

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2 In the Matter of )  
 3 )  
 4 Michael Fleck )  
 5 Pawlowski2016.com and Lisa Pawlowski ) MUR 7226  
 6 in her official capacity as treasurer )  
 7 Edwin Pawlowski )  
 8 Nicola Bulgari )  
 9 )

10 **SECOND GENERAL COUNSEL'S REPORT**

11 **I. ACTIONS RECOMMENDED**

12 We recommend that the Commission: (1) dismiss, as a matter of prosecutorial discretion,  
 13 the apparent failure by Pawlowski2016.com and Lisa Pawlowski in her official capacity as  
 14 treasurer (the "Committee") to disclose a debt to Michael Fleck ("Fleck") and H Street Strategies  
 15 ("H Street") for campaign services, in violation of 52 U.S.C. § 30104(b)(8) and 11 C.F.R.  
 16 § 104.3(d), and issue a letter of caution to the Committee regarding its reporting obligations  
 17 under the Federal Election Campaign Act of 1971, as amended (the "Act") for disclosing debts;  
 18 (2) take no further action as to the allegation that the Committee violated 52 U.S.C. § 30104(b)  
 19 by failing to report the purpose of the \$76,500 disbursement; (3) take no further action as to the  
 20 Commission's findings that Michael Fleck knowingly and willfully violated 52 U.S.C.  
 21 §§ 30102(b)(3) and 30114(b) with respect to the \$76,500 disbursement; (4) dismiss the  
 22 allegations that Nicola Bulgari made, and Edwin Pawlowski and the Committee received,  
 23 prohibited foreign national contributions in violation of 52 U.S.C. § 30121, and that the  
 24 Committee failed to report such contributions, in violation of 52 U.S.C. § 30104(b); (5) approve  
 25 the appropriate letters; and (6) close the file.

26 **II. INTRODUCTION**

27 This matter arose from a Reports Analysis Division ("RAD") referral of the Committee,  
 28 the authorized committee for Edwin Pawlowski's Senate campaign, for "unauthorized activity"

1 in connection with the Committee's 2015 October Quarterly Report, which disclosed a \$76,500  
2 disbursement with the notation "Purpose(s) unknown; documentation unavailable."<sup>1</sup> The  
3 Committee later amended its report to explain that Michael Fleck, the Committee's former  
4 campaign manager, had written a \$76,500 check to H Street, his consulting company, without  
5 authorization and converted these funds to personal use.<sup>2</sup> Fleck denied any conversion and  
6 stated the Committee owed him and H Street the money for his services.<sup>3</sup> The Committee stated  
7 that Pawlowski had discussions with Fleck regarding the amount due for these services but  
8 asserted that no agreement had been reached and the disbursement was not authorized.<sup>4</sup>

9       Based on the available information, the Commission found reason to believe that Fleck  
10 knowingly and willfully violated 52 U.S.C. §§ 30102(b)(3) and 30114(b) by converting  
11 campaign funds to personal use and commingling campaign funds with his personal funds.<sup>5</sup>  
12 Given the limited information surrounding the disbursement and ongoing federal criminal  
13 investigation and prosecution of Pawlowski, Fleck, and others in connection with a scheme to  
14 trade contributions to Edwin Pawlowski for city contracts and services, the Commission took no  
15 action at that time as to the Committee.<sup>6</sup> The Commission authorized compulsory process<sup>7</sup> and

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<sup>1</sup> RAD Referral of Pawlowski2016.com, RR 16L-10 (June 6, 2016) ("Referral"), incorporated herein by reference. The Commission notified the Committee and Michael Fleck of the Referral. *See* Notification Ltrs. (June 10, 2016).

<sup>2</sup> *See* Pawlowski2016.com, Amended 2015 October Quarterly Rpt., Miscellaneous Text form (Jan. 22, 2016); Pawlowski2016.com, Miscellaneous Text form (May 26, 2016).

<sup>3</sup> Fleck Resp. (Sept. 7, 2016).

<sup>4</sup> Committee Resp., Declaration of Lisa Pawlowski ¶ 4 (June 30, 2016) ("Lisa Pawlowski Decl.").

<sup>5</sup> *See* MUR 7226 Certification ¶ 2c (Mar. 22, 2017).

<sup>6</sup> *Id.* ¶ 2b.

<sup>7</sup> *Id.* ¶ 2e.

