

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

**MUR 7903**

COMPLAINT FILED: May 12, 2021  
NOTIFICATION DATE: May 13, 2021  
LAST RESPONSE: July 1, 2021  
ACTIVATION DATE: November 5, 2021

## STATUTE OF LIMITATIONS:

Feb. 3, 2025 (earliest) – Feb. 24, 2025 (latest)  
ELECTION CYCLE: 2020

12 COMPLAINANT: Campaign Legal Center

14 Thomas A. Chavez

## Lone Star Forward and Tory Gavito in her official capacity as treasurer

## **18 RELEVANT STATUTES 19 AND REGULATIONS:**

52 U.S.C. § 30122

11 C.F.R. § 110.4(b)(1)(i)

11 C.F.R. § 110.1(g)

## 22 INTERNAL REPORTS CHECKED: Disclosure Reports

23 FEDERAL AGENCIES CHECKED: None

## 24 I. INTRODUCTION

25 The Complaint in this matter alleges that an unknown person made two contributions  
26 totaling \$75,000 in the name of a limited liability company, Tomfoolery, LLC (“Tomfoolery”),  
27 to an independent-expenditure-only political committee, Lone Star Forward and Tory Gavito in  
28 her official capacity as treasurer (“LSF”), in violation of 52 U.S.C. § 30122, a provision of the  
29 Federal Election Campaign Act of 1971, as amended (the “Act”).<sup>1</sup> The Complaint contends that  
30 because there is no public record of a “Tomfoolery, LLC” located at the address provided on

<sup>1</sup> Compl. at 1-2 (May 12, 2021).

MUR 7903 (Tomfoolery, LLC, *et al.*)

First General Counsel's Report

Page 2 of 15

1 LSF's disclosure report, the contributions may have been made in the name of a nonexistent  
 2 entity; alternatively, the Complaint asserts that because none of the three currently active entities  
 3 in the U.S. named "Tomfoolery, LLC," could have had the funds to make the combined \$75,000  
 4 in contributions without an infusion of funds provided for that purpose, the contributions to LSF  
 5 were made by another person using Tomfoolery as a straw donor.<sup>2</sup>

6 Tomfoolery filed a joint response with its single member, Thomas A. Chavez, addressing  
 7 the allegations in the Complaint and confirming that the LLC was organized in Delaware in  
 8 2017.<sup>3</sup> While the Response acknowledges that "Chavez wanted to help the election prospects of  
 9 one particular candidate" and that "funds had to be transferred into the LLC on the days the  
 10 contributions were made in order to cover the full contribution amounts," it contends that "there  
 11 was no willful effort to make a contribution in the name of another in this matter."<sup>4</sup> LSF also  
 12 filed a Response indicating that upon being notified of the Complaint, it contacted Tomfoolery to  
 13 request additional information and received a request to amend its disclosure reports to attribute  
 14 the two contributions at issue to Chavez, which LSF subsequently did.<sup>5</sup>

15 Because the overall record in this matter supports the conclusion that Chavez made, and  
 16 Tomfoolery knowingly permitted its name to be used to effect, two contributions in the name of

---

<sup>2</sup> *Id.* The Complaint contends that there are three active entities named "Tomfoolery, LLC," which are registered in New York, Delaware, and Wyoming, and that none of these LLCs had the apparent financial capability to make the contributions at issue. *Id.* at 4-6.

<sup>3</sup> Resp. of Tomfoolery, LLC and Thomas Chavez at 1 (June 23, 2021) ("Tomfoolery Resp."). Chavez was not initially notified of the Complaint but was provided notice after being identified as the LLC's single member in the joint response. *See* Letter from Roy Q. Luckett, Asst. Gen. Counsel, FEC, to Scott E. Thomas, Counsel to Tomfoolery and Thomas A. Chavez (Oct. 8, 2021).

<sup>4</sup> Tomfoolery Resp. at 2.

<sup>5</sup> Resp. of Lone Star Forward at 1 (July 1, 2021) ("LSF Resp.").

1 another, we recommend that the Commission find reason to believe that Chavez and Tomfoolery  
 2 violated 52 U.S.C. § 30122. Because an investigation does not appear necessary to substantiate  
 3 these violations or complete the factual record, we also recommend that the Commission  
 4 authorize pre-probable cause conciliation (“PPCC”) with Chavez and Tomfoolery. Further, we  
 5 recommend that the Commission take no action at this time as to the allegation that LSF violated  
 6 52 U.S.C. § 30122 by knowingly accepting contributions in the name of another, pending further  
 7 development of the factual record through PPCC with Chavez and Tomfoolery.

