

**FEDERAL ELECTION COMMISSION****FIRST GENERAL COUNSEL'S REPORT****MUR 7690**

COMPLAINT FILED: Feb. 3, 2020

NOTIFICATION DATE: Feb. 5, 2020

LAST RESPONSE: July 16, 2020

ACTIVATION DATE: Aug. 25, 2020

STATUTE OF LIMITATIONS: Dec. 31, 2024

ELECTION CYCLE: 2020

**COMPLAINANT:**

Campaign Legal Center

**RESPONDENTS:**Society of Young Women Scientists and  
Engineers LLC

Jennifer Lam

1820 PAC and Thomas C. Datwyler in his  
official capacity as treasurer**RELEVANT AUTHORITIES:**

52 U.S.C. §§ 30102, 30103, and 30104

52 U.S.C. § 30122

**INTERNAL REPORTS CHECKED:**

Disclosure Reports

**FEDERAL AGENCIES CHECKED:**

None

**I. INTRODUCTION**

The Complaint in this matter alleges that the Society of Young Women Scientists and Engineers LLC ("SYWSE") was not the true source of a \$150,000 contribution it purportedly made to 1820 PAC and Thomas C. Datwyler in his official capacity as treasurer ("1820 PAC"), an independent expenditure-only political committee ("IEOPC"), but instead that Jennifer Lam, SYWSE's registered agent and manager, and other unknown persons made the contribution in the name of another using SYWSE as a conduit, in violation of 52 U.S.C. § 30122 of the Federal Election Campaign Act of 1971, as amended (the "Act"). The Complaint further alleges that SYWSE violated 52 U.S.C. § 30122 by knowingly permitting its name to be used to effect the contribution. In addition, the Complaint alleges that SYWSE met the legal requirements of a

1 “political committee,” but failed to register, organize, and report as such, in violation of  
2 52 U.S.C. §§ 30102, 30103, and 30104.

3 Respondents deny the allegations. SYWSE and Lam filed a Response asserting that  
4 SYWSE made a legally permitted contribution to 1820 PAC, although it was formed for the  
5 purpose of promoting the education of women in the fields of science and engineering. 1820  
6 PAC also filed a Response denying any wrongdoing and contending that the committee did not  
7 know or have reason to suspect that the contribution was made in the name of another.

8 As explained below, the overall record in this matter supports a reasonable inference that  
9 SYWSE was not the true source of the 1820 PAC contribution: The close temporal proximity  
10 between SYWSE’s formation and the contribution, the lack of any information regarding the  
11 provenance of the funds used to make the contribution or evidence of activity preceding the  
12 contribution, and the size and timing of the contribution relative to SYWSE’s subsequent  
13 philanthropic activity, when viewed together, indicate that SYWSE may have been used as a  
14 conduit by Lam, or other persons, to make a contribution without publicly disclosing their  
15 identities. Accordingly, we recommend that the Commission find reason to believe that  
16 SYWSE, Lam, and unknown persons violated 52 U.S.C. § 30122.

17 We also recommend that the Commission take no action at this time as to the allegation  
18 that SYWSE violated 52 U.S.C. §§ 30102, 30103, and 30104; and take no action at this time as  
19 to the allegation that 1820 PAC violated 52 U.S.C. § 30122, pending an investigation.

## II. FACTUAL BACKGROUND

1820 PAC is an independent expenditure-only political committee (“IEOPC”) that registered with the Commission on March 1, 2019; its treasurer is Thomas C. Datwyler.<sup>1</sup> During the 2020 election cycle, 1820 PAC received \$10,117,550 in contributions and made \$8,027,507 in independent expenditures, all supporting federal candidate Susan Collins’s reelection campaign for the U.S. Senate in Maine or opposing her general-election opponent, Sara Gideon.<sup>2</sup> 1820 PAC has not made independent expenditures supporting or opposing any other candidates and has stated that its “purpose is to make independent expenditures in the 2020 Maine US Senate election.”<sup>3</sup>

The Society of Young Women Scientists and Engineers LLC is a limited liability company (“LLC”) that was organized in Hawaii on November 26, 2019, and its registered agent and manager is Jennifer Lam.<sup>4</sup> Exactly five weeks after its formation, SYWSE reportedly made a \$150,000 contribution to 1820 PAC.<sup>5</sup> This appears to be the only contribution to a federal

<sup>1</sup> 1820 PAC, Statement of Org. at 1 (Mar. 1, 2019). 1820 PAC’s name appears to be a reference to the year that Maine joined the Union as the 23rd State — March 15, 1820.

<sup>2</sup> 1820 PAC, Receipts, [https://www.fec.gov/data/receipts/?committee\\_id=C00698126&two\\_year\\_transaction\\_period=2020&data\\_type=processed](https://www.fec.gov/data/receipts/?committee_id=C00698126&two_year_transaction_period=2020&data_type=processed); 1820 PAC, Independent Expenditures, [https://www.fec.gov/data/independent-expenditures/?committee\\_id=C00698126&two\\_year\\_transaction\\_period=2020&cycle=2020&data\\_type=processed&is\\_notice=true](https://www.fec.gov/data/independent-expenditures/?committee_id=C00698126&two_year_transaction_period=2020&cycle=2020&data_type=processed&is_notice=true).

<sup>3</sup> Resp. of 1820 PAC, Ex. A ¶ 1 (Mar. 25, 2020) (“Datwyler Aff.”); *see* 1820 PAC, Spending, 2019–2020, <https://www.fec.gov/data/committee/C00698126/?tab=spending>.

<sup>4</sup> SYWSE, Articles of Org. for Limited Liability Company, HI Dep’t of Commerce and Consumer Affairs (Nov. 26, 2019), <https://hbe.ehawaii.gov/documents/business.html?fileNumber=228680C5&view=documents> (attached to Complaint); *see* Resp. of SYWSE and Lam at 1 (July 16, 2020) (“SYWSE Resp.”).

<sup>5</sup> 1820 PAC, 2019 Year-End Report at 9 (Jan. 31, 2020). The disclosure report incorrectly provides the name of the purported contributor as “Society of Young Woman Scientist and Engineers LLC” — using the singular “Woman” instead of the plural “Women.” The report’s use of the singular “Scientist” was correct at the time of the contribution; SYWSE later changed it to “Scientists.” 1820 PAC has received no other contributions from Hawaii. 1820 PAC, All Receipts, [https://www.fec.gov/data/receipts/?data\\_type=processed&committee\\_id=C00698126&two](https://www.fec.gov/data/receipts/?data_type=processed&committee_id=C00698126&two)

1 candidate or committee that SYWSE has made.<sup>6</sup> According to 1820 PAC, the \$150,000  
 2 contribution was “drawn on the bank account” of SYWSE.<sup>7</sup>

3 At the time the Complaint was filed, there was no publicly available information  
 4 indicating that SYWSE had ever engaged in any activity — commercial or nonprofit — besides  
 5 making the contribution at issue, and it appeared to have no website, social media pages, or  
 6 information in any business or nonprofit database.<sup>8</sup> SYWSE also did not then appear in any  
 7 articles or other publicly available media, including videos, blogs, or other online reports, aside  
 8 from news articles discussing the Complaint filed in this matter. Although SYWSE's name

---

\_year\_transaction\_period=2020&min\_date=01%2F01%2F2019&max\_date=12%2F31%2F2020&contributor\_state=HI.

<sup>6</sup> See All Receipts, Contributor Name Search, [https://www.fec.gov/data/receipts/?data\\_type=processed&contributor\\_name=Society+of+Young+Woman+Scientist+and+Engineers+&contributor\\_name=Society+of+Young+Women+Scientist+and+Engineers+&two\\_year\\_transaction\\_period=2020&min\\_date=01%2F01%2F2019&max\\_date=12%2F31%2F2020](https://www.fec.gov/data/receipts/?data_type=processed&contributor_name=Society+of+Young+Woman+Scientist+and+Engineers+&contributor_name=Society+of+Young+Women+Scientist+and+Engineers+&two_year_transaction_period=2020&min_date=01%2F01%2F2019&max_date=12%2F31%2F2020).

<sup>7</sup> Datwyler Aff. ¶ 2. The mailing address that 1820 PAC reported for SYWSE was “335 Merchant Street, Unit 2394, Honolulu, HI 96804,” which appears to refer to a post office box. See SYWSE Articles of Org., *supra* note 4 (providing a mailing address of “P.O. Box 2394, Honolulu, HI 96804 USA”). SYWSE filed a name change on March 24, 2020, to correct an initial misspelling — its name originally omitted the “s” at the end of “Scientists” — and updated its address to “307 Kamani St. Unit A, Honolulu, Hawaii 96813, United States,” which appears to be the street address of a co-working space rental company, “BoxJelly.” See SYWSE Name Change (Mar. 24, 2020) and SYWSE Address Change (Mar. 24, 2020), <https://hbe.hawaii.gov/documents/business.html?fileNumber=228680C5&view=documents>.

<sup>8</sup> Between April 10, 2020 and May 26, 2020, we attempted to obtain publicly available information regarding SYWSE through searches on Google, prominent social media platforms including Facebook, Twitter, YouTube, and Instagram, and organizational information databases including the Better Business Bureau and Guidestar, all of which produced no results — aside from news reports discussing the filing of the Complaint in this matter.

bears a close resemblance to those of several longstanding nonprofit organizations,<sup>9</sup> SYWSE is not registered with the Internal Revenue Service as a tax-exempt nonprofit organization.<sup>10</sup>

The Complaint alleges that one or more unknown persons who created and operated SYWSE, including its registered agent and manager, Lam, made the \$150,000 contribution to 1820 PAC in the name of SYWSE, and that SYWSE knowingly permitted the contribution to be made in its name.<sup>11</sup> Based on the information then available, the Complaint contended that there is no publicly available information about SYWSE, and that it “does not appear to have a website or otherwise discernable public footprint.”<sup>12</sup> As such, the Complaint alleges that SYWSE did not have sufficient means to make a \$150,000 contribution to 1820 PAC “without an infusion of funds provided to [it] for that purpose.”<sup>13</sup>

The Complaint also alleges that SYWSE met the legal standard for political committee status under the Act and thus violated the law by failing to register, organize, and report as a political committee.<sup>14</sup> The Complaint asserts that SYWSE met the two-prong test for political

---

<sup>9</sup> SYWSE's name bears a close resemblance to the names of several nonprofit organizations, each of which is registered as such with the IRS. *See* Society for Young Women Scientists, <https://www.sywscientist.org/>; Society of Women Engineers, <https://swe.org/>; Association for Women in Science, <https://www.awis.org/>. There is no indication that any of these organizations are connected to SYWSE or the allegations in this matter.

<sup>10</sup> A search of the IRS Tax Exempt Organization Database produced no results for “Society of Young Woman Scientist and Engineers,” or any variations thereof. *See* IRS Tax Exempt Organization Search, <https://www.irs.gov/charities-non-profits/tax-exempt-organization-search>.

