

FEDERAL ELECTION COMMISSION
FIRST GENERAL COUNSEL'S REPORT

MUR 7581

DATE COMPLAINT FILED: Mar. 18, 2019
DATE OF NOTIFICATIONS: Mar. 20, 2019
DATE OF LAST RESPONSE: May 31, 2019
DATE OF ACTIVATION: July 25, 2019

ELECTION CYCLE: 2020
EXPIRATION OF SOL: Mar. 1, 2023

COMPLAINANT:

Common Cause
Paul S. Ryan

RESPONDENTS:

Li Juan "Cindy" Gong f/k/a Li Juan "Cindy" Yang
Bingbing Peranio
Katrina Eggertsson
Gong Haizhen
Unknown Respondents

MUR 7614

DATE COMPLAINT FILED: May 22, 2019
DATE OF NOTIFICATIONS: May 30, 2019
DATE OF LAST RESPONSE: Aug. 5, 2019
DATE OF ACTIVATION: July 25, 2019

ELECTION CYCLE: 2020
EXPIRATION OF SOL: Dec. 2, 2022

COMPLAINANT:

Campaign Legal Center
Margaret Christ
Brendan M. Fischer

RESPONDENTS:

Li Juan "Cindy" Gong f/k/a Li Juan "Cindy"
Yang
Xinyue "Daniel" Lou
Sun Changchun
Jingzhu "Margaret" Yang
Jiusi Yao
Ma Jin
Li Jing
Jon Deng
Hui Liu
Ryan Xu
Li Xiaohua

MURs 7581 and 7614 (Cindy Gong f/k/a Cindy Yang, *et al.*)

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Bingbing Peranio
Republican Party of Palm Beach County and Jane
C. Pike in her official capacity as treasurer
45th Presidential Inaugural Committee
Make America Great Again PAC f/k/a Donald J.
Trump for President, Inc. and Bradley T. Crate in
his official capacity as treasurer
Republican National Committee and Ronald C.
Kaufman in his official capacity as treasurer
Trump Victory and Bradley T. Crate in his official
capacity as treasurer
Unknown Respondents

**RELEVANT STATUTES
AND REGULATIONS:**

52 U.S.C. § 30104(b)(3)(A)
52 U.S.C. § 30121
52 U.S.C. § 30122
11 C.F.R. § 110.20(g), (h)
11 C.F.R. § 110.4(b)(2)(i)-(ii).

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED:

I. INTRODUCTION

The Complaints in these matters allege that Li Juan “Cindy” Gong, formerly known as Li
Juan “Cindy” Yang (“Yang”), engaged in multiple schemes to funnel excessive contributions of
her own funds and other individuals’ foreign national contributions to several committees in
violation of the Federal Election Campaign Act of 1971, as amended (the “Act”), and
Commission regulations. Specifically, the Complaints allege that Yang made contributions in

1 the names of several family members and business associates and used foreign national funds to
2 make contributions to Make America Great Again PAC f/k/a Donald J. Trump for President, Inc.
3 and Bradley T. Crate in his official capacity as treasurer (the “Trump Committee”) and to Trump
4 Victory and Bradley T. Crate in his official capacity as treasurer (“Trump Victory”), a joint
5 fundraising committee. According to the MUR 7581 Complaint, the contributions were in
6 excess of the limitations of the Act and primarily made in order to enable attendance and a photo
7 opportunity with President Trump at a March 3, 2018 Trump Victory fundraising event held in
8 Palm Beach, Florida.² The MUR 7614 Complaint alleges that the contributions were primarily
9 made in order to enable Yang’s and foreign nationals’ attendance at the March 3, 2018 event, as
10 well as an earlier December 2, 2017 Trump Victory fundraising event in New York City.³ The
11 MUR 7581 Complaint further alleges that Bingbing Peranio, Katrina Eggertsson, Gong Haizhen,
12 and unknown respondents, Yang’s employees and associates, knowingly served as conduits for
13 Yang’s contribution scheme.⁴

14 The MUR 7614 Complaint alleges that the contributions in connection with the
15 December 2, 2017 and March 3, 2018 events in particular, but all of the events Yang advertised,
16 were facilitated by Yang, along with several other individuals, who had formed political-tourism
17 companies that promised foreign nationals access to President Trump at political fundraisers that
18 required contributions to the Trump Committee, Trump Victory, the Republican National
19 Committee and Ronald C. Kaufman in his official capacity as treasurer (the “RNC”), the 45th

² Compl. ¶¶ 7-12, MUR 7581 (Mar. 18, 2019).

³ Compl. ¶¶ 4-6, MUR 7614 (May 22, 2019).

⁴ Compl. ¶¶ 36-37, MUR 7581. The MUR 7614 Complaint did not name Peranio as a respondent but contained similar allegations and she was added as a Respondent in that matter.

1 Presidential Inaugural Committee, or the Republican Party of Palm Beach County and Jane C.
 2 Pike in her official capacity as treasurer,⁵ in violation of the Act's prohibitions on soliciting or
 3 providing substantial assistance in the making of foreign national contributions. The MUR 7614
 4 Complaint further alleges that Yang was assisted in her efforts to secure foreign national
 5 attendance at events by Jon Deng, Hui Liu, and Li Jing, individuals described as influential
 6 members of the Asian American Republican Party community.⁶ Additionally, the MUR 7614
 7 Complaint alleges that Xinyue "Daniel" Lou, Sun Changchun, Jingzhu "Margaret" Yang, Jiusi
 8 Yao, Ma Jin, and unknown respondents engaged in similar promotions targeted to foreign
 9 nationals, which resulted in them providing substantial assistance to foreign nationals making
 10 contributions and that Ryan Xu, Li Xiaohua, and unknown individuals made prohibited
 11 contributions in connection with their attendance at political fundraising events.⁷

12 Yang responded to both Complaints denying the allegations.⁸ Although several of the
 13 Respondents alleged to have been a part of foreign national contribution schemes could not be
 14 located, and several who were located and provided with copies of the Complaints did not
 15 respond, those who did respond denied the allegations and described varying amounts of
 16 involvement with Yang.⁹ The Committees alleged to have received the prohibited contributions

⁵ See Republican Party of Palm Beach County, Statement of Organization (July 11, 2019),
<https://docquery.fec.gov/pdf/870/201907110300282870/201907110300282870.pdf>.

⁶ Compl. ¶ 39, MUR 7614.

⁷ *Id.* ¶ 44.

⁸ See Yang Resp. at 1-2, MUR 7581 (May 31, 2019); Yang Resp. at 1-2, MUR 7614 (Aug. 5, 2019).

⁹ E.g., Li Jing Resp., MUR 7614 (June 27, 2019); Jon Deng Resp., MUR 7614 (June 13, 2019); Xinyue "Daniel" Lou Resp., MUR 7614 (June 21, 2019).

also responded, arguing that there is no reason to believe they violated the Act because the Complaints did not raise allegations about their conduct.¹⁰

Based on the available information in the record, we recommend that the Commission find reason to believe that Yang made contributions in the names of her family members and work associates in violation of 52 U.S.C. § 30122, and in violation of 52 U.S.C. § 30116(a)(1) by making contributions in excess of the Act's individual contribution limits. Additionally, Yang appears to have provided substantial assistance in the making of prohibited foreign national contributions so that foreign nationals could attend political events through her tourism packages. Accordingly, we recommend that the Commission find reason to believe that Yang violated 52 U.S.C. § 30121 and 11 C.F.R. § 110.20(h)(1). We also recommend that the Commission authorize pre-probable cause conciliation with Yang.¹¹ Finally, given the limited factual record and impending statute of limitations, we recommend that the Commission dismiss the allegations as to the remaining Respondents.

II. FACTUAL BACKGROUND

Yang is reportedly a Florida businesswoman who, along with members of her family, formed, owned, and operated a number of day spas in Florida.¹² Starting in 2015, Yang began

¹⁰ Trump Victory & Donald J. Trump for President, Inc. Resp., MUR 7614 (July 2, 2019); National Committee Resp., MUR 7614 (July 2, 2019); Republican Party of Palm Beach County Resp., MUR 7614 (June 26, 2019).

¹¹ Yang Resp. at 1 (requesting "early conciliation"). Michael Liss, the attorney of record for Yang, informed the Office of General Counsel that he no longer represents Yang in this matter. *See* Email from Michael Liss, former attorney for Yang, to Richard Weiss, FEC (Apr. 12, 2022, 10:06 AM). We contacted Yang to inquire whether she intended to hire a new attorney and whether she would still like to conciliate the matter. *See* Email from Richard Weiss, FEC, to Cindy Gong (Apr. 27, 2022; 2:36 PM). Yang responded that she will not be hiring another attorney and would like to resolve the matter. *See* Email from Cindy Gong to Richard Weiss, FEC (May 2, 2022, 12:01 PM).

¹² Compl. ¶ 9, MUR 7581 (citing Frances Robles *et al.*, *She Extols Trump, Guns and the Chinese Communist Party Line*, N.Y. TIMES (Mar. 16, 2019), <https://www.nytimes.com/2019/03/16/us/cindy-yang-trump-donations.html> ("New York Times Article")).

fundraising on behalf of the Republican Party, reportedly working closely with “Cliff” Zhonggang Li, the executive director of the National Committee of Asian American Republicans on her fundraising activities.¹³ Li has reportedly stated that he had acted as a political mentor to Yang, introduced her to conservative-leaning Chinese Americans in Florida, and worked closely with her from 2015-2018.¹⁴ After the 2016 election, Yang began marketing tourism packages that purportedly promised Chinese businesspeople access to American politicians and American political events.¹⁵

On December 2, 2017, Trump Victory hosted a fundraiser at Cipriani restaurant in New York City to which tickets cost \$1,000 for general admission,¹⁶ “VIP” tickets cost \$2,700,¹⁷ and posing for a photograph with President Trump at the event was available for contributors who donated \$50,000 to Trump Victory.¹⁸ In the two weeks preceding the event, Yang made three

¹³ Dan Friedman, *Head of Asian GOP Group Says He “Wouldn’t Rule Out” Illegal Foreign Donations to Trump*, MOTHER JONES (Mar. 15, 2019), <https://www.motherjones.com/politics/2019/03/head-of-asian-gop-group-says-he-wouldnt-rule-out-illegal-foreign-donations-to-trump/> (“Mother Jones Article”) (cited in Compl. ¶ 6, MUR 7614 (May 22, 2019)). The National Committee of Asian American Republicans was purportedly formed by Li to “raise the awareness in Asian Communities about the importance of participating in the political process.” National Committee of Asian American Republicans, Mission, ASIAN.GOP, <http://www.asian.gop/mission> (last visited June 16, 2022).

¹⁴ Mother Jones Article.

¹⁵ Jay Weaver, *et al.*, *Feds Open Foreign-Money Investigation into Trump Donor Cindy Yang*, MIAMI HERALD (May 12, 2019), <https://www.miamiherald.com/news/politics-government/article230217729.html> (“Miami Herald “Feds Open Investigation into Trump Donor Cindy Yang” Article”).

¹⁶ Xinyue “Daniel” Lou Resp. at 2.

¹⁷ *Id.*

¹⁸ Compl. ¶ 4, MUR 7614; Xinyue “Daniel” Lou Resp. at 2. Other press reports have indicated that admission to the event ranged from \$2,700-\$10,000. *See, e.g.*, Chas Danner, *Everything to Know about the Spa Founder Selling Access to Trump*, N.Y. MAGAZINE (Mar. 10, 2019), <https://nymag.com/intelligencer/2019/03/what-we-know-about-the-spa-owner-cindy-yang-selling-access-to-trump.html>.

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contributions to Trump Victory totaling \$23,500.¹⁹ Prior to November 2017, the largest federal contribution Yang had made was for \$640 to the National Committee of Asian American Republicans.²⁰

Yang was reported to have promoted the December 2, 2017 Trump Victory fundraiser, along with at least eight other Trump-related events between late 2017 and 2019, on Chinese language social media.²¹ Yang reportedly arranged for a large group of businesspeople from China to attend the December 2, 2017 event.²² According to press accounts, multiple Chinese nationals including Respondents Li Xiaohua and Ryan Xu posed for pictures with President Trump at that fundraiser, a privilege reserved for contributors who gave \$50,000.²³ The *Miami Herald* identified 13 Chinese nationals by name who attended the fundraiser with Yang: Xianqin

¹⁹ On November 21, 2017, Yang made an \$18,000 contribution and on November 27, 2017, Yang made additional contributions of \$2,500 and \$3,000 to Trump Victory. Trump Victory 2017 Year-End Report at 159 (Jan.31, 2018), <https://docquery.fec.gov/pdf/531/201801319091159531/201801319091159531.pdf#navpane> s=0<https://docquery.fec.gov/cgi-bin/fecimg/?201801319091159689> (“Trump Victory 2017 Year-End Rpt.”).

²⁰ *FEC Individual Contributions: Filtered Results*, FEC.gov, https://www.fec.gov/data/receipts/individual-contributions/?contributor_name=+Li+Juan+Cindy+Yang&contributor_name=cindy+yang&contributor_name=li+juan+gong&contributor_name=li+juan+yang&contributor_name=li+yang&contributor_zip=33414&contributor_zip=33418 (last visited June 16, 2022) (showing all of Yang’s reported contributions).

²¹ Miami Herald “Feds Open Investigation into Trump Donor Cindy Yang” Article.

²² Compl.¶ 4, MUR 7614 (citing Nicholas Nehamas, *et al.*, *Massage Parlor Magnate Helped Steer Chinese to Trump NYC Fundraiser*, MIAMI HERALD (March 9, 2019) (Miami Herald “Massage Parlor Magnate Helped Steer Chinese to Trump NYC Fundraiser” Article).

²³ Compl. ¶ 4, MUR 7614 (citing Michelle Ye Hee Lee, *et al.*, *Invitations Offer Wealthy Chinese Access to President Trump at Fundraiser*, WASH. POST (May 25, 2018) https://www.washingtonpost.com/politics/invitations-offer-wealthy-chinese-access-to-president-trump-at-fundraiser/2018/05/25/3bc6a8ae-5e90-11e8-a4a4-c070ef53f315_story.html; Sarah Blaskey, *et al.*, *Cindy Yang Helped Chinese Tech Stars Get \$50K Photos With Trump. Who Paid?*, MIAMI HERALD (Mar. 21, 2019) <https://www.miamiherald.com/latest-news/article227941749.html> (“Miami Herald “Cindy Yang Helped Chinese Tech Stars Get Photo” Article”)). Press accounts describe Li Xiaohua as chairman of Huada International Investment Group and Ryan Xu as a “cryptocurrency guru.” *Id.*

1 Qu, Ren Mulhua, Tong Jingling,²⁴ Jie Yang,²⁵ Wu Hao, Lou Li, Jiang Rul, Shanjie Li, Yun Li,
 2 Huang Yacun, Liang Lu, Lu Zihan, and Zijiang Xuas.²⁶ None of these individuals appear in
 3 reports filed with the Commission as having contributed to Trump Victory in their own names.²⁷
 4 One of the Chinese nationals in attendance, identified as Xianqin Qu, has ties to Yang. Qu is the
 5 Vice President/Director of a charity formed and managed by Yang known as the Women's
 6 Charity Foundation,²⁸ and Qu can be seen at the December fundraiser in the below picture with
 7 Kellyanne Conway — then Senior Counselor to President Trump — published by the *Miami*
 8 *Herald*.²⁹

²⁴ Tong Jingling is a wealthy Chinese national and banker who traveled to space in 2014. *See Wealthy Chinese Travelers Lining Up to Blast Off Into Space*, THE SEATTLE TIMES (Sept. 6, 2014), <https://www.seattletimes.com/nation-world/wealthy-chinese-travelers-lining-up-to-blast-off-into-space/>.

²⁵ Jie Yang is a Chinese national and CEO of Singularity — a public company traded on the NASDAQ. *See Singularity Future Technology: This Nasdaq-Listed Company's CEO Is A Fugitive, On The Run For Allegedly Operating A Massive Ponzi Scheme*, HINDENBURG RESEARCH (May 5, 2022), <https://hindenburesearch.com/singularity/>.

²⁶ Compl. ¶ 5, MUR 7614 (citing Aaron Albright, *et al.*, *Who Has Gained Access to President Trump and Mar-a-Lago Through Cindy Yang?*, MIAMI HERALD (Apr. 8, 2019), <https://www.miamiherald.com/news/nation-world/article228882284.html>).

²⁷ Miami Herald “Cindy Yang Helped Chinese Tech Stars Get Photo” Article.

²⁸ Women's Charity Foundation Articles of Incorporation, DIVISION OF CORPORATIONS - FLORIDA DEPARTMENT OF STATE (Sept. 24, 2021), <https://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=WOMENSCHARITYFOUNDATION%20N150000078471&aggregateId=domnp-n15000007847-412c5068-4fde-48a7-b4be-c0a8e3b73b2c&searchTerm=women%27s%20charity&listNameOrder=WOMENSCHARITYFOUNDATION%20N150000078471>.

²⁹ Caitlin Ostroff, *et al.*, *Spa Operator Brought Head of Chinese Communist Party's Group to Mingle with Trump Aides*, MIAMI HERALD (Mar. 15, 2018), <https://www.miamiherald.com/news/politics-government/article227691559.html>.



The *Miami Herald* also published a picture of Jie Yang, a Chinese national and the CEO of Signularity wearing a blue sweater standing next to RNC chairwoman Ronna McDaniel at the December 2017 fundraiser.³⁰



Cliff Zhonggang Li, the executive director of the National Committee of Asian American Republicans, reportedly told *Mother Jones* that Yang brought 20 to 30 people to this December 2017 fundraiser and that Yang's guests were part of a group of more than 100 Chinese Americans and Chinese nationals who were present at the event.³¹ Li told *Mother Jones* that

³⁰ Miami Herald "Cindy Yang Helped Chinese Tech Stars Get Photo" Article.

³¹ Mother Jones Article.

Yang had made arrangements for some, though not all, of the Chinese executives to attend the event.³² According to *Mother Jones*, Li said:

“I don’t want to see that money somehow get funneled into the political process here,” he remarked. He said that the Chinese American community he works with is composed of politically inexperienced people “with a weaker sense of compliance and also not that good a sense of campaign finance law.” “That caused some weaknesses,” he said, and perhaps “even intentional violations.” Li said that in the wake of the December fundraiser, he had changed procedures at his group to bar people who lack green cards or US citizenship from attending fundraisers. He said he also pushed the group towards grassroots organizing and away from fundraising. Yang and he differed on these matters. “She doesn’t see the need for a more stringent policy,” Li said.³³

After the event, Li dismissed Yang from her position at the National Committee for Asian American Republicans.³⁴ RNC officials confirmed to the *Washington Post* that Chinese nationals attended the December 2, 2017 fundraiser in New York as guests of a U.S. citizen donor.³⁵

On December 12, 2017, 10 days after the December 2, 2017 Trump Victory fundraiser, Yang formed GY US Investments, for the purpose of marketing tourism packages that purportedly promised Chinese businesspeople access to American politicians, including President Trump.³⁶ GY US Investments claimed on its website that clients could take photos

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ Compl. ¶ 4, MUR 7614 (citing Michelle Ye Hee Lee, *et al.*, *Invitations Offer Wealthy Chinese Access to President Trump at Fundraiser*, WASH. POST (May 25, 2018), https://www.washingtonpost.com/politics/invitations-offer-wealthy-chinese-access-to-president-trump-at-fundraiser/2018/05/25/3bc6a8ae-5e90-11e8-a4a4-c070ef53f315_story.html).

³⁶ GY US Articles of Incorporation, DIVISION OF CORPORATIONS - FLORIDA DEPARTMENT OF STATE (Dec. 12, 2017), <https://search.sunbiz.org/Inquiry/CorporationSearch/ConvertTiffToPDF?storagePath=COR%5C2017%5C1212%5C60620706.tif&documentNumber=L17000253608>; see also New York Times Article; Mother Jones Article.

with President Trump, take part in “VIP activities” at Mar-a-Lago, and have dinner at the White House.³⁷ Yang reportedly promoted events on the GY US Investments webpage and on a Chinese language social media platform, WeChat, which were in turn incorporated into tourism packages and promoted to Chinese nationals.³⁸ Yang appears to have used her attendance at various Mar-a-Lago events, including by posting pictures of herself with politicians, to promote GY US Investments and future events.³⁹

Several months after establishing GY US Investments, Yang attended the March 3, 2018 Trump Victory fundraiser, reportedly again accompanied by Chinese national guests.⁴⁰ The *Miami Herald* reviewed pictures of the event on social media and concluded that four Chinese nationals — Lu Kunning, Lu Biao, Yuan Yue, and Zhu Ruining — attended the fundraiser as Yang’s guests.⁴¹ The event, held at Trump’s Mar-a-Lago resort, was billed as an “evening

³⁷ Miami Herald “Massage Parlor Magnate Helped Steer Chinese to Trump NYC Fundraiser” Article; *see also Internet Archive*, GY US Investments, WAYBACK MACHINE, <https://web.archive.org/web/20180827153942/https://gyusinvest.com/>.

³⁸ Sarah Blaskey, *et al.*, *Trump Tourism: How Charlottesville Let Cindy Yang Market Trump’s Mar-a-Lago*, MIAMI HERALD (Apr. 19, 2019), <https://www.miamiherald.com/news/politics-government/article228456974.html> (“Miami Herald “Trump Tourism” Article”).

³⁹ *See* New York Times Article; Mother Jones Article. An archived version of GY US Investment’s webpage also indicates that Yang published photographs of herself at a March 16, 2018 Lincoln Day event. *Internet Archive*, GY US Investments Lincoln Day, WAYBACK MACHINE, https://web.archive.org/web/20190309190130/https://mp.weixin.qq.com/s?biz=MzAxMjYyODEwMQ==&mid=2649462156&idx=1&sn=c30f96df8f2f653973fa9c2914db7402&chksm=83b1cc66b4c645704343f4c4032fcae95c5e7cd6a1ed20547b5130ff5798d2294ad79af0f18e&mpshare=1&scene=1&srcid=0321RAEHGtWtEsWYBzsDy5SN&pass_ticket=pcM8%2FxeMhIZ%2BP%2FxiDnsDCxNPbLiULvkDIJq29779SORTKx6v681RxiU4dmBjNwnU#rd.

⁴⁰ Compl. ¶ 9, MUR 7614 (citing New York Times Article); *see also* Miami Herald “Trump Tourism” Article. Archived versions of the now-defunct webpage for GY US Investments also show Yang’s promotion of this event. *Internet Archive*, GY US Investments, WAYBACK MACHINE <https://web.archive.org/web/20180827153942/https://gyusinvest.com/>.

⁴¹ Compl. ¶ 9, MUR 7614 (citing Aaron Albright, *et al.*, *Who Has Gained Access to President Trump and Mar-a-Lago Through Cindy Yang?*, MIAMI HERALD (Apr. 8, 2019), <https://www.miamiherald.com/news/nation-world/article228882284.html>).

reception with Donald J. Trump.”⁴² As shown in the invitation below, tickets to the event started at \$2,700 per person for attendance at the reception, while a \$25,000 “raise per person” would include attendance to the reception and two tickets to a seated dinner with Trump.⁴³ A “\$50,000 raise per person” would also include a photo with Trump.⁴⁴ The invitation to the event specified that “Funds must be raised in increments not to exceed \$5,400 per person.”⁴⁵



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⁴² Compl. ¶ 7, MUR 7581 (citing New York Times Article).

⁴³ Peter Schorsch, FLAPOL, *Donald Trump Headlining Mar-a-Lago Fundraising in March* (Feb. 5, 2018), <https://floridapolitics.com/archives/255337-donald-trump-headlining-mar-lago-fundraiser-march> (“FlaPol Article”).

⁴⁴ *Id.*

⁴⁵ *Id.*, Compl. ¶ 8, MUR 7581 (citing New York Times Article); Compl. ¶ 9, MUR 7614; *see also* FlaPol Article.

In addition to reportedly bringing at least four Chinese national guests to the March 3, 2018 fundraiser, Yang also achieved the \$50,000 raise per person needed to obtain a photograph of herself with Trump at the event by bundling contributions reported to be from friends and family members.⁴⁶



According to the Complaints, nine of Yang's family members and work associates, who did not appear to possess significant financial means and none of whom had prior histories of making political donations, made the maximum contribution of \$5,400 to the Trump Committee via Trump Victory all within a two-week period.⁴⁷

Specifically, the following individuals with links to Yang made contributions of \$5,400 on the following dates:

⁴⁶ See Compl. ¶ 16, MUR 7581 (citing New York Times Article); *see also* Yang Resp. at 2, MUR 7581 (acknowledging that Yang attended the March 3, 2018 event).

⁴⁷ See Compl. ¶¶ 16-23, MUR 7581; Compl. ¶ 9, MUR 7614.

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Name	Date of Contribution	Amount of Contribution	Relationship to Yang	Prior History of Donations
Bingbing Peranio ⁴⁸	Mar. 5, 2018	\$5,400	A receptionist at one of Yang's day spas. ⁴⁹	None
Katrina Eggertsson ⁵⁰	Mar. 5, 2018	\$5,400	A "facial instructor" at Tokyo Beauty & Massage School, a corporation that Yang formed, and currently run by Yang's father.	None
Elizabeth Maccall ⁵¹	Feb. 25, 2018	\$5,400	An employee at Yang's day spa chain.	None
Yang Yi ⁵²	Mar. 5, 2018	\$5,400	A massage therapist linked to a home belonging to Yang.	None
Haizhen Gong ⁵³	Mar. 5, 2018	\$5,400	Owner of a day spa in Florida.	None
Zubin Gong ⁵⁴	Mar. 5, 2018	\$5,400	Yang's husband.	None
Lin Deng ⁵⁵	Feb. 21, 2018	\$5,400	Listed as an "investor" in GY US Investments.	None
Guiying Zhang ⁵⁶	Feb. 26, 2018	\$5,400	Yang's mother.	None
Fuming Yang ⁵⁷	Feb. 20, 2018	\$5,400	Yang's father.	None
	TOTAL	\$48,600		

⁴⁸ Compl. ¶¶ 12, 21, MUR 7581; Trump Victory 2018 Apr. Quarterly Rpt. at 132; Donald J. Trump for President 2018 Amended April Quarterly Report at 7410 (July 15, 2018), <https://docquery.fec.gov/cgi-bin/fecimg/?201807159115565311> ("Trump Committee 2018 Apr. Quarterly Rpt."); New York Times Article.

⁴⁹ Compl. ¶¶ 12, 21, MUR 7581; New York Times Article. Peranio listed her occupation as Manager of Fufu International, a company owned by Yang. *Id.*

⁵⁰ Compl. ¶ 22, MUR 7581 (citing Trump Victory 2018 Apr. Quarterly Rpt. at 47; Trump Committee 2018 Apr. Quarterly Rpt. at 6028; *see also* Tokyo Beauty & Massage School Articles of Incorporation, DIVISION OF CORPORATIONS - FLORIDA DEPARTMENT OF STATE (May 5, 2011), <https://search.sunbiz.org/Inquiry/CorporationSearch/ConvertTiffToPDF?storagePath=COR%5C2011%5C0517%5C00124852.Tif&documentNumber=L11000053501>).

