

THE  
PATRIOTS  
FOUNDATION

OFFICE OF  
GENERAL COUNSEL

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MUR # 7582

March 14, 2019

**VIA FIRST CLASS MAIL**

Office of General Counsel  
Federal Election Commission  
1050 1st Street, N.E.  
Washington, D.C. 20463

**RE: COMPLAINT AGAINST CANDIDE GROUP, LLC; ANER BEN-AMI; SEN. KAMALA HARRIS, KAMALA HARRIS FOR SENATE, AND STEPHEN J. KAUFMAN IN HIS OFFICIAL CAPACITY AS TREASURER; AND REP. BARBARA LEE, BARBARA LEE FOR CONGRESS, AND LORAIN BINION IN HER OFFICIAL CAPACITY AS TREASURER**

Dear Counsel:

This letter is submitted upon information and belief on behalf of The Patriots Foundation ("Complainant" or the "Foundation") and constitutes a Complaint against Candide Group, LLC, Aner Ben-Ami; U.S. Senator Kamala Harris, Kamala Harris for Senate, and Stephen J. Kaufman in his official capacity as treasurer; and U.S. Rep. Barbara Lee, Barbara Lee for Congress, and Loraine Binion in her official capacity as treasurer ("Respondents"), pursuant to 52 U.S.C. § 30109 (a)(1) and 11 C.F.R. § 111.4, for violations of the Federal Election Campaign Act of 1971, as amended.

I. **STATEMENT OF FACTS**

Complainant The Patriots Foundation is a 501(c)(3) public charity dedicated to idea that an open and transparent government is essential to the functioning of the American democracy. The Foundation believes an educated and fully informed public will best "secure the blessings of liberty to ourselves and our posterity," as the Preamble to the Constitution states. The Foundation serves as a government "watchdog," promotes open and transparent government, and monitors the activities of the government and our elected officials.

Respondent Candide Group, LLC (“Candide”), is a California limited liability company formed in 2015 with a street address of 1330 Broadway Street, Suite 303, Oakland, Calif., 94612.<sup>1</sup> Respondent Aner Ben-Ami is an individual who serves as Founding Partner of and Managing Member for Candide and who appears to have maintained day-to-day control since June 2015.<sup>2</sup> According to personal Facebook posts, Ben-Ami naturalized as a U.S. citizen on or around August 9, 2018. See Exhibit 1 and Exhibit 2. Since early 2018, Candide has explained that it “. . . make[s] a . . . number of . . . political contributions *each year* to holistically support the infrastructure needed for lasting change.”<sup>3</sup> In 2018, Candide highlighted on its website five state and federal candidates from the 2018 cycle who received Candide’s contributions.<sup>4</sup> These candidates include Ben Jealous, for Governor of Maryland; Andrew Gillum, for Governor of Florida; Nikki Fortunado-Bas, for Oakland (Calif.) City Council, District 2; Barbara Lee, for Congress from the 13th District of California; and Kamala Harris, for U.S. Senator from California.<sup>5</sup> See Exhibit 3. Candide concedes that it makes similar contributions “each year”; therefore, Complainant alleges upon information and belief that these contributions began with Candide’s formation in 2015 and continue through the present.<sup>6</sup> The form and amount of each of Candide’s contributions are unknown.<sup>7</sup> No records on file at the FEC or at any applicable state campaign finance regulator appear to list these contributions.<sup>8</sup>

<sup>1</sup> California Secretary of State, Statement of Information (Limited Liability Company), Candide Group, LLC, Apr. 20, 2017, <https://businesssearch.sos.ca.gov/Document/RetrievePDF?Id=201517710198-22244460>

