



FEDERAL ELECTION COMMISSION
Washington, DC 20463

August 17, 2022

VIA FIRST CLASS MAIL

Mike Gaul, Treasurer
Mike Gaul f/k/a Patriot Party
4004 Rosedale Place
Grovetown, GA 30813

RE: MUR 7880
Mike Gaul formerly known as Patriot Party

Dear Mr. Gaul:

On February 25, 2021, the Federal Election Commission notified Mike Gaul, formerly known as Patriot Party, and you in your official capacity as treasurer (the “Committee”), and you in your personal capacity, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the “Act”). On August 9, 2022, on the basis of the information provided in the complaint and in your response, the Commission determined to dismiss as a matter of prosecutorial discretion the allegations that the Committee and you in your personal capacity violated 52 U.S.C. § 30103(b) by filing an inaccurate Statement of Organization. The Commission also found no reason to believe the Committee and you in your personal capacity violated the fraudulent misrepresentation provision of the Act at 52 U.S.C. § 30124(b). Accordingly, the Commission closed the file in this matter.

The Commission nevertheless admonishes you and the Committee for an apparent violation of 52 U.S.C. § 30103(b) by filing an inaccurate Statement of Organization and advises you to take steps to ensure that this activity does not occur in the future. The Commission further admonishes you and the Committee that a political committee may only be designated as a state party committee of a political party after petitioning for and obtaining state party status from the Commission. 52 U.S.C. § 30101(15); 11 C.F.R. § 100.14(a); Advisory Opinion 2002-10 (Green Party of Michigan). Therefore, the Commission instructs the Committee to further amend its Statement of Organization if it does not seek or receive authorization to be identified as a state committee of the Republican Party. Updates to information on a previously submitted Statement of Organization must be reported to the Commission by filing an amended FEC Form 1. 52 U.S.C. § 30103(c); 11 C.F.R. § 102.2(a)(2).

MUR 7880 (Mike Gaul f/k/a Patriot Party, *et al.*)

Letter to Mr. Gaul

Page 2 of 2

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). The Factual and Legal Analysis, which explains the Commission's findings, is enclosed for your information.

If you have any questions, please contact Christine C. Gallagher, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Ana J. Peña-Wallace

Ana J. Peña-Wallace
Assistant General Counsel

Enclosure

Factual and Legal Analysis

FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Mike Gaul f/k/a Patriot Party and **MUR 7880**
Michael Joseph Gaul in his official capacity as treasurer
Michael Joseph Gaul

I. INTRODUCTION

10 The Complaint, filed by the self-described owner of the name “Patriot Party,” alleges that
11 Michael Joseph Gaul violated the Federal Election Campaign Act of 1971, as amended (the
12 “Act”), by registering Mike Gaul f/k/a Patriot Party and Michael Joseph Gaul in his official
13 capacity as treasurer (the “Gaul Committee”) as a political committee under the name “Patriot
14 Party” without the Complainant’s knowledge or permission.¹ The Complaint further alleges that
15 the Gaul Committee falsely listed itself on its Statement of Organization as a joint fundraising
16 representative of Make America Great Again PAC f/k/a Donald J. Trump for President, Inc. (the
17 “Trump Committee”) without the Trump Committee’s knowledge or permission.² After the
18 Trump Committee filed a Miscellaneous Report with the Commission disavowing any
19 association with the Gaul Committee, Gaul amended the Gaul Committee’s name to “Mike
20 Gaul,” removed the joint fundraising representative designation of the Trump Committee, and
21 identified the Gaul Committee as a state committee of the Republican Party.³ In the Response,

¹ Compl. at 1-3 (Feb. 19, 2021); Mike Gaul, Statement of Organization at 2 (Jan. 22, 2021), <https://docquery.fec.gov/pdf/293/202101229405270293/202101229405270293.pdf>.

² Compl. at 1-2; Mike Gaul, Statement of Organization at 2 (Jan. 22, 2021), <https://docquery.fec.gov/pdf/293/202101229405270293/202101229405270293.pdf>.

