



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

June 10, 2021

**BY ELECTRONIC MAIL**

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James E. Tyrrell III, Esq.  
Venable LLP  
600 Massachusetts Avenue, NW  
Washington, DC 20001

RE: MUR 7464  
LZP, LLC

Dear Mr. Tyrrell:

On August 24, 2018 and June 5, 2020, the Federal Election Commission (the "Commission") notified your client, LZP, LLC, of a complaint and a supplemental complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). Copies of the complaints were forwarded at those times.

Upon review of the allegations contained in the complaints, and information provided on behalf of your client, the Commission, on May 20, 2021, found that there is reason to believe that LZP, LLC violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.1(g)(5), provisions of the Act and Commission regulations. The Factual and Legal Analysis, which formed a basis for the Commission's findings, 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 General Counsel within 15 days of 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 U.S.C. § 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.

If your client is interested in pursuing pre-probable cause conciliation, you should make such a request by letter to the Office of the General Counsel. *See* 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the

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Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into in order to complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been delivered to the respondents. Requests for extensions of time are not routinely granted. Requests must be made in writing at least five days prior to the due date of the response and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days. Pre-probable cause conciliation, extensions of time, and other enforcement procedures and options are discussed more comprehensively in the Commission's "Guidebook for Complainants and Respondents on the FEC Enforcement Process," which is available on the Commission's website at [http://www.fec.gov/em/respondent\\_guide.pdf](http://www.fec.gov/em/respondent_guide.pdf).

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.<sup>1</sup>

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 your client wishes the investigation to be made public. If you have any questions, please contact Ana Peña-Wallace, the attorney assigned to this matter, at (202) 694-1650 or [apena-wallace@fec.gov](mailto:apena-wallace@fec.gov).

On behalf of the Commission,



Shana M. Broussard  
Chair

Enclosure  
Factual and Legal Analysis

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<sup>1</sup> 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: LZP, LLC****MUR 7464****I. INTRODUCTION**

This matter was generated by Complaints filed with the Federal Election Commission (the “Commission”) alleging violations of the Federal Election Campaign Act of 1971, as amended, (the “Act”) that Unknown Respondents made \$270,000 in contributions in the name of another through LZP, LLC (“LZP”), a newly created LLC, which is a disregarded member of the Independence and Freedom Network, Inc. (“IFN”), a 501(c)(4) organization, to Honor and Principles PAC (“Honor PAC”), a federal independent expenditure-only political committee (“IEOPC”). The events at issue took place over the course of a four-day period: both LZP and Honor PAC were formed in the same week, then LZP made its first contribution to Honor PAC, which subsequently made its first disbursement.

LZP represents that it received the funds for the federal contributions from its sole nonprofit corporate member, but does not provide any details regarding the name of the entity that funded the contributions to Honor PAC, or explain why it did not attribute the contributions to its single member. For the reasons explained below, the Commission finds reason to believe that LZP violated 52 U.S.C. § 30122 by allowing its name to be used to make contributions in the name of another and violated 11 C.F.R. § 110.1(g)(5) by failing to provide the required attribution information to Honor PAC when making its contributions.

1 **II. FACTUAL AND LEGAL ANALYSIS**

2 **A. BACKGROUND**

3 The key events in this matter took place during a four-day period in March 2018. Honor  
4 PAC registered as an IEOPC with the Commission on March 26, 2018.<sup>1</sup> LZP registered as a  
5 nonprofit LLC with the state of Ohio on March 27, 2018.<sup>2</sup> LZP made its first contribution in the  
6 amount of \$175,000, to Honor PAC on March 28, 2018.<sup>3</sup> Honor PAC made its first  
7 disbursements for political advertising in a nonfederal race on March 29, 2018.<sup>4</sup>

8 Honor PAC filed reports with the Commission disclosing \$270,000 in receipts for 2018,  
9 all from LZP: \$175,000 on March 28, 2018, \$50,000 on April 6, 2018, \$10,000 on April 18,  
10 2018, and \$35,000 on October 19, 2018.<sup>5</sup> It has not reported any receipts for 2019 and 2020. Its  
11 reports also disclose \$252,607.92 in disbursements in 2018: \$24,769.92 for operating  
12 expenditures (for legal fees and compliance consulting) and \$227,838 for “other disbursements”  
13 to media vendors for “non-federal-direct mail,” “non-federal-media buys,” and “non-federal

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<sup>1</sup> Honor and Principles PAC, FEC Form 1, *Statement of Organization* (Mar. 26, 2018). As an IEOPC, Honor PAC accepts unlimited contributions from individuals and sources that are otherwise prohibited for authorized campaign committees. See Advisory Opinion 2010-11(Commmonsense Ten).

<sup>2</sup> See LZP Resp. at 2 (Mar. 11, 2019) (stating that “LZP is treated as a disregarded entity for federal income tax purposes”); *LZP, LLC Articles of Organization* (eff. date Mar. 27, 2018), Business Search, Ohio Sec. of State, <https://businesssearch.ohiosos.gov/?=businessDetails/4158880>.

