

1 **FEDERAL ELECTION COMMISSION**

2 **FIRST GENERAL COUNSEL’S REPORT**

3 **MUR: 7757**

4 DATE COMPLAINT FILED: July 8, 2020

5 DATE OF NOTIFICATION: July 9, 2020

6 LAST RESPONSE RECEIVED: No Response

7 DATE ACTIVATED: Sept. 24, 2020

8
9 EXPIRATION OF SOL: May 30, 2025

10 ELECTION CYCLE: 2020

11
12 **COMPLAINANT:**

Aras Jonikas

13
14 **RESPONDENT:**

Unknown Respondent

15
16 **RELEVANT STATUTES**
17 **AND REGULATIONS:**

52 U.S.C. § 30101(4)(A)

52 U.S.C. § 30103(a)-(b)

52 U.S.C. § 30107(a)(9)

11 C.F.R. § 100.5(a)

11 C.F.R. § 102.2(a)

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22 **INTERNAL REPORTS CHECKED:**

None

23
24 **FEDERAL AGENCIES CHECKED:**

None

25 **I. INTRODUCTION**

26 The Complaint alleges that an unidentified person filed an FEC Form 1 (Statement of
27 Organization) identifying Complainant, Aras Jonikas, as the treasurer of a political committee
28 named Cops for Burning Down Every Trump Tower in America (“CBDETTA”) without his
29 permission. Complainant, a local police detective in Illinois, alleges that the Statement of
30 Organization contained racist language meant to be attributed to him, and it revealed his personal
31 information, thus damaging his reputation and putting his and his family’s safety at risk. He
32 requests that the filing be removed from the Commission’s website.

33 As discussed below, the record indicates that the information in the filing was false,
34 fictitious, and submitted for the purpose of harassing and defaming Complainant. And, in fact,
35 the Commission’s Reports Analysis Division has already removed the Statement of Organization
36 from the public record in the normal course of its verification process. However, because

1 CBDETTA does not appear to satisfy the definition of “political committee,” Unknown
2 Respondent is not subject to the reporting requirements applicable to committee treasurers.

3 Accordingly, we recommend that the Commission dismiss the allegation that Unknown
4 Respondent violated 52 U.S.C. § 30103(b) of the Federal Election Campaign Act of 1971, as
5 amended (the “Act”), and 11 C.F.R. § 102.2(a) of the Commission regulations by submitting a
6 false Statement of Organization. Although there does not appear to be a colorable violation of
7 the Act, Unknown Respondent appears to have submitted a false official statement to a federal
8 government agency in violation of 18 U.S.C. § 1001. And, beyond simply being false, the filing
9 represents an abuse of the campaign finance disclosure system.

13 **II. FACTUAL BACKGROUND**

14 On May 30, 2020, an unknown person filed an FEC Form 1 (Statement of Organization)
15 through the Commission’s website to register a nonconnected political action committee named
16 Cops for Burning Down Every Trump Tower in America.¹ The Statement of Organization listed
17 Complainant as the treasurer and also used his name on the electronic signature line. The form
18 also listed Complainant’s current and past addresses, an email address, and current and past
19 phone numbers. The Statement of Organization listed copsforburningdowntrumptowewrs.com
20 [sic] as the committee’s website, but it does not appear that any such website exists (without or
21 without the typographical error).

¹ CBDETTA, Statement of Org. (filed May 30, 2020) (removed July 15, 2020); *see also* Compl. (July 8, 2020), Attach. (copy of CBDETTA Statement of Organization).

1 In addition to exposing Complainant's personal information, the Form 1 also included
2 language that the Complaint describes as "blatant racism" and "hateful ideology."² In Block 8,
3 the form lists the committee's designated agent as "jonikas, aras, white supremacist, [racial
4 slur]hate," and lists his title or position as "KKK Wizard."³ In Block 9, the form lists the name
5 of the committee's bank as "Bank for Whites Only."⁴

6 Complainant explains that he became aware of the filing on July 6, 2020, when he was
7 contacted by a reporter trying to confirm if he had filed the Form 1.⁵ Complainant denies filing
8 the Form 1 or having any association with the purported committee.⁶ Complainant asserts that
9 by associating his name and contact information with the "hateful ideology" on the Form 1,
10 Unknown Respondent damaged his personal and professional reputation and "[put] both [him]
11 and [his] family at risk."⁷ He requests that the Form 1 be removed from the Commission's
12 publicly available records.⁸

13 Meanwhile, on June 2, 2020, the Commission's Reports Analysis Division ("RAD") sent
14 a verification letter to the purported committee under the Commission's policy regarding false

² Compl. at 1.

