

FEDERAL ELECTION COMMISSION
FIRST GENERAL COUNSEL'S REPORT

MUR: 8024

DATES COMPLAINT FILED:¹ July 8, 2022
 July 22, 2022²
 September 1, 2022
 December 1, 2022

DATES OF NOTIFICATION: July 14, 2022
 September 7, 2022
 December 8, 2022

DATE OF LAST RESPONSE: March 7, 2023

DATE ACTIVATED: July 20, 2023

ELECTION CYCLE: 2022

EXPIRATION OF SOL: January 14, 2027 -
 June 8, 2027

COMPLAINANT:

Patricia Davis

RESPONDENTS:

Grasso for Congress⁶ and Christen Korzyniewski
 in her official capacity as treasurer
 Gary A. Grasso
 Antonia "Antonella" Rovito
 Filippo "Gigi" Rovito, Jr.
 Gina T. Cademartori
 Virginia A. Moya-DeLeon
 Terese Dimaria
 Branko Palikuca

**RELEVANT STATUTES
AND REGULATIONS:**

52 U.S.C. § 30101(8)(A)(i), (26)
 52 U.S.C. § 30116(a)(1)(A), (f)
 52 U.S.C. § 30118(a)
 52 U.S.C. § 30122
 11 C.F.R. § 100.33(a), (b)
 11 C.F.R. § 100.52(d)(1)
 11 C.F.R. § 104.3
 11 C.F.R. § 110.1(b)(1)
 11 C.F.R. § 110.4(b)(1)(i), (ii), (iv), (b)(2)(i), (ii)

¹ The Complaint was filed on July 8, 2022, and supplements were filed on July 22, September 1 and December 1, 2022. Complainant styled the second and third supplements as Supplement #2 and Supplement #3.

² The first Complaint Supplement submits documents Complainant obtained from the Illinois State Board of Elections in response to a state Freedom of Information Act request for records pertaining to state campaign finance violations not under the Commission's jurisdiction.

11 C.F.R. § 110.9

11 C.F.R. § 110.10

11 C.F.R. § 114.2(b), (d), (e)

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

The Complaint and supplements to the Complaint allege that restaurant owner Filippo “Gigi” Rovito, Jr., made contributions in the names of three restaurant employees, Gina Cademartori, Terese Dimaria, and Virginia Moya-Deleon, and in the name of Rovito’s wife, Antonia “Antonella” Rovito, to Gary A. Grasso and Grasso for Congress6 and Christen Korzyniewski in her official capacity as treasurer (the “Committee”),³ the principal campaign committee for Gary Grasso, a 2022 congressional candidate in Illinois. The Complaint bases this allegation on the fact that the contributions were made on the same date, in the same \$2,900 amount (the legal maximum), that the individuals’ employment indicates they could not have made the contributions with their own funds, and that Filippo Rovito had previously supported Grasso’s state and local political campaigns and was friends with Grasso. The Complaint further alleges that the Committee misreported the occupation and employer information for Terese Dimaria, one of the restaurant employee contributors.⁴ The Complaint also alleges that the Committee accepted but did not report in-kind contributions in the form of use of space, food, and beverages for fundraisers held in Rovito’s restaurant, Capri Ristorante, and Topaz Café, a restaurant owned by Branko Palikuca.⁵ Further, based on Grasso’s financial disclosure reports

³ Compl. at 1-2 (July 8, 2022); Supp. Compl. #2 (Sept. 1, 2022); Supp. Compl. #3 (Dec. 1, 2022).

⁴ Compl. at 1-2; Supp. Compl. #3.

⁵ Compl., Part. 2.

1 filed with the Clerk of the U.S. House of Representatives, the Complaint alleges that Grasso
 2 likely did not have the personal funds to loan his campaign \$250,000, which the Committee
 3 disclosed in reports filed with the Commission.⁶

4 In response, the Committee states that the Committee had no reason to believe that the
 5 alleged contributions in the name of another were not from the named individual sources.⁷
 6 Further, the Committee acknowledges that it inadvertently misreported the occupation and
 7 employee information for Dimaria's contribution, but the Committee has since amended the
 8 entry to include the correct information.⁸ Grasso states in his Response that the misreporting
 9 was due to a "clerical error."⁹ The Committee also asserts that there was no in-kind contribution
 10 made or received via the fundraisers at Capri Ristorante and Topaz Café because no food or
 11 drink was provided by the restaurants or other individuals.¹⁰ Branko Palikuca, owner of Topaz
 12 Café, states in his Response that the fundraising event at that location was canceled due to poor
 13 response and that a few guests showed up and purchased their own drinks.¹¹ Neither the
 14 Committee nor Grasso responded to the allegations in the Complaint relating to the \$250,000
 15 candidate loan to the Committee. Filippo Rovito, Antonia Rovito, Gina Cademartori, Terese
 16 Dimaria, and Virginia Moya-Deleon did not respond to the Complaint.¹²

⁶ Compl., Part 3. The Complaint makes additional allegations that Grasso failed to accurately and timely file his financial disclosure report with the Clerk of the U.S. House of Representatives. Compl., Part 3; Supp. Compl. #2. The Complaint alleges that the financial disclosure report was untimely filed and was incomplete — it did not disclose assets, unearned income, social security income, and other retirement income. These allegations implicate matters outside the Commission's jurisdiction. *See* 52 U.S.C. § 30106(b)(1).

⁷ Grasso for Congress6 Resp. at 1 and Exs. (July 30, 2022).

⁸ *Id.*

⁹ Gary A. Grasso Resp. (Mar. 7, 2023).

¹⁰ Grasso for Congress6 Resp. at 1.

¹¹ Branko Palikuca Resp. (Aug. 10, 2022).

¹² This Office tried to contact the non-responsive respondents via telephone calls and text messages to confirm whether they had received the Complaint and whether they intended to file a response. Filippo Rovito

Accordingly, based on the available information, we recommend that the Commission:

- (1) find reason to believe that Filippo “Gigi” Rovito, Jr., violated 52 U.S.C. §§ 30116(a)(1)(A) and 30122 and 11 C.F.R. §§ 110.1(b)(1) and 110.4(b)(1)(i) by making excessive contributions in the names of three employees and his wife; (2) take no action at this time with respect to the allegations that Gina T. Cademartori, Virginia Moya-DeLeon, Terese Dimaria, and Antonia “Antonella” Rovito violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b)(1)(ii) by knowingly allowing their names to be used to make contributions in the name of another; (3) take no action at this time with respect to the allegation that Gary A. Grasso and GrassoforCongress6 and Christen Korzyniewski in her official capacity as treasurer violated 52 U.S.C. §§ 30116(f) and 30122 and 11 C.F.R. §§ 110.9 and 110.4(b)(1)(iv) by knowingly accepting excessive contributions made in the name of others; (4) dismiss as a matter of prosecutorial discretion the allegation regarding the misreporting of the occupation and employer of a contributor by GrassoforCongress6 and Christen Korzyniewski in her official capacity as treasurer, in violation of 52 U.S.C. § 30104(b)(3)(A) and 11 C.F.R. § 104.3(a)(4);¹³ (5) dismiss as a matter of prosecutorial discretion the allegations that Filippo “Gigi” Rovito, Jr., and Branko Palikuca consented to the making of prohibited corporate in-kind contributions to the Committee in connection with fundraisers at Capri Ristorante and Topaz Café, in violation of 52 U.S.C. § 30118(a) and 11 C.F.R. § 114.2(e);¹⁴ (6) dismiss as a matter of prosecutorial discretion the

asked in response to our inquiry whether it was in reference to checks, said he didn’t know anything about it and that he would have to speak with his wife; he never called back. Cademartori did not respond to messages. Dimaria told us that she had moved over a year ago and had not received any correspondence from us. We re-sent the notification letters to her new address, but she has not responded to date. Moya-DeLeon stated that she would not respond.

