

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

Pre-MUR 616  
DATE RECEIVED: 09/26/2018  
DATE SUPPLEMENTAL SUBMISSION  
RECEIVED: 11/16/2018  
LAST RESPONSE RECEIVED: 04/20/2020  
DATE ACTIVATED: 06/11/2020  
  
EXPIRATION OF SOL: 12/10/2022 – 04/25/2023  
ELECTION CYCLE: 2018

**SOURCE:** *Sua Sponte* Submission

**RESPONDENTS:** Steven C. Watkins Sr.  
Diane K. Watkins  
Benjamin Knopke  
Caroline Wise  
Andrew Wise  
Dennis Sumner  
Kathryne Sumner  
Dennis Sumner Construction, Inc.  
Committee to Elect Steve Watkins and  
Steven G. Martin in his official capacity as  
treasurer

**RELEVANT STATUTES  
AND REGULATIONS:** 52 U.S.C. § 30122  
52 U.S.C. § 30116(a)  
52 U.S.C. § 30118(a)  
11 C.F.R. § 110.4(b)(1)(i), (ii)  
11 C.F.R. § 114.2(e)

**INTERNAL REPORTS CHECKED:** FEC Disclosure Reports  
FEC Contributor Database

**FEDERAL AGENCIES CHECKED:** None

**I. INTRODUCTION**

In this *sua sponte* submission, Steven C. Watkins Sr. (“Watkins Sr.”) disclosed that he provided funds or arranged to make \$32,400 of excessive contributions in the names of other persons to the 2018 congressional campaign of his son, Steven Watkins, Jr. and his principal

1 campaign committee, Steve Watkins for Congress (the "Committee").<sup>1</sup> Specifically, Watkins Sr.  
2 gave his daughters Caroline Wise and Diane Watkins, Wise's husband Andrew Wise, and Diane  
3 Watkins's boyfriend Benjamin Knopke the funds used to make \$21,600 in primary and general  
4 election contributions to the Committee. Watkins Sr. asserts, however, that he only specifically  
5 instructed his family to use his money to make the general election contributions, which totaled  
6 \$10,800.

7 In the original submission, Watkins Sr. also disclosed that he arranged to increase the  
8 contract price on an ongoing house project with Sumner Construction by \$10,800 to reimburse  
9 Dennis and Kathryne Sumner for maximum primary and general election contributions to the  
10 Committee. In a supplemental submission, Watkins Sr. asserts that the price of the house project  
11 was never actually increased and he cured any violation.

12 After Watkins Sr. advised the Committee that he was the true source of the funds used to  
13 make contributions, the Committee: (1) returned \$5,400 in general election contribution checks  
14 from Andrew and Caroline Wise, but did not refund their \$5,400 in primary contributions;  
15 (2) refunded the \$2,700 general election contribution from Diane Watkins, but did not refund her  
16 \$2,700 primary election contribution; (3) refunded the \$5,400 in primary and general election  
17 contributions from Benjamin Knopke; and (4) refunded \$10,800 in primary and general election  
18 contributions from and Dennis and Kathryne Sumner. The Committee states that it did not  
19 refund \$8,100 in primary election contributions from Diane Watkins, Andrew Wise, and

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<sup>1</sup> See Submission, Pre-MUR 616 (The Watkins Family *et al.*) (Aug. 30, 2018); Supplemental Submission, Pre-MUR 616 (The Watkins Family *et al.*) (Nov. 16, 2018) (including sworn affidavits from Steven C. Watkins Sr., Andrew Wise and Caroline Wise; declarations from Dennis and Kathryne Sumner and Brian Knopke) ("Supplemental Submission"); Supplemental Submission, Pre-MUR 616 (The Watkins Family *et al.*) (May 24, 2019) ("Supplemental Submission #2"); Supplemental Submission, Pre-MUR 616 (The Watkins Family *et al.*) (June 18, 2019) (including sworn affidavits from Steven C. Watkins Sr, Dennis Sumner, and Kathryne Sumner) ("Supplemental Submission #3). All named respondents joined in on the Submission.

1 Caroline Wise because Watkins Sr. told the Committee that the funds used to make the primary  
 2 contributions came from “holiday gifts” to his daughters, rather than from reimbursements.

3 Based on the available information, we recommend that the Commission: (1) find reason  
 4 to believe that Steven C. Watkins Sr. violated 52 U.S.C. §§ 30116(a) and 30122 by making  
 5 excessive contributions to the Committee; (2) dismiss this matter as to Andrew Wise, Caroline  
 6 Wise, Diane Watkins and Benjamin Knopke, but issue letters of caution; (3) dismiss this matter  
 7 as to Dennis Sumner, Kathryne Sumner, and Sumner Construction, but issue letters of caution;  
 8 (4) dismiss the matter as to the Committee to Elect Steve Watkins and Steven G. Martin in his  
 9 official capacity as treasurer; (5) enter into pre-probable cause conciliation with Steven C.  
 10 Watkins Sr.; and (6) approve the proposed conciliation agreement.

## 11 **II. FACTUAL BACKGROUND**

12 On November 7, 2017, Steve Watkins, Jr. (“the Candidate”) filed a Statement of  
 13 Candidacy to run for the House of Representatives in Second Congressional District of Kansas  
 14 and designated the Committee to Elect Steve Watkins and Steven G. Martin in his official  
 15 capacity as treasurer (“the Committee”) as his principal campaign committee.<sup>2</sup>

16 Watkins Sr., the Candidate’s father, a Topeka, Kansas, area physician, and his wife,  
 17 Barbara Watkins, each made the maximum allowable primary and general election contributions  
 18 to the Committee on December 7, 2017, and May 29, 2018, respectively.<sup>3</sup> Further, Watkins Sr.  
 19 contributed \$765,929.86 to an independent expenditure-only committee called Kansans Can Do

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<sup>2</sup> Statement of Candidacy, Steve Watkins, Jr. (Nov. 11, 2017); Statement of Organization, Committee to Elect Steve Watkins (Nov. 11, 2017).

<sup>3</sup> 2017 Year-End Report, Committee to Elect Steve Watkins (Jan. 31, 2018) (“2017 Year-End Report”); 2018 July Quarterly Report, Committee to Elect Steve Watkins (July 15, 2018) (“2018 July Quarterly Report”). Watkins Sr. also made a \$1 general election contribution during the same election cycle. *Id.*

Anything PAC, which made over \$680,000 in independent expenditures to support Watkins Jr., or attack his opponent in the 2018 Republican primary.<sup>4</sup>

Caroline Wise and Diane Watkins are the daughters of Watkins Sr., and they are the candidate's sisters.<sup>5</sup> Andrew Wise is Caroline Wise's husband and Benjamin Knopke is Diane Watkins's boyfriend.<sup>6</sup> Dennis Sumner Construction, Inc., ("Sumner Construction") is a home builder in Topeka, Kansas.<sup>7</sup> At the time of the submission, Sumner Construction was building a home for Watkins Sr.<sup>8</sup> Dennis Sumner is the owner and principal of the corporation, and Kathryne Sumner is his wife.<sup>9</sup>

#### **A. Primary Election Contributions by the Daughters and Their Significant Others**

According to the submission, sometime between late November and early December 2017, Watkins Sr. gave holiday gifts of \$10,000 to each to his daughters.<sup>10</sup> Watkins Sr. also states that he told his daughters that the gifts were for them and their significant others,<sup>11</sup> and he

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<sup>4</sup> 2018 July Quarterly Report, Kansans Can Do Anything PAC (July 2, 2018); 2018 Pre-Primary Report, Kansans Can Do Anything PAC (July 24, 2018); 2018 October Quarterly Report, Kansans Can Do Anything PAC, (Oct. 3, 2018); 2018 Post-General Report, Kansans Can Do Anything PAC (Nov. 27, 2018).

<sup>5</sup> Submission at 1.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 3.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 2. Watkins Sr. provided documentation purporting to show that he and his wife had a longstanding history of gift giving to Diane Watkins, Steve Watkins, Jr., and the Wises prior to the \$10,000 gift checks. *See* Suppl. Submission #2, Exhs. 1-11.

<sup>11</sup> The submission provides that although Diane Watkins and Benjamin Knopke are not married, they have lived together for eight years and generally share living costs and expenses. Submission at 2. Further, they claim that it is not unusual for one to give money to the other for general or specific purposes. *Id.*

1 did not specifically direct, request, suggest or imply that any of them should use the proceeds of  
 2 the holiday gifts to make contributions to the Committee.<sup>12</sup>

3 On December 11, 2017, Diane Watkins deposited the \$10,000 check from Watkins Sr.  
 4 and also made a \$2,700 primary election contribution to the Committee.<sup>13</sup> On that same day,  
 5 Diane Watkins, using a portion of the \$10,000 gift money, also wrote a \$2,700 check to Knopke  
 6 for the purpose of allowing him to make a contributions to the Committee.<sup>14</sup> Diane Watkins  
 7 maintains that she intended to contribute to the Committee, and had the resources to do so,  
 8 separate and apart from her father's gift.<sup>15</sup>

9 On December 7, 2017, Caroline Wise made a \$2,700 primary election contribution to the  
 10 Committee.<sup>16</sup> On December 8, 2017, Caroline Wise deposited her \$10,000 gift check from  
 11 Watkins Sr.<sup>17</sup> Her husband, Andrew Wise, also attempted to make an identical contribution at  
 12 about the same time, but because of a mailing issue, the Committee did not receive his  
 13 contribution until January 29, 2017.<sup>18</sup> The Wises assert that they intended to contribute and had  
 14 the resources to do, separate and apart from the gift they received from Watkins Sr.<sup>19</sup> The Wises

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<sup>12</sup> *Id.*

<sup>13</sup> Suppl. Submission #12, Exh. 12; *see also* 2017 Year-End Report.

<sup>14</sup> Submission at 2. Knopke cashed Diane Watkins' check on the same day. Suppl. Submission #2, Exh. 12. The Committee's disclosure report indicates that the Knopke contribution was received on December 19, 2017. *See* 2017 Year-End Report.

<sup>15</sup> *Id.* at 2; *see also* Suppl. Submission #2, Exhs. 12, 13 (copies of banking information).

<sup>16</sup> *Id.* at 2.

<sup>17</sup> Suppl. Submission #2, Exh. 15.

