FEDERAL ELECTION COMMISSION
Washington, DC 20463

By Email and USPS
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JUL - 3 2019

RE: MUR 7102
Thomas Q. Keefe, Jr.

Dear Mr. Norton:

On July 12, 2016, the Federal Election Commission (the "Commission") notified your client of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was forwarded to your client at that time.

Upon review of the allegations contained in the complaint, and information supplied by you, the Commission, on June 25, 2019, found that there is reason to believe your client violated 52 U.S.C. §§ 30116(a)(1), 30118(a) and 30112 and 11 C.F.R. §§ 110.1(b)(1)(iii), 110.4(b)(1)(i), and 114.2(e), provisions of the Act and Commission regulations. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is enclosed for your information.

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

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

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

This matter will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you have any questions, please contact Assistant General Counsel Mark Shonkwiler at (202) 694-1590, or at MShonkwiler@fec.gov.

On behalf of the Commission,

Ellen L. Weintraub
Chair

Enclosure
Factual and Legal Analysis

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

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Keefe, Keefe, and Unsell, P.C. MUR 7102
Thomas Q. Keefe Jr.
Thomas Q. Keefe III
Samantha Unsell

I. INTRODUCTION

The Complaint alleges that the law firm of Keefe, Keefe, & Unsell, P.C. (the "firm" or "KKU") and its three named attorneys, Thomas Q. Keefe Jr., Thomas Q. Keefe III, and Samantha Unsell (collectively "the named partners"),[1] made $16,200 in contributions in the names of six KKU administrative employees to Friends of CJ for Congress (the "Committee"), and used KKU's corporate resources to facilitate those contributions.

II. FACTUAL AND LEGAL ANALYSIS

A. Factual Background

Charles John "C.J." Baricevic was a 2016 candidate for the U.S. House of Representatives in Illinois' 12th congressional district.[2] Friends of CJ for Congress is his principal campaign committee.

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[1] The Response identifies Keefe Jr., Keefe III, and Unsell as "partners" of the firm. Response of Keefe, Keefe, & Unsell, P.C.; Thomas Q. Keefe, Jr.; Thomas Q. Keefe, III; and Samantha Unsell ("KKU Resp.") at 1 (Sept. 27, 2016). The Commission thus refers to them as the "named partners" in this analysis.

[2] Baricevic lost the November 2016 general election.

1 KKU is organized as a professional corporation in Illinois. Its website lists the firm as
2 having four attorneys: the three named partners and Kelly T. Crosby.[3] On June 26, 2015, a
3 Thomas Q. Keefe[4] contributed $5,400 to the Committee ($2,700 for the primary and $2,700 for
4 the general election), and Unsell did the same on June 29, 2015. Keefe III contributed $2,500 on
5 July 25, 2015. On March 2, 2016, the following six KKU administrative employees each made
6 $2,700 contributions to the Committee.[5]

Name	Title	Amount	Date
Debra M. Eastridge	Secretary	$2,700	March 2, 2016
Jan Harding	Receptionist	$2,700	March 2, 2016
Jill A. Harres	Legal Assistant	$2,700	March 2, 2016
Ashely E. Meuren	Secretary	$2,700	March 2, 2016
Madonna Schutzenhofer	Secretary	$2,700	March 2, 2016
Lisa J. Wierciak	Legal Assistant	$2,700	March 2, 2016

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8 On the same date, the Committee also received a $2,700 contribution from Kelly Crosby
9 Keefe, who appears to be the fourth lawyer in the firm, as well as two $2,700 contributions from
10 Rita Keefe, an apparent member of the Keefe family.
11 The Complaint alleges that the firm reimbursed the six administrative employees for their
12 contributions either directly or through "unlawful 'bonuses.'"[6] The Complaint asserts that a

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[3] http://keefeandkeefe.com/. Kelly T. Crosby appears to also go by the name Kelly Crosby Keefe, as evidenced by a Committee contribution record that identifies Kelly Crosby Keefe as an attorney for KKU. She is not a named respondent in this matter.

