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Submitted via email and postal mail

Federal Election Commission
 Office of Complaints Examination
 and Legal Administration
 Attn: Mary Beth deBeau, Paralegal
 999 E Street NW
 Washington, DC 20463
CELA@fec.gov

OFFICE OF GENERAL
COUNSEL

2017 APR 28 AM 11:30

RECEIVED
FEDERAL ELECTION
COMMISSION

RE: MUR 7147

Dear Ms. deBeau:

On October 6, 2016 the Campaign Legal Center filed a complaint with the Commission alleging that Make America Number 1 had made illegal in-kind contributions to Donald J. Trump for President, Inc. (MUR 7147), and provided supplemental information in a letter dated December 2, 2016. We write today to provide additional information relevant to the Commission’s consideration of this case.

CLC’s original complaint alleged, among other things, that “Make America Number 1 is inextricably intertwined with the Trump campaign,” such that there is reason to believe that many of the super PAC’s expenditures were coordinated with the Trump campaign, and accordingly should be treated as in-kind contributions to the Trump campaign.

Reports published since the complaint was filed provide additional evidence in support of the Commission finding reason to believe that Make America Number 1 and Donald J. Trump for President, Inc. violated the Federal Election Campaign Act (FECA).

Make America Number 1 Made Undisclosed and Excessive Contributions to Donald J. Trump for President, Inc. By Indirectly Paying Stephen Bannon for Personal Services Rendered to the Trump Campaign

CLC’s complaint alleged that Make America Number 1 appeared to have paid compensation to Trump campaign CEO Stephen Bannon (now White House chief strategist) via payments to the firms Glittering Steel LLC and Cambridge Analytica, which are incorporated or have been paid at the same address as Bannon’s consulting

firm, Bannon Strategic Advisors, Inc.¹ During that same period, as Bannon worked as Trump campaign CEO, Donald J. Trump for President, Inc. did not report any payments to Bannon directly.

There is reason to believe that these payments constituted Make America Number 1 paying compensation to Bannon for his personal services rendered to the Trump campaign, which must be treated as in-kind contributions to the Trump campaign, 52 U.S.C. § 30101(8)(A)(ii). As a result, Make America Number 1 violated FECA by failing to report these in-kind contributions, *id.* §§ 30104(b)(4)(H)(i) and 30104(b)(3)(B)(i), by making contributions in excess of federal contribution limits, *id.* § 30116(a)(1), and by violating its oath that it would only make independent expenditures; Donald J. Trump for President, Inc. violated FECA by failing to report its receipt of these in-kind contributions, *id.* §§ 30104(b)(2)(D) and 30104(b)(3)(B), and by accepting contributions in excess of federal limits, *id.* §§ 30116(a)(1).²

Recently-filed reports provide additional evidence in support of these allegations, and demonstrate that Glittering Steel LLC is owned by Bannon, chaired by Bannon, and a source of income for Bannon. Therefore, there is reason to believe that Make America Number 1's payments to Glittering Steel LLC were a means of paying compensation to Bannon.

According to Bannon's Executive Branch Personnel Public Financial Disclosure Report, filed with the White House on March 31, 2017, Bannon was Chairman of Glittering Steel LLC, and earned \$167,500 over the previous calendar year for "consulting and director fees," paid via a monthly fee into his consulting firm, Bannon Strategic Advisors, Inc., and "into Mr. Bannon's respective corporations."³ Bannon also reported that his ownership stake in the company is valued between \$100,001 and \$250,000.⁴

Although Bannon's financial disclosure states that Glittering Steel LLC is located in Arlington, Virginia, most of Make America Number 1's reports filed with the Commission listed payments to Glittering Steel LLC at the same California address as Bannon's consulting firm, 8383 Wilshire Blvd., Suite 1000, in Beverly Hills.⁵ This may

¹ See Compl. ¶ 79, 86-91; see also Dec. 2, 2016 supp.

