

FEDERAL ELECTION COMMISSION
FIRST GENERAL COUNSEL'S REPORT

MUR: 7652
DATE COMPLAINT FILED: October 16, 2019
DATE OF NOTIFICATIONS: October 17, 2019
LAST RESPONSE RECEIVED: November 24, 2019
DATE ACTIVATED: November 29, 2019

EXPIRATION OF SOL: June 30, 2024
ELECTION CYCLE: 2020

COMPLAINANT: William Perry, Georgia Ethics Watchdogs

RESPONDENTS: Nicole Rodden for Congress, Inc. and Paul Kilgore in his official capacity as treasurer
Nicole Rodden
Robert Rodden

RELEVANT STATUTES AND REGULATIONS:	52 U.S.C. § 30101(26) 52 U.S.C. § 30104(b) 52 U.S.C. § 30116(a)(1)(A) 52 U.S.C. § 30116(f) 11 C.F.R. § 100.33 11 C.F.R. § 104.3(d) 11 C.F.R. § 110.1(b) 11 C.F.R. § 110.10
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INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. INTRODUCTION

35 The complaint in this matter alleges that Robert Rodden, the husband of congressional
36 candidate Nicole Rodden, loaned his wife's campaign committee \$100,000, as reported on the
37 Committee's original July 2019 quarterly report. This loan, it is alleged, constitutes an
38 impermissible excessive contribution by Robert Rodden that the candidate and her authorized
39 committee, Nicole Rodden for Congress, Inc. and Paul Kilgore in his official capacity as

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1 Treasurer (the “Committee”), accepted in violation of the Federal Election Campaign Act of
2 1971, as amended (the “Act”).

3 Respondents deny that Robert Rodden was the source of the loan, and explain that the
4 Committee has amended the July 2019 report to reflect that Nicole Rodden, not her husband,
5 made a \$98,511.71 loan to the Committee. Specifically, the Respondents contend that the
6 candidate transferred to the Committee over \$88,700 of the reported loan from “a personal
7 investment account,” which was held solely in her name.¹ They further contend that the
8 remaining balance of the loan (approximately \$10,000) was derived from funds in a joint account
9 that she held with her husband.²

10 Respondents have not established that the candidate was the primary source of the loan,
11 especially in light of the fact that the Committee originally reported a different source for the
12 loan, and they do not adequately rebut the allegations in the Complaint. Therefore, as set forth
13 below, we recommend that the Commission find reason to believe that: (1) the Committee and
14 Nicole Rodden violated 52 U.S.C. § 30116(f) by accepting an excessive contribution; (2) Robert
15 Rodden violated 52 U.S.C. § 30116(a)(1)(A) and 11 C.F.R. § 110.1(b) by making an excessive
16 contribution to the Committee; and (3) the Committee violated 52 U.S.C. § 30104(b)(3)(E) and
17 11 C.F.R. § 104.3(d) by failing to accurately report the source of the loan. Because additional
18 fact-finding is required to determine the true source of the loan, we recommend that the
19 Commission authorize the use of compulsory process.

¹ Email from Douglas Chalmers, Jr., Chalmers & Adams, LLC, to Jessica Grainger, RAD (Sept. 25, 2019) (“RFAI Resp.”).

² *Id.*

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1 **II. FACTUAL SUMMARY**

2 Respondent Nicole Rodden for Congress, Inc. is the principal campaign committee for
 3 Nicole Rodden's bid for Georgia's Sixth District Congressional seat.³ The Committee's July
 4 2019 Quarterly Report filed on July 15, 2019 ("July 2019 Report"), reflected a \$100,000 loan
 5 made on June 30, 2019, from Robert Rodden, the candidate's husband.⁴ On August 27, 2019,
 6 the Commission's Reports Analysis Division ("RAD") sent the Committee a Request for
 7 Additional Information ("RFAI") questioning the loan as an apparent excessive contribution.⁵

8 The Committee responded to the RFAI on September 25, 2019.⁶ Although it did not
 9 provide an explanation for why the July 2019 Report stated that Mr. Rodden was the source of
 10 the loan, the Committee stated that "[t]his loan was actually made almost entirely from personal
 11 funds of the candidate Nicole Rodden."⁷ Specifically, the Committee asserted in the RFAI
 12 response that, on or about June 18, 2019, the candidate transferred \$88,719.53 from a personal
 13 investment account solely in her name to a joint checking account held with her husband.⁸ As of
 14 June 30, 2019, in addition to the transferred assets, the joint account purportedly had \$19,584.35

³ Rodden suspended her campaign on November 19, 2019. *See* Nicole Rodden for Congress (@Nicole4Congress), TWITTER (Nov. 19, 2019, 6:36 AM), <https://twitter.com/Nicole4Congress/status/1196799401106321410>; Nicole Rodden & Committee Resp. at 2 ("Please note that, for reasons entirely unrelated to the Complaint, Nicole Rodden has suspended her campaign for Congress.").

⁴ Nicole Rodden for Congress, Inc., 2019 July Quarterly Report at 31, 37 (July 15, 2019) ("July 2019 Report").

⁵ Letter from Jessica Grainger, RAD, to Paul Kilgore, Treasurer, Nicole Rodden for Congress, Inc. (Aug. 27, 2019) ("RFAI").

⁶ RFAI Resp.

⁷ *Id.*

⁸ *Id.*

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1 available for a loan to the campaign.⁹ The RFAI response cites to Commission regulations in
 2 support of the position that “one half of that amount, or \$9,792.18, is considered personal assets
 3 of the candidate.”¹⁰ Thus, according to the RFAI response, the candidate had \$98,511.71
 4 (\$88,719.53 + \$9,792.18) available to loan her campaign. Subtracting the amount attributable to
 5 the candidate from the originally reported \$100,000 yielded \$1,488.29 — which the Committee
 6 attributed to Mr. Rodden as a personal contribution within the allowed limits.¹¹ The RFAI
 7 response did not provide any documentation in support of its explanation.¹²

8 The same day that the Committee responded to the RFAI, Nicole Rodden filed her
 9 required Financial Disclosure Statement (“FD Statement”) with the Clerk of the U.S. House of
 10 Representatives.¹³ In the FD Statement, which covers the period from January 1, 2018, through
 11 approximately September 25, 2019,¹⁴ Rodden did not report any personal income for 2019 and

⁹ *Id.*

¹⁰ *Id.* (citing 11 C.F.R. § 100.33(c)).

¹¹ RFAI Resp.

