

FEDERAL ELECTION COMMISSION
FIRST GENERAL COUNSEL'S REPORT

PRE-MUR 640

DATE RECEIVED: 09/14/2020

DATE OF NOTIFICATION: 10/22/2020

DATE LAST SUPPLEMENTAL SUBMISSION
RECEIVED: 08/24/2022

DATE ACTIVATED: 10/22/2021

EPS:

EXPIRATION OF SOL:

Earliest: 05/08/2024¹

Latest: 02/18/2025

ELECTION CYCLE: 2018-2019

SOURCE:*Sua Sponte* Submission**RESPONDENTS:**

Aspen Lodging Group LLC d/b/a

Provenance Hotels

Bashar Wali

Eileen Wali

Leslie Lew

**RELEVANT STATUTES
AND REGULATIONS:**

52 U.S.C. § 30122

52 U.S.C. § 30116(a)(1)(A), (a)(1)(C)

11 C.F.R. § 110.4(b)(1)(i), (ii)

INTERNAL REPORTS CHECKED:

FEC Disclosure Reports

FEC Contributor Database

FEDERAL AGENCIES CHECKED:

None

¹ Provenance, Bashar Wali, and Eileen Wali have provided 120-day tolling agreements that would extend the statute of limitations for these respondents to September 8, 2024 (earliest date) to February 18, 2025 (latest date). *See* Aspen Lodging Group LLC d/b/a Provenance Hotels Tolling Agreement (“Tolling Agreement”), Pre-MUR 640 (Provenance) (July 5, 2022); Bashar and Eileen Wali Tolling Agreement (“Wali Tolling Agreement”), Pre-MUR 640 (Provenance) (August 4, 2022). To date, we do not have a tolling agreement from Leslie Lew so the statute of limitations dates remain as May 8, 2024 (earliest) through October 18, 2024 (latest) for this respondent.

1 **I. INTRODUCTION**

2 This matter arises from a *sua sponte* submission² from Aspen Lodging Group LLC d/b/a
3 Provenance Hotels (“Provenance” or the “Company”) and a joint supplemental *sua sponte*
4 submission³ from Provenance and its former President, Bashar Wali, disclosing that in 2018 and
5 2019, Provenance unlawfully reimbursed Wali for contributions totaling \$106,038 made in the
6 names of Wali; his wife, Eileen Wali; and Provenance’s former Vice President of Revenue,
7 Leslie Lew.⁴ Provenance made the reimbursements via three \$50,000 bonus payments paid to
8 Wali in 2019.

9 Respondents do not deny that the reimbursement of the political contributions were
10 improper. However, Wali, in his sworn declaration, maintains that he did not realize that it was
11 unlawful to receive a contribution reimbursement at the time that he received the

² Provenance *Sua Sponte* Submission (“Submission”) (Sept. 14, 2020), Pre-MUR 640 (Provenance).

³ Respondents provided numerous supplemental submissions to complete the record. *See* Provenance and Bashar Wali Joint Suppl. Submission (“Joint Suppl. Submission”) (Oct. 13, 2020), Pre-MUR 640 (Provenance); Provenance Suppl. Submission (“Suppl. Submission #2”) (Mar. 25, 2021), Pre-MUR 640 (Provenance) (copy of Wali repayment check); Provenance Suppl. Submission (Suppl. Submission #3”) (May 3, 2021), Pre-MUR 640 (Provenance) (declarations from Bashar and Eileen Wali); Provenance Suppl. Submission (“Suppl. Submission #4”) (May 11, 2021), Pre-MUR 640 (Provenance) (declaration from Holly Landry); Provenance Suppl. Submission (“Suppl. Submission #5”) (May 11, 2021), Pre-MUR 640 (Provenance) (declarations from Charlene Wright and Leslie Lew); Provenance Suppl. Submission (“Suppl. Submission #6”) (June 23, 2021), Pre-MUR 640 (Provenance) (declarations #2 from Bashar Wali and Charlene Wright); Provenance Suppl. Submission (“Suppl. Submission #7”) (July 9, 2021), attaching *Internal Investigation Concerning Actions of Bashar Wali* (“Investigation Report”) (Aug. 25, 2020), Pre-MUR 640 (Provenance); Provenance Suppl. Submission (“Suppl. Submission #8” or “Sondland Decl.”) (Sept. 15, 2021), Pre-MUR 640 (Provenance); Provenance Suppl. Submission (“Suppl. Submission #9”) (Oct. 12, 2021), Pre-MUR 640 (Provenance) (remedial measures taken by Provenance); Provenance Suppl. Submission (“Suppl. Submission #10”) (Mar. 17, 2022), Pre-MUR 640 (Provenance) (email detailing the members of the limited liability company); Provenance Suppl. Submission #11 (“Suppl. Submission #11”) (July 8, 2022), Pre-MUR 640 (Provenance) (email re: lack of donor solicitation/fundraising materials from Provenance); Provenance Suppl. Submission (“Suppl. Submission #12”) (Aug. 24, 2022), Pre-MUR 640 (Provenance) (email: re lack of donor solicitation/fundraising materials from Wali).

⁴ Eileen Wali and Leslie Lew did not join the original Submission. They were notified by CELA as respondents and subsequently provided responsive declarations through Wali’s counsel. *See* Compl. Notif. Letters (Oct. 22, 2020). Wali’s counsel also represents Mrs. Wali but not Lew who remains unrepresented at this point. *See* Designation of Counsel for Eileen Wali, Pre-MUR 640 (Provenance) (Aug. 17, 2021).

1 reimbursements, and was acting under the directions previously given to him by Gordon
2 Sondland, Provenance's Founder and former CEO, in seeking reimbursement from the
3 Company. Wali and Charlene Wright, Wali's Executive Assistant, provided sworn declarations
4 that appear to support Wali's contention that he was unaware that the reimbursements were
5 illegal and that Sondland had given an instruction that they interpreted as authorizing
6 reimbursement. Sondland, however, submitted a sworn declaration disputing Wali's and
7 Wright's statements regarding his alleged instructions to Wali to seek and receive contribution
8 reimbursements from the Provenance. Provenance, in the Submission, adopts the conclusions of
9 the Investigation Report regarding Wali's actions but does not specifically take a position as to
10 whether Wali had prior knowledge that his contribution reimbursements were unlawful.

11 Given the absence of evidence that contradicts Wali's claim that he lacked knowledge
12 that contribution reimbursements were unlawful, and notwithstanding mixed evidence regarding
13 Sondland's purported statements that Wali was authorized to receive contribution
14 reimbursements, we are not making a knowing and willful recommendation in this matter.
15 Further, we do not believe that matter warrants the use of additional Commission resources to
16 pursue an investigation.

