

Before the
FEDERAL ELECTION COMMISSION

In the matter of:

Pawlowski2016.com

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MUR No. 7226

RESPONSE OF MR. NICOLA BULGARI AND ALLENTOWN CLASSIC MOTOR CARS, INC. TO NOTICE FROM FEDERAL ELECTION COMMISSION IN MATTER UNDER REVIEW 7226

This Response issues on behalf of Mr. Nicola Bulgari and Allentown Classic Motor Cars, Inc., (“ACMC”) (collectively the “Respondents”) in regard to the notice (the “Notice”) drafted by the Federal Election Commission (“FEC” or the “Commission”) on June 19, 2019 concerning the Commission’s investigation of Pawlowski2016.com (the “Committee”), which was the principal federal campaign committee for Mr. Edwin Pawlowski’s 2016 U.S. Senate campaign in the Commonwealth of Pennsylvania. As discussed in further detail herein, the allegations set forth in the Notice are incorrect and have no basis in either law or fact. At no point has Mr. Bulgari and/or ACMC ever made a contribution, whether excessive, in-kind or otherwise, to the Committee, Mr. Pawlowski or their representatives. Respondents accordingly request that the Commission refrain from conducting any further review of the allegations set forth in the present Notice and reach a determination that there is no reason to believe that either Mr. Bulgari or ACMC violated the Federal Election Campaign Act (“FECA”) or any associated FEC regulations.

I. Introduction

Mr. Bulgari is an Italian citizen and resident of Rome, Italy. He is currently a senior executive of Italian luxury goods and hospitality company Bulgari, which is a division of the international retail, beverage and fashion conglomerate LVMH. Mr. Bulgari is a passionate collector of vintage automobiles (particularly early 20th century American automobiles) and owns one of the world’s largest collections of such vehicles. The vast majority of Mr. Bulgari’s vintage American automobiles are held and displayed on a 27-acre facility, track and museum located in Allentown, Pennsylvania that is owned and operated by ACMC - a Delaware corporation authorized to conduct business in the Commonwealth of Pennsylvania.¹ In addition to owning and operating the Allentown facility, ACMC owns a number of other car-related business entities

¹ See informational statement regarding ACMC’s corporate status from the State of Delaware [attached hereto as Exhibit #1].

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and domestic LLCs.² ACMC is wholly owned by an Italian limited liability business entity known as Car Enthusiast, SRL, which at all relevant times for purposes of this Response was owned by Jaipur SRL, another Italian corporation.³ Mr. Bulgari is the sole member and owner of Jaipur SRL.

ACMC and its subsidiary units engage in a number of automobile-related business activities associated with the operation of the Allentown facility, track and museum, as well as the maintenance, restoration and display of vintage and luxury vehicles. In this capacity, ACMC supports commerce and tourism in the greater Allentown area and is a visible part of the community, frequently hosting car-related events for the public at large and for vintage automobile enthusiasts from across the United States and around the world. One of ACMC's principal business units is Precision Motor Cars, Inc. ("PMC"), a Pennsylvania business corporation specializing in automobile restoration, customization and collision repair.⁴

PMC was founded in 1990 by Mr. Keith A. Flickinger and has been operated by him since that time serving clients with vehicle-related needs in the surrounding Allentown area. Included among those clients was ACMC, which utilized PMC for a number of years as an outside vendor for an array of repair and restoration projects associated with the vintage and luxury automobiles ACMC owned and operated at the Allentown facility, track and museum. As part of this working relationship with its vendor, ACMC often granted PMC access to certain vehicles within its luxury fleet for courtesy and rental use by PMC's customers.⁵ PMC's utilization of these automobiles most often occurred in scenarios where customers required temporary transportation during the course of repair or refurbishment work being done on their personal vehicles. [Declaration, pg. 1].

The client-vendor relationship between ACMC and PMC continued until October 2015 when ACMC took action to acquire PMC. [Declaration, pg. 1]. Following PMC's purchase by ACMC, Mr. Flickinger continued on as the company's day-to-day manager and operator. He remains in that position at present, and continues to oversee PMC's provision of restoration and repair work for vintage and luxury automobiles.