¹² See generally *id.*

¹³ Title I, Ethics in Government Act of 1978, as amended (5 U.S.C. §§ 101-111). The Instruction Guide for completing the FD Statements notes that they “are not intended as net worth statements, nor are they well suited to that purpose.” H. COMM. ON ETHICS, *Instruction Guide, Financial Disclosure Statements and Periodic Transaction Reports, Calendar Year 2019* at 10, <https://ethics.house.gov/sites/ethics.house.gov/files/documents/CY%202019%20Instruction%20Guide%20for%20Financial%20Disclosure%20Statements%20and%20PTRs.pdf> (“*Instruction Guide*”). Nevertheless, the candidate’s FD Statement reports: (a) certain real and personal property held for investment or the production of income; (b) unearned income that exceeds \$200 during the reporting period; and (c) earned income and honoraria. *Instruction Guide* at 14-27, 29-31. The assets and income are reported as the candidate’s, as her spouse’s, or as held jointly. *Id.* at 24-25, 30.

¹⁴ The reporting period for the FD Statement is January 1 of the prior calendar year to within 30 days of the date of filing, September 25, 2019. *Instruction Guide* at 6.

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1 reported only \$8,731 in personal wages in 2018.¹⁵ Other than her retirement accounts,¹⁶ Rodden
 2 also reported just two personal assets: a USAA Subscriber's Account valued between \$1,001
 3 and \$15,000, and Series A Stock in Victory Foods Holdings PBC valued between \$50,001 and
 4 \$100,000.¹⁷

5 On October 1, 2019, the Committee filed an amended quarterly report ("Amended July
 6 2019 Report"), which disclosed that Nicole Rodden made a \$98,511.71 loan from her personal
 7 funds.¹⁸ Two weeks later, the Commission received the complaint in this matter, which relied on
 8 the original July 2019 Report, which identified Mr. Rodden as the source of the loan.¹⁹ In their
 9 responses to the Complaint, Mr. Rodden, the Committee, and the candidate attached and
 10 incorporated the Committee's September 2019 RFAI response but did not provide any additional
 11 factual support.²⁰ Moreover, Respondents did not provide any documentation to support their
 12 descriptions of the financial transactions at issue.²¹

¹⁵ See Nicole Rodden, *Financial Disclosure Report* (Sept. 25, 2019), http://clerk.house.gov/public_disc/financial-pdfs/2019/10029442.pdf ("Rodden FD Statement"). On June 9, 2019, the candidate asked for and received a ninety-day extension until September 25, 2019, to file her FD Statement. Nicole Rodden, *Candidate Financial Disclosure Extension Request Form* (June 9, 2019), http://clerk.house.gov/public_disc/financial-pdfs/2019/9115069.pdf.

¹⁶ The candidate reported three tax-deferred retirement vehicles: one 401(k) valued between \$2,002 and \$30,000; a pension plan valued between \$1,001 and \$15,000; and a second 401(k) valued between \$200,004 and \$400,000. See *Rodden FD Statement*.

¹⁷ *Rodden FD Statement*.

¹⁸ Nicole Rodden for Congress, Inc., Amend. 2019 July Quarterly Report at 30, 32, 38 (Oct. 1, 2019) ("Amended July 2019 Report").

¹⁹ Compl. at 2.

²⁰ See Robert Rodden Resp. at 1 (Nov. 5, 2019). The Commission received the response of the candidate and the Committee on November 25, 2019; it was substantively identical to Mr. Rodden's response. See generally Nicole Rodden & Committee Resp. at 1-2 (Nov. 24, 2019).

²¹ See Robert Rodden Resp. at 1; Nicole Rodden & Committee Resp. at 1-2.

1 **III. LEGAL ANALYSIS**2 **A. Legal Standard**

3 No person shall make contributions to any candidate or authorized committee with
4 respect to any election which, in the aggregate, exceed the Act's contribution limit, set at \$2,800
5 for the 2020 election cycle.²² Moreover, no candidate or political committee shall "knowingly
6 accept" a contribution that exceeds the applicable contribution limit.²³ The term "contribution"
7 includes "any gift, subscription, loan, advance, or deposit of money or anything of value made
8 by any person for the purpose of influencing any election for Federal office."²⁴

9 Federal candidates, however, may make unlimited contributions from their own "personal
10 funds" to their authorized campaign committees.²⁵ The Act and Commission regulations provide
11 that "personal funds" are (a) amounts derived from any asset that, under applicable State law, at
12 the time the individual became a candidate, the candidate had legal right of access to or control
13 over, and with respect to which the candidate had legal and rightful title or an equitable interest;
14 and (b) income received during the current election cycle of the candidate, including a salary and
15 other earned income from bona fide employment; dividends and proceeds from the sale of the
16 candidate's stocks or other investments; and gifts of a personal nature that had been customarily
17 received by the candidate prior to the beginning of the election cycle.²⁶ When a candidate uses
18 "personal funds" derived from assets that are jointly owned with his or her spouse, the amount is

²² 52 U.S.C. § 30116(a)(1)(A); 11 C.F.R. § 110.1(b)(1); Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold, 84 Fed. Reg. 2,504, 2,506 (Feb. 7, 2019).

²³ 52 U.S.C. § 30116(f).

²⁴ *Id.* § 30101(8)(A)(i)

²⁵ 11 C.F.R. § 110.10.

²⁶ 52 U.S.C. § 30101(26); 11 C.F.R. § 100.33(a), (b).

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1 limited to “the candidate’s share of the asset under the instrument of conveyance or ownership”;
 2 if the instrument is silent, the Commission will presume that the candidate holds a one-half
 3 ownership interest.²⁷

4 Although federal candidates may contribute unlimited personal funds to their campaigns,
 5 their family members are subject to the Act’s contribution limits.²⁸ In prior matters, the
 6 Commission has enforced the contribution limits as to family members who made excessive
 7 contributions to the candidate’s campaign.²⁹

8 **B. There Is Reason to Believe that Robert Rodden Made, and the Committee
 9 Accepted, an Excessive Contribution**

10 The facts here indicate that the Committee reported accepting a facially excessive
 11 contribution from Robert Rodden, and the record lacks an adequate explanation for the original
 12 disclosure. The Committee’s original July 2019 Report disclosed that Robert Rodden made a
 13 \$100,000 loan to his wife’s campaign,³⁰ and therefore, reported an excessive contribution.
 14 Respondents filed an amended report only after being notified of the apparent excessive

²⁷ 52 U.S.C. § 30101(26)(C); *see also* 11 C.F.R. § 100.33(c).

²⁸ The United States Supreme Court has upheld the constitutionality of the Act’s contribution limits as applied to members of a candidate’s family. *See Buckley v. Valeo*, 424 U.S. 1, 53 n.59 (“Although the risk of improper influence is somewhat diminished in the case of large contributions from immediate family members, we cannot say that the danger is sufficiently reduced to bar Congress from subjecting family members to the same limitations as nonfamily members.”).

