

1 **FEDERAL ELECTION COMMISSION**  
2  
3 **FIRST GENERAL COUNSEL'S REPORT**  
4

5 MUR: 7328  
6 DATE COMPLAINT FILED: February 22, 2018  
7 DATE OF NOTIFICATION: February 28, 2018  
8 LAST RESPONSE RECEIVED: June 15, 2018  
9 DATE ACTIVATED: August 13, 2018

10  
11 EXPIRATION OF SOL: January 15, 2023  
12 ELECTION CYCLE: 2018

13  
14 **COMPLAINANT:** Arelis Rivera

15  
16 **RESPONDENTS:** Julia Peacock  
17 Julia Peacock for Congress and Yolanda Miranda  
18 in her official capacity as treasurer  
19

20 **RELEVANT STATUTES AND** 52 U.S.C. § 30104(a) and (b)  
21 **REGULATIONS:** 52 U.S.C. § 30107(a)(9)  
22 52 U.S.C. § 30116 (a) and (f)  
23 11 C.F.R. § 100.12  
24 11 C.F.R. § 104.3(a)(3), (4)(i)  
25 11 C.F.R. § 110.1(b)  
26 11 C.F.R. § 110.9  
27

28 **INTERNAL REPORTS CHECKED:** Disclosure Reports  
29

30 **FEDERAL AGENCIES CHECKED:** None  
31

32 **I. INTRODUCTION**

33 The Complaint alleges that Julia Peacock (“Peacock”) and Julia Peacock for Congress  
34 and Yolanda Miranda in her official capacity as treasurer (the “Committee”) violated the Federal  
35 Election Campaign Act of 1971, as amended (the “Act”), after announcing in Facebook posts  
36 that “anonymous donors” would match the next \$5,000 in contributions to the Committee.  
37 Peacock and the Committee state that while these “matching donors” were not named in the  
38 solicitation, they were identified as contributors on the Committee’s disclosure reports. As set

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1 forth below, we recommend that the Commission find no reason to believe that Peacock and the  
2 Committee violated the Act.

3 However, Peacock and the Committee report receiving a hand-delivered letter that falsely  
4 purports to be from the Commission and which describes the same allegations contained in the  
5 Complaint.<sup>1</sup> We have confirmed that Commission staff did *not* send this letter, which is  
6 formatted similarly to a Reports Analysis Division (“RAD”) Request for Additional Information  
7 (“RFAI”).  
8

## 9 II. FACTUAL AND LEGAL ANALYSIS

### 10 A. The Peacock Campaign Fundraising Solicitation

11 Julia Peacock was a candidate for U.S. Representative from California’s 42nd District in  
12 the 2018 election.<sup>2</sup> Julia Peacock for Congress is Peacock’s principal campaign committee.<sup>3</sup>

13 In December 2017, Peacock and the Committee posted fundraising solicitations on  
14 Facebook that stated that “anonymous donors” had offered to match up to \$5,000 in  
15 contributions.<sup>4</sup> The Facebook posts included:

- 16 • A post on December 19, 2017, at 1:46 p.m. stating “DOLLAR for DOLLAR  
17 DONOR MATCH up to \$5,000 to Peacock for Congress from GENEROUS  
18 ANONYMOUS DONORS! We have a deadline to meet on December 31, 2017,

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<sup>1</sup> Letter to Committee (Feb. 24, 2018), purportedly from Commission, Attach. 1. Committee Resp., attach. 2 (June 7, 2018).

<sup>2</sup> FEC Form 2, *Statement of Candidacy*, Julia Peacock (Mar. 6, 2017) <http://docquery.fec.gov/pdf/259/201703060300143259/201703060300143259.pdf>.

<sup>3</sup> FEC Form 1, *Statement of Organization*, Julia Peacock for Congress (Feb. 27, 2017) (amend. May 25, 2017, to add current treasurer, and May 2, 2018, to change the Committee’s address) <http://docquery.fec.gov/pdf/632/201805029111746632/201805029111746632.pdf>.

<sup>4</sup> Compl. at 1 (Feb. 22, 2018).