⁵¹ Trump Victory 2018 Apr. Quarterly Rpt. at 101; *Feds Demand Mar-a-Lago, Trump Campaign Records on Mysterious Donor*, TAMPA BAY TIMES (May 30, 2019), <https://www.tampabay.com/florida-politics/buzz/2019/05/30/feds-demand-mar-a-lago-trump-campaign-records-on-mysterious-donor/> (listing Maccall as an employee of Yang's spa).

⁵² Compl. ¶ 18, MUR 7581; Trump Victory Apr. Quarterly Rpt. at 19; Trump Committee 2018 Apr. Quarterly Rpt. at 8443-8444.

⁵³ Compl. ¶ 23, MUR 7581 (citing Miami Herald "Feds Open Investigation into Trump Donor Cindy Yang" Article); Trump Victory 2018 Apr. Quarterly Rpt. at 63; Trump Committee 2018 Apr. Quarterly Rpt. at 6250.

⁵⁴ Mother Jones Article; Trump Victory 2018 Apr. Quarterly Rpt. at 74; Trump Committee 2018 Apr. Quarterly Rpt. at 6251.

⁵⁵ Trump Victory 2018 Apr. Quarterly Rpt. at 40; Trump Committee 2018 Apr. Quarterly Rpt. at 5927; Miami Herald "Feds Open Investigation into Trump Donor Cindy Yang" Article.

⁵⁶ Trump Victory 2018 Apr. Quarterly Rpt. at 194; Trump Committee 2018 Apr. Quarterly Rpt. at 8478; New York Times Article; Miami Herald "Feds Open Investigation into Trump Donor Cindy Yang" Article.

⁵⁷ Trump Victory 2018 Apr. Quarterly Rpt. at 191; Trump Committee 2018 Apr. Quarterly Rpt. at 8443; Marta Oliver Cravotto, *et al.*, *Federal Prosecutors Demand Cindy Yang Records from Mar-a-Lago, Trump Campaign*, MIAMI HERALD (May 30, 2019), <https://www.miamiherald.com/news/politics-government/article230946518.html>; Miami Herald "Feds Open Investigation into Trump Donor Cindy Yang" Article.

1 At least one of the contributors, Bingbing Peranio, a massage parlor receptionist,
2 reportedly directly linked Yang to her contributions, stating to the press that Yang had come to
3 the massage parlor where she worked for Yang's husband and helped fill out the check toward
4 Trump's campaign.⁵⁸ She reportedly added, "I was working there. I didn't say no."⁵⁹

5 In total, both Complaints allege that at least nine of Yang's family members and work
6 associates, some of them believed to have modest incomes, made contributions of \$5,400, and
7 contend that the contributions were made using the funds of another person.⁶⁰ According to the
8 MUR 7581 Complaint, the nine contributions that Yang's associates made on her behalf to
9 Trump Victory were allocated to the Trump Committee, resulting in Yang making excessive
10 contributions to the Trump Committee by having provided or reimbursed the funds for the
11 contributions to the named contributors.⁶¹

12 The MUR 7614 Complaint also alleges that Yang, as well as others, played a central role
13 in facilitating foreign national attendance at political events by promoting access to Trump as
14 part of tourism packages marketed to foreign executives.⁶² The MUR 7614 Complaint alleges
15 that Yang's activity violated the Act's prohibition on foreign national contributions by
16 facilitating the purchase of tickets to, and attendance at, political fundraising events by foreign

⁵⁸ Compl. ¶ 12, MUR 7581 (citing New York Times Article).

⁵⁹ *Id.*

⁶⁰ Compl. ¶ 10, MUR 7581 (citing New York Times Article); Compl. ¶ 9, MUR 7614 (citing New York Times Article).

⁶¹ Compl. ¶¶ 38-40, MUR 7581.

⁶² Compl. ¶¶ 35, 37, 42, MUR 7614.

1 nationals by providing substantial assistance to the foreign nationals in making contributions
 2 through straw donors.⁶³

3 In Yang's Responses she acknowledges that she attended the March 3, 2018 Trump
 4 Victory Mar-a-Lago fundraiser and obtained a photograph with President Trump, indicating that
 5 over \$50,000 in contributions to the event were associated with Yang.⁶⁴ Yang also states that
 6 "for a short time [she] ran a travel service to the US for Chinese business people, and the only
 7 events at Mar-a-Lago to which she brought her clients were either club events or local charity
 8 events, not political fundraisers," apparently at odds with her reportedly bringing at least four
 9 Chinese national guests to the March 3, 2018 fundraiser at Mar-a-Lago.⁶⁵ Several of the named
 10 contributors identified in the Complaints responded, with unsworn statements stating that they
 11 made their contributions voluntarily but not stating whether those contributions were made using
 12 their own funds or whether they were later reimbursed for their contributions.⁶⁶ Only one
 13 respondent, Xinyue Daniel Lou, specifically stated in his unsworn response that he used his own
 14 money to make his contribution.⁶⁷

⁶³ *Id.* ¶ 35.

⁶⁴ *See* Yang Resp. at 1-2, MUR 7581; Compl. ¶ 31, MUR 7581.

⁶⁵ Yang Resp. at 2, MUR 7614.

⁶⁶ Katrina Eggertsson Resp.; Gong Haizhen Resp. *See* F&LA at 10, MURs 7005 and 7056 (Adam H. Victor, *et al.*) (finding relevant in finding reason to believe that Victor made contributions in the name of another that the "conduits did not swear that they made contributions with their own funds, nor did they expressly deny that Victor or one of his businesses made contributions in their names").

⁶⁷ Xinyue "Daniel" Lou Resp. at 3, MUR 7614.

III. LEGAL ANALYSIS

A. The Commission Should Find Reason to Believe that Yang Made Contributions in the Name of Another and in Excess of the Act's Contribution Limits

The Act provides that a contribution includes “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.”⁶⁸ The Act prohibits a person from making a contribution in the name of another person, knowingly permitting his or her name to be used to effect such a contribution, or knowingly accepting such a contribution.⁶⁹ 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.⁷⁰

The requirement that a contribution be made in the name of its true source promotes Congress's objective of ensuring the complete and accurate disclosure by candidates and committees of the political contributions they receive.⁷¹ Courts therefore have uniformly rejected the assertion that “only the person who actually transmits funds . . . makes the

⁶⁸ 52 U.S.C. § 30101(8)(A).

⁶⁹ *Id.* § 30122.

⁷⁰ 11 C.F.R. § 110.4(b)(2)(i)–(ii).

⁷¹ *United States v. O'Donnell*, 608 F.3d 546, 553 (9th Cir. 2010) (“[T]he congressional purpose behind [Section 30122] — to ensure the *complete and accurate disclosure* of the contributors who finance federal elections — is plain.”) (emphasis added); *Mariani v. United States*, 212 F.3d 761, 775 (3d Cir. 2000) (rejecting constitutional challenge to Section 30122 in light of compelling governmental interest in disclosure).

contribution,”⁷² 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.”⁷³ 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.⁷⁴ 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.⁷⁵ Because the concern of the law is the true source from which a contribution to a candidate or committee originates, we look to the structure of the transaction itself and the arrangement between the parties to determine who, in fact, “made” a given contribution.

The available record supports a reason to believe finding that Yang made contributions in the names of Yang’s family members and work associates to attend the March 3, 2018 Trump Victory fundraiser and obtain a photograph with President Trump.⁷⁶ Yang admits in her

⁷² *United States v. Boender*, 649 F.3d 650, 660 (7th Cir. 2011).

⁷³ *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.”).

⁷⁴ *See Boender*, 649 F.3d at 660 (holding that to determine who made a contribution, “we consider the giver to be the *source* of the gift, not any intermediary who simply conveys the gift from the donor to the donee” (emphasis added)); *O’Donnell*, 608 F.3d at 550; *Goland v. United States*, 903 F.2d 1247, 1251 (9th Cir. 1990) (“The Act prohibits the use of ‘conduits’ to circumvent . . . [the Act’s reporting] restrictions.” (quoting then-Section 441f)).

⁷⁵ *O’Donnell*, 608 F.3d at 555. Moreover, the “key issue . . . is the *source* of the funds” and, therefore, the legal status of the funds when conveyed from a conduit to the ultimate recipient is “irrelevant to a determination of who ‘made’ the contribution for the purposes of [Section 30122].” *United States v. Whittemore*, 776 F.3d 1074, 1080 (9th Cir. 2015) (holding that defendant’s “unconditional gifts” to relatives and employees, along with suggestion they contribute the funds to a specific political committee, violated Section 30122 because the source of the funds remained the individual who provided them to the putative contributors).

⁷⁶ The Act further addresses knowing and willful violations of the law, which occur when one has knowledge that he or she is violating the law. *See* 52 U.S.C. § 30109(a)(5)(B), (d); *FEC v. John Drameši for Congress*

Response that at least nine people in her “orbit” contributed \$5,400, combined with her own contribution of \$5,400, to reach the \$50,000 fundraising amount associated with getting a photograph with President Trump.⁷⁷ None of the identified contributors who contributed in connection with the March 3, 2018 event had contribution histories, some served in subordinate roles at businesses associated with Yang, and all made the maximum contributions despite some having jobs that did not appear to pay enough money to allow for such sizable donations. At least one of the contributors, Bingbing Peranio, a massage parlor receptionist, reportedly directly linked Yang to her contributions, stating that Yang had come to the massage parlor where she worked for Yang’s husband and helped fill out the check toward Trump’s campaign.⁷⁸ She reportedly said “I can’t say she was pushing me or not pushing me, but I worked there then...I was working there. I didn’t say no.”⁷⁹ When asked whether Yang had reimbursed Peranio, Peranio responded “I do not want to answer that question.”⁸⁰

Yang’s alleged conduit reimbursement scheme has many of the same hallmarks of prior straw donor matters in which the Commission found reason to believe a violation had occurred. These hallmarks include the use of family members and subordinates,⁸¹ clustered donations of

Committee, 640 F. Supp. 985, 987 (D.N.J. 1986). The available record is insufficient to determine if Yang or any other Respondent acted with such knowledge, so we recommend that the Commission not make any knowing and willful findings at this time.

⁷⁷ See Yang Resp. ¶ 2, MUR 7581 (“The allegations within paragraph 31,32,39 [of the MUR 7581 Complaint] are admitted”).

⁷⁸ Compl. ¶ 12, MUR 7581 (citing New York Times Article).

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ See Factual & Legal Analysis (“F&LA”) at 5, MUR 7102 (Keefe, Keefe, and Unsell, P.C.); *see also* F&LA at 9-10, MUR 7005, 7056 (Adam Victor) (regarding use of subordinate employees as conduits, noting scant contribution histories and weak denials); F&LA at 1-2, MUR 6465 (Fiesta Bowl) (regarding use of subordinate employees and spouses as conduits); F&LA, MUR 6234 (Cenac) (same); F&LA at 6, MUR 7472 (Barletta) (same).

1 the maximum amount,⁸² and contributions from subordinate employees with occupations
 2 suggesting that a significant financial burden would be associated with a contribution of the
 3 maximum allowable amount.⁸³ Additionally, the alleged conduits are not reported as having
 4 made any federal contributions previously and either did not respond to the Complaint, or failed
 5 to address in their responses whether the individual's contribution was made with their own
 6 money or they had been reimbursed.⁸⁴ In light of the available information, we recommend that
 7 the Commission find reason to believe finding that Yang made contributions in the name of
 8 others in violation of 52 U.S.C. § 30122 as to the contributions related to the March 3, 2018
 9 fundraiser.⁸⁵

10 Additionally, because the available information does not indicate that any of the apparent
 11 conduits were actively involved in the scheme beyond allowing their names to be used, we
 12 recommend that the Commission dismiss the allegations regarding the conduit Respondents.⁸⁶

13 The Act prohibits any person from making, and any candidate or committee from
 14 knowingly accepting, an excessive contribution.⁸⁷ For 2017 and 2018, contributions by persons

⁸² See F&LA at 7, MUR 7102 (Keefe, Keefe, and Unsell, P.C.); *see also*, F&LA at 3-4, MUR 5305 (Rhodes Design and Development); F&LA, MUR 5818 (Jack Beam).

⁸³ F&LA at 2, MUR 5305 (Rhodes Design and Development); F&LA at 17, MUR 4818 (Walt Roberts).

⁸⁴ Katrina Eggertsson Resp.; Gong Haizhen Resp.

⁸⁵ See F&LA at 8, MUR 7102 (Keefe, Keefe, and Unsell, P.C.); F&LA at 2-3, MURs 5366/5758 (O'Donnell & Schaeffer)

⁸⁶ In past matters, the Commission has not pursued subordinate employee conduits in reimbursed contribution schemes absent indications that the conduits themselves were actively involved in the scheme, coerced or encouraged others to participate in the scheme, or were public officials. See F&LA at 9, MUR 7878 (Eric Barbanel); F&LA at 9, MUR 6281 (Glenn Marshall).

⁸⁷ 52 U.S.C. §§ 30116(a), (f); 11 C.F.R. §§ 110.1(b)(1), 110.9.

other than multicandidate committees to any candidate and his or her authorized political committees were limited to \$2,700 per election.⁸⁸

As a joint fundraising committee, Trump Victory was structured to allocate the first \$5,400 in contributions to the Trump Committee with additional funds subsequently allocated to the RNC, the RNC's national party accounts, and state party committee accounts.⁸⁹ According to that allocation structure, the nine \$5,400 contributions that each of Yang's associates allegedly made on her behalf to Trump Victory were allocated to the Trump Committee.⁹⁰ Because Yang already made the maximum contribution to the Trump Committee for this election cycle,⁹¹ and in accordance with the foregoing recommendation that the Commission find reason to believe that Yang's associates made contributions with funds provided by or reimbursed by Yang, these nine \$5,400 contributions appear to have resulted in Yang making \$48,600 in excessive contributions to the Trump Committee.⁹² Accordingly, we also recommend the Commission find reason to believe that Yang made excessive contributions to the Trump Committee in violation of 52 U.S.C. § 30116(a)(1).⁹³

⁸⁸ 52 U.S.C. § 30116(a)(1)(A); 11 C.F.R. § 110.1(b)(1)(i); *Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold*, [82 Fed. Reg. 10904](#) (Feb. 16, 2017).

⁸⁹ See, FEC, Contribution Limits for 2019-2020 Election Cycle, <https://www.fec.gov/help-candidates-and-committees/candidate-taking-receipts/contribution-limits/> (last visited June 16, 2022) (detailing three national party committee accounts for (i), the presidential nominating convention; (ii) election recounts and contests and other legal proceedings; and (iii) national party headquarters buildings); see also Trump Victory, Donate, VICTORY FOR TRUMP, <https://secure.victoryfortrump.com/donate> (last visited June 16, 2022) (detailing allocation formula with updated contribution limits for 2021-22 election cycle.)).

⁹⁰ See *supra* notes 48-57.

⁹¹ See *supra* notes 19-20.

⁹² Compl. ¶¶ 38-40, MUR 7581.

⁹³ See F&LA at 1, MUR 7958 (The Watkins Family, *et al.*) (finding reason to believe that Steven C. Watkins Sr. violated 52 U.S.C. §§ 30116(a) and 30122 by making excessive contributions to the committee in the names of other persons); F&LA at 10, MURs 7005 and 7056 (Adam H. Victor, *et al.*) (same).

B. The Commission Should Find Reason to Believe that Yang Provided Substantial Assistance in the Making of Foreign National Contributions

The Act and Commission regulations prohibit any “foreign national” from directly or indirectly making a contribution or donation of money or other thing of value, or an expenditure, independent expenditure, or disbursement, in connection with a federal, state, or local election.⁹⁴ The Act prohibits persons from soliciting, accepting, or receiving a contribution or donation from a foreign national.⁹⁵ Commission regulations state that persons may not knowingly solicit, accept, or receive such a contribution or donation.⁹⁶ The Act’s definition of “foreign national” includes an individual who is not a citizen or national of the United States and who is not lawfully admitted for permanent residence.⁹⁷ Commission regulations define “knowingly” as (i) having actual knowledge that funds originated from a foreign national, (ii) being aware of facts that would lead a reasonable person to conclude that there is a substantial probability that the source of the funds is a foreign national, or (iii) being aware of facts that would lead a reasonable person to inquire whether the source of the funds is a foreign national but failed to conduct a reasonable inquiry.⁹⁸ Provided that a foreign national does not make a contribution of

⁹⁴ 52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.26(b)-(c), (e)-(f). Courts have consistently upheld the provisions of the Act prohibiting foreign national contributions on the ground that the government has a clear, compelling interest in limiting the influence of foreigners over the activities and processes that are integral to democratic self-government, which include making political contributions and express-advocacy expenditures. *See Bluman v. FEC*, 800 F. Supp. 2d 281, 288-89 (D.D.C. 2011); *aff’d* 132 S. Ct. 1087 (2012); *United States v. Singh*, 924 F.3d 1030, 1040-44 (9th Cir. 2019).

⁹⁵ 52 U.S.C. § 30121(a)(2).

⁹⁶ 11 C.F.R. § 110.20(g).

⁹⁷ 52 U.S.C. § 30121(b).

⁹⁸ *Id.* § 110.20(a)(4); *see also* Contribution Limitations and Prohibitions, 67 Fed. Reg. 69928, 69941 (Nov. 19, 2002) (“The formal rules at 11 C.F.R. § 110.20(a)(4) . . . contain three standards of knowledge [which] focus on the source of the funds at issue.”).

personal funds to attend a fundraising event, the Act does not prohibit a foreign national from attending such an event.⁹⁹

It is unlawful to knowingly provide substantial assistance in the solicitation, making, acceptance, or receipt of a contribution or donation by a foreign national.¹⁰⁰ The Commission has explained that substantial assistance “means active involvement in the solicitation, making, receipt or acceptance of a foreign national contribution or donation with an intent to facilitate successful completion of the transaction.”¹⁰¹ Moreover, substantial assistance “covers but is not limited to, those persons who act as conduits or intermediaries for foreign national contributions or donations.”¹⁰² In the context of foreign national attendance at fundraising events, the Commission in MUR 4530, *et al.* (DNC, *et al.*) found reason to believe as to and conciliated with a number of individuals who made and facilitated the making of foreign national contributions and contributions in the name of another in connection with attendance at fundraising events.¹⁰³ Subsequent to these conciliations and after Congress enacted the Bipartisan Campaign Reform Act of 2002,¹⁰⁴ the Commission issued further guidance reaffirming that it is illegal for U.S.

⁹⁹ See 52 U.S.C. § 30121(a)(1)(B); Advisory Opinion 2004-26 at 2 (Weller) (finding that a foreign national may “attend fundraising and campaign events ... provided she does not make a contribution of her personal funds in order to attend.”).

¹⁰⁰ 11 C.F.R. § 110.20(h)(1).

¹⁰¹ Explanation & Justification, *Assisting Foreign National Contributions or Donations*, 67 Fed. Reg. 69,928, 69,945 (Nov. 19, 2002) (“Foreign National Contribution E&J”).

¹⁰² *Id.* at 69,946.

¹⁰³ See Conciliation Agreement with Yah Lin “Charlie” Trie at 2-3, MUR 4530 (DNC, *et al.*) (June 21, 2001) (detailing a reimbursement scheme to secure a foreign national’s attendance at a fundraiser); Conciliation Agreement with John Huang, MUR 4530 (DNC, *et al.*) (Aug. 23, 2001) (detailing reimbursement schemes used by a fundraiser who “bundled” foreign national donations).

¹⁰⁴ Public Law 107-155, 116 Stat. 81 (Mar. 27, 2002).

citizens to serve as conduits or render substantial assistance in the making of foreign national contributions.¹⁰⁵

Yang acknowledges in her Response that she “ran a travel service to the US for Chinese business people.”¹⁰⁶ The website for Yang’s travel service, GY US Investments, promoted the March 3, 2018 fundraiser at Mar-a-Lago as well as a March 14, 2018 Trump Victory Fundraising Dinner in Dallas, Texas, a May 4, 2018 Ohio Fundraising Dinner, and a May 18, 2018 Broward County Republican Lincoln Day Fundraising Dinner.¹⁰⁷ The GY US Investments website further specified services GY US Investments could provide:

GY US INVESTMENTS carefully plans business talks with the world’s top companies to meet the business needs of customers, and tailors various high-end projects of business investment exhibitions for customers. Our team has successfully planned various high-end business investment plans and international mainstream public relations planning activities for our clients, including:

- * Presidential Roundtable and Presidential Dinner, photo with President
- * Various VIP activities at Trump’s Mar-a-Lago, and the opportunity to interact with the president, the Secretary of Commerce and other dignitaries
- * White House and Capitol Hill Dinner
- * Charity Activities - First Lady Charity Ball, President Trump Meeting.¹⁰⁸

The GY US website listed Yang as the founder and CEO of GY US and the GY US Articles of Incorporation filed with the State of Florida list Yang as the managing member and

¹⁰⁵ Foreign National Contribution E&J at 69,945.

¹⁰⁶ Yang Resp. at 3, MUR 7614.

¹⁰⁷ *Internet Archive*, GY US Investments, WAYBACK MACHINE <https://web.archive.org/web/20180827153942/https://gyusinvest.com> (last visited June 16, 2022); *see also* Broward County Republican Party Lincoln Day Dinner, ASIAN.GOP, http://www.asian.gop/events/broward_county_republican_party_lincoln_day_dinner (last visited June 16, 2022)

¹⁰⁸ *Internet Archive*, GY US Investments, WAYBACK MACHINE <https://web.archive.org/web/20180827153942/https://gyusinvest.com/> (last visited June 16, 2022).

resident agent.¹⁰⁹ The phone number listed on the GY US website is the cell phone number also listed on the website for Yang's charity, Women's Charity Foundation, Inc.¹¹⁰ Yang admits in her Response that she brought foreign clients to events at Mar-a-Lago as part of her tourism business.¹¹¹ Although Yang's Response asserts that she only brought foreign clients to charity events, not political fundraisers,¹¹² the available record, which includes images of foreign nationals at political fundraisers as apparent guests of Yang's, strongly belies this assertion.¹¹³

The available record shows that Yang met the "raise" contribution amounts required to attend two Trump Victory fundraisers, the December 2, 2017 event and the March 3, 2018 event, and brought Chinese national guests to both fundraisers.¹¹⁴ Yang made \$23,500 in contributions in the weeks directly preceding the December 2, 2017 fundraiser, while the largest reported contribution Yang had ever made prior to December 2017 was for \$640.¹¹⁵ Considering the \$1,000 cost for tickets, the \$23,500 in contributions would likely have enabled Yang to bring 22 guests to the event. Consistent with this understanding, Li, the executive director of the National Committee for Asian American Republicans, stated in a press account that Yang brought 20-30

¹⁰⁹ *Id.*; see also GY US Articles of Incorporation, DIVISION OF CORPORATIONS - FLORIDA DEPARTMENT OF STATE (Dec. 12, 2017), <https://search.sunbiz.org/Inquiry/CorporationSearch/ConvertTiffToPDF?storagePath=COR%5C2017%5C1212%5C60620706.tif&documentNumber=L17000253608>

¹¹⁰ Compare GY US Investments, WAYBACK MACHINE <https://web.archive.org/web/20180827153942/https://gyusinvest.com/> with Archived Screenshot of Women's Charity Foundation showing the same phone number (available in VBM).

¹¹¹ Yang Resp. ¶¶ 4, 6, MUR 7614.

¹¹² *Id.*

¹¹³ Compare Yang Resp. at 1-2, MUR 7614 (Aug. 5, 2019) with F&LA at 2-3, MUR 6946 (DNC, *et al.*) (finding no reason to believe where responses credibly described who paid for a foreign national's attendance at a campaign event as well as the lack of reimbursement).

¹¹⁴ See *supra* pages 7-10, 13.

¹¹⁵ See *supra* note 19.

1 guests to the December 2017 fundraiser — all of whom were part of a group of Chinese
 2 businesspeople and Chinese foreign nationals.¹¹⁶ As discussed earlier, press reports show
 3 pictures of Chinese nationals at the events, and an RNC official also confirmed to the
 4 *Washington Post* that Chinese nationals were present.¹¹⁷

5 Yang admits in her Response that she attended a Trump Victory evening reception in
 6 March 2018 at Mar-a-Lago resort, obtained a photograph of herself with President Trump, and
 7 that the aggregate contribution amount associated with the dinner and a photo was \$50,000.¹¹⁸
 8 The *Miami Herald* identified four Chinese nationals by name who attended the Mar-a-Lago
 9 event as Yang's guests.¹¹⁹ Yang's GY US website promoted the event and displayed pictures of
 10 Yang and Chinese nationals at the event.¹²⁰

11 A stated objective of Yang's business was to provide foreign businesspersons access to
 12 Trump events, and it appears that the concept of the business was that the individuals would have
 13 paid Yang or her associates for attendance at events that required contributions to attend.¹²¹

¹¹⁶ Compl. ¶¶ 5-6, MUR 7614 (citing Miami Herald "Massage Parlor Magnate Helped Steer Chinese to Trump NYC Fundraiser" Article).

¹¹⁷ Mother Jones Article; Compl. ¶ 4, MUR 7614 (citing Michelle Ye Hee Lee, *et al.*, *Invitations Offer Wealthy Chinese Access to President Trump at Fundraiser*, WASH. POST (May 25, 2018) https://www.washingtonpost.com/politics/invitations-offer-wealthy-chinese-access-to-president-trump-at-fundraiser/2018/05/25/3bc6a8ae-5e90-11e8-a4a4-c070ef53f315_story.html); *see also supra* page 9.

¹¹⁸ *See* Yang Resp. ¶ 2, MUR 7581 ("The allegations within paragraph 31,32,39 [of the MUR 7581 Complaint] are admitted").

¹¹⁹ Compl. ¶ 9, MUR 7614 (citing Aaron Albright, *et al.*, *Who Has Gained Access to President Trump and Mar-a-Lago Through Cindy Yang?*, MIAMI HERALD (Apr. 8, 2019), <https://www.miamiherald.com/news/nation-world/article228882284.html>).

¹²⁰ *Internet Archive*, GY US Investments, WAYBACK MACHINE <https://web.archive.org/web/20180827153942/https://gyusinvest.com/>.

¹²¹ GY US Articles of Incorporation, DIVISION OF CORPORATIONS - FLORIDA DEPARTMENT OF STATE (Dec. 12, 2017), <https://search.sunbiz.org/Inquiry/CorporationSearch/ConvertTiffToPDF?storagePath=COR%5C2017%5C1212%5C60620706.tif&documentNumber=L17000253608>; *see also* New York Times Article; *see also* Mother Jones Article.

While a United States citizen or permanent resident, like Yang, is permitted to acquire tickets for foreign national guests to attend campaign fundraiser events, the person must not be compensated or reimbursed for those tickets by the foreign national.¹²² Here, the available information indicates that Yang was being compensated directly and through her tourism company, GY US, for those tickets by foreign nationals and using those funds to offset attendance costs by making contributions. Accordingly, we recommend that the Commission find reason to believe Yang's actions constituted providing substantial assistance in the making of foreign national contributions.¹²³

C. The Commission Should Dismiss the Allegations as to the Other Respondents

In addition to the named conduits, discussed above, the MUR 7614 Complaint alleges that numerous other individuals either affiliated with Yang or involved in activities similar to Yang's violated the Act's prohibitions on foreign national contributions. Specifically, the MUR 7614 Complaint alleges that Li Xiaohua, Ryan Xu, and other unknown foreign nationals were photographed with President Trump, suggesting that they directly or indirectly made foreign national contributions in violation of 52 U.S.C. § 30121(a)(1).¹²⁴ The MUR 7614 Complaint also alleges that Xinyue "Daniel" Lou, Sun Changchun, Margaret Yang, Jiushi Yao, Ma Jin, and unknown individuals promoted attendance at political fundraising events either along with Yang or through business endeavors similar to Yang's, which, as discussed above, appears to have

¹²² See, e.g., F&LA at 4, MUR 6946 (DNC, *et al.*) (citing Advisory Opinion 2004-26 (Weller) (finding that a foreign national may "attend fundraising and campaign events . . . provided she does not make a contribution of her personal funds in order to attend"))).