<sup>18</sup> Suppl. Submission, Andrew Wise Aff. ¶ 3; 2018 April Quarterly Report (Receipts), Committee to Elect Steve Watkins (Apr. 15, 2018).

<sup>19</sup> The Wises assert that they transferred funds from their joint savings account in November 2017 to their joint checking account to make separate \$2,700 primary election contributions. *See Id.* at 4; Exhs. 14, 15 (Caroline Wise transferred \$2,700 on November 9, 2017, and Andrew Wise transferred \$2,700 on November 24, 2017, from

also assert that Watkins Sr. never directly suggested that the gift money should be used to fund primary election contributions to Watkins Jr.'s congressional campaign.<sup>20</sup>

**B. General Election Contributions by the Daughters and Their Significant Others**

In early February 2018, Watkins Sr. states that he learned that an individual could make two \$2,700 contributions to the Committee, one for the primary and one for the general election.<sup>21</sup> Watkins Sr. then suggested that his daughters and their significant others, who already had made \$2,700 primary election contributions, make \$2,700 general election contributions, and he agreed to provide funds for this purpose.<sup>22</sup>

On or about February 16, 2018, Watkins Sr. gave four \$2,700 checks (total \$10,800) to his daughters and their significant others.<sup>23</sup> On or about February 21, 2018, and March 19, 2018, respectively, Diane Watkins and Knopke used the money Watkins Sr. provided to make \$2,700 general election contributions to the Committee.<sup>24</sup> Caroline Wise states that in March 2018, she used the funds her father provided to make general election contributions on behalf of herself

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the joint savings account). The Wises did not explain the delay between the transfers and the dates of their contributions, and they did not make their contributions until after they had received the check from Watkins Sr.

<sup>20</sup> Suppl. Submission, Caroline Wise Aff. ¶ 2; Andrew Wise Aff. ¶ 2.

<sup>21</sup> Submission at 2. On May 29, 2018, the Committee reported receiving \$2,700 general election contributions from Watkins, Sr. and his wife, Barbara Watkins. *See* 2018 July Quarterly Report.

<sup>22</sup> Submission at 2.

<sup>23</sup> *Id.* at 3.

<sup>24</sup> *Id.*

and Andrew Wise.<sup>25</sup> She gave the checks to Watkins Sr. for delivery to the Committee, but he did not deliver them until late May or early June 2018.<sup>26</sup>

Watkins Sr. states that on June 10, 2018, he learned that it was illegal to reimburse contributions, and he told the Wises to ask the Committee to return their un-deposited contributions, which they did.<sup>27</sup> And, in fact, the Committee returned those checks.<sup>28</sup> Watkins Sr. states that at the time he provided funds to the conduits to make the contributions to the Committee, he was unaware that federal law prohibited reimbursement of federal contributions.<sup>29</sup> Diane Watkins, Knopke, Andrew Wise, Caroline Wise, Dennis Sumner and Kathryn Sumner also claim to have been unaware the law prohibited them using funds provided by another person to make federal contributions.<sup>30</sup>

### **C. Contributions by Sumner Construction/Dennis and Kathryn Sumner**

In the original submission, Watkins Sr. states that in the spring of 2018, he suggested that the Sumners contribute to the Committee and offered to increase the price of his building contract with Sumner Construction by \$10,800 to enable them to make maximum contributions

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<sup>25</sup> Caroline Watkins Aff. ¶ 4; Andrew Wise Aff. ¶ 4.

<sup>26</sup> *Id.*

<sup>27</sup> Watkins Sr. states that he first became aware of the unlawfulness of reimbursed contributions on May 31, 2018, but did not notify Watkins Jr., or his daughters until June 10, 2018. Submission at 3-4; *see also* Caroline Wise Aff. ¶ 5; Andrew Wise Aff. ¶ 5.

<sup>28</sup> Caroline Wise Aff. ¶ 5; Andrew Wise Aff. ¶ 5.

<sup>29</sup> *Id.* at 2.

<sup>30</sup> *Id.* at 2; *see also* Suppl. Submission #2, Caroline Wise Aff. ¶ 6; Andrew Wise Aff. ¶ 6; Benjamin Knopke Aff. ¶ 5; Dennis Sumner Aff. ¶ 7 (June 18, 2019) (“Dennis Sumner Aff. #2”); Kathryn Sumner Aff. ¶ 7 (June 18, 2019) (“Kathryn Sumner Aff. #2”). Diane Watkins provided a very brief affidavit that attests to the accuracy of the previous information submitted in the submission and supplemental submissions. Suppl. Submission, Diane Watkins Aff., generally.

1 for the primary and general elections.<sup>31</sup> According to Watkins Sr., the parties agreed that Dennis  
 2 Sumner would draw \$10,800 from the construction loan funds available to Sumner Construction  
 3 for the project, and in exchange, Watkins Sr. would allow the overall contract price to be  
 4 increased by \$10,800.<sup>32</sup> On March 23, 2018, Dennis Sumner placed an entry in the  
 5 “Miscellaneous and Clean Up” section of the project’s construction ledger reflecting a  
 6 disbursement to “Steve Watkins” in the amount of \$10,800, the same amount as the  
 7 contributions.<sup>33</sup> The next day, Dennis Sumner sent a \$10,800 Sumner Construction contribution  
 8 check to the Committee, which the Committee refunded on April 11, 2018, because it was a  
 9 prohibited corporate contribution.<sup>34</sup> Dennis Sumner asserts that he was unaware of the corporate  
 10 contribution prohibition when making the contribution.<sup>35</sup>

11 Two weeks later, on April 25, 2018, the Sumners each contributed \$5,400, the maximum  
 12 for both the primary and general elections.<sup>36</sup> In in original submission, Watkins Sr. admitted that  
 13 he reimbursed the contributions made by Dennis and Kathyne Sumner.<sup>37</sup> Consistent with that  
 14 admission, Dennis and Kathyne Sumner submitted affidavits affirming that their contributions

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<sup>31</sup> Submission at 3.

<sup>32</sup> See Email from Chris Ashby to Kimberly Hart, OGC (Apr. 20, 2020, 3:54 p.m.) (“April 20, 2020 Email from Chris Ashby”).

<sup>33</sup> Dennis Sumner Aff. #2, Attach. (copy of ledger entries for the Watkins Sr. construction project).

<sup>34</sup> *Id.* ¶ 10; see also 2018 July Quarterly Report.

<sup>35</sup> Dennis Sumner Aff. #2 ¶ 6.

<sup>36</sup> Submission at 3; see also 2018 July Quarterly Report. The Commission’s contributor database indicates that prior to the 2018 contributions, the Sumners had made less than \$200 in federal contributions.

<sup>37</sup> Submission at 3.



1 were reimbursed by Watkins Sr., and asserting that they were unaware that it was unlawful to  
2 have their contributions reimbursed.<sup>38</sup>

3 In a supplemental submission, however, Watkins Sr. retracted his earlier statement that  
4 he reimbursed Dennis and Kathryn Sumner's contributions, and asserted that he never followed  
5 through with the plan to reimburse their contributions by increasing the contract price for the  
6 house.<sup>39</sup> Watkins Sr. explains that although he did not actually reimburse the Sumners for their  
7 contributions, he was concerned that he violated the law because they made their contributions in  
8 reliance on his offer to reimburse them in the future.<sup>40</sup> Watkins Sr. stated that he amended the  
9 submission to reflect the actual situation once he had the benefit of legal counsel.<sup>41</sup>

10 According to Watkins Sr., he "cured" his mistake by (1) refusing to increase the final  
11 contract price of the house; and (2) informing the Committee of his actions so that it could  
12 refund the Sumners' personal contributions (having already rejected the attempted corporate  
13 contribution).<sup>42</sup> Watkins asserts that these curative measures effectively restored the status quo,  
14 that is, Watkins Sr. did not pay Sumner Construction more than the contract provided for, and  
15 the Committee did not keep contributions the Sumners made with another person's funds.<sup>43</sup>

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<sup>38</sup> Dennis Sumner Aff. #2 ¶¶ 2, 3; Kathryn Sumner Aff. #2 ¶¶ 2, 3.

<sup>39</sup> See Watkins Sr. Aff. #2 (June 18, 2019). Watkins Sr. was unable to provide a specific date on which he allegedly told Dennis Sumner that he would not follow through with the plan, but indicated that it was in the spring of 2018; see also April 20, 2020 Email from Chris Ashby.

<sup>40</sup> See Email from Chris Ashby, Esq. to Kimberly Hart, OGC, Pre-MUR 616 (The Watkins Family *et al.*) (Nov. 5, 2019, 12:24 pm) ("November 5, 2019, E-mail").

<sup>41</sup> *Id.*

<sup>42</sup> See April 20, 2020 Email from Chris Ashby. The Sumner Construction log under "Miscellaneous & Cleanup" section reflects the refund of the corporate contribution on June 30, 2018, almost 10 weeks after the contribution was returned by the Committee. See Dennis Sumner Aff. #2, Attach. (copy of ledger entries for the Watkins Sr. construction project).

<sup>43</sup> April 20, 2020 Email from Chris Ashby. In response to the supplemental submission, Dennis and Kathryn Sumner provided affidavits that similarly retracted their earlier statements that their contributions were reimbursed

In response to requests for clarifying information, Respondents provided documentation purportedly demonstrating that Watkins Sr. paid no more than the actual contract price of \$854,474.64 representing the “actual cost plus 10% builder’s fee” as agreed upon in the contract.<sup>44</sup> A review of the documents shows, however, that the amount Watkins, Sr. was invoiced by, and paid to Sumner Construction was \$835,273.63, which is \$19,201 less than the total agreed contract price of \$854,474.64.<sup>45</sup> To date, the Respondents have not been able to adequately explain the discrepancy.