1 directed the Office of General Counsel (“OGC”) to update the Commission with information  
2 through the investigation of Fleck.<sup>8</sup>

3 As further discussed below, the completed investigation indicates that the Committee  
4 never paid Fleck for his consulting services to the campaign and failed to report a disputed debt  
5 owed to Fleck on its 2015 July Quarterly Report and subsequent disclosure reports. Although  
6 the investigation clearly established that the Committee owed a debt to Fleck, we were not able  
7 to conclusively determine the amount that was owed to him;<sup>9</sup> thus, it remains unclear whether  
8 Fleck was entitled to pay himself the entire \$76,500 amount or whether he misappropriated at  
9 least a portion of the Committee’s funds. Further, the record remains unclear as to whether the  
10 Committee failed to accurately disclose the purpose of the \$76,500 disbursement on its 2015  
11 October Quarterly Report. However, we do not recommend that the Commission expend further  
12 resources to pursue this matter given that the Committee is defunct, has no assets, and both  
13 Pawlowski and Fleck are serving long prison sentences.

14 Separately, based upon Fleck’s testimony during his deposition, we looked into new  
15 allegations that the Committee may have received foreign national contributions in connection  
16 with the use of vehicles owned by Nicola Bulgari. However, the available evidence did not  
17 support these allegations.

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<sup>9</sup> Without a reason to believe finding as to the Committee, the inquiry into the campaign’s dispute with Fleck and its knowledge regarding the purpose of the disbursement was limited.

1     **III.     SUMMARY OF INVESTIGATION**

2             During the investigation, we  
3                         reviewed Fleck's written answers to questions, and deposed Fleck. In  
4     addition, we obtained H Street's financial records from its accountant. Finally, we sent  
5     notifications regarding the allegation that Pawlowski and the Committee accepted a prohibited  
6     in-kind contribution from Bulgari, a foreign national, and reviewed the responses from the  
7     Pawlowskis, Bulgari, and related entities.

8                         **A.     Background**

9             The Committee is the authorized committee of Edwin Pawlowski, the former mayor of  
10     Allentown, Pennsylvania, who was a candidate for the U.S. Senate from Pennsylvania during the  
11     2016 election cycle.<sup>10</sup> His wife, Lisa Pawlowski, is the Committee's treasurer. Fleck, the  
12     Committee's former campaign manager, was the principal and a co-owner of H Street, an  
13     Allentown-based consulting firm.<sup>11</sup> The Committee retained Fleck and his firm to provide  
14     consulting, fundraising, and campaign management services for Pawlowski's 2016 federal  
15     campaign.<sup>12</sup>

16             Pawlowski's Senate campaign ended on July 2, 2015, when the FBI raided his home and  
17     mayoral offices.<sup>13</sup> The raid followed a multi-year federal criminal investigation into a scheme to

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<sup>10</sup>     Ed Pawlowski, Statement of Candidacy (Apr. 17, 2015),  
<https://docquery.fec.gov/pdf/040/15020163040/15020163040.pdf>; Pawlowski2016.com, Statement of Organization  
(Apr. 16, 2015), <https://docquery.fec.gov/pdf/044/15020163044/15020163044.pdf>. Pawlowski withdrew his  
candidacy in 2015.

<sup>11</sup>     See Government's Guilty Plea Mem. at 4, *United States v. Fleck*, No. 5:16-cr-00171 (E.D. Pa. Apr. 26,  
2016) (DKT. NO.7) ("Fleck Plea").

<sup>12</sup>     See Committee Resp. at 2 (June 31, 2016), Lisa Pawlowski Decl. ¶ 4.

<sup>13</sup>     See Fleck Dep. at 28:18-22, 50:13, 58:15-22 (Mar. 13, 2018); see also, Emily Opilo, *Allentown FBI  
Investigation: How the Case Unfolded*, THE MORNING CALL (July 25, 2017),  
<http://www.mcall.com/news/local/allentown/mc-nws-allentown-fbi-investigation-timeline-20170725-htmlstory.html>

1 trade campaign contributions to Pawlowski in exchange for city contracts and services.<sup>14</sup> The  
2 scheme involved a number of individuals, including Pawlowski, who orchestrated the scheme  
3 and Fleck,<sup>15</sup> who secretly recorded conversations with Pawlowski for the FBI during the criminal  
4 investigation.<sup>16</sup> Fleck pled guilty to one count of conspiracy to commit extortion and bribery  
5 offenses in connection with the scheme, as well as to a separate count of tax evasion.<sup>17</sup>  
6 Pawlowski was later indicted, tried, and found guilty of multiple counts including bribery,  
7 attempted extortion, fraud, and lying to federal investigators in connection with the scheme; he is  
8 serving his criminal sentence.<sup>18</sup>

9 Currently, the Committee is inactive, has \$89.39 cash on hand and \$23,477.08 in loans  
10 and debts owed to the candidate.<sup>19</sup>

## 11 **B. The \$76,500 Disbursement**

12 On July 2, 2015, the same day the FBI raided Allentown City Hall, Fleck deposited a  
13 check for \$76,500 he had written from the Committee account to his consulting firm H Street.

