

FEDERAL ELECTION COMMISSION
FIRST GENERAL COUNSEL'S REPORT

MUR 7678
 COMPLAINT DATE: January 13, 2020
 NOTIFICATION DATES: January 15, 2020
 June 29, 2020
 December 3, 2020
 LAST RESPONSE RECEIVED: February 26, 2020
 ACTIVATION DATE: March 23, 2021
 [REDACTED]
 EXPIRATION OF SOL: March 10, 2024
 ELECTION CYCLE: 2020

COMPLAINANT: John H. Eaves

RESPONDENTS: Keisha Carter
 John Eaves for Congress and John H. Eaves in his
 official capacity as treasurer

**RELEVANT STATUTES
 AND REGULATIONS:**

52 U.S.C. § 30102 (b), (c), and (h)
 52 U.S.C. § 30104(b)
 52 U.S.C. § 30114(b)(1)
 11 C.F.R. § 104.3
 11 C.F.R. § 104.14(d)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. INTRODUCTION

John H. Eaves, a 2020 candidate for Georgia's 7th Congressional district, alleges that Keisha Carter, the former Finance Director and former treasurer of his campaign committee, John Eaves for Congress (the "Committee"), set up and used a separate, unauthorized, and undisclosed bank account for Committee receipts and disbursements resulting in various violations of the Act, including reporting and recordkeeping violations and potentially commingling and personal use through embezzlement.¹

¹ Eaves lost in the Georgia Democratic Primary Election on June 9, 2020.

1 Based on available information, we recommend that the Commission find reason to
2 believe that Keisha Carter, in her personal capacity, knowingly and willfully violated 52 U.S.C.
3 §§ 30102(c) and (h) and 30104(b) by failing to keep accurate records and file accurate reports of
4 receipts and disbursements on behalf of the Committee. We further recommend that the
5 Commission take no action at this time as to the allegations that Carter violated 52 U.S.C.
6 §§ 30102(b) and 30114(b)(1) by converting Committee funds to personal use and by
7 commingling personal and Committee funds. We also recommend that the Commission find
8 reason to believe that John Eaves for Congress and John H. Eaves in his official capacity as
9 treasurer² violated 52 U.S.C. §§ 30102(c) and (h) and 30104(b) by failing to keep accurate
10 records and file accurate reports of receipts and disbursements.³ We also propose a limited
11 investigation to obtain more information regarding the accounting and use of Committee funds.

12 **II. FACTUAL BACKGROUND**

13 This Complaint was filed by then-Georgia Congressional candidate John Eaves alleging
14 the misappropriation of funds from his authorized campaign committee by its then-treasurer,
15 Keisha Carter.⁴

² Carter was the named treasurer at the time of the alleged misappropriation of funds. *See* John Eaves for Congress, Statement of Organization (Mar. 8, 2019). The Committee then named the candidate, Eaves, as treasurer. We are recommending findings as to Eaves only in his official capacity as treasurer. *See* John Eaves for Congress, Amended Statement of Organization (Nov. 19, 2019).

³ This Office contacted Eaves and gave him the opportunity to convert his complaint to a *sua sponte* submission and take advantage of the Commission's policy regarding the self-submission of potential violations. *Commission's Policy Regarding Self-Reporting of Campaign Finance Violations (Sua Sponte Submissions)*, 72 Fed. Reg. 16,695 (Apr. 5, 2007). Eaves chose to continue this matter as a Complaint, and therefore Eaves was notified that he and the Committee were Respondents in this matter. *See* Notification Letter (June 29, 2020); Notification Letter (Dec. 3, 2020). Neither Eaves nor the Committee responded to the notification.

⁴ Compl. at 1 (Jan. 13, 2020). Carter's company, Public Service Partners, is registered with the state of Georgia as an LLC. Off. Ga. Sec'y State, Corps. Div., *Public Service Partners, Limited Co.*, BUSINESS SEARCH, <https://ecorp.sos.ga.gov/BusinessSearch/BusinessInformation?businessId=2545846&businessType=DomesticLimitedLiabilityCompany&fromSearch=True> (last visited July 8, 2021). At the time, Carter was operating as Razor Solutions, which was administratively dissolved on August 29, 2019, for its failure to file reports and pay fees. Off. Ga. Sec'y State, Corps. Div., *Razor Solutions Group LLC*, BUSINESS SEARCH, <https://ecorp.sos.ga.gov/BusinessSearch/BusinessInformation?businessId=1820178&businessType=Domestic%20Limited%20Liability%20Company&fromSearch=True> (last visited July 8, 2021).

1 Eaves states that the Committee hired Carter as its Finance Director and treasurer in
2 March 2019, and that on March 10, 2019, Eaves and Carter went together to Wells Fargo Bank
3 to open the Committee's bank account.⁵ The Wells Fargo account was disclosed on the
4 Committee's Statement of Organization as the campaign depository.⁶ Eaves alleges that Carter,
5 unbeknownst to him, also opened and maintained a separate bank account at Ameris Bank, and
6 used that account, instead of the Committee's Wells Fargo account, to deposit Committee
7 receipts.⁷ Eaves states that he did not have access to the Ameris Bank account.⁸ The Complaint
8 alleges that Carter held another unnamed candidate's funds in that account, along with the
9 Committee's funds, and further alleges that Carter may have used funds from the account for her
10 personal use.⁹ Finally, the Complaint alleges that Carter purposely filed false disclosure reports
11 with the Commission.¹⁰ Eaves states that the Committee terminated its relationship with Carter
12 on November 30, 2019, when Eaves maintains he learned of improprieties committed by
13 Carter.¹¹ Eaves declares that although Carter previously transferred funds between the Ameris
14 Bank account and the Committee's official Wells Fargo account, she has not returned the

⁵ Compl. at 1 (Jan. 13, 2020). *See also* KEISHA CARTER BROWN, <http://www.keishacarterbrown.com/> (last visited July 8, 2021). Carter advertises as a "national fundraising, campaigning, public relations, communications, political strategy & public affairs expert" and on her website states that she has worked on over 70 political campaigns and with 20 non-profit organizations. Carter is also named as treasurer for three other House committees, two in Georgia and one in Tennessee. *See FEC Registered Committees: Filtered Results*, FEC.GOV, https://www.fec.gov/data/committees/?treasurer_name=keisha+Carter (last visited July 8, 2021) (reflecting results for treasurers named "Keisha Carter").

⁶ John Eaves for Congress, Statement of Organization at 4, (Mar. 8, 2019).

⁷ Compl. at 1.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* Eaves offers no details on the purported inaccuracies in the Committee's reporting.

¹¹ *Id.*

1 remainder of the funds in that account to the Committee, and therefore still holds Committee
2 funds.¹²

3 The Complaint also includes part of a report from the Atlanta Police Department
4 summarizing Eaves's allegations and noting that Eaves learned of the additional bank account
5 when he noticed that certain contributions were not deposited into the Committee's bank
6 account.¹³ The police report noted that Eaves also reported that he received calls from unpaid
7 and late-paid Committee vendors, which caused Eaves to contact Carter. It was then, according
8 to Eaves's statement to the police, that he learned that Carter was depositing funds into and
9 making disbursements from the separate bank account.¹⁴ Although the police report mentions
10 that Eaves presented a string of emails between Eaves and Carter, as well as the bank statements
11 for the Wells Fargo account, Eaves did not include those emails or bank statements with the
12 Complaint.¹⁵ In his Complaint to the Commission, Eaves maintains that he asked for an
13 accounting from the Ameris Bank account and provides a letter from the Committee's counsel
14 that demands additional information regarding the account, a return of the remainder of the
15 Committee's funds, and an accounting of financial activity from that account.¹⁶

16 Throughout 2020 and 2021, Eaves was in contact with the Reports Analysis Division
17 concerning his failure to file several of his Committee's reports for the period after he became
18 the Committee's treasurer. During those conversations, Eaves discussed Carter's alleged

¹² *Id.*

¹³ Compl., Attach. 1 at 1.

