

**FEDERAL ELECTION COMMISSION**

Washington, DC 20463

June 6, 2023

**VIA ELECTRONIC MAIL**

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RE: MUR 7975  
McConnell Senate Committee, *et al.*

Dear Counsel:

The Federal Election Commission (the “Commission”) previously notified your clients, McConnell Senate Committee and Larry J. Steinberg in his official capacity as treasurer; McConnell Victory Committee and Lisa Lisker in her official capacity as treasurer; Joni For Iowa and Cabell Hobbs in his official capacity as treasurer; Steve Daines for Montana and Lisa Lisker in her official capacity as treasurer; Cotton for Senate, Inc. and Theodore Koch in his official capacity as treasurer; Thom Tillis Committee and Collin McMichael in his official capacity as treasurer; Cindy Hyde-Smith for US Senate and William K. Ozanus in his official capacity as treasurer; Cory Gardner for Senate and Lisa Lisker in her official capacity as treasurer; Senate Georgia Battleground Fund and Les Williamson in his official capacity as treasurer, that it had ascertained information in the normal course of carrying out its supervisory responsibilities indicating that your clients may have violated the Federal Election Campaign Act of 1971, as amended (“the Act”), by reporting inaccurate employer and occupation information for Frank and Lorenzo Fertitta. On May 26, 2022, we received a joint response to this notification on behalf of your clients.

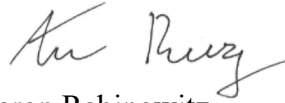
After considering the circumstances of this matter, the Commission, on May 31, 2023, voted to dismiss the allegations that your clients reported inaccurate employer and occupation information, in violation of 52 U.S.C. § 30104(b)(3)(A) and closed the file. A copy of the Factual and Legal Analysis, which more fully explains the basis for the Commission’s decision, is enclosed.

MUR 7975 (Frank Fertitta, III, *et al.*)

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Documents related to the case will be placed on the public record within 30 days. *See Disclosure of Certain Documents in Enforcement and Other Matters*, 81 Fed. Reg. 50,702 (Aug. 2, 2016), effective September 1, 2016. If you have any questions, please contact Kenneth Sealls, the attorney assigned to this matter, at (202) 694-1210 or [ksealls@fec.gov](mailto:ksealls@fec.gov).

Sincerely,

A handwritten signature in cursive script, appearing to read "Aaron Rabinowitz".

Aaron Rabinowitz  
Assistant General Counsel

Enclosure:

Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

2  
3 **FACTUAL AND LEGAL ANALYSIS**

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5  
6 RESPONDENTS: Frank Fertitta, III MUR 7975  
7 Lorenzo Fertitta  
8 Red Rock Resorts, Inc. PAC and Steven S. Lucas in  
9 his official capacity as treasurer  
10 McConnell Senate Committee and Larry J.  
11 Steinberg in his official capacity as treasurer  
12 McConnell Victory Committee and Lisa Lisker in  
13 her official capacity as treasurer  
14 Joni For Iowa and Cabell Hobbs in his official  
15 capacity as treasurer  
16 Steve Daines for Montana and Lisa Lisker in her  
17 official capacity as treasurer  
18 Cotton for Senate, Inc. and Theodore Koch in his  
19 official capacity as treasurer  
20 Thom Tillis Committee and Collin McMichael in  
21 his official capacity as treasurer  
22 Cindy Hyde-Smith for US Senate and William K.  
23 Ozanus in his official capacity as treasurer  
24 Cory Gardner for Senate and Lisa Lisker in her  
25 official capacity as treasurer  
26 Senate Georgia Battleground Fund and Les  
27 Williamson in his official capacity as treasurer  
28 Trump Victory and Bradley T. Crate in his official  
29 capacity as treasurer  
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31  
32 **I. INTRODUCTION**

33 This matter arises from a Complaint alleging that 11 political committees<sup>1</sup> reported  
34 during the 2020 and 2022 election cycles 25 contributions from Frank and Lorenzo Fertitta

