

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2 In the Matter of)
 3)
 4 Hunter Davis Pace) MUR 7932
 5)

6 **SECOND GENERAL COUNSEL'S REPORT**

7 **I. ACTIONS RECOMMENDED**

8 We recommend that the Commission (1) take no further action as to Hunter Davis Pace;
 9 (2) approve the appropriate letters; and (3) close the file.

10 **II. BACKGROUND**

11 The Commission found reason to believe that Pace knowingly and willfully violated
 12 52 U.S.C. §§ 30102(b)(3) and 30104(b) and 11 C.F.R. §§ 102.15, 104.3 and 104.14(d) by
 13 commingling committee funds with personal funds, failing to keep complete committee financial
 14 records, and failing to file accurate disclosure reports.¹ Specifically, Pace wrote four checks to
 15 himself and one to his sole proprietorship, Advanced Analytics, LLC; commingled Lafayette
 16 County Democratic Party (the "Committee") funds with his own, exhausting the majority of the
 17 Committee's funds; and failed to file disclosure reports with the Commission.² The five checks
 18 came to a total of \$13,500, and Pace incurred additional expenses using the Committee's bank
 19 debit card, amounting to a total of \$14,523.87 spent in Committee funds without authorization.³

¹ Certification ("Cert.") ¶ 3 (Oct. 16, 2021); Factual & Legal Analysis ("F&LA") at 6.

² Cert. ¶¶ 3, 4 (Oct. 16, 2021); F&LA at 5.

³ F&LA at 2. The total restitution amount owed by Pace to the Committee in the Lafayette County criminal matter was \$15,801.63, which differs from the Commission's calculation because it included overdraft and insufficient funds fees incurred by Pace. [REDACTED]

1 The Office of General Counsel (“OGC”) sent notification of the Commission’s decision to four
2 different addresses for Pace, but he did not submit a Response.⁴

3 In 2019, prior to the Commission’s reason-to-believe finding, Lafayette County Police
4 and the Assistant District Attorney issued a warrant for Pace’s arrest in connection with the
5 embezzlement of the Committee’s funds and other financial crimes, but Pace failed to appear for
6 an arraignment. On June 22, 2022, the Commission approved two bank subpoenas to gather
7 details as to the commingled funds, based on information provided to us by the Committee.⁵
8 Shortly after the subpoenas were sent (along with the required notification to Pace), Pace turned
9 himself in to Mississippi law enforcement and was incarcerated. On April 3, 2023, Pace pleaded
10 guilty to embezzlement and was ordered to pay restitution to the Committee and another party
11 included in the criminal matter, with a commitment from the Lafayette County District Attorney
12 that he would not recommend Pace be sentenced to incarceration if he paid restitution to the
13 Committee in the amount of \$15,801.65 and paid restitution in the amount of \$9,350 to another
14 party.⁶ As of September 19, 2024, Pace made full restitution to the Committee.⁷ However, he
15 continues to pay restitution to the other party to the state criminal matter, and therefore the
16 sentencing date will continue to be postponed until the full restitution balance has been paid to

⁴ RTB Notif. Letter at 1 (Oct. 21, 2021; Nov. 18, 2021; Feb. 16, 2022) (two of the four letters were sent on November 18, 2021, to two different addresses for Pace).

⁵ Cert. (June 22, 2022).

⁶ *See State of Mississippi v. Hunter Davis Pace*, LK20-020, Plea of Guilty and Sentence Deferred (Lafayette County) (Apr. 3, 2023); Email from Katrina Colston, Deputy Cir. Clerk, Lafayette Cnty., Miss., to Rachel Coll. Att’y, FEC (Nov. 28, 2023, 15:28 EST). Pace served between six and nine months awaiting his plea date. [REDACTED]

⁷ Email from Katrina Colston, Deputy Cir. Clerk, Lafayette Cnty., Miss., to Rachel Coll, Att’y, FEC (Sept. 19, 2024, 10:09 EST).

