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June 9, 2020

Lawrence H. Norton

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LHNorton@Venable.com**DELIVERED VIA ELECTRONIC MAIL**Jeff S. Jordan
Assistant General Counsel
Federal Election Commission
1050 First Street, NE
Washington, DC 20463**Re: MURs 7722 & 7723 (Michael R. Bloomberg, Mike Bloomberg 2020, Inc. and Hayden Horowitz in his official capacity as treasurer)**

Dear Mr. Jordan:

This letter is submitted on behalf of the above-named respondents in response to complaints filed with the Federal Election Commission (“Commission”) by Great America PAC and Americans for Public Trust (collectively, “Complainants”).

Complainants allege that transfers to the Democratic National Committee (“DNC”) and various state party committees (“State Parties”) from Michael R. Bloomberg’s self-funded campaign committee, Mike Bloomberg 2020 (the “Committee”) – amounting to less than 2% of Mr. Bloomberg’s total contributions to the Committee – should be imputed to Mr. Bloomberg personally, and considered an excessive contribution and a contribution in the name of another. These claims are contrary to well-settled law. A candidate may contribute unlimited funds to his or her own campaign, which once contributed, no longer belong to the candidate and may not be directed for the candidate’s personal use. Additionally, campaign committees are permitted to make transfers to political parties “without limitation.”

Even if a campaign committee’s transfer to a political party could in some circumstances be viewed as a contribution in the name of another — a finding the Commission has never made — the premise of the complaints that the Bloomberg campaign was a mere contrivance to funnel money to the parties is divorced from reality. Mr. Bloomberg ran a robust, national campaign. He qualified for the ballot in a combined 52 states and territories, hired more than 2,500 staff, opened 250 field offices, made numerous campaign appearances, advertised in all forms of media, and participated in two nationally-televised debates. Mr. Bloomberg’s contributions to the Committee were made entirely to fund these campaign activities and were never earmarked for the purpose of making transfers to the party.

These complaints are baseless and should be dismissed.

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I. Factual Background

Michael R. Bloomberg filed a Statement of Candidacy with the Commission on November 21, 2019.¹ On the same date, the Committee registered with the Commission, designating Hayden Horowitz as treasurer.² Prior to registration, the Committee incorporated as a Delaware nonstock, nonprofit corporation. Mr. Bloomberg is not, and has never been, an officer of the corporation or a member of the board of directors.³

Mr. Bloomberg formally announced his candidacy and launched his campaign on November 24, 2019.⁴ During the campaign, he filed the necessary paperwork and collected signatures to qualify for placement on the Democratic presidential primary ballot in 52 states and U.S. territories. Mr. Bloomberg and campaign surrogates traveled extensively to campaign events across the country, opening offices, hosting events, releasing policy platforms, and making campaign speeches in order to court potential voters.⁵ Mr. Bloomberg participated in two nationally-televised debates, having met the Democratic party's requirements to reach 10% in national polling or 12% in early state polls.

The Committee built an extensive primary campaign operation, ultimately hiring more than 2,500 staff and opening more than 250 field offices in 36 states and three territories. The Committee continued to onboard new staff and open new field offices in early March in the expectation that the campaign would continue after Super Tuesday. The Committee sent millions of mail pieces, and contacted millions of voters via calls, text messages, and knocking on doors. The Committee has spent over \$1 billion dollars to support Mr. Bloomberg's candidacy for president, including more than \$700 million on television, radio, direct mail, and digital campaign ads.⁶

¹ See Statement of Candidacy, FEC Form 2 (Nov. 21, 2019), available at <https://docquery.fec.gov/cgi-bin/forms/P00014530/1364469/>.

² See Statement of Organization, FEC Form 1 (Nov. 21, 2019), available at <https://docquery.fec.gov/pdf/029/201911219166073029/201911219166073029.pdf>.

³ Ex. A, Decl. of Hayden Horowitz at ¶ 2 (*hereinafter* "Horowitz Decl.").

⁴ *Michael Bloomberg Joins 2020 Democratic Field for President* N.Y. TIMES (Nov. 24, 2019), <https://www.nytimes.com/2019/11/24/us/politics/michael-bloomberg-2020-presidency.html?searchResultPosition=1>.

⁵ *Around the Country in 17 Hours with Michael Bloomberg* N.Y. TIMES (Jan. 9, 2020), <https://www.nytimes.com/2020/01/09/us/politics/michael-bloomberg-2020-campaign.html?searchResultPosition=13>.

⁶ Horowitz Decl. at ¶ 3.