[4] Because this Thomas Q. Keefe contributed the maximum legal amount to the Committee for the 2016 cycle in June, and Thomas Q. Keefe, III, contributed $2,500 in July, we assume that the person who contributed $5,400 in June was Thomas Q. Keefe, Jr.

[5] Complainant cites a newspaper article suggesting that local law firms, including KKU, supported the Committee because these attorneys practiced before Baricevic's father, the chief judge for Southern Illinois' local circuit; Kevin McDermott, *Lawyers Shower Campaign Money on 12th District Candidate who is the son of Chief Judge*, S. ILLINOISIAN (May 23, 2016), *available at* http://thesouthern.com/news/local/govt-and-politics/lawyers-shower-campaign-money-on-th-district-candidate-who-is/article_05028760-da77-5512-9233-16def3f02c78.html. The article notes that the firm donated $37,600 to the Committee through four attorneys, one spouse, and the contributions at issue here. Though it notes an "unusual level of giving for people who aren't in higher-paying occupations," the article does not make any specific allegation as to a reimbursement scheme.

[6] Compl. at 2-3 (June 28, 2016).

1 $2,700 contribution would be a "financial hardship" for the administrative staff contributors. In
2 support, the Complaint relies on salary information from job postings for administrative jobs at
3 other local area organizations, which reflect an average annual salary of $31,000. The
4 Complaint concludes that "the likelihood that these contributions were made by these [low paid]
5 employees, in these [large] amounts, and on the same day without reimbursement or direction by
6 the Partners or KKU defies logic."[7] The Complaint further alleges that KKU impermissibly
7 facilitated the contributions by using KKU staff time, offices, "and other corporate facilities."[8]
8 The Response filed by KKU and the three named partners ("KKU Response") does not
9 directly deny that KKU reimbursed its employees' contributions. Instead, Respondents argue
10 that the Complaint is speculative, and the Commission has not pursued alleged violations based
11 solely on information that individuals at the same company made contributions on the same date
12 in the same amount. The Response also argues that the Complaint's salary data is unreliable and
13 not specific to KKU.[9] The Response, however, does not provide any salary information
14 regarding the KKU administrative employees that contradicts the Complaint's assertions.
15 **B. Legal Analysis**
16 The Federal Election Campaign Act of 1971, as amended (the "Act") and Commission
17 regulations limited contributions to federal candidates for the 2016 election cycle to $2,700 per
18 election.[10] The Act and Commission regulations also prohibit a person from making a
19 contribution in the name of another, knowingly permitting his or her name to be used to effect

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7 *Id.* at 3.

8 *Id.* at 4.

9 KKU Resp. at 2.

10 52 U.S.C. § 30116(a)(1); 11 C.F.R. § 110.1(b)(1)(iii); 80 Fed. Reg. 5750.

1 such a contribution, or knowingly accepting such a contribution.[11] A person who furnishes
2 another with funds for the purpose of contributing to a candidate or committee "makes" the
3 resulting contribution.[12] This is true whether funds are advanced to another person to make a
4 contribution in that person's name or promised as reimbursement of a solicited contribution.[13]
5 The requirement that a contribution be made in the name of its true source ensures compliance
6 with the Act's limitations and prohibitions and promotes Congress's objective of ensuring the
7 complete and accurate disclosure by committees of the political contributions they receive.[14]
8 Additionally, the Act prohibits corporations from contributing to a federal candidate's
9 political committee, and further prohibits any officer of a corporation from consenting to any
10 such contribution by the corporation, and any candidate or political committee from knowingly
11 accepting such a contribution.[15]
12 If KKU reimbursed administrative employees for their contributions with corporate
13 funds, those contributions would be both impermissible corporate contributions and
14 contributions in the names of others. If Keefe Jr., Keefe III, and Unsell — self-identified as
15 partners — are officers of the firm, their consent to those corporate contributions would also
16 violate the Act.[16] Alternatively, if the named partners reimbursed administrative employees with
17 their own funds, they violated the prohibition against contributions in the names of others and

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11 52 U.S.C. § 30122; 11 C.F.R. § 110.4(b)(1)(i)-(iv).

