

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

4
5 **MUR: 7637**

6 DATE COMPLAINT FILED: 08/16/2019

7 DATE OF NOTIFICATION: 08/21/2019

8 LAST RESPONSE RECEIVED: 09/16/2019

9 DATE ACTIVATED: 11/12/2019

10
11 ELECTION CYCLE: 2016

12 EXPIRATION OF SOL: 01/01/2020 – 11/08/2021

13
14 **COMPLAINANT:**

Allen J. Epstein

15
16 **RESPONDENTS:**

National Rifle Association Institute for Legislative
Action

National Rifle Association Political Victory Fund
and Robert G. Owens in his official capacity
as treasurer

Donald J. Trump

Donald J. Trump for President and Bradley

T. Crate in his official capacity as treasurer

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25 **RELEVANT STATUTE**
26 **AND REGULATION:**

52 U.S.C. § 30121

11 C.F.R. § 110.20

27
28 **INTERNAL REPORTS CHECKED:**

Disclosure Reports

29
30 **FEDERAL AGENCIES CHECKED:**

None

31
32 **I. INTRODUCTION**

33 The Complaint alleges that \$30 million was “funneled from Russia” to the National Rifle
34 Association of America (“NRA”) and from there to Donald J. Trump for President and Bradley
35 T. Crate in his official capacity as treasurer (“DJTFP”), the authorized committee of 2016
36 presidential candidate Donald J. Trump, in violation of the foreign national prohibition of the
37 Federal Election Campaign Act of 1971, as amended (the “Act”). The NRA Respondents —

1 the NRA Institute for Legislative Action (“NRA-ILA”) and the NRA Political Victory Fund
2 (“NRA-PVF”) — assert that there is no evidence to support the allegations.² They argue that the
3 Commission took no action on similar allegations in a previous matter and should do the same
4 again here.³ DJTFP, in its Response, does not directly address the allegation that DJTFP
5 received and then “used” this \$30 million, instead focusing on other alleged violations stated in
6 the Complaint, which are not addressed in this Report.⁴

7 Although the Complaint does not specify the Russian source of the funds or how the
8 funds were “funneled” to DJTFP through the NRA, the allegations are similar to those
9 considered by the Commission in MUR 7314 (NRA, *et al.*). In that matter, the complaint alleged
10 that Alexander Torshin, Maria Butina, and Paul Erickson engaged in a scheme to direct Russian
11 funds to the NRA for the purpose of financing its election-related activities, and that Torshin and
12 Butina, both foreign nationals, illegally participated in the NRA’s election-related decision-
13 making.⁵ Although MUR 7314 concerned alleged funneling of Russian money to the NRA “to

² The National Rifle Association of America is a nonprofit corporation organized under section 501(c)(4) of the Internal Revenue Code, and the NRA-ILA is one of its divisions. The NRA-PVF is a separate segregated fund of the NRA registered as a political committee. First Gen. Counsel’s Rpt. at 4-5, MUR 7314 (NRA, *et al.*) (“FGCR”). Unless otherwise noted, references in this Report to “NRA” encompass all of these entities.

³ NRA Resp. at 1 (Sept. 10, 2019) (referencing MUR 7314).

⁴ Compl. ¶ 1; *see* DJTFP Resp. at 1 (Sept. 16, 2019); *supra* note 1. Donald J. Trump did not submit a Response in this matter.

⁵ FGCR at 1-2, MUR 7314. Torshin, Butina, Erickson, and Bridges, LLC, were respondents in MUR 7314 who were alleged to have participated in the funneling scheme; they are not respondents in this matter.

1 help Donald Trump win the presidency,” the complaint in MUR 7314 did not allege that DJTFP
2 or Donald J. Trump had an active role in the scheme and did not include them as respondents.
3 The Office of General Counsel recommended that the Commission dismiss the allegations in
4 MUR 7314 because the record, on balance, lacked sufficient information to support a reasonable
5 inference that the respondents violated the Act’s foreign national prohibition.⁶ The Commission
6 was equally divided and voted to close the file.⁷

7 Since the Commission closed MUR 7314, additional potentially relevant sources have
8 become publicly available. These include a federal plea agreement by Paul Erickson, a MUR
9 7314 respondent who was alleged to have participated in the scheme; two separate reports by the
10 minority and majority staff of the United States Senate Committee on Finance discussing
11 contacts between the NRA and Russia; and two court filings relating to the NRA’s internal
12 finances. But none of these sources, or the minimal information submitted by the instant
13 Complaint, when considered alongside the factual record in MUR 7314, indicates that the
14 Respondents may have violated the Act’s foreign national prohibition.

15 Accordingly, we recommend that the Commission dismiss the allegations that the NRA
16 Respondents, Donald J. Trump, and DJTFP violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R.
17 § 110.20(g) by knowingly soliciting, accepting, or receiving a prohibited foreign national
18 contribution; and dismiss the allegation that the NRA Respondents violated 11 C.F.R.

⁶ *Id.* at 17-22.

⁷ Certification ¶¶ 1-3, MUR 7314 (NRA, *et al.*) (July 10, 2019). Specifically, the Commission was equally divided on: whether to dismiss or find reason to believe that Torshin and Butina violated 52 U.S.C. § 30121(a); whether to dismiss or take no action on the allegations that Erickson and Bridges, LLC, violated 11 C.F.R. § 110.20(h); and whether to dismiss or take no action on the allegation that the NRA violated 52 U.S.C. § 30121(a) and 11 C.F.R. § 110.20(g).

1 § 110.20(h) by knowingly providing substantial assistance in the making or receipt of a foreign
2 national contribution.

3 **II. FACTUAL BACKGROUND**

4 The Complaint in the instant matter alleges that Trump “used money (\$30 million) that
5 was funneled from Russia to the NRA and then to Mr. Trump’s campaign (as per Mueller report
6 Book 1),” apparently citing as supporting evidence the first volume of the Special Counsel’s
7 Report, dealing with Russian interference in the 2016 election.⁸ But the public, redacted version
8 of that report does not appear to reference the NRA.

9 Below, we describe four categories of information in the record before the Commission
10 in MUR 7314 — (1) a reported Federal Bureau of Investigation (“FBI”) investigation of a
11 scheme to funnel Russian money to the NRA; (2) records of 2016 election spending by the NRA;
12 (3) alleged contacts between NRA personnel and Russian foreign nationals; and (4) the results of
13 the NRA’s internal investigations in response to alleged funneling of Russian money.¹⁰ With
14 respect to each category, we identify what new information, if any, has become publicly
15 available since the Commission closed MUR 7314.

⁸ Compl. ¶ 1; *see also* SPECIAL COUNSEL ROBERT S. MUELLER, III, U.S. DEP’T OF JUSTICE, REPORT ON THE INVESTIGATION INTO RUSSIAN INTERFERENCE IN THE 2016 PRESIDENTIAL ELECTION (Mar. 22, 2019) (“Special Counsel’s Report”).

¹⁰ FGCR at 4-15, MUR 7314.

1 **A. Reported FBI Investigation**

2 On January 18, 2018, a *McClatchy* news article reported that the “FBI is investigating
3 whether a top Russian banker with ties to the Kremlin illegally funneled money to the National
4 Rifle Association to help Donald Trump win the presidency.”¹¹ The article cited two anonymous
5 sources “familiar with the matter” but noted that the “extent to which the FBI has evidence of
6 money flowing from Torshin to the NRA, or of the NRA’s participation in the transfer of funds,
7 could not be learned.”¹² This article was the primary basis for the MUR 7314 complaint.¹³ No
8 additional information about the reported FBI investigation has become available since
9 MUR 7314 was closed.

10 **B. 2016 Election Spending**

11 During the 2016 election cycle, the NRA, NRA-ILA, and NRA-PVF collectively reported
12 spending \$54.4 million in connection with federal elections, up from \$19.8 million in 2012.¹⁴
13 The NRA entities spent a combined \$31.2 million in support of Trump and in opposition to his
14 general election opponent, Hillary Clinton.¹⁵ The \$54.4 million in spending included \$33.3
15 million in independent expenditures by the NRA and NRA-ILA, for which no donors were

¹¹ Peter Stone & Greg Gordon, *FBI Investigating Whether Russian Money Went to NRA to Help Trump*, *McCLATCHY*, Jan. 18, 2018 (cited by Compl. at 2 n.5, MUR 7314).

¹² *Id.*

¹³ *See* FGCR at 17, MUR 7314.

¹⁴ NRA Outside Spending Summary 2012, 2016, *OPENSECRETS.ORG*, [https://www.opensecrets.org/outsidespending/detail.php?cycle=\[2012/2016\]&cmte=National+Rifle+Assn](https://www.opensecrets.org/outsidespending/detail.php?cycle=[2012/2016]&cmte=National+Rifle+Assn) (accessed Dec. 18, 2019) (cited by Compl. at 2 nn.5-6, MUR 7314); FGCR at 5, MUR 7314.

¹⁵ NRA Outside Spending Targeted Candidates 2016, *OPENSECRETS.ORG*, <https://www.opensecrets.org/outsidespending/recips.php?cmte=National+Rifle+Assn&cycle=2016> (accessed Sept. 24, 2019); FGCR at 5 n.15, MUR 7314.