¹²³ The available information does not appear to support a finding that Yang directly solicited foreign national contributions because the information available at present indicates that she would "re-package" events to make them appear to be social or networking events with politicians and not necessarily political fundraisers. See 52 U.S.C. § 30121(a)(2); 11 C.F.R. §§ 110.20(g), 300.2(m).

¹²⁴ Compl. ¶¶ 41-43, MUR 7614.

1 resulted in the provision of substantial assistance to foreign nationals in making prohibited
 2 contributions in violation of 11 C.F.R. § 110.20(h)(1).¹²⁵ Finally, the MUR 7614 Complaint
 3 alleges that Li Jing, Jon Deng, and Hui Liu violated the straw donor ban contained in 52 U.S.C.
 4 § 30122 by making contributions on behalf of foreign nationals.¹²⁶ Although we could
 5 investigate these allegations, because the factual record regarding them is not as developed as the
 6 record involving Yang and in light of the statute of limitations circumstances relating to the
 7 events in 2017 and 2018, as well as the potential difficulties in further developing the record due
 8 to the presence of foreign nationals, we recommend the Commission exercise its prosecutorial
 9 discretion under *Heckler v. Chaney*,¹²⁷ and dismiss these allegations. Finally, because the
 10 available information does not indicate the knowing receipt of contributions in the name of
 11 another or foreign national contributions by the recipient committees, we recommend that the
 12 Commission dismiss the allegations that Trump Victory, the Republican National Committee,
 13 Make America Great Again PAC f/k/a Donald J. Trump for President, Inc., the Republican Party
 14 of Palm Beach County and the 45th Presidential Inaugural Committee accepted foreign national
 15 contributions and donations.¹²⁸

¹²⁵ *Id.* ¶¶ 29-35.

¹²⁶ *Id.* ¶¶ 36-40.

¹²⁷ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

¹²⁸ See 11 C.F.R. §§ 103.3(b) (treasurer responsibility to review all contributions for evidence of illegality); 110.20(a)(4) (definition of knowing receipt of foreign national contributions); 110.20(g) (prohibition on knowing receipt of contributions). In addition, the MUR 7581 Complaint alleges that Yang, by violating the Act's contribution limits and prohibitions, caused Trump Victory, Donald J. Trump for President, Inc., and/or the

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Republican National Committee to falsely identify its contributors in violation of the Act's reporting requirements. Compl. ¶ 42, MUR 7581. To the extent this allegation is distinct from a claim of knowing receipt, it appears to be more in the province of 18 U.S.C. § 1001 than any provision of the Act and thus not under the Commission's jurisdiction. Accordingly, we do not make a recommendation as to it.

V. RECOMMENDATIONS

1. Find reason to believe that Li Juan “Cindy” Gong f/k/a Li Juan “Cindy” Yang violated 52 U.S.C. § 30122 by making contributions in the name of another;
2. Find reason to believe that Li Juan “Cindy” Gong f/k/a Li Juan “Cindy” Yang violated 52 U.S.C. § 30116(a)(1) by making excessive contributions;
3. Find reason to believe that Li Juan “Cindy” Gong f/k/a Li Juan “Cindy” Yang violated 52 U.S.C. § 30121(a) and 11 C.F.R. § 110.20(h)(1) by providing substantial assistance in the making of foreign national contributions;
4. Dismiss the allegations that, Li Jing, Jon Deng, Hui Liu, and Unknown Respondents violated 52 U.S.C. § 30122 by making contributions in the name of another;
5. Dismiss the allegations that Xinyue “Daniel” Lou, Sun Changchun, Jingzhu “Margaret” Yang, Jiusi Yao, Ma Jin, Li Jing, and Unknown Respondents violated 52 U.S.C. § 30121(a) and 11 C.F.R. § 110.20(h)(1) by providing substantial assistance to foreign nationals making prohibited contributions;
6. Dismiss the allegations that Ryan Xu, and Li Xiaohua, and Unknown Respondents violated 52 U.S.C. § 30121 by making foreign national contributions;
7. Close the file as to Xinyue “Daniel” Lou, Sun Changchun, Jingzhu “Margaret” Yang, Jiusi Yao, Ma Jin, Li Jing, Jon Deng, Hui Liu, Ryan Xu, Li Xiaohua and Unknown Respondents;

MURs 7581 and 7614 (Cindy Gong f/k/a Cindy Yang, *et al.*)

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- 1 8. Dismiss the allegation that Trump Victory and Bradley T. Crate in his official
2 capacity as treasurer, the Republican National Committee and Ronald C. Kaufman in
3 his official capacity as treasurer, Make America Great Again PAC f/k/a Donald J.
4 Trump for President, Inc. and Bradley T. Crate in his official capacity as treasurer, the
5 Republican Party of Palm Beach County and Jane C. Pike in her official capacity as
6 treasurer violated 52 U.S.C. § 30121 by accepting foreign national contributions and
7 close the file as to these respondents;
- 8 9. Dismiss the allegation that the 45th Presidential Inaugural Committee violated
9 11 C.F.R § 110.20(j) by accepting foreign national donations and close the file as to
10 this respondent;
- 11 10. Dismiss the allegations that Bingbing Peranio, Katrina Eggertsson, Gong Haizhen and
12 Unknown Respondents violated 52 U.S.C. § 30122 by permitting their names to be
13 used to effect contributions in the name of another and close the file as to these
14 respondents;
- 15 11. Approve the attached Factual and Legal Analyses;
- 16 12. Enter into conciliation with Li Juan "Cindy" Gong f/k/a Li Juan "Cindy" Yang prior
17 to a finding of probable cause;
- 18 13. Approve the attached conciliation agreement for Li Juan "Cindy" Gong f/k/a Li Juan
19 "Cindy" Yang; and
- 20 14. Approve the appropriate letters.

Lisa J. Stevenson
Acting General Counsel

June 28, 2022

Date

Charles Kitcher
Charles Kitcher
Associate General Counsel
for Enforcement

Mark Allen
Mark Allen
Assistant General Counsel

Richard L. Weiss
Richard L. Weiss
Attorney

Attachments

1. Factual and Legal Analysis for Li Juan "Cindy" Gong, f/k/a Li Juan "Cindy" Yang
3. Factual and Legal Analysis for Bingbing Peranio
4. Factual and Legal Analysis for Gong Haizhen
5. Factual and Legal Analysis for Hui Liu
6. Factual and Legal Analysis for Jingzhu "Margaret" Yang
7. Factual and Legal Analysis for Jiusi Yao
8. Factual and Legal Analysis for Jon Deng
9. Factual and Legal Analysis for Katrina Eggertsson
10. Factual and Legal Analysis for Li Jing
11. Factual and Legal Analysis for Li Xiaohua;
12. Factual and Legal Analysis for Ma Jin
13. Factual and Legal Analysis for Ryan Xu
14. Factual and Legal Analysis for Sun Changchun
15. Factual and Legal Analysis for Xinyue "Daniel" Lou
16. Factual and Legal Analysis for the 45th Presidential Inaugural Committee

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- 1 17. Factual and Legal Analysis for Make America Great Again PAC f/k/a Donald J.
- 2 Trump for President, Inc. and Bradley T. Crate in his official capacity as treasurer
- 3 18. Factual and Legal Analysis for the Republican National Committee and Ronald C.
- 4 Kaufman in his official capacity as treasurer
- 5 19. Factual and Legal Analysis for the Republican Party of Palm Beach County and Jane
- 6 C. Pike in her official capacity as treasurer
- 7 20. Factual and Legal Analysis for Trump Victory and Bradley T. Crate in his official
- 8 capacity as treasurer

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Li Juan “Cindy” Gong, MURs 7581 and 7614
f/k/a Li Juan “Cindy” Yang

I. INTRODUCTION

The Complaints in these matters allege that Li Juan “Cindy” Gong, formerly known as Li Juan “Cindy” Yang (“Yang”), engaged in multiple schemes to funnel excessive contributions of her own funds and other individuals’ foreign national contributions to several committees in violation of the Federal Election Campaign Act of 1971, as amended (the “Act”), and Commission regulations. Specifically, the Complaints allege that Yang made contributions in the names of several family members and business associates and used foreign national funds to make contributions to Make America Great Again PAC f/k/a Donald J. Trump for President, Inc. and Bradley T. Crate in his official capacity as treasurer (the “Trump Committee”) and to Trump Victory and Bradley T. Crate in his official capacity as treasurer (“Trump Victory”), a joint fundraising committee. According to the MUR 7581 Complaint, the contributions were in excess of the limitations of the Act and primarily made in order to enable attendance and a photo opportunity with President Trump at a March 3, 2018 Trump Victory fundraising event held in Palm Beach, Florida.¹ The MUR 7614 Complaint alleges that the contributions were primarily made in order to enable Yang’s and foreign nationals’ attendance at the March 3, 2018 event, as well as an earlier December 2, 2017 Trump Victory fundraising event in New York City.²

¹ Compl. ¶¶ 7-12, MUR 7581 (Mar. 18, 2019).

² Compl. ¶¶ 4-6, MUR 7614 (May 22, 2019).

MURs 7581 and 7614 (Li Juan “Cindy” Gong, f/k/a Li Juan “Cindy” Yang)
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1 The MUR 7614 Complaint alleges that the contributions in connection with the
2 December 2, 2017 and March 3, 2018 events in particular, but all of the events Yang advertised,
3 were facilitated by Yang, along with several other individuals, who had formed political-tourism
4 companies that promised foreign nationals access to President Trump at political fundraisers that
5 required contributions to the Trump Committee, Trump Victory, the Republican National
6 Committee and Ronald C. Kaufman in his official capacity as treasurer (the “RNC”), the 45th
7 Presidential Inaugural Committee, or the Republican Party of Palm Beach County and Jane C.
8 Pike in her official capacity as treasurer,³ in violation of the Act’s prohibitions on soliciting or
9 providing substantial assistance in the making of foreign national contributions

10 Yang responded to both Complaints denying the allegations.⁴ Based on the available
11 information in the record, the Commission finds reason to believe that Yang made contributions
12 in the names of her family members and work associates in violation of 52 U.S.C. § 30122, and
13 in violation of 52 U.S.C. § 30116(a)(1) by making contributions in excess of the Act’s individual
14 contribution limits. Additionally, Yang appears to have provided substantial assistance in the
15 making of prohibited foreign national contributions so that foreign nationals could attend
16 political events through her tourism packages. Accordingly, the Commission finds reason to
17 believe that Yang violated 52 U.S.C. § 30121 and 11 C.F.R. § 110.20(h)(1).

³ *See* Republican Party of Palm Beach County, Statement of Organization (July 11, 2019),
<https://docquery.fec.gov/pdf/870/201907110300282870/201907110300282870.pdf>.

⁴ *See* Yang Resp. at 1-2, MUR 7581 (May 31, 2019); Yang Resp. at 1-2, MUR 7614 (Aug. 5, 2019).

MURs 7581 and 7614 (Li Juan “Cindy” Gong, f/k/a Li Juan “Cindy” Yang)
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II. FACTUAL BACKGROUND

Yang is reportedly a Florida businesswoman who, along with members of her family, formed, owned, and operated a number of day spas in Florida.⁵ Starting in 2015, Yang began fundraising on behalf of the Republican Party, reportedly working closely with “Cliff” Zhonggang Li, the executive director of the National Committee of Asian American Republicans on her fundraising activities.⁶ Li has reportedly stated that he had acted as a political mentor to Yang, introduced her to conservative-leaning Chinese Americans in Florida, and worked closely with her from 2015-2018.⁷ After the 2016 election, Yang began marketing tourism packages that purportedly promised Chinese businesspeople access to American politicians and American political events.⁸

On December 2, 2017, Trump Victory hosted a fundraiser at Cipriani restaurant in New York City to which tickets cost \$1,000 for general admission, “VIP” tickets cost \$2,700, and posing for a photograph with President Trump at the event was available for contributors who donated \$50,000 to Trump Victory.⁹ In the two weeks preceding the event, Yang made three

⁵ Compl. ¶ 9, MUR 7581 (citing Frances Robles, Michael Forsythe & Alexandra Stevenson, *She Extols Trump, Guns and the Chinese Communist Party Line*, N.Y. TIMES (Mar. 16, 2019), <https://www.nytimes.com/2019/03/16/us/cindy-yang-trump-donations.html> (“New York Times Article”)).

⁶ Dan Friedman, *Head of Asian GOP Group Says He “Wouldn’t Rule Out” Illegal Foreign Donations to Trump*, MOTHER JONES (Mar. 15, 2019), <https://www.motherjones.com/politics/2019/03/head-of-asian-gop-group-says-he-wouldnt-rule-out-illegal-foreign-donations-to-trump/> (“Mother Jones Article”) (cited in Compl. ¶ 6, MUR 7614 (May 22, 2019)). The National Committee of Asian American Republicans was purportedly formed by Li to “raise the awareness in Asian Communities about the importance of participating in the political process.” National Committee of Asian American Republicans, Mission, ASIAN.GOP, <http://www.asian.gop/mission> (last visited June 16, 2022).

⁷ Mother Jones Article.

⁸ Jay Weaver, *et al.*, *Feds Open Foreign-Money Investigation into Trump Donor Cindy Yang*, MIAMI HERALD (May 12, 2019), <https://www.miamiherald.com/news/politics-government/article230217729.html> (“Miami Herald “Feds Open Investigation into Trump Donor Cindy Yang” Article”).

⁹ Compl. ¶ 4, MUR 7614. Other press reports have indicated that admission to the event ranged from \$2,700-\$10,000. See, e.g., Chas Danner, *Everything to Know about the Spa Founder Selling Access to Trump*, N.Y.

MURs 7581 and 7614 (Li Juan “Cindy” Gong, f/k/a Li Juan “Cindy” Yang)
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contributions to Trump Victory totaling \$23,500.¹⁰ Prior to November 2017, the largest federal contribution Yang had made was for \$640 to the National Committee of Asian American Republicans.¹¹

Yang was reported to have promoted the December 2, 2017 Trump Victory fundraiser, along with at least eight other Trump-related events between late 2017 and 2019, on Chinese language social media.¹² Yang reportedly arranged for a large group of businesspeople from China to attend the December 2, 2017 event.¹³ According to press accounts, multiple Chinese nationals including Respondents Li Xiaohua and Ryan Xu posed for pictures with President Trump at that fundraiser, a privilege reserved for contributors who gave \$50,000.¹⁴ The *Miami Herald* identified 13 Chinese nationals by name who attended the fundraiser with Yang: Xianqin

MAGAZINE (Mar. 10, 2019), <https://nymag.com/intelligencer/2019/03/what-we-know-about-the-spa-owner-cindy-yang-selling-access-to-trump.html>.

¹⁰ On November 21, 2017, Yang made an \$18,000 contribution and on November 27, 2017, Yang made additional contributions of \$2,500 and \$3,000 to Trump Victory. Trump Victory 2017 Year-End Report at 159 (Jan.31, 2018), <https://docquery.fec.gov/pdf/531/201801319091159531/201801319091159531.pdf#navpane=s=0https://docquery.fec.gov/cgi-bin/fecimg/?201801319091159689> (“Trump Victory 2017 Year-End Rpt.”).

¹¹ *FEC Individual Contributions: Filtered Results*, FEC.gov, https://www.fec.gov/data/receipts/individual-contributions/?contributor_name=+Li+Juan+Cindy+Yang&contributor_name=cindy+yang&contributor_name=li+juan+gong&contributor_name=li+juan+yang&contributor_name=li+yang&contributor_zip=33414&contributor_zip=33418 (last visited June 16, 2022) (showing all of Yang’s reported contributions).

¹² Miami Herald “Feds Open Investigation into Trump Donor Cindy Yang” Article.

¹³ Compl. ¶ 4, MUR 7614 (citing Nicholas Nehamas, *et al.*, *Massage Parlor Magnate Helped Steer Chinese to Trump NYC Fundraiser*, MIAMI HERALD (March 9, 2019) (Miami Herald “Massage Parlor Magnate Helped Steer Chinese to Trump NYC Fundraiser” Article).

¹⁴ Compl. ¶ 4, MUR 7614 (citing Michelle Ye Hee Lee, *et al.*, *Invitations Offer Wealthy Chinese Access to President Trump at Fundraiser*, WASH. POST (May 25, 2018) https://www.washingtonpost.com/politics/invitations-offer-wealthy-chinese-access-to-president-trump-at-fundraiser/2018/05/25/3bc6a8ae-5e90-11e8-a4a4-c070ef53f315_story.html; Sarah Blaskey, *et al.*, *Cindy Yang Helped Chinese Tech Stars Get \$50K Photos With Trump. Who Paid?*, MIAMI HERALD (Mar. 21, 2019) <https://www.miamiherald.com/latest-news/article227941749.html> (“Miami Herald “Cindy Yang Helped Chinese Tech Stars Get Photo” Article”)). Press accounts describe Li Xiaohua as chairman of Huada International Investment Group and Ryan Xu as a “cryptocurrency guru.” *Id.*

MURs 7581 and 7614 (Li Juan “Cindy” Gong, f/k/a Li Juan “Cindy” Yang)
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1 Qu, Ren Mulhua, Tong Jingling,¹⁵ Jie Yang,¹⁶ Wu Hao, Lou Li, Jiang Rul, Shanjie Li, Yun Li,
2 Huang Yacun, Liang Lu, Lu Zihan, and Zijing Xuas.¹⁷ None of these individuals appear in
3 reports filed with the Commission as having contributed to Trump Victory in their own names.¹⁸
4 One of the Chinese nationals in attendance, identified as Xianqin Qu, has ties to Yang. Qu is the
5 Vice President/Director of a charity formed and managed by Yang known as the Women’s
6 Charity Foundation,¹⁹ and Qu can be seen at the December fundraiser in the below picture with
7 Kellyanne Conway — then Senior Counselor to President Trump — published by the *Miami*
8 *Herald*.²⁰

¹⁵ Tong Jingling is a wealthy Chinese national and banker who traveled to space in 2014. *See Wealthy Chinese Travelers Lining Up to Blast Off Into Space*, THE SEATTLE TIMES (Sept. 6, 2014), <https://www.seattletimes.com/nation-world/wealthy-chinese-travelers-lining-up-to-blast-off-into-space/>.

¹⁶ Jie Yang is a Chinese national and CEO of Singularity — a public company traded on the NASDAQ. *See Singularity Future Technology: This Nasdaq-Listed Company’s CEO Is A Fugitive, On The Run For Allegedly Operating A Massive Ponzi Scheme*, HINDENBURG RESEARCH (May 5, 2022), <https://hindenburesearch.com/singularity/>.

¹⁷ Compl. ¶ 5, MUR 7614 (citing Aaron Albright, *et al.*, *Who Has Gained Access to President Trump and Mar-a-Lago Through Cindy Yang?*, MIAMI HERALD (Apr. 8, 2019), <https://www.miamiherald.com/news/nation-world/article228882284.html>.

¹⁸ Miami Herald “Cindy Yang Helped Chinese Tech Stars Get Photo” Article.

¹⁹ Women’s Charity Foundation Articles of Incorporation, DIVISION OF CORPORATIONS - FLORIDA DEPARTMENT OF STATE (Sept. 24, 2021), <https://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=WOMENSCHARITYFOUNDATION%20N150000078471&aggregateId=domnp-n15000007847-412c5068-4fde-48a7-b4be-c0a8e3b73b2c&searchTerm=women%27s%20charity&listNameOrder=WOMENSCHARITYFOUNDATION%20N150000078471>.

²⁰ Caitlin Ostroff, *et al.*, *Spa Operator Brought Head of Chinese Communist Party’s Group to Mingle with Trump Aides*, MIAMI HERALD (Mar. 15, 2018), <https://www.miamiherald.com/news/politics-government/article227691559.html>.

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The *Miami Herald* also published a picture of Jie Yang, a Chinese national and the CEO of Signularity wearing a blue sweater standing next to RNC chairwoman Ronna McDaniel at the December 2017 fundraiser.²¹



Cliff Zhonggang Li, the executive director of the National Committee of Asian American Republicans, reportedly told *Mother Jones* that Yang brought 20 to 30 people to this December 2017 fundraiser and that Yang’s guests were part of a group of more than 100 Chinese Americans and Chinese nationals who were present at the event.²² Li told *Mother Jones* that

²¹ Miami Herald “Cindy Yang Helped Chinese Tech Stars Get Photo” Article.

²² Mother Jones Article.

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Yang had made arrangements for some, though not all, of the Chinese executives to attend the event.²³ According to *Mother Jones*, Li said:

“I don’t want to see that money somehow get funneled into the political process here,” he remarked. He said that the Chinese American community he works with is composed of politically inexperienced people “with a weaker sense of compliance and also not that good a sense of campaign finance law.” “That caused some weaknesses,” he said, and perhaps “even intentional violations.” Li said that in the wake of the December fundraiser, he had changed procedures at his group to bar people who lack green cards or US citizenship from attending fundraisers. He said he also pushed the group towards grassroots organizing and away from fundraising. Yang and he differed on these matters. “She doesn’t see the need for a more stringent policy,” Li said.²⁴

After the event, Li dismissed Yang from her position at the National Committee for Asian American Republicans.²⁵ RNC officials confirmed to the *Washington Post* that Chinese nationals attended the December 2, 2017 fundraiser in New York as guests of a U.S. citizen donor.²⁶

On December 12, 2017, 10 days after the December 2, 2017 Trump Victory fundraiser, Yang formed GY US Investments, for the purpose of marketing tourism packages that purportedly promised Chinese businesspeople access to American politicians, including President Trump.²⁷ GY US Investments claimed on its website that clients could take photos

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ Compl. ¶ 4, MUR 7614 (citing Michelle Ye Hee Lee, *et al.*, *Invitations Offer Wealthy Chinese Access to President Trump at Fundraiser*, WASH. POST (May 25, 2018), https://www.washingtonpost.com/politics/invitations-offer-wealthy-chinese-access-to-president-trump-at-fundraiser/2018/05/25/3bc6a8ac-5e90-11e8-a4a4-c070ef53f315_story.html).

²⁷ GY US Articles of Incorporation, DIVISION OF CORPORATIONS - FLORIDA DEPARTMENT OF STATE (Dec. 12, 2017), <https://search.sunbiz.org/Inquiry/CorporationSearch/ConvertTiffToPDF?storagePath=COR%5C2017%5C1212%5C60620706.tif&documentNumber=L17000253608>; *see also* New York Times Article; *Mother Jones* Article.

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with President Trump, take part in “VIP activities” at Mar-a-Lago, and have dinner at the White House.²⁸ Yang reportedly promoted events on the GY US Investments webpage and on a Chinese language social media platform, WeChat, which were in turn incorporated into tourism packages and promoted to Chinese nationals.²⁹ Yang appears to have used her attendance at various Mar-a-Lago events, including by posting pictures of herself with politicians, to promote GY US Investments and future events.³⁰

Several months after establishing GY US Investments, Yang attended the March 3, 2018 Trump Victory fundraiser, reportedly again accompanied by Chinese national guests.³¹ The *Miami Herald* reviewed pictures of the event on social media and concluded that four Chinese nationals — Lu Kunning, Lu Biao, Yuan Yue, and Zhu Ruining — attended the fundraiser as Yang’s guests.³² The event, held at Trump’s Mar-a-Lago resort, was billed as an “evening

²⁸ Miami Herald “Massage Parlor Magnate Helped Steer Chinese to Trump NYC Fundraiser” Article; see also Internet Archive, GY US Investments, WAYBACK MACHINE, <https://web.archive.org/web/20180827153942/https://gyusinvest.com/>.

²⁹ Sarah Blaskey, et al., *Trump Tourism: How Charlottesville Let Cindy Yang Market Trump’s Mar-a-Lago*, MIAMI HERALD (Apr. 19, 2019), <https://www.miamiherald.com/news/politics-government/article228456974.html> (“Miami Herald “Trump Tourism” Article”).

³⁰ See New York Times Article; Mother Jones Article. An archived version of GY US Investment’s webpage also indicates that Yang published photographs of herself at a March 16, 2018 Lincoln Day event. Internet Archive, GY US Investments Lincoln Day, WAYBACK MACHINE, https://web.archive.org/web/20190309190130/https://mp.weixin.qq.com/s?biz=MzAxMjYyODEwMQ==&mid=2649462156&idx=1&sn=c30f96df8f2f653973fa9c2914db7402&chksm=83b1cc66b4c645704343f4c4032fcae95c5e7cd6aled20547b5130ff5798d2294ad79af0f18e&mpshare=1&scene=1&srcid=0321RAEHGtWtEsWYBzsDy5SN&pass_ticket=pcM8%2FxeMhIZ%2BP%2FxDnsDCxNPbLiULvkDIJq29779SORTKx6v681RxiU4dmBjNwnU#rd.

³¹ Compl. ¶ 9, MUR 7614 (citing New York Times Article); see also Miami Herald “Trump Tourism” Article. Archived versions of the now-defunct webpage for GY US Investments also show Yang’s promotion of this event. Internet Archive, GY US Investments, WAYBACK MACHINE <https://web.archive.org/web/20180827153942/https://gyusinvest.com/>.

³² Compl. ¶ 9, MUR 7614 (citing Aaron Albright, et al., *Who Has Gained Access to President Trump and Mar-a-Lago Through Cindy Yang?*, MIAMI HERALD (Apr. 8, 2019), <https://www.miamiherald.com/news/nation-world/article228882284.html>).

MURs 7581 and 7614 (Li Juan “Cindy” Gong, f/k/a Li Juan “Cindy” Yang)
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reception with Donald J. Trump.”³³ As shown in the invitation below, tickets to the event started at \$2,700 per person for attendance at the reception, while a \$25,000 “raise per person” would include attendance to the reception and two tickets to a seated dinner with Trump.³⁴ A “\$50,000 raise per person” would also include a photo with Trump.³⁵ The invitation to the event specified that “Funds must be raised in increments not to exceed \$5,400 per person.”³⁶



6

³³ Compl. ¶ 7, MUR 7581 (citing New York Times Article).

³⁴ Peter Schorsch, FLAPOL, *Donald Trump Headlining Mar-a-Lago Fundraising in March* (Feb. 5, 2018), <https://floridapolitics.com/archives/255337-donald-trump-headlining-mar-a-lago-fundraiser-march> (“FlaPol Article”).

³⁵ *Id.*

³⁶ *Id.*, Compl. ¶ 8, MUR 7581 (citing New York Times Article); Compl. ¶ 9, MUR 7614; *see also* FlaPol Article.

