

**BEFORE THE
FEDERAL ELECTION COMMISSION**

Amanda Bogden
End Citizens United
PO Box 66005
Washington, DC 20035

Complainant,

v.

George Anthony Devolder-Santos
9002 Queens Boulevard
Elmhurst, NY 11373,

Devolder-Santos for Congress and Nancy Marks, in her official capacity as treasurer
47 Flintlock Drive
Shirley, NY 11967, and

Devolder-Santos for Congress Recount and Nancy Marks, in her official capacity as treasurer
47 Flintlock Drive
Shirley, NY 11967,

Respondents.

COMPLAINT

This complaint is filed under 52 U.S.C. § 30109(a)(1) against George Anthony Devolder-Santos (“George Santos”), Devolder-Santos for Congress (the “Campaign”), Devolder-Santos for Congress Recount (the “Recount Fund”) and Nancy Marks, in her official capacity as treasurer of the Campaign and the Recount Fund, for violating provisions of the Federal Election Campaign Act of 1971, as amended (the “Act”), and Federal Election Commission (the “FEC” or “Commission”) regulations. Based on public reports, including reports filed with the Commission, there is reason to believe that George Santos, who recently won election to the U.S. House of Representatives, along with the other Respondents, violated the Act and Commission

regulations during the 2020 and 2022 campaign cycles. In short, Mr. Santos reported disbursements in connection with a “recount” when there was no recount held in the 2020 election cycle. Accordingly, Respondents have violated the Act’s reporting requirements by filing inaccurate campaign reports. And they may have violated the Act’s contribution limits by using the Recount Fund for activities that should have been paid for by Santos’s campaign committee. Moreover, Santos failed to timely file his statement of candidacy in connection with his 2022 candidacy. As further explained below, the Commission should act immediately to investigate Respondents’ actions and seek the appropriate financial penalties.

BACKGROUND

George Santos was a candidate for Congress in New York’s 3rd Congressional District in both the 2020 and 2022 elections. He filed a Statement of Organization for the Campaign on October 2, 2019,¹ and his first Statement of Candidacy on January 22, 2020.² On November 4, 2020, the day after Election Day, Santos also filed a Statement of Organization for the Recount Fund, as a separate authorized committee.³

However, no recount was held; in fact, the election was not even close. According to the New York State Board of Elections, Santos received 161,931 votes in that election (or 43.5% of the vote), while incumbent Congressman Tom Suozzi received 208,555 votes for 56% of the vote, and a third-party candidate received 2,156 votes.⁴ New York election law provides for an automatic recount where the margin of victory is 20 votes or less or 0.5% or less. However, state

¹ Devolder-Santos for Congress, Statement of Organization (Oct. 4, 2019), *at* <https://docquery.fec.gov/pdf/210/201910029163585210/201910029163585210.pdf>.

² George Anthony Devolder Santos, Statement of Candidacy (Jan. 22, 2020), *at* <https://docquery.fec.gov/pdf/938/202001229167302938/202001229167302938.pdf>.

³ Devolder Santos for Congress Recount, Statement of Organization (Nov. 4, 2020), *at* <https://docquery.fec.gov/pdf/002/202011049336749002/202011049336749002.pdf>.

⁴ *See* New York State Board of Elections, 2020 Election Results, *at* <https://www.elections.ny.gov/2020ElectionResults.html>.

law does not permit for candidate-initiated recounts.⁵ Accordingly, because Mr. Santos lost outright by almost thirteen percentage points, no recount was available to Mr. Santos in the 2020 election.

Despite this, the Recount Fund raised \$265,662.28 in connection with the nonexistent 2020 “recount,” and spent \$260,514.24 on the same. Some of these expenditures overlapped with expenditures made by the Campaign.

For example, on November 12, 2020 – more than a week after Election Day – the Recount Fund purchased a laptop computer at Best Buy for \$2026.25, for the stated purpose “Laptop Computer for Recount.” On November 24, the Campaign purchased a laptop from Best Buy for the exact same amount.

