



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

September 19, 2023

**Via Electronic Mail**

Sam Crockett Neel  
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Washington, DC 20001-1531  
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RE: MUR 8165  
National Potato Council  
Potato PAC

Dear Mr. Neel:

On October 6, 2021, you notified the Federal Election Commission (the “Commission”), in a *sua sponte* submission that your clients, National Potato Council Potato Political Action Committee and W. Kam Quarles in his official capacity as treasurer (“National Potato PAC”), violated certain sections of the Federal Election Campaign Act of 1971, as amended (the “Act”). Following discussions with the Commission’s Office of General Counsel, the original *sua sponte* was supplemented with additional information in 2022.

On September 12, 2023, the Commission found reason to believe that National Potato PAC (1) violated 52 U.S.C. § 30104(b) by failing to accurately report receipts and disbursements and cash-on-hand; (2) violated 52 U.S.C. § 30116(f) and 11 C.F.R. §§ 102.5(b), 103.3(b) by knowingly accepting excessive contributions from Idaho Potato PAC that included funds not subject to the limitations and prohibitions of the Act; and (3) violated 52 U.S.C. § 30118(a) by knowingly accepting contributions from corporations. The Factual and Legal Analysis, which formed the basis for the Commission’s reason to believe finding, is enclosed for your information.

In order to expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Pre-probable cause conciliation is not mandated by the Act or the Commission’s regulations, but is a voluntary step in the enforcement process that the Commission is offering to you as a way to resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that your client violated the law.

MUR 8165 (National Potato Council Potato Political Action Committee)  
Page 2

If your client is interested in engaging in pre-probable cause conciliation, please contact Christopher S. Curran, the attorney assigned to this matter, at (202) 694-1362 or [ccurran@fec.gov](mailto:ccurran@fec.gov), within seven days of receipt of this letter. During conciliation, you may submit any factual or legal materials that you believe are relevant to the resolution of this matter. Because the Commission only enters into pre-probable cause conciliation in matters that it believes have a reasonable opportunity for settlement, we may proceed to the next step in the enforcement process if a mutually acceptable conciliation agreement cannot be reached within 30 days. *See* 52 U.S.C. § 30109(a), 11 C.F.R. Part 111 (Subpart A). Conversely, if you are not interested in pre-probable cause conciliation, the Commission may conduct formal discovery in this matter or proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding.

Pre-probable cause conciliation, extensions of time, and other enforcement procedures and options are discussed more comprehensively in the Commission's "Guidebook for Complainants and Respondents on the FEC Enforcement Process," which is available on the Commission's website at [http://www.fec.gov/em/respondent\\_guide.pdf](http://www.fec.gov/em/respondent_guide.pdf).

We look forward to your response.

On behalf of the Commission,



Dara Lindenbaum  
Chair

Enclosures  
Factual and Legal Analysis with Attachments

1 **FEDERAL ELECTION COMMISSION**

2  
3 **FACTUAL AND LEGAL ANALYSIS**

4  
5 **RESPONDENT:** National Potato Council Potato Political Action **MUR:** 8165  
6 Committee and W. Kam Quarles in his official  
7 capacity as treasurer  
8

9 **I. INTRODUCTION**

10 National Potato Council Potato Political Action Committee and W. Kam Quarles in his  
11 official capacity as treasurer (“National Potato PAC”) filed a *sua sponte* submission (the  
12 “Submission”) identifying errors in its reporting of cash-on-hand and the amount of receipts and  
13 disbursements dating back to at least 2015. The Submission also acknowledges several  
14 prohibited contributions, as well as contributions that violated the Commission’s solicitation and  
15 collecting agent requirements.

16 For the reasons set forth below, the Commission finds reason to believe that National  
17 Potato PAC violated 52 U.S.C. § 30104(b) by failing to accurately report receipts,  
18 disbursements, and cash on hand. The Commission also finds reason to believe that National  
19 Potato PAC violated 52 U.S.C. § 30116(f) and 11 C.F.R. §§ 102.5(b), 103.3(b) by knowingly  
20 accepting excessive contributions from Idaho Potato PAC that included funds not subject to the  
21 limitations and prohibitions of the Act. Finally, the Commission finds reason to believe that  
22 National Potato PAC violated 52 U.S.C. § 30118(a) by knowingly accepting contributions  
23 from corporations.