<sup>3</sup> See 2018 April Quarterly Report at 6, Honor and Principles PAC (Apr. 15, 2018) (disclosing only one receipt for the entire reporting period). According to the Commission’s databases, LZP has made federal contributions to only Honor PAC.

<sup>4</sup> *Id.* at 7 (disclosing only one disbursement for the reporting period).

<sup>5</sup> See 2018 April Quarterly, July Quarterly, and Post-Election Reports, Honor and Principles PAC (Apr. 15, 2018, July 14, 2018, and Dec. 6, 2018). Honor PAC also filed 2018 October Quarterly and Year-End Reports and a 2019 Mid-Year Report but did not disclose any receipts for those time periods.

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1 voter calls.”<sup>6</sup> Honor PAC reported that it made its first disbursement on March 29, 2018, in the  
2 amount of \$163,838 to Target Enterprises LLC for a “non-federal IE-Media Buy.”<sup>7</sup> According  
3 to the Complaint, Honor PAC paid for an ad attacking Ohio State Representative Larry  
4 Householder and supporting his opponent, Kevin Black, in the May 8, 2018 primary election for  
5 that state office.<sup>8</sup> In 2019 and 2020, Honor PAC reported making \$17,392.08 in disbursements  
6 for legal fees and compliance consulting.<sup>9</sup>

7 Based in large part on the proximity between the dates of Honor PAC (March 26) and  
8 LZP’s (March 27) formations, along with the March 28 contribution from LZP and Honor PAC’s  
9 March 29 disbursement to Target Enterprises, the Complaint alleges that LZP made, and Honor  
10 PAC knowingly accepted, a contribution in the name of another.<sup>10</sup> The Complaint states that  
11 LZP “does not appear to conduct any business” and has no presence on the internet, and argues  
12 that it was “virtually impossible that [LZP] generated sufficient income to pay for the

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<sup>6</sup> See 2018 April Quarterly, July Quarterly, and Post-Election Reports, Honor and Principles PAC. Honor PAC is also registered as a SuperPAC with the state of Ohio, but has only filed one report with the state (a Statement of Organization filed on March 29, 2018) and has disclosed no receipts or disbursements. See Honor and Principles PAC (Super PAC) filings, Ohio Sec. of State, [https://www6.ohiosos.gov/ords/f?p=CFDISCLOSURE:39:::NO:RP:P39\\_ENTITY\\_ID,P39\\_LISTTYPE:14969,simple](https://www6.ohiosos.gov/ords/f?p=CFDISCLOSURE:39:::NO:RP:P39_ENTITY_ID,P39_LISTTYPE:14969,simple).

<sup>7</sup> 2018 April Quarterly Report at 7, Honor and Principles PAC.

<sup>8</sup> See Compl. at 5 (Aug. 9, 2018) (citing, Medium Buying, TWITTER (Apr. 1, 2018, 8:37 PM), <https://twitter.com/MediumBuying/status/980605173247758336>). It appears that Honor PAC paid for at least two other ads supporting Black and advocating the defeat of Householder that aired on April 23 and May 6, 2018. See Medium Buying, TWITTER (Apr. 23, 2018, 10:18 AM), <https://twitter.com/MediumBuying/status/988421940326162435>; Medium Buying, TWITTER (May 6, 2018, 4:43 PM), <https://twitter.com/MediumBuying/status/993229755343409153>.

<sup>9</sup> See 2019 Mid-Year and Year-End Reports, 2020 April Quarterly Report, and Termination Reports (Jul. 13, 2020, Oct. 15, 2020, and Dec. 4, 2020), Honor and Principles PAC. Honor PAC’s requests to terminate has been denied while this MUR remains pending.

<sup>10</sup> Compl. at 4-5.

1 contribution in just one day.”<sup>11</sup> Therefore, the Complaint also alleges that Unknown  
2 Respondents must have provided the \$175,000 to LZP to make the initial contribution to Honor  
3 PAC and, as a result, LZP acted as a conduit by knowingly permitting its name to be used to  
4 effect that contribution.<sup>12</sup>

5 On May 29, 2020, the Complainant filed a Supplement alleging the same activity by IFN,  
6 a 501(c)(4) organization that controls LZP, and its director, Ray McVeigh.<sup>13</sup> IFN filed articles of  
7 incorporation with the Ohio Secretary of State on April 13, 2017, listing Ryan as its registered  
8 agent, but it dissolved on December 31, 2020.<sup>14</sup> IFN’s 2018 Form 990 filed with the IRS lists  
9 LZP as a disregarded entity with a total income of \$271,000 for 2018.<sup>15</sup> The same form also lists  
10 an unnamed contributor who gave \$271,000 to IFN, which the Supplemental Complaint states  
11 supports the allegation that LZP’s contribution was derived from a single source.<sup>16</sup>

12 IFN’s IRS filing discloses that it made \$1,120,000 in political campaign activity  
13 expenditures to “other organizations for section 527 exempt function activities,” and lists “Honor

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<sup>11</sup> *Id.* at 1, 5.