<sup>11</sup> Compl. ¶ 2 (Feb. 3, 2020).

<sup>12</sup> *Id.* ¶ 7. The Complainant represents that it was unable find any result for SYWSE on Google, any pages for SYWSE on Facebook, Instagram, and Twitter, or any record of SYWSE on the databases for the Better Business Bureau, Bloomberg's company profile search, EDGAR, the U.S. Patent and Trademark Office's Trademark Electronic Search System, Hawaii's Professional and Vocational Licensing Database, and Hawaii's Chamber of Commerce. *Id.* ¶ 7(a)–(c).

<sup>13</sup> *Id.* ¶ 12.

<sup>14</sup> *Id.* ¶ 3.

1 committee status because it received aggregate contributions of \$1,000 or more in a calendar  
 2 year and had the “major purpose” of “influencing the ‘nomination or election of a candidate.’”<sup>15</sup>

3 SYWSE and Lam filed a Response asserting that SYWSE was formed “to promote the  
 4 ability of young women in the United States to pursue undergraduate studies in the so-called  
 5 STEM (Science, Technology, Engineering and Mathematics) curricula by providing scholarships  
 6 to such young women,” and that SYWSE “has partnered with a large number of colleges and  
 7 universities across the United States to create and administer [its] STEM scholarship program.”<sup>16</sup>

8 While the Response acknowledges that SYWSE “made a one-time voluntary contribution to the  
 9 1820 PAC,”<sup>17</sup> it states that the LLC “was not created for the purpose of making this

10 contribution.”<sup>18</sup> On that basis, the Response denies the Complaint’s allegation that the

11 contribution was made in the name of another, and further argues that based on the 2010

---

<sup>15</sup> *Id.* ¶¶ 19, 22.

<sup>16</sup> SYWSE Resp. at 1. SYWSE and Lam were initially notified of the Complaint at the address reported on 1820 PAC’s disclosure report. Letter from Jeff S. Jordan, Asst. Gen. Counsel, FEC, to Jennifer Lam, Manager, SYWSE (Feb. 5, 2020); Letter from Jeff S. Jordan, Asst. Gen. Counsel, FEC, to Jennifer Lam (Feb. 5, 2020). When neither responded, and after SYWSE registered an updated address with the Hawaii Department of Commerce and Consumer Affairs on March 24, 2020, SYWSE and Lam were sent second notification letters at the updated address. Letter from Jeff S. Jordan, Asst. Gen. Counsel, FEC, to Jennifer Lam, Manager, SYWSE (May 13, 2020); Letter from Jeff S. Jordan, Asst. Gen. Counsel, FEC, to Jennifer Lam (May 13, 2020). SYWSE and Lam then designated counsel in this matter and filed a letter claiming that SYWSE did not receive the initial notification letters and received the second notification letters on June 18, 2020. *See* Letter from William B. Canfield to Jeff S. Jordan, Asst. Gen. Counsel, FEC (June 22, 2020).

<sup>17</sup> SYWSE Resp. at 1.

<sup>18</sup> *Id.* The Response also cites to SYWSE’s website for more information. *See* “About: Society of Young Women Scientists and Engineers,” [www.sywse.org/about](http://www.sywse.org/about) (viewed Aug. 27, 2020) (“In March 2019, the U.S. House Science Committee held a hearing to stress the critical importance of enrolling more talent in the science and technology fields to ensure America’s future STEM workforce. The Committee also highlighted the importance of drawing more women and minorities into STEM fields. The Society of Young Women Scientists and Engineers (SYWSE), a privately funded organization based in Hawaii, was founded to respond to that challenge.”).

decisions in *Citizens United v. FEC* and *SpeechNow.org v. FEC*, SYWSE was legally entitled to make, and 1820 PAC to accept, the contribution.<sup>19</sup>

The Response cites SYWSE's website as a source for additional information regarding the LLC.<sup>20</sup> The website's domain name — [www.sywse.org](http://www.sywse.org) — was registered on April 22, 2020, and the website appears to have last been updated on June 5, 2020.<sup>21</sup> The timing of this website's establishment appears to be consistent with the Complaint's assertion that SYWSE did not have a website when it purported to make the 1820 PAC contribution on December 31, 2019, or, for that matter, on February 3, 2020, when the Complaint in this matter was filed and multiple news articles reported on its filing.<sup>22</sup> Moreover, between April 10, 2020, and May 26, 2020, as part of this Office's initial review of the allegations in the Complaint, we sought publicly available information about SYWSE online — including, *e.g.*, a website, social media page, press release, or news article unrelated to the Complaint in this matter — and found no such information, suggesting that despite registering the domain, SYWSE may not have had an operational website until on or after May 26, 2020. ■

<sup>19</sup> SYWSE Resp. at 2 (citing *Citizens United v. FEC*, 558 U.S. 310 (2010); *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010) (en banc)).

<sup>20</sup> *Id.* at 1.

<sup>21</sup> "Domain Name Registration Data Lookup: [sywse.org](http://sywse.org)," Internet Corporation for Assigned Names and Numbers (ICANN), <https://lookup.icann.org/lookup> (viewed Nov. 20, 2020); "Latest News," Society of Young Women Scientists and Engineers, [sywse.org](http://sywse.org) (viewed Nov. 20, 2020).

<sup>22</sup> None of the reports discussing the Complaint included any reference to SYWSE's website or provided any additional information regarding the LLC. *See, e.g.*, Lachlan Markay, *Susan Collins' Campaign Is Being Helped by a Mysterious Hawaii Company*, THE DAILY BEAST (Feb. 3, 2020), <https://www.thedailybeast.com/susan-collins-campaign-is-being-helped-by-a-mysterious-hawaii-company>; Igor Derysh, *FEC Complaint: Mysterious Hawaii Company Illegally Funneled \$150K to Pro-Susan Collins Super PAC*, SALON (Feb. 4, 2020), <https://www.salon.com/2020/02/04/fec-complaint-mysterious-hawaii-company-illegally-funneled-150k-to-pro-susan-collins-super-pac/>.

1           The SYWSE website's homepage includes a "News Release" dated May 18, 2020, which  
 2   states: "We are proud to announce that SYWSE has awarded another university grant to help  
 3   promote greater female representation for women studying in STEM fields."<sup>24</sup> That item links to  
 4   a "Latest News" page where the top item is dated June 5, 2020, and states "SYWSE announces  
 5   today that it has awarded a grant of \$110,000 in 2020 to nine U.S. universities to boost female  
 6   representation in fields of science and engineering."<sup>25</sup> The same page also states that "[a]n  
 7   additional \$65,000 in scholarship awards will be announced shortly to six other universities  
 8   raising a total of \$175,000 for 2020 in grant awards."<sup>26</sup> As of the date of this report, the website  
 9   has not announced any additional scholarships. The website provides scant information  
 10   regarding the source of SYWSE's funding, however, offering on its "About" page only that it is  
 11   "a privately funded organization based in Hawaii."<sup>27</sup>

12           1820 PAC also filed a Response, along with an affidavit from its treasurer,<sup>28</sup> asserting  
 13   that the committee had no reason to suspect that the \$150,000 contribution may have been made

<sup>24</sup> "Home," [sywse.org](http://sywse.org) (viewed Aug. 27, 2020).

<sup>25</sup> "Latest News," [sywse.org/news](http://sywse.org/news) (viewed Aug. 27, 2020). The "Latest News" page also includes six other stories from other websites, dated between November 8, 2019, and May 1, 2020, none of which appear to have any connection to SYWSE or its purported activities.

<sup>26</sup> *Id.* One of the schools listed on the "Latest News" page, the University of Michigan, published a document from a meeting of its Board of Regents that lists SYWSE as the source of a gift "[r]anging from \$5,000 and \$9,999," although the exact amount of the gift is not specified. "Report on Voluntary Support" at 30, University of Michigan Regents' Communication (May 31, 2020), <https://regents.umich.edu/files/meetings/06-20/2020-06-III-1.pdf>.

<sup>27</sup> "About," [www.sywse.org/about](http://www.sywse.org/about) (viewed Aug. 28, 2020).

<sup>28</sup> On March 25, 2020, the date that 1820 PAC submitted its response, the committee represented that it had been unable to notarize its treasurer's affidavit due to the "executive orders of the federal and state governments, and the closures of most businesses" in response to the COVID-19 pandemic, but that it intended to provide a notarized affidavit. *See* Email from Cleta Mitchell, Counsel for 1820 PAC, to Office of Complaints Examination and Legal



in the name of another.<sup>29</sup> As such, 1820 PAC argues that its acceptance of the contribution did not violate the Act.<sup>30</sup>

### III. LEGAL ANALYSIS

#### A. Contributions in the Name of Another

##### 1. No Person May Furnish Another Person with Funds for the Purpose of Making a Political Contribution

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

- (i) Giving money or anything of value, all or part of which was provided to the contributor by another person (the true contributor) without disclosing the source of money or the thing of value to the recipient candidate or committee at the time the contribution is made; or

---

Administration, FEC, attached as cover to 1820 PAC's Resp. (Mar. 25, 2020). As of the date of this report, we have not received any update.

<sup>29</sup> 1820 PAC Resp. at 6.

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

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

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

<sup>33</sup> 52 U.S.C. § 30122.

- (ii) Making a contribution of money or anything of value and attributing as the source of the money or thing of value another person when in fact the contributor is the source.<sup>34</sup>

The requirement that a contribution be made in the name of its true source promotes Congress's objective of ensuring the complete and accurate disclosure by candidates and committees of the political contributions they receive.<sup>35</sup> Courts therefore have uniformly rejected the assertion that "only the person who actually transmits funds . . . makes the contribution,"<sup>36</sup> recognizing that "it is implausible that Congress, in seeking to promote transparency, would have understood the relevant contributor to be [an] intermediary who merely transmitted the campaign gift."<sup>37</sup> Consequently, both the Act and the Commission's implementing regulations provide that a person who furnishes another with funds for the purpose of contributing to a candidate or committee "makes" the resulting contribution.<sup>38</sup> This is true whether funds are advanced to another person to make a contribution in that person's name or promised as reimbursement of a solicited contribution.<sup>39</sup>

---

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

<sup>35</sup> *United States v. O'Donnell*, 608 F.3d 546, 553 (9th Cir. 2010) ("[T]he congressional purpose behind [Section 30122] — to ensure the *complete and accurate disclosure* of the contributors who finance federal elections — is plain.") (emphasis added); *Mariani v. United States*, 212 F.3d 761, 775 (3d Cir. 2000) (rejecting constitutional challenge to Section 30122 in light of compelling governmental interest in disclosure).

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

<sup>37</sup> *O'Donnell*, 608 F.3d at 554; *see also Citizens United v. FEC*, 558 U.S. 310, 371 (2010) ("The First Amendment protects political speech; and disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages."); *Doe v. Reed*, 561 U.S. 186, 199 (2010) ("Public disclosure also promotes transparency and accountability in the electoral process to an extent other measures cannot.").

