing activity through November 2015 and account was closed on Feb. 9, 2016); First Bank Subpoena Resp. at 8 (Oct. 4, 2018) (accounts closed on June 4, 2015 for "unsat handling"); US Bank Subpoena Resp. at 74 (account closed by Peterson on July 16, 2015).

⁴⁴ BluePay Subpoena Resp.

⁴⁵ Square, Inc., Subpoena Resp.; Authorize net Subpoena Resp.

⁴⁶ See ASU Website (June 10, 2016 web capture), <https://web.archive.org/web/20160610030647/http://www.voteberniesanders2016.com/donate>. However, clicking on the donation button on ASU's page later in 2016 led to a page soliciting contributions to support "Democrats Socially United for Hillary Clinton- President 2016" and later to "Vote Donald Trump for Truth Next Month!" First General Counsel's Rpt. at Attach. 2-3, MUR 6997.

⁴⁷ Authorize net Subpoena Resp. at 1, 7. Peterson also held four accounts with Square under the following merchant names: Ready for Bernie Sanders 2016, Balkan Herbal Industries, Robert Peterson Fields PLLC, and the United Nations War Human Traffic Association. See Square, Inc., Subpoena Resp. at 18, 20, 22-23.

1 Authorize.net processed were likely processed on behalf of multiple committees or other
2 businesses that Peterson operated. Using only the amounts we were able to verify, it appears that
3 ASU may have underreported its receipts by over \$50,000.⁴⁸

4 We reached out to the contributors listed on ASU's 2015 Mid-Year Report or identified
5 through bank records.⁴⁹ Eleven contributors spoke with us, all of whom confirmed that they
6 believed that they were contributing to the Sanders campaign when they made their
7 contributions, and all of whom indicated they were unfamiliar with ASU or Peterson.⁵⁰ Two of
8 those contributors donated by check made out to the Sanders campaign in May 2015, but were
9 not listed on ASU's disclosure reports; it is unclear how these contributors submitted the checks
10 if ASU relied primarily on website donations.⁵¹ The other contributors we spoke with told us
11 that they had contributed through a website; some believed that they made their contributions

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retained records containing transactional level detail due to their retention policies. *See* BluePay Subpoena Resp.; Square, Inc., Subpoena Resp.; Authorize net Subpoena Resp.

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. *See also* Kostas Panagopoulos Decl. ¶ 4 (May 15, 2017) (stating that he thought he was contributing directly to Sanders when he made a contribution on Betonbernie.com); Mark Sherman Decl. ¶ 6 (Oct. 19, 2017) (indicating that he assumed he was contributing through Sanders's official campaign website).

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ASU's 2015 Mid-Year Report includes a notation in connection with a contribution refund noting that members of a social club sent money orders to ASU. 2015 Mid-Year Report at 43, ASU. Peterson states that when he was arrested, he was in possession of one hundred checks that he needed to either return or deposit, but did not explain to us how he obtained those checks.

1 through Act Blue, which they thought they had accessed through the Sanders's campaign site.⁵²

2 Two contributors provided us with copies of their email contribution receipts, which were sent

3 by BluePay and listed "Your Receipt from Bernie Sander [sic] 2016" in the subject line.⁵³

4 The investigation also sought to verify public reports that ASU had accepted a \$47,300

5 contribution from actor Daniel Craig.⁵⁴ Peterson discussed the Craig contribution in media

6 reports, but never disclosed the contribution on ASU's reports filed with the Commission.⁵⁵

7 Peterson stated that the contribution was made through ActBlue but was ultimately reversed, and

8 directed us to Craig's former attorney.⁵⁶ ActBlue confirmed that the contribution was caught up

9 in their security protocols and it did not allow the contribution to go through.⁵⁷ There is some

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ASU was using BluePay as a payment processor. . At the time of these contributions,

53 The Complainant made his contribution when the website was using Authorize.net as a payment processor. Sherman Decl. at Ex. B. News reports identified additional ASU contributors but they were not listed on either the Mid-Year Report or ASU's bank records. *See, e.g.* Beckel (Sept. 2015), *supra* note 36 (quoting six individuals who stated that they contributed to ASU).

