

FEDERAL ELECTION COMMISSION
FIRST GENERAL COUNSEL’S REPORT

MUR 7994

DATE COMPLAINT FILED: May 2, 2022

DATE OF NOTIFICATIONS: May 6, 2022

LAST RESPONSE RECEIVED: June 17, 2022

DATE ACTIVATED: August 24, 2022

ELECTION CYCLE: 2022

EXPIRATION OF SOL: November 1, 2026

COMPLAINANTS:

Campaign Legal Center
 Roger G. Wieand

RESPONDENTS:

Make America Great Again, Again! Inc. and
 Charles Gantt in his official capacity as treasurer
 ML Organization, LLC
 William Pulte

**RELEVANT STATUTES
 AND REGULATIONS:**

52 U.S.C. § 30104(b)

52 U.S.C. § 30122

11 C.F.R. § 110.1(e), (g)(2), (4)

11 C.F.R. § 110.4

INTERNAL REPORTS CHECKED: Disclosure Reports**FEDERAL AGENCIES CHECKED:** None**I. INTRODUCTION**

The Complaint in this matter alleges that William Pulte made a contribution in the name of another through ML Organization, LLC (“ML Organization”),¹ to Make America Great Again, Again! Inc. and Charles Gantt in his official capacity as treasurer (“MAGA Again!” or the “Committee”) when ML Organization purportedly contributed \$500,000 to MAGA Again!

¹ The Complaint also alleges that one or more unknown respondents may have made contributions in the name of ML Organization. However, because the record does not contain any information suggesting that ML Organization’s contribution was funded using anything other than ML Organization’s own earnings or assets, we do not believe separate recommendations as to one or more hypothetical unknown respondents are required in this matter.

1 on November 1, 2021. The Complaint bases this allegation on ML Organization's lack of an
2 online presence and public information suggesting that William Pulte is connected to ML
3 Organization, among other reasons. After receiving the Complaint, MAGA Again! amended its
4 disclosure reports to attribute the entire amount of ML Organization's contribution to member
5 Diana Pulte. Respondents have also provided a contributor form that indicates that the LLC
6 provided attribution information as to Diana Pulte at the time the contribution was made. Diana
7 Pulte's name, occupation, and employer were written down on the contributor form as if she was
8 an individual contributor, and a field indicating that the contribution was from an LLC was
9 checked. MAGA Again! contends that it exercised appropriate diligence in determining the
10 source of the contribution because the donor form it received indicated that the contribution was
11 from an LLC and did not indicate that the LLC was taxed as a partnership.

12 Regarding the allegation that William Pulte made a prohibited conduit contribution
13 through ML Organization, there is no information in the record indicating that ML Organization
14 was either established for the purpose of making a contribution or received funds for the purpose
15 of making a contribution on behalf of another. In light of the lack of such information, as well as
16 affirmative information that the funds came from ML Organization's business income and assets,
17 we recommend that the Commission find no reason to believe that ML Organization, William
18 Pulte, and MAGA Again! violated 52 U.S.C. § 30122 by making, allowing one's name to be
19 used in the making of, or knowingly accepting a contribution in the name of another.

20 Regarding the allegation that MAGA Again! did not properly report the contribution, the
21 information provided in the Responses establishes that ML Organization is a multimember LLC
22 and not a corporate LLC and, therefore, that its contribution should have been attributed pursuant
23 to 11 C.F.R. § 110.1(g)(2) — which requires that such contributions be attributed to the LLC's

1 members either in proportion to their share of the LLC's profits or by other agreement of the
2 members, subject to additional limitations. However, despite receiving information that should
3 have put it on notice of ML Organization's partnership status, MAGA Again! proceeded to
4 report the contribution as if ML Organization was a corporate LLC. MAGA Again! received an
5 attribution form indicating that the contribution was an LLC contribution, but did not designate
6 the LLC as being either treated as a corporation or a partnership. Yet, the LLC must have been
7 treated as either a corporate LLC or a partnership. That form, however, listed the "contributor"
8 as Diana Pulte, one of the members of the LLC and its then-vice president. This information
9 would have only been relevant if the LLC was treated as a partnership since there is no
10 individual attribution when the LLC is a corporation. Under these circumstances, there was
11 sufficient information for MAGA Again! to either attribute the LLC contribution to Diana Pulte
12 or, at least, to make further inquiries to determine how the contribution should be attributed.
13 Further, it does not appear that MAGA Again! used best efforts to attempt to clarify the
14 information it received or otherwise obtain attribution information. We therefore recommend
15 that the Commission find reason to believe that MAGA Again! violated 52 U.S.C. § 30104(b)
16 and 11 C.F.R. § 110.1(e) by failing to properly report attribution information and enter into pre-
17 probable cause conciliation to resolve this violation.