17 Accordingly, we recommend that the Commission: (1) open a Matter Under Review;
18 (2) find reason to believe that Aspen Lodging Group LLC d/b/a Provenance Hotels violated
19 52 U.S.C. §§ 30122, 30116(a)(1)(A), (a)(1)(C), and 11 C.F.R. § 110.4(b)(1)(i) by making
20 excessive contributions in the name of another; (3) find reason to believe that Bashar Wali
21 violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b)(1)(ii) by knowingly permitting his name to
22 be used to make contributions in the name of another; (4) take no action as to Eileen Wali and
23 close the file; and (5) take no action as to Leslie Lew but approve an admonishment and close the

1 file. Finally, we recommend that the Commission authorize pre-probable cause conciliation and
2 approve separate conciliation agreements for Aspen Lodging Group LLC d/b/a Provenance
3 Hotels and Bashar Wali.

II. FACTUAL BACKGROUND

4 A. Submission

5 1. Organizational Structure of Provenance

7 Provenance is a Portland, Oregon based hotel management group. Gordon Sondland
8 founded the Company in 2001 and served as its CEO until June 2018, when he resigned to serve
9 as the U.S. Ambassador to the European Union.⁵ During his tenure as ambassador, Sondland
10 continued to be a shareholder but was not an officer, director, or employee of Provenance.⁶ In
11 February 2020, Sondland returned to the Company as its Chairman.⁷

12 Bashar Wali became Provenance's President in June 2010 and reported to Sondland until
13 his departure, and then directly to the Board of Directors.⁸ On February 25, 2020, Wali
14 submitted his resignation from the Company that was effective on May 30, 2020.⁹ Holly Landry
15 was Corporate Controller from June 2014 until August 2020. Charlene Wright was Wali's

⁵ See Gordon Sondland, PROVENANCE, <https://www.provenancehotels.com/development/gordon-sondland> (last visited Sept. 29, 2022); see also Sondland Decl. ¶ 2 (Aug. 25, 2021).

⁶ Sondland Decl. ¶¶ 2-3.

⁷ *Id.* ¶ 2.

⁸ Wali Decl. ¶ 3 (May 3, 2021). Prior to the contributions at issue in the Report, Wali had made a total of \$33,500 in contributions to federal candidates in 2015-2016. See Republican Party of Kentucky, 2016 May Monthly Report (May 20, 2016) (\$10,000 contribution); Rand Paul Victory Kentucky, 2016 April Quarterly Report (Apr. 15, 2016) (\$15,400 contribution); Rand Paul for U.S. Senate, 2016 April Quarterly Report (Apr. 15, 2016) (\$2,700 transfer from Rand Paul Victory Kentucky for general election); Rand Paul for U.S. Senate, 2016 April Quarterly Report (Apr. 15, 2016) (\$2,700 transfer from Rand Paul Victory Kentucky for primary election); Jeb 2016, Inc., 2015 July Quarterly Report (Jan. 31, 2016) (\$2,700 primary contribution).

⁹ Investigation Report at 7-8.

1 Executive Assistant from September 2014 until June 2019.¹⁰ Leslie Lew was the Vice-President
2 of Revenue for the Company between in June 2013 and March 2020.¹¹

3 2. Reimbursement of Political Contributions

4 According to the Submission, Wali, Mrs. Wali, and Lew made federal contributions,
5 totaling \$119,308, between April 24, 2018, and October 21, 2019.¹² Between April and October
6 2019, Wali sought reimbursement from Provenance for \$106,038 of the total contribution
7 amount in the form of three \$50,000 bonus payments that he received in May, July, and October
8 2019.¹³

9 The following is a chart reflecting the 2018-2019 reimbursed contributions made by the
10 Bashar Wali, Eileen Wali and Leslie Lew:

Date	Conduit	Recipient	Amount
4/24/18	Bashar Wali	NRSC	\$33,900
4/30/18	Bashar Wali	Tillis Majority Committee (primary)	\$10,400
9/18/18	Bashar Wali	American Hotel & Lodging Assoc. PAC (AHLA PAC)	\$5,000
3/28/19	Bashar Wali	Thom Tillis Committee (primary)	\$100
3/29/19	Bashar Wali	Thom Tillis Committee (primary)	\$5,400 ¹⁴
3/28/19	Bashar Wali	Thom Tillis Committee (general)	\$100
4/17/19	Bashar Wali	Wyden for Senate (primary) ¹⁵	\$2,800

¹⁰ Wright Decl. ¶ 3 (May 11, 2021).

¹¹ Lew Decl. ¶ 3 (May 11, 2021). The Commission's contribution database does not indicate any contributions made by Lew prior to the ones in 2018.

¹² Submission at 1.

¹³ *Id.* Although the Submission states that the latest date for the reimbursed contributions was December 1, 2019, the latest date was, in fact, October 27, 2019, according to the Commission's contribution database and other information provided in the Submission. On October 21, 2019, the American Hotel & Lodging Association PAC received a \$10,000 contribution from Wali that was reimbursed by Provenance. Submission at 2; *see also Id.*, Ex. 12. However, the PAC, on November 22, 2019, refunded the contribution to Wali because the amount exceeded the contribution limits. *See* 2019 Year-End Report at 165, Provenance (Jan. 31, 2020).

¹⁴ Although Wali received reimbursement for this contribution, the committee refunded the entire \$5,400 to Wali on April 10, 2019. *See* Thom Tillis Committee, 2019 July Quarterly Report (July 15, 2019).

¹⁵ The Commission's disclosure database notes that this contribution was a transfer from Wyden for Oregon as of June 30, 2019. *See* Wyden for Senate, 2019 July Quarterly Report (July 15, 2019).

Date	Conduit	Recipient	Amount
4/17/19	Bashar Wali	Wyden for Senate (general) ¹⁶	\$2,800
4/17/19	Bashar Wali	Hoops PAC	\$5,000
6/11/19	Bashar Wali	AHLA PAC	\$5,000
10/21/19 ¹⁷	Bashar Wali	AHLA PAC	\$10,000
Total Bashar Wali Reimbursed Contributions for 2018-2019			\$80,500¹⁸
9/18/18	Eileen Wali	AHLA PAC	\$5,000
3/29/19	Eileen Wali	Thom Tillis Committee (primary)	\$2,800
3/29/19	Eileen Wali	Thom Tillis Committee (general)	\$2,800
4/17/19	Eileen Wali	Hoops PAC	\$5,000
6/11/19	Eileen Wali	AHLA PAC	\$5,000
Total Eileen Wali Reimbursed Contributions for 2018-2019			\$20,600
9/18/18	Leslie Lew	AHLA PAC	\$5,000
Total Leslie Lew Reimbursed Contributions for 2018-2019			\$5,000
TOTAL REIMBURSED CONTRIBUTIONS			\$106,038¹⁹

1

3. Discovery of the Violations and Internal Investigation

¹⁶ The Commission's disclosure database notes that this contribution was a transfer from Wyden for Oregon as of June 30, 2019. *See id.*

¹⁷ It appears that Wali made this contribution on or around October 18, 20219, and the Committee received the contribution on October 21, 2019, as indicated by the contribution database. The \$50,000 bonus that Wali received from Provenance on October 18, 2019, as reimbursement for some of his contributions would have covered the \$10,000 contribution made to AHLA PAC. As stated previously in note 11, this contribution, although reimbursed by Provenance, was later refunded to Wali by the PAC on November 22, 2019, because he had already met his contribution limit. Submission at 2.