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In addition to reportedly bringing at least four Chinese national guests to the March 3, 2018 fundraiser, Yang also achieved the \$50,000 raise per person needed to obtain a photograph of herself with Trump at the event by bundling contributions reported to be from friends and family members.³⁷



According to the Complaints, nine of Yang’s family members and work associates, who did not appear to possess significant financial means and none of whom had prior histories of making political donations, made the maximum contribution of \$5,400 to the Trump Committee via Trump Victory all within a two-week period.³⁸

Specifically, the following individuals with links to Yang made contributions of \$5,400 on the following dates:

³⁷ See Compl. ¶ 16, MUR 7581 (citing New York Times Article); see also Yang Resp. at 2, MUR 7581 (acknowledging that Yang attended the March 3, 2018 event).

³⁸ See Compl. ¶ 16-23, MUR 7581; Compl. ¶ 9, MUR 7614.

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Name	Date of Contribution	Amount of Contribution	Relationship to Yang	Prior History of Donations
Bingbing Peranio ³⁹	Mar. 5, 2018	\$5,400	A receptionist at one of Yang’s day spas. ⁴⁰	None
Katrina Eggertsson ⁴¹	Mar. 5, 2018	\$5,400	A “facial instructor” at Tokyo Beauty & Massage School, a corporation that Yang formed, and currently run by Yang’s father.	None
Elizabeth Maccall ⁴²	Feb. 25, 2018	\$5,400	An employee at Yang’s day spa chain.	None
Yang Yi ⁴³	Mar. 5, 2018	\$5,400	A massage therapist linked to a home belonging to Yang.	None
Haizhen Gong ⁴⁴	Mar. 5, 2018	\$5,400	Owner of a day spa in Florida.	None
Zubin Gong ⁴⁵	Mar. 5, 2018	\$5,400	Yang’s husband.	None
Lin Deng ⁴⁶	Feb. 21, 2018	\$5,400	Listed as an “investor” in GY US Investments.	None
Guiying Zhang ⁴⁷	Feb. 26, 2018	\$5,400	Yang’s mother.	None
Fuming Yang ⁴⁸	Feb. 20, 2018	\$5,400	Yang’s father.	None

³⁹ Compl. ¶¶ 12, 21, MUR 7581; Trump Victory 2018 Apr. Quarterly Rpt. at 132; Donald J. Trump for President 2018 Amended April Quarterly Report at 7410 (July 15, 2018), <https://docquery.fec.gov/cgi-bin/fecimg/?201807159115565311> (“Trump Committee 2018 Apr. Quarterly Rpt.”); New York Times Article.

⁴⁰ Compl. ¶¶ 12, 21, MUR 7581; New York Times Article. Peranio listed her occupation as Manager of Fufu International, a company owned by Yang. *Id.*

⁴¹ Compl. ¶ 22, MUR 7581 (citing Trump Victory 2018 Apr. Quarterly Rpt. at 47; Trump Committee 2018 Apr. Quarterly Rpt. at 6028; *see also* Tokyo Beauty & Massage School Articles of Incorporation, DIVISION OF CORPORATIONS - FLORIDA DEPARTMENT OF STATE (May 5, 2011), <https://search.sunbiz.org/Inquiry/CorporationSearch/ConvertTiffToPDF?storagePath=COR%5C2011%5C0517%5C00124852.Tif&documentNumber=L11000053501>).

⁴² Trump Victory 2018 Apr. Quarterly Rpt. at 101; *Feds Demand Mar-a-Lago, Trump Campaign Records on Mysterious Donor*, TAMPA BAY TIMES (May 30, 2019), <https://www.tampabay.com/florida-politics/buzz/2019/05/30/feds-demand-mar-a-lago-trump-campaign-records-on-mysterious-donor/> (listing Maccall as an employee of Yang’s spa).

⁴³ Compl. ¶ 18, MUR 7581; Trump Victory Apr. Quarterly Rpt. at 19; Trump Committee 2018 Apr. Quarterly Rpt. at 8443-8444.

⁴⁴ Compl. ¶ 23, MUR 7581 (citing Miami Herald “Feds Open Investigation into Trump Donor Cindy Yang” Article); Trump Victory 2018 Apr. Quarterly Rpt. at 63; Trump Committee 2018 Apr. Quarterly Rpt. at 6250.

⁴⁵ Mother Jones Article; Trump Victory 2018 Apr. Quarterly Rpt. at 74; Trump Committee 2018 Apr. Quarterly Rpt. at 6251.

⁴⁶ Trump Victory 2018 Apr. Quarterly Rpt. at 40; Trump Committee 2018 Apr. Quarterly Rpt. at 5927; Miami Herald “Feds Open Investigation into Trump Donor Cindy Yang” Article.

⁴⁷ Trump Victory 2018 Apr. Quarterly Rpt. at 194; Trump Committee 2018 Apr. Quarterly Rpt. at 8478; New York Times Article; Miami Herald “Feds Open Investigation into Trump Donor Cindy Yang” Article.

⁴⁸ Trump Victory 2018 Apr. Quarterly Rpt. at 191; Trump Committee 2018 Apr. Quarterly Rpt. at 8443; Marta Oliver Craviotto, *et al.*, *Federal Prosecutors Demand Cindy Yang Records from Mar-a-Lago, Trump Campaign*, MIAMI HERALD (May 30, 2019), <https://www.miamiherald.com/news/politics-government/article230946518.html>; Miami Herald “Feds Open Investigation into Trump Donor Cindy Yang” Article.

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	TOTAL	\$48,600		
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At least one of the contributors, Bingbing Peranio, a massage parlor receptionist, reportedly directly linked Yang to her contributions, stating to the press that Yang had come to the massage parlor where she worked for Yang’s husband and helped fill out the check toward Trump’s campaign.⁴⁹ She reportedly added, “I was working there. I didn’t say no.”⁵⁰

In total, both Complaints allege that at least nine of Yang’s family members and work associates, some of them believed to have modest incomes, made contributions of \$5,400, and contend that the contributions were made using the funds of another person.⁵¹ According to the MUR 7581 Complaint, the nine contributions that Yang’s associates made on her behalf to Trump Victory were allocated to the Trump Committee, resulting in Yang making excessive contributions to the Trump Committee by having provided or reimbursed the funds for the contributions to the named contributors.⁵²

The MUR 7614 Complaint also alleges that Yang, as well as others, played a central role in facilitating foreign national attendance at political events by promoting access to Trump as part of tourism packages marketed to foreign executives.⁵³ The MUR 7614 Complaint alleges that Yang’s activity violated the Act’s prohibition on foreign national contributions by facilitating the purchase of tickets to, and attendance at, political fundraising events by foreign

⁴⁹ Compl. ¶ 12, MUR 7581 (citing New York Times Article).

⁵⁰ *Id.*

⁵¹ Compl. ¶ 10, MUR 7581 (citing New York Times Article); Compl. ¶ 9, MUR 7614 (citing New York Times Article).

⁵² Compl. ¶¶ 38-40, MUR 7581.

⁵³ Compl. ¶¶ 35, 37, 42, MUR 7614.

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nationals by providing substantial assistance to the foreign nationals in making contributions through straw donors.⁵⁴

In Yang’s Responses she acknowledges that she attended the March 3, 2018 Trump Victory Mar-a-Lago fundraiser and obtained a photograph with President Trump, indicating that over \$50,000 in contributions to the event were associated with Yang.⁵⁵ Yang also states that “for a short time [she] ran a travel service to the US for Chinese business people, and the only events at Mar-a-Lago to which she brought her clients were either club events or local charity events, not political fundraisers,” apparently at odds with her reportedly bringing at least four Chinese national guests to the March 3, 2018 fundraiser at Mar-a-Lago.⁵⁶

III. LEGAL ANALYSIS

a. The Commission Finds Reason to Believe that Yang Made Contributions in the Name of Another and in Excess of the Act’s Contribution Limits

The Act provides that a contribution includes “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.”⁵⁷ The Act prohibits a person from making a contribution in the name of another person, knowingly permitting his or her name to be used to effect such a contribution, or knowingly accepting such a contribution.⁵⁸ 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

⁵⁴ *Id.* ¶ 35.

⁵⁵ *See* Yang Resp. at 1-2, MUR 7581; Compl. ¶ 31, MUR 7581.

⁵⁶ Yang Resp. at 2, MUR 7614.

⁵⁷ 52 U.S.C. § 30101(8)(A).

⁵⁸ *Id.* § 30122.

1 source of money or the thing of value to the recipient candidate or committee
2 at the time the contribution is made; or

3 (ii) Making a contribution of money or anything of value and attributing as the
4 source of the money or thing of value another person when in fact the
5 contributor is the source.⁵⁹

6 The requirement that a contribution be made in the name of its true source promotes
7 Congress’s objective of ensuring the complete and accurate disclosure by candidates and
8 committees of the political contributions they receive.⁶⁰ Courts therefore have uniformly
9 rejected the assertion that “only the person who actually transmits funds . . . makes the
10 contribution,”⁶¹ recognizing that “it is implausible that Congress, in seeking to promote
11 transparency, would have understood the relevant contributor to be [an] intermediary who
12 merely transmitted the campaign gift.”⁶² Consequently, both the Act and the Commission’s
13 implementing regulations provide that a person who furnishes another with funds for the purpose
14 of contributing to a candidate or committee “makes” the resulting contribution.⁶³ This is true
15 whether funds are advanced to another person to make a contribution in that person’s name or

⁵⁹ 11 C.F.R. § 110.4(b)(2)(i)–(ii).

⁶⁰ *United States v. O’Donnell*, 608 F.3d 546, 553 (9th Cir. 2010) (“[T]he congressional purpose behind [Section 30122] — to ensure the *complete and accurate disclosure* of the contributors who finance federal elections — is plain.”) (emphasis added); *Mariani v. United States*, 212 F.3d 761, 775 (3d Cir. 2000) (rejecting constitutional challenge to Section 30122 in light of compelling governmental interest in disclosure).

⁶¹ *United States v. Boender*, 649 F.3d 650, 660 (7th Cir. 2011).

⁶² *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.”).

⁶³ *See Boender*, 649 F.3d at 660 (holding that to determine who made a contribution, “we consider the giver to be the *source* of the gift, not any intermediary who simply conveys the gift from the donor to the donee” (emphasis added)); *O’Donnell*, 608 F.3d at 550; *Goland v. United States*, 903 F.2d 1247, 1251 (9th Cir. 1990) (“The Act prohibits the use of ‘conduits’ to circumvent . . . [the Act’s reporting] restrictions.” (quoting then-Section 441f)).

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1 promised as reimbursement of a solicited contribution.⁶⁴ Because the concern of the law is the
2 true source from which a contribution to a candidate or committee originates, we look to the
3 structure of the transaction itself and the arrangement between the parties to determine who, in
4 fact, “made” a given contribution.

5 The available record supports a reason to believe finding that Yang made contributions in
6 the names of Yang’s family members and work associates to attend the March 3, 2018 Trump
7 Victory fundraiser and obtain a photograph with President Trump.⁶⁵ Yang admits in her
8 Response that at least nine people in her “orbit” contributed \$5,400, combined with her own
9 contribution of \$5,400, to reach the \$50,000 fundraising amount associated with getting a
10 photograph with President Trump.⁶⁶ None of the identified contributors who contributed in
11 connection with the March 3, 2018 event had contribution histories, some served in subordinate
12 roles at businesses associated with Yang, and all made the maximum contributions despite some
13 having jobs that did not appear to pay enough money to allow for such sizable donations. At
14 least one of the contributors, Bingbing Peranio, a massage parlor receptionist, reportedly directly
15 linked Yang to her contributions, stating that Yang had come to the massage parlor where she

⁶⁴ *O’Donnell*, 608 F.3d at 555. Moreover, the “key issue . . . is the *source* of the funds” and, therefore, the legal status of the funds when conveyed from a conduit to the ultimate recipient is “irrelevant to a determination of who ‘made’ the contribution for the purposes of [Section 30122].” *United States v. Whittemore*, 776 F.3d 1074, 1080 (9th Cir. 2015) (holding that defendant’s “unconditional gifts” to relatives and employees, along with suggestion they contribute the funds to a specific political committee, violated Section 30122 because the source of the funds remained the individual who provided them to the putative contributors).

⁶⁵ The Act further addresses knowing and willful violations of the law, which occur when one has knowledge that he or she is violating the law. *See* 52 U.S.C. § 30109(a)(5)(B), (d); *FEC v. John Dramezi for Congress Committee*, 640 F. Supp. 985, 987 (D.N.J. 1986).

⁶⁶ *See* Yang Resp. ¶ 2, MUR 7581 (“The allegations within paragraph 31,32,39 [of the MUR 7581 Complaint] are admitted”).

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1 worked for Yang’s husband and helped fill out the check toward Trump’s campaign.⁶⁷ She
2 reportedly said “I can’t say she was pushing me or not pushing me, but I worked there then...I
3 was working there. I didn’t say no.”⁶⁸ When asked whether Yang had reimbursed Peranio,
4 Peranio responded “I do not want to answer that question.”⁶⁹

5 Yang’s alleged conduit reimbursement scheme has many of the same hallmarks of prior
6 straw donor matters in which the Commission found reason to believe a violation had occurred.
7 These hallmarks include the use of family members and subordinates,⁷⁰ clustered donations of
8 the maximum amount,⁷¹ and contributions from subordinate employees with occupations
9 suggesting that a significant financial burden would be associated with a contribution of the
10 maximum allowable amount.⁷² Additionally, the alleged conduits are not reported as having
11 made any federal contributions previously and either did not respond to the Complaint, or failed
12 to address in their responses whether the individual’s contribution was made with their own
13 money or they had been reimbursed.⁷³ In light of the available information, the Commission

⁶⁷ Compl. ¶ 12, MUR 7581 (citing New York Times Article).

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ See Factual & Legal Analysis (“F&LA”) at 5, MUR 7102 (Keefe, Keefe, and Unsell, P.C.); see also F&LA at 9-10, MUR 7005, 7056 (Adam Victor) (regarding use of subordinate employees as conduits, noting scant contribution histories and weak denials); F&LA at 1-2, MUR 6465 (Fiesta Bowl) (regarding use of subordinate employees and spouses as conduits); F&LA, MUR 6234 (Cenac) (same); F&LA at 6, MUR 7472 (Barletta) (same).

⁷¹ See F&LA at 7, MUR 7102 (Keefe, Keefe, and Unsell, P.C.); see also, F&LA at 3-4, MUR 5305 (Rhodes Design and Development); F&LA, MUR 5818 (Jack Beam).

⁷² F&LA at 2, MUR 5305 (Rhodes Design and Development); F&LA at 17, MUR 4818 (Walt Roberts).

⁷³ Katrina Eggertsson Resp.; Gong Haizhen Resp.

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finds reason to believe finding that Yang made contributions in the name of others in violation of 52 U.S.C. § 30122 as to the contributions related to the March 3, 2018 fundraiser.⁷⁴

The Act prohibits any person from making, and any candidate or committee from knowingly accepting, an excessive contribution.⁷⁵ For 2017 and 2018, contributions by persons other than multicandidate committees to any candidate and his or her authorized political committees were limited to \$2,700 per election.⁷⁶

As a joint fundraising committee, Trump Victory was structured to allocate the first \$5,400 in contributions to the Trump Committee with additional funds subsequently allocated to the RNC, the RNC’s national party accounts, and state party committee accounts.⁷⁷ According to that allocation structure, the nine \$5,400 contributions that each of Yang’s associates allegedly made on her behalf to Trump Victory were allocated to the Trump Committee.⁷⁸ Because Yang already made the maximum contribution to the Trump Committee for this election cycle,⁷⁹ and in accordance with the foregoing finding of reason to believe that Yang’s associates made contributions with funds provided by or reimbursed by Yang, these nine \$5,400 contributions

⁷⁴ See F&LA at 8, MUR 7102 (Keefe, Keefe, and Unsell, P.C.); F&LA at 2-3, MURs 5366/5758 (O’Donnell & Schaeffer)

⁷⁵ 52 U.S.C. §§ 30116(a), (f); 11 C.F.R. §§ 110.1(b)(1), 110.9.

⁷⁶ 52 U.S.C. § 30116(a)(1)(A); 11 C.F.R. § 110.1(b)(1)(i); *Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold*, [82 Fed. Reg. 10904](https://www.fec.gov/help-candidates-and-committees/candidate-taking-receipts/contribution-limits/) (Feb. 16, 2017).

⁷⁷ See, FEC, Contribution Limits for 2019-2020 Election Cycle, <https://www.fec.gov/help-candidates-and-committees/candidate-taking-receipts/contribution-limits/> (last visited June 16, 2022) (detailing three national party committee accounts for (i), the presidential nominating convention; (ii) election recounts and contests and other legal proceedings; and (iii) national party headquarters buildings); see also Trump Victory, Donate, VICTORY FOR TRUMP, <https://secure.victoryfortrump.com/donate> (last visited June 16, 2022) (detailing allocation formula with updated contribution limits for 2021-22 election cycle.)).

⁷⁸ See *supra* 39-48.

⁷⁹ See *supra* notes 10-11.

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appear to have resulted in Yang making \$48,600 in excessive contributions to the Trump Committee.⁸⁰ Accordingly, the Commission finds reason to believe that Yang made excessive contributions to the Trump Committee in violation of 52 U.S.C. § 30116(a)(1).⁸¹

b. The Commission Finds Reason to Believe that Yang Provided Substantial Assistance in the Making of Foreign National Contributions

The Act and Commission regulations prohibit any “foreign national” from directly or indirectly making a contribution or donation of money or other thing of value, or an expenditure, independent expenditure, or disbursement, in connection with a federal, state, or local election.⁸²

The Act’s definition of “foreign national” includes an individual who is not a citizen or national of the United States and who is not lawfully admitted for permanent residence.⁸³

It is unlawful to knowingly provide substantial assistance in the solicitation, making, acceptance, or receipt of a contribution or donation by a foreign national.⁸⁴ The Commission has explained that substantial assistance “means active involvement in the solicitation, making, receipt or acceptance of a foreign national contribution or donation with an intent to facilitate

⁸⁰ Compl. ¶¶ 38-40, MUR 7581.

⁸¹ See F&LA at 1, MUR 7958 (The Watkins Family, *et al.*) (finding reason to believe that Steven C. Watkins Sr. violated 52 U.S.C. §§ 30116(a) and 30122 by making excessive contributions to the committee in the names of other persons); F&LA at 10, MURs 7005 and 7056 (Adam H. Victor, *et al.*) (same).

⁸² 52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.26(b)-(c), (e)-(f). Courts have consistently upheld the provisions of the Act prohibiting foreign national contributions on the ground that the government has a clear, compelling interest in limiting the influence of foreigners over the activities and processes that are integral to democratic self-government, which include making political contributions and express-advocacy expenditures. See *Bluman v. FEC*, 800 F. Supp. 2d 281, 288-89 (D.D.C. 2011); *aff’d* 132 S. Ct. 1087 (2012); *United States v. Singh*, 924 F.3d 1030, 1040-44 (9th Cir. 2019).

⁸³ 52 U.S.C. § 30121(b); see also 11 C.F.R. § 110.20(a)(3).

⁸⁴ 11 C.F.R. § 110.20(h)(1).

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successful completion of the transaction.”⁸⁵ Moreover, substantial assistance “covers but is not limited to, those persons who act as conduits or intermediaries for foreign national contributions or donations.”⁸⁶ In the context of foreign national attendance at fundraising events, the Commission in MUR 4530, *et al.* (DNC, *et al.*) found reason to believe as to and conciliated with a number of individuals who made and facilitated the making of foreign national contributions and contributions in the name of another in connection with attendance at fundraising events.⁸⁷ Subsequent to these conciliations and after Congress enacted the Bipartisan Campaign Reform Act of 2002,⁸⁸ the Commission issued further guidance reaffirming that it is illegal for U.S. citizens to serve as conduits or render substantial assistance in the making of foreign national contributions.⁸⁹

Yang acknowledges in her Response that she “ran a travel service to the US for Chinese business people.”⁹⁰ The website for Yang’s travel service, GY US Investments, promoted the March 3, 2018 fundraiser at Mar-a-Lago as well as a March 14, 2018 Trump Victory Fundraising Dinner in Dallas, Texas, a May 4, 2018 Ohio Fundraising Dinner, and a May 18, 2018 Broward

⁸⁵ Explanation & Justification, *Assisting Foreign National Contributions or Donations*, 67 Fed. Reg. 69,928, 69,945 (Nov. 19, 2002) (“Foreign National Contribution E&J”).

⁸⁶ *Id.* at 69,946.

⁸⁷ See Conciliation Agreement with Yah Lin “Charlie” Trie at 2-3, MUR 4530 (DNC, *et al.*) (June 21, 2001) (detailing a reimbursement scheme to secure a foreign national’s attendance at a fundraiser); Conciliation Agreement with John Huang, MUR 4530 (DNC, *et al.*) (Aug. 23, 2001) (detailing reimbursement schemes used by a fundraiser who “bundled” foreign national donations).

⁸⁸ Public Law 107-155, 116 Stat. 81 (Mar. 27, 2002).

⁸⁹ Foreign National Contribution E&J at 69,945.

⁹⁰ Yang Resp. at 3, MUR 7614.

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County Republican Lincoln Day Fundraising Dinner.⁹¹ The GY US Investments website further specified services GY US Investments could provide:

GY US INVESTMENTS carefully plans business talks with the world’s top companies to meet the business needs of customers, and tailors various high-end projects of business investment exhibitions for customers. Our team has successfully planned various high-end business investment plans and international mainstream public relations planning activities for our clients, including:

- * Presidential Roundtable and Presidential Dinner, photo with President
- * Various VIP activities at Trump’s Mar-a-Lago, and the opportunity to interact with the president, the Secretary of Commerce and other dignitaries
- * White House and Capitol Hill Dinner
- * Charity Activities - First Lady Charity Ball, President Trump Meeting.⁹²

The GY US website listed Yang as the founder and CEO of GY US and the GY US Articles of Incorporation filed with the State of Florida list Yang as the managing member and resident agent.⁹³ The phone number listed on the GY US website is the cell phone number also listed on the website for Yang’s charity, Women’s Charity Foundation, Inc.⁹⁴ Yang admits in her Response that she brought foreign clients to events at Mar-a-Lago as part of her tourism business.⁹⁵ Although Yang’s Response asserts that she only brought foreign clients to charity

⁹¹ Internet Archive, GY US Investments, WAYBACK MACHINE <https://web.archive.org/web/20180827153942/https://gyusinvest.com> (last visited June 16, 2022); see also *Broward County Republican Party Lincoln Day Dinner*, ASIAN.GOP, http://www.asian.gop/events/broward_county_republican_party_lincoln_day_dinner (last visited June 16, 2022)

⁹² Internet Archive, GY US Investments, WAYBACK MACHINE <https://web.archive.org/web/20180827153942/https://gyusinvest.com/> (last visited June 16, 2022).

⁹³ *Id.*; see also GY US Articles of Incorporation, DIVISION OF CORPORATIONS - FLORIDA DEPARTMENT OF STATE (Dec. 12, 2017), <https://search.sunbiz.org/Inquiry/CorporationSearch/ConvertTiffToPDF?storagePath=COR%5C2017%5C1212%5C60620706.tif&documentNumber=L17000253608>

⁹⁴ Compare GY US Investments, WAYBACK MACHINE <https://web.archive.org/web/20180827153942/https://gyusinvest.com/> with Archived Screenshot of Women’s Charity Foundation showing the same phone number (available in VBM).

⁹⁵ Yang Resp. ¶¶ 4, 6, MUR 7614.

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events, not political fundraisers,⁹⁶ the available record, which includes images of foreign nationals at political fundraisers as apparent guests of Yang’s, strongly belies this assertion.⁹⁷

The available record shows that Yang met the “raise” contribution amounts required to attend two Trump Victory fundraisers, the December 2, 2017 event and the March 3, 2018 event, and brought Chinese national guests to both fundraisers.⁹⁸ Yang made \$23,500 in contributions in the weeks directly preceding the December 2, 2017 fundraiser, while the largest reported contribution Yang had ever made prior to December 2017 was for \$640.⁹⁹ Considering the \$1,000 cost for tickets, the \$23,500 in contributions would likely have enabled Yang to bring 22 guests to the event. Consistent with this understanding, Li, the executive director of the National Committee for Asian American Republicans, stated in a press account that Yang brought 20-30 guests to the December 2017 fundraiser — all of whom were part of a group of Chinese businesspeople and Chinese foreign nationals.¹⁰⁰ As discussed earlier, press reports show pictures of Chinese nationals at the events, and an RNC official also confirmed to the *Washington Post* that Chinese nationals were present.¹⁰¹

⁹⁶ *Id.*

⁹⁷ Compare Yang Resp. at 1-2, MUR 7614 (Aug. 5, 2019) with F&LA at 2-3, MUR 6946 (DNC, *et al.*) (finding no reason to believe where responses credibly described who paid for a foreign national’s attendance at a campaign event as well as the lack of reimbursement).

⁹⁸ See *supra* pages 4-8.

⁹⁹ See *supra* note 11.

¹⁰⁰ Compl. ¶¶ 5-6, MUR 7614 (citing Miami Herald “Massage Parlor Magnate Helped Steer Chinese to Trump NYC Fundraiser” Article).

¹⁰¹ Mother Jones Article; Compl. ¶ 4, MUR 7614 (citing Michelle Ye Hee Lee, *et al.*, *Invitations Offer Wealthy Chinese Access to President Trump at Fundraiser*, WASH. POST (May 25, 2018) https://www.washingtonpost.com/politics/invitations-offer-wealthy-chinese-access-to-president-trump-at-fundraiser/2018/05/25/3bc6a8ae-5e90-11e8-a4a4-c070ef53f315_story.html); see also *supra* page 7.

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Yang admits in her Response that she attended a Trump Victory evening reception in March 2018 at Mar-a-Lago resort, obtained a photograph of herself with President Trump, and that the aggregate contribution amount associated with the dinner and a photo was \$50,000.¹⁰² The *Miami Herald* identified four Chinese nationals by name who attended the Mar-a-Lago event as Yang’s guests.¹⁰³ Yang’s GY US website promoted the event and displayed pictures of Yang and Chinese nationals at the event.¹⁰⁴

A stated objective of Yang’s business was to provide foreign businesspersons access to Trump events, and it appears that the concept of the business was that the individuals would have paid Yang or her associates for attendance at events that required contributions to attend.¹⁰⁵ While a United States citizen or permanent resident, like Yang, is permitted to acquire tickets for foreign national guests to attend campaign fundraiser events, the person must not be compensated or reimbursed for those tickets by the foreign national.¹⁰⁶ Here, the available information indicates that Yang was being compensated directly and through her tourism company, GY US, for those tickets by foreign nationals and using those funds to offset

¹⁰² See Yang Resp. ¶ 2, MUR 7581 (“The allegations within paragraph 31,32,39 [of the MUR 7581 Complaint] are admitted”).

¹⁰³ Compl. ¶ 9, MUR 7614 (citing Aaron Albright, *et al.*, *Who Has Gained Access to President Trump and Mar-a-Lago Through Cindy Yang?*, MIAMI HERALD (Apr. 8, 2019), <https://www.miamiherald.com/news/nation-world/article228882284.html>).

¹⁰⁴ Internet Archive, GY US Investments, WAYBACK MACHINE <https://web.archive.org/web/20180827153942/https://gyusinvest.com/>.