<sup>12</sup> *Id.* at 6.

<sup>13</sup> Supp. Compl. at 4 (May 29, 2020) (citing IFN 2018 Form 990 (Nov. 2019) (“IFN 2018 Form 990”), <https://www.documentcloud.org/documents/6773070-Independence-and-Freedom-Network-Inc-2018-990.html>). IFN’s Internal Revenue Service (“IRS”) form lists McVeigh as its only officer and states that he did not receive any compensation for his work for IFN, which averaged two hours a week. IFN 2018 Form 990 at 7.

<sup>14</sup> *See IFN, Articles of Incorporation*, Business Search, Ohio Sec. of State (Apr. 13, 2017), <https://bizimage.ohiosos.gov/api/image/pdf/202036405238>; *IFN, Certificate of Dissolution*, Business Search, Ohio Sec. of State (Dec. 31, 2020), <https://bizimage.ohiosos.gov/api/image/pdf/202036405238>. Unlike with its articles of incorporation, IFN’s certificate of dissolution was not filed by Ryan’s law firm. Additionally, it appears that the dissolution was filed in an expedited manner, through payment of an additional expedited service fee.

<sup>15</sup> *See* IFN 2018 Form 990 at 5 (answering “Yes” to question 33 asking “Did the organization own 100% of an entity disregarded as separate from the organization”); *id.* at Schedule R (listing LZP as IFN’s only disregarded entity and noting that IFN is the “Direct controlling entity”).

<sup>16</sup> *See* IFN 2018 Form 990 at 20. The form lists six additional contributions that it received from individuals in the following amounts: \$352,000, \$950,000, \$800,000, \$183,702, \$105,000, and \$275,000.

1 and Principles PAC” and “Onward Ohio Inc.” as those 527 organizations receiving funds from  
2 IFN.<sup>17</sup> According to its filing, IFN provided \$270,000 to Honor and Principles PAC and  
3 \$850,000 to Onward Ohio Inc.<sup>18</sup> On a separate schedule requiring a list of “Grants and Other  
4 Assistance to Organizations, Governments and Individuals in the United States,” IFN again lists  
5 Honor PAC, Onward Ohio Inc., as well as two other groups, MORCC and Security is Strength  
6 LLC.<sup>19</sup> Onward Ohio is registered as an IEOPC with the Commission and disclosed receiving an  
7 \$850,000 contribution from IFN on March 16, 2018.<sup>20</sup> Honor PAC did not disclose any  
8 contributions from IFN on its disclosure reports filed with the Commission.

9 According to available information, Honor PAC states that its donor form requests  
10 contributor identification information and “also requires the donor’s assurances that the  
11 contribution, whether personal or corporate, will not be reimbursed by another person or entity.”  
12 Honor PAC apparently did not request information regarding the proper attribution of the  
13 contribution from the LLC, which was the only contributor it reported.

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<sup>17</sup> *Id.* at Schedule C.

<sup>18</sup> *Id.* The IRS’s Tax Exempt Organization database does not show a record of Honor PAC ever having registered as a 527 organization. *See* Tax Exempt and Organization Search, IRS, <https://apps.irs.gov/app/eos/allSearch> (entering search terms “Honor and Principles” and EIN 82-4933172, the employer identification number listed for Honor PAC on IFN’s 2018 Form 990, does not yield any results). There is an “Onward Ohio Policy Institute” registered as a 527 organization with the IRS, but its filings do not list an \$850,000 contribution from IFN. *See* 2018 Form 990EZ and 2019 Form 990-N, IRS, <https://apps.irs.gov/app/eos/allSearch> (reporting \$10,000 in receipts in 2018 and less than \$25,000 in 2019).

<sup>19</sup> IFN 2018 Form 990 at Schedule I. As of the date of this report, IFN has not made any other filings with the IRS.

<sup>20</sup> *See* 2018 April Quarterly Report, Onward Ohio. During the 2018 election cycle, Onward Ohio disclosed \$877,300 in receipts and \$1,803,448.23 in total disbursements, and an ending cash on hand of \$650.72. The committee terminated in 2020. *See* Termination Approval Ltr. (Oct. 20, 2020), Onward Ohio. Onward Ohio was also registered as nonprofit corporation with the state of Ohio but its articles of incorporation were canceled in October 2020 for its failure to file a statement of continued existence. *See* Onward Ohio filings, Ohio Sec. of State <https://businesssearch.ohiosos.gov/?=businessDetails/2436941> (indicating a cancellation date of Oct. 20, 2020).

Security is Strength LLC and MORCC are not listed as 527 organization with the IRS, but there is a Security is Strength PAC registered with the Commission. That PAC has not disclosed contributions from IFN.