#### **D. Committee Refunds of Contributions**

Watkins Sr. states that he told his son about the contribution reimbursements for the first time on or about June 10, 2018.<sup>46</sup> Watkins, Jr. attests that he did not know about his father’s actions before that time.<sup>47</sup> As soon as he learned of his father’s actions, Watkins Jr. instructed the Committee to refund \$16,200 in contributions to the following individuals: (1) Diane

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by Watkins Sr. *See* Dennis Sumner Aff. #2, ¶¶ 7, 10; Kathryn Sumner Aff. #2, ¶¶ 3, 10. Dennis Sumner now claims that Watkins Sr. initially offered to reimburse their contributions but later told him that he was not comfortable with going through with the plan. *See* Dennis Sumner Aff. #2 ¶¶ 8, 10; *see also* Steve Watkins Sr. Affidavit #2 ¶¶ 2-4, 9. Both parties state that the original contract price was projected to be \$608,500, however, due to numerous changes to the project, the final contract price increased to \$854,474.64. *Id.*

<sup>44</sup> *See* Dennis Sumner Aff. #2, ¶ 10, Attachs. (June 18, 2019); Email from Chris Ashby to Kimberly Hart (Feb. 10, 2020, 11:36 a.m.) (copies of Sumner Construction drawsheets) (“Feb. 10, 2020 E-mail from Chris Ashby”); April 20, 2020 Email from Chris Ashby (copies of invoices for Watkins Sr. construction project). Watkins Sr. also provided a copy of two canceled checks: one check, dated December 5, 2018, in payment to Alliance Bank for the amount of \$161,554.22; and a second check, dated March 19, 2018, made out to Sumner Construction in the amount of \$30,000. *See* E-mail from Chris Ashby to Kimberly Hart, OGC (June 26, 2020, 12:50 p.m.). OGC has requested information as to how the check written to Alliance Bank relates to the construction project but has not yet received a response.

<sup>45</sup> *See* April 20, 2020 Email from Chris Ashby. When questioned about the discrepancy, counsel indicated that it is not unusual for a small family-owned business to lose track of some invoices. *Id.*

<sup>46</sup> Submission at 4. According to Watkins Sr., he consulted with legal counsel in late June 2018 to obtain advice regarding any further steps that needed to be taken to address the violations. *Id.*

<sup>47</sup> *Id.*; *see also* Steve Watkins Jr. Aff. ¶ 3, Pre-MUR 616 (The Watkins Family *et al.*) (June 5, 2019) (“Watkins Jr. Aff.”).

Watkins – general election (\$2,700); (2) Benjamin Knopke – general election (\$2,700);  
 (3) Dennis Sumner – primary and general election (\$5,400); and (4) Kathryne Sumner – primary  
 and general election (\$5,400).<sup>48</sup> The Committee later refunded Benjamin Knopke's \$2,700  
 primary election contribution.<sup>49</sup> In addition, the Committee returned the un-deposited general  
 election contribution checks from the Wises totaling \$5,400.<sup>50</sup> The Committee did not refund  
 the \$8,100 in primary election contributions made in the names of Diane Watkins, Andrew Wise,  
 and Caroline Wise.<sup>51</sup>

### III. LEGAL ANALYSIS

The Act and Commission regulations prohibit any person, including a corporation from  
 making of a contribution in the name of another to a federal political committee or allowing their  
 name to be used in the making of a contribution.<sup>52</sup> Further, it is unlawful for a federal committee  
 to knowingly accept a contribution made by one person in the name of another.<sup>53</sup> Under the Act,  
 an individual may not make a contribution to a candidate with respect to any election in excess

<sup>48</sup> Submission at 4; *see also* 2018 July Quarterly Report (Disbursements). Watkins Sr. explained that the initial decision to refund Dennis and Kathryne Sumner's contributions and disclose the plan for reimbursement in the original submission was done out of an abundance of caution before consulting with legal counsel. *See* November 5, 2019 E-mail from Chris Ashby. After the original initial submission, Watkins Sr. and Diane Watkins obtained legal counsel who advised that Watkins Sr. and the Sumners provide supplemental information to the Commission explaining the incomplete nature of his plan for reimbursement. *Id.*; *see also* Watkins Sr. Aff. ¶¶ 2-9; Dennis Sumner Aff. ¶¶ 3-10; Kathryne Sumner Aff. ¶ 4. Counsel also advised Watkins Sr. and Diane Watkins to request that the Committee refund the primary contribution made by Benjamin Knopke (\$2,700) after learning that she reimbursed Knopke's contribution. Submission at 4; *see also* 2018 July Quarterly Report (Disbursements).

<sup>49</sup> Suppl. Submission, Benjamin Knopke Decl. ¶6 (Nov. 16, 2018).

<sup>50</sup> Caroline Wise Aff. ¶ 5; Andrew Wise Aff. ¶ 5.

<sup>51</sup> Submission at 4; *see also* Suppl. Submission #2, Exhs. 12-15.

<sup>52</sup> 52 U.S.C. §§ 30122; 11 C.F.R. § 110.4(b)(1)(i), (ii); *see also United States v. O'Donnell*, 608 F.3d 546, 550 (9th Cir. 2010) (concluding that the plain language of section 30122 [formerly section 441f] encompasses straw donor contributions whether accomplished through the advancement or reimbursement of funds).

<sup>53</sup> *Id.*; 11 C.F.R. §§ 110.4(b)(1)(iv), 114.2(d).

of the legal limit, which was \$2,700 per election during the 2017-2018 election cycle.<sup>54</sup> Further, no corporation may make, and no office or director of a corporation may consent to, a corporate contribution to a federal candidate or their campaign.<sup>55</sup>

**A. The Commission Should Find Reason to Believe that Watkins Sr. Made Contributions to the Committee in the Names of his Daughters and their Significant Others**

Watkins Sr. admits that he gave his daughters and their significant others the \$10,800 they used to make general election contributions in their own names to the Committee, and that he did so after making the maximum legal contribution to the Committee in his own name. Further, each of the conduits acknowledges using the funds received from Watkins Sr. to make these contributions in their own names to the Committee.<sup>56</sup> Accordingly, there is reason to believe that Steven C. Watkins Sr. violated 52 U.S.C. 30116(a) and 30122 by making excessive contributions in the name of another to the Committee. Further, although the facts as to the \$10,800 in general election contributions also establish that Diane Watkins, Benjamin Knopke, Andrew Wise and Caroline Wise violated 52 U.S.C. 30122 by allowing their names to be used to make a contribution, we recommend that the Commission dismiss the violations by these conduits, but issue each of them a letter of caution.<sup>57</sup>

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<sup>54</sup> See *Id.* § 30116(a)(1)(A); 11 C.F.R. § 110.1(b)(1).

<sup>55</sup> *Id.* §§ 30118(a) and 30122.

<sup>56</sup> See Submission at 2-3; Caroline Wise Aff. ¶4; Andrew Wise Aff. ¶4; Benjamin Knopke Decl. ¶4; Diane Watkins Aff., generally.

<sup>57</sup> In past matters, the Commission has generally declined to pursue individual conduits who did not play some significant role in carrying out the conduit scheme. In more recent matters, it has done so by declining to take action against such individuals at the RTB stage. See, e.g., MUR 6889 (Nat'l Air Transp. Ass'n) (taking no action against the conduits who were reimbursed by corporate funds for contributions to SSF); MUR 6623 (William A. Bennett) (taking no action against "lower-level conduit employees" who did not actively participate in the reimbursement scheme).

1           As to the primary election contributions, the timing of the gifts and the contributions,  
2   along with Watkins Sr.'s instruction to make general election contributions with his money,  
3   support a reasonable inference that Watkins Sr. gave them the money for the purpose of making  
4   the primary contributions as well. Although Watkins Jr. announced his candidacy on November  
5   7, 2017, neither daughter contributed in the month following his announcement, but made  
6   contributions within days after receiving the initial \$10,000 gifts from Watkins Sr. Further,  
7   Diane Watkins admits that, on the same day she deposited the gift check (December 11<sup>th</sup>), she  
8   wrote a check to Knopke in the amount of \$2,700 with the understanding that it was to be used to  
9   make a primary election contribution to the Committee. Knopke further admits that he used  
10   those funds to make a contribution to the Committee, which it received on December 19, 2017.  
11   In providing the funds to Knopke, Diane Watkins appears to have been acting as an intermediary  
12   for Watkins Sr., who was the true source of the funds.

13           The Respondents' explanations—the contributors had sufficient funds to make the  
14   primary contributions without Watkins Sr.'s money; Watkins Sr. and his wife made large gifts to  
15   their children in the past; and Watkins Sr. did not instruct his daughters and their significant  
16   others to use part of their holiday gifts to make \$10,800 in primary election contributions—are  
17   not persuasive. It is reasonable to infer that if the daughters and their significant others could  
18   afford to make the primary contributions, they also could have made the general contributions  
19   with their own money, but Watkins Sr. admits to reimbursing the general election contributions.  
20   And, as explained above, the fact that the primary election contributions were not made until  
21   after receipt of the holiday gifts is likely not coincidental. The more reasonable interpretation of  
22   the facts is that Watkins Sr. gave his daughters the money in part so they could make primary  
23   contributions to their brother's Committee. As such, the Commission should also find reason to

1 believe that the \$10,800 in primary election contributions were also prohibited and excessive  
2 contributions under 52 U.S.C. §§ 30116(a) and 30122.

3           **B.       The Commission Should Find Reason to Believe that Watkins Sr.**  
4                   **Made Contributions to the Committee in the names of Dennis and**  
5                   **Kathryne Sumner**  
6

7           In the initial submission, Watkins Sr. admits that he arranged to make contributions in the  
8 names of Dennis Sumner and Kathryne Sumner to his son's campaign committee and that  
9 Watkins Sr. reimbursed the Sumners by increasing the contract price by \$10,800 for the home  
10 construction project being performed by Sumner Construction. On March 24, 2018, Dennis  
11 Sumner made an entry in Sumner Construction's project ledger for a \$10,800 disbursement to  
12 "Steve Watkins," and Sumner apparently used Watkins, Sr.'s bank loan proceeds to make that  
13 contribution with a Sumner Construction check, unaware that a corporate contribution was  
14 prohibited.<sup>58</sup>

15           On April 11, 2018, the Committee refunded the prohibited corporate contribution.<sup>59</sup> On  
16 April 25, 2018, the Sumners replaced the corporate contribution with contributions to the  
17 Committee in their individual names totaling \$10,800 in apparent furtherance of the  
18 reimbursement plan. Watkins Sr. admits that he induced the Sumners to make the contributions  
19 with the promise of reimbursement. At this point, Watkins Sr. violated the Act by making  
20 excessive contributions in the names of others, and the Sumners violated the Act by allowing  
21 their names to be used for the purpose of making contributions in the name of another.

