FEDERAL ELECTION COMMISSION

FIRST GENERAL COUNSEL'S REPORT

MUR 8112
DATE COMPLAINT FILED: Feb. 15, 2023
DATE OF NOTIFICATIONS: Feb. 16, 2023
LAST RESPONSE RECEIVED: Apr. 8, 2023
DATE ACTIVATED: Dec. 12, 2024
[redacted]
STATUTE OF LIMITATIONS: Aug. 1, 2026-
Jan. 14, 2027
ELECTION CYCLE: 2022

COMPLAINANT: End Citizens United

RESPONDENTS: George Santos
Devolder-Santos for Congress and Jason Boles in his official capacity as treasurer
Sam Miele

RELEVANT STATUTE AND REGULATION: 52 U.S.C. § 30124(b)
11 C.F.R. § 110.16(b)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: [redacted]

I. INTRODUCTION

The Complaint in this matter alleges that Sam Miele, a fundraiser for Devolder-Santos for Congress and Jason Boles in his official capacity as treasurer (the "Committee"), the principal campaign committee of 2022 congressional candidate George Santos, along with Santos and the Committee, violated the fraudulent misrepresentation prohibition of the Federal Election Campaign Act of 1971, as amended (the "Act"). Specifically, the Complaint alleges that Miele fraudulently mispresented himself as being "Dan Meyer" on multiple phone call and email

[redacted]

solicitations for contributions to the Committee. At the time, Meyer was the Chief of Staff for Representative Kevin McCarthy, the Republican leader in the U.S. House of Representatives, as well as a staffer on McCarthy's 2022 congressional campaign.

In response, the Committee and Santos assert that Miele's actions were unauthorized, and that the Committee fired Miele after learning about these solicitations. Miele did not submit a response. Miele has since admitted to impersonating Meyer and pleaded guilty to wire fraud in connection with these allegations and was sentenced to a year and a day in prison.

As explained below, given that Miele's criminal prosecution and sentencing for wire fraud in violation of 18 U.S.C. § 1343 sufficiently vindicate the Commission's interests in this matter, we recommend that the Commission exercise its prosecutorial discretion and dismiss the allegation that Miele violated 52 U.S.C. § 30124(b). However, Miele was acting as an agent of the Committee when he committed these fraudulent misrepresentations and the Committee was not part of the criminal prosecution. Therefore, we recommend that the Commission find reason to believe that the Committee violated 52 U.S.C. § 30124(b) and enter into pre-probable cause conciliation with the Committee. Finally, we recommend that the Commission dismiss the allegation that Santos violated 52 U.S.C. § 30124(b) because the available information does not show that he authorized Miele's actions or otherwise willfully or knowingly participated in or conspired to participate in the scheme.

II. FACTUAL BACKGROUND

The Committee is the principal campaign committee of former Representative George Santos.[2] Santos successfully ran to represent New York's 3rd Congressional District in the 2022

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[2] Devolder-Santos for Congress, Amended Statement of Organization at 2 (Oct. 10, 2021).

election cycle after running unsuccessfully for that seat in 2020.[3] Sam Miele performed fundraising services for the Committee during the 2020 and 2022 election cycles.[4] For the 2020 election cycle, the Committee reported payments to Miele totaling $49,538 for "fundraising" from June 4, 2020, to October 30, 2020.[5] For the 2022 election cycle, the Committee reported payments for services including "Fundraising Commission" totaling $43,088.21 from January 4, 2021, to November 23, 2021, to The One57 Group, a Florida based limited liability company Miele managed.[6] According to Miele, the Committee paid him a salary plus a 15% commission for his fundraising services.[7]

The Complaint alleges that Miele impersonated Dan Meyer while fundraising for the Committee.[8] At the time, Meyer was then-House Speaker Kevin McCarthy's Chief of Staff and

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3 FEC, FEDERAL ELECTIONS 2020: ELECTION RESULTS FOR THE U.S. PRESIDENT, THE U.S. SENATE AND THE U.S. HOUSE OF REPRESENTATIVES at 140 (Oct. 2022), https://www.fec.gov/resources/cms-content/documents/federalelections2020.pdf; FEC, FEDERAL ELECTIONS 2022: ELECTION RESULTS FOR THE U.S. SENATE AND THE U.S. HOUSE OF REPRESENTATIVES at 92-93 (Feb. 2025), https://www.fec.gov/resources/cms-content/documents/federalelections2022.pdf.