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

<sup>39</sup> *O'Donnell*, 608 F.3d at 555. Moreover, the "key issue . . . is the *source* of the funds" and, therefore, the legal status of the funds when conveyed from a conduit to the ultimate recipient is "irrelevant to a determination of

1           Because the concern of the law is the true source from which a contribution to a  
 2 candidate or committee originates, regardless of the mechanism by which the funds are  
 3 transmitted, we examine the structure of the transaction itself and the arrangement between the  
 4 parties to determine who in fact “made” a given contribution. Accordingly, in previous LLC  
 5 conduit contribution cases, we have recommended finding reason to believe where the overall  
 6 record — including, *e.g.*, the temporal gap between the LLC’s formation and the contributions in  
 7 question, information suggesting that the LLC may not have had the means to make a  
 8 contribution without funds provided to it for that purpose, and other facts suggesting that the  
 9 LLC may have been used to conceal the true contributor’s identity — supported an inference that  
 10 the LLC was likely not the true source of the contribution.<sup>40</sup> By contrast, we have not  
 11 recommended finding reason to believe in cases where the overall record — including, *e.g.*,

---

who ‘made’ the contribution for the purposes of [Section 30122].” *United States v. Whittemore*, 776 F.3d 1074, 1080 (9th Cir. 2015) (holding that defendant’s “unconditional gifts” to relatives and employees, along with suggestion they contribute the funds to a specific political committee, violated Section 30122 because the source of the funds remained the individual who provided them to the putative contributors).

<sup>40</sup> *E.g.*, First Gen. Counsel’s Report at 10–11, MURs 7031 and 7034 (Children of Israel, LLC, *et al.*) (recommending finding reason to believe an LLC made conduit contributions where the LLC’s manager acknowledged that it was created for the specific purpose of making donations to charities, nonprofit organizations, and political committees, and over a nine-month period, the LLC made contributions totaling \$884,000 to multiple political committees); First Gen. Counsel’s Report at 8–9, MURs 7014, 7017, 7019, and 7090 (DE First Holdings, *et al.*) (recommending finding reason to believe a statutory trust made a \$1 million conduit contribution, where the contribution was made the day after the trust was created and the trust’s owner later acknowledged that he was the source of the funds); *id.* at 12–13 (recommending finding reason to believe an LLC made two \$250,000 conduit contributions sixteen days and twenty-two days, respectively, after its formation, where the LLC vaguely offered only that it was formed as a “for-profit LLC”); First Gen. Counsel’s Report at 9–10, MUR 6995 (Right to Rise, *et al.*) (recommending finding reason to believe an LLC made conduit contributions where it ambiguously stated that it had plans to do business in the future and purported to make a \$100,000 contribution two weeks after being formed); First Gen. Counsel’s Report at 10–11, MUR 6969 (MMWP12, LLC, *et al.*) (recommending finding reason to believe an LLC made a conduit contribution when the contribution was made the day after the LLC was formed, after a meeting between the LLC’s owner and a representative of the recipient committee); First Gen. Counsel’s Report at 9–10, MUR 6968 (Tread Standard, LLC, *et al.*) (recommending finding reason to believe an LLC made a \$150,000 conduit contribution to an IEOPC approximately seven weeks after it was formed, on a record that also linked that LLC to a company whose executive officers made contributions in their own names to the IEOPC and a multicandidate PAC that supported the same candidate).

evidence that the LLC engaged in commercial activity and may have had the ability to make the contributions at issue with its own income, a sworn statement attesting that the LLC had not received outside funds to make the contribution, and information suggesting that the LLC was not being used to circumvent the Act's disclosure requirements — supported an inference that the LLC in question was not used as a conduit but was, instead, the true contributor.<sup>41</sup>

Although the Commission split evenly on our recommendations in each of these prior matters regarding alleged violations of 52 U.S.C. § 30122,<sup>42</sup> Commissioners separately expressed agreement that Section 30122's prohibition of contributions in the name of another applies to LLCs — a conclusion approved of by a panel of the U.S. Court of Appeals for the D.C. Circuit<sup>43</sup> — such that an LLC cannot be used as a “straw donor” to transmit the funds of another, but must instead be the true source of any contribution it purports to make.<sup>44</sup>

---

<sup>41</sup> *E.g.*, First Gen. Counsel's Report at 9–10, MURs 7013 and 7015 (IGX, LLC, *et al.*) (recommending finding no reason to believe an LLC made a \$500,000 conduit contribution five months after its formation on a record that included, *inter alia*, press articles that indicated that the LLC was a legitimate business that had already funded several film projects, one with a named director and another shown at the SXSW film festival); First Gen. Counsel's Report at 8–9, MUR 6930 (Prakazrel “Pras” Michel, *et al.*) (recommending finding no reason to believe a single member LLC made conduit contributions on evidence including, *inter alia*, a declaration from the LLC's single member). *But see* Indictment, *United States v. Prakazrel Michel et al.*, Case No. 1:19-CR-148 (D.D.C. May 3, 2019) (charging LLC's single member, Michel, with four counts, including the making of false records in a federal investigation, in relation to alleged conduit contributions and Michel's declaration filed with the Commission).

<sup>42</sup> Certification, MURs 7031 and 7034 (Children of Israel, LLC, *et al.*) (June 7, 2018); Certification, MURs 7014, 7017, 7019, and 7090 (DE First Holdings, *et al.*) (May 10, 2018); Certification, MURs 7013 and 7015 (IGX, LLC, *et al.*) (Apr. 10, 2018); Certification, MUR 6995 (Right to Rise, *et al.*) (May 8, 2018); Certification, MUR 6969 (MMWP12, LLC, *et al.*) (June 7, 2018); Certification, MUR 6968 (Tread Standard, LLC, *et al.*) (May 8, 2018); Certification, MUR 6930 (Prakazrel “Pras” Michel, *et al.*) (Feb. 23, 2016).

<sup>43</sup> *Campaign Legal Ctr. v. FEC*, 952 F.3d 352, 357 (D.C. Cir. 2020) (“The controlling commissioners did not dispute that [52 U.S.C.] § 30122 applies to closely held corporations and corporate LLCs. We agree that it does.”). The Court held that the Commission's dismissal of several matters involving alleged LLC conduits — based on the rationale that the matters presented an issue of first impression, which raised fair notice and due process concerns — was reasonable. *Id.* at 357–58.

<sup>44</sup> *See* Statement of Reasons of Chairman Matthew S. Petersen and Comm'rs Caroline C. Hunter and Lee E. Goodman at 8, 12, MUR 6485 (W Spann LLC, *et al.*), MURs 6487/6488 (F8, LLC, *et al.*), MUR 6711 (Specialty Investment Group, Inc., *et al.*), MUR 6930 (SPM Holdings LLC, *et al.*) (Apr. 1, 2016) (“Upon thorough

2. The Available Information Supports an Inference that SYWSE was Not the True Source of the \$150,000 Contribution to 1820 PAC, and that Lam and Other Unknown Persons Made the Contribution

Based on the available information, there is a reasonable basis to infer that SYWSE was not the true source of the \$150,000 contribution to 1820 PAC, and thus that the contribution was made in the name of another. Consistent with the analyses of similar prior matters, when an LLC purports to make a political contribution in close temporal proximity to its formation date, without evidence of activity suggesting it had the means to make the contribution absent an infusion of funds provided for that purpose, the circumstances raise a reasonable inference that the LLC was used as a conduit to hide the identity of the true contributor. In determining whether such an inference is warranted, we consider the overall record, including specific factors such as the relative amount of the contribution, the LLC's known activities prior to making the contribution, and whether any other information suggests an attempt to circumvent the Act's disclosure requirements.

---

consideration of these matters, we conclude that closely held corporations and corporate LLCs may be considered straw donors in violation of section 30122 under certain circumstances. . . . [W]hen enforcing section 30122 in similar future matters, the proper focus will be on whether funds were intentionally funneled through a closely held corporation or corporate LLC for the purpose of making a contribution that evades the Act's reporting requirements. If they were, then the true source of the funds is the person who funneled them through the corporate entity for this purpose. Where direct evidence of this purpose is lacking, the Commission will look at whether, for instance, there is evidence indicating that the corporate entity did not have income from assets, investment earnings, business revenues, or bona fide capital investments, or was created and operated for the sole purpose of making political contributions. These facts would suggest the corporate entity is a straw donor and not the true source of the contribution."); Statement of Reasons of Vice Chairman Steven T. Walther and Comm'rs Ann M. Ravel and Ellen L. Weintraub at 3–4, MUR 6485 (W Spann LLC, *et al.*), MURs 6487/6488 (F8 LLC, *et al.*), MUR 6711 (Specialty Investment Group, Inc., *et al.*), MUR 6930 (Prakazrel "Pras" Michel, *et al.*) (Apr. 1, 2016) ("Although the ability of individuals and corporations to make unlimited contributions to super PACs is a post-*Citizens United* and *SpeechNow* phenomenon, the longstanding prohibition against making contributions in the name of another remains unchanged and squarely applies to these [LLC] cases . . . . Where an individual is the source of the funds for a contribution and the LLC merely conveys the funds at the direction of that person, the Act and Commission regulations require that the true source — the name of the individual rather than the name of the LLC — be disclosed as the contributor.") (citations omitted).

1           The overall record in this matter indicates that SYWSE's purported contribution was  
2     made in the name of another: When taken together, the close temporal proximity between  
3     SYWSE's formation and the contribution to 1820 PAC, the lack of any evidence of activity  
4     preceding the contribution or information regarding the provenance of SYWSE's funding, and  
5     the size and timing of the contribution relative to SYWSE's subsequent philanthropic activity  
6     indicate that SYWSE may have been used as a conduit by its manager Lam or other persons to  
7     make a contribution without publicly disclosing their identities.

8           SYWSE was organized on November 26, 2019, and it purported to make the \$150,000  
9     contribution to 1820 PAC exactly five weeks later, on December 31, 2019. At the time of the  
10    contribution — and until at least April 22, 2020, nearly four months afterward — virtually no  
11    information about the entity was publicly available.<sup>45</sup> SYWSE's postal address serves only as a  
12    mail stop and the LLC appears to have no physical location: SYWSE's and Lam's address, as  
13    disclosed at the time of the purported contribution, was a post office box, and an updated address  
14    provided on March 24, 2020, is similarly obscure, as it is the location of a company that rents out  
15    workspace.<sup>46</sup> Likewise, at the time of the contribution, and until well after the Complaint was  
16    filed, SYWSE had no perceptible online presence, as it did not appear in any web search results,  
17    social media platforms, organizational databases, or news articles (aside from reports regarding  
18    the filing of the Complaint in this matter).

---

<sup>45</sup> Publicly available information establishes that the domain [www.sywse.org](http://www.sywse.org) was registered on April 22, 2020, which indicates that SYWSE's website at that web address did not exist prior to that date; in fact, based on our initial review of the Complaint beginning on April 10, 2020, as explained above, it appears that the SYWSE website may have actually been created at some point after May 26, 2020.