² Compl. ¶ 121-128.

³ See Stephen Bannon, Executive Branch Personnel Public Financial Disclosure Report OGE Form 278e (Mar. 31, 2017) at 4, attached as Exhibit A.

⁴ *Id.*

⁵ See Make America Number 1, Independent Expenditures, Payee Glittering Steel LLC, FED. ELEC. COMM. (Jan. 01, 2015 to Aug. 01, 2016), https://beta.fec.gov/data/independent-expenditures/?data_type=processed&committee_id=C00575373&is_notice=false&payee_name=glittering+steel&min_date=01%2F01%2F2015&max_date=08%2F01%2F2016; see also Make America Number 1, Disbursements to Glittering Steel LLC, FED. ELEC. COMM. (Jul. 17, 2015 to Jul. 27, 2016), https://beta.fec.gov/data/disbursements/?two_year_transaction_period=2016&data_type=processed&committee_id=C00575373&recipient_name=GLITTERING+STEEL+LLC&min_date=01%2F01%2F2015&max_date=12%2F31%2F2016. However, Make America Number 1's reports filed

indicate that Bannon was the true beneficiary of payments from the super PAC to Glittering Steel LLC.

Bannon's financial disclosure claims that he resigned as Chair of Glittering Steel LLC and from board positions in other companies on August 16, 2016, the same day he joined the Trump campaign as CEO.⁶ However, there is reason to suspect these assertions. For example, Bannon's financial disclosure also claims he resigned as Executive Chairman of Breitbart News on August 16, but current Breitbart CEO Larry Solov stated in a recent letter to the Senate Press Gallery that Bannon actually resigned "on or about" November 13—five days after the election, and three months after Bannon claimed to have resigned.⁷

Even if Bannon did resign as Chair of Glittering Steel LLC on August 16, his financial disclosure indicates that he maintained a financial stake in the company during his entire tenure as Trump campaign CEO. The report indicates that Bannon's current ownership stake in the company is valued between \$100,001 and \$250,000,⁸ and that he "has an agreement in principle for [the] sale" of Glittering Steel⁹—meaning that he still owns it.

As a result, as Bannon worked for the Trump campaign without pay, he continued to benefit, directly or indirectly, from the estimated \$267,500 in payments that Make America Number 1 made to Glittering Steel LLC after or around his officially joining the

with the Commission after CLC's complaint replaced Glittering Steel's California address with an address at a UPS Store in Arlington, VA. *See* sources cited *infra* notes 10-13.

Additionally, the same day that CLC filed its complaint, on October 6, 2016, Bannon Strategic Advisors, Inc. filed paperwork with the California Secretary of State changing its address. *Compare* Exhibit B (Bannon Strategic Advisors, Inc., Statement of Information (Jun. 30, 2016)) with Exhibit C (Bannon Strategic Advisors, Inc., Statement of Information (Oct. 6, 2016)).

⁶ Exhibit A at 4.

⁷ Rosie Gray, *Breitbart's Fight to Prove It's a Legitimate News Outlet*, THE ATLANTIC (Mar. 27, 2017), <https://www.theatlantic.com/politics/archive/2017/03/breitbart-is-fighting-to-prove-its-a-legitimate-news-outlet/520926/>.

⁸ Exhibit A at 4.

⁹ *Id.* at 7.

campaign (\$15,000 in August,¹⁰ \$77,500 in September,¹¹ \$65,500 in October,¹² and \$109,500 between November 1 and November 4¹³).¹⁴

CLC's October 6 complaint also indicates there may be reason to believe that Make America Number 1 compensated Bannon through payments to the data firm "Cambridge Analytica" which, according to Make America Number 1's reports filed with the Commission, received payments at the same address as Bannon's consulting firm, 8383 Wilshire Blvd., Suite 1000 in Beverly Hills, California."¹⁵

