

FEDERAL ELECTION COMMISSION

In the matter of:

Susan B. Anthony List Inc. Candidate Fund
2800 Shirlington Road
Suite 1200
Arlington, VA 22206

Robert J. Kania II, individually and as
Former Treasurer of the Susan B. Anthony
List Inc. Candidate Fund
2800 Shirlington Road
Suite 1200
Arlington, VA 22206

The Lukens Company
2800 Shirlington Road
9th Floor
Arlington, VA 22206

MUR No.:

7632

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OFFICE OF
GENERAL COUNSEL

COMPLAINT

1. Campaign for Accountability ("CfA") and Alice C.C. Huling bring this complaint before the Federal Election Commission ("Commission" or "FEC") seeking an immediate investigation and enforcement action against the Susan B. Anthony List Inc. Candidate Fund ("Candidate Fund"), Robert J. Kania II, both individually and as the former Treasurer of the Candidate Fund, and The Lukens Company for direct and serious violations of the Federal Election Campaign Act ("FECA") and Commission regulations.

Complainants

2. Complainant CfA is a Section 501(c)(3) organization dedicated to ensuring accountability of public officials and compliance with federal laws. Toward this end, CfA seeks to protect and advance the right of citizens to be informed about the activities of government officials and to ensure the integrity of government officials and the government decision-making process by

exposing unethical and illegal conduct of those involved in government. CfA uses research, litigation, and communications to advance its mission.

3. In furtherance of its mission, CfA also monitors campaign finance activities of those who finance federal elections and publicizes information regarding those who violate federal campaign finance laws. In order to assess whether an individual or entity is complying with federal campaign finance laws, CfA needs the information contained in disclosure reports political committees must file pursuant to FECA, 52 U.S.C. § 30104(a)&(b); 11 C.F.R. §§ 104.1, 104.3. CfA is hindered in its programmatic activity when an individual or entity fails to disclose campaign finance information in reports required by the FECA.

4. CfA relies on the FEC's proper administration of the FECA's reporting requirements because the FECA-mandated disclosure reports are the only source of information CfA can use to determine if an individual or entity is complying with the FECA. The proper administration of the FECA's reporting requirements includes mandating that all disclosure reports required by the FECA are properly and timely filed with the FEC. CfA is hindered in its programmatic activity when the FEC fails to properly administer the FECA's reporting requirements.

5. Complainant Alice C.C. Huling is counsel¹ to the Campaign for Accountability, a citizen of the United States, and a registered voter and resident of the District of Columbia. As a registered voter, Ms. Huling is entitled to receive information contained in disclosure reports required by the FECA, 52 U.S.C. § 30104; 11 C.F.R. §§ 104.2, 104.3. Ms. Huling is harmed when an individual, candidate, political committee, or other entity fails to report campaign finance activity as required by the FECA. *See FEC v. Akins*, 524 U.S. 11, 19 (1998), *quoting Buckley v. Valeo*, 424 U.S. 1, 66-67 (1976) (“[P]olitical committees must disclose contributors and disbursements to help voters understand who provides which candidates with financial support.”). Ms. Huling is further harmed

¹ Admitted to practice in New York only. Practicing in D.C. under the supervision of a member of the D.C. Bar.

when the FEC fails to properly administer the FECA's reporting requirements, limiting her ability to review campaign finance information.

Respondents

6. Susan B. Anthony List Inc. Candidate Fund. FEC Identification Number C00332296, is a separate segregated fund. Susan B. Anthony List, Inc., a membership organization, is the connected organization of the Candidate Fund.

7. Robert J. Kania II is a Pennsylvania businessman and a former member of the board of directors of the Port Authority of Allegheny County who served as the Treasurer of the Candidate Fund for more than six years from January 1, 2013 through May 7, 2019. Mr. Kania filed dozens of reports with the Commission throughout his tenure as Candidate Fund treasurer.

8. The Lukens Company is a political consulting firm that provides direct mail services to Republican candidates and committees. The company's headquarters are located in the same building as the Candidate Fund's office.² The Lukens Company provided direct mail services to the Candidate Fund during the 2017-2018 election cycle.