¹⁰⁵ GY US Articles of Incorporation, DIVISION OF CORPORATIONS - FLORIDA DEPARTMENT OF STATE (Dec. 12, 2017), <https://search.sunbiz.org/Inquiry/CorporationSearch/ConvertTiffToPDF?storagePath=COR%5C2017%5C1212%5C60620706.tif&documentNumber=L17000253608>; see also New York Times Article; see also Mother Jones Article.

¹⁰⁶ See, e.g., F&LA at 4, MUR 6946 (DNC, *et al.*) (citing Advisory Opinion 2004-26 (Weller) (finding that a foreign national may “attend fundraising and campaign events . . . provided she does not make a contribution of her personal funds in order to attend”)).

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- 1 attendance costs by making contributions. Accordingly, the Commission finds reason to believe
- 2 Yang’s actions constituted providing substantial assistance in the making of foreign national
- 3 contributions.¹⁰⁷
- 4

¹⁰⁷ It is also unlawful for any person to “knowingly solicit, accept or receive” a contribution or donation made by a foreign national. 11 C.F.R. § 110.20(g); *see* 52 U.S.C. § 30121(a)(2). To “solicit” means “to ask, request, or recommend, explicitly or implicitly, that another person make a contribution, donation, transfer of funds, or otherwise provide anything of value.” 11 C.F.R. §§ 110.20(a)(6), 300.2(m). The Commission has clarified that in order to “knowingly” solicit, accept, or receive a foreign national contribution, a person must (1) have actual knowledge that the source of the funds is a foreign national; (2) have reason to know that the source of the funds is a foreign national, *i.e.*, be aware of facts that would lead a reasonable person to conclude that there is a substantial probability that the source is a foreign national; or (3) engage in “willful blindness,” *i.e.*, be aware of facts that would lead a reasonable person to inquire further into the provenance of the funds, but fail to conduct a reasonable inquiry. *Id.* § 110.20(a)(4). Foreign National Contribution E&J at 69,941. (“The final rules at 11 CFR 110.20(a)(4) . . . contain three standards of knowledge, any one of which would satisfy the knowledge requirements: (1) Actual knowledge; (2) reason to know; and (3) the equivalent of willful blindness.”). The available information does not appear to support a finding that Yang directly solicited foreign national contributions because the information available at present indicates that she would “re-package” events to make them appear to be social or networking events with politicians and not necessarily political fundraisers. *See* 52 U.S.C. § 30121(a)(2); 11 C.F.R. §§ 110.20(g), 300.2(m).

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Bingbing Peranio MURs 7581 and 7614

I. INTRODUCTION

The Complaints in these matters allege that Bingbing Peranio knowingly served as a conduit in a scheme to funnel excessive contributions to several committees in violation of the Federal Election Campaign Act of 1971, as amended (the “Act”), and Commission regulations. Specifically, the Complaints allege that Peranio made a \$5,400 contribution in her name, when it was really made using funds of her employer, Li Juan “Cindy” Gong f/k/a Li Juan “Cindy” Yang (“Yang”) to Trump Victory,¹ a joint fundraising committee, structured to allocate the first \$5,400 in contributions to the Make America Great Again PAC f/k/a Donald J. Trump for President, Inc. (“Trump Committee”).² Because the available information does not indicate that Peranio played a significant role in carrying out the alleged reimbursed contribution scheme, the Commission dismisses the allegations.

II. FACTUAL BACKGROUND

Yang is reportedly a Florida businesswoman who, along with members of her family, formed, owned, and operated a number of day spas in Florida.³ According to the Complaints, nine of Yang’s family members and work associates, who did not appear to possess significant financial means and none of whom had prior histories of making political donations, made the

¹ Trump Victory, Donate, VICTORY FOR TRUMP, <https://secure.victoryfortrump.com/donate> (last visited June 16, 2022) (detailing allocation formula with updated contribution limits for 2021-22 election cycle).

² Compl. ¶¶ 7-12, MUR 7581 (Mar. 18, 2019).

³ Compl. ¶ 9, MUR 7581 (citing Frances Robles *et al.*, *She Extols Trump, Guns and the Chinese Communist Party Line*, N.Y. TIMES (Mar. 16, 2019), <https://www.nytimes.com/2019/03/16/us/cindy-yang-trump-donations.html> (“New York Times Article”).

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1 maximum contribution of \$5,400 to the Trump Committee via Trump Victory within a two-week
2 period.⁴ Peranio made a \$5,400 contribution on March 5, 2021.⁵ Peranio, a massage parlor
3 receptionist, stated to the press that her employer had come to the massage parlor where she
4 worked and helped fill out the check toward Trump’s campaign.⁶ She reportedly added, “I was
5 working there. I didn’t say no.”⁷

6 III. LEGAL ANALYSIS

7 The Act provides that a contribution includes “any gift, subscription, loan, advance, or
8 deposit of money or anything of value made by any person for the purpose of influencing any
9 election for Federal office.”⁸ The Act prohibits a person from making a contribution in the name
10 of another person, knowingly permitting his or her name to be used to effect such a contribution,
11 or knowingly accepting such a contribution.⁹ The Commission has included in its regulations
12 illustrations of activities that constitute making a contribution in the name of another:

- 13 (i) Giving money or anything of value, all or part of which was provided to the
- 14 contributor by another person (the true contributor) without disclosing the
- 15 source of money or the thing of value to the recipient candidate or committee
- 16 at the time the contribution is made; or

⁴ See New York Times Article.

⁵ Compl. ¶¶ 12, 21, MUR 7581; Trump Victory 2018 Apr. Quarterly Rpt. at 132; Donald J. Trump for President 2018 Amended April Quarterly Report at 7410 (July 15, 2018), <https://docquery.fec.gov/cgi-bin/fecimg/?201807159115565311> (“Trump Committee 2018 Apr. Quarterly Rpt.”); New York Times Article.

⁶ Compl. ¶ 12, MUR 7581 (citing New York Times Article).

⁷ *Id.*

⁸ 52 U.S.C. § 30101(8)(A).

⁹ *Id.* § 30122.

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(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 source promotes Congress’s objective of ensuring the complete and accurate disclosure by candidates and 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 the

¹⁰ 11 C.F.R. § 110.4(b)(2)(i)–(ii).

¹¹ *United States v. O’Donnell*, 608 F.3d 546, 553 (9th Cir. 2010) (“[T]he congressional purpose behind [Section 30122] — to ensure the *complete and accurate disclosure* of the contributors who finance federal elections — is plain.”) (emphasis added); *Mariani v. United States*, 212 F.3d 761, 775 (3d Cir. 2000) (rejecting constitutional challenge to Section 30122 in light of compelling governmental interest in disclosure).

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; *Goland v. United States*, 903 F.2d 1247, 1251 (9th Cir. 1990) (“The Act prohibits the use of ‘conduits’ to circumvent . . . [the Act’s reporting] restrictions.” (quoting then-Section 441f)).

¹⁵ *O’Donnell*, 608 F.3d at 555. Moreover, the “key issue . . . is the *source* of the funds” and, therefore, the legal status of the funds when conveyed from a conduit to the ultimate recipient is “irrelevant to a determination of who ‘made’ the contribution for the purposes of [Section 30122].” *United States v. Whittemore*, 776 F.3d 1074,

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1 true source from which a contribution to a candidate or committee originates, we look to the
2 structure of the transaction itself and the arrangement between the parties to determine who, in
3 fact, “made” a given contribution.

4 The available information does not indicate that Peranio played a significant role in
5 carrying out the alleged conduit scheme. In past matters, the Commission has not pursued
6 subordinate employee conduits in reimbursed contribution schemes absent indications that the
7 conduits themselves were actively involved in the scheme, coerced or encouraged others to
8 participate in the scheme, or were public officials.¹⁶ The available information does not indicate
9 that Peranio suggested the reimbursement or otherwise participated in the creation or
10 perpetuation of the conduit scheme. Accordingly, the Commission dismisses the allegations
11 regarding Peranio.¹⁷

1080 (9th Cir. 2015) (holding that defendant’s “unconditional gifts” to relatives and employees, along with suggestion they contribute the funds to a specific political committee, violated Section 30122 because the source of the funds remained the individual who provided them to the putative contributors).

¹⁶ See Factual & Legal Analysis at 9, MUR 7878 (Eric Barbanel); Factual & Legal Analysis at 9, MUR 6281 (Glenn Marshall).

¹⁷ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS****RESPONDENT:** Haizhen Gong MUR 7581**I. INTRODUCTION**

The Complaint in this matter alleges that Haizhen Gong knowingly served as a conduit in a scheme to funnel excessive contributions to several committees in violation of the Federal Election Campaign Act of 1971, as amended (the “Act”), and Commission regulations. Specifically, the Complaint alleges that Gong made a \$5,400 contribution in her name, when it was really made using funds of her employer, Li Juan “Cindy” Gong f/k/a Li Juan “Cindy” Yang (“Yang”) to Trump Victory,¹ a joint fundraising committee, structured to allocate the first \$5,400 in contributions to the Make America Great Again PAC f/k/a Donald J. Trump for President, Inc. (“Trump Committee”).² Because the available information does not indicate that Gong played a significant role in carrying out the alleged reimbursed contribution scheme, the Commission dismisses the allegations.

II. FACTUAL BACKGROUND

Yang is reportedly a Florida businesswoman who, along with members of her family, formed, owned, and operated a number of day spas in Florida.³ According to the Complaints, nine of Yang’s family members and work associates, who did not appear to possess significant financial means and none of whom had prior histories of making political donations, made the

¹ Trump Victory, Donate, VICTORY FOR TRUMP, <https://secure.victoryfortrump.com/donate> (last visited June 16, 2022) (detailing allocation formula with updated contribution limits for 2021-22 election cycle).

² Compl. ¶¶ 7-12 (Mar. 18, 2019).

³ Compl. ¶ 9 (citing Frances Robles *et al.*, *She Extols Trump, Guns and the Chinese Communist Party Line*, N.Y. TIMES (Mar. 16, 2019), <https://www.nytimes.com/2019/03/16/us/cindy-yang-trump-donations.html> (“New York Times Article”).

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maximum contribution of \$5,400 to the Trump Committee via Trump Victory within a two-week period.⁴ Gong made a \$5,400 contribution on March 5, 2021.⁵ On disclosure reports filed with the Commission Gong's disclosed occupation is "owner" at Z&G LLC, a massage/day spa in Florida.⁶

III. LEGAL ANALYSIS

The Act provides that a contribution includes "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office."⁷ The Act prohibits a person from making a contribution in the name of another person, knowingly permitting his or her name to be used to effect such a contribution, or knowingly accepting such a contribution.⁸ 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.⁹

⁴ See New York Times Article.

⁵ Compl. ¶ 23, MUR 7581; Trump Victory 2018 Apr. Quarterly Rpt. at 63; Trump Committee 2018 Apr. Quarterly Rpt. at 6250.

⁶ *Id.*; see also Z&G LLC Articles of Incorporation Amendment, DIVISION OF CORPORATIONS - FLORIDA DEPARTMENT OF STATE (Feb. 1, 2016), <https://search.sunbiz.org/Inquiry/CorporationSearch/ConvertTiffToPDF?storagePath=COR%5C2016%5C0205%5C81459057.Tif&documentNumber=L14000008997>.

⁷ 52 U.S.C. § 30101(8)(A).

⁸ *Id.* § 30122.

⁹ 11 C.F.R. § 110.4(b)(2)(i)–(ii).

1 The requirement that a contribution be made in the name of its true source promotes
2 Congress’s objective of ensuring the complete and accurate disclosure by candidates and
3 committees of the political contributions they receive.¹⁰ Courts therefore have uniformly
4 rejected the assertion that “only the person who actually transmits funds . . . makes the
5 contribution,”¹¹ recognizing that “it is implausible that Congress, in seeking to promote
6 transparency, would have understood the relevant contributor to be [an] intermediary who
7 merely transmitted the campaign gift.”¹² Consequently, both the Act and the Commission’s
8 implementing regulations provide that a person who furnishes another with funds for the purpose
9 of contributing to a candidate or committee “makes” the resulting contribution.¹³ This is true
10 whether funds are advanced to another person to make a contribution in that person’s name or
11 promised as reimbursement of a solicited contribution.¹⁴ Because the concern of the law is the
12 true source from which a contribution to a candidate or committee originates, we look to the

¹⁰ *United States v. O’Donnell*, 608 F.3d 546, 553 (9th Cir. 2010) (“[T]he congressional purpose behind [Section 30122] — to ensure the *complete and accurate disclosure* of the contributors who finance federal elections — is plain.”) (emphasis added); *Mariani v. United States*, 212 F.3d 761, 775 (3d Cir. 2000) (rejecting constitutional challenge to Section 30122 in light of compelling governmental interest in disclosure).

¹¹ *United States v. Boender*, 649 F.3d 650, 660 (7th Cir. 2011).

¹² *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.”).

¹³ *See Boender*, 649 F.3d at 660 (holding that to determine who made a contribution, “we consider the giver to be the *source* of the gift, not any intermediary who simply conveys the gift from the donor to the donee” (emphasis added)); *O’Donnell*, 608 F.3d at 550; *Goland v. United States*, 903 F.2d 1247, 1251 (9th Cir. 1990) (“The Act prohibits the use of ‘conduits’ to circumvent . . . [the Act’s reporting] restrictions.” (quoting then-Section 441f)).

¹⁴ *O’Donnell*, 608 F.3d at 555. Moreover, the “key issue . . . is the *source* of the funds” and, therefore, the legal status of the funds when conveyed from a conduit to the ultimate recipient is “irrelevant to a determination of who ‘made’ the contribution for the purposes of [Section 30122].” *United States v. Whittemore*, 776 F.3d 1074, 1080 (9th Cir. 2015) (holding that defendant’s “unconditional gifts” to relatives and employees, along with suggestion they contribute the funds to a specific political committee, violated Section 30122 because the source of the funds remained the individual who provided them to the putative contributors).

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1 structure of the transaction itself and the arrangement between the parties to determine who, in
2 fact, “made” a given contribution.

3 The available information does not indicate that Gong played a significant role in
4 carrying out the alleged conduit scheme. In past matters, the Commission has not pursued
5 subordinate employee conduits in reimbursed contribution schemes absent indications that the
6 conduits themselves were actively involved in the scheme, coerced or encouraged others to
7 participate in the scheme, or were public officials.¹⁵ The available information does not indicate
8 that Gong suggested the reimbursement or otherwise participated in the creation or perpetuation
9 of the conduit scheme. Accordingly, the Commission dismisses the allegations regarding
10 Gong.¹⁶

¹⁵ See Factual & Legal Analysis at 9, MUR 7878 (Eric Barbanel); Factual & Legal Analysis at 9, MUR 6281 (Glenn Marshall).

¹⁶ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Hui Liu MUR 7614

I. INTRODUCTION

The Complaint in this matter alleges that Hui Liu engaged in a scheme to funnel excessive contributions of her own funds and other individuals' foreign national contributions to several committees in violation of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations. Specifically, the Complaint alleges that Liu promoted political fundraising events targeted to foreign nationals, which resulted in Liu providing substantial assistance to foreign nationals making contributions in Liu's name in connection with their attendance at political fundraising events.¹ Given the limited factual record, the Commission dismisses the allegations.

II. FACTUAL BACKGROUND

According to the Complaint Hui Liu is the wife of Jon Deng — the Director of the Palm Beach County chapter of the Asian GOP.² The Complaint alleges that Liu and Deng are associated with Li Juan "Cindy" Gong f/k/a Li Juan "Cindy" Yang ("Yang") who is reportedly a Florida businesswoman who, along with members of her family, formed, owned, and operated a number of day spas in Florida.³ After the 2016 election, Yang began marketing tourism packages that purportedly promised Chinese businesspeople access to American politicians and

¹ Compl. ¶ 44 (May 22, 2019)

² *Id.* ¶ 5.

³ *Id.* ¶ 9 (citing Frances Robles, Michael Forsythe & Alexandra Stevenson, *She Extols Trump, Guns and the Chinese Communist Party Line*, N.Y. TIMES (Mar. 16, 2019), <https://www.nytimes.com/2019/03/16/us/cindy-yang-trump-donations.html>).

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1 American political events.⁴ On December 2, 2017, Trump Victory, a joint fundraising
2 committee, hosted a fundraiser at Cipriani restaurant in New York City to which tickets cost
3 \$1,000 for general admission, “VIP” tickets cost \$2,700,⁵ and posing for a photograph with
4 President Trump at the event was available for contributors who donated \$50,000 to Trump
5 Victory.⁶ In the two weeks preceding the event, Yang made three contributions to Trump
6 Victory totaling \$23,500.⁷ Yang reportedly arranged for a large group of businesspeople from
7 China to attend the December 2, 2017 event.⁸ According to the Complaint, Liu assisted Yang in
8 these efforts.⁹ The Complaint alleges that Liu promoted attendance at political fundraising
9 events with Yang, which appears to have resulted in the provision of substantial assistance to
10 foreign nationals in making prohibited contributions in violation of 11 C.F.R. § 110.20(h)(1) and
11 making contributions in the name of another in violation of 52 U.S.C. § 30122.¹⁰

⁴ Jay Weaver, *et al.*, *Feds Open Foreign-Money Investigation into Trump Donor Cindy Yang*, MIAMI HERALD (May 12, 2019), <https://www.miamiherald.com/news/politics-government/article230217729.html>.

⁵ *Id.*

⁶ Press reports have indicated that admission to the event ranged from \$2,700-\$10,000. *See, e.g.*, Chas Danner, *Everything to Know about the Spa Founder Selling Access to Trump*, N.Y. MAGAZINE (Mar. 10, 2019), <https://nymag.com/intelligencer/2019/03/what-we-know-about-the-spa-owner-cindy-yang-selling-access-to-trump.html>.

⁷ On November 21, 2017, Yang made an \$18,000 contribution and on November 27, 2017, Yang made additional contributions of \$2,500 and \$3,000 to Trump Victory. Trump Victory 2017 Year-End Report at 159 (Jan.31, 2018), <https://docquery.fec.gov/pdf/531/201801319091159531/201801319091159531.pdf#navpane> s=0https://docquery.fec.gov/cgi-bin/fecimg/?201801319091159689.

⁸ Compl.¶ 4 (citing Nicholas Nehamas, *et al.*, *Massage Parlor Magnate Helped Steer Chinese to Trump NYC Fundraiser*, MIAMI HERALD (March 9, 2019).

⁹ Compl. ¶38.

¹⁰ *Id.* ¶¶ 29-35.

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III. LEGAL ANALYSIS

The Act and Commission regulations prohibit any “foreign national” from directly or indirectly making a contribution or donation of money or other thing of value, or an expenditure, independent expenditure, or disbursement, in connection with a federal, state, or local election.¹¹

The Act’s definition of “foreign national” includes an individual who is not a citizen or national of the United States and who is not lawfully admitted for permanent residence.¹²

It is unlawful to knowingly provide substantial assistance in the solicitation, making, acceptance, or receipt of a contribution or donation by a foreign national.¹³ The Commission has explained that substantial assistance “means active involvement in the solicitation, making, receipt or acceptance of a foreign national contribution or donation with an intent to facilitate successful completion of the transaction.”¹⁴ Moreover, substantial assistance “covers but is not limited to, those persons who act as conduits or intermediaries for foreign national contributions or donations.”¹⁵ In the context of foreign national attendance at fundraising events, the Commission in MUR 4530, *et al.* (DNC, *et al.*) found reason to believe as to and conciliated with a number of individuals who made and facilitated the making of foreign national contributions

¹¹ 52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.26(b)-(c), (e)-(f). Courts have consistently upheld the provisions of the Act prohibiting foreign national contributions on the ground that the government has a clear, compelling interest in limiting the influence of foreigners over the activities and processes that are integral to democratic self-government, which include making political contributions and express-advocacy expenditures. *See Bluman v. FEC*, 800 F. Supp. 2d 281, 288-89 (D.D.C. 2011); *aff’d* 132 S. Ct. 1087 (2012); *United States v. Singh*, 924 F.3d 1030, 1040-44 (9th Cir. 2019).

¹² 52 U.S.C. § 30121(b); *see also* 11 C.F.R. § 110.20(a)(3).

¹³ 11 C.F.R. § 110.20(h)(1).

¹⁴ Explanation & Justification, *Assisting Foreign National Contributions or Donations*, 67 Fed. Reg. 69,928, 69,945 (Nov. 19, 2002) (“Foreign National Contribution E&J”).

¹⁵ *Id.* at 69,946.

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and contributions in the name of another in connection with attendance at fundraising events.¹⁶
Subsequent to these conciliations and after Congress enacted the Bipartisan Campaign Reform
Act of 2002,¹⁷ the Commission issued further guidance reaffirming that it is illegal for U.S.
citizens to serve as conduits or render substantial assistance in the making of foreign national
contributions.¹⁸

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

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

¹⁶ See Conciliation Agreement with Yah Lin “Charlie” Trie at 2-3, MUR 4530 (DNC, *et al.*) (June 21, 2001) (detailing a reimbursement scheme to secure a foreign national’s attendance at a fundraiser); Conciliation Agreement with John Huang, MUR 4530 (DNC, *et al.*) (Aug. 23, 2001) (detailing reimbursement schemes used by a fundraiser who “bundled” foreign national donations).

¹⁷ Public Law 107-155, 116 Stat. 81 (Mar. 27, 2002).

¹⁸ Foreign National Contribution E&J at 69,945.

¹⁹ 52 U.S.C. § 30101(8)(A).

²⁰ *Id.* § 30122.

²¹ 11 C.F.R. § 110.4(b)(2)(i)–(ii).

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

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

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

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

²⁵ *See Boender*, 649 F.3d at 660 (holding that to determine who made a contribution, “we consider the giver to be the *source* of the gift, not any intermediary who simply conveys the gift from the donor to the donee” (emphasis added)); *O’Donnell*, 608 F.3d at 550; *Goland v. United States*, 903 F.2d 1247, 1251 (9th Cir. 1990) (“The Act prohibits the use of ‘conduits’ to circumvent . . . [the Act’s reporting] restrictions.” (quoting then-Section 441f)).

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

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1 structure of the transaction itself and the arrangement between the parties to determine who, in
2 fact, “made” a given contribution.

3 Although the Commission could investigate these allegations, because the factual record
4 regarding them is not developed, the Commission exercises its prosecutorial discretion under
5 *Heckler v. Chaney*,²⁷ and dismisses these allegations.

²⁷ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Jingzhu “Margaret” Yang MUR 7614

I. INTRODUCTION

The Complaint in this matter alleges that Jingzhu “Margaret” Yang engaged in a scheme to funnel excessive contributions of her own funds and other individuals’ foreign national contributions to several committees in violation of the Federal Election Campaign Act of 1971, as amended (the “Act”), and Commission regulations. Specifically, the Complaint alleges that Yang promoted political fundraising events targeted to foreign nationals, which resulted in Yang providing substantial assistance to foreign nationals making contributions in connection with their attendance at political fundraising events.¹ Given the limited factual record, the Commission dismisses the allegations.

II. FACTUAL BACKGROUND

On December 2, 2017, Trump Victory, a joint fundraising committee, hosted a fundraiser at Cipriani restaurant in New York City to which tickets cost \$1,000 for general admission, “VIP” tickets cost \$2,700,² and posing for a photograph with President Trump at the event was available for contributors who donated \$50,000 to Trump Victory.³ According to the Complaint, Yang arranged for Chinese nationals to attend the December 2 fundraiser.⁴ The Complaint

¹ Compl. ¶ 44 (May 22, 2019)

² *Id.*

³ Press reports have indicated that admission to the event ranged from \$2,700-\$10,000. *See, e.g.*, Chas Danner, *Everything to Know about the Spa Founder Selling Access to Trump*, N.Y. MAGAZINE (Mar. 10, 2019), <https://nymag.com/intelligencer/2019/03/what-we-know-about-the-spa-owner-cindy-yang-selling-access-to-trump.html>.

⁴ Compl. ¶ 7.

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alleges that Yang promoted attendance at political fundraising events through a political tourism business which appears to have resulted in the provision of substantial assistance to foreign nationals in making prohibited contributions in violation of 11 C.F.R. § 110.20(h)(1).⁵

III. LEGAL ANALYSIS

The Act and Commission regulations prohibit any “foreign national” from directly or indirectly making a contribution or donation of money or other thing of value, or an expenditure, independent expenditure, or disbursement, in connection with a federal, state, or local election.⁶ The Act’s definition of “foreign national” includes an individual who is not a citizen or national of the United States and who is not lawfully admitted for permanent residence.⁷

It is unlawful to knowingly provide substantial assistance in the solicitation, making, acceptance, or receipt of a contribution or donation by a foreign national.⁸ The Commission has explained that substantial assistance “means active involvement in the solicitation, making, receipt or acceptance of a foreign national contribution or donation with an intent to facilitate successful completion of the transaction.”⁹ Moreover, substantial assistance “covers but is not limited to, those persons who act as conduits or intermediaries for foreign national contributions

⁵ *Id.* ¶¶ 29-35.

⁶ 52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.26(b)-(c), (e)-(f). Courts have consistently upheld the provisions of the Act prohibiting foreign national contributions on the ground that the government has a clear, compelling interest in limiting the influence of foreigners over the activities and processes that are integral to democratic self-government, which include making political contributions and express-advocacy expenditures. *See Bluman v. FEC*, 800 F. Supp. 2d 281, 288-89 (D.D.C. 2011); *aff’d* 132 S. Ct. 1087 (2012); *United States v. Singh*, 924 F.3d 1030, 1040-44 (9th Cir. 2019).

⁷ 52 U.S.C. § 30121(b); *see also* 11 C.F.R. § 110.20(a)(3).

⁸ 11 C.F.R. § 110.20(h)(1).

⁹ Explanation & Justification, *Assisting Foreign National Contributions or Donations*, 67 Fed. Reg. 69,928, 69,945 (Nov. 19, 2002) (“Foreign National Contribution E&J”).

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or donations.”¹⁰ In the context of foreign national attendance at fundraising events, the Commission in MUR 4530, *et al.* (DNC, *et al.*) found reason to believe as to and conciliated with a number of individuals who made and facilitated the making of foreign national contributions and contributions in the name of another in connection with attendance at fundraising events.¹¹ Subsequent to these conciliations and after Congress enacted the Bipartisan Campaign Reform Act of 2002,¹² the Commission issued further guidance reaffirming that it is illegal for U.S. citizens to serve as conduits or render substantial assistance in the making of foreign national contributions.¹³

Although the Commission could investigate these allegations, because the factual record regarding them is not developed, the Commission exercises its prosecutorial discretion under *Heckler v. Chaney*,¹⁴ and dismisses these allegations as to Jingzhu “Margaret” Yang.

¹⁰ *Id.* at 69,946.

¹¹ See Conciliation Agreement with Yah Lin “Charlie” Trie at 2-3, MUR 4530 (DNC, *et al.*) (June 21, 2001) (detailing a reimbursement scheme to secure a foreign national’s attendance at a fundraiser); Conciliation Agreement with John Huang, MUR 4530 (DNC, *et al.*) (Aug. 23, 2001) (detailing reimbursement schemes used by a fundraiser who “bundled” foreign national donations).

¹² Public Law 107-155, 116 Stat. 81 (Mar. 27, 2002).