24 **II. FACTUAL BACKGROUND**

25 National Potato PAC registered with the Commission as a political committee on April  
26 22, 1982. It amended its Statement of Organization on January 20, 2000, and designated itself,  
27 apparently for the first time, as a separate segregated fund (“SSF”) and reported the National

1 Potato Council as its connected organization.<sup>1</sup> On July 26, 2019, National Potato PAC amended  
2 its Statement of Organization and did not list itself as an SSF at that time.<sup>2</sup>

3 On September 28, 2021, National Potato PAC amended its Statement of Organization to  
4 again designate itself as a SSF and named National Potato Council as its connected  
5 organization.<sup>3</sup> W. Kam Quarles has been National Potato PAC's treasurer since July 2019.<sup>4</sup>  
6 Quarles is also National Potato Council's Chief Executive Officer.<sup>5</sup>

7 According to the Submission, in July 2021, National Potato PAC discovered a  
8 discrepancy between its reported cash-on-hand and its available cash in its bank accounts.<sup>6</sup>  
9 Following this discovery, National Potato PAC retained a law firm to review its activity.<sup>7</sup> The  
10 law firm, in turn, engaged a compliance firm to audit National Potato PAC and reconcile its  
11 reports.<sup>8</sup> On August 18, 2021, National Potato PAC filed 28 amendments to its regularly filed  
12 reports covering January 1, 2015, through June 30, 2021.<sup>9</sup>

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<sup>1</sup> See National Potato Council Potato PAC, Amended Statement of Organization (Jan. 20, 2000),  
<https://docquery.fec.gov/pdf/105/20035044105/20035044105.pdf>.

<sup>2</sup> See National Potato Council Potato PAC, Statement of Organization at 3 (July 26, 2019),  
<https://docquery.fec.gov/pdf/246/201907269151677246/201907269151677246.pdf>.

<sup>3</sup> National Potato Council Potato PAC, Statement of Organization at 2 (Sept. 28, 2021),  
<https://docquery.fec.gov/pdf/540/202109289467145540/202109289467145540.pdf> (“2021 Statement of Org.”).

<sup>4</sup> *Id.* at 3.

<sup>5</sup> See NATIONAL POTATO COUNCIL, Staff, <https://www.nationalpotatocouncil.org/who-we-are/staff/> (last visited May 22, 2023).

<sup>6</sup> National Potato PAC *Sua Sponte* Submission at 2 (Oct. 6, 2021) (“Submission”).

<sup>7</sup> *Id.* at 2.

<sup>8</sup> *Id.*

<sup>9</sup> See *FEC 2015-2016 Committee Filings*, FEC.GOV,  
<https://www.fec.gov/data/committee/C00154104/?tab=filings&cycle=2016> (last visited June 14, 2022); *FEC 2017-2018 Committee Filings*, FEC.GOV, <https://www.fec.gov/data/committee/C00154104/?tab=filings&cycle=2018> (last visited June 14, 2022); *FEC 2019-2020 Committee Filings*, FEC.GOV,  
<https://www.fec.gov/data/committee/C00154104/?tab=filings&cycle=2020> (last visited June 14, 2022); *FEC 2021-2022 Committee Filings*, FEC.GOV, <https://www.fec.gov/data/committee/C00154104/?tab=filings&cycle=2022> (last visited June 14, 2022).

1 National Potato PAC's Submission also identifies several receipts that it claims violated  
2 the Commission's solicitation and collecting agent requirements.<sup>10</sup>

3 **A. Reporting Receipts, Disbursements, and Cash-On-Hand**

4 According to the Submission, National Potato PAC's internal review revealed errors in  
5 its reporting of receipts and disbursements, including "failing to account for stale checks and  
6 technical mistakes when carrying over the closing [cash-on-hand] from one report to the opening  
7 [cash-on-hand] on the next report."<sup>11</sup> These mistakes "led to variations in the [cash on hand]  
8 error over time."<sup>12</sup> The Submission also indicates there was confusion associated with the use of  
9 the accounting software QuickBooks and reconciling National Potato PAC's accounts with its  
10 regularly filed reports.<sup>13</sup>

11 The Submission includes details of the reporting errors for each amended report.<sup>14</sup>  
12 Attachment 1 shows the different reported receipts and disbursements on National Potato PAC's  
13 original reports compared with its August 18, 2021 amended reports. Attachment 2 shows the  
14 different beginning and ending cash-on-hand balances disclosed on National Potato PAC's  
15 original reports compared with its August 18, 2021 amended reports. The misreported receipts  
16 and disbursements covered by the Submission total \$96,873.89.