¹⁴ *Id.* at 2.

¹⁵ *Id.* We have not located a record of criminal charges filed against Carter as a result of Eaves's report to the Atlanta Police Department. The police report noted that the detective planned to contact the Commission for further information as to whether Carter violated any law, but we have not been able to locate a record of any contacts.

¹⁶ Compl., Attach. 2 (Letter from counsel for the Committee dated December 23, 2019).

1 embezzlement, and his difficulties rectifying the accounts. The Committee ultimately filed or
2 amended many of its reports in May 2021 but has not amended the reports that were filed while
3 Carter was treasurer. The Committee's most recent report discloses a negative cash-on-hand
4 balance and contains a statement that "The committee will correct the ending bank balance
5 [s]hortly. This Amendment correct[s] incorrect year to date numbers."¹⁷

6 In her response to the Complaint, Carter acknowledges that she and Eaves jointly
7 established the Committee's bank account at Wells Fargo.¹⁸ She states that she understood that
8 debit cards and access information for the account would be sent both to Eaves and to herself.¹⁹
9 However, she maintains that Eaves returned to the bank, changed the account signatories, debit
10 card pins, and mailing address and despite her requests, did not provide information necessary
11 for her to access the account.²⁰ Carter then states that Eaves "forgot" all login information for
12 the Wells Fargo account, so she needed to open another account to which she had access in order
13 to deposit Committee funds and make disbursements on behalf of the Committee.²¹

14 Although Carter does not indicate when Eaves became aware of the second bank account,
15 she states that he did not voice concern about the account "between March 2019 and November
16 2019."²² Further, Carter states that Eaves received reimbursements from the second account and
17 knew of payments for campaign expenses made from that account but did not object at that time
18 or question her use of that account.²³ Carter avers that at no time were Committee funds

¹⁷ John Eaves for Congress, Amended 2021 April Quarterly Report at 5 (May 7, 2021).

¹⁸ Resp. at 1 (Feb. 26, 2020).

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.* at 2.

1 commingled with the funds from any other local, state, or federal committee's funds.²⁴ Carter
2 also maintains that Eaves approved all reports filed with the Commission.²⁵ Finally, Carter
3 states that in November 2019, Eaves stated that he wanted to name another person as Committee
4 treasurer, but when she recommended that the new treasurer take online Commission webinars
5 before being granted access to Committee accounts, Eaves sent an email terminating her
6 services.²⁶ Carter asserts that she sent an invoice for her services that totaled more than the
7 Committee's cash on hand, and that Eaves's complaint is retaliatory and an effort to harm her
8 reputation.²⁷ Finally, Carter declares that she has received no communications from Eaves or
9 from counsel for the Committee regarding this matter, and did not know of the allegations until
10 she received the notification of the complaint from the Commission.²⁸

11 **III. LEGAL ANALYSIS**

12 **A. Legal Overview**

13 The Federal Election Campaign Act of 1971, as amended (the "Act"), requires a
14 committee, through its treasurer, to keep an accurate account of receipts, disbursements, and
15 cash-on-hand balances.²⁹ Committees, through their treasurers, are then required to use these
16 records to file accurate reports with the Commission.³⁰

17 The Act requires that each political committee shall designate its depository institution.³¹

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.* See John Eaves for Congress, Amended Statement of Organization (Nov. 11, 2019).

²⁷ *Id.*

²⁸ *Id.* But see Compl., Attach 2 (Letter from counsel for the Committee dated December 23, 2019).

²⁹ 52 U.S.C. §§ 30102(c), 30104(b); 11 C.F.R. §§ 104.3, 104.14(d).

³⁰ 52 U.S.C. § 30104(b)(1), (2), (4)(G), (4)(H)(v), (5), (6)(A), (6)(B)(v).

³¹ *Id.* § 30102(h).

1 Each political committee shall maintain at least one checking account and such other accounts as
2 the committee determines necessary at a depository designated by such committee, and all
3 receipts received by such committee shall be deposited in such accounts.³² No disbursements
4 may be made by the committee except by check drawn on this account.³³ The Act further
5 requires that a political committee's funds "shall be segregated from, and may not be
6 commingled with, the personal funds of any individual,"³⁴ and prohibits individuals from
7 converting contributions to a political committee for personal use.³⁵

8 A violation of the Act is knowing and willful when the "acts were committed with full
9 knowledge of all the relevant facts and a recognition that the action is prohibited by law."³⁶ This
10 does not require proving knowledge of the specific statute or regulation the respondent allegedly
11 violated.³⁷ Rather, it is sufficient to demonstrate that a respondent "acted voluntarily and was
12 aware that his conduct was unlawful."³⁸ This awareness may be shown through circumstantial
13 evidence from which the respondent's unlawful intent reasonably may be inferred.³⁹ For

³² *Id.*

³³ *Id.*

³⁴ *Id.* § 30102(b)(3).

³⁵ *Id.* § 30114(b)(1). A contribution or donation shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of federal office. *Id.* § 30114(b)(2).

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

³⁷ *United States v. Danielczyk*, 917 F. Supp. 2d 573, 578 (E.D. Va. Jan. 9, 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)).

³⁸ *Id.* (citing jury instructions in *United States v. Edwards*, No. 11-61 (M.D.N.C. 2012), *United States v. Acevedo Vila*, No. 08-36 (D.P.R. 2009), *United States v. Fieger*, No. 07-20414 (E.D. Mich. 2008), and *United States v. Alford*, No. 05-69 (N.D. Fla. 2005)).

³⁹ *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)). *Hopkins* involved a conduit contributions scheme, and the issue before the Fifth

1 example, a person's awareness that an action is prohibited may be inferred from "the [person's]
 2 elaborate scheme for disguising...political contributions."⁴⁰ In prior matters, the Commission
 3 has considered experience with federal political fundraising as indicative of knowledge of the
 4 Act's prohibitions and limitations when making knowing and willful findings.⁴¹

5 **B. The Commission Should Find that Keisha Carter, in Her Personal Capacity,**
 6 **Knowingly and Willfully Violated the Recordkeeping and Reporting**
 7 **Requirements of the Act**

8 Under the Commission's *Statement of Policy Regarding Treasurers Subject to*
 9 *Enforcement Proceedings*, the Commission will pursue "allegations that involve a past or present
 10 treasurer's violation of obligations that the Act or regulations impose specifically on
 11 treasurers."⁴² Further, the Commission may name a treasurer in his or her personal capacity
 12 when the available information supports a reasonable inference that "the treasurer had
 13 knowledge that his or her conduct violated a duty imposed by law, or where the treasurer
 14 recklessly failed to fulfill his or her duties under the [A]ct and regulations, or intentionally
 15 deprived himself or herself of facts giving rise to the violations."⁴³

16 In this matter, Carter admits that she opened an account at a bank other than the
 17 Committee's named depository and did not disclose that account to the Commission, in violation

Circuit concerned the sufficiency of the evidence supporting the defendants' convictions for conspiracy and false statements under 18 U.S.C. §§ 371 and 1001.

⁴⁰ *Id.* at 214-15. As the *Hopkins* court noted, "It has long been recognized that 'efforts at concealment [may] be reasonably explainable only in terms of motivation to evade' lawful obligations." *Id.* at 214 (quoting *Ingram v. United States*, 360 U.S. 672, 679 (1959)).

⁴¹ Factual and Legal Analysis ("F&LA") at 9, MUR 7027 (MV Transportation, Inc.) (noting that respondent had "significant experience with federal political fundraising and made federal contributions, which strongly suggests that he was aware of the Act's basic prohibitions and limitations").

⁴² Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings, 70 Fed. Reg. 3, 5 n.7 (Jan. 3, 2005).