54 *See* Michael Beckel, *Super PAC that Seemingly Scammed James Bond Actor Fined*, CENTER FOR PUBLIC INTEGRITY (Sept. 2, 2016), <https://www.publicintegrity.org/2016/09/02/20156/super-pac-seemingly-scammed-james-bond-actor-fined>; *see also* Beckel (Sept. 2015), *supra* note 36 (noting that Craig's publicist, who was interviewed for the article, stated Craig was a U.S. resident legally able to make political contributions at the time and made the contribution to ASU "in good faith" that it would be used to support Sanders).

55 *See, e.g.*, Livera Interview at note 28 (in which Peterson discusses the Craig donation during a recorded interview); Beckel (Sept. 2015), *supra* note 36 (quoting Peterson as stating it was an "honor" to receive the Craig contribution and that "James Bond for Bernie is pretty cool, you know what I mean?").

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1 information that the contribution may have been made again, although we did not see the funds
2 in any of the bank or vendor records we reviewed.⁵⁸

3 **E. ASU's Disbursements**

4 As mentioned above, Peterson told this Office that ASU spent between \$50,000 and
5 \$60,000 to support Sanders, but those disbursements are not reflected in the sole report ASU
6 filed with the Commission or in the Committee's bank records. As with the contributions, we
7 cannot determine the disbursements with certainty because the amounts and payees disclosed on
8 the Committee reports do not all appear on the bank records.

9 Neither ASU's disclosure report filed with the Commission nor its bank records show
10 any payments to billboard vendors. We confirmed with the General Counsel from PR
11 Newswire/Cision Ltd., the company responsible for the April 2015 display, that the order for an
12 electronic billboard display was placed by a Canadian client through PR Newswire's Canadian
13 affiliate, but the company was unwilling to identify the name of that client absent a subpoena.⁵⁹
14 ASU's 2015 Mid-Year Report shows a number of possible Canadian vendors who may have
15 been paid for placement of the billboard ad, but they have not responded to our attempts to
16 contact them. ASU disclosed \$24,506 in payments to "EMW Services," which we believe to be
17 EMW Consulting & Services, Inc., a Canadian company offering public relations services and

⁵⁸ Craig's former attorney, Joseph Fox, also confirmed that ActBlue rejected the contribution but he believed that the funds were later deposited elsewhere. Mr. Fox could not provide further details as he did not have access to his files and our efforts to reach Craig's representatives by other means were unsuccessful.

⁵⁹ Cision's General Counsel expressed a willingness to cooperate with us but would require a subpoena to share information about the transaction. We could not obtain a subpoena to obtain additional information due to the Commission's recent lack of quorum.

1 whose President is Peterson associate Alexander Pidgeon;⁶⁰ an \$8,600 in-kind contribution from
2 Community Works, a company based out of Ottawa; and a \$19,450 in-kind contribution for
3 media marketing from an individual (Michael Callahan) with a Montreal address.⁶¹

4 Additionally, of the \$143,258.83 in disbursements disclosed on the 2015 Mid-Year
5 Report, only \$5,420.66 were payments to recipients that also appear on the bank records.
6 However, even where the same payee appears on both the bank records and the disclosure report,
7 the dates and amounts do not match up. For example, while the bank records show \$4,126.31 in
8 total payments for Google Ad Words, ASU's disclosure report show \$4,045.31. Similarly, while
9 bank records show payments to Microsoft Bing totaling \$288.57, the disclosure report shows
10 disbursements in the amount of \$607.62. Although a full reconciliation was not possible, it
11 appears that ASU inaccurately disclosed over \$100,000 in disbursements.⁶²

⁶⁰ Dun & Bradstreet, Inc. (2020), EMW Consulting & Services, Inc. (Company Profile), https://www.dnb.com/business-directory/company-profiles/emw_consulting_services_inc.368a04b429658c6990080377c4ba4ba9.html (listing Pidgeon as President). Before we learned that a Canadian company had been involved with the billboard, we reached out to EMW Digital Services, a U.S. based company with a similar name that provides the types of services that ASU may have required. The company confirmed that it did not perform any work for Peterson or ASU, and does not take a political clients as a matter of course.

