



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

August 17, 2020

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

Crystal K. Perkins  
Texas Democratic Party  
1106 Lavaca Street, #100  
Austin, TX 78701

RE: MUR 7048

Dear Ms. Perkins:

This is in reference to the complaint you filed with the Federal Election Commission on April 25, 2016, alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On April 9, 2019, the Commission found reason to believe that Cruz for President and Bradley S. Knippa in his official capacity as treasurer (together, the "Cruz Committee") violated 52 U.S.C. § 30125(e) and 11 C.F.R. § 300.61, and found no reason to believe that the Cruz Committee violated 11 C.F.R. § 102.17. On that same date, the Commission found no reason to believe that Stand for Truth, Inc., and D. Eric Lycan in his official capacity as treasurer (together, "Stand for Truth") violated 11 C.F.R. § 102.17, and closed the file as to them.

On August 6, 2020, the Commission accepted the signed conciliation agreement with the Cruz Committee, voted to dismiss the allegations that J. Keet Lewis and Senator Ted Cruz violated 52 U.S.C. § 30125(e) and 11 C.F.R. § 300.61, and closed the file.

Documents related to the case will be placed on the public record within 30 days. *See Statement of Policy Regarding Disclosure of Certain Documents in Enforcement and Other Matters*, 81 Fed. Reg. 50,702 (Aug. 2, 2016). Copies of the conciliation agreement and the Factual and Legal Analysis for the Cruz Committee and the Factual and Legal Analysis for Stand for Truth are enclosed for your information.

Crystal K. Perkins  
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If you have any questions, please contact Joseph Wenzinger, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

*Mark Allen*

Mark Allen  
Assistant General Counsel

Enclosures

Conciliation Agreement  
Factual and Legal Analysis for Cruz for President  
Factual and Legal Analysis for Stand for Truth

## BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
Cruz for President and Bradley S. Knippa ) MUR 7048  
in his official capacity as treasurer )

**CONCILIATION AGREEMENT**

This matter was initiated by a signed, sworn, and notarized complaint by Crystal K. Perkins, Texas Democratic Party. The Federal Election Commission (“the Commission”) found reason to believe that Respondent Cruz for President and Bradley S. Knippa in his official capacity as treasurer (“Respondent” or “the Committee”) violated 52 U.S.C. § 30125(e) and 11 C.F.R. § 300.61.

NOW, THEREFORE, the Commission and Respondent, having participated in informal methods of conciliation prior to a finding of probable cause to believe that a violation occurred, do hereby agree, unless otherwise contended, as follows:

I. The Commission has jurisdiction over Respondent and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 52 U.S.C. § 30109(a)(4)(A)(i).

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Respondent is the principal campaign committee within the meaning of 52 U.S.C. § 30102(e) for the candidacy of Rafael Edward “Ted” Cruz (“Cruz”) for president during the 2016 election cycle.

28           2. In 2015 and 2016, J. Keet Lewis (“Lewis”) served as a volunteer fundraiser for the  
29 Committee.

30           3. Stand for Truth, Inc. (“the Super PAC”) is a political committee within the meaning of  
31 52 U.S.C. § 30101(4), and is an independent-expenditure-only political committee (“IEOPC”);  
32 thus, it has filed a notice with the Commission stating that it makes independent expenditures  
33 and, consistent with the U.S. Court of Appeals for the District of Columbia Circuit decision in  
34 *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010), raises funds in unlimited amounts and  
35 does not use those funds to make contributions to federal candidates or committees.

36           4. On December 30, 2015, Respondent hosted an official fundraiser to solicit  
37 contributions for Respondent, and Lewis served as a co-host and the emcee of the event.

38           5. At the event, in his role as co-host and emcee, Lewis made spoken remarks to  
39 attendees during which he (1) solicited individual contributions to Respondent and (2) stated the  
40 following:

41               A. That an “unlimited table” for “the Super PAC, Stand for Truth” was present  
42 and able to accept “corporate dollars”;

43               B. That the Super PAC “can take corporate dollars” and “can take partnership  
44 dollars”; and

45               C. That “the method to our madness is this: you max out [to Respondent] and  
46 then get engaged in the Super PAC.”

47           6. The Federal Election Campaign Act of 1971, as amended (“the Act”), and  
48 Commission regulations prohibit any agent acting on behalf of a federal candidate or any  
49 individual holding federal office, or any entity directly or indirectly established, financed,

maintained, or controlled by or acting on behalf of one or more federal candidates or individuals holding federal office, from soliciting funds in connection with an election for federal office unless the funds are subject to the limitations, prohibitions, and reporting requirements of the Act. 52 U.S.C. § 30125(e); 11 C.F.R. §§ 300.60, 300.61.