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<sup>58</sup> See Dennis Sumner Aff. #2, Attach. (copy of ledger entries for the Watkins Sr. construction project); April 20, 2020 E-mail from Chris Ashby. Counsel's email specifically states, in response to inquiries about the corporate contribution, that "the Sumners had access to the project funding throughout the course of construction, and they accessed it to make the contributions at issue." April 20, 2020 Email from Chris Ashby.

<sup>59</sup> The Committee refunded the prohibited contribution within the thirty (30) day time period mandated by the Commission regulations. See 11 C.F.R. § 103.3(b)(1).

1           Although Watkins Sr. admits to inducing the Sumners to make the contributions in their  
2 names with the promise of reimbursement, he states that he “cured” the violation by refusing to  
3 increase the final contract price, notifying the Committee of his actions, and requesting that it  
4 refund the Sumner contributions. However, the available information suggests that Watkins Sr.  
5 did reimburse the contributions through the home construction contract either by advancing  
6 construction loan funds to make contributions or through a later increase in the final construction  
7 contract price.<sup>60</sup> It is undisputed that Watkins Sr. asked Dennis Sumner to use the construction  
8 loan proceeds to make contributions to the Committee in exchange for an increase in the contract  
9 price, and Sumner did so. Although the Committee refunded that contribution because it came  
10 from a corporation, the Sumners then made individual contributions to replace the refunded,  
11 reimbursed corporate contribution. And while Watkins Sr. later stated that he never followed  
12 through with reimbursements of the Sumners’ individual contributions, he could not persuasively  
13 explain why the documents he supplied show that the final contract price was more than \$19,000  
14 higher than the amounts supported by the invoices generated by Sumner Construction, facts  
15 which are consistent with the initial agreement to raise the contract price in exchange for  
16 contributions.

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<sup>60</sup> See April 20, 2020 E-mail from Chris Ashby. As stated previously, the documentation Respondents supplied to support Watkins Sr.’s assertion that he paid a total contract price of \$854,474.64 to Sumner Construction reflects charges and corresponding payments totaling only \$835,273.64, leaving a \$19,201 discrepancy. Respondents have been unable to provide documentation resolving the \$19,201 discrepancy. Only one of the canceled checks was made out to Sumner Construction for \$30,000 but the other check made out to Alliance bank did not appear to be related to the construction project. See June 26, 2020 E-mail from Chris Ashby. To date, Watkins Sr. has not provided an explanation regarding the connection between this check and payments made to Sumner Construction. Counsel has advised us that Watkins Sr. is unwilling to provide any further information regarding the issue of reimbursement, choosing instead to rely on his sworn affidavit attesting to the fact that he did not reimburse the Sumner contributions. See April 20, 2020 E-mail from Chris Ashby.

In addition, Sumner Construction's project log shows a disbursement to "Steve Watkins" (presumably, the Watkins Committee) on March 23, 2018, the day before the corporate contribution, but it does not show a refund from "Steve Watkins," until late June, which suggests that the Sumners used the April 11, 2018, refund of the corporation contribution to make their April 25, 2018, individual contributions. And the Committee's later refund of the Sumner contributions at Watkins Sr.'s request does not "cure" the violation. Accordingly, we recommend that the Commission find reason to believe that Watkins Sr. made reimbursed excessive contributions in the names of Dennis and Kathryne Sumner in violation of sections 30116(a) and 30122.<sup>61</sup> We further recommend that the Commission dismiss the violations by the conduits, Dennis and Kathryne Sumner, for their roles in allowing their names to be used to make a contribution in the name of another, but issue a letter of caution for both individuals.<sup>62</sup>

### **C. Knowing and Willful Consideration**

The Act prescribes additional monetary penalties for violations that are knowing and willful.<sup>63</sup> A violation of the Act is knowing and willful if the "acts were committed with full knowledge of all the relevant facts and a recognition that the action is prohibited by law."<sup>64</sup> This does not require proving knowledge of the specific statute or regulation the respondent allegedly

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<sup>61</sup> If Watkins Sr. is able to provide documentation during the pre-probable cause conciliation stage to conclusively establish that the Sumner contributions were not reimbursed, we will take it into consideration for purposes of the civil penalty.

<sup>62</sup> In past matters, the Commission has generally declined to pursue individual conduits who did not play some significant role in carrying out the conduit scheme. In more recent matters, it has done so by declining to take action against such individuals at the RTB stage. *See, e.g.*, MUR 6889 (Nat'l Air Transp. Ass'n) (taking no action against the conduits who were reimbursed by corporate funds for contributions to SSF); MUR 6623 (William A. Bennett) (taking no action against "lower-level conduit employees" who did not actively participate in the reimbursement scheme).

<sup>63</sup> 52 U.S.C. § 30109(a)(5)(B), (d).

<sup>64</sup> 122 Cong. Rec. 12,197, 12,199 (May 3, 1976).



1 violated.<sup>65</sup> Instead, it is sufficient to demonstrate that a respondent “acted voluntarily and was  
 2 aware that his conduct was unlawful.”<sup>66</sup> This may be shown by circumstantial evidence from  
 3 which the respondents’ unlawful intent reasonably may be inferred.<sup>67</sup> For example, a person’s  
 4 awareness that an action is prohibited may be inferred from “the elaborate scheme for disguising  
 5 . . . political contributions.”<sup>68</sup>

6 The facts do not appear to indicate that the named Respondents acted knowingly and  
 7 willfully. Watkins Sr. states that he had no prior knowledge of the federal campaign finance  
 8 laws at the time of the reimbursed contributions. The Commission’s records indicate that neither  
 9 Steven Watkins Sr. nor any of the conduits were past contributors to federal committees. In  
 10 addition, the violations occurred over a relatively short period of time (December 2017 through  
 11 March 2018), and the Respondents self-reported the violations upon becoming aware of their  
 12 illegality. Thus notwithstanding the fact that the reimbursement of the Sumners could be viewed

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<sup>65</sup> *United States v. Danielczyk*, 917 F. Supp. 2d 573, 579 (E.D. Va. 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)).

<sup>66</sup> *Id.* (citing jury instructions in *United States v. Edwards*, No. 11-61 (M.D.N.C. 2012), *United States v. Acevedo Vila*, No. 108-36 (D.P.R. 2009), *United States v. Feiger*, No. 07-20414 (E.D. Mich. 2008), and *United States v. Alford*, No. 05-69 (N.D. Fla. 2005)).

<sup>67</sup> *Cf. United States v. Hopkins*, 916 F.2d 207, 213 (5<sup>th</sup> Cir. 1990) (quoting *United States v. Bordelon*, 871 F.2d 491, 494 (5<sup>th</sup> Cir. 1989)). *Hopkins* involved a conduit contribution 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.

<sup>68</sup> *Hopkins*, 916 F.2d. at 214-15. As the *Hopkins* court noted, “It has long been recognized that ‘efforts at concealment [may] be reasonably explainable only in terms of motivation to evade’ lawful obligations.” *Id.* at 214 (quoting *Ingram v. United States*, 360 U.S. 672, 679 (1959)).

as having been concealed as an increase in the price of the house, the overall facts suggest that the Commission should not make knowing and willful findings as to any of the Respondents.<sup>69</sup>

**D. The Committee Should Be Directed to Disgorge the Remaining Watkins Sr. Contributions**

Further, we recommend that the Commission dismiss the matter as to the Committee because the available information is insufficient to support a reasonable inference that Representative Watkins or any else associated with the Committee had previous knowledge that Watkins Sr. was providing funds to his daughters and their significant others to make contributions to the Committee for the primary and general elections.<sup>70</sup> Although the Committee has already refunded a portion of the reimbursed contributions, we recommend the Commission require Watkins Sr. to notify the Committee that it must disgorge the reimbursed the \$8,100 in primary contributions made in the names of Diane Watkins, Andrew Wise and Caroline Wise.<sup>71</sup>

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<sup>69</sup> Further, even if the facts might support an investigation into whether the violations were knowing and willful, the Commission may nonetheless “[r]efrain from making a formal finding that a violation was knowing and willful” as a matter of policy in matters that are self-disclosed to the Commission. *Policy Regarding Self-Reporting of Campaign Finance Violations*, 72 Fed. Reg. 16695, 16,696 (Apr. 5, 2007) (“*Sua Sponte Policy*”).

<sup>70</sup> Watkins Jr. Aff. ¶ 3. Since Congressman Watkins is not a respondent in this matter and there is no available information that would support naming him as a respondent, we make no recommendations as to him.

<sup>71</sup> See Conciliation Agreement ¶ VI.3, MUR 7472 (Barletta) (Dec. 18, 2020).

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#### **IV. RECOMMENDATIONS**

1. Open a Matter Under Review.
2. Find reason to believe that Steven C. Watkins Sr., violated 52 U.S.C. § 30116(a), 30122 and 11 C.F.R. § 110.4(a)(1)(i).
3. Dismiss the matter as to Diane Watkins, Benjamin Knopke, Andrew Wise, Caroline Wise, Dennis Sumner, Kathryne Sumner, and Sumner Construction, but issue letters of caution.
4. Dismiss the matter as to the Committee to Elect Steve Watkins, Jr., and Steven G. Martin in his official capacity as treasurer.
5. Enter into conciliation with Steven C. Watkins Sr., prior to a finding of probable cause to believe.
6. Approve the attached conciliation agreement.
7. Approve the attached Factual and Legal Analyses.

1           8.       Close the file as to Diane Watkins, Benjamin Knopke, Dennis Sumner, Kathryne  
2                   Sumner, Sumner Construction, Andrew Wise and Caroline Wise.

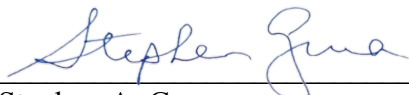
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4           9.       Approve the appropriate letters.