⁶¹ A street address was not listed for Callahan. It is also possible that money raised by the group that preceded ASU was used to fund the billboard. Additionally, another Peterson committee — the Independent National Alliance Committee — tweeted about the billboard and could have also been involved with its payment, but it never filed any reports with the Commission. *See* @INC4US (Apr. 24, 2015), TWITTER, <https://twitter.com/INC4US/status/591624082120052736>; Statement of Org. (Feb. 11, 2015) and Amended Statement of Org. (May 7, 2015); Administration Termination Notification Ltr. (Dec. 1, 2017); Miscellaneous Text (Jan. 15, 2018) (requesting termination “because of a transition of interest for another PAC” pursuing similar issues).

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1 **IV. LEGAL ANALYSIS**

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3 **A. Fraudulent Misrepresentation, Recordkeeping, and Reporting Violations**

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5 The investigation confirmed the Commission's reason to believe findings that Peterson
6 and ASU violated the Act's prohibition against the fraudulent solicitation of contributions and
7 that it failed to comply with the Act's recordkeeping and reporting provisions.

8 The Act provides that no person shall fraudulently misrepresent the person as speaking,
9 writing, or otherwise acting for, or on behalf of, any candidate or agent thereof for the purpose of
10 soliciting contributions or donations.⁶³ ASU and Peterson violated 52 U.S.C. § 30124(b) by
11 operating a website and social media accounts that solicited contributions and misrepresented
12 themselves as acting on behalf of federal candidate Bernie Sanders.⁶⁴ The record shows that
13 some contributors believed that contributions they made in response to solicitations on ASU's
14 website would go directly to the Sanders campaign, which is persuasive evidence of an intent to
15 deceive.⁶⁵ Indeed, ASU's single report filed with the Commission discloses contribution refunds
16 for checks that had been written out to the Sanders campaign instead of ASU, which ASU could

⁶³ 52 U.S.C. § 30124(b)(1); *see also* 11 C.F.R. § 110.16(b)(1). Further, the Act provides that no person shall willfully and knowingly participate in or conspire to participate in any plan or scheme to engage in such behavior. 52 U.S.C. § 30124(b)(2); *see also* 11 C.F.R. § 110.16(b)(2).

⁶⁴ F&LA at 4-8, and note 16 (May 8, 2018), MUR 6997 (describing that ASU's website asked contributors to "Bet on Bernie!," its social media accounts exhorted viewers to "[m]ake your contribution pledge for Senator Sanders' presidential bid today!" and that the committee's use of "voterberniesanders2016.com" and "voteforbernie.net" as some of its URLs contributed to the misrepresentation).

⁶⁵ *Supra* at III.D and note 50. Indeed, the Sanders' campaign committee warned Peterson in a cease-and-desist letter that ASU's website was creating "harmful confusion for supporters" and were "intercepting donations" that were intended for the Sanders campaign. F&LA at 6 (May 8, 2018), MUR 6997. In examining fraudulent misrepresentation violations, information that contributors were in fact misled, while not dispositive, is persuasive evidence that a respondent had an intent to deceive. *See* F&LA for Californians for Change at 9, MUR 5951 (explaining that "[u]nlike common law fraudulent misrepresentation, section [30124] gives rise to no tort action" and "therefore, proof of justifiable reliance and damages is not necessary"); *see also* Certification (Aug. 3, 2011) and Gen. Counsel's Brief at 17-18, MUR 5951 (Californians for Change) (finding probable cause to believe Respondents violated [section 30124] in part because multiple members of the public were in fact misled and contributed money under the belief it would be contributed to then-Senator Barack Obama).

1 not legally deposit.⁶⁶ Additionally, Peterson attempted to show an association with the Sanders
2 campaign by initially naming the committee “Ready for Bernie Sanders” and “Bet on Bernie,”
3 by displaying links to ASU related sites alongside links to official Sanders’ campaign sites on the
4 ASU website, and by representing to banks and vendors that he was acting on behalf of or with
5 the knowledge of the campaign.⁶⁷ That ASU may have paid for billboards supporting Sanders
6 does not negate this misrepresentation.⁶⁸ Therefore, the evidence supports the Commission’s
7 findings that ASU and Peterson violated 52 U.S.C. § 30124(b) by fraudulently soliciting
8 contributions.