<sup>46</sup> *See supra* note 7.

1           There is no indication that SYWSE engaged in any activity, whether profit-generating or  
2   philanthropic, during the five-week window between its formation and the \$150,000 contribution  
3   to 1820 PAC, nor does SYWSE claim to have engaged in any such activity.<sup>47</sup> Until at least May  
4   or June 2020, when SYWSE states that it issued \$110,000 in educational gifts, SYWSE's only  
5   apparent activity was purporting to make a \$150,000 contribution to an IEOPC.<sup>48</sup> The available  
6   information also provides virtually no insight, aside from a general statement on SYWSE's  
7   website that it is "a privately funded organization,"<sup>49</sup> into the provenance of the \$150,000 that  
8   SYWSE purported to contribute to 1820 PAC, or the rationale for SYWSE — a nascent  
9   Hawaiian LLC formed for the stated purpose of supporting young women's educations through  
10   grants — to make a one-off, six-figure political contribution, before issuing any educational  
11   grants or even registering its website domain, to an IEOPC exclusively making independent  
12   expenditures in a specific Maine U.S. Senate race.<sup>50</sup>

13           Although SYWSE contends that it was formed for a philanthropic purpose — to support  
14   young women pursuing educations in science and engineering — and not for the purpose of  
15   engaging in political activity, there is no contemporaneous information to substantiate that  
16   purpose at the time of the contribution — aside from the LLC's name. In any event, its general  
17   assertion of an overarching philanthropic purpose does not contravene the specific allegation and

---

<sup>47</sup>       *See* SYWSE Resp. at 1–2.

<sup>48</sup>       *See id.* at 1; *see also* First Gen. Counsel's Report at 13, MURs 7014, 7017, 7019, and 7090 (DE First Holdings, *et al.*) (noting that "there is no public record of [the alleged LLC conduit] Décor Services engaging in any non-political activity — its only known activities are" two contributions, aggregating \$500,000, to two IEOPCs).

<sup>49</sup>       "About," *supra* note 27.

<sup>50</sup>       SYWSE has not made any other federal contributions, and 1820 PAC has not reported receiving any other contributions from a contributor in Hawaii. *See supra* notes 5–6.

1 circumstances indicating that SYWSE's contribution to 1820 PAC was made in the name of  
 2 another — *i.e.*, that this particular transaction was made with funds provided for that purpose.<sup>51</sup>  
 3 Even crediting SYWSE's assertions that it was organized to facilitate private educational grants  
 4 to support the education of women in science and engineering, and its subsequent issuance of  
 5 \$110,000 in such grants, SYWSE does not clarify how — and for what purpose — it initially  
 6 obtained the \$150,000 that it gave to an IEOPC just five weeks after its formation. As such, it  
 7 has not addressed the particular allegation that is supported by the overall record.<sup>52</sup>

8 A contribution in the name of another does not necessarily have to flow through a so-  
 9 called “shell” entity lacking a *bona fide* purpose; even a legitimate organization engaged in  
 10 nonpolitical activity — including, *e.g.*, a nonprofit, commercial business, or holding company —  
 11 can violate the Act by making a contribution with funds provided to it for that purpose.<sup>53</sup> Thus,  
 12 even if SYWSE was formed for a philanthropic purpose, it appears to have been initially used to  
 13 make a conduit political contribution in violation of the Act.

---

<sup>51</sup> See First Gen. Counsel's Report at 13, MURs 7014, 7017, 7019, and 7090 (DE First Holdings, *et al.*) (reasoning that LLC's general assertion that it is a “for profit LLC” does not resolve the question of whether it, in a specific instance, may have received funds from another person for the purpose of making a political contribution); First Gen. Counsel's Report at 10–11, MUR 6969 (MMWP12 LLC, *et al.*) (reasoning that LLC's assertion that it was created and used to manage real estate properties does not resolve whether it was also used as a conduit to make a \$500,000 contribution without disclosing the true contributors).

<sup>52</sup> See SYWSE Resp. at 1 (“[T]he Society made a one-time voluntary contribution to the 1820 PAC. . . . Contrary to the underlying supposition of the complaint, the Society was not created for the purpose of making this contribution to the 1820 PAC and thus the contribution was not ‘illegal’ as was incorrectly asserted in the complaint. The Society's overarching purpose, as outlined in the Society's website . . . is to provide STEM scholarships to young women scholars in the United States.”).

<sup>53</sup> See First Gen. Counsel's Report at 16, MUR 6711 (Specialty Investment Group, *et al.*) (explaining that although two LLCs allegedly used as conduits for political contributions “may have engaged in legitimate real estate transactions before their dissolution, that fact does not answer the allegation that the organizations were mere intermediaries for these particular contributions”); First Gen. Counsel's Report at 11, MUR 6969 (MMWP12 LLC, *et al.*) (“An LLC can be used as both a legitimate business entity *and* a conduit”); First Gen. Counsel's Report at 7–8, MUR 6995 (TH Holdings LLC, *et al.*) (assessing facts that indicated a real estate holding company, which had previously purchased a \$452,000 property, was apparently used as a conduit to transmit a \$100,000 political contribution).



1           In addition, SYWSE's \$150,000 political contribution both exceeded and preceded the  
 2   \$110,000 in educational donations that it says it made.<sup>54</sup> The close temporal proximity between  
 3   SYWSE's formation and the 1820 PAC contribution, in contrast with the comparatively long  
 4   period before it issued any educational gifts to support its stated mission, which followed the  
 5   receipt of the Complaint in this matter, as well as the relatively larger size of the political  
 6   contribution, undermines SYWSE's argument that it made that contribution with funds it  
 7   received to further its purported philanthropic purpose, and instead supports the Complaint's  
 8   assertion that SYWSE received those funds to make a contribution to 1820 PAC.<sup>55</sup>

9           Although an LLC is a legally distinct "person" and is entitled, under prevailing law, to  
 10   make contributions in its own name, it may do so only with its own funds, *i.e.*, funds that it  
 11   generates or receives for a nonpolitical purpose; it cannot "make" a contribution with funds  
 12   provided by another for that specific purpose.<sup>56</sup> The overall record supports the conclusion that  
 13   SYWSE was not the true source of the \$150,000 that it appeared to give to 1820 PAC, but

---

<sup>54</sup> Although SYWSE's website states that "[a]n additional \$65,000 in scholarship awards will be announced shortly to six other universities raising a total of \$175,000 for 2020 in grant awards," it is unclear if or when these additional awards will be made. "Latest News," *supra* note 21.

<sup>55</sup> *Cf.* First Gen. Counsel's Report at 9–10, MURs 7013 and 7015 (IGX, LLC, *et al.*) (recommending finding no reason to believe an LLC made a conduit contribution on a record that included press articles indicating that the LLC was a legitimate business that had already funded several film projects); First Gen. Counsel's Report at 8–9, MUR 6930 (Prakazrel "Pras" Michel, *et al.*) (recommending finding no reason to believe a single-member LLC made conduit contributions on a record that included a sworn declaration from the LLC's single member denying that he had transferred his personal funds to the LLC).

<sup>56</sup> See 52 U.S.C. § 30122; *O'Donnell*, 608 F.3d at 550 ("In a straw donor situation, the person who actually transmits the money acts merely as a mechanism, whereas it is the original source who has made the gift by arranging for [their] money to finance the donation."); *accord* First Gen. Counsel's Report at 10, MURs 7031 and 7034 (Children of Israel, LLC, *et al.*).

1 instead acted as a conduit to convey the funds of another, thereby contravening the public's  
 2 disclosure interest.<sup>57</sup>

3 In addition, the record provides a sufficient basis to infer that Jennifer Lam may have  
 4 been one of the true contributors. Lam is the only known person associated with SYWSE. She  
 5 signed the LLC's articles of organization, listing herself as the LLC's registered agent, organizer,  
 6 and manager.<sup>58</sup> Lam thus appears to have sole control of SYWSE's affairs.<sup>59</sup> Although  
 7 SYWSE's owners or beneficiaries are unknown, nothing in the record excludes the possibility  
 8 that Lam is also the LLC's owner or beneficiary, in addition to being its organizer, agent, and  
 9 manager. Given that SYWSE purported to make a \$150,000 political contribution only five  
 10 weeks after its formation, despite engaging in no other known activity to that point, the record  
 11 before the Commission supports the conclusion that Lam may have used SYWSE to make a  
 12 contribution through the LLC — *i.e.*, by providing her own funds to the LLC for it to contribute  
 13 in its name — and thereby avoid the required disclosure of her name in a disclosure report filed

---

<sup>57</sup> See *Campaign Legal Ctr. v. FEC*, 952 F.3d 352, 354 (D.C. Cir. 2020) (“As the Supreme Court has repeatedly declared, the electorate has an interest in knowing where political campaign money comes from and how it is spent by the candidate. To that end, the [Act] imposes disclosure requirements on those who give and spend money to influence elections. The straw donor provision, 52 U.S.C. § 30122, is designed to ensure accurate disclosure of contributor information.”) (citations and quotation marks omitted).

<sup>58</sup> Compl., Attach. A.

<sup>59</sup> Lam's management or control of SYWSE would not be sufficient, by itself, to regard her as the true source of the contribution; if the overall record indicated that SYWSE used its own funds to make the contribution, as opposed to receiving funds for that purpose, then the LLC would be considered the true contributor under prevailing law. See Suppl. to the First Gen. Counsel's Report at 1, MUR 6485 (W Spann LLC, *et al.*) (Feb. 23, 2016) (“[T]he fact that another person exercises “direction or control” over an LLC intermediary may be consistent with a conclusion that the other person was the true source of a contribution, but that fact alone is not sufficient to resolve the true source inquiry. Rather, the analysis requires examination of whether a source transmitted property to another with the purpose that it be used to make or reimburse a contribution.”) (citing *O'Donnell*, 608 F.3d at 554). However, the fact that Lam formed and manages SYWSE, viewed in light of other facts indicating that the LLC was used as a mere conduit, supports an inference that Lam may have made the contribution by providing funds to the LLC for that purpose.

1 with the Commission.<sup>60</sup> SYWSE's subsequent philanthropic activities, which began long after it  
 2 had made the contribution and after the Complaint in this matter was filed, do not undermine that  
 3 conclusion.