1           In its response, LZP represents that it has a single member that is a 501(c)(4) nonprofit  
2 corporation but does not identify this nonprofit corporate member.<sup>21</sup> LZP asserts it contributed  
3 to Honor PAC “using its own assets that are legally indistinguishable from those of its nonprofit  
4 corporate member” under Ohio law.<sup>22</sup> It asserts that, under Ohio law, a nonprofit LLC with a  
5 single nonprofit member shares its assets and liabilities with its single member and need not,  
6 therefore, show that it generated any income prior to making a contribution.<sup>23</sup> The response also  
7 states that LZP and its single member had “more than enough of such assets to cover the  
8 contribution to [Honor PAC],” but does not identify the source of LZP’s (or its member’s)  
9 assets.<sup>24</sup> LZP further argues that because it and its member had “indistinguishable assets,” LZP  
10 could not have served as a conduit or intermediary to effect a contribution from its member  
11 because, under Ohio law, it was required to make the contribution in LZP’s own name.<sup>25</sup>

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<sup>21</sup> LZP Resp. at 2. Other than the representation that it has a single nonprofit corporate member, LZP provides no information about itself, such as its organizational purpose or other activities. LZP does not appear to have a website or other online presence and its public profile appears to include only the fact of its contributions to Honor PAC.

<sup>22</sup> *Id.* at 3.

<sup>23</sup> *Id.* at 2 (citing Ohio Rev. Code § 5701.14, a provision of the state’s tax code, which provides that “a single member limited liability company that operates with a nonprofit purpose . . . shall be treated as part of the same legal entity as its nonprofit member, and all assets and liabilities of that single member limited liability company shall be considered to be that of the nonprofit member.” LZP does not elaborate on its apparent position that a provision that treats all of *the LLC’s assets* as those of the LLC’s member can be inverted to treat of all of the *member’s assets* as those of the LLC. LZP also does not represent that it had assets other than by asserting rights to the assets of its member.

<sup>24</sup> *Id.* at 3.

<sup>25</sup> *Id.* at 3 (citing Ohio Rev. Code § 1705.34, a provision of the state’s corporations code, which states that “[r]eal and personal property owned or purchased by a limited liability company shall be held and owned in the name of the company,” and “[c]onveyance of that property shall be made in the name of the company”). LZP does not represent that it “owned or purchased” any property or that it conveyed such property to make the contributions. LZP’s response also addresses whether Unknown Respondents made an earmarked contribution, but that issue is not alleged in the Complaint. *See id.* at 5 (representing that LZP “never received an express or implied, or written or oral instructions or designations from any mysterious ‘Unknown Respondent’ with respect to the funds it used to make its contributions” to Honor PAC).



1 LZP has not submitted any additional clarification since being notified of the  
2 Supplemental Complaint in this matter and has not indicated whether IFN was its nonprofit  
3 corporate member that provided the assets used to make the contributions to Honor PAC. James  
4 Ryan is both IFN and LZP's registered agent and, according to publicly available information,  
5 has been the registered agent for approximately 151 entities in Ohio.<sup>26</sup> During the 2018 and  
6 2020 election cycles, Ryan registered three nonprofit corporations (IFN, CHTFA, Inc., and  
7 American Exceptionalism Institute, Inc.) and fifty LLCs, including LZP and Security is Strength  
8 LLC.<sup>27</sup>

9 Finally, LZP argues that the Commission has never provided any guidance on the  
10 attribution requirements that would apply to contributions to IEOPCs from a single-member  
11 nonprofit LLC with a nonprofit corporate member.<sup>28</sup> It asserts that none of the Commission's  
12 regulations regarding LLC attribution apply because LZP had only one member who was not a  
13 natural person and did not have profits to share amongst a number of individuals.<sup>29</sup> LZP

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<sup>26</sup> See *LZP, LLC Articles of Organization* (eff. date Mar. 27, 2018), Business Search, Ohio Sec. of State, <https://businesssearch.ohiosos.gov?=businessDetails/4158880> (listing attorney James G. Ryan of Columbus, OH as its registered agent); *Agent or Registrant Name Search*, Ohio Sec. of State, <https://businesssearch.ohiosos.gov/#> (enter "James G. Ryan" in Agent/Registrant search field).

<sup>27</sup> *Id.* IFN and American Exceptionalism Institute Inc., which Ryan registered and incorporated on the same date, have been the subject of press reports concerning contributions they made to IEOPCs. See, e.g., Eliana Johnson, *New ad accuses Paul of siding with terrorists* (Apr. 24, 2018), POLITICO, <https://www.politico.com/story/2018/04/24/dark-money-group-pressures-paul-cia-haspel-546043> (discussing \$100,000 ad campaign paid for by American Exceptionalism Institute, Inc.) and Jim Provance, *"Dark Money" makes way into governor campaigns* (Apr. 17, 2018), THE BLADE, <https://www.toledoblade.com/local/politics/2018/04/17/Dark-money-makes-way-into-governor-campaigns/stories/20180417150> (discussing IFN's \$850,000 contribution to Onward Ohio in 2018). See also Andrew J. Tobias, *Dark Money flowing into 2018 Ohio Republican Primary Elections* (Apr. 16, 2018), CLEVELAND.COM, [https://www.cleveland.com/open/2018/04/dark\\_money\\_flow\\_into\\_2018\\_o.html](https://www.cleveland.com/open/2018/04/dark_money_flow_into_2018_o.html) (discussing IFN and LZP's contributions to IEOPCs).