1 disclosed.¹⁶ In its specification of “\$30 million,” the Complaint in this matter appears to be
2 referencing this \$33.3 million, which the MUR 7314 complaint argued provided the
3 “opportunit[y] to funnel foreign funds” due to a “problematic” lack of disclosure.¹⁷ However,
4 the Complaint in this matter provides no additional detail to substantiate the allegation that the
5 money came from Russia, and we are unaware of other information to substantiate this allegation
6 coming to light since MUR 7314 was closed.¹⁸

7 C. Connections Between the NRA and Russian Foreign Nationals

8 The MUR 7314 factual record included information about various contacts between the
9 NRA and two Russian nationals: (1) Alexander Torshin, who formerly served as a member of
10 the Federation Council of Russia, which is the upper house of the Russian legislature, and as
11 Deputy Governor of Russia's Central Bank; and (2) Maria Butina, Torshin's protégé and Russian
12 gun rights activist, who pled guilty in 2018 to violating 18 U.S.C. § 951 by not registering with
13 the Attorney General as an agent of a foreign government operating within the United States.¹⁹
14 For example, Butina and Torshin hosted a trip to Moscow for NRA leaders and top-level donors
15 in 2015.²⁰ In 2016, Butina and Torshin attended the NRA annual convention and were part of a
16 dinner party that briefly interacted with Donald Trump, Jr.²¹ Butina reportedly had a relationship
17 with Paul Erickson, identified as a “conservative operative,” who contacted a Trump campaign

¹⁶ NRA Institute for Legislative Action Outside Spending Summary 2016, OPENSECRETS.ORG, <https://www.open-secrets.org/outsidespending/detail.php?cmte=C90013301&cycle=2016> (accessed Dec. 18, 2019); FGCR at 5-6, MUR 7314.

¹⁷ Compl. at 7-8, MUR 7314; FGCR at 6, MUR 7314; Compl. ¶ 1 (alleging that Trump “used money (\$30 million) that was funneled from Russia”).

¹⁸ *See* Compl. ¶ 1.

¹⁹ FGCR at 6-11, MUR 7314.

²⁰ *Id.* at 8.

²¹ *Id.* at 8-9.

1 advisor in 2016 about a potential U.S.-Russia dialogue to be launched at an NRA meeting.²² The
2 filings in Butina's criminal matter do not mention potential violations of campaign finance law
3 or refer to a scheme to funnel contributions. However, Butina admitted to taking orders from a
4 "Russian Official," and explained that she "laid the groundwork for an unofficial channel of
5 communication with the next U.S. administration" by attending "Gun Rights Organization"
6 conferences, because "Guns Rights Organization" had influence on "Political Party #1."²³

7 Three supplemental sources relating to Butina, Torshin, and Erickson have become
8 available since the Commission closed the MUR 7314 file: the plea agreement of Paul Erickson
9 and the majority and minority staff reports of the United States Senate Committee on Finance
10 dealing with ties between Russia and the NRA.

11 1. Erickson Plea

12 Erickson was indicted on 11 counts of wire fraud and money laundering on February 5,
13 2019, and his then-pending case was noted in the MUR 7314 FGCR.²⁴ The indictment alleged
14 that Erickson used false information to recruit investors for three business ventures, and then
15 spent their money on his personal expenses.²⁵ After the MUR 7314 file was closed, Erickson
16 pled guilty to one count of wire fraud in violation of 18 U.S.C. § 1343 and one count of money

²² *Id.* at 7, 9 (noting that available news reports do not indicate how the campaign responded to this request); Nicholas Fandos, *Operative Offered Trump Campaign 'Kremlin Connection' Using NRA Ties*, N.Y. TIMES, Dec. 3, 2017 (cited by Compl. at 3 n.14, MUR 7314); *see also* Redacted Indictment ¶ 2, *United States v. Paul Erickson*, 4:19-cr-40015 (D.S.D. Feb. 5, 2019) ("Erickson Indictment"). Also, in 2019, Butina and Erickson jointly incorporated Bridges, LLC, which the MUR 7314 complaint suggested may have been used to funnel Russian money to the NRA. FGCR at 7-8, MUR 7314.

²³ Statement of Offense at 1-2, *United States v. Mariia Butina*, 1:18-cr-00218 (D.D.C. Dec. 8, 2018) (factual basis of guilty plea). The documents filed by the United States Attorney for the District of Columbia use an alternate spelling of Maria (Mariia). Butina apparently uses both spellings. FGCR at 10 n.44, MUR 7314.

²⁴ Erickson Indictment; FGCR at 3 n.4, MUR 7314.

²⁵ *Id.* at 1-2. Erickson's businesses related to residential real-estate in North Dakota, senior citizen care facilities around the U.S., and wheelchair development and production. *Id.* at 2-6.

1 laundering in violation of 18 U.S.C. § 1956(a)(1)(A)(i).²⁶ As part of his plea, Erickson admitted
2 to transferring \$1,000 of the proceeds to a person identified as “M.B.”²⁷ Even assuming this
3 person was Maria Butina, there is no indication in the available court filings that the scheme
4 involved money that originated in Russia. Similarly, there is no suggestion that any money from
5 Erickson’s scheme was transferred to the NRA Respondents or DJTFP. Erickson was not
6 charged with, and did not plead to, any violations of campaign finance law.

7 2. Senate Finance Committee Staff Reports

8 On September 27, 2019, the minority staff of the U.S. Senate Committee on Finance
9 released *The NRA and Russia: How a Tax-Exempt Organization Became a Foreign Asset*; the
10 Committee’s majority staff issued a report to accompany the minority staff report. The minority
11 staff report examines the NRA’s activities surrounding the 2015 Moscow trip, noted above, as
12 well as the various contacts between Torshin, Butina, and the NRA, and the NRA’s role in
13 facilitating access for Butina and Torshin to other U.S. organizations and politicians.²⁸

14 The minority staff report concludes that Butina and Erickson both had a role in arranging
15 the Moscow trip, which included NRA board members David Keene and Pete Brownell, as well
16 as prominent donors and supporters.²⁹ Brownell, then the NRA’s president-elect, was a

²⁶ Plea Agreement at 2, *United States v. Paul Erickson*, 4:19-cr-40015 (D.S.D. Nov. 18, 2019).

²⁷ Factual Basis Statement at 2, *United States v. Paul Erickson*, 4:19-cr-40015 (D.S.D. Nov. 18, 2019). The indictment lists a second payment to M.B., in the amount of \$8,000, which was not included in Erickson’s plea. *Id.* at 1-2; Erickson Indictment at 9.

²⁸ MINORITY STAFF, U.S. SENATE COMM. ON FINANCE, *THE NRA AND RUSSIA: HOW A TAX-EXEMPT ORGANIZATION BECAME A FOREIGN ASSET* (Sept. 27, 2019) (“Senate Finance Minority Report”). See FGCR at 8, MUR 7314 (describing Moscow trip).

²⁹ Senate Finance Minority Report at 17 (describing participants); FGCR at 8 & n.34, MUR 7314 (same).

1 substitute for then-President Allan Cors, who had decided not to participate.³⁰ When Cors
2 withdrew, Butina and Erickson lobbied for Brownell to attend and, in so doing, described some
3 of their objectives for the trip. Specifically, Erickson told Brownell he would “benefit greatly”
4 from meetings with Russian arms manufacturers, and that “the NEXT President of the NRA —
5 who would assume office at the same time as the NEXT American President — is a man that the
6 Kremlin (and Russian arms manufacturers) want to meet.”³¹ Butina told Keene that “many
7 powerful figures in the Kremlin are counting on Torshin to prove his American connections — a
8 last minute important member cancellation could affect his political future.”³² Erickson also
9 informed Brownell that it was “VERY likely” the delegation would be able to meet with
10 “Russia’s leader,” but only if led by the NRA’s president or president-elect.³³

11 The minority staff report indicates that Brownell agreed to join and the trip went
12 forward.³⁴ NRA participants met with high-level Russian officials and oligarchs, including some
13 on the Treasury Department’s Specially Designated Nationals and Blocked Persons list, but they
14 apparently did not meet with Putin.³⁵ Butina later sought reimbursement from the NRA for trip

³⁰ Cors reportedly harbored concerns that his presence would be seen as officially sanctioning the trip, although he explained to Torshin that he was withdrawing due to health concerns. Senate Finance Minority Report at 17-19.

³¹ *Id.* at 28 (quoting Erickson email to Brownell). Erickson told Brownell that “as we discussed over lunch in Iowa, Russia believes that high level contacts with the NRA might be the BEST means of neutral introduction to either the next American President OR to a meaningful re-set in relations with the Congress under a (God forbid) President Clinton.” *Id.* at 28 (quoting Erickson email to Brownell).

³² *Id.* at 26 (quoting email from Keene’s wife to Cors and another NRA employee, apparently copying message from Butina).

³³ *Id.* at 29 (quoting Erickson email to Brownell). Brownell apparently replied that this would be “a very interesting meeting,” but later told the Finance Committee minority staff that he had no interest in meeting with Vladimir Putin and does not believe there was a plan to do so. *Id.*

³⁴ *Id.* at 30-31.

³⁵ *Id.* at 31 (listing individuals in Russia who met with the NRA group).