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<sup>10</sup> Submission at 6-7.

<sup>11</sup> *Id.* at 2.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* ("[National Potato PAC] appeared to reconcile QuickBooks to bank statements, but that reconciliation did not catch errors made between QuickBooks and the FEC reports.").

<sup>14</sup> It appears that when the Submission identified cash-on-hand as being over- or under-reported, it referred to ending cash-on-hand.

## 1           **B. National Potato PAC’s Impermissible Receipts**

### 2                   1. Fundraisers Hosted by Idaho Potato Industry Council PAC

3           National Potato PAC asserts that Idaho Potato Industry Council PAC (“Idaho Potato  
4   PAC”) was its collecting agent.<sup>15</sup> Idaho Potato PAC itself is an Idaho state political committee.<sup>16</sup>  
5   National Potato PAC received \$90,000 from fundraisers hosted by the Idaho Potato PAC  
6   between 2015 and 2018.<sup>17</sup> At these fundraisers, Idaho Potato PAC received both direct  
7   contributions (payments to purchase the auctioned prizes) and in-kind contributions (donations  
8   of the prizes for the auctions).<sup>18</sup> The Submission includes a copy of one document advertising a  
9   2018 fundraiser, a silent auction held at the Shoshone-Bannock Event Center on November 14,  
10   2018, and listing each auction prize and the company that donated it (totaling at least \$7,620).<sup>19</sup>

11           The Submission describes how Idaho Potato PAC would send National Potato PAC a  
12   check for a portion of the amounts collected at the fundraisers.<sup>20</sup> National Potato PAC provided  
13   additional information with respect to the fundraisers in response to questions from this Office.<sup>21</sup>  
14   A summary of the information is shown in Figure 1.

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<sup>15</sup> Letter from Sam Neel, Counsel, National Potato PAC, to Christopher Curran, Attorney, FEC at 5 (Mar. 12, 2022) (“March 12, 2022 Letter”) (referring to Idaho Potato PAC as “the Idaho collecting agent”).

<sup>16</sup> See Idaho Potato Industry PAC, Form C-2 2020 December – Annual Report (Jan. 13, 2021), <https://elections.sos.idaho.gov/TED/Filings/32753.pdf>.

<sup>17</sup> Submission at 6, 4, 19-22.

<sup>18</sup> *Id.* at 6, Exs. 18-22. Idaho Potato PAC is supported by the Potato Growers of Idaho (“PGI”) and the Idaho Grower Shippers Association (“IGSA”), two tax-exempt corporations that include members of the National Potato Council. See Submission at 6; Internal Revenue Service Tax Exempt Organizations Search, <https://apps.irs.gov/app/eos/> (search “Potato Growers of Idaho” and “Idaho Grower Shippers Association”).

<sup>19</sup> See Submission Ex. 18. The document listing the donated items also includes three items with no listed value and references “additional silent auction items” and “Christmas gift items.” *Id.*

<sup>20</sup> *Id.* at 6, Exs. 4, 19-21.

<sup>21</sup> See March 12, 2022 Letter at 5-10; Email from Sam Neel, Counsel, National Potato PAC, to Christopher Curran, Attorney, FEC (Apr. 9, 2022) (“April 9, 2022 Email”).



1 **FIGURE 1 - Checks National Potato PAC Received from Idaho Potato PAC**

<b>Amount</b>	<b>Fundraiser Date</b>	<b>Check Date</b>	<b>Deposit Date</b>	<b>Reported Receipt Date</b>	<b>Date First Disclosed</b>
\$22,000 <sup>22</sup>	1/21/2015 <sup>23</sup>	Unknown	9/18/2015	10/2/2015	8/18/2021 – Amended MY
\$23,000 <sup>24</sup>	1/20/2016 <sup>25</sup>	Unknown	7/18/2016	7/18/2016	5/2/2017 – Amended Q3
\$25,000 <sup>26</sup>	January 2017 <sup>27</sup>	6/22/2017 <sup>28</sup>	6/22/2017	6/23/2017 - 6/30/2017	7/19/2017 – 2017 Q2
\$20,000 <sup>29</sup>	11/14/2018	9/21/2018	9/21/2018	12/10/2018 <sup>30</sup>	1/30/2019 – 2018 YE
<b>\$90,000</b>					

<sup>22</sup> See *id.* at 6, Ex. 4; see also National Potato PAC, Amended 2015 Year-End Report at 14 (Aug. 21, 2018), <https://docquery.fec.gov/pdf/933/202108189466324933/202108189466324933.pdf>.