12 *See United States v. Boender*, 649 F.3d 650,660 (7th Cir. 2011).

13 *See United States v. Whittemore*, 776 F.3d 1074, 1080 (9th Cir. 2015) (holding that defendant's "unconditional gifts" to relatives and employees, along with the suggestion that they contribute the funds to a specific political committee, violated section 30122).

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

15 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(b), (d), (e).

16 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(e).

1 exceeded the Act's contribution limits.[17] As described below, a variety of circumstantial
2 evidence supports the inference that the administrative employees' contributions were
3 reimbursed.

4 *First,* the majority of the contributors in this case appear to be subordinate employees,
5 and use of such employees (and their spouses) as conduits is a very common feature of section
6 30122 schemes.[18] The facts here fit that pattern. On March 2, 2016, the Committee received
7 nine $2,700 contributions from eight people who either are or appear to be related to KKU: six
8 subordinate administrative employees (Eastridge, Harding, Harres, Meuren, Schutzenhofer, and
9 Wierciak), a KKU attorney (Kelley Crosby Keefe), and an apparent member of the Keefe family
10 (Rita Keefe).[19]

11 *Second,* the Commission has found that patterns of clustered giving, as in this case, are
12 indicative of conduit contribution arrangements. In MUR 5305 (Herrera for Congress, *et al.*), the
13 Commission noted that contributions from colleagues at a design firm were clustered on four
14 specific dates, and over half of the total contributions from firm employees occurred on the same
15 date.[20] Similarly, in MUR 5818 (Fieger, Fieger, Kenney & Johnson, P.C.), 36 of 46 contributors
16 from the same law firm contributed on one of three dates.[21] Similarly, all of the KKU-related
17 contributors gave the same maximum amount on the same date.

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17 *See* 52 U.S. C. §§ 30116(a); 30122.

18 *See, e.g.,* MUR 7005, 7056 (Adam Victor, et al.) (use of subordinate employees as conduits); MUR 6465 (Fiesta Bowl, et al.) (use of subordinate employees and spouses as conduits); MUR 6234 (Cenac, *et al.)* (same); *see also* MUR 7472 (Barletta, *et al.*)(same).

19 Rita Keefe made two $2,700 contributions.

20 *See* Factual & Legal Analysis (Rhodes Design and Development) at 2, MUR 5305 (Herrera for Congress, *et al.*) (finding reason to believe where employees holding a wide range of positions all made the maximum contribution allowed under the Act in clusters of several dates, and respondents expressed a willingness to conciliate, thereby confirming that such a pattern indicated a conduit contribution scheme).

21 *See* Factual & Legal Analysis at 2, MUR 5818 (Fieger, Fieger, Kenney & Johnson, P.C.) (finding reason to believe in part because the record showed "a large number of maximum contributions made on the same days by

1 Respondents, relying on a three-Commissioner Statement of Reasons ("SOR") in MUR
2 4850 (Deloitte & Touche LLP), argue that "'little, if any, weight'" should be given to "evidence
3 that employees made contributions to a candidate committee on the same day."[22] In any event,
4 the facts of that case are materially distinguishable. According to the non-precedential SOR, the
5 Complaint in MUR 4850 "alleged in conclusory fashion that 'contributions made [to the
6 Committee to Re-Elect Vito Fossella] via conduits or intermediaries appear to have been made
7 from . . . DELOITTE & TOUCHE LLP. Complainant . . . provided no basis for this
8 allegation."[23] The Fossella Committee reported that 23 Deloitte & Touche employees
9 contributed to it during the relevant election cycle, however, all but two employees contributed
10 only $250, and few of the employees contributed on the same day.[24] Thus, the only facts
11 supporting the allegations in that complaint were that 23 employees of one of the largest
12 multinational professional services firms in the world[25] contributed to the same committee, a few
13 did so on the same day, and almost all of the contributions were well below the contribution
14 limits.