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<sup>14</sup> *Id.*

<sup>15</sup> The Pawlowskis and Fleck have had a professional and social relationship for over 10 years, and Fleck has provided consulting and campaign management services to Pawlowski in all of his past campaigns for public office, including his 2016 Senate campaign. Committee Resp. at 1.

<sup>16</sup> See Emily Opilo, Scott Kraus and Matt Assad, *Allentown Mayor Ed Pawlowski's Consultant Recorded Conversations in FBI Probe, Sources Say*, THE MORNING CALL, (July 13, 2015), <http://www.mcall.com/news/pennsylvania/mc-allentown-fbi-investigation-fleck-recorded-conversations-20150713-story.html>.

<sup>17</sup> See Fleck Plea; First Gen. Counsel's Rpt. at 2, MUR 7226. On April 26, 2019, Fleck was sentenced to five years' imprisonment and three years of probation, and ordered to pay \$134,487 in restitution and a \$200 special assessment. See Judgment as to Michael Fleck, *United States v. Fleck*, No. 5:16-cr-00171 (E.D. Pa. Apr. 26, 2019) (DKT. NO.35).

<sup>18</sup> See Minute Entry, *United States v. Pawlowski, et al.*, 5:17-cr-00390 (E. D. Pa. Mar. 1, 2018) (DKT. NO. 136). On October 23, 2018, Pawlowski was sentenced to 15 years imprisonment, plus three years of supervised release, \$3,800 special assessment and \$93,749 restitution. Minute Entry, *United States v. Pawlowski*, No. 5:17-cr-00390 (E. D. Pa. Oct. 24, 2018) (DKT. NO.240).

<sup>19</sup> See 2019 Year-End Report (Summary Page).

1 The check is dated July 1, 2015, and contains the memo entry: "April-Aug Consul + Rent +  
2 Travel."<sup>20</sup> The Committee disclosed the disbursement on its 2015 October Quarterly Report  
3 with the notation "Purpose(s) unknown; documentation unavailable."<sup>21</sup> The Committee later  
4 filed an Amended 2015 October Quarterly Report, which included this explanation: "Payment  
5 never authorized by treasurer of committee; purpose(s) known only to payee's CEO who is  
6 estranged from committee and whereabouts unknown."<sup>22</sup> Later, the Committee filed a  
7 Miscellaneous Report, which reiterated that the payment was unauthorized, and identified Fleck  
8 as H Street's CEO and co-owner and the Committee's former campaign manager.<sup>23</sup> The  
9 Committee explained that Fleck had check-signing authority on the campaign account, but it had  
10 no documents from H Street regarding the payment, and the Committee had no contract with H  
11 Street or Fleck regarding compensation for campaign consulting services, office rent, or travel  
12 reimbursement procedures.<sup>24</sup> The Committee asserted the check was unauthorized and Fleck  
13 had unlawfully converted campaign funds to personal use.<sup>25</sup>

14 RAD referred the Committee for "unauthorized activity" in connection with the  
15 Committee's 2015 October Quarterly Report, which disclosed the \$76,500 disbursement. In  
16 response, the Committee explained that Fleck wrote the check without the Pawlowskis' or the  
17 Committee's knowledge or authorization. Lisa Pawlowski attested that the retainer agreement  
18 with Fleck and H Street was informal, and there was never a written contract with the

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<sup>20</sup> See Committee Resp. ¶¶ 3, 5, Ex. A; Fleck Dep. 91:3-13, 92-94.

<sup>21</sup> See Pawlowski2016.com, 2015 October Quarterly Rpt. at 31 (Oct. 15, 2015).

<sup>22</sup> See Pawlowski2016.com, Amended 2015 October Quarterly Rpt., Memo Text (Jan. 22, 2016).

<sup>23</sup> Pawlowski2016.com, Miscellaneous Text form (May 26, 2016).

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

1 campaign.<sup>26</sup> She noted that Fleck and Pawlowski discussed a monthly campaign management  
2 fee in April or May 2015, but the amount proposed by Fleck was rejected and the parties never  
3 reached an agreement.<sup>27</sup> The response did not indicate, however, whether Fleck ever received  
4 any compensation for his services or was reimbursed for any campaign expenses. Fleck denied  
5 any conversion and stated the Committee owed him and H Street the money for his services.<sup>28</sup>  
6 Fleck noted that the government had custody of his personal and business records.<sup>29</sup>