¹³ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

¹⁴ *Id.*

allegation that Gary A. Grasso and GrassoforCongress6 and Christen Korzyniewski in her official capacity as treasurer knowingly accepted prohibited corporate in-kind contributions in connection with fundraisers at Capri Ristorante and Topaz Café, in violation of 52 U.S.C. § 30118(a) and 11 C.F.R. § 114.2(d);¹⁵ (7) dismiss as a matter of prosecutorial discretion the allegation that GrassoforCongress6 and Christen Korzyniewski in her official capacity as treasurer failed to report in-kind contributions in violation of 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.3(a)(3);¹⁶ (8) dismiss as a matter of prosecutorial discretion the allegations that Gary A. Grasso or GrassoforCongress6 and Christen Korzyniewski in her official capacity as treasurer violated the Act in connection with the funds loaned to the Committee by Grasso;¹⁷ and (9) close the file as to Branko Palikuca. We propose to investigate to determine whether Rovito made contributions in the names of the four individuals as alleged.

II. FACTUAL BACKGROUND

Gary A. Grasso was a candidate seeking election to the U.S. House of Representatives to represent Illinois's 6th Congressional district.¹⁸ Grasso designated GrassoforCongress6 as his principal campaign committee; Christen Korzyniewski is the treasurer.¹⁹ Grasso lost the June 2022 primary election.²⁰ The Committee disclosed \$635,117.00 in receipts and \$632,622.05 in disbursements during the 2022 pre-primary period.²¹

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Gary A. Grasso, Statement of Candidacy (Jan. 4, 2022).

¹⁹ GrassoforCongress6, Statement of Org. (Jan. 4, 2022) (Amend. May 10, 2022).

²⁰ See 2022 Primary Election Results, Illinois State Board of Elections, <https://elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=63aIZoIunYs%3d&OfficeType=LpWf6lphWofBN3kEuxRi3A%3d%3d> (last visited June 27, 2024).

²¹ GrassoforCongress6, Amended 2022 July Quarterly Report at 3, 4 (Nov. 17, 2022).

1 The Complaint alleges that Filippo Rovito, president and director of 5 Brothers, Inc., who
 2 operates multiple restaurants²² and is purportedly a friend of Grasso,²³ illegally made \$2,900
 3 contributions to the Committee in the names of three employees, all identified as managers of the
 4 restaurants in the Committee's disclosure reports — Gina T. Cademartori, manager of 5
 5 Brothers, Inc.; Virginia A. Moya-DeLeon, manager of Capri on the Go; and Terese Dimaria,
 6 manager of Capri Banquets whose employer was initially misreported as Metro Strategies
 7 Group.²⁴ The Complaint also alleges that Rovito contributed \$2,900 in the name of his wife,
 8 Antonia Rovito, a manager at Capri Ristorante.²⁵ The Complaint bases its allegations on the fact
 9 that all alleged conduits work for restaurants owned or operated by Rovito, all the contributions
 10 were made to the Committee on the same day, and that the Complainant believes it is unlikely
 11 that these employees could afford to make \$2,900 contributions from their own funds.²⁶ These
 12 employees had not previously or since made itemized contributions to federal or Illinois state
 13 political committees. Further, the Complaint alleges that the Committee misreported the
 14 occupation and employer information for Dimaria on its disclosure reports filed with the
 15 Commission.²⁷

²² 5 Brothers, Inc., is incorporated in Illinois and is the corporate name for a group of restaurants under the assumed corporate names of Capri Ristorante and Capri by Gigi, among others. Business Entity Search, Illinois Secretary of State, <https://apps.ilsos.gov/businessentitysearch/businessentitysearch> (last visited June 5, 2024).

²³ The Complaint asserts that Rovito and Grasso “are close friends and confidants” and that Rovito has made contributions to Grasso’s mayoral races and a statewide race but “suspiciously” made no direct contribution to Grasso’s federal campaign. Compl. at 1.

²⁴ Compl. at 1; GrassoForCongress6, 2022 April Quarterly Report at 9, 14, 28, 36 (Apr. 15, 2022).

²⁵ Compl. at 1.

²⁶ *Id.*

²⁷ *Id.* at 2.

1 The Committee responded that it had no reason to believe that the funds were from any
 2 other source and attached copies of the personal checks used to make the contributions.²⁸ Rovito
 3 and the alleged conduits did not respond to the allegations pertaining to reimbursed
 4 contributions. The Committee also acknowledged that it inadvertently misreported Dimaria's
 5 information, stating that it accidentally used the employer information from an individual below
 6 Dimaria on the Committee's internal spreadsheet.²⁹ The Committee included the spreadsheet
 7 with its response and amended its report to correct the error.³⁰

8 The Complaint also alleges that the Committee accepted, but failed to report, in-kind
 9 contributions in the form of food and beverages in connection with fundraisers held at Rovito's
 10 restaurant, Capri Ristorante, and Topaz Café, a restaurant owned by Branko Palikuca.³¹ The
 11 Committee responds that the fundraisers were held in the bar areas of the restaurants and that no
 12 food or beverages were provided. Instead, according to the Committee, a few individuals
 13 dropped off contributions and any food or drink was paid for by the individual contributors.³²
 14 Palikuca responded that "the event was cancelled due to poor response" and that "a few guests
 15 showed up and purchased their own drinks."³³

16 Finally, the Complaint alleges that, based on Grasso's financial disclosures as the Mayor
 17 of Burr Ridge, IL, and based on his U.S. House Financial Disclosure Report, he would not be

²⁸ GrassoforCongress6 Resp. at 1 and Ex. A.

²⁹ *Id.* at 1 and Ex. B.

³⁰ *Id.* See GrassoforCongress6, Amended 2022 April Quarterly Report at 14 (Aug. 22, 2022).

³¹ Compl., Part 2 at 20-21. The Complaint attached the invitations to the fundraisers. *Id.* at 23-24. Illinois state records indicate that Palikuca is the owner and manager of Topaz Café, a limited liability company registered in Illinois, <https://apps.ilsos.gov/businessentitysearch/businessentitysearch> (last visited June 27, 2024).

³² GrassoforCongress6 Resp. at 1.

³³ Branko Palikuca Resp. Palikuca, who was notified and responded under the name Branko Palikuca, made a \$2,000 contribution to GrassoforCongress6 on March 9, 2022, under the name Branislav Palikuca. GrassoforCongress6, Amended 2022 April Quarterly Report at 30 (Aug. 22, 2022).

able to afford to loan his campaign \$250,000.³⁴ Grasso and the Committee did not address the allegations relating to the loans in their Responses.³⁵

III. LEGAL ANALYSIS

A. The Commission Should Find Reason to Believe that Filippo Rovito Made Excessive Contributions in the Name of Another

The Act and Commission regulations provide that no person shall make a contribution in the name of another person, knowingly permit his or her name to be used to effect such a contribution, or knowingly accept such a contribution.³⁶ 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.³⁷

The requirement that a contribution be made in the name of its true contributor promotes Congress's objective of ensuring the complete and accurate disclosure by candidates and committees of the political contributions they receive.³⁸ Courts therefore have uniformly rejected the assertion that "only the person who actually transmits funds . . . makes the

³⁴ Compl., Part 3; Compl. Suppl. #2. Grasso for Congress6, 2022 April Quarterly Report, Schedule C Loans at 53 (Apr. 15, 2022) (\$100,000 loan to Committee from Grasso) and 2022 July Quarterly Report, Schedule C Loans at 17 (July 15, 2022) (\$150,000 loan to Committee from Grasso); *see also* MUR 8024 Compl.; Compl. Suppl. #3 (containing information regarding the employment status of one of the alleged conduits).

³⁵ Grasso for Congress6 Resp.; Gary A. Grasso Resp.