1 11:59pm.”<sup>5</sup>  
2

- 3 • Another post on December 19, 2017, at 6:00 p.m. regarding “generous  
4 anonymous donors” and promising “dollar for dollar match up to \$5,000 through  
5 11:59pm PST 12/31/17.”<sup>6</sup> This post includes a link to the Committee’s ActBlue  
6 contribution page.<sup>7</sup>  
7  
8 • Two December 20, 2017, posts at 8:00 a.m. and 10:31 a.m. stating that “In less  
9 than 24 hours, you generously donated over \$1100: That’s a total of \$2200 for the  
10 campaign thanks to the generosity of you and our matching partners.”<sup>8</sup>  
11

12 The Complaint alleges that Respondents failed to disclose the identity of the  
13 “anonymous” matching donors and that a \$5,000 matching contribution would exceed the \$2,700  
14 individual contribution limit.<sup>9</sup> Complainant also alleges that Respondents did not disclose any  
15 payments for Facebook activity.<sup>10</sup>

16 Peacock and the Committee respond that Paul and Kerry Menth suggested the matching  
17 donor program to Peacock and the Committee, but did not want their names included in the  
18 actual solicitations.<sup>11</sup> Respondents assert that they described the matching donors as  
19 “anonymous” only because their names were not in the solicitation.<sup>12</sup> Respondents aver that  
20 they always intended to identify the matching donors on the Committee’s disclosure reports.<sup>13</sup>

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5 Compl. Attach. 1.

6 Compl. Attach. 2.

7 *Id.*

8 Compl. Attach. 6.

9 Compl. at 1-2.

10 *Id.*

11 *Id.*

12 *Id.*

13 *Id.*

1 The Committee's 2017 Year-End Report revealed that Paul and Kerry Menth made contributions  
2 in the amount of \$2,250 and \$2,700, respectively, on December 28, 2017.<sup>14</sup> While Respondents  
3 do not address the alleged nondisclosure of disbursements for Facebook activities, the  
4 Committee's disclosure reports show disbursements of \$9,663.61 for Facebook advertising.<sup>15</sup>

5 **B. Legal Analysis**

6 Political committees registered with the Commission must file periodic reports disclosing  
7 their receipts and disbursements.<sup>16</sup> These reports must include, *inter alia*, the identification of  
8 each person who makes a contribution or aggregate contributions that exceed \$200 in the  
9 election cycle.<sup>17</sup> The Act prohibits contributions to any candidate or his or her principal  
10 campaign committee from an individual in excess of the Act's limits, which for the 2018 election  
11 cycle was \$2,700 per election.<sup>18</sup> The Act also prohibits such committees from knowingly  
12 accepting excessive contributions.<sup>19</sup>

13 Notwithstanding Respondents' use of the term "anonymous donors" in the Facebook  
14 solicitations, Peacock and the Committee identified the two individuals who made "matching"

<sup>14</sup> FEC Form 3, 2017 Year-End, *Report of Receipts and Disbursements*, Julia Peacock for Congress (Jan. 31, 2018) at <http://docquery.fec.gov/pdf/804/201801319090979804/201801319090979804.pdf>.

<sup>15</sup> FEC Form 3, 2017 July Quarterly, *Reports of Receipts and Disbursements*, Julia Peacock for Congress, (July 14, 2017) at <http://docquery.fec.gov/pdf/655/201707149066670655/201707149066670655.pdf>.

<sup>16</sup> 52 U.S.C. § 30104(a).

<sup>17</sup> 52 U.S.C. § 30104(b)(3)(A); 11 C.F.R. § 104.3(a)(3), (4)(i). *See also* 11 C.F.R. § 100.12.

<sup>18</sup> 52 U.S.C. § 30116(a)(1)(A); 11 C.F.R. § 110.1(b).

<sup>19</sup> 52 U.S.C. § 30116 (f); 11 C.F.R. § 110.9.

1 Contributions,<sup>20</sup> and these contributions—in the amounts of \$2,250 and \$2,700—complied with  
2 the applicable \$2,700 limit.<sup>21</sup> While it is not clear if Respondents incurred any costs to create the  
3 Facebook posts, the Committee's disclosure reports for the relevant time period reveal over  
4 \$9,663.61 in disbursements for Facebook advertising.<sup>22</sup> Based on this information and  
5 Respondents' rebuttal of the allegations, we recommend that the Commission find no reason to  
6 believe that Peacock and the Committee violated 52 U.S.C. §§ 30104(a) and (b) and 30116(a)  
7 and (f).

