

I. FACTUAL BACKGROUND

On June 8, 2015, Shaofen Gao filed Articles of Organization with the California Secretary of State, organizing a new limited liability company called Children of Israel, LLC (Children of Israel).¹ Gao a real estate agent "whose Happy Realty firm helps Chinese buyers find homes in Silicon Valley." Shortly thereafter, Children of Israel filed a Statement of Information with the Secretary of State indicating that Gao, who shares the same address as the company, was the sole manager or member of the company.² The Statement of Information, which was signed and attested to as true by Gao under penalty of false statement,³ also indicated the purpose of the company was to make "Donations."⁴ Gao is a real estate agent whose Happy Realty firm helps Chinese buyers find homes in Silicon Valley.⁵ A review of the FEC and California Secretary of State websites shows that she has no prior history of giving in connection with federal and California state elections.⁶

Disclosure reports filed with the Commission show that Children of Israel began carrying out its stated purpose almost immediately. In July 2015, Children of Israel contributed \$50,000 to Pursuing America's Greatness, an independent expenditure-only committee dedicated to supporting then-Presidential candidate Mike Huckabee.⁷ Shortly thereafter, Children of Israel made a second contribution of \$100,000 to the same committee.⁸ And in January 2016, Children of Israel contributed \$250,000 to Stand for Truth, Inc., an independent expenditure-only committee organized to support Presidential candidate Ted Cruz.⁹

To date, Children of Israel has made at least \$400,000 in contributions to federal political committees. Yet it has continued to hide the true source of these funds from the public.

¹ See Children of Israel, LLC, Articles of Organization (June 8, 2015), attached as Attachment A.

² *Id.*

³ See Cal. Penal Code § 115(a); see also Cal. Corp. Code §§ 17702.6, 17702.7.

⁴ See Children of Israel, LLC, Statement of Information (Sept. 11, 2015), attached as Attachment B.

⁵ Matea Gold & Anu Narayanswamy, *How 'ghost corporations' are funding the 2016 election*, WASH. POST, Mar. 18, 2016.

⁶ See <http://www.fec.gov>; Cal-Access Contributor Search, at <http://dbsearch.sos.ca.gov/ContributorSummary.aspx>.

⁷ Pursuing America's Greatness, FEC Form 3X, 2015 Year-End Report, at 6 (Jan. 31, 2016). A copy of the relevant pages is attached as Attachment C.

⁸ *Id.* at 7.

⁹ Stand for Truth, FEC Form 3X, January Monthly Report, at 7 (Feb. 20, 2016). A copy of the relevant pages is attached as Attachment D.

II. LEGAL BACKGROUND AND ANALYSIS

A. **There is reason to believe that Donor Respondents have made, and Recipient Respondents have accepted, contributions made in the name of another**

The Act provides that “[n]o person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution.”¹⁰ Nor may any person knowingly accept such a contribution.¹¹ This provision is violated when a person gives “money or anything of value, all or part of which was provided to the contributor by another person ... without disclosing the source of money or the thing of value to the recipient candidate or committee at the time the contribution is made.”¹² The purpose of this restriction is not only to protect the integrity of the contribution limits, but “to ensure the complete and accurate disclosure of the contributors who finance federal elections.”¹³

Children of Israel’s own organizational documents, signed under penalty of false statement, show that it was established to make donations.¹⁴ Shortly after it was established, it proceeded to make large donations to Pursuing America’s Greatness and Stand for Truth. By not disclosing the true source of the funds used to make the donations, Donor Respondents made illegal contributions in the name of another. The circumstances suggest that this violation was knowing and willful, conducted in an attempt to evade the Act’s disclosure requirements. Among other things, the fact that Gao has no prior history of political involvement suggests that she established the company to help others make contributions without the required public disclosure.

For the same reasons, Recipient Respondents accepted illegal contributions in the name of another. The Commission should investigate to determine if this acceptance was also knowing and willful. In any case, now that Recipient Respondents have been notified that the contributions in question were illegal, they have an affirmative obligation to refund or disgorge them.¹⁵

¹⁰ 52 U.S.C. § 30122.

¹¹ *Id.*

¹² 11 C.F.R. § 110.4(b)(2)(i).

¹³ *See United States v. O’Donnell*, 608 F.3d 546, 553 (9th Cir. 2010).