1 expenses she claimed to have covered for NRA donor Jim Liberatore; the NRA reimbursed
2 Butina \$6,000 by payment to Bridges, LLC.³⁶

3 The minority staff report also details efforts by Butina and Torshin to access meetings
4 and events for the NRA and other organizations, and it finds that their access “appears to have
5 grown substantially . . . in the wake of the trip to Moscow in December 2015.”³⁷ For example, in
6 early 2016, Butina was flown to Washington, D.C., on the personal aircraft of an NRA
7 delegation member, Joe Gregory.³⁸ Once there, she and Torshin attended the 2016 National
8 Prayer Breakfast, and Gregory introduced Butina to attendees.³⁹ Prior to the NRA’s 2016 annual
9 convention, Butina sent Brownell a list of proposed Russian invitees, along with a list of events
10 they wished to attend.⁴⁰ She proposed adding three additional events to the list, including “[t]he
11 possible meeting with Trump’s sons.”⁴¹ During the convention, Keene briefly introduced Butina
12 and Torshin to Donald Trump, Jr.⁴² Internal NRA correspondence suggests that the meeting was
13 accidental.⁴³ The report notes that, following the meeting, an unidentified person within the

³⁶ *Id.* at 22-24 (stating that Brownell’s counsel confirmed that Bridges, LLC, was paid for Liberatore’s expenses); *see also* MAJORITY STAFF, U.S. SENATE COMM. ON FINANCE, MAJORITY STAFF REPORT ACCOMPANYING THE MINORITY STAFF REPORT *THE NRA AND RUSSIA* at 6 (Sept. 27, 2019) (“Senate Finance Majority Report”) (discussing Butina’s request for reimbursement and noting that “the documents do seem to reflect” that “the NRA incurred costs” for the 2015 travel to Russia).

³⁷ Senate Finance Minority Report at 58.

³⁸ *Id.* at 63.

³⁹ *Id.* at 63-64.

⁴⁰ *Id.* at 66 (requesting invitations for Torshin; Butina; Mr. Pavel Gusev, identified as owner and CEO of media company Moskovsky Komsomoletz; Mr. Vadim Zadorozhny, identified as owner of the Russian Private Vehicle Museum; and Mr. Igor Pisarsky, identified as owner of the company R.I.M. Porter Novelty).

⁴¹ *Id.* at 67.

⁴² FGCR at 8-9, MUR; Senate Finance Minority Report at 69-71.

⁴³ Senate Finance Minority Report at 69-71 (describing how Keene’s dinner party showed up at the wrong restaurant, where Trump Jr. was attending an NRA fundraiser).

1 NRA texted Trump Jr. that he should avoid “a Russian gal” he’d met that weekend and “steer
2 clear if she tries to reach out to you.”⁴⁴

3 The minority staff report concludes that the NRA’s activities surrounding the Moscow
4 trip and the organization’s relationship with Butina and Torshin may have implications for the
5 NRA’s tax-exempt status and compliance with U.S. sanctions law.⁴⁵ The majority staff report,
6 based on a review of documents collected by the minority during its investigation, concludes that
7 the NRA complied with sanctions law and, at most, could be penalized for a “minor infraction”
8 of the tax code due to the \$6,000 payment it made to Butina and Erickson’s Bridges, LLC, for
9 the 2015 Russia trip.⁴⁶ Ultimately, however, neither the minority nor majority staff report raises
10 any allegation of campaign finance violations.⁴⁷ Moreover, neither report presents evidence
11 indicating that Butina, Torshin, and Erickson assisted in funneling Russian money to the NRA or
12 to DJTFP.⁴⁸

13 **D. NRA’s Internal Investigation**

14 In response to the MUR 7314 complaint, the NRA submitted the results of an internal
15 review of its financial activity, accompanied by sworn statements from two of its financial

⁴⁴ *Id.* at 71 (apparently interpreting this as a reference to Butina).

⁴⁵ *Id.* at 74-76.

⁴⁶ Senate Finance Majority Report at 3-8.

⁴⁷ The Minority Report, however, references campaign finance law when recommending options Congress could explore “to reform tax-exempt laws to protect against foreign threats.” Senate Finance Minority Report at 75 (proposing as an option “strengthening campaign finance rules surrounding so-called ‘dark money’ organizations such as politically-active section 501(c)(4) organizations”).

⁴⁸ *See* Senate Finance Majority Report at 9 (concluding that the Minority Report “is littered with salacious, unsubstantiated accusations, and reads as if there were an elaborate conspiracy theory by members of the NRA to aid in the attempted Russian-infiltration of conservative organizations and the Republican Party” but “attempts to paint a picture that does not exist”).

1 officers.⁴⁹ The NRA stated that its review sought to identify any foreign donations above certain
2 threshold amounts in 2015 or 2016 (\$5,000 or more for general donations to the NRA and \$1,000
3 for donations to the NRA-ILA); donations from Butina, Torshin, Erickson, Bridges, LLC, the
4 Central Bank of Russia, or Dmitry Rogozin (another Russian linked with the NRA); donors with
5 a foreign address; and transfers via a foreign check or wire transfer drawn on a foreign bank.⁵⁰
6 The NRA represented that its review identified a single transaction of \$568.10, including tax,
7 which was a purchase of jewelry by Butina at a 2015 NRA fundraiser that constituted a
8 donation.⁵¹ The NRA stated that it subsequently expanded its internal review to remove dollar
9 thresholds and consider transactions over a longer period of time (beyond the 2016 election).⁵²
10 The NRA stated that, in its second review, which was not supported by affidavits, it found an
11 additional \$5 donation from an “individual who may be a U.S. national living in Russia”; \$1,993
12 in membership dues and magazine subscriptions from members associated with Russian
13 addresses; and a \$1,000 payment from Torshin for a lifetime membership.⁵³ The NRA did not
14 submit an updated review or any affidavits in response to the Complaint in the instant matter.
15 The NRA’s Response states that the Complaint “adds nothing to the record that has not already
16 been considered by the Commission.”⁵⁴

⁴⁹ FGCR at 13-14, MUR 7314 (explaining results of the NRA’s internal review); *see also* NRA Resp. at 9, MUR 7314 (summarizing results); *id.*, Ex. A (Affidavit of Wilson H. Phillips, Jr., Treasurer and Chief Financial Officer of the NRA) (describing review); *id.*, Ex. B (Affidavit of Mary Rose Adkins, Fiscal Officer of the NRA-ILA) (same).

⁵⁰ FGCR at 13-14, MUR 7314.

⁵¹ *Id.* (describing NRA representation that, this transaction was a donation to its “general fund”).

⁵² FGCR at 14-15, MUR 7314 (explaining results of the NRA’s expanded review); *see also* NRA First. Supp. Resp. at 1-2, MUR 7314 (describing expanded review).

⁵³ FGCR at 14-15, MUR 7314; NRA First Supp. Resp. at 1-2, MUR 7314.

⁵⁴ NRA Resp. at 3.

1 Since the Commission closed MUR 7314, two legal actions have been filed that may bear
2 on the weight to be given to the NRA's internal investigation findings. First, the NRA filed a
3 complaint in the U.S. District Court for the Northern District of Texas alleging, among other
4 things, that its former public relations firms failed to maintain adequate documentation for
5 expenses.⁵⁵ That complaint states that "over the parties' decades-long course of dealing,
6 underlying receipts and other support for [defendants'] expenses were not transmitted to the
7 NRA . . . but, rather, were supposedly maintained at [defendants'] offices."⁵⁶ The NRA asserts
8 that it has "only recently discovered that for years no one kept or maintained" the required
9 documents, even though the NRA continued to reimburse defendants' expenses.⁵⁷ Although the
10 suit may raise questions about the NRA's internal controls in vendor invoicing, there is no
11 indication in the NRA's complaint that the defendants in that suit had a role in receiving
12 contributions or donations for the NRA, or that the NRA was deficient in keeping records of
13 contributions or donations it received.

14 The second action was filed by the Attorney General of the State of New York against the
15 National Rifle Association of America, Inc., and four individual defendants who are or were
16 NRA officers and employees.⁵⁸ The complaint in that action alleges, in part, that the individual
17 defendants "routinely circumvented [the NRA's] internal controls; condoned or partook in
18 expenditures that were an inappropriate and wasteful use of charitable assets; and concealed or

⁵⁵ First Am. Complaint at 11-12, *Nat'l Rifle Ass'n. of Am. v. Ackerman McQueen, et al.*, 3:19-cv-02074 (N.D. Tex. Oct. 25, 2019).

⁵⁶ *Id.* at 11.

⁵⁷ *Id.* at 12 (emphasis removed).

⁵⁸ Verified Complaint 6-7, *N.Y. v. Nat'l Rifle Ass'n of Am., Inc., et al.*, No. 451625/2020 (N.Y. Sup. Ct. Aug. 6, 2020) ("NYAG Complaint").

1 misreported relevant information, rendering the NRA's annual reports filed with the Attorney
2 General materially false and misleading."⁵⁹ One of those defendants, Wilson J. Phillips, Jr., was
3 the NRA's treasurer and chief financial officer, and in that role submitted an affidavit in MUR
4 7314 attesting to the results of the NRA's internal investigation.⁶⁰ The New York Attorney
5 General alleges that Phillips "failed as Treasurer to adhere to internal financial controls and
6 misused NRA assets to enrich himself and other NRA officers and directors."⁶¹ The complaint
7 does not allege, however, that any such violations specifically related to the NRA's process for
8 receiving or attributing contributions, and it alleges no violations of campaign finance laws.⁶²

9 **III. LEGAL ANALYSIS**

10 **A. Relevant Law**

11 The Act and Commission regulations prohibit any foreign national from directly or
12 indirectly making a contribution or donation of money or other thing of value, or an expenditure,
13 independent expenditure, or disbursement, in connection with a federal, state, or local election.⁶³

⁵⁹ *Id.* at 4-5.