<sup>28</sup> LZP Resp. at 5-8.

<sup>29</sup> *Id.* at 6-7.

1 requests that the Commission dismiss the Complaint, which it characterizes as a matter of first  
2 impression, under principles of due process and fair notice.<sup>30</sup>

### 3 **B. LEGAL ANALYSIS**

#### 4 **1. Contributions in the Name of Another**

5 The Act provides that a contribution includes “any gift, subscription, loan, advance, or  
6 deposit of money or anything of value made by any person for the purpose of influencing any  
7 election for Federal office.”<sup>31</sup> The term “person” for purposes of the Act and Commission  
8 regulations includes partnerships, corporations, and “any other organization or group of  
9 persons.”<sup>32</sup> The Act prohibits a person from making a contribution in the name of another  
10 person, knowingly permitting his or her name to be used to effect such a contribution, or  
11 knowingly accepting such a contribution.<sup>33</sup> The Commission has included in its regulations  
12 illustrations of activities that constitute making a contribution in the name of another:

- 13 (i) Giving money or anything of value, all or part of which was provided to  
14 the contributor by another person (the true contributor) without disclosing  
15 the source of money or the thing of value to the recipient candidate or  
16 committee at the time the contribution is made; or
- 17 (ii) Making a contribution of money or anything of value and attributing as the  
18 source of the money or thing of value another person when in fact the  
19 contributor is the source.<sup>34</sup>

20 The requirement that a contribution be made in the name of its true source promotes  
21 Congress’s objective of ensuring the complete and accurate disclosure by candidates and

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<sup>30</sup> *Id.* at 8.

<sup>31</sup> 52 U.S.C. § 30101(8)(A).

<sup>32</sup> *Id.* § 30101(11); 11 C.F.R. § 100.10.

<sup>33</sup> 52 U.S.C. § 30122.

<sup>34</sup> 11 C.F.R. § 110.4(b)(2)(i)–(ii).

1 committees of the political contributions they receive.<sup>35</sup> Courts therefore have uniformly  
2 rejected the assertion that “only the person who actually transmits funds . . . makes the  
3 contribution,”<sup>36</sup> recognizing that “it is implausible that Congress, in seeking to promote  
4 transparency, would have understood the relevant contributor to be [an] intermediary who  
5 merely transmitted the campaign gift.”<sup>37</sup> Consequently, both the Act and the Commission’s  
6 implementing regulations provide that a person who furnishes another with funds for the purpose  
7 of contributing to a candidate or committee “makes” the resulting contribution.<sup>38</sup> This is true  
8 whether funds are advanced to another person to make a contribution in that person’s name or  
9 promised as reimbursement of a solicited contribution.<sup>39</sup> Because the concern of the law is the  
10 true source from which a contribution to a candidate or committee originates, we look to the  
11 structure of the transaction itself and the arrangement between the parties to determine who in  
12 fact “made” a given contribution.

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<sup>35</sup> *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.”) (emphasis added); *Mariani v. United States*, 212 F.3d 761, 775 (3d Cir. 2000) (rejecting constitutional challenge to Section 30122 in light of compelling governmental interest in disclosure).

<sup>36</sup> *United States v. Boender*, 649 F.3d 650, 660 (7th Cir. 2011).

<sup>37</sup> *O’Donnell*, 608 F.3d at 554; *see also Citizens United v. FEC*, 558 U.S. 310, 371 (2010) (“The First Amendment protects political speech; and disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages.”).

<sup>38</sup> *See Boender*, 649 F.3d at 660 (holding that to determine who made a contribution “we consider the giver to be the *source* of the gift, not any intermediary who simply conveys the gift from the donor to the donee.” (emphasis added)); *O’Donnell*, 608 F.3d at 550; *Goland v. United States*, 903 F.2d 1247, 1251 (9th Cir. 1990) (“The Act prohibits the use of ‘conduits’ to circumvent . . . [the Act’s reporting] restrictions.” (quoting then-Section 441f)).

<sup>39</sup> *O’Donnell*, 608 F.3d at 555. Moreover, the “key issue . . . is the *source* of the funds” and, therefore, the legal status of the funds when conveyed from a conduit to the ultimate recipient is “irrelevant to a determination of who ‘made’ the contribution for the purposes of [Section 30122].” *United States v. Whittemore*, 776 F.3d 1074, 1080 (9th Cir. 2015) (holding that defendant’s “unconditional gifts” to relatives and employees, along with suggestion they contribute the funds to a specific political committee, violated Section 30122 because the source of the funds remained the individual who provided them to the putative contributors).

