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
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.\(^2\) 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.\(^3\) The MUR 7581 Complaint further alleges that Bingbing Peranio, Katrina Eggertsson, Gong Haizhen, and unknown respondents, Yang’s employees and associates, knowingly served as conduits for Yang’s contribution scheme.\(^4\)

The MUR 7614 Complaint alleges that the contributions in connection with the December 2, 2017 and March 3, 2018 events in particular, but all of the events Yang advertised, were facilitated by Yang, along with several other individuals, who had formed political-tourism companies that promised foreign nationals access to President Trump at political fundraisers that required contributions to the Trump Committee, Trump Victory, the Republican National 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.
Presidential Inaugural Committee, or the Republican Party of Palm Beach County and Jane C. Pike in her official capacity as treasurer,^5 in violation of the Act’s prohibitions on soliciting or providing substantial assistance in the making of foreign national contributions. The MUR 7614 Complaint further alleges that Yang was assisted in her efforts to secure foreign national attendance at events by Jon Deng, Hui Liu, and Li Jing, individuals described as influential members of the Asian American Republican Party community.^6 Additionally, the MUR 7614 Complaint alleges that Xinyue “Daniel” Lou, Sun Changchun, Jingzhu “Margaret” Yang, Jiusi Yao, Ma Jin, and unknown respondents engaged in similar promotions targeted to foreign nationals, which resulted in them providing substantial assistance to foreign nationals making contributions and that Ryan Xu, Li Xiaohua, and unknown individuals made prohibited contributions in connection with their attendance at political fundraising events.^7

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

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^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
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

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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
(“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. 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. After the 2016 election, Yang began marketing tourism packages that purportedly promised Chinese businesspeople access to American politicians and American political events.

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. In the two weeks preceding the event, Yang made three

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14 Mother Jones 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-founder-selling-access-to-trump.html.
contributions to Trump Victory totaling $23,500.19 Prior to November 2017, the largest federal
collection 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
s=0https://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+ju
an+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
Li Xiaohua as chairman of Huada International Investment Group and Ryan Xu as a “cryptocurrency guru.” Id.
Qu, Ren Mulhua, Tong Jingling,24 Jie Yang,25 Wu Hao, Lou Li, Jiang Rul, Shanjle Li, Yun Li, Huang Yacun, Liang Lu, Lu Zihan, and Zijing Xuas.26 None of these individuals appear in reports filed with the Commission as having contributed to Trump Victory in their own names.27

One of the Chinese nationals in attendance, identified as Xianqin Qu, has ties to Yang. Qu is the Vice President/Director of a charity formed and managed by Yang known as the Women’s Charity Foundation,28 and Qu can be seen at the December fundraiser in the below picture with Kellyanne Conway — then Senior Counselor to President Trump — published by the Miami Herald.29

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

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

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\(^{31}\) Mother Jones Article.
Yang had made arrangements for some, though not all, of the Chinese executives to attend the event. 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.

After the event, Li dismissed Yang from her position at the National Committee for Asian American Republicans. 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. 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. GY US Investments claimed on its website that clients could take photos

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32 Id.
33 Id.
34 Id.
with President Trump, take part in “VIP activities” at Mar-a-Lago, and have dinner at the White House. 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. 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.

Several months after establishing GY US Investments, Yang attended the March 3, 2018 Trump Victory fundraiser, reportedly again accompanied by Chinese national guests. 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.

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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=c30f96df8f2f653973fa9c2914d b7402&chksm=83b1cc66b4c64357044334f4e4032fca95c5e7cd6a1ed20547b5130f55798d2294ad79af0f18&mpshare =1&scene=1&srcid=0321RAEHGtWtEsWYBzsDy5SN&pass_ticket=pcM8%2FxeMh1Z%2BP%2FxldnsDCxNPbL iULvkDlJq29779SORlKx6v81RxiU4dmBjNwnU#rd.


reception with Donald J. Trump.” 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. A “$50,000 raise per person” would also include a photo with Trump. The invitation to the event specified that “Funds must be raised in increments not to exceed $5,400 per person.”

42 Compl. ¶ 7, MUR 7581 (citing New York Times 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.
MURs 7581 and 7614 (Cindy Gong f/k/a Cindy Yang, et al.)
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<table>
<thead>
<tr>
<th>Name</th>
<th>Date of Contribution</th>
<th>Amount of Contribution</th>
<th>Relationship to Yang</th>
<th>Prior History of Donations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bingbing Peranio</td>
<td>Mar. 5, 2018</td>
<td>$5,400</td>
<td>A receptionist at one of Yang’s day spas.</td>
<td>None</td>
</tr>
<tr>
<td>Katrina Eggertsson</td>
<td>Mar. 5, 2018</td>
<td>$5,400</td>
<td>A “facial instructor” at Tokyo Beauty &amp; Massage School, a corporation that Yang formed, and currently run by Yang’s father.</td>
<td>None</td>
</tr>
<tr>
<td>Elizabeth Maccall</td>
<td>Feb. 25, 2018</td>
<td>$5,400</td>
<td>An employee at Yang’s day spa chain.</td>
<td>None</td>
</tr>
<tr>
<td>Yang Yi</td>
<td>Mar. 5, 2018</td>
<td>$5,400</td>
<td>A massage therapist linked to a home belonging to Yang.</td>
<td>None</td>
</tr>
<tr>
<td>Haizhen Gong</td>
<td>Mar. 5, 2018</td>
<td>$5,400</td>
<td>Owner of a day spa in Florida.</td>
<td>None</td>
</tr>
<tr>
<td>Zubin Gong</td>
<td>Mar. 5, 2018</td>
<td>$5,400</td>
<td>Yang’s husband.</td>
<td>None</td>
</tr>
<tr>
<td>Lin Deng</td>
<td>Feb. 21, 2018</td>
<td>$5,400</td>
<td>Listed as an “investor” in GY US Investments.</td>
<td>None</td>
</tr>
<tr>
<td>Guiying Zhang</td>
<td>Feb. 26, 2018</td>
<td>$5,400</td>
<td>Yang’s mother.</td>
<td>None</td>
</tr>
<tr>
<td>Fuming Yang</td>
<td>Feb. 20, 2018</td>
<td>$5,400</td>
<td>Yang’s father.</td>
<td>None</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td><strong>$48,600</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>