4 Based on the foregoing, we recommend that the Commission find reason to believe that  
 5 Lam and other unknown persons made, and SYWSE knowingly permitted its name to be used to  
 6 effect, a contribution in the name of another, in violation of 52 U.S.C. § 30122.<sup>61</sup>

7 3. The Commission Should Take No Action at this Time as to 1820 PAC

8 The current record does not clearly support an inference that 1820 PAC knowingly  
 9 accepted a contribution in the name of another. 1820 PAC has provided an affidavit from its  
 10 treasurer averring that it had “no reason to suspect or to believe that the contribution is in any  
 11 way improper or impermissible.”<sup>62</sup> There is no information contradicting that assertion. While  
 12 the specific circumstances — *i.e.*, an IEOPC exclusively supporting a federal candidate in Maine  
 13 received a six-figure contribution, on the last day of the reporting period, from a Hawaii LLC  
 14 formed only five weeks prior — could be consistent with the Complaint's suggestion that 1820  
 15 PAC may have known who owns or finances SYWSE, or had reason to suspect that SYWSE was  
 16 not the true contributor, there is no clear factual basis to support either conclusion.

---

<sup>60</sup> Although Lam's name appears on SYWSE's articles of organization — which led to her name being cited in the Complaint in this matter — Lam's apparent use of the LLC as an intermediary prevented her identity from being publicly disclosed in 1820 PAC's disclosure report, as required under the Act, thereby undermining the transparency interests that animate Section 30122's prohibition of contributions in the name of another. This conclusion does not exclude the possibility that other persons, whose identities still remain unknown to the public, also made the contribution by providing funds to SYWSE for that purpose.

<sup>61</sup> The Complaint does not allege, and the record does not appear to indicate, possible violations of the Commission's attribution rules for LLC contributions. *See* 11 C.F.R. § 110.1(g). The federal tax status of SYWSE, which is necessary to determine whether the contribution was properly attributed, is unknown. As such, the Commission would only need to address this issue only in the event that facts uncovered in an investigation indicate that the contributions were not properly attributed. *Accord* First Gen. Counsel's Report at 11 n.37, MUR 6968 (Tread Standard LLC) (recommending the same approach under similar factual circumstances).

<sup>62</sup> Datwyler Aff. ¶ 7.

Nevertheless, we believe that the recommended investigation into SYWSE will likely uncover additional information — including, *e.g.*, any communications between SYWSE or individuals associated with it and 1820 PAC regarding the contribution — that may clarify the extent of 1820 PAC's prior knowledge, or lack thereof, regarding the true source of the contribution. As such, we recommend that the Commission take no action at this time regarding the allegation that 1820 PAC violated 52 U.S.C. § 30122 by knowingly accepting a contribution in the name of another, pending an investigation.

#### **B. Political Committee Status**

The Act defines a political committee as “any committee, club, association, or other group of persons” that receives aggregate contributions or makes aggregate expenditures in excess of \$1,000 during a calendar year.<sup>63</sup> Notwithstanding the threshold for contributions and expenditures, an organization will be considered a political committee only if its “major purpose is Federal campaign activity (*i.e.*, the nomination or election of a Federal candidate).”<sup>64</sup> Political committees are required to register with the Commission, meet organizational and recordkeeping requirements, and file periodic disclosure reports.<sup>65</sup>

The Complaint alleges that SYWSE was required to register and report as a political committee, essentially arguing that the LLC was both a conduit *and* a political committee.<sup>66</sup> SYWSE, for its part, asserts that it was organized not to engage in political activities but to

---

<sup>63</sup> 52 U.S.C. § 30101(4)(A).

<sup>64</sup> Political Comm. Status: Supplemental Explanation and Justification, 72 Fed. Reg. 5,595, 5,597 (Feb. 7, 2007) (“PC Status E&J”); *see Buckley v. Valeo*, 424 U.S. 1, 79 (1976); *FEC v. Mass. Citizens for Life, Inc.*, 479 U.S. 238, 262 (1986).

<sup>65</sup> *See* 52 U.S.C. §§ 30102, 30103, and 30104.

<sup>66</sup> Compl. ¶¶ 22–23.

engage in privately-funded philanthropy supporting women's education in the fields of science and engineering. SYWSE's website states that it has gifted some amount of money to at least one university in furtherance of that purpose, thus providing some basis to think that SYWSE may lack the requisite "major purpose" of nominating or electing a federal candidate that is required for political committee status.<sup>67</sup> On the other hand, SYWSE's \$150,000 in reported election-related activity exceeds its claimed \$110,000 in philanthropic activity, thus indicating through its comparative spending that its major purpose may be more likely to be electing a candidate than educational philanthropy.

By definition, a "person" can either be the true source of a contribution or a conduit that transmits the funds of another — but not both.<sup>68</sup> The available information supports an inference that SYWSE was not the true source of the contribution to 1820 PAC, but instead a conduit transmitting the true contributor's funds. Moreover, SYWSE may not have the requisite "major purpose" to be deemed a political committee. As such, consistent with our analyses in similar prior matters, we recommend taking no action as to the allegation that SYWSE was a political committee, pending an investigation.<sup>69</sup> If the investigation reveals that SYWSE was the true contributor, then we would make appropriate recommendations regarding the Complaint's allegation that SYWSE met the requirements of a political committee.<sup>70</sup>

---

<sup>67</sup> See PC Status E&J.

<sup>68</sup> See *Campaign Legal Ctr.*, 952 F.3d at 358 ("[P]laintiffs also agree that an entity can be a conduit under [52 U.S.C.] § 30122 or a political committee under [52 U.S.C.] §§ 30102-04, but not both.").

<sup>69</sup> See, e.g., First Gen. Counsel's Report at 15–16, MURs 7031/7034 (Children of Israel, LLC).

<sup>70</sup> If additional information indicates that SYWSE was the true contributor, we would then have to determine whether the LLC's "major purpose" was the election or nomination of federal candidates, and, moreover, whether SYWSE, Lam, and any other persons involved with the LLC constitute a "group of persons" for purposes of the Act's definition of "political committee." See 52 U.S.C. § 30101(4)(A); First Gen. Counsel's Report at 20 n.66 (Blue Magnolia Investments LLC) (noting the "potential lack of clarity from the Commission on whether and when

As such, we recommend that the Commission take no action at this time as to the allegation that SYWSE violated 52 U.S.C. §§ 30102, 30103, and 30104 by failing to register, organize, and report as a political committee.

#### IV. INVESTIGATION

Our investigation would attempt to establish the true source of the \$150,000 that SYWSE purported to contribute to 1820 PAC. We would seek to obtain additional information about the circumstances under which SYWSE received the funds that were ultimately contributed to 1820 PAC. We would also investigate whether Lam or others may have provided SYWSE with an infusion of funds for the specific purpose of making the political contribution while evading the Act's disclosure requirements. We would attempt to obtain this information voluntarily, but recommend that the Commission authorize the use of compulsory process.

#### V. RECOMMENDATIONS

1. Find reason to believe that Jennifer Lam and other unknown persons violated 52 U.S.C. § 30122 by making a contribution in the name of another;
2. Find reason to believe that Society of Young Women Scientists and Engineers LLC violated 52 U.S.C. § 30122 by knowingly permitting its name to be used to effect a contribution in the name of another;
3. Take no action at this time as to the allegation that 1820 PAC and Thomas C. Datwyler in his official capacity as treasurer violated 52 U.S.C. § 30122 by knowingly accepting a contribution in the name of another;
4. Take no action at this time as to the allegation that Society of Young Women Scientists and Engineers LLC violated 52 U.S.C. §§ 30102, 30103, and 30104;
5. Approve the attached Factual and Legal Analysis;
6. Authorize the use of compulsory process; and

---

a single-member LLC is a "group of persons" within the scope of the "political committee" definition") [REDACTED]

7. Approve the appropriate letters.

Lisa J. Stevenson  
Acting General Counsel

November 24, 2020  
Date

Charles Kitcher  
Charles Kitcher  
Acting Associate General Counsel  
for Enforcement

Claudio Pavia  
CJ Pavia  
Acting Assistant General Counsel

Saurav Ghosh  
Saurav Ghosh  
Attorney

Attachments:  
Factual and Legal Analysis for SYWSE and Jennifer Lam

## FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Society of Young Women Scientists  
and Engineers LLC  
Jennifer Lam

## I. INTRODUCTION

This matter was generated by a complaint filed with the Federal Election Commission (the “Commission”) by the Campaign Legal Center.<sup>1</sup> The Complaint alleges that the Society of Young Women Scientists and Engineers LLC (“SYWSE”) was not the true source of a \$150,000 contribution it purportedly made to 1820 PAC, an independent expenditure-only political committee (“IEOPC”), but instead that Jennifer Lam, SYWSE’s registered agent and manager, and other unknown persons made the contribution in the name of another using SYWSE as a conduit, in violation of 52 U.S.C. § 30122 of the Federal Election Campaign Act of 1971, as amended (the “Act”). The Complaint further alleges that SYWSE violated 52 U.S.C. § 30122 by knowingly permitting its name to be used to effect the contribution. In addition, the Complaint alleges that SYWSE met the legal requirements of a “political committee,” but failed to register, organize, and report as such, in violation of 52 U.S.C. §§ 30102, 30103, and 30104.

SYWSE and Lam deny the allegations, asserting that SYWSE made a legally permitted contribution to 1820 PAC, although it was formed for the purpose of promoting the education of women in the fields of science and engineering.

As explained below, the overall record in this matter supports a reasonable inference that SYWSE was not the true source of the 1820 PAC contribution, and that Lam and other unknown persons may have been the true source of the funds used to make the contribution. As such, the

<sup>1</sup> See 52 U.S.C. § 30109(a)(1).



Commission finds reason to believe that Lam made, and SYWSE knowingly permitting its name to be used to effect, a contribution in the name of another, in violation of 52 U.S.C. § 30122.

## **II. FACTUAL AND LEGAL ANALYSIS**

### **A. Background**

1820 PAC is an independent expenditure-only political committee (“IEOPC”) that registered with the Commission on March 1, 2019; its treasurer is Thomas C. Datwyler.<sup>2</sup> During the 2020 election cycle, 1820 PAC received \$10,117,550 in contributions and made \$8,027,507 in independent expenditures, all supporting federal candidate Susan Collins’s reelection campaign for the U.S. Senate in Maine or opposing her general-election opponent, Sara Gideon.<sup>3</sup> 1820 PAC has not made independent expenditures supporting or opposing any other candidates.<sup>4</sup>

The Society of Young Women Scientists and Engineers LLC is a limited liability company (“LLC”) that was organized in Hawaii on November 26, 2019, and its registered agent and manager is Jennifer Lam.<sup>5</sup> Exactly five weeks after its formation, SYWSE reportedly made

---

<sup>2</sup> 1820 PAC, Statement of Org. at 1 (Mar. 1, 2019).

<sup>3</sup> 1820 PAC, Receipts, [https://www.fec.gov/data/receipts/?committee\\_id=C00698126&two\\_year\\_transaction\\_period=2020&data\\_type=processed](https://www.fec.gov/data/receipts/?committee_id=C00698126&two_year_transaction_period=2020&data_type=processed); 1820 PAC, Independent Expenditures, [https://www.fec.gov/data/independent-expenditures/?committee\\_id=C00698126&two\\_year\\_transaction\\_period=2020&cycle=2020&data\\_type=processed&is\\_notice=true](https://www.fec.gov/data/independent-expenditures/?committee_id=C00698126&two_year_transaction_period=2020&cycle=2020&data_type=processed&is_notice=true).