³ Resp. at 1 (Feb. 26, 2021); Mike Gaul, Amended Statement of Organization at 2 (Jan. 26, 2021, 15:16 EST), <https://docquery.fec.gov/pdf/866/202101269413402866/202101269413402866.pdf>; Compl. at 1-2, Attach. 3 (citing Make America Great Again PAC, Form 99 at 1 (Jan. 25, 2021, 13:49 EST)), <https://docquery.fec.gov/pdf/667/202101259413340667/202101259413340667.pdf>.

MUR 7880 (Mike Gaul f/k/a Patriot Party, *et al.*)

Factual and Legal Analysis

Page 2 of 10

1 Gaul states that the name “Patriot Party” is no longer active.⁴ He further asserts that he had no
2 way of knowing that the Complainant had already registered the name “Patriot Party” given the
3 timing of the parties’ respective filings.⁵

4 As explained below, it appears that the Gaul Committee and Gaul in his personal capacity
5 filed an inaccurate Statement of Organization that incorrectly identified the Gaul Committee as a
6 joint fundraising representative of the Trump Committee and, four days later, amended its
7 Statement of Organization to incorrectly identify itself as a state party committee.

8 Given the short time period involved and other circumstances such as the lack of
9 fundraising or other committee activity, the Commission exercises its prosecutorial discretion
10 and dismisses the allegation that the Gaul Committee and Gaul in his personal capacity violated
11 52 U.S.C. § 30103(b) by filing a false Statement of Organization and admonishes the Gaul
12 Committee and Gaul in his personal capacity.⁶ In addition, the Commission finds no reason to
13 believe that the Gaul Committee and Gaul in his personal capacity violated 52 U.S.C. § 30124(b)
14 given that there is no available information indicating that Respondents solicited contributions.

15 **II. FACTUAL BACKGROUND**

16 On January 22, 2021, Michael Gaul registered the Gaul Committee with the Commission
17 using the name “Patriot Party,” listed himself as treasurer, and identified the Gaul Committee as
18 a joint fundraising representative of the Trump Committee.⁷

4 Resp. at 1.

5 *Id.*

6 *Heckler v. Chaney*, 470 U.S. 821 (1985).

7 Mike Gaul, Statement of Organization at 2 (Jan. 22, 2021),
<https://docquery.fec.gov/pdf/293/202101229405270293/202101229405270293.pdf>.

MUR 7880 (Mike Gaul f/k/a Patriot Party, *et al.*)

Factual and Legal Analysis

Page 3 of 10

1 The Complaint alleges that Gaul used the name “Patriot Party” without Complainant’s
 2 knowledge or permission and listed itself as a joint fundraising representative of the Trump
 3 Committee without its knowledge or permission.⁸ The Complaint does not allege that the Patriot
 4 Party solicited contributions. The Complaint includes a copy of an Internal Revenue Service
 5 (“IRS”) notification dated two days prior to the Gaul Committee’s registration; the IRS
 6 notification provides the newly-registered Employer Identification Number (“EIN”) for “Patriot
 7 Party.”⁹ The Complainant also provides a copy of what appears to be his application to the U.S.
 8 Copyright Office to copyright the name “Patriot Party” to “establish a new political
 9 party/political action committee in the USA.”¹⁰ The copyright application is signed and dated
 10 December 12, 2020.¹¹

11 On January 25, 2021, the Trump Committee filed a Miscellaneous Report with the
 12 Commission disavowing the activities of the Gaul Committee, referring to it as the Patriot
 13 Party.¹² In the filing, the Trump Committee states that it has “no knowledge of [the Gaul
 14 Committee’s] activities whatsoever,” and asserts that it “has not entered into any joint
 15 fundraising agreement to fundraise through [the Gaul Committee],” and “has no affiliation with
 16 [the Gaul Committee].”¹³ The Trump Committee further states that the Gaul Committee’s
 17 activities are not authorized by Trump or the Trump Committee.¹⁴ On the following day, the

⁸ Compl. at 1-2.

⁹ *Id.* at 1, Attach. 1.

¹⁰ Compl. at 1, Attach. 4. The Complaint attaches a copy of the copyright application but does not submit any notification of a determination from the U.S. Copyright Office. *Id.* The copyright application, which includes the EIN, is dated prior to the IRS letter notifying Complainant of the issuance of an EIN.