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.


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


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. She reportedly added, “I was working there. I didn’t say no.”

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. 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.

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. 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

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

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.64 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.65 Several of the named contributors identified in the Complaints responded, with unsworn statements stating that they made their contributions voluntarily but not stating whether those contributions were made using their own funds or whether they were later reimbursed for their contributions.66 Only one respondent, Xinyue Daniel Lou, specifically stated in his unsworn response that he used his own 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.” 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. 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.

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. Courts therefore have uniformly rejected the assertion that “only the person who actually transmits funds . . . makes the

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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,” 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.” 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. 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. 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. Yang admits in her

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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 Dramesi 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. 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. 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.” When asked whether Yang had reimbursed Peranio, Peranio responded “I do not want to answer that question.”

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, clustered donations of...
the maximum amount,\textsuperscript{82} and contributions from subordinate employees with occupations suggesting that a significant financial burden would be associated with a contribution of the maximum allowable amount.\textsuperscript{83} Additionally, the alleged conduits are not reported as having made any federal contributions previously and either did not respond to the Complaint, or failed to address in their responses whether the individual’s contribution was made with their own money or they had been reimbursed.\textsuperscript{84} In light of the available information, we recommend that the Commission find 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.\textsuperscript{85}

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

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

\textsuperscript{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).

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

\textsuperscript{84} Katrina Eggertsson Resp.; Gong Haizhen Resp.

\textsuperscript{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)

\textsuperscript{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).

\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{90} Because Yang
already made the maximum contribution to the Trump Committee for this election cycle,\textsuperscript{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.\textsuperscript{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).\textsuperscript{93}

\textsuperscript{88} 52 U.S.C. § 30116(a)(1)(A); 11 C.F.R. § 110.1(b)(1)(i); Price Index Adjustments for Contribution and

\textsuperscript{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.).

\textsuperscript{90} See supra notes 48-57.

\textsuperscript{91} See supra notes 19-20.

\textsuperscript{92} Compl. ¶¶ 38-40, MUR 7581.

\textsuperscript{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

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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).


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).


102 Id. at 69,946.


citizens to serve as conduits or render substantial assistance in the making of foreign national contributions.\textsuperscript{105} Yang acknowledges in her Response that she “ran a travel service to the US for Chinese business people.”\textsuperscript{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.\textsuperscript{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.\textsuperscript{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

\textsuperscript{105} Foreign National Contribution E&J at 69,945.

\textsuperscript{106} Yang Resp. at 3, MUR 7614.


resident agent. 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. Yang admits in her Response that she brought foreign clients to events at Mar-a-Lago as part of her tourism business. Although Yang’s Response asserts that she only brought foreign clients to charity events, not political fundraisers, the available record, which includes images of foreign nationals at political fundraisers as apparent guests of Yang’s, strongly belies this assertion.

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. 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. 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

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

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.\textsuperscript{118}

The \textit{Miami Herald} identified four Chinese nationals by name who attended the Mar-a-Lago event as Yang’s guests.\textsuperscript{119} Yang’s GY US website promoted the event and displayed pictures of Yang and Chinese nationals at the event.\textsuperscript{120}

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.\textsuperscript{121}

\textsuperscript{116} Compl. \textsuperscript{¶} 5-6, MUR 7614 (citing Miami Herald “Massage Parlor Magnate Helped Steer Chinese to Trump NYC Fundraiser” Article).

\textsuperscript{117} Mother Jones Article; Compl. \textsuperscript{¶} 4, MUR 7614 (citing Michelle Ye Hee Lee, \textit{et al.}, \textit{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); \textit{see also supra page} 9.

