

14044352485

FEDERAL ELECTION COMMISSION
999 E Street, NW
Washington, DC 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

2013 SEP 17 AM 9:37

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

MUR 6719

DATE RECEIVED: February 6, 2013

DATE ACTIVATED: June 18, 2013

EARLIEST SOL: May 14, 2017

LATEST SOL: May 25, 2017

ELECTION CYCLE: 2012

COMPLAINANT:

Karin Tausan

RESPONDENTS:

Xanthi Gionis

Committee to Elect Xanthi Gionis for US Congress
2012 and Xanthi Gionis in her Official Capacity
as Treasurer
Aristotle University, Inc.

**RELEVANT STATUTES AND
REGULATIONS:**

2 U.S.C. § 431(2)
2 U.S.C. § 431(8)
2 U.S.C. § 434(a)
2 U.S.C. § 434(b)
2 U.S.C. § 441a(a)(1)(A)
2 U.S.C. § 441a(f)
2 U.S.C. § 441g
2 U.S.C. § 441i(e)(1)
11 C.F.R. § 100.3
11 C.F.R. § 100.52
11 C.F.R. § 104.1(a)
11 C.F.R. § 104.3
11 C.F.R. § 104.5
11 C.F.R. § 104.11
11 C.F.R. § 110.1(b)
11 C.F.R. § 110.4(c)
11 C.F.R. § 110.9
11 C.F.R. § 114.2(f)

INTERNAL REPORTS CHECKED:

Disclosure Reports

FEDERAL AGENCIES CHECKED:

None

CELA

2013 SEP 16 PM 4:33

FEDERAL ELECTION
COMMISSION

I. INTRODUCTION

This matter involves a Complaint filed by Karin Tausan, who alleges that Xanthi Gionis, a former candidate for Congress in California's 51st District in 2012 and Tausan's purported employer at Aristotle University, solicited \$7,500 from her in loans to help fund Gionis's campaign. Tausan further alleges that Gionis failed to repay these loans, and that Gionis's authorized committee failed to report the loans and other contributions to the Commission. Gionis, who submitted the only Response,¹ asserts that she never borrowed money from Tausan for the purpose of running her campaign.

For the reasons discussed below, we recommend that the Commission find reason to believe that Gionis and her authorized committee solicited and accepted an excessive contribution in violation of 2 U.S.C. §§ 441a(f) and 441i(e)(1), and that Aristotle University facilitated the making of that contribution in violation of 11 C.F.R. § 114.2(f). We also recommend that the Commission authorize the use of compulsory process to assist with an investigation into this matter.

II. FACTUAL AND LEGAL ANALYSIS

A. Background

Xanthi Gionis was a candidate for Congress in California's 51st District in the 2012 blanket primary election. Gionis did not advance to the general election.² The Committee to Elect Xanthi Gionis for US Congress 2012 ("Committee") is Gionis's authorized committee

¹ Gionis's Response addresses all Respondents, but does not expressly state that it is submitted on behalf of all Respondents. *See* Resp. at 1-4. The Complaints Examination and Legal Administration Division ("CELA") contacted Gionis upon receipt of her Response on March 7, 2013, to obtain clarification on this point. On March 27, 2013, Gionis contacted CELA and informed them that she had hired an attorney who would respond on behalf of her and the other Respondents. To date, however, the Office of the General Counsel has not received a written designation of counsel or additional Response from any of the Respondents.

² Gionis also was an unsuccessful candidate in the California State Senate District 40 special election that was held on March 12, 2013.

14044352486

1 registered with the Commission. Gionis filed a Statement of Candidacy and Statement of
2 Organization for the Committee with the Commission on March 5, 2012, but the Committee filed
3 no subsequent disclosure reports.

4 Aristotle University is a "suspended" corporation registered in the State of California.³
5 Aristotle University's registered agent is Matthew Gionis,⁴ who appears to be Gionis's father.⁵
6 Gionis's public LinkedIn page states that she is a co-founder and provost of Aristotle
7 University.⁶ In her Response, Gionis asserts that Aristotle University was previously owned by
8 her father and that another individual, Thomas Gionis, has not been the president of Aristotle
9 University "for several years now."⁷ Resp. at 2, 4.