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On Super Tuesday, Mr. Bloomberg won 49 district-level delegates.⁷ The following day, however, he suspended his campaign, as several other viable candidates did around the same time.⁸ Nearly two weeks later, after ruling out the formation of an independent expenditure committee, the Committee transferred \$18 million of its remaining funds to the Democratic National Committee and simultaneously began transferring 13 prepaid offices (of the 250 the Committee had opened), as well as other surplus items such as technology, office supplies and furniture, to various Democratic state parties around the country.⁹ The Committee has appropriately disclosed all transfers.

The Committee's sole funder was Mr. Bloomberg. At all times Mr. Bloomberg's contributions were made to further *bona fide* campaign activities and never for the purpose of funding party transfers. Mr. Bloomberg made periodic contributions to the Committee to pay for ongoing campaign activities, making his last contribution to the Committee prior to Super Tuesday on February 28 in the amount of \$50 million. On March 4 the Committee had more than \$47 million cash on hand and the Committee had more than \$29 million cash on hand as of the date of the transfer to the DNC.¹⁰

II. Mr. Bloomberg was Permitted to Make Unlimited Contributions to His Own Campaign

In the landmark case of *Buckley v. Valeo*, the Supreme Court held that limiting a candidate's expenditure of personal funds was a "substantial restraint on the ability of persons to engage in protected First Amendment expression."¹¹ The Court found that such a limit could not be justified by the government's interest in "the prevention of actual and apparent corruption of the political process" and that to the contrary, self-financing "reduces the candidate's dependence on outside contributions, and thereby counteracts the coercive pressures and attendant risks of abuse to which the [Federal Election Campaign] Act's contribution limitations are directed."¹² The Commission responded to the Supreme Court ruling by enshrining the right of candidates to make unlimited expenditures in Commission regulations,¹³ and has long advised

⁷ *Delegate Tracker*, ASSOCIATED PRESS, <https://interactives.ap.org/delegate-tracker/> (last accessed June 7, 2020).

⁸ *Mike Bloomberg is suspending his presidential campaign, says he's endorsing Biden*, WASH. POST, (Mar. 4, 2020), https://www.washingtonpost.com/politics/mike-bloomberg-drops-out-of-presidential-race/2020/03/04/62eaa54a-5743-11ea-9000-f3cffee23036_story.html.

⁹ *Mike Bloomberg 2020 Makes Transfer of \$18 million to Democratic National Committee*, MIKE BLOOMBERG 2020 PRESS RELEASE (Mar. 20, 2020), available at <https://www.mikebloomberg2020.com/news/mike-bloomberg-2020-makes-transfer-of-18-million-to-democratic-national-committee>.

¹⁰ *Id.* at ¶ 6.

¹¹ *Buckley v. Valeo*, 424 U.S. 1, 52 (1976).

¹² *Id.*

¹³ 11 C.F.R. § 110.10.

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candidates that the right to make unlimited expenditures in support of one's own campaign includes the right to make unlimited contributions to one's principal campaign committee.¹⁴

Complainant Great America PAC acknowledges Mr. Bloomberg's right to make unlimited expenditures from personal funds, but invites the Commission to conclude that "candidates may not contribute unlimited amounts of personal funds to their own campaign committees."¹⁵ This argument would not only reverse decades of Commission guidance, but also ignores the fact that when candidates exercise their constitutional right to make unlimited expenditures in support of their own campaigns, their campaign committees must report the expenditures, which are intended for the purpose of influencing an election, as contributions.¹⁶ If the funds are deposited in a campaign account, they are reported as direct contributions; if a candidate pays for campaign expenses out-of-pocket, they are reported as in-kind contributions.¹⁷

Since the Supreme Court's ruling in *Buckley* and in reliance on Commission guidance, countless candidates have contributed amounts to their own campaign committees well in excess of individual contribution limits.¹⁸ There is no basis for applying a different rule to Mr. Bloomberg.

III. Mike Bloomberg 2020 is Permitted to Transfer Campaign Funds and Assets to the DNC and State Parties "Without Limitation"

The Federal Election Campaign Act (the "Act") and Commission regulations provide that a campaign may transfer funds, "without limitation," to a national, state, or local committee of a political party.¹⁹ The meaning of these words – "*without limitation*" – is clear: the Act and Commission regulations impose no conditions or restrictions on a campaign's ability to convey

¹⁴ See, e.g., Advisory Ops. 1984-60 (Mulloy) at 2 ("Commission regulations explicitly permit a candidate for Federal office to make unlimited expenditures from his or her personal funds, *including contributions to the candidate's principal campaign committee*"); 2010-15 (Pike) at 2 (same); 1985-33 at 1 (Collins) (same); see also *Campaign Guide for Congressional Candidates and Committees* at 15, FEC (June 2014) ("contributions from the candidate's personal funds to his or her campaign are not subject to any limits").

¹⁵ Compl. at ¶¶ 85-93, MUR 7722.