7         In his written answers to questions and in his deposition, Fleck maintains that Pawlowski  
8 knew the purpose of, and authorized, the \$76,500 disbursement. According to Fleck, he had a  
9 written contract and oral agreement with Pawlowski providing for a monthly payment of  
10 \$15,000, plus travel expenses and rent.<sup>30</sup> He also contended there was a verbal agreement to  
11 defer billing and payment for his services until after July 1, 2015, “to make the Pawlowski  
12 campaign appear financially stronger.”<sup>31</sup>

13         Fleck attests that the purpose for the disbursement “was to pay H Street Strategies for our  
14 services, expense, and rent for office space that was outstanding.”<sup>32</sup> The campaign management  
15 and political services, provided from March 2015 through July 2, 2015,<sup>33</sup> included multiple trips  
16 to Pennsylvania and Washington, DC, fundraising, political research, creating promotional

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<sup>26</sup> Lisa Pawlowski Decl. ¶ 4.

<sup>27</sup> *Id.*

<sup>28</sup> Fleck Resp. (Sept. 7, 2016).

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

<sup>30</sup> Fleck Subpoena Resp. ¶ 3 (Dec. 15, 2018).

<sup>31</sup> *Id.* ¶ 6(a).

<sup>32</sup> *Id.*

<sup>33</sup> The response incorrectly states “March 2016 through July 2, 2016.”

1 material, speech writing, and preparing social media and field plans.<sup>34</sup> Fleck averred that his  
2 firm spent “over 100 hours per week [on] the Pawlowski campaign.”<sup>35</sup> Fleck noted that the FBI  
3 had custody of the documents and audio recordings that showed the work performed, including  
4 Pawlowski’s agreement to pay him “at the beginning of the third quarter of 2015, specifically on  
5 July 1, 2015.”<sup>36</sup>

6 Fleck asserted in written answers that “[t]he payment in question was authorized by, and  
7 discussed on multiple occasions with both Ed . . . and Lisa Pawlowski.”<sup>37</sup> However, in his  
8 deposition, Fleck clarified that though he was authorized to get paid “sometime in [the]  
9 beginning of July,” he did not consult with Pawlowski when he wrote the check because of the  
10 chaotic nature of events that day,<sup>38</sup> when the FBI raided Pawlowski’s mayoral office and home,  
11 publicly revealing the federal investigation.<sup>39</sup> Fleck said he was concerned about getting paid  
12 and needed the money to move his family to a safe place and pay for living expenses.<sup>40</sup> He  
13 noted that he deposited the check into his H Street account then transferred funds to his  
14 management company, KMJA, which issued him a check for about \$75,000.<sup>41</sup> Fleck then  
15 prepared an invoice for the Committee, dated July 1, 2015.

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<sup>34</sup> Fleck Subpoena Resp. ¶ 2(b), (c).

<sup>35</sup> *Id.* ¶ 2(c).

<sup>36</sup> *Id.* ¶ 2(d).

<sup>37</sup> *Id.* ¶ 6(d).

<sup>38</sup> *See* Fleck Dep. at 50:9-15; 84:8-:20, 91:7-:22, 92:1-:17. *See also supra*, note 13.

<sup>39</sup> Fleck Dep. at 50:9-15; 84:8-:20, 91:7-:22, 92:1-:17.

<sup>40</sup> *Id.*

<sup>41</sup> *Id.* at 111:2-:21, 112:1-:6, 113:15-:22.



1           After Fleck's deposition, we were able to reach out to Stoudt Polle, LLC, an accounting  
2 firm that provided services to Michael Fleck and H Street in connection with Pawlowski's Senate  
3 campaign, but the firm could not locate any invoices issued before the \$76,500 disbursement.  
4 Documents obtained from Stoudt Polle show two invoices from H Street to the Committee: one  
5 invoice, dated June 10, 2015, for the \$3,000 rent payment for April, May, and June 2015,  
6 disclosed on Pawlowski's disclosure reports; and the other, dated July 1, 2015, for the \$76,500  
7 disbursement, consisting of a \$75,000 consulting fee and \$1,500 for rent and travel.<sup>42</sup>

8           For their parts, the Committee and the Pawlowskis acknowledge Fleck and Pawlowski  
9 discussed compensation for campaign consulting services, but they deny reaching an agreement  
10 regarding the amount to be paid. In a sworn declaration, Pawlowski denies that there was a  
11 written or oral contract regarding the terms and level of compensation for services provided by  
12 Fleck and H Street.<sup>43</sup> Pawlowski avers that several weeks before the campaign began, Fleck  
13 gave him a contract proposal that called for payments of \$15,000 per month,<sup>44</sup> but Pawlowski  
14 "balked" because Fleck and H Street were being paid \$9,000 a month for services provided to  
15 Pawlowski's gubernatorial campaign.<sup>45</sup> Pawlowski attests he had further discussions with Fleck  
16 about compensation, but no agreement was reached before his campaign ended on July 3,  
17 2015.<sup>46</sup> Pawlowski maintains that the \$76,500 disbursement by Fleck was unauthorized.<sup>47</sup>

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<sup>42</sup> See Chart, H Street Consulting Quickbooks Backup Transactions (prepared by B. Antosz, FEC Audit Division) (available in VBM.); *see also* Invoices from H Street Strategies to Pawlowski Committee (\$3,000) (June 10, 2015) and (\$76,500) (July 1, 2015) (available in VBM).