⁴³ *Id.* at 5; see also Factual & Legal Analysis at 2-3, MUR 6768 (Debra Doherty) ("[A] former treasurer may be named as a respondent in his or her personal capacity when it appears that the treasurer may have violated obligations imposed by the Act or Commission regulations and where the violation was knowing and willful."); F&LA at 13, MUR 6597 (Kinde Durkee) (stating similar); F&LA at 3, MUR 6539 (Joe Green) (stating similar).

1 of 52 U.S.C. § 30102(h)(1).⁴⁴ Carter also admits that she used that account to accept receipts
2 and make disbursements on behalf of the Committee, suggesting that contributions received and
3 placed into the Ameris account were not ultimately forwarded to the Committee's Wells Fargo
4 account.⁴⁵

5 Prior Commission action also supports finding reason to believe that Carter violated the
6 Act's recordkeeping requirements in her individual capacity.⁴⁶ In MUR 6761 (Barfield), the
7 Commission found that a campaign manager who had embezzled funds and falsified records to
8 conceal his embezzlement violated Section 30102(c) by preventing accurate recordkeeping.⁴⁷ As
9 in MUR 6761, Carter's actions prevented accurate recordkeeping because the Committee lacks
10 access to bank records and other materials to verify financial activity. After a prolonged period
11 of not filing disclosure reports following Carter's termination, the Committee is now filing and
12 amending reports, but has also noted that further amendments will be necessary to correct the
13 disclosed bank balances, indicating that the Committee continues to lack a full accounting and
14 that ongoing discrepancies exist.⁴⁸ As such, available information suggests that contributions
15 deposited in the separate "holding" account were not known to the Committee and not included
16 in its disclosure reports.

⁴⁴ 52 U.S.C. § 30102(h)(1); 11 C.F.R. § 103.3.

⁴⁵ Resp. at 2 ("Mr. Eaves received multiple re-imbursments, checks written to consultants and his friends of the campaign for services and signed by me without question or issue.").

⁴⁶ See 52 U.S.C. § 30102(c).

⁴⁷ See, e.g., F&LA at 9, MUR 6761 (Barfield).

⁴⁸ The Committee failed to file its 2019 Year-End and 2020 July Quarterly, October Quarterly and Year-End disclosure reports. The Commission's Reports Analysis Division sent Requests for Additional Information ("RFAI") regarding these reports. There are currently four Administrative Fines matters pending concerning these failures to file disclosure reports. See AF-3773, AF 3888, AF 3984, and AF 4154. Although the Committee has begun to file reports and amend reports that it filed shortly after Carter's termination, it continues to note that further amendments may be needed. See, e.g., John Eaves for Congress, Amended 2021 April Quarterly Report at 5 (May 7, 2021). The Committee has not yet amended reports that were filed during the time that Carter was treasurer, and it is not known at this time whether those reports will require amendments.

1 Carter's response similarly indicates a violation of § 30104(b) as the failure to keep
2 accurate records resulted in filing inaccurate reports with the Commission. As noted, the
3 Committee did not file reports for a prolonged period and when it eventually began to file reports
4 again, has had to note that its reports will still need correction.⁴⁹ In addition, Carter indicates
5 that the Committee owes her for services rendered, but the Committee reports no such debt,
6 indicating that there could be many different omitted transactions. Rather than address her
7 efforts to ensure that the filings were accurate, Carter claims that Eaves was notified of draft and
8 final filings for his approval and did not request amendments.⁵⁰ Carter also contends that Eaves
9 was unfamiliar with campaign finance regulations and the record indicates that accounting data
10 for at least one account used for Committee activity was not provided to Eaves. Accordingly,
11 Carter's statements that she relied on the approval of an inexperienced candidate who only had
12 partial access to the Committee's finances as her basis for determining the filings' accuracy
13 suggests that the filings were inaccurate.

14 Carter's explanations for her activity are conflicting and support a knowing and willful
15 finding. Her assertion that she had to open a second account because Eaves forgot the login
16 information and PIN for the Committee's official account lacks credibility and does not excuse
17 Carter from her obligations under the Act, nor does it explain why the second account was at a
18 different bank. Certainly, that information could have been retrieved from the bank, or from the
19 candidate. This explanation also appears to be inconsistent with the one that she provided Eaves.
20 In the Atlanta police report attached to the Complaint, Eaves claims that Carter told him that she
21 establishes "holding" accounts frequently.⁵¹

⁴⁹ See *supra* n.17 and accompanying text.

⁵⁰ See *id.*

⁵¹ Compl., Attach. 1 at 1.

1 Carter further admits that when she was asked by the candidate to provide access to the
2 Ameris account that was ostensibly the Committee's account, she refused to provide access until
3 the new treasurer (Eaves) participated in FEC Webinars.⁵² This is not a sound or credible basis
4 for a terminated treasurer to retain and withhold access to a Committee account. Carter also
5 claims that she has not received communications from Eaves or counsel for the Committee.
6 Carter's claim that she was unaware that the Committee was seeking access to the Ameris
7 account is inconsistent with her prior admission that she knew that Eaves was seeking access to
8 the account, but that she did not consider him sufficiently familiar with campaign finance
9 regulations to allow him access.⁵³ These activities, combined with Carter's conflicting
10 explanations, are all suggestive of an effort to conceal transactions that were made with the
11 Ameris account. Eaves's allegations gain further credibility since in addition to filing a sworn
12 complaint, he made similar allegations to the Atlanta police and hired a lawyer to pursue Evans.
13 Finally, Carter's experience with other political campaigns and prior fundraising experience
14 suggests she is aware of her legal obligations and willfully failed to perform those obligations
15 and further support our recommendation that the Commission find reason to believe that Carter's
16 violations were knowing and willful.⁵⁴ Accordingly, we recommend that the Commission find
17 reason to believe that Carter knowingly and willfully violated 52 U.S.C. §§ 30102(c) and (h) and
18 30104(b) by failing to keep accurate records and file accurate reports of receipts and
19 disbursements on behalf of the Committee.

20 The Complaint also alleges that Carter commingled Committee funds with personal funds

⁵² Resp. at 2.

⁵³ *See id.*

⁵⁴ *See supra* n. 5 and accompanying text (noting that Carter claims to have worked on over 70 campaigns and is currently the treasurer for four other committees registered with the Commission).

1 or the funds of another candidate, and possibly converted Committee funds for personal use.
2 However, without additional details concerning the Ameris bank transactions, admissions from
3 Carter concerning how the funds in the Ameris account were used, or statements from Eaves
4 concerning his basis for claiming that Carter commingled and potentially embezzled Committee
5 funds, we do not have sufficient information to make recommendations as to these allegations.⁵⁵
6 An investigation would yield additional information to allow the Commission to determine
7 whether there are additional violations associated with Carter's use of an unreported campaign
8 account.

9 **C. There is a Basis for the Commission to Find Reason to Believe that the**
10 **Committee Violated the Act's Recordkeeping, Reporting, and Depository**
11 **Requirements**

12 Carter's actions were undertaken on behalf of the Committee in connection with her work
13 as treasurer, resulting in the Committee's failure to comply with the Act's recordkeeping,
14 reporting, and depository requirements. The Commission has consistently concluded that a
15 committee can be held liable for failure to comply with the Act based on actions undertaken by
16 its former treasurer or other fiduciary.⁵⁶

⁵⁵ See F&LA at 3, MUR 6768 (Debra Doherty) (finding reason to believe that the treasurer knowingly and willfully commingled committee funds with personal funds based on evidence that she wrote herself checks so that she could afford her home mortgage and health insurance payments); F&LA at 2-3, MUR 5872 (Jane Hague for Congress) (making a knowing and willful reason-to-believe finding because the Respondent wrote checks to herself from the Committee, which was enough to conclude that she "likely... commingled some, if not all, of the embezzled funds"); F&LA at 3, MUR 5811 (Dogett for US Congress) (finding reason to believe that the respondent knowingly and willfully commingled funds based on evidence that the respondent wrote herself checks); F&LA at 3-4, MUR 6980 (Samuel K. Pate, Jr.) (finding that a treasurer had knowingly and willfully commingled funds based on information that he used a "ghost" account to write himself checks).