1           The Complaint’s allegation that LZP was used to make contributions by other persons is  
2 supported by the fact that LZP purported to make a \$175,000 contribution in its own name to  
3 Honor PAC two days after Honor PAC was formed and one day after LZP was formed, and by  
4 the lack of public information regarding the LLC’s activities or evidence indicating that LZP  
5 could make such a contribution without an infusion of funds provided to it for that purpose.  
6 When an LLC purports to make a political contribution in close temporal proximity to its  
7 formation date, without evidence of activity or any specific information regarding the  
8 provenance of its funds, the circumstances may support a reasonable inference that the LLC was  
9 provided funds for the purpose of making a contribution, *i.e.*, that the LLC was used as a conduit  
10 to mask the identity of the true contributor. However, in determining whether such an inference  
11 is supported, the Commission considers the overall record, including the amount of the  
12 contribution, the LLC’s stated purposes and activity, and whether other information, such as the  
13 attribution of the LLC contribution, suggests an attempt to circumvent the Act’s disclosure  
14 requirements.<sup>40</sup>

15           The record in this matter supports a finding that there is reason to believe that LZP  
16 violated the Act by knowingly permitting its name to be used to effect contributions in the name  
17 of another to Honor PAC. In its response, LZP implies that it was provided funds by its  
18 purported single member to make the contributions to Honor PAC.<sup>41</sup> LZP’s arguments that state  
19 law entitles, or even requires, it to have made contributions in LZP’s name using its member’s  
20 funds are not persuasive. The plain language of the state corporate law provision at Ohio Rev.  
21 Code § 1705.34 governs an LLC’s conveyance of property it owns or has purchased, but LZP

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<sup>40</sup> See also Section II.B.2., *infra*, regarding the proper attribution of LLC contributions.

<sup>41</sup> LZP Resp. at 3.

1 makes no representations that it owns or has purchased any property. To the extent LZP claims  
2 ownership over all of its member's property pursuant to the Ohio tax provision at Ohio Rev.  
3 Code § 5701.14, that provision states on its face that all of the LLC's assets are deemed to be  
4 those of its nonprofit member but the member's assets are not deemed to be those of the  
5 nonprofit LLC.<sup>42</sup> In making its argument, LZP neither addresses nor disputes the assertion that it  
6 appears to have engaged in no activity other than making the contributions at issue and appears  
7 to have been formed solely to make contributions using the funds of another. The record  
8 supports a conclusion that that was, indeed, the case.

9 First, the temporal proximity between LZP's formation and its first contribution to Honor  
10 PAC just two days later supports a conclusion that LZP was likely created to effect a  
11 contribution, and that LZP was not the true contributor to Honor PAC but was, instead, provided  
12 funds for the purpose of making the contribution. In its response, LZP does not explain the  
13 reason for the LLC's formation, the quick turnaround for making its first political contribution as  
14 a newly formed entity, or how the making of that contribution almost immediately after the  
15 LLC's organization was consistent with the LLC's organizational purpose or governing  
16 documents. The absence of any public information of LZP's activity other than the making of  
17 contributions, considered in conjunction with the timing between LZP's creation and first  
18 contribution, tend to support a conclusion that funds were directed to LZP for the purpose of  
19 making a political contribution.

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<sup>42</sup> The legislative history of the tax provision indicates that it was intended to extend state property tax exemptions available to nonprofit corporations to nonprofit LLCs with single nonprofit corporate members as well as to property conveyed *from a nonprofit LLC to its nonprofit corporate member*. See Ohio Legis. Serv. Comm'n, OH Comm'n Syn., 2007-2008 H.B. 160 ¶ 5 (Feb. 3, 2009); cf. I.R.S. Prov. Ltr. Rul. 2001-34-025 (Aug. 24, 2001) (determining that real property debt conveyance to nonprofit LLC with single nonprofit corporate member is entitled to the exempt treatment used by its member because LLC is a tax-disregarded entity and, therefore, the corporate member "treat[s] the operations and finances of the limited liability company as its own").