7. The Act limits contributions to non-authorized, non-party committees to \$5,000 in any calendar year, 52 U.S.C. § 30116(a)(1)(C), and prohibits contributions to such committees from a variety of sources, including corporations and labor organizations, *see* 52 U.S.C. §§ 30118(a), (b). These contribution limits and source restrictions do not apply to contributions to IEOPCs in the wake of *Citizens United v. FEC*, 558 U.S. 310 (2010), and *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010).

8. The Act's solicitation restrictions under 52 U.S.C. § 30125(e)(1)(A) remain applicable to agents acting on behalf of federal candidates and individuals holding federal office. *See* Advisory Opinion 2015-09 (Senate Majority PAC); Advisory Opinion 2011-12 (Majority PAC). Accordingly, agents acting on behalf of federal candidates and individuals holding federal office "may not solicit unlimited contributions from individuals, corporations, or labor organizations on behalf of [IEOPC's] . . . ." Advisory Opinion 2011-12 (Majority PAC) at 3.

9. For purposes of the 52 U.S.C. § 30125(e) and 11 C.F.R. § 300.61, the Commission defines "agent" to mean "any person who has actual authority, either express or implied, to engage in any of the following activities on behalf of" a federal candidate or individual holding federal office: "solicit, receive, direct, transfer, or spend funds in connection with any election." 11 C.F.R. §§ 300.2(b), (b)(3).

10. The Commission has explained that, under the Commission’s definition of “agent” for purposes of 11 C.F.R. §§ 300.2(b), (b)(3), in the event that an agent of a candidate or committee makes impermissible solicitations, “the candidate/principal may . . . be liable for any impermissible solicitations by the agent, despite specific instructions not to do so.” Definition of “Agent” for BCRA Regulations on Non-Federal Funds or Soft Money and Coordinated and Independent Expenditures, 71 Fed. Reg. 4975, 4978 (Jan. 31, 2006) (citing *U.S. v. Investment Enterprises, Inc.*, 10 F.3d 263, 266 (5th Cir. 1993) (determining that under settled agency law liability exists “for unlawful acts of [] agents, provided that the conduct is within the scope of the agent’s authority”).

11. The Commission defines “to solicit” to mean:

to ask, request, or recommend, explicitly or implicitly, that another person make a contribution, donation, transfer of funds, or otherwise provide anything of value. A solicitation is an oral or written communication that, construed as reasonably understood in the context in which it is made, contains a clear message asking, requesting, or recommending that another person make a contribution, donation, transfer of funds, or otherwise provide anything of value. A solicitation may be made directly or indirectly. The context includes the conduct of persons involved in the communication. A solicitation does not include mere statements of political support or mere guidance as to the applicability of a particular law or regulation.

11 C.F.R. § 300.2(m).

12. The Commission found reason to believe that Lewis, as an agent acting on behalf of the Committee, solicited unlimited contributions to the Super PAC.

13. Respondent contends that Lewis’s remarks violated Respondent’s own policies and that Respondent’s policies, as written, did not give Lewis authority to solicit impermissible Super PAC funds.

V. To settle this matter expeditiously and avoid the expense of litigation, Respondent agrees not to further contest this matter after the Commission found reason to believe that Respondent violated 52 U.S.C. § 30125(e) and 11 C.F.R. § 300.61 by soliciting contributions outside of the limitations, source restrictions, and reporting requirements of the Act, in connection with a federal election.

VI. Respondent will do the following the fully resolve and settle this matter:

1. Respondent will pay a civil penalty to the Commission in the amount of Thirteen Thousand Dollars (\$13,000), pursuant to 52 U.S.C. § 30109(a)(5)(A) and 11 C.F.R. § 111.24(a)(1).

2. Respondent will cease and desist in committing violations of 52 U.S.C. § 30125(e) and 11 C.F.R. § 300.61.

VII. The Commission, on request of anyone filing a complaint under 52 U.S.C. § 30109(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement pursuant to an affirmative vote of four of its members.

IX. Respondent shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

MUR 7048 (Cruz for President)  
Conciliation Agreement  
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119 X. This Conciliation Agreement constitutes the entire agreement between the parties on  
120 the matters raised herein, and no other statement, promise, or agreement, either written or oral,  
121 made by either party or by agents of either party, that is not contained in this written agreement  
122 shall be enforceable.