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<sup>1</sup> Nine committees are jointly represented and filed a joint Response (McConnell Senate Committee and Larry J. Steinberg in his official capacity as treasurer; McConnell Victory Committee and Lisa Lisker in her official capacity as treasurer; Joni For Iowa and Cabell Hobbs in his official capacity as treasurer; Steve Daines for Montana and Lisa Lisker in her official capacity as treasurer; Cotton for Senate, Inc. and Theodore Koch in his official capacity as treasurer; Thom Tillis Committee and Collin McMichael in his official capacity as treasurer; Cindy Hyde-Smith for US Senate and William K. Ozanus in his official capacity as treasurer; Cory Gardner for Senate and Lisa Lisker in her official capacity as treasurer; Senate Georgia Battleground Fund and Les Williamson in his official capacity as treasurer). Joint Resp. at 1 (May 26, 2022). The other two committees, which submitted separate Responses, are Red Rock Resorts, Inc. PAC and Steven S. Lucas in his official capacity as treasurer, Red

1 totaling \$756,300, in which the two contributors' employer and occupation information was  
2 inaccurate because it was outdated, in violation of the Federal Election Campaign Act of 1971,  
3 as amended (the "Act"). The political committee Respondents deny violating the Act, asserting  
4 that they exercised their best efforts to obtain, maintain, and submit employer and occupation  
5 information for Frank and Lorenzo Fertitta, who they contend are prominent persons who have  
6 not attempted to hide their identities or mislead the public.

7 The Commission: (1) finds no reason to believe that Frank and Lorenzo Fertitta violated  
8 52 U.S.C. § 30104(b)(3)(A) and 11 C.F.R. § 104.3 because they are contributors — not  
9 committees that have duties to file reports; and (2) dismisses as a matter of prosecutorial  
10 discretion under *Heckler v. Chaney*, 470 U.S. 821 (1985) the allegations against the 11 political  
11 committee Respondents who are alleged to have violated reporting requirements, because the  
12 apparently outdated information with respect to Frank and Lorenzo Fertitta represents a small  
13 percentage of the overall number of contributions on the affected reports and accordingly does  
14 not warrant further use of the Commission's resources.

## 15 **II. FACTUAL BACKGROUND**

16 Frank and Lorenzo Fertitta are prolific contributors to many federal political committees.  
17 In 2019, Frank Fertitta made 105 contributions totaling more than \$1.9 million.<sup>2</sup> In 2020, he  
18 made 92 contributions totaling more than \$2.5 million.<sup>3</sup> In 2021, he made 108 contributions

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Rock Resorts Resp. at 1 (Apr. 28, 2022), and Trump Victory and Bradley T. Crate in his official capacity as treasurer, Trump Victory Resp. at 1 (May 31, 2022). Frank and Lorenzo Fertitta did not submit a response.

<sup>2</sup> *FEC Receipts: Filtered Results*, FEC.GOV, [https://www.fec.gov/data/receipts/individual-contributions/?contributor\\_name=frank+fertitta&min\\_date=01%2F01%2F2019&max\\_date=12%2F31%2F2019](https://www.fec.gov/data/receipts/individual-contributions/?contributor_name=frank+fertitta&min_date=01%2F01%2F2019&max_date=12%2F31%2F2019) (last visited Feb. 9, 2023) (reflecting contributions by Frank Fertitta, January 1 through December 31, 2019).

<sup>3</sup> *FEC Receipts: Filtered Results*, FEC.GOV, [https://www.fec.gov/data/receipts/individual-contributions/?contributor\\_name=frank+fertitta&min\\_date=01%2F01%2F2020&max\\_date=12%2F31%2F2020](https://www.fec.gov/data/receipts/individual-contributions/?contributor_name=frank+fertitta&min_date=01%2F01%2F2020&max_date=12%2F31%2F2020) (last visited Feb. 9, 2023) (reflecting contributions by Frank Fertitta, January 1 through December 31, 2020).