¹¹ *Id.*

¹² *Id.* at 1-2, Attach. 3; Make America Great Again PAC, Form 99 at 1 (Jan. 25, 2021, 13:49 EST).

¹³ Compl. at 1-2, Attach. 3; Make America Great Again PAC, Form 99 at 1 (Jan. 25, 2021, 13:49 EST).

¹⁴ Compl. at 1-2, Attach. 3; Make America Great Again PAC, Form 99 at 1 (Jan. 25, 2021, 13:49 EST).

MUR 7880 (Mike Gaul f/k/a Patriot Party, *et al.*)

Factual and Legal Analysis

Page 4 of 10

1 Gaul Committee amended its Statement of Organization to change its name to “Mike Gaul” and
 2 removed the joint fundraising representative connection to the Trump Committee, but changed
 3 its type of committee to a state committee of the Republican Party.¹⁵

4 According to the Complaint, the Complainant emailed Gaul on January 27, 2021,
 5 advising him that through Gaul’s personal website, Complainant became aware of Gaul’s use of
 6 the name “Patriot Party” in filings with the Commission.¹⁶ In the email, the Complainant asserts
 7 that he copyrighted the name “Patriot Party,” which he says Gaul was using without permission,
 8 and requests that Gaul cease and desist using the name.¹⁷ The Complainant’s email apparently
 9 informed Gaul that the Trump Committee filed a disavowal notice with the Commission.¹⁸

10 RAD issued an RFAI to the Gaul Committee on February 1, 2021, in connection with the
 11 Amended Statement of Organization, stating that before the Gaul Committee “us[es] the
 12 contribution limits and/or statutes available for state parties,” it must petition the Commission
 13 through an advisory opinion request to determine if it satisfies the criteria for state party
 14 committee status.¹⁹ On August 16, 2021, RAD issued the Committee a non-filer notice for
 15 failure to file its 2021 Mid-Year Report.²⁰ To date, Gaul has not submitted responses to the

¹⁵ Resp. at 1; Mike Gaul, Amended Statement of Organization at 2 (Jan. 26, 2021, 15:16 EST).

¹⁶ Compl. at 2-3 (depicting email).

¹⁷ *Id.*

¹⁸ *Id.* The Complainant’s January 27 email to Gaul also cites to news articles reporting that Trump disavowed affiliation with the Patriot Party. *Id.* at 3 (citing, for example, Mark Niquette, *Trump Campaign Disavows Notice Linking Him to the Patriot Party*, BLOOMBERG (Jan. 25, 2021), <https://www.bloomberg.com/news/articles/2021-01-25/trump-campaign-disavows-notice-linking-him-to-the-patriot-party>; Jack Brewster, *Trump Campaign Distances Itself From Rogue “Patriot Party,”* FORBES (Jan. 25, 2021), <https://www.forbes.com/sites/jackbrewster/2021/01/25/trump-campaign-distances-itself-from-rogue-patriot-party/>.

¹⁹ Mike Gaul, RFAI at 1 (Feb. 1, 2021), <https://docquery.fec.gov/pdf/065/202102010300103065/202102010300103065.pdf>.

²⁰ Letter from Deborah Chacona, Assistant Staff Director, RAD, to Mike Joseph Gaul, Treasurer, Mike Gaul, (Aug. 16, 2021) (“Non-Filer Notice”), <https://docquery.fec.gov/pdf/198/202108160300124198/202108160300124198.pdf>.

MUR 7880 (Mike Gaul f/k/a Patriot Party, *et al.*)

Factual and Legal Analysis

Page 5 of 10

1 letters or taken the required steps to petition the Commission for state party status, nor has the
 2 Gaul Committee filed any disclosure reports.²¹

3 In the Response, Gaul states that the EIN obtained by the Complainant does not give the
 4 Complainant intellectual property rights to the name “Patriot Party.”²² Gaul further states that
 5 the “Patriot Party” name “is no longer used, due to inadequate fundraiser knowledge” and
 6 asserts that the Complainant is aware of that.²³ Gaul states that he filed amendments with the
 7 Commission and did not know that the Complainant “had established” the Patriot Party because
 8 he registered the Gaul Committee four days after the Complainant “filed.”²⁴ Gaul states that he
 9 does not “own any websites, media outlets or merchandising associated with Patriot Party,” and
 10 that the “Patriot Party DJT Fundraiser C00767095 is no longer active.”²⁵ The Response does
 11 not address whether Gaul or the Gaul Committee violated the Act or Commission regulations.