¹⁸ This amount only includes the contributions for which Wali sought and received reimbursement from Provenance. *Id.* Wali made a \$10,600 contribution to Wyden for Senate and a \$2,500 contribution to Human Rights Equality Votes but did not seek reimbursement for those two contributions. *Id.*

¹⁹ Although the three individuals (Bashar Wali, Eileen Wali and Leslie Lew) collectively made a total of \$119,308 in federal contributions, Wali did not seek reimbursement for his \$10,600 contribution to Wyden for Oregon or his \$2,500 contribution to Human Rights Equality Votes. *Id.* Further, Lew was not reimbursed for the \$108 in earmarked contributions to Warren for President despite the \$108 being included in the reimbursed contribution amount provided by the Submission. *Id.*, Ex. 12. Therefore, the resulting total reimbursed amount was \$106,038 (\$119,308 - \$106,038 = \$13,270 (\$10,600 (unreimbursed Wyden for Senate contribution) + \$2,500 (unreimbursed Human Rights Equality Votes contribution) + \$108 unreimbursed Lew contributions) + \$62 (amount that could not be reconciled through the investigation but contained in Wali's spreadsheet). *See* Submission at 2. Counsel for Provenance, in a telephone call with OGC staff, explained that the \$62.00 discrepancy could not be reconciled during the investigation, however, they attribute that to Wali's "sometimes erratic bookkeeping methods." At the time of Sondland's departure in 2018, Wali had only made two of the contributions at issue. *See id.*, Ex. 12. The remaining contributions were made after Sondland left the Company, and all the reimbursements took place during Sondland's absence from the Company. *Id.*

1 After Wali announced his resignation from the Company in February 2020, which
2 coincided with Sondland's return to the Company, some employees raised concerns to current
3 management that Wali might have made unauthorized use of the Provenance's funds for personal
4 political contributions and misappropriated company property.²⁰ The Board of Directors
5 retained an outside law firm, K&L Gates, to independently investigate the claims of
6 misappropriation and theft on Wali's part.²¹ The investigation began in May 2020 and
7 concluded in August 2020.²²

8 The investigation revealed that Holly Landry, Provenance's Corporate Controller from
9 2013 until August 2020, acting on the email instructions of Wali, processed and issued the
10 contribution reimbursements totaling \$106,038 in the form of three \$50,000 bonus payments as
11 described above.²³ Wali sent three separate emails to Landry on April 25, 2019, July 12, 2019,
12 and October 14, 2019, respectively, with similar instructions on the processing of the bonus
13 payments as reimbursements.²⁴ Wali, in the April 25, 2019, email to Landry, for example,
14 instructed Landry to "please process \$50,000 for Q1 2019."²⁵ Landry thereafter processed the
15 bonus payments on May 8, 2019, July 19, 2019, and October 18, 2019.²⁶

²⁰ Submission at 1.

²¹ *Id.* The scope of the investigation was broader than just the reimbursed contributions but appears to have centered around alleged misappropriations in other unrelated areas by Wali. Because of this, Provenance only provided a heavily redacted version of the investigation report that deals only with the reimbursed contributions. *See Suppl. Submission #7.*

²² Submission at 1.

²³ *Id.*, Attachs. 1-3.

²⁴ *See id.*, Attachs. 4-6.

²⁵ *Id.*, Attach. 4.

²⁶ *Id.*

1 The Submission provides that these bonus payments were in addition to Wali's annual
2 performance bonus approved by the Board of Directors.²⁷ Although Wali received explicit
3 approval from the Board of Directors for payment of his annual performance bonus, he never
4 received similar approval for the separate bonuses that covered the reimbursements for
5 contributions.²⁸ The investigation report further concludes that Landry never confirmed or
6 otherwise discussed Mr. Wali's request with any other Company executives, Provenance's Board
7 of Directors, or the Company's counsel.²⁹ As a result of the investigation, Provenance requested
8 that Wali repay the after-tax amount of the reimbursed contributions, totaling \$96,308.³⁰ which
9 he did on October 9, 2020.³¹

10 Relying on the independent investigation, Provenance states that Wali was responsible
11 for the unlawful contribution reimbursements and "was at the helm and had complete profit and
12 loss responsibility' over the Company."³² Provenance asserts that no other employees, including
13 Sondland and Katy Durant, the current President of Provenance, ever sought reimbursement for

²⁷ Submission at 1.

²⁸ *Id.* Further, the investigation revealed that the Board of Directors decided in early 2020 that Provenance needed a Chief Financial Officer ("CFO") to balance the power dynamic of the company. Investigation Report at 7. Up until that point, Wali had consistently resisted the idea of hiring a CFO, instead arguing that the comptroller Landry could sufficiently perform those duties. *Id.* Despite Wali's resistance to the idea, the Board hired a CFO. *Id.* The investigation report states that the newly hired CFO, Glidden, raised the issue of the reimbursements with Sondland, Wali and Landry in April 2020 (before the investigation was initiated) because he was concerned about possible tax fraud. *Id.* at 11.

²⁹ *Id.* at 2.

³⁰ Wali received contribution reimbursements totaling \$106,038. As a result of the investigation, Wali was required to repay Provenance in the after-tax amount of \$96,038. Joint Suppl. Submission at 2. Wali repaid Provenance \$96,308 rather than \$96,038, most likely an inadvertent error on his part.

³¹ *Id.*

³² Submission at 1-2.

1 their political contributions.³³ The Company acknowledges that while Sondland encouraged
2 Wali to make political contributions, he never had any communications or intended to
3 communicate to any of the individuals involved (*e.g.*, the Walis, Lew, Landry, Wright) that they
4 should seek reimbursement from Provenance.³⁴ Indeed, the independent investigation did not
5 find any email communications reflecting the reimbursements to Wali, other than Wali's request
6 to Landry requesting payment and transmissions of Excel spreadsheets, described above.³⁵

7 4. Wali's Knowledge Regarding the Illegality of the Reimbursement Scheme

8 Wali claims that he had no knowledge that the contribution reimbursements were
9 unlawful and that Sondland specifically requested that he make all but one of the contributions at
10 issue and led him to believe that he could seek reimbursement from Provenance.³⁶ In particular,
11 Wali claims that Sondland contacted him by telephone between mid-January and February 2019
12 (after Sondland had departed from Provenance) to ask that Wali and his wife make the maximum
13 contributions to the Thom Tillis Committee ("Tillis Committee") and the Wyden Committee.³⁷
14 According to Wali, he had no connection to the Tillis Committee and therefore would have had
15 no reason to make the contribution, if not for Sondland's request.³⁸ He further asserts that he

³³ Suppl. Submission #7 at 2.