\textsuperscript{118} \textit{See Yang Resp. \textsuperscript{¶} 2, MUR 7581 (“The allegations within paragraph 31,32,39 [of the MUR 7581 Complaint] are admitted”).}


\textsuperscript{120} \textit{Internet Archive, GY US Investments, WAYBACK MACHINE}

\textsuperscript{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\%5C12\%5C60620706.tif&documentNumber=L17000253608; \textit{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.\footnote{See, e.g., F&LA at 4, MUR 6946 (DNC, \textit{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”)).} 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.\footnote{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. \textit{See} 52 U.S.C. § 30121(a)(2); 11 C.F.R. §§ 110.20(g), 300.2(m).}

\textbf{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).\footnote{Compl. ¶¶ 41-43, MUR 7614.} The MUR 7614 Complaint also alleges that Xinyue “Daniel” Lou, Sun Changchun, Margaret Yang, Jiusi 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
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). Finally, the MUR 7614 Complaint alleges that Li Jing, Jon Deng, and Hui Liu violated the straw donor ban contained in 52 U.S.C. § 30122 by making contributions on behalf of foreign nationals. Although we could investigate these allegations, because the factual record regarding them is not as developed as the record involving Yang and in light of the statute of limitations circumstances relating to the events in 2017 and 2018, as well as the potential difficulties in further developing the record due to the presence of foreign nationals, we recommend the Commission exercise its prosecutorial discretion under Heckler v. Chaney, and dismiss these allegations. Finally, because the available information does not indicate the knowing receipt of contributions in the name of another or foreign national contributions by the recipient committees, we recommend that the Commission dismiss the allegations that Trump Victory, the Republican National Committee, Make America Great Again PAC f/k/a Donald J. Trump for President, Inc., the Republican Party of Palm Beach County and the 45th Presidential Inaugural Committee accepted foreign national contributions and donations.

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125 Id. ¶¶ 29-35.
126 Id. ¶¶ 36-40.
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
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;
8. Dismiss the allegation that Trump Victory and Bradley T. Crate in his official
capacity as treasurer, the Republican National Committee and Ronald C. Kaufman in
his official capacity as treasurer, 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
Republican Party of Palm Beach County and Jane C. Pike in her official capacity as
treasurer violated 52 U.S.C. § 30121 by accepting foreign national contributions and
close the file as to these respondents;

9. Dismiss the allegation that the 45th Presidential Inaugural Committee violated
11 C.F.R § 110.20(j) by accepting foreign national donations and close the file as to
this respondent;

10. Dismiss the allegations that Bingbing Peranio, Katrina Eggertsson, Gong Haizhen and
Unknown Respondents violated 52 U.S.C. § 30122 by permitting their names to be
used to effect contributions in the name of another and close the file as to these
respondents;

11. Approve the attached Factual and Legal Analyses;

12. Enter into conciliation with Li Juan “Cindy” Gong f/k/a Li Juan “Cindy” Yang prior
to a finding of probable cause;

13. Approve the attached conciliation agreement for Li Juan “Cindy” Gong f/k/a Li Juan
“Cindy” Yang; and

14. Approve the appropriate letters.
Attachments

1. Factual and Legal Analysis for Li Juan “Cindy” Gong, f/k/a Li Juan “Cindy” Yang
2. Factual and Legal Analysis for Bingbing Peranio
3. Factual and Legal Analysis for Gong Haizhen
4. Factual and Legal Analysis for Hui Liu
5. Factual and Legal Analysis for Jingzhu “Margaret” Yang
6. Factual and Legal Analysis for Jiusi Yao
7. Factual and Legal Analysis for Jon Deng
8. Factual and Legal Analysis for Katrina Eggertsson
9. Factual and Legal Analysis for Li Jing
10. Factual and Legal Analysis for Li Xiaohua;
11. Factual and Legal Analysis for Ma Jin
12. Factual and Legal Analysis for Ryan Xu
13. Factual and Legal Analysis for Sun Changchun
14. Factual and Legal Analysis for Xinyue “Daniel” Lou
15. Factual and Legal Analysis for the 45th Presidential Inaugural Committee
17. Factual and Legal Analysis for Make America Great Again PAC f/k/a Donald J. Trump for President, Inc. and Bradley T. Crate in his official capacity as treasurer

18. Factual and Legal Analysis for the Republican National Committee and Ronald C. Kaufman in his official capacity as treasurer

19. Factual and Legal Analysis for the Republican Party of Palm Beach County and Jane C. Pike in her official capacity as treasurer

20. Factual and Legal Analysis for Trump Victory and Bradley T. Crate in his official 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).
The MUR 7614 Complaint alleges that the contributions in connection with the December 2, 2017 and March 3, 2018 events in particular, but all of the events Yang advertised, were facilitated by Yang, along with several other individuals, who had formed political-tourism companies that promised foreign nationals access to President Trump at political fundraisers that required contributions to the Trump Committee, Trump Victory, the Republican National Committee and Ronald C. Kaufman in his official capacity as treasurer (the “RNC”), the 45th Presidential Inaugural Committee, or the Republican Party of Palm Beach County and Jane C. Pike in her official capacity as treasurer, in violation of the Act’s prohibitions on soliciting or providing substantial assistance in the making of foreign national contributions.

Yang responded to both Complaints denying the allegations. Based on the available information in the record, the Commission finds 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, the Commission finds reason to believe that Yang violated 52 U.S.C. § 30121 and 11 C.F.R. § 110.20(h)(1).