²¹ The term “state committee” means an organization that “by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level, as determined by the Commission.” 52 U.S.C. § 30101(15). The Commission’s regulations include an additional factor that the organization must be “part of the official party structure” either “by virtue of the bylaws of a political party or the operation of State law.” 11 C.F.R. § 100.14(a). The organization obtains the Commission’s determination by submitting an advisory opinion request. *See, e.g.*, Advisory Opinion 2002-10 at 1-3 (Green Party of Michigan). In making its determination, the Commission also considers whether the national party of which the state party organization is a part is a “political party.” Advisory Opinion 2016-14 at 2 (Libertarian Party of Alabama, *et al.*) (citing Advisory Opinion 2015-01 (Green-Rainbow Party) and Advisory Opinion 2012-39 (Green Party of Virginia)). RAD informed the Gaul Committee that it had not taken the required steps to obtain a determination that it is a state committee of a political party. Mike Gaul, RFAI at 1 (Feb. 1, 2021) (citing Advisory Opinion 2002-10).

²² Resp. at 1. The Response was submitted by Gaul and does not state whether it is filed on behalf of both the Gaul Committee and Gaul in his personal capacity.

²³ *Id.*

²⁴ *Id.* The four-day filing timeline Gaul refers to in this context is unclear.

²⁵ *Id.*; Mike Gaul, Statement of Organization at 2 (Jan. 22, 2021); Mike Gaul, Amended Statement of Organization at 2 (Jan. 26, 2021, 15:16 EST).

MUR 7880 (Mike Gaul f/k/a Patriot Party, *et al.*)

Factual and Legal Analysis

Page 6 of 10

1 **III. LEGAL ANALYSIS**

2 **A. The Gaul Committee's Liability**

3

4 1. The Commission Exercise Its Prosecutorial Discretion and Dismisses the
 5 Allegation that the Gaul Committee Filed an Inaccurate Statement of
 6 Organization

7

8 Political committees must register with the Commission and file a statement of
 9 organization no later than ten days after becoming a political committee within the meaning of
 10 52 U.S.C § 30101(4).²⁶ The statement of organization must include, *inter alia*, the name,
 11 address, relationship, and type of any connected organization or affiliated committee.²⁷ Any
 12 change of information previously submitted on a statement of organization must be reported to
 13 the Commission by filing an amended FEC Form 1 no later than ten days after the date of the
 14 change.²⁸

15 The available information indicates that the Gaul Committee filed an inaccurate
 16 Statement of Organization on January 22, 2021, by inaccurately stating that it was a joint
 17 fundraising representative of the Trump Committee. Four days later, the Gaul Committee filed
 18 an Amended Statement of Organization, changing its name from “Patriot Party” to “Mike Gaul”
 19 and changing its political committee type from joint fundraising representative to that of state
 20 committee of the Republican Party, although it has not petitioned the Commission, in the form of
 21 an advisory opinion request, to seek such status.²⁹ For this reason, the Amended Statement of
 22 Organization was also inaccurate at the time it was filed and continues to be inaccurate.

²⁶ 52 U.S.C. § 30103(a); 11 C.F.R. § 102.1(d).

²⁷ 52 U.S.C. § 30103(b); 11 C.F.R. § 102.2(a)(1).

²⁸ 52 U.S.C. § 30103(c); 11 C.F.R. § 102.2(a)(2).

²⁹ See *supra* note 21.

MUR 7880 (Mike Gaul f/k/a Patriot Party, *et al.*)

Factual and Legal Analysis

Page 7 of 10

1 Although the available information indicates that the Gaul Committee filed an inaccurate
 2 Statement of Organization multiple times,³⁰ the Response states that the Gaul Committee is
 3 inactive and there is no information indicating that the Gaul Committee has received
 4 contributions or made disbursements.