³⁶ 52 U.S.C. § 30122; 11 C.F.R. § 110.4(b)(1)(i), (ii), (iv).

³⁷ 11 C.F.R. § 110.4(b)(2)(i)–(ii).

³⁸ *United States v. O'Donnell*, 608 F.3d 546, 553 (9th Cir. 2010) ("[T]he congressional purpose behind [§ 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, 775-76 (3d Cir. 2000) (rejecting constitutional challenge to § 30122 in light of compelling governmental interest in disclosure).

1 contribution,”³⁹ recognizing that “it is implausible that Congress, in seeking to promote
 2 transparency, would have understood the relevant contributor to be [an] intermediary who
 3 merely transmitted the campaign gift.”⁴⁰ Consequently, both the Act and the Commission’s
 4 implementing regulations provide that a person who furnishes another with funds for the purpose
 5 of contributing to a candidate or committee “makes” the resulting contribution.⁴¹ This is true
 6 whether funds are advanced to another person to make a contribution in that person’s name or
 7 promised as reimbursement of a solicited contribution.⁴²

8 Because the concern of the law is reporting the true contributor from which a contribution
 9 to a candidate or committee originates, regardless of the mechanism by which the funds are
 10 transmitted, the Commission will examine the structure of the transaction itself and the
 11 arrangement between the parties to determine who in fact “made” a given contribution.

12 No person shall make contributions to any candidate or authorized committee with
 13 respect to any election which, in the aggregate, exceed the Act’s contribution limit, which was

³⁹ *United States v. Boender*, 649 F.3d 650, 660 (7th Cir. 2011).

⁴⁰ *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.”).

⁴¹ *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 (“To identify the individual who has made the contribution, we must look past the intermediary’s essentially ministerial role to the substance of the transaction.”); *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 and recordkeeping] restrictions . . .”).

⁴² *O’Donnell*, 608 F.3d at 555 (“We therefore hold that § [30122] unambiguously applies to a defendant who solicits others to donate to a candidate for federal office in their own names and either advances the money or promises to — and does — reimburse them for the gifts.”). 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 § [30122].” *United States v. Whittemore*, 776 F.3d 1074, 1080 (9th Cir. 2015) (emphasis in original).

1 \$2,900, during the 2022 election cycle.⁴³ Further, the Act provides that no political committee
 2 shall knowingly accept any contribution that exceeds this limit.⁴⁴

3 The Complaint in this matter alleges that Rovito, the owner of the Capri restaurants, was
 4 the true contributor of contributions made by three restaurant employees and his wife, who could
 5 not on their own afford to contribute \$2,900 to a political candidate.⁴⁵ If Rovito reimbursed his
 6 restaurant employees and his wife for their contributions, or advanced the funds for the
 7 contributions, these actions violated the Act by making contributions in the name of another and
 8 making excessive contributions to the Committee.

9 The Commission has previously found that patterns of clustered giving, as in this case,
 10 are indicative of conduit contribution arrangements, especially where there is no specific denial
 11 from the alleged contributor or conduits, as in this case. In MUR 7102 (Keefe, Keefe, and
 12 Unsell, P.C. ("KKU"), *et al.*), the Commission determined that clustered giving was indicative of
 13 conduit contribution arrangements when all contributors contributed the maximum amount
 14 despite being lower paid administrative staff.⁴⁶ The Response filed by KKU and its three named
 15 partners in the matter did not directly deny that KKU reimbursed its employees' contributions;

⁴³ 52 U.S.C. § 30116(a)(1)(A); 11 C.F.R. § 110.1(b)(1).

⁴⁴ 52 U.S.C. § 30116(f); *see also* 11 C.F.R. § 110.9 ("No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of 11 CFR part 110.").

⁴⁵ Compl. at 1; Capri appears to be part of a group of three restaurants in Burr Ridge, IL. *See* <https://www.capribygigi.com/capri-ristorante-of-burr-ridge-2/> (last visited June 27, 2024).

⁴⁶ *See* Factual & Legal Analysis ("F&LA") at 5-7, MUR 7102 (KKU, *et al.*). The MUR 7102 Complaint alleged that making the contributions would cause "financial hardship" to the contributors. The contributors in MUR 7102 appear to be subordinate employees. *Id.* at 2-3. *See also* MURs 7005 & 7056 (Adam H. Victor, *et al.*) (use of subordinate employees as conduits); MUR 6465 (Fiesta Bowl, *et al.*) (use of subordinate employees and spouses as conduits); MUR 6234 (Cenac, *et al.*) (same); MUR 7472 (Barletta, *et al.*) (same).

1 instead, KKU argued that the Complaint was speculative.⁴⁷ The Commission ultimately
 2 conciliated these violations.⁴⁸

3 The Commission has made reason to believe findings and pursued clustered employee
 4 contributions in other matters. In MUR 5305 (Herrera for Congress, *et al.*), the Commission
 5 made reason to believe findings where Commission noted that contributions from colleagues at a
 6 design firm were clustered on four specific dates, and over half of the total contributions from
 7 firm employees occurred on the same date.⁴⁹ In MUR 5818 (Fieger, Fieger, Kenney & Johnson,
 8 P.C.), the Commission made reason to believe findings where 36 of 46 contributors from the
 9 same law firm contributed on one of three dates.⁵⁰

10 Here, the contributions reported as having been made by Rovito's wife and employees
 11 closely fit the pattern of the MURs described above. Each contribution was for the same dollar
 12 amount, the then-maximum, and made on the same date to the same candidate; none of the
 13 identified contributors has previously or since made any itemized contributions to any other
 14 federal committees or to Illinois state committees.⁵¹ While it is true that each of the alleged
 15 conduits in this case held the title of manager, and thus likely held higher-level positions than

⁴⁷ See F&LA at 3, MUR 7102 (KKU, *et al.*).

⁴⁸ Conciliation Agreement, MUR 7102 (KKU, *et al.*).

⁴⁹ See F&LA at 2, (Rhodes Design and Development), MUR 5305 (Herrera for Congress, *et al.*) (finding reason to believe where employees holding a wide range of positions all made the maximum contribution allowed under the Act in clusters of several dates, and respondents did not contest the allegations and expressed a willingness to conciliate, thereby confirming that such a pattern indicated a conduit contribution scheme).

⁵⁰ See F&LA at 3-4, MUR 5818 (Fieger, Fieger, Kenney & Johnson, P.C.) (finding reason to believe in part where the record showed "a large number of maximum contributions made on the same days by individuals associated with the Firm, many of whom had never previously contributed to any Federal campaign," members of the firm denied the allegations but the firm itself did not confirm, deny, or make any substantive representation as to the allegations, and, *inter alia*, a news article reported a former employee's claim that the firm had reimbursed him for contributions).

⁵¹ See F&LA at 9, 11, MURs 7005 & 7056 (Adam H. Victor, *et al.*) (evidence as to the alleged conduits (lack of contribution histories) supported finding reason to believe as to the true contributor that allegedly *made* contributions in the name of other persons)).

1 other restaurant employees, the fact that these individuals were managers by itself is insufficient
 2 to rebut the other circumstances indicative of straw donations. And although the alleged amount
 3 in violation is not as great in this matter as in others — \$11,600 in contributions with four
 4 alleged conduits, as compared to \$18,900 across seven conduit contributions in KKU⁵² — given
 5 the seriousness of the unanswered allegations, this matter warrants a reason to believe finding
 6 and an investigation. The Commission has previously proceeded against an alleged conduit
 7 scheme with a lower amount in violation. In MUR 5927 (Joseph A. Solomon), the Commission
 8 found reason to believe where an insurance CEO reimbursed with personal funds three conduits
 9 for \$1,000 contributions each.⁵³

10 By contrast, the Commission has dismissed or found no reason to believe as to
 11 allegations of contributions in the name of another in other matters where allegations of
 12 reimbursed contributions are based on circumstantial information and where respondents
 13 specifically denied the allegations.⁵⁴

14 Accordingly, we recommend that the Commission find reason to believe that Filippo
 15 “Gigi” Rovito, Jr., violated 52 U.S.C. §§ 30116(a)(1)(A) and 30122 and 11 C.F.R.