<sup>2</sup> Candide Group, Team, <https://candidegroup.com/team/>; Candide Group, LLC, Securities and Exchange Commission and State Securities Regulators, Form ADV Part 2A 2018 at 4, [https://adviserinfo.sec.gov/IAPD/Content/Common/crd\\_iapd\\_Brochure.aspx?BRCHR\\_VRSN\\_ID=520663](https://adviserinfo.sec.gov/IAPD/Content/Common/crd_iapd_Brochure.aspx?BRCHR_VRSN_ID=520663) (“Aner Ben-Ami is a Managing Member and 50% owner of Candide.”) (HEREINAFTER, “Form ADV Part 2A”). In Candide’s latest Form ADV filing, Mr. Ben-Ami is listed as a “Control Person” who has maintained control since June 2015. Candide Group, LLC, Securities and Exchange Commission and State Securities Regulators, Form ADV (Nov. 14, 2018), [https://adviserinfo.sec.gov/IAPD/content/ViewForm/crd\\_iapd\\_stream\\_pdf.aspx?ORG\\_PK=286086](https://adviserinfo.sec.gov/IAPD/content/ViewForm/crd_iapd_stream_pdf.aspx?ORG_PK=286086) (Hereinafter, “FORM ADV”).

<sup>3</sup> See *infra* n. 4 (emphasis added). See Candide Group (Feb. 26, 2018), <http://candidegroup.com>, archived at <https://web.archive.org/web/20180226111424/https://candidegroup.com/> (“Activism” tab appears at top).

<sup>4</sup> Candide Group, Political Donations, <https://candidegroup.com/political-donations/>.

<sup>5</sup> *Id.*

<sup>6</sup> Candide Group, Political Donations, <https://candidegroup.com/political-donations/>. See *supra* n. 1.

<sup>7</sup> See *supra* n. 4.

<sup>8</sup> See *infra* nn. 13 and 18 (FEC contribution searches). Contributor Search for Contributions to Friends of Ben Jealous, MARYLAND CAMPAIGN REPORTING INFORMATION SYSTEM, <https://campaignfinancemd.us> (Set “Receiver” to “Jealous, Ben Friends of” In turn, set “Contributor” to “Candide,” and “Ben-Ami, Aner”; Run Search) (Maryland campaign finance reports search); Contributor Search for Contributions to Andrew Gillum, *Campaign Finance Data Base*, FLA. DEP’T OF STATE DIV. OF ELECTIONS, <http://dos.elections.myflorida.com> (Select “2018 Election” under the “Election Year” drop-down menu; Under “Candidate Search,” input “Andrew” under “First Name” and “Gillum” under “Last Name”; Under “Contributor Criteria,” enter, first, “Candide” under “Last Name”; and, second, enter “Aner” under “First Name” and “Ben-Ami” under “Last Name”; Run Search) (Florida campaign finance reports search); *Oakland, Calif., Contributor Search*, PUBLIC ETHICS COMM’N, <http://public.netfile.com> (Under “Search by Name,” enter, in turn, “Candide,” “Aner Ben-Ami,” and “Ben-Ami, Aner) (Oakland, Calif., campaign finance reports search).

Respondent Kamala Harris is the junior U.S. Senator from California.<sup>9</sup> Respondent Kamala Harris for Senate is Sen. Harris's principal campaign committee for her Senate campaign.<sup>10</sup> Stephen J. Kaufman serves as treasurer for Kamala Harris for Senate and is joined as a respondent in his official capacity (collectively, "Harris Respondents").<sup>11</sup> Upon information and belief, Kamala Harris for Senate received unlawful contributions in an unknown form and amount from Candide and/or Ben-Ami that were derived from prohibited sources.<sup>12</sup> Kamala Harris for Senate failed to disclose publicly such contributions to the FEC, as required by law.<sup>13</sup>

Respondent Barbara Lee is the U.S. Representative for California's thirteenth congressional district.<sup>14</sup> Respondent Barbara Lee for Congress is Rep. Lee's principal campaign committee.<sup>15</sup> Loraine Binion serves as treasurer for Barbara Lee for Congress and is joined as a respondent in her official capacity (collectively, "Lee Respondents").<sup>16</sup> Upon information and belief, Barbara Lee for Congress received unlawful contributions in an unknown form and amount from Candide and/or Ben-Ami that were derived from prohibited foreign national sources.<sup>17</sup> Barbara Lee for Congress failed to disclose publicly such contributions to the FEC, as required by law.<sup>18</sup>

## II. LEGAL ANALYSIS

As part of a wide-ranging, dirty and dark money scheme, Respondent Candide made unlawful, corporate contributions to candidates. Alternatively, Respondents Candide and Ben-Ami injected foreign money into American elections in the form of direct contributions to

<sup>9</sup> *Kamala D. Harris*, Kamala D. Harris U.S. Senator for California, <https://www.harris.senate.gov/about>. *Cf. About Dianne, United States Senator for California Dianne Feinstein*, <https://www.feinstein.senate.gov/public/index.cfm/about-dianne>.