4 Compl. at 4 (Feb. 15, 2023). Miele states that, while he was providing fundraising services for RISE NY PAC from January 2021 to April 2021, Santos asked him to secretly fundraise for his campaign while he still worked for the PAC. He then began working full time for the Committee in May 2021 after leaving RISE NY PAC. [redacted]

5 *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00721365&recipient_name=Sam+Miele&two_year_transaction_period=2024&two_year_transaction_period=2022&two_year_transaction_period=2020&min_date=01%2F01%2F2019&max_date=12%2F31%2F2024 (last visited Apr. 10, 2025) (reflecting four payments the Committee made to Sam Miele).

6 *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00721365&recipient_name=The+One57+Group&two_year_transaction_period=2024&two_year_transaction_period=2022&two_year_transaction_period=2020&min_date=01%2F01%2F2019&max_date=12%2F31%2F2024 (last visited Apr. 10, 2025) (reflecting seven disbursements to The One57 Group from the Committee); Compl. at 4; *see also* THE ONE57 GROUP LLC, ARTICLES OF ORGANIZATION (Mar. 3, 2022), https://search.sunbiz.org/Inquiry/CorporationSearch/ConvertTiffToPDF?storagePath=COR%5C2022%5C0328%5C82915863.Tif&documentNumber=L22000116243 (listing Miele as manager of the LLC); Miele Pre-Sentencing Memo at 10, *United States v. Miele,* 1:23-cr-00327-JS (E.D.N.Y. Feb. 28, 2025) (indicating that Miele founded the LLC in January 2021).

7 Miele Pre-Sentencing Memo at 11, *United States v. Miele,* 1:23-cr-00327-JS (E.D.N.Y. Feb. 28, 2025).

8 Compl. at 1-4.

worked for McCarthy's campaign committee, Kevin McCarthy for Congress.[9] Based on information in news articles, the Complaint states that "Miele called donors pretending to be Meyer and sent follow-up emails from a fake address."[10]

Meyer learned of the solicitations in August 2021 when a professional fundraiser asked Meyer if he had solicited a contribution from a specific individual on behalf of the Santos campaign.[11] It appears that Santos contacted Meyer "before Christmas 2021" and McCarthy's counsel reached out to the Committee to address the issue, which resulted in the Committee firing Miele in December 2021.[redacted] When questioned by federal investigators, Meyer confirmed that he did not give his permission for the Committee to use his name.[redacted]

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[9] Lindsey McPherson, *Kevin McCarthy's Chief of Staff Dan Meyer to Retire in June*, ROLL CALL (May 12, 2023) https://rollcall.com/2023/05/12/kevin-mccarthys-chief-of-staff-dan-meyer-to-retire-in-june/; *Speaker Kevin McCarthy Announces Staff Promotions*, KEVIN MCCARTHY: SPEAKER OF THE HOUSE (May 12, 2023), https://www.speaker.gov/speaker-kevin-mccarthy-announces-staff-promotions/ [https://web.archive.org/web/20230520054812/https://www.speaker.gov/speaker-kevin-mccarthy-announces-staff-promotions/]; *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00420935&recipient_name=Dan+Meyer&two_year_transaction_period=2022&two_year_transaction_period=2020&min_date=01%2F01%2F2019&max_date=12%2F31%2F2022 (last visited Apr. 10, 2025) (reflecting payroll payments by Kevin McCarthy for Congress to Meyer from January 1, 2019, to December 31, 2022).

[10] Compl. at 2-3; *see also* Brian Schwartz, *"We Were Duped": How George Santos Raised Money from Wealthy GOP Donors While Lying About His Resume*, CNBC (Jan. 9, 2023), https://www.cnbc.com/2023/01/09/george-santos-raised-money-from-wealthy-gop-donors-while-lying-about-his-resume.html (cited in Compl. at 2 n.5).