⁵² GC Br. at 2-3, 5-6, MUR 7102 (KKU, *et al.*); Certification (“Cert.”) ¶ 1 (Jan. 15, 2021), MUR 7102 (finding probable cause to believe that respondents made contributions in the name of another in the amount of \$18,900).

⁵³ See Cert. ¶ 2 (Dec. 3, 2008), Pre-MUR 443 and MUR 5927 (Joseph A. Solomon).

⁵⁴ See, e.g., F&LA at 2, MUR 7893 (William Wachtel, *et al.*) (no reason to believe where Complaint provided circumstantial information, not firsthand knowledge, that the contributions were reimbursed and respondents provided multiple sworn affidavits specifically denying the allegations); F&LA at 4, MUR 7091 (Friends of Patrick Murphy) (finding no reason to believe where contributions of family members and associates were clustered but not supported by any additional information that the contributions were not made with personal funds and contributors asserted they made contributions directly, individually and within contribution limits); see also MURs 7793 & 7801 (Louis DeJoy, *et al.*) (Commission dismissed as matter of prosecutorial discretion allegations of contributions made in the name of another where Respondents denied the allegations, submitted sworn statements, and asserted that the clustered contributions were the result of successful fundraising events).

1 §§ 110.1(b)(1) and 110.4(b)(1)(i) by making excessive contributions in the names of others.⁵⁵

2 Consistent with the Commission's usual practice, we also recommend that the Commission take
 3 no action at this time as to the alleged conduits pending an investigation.⁵⁶

4 The Complaint also alleges that Grasso and the Committee violated the Act by knowingly
 5 accepting contributions in the names of others and knowingly accepting an excessive
 6 contribution from Rovito.⁵⁷ The Complaint did not provide, and we are not aware of,
 7 information regarding the Committee's knowledge of the source of the contributions apart from
 8 the Committee's general denial, and Grasso did not address the allegation. In light of the
 9 proposed investigation into whether the contributions were made in the names of others, we
 10 recommend that the Commission take no action at this time as to allegations that Grasso and the
 11 Committee knowingly accepted contributions in the names of others and knowingly accepted an
 12 excessive contribution.

13 **B. The Commission Should Dismiss as a Matter of Prosecutorial Discretion the**
 14 **Allegation that the Committee Failed to Accurately Report Contributor**
 15 **Information**

16 The treasurer of a political committee shall accurately report the identification of each
 17 person who makes an aggregate contribution in excess of \$200 within a calendar year (or
 18 election cycle, in the case of an authorized committee) along with the date and amount of any

⁵⁵ The Act further addresses knowing and willful violations of the law, which occur when one has knowledge that he/she is violating the law. *See* 52 U.S.C. § 30109(a)(5)(B) and 30109(d); *Federal Election Commission v. John Drameis for Congress Committee*, 640 F. Supp. 985, 987 (D. N.J. 1986). The available record is insufficient to determine if any of the Respondents acted with such knowledge, so we do not recommend that the Commission make any knowing and willful findings at this time. If such information becomes available during the proposed investigation, we will make appropriate recommendations.

⁵⁶ *See, e.g.*, MUR 7102 (KKU, *et al.*) (Commission took no action at the time as to administrative employees, the candidate and candidate committee pending an investigation); MUR 5955 (Valdez) (Commission took no action at the time as to conduit respondents pending an investigation); MUR 5504 (Karoly) (same).

⁵⁷ Compl. at 1; Supp. Compl. #3 at 1.

1 such contribution.⁵⁸ The term “identification,” in the case of an individual, refers to that
 2 person’s name, address, occupation, and employer.⁵⁹

3 The Complaint alleges that the Committee misreported contributor Terese Dimaria’s
 4 occupation and employer information. In its Response, the Committee treasurer asserts that the
 5 misreporting was inadvertent and provided Committee documents and an internal spreadsheet
 6 listing the correct occupation and employer for Dimaria and the incorrect occupation and
 7 employer of a different contributor two lines down.⁶⁰ Similarly, the candidate responded that the
 8 misreporting was due to a “clerical error” caused “by misreading an excel spreadsheet line
 9 item.”⁶¹ The Committee subsequently filed an amended disclosure report correcting Dimaria’s
 10 occupation and employer as a manager at Capri Banquets.⁶² Under the circumstances, including
 11 that the Committee misreported the employer of a single contributor and provided an explanation
 12 about how the mistake was made, we recommend that the Commission dismiss as a matter of
 13 prosecutorial discretion the allegation that the Committee violated 52 U.S.C. § 30104(b)(3)(A)
 14 and 11 C.F.R. § 104.3(a)(4) by failing to accurately report contributor information.⁶³

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

⁵⁹ 52 U.S.C. § 30101(13)(A); 11 C.F.R. § 100.12.

⁶⁰ GrassoforCongress6 Resp. at 1, Ex. B.

⁶¹ Grasso Resp. at 1.

⁶² GrassoforCongress6, Amended 2022 April Quarterly Report at 14 (Aug. 22, 2022).

⁶³ *Heckler*, 470 U.S. at 831.

C. The Commission Should Dismiss as a Matter of Prosecutorial Discretion the Allegations that Filippo Rovito and Branko Palikuca Consented to the Making of, and Grasso and the Committee Knowingly Accepted, Unreported Prohibited In-Kind Contributions in Connection with Fundraisers at Capri Ristorante and Topaz Café

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.⁶⁴ The phrase “anything of value” includes in-kind contributions, defined as the provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods and services.⁶⁵ The Act prohibits corporations from contributing to a federal candidate or candidate’s committee, and further prohibits any officer of a corporation from consenting to any such contribution by the corporation, and any candidate or candidate’s committee from knowingly accepting such a contribution.⁶⁶

The Complaint alleges that the Committee accepted but failed to report in-kind contributions in the form of food and beverages provided in fundraisers held at Rovito’s restaurant, Capri Ristorante, and Topaz Café, a restaurant owned by Branko Palikuca.⁶⁷ The Committee responds that the fundraisers were held in the bar areas of the restaurants and that no food or beverages were provided. The Committee asserts that a few individuals dropped off contributions and any food or drink was paid for by the individual contributors.⁶⁸ Palikuca also

⁶⁴ 52 U.S.C. § 30101(8)(A)(i).

⁶⁵ 11 C.F.R. § 100.52(d)(1).

⁶⁶ 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(b), (d), (e).

⁶⁷ Compl. at 25, 27, 29.

⁶⁸ GrassoforCongress6 Resp. at 1.

1 responded that “the event was cancelled due to poor response” and that “a few guests showed up
2 and purchased their own drinks.”⁶⁹

3 The Complaint included copies of the event invitations but no information regarding the
4 events as they occurred. The Committee and Palikuca assert that the events were poorly
5 attended, and both state that food and beverages were not provided by the restaurants.
6 Accordingly, the available information does not warrant a reason to believe finding regarding
7 this allegation.

8 We therefore recommend that the Commission dismiss as a matter of prosecutorial
9 discretion the allegations that: (1) Filippo “Gigi” Rovito, Jr., consented to the making of
10 prohibited corporate in-kind contributions in violation of 52 U.S.C. § 30118(a) and 11 C.F.R.
11 § 114.2(e); (2) Branko Palikuca, owner of Topaz Café,⁷⁰ consented to the making of prohibited
12 corporate in-kind contributions to the Committee, in violation of 52 U.S.C. § 30118(a) and
13 11 C.F.R. § 114.2(e); (3) Grasso and the Committee knowingly accepted prohibited corporate in-
14 kind contributions in violation of 52 U.S.C. § 30118(a) and 11 C.F.R. § 114.2(d); and (4) that the
15 Committee failed to report such contributions in violation of 52 U.S.C. § 30104(b) and 11 C.F.R.
16 § 104.3(a)(3).⁷¹

⁶⁹ Branko Palikuca Resp.