⁵⁶ See, e.g., F&LA, MUR 7126 (Michigan Democratic State Central Committee) (holding state party committee liable for various recordkeeping and reporting violations based on the conduct of the treasurer); F&LA, MUR 6922 (ACA/ACPAC) (finding trade association and separate segregated fund liable for actions of individual who was both a corporate officer and Assistant Treasurer of PAC); Certification ("Cert."), RR 16L-06 (Rohrabacher for Congress, *et al.*) (Feb. 3, 2017) (referring committee to the Alternative Dispute Resolution Office where reporting failures were due to treasurer's embezzlement); F&LA, MUR 5923 (American Dream PAC, *et al.*) (finding reason to believe committee violated the Act due to erroneous records kept by treasurer embezzling committee funds).

1 When determining the extent of a committee's liability for reporting violations related to
2 the misappropriation of a committee's funds, the Commission stated that it would not seek a
3 monetary penalty against a committee if the committee had certain minimal internal controls in
4 place at the time of the embezzlement and took certain steps after discovering the
5 embezzlement.⁵⁷ Although this matter does not necessarily involve the embezzlement of funds,
6 Carter's actions in establishing an undisclosed account, apparently without the knowledge of the
7 Committee, could raise questions as to whether the Committee would meet the factors for safe
8 harbor available to Committees that are the subject of embezzlement. As such, the factors
9 considered in cases involving embezzlement matters can provide useful guidance.⁵⁸

⁵⁷ Statement of Policy: Safe Harbor for Misreporting Due to Embezzlement, 72 Fed. Reg. 16,695, 16,695 (Apr. 5, 2007). The controls recommended in the policy statement are: (1) opening all bank accounts in the name of the committee using its Employer Identification Number; (2) monthly bank statements are reviewed for unauthorized transactions and reconciled by someone other than the individual with check signing authority or who has responsibility for the committee's accounting; (3) dual-signing authority for checks over \$1,000; (4) procedures for handling incoming receipts by someone other than the individuals with accounting or banking authority; and (5) safeguards for managing a petty cash account. After the discovery of embezzlement, the policy statement also requires the committee to notify law enforcement and the Commission, and file amended Commission reports to correct any inaccuracies. If the committee follows some, but not all, of these practices, or has other comparable safeguards, the Commission will consider those measures as mitigating factors when determining the committee's monetary liability. *Id.* See also FEC Audit Div., *Internal Controls and Political Committees*, FEC.gov, https://www.fec.gov/resources/cms-content/documents/internal_controls_polcmtes_07_EO13892.pdf (last visited July 8, 2021); F&LA at 20, MUR 6922; F&LA at 4, MUR 5923; F&LA at 4, MUR 5920 (Women's Campaign Fund).

⁵⁸ Recently, the Commission decided to take no action at this time as to a Committee whose former treasurer and campaign manager, failed to maintain an official depository account and instead created multiple other personal accounts. See Cert. ¶2, MUR 7901 (Adam Kokesh Referendum Project) (Apr. 21, 2021) [REDACTED]. In that matter, the Committee filed a Form 99, which listed specific evidence concerning violations, and involved a new treasurer who hired auditors to identify financial discrepancies and strengthened internal controls to align its practices with the Commission's "safe harbor" financial controls. See FGCR at 5-7, MUR 7901 [REDACTED]. Here, although Eaves and the Committee have made attempts to alert law enforcement to the possibility of fraud, the Committee has filed reports erratically and has not responded to the Complaint or provided complete information.

Similarly, because of the lack of a fully developed factual record, this matter differs from other matters where the Committee was referred to the Alternative Dispute Resolution Office ("ADRO"). In those other matters, the record has been more developed than the information presently available, either from admissions by the former treasurer or the results of another law enforcement agency's investigation. Compare First Gen. Counsel's Rpt. ("First GCR") at 14 & Cert. (Feb. 3, 2017), RR 16L-06 (Rohrbacher for Congress) (noting the existence of a plea agreement and that a law enforcement investigation had already occurred but recommending a reason to believe finding) and First GCR at 3-4, 9 & Cert. (Oct. 27, 2015), RRs 15L-03, 15L-12 & 15L-16 (McConnell Senate Committee) (describing the findings of a federal indictment and plea agreement and recommending the Committee be referred to ADRO in order to develop better internal controls) with F&LA at 4, MUR 5920 (finding reason to believe that a Committee failed to keep accurate cash-on-hand balances and failed to disclose transactions resulting from embezzlement on its quarterly reports). Although the Complaint was filed by the candidate and the

1 The available information regarding the Committee's financial activity is too limited to
2 determine what financial controls, if any, the Committee had in place. For example, we have no
3 information regarding the Committee's process for handling contributions or disbursements.
4 Accordingly, we do not know whether controls would have prevented the financial
5 inconsistencies at issue. We also have limited information regarding the extent of the
6 Committee's reporting violations. The Complaint, filed by the candidate who is also the
7 Committee's current treasurer, alleges violations of the reporting provisions of the Act, but
8 provides no specific details. As a result, we recommend that the Commission find reason to
9 believe that John Eaves for Congress and John H. Eaves in his official capacity as treasurer
10 violated 52 U.S.C. §§ 30102(c) and (h) and 30104(b) by failing to keep accurate records and file
11 accurate reports of receipts and disbursements.

12 **IV. PROPOSED INVESTIGATION**

13 We propose an investigation for this matter that focuses on the financial activities of the
14 Committee. Specifically, we plan to investigate the creation and use of both the Wells Fargo
15 account and the separate Ameris bank account opened by Carter to determine how the accounts
16 were used. We will also investigate the recordkeeping and reporting of the Committee's receipts
17 and disbursements to determine if transactions are accurately disclosed in reports to the
18 Commission. We will also seek information concerning the Committee's efforts to implement
19 internal controls and avail itself of the Commission's "safe harbor" policies. Finally, we will
20 determine whether the report to the Atlanta Police Department resulted in additional information

Committee's current treasurer, the Complainant has provided incomplete information in connection with the allegations, and the Committee has not responded to its notification. It is not clear whether the Committee would be cooperative were it to be referred to ADRO. The Office of General Counsel has recently recommended referral to ADRO in a matter where there appears to be a lack of internal controls but the factual record in that matter is substantially complete and the Committee has been forthcoming in providing information. *See* First GCR at 10, RR 20L-11 [REDACTED]

1 or further action. This investigation would likely also provide sufficient information to
2 determine whether funds were commingled and whether disbursements made from either
3 account were made for Carter's personal use, and we would make additional recommendations
4 should it appear that funds were commingled or converted to personal use. We recommend that
5 the Commission authorize the use of compulsory process in the event it becomes necessary to
6 compel any parties to comply with the investigation.