1 totaling more than \$673,000,<sup>4</sup> and in 2022, made nine contributions totaling \$601,400.<sup>5</sup> His  
2 brother, Lorenzo Fertitta, in 2019, made 105 contributions totaling more than \$1.8 million;<sup>6</sup> in  
3 2020, made 62 contributions totaling more than \$2.6 million;<sup>7</sup> in 2021, made 148 contributions  
4 totaling more than \$950,000;<sup>8</sup> and in 2022, made nine contributions totaling \$595,600.<sup>9</sup>

5 Frank and Lorenzo Fertitta were co-owners of a casino business—Fertitta Entertainment  
6 LLC — until selling it to Station Casinos LLC (“Station Casinos”) in May 2016, and were co-  
7 owners of Zuffa LLC, doing business as the Ultimate Fighting Championship (“UFC”), a mixed  
8 martial arts promotion company, until selling their interest to talent agency and entertainment  
9 conglomerate WME-IMG in August 2017.<sup>10</sup> Red Rock Resorts, Inc. is a holding company and  
10 the parent corporation to, among more than three dozen subsidiaries, Fertitta Entertainment, and

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<sup>4</sup> *FEC Receipts: Filtered Results*, FEC.GOV, [https://www.fec.gov/data/receipts/individual-contributions/?contributor\\_name=frank+fertitta&min\\_date=01%2F01%2F2021&max\\_date=12%2F31%2F2021](https://www.fec.gov/data/receipts/individual-contributions/?contributor_name=frank+fertitta&min_date=01%2F01%2F2021&max_date=12%2F31%2F2021) (last visited Feb. 9, 2023) (reflecting contributions by Frank Fertitta, January 1 through December 31, 2021).

<sup>5</sup> *FEC Receipts: Filtered Results*, FEC.GOV, [https://www.fec.gov/data/receipts/individual-contributions/?contributor\\_name=frank+fertitta&min\\_date=01%2F01%2F2022&max\\_date=12%2F31%2F2022](https://www.fec.gov/data/receipts/individual-contributions/?contributor_name=frank+fertitta&min_date=01%2F01%2F2022&max_date=12%2F31%2F2022) (last visited Feb. 9, 2023) (reflecting contributions by Frank Fertitta, January 1 through December 31, 2022).

<sup>6</sup> *FEC Receipts: Filtered Results*, FEC.GOV, [https://www.fec.gov/data/receipts/individual-contributions/?contributor\\_name=lorenzo+fertitta&min\\_date=01%2F12%2F2019&max\\_date=12%2F31%2F2019](https://www.fec.gov/data/receipts/individual-contributions/?contributor_name=lorenzo+fertitta&min_date=01%2F12%2F2019&max_date=12%2F31%2F2019) (last visited Feb. 9, 2023) (reflecting contributions by Lorenzo Fertitta, January 1 through December 31, 2019).

<sup>7</sup> *FEC Receipts: Filtered Results*, FEC.GOV, [https://www.fec.gov/data/receipts/individual-contributions/?contributor\\_name=lorenzo+fertitta&min\\_date=01%2F01%2F2020&max\\_date=12%2F31%2F2020](https://www.fec.gov/data/receipts/individual-contributions/?contributor_name=lorenzo+fertitta&min_date=01%2F01%2F2020&max_date=12%2F31%2F2020) (last visited Feb. 9, 2023) (reflecting contributions by Lorenzo Fertitta, January 1 through December 31, 2020).

<sup>8</sup> *FEC Receipts: Filtered Results*, FEC.GOV, [https://www.fec.gov/data/receipts/individual-contributions/?contributor\\_name=lorenzo+fertitta&min\\_date=01%2F01%2F2021&max\\_date=12%2F31%2F2021](https://www.fec.gov/data/receipts/individual-contributions/?contributor_name=lorenzo+fertitta&min_date=01%2F01%2F2021&max_date=12%2F31%2F2021) (last visited Feb. 9, 2023) (reflecting contributions by Lorenzo Fertitta, January 1 through December 31, 2021).

<sup>9</sup> *FEC Receipts: Filtered Results*, FEC.GOV, [https://www.fec.gov/data/receipts/individual-contributions/?contributor\\_name=lorenzo+fertitta&min\\_date=01%2F01%2F2022&max\\_date=12%2F31%2F2022](https://www.fec.gov/data/receipts/individual-contributions/?contributor_name=lorenzo+fertitta&min_date=01%2F01%2F2022&max_date=12%2F31%2F2022) (last visited Feb. 9, 2023) (reflecting contributions by Lorenzo Fertitta, January 1 through December 31, 2022).