As referenced above, ACMC owns, displays and operates a fleet of over 157 vintage and luxury vehicles at its Allentown facility. Prior to the 2015 purchase of PMC by AMC, and due to the strong business relationship between the two entities, it was common place for ACMC to grant PMC access to some of these automobiles for the company to use as courtesy or rental cars for

² ACMC wholly owns a group of domestic automobile-related business entities, including ACMC Lender, LLC, ACMC Lessee, LLC, AC Drive In Events, LLC, AC Drive in Holdings, LLC, and Precision Motor Cars, Inc., which it acquired in October 2015.

³ Car Enthusiast, SRL transferred all shares to a separate trust in 2017, so Mr. Bulgari no longer has any ownership stake in that corporation.

⁴ See informational statement regarding PMC's corporate status from the Commonwealth of Pennsylvania [attached hereto as Exhibit #2].

⁵ See the signed Declaration of Mr. Keith A. Flickinger, hereinafter referred to as "Declaration" [attached hereto as Exhibit #3].

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customers seeking temporary transportation options. In many of these scenarios, PMC provided access to these ACMC automobiles for free or at a reduced rate to customers as part of the repair or customization process associated with their personal vehicles. [Declaration, pg. 1]. In other scenarios, however, PMC rented ACMC vehicles out to individuals at appropriate market rates for short-term utilization. [Declaration, pg. 1]. It is this second scenario that is relevant in the present matter involving ACMC, PMC and Mr. Pawlowski.

In June 2015, several months before its acquisition by ACMC, PMC rented a vehicle to Mr. Pawlowski at fair market value for a 24-hour usage period over two calendar days. [Declaration, pg. 2]. The vehicle, a 2009 Cadillac XLR-V convertible owned by and registered to ACMC, was rented from PMC by Mr. Pawlowski at the fair market rate of \$125.00 per day plus applicable Pennsylvania state sales tax. [Declaration, pg. 2]. As it would with any commercial transaction, PMC provided Mr. Pawlowski with an invoice detailing the total costs for the rental and the amount owed.⁶ This invoice, printed and sent on June 30, 2015, charged Mr. Pawlowski a total amount of \$265.00 for the less-than-24-hour utilization of the automobile. The invoice was paid in full approximately three weeks later on July 20, 2015. [Declaration, pg. 2]. This rental was, as certified by Mr. Flickinger in his signed Declaration, the one and only time that Mr. Pawlowski, his campaign committee, or a representative of either, utilized a vehicle provided by or through PMC or ACMC. [Declaration, pg. 2].

Despite the above facts, the Notice provided by the Commission asserts that during the course of its investigation of Mr. Pawlowski's federal campaign committee, the FEC "obtained information indicating that ... [Mr.] Pawlowski used several of [Mr. Bulgari's] vehicles, at little or no charge, for multiple campaign-related trips in the area." [Notice, pg. 1]. The precise nature and context of such "information" is unclear from the language of the Notice, but the facts - as detailed herein - simply do not support the allegation at issue. Mr. Bulgari, as demonstrated in the present Response, has not directly or indirectly provided Mr. Pawlowski, his campaign committee, or any agents of either free or discounted vehicles for campaign-related or any other purposes. As noted above, Mr. Pawlowski did pay PMC fair market value for a two-day rental of a car as part of a bona fide commercial transaction between those parties in June 2015. Such a transaction, however, in no way qualifies as a contribution under FECA or its associated regulations. Consequently, there is no reasonable basis for the Commission to believe that a violation of federal campaign finance law has occurred, nor is there a justifiable rationale for the Commission to pursue any further investigation into the purported provision of automobiles to Mr. Pawlowski or the Committee by Respondents.

II. Legal Analysis

The sole allegation raised against Mr. Bulgari in the Commission's Notice is that he may have violated FECA by making either an excessive or prohibited in-kind contribution to Mr. Pawlowski's campaign. [Notice, pg. 1]. As noted above, this accusation is wholly inaccurate and factually baseless. In order to violate FECA by making an excessive in-kind contribution, one would have to contribute money or an in-kind donation in excess of the contribution limits set forth under the Act, which for the 2016 election cycle were set at \$2,700 per election for an

⁶ Invoice is attached hereto as Exhibit #4.