⁶⁰ *Id.* at 8; NRA Resp., Ex. A, MUR 7314.

⁶¹ NYAG Complaint at 52. For example, the Complaint alleges that Phillips failed to make timely disclosures of his conflicts of interest, did not obtain proper approval for a post-employment consulting agreement he signed with the NRA, and that, during his tenure, the NRA's finance staff reported "being frequently directed to process payments in contravention of NRA policy." *Id.* at 52-57. It also alleges that Phillips aided another defendant, NRA Executive Vice President Wayne LaPierre, in "retain[ing] vendors and contractors without appropriate oversight of contract performance, expenses, or payments." *Id.* at 71.

⁶² The Attorney General of the District of Columbia filed a separate complaint against the National Rifle Association of America, Inc., and the NRA Foundation, Inc., on August 6, 2020, the same day on which the NYAG Complaint was filed. Complaint for Equitable and Injunctive Relief for Violations of the Nonprofit Corporation Act and Common Law, *D.C. v. NRA Foundation, et al.*, 2020 CA 003454 B (D.C. Super. Ct. Aug. 6, 2020). The D.C. suit alleges that the Foundation "allow[ed] its funds to be diverted from charitable purposes and wasted to prop up the NRA in impermissible ways." *Id.* ¶ 2. We have not included further analysis of this case because it focuses on the internal controls of the NRA Foundation, an entity which is not a respondent in this matter and was not alleged to have been involved in the conduct described by the Complaint.

⁶³ 52 U.S.C. § 30121(a); 11 C.F.R. § 110.20(b), (c), (e), (f). Courts have consistently upheld the provisions of the Act prohibiting foreign national contributions on the ground that the government has a clear, compelling interest in limiting the influence of foreigners over the activities and processes that are integral to democratic self-government, which include making political contributions and express-advocacy expenditures. *See Bluman v. FEC*,

1 The Act's definition of "foreign national" includes an individual who is not a citizen or national
2 of the United States and who is not lawfully admitted for permanent residence, as well as a
3 "foreign principal" as defined at 22 U.S.C. § 611(b), which, in turn, includes a "government of a
4 foreign country."⁶⁴

5 No person shall knowingly solicit, accept, or receive a prohibited foreign national
6 contribution or donation.⁶⁵ The term "knowingly" is defined as having "actual knowledge" that
7 the source is a foreign national, or being aware of "facts that would lead a reasonable person to
8 conclude that there is a substantial probability that" or "facts that would lead a reasonable person
9 to inquire whether" the source is a foreign national.⁶⁶

10 Commission regulations provide that no person shall "knowingly provide substantial
11 assistance" in the solicitation, making, acceptance, or receipt of a prohibited foreign national
12 contribution or donation, or the making of a prohibited foreign national expenditure, independent
13 expenditure, or disbursement.⁶⁷

800 F. Supp. 2d 281, 288-89 (D.D.C. 2011), *aff'd* 132 S. Ct. 1087 (2012); *United States v. Singh*, 924 F.3d 1030, 1040-44 (9th Cir. 2019).

⁶⁴ 52 U.S.C. § 30121(b); 22 U.S.C. § 611(b)(1); *see also* 11 C.F.R. § 110.20(a)(3).

⁶⁵ 52 U.S.C. § 30121(a)(2); 11 C.F.R. § 110.20(g).

⁶⁶ 11 C.F.R. § 110.20(a)(4); *see also id.* § 110.20(a)(5) (providing that "pertinent facts" include, but are not limited to, the use of a foreign passport for identification purposes, use of a foreign address, and use of a check or other written instrument drawn on a foreign bank or by a wire transfer from a foreign bank).

⁶⁷ *Id.* § 110.20(h). The Commission has explained that substantial assistance "means active involvement in the solicitation, making, receipt or acceptance of a foreign national contribution or donation with an intent to facilitate successful completion of the transaction." *Assisting Foreign National Contributions or Donations*, 67 Fed. Reg. 66928, 66945 (Nov. 19, 2002). Moreover, substantial assistance "covers, but is not limited to, those persons who act as conduits or intermediaries for foreign national contributions or donations." *Id.* at 66946.

1 **B. The Commission Should Dismiss This Matter Because There Is Insufficient**
2 **Information to Support a Reasonable Inference that Respondents Violated**
3 **the Foreign National Prohibition**

4 In MUR 7314, the record included a January 2018 *McClatchy* article reporting that the
5 FBI was examining whether Russian funds were illegally funneled to the NRA to help Trump
6 during the 2016 election and circumstantial evidence about Butina and Torshin's motive to
7 influence the 2016 election and access NRA members, but no specific information indicating
8 Russian funding of the NRA.⁶⁸ The Complaint in the instant matter adds no new information
9 suggesting efforts to funnel Russian money to or through the NRA, nor does it present
10 information indicating that those funds were later received or used by DJTFP or Donald J.
11 Trump. The only source it cites is the Special Counsel's Report, but the publicly available
12 version of that document does not appear to mention the alleged scheme or even reference the
13 NRA.⁶⁹

14 Additional information that has come available since the Commission closed MUR 7314,
15 specifically the Erickson plea agreement, the two Senate Finance Committee staff reports, and
16 the court filings regarding the NRA's financial activities, also does not support a conclusion that
17 the complained-of scheme existed. The Erickson plea indicates a payment *from* Erickson to
18 "M.B." but includes no indication that money moved from Butina or other Russian nationals *to*
19 Erickson, the NRA, or ultimately Donald J. Trump or DJTFP.⁷⁰ Similarly, both Senate Finance
20 staff reports discuss evidence of \$6,000 in payments *from* the NRA to an entity associated with

⁶⁸ FGCR at 17-18, MUR 7314.

⁶⁹ See Special Counsel's Rpt. (Vol. 1); Compl. ¶ 1.

⁷⁰ Factual Basis Statement at 2, *United States v. Paul Erickson*, 4:19-cr-40015 (D.S.D. Nov. 18, 2019).

1 Butina to reimburse expenses for an NRA trip, but neither report discusses evidence of payments
2 from Butina or another Russian national *to* the NRA, or ultimately to Trump or DJTFP.⁷¹

3 The Senate Finance minority staff report (and, to a lesser extent, the majority staff report)
4 also details information about contacts among prominent Russian nationals, NRA officials, and
5 political figures considered in MUR 7314, such as the December 2015 Moscow trip, and the
6 interaction between Butina, Torshin, and Donald Trump, Jr. But neither Senate Finance staff
7 report indicates that any of those contacts concerned payments from Russian nationals to the
8 NRA or otherwise corroborates the *McClatchy* article's reporting on the existence of an FBI
9 investigation. For example, the Senate Finance minority staff report describes in detail how
10 Butina and Erickson lobbied Brownell — NRA president-elect — to join the Moscow trip; but it
11 does not suggest that Brownell or any other trip participants were approached about accepting
12 Russian contributions, or that they sought to transfer contributions to DJTFP.⁷² Finally, the
13 NRA's complaint in the Northern District of Texas against its former public relations firms
14 focuses on payments the NRA made *to* its vendors and does not appear to implicate the NRA's
15 recordkeeping for funds that it received. The New York Attorney General's complaint against
16 the NRA appears to allege broader financial mismanagement within the NRA, arguably casting
17 some doubt on the extent to which the Commission should rely on the representations about the
18 NRA's financial activity submitted in connection with MUR 7314, but, even so, the complaint
19 does not include allegations of campaign finance violations and does not directly appear to
20 implicate the NRA's ability to accurately account for contributions it received.

⁷¹ Senate Finance Majority Report at 6-7; Senate Finance Minority Report at 22-24.

⁷² Senate Minority Report at 25-30.

1 In conclusion, the newly available information, even considered alongside the record
2 before the Commission in MUR 7314, does not support a reasonable inference that Russian
3 funds were funneled to the NRA or through the NRA and ultimately to Donald J. Trump and
4 DJTFP. Accordingly, there is not an adequate basis from this information to conclude that
5 Respondents violated the foreign national prohibition, as alleged, and we therefore recommend
6 that the Commission dismiss the allegations that the NRA Respondents, Donald J. Trump, and
7 DJTFP violated 52 U.S.C. § 30121(a) and 11 C.F.R. § 110.20(g); and dismiss the allegation that
8 the NRA Respondents violated 11 C.F.R. § 110.20(h).⁷³

9 **IV. RECOMMENDATIONS**

- 10 1. Dismiss the allegation that Donald J. Trump and Donald J. Trump for President
11 and Bradley T. Crate in his official capacity as treasurer, violated 52 U.S.C.
12 § 30121(a) and 11 C.F.R. § 110.20(g) by knowingly soliciting, accepting, or
13 receiving a prohibited foreign national contribution or donation in connection
14 with an election;
- 15 2. Dismiss the allegation that the National Rifle Association Institute for Legislative
16 Action and the National Rifle Association Political Victory Fund and Robert G.
17 Owens in his official capacity as treasurer violated 52 U.S.C. § 30121(a) and
18 11 C.F.R. § 110.20(g) by knowingly soliciting, accepting, or receiving a
19 prohibited foreign national contribution or donation in connection with an
20 election;
- 21 3. Dismiss the allegation that the National Rifle Association Institute for Legislative
22 Action and the National Rifle Association Political Victory Fund and Robert G.
23 Owens in his official capacity as treasurer violated 11 C.F.R. § 110.20(h) by
24 knowingly providing substantial assistance in the making or receipt of a
25 prohibited foreign national contribution or donation;

⁷³ See Factual & Legal Analysis at 5, MUR 7119 (Donald J. Trump, *et al.*) (no reason to believe on coordination allegations when news articles indicated an individual was associated with the Donald Trump campaign, but the campaign denied an official affiliation and nothing in the available record undermined that assertion) (“F&LA”); F&LA at 8-9, MUR 6276 (Weiser, *et al.*) (no reason to believe donors knowingly and willfully evaded contribution limits when allegation was based on a single anonymous source in an article and respondents submitted sworn denials); F&LA at 7, MUR 6246 (Brennan, *et al.*) (finding no reason to believe when complaint lacked specific information supporting the allegations and respondents submitted sworn denials and the results of an internal investigation).