Similarly, the Recount Fund paid a number of the Campaign’s consultants and employees for work related to the non-existent “recount.” The following chart identifies the services provided by personnel to the Campaign and the Recount Fund:

Spender	Recipient	Description	Date	Amount
<u>DEVOLDER-SANTOS FOR CONGRESS</u>	RANDLE, ASHTON	CAMPAIGN CONSULTANT	6/10/2020	\$4,000.00
<u>DEVOLDER SANTOS FOR CONGRESS RECOUNT</u>	RANDLE, ASHTON THEODORE	SUPERVISOR FOR RECOUNT OBSERVERS	11/24/2020	\$9,000.00
<u>DEVOLDER-SANTOS FOR CONGRESS</u>	PIRONI, PAOLO	FIELD REPRESENTATIVE	11/2/2020	\$1,000.00
<u>DEVOLDER SANTOS FOR CONGRESS RECOUNT</u>	PIRONI, PAOLO	RECOUNT OBSERVER	11/24/2020	\$1,300.00
<u>DEVOLDER-SANTOS FOR CONGRESS</u>	PERROTTO, DAVID	BOE OBSERVER	11/24/2020	\$300.00
<u>DEVOLDER-SANTOS FOR CONGRESS</u>	PERROTTO, DAVID	FIELD REPRESENTATIVE	11/2/2020	\$1,500.00
<u>DEVOLDER SANTOS FOR CONGRESS RECOUNT</u>	PERROTTO, DAVID	BOE OBSERVER	11/23/2020	\$300.00
<u>DEVOLDER SANTOS FOR CONGRESS RECOUNT</u>	PEPENELLA, JUDY	RECOUNT OBSERVER	11/24/2020	\$1,500.00
<u>DEVOLDER-SANTOS FOR CONGRESS</u>	PEPENELLA, JUDY	FIELD REPRESENTATIVE	7/1/2020	\$1,000.00
<u>DEVOLDER-SANTOS FOR CONGRESS</u>	MIBLE, SAMUEL	FUNDRAISING	10/30/2020	\$39,337.50

⁵ See N.Y. Elec. Law § 9-208(4).

<u>DEVOLDER-SANTOS FOR CONGRESS</u>	MIELE, SAMUEL	FUNDRAISING	8/5/2020	\$334.00
<u>DEVOLDER-SANTOS FOR CONGRESS</u>	MIELE, SAMUEL	FUNDRAISING	7/10/2020	\$3,610.00
<u>DEVOLDER-SANTOS FOR CONGRESS</u>	MIELE, SAMUEL	FUNDRAISING	6/4/2020	\$6,256.50
<u>DEVOLDER SANTOS FOR CONGRESS RECOUNT</u>	MIELE, SAM	ELECTION CONSULTANT	11/24/2020	\$15,000.00
<u>DEVOLDER-SANTOS FOR CONGRESS</u>	MAGUIRE, JOHN	RETAINER	7/31/2021	\$3,500.00
<u>DEVOLDER SANTOS FOR CONGRESS RECOUNT</u>	MAGUIRE, JOHN	RECOUNT OBSERVER	12/30/2020	\$1,000.00
<u>DEVOLDER SANTOS FOR CONGRESS RECOUNT</u>	MAGUIRE, JOHN	BOE OBSERVER	11/23/2020	\$1,000.00
<u>DEVOLDER-SANTOS FOR CONGRESS</u>	LENZO, CHRISTINE		10/30/2020	\$2,000.00
<u>DEVOLDER-SANTOS FOR CONGRESS</u>	LENZO, CHRISTINE	CAMPAIGN MEDIA	10/20/2020	\$2,000.00
<u>DEVOLDER SANTOS FOR CONGRESS RECOUNT</u>	LENZO, CHRISTINE	MEDIA BOOKINGS	11/23/2020	\$2,000.00
<u>DEVOLDER SANTOS FOR CONGRESS RECOUNT</u>	CAVAZOS, GENARO	RECOUNT OBSERVER	11/24/2020	\$1,000.00
<u>DEVOLDER-SANTOS FOR CONGRESS</u>	CAVAZOS, GENARO	FIELD REPRESENTATIVE	11/2/2020	\$1,000.00
<u>DEVOLDER SANTOS FOR CONGRESS RECOUNT</u>	BRAR, HARMINDER	SUPERVISOR FOR SECOND BOARD OF ELECTIONS LOCATION	11/24/2020	\$4,500.00
<u>DEVOLDER-SANTOS FOR CONGRESS</u>	BRAR, HARSHDEEP	CAMPAIGN MANAGER	11/2/2020	\$6,227.00
<u>DEVOLDER-SANTOS FOR CONGRESS</u>	BRAR, HARMINDER	CAMPAIGN MANAGER	10/2/2020	\$15.00
<u>DEVOLDER-SANTOS FOR CONGRESS</u>	BRAR, HARMINDER	CAMPAIGN MANAGER	10/1/2020	\$1,214.50
<u>DEVOLDER-SANTOS FOR CONGRESS</u>	BRAR, HARMINDER	CAMPAIGN MANAGER	10/1/2020	\$7,000.00
<u>DEVOLDER-SANTOS FOR CONGRESS</u>	BRAR, HARSHDEEP	CAMPAIGN MANAGER	8/5/2020	\$1,166.67