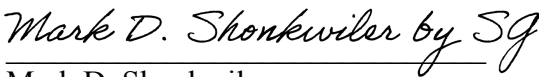
5                               Lisa J. Stevenson  
6                               Acting General Counsel

7  
8                               Charles Kitcher  
9                               Acting Associate General Counsel  
10                              for Enforcement

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14                   \_\_\_\_\_  
15                   Date

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18                               Stephen A. Gura  
19                               Deputy Associate General Counsel  
20                               for Enforcement

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22                               \_\_\_\_\_  
23                               Mark D. Shonkwiler  
24                               Assistant General Counsel

25                                 
26                               \_\_\_\_\_  
27                               Kimberly D. Hart  
28                               Attorney

29       Attachments

- 30       1. Factual and Legal Analysis for Steven C. Watkins Sr.  
31       2. Factual and Legal Analysis for Committee

**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

**MUR** \_\_\_\_\_  
Formerly Pre-MUR 616

**RESPONDENT:** Steven C. Watkins Sr.

**I. INTRODUCTION**

In this *sua sponte* submission, Steven C. Watkins Sr. (“Watkins Sr.”) disclosed that he provided funds or arranged to make \$32,400 of excessive contributions in the names of other persons to the 2018 congressional campaign of his son, Steve Watkins, Jr. and his principal campaign committee, Steve Watkins for Congress (the “Committee”).<sup>1</sup> Specifically, Watkins Sr. gave his daughters, Caroline Wise and Diane Watkins, Wise’s husband Andrew Wise, and Diane Watkins’s boyfriend Benjamin Knopke the funds used to make \$21,600 in primary and general election contributions to the Committee. Watkins Sr. asserts, however, that he only specifically instructed his family to use his money to make the general election contributions, which totaled \$10,800.

In the original submission, Watkins Sr. also disclosed that he arranged to increase the contract price on an ongoing house project with Sumner Construction by \$10,800 to reimburse Dennis and Kathryne Sumner for maximum primary and general election contributions to the

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<sup>1</sup> See Submission, Pre-MUR 616 (The Watkins Family *et al.*) (Aug. 30, 2018); Supplemental Submission, Pre-MUR 616 (The Watkins Family *et al.*) (Nov. 16, 2018) (including sworn affidavits from Steven C. Watkins Sr., Andrew Wise and Caroline Wise; declarations from Dennis and Kathryne Sumner and Brian Knopke) (“Supplemental Submission”); Supplemental Submission, Pre-MUR 616 (The Watkins Family *et al.*) (May 24, 2019) (“Supplemental Submission #2”); Supplemental Submission, Pre-MUR 616 (The Watkins Family *et al.*) (June 18, 2019) (including sworn affidavits from Steven C. Watkins Sr, Dennis Sumner, and Kathryne Sumner) (“Supplemental Submission #3”).

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Committee. In a supplemental submission, Watkins Sr. asserts that the price of the house project was never actually increased and he cured any violation.

After Watkins Sr. advised the Committee that he was the true source of the funds used to make contributions, the Committee: (1) returned \$5,400 in general election contribution checks from Andrew and Caroline Wise, but did not refund their \$5,400 in primary contributions; (2) refunded the \$2,700 general election contribution from Diane Watkins, but did not refund her \$2,700 primary election contribution; (3) refunded the \$5,400 in primary and general election contributions from Benjamin Knopke; and (4) refunded \$10,800 in primary and general election contributions from and Dennis and Kathryne Sumner. The Committee states that it did not refund \$8,100 in primary election contributions from Diane Watkins, Andrew Wise, and Caroline Wise because Watkins Sr. told the Committee that the funds used to make the primary contributions came from “holiday gifts” to his daughters, rather than from reimbursements.

Based on the available information, the Commission finds reason to believe that Steven C. Watkins Sr. violated 52 U.S.C. § 30116(a) and 30122 by making excessive contributions to the Committee.

## **II. FACTUAL BACKGROUND**

On November 7, 2017, Steve Watkins, Jr. (“the Candidate”) filed a Statement of Candidacy to run for the House of Representatives in Second Congressional District of Kansas and designated the Committee to Elect Steve Watkins and Steven G. Martin in his official capacity as treasurer (“the Committee”) as his principal campaign committee.<sup>2</sup>

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<sup>2</sup> Statement of Candidacy, Steve Watkins, Jr. (Nov. 11, 2017); Statement of Organization, Committee to Elect Steve Watkins (Nov. 11, 2017).

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Watkins Sr., the Candidate's father, a Topeka, Kansas, area physician, and his wife, Barbara Watkins, each made the maximum allowable primary and general election contributions to the Committee on December 7, 2017, and May 29, 2018, respectively.<sup>3</sup> Further, Watkins Sr. contributed \$765,929.86 to an independent expenditure-only committee called Kansans Can Do Anything PAC, which made over \$680,000 in independent expenditures to support Watkins Jr., or attack his opponent in the 2018 Republican primary.<sup>4</sup>

Caroline Wise and Diane Watkins are the daughters of Watkins Sr., and they are the candidate's sisters.<sup>5</sup> Andrew Wise is Caroline Wise's husband and Benjamin Knopke is Diane Watkins's boyfriend.<sup>6</sup> Dennis Sumner Construction, Inc., ("Sumner Construction") is a home builder in Topeka, Kansas.<sup>7</sup> At the time of the submission, Sumner Construction was building a home for Watkins Sr.<sup>8</sup> Dennis Sumner is the owner and principal of the corporation, and Kathryn Sumner is his wife.<sup>9</sup>

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<sup>3</sup> 2017 Year-End Report, Committee to Elect Steve Watkins (Jan. 31, 2018) ("2017 Year-End Report"); 2018 July Quarterly Report, Committee to Elect Steve Watkins (July 15, 2018) ("2018 July Quarterly Report"). Watkins Sr. also made a \$1 general election contribution during the same election cycle. *Id.*

<sup>4</sup> 2018 July Quarterly Report, Kansans Can Do Anything PAC (July 2, 2018); 2018 Pre-Primary Report, Kansans Can Do Anything PAC (July 24, 2018); 2018 October Quarterly Report, Kansans Can Do Anything PAC, (Oct. 3, 2018); 2018 Post-General Report, Kansans Can Do Anything PAC (Nov. 27, 2018).

<sup>5</sup> Submission at 1.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 3.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*



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**A. Primary Election Contributions by the Daughters and Their Significant Others**

According to the submission, sometime between late November and early December 2017, Watkins Sr. gave holiday gifts of \$10,000 each to his daughters.<sup>10</sup> Watkins Sr. also states that he told his daughters that the gifts were for them and their significant others,<sup>11</sup> and he did not specifically direct, request, suggest or imply that any of them should use the proceeds of the holiday gifts to make contributions to the Committee.<sup>12</sup>

On December 11, 2017, Diane Watkins deposited the \$10,000 check from Watkins Sr. and also made a \$2,700 primary election contribution to the Committee.<sup>13</sup> On that same day, Diane Watkins, using a portion of the \$10,000 gift money, also wrote a \$2,700 check to Knopke for the purpose of allowing him to make a contributions to the Committee.<sup>14</sup> Diane Watkins maintains that she intended to contribute to the Committee, and had the resources to do so, separate and apart from her father's gift.<sup>15</sup>

<sup>10</sup> *Id.* at 2. Watkins Sr. provided documentation purporting to show that he and his wife had a longstanding history of gift giving to Diane Watkins, Steve Watkins, Jr., and the Wises prior to the \$10,000 gift checks. *See* Suppl. Submission #2, Exhs. 1-11.

<sup>11</sup> The submission provides that although Diane Watkins and Benjamin Knopke are not married, they have lived together for eight years and generally share living costs and expenses. Submission at 2. Further, they claim that it is not unusual for one to give money to the other for general or specific purposes. *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> Suppl. Submission #12, Exh. 12; *see also* 2017 Year-End Report.

<sup>14</sup> Submission at 2. Knopke cashed Diane Watkins' check on the same day. Suppl. Submission #2, Exh. 12. The Committee's disclosure report indicates that the Knopke contribution was received on December 19, 2017. *See* 2017 Year-End Report.

<sup>15</sup> *Id.* at 2; *see also* Suppl. Submission #2, Exhs. 12, 13 (copies of banking information).

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On December 7, 2017, Caroline Wise made a \$2,700 primary election contribution to the Committee.<sup>16</sup> On December 8, 2017, Caroline Wise deposited her \$10,000 gift check from Watkins Sr.<sup>17</sup> Her husband, Andrew Wise, also attempted to make an identical contribution at about the same time, but because of a mailing issue, the Committee did not receive his contribution until January 29, 2017.<sup>18</sup> The Wises assert that they intended to contribute and had the resources to do, separate and apart from the gift they received from Watkins Sr.<sup>19</sup> The Wises also assert that Watkins Sr. never directly suggested that the gift money should be used to fund primary election contributions to Watkins Jr.'s congressional campaign.<sup>20</sup>

**B. General Election Contributions by the Daughters and Their Significant Others**

In early February 2018, Watkins Sr. states that he learned that an individual could make two \$2,700 contributions to the Committee, one for the primary and one for the general election.<sup>21</sup> Watkins Sr. then suggested that his daughters and their significant others, who

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<sup>16</sup> *Id.* at 2.

<sup>17</sup> Suppl. Submission #2, Exh. 15.

<sup>18</sup> Suppl. Submission, Andrew Wise Aff. ¶ 3; 2018 April Quarterly Report (Receipts), Committee to Elect Steve Watkins (Apr. 15, 2018).

<sup>19</sup> The Wises assert that they transferred funds from their joint savings account in November 2017 to their joint checking account to make separate \$2,700 primary election contributions. *See Id.* at 4; Exhs. 14, 15 (Caroline Wise transferred \$2,700 on November 9, 2017, and Andrew Wise transferred \$2,700 on November 24, 2017, from the joint savings account). The Wises did not explain the delay between the transfers and the dates of their contributions, and they did not make their contributions until after they had received the check from Watkins Sr.

<sup>20</sup> Suppl. Submission, Caroline Wise Aff. ¶ 2; Andrew Wise Aff. ¶ 2.

<sup>21</sup> Submission at 2. On May 29, 2018, the Committee reported receiving \$2,700 general election contributions from Watkins, Sr. and his wife, Barbara Watkins. *See* 2018 July Quarterly Report.