1 all parties.⁸ As explained below, because the Commission's interests have already been
2 vindicated through the criminal proceeding in Lafayette County, Mississippi, and Pace has paid
3 full restitution to the Committee, we recommend that the Commission take no further action in
4 this matter and close the file.

5 **III. INVESTIGATION**

6 Initial efforts to engage Pace regarding the Commission's reason-to-believe finding were
7 unsuccessful, so we requested bank subpoenas to two banks identified through the Committee's
8 copies of the front and back of checks written by Pace, believing that Pace held accounts at either
9 or both institutions.⁹ The Commission approved the request, and on July 13, 2022, we sent
10 subpoenas to both Bank of America and BancorpSouth (now Cadence Bank) requesting records
11 of account transactions during 2019 for Hunter Davis Pace and Advanced Analytics, LLC.¹⁰
12 Both Bank of America and BancorpSouth provided written responses stating that they conducted
13 a search for Pace's bank records, but neither was able to locate applicable accounts or records.¹¹

14 In October 2022, we learned that Pace had turned himself in to Mississippi criminal
15 authorities and was incarcerated on embezzlement charges, and the Commission's reason-to-
16 believe ("RTB") notification letter and Factual and Legal Analysis ("F&LA") were delivered to
17 Pace in jail. OGC briefly spoke with Pace twice in the fall of 2022.¹² These conversations were

⁸ The remaining balance owed to the other party was \$4,800 as of January 7, 2025. Email from Katrina Colston, Deputy Cir. Clerk, Lafayette Cnty., Miss., to Rachel Coll, Att'y, FEC (Jan. 7, 2025, 12:17 EST).

⁹ Memorandum to the Commission Re: Circulation of Discovery Documents at 2 (June 10, 2022).

¹⁰ Letter from Elena Paoli, Att'y, FEC, to Subpoena Processing Dep't, BancorpSouth (July 13, 2022) (enclosing subpoena and order); Letter from Elena Paoli, Att'y, FEC, to Legal Order Processing, Bank of America, N.A. (July 13, 2022) (enclosing subpoena and order).

¹¹ Email from Brianna Sparks, Subpoena Processing Specialist, to Rachel Coll, Att'y, FEC (Dec. 20, 2023, 13:07 EST) (enclosing letter from Sparks to Paoli); Email from Legal Order Prod., Bank of America, N.A., to Complaints Examination & Legal Admin., FEC (Dec. 26, 2023, 12:47 EST).

¹²

[REDACTED] Email from Adam Emerson, Att'y,

1 paid \$4,550 in restitution to the other victim. His sentencing is not presently scheduled but will
2 be once full restitution to the other victim has been made.¹⁹

3 **IV. LEGAL ANALYSIS**

4 The Act and Commission regulations require that all funds of a political committee must
5 be “segregated from and may not be commingled with the personal funds of any individual.”²⁰
6 The Commission has found reason to believe that writing Committee checks to oneself
7 constitutes commingling.²¹ Also, each treasurer is required to keep an accurate account of and
8 disclose, among other things, its receipts, disbursements, and cash-on-hand balances.²²

9 The Act prescribes additional monetary penalties for violations that are knowing and
10 willful.²³ A violation of the Act is knowing and willful if the “acts were committed with full
11 knowledge of all the relevant facts and a recognition that the action is prohibited by law.”²⁴ This
12 does not require proving knowledge of the specific statute or regulation the respondent allegedly
13 violated.²⁵ Rather, it is sufficient to demonstrate that a respondent “acted voluntarily and was

¹⁹ Email from Katrina Colston, Deputy Cir. Clerk, Lafayette Cnty., Miss., to Rachel Coll, Att’y, FEC (Sept. 19, 2024, 10:09 EST); Email from Katrina Colston, Deputy Cir. Clerk, Lafayette Cnty., Miss., to Rachel Coll, Att’y, FEC (Jan. 7, 2025, 12:17 EST); Email from Katrina Colston, Deputy Cir. Clerk, Lafayette Cnty., Miss., to Rachel Coll, Att’y, FEC (Jan. 15, 2025, 12:19 EST).