³⁴ Sondland Decl. ¶ 12. Sondland states that Wali, after leaving Provenance, started his own company and currently employs Landry, Lew, and Wright. *Id.* ¶ 6.

³⁵ Investigation Report at 11 ("Landry confirmed that she never discussed the reimbursements with Durant or Sondland. Landry also confirmed that the reimbursements were not discussed at any Provenance Board of Directors meetings, which is supported by the unofficial Board of Directors meeting notes taken by Tim Parks.") (citations omitted).

³⁶ Joint Suppl. Submission at 1; Wali Decl. ¶¶ 4-9, 12.

³⁷ Wali Decl ¶ 7-9.

³⁸ *Id.* ¶ 7. Wali also made a \$10,400 contribution to the Thom Tillis Majority Committee on April 30, 2018 (prior to Sondland's departure from Provenance). *See supra* at 5-6 (chart reflecting reimbursed contributions).

1 informed Sondland by telephone in February 2019 that the Wyden Committee had contacted him
2 about fundraising.³⁹ Sondland allegedly responded by telling Wali that he and his wife should
3 contribute the maximum amount and “just get it back” when Wali expressed reluctance about
4 making such a large contribution.⁴⁰

5 Wali claims that Sondland, in discussing the contributions, used words such as “take it
6 from the company.”⁴¹ Given the context, Wali interpreted that phrase to mean that he could
7 receive reimbursement for the contributions Sondland requested that he make in his role as an
8 officer of Provenance.⁴² Wali further explains that, “because he was being reimbursed for the
9 contributions as taxable bonuses, rather than as business-related expenses, the timing of the
10 reimbursements was spread out over multiple quarters.”⁴³ According to Wali, he made no
11 attempt to conceal the receipt of the bonuses as reimbursement for the contributions, and, in fact,
12 both he and Wright tracked the amount of the contributions on a spreadsheet so that the
13 reimbursements would be accurate.⁴⁴

14 In support of Wali's assertion he was acting under the direction of Sondland, Wright,
15 Wali's Executive Assistant, provided sworn declarations stating that she was present during

³⁹ Wali Decl. ¶ 8.

⁴⁰ *Id.*

⁴¹ Wali Decl. #2 at ¶ 5 (June 23, 2021).

⁴² *Id.*

⁴³ *Id.* ¶ 11.

⁴⁴ *Id.* OGC inquired about whether Provenance and/or Wali were in possession of any donor forms in connection with the contributions made, however, both respondents replied that they could not locate any donor forms. *See* Suppl. Submission #11; Suppl. Submission #12.

1 multiple conversations between Wali and Sondland about contribution reimbursements.⁴⁵ Her
2 initial declaration states that, based on conversations between the two parties, she understood
3 that Provenance would reimburse certain political contributions.⁴⁶ She further states that she
4 assisted Wali in tracking the political contributions and was unaware that contribution
5 reimbursements were unlawful.⁴⁷

6 Wright, in a second declaration, claims to have been privy to several conversations
7 between Sondland and Wali regarding contribution reimbursements in 2019 where she heard
8 Sondland specifically instruct Wali to “take it from the company” with respect to contributions
9 made to “Senator Thom Tillis, or a committee he supported, or fundraising hosted by Tillis.”⁴⁸
10 Wright states that Sondland instructed her on one occasion to take the reimbursement amount for
11 a Tillis contribution from Provenance rather than a separate fund being managed by Provenance
12 for a different entity.⁴⁹

13 On the other hand, Sondland submitted a sworn declaration, stating that he encouraged
14 Wali, as a “highly compensated President” of Provenance, to make voluntary contributions over
15 the years.⁵⁰ But Sondland denies that he ever requested that Wali make the contributions

⁴⁵ See Wright Decl. ¶ 4; Wright Decl. #2, ¶ 5-6 (June 23, 2021).

⁴⁶ Wright Decl. ¶ 4.

⁴⁷ *Id.* ¶ 5.

⁴⁸ *Id.* The contributions made by Bashar and Eileen Wali to the Tillis committees (Tillis Majority Committee and Thom Tillis Committee) occurred on April 30, 2018, and March 28, 2019. See *supra* chart at 5-6 (chart reflecting reimbursed contributions). Wright does not specifically state when the Tillis Committee conversations took place between Sondland and Wali, only that they were prior to the contributions made to the Tillis Committee in 2019. Wright Decl. ¶ 6. Wright’s affidavit is unclear as to whether the alleged in-person conversations between Wali and Sondland took place prior to or after Sondland had left the Company in June 2018. *Id.*

⁴⁹ Wright Decl. ¶ 6.

⁵⁰ Sondland Decl. ¶ 14.

1 identified in this submission or that he intended to lead Wali to believe that he could seek any
2 reimbursement for his contributions from Provenance funds.⁵¹ Sondland states while he was the
3 CEO of Provenance, Wali made \$70,000 in contributions between 2012 and 2017, and Eileen
4 Wali made \$20,000 contributions during that time;⁵² however, none of those contributions were
5 ever reimbursed by Provenance.⁵³ Sondland also states that he himself made numerous
6 contributions over years to various political committees and candidates and contributed over
7 \$200,000 in 2015⁵⁴ but never received reimbursement for his contributions.⁵⁵

8 Landry, the former Corporate Controller, states that per Wali's instructions, she ensured
9 that the Company reimbursed Wali and Lew for the political contributions they made and treated
10 the reimbursements as bonuses so that taxes would be paid on those amounts.⁵⁶ Landry further
11 states that she was unaware that such reimbursements were unlawful.⁵⁷

12 The other remaining conduits, Leslie Lew and Eileen Wali, also submitted declarations
13 regarding the contributions and reimbursements. Mrs. Wali states that she approved the
14 contributions made in her name but had no knowledge of any of "the subjects of the

⁵¹ *Id.* ¶ 12.

⁵² *Id.*, Exs. 1-2.

⁵³ *Id.* ¶ 14.

⁵⁴ *Id.* ¶ 13. The Commission's contribution database reflects a total of \$70,000 in federal contributions made by Sondland between 2015 and 2021 rather than the \$200,000 he refers to in the declaration. However, it is possible that Sondland made non-federal contributions during this timeframe.

⁵⁵ *Id.* ¶ 15.

⁵⁶ Landry Decl. ¶ 5-6 (May 11, 2021).