18 **II. FACTUAL BACKGROUND**

19 MAGA Again! is an independent expenditure-only political committee ("IEOPC") that
20 first registered with the Commission on October 1, 2021.² Its treasurer is Charles Gantt.³ In its

² MAGA Again!, Statement of Organization (Oct. 1, 2021).

³ MAGA Again!, Amended Statement of Organization (May 12, 2022).

1 original Year-End 2021 report, MAGA Again! reported a \$500,000 contribution which it
2 received on November 1, 2021, from ML Organization, LLC, a multimember LLC managing
3 investments on behalf of the Pulte family.⁴ MAGA Again! provided no attribution information
4 associated with this contribution at the time.⁵ After receiving the Complaint in this matter,
5 MAGA Again! amended its Year-End 2021 Report to add attribution information, attributing the
6 full \$500,000 contribution to Diana Pulte, a member of ML Organization.⁶

7 The Complaint alleges that ML Organization was not the true source of the \$500,000
8 contribution to MAGA Again!⁷ It bases this allegation on ML Organization's lack of publicly-
9 identifiable activities or income since its registration as a Delaware domestic limited liability
10 company in April 2018 and the fact that William Pulte is the owner of the address — which
11 appears to be a single-family home — listed for ML Organization in MAGA Again!'s
12 disclosures.⁸

13 In their Response, ML Organization and William Pulte represent that ML Organization is
14 a “multimember LLC that has been in existence since 2018,” which “manages investments on
15 behalf of the Pulte family, has engaged in significant investment activities since it was
16 established over four years ago, and it has tens of millions of dollars in assets.”⁹ The Response
17 represents that ML Organization's \$500,000 contribution to MAGA Again! came from these

⁴ MAGA Again!, Year-End 2021 Report at 13 (Jan. 31, 2022), <https://docquery.fec.gov/pdf/926/202201319485556926/202201319485556926.pdf>; ML Organization and William Pulte Resp. at 1-2 (June 1, 2022).

⁵ MAGA Again!, Year-End 2021 Report at 13 (Jan. 31, 2022), <https://docquery.fec.gov/pdf/926/202201319485556926/202201319485556926.pdf>.

⁶ MAGA Again!, Amended Year-End 2021 Report at 13, 14 (May 20, 2022), <https://docquery.fec.gov/pdf/095/202205209512531095/202205209512531095.pdf>; ML Organization and William Pulte Resp. at 3.

⁷ Compl. ¶ 1 (May 2, 2022).

⁸ *Id.* ¶¶ 3-4, 10-11, 14-15, 26-29.

⁹ ML Organization and William Pulte Resp. at 1-2.

1 earnings and assets and argues that it therefore cannot be a conduit contribution.¹⁰ The Response
2 also contends that there were no efforts to disguise the source of the funds because Diana Pulte, a
3 member of the LLC, provided MAGA Again! with attribution information, which MAGA
4 Again! did not use for reasons unknown to ML Organization and William Pulte.¹¹ The Response
5 states that this attribution information was provided in a manner consistent with the
6 Commission's regulations concerning contributions from an LLC which elects to be treated as a
7 partnership or does not elect to be treated as either a partnership or a corporation for federal
8 income tax purposes.¹² The Response also represents that, after they received the Complaint,
9 "the Committee was reminded that the attribution information had been provided on the form."¹³
10 MAGA Again! filed a separate Response, in which it contends that it exercised
11 appropriate diligence in determining the source of the contribution because the donor form it
12 received indicated that the contribution was from an LLC, and the contributor did not indicate
13 that the LLC was taxed as a partnership.¹⁴ It also contends that it took "prompt remedial action"
14 by amending its report after receiving notice of the Complaint in this matter.¹⁵ It further
15 contends that there should be no civil penalty in this matter if the Commission finds reason to

¹⁰ *Id.* at 3-4.

¹¹ *Id.* at 4.

¹² *Id.*

¹³ *Id.* at 2.

¹⁴ MAGA Again! Resp. at 2-4 (June 17, 2022).

¹⁵ *Id.* at 4. It also represents that it amended its donor form before receiving the Complaint, and it attached the new form, which provides a clear space to list donor attribution information. *Id.*, Ex. C. ML Organization's Response represents that it "reminded" MAGA Again! "that the attribution information had been included in the form." ML Organization and William Pulte Resp. at 3.

believe that a violation occurred, because it had not received adequate notice as to the requirements for attributing LLC contributions.¹⁶

Both Responses also include a copy of the donor form that Diana Pulte filled out in connection with the \$500,000 contribution, the relevant portion of which is provided below:¹⁷

MAGA, AGAIN! DONOR FORM

____ \$1,000,000
 ____ \$250,000
 ✓ \$500,000

____ \$100,000
 ____ \$50,000
 ____ Other Amount: \$ _____

CONTRIBUTOR INFORMATION (Please fill out every field. It is required to contribute)

Check one for contribution type: ____ Individual ____ Corporation ☒ LLC ____ Partnership ____ Trust