Bannon's financial disclosures confirm his relationship with Cambridge Analytica: Bannon was Vice-President and Secretary of the company,¹⁶ and holds a financial stake valued between \$1,000,001 and \$5,000,000.¹⁷ Bannon also reported receiving \$125,333 from Cambridge Analytica over the previous year in "consulting fees," paid through his firm, Bannon Strategic Advisors, Inc.¹⁸ As is the case with Glittering Steel, Bannon claims to have resigned from Cambridge Analytica's board on August 16,¹⁹ but his financial disclosure indicates that he maintained a financial stake in the company during his tenure as Trump campaign CEO.²⁰

¹⁰ Make America Number 1 Report of Receipts and Disbursements, September Monthly FEC Form 3X (reporting period 08/01/16 to 08/31/16) at 14, <http://docquery.fec.gov/pdf/645/201612149040609645/201612149040609645.pdf>

¹¹ Make America Number 1 Report of Receipts and Disbursements, October Monthly (reporting period 09/01/16 to 09/31/16) at 18-19, 23, <http://docquery.fec.gov/pdf/506/201610209034283506/201610209034283506.pdf#navpanes=0>

¹² Make America Number 1 Report of Receipts and Disbursements, Pre-General Report (amended), (reporting period 10/01/16 to 10/20/16) at 14, <http://docquery.fec.gov/pdf/015/201702219050497015/201702219050497015.pdf>; Post-General Report, (reporting period 10/21/16 to 11/28/16) at 13, <http://docquery.fec.gov/pdf/639/201612089040542639/201612089040542639.pdf>. Make America Number 1's original pre-general report reflected a \$50,000 payment to Glittering Steel LLC on October 21 that was eliminated from the amended report. See Report of Receipts and Disbursements, Pre-General Report (reporting period 10/01/16 to 10/20/16) at 14, <http://docquery.fec.gov/pdf/063/201610279034660063/201610279034660063.pdf>.

¹³ Report of Receipts and Disbursements, Post-General Report, (reporting period 10/21/16 to 11/28/16), *supra* note 12, at 15-17.

¹⁴ CLC's December 2, 2016 letter estimated that Make America Number 1 had made \$280,000 in payments to Glittering Steel LLC, based on the political committee's reports filed with the Commission at that time. However, Make America Number 1's amended reports show fewer disbursements to Glittering Steel LLC than the committee initially reported. See *supra* note 12.

¹⁵ See Compl. ¶ 88. On November 18, 2016, both Breitbart News LLC and Breitbart Holdings filed paperwork with the California Secretary of State changing their address.

¹⁶ Exhibit A at 4.

¹⁷ *Id.*

¹⁸ *Id.* at 3.

¹⁹ *Id.* at 4.

²⁰ *Id.* at 7.

Here too, there is reason to believe that some proportion of Make America Number 1's payments to Cambridge Analytica was used to pay compensation to Bannon for his work

Make America Number 1 Illegally Made In-Kind Contributions to Donald J. Trump for President, Inc. in the form of Coordinated Communications By Using the “Common Vendor” Cambridge Analytica

CLC's October 6 complaint also alleges that, by Make America Number 1 and Donald J. Trump for President, Inc. using the common vendor Cambridge Analytica for similar services—such as identifying voters and developing the content of communications—there is reason to believe that Cambridge Analytica used or conveyed to Make America Number 1 information about the Trump campaign's “plans, projects, activities or needs,” and that such information was “material to the creation, production, or distribution” of the political committee's communications, 11 C.F.R. § 109.21(d)(4), and that therefore Make America Number 1 made in-kind contributions to Donald J. Trump for President, Inc. in the form of coordinated communications.²¹

As a result, Make America Number 1 violated FECA by failing to report these contributions, *id.* §§ 30104(b)(4)(H)(i) and 30104(b)(3)(B)(i), by making contributions in excess of federal contribution limits, *id.* § 30116(a)(1), and by violating its oath that it would only make independent expenditures; Donald J. Trump for President violated FECA by failing to report its receipt of these in-kind contributions, *id.* §§ 30104(b)(2)(D) and 30104(b)(3)(B), and by accepting contributions in excess of federal limits, *id.* §§ 30116(a)(1).²²

New evidence provides further support for these allegations.