<sup>43</sup> Declaration of Edwin Pawlowski ¶ 3 (Aug. 15, 2019), ("Edwin Pawlowski Decl.").

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.* Pawlowski states that he did reach an informal agreement that his campaign would pay Fleck's firm \$1,000 per month for use of office space, equipment and facilities, within their office suite. *Id.* ¶ 4.

<sup>47</sup> *Id.* ¶ 2.

1           We interviewed two former Fleck employees, Celeste Dee and Sam Ruchlewicz, but  
2           neither had knowledge of the circumstances surrounding the \$76,500 disbursement.<sup>48</sup>

### 3                           **C.       Alleged Foreign National In-Kind Contributions**

4           During his deposition, Fleck testified that Nicola Bulgari, an Italian business person,  
5           provided Pawlowski with vehicles for multiple campaign trips at little or no charge.<sup>49</sup> In light of  
6           this information, we notified Bulgari, Pawlowski, and the Committee that Bulgari appeared to  
7           have made, and the Pawlowski respondents appeared to have accepted, prohibited foreign  
8           national contributions in connection with the use of these vehicles.<sup>50</sup>

9           Respondents denied the allegations. According to a joint response submitted by Bulgari  
10          and American Classic Motor Cars, Inc. (“ACMC”) and a Declaration by Keith A. Flickinger,  
11          President of Precision Motor Cars, Inc. (“PMC”), the only time that Pawlowski or the Committee  
12          used a vehicle provided by PMC or ACMC was a two-day rental of a Cadillac in June 2015, for  
13          which the Committee paid \$265.00.<sup>51</sup> Flickinger attests that he determined the fair market rate  
14          for the Cadillac by reviewing prices that national rental car companies generally charge for

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<sup>48</sup>       See Report of Investigation of Celeste Dee (Mar. 7, 2019); Report of Investigation of Sam Ruchlewicz (Mar. 7, 2019) (available in VBM).

<sup>49</sup>       See Memorandum to the Commission, Intent to Name and Notify Additional Respondents and Notify Respondent of Additional Violations (June 7, 2019), citing to Fleck Dep. at 96-107.

<sup>50</sup>       See Pre-RTB Notification letter from Dominique Dillenseger, Attorney, FEC to Edwin Pawlowski (June 19, 2019); Pre-RTB Notification Letter from Dominique Dillenseger, Attorney, FEC to N. Bradley Litchfield, Esq., counsel for Pawlowski2016.com and Lisa Pawlowski, treasurer (June 19, 2019); Pre-RTB Notification Letter from Dominique Dillenseger, Attorney, FEC, to Nicola Bulgari (June 9, 2019).

<sup>51</sup>       See Bulgari/ACMC Resp. at 3 (Sept. 15, 2019), Declaration of Keith A. Flickinger (“Flickinger Decl.”) (Sept. 14, 2019). According to the response, Bulgari, an Italian citizen and resident of Rome, Italy, owns one of the world’s largest collection of vintage and luxury vehicles, most of which are held and displayed on a 27-acre facility, track and museum located in Allentown, Pennsylvania. That facility is owned and operated by ACMC, a Delaware corporation authorized to conduct business in Pennsylvania. During the relevant period, ACMC used PMC, a Pennsylvania business corporation specializing in automobile restoration, customization and collision repair as an outside vendor for repair and restoration projects for its vintage and luxury automobiles, and for courtesy and rental use by PMC’s customers. Flickinger states that in June 2015, Pawlowski rented a 2009 Cadillac XLR-V convertible, owned and registered to ACMC, from PMC for a 24-hour period (over two calendar days). Flickinger Decl. ¶ 5. The Committee was billed for and paid \$265 for the rental. *Id.* ¶¶ 5-6.