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individual contribution to a federal candidate committee.⁷ In order to violate FECA by making a prohibited donation as a foreign national, a foreign national must directly or indirectly make a contribution in connection with a federal, state, or local election.⁸ The key to both such provisions and potential violations thereof, is that a “contribution” of some sort must be made. In the present matter, Mr. Bulgari did not make a contribution of any value to Mr. Pawlowski or his campaign, and as such could not have violated either provision of federal election law.

For purposes of FECA and its associated regulations, a “contribution” is defined as a gift, subscription, loan, advance or deposit of money or anything of value given to influence a federal election.⁹ FEC regulations provide that “anything of value” means the provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services.¹⁰ Thus, if a good or service is provided for a charge that is the usual and normal cost for such good or service, it is not considered a thing of value provided to the recipient and therefore no longer fits the definition of a “contribution” under federal campaign finance law.

As detailed previously in this Response, the only automobile with any connection to Mr. Bulgari that was provided to Mr. Pawlowski, his campaign committee or a representative or either, was a 2009 Cadillac XLR-V convertible rented to Mr. Pawlowski by PMC in June 2015. [Declaration, pg. 2]. The XLR-V, which was owned and registered to ACMC, was one of several vintage and luxury vehicles that ACMC made available to PMC for use as a courtesy or rental vehicle for its customers. [Declaration, pg. 1]. PMC, which at the time of the rental in question was merely one of ACMC’s commercial vendors, entered into an arms-length transaction with Mr. Pawlowski utilizing one of the automobiles at its disposal. The transaction involved the provision of a rental car for use by Mr. Pawlowski at the fair market rate - \$125 per day plus tax - for the make and model of the vehicle utilized. [Declaration, pg. 2]. This rate was arrived at by PMC President Mr. Keith Flickinger through personal research into what national rental car companies generally charged at the time for equivalent luxury convertible rentals and what insurance companies utilized as their standard daily payment or reimbursement rates for luxury rental vehicles. [Declaration, pg. 2].

By charging fair market value for Mr. Pawlowski’s 24-hour rental of the 2009 Cadillac XLR-V in June 2015, PMC provided a commercial service to the Committee at a rate that was both usual and normal. In turn, the benefit provided to Mr. Pawlowski and/or the Committee could not, in accordance with FECA or FEC regulations, be considered the provision of a thing of value or, by extension, a “contribution”. Had PMC provided Mr. Pawlowski with the rental vehicle at no charge, or at a discounted rate, then one could make a colorable argument that there was a potential in-kind contribution to the Committee from either PMC or Mr. Flickinger. Since fair market value was sought and received for the automobile rental at issue, however, there is no reasonable basis upon which the Commission can assert that PMC (let alone the Respondents)

⁷ 52 U.S.C. § 30116(a)(1)(A).

⁸ 52 U.S.C. § 30121.

⁹ 52 U.S.C. § 30101(8)(A).

¹⁰ 11 C.F.R. § 100.52(d)(1).

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made any “contribution” toward Mr. Pawlowski’s 2016 U.S. Senate campaign. Without a contribution having been made, no viable legal claim can be levied against Respondents alleging possible violations of 52 U.S.C. § 30116(a)(1)(A), 52 U.S.C. § 30121 or their associated regulations.

III. Conclusion

Based upon the facts and legal analysis set forth herein, it is readily apparent that no direct or indirect political contribution was ever made to the Committee by Respondents during Mr. Pawlowski’s campaign for U.S. Senate. In June 2015, rental car access was provided to Mr. Pawlowski by PMC - a domestic corporate entity then unaffiliated with Respondents - at fair market value. Since this transaction was a bona fide commercial exchange undertaken at a usual and normal rate, it properly falls outside of the statutory definition of a contribution under federal campaign finance law. As such, the allegations alluded to in the Notice are wholly without merit, and there is no justifiable reason to believe that Respondents undertook any action in violation of FECA or its associated regulations. Accordingly, the Commission should refrain from dedicating any additional public resources to its review of the inaccurate information provided in relation to Respondents in the Pawlowski2016.com matter, and likewise reach an immediate determination that the information discussed in the present Notice is baseless.

Thank you for the Commission’s time and consideration of this Response. The arguments and analysis made herein should in no way be considered a waiver of any other defenses or assertions available to Respondents in conjunction with the present Notice, and Respondents hereby reserve the right to reply in greater detail to any new inquiries or issues raised by the FEC at a later time. Should the Commission have any questions regarding the contents of this response or wish to discuss any items covered herein in greater detail, please feel free to reach out via either phone or e-mail.