²⁹ *See, e.g.*, Factual & Legal Analysis at 7-9, 10, MUR 6860 (Terri Lynn Land) (“F&LA”) (finding reason to believe a candidate and her spouse violated 52 U.S.C. § 30116(a) and (f) when the spouse wired \$700,000 from his personal account to the candidate’s personal account to cover contributions made to the campaign); F&LA at 6-7, MUR 6417 (Huffman) (finding reason to believe a candidate and his spouse violated 52 U.S.C. § 30116(a) and (f) by transferring \$900,000 from the spouse’s separately-held trust account to the couple’s joint account to be loaned to the candidate’s campaign and transferring \$400,000 from the spouse’s separately held trust account directly to the candidate’s campaign); F&LA at 14-16, MUR 5334 (O’Grady) (finding reason to believe a candidate and her spouse violated 52 U.S.C. § 30116(a) and (f) by making and accepting a \$25,000 loan from the spouse’s separate business account).

³⁰ *See* July 2019 Report.

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1 contribution, and while they aver that most of the funds used to make the loan were derived from
2 the candidate's personal funds,³¹ they have not provided an explanation as to why the loan was
3 initially reported as being from Mr. Rodden. Further, they have not provided any specific
4 information about the nature of the candidate's personal funds, only making a vague statement
5 that the funds came from "a personal investment account."³² In fact, in response to the
6 Complaint, Respondents do not provide any sworn statements but simply attach the Committee's
7 response to an RFAI. In addition, the response provided no documentation to support the factual
8 assertions. For instance, we do not have documents concerning the candidate's apparent transfer
9 on or about June 18, 2019, of \$88,719.53 to the joint checking account nor any documents
10 concerning the amount of funds in the joint checking account when the loan was made to the
11 committee on June 30, 2019. Further, we do not have any information that could explain how
12 the \$100,000 transferred on June 30, 2019, was initially reported as being solely from the
13 candidate's spouse.

14 Although the FD Statement provides a snapshot of the candidate's financials for a
15 discrete period of time, the Statement also raises questions about the source of the funds used to
16 make the loan. First, Nicole Rodden did not report any personal income for 2019 and minimal
17 wages for 2018.³³ Second, neither of the candidate's two personal assets seems like a probable
18 source for the loan from Rodden's "personal investment account." The first asset, the USAA
19 Subscriber's Account, only had at most \$15,000 shortly before the FD Statement was filed, and
20 there is no information indicating that this account was the source of the loan. Although the

³¹ See RFAI Resp.; Robert Rodden Resp.; Nicole Rodden & Committee Resp.

³² See RFAI Resp.; Robert Rodden Resp.; Nicole Rodden & Committee Resp.

³³ See Rodden FD Statement.

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1 candidate arguably had sufficient funds in her second asset – the Victory Foods Holdings stock –
 2 to make the loan, there is no information indicating, and Respondents do not contend, that these
 3 assets were the source of the loan or that the candidate sold this stock to fund the campaign. In
 4 short, it is unclear from the present record how the candidate could obtain sufficient personal
 5 funds to cover the transfer of \$88,719.53 into the couple's joint account.

6 Because the Committee has failed to adequately explain why it initially disclosed Robert
 7 Rodden as the contributor, or provided sufficient support for its contention that Nicole Rodden
 8 was the true source of the loan, we recommend that the Commission find reason to believe that
 9 Robert Rodden made, and the Committee and Nicole Rodden accepted, an excessive contribution
 10 in violation of 52 U.S.C. § 30116(a)(1)(A) and (f).³⁴

11 **C. There Is Reason to Believe that the Committee Failed to Accurately Report
 12 the Source of the Loan**

13 The Act requires committee treasurers to file accurate disclosure reports of receipts and
 14 disbursements.³⁵ An authorized committee's reports must include, *inter alia*, "loans made by or
 15 guaranteed by the candidate" and "all other loans."³⁶ Further, such reports must identify each

³⁴ In two previous matters that also involved alleged excessive contributions made by family members, the Commission found reason to believe and authorized compulsory process to obtain documentation regarding the source of the contributions where there was a question as to the source of the funds in question. Although the Commission did not further pursue the respondents for those allegations after the investigation, the Commission nevertheless determined that additional fact-finding was required at the reason to believe stage. *See* Second Gen. Counsel's Rpt. at 2-3, 6, MUR 4910R (Rush Holt) (finding reason to believe that the candidate's wife made an excessive contribution to the candidate but taking no further action after considering bank records provided by respondents during investigation); Certification, MUR 4910R (Rush Holt) (Feb. 25, 2003); F&LA at 8-9, MUR 6848 (Demos) (Commission found reason to believe and authorized compulsory process to determine whether funds loaned to campaign constituted personal funds of candidate, but was equally divided as to whether there was probable cause to believe that respondents made and accepted excessive contribution); Certification, MUR 6848 (Demos) (June 17, 2016).

³⁵ 52 U.S.C. § 30104(b).

³⁶ *Id.* § 30104(b)(2)(G), (H).

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1 person who makes a loan, together with the identification of any endorser or guarantor of such
 2 loan, and the date and amount of any such loan.³⁷

3 Here, the Committee's Amended July 2019 Report identifies the candidate as the source
 4 of the loan at issue. As discussed previously, because the available information suggests that the
 5 candidate may not be the actual source of the reported loan, the Committee may not have
 6 accurately reported the loan. Accordingly, we recommend that the Commission find reason to
 7 believe that the Committee violated 52 U.S.C. § 30104(b)(3)(E) and 11 C.F.R. § 104.3(d).

8 **IV. PROPOSED INVESTIGATION**

9 The investigation would focus on determining the source of the funds used in the loan.
 10 We therefore intend to ask the candidate and her husband to provide information and
 11 documentation regarding the specifics of the personal investment account that Respondents state
 12 provided the \$88,719.53 and the amount of funds that were in the couple's joint account at the
 13 time the funds were transferred from the personal account.³⁸

14 **V. RECOMMENDATIONS**

15 1. Find reason to believe that Nicole Rodden for Congress, Inc. and Paul Kilgore in his
 16 official capacity as treasurer and Nicole Rodden accepted excessive contributions in
 17 violation of 52 U.S.C. § 30116(f);
 18 2. Find reason to believe that Robert Rodden made an excessive contribution to the
 19 Committee in violation of 52 U.S.C. § 30116(a)(1)(A);

³⁷ *Id.* § 30104(b)(3)(E); 11 C.F.R. § 104.3(d); *see, e.g.*, F&LA at 2, 9, MURs 7001, 7002, 7003, 7009 & 7455 (Cruz) (finding reason to believe that Committee failed to accurately report the source of loan).

³⁸ The Committee's Year-End Report reflects an additional receipt from Nicole Rodden in the amount of \$3,889.09 for the purchase of campaign assets. Nicole Rodden for Congress, Inc., 2019 Year-End Quarterly Report at 15 (Jan. 31, 2020). In light of the couple's representations regarding the ways in which the joint account was allotted to support the candidate's loan to the campaign, we would want to confirm that account statements support the candidate's expenditures in support of the campaign.