<sup>10</sup> See Red Rock Reports Investor Relations, Leadership, <https://redrockresorts.investorroom.com/leadership> (last visited Feb. 9, 2023) (profile of Frank Fertitta under Leadership, noting sale of Fertitta Entertainment and Zuffa LLC); see also Noah Kirsch, *Billionaire Fertitta Brothers Sell Remaining UFC Stakes at \$5 Billion Valuation*, FORBES (Sept. 7, 2017), <https://www.forbes.com/sites/noahkirsch/2017/09/07/exclusive-billionaire-fertitta-brothers-sell-remaining-ufc-stakes-at-5-billion-valuation/?sh=29435d934d69> (reporting Fertitta brothers’ sale of their remaining interest in UFC at \$5 billion valuation).

1 Station Casinos.<sup>11</sup> Red Rock Resorts owns an indirect equity interest in Station Casinos, through  
2 which Red Rock Resorts conducts all of its operations.<sup>12</sup> Frank Fertitta has been Chairman and  
3 CEO of Red Rock Resorts since September 2015.<sup>13</sup> In mid-2016, Lorenzo Fertitta became a  
4 Vice President of Red Rock Resorts.<sup>14</sup> Zuffa and the Ultimate Fighting Championship appear to  
5 no longer have a connection to the Fertittas.

6 The Complaint alleges that the 11 political committee Respondents reported contributions  
7 from Frank and Lorenzo Fertitta with outdated employer and occupation information.<sup>15</sup>  
8 According to the Complaint, seven of the 11 political committees incorrectly disclosed Lorenzo  
9 Fertitta's employer as the UFC and his occupation as Chairman of the Board or CEO, and one  
10 political committee incorrectly disclosed his employer as Fertitta Entertainment LLC and  
11 occupation as Chairman and CEO.<sup>16</sup> Further, according to the Complaint, one of the 11 political  
12 committees incorrectly disclosed Frank Fertitta's employer as Zuffa LLC, the UFC parent  
13 company, and his occupation as CEO or Owner,<sup>17</sup> and 8 of the political committees incorrectly

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<sup>11</sup> See SEC Form 10-k end of FY 2021 filing for Red Rock Resort, Inc. at Ex. 21.1 on pdf page 123, <https://app.quotemedia.com/data/downloadFiling?webmasterId=101533&ref=116494734&type=PDF&symbol=RRR&companyName=Red+Rock+Resorts+Inc.&formType=10-K&dateFiled=2022-02-25&CK=1653653> (listing Fertitta Entertainment and Station Casinos among Red Rock Resorts' subsidiaries).

<sup>12</sup> See SEC Form 10-k end of FY 2021 filing for Red Rock Resorts, Inc., at 3 ("Red Rock Resorts, Inc. . . . is a holding company that owns an indirect equity interest in and manages Station Casinos LLC ('Station LLC'), through which we conduct all of our operations"). <https://app.quotemedia.com/data/downloadFiling?webmasterId=101533&ref=116494734&type=PDF&symbol=RRR&companyName=Red+Rock+Resorts+Inc.&formType=10-K&dateFiled=2022-02-25&CK=1653653>.

<sup>13</sup> See Red Rock Resorts Investor Relations, <https://redrockresorts.investorroom.com/leadership> (providing profile of Frank Fertitta, under Leadership).

<sup>14</sup> See June 22, 2016 Press Release, <https://stockhouse.com/news/press-releases/2016/06/22/ceo-of-zuffa-llc-dba-ufc-has-taken-a-new-job-with-red-rock-resorts-inc> (last visited Jan. 13, 2023) (reporting that Lorenzo Fertitta signed a five-year employment contract with Red Rock Resorts).