<sup>23</sup> See March 12, 2022 Letter at 5.

<sup>24</sup> The Submission claims National Potato PAC disclosed a \$23,000 receipt from Idaho Potato PAC on its 2016 July Quarterly Report. Submission at 6, Ex. 20. In fact, National Potato PAC disclosed the \$23,000 receipt on its Amended 2016 October Quarterly Report the following year. See National Potato PAC, Amended 2016 October Quarterly Report at 11 (May 2, 2017), <https://docquery.fec.gov/pdf/968/201705029053491968/201705029053491968.pdf>.

<sup>25</sup> March 12, 2022 Letter at 7.

<sup>26</sup> The Submission represents that National Potato PAC received \$25,000 from individual contributors routed through Idaho Potato PAC, see Submission at 6, Ex. 21, however, National Potato PAC reported \$26,995 in its July 2017 Quarterly Report with the memo entry that appears to correspond to the Idaho Potato PAC contributions, “POPAC Contribution – SM,” see National Potato PAC, Amended 2017 July Quarterly Report at 6-13 (Aug. 18, 2021), <https://docquery.fec.gov/pdf/353/202108189466325353/202108189466325353.pdf>; National Potato PAC, 2017 July Quarterly Report at 6-13 (July 19, 2017), <https://docquery.fec.gov/pdf/005/201707199066790005/201707199066790005.pdf>. It is unclear whether the additional \$1,995 should be included within this analysis, thus it has not been added to the amount at issue in this chart. Further of note, in 2015 and 2016 National Potato PAC reported receiving bulk contributions from Idaho Potato PAC, rather than reporting contributions from the sources of funds into Idaho Potato PAC as in 2017. See National Potato PAC, Amended 2017 July Quarterly Report at 9 (Aug. 18, 2021), <https://docquery.fec.gov/pdf/259/202108189466325259/202108189466325259.pdf>; National Potato PAC, Amended 2015 Year-End Report at 14 (Aug. 18, 2021), <https://docquery.fec.gov/pdf/933/202108189466324933/202108189466324933.pdf>.

<sup>27</sup> Submission at 8.

<sup>28</sup> *Id.*

<sup>29</sup> See Submission at 6, Exs. 18-19, 22. National Potato PAC refunded this contribution on September 18, 2019. See Submission at 6, Ex. 22; National Potato PAC, 2019 Year-End Report at 12 (Jan. 27, 2020), <https://docquery.fec.gov/pdf/849/202001279167389849/202001279167389849.pdf>.

<sup>30</sup> The Submission states, as it did with respect to Idaho Potato PAC’s 2017 check, that National Potato PAC reported the individual contributions that Idaho Potato PAC collected. See Submission at 6, Ex. 19. However, National Potato PAC reported each contribution as coming from “Idaho Potato Industry PAC” having a receipt date of December 10, 2018. National Potato PAC, Amended 2017 Year-End Report at 6-12. The December 10, 2018 date appears incorrect given the Submission’s inclusion of a November 30, 2018 email with contributor names and amounts. See Submission at Ex. 19.

1 Idaho Potato PAC's contributions represented a substantial portion of National Potato  
2 PAC's receipts: 49.89% in 2015, 54.69% in 2016, 52.55% in 2017, and 55.64% in 2018.