³ CBDETTA, Statement of Org. at 4 (racial slur spelled out on form).

⁴ *Id.* at 9.

⁵ Compl. at 1.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

1 and fictitious registrants.⁹ After receiving no response, RAD removed the filing and the
2 verification letter from the Commission's website on July 15, 2020.¹⁰

3 Although the Form 1 was removed from the Commission's website, when the document
4 was initially placed on the public record, it drew media coverage. It was covered by at least one
5 national news media outlet, *Business Insider*.¹¹ The reporter posted a copy of RAD's
6 verification letter—addressed to Complainant at his current home address—to Twitter.¹² Both
7 the article and the tweet remain publicly available.

8 **III. LEGAL ANALYSIS**

9 The Act and Commission regulations define “political committee” as “any committee,
10 club, association or other group of persons which receives contributions aggregating in excess of
11 \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000
12 during a calendar year.”¹³ In *Buckley v. Valeo*, the Supreme Court held that defining political
13 committee status “only in terms of the annual amount of ‘contributions’ and ‘expenditures’”
14 presents vagueness problems, since it could be interpreted to reach “groups engaged purely in

⁹ Letter from Jamie Sikorsky, Analyst, RAD to CBDETTA (June 2, 2020). In 2015, the Commission implemented e-filing for FEC Form 1 (Statement of Organization) and Form 2 (Statement of Candidacy), which resulted in an increase in the frequency of false and fictitious registrations. See Memo. to the Commission from FEC Office of Compliance and Office of Gen. Counsel (June 16, 2016), *False and Fictitious Statements of Organization and Statements of Candidacy- LRA 1002* (“LRA 1002”). In response, the Commission adopted additional verification procedures for filings containing possibly false or fictitious information. FEC Press Release, *FEC Adopts Interim Verification Procedure for Filings Containing Possibly False or Fictitious Information* (Aug. 18, 2016), <https://www.fec.gov/updates/fec-adopts-interim-verification-procedure-for-filings-containing-possibly-false-or-fictitious-information>.

¹⁰ E-mail from Debbie Chacona, RAD, to Ray Wolcott, Attorney, FEC (Nov. 3, 2020).

¹¹ Dave Levinthal, *How Anyone with a Computer and 15 Free Minutes Can Create Their Very Own Weaponized Federal Document*, BUSINESS INSIDER (July 7, 2020), <https://www.businessinsider.com/super-pac-election-fec-racism-doxxing-government-trump-biden-2020-7>.

¹² Dave Levinthal (@davelevinthal), TWITTER (June 3, 2020), <https://twitter.com/davelevinthal/status/1268158672481517570>.

¹³ 52 U.S.C. § 30101(4)(A); 11 C.F.R. § 100.5(a).

1 issue discussion.”¹⁴ To cure that infirmity, the Court concluded that the term “political
2 committee” “need only encompass organizations that are under the control of a candidate or the
3 *major purpose of which is the nomination or election of a candidate.*”¹⁵ Accordingly, under the
4 statute as thus construed, an organization not controlled by a candidate is a political committee if
5 (1) it crosses the \$1,000 threshold and (2) it has as its “major purpose” the nomination or election
6 of federal candidates.

7 The Act requires political committees to file a Statement of Organization within 10 days
8 of becoming a political committee.¹⁶ Statements of Organization must include, *inter alia*, the
9 name, address, and type of committee; the name, address, and position of the custodian of books
10 and accounts of the committee; the name and address of the treasurer; a listing of all banks or
11 other depositories used by the committee; and the internet address of the committee’s official
12 website, if such a website exists.¹⁷

13 Based on the available information, it appears that CBDETTA is a wholly fictitious
14 entity, and we are aware of no information indicating that it has received any contributions or
15 made any expenditures. More precisely, the record suggests that Unknown Respondent never
16 intended for there to be any such group, but rather exploited the public nature of the filing
17 process to attack Complainant. CBDETTA, therefore, does not appear to satisfy the statutory
18 \$1,000 contribution or expenditure threshold and does not appear to satisfy the “major purpose”
19 requirement. Therefore, although the filing was clearly inaccurate, because CBDETTA is not a
20 political committee, it is not subject to the registration requirements applicable to political

¹⁴ 424 U.S. 1, 79 (1976).

¹⁵ *Id.* (emphasis added).

¹⁶ 52 U.S.C. § 30103(a); 11 CFR § 102.1(d).

¹⁷ 52 U.S.C. § 30103(b); 11 C.F.R. § 102.2(a).

committees and, thus, Unknown Respondent who filed the Statement of Organization is not subject to the reporting requirements applicable to committee treasurers.¹⁸ Accordingly, we recommend that the Commission dismiss the allegations that Unknown Respondent violated the Act.