<sup>10</sup> *Kamala Harris for Senate*, FEC Form 1, Statement of Organization, Aug. 29, 2016, <http://docquery.fec.gov/pdf/589/201609060200372589/201609060200372589.pdf>.

<sup>11</sup> *Id.*

<sup>12</sup> *See supra* n. 4.

<sup>13</sup> Contributor Search for Contributions to Kamala Harris for Senate, FEDERAL ELECTION COMMISSION, [https://www.fec.gov/data/receipts/?data\\_type=processed&two\\_year\\_transaction\\_period=2018&min\\_date=01%2F01%2F2017&max\\_date=12%2F31%2F2018](https://www.fec.gov/data/receipts/?data_type=processed&two_year_transaction_period=2018&min_date=01%2F01%2F2017&max_date=12%2F31%2F2018) (Set "Recipient Name or ID" to "Kamala Harris for Senate"; Set "Contributor Name or ID," individually, to "Candide" and "Aner Ben-Ami"; Set "Transaction Time Period" to "2017-2018"; Run Search). *See supra* n. 4.

<sup>14</sup> *Barbara Lee Congresswoman for the 13th District of California*, <https://lee.house.gov>.

<sup>15</sup> *Barbara Lee for Congress*, FEC Form 1, Statement of Organization, Feb. 14, 2012, <http://docquery.fec.gov/pdf/918/12950509918/12950509918.pdf>.

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

<sup>17</sup> *See supra* n. 4.

<sup>18</sup> Contributor Search for Contributions to Barbara Lee for Congress, FEDERAL ELECTION COMMISSION, [https://www.fec.gov/data/receipts/?data\\_type=processed&two\\_year\\_transaction\\_period=2018&min\\_date=01%2F01%2F2017&max\\_date=12%2F31%2F2018](https://www.fec.gov/data/receipts/?data_type=processed&two_year_transaction_period=2018&min_date=01%2F01%2F2017&max_date=12%2F31%2F2018) (Set "Recipient Name or ID" to "Barbara Lee for Congress"; Set "Contributor Name or ID," individually, to "Candide" and "Aner Ben-Ami"; Set "Transaction Time Period" to "2017-2018"; Run Search). *See supra* n. 4.

candidates. In either case, those candidates turned a blind eye to the provenance of such unlawful contributions and declined to disclose them to the public in violation of law.

### A. Candide Made Unlawful, Corporate Contributions to Candidates

Respondent Candide Group, LLC, made unlawful, corporate contributions to candidates. Federal law prohibits corporations from making direct candidate contributions using general treasury funds. 52 U.S.C. § 30118; 11 C.F.R. § 114.2. *But see Citizens United v. FEC*, 558 U.S. 310, 320 (2010). When a limited liability company elects to be treated as a corporation for tax purposes, such company is considered a corporation for these purposes and the corporate contribution prohibition applies. 11 C.F.R. § 110.1 (g)(3). *See also* 26 C.F.R. § 301.7701-3.

Upon information and belief, Candide elected to be treated as a corporation for tax purposes.<sup>19</sup> Because Candide has elected corporate tax treatment, it is prohibited by federal law from making direct candidate contributions. Despite the clear law to the contrary, Candide contributed general treasury dollars to at least five federal and state candidates in the 2018 cycle, including (1) Ben Jealous, for Governor of Maryland; (2) Andrew Gillum, for Governor of Florida; (3) Nikki Fortunado-Bas, for Oakland (Calif.) City Council, District 2; (4) Barbara Lee, for Congress from the 13th District of California; and (5) Kamala Harris, for U.S. Senator from California.<sup>20</sup> The recipients of these unlawful contributions in previous cycles are unknown.