123 FOR THE COMMISSION:

124 Lisa J. Stevenson  
125 Acting General Counsel

126 BY: Charles Kitcher  
127 Charles Kitcher  
128 Acting Associate General  
129 Counsel for Enforcement

8/11/20  
Date

130 FOR RESPONDENT:

131 Bradley S. Knippa  
132 Bradley Knippa  
133 Treasurer

6/10/20  
Date



**FEDERAL ELECTION COMMISSION****FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Cruz for President and Bradley S. Knippa MUR 7048  
in his official capacity as treasurer

**I. INTRODUCTION**

The Complaint alleges that Cruz for President and Bradley S. Knippa in his official capacity as treasurer (the “Committee”), through an agent, J. Keet Lewis, solicited unlimited and corporate contributions to Stand for Truth, Inc. and D. Eric Lyman in his official capacity as treasurer (the “Super PAC”), an independent-expenditure-only political committee, in violation of the Federal Election Campaign Act of 1971, as amended (the “Act”), and Commission regulations. The Complaint further alleges that the Committee violated Commission regulations by failing to establish a joint fundraising committee with the Super PAC.

Based on the available information, the Commission finds reason to believe that the Committee, through its agent Lewis, solicited nonfederal funds in violation of 52 U.S.C. § 30125(e) and 11 C.F.R. § 300.61. Moreover, the Commission finds no reason to believe that the Committee improperly failed to establish a joint fundraising committee with the Super PAC in violation of 11 C.F.R. § 102.17.

**II. FACTUAL AND LEGAL ANALYSIS****A. Factual Background**

In March 2015, Senator Rafael Edward “Ted” Cruz filed a Statement of Candidacy for President,<sup>1</sup> designating the Committee as his principal campaign committee.<sup>2</sup> Lewis served as a

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<sup>1</sup> Rafael Edward “Ted” Cruz, FEC Form 2 (Mar. 23, 2015), at 1, <http://docquery.fec.gov/pdf/891/15031403891/15031403891.pdf>.

1 volunteer fundraiser for the Committee. The Super PAC filed a Statement of Organization as an  
 2 independent-expenditure-only political committee (“IEOPC”) in November 2015.<sup>3</sup>

3 The Committee sponsored an official fundraiser on December 30, 2015.<sup>4</sup> Lewis, who the  
 4 Complaint alleges was a “National Co-Chair” of and bundler for the Committee,<sup>5</sup> served as a co-  
 5 host and the emcee of the event.<sup>6</sup> According to an audio recording of Lewis’s remarks as emcee,  
 6 he told the crowd that an “unlimited table” for “the Super PAC, Stand for Truth” was present and  
 7 able to accept “corporate dollars.”<sup>7</sup> The recording reflects that Lewis referenced the Super PAC  
 8 immediately after soliciting a contribution for the campaign:

9 [Unintelligible] . . . 2700 per person, and then 5400 for the general.  
 10 If you hit your max, we have a table for you that is the unlimited  
 11 table. It can take corporate dollars, it can take partnership dollars  
 12 and that’s the Super PAC Stand for Truth, so pick up some of that  
 13 information. The method to our madness is this: you max out and  
 14 then get engaged in the Super PAC. . . . It’s totally separate from  
 15 . . . the campaign. . . . We want to make it a great night. . . .<sup>8</sup>  
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<sup>2</sup> Cruz for President, FEC Form 1 (Mar. 23, 2015), at 2, <http://docquery.fec.gov/pdf/894/15031403894/15031403894.pdf>.

<sup>3</sup> Stand for Truth, Inc., FEC Form 1 (Nov. 18, 2015), at 2, <http://docquery.fec.gov/pdf/215/201511189003366215/201511189003366215.pdf>.

<sup>4</sup> Compl. at 2.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* Ex. A (placard noting “a special thanks” from “Heidi & Ted Cruz” to a list of co-hosts, including Lewis and his wife).

<sup>7</sup> See Compl. at 3 n.5 (citing Arthur Grayson, *Ted Cruz Fundraiser*, YOUTUBE (Apr. 6, 2016), <https://www.youtube.com/watch?v=N3dFpzANr5w&feature=youtu.be> (“YouTube Video”)). Although the YouTube video contains only audio and not visual elements, Lewis admits in his response that he spoke about the Super PAC in his role as emcee at the fundraising event.