⁵⁷ *Id.*

1 contributions or any reimbursement arrangement with Provenance.”⁵⁸ She further states that she
2 was unaware of the Act’s prohibition on reimbursed contributions.⁵⁹ Lew states that he accepted
3 a \$5,000 contribution reimbursement from Wali without having any knowledge that it was
4 unlawful to do so.⁶⁰

5 **B. Remedial Efforts**

6
7 After the conclusion of Provenance’s independent investigation, the Company instituted a
8 number of remedial actions to revamp its financial controls and reporting structure.⁶¹ In April
9 2020, after Wali had announced his departure, the Company hired a CFO, Ernest Glidden, who
10 oversees its financial operations—including the review and approval of employee expense
11 reimbursement requests.⁶² Glidden is a CPA with decades of experience as a financial executive,
12 including a number of large publicly traded companies, and as such, is familiar with the
13 requirements of the Act.⁶³ Lastly, Provenance has retained outside counsel that specializes in
14 campaign finance issues and is available to provide advice on any future political compliance
15 issues that may arise.⁶⁴ To date, it does not appear that Provenance has contacted any of the
16 candidates or committees seeking refunds or disgorgements or that any refunds or disgorgements
17 have been made by the relevant candidates/committees.

58 Eileen Wali Decl. ¶¶ 5-6 (May 3, 2021).

59 *Id.*

60 Lew Decl. ¶¶ 4-6.

61 Suppl. Submission #9 at 1.

62 *Id.*

63 *Id.*

64 *Id.*

1 **III. LEGAL ANALYSIS**

2 **A. The Commission Should Find Reason to Believe that Provenance Violated**
3 **52 U.S.C. § 30122 by Making Contributions in the Names of Others and that**
4 **Wali Violated 52 U.S.C. § 30122 by Knowingly Permitting His Name to be**
5 **Used to Effect Such Contributions**
6

7 Under 52 U.S.C. § 30122, no person shall make a contribution in the name of another or
8 knowingly permit one's name to be used to effect such contribution.⁶⁵ The term "person" for
9 purposes of the Act and Commission regulations includes partnerships, corporations, and other
10 organizations, including LLCs.⁶⁶

11 A principal is liable vicariously for the acts of its agent committed within the scope of
12 agency.⁶⁷ In prior enforcement actions, the Commission has on that basis found reason to
13 believe that legal entities such as Provenance violated the Act as a result of the conduct of their
14 officers or employees.⁶⁸

15 Here, Provenance appears to be liable under section 30122 given that the Respondents all
16 acknowledge that Provenance funds were used to reimburse the political contributions of Wali,

⁶⁵ 52 U.S.C. § 30122; *see also United States v. O'Donnell*, 608 F.3d546, 550 (9th Cir. 2010) (concluding that the plain language of section 30122 [formerly section 441f] encompasses straw donor contributions whether accomplished through the advancement or reimbursement of funds).

⁶⁶ *See* 52 U.S.C. § 30101(11) (formerly 2 U.S.C. § 431(11)); 11 C.F.R. § 100.10; Advisory Op. 2009-02 at 3 (True Patriot Network).

⁶⁷ RESTATEMENT (THIRD) OF AGENCY § 7.07; *see also United States v. Sun-Diamond Growers of Cal.*, 138 F.3d 961 (D.C. Cir. 1998) (affirming criminal convictions against Sun-Diamond in connection with a corporate contribution reimbursement scheme where officer hid the scheme from others in corporation but acted to benefit the corporation).

⁶⁸ *See, e.g.*, Factual and Legal Analysis ("F&LA") at 17-19, MUR 6922 (ACPAC) (formerly Pre-MUR 628) (finding reason to believe that ACA, a corporate entity, violated 52 U.S.C. §§ 30118 and 30122 based on the actions of its vice president and assistant treasurer of its PAC); F&LA at 7, MUR 6515 (PFFW) (finding reason to believe that a labor union, knowingly and willfully violated 52 U.S.C. §§ 30118 and 30122 based on the activities of its executive board members); F&LA, MUR 6143 (Galen Capital) (finding reason to believe that Galen Capital, a corporate entity, knowingly and willfully violated 52 U.S.C. §§ 30118 and 30122 based on the activities of its Chair and CEO).

1 Mrs. Wali, and Leslie Lew. Further, Provenance's internal investigation concluded that Wali, as
2 President of Provenance, caused Provenance to use its funds to reimburse \$106,038 in federal
3 contributions by authorizing Landry, the Company's former Corporate Controller, to issue three
4 \$50,000 bonuses to him as reimbursement for contributions made by and attributed to himself,
5 Mrs. Wali and Lew.⁶⁹ And by accepting the reimbursements for the political contributions, Wali
6 knowingly permitted his name to effect contributions in the name of another.

7 Wali claims that Sondland requested that he make the contributions and instructed him to
8 seek reimbursement from Provenance prior to his departure in 2018 and during his absence in
9 2019.⁷⁰ However, the emails cited to in the investigation report confirm that it was Wali who
10 instructed Landry to issue the reimbursements without the approval or knowledge of any other
11 company executive or Board of Directors.⁷¹ There is no similar contemporaneous evidence
12 reflecting any directions or instructions from Sondland for Wali to seek reimbursement of the

⁶⁹ Investigation Report at 8-12.

⁷⁰ Wali Decl. at ¶¶ 4-9.

⁷¹ Investigation Report at 8-12.

1 contributions from Company funds.⁷² Finally, Holly Landry, in her sworn declaration, states it
2 was Wali who instructed her to reimburse him for contributions made by him and Lew.⁷³

3 Accordingly, we recommend that the Commission find reason to believe that Aspen
4 Lodging Group LLC d/b/a Provenance Hotels violated 52 U.S.C. § 30122 and 11 C.F.R.
5 §110.4(b)(1)(i) by making contributions in the name of another and that Bashar Wali violated
6 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b)(1)(ii) by permitting his name to be used to effect
7 such contributions.

8 **B. The Commission Should Find Reason to Believe that Provenance Violated**
9 **52 U.S.C. § 30116(a) by Making Excessive Contributions**

10 The Act limits the amount a person may contribute to a candidate committee per
11 election.⁷⁴ During the 2017 -2018 election cycle, the Act and Commission regulations limited a
12 person to making a total of \$2,700 per election to a candidate committee.⁷⁵ During the 2019-

⁷² While Wali's recollection of events could be construed as Sondland having asserted some measure of influence on him to seek reimbursement for the contributions during his absence from Provenance, Sondland denies doing so. Wright's statements appear to support Wali's recollection of events, however, we cannot disregard the potential credibility issue given that, according to Sondland's declaration, she now works at Wali's company. *See* Sondland Decl. ¶ 6. There is no additional information to support Wali's position. Even if there were sufficient credible information to support Wali's assertion, the fact remains that Sondland was not an officer of Provenance at the time of reimbursements and therefore could not lawfully consent to the reimbursements that resulted in the violations under section 30118(a). Further, Sondland would appear to have no liability under section 30122 for assisting in the making of a contribution in the name of another given the district court's decision to enjoin the Commission from enforcing 11 C.F.R. § 110.4(b)(1)(iii) (prohibiting any person from knowingly helping or assisting in the making of a contribution in the name of another) and striking that regulation from the Code of Federal Regulations. *See FEC v. Swallow*, 304 F. Supp. 3d 1113 (D. Utah 2018). Accordingly, Sondland is not named as a respondent in the matter, and we make no recommendations as to him in the Report.