3 The Submission and additional information provided by National Potato PAC indicate  
4 that, for each fundraiser, Idaho Potato PAC would identify the amount of noncorporate funds  
5 raised and then send National Potato PAC a check for that amount along with a list of the  
6 individuals the contributions should be attributed to. For the 2015, 2016, and 2018 fundraisers,  
7 National Potato PAC did not report the individual contributors whose contributions purportedly  
8 comprised the funds sent by Idaho Potato PAC and instead reported receiving a contribution  
9 directly from Idaho Potato PAC.<sup>31</sup>

10 2. Contributions Received from the Colorado Potato Legislative Association

11 The Submission also identified four contributions totaling \$8,170 that National Potato  
12 PAC received from the Colorado Potato Legislative Association ("CPLA"), a Colorado nonprofit  
13 corporation. A summary of those contributions is shown in Figure 2.

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<sup>31</sup> Submission at 6; March 12, 2022 Letter at 7; *see also* National Potato PAC, Amended 2018 Year End Report at 6-12 (Aug. 18, 2021), <https://docquery.fec.gov/pdf/473/202108189466325473/202108189466325473.pdf>; National Potato PAC, Amended 2017 July Quarterly Report at 9 (Aug. 18, 2021), <https://docquery.fec.gov/pdf/259/202108189466325259/202108189466325259.pdf>; National Potato PAC, Amended 2015 Year-End Report at 14 (Aug. 18, 2021), <https://docquery.fec.gov/pdf/933/202108189466324933/202108189466324933.pdf>.



1 **FIGURE 2 – Checks Received from CPLA**

Amount	Check Date	Deposit Date	Reported Receipt Date	Date First Disclosed
\$995 <sup>32</sup>	Unknown	3/8/2015	3/8/2015	8/18/2021 - Amended 2015 MY
\$2,030 <sup>33</sup>	6/21/2017	Unknown	6/29/2017	8/18/2021 - Amended 2017 Q2
\$3,145 <sup>34</sup>	6/26/2018	Unknown	7/30/2018	8/18/2021 - Amended 2018 Q3
\$2,000 <sup>35</sup>	9/2/2020	Unknown	9/2/2020	8/18/2021 - Amended 2020 Q3
<b>\$8,170</b>				

2 3. Contribution Received from Lake Farms Inc.

3 Finally, the Submission states that National Potato PAC “appeared” to have received  
 4 \$513.29 from Lake Farms Inc., a corporate entity, on February 22, 2021, of which \$15.19 was  
 5 for PayPal processing fees.<sup>36</sup>

6 **C. National Potato PAC’s Remedial Actions**

7 The Submission highlights the following remedial actions by National Potato PAC: (1)  
 8 refunding the 2018 Idaho Potato PAC contribution (\$20,000), the 2020 CPLA contribution  
 9 (\$2,000), and the 2021 Lake Farms Inc. contribution (\$513.29);<sup>37</sup> (2) retaining a law firm and

<sup>32</sup> See Submission at 6, Ex. 2; see also National Potato PAC, 2015 Amended Mid-Year Report at 21 (Aug. 18, 2021), <https://docquery.fec.gov/pdf/401/202108189466324401/202108189466324401.pdf>.

<sup>33</sup> Submission at 6-7, Ex. 23; see also National Potato PAC, 2017 Amended July Quarterly Report at 13 (Aug. 18, 2021), <https://docquery.fec.gov/pdf/353/202108189466325353/202108189466325353.pdf>.

<sup>34</sup> Submission at 7, Ex. 24; see also National Potato PAC, 2018 Amended October Quarterly Report at 8 (Aug. 18, 2021), <https://docquery.fec.gov/pdf/438/202108189466325438/202108189466325438.pdf>.

<sup>35</sup> Submission at 7, Exs. 14-15, 25; see also National Potato PAC, 2020 Amended October Quarterly Report (Aug. 18, 2021), <https://docquery.fec.gov/pdf/567/202108189466325567/202108189466325567.pdf>. National Potato PAC refunded \$2,000 to CPLA on October 19, 2020. National Potato PAC, 2020 Post-General Report at 6 (Dec. 2, 2020), <https://docquery.fec.gov/pdf/446/202012029337405446/202012029337405446.pdf>.

<sup>36</sup> See Submission at 7, Ex. 26; National Potato PAC, 2021 Amended April Quarterly Report at 9 (Aug. 18, 2021), <https://docquery.fec.gov/pdf/695/202108189466325695/202108189466325695.pdf>.