Make America Number 1 was principally funded by Robert Mercer, and chaired and led by his daughter, Rebekah Mercer. According to the *New Yorker*, Mercer also invested five million dollars into the parent company of Cambridge Analytica, SCL Group,²³ which according to the *Washington Post* made them the “principal investors” in the company.²⁴

According to the *Huffington Post*:

²¹ See e.g. Compl. ¶¶ 95-103.

²² Compl. ¶ 121-128.

²³ Jane Mayer, *The Reclusive Hedge Fund Billionaire Behind the Trump Presidency*, NEW YORKER (Mar. 27, 2016), <http://www.newyorker.com/magazine/2017/03/27/the-reclusive-hedge-fund-tycoon-behind-the-trump-presidency>.

²⁴ Matea Gold, *The Mercers and Stephen Bannon: How a Populist Power Base Was Funded and Built*, WASH. POST (Mar. 17, 2017), <https://www.washingtonpost.com/graphics/politics/mercerc-bannon/>.

“As Rebekah [Mercer] saw it, [Cambridge Analytica parent] SCL would allow the Mercers to control the data operation of any campaign they supported, giving the family enormous influence over messaging and strategy.”²⁵

The *New Yorker* reported that Make America Number 1’s support for Trump came with “strings attached:” namely, that the campaign hire Cambridge Analytica.²⁶ According to the article:

The Mercers redirected their Cruz super pac to support Trump, and gave two million dollars to it. According to one Trump adviser, there were strings attached to the donation. He says that, two weeks before Cruz dropped out, Bannon urged the Trump campaign to talk to Alexander Nix, Cambridge Analytica’s C.E.O., about hiring the company. (The previous year, the Trump campaign had rebuffed a pitch from the firm.) . . . Paul Manafort, Trump’s campaign manager at the time, said that he knew nothing of Nix’s cash offer but gave Cambridge Analytica a limited contract, though he didn’t see the need, in deference to the Mercers.²⁷

As noted above, Bannon’s financial disclosures show that he was Vice-President and Secretary of Cambridge Analytica.²⁸ The *Huffington Post* also recounts how Bannon and Rebekah Mercer together were involved in negotiations on Cambridge Analytica’s behalf when Make America Number 1 (then called Keep the Promise 1) was supporting candidate Ted Cruz.²⁹

Bannon claimed that he resigned from Cambridge Analytica on August 16, 2016.³⁰ Even if this is true, then it means Bannon was still Vice-President and Secretary of the company when both the Trump campaign and Make America Number 1 began simultaneously using its services: Donald J. Trump for President, Inc., reported its first payments to Cambridge Analytica on July 29, 2016.³¹

Finally, Bannon’s financial disclosure shows that he continues to hold a financial stake in Cambridge Analytica valued between \$1,000,001 and \$5,000,000. ³² This means that as the Trump campaign’s CEO, Bannon held an ownership stake in the vendor that both the campaign and the super PAC hired to provide similar services.

In short, both the Trump campaign’s CEO and Make America Number 1’s leadership owned and were on the board of Cambridge Analytica, and the Trump campaign hired Cambridge Analytica as an apparent condition of Make America Number 1’s support for

²⁵ Vicky Ward, *The Blow it All Up Billionaires*, HUFF. POST (Mar. 17, 2017), <http://highline.huffingtonpost.com/articles/en/mercers/>.

²⁶ Mayer, *supra* note 23.

²⁷ *Id.*

²⁸ Exhibit A at 4.

²⁹ Ward, *supra* note 25.