<sup>8</sup> YouTube Video; see also Committee Resp. at 4 (transcribing recording of event). The YouTube video also reveals that, just after discussing the Super PAC, Lewis told the event audience that in “just a minute we’ll bring up Ted and Heidi” Cruz. YouTube Video; see also Compl. at 2-3 (transcribing recording of video).

The Committee maintains that the Complaint incorrectly labeled Lewis as National Co-Chair of Cruz’s campaign generally; it asserts that Lewis was merely National Co-Chair of the campaign’s Small Business for Cruz Coalition.<sup>9</sup> The available information indicates that individual contributions to the Committee were raised at the event in question. The Committee also disputes both that Lewis’s words constitute a solicitation and that Lewis was an agent for the Committee, asserting that Lewis’s statement was “not a ‘clear message’ of exhortation” for a contribution.<sup>10</sup>

## **B. Legal Analysis**

The Complaint alleges that the Committee impermissibly solicited nonfederal funds, and that the Committee failed to properly establish a joint fundraising committee with the Super PAC. The Commission addresses each alleged violation in turn.

### **i. There Is Reason to Believe that the Committee Violated the Ban on Soliciting Nonfederal Funds**

This matter turns on whether Lewis made his remarks at the event as an “agent” of the Committee, and whether those comments constituted a “solicitation” of nonfederal funds.

#### *1. The Record Indicates that Lewis Was an Agent of the Committee*

The Act prohibits certain persons and entities from soliciting nonfederal funds—those funds that fall outside “the limitations, prohibitions, and reporting requirements” of the Act—in connection with an election for federal office.<sup>11</sup> This “soft money” prohibition applies

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<sup>9</sup> Committee Resp. at 2-3.

<sup>10</sup> See Committee Resp. at 4; see also *id.* at 3 (implying that Lewis was not an agent because he was a volunteer).

<sup>11</sup> See 52 U.S.C. § 30125(e)(1)(A); see also 11 C.F.R. § 300.61; Advisory Op. 2015-09 (Senate Majority PAC *et al.*).

specifically to (1) a candidate or individual holding federal office; (2) an “agent” of a candidate or an individual holding federal office; and (3) an “entity directly or indirectly established, financed, maintained or controlled by or acting on behalf of 1 or more” candidates or individuals holding federal office.<sup>12</sup> As applied here, this prohibition covers the Committee (an entity established, financed, maintained or controlled by or acting on behalf of Cruz).

For the purposes of the soft money prohibition, an “agent” of a federal candidate or officeholder is “any person who has actual authority, either express or implied, to engage in any of the following activities on behalf of” that candidate or officeholder: “solicit[ing], receiv[ing], direct[ing], transferr[ing], or spend[ing] funds in connection with any election.”<sup>13</sup> In promulgating this regulation in 2002, the Commission explained that the definition of “agent” must cover “implied” authority because “[o]therwise, agents with actual authority would be able to engage in activities that would not be imputed to their principals so long as the principal was careful enough to confer authority through conduct or a mix of conduct and spoken words.”<sup>14</sup> Thus, a principal may be held liable under an “implied actual authority theory” where “the principal’s own conduct reasonably causes the agent to believe that he or she had authority.”<sup>15</sup>

In considering whether Lewis satisfies the definition of “agent,” the Commission need not analyze whether Lewis had the specific authority to raise *nonfederal* funds; a person who has the

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<sup>12</sup> 52 U.S.C. § 30125(e)(1); *see also* 11 C.F.R. § 300.60.

<sup>13</sup> 11 C.F.R. §§ 300.2(b), (b)(3).

<sup>14</sup> Prohibited and Excessive Contributions: Non-Federal Funds or Soft Money, 67 Fed. Reg. 49064, 49082 (July 29, 2002) (“Original Agent E&J”). The Commission explained that the definition did not incorporate the common law approach to “apparent authority” agency—since the anti-circumvention purposes of the Act do not require an approach to agency based in “a concept created to protect innocent third parties who have suffered monetary damages as a result of reasonably relying on representations of individuals who purported to have, but did not actually have, authority to act on behalf of principals”—but did incorporate “implied” actual authority as a concept distinct from apparent authority to further the Act’s anti-circumvention purposes. *Id.* at 49082-83.