9 Similarly, the evidence shows that ASU filed an inaccurate report with the
10 Commission.⁶⁹ Our review of the Committee’s bank records shows that most of the
11 contributions disclosed on ASU’s report were not processed through the Committee’s designated
12 bank accounts. Additionally, many contributions processed by BluePay were deposited into

⁶⁶ F&LA at 7 (May 8, 2018), MUR 6997. It is possible that some of the payment reversals in the records that the payment processors provided were also for the purpose of refunding contributions. *See, e.g.*, Sherman Decl. ¶ 13 and Ex. C. *See also*, Authorize.net Subpoena Resp. (listing credit card payment reversals totaling almost \$600 and over \$400 in bank account (ACH) payment reversals); Square Inc., Subpoena Resp. (showing over \$600 in refunds); (Peterson acknowledged that at the time of his arrest he had over 100 checks in his possession that he needed to return or deposit).

⁶⁷ *Supra* at section III.C; F&LA at 5 (May 8, 2018), MUR 6997.

⁶⁸ *See e.g.*, Certification (Aug. 3, 2011), General Counsel’s Brief at 16-19, MUR 5951 (Californians for Change) (finding probable cause to believe that Respondent, despite printing materials and selling merchandise advocating support of then Senator Obama, committed fraudulent misrepresentation by creating false impression he was working on behalf of Obama’s campaign), *citing* MUR 5472 (Republican Victory Committee) (finding probable cause to believe Respondents fraudulently solicited contributions by implying committee was affiliated with or acting on behalf of the Republican Party). Further, although Peterson claims ASU displayed the April 2015 billboard in Times Square, that billboard lacked a disclaimer.

⁶⁹ Under the Act, a committee, through its treasurer, is required to keep an accurate account of and disclose its receipts, disbursements, and cash-on-hand balances. *See* 52 U.S.C. § 30104(b)(1), (2), (4), (5), (6). Committees are required to file reports with the Commission through their treasurers disclosing, among other things, the name and address of each person who makes aggregate contributions in excess of \$200 and to whom an expenditure exceeding \$200 is made together with the date, amount, and purpose of the expenditure. *See id.* § 30104(b)(3)(A), (6)(B).

1 Peterson's personal bank account and were not disclosed in reports filed with the Commission.⁷⁰
2 Further, the available bank records do not include most of the disbursements that ASU lists on its
3 disclosure report.⁷¹ Although Peterson claims that he cannot update ASU's reports because he
4 lacks access to committee records while he is in prison, his current inability to amend the reports
5 is immaterial to the finding that there was substantial misreporting on the single report ASU filed
6 with the Commission before his conviction. It also does not explain Peterson's failure to file
7 ASU's 2015 Year-End Report, which was due in January 2016, before he was arrested in March
8 of that year.

9 The available evidence also supports the Commission's finding that Peterson failed to
10 maintain proper committee records.⁷² ASU's donation page failed to request identification
11 information from contributors and its 2015 Mid-Year Report failed to disclose that
12 information.⁷³ ASU's disclosure report failed to list the street addresses for all its contributors
13 and for all of those who received disbursements exceeding \$200, and failed to disclose employer
14 and occupation information for all of its contributors listed.⁷⁴

⁷⁰ *Supra* at section III.D.

⁷¹ *Supra* at section III.E.

⁷² The Act requires committee treasurers to keep an account of the identification of any person who makes a contribution or contributions aggregating more than \$200 during a calendar year, together with the date and amount of any such contribution, and the name and address of every person receiving a disbursement in excess of \$200. 52 U.S.C. § 30102(c)(3), (5).

⁷³ F&LA at 10-11 (May 8, 2018), MUR 6997. *See also* Sherman Decl. ¶ 10 (stating that ASU's donation page did not request his employer information).

⁷⁴ 2015 Mid-Year Report, ASU.

1 Thus, the evidence confirms all of the findings the Commission made at the reason to
 2 believe stage.⁷⁵ However, as discussed in Section V, we do not recommend that the Commission
 3 commit further resources to this matter.⁷⁶

4 **B. Additional Potential Violations Discovered During the Investigation**

5 The investigation also uncovered information that Peterson used his personal bank
 6 accounts to conduct committee business for both ASU and other political committees, failed to
 7 update his bank information or disclose all his depository accounts with the Commission, and
 8 failed to file independent expenditure reports. There are also questions as to whether ASU,
 9 through Peterson, may have accepted a prohibited in-kind contribution from a foreign national.