[11] Kerry Picket, *More Santos Tricks: His Campaign Staffer Accused of Impersonating McCarthy Aide in Bid for Donations*, WASH. TIMES (Dec. 22, 2022), https://www.washingtontimes.com/news/2022/dec/22/more-santos-tricks-his-campaign-staffer-accused-of/ (cited in Compl. at 3 n.8); Victor Nava, *George Santos Staffer Impersonated Kevin McCarthy's Top Aide to Raise Money*, N.Y. POST (Jan. 9, 2023), https://nypost.com/2023/01/09/george-santos-staffer-impersonated-kevin-mccarthys-top-aide-to-raise-money/ (cited in Compl. at 3 n.9); [redacted]

In Response, the Committee and Santos assert that Miele's actions were the "actions of a rogue unauthorized individual."[14] They assert that the Committee terminated Miele after it learned of the allegations and then apologized to its donors.[15]

Miele did not submit a response to the Complaint.[16] However, in a related criminal matter, Miele admitted to soliciting contributions by phone and email using Meyer's name so that donors would be more likely to contribute and that he created a fake email address using Meyer's name for that purpose.[17] Miele explains that, from August 2021 to December 2021, Santos told him that the Committee needed better fundraising numbers for Santos to qualify for an NRCC Young Guns program endorsement and that Miele felt pressured to meet certain fundraising goals.[18] However, Miele states that he did not tell Santos or other Committee staff about his plan to use Meyer's name.[redacted] Miele used the fictitious email account to send fundraising solicitations to more than a dozen contributors "purporting to be [Meyer] and endorsing Devolder Santos (which implied the Speaker's support for Devolder Santos as

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14 Santos & Committee Resp. at 8 (Apr. 8, 2023) [hereinafter Santos Resp.].

15 *Id.*

16 Email from Kevin H. Marino, Couns. to Miele, to Kathyrn Ross, Paralegal, FEC (Apr. 28, 2023, 19:51 EST) ("We are not going to respond.").

17 DOJ Pre-Sentencing Memo at 2, *United States v. Miele,* 1:23-cr-00327-JS (E.D.N.Y. Feb. 28, 2025) ("The defendant used that email account to send fundraising emails to more than a dozen potential campaign contributors falsely purporting to be victim No. 1 and endorsing Devolder Santos (which implied the Speaker's support for Devolder Santos as well."); Miele Pre-Sentencing Memo at 11-12, *United States v. Miele*, 1:23-cr-00327-JS (E.D.N.Y. Feb. 28, 2025); [redacted]

18 DOJ Pre-Sentencing Memo at 2, *United States v. Devolder Santos*, 2:23-cr-00197 (E.D.N.Y. Jan. 8, 2025) (disclosing that Santos was concerned that he would not meet the requirements of the program and "he told one associate that he was on 'a mission' and 'desperate for funds' 'before December 31st'"); [redacted]

19 [redacted]

well)."[20] It appears that DOJ reviewed the solicitations and determined that the amount raised through these fraudulent solicitations was approximately $6,500 from two contributors.[21]

Miele was indicted on federal charges of wire fraud in connection with the allegations in this matter and aggravated identity theft relating to a separate scheme to use credit cards that belonged to others to make political contributions in the names of others as well as for personal purchases.[22] On November 14, 2023, Miele pleaded guilty to wire fraud stating that he "pretended [he] was Chief of Staff to the Speaker of the House of Representatives in some telephone calls and emails with potential donors, including an email on August 19, 2021, which used interstate wires."[23] Additionally, he admitted that he charged $100,000 to donor credit cards stating that "I used some of these funds as donations to a candidate for Congress and some for my own expenses."[24] On March 7, 2025, Miele was sentenced to a year and a day in prison and three years of supervised release following his incarceration.[25] Miele paid in full the stipulated $109,171 in restitution prior to his sentencing.[26]

III. LEGAL ANALYSIS

The Act provides that "no person shall fraudulently misrepresent themselves as speaking, writing, or otherwise acting for, or on behalf of, any candidate or political party or employee or

[20] DOJ Pre-Sentencing Memo at 2, *United States v. Miele,* 1:23-cr-00327-JS (E.D.N.Y. Feb. 28, 2025).

[21] *Id.*

[22] Indictment at 3-4, *United States v. Miele,* 1:23-cr-00327-JS (E.D.N.Y. Aug. 15, 2023) (charging Miele with four counts of wire fraud in violation of 18 U.S.C. § 1343 and one count of aggravated identify theft in violation of 18 U.S.C. § 1028A(a)(1)).

[23] Standard Plea Form 1 at 5 and 9, *United States v. Miele,* 1:23-cr-00327-JS (E.D.N.Y. Nov. 14, 2023).

[24] *Id.*; DOJ Pre-Sentencing Memo at 2, *United States v. Miele,* 1:23-cr-00327-JS (E.D.N.Y. Feb. 28, 2025).