1 comparable cars and by consulting the standard daily rates that insurance companies pay or  
 2 reimburse for such rentals.<sup>52</sup>

3 In their respective declarations, the Pawlowskis attest that the Committee paid \$265.00 to  
 4 rent the Cadillac; they provide an invoice, a check to PMC (showing a notation “car rental for  
 5 campaign travel”), the page from the Committee’s 2015 October Quarterly Report showing the  
 6 disbursement to PMC, and a bank statement, which shows the deposit of the check.<sup>53</sup> The  
 7 Pawlowskis further attest that Fleck made arrangements for a second short-term rental for a  
 8 campaign trip from Allentown to Pittsburgh, but they have no information on the cost of the trip  
 9 or whether it was paid since Fleck never provided any documentation for the trip.<sup>54</sup>

#### 10 **IV. LEGAL ANALYSIS**

##### 11 **A. Pawlowski2016.com Failed to Report A Debt to Fleck and H Street**

12 The Act and Commission regulations require political committees to continuously report  
 13 the amount and nature of their outstanding debts until those debts are extinguished.<sup>55</sup> Further,  
 14 where there is a “disputed debt,” the political committee must report the disputed debt if the  
 15 creditor has provided “something of value” to the political committee.<sup>56</sup> A “disputed debt” is  
 16 “an actual or potential debt or obligation owed by a political committee, including an obligation  
 17 arising from a written contract, promise or agreement to make an expenditure, where there is a  
 18 bona fide disagreement between the creditor and the political committee as to the existence or

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<sup>52</sup> *Id.* ¶ 6.

<sup>53</sup> See Declaration of Edwin Pawlowski (Aug. 15, 2019); Declaration of Lisa Pawlowski (Aug. 9, 2019); Invoice from PMC to Ed Pawlowski (June 30, 2015); Check from Pawlowski2016.com to PMC (July 20, 2015); Pawlowski2016.com, 2015 October Quarterly Report at 11, Line 17; National Penn Bank Statement (July 31, 2015).

<sup>54</sup> See Edwin Pawlowski Decl. ¶ 5; Declaration of Lisa Pawlowski ¶¶ 2-4 (Aug. 9, 2019).

<sup>55</sup> 52 U.S.C. § 30104(b)(8); 11 C.F.R. §§ 104.3(d), 104.11(a).

<sup>56</sup> 11 C.F.R. § 116.10(a).

1 amount of the obligation owed by the political committee.”<sup>57</sup> Until the dispute is resolved, the  
2 political committee must disclose any amounts paid to the creditor, any amount the political  
3 committee admits it owes, and the amount the creditor claims is owed.<sup>58</sup>

4 Here, the facts indicate that the Committee owed a debt, disputed or otherwise, to Fleck  
5 and H Street but failed to disclose it on its disclosure reports. It is undisputed that Fleck and his  
6 consulting firm, H Street, were retained by and provided campaign services to Pawlowski in  
7 connection with his Senate campaign, from March 2015 through July 2, 2015. Yet, the  
8 Committee's first disclosure report, the 2015 July Quarterly Report, reflects no disbursements to  
9 Fleck or H Street except for a \$3,000 disbursement to H Street for rent.<sup>59</sup> While we were unable  
10 to determine whether Fleck and Pawlowski ever agreed to the amount the campaign owed, the  
11 evidence proves that Fleck and H Street provided something of value to the Committee. Thus,  
12 notwithstanding the dispute as to the amount or whether there was an agreement to defer billing  
13 and payment, the Committee was still required to disclose: (1) the amount the Committee admits  
14 it owed to Fleck; (2) the amount Fleck claimed he was owed; and (3) any amounts the  
15 Committee paid to Fleck.<sup>60</sup>

16 The Committee did not report an actual debt or “disputed debt” on its next disclosure  
17 report, the 2015 July Quarterly Report, or on subsequent disclosure reports. Accordingly, the  
18 Committee failed to report a debt in violation of 52 U.S.C. § 30104(b)(8). However, given that

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<sup>57</sup> *Id.* § 116.1(d).

<sup>58</sup> *Id.* § 116.10(a).

<sup>59</sup> *See* FEC Form 3, Report of Receipts and Disbursements for an Authorized Committee, Amended 2015 July Quarterly Rpt. at 95 (filed Aug. 18, 2015). The lack of disbursements for campaign services supports Fleck's assertion that he had an agreement with Pawlowski to defer billing and payment for his services until after the period covered by the July Quarterly.

<sup>60</sup> 11 C.F.R. §§ 116.1(d), 116.10(a).