By way of example, the Recount Fund paid four of the Campaign's Field Representatives, Genaro Cavazos, David Perrotto, Judy Pepenella, and Paolo Pironi, and Campaign Consultant John Maguire, as "Recount Observers," when no recount was held. It paid Campaign Consultant Ashton Randal to "supervise" the "Recount Observers" as they supervised the non-existent recount. And the Recount Fund also paid the Campaign's media consultant, Christine Lenzo, for "Media Bookings" – again, when there was no recount.

Santos began raising funds in connection with his 2022 candidacy immediately after the 2020 election. According to the Campaign's Pre-General report, he raised \$5,600 from Tatnall Hillman on November 5, 2022, with \$2,800 designated for the 2022 primary and \$2,800 designated for the 2022 general election.⁶ All told, Santos raised \$153,143.31 in itemized contributions designated for the 2022 election between November 5, 2020 and March 31, 2021. He did not file a Statement of Candidacy in connection with that election until April 21, 2021.⁷

LEGAL DISCUSSION

1. There is Reason to Believe that Respondents Violated the Act's Contribution Limits and Reporting Requirements By Raising and Spending Funds in Connection with a "Recount" that Never Occurred.

The Act and Commission regulations place strict limits on the amounts and sources of campaign contributions. In 2020, the Act limited a campaign to raising up to \$2,800 per election from individuals and up to \$5,000 per election from federal multicandidate PACs.⁸ While Commission regulations provide that funds received in connection with a recount are not "contributions" or "expenditures,"⁹ to fit within the exemption, those funds may only be used in connection with recounts and election contests, and not in connection with a candidate's campaign.¹⁰

Moreover, candidates and their committees are required to file complete and accurate reports disclosing their receipts and disbursements.¹¹ Among other things, these reports must

⁶ Devolder-Santos for Congress, 2020 Post-General Report, at <https://docquery.fec.gov/pdf/454/202111059468420454/202111059468420454.pdf>.

⁷ George Anthony Devolder Santos, Statement of Candidacy (April 21, 2021), at <https://docquery.fec.gov/pdf/781/202104179443792781/202104179443792781.pdf>.

⁸ See 52 U.S.C. § 30116(a).

⁹ 11 C.F.R. §§ 100.91, 100.151.

¹⁰ See *id.*; see, e.g., Adv. Op. 2009-04.

¹¹ 52 U.S.C. § 30104(a), (b).

accurately identify the “purpose” of each disbursement made by the committee that exceeds \$200 in the aggregate over the election cycle.¹²

Respondents failed to comply with these requirements.