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1 already had made \$2,700 primary election contributions, make \$2,700 general election  
2 contributions, and he agreed to provide funds for this purpose.<sup>22</sup>

3 On or about February 16, 2018, Watkins Sr. gave four \$2,700 checks (total \$10,800) to  
4 his daughters and their significant others.<sup>23</sup> On or about February 21, 2018, and March 19, 2018,  
5 respectively, Diane Watkins and Knopke used the money Watkins Sr. provided to make \$2,700  
6 general election contributions to the Committee.<sup>24</sup> Caroline Wise states that in March 2018, she  
7 used the funds her father provided to make general election contributions on behalf of herself  
8 and Andrew Wise.<sup>25</sup> She gave the checks to Watkins Sr. for delivery to the Committee, but he  
9 did not deliver them until late May or early June 2018.<sup>26</sup>

10 Watkins Sr. states that on June 10, 2018, he learned that it was illegal to reimburse  
11 contributions, and he told the Wises to ask the Committee to return their un-deposited  
12 contributions, which they did.<sup>27</sup> And, in fact, the Committee returned those checks.<sup>28</sup> Watkins  
13 Sr. states that at the time he provided funds to the conduits to make the contributions to the  
14 Committee, he was unaware that federal law prohibited reimbursement of federal  
15 contributions.<sup>29</sup> Diane Watkins, Knopke, Andrew Wise, Caroline Wise, Dennis Sumner and

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<sup>22</sup> Submission at 2.

<sup>23</sup> *Id.* at 3.

<sup>24</sup> *Id.*

<sup>25</sup> Caroline Watkins Aff. ¶ 4; Andrew Wise Aff. ¶ 4.

<sup>26</sup> *Id.*

<sup>27</sup> Watkins Sr. states that he first became aware of the unlawfulness of reimbursed contributions on May 31, 2018, but did not notify Watkins Jr., or his daughters until June 10, 2018. Submission at 3-4; *see also* Caroline Wise Aff. ¶ 5; Andrew Wise Aff. ¶ 5.

<sup>28</sup> Caroline Wise Aff. ¶ 5; Andrew Wise Aff. ¶ 5.

<sup>29</sup> *Id.* at 2.

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Kathryne Sumner also claim to have been unaware the law prohibited them using funds provided by another person to make federal contributions.<sup>30</sup>

### **C. Contributions by Sumner Construction/Dennis and Kathryne Sumner**

In the original submission, Watkins Sr. states that in the spring of 2018, he suggested that the Sumners contribute to the Committee and offered to increase the price of his building contract with Sumner Construction by \$10,800 to enable them to make maximum contributions for the primary and general elections.<sup>31</sup> According to Watkins Sr., the parties agreed that Dennis Sumner would draw \$10,800 from the construction loan funds available to Sumner Construction for the project, and in exchange, Watkins Sr. would allow the overall contract price to be increased by \$10,800.<sup>32</sup> On March 23, 2018, Dennis Sumner placed an entry in the “Miscellaneous and Clean Up” section of the project’s construction ledger reflecting a disbursement to “Steve Watkins” in the amount of \$10,800, the same amount as the contributions.<sup>33</sup> The next day, Dennis Sumner sent a \$10,800 Sumner Construction contribution check to the Committee, which the Committee refunded on April 11, 2018, because it was a

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<sup>30</sup> *Id.* at 2; *see also* Suppl. Submission #2, Caroline Wise Aff. ¶ 6; Andrew Wise Aff. ¶ 6; Benjamin Knopke Aff. ¶ 5; Dennis Sumner Aff. ¶ 7 (June 18, 2019) (“Dennis Sumner Aff. #2”); Kathryne Sumner Aff. ¶ 7 (June 18, 2019) (“Kathryne Sumner Aff. #2”). Diane Watkins provided a very brief affidavit that attests to the accuracy of the previous information submitted in the submission and supplemental submissions. Suppl. Submission, Diane Watkins Aff., generally.

<sup>31</sup> Submission at 3.

<sup>32</sup> *See* Email from Chris Ashby to Kimberly Hart, OGC (Apr. 20, 2020, 3:54 p.m.) (“April 20, 2020 Email from Chris Ashby”).

<sup>33</sup> Dennis Sumner Aff. #2, Attach. (copy of ledger entries for the Watkins Sr. construction project).

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1 prohibited corporate contribution.<sup>34</sup> Dennis Sumner asserts that he was unaware of the corporate  
2 contribution prohibition when making the contribution.<sup>35</sup>

3 Two weeks later, on April 25, 2018, the Sumners each contributed \$5,400, the maximum  
4 for both the primary and general elections.<sup>36</sup> In in original submission, Watkins Sr. admitted that  
5 he reimbursed the contributions made by Dennis and Kathryne Sumner.<sup>37</sup> Consistent with that  
6 admission, Dennis and Kathryne Sumner submitted affidavits affirming that their contributions  
7 were reimbursed by Watkins Sr., and asserting that they were unaware that it was unlawful to  
8 have their contributions reimbursed.<sup>38</sup>

9 In a supplemental submission, however, Watkins Sr. retracted his earlier statement that  
10 he reimbursed Dennis and Kathryne Sumner's contributions, and asserted that he never followed  
11 through with the plan to reimburse their contributions by increasing the contract price for the  
12 house.<sup>39</sup> Watkins Sr. explains that although he did not actually reimburse the Sumners for their  
13 contributions, he was concerned that he violated the law because they made their contributions in

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<sup>34</sup> *Id.* ¶ 10; *see also* 2018 July Quarterly Report.

<sup>35</sup> Dennis Sumner Aff. #2 ¶ 6.

<sup>36</sup> Submission at 3; *see also* 2018 July Quarterly Report. The Commission's contributor database indicates that prior to the 2018 contributions, the Sumners had made less than \$200 in federal contributions.

<sup>37</sup> Submission at 3.

<sup>38</sup> Dennis Sumner Aff. #2 ¶¶ 2, 3; Kathryne Sumner Aff. #2 ¶¶ 2, 3.

<sup>39</sup> *See* Watkins Sr. Aff. #2 (June 18, 2019). Watkins Sr. was unable to provide a specific date on which he allegedly told Dennis Sumner that he would not follow through with the plan, but indicated that it was in the spring of 2018. *See also* April 20, 2020 Email from Chris Ashby.

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reliance on his offer to reimburse them in the future.<sup>40</sup> Watkins Sr. stated that he amended the submission to reflect the actual situation once he had the benefit of legal counsel.<sup>41</sup>

According to Watkins Sr., he “cured” his mistake by (1) refusing to increase the final contract price of the house; and (2) informing the Committee of his actions so that it could refund the Sumners' personal contributions (having already rejected the attempted corporate contribution).<sup>42</sup> Watkins asserts that these curative measures effectively restored the status quo, that is, Watkins Sr. did not pay Sumner Construction more than the contract provided for, and the Committee did not keep contributions the Sumners made with another person's funds.<sup>43</sup>

In response to requests for clarifying information, Respondents provided documentation purportedly demonstrating that Watkins Sr. paid no more than the actual contract price of \$854,474.64 representing the “actual cost plus 10% builder’s fee” as agreed upon in the contract.<sup>44</sup> A review of the documents shows, however, that the amount Watkins, Sr. was

<sup>40</sup> See Email from Chris Ashby, Esq. to Kimberly Hart, OGC, Pre-MUR 616 (The Watkins Family *et al.*) (Nov. 5, 2019, 12:24 pm) (“November 5, 2019, E-mail”).

<sup>41</sup> *Id.*

<sup>42</sup> *Id.* The Sumner Construction log under “Miscellaneous & Cleanup” section reflects the refund of the corporate contribution on June 30, 2018, almost 10 weeks after the contribution was returned by the Committee. See Dennis Sumner Aff. #2, Attach. (copy of ledger entries for the Watkins Sr. construction project).

<sup>43</sup> *Id.* In response to the supplemental submission, Dennis and Kathryn Sumner provided affidavits that similarly retracted their earlier statements that their contributions were reimbursed by Watkins Sr. See Dennis Sumner Aff. #2, ¶¶ 7, 10; Kathryn Sumner Aff. #2, ¶¶ 3, 10. Dennis Sumner now claims that Watkins Sr. initially offered to reimburse their contributions but later told him that he was not comfortable with going through with the plan. See Dennis Sumner Aff. #2 ¶¶ 8, 10; see also Steve Watkins Sr. Affidavit ¶¶ 2-4, 9. Both parties state that the original contract price was projected to be \$608,500, however, due to numerous changes to the project, the final contract price increased to \$854,474.64. *Id.*

<sup>44</sup> See Dennis Sumner Aff. #2, Attach. ¶ 10 (June 18, 2019); Email from Chris Ashby to Kimberly Hart (Feb. 10, 2020, 11:36 a.m.) (copies of Sumner Construction drawsheets) (“Feb. 10, 2020 E-mail from Chris Ashby”); April 20, 2020 Email from Chris Ashby (copies of invoices for Watkins Sr. construction project). Watkins Sr. also provided a copy of two canceled checks: one check, dated December 5, 2018, in payment to Alliance Bank for the amount of \$161,554.22; and a second check, dated March 19, 2018, made out to Sumner Construction in the amount of \$30,000. See E-mail from Chris Ashby to Kimberly Hart, OGC (June 26, 2020, 12:50 p.m.). OGC has requested

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invoiced by, and paid to Sumner Construction was \$835,273.63, which is \$19,201 less than the total agreed contract price of \$854,474.64.<sup>45</sup> To date, the Respondents have not been able to adequately explain the discrepancy.

#### **D. Committee Refunds of Contributions**

Watkins Sr. states that he told his son about the contribution reimbursements for the first time on or about June 10, 2018.<sup>46</sup> Watkins, Jr. attests that he did not know about his father's actions before that time.<sup>47</sup> As soon as he learned of his father's actions, Watkins Jr. instructed the Committee to refund \$16,200 in contributions to the following individuals: (1) Diane Watkins – general election (\$2,700); (2) Benjamin Knopke – general election (\$2,700); (3) Dennis Sumner – primary and general election (\$5,400); and (4) Kathyne Sumner – primary and general election (\$5,400).<sup>48</sup> The Committee later refunded Benjamin Knopke's \$2,700 primary election contribution.<sup>49</sup> In addition, the Committee returned the un-deposited general

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information as to how the check written to Alliance Bank relates to the construction project but has not yet received a response.