<sup>4</sup> 1820 PAC, Spending, 2019–2020, <https://www.fec.gov/data/committee/C00698126/?tab=spending>.

<sup>5</sup> SYWSE, Articles of Org. for Limited Liability Company, HI Dep’t of Commerce and Consumer Affairs (Nov. 26, 2019), <https://hbe.ehawaii.gov/documents/business.html?fileNumber=228680C5&view=documents> (attached to Complaint); *see* Resp. of SYWSE and Lam at 1 (July 16, 2020) (“SYWSE Resp.”).

a \$150,000 contribution to 1820 PAC.<sup>6</sup> This appears to be the only contribution to a federal candidate or committee that SYWSE has made.<sup>7</sup>

At the time the Complaint was filed, there was no publicly available information indicating that SYWSE had ever engaged in any activity — commercial or nonprofit — besides making the contribution at issue, and it appeared to have no website, social media pages, or information in any business or nonprofit database.<sup>8</sup> SYWSE also did not then appear in any articles or other publicly available media, including videos, blogs, or other online reports, aside from news articles discussing the Complaint filed in this matter. Although SYWSE’s name bears a close resemblance to those of several longstanding nonprofit organizations,<sup>9</sup> SYWSE is not registered with the Internal Revenue Service as a tax-exempt nonprofit organization.<sup>10</sup>

---

<sup>6</sup> 1820 PAC, 2019 Year-End Report at 9 (Jan. 31, 2020). The disclosure report incorrectly provides the name of the purported contributor as “Society of Young Woman Scientist and Engineers LLC” — using the singular “Woman” instead of the plural “Women.” The report’s use of the singular “Scientist” was correct at the time of the contribution; SYWSE later changed it to “Scientists.” 1820 PAC has received no other contributions from Hawaii. 1820 PAC, All Receipts, [https://www.fec.gov/data/receipts/?data\\_type=processed&committee\\_id=C00698126&two\\_year\\_transaction\\_period=2020&min\\_date=01%2F01%2F2019&max\\_date=12%2F31%2F2020&contributor\\_state=HI](https://www.fec.gov/data/receipts/?data_type=processed&committee_id=C00698126&two_year_transaction_period=2020&min_date=01%2F01%2F2019&max_date=12%2F31%2F2020&contributor_state=HI).

<sup>7</sup> See All Receipts, Contributor Name Search, [https://www.fec.gov/data/receipts/?data\\_type=processed&contributor\\_name=Society+of+Young+Woman+Scientist+and+Engineers+&contributor\\_name=Society+of+Young+Women+Scientist+and+Engineers+&two\\_year\\_transaction\\_period=2020&min\\_date=01%2F01%2F2019&max\\_date=12%2F31%2F2020](https://www.fec.gov/data/receipts/?data_type=processed&contributor_name=Society+of+Young+Woman+Scientist+and+Engineers+&contributor_name=Society+of+Young+Women+Scientist+and+Engineers+&two_year_transaction_period=2020&min_date=01%2F01%2F2019&max_date=12%2F31%2F2020).

<sup>8</sup> The Commission attempted to obtain publicly available information regarding SYWSE through searches on Google, prominent social media platforms including Facebook, Twitter, YouTube, and Instagram, and organizational information databases including the Better Business Bureau and Guidestar, all of which produced no results — aside from news reports discussing the filing of the Complaint in this matter.

<sup>9</sup> SYWSE’s name bears a close resemblance to the names of several nonprofit organizations, each of which is registered as such with the IRS. See Society for Young Women Scientists, <https://www.sywscientist.org/>; Society of Women Engineers, <https://swe.org/>; Association for Women in Science, <https://www.awis.org/>. There is no indication that any of these organizations are connected to SYWSE or the allegations in this matter.

<sup>10</sup> A search of the IRS Tax Exempt Organization Database produced no results for “Society of Young Woman Scientist and Engineers,” or any variations thereof. See IRS Tax Exempt Organization Search, <https://www.irs.gov/charities-non-profits/tax-exempt-organization-search>.

The Complaint alleges that one or more unknown persons who created and operated SYWSE, including its registered agent and manager, Lam, made the \$150,000 contribution to 1820 PAC in the name of SYWSE, and that SYWSE knowingly permitted the contribution to be made in its name.<sup>11</sup> Based on the information then available, the Complaint contended that there is no publicly available information about SYWSE, and that it “does not appear to have a website or otherwise discernable public footprint.”<sup>12</sup> As such, the Complaint alleges that SYWSE did not have sufficient means to make a \$150,000 contribution to 1820 PAC “without an infusion of funds provided to [it] for that purpose.”<sup>13</sup>

The Complaint also alleges that SYWSE met the legal standard for political committee status under the Act and thus violated the law by failing to register, organize, and report as a political committee.<sup>14</sup> The Complaint asserts that SYWSE met the two-prong test for political committee status because it received aggregate contributions of \$1,000 or more in a calendar year and had the “major purpose” of “influencing the ‘nomination or election of a candidate.’”<sup>15</sup>

SYWSE and Lam filed a Response asserting that SYWSE was formed “to promote the ability of young women in the United States to pursue undergraduate studies in the so-called STEM (Science, Technology, Engineering and Mathematics) curricula by providing scholarships

---

<sup>11</sup> Compl. ¶ 2 (Feb. 3, 2020).

<sup>12</sup> *Id.* ¶ 7. The Complainant represents that it was unable find any result for SYWSE on Google, any pages for SYWSE on Facebook, Instagram, and Twitter, or any record of SYWSE on the databases for the Better Business Bureau, Bloomberg’s company profile search, EDGAR, the U.S. Patent and Trademark Office’s Trademark Electronic Search System, Hawaii’s Professional and Vocational Licensing Database, and Hawaii’s Chamber of Commerce. *Id.* ¶ 7(a)–(c).

<sup>13</sup> *Id.* ¶ 12.

<sup>14</sup> *Id.* ¶ 3.

<sup>15</sup> *Id.* ¶¶ 19, 22.

1 to such young women,” and that SYWSE “has partnered with a large number of colleges and  
 2 universities across the United States to create and administer [its] STEM scholarship program.”<sup>16</sup>  
 3 While the Response acknowledges that SYWSE “made a one-time voluntary contribution to the  
 4 1820 PAC,”<sup>17</sup> it states that the LLC “was not created for the purpose of making this  
 5 contribution.”<sup>18</sup> On that basis, the Response denies the Complaint’s allegation that the  
 6 contribution was made in the name of another, and further argues that based on the 2010  
 7 decisions in *Citizens United v. FEC* and *SpeechNow.org v. FEC*, SYWSE was legally entitled to  
 8 make, and 1820 PAC to accept, the contribution.<sup>19</sup>

9 The Response cites SYWSE’s website as a source for additional information regarding  
 10 the LLC.<sup>20</sup> The website’s domain name — [www.sywse.org](http://www.sywse.org) — was registered on April 22, 2020,  
 11 and the website appears to have last been updated on June 5, 2020.<sup>21</sup> The timing of this  
 12 website’s establishment appears to be consistent with the Complaint’s assertion that SYWSE did  
 13 not have a website when it purported to make the 1820 PAC contribution on December 31, 2019,

---

<sup>16</sup> SYWSE Resp. at 1.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* The Response also cites to SYWSE’s website for more information. See “About: Society of Young Women Scientists and Engineers,” [www.sywse.org/about](http://www.sywse.org/about) (viewed Aug. 27, 2020) (“In March 2019, the U.S. House Science Committee held a hearing to stress the critical importance of enrolling more talent in the science and technology fields to ensure America’s future STEM workforce. The Committee also highlighted the importance of drawing more women and minorities into STEM fields. The Society of Young Women Scientists and Engineers (SYWSE), a privately funded organization based in Hawaii, was founded to respond to that challenge.”).

<sup>19</sup> SYWSE Resp. at 2 (citing *Citizens United v. FEC*, 558 U.S. 310 (2010); *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010) (en banc)).

<sup>20</sup> *Id.* at 1.

<sup>21</sup> “Domain Name Registration Data Lookup: [sywse.org](http://sywse.org),” Internet Corporation for Assigned Names and Numbers (ICANN), <https://lookup.icann.org/lookup> (viewed Nov. 20, 2020); “Latest News,” Society of Young Women Scientists and Engineers, [sywse.org](http://sywse.org) (viewed Nov. 20, 2020).

or, for that matter, on February 3, 2020, when the Complaint in this matter was filed and multiple news articles reported on its filing.<sup>22</sup>

The SYWSE website's homepage includes a "News Release" dated May 18, 2020, which states: "We are proud to announce that SYWSE has awarded another university grant to help promote greater female representation for women studying in STEM fields."<sup>23</sup> That item links to a "Latest News" page where the top item is dated June 5, 2020, and states "SYWSE announces today that it has awarded a grant of \$110,000 in 2020 to nine U.S. universities to boost female representation in fields of science and engineering."<sup>24</sup> The same page also states that "[a]n additional \$65,000 in scholarship awards will be announced shortly to six other universities raising a total of \$175,000 for 2020 in grant awards."<sup>25</sup> As of the date of this report, the website has not announced any additional scholarships. The website provides scant information regarding the source of SYWSE's funding, however, offering on its "About" page only that it is "a privately funded organization based in Hawaii."<sup>26</sup>

---

<sup>22</sup> None of the reports discussing the Complaint included any reference to SYWSE's website or provided any additional information regarding the LLC. *See, e.g.,* Lachlan Markay, *Susan Collins' Campaign Is Being Helped by a Mysterious Hawaii Company*, THE DAILY BEAST (Feb. 3, 2020), <https://www.thedailybeast.com/susan-collins-campaign-is-being-helped-by-a-mysterious-hawaii-company>; Igor Derysh, *FEC Complaint: Mysterious Hawaii Company Illegally Funneled \$150K to Pro-Susan Collins Super PAC*, SALON (Feb. 4, 2020), <https://www.salon.com/2020/02/04/fec-complaint-mysterious-hawaii-company-illegally-funneled-150k-to-pro-susan-collins-super-pac/>.

<sup>23</sup> "Home," sywse.org (viewed Aug. 27, 2020).

<sup>24</sup> "Latest News," sywse.org/news (viewed Aug. 27, 2020). The "Latest News" page also includes six other stories from other websites, dated between November 8, 2019, and May 1, 2020, none of which appear to have any connection to SYWSE or its purported activities.

<sup>25</sup> *Id.* One of the schools listed on the "Latest News" page, the University of Michigan, published a document from a meeting of its Board of Regents that lists SYWSE as the source of a gift "[r]anging from \$5,000 and \$9,999," although the exact amount of the gift is not specified. "Report on Voluntary Support" at 30, University of Michigan Regents' Communication (May 31, 2020), <https://regents.umich.edu/files/meetings/06-20/2020-06-III-1.pdf>.