1           Second, while LZP asserts that its corporate member had sufficient assets from which to  
2 make the contribution to Honor PAC, it does not reveal the identity of that corporate member or  
3 describe the origin of those assets. In its response, LZP provides no information concerning the  
4 nature of the company, or how its corporate member procured the assets that LZP used for its  
5 contributions to Honor PAC totaling \$270,000.<sup>43</sup> Instead, information from the Supplemental  
6 Complaint reveals that IFN directly controlled LZP’s activities, and it is possible that IFN was  
7 actually LZP’s nonprofit corporate member. IFN’s IRS filing states that it owned 100% of LZP  
8 and further discloses that it received a \$271,000 contribution from an individual, which could  
9 have been the source of LZP’s \$270,000 in total contributions to Honor PAC.<sup>44</sup> Indeed, IFN’s  
10 2018 Form 990 lists LZP’s total income as only \$271,000.<sup>45</sup> Additionally, in disclosing its  
11 “Political campaign activity expenditures” IFN’s IRS filing lists contributions to purported 527  
12 organizations; however, both of those entities, Honor PAC and Onward Ohio, were actually  
13 committees registered with the Commission.<sup>46</sup> In fact, both committees disclosed those  
14 contributions in their reports filed with the Commission, albeit Honor PAC listed the  
15 contributions as coming from LZP and not IFN. Therefore, we are unable to conclude that those

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<sup>43</sup> In contrast, in other matters, LLCs have provided detailed statements describing the nature of their activity, source of income and assets and averring that the funds held were not provided for the purpose of making political contributions. *See, e.g.*, MUR 6930 (Michel) (recommending no reason to believe based on, *inter alia*, detailed affidavit concerning source of LLC’s assets and purpose of LLC provided to rebut the allegations); *but see* Indictment, *United States v. Prakazrel Michel et al.*, Case No. 1:19-CR-148 (D.D.C. May 3, 2019).

<sup>44</sup> IFN 2018 Form 990 at 5, Schedule B, and Schedule R.

<sup>45</sup> *Id.* at Schedule R.

<sup>46</sup> *Id.* at Schedule C.

1 assets were provided to LZP for any other lawful purpose and not for the purpose of making a  
2 political contribution.<sup>47</sup>

3 Third, the timing of Honor PAC's formation and its first disbursement, in relation to  
4 LZP's formation and first contribution, also raises an inference that the IEOPC may have been  
5 involved in the alleged conduit contribution scheme. As described above, Honor PAC's  
6 registration with the Commission, LZP's registration as an LLC, LZP's first contribution to  
7 Honor PAC, and Honor PAC's first independent expenditure all took place within a four-day  
8 time period.<sup>48</sup> All of Honor PAC's receipts came exclusively from IFN, through LZP, and the  
9 political committee apparently failed to seek information from IFN or LZP for the proper  
10 attribution of any of LZP's contributions on its disclosure reports. These facts support an  
11 inference that Honor PAC was aware of the true purpose behind LZP's creation, namely,  
12 concealing the identity of the true contributor.

13 The available information suggests that LZP's creation was an attempt to circumvent the  
14 Act's disclosure requirements. Based on the foregoing, the Commission finds reason to believe  
15 that LZP, LLC violated 52 U.S.C. § 30122 by allowing its name to be used to make contributions  
16 in the name of another.

## 17 **2. Attribution of LLC Contributions**

18 Whether or not LZP was provided funds to make the contribution, it failed to provide to  
19 Honor PAC the proper attribution of the contributions to LZP's unknown single member. Under  
20 the Act, all political committees, including IEOPCs, are required to file periodic disclosure

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<sup>47</sup> Without information about LZP's single member we cannot determine whether the funds came from a lawful or prohibited source, such as from a foreign national in violation of 52 U.S.C. § 30121.

<sup>48</sup> *Supra* at 2.

1 reports with the Commission, which accurately report all contributions received and  
2 disbursements made.<sup>49</sup> Commission regulations state that “[a] contribution by an LLC that elects  
3 to be treated as a partnership by the Internal Revenue Service pursuant to 26 CFR 301.7701-3, *or*  
4 *does not elect treatment as either a partnership or a corporation*, pursuant to that section, shall  
5 be considered a contribution from a partnership pursuant to 11 CFR 110.1(e).”<sup>50</sup> Thus,  
6 contributions by an LLC that does not elect to be treated as a corporation by the Internal  
7 Revenue Service and does not have a single natural-person member are treated as partnership  
8 contributions, which must be attributed to both the LLC and its member or members.<sup>51</sup>  
9 Furthermore, when such an LLC makes a contribution, it must affirm to the recipient, at the time  
10 the LLC makes the contribution that the LLC is eligible to make a contribution and indicate how  
11 the contribution is to be attributed.<sup>52</sup>

12 The Commission’s regulations concerning the attribution of LLC contributions apply on  
13 their face to all such LLC contributions irrespective of recipient.<sup>53</sup> The Commission has  
14 recognized that because LLCs are a product of state law and many states have very minimal LLC  
15 disclosure requirements, LLCs must affirmatively provide attribution information when making

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<sup>49</sup> 52 U.S.C. § 30104(a), (b); 11 C.F.R. § 104.3(a), (b).

<sup>50</sup> 11 C.F.R. § 110.1(g)(2) (emphasis added). The regulations further specify that a “contribution by an LLC with a single *natural person* member that does not elect to be treated a corporation by the Internal Revenue Service . . . shall be attributed only to that single member.” *Id.* § 110.1(g)(4) (emphasis added); *see also id.* § 110.1(g)(3) (governing contributions by LLCs electing IRS treatment as corporations and LLCs with publicly-traded shares). The current record does not support a finding that LZP is a publicly- traded LLC. *See* 11 C.F.R. § 110.1(g)(3).