[25] Judgment in Criminal Case at 2-3, *United States v. Miele,* 1:23-cr-00327-JS (E.D.N.Y. Mar. 10, 2025).

[26] Minute Entry for Criminal Proceeding at 4, *United States v. Samuel Miele,* 1:23-cr-00327-JS (E.D.N.Y.) (Mar. 7, 2025). The final stipulation amount appears to include the $6,500 contributions raised through the fraudulent solicitation plus $40,600 in unauthorized contributions on credit cards and $60,271 in unauthorized personal expenditures on credit cards.

agent thereof for the purpose of soliciting contributions or donations.[27] The Act also prohibits any person from willfully and knowingly participating in or conspiring to participate in any such plan, scheme, or design to violate this prohibition.[28] Although the Act requires that the violator have the intent to deceive, it does not require proof of the common law fraud elements of justifiable reliance and damages.[29] Even absent an express misrepresentation, a representation is fraudulent "if it was reasonably calculated to deceive persons of ordinary prudence and comprehension."[30]

To determine whether a person has engaged in fraudulent misrepresentation, the Commission has previously considered such factors as the inclusion of statements implying that the respondents acted with the authority of the represented person.[31] The Commission has found violations of § 30124 in past matters where individuals or political committees fraudulently disguised their identity in communications to potential donors or voters.[32] For example, in MUR 6893 (Winning the Senate PAC), the Commission found reason to believe that using

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[27] 52 U.S.C. § 30124(b)(1); *see also* 11 C.F.R. § 110.16(b)(1).

[28] 52 U.S.C. § 30124(b)(2); *see also* 11 C.F.R. § 110.16(b)(2).

[29] *See FEC v. Novacek*, 739 F. Supp. 2d. 957,961 (N.D. Tex. 2010) (finding that defendants knowingly and willfully violated now-52 U.S.C. § 30124(b)); Disclaimers, Fraudulent Solicitation, Civil Penalties, and Personal Use of Campaign Funds, 67 Fed. Reg.76,962, 76,969 (Dec. 13, 2002) (citing *Neder v. United States*, 527 U.S. 1, 24-25 (1999) (distinguishing fraud in federal campaign finance abuses from common law tort action on the basis of Congress intending to penalize schemes as well as actions taken to defraud and the damaging effect of misrepresentation); Factual & Legal Analysis ("F&LA") at 4, MUR 5472 (Jody Novacek).

[30] *Novacek*, 739 F. Supp. 2d. at 961.

[31] Gen Counsel's Br. at 14-16, MUR 5951 (Californians for Change) (recommending finding probable cause to believe that Californians for Obama violated now-§ 30124 by, *inter alia*, approving a telemarketing solicitation script that stated, "We are Senator Obama's California organization to help put the face-of-change in the White House" and where an officer went by the title "State Chairman," thereby giving "the impression that the organization was the official representative of the national Obama campaign in the State of California"); Cert. (Aug. 3, 2011), MUR 5951 (finding probable cause to believe Californians for Change and its officer violated now-§ 30124); *see also* F&LA at 4-5, MURs 5443, 5495, 5505 (johnfkerry-2004.com) (finding reason to believe that a respondent engaged in express misrepresentation through a website that stated it was "paid for and authorized by John Kerry for President, Inc, 2004").

[32] F&LA at 4-5, MUR 4919 (Adrian Plesha) (finding reason to believe that a campaign manager knowingly and willfully violated the Act by mailing campaign literature urging voters not to vote in upcoming election designed to appear to be from a local Democratic party committee).

federal candidates' names without their permission to reasonably suggest to contributors that the candidates endorsed the email solicitation violates 52 U.S.C. § 30124(b)(1).[33]

A violation of the Act is knowing and willful if the "acts were committed with full knowledge of all the relevant facts and a recognition that the action is prohibited by law."[34] Such a finding does not require proving knowledge of the specific statute or regulation the respondent allegedly violated.[35] Instead, it is sufficient to demonstrate that a respondent "acted voluntarily and was aware that his conduct was unlawful."[36] This awareness may be shown through circumstantial evidence from which the respondent's unlawful intent reasonably may be inferred.[37] For example, a person's awareness that an action is prohibited may be inferred from "the [person's] elaborate scheme for disguising . . . political contributions."[38] The Commission has found a violation to be knowing and willful when respondents took active steps to conceal illegal activities, such as by filing inaccurate reports to conceal illegal activity.[39]

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33 F&LA at 2, MUR 6893 (Winning the Senate PAC).