⁷⁰ Given Topaz’s status as an LLC, Palikuca would only have potential section 30118(a) consenting liability if the LLC files with the IRS as a corporation. *See* 11 C.F.R. § 110.1(g)(3). We have no information as to whether Topaz Café, LLC, elects to be treated as a corporation or a partnership for tax purposes.

⁷¹ *Heckler*, 470 U.S. at 831.

D. The Commission Should Dismiss as a Matter of Prosecutorial Discretion the Allegation that Grasso and the Committee Violated the Act in Connection with Grasso's Loans to the Committee

The Act and Commission regulations prohibit any person from making a contribution to an authorized committee in connection with an election that exceeded \$2,900 during the 2022 election cycle.⁷² Further, the Act and Commission regulations prohibit candidates or political committees from knowingly accepting any contribution or making any expenditure on behalf of a candidate in violation of any limitations or prohibitions of the Act.⁷³

Federal candidates, however, may make unlimited contributions from their own "personal funds" to their authorized campaign committees.⁷⁴ The Act and Commission regulations provide that "personal funds" include (a) amounts derived from any asset that, under applicable State law, at the time the individual became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had legal and rightful title or an equitable interest; and (b) income received during the current election cycle of the candidate, including a salary and other earned income from bona fide employment; dividends and proceeds from the sale of the candidate's stocks or other investments; and gifts of a personal nature that had been customarily received by the candidate prior to the beginning of the election cycle.⁷⁵

The Committee disclosed two loans totaling \$250,000 from Grasso: a \$100,000 loan on April 15, 2022, and a \$150,000 loan on July 15, 2022.⁷⁶ The Complaint alleges that, based on

⁷² 52 U.S.C. § 30116(a)(1)(A); 11 C.F.R. § 110.1(b)(1).

⁷³ 52 U.S.C. § 30116(f); 11 C.F.R. § 110.9.

⁷⁴ 11 C.F.R. § 110.10.

⁷⁵ 52 U.S.C. § 30101(26); 11 C.F.R. § 100.33(a), (b).

⁷⁶ Grasso for Congress6, 2022 April Quarterly Report, Schedule C Loans at 53 (Apr. 15, 2022) (\$100,000 loan to Committee from Grasso) and 2022 July Quarterly Report, Schedule C Loans at 17 (July 15, 2022) (\$150,000 loan to Committee from Grasso).

Grasso's financial disclosures as the Mayor of Burr Ridge, IL, and based on his U.S. House Financial Disclosure Report ("House Disclosure"), he would not be able to afford to loan his campaign \$250,000.⁷⁷ Neither Grasso nor the Committee address this allegation.

Grasso's House Disclosure, filed on June 15, 2022, does not disclose any assets or "unearned" income under Schedule A, and discloses an annual salary of \$300,000 under Schedule C (Earned Income), a "Revolving Line of Credit for law firm" in the range of \$100,001 to \$250,000 under Schedule D (Liabilities), and other compensation of \$500 per month (\$6,000 annually) as mayor of Village of Burr Ridge, IL (Schedule J).⁷⁸ The available information is compatible with Grasso's ability to afford loaning \$250,000 to the Committee, although the House Disclosure appears not to be comprehensive and thus may not include otherwise available assets which might also cover a loan of that magnitude.⁷⁹ The Complaint does not allege a specific violation or point to potential alternative sources of the loan, and further offers no specific information regarding Grasso's inability to afford a loan to his committee.⁸⁰

Unlike in MUR 6824 (Eugene Yu for Congress), where the Commission investigated allegations that Yu did not have the funds to loan to his Committee where he loaned his committee nearly \$800,000 and his Senate and House Financial Disclosure Statements did not suggest he had sufficient liquid assets because the big-dollar assets disclosed appeared to be

⁷⁷ Compl., Part 3; Compl. Suppl. #2.

⁷⁸ Compl., Part 3.

⁷⁹ In his Statement of Economic Interests filed with the DuPage County Clerk on May 5, 2022, Grasso stated that he received social security income in excess of \$7,500. Compl. Part 3. The House Disclosure filing instructions, however, do not require disclosure of financial interests in or income derived from federal retirement systems. See U.S. House of Representatives, Committee on Ethics, Instruction Guide, Financial Disclosure Statements and Periodic Transaction Reports, Calendar Year 2021, <https://ethics.house.gov/sites/ethics.house.gov/files/documents/FINAL%202021%20FD%20Instructions.pdf> (last visited July 30, 2024).

⁸⁰ The Committee has not repaid the loans to date. Grasso for Congress6, 2024 July Quarterly Report at 2, 5-6 (July 9, 2024).

1 either worthless (stocks) or owned (or at least co-owned) by spouse and other relatives (real
 2 estate),⁸¹ the allegation in this matter appears to be speculative, based on incomplete reports filed
 3 with the U.S. House of Representatives, and there does not appear to be other information to
 4 suggest that Grasso was not the source of the funds. In addition, compared to Yu, Grasso's
 5 disclosed annual salary exceeds the amount of his loans to his Committee.⁸² While loaning an
 6 amount nearly as large as his annual salary — which was most likely greater than Grasso's take
 7 home pay, raises questions as to the source of Grasso's loans to his Committee — in the absence
 8 of more specific allegations we do not believe this allegation warrants further use of the
 9 Commission's resources in comparison to the section 30122 allegations. Accordingly, we
 10 recommend that the Commission dismiss as a matter of prosecutorial discretion the allegations
 11 that Grasso and the Committee violated the Act in connection with Grasso's loans to his
 12 committee.⁸³

13 **IV. PROPOSED INVESTIGATION**

14 We recommend the Commission authorize an investigation, and this Office intends to
 15 circulate an Investigative Plan pursuant to Directive 74 following the receipt of a response to the
 16 Reason to Believe letter or if it appears no response will be made to determine the source of the
 17 contributions from the four alleged conduits.⁸⁴ We anticipate that our investigation will initially

⁸¹ See F&LA at 7-9, MUR 6824 (Eugene Yu for Congress).

⁸² Compl., Part 3, (Gary A. Grasso, Financial Disclosure Report, June 15, 2022).

⁸³ *Heckler*, 470 U.S. at 831.

⁸⁴ Under Directive 74, Investigations Conducted by the Office of General Counsel; Enforcement Investigative Plans (the "Directive"), "[n]o investigation may be conducted by OGC except as directed in a [Commission-approved] Investigative Plan." Directive 74, Investigations Conducted by the Office of General Counsel; Enforcement Investigative Plans (Nov. 1, 2023), https://www.fec.gov/resources/cms-content/documents/directive_74.pdf. The Directive also provides that the Investigative Plan must be submitted to the Commission for approval within two weeks "[f]ollowing notification to respondents of the Commission's

1 seek to obtain information from Rovito, such as financial records, including bank statements,
 2 regarding payments to the alleged conduits, including bonus payments and those outside of the
 3 course of regular salary disbursements. Should Rovito prove unresponsive or if his response is
 4 not comprehensive, we may also recommend seeking subpoenas for bank records covering the
 5 time period in which the contributions were made. Finally, we could also seek deposition
 6 discovery from Rovito and/or the alleged conduits, but we would plan to exhaust other avenues
 7 of discovery first.