8 **II. FACTUAL BACKGROUND**

9 Tomfoolery is a limited liability company (“LLC”) that was formed, according to its  
 10 response, in Delaware on November 13, 2017, and its registered agent is the Corporation Trust  
 11 Company.<sup>6</sup> As disclosed in its Response, Tomfoolery has a single natural person member,  
 12 Thomas Chavez. Tomfoolery sent a \$50,000 contribution to LSF on February 3, 2020, and sent  
 13 a \$25,000 contribution to LSF on February 24, 2020. Tomfoolery did not provide any  
 14 information about the source of the funds or that they should have been attributed to some other  
 15 person.. Both contributions were originally reported by LSF as having been made by  
 16 Tomfoolery,<sup>7</sup> and were later reattributed to Chavez in an amended report filed on July 1, 2021, a  
 17 few weeks after the May 2021 Complaint filing in this matter.<sup>8</sup> These are the only federal  
 18 contributions that Tomfoolery is reported to have made. Commission records reflect that Chavez

---

<sup>6</sup> “Tomfoolery LLC,” DE Dep’t of State, Division of Corps. Entity Search, <https://icis.corp.delaware.gov/ecorp/entitysearch/NameSearch.aspx> (visited Sept. 15, 2021); *see* Compl., Ex. B (“Certificate of Formation of Tomfoolery LLC” dated November 13, 2017, and signed by “Tom Chavez” as the “authorized person”).

<sup>7</sup> LSF Apr. 2020 Quarterly Report at 10-11 (Apr. 13, 2020).

<sup>8</sup> LSF Amend. Apr. 2020 Quarterly Report at 10-11 (July 1, 2021).

MUR 7903 (Tomfoolery, LLC, *et al.*)

First General Counsel's Report

Page 4 of 15

1 made two contributions to other committees in his own name, totaling \$35,000, during the 2020  
 2 election cycle.<sup>9</sup>

3 LSF is an independent-expenditure-only political committee (“IEOPC”), which registered  
 4 with the Commission on January 22, 2020.<sup>10</sup> During the 2020 election cycle, the committee  
 5 received \$275,510 in contributions, of which the contributions made in Tomfoolery’s name  
 6 constituted 27% of LSF’s total receipts during the cycle. LSF made \$255,200 in independent  
 7 expenditures, all of which supported Cristina Ramirez, a candidate in the 2020 Democratic  
 8 primary election for the U.S. Senate in Texas, which constituted 96% of the \$265,531.48 in total  
 9 independent expenditures supporting Ramirez’s candidacy.<sup>11</sup>

10 **III. LEGAL ANALYSIS**

11 **A. Contributions in the Name of Another**

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

14 The Act provides that a contribution includes “any gift, subscription, loan, advance, or  
 15 deposit of money or anything of value made by any person for the purpose of influencing any  
 16 election for Federal office.”<sup>12</sup> The term “person” for purposes of the Act and Commission  
 17 regulations includes partnerships, corporations, and “any other organization or group of

---

<sup>9</sup> See Somos PAC Oct. 2020 Monthly Report at 15 (Oct. 20, 2020) (\$10,000 contribution made on September 11, 2020); Latino Victory Fund Amend. Oct. 2020 Monthly Report at 14 (Apr. 21, 2021) (\$25,000 contribution made on September 29, 2020).

<sup>10</sup> LSF Statement of Org. (Jan. 22, 2020).

<sup>11</sup> Ramirez lost in the primary election held on March 3, 2020. LSF appears to have ceased all activity after the March 3, 2020, primary election, *see* LSF July 2020 Quarterly Report at 2 (disclosing \$653.95 in cash on hand as of April 1, 2020, as well as no receipts and less than \$400 in disbursements during the reporting period from April 1, 2020 through June 30, 2020), and reported virtually no activity during the 2022 election cycle, *see* Lone Star Forward Financial Summary, <https://www.fec.gov/data/committee/C00735829/?tab=summary&cycle=2022>.

<sup>12</sup> 52 U.S.C. § 30101(8)(A).

MUR 7903 (Tomfoolery, LLC, *et al.*)

## First General Counsel's Report

Page 5 of 15

1 persons.”<sup>13</sup> The Act prohibits a person from making a contribution in the name of another  
2 person, knowingly permitting his or her name to be used to effect such a contribution, or  
3 knowingly accepting such a contribution.<sup>14</sup> The Commission has included in its regulations  
4 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>15</sup>

13 The requirement that a contribution be made in the name of its true source promotes  
14 Congress's objective of ensuring the complete and accurate disclosure by candidates and  
15 committees of the political contributions they receive.<sup>16</sup> Courts therefore have uniformly  
16 rejected the assertion that "only the person who actually transmits funds . . . makes the  
17 contribution,"<sup>17</sup> recognizing that "it is implausible that Congress, in seeking to promote  
18 transparency, would have understood the relevant contributor to be [an] intermediary who

<sup>13</sup> *Id.* § 30101(11); 11 C.F.R. § 100.10.