34 122 Cong. Rec. 12,197, 12,199 (May 3, 1976).

35 *United States v. Danielczyk*, 917 F. Supp. 2d 573, 579 (E.D. Va. 2013) (quoting *Bryan v. United States*, 524 U.S. 184, 195 & n.23 (1998) (holding that, to establish a violation is willful, the government needs to show only that the defendant acted with knowledge that his conduct was unlawful, not knowledge of the specific statutory provision violated)).

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

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

38 *Id.* at 214-15. As the Hopkins court noted, "[i]t has long been recognized that 'efforts at concealment [may] be reasonably explainable only in terms of motivation to evade' lawful obligations." *Id.* at 214 (quoting *Ingram v. United States*, 360 U.S. 672, 679 (1959)). The Commission has found knowing and willful violations against committees; *see, e.g.*, F&LA at 1-2, MUR 7923 (Friends of David Schweikert) (finding that misreporting purpose and payees of disbursements was knowing and willful); F&LA at 14-15, MUR 7126 (Mich. Democratic State Cent. Comm.) (finding that misreporting bingo disbursements and contributions was knowing and willful).

39 F&LA at 4, MUR 6867 (Robert M. Telthorst) (finding that the violation of 52 U.S.C. § 30104(b) was knowing and willful because the treasurer filed inaccurate reports to conceal illegal activity); F&LA at 4, MUR 6768 (Debra Doherty) (finding the treasurer knowingly and willfully violated 52 U.S.C. § 30104(a), (b) by filing inaccurate reports to conceal unauthorized withdrawals).

Here, Miele admits to deliberately impersonating Meyer, Chief of Staff of then-Speaker of the House Kevin McCarthy and also a staffer for McCarthy's congressional campaign, in phone and email solicitations for contributions to the Committee.[40] The phone calls and emails were designed to appear to be from Meyer, despite Meyer not consenting for his name to be used, in order to give the impression that Meyer supported the Committee.[41] Therefore, the facts show that Miele fraudulently misrepresented himself as speaking, writing, or otherwise acting on behalf of an agent or employee of a candidate for the purpose of soliciting contributions.

The current information also supports knowing and willful findings based on the elaborate fashion in which Miele made it appear that Meyer made the fundraising solicitations — such as by creating an email address with Meyer's name.[42] Miele also admits knowing it was improper to use Meyer's name without his permission, stating that he did not tell Santos about his actions because he knew that what he was doing was wrong.[43]

However, Miele was sentenced to a year and a day in prison to be followed by three years of supervised release and, among other things, paid restitution to the victims of the fraudulent misrepresentation.[44] Miele's criminal conviction and sentencing vindicate the Commission's interests in this matter, given that the underlying conduct for his wire fraud conviction involves the same facts and wrongful conduct at issue in this matter. Through his guilty plea, Miele has taken responsibility for his actions in misrepresenting himself as an agent of Representative

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40 DOJ Pre-Sentencing Memo at 2, *United States v. Miele,* 1:23-cr-00327-JS (E.D.N.Y. Feb. 28, 2025); Miele Pre-Sentencing Memo at 11-12, *United States v. Miele*, 1:23-cr-00327-JS (E.D.N.Y. Feb. 28, 2025).

41 Miele Pre-Sentencing Memo at 3, *United States v. Miele*, 1:23-cr-00327-JS (E.D.N.Y. Feb. 28, 2025); [redacted]

42 *Supra* note 17 and accompanying text.

43 Miele Pre-Sentencing Memo at 3, *United States v. Miele*, 1:23-cr-00327-JS (E.D.N.Y. Feb. 28, 2025) (explaining that Miele's desire to succeed resulted in bad judgment); *see also supra* note 19.