First Name: DIANA City: BOCA RATON
 Last Name: PULTE State: FL
 Employer: ML Organization LLC Zip: 33432
 Occupation: Vice President Email: N/A
 Address: 2305 Dixie Highway Phone: N/A

By making this contribution, you affirm that the following statements are true and accurate: I am a United States citizen or permanent resident (e.g., greencard holder) or I am a representative of a corporation that is chartered and operating in the U.S., the funds are derived from U.S. revenues, and no foreign national has participated in the decision to make this contribution; This contribution is made from the funds of the above-listed contributor, will not be reimbursed by another, and, if this contribution is made via credit card, it is being made with a card for which the contributor has a legal obligation to pay and will not be made on the card of another; This contribution is not made from the treasury of an entity that is a federal government contractor.

Contributor Signature Diana Pulte Date 11/8/2021
 Name Printed Diana Pulte

The content of the form that was filled out here includes information about both Diana Pulte as well as information about ML Organization. Diana Pulte's name, occupation, and employer are written down as if she is an individual contributor, and a field indicating that the contribution is from an LLC is checked.

¹⁶ MAGA Again! Resp. at 5. The response also contends that MAGA Again! should not have been added as a respondent because it is not named as a respondent in the Complaint. *Id.* at 2.

¹⁷ *Id.*, Ex. A.

III. LEGAL ANALYSIS

A. The Commission Should Find No Reason to Believe that ML Organization, William Pulte and MAGA Again! Violated 52 U.S.C. § 30122 by Making, Allowing One's Name to Be Used in Making, or Knowingly Accepting a Contribution in the Name of Another

The Act provides that a contribution includes “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.”¹⁸ The term “person” for purposes of the Act and Commission regulations includes partnerships, corporations, and “any other organization or group of persons.”¹⁹ The Act prohibits a person from making a contribution in the name of another person, knowingly permitting his or her name to be used to effect such a contribution, or knowingly accepting such a contribution.²⁰ The Commission has included in its regulations illustrations of activities that constitute making a contribution in the name of another:

- (i) Giving money or anything of value, all or part of which was provided to the contributor by another person (the true contributor) without disclosing the source of money or the thing of value to the recipient candidate or committee at the time the contribution is made; or
- (ii) Making a contribution of money or anything of value and attributing as the source of the money or thing of value another person when in fact the contributor is the source.²¹

The requirement that a contribution be made in the name of its true source promotes Congress's objective of ensuring the complete and accurate disclosure by candidates and

¹⁸ 52 U.S.C. § 30101(8)(A).

¹⁹ *Id.* § 30101(11); 11 C.F.R. § 100.10.

²⁰ 52 U.S.C. § 30122.

²¹ 11 C.F.R. § 110.4(b)(2)(i)–(ii).

committees of the political contributions they receive.²² Courts therefore have uniformly rejected the assertion that “only the person who actually transmits funds . . . makes the contribution,”²³ recognizing that “it is implausible that Congress, in seeking to promote transparency, would have understood the relevant contributor to be [an] intermediary who merely transmitted the campaign gift.”²⁴ Consequently, both the Act and the Commission’s implementing regulations provide that a person who furnishes another with funds for the purpose of contributing to a candidate or committee “makes” the resulting contribution.²⁵ This is true whether funds are advanced to another person to make a contribution in that person’s name or promised as reimbursement of a solicited contribution.²⁶

Here, the available information does not indicate that ML Organization operated as a conduit for the \$500,000 contribution to MAGA Again!, rather, it appears that ML Organization was the true source of the funds. ML Organization and William Pulte in their Response state that

²² *United States v. O’Donnell*, 608 F.3d 546, 553 (9th Cir. 2010) (“[T]he congressional purpose behind [Section 30122] — to ensure the *complete and accurate disclosure* of the contributors who finance federal elections — is plain.”) (emphasis added); *Mariani v. United States*, 212 F.3d 761, 775 (3d Cir. 2000) (rejecting constitutional challenge to Section 30122 in light of compelling governmental interest in disclosure).

²³ *United States v. Boender*, 649 F.3d 650, 660 (7th Cir. 2011).

²⁴ *O’Donnell*, 608 F.3d at 554; *see also Citizens United v. FEC*, 558 U.S. 310, 371 (2010) (“The First Amendment protects political speech; and disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages.”); *Doe v. Reed*, 561 U.S. 186, 199 (2010) (“Public disclosure also promotes transparency and accountability in the electoral process to an extent other measures cannot.”).

²⁵ *See Boender*, 649 F.3d at 660 (holding that to determine who made a contribution “we consider the giver to be the *source* of the gift, not any intermediary who simply conveys the gift from the donor to the donee”) (emphasis added); *O’Donnell*, 608 F.3d at 550; *Goland v. United States*, 903 F.2d 1247, 1251 (9th Cir. 1990) (“The Act prohibits the use of ‘conduits’ to circumvent [the Act’s reporting] restrictions[.]”).