- 1 4. Approve the attached Factual and Legal Analysis;
- 2 5. Approve the appropriate letters; and
- 3 6. Close the file.

4 Lisa J. Stevenson
5 Acting General Counsel

6
7
8 09/25/20
9 Date

BY: Charles Kitcher
Charles Kitcher
Acting Associate General Counsel for Enforcement

10
11
12 Claudio Pavia
13 Claudio J. Pavia
14 Acting Assistant General Counsel

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16
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18 Laura Conley
19 Laura Conley
20 Attorney

21
22 Attachment:
23 Factual and Legal Analysis

**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

1
2
3
4 Respondents: National Rifle Association Institute for MUR 7637
5 Legislative Action
6 National Rifle Association Political Victory
7 Fund and Robert G. Owens in his official
8 capacity as treasurer
9 Donald J. Trump
10 Donald J. Trump for President and Bradley
11 T. Crate in his official capacity as treasurer
12

13 **I. INTRODUCTION**

14 This matter was generated by a Complaint filed with the Federal Election Commission by
15 Allen J. Epstein, alleging that \$30 million was “funneled from Russia” to the National Rifle
16 Association of America (“NRA”) and from there to Donald J. Trump for President and Bradley
17 T. Crate in his official capacity as treasurer (“DJTFP”), the authorized committee of 2016
18 presidential candidate Donald J. Trump, in violation of the foreign national prohibition of the
19 Federal Election Campaign Act of 1971, as amended (the “Act”).¹ The NRA Respondents —
20 the NRA Institute for Legislative Action (“NRA-ILA”) and the NRA Political Victory Fund
21 (“NRA-PVF”) — assert that there is no evidence to support the allegations.² They argue that the
22 Commission took no action on similar allegations in a previous matter and should do the same
23 again here.³ DJTFP, in its Response, does not directly address the allegation that DJTFP
24 received and then “used” this \$30 million.⁴

¹ Compl. ¶ 1 (Aug. 16, 2019).

² The National Rifle Association of America is a nonprofit corporation organized under section 501(c)(4) of the Internal Revenue Code, and the NRA-ILA is one of its divisions. The NRA-PVF is a separate segregated fund of the NRA registered as a political committee. First Gen. Counsel’s Rpt. at 4-5, MUR 7314 (NRA, *et al.*) (“FGCR”). Unless otherwise noted, references in this Report to “NRA” encompass all of these entities.

³ NRA Resp. at 1 (Sept. 10, 2019) (referencing MUR 7314).

⁴ Compl. ¶ 1; *see* DJTFP Resp. at 1 (Sept. 16, 2019).

1 Although the Complaint does not specify the Russian source of the funds or how the
2 funds were “funneled” to DJTFP through the NRA, the allegations are similar to those
3 considered by the Commission in MUR 7314 (NRA, *et al.*). In that matter, the complaint alleged
4 that Alexander Torshin, Maria Butina, and Paul Erickson engaged in a scheme to direct Russian
5 funds to the NRA for the purpose of financing its election-related activities, and that Torshin and
6 Butina, both foreign nationals, illegally participated in the NRA’s election-related decision-
7 making.⁵ Although MUR 7314 concerned alleged funneling of Russian money to the NRA “to
8 help Donald Trump win the presidency,” the complaint in MUR 7314 did not allege that DJTFP
9 or Donald J. Trump had an active role in the scheme and did not include them as respondents.
10 The Commission was equally divided as to the resolution of MUR 7314 and voted to close the
11 file.⁶

12 Since the Commission closed MUR 7314, additional potentially relevant sources have
13 become publicly available. These include a federal plea agreement by Paul Erickson, a MUR
14 7314 respondent who was alleged to have participated in the scheme; two separate reports by the
15 minority and majority staff of the United States Senate Committee on Finance discussing
16 contacts between the NRA and Russia; and two court filings relating to the NRA’s internal
17 finances. But none of these sources, or the minimal information submitted by the instant
18 Complaint, when considered alongside the factual record in MUR 7314, indicates that the
19 Respondents may have violated the Act’s foreign national prohibition.

⁵ FGCR at 1-2, MUR 7314.

⁶ Certification ¶¶ 1-3, MUR 7314 (NRA, *et al.*) (July 10, 2019). Specifically, the Commission was equally divided on: whether to dismiss or find reason to believe that Torshin and Butina violated 52 U.S.C. § 30121(a); whether to dismiss or take no action on the allegations that Erickson and Bridges, LLC, violated 11 C.F.R. § 110.20(h); and whether to dismiss or take no action on the allegation that the NRA violated 52 U.S.C. § 30121(a) and 11 C.F.R. § 110.20(g).

1 Accordingly, the Commission dismisses the allegations that the NRA Respondents,
2 Donald J. Trump, and DJTFP violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) by
3 knowingly soliciting, accepting, or receiving a prohibited foreign national contribution; and
4 dismisses the allegation that the NRA Respondents violated 11 C.F.R. § 110.20(h) by knowingly
5 providing substantial assistance in the making or receipt of a foreign national contribution.

6 **II. FACTUAL BACKGROUND**

7 The Complaint in the instant matter alleges that Trump “used money (\$30 million) that
8 was funneled from Russia to the NRA and then to Mr. Trump’s campaign (as per Mueller report
9 Book 1),” apparently citing as supporting evidence the first volume of the Special Counsel’s
10 Report, dealing with Russian interference in the 2016 election.⁷ But the public, redacted version
11 of that report does not appear to reference the NRA.

12 Below, the Commission describes four categories of information considered in MUR
13 7314 — (1) a reported Federal Bureau of Investigation (“FBI”) investigation of a scheme to
14 funnel Russian money to the NRA; (2) records of 2016 election spending by the NRA; (3)
15 alleged contacts between NRA personnel and Russian foreign nationals; and (4) the results of the
16 NRA’s internal investigations in response to alleged funneling of Russian money.⁸ With respect
17 to each category, the Commission identifies what new information, if any, has become publicly
18 available since it closed MUR 7314.

⁷ Compl. ¶ 1; *see also* SPECIAL COUNSEL ROBERT S. MUELLER, III, U.S. DEP’T OF JUSTICE, REPORT ON THE INVESTIGATION INTO RUSSIAN INTERFERENCE IN THE 2016 PRESIDENTIAL ELECTION (Mar. 22, 2019) (“Special Counsel’s Report”).

⁸ FGCR at 4-15, MUR 7314.

1 **A. Reported FBI Investigation**

2 On January 18, 2018, a *McClatchy* news article reported that the “FBI is investigating
3 whether a top Russian banker with ties to the Kremlin illegally funneled money to the National
4 Rifle Association to help Donald Trump win the presidency.”⁹ The article cited two anonymous
5 sources “familiar with the matter” but noted that the “extent to which the FBI has evidence of
6 money flowing from Torshin to the NRA, or of the NRA’s participation in the transfer of funds,
7 could not be learned.”¹⁰ This article was the primary basis for the MUR 7314 complaint.¹¹ No
8 additional information about the reported FBI investigation has become available since
9 MUR 7314 was closed.

10 **B. 2016 Election Spending**

11 During the 2016 election cycle, the NRA, NRA-ILA, and NRA-PVF collectively reported
12 spending \$54.4 million in connection with federal elections, up from \$19.8 million in 2012.¹²
13 The NRA entities spent a combined \$31.2 million in support of Trump and in opposition to his
14 general election opponent, Hillary Clinton.¹³ The \$54.4 million in spending included \$33.3
15 million in independent expenditures by the NRA and NRA-ILA, for which no donors were

⁹ Peter Stone & Greg Gordon, *FBI Investigating Whether Russian Money Went to NRA to Help Trump*, *McCLATCHY*, Jan. 18, 2018 (cited by Compl. at 2 n.5, MUR 7314).

¹⁰ *Id.*

¹¹ *See* FGCR at 17, MUR 7314.

¹² NRA Outside Spending Summary 2012, 2016, *OPENSECRETS.ORG*, [https://www.opensecrets.org/outsidespending/detail.php?cycle=\[2012/2016\]&cmte=National+Rifle+Assn](https://www.opensecrets.org/outsidespending/detail.php?cycle=[2012/2016]&cmte=National+Rifle+Assn) (accessed Dec. 18, 2019) (cited by Compl. at 2 nn.5-6, MUR 7314); FGCR at 5, MUR 7314.

¹³ NRA Outside Spending Targeted Candidates 2016, *OPENSECRETS.ORG*, <https://www.opensecrets.org/outsidespending/recips.php?cmte=National+Rifle+Assn&cycle=2016> (accessed Sept. 24, 2019); FGCR at 5 n.15, MUR 7314.

