



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of )  
 )  
Rick Santorum for President, Inc. and Nadine ) MUR 6747  
Maenza in her official capacity as treasurer )  
Rick Santorum )  
Red White and Blue Fund )  
William Dore )  
 )

**STATEMENT OF REASONS OF  
VICE CHAIR CAROLINE C. HUNTER AND  
COMMISSIONERS LEE E. GOODMAN AND MATTHEW S. PETERSEN**

This matter involves allegations that Rick Santorum and other individuals acting on behalf of Rick Santorum for President, Inc. (the "Santorum Committee"), Santorum's principal campaign committee for his 2012 presidential campaign, violated the Federal Election Campaign Act of 1971, as amended ("the Act"), by directing a \$1 million contribution from William Doré to the Red, White and Blue Fund (the "Fund"), an independent-expenditure-only political committee supporting Santorum's candidacy. The Complaint, based on a blog post containing multiple conflicting accounts, alleges that during or after a January 22, 2012 dinner between Santorum and Doré, Santorum or one of his campaign staffers suggested that Doré contribute \$1 million to the Red, White and Blue Fund.

For the reasons stated in the First General Counsel's Report, we supported the Office of General Counsel's recommendation that the Commission find no reason to believe that William J. Doré and the Red White and Blue Fund and Christopher M. Marston in his official capacity as treasurer violated 52 U.S.C. § 30125(e). We voted against finding reason to believe the Santorum Committee violated section 30125(e) and deferring action on Rick Santorum and voted, instead, to close the file, for the reasons provided below.

In sum, the allegation in the Complaint—that Santorum or his staff directed Doré to contribute to Red White and Blue PAC while they dined together or afterwards—was demonstrably false because Doré made his contribution nearly two weeks earlier. Further, in sworn affidavits, Santorum and the Santorum Committee's treasurer deny that they solicited Doré's contribution, and Santorum also specifically denies that he directed contributions from Doré or others to the Fund, noting that Doré contributed to the Red, White and Blue Fund well *before* his dinner with Santorum. Doré in turn denies under oath that he communicated with Santorum or any agent of Santorum concerning his contribution to the Red, White and Blue Fund and disavows the statements attributed to him in the blog post.

The recommendation to proceed with an enforcement action to investigate the Santorum campaign and Doré, despite the false information underlying the Complaint and the sworn responses, rested on the asserted failure of the respondents to rebut a speculative inference not found anywhere in the Complaint—that Doré could have been directed to contribute to the Fund through an unidentified member of his own staff who could have communicated with an unidentified member of Santorum’s staff on some other unspecified occasion before Doré and Santorum dined together.

The Commission cannot launch investigations into Americans’ political activities based on speculation or official curiosity, or shift the burden to respondents to prove their innocence—especially as to events not alleged in the complaint, much less inconsistent with the events alleged in the complaint. Accordingly, we voted to close the file.

## II. FACTUAL AND LEGAL ANALYSIS

### A. **Factual Background**

Rick Santorum was a 2012 Republican primary candidate whose principal campaign committee was Rick Santorum for President, Inc. The Red, White and Blue Fund is an independent-expenditure-only political committee that supported Santorum in the 2012 primaries. In 2012, William Doré contributed \$2,500 to Santorum’s campaign and a total of \$2.25 million to the Red, White and Blue Fund, including a \$1 million contribution the fund received on January 11, 2012.<sup>1</sup>

The Complaint alleges that Santorum, the Santorum Committee, or its agents violated 52 U.S.C. § 30125(e)(1)(A) by “directing” a contribution exceeding \$5,000 from Doré to the Red, White and Blue Fund. Compl. ¶¶ 2, 21. As basis for its allegations, the Complaint relies on a July 2013 internet “blog” post of the Sunlight Foundation Reporting Group. *See id.* ¶ 4; Keenan Steiner, *The \$1 Million Dinner: When Big Donor Bill Doré Meets Rick Santorum*, SUNLIGHT FOUND. REPORTING GRP., July 1, 2013 [hereinafter Steiner, *\$1 Million Dinner*], <http://sunlightfoundation.com/blog/2013/07/01/1-million-dinner-when-big-donor-bill-dore-meets-rick-santorum> (last visited Apr. 29, 2014).

The Sunlight Foundation piece on which the Complaint relies asserts that Doré contributed \$1 million to the fund the day after Doré spoke with Santorum at their dinner together. Steiner, *\$1 Million Dinner*, supra at 3. The principal defect in the allegation is that Doré had arranged for a wire-transfer from his living trust to the Red, White and Blue Fund on January 10, 2012 (which the Fund received on January 11, 2012) —nearly two weeks before he dined with Santorum on January 22, 2012. Santorum Resp. at 1-2, Ex. 1; Biter Aff. ¶ 4. Accordingly, the blog post’s differing accounts of how Doré was allegedly directed at or after their dinner to contribute his \$1 million to the Red, White and Blue Fund are all false.