²⁶ *O’Donnell*, 608 F.3d at 555. Moreover, the “key issue . . . is the *source* of the funds” and, therefore, the legal status of the funds when conveyed from a conduit to the ultimate recipient is “irrelevant to a determination of who ‘made’ the contribution for the purposes of [Section 30122].” *United States v. Whittemore*, 776 F.3d 1074, 1080 (9th Cir. 2015) (holding that defendant’s “unconditional gifts” to relatives and employees, along with suggestion they contribute the funds to a specific political committee, violated Section 30122 because the source of the funds remained the individual who provided them to the putative contributors).

1 the organization had sufficient funds to make the contribution at issue without the infusion of
2 money for that purpose, and we have no information that contradicts this representation.²⁷ They
3 also represent that ML Organization is a longstanding investment vehicle for the Pulte family
4 with “tens of millions of dollars in assets.”²⁸ Based on the Complaint’s own allegations, ML
5 Organization appears to have been in existence since April 2018, approximately three years
6 before the contribution at issue.²⁹ There is also no information in the record that William Pulte
7 or Diana Pulte sought to conceal their identities as either the owners of ML Organization or the
8 true source of the contribution. The contributor form appears to indicate that attribution
9 information regarding Diana Pulte was provided at the time of the contribution.³⁰ ML
10 Organization and William Pulte represent that it was believed that MAGA Again! would
11 attribute the contribution to Diana Pulte, and that they contacted MAGA Again! once the
12 Complaint was received to request that the Committee properly attribute the contribution.³¹

13 In short, ML Organization represents that it had sufficient funds to make the contribution
14 at issue and therefore was the true source. The only available information to indicate that the
15 contribution was made in the name of another is the lack of an online presence and the initial
16 lack of attribution information in MAGA Again!’s disclosure report. Absent additional

²⁷ *Supra* notes 9-10 and accompanying text (explaining that ML Organization manages investments on behalf of the Pulte family, has engaged in significant investment activities since it was established over four years ago, and it has tens of millions of dollars in assets; and how the contribution to MAGA Again! came from these earnings and assets). However, ML Organization did not submit a declaration in support of the factual representations in the Response.

²⁸ *Id.*

²⁹ Compl. ¶ 3.

³⁰ *Supra* note 12 and accompanying text (reflecting information regarding Diana Pulte written on donor form).

³¹ *Supra* notes 12-13 and accompanying text.

1 information indicating a conduit contribution scheme occurred, and given the information
2 provided in the Response, we recommend that the Commission find no reason to believe that ML
3 Organization, William Pulte, and MAGA Again! violated 52 U.S.C. § 30122 by making,
4 allowing one's name to be used in making, or knowingly accepting a contribution in the name of
5 another.

6 **B. The Commission Should Find Reason to Believe that MAGA Again! Violated**
7 **52 U.S.C. § 30104(b) and 11 C.F.R. § 110.1(e) by Failing to Report**
8 **Attribution Information**

9 The treasurer of an unauthorized political committee is responsible for reporting the
10 identification of each person whose aggregate contributions exceed \$200 per calendar year,
11 together with the date and amount of any such contribution.³² Contributions received from an
12 LLC that has elected to be treated as a partnership or does not elect treatment as either a
13 partnership or corporation for federal tax purposes are considered a contribution from a
14 partnership.³³ Contributions by partnerships are attributed to the partnership and to each partner
15 in direct proportion to his or her share of the partnership profits unless otherwise agreed to by the
16 partners.³⁴ Furthermore, when an LLC makes a contribution, it must affirm to the recipient, at
17 the time the LLC makes the contribution, that it is eligible to make a contribution and “provide
18 information to the recipient committee as to how the contribution is to be attributed.”³⁵

³² 52 U.S.C. § 30104(b)(3)(A); 11 C.F.R. § 104.3(a)(4).

³³ 11 C.F.R. § 110.1(g).

³⁴ *Id.* § 110.1(e).

³⁵ 11 C.F.R. § 110.1(g)(5).