²⁰ 52 U.S.C. § 30102(b)(3); 11 C.F.R. § 102.15.

²¹ See F&LA at 7, MUR 7225 (Jack Wu) (respondent treasurer commingled committee and personal funds when he wrote checks to himself and to his businesses); F&LA at 4, MUR 7132 (Michael David Pitts) (same).

²² 52 U.S.C. §§ 30102(c), 30104(a), (b).

²³ *Id.* §§ 30109(a)(5)(B), 30109(d).

²⁴ 122 Cong. Rec. 12,197, 12,199 (May 3, 1976).

²⁵ *United States v. Danielczyk*, 917 F. Supp. 2d 573, 578 (E.D. Va. Jan. 9, 2013) (quoting *Bryan v. United States*, 524 U.S. 184, 195 & n.23 (1998) (holding that, to establish a violation is willful, government needs to show only that defendant acted with knowledge that conduct was unlawful, not knowledge of specific statutory provision violated)).

1 aware that his conduct was unlawful.”²⁶ This awareness may be shown through circumstantial
2 evidence from which the respondent’s unlawful intent reasonably may be inferred.²⁷

3 The Commission previously found that Pace “brazenly used the Committee’s funds for
4 his personal benefit” and “carried out his embezzlement” by writing checks to himself and his
5 sole proprietorship and obtaining and using a debit card for the Committee’s bank account.²⁸
6 The Commission also found that Pace misled the Committee about its disclosure obligations, and
7 failed to file the 2019 Mid-Year Report and keep an account of the Committee’s
8 disbursements.²⁹ The Commission further found that Pace “hid his theft and lies to generate
9 sympathy from his victims,” and that his reporting violation helped him avoid detection.³⁰

10 The guilty plea entered by Pace in the Circuit Court of Lafayette County, Mississippi,
11 was based on the same operative facts before the Commission and required Pace to admit to the
12 conduct at issue here, namely that he used Committee funds for his own personal financial
13 purposes, as supported by the Committee’s bank statements.³¹ Pace, in his role as Committee
14 treasurer, also failed to file the Committee’s 2019 Mid-Year Report, as is required by the Act.³²

²⁶ *Id.* (citing jury instructions in *United States v. Edwards*, No. 11-61 (M.D.N.C. 2012), *United States v. Acevedo Vila*, No. 08-36 (D.P.R. 2009), *United States v. Fieger*, No. 07-20414 (E.D. Mich. 2008), and *United States v. Alford*, No. 05-69 (N.D. Fla. 2005)).

²⁷ *Cf. United States v. Hopkins*, 916 F.2d 207, 213 (5th Cir. 1990) (quoting *United States v. Bordelon*, 871 F.2d 491, 494 (5th Cir. 1989)). *Hopkins* involved a conduit contributions scheme, and the issue before the Fifth Circuit concerned the sufficiency of the evidence supporting the defendants’ convictions for conspiracy and false statements under 18 U.S.C. §§ 371 and 1001.

²⁸ F&LA at 5.

²⁹ *Id.* at 6.

³⁰ *Id.*

³¹ Plea of Guilty and Sentence Deferred, *Mississippi v. Pace*, LK20-020, (Lafayette Cnty. Apr. 3, 2023); Lafayette Cnty. Democratic Party, 2019 Mid-Year Report (Sept. 9, 2019), <https://docquery.fec.gov/pdf/279/2019090300294279/2019090300294279.pdf>.

³² 52 U.S.C. § 30104(a). The Committee’s 2019 Mid-Year Report was filed on Sept. 9, 2019, after the Committee learned of the embezzled funds. *See* Lafayette Cnty. Democratic Party, 2019 Mid-Year Report (Sept. 9, 2019), <https://docquery.fec.gov/pdf/279/2019090300294279/2019090300294279.pdf>.