In 1905, President Theodore Roosevelt told Congress, “All contributions by corporations to any political committee . . . should be forbidden by law.”<sup>21</sup> In 1906, a U.S. Senate committee found the need for the corporate prohibition to be so self-evident and axiomatic that it decided a detailed report explaining its support was unnecessary: “The evils of the use of [corporate] money in connection with political elections are so generally recognized that the committee deems it unnecessary to make any argument in favor of the general purpose of [the corporate prohibition].”<sup>22</sup> But Candide thought it knew better. Candide ignored over a century of law and embraced these “evils” for its own gain, contributing general treasury dollars to candidates for public office.

### B. Candide and Ben-Ami Injected Foreign Money into American Elections

<sup>19</sup> See Form ADV Part 2A *supra* n. 2 (“Morgan Simon is a Managing Member and 50% owner of Candide . . . . Aner Ben-Ami is a Managing Member and 50% owner of Candide.”).

<sup>20</sup> See *supra* n. 4.

<sup>21</sup> Theodore Roosevelt, President of the United States, Annual Address to Congress (1906) (cited in *Citizens United v. FEC*, 558 U.S. 310, 433 (2010)).

<sup>22</sup> See S. Rep. No. 3056, 59th Cong., 1st Sess., 2 (1906) (cited in *Citizens United v. FEC*, 558 U.S. 310, 433 (2010)); *Citizens United*, 558 U.S. at 433.

Complainant alleges in the alternative that Respondents Candide Group, LLC, and Aner Ben-Ami have unlawfully injected foreign money into the U.S. political process, subverting the will and the voice of the American people. Congress has enunciated very clearly twin aims within this area of law, each with the admirable and patriotic goal of preventing foreign interference in American elections.<sup>23</sup> First, foreign nationals are prohibited from contributing or donating in connection with any American election, federal, state or local. 52 U.S.C. § 30121 (a); 11 C.F.R. § 110.20 (b)-(c). Second, foreign nationals may not control the political decision-making process of any U.S. person or entity insofar as it relates to “the making of contributions, donations, expenditures, or disbursements” in connection with any American election, federal state or local. 11 C.F.R. § 110.20 (i). *See also* FEC Advisory Op. 2006-15 (TransCanada). A “foreign national” is “an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence.” 52 U.S.C. § 30121 (b); 11 C.F.R. § 110.20 (a)(3)(i)-(ii). Finally, the Federal Election Commission has jurisdiction in this area to enforce the law with respect to federal and state elections. 52 U.S.C. § 30121 (a); 11 C.F.R. § 110.20 (b)-(c).

By his own admission, Ben-Ami did not become a U.S. citizen until August 2018, and, as someone who served a foreign nation, his previous U.S. immigration status remains murky.<sup>24</sup> This means that Ben-Ami could not contribute to candidates *or* control an entity that did. However, he is listed as a “Founding Partner” of and a “Managing Member” for Candide and appears to have maintained day-to-day control of the company since June 2015.<sup>25</sup> And, under the control of a foreign national, Candide has “. . . ma[de] . . . political contributions each year . . .” since 2015, in clear violation of law.<sup>26</sup> In the 2018 cycle, Candide’s contributions went to at least five federal and state candidates, including (1) Ben Jealous, for Governor of Maryland; (2) Andrew Gillum, for Governor of Florida; (3) Nikki Fortunado-Bas, for Oakland (Calif.) City Council, District 2; (4) Barbara Lee, for Congress from the 13th District of California; and (5) Kamala Harris, for U.S. Senator from California.<sup>27</sup> The recipients of these unlawful contributions in previous cycles are unknown.