<sup>15</sup> Compl. at 1-2 (Apr. 6, 2022).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

1 listed his employer as Fertitta Entertainment LLC and occupation as Chairman and CEO.<sup>18</sup>  
 2 Although the Complaint acknowledges that “[b]y March 2017, Fertitta Entertainment was listed  
 3 as a subsidiary of Red Rocks Resorts, a Fertitta-controlled company that owns and operated  
 4 Station Casinos,”<sup>19</sup> it alleges that the 12 contributions that identify Fertitta Entertainment as the  
 5 employer of Frank and Lorenzo Fertitta are incorrect.<sup>20</sup> The table below identifies the employer  
 6 and occupation information for Frank and Lorenzo Fertitta that are the subject of the Complaint’s  
 7 allegations.<sup>21</sup>

Name	Employer	Occupation	Committee	Receipt Date/Amount
Frank Fertitta	Fertitta Entertainment LLC	Chairman and CEO	Red Rock Resorts	6/18/2019 \$5,000.00
Frank Fertitta	Fertitta Entertainment LLC	Chairman	Joni for Iowa	6/25/2019 \$2,800.00
Frank Fertitta	Fertitta Entertainment LLC	Chairman & CEO	McConnell Senate	6/27/2019 \$2,800.00
Frank Fertitta	Fertitta Entertainment LLC	Chairman & CEO	McConnell Senate	6/27/2019 \$2,800.00
Frank Fertitta	Zuffa LLC	Owner	Cory Gardner for Senate	6/27/2019 \$100.00
Frank Fertitta	Zuffa LLC	Owner	Cory Gardner for Senate	6/27/2019 \$100.00
Frank Fertitta	Fertitta Entertainment LLC	Chairman	Trump Victory	10/2/2019 \$360,600.00
Frank Fertitta	Fertitta Entertainment LLC	Chairman/CEO	McConnell Victory	12/27/2019 \$147,000.00

<sup>18</sup> *Id.* Commission records show that Frank and Lorenzo Fertitta had previously made contributions to seven of the 11 respondent committees, all of whom reported the same employer and occupation information for the Fertitta brothers in 2019 and 2021 as they had in previous reports between 2016 and 2018. *See FEC Receipts: Filtered Results*, FEC.GOV [https://www.fec.gov/data/receipts/individual-contributions/?contributor\\_name=fertitta%2C+frank&contributor\\_name=fertitta%2C+lorenzo](https://www.fec.gov/data/receipts/individual-contributions/?contributor_name=fertitta%2C+frank&contributor_name=fertitta%2C+lorenzo). These seven committee Respondents account for 16 of the 25 alleged improperly-reported contributions in this matter. Compl. at 1-2. The other four recipient committees — McConnell Victory Committee, Joni For Iowa, Cindy Hyde-Smith for US Senate, and Senate Georgia Battleground Fund—were first-time recipients of contributions from the Fertittas and account for nine of the 25 alleged improperly-reported contributions.

<sup>19</sup> Compl. at 2.

<sup>20</sup> *Id.* at 1.

<sup>21</sup> Frank Fertitta’s 13 contributions total \$578,700; Lorenzo Fertitta’s 12 contributions total \$177,600.

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Frank Fertitta	Fertitta Entertainment	Owner	Steve Daines for Montana	8/18/2020 \$2,800.00
Frank Fertitta	Fertitta Entertainment LLC	Chairman	Joni for Iowa	8/24/2020 \$2,800.00
Frank Fertitta	Fertitta Entertainment LLC	Chairman/CEO	Senate Georgia Battleground	11/16/2020 \$41,100.00
Frank Fertitta	Fertitta Entertainment LLC	Chairman and CEO	Red Rock Resorts	10/26/2021 \$5,000.00
Frank Fertitta	Fertitta Entertainment LLC	Chairman & CEO	Cotton for Senate	10/29/2021 \$5,800
Lorenzo Fertitta	Zuffa LLC	Chairman and CEO	Red Rock Resorts	6/18/2019 \$5,000.00
Lorenzo Fertitta	Fertitta Entertainment LLC	Chairman and CEO	Thom Tillis	6/26/2019 \$2,800.00
Lorenzo Fertitta	UFC	CEO	McConnell Senate	6/27/2019 \$2,800.00
Lorenzo Fertitta	UFC	CEO	McConnell Senate	6/27/2019 \$2,800.00
Lorenzo Fertitta	Zuffa LLC	CEO	Cory Gardner for Senate	6/27/2019 \$100.00
Lorenzo Fertitta	Zuffa LLC	CEO	Cory Gardner for Senate	6/27/2019 \$100.00
Lorenzo Fertitta	Ultimate Fighting Championship	CEO	Cindy Hyde-Smith for US Senate	6/30/2019 \$2,800.00
Lorenzo Fertitta	UFC	CEO	McConnell Victory	12/27/2019 \$147,000.00
Lorenzo Fertitta	Zuffa LLC	Owner	Steve Daines for Montana	12/31/2019 \$2,800.00
Lorenzo Fertitta	Zuffa LLC	Owner	Steve Daines for Montana	12/31/2019 \$2,800.00
Lorenzo Fertitta	Ultimate Fighting Championship	CEO	Cindy Hyde-Smith for US Senate	8/28/2020 \$2,800.00
Lorenzo Fertitta	UFC	Chairman of the Board/CEO	Cotton for Senate	10/29/2021 \$5,800.00