1 disclosed.¹⁴ In its specification of “\$30 million,” the Complaint in this matter appears to be
2 referencing this \$33.3 million, which the MUR 7314 complaint argued provided the
3 “opportunit[y] to funnel foreign funds” due to a “problematic” lack of disclosure.¹⁵ However,
4 the Complaint in this matter provides no additional detail to substantiate the allegation that the
5 money came from Russia, and the Commission is unaware of other information to substantiate
6 this allegation coming to light since MUR 7314 was closed.¹⁶

7 C. Connections Between the NRA and Russian Foreign Nationals

8 The MUR 7314 factual record included information about various contacts between the
9 NRA and two Russian nationals: (1) Alexander Torshin, who formerly served as a member of
10 the Federation Council of Russia, which is the upper house of the Russian legislature, and as
11 Deputy Governor of Russia’s Central Bank; and (2) Maria Butina, Torshin’s protégé and Russian
12 gun rights activist, who pled guilty in 2018 to violating 18 U.S.C. § 951 by not registering with
13 the Attorney General as an agent of a foreign government operating within the United States.¹⁷
14 For example, Butina and Torshin hosted a trip to Moscow for NRA leaders and top-level donors
15 in 2015.¹⁸ In 2016, Butina and Torshin attended the NRA annual convention and were part of a
16 dinner party that briefly interacted with Donald Trump, Jr.¹⁹ Butina reportedly had a relationship
17 with Paul Erickson, identified as a “conservative operative,” who contacted a Trump campaign

¹⁴ NRA Institute for Legislative Action Outside Spending Summary 2016, OPENSECRETS.ORG, <https://www.open-secrets.org/outsidespending/detail.php?cmte=C90013301&cycle=2016> (accessed Dec. 18, 2019); FGCR at 5-6, MUR 7314.

¹⁵ Compl. at 7-8, MUR 7314; FGCR at 6, MUR 7314; Compl. ¶ 1 (alleging that Trump “used money (\$30 million) that was funneled from Russia”).

¹⁶ See Compl. ¶ 1.

¹⁷ FGCR at 6-11, MUR 7314.

¹⁸ *Id.* at 8.

¹⁹ *Id.* at 8-9.

1 advisor in 2016 about a potential U.S.-Russia dialogue to be launched at an NRA meeting.²⁰ The
 2 filings in Butina’s criminal matter do not mention potential violations of campaign finance law
 3 or refer to a scheme to funnel contributions. However, Butina admitted to taking orders from a
 4 “Russian Official,” and explained that she “laid the groundwork for an unofficial channel of
 5 communication with the next U.S. administration” by attending “Gun Rights Organization”
 6 conferences, because “Guns Rights Organization” had influence on “Political Party #1.”²¹

7 Three supplemental sources relating to Butina, Torshin, and Erickson have become
 8 available since the Commission closed the MUR 7314 file: the plea agreement of Paul Erickson
 9 and the majority and minority staff reports of the United States Senate Committee on Finance
 10 dealing with ties between Russia and the NRA.

11 1. Erickson Plea

12 Erickson was indicted on 11 counts of wire fraud and money laundering on February 5,
 13 2019, and his then-pending case was noted in the MUR 7314 FGCR.²² The indictment alleged
 14 that Erickson used false information to recruit investors for three business ventures, and then
 15 spent their money on his personal expenses.²³ After the MUR 7314 file was closed, Erickson
 16 pled guilty to one count of wire fraud in violation of 18 U.S.C. § 1343 and one count of money

²⁰ *Id.* at 7, 9 (noting that available news reports do not indicate how the campaign responded to this request); Nicholas Fandos, *Operative Offered Trump Campaign ‘Kremlin Connection’ Using NRA Ties*, N.Y. TIMES, Dec. 3, 2017 (cited by Compl. at 3 n.14, MUR 7314); *see also* Redacted Indictment ¶ 2, *United States v. Paul Erickson*, 4:19-cr-40015 (D.S.D. Feb. 5, 2019) (“Erickson Indictment”). Also, in 2019, Butina and Erickson jointly incorporated Bridges, LLC, which the MUR 7314 complaint suggested may have been used to funnel Russian money to the NRA. FGCR at 7-8, MUR 7314.

²¹ Statement of Offense at 1-2, *United States v. Mariia Butina*, 1:18-cr-00218 (D.D.C. Dec. 8, 2018) (factual basis of guilty plea). The documents filed by the United States Attorney for the District of Columbia use an alternate spelling of Maria (Mariia). Butina apparently uses both spellings. FGCR at 10 n.44, MUR 7314.

²² Erickson Indictment; FGCR at 3 n.4, MUR 7314.

²³ *Id.* at 1-2. Erickson’s businesses related to residential real-estate in North Dakota, senior citizen care facilities around the U.S., and wheelchair development and production. *Id.* at 2-6.

1 laundering in violation of 18 U.S.C. § 1956(a)(1)(A)(i).²⁴ As part of his plea, Erickson admitted
2 to transferring \$1,000 of the proceeds to a person identified as “M.B.”²⁵ Even assuming this
3 person was Maria Butina, there is no indication in the available court filings that the scheme
4 involved money that originated in Russia. Similarly, there is no suggestion that any money from
5 Erickson’s scheme was transferred to the NRA Respondents or DJTFP. Erickson was not
6 charged with, and did not plead to, any violations of campaign finance law.

7 2. Senate Finance Committee Staff Reports

8 On September 27, 2019, the minority staff of the U.S. Senate Committee on Finance
9 released *The NRA and Russia: How a Tax-Exempt Organization Became a Foreign Asset*; the
10 Committee’s majority staff issued a report to accompany the minority staff report. The minority
11 staff report examines the NRA’s activities surrounding the 2015 Moscow trip, noted above, as
12 well as the various contacts between Torshin, Butina, and the NRA, and the NRA’s role in
13 facilitating access for Butina and Torshin to other U.S. organizations and politicians.²⁶

14 The minority staff report concludes that Butina and Erickson both had a role in arranging
15 the Moscow trip, which included NRA board members David Keene and Pete Brownell, as well
16 as prominent donors and supporters.²⁷ Brownell, then the NRA’s president-elect, was a

²⁴ Plea Agreement at 2, *United States v. Paul Erickson*, 4:19-cr-40015 (D.S.D. Nov. 18, 2019).

²⁵ Factual Basis Statement at 2, *United States v. Paul Erickson*, 4:19-cr-40015 (D.S.D. Nov. 18, 2019). The indictment lists a second payment to M.B., in the amount of \$8,000, which was not included in Erickson’s plea. *Id.* at 1-2; Erickson Indictment at 9.

²⁶ MINORITY STAFF, U.S. SENATE COMM. ON FINANCE, *THE NRA AND RUSSIA: HOW A TAX-EXEMPT ORGANIZATION BECAME A FOREIGN ASSET* (Sept. 27, 2019) (“Senate Finance Minority Report”). *See* FGCR at 8, MUR 7314 (describing Moscow trip).

²⁷ Senate Finance Minority Report at 17 (describing participants); FGCR at 8 & n.34, MUR 7314 (same).

1 substitute for then-President Allan Cors, who had decided not to participate.²⁸ When Cors
2 withdrew, Butina and Erickson lobbied for Brownell to attend and, in so doing, described some
3 of their objectives for the trip. Specifically, Erickson told Brownell he would “benefit greatly”
4 from meetings with Russian arms manufacturers, and that “the NEXT President of the NRA —
5 who would assume office at the same time as the NEXT American President — is a man that the
6 Kremlin (and Russian arms manufacturers) want to meet.”²⁹ Butina told Keene that “many
7 powerful figures in the Kremlin are counting on Torshin to prove his American connections — a
8 last minute important member cancellation could affect his political future.”³⁰ Erickson also
9 informed Brownell that it was “VERY likely” the delegation would be able to meet with
10 “Russia’s leader,” but only if led by the NRA’s president or president-elect.³¹

11 The minority staff report indicates that Brownell agreed to join and the trip went
12 forward.³² NRA participants met with high-level Russian officials and oligarchs, including some
13 on the Treasury Department’s Specially Designated Nationals and Blocked Persons list, but they
14 apparently did not meet with Putin.³³ Butina later sought reimbursement from the NRA for trip

²⁸ Cors reportedly harbored concerns that his presence would be seen as officially sanctioning the trip, although he explained to Torshin that he was withdrawing due to health concerns. Senate Finance Minority Report at 17-19.

²⁹ *Id.* at 28 (quoting Erickson email to Brownell). Erickson told Brownell that “as we discussed over lunch in Iowa, Russia believes that high level contacts with the NRA might be the BEST means of neutral introduction to either the next American President OR to a meaningful re-set in relations with the Congress under a (God forbid) President Clinton.” *Id.* at 28 (quoting Erickson email to Brownell).

³⁰ *Id.* at 26 (quoting email from Keene’s wife to Cors and another NRA employee, apparently copying message from Butina).

³¹ *Id.* at 29 (quoting Erickson email to Brownell). Brownell apparently replied that this would be “a very interesting meeting,” but later told the Finance Committee minority staff that he had no interest in meeting with Vladimir Putin and does not believe there was a plan to do so. *Id.*

³² *Id.* at 30-31.

³³ *Id.* at 31 (listing individuals in Russia who met with the NRA group).