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3. Find reason to believe that Nicole Rodden for Congress, Inc. and Paul Kilgore in his official capacity as treasurer failed to report the source of a contribution correctly in violation of 52 U.S.C. § 30104(b)(3)(E) and 11 C.F.R. § 104.3(d);
4. Approve the attached Factual and Legal Analyses;
5. Authorize the use of compulsory process; and
6. Approve the appropriate letters.

Lisa J. Stevenson
Acting General Counsel

Charles Kitcher
Acting Associate General Counsel
For Enforcement

Date: March 27, 2020

Peter J. Blumberg

Peter Blumberg
Acting Deputy Associate General
Counsel for Enforcement

Jin Lee

Jin Lee
Acting Assistant General Counsel
for Enforcement

Consenso Passo

Cerissa Cafasso
Attorney

Attachment

1. Factual and Legal Analysis for Robert Rodden
2. Factual and Legal Analysis for Nicole Rodden and for Nicole Rodden for Congress, Inc. and Paul Kilgore in his official capacity as Treasurer

FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Robert Rodden

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I. INTRODUCTION

8 The complaint in this matter alleges that Robert Rodden (“Respondent”), the husband of
9 congressional candidate Nicole Rodden, loaned his wife’s campaign committee \$100,000, as
10 reported on the Committee’s original July 2019 quarterly report. This loan, it is alleged,
11 constitutes an impermissible excessive contribution by Robert Rodden that the candidate and her
12 authorized committee, Nicole Rodden for Congress, Inc. and Paul Kilgore in his official capacity
13 as Treasurer (the “Committee”), accepted in violation of the Federal Election Campaign Act of
14 1971, as amended (the “Act”).

15 Robert Rodden denies that he was the source of the loans and explains that the
16 Committee has amended the July 2019 report to reflect that Nicole Rodden made a \$98,511.71
17 loan to the Committee. Specifically, the Respondent contends that the candidate transferred to
18 the Committee over \$88,700 of the reported loan from “a personal investment account,” which
19 was held solely in her name.¹ He further contends that the remaining balance of the loan
20 (approximately \$10,000) was derived from funds in a joint account that the candidate held with
21 him.²

22 Respondent has not established that the candidate was the primary source of the loan,
23 especially in light of the fact that the Committee originally reported a different source for the
24 loan, and they do not adequately rebut the allegations in the Complaint. Therefore, as set forth

¹ Email from Douglas Chalmers, Jr., Chalmers & Adams, LLC, to Jessica Grainger, RAD (Sept. 25, 2019) (“RFAI Resp.”).

2 *Id.*

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1 below, the Commission finds reason to believe that Robert Rodden violated 52 U.S.C.
 2 § 30116(a)(1)(A) an 11 C.F.R. § 110.1(b) by making an excessive contribution to the
 3 Committee.

4 **II. FACTUAL SUMMARY**

5 Nicole Rodden for Congress, Inc. is the principal campaign committee for Nicole
 6 Rodden's bid for Georgia's Sixth District Congressional seat.³ The Committee's July 2019
 7 Quarterly Report filed on July 15, 2019 ("July 2019 Report"), reflected a \$100,000 loan made on
 8 June 30, 2019, from Robert Rodden, the candidate's husband.⁴ On August 27, 2019, the
 9 Commission's Reports Analysis Division ("RAD") sent the Committee a Request for Additional
 10 Information ("RFAI") questioning the loan as an apparent excessive contribution.⁵

11 The Committee responded to the RFAI on September 25, 2019.⁶ Although it did not
 12 provide an explanation for why the July 2019 Report stated that Mr. Rodden was the source of
 13 the loan, the Committee stated that "[t]his loan was actually made almost entirely from personal
 14 funds of the candidate Nicole Rodden."⁷ Specifically, the Committee asserted in the RFAI
 15 response that, on or about June 18, 2019, the candidate transferred \$88,719.53 from a personal

³ Rodden suspended her campaign on November 19, 2019. See Nicole Rodden for Congress (@Nicole4Congress), TWITTER (Nov. 19, 2019, 6:36 AM), <https://twitter.com/Nicole4Congress/status/1196799401106321410>; Nicole Rodden & Committee Resp. at 2 ("Please note that, for reasons entirely unrelated to the Complaint, Nicole Rodden has suspended her campaign for Congress.").

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⁶ RFAI Resp.

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1 investment account solely in her name to a joint checking account held with her husband.⁸ As of
 2 June 30, 2019, in addition to the transferred assets, the joint account purportedly had \$19,584.35
 3 available for a loan to the campaign.⁹ The RFAI response cites to Commission regulations in
 4 support of the position that “one half of that amount, or \$9,792.18, is considered personal assets
 5 of the candidate.”¹⁰ Thus, according to the RFAI response, the candidate had \$98,511.71
 6 (\$88,719.53 + \$9,792.18) available to loan her campaign. Subtracting the amount attributable to
 7 the candidate from the originally reported \$100,000 yielded \$1,488.29 — which the Committee
 8 attributed to Mr. Rodden as a personal contribution within the allowed limits.¹¹ The RFAI
 9 response did not provide any documentation in support of its explanation.¹²

10 The same day that the Committee responded to the RFAI, Nicole Rodden filed her
 11 required Financial Disclosure Statement (“FD Statement”) with the Clerk of the U.S. House of
 12 Representatives.¹³ In the FD Statement, which covers the period from January 1, 2018, through

8 *Id.*

9 *Id.*

10 *Id.* (citing 11 C.F.R. § 100.33(c)).

11 RFAI Resp.

12 *See generally id.*

13 Title I, Ethics in Government Act of 1978, as amended (5 U.S.C. §§ 101-111). The Instruction Guide for completing the FD Statements notes that they “are not intended as net worth statements, nor are they well suited to that purpose.” H. COMM. ON ETHICS, *Instruction Guide, Financial Disclosure Statements and Periodic Transaction Reports, Calendar Year 2019* at 10, <https://ethics.house.gov/sites/ethics.house.gov/files/documents/CY%202019%20Instruction%20Guide%20for%20Financial%20Disclosure%20Statements%20and%20PTRs.pdf> (“*Instruction Guide*”). Nevertheless, the candidate’s FD Statement reports: (a) certain real and personal property held for investment or the production of income; (b) unearned income that exceeds \$200 during the reporting period; and (c) earned income and honoraria. *Instruction Guide* at 14-27, 29-31. The assets and income are reported as the candidate’s, as her spouse’s, or as held jointly. *Id.* at 24-25, 30.