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

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\(^7\) Mother Jones 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.
contributions to Trump Victory totaling $23,500.10 Prior to November 2017, the largest federal
collection 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

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
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+ju
an+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-a484-
c070e53f315_story.html, Sarah Blaskey, et al., Cindy Yang Helped Chinese Tech Stars Get $50K Photos With
Li Xiaohua as chairman of Huada International Investment Group and Ryan Xu as a “cryptocurrency guru.” Id.
Qu, Ren Mulhua, Tong Jingling,15 Jie Yang,16 Wu Hao, Lou Li, Jiang Rul, Shanjle Li, Yun Li, Huang Yacun, Liang Lu, Lu Zihan, and Zijing Xuas.17 None of these individuals appear in reports filed with the Commission as having contributed to Trump Victory in their own names.18 One of the Chinese nationals in attendance, identified as Xianqin Qu, has ties to Yang. Qu is the Vice President/Director of a charity formed and managed by Yang known as the Women’s Charity Foundation,19 and Qu can be seen at the December fundraiser in the below picture with Kellyanne Conway — then Senior Counselor to President Trump — published by the Miami Herald.20

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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&aggregatedId=domnp-n15000007847-412c5068-4fde-48a7-b4be-c0a8e3b73b2c&searchTerm=women%27s%20charity&listNameOrder=WOMENSCHARITYFOUNDATION%20N150000078471.

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.\(^\text{21}\)

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.\(^\text{22}\) Li told *Mother Jones* that

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\(^{22}\) *Mother Jones* Article.
Yang had made arrangements for some, though not all, of the Chinese executives to attend the

1 event. According to Mother Jones, Li said:

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

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

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

21

22

23 Id.
24 Id.
25 Id.

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

27 GY US Articles of Incorporation, DIVISION OF CORPORATIONS - FLORIDA DEPARTMENT OF STATE (Dec. 12,
31 %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. 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. 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.

Several months after establishing GY US Investments, Yang attended the March 3, 2018
Trump Victory fundraiser, reportedly again accompanied by Chinese national guests. 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. The event, held at Trump’s Mar-a-Lago resort, was billed as an “evening

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30 See New York Times Article; Mother Jones Article. An archived version of GY US Investments’ 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=83b1cc66b4c645704343f4c4032fcaee95c5e7ed6a1ed205475b5130f55798d2294ad79af0f18e&mpshare=1&scene=1&srcid=0321RAEHGrWtEsWYBzsDy5SN&pass_ticket=pcM8%2FxeMhI%2BP%2FxIdnsDCxNPbljULvDJq29779SORtKx6v681RxiU4dmBjNwnU#rd.


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

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


35 Id.

36 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.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:

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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.
### Factual and Legal Analysis


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


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<table>
<thead>
<tr>
<th>Name</th>
<th>Date of Contribution</th>
<th>Amount of Contribution</th>
<th>Relationship to Yang</th>
<th>Prior History of Donations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bingbing Peranio³⁹</td>
<td>Mar. 5, 2018</td>
<td>$5,400</td>
<td>A receptionist at one of Yang’s day spas. §⁴⁰</td>
<td>None</td>
</tr>
<tr>
<td>Katrina Eggertsson⁴¹</td>
<td>Mar. 5, 2018</td>
<td>$5,400</td>
<td>A “facial instructor” at Tokyo Beauty &amp; Massage School, a corporation that Yang</td>
<td>None</td>
</tr>
<tr>
<td>Elizabeth Maccall⁴²</td>
<td>Feb. 25, 2018</td>
<td>$5,400</td>
<td>An employee at Yang’s day spa chain.</td>
<td>None</td>
</tr>
<tr>
<td>Yang Yi⁴³</td>
<td>Mar. 5, 2018</td>
<td>$5,400</td>
<td>A massage therapist linked to a home belonging to Yang.</td>
<td>None</td>
</tr>
<tr>
<td>Haizhen Gong⁴⁴</td>
<td>Mar. 5, 2018</td>
<td>$5,400</td>
<td>Owner of a day spa in Florida.</td>
<td>None</td>
</tr>
<tr>
<td>Zubin Gong⁴⁵</td>
<td>Mar. 5, 2018</td>
<td>$5,400</td>
<td>Yang’s husband.</td>
<td>None</td>
</tr>
<tr>
<td>Lin Deng⁴⁶</td>
<td>Feb. 21, 2018</td>
<td>$5,400</td>
<td>Listed as an “investor” in GY US Investments.</td>
<td>None</td>
</tr>
<tr>
<td>Guiying Zhang⁴⁷</td>
<td>Feb. 26, 2018</td>
<td>$5,400</td>
<td>Yang’s mother.</td>
<td>None</td>
</tr>
<tr>
<td>Fuming Yang⁴⁸</td>
<td>Feb. 20, 2018</td>
<td>$5,400</td>
<td>Yang’s father.</td>
<td>None</td>
</tr>
</tbody>
</table>
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.\textsuperscript{49} She reportedly added, “I was working there. I didn’t say no.”\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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

\textsuperscript{49} Compl. ¶ 12, MUR 7581 (citing New York Times Article).
\textsuperscript{50} Id.
\textsuperscript{51} Compl. ¶ 10, MUR 7581 (citing New York Times Article); Compl. ¶ 9, MUR 7614 (citing New York
Times Article).
\textsuperscript{52} Compl. ¶¶ 38-40, MUR 7581.
\textsuperscript{53} Compl. ¶¶ 35, 37, 42, MUR 7614.
nationals by providing substantial assistance to the foreign nationals in making contributions through straw donors.\textsuperscript{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.\textsuperscript{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.\textsuperscript{56}

\section{III. LEGAL ANALYSIS}

\textbf{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.”\textsuperscript{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.\textsuperscript{58} The Commission has included in its regulations illustrations of activities that constitute making a contribution in the name of another:

\begin{enumerate}
\item 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
\end{enumerate}

\textsuperscript{54} Id. ¶ 35.