³⁰ Exhibit A at 4.

³¹ See Compl. ¶¶95-100.

³² Exhibit A at 7.

Trump, strengthening the inference that the vendor was used as a means of sharing information between the campaign and political committee.

Contributors to Make America Number 1 Have Been Offered Significant Influence in the Trump Administration

The U.S. Supreme Court has repeatedly declared that “[t]he absence of prearrangement and coordination of an expenditure with the candidate . . . undermines the value of the expenditure to the candidate,” and “also alleviates the danger that expenditures will be given as a *quid pro quo* for improper commitments from the candidate.”³³

Because Make America Number 1’s expenditures appear to have been coordinated with President Trump’s campaign committee, its expenditures were apparently of such great value to the Trump campaign that its chair, Rebekah Mercer, was named to the executive committee of President-Elect Trump’s transition team, and that she has reportedly been “among those wielding the most clout” in Trump’s administration.³⁴

Other large donors to Make America Number 1 may have been offered a level of access and influence commensurate with having contributed directly to the Trump campaign. According to the *Washington Post*, a donor who gave \$100,000 to Make America Number 1, Erik Prince, reportedly “presented himself as an unofficial envoy for Trump to high-ranking Emiratis” in setting up a meeting with a confidant to Russian President Vladimir Putin “as part of an apparent effort to establish a back-channel line of communication between Moscow and President-elect Donald Trump, according to U.S., European and Arab officials.”³⁵ Prince reportedly held the meetings during the transition period, when Rebekah Mercer was on the Trump transition team’s executive committee.

Please do not hesitate to contact us if we can provide any additional information.

³³ *Citizens United v. FEC*, 130 S. Ct. 876, 908 (2010) (quoting *Buckley v. Valeo*, 424 U.S. 1, 47 (1976)) (internal quotations marks omitted).

³⁴ Kenneth P. Vogel, *The Heiress Quietly Shaping the Trump Administration*, POLITICO, Nov. 21, 2016, <http://www.politico.com/story/2016/11/rebekah-mercero-donald-trump-231693>.

³⁵ Adam Entous, Greg Miller, Kevin Sieff and Karen DeYoung, *Blackwater founder held secret Seychelles meeting to establish Trump-Putin back channel*, WASH. POST (Apr. 3, 2017), https://www.washingtonpost.com/world/national-security/blackwater-founder-held-secret-seychelles-meeting-to-establish-trump-putin-back-channel/2017/04/03/95908a08-1648-11e7-ada0-1489b735b3a3_story.html?utm_term=.196a3b2ede3d.

Respectfully submitted,



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Counsel to the Campaign Legal Center

VERIFICATION

The complainants listed below hereby verify that the statements made in the attached Complaint are, upon their information and belief, true.

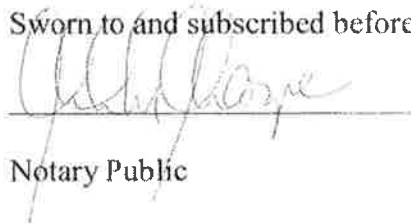
Sworn pursuant to 18 U.S.C. § 1001.

For Complainant Campaign Legal Center

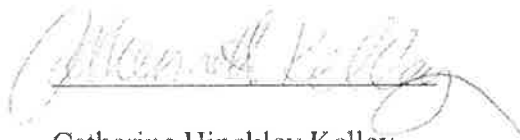


Lawrence M. Noble

Sworn to and subscribed before me this 12th day of April 2017.

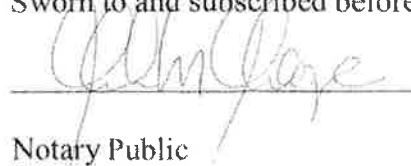

Notary Public

For Complainant Catherine Hinckley Kelley



Catherine Hinckley Kelley

Sworn to and subscribed before me this 12th day of April 2017.


Notary Public