¹⁶ See *Help for Candidates and Committees: Candidate Contributions*, FEC, <https://www.fec.gov/help-candidates-and-committees/filing-reports/candidate-contributions/> (last accessed June 1, 2020).

¹⁷ See *Help for Candidates and Committees: In-Kind Contributions from the Candidate*, FEC, <https://www.fec.gov/help-candidates-and-committees/filing-reports/-kind-contributions-candidate/> (last accessed June 1, 2020).

¹⁸ Great America PAC, which describes itself as "the premiere Pro-Trump Super PAC", is apparently unconcerned that the candidate it supports, Donald J. Trump, reported making a combined \$66 million in personal loans and contributions to his 2016 presidential campaign. See *About*, GREAT AMERICA PAC, <https://www.greatamericapac.com/about/> (last accessed June 1, 2020).

¹⁹ 52 U.S.C. § 30114(a)(4); see also 11 C.F.R. § 113.2(c).

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campaign assets to a party committee.²⁰ The Commission has consistently applied the transfer rule in this manner, stating that 52 U.S.C. § 30114 and 11 C.F.R. § 113.2(c) “do not limit the purposes that any transferred funds may be put to, nor do they restrict the amount that may be transferred in any specific period of time,” and that a transfer pursuant to these provisions is not subject to the party contribution limit found at 52 U.S.C. § 30116(a)(1)(D).²¹ The Commission has similarly applied these provisions to permit unlimited transfers of non-cash assets owned or purchased by a candidate committee.²²

Complainants urge the Commission to read a new limitation into the transfer rule, namely, that a campaign may transfer campaign assets to party committees without limitation *unless the authorized committee has been personally funded by the candidate*. They argue that contributions made by a candidate to his or her own campaign are not “accepted” by the candidate and therefore fall outside the transfer rule.²³ This novel interpretation has never been recognized by the Commission or any court, and it is contrary to Commission regulations, which state unequivocally that “funds in a campaign account” may be used for unconditional transfers.²⁴

IV. Mr. Bloomberg Did Not Make Excessive Contributions to the DNC or State Parties

Complainants contend that the Committee’s transfers to the party committees should be imputed to Mr. Bloomberg because he was the sole contributor to the Committee and that the campaign was merely a pass-through for funneling contributions to the parties. There is neither legal nor factual support for these arguments. Candidate contributions, once given, become assets of the campaign and are not the personal assets of the candidate. Moreover, Mr. Bloomberg’s contributions were not earmarked for any party committee, but made instead for the purpose of financing *bona fide* campaign activities. The Commission has never found a campaign’s transfer to a party committee to be a contribution in the name of another. To find

²⁰ The intent to permit unlimited transfers was confirmed in the Senate’s floor debate of the Bipartisan Campaign Reform Act of 2002 by co-sponsor, Russell Feingold. See 148 Cong. Rec. S2096, S2143 (daily ed. Mar. 20, 2002), available at <https://www.congress.gov/crec/2002/03/20/CREC-2002-03-20-pt1-PgS2096-2.pdf>.

²¹ Advisory Op. 2004-22 (Bereuter) at 1-2 and n. 2; see also 2010-28 (Indiana Democratic Congressional Victory Committee and Hoosiers for Hill), 2007-29 (Jackson), 2003-30 (Fitzgerald).

²² Advisory Op. 1984-50 (Ferraro) (concluding that 52 U.S.C. § 30014 and 11 C.F.R. § 113.2(c) permit a principal campaign committee to convey non-cash assets like campaign posters to the Democratic National Committee without limit); see also Advisory Op. 2002-14 (Libertarian National Committee) (same, as applied to a candidate’s purchase of advertising space in a party committee newsletter).

²³ Compl. at ¶¶ 60-61, MUR 7722; Compl. at ¶¶ 22-23, MUR 7723.

²⁴ Prior to the enactment of BCRA, 2 U.S.C. § 439a allowed candidates to make unlimited transfers to party committees only from “excess campaign funds.” See 11 CFR § 113.1(e) (2002). With the passage of BCRA, however, Congress repealed 2 U.S.C. 439a in its entirety and replaced it with a new section, 52 U.S.C § 30114, which removed this limitation, and the Commission deleted section 113.1(e). *Disclaimers, Fraudulent Solicitation, Civil Penalties, and Personal Use of Campaign Funds*, 67 FR at 76962, 76970-71 (Dec. 13, 2002).

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otherwise here would be contrary to established understandings of the law and violate due process.²⁵

A. Campaign Funds and Assets Do Not Belong to the Candidate

The Complainants argue that as the sole contributor to his campaign, Mr. Bloomberg exercised “exclusive direction and control” over the funds in the Committee account, and therefore the transfer of funds and other assets to the DNC should be treated as a personal contribution. There is no basis, however, for treating funds or assets held by a campaign committee as the personal assets of a candidate, even when the candidate himself is the source of the contributions.

