

The Complaint raises serious questions of misconduct. Mastroianni was given a full opportunity to answer the Complaint, but his terse Response does not refute – or even address – the Complaint’s accusations that he obtained funds through a Chinese national to contribute to FSMC. He did not even muster up a bare-bones denial of the allegations, much less a sworn statement. The other respondent, 230 East, did not answer at all.

Given the severity of the allegations before us and their inadequate refutation, we have reason to believe that a violation may have occurred and that we should open an investigation in this matter.⁵

The “reason to believe” standard is often misconstrued by some of our colleagues. A “reason to believe” finding at this stage in our proceedings is *not*:

- a beyond-a-reasonable-doubt determination that someone has committed a violation of the Act;
- a determination that a violation of the Act has occurred; or
- even a determination that there is *probable cause* that a violation of the Act has occurred.

Instead, it is well-established that a “reason to believe” finding at this stage in our proceedings is simply an indication that the Commission has found sufficient legal justification to open an investigation to determine *whether* there is probable cause to believe that a violation of the Act occurred.⁶

Based on the record before us here, that low standard has been met. There is enough before us to indicate that an investigation *could* uncover facts that would provide probable cause to believe that a violation of the Act has occurred. *That* is the threshold question we were asked to answer here.

An investigation should have been the natural and obvious first step in pursuing these allegations. Congress gave this Commission, and this Commission alone, subpoena powers and other resources to investigate alleged civil violations of the Act. If we don’t investigate, no one else can or will, and we will never determine the truth of the matter. Our colleagues have

REUTERS (Apr. 25, 2014)). The Complaint also relies on a news article to show that Mastroianni used the EB-5 program to obtain financing from foreign nationals for development projects. *See* Compl. at 2 (citing Peter Elkind and Marty Jones, The Tangled Past of the Hottest Money-Raiser in America’s Visa-For-Sale Program, *FORTUNE* (Oct. 14, 2014)).

⁵ We voted to find reason to believe that Nicholas A. Mastroianni II, 230 East 63rd -6 Trust, LLC, and Floridians for a Strong Middle Class and Jennifer May in her official capacity as treasurer violated 52 U.S.C. § 30121 or 11 C.F.R. § 110.20 by arranging for foreign nationals to contribute to a U.S. election and 52 U.S.C. § 30122 by making contributions in the name of another. We also voted to find reason to believe that Chic Boutique, LLC and Mark Giresi violated 52 U.S.C. § 30122 by making contributions in the name of another. These votes failed. We voted to take no action as this time with respect to whether Pride United Limited Partnership and Representative Patrick Murphy violated the Act or Commission regulations. *See* Certification in MUR 7081, dated February 23, 2017.

⁶ *See* Statement of Reasons of Vice Chair Ellen L. Weintraub and Commissioners Cynthia L. Bauerly and Steven T. Walther in the Matter of MUR 6441 (Unknown Respondents) at 1 n.2 (citing 12 F.R. 12545, Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process (March 16, 2007)).

MUR 7081 (Floridians for a Strong Middle Class)
Statement of Commissioners Ellen L. Weintraub and Ann M. Ravel

credulously accepted one non-existent Response and other artfully vague Responses as sufficient to resolve this matter. We refuse to do so.

2/28/17
Date

Ellen L. Weintraub
Ellen L. Weintraub
Commissioner

2/28/17
Date

Ann M. Ravel
Ann M. Ravel
Commissioner

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