44 Judgment in Criminal Case at 2-3, *United States v. Miele,* 1:23-cr-00327-JS (E.D.N.Y. Mar. 10, 2025).

Kevin McCarthy for the purpose of soliciting campaign funds, and his subsequent conviction and sentence hold him accountable for the very same conduct that would constitute a violation under the Act's fraudulent misrepresentation prohibition for the Act. The Commission at times declines to pursue enforcement matters with respondents who were punished criminally for actions that violate the Act.[45] Therefore, we recommend that the Commission exercise its prosecutorial discretion to dismiss the allegation that Miele knowingly and willfully violated 52 U.S.C. § 30124(b)(1) by fraudulently misrepresenting himself as speaking, writing, or otherwise acting for or on behalf of an agent of former Representative Kevin McCarthy for the purpose of soliciting contributions.[46] Additionally, we recommend that the Commission issue a letter of admonishment to Miele for using Meyer's name to misrepresent himself in solicitations.[47]

[45] *See, e.g.*, F&LA at 15-17, MUR 8162 (Support Am. Leaders PAC) (dismissing as an exercise of prosecutorial discretion where the individual behind the respondent political committee, Matthew Tunstall, had been ordered to pay $800,000 in restitution and serve ten years in prison on charges related to the matter and MUR 7468); Memorandum to the Commission Regarding Updated Recommendations Following Sentencing of Matthew Tunstall (July 19, 2023), MUR 7468 (Progressive Priorities PAC, *et al.*) (changing recommendation to conciliate with the respondents to dismiss as an exercise of prosecutorial discretion following the court's order that Tunstall forfeit nearly $800,000 and serve ten years in prison on charges related to the underlying facts of the matter); Cert. ¶¶ 1-3 (July 27, 2023), MUR 7468 (approving OGC's recommendation); F&LA at 6, MUR 7072 (Babula Bera) (dismissing as an exercise of prosecutorial discretion where the individual had been sentenced to a year in prison and the statute of limitations had run on portions of the violation); Third Gen. Counsel's Report at 6-7, MUR 6761 (Kenneth Barfield) (recommending taking no further action, because the respondent had pleaded guilty to violating 52 U.S.C. § 30114(b) with beginning his prison sentence on June 11, 2015 after the Commission found reason to believe on May 19, 2015 after review of the First General Counsel's Report); Cert. ¶ 1 (Apr. 18, 2017), MUR 6761 (approving recommendation). In other similar matters, the Commission has entered into conciliation agreements with no civil penalty. Conciliation Agreement ("CA") VII, MUR 6465 (Natalie Wisneski); CA VII, MUR 7132 (Michael David Pitts); CA ¶ VI.3, MUR 7738 (Jack Wu); CA ¶ VI.3, MUR 7677 (James R. Schwartz II). Given the minimal amount in violation here, we do not believe pursuing such an agreement would be an efficient use of the Commission's limited resources.

[46] *Heckler v. Chaney*, 470 U.S. 821 (1985).

[47] Cert. ¶ 3 (Dec. 9, 2016), MUR 7072 (Babulal Bera, *et al.*) (approving an admonishment letter to respondent where respondent pled guilty to violations of 52 U.S.C. §§ 30116(a)(1)(A) and 30122). While the Commission recently promulgated a new policy on Commission actions at the start of the enforcement process that removes the formal option of voting to "dismiss with admonishment," this does not preclude the Commission from including language in its closing letters that admonishes a respondent. Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 89 Fed. Reg. 19,729 (Mar. 20, 2024).

The Committee is liable for Miele's fraudulent fundraising solicitations because his actions were undertaken as part of his fundraising work for the Committee.[48] Indeed, a "principal is liable for the acts of its agents committed within the scope of their employment.[49] For example, in a past matter, MUR 4919 (Charles Ball for Congress, *et al.*), the Commission found a candidate committee liable for fraudulent mailers and telemarketing calls made by its campaign manager.[50] There, the campaign manager had broad authority to run the campaign, specifically dealt with the vendors that handled phone banks and direct mail, and the direct mail and phone banks were conducted for the purpose of supporting the candidate and the political committee.[51]

The Committee contends that the actions by Miele were "beyond the scope of services provided to the campaign."[52] In *Sun-Diamond Growers*, however, the D.C. Circuit held a corporation criminally liable for the actions of its vice president who used corporate funds to reimburse campaign contributions even though the vice president actually hid the reimbursement scheme from others; the court held that the corporation was liable because the vice president

[48] F&LA at 1, MUR 7048 (Cruz for President) (finding a candidate committee violated the Act by its agent's solicitation of soft money); Eleventh Gen. Counsel's Report ("Eleventh GCR") at 16-19, MUR 4919 (Charles Ball for Congress, *et al.*) (recommending a candidate committee knowingly and willfully violated the Act by its agent fraudulently misrepresenting who made direct mail and phone calls to voters); Cert. ¶ 3, 5 (June 21, 2002), MUR 4919 (approving the recommendations and the Conciliation Agreement attached to the Eleventh GCR).