¹³ Foreign National Contribution E&J at 69,945.

¹⁴ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS****RESPONDENT:** Jiusi Yao MUR 7614**I. INTRODUCTION**

The Complaint in this matter alleges that Jiusi Yao engaged in a scheme to funnel excessive contributions of Yao's own funds and other individuals' foreign national contributions to several committees in violation of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations. Specifically, the Complaint alleges that Yao promoted political fundraising events targeted to foreign nationals, which resulted in Yao providing substantial assistance to foreign nationals making contributions in connection with their attendance at political fundraising events.¹ Given the limited factual record, the Commission dismisses the allegations.

II. FACTUAL BACKGROUND

According to the Complaint, Yao arranged for three Chinese nationals to attend a June 29, 2018 Trump Victory, a joint fundraising committee, fundraiser in Milwaukee, Wisconsin.² The Complaint alleges that Yao promoted attendance at political fundraising events through a political tourism business called Buds, which appears to have resulted in the provision of substantial assistance to foreign nationals in making prohibited contributions in violation of 11 C.F.R. § 110.20(h)(1).³

¹ Compl. ¶¶ 1, 32, 44 (May 22, 2019)

² *Id.*

³ *Id.*

III. LEGAL ANALYSIS

The Act and Commission regulations prohibit any “foreign national” from directly or indirectly making a contribution or donation of money or other thing of value, or an expenditure, independent expenditure, or disbursement, in connection with a federal, state, or local election.⁴

The Act’s definition of “foreign national” includes an individual who is not a citizen or national of the United States and who is not lawfully admitted for permanent residence.⁵

It is unlawful to knowingly provide substantial assistance in the solicitation, making, acceptance, or receipt of a contribution or donation by a foreign national.⁶ The Commission has explained that substantial assistance “means active involvement in the solicitation, making, receipt or acceptance of a foreign national contribution or donation with an intent to facilitate successful completion of the transaction.”⁷ Moreover, substantial assistance “covers but is not limited to, those persons who act as conduits or intermediaries for foreign national contributions or donations.”⁸ In the context of foreign national attendance at fundraising events, the Commission in MUR 4530, *et al.* (DNC, *et al.*) found reason to believe as to and conciliated with a number of individuals who made and facilitated the making of foreign national contributions

⁴ 52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.26(b)-(c), (e)-(f). Courts have consistently upheld the provisions of the Act prohibiting foreign national contributions on the ground that the government has a clear, compelling interest in limiting the influence of foreigners over the activities and processes that are integral to democratic self-government, which include making political contributions and express-advocacy expenditures. *See Bluman v. FEC*, 800 F. Supp. 2d 281, 288-89 (D.D.C. 2011); *aff’d* 132 S. Ct. 1087 (2012); *United States v. Singh*, 924 F.3d 1030, 1040-44 (9th Cir. 2019).

⁵ 52 U.S.C. § 30121(b); *see also* 11 C.F.R. § 110.20(a)(3).

⁶ 11 C.F.R. § 110.20(h)(1).

⁷ Explanation & Justification, *Assisting Foreign National Contributions or Donations*, 67 Fed. Reg. 69,928, 69,945 (Nov. 19, 2002) (“Foreign National Contribution E&J”).

⁸ *Id.* at 69,946.

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1 and contributions in the name of another in connection with attendance at fundraising events.⁹
2 Subsequent to these conciliations and after Congress enacted the Bipartisan Campaign Reform
3 Act of 2002,¹⁰ the Commission issued further guidance reaffirming that it is illegal for U.S.
4 citizens to serve as conduits or render substantial assistance in the making of foreign national
5 contributions.¹¹

6 Although the Commission could investigate these allegations, because the factual record
7 regarding them is not developed, the Commission exercises its prosecutorial discretion under
8 *Heckler v. Chaney*,¹² and dismisses these allegations as to Jiusi Yao.

⁹ See Conciliation Agreement with Yah Lin “Charlie” Trie at 2-3, MUR 4530 (DNC, *et al.*) (June 21, 2001) (detailing a reimbursement scheme to secure a foreign national’s attendance at a fundraiser); Conciliation Agreement with John Huang, MUR 4530 (DNC, *et al.*) (Aug. 23, 2001) (detailing reimbursement schemes used by a fundraiser who “bundled” foreign national donations).

¹⁰ Public Law 107-155, 116 Stat. 81 (Mar. 27, 2002).

¹¹ Foreign National Contribution E&J at 69,945.

¹² *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Jon Deng MUR 7614

I. INTRODUCTION

The Complaint in this matter alleges that Jon Deng engaged in a scheme to funnel excessive contributions of his own funds and other individuals' foreign national contributions to several committees in violation of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations. Specifically, the Complaint alleges that Deng promoted political fundraising events targeted to foreign nationals, which resulted in Deng providing substantial assistance to foreign nationals making contributions in Deng's name in connection with their attendance at political fundraising events.¹ Given the limited factual record, the Commission dismisses the allegations.

II. FACTUAL BACKGROUND

According to the Complaint Deng is the Director of the Palm Beach County chapter of the Asian GOP.² The Complaint alleges that Deng is associated with Li Juan "Cindy" Gong f/k/a Li Juan "Cindy" Yang ("Yang") who is reportedly a Florida businesswoman who, along with members of her family, formed, owned, and operated a number of day spas in Florida.³ After the 2016 election, Yang began marketing tourism packages that purportedly promised

¹ Compl. ¶ 44 (May 22, 2019)

² *Id.* ¶ 5.

³ *Id.* ¶ 9 (citing Frances Robles, Michael Forsythe & Alexandra Stevenson, *She Extols Trump, Guns and the Chinese Communist Party Line*, N.Y. TIMES (Mar. 16, 2019), <https://www.nytimes.com/2019/03/16/us/cindy-yang-trump-donations.html>).

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1 Chinese businesspeople access to American politicians and American political events.⁴ On
2 December 2, 2017, Trump Victory, a joint fundraising committee, hosted a fundraiser at Cipriani
3 restaurant in New York City to which tickets cost \$1,000 for general admission, “VIP” tickets
4 cost \$2,700,⁵ and posing for a photograph with President Trump at the event was available for
5 contributors who donated \$50,000 to Trump Victory.⁶ In the two weeks preceding the event,
6 Yang made three contributions to Trump Victory totaling \$23,500.⁷ Yang reportedly arranged
7 for a large group of businesspeople from China to attend the December 2, 2017 event.⁸
8 According to the Complaint, Deng assisted Yang in these efforts.⁹ The Complaint alleges that
9 Deng promoted attendance at political fundraising events with Yang, which appears to have
10 resulted in the provision of substantial assistance to foreign nationals in making prohibited
11 contributions in violation of 11 C.F.R. § 110.20(h)(1) and making contributions in the name of
12 another in violation of 52 U.S.C. § 30122.¹⁰

⁴ Jay Weaver, *et al.*, *Feds Open Foreign-Money Investigation into Trump Donor Cindy Yang*, MIAMI HERALD (May 12, 2019), <https://www.miamiherald.com/news/politics-government/article230217729.html>.

⁵ *Id.*

⁶ Press reports have indicated that admission to the event ranged from \$2,700-\$10,000. *See, e.g.*, Chas Danner, *Everything to Know about the Spa Founder Selling Access to Trump*, N.Y. MAGAZINE (Mar. 10, 2019), <https://nymag.com/intelligencer/2019/03/what-we-know-about-the-spa-owner-cindy-yang-selling-access-to-trump.html>.

⁷ On November 21, 2017, Yang made an \$18,000 contribution and on November 27, 2017, Yang made additional contributions of \$2,500 and \$3,000 to Trump Victory. Trump Victory 2017 Year-End Report at 159 (Jan.31, 2018), <https://docquery.fec.gov/pdf/531/201801319091159531/201801319091159531.pdf#navpane> s=0https://docquery.fec.gov/cgi-bin/fecimg/?201801319091159689.

⁸ Compl.¶ 4 (citing Nicholas Nehamas, *et al.*, *Massage Parlor Magnate Helped Steer Chinese to Trump NYC Fundraiser*, MIAMI HERALD (March 9, 2019).

⁹ Compl. ¶38.

¹⁰ *Id.* ¶¶ 29-35.

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III. LEGAL ANALYSIS

The Act and Commission regulations prohibit any “foreign national” from directly or indirectly making a contribution or donation of money or other thing of value, or an expenditure, independent expenditure, or disbursement, in connection with a federal, state, or local election.¹¹

The Act’s definition of “foreign national” includes an individual who is not a citizen or national of the United States and who is not lawfully admitted for permanent residence.¹²

It is unlawful to knowingly provide substantial assistance in the solicitation, making, acceptance, or receipt of a contribution or donation by a foreign national.¹³ The Commission has explained that substantial assistance “means active involvement in the solicitation, making, receipt or acceptance of a foreign national contribution or donation with an intent to facilitate successful completion of the transaction.”¹⁴ Moreover, substantial assistance “covers but is not limited to, those persons who act as conduits or intermediaries for foreign national contributions or donations.”¹⁵ In the context of foreign national attendance at fundraising events, the Commission in MUR 4530, *et al.* (DNC, *et al.*) found reason to believe as to and conciliated with a number of individuals who made and facilitated the making of foreign national contributions

¹¹ 52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.26(b)-(c), (e)-(f). Courts have consistently upheld the provisions of the Act prohibiting foreign national contributions on the ground that the government has a clear, compelling interest in limiting the influence of foreigners over the activities and processes that are integral to democratic self-government, which include making political contributions and express-advocacy expenditures. *See Bluman v. FEC*, 800 F. Supp. 2d 281, 288-89 (D.D.C. 2011); *aff’d* 132 S. Ct. 1087 (2012); *United States v. Singh*, 924 F.3d 1030, 1040-44 (9th Cir. 2019).

¹² 52 U.S.C. § 30121(b); *see also* 11 C.F.R. § 110.20(a)(3).

¹³ 11 C.F.R. § 110.20(h)(1).

¹⁴ Explanation & Justification, *Assisting Foreign National Contributions or Donations*, 67 Fed. Reg. 69,928, 69,945 (Nov. 19, 2002) (“Foreign National Contribution E&J”).

¹⁵ *Id.* at 69,946.

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and contributions in the name of another in connection with attendance at fundraising events.¹⁶
Subsequent to these conciliations and after Congress enacted the Bipartisan Campaign Reform
Act of 2002,¹⁷ the Commission issued further guidance reaffirming that it is illegal for U.S.
citizens to serve as conduits or render substantial assistance in the making of foreign national
contributions.¹⁸

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

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

¹⁶ See Conciliation Agreement with Yah Lin “Charlie” Trie at 2-3, MUR 4530 (DNC, *et al.*) (June 21, 2001) (detailing a reimbursement scheme to secure a foreign national’s attendance at a fundraiser); Conciliation Agreement with John Huang, MUR 4530 (DNC, *et al.*) (Aug. 23, 2001) (detailing reimbursement schemes used by a fundraiser who “bundled” foreign national donations).

¹⁷ Public Law 107-155, 116 Stat. 81 (Mar. 27, 2002).

¹⁸ Foreign National Contribution E&J at 69,945.

¹⁹ 52 U.S.C. § 30101(8)(A).

²⁰ *Id.* § 30122.

²¹ 11 C.F.R. § 110.4(b)(2)(i)–(ii).

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

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

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

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

²⁵ *See Boender*, 649 F.3d at 660 (holding that to determine who made a contribution, “we consider the giver to be the *source* of the gift, not any intermediary who simply conveys the gift from the donor to the donee” (emphasis added)); *O’Donnell*, 608 F.3d at 550; *Goland v. United States*, 903 F.2d 1247, 1251 (9th Cir. 1990) (“The Act prohibits the use of ‘conduits’ to circumvent . . . [the Act’s reporting] restrictions.” (quoting then-Section 441f)).

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

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1 structure of the transaction itself and the arrangement between the parties to determine who, in
2 fact, “made” a given contribution.

3 Although the Commission could investigate these allegations, because the factual record
4 regarding them is not developed, the Commission exercises its prosecutorial discretion under
5 *Heckler v. Chaney*,²⁷ and dismisses these allegations.

²⁷ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Katrina Eggertsson MUR 7581

I. INTRODUCTION

The Complaint in this matter alleges that Katrina Eggertsson knowingly served as a conduit in a scheme to funnel excessive contributions to several committees in violation of the Federal Election Campaign Act of 1971, as amended (the “Act”), and Commission regulations. Specifically, the Complaint alleges that Eggertsson made a \$5,400 contribution in her name, when it was really made using funds of her employer, Li Juan “Cindy” Gong f/k/a Li Juan “Cindy” Yang (“Yang”) to Trump Victory,¹ a joint fundraising committee, structured to allocate the first \$5,400 in contributions to the Make America Great Again PAC f/k/a Donald J. Trump for President, Inc. (“Trump Committee”).² Because the available information does not indicate that Eggertsson played a significant role in carrying out the alleged reimbursed contribution scheme, the Commission dismisses the allegations.

II. FACTUAL BACKGROUND

Yang is reportedly a Florida businesswoman who, along with members of her family, formed, owned, and operated a number of day spas in Florida.³ According to the Complaints, nine of Yang’s family members and work associates, who did not appear to possess significant financial means and none of whom had prior histories of making political donations, made the

¹ Trump Victory, Donate, VICTORY FOR TRUMP, <https://secure.victoryfortrump.com/donate> (last visited June 16, 2022) (detailing allocation formula with updated contribution limits for 2021-22 election cycle).

² Compl. ¶¶ 7-12 (Mar. 18, 2019).

³ Compl. ¶ 9 (citing Frances Robles *et al.*, *She Extols Trump, Guns and the Chinese Communist Party Line*, N.Y. TIMES (Mar. 16, 2019), <https://www.nytimes.com/2019/03/16/us/cindy-yang-trump-donations.html> (“New York Times Article”).

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maximum contribution of \$5,400 to the Trump Committee via Trump Victory within a two-week period.⁴ Eggertsson made a \$5,400 contribution on March 5, 2021.⁵ On disclosure reports filed with the Commission Eggertsson's disclosed occupation is "facial instructor" at Tokyo Beauty & Massage School, a corporation formed by Yang and currently run by Yang's father.⁶

III. LEGAL ANALYSIS

The Act provides that a contribution includes "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office."⁷ The Act prohibits a person from making a contribution in the name of another person, knowingly permitting his or her name to be used to effect such a contribution, or knowingly accepting such a contribution.⁸ 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.⁹

⁴ See New York Times Article.

⁵ Compl. ¶ 22 (citing Trump Victory 2018 Apr. Quarterly Rpt. at 47; Trump Committee 2018 Apr. Quarterly Rpt. at 6028).

⁶ *Id.*; see also Tokyo Beauty & Massage School Articles of Incorporation, DIVISION OF CORPORATIONS - FLORIDA DEPARTMENT OF STATE (May 5, 2011), <https://search.sunbiz.org/Inquiry/CorporationSearch/ConvertTiffToPDF?storagePath=COR%5C2011%5C0517%5C00124852.Tif&documentNumber=L11000053501>.

⁷ 52 U.S.C. § 30101(8)(A).

⁸ *Id.* § 30122.

⁹ 11 C.F.R. § 110.4(b)(2)(i)–(ii).

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The requirement that a contribution be made in the name of its true source promotes Congress’s objective of ensuring the complete and accurate disclosure by candidates and committees of the political contributions they receive.¹⁰ Courts therefore have uniformly rejected the assertion that “only the person who actually transmits funds . . . makes the contribution,”¹¹ 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.”¹² 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.¹³ 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.¹⁴ Because the concern of the law is the true source from which a contribution to a candidate or committee originates, we look to the

¹⁰ *United States v. O’Donnell*, 608 F.3d 546, 553 (9th Cir. 2010) (“[T]he congressional purpose behind [Section 30122] — to ensure the *complete and accurate disclosure* of the contributors who finance federal elections — is plain.”) (emphasis added); *Mariani v. United States*, 212 F.3d 761, 775 (3d Cir. 2000) (rejecting constitutional challenge to Section 30122 in light of compelling governmental interest in disclosure).

¹¹ *United States v. Boender*, 649 F.3d 650, 660 (7th Cir. 2011).

¹² *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.”).

¹³ *See Boender*, 649 F.3d at 660 (holding that to determine who made a contribution, “we consider the giver to be the *source* of the gift, not any intermediary who simply conveys the gift from the donor to the donee” (emphasis added)); *O’Donnell*, 608 F.3d at 550; *Goland v. United States*, 903 F.2d 1247, 1251 (9th Cir. 1990) (“The Act prohibits the use of ‘conduits’ to circumvent . . . [the Act’s reporting] restrictions.” (quoting then-Section 441f)).

¹⁴ *O’Donnell*, 608 F.3d at 555. Moreover, the “key issue . . . is the *source* of the funds” and, therefore, the legal status of the funds when conveyed from a conduit to the ultimate recipient is “irrelevant to a determination of who ‘made’ the contribution for the purposes of [Section 30122].” *United States v. Whittemore*, 776 F.3d 1074, 1080 (9th Cir. 2015) (holding that defendant’s “unconditional gifts” to relatives and employees, along with suggestion they contribute the funds to a specific political committee, violated Section 30122 because the source of the funds remained the individual who provided them to the putative contributors).

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1 structure of the transaction itself and the arrangement between the parties to determine who, in
2 fact, “made” a given contribution.

3 The available information does not indicate that Eggertsson played a significant role in
4 carrying out the alleged conduit scheme. In past matters, the Commission has not pursued
5 subordinate employee conduits in reimbursed contribution schemes absent indications that the
6 conduits themselves were actively involved in the scheme, coerced or encouraged others to
7 participate in the scheme, or were public officials.¹⁵ The available information does not indicate
8 that Eggertsson suggested the reimbursement or otherwise participated in the creation or
9 perpetuation of the conduit scheme. Accordingly, the Commission dismisses the allegations
10 regarding Eggertsson.¹⁶

¹⁵ See Factual & Legal Analysis at 9, MUR 7878 (Eric Barbanel); Factual & Legal Analysis at 9, MUR 6281 (Glenn Marshall).

¹⁶ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Li Jing MUR 7614

I. INTRODUCTION

The Complaint in this matter alleges that Li Jing engaged in a scheme to funnel excessive contributions of Jing's own funds and other individuals' foreign national contributions to several committees in violation of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations. Specifically, the Complaint alleges that Jing promoted political fundraising events targeted to foreign nationals, which resulted in Jing providing substantial assistance to foreign nationals making contributions in Jing's name in connection with their attendance at political fundraising events.¹ Given the limited factual record, the Commission dismisses the allegations.

II. FACTUAL BACKGROUND

According to the Complaint Jing is a "New-York based Chinese socialite" who is close with the Trump family. The Complaint alleges that Jing is associated with Li Juan "Cindy" Gong f/k/a Li Juan "Cindy" Yang ("Yang") who is reportedly a Florida businesswoman who, along with members of her family, formed, owned, and operated a number of day spas in Florida.² After the 2016 election, Yang began marketing tourism packages that purportedly promised Chinese businesspeople access to American politicians and American political events.³

¹ Compl. ¶ 44 (May 22, 2019)

² *Id.* ¶ 9 (citing Frances Robles, Michael Forsythe & Alexandra Stevenson, *She Extols Trump, Guns and the Chinese Communist Party Line*, N.Y. TIMES (Mar. 16, 2019), <https://www.nytimes.com/2019/03/16/us/cindy-yang-trump-donations.html>).

³ Jay Weaver, *et al.*, *Feds Open Foreign-Money Investigation into Trump Donor Cindy Yang*, MIAMI HERALD (May 12, 2019), <https://www.miamiherald.com/news/politics-government/article230217729.html>.

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On December 2, 2017, Trump Victory, a joint fundraising committee, hosted a fundraiser at Cipriani restaurant in New York City to which tickets cost \$1,000 for general admission, “VIP” tickets cost \$2,700,⁴ and posing for a photograph with President Trump at the event was available for contributors who donated \$50,000 to Trump Victory.⁵ In the two weeks preceding the event, Yang made three contributions to Trump Victory totaling \$23,500.⁶ Yang reportedly arranged for a large group of businesspeople from China to attend the December 2, 2017 event.⁷ According to the Complaint Jing assisted Yang in these efforts.⁸ The Complaint alleges that Jing promoted attendance at political fundraising events with Yang, which appears to have resulted in the provision of substantial assistance to foreign nationals in making prohibited contributions in violation of 11 C.F.R. § 110.20(h)(1) and making contributions in the name of another in violation of 52 U.S.C. § 30122.⁹

III. LEGAL ANALYSIS

The Act and Commission regulations prohibit any “foreign national” from directly or indirectly making a contribution or donation of money or other thing of value, or an expenditure,

⁴ *Id.*

⁵ Press reports have indicated that admission to the event ranged from \$2,700-\$10,000. *See, e.g.,* Chas Danner, *Everything to Know about the Spa Founder Selling Access to Trump*, N.Y. MAGAZINE (Mar. 10, 2019), <https://nymag.com/intelligencer/2019/03/what-we-know-about-the-spa-owner-cindy-yang-selling-access-to-trump.html>.

⁶ On November 21, 2017, Yang made an \$18,000 contribution and on November 27, 2017, Yang made additional contributions of \$2,500 and \$3,000 to Trump Victory. Trump Victory 2017 Year-End Report at 159 (Jan.31, 2018), <https://docquery.fec.gov/pdf/531/201801319091159531/201801319091159531.pdf#navpane> [s=0https://docquery.fec.gov/cgi-bin/fecimg/?201801319091159689](https://docquery.fec.gov/cgi-bin/fecimg/?201801319091159689).

⁷ Compl.¶ 4 (citing Nicholas Nehamas, *et al., Massage Parlor Magnate Helped Steer Chinese to Trump NYC Fundraiser*, MIAMI HERALD (March 9, 2019).

⁸ Compl. ¶38.

⁹ *Id.* ¶¶ 29-35.

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independent expenditure, or disbursement, in connection with a federal, state, or local election.¹⁰
The Act’s definition of “foreign national” includes an individual who is not a citizen or national
of the United States and who is not lawfully admitted for permanent residence.¹¹

It is unlawful to knowingly provide substantial assistance in the solicitation, making,
acceptance, or receipt of a contribution or donation by a foreign national.¹² The Commission has
explained that substantial assistance “means active involvement in the solicitation, making,
receipt or acceptance of a foreign national contribution or donation with an intent to facilitate
successful completion of the transaction.”¹³ Moreover, substantial assistance “covers but is not
limited to, those persons who act as conduits or intermediaries for foreign national contributions
or donations.”¹⁴ In the context of foreign national attendance at fundraising events, the
Commission in MUR 4530, *et al.* (DNC, *et al.*) found reason to believe as to and conciliated with
a number of individuals who made and facilitated the making of foreign national contributions
and contributions in the name of another in connection with attendance at fundraising events.¹⁵

¹⁰ 52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.26(b)-(c), (e)-(f). Courts have consistently upheld the provisions of the Act prohibiting foreign national contributions on the ground that the government has a clear, compelling interest in limiting the influence of foreigners over the activities and processes that are integral to democratic self-government, which include making political contributions and express-advocacy expenditures. *See Bluman v. FEC*, 800 F. Supp. 2d 281, 288-89 (D.D.C. 2011); *aff’d* 132 S. Ct. 1087 (2012); *United States v. Singh*, 924 F.3d 1030, 1040-44 (9th Cir. 2019).

¹¹ 52 U.S.C. § 30121(b); *see also* 11 C.F.R. § 110.20(a)(3).

¹² 11 C.F.R. § 110.20(h)(1).

¹³ Explanation & Justification, *Assisting Foreign National Contributions or Donations*, 67 Fed. Reg. 69,928, 69,945 (Nov. 19, 2002) (“Foreign National Contribution E&J”).

¹⁴ *Id.* at 69,946.

¹⁵ *See* Conciliation Agreement with Yah Lin “Charlie” Trie at 2-3, MUR 4530 (DNC, *et al.*) (June 21, 2001) (detailing a reimbursement scheme to secure a foreign national’s attendance at a fundraiser); Conciliation Agreement with John Huang, MUR 4530 (DNC, *et al.*) (Aug. 23, 2001) (detailing reimbursement schemes used by a fundraiser who “bundled” foreign national donations).

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Subsequent to these conciliations and after Congress enacted the Bipartisan Campaign Reform Act of 2002,¹⁶ the Commission issued further guidance reaffirming that it is illegal for U.S. citizens to serve as conduits or render substantial assistance in the making of foreign national contributions.¹⁷

The Act provides that a contribution includes “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.”¹⁸ The Act prohibits a person from making a contribution in the name of another person, knowingly permitting his or her name to be used to effect such a contribution, or knowingly accepting such a contribution.¹⁹ 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.²⁰

The requirement that a contribution be made in the name of its true source promotes Congress’s objective of ensuring the complete and accurate disclosure by candidates and committees of the political contributions they receive.²¹ Courts therefore have uniformly

¹⁶ Public Law 107-155, 116 Stat. 81 (Mar. 27, 2002).

¹⁷ Foreign National Contribution E&J at 69,945.

¹⁸ 52 U.S.C. § 30101(8)(A).

¹⁹ *Id.* § 30122.

²⁰ 11 C.F.R. § 110.4(b)(2)(i)–(ii).

²¹ *United States v. O’Donnell*, 608 F.3d 546, 553 (9th Cir. 2010) (“[T]he congressional purpose behind [Section 30122] — to ensure the *complete and accurate disclosure* of the contributors who finance federal elections

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1 rejected the assertion that “only the person who actually transmits funds . . . makes the
2 contribution,”²² recognizing that “it is implausible that Congress, in seeking to promote
3 transparency, would have understood the relevant contributor to be [an] intermediary who
4 merely transmitted the campaign gift.”²³ Consequently, both the Act and the Commission’s
5 implementing regulations provide that a person who furnishes another with funds for the purpose
6 of contributing to a candidate or committee “makes” the resulting contribution.²⁴ This is true
7 whether funds are advanced to another person to make a contribution in that person’s name or
8 promised as reimbursement of a solicited contribution.²⁵ Because the concern of the law is the
9 true source from which a contribution to a candidate or committee originates, we look to the
10 structure of the transaction itself and the arrangement between the parties to determine who, in
11 fact, “made” a given contribution.

— is plain.”) (emphasis added); *Mariani v. United States*, 212 F.3d 761, 775 (3d Cir. 2000) (rejecting constitutional challenge to Section 30122 in light of compelling governmental interest in disclosure).

²² *United States v. Boender*, 649 F.3d 650, 660 (7th Cir. 2011).

²³ *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.”).

²⁴ *See Boender*, 649 F.3d at 660 (holding that to determine who made a contribution, “we consider the giver to be the *source* of the gift, not any intermediary who simply conveys the gift from the donor to the donee” (emphasis added)); *O’Donnell*, 608 F.3d at 550; *Goland v. United States*, 903 F.2d 1247, 1251 (9th Cir. 1990) (“The Act prohibits the use of ‘conduits’ to circumvent . . . [the Act’s reporting] restrictions.” (quoting then-Section 441f)).