<sup>45</sup> See April 20, 2020 Email from Chris Ashby. When questioned about the discrepancy, counsel indicated that it is not unusual for a small family-owned business to lose track of some invoices. *Id.*

<sup>46</sup> Submission at 4. According to Watkins Sr., he consulted with legal counsel in late June 2018 to obtain advice regarding any further steps that needed to be taken to address the violations. *Id.*

<sup>47</sup> *Id.*; see also Steve Watkins Jr. Aff. ¶ 3, Pre-MUR 616 (The Watkins Family *et al*) (June 5, 2019) (“Watkins Jr. Aff.”).

<sup>48</sup> Submission at 4; see also 2018 July Quarterly Report (Disbursements). Watkins Sr. explained that the initial decision to refund Dennis and Kathyne Sumner's contributions and disclose the plan for reimbursement in the original submission was done out of an abundance of caution before consulting with legal counsel. See November 5, 2019, E-mail from Chris Ashby. After the original initial submission, Watkins Sr. and Diane Watkins obtained legal counsel who advised that Watkins Sr. and the Sumners provide supplemental information to the Commission explaining the incomplete nature of his plan for reimbursement. *Id.*; see also Watkins Sr. Aff. ¶¶ 2-9; Dennis Sumner Aff. ¶¶ 3-10; Kathyne Sumner Aff. ¶ 4. Counsel also advised Watkins Sr. and Diane Watkins to request that the Committee refund the primary contribution made by Benjamin Knopke (\$2,700) after learning that she reimbursed Knopke's contribution. See Submission at 4; see also 2018 July Quarterly Report (Disbursements).

<sup>49</sup> Suppl. Submission, Benjamin Knopke Decl. ¶6 (Nov. 16, 2018).

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election contribution checks from the Wises totaling \$5,400.<sup>50</sup> The Committee did not refund the \$8,100 in primary election contributions made in the names of Diane Watkins, Andrew Wise, and Caroline Wise.<sup>51</sup>

### III. LEGAL ANALYSIS

The Act and Commission regulations prohibit any person, including a corporation from making of a contribution in the name of another to a federal political committee or allowing their name to be used in the making of a contribution.<sup>52</sup> Further, it is unlawful for a federal committee to knowingly accept a contribution made by one person in the name of another.<sup>53</sup> Under the Act, an individual may not make a contribution to a candidate with respect to any election in excess of the legal limit, which was \$2,700 per election during the 2017-2018 election cycle.<sup>54</sup> Further, no corporation may make, and no office or director of a corporation may consent to, a corporate contribution to a federal candidate or their campaign.<sup>55</sup>

#### A. There is Reason to Believe that Watkins Sr. Made Contributions to the Committee in the Names of his Daughters and their Significant Others

Watkins Sr. admits that he gave his daughters and their significant others the \$10,800 they used to make general election contributions in their own names to the Committee, and that

<sup>50</sup> Caroline Wise Aff. ¶ 5; Andrew Wise Aff. ¶ 5.

<sup>51</sup> Submission at 4; *see also* Suppl. Submission #2, Exhs. 12-15.

<sup>52</sup> 52 U.S.C. §§ 30122; 11 C.F.R. § 110.4(b)(1)(i), (ii); *see also United States v. O'Donnell*, 608 F.3d 546, 550 (9th Cir. 2010) (concluding that the plain language of section 30122 [formerly section 441f] encompasses straw donor contributions whether accomplished through the advancement or reimbursement of funds).

<sup>53</sup> *Id.*; 11 C.F.R. §§ 110.4(b)(1)(iv), 114.2(d).

<sup>54</sup> *See Id.* § 30116(a)(1)(A); 11 C.F.R. § 110.1(b)(1).

<sup>55</sup> *Id.* §§ 30118(a) and 30122.



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1 he did so after making the maximum legal contribution to the Committee in his own name.  
2 Further, each of the conduits acknowledges using the funds received from Watkins Sr. to make  
3 these contributions in their own names to the Committee.<sup>56</sup> Accordingly, the Commission finds  
4 reason to believe that Steven C. Watkins Sr. violated 52 U.S.C. 30116(a) and 30122 by making  
5 excessive contributions in the name of another to the Committee.

6 As to the primary election contributions, the timing of the gifts and the contributions,  
7 along with Watkins Sr.'s instruction to make general election contributions with his money,  
8 support a reasonable inference that Watkins Sr. gave them the money for the purpose of making  
9 the primary contributions as well. Although Watkins Jr. announced his candidacy on November  
10 7, 2017, neither daughter contributed in the month following his announcement, but made  
11 contributions within days after receiving the initial \$10,000 gifts from Watkins Sr. Further,  
12 Diane Watkins admits that, on the same day she deposited the gift check (December 11<sup>th</sup>), she  
13 wrote a check to Knopke in the amount of \$2,700 with the understanding that it was to be used to  
14 make a primary election contribution to the Committee. Knopke further admits that he used  
15 those funds to make a contribution to the Committee, which it received on December 19, 2017.  
16 In providing the funds to Knopke, Diane Watkins appears to have been acting as an intermediary  
17 for Watkins Sr., who was the true source of the funds.

18 The Respondents' explanations—the contributors had sufficient funds to make the  
19 primary contributions without Watkins Sr.'s money; Watkins Sr. and his wife made large gifts to  
20 their children in the past; and Watkins Sr. did not instruct his daughters and their significant

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<sup>56</sup> See Submission at 2-3; Caroline Wise Aff. ¶4; Andrew Wise Aff. ¶4; Benjamin Knopke Decl. ¶4; Diane Watkins Aff., generally.

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1 others to use part of their holiday gifts to make \$10,800 in primary election contributions—are  
2 not persuasive. It is reasonable to infer that if the daughters and their significant others could  
3 afford to make the primary contributions, they also could have made the general contributions  
4 with their own money, but Watkins Sr. admits to reimbursing the general election contributions.  
5 And, as explained above, the fact that the primary election contributions were not made until  
6 after receipt of the holiday gifts is likely not coincidental. The more reasonable interpretation of  
7 the facts is that Watkins Sr. gave his daughters the money in part so they could make primary  
8 contributions to their brother's Committee. As such, the Commission also finds reason to  
9 believe that the \$10,800 in primary election contributions were also prohibited and excessive  
10 contributions under 52 U.S.C. §§ 30116(a) and 30122.

11 **B. There is Reason to Believe that Watkins Sr. Made Contributions to the**  
12 **Committee in the names of Dennis and Kathyne Sumner**  
13

14 In the initial submission, Watkins Sr. admits that he arranged to make contributions in the  
15 names of Dennis Sumner and Kathyne Sumner to his son's campaign committee and that  
16 Watkins Sr. reimbursed the Sumners by increasing the contract price by \$10,800 for the home  
17 construction project being performed by Sumner Construction. On March 24, 2018, Dennis  
18 Sumner made an entry in Sumner Construction's project ledger for a \$10,800 disbursement to  
19 "Steve Watkins," and Sumner apparently used Watkins, Sr.'s bank loan proceeds to make that  
20 contribution with a Sumner Construction check, unaware that a corporate contribution was  
21 prohibited.<sup>57</sup>

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<sup>57</sup> See Dennis Sumner Aff. #2, Attach. (copy of ledger entries for the Watkins Sr. construction project); April 20, 2020 E-mail from Chris Ashby. Counsel's email specifically states, in response to inquiries about the corporate contribution, that "the Sumners had access to the project funding throughout the course of construction, and they accessed it to make the contributions at issue." April 20, 2020 Email from Chris Ashby.

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1 On April 11, 2018, the Committee refunded the prohibited corporate contribution.<sup>58</sup> On  
2 April 25, 2018, the Sumners replaced the corporate contribution with contributions to the  
3 Committee in their individual names totaling \$10,800 in apparent furtherance of the  
4 reimbursement plan. Watkins Sr. admits that he induced the Sumners to make the contributions  
5 with the promise of reimbursement. At this point, Watkins Sr. violated the Act by making  
6 excessive contributions in the names of others, and the Sumners violated the Act by allowing  
7 their names to be used for the purpose of making contributions in the name of another.

8 Although Watkins Sr. admits to inducing the Sumners to make the contributions in their  
9 names with the promise of reimbursement, he states that he “cured” the violation by refusing to  
10 increase the final contract price, notifying the Committee of his actions, and requesting that it  
11 refund the Sumner contributions. However, the available information suggests that Watkins Sr.  
12 did reimburse the contributions through the home construction contract either by advancing  
13 construction loan funds to make contributions or through a later increase in the final construction  
14 contract price.<sup>59</sup> It is undisputed that Watkins Sr. asked Dennis Sumner to use the construction  
15 loan proceeds to make contributions to the Committee in exchange for an increase in the contract

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<sup>58</sup> The Committee refunded the prohibited contribution within the thirty (30) day time period mandated by the Commission regulations. *See* 11 C.F.R. § 103.3(b)(1).

<sup>59</sup> *See* April 20, 2020 E-mail from Chris Ashby. As stated previously, the documentation Respondents supplied to support Watkins Sr.’s assertion that he paid a total contract price of \$854,474.64 to Sumner Construction reflects charges and corresponding payments totaling only \$835,273.64, leaving a \$19,201 discrepancy. Respondents have been unable to provide documentation resolving the \$19,201 discrepancy. Only one of the canceled checks was made out to Sumner Construction for \$30,000 but the other check made out to Alliance bank did not appear to be related to the construction project. *See* June 26, 2020 E-mail from Chris Ashby. To date, Watkins Sr. has not provided an explanation regarding the connection between this check and payments made to Sumner Construction. Counsel has advised us that Watkins Sr. is unwilling to provide any further information regarding the issue of reimbursement, choosing instead to rely on his sworn affidavit attesting to the fact that he did not reimburse the Sumner contributions. *See* April 20, 2020 E-mail from Chris Ashby.

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1 price, and Sumner did so. Although the Committee refunded that contribution because it came  
2 from a corporation, the Sumners then made individual contributions to replace the refunded,  
3 reimbursed corporate contribution. And while Watkins Sr. later stated that he never followed  
4 through with reimbursements of the Sumners' individual contributions, he could not persuasively  
5 explain why the documents he supplied show that the final contract price was more than \$19,000  
6 higher than the amounts supported by the invoices generated by Sumner Construction, facts  
7 which are consistent with the initial agreement to raise the contract price in exchange for  
8 contributions.