⁷³ Landry Decl. ¶ 4. ("Sometime in 2018, Mr. Wali instructed me to reimburse him for some political contributions he and Provenance employee Leslie Lew had made."). Lew, in his sworn declaration, states that he was unaware at the time that Wali's reimbursement of his \$5,000 contribution was unlawful. *See* Lew Decl. ¶ 4-6.

⁷⁴ 52 U.S.C. § 30116(a)(1)(A); *see also* 11 C.F.R. § 110.1(b).

⁷⁵ 52 U.S.C. § 30116(a)(1)(A), (2)(A); 11 C.F.R. §§ 110.1(a)-(b), 110.2(b)(1). *See also Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Disclosure Threshold*, 82 Fed. Reg. 10904, 10905-06 (Feb. 7, 2017).

1 2020 election cycle, a person was limited to making a total of \$2,800 per election cycle to a
2 candidate committee.⁷⁶ Further, the Act prohibits a person from making a contribution to a
3 multicandidate committee that exceeds \$5,000 in a calendar year.⁷⁷

4 Under Commission regulations, if an LLC elects to be treated as a partnership, or makes
5 no election at all, then the LLC is treated as a partnership for purposes of the contribution
6 limits.⁷⁸ A partnership or partner who is not otherwise prohibited from making contributions
7 may contribute up to the individual limits based on the type of recipient committee.⁷⁹
8 Contributions made by partnerships are attributable both to the partnership and to each partner
9 according to the partnership agreement or according to a formula set forth in Commission
10 regulations.⁸⁰ In contrast, an LLC that elects to be treated as a corporation by the IRS is treated
11 as a corporation for contribution purposes and is prohibited from making contributions.⁸¹

12 Provenance is an LLC that elects to be treated as a partnership for tax purposes⁸² and is
13 therefore treated as a partnership under Commission regulations. As such, Provenance was

⁷⁶ *Id.* See also *Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Disclosure Threshold*, 85 Fed. Reg. 9772, 9774 (Feb. 20, 2020).

⁷⁷ 52 U.S.C. § 30116(a)(1)(C).

⁷⁸ 11 C.F.R. § 110.1(g)(2).

⁷⁹ *Id.* § 110.1(e).

⁸⁰ *Id.*

⁸¹ *Id.* § 110.1(g)(3).

⁸² See Suppl. Submission #10. The six partners of Provenance are: (1) single-member Washington LLC treated as a disregarded entity for tax purposes (but whose sole member is a Washington LLC taxed as a partnership); (2) single-member Oregon LLC treated as a disregarded entity for tax purposes (but whose sole member is an individual Oregon resident); (3) Oregon corporation taxed as an S-corporation; (4) Oregon corporation taxed as an S-corporation; (5) individual Oregon resident; and (6) a Delaware LLC taxed as a partnership. *Id.* In the state of Oregon, S corporation income is generally taxable to the shareholder rather than the corporation. See Subchapter S Corporations, [OREGON.GOV](https://www.oregon.gov/dor/programs/businesses/Pages/corp-sub.aspx), <https://www.oregon.gov/dor/programs/businesses/Pages/corp-sub.aspx> (last accessed Sept. 29, 2022).

1 limited to making a \$2,700 contribution to an authorized committee and \$5,000 to a
2 multicandidate committee for the 2017-2018 election cycle and \$2,800 and \$5,000 for the 2019-
3 2020 election cycle, respectively.

4 Based on the factual record, Provenance made excessive contributions to the following
5 committees:

<u>Conduit</u>	<u>Contr. Date</u>	<u>Recipient Committee</u>	<u>Contribution Amt.</u>	<u>Excessive Contribution</u>
Bashar Wali	03/29/2019	Thom Tillis Committee (P) ⁸³	\$5,400 + \$100	\$2,700
Bashar Wali	03/29/2019	Thom Tillis Committee (G) ⁸⁴	\$100	\$100
Eileen Wali	03/29/2019	Thom Tillis Committee (P) ⁸⁵	\$2,800	\$2,800
		Total Excessive Contribution for Thom Tillis Committee		\$5,600
Eileen Wali	09/18/2018	AHLA PAC ⁸⁶	\$5,000	\$5,000
Leslie Lew	09/18/2018	AHLA PAC	\$5,000	\$5,000
Eileen Wali	06/11/2019	AHLA PAC ⁸⁷	\$5,000	\$5,000

Despite the existence of these six partners, two of which are S-corporations, which could be held liable for Provenance's improper contributions under the Commission's rules requiring dual attribution of contributions made by a partnership, *see* 11 C.F.R. §§ 110.1(e), (g)(3), there is no available information to suggest that any of Provenance's LLC members had any knowledge of or involvement in the making of the contributions at issue. Therefore, we do not recommend that the Commission pursue any potential prohibited contribution violation for Provenance's corporate partners under section 30118(a). For similar reasons, we make no recommendation that the Commission pursue any potential excessive contributions violations resulting from dual attribution to any of the Provenance partners under 52 U.S.C. § 30116(a).

⁸³ As previously indicated, Wali was reimbursed for the \$5,400 contribution to the Tillis Committee despite the refund issued by the committee on April 10, 2019. *See supra* at 5-6. Wali made a total of \$5,500 in primary election contributions that were reimbursed by Provenance, of which only \$2,800 would have been permissible, leaving an excessive amount of \$2,700.

⁸⁴ Provenance reimbursed Eileen Wali's \$2,800 general election contribution to the Thom Tillis Committee, resulting in Wali's reimbursed \$100 general election contribution to the same committee in the same election being considered as excessive. *See supra* at 5-6.

⁸⁵ Provenance reimbursed Wali for his wife's \$2,800 primary election contribution to the Thom Tillis Committee, all of which would be considered as excessive since Provenance also made the maximum allowable contribution to the Tillis primary election committee with Wali's primary election contribution. *See supra* at 5-6.

⁸⁶ Provenance reimbursed Wali, Eileen Wali, and Lew for each of their \$5,000 contributions to AHLA PAC in 2018, resulting in excessive contributions totaling \$10,000 for 2018. *See supra* at 5-6.

⁸⁷ Provenance reimbursed Eileen Wali's \$5,000 contribution to AHLA PAC for 2019 in addition to Wali's \$5,000 contribution, resulting in excessive contributions totaling \$5,000 for this committee. *See supra* at 5-6.