8 **C. The Letter Falsely Purporting to be a Commission RFAI**

9 Attached to their Response, Peacock and the Committee submitted a February 24, 2018,  
10 letter regarding the allegations in the Complaint that purports to come from the Commission.<sup>23</sup>  
11 Respondents state the letter was hand-delivered to Peacock at the California Democratic  
12 Convention on February 24, 2018.<sup>24</sup> The letter is formatted similarly to a Commission RFAI, it  
13 is printed on a facsimile of the Commission's letterhead, and it includes a facsimile signature of

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<sup>20</sup> The Commission has previously examined "matching" contribution programs in other contexts. See MUR 7121 (Eggman for Congress) (Commission found no reason to believe that Respondents violated the Act where they participated in "donor swaps" and all contributions were made with each individual's funds); Advisory Opinion 1994-07 (GEON PAC) (permitting corporation's charitable match program for PAC contributions as long as contributor receives no tangible benefit or premium, citing Advisory Ops. 1994-3, 1990-6, 1989-9, and 1989-7). Cf. MUR 6873 (Wal-Mart Stores, Inc., *et al.*) (Dismissing as a matter of prosecutorial discretion allegation that corporation's 2-for-1 charitable match of SSF contributions violated the Act).

<sup>21</sup> FEC Form 3, 2017 Year-End, *Report of Receipts and Disbursements*, Julia Peacock for Congress (Jan. 31, 2018) at <http://docquery.fec.gov/pdf/804/201801319090979804/201801319090979804.pdf>. Paul Menth's \$2,250 contribution, aggregated with earlier contributions, equaled the \$2,700 individual contribution limit for the primary election. Similarly, Kerry Menth's \$2,700 contribution did not exceed the per-election limit for the primary election.

<sup>22</sup> FEC Form 3, 2017 July Quarterly, *Reports of Receipts and Disbursements*, Julia Peacock for Congress, p. 23 (July 14, 2017) at <http://docquery.fec.gov/pdf/655/201707149066670655/201707149066670655.pdf>.

<sup>23</sup> Committee Resp., attach. 2.

<sup>24</sup> Committee Resp. at 2.



1 The available information suggests that an unknown person prepared a letter that purports to be  
2 from the Commission and includes the forged signature of a RAD analyst.

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6 **III. RECOMMENDATIONS**

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1. Find no reason to believe that Julia Peacock and Julia Peacock for Congress and  
8 Yolanda Miranda in her official capacity as treasurer violated 52 U.S.C.  
9 §§ 30104(a) and (b); 30116(a) and (f);

10

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2.

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3. Approve the attached Factual and Legal Analysis;

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4. Approve the appropriate letters; and

17

18

5. Close the file.

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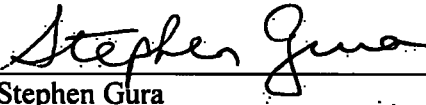
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Lisa J. Stevenson  
Acting General Counsel

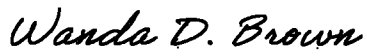
Kathleen M. Guith  
Associate General Counsel

11.13.18

Date

  
Stephen Gura  
Deputy Associate General Counsel

  
Mark Shonkwiler  
Assistant General Counsel

  
Wanda D. Brown  
Attorney

- Attachments: 1. Letter to Committee (February 24, 2018), purportedly from Commission  
2. Factual and Legal Analysis





FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

February 22, 2018

YOLANDA MIRANDA, TREASURER  
JULIA PEACOCK, CUSTODIAN OF RECORDS  
JULIA PEACOCK FOR CONGRESS  
728 W. EDNA PLACE  
COVINA, CA 91722  
IDENTIFICATION NUMBER: C00634014

Response Due Date  
03/26/2018

REFERENCE: YEAR END 2017 REPORT (01/31/2018)

Dear Treasurer and Custodian of Records:

This letter is prompted by the Commission's preliminary review of complaint filed against your Committee. This notice requests information essential to full public disclosure of your federal election campaign finances. Failure to adequately respond by the response date noted above could result in an audit or enforcement action. Additional information is needed for the following 2 item(s):

1. It appears that Schedule A-P of your report discloses the receipt of anonymous contributions that exceed \$50. Please be advised that federal regulations prohibit an individual from contributing anonymous contributions which, in the aggregate, exceed \$50. If any receipt in question was incompletely or incorrectly reported, you must amend your original report with the clarifying information. If the committee has been in receipt of an anonymous contribution greater than \$50, the excessive amount must be promptly disposed of and may be used for any lawful purpose unrelated to any Federal election, campaign or candidate. In an amendment to this report, please inform the Commission of your corrective action immediately. (11 CFR § 110.4(c)(3))

2. The Commission is in receipt of your request for financial contributions disclosing anonymous donor match at an amount that exceed the maximum allowed by law. An individual or a political committee other than an authorized committee or a qualified multi-candidate committee may not make a contribution(s) to a candidate for federal office in excess of \$2,700 per election. An authorized committee may not make a contribution(s) to a candidate for federal office in excess of \$2,000 per election. A qualified multi-candidate committee and all affiliated committees may not make a contribution(s) to a candidate for federal office in excess of \$5,000 per election.