1 While we believe that the facts before the Commission, particularly Pace's admission,
2 support its prior reason-to-believe finding that Pace knowingly and willfully violated 52 U.S.C.
3 §§ 30102(b)(3) and 30104(b) and 11 C.F.R. §§ 102.15, 104.3, and 104.14(d) by commingling
4 Committee funds with personal funds, failing to keep complete Committee financial records, and
5 failing to file accurate disclosure reports,³³ for the reasons explained below, we believe that
6 further pursuit of these violations is not necessary at this time.

7 **V. DISPOSITION**

8 In some past Enforcement matters where respondents were criminally prosecuted, the
9 Commission has nevertheless engaged in pre-probable cause conciliation as part of the civil
10 enforcement process.³⁴ However, in cases where the criminal prosecution involved the same
11 underlying facts as the Enforcement matter, the Commission has determined that it would not be
12 a prudent use of Commission resources to pursue the Enforcement matter.³⁵ In such matters, the
13 Commission has previously determined that it is unnecessary to proceed on violations of the Act
14 when criminal cases adequately vindicate the Commission's civil enforcement interests by
15 ordering the payment of restitution or a prison sentence, or both.³⁶

³³ F&LA at 6.

³⁴ See, e.g., MUR 7225 (Jack Wu); MUR 7132 (Michael David Pitts); MUR 6597 (Kinde Durkee); MUR 6475 (Andrew McCrosson); MUR 6179 (Christopher Ward); MUR 5971 (Jennifer Adams); MURs 5721, 5772 (Kenneth Phelps); MUR 5610 (Earl Allen Haywood).

³⁵ Second Gen. Counsel's Rpt. ("Second GCR") at 11, MURs 7011, 7092 (HC4President) (reflecting matter where respondent pled guilty to criminal charges for his fraudulent conduct in connection with committee funds, was required to pay \$546,118 after serving his three-year prison sentence, and the Commission took no further action); see, e.g., Certification ¶ 1 (Dec. 4, 2018) and F&LA at 9-10, MUR 6793 (Steve Stockman for Senate, *et al.*) (dismissing matter as to respondent who pled guilty to mail fraud, wire fraud and money laundering in criminal prosecution that involved underlying facts directly related to the enforcement matter).

³⁶ F&LA at 9, MUR 6793 (Steve Stockman for Senate, *et al.*) (reflecting that respondent was ordered to pay \$1.2 million in restitution and would also face a prison sentence).

1 Here, the Commission's interests appear to be adequately vindicated. Pace pled guilty to
2 conduct in connection with his commingling of Committee funds with his own, and his guilty
3 plea resulted in a felony conviction for the same actions that violated the Act.³⁷ While Pace has
4 paid full restitution to the Committee, if restitution is not made in full to the other, unrelated,
5 victim prior to his sentencing in the criminal case, he may face an additional period of
6 incarceration. Based on the likelihood that Pace would not be able to pay an additional civil
7 penalty, the relatively small amount at issue, and because Pace paid full restitution to the
8 Committee pursuant to his guilty plea, we believe that the Commission's interests have been
9 sufficiently vindicated and that it would not be a prudent use of Commission resources to pursue
10 this matter further. Therefore, we recommend that the Commission take no further action in this
11 matter and close the file.

12 **VI. RECOMMENDATIONS**

- 13 1. Take no further action as to Hunter Davis Pace;
- 14 2. Approve the appropriate letters, and;

³⁷ Second GCR at 7, note 31, MUR 7225 (Wu) (respondent treasurer commingled committee and personal funds when he wrote checks to himself and to his businesses); *see, e.g.*, MUR 7072 (Bera) (forgoing conciliation when the respondent had pleaded guilty to violations of 52 U.S.C. §§ 30116(a)(1)(A) and 30122); MUR 6761 (Barfield) (forgoing conciliation when the respondent had pleaded guilty to violating 52 U.S.C. § 30114(b)); MUR 6232 (Gill) (forgoing conciliation when the respondent had pleaded guilty to violating 52 U.S.C. § 30122); MUR 6231 (Marshall) (forgoing conciliation when the respondent had pleaded guilty to violations of 52 U.S.C. §§ 30118 and 30120).