7 **V. RECOMMENDATIONS**

- 8 1. Find reason to believe that Keisha Carter knowingly and willfully violated 52 U.S.C.
9 §§ 30102(c) and (h) and 30104(b) by failing to keep accurate records and file accurate
10 reports of receipts and disbursements;
- 11 2. Find reason to believe that John Eaves for Congress and John H. Eaves in his official
12 capacity as treasurer violated 52 U.S.C. §§ 30102(c) and (h) and 30104(b) by failing
13 to keep accurate records and file accurate reports of receipts and disbursements;
- 14 3. Take no action at this time as to whether Keisha Carter knowingly and willfully
15 violated 52 U.S.C. §§ 30102(b) and (c) and 30114(b)(1) by commingling personal
16 and Committee funds, and converting Committee funds to personal use;
- 17 4. Approve the attached Factual and Legal Analyses;
- 18 5. Authorize the use of compulsory process; and

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Keisha Carter

MUR 7678

I. INTRODUCTION

John H. Eaves, a 2020 candidate for Georgia's 7th Congressional district, alleges that Keisha Carter, the former Finance Director and former treasurer of his campaign committee, John Eaves for Congress (the "Committee"), set up and used a separate, unauthorized, and undisclosed bank account for Committee receipts and disbursements resulting in various violations of the Act, including reporting and recordkeeping violations and potentially commingling and personal use through embezzlement.¹

Based on available information, the Commission finds reason to believe that Keisha Carter, in her personal capacity, knowingly and willfully violated 52 U.S.C. §§ 30102(c) and (h) and 30104(b) by failing to keep accurate records and file accurate reports of receipts and disbursements on behalf of the Committee.

II. FACTUAL BACKGROUND

This Complaint was filed by then-Georgia Congressional candidate John Eaves alleging the misappropriation of funds from his authorized campaign committee by its then-treasurer, Keisha Carter.²

¹ Eaves lost in the Georgia Democratic Primary Election on June 9, 2020.

² Compl. at 1 (Jan. 13, 2020). Carter's company, Public Service Partners, is registered with the state of Georgia as an LLC. Off. Ga. Sec'y State, Corps. Div., *Public Service Partners, Limited Co.*, BUSINESS SEARCH, <https://ecorp.sos.ga.gov/BusinessSearch/BusinessInformation?businessId=2545846&businessType=DomesticLimitedLiabilityCompany&fromSearch=True> (last visited July 8, 2021). At the time, Carter was operating as Razor Solutions, which was administratively dissolved on August 29, 2019, for its failure to file reports and pay fees. Off. Ga. Sec'y State, Corps. Div., *Razor Solutions Group LLC*, BUSINESS SEARCH, <https://ecorp.sos.ga.gov/BusinessSearch/BusinessInformation?businessId=1820178&businessType=Domestic%20Limited%20Liability%20Company&fromSearch=True> (last visited July 8, 2021).

1 Eaves states that the Committee hired Carter as its Finance Director and treasurer in
2 March 2019, and that on March 10, 2019, Eaves and Carter went together to Wells Fargo Bank
3 to open the Committee’s bank account.³ The Wells Fargo account was disclosed on the
4 Committee’s Statement of Organization as the campaign depository.⁴ Eaves alleges that Carter,
5 unbeknownst to him, also opened and maintained a separate bank account at Ameris Bank, and
6 used that account, instead of the Committee’s Wells Fargo account, to deposit Committee
7 receipts.⁵ Eaves states that he did not have access to the Ameris Bank account.⁶ The Complaint
8 alleges that Carter held another unnamed candidate’s funds in that account, along with the
9 Committee’s funds, and further alleges that Carter may have used funds from the account for her
10 personal use.⁷ Finally, the Complaint alleges that Carter purposely filed false disclosure reports
11 with the Commission.⁸ Eaves states that the Committee terminated its relationship with Carter
12 on November 30, 2019, when Eaves maintains he learned of improprieties committed by Carter.⁹
13 Eaves declares that although Carter previously transferred funds between the Ameris Bank

³ Compl. at 1 (Jan. 13, 2020). *See also* KEISHA CARTER BROWN, <http://www.keishacarterbrown.com/> (last visited July 8, 2021). Carter advertises as a “national fundraising, campaigning, public relations, communications, political strategy & public affairs expert” and on her website states that she has worked on over 70 political campaigns and with 20 non-profit organizations. Carter is also named as treasurer for three other House committees, two in Georgia and one in Tennessee. *See FEC Registered Committees: Filtered Results*, FEC.GOV, https://www.fec.gov/data/committees/?treasurer_name=keisha+Carter (last visited July 8, 2021) (reflecting results for treasurers named “Keisha Carter”).

⁴ John Eaves for Congress, Statement of Organization at 4, (Mar. 8, 2019).

⁵ Compl. at 1.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* Eaves offers no details on the purported inaccuracies in the Committee’s reporting.

⁹ *Id.*

1 account and the Committee's official Wells Fargo account, she has not returned the remainder of
2 the funds in that account to the Committee, and therefore still holds Committee funds.¹⁰

3 The Complaint also includes part of a report from the Atlanta Police Department
4 summarizing Eaves's allegations and noting that Eaves learned of the additional bank account
5 when he noticed that certain contributions were not deposited into the Committee's bank
6 account.¹¹ The police report noted that Eaves also reported that he received calls from unpaid
7 and late-paid Committee vendors, which caused Eaves to contact Carter. It was then, according
8 to Eaves's statement to the police, that he learned that Carter was depositing funds into and
9 making disbursements from the separate bank account.¹² Although the police report mentions
10 that Eaves presented a string of emails between Eaves and Carter, as well as the bank statements
11 for the Wells Fargo account, Eaves did not include those emails or bank statements with the
12 Complaint.¹³ In his Complaint to the Commission, Eaves maintains that he asked for an
13 accounting from the Ameris Bank account and provides a letter from the Committee's counsel
14 that demands additional information regarding the account, a return of the remainder of the
15 Committee's funds, and an accounting of financial activity from that account.¹⁴

16 The Committee ultimately filed or amended many of its reports in May 2021 but has not
17 amended the reports that were filed while Carter was treasurer. The Committee's most recent

¹⁰ *Id.*

¹¹ Compl., Attach. 1 at 1.

¹² *Id.* at 2.

¹³ *Id.* We have not located a record of criminal charges filed against Carter as a result of Eaves's report to the Atlanta Police Department. The police report noted that the detective planned to contact the Commission for further information as to whether Carter violated any law, but we have not been able to locate a record of any contacts.

¹⁴ Compl., Attach. 2 (Letter from counsel for the Committee dated December 23, 2019).

1 report discloses a negative cash-on-hand balance and contains a statement that “The committee
2 will correct the ending bank balance [s]hortly. This Amendment correct[s] incorrect year to date
3 numbers.”¹⁵

4 In her response to the Complaint, Carter acknowledges that she and Eaves jointly
5 established the Committee’s bank account at Wells Fargo.¹⁶ She states that she understood that
6 debit cards and access information for the account would be sent both to Eaves and to herself.¹⁷
7 However, she maintains that Eaves returned to the bank, changed the account signatories, debit
8 card pins, and mailing address and despite her requests, did not provide information necessary
9 for her to access the account.¹⁸ Carter then states that Eaves “forgot” all login information for
10 the Wells Fargo account, so she needed to open another account to which she had access in order
11 to deposit Committee funds and make disbursements on behalf of the Committee.¹⁹

12 Although Carter does not indicate when Eaves became aware of the second bank account,
13 she states that he did not voice concern about the account “between March 2019 and
14 November 2019.”²⁰ Further, Carter states that Eaves received reimbursements from the second
15 account and knew of payments for campaign expenses made from that account but did not object
16 at that time or question her use of that account.²¹ Carter avers that at no time were Committee

¹⁵ John Eaves for Congress, Amended 2021 April Quarterly Report at 5 (May 7, 2021).

¹⁶ Resp. at 1 (Feb. 26, 2020).

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.* at 2.