²⁵ *O’Donnell*, 608 F.3d at 555. Moreover, the “key issue . . . is the *source* of the funds” and, therefore, the legal status of the funds when conveyed from a conduit to the ultimate recipient is “irrelevant to a determination of who ‘made’ the contribution for the purposes of [Section 30122].” *United States v. Whittemore*, 776 F.3d 1074, 1080 (9th Cir. 2015) (holding that defendant’s “unconditional gifts” to relatives and employees, along with suggestion they contribute the funds to a specific political committee, violated Section 30122 because the source of the funds remained the individual who provided them to the putative contributors).

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1 Although the Commission could investigate these allegations, because the factual record
2 regarding them is not developed, the Commission exercises its prosecutorial discretion under
3 *Heckler v. Chaney*,²⁶ and dismisses these allegations.

²⁶ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Li Xiaohua MUR 7614

I. INTRODUCTION

The Complaint alleges that, Li Xiaohua, a foreign national, made prohibited contributions in connection with attendance at political fundraising events.¹ Given the limited factual record, the Commission dismisses the allegations.

II. FACTUAL BACKGROUND

On December 2, 2017, Trump Victory, a joint fundraising committee, hosted a fundraiser at Cipriani restaurant in New York City to which tickets cost \$1,000 for general admission, “VIP” tickets cost \$2,700,² and posing for a photograph with President Trump at the event was available for contributors who donated \$50,000 to Trump Victory.³

The December 2, 2017 Trump Victory fundraiser was reportedly promoted on Chinese language social media.⁴ A large group of businesspeople from China reportedly attended the December 2, 2017 event.⁵ According to press accounts, multiple Chinese nationals including Xiaohua posed for a picture with President Trump at that fundraiser, a privilege reserved for

¹ Compl.¶ 44. (May 22, 2019).

² *Id.*

³ *Id.* ¶ 4. Press reports have indicated that admission to the event ranged from \$2,700-\$10,000. *See, e.g.*, Chas Danner, *Everything to Know about the Spa Founder Selling Access to Trump*, N.Y. MAGAZINE (Mar. 10, 2019), <https://nymag.com/intelligencer/2019/03/what-we-know-about-the-spa-owner-cindy-yang-selling-access-to-trump.html>.

⁴ Jay Weaver, *et al.*, *Feds Open Foreign-Money Investigation into Trump Donor Cindy Yang*, MIAMI HERALD (May 12, 2019), <https://www.miamiherald.com/news/politics-government/article230217729.html>.

⁵ Compl.¶ 4 (citing Nicholas Nehamas, *et al.*, *Massage Parlor Magnate Helped Steer Chinese to Trump NYC Fundraiser*, MIAMI HERALD (March 9, 2019).

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1 contributors who gave \$50,000.⁶ Xiaohua does not appear in reports filed with the Commission
2 as having contributed to Trump Victory in his own name.⁷

3 Cliff Zhonggang Li, the executive director of the National Committee of Asian American
4 Republicans, reportedly told *Mother Jones* that Cindy Yang brought 20 to 30 people to this
5 December 2017 fundraiser and that the guests were part of a group of more than 100 Chinese
6 Americans and Chinese nationals who were present at the event.⁸ According to *Mother Jones*,
7 Li said:

8 “I don’t want to see that money somehow get funneled into the political
9 process here,” he remarked. He said that the Chinese American
10 community he works with is composed of politically inexperienced people
11 “with a weaker sense of compliance and also not that good a sense of
12 campaign finance law.” “That caused some weaknesses,” he said, and
13 perhaps “even intentional violations.” Li said that in the wake of the
14 December fundraiser, he had changed procedures at his group to bar
15 people who lack green cards or US citizenship from attending
16 fundraisers.⁹

17
18 Republican National Committee officials confirmed to the *Washington Post* that Chinese
19 nationals attended the December 2, 2017 fundraiser in New York as guests of a U.S. citizen
20 donor.¹⁰

⁶ Compl. ¶ 4 (citing Michelle Ye Hee Lee, *et al.*, *Invitations Offer Wealthy Chinese Access to President Trump at Fundraiser*, WASH. POST (May 25, 2018) https://www.washingtonpost.com/politics/invitations-offer-wealthy-chinese-access-to-president-trump-at-fundraiser/2018/05/25/3bc6a8ae-5e90-11e8-a4a4-c070ef53f315_story.html; Sarah Blaskey, *et al.*, *Cindy Yang Helped Chinese Tech Stars Get \$50K Photos With Trump. Who Paid?*, MIAMI HERALD (Mar. 21, 2019) <https://www.miamiherald.com/latest-news/article227941749.html> (“Miami Herald ‘Cindy Yang Helped Chinese Tech Stars Get Photo’ Article”)). Press accounts describe Li Xiaohua as chairman of Huada International Investment Group. *Id.*

⁷ Miami Herald ‘Cindy Yang Helped Chinese Tech Stars Get Photo’ Article.

⁸ Dan Friedman, *Head of Asian GOP Group Says He “Wouldn’t Rule Out” Illegal Foreign Donations to Trump*, MOTHER JONES (Mar. 15, 2019), <https://www.motherjones.com/politics/2019/03/head-of-asian-gop-group-says-he-wouldnt-rule-out-illegal-foreign-donations-to-trump/>.

⁹ *Id.*

¹⁰ Compl. ¶ 4(citing Michelle Ye Hee Lee, *et al.*, *Invitations Offer Wealthy Chinese Access to President Trump at Fundraiser*, WASH. POST (May 25, 2018), https://www.washingtonpost.com/politics/invitations-offer-wealthy-chinese-access-to-president-trump-at-fundraiser/2018/05/25/3bc6a8ae-5e90-11e8-a4a4-c070ef53f315_story.html).

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III. LEGAL ANALYSIS

The Federal Election Campaign Act of 1971, as amended (the “Act”), and Federal Election Commission regulations prohibit any “foreign national” from directly or indirectly making a contribution or donation of money or other thing of value, or an expenditure, independent expenditure, or disbursement, in connection with a federal, state, or local election.¹¹ The Act’s definition of “foreign national” includes an individual who is not a citizen or national of the United States and who is not lawfully admitted for permanent residence.¹²

Although the Commission could investigate these allegations, because the factual record regarding them is not developed, the Commission exercises its prosecutorial discretion under *Heckler v. Chaney*,¹³ and dismisses these allegations as to Li Xiaohua.

[wealthy-chinese-access-to-president-trump-at-fundraiser/2018/05/25/3bc6a8ae-5e90-11e8-a4a4-c070ef53f315_story.html](https://www.washingtonpost.com/news/energy-environment/wp/2018/05/25/wealthy-chinese-access-to-president-trump-at-fundraiser/2018/05/25/3bc6a8ae-5e90-11e8-a4a4-c070ef53f315_story.html)).

¹¹ 52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.26(b)-(c), (e)-(f). Courts have consistently upheld the provisions of the Act prohibiting foreign national contributions on the ground that the government has a clear, compelling interest in limiting the influence of foreigners over the activities and processes that are integral to democratic self-government, which include making political contributions and express-advocacy expenditures. *See Bluman v. FEC*, 800 F. Supp. 2d 281, 288-89 (D.D.C. 2011); *aff’d* 132 S. Ct. 1087 (2012); *United States v. Singh*, 924 F.3d 1030, 1040-44 (9th Cir. 2019).

¹² 52 U.S.C. § 30121(b); *see also* 11 C.F.R. § 110.20(a)(3).

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

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Ma Jin MUR 7614

I. INTRODUCTION

The Complaint in this matter alleges that Ma Jin engaged in a scheme to funnel excessive contributions of Jin's own funds and other individuals' foreign national contributions to several committees in violation of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations. Specifically, the Complaint alleges that Jin promoted political fundraising events targeted to foreign nationals, which resulted in Jin providing substantial assistance to foreign nationals making contributions in connection with their attendance at political fundraising events.¹ Given the limited factual record, the Commission dismisses the allegations.

II. FACTUAL BACKGROUND

According to the Complaint, Jin arranged for Chinese nationals to attend a June 2019 Trump Victory, a joint fundraising committee, fundraiser at Mar-a-Lago club in Palm Beach, Florida.² The Complaint alleges that Jin promoted attendance at political fundraising events through a political tourism business called HGGT Limited, which appears to have resulted in the provision of substantial assistance to foreign nationals in making prohibited contributions in violation of 11 C.F.R. § 110.20(h)(1).³

¹ Compl. ¶¶ 1, 15, 33, 44 (May 22, 2019)

² *Id.*

³ *Id.*

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III. LEGAL ANALYSIS

The Act and Commission regulations prohibit any “foreign national” from directly or indirectly making a contribution or donation of money or other thing of value, or an expenditure, independent expenditure, or disbursement, in connection with a federal, state, or local election.⁴

The Act’s definition of “foreign national” includes an individual who is not a citizen or national of the United States and who is not lawfully admitted for permanent residence.⁵

It is unlawful to knowingly provide substantial assistance in the solicitation, making, acceptance, or receipt of a contribution or donation by a foreign national.⁶ The Commission has explained that substantial assistance “means active involvement in the solicitation, making, receipt or acceptance of a foreign national contribution or donation with an intent to facilitate successful completion of the transaction.”⁷ Moreover, substantial assistance “covers but is not limited to, those persons who act as conduits or intermediaries for foreign national contributions or donations.”⁸ In the context of foreign national attendance at fundraising events, the Commission in MUR 4530, *et al.* (DNC, *et al.*) found reason to believe as to and conciliated with a number of individuals who made and facilitated the making of foreign national contributions

⁴ 52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.26(b)-(c), (e)-(f). Courts have consistently upheld the provisions of the Act prohibiting foreign national contributions on the ground that the government has a clear, compelling interest in limiting the influence of foreigners over the activities and processes that are integral to democratic self-government, which include making political contributions and express-advocacy expenditures. *See Bluman v. FEC*, 800 F. Supp. 2d 281, 288-89 (D.D.C. 2011); *aff’d* 132 S. Ct. 1087 (2012); *United States v. Singh*, 924 F.3d 1030, 1040-44 (9th Cir. 2019).

⁵ 52 U.S.C. § 30121(b); *see also* 11 C.F.R. § 110.20(a)(3).

⁶ 11 C.F.R. § 110.20(h)(1).

⁷ Explanation & Justification, *Assisting Foreign National Contributions or Donations*, 67 Fed. Reg. 69,928, 69,945 (Nov. 19, 2002) (“Foreign National Contribution E&J”).

⁸ *Id.* at 69,946.

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1 and contributions in the name of another in connection with attendance at fundraising events.⁹
2 Subsequent to these conciliations and after Congress enacted the Bipartisan Campaign Reform
3 Act of 2002,¹⁰ the Commission issued further guidance reaffirming that it is illegal for U.S.
4 citizens to serve as conduits or render substantial assistance in the making of foreign national
5 contributions.¹¹

6 Although the Commission could investigate these allegations, because the factual record
7 regarding them is not developed, the Commission exercises its prosecutorial discretion under
8 *Heckler v. Chaney*,¹² and dismisses these allegations as to Ma Jin.

⁹ See Conciliation Agreement with Yah Lin “Charlie” Trie at 2-3, MUR 4530 (DNC, *et al.*) (June 21, 2001) (detailing a reimbursement scheme to secure a foreign national’s attendance at a fundraiser); Conciliation Agreement with John Huang, MUR 4530 (DNC, *et al.*) (Aug. 23, 2001) (detailing reimbursement schemes used by a fundraiser who “bundled” foreign national donations).

¹⁰ Public Law 107-155, 116 Stat. 81 (Mar. 27, 2002).

¹¹ Foreign National Contribution E&J at 69,945.

¹² *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Ryan Xu MUR 7614

I. INTRODUCTION

The Complaint alleges that, Ryan Xu, a foreign national, made prohibited contributions in connection with attendance at political fundraising events.¹ Given the limited factual record, the Commission dismisses the allegations.

II. FACTUAL BACKGROUND

On December 2, 2017, Trump Victory, a joint fundraising committee, hosted a fundraiser at Cipriani restaurant in New York City to which tickets cost \$1,000 for general admission, “VIP” tickets cost \$2,700,² and posing for a photograph with President Trump at the event was available for contributors who donated \$50,000 to Trump Victory.³

The December 2, 2017 Trump Victory fundraiser was reportedly promoted on Chinese language social media.⁴ A large group of businesspeople from China reportedly attended the December 2, 2017 event.⁵ According to press accounts, multiple Chinese nationals including the Xu posed for a picture with President Trump at that fundraiser, a privilege reserved for

¹ Compl.¶ 44. (May 22, 2019).

² *Id.*

³ *Id.* ¶ 4. Press reports have indicated that admission to the event ranged from \$2,700-\$10,000. *See, e.g.*, Chas Danner, *Everything to Know about the Spa Founder Selling Access to Trump*, N.Y. MAGAZINE (Mar. 10, 2019), <https://nymag.com/intelligencer/2019/03/what-we-know-about-the-spa-owner-cindy-yang-selling-access-to-trump.html>.

⁴ Jay Weaver, *et al.*, *Feds Open Foreign-Money Investigation into Trump Donor Cindy Yang*, MIAMI HERALD (May 12, 2019), <https://www.miamiherald.com/news/politics-government/article230217729.html>.

⁵ Compl.¶ 4 (citing Nicholas Nehamas, *et al.*, *Massage Parlor Magnate Helped Steer Chinese to Trump NYC Fundraiser*, MIAMI HERALD (March 9, 2019).

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1 contributors who gave \$50,000.⁶ Xu does not appear in reports filed with the Commission as
2 having contributed to Trump Victory in his own name.⁷

3 Cliff Zhonggang Li, the executive director of the National Committee of Asian American
4 Republicans, reportedly told *Mother Jones* that Cindy Yang brought 20 to 30 people to this
5 December 2017 fundraiser and that the guests were part of a group of more than 100 Chinese
6 Americans and Chinese nationals who were present at the event.⁸ According to *Mother Jones*,
7 Li said:

8 “I don’t want to see that money somehow get funneled into the political
9 process here,” he remarked. He said that the Chinese American
10 community he works with is composed of politically inexperienced people
11 “with a weaker sense of compliance and also not that good a sense of
12 campaign finance law.” “That caused some weaknesses,” he said, and
13 perhaps “even intentional violations.” Li said that in the wake of the
14 December fundraiser, he had changed procedures at his group to bar
15 people who lack green cards or US citizenship from attending
16 fundraisers.⁹

17
18 Republican National Committee officials confirmed to the *Washington Post* that Chinese
19 nationals attended the December 2, 2017 fundraiser in New York as guests of a U.S. citizen
20 donor.¹⁰

⁶ Compl. ¶ 4 (citing Michelle Ye Hee Lee, *et al.*, *Invitations Offer Wealthy Chinese Access to President Trump at Fundraiser*, WASH. POST (May 25, 2018) https://www.washingtonpost.com/politics/invitations-offer-wealthy-chinese-access-to-president-trump-at-fundraiser/2018/05/25/3bc6a8ae-5e90-11e8-a4a4-c070ef53f315_story.html; Sarah Blaskey, *et al.*, *Cindy Yang Helped Chinese Tech Stars Get \$50K Photos With Trump. Who Paid?*, MIAMI HERALD (Mar. 21, 2019) <https://www.miamiherald.com/latest-news/article227941749.html> (“Miami Herald ‘Cindy Yang Helped Chinese Tech Stars Get Photo’ Article”)). Press accounts describe Li Xiaohua as chairman of Huada International Investment Group. *Id.*

⁷ Miami Herald ‘Cindy Yang Helped Chinese Tech Stars Get Photo’ Article.

⁸ Dan Friedman, *Head of Asian GOP Group Says He “Wouldn’t Rule Out” Illegal Foreign Donations to Trump*, MOTHER JONES (Mar. 15, 2019), <https://www.motherjones.com/politics/2019/03/head-of-asian-gop-group-says-he-wouldnt-rule-out-illegal-foreign-donations-to-trump/>.

⁹ *Id.*

¹⁰ Compl. ¶ 4(citing Michelle Ye Hee Lee, *et al.*, *Invitations Offer Wealthy Chinese Access to President Trump at Fundraiser*, WASH. POST (May 25, 2018), https://www.washingtonpost.com/politics/invitations-offer-wealthy-chinese-access-to-president-trump-at-fundraiser/2018/05/25/3bc6a8ae-5e90-11e8-a4a4-c070ef53f315_story.html).

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III. LEGAL ANALYSIS

The Federal Election Campaign Act of 1971, as amended (the “Act”), and Federal Election Commission regulations prohibit any “foreign national” from directly or indirectly making a contribution or donation of money or other thing of value, or an expenditure, independent expenditure, or disbursement, in connection with a federal, state, or local election.¹¹ The Act’s definition of “foreign national” includes an individual who is not a citizen or national of the United States and who is not lawfully admitted for permanent residence.¹²

Although the Commission could investigate these allegations, because the factual record regarding them is not developed, the Commission exercises its prosecutorial discretion under *Heckler v. Chaney*,¹³ and dismisses these allegations as to Xu.

[wealthy-chinese-access-to-president-trump-at-fundraiser/2018/05/25/3bc6a8ae-5e90-11e8-a4a4-c070ef53f315_story.html](https://www.washingtonpost.com/news/energy-environment/wp/2018/05/25/wealthy-chinese-access-to-president-trump-at-fundraiser/2018/05/25/3bc6a8ae-5e90-11e8-a4a4-c070ef53f315_story.html).

¹¹ 52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.26(b)-(c), (e)-(f). Courts have consistently upheld the provisions of the Act prohibiting foreign national contributions on the ground that the government has a clear, compelling interest in limiting the influence of foreigners over the activities and processes that are integral to democratic self-government, which include making political contributions and express-advocacy expenditures. *See Bluman v. FEC*, 800 F. Supp. 2d 281, 288-89 (D.D.C. 2011); *aff’d* 132 S. Ct. 1087 (2012); *United States v. Singh*, 924 F.3d 1030, 1040-44 (9th Cir. 2019).

¹² 52 U.S.C. § 30121(b); *see also* 11 C.F.R. § 110.20(a)(3).

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

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Sun Changchun MUR 7614

I. INTRODUCTION

The Complaint in this matter alleges that Sun Changchun engaged in a scheme to funnel excessive contributions of his own funds and other individuals' foreign national contributions to several committees in violation of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations. Specifically, the Complaint alleges that Changchun promoted political fundraising events targeted to foreign nationals, which resulted in Changchun providing substantial assistance to foreign nationals making contributions in connection with their attendance at political fundraising events.¹ Given the limited factual record, the Commission dismisses the allegations.

II. FACTUAL BACKGROUND

On December 2, 2017, Trump Victory, a joint fundraising committee, hosted a fundraiser at Cipriani restaurant in New York City to which tickets cost \$1,000 for general admission, "VIP" tickets cost \$2,700,² and posing for a photograph with President Trump at the event was available for contributors who donated \$50,000 to Trump Victory.³ According to the Complaint, Changchun arranged for Chinese nationals to attend the December 2 fundraiser.⁴ The Complaint

¹ Compl. ¶ 44 (May 22, 2019)

² *Id.*

³ Press reports have indicated that admission to the event ranged from \$2,700-\$10,000. *See, e.g.,* Chas Danner, *Everything to Know about the Spa Founder Selling Access to Trump*, N.Y. MAGAZINE (Mar. 10, 2019), <https://nymag.com/intelligencer/2019/03/what-we-know-about-the-spa-owner-cindy-yang-selling-access-to-trump.html>.

⁴ Compl. ¶ 7.

alleges that Changchun promoted attendance at political fundraising events through a political tourism business which appears to have resulted in the provision of substantial assistance to foreign nationals in making prohibited contributions in violation of 11 C.F.R. § 110.20(h)(1).⁵

III. LEGAL ANALYSIS

The Act and Commission regulations prohibit any “foreign national” from directly or indirectly making a contribution or donation of money or other thing of value, or an expenditure, independent expenditure, or disbursement, in connection with a federal, state, or local election.⁶ The Act’s definition of “foreign national” includes an individual who is not a citizen or national of the United States and who is not lawfully admitted for permanent residence.⁷

It is unlawful to knowingly provide substantial assistance in the solicitation, making, acceptance, or receipt of a contribution or donation by a foreign national.⁸ The Commission has explained that substantial assistance “means active involvement in the solicitation, making, receipt or acceptance of a foreign national contribution or donation with an intent to facilitate successful completion of the transaction.”⁹ Moreover, substantial assistance “covers but is not limited to, those persons who act as conduits or intermediaries for foreign national contributions

⁵ *Id.* ¶¶ 29-35.

⁶ 52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.26(b)-(c), (e)-(f). Courts have consistently upheld the provisions of the Act prohibiting foreign national contributions on the ground that the government has a clear, compelling interest in limiting the influence of foreigners over the activities and processes that are integral to democratic self-government, which include making political contributions and express-advocacy expenditures. *See Bluman v. FEC*, 800 F. Supp. 2d 281, 288-89 (D.D.C. 2011); *aff’d* 132 S. Ct. 1087 (2012); *United States v. Singh*, 924 F.3d 1030, 1040-44 (9th Cir. 2019).

⁷ 52 U.S.C. § 30121(b); *see also* 11 C.F.R. § 110.20(a)(3).

⁸ 11 C.F.R. § 110.20(h)(1).

⁹ Explanation & Justification, *Assisting Foreign National Contributions or Donations*, 67 Fed. Reg. 69,928, 69,945 (Nov. 19, 2002) (“Foreign National Contribution E&J”).

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or donations.”¹⁰ In the context of foreign national attendance at fundraising events, the Commission in MUR 4530, *et al.* (DNC, *et al.*) found reason to believe as to and conciliated with a number of individuals who made and facilitated the making of foreign national contributions and contributions in the name of another in connection with attendance at fundraising events.¹¹ Subsequent to these conciliations and after Congress enacted the Bipartisan Campaign Reform Act of 2002,¹² the Commission issued further guidance reaffirming that it is illegal for U.S. citizens to serve as conduits or render substantial assistance in the making of foreign national contributions.¹³

Although the Commission could investigate these allegations, because the factual record regarding them is not developed, the Commission exercises its prosecutorial discretion under *Heckler v. Chaney*,¹⁴ and dismisses these allegations as to Sun Changchun.

¹⁰ *Id.* at 69,946.

¹¹ See Conciliation Agreement with Yah Lin “Charlie” Trie at 2-3, MUR 4530 (DNC, *et al.*) (June 21, 2001) (detailing a reimbursement scheme to secure a foreign national’s attendance at a fundraiser); Conciliation Agreement with John Huang, MUR 4530 (DNC, *et al.*) (Aug. 23, 2001) (detailing reimbursement schemes used by a fundraiser who “bundled” foreign national donations).

¹² Public Law 107-155, 116 Stat. 81 (Mar. 27, 2002).

¹³ Foreign National Contribution E&J at 69,945.

¹⁴ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Xinyue “Daniel” Lou MUR 7614

I. INTRODUCTION

The Complaint in this matter alleges that Xinyue “Daniel” Lou engaged in a scheme to funnel excessive contributions of his own funds and other individuals’ foreign national contributions to several committees in violation of the Federal Election Campaign Act of 1971, as amended (the “Act”), and Commission regulations. Specifically, the Complaint alleges that Lou promoted political fundraising events targeted to foreign nationals, which resulted in Lou providing substantial assistance to foreign nationals making contributions in connection with their attendance at political fundraising events.¹ Given the limited factual record, the Commission dismisses the allegations.

II. FACTUAL BACKGROUND

On December 2, 2017, Trump Victory, a joint fundraising committee, hosted a fundraiser at Cipriani restaurant in New York City to which tickets cost \$1,000 for general admission,² “VIP” tickets cost \$2,700,³ and posing for a photograph with President Trump at the event was available for contributors who donated \$50,000 to Trump Victory.⁴ According to the Complaint,

¹ Compl. ¶ 44 (May 22, 2019)

² Xinyue “Daniel” Lou Resp. at 2 (June 14, 2019).

³ *Id.*

⁴ Compl. ¶ 4; Xinyue “Daniel” Lou Resp. at 2. Press reports have indicated that admission to the event ranged from \$2,700-\$10,000. *See, e.g.,* Chas Danner, *Everything to Know about the Spa Founder Selling Access to Trump*, N.Y. MAGAZINE (Mar. 10, 2019), <https://nymag.com/intelligencer/2019/03/what-we-know-about-the-spa-owner-cindy-yang-selling-access-to-trump.html>.

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Lou brought 30 Chinese guests to the December 2 fundraiser.⁵ The Complaint alleges that Lou promoted attendance at political fundraising events through a political tourism business which appears to have resulted in the provision of substantial assistance to foreign nationals in making prohibited contributions in violation of 11 C.F.R. § 110.20(h)(1).⁶ Lou specifically stated in his unsworn response that he used his own money to make his contribution and that all of his guests were either “American citizens or permanent residents.”⁷

III. LEGAL ANALYSIS

The Act and Commission regulations prohibit any “foreign national” from directly or indirectly making a contribution or donation of money or other thing of value, or an expenditure, independent expenditure, or disbursement, in connection with a federal, state, or local election.⁸ The Act’s definition of “foreign national” includes an individual who is not a citizen or national of the United States and who is not lawfully admitted for permanent residence.⁹

It is unlawful to knowingly provide substantial assistance in the solicitation, making, acceptance, or receipt of a contribution or donation by a foreign national.¹⁰ The Commission has explained that substantial assistance “means active involvement in the solicitation, making,

⁵ Compl. ¶ 7.

⁶ *Id.* ¶¶ 29-35.

⁷ Xinyue “Daniel” Lou Resp. at 2.

⁸ 52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.26(b)-(c), (e)-(f). Courts have consistently upheld the provisions of the Act prohibiting foreign national contributions on the ground that the government has a clear, compelling interest in limiting the influence of foreigners over the activities and processes that are integral to democratic self-government, which include making political contributions and express-advocacy expenditures. *See Bluman v. FEC*, 800 F. Supp. 2d 281, 288-89 (D.D.C. 2011); *aff’d* 132 S. Ct. 1087 (2012); *United States v. Singh*, 924 F.3d 1030, 1040-44 (9th Cir. 2019).

⁹ 52 U.S.C. § 30121(b); *see also* 11 C.F.R. § 110.20(a)(3).

¹⁰ 11 C.F.R. § 110.20(h)(1).

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receipt or acceptance of a foreign national contribution or donation with an intent to facilitate successful completion of the transaction.”¹¹ Moreover, substantial assistance “covers but is not limited to, those persons who act as conduits or intermediaries for foreign national contributions or donations.”¹² In the context of foreign national attendance at fundraising events, the Commission in MUR 4530, *et al.* (DNC, *et al.*) found reason to believe as to and conciliated with a number of individuals who made and facilitated the making of foreign national contributions and contributions in the name of another in connection with attendance at fundraising events.¹³ Subsequent to these conciliations and after Congress enacted the Bipartisan Campaign Reform Act of 2002,¹⁴ the Commission issued further guidance reaffirming that it is illegal for U.S. citizens to serve as conduits or render substantial assistance in the making of foreign national contributions.¹⁵

Although the Commission could investigate these allegations, because the factual record regarding them is not developed, the Commission exercises its prosecutorial discretion under *Heckler v. Chaney*,¹⁶ and dismisses these allegations as to Xinyue “Daniel” Lou.

¹¹ Explanation & Justification, *Assisting Foreign National Contributions or Donations*, 67 Fed. Reg. 69,928, 69,945 (Nov. 19, 2002) (“Foreign National Contribution E&J”).

¹² *Id.* at 69,946.