10 The Act requires that political committees designate a bank account on its Statement of
 11 Organization and that any changes to its information should be reported to the Commission no
 12 later than ten days following the change.⁷⁷ Additionally, under the Act, ASU was required to

⁷⁵ Similarly, the evidence would also support findings that the violations were knowing and willful. A violation of the Act is knowing and willful when the respondent acts “with full knowledge of all the relevant facts and a recognition that the action is prohibited by law.” 122 Cong. Rec. 12197, 12199 (daily ed. May 3, 1976) (defining phrase “knowing and willful”). This standard does not require proving knowledge of the specific statute or regulation the respondent allegedly violated. *See United States v. Danielczyk*, 917 F. Supp. 2d 573, 579 (E.D. Va. 2013). Rather, it is sufficient to demonstrate that a respondent “acted voluntarily and was aware that his conduct was unlawful,” which may be shown through circumstantial evidence, such as a “defendant’s elaborate scheme for disguising” their actions, or other “facts and circumstances from which the jury reasonably could infer [the defendant] knew [their] conduct was unauthorized and illegal.” *Id.*; *United States v. Hopkins*, 916 F.2d 207, 213-15 (5th Cir. 1990) (internal quotation marks omitted).

The evidence that would support a knowing and willful finding includes the original misleading committee names, the multiple times Peterson misled businesses and contributors into believing he worked for the Sanders campaign, the opaque web of payment vendors and bank accounts used, the failure to disclose bank accounts on ASU’s Statement of Organization, and the commingling of committee funds with his own. *See, e.g.*, F&LA at 2-3, 5, 7, 11, 14-15, MUR 6597 (Kinde Durkee) (finding that respondent’s actions in moving funds between multiple client accounts and submitting false disclosure reports constituted knowing and willful conduct aimed at disguising her unauthorized use of committee funds, artificially inflating bank balances, and concealing violations of the Act). The fact that Peterson and ASU may have made some legitimate expenditures in support of Sanders does not overcome the pervasive deceptiveness of ASU’s operations.

⁷⁶ *Heckler v. Chaney*, 470 U.S. 821, 831 (1985).

⁷⁷ 52 U.S.C. §§ 30102(h), 30103(b)(c); 11 C.F.R. § 102.2 (a)(2).

1 ensure that all campaign funds are “segregated from, and may not be commingled with the
2 personal funds of any individual.”⁷⁸ Our investigation discovered that ASU’s bank accounts
3 listed on its Statements of Organization were closed in 2015 and early 2016 but Peterson failed
4 to provide the name of a new bank account to the Commission.⁷⁹ Further, the investigation
5 revealed that Peterson used personal accounts to conduct a mixture of personal, committee, and
6 business transactions, and therefore commingled ASU’s funds with his personal funds, the funds
7 of commercial businesses he ran, and the funds of his other political committees.

8 Peterson’s statements that ASU displayed billboards supporting Sanders, as well as the
9 disclaimers on those billboards, also indicate that ASU made independent expenditures, which it
10 failed to report to the Commission.⁸⁰ There are also questions as to whether those billboards
11 might have been funded in part by a foreign national. The Act prohibits persons from soliciting,
12 accepting, or receiving a contribution or donation from a foreign national.⁸¹ ASU’s single report
13 filed with the Commission discloses an in-kind contribution from an individual with a Canadian
14 address, and we confirmed with the billboard vendor that one billboard was paid for by a

⁷⁸ 52 U.S.C. § 30102(b)(3); 11 C.F.R. § 102.15.

⁷⁹ Peterson filed an amended Statement of Organization on June 18, 2015, but then closed the account designated on that statement (US Bank) in July 2015. He has not filed any new statements even though he was conducting committee business using other accounts throughout 2015 and 2016, and never listed First Bank on any of the statements despite having held accounts there on behalf of ASU.

⁸⁰ Under the Act, unauthorized political committees, as well as other persons, must disclose independent expenditures. Non-connected political committees must itemize each independent expenditure which exceeds \$200 or which, when added to previous independent expenditures made on behalf of (or in opposition to) the same candidate, aggregates over \$200 during a calendar year. 52 U.S.C. § 30104(b)(6)(B)(iii). The Act and Commission regulations impose additional reporting obligations when a committee makes or contracts to make independent expenditures aggregating \$1,000 or more after the 20th day, but more than 24 hours before, the date of an election, and when a political committee makes or contracts to make independent expenditures aggregating \$10,000 or more outside of that 20-day period, up to and including the 20th day. *See* 52 U.S.C. § 30104(g)(1)-(2); 11 C.F.R. § 109.10(d).