Bashar Wali	10/21/2019	AHLA PAC ⁸⁸	\$10,000	\$10,000
		Total Excessive Contributions for AHLA PAC		\$25,000
Eileen Wali	04/17/2019	Hoops PAC	\$5,000	\$5,000
		Total Excessive Contributions for Hoops PAC		\$5,000
		TOTAL EXCESSIVE CONTRIBUTION AMOUNT		\$35,600

1
2 Provenance made a total of \$35,600 in excessive contributions. Accordingly, we
3 recommend that the Commission find reason to believe that Provenance violated
4 52 U.S.C. § 30116(a)(1)(A) and (a)(1)(C) by making excessive contributions to the Thom Tillis
5 Committee, AHLA PAC and Hoops PAC.

6 **C. The Commission Should Exercise Prosecutorial Discretion and**
7 **Make Non-Knowing and Willful Findings in This Matter**
8

9 The Act prescribes additional monetary penalties for violations that are knowing and
10 willful.⁸⁹ A violation of the Act is knowing and willful if the “acts were committed with full
11 knowledge of all the relevant facts and a recognition that the action is prohibited by law.”⁹⁰
12 Such a finding does not require proving knowledge of the specific statute or regulation the
13 respondent allegedly violated.⁹¹ Instead, it is sufficient to demonstrate that a respondent “acted
14 voluntarily and was aware that his conduct was unlawful.”⁹² This knowledge may be shown by

⁸⁸ Wali was reimbursed for the \$10,000 contribution to the AHLA PAC on October 21, 2019, despite the refund issued by the AHLA PAC on December 1, 2019. *See supra* at 5-6. The entire \$10,000 contribution is considered excessive since Wali had already made the maximum allowable \$5,000 contribution to AHLA PAC on June 11, 2019. *Id.*

⁸⁹ 52 U.S.C. § 30109(a)(5)(B), (d).

⁹⁰ 122 Cong. Rec. 12,197, 12,199 (May 3, 1976).

⁹¹ *United States v. Danielczyk*, 917 F. Supp. 2d 573, 579 (E.D. Va. 2013) (quoting *Bryan v. United States*, 524 U.S. 184, 195 & n.23 (1998) (holding that, to establish a violation is willful, government needs to show only that defendant acted with knowledge that conduct was unlawful, not knowledge of specific statutory provision violated).

⁹² *Id.* (citing jury instructions in *United States v. Edwards*, No. 11-61 (M.D.N.C. 2012), *United States v. Acevedo Vila*, No. 108-36 (D.P.R. 2009), *United States v. Feiger*, No. 07-20414 (E.D. Mich. 2008), and *United States v. Alford*, No. 05-69 (N.D. Fla. 2005)).

1 circumstantial evidence from which the respondents' unlawful intent reasonably may be
2 inferred.⁹³ For example, a person's awareness that an action is prohibited may be inferred from
3 "the elaborate scheme for disguising . . . political contributions."⁹⁴ The Commission has found
4 reason to believe that violations involving reimbursement schemes were knowing and willful
5 when respondents falsified documents, took active steps to conceal illegal activities, kept
6 multiple sets of financial records, or were deemed to be in possession of information warning
7 that their conduct was illegal.⁹⁵

8 In this case, Wali denies knowing that the reimbursements were unlawful at the time they
9 were made. He maintains that he relied on statements purportedly made by Sondland regarding
10 the contribution reimbursements.⁹⁶ Wali has provided some corroborating information through
11 Wright who has provided sworn testimony that she was privy to conversations between Wali and
12 Sondland regarding reimbursements for contributions to Senator Thom Tillis.⁹⁷ Wright also
13 claims that Sondland instructed that reimbursement funds for the Tillis contributions should be

⁹³ Cf. *United States v. Hopkins*, 916 F.2d 207, 213 (5th Cir. 1990) (quoting *United States v. Bordelon*, 871 F.2d 491, 494 (5th Cir. 1989)) (addressing the sufficiency of the evidence supporting the defendants' convictions for conspiracy and false statements under 18 U.S.C. §§ 371 and 1001 where defendants participated in a conduit contribution scheme).

⁹⁴ *Hopkins*, 916 F.2d. at 214-15; see also *id.* at 214 (quoting *Ingram v. United States*, 360 U.S. 672, 679 (1959)) ("It has long been recognized that 'efforts at concealment [may] be reasonably explainable only in terms of motivation to evade' lawful obligations.").

⁹⁵ See F&LA at 3, MUR 7027 (MV Transportation, Inc., *et al.*) (finding that the violation was willful and knowing where the reimbursements were coded as bonuses that were hidden from the company's board); F&LA at 9, MUR 6465 (The Fiesta Bowl, Inc.) (finding that the violation was willful and knowing where key witnesses were purposefully excluded from an internal investigation into reimbursement practices); F&LA at 9, MUR 6234 (Cenac) (finding that the violation was willful and knowing where cashier's checks were used to hide identity of contributor).

⁹⁶ Wali Decl. ¶¶ 5-9.

⁹⁷ Wright Decl. ¶¶ 5-6.

1 taken from Provenance funds rather than another entity whose funds were being managed by
2 Provenance.⁹⁸ Finally, the spreadsheets maintained by Wright to track the reimbursements were
3 maintained as ordinary business records, suggesting that Wali did not seek to conceal the
4 reimbursements from the rest of the company.

5 However, there is information that also undercuts Wali's contention that he did not
6 conceal the scheme and that he relied on Sondland's direction. First, Wali failed to notify the
7 Board of the contribution reimbursements via bonuses, and resisted the idea of hiring a CFO who
8 would report directly to the Board.⁹⁹ Second, Sondland does not recall having any conversations
9 with Wali, Landry, or Wright where he either suggested that Provenance reimburse Wali for
10 contributions or intended to convey any such instructions to those individuals.¹⁰⁰ Sondland
11 points to the fact that he made substantial contributions over the years to federal candidates and
12 never sought reimbursement for any of his contributions or ever authorized had Wali or any
13 other employee to be reimbursed for contributions prior to his departure in 2018.¹⁰¹ Indeed, we
14 have identified no documentation indicating that Sondland authorized the reimbursements.
15 Third, although Wright corroborates Wali's claims, she purportedly left Provenance to work for
16 Wali at his new company,¹⁰² which raises some questions as to her objectivity.

⁹⁸ *Id.* ¶ 5.

⁹⁹ Investigation Report at 7.

¹⁰⁰ Sondland Decl. ¶ 12.

¹⁰¹ *Id.* ¶¶ 13-15.

¹⁰² *Id.* ¶ 6.