¹⁴ Though, according to public reports, the Commission has recently failed to act on complaints alleging violations of 52 U.S.C. § 30122 by limited liability companies, *see* MURs 6485, 6487, 6488, those complaints did not present sworn, documentary evidence of the companies’ true purposes, as is the case here.

¹⁵ *See* 11 C.F.R. § 103.3(b)(2).

B. Donor Respondents have failed to comply with the Act's registration and reporting requirements

The Act requires that any entity that qualifies as a "political committee" appoint a treasurer, register with the Commission, file periodic reports disclosing its financial activities, and comply with the Act's recordkeeping requirements.¹⁶ A "political committee" is "any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year."¹⁷ A "contribution," in turn, is "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office."¹⁸

To avoid constitutional vagueness concerns, the Supreme Court in *Buckley v. Valeo* construed the term "political committee" to only include organizations that had the "major purpose" of nominating or electing candidates.¹⁹ Thus, determining whether an entity qualifies as a political committee requires a two-step inquiry: (1) has the entity received more than \$1,000 in contributions or made more than \$1,000 in expenditures during a calendar year, and (2) does the entity have as its major purpose the nomination or election of candidates.²⁰ In determining an organization's major purpose, the Commission and courts consider an entity's spending on political activities, as well as its major purpose as revealed by its public statements, fundraising appeals, government filings, and organizational documents.²¹

Children of Israel plainly meets both prongs of the test. It meets the first prong, as it has made at least \$400,000 in contributions to federal political committees, far exceeding the \$1,000 threshold. And it meets the second prong, as its stated purpose expressed in its organizational documents and filings submitted to the California Secretary of State is to make donations. Thus, the Donor Respondents have violated the Act by failing to register and report as a political committee.

¹⁶ 52 U.S.C. §§ 30102, 30103, 30104.

¹⁷ *Id.* § 30101(4)(A).

¹⁸ *Id.* § 30101(8)(A).

¹⁹ 424 U.S. 1, 79 (1976).

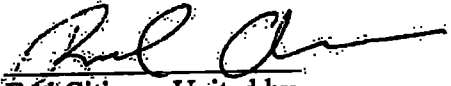
²⁰ *See* Political Committee Status, 72 Fed. Reg. 5,595, 5,597 (Feb. 7, 2007).

²¹ *See, e.g., id.* at 5,601-06; *The Real Truth About Abortion v. Fed. Election Comm'n*, 681 F.3d 544 (4th Cir. 2012) (upholding Commission's method of determining political committee status); *see also* *New Mexico Youth v. Herrera*, 611 F.3d 669 (10th Cir. 2010); Statement of Reasons of Chairman Goodman and Commissioners Hunter and Petersen, MUR 6396, 7-8.

III. CONCLUSION

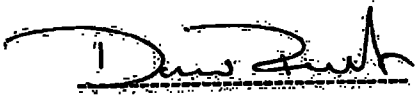
As described above, there is ample evidence to show that Donor Respondents have violated the Act by establishing a shell limited liability company for the purpose of evading disclosure and by failing to disclose their activities to the Commission, and that Recipient Respondents have violated the Act by receiving prohibited contributions. The Commission should find reason to believe that Respondents have violated the Act, require the Recipient Respondents to refund or disgorge the full amount of the prohibited contributions received, impose the maximum civil penalty permitted by law, enjoin respondents from any and all future violations, and should impose such additional remedies as it finds necessary and appropriate, including referral to the Department of Justice if the violations are found to be knowing and willful.

Respectfully Submitted,



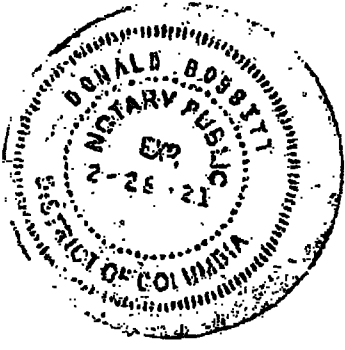
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Reed Adamson
P.O. Box 66005
Washington, DC 20035

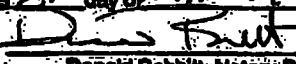
Sworn to and subscribed before me this 21st day of March, 2016



Notary Public

DONALD BOBBITT
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires February 28, 2021



District of Columbia: SS
Subscribed and sworn to before me, in my presence,
this 21st day of MARCH, 2016

Donald Bobbitt, Notary Public, D.C.
My commission expires February 28, 2021.