15 In contrast, the complaint in this matter identifies six administrative employees and one
16 attorney of a four-attorney firm who all made maximum $2,700 contributions to a candidate on
17 the same day. They did so shortly after the three named partners contributed a combined

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individuals associated with the Firm, many of whom had never previously contributed to any Federal campaign" and, *inter alia*, a news article reported a former employee's claim that the firm had reimbursed him for contributions).

22 KKU Resp. at 2 (quoting the SOR in MUR 4850).

23 SOR at 1 (MUR 4850). The complaint in that matter failed to name specific employees involved in the alleged conduit scheme.

24 *Id.*

25 *See generally* DELOITTE, *2017 Facts and Figures*, https://www2.deloitte.com/us/en/pages/about-deloitte/articles/facts-and-figures.html (stating that, in 2017, Deloitte's headcount was more than 84,000).

1 $13,300 to that candidate, and at the same time a Keefe family member contributed $2,700 to
2 that candidate. Conduit contribution schemes often involve colleagues who both contributed on
3 the same date and gave the maximum allowable contributions,[26] and the present case is much
4 more similar to those cases than MUR 4850.

5 *Third,* the amount of the contributions, made only 13 days after similar maximum
6 contributions to another federal candidate, raise reasonable questions whether the administrative
7 employees contributed their own funds. The Complaint relies on job-board salary information
8 for secretarial positions in Illinois as proof that the employees likely could not have afforded to
9 make the contributions with their own money. Assuming that the cited amount, $31,000, is
10 similar to the contributors' salaries, the $2,700 contributions would represent about 9% of their
11 annual gross incomes.[27] The Commission has relied on a contributor's job title and salary as
12 indicia of reimbursements, particularly where that contributor gave a large sum along with other
13 colleagues. In MUR 5305, for example, colleagues contributed on a cluster of dates and, the
14 Commission noted, "*[d]espite their wide range of positions* . . . all made the maximum
15 contribution allowed by the Act."[28] And, in MUR 4818 (Roberts for Congress, *et al.*), the
16 Commission stated that contributions from law firm employees "were of very sizable amounts to

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[26] *See* MUR 5305; MUR 5818; *cf.* SOR at 2(MUR 4850) ("In our experience, conduit contribution schemes tend to involve the [then maximum] limit. Apparently, as the familiar adage goes, anything worth doing (including illegal matters) is worth doing well.")

[27] Respondents deny that $31,000 is a fair estimate of the contributors' annual salaries, but they do not provide any salary information. *See* KKU Resp. at 3.

[28] Factual & Legal Analysis at 2 (Rhodes Design and Development), MUR 5305 (emphasis added). A review of the Commission's contribution database reveals that five of the administrative employees (Eastridge, Harding, Harres, Schutzenhofer, and Wierciak) appear to have made other contributions on the same date and in the same amounts as attorneys at KKU. For example, Eastridge, Harres, Schutzenhofer, and Wierciak each contributed $2,700 to Hillary Clinton's presidential campaign on February 18, 2016, the same day the Clinton campaign reported receiving identical contributions from Keefe, Jr., Keefe, III, and Unsell, and only 13 days after the contributions identified in the Complaint.

1 be given by support staff."[29] There, employees of the firm, including multiple administrative
2 assistants and secretaries, contributed sums just under $1,000, the threshold for reporting last-
3 minute contributions. Similarly, six KKU administrative employees all made maximum
4 contributions on the same date as a partner, further indicia of a possible conduit contribution
5 scheme. Further, the Commission's records reveal that four of the six named conduits also made
6 maximum contributions to Hillary Clinton's presidential campaign just 13 days before the
7 contributions identified in the Complaint.[30] While this information does not conclusively show
8 that these subordinate employees could not have possibly afforded to the make the contributions
9 with their own money, it does raise legitimate questions as to the true source of the funds.

10 *Finally,* neither the firm nor its named partners directly rebut the allegation that they were
11 the true sources of the employees' contributions.[31] The Commission has found that an
12 investigation was warranted where similarly situated Respondents did not deny the allegations.[32]
13 The lack of an express denial, along with the circumstances described above, further supports
14 finding reason to believe and investigating these allegations.[33]

15 Rather than deny the allegations, Respondents argue that the Complaint fails to
16 adequately assert specific facts regarding the alleged reimbursement scheme. They rely on the

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29 Factual & Legal Analysis at 17, MUR 4818 (Roberts for Congress, *et al.*).