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1 approximately September 25, 2019,¹⁴ Nicole Rodden did not report any personal income for
 2 2019 and reported only \$8,731 in personal wages in 2018.¹⁵ Other than her retirement
 3 accounts,¹⁶ Rodden also reported just two personal assets: a USAA Subscriber's Account
 4 valued between \$1,001 and \$15,000, and Series A Stock in Victory Foods Holdings PBC valued
 5 between \$50,001 and \$100,000.¹⁷

6 On October 1, 2019, the Committee filed an amended quarterly report ("Amended July
 7 2019 Report"), which disclosed that Nicole Rodden made a \$98,511.71 loan from her personal
 8 funds.¹⁸ Two weeks later, the Commission received the complaint in this matter, which relied on
 9 the original July 2019 Report, which identified Mr. Rodden as the source of the loan.¹⁹ In his
 10 response to the Complaint, Respondent attached and incorporated the Committee's September
 11 2019 RFAI response but did not provide any additional factual support.²⁰ Moreover, Respondent

¹⁴ The reporting period for the FD Statement is January 1 of the prior calendar year to within 30 days of the date of filing, September 25, 2019. *Instruction Guide* at 6.

¹⁵ See Nicole Rodden, *Financial Disclosure Report* (Sept. 25, 2019), http://clerk.house.gov/public_disc/financial-pdfs/2019/10029442.pdf ("Rodden FD Statement"). On June 9, 2019, the candidate asked for and received a ninety-day extension until September 25, 2019, to file her FD Statement. Nicole Rodden, *Candidate Financial Disclosure Extension Request Form* (June 9, 2019), http://clerk.house.gov/public_disc/financial-pdfs/2019/9115069.pdf.

¹⁶ The candidate reported three tax-deferred retirement vehicles: one 401(k) valued between \$2,002 and \$30,000; a pension plan valued between \$1,001 and \$15,000; and a second 401(k) valued between \$200,004 and \$400,000. See Rodden FD Statement.

¹⁷ Rodden FD Statement.

¹⁸ Nicole Rodden for Congress, Inc., Amend. 2019 July Quarterly Report at 30, 32, 38 (Oct. 1, 2019) ("Amended July 2019 Report").

¹⁹ Compl. at 2.

²⁰ See Robert Rodden Resp. at 1 (Nov. 5, 2019).

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1 did not provide any documentation to support the descriptions of the financial transactions at
 2 issue.²¹

3 **III. LEGAL ANALYSIS**

4 **A. Legal Standard**

5 No person shall make contributions to any candidate or authorized committee with
 6 respect to any election which, in the aggregate, exceed the Act's contribution limit, set at \$2,800
 7 for the 2020 election cycle.²² Moreover, no candidate or political committee shall "knowingly
 8 accept" a contribution that exceeds the applicable contribution limit.²³ The term "contribution"
 9 includes "any gift, subscription, loan, advance, or deposit of money or anything of value made
 10 by any person for the purpose of influencing any election for Federal office."²⁴

11 Federal candidates, however, may make unlimited contributions from their own "personal
 12 funds" to their authorized campaign committees.²⁵ The Act and Commission regulations provide
 13 that "personal funds" are (a) amounts derived from any asset that, under applicable State law, at
 14 the time the individual became a candidate, the candidate had legal right of access to or control
 15 over, and with respect to which the candidate had legal and rightful title or an equitable interest;
 16 and (b) income received during the current election cycle of the candidate, including a salary and
 17 other earned income from bona fide employment; dividends and proceeds from the sale of the
 18 candidate's stocks or other investments; and gifts of a personal nature that had been customarily

²¹ See Robert Rodden Resp. at 1.

²² 52 U.S.C. § 30116(a)(1)(A); 11 C.F.R. § 110.1(b)(1); Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold, 84 Fed. Reg. 2,504, 2,506 (Feb. 7, 2019).

²³ 52 U.S.C. § 30116(f).

²⁴ *Id.* § 30101(8)(A)(i)

²⁵ 11 C.F.R. § 110.10.

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1 received by the candidate prior to the beginning of the election cycle.²⁶ When a candidate uses
2 “personal funds” derived from assets that are jointly owned with his or her spouse, the amount is
3 limited to “the candidate’s share of the asset under the instrument of conveyance or ownership”;
4 if the instrument is silent, the Commission will presume that the candidate holds a one-half
5 ownership interest.²⁷

6 Although federal candidates may contribute unlimited personal funds to their campaigns,
7 their family members are subject to the Act's contribution limits.²⁸ In prior matters, the
8 Commission has enforced the contribution limits as to family members who made excessive
9 contributions to the candidate's campaign.²⁹

B. There Is Reason to Believe that Robert Rodden Made an Excessive Contribution

12 The facts here indicate that the Committee reported accepting a facially excessive
13 contribution from Robert Rodden, and the record lacks an adequate explanation for the original
14 disclosure. The Committee’s original July 2019 Report disclosed that Robert Rodden made a

26 52 U.S.C. § 30101(26); 11 C.F.R. § 100.33(a), (b).

²⁷ 52 U.S.C. § 30101(26)(C); *see also* 11 C.F.R. § 100.33(c).

²⁸ The United States Supreme Court has upheld the constitutionality of the Act's contribution limits as applied to members of a candidate's family. *See Buckley v. Valeo*, 424 U.S. 1, 53 n.59 ("Although the risk of improper influence is somewhat diminished in the case of large contributions from immediate family members, we cannot say that the danger is sufficiently reduced to bar Congress from subjecting family members to the same limitations as nonfamily members.").

²⁹ See, e.g., Factual & Legal Analysis at 7-9, 10, MUR 6860 (Terri Lynn Land) (“F&LA”) (finding reason to believe a candidate and her spouse violated 52 U.S.C. § 30116(a) and (f) when the spouse wired \$700,000 from his personal account to the candidate’s personal account to cover contributions made to the campaign); F&LA at 6-7, MUR 6417 (Huffman) (finding reason to believe a candidate and his spouse violated 52 U.S.C. § 30116(a) and (f) by transferring \$900,000 from the spouse’s separately-held trust account to the couple’s joint account to be loaned to the candidate’s campaign and transferring \$400,000 from the spouse’s separately held trust account directly to the candidate’s campaign); F&LA at 14-16, MUR 5334 (O’Grady) (finding reason to believe a candidate and her spouse violated 52 U.S.C. § 30116(a) and (f) by making and accepting a \$25,000 loan from the spouse’s separate business account).

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1 \$100,000 loan to his wife’s campaign,³⁰ and therefore, reported an excessive contribution. The
 2 Committee filed an amended report only after being notified of the apparent excessive
 3 contribution, and while the Committee claims that most of the funds used to make the loan were
 4 derived from the candidate’s personal funds,³¹ there is no explanation as to why the loan was
 5 initially reported as being from Mr. Rodden. Further, the Committee’s response to the RFAI
 6 does not provide any specific information about the nature of the candidate’s personal funds,
 7 only making a vague statement that the funds came from “a personal investment account.”³² In
 8 fact, in response to the Complaint, Respondent does not provide any sworn statements but simply
 9 attaches the Committee’s response to the RFAI. In addition, the response provided no
 10 documentation to support the factual assertions. For instance, we do not have documents
 11 concerning the candidate’s apparent transfer on or about June 18, 2019, of \$88,719.53 to the
 12 joint checking account nor any documents concerning the amount of funds in the joint checking
 13 account when the loan was made to the committee on June 30, 2019. Further, we do not have
 14 any information that could explain how the \$100,000 transferred on June 30, 2019, was initially
 15 reported as being solely from the Respondent.