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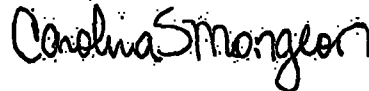
JULIA PEACOCK FOR CONGRESS

Page 2 of 2

The term "contribution" includes any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office. (52 U.S.C. § 30116(a) and (f) (formerly 2 U.S.C. § 441a(a) and (f)); 11 CFR §§ 110.1(b), (e) and (k), and 102.13(c))

Please note, you will not receive an additional notice from the Commission on this matter. Adequate responses must be received by the Commission on or before the due date noted above to be taken into consideration in determining whether audit action will be initiated. Failure to comply with the provisions of the Act may also result in an enforcement action against the committee. Any response submitted by your committee will be placed on the public record and will be considered by the Commission prior to taking enforcement action. Requests for extensions of time in which to respond will not be considered.

Sincerely,



Carolina Mongeon  
Sr. Campaign Finance & Reviewing Analyst  
Reports Analysis Division

1600444001

1 **FEDERAL ELECTION COMMISSION**

2  
3 **FACTUAL AND LEGAL ANALYSIS**

4  
5 **RESPONDENTS:** Julia Peacock **MUR: 7328**  
6 Julia Peacock for Congress and  
7 Yolanda Miranda in her official  
8 capacity as treasurer  
9

10 **I. INTRODUCTION**

11 This matter was generated by a complaint filed with the Federal Election Commission  
12 (the "Commission") by Arelis Rivera. *See* 52 U.S.C. § 30109(a)(1). The Complaint alleges that  
13 Julia Peacock ("Peacock") and Julia Peacock for Congress and Yolanda Miranda in her official  
14 capacity as treasurer (the "Committee") violated the Federal Election Campaign Act of 1971, as  
15 amended (the "Act"), after announcing in Facebook posts that "anonymous donors" would match  
16 the next \$5,000 in contributions to the Committee. Peacock and the Committee state that while  
17 these "matching donors" were not named in the solicitation, they were identified as contributors  
18 on the Committee's disclosure reports. As set forth below, the Commission finds no reason to  
19 believe that Peacock and the Committee violated 52 U.S.C. §§ 30104(a) and (b) and 30116(a)  
20 and (f).

21 **II. FACTUAL AND LEGAL ANALYSIS**

22 **A. The Peacock Campaign Fundraising Solicitation**

23 Julia Peacock was a candidate for U.S. Representative from California's 42nd District in  
24 the 2018 election.<sup>1</sup> Julia Peacock for Congress is Peacock's principal campaign committee.<sup>2</sup>

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1 In December 2017, Peacock and the Committee posted fundraising solicitations on  
2 Facebook that stated that “anonymous donors” had offered to match up to \$5,000 in  
3 contributions.<sup>3</sup> The Facebook posts included:

- 4 • A post on December 19, 2017, at 1:46 p.m. stating “DOLLAR for DOLLAR  
5 DONOR MATCH up to \$5,000 to Peacock for Congress from GENEROUS  
6 ANONYMOUS DONORS! We have a deadline to meet on December 31, 2017,  
7 11:59pm.”<sup>4</sup>
- 8  
9 • Another post on December 19, 2017, at 6:00 p.m. post regarding “generous  
10 anonymous donors” and promising “dollar for dollar match up to \$5,000 through  
11 11:59pm PST 12/31/17.”<sup>5</sup> This post includes a link to the Committee’s ActBlue  
12 contribution page.<sup>6</sup>
- 13  
14 • Two December 20, 2017, posts at 8:00 a.m. and 10:31 a.m. stating that “In less  
15 than 24 hours, you generously donated over \$1100: That’s a total of \$2200 for the  
16 campaign thanks to the generosity of you and our matching partners.”<sup>7</sup>
- 17

18 The Complaint alleges that Respondents failed to disclose the identity of the  
19 “anonymous” matching donors and that a \$5,000 matching contribution would exceed the \$2,700  
20 individual contribution limit.<sup>8</sup> Complainant also alleges that Respondents did not disclose any  
21 payments for Facebook activity.<sup>9</sup>

22 Peacock and the Committee respond that Paul and Kerry Menth suggested the matching  
23 donor program to Peacock and the Committee, but did not want their names included in the

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<sup>3</sup> Compl. at 1 (Feb. 22, 2018).