1 the Committee is defunct, has no assets, both Pawlowski and Fleck are serving long prison  
2 sentences, and the lack of documentary evidence to support Fleck's assertion regarding the  
3 amount due for services, this matter does not warrant the use of further Commission resources.  
4 Accordingly, we recommend that the Commission dismiss this apparent violation and caution the  
5 Committee regarding the reporting requirements for debts.<sup>61</sup>

6 **B. The Record Remains Unclear as to Whether the Committee Properly**  
7 **Reported the Purpose of the \$75,600 Disbursement**  
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9 Under the Act, a committee, through its treasurer, is required to keep an accurate account  
10 of and disclose its receipts, disbursements, and cash-on-hand balances.<sup>62</sup> Committees are  
11 required to file reports with the Commission through their treasurers disclosing, among other  
12 things, the name and address of each person to whom an expenditure exceeding \$200 is made  
13 together with the date, amount, and purpose of the expenditure.<sup>63</sup>

14 The Act prohibits any person from converting contributions to a federal candidate to  
15 personal use,<sup>64</sup> and requires that all funds of a political committee "be segregated from, and . . .  
16 not be commingled with, the personal funds of any individual."<sup>65</sup> The Act prescribes additional  
17 monetary penalties for violations that are knowing and willful.<sup>66</sup> A violation of the Act is

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<sup>61</sup> *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

<sup>62</sup> *See* 52 U.S.C. §§ 30102(c), 30104(b); 11 C.F.R. §§ 104.3, 104.14(d).

<sup>63</sup> *See* 52 U.S.C. § 30104(b)(1), (2), (4)(G), (5), (6)(A).

<sup>64</sup> *Id.* § 30114(b)(1). A contribution or donation shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of federal office. *Id.* § 30114(b)(2).

<sup>65</sup> *Id.* § 30102(b)(3).

<sup>66</sup> *See* 52 U.S.C. § 30109(a)(5)(B), (d).

1 knowing and willful if the “acts were committed with full knowledge of all the relevant facts and  
2 a recognition that the action is prohibited by law.”<sup>67</sup>

3 As previously noted, RAD referred the Committee for unauthorized activity in  
4 connection with the \$76,500 disbursement. The Committee disclosed the purpose of the  
5 disbursement as unknown and asserted that the disbursement was unauthorized. Fleck, however,  
6 contends Pawlowski knew the purpose for the disbursement and that it was authorized. The  
7 Commission found reason to believe that Fleck knowingly and willfully violated 52 U.S.C.  
8 §§ 30102(b)(3) and 30114(b) by converting campaign funds to personal use and commingling  
9 campaign funds with his personal funds. The Commission based its findings on the facts that  
10 Fleck had provided no documents to support his claim that he was owed the \$76,500 and did not  
11 inform or obtain authorization from the Committee before making the disbursement.<sup>68</sup>

12 In our investigation, we were unable to obtain any documentation to prove Fleck's  
13 contention that the Committee knew that the disbursement was for campaign services and  
14 expenses. The FBI seized Fleck's records during the federal criminal investigation

15 In addition, although Fleck's  
16 accountant produced H Street's financial records, those records reflect that Fleck did not issue  
17 the invoice for \$76,500 until after he had deposited the check he wrote.

18 Nevertheless, as discussed in the previous section, the evidence indicates that the  
19 Committee likely knew the purpose of the disbursement. First, the check itself contains the  
20 memo entry: “April-Aug Consul + Rent + Travel,”<sup>69</sup> and the Committee's reports did not show

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<sup>67</sup> 122 Cong. Rec. 12,197, 12,199 (May 3, 1976).

<sup>68</sup> Factual & Legal Analysis for Fleck at 6-7 (Mar. 22, 2017), MUR 7226.

<sup>69</sup> Committee Resp., Ex. A.

1 any disbursements to Fleck or H Street for campaign consulting services provided to the  
2 campaign from March 2015 through July 2015. Further, Pawlowski acknowledges he had  
3 multiple discussions regarding compensation, and Fleck provided a written proposal to  
4 Pawlowski for a \$15,000 monthly retainer.

5 It remains unclear whether Fleck and Pawlowski ever agreed on the amount for Fleck's  
6 consulting services and whether the \$76,500 disbursement was authorized. In its response, the  
7 Committee acknowledges that Fleck had check-signing authority but maintains that Fleck still  
8 had to obtain the treasurer's advance authorization to pay campaign expenses, and the check was  
9 written without the Pawlowskis' knowledge or consent.<sup>70</sup> However, the Committee did not  
10 produce any documents to support its contention that pre-authorization was required.

11 Fleck claims no prior authorization was required for him to write checks and make  
12 disbursements for campaign expenses, although he acknowledges he usually consulted with  
13 Pawlowski before making large disbursements but did not do so in this case given the "chaotic  
14 nature" of events on the day he issued the payment to himself. Finally, it does not appear that  
15 the Committee had any internal controls and no dual signatures were required on checks.