1 authority to raise *federal* funds on behalf of a candidate or individual holding federal office is an  
 2 agent. As the Commission further explained the “agent” definition in 2006, the “Commission’s  
 3 current definitions of ‘agent’ are sufficiently broad to capture actions by individuals where the  
 4 candidate authorizes an individual to solicit Federal funds on his or her behalf, but privately  
 5 instructs the individual to avoid raising non-Federal funds.”<sup>16</sup> Indeed, “the candidate/principal  
 6 may . . . be liable for any impermissible solicitations by the agent, despite specific instructions  
 7 not to do so.”<sup>17</sup> Thus, if Lewis had actual authority, express or implied, to raise funds on behalf  
 8 of the Committee, it is irrelevant whether he was given any instruction on the raising of, or the  
 9 authority to raise, nonfederal funds.

10 The record indicates that Lewis—who the available information characterizes as an  
 11 experienced volunteer fundraiser, generally, and a volunteer fundraiser for the Committee,  
 12 specifically—co-hosted and emceed a Committee fundraiser. He explicitly suggested guests  
 13 “max out” contributions to the campaign, referenced the maximum individual per election  
 14 contribution amount for the 2016 cycle (“2700 per person, and then 5400 for the general”), and  
 15 told the guests to “get engaged in the Super PAC” with “unlimited” or “corporate dollars.”<sup>18</sup> He  
 16 instructed the crowd on the “method to *our* madness,”<sup>19</sup> and he stated that “*we*” [including

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<sup>15</sup> *Id.* at 49083.

<sup>16</sup> Definitions of “Agent” for BCRA Regulations on Non-Federal Funds or Soft Money and Coordinated and Independent Expenditures, 71 Fed. Reg. 4975, 4978 (Jan. 31, 2006) (“Revised Agent E&J”) (explaining further that “the candidate/principal may also be liable for any impermissible [soft money] solicitations by the agent, despite specific instructions to not do so”).

<sup>17</sup> *Id.*

<sup>18</sup> YouTube Video.

<sup>19</sup> *Id.* (emphasis added).

1 possibly himself and “Ted and Heidi”] “want to make it a great night.”<sup>20</sup> The record contains no  
2 information that the Committee disclaimed any of Lewis’s references to contributions at the  
3 events. These circumstances indicate that Lewis had authority to raise funds on behalf of the  
4 Committee at the Committee’s fundraising event, and the Committee expressly or impliedly  
5 requested that Lewis to do so.

6 The Committee suggests that even if Lewis could be considered an agent for some  
7 purposes, he was not acting on their behalf when he referenced nonfederal funds, because the Act  
8 “does not prohibit individuals who are agents . . . from also raising non-Federal funds for other  
9 political parties or outside groups.”<sup>21</sup> The available information, however, indicates that Lewis  
10 did not have a relationship with the Super PAC, and thus was not acting on behalf of the Super  
11 PAC instead of the Committee.

12 Even if Lewis and the Super PAC did have a relationship, an agent of a candidate or  
13 campaign may not raise nonfederal funds on behalf of outside groups unless acting “*exclusively*  
14 on behalf of the other organizations” and “*at different times*” from when he or she acts on behalf  
15 of the campaign.<sup>22</sup> Here, Lewis appeared to reference the Committee and the Super PAC in  
16 nearly the same breath, stating at the fundraiser: “The method to *our* madness is this: you max  
17 out [presumably contributions to the campaign] and then get engaged in the Super PAC.”<sup>23</sup>  
18 Having referenced the Committee and the Super PAC in the same sentence, while at a

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<sup>20</sup> *Id.* (emphasis added).

<sup>21</sup> Committee Resp. at 3 (citing Revised Agent E&J at 4979).

<sup>22</sup> Advisory Op. 2015-09 (Senate Majority PAC *et al.*) at 7 (emphasis added) (internal quotation marks omitted) (quoting Advisory Op. 2003-10 (Nevada State Democratic Party *et al.*) at 5; Advisory Op. 2007-05 (Iverson) at 5).

<sup>23</sup> YouTube video (emphasis added).

Committee fundraising event, Lewis cannot be considered to have been acting on behalf of the Super PAC exclusively.<sup>24</sup>

The Committee also suggests that Lewis was not an agent because he had no “campaign position or title related to fundraising” and instead served as a volunteer.<sup>25</sup> But the Commission has expressly included volunteers in its definition of an agent, emphasizing that the “number of individuals involved in fundraising for a campaign can reach . . . , in the case of presidential campaigns . . . , potentially thousands of individuals, *most of whom are volunteers.*”<sup>26</sup> Given that the Commission has acknowledged that its definition of “agent” may pull in “thousands” of volunteers for a presidential campaign, the Committee’s argument that Lewis’s official title or “volunteer” status exempts him from inclusion is not persuasive.