Factual Allegations

9. On September 20, 2018, Mr. Kania filed the Candidate Fund's 2018 September Monthly Report with the Commission stating that the Candidate Fund had paid The Lukens Company a total of \$17,326.62 for three independent expenditures in the form of mailers supporting the election of Marsha Blackburn, Kevin Cramer, and Joshua Hawley to the U.S. Senate.³ In fact, the

² Susan B. Anthony List and its connected organizations have worked with The Lukens Company for over a decade. Susan B. Anthony List, 2008 IRS Form 990, Schedule G, Part I, available at https://projects.propublica.org/nonprofits/display_990/541850126/2009_09_EO%2F54-1850126_990O_200812. In fact, The Lukens' Company owner, Walter Lukens, and the Candidate Fund's former Treasurer and current Susan B. Anthony List consultant, Frank Cannon, worked together on Gary Bauer's 2000 presidential campaign.

³ FEC Form 3X, Independent Expenditures, 2018 September Monthly Report, Susan B. Anthony List Inc. Candidate Fund, Sept. 20, 2018, available at <https://docquery.fec.gov/cgi-bin/forms/C00332296/1263372/se>.

Candidate Fund had not made those payments to the Lukens Company.⁴ The Candidate Fund's false independent expenditure reports caused it to overstate its total disbursements on its 2018 September Monthly Report and for the entire 2018 calendar year. The false expenditure reports also caused the Candidate Fund to understate its cash on hand at the close of the reporting period and for the 2018 calendar year.⁵

10. On October 19, 2018, Mr. Kania filed the Candidate Fund's 2018 October Monthly Report with the Commission stating that the Candidate Fund had paid The Lukens Company an additional \$24,154.26 for four independent expenditures in the form of mailers supporting the election of Claudia Tenney, Greg Gianforte, Cathy McMorris Rodgers, and Karen Handel to the U.S. House of Representatives.⁶ Again, the Candidate Fund had not made these payments to the Lukens Company.⁷ These false independent expenditure reports caused the Candidate Fund to again overstate its total disbursements on its 2018 October Monthly Report and further contributed to its overstatement for the 2018 calendar year. These false expenditure reports also caused the Candidate Fund to again understate its cash on hand at the close of the reporting period and contributed further to its understatement at the end of the 2018 calendar year.⁸

⁴ FEC Form 3x, Debts and Obligations, Amended 2018 September Monthly Report, Susan B. Anthony List Inc. Candidate Fund, June 10, 2019, *available at* <https://docquery.fec.gov/pdf/487/201906109149988487/201906109149988487.pdf>.

⁵ *Compare* FEC Form 3X, Summary Page, 2018 Monthly Report, Susan B. Anthony List Inc. Candidate Fund, Sept. 20, 2018, *available at* <https://docquery.fec.gov/pdf/714/201809209124128714/201809209124128714.pdf>, with FEC Form 3x, Summary Page, Amended 2018 September Monthly Report, Susan B. Anthony List Inc. Candidate Fund, June 10, 2019, *available at* <https://docquery.fec.gov/pdf/487/201906109149988487/201906109149988487.pdf>.

⁶ FEC Form 3X, Independent Expenditures, 2018 October Monthly Report, Susan B. Anthony List Inc. Candidate Fund, Oct. 19, 2018, *available at* <https://docquery.fec.gov/cgi-bin/forms/C00332296/1275062/se>.

⁷ FEC Form 3X, Debts and Obligations, Amended 2018 October Monthly Report, Susan B. Anthony List Inc. Candidate Fund, June 10, 2019, *available at* <https://docquery.fec.gov/pdf/605/201906109149988605/201906109149988605.pdf>.

⁸ *Compare* FEC Form 3X, Summary Page, 2018 October Monthly Report, Susan B. Anthony List Inc. Candidate Fund, Oct. 19, 2018, *available at* <https://docquery.fec.gov/pdf/538/201810199125634538/201810199125634538.pdf>, with FEC Form 3X, Summary Page, Amended 2018 October Monthly Report, Susan B. Anthony List Inc. Candidate Fund, June 10, 2019, *available at* <https://docquery.fec.gov/pdf/605/201906109149988605/201906109149988605.pdf>.