1 expenses she claimed to have covered for NRA donor Jim Liberatore; the NRA reimbursed
2 Butina \$6,000 by payment to Bridges, LLC.³⁴

3 The minority staff report also details efforts by Butina and Torshin to access meetings
4 and events for the NRA and other organizations, and it finds that their access “appears to have
5 grown substantially . . . in the wake of the trip to Moscow in December 2015.”³⁵ For example, in
6 early 2016, Butina was flown to Washington, D.C., on the personal aircraft of an NRA
7 delegation member, Joe Gregory.³⁶ Once there, she and Torshin attended the 2016 National
8 Prayer Breakfast, and Gregory introduced Butina to attendees.³⁷ Prior to the NRA’s 2016 annual
9 convention, Butina sent Brownell a list of proposed Russian invitees, along with a list of events
10 they wished to attend.³⁸ She proposed adding three additional events to the list, including “[t]he
11 possible meeting with Trump’s sons.”³⁹ During the convention, Keene briefly introduced Butina
12 and Torshin to Donald Trump, Jr.⁴⁰ Internal NRA correspondence suggests that the meeting was
13 accidental.⁴¹ The report notes that, following the meeting, an unidentified person within the

³⁴ *Id.* at 22-24 (stating that Brownell’s counsel confirmed that Bridges, LLC, was paid for Liberatore’s expenses); *see also* MAJORITY STAFF, U.S. SENATE COMM. ON FINANCE, MAJORITY STAFF REPORT ACCOMPANYING THE MINORITY STAFF REPORT *THE NRA AND RUSSIA* at 6 (Sept. 27, 2019) (“Senate Finance Majority Report”) (discussing Butina’s request for reimbursement and noting that “the documents do seem to reflect” that “the NRA incurred costs” for the 2015 travel to Russia).

³⁵ Senate Finance Minority Report at 58.

³⁶ *Id.* at 63.

³⁷ *Id.* at 63-64.

³⁸ *Id.* at 66 (requesting invitations for Torshin; Butina; Mr. Pavel Gusev, identified as owner and CEO of media company Moskovsky Komsomoletz; Mr. Vadim Zadorozhny, identified as owner of the Russian Private Vehicle Museum; and Mr. Igor Pisarsky, identified as owner of the company R.I.M. Porter Novelty).

³⁹ *Id.* at 67.

⁴⁰ FGCR at 8-9, MUR; Senate Finance Minority Report at 69-71.

⁴¹ Senate Finance Minority Report at 69-71 (describing how Keene’s dinner party showed up at the wrong restaurant, where Trump Jr. was attending an NRA fundraiser).

1 NRA texted Trump Jr. that he should avoid “a Russian gal” he’d met that weekend and “steer
2 clear if she tries to reach out to you.”⁴²

3 The minority staff report concludes that the NRA’s activities surrounding the Moscow
4 trip and the organization’s relationship with Butina and Torshin may have implications for the
5 NRA’s tax-exempt status and compliance with U.S. sanctions law.⁴³ The majority staff report,
6 based on a review of documents collected by the minority during its investigation, concludes that
7 the NRA complied with sanctions law and, at most, could be penalized for a “minor infraction”
8 of the tax code due to the \$6,000 payment it made to Butina and Erickson’s Bridges, LLC, for
9 the 2015 Russia trip.⁴⁴ Ultimately, however, neither the minority nor majority staff report raises
10 any allegation of campaign finance violations.⁴⁵ Moreover, neither report presents evidence
11 indicating that Butina, Torshin, and Erickson assisted in funneling Russian money to the NRA or
12 to DJTFF.⁴⁶

13 **D. NRA’s Internal Investigation**

14 In response to the MUR 7314 complaint, the NRA submitted the results of an internal
15 review of its financial activity, accompanied by sworn statements from two of its financial

⁴² *Id.* at 71 (apparently interpreting this as a reference to Butina).

⁴³ *Id.* at 74-76.

⁴⁴ Senate Finance Majority Report at 3-8.

⁴⁵ The Minority Report, however, references campaign finance law when recommending options Congress could explore “to reform tax-exempt laws to protect against foreign threats.” Senate Finance Minority Report at 75 (proposing as an option “strengthening campaign finance rules surrounding so-called ‘dark money’ organizations such as politically-active section 501(c)(4) organizations”).

⁴⁶ *See* Senate Finance Majority Report at 9 (concluding that the Minority Report “is littered with salacious, unsubstantiated accusations, and reads as if there were an elaborate conspiracy theory by members of the NRA to aid in the attempted Russian-infiltration of conservative organizations and the Republican Party” but “attempts to paint a picture that does not exist”).

1 officers.⁴⁷ The NRA stated that its review sought to identify any foreign donations above certain
2 threshold amounts in 2015 or 2016 (\$5,000 or more for general donations to the NRA and \$1,000
3 for donations to the NRA-ILA); donations from Butina, Torshin, Erickson, Bridges, LLC, the
4 Central Bank of Russia, or Dmitry Rogozin (another Russian linked with the NRA); donors with
5 a foreign address; and transfers via a foreign check or wire transfer drawn on a foreign bank.⁴⁸
6 The NRA represented that its review identified a single transaction of \$568.10, including tax,
7 which was a purchase of jewelry by Butina at a 2015 NRA fundraiser that constituted a
8 donation.⁴⁹ The NRA stated that it subsequently expanded its internal review to remove dollar
9 thresholds and consider transactions over a longer period of time (beyond the 2016 election).⁵⁰
10 The NRA stated that, in its second review, which was not supported by affidavits, it found an
11 additional \$5 donation from an “individual who may be a U.S. national living in Russia”; \$1,993
12 in membership dues and magazine subscriptions from members associated with Russian
13 addresses; and a \$1,000 payment from Torshin for a lifetime membership.⁵¹ The NRA did not
14 submit an updated review or any affidavits in response to the Complaint in the instant matter.
15 The NRA’s Response states that the Complaint “adds nothing to the record that has not already
16 been considered by the Commission.”⁵²

⁴⁷ FGCR at 13-14, MUR 7314 (explaining results of the NRA’s internal review); *see also* NRA Resp. at 9, MUR 7314 (summarizing results); *id.*, Ex. A (Affidavit of Wilson H. Phillips, Jr., Treasurer and Chief Financial Officer of the NRA) (describing review); *id.*, Ex. B (Affidavit of Mary Rose Adkins, Fiscal Officer of the NRA-ILA) (same).

⁴⁸ FGCR at 13-14, MUR 7314.

⁴⁹ *Id.* (describing NRA representation that, this transaction was a donation to its “general fund”).

⁵⁰ FGCR at 14-15, MUR 7314 (explaining results of the NRA’s expanded review); *see also* NRA First. Supp. Resp. at 1-2, MUR 7314 (describing expanded review).

⁵¹ FGCR at 14-15, MUR 7314; NRA First Supp. Resp. at 1-2, MUR 7314.

⁵² NRA Resp. at 3.

1 Since the Commission closed MUR 7314, two legal actions have been filed that may bear
2 on the weight to be given to the NRA’s internal investigation findings. First, the NRA filed a
3 complaint in the U.S. District Court for the Northern District of Texas alleging, among other
4 things, that its former public relations firms failed to maintain adequate documentation for
5 expenses.⁵³ That complaint states that “over the parties’ decades-long course of dealing,
6 underlying receipts and other support for [defendants’] expenses were not transmitted to the
7 NRA . . . but, rather, were supposedly maintained at [defendants’] offices.”⁵⁴ The NRA asserts
8 that it has “only recently discovered that for years no one kept or maintained” the required
9 documents, even though the NRA continued to reimburse defendants’ expenses.⁵⁵ Although the
10 suit may raise questions about the NRA’s internal controls in vendor invoicing, there is no
11 indication in the NRA’s complaint that the defendants in that suit had a role in receiving
12 contributions or donations for the NRA, or that the NRA was deficient in keeping records of
13 contributions or donations it received.

14 The second action was filed by the Attorney General of the State of New York against the
15 National Rifle Association of America, Inc., and four individual defendants who are or were
16 NRA officers and employees.⁵⁶ The complaint in that action alleges, in part, that the individual
17 defendants “routinely circumvented [the NRA’s] internal controls; condoned or partook in
18 expenditures that were an inappropriate and wasteful use of charitable assets; and concealed or

⁵³ First Am. Complaint at 11-12, *Nat’l Rifle Ass’n. of Am. v. Ackerman McQueen, et al.*, 3:19-cv-02074 (N.D. Tex. Oct. 25, 2019).

⁵⁴ *Id.* at 11.

⁵⁵ *Id.* at 12 (emphasis removed).

⁵⁶ Verified Complaint 6-7, *N.Y. v. Nat’l Rifle Ass’n of Am., Inc., et al.*, No. 451625/2020 (N.Y. Sup. Ct. Aug. 6, 2020) (“NYAG Complaint”).

1 misreported relevant information, rendering the NRA’s annual reports filed with the Attorney
2 General materially false and misleading.”⁵⁷ One of those defendants, Wilson J. Phillips, Jr., was
3 the NRA’s treasurer and chief financial officer, and in that role submitted an affidavit in MUR
4 7314 attesting to the results of the NRA’s internal investigation.⁵⁸ The New York Attorney
5 General alleges that Phillips “failed as Treasurer to adhere to internal financial controls and
6 misused NRA assets to enrich himself and other NRA officers and directors.”⁵⁹ The complaint
7 does not allege, however, that any such violations specifically related to the NRA’s process for
8 receiving or attributing contributions, and it alleges no violations of campaign finance laws.⁶⁰

9 **III. LEGAL ANALYSIS**

10 **A. Relevant Law**

11 The Act and Commission regulations prohibit any foreign national from directly or
12 indirectly making a contribution or donation of money or other thing of value, or an expenditure,
13 independent expenditure, or disbursement, in connection with a federal, state, or local election.⁶¹

⁵⁷ *Id.* at 4-5.