1 funds commingled with the funds from any other local, state, or federal committee’s funds.²²
2 Carter also maintains that Eaves approved all reports filed with the Commission.²³ Finally,
3 Carter states that in November 2019, Eaves stated that he wanted to name another person as
4 Committee treasurer, but when she recommended that the new treasurer take online Commission
5 webinars before being granted access to Committee accounts, Eaves sent an email terminating
6 her services.²⁴ Carter asserts that she sent an invoice for her services that totaled more than the
7 Committee’s cash on hand, and that Eaves’s complaint is retaliatory and an effort to harm her
8 reputation.²⁵ Finally, Carter declares that she has received no communications from Eaves or
9 from counsel for the Committee regarding this matter, and did not know of the allegations until
10 she received the notification of the complaint from the Commission.²⁶

11 **III. LEGAL ANALYSIS**

12 **A. Legal Overview**

13 The Federal Election Campaign Act of 1971, as amended (the “Act”), requires a
14 committee, through its treasurer, to keep an accurate account of receipts, disbursements, and
15 cash-on-hand balances.²⁷ Committees, through their treasurers, are then required to use these
16 records to file accurate reports with the Commission.²⁸

22 *Id.*

23 *Id.*

24 *Id.* See John Eaves for Congress, Amended Statement of Organization (Nov. 11, 2019).

25 *Id.*

26 *Id.* But see Compl., Attach 2 (Letter from counsel for the Committee dated December 23, 2019).

27 52 U.S.C. §§ 30102(c), 30104(b); 11 C.F.R. §§ 104.3, 104.14(d).

28 52 U.S.C. § 30104(b)(1), (2), (4)(G), (4)(H)(v), (5), (6)(A), (6)(B)(v).

1 The Act requires that each political committee shall designate its depository institution.²⁹
2 Each political committee shall maintain at least one checking account and such other accounts as
3 the committee determines necessary at a depository designated by such committee, and all
4 receipts received by such committee shall be deposited in such accounts.³⁰ No disbursements
5 may be made by the committee except by check drawn on this account.³¹ The Act further
6 requires that a political committee's funds "shall be segregated from, and may not be
7 commingled with, the personal funds of any individual,"³² and prohibits individuals from
8 converting contributions to a political committee for personal use.³³

9 A violation of the Act is knowing and willful when the "acts were committed with full
10 knowledge of all the relevant facts and a recognition that the action is prohibited by law."³⁴ This
11 does not require proving knowledge of the specific statute or regulation the respondent allegedly
12 violated.³⁵ Rather, it is sufficient to demonstrate that a respondent "acted voluntarily and was
13 aware that his conduct was unlawful."³⁶ This awareness may be shown through circumstantial

²⁹ *Id.* § 30102(h).

³⁰ *Id.*

³¹ *Id.*

³² *Id.* § 30102(b)(3).

³³ *Id.* § 30114(b)(1). A contribution or donation shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of federal office. *Id.* § 30114(b)(2).

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

³⁵ *United States v. Danielczyk*, 917 F. Supp. 2d 573, 578 (E.D. Va. Jan. 9, 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)).

³⁶ *Id.* (citing jury instructions in *United States v. Edwards*, No. 11-61 (M.D.N.C. 2012), *United States v. Acevedo Vila*, No. 08-36 (D.P.R. 2009), *United States v. Fieger*, No. 07-20414 (E.D. Mich. 2008), and *United States v. Alford*, No. 05-69 (N.D. Fla. 2005)).

1 evidence from which the respondent’s unlawful intent reasonably may be inferred.³⁷ For
 2 example, a person’s awareness that an action is prohibited may be inferred from “the [person’s]
 3 elaborate scheme for disguising...political contributions.”³⁸ In prior matters, the Commission
 4 has considered experience with federal political fundraising as indicative of knowledge of the
 5 Act’s prohibitions and limitations when making knowing and willful findings.³⁹

6 **B. The Commission Finds that Keisha Carter, in Her Personal Capacity,**
 7 **Knowingly and Willfully Violated the Recordkeeping and Reporting**
 8 **Requirements of the Act**
 9

10 Under the Commission’s *Statement of Policy Regarding Treasurers Subject to*
 11 *Enforcement Proceedings*, the Commission will pursue “allegations that involve a past or present
 12 treasurer’s violation of obligations that the Act or regulations impose specifically on
 13 treasurers.”⁴⁰ Further, the Commission may name a treasurer in his or her personal capacity
 14 when the available information supports a reasonable inference that “the treasurer had
 15 knowledge that his or her conduct violated a duty imposed by law, or where the treasurer
 16 recklessly failed to fulfill his or her duties under the [A]ct and regulations, or intentionally
 17 deprived himself or herself of facts giving rise to the violations.”⁴¹

³⁷ 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)). *Hopkins* involved a conduit contributions scheme, and the issue before the Fifth Circuit concerned the sufficiency of the evidence supporting the defendants’ convictions for conspiracy and false statements under 18 U.S.C. §§ 371 and 1001.

³⁸ *Id.* at 214-15. As the *Hopkins* court noted, “It has long been recognized that ‘efforts at concealment [may] be reasonably explainable only in terms of motivation to evade’ lawful obligations.” *Id.* at 214 (quoting *Ingram v. United States*, 360 U.S. 672, 679 (1959)).

³⁹ Factual and Legal Analysis (“F&LA”) at 9, MUR 7027 (MV Transportation, Inc.) (noting that respondent had “significant experience with federal political fundraising and made federal contributions, which strongly suggests that he was aware of the Act’s basic prohibitions and limitations”).

⁴⁰ Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings, 70 Fed. Reg. 3, 5 n.7 (Jan. 3, 2005).

⁴¹ *Id.* at 5; see also F&LA at 2-3, MUR 6768 (Debra Doherty) (“[A] former treasurer may be named as a respondent in his or her personal capacity when it appears that the treasurer may have violated obligations imposed

1 In this matter, Carter admits that she opened an account at a bank other than the
2 Committee’s named depository and did not disclose that account to the Commission, in violation
3 of 52 U.S.C. § 30102(h)(1).⁴² Carter also admits that she used that account to accept receipts
4 and make disbursements on behalf of the Committee, suggesting that contributions received and
5 placed into the Ameris account were not ultimately forwarded to the Committee’s Wells Fargo
6 account.⁴³

7 Prior Commission action also supports finding reason to believe that Carter violated the
8 Act’s recordkeeping requirements in her individual capacity.⁴⁴ In MUR 6761 (Barfield), the
9 Commission found that a campaign manager who had embezzled funds and falsified records to
10 conceal his embezzlement violated Section 30102(c) by preventing accurate recordkeeping.⁴⁵ As
11 in MUR 6761, Carter’s actions prevented accurate recordkeeping because the Committee lacks
12 access to bank records and other materials to verify financial activity. After a prolonged period
13 of not filing disclosure reports following Carter’s termination, the Committee is now filing and
14 amending reports, but has also noted that further amendments will be necessary to correct the
15 disclosed bank balances, indicating that the Committee continues to lack a full accounting and
16 that ongoing discrepancies exist.⁴⁶ As such, available information suggests that contributions

by the Act or Commission regulations and where the violation was knowing and willful.”); F&LA at 13, MUR 6597 (Kinde Durkee) (stating similar); F&LA at 3, MUR 6539 (Joe Green) (stating similar).

⁴² 52 U.S.C. § 30102(h)(1); 11 C.F.R. § 103.3.

⁴³ Resp. at 2 (“Mr. Eaves received multiple re-imburements, checks written to consultants and his friends of the campaign for services and signed by me without question or issue.”).

⁴⁴ See 52 U.S.C. § 30102(c).

⁴⁵ See, e.g., F&LA at 9, MUR 6761 (Barfield).

⁴⁶ The Committee failed to file its 2019 Year-End and 2020 July Quarterly, October Quarterly and Year-End disclosure reports. The Commission’s Reports Analysis Division sent Requests for Additional Information (“RFAI”) regarding these reports. Although the Committee has begun to file reports and amend reports that it filed shortly after Carter’s termination, it continues to note that further amendments may be needed. See, e.g., John Eaves

1 deposited in the separate “holding” account were not known to the Committee and not included
2 in its disclosure reports.