<sup>26</sup> "About," www.sywse.org/about (viewed Aug. 28, 2020).

**B. Legal Analysis**

1. Contributions in the Name of Another

The Act provides that a contribution includes “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.”<sup>27</sup> The term “person” for purposes of the Act and Commission regulations includes partnerships, corporations, and “any other organization or group of persons.”<sup>28</sup> The Act prohibits a person from making a contribution in the name of another person, knowingly permitting his or her name to be used to effect such a contribution, or knowingly accepting such a contribution.<sup>29</sup> The Commission has included in its regulations illustrations of activities that constitute making a contribution in the name of another:

- (i) Giving money or anything of value, all or part of which was provided to the contributor by another person (the true contributor) without disclosing the source of money or the thing of value to the recipient candidate or committee at the time the contribution is made; or
- (ii) Making a contribution of money or anything of value and attributing as the source of the money or thing of value another person when in fact the contributor is the source.<sup>30</sup>

The requirement that a contribution be made in the name of its true source promotes Congress’s objective of ensuring the complete and accurate disclosure by candidates and committees of the political contributions they receive.<sup>31</sup> Courts therefore have uniformly

---

<sup>27</sup> 52 U.S.C. § 30101(8)(A).

<sup>28</sup> *Id.* § 30101(11); 11 C.F.R. § 100.10.

<sup>29</sup> 52 U.S.C. § 30122.

<sup>30</sup> 11 C.F.R. § 110.4(b)(2)(i)–(ii).

<sup>31</sup> *United States v. O’Donnell*, 608 F.3d 546, 553 (9th Cir. 2010) (“[T]he congressional purpose behind [Section 30122] — to ensure the *complete and accurate disclosure* of the contributors who finance federal elections

1 rejected the assertion that “only the person who actually transmits funds . . . makes the  
 2 contribution,”<sup>32</sup> recognizing that “it is implausible that Congress, in seeking to promote  
 3 transparency, would have understood the relevant contributor to be [an] intermediary who  
 4 merely transmitted the campaign gift.”<sup>33</sup> Consequently, both the Act and the Commission’s  
 5 implementing regulations provide that a person who furnishes another with funds for the purpose  
 6 of contributing to a candidate or committee “makes” the resulting contribution.<sup>34</sup> This is true  
 7 whether funds are advanced to another person to make a contribution in that person’s name or  
 8 promised as reimbursement of a solicited contribution.<sup>35</sup>

9 Because the concern of the law is the true source from which a contribution to a  
 10 candidate or committee originates, regardless of the mechanism by which the funds are  
 11 transmitted, the Commission will examine the structure of the transaction itself and the  
 12 arrangement between the parties to determine who in fact “made” a given contribution.

---

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

<sup>32</sup> *United States v. Boender*, 649 F.3d 650, 660 (7th Cir. 2011).

<sup>33</sup> *O’Donnell*, 608 F.3d at 554; *see also Citizens United v. FEC*, 558 U.S. 310, 371 (2010) (“The First Amendment protects political speech; and disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages.”); *Doe v. Reed*, 561 U.S. 186, 199 (2010) (“Public disclosure also promotes transparency and accountability in the electoral process to an extent other measures cannot.”).

<sup>34</sup> *See Boender*, 649 F.3d at 660 (holding that to determine who made a contribution “we consider the giver to be the *source* of the gift, not any intermediary who simply conveys the gift from the donor to the donee”) (emphasis added); *O’Donnell*, 608 F.3d at 550; *Goland v. United States*, 903 F.2d 1247, 1251 (9th Cir. 1990) (“The Act prohibits the use of ‘conduits’ to circumvent [the Act’s reporting] restrictions[.]”).

<sup>35</sup> *O’Donnell*, 608 F.3d at 555. Moreover, the “key issue . . . is the *source* of the funds” and, therefore, the legal status of the funds when conveyed from a conduit to the ultimate recipient is “irrelevant to a determination of who ‘made’ the contribution for the purposes of [Section 30122].” *United States v. Whittemore*, 776 F.3d 1074, 1080 (9th Cir. 2015) (holding that defendant’s “unconditional gifts” to relatives and employees, along with suggestion they contribute the funds to a specific political committee, violated Section 30122 because the source of the funds remained the individual who provided them to the putative contributors).

1 Accordingly, in previous LLC conduit contribution cases, although the Commission split evenly  
 2 regarding alleged violations of 52 U.S.C. § 30122,<sup>36</sup> Commissioners separately expressed  
 3 agreement that Section 30122’s prohibition of contributions in the name of another applies to  
 4 LLCs — a conclusion approved of by a panel of the U.S. Court of Appeals for the D.C. Circuit<sup>37</sup>  
 5 — such that an LLC cannot be used as a “straw donor” to transmit the funds of another, but must  
 6 instead be the true source of any contribution it purports to make.<sup>38</sup>

---

<sup>36</sup> Certification, MURs 7031 and 7034 (Children of Israel, LLC, *et al.*) (June 7, 2018); Certification, MURs 7014, 7017, 7019, and 7090 (DE First Holdings, *et al.*) (May 10, 2018); Certification, MURs 7013 and 7015 (IGX, LLC, *et al.*) (Apr. 10, 2018); Certification, MUR 6995 (Right to Rise, *et al.*) (May 8, 2018); Certification, MUR 6969 (MMWP12, LLC, *et al.*) (June 7, 2018); Certification, MUR 6968 (Tread Standard, LLC, *et al.*) (May 8, 2018); Certification, MUR 6930 (Prakazrel “Pras” Michel, *et al.*) (Feb. 23, 2016).

<sup>37</sup> *Campaign Legal Ctr. v. FEC*, 952 F.3d 352, 357 (D.C. Cir. 2020) (“The controlling commissioners did not dispute that [52 U.S.C.] § 30122 applies to closely held corporations and corporate LLCs. We agree that it does.”). The Court held that the Commission’s dismissal of several matters involving alleged LLC conduits — based on the rationale that the matters presented an issue of first impression, which raised fair notice and due process concerns — was reasonable. *Id.* at 357–58.

<sup>38</sup> See Statement of Reasons of Chairman Matthew S. Petersen and Comm’rs Caroline C. Hunter and Lee E. Goodman at 8, 12, MUR 6485 (W Spann LLC, *et al.*), MURs 6487/6488 (F8, LLC, *et al.*), MUR 6711 (Specialty Investment Group, Inc., *et al.*), MUR 6930 (SPM Holdings LLC, *et al.*) (Apr. 1, 2016) (“Upon thorough consideration of these matters, we conclude that closely held corporations and corporate LLCs may be considered straw donors in violation of section 30122 under certain circumstances. . . . [W]hen enforcing section 30122 in similar future matters, the proper focus will be on whether funds were intentionally funneled through a closely held corporation or corporate LLC for the purpose of making a contribution that evades the Act’s reporting requirements. If they were, then the true source of the funds is the person who funneled them through the corporate entity for this purpose. Where direct evidence of this purpose is lacking, the Commission will look at whether, for instance, there is evidence indicating that the corporate entity did not have income from assets, investment earnings, business revenues, or bona fide capital investments, or was created and operated for the sole purpose of making political contributions. These facts would suggest the corporate entity is a straw donor and not the true source of the contribution.”); Statement of Reasons of Vice Chairman Steven T. Walther and Comm’rs Ann M. Ravel and Ellen L. Weintraub at 3–4, MUR 6485 (W Spann LLC, *et al.*), MURs 6487/6488 (F8 LLC, *et al.*), MUR 6711 (Specialty Investment Group, Inc., *et al.*), MUR 6930 (Prakazrel “Pras” Michel, *et al.*) (Apr. 1, 2016) (“Although the ability of individuals and corporations to make unlimited contributions to super PACs is a post-*Citizens United* and *SpeechNow* phenomenon, the longstanding prohibition against making contributions in the name of another remains unchanged and squarely applies to these [LLC] cases . . . . Where an individual is the source of the funds for a contribution and the LLC merely conveys the funds at the direction of that person, the Act and Commission regulations require that the true source — the name of the individual rather than the name of the LLC — be disclosed as the contributor.”) (citations omitted).



1           Based on the available information, there is a reasonable basis to infer that SYWSE was  
2   not the true source of the \$150,000 contribution to 1820 PAC, and thus that the contribution was  
3   made in the name of another. When an LLC purports to make a political contribution in close  
4   temporal proximity to its formation date, without evidence of activity suggesting it had the  
5   means to make the contribution absent an infusion of funds provided for that purpose, the  
6   circumstances raise a reasonable inference that the LLC was used as a conduit to hide the  
7   identity of the true contributor. In determining whether such an inference is warranted, the  
8   Commission considers the overall record, including specific factors such as the relative amount  
9   of the contribution, the LLC's known activities prior to making the contribution, and whether  
10  any other information suggests an attempt to circumvent the Act's disclosure requirements.

11           The overall record in this matter indicates that SYWSE's purported contribution was  
12  made in the name of another: When taken together, the close temporal proximity between  
13  SYWSE's formation and the contribution to 1820 PAC, the lack of any evidence of activity  
14  preceding the contribution or information regarding the provenance of SYWSE's funding, and  
15  the size and timing of the contribution relative to SYWSE's subsequent philanthropic activity  
16  indicate that SYWSE may have been used as a conduit by its manager Lam or other persons to  
17  make a contribution without publicly disclosing their identities.

18           SYWSE was organized on November 26, 2019, and it purported to make the \$150,000  
19  contribution to 1820 PAC exactly five weeks later, on December 31, 2019. At the time of the  
20  contribution — and until at least April 22, 2020, nearly four months afterward — virtually no

1 information about the entity was publicly available.<sup>39</sup> SYWSE’s postal address serves only as a  
 2 mail stop and the LLC appears to have no physical location: SYWSE’s and Lam’s address, as  
 3 disclosed at the time of the purported contribution, was a post office box, and an updated address  
 4 provided on March 24, 2020, is similarly obscure, as it is the location of a company that rents out  
 5 workspace.<sup>40</sup> Likewise, at the time of the contribution, and until well after the Complaint was  
 6 filed, SYWSE had no perceptible online presence, as it did not appear in any web search results,  
 7 social media platforms, organizational databases, or news articles (aside from reports regarding  
 8 the filing of the Complaint in this matter).

9       There is no indication that SYWSE engaged in any activity, whether profit-generating or  
 10 philanthropic, during the five-week window between its formation and the \$150,000 contribution  
 11 to 1820 PAC, nor does SYWSE claim to have engaged in any such activity.<sup>41</sup> Until at least May  
 12 or June 2020, when SYWSE states that it issued \$110,000 in educational gifts, SYWSE’s only  
 13 apparent activity was purporting to make a \$150,000 contribution to an IEOPC.<sup>42</sup> The available  
 14 information also provides virtually no insight, aside from a general statement on SYWSE’s

---

<sup>39</sup> Publicly available information establishes that the domain [www.sywse.org](http://www.sywse.org) was registered on April 22, 2020, which indicates that SYWSE’s website at that web address did not exist prior to that date.