16 Although the FD Statement provides a snapshot of the candidate’s financials for a
 17 discrete period of time, the Statement also raises questions about the source of the funds used to
 18 make the loan. First, Nicole Rodden did not report any personal income for 2019 and minimal
 19 wages for 2018.³³ Second, neither of the candidate’s two personal assets seems like a probable

³⁰ See July 2019 Report.

³¹ See RFAI Resp.; Robert Rodden Resp.

³² See RFAI Resp.; Robert Rodden Resp.

³³ See Rodden FD Statement.

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1 source for the loan from her “personal investment account.” The first asset, the USAA
 2 Subscriber’s Account, only had at most \$15,000 shortly before the FD Statement was filed, and
 3 there is no information indicating that this account was the source of the loan. Although the
 4 candidate arguably had sufficient funds in her second asset – the Victory Foods Holdings stock –
 5 to make the loan, there is no information indicating, and Respondent does not contend, that these
 6 assets were the source of the loan or that the candidate sold this stock to fund the campaign. In
 7 short, it is unclear from the present record how the candidate could obtain sufficient personal
 8 funds to cover the transfer of \$88,719.53 into the couple’s joint account.

9 Because there is not an adequate explanation as to why the Committee initially disclosed
 10 Robert Rodden as the contributor or sufficient support for the contention that Nicole Rodden was
 11 the true source of the loan, the Commission finds reason to believe that Robert Rodden made an
 12 excessive contribution in violation of 52 U.S.C. § 30116(f).³⁴

³⁴ In two previous matters that also involved alleged excessive contributions made by family members, the Commission found reason to believe and authorized compulsory process to obtain documentation regarding the source of the contributions where there was a question as to the source of the funds in question. Although the Commission did not further pursue the respondents for those allegations after the investigation, the Commission nevertheless determined that additional fact-finding was required at the reason to believe stage. *See* Second Gen. Counsel’s Rpt. at 2-3, 6, MUR 4910R (Rush Holt) (finding reason to believe that the candidate’s wife made an excessive contribution to the candidate but taking no further action after considering bank records provided by respondents during investigation); Certification, MUR 4910R (Rush Holt) (Feb. 25, 2003); F&LA at 8-9, MUR 6848 (Demos) (Commission found reason to believe and authorized compulsory process to determine whether funds loaned to campaign constituted personal funds of candidate, but was equally divided as to whether there was probable cause to believe that respondents made and accepted excessive contribution); Certification, MUR 6848 (Demos) (June 17, 2016).

FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Nicole Rodden for Congress, Inc.
and Paul Kilgore in his official
capacity as treasurer
Nicole Rodden

MUR 7652

I. INTRODUCTION

11 The complaint in this matter alleges that Robert Rodden, the husband of congressional
12 candidate Nicole Rodden, loaned his wife’s campaign committee \$100,000, as reported on the
13 Committee’s original July 2019 quarterly report. This loan, it is alleged, constitutes an
14 impermissible excessive contribution by Robert Rodden that the candidate and her authorized
15 committee, Nicole Rodden for Congress, Inc. and Paul Kilgore in his official capacity as
16 Treasurer (the “Committee”), accepted in violation of the Federal Election Campaign Act of
17 1971, as amended (the “Act”).

18 Respondents Nicole Rodden and the Committee deny that Robert Rodden was the source
19 of the loan, and explain that the Committee has amended the July 2019 report to reflect that
20 Nicole Rodden, not her husband, made a \$98,511.71 loan to the Committee. Specifically, the
21 Respondents contend that the candidate transferred to the Committee over \$88,700 of the
22 reported loan from “a personal investment account,” which was held solely in her name.¹ They
23 further contend that the remaining balance of the loan (approximately \$10,000) was derived from
24 funds in a joint account that the candidate held with her husband.²

¹ Email from Douglas Chalmers, Jr., Chalmers & Adams, LLC, to Jessica Grainger, RAD (Sept. 25, 2019) (“RFAI Resp.”).

2 *Id.*

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1 Respondents have not established that the candidate was the primary source of the loan,
 2 especially in light of the fact that the Committee originally reported a different source for the
 3 loan, and they do not adequately rebut the allegations in the Complaint. Therefore, as set forth
 4 below, the Commission finds reason to believe that: (1) the Committee and Nicole Rodden
 5 violated 52 U.S.C. § 30116(f) by accepting an excessive contribution; and (2) the Committee
 6 violated 52 U.S.C. § 30104(b)(3)(E) and 11 C.F.R. § 104.3(d) by failing to accurately report the
 7 source of the loan.

8 **II. FACTUAL SUMMARY**

9 Respondent Nicole Rodden for Congress, Inc. is the principal campaign committee for
 10 Nicole Rodden’s bid for Georgia’s Sixth District Congressional seat.³ The Committee’s July
 11 2019 Quarterly Report filed on July 15, 2019 (“July 2019 Report”), reflected a \$100,000 loan
 12 made on June 30, 2019, from Robert Rodden, the candidate’s husband.⁴ On August 27, 2019,
 13 the Commission’s Reports Analysis Division (“RAD”) sent the Committee a Request for
 14 Additional Information (“RFAI”) questioning the loan as an apparent excessive contribution.⁵

15 The Committee responded to the RFAI on September 25, 2019.⁶ Although it did not
 16 provide an explanation for why the July 2019 Report stated that Mr. Rodden was the source of

³ Rodden suspended her campaign on November 19, 2019. *See* Nicole Rodden for Congress (@Nicole4Congress), TWITTER (Nov. 19, 2019, 6:36 AM), <https://twitter.com/Nicole4Congress/status/1196799401106321410>; Nicole Rodden & Committee Resp. at 2 (“Please note that, for reasons entirely unrelated to the Complaint, Nicole Rodden has suspended her campaign for Congress.”).

⁴ Nicole Rodden for Congress, Inc., 2019 July Quarterly Report at 31, 37 (July 15, 2019) (“July 2019 Report”).

⁵ Letter from Jessica Grainger, RAD, to Paul Kilgore, Treasurer, Nicole Rodden for Congress, Inc. (Aug. 27, 2019) (“RFAI”).

⁶ RFAI Resp.