8 **V. RECOMMENDATIONS**

- 9 1. Find reason to believe that Filippo “Gigi” Rovito, Jr., violated 52 U.S.C.
 10 §§ 30116(a)(1)(A) and 30122 and 11 C.F.R. §§ 110.1(b)(1) and 110.4(b)(1)(i) by
 11 making excessive contributions in the names of others;
 12
- 13 2. Take no action at this time with respect to the allegations that Gina T.
 14 Cademartori, Virginia A. Moya-DeLeon, Terese Dimaria, and Antonia
 15 “Antonella” Rovito violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b)(1)(ii) by
 16 knowingly allowing their names to be used to make contributions in the name of
 17 another;
 18
- 19 3. Take no action at this time with respect to the allegation that Gary A. Grasso and
 20 GrassoForCongress6 and Christen Korzyniewski in her official capacity as
 21 treasurer violated 52 U.S.C. §§ 30116(f) and 30122, and 11 C.F.R. §§ 110.9 and
 22 110.4(b)(1)(iv) by knowingly accepting excessive contributions made in the name
 23 of others;
 24
- 25 4. Dismiss the allegation regarding the misreporting of the occupation and employer
 26 of a contributor by GrassoForCongress6 and Christen Korzyniewski in her official
 27 capacity as treasurer in violation of 52 U.S.C. § 30104(b)(3)(A) and 11 C.F.R.
 28 § 104.3(a)(4);
 29
- 30 5. Dismiss the allegations that Branko Palikuca and Filippo “Gigi” Rovito, Jr.,
 31 consented to the making of prohibited corporate in-kind contributions to the
 32 Committee in connection with fundraisers at Capri Ristorante and Topaz Café, in
 33 violation of 52 U.S.C. § 30118(a) and 11 C.F.R. § 114.2(e);
 34

[reason to believe] finding, and receipt of their response.” *Id.* The Office of General Counsel intends to submit its investigative plan within two weeks following notification and responses, if any, from the identified respondents.

6. Dismiss the allegation that Gary A. Grasso and GrassoForCongress6 and Christen Korzyniewski in her official capacity as treasurer knowingly accepted prohibited corporate in-kind contributions in connection with fundraisers at Capri Ristorante and Topaz Café, in violation of 52 U.S.C. § 30118(a) and 11 C.F.R. § 114.2(d);
7. Dismiss the allegation that GrassoForCongress6 and Christen Korzyniewski in her official capacity as treasurer failed to report in-kind contributions in violation of 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.3(a)(3);
8. Dismiss the allegations that Gary A. Grasso or GrassoForCongress6 and Christen Korzyniewski in her official capacity as treasurer, violated the Act in connection with the funds loaned to the Committee by Gary A. Grasso;
9. Close the file as to Branko Palikuca;
10. Authorize an investigation;
11. Approve the attached Factual and Legal Analyses; and
12. Approve the appropriate letters.

Lisa J. Stevenson
Acting General Counsel

July 31, 2024
Date

Charles Kitcher
Charles Kitcher
Associate General Counsel
for Enforcement

Mark Allen
Mark Allen
Assistant General Counsel

Dominique Dillenseger
Dominique Dillenseger
Attorney

Attachments:

1. Factual and Legal Analysis, Filippo Rovito
2. [REDACTED]
3. Factual and Legal Analysis, Branko Palikuca

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS****RESPONDENT:** Filippo “Gigi” Rovito, Jr.**MUR:** 8024**I. INTRODUCTION**

The Complaint and supplements to the Complaint allege that restaurant owner Filippo “Gigi” Rovito, Jr., made contributions in the names of three restaurant employees, Gina Cademartori, Terese Dimaria, and Virginia Moya-Deleon, and in the name of Rovito’s wife, Antonia “Antonella” Rovito, to Gary A. Grasso and Grasso for Congress⁶ and Christen Korzyniewski in her official capacity as treasurer (the “Committee”),¹ the principal campaign committee for Gary Grasso, a 2022 congressional candidate in Illinois. The Complaint bases this allegation on the fact that the contributions were made on the same date, in the same \$2,900 amount (the legal maximum), that the individuals’ employment indicates they could not have made the contributions with their own funds, and that Filippo Rovito had previously supported Grasso’s state and local political campaigns and was friends with Grasso. The Complaint also alleges that the Committee accepted prohibited corporate in-kind contributions in the form of use of space, food, and beverages for a fundraiser held in Rovito’s restaurant, Capri Ristorante. Filippo Rovito did not respond to the Complaint.

Based on the available information, the Commission: (1) finds reason to believe that Filippo “Gigi” Rovito, Jr., violated 52 U.S.C. §§ 30116(a)(1)(A) and 30122 and 11 C.F.R. §§ 110.1(b)(1) and 110.4(b)(1)(i) by making excessive contributions in the names of three employees and his wife and (2) dismisses as a matter of prosecutorial discretion the allegation that Filippo “Gigi” Rovito, Jr., consented to the making of prohibited corporate in-kind

¹ Compl. at 1-2 (July 8, 2022); Supp. Compl. #2 (Sept. 1, 2022); Supp. Compl. #3 (Dec. 1, 2022).

contributions to the Committee in connection with fundraisers at Capri Ristorante in violation of 52 U.S.C. § 30118(a) and 11 C.F.R. § 114.2(e).

II. FACTUAL BACKGROUND

Gary A. Grasso was a candidate seeking election to the U.S. House of Representatives to represent Illinois's 6th Congressional district.² Grasso designated GrassoforCongress6 as his principal campaign committee; Christen Korzyniewski is the treasurer.³

The Complaint alleges that Filippo Rovito, president and director of 5 Brothers, Inc., who operates multiple restaurants⁴ and is purportedly a friend of Grasso,⁵ illegally made \$2,900 contributions to the Committee in the names of three employees, all identified as managers of the restaurants in the Committee's disclosure reports — Gina T. Cademartori, manager of 5 Brothers, Inc.; Virginia A. Moya-DeLeon, manager of Capri on the Go; and Terese Dimaria, manager of Capri Banquets whose employer was initially misreported as Metro Strategies Group.⁶ The Complaint also alleges that Rovito contributed \$2,900 in the name of his wife, Antonia Rovito, a manager at Capri Ristorante.⁷ The Complaint bases its allegations on the fact that all alleged conduits work for restaurants owned or operated by Rovito, all the contributions were made to the Committee on the same day, and that the Complainant believes it is unlikely

² Gary A. Grasso, Statement of Candidacy (Jan. 4, 2022).

³ GrassoforCongress6, Statement of Org. (Jan. 4, 2022) (Amend. May 10, 2022).

⁴ 5 Brothers, Inc., is incorporated in Illinois and is the corporate name for a group of restaurants under the assumed corporate names of Capri Ristorante and Capri by Gigi, among others. Business Entity Search, Illinois Secretary of State, <https://apps.ilsos.gov/businessentitysearch/businessentitysearch> (last visited June 5, 2024).

⁵ The Complaint asserts that Rovito and Grasso “are close friends and confidants” and that Rovito has made contributions to Grasso's mayoral races and a statewide race but “suspiciously” made no direct contribution to Grasso's federal campaign. Compl. at 1.

⁶ Compl. at 1; GrassoforCongress6, 2022 April Quarterly Report at 9, 14, 28, 36 (Apr. 15, 2022).

⁷ Compl. at 1.

that these employees could afford to make \$2,900 contributions from their own funds.⁸ These employees had not previously or since made itemized contributions to federal or Illinois state political committees.

The Complaint also alleges that the Committee accepted prohibited corporate in-kind contributions in the form of food and beverages in connection with fundraisers held at Rovito's restaurant, Capri Ristorante. The available information indicates that the fundraiser was held in the bar areas of the restaurants and that no food or beverages were provided. Rovito did not respond to this allegation.