<sup>51</sup> 11 C.F.R. § 110.1(e), (g).

<sup>52</sup> 11 C.F.R. § 110.1(g)(5).

<sup>53</sup> *See* 52 U.S.C. §§ 30116(a)(1), 30118(a); Treatment of Limited Liability Companies Under the Federal Election Campaign Act, 64 Fed. Reg. 37,397, 37,398 – 37,399 (July 12, 1999) (“LLC E&J”) (discussing role of LLC attribution rules in identifying prohibited contributions from foreign national or government contractor sources, concerns that apply to all LLC contributions, including contributions to IEOPCs).



1 political contributions so that the recipient committees can accurately disclose those  
2 contributions to the public.<sup>54</sup>

3 LZP asserts it has a single corporate member and has not elected treatment as a  
4 corporation. Assuming that LZP is, in fact, a single member LLC with a non-natural person  
5 member, LZP's contributions totaling \$270,000 to Honor PAC are considered, under  
6 Commission regulations, as contributions by a partnership. Further, these regulations direct that  
7 the partnership contribution must be attributed to both the partnership and all partners in  
8 proportion to their shares.<sup>55</sup> Because there would not be multiple partners under the LZP's  
9 current organizational structure, the share of the contributions attributable to LZP's single  
10 member would be 100%. If, for example, IFN was LZP's single member, then its contribution  
11 would have been attributable to IFN. However, LZP did not provide the required attribution  
12 information when it made three separate contributions to Honor PAC and also did not provide  
13 that information in response to the Complaint in this matter.

14 LZP argues that because the Commission's LLC regulations do not specifically address  
15 LLCs comprised of a single nonprofit corporate member, then the regulations do not apply or, in  
16 the alternative, that the Commission should dismiss the matter as a matter of discretion.<sup>56</sup> These  
17 arguments are not persuasive because the LLC attribution rules apply on their face to all LLC  
18 contributions other than in certain situations not presented here (such as those from LLCs

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<sup>54</sup> LLC E&J at 37,399 ("The Commission further notes that the recipient committee would have no way of knowing how to attribute a contribution made by an eligible multi-member or single member LLC, unless that information was provided.").

<sup>55</sup> See 11 C.F.R. § 110.1(e), (g).

<sup>56</sup> LZP Resp. at 5-7. LZP argues that as a nonprofit LLC with a nonprofit corporate member, LZP's member (unlike a for-profit corporate member) has no partnership "profits" by which to measure the partner's share. LZP Resp. at 6-7 (citing 11 C.F.R. § 110.1(e), concerning attribution per partner's "share of the partnership profits").

1 electing corporate treatment or that have publicly-traded shares), without regard to the LLC’s  
2 membership structure or the tax status of the single member. Indeed, the regulations require an  
3 LLC to provide attribution information not only for single natural person member LLCs and  
4 LLCs that elect to be treated as a partnership, but also for all LLCs that “[do] not elect treatment  
5 as either a partnership or corporation.”<sup>57</sup>

6 LZP’s argument that this is a case of first impression, and that it should not, therefore, be  
7 subject to treatment under partnership attribution rules, is unpersuasive. In its explanation of the  
8 LLC rules, the Commission noted that an LLC’s provision of attribution information is necessary  
9 so that the recipient may make proper attribution of “a contribution made by an eligible  
10 multi-member or single member LLC.”<sup>58</sup> The Commission has also noted in the context of  
11 advisory opinions dating back to 2004 that an LLC with a sole corporate member that has not  
12 elected treatment as a corporation would be treated as a partnership under Commission  
13 regulations.<sup>59</sup>

14 The available information indicates that LZP failed to provide attribution information to  
15 Honor PAC at the time it made its contributions, as required under 11 C.F.R. § 110.1(g)(5).  
16 Therefore, the Commission finds reason to believe LZP, LLC violated 11 C.F.R. § 110.1(g)(5)  
17 by failing to provide attribution information for the \$35,000 contribution it made to Honor PAC  
18 on October 19, 2018.

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<sup>57</sup> 11 C.F.R. § 110.1(g)(2).

<sup>58</sup> LLC E&J at 37,399.

<sup>59</sup> Advisory Opinion 2004-42 at 3 (Pharmavite LLC) (noting that LLC with a sole corporate member was considered a “disregarded entity” by the IRS but that “Commission regulations provide that a non-publicly traded LLC that does not affirmatively elect treatment for tax purposes as a corporation is treated by the Commission as a partnership”); Advisory Opinion 2009-14 at 1, 5 (Mercedes-Benz USA LLC) (stating that the LLC, which had a single corporate member, “is treated as a partnership under Commission regulations because it is a non-publicly traded LLC that has not affirmatively elected treatment as a corporation for tax purposes”).