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2            Respondent Red Rock Resorts, Inc. PAC (“Red Rock PAC”) denies violating the Act

3 and contends that the “Complaint identifies nothing more than a hyper-technical reporting issue

4 that did not withhold a single iota of information from the public regarding the sources of the

5 Committee’s funds or result in a violation of any provision of FECA or the Commission’s



1 regulations.”<sup>22</sup> It adds: “Given the public stature of the [Fertitta brothers] and their history of  
2 making contributions to the Committee, there could have been no confusion as to the identities of  
3 the donors, and thus no information was withheld from the public.”<sup>23</sup> Red Rock PAC further  
4 asserts that several days after receiving the Complaint, it filed amendments to the committee’s  
5 “2019 Mid-Year Report and 2021 Year-End Report, fully resolving the alleged discrepancy in  
6 the Complaint.”<sup>24</sup>

7         Moreover, Red Rock PAC denies that it used outdated employer or occupation  
8 information, instead contending that Frank Fertitta’s contributions of June 18, 2019, and October  
9 26, 2021, contained current information because Fertitta Entertainment “remains a subsidiary of  
10 Red Rock Resorts, Inc. and . . . [he] has long been publicly associated with Fertitta  
11 Entertainment.”<sup>25</sup> It argues that, in any event, the committee satisfied the best efforts  
12 requirements of “52 U.S.C. § 30102(i) and Section 104 of the regulations . . . by disclosing the  
13 employer and occupation information [the committee] had in its files based on previous  
14 contributor records, fundraising records, and previously filed reports.”<sup>26</sup>

15         Nine committee Respondents contend in their joint Response that they reported “the  
16 employer and occupation information for the two contributors at issue as that information was

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<sup>22</sup> Red Rock PAC Resp. at 6.

<sup>23</sup> *Id.* at 1.

<sup>24</sup> *Id.* at 3. The amendments changed Frank Fertitta’s employer and occupation information from Fertitta Entertainment LLC to Red Rock Resorts, Inc., Chairman and CEO, and for Lorenzo Fertitta from Zuffa LLC to Red Rock Resorts, Inc., Vice President and Vice Chairman of the Board. Form 3X, Amended, Red Rock Resorts, Inc. PAC (Apr. 11, 2022), <https://docquery.fec.gov/pdf/140/202204119496041140/202204119496041140.pdf>; Form 3X Amended, Red Rock Resorts, Inc. PAC (Apr. 11, 2022), <https://docquery.fec.gov/pdf/004/202204119496041004/202204119496041004.pdf>.

<sup>25</sup> Red Rock PAC Resp. at 5 n.11.

<sup>26</sup> *Id.* at 4-5.

1 known to the Committees at the time[,]”<sup>27</sup> and which they had either received from Frank and  
2 Lorenzo Fertitta or drawn from information in the committees’ records and previously filed  
3 reports.<sup>28</sup> They contend that they therefore satisfied the best efforts requirement which does not  
4 “impose any obligation on committees to independently verify the identification information that  
5 donors provide.”<sup>29</sup>

6 In its Response, Trump Victory argues that the committee “satisfied its disclosure  
7 obligations . . . by reporting [Frank Fertitta’s] information known to it.”<sup>30</sup> In that regard, Trump  
8 Victory asserts that it relied on its “existing contributor records in reporting the contribution, as  
9 the contributor had given to the Committee and its participants previously.”<sup>31</sup> Trump Victory  
10 further asserts that it “included appropriate ‘best efforts’ notices on its written solicitations . . .  
11 and ultimately relied on its existing contributor records” in reporting Frank Fertitta’s  
12 contribution.<sup>32</sup> Contending that out of 678 pages of itemized contributions on the committee’s  
13 2019 Year-End Report, there may be only one “stale name-of-employer and occupation  
14 information” contribution, Trump Victory argues for the Commission to find no reason to  
15 believe, or for an Enforcement Priority System (“EPS”) Dismissal.<sup>33</sup>

16 Frank and Lorenzo Fertitta did not respond to the Complaint.

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<sup>27</sup> Joint Resp. at 3.