11. On October 25, 2018, Mr. Kania filed the Candidate Fund's 2018 Pre-General Report and disclosed that the Candidate Fund had received a no-interest unsecured loan of \$68,988.94 from The Lukens Company on October 15, 2018.⁹ It appears that this recorded loan included the previous reported expenditures that the Candidate Fund included in its September and October monthly reports, plus additional funds.¹⁰ On January 31, 2019, Mr. Kania filed the Candidate Fund's 2018 Year-End Report and claimed that the loan from The Lukens Company had been repaid on November 29, 2018.¹¹ Mr. Kania continued to file multiple reports with the Commission claiming that the loan from The Lukens Company had been repaid up until he was removed as treasurer of the Candidate Fund.¹²

12. On April 4, 2019, the Commission sent a letter to Mr. Kania, as Treasurer of the Candidate Fund, informing him that the \$68,988.94 loan from The Lukens Company constituted an illegal corporate contribution to the Candidate Fund pursuant to 52 U.S.C. § 30118(a). The Commission noted that FECA defines a loan as a contribution unless the loan is received from a state or federally

⁹ FEC Form 3X, Schedule C Loans, 2018 Pre-General Report, Susan B. Anthony List Inc. Candidate Fund, Oct. 25, 2018 *available at*

<https://docquery.fec.gov/pdf/188/201810259133321188/201810259133321188.pdf>.

¹⁰ FEC Form 3X, Schedule D Debts and Obligations, Amended Pre-General Report, Susan B. Anthony List Inc. Candidate Fund, June 10, 2019, *available at*

<https://docquery.fec.gov/pdf/128/201906109149989128/201906109149989128.pdf>; FEC Form 3X, Schedule D Debts and Obligations, Amended Post-General Report, Susan B. Anthony List Inc. Candidate Fund, June 10, 2019, *available at*

<https://docquery.fec.gov/pdf/618/201906109149989618/201906109149989618.pdf>.

¹¹ FEC Form 3X, Schedule C Loans, 2018 Year-End Report, Susan B. Anthony List Inc. Candidate Fund, Jan. 31, 2019 *available at*

<https://docquery.fec.gov/pdf/764/201901319145328764/201901319145328764.pdf>.

¹² See FEC Form 3X, Schedule C Loans, 2019 February Monthly Report, Susan B. Anthony List Inc. Candidate Fund, Feb. 20, 2019, *available at*

<https://docquery.fec.gov/pdf/749/201902209145536749/201902209145536749.pdf>; FEC Form 3X, Schedule C Loans, 2019 March Monthly Report, Susan B. Anthony List Inc. Candidate Fund, Mar. 20, 2019, *available at*

<https://docquery.fec.gov/pdf/141/201903209145848141/201903209145848141.pdf>; FEC Form 3X, Schedule C Loans, 2019 April Monthly Report, Susan B. Anthony List Inc. Candidate Fund, Apr. 18, 2019, *available at*

<https://docquery.fec.gov/pdf/618/201904189149508618/201904189149508618.pdf>; and FEC Form 3X, Loan Information, 2019 May Monthly Report, Susan B. Anthony List Inc. Candidate Fund, May 20, 2019, *available at*

<https://docquery.fec.gov/pdf/190/201905209149775190/201905209149775190.pdf>.

charted depository institution pursuant to 11 C.F.R. § 114.1(a)(1). The Commission warned Mr. Kania that the illegal corporate contribution would have to be refunded.¹³

13. On April 8, 2019, CfA filed a complaint with the Allegheny County Board of Elections and the District Attorney's Office in Allegheny County, Pennsylvania seeking an investigation into whether Mr. Kania violated Pennsylvania's Campaign Finance Reporting Law by failing to register a political committee named Americans Against Socialism and file required reports with the Secretary of the Commonwealth of Pennsylvania. The complaint also alleged that Mr. Kania violated Pennsylvania's Campaign Finance Reporting Law by consenting to the use of corporate funds to make a prohibited corporate contribution or expenditure.¹⁴

14. On April 11, 2019, in response to CfA's complaint, Pennsylvania Governor Tom Wolf removed Mr. Kania from his position on the board of directors of the Port Authority of Allegheny County.¹⁵

15. On April 17, 2019, CfA, based on the pending investigations by the Allegheny County Board of Elections and the Allegheny County District Attorney's Office, requested that the Susan B. Anthony List, Inc. remove Robert Kania II from his positions as the treasurer of the Susan B. Anthony List, Inc. and its separate segregated fund, the Susan B. Anthony List, Inc. Candidate Fund.¹⁶

16. On May 7, 2019, the Commission sent another letter to Mr. Kania, as Treasurer of the Candidate Fund, again requesting an explanation for the apparently illegal \$68,988.94 loan from

¹³ Letter from the Federal Election Commission to Robert J. Kania II, Treasurer, Susan B. Anthony List Inc. Candidate Fund, Apr. 4, 2019 *available at* <https://docquery.fec.gov/pdf/571/201904040300036571/201904040300036571.pdf>.