⁸¹ 52 U.S.C. § 30121(a)(2). A “foreign national” is an individual who is not a citizen of the United States or a national of the United States and who is not lawfully admitted for permanent residence. *Id.* § 30121(b)(2).

1 Canadian client. While it appears that a number of Canadian businesses may have provided
2 services to ASU, there is insufficient information to determine whether these were *bona fide*
3 services paid for by ASU or were prohibited in-kind contributions.⁸² ASU's report also
4 disclosed contribution refunds to foreign nationals but we do not know how many total foreign
5 national contributions ASU may have received and whether they were all returned.⁸³ However,
6 for the reasons discussed below, we do not believe that the Commission should commit further
7 resources to this matter.

8 **V. DISPOSITION**

9 Given the particular facts, circumstances, and limitations in this matter, including the
10 ordering of the Commission's priorities on its docket, we recommend the Commission exercise
11 its prosecutorial discretion and take no further enforcement action other than admonishing
12 Peterson and ASU, directing RAD to administratively terminate ASU, and

13 .⁸⁴ The statute of limitations expired on all of
14 ASU's 2015 activity during the period in which the Commission lacked a quorum, and it will
15 soon expire on the limited remaining activity from the first half of 2016.⁸⁵ Given Peterson's
16 incarceration and the haphazard state of the underlying financial records, it also does not appear

⁸² *Supra* at section III.E. Our inability to obtain a subpoena due to the Commission's lack of quorum prevented further investigation of these potential violations.

⁸³ The report notes that "Upon 'thank you' and follow up by [ASU] by phone or email it was discovered that the donor is not eligible to make a cash donation to [ASU] due to being a non-US citizen living outside of the U.S." 2015 Mid-Year Report at 43, 51-52.

⁸⁴ *Heckler*, 470 U.S. at 831.

⁸⁵ Although ASU's reporting violations are ongoing, it is unlikely that ASU collected additional contributions after the website ceased to operate in July 2016. The Commission's Administrative Fines Program has assessed \$14,300 in total civil penalties for ASU's failure to file its 2015 Year-End and 2016 April Quarterly Reports, and assessed no penalty for its failure to file its 2016 July Quarterly Report. *See* Administrative Fine Cases # 3038, 3057, and 3117. The fines were sent to the Department of Treasury for collection.

1 that Peterson has the ability to amend the disclosure reports to more accurately reflect the 2015-
2 2016 activity or file reports regarding ASU's activity since that time. Further, the court's
3 criminal restitution order likely limits Peterson's ability to pay a civil penalty.⁸⁶

4 Consistent with other similarly situated matters, we recommend that the Commission
5 issue admonishment letters to Peterson and ASU.⁸⁷ In addition, we recommend that the
6 Commission instruct RAD to administratively terminate ASU

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⁸⁶ Judgment at 7.

⁸⁷ Certification ¶ 1 (July 20, 2020) and Closing Ltrs. to Kyle Prall, HC4President and Socially Responsible Government (July 22, 2020) (admonishing respondents for fraudulent misrepresentation violations in matter where Prall had also pled guilty to related violations in federal court); Certification ¶ 3 (Dec. 9, 2016) and Closing Ltrs. to Babulal Bera (Dec. 13, 2016 and Jan. 4, 2017), MUR 7072 (Commission closed matter and admonished Bera for violations of the Act after he pleaded guilty in federal court).

1 **VI. RECOMMENDATIONS**

- 2 1. Take no further action against Americans Socially United and Cary L. Peterson in
3 his official capacity as treasurer, and Cary L. Peterson in his personal capacity, and
4 issue an admonishment letter.
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6 2. Instruct the Reports Analysis Division to administratively terminate Americans
7 Socially United.
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11 4. Approve the appropriate letters.

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5. Close the file.

Lisa J. Stevenson
Acting General Counsel

Charles Kitcher
Acting Associate General Counsel
for Enforcement

03.09.21
Date

BY: 
Stephen Gura
Deputy Associate General Counsel
for Enforcement


Mark Shonkwiler
Assistant General Counsel


Ana J. Peña-Wallace
Attorney


Ray Wolcott
Attorney