9 In addition, Sumner Construction's project log shows a disbursement to "Steve Watkins"  
10 (presumably, the Watkins Committee) on March 23, 2018, the day before the corporate  
11 contribution, but it does not show a refund from "Steve Watkins," until late June, which suggests  
12 that the Sumners used the April 11, 2018, refund of the corporation contribution to make their  
13 April 25, 2018, individual contributions. And the Committee's later refund of the Sumner  
14 contributions at Watkins Sr.'s request does not "cure" the violation. Accordingly, the  
15 Commission finds reason to believe that Watkins Sr. made reimbursed excessive contributions in  
16 the names of Dennis and Kathyne Sumner in violation of sections 30116(a) and 30122.

### 17 C. Knowing and Willful Consideration

18 The Act prescribes additional monetary penalties for violations that are knowing and  
19 willful.<sup>60</sup> A violation of the Act is knowing and willful if the "acts were committed with full  
20 knowledge of all the relevant facts and a recognition that the action is prohibited by law."<sup>61</sup> This

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<sup>60</sup> 52 U.S.C. § 30109(a)(5)(B), (d).

<sup>61</sup> 122 Cong. Rec. 12,197, 12,199 (May 3, 1976).

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1 does not require proving knowledge of the specific statute or regulation the respondent allegedly  
2 violated.<sup>62</sup> Instead, it is sufficient to demonstrate that a respondent “acted voluntarily and was  
3 aware that his conduct was unlawful.”<sup>63</sup> This may be shown by circumstantial evidence from  
4 which the respondents’ unlawful intent reasonably may be inferred.<sup>64</sup> For example, a person’s  
5 awareness that an action is prohibited may be inferred from “the elaborate scheme for disguising  
6 . . . political contributions.”<sup>65</sup>

7 The Commission exercises its discretion and does not make knowing and willful findings  
8 here, given the *sua sponte* nature of this proceeding, Watkins Sr.’s stated unfamiliarity with  
9 federal campaign finance laws, the contributors’ lack of significant prior giving to federal  
10 candidates.<sup>66</sup>

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<sup>62</sup> *United States v. Danielczyk*, 917 F. Supp. 2d 573, 579 (E.D. Va. 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)).

<sup>63</sup> *Id.* (citing jury instructions in *United States v. Edwards*, No. 11-61 (M.D.N.C. 2012), *United States v. Acevedo Vila*, No. 108-36 (D.P.R. 2009), *United States v. Feiger*, No. 07-20414 (E.D. Mich. 2008), and *United States v. Alford*, No. 05-69 (N.D. Fla. 2005)).

<sup>64</sup> *Cf. United States v. Hopkins*, 916 F.2d 207, 213 (5<sup>th</sup> Cir. 1990) (quoting *United States v. Bordelon*, 871 F.2d 491, 494 (5<sup>th</sup> Cir. 1989)). *Hopkins* involved a conduit contribution 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.

<sup>65</sup> *Hopkins*, 916 F.2d. at 214-15. As the *Hopkins* court noted, “It has long been recognized that ‘efforts at concealment [may] be reasonably explainable only in terms of motivation to evade’ lawful obligations.” *Id.* at 214 (quoting *Ingram v. United States*, 360 U.S. 672, 679 (1959)).

<sup>66</sup> Further, even if the facts might support an investigation into whether the violations were knowing and willful, the Commission may nonetheless “[r]efrain from making a formal finding that a violation was knowing and willful” as a matter of policy in matters that are self-disclosed to the Commission. *Policy Regarding Self-Reporting of Campaign Finance Violations*, 72 Fed. Reg. 16695, 16,696 (Apr. 5, 2007) (“*Sua Sponte Policy*”).

**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

**MUR** \_\_\_\_\_  
Formerly Pre-MUR 616

**RESPONDENT:**

Committee to Elect Steve Watkins and  
Steven G. Martin in his official capacity  
as treasurer

**I. INTRODUCTION**

In this *sua sponte* submission, Steven C. Watkins Sr. (“Watkins Sr.”) disclosed that he provided funds or arranged to make \$32,400 of excessive contributions in the names of other persons to the 2018 congressional campaign of his son, Steve Watkins, Jr. and his principal campaign committee, Steve Watkins for Congress (the “Committee”).<sup>1</sup> Specifically, Watkins Sr. gave his daughters Caroline Wise and Diane Watkins, Wise’s husband Andrew Wise, and Diane Watkins’s boyfriend Benjamin Knopke the funds used to make \$21,600 in primary and general election contributions to the Committee. Watkins Sr. asserts, however, that he only specifically instructed his family to use his money to make the general election contributions, which totaled \$10,800.

In the original submission, Watkins Sr. also disclosed that he arranged to increase the contract price on an ongoing house project with Sumner Construction by \$10,800 to reimburse Dennis and Kathryne Sumner for maximum primary and general election contributions to the

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<sup>1</sup> See Submission, Pre-MUR 616 (The Watkins Family *et al.*) (Aug. 30, 2018); Supplemental Submission, Pre-MUR 616 (The Watkins Family *et al.*) (Nov. 16, 2018) (including sworn affidavits from Steven C. Watkins Sr., Andrew Wise and Caroline Wise; declarations from Dennis and Kathryne Sumner and Brian Knopke) (“Supplemental Submission”); Supplemental Submission, Pre-MUR 616 (The Watkins Family *et al.*) (May 24, 2019) (“Supplemental Submission #2”); Supplemental Submission, Pre-MUR 616 (The Watkins Family *et al.*) (June 18, 2019) (including sworn affidavits from Steven C. Watkins Sr, Dennis Sumner, and Kathryne Sumner) (“Supplemental Submission #3”).

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1 Committee. In a supplemental submission, Watkins Sr. asserts that the price of the house project  
2 was never actually increased and he cured any violation.

3 After Watkins Sr. advised the Committee that he was the true source of the funds used to  
4 make contributions, the Committee: (1) returned \$5,400 in general election contribution checks  
5 from Andrew and Caroline Wise, but did not refund their \$5,400 in primary contributions;  
6 (2) refunded the \$2,700 general election contribution from Diane Watkins, but did not refund her  
7 \$2,700 primary election contribution; (3) refunded the \$5,400 in primary and general election  
8 contributions from Benjamin Knopke; and (4) refunded \$10,800 in primary and general election  
9 contributions from and Dennis and Kathryne Sumner. The Committee states that it did not  
10 refund \$8,100 in primary election contributions from Diane Watkins, Andrew Wise, and  
11 Caroline Wise because Watkins Sr. told the Committee that the funds used to make the primary  
12 contributions came from “holiday gifts” to his daughters, rather than from reimbursements.

13 Watkins Sr. states that he told his son about the contribution reimbursements for the first  
14 time on or about June 10, 2018.<sup>2</sup> Watkins, Jr. attests that he did not know about his father’s  
15 actions before that time.<sup>3</sup> As soon as he learned of his father’s actions, Watkins Jr. instructed the  
16 Committee to refund \$16,200 in contributions to the following individuals: (1) Diane Watkins –  
17 general election (\$2,700); (2) Benjamin Knopke – general election (\$2,700); (3) Dennis Sumner  
18 – primary and general election (\$5,400); and (4) Kathryne Sumner – primary and general

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<sup>2</sup> Submission at 4. According to Watkins Sr., he consulted with legal counsel in late June 2018 to obtain advice regarding any further steps that needed to be taken to address the violations. *Id.*

<sup>3</sup> *Id.*; see also Steve Watkins Jr. Aff. ¶ 3, Pre-MUR 616 (The Watkins Family *et al*) (June 5, 2019) (“Watkins Jr. Aff.”).



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election (\$5,400).<sup>4</sup> The Committee later refunded Benjamin Knopke's \$2,700 primary election contribution.<sup>5</sup> In addition, the Committee returned the un-deposited general election contribution checks from the Wises totaling \$5,400.<sup>6</sup> The Committee did not refund the \$8,100 in primary election contributions made in the names of Diane Watkins, Andrew Wise, and Caroline Wise.<sup>7</sup>

### III. LEGAL ANALYSIS

Under the Act, it is unlawful for a federal committee to knowingly accept a contribution made by one person in the name of another.<sup>8</sup> Further, an individual may not make a contribution to a candidate with respect to any election in excess of the legal limit, which was \$2,700 per election during the 2017-2018 election cycle.<sup>9</sup>

The Commission dismisses the matter as to the Committee because the available information is insufficient to support a reasonable inference that Representative Watkins or any else associated with the Committee had previous knowledge that Watkins Sr. was providing

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<sup>4</sup> Submission at 4; *see also* 2018 July Quarterly Report (Disbursements). Watkins Sr. explained that the initial decision to refund Dennis and Kathryn Sumner's contributions and disclose the plan for reimbursement in the original submission was done out of an abundance of caution before consulting with legal counsel. *See* November 5, 2019 E-mail from Chris Ashby. After the original initial submission, Watkins Sr. and Diane Watkins obtained legal counsel who advised that Watkins Sr. and the Sumners provide supplemental information to the Commission explaining the incomplete nature of his plan for reimbursement. *Id.*; *see also* Watkins Sr. Aff. ¶¶ 2-9; Dennis Sumner Aff. ¶¶ 3-10; Kathryn Sumner Aff. ¶ 4. Counsel also advised Watkins Sr. and Diane Watkins to request that the Committee refund the primary contribution made by Benjamin Knopke (\$2,700) after learning that she reimbursed Knopke's contribution. Submission at 4; *see also* 2018 July Quarterly Report (Disbursements).

<sup>5</sup> Suppl. Submission, Benjamin Knopke Decl. ¶6 (Nov. 16, 2018).

<sup>6</sup> Caroline Wise Aff. ¶ 5; Andrew Wise Aff. ¶ 5.

<sup>7</sup> Submission at 4; *see also* Suppl. Submission #2, Exhs. 12-15.

<sup>8</sup> *Id.*; 11 C.F.R. §§ 110.4(b)(1)(iv), 114.2(d).

<sup>9</sup> *See Id.* § 30116(a)(1)(A); 11 C.F.R. § 110.1(b)(1).



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- 1 funds to his daughters and their significant others to make contributions to the Committee for the
- 2 primary and general elections.<sup>10</sup>

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<sup>10</sup> Watkins Jr. Aff. ¶ 3. Since Congressman Watkins is not a respondent in this matter and there is no available information that would support naming him as a respondent, we make no finding as to him.