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<sup>24</sup> The Commission has recognized the specific precautions taken by agents to ensure that they separate themselves from the candidates while soliciting funds for outside groups. Such agents have (1) “identif[ied] themselves as raising funds only for” the outside group; (2) did “not use . . . campaign resources,” and (3) informed potential contributors that they are “making the solicitation on their own and not at the direction of the federal candidates or their agents.” Advisory Op. 2015-09 (Senate Majority PAC *et al.*) at 7 (internal quotation marks and alterations omitted) (quoting Advisory Op. 2003-10 (Nevada State Democratic Party *et al.*) at 5); Advisory Op. 2007-05 (Iverson) at 5. None of these circumstances reflects the situation here; Lewis apparently did not identify himself as raising funds only for the Super PAC, he may have used campaign resources (he was emceeding an official Committee event), and there is no indication that he told potential contributors that he was referring to the Super PAC on his own, and not at the direction of the campaign.

<sup>25</sup> Committee Resp. at 2.

<sup>26</sup> Revised Agent E&J at 4977 (emphasis added); *see also id.* at 4978 (explaining that “[a]ctual authority, either express or implied, is a broad concept that covers the wide range of activities prohibited by BCRA and the Act”).

2. *Lewis Made a Solicitation for Nonfederal Funds Because His Words, Construed in the Context of a Campaign Fundraiser, Reflect that He Asked, Requested, or Recommended that Attendees Make a Contribution*

When raising funds for a political committee (including an IEOPC), an agent of a federal candidate or officeholder may not solicit unlimited or corporate contributions.<sup>27</sup> To “solicit” means “to ask, request, or recommend, explicitly or implicitly, that another person make a contribution . . . .”<sup>28</sup> A “solicitation” is:

An oral or written communication that, construed as reasonably understood in the context in which it is made, contains a clear message asking, requesting, or recommending that another person make a contribution, donation, transfer of funds, or otherwise provide anything of value. A solicitation may be made directly or indirectly. The context includes the conduct of the persons involved in the communication. A solicitation does not include mere statements of political support or mere guidance as to the applicability of a particular law or regulation.<sup>29</sup>

Here, the record shows that Lewis stood up at a Cruz campaign fundraiser, apparently solicited contributions to the campaign, and then said, “If you hit your max, we have a table for you that is the unlimited table. It can take corporate dollars, it can take partnership dollars and that’s the Super PAC Stand for Truth.”<sup>30</sup> The act of referencing a Super PAC “tak[ing] . . . dollars” at an event where the very purpose was to raise funds, immediately after soliciting a

<sup>27</sup> See 52 U.S.C. §§ 30116(a)(1)(C) (imposing a \$5,000 limit on contributions to non-authorized, non-party committees), 30118 (prohibiting corporations from making contributions to candidate committees), 30125(e) (prohibiting federal candidates, officeholders, and their agents from soliciting nonfederal funds); Advisory Op. 2011-12 (Majority PAC *et al.*) at 3 (concluding that under the Act, federal candidates (either directly or through agents) “may not solicit unlimited contributions from individuals, corporations, or labor organizations on behalf of independent expenditure-only political committees”).

<sup>28</sup> 11 C.F.R. § 300.2(m).

<sup>29</sup> *Id.*

<sup>30</sup> YouTube Video.



campaign contribution, while also discussing “unlimited” and “corporate dollars,” constitutes “ask[ing], request[ing], recommend[ing],” explicitly or implicitly, that another person make a contribution.<sup>31</sup>

The Committee argues that Lewis’s remarks differ from each of the sixteen examples in the regulations of statements that constitute a solicitation,<sup>32</sup> and point out that Lewis declined to use a “clear message” with words such as “give,” “contribute,” and “donate.”<sup>33</sup> But the determination of whether a solicitation occurred “does not rely on any ‘magic words’ or specific statements.”<sup>34</sup> The Commission applies “an objective test that requires that written or oral communications be reasonably construed in the context in which they are made.”<sup>35</sup> The words here, construed in context, indicate that Lewis made a solicitation.