14 52 U.S.C. § 30122.

<sup>15</sup> 11 C.F.R. § 110.4(b)(2)(i)–(ii).

<sup>16</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>17</sup> *United States v. Boender*, 649 F.3d 650, 660 (7th Cir. 2011).

1 merely transmitted the campaign gift.”<sup>18</sup> Consequently, both the Act and the Commission’s  
 2 implementing regulations provide that a person who furnishes another with funds for the purpose  
 3 of contributing to a candidate or committee “makes” the resulting contribution.<sup>19</sup> This is true  
 4 whether funds are advanced to another person to make a contribution in that person’s name or  
 5 promised as reimbursement of a solicited contribution.<sup>20</sup>

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

---

<sup>18</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>19</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.” (quoting then-Section 441f)).

<sup>20</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 the LLC was likely not the true source of the contribution.<sup>21</sup> By contrast, we have not  
 2 recommended finding reason to believe in cases where the overall record — including, *e.g.*,  
 3 evidence that the LLC engaged in commercial activity and may have had the ability to make the  
 4 contributions at issue with its own income, a sworn statement attesting that the LLC had not  
 5 received outside funds to make the contribution, and information suggesting that the LLC was  
 6 not being used to circumvent the Act's disclosure requirements — supported an inference that  
 7 the LLC in question was not used as a conduit but was, instead, the true contributor.<sup>22</sup>

---

<sup>21</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); First Gen. Counsel's Report at 13–19, MUR 7754 (Pacific Atlantic Action Coalition, *et al.*) (recommending finding reason to believe that the Chief Executive of two 501(c)(4) public benefit corporations used those entities to make contributions in the name of another to IEOPCs).

<sup>22</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).

MUR 7903 (Tomfoolery, LLC, *et al.*)

First General Counsel's Report

Page 8 of 15

1           Although the Commission, in almost all of these prior matters, split evenly on these  
 2 recommendations regarding alleged violations of Section 30122,<sup>23</sup> Commissioners also  
 3 expressed agreement that Section 30122's prohibition of contributions in the name of another  
 4 applies to LLCs — a view later adopted by the U.S. Court of Appeals for the D.C. Circuit<sup>24</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>25</sup> Subsequently,  
 7           the Commission found reason to believe, and authorized compulsory process to

---

<sup>23</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>24</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.*”) (emphasis added). The Court nevertheless 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>25</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 investigate, the allegation that unknown persons made contributions to IEOPCs using an LLC as  
2 a straw donor, in violation of Section 30122.

3                   2.        The Available Information Indicates that Chavez Provided  
4        Funds to Tomfoolery to Make Contributions in its Name

5                   The available information indicates that the contributions made in Tomfoolery's name  
6 were, in fact, actually made by Thomas A. Chavez, when Chavez furnished Tomfoolery with  
7 funds for the purpose of having the LLC make the contributions. Tomfoolery's Response  
8 acknowledges that "at the time the contributions here involved were made, funds had to be  
9 transferred into the LLC on the days the contributions were made in order to cover the full  
10 contribution amounts."<sup>27</sup> This statement indicates the allegation that the provision of outside  
11 funds was *necessary* for Tomfoolery to make the contributions — *i.e.*, that Tomfoolery could not  
12 be the true contributor because it lacked the financial wherewithal to make the contributions on  
13 its own, such that "funds *had to be* transferred . . . to cover the full contribution amounts."<sup>28</sup>

14                   Moreover, the Response states that "Chavez wanted to help the election prospects of one  
15 particular candidate seeking the [U.S.] Senate nomination in Texas,"<sup>29</sup> and that the "necessary  
16 transfers [were made] into the LLC *from a Thomas Chavez account* to facilitate the political  
17 contributions being made,"<sup>30</sup> which indicates that Chavez, not Tomfoolery, was the true

<sup>27</sup> Tomfoolery Resp. at 2.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.* (emphasis added).