3 Carter’s response similarly indicates a violation of § 30104(b) as the failure to keep
4 accurate records resulted in filing inaccurate reports with the Commission. As noted, the
5 Committee did not file reports for a prolonged period and when it eventually began to file reports
6 again, has had to note that its reports will still need correction.⁴⁷ In addition, Carter indicates
7 that the Committee owes her for services rendered, but the Committee reports no such debt,
8 indicating that there could be many different omitted transactions. Rather than address her
9 efforts to ensure that the filings were accurate, Carter claims that Eaves was notified of draft and
10 final filings for his approval and did not request amendments.⁴⁸ Carter also contends that Eaves
11 was unfamiliar with campaign finance regulations and the record indicates that accounting data
12 for at least one account used for Committee activity was not provided to Eaves. Accordingly,
13 Carter’s statements that she relied on the approval of an inexperienced candidate who only had
14 partial access to the Committee’s finances as her basis for determining the filings’ accuracy
15 suggests that the filings were inaccurate.

16 Carter’s explanations for her activity are conflicting and support a knowing and willful
17 finding. Her assertion that she had to open a second account because Eaves forgot the login
18 information and PIN for the Committee’s official account lacks credibility and does not excuse
19 Carter from her obligations under the Act, nor does it explain why the second account was at a

for Congress, Amended 2021 April Quarterly Report at 5 (May 7, 2021). The Committee has not yet amended reports that were filed during the time that Carter was treasurer, and it is not known at this time whether those reports will require amendments.

⁴⁷ John Eaves for Congress, Amended 2021 April Quarterly Report at 5 (May 7, 2021).

⁴⁸ *See id.*

1 different bank. Certainly, that information could have been retrieved from the bank, or from the
2 candidate. This explanation also appears to be inconsistent with the one that she provided Eaves.
3 In the Atlanta police report attached to the Complaint, Eaves claims that Carter told him that she
4 establishes “holding” accounts frequently.⁴⁹

5 Carter further admits that when she was asked by the candidate to provide access to the
6 Ameris account that was ostensibly the Committee’s account, she refused to provide access until
7 the new treasurer (Eaves) participated in FEC Webinars.⁵⁰ This is not a sound or credible basis
8 for a terminated treasurer to retain and withhold access to a Committee account. Carter also
9 claims that she has not received communications from Eaves or counsel for the Committee.
10 Carter’s claim that she was unaware that the Committee was seeking access to the Ameris
11 account is inconsistent with her prior admission that she knew that Eaves was seeking access to
12 the account, but that she did not consider him sufficiently familiar with campaign finance
13 regulations to allow him access.⁵¹ These activities, combined with Carter’s conflicting
14 explanations, are all suggestive of an effort to conceal transactions that were made with the
15 Ameris account. Eaves’s allegations gain further credibility since in addition to filing a sworn
16 complaint, he made similar allegations to the Atlanta police and hired a lawyer to pursue Evans.
17 Finally, Carter’s experience with other political campaigns and prior fundraising experience
18 suggests she is aware of her legal obligations and willfully failed to perform those obligations
19 and further supports the Commission finding reason to believe that Carter’s violations were

⁴⁹ Compl., Attach. 1 at 1.

⁵⁰ Resp. at 2.

⁵¹ *See id.*

1 knowing and willful.⁵² Accordingly, the Commission finds reason to believe that Carter
2 knowingly and willfully violated 52 U.S.C. §§ 30102(c) and (h) and 30104(b) by failing to keep
3 accurate records and file accurate reports of receipts and disbursements on behalf of the
4 Committee.

⁵² *See supra* n. 3 and accompanying text (noting that Carter claims to have worked on over 70 campaigns and is currently the treasurer for four other committees registered with the Commission).

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FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: John Eaves for Congress and John H. Eaves MUR 7678
in his official capacity as treasurer

I. INTRODUCTION

John H. Eaves, a 2020 candidate for Georgia's 7th Congressional district, alleges that Keisha Carter, the former Finance Director and former treasurer of his campaign committee, John Eaves for Congress (the "Committee"), set up and used a separate, unauthorized, and undisclosed bank account for Committee receipts and disbursements resulting in various violations of the Act, including reporting and recordkeeping violations and potentially commingling and personal use through embezzlement.¹

Based on available information, the Commission finds reason to believe that John Eaves for Congress and John H. Eaves in his official capacity as treasurer² violated 52 U.S.C. §§ 30102(c) and (h) and 30104(b) by failing to keep accurate records and file accurate reports of receipts and disbursements.³

¹ Eaves lost in the Georgia Democratic Primary Election on June 9, 2020.

² Carter was the named treasurer at the time of the alleged misappropriation of funds. *See* John Eaves for Congress, Statement of Organization (Mar. 8, 2019). The Committee then named the candidate, Eaves, as treasurer. We are making findings as to Eaves only in his official capacity as treasurer. *See* John Eaves for Congress, Amended Statement of Organization (Nov. 19, 2019).

³ The Office of General Counsel contacted Eaves and gave him the opportunity to convert his complaint to a *sua sponte* submission and take advantage of the Commission's policy regarding the self-submission of potential violations. *Commission's Policy Regarding Self-Reporting of Campaign Finance Violations (Sua Sponte Submissions)*, 72 Fed. Reg. 16,695 (Apr. 5, 2007). Eaves chose to continue this matter as a Complaint, and therefore Eaves was notified that he and the Committee were Respondents in this matter. *See* Notification Letter (June 29, 2020); Notification Letter (Dec. 3, 2020). Neither Eaves nor the Committee responded to the notification.

1 II. FACTUAL BACKGROUND

2 This Complaint was filed by then-Georgia Congressional candidate John Eaves alleging
3 the misappropriation of funds from his authorized campaign committee by its then-treasurer,
4 Keisha Carter.⁴

5 Eaves states that the Committee hired Carter as its Finance Director and treasurer in
6 March 2019, and that on March 10, 2019, Eaves and Carter went together to Wells Fargo Bank
7 to open the Committee's bank account.⁵ The Wells Fargo account was disclosed on the
8 Committee's Statement of Organization as the campaign depository.⁶ Eaves alleges that Carter,
9 unbeknownst to him, also opened and maintained a separate bank account at Ameris Bank, and
10 used that account, instead of the Committee's Wells Fargo account, to deposit Committee
11 receipts.⁷ Eaves states that he did not have access to the Ameris Bank account.⁸ The Complaint
12 alleges that Carter held another unnamed candidate's funds in that account, along with the
13 Committee's funds, and further alleges that Carter may have used funds from the account for her

⁴ Compl. at 1 (Jan. 13, 2020). Carter's company, Public Service Partners, is registered with the state of Georgia as an LLC. Off. Ga. Sec'y State, Corps. Div., *Public Service Partners, Limited Co.*, BUSINESS SEARCH, <https://ecorp.sos.ga.gov/BusinessSearch/BusinessInformation?businessId=2545846&businessType=DomesticLimitedLiabilityCompany&fromSearch=True> (last visited July 8, 2021). At the time, Carter was operating as Razor Solutions, which was administratively dissolved on August 29, 2019, for its failure to file reports and pay fees. Off. Ga. Sec'y State, Corps. Div., *Razor Solutions Group LLC*, BUSINESS SEARCH, <https://ecorp.sos.ga.gov/BusinessSearch/BusinessInformation?businessId=1820178&businessType=Domestic%20Limited%20Liability%20Company&fromSearch=True> (last visited July 8, 2021).

⁵ Compl. at 1 (Jan. 13, 2020). See also KEISHA CARTER BROWN, <http://www.keishacarterbrown.com/> (last visited July 8, 2021). Carter advertises as a "national fundraising, campaigning, public relations, communications, political strategy & public affairs expert" and on her website states that she has worked on over 70 political campaigns and with 20 non-profit organizations. Carter is also named as treasurer for three other House committees, two in Georgia and one in Tennessee. See *FEC Registered Committees: Filtered Results*, FEC.GOV, https://www.fec.gov/data/committees/?treasurer_name=keisha+Carter (last visited July 8, 2021) (reflecting results for treasurers named "Keisha Carter").