1 The Commission's regulations concerning the attribution of LLC contributions apply on
2 their face to all LLC contributions irrespective of recipient.³⁶ These regulations uphold the Act's
3 reporting framework, which serves important transparency interests,³⁷ and inhibit attempts to
4 circumvent the Act's contribution source prohibitions and amount limitations, including
5 prohibitions applicable to IEOPCs.³⁸ The Commission has recognized that because LLCs are a
6 product of state law and many states have very minimal LLC disclosure requirements, LLCs
7 must affirmatively provide attribution information when making political contributions so that
8 the recipient committees can accurately disclose those contributions to the public.³⁹

9 When a treasurer of a political committee shows that the committee used "best efforts" to
10 obtain, maintain, and submit the information required by the Act, the committee's reports will be
11 considered in compliance with the Act.⁴⁰ Best efforts require, among other things, that all
12 written solicitations contain a clear request for the necessary information and that, "[f]or each

³⁶ See Statement of Reasons of Chair Caroline C. Hunter and Comm'r Matthew S. Petersen at 2, 5, MUR 6969 (MMWP12, LLC, *et al.*) and MURs 7031 and 7034 (Children of Israel, LLC, *et al.*) (Sept. 13, 2018) (stating that "the Commission's existing attribution regulations at 11 C.F.R. § 110.1(g) apply to the reporting" of contributions by LLCs that are not taxed as corporations and that, "[b]y operation of the Commission's attribution rules, MMWP12's contributions should have been attributed to K2M and each of its owners, Mark and Megan Kvamme. Similarly, Children of Israel's contributions should have been attributed to Saul Fox."); Statement of Reasons of Vice Chair Ellen L. Weintraub at 2, MUR 6969 (MMWP12, LLC, *et al.*) and MURs 7031 and 7034 (Children of Israel, LLC, *et al.*) (July 13, 2018) ("Under Commission regulations, contributions from LLCs that are disregarded entities are not considered corporate contributions, but partnership contributions.") (citing 11 C.F.R. §§ 110.1(g)(2) and (4)).

³⁷ See, e.g., *Citizens United v. FEC*, 558 U.S. 310, 371 (2010) ("[D]isclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages.").

³⁸ See 52 U.S.C. §§ 30116(a)(1), 30118(a); Treatment of Limited Liability Companies Under the Federal Election Campaign Act, 64 Fed. Reg. 37,397, 37,398–99 (July 12, 1999) ("LLC E&J") (discussing role of LLC attribution rules in identifying prohibited contributions from foreign national or government contractor sources, concerns that apply to all LLC contributions, including contributions to IEOPCs).

³⁹ LLC E&J at 37,399 ("The Commission further notes that the recipient committee would have no way of knowing how to attribute a contribution made by an eligible multi-member or single member LLC, unless that information was provided.").

⁴⁰ 52 U.S.C. § 30102(i); 11 C.F.R. § 104.7(a).

1 contribution . . . which lacks required contributor information,” the recipient committee must
2 make at least one effort to obtain the missing information within 30 days after the receipt of the
3 contribution, in either a written request or a documented oral request.⁴¹ If the treasurer receives
4 missing contributor information after submitting a report, the treasurer either files an amendment
5 to the report originally disclosing the contribution to provide the missing contributor information
6 or includes the missing contributor information on an amended memo Schedule A with the next
7 regularly-scheduled report.⁴² The best efforts standard is an affirmative defense; the burden rests
8 with the political committee and its treasurer to present evidence sufficient to demonstrate that
9 best efforts were exercised to obtain, maintain, and submit the required information.⁴³

10 Here, the available information indicates that ML Organization’s contribution should
11 have been attributed to Diana Pulte because ML Organization is not taxed as a corporation and,
12 according to the available information, Diana Pulte appears to be the member to whom the
13 contribution should be attributed. Both Responses appear to acknowledge that ML Organization
14 is not taxed as a corporation and that the contribution is properly attributed to Diana Pulte — as
15 ML Organization requested and MAGA Again! amended its report to show after the Complaint
16 was received in this matter. Indeed, the Response on behalf of ML Organization represents that
17 “Mrs. Pulte designated that the donation came from the assets of ML Organization—indicating
18 that it was an ‘LLC’ contribution—and clearly listed herself as the member to whom the

⁴¹ 11 C.F.R. § 104.7(b).

⁴² *Id.* § 104.7(b)(4)(i).

⁴³ *E.g.*, Factual & Legal Analysis (“F&LA”) at 7, MUR 7616 (Oakland County Democratic Party) (citing Statement of Policy Regarding Treasurers’ Best Efforts to Obtain, Maintain, and Submit Information as Required by the Federal Election Campaign Act, 72 Fed. Reg. 31,438, 31,440 (June 7, 2007)).

1 donation was to be attributed.”⁴⁴ MAGA Again! amended its report to attribute the contribution
2 to Diana Pulte, thereby apparently acknowledging that ML Organization’s contribution should be
3 attributed to Diana Pulte,⁴⁵ an amendment which it filed after receiving the Complaint in this
4 matter, nearly five months after it filed its original 2021 Year-End Report, presumably based on
5 the information provided in the Complaint.⁴⁶ Moreover, at the time of the contribution, Diana
6 Pulte checked the box on the form for an LLC contribution but also listed herself under
7 “contributor name” and provided all other necessary information to attribute the contribution to
8 her, including her address, employer, and occupation information.⁴⁷ Because the attribution
9 form identified Diana Pulte as the contributor and provided her address, employer, and
10 occupation information, it provided “information to the recipient committee as to how the
11 contribution is to be attributed.”⁴⁸ However, at the outset, when the form was first received,
12 MAGA Again! did not attribute the contribution to Diana Pulte. MAGA Again! thus failed to
13 report the attribution information required under 52 U.S.C. § 30104(b) and 11 C.F.R.
14 § 110.1(g)(2).