Even so, Unknown Respondent appears to have filed the Statement of Organization to harass Complainant. The Statement of Organization, filed under Complainant's name, contained a provocative committee name, hateful language, and Complainant's personal information. The filing immediately generated press interest for hostile purposes. Fictitious information in any form undermines the Commission's mission of disclosing accurate campaign finance information, and the caustic nature of the false information here extends the harm even further.¹⁹

Under the Act, the Commission is authorized to report apparent criminal violations outside of its civil jurisdiction to appropriate law enforcement authorities.²⁰

Before clicking

"submit," users must acknowledge a legal disclosure that states:

Please be advised that knowingly and willfully making any materially false, fictitious, or fraudulent statement or representation to a federal government agency, including the Federal Election Commission, is punishable under the provisions of 18 U.S.C. § 1001. The Commission may report apparent violations to the appropriate law enforcement authorities. 52 U.S.C. § 30107(a)(9).²¹

¹⁸ See Factual & Legal Analysis at 9-10, MUR 6578 (Doug LaMalfa Committee) ("F&LA") (determining that an entity was not a political committee, and thus not subject to the Act's registration provisions, where the available information did not show that it had raised more than \$1,000 in contributions or made more than \$1,000 in aggregate expenditures in connection with a congressional election); F&LA at 4, MUR 7216 (Concerned Constituents Action Group) (same).

¹⁹ LRA 1002 at 3.

²⁰ 52 U.S.C. § 30107(a)(9).

²¹ FEC Online Filing – FEC Form 1: Statement of Organization; <https://webforms.fec.gov/webforms/form1/index.htm>.

In short, Unknown Respondent was warned that making a false, fictitious, or fraudulent statement to the Commission could result in potential criminal violations,

IV. RECOMMENDATIONS

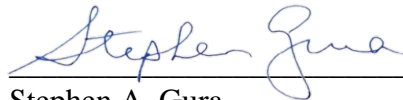
1. Dismiss the allegations that Unknown Respondent violated 52 U.S.C. § 30103(b) and 11 C.F.R. § 102.2(a) by submitting false Statement of Organization;
- 2.
3. Approve the attached Factual and Legal Analysis;
4. Approve the appropriate letters; and
5. Close the file.

Lisa J. Stevenson
Acting General Counsel

Charles Kitcher
Acting Associate General Counsel for Enforcement

December 3, 2020

Date



Stephen A. Gura
Deputy Associate General Counsel



Claudio J. Pavia
Acting Assistant General Counsel



Ray Wolcott
Attorney

Attachment
Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

2
3 **FACTUAL AND LEGAL ANALYSIS**

4
5 RESPONDENT: Unknown Respondent

MUR 7757

6 **I. INTRODUCTION**

7 This matter was generated by a Complaint filed with the Federal Election Commission by
8 Aras Jonikas, alleging that an unidentified person filed an FEC Form 1 (Statement of
9 Organization) identifying Complainant as the treasurer of a political committee named Cops for
10 Burning Down Every Trump Tower in America (“CBDETTA”) without his permission.
11 Complainant, a local police detective in Illinois, alleges that the Statement of Organization
12 contained racist language meant to be attributed to him, and it revealed his personal information,
13 thus damaging his reputation and putting his and his family’s safety at risk. He requests that the
14 filing be removed from the Commission’s website.

15 As discussed below, the record indicates that the information in the filing was false,
16 fictitious, and submitted for the purpose of harassing and defaming Complainant. And, in fact,
17 the Commission’s Reports Analysis Division has already removed the Statement of Organization
18 from the public record in the normal course of its verification process. However, because
19 CBDETTA does not appear to satisfy the definition of “political committee,” Unknown
20 Respondent is not subject to the reporting requirements applicable to committee treasurers.
21 Thus, Unknown Respondent is not subject to the reporting requirements applicable to committee
22 treasurers.

23 Accordingly, the Commission dismisses the allegation that Unknown Respondent
24 violated 52 U.S.C. § 30103(b) of the Federal Election Campaign Act of 1971, as amended (the
25 “Act”), and 11 C.F.R. § 102.2(a) of the Commission regulations by submitting a false Statement
26 of Organization.

II. FACTUAL BACKGROUND

On May 30, 2020, an unknown person filed an FEC Form 1 (Statement of Organization) through the Commission’s website to register a nonconnected political action committee named Cops for Burning Down Every Trump Tower in America.¹ The Statement of Organization listed Complainant as the treasurer and also used his name on the electronic signature line. The form also listed Complainant’s current and past addresses, an email address, and current and past phone numbers. The Statement of Organization listed copsforburningdowntrumptowewrs.com [sic] as the committee’s website, but it does not appear that any such website exists (without or without the typographical error).