⁶ John Eaves for Congress, Statement of Organization at 4, (Mar. 8, 2019).

⁷ Compl. at 1.

⁸ *Id.*

1 personal use.⁹ Finally, the Complaint alleges that Carter purposely filed false disclosure reports
2 with the Commission.¹⁰ Eaves states that the Committee terminated its relationship with Carter
3 on November 30, 2019, when Eaves maintains he learned of improprieties committed by
4 Carter.¹¹ Eaves declares that although Carter previously transferred funds between the Ameris
5 Bank account and the Committee's official Wells Fargo account, she has not returned the
6 remainder of the funds in that account to the Committee, and therefore still holds Committee
7 funds.¹²

8 The Complaint also includes part of a report from the Atlanta Police Department
9 summarizing Eaves's allegations and noting that Eaves learned of the additional bank account
10 when he noticed that certain contributions were not deposited into the Committee's bank
11 account.¹³ The police report noted that Eaves also reported that he received calls from unpaid
12 and late-paid Committee vendors, which caused Eaves to contact Carter. It was then, according
13 to Eaves's statement to the police, that he learned that Carter was depositing funds into and
14 making disbursements from the separate bank account.¹⁴ Although the police report mentions
15 that Eaves presented a string of emails between Eaves and Carter, as well as the bank statements
16 for the Wells Fargo account, Eaves did not include those emails or bank statements with the

⁹ *Id.*

¹⁰ *Id.* Eaves offers no details on the purported inaccuracies in the Committee's reporting.

¹¹ *Id.*

¹² *Id.*

¹³ Compl., Attach. 1 at 1.

¹⁴ *Id.* at 2.

1 Complaint.¹⁵ In his Complaint to the Commission, Eaves maintains that he asked for an
2 accounting from the Ameris Bank account and provides a letter from the Committee’s counsel
3 that demands additional information regarding the account, a return of the remainder of the
4 Committee’s funds, and an accounting of financial activity from that account.¹⁶

5 Throughout 2020 and 2021, Eaves was in contact with the Reports Analysis Division
6 concerning his failure to file several of his Committee’s reports for the period after he became
7 the Committee’s treasurer. During those conversations, Eaves discussed Carter’s alleged
8 embezzlement, and his difficulties rectifying the accounts. The Committee ultimately filed or
9 amended many of its reports in May 2021 but has not amended the reports that were filed while
10 Carter was treasurer. The Committee’s most recent report discloses a negative cash-on-hand
11 balance and contains a statement that “The committee will correct the ending bank balance
12 [s]hortly. This Amendment correct[s] incorrect year to date numbers.”¹⁷

13 III. LEGAL ANALYSIS

14 A. Legal Overview

15 The Federal Election Campaign Act of 1971, as amended (the “Act”), requires a
16 committee, through its treasurer, to keep an accurate account of receipts, disbursements, and
17 cash-on-hand balances.¹⁸ Committees, through their treasurers, are then required to use these

¹⁵ *Id.* We have not located a record of criminal charges filed against Carter as a result of Eaves’s report to the Atlanta Police Department. The police report noted that the detective planned to contact the Commission for further information as to whether Carter violated any law, but we have not been able to locate a record of any contacts.

¹⁶ Compl., Attach. 2 (Letter from counsel for the Committee dated December 23, 2019).

¹⁷ John Eaves for Congress, Amended 2021 April Quarterly Report at 5 (May 7, 2021).

¹⁸ 52 U.S.C. §§ 30102(c), 30104(b); 11 C.F.R. §§ 104.3, 104.14(d).

1 records to file accurate reports with the Commission.¹⁹

2 The Act requires that each political committee shall designate its depository institution.²⁰

3 Each political committee shall maintain at least one checking account and such other accounts as

4 the committee determines necessary at a depository designated by such committee, and all

5 receipts received by such committee shall be deposited in such accounts.²¹ No disbursements

6 may be made by the committee except by check drawn on this account.²² The Act further

7 requires that a political committee's funds "shall be segregated from, and may not be

8 commingled with, the personal funds of any individual,"²³ and prohibits individuals from

9 converting contributions to a political committee for personal use.²⁴

10 **B. The Commission Finds Reason to Believe that the Committee Violated the**
11 **Act's Recordkeeping, Reporting, and Depository Requirements**

12 Information available to the Commission indicates that Carter admits that she opened an
13 account at a bank other than the Committee's named depository and did not disclose that account
14 to the Commission, in violation of 52 U.S.C. § 30102(h)(1).²⁵ Similarly, information available
15 to the Commission also indicates that Carter admits that she used that account to accept receipts
16 and make disbursements on behalf of the Committee, suggesting that contributions received and
17

¹⁹ 52 U.S.C. § 30104(b)(1), (2), (4)(G), (4)(H)(v), (5), (6)(A), (6)(B)(v).

²⁰ *Id.* § 30102(h).

²¹ *Id.*

²² *Id.*

²³ *Id.* § 30102(b)(3).

²⁴ *Id.* § 30114(b)(1). A contribution or donation shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of federal office.
Id. § 30114(b)(2).

²⁵ 52 U.S.C. § 30102(h)(1); 11 C.F.R. § 103.3.

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1 placed into the Ameris account were not ultimately forwarded to the Committee’s Wells Fargo
2 account. Carter’s actions were undertaken on behalf of the Committee in connection with her
3 work as treasurer, resulting in the Committee’s failure to comply with the Act’s recordkeeping,
4 reporting, and depository requirements. The Commission has consistently concluded that a
5 committee can be held liable for failure to comply with the Act based on actions undertaken by
6 its former treasurer or other fiduciary.²⁶

7 Carter’s actions prevented accurate recordkeeping because the Committee lacks access to
8 bank records and other materials to verify financial activity. After a prolonged period of not
9 filing disclosure reports following Carter’s termination, the Committee is now filing and
10 amending reports, but has also noted that further amendments will be necessary to correct the
11 disclosed bank balances, indicating that the Committee continues to lack a full accounting and
12 that ongoing discrepancies exist.²⁷ As such, available information suggests that contributions
13 deposited in the separate “holding” account were not known to the Committee and not included
14 in its disclosure reports.

²⁶ See, e.g., F&LA, MUR 7126 (Michigan Democratic State Central Committee) (holding state party committee liable for various recordkeeping and reporting violations based on the conduct of the treasurer); F&LA, MUR 6922 (ACA/ACPAC) (finding trade association and separate segregated fund liable for actions of individual who was both a corporate officer and Assistant Treasurer of PAC); Certification (“Cert.”), RR 16L-06 (Rohrabacher for Congress, *et al.*) (Feb. 3, 2017) (referring committee to the Alternative Dispute Resolution Office where reporting failures were due to treasurer’s embezzlement); F&LA, MUR 5923 (American Dream PAC, *et al.*) (finding reason to believe committee violated the Act due to erroneous records kept by treasurer embezzling committee funds).

²⁷ The Committee failed to file its 2019 Year-End and 2020 July Quarterly, October Quarterly and Year-End disclosure reports. The Commission’s Reports Analysis Division sent Requests for Additional Information (“RFAI”) regarding these reports. Although the Committee has begun to file reports and amend reports that it filed shortly after Carter’s termination, it continues to note that further amendments may be needed. See, e.g., John Eaves for Congress, Amended 2021 April Quarterly Report at 5 (May 7, 2021). The Committee has not yet amended reports that were filed during the time that Carter was treasurer, and it is not known at this time whether those reports will require amendments.

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1 Therefore, the Commission finds reason to believe that John Eaves for Congress and John
2 H. Eaves in his official capacity as treasurer violated 52 U.S.C. §§ 30102(c) and (h) and
3 30104(b) by failing to keep accurate records and file accurate reports of receipts and
4 disbursements.