\textsuperscript{55} See Yang Resp. at 1-2, MUR 7581; Compl. ¶ 31, MUR 7581.

\textsuperscript{56} Yang Resp. at 2, MUR 7614.

\textsuperscript{57} 52 U.S.C. § 30101(8)(A).

\textsuperscript{58} Id. § 30122.
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.  

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. Courts therefore have uniformly rejected the assertion that “only the person who actually transmits funds . . . makes the contribution,” 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.” 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. This is true 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)).
promised as reimbursement of a solicited contribution.64 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.65 Yang admits in her 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.66 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

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 Dramesi 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”).
worked for Yang’s husband and helped fill out the check toward Trump’s campaign. 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.” When asked whether Yang had reimbursed Peranio, Peranio responded “I do not want to answer that question.”

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, clustered donations of the maximum amount, and contributions from subordinate employees with occupations suggesting that a significant financial burden would be associated with a contribution of the maximum allowable amount. Additionally, the alleged conduits are not reported as having made any federal contributions previously and either did not respond to the Complaint, or failed to address in their responses whether the individual’s contribution was made with their own money or they had been reimbursed. 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.
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

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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


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


updated contribution limits for 2021-22 election cycle.).


79 See supra notes 10-11.
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).
successful completion of the transaction.” Moreover, substantial assistance “covers but is not limited to, those persons who act as conduits or intermediaries for foreign national contributions or donations.”

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.

Subsequent to these conciliations and after Congress enacted the Bipartisan Campaign Reform Act of 2002, 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.

Yang acknowledges in her Response that she “ran a travel service to the US for Chinese business people.” 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

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86 Id. at 69,946.


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

90 Yang Resp. at 3, MUR 7614.
County Republican Lincoln Day Fundraising Dinner. 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.

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. 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. Yang admits in her Response that she brought foreign clients to events at Mar-a-Lago as part of her tourism business. Although Yang’s Response asserts that she only brought foreign clients to charity events at Mar-a-Lago, her conduct suggests otherwise. The phone number appearing on both the GY US website and the Women’s Charity Foundation website is 202-298-1454, and the consular visitations she brought clients to were sponsored by her own tourism business.

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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.
events, not political fundraisers,\textsuperscript{96} the available record, which includes images of foreign
nationals at political fundraisers as apparent guests of Yang’s, strongly belies this assertion.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{100} As discussed earlier, press reports show
pictures of Chinese nationals at the events, and an RNC official also confirmed to the
\textit{Washington Post} that Chinese nationals were present.\textsuperscript{101}

\textsuperscript{96} Id.

\textsuperscript{97} \textit{Compare} Yang Resp. at 1-2, MUR 7614 (Aug. 5, 2019) \textit{with} F&LA at 2-3, MUR 6946 (DNC, \textit{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).

\textsuperscript{98} \textit{See supra} pages 4-8.

\textsuperscript{99} \textit{See supra} note11.

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

\textsuperscript{101} Mother Jones Article; Compl. ¶ 4, MUR 7614 (citing Michelle Ye Hee Lee, \textit{et al., Invitations Offer
washingtonpost.com/politics/invitations-offer-wealthy-chinese-access-to-president-trump-at-fundraiser/2018/05/25/3bc6a8ae-5e90-11e8-a4a4-c070ef53f315_story.html}; \textit{see also supra} page 7.
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

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


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”)).
attendance costs by making contributions. Accordingly, the Commission finds reason to believe Yang’s actions constituted providing substantial assistance in the making of foreign national contributions.107

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


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

maximum contribution of $5,400 to the Trump Committee via Trump Victory within a two-week period.\(^4\) Peranio made a $5,400 contribution on March 5, 2021.\(^5\) Peranio, a massage parlor receptionist, stated to the press that her employer had come to the massage parlor where she worked and helped fill out the check toward Trump’s campaign.\(^6\) She reportedly added, “I was working there. I didn’t say no.”\(^7\)

**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.”\(^8\) 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.\(^9\) The Commission has included in its regulations illustrations of activities that constitute making a contribution in the name of another:

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

\(^4\) See 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.
(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.\(^\text{10}\)

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.\(^\text{11}\) Courts therefore have uniformly rejected the assertion that “only the person who actually transmits funds . . . makes the contribution,”\(^\text{12}\) 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.”\(^\text{13}\) 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.\(^\text{14}\) 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.\(^\text{15}\) 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.
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 information does not indicate that Peranio played a significant role in
carrying out the alleged conduit scheme. 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. The available information does not indicate
that Peranio suggested the reimbursement or otherwise participated in the creation or
perpetuation of the conduit scheme. Accordingly, the Commission dismisses the allegations
regarding Peranio.

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).

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

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Haizhen Gong

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, 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”). 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. 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


2 Compl. ¶¶ 7-12 (Mar. 18, 2019).

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

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4 See New York Times Article.


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.Tiff&documentNumber=L14000008997.


8 Id. § 30122.

9 11 C.F.R. § 110.4(b)(2)(i)–(ii).
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. Courts therefore have uniformly rejected the assertion that “only the person who actually transmits funds . . . makes the contribution,” 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.” 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. 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. Because the concern of the law is the true source from which a contribution to a candidate or committee originates, we look to the

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

The available information does not indicate that Gong played a significant role in carrying out the alleged conduit scheme. 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. The available information does not indicate that Gong suggested the reimbursement or otherwise participated in the creation or perpetuation of the conduit scheme. Accordingly, the Commission dismisses the allegations regarding Gong.