5 In order to avoid expending further resources on this matter, the Commission therefore
 6 exercises its prosecutorial discretion and dismisses the allegation that Mike Gaul f/k/a Patriot
 7 Party and Michael Joseph Gaul in his official capacity as treasurer violated 52 U.S.C. § 30103(b)
 8 by filing an inaccurate Statement of Organization and admonishes the Gaul Committee that a
 9 political committee may only be designated as a state party committee of a political party after
 10 petitioning for and obtaining state party status from the Commission.³¹

11 2. The Commission Finds No Reason to Believe the Gaul Committee
 12 Violated the Fraudulent Misrepresentation Provision of the Act

13
 14 The Act provides that no person shall fraudulently misrepresent themselves as speaking,
 15 writing, or otherwise acting for, or on behalf of, any candidate or agent thereof for the purpose of
 16 soliciting contributions or donations.³² Further, the Act provides that no person shall willfully
 17 and knowingly participate in or conspire to participate in any plan or scheme to engage in such
 18 behavior.³³ Although the Act requires that the violator have the intent to deceive, it does not

³⁰ The Gaul Committee did not remove the joint fundraising representative connection to the Trump Committee when it first amended its Statement of Organization to change its name to “Mike Gaul” and change its type of committee to a state committee of the Republican Party. Mike Gaul, Amended Statement of Organization at 2 (Jan. 26, 2021, 15:00 EST). The Gaul Committee corrected this apparent error by filing a second Amended Statement of Organization sixteen minutes later. *See supra* note 15.

³¹ The Commission will issue an admonishment letter which will also instruct the Gaul Committee to further amend its Statement of Organization if it does not seek or receive authorization to be identified as a state committee of the Republican Party.

³² 52 U.S.C. § 30124(b)(1); 11 C.F.R. § 110.16(b)(1).

³³ 52 U.S.C. § 30124(b)(2); 11 C.F.R. § 110.16(b)(2).

MUR 7880 (Mike Gaul f/k/a Patriot Party, *et al.*)

Factual and Legal Analysis

Page 8 of 10

1 require proof of the common law fraud elements of justifiable reliance and damages.³⁴ Even

2 absent an express misrepresentation, a representation is fraudulent “if it was reasonably

3 calculated to deceive persons of ordinary prudence and comprehension.”³⁵

4 Here, it does not appear that by filing an inaccurate Statement of Organization the Gaul

5 Committee violated the fraudulent misrepresentation provision of the Act. By filing the original

6 Statement of Organization, the Gaul Committee misrepresented itself as a joint fundraising

7 representative of the Trump Committee, and thus appears to have misrepresented itself as a

8 person speaking, writing, otherwise acting for or on behalf of the Trump Committee, when in

9 fact, it had no connection with that political committee. However, the available information does

10 not support the allegation that the Gaul Committee made the misrepresentation for the purpose of

11 soliciting contributions or to deceive persons of ordinary prudence and comprehension. The

12 Complaint does not allege, and there is no other information to suggest, that the Respondents

13 solicited contributions during the four-day period before the Gaul Committee amended its

14 Statement of Organization.³⁶

15 Therefore, there is no reason to believe that Mike Gaul f/k/a Patriot Party and Michael

16 Joseph Gaul in his official capacity as treasurer violated 52 U.S.C. § 30124(b).

³⁴ See *FEC v. Novacek*, 739 F. Supp. 2d 957, 961 (N.D. Tex. 2010) (finding that defendants knowingly and willfully violated 2 U.S.C. § 44lh(b) (now 52 U.S.C. § 30124(b)); Disclaimers, Fraudulent Solicitation, Civil Penalties, and Personal Use of Campaign Funds, 67 Fed. Reg. 76,962, 76,969 (Dec. 13, 2002) (“Explanation and Justification”) (citing *Neder v. United States*, 527 U.S. 1, 24-25 (1999) distinguishing fraud in federal campaign finance abuses from common law tort action on the basis of Congress intending to penalize schemes as well as actions taken to defraud and the damaging effect of misrepresentation); Factual & Legal Analysis at 4, MUR 5472 (Jody Novacek).

³⁵ *Novacek*, 739 F. Supp. 2d at 961.