<sup>28</sup> *Id.* at 3.

<sup>29</sup> *Id.*

<sup>30</sup> Trump Victory Resp. at 2. Trump Victory also cites to a news article, as it contends that the Complaint “apparently aris[es] as part of a local business dispute.” *Id.* at 1.

<sup>31</sup> *Id.* at 1.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.* at 1-2.

### 1 III. LEGAL ANALYSIS

2 The treasurer of a political committee shall accurately report the identification of each  
3 person who makes an aggregate contribution in excess of \$200 within a calendar year (or  
4 election cycle, in the case of an authorized committee) along with the date and amount of any  
5 such contribution.<sup>34</sup> The term “identification,” in the case of an individual, refers to that  
6 person’s name, address, occupation, and employer.”<sup>35</sup>

7 The relevant reporting requirements under the Act and Commission regulations are  
8 intended to ensure public disclosure of “where political campaign money comes from and how it  
9 is spent.”<sup>36</sup> Disclosure requirements also “deter[] and help[] expose violations” of the Act and  
10 Commission regulations.<sup>37</sup>

11 When the treasurer of a political committee shows that best efforts have been used to  
12 obtain, maintain, and submit the information required by the Act for the political committee, any  
13 report of such committee shall be considered in compliance with the Act.<sup>38</sup> With regard to  
14 reporting the identifying information for individuals whose aggregate contributions exceed the  
15 \$200 threshold, the treasurer will only be deemed to have exercised best efforts if:

16 (1) All written solicitations for contributions include a clear request for the contributor’s

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<sup>34</sup> 52 U.S.C. § 30104(b)(3)(A); 11 C.F.R. § 104.3(a)(4)(i).

<sup>35</sup> 52 U.S.C. § 30101(13)(A); 11 C.F.R. § 100.12.

<sup>36</sup> *Buckley v. Valeo*, 424 U.S. 1, 66 (1976); *see also Citizens United v. FEC*, 558 U.S. 310, 369-71 (2010) (describing importance of disclosure requirements to serve informational interest, because “transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages”).

<sup>37</sup> *SpeechNow.org v. FEC*, 599 F.3d 686, 698 (D.C. Cir. 2010) (en banc); *see also Buckley*, 424 U.S. at 67-68 (explaining that disclosure requirements “deter actual corruption and avoid the appearance of corruption by exposing large contributions and expenditures to the light” and that “recordkeeping, reporting, and disclosure requirements are an essential means of gathering the data necessary to detect violations” of the Act); *McConnell v. FEC*, 540 U.S. 93, 196 (2003) (concurring with the stated government interests in disclosure requirements described in *Buckley* — “providing the electorate with information, deterring actual corruption and avoiding any appearance thereof, and gathering the data necessary to enforce” the Act and Commission regulations).

<sup>38</sup> 52 U.S.C. § 30102(i); 11 C.F.R. § 104.7(a).

1 full name, mailing address, occupation and name of employer, and include an accurate  
 2 statement of Federal law regarding the collection and reporting of individual contributor  
 3 identifications;  
 4

5 (2) For each contribution received aggregating in excess of \$200 per calendar year (or  
 6 per election cycle, in the case of an authorized committee) which lacks required  
 7 contributor information . . . the treasurer makes at least one effort after the receipt of the  
 8 contribution to obtain the missing information. Such effort shall consist of either a  
 9 written request sent to the contributor or an oral request to the contributor documented in  
 10 writing . . . made no later than thirty (30) days after receipt of the contribution;  
 11

12 (3) The treasurer reports all contributor information not provided by the contributor, but  
 13 in the political committee's possession . . . ; and  
 14