⁵⁸ *Id.* at 8; NRA Resp., Ex. A, MUR 7314.

⁵⁹ NYAG Complaint at 52. For example, the Complaint alleges that Phillips failed to make timely disclosures of his conflicts of interest, did not obtain proper approval for a post-employment consulting agreement he signed with the NRA, and that, during his tenure, the NRA’s finance staff reported “being frequently directed to process payments in contravention of NRA policy.” *Id.* at 52-57. It also alleges that Phillips aided another defendant, NRA Executive Vice President Wayne LaPierre, in “retain[ing] vendors and contractors without appropriate oversight of contract performance, expenses, or payments.” *Id.* at 71.

⁶⁰ The Attorney General of the District of Columbia filed a separate complaint against the National Rifle Association of America, Inc., and the NRA Foundation, Inc., on August 6, 2020, the same day on which the NYAG Complaint was filed. Complaint for Equitable and Injunctive Relief for Violations of the Nonprofit Corporation Act and Common Law, *D.C. v. NRA Foundation, et al.*, 2020 CA 003454 B (D.C. Super. Ct. Aug. 6, 2020). The D.C. suit alleges that the Foundation “allow[ed] its funds to be diverted from charitable purposes and wasted to prop up the NRA in impermissible ways.” *Id.* ¶ 2. The Commission has not included further analysis of this case because it focuses on the internal controls of the NRA Foundation, an entity which is not a respondent in this matter and was not alleged to have been involved in the conduct described by the Complaint.

⁶¹ 52 U.S.C. § 30121(a); 11 C.F.R. § 110.20(b), (c), (e), (f). Courts have consistently upheld the provisions of the Act prohibiting foreign national contributions on the ground that the government has a clear, compelling interest in limiting the influence of foreigners over the activities and processes that are integral to democratic self-

1 The Act’s definition of “foreign national” includes an individual who is not a citizen or national
2 of the United States and who is not lawfully admitted for permanent residence, as well as a
3 “foreign principal” as defined at 22 U.S.C. § 611(b), which, in turn, includes a “government of a
4 foreign country.”⁶²

5 No person shall knowingly solicit, accept, or receive a prohibited foreign national
6 contribution or donation.⁶³ The term “knowingly” is defined as having “actual knowledge” that
7 the source is a foreign national, or being aware of “facts that would lead a reasonable person to
8 conclude that there is a substantial probability that” or “facts that would lead a reasonable person
9 to inquire whether” the source is a foreign national.⁶⁴

10 Commission regulations provide that no person shall “knowingly provide substantial
11 assistance” in the solicitation, making, acceptance, or receipt of a prohibited foreign national
12 contribution or donation, or the making of a prohibited foreign national expenditure, independent
13 expenditure, or disbursement.⁶⁵

government, which include making political contributions and express-advocacy expenditures. *See Bluman v. FEC*, 800 F. Supp. 2d 281, 288-89 (D.D.C. 2011), *aff’d* 132 S. Ct. 1087 (2012); *United States v. Singh*, 924 F.3d 1030, 1040-44 (9th Cir. 2019).

⁶² 52 U.S.C. § 30121(b); 22 U.S.C. § 611(b)(1); *see also* 11 C.F.R. § 110.20(a)(3).

⁶³ 52 U.S.C. § 30121(a)(2); 11 C.F.R. § 110.20(g).

⁶⁴ 11 C.F.R. § 110.20(a)(4); *see also id.* § 110.20(a)(5) (providing that “pertinent facts” include, but are not limited to, the use of a foreign passport for identification purposes, use of a foreign address, and use of a check or other written instrument drawn on a foreign bank or by a wire transfer from a foreign bank).

⁶⁵ *Id.* § 110.20(h). The Commission has explained that substantial assistance “means active involvement in the solicitation, making, receipt or acceptance of a foreign national contribution or donation with an intent to facilitate successful completion of the transaction.” Assisting Foreign National Contributions or Donations, 67 Fed. Reg. 66928, 66945 (Nov. 19, 2002). Moreover, substantial assistance “covers, but is not limited to, those persons who act as conduits or intermediaries for foreign national contributions or donations.” *Id.* at 66946.

1 **B. The Commission Dismisses This Matter Because There Is Insufficient**
2 **Information to Support a Reasonable Inference that Respondents Violated**
3 **the Foreign National Prohibition**

4 In MUR 7314, the record included a January 2018 *McClatchy* article reporting that the
5 FBI was examining whether Russian funds were illegally funneled to the NRA to help Trump
6 during the 2016 election and circumstantial evidence about Butina and Torshin’s motive to
7 influence the 2016 election and access NRA members, but no specific information indicating
8 Russian funding of the NRA.⁶⁶ The Complaint in the instant matter adds no new information
9 suggesting efforts to funnel Russian money to or through the NRA, nor does it present
10 information indicating that those funds were later received or used by DJTFP or Donald J.
11 Trump. The only source it cites is the Special Counsel’s Report, but the publicly available
12 version of that document does not appear to mention the alleged scheme or even reference the
13 NRA.⁶⁷

14 Additional information that has come available since the Commission closed MUR 7314,
15 specifically the Erickson plea agreement, the two Senate Finance Committee staff reports, and
16 the court filings regarding the NRA’s financial activities, also does not support a conclusion that
17 the complained-of scheme existed. The Erickson plea indicates a payment *from* Erickson to
18 “M.B.” but includes no indication that money moved from Butina or other Russian nationals *to*
19 Erickson, the NRA, or ultimately Donald J. Trump or DJTFP.⁶⁸ Similarly, both Senate Finance
20 staff reports discuss evidence of \$6,000 in payments *from* the NRA to an entity associated with

⁶⁶ FGCR at 17-18, MUR 7314.

⁶⁷ See Special Counsel’s Rpt. (Vol. 1); Compl. ¶ 1.

⁶⁸ Factual Basis Statement at 2, *United States v. Paul Erickson*, 4:19-cr-40015 (D.S.D. Nov. 18, 2019).

1 Butina to reimburse expenses for an NRA trip, but neither report discusses evidence of payments
2 from Butina or another Russian national *to* the NRA, or ultimately to Trump or DJTFP.⁶⁹

3 The Senate Finance minority staff report (and, to a lesser extent, the majority staff report)
4 also details information about contacts among prominent Russian nationals, NRA officials, and
5 political figures considered in MUR 7314, such as the December 2015 Moscow trip, and the
6 interaction between Butina, Torshin, and Donald Trump, Jr. But neither Senate Finance staff
7 report indicates that any of those contacts concerned payments from Russian nationals to the
8 NRA or otherwise corroborates the *McClatchy* article's reporting on the existence of an FBI
9 investigation. For example, the Senate Finance minority staff report describes in detail how
10 Butina and Erickson lobbied Brownell — NRA president-elect — to join the Moscow trip; but it
11 does not suggest that Brownell or any other trip participants were approached about accepting
12 Russian contributions, or that they sought to transfer contributions to DJTFP.⁷⁰ Finally, the
13 NRA's complaint in the Northern District of Texas against its former public relations firms
14 focuses on payments the NRA made *to* its vendors and does not appear to implicate the NRA's
15 recordkeeping for funds that it received. The New York Attorney General's complaint against
16 the NRA appears to allege broader financial mismanagement within the NRA, arguably casting
17 some doubt on the extent to which the Commission should rely on the representations about the
18 NRA's financial activity submitted in connection with MUR 7314, but, even so, the complaint
19 does not include allegations of campaign finance violations and does not directly appear to
20 implicate the NRA's ability to accurately account for contributions it received.

⁶⁹ Senate Finance Majority Report at 6-7; Senate Finance Minority Report at 22-24.

⁷⁰ Senate Minority Report at 25-30.

1 In conclusion, the newly available information, even considered alongside the record
2 before the Commission in MUR 7314, does not support a reasonable inference that Russian
3 funds were funneled to the NRA or through the NRA and ultimately to Donald J. Trump and
4 DJTFP. Accordingly, there is not an adequate basis from this information to conclude that
5 Respondents violated the foreign national prohibition, as alleged, and the Commission therefore
6 dismisses the allegations that the National Rifle Association Institute for Legislative Action, the
7 National Rifle Association Political Victory Fund and Robert G. Owens in his official capacity
8 as treasurer, Donald J. Trump, and DJTFP violated 52 U.S.C. § 30121(a) and 11 C.F.R.
9 § 110.20(g); and dismisses the allegation that the National Rifle Association Institute for
10 Legislative Action and the National Rifle Association Political Victory Fund and Robert G.
11 Owens in his official capacity as treasurer violated 11 C.F.R. § 110.20(h).⁷¹

⁷¹ See Factual & Legal Analysis at 5, MUR 7119 (Donald J. Trump, *et al.*) (no reason to believe on coordination allegations when news articles indicated an individual was associated with the Donald Trump campaign, but the campaign denied an official affiliation and nothing in the available record undermined that assertion) (“F&LA”); F&LA at 8-9, MUR 6276 (Weiser, *et al.*) (no reason to believe donors knowingly and willfully evaded contribution limits when allegation was based on a single anonymous source in an article and respondents submitted sworn denials); F&LA at 7, MUR 6246 (Brennan, *et al.*) (finding no reason to believe when complaint lacked specific information supporting the allegations and respondents submitted sworn denials and the results of an internal investigation).