16 Based on the above, we cannot state conclusively that the Committee failed to properly  
17 report the purpose of the disbursement when it listed it as unknown on its disclosure report or  
18 that the disbursement was unauthorized. Although we could recommend that the Commission  
19 find reason to believe as to the Committee for failing to report a disputed debt and the purpose  
20 for the \$76,500 disbursement, it does not appear that further fact finding is a prudent use of  
21 Commission resources at this stage, especially given the outcome of the criminal proceedings  
22 described above and the defunct nature of the Committee. We know that Fleck provided services

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<sup>70</sup> *Id.* at 2.

1 to the Committee and the Committee never paid for those services. Further, it does not appear  
2 that Fleck converted any appreciable amount of campaign funds to personal use and commingled  
3 such funds with his personal funds. Accordingly, we recommend the Commission take no  
4 further action as to Fleck and the Committee regarding the reporting of the purpose for the  
5 disbursement and unauthorized activity in connection with the \$76,500 disbursement.

6 **C. There Is Insufficient Information Indicating that Bulgari Made and**  
7 **the Committee Accepted Prohibited In-Kind Contributions from a**  
8 **Foreign National**  
9

10 The Act prohibits persons from soliciting, accepting, or receiving a contribution or  
11 donation from a foreign national.<sup>71</sup> A “foreign national” is an individual who is not a citizen of  
12 the United States or a national of the United States and who is not lawfully admitted for  
13 permanent residence.<sup>72</sup>

14 Under the Act, the term “contribution” includes any gift, loan, advance, or deposit of  
15 money or anything of value made by any person for the purpose of influencing a Federal  
16 election.<sup>73</sup> Goods or services provided at less than the usual and normal charge result in in-kind  
17 contributions,<sup>74</sup> which must be disclosed in reports filed with the Commission.<sup>75</sup> Usual and  
18 normal charge refers to the price of goods in the market from which they would have been  
19 purchased at the time they were provided.<sup>76</sup>

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<sup>71</sup> 52 U.S.C. § 30121(a)(2).

<sup>72</sup> *Id.* § 30121(b)(2).

<sup>73</sup> *Id.* § 30101(8)(A) and 11 C.F.R. § 100.52.

<sup>74</sup> 11 C.F.R. §§ 100.52(d)(1), 100.111(e)(1).

<sup>75</sup> 52 U.S.C. § 30104(a), (b); 11 C.F.R. §§ 104.1 and 104.3. Such reports must include the total amount of contributions received, as well as the identification of each person or political committee who made a contribution in excess of \$200 during the reporting period, together with the date and amount of such contribution. 52 U.S.C. § 30104(b)(2)(A), (b)(3)(A)-(B).

<sup>76</sup> 11 C.F.R. §§ 100.52(d)(2), 100.111(e)(2).



1 As previously noted, Fleck testified that Nicola Bulgari, a foreign national, provided  
2 Pawlowski with vehicles for multiple campaign trips at little or no charge.<sup>77</sup> The available  
3 evidence, however, does not indicate that Bulgari made prohibited foreign national contributions  
4 in connection with the use of vehicles for campaign trips. Fleck did not provide details to  
5 support his assertions, and Respondents provided sworn declarations denying the allegations and  
6 documentation showing that the Committee paid for a two-day rental of one car. We have no  
7 information indicating that the amount paid for the rental was not the usual and normal charge  
8 for rentals of a comparable vehicle. The Pawlowskis referenced one other campaign trip where a  
9 rental vehicle was used, but state that Fleck handled the arrangements and did not provide them  
10 with any documentation.

11 Based on the above and given the lack of information surrounding the second rental, we  
12 recommend that the Commission dismiss the allegations that: (1) Nicola Bulgari made, and  
13 Edwin Pawlowski and the Committee received, prohibited foreign national contributions in  
14 violation of 52 U.S.C. § 30121; and (2) the Committee violated 52 U.S.C. § 30104(b) by failing  
15 to report such contributions.

## 16 **V. RECOMMENDATIONS**

- 17 1. Dismiss, as a matter of prosecutorial discretion, the apparent failure by  
18 Pawlowski2016.com and Lisa Pawlowski in her official capacity as treasurer to  
19 disclose a debt in violation of 52 U.S.C. § 30104(b)(8) and 11 C.F.R. § 104.3(d) and  
20 issue a letter of caution;
- 21 2. Take no further action as to the allegation that Pawlowski2016.com and Lisa  
22 Pawlowski in her official capacity as treasurer violated 52 U.S.C. § 30104(b) for the  
23 failure to report the purpose of the \$76,500 disbursement;
- 24 3. Take no further action with respect to Michael Fleck's violations of 52 U.S.C.  
25 §§ 30102(b)(3) and 30114(b);

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<sup>77</sup> See Memorandum to the Commission, Intent to Name and Notify Additional respondents and Notify Respondent of Additional Violations (June 7, 2019), citing to Fleck Dep. at 96-107.