³⁶ There is no indication that the Gaul Committee solicited contributions using the name “Patriot Party” before amending its Statement of Organization. Given that the Complaint focused on the false reporting and fraudulent misrepresentation allegations, and that it is unclear whether the joint fundraising procedures would apply given the apparent lack of a joint fundraising agreement, the Commission does not make any determination as to whether the Gaul Committee violated the joint fundraising procedures at 11 C.F.R. § 102.17(c).

MUR 7880 (Mike Gaul f/k/a Patriot Party, *et al.*)

Factual and Legal Analysis

Page 9 of 10

1 **B. The Treasurer's Liability**

2 The Act requires every political committee to have a treasurer.³⁷ The treasurer is
 3 required to file periodic reports with the Commission disclosing the committee's receipts and
 4 disbursements.³⁸ The treasurer, and any other person required to file any report or statement
 5 under the Act, is "personally responsible . . . for the accuracy of any information or statement
 6 contained in it."³⁹ According to Commission policy, a treasurer may be named as a respondent
 7 in his or her personal capacity when it appears that, while serving as a treasurer, he or she may
 8 have violated obligations imposed by the Act or Commission regulations personally as a
 9 treasurer and where, for example, the violations were knowing and willful or "the treasurer
 10 recklessly failed to fulfill the duties imposed by law."⁴⁰

11 Here, Gaul was notified in his personal capacity not only because of the fraudulent
 12 misrepresentation allegation but also because it appeared that, based on the Complaint, he
 13 recklessly failed to fulfill his duties as treasurer imposed by law. However, in the Response,
 14 Gaul cites "inade[q]uate fundraiser knowledge," indicates that he amended the Gaul
 15 Committee's Statement of Organization, and states that "Patriot Party DJT Fundra[is]er
 16 C00767095 is no longer active."⁴¹ Gaul amended the Statement of Organization one day after
 17 the Trump Committee filed its Miscellaneous Report disavowing any connection to the Gaul
 18 Committee. Given the above facts, it is not clear that Gaul intended to file a false statement, or

³⁷ 52 U.S.C. § 30102.

³⁸ 52 U.S.C. § 30104(a)(1), (b).

³⁹ 11 C.F.R. § 104.14(d).

⁴⁰ See Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings, 70 Fed. Reg. 3, 3-6 (Jan. 3, 2005); *see, e.g.*, MUR 5971 (Mary Jennifer Adams); MUR 5610 (Earl Allen Haywood); MUR 7225 (Jack Wu); MUR 7310 (Mark Takai for Congress).

⁴¹ Resp. at 1.

MUR 7880 (Mike Gaul f/k/a Patriot Party, *et al.*)

Factual and Legal Analysis

Page 10 of 10

1 that Gaul's actions were knowing and willful or an intentional abuse of the Commission's filing
2 requirements. Gaul's actions in immediately amending the Statement of Organization and
3 changing the type of committee designation are consistent with the other circumstances
4 indicating his lack of sophistication and understanding about how to complete the Statement of
5 Organization as well as his possible lack of understanding concerning the implications of stating
6 that the Gaul Committee was a joint fundraising representative of the Trump Committee.⁴² .

7 Therefore, the Commission dismisses, as a matter of prosecutorial discretion, the
8 allegation that Michael Joseph Gaul in his personal capacity violated 52 U.S.C. § 30103(b) by
9 filing an inaccurate Statement of Organization and admonishes Michael Joseph Gaul that a
10 political committee may only be designated as a state party committee of a political party after
11 petitioning for and obtaining state party status from the Commission.⁴³ In addition, the
12 Commission finds no reason to believe that Michael Joseph Gaul in his personal capacity
13 violated 52 U.S.C. § 30124(b).

⁴² See MUR 6561 (Friends of Liberty for Jessica) (EPS dismissal) (dismissing, in part, allegations that candidate and committee failed to accurately report on the statement of candidacy and statement of organization the correct congressional office sought, designating the committee as both a principal campaign committee and an authorized committee, among other things, due to confusion during transitions of treasurers, and issuing a reminder letter).

⁴³ The Complaint also alleges that Gaul infringed on his exclusive intellectual property right to use the name "Patriot Party." Compl. at 1. Since this allegation is outside the Commission's jurisdiction, the Commission makes no determination as to that allegation.