15 (4) If any of the contributor information is received after the contribution has been  
 16 disclosed on a regularly scheduled report, the political committee shall either . . . [f]ile  
 17 with its next regularly scheduled report, an amended memo Schedule A . . . or [f]ile on or  
 18 before its next regularly scheduled reporting date, amendments to the report(s) originally  
 19 disclosing the contribution(s). . .<sup>39</sup>  
 20

21 The best efforts standard is an affirmative defense; the burden rests with the political  
 22 committee and its treasurer to present evidence sufficient to demonstrate that best efforts were  
 23 exercised to obtain, maintain, and submit the required information.<sup>40</sup>

24 **A. The Commission Finds No Reason to Believe that Frank and Lorenzo**  
 25 **Fertitta Committed Reporting Violations**

26 The Act places reporting requirements on “[e]ach *treasurer* of a political committee,”<sup>41</sup>  
 27 whereas Frank and Lorenzo Fertitta are contributors to the Respondent committees but are not  
 28 their treasurers. Therefore, the Commission finds no reason to believe that they violated 52  
 29 U.S.C. § 30104(b)(3)(A) and 11 C.F.R. § 104.3.

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<sup>39</sup> 11 C.F.R. § 104.7(b)(1)-(4).

<sup>40</sup> Statement of Policy Regarding Treasurers' Best Efforts to Obtain, Maintain, and Submit Information as Required by the Federal Election Campaign Act, 72 Fed. Reg. 31438, 31440 (June 7, 2007).

<sup>41</sup> 52 U.S.C. § 30104(a)(1).

1           **B.       The Commission Dismisses the Allegations as to the 11 Political Committee**  
 2           **Respondents Because the 25 Alleged Outdated Employer and Occupation**  
 3           **Disclosures Represent a Small Percentage of the Overall Number of**  
 4           **Contributions on the Affected Reports**

5           The Commission exercises its prosecutorial discretion and dismisses the allegations here,  
 6 because the apparently outdated information with respect to Frank and Lorenzo Fertitta  
 7 represents a small percentage of the overall number of contributions on the affected reports, *see*  
 8 Table, below, and accordingly does not warrant further use of the Commission’s resources.

9

Committee	Election Cycle	Total Number of Individual Contribution Entries	Number of Frank and Lorenzo Fertitta Contribution Entries
Trump Victory	2020	Year-End 2019 1,959	Year-End 2019 1
Senate Georgia Battleground	2020	Post-General 2020 4,380	Post-General 2020 1
McConnell Senate	2020	July Quarterly 2019 2,300	July Quarterly 2019 4
McConnell Victory	2020	Year-End 2019 14	Year-End 2019 2
Joni for Iowa	2020	July Quarterly 2019 1,319	July Quarterly 2019 1
Joni for Iowa	2020	Oct. Quarterly 2020 37,866	Oct. Quarterly 2020 1
Steve Daines for Montana	2020	Year-End 2019, Amendment 3 1,058	Year-End 2019, Amendment 3 2

Steve Daines for Montana	2020	Oct. Quarterly 2020 33,120	Oct. Quarterly 2020 1
Cotton for Senate	2020	Year-End 2021 2,490	Year-End 2021 2
Thom Tillis Committee	2020	July Quarterly 2019 907	July Quarterly 2019 1
Cindy Hyde-Smith for US Senate	2020	July Quarterly 2019 241	July Quarterly 2019 1
Cindy Hyde-Smith for US Senate	2020	Oct. Quarterly 2019 307	Oct. Quarterly 2019 1
Cory Gardner for Senate	2020	July Quarterly 2019 1,277	July Quarterly 2019 4
Red Rock Resorts	2020	Mid-Year 2019, Amendment 2 123	Mid-Year 2019, Amendment 2 2
Red Rock Resorts	2022	Year-End 2021, Amendment 2 102	Year-End 2021, Amendment 2 1

1  
 2 In conclusion, the Fertittas' 25 contributions to the 11 political committee Respondents,  
 3 even if the information about their employer and occupation were incorrect, represent a small  
 4 percentage of the overall number of contributions on the affected reports. Therefore, the  
 5 Commission has decided to not expend further resources on this matter and exercises its  
 6 prosecutorial discretion to dismiss the allegations as to the 11 political committee Respondents.