<sup>30</sup> *Id.* (emphasis added)

MUR 7903 (Tomfoolery, LLC, *et al.*)

First General Counsel's Report

Page 10 of 15

1 contributor. Thus, the overall information, including the statements provided in Tomfoolery's  
 2 Response, strongly supports the conclusion that Chavez, not Tomfoolery, was the true source of  
 3 the \$75,000 in contributions to LSF.<sup>31</sup>

4         Although Tomfoolery contends that it "has functioned most recently to facilitate various  
 5 business-related expenses of Mr. Chavez, such as paying expenses for development and  
 6 operation of a music industry project,"<sup>32</sup> and publicly available information shows that  
 7 Tomfoolery was organized in 2017, an LLC's longevity and its business activities do not  
 8 undermine its use as a straw donor. In other words, even accepting, *arguendo*, the respondents'  
 9 assertion that Tomfoolery was an established company used for business purposes, the available  
 10 information, including the statements submitted to the Commission in the Response, indicates  
 11 that it also been used on the two occasions at issue as an intermediary to make political  
 12 contributions without revealing Chavez's identity.<sup>33</sup>

13         Tomfoolery also asserts that although Chavez was not previously aware of the  
 14 Commission's LLC attribution rules, after receiving notice of the Complaint, Chavez requested  
 15 that LSF amend its disclosure reports to attribute the Tomfoolery contributions to him. That  
 16 request, however, relates only to the Commission's attribution rules for LLC contributions and is  
 17 therefore inapposite to the allegation that these contributions violated the Act's prohibition on

---

<sup>31</sup>         See

*Boender*, 649 F.3d at 660; *O'Donnell*, 608 F.3d at 555; *Whittemore*, 776 F.3d at 1080.

<sup>32</sup>         *Id.*

<sup>33</sup>

see also First Gen. Counsel's Report at 16, MUR 6711 (Specialty Investment Group, *et al.*) ("Even if SIG and KPD 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.").

MUR 7903 (Tomfoolery, LLC, *et al.*)

First General Counsel's Report

Page 11 of 15

1 contributions in the name of another. The LLC attribution rules govern the *disclosure* of  
 2 contributions made by an LLC using its own funds, whereas Section 30122 describes a  
 3 *prohibited* contribution wherein one person provides funds to another person — including, *e.g.*,  
 4 an LLC, partnership, corporation, or other entity — via an advance or reimbursement, for the  
 5 purpose of having that other person make a contribution. The latter scenario captures what  
 6 appears to have happened here, as the current record indicates that Chavez directed the transfer  
 7 of funds from his personal accounts to Tomfoolery's accounts to cover the contributions to LSF  
 8 that he made in Tomfoolery's name. That conclusion is distinct from whether Tomfoolery, as  
 9 the named contributor, provided LSF with the required attribution information when it purported  
 10 to make those contributions.<sup>34</sup>

11 Tomfoolery argues, further, that the Commission should dismiss this matter because  
 12 Chavez did not engage in a “willful effort to make a contribution in the name of another,” as it  
 13 contends is demonstrated by an email, attached to the Response, from Chavez to the financial  
 14 services firm that executed the transactions at issue, in which Chavez instructs: “please send  
 15 Lone Star 50K. if possible, i'd like to send it through an llc like tomfoolery; if i need to be  
 16 named, so be it.”<sup>35</sup> The Response states that Chavez sought to promote transparency and

---

<sup>34</sup> A contribution by an LLC that has a single natural-person member and is not taxed as a corporation must be attributed only to the LLC's single member, *see id.* 11 C.F.R. § 110.1(g)(4), and an LLC that makes such a contribution has an affirmative obligation to provide attribution information to the recipient committee at the time it makes such a contribution, *see id.* § 110.1(g)(5). Tomfoolery does not appear to have provided this required attribution information when it purported to make two contributions to LSF on February 3, 2020, and February 24, 2020, and consequently, LSF did not accurately report that contribution. However, the Complaint did not raise this allegation, and consistent with our recommendation to find reason to believe that Chavez, not Tomfoolery, was the true contributor of this \$75,000 — which by implication means that Tomfoolery did not make the contributions — we do not recommend that the Commission pursue a possible violation of 11 C.F.R. § 110.1(g)(5) under these circumstances.

<sup>35</sup> *Id.*, Attach. 1 (“Chavez email”).