Sincerely,



Benjamin P. Keane
Dentons US LLP
1900 K Street, NW
Washington, DC 20006
Telephone: (202) 496-7672; (404) 527-4376
Fax: (202) 496-7756; (404) 527-4198

*Counsel to Mr. Nicola Bulgari and Allentown
Classic Motor Cars, Inc.*

EXHIBIT 1

Department of State: Division of Corporations

[Allowable Characters](#)

HOME

- About Agency
- Secretary's Letter
- Newsroom
- Frequent Questions
- Related Links
- Contact Us
- Office Location

SERVICES

- Pay Taxes
- File UCC's
- Delaware Laws Online
- Name Reservation
- Entity Search
- Status
- Validate Certificate
- Customer Service Survey

INFORMATION

- Corporate Forms
- Corporate Fees
- UCC Forms and Fees
- Taxes
- Expedited Services
- Service of Process
- Registered Agents
- GetCorporate Status
- Submitting a Request
- How to Form a New Business Entity
- Certifications, Apostilles & Authentication of Documents

Entity Details

THIS IS NOT A STATEMENT OF GOOD STANDING

File Number: **3529787** Incorporation Date / **6/17/2002**
Formation Date: (mm/dd/yyyy)

Entity Name: **ALLENTOWN CLASSIC MOTOR CAR, INC.**

Entity Kind: **Corporation** Entity Type: **General**

Residency: **Domestic** State: **DELAWARE**

REGISTERED AGENT INFORMATION

Name: **CORPORATION SERVICE COMPANY**

Address: **251 LITTLE FALLS DRIVE**

City: **WILMINGTON** County: **New Castle**

State: **DE** Postal Code: **19808**

Phone: **302-636-5401**

Additional Information is available for a fee. You can retrieve Status for a fee of \$10.00 or more detailed information including current franchise tax assessment, current filing history and more for a fee of \$20.00.

Would you like Status Status, Tax & History Information

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EXHIBIT 2

Business Name History

Name	Name Type
PRECISION MOTOR CARS, INC.	Current Name

**Business Entity Details
Officers**

Name	PRECISION MOTOR CARS, INC.
Entity Number	1550240
Entity Type	Business Corporation
Status	Active
Citizenship	Domestic
Entity Creation Date	02/06/1990
Effective Date	02/06/1990
State Of Inc	PA
Address	7861 CREAMERY RD ALBURTIS PA 18011-0 Lehigh
Name	GLENN SNYDER
Title	TREASURER
Address	808 N FENWICK ST ALLENTOWN PA 18109-1809
Name	KEITH A FLICKINGER
Title	PRESIDENT
Address	808 N FENWICK ST ALLENTOWN PA 18109-1809

EXHIBIT 3

Before the
FEDERAL ELECTION COMMISSION

In the matter of:)
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Pawlowski2016.com)MUR No. 7226
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DECLARATION OF KEITH A. FLICKINGER

I, Keith A. Flickinger, make the following statement to the Federal Election Commission ("FEC" or "Commission") in connection with the above-referenced matter:

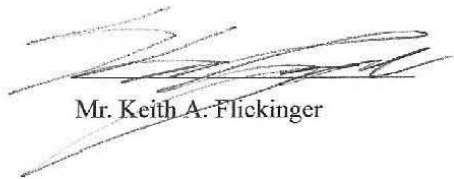
1. I reside in Allentown, Pennsylvania. I am currently the President of Precision Motor Cars, Inc. ("PMC"), a Pennsylvania business corporation. The principal business location of PMC is 808 N. Fenwick Street, Allentown, PA 18109-1809. I established PMC in 1990 as privately-held corporation and have worked at the company since that time. Based upon my position and role at PMC, I have personal knowledge of the facts stated herein.
2. PMC is a restoration, customization, and collision repair company that deals primarily with vintage and luxury automobiles. Prior to October 2015, PMC was privately held, managed and operated by me, and provided services to a number of customers in the Allentown area, including Allentown Classic Motor Cars, Inc. ("ACMC"). In October 2015, PMC was acquired by ACMC, which remains the current owner of PMC as of the date of this Declaration.
3. ACMC is a Delaware corporation authorized to do business in the Commonwealth of Pennsylvania that owns and operates several automobile-related business enterprises, including a vintage car museum, track and driving facility in Allentown near PMC. ACMC is wholly owned by an Italian limited liability company known as Car Enthusiast, SRL, which at all relevant times for purposes of this Declaration was owned by Mr. Nicola Bulgari.
4. ACMC owns, displays and operates a fleet of over 157 vintage and luxury vehicles at its Allentown facility. Some of these automobiles been used as courtesy or rental cars by PMC when a customer requires a temporary vehicle during the course of the servicing or repair of their personal vehicle. In many of these scenarios, PMC has provided these automobiles, which are owned by and registered to ACMC, for free or at a reduced rate as part of the repair or customization process. In other scenarios, however, PMC has rented ACMC vehicles to customers at appropriate market rates during the repair or customization period. This arrangement concerning the provision of ACMC vehicles to PMC for temporary transportation and client usage purposes began prior to the acquisition of PMC by ACMC in October 2015 and continued thereafter.
5. In June 2015, as owner and agent of PMC, I provided a rental vehicle to Mr. Edwin Pawlowski, who I understood at the time to be both Mayor of Allentown and a candidate for U.S. Senate. The rental vehicle provided to Mr. Pawlowski was a 2009 Cadillac XLR-V Convertible, which was owned by and registered in the Commonwealth of Pennsylvania to ACMC. The agreed-upon rental period for this vehicle was 24 hours (over two calendar days). Shortly after the rental period and return of the vehicle - on or about June 30, 2015 - PMC presented an invoice in the amount of \$265.00 to Mr. Pawlowski covering the costs associated with usage of the automobile. The invoiced amount was paid in full by Mr. Pawlowski on July 20, 2015.
6. Despite the fact that PMC sometimes offers ACMC cars to customers for free or at severely reduced rates as a matter of courtesy, Mr. Pawlowski and PMC agreed in advance of the

commercial transaction that he should pay the fair market value for his short-term use of the car. In order to determine the fair market rate for the rental car, I reviewed the prices that national rental car companies like Avis and Enterprise generally charged the public for luxury convertibles such as the Cadillac XLR-V. I also consulted the standard daily rates that insurance companies were willing to pay or reimburse for such luxury vehicles in a rental setting. Based upon my research and understanding at the time of the transaction, the amount charged to Mr. Pawloski of \$125.00 per day (plus standard Pennsylvania sales tax) represented a reasonable fair-market rental rate for a luxury convertible.

7. In all scenarios involving the utilization of APMC vehicles for PMC courtesy or rental purposes, both prior to and after APMC's purchase of PMC in October 2015, it has been standard practice for me or another PMC employee to seek approval from Mr. Bulgari for use of the particular vehicle at issue in the transaction. In the scenario involving the automobile rental to Mr. Pawloski in June 2015, I sought and received approval from Mr. Bulgari for use of the XLR-V in a rental transaction.

8. Aside from the single 24-hour rental of the Cadillac XLR-V in June 2015, I am aware of no other rental vehicle contracts or transactions between PMC and Mr. Pawloski, his principal campaign committee, or any agents or representatives of either. Similarly, aside from the aforementioned rental of the Cadillac XLR-V in June 2015, I am aware of no other APMC vehicles that have been rented or provided by PMC to Mr. Pawloski, his principal campaign committee, or any agents or representatives of either.

9. I declare under the penalty of perjury that the foregoing is true and correct.



Mr. Keith A. Flickinger

SEPT-14-2019

Date

EXHIBIT 4

Precision Motor Cars Inc.

RESTORATION • CUSTOMIZING • COLLISION

808 N. Fenwick Street • Allentown, PA 18109

PAID
07/29/2015
Phone 610-261-9733

DATE	INVOICE NO
6/30/2015	8761

TERMS	DUE DATE
Due on receipt	6/30/2015

BILL TO
Ed Pawloski

JOB DESCRIPTION
Car Rental

ITEM	DESCRIPTION	QTY	RATE	AMOUNT
Labor	as per estimate- One Day Rental of Car PA Sales Tax	2	125.00 6.00%	250.00 15.00
<p><i>Paid 7/29/15, Check #98, \$265.00</i></p>				

	Total	\$265.00
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