Moreover, examples in the regulations actually confirm that Lewis’s statements here constitute a solicitation. For instance, it is a solicitation if a candidate says, “Group X has always helped me financially in my elections. Keep them in mind this fall.”<sup>36</sup> Lewis went a step further than the regulatory example’s recommendation that listeners should “[k]eep” an outside group “in mind”; Lewis asked listeners to “get engaged in the Super PAC” after they “max out” to the

<sup>31</sup> 11 C.F.R. § 300.2(m); *see* Factual and Legal Analysis, MURs 6563 & 6733 (Schock) (taking the statement “Look, I’m going to do \$25,000 specifically for the [campaign] for the television campaign” and “Can you match that?” as evidence of a solicitation) (internal alteration omitted).

<sup>32</sup> *See* 11 C.F.R. § 300.2(m)(2)(i)-(xvi).

<sup>33</sup> Committee Resp. at 8.

<sup>34</sup> Definitions of “Solicit” and “Direct,” 71 Fed. Reg. 13926, 13927 (Mar. 20, 2006). When adopting the regulatory examples of solicitations, the Commission emphasized that the list of examples is “not intended to be exhaustive.” *Id.* at 13931.

<sup>35</sup> *Id.*

<sup>36</sup> 11 C.F.R. § 300.2(m)(2)(iii).

1 Committee.<sup>37</sup> Similarly, it is a solicitation to say “Group X is having a fundraiser this week; you  
2 should go,”<sup>38</sup> which is substantively the same as notifying listeners that “we have a table for you”  
3 to “get engaged in the Super PAC,” which can accept “unlimited” and “corporate dollars.”

4 The Committee also asserts that it would be “arbitrary and capricious” for the  
5 Commission to proceed in this matter because in the past it has not pursued an “impromptu  
6 remark outside of the context of a specific amount.”<sup>39</sup> The only matter cited in support of this  
7 argument concerned a website that housed a link to “contribute” but “was not specifically  
8 dedicated to making donations.”<sup>40</sup> But whether websites and links constitute solicitations, which  
9 was the issue addressed in that matter, is specifically addressed under a different regulatory  
10 provision in the definition of “solicit” and is not relevant to this matter.<sup>41</sup> Here, by contrast to a  
11 website’s “contribute” button, Lewis spoke live at a fundraising event and gave a clear message  
12 about giving “unlimited” funds from a specific source (“corporate”) to a specific entity (“get  
13 engaged in the Super PAC”) at a specific and proximate location (“the unlimited table”).<sup>42</sup>

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<sup>37</sup> See also *id.* § 300.2(m)(2)(ix) (“You have reached the limit of what you may contribute directly to my campaign, but you can further help my campaign by assisting the State party.”).

<sup>38</sup> *Id.* § 300.2(m)(2)(viii).

<sup>39</sup> Committee Resp. at 6 (citing MUR 5711 (Feinstein)).

<sup>40</sup> Statement of Reasons of Chairman Lenhard, Vice Chairman Mason, and Commissioners von Spakovsky and Walther, MUR 5711 (Feinstein), at 5.

<sup>41</sup> See *id.* (noting the then-new definition of “solicit” adopted after the activity at issue in MUR 5711); see also 11 C.F.R. § 300.2(m)(1)(iii) (specifying rules concerning solicitations on web pages and via links).

<sup>42</sup> See 11 C.F.R. § 300.2(m)(1)(ii) (specifying that “a communication that provides instructions on how or where to send contributions or donations” constitutes a solicitation).

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**ii. There Is No Reason to Believe that the Committee Violated Rules Regarding Proper Procedures for Conducting Joint Fundraising**

<sup>44</sup> 11 C.F.R. § 102.17(a)(1)(i).

**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Stand for Truth, Inc. and D. Eric Lycan MUR 7048  
in his official capacity as treasurer

**I. INTRODUCTION**

The Complaint alleges that Stand for Truth, Inc. and D. Eric Lycan in his official capacity as treasurer (the “Super PAC”), an independent-expenditure-only political committee, failed to establish a joint fundraising committee with Cruz for President and Bradley S. Knippa in his official capacity as treasurer (the “Cruz Committee”), in violation of the Federal Election Campaign Act of 1971, as amended (the “Act”), and Commission regulations. The Complaint bases its allegation on its assertion that J. Keet Lewis, an alleged agent of Senator Rafael Edward “Ted” Cruz and the Cruz Committee, solicited unlimited and corporate contributions to the Super PAC during an official fundraising event of the Cruz Committee.