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1 the loan, the Committee stated that “[t]his loan was actually made almost entirely from personal
 2 funds of the candidate Nicole Rodden.”⁷ Specifically, the Committee asserted in the RFAI
 3 response that, on or about June 18, 2019, the candidate transferred \$88,719.53 from a personal
 4 investment account solely in her name to a joint checking account held with her husband.⁸ As of
 5 June 30, 2019, in addition to the transferred assets, the joint account purportedly had \$19,584.35
 6 available for a loan to the campaign.⁹ The RFAI response cites to Commission regulations in
 7 support of the position that “one half of that amount, or \$9,792.18, is considered personal assets
 8 of the candidate.”¹⁰ Thus, according to the RFAI response, the candidate had \$98,511.71
 9 (\$88,719.53 + \$9,792.18) available to loan her campaign. Subtracting the amount attributable to
 10 the candidate from the originally reported \$100,000 yielded \$1,488.29 — which the Committee
 11 attributed to Mr. Rodden as a personal contribution within the allowed limits.¹¹ The RFAI
 12 response did not provide any documentation in support of its explanation.¹²

13 The same day that the Committee responded to the RFAI, Nicole Rodden filed her
 14 required Financial Disclosure Statement (“FD Statement”) with the Clerk of the U.S. House of
 15 Representatives.¹³ In the FD Statement, which covers the period from January 1, 2018, through

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* (citing 11 C.F.R. § 100.33(c)).

¹¹ RFAI Resp.

¹² *See generally id.*

¹³ Title I, Ethics in Government Act of 1978, as amended (5 U.S.C. §§ 101-111). The Instruction Guide for completing the FD Statements notes that they “are not intended as net worth statements, nor are they well suited to that purpose.” H. COMM. ON ETHICS, *Instruction Guide, Financial Disclosure Statements and Periodic Transaction Reports, Calendar Year 2019* at 10,

<https://ethics.house.gov/sites/ethics.house.gov/files/documents/CY%202019%20Instruction%20Guide%20for%20Financial%20Disclosure%20Statements%20and%20PTRs.pdf> (“Instruction Guide”). Nevertheless, the candidate’s

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1 approximately September 25, 2019,¹⁴ Rodden did not report any personal income for 2019 and
 2 reported only \$8,731 in personal wages in 2018.¹⁵ Other than her retirement accounts,¹⁶ Rodden
 3 also reported just two personal assets: a USAA Subscriber's Account valued between \$1,001
 4 and \$15,000, and Series A Stock in Victory Foods Holdings PBC valued between \$50,001 and
 5 \$100,000.¹⁷

6 On October 1, 2019, the Committee filed an amended quarterly report ("Amended July
 7 2019 Report"), which disclosed that Nicole Rodden made a \$98,511.71 loan from her personal
 8 funds.¹⁸ Two weeks later, the Commission received the complaint in this matter, which relied on
 9 the original July 2019 Report, which identified Mr. Rodden as the source of the loan.¹⁹ In their
 10 response to the Complaint, Respondents attached and incorporated the Committee's September
 11 2019 RFAI response but did not provide any additional factual support.²⁰ Moreover,

FD Statement reports: (a) certain real and personal property held for investment or the production of income; (b) unearned income that exceeds \$200 during the reporting period; and (c) earned income and honoraria. *Instruction Guide* at 14-27, 29-31. The assets and income are reported as the candidate's, as her spouse's, or as held jointly. *Id.* at 24-25, 30.

¹⁴ The reporting period for the FD Statement is January 1 of the prior calendar year to within 30 days of the date of filing, September 25, 2019. *Instruction Guide* at 6.

¹⁵ See Nicole Rodden, *Financial Disclosure Report* (Sept. 25, 2019), http://clerk.house.gov/public_disc/financial-pdfs/2019/10029442.pdf ("Rodden FD Statement"). On June 9, 2019, the candidate asked for and received a ninety-day extension until September 25, 2019, to file her FD Statement. Nicole Rodden, *Candidate Financial Disclosure Extension Request Form* (June 9, 2019), http://clerk.house.gov/public_disc/financial-pdfs/2019/9115069.pdf.

¹⁶ The candidate reported three tax-deferred retirement vehicles: one 401(k) valued between \$2,002 and \$30,000; a pension plan valued between \$1,001 and \$15,000; and a second 401(k) valued between \$200,004 and \$400,000. See *Rodden FD Statement*.

¹⁷ *Rodden FD Statement*.

¹⁸ Nicole Rodden for Congress, Inc., Amend. 2019 July Quarterly Report at 30, 32, 38 (Oct. 1, 2019) ("Amended July 2019 Report").

¹⁹ Compl. at 2.

²⁰ See Nicole Rodden & Committee Resp. at 1-2 (Nov. 24, 2019).

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1 Respondents did not provide any documentation to support their descriptions of the financial
 2 transactions at issue.²¹

3 **III. LEGAL ANALYSIS**

4 **A. Legal Standard**

5 No person shall make contributions to any candidate or authorized committee with
 6 respect to any election which, in the aggregate, exceed the Act's contribution limit, set at \$2,800
 7 for the 2020 election cycle.²² Moreover, no candidate or political committee shall "knowingly
 8 accept" a contribution that exceeds the applicable contribution limit.²³ The term "contribution"
 9 includes "any gift, subscription, loan, advance, or deposit of money or anything of value made
 10 by any person for the purpose of influencing any election for Federal office."²⁴

11 Federal candidates, however, may make unlimited contributions from their own "personal
 12 funds" to their authorized campaign committees.²⁵ The Act and Commission regulations provide
 13 that "personal funds" are (a) amounts derived from any asset that, under applicable State law, at
 14 the time the individual became a candidate, the candidate had legal right of access to or control
 15 over, and with respect to which the candidate had legal and rightful title or an equitable interest;
 16 and (b) income received during the current election cycle of the candidate, including a salary and
 17 other earned income from bona fide employment; dividends and proceeds from the sale of the
 18 candidate's stocks or other investments; and gifts of a personal nature that had been customarily

²¹ See Nicole Rodden & Committee Resp. at 1-2.

²² 52 U.S.C. § 30116(a)(1)(A); 11 C.F.R. § 110.1(b)(1); Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold, 84 Fed. Reg. 2,504, 2,506 (Feb. 7, 2019).

²³ 52 U.S.C. § 30116(f).

²⁴ *Id.* § 30101(8)(A)(i)

²⁵ 11 C.F.R. § 110.10.

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1 received by the candidate prior to the beginning of the election cycle.²⁶ When a candidate uses
2 “personal funds” derived from assets that are jointly owned with his or her spouse, the amount is
3 limited to “the candidate’s share of the asset under the instrument of conveyance or ownership”;
4 if the instrument is silent, the Commission will presume that the candidate holds a one-half
5 ownership interest.²⁷

6 Although federal candidates may contribute unlimited personal funds to their campaigns,
7 their family members are subject to the Act's contribution limits.²⁸ In prior matters, the
8 Commission has enforced the contribution limits as to family members who made excessive
9 contributions to the candidate's campaign.²⁹

B. There Is Reason to Believe that the Committee Accepted an Excessive Contribution

12 The facts here indicate that the Committee reported accepting a facially excessive
13 contribution from Robert Rodden, and the record lacks an adequate explanation for the original
14 disclosure. The Committee’s original July 2019 Report disclosed that Robert Rodden made a

26 52 U.S.C. § 30101(26); 11 C.F.R. § 100.33(a), (b).