15 The available information also does not establish that MAGA Again! satisfied the
16 requirements of the “best efforts” provisions of the Act and Commission regulations, which, if a
17 respondent establishes were complied with, may cause an otherwise deficient report to be

⁴⁴ ML Organization and William Pulte Resp. at 3.

⁴⁵ MAGA Again! Resp. at 3-4 (acknowledging that the Committee “took prompt remedial actions” by, *inter alia*, “fil[ing] an amended report with the Commission to correct the public record.”).

⁴⁶ *Supra* notes 4-6 and accompanying text.

⁴⁷ *Supra* Part II.

⁴⁸ 11 C.F.R. § 110.1(g)(5).

1 deemed in compliance with the Act.⁴⁹ Those provisions require, among other things, that when a
2 reporting Committee receives a contribution that lacks required contributor information “the
3 treasurer makes at least one effort after the receipt of the contribution to obtain the missing
4 information” within 30 days.⁵⁰ The request “must clearly ask for the missing information, and
5 must include the statement set forth” in 11 C.F.R. § 104.7(b)(1).⁵¹ MAGA Again! does not
6 contend that it made any efforts to obtain attribution information for ML Organization’s
7 contribution except to “provide[] a mechanism for the contributor to attribute their contribution”
8 in the form of the donor card.⁵² It contends that it did so because a contributor could indicate
9 that an LLC was taxed as a partnership by checking the box marked “partnership” as well as the
10 box marked “LLC” on its donor form.⁵³ This argument fails to note, however, that the
11 contributor also did not check the box marked “corporation” to indicate that the LLC was taxed
12 as a corporation. At best, MAGA Again! can only claim that there was ambiguity as to the tax
13 status of ML Organization. This does not satisfy the requirements of a clear request for missing
14 information under the Act and Commission regulations. 11 C.F.R § 104.7(a) only excuses
15 reporting errors where required contributor information is missing if the reporting committee
16 takes sufficient affirmative steps to obtain the missing information.

17 Moreover, although the best efforts defense would not have been met regardless, it
18 further appears that MAGA Again! received information that suggested it should have attributed
19 the contribution to Diana Pulte when it originally received ML Organization’s contribution.

⁴⁹ *Supra* note 41 and accompanying text.

⁵⁰ 11 C.F.R. § 104.7(b)(2).

⁵¹ *Id.*

⁵² MAGA Again! Resp. at 4.

⁵³ *Id.* at 3-4.

1 Although Pulte checked the box on MAGA Again!'s form to indicate that an LLC contribution
2 was being made, she provided all information that would be required to attribute the contribution
3 to her by recording the name of the contributor as "Diana Pulte" and providing her occupation
4 and employer—information that would not have been consistent with a contribution from a
5 corporate LLC. At a minimum, the content of the form should have put MAGA Again! on
6 notice that it should seek to ascertain whether and how to attribute the contribution. However,
7 MAGA Again! does not indicate that it made any effort to do so; instead, it contends that it
8 would only have been on notice that a contribution from an LLC should be attributed if the donor
9 checked the "partnership" or "individual" box on its form.⁵⁴ As explained above, however, the
10 information provided by ML Organization at least put MAGA Again! on notice that it intended
11 to attribute the contribution to Diana Pulte, and the best efforts defense is not available where an
12 LLC contribution is missing attribution information on its face unless the recipient committee
13 takes affirmative steps to try to obtain the missing information.

14 The Response by MAGA Again! also takes the position that, even if the Commission
15 finds reason to believe that it violated the Act, the Commission should not impose a penalty, as
16 was done in MUR 7454 (Blue Magnolia Investments, LLC), because it had not received
17 adequate notice as to the attribution of LLC contributions.⁵⁵ In that matter, however, as
18 explained by a Statement of Reasons ("SOR") issued by four Commissioners, the contributions
19 at issue occurred during an earlier time period when "the Commission did not agree whether,
20 following *Citizens United* and *SpeechNow.org v. FEC*, respondent committees had received

⁵⁴ *Id.* at 3 ("Since there was nothing on the face of the contribution and donor form suggesting that any contributor information is missing, there was no obligation for the Committee to request additional information from the contributor.").

⁵⁵ *Id.* at 5.

1 adequate notice that the Commission's LLC reporting rules and conduit contribution rules
 2 applied to contributions made to the newly formed IEOPCs authorized by those judicial
 3 rulings."⁵⁶ As that SOR explains, adequate notice existed after the issuance of various SORs in
 4 2018, which state that contributions to IEOPCs from LLCs taxed as partnerships should be
 5 attributed to LLC members.⁵⁷ After those SORs were issued, the latest of which was on
 6 September 13, 2018, the public had adequate notice that contributions from LLCs that are taxed
 7 as partnerships to IEOPCs must be attributed to the LLC's members pursuant to 11 C.F.R.
 8 § 110.1.⁵⁸ Here, ML Organization made its contribution on November 1, 2021, and MAGA
 9 Again! reported that contribution on January 31, 2022,⁵⁹ long after the relevant 2018 SORs that
 10 "served as notice to the public" of the attribution requirements.⁶⁰

⁵⁶ SOR of Chairman Allen Dickerson, Vice Chair Steven T. Walther, Commissioner Shana M. Broussard, and Commissioner Ellen L. Weintraub at 2, MUR 7454 (Blue Magnolia, *et al.*) ("Blue Magnolia SOR 1"); *see also* SOR of Chairman Allen Dickerson, MUR 7454 (Blue Magnolia, *et al.*) ("Blue Magnolia SOR 2") (explaining that "[a] September 13, 2018, statement of controlling commissioners reasoned that . . . the LLC attribution rules apply to contributions to IEOPCs").

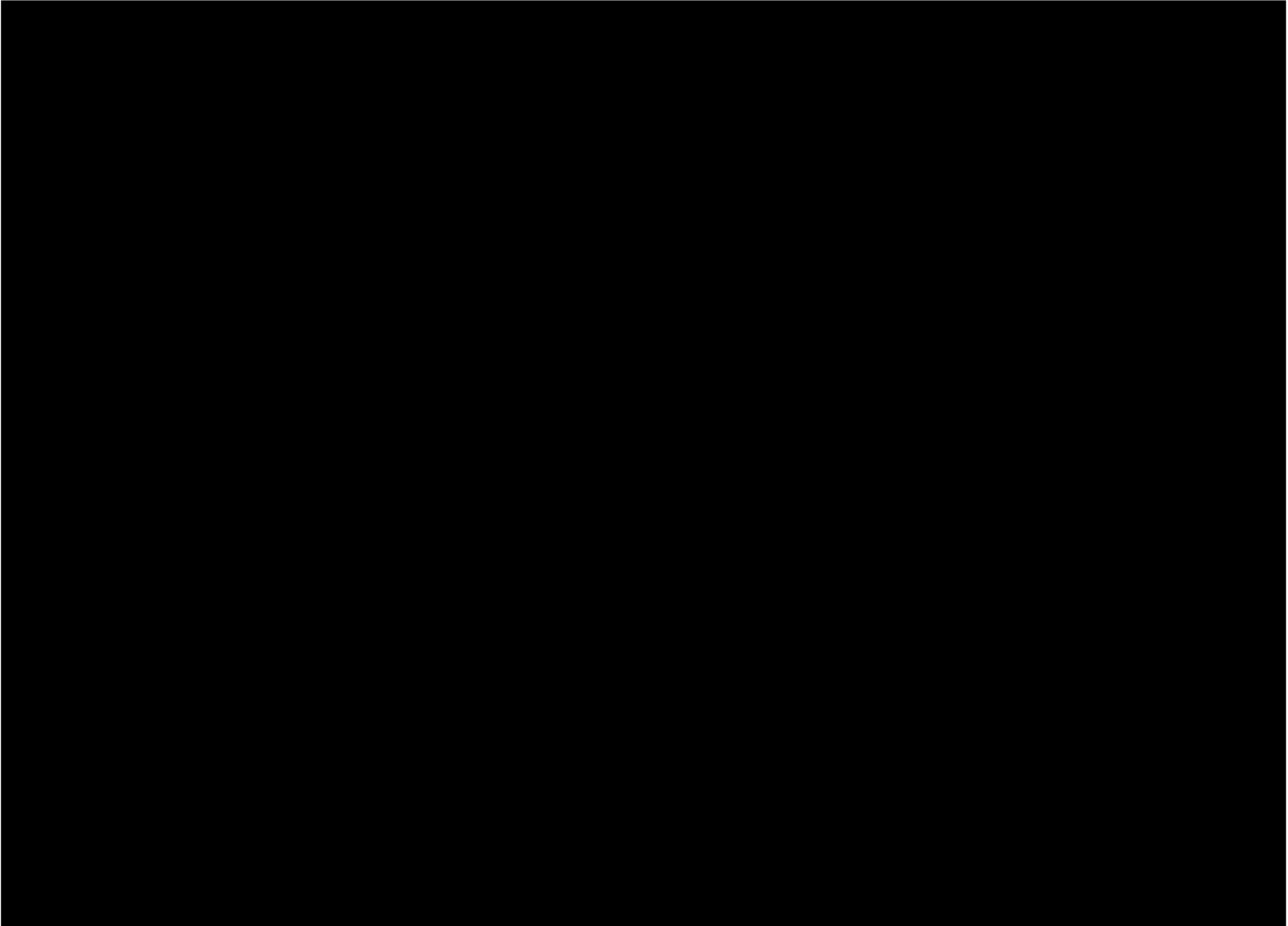
⁵⁷ Blue Magnolia SOR 1 and 2 (explaining that "[w]ith the passage of time, IEOPCs have become a regular part of the campaign finance landscape, and adequate notice to the public now exists" and citing to various SORs between April 1, 2016 and July 2, 2018); *see also* SOR of Chair Caroline C. Hunter and Commissioner Matthew S. Petersen in the Matters of MURs 6969 (MMWP12 LLC, *et al.*), 7031 & 7034 (Children of Israel, LLC, *et al.*) at 5 (Sept. 13, 2018) ("By operation of the Commission's attribution rules, MMWP12's contributions should have been attributed to K2M and each of its owners, Mark and Megan Kvamme. Similarly, Children of Israel's contributions should have been attributed to Saul Fox."); *id.* at 7 ("Therefore, because Respondents did not have prior notice of the legal interpretation discussed above, . . . applying section 30122 [or the Commission's attribution rules] to Respondents would be inconsistent with due process principles.") (quotation marks omitted) (alteration in original); *see also* SOR of Vice Chair Ellen L. Weintraub in the Matters of MURs 6969 (MMWP12 LLC, *et al.*), 7031 & 7034 (Children of Israel, LLC, *et al.*) (July 13, 2018) ("Contributions by an LLC that is a disregarded entity and does not have a single natural-person must be attributed to both the entity and each of its partners. . . . LLCs that are not treated as a corporation and have a single natural person member shall be attributed only to the single member.") (internal citations omitted).

⁵⁸ *Supra* notes 56-57 and accompanying text.


⁵⁹ *Supra* note 6 and accompanying text.

⁶⁰ Blue Magnolia SOR 2 at 5.

1 Therefore, we recommend the Commission find reason to believe that MAGA Again!
2 violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 110.1(e) by failing to report attribution
3 information.⁶¹



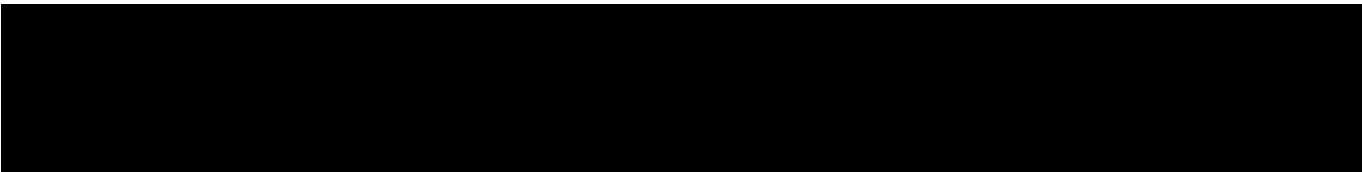
⁶¹ 11 C.F.R. § 110.1(g)(5) also imposes on LLCs like ML Organization an affirmative obligation to provide attribution information when making a contribution. As noted above, it appears that ML Organization made a good faith effort to do so by including Diana Pulte's information on the donor form. It should also be noted that ML Organization's contribution was attributed only to Diana Pulte, although both William Pulte and she are, apparently, partners. Under Commission regulations, an LLC that is taxed as a partnership should attribute contributions to each partner in proportion to his or her share of the organization's profits unless by agreement of the partners and so long as the contribution effectively comes from the share and profits of the member to whom the contribution is attributed. 11 C.F.R. § 110.1(e), (g). However, there is no information indicating that the attribution of the entire contribution to Diana Pulte was incorrect.





V. RECOMMENDATIONS

1. Find no reason to believe that William Pulte, ML Organization LLC, and Make America Great Again, Again! Inc. and Charles Gantt in his official capacity as treasurer violated 52 U.S.C. § 30122;
2. Find reason to believe that Make America Great Again, Again! Inc. and Charles Gantt in his official capacity as treasurer violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 110.1(e);
3. Enter into pre-probable cause conciliation with Make America Great Again, Again! Inc. and Charles Gantt in his official capacity;
4. Approve the attached proposed Factual and Legal Analyses;
5. Approve the attached proposed Conciliation Agreement; and
6. Approve the appropriate letters.



Date: December 8, 2023

Lisa J. Stevenson
Acting General Counsel

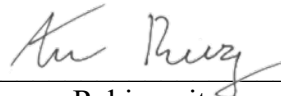
Charles Kitcher
Associate General Counsel for
Enforcement



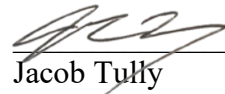
Claudio J. Pavia
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Mark Shonkwiler
Assistant General Counsel



Aaron Rabinowitz
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Jacob Tully
Attorney