MUR 7903 (Tomfoolery, LLC, *et al.*)

First General Counsel's Report

Page 12 of 15

1 accountability, as shown by his request — made after receiving notice of the Complaint in this  
2 matter — that LSF attribute the contributions to him.<sup>36</sup> However, the statements in Chavez's  
3 email are open to interpretation, and could plausibly be read as ambivalent about being publicly  
4 identified as a political contributor, or accepting public identification as a less-desired alternative  
5 to anonymity. By making contributions through his single-member LLC, Chavez deprived the  
6 public of information regarding the source of contributions amounting to more than a quarter of  
7 the total receipts for an IEOPC whose only activity appears to have been making independent  
8 expenditures in support of a single federal candidate. Moreover, while the reattribution of the  
9 contributions provided *post facto* clarification of the record, Chavez's identity might never have  
10 been made public absent the Complaint filing in this matter.<sup>37</sup>

11 The overall record in this matter thus supports the conclusion that Tomfoolery was not  
12 the true source of the combined \$75,000 that it facially appeared to give to LSF, but instead  
13 served as an instrument to convey Chavez's funds to LSF without publicly disclosing his  
14 identity.<sup>38</sup> Accordingly, we recommend that the Commission find reason to believe that Chavez

---

<sup>36</sup> Tomfoolery Resp. at 2.

<sup>37</sup> LSF's amended disclosure report, which reattributed the Tomfoolery contributions to Chavez, was filed on July 1, 2021 — *i.e.*, not only after the Complaint in this matter was filed on May 12, 2021, but long after the March 3, 2020, primary election in which the only candidate that LSF supported, Cristina Ramirez, had already lost, after which LSF essentially ceased all activity. *See supra* note 11.

<sup>38</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).

MUR 7903 (Tomfoolery, LLC, *et al.*)

First General Counsel's Report

Page 13 of 15

1 made, and Tomfoolery knowingly permitted its name to be used to effect, contributions in the  
 2 name of another, in violation of 52 U.S.C. § 30122.<sup>39</sup>

3                   3.        The Commission Should Take No Action at this Time as to LSF

4                   The available information does not indicate that LSF knew or had reason to think that  
 5 Tomfoolery's purported contributions were made in the name of another. LSF has also denied  
 6 that it knowingly accepted any contributions in the name of another.<sup>40</sup> However, informal fact-  
 7 finding as part of the PPCC process with Chavez and Tomfoolery, including information  
 8 regarding any contemporaneous communications between Chavez and LSF regarding the  
 9 contributions at issue, may provide more insight into these allegations. As such, we recommend  
 10 that the Commission take no action at this time as to LSF, pending successful completion of the  
 11 PPCC process with Chavez and Tomfoolery.

12

13

14

15

---

<sup>39</sup>           In MUR 7454, the Commission found reason to believe that two LLCs that made contributions to an IEOPC failed to provide required attribution information, and that the IEOPC failed to properly disclose those contributions, in violation of the Commission's LLC attribution rules. Factual and Legal Analysis, MUR 7454 (Blue Magnolia Investments, LLC, *et al.*) (open matter). The Commission also dismissed allegations that the LLCs were used to make contributions in the names of others. Like in MUR 7454, this matter also involves a contribution made by an LLC, Tomfoolery, with a single natural person member, Chavez. And like Tomfoolery, the single-member LLC in MUR 7454, Blue Magnolia Investments, LLC, acknowledged — and took measures to correct — the fact that its contribution was attributed to the LLC rather than its member. But, in contrast to MUR 7454, Tomfoolery appears to have made contributions with funds provided to it by its member, indicating that the LLC was not the true contributor. As such, the recommendation to find reason to believe under Section 30122 in this matter is consistent with the Commission's findings in MUR 7454.

<sup>40</sup>           LSF Resp. at 2.

MUR 7903 (Tomfoolery, LLC, *et al.*)

First General Counsel's Report

Page 14 of 15

1

2

3

4

5

6

7

8

9

10

11

12

13

14 **V. RECOMMENDATIONS**

15       1. Find reason to believe that Thomas A. Chavez violated 52 U.S.C. § 30122 by making  
16        contributions in the name of another;

17       2. Find reason to believe that Tomfoolery, LLC violated 52 U.S.C. § 30122 by  
18        knowingly permitting its name to be used to effect contributions in the name of  
19        another;

MUR 7903 (Tomfoolery, LLC, *et al.*)

## First General Counsel's Report

Page 15 of 15

3. Take no action at this time as to the allegation that Lone Star Forward and Tory Gavito in her official capacity as treasurer violated 52 U.S.C. § 30122 by knowingly accepting contributions in the name of another;
4. Approve the attached Factual and Legal Analysis;
5. Authorize conciliation with Thomas A. Chavez and Tomfoolery, LLC prior to a finding of probable cause to believe;
6. Approve the attached Conciliation Agreement; and
7. Approve the appropriate letters.

Lisa J. Stevenson  
Acting General Counsel

February 3, 2022

---

Date

Charles Kitcher

Charles Kitcher  
Associate General Counsel for Enforcement

Mark Shonkwiler

---

Mark Shonkwiler  
Assistant General Counsel

16  
17  
18

20  
21  
22  
23