²⁷ 52 U.S.C. § 30101(26)(C); *see also* 11 C.F.R. § 100.33(c).

²⁸ The United States Supreme Court has upheld the constitutionality of the Act's contribution limits as applied to members of a candidate's family. *See Buckley v. Valeo*, 424 U.S. 1, 53 n.59 ("Although the risk of improper influence is somewhat diminished in the case of large contributions from immediate family members, we cannot say that the danger is sufficiently reduced to bar Congress from subjecting family members to the same limitations as nonfamily members.").

²⁹ See, e.g., Factual & Legal Analysis at 7-9, 10, MUR 6860 (Terri Lynn Land) (“F&LA”) (finding reason to believe a candidate and her spouse violated 52 U.S.C. § 30116(a) and (f) when the spouse wired \$700,000 from his personal account to the candidate’s personal account to cover contributions made to the campaign); F&LA at 6-7, MUR 6417 (Huffman) (finding reason to believe a candidate and his spouse violated 52 U.S.C. § 30116(a) and (f) by transferring \$900,000 from the spouse’s separately-held trust account to the couple’s joint account to be loaned to the candidate’s campaign and transferring \$400,000 from the spouse’s separately held trust account directly to the candidate’s campaign); F&LA at 14-16, MUR 5334 (O’Grady) (finding reason to believe a candidate and her spouse violated 52 U.S.C. § 30116(a) and (f) by making and accepting a \$25,000 loan from the spouse’s separate business account).

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1 \$100,000 loan to his wife’s campaign,³⁰ and therefore, reported an excessive contribution.

2 Respondents filed an amended report only after being notified of the apparent excessive

3 contribution, and while they aver that most of the funds used to make the loan were derived from

4 the candidate’s personal funds,³¹ they have not provided an explanation as to why the loan was

5 initially reported as being from Mr. Rodden. Further, they have not provided any specific

6 information about the nature of the candidate’s personal funds, only making a vague statement

7 that the funds came from “a personal investment account.”³² In fact, in response to the

8 Complaint, Respondents do not provide any sworn statements but simply attach the Committee’s

9 response to an RFAI. In addition, the response provided no documentation to support the factual

10 assertions. For instance, we do not have documents concerning the candidate’s apparent transfer

11 on or about June 18, 2019, of \$88,719.53 to the joint checking account nor any documents

12 concerning the amount of funds in the joint checking account when the loan was made to the

13 committee on June 30, 2019. Further, we do not have any information that could explain how

14 the \$100,000 transferred on June 30, 2019, was initially reported as being solely from the

15 candidate’s spouse.

16 Although the FD Statement provides a snapshot of the candidate’s financials for a

17 discrete period of time, the Statement also raises questions about the source of the funds used to

18 make the loan. First, Nicole Rodden did not report any personal income for 2019 and minimal

19 wages for 2018.³³ Second, neither of the candidate’s two personal assets seems like a probable

³⁰ See July 2019 Report.

³¹ See RFAI Resp.; Nicole Rodden & Committee Resp.

³² See RFAI Resp.; Nicole Rodden & Committee Resp.

³³ See Rodden FD Statement.

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1 source for the loan from Rodden's "personal investment account." The first asset, the USAA
 2 Subscriber's Account, only had at most \$15,000 shortly before the FD Statement was filed, and
 3 there is no information indicating that this account was the source of the loan. Although the
 4 candidate arguably had sufficient funds in her second asset – the Victory Foods Holdings stock –
 5 to make the loan, there is no information indicating, and Respondents do not contend, that these
 6 assets were the source of the loan or that the candidate sold this stock to fund the campaign. In
 7 short, it is unclear from the present record how the candidate could obtain sufficient personal
 8 funds to cover the transfer of \$88,719.53 into the couple's joint account.

9 Because the Committee has failed to adequately explain why it initially disclosed Robert
 10 Rodden as the contributor, or provided sufficient support for its contention that Nicole Rodden
 11 was the true source of the loan, the Commission finds reason to believe that the Committee and
 12 Nicole Rodden accepted an excessive contribution in violation of 52 U.S.C. § 30116(a)(1)(A).³⁴

13 **C. There Is Reason to Believe that the Committee Failed to Accurately Report
 14 the Source of the Loan**

15 The Act requires committee treasurers to file accurate disclosure reports of receipts and
 16 disbursements.³⁵ An authorized committee's reports must include, *inter alia*, "loans made by or

³⁴ In two previous matters that also involved alleged excessive contributions made by family members, the Commission found reason to believe and authorized compulsory process to obtain documentation regarding the source of the contributions where there was a question as to the source of the funds in question. Although the Commission did not further pursue the respondents for those allegations after the investigation, the Commission nevertheless determined that additional fact-finding was required at the reason to believe stage. *See* Second Gen. Counsel's Rpt. at 2-3, 6, MUR 4910R (Rush Holt) (finding reason to believe that the candidate's wife made an excessive contribution to the candidate but taking no further action after considering bank records provided by respondents during investigation); Certification, MUR 4910R (Rush Holt) (Feb. 25, 2003); F&LA at 8-9, MUR 6848 (Demos) (Commission found reason to believe and authorized compulsory process to determine whether funds loaned to campaign constituted personal funds of candidate, but was equally divided as to whether there was probable cause to believe that respondents made and accepted excessive contribution); Certification, MUR 6848 (Demos) (June 17, 2016).

³⁵ 52 U.S.C. § 30104(b).

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1 guaranteed by the candidate" and "all other loans."³⁶ Further, such reports must identify each
2 person who makes a loan, together with the identification of any endorser or guarantor of such
3 loan, and the date and amount of any such loan.³⁷

4 Here, the Committee's Amended July 2019 Report identifies the candidate as the source
5 of the loan at issue. As discussed previously, because the available information suggests that the
6 candidate may not be the actual source of the reported loan, the Committee may not have
7 accurately reported the loan. Accordingly, the Commission finds reason to believe that the
8 Committee violated 52 U.S.C. § 30104(b)(3)(E) and 11 C.F.R. § 104.3(d).

³⁶ *Id.* § 30104(b)(2)(G), (H).

³⁷ *Id.* § 30104(b)(3)(E); 11 C.F.R. § 104.3(d); *see, e.g.*, F&LA at 2, 9, MURs 7001, 7002, 7003, 7009 & 7455 (Cruz) (finding reason to believe that Committee failed to accurately report the source of loan).