¹³ See Conciliation Agreement with Yah Lin “Charlie” Trie at 2-3, MUR 4530 (DNC, *et al.*) (June 21, 2001) (detailing a reimbursement scheme to secure a foreign national’s attendance at a fundraiser); Conciliation Agreement with John Huang, MUR 4530 (DNC, *et al.*) (Aug. 23, 2001) (detailing reimbursement schemes used by a fundraiser who “bundled” foreign national donations).

¹⁴ Public Law 107-155, 116 Stat. 81 (Mar. 27, 2002).

¹⁵ Foreign National Contribution E&J at 69,945.

¹⁶ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: 45th Presidential Inaugural Committee MUR 7614

I. INTRODUCTION

The Complaint in this matter alleges that 45th Presidential Inaugural Committee (the “Inaugural Committee”), knowingly accepted prohibited foreign national donations in violation of the Federal Election Campaign Act of 1971, as amended (the “Act”), and Commission regulations. The Complaint alleges that between 2017 and 2019 Chinese nationals had been invited to events and fundraisers hosted by the Inaugural Committee as a result of foreign national contributions.¹

The Commission dismisses the allegations since the available information does not indicate the Inaugural Committee’s knowing receipt of donations by foreign nationals.

II. FACTUAL BACKGROUND

The Complaint generally alleges that Chinese nationals were invited to Inaugural Committee events.² The Committee responded requesting that the Commission dismiss this matter.³

¹ Compl. ¶ 26 (May 22, 2019).

² *Id.*

³ Resp. at 1 (July 2, 2019).

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III. LEGAL ANALYSIS

Inaugural committees are prohibited from accepting any donation from a foreign national.⁴ The Act’s definition of “foreign national” includes an individual who is not a citizen or national of the United States and who is not lawfully admitted for permanent residence.⁵

The available information does not indicate the Inaugural Committee’s knowing receipt of donations by foreign nationals. Accordingly, the Commission dismisses the allegations as to the Inaugural Committee⁶

⁴ 36 U.S.C. § 510(c); 11 C.F.R. § 110.20(j).

⁵ 52 U.S.C. § 30121(b); *see also* 11 C.F.R. § 110.20(a)(3).

⁶ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Make American Great Again PAC MUR 7614
f/k/a Donald J. Trump for President, Inc.
and Bradley T. Crate in his official capacity as treasurer

I. INTRODUCTION

The Complaint in this matter alleges that Make America Great Again PAC f/k/a Donald J. Trump for President, Inc. and Bradley T. Crate in his official capacity as treasurer (the “Committee”), knowingly accepted prohibited foreign national contributions in violation of the Federal Election Campaign Act of 1971, as amended (the “Act”), and Commission regulations. Specifically, the Complaint alleges that between 2017 and 2019 Chinese nationals had been invited to Committee fundraisers as a result of foreign national contributions.¹

The Commission dismisses the allegations since the available information does not indicate the Committee’s knowing receipt of contributions by foreign nationals.

I. FACTUAL BACKGROUND

The Complaint generally alleges that Chinese nationals have been invited to Committee fundraisers between 2017 and 2019² The Committee responded requesting that the Commission dismiss this matter.³

LEGAL ANALYSIS

The Act and Commission regulations prohibit any “foreign national” from directly or indirectly making a contribution or donation of money or other thing of value, or an expenditure,

¹ Compl. ¶ 26 (May 22, 2019).

² *Id.*

³ Resp. at 1 (July 2, 2019).

MUR 7614 (Make America Great Again PAC f/k/a Donald J. Trump for President)

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1 independent expenditure, or disbursement, in connection with a federal, state, or local election.⁴
 2 The Act prohibits persons from soliciting, accepting, or receiving a contribution or donation
 3 from a foreign national.⁵ Commission regulations state that persons may not knowingly solicit,
 4 accept, or receive such a contribution or donation.⁶ The Act’s definition of “foreign national”
 5 includes an individual who is not a citizen or national of the United States and who is not
 6 lawfully admitted for permanent residence.⁷ Commission regulations define “knowingly” as
 7 (i) having actual knowledge that funds originated from a foreign national, (ii) being aware of
 8 facts that would lead a reasonable person to conclude that there is a substantial probability that
 9 the source of the funds is a foreign national, or (iii) being aware of facts that would lead a
 10 reasonable person to inquire whether the source of the funds is a foreign national but failed to
 11 conduct a reasonable inquiry.⁸ Provided that a foreign national does not make a contribution of
 12 personal funds to attend a fundraising event, the Act does not prohibit a foreign national from
 13 attending such an event.⁹

⁴ 52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.26(b)-(c), (e)-(f). Courts have consistently upheld the provisions of the Act prohibiting foreign national contributions on the ground that the government has a clear, compelling interest in limiting the influence of foreigners over the activities and processes that are integral to democratic self-government, which include making political contributions and express-advocacy expenditures. *See Bluman v. FEC*, 800 F. Supp. 2d 281, 288-89 (D.D.C. 2011); *aff’d* 132 S. Ct. 1087 (2012); *United States v. Singh*, 924 F.3d 1030, 1040-44 (9th Cir. 2019).

⁵ 52 U.S.C. § 30121(a)(2).

⁶ 11 C.F.R. § 110.20(g).

⁷ 52 U.S.C. § 30121(b).

⁸ *Id.* § 110.20(a)(4); *see also* Contribution Limitations and Prohibitions, 67 Fed. Reg. 69928, 69941 (Nov. 19, 2002) (“The formal rules at 11 C.F.R. § 110.20(a)(4) . . . contain three standards of knowledge [which] focus on the source of the funds at issue.”).

⁹ *See* 52 U.S.C. § 30121(a)(1)(B); Advisory Opinion 2004-26 at 2 (Weller) (finding that a foreign national may “attend fundraising and campaign events . . . provided she does not make a contribution of her personal funds in order to attend.”).

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1 The available information does not indicate the knowing receipt of contributions by
2 foreign nationals. Accordingly, the Commission dismisses the allegations as to the Committee¹⁰
3

¹⁰ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). *See* 11 C.F.R. §§ 103.3(b) (treasurer responsibility to review all contributions for evidence of illegality); 110.20(a)(4) (definition of knowing receipt of foreign national contributions); 110.20(g) (prohibition on knowing receipt of contributions).

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Republican National Committee MUR 7614
and Robert C. Kaufman in his official
capacity as treasurer

I. INTRODUCTION

The Complaint in this matter alleges that the Republican National Committee and Robert C. Kaufman in his official capacity as treasurer (the “RNC”), that national committee of the Republican Party, knowingly accepted prohibited foreign national contributions in violation of the Federal Election Campaign Act of 1971, as amended (the “Act”), and Commission regulations. Specifically, the Complaint alleges that between 2017 and 2019 Chinese nationals had been invited to RNC fundraisers as a result of foreign national contributions.¹

The Commission dismisses the allegations since the available information does not indicate the RNC’s knowing receipt of contributions by foreign nationals.

I. FACTUAL BACKGROUND

The Complaint generally alleges that Chinese nationals have been invited to RNC fundraisers between 2017 and 2019.² The RNC responded requesting that the Commission dismiss this matter.³

LEGAL ANALYSIS

The Act and Commission regulations prohibit any “foreign national” from directly or indirectly making a contribution or donation of money or other thing of value, or an expenditure,

¹ Compl. ¶ 26 (May 22, 2019).

² *Id.*

³ Resp. at 1 (July 2, 2019).

1 independent expenditure, or disbursement, in connection with a federal, state, or local election.⁴
 2 The Act prohibits persons from soliciting, accepting, or receiving a contribution or donation
 3 from a foreign national.⁵ Commission regulations state that persons may not knowingly solicit,
 4 accept, or receive such a contribution or donation.⁶ The Act’s definition of “foreign national”
 5 includes an individual who is not a citizen or national of the United States and who is not
 6 lawfully admitted for permanent residence.⁷ Commission regulations define “knowingly” as
 7 (i) having actual knowledge that funds originated from a foreign national, (ii) being aware of
 8 facts that would lead a reasonable person to conclude that there is a substantial probability that
 9 the source of the funds is a foreign national, or (iii) being aware of facts that would lead a
 10 reasonable person to inquire whether the source of the funds is a foreign national but failed to
 11 conduct a reasonable inquiry.⁸ Provided that a foreign national does not make a contribution of
 12 personal funds to attend a fundraising event, the Act does not prohibit a foreign national from
 13 attending such an event.⁹

⁴ 52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.26(b)-(c), (e)-(f). Courts have consistently upheld the provisions of the Act prohibiting foreign national contributions on the ground that the government has a clear, compelling interest in limiting the influence of foreigners over the activities and processes that are integral to democratic self-government, which include making political contributions and express-advocacy expenditures. *See Bluman v. FEC*, 800 F. Supp. 2d 281, 288-89 (D.D.C. 2011); *aff’d* 132 S. Ct. 1087 (2012); *United States v. Singh*, 924 F.3d 1030, 1040-44 (9th Cir. 2019).

⁵ 52 U.S.C. § 30121(a)(2).

⁶ 11 C.F.R. § 110.20(g).

⁷ 52 U.S.C. § 30121(b).

⁸ *Id.* § 110.20(a)(4); *see also* Contribution Limitations and Prohibitions, 67 Fed. Reg. 69928, 69941 (Nov. 19, 2002) (“The formal rules at 11 C.F.R. § 110.20(a)(4) . . . contain three standards of knowledge [which] focus on the source of the funds at issue.”).

⁹ *See* 52 U.S.C. § 30121(a)(1)(B); Advisory Opinion 2004-26 at 2 (Weller) (finding that a foreign national may “attend fundraising and campaign events ... provided she does not make a contribution of her personal funds in order to attend.”).

MUR 7614 (the Republican National Committee)
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1 The available information does not indicate the knowing receipt of contributions by
2 foreign nationals. Accordingly, the Commission dismisses the allegations as to the RNC.¹⁰
3

¹⁰ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). See 11 C.F.R. §§ 103.3(b) (treasurer responsibility to review all contributions for evidence of illegality); 110.20(a)(4) (definition of knowing receipt of foreign national contributions); 110.20(g) (prohibition on knowing receipt of contributions).

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Republican Party of Palm Beach County MUR 7614
and Jane C. Pike in her official capacity
as treasurer

I. INTRODUCTION

The Complaint in this matter alleges that the Republican Party of Palm Beach County and Jane C. Pike in her official capacity as treasurer (the “Committee”), a local party committee, knowingly accepted prohibited foreign national contributions in violation of the Federal Election Campaign Act of 1971, as amended (the “Act”), and Commission regulations. Specifically, the Complaint alleges that an invitation for the Committee’s March 16, 2018 fundraiser at Mar-a-Lago, circulated on Chinese media and that Chinese nationals have been invited to their fundraisers as a result of foreign national contributions.¹

The Commission dismisses the allegations since the available information does not indicate the Committee’s knowing receipt of contributions by foreign nationals.

I. FACTUAL BACKGROUND

On March 16, 2018, the Committee held its annual Lincoln Dinner Fundraiser.² The Complaint attaches a copy of an advertisement for the event in Chinese on a website that does not appear to be connected to the Committee.³ According to the Committee, it only advertised the event on its own website. The Committee further asserts they never advertised the event on

¹ Compl. ¶ 26 (May 22, 2019).

² Resp. at 3 (July 2, 2019).

³ Compl., Ex. D.

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Chinese media or to foreign nationals and never knowingly accepted contributions from foreign nationals.⁴

LEGAL ANALYSIS

The Act and Commission regulations prohibit any “foreign national” from directly or indirectly making a contribution or donation of money or other thing of value, or an expenditure, independent expenditure, or disbursement, in connection with a federal, state, or local election.⁵

The Act prohibits persons from soliciting, accepting, or receiving a contribution or donation from a foreign national.⁶ Commission regulations state that persons may not knowingly solicit, accept, or receive such a contribution or donation.⁷ The Act’s definition of “foreign national”

includes an individual who is not a citizen or national of the United States and who is not

lawfully admitted for permanent residence.⁸ Commission regulations define “knowingly” as

(i) having actual knowledge that funds originated from a foreign national, (ii) being aware of facts that would lead a reasonable person to conclude that there is a substantial probability that

the source of the funds is a foreign national, or (iii) being aware of facts that would lead a

reasonable person to inquire whether the source of the funds is a foreign national but failed to

conduct a reasonable inquiry.⁹ Provided that a foreign national does not make a contribution of

⁴ *Id.* at 2-3.

⁵ 52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.26(b)-(c), (e)-(f). Courts have consistently upheld the provisions of the Act prohibiting foreign national contributions on the ground that the government has a clear, compelling interest in limiting the influence of foreigners over the activities and processes that are integral to democratic self-government, which include making political contributions and express-advocacy expenditures. *See Bluman v. FEC*, 800 F. Supp. 2d 281, 288-89 (D.D.C. 2011); *aff’d* 132 S. Ct. 1087 (2012); *United States v. Singh*, 924 F.3d 1030, 1040-44 (9th Cir. 2019).

⁶ 52 U.S.C. § 30121(a)(2).

⁷ 11 C.F.R. § 110.20(g).

⁸ 52 U.S.C. § 30121(b).

⁹ *Id.* § 110.20(a)(4); *see also* Contribution Limitations and Prohibitions, 67 Fed. Reg. 69928, 69941

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personal funds to attend a fundraising event, the Act does not prohibit a foreign national from attending such an event.¹⁰

The available information does not indicate the knowing receipt of contributions by foreign nationals. Accordingly, the Commission dismisses the allegations as to the Republican Party of Palm Beach County.¹¹

(Nov. 19, 2002) (“The formal rules at 11 C.F.R. § 110.20(a)(4) . . . contain three standards of knowledge [which] focus on the source of the funds at issue.”).

¹⁰ See 52 U.S.C. § 30121(a)(1)(B); Advisory Opinion 2004-26 at 2 (Weller) (finding that a foreign national may “attend fundraising and campaign events ... provided she does not make a contribution of her personal funds in order to attend.”).

¹¹ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). See 11 C.F.R. §§ 103.3(b) (treasurer responsibility to review all contributions for evidence of illegality); 110.20(a)(4) (definition of knowing receipt of foreign national contributions); 110.20(g) (prohibition on knowing receipt of contributions).

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Trump Victory and Bradley T. MUR 7614
Crate in his official capacity as treasurer

I. INTRODUCTION

The Complaint in this matter alleges that Trump Victory and Bradley T. Crate in his official capacity as treasurer (“Trump Victory”), a joint fundraising committee, knowingly accepted excessive and prohibited foreign national contributions in violation of the Federal Election Campaign Act of 1971, as amended (the “Act”), and Commission regulations. Specifically, the Complaint alleges that Cindy Yang made contributions in the names of several family members and business associates and used foreign national funds to make contributions to Trump Victory. The Complaint alleges that the contributions were primarily made in order to enable attendance at a March 3, 2018 event, as well as an earlier December 2, 2017 Trump Victory fundraising event in New York City.¹

The Commission dismisses the allegations since the available information does not indicate the knowing receipt of contributions in the name of another or foreign national contributions by Trump Victory.

I. FACTUAL BACKGROUND

On December 2, 2017, Trump Victory hosted a fundraiser at Cipriani restaurant in New York City to which tickets cost \$1,000 for general admission, “VIP” tickets cost \$2,700,² and posing for a photograph with President Trump at the event was available for contributors who

¹ Compl. ¶¶ 4-6 (May 22, 2019).

² *Id.*

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1 donated \$50,000 to Trump Victory.³ In the two weeks preceding the event, Cindy Yang made
2 three contributions to Trump Victory totaling \$23,500.⁴

3 Yang was reported to have promoted the December 2, 2017 Trump Victory fundraiser,
4 along with at least eight other Trump-related events between late 2017 and 2019, on Chinese
5 language social media.⁵ Yang reportedly arranged for a large group of businesspeople from
6 China to attend the December 2, 2017 event.⁶

7 Yang also attended a March 3, 2018 Trump Victory fundraiser, reportedly again
8 accompanied by Chinese national guests. The event, held at Trump's Mar-a-Lago resort, was
9 billed as an "evening reception with Donald J. Trump." As shown in the invitation below,
10 tickets to the event started at \$2,700 per person for attendance at the reception, while a \$25,000
11 "raise per person" would include attendance to the reception and two tickets to a seated dinner
12 with Trump.⁷ A "\$50,000 raise per person" would also include a photo with Trump.⁸ The
13 invitation to the event specified that "Funds must be raised in increments not to exceed \$5,400
14 per person."

³ Compl. ¶ 4. Press reports have indicated that admission to the event ranged from \$2,700-\$10,000. *See, e.g.,* Chas Danner, *Everything to Know about the Spa Founder Selling Access to Trump*, N.Y. MAGAZINE (Mar. 10, 2019), <https://nymag.com/intelligencer/2019/03/what-we-know-about-the-spa-owner-cindy-yang-selling-access-to-trump.html>.

⁴ On November 21, 2017, Yang made an \$18,000 contribution and on November 27, 2017, Yang made additional contributions of \$2,500 and \$3,000 to Trump Victory. Trump Victory 2017 Year-End Report at 159 (Jan.31, 2018), <https://docquery.fec.gov/pdf/531/201801319091159531/201801319091159531.pdf#navpane> [s=0https://docquery.fec.gov/cgi-bin/fecimg/?201801319091159689](https://docquery.fec.gov/cgi-bin/fecimg/?201801319091159689).

⁵ Miami Herald "Feds Open Investigation into Trump Donor Cindy Yang" Article.

⁶ Compl.¶ 4 (citing Nicholas Nehamas, *et al., Massage Parlor Magnate Helped Steer Chinese to Trump NYC Fundraiser*, MIAMI HERALD (March 9, 2019).

⁷ Peter Schorsch, FLAPOL, *Donald Trump Headlining Mar-a-Lago Fundraising in March* (Feb. 5, 2018), <https://floridapolitics.com/archives/255337-donald-trump-headlining-mar-lago-fundraiser-march> ("FlaPol Article").

⁸ *Id.*

**TRUMP
PENCE**

VICTORY

RNC CHAIRWOMAN RONNA MCDANIEL
ALONG WITH
NATIONAL FINANCE CHAIRMAN TODD RICKETTS
CORDIALLY INVITE YOU TO AN
EVENING RECEPTION
WITH
DONALD J. TRUMP
PRESIDENT OF THE UNITED STATES

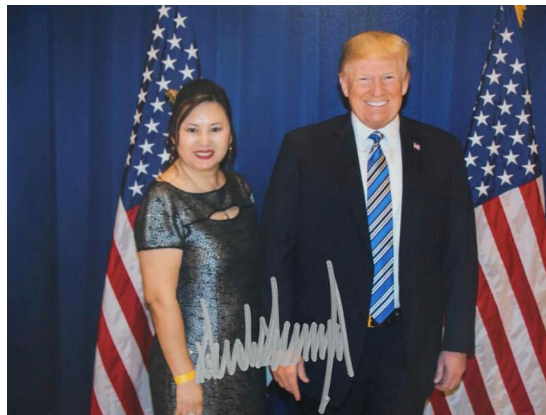
SATURDAY, MARCH 3, 2018
THE MAR-A-LAGO CLUB
PALM BEACH, FLORIDA
ADDITIONAL DETAILS WILL BE PROVIDED UPON RSVP.

\$2,700	\$25,000	\$50,000
PER PERSON	RAISE PER PERSON*	RAISE PER PERSON*
RECEPTION	RECEPTION AND TWO SEATS FOR	RECEPTION, PHOTO, AND TWO SEATS
WITH PRESIDENT TRUMP	A DINNER WITH PRESIDENT TRUMP	FOR A DINNER WITH PRESIDENT TRUMP

- Kindly respond by February 26th at TVEVENTS@GOP.COM -
For additional information, please contact
Kris Money at (850) 591-8801 or Meredith O'Rourke at (561) 818-6064.
SPACE IS LIMITED. RSVPs WILL BE ACCOMMODATED ON A FIRST COME, FIRST SERVED BASIS.
*FUNDS MUST BE RAISED IN INCREMENTS NOT TO EXCEED \$5,400 PER PERSON.

Paid for by Trump Victory, a joint fundraising committee authorized by and composed of Donald J. Trump for President, Inc., and the Republican National Committee.

In addition to reportedly bringing at least four Chinese national guests to the March 3, 2018 fundraiser, Yang also achieved the \$50,000 raise per person needed to obtain a photograph of herself with Trump at the event by bundling contributions reported to be from friends and family members.



According to the Complaint, nine of Yang’s family members and work associates, who did not appear to possess significant financial means and none of whom had prior histories of making political donations, made the maximum contribution of \$5,400 to the Trump Committee via Trump Victory.⁹ The Complaint alleges that at least nine of Yang’s family members and work associates, some of them believed to have modest incomes, made contributions of \$5,400, and contend that the contributions were made using the funds of another person.¹⁰

LEGAL ANALYSIS

The Act provides that a contribution includes “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.”¹¹ The Act prohibits a person from making a contribution in the name of another person, knowingly permitting his or her name to be used to effect such a contribution, or knowingly accepting such a contribution.¹² 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.¹³

⁹ See New York Times Article.

¹⁰ Compl. ¶ 9 (citing New York Times Article).

¹¹ 52 U.S.C. § 30101(8)(A).

¹² *Id.* § 30122.

¹³ 11 C.F.R. § 110.4(b)(2)(i)–(ii).

1 The requirement that a contribution be made in the name of its true source promotes
2 Congress’s objective of ensuring the complete and accurate disclosure by candidates and
3 committees of the political contributions they receive.¹⁴ Courts therefore have uniformly
4 rejected the assertion that “only the person who actually transmits funds . . . makes the
5 contribution,”¹⁵ recognizing that “it is implausible that Congress, in seeking to promote
6 transparency, would have understood the relevant contributor to be [an] intermediary who
7 merely transmitted the campaign gift.”¹⁶ Consequently, both the Act and the Commission’s
8 implementing regulations provide that a person who furnishes another with funds for the purpose
9 of contributing to a candidate or committee “makes” the resulting contribution.¹⁷ This is true
10 whether funds are advanced to another person to make a contribution in that person’s name or
11 promised as reimbursement of a solicited contribution.¹⁸ Because the concern of the law is the
12 true source from which a contribution to a candidate or committee originates, we look to the

¹⁴ *United States v. O’Donnell*, 608 F.3d 546, 553 (9th Cir. 2010) (“[T]he congressional purpose behind [Section 30122] — to ensure the *complete and accurate disclosure* of the contributors who finance federal elections — is plain.”) (emphasis added); *Mariani v. United States*, 212 F.3d 761, 775 (3d Cir. 2000) (rejecting constitutional challenge to Section 30122 in light of compelling governmental interest in disclosure).

¹⁵ *United States v. Boender*, 649 F.3d 650, 660 (7th Cir. 2011).

¹⁶ *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.”).

¹⁷ *See Boender*, 649 F.3d at 660 (holding that to determine who made a contribution, “we consider the giver to be the *source* of the gift, not any intermediary who simply conveys the gift from the donor to the donee” (emphasis added)); *O’Donnell*, 608 F.3d at 550; *Goland v. United States*, 903 F.2d 1247, 1251 (9th Cir. 1990) (“The Act prohibits the use of ‘conduits’ to circumvent . . . [the Act’s reporting] restrictions.” (quoting then-Section 441f)).

¹⁸ *O’Donnell*, 608 F.3d at 555. Moreover, the “key issue . . . is the *source* of the funds” and, therefore, the legal status of the funds when conveyed from a conduit to the ultimate recipient is “irrelevant to a determination of who ‘made’ the contribution for the purposes of [Section 30122].” *United States v. Whittemore*, 776 F.3d 1074, 1080 (9th Cir. 2015) (holding that defendant’s “unconditional gifts” to relatives and employees, along with suggestion they contribute the funds to a specific political committee, violated Section 30122 because the source of the funds remained the individual who provided them to the putative contributors).

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

The Act prohibits any person from making, and any candidate or committee from knowingly accepting, an excessive contribution.¹⁹ For 2017 and 2018, contributions by persons other than multicandidate committees to any candidate and his or her authorized political committees were limited to \$2,700 per election.²⁰

The Act and Commission regulations prohibit any “foreign national” from directly or indirectly making a contribution or donation of money or other thing of value, or an expenditure, independent expenditure, or disbursement, in connection with a federal, state, or local election.²¹

The Act prohibits persons from soliciting, accepting, or receiving a contribution or donation from a foreign national.²² Commission regulations state that persons may not knowingly solicit, accept, or receive such a contribution or donation.²³ The Act’s definition of “foreign national” includes an individual who is not a citizen or national of the United States and who is not lawfully admitted for permanent residence.²⁴ Commission regulations define “knowingly” as (i) having actual knowledge that funds originated from a foreign national, (ii) being aware of

¹⁹ 52 U.S.C. §§ 30116(a), (f); 11 C.F.R. §§ 110.1(b)(1), 110.9.

²⁰ 52 U.S.C. § 30116(a)(1)(A); 11 C.F.R. § 110.1(b)(1)(i); *Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold*, [82 Fed. Reg. 10904](#) (Feb. 16, 2017).

²¹ 52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.26(b)-(c), (e)-(f). Courts have consistently upheld the provisions of the Act prohibiting foreign national contributions on the ground that the government has a clear, compelling interest in limiting the influence of foreigners over the activities and processes that are integral to democratic self-government, which include making political contributions and express-advocacy expenditures. *See Bluman v. FEC*, 800 F. Supp. 2d 281, 288-89 (D.D.C. 2011); *aff’d* 132 S. Ct. 1087 (2012); *United States v. Singh*, 924 F.3d 1030, 1040-44 (9th Cir. 2019).

²² 52 U.S.C. § 30121(a)(2).

²³ 11 C.F.R. § 110.20(g).

²⁴ 52 U.S.C. § 30121(b).

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1 facts that would lead a reasonable person to conclude that there is a substantial probability that
2 the source of the funds is a foreign national, or (iii) being aware of facts that would lead a
3 reasonable person to inquire whether the source of the funds is a foreign national but failed to
4 conduct a reasonable inquiry.²⁵ Provided that a foreign national does not make a contribution of
5 personal funds to attend a fundraising event, the Act does not prohibit a foreign national from
6 attending such an event.²⁶

7 The available information does not indicate the knowing receipt of contributions in the
8 name of another or foreign national contributions by the recipient committees. Accordingly, the
9 Commission dismisses the allegations that Trump Victory knowingly accepted contributions in
10 the name of another and foreign national contributions and donations.²⁷

²⁵ *Id.* § 110.20(a)(4); *see also* Contribution Limitations and Prohibitions, 67 Fed. Reg. 69928, 69941 (Nov. 19, 2002) (“The formal rules at 11 C.F.R. § 110.20(a)(4) . . . contain three standards of knowledge [which] focus on the source of the funds at issue.”).

²⁶ *See* 52 U.S.C. § 30121(a)(1)(B); Advisory Opinion 2004-26 at 2 (Weller) (finding that a foreign national may “attend fundraising and campaign events ... provided she does not make a contribution of her personal funds in order to attend.”).

²⁷ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). *See* 11 C.F.R. §§ 103.3(b) (treasurer responsibility to review all contributions for evidence of illegality); 110.20(a)(4) (definition of knowing receipt of foreign national contributions); 110.20(g) (prohibition on knowing receipt of contributions).