First, the facts suggest that Respondents may have used the Recount Fund to subsidize Santos’s subsequent Congressional election. To wit:

- The Recount Fund purchased a laptop from Best Buy for \$2026.25, for the stated purpose “Laptop Computer for Recount.” However, as stated previously, no recount actually occurred. Moreover, twelve days later, the Campaign purchased a laptop for the same amount from the same vendor. This suggests that the campaign was using recount funds to purchase laptops for general campaign use.
- The Recount Fund paid a number of Campaign staff as “recount observers” when, again, there was no recount. This suggests that Respondents moved staff to the Recount Fund’s payroll to subsidize the campaign, and not for legitimate recount purposes.
- The Recount Fund paid the Campaign’s media consultant, Christine Lenzo, for “Media Bookings.” Working with the media is a normal campaign function, not a recount expense, and by using recount funds to pay for it, Respondents used recount funds to subsidize the Campaign.

Second, Respondents failed to file complete and accurate reports. The Recount Fund identified a number of disbursements as being for a “recount,” when, in fact, no recount actually occurred. Even if the funds were used for legitimate post-election purposes, styling the expenses as “recount” expenses when, in fact, there was no recount, is misleading to the public and violates the Act’s reporting requirements.

2. There is Reason to Believe that Santos Violated the Act’s Reporting Requirements By Failing to Timely File a Statement of Candidacy.

In addition, Santos violated the Act and Commission regulations by failing to timely file a Statement of Candidacy in connection with his 2022 candidacy. A candidate is required to file

¹² 11 C.F.R. § 104.3(b)(4).

a Statement of Candidacy with the Commission within 15 days of raising or spending more than \$5,000 in connection with an election.¹³

According to the Campaign's Post-General Report, Santos raised \$5,600 in connection with the 2022 election on November 5, 2020. Accordingly, he was required to file a Statement of Candidacy in connection with that election no later than November 20, 2020. Instead, he filed his Statement of Candidacy on April 21, 2021, over four months late.

Moreover, Santos cannot argue that the funds raised after Election Day were to retire 2020 debt. A committee may only receive funds after an election for the preceding election (1) to the extent that the committee has net debts outstanding, (2) if the contributions are designated for that prior election, and (3) if the contributions are subject to the contribution limits of that prior election.¹⁴ None of those requirements were met. First, while the Campaign's Post-General Report indicates that the Campaign had \$68,550 in debt as of November 24, 2020, the Campaign raised a total \$153,143.31 in itemized contributions during the period of November 5, 2020 through March 31, 2021 – more than twice the amount of the Campaign's debt. Second, these contributions were contemporaneously reported as being designated for the 2022 election; there is therefore no basis to contend that they were actually designated for 2020 debt retirement. And, at least in some cases, the Campaign could not designate those contributions for 2020 debt retirement. For example, Tatnall Hillman donated \$5,600 to the Campaign – the maximum permissible contribution for the 2020 election – on June 3, 2020. Therefore, the Campaign could not have permissibly accepted a contribution from this donor for 2020 debt retirement. In short, then, Santos violated the Act by failing to timely file a Statement of Candidacy in connection with the 2022 election.

¹³ 52 U.S.C. §§ 30101(2)(A), 30102(e)(1); 11 C.F.R. § 101.1(a).

¹⁴ 11 C.F.R. § 110.1(b)(3).

REQUESTED ACTION

There is ample evidence that Respondents violated the Act by raising and spending money for a recount that never occurred, by misreporting the use of those funds, and by failing to file a Statement of Candidacy in connection with the 2022 election. We respectfully request that the Commission immediately investigate these allegations, fine Respondents the maximum amount permitted by law, and enjoin Respondents from further violations of the law.

Sincerely,



Amanda Bogden
End Citizens United
PO Box 66005
Washington, DC 20035

SUBSCRIBED AND SWORN to before me this 31st day of January 2023.



Notary Public

My Commission Expires:

MARK ANDREWS
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires July 14, 2024