<sup>37</sup> The Submission notes that because National Potato PAC’s cash-on-hand is \$12,948, “it does not have sufficient funds to fully refund the earlier Idaho PAC and CPLA contributions.” Submission at 7 n.4. The refunds were reported on National Potato PAC’s disclosure reports. National Potato PAC, 2021 Year End Report at 10 (Jan. 26, 2022), <https://docquery.fec.gov/pdf/198/202201269475190198/202201269475190198.pdf> (showing refund to Lake Farms, Inc. on August 24, 2021); National Potato PAC, 2020 30-Day Post Election Report at 7 (Aug. 18, 2021), <https://docquery.fec.gov/pdf/583/202108189466325583/202108189466325583.pdf> (showing refund to CPLA

1 third party auditor to review its activity and reconcile its reports, and filing the *sua sponte*  
2 Submission; (3) implementing new policies and procedures regarding solicitations and collecting  
3 agents; (4) engaging an election CFO to handle its Commission filings going forward; and (5)  
4 requiring personnel, including its Treasurer, to “undergo[] detailed PAC compliance training  
5 from Counsel and [the] Election CFO.” Based on these actions, the Submission argues that the  
6 Commission should conciliate the matter without making reason to believe findings.<sup>38</sup>

### 7 **III. LEGAL ANALYSIS**

#### 8 **A. National Potato PAC Appears to Have Misreported Receipts, Disbursements,** 9 **and Cash-On-Hand**

10 The Act requires that political committees keep an accurate account of — and timely and  
11 accurately report — receipts, disbursements, and cash-on-hand balances, including appropriate  
12 itemizations, where required.<sup>39</sup> Committee treasurers are responsible for the timely and  
13 complete filing of disclosure reports and for the accuracy of the information contained therein.<sup>40</sup>

14 National Potato PAC acknowledges that it incorrectly reported receipts, disbursements,  
15 and cash-on-hand dating back to 2015, and possibly earlier. Accordingly, the Commission finds  
16 reason to believe that National Potato Council Potato PAC violated 52 U.S.C. § 30104(b) by  
17 failing to accurately report receipts and disbursements and cash-on-hand.

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on October 19, 2020); National Potato PAC, Amended 2019 Year End Report at 13 (Aug. 18, 2021),  
<https://docquery.fec.gov/pdf/520/202108189466325520/202108189466325520.pdf> (showing refund to Idaho Potato  
PAC on Sept. 18, 2019).

<sup>38</sup> See Submission at 7. The Commission’s *Sua Sponte* Submission Policy contemplates, as one of several possible Commission actions, that certain cases proceed directly to conciliation without the Commission first finding reason to believe that a violation occurred. See Policy Regarding Self-Reporting of Campaign Finance Violations (*Sua Sponte* Submissions), 72 Fed. Reg. 16695, 16696 (Apr. 5, 2007), [https://www.fec.gov/resources/cms-content/documents/fedreg\\_notice\\_2007-08\\_EO13892.pdf](https://www.fec.gov/resources/cms-content/documents/fedreg_notice_2007-08_EO13892.pdf) (“*Sua Sponte* Policy”).

<sup>39</sup> 52 U.S.C. §§ 30102(c), 30104(a)(1), 30104(b); see also 11 C.F.R. §§ 102.9, 104.1(a), 104.3(a).

<sup>40</sup> 11 C.F.R. § 104.14(d).

1           **B. National Potato PAC Appears to Have Accepted Excessive and Prohibited**  
2           **Contributions from Idaho Potato PAC**

3           A “collecting agent” is “an organization or committee that collects and transmits  
4 contributions to one or more separate segregated funds to which the collecting agent is  
5 related.”<sup>41</sup> A collecting agent may be either:

6           (i) A committee, whether or not it is a political committee as defined in

7           11 C.F.R. § 100.5, *affiliated* with the [SSF] under 11 C.F.R. § 110.3; or

8           (ii) The connected organization of the [SSF] as defined in 11 C.F.R.  
9           § 100.6;

10           (iii) A parent, subsidiary, branch, division, department, or local unit of  
11           the connected organization of the [SSF]; or

12           (iv) A local, national or international union collecting contributions on behalf  
13           of the [SSF] of any federation with which the local, national or international  
14           union is affiliated.<sup>42</sup>