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

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

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\(^1\) Compl. ¶ 44 (May 22, 2019)

\(^2\) Id. ¶ 5.

American political events. 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, and posing for a photograph with President Trump at the event was available for contributors who donated $50,000 to Trump Victory. In the two weeks preceding the event, Yang made three contributions to Trump Victory totaling $23,500. Yang reportedly arranged for a large group of businesspeople from China to attend the December 2, 2017 event. According to the Complaint, Liu assisted Yang in these efforts. The Complaint alleges that Liu 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.

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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.


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.
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.\(^\text{11}\) 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.\(^\text{12}\)

It is unlawful to knowingly provide substantial assistance in the solicitation, making, acceptance, or receipt of a contribution or donation by a foreign national.\(^\text{13}\) 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.”\(^\text{14}\) Moreover, substantial assistance “covers but is not limited to, those persons who act as conduits or intermediaries for foreign national contributions or donations.”\(^\text{15}\) In the context of foreign national attendance at fundraising events, the Commission in MUR 4530, \textit{et al.} (DNC, \textit{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.

\(^\text{11}\) 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. \textit{See} \textit{Bluman v. FEC}, 800 F. Supp. 2d 281, 288-89 (D.D.C. 2011); \textit{aff’d} 132 S. Ct. 1087 (2012); \textit{United States v. Singh}, 924 F.3d 1030, 1040-44 (9th Cir. 2019).

\(^\text{12}\) 52 U.S.C. § 30121(b); \textit{see also} 11 C.F.R. § 110.20(a)(3).

\(^\text{13}\) 11 C.F.R. § 110.20(h)(1).


\(^\text{15}\) \textit{Id.} at 69,946.
and contributions in the name of another in connection with attendance at fundraising events.\textsuperscript{16}

Subsequent to these conciliations and after Congress enacted the Bipartisan Campaign Reform Act of 2002,\textsuperscript{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.\textsuperscript{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.”\textsuperscript{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.\textsuperscript{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.\textsuperscript{21}


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

\textsuperscript{18} Foreign National Contribution E&J at 69,945.

\textsuperscript{19} 52 U.S.C. § 30101(8)(A).

\textsuperscript{20} \textit{Id}. § 30122.

\textsuperscript{21} 11 C.F.R. § 110.4(b)(2)(i)–(ii).
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. Courts therefore have uniformly rejected the assertion that “only the person who actually transmits funds . . . makes the contribution,” 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.” 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. 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. Because the concern of the law is the true source from which a contribution to a candidate or committee originates, we look to the

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

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*, and dismisses these allegations.

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Jingzhu “Margaret” Yang

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

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\(^1\) 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 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).

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.

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10 Id. at 69,946.
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).
13 Foreign National Contribution E&J at 69,945.
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. 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. 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).
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. 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.

It is unlawful to knowingly provide substantial assistance in the solicitation, making, acceptance, or receipt of a contribution or donation by a foreign national. 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.” Moreover, substantial assistance “covers but is not limited to, those persons who act as conduits or intermediaries for foreign national contributions or donations.” 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.

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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).


8 Id. at 69,946.
and contributions in the name of another in connection with attendance at fundraising events.\(^9\)

Subsequent to these conciliations and after Congress enacted the Bipartisan Campaign Reform Act of 2002,\(^{10}\) 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.\(^{11}\)

Although the Commission could investigate these allegations, because the factual record regarding them is not developed, the Commission exercises its prosecutorial discretion under \textit{Heckler v. Chaney},\(^{12}\) and dismisses these allegations as to Jiusi Yao.

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

\(^{11}\) Foreign National Contribution E&J at 69,945.

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.)
Chinese businesspeople access to American politicians and American political events. 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, and posing for a photograph with President Trump at the event was available for contributors who donated $50,000 to Trump Victory. In the two weeks preceding the event, Yang made three contributions to Trump Victory totaling $23,500. Yang reportedly arranged for a large group of businesspeople from China to attend the December 2, 2017 event. According to the Complaint, Deng assisted Yang in these efforts. The Complaint alleges that Deng 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.

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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.


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.
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.

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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).


15 Id. at 69,946.
and contributions in the name of another in connection with attendance at fundraising events.\textsuperscript{16}  

Subsequent to these conciliations and after Congress enacted the Bipartisan Campaign Reform Act of 2002,\textsuperscript{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.\textsuperscript{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.”\textsuperscript{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.\textsuperscript{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.\textsuperscript{21}  


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

\textsuperscript{18} Foreign National Contribution E&J at 69,945.  

\textsuperscript{19} 52 U.S.C. § 30101(8)(A).  

\textsuperscript{20} Id. § 30122.  

\textsuperscript{21} 11 C.F.R. § 110.4(b)(2)(i)–(ii).
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. Courts therefore have uniformly rejected the assertion that “only the person who actually transmits funds . . . makes the contribution,” 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.” 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. 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. 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; Gold 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).
structure of the transaction itself and the arrangement between the parties to determine who, in fact, “made” a given contribution.

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**, and dismisses these allegations.

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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

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2 Compl. ¶¶ 7-12 (Mar. 18, 2019).
maximum contribution of $5,400 to the Trump Committee via Trump Victory within a two-week period. Eggertsson made a $5,400 contribution on March 5, 2021. 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.