<sup>40</sup> The mailing address that 1820 PAC reported for SYWSE was “335 Merchant Street, Unit 2394, Honolulu, HI 96804,” which appears to refer to a post office box. *See* SYWSE Articles of Org., *supra* note 5 (providing a mailing address of “P.O. Box 2394, Honolulu, HI 96804 USA”). SYWSE filed a name change on March 24, 2020, to correct an initial misspelling — its name originally omitted the “s” at the end of “Scientists” — and updated its address to “307 Kamani St. Unit A, Honolulu, Hawaii 96813, United States,” which appears to be the street address of a co-working space rental company, “BoxJelly.” *See* SYWSE Name Change (Mar. 24, 2020) and SYWSE Address Change (Mar. 24, 2020), <https://hbe.ehawaii.gov/documents/business.html?fileNumber=228680C5&view=documents>.

<sup>41</sup> *See* SYWSE Resp. at 1–2.

<sup>42</sup> *See id.* at 1; *see also* First Gen. Counsel’s Report at 13, MURs 7014, 7017, 7019, and 7090 (DE First Holdings, *et al.*) (noting that “there is no public record of [the alleged LLC conduit] Décor Services engaging in any non-political activity — its only known activities are” two contributions, aggregating \$500,000, to two IEOPCs).

website that it is “a privately funded organization,”<sup>43</sup> into the provenance of the \$150,000 that SYWSE purported to contribute to 1820 PAC, or the rationale for SYWSE — a nascent Hawaiian LLC formed for the stated purpose of supporting young women’s educations through grants — to make a one-off, six-figure political contribution, before issuing any educational grants or even registering its website domain, to an IEOPC exclusively making independent expenditures in a specific Maine U.S. Senate race.<sup>44</sup>

Although SYWSE contends that it was formed for a philanthropic purpose — to support young women pursuing educations in science and engineering — and not for the purpose of engaging in political activity, there is no contemporaneous information to substantiate that purpose at the time of the contribution — aside from the LLC’s name. In any event, its general assertion of an overarching philanthropic purpose does not contravene the specific allegation and circumstances indicating that SYWSE’s contribution to 1820 PAC was made in the name of another — *i.e.*, that this particular transaction was made with funds provided for that purpose.<sup>45</sup> Even crediting SYWSE’s assertions that it was organized to facilitate private educational grants to support the education of women in science and engineering, and its subsequent issuance of \$110,000 in such grants, SYWSE does not clarify how — and for what purpose — it initially

---

<sup>43</sup> “About,” *supra* note 26.

<sup>44</sup> SYWSE has not made any other federal contributions, and 1820 PAC has not reported receiving any other contributions from a contributor in Hawaii. *See supra* notes 6–7.

<sup>45</sup> *See* First Gen. Counsel’s Report at 13, MURs 7014, 7017, 7019, and 7090 (DE First Holdings, *et al.*) (reasoning that LLC’s general assertion that it is a “for profit LLC” does not resolve the question of whether it, in a specific instance, may have received funds from another person for the purpose of making a political contribution); First Gen. Counsel’s Report at 10–11, MUR 6969 (MMWP12 LLC, *et al.*) (reasoning that LLC’s assertion that it was created and used to manage real estate properties does not resolve whether it was also used as a conduit to make a \$500,000 contribution without disclosing the true contributors).

1 obtained the \$150,000 that it gave to an IEOPC just five weeks after its formation. As such, it  
 2 has not addressed the particular allegation that is supported by the overall record.<sup>46</sup>

3 A contribution in the name of another does not necessarily have to flow through a so-  
 4 called “shell” entity lacking a *bona fide* purpose; even a legitimate organization engaged in  
 5 nonpolitical activity — including, *e.g.*, a nonprofit, commercial business, or holding company —  
 6 can violate the Act by making a contribution with funds provided to it for that purpose.<sup>47</sup> Thus,  
 7 even if SYWSE was formed for a philanthropic purpose, it appears to have been initially used to  
 8 make a conduit political contribution in violation of the Act.

9 In addition, SYWSE’s \$150,000 political contribution both exceeded and preceded the  
 10 \$110,000 in educational donations that it says it made.<sup>48</sup> The close temporal proximity between  
 11 SYWSE’s formation and the 1820 PAC contribution, in contrast with the comparatively long  
 12 period before it issued any educational gifts to support its stated mission, which followed the  
 13 receipt of the Complaint in this matter, as well as the relatively larger size of the political  
 14 contribution, undermines SYWSE’s argument that it made that contribution with funds it

---

<sup>46</sup> See SYWSE Resp. at 1 (“[T]he Society made a one-time voluntary contribution to the 1820 PAC. . . . Contrary to the underlying supposition of the complaint, the Society was not created for the purpose of making this contribution to the 1820 PAC and thus the contribution was not ‘illegal’ as was incorrectly asserted in the complaint. The Society’s overarching purpose, as outlined in the Society’s website . . . is to provide STEM scholarships to young women scholars in the United States.”).

<sup>47</sup> See First Gen. Counsel’s Report at 16, MUR 6711 (Specialty Investment Group, *et al.*) (explaining that although two LLCs allegedly used as conduits for political contributions “may have engaged in legitimate real estate transactions before their dissolution, that fact does not answer the allegation that the organizations were mere intermediaries for these particular contributions”); First Gen. Counsel’s Report at 11, MUR 6969 (MMWP12 LLC, *et al.*) (“An LLC can be used as both a legitimate business entity *and* a conduit”); First Gen. Counsel’s Report at 7–8, MUR 6995 (TH Holdings LLC, *et al.*) (assessing facts that indicated a real estate holding company, which had previously purchased a \$452,000 property, was apparently used as a conduit to transmit a \$100,000 political contribution).

<sup>48</sup> Although SYWSE’s website states that “[a]n additional \$65,000 in scholarship awards will be announced shortly to six other universities raising a total of \$175,000 for 2020 in grant awards,” it is unclear if or when these additional awards will be made. “Latest News,” *supra* note 24.

received to further its purported philanthropic purpose, and instead supports the Complaint’s assertion that SYWSE received those funds to make a contribution to 1820 PAC.<sup>49</sup>

Although an LLC is a legally distinct “person” and is entitled, under prevailing law, to make contributions in its own name, it may do so only with its own funds, *i.e.*, funds that it generates or receives for a nonpolitical purpose; it cannot “make” a contribution with funds provided by another for that specific purpose.<sup>50</sup> The overall record supports the conclusion that SYWSE was not the true source of the \$150,000 that it appeared to give to 1820 PAC, but instead acted as a conduit to convey the funds of another, thereby contravening the public’s disclosure interest.<sup>51</sup>

In addition, the record provides a sufficient basis to infer that Jennifer Lam may have been one of the true contributors. Lam is the only known person associated with SYWSE. She signed the LLC’s articles of organization, listing herself as the LLC’s registered agent, organizer,

---

<sup>49</sup> Cf. First Gen. Counsel’s Report at 9–10, MURs 7013 and 7015 (IGX, LLC, *et al.*) (recommending finding no reason to believe an LLC made a conduit contribution on a record that included press articles indicating that the LLC was a legitimate business that had already funded several film projects); First Gen. Counsel’s Report at 8–9, MUR 6930 (Prakazrel “Pras” Michel, *et al.*) (recommending finding no reason to believe a single-member LLC made conduit contributions on a record that included a sworn declaration from the LLC’s single member denying that he had transferred his personal funds to the LLC).

<sup>50</sup> See 52 U.S.C. § 30122; *O’Donnell*, 608 F.3d at 550 (“In a straw donor situation, the person who actually transmits the money acts merely as a mechanism, whereas it is the original source who has made the gift by arranging for [their] money to finance the donation.”); accord First Gen. Counsel’s Report at 10, MURs 7031 and 7034 (Children of Israel, LLC, *et al.*).

<sup>51</sup> See *Campaign Legal Ctr. v. FEC*, 952 F.3d 352, 354 (D.C. Cir. 2020) (“As the Supreme Court has repeatedly declared, the electorate has an interest in knowing where political campaign money comes from and how it is spent by the candidate. To that end, the [Act] imposes disclosure requirements on those who give and spend money to influence elections. The straw donor provision, 52 U.S.C. § 30122, is designed to ensure accurate disclosure of contributor information.”) (citations and quotation marks omitted).

1 and manager.<sup>52</sup> Lam thus appears to have sole control of SYWSE's affairs.<sup>53</sup> Although  
 2 SYWSE's owners or beneficiaries are unknown, nothing in the record excludes the possibility  
 3 that Lam is also the LLC's owner or beneficiary, in addition to being its organizer, agent, and  
 4 manager. Given that SYWSE purported to make a \$150,000 political contribution only five  
 5 weeks after its formation, despite engaging in no other known activity to that point, the record  
 6 before the Commission supports the conclusion that Lam may have used SYWSE to make a  
 7 contribution through the LLC — *i.e.*, by providing her own funds to the LLC for it to contribute  
 8 in its name — and thereby avoid the required disclosure of her name in a disclosure report filed  
 9 with the Commission.<sup>54</sup> SYWSE's subsequent philanthropic activities, which began long after it  
 10 had made the contribution and after the Complaint in this matter was filed, do not undermine that  
 11 conclusion.

12 Based on the foregoing, the Commission finds reason to believe that Lam made, and  
 13 SYWSE knowingly permitted its name to be used to effect, a contribution in the name of  
 14 another, in violation of 52 U.S.C. § 30122.

---

<sup>52</sup> Compl., Attach. A.

<sup>53</sup> Lam's management or control of SYWSE would not be sufficient, by itself, to regard her as the true source of the contribution; if the overall record indicated that SYWSE used its own funds to make the contribution, as opposed to receiving funds for that purpose, then the LLC would be considered the true contributor under prevailing law. *See* Suppl. to the First Gen. Counsel's Report at 1, MUR 6485 (W Spann LLC, *et al.*) (Feb. 23, 2016) ("[T]he fact that another person exercises "direction or control" over an LLC intermediary may be consistent with a conclusion that the other person was the true source of a contribution, but that fact alone is not sufficient to resolve the true source inquiry. Rather, the analysis requires examination of whether a source transmitted property to another with the purpose that it be used to make or reimburse a contribution.") (citing *O'Donnell*, 608 F.3d at 554). However, the fact that Lam formed and manages SYWSE, viewed in light of other facts indicating that the LLC was used as a mere conduit, supports an inference that Lam may have made the contribution by providing funds to the LLC for that purpose.

<sup>54</sup> Although Lam's name appears on SYWSE's articles of organization — which led to her name being cited in the Complaint in this matter — Lam's apparent use of the LLC as an intermediary prevented her identity from being publicly disclosed in 1820 PAC's disclosure report, as required under the Act, thereby undermining the transparency interests that animate Section 30122's prohibition of contributions in the name of another.