15           A collecting agent, if it is an unregistered organization that follows the procedures set out  
16 in 11 C.F.R. § 102.6(c), is not required to register and report as a political committee, provided  
17 that it does not engage in activities such as making contributions or expenditures for the purpose  
18 of influencing Federal elections.<sup>43</sup> Section 102.6(c) describes the procedures with respect to a  
19 collecting agent’s solicitations, recordkeeping, and transmittal of contributions.<sup>44</sup> In particular, a  
20 collecting agent may pay any or all of the costs incurred in soliciting and transmitting  
21 contributions to the SSF.<sup>45</sup> The full amount of each contribution collected by the collecting  
22 agent on behalf of a separate segregated fund must be transmitted to that fund within 10 or 30

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<sup>41</sup> 11 C.F.R. § 102.6(b)(1).

<sup>42</sup> *Id.* § 102.6(b)(1)(i)-(iv) (emphasis added).

<sup>43</sup> *Id.* § 102.6(b)(2).

<sup>44</sup> *Id.* § 102.6(c).

<sup>45</sup> *Id.* § 102.6(c)(2)(i).

1 days.<sup>46</sup> The separate segregated fund shall be responsible for ensuring that the recordkeeping,  
2 reporting and transmittal requirements are met.<sup>47</sup>

3 National Potato PAC contends that Idaho Potato PAC is its collecting agent.<sup>48</sup> If this is  
4 true, the contributions National Potato PAC received from Idaho Potato PAC’s fundraisers  
5 would be attributed to individuals and entities that donated auction items and purchased them at  
6 the Idaho Potato PAC-hosted auctions.<sup>49</sup> Regardless of whether Idaho Potato PAC could be  
7 considered National Potato PAC’s collecting agent in some contexts, it appears that Idaho Potato  
8 PAC was not acting in that capacity in connection with the funds derived from the 2018 auction  
9 — which are the only auction-related contributions remaining within the applicable statute of  
10 limitations — because it appears that: (1) donors at the Idaho Potato PAC events were told that  
11 funds raised would go to the Idaho Potato PAC and were not told of National Potato PAC;<sup>50</sup> (2)  
12 the 2018 auction forms stated that corporate checks were acceptable, although National Potato  
13 PAC cannot accept them;<sup>51</sup> and (3) Idaho Potato PAC, not the individual contributors,

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<sup>46</sup> *Id.* § 102.8; 11 C.F.R. § 102.6(c)(4).

<sup>47</sup> *Id.* § 102.6(c)(1).

<sup>48</sup> March 12, 2022 Letter (referring to Idaho Potato PAC as “the Idaho collecting agent”).

<sup>49</sup> 11 C.F.R. § 102.6(c)(7) (“A separate segregated fund receiving contributions collected by a collecting agent shall report the full amount of each contribution received as a contribution from the original contributor to the extent required by 11 CFR 104.3(a)”). Auction prizes donated by corporations that are not members of National Potato Council or members of National Potato Council’s State Organizations are treated as corporations. *See* Advisory Opinion 1991-23 at 2 (National Association of Retail Druggists) (prize donation by a corporation for a trade association’s SSF raffle is a corporate contribution if the donor corporation is not itself a trade association member).

<sup>50</sup> *See, e.g.*, March 12, 2022 Letter at 5 (“Funds raised in the auction will go to the Idaho Potato Political Action Committee”), 6 (“The evening of Jan. 21 saw many attendees attend a dinner and auction supporting the Idaho Potato PAC”) (quoting announcement in *Potato Grower*), 9 (“Some of the[] individuals may not have known that they were contributing to [National Potato PAC] or that their contributions would be reported as such on [National Potato PAC’s] FEC report”); Submission at Ex. 18 (forms for the “Idaho Potato Industry PAC Auction” hosted by PGI).

<sup>51</sup> *See* March 12, 2022 Letter at 8. National Potato PAC claims this may have been a typographical error but does not provide further explanation. *Id.*

1 determined how much would be given to National Potato PAC.<sup>52</sup> Accordingly, it is appropriate  
2 to attribute the funds provided to National Potato PAC in 2018 as having been contributed by  
3 Idaho Potato PAC.