III. LEGAL ANALYSIS

A. The Commission Finds Reason to Believe that Filippo Rovito Made Excessive Contributions in the Name of Another

The Act and Commission regulations provide that no person shall make a contribution in the name of another person, knowingly permit his or her name to be used to effect such a contribution, or knowingly accept such a contribution.⁹ 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.¹⁰

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

⁸ *Id.*

⁹ 52 U.S.C. § 30122; 11 C.F.R. § 110.4(b)(1)(i), (ii), (iv).

¹⁰ 11 C.F.R. § 110.4(b)(2)(i)–(ii).

committees of the political contributions they receive.¹¹ Courts therefore have uniformly rejected the assertion that “only the person who actually transmits funds . . . makes the contribution,”¹² 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.”¹³ 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.¹⁴ 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.¹⁵

Because the concern of the law is reporting the true contributor from which a contribution to a candidate or committee originates, regardless of the mechanism by which the funds are

¹¹ *United States v. O’Donnell*, 608 F.3d 546, 553 (9th Cir. 2010) (“[T]he congressional purpose behind [§ 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, 775-76 (3d Cir. 2000) (rejecting constitutional challenge to § 30122 in light of compelling governmental interest in disclosure).

¹² *United States v. Boender*, 649 F.3d 650, 660 (7th Cir. 2011).

¹³ *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.”).

¹⁴ *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 (“To identify the individual who has made the contribution, we must look past the intermediary’s essentially ministerial role to the substance of the transaction.”); *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 and recordkeeping] restrictions . . .”).

¹⁵ *O’Donnell*, 608 F.3d at 555 (“We therefore hold that § [30122] unambiguously applies to a defendant who solicits others to donate to a candidate for federal office in their own names and either advances the money or promises to — and does — reimburse them for the gifts.”). 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 § [30122].” *United States v. Whittemore*, 776 F.3d 1074, 1080 (9th Cir. 2015) (emphasis in original).

transmitted, the Commission will examine the structure of the transaction itself and the arrangement between the parties to determine who in fact “made” a given contribution.

No person shall make contributions to any candidate or authorized committee with respect to any election which, in the aggregate, exceed the Act’s contribution limit, which was \$2,900, during the 2022 election cycle.¹⁶ Further, the Act provides that no political committee shall knowingly accept any contribution that exceeds this limit.¹⁷

The Complaint in this matter alleges that Rovito, the owner of the Capri restaurants, was the true contributor of contributions made by three restaurant employees and his wife, who could not on their own afford to contribute \$2,900 to a political candidate.¹⁸ If Rovito reimbursed his restaurant employees and his wife for their contributions, or advanced the funds for the contributions, these actions violated the Act by making contributions in the name of another and making excessive contributions to the Committee.

The Commission has previously found that patterns of clustered giving, as in this case, are indicative of conduit contribution arrangements, especially where there is no specific denial from the alleged contributor or conduits, as in this case. In MUR 7102 (Keefe, Keefe, and Unsell, P.C. (“KKU”), *et al.*), the Commission determined that clustered giving was indicative of conduit contribution arrangements when all contributors contributed the maximum amount despite being lower paid administrative staff.¹⁹ The Response filed by KKU and its three named

¹⁶ 52 U.S.C. § 30116(a)(1)(A); 11 C.F.R. § 110.1(b)(1).

¹⁷ 52 U.S.C. § 30116(f); *see also* 11 C.F.R. § 110.9 (“No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of 11 CFR part 110.”).

¹⁸ Compl. at 1; Capri appears to be part of a group of three restaurants in Burr Ridge, IL. *See* [https://www.capribygigi.com/capri-ristorante-of-burr-ridge-2/\(last visited June 5, 2024\)](https://www.capribygigi.com/capri-ristorante-of-burr-ridge-2/(last%20visited%20June%205%2C%202024)).

¹⁹ *See* Factual & Legal Analysis (“F&LA”) at 5-7, MUR 7102 (KKU, *et al.*). The MUR 7102 Complaint alleged that making the contributions would cause “financial hardship” to the contributors. The contributors in MUR 7102 appear to be subordinate employees. *Id.* at 2-3. *See also* MURs 7005 & 7056 (Adam H. Victor, *et al.*)

partners in the matter did not directly deny that KKU reimbursed its employees' contributions; instead, KKU argued that the Complaint was speculative.²⁰ The Commission ultimately conciliated these violations.²¹

The Commission has made reason to believe findings and pursued clustered employee contributions in other matters. In MUR 5305 (Herrera for Congress, *et al.*), the Commission made reason to believe findings where Commission noted that contributions from colleagues at a design firm were clustered on four specific dates, and over half of the total contributions from firm employees occurred on the same date.²² In MUR 5818 (Fieger, Fieger, Kenney & Johnson, P.C.), the Commission made reason to believe findings where 36 of 46 contributors from the same law firm contributed on one of three dates.²³

Here, the contributions reported as having been made by employees and Rovito's wife and closely fit the pattern of the MURs described above. Each contribution was for the same dollar amount, the then-maximum, and made on the same date to the same candidate; none of the identified contributors has previously or since made any itemized contributions to any other

(use of subordinate employees as conduits); MUR 6465 (Fiesta Bowl, *et al.*) (use of subordinate employees and spouses as conduits); MUR 6234 (Cenac, *et al.*) (same); MUR 7472 (Barletta, *et al.*) (same).

²⁰ See F&LA at 3, MUR 7102 (KKU, *et al.*).

²¹ Conciliation Agreement, MUR 7102 (KKU, *et al.*).

²² See F&LA at 2, (Rhodes Design and Development), MUR 5305 (Herrera for Congress, *et al.*) (finding reason to believe where employees holding a wide range of positions all made the maximum contribution allowed under the Act in clusters of several dates, and respondents did not contest the allegations and expressed a willingness to conciliate, thereby confirming that such a pattern indicated a conduit contribution scheme).

²³ See F&LA at 3-4, MUR 5818 (Fieger, Fieger, Kenney & Johnson, P.C.) (finding reason to believe in part where the record showed "a large number of maximum contributions made on the same days by individuals associated with the Firm, many of whom had never previously contributed to any Federal campaign," members of the firm denied the allegations but the firm itself did not confirm, deny, or make any substantive representation as to the allegations, and, *inter alia*, a news article reported a former employee's claim that the firm had reimbursed him for contributions).

1 federal committees or to Illinois state committees.²⁴ While it is true that each of the alleged
 2 conduits in this case held the title of manager, and thus likely held higher-level positions than
 3 other restaurant employees, the fact that these individuals were managers by itself is insufficient
 4 to rebut the other circumstances indicative of straw donations. And although the alleged amount
 5 in violation is not as great in this matter as in others — \$11,600 in contributions with four
 6 alleged conduits, as compared to \$18,900 across seven conduit contributions in KKU²⁵ — given
 7 the seriousness of the unanswered allegations, this matter warrants a reason to believe finding
 8 and an investigation. The Commission has previously proceeded against an alleged conduit
 9 scheme with a lower amount in violation. In MUR 5927 (Joseph A. Solomon), the Commission
 10 found reason to believe where an insurance CEO reimbursed with personal funds three conduits
 11 for \$1,000 contributions each.²⁶

12 By contrast, the Commission has dismissed or found no reason to believe as to
 13 allegations of contributions in the name of another in other matters where allegations of
 14 reimbursed contributions are based on circumstantial information and where respondents
 15 specifically denied the allegations.²⁷

²⁴ See F&LA at 9, 11, MURs 7005 & 7056 (Adam H. Victor, *et al.*) (evidence as to the alleged conduits (lack of contribution histories) supported finding reason to believe as to the true contributor that allegedly *made* contributions in the name of other persons)).

²⁵ GC Br. at 2-3, 5-6, MUR 7102 (KKU, *et al.*); Certification (“Cert.”) ¶ 1 (Jan. 15, 2021), MUR 7102 (finding probable cause to believe that respondents made contributions in the name of another in the amount of \$18,900).