As a general matter, a candidate’s authorized committee may use its funds only for the purposes enumerated by the Act.²⁶ Campaign funds may not be converted by any person for personal use.²⁷ For example, a candidate may not receive a salary from his or her campaign committee that exceeds the minimum annual salary for the office sought or what the candidate earned in the previous year, and may not make salary payments to a member of his or her family unless the family member provides a *bona fide* service to the campaign and the payments reflect fair market value.²⁸ Similarly, campaign funds cannot be used for a candidate’s household expenses, clothing, tuition payments, or entertainment.²⁹

In the specific context of self-financed campaigns, the Commission has repeatedly advised that funds contributed or loaned by a candidate are subject to the Act’s personal use restrictions and must be used for disbursements permitted under 52 U.S.C. § 30114 and 11 C.F.R. § 113.2.³⁰ These applications of the personal use rules to self-financed campaigns make clear that a candidate’s contributions, like those of any other contributor, become campaign assets once given, subject to the Act’s restrictions on permissible committee expenditures. Candidates’ contributions do not, as Complainants imply, remain personal funds of the candidate, at their disposal for personal use or any other disbursement.

²⁵ See, e.g. Controlling Statement of Reasons of Chair Caroline Hunter and Commissioner Matthew Petersen, MURs 6969, 7031 & 7034 (concluding that it would be inconsistent with due process to enforce a legal interpretation of which the regulated community did not have prior notice and which was not clear based on Commission precedent); Controlling Statement of Reasons of Chairman Matthew Petersen and Commissioners Caroline Hunter and Lee Goodman at 12-15, MURs 6485, 6487, 6488, 6711, and 6930 (same).

²⁶ 52 U.S.C. § 30114(a)(1).

²⁷ 52 U.S.C. § 30114(b); 11 C.F. R. § 113.1(g)(1)(i).

²⁸ 11 C.F.R. § 113.1(g)(1)(i)(H)-(I).

²⁹ *Id.* at § 113.1(g)(1)(i).

³⁰ See Advisory Ops. 2010-15 (Pike), Advisory Op. 2006-37 (Kissen); 2003-30 (Fitzgerald), 1980-147 (Yearout), 1980-114 (Calabrese).

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Citing the Commission's 2010 advisory opinion in Pike for Congress, Complainants argue that "[Mr. Bloomberg's] plenary authority over the funds in his candidate account is confirmed by the fact he retains unilateral discretion to refund them to his personal account at any time."³¹ They misread this opinion. In Pike, the Commission found that "[a] candidate, like any other contributor, may *request* a refund of a primary election contribution" and that "[n]o provision of the Act prevents the Committee from refunding lawful primary election contributions upon request, *if it desires to do so*."³² The opinion does not establish a self-funding candidate's entitlement to a refund and certainly does not support the theory that candidate contributions or loans to their Committee are grounds for disregarding the existence of the committees and attributing their actions to the candidates themselves.³³

In sum, funds in the Committee's account should not be treated as Mr. Bloomberg's personal assets.

B. Contributions from Michael R. Bloomberg to His Campaign Committee Were Made with the Intent of Supporting *Bona Fide* Campaign Activities

The Act provides that "[n]o person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person."³⁴ In the traditional name-of-another scheme, one person gives money to another for the purpose of making a contribution to a third. The "person who provides funds to another for the purposes of contributing to a candidate or committee 'makes' the resulting contribution."³⁵ The intermediary "acts merely as a mechanism," performing an "essentially ministerial role."³⁶

The Commission has emphasized that this "purpose requirement" distinguishes between a contribution in the name of another and a lawful gift:

³¹ Compl. at ¶¶ 27, 51, MUR 7722.

³² Advisory Op. 2010-15 (Pike) at 2-3.

³³ Indeed, a committee's repayment of a candidate's personal loans are restricted based on the size of the loan, when the loan will be repaid, and which contributions may be used to make the repayment. *See* 11 C.F.R. §§ 116.11-12.

³⁴ 52 U.S.C. § 30122.

³⁵ General Counsel's Brief at 9-10, MUR 6920 (American Conservative Union et al) (citing *United States v. Boender*, 649 F. 3d 650, 660 (7th Cir. 2011)).

³⁶ *United States v. O'Donnell*, 608 F.3d 546, 550 (9th Cir. 2010); *see also U.S. v. Whittemore*, 776 F.3d 1074, 1080 (9th Cir. 2011) (emphasis added) (upholding jury instructions stating that the Act "prohibits contributions which occur when a