4 Idaho Potato PAC may not contribute more than \$5,000 per calendar year to National  
5 Potato PAC, and National Potato PAC may not knowingly accept more than \$5,000 per calendar  
6 year from Idaho Potato PAC.<sup>53</sup> National Potato PAC is also prohibited from accepting any  
7 contributions from corporations.<sup>54</sup> Further, an unregistered organization such as Idaho Potato  
8 PAC cannot make a contribution to National Potato PAC unless it demonstrates through a  
9 reasonable accounting method that the underlying funds are subject to the limitations and  
10 prohibitions of the Act.<sup>55</sup> National Potato PAC's treasurer is responsible for ensuring that all  
11 contributions received comply with these limitations and prohibitions.<sup>56</sup>

12 Because it appears that Idaho Potato PAC was not acting as National Potato PAC's  
13 collecting agent in connection with the 2018 auction, and that Commission regulations provide

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<sup>52</sup> Indeed, the emails show that the amounts to be transferred and the attributed source of the funds was determined by Idaho Potato PAC months after the funds had already been raised and likely already deposited in Idaho Potato PAC's bank account. *See* March 12, 2022 Letter at 7, Ex. E ("These are the non-corporate donors we can count for the POPAC donors."); *id.* at 8, Ex. F (Idaho Potato PAC identifying section of donors "marked as private or personal money not corporate" and advising National Potato PAC that it "can reduce someone's donation."). Idaho Potato PAC also appears to have made the decision to split donations between spouses and keep portions of individual check amounts for itself. *See* March 12, 2022 Letter at 8 (notes attached to "donor list"). However, with respect to Idaho Potato PAC's 2018 contribution, Idaho Potato PAC's check to National Potato PAC appears to have *predated* Idaho Potato PAC's auction. *See* Figure 1 (showing fundraiser, check, and deposit dates); Submission Exs. 19, 22.

<sup>53</sup> 52 U.S.C. § 30116(a)(1)(C), (f).

<sup>54</sup> *Id.* § 30118(a).

<sup>55</sup> *See* 11 C.F.R. § 102.5(b).

<sup>56</sup> 11 C.F.R. § 103.3(b); Factual & Legal Analysis at 4-5, MUR 7872 (South Dakota Democratic Party) (finding reason to believe that a state party committee violated 11 C.F.R. § 103.3(b) by accepting contributions from unregistered organizations without ascertaining whether the underlying funds complied with the limitations and prohibitions of the Act).

1 that National Potato PAC had responsibility to ensure that Idaho Potato PAC complied with the  
2 rules governing collecting agents,<sup>57</sup> the Commission finds reason to believe that National Potato  
3 PAC violated 52 U.S.C. § 30116(f), 11 C.F.R. §§ 102.5(b), 103.3(b) by knowingly accepting an  
4 excessive contribution from Idaho Potato PAC, which included funds not subject to the  
5 limitations and prohibitions of the Act.

### 6 **C. National Potato PAC Appears to Have Accepted Corporate Contributions**

7 The Act prohibits corporations from making contributions to federal candidates and bars  
8 candidates and political committees, other than independent expenditure-only political  
9 committees and committees with hybrid accounts, from knowingly accepting or receiving  
10 corporate contributions.<sup>58</sup> The Act also prohibits corporate officers and directors from  
11 consenting to such contributions.<sup>59</sup> The term “contribution” includes “any gift, subscription,  
12 loan, advance, or deposit of money or anything of value made by any person for the purpose of  
13 influencing any election to Federal office.”<sup>60</sup>

14 Here, National Potato PAC acknowledges that it accepted \$8,170 from CPLA and  
15 \$513.29 from Lake Farms, Inc. Because both CPLA and Lake Farms are corporations, the  
16 Commission finds reason to believe that National Potato PAC violated 52 U.S.C. § 30118(a).

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<sup>57</sup> 11 C.F.R. § 102.6(c)(1).

<sup>58</sup> 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(b), Note to Paragraph (b) (explaining that corporations and labor organizations may make contributions to nonconnected political committees that make only independent expenditures, or to separate accounts maintained by nonconnected political committees for making only independent expenditures).

<sup>59</sup> 52 U.S.C. § 30118(a).

<sup>60</sup> 52 U.S.C. § 30101(8)(A). For the purposes of section 30118, the term “contribution” includes the definition provided at 52 U.S.C. § 30101(8)(A) and also includes “any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value . . . to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section . . . .” 52 U.S.C. § 30118(b); 11 C.F.R. § 114.1(a).