30 *See* note 28.

31 *See* KKU Resp. 1-4. Further, though the Response asserts that Judge Baricevic has not improperly meddled in case assignments, it does not deny that the attorneys of the firm sought to curry favor with the candidate's father. While Complainant's allegation as to KKU's possible motivation in this matter is admittedly speculative, it is unrebutted.

32 *See* Factual and Legal Analysis at 2-3, MUR 5366/5758 (O'Donnell & Shaeffer, *et al.*).

33 *See* Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 51 (March 16, 2007) ("E&J") at 12545 ("A 'reason to believe' finding followed by an investigation would be appropriate where a complaint credibly alleges that a significant violation may have occurred, but further investigation is required to determine whether a violation in fact occurred and, if so, its exact scope.").

1 SOR in MUR 4960 (Clinton), in which four Commissioners stated that "mere speculation . . .
2 will not be accepted as true."[34] The MUR 4960 Complaint, however, made unsubstantiated
3 allegations that, among other things, "old friends" financed Bill and Hillary Clinton's move to
4 New York.[35] But the MUR 7102 complaint is not speculative; it identifies the allegedly illegal
5 contributions by amount, date, and contributor; the means of the alleged reimbursements; and the
6 source of the information underlying the allegations.[36]

7 The Complaint also alleges that KKU impermissibly facilitated corporate contributions to
8 the Committee by using firm resources such as telephone systems and conference rooms.
9 Corporations, including officers, directors, or other representatives acting as agents of
10 corporations, are prohibited from using corporate resources to facilitate the making of
11 contributions to federal political committees other than through the corporation's separate
12 segregated fund.[37] Examples of facilitation include directing subordinates to plan, organize, or
13 carry out a fundraising project as part of their work responsibilities; using corporate resources
14 and providing materials for the purpose of transmitting or delivering contributions, such as
15 stamps, envelopes or other similar items; or using meeting rooms that are not customarily
16 available to clubs, or civic or community groups.[38] The existence of a firm-wide reimbursement
17 scheme would support a reasonable inference that corporate resources were used in executing
18 that scheme, *e.g.*, by using staff and meeting rooms to coordinate contributions to Baricevic

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34 SOR at 1-2, MUR 4960.

35 In addition, the MUR 4960 complaint based its allegations on the failure of Clinton's attorney to respond to a letter from the complainant sent before filing the complaint, and on news sources that, in fact, rebutted the complaint's allegations.

36 Compl. at 2-3.

37 11 C.F.R. § 114.2(f).

38 *Id.*

1 among KKU employees. Thus, the same facts that support a reason to believe finding that the
2 firm and its named partners made contributions in the names of others, in combination with
3 Respondents' failure to rebut the allegations directly, likewise support a reason to believe finding
4 regarding the corporate facilitation claim.

5 Accordingly, the Commission finds reason to believe that KKU and its named partners,
6 Thomas Q. Keefe Jr., Thomas Q. Keefe III, and Samantha Unsell, made contributions in the
7 names of others in violation of 52 U.S.C. § 30122, that KKU made corporate contributions in
8 violation of 52 U.S.C. § 30118(a), and its named partners consented to those contributions in
9 violation of 52 U.S.C. § 30118(a) and 11 C.F.R. § 114.2(e), or, alternatively, the named partners
10 made excessive contributions in violation of 52 U.S.C. § 30116(a).[39]

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[39] At this point, the Commission lacks information as to whether the funds used to make the alleged contributions in the name of another came from the firm or its named partners. During the investigation, Commission intends to determine the source of the contributions and make appropriate further findings. *See* Factual & Legal Analysis (Rhodes Design and Development) at 4, MUR 5305 (where employees were reimbursed either with corporate funds or personal funds of the corporation's principal, Commission found reason to believe as to both corporation and individual).