



FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 20, 2017

Note: Two names and associated identifying information have been temporarily redacted from the following document in the public file for FEC Matter Under Review 6920. This information is the subject of litigation and will remain redacted pending the resolution of the litigation or further order of the Court. *See Doe v. FEC*, No. 17-02694 (D.D.C.).



FEDERAL ELECTION COMMISSION
Washington, DC 20463

MEMORANDUM

TO: The Commission

FROM: Lisa Stevenson
Acting General Counsel

BY: Kathleen Guith *KMG*
Associate General Counsel for Enforcement

Mark Shonkwiler *MS*
Assistant General Counsel

Antoinette Fuoto *AF*
Staff Attorney

SUBJECT: MUR 6920 (American Conservative Union, *et al.*)

RE: Circulation of Discovery Documents

I. INTRODUCTION

On January 24, 2017, the Commission found reason to believe that American Conservative Union ("ACU") violated 52 U.S.C. § 30122 by knowingly permitting its name to be used to effect a \$1.71 million contribution in the name of another to Now or Never PAC, an independent expenditure-only political committee.¹ The Commission also found reason to believe that Unknown Respondents violated 52 U.S.C. § 30122 by making the contribution in the name of another.² Following the Commission's finding, the Office of General Counsel ("OGC") commenced an investigation to determine the identity of the undisclosed donor and the circumstances surrounding the contribution. On July 11, 2017, the Commission substituted Government Integrity, LLC ("GI LLC") in the name of Unknown Respondent, found reason to believe that Now or Never PAC and James C. Thomas, III ("Thomas") in his official capacity as treasurer, and in his personal capacity, knowing and willfully accepted a contribution in the name of another and failed to properly report that contribution, and found reason to believe that Thomas knowingly and willfully assisted in the making of a contribution in the name of another

¹ See Certification, MUR 6920 (ACU, *et al.*) (Jan. 26, 2017).

² ACU's IRS filings indicated that the funds used for the contribution came from an undisclosed donor.

1 in his individual capacity.³ The Commission also authorized subpoenas to ACU, ACU's former
2 executive director, and Thomas. In response to those subpoenas, we have learned of additional
3 parties who may have been involved in the transaction and have information relevant to our
4 investigation.

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6 **II. DISCUSSION**

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8 Counsel for Thomas provided OGC with interrogatory answers and responsive
9 documents, and on July 30, 2017, provided additional information during a telephone
10 conference. We now seek discovery for several parties named in Thomas's response.

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12 **A.**

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14 In response to our request for information regarding the known principals and agents of
15 GI LLC, Thomas states "acting as trustee of an entity named
16 " appointed GI LLC's now-deceased principal.

17 Additionally, in response to our questioning of whether any person or entity provided the funds
18 GI LLC used to contribute \$1.8 million to ACU, Thomas responded that GI LLC "received a
19 donation of approximately \$2.5 million on or around the date" of the transfer from GI LLC to
20 ACU and "is reasonably certain that the funds were provided to GI LLC by the

21 ⁴ Accordingly, we now seek information to establish the source of the
22 funds from used to effect the contribution from GI LLC to ACU.
23 We are requesting this information to ascertain whether GI LLC is the true source of the
24 contribution that ACU made to Now or Never PAC. Given the relevance of this information and
25 the statute of limitations in this matter — the transaction occurred on October 31, 2017 — we
26 propose the attached order to compel the to provide that information.

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28 **B. Axiom Strategies and Jeff Roe**

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30 In his Response, Thomas states that Axiom Strategies "has served as a political
31 consultant to Now or Never PAC and has participated in the PAC's operations and financial
32 activities, and the terms of Mr. Thomas's engagement with Now or Never PAC expressly
33 authorize him to carry out the instructions of Axiom Strategies in performing his duties as
34 treasurer."⁵ Thomas also provided several emails regarding the transaction that are addressed to
35 employees of Axiom. And, during a phone call, counsel for Thomas suggested that Thomas
36 acted at the direction of Jeff Roe, Axiom's founder, and that Axiom and Gregg Keller, ACU's
37 former executive director, were the likely architects of the transaction. Accordingly, we now
38 seek information regarding Axiom's knowledge of the transaction and any documents relating to
39 the transaction. This information is relevant to our recommendations regarding whether the
40 various parties acted knowing and willfully. We therefore propose the attached orders to compel
41 Axiom Strategies and Jeff Roe to provide documents and answer questions regarding the
42 transaction.

3 ³ See Certification, MUR 6920 (ACU, *et al.*) (July 12, 2017).

4 ⁴ See Thomas Response to Subpoena at 4 (July 28, 2017)

5 ⁵ *Id* at 7.

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INFORMATION