[49] Restatement (Third) of Agency § 7.07 (Am. Law Inst. 2006); Factual & Legal Analysis at 8, MUR 6465 (Fiesta Bowl, *et al.*); *see* F&LA at 10-12, MUR 7690 (Soc'y of Young Women Scientists & Eng'rs LLC, *et al.*) (making knowing and willful reason-to-believe findings against PacMar Technologies, LLC, based on the actions of its corporate officers); *see also* Definitions of "Agent" for BCRA Regulations on Non-Federal Funds or Soft Money and Coordinated and Independent Expenditures, 71 Fed. Reg. 4975, 4978 (Jan. 31, 2006) ("Revised Agent E&J") (explaining further that "the candidate/principal may also be liable for any impermissible [soft money] solicitations by the agent, despite specific instructions to not do so").

[50] Eleventh GCR at 1, MUR 4919 (Charles Ball for Congress, *et al.*); CA ¶ V, MUR 4919 (Adrian Plesha) (admitting to fraudulently disseminating direct mail and phone bank communications purportedly from a Democratic organization to not vote for the Democratic nominee); CA ¶ V, MUR 4919 (Charles Ball for Congress) (admitting to knowingly and willfully violating the Act by fraudulently disseminating direct mail literature and phone bank communications purportedly from a Democratic organization to not vote for the Democratic nominee).

[51] Eleventh GCR at 8, MUR 4919 (Charles Ball for Congress, *et al.*).

[52] Santos Resp. at 8.

acted within the scope of his employment which was to promote the corporation's interests before the federal government and undertook the scheme to benefit the corporation.[53] Here, the Committee hired Miele to fundraise and Miele's plea and other available information indicate that Miele deliberately impersonated Meyer in order to raise more contributions and meet fundraising goals for the Committee.[54] Indeed, it appears that Santos emphasized the need to raise more funds in order to qualify for the NRCC's Young Guns program endorsement and Miele, acting on instructions to raise more money, engaged in actions he deemed necessary to accomplish that task.[55] Therefore, the Committee is liable for the actions that Miele took within the scope of his authority as a fundraiser for the Committee. Accordingly, we recommend that the Commission find reason to believe that the Committee knowingly and willfully violated 52 U.S.C. § 30124(b)(1).

Regarding the allegation as to Santos, he could be liable either if Miele acted as his agent when making the solicitations or if Santos willfully and knowingly participated in or conspired to participate in the scheme. However, both Santos and Miele deny that Santos was even aware that Miele impersonated Meyer. Miele states he never told Santos about his plan to use Meyer's name to solicit contributions.[redacted] The available information indicates that Santos only learned of Miele's actions when contacted by McCarthy's staff, after which Santos fired Miele.[redacted] In short, it appears that Miele conducted the plan in secret. Accordingly, we recommend that the Commission dismiss the allegations that Santos violated 52 U.S.C. § 30124(b)(1).

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53 *United States v. Sun-Diamond Growers of Cal.*, 138 F.3d 961, 970 (D.C. Cir. 1998).

54 *Supra* notes 5-7, 17.

55 *Supra* notes 4, 18.

[redacted]

[redacted]

V. RECOMMENDATIONS

1. Find reason to believe that Devolder-Santos for Congress and Jason Boles in his official capacity as treasurer knowingly and willfully violated 52 U.S.C. § 30124(b)(1);

2. Dismiss the allegation that Sam Miele knowingly and willfully violated 52 U.S.C. § 30124(b)(1);

[redacted]

3. Issue a letter of admonishment to Sam Miele in connection with his violation of 52 U.S.C. § 30124(b)(1);

4. Dismiss the allegation that George Santos violated 52 U.S.C. § 30124(b)(1);

5. Enter into conciliation with Devolder-Santos for Congress and Jason Boles in his official capacity as treasurer prior to a finding of probable cause to believe;

6. Approve the attached Factual and Legal Analyses;

7. Approve the attached Conciliation Agreement; and

8. Approve the appropriate letters.

Lisa J. Stevenson
Acting General Counsel

4/11/2025
Date

Claudio J. Pavia by APW
Claudio J. Pavia
Deputy Associate General Counsel for Enforcement

Ana J. Peña-Wallace
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Assistant General Counsel

Kevin Fortkiewicz
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