In addition to exposing Complainant’s personal information, the Form 1 also included language that the Complaint describes as “blatant racism” and “hateful ideology.”² In Block 8, the form lists the committee’s designated agent as “jonikas, aras, white supremacist, [racial slur]hate,” and lists his title or position as “KKK Wizard.”³ In Block 9, the form lists the name of the committee’s bank as “Bank for Whites Only.”⁴

Complainant explains that he became aware of the filing on July 6, 2020, when he was contacted by a reporter trying to confirm if he had filed the Form 1.⁵ Complainant denies filing the Form 1 or having any association with the purported committee.⁶ Complainant asserts that

¹ CBDETTA, Statement of Org. (filed May 30, 2020) (removed July 15, 2020); see also Compl. (July 8, 2020), Attach. (copy of CBDETTA Statement of Organization).

² Compl. at 1.

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2 Unknown Respondent damaged his personal and professional reputation and “[put] both [him]
3 and [his] family at risk.”⁷ He requests that the Form 1 be removed from the Commission’s
4 publicly available records.⁸

5 Meanwhile, on June 2, 2020, the Commission’s Reports Analysis Division (“RAD”) sent
6 a verification letter to the purported committee under the Commission’s policy regarding false
7 and fictitious registrants.⁹ After receiving no response, RAD removed the filing and the
8 verification letter from the Commission’s website on July 15, 2020.

9 Although the Form 1 was removed from the Commission’s website, when the document
10 was initially placed on the public record, it drew media coverage. It was covered by at least one
11 national news media outlet, *Business Insider*.¹⁰ The reporter posted a copy of RAD’s
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III. LEGAL ANALYSIS

The Act and Commission regulations define “political committee” as “any committee, club, association or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year.”¹² In *Buckley v. Valeo*, the Supreme Court held that defining political committee status “only in terms of the annual amount of ‘contributions’ and ‘expenditures’” presents vagueness problems, since it could be interpreted to reach “groups engaged purely in issue discussion.”¹³ To cure that infirmity, the Court concluded that the term “political committee” “need only encompass organizations that are under the control of a candidate or the *major purpose of which is the nomination or election of a candidate.*”¹⁴ Accordingly, under the statute as thus construed, an organization not controlled by a candidate is a political committee if (1) it crosses the \$1,000 threshold and (2) it has as its “major purpose” the nomination or election of federal candidates.

The Act requires political committees to file a Statement of Organization within 10 days of becoming a political committee.¹⁵ Statements of Organization must include, *inter alia*, the name, address, and type of committee; the name, address, and position of the custodian of books and accounts of the committee; the name and address of the treasurer; a listing of all banks or other depositories used by the committee; and the internet address of the committee’s official website, if such a website exists.¹⁶

¹² 52 U.S.C. § 30101(4)(A); 11 C.F.R. § 100.5(a).

¹³ 424 U.S. 1, 79 (1976).

¹⁴ *Id.* (emphasis added).

¹⁵ 52 U.S.C. § 30103(a); 11 CFR § 102.1(d).

¹⁶ 52 U.S.C. § 30103(b); 11 C.F.R. § 102.2(a).

1 Based on the available information, it appears that CBDETTA is a wholly fictitious
2 entity, and we are aware of no information indicating that it has received any contributions or
3 made any expenditures. More precisely, the record suggests that Unknown Respondent never
4 intended for there to be any such group, but rather exploited the public nature of the filing
5 process to attack Complainant. CBDETTA, therefore, does not appear to satisfy the statutory
6 \$1,000 contribution or expenditure threshold and does not appear to satisfy the “major purpose”
7 requirement. Therefore, although the filing was clearly inaccurate, because CBDETTA is not a
8 political committee, it is not subject to the registration requirements applicable to political
9 committees and, thus, Unknown Respondent who filed the Statement of Organization is not
10 subject to the reporting requirements applicable to committee treasurers.¹⁷ Accordingly, the
11 Commission dismisses the allegations that Unknown Respondent violated the Act.

¹⁷ See Factual & Legal Analysis at 9-10, MUR 6578 (Doug LaMalfa Committee) (“F&LA”) (determining that an entity was not a political committee, and thus not subject to the Act’s registration provisions, where the available information did not show that it had raised more than \$1,000 in contributions or made more than \$1,000 in aggregate expenditures in connection with a congressional election); F&LA at 4, MUR 7216 (Concerned Constituents Action Group) (same).