Based on the available information, the Commission finds no reason to believe that the Super PAC improperly failed to establish a joint fundraising committee with the Cruz Committee in violation of 11 C.F.R. § 102.17.

**II. FACTUAL AND LEGAL ANALYSIS**

**A. Factual Background**

In March 2015, Cruz filed a Statement of Candidacy for President,<sup>1</sup> designating the Cruz Committee as his principal campaign committee.<sup>2</sup> Lewis served as a volunteer fundraiser for the

<sup>1</sup> Rafael Edward “Ted” Cruz, FEC Form 2 (Mar. 23, 2015), at 1, <http://docquery.fec.gov/pdf/891/15031403891/15031403891.pdf>.

<sup>2</sup> Cruz for President, FEC Form 1 (Mar. 23, 2015), at 2, <http://docquery.fec.gov/pdf/894/15031403894/15031403894.pdf>.

Cruz Committee. The Super PAC filed a Statement of Organization as an independent-expenditure-only political committee (“IEOPC”) in November 2015.<sup>3</sup>

The Cruz Committee sponsored an official fundraiser on December 30, 2015.<sup>4</sup> Lewis, who the Complaint alleges was a “National Co-Chair” of and bundler for the Cruz Committee,<sup>5</sup> served as a co-host and the emcee of the event.<sup>6</sup> According to an audio recording of Lewis’s remarks as emcee, he told the crowd that an “unlimited table” for “the Super PAC, Stand for Truth” was present and able to accept “corporate dollars.”<sup>7</sup> The recording reflects that Lewis referenced the Super PAC immediately after soliciting a contribution for the campaign:

[Unintelligible] . . . 2700 per person, and then 5400 for the general. If you hit your max, we have a table for you that is the unlimited table. It can take corporate dollars, it can take partnership dollars and that’s the Super PAC Stand for Truth, so pick up some of that information. The method to our madness is this: you max out and then get engaged in the Super PAC. . . . It’s totally separate from . . . the campaign. . . . We want to make it a great night. . . .<sup>8</sup>

The Super PAC asserts that it “had no relationship with Lewis, who it clearly appears was merely an individual volunteering his time for the Cruz campaign.”<sup>9</sup>

<sup>3</sup> Stand for Truth, Inc., FEC Form 1 (Nov. 18, 2015), at 2, <http://docquery.fec.gov/pdf/215/201511189003366215/201511189003366215.pdf>.

<sup>4</sup> Compl. at 2.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* Ex. A (placard noting “a special thanks” from “Heidi & Ted Cruz” to a list of co-hosts, including Lewis and his wife).

<sup>7</sup> See Compl. at 3 n.5 (citing Arthur Grayson, *Ted Cruz Fundraiser*, YOUTUBE (Apr. 6, 2016), <https://www.youtube.com/watch?v=N3dFpzANr5w&feature=youtu.be> (“YouTube Video”)).

<sup>8</sup> YouTube Video. The YouTube video also reveals that, just after discussing the Super PAC, Lewis told the event audience that in “just a minute we’ll bring up Ted and Heidi” Cruz. YouTube Video; see also Compl. at 2-3 (transcribing recording of video).

<sup>9</sup> Super PAC Resp. at 1.

1           **B.       Legal Analysis**

2           The Complaint alleges that the Super PAC “violated the Commission’s rules regarding  
3   the proper procedures and processes for conducting joint fundraising” by, for example, failing to  
4   “establish a separate committee” with the Cruz Committee or otherwise establish a joint  
5   fundraising representative when fundraising for multiple entities at one fundraising event.<sup>10</sup> The  
6   joint fundraising rules in 11 C.F.R. § 102.17 apply to political committees that “engage in joint  
7   fundraising with other political committees or with unregistered committees or organizations.”<sup>11</sup>  
8   Here, regardless of whether Lewis was an agent of the Cruz Committee or solicited funds for  
9   both the Cruz Committee and the Super PAC at a single fundraising event, the Complaint  
10   contains no information or evidence that the two committees engaged in a joint fundraising effort  
11   such as, for example, through contributors issuing a single payment to be split between the two  
12   committees.

13           Thus, the Commission finds no reason to believe that the Super PAC improperly failed to  
14   establish a joint fundraising committee with the Cruz Committee in violation of 11 C.F.R.  
15   § 102.17.

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<sup>10</sup> Compl. at 5 (citing 11 C.F.R. § 102.17(a)(1)(i)).

<sup>11</sup> 11 C.F.R. § 102.17(a)(1)(i).