<sup>4</sup> Compl., Attach. 1.

<sup>5</sup> Compl., Attach. 2.

<sup>6</sup> *Id.*

<sup>7</sup> Compl., Attach. 6.

<sup>8</sup> Compl. at 1-2.

<sup>9</sup> *Id.*

1 actual solicitations.<sup>10</sup> Respondents assert that they described the matching donors as  
2 “anonymous” only because their names were not in the solicitation.<sup>11</sup> Respondents aver that  
3 they always intended to identify the matching donors on the Committee’s disclosure reports.<sup>12</sup>  
4 The Committee’s 2017 Year-End Report revealed that Paul and Kerry Menth made  
5 contributions, in the amount of \$2,250 and \$2,700, respectively, on December 28, 2017.<sup>13</sup> While  
6 Respondents do not address the alleged nondisclosure of disbursements for Facebook activities,  
7 the Committee’s disclosure reports show disbursements of \$9,663.61 for Facebook advertising.<sup>14</sup>

8 **B. Legal Analysis**

9 Political committees registered with the Commission must file periodic reports disclosing  
10 their receipts and disbursements.<sup>15</sup> These reports must include, *inter alia*, the identification of  
11 each person who makes a contribution or aggregate contributions that exceed \$200 in the  
12 election cycle.<sup>16</sup> The Act prohibits contributions to any candidate or his or her principal  
13 campaign committee from an individual in excess of the Act’s limits, which for the 2018 election  
14 cycle was \$2,700 per election.<sup>17</sup> The Act also prohibits such committees from knowingly

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<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> FEC Form 3, 2017 Year-End, *Report of Receipts and Disbursements*, Julia Peacock for Congress (Jan. 31, 2018) at <http://docquery.fec.gov/pdf/804/201801319090979804/201801319090979804.pdf>.

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<sup>15</sup> 52 U.S.C. § 30104(a).

<sup>16</sup> 52 U.S.C. § 30104(b)(3)(A); 11 C.F.R. § 104.3(a)(3), (4)(i). *See also* 11 C.F.R. § 100.12.

<sup>17</sup> 52 U.S.C. § 30116(a)(1)(A); 11 C.F.R. § 110.1(b).

1 accepting excessive contributions.<sup>18</sup>

2 Notwithstanding Respondents' use of the term "anonymous donors" in the Facebook  
3 solicitations, Peacock and the Committee identified the two individuals who made "matching"  
4 contributions,<sup>19</sup> and these contributions—in the amounts of \$2,250 and \$2,700—complied with  
5 the applicable \$2,700 limit.<sup>20</sup> While it is not clear if Respondents incurred any costs to create the  
6 Facebook posts, the Committee's disclosure reports for the relevant time period reveal over  
7 \$9,663.61 in disbursements for Facebook advertising.<sup>21</sup> Based on this information and  
8 Respondents' rebuttal of the allegations, the Commission finds no reason to believe that Peacock  
9 and the Committee violated 52 U.S.C. §§ 30104(a) and (b) and 30116(a) and (f).

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<sup>18</sup> 52 U.S.C. § 30116(f); 11 C.F.R. § 110.9.

<sup>19</sup> The Commission has previously examined "matching" contribution programs in other contexts. See MUR 7121 (Eggman for Congress) (Commission found no reason to believe that Respondents violated the Act where they participated in "donor swaps" and all contributions were made with each individual's funds); Advisory Opinion 1994-07 (GEON PAC) (permitting corporation's charitable match program for PAC contributions as long as contributor receives no tangible benefit or premium, citing Advisory Ops. 1994-3, 1990-6, 1989-9, and 1989-7). Cf. MUR 6873 (Wal-Mart Stores, Inc., *et al.*) (Dismissing as a matter of prosecutorial discretion allegation that corporation's 2-for-1 charitable match of SSF contributions violated the Act).

<sup>20</sup> FEC Form 3, 2017 Year-End, *Report of Receipts and Disbursements*, Julia Peacock for Congress (Jan. 31, 2018) at <http://docquery.fec.gov/pdf/804/201801319090979804/201801319090979804.pdf>. Paul Menth's \$2,250 contribution, aggregated with earlier contributions, equaled the \$2,700 individual contribution limit for the primary election. Similarly, Kerry Menth's \$2,700 contribution did not exceed the per-election limit for the primary election.

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