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.” 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. 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.

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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.
8 Id. § 30122.
9 11 C.F.R. § 110.4(b)(2)(i)–(ii).
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. Courts therefore have uniformly rejected the assertion that “only the person who actually transmits funds . . . makes the contribution,” 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.” 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. 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. Because the concern of the law is the true source from which a contribution to a candidate or committee originates, we look to the

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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 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.”).

12 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)).

13 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).
structure of the transaction itself and the arrangement between the parties to determine who, in fact, “made” a given contribution.

The available information does not indicate that Eggertsson played a significant role in carrying out the alleged conduit scheme. 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. The available information does not indicate that Eggertsson suggested the reimbursement or otherwise participated in the creation or perpetuation of the conduit scheme. Accordingly, the Commission dismisses the allegations regarding Eggertsson.

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

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Li Jing

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. 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. After the 2016 election, Yang began marketing tourism packages that purportedly promised Chinese businesspeople access to American politicians and American political events.

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1 Compl. ¶ 44 (May 22, 2019)
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, and posing for a photograph with President Trump at the event was available for contributors who donated $50,000 to Trump Victory. In the two weeks preceding the event, Yang made three contributions to Trump Victory totaling $23,500. Yang reportedly arranged for a large group of businesspeople from China to attend the December 2, 2017 event. According to the Complaint Jing assisted Yang in these efforts. 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.

### 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,

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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.


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.
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, \textit{et al.} (DNC, \textit{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. \textit{See} \textit{Bluman v. FEC}, 800 F. Supp. 2d 281, 288-89 (D.D.C. 2011); \textit{aff’d} 132 S. Ct. 1087 (2012); \textit{United States v. Singh}, 924 F.3d 1030, 1040-44 (9th Cir. 2019).

\(^{11}\) 52 U.S.C. § 30121(b); \textit{see also} 11 C.F.R. § 110.20(a)(3).

\(^{12}\) 11 C.F.R. § 110.20(h)(1).


\(^{14}\) \textit{Id.} at 69,946.

\(^{15}\) \textit{See} Conciliation Agreement with Yah Lin “Charlie” Trie at 2-3, MUR 4530 (DNC, \textit{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, \textit{et al.}) (Aug. 23, 2001) (detailing reimbursement schemes used by a fundraiser who “bundled” foreign national donations).
Subsequent to these conciliations and after Congress enacted the Bipartisan Campaign Reform Act of 2002, 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.

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.” 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. 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.

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. Courts therefore have uniformly

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


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 is not sufficient to overcome the constitutional presumption in favor of a state law that burdens speech."")
rejected the assertion that “only the person who actually transmits funds . . . makes the
contribution,”22 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.”23 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.24 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.25 Because the concern of the law is the
ture 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.

— 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).

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).
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*, and dismisses these allegations.

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Li Xiaohua

I. INTRODUCTION

The Complaint alleges that, Li Xiaohua, a foreign national, made prohibited contributions in connection with attendance at political fundraising events. 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, and posing for a photograph with President Trump at the event was available for contributors who donated $50,000 to Trump Victory.

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

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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.
5 Compl.¶ 4 (citing Nicholas Nehamas, et al., Massage Parlor Magnate Helped Steer Chinese to Trump NYC Fundraiser, MIAMI HERALD (March 9, 2019).
contributors who gave $50,000. Xiaohua does not appear in reports filed with the Commission as having contributed to Trump Victory in his own name. 

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


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


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-
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.

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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).

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.
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.  

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.

It is unlawful to knowingly provide substantial assistance in the solicitation, making, acceptance, or receipt of a contribution or donation by a foreign national. 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.” Moreover, substantial assistance “covers but is not limited to, those persons who act as conduits or intermediaries for foreign national contributions or donations.” 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.

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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).


8 Id. at 69,946.
and contributions in the name of another in connection with attendance at fundraising events.\(^9\)

Subsequent to these conciliations and after Congress enacted the Bipartisan Campaign Reform Act of 2002,\(^10\) 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.\(^11\)

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*,\(^12\) and dismisses these allegations as to Ma Jin.

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\(^11\) Foreign National Contribution E&J at 69,945.

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

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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.


5  Compl.¶ 4 (citing Nicholas Nehamas, et al., Massage Parlor Magnate Helped Steer Chinese to Trump NYC Fundraiser, MIAMI HERALD (March 9, 2019).
contributors who gave $50,000. Xu does not appear in reports filed with the Commission as having contributed to Trump Victory in his own name.

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


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


9 Id.

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.

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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).

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Sun Changchun

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. 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, and posing for a photograph with President Trump at the event was available for contributors who donated $50,000 to Trump Victory. According to the Complaint, Changchun arranged for Chinese nationals to attend the December 2 fundraiser.

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).

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.

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.

It is unlawful to knowingly provide substantial assistance in the solicitation, making, acceptance, or receipt of a contribution or donation by a foreign national. 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.” Moreover, substantial assistance “covers but is not limited to, those persons who act as conduits or intermediaries for foreign national contributions

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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).

or donations.” 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. Subsequent to these conciliations and after Congress enacted the Bipartisan Campaign Reform Act of 2002, 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.

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, and dismisses these allegations as to Sun Changchun.

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10 Id. at 69,946.