¹⁴ Letter from Alice Huling, Counsel at Campaign for Accountability, to Stephen A. Zappala, Jr., Allegheny County District Attorney, et al., Apr. 9, 2019, *available at* <https://campaignforaccountability.org/work/letter-calling-on-allegheny-county-officials-to-investigate-secret-political-campaign-run-by-local-businessman/>.

¹⁵ Ed Blazina, *After Transit Group's Urging, Gov. Wolf Replaces Port Authority Board Member*, PITTSBURGH POST-GAZETTE, April 11, 2019, *available at* <https://www.post-gazette.com/news/transportation/2019/04/11/Pittsburghers-for-Public-Transit-group-Gov-Wolf-replace-Port-Authority-board-member-robert-kania/stories/201904110081>.

¹⁶ Letter from Alice Huling, Counsel at Campaign for Accountability, to Marjorie Dannenfelser, President, Susan B. Anthony List, Inc., et al., Apr. 17, 2019 *available at* <https://campaignforaccountability.org/work/letter-calling-on-susan-b-anthony-list-to-remove-pittsburgh-businessman-robert-kania-from-board-of-directors>.

the Lukens Company.¹⁷ Later that same day, the Candidate Fund filed an amended Statement of Organization removing Mr. Kania as the Treasurer of the Candidate Fund.¹⁸

17. After removing Mr. Kania as Treasurer, the Candidate Fund filed amended versions of multiple reports to the Commission that re-characterized the \$68,988.94 loan from The Lukens Company as a debt.¹⁹

COUNT I

18. FECA and FEC regulations make it illegal for a corporation to make a contribution to a political committee. Moreover, FECA and FEC regulations make it illegal for a political committee to knowingly accept or receive a contribution from a corporation and for any officer or director of a corporation to consent to making a corporate contribution to a political committee.²⁰ FECA and FEC regulations define the term “contribution” to include a loan made by any person for the purpose of influencing a Federal election.²¹ A corporation in its capacity as a commercial vendor may, however, extend credit to a political committee provided that the credit is extended in the ordinary course of the corporation’s business and the terms are substantially similar to

¹⁷ Letter from the Federal Election Commission to Robert J. Kania II, Treasurer, Susan B. Anthony List Inc. Candidate Fund, May 7, 2019, *available at* <https://docquery.fec.gov/pdf/592/201905070300039592/201905070300039592.pdf>.

¹⁸ FEC Form 1, Amended Statement of Organization, Susan B. Anthony List Inc. Candidate Fund, May 7, 2019, *available at*

<https://docquery.fec.gov/pdf/768/201905079149644768/201905079149644768.pdf>.

¹⁹ See FEC Form 3X, Schedule D Debts and Obligations, Amended September Monthly Report, Susan B. Anthony List Inc. Candidate Fund, June 10, 2019, *available at*

<https://docquery.fec.gov/pdf/487/201906109149988487/201906109149988487.pdf>; FEC Form 3X, Schedule D Debts and Obligations, Amended October Monthly Report, Susan B. Anthony List Inc. Candidate Fund, June 10, 2019, *available at*

<https://docquery.fec.gov/pdf/605/201906109149988605/201906109149988605.pdf>; FEC Form 3X, Schedule D Debts and Obligations, Amended Pre-General Report, Susan B. Anthony List Inc. Candidate Fund, June 10, 2019, *available at*

<https://docquery.fec.gov/pdf/128/201906109149989128/201906109149989128.pdf>; FEC Form 3X, Schedule D Debts and Obligations, Amended Post-General Report, Susan B. Anthony List Inc. Candidate Fund, June 10, 2019, *available at*

<https://docquery.fec.gov/pdf/618/201906109149989618/201906109149989618.pdf>; FEC Form 3X, Schedule E Itemized Independent Expenditures, Amended Year-End Report, Susan B. Anthony List Inc. Candidate Fund, June 10, 2019, *available at*

<https://docquery.fec.gov/pdf/709/201906109149990709/201906109149990709.pdf>.