1 While there is an argument that the Commission could further investigate whether the
2 violations were knowing and willful, it is not clear that this would be best path to take pursuant
3 to the *sua sponte* policy. Even if the facts might support an investigation into whether the
4 violations were knowing and willful, the Commission may nonetheless “[r]efrain from making a
5 formal finding that a violation was knowing and willful” as a matter of policy,¹⁰³ particularly
6 when a *sua sponte* respondent has cooperated extensively, brought substantial information to the
7 attention of the Commission, and voluntarily incorporated remedial and compliance measures.¹⁰⁴

8 Here, we do not recommend the Commission make knowing and willful reason-to-
9 believe findings as to the respondents because there is no information that contradicts Wali’s
10 assertion that he did not know the reimbursements were unlawful.¹⁰⁵ Moreover, the factual
11 record is mixed as to whether Sondland made statements to Wali and in the presence of Wright
12 that could have led Wali to believe that he was entitled to seek the contribution reimbursements,
13 and whether Wali sought to conceal the reimbursements from the Board. Further, in contrast to
14 previous *sua sponte* matters where the Commission found reason to believe that respondents
15 acted knowingly and willfully or approved an investigation to determine respondents’

¹⁰³ *Policy Regarding Self-Reporting of Campaign Finance Violations*, 72 Fed. Reg. 16695, 16,696 (Apr. 5, 2007) (“*Sua Sponte Policy*”).

¹⁰⁴ *See* F&LA at 9, MUR 7878 (Crystal Run Healthcare) (declining to make knowing and willful findings where there was voluntary disclosure of the violations, cooperation in completing the *sua sponte* submission with a significant and complete documentary record, and implementation of the necessary remedial and compliance measures); F&LA at 13-14, MUR 6889 (Nat’l Air Transp. Ass’n) (declining to make a knowing and willful finding for corporation and PAC where respondents made full *sua sponte* submission, cooperated extensively, brought substantial information to the attention of the Commission and voluntarily incorporated significant remedial and compliance measures).

¹⁰⁵ *See* F&LA at 10, MUR 7949 (Crown Products, *et al.*) (declining to make knowing and willful findings where the individual respondents claim to have had no knowledge beforehand that contribution reimbursements were unlawful and there was no attempt to conceal the reimbursements).

1 knowledge,¹⁰⁶ there is no evidence directly challenging Wali's assertion that he did not know it
2 was illegal to receive the contribution reimbursements.

3 **D. The Commission Should Take No Action And Close the File As**
4 **to Conduits Eileen Wali and Leslie Lew**

5
6 The Commission does not typically pursue lower-level employees or spouses who serve
7 as conduits and who did not play a significant role in carrying out the reimbursement scheme.¹⁰⁷
8 Eileen Wali, in her sworn declaration, states that she made the contributions because her husband
9 requested that she do so, but she had no direct knowledge that the contributions would be
10 reimbursed or that it was unlawful to do so.¹⁰⁸ In addition, there is no information to indicate
11 that Mrs. Wali suggested the reimbursements or otherwise participated in the creation of
12 perpetuation of the reimbursements. Therefore, we recommend that the Commission take no
13 action and close the file as to Eileen Wali.

14 Further, it appears that it was Wali's idea to use a portion of the reimbursement funds to
15 reimburse Lew, his subordinate, for the \$5,000 contribution.¹⁰⁹ Although Lew occupied an

¹⁰⁶ See, e.g., F&LA at 12, MUR 7221 (Mepco) (declining to make a knowing and willful findings for LLC and authorization of an investigation where conduits were instructed to destroy emails reflecting reimbursements); F&LA at 8-10, MUR 6889 (Byer) (knowing and willful findings for corporate officer who played an integral role in the reimbursement scheme for eleven years and continued the reimbursements after employees and another corporate officers raised concerns about the legality of the scheme).

¹⁰⁷ In past matters, the Commission has typically declined to pursue individual conduits who did not play some significant role in carrying out the conduit scheme. In more recent matters, it has done so by declining to take action against such individuals at the RTB stage. See Certification ("Cert.") (Oct. 21, 2014), MUR 6889 (Nat'l Air Transp. Ass'n) (taking no action against the conduits who were reimbursed by corporate funds for contributions to SSF); Cert. (Aug. 6, 2012), MUR 6623 (William A. Bennett) (dismissing matter as to "lower-level conduit employees" who did not actively participate in the reimbursement scheme); Cert. (Dec. 13, 2011), MUR 6465 (The Fiesta Bowl, *et al.*) (taking no action against the "subordinate employees" and "employee spouses" who were not actively involved in the scheme and were acting under the direction of corporate officers).

¹⁰⁸ Eileen Wali Decl. ¶¶ 5-6.

¹⁰⁹ Submission at 1; Lew Decl. ¶5.

1 executive role in the company as Vice-President of Revenue, he was still subordinate to Wali
2 who appeared to be solely responsible for reimbursing Lew with Provenance funds. Lew
3 indicates that he had no knowledge of the reimbursement of contributions. Thus, we recommend
4 the Commission take no action and close the file as to Lew since the information does not
5 indicate that he suggested the reimbursement or otherwise participated in the creation of
6 perpetuation of the reimbursement scheme. Further, we recommend that the Commission issue
7 an admonishment letter based on his position as an executive officer.¹¹⁰

8 **E. Recipient Committees**

9 We have identified no information indicating that the recipient committees accepted the
10 contributions knowing that they were prohibited, especially given that the reimbursements
11 occurred 13 months after the contributions were first made. Therefore, we make no
12 recommendations as to the recipient committees other than requiring Provenance to notify the
13 relevant committees that they must disgorge the reimbursed contributions.

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¹¹⁰ The Commission has approved an admonishment for a company executive under similar circumstances. *See, e.g.*, Amended Cert. (Dec. 16, 2021), MUR 7949 (Crown Products, *et al.*) (Commission took no action as to corporate officer Shane for the reimbursement of his contributions since his superior instructed him to seek the reimbursements but approved an admonishment).

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7 **V. RECOMMENDATIONS**

- 8 1. Open a Matter Under Review;
- 9 2. Find reason to believe that Aspen Lodging Group LLC d/b/a Provenance Hotels
10 violated 52 U.S.C. §§ 30122 and 30116(a)(1)(A), (a)(1)(C); and 11 C.F.R.
11 § 110.4(b)(1)(i) by making excessive reimbursed contributions in the name of
12 another;
- 13
- 14 3. Find reason to believe that Bashar Wali violated 52 U.S.C. § 30122 and
15 11 C.F.R. § 110.4(b)(1)(ii) by making reimbursed contributions in the name of
16 another and by permitting his name to be used to effect the making of
17 contributions in the name of another;
- 18

- 1 4. Take no action and close the file as to Eileen Wali;
- 2
- 3 5. Take no action and close the file as to Leslie Lew;
- 4
- 5 6. Issue an admonishment letter for Leslie Lew;
- 6
- 7 7. Approve pre-probable cause conciliation with Aspen Lodging Group LLC d/b/a
- 8 Provenance Hotels and Bashar Wali;
- 9
- 10 8. Approve the attached Factual and Legal Analyses;
- 11
- 12 9. Approve the attached Conciliation Agreements; and
- 13
- 14 10. Approve the appropriate letters.
- 15
- 16

Lisa Stevenson
Acting General Counsel

Charles Kitcher
Associate General Counsel for
Enforcement

25 Sept. 30, 2022
26 _____
27 Date

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