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

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Xinyue “Daniel” Lou

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,

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\(^1\) 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.
Lou brought 30 Chinese guests to the December 2 fundraiser. 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). 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.”

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

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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).
receipt or acceptance of a foreign national contribution or donation with an intent to facilitate successful completion of the transaction.”\textsuperscript{11} Moreover, substantial assistance “covers but is not limited to, those persons who act as conduits or intermediaries for foreign national contributions or donations.”\textsuperscript{12} In the context of foreign national attendance at fundraising events, the Commission in MUR 4530, \textit{et al.} (DNC, \textit{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.\textsuperscript{13} Subsequent to these conciliations and after Congress enacted the Bipartisan Campaign Reform Act of 2002,\textsuperscript{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.\textsuperscript{15}

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


\textsuperscript{12} \textit{Id.} at 69,946.

\textsuperscript{13} \textit{See Conciliation Agreement with Yah Lin “Charlie” Trie at 2-3, MUR 4530 (DNC, \textit{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, \textit{et al.}) (Aug. 23, 2001) (detailing reimbursement schemes used by a fundraiser who “bundled” foreign national donations).

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

\textsuperscript{15} Foreign National Contribution E&J at 69,945.

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).
III. LEGAL ANALYSIS

Inaugural committees are prohibited from accepting any donation from a foreign national. 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.

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 Committee.

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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).
FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Make American Great Again PAC 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 2019.2 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,

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1 Compl. ¶ 26 (May 22, 2019).
2 Id.
3 Resp. at 1 (July 2, 2019).
independent expenditure, or disbursement, in connection with a federal, state, or local election.4

The Act prohibits persons from soliciting, accepting, or receiving a contribution or donation
from a foreign national.5 Commission regulations state that persons may not knowingly solicit,
accept, or receive such a contribution or donation.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 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.8 Provided that a foreign national does not make a contribution of
personal funds to attend a fundraising event, the Act does not prohibit a foreign national from
attending such an event.9

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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).
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)(l)(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.”).
The available information does not indicate the knowing receipt of contributions by foreign nationals. Accordingly, the Commission dismisses the allegations as to the Committee.¹⁰

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 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).
independent expenditure, or disbursement, in connection with a federal, state, or local election.\textsuperscript{4} The Act prohibits persons from soliciting, accepting, or receiving a contribution or donation from a foreign national.\textsuperscript{5} Commission regulations state that persons may not knowingly solicit, accept, or receive such a contribution or donation.\textsuperscript{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.\textsuperscript{7} 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.\textsuperscript{8} Provided that a foreign national does not make a contribution of personal funds to attend a fundraising event, the Act does not prohibit a foreign national from attending such an event.\textsuperscript{9}

\textsuperscript{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. \textit{See Bluman v. FEC}, 800 F. Supp. 2d 281, 288-89 (D.D.C. 2011); \textit{aff’d} 132 S. Ct. 1087 (2012); \textit{United States v. Singh}, 924 F.3d 1030, 1040-44 (9th Cir. 2019).

\textsuperscript{5} 52 U.S.C. § 30121(a)(2).

\textsuperscript{6} 11 C.F.R. § 110.20(g).

\textsuperscript{7} 52 U.S.C. § 30121(b).

\textsuperscript{8} \textit{Id.} § 110.20(a)(4); \textit{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.”).

\textsuperscript{9} \textit{See} 52 U.S.C. § 30121(a)(l)(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.”).
The available information does not indicate the knowing receipt of contributions by foreign nationals. Accordingly, the Commission dismisses the allegations as to the RNC.10

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 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.
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).
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.
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

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10 See 52 U.S.C. § 30121(a)(l)(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. 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.
donated $50,000 to Trump Victory.\(^3\) In the two weeks preceding the event, Cindy Yang made three contributions to Trump Victory totaling $23,500.\(^4\)

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.\(^5\) Yang reportedly arranged for a large group of businesspeople from China to attend the December 2, 2017 event.\(^6\)

Yang also attended a March 3, 2018 Trump Victory fundraiser, reportedly again accompanied by Chinese national guests. The event, held at Trump’s Mar-a-Lago resort, was billed as an “evening reception with Donald J. Trump.” 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.\(^7\) A “$50,000 raise per person” would also include a photo with Trump.\(^8\) The invitation to the event specified that “Funds must be raised in increments not to exceed $5,400 per person.”

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\(^3\) 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.


\(^5\) Miami Herald “Feds Open Investigation into Trump Donor Cindy Yang” Article.


\(^8\) Id.
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. 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.

**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.” 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. 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.

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9 See New York Times Article.
10 Compl. ¶ 9 (citing New York Times Article).
12 Id. § 30122.
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. Courts therefore have uniformly rejected the assertion that “only the person who actually transmits funds . . . makes the contribution,” 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.” 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. 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. Because the concern of the law is the true source from which a contribution to a candidate or committee originates, we look to the

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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).
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.


\(^{21}\) 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).
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.\footnote{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.").}

Provided that a foreign national does not make a contribution of personal funds to attend a fundraising event, the Act does not prohibit a foreign national from attending such an event.\footnote{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.”).}

The available information does not indicate the knowing receipt of contributions in the name of another or foreign national contributions by the recipient committees. Accordingly, the Commission dismisses the allegations that Trump Victory knowingly accepted contributions in the name of another and foreign national contributions and donations.\footnote{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).}