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

²¹ 52 U.S.C. § 30101(8)(A)(i); 11 C.F.R. § 114.1(a)(1).

extensions of credit to nonpolitical debtors that are of similar risk and size.²² In determining whether a commercial vendor extended credit in the ordinary course of business, the Commission considers (1) whether the commercial vendor followed its established procedures and its past practice in approving the extension of credit; (2) whether the commercial vendor received prompt payment in full if it previously extended credit to the same political committee; and (3) whether the extension of credit conformed to the usual and normal practice in the commercial vendor's trade or industry.²³

19. Mr. Kania and the Candidate Fund filed multiple reports with the Commission disclosing that the Fund had received a \$68,988.94 loan from the Lukens Company. It was only after the Candidate Fund learned that Mr. Kania was under investigation in the Commonwealth of Pennsylvania for making illegal corporate contributions in a state race that the Candidate Fund removed him as treasurer and filed amended reports re-characterizing the \$68,988.94 loan as a debt. Throughout his tenure as Candidate Fund treasurer, Mr. Kania filed dozens of reports with the Commission. Accordingly, the Commission should investigate to determine whether the Susan B. Anthony List Inc. Candidate Fund, Robert Kania, individually and as the Treasurer of the Susan B. Anthony List Inc. Candidate Fund, and The Lukens Company may have violated 52 U.S.C. § 30118(a) and 11 C.F.R. § 114.2(b),(d)&(e).

COUNT II

20. FECA and FEC regulations require political committees to file regular reports that accurately disclose, *inter alia*, all expenditures in excess of \$200, total disbursements for each reporting period and the calendar year, and the amount of cash on hand at the beginning and end of each reporting period and for the calendar year.²⁴

²² 11 C.F.R. § 116.3(b).

²³ 11 C.F.R. § 116.3(c).

²⁴ 52 U.S.C. § 30104(b); 11 C.F.R. § 104.3(a)&(b).

21. In the months leading up to the 2018 general election, Mr. Kania and the Candidate Fund filed multiple reports that misreported tens of thousands of dollars of expenditures that were not made, thereby grossly overstating the total amount of disbursements made by the Candidate Fund in each reporting period and for the 2018 calendar year. These reports also grossly understated the amount of cash the Candidate Fund had at the beginning and end of each reporting period and for the 2018 calendar year. The cumulative effect of these false reports was to materially misrepresent the financial condition of the Candidate Fund to the Commission and the public in the run-up to the 2018 general election. Further, Mr. Kania had filed dozens of similar reports with the Commission over the course of his six years as treasurer and was familiar with the reporting requirements. Accordingly, the Commission should investigate the Susan B. Anthony List Inc. Candidate Fund and Robert Kania, individually and as the Treasurer of the Susan B. Anthony List Inc. Candidate Fund, for multiple violations of 52 U.S.C. § 30104(b) and 11 C.F.R. 104.3(a)&(b).

Conclusion

WHEREFORE, Campaign for Accountability and Alice C.C. Huling request that the Commission investigate whether respondents have violated the FECA and Commission regulations, declare the respondents to have violated the FECA and Commission regulations, impose sanctions for these violations and take such further steps as may be appropriate, including, but not limited to, conducting an audit of the Susan B. Anthony List Inc. Candidate Fund pursuant to 52 U.S.C. § 30111(b) and 11 C.F.R. § 104.16.


ON BEHALF OF COMPLAINANTS

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Verification

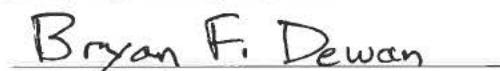

Campaign for Accountability and Alice C.C. Huling hereby verify that the statements made in the attached Complaint are, upon information and belief, true.

Sworn to pursuant to 18 U.S.C. § 1001.


Alice C.C. Huling

District of Columbia:SS

SUBSCRIBED AND SWORN to before me on this 5th day of August, 2019.


Bryan F. Dewan
Notary Public


My Commission Expires:

August 14, 2022