---

<sup>1</sup> See Red, White and Blue Fund 2012 Feb. Monthly Rpt. at 10 (disclosing \$1,000,000 contribution on January 11, 2012); Red White and Blue Fund 2012 Mar. Monthly Rpt. at 12 (disclosing \$500,000 contribution on February 14, 2012); Red White and Blue Fund 2012 Apr. Monthly Rpt. at 12 (disclosing \$250,000 contribution on March 12, 2012 and \$500,000 contribution on March 26, 2012).

Additionally, Santorum, his Committee, and Doré filed a joint response (“Santorum Response”) denying the allegations and submitting affidavits and supporting documents. *See* Santorum Resp.

## **B. Legal Analysis**

The Act and Commission regulations prohibit federal candidates and their agents from soliciting or directing “soft money”—that is, funds that do not comply with the Act’s prohibitions, limitations, and reporting requirements—to political committees or candidates. *See* 52 U.S.C. § 30125(e)(1)(A); 11 C.F.R. § 300.61. Commission regulations define “solicit” broadly as “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. § 300.2(m). The regulations define “direct” as “to guide, directly or indirectly, a person who has expressed an intent to make a contribution, donation, transfer of funds, or otherwise provide anything of value, by identifying a candidate, political committee or organization, for the receipt of such funds, or things of value.” *Id.* § 300.2(n).

The Act limits contributions by a person to “any other political committee” (other than authorized candidate committees and national and state party committees) to \$5,000 per calendar year. 52 U.S.C. § 30116(a)(1)(C). Following the decisions in *Citizens United v. FEC*, 588 U.S. 310 (2010), and *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010), the Commission concluded that independent-expenditure-only political committees may solicit and accept unlimited contributions from individuals, political committees, corporations, and labor organizations. *See* Advisory Op. 2010-11 (Commonsense Ten) at 3. Those decisions, however, did not alter the solicitation restrictions that section 30125 imposes on federal candidates and their agents. Thus, federal candidates and persons acting as their agents can only solicit contributions of up to \$5,000 from individuals for an independent-expenditure-only political committee. *See* 52 U.S.C. § 30116(a)(1)(C); *accord* Advisory Op. 2011-12 (Majority PAC) at 3 (declining to permit candidates to solicit unlimited funds to such committee’s based on the limit in 52 U.S.C. § 30116(a)(1)(C)).

This matter turns on a pure question of fact—whether Santorum or agents acting on behalf of the Santorum Committee solicited or directed Doré to contribute to the Red, White and Blue Fund. The basis for the Complaint—the representations in the piece published on the Sunlight Foundation’s website—is the allegation that Doré asserted alternately that during or after his dinner with Santorum on January 22, 2012, either Santorum himself directed Doré to the Red, White and Blue Fund or a Santorum staffer provided Doré with that direction. Compl. at ¶ 5,8; Steiner, *\$1 Million Diner*, *supra*, at 1, 2.

This allegation is objectively false because Doré’s contribution was made 12 days before he dined with Santorum. Further, the Santorum Response denies that Santorum or two of his staff members (Maenza and Biter), engaged in any such discussions with Doré. Santorum Aff. ¶ 11; Maenza Aff. ¶¶ 9-10; Biter Aff. ¶ 6. Doré also disavows his reported statements to the Sunlight Foundation and stated that the “allegations in the FEC complaint are apparently based on hearsay (false) comments from some blog; the allegations in the complaint are false.” *Id.* ¶ 3.

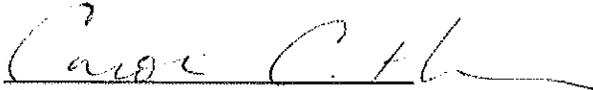
He also denies that he had any communications with Santorum or any agent of Santorum regarding his contributions to the Red, White and Blue Fund. Doré Aff. ¶ 5.

Faced with the wholesale inaccuracy of the allegations in the Complaint, the First General Counsel's Report nevertheless recommended that the Commission find reason to believe and launch an investigation based on a combination of speculation and burden shifting. Specifically, it argues that there is reason to believe a violation occurred because respondents: (A) *did not deny* in their affidavits and responses whether any member of Doré's personal staff may have been directed by any member of Santorum's campaign staff before Doré's dinner with Santorum to make the contribution to the Fund—even though that was not alleged in the Complaint; or (B) spontaneously volunteer an explanation of how Doré came to contribute \$1 million to the Red, White and Blue Fund. First General Counsel's Report at 9-10.

There were necessarily discussions in advance of the January 22, 2012 dinner, which the responses acknowledged. But in the absence of any evidence of any solicitation or direction by Santorum or his agents before the dinner, and in light of the inconsistency and established gross inaccuracy of all of the information underlying the Complaint's allegation of a solicitation or direction of contributions at the dinner, and further considering the Respondents' sworn denials of the allegations, the record before the Commission did not establish a reason to believe the \$1 million contribution that Doré made to the Red, White and Blue Fund resulted from a solicitation or direction by Santorum or someone speaking on his behalf.

Accordingly, we voted to close the file.

2/15/17  
Date

  
Caroline C. Hunter  
Vice-Chair

2/15/17  
Date

  
Lee E. Goodman  
Commissioner

FEB 15, 2017  
Date

  
Matthew S. Petersen  
Commissioner