10 Tausan states that she was "close personal friends" with Gionis, worked for Gionis as an
11 instructor at Aristotle University, and performed "some work for [Gionis's] family." Compl. at
12 1. Tausan's Complaint alleges that Gionis asked Tausan to loan Gionis \$5,000 on May 14, 2012,
13 to cover a down payment for a June 2, 2012, fundraiser to be held at the Grand Del Mar Hotel in
14 San Diego, which Gionis allegedly claimed her brother would repay on June 8, 2012. *Id.* The
15 Complaint also alleges that Gionis requested an additional \$2,500 on May 25, 2012. *Id.* Tausan
16 claims that she did not have the funds to make these loans and did not want to take a cash

³ See <http://kepler.sos.ca.gov/>.

⁴ See *id.*

⁵ According to the transcript attached to the Complaint, Matthew Gionis is Gionis's father. Compl., Attach. at 18.

⁶ See <http://www.linkedin.com/pub/xanthi-gionis/63/7a/814>.

⁷ The Aristotle University website is no longer available, but an archived version lists Thomas Gionis as president and dean. See <http://web.archive.org/web/20120708092841/http://www.aristotleu.com/public-health/index.html>. While Thomas Gionis is not named in the Complaint or as a respondent in this matter, CELA provided him with a courtesy copy of Aristotle University's notification letter. See Letter from Jeff S. Jordan, Supervisory Attorney, Federal Election Commission, to Aristotle University (Feb. 13, 2013). This appears to be why the Response references Thomas Gionis by name.

14044352487

1 advance on her credit card. *Id.* Therefore, she provided Gionis with her credit card information
2 at Gionis's request and allowed Gionis to set up a PayPal account in Tausan's name. *Id.*
3 According to Tausan, the two agreed that the credit card would be charged for a "tuition"
4 payment to Aristotle University and subsequently refunded to Tausan before the credit card had
5 to be repaid. *Id.* Tausan asserts that, despite numerous attempts to collect, she was never repaid.
6 *Id.*

7 Tausan also states that she attended a fundraising event for Gionis and a state candidate,
8 Corky Reynaga-Emett,⁸ at a private residence in Brawley, California on May 17, 2012. *Id.* at 2.
9 At this event, Tausan alleges that she saw envelopes given to Gionis's campaign manager, Tim
10 Rowe, and heard donations being discussed. *Id.* She states that most of the envelopes contained
11 cash but that "Gionis was very upset that some of the donations were put on credit cards." *Id.*

12 In support of her Complaint, Tausan provides several emails that are purportedly between
13 herself () and Gionis (). *Id.*, Attach. at 2-13. Many of
14 these emails involve Tausan's work for Aristotle University and her requests for payments and
15 reimbursements related to those services. *See id.*, Attach. at 2-9. In one email to Tausan dated
16 May 25, 2012, however, Gionis asks:

17 [I]s there anyway that I can charge another \$2,500 on your credit card and pay it back on
18 June 8, 2012 when my brother gives me the money that he has promised my campaign
19 and the students pay their tuition????? I REALLY HATE TO ASK, but I need to get the
20 final things done on the campaign and obviously cannot wait until the election is
21 OVER!!!!

22 *Id.*, Attach. at 4 (emphasis and punctuation in original). Tausan then appears to have sent Gionis
23 a series of email requests for repayment of the \$7,500, along with additional funds that she
24 claims Aristotle University owed her, throughout June and July 2012. *See id.*, Attach. at 10-13.

⁸ The Complaint references Corky Reynaya-Emett, which appears to be a typographical error. Compl. at 2.

1 The Complaint also includes what appears to be a cut and copied portion of a credit card
2 statement with charges of \$5,000 and \$2,507.84 for "PAYPAL*ARISTOTLEUN" on May 14
3 and May 25 respectively. *Id.*, Attach. at 14. The statement, however, does not provide any
4 name, bank, or account details. *Id.*

5 Tausan states that she filed a small claims suit against Gionis and Aristotle University for
6 the \$7,500. *Id.* at 1-2. The Complaint includes what appears to be an unverified transcript of the
7 small claims hearing. *Id.*, Attach. at 18-31. According to the Complaint and transcript, Gionis
8 argued at the hearing that the funds were not for her campaign. *Id.* at 1-2, Attach. at 18-31.
9 Rather, she argued, the funds represented tuition that Tausan paid prior to being denied
10 admission to Aristotle University and that Tausan was entitled to a refund but had not properly
11 requested it through Aristotle University. *Id.* Gionis also asserts in the transcript that Tausan
12 was manipulative; had targeted Gionis's father because he was elderly; was not an employee of
13 Aristotle University; was never authorized to do the work and incur the expenses that she did;
14 and was previously fired from the law firm for which she worked for falsifying emails. *Id.*,
15 Attach. at 21-24. The Complaint asserts that the court believed Gionis's version of events and
16 provides an entry of judgment against Aristotle University (and not Gionis personally) for the
17 tuition reimbursement. *Id.* at 1-2, Attach. at 17. Tausan states that she submitted an official
18 refund request through Aristotle University but never received payment. *Id.* at 2, Attach. at
19 15-16.

20 In her Response, Gionis flatly denies the allegations, asserting that Aristotle University
21 has never made any political contributions; her campaign did not accept any corporate
22 contributions; her campaign did not sell tickets for a fundraiser or make any down payment for a
23 fundraiser at the Grand Del Mar Hotel; and she has never borrowed money from anyone for the

14044352489

1 purpose of running her campaign. Resp. at 3. Consistent with Gionis's testimony in the
2 transcript attached to the Complaint, Gionis states that Tausan is currently in a "
3 _____ that has been harassing Gionis and her
4 family. *Id.* at 1-2. The Response also asserts that Tausan was never an employee of Aristotle
5 University. *Id.* at 2. It states that Tausan lost a previous small claims suit with respect to wages
6 owed, and that the Aristotle University tuition judgment was later vacated and is currently under
7 reconsideration due to lack of service. *Id.* It also states that Tausan has brought similar cases
8 against other universities. *Id.* The Response further asserts that Tausan fabricated the emails,
9 with Gionis asserting that they "are not mine and were not written by me."⁹ *Id.* at 2-3.

10 The Response states that Gionis's federal campaign received six \$100 checks at the
11 Brawley fundraiser, which was "hosted by the Brawley farmers." *Id.* at 3. The Response further
12 states that the campaign never received any cash contributions, and that it received only one
13 credit card contribution for \$100, which was made through the campaign website and directly
14 deposited into the Committee's account. *Id.*

15 **B. Legal Analysis**

16 The central issue raised by the Complaint is whether Tausan made an excessive
17 contribution to Gionis, and, as a corollary, whether Gionis solicited and accepted an excessive
18 contribution on behalf of her campaign through Aristotle University. Based on the available
19 information, we recommend that the Commission find reason to believe that Gionis and her
20 committee solicited and accepted an excessive contribution in violation of 2 U.S.C. §§ 441a(f)

⁹ In the unverified transcript, Gionis also alleged that Tausan fabricated the emails, but conceded that the email address provided (_____) was hers. See Compl., Attach. at 27-28. In her Response, as evidence that the emails were falsified, Gionis notes that the emails are printed from a Yahoo web page, even though none of the email addresses in question are Yahoo addresses. Resp. at 3. It appears, however, that SBC Global email addresses can be opened from the main Yahoo mail page.

1 and 441i(e)(1) and that Aristotle University facilitated the making of that contribution in
2 violation of 11 C.F.R. § 114.2(f).

3 Under the Federal Election Campaign Act of 1971, as amended (the “Act”), no person
4 may make contributions to any candidate and his or her authorized political committees with
5 respect to any election for Federal office that, in the aggregate, exceeds \$2,500 for the 2012
6 election cycle. 2 U.S.C. § 441a(a)(1)(A); 11 C.F.R. § 110.1(b)(1). No candidate or political
7 committee may accept any contribution in violation of the contribution limitations set forth in the
8 Act. 2 U.S.C. §§ 441a(f), 441i(e)(1); 11 C.F.R. § 110.9. The Act defines a contribution as “any
9 gift, subscription, loan, advance, or deposit of money or anything of value made by any person
10 for the purpose of influencing any election for Federal office.” 2 U.S.C. § 431(8); 11 C.F.R.
11 § 100.52(a). A loan that exceeds the contribution limitations of section 441a is considered
12 unlawful regardless of whether or not it is repaid. 11 C.F.R. § 100.52(b)(1).

13 Further, corporations may not facilitate the making of contributions to candidates.
14 11 C.F.R. § 114.2(f)(1). Facilitation is defined as using corporate resources and facilities to
15 engage in fundraising activities — including, but not limited to, providing materials for the
16 purpose of transmitting or delivering contributions and soliciting contributions earmarked for a
17 candidate that are to be collected and forwarded by the corporation. *Id.* § 114.2(f)(2)(ii).

18 The Commission will find reason to believe in cases where a complainant credibly
19 alleges that a significant violation may have occurred and the available evidence is “at least
20 sufficient to warrant conducting an investigation, and where the seriousness of the alleged
21 violation warrants . . . further investigation.” Statement of Policy Regarding Commission Action
22 in Matters at the Initial Stage of the Enforcement Process, 72 Fed. Reg. 12,545, 12,545 (Mar. 16,
23 2007).

14044352491

1 Here, Tausan's sworn Complaint includes a statement — against her own interest — that
2 she personally loaned \$7,500 to Gionis "for her campaign" upon Gionis's solicitation.¹⁰ Compl.
3 at 1. Tausan supports her statement with email correspondence between Tausan and Gionis
4 regarding the loans, including an email in which Gionis directly solicits "another" \$2,500 loan
5 "to get the final things done on the campaign." *Id.* at 1-2, Attach. at 4. The Complaint also
6 includes purported documentation of credit card charges through PayPal by Aristotle University
7 in the amount of \$5,000 on May 14 and \$2,507.84 on May 25. *Id.*, Attach. at 14.

8 On their face, the emails directly contradict Gionis's sworn representation that she neither
9 sought nor received funds from Tausan in relation to her campaign for federal office.¹¹ Resp. at
10 2-3. The Response vigorously challenges Tausan's credibility and asserts that Tausan's emails
11 are falsified. *Id.* at 1-3. At this stage, however, the Complaint's sworn allegations based on
12 personal knowledge and supporting documentation together give rise to a reasonable belief that a
13 violation of the Act may have occurred, notwithstanding Gionis's general denials and attack on
14 Tausan's credibility.¹²

¹⁰ Tausan's Complaint has some characteristics of a *sua sponte* submission, in that she acknowledges making an excessive contribution and notes that at the time that she made the loans she "did not know the rules of campaign loans or contributions" and was "only recently advised of those rules." Compl. at 2. But she does not expressly acknowledge that loaning \$7,500 to Gionis for her campaign would violate the Act. We recommend that the Commission decline to name her as a respondent, and we make no recommendations with respect to her at this time. This approach is similar to how the Commission has treated other complainants who have reported making impermissible contributions and certain conduits in section 441f matters whose participation in a 441f scheme may not have been entirely voluntary. *Cf.* MUR 6687 (Obama for America, *et al.*) (taking no action against complainants who made contributions of \$23 in the name of another); MUR 5927 (Joseph A. Solomon, *et al.*) (declining to take action against certain conduits who may have been pressured into making contributions by their employer). We may make additional recommendations as to Tausan after our initial investigation has concluded.

¹¹ The Response is not notarized, but it is sworn under the penalty of perjury. Resp. at 4.

¹² As explained below, we plan to investigate the central factual dispute raised by Tausan's and Gionis's conflicting statements. *Cf. La Botz v. FEC*, 889 F. Supp. 2d 51, 62-63 (D.D.C. 2012) (concluding that the Commission acted contrary to law where it did not account for conflicting contemporaneous evidence provided by the complainant and stating that "conclusory explanations for matters involving a central factual dispute where there is considerable evidence in conflict do not suffice to meet the deferential standards of [court] review" (quoting *AT&T Wireless Servs., Inc. v. FCC*, 270 F.3d 959, 968 (D.C. Cir. 2001)) (internal quotation marks omitted)).

14044352492

Moreover, we do not believe, even in light of the nature of the allegations and the circumstances presented here, that the exercise of prosecutorial discretion is warranted. *First*, the amount at issue — \$7,500 — is not *de minimis*. *Second*, if true, the allegations would establish a significant violation of the Act, that is, the receipt of excessive contributions expressly solicited by a candidate.¹³ *Third*, the allegations also involve a possible effort to knowingly conceal contributions in the form of tuition payments to a private university associated with the candidate's family.¹⁴

For these reasons, we recommend that the Commission find reason to believe that Gionis and the Committee violated 2 U.S.C. §§ 441a(f) and 441i(e)(1), that Aristotle University facilitated the making of that contribution in violation of 11 C.F.R. § 114.2(f), and approve compulsory process as may be necessary in support of our investigation into the Complaint's allegations.

We also note that, if we uncover information that confirms Tausan's main allegation, a number of additional findings may flow necessarily from that conclusion. For example, as the Complaint suggests, the Committee may have been required to file periodic disclosure reports with the Commission, including the disclosure of the alleged excessive contribution by Tausan.

¹³ An investigation also will help determine whether the Complaint or Response, which were both sworn under the penalty of perjury, were untrue or included falsified documentation as alleged — an important inquiry that we believe is worthy of the Commission's resources.

¹⁴ If the contributions were charged to Tausan as Aristotle University tuition, it also raises the question whether Gionis converted campaign funds to her personal use through Aristotle University or commingled them with corporate funds. *See* 2 U.S.C. §§ 432(h)(3), 439(b)(2); 11 C.F.R. §§ 102.15, 113.1(g). Because we have no information concerning how the funds were used, we make no recommendations as to these potential violations at this time.

1 Compl. at 2; *see* 2 U.S.C. §§ 431(2), 434(a)(1)-(2), 434(b)(3)(E); 11 C.F.R. §§ 100.3(a),
2 104.1(a), 104.3, 104.5.¹⁵

3 Further, the Complaint alleges that Gionis and her campaign manager accepted
4 unreported cash contributions at the May 17, 2012, Brawley fundraiser. Compl. at 2. Under the
5 Act, candidates or their political committees may not accept cash contributions from a person
6 that in the aggregate exceed \$100, and a candidate or political committee receiving an
7 anonymous cash contribution in excess of \$50 must promptly dispose of the excess amount.
8 2 U.S.C. § 441g; 11 C.F.R. § 110.4(c). Unlike the allegation that Gionis accepted unreported
9 excessive contributions from Tausan, however, the Complaint provides no additional
10 corroborating documentation to support Gionis's receipt of unlawful cash contributions.
11 Moreover, the Response directly refutes the allegation. *See* Compl. at 2; Resp. at 3 ("I have
12 never received any cash contributions to my campaign, past or present.") (emphases omitted).

13 Given the disputed factual record presently before the Commission, together with our
14 recommendation to conduct an investigation, we recommend that the Commission take no action
15 at this time concerning those potential additional violations. In the course of our investigation,
16 we may discover additional information concerning other unreported contributions to Gionis's
17 campaign, and will make further recommendations at that time.

18 **III. INVESTIGATION**

19 We intend to investigate whether Gionis solicited and accepted an excessive contribution
20 from Tausan, and whether Aristotle University facilitated the making of that contribution. We

¹⁵ A candidate must file a Statement of Candidacy and designate a principal campaign committee within 15 days after becoming a candidate. 2 U.S.C. § 432(e)(1); 11 C.F.R. § 101.1(a). An individual, however, does not become a candidate solely by voluntarily filing a report, as Gionis appears to have done here. *See* 11 C.F.R. § 104.1(b).

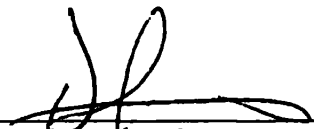
recommend that the Commission authorize the use of compulsory process to the extent it may be necessary to obtain relevant information relating to the alleged violations of the Act.


IV. RECOMMENDATIONS

1. Find reason to believe that Xanthi Gionis and the Committee to Elect Xanthi Gionis for US Congress 2012 and Xanthi Gionis in her official capacity as treasurer violated 2 U.S.C. §§ 441a(f) and 441i(e)(1).
2. Find reason to believe that Aristotle University, Inc. violated 11 C.F.R. § 114.2(f).
3. Take no action at this time as to whether the Committee to Elect Xanthi Gionis for US Congress 2012 and Xanthi Gionis in her official capacity as treasurer violated 2 U.S.C. §§ 434(a) and 434(b).
4. Take no action at this time as to whether Xanthi Gionis and the Committee to Elect Xanthi Gionis for US Congress 2012 and Xanthi Gionis in her official capacity as treasurer violated 2 U.S.C. § 441g.
5. Approve the attached Factual & Legal Analyses.
6. Approve the appropriate letters.
7. Authorize the use of compulsory process as necessary.

9/13/13
Date

BY:


Daniel A. Petalas
Associate General Counsel


William A. Powers
Assistant General Counsel


Allison T. Steinle
Attorney

14044352495