²⁶ See Cert. ¶ 2 (Dec. 3, 2008), Pre-MUR 443 and MUR 5927 (Joseph A. Solomon).

²⁷ See, e.g., F&LA at 2, MUR 7893 (William Wachtel, *et al.*) (no reason to believe where Complaint provided circumstantial information, not firsthand knowledge, that the contributions were reimbursed and respondents provided multiple sworn affidavits specifically denying the allegations); F&LA at 4, MUR 7091 (Friends of Patrick Murphy) (finding no reason to believe where contributions of family members and associates were clustered but not supported by any additional information that the contributions were not made with personal funds and contributors asserted they made contributions directly, individually and within contribution limits); see also MURs 7793 & 7801 (Louis DeJoy, *et al.*) (Commission dismissed as matter of prosecutorial discretion allegations of contributions made in the name of another where Respondents denied the allegations, submitted sworn statements, and asserted that the clustered contributions were the result of successful fundraising events).

Accordingly, the Commission finds reason to believe that Filippo “Gigi” Rovito, Jr., violated 52 U.S.C. §§ 30116(a)(1)(A) and 30122 and 11 C.F.R. §§ 110.1(b)(1) and 110.4(b)(1)(i) by making excessive contributions in the names of others.

B. The Commission Dismisses the Allegations that Filippo Rovito Consented to the Making of Prohibited Corporate In-Kind Contributions in Connection with a Fundraiser at Capri Ristorante

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.²⁸ The phrase “anything of value” includes in-kind contributions, defined as the provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods and services.²⁹ The Act prohibits corporations from contributing to a federal candidate or candidate’s committee, and further prohibits any officer of a corporation from consenting to any such contribution by the corporation, and any candidate or candidate’s committee from knowingly accepting such a contribution.³⁰

The Complaint alleges that the Committee accepted but failed to report in-kind contributions in the form of food and beverages provided at a fundraiser held at Rovito’s restaurant, Capri Ristorante.³¹ The available information indicates that the fundraisers were held in the bar areas of the restaurants; no food or beverages were provided.

²⁸ 52 U.S.C. § 30101(8)(A)(i).

²⁹ 11 C.F.R. § 100.52(d)(1).

³⁰ 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(b), (d), (e).

³¹ Compl. at 25, 27, 29.

1 The Complaint included a copy of the event invitation but no information regarding the
2 event as it occurred. Accordingly, the available information does not warrant a reason to believe
3 finding regarding this allegation.

4 Therefore the Commission dismisses as a matter of prosecutorial discretion the
5 allegations that: (1) Filippo “Gigi” Rovito, Jr., consented to the making of prohibited in-kind
6 corporate contributions in violation of 52 U.S.C. § 30118(a) and 11 C.F.R. § 114.2(e).

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS****RESPONDENT:** Branko Palikuca**MUR:** 8024**I. INTRODUCTION**

The Complaint and supplements to the Complaint allege that Grasso for Congress⁶ and Christen Korzyniewski in her official capacity as treasurer (the “Committee”),¹ the principal campaign committee for Gary Grasso, a 2022 congressional candidate in Illinois, accepted prohibited corporate in-kind contributions in the form of use of space, food, and beverages for a fundraiser held at Topaz Café, a restaurant owned by Branko Palikuca.²

In response, Branko Palikuca states that the fundraising event at that location was canceled due to poor response and that a few guests showed up and purchased their own drinks.³ Based on the available information, the Commission dismisses as a matter of prosecutorial discretion the allegation that Branko Palikuca consented to the making of prohibited in-kind corporate contributions to the Committee in connection with fundraisers at Topaz Café in violation of 52 U.S.C. § 30118(a) and 11 C.F.R. § 114.2(e).⁴

II. FACTUAL BACKGROUND

Gary A. Grasso was a candidate seeking election to the U.S. House of Representatives to represent Illinois’s 6th Congressional district.⁵ Grasso designated Grasso for Congress⁶ as his

¹ Compl. at 1-2 (July 8, 2022); Supp. Compl. #2 (Sept. 1, 2022); Supp. Compl. #3 (Dec. 1, 2022).

² Compl., Part. 2.

³ Branko Palikuca Resp. (Aug. 10, 2022).

⁴ *Id.*

⁵ Gary A. Grasso, Statement of Candidacy (Jan. 4, 2022).

principal campaign committee; Christen Korzyniewski is the treasurer.⁶ Grasso lost the June 2022 primary election.⁷ The Committee disclosed \$635,117.00 in receipts and \$632,622.05 in disbursements during the 2022 pre-primary period.⁸

The Complaint also alleges that the Committee accepted, but failed to report, in-kind contributions in the form of food and beverages in connection with fundraisers held at Topaz Café, a restaurant owned by Branko Palikuca.⁹ Palikuca responded that “the event was cancelled due to poor response” and that “a few guests showed up and purchased their own drinks.”¹⁰

III. LEGAL ANALYSIS

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.¹¹ The phrase “anything of value” includes in-kind contributions, defined as the provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods and services.¹² The Act prohibits corporations from contributing to a federal candidate or candidate’s committee, and further prohibits any officer of a corporation

⁶ Grasso for Congress6, Statement of Org. (Jan. 4, 2022) (Amend. May 10, 2022).

⁷ See 2022 Primary Election Results, Illinois State Board of Elections, <https://elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=63a1ZolunYs%3d&OfficeType=LpWf6lpbWOfBN3kEuxRi3A%3d%3d> (last visited June 27, 2024).

⁸ Grasso for Congress6, Amended 2022 July Quarterly Report at 3, 4 (Nov. 17, 2022).

⁹ Compl. Part 2 at 20-21. The Complaint attached the invitations to the fundraisers. *Id.* at 23-24. Illinois state records indicate that Palikuca is the owner and manager of Topaz Café, a limited liability company registered in Illinois, <https://apps.ilsos.gov/businessentitysearch/businessentitysearch> (last visited June 27, 2024).

¹⁰ Branko Palikuca Resp. Palikuca, who was notified and responded under the name Branko Palikuca, made a \$2,000 contribution to Grasso for Congress6 on March 9, 2022, under the name Branislav Palikuca. Grasso for Congress6, Amended 2022 April Quarterly Report (Aug. 22, 2022).

¹¹ 52 U.S.C. § 30101(8)(A)(i).

¹² 11 C.F.R. § 100.52(d)(1).

1 from consenting to any such contribution by the corporation, and any candidate or candidate's
2 committee from knowingly accepting such a contribution.¹³

3 The Complaint alleges that the Committee accepted but failed to report in-kind
4 contributions in the form of food and beverages provided in fundraisers held at Topaz Café, a
5 restaurant owned by Branko Palikuca.¹⁴ Palikuca responded that "the event was cancelled due to
6 poor response" and that "a few guests showed up and purchased their own drinks."¹⁵

7 The Complaint included copies of the event invitations but no information regarding the
8 events as they occurred. Palikuca asserts that the events were poorly attended, and that food and
9 beverages were not provided by the restaurants. Accordingly, the available information does not
10 warrant a reason to believe finding regarding this allegation. Therefore the Commission
11 dismisses as a matter of prosecutorial discretion the allegation that Branko Palikuca, owner of
12 Topaz Café,¹⁶ consented to the making of prohibited corporate in-kind contributions to the
13 Committee in violation of 52 U.S.C. § 30118(a) and 11 C.F.R. § 114.2(e).

¹³ 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(b), (d), (e).

¹⁴ Compl. at 25, 27, 29.

¹⁵ Branko Palikuca Resp.

¹⁶ Given Topaz's status as an LLC, Palikuca would only have potential section 30118(a) consenting liability if the LLC files with the IRS as a corporation. *See* 11 C.F.R. § 110.1(g)(3). We have no information as to whether Topaz Café, LLC, elects to be treated as a corporation or a partnership for tax purposes.