Rather than honor the rule of law, Respondents Candide and Ben-Ami chose to ignore the law in order to achieve their own ends. *See* Exhibit 1 and Exhibit 2. They flouted the rules and

<sup>23</sup> “Through this two-fold approach, Congress left no doubt as to its intention to prohibit foreign national support of candidates and their committees and political organizations and foreign national activities in connection with all Federal, State, and local elections.” Explanation and Justification for 11 C.F.R. § 110.20 at 67 *FR* 69946 (November 19, 2002), <http://sers.fec.gov/fosers/showpdf.htm?docid=3182>.

<sup>24</sup> Ben-Ami’s immigration status prior to naturalization in August 2018 is unclear. However, given that Ben-Ami previously served a foreign government, Complainant alleges upon information and belief that Ben-Ami’s previous immigration status was not sufficient for purposes of his political activity. *See supra* n. 2.

<sup>25</sup> *See supra* n. 2. *See also* California Secretary of State, Articles of Incorporation of a Limited Liability Company, More Better Impact, LLC, June 24, 2015, <https://businesssearch.sos.ca.gov/Document/RetrievePDF?Id=201517710198-19424280>.

<sup>26</sup> *See* 11 C.F.R. § 110.20 (i). *See supra* n. 4.

<sup>27</sup> *See supra* n. 4.

schemed to slip foreign contributions into elections across the country for years, effecting the very result Congress has sought to prevent. Unforgiveably, Respondents substituted their voices for the votes of American citizens. This cannot be allowed to stand.

**C. Harris Respondents and Lee Respondents Accepted Unlawful Contributions from Candide and/or Ben-Ami and Failed to Disclose Such Contributions to the Public**

In clear violation of law, the Harris Respondents and the Lee Respondents accepted prohibited contributions from Candide and/or Ben-Ami and failed to disclose such contributions to the public, as required by law. Federal law unequivocally prohibits candidates and their campaigns from accepting contributions from a corporation's general treasury funds. 52 U.S.C. § 30118 (a); 11 C.F.R. 114.2 (d). Further, federal law unequivocally prohibits candidates and their campaigns and agents from accepting or receiving contributions from a foreign national. 52 U.S.C. § 30121 (a)(2); 11 C.F.R. § 110.20 (g). The law requires campaign treasurers to exercise diligence in determining the lawfulness of any contribution. 11 C.F.R. § 103.3 (b). Finally, candidates and campaigns are required to disclose publicly to the Commission "anything of value" that they receive. 52 U.S.C. § 30104 (a)-(b); 11 C.F.R. §§ 104.1, 104.3. *See* 52 U.S.C. § 30101 (8); 11 C.F.R. § 100.52 (a).

As described above, the contributions in question were unlawful. Either Respondent Candide made unlawful, corporate contributions *or* Respondents Candide and Ben-Ami made unlawful, foreign national contributions. In either case, these actions subverted our democracy and silenced the voices of American voters.<sup>28</sup> In turn, the Harris Respondents and the Lee Respondents impermissibly accepted such contributions.<sup>29</sup> While it is impossible to determine the amount or form<sup>30</sup> of these unlawful contributions without an investigation by the Commission, their status as prohibited source contributions is unequivocal. Further, there is no evidence that either campaign treasurer undertook any efforts to ascertain the lawfulness of these contributions, as required by regulation.<sup>31</sup> To make matters worse, the Harris Respondents and the Lee Respondents failed to disclose these unlawful contributions publicly to the Commission,<sup>32</sup> which is required by law<sup>33</sup> and which would have allowed the voting public to make a more informed decision in each of these races.

<sup>28</sup> *See supra* Part II (A)-(B).

<sup>29</sup> *See supra* n. 4.

<sup>30</sup> Complainant notes for the Commission the possibility that these unlawful contributions were made in cash and exceeded the \$100 cash contribution limit. 52 U.S.C. § 30123; 11 C.F.R. § 110.4 (c).

<sup>31</sup> 11 C.F.R. § 103.3 (b).

<sup>32</sup> *See supra* nn. 8, 13, and 18.

<sup>33</sup> 52 U.S.C. § 30104 (a)-(b); 11 C.F.R. §§ 104.1, 104.3. *See* 52 U.S.C. § 30101 (8); 11 C.F.R. § 100.52 (a).

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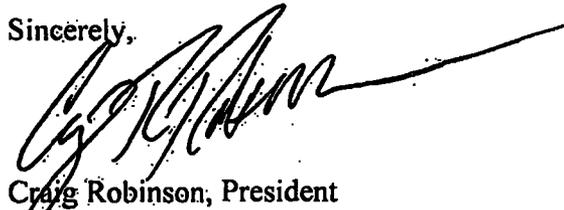
This dirty and dark money scheme and its many players—Respondents—turned American elections into a farce. Instead of choosing the high road, the Harris Respondents and the Lee Respondents accepted unlawful, ill-gotten money, concealed their wrongdoing, and made no apparent effort to correct their bad actions, to the detriment of all of us.

### III. CONCLUSION

Respondents Candide Group, LLC, and Aner Ben-Ami ignored the law, pouring prohibited source money into American elections for years, violating the public trust. Likewise, the Harris Respondents and the Lee Respondents accepted such unlawful and distasteful contributions for their own benefit and failed to disclose them to the public, shaking the very foundation of our democracy. The Commission should open an investigation immediately into Respondents' actions and impose the maximum punishment under law.

Submitted with acknowledgement of the applicability of 18 U.S.C. § 1001.

Sincerely,



Craig Robinson, President  
The Patriots Foundation

Sworn and subscribed before me on this 15 day of March 2019.

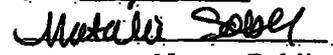
  
Notary Public





Exhibit 2



**Aner Ben-Ami**

November 6 · 🌐

Democracy date with Inbal Ben-Ami Bartal today - voted for the first time as newly minted American citizens and then canvassed for Josh Harder to flip California's 10th district blue.

This election is a special one for us: We're naturalized citizens (apparently a status that's not 100% secure under Trump), both our daughters are birthright citizens (apparently also not a secure status under this administration), and we happen to think that voting out the GOP (and then Trump) is quite simply a matter of saving the democratic institutions of this country.

And our planet, because climate change.



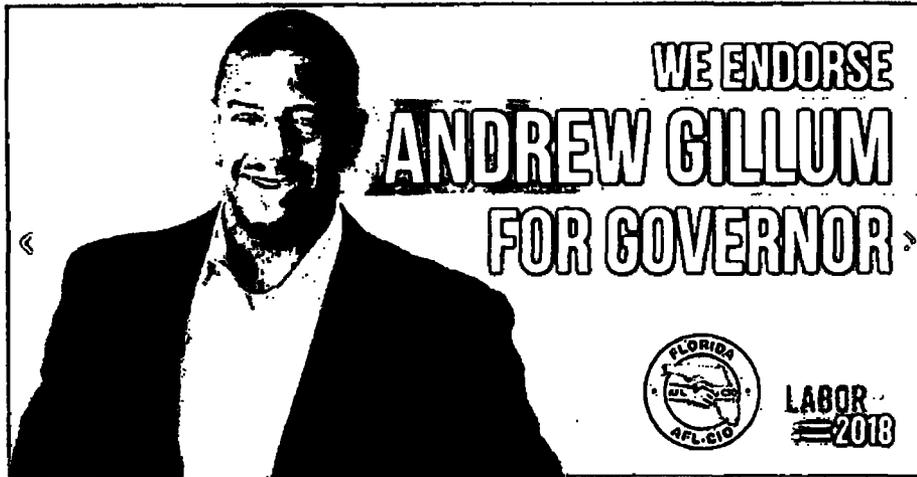
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**Exhibit 3**



HOME ABOUT INVESTMENTS MEDIA ACTIVISM CONTACT

POLITICS



jealous



**Political candidates and organizations supported include...**

- Ben Jealous, for Governor of Maryland
- Andrew Gillum, for Governor of Florida
- Nikki Fortuna-Bas, for Oakland City Council, District 2
- Barbara Lee, Congresswoman, 13th District, California
- Kamala Harris, Senator, California

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*Candide Group is not a grant-making organization and does not accept proposals, however we do make a small number of philanthropic and political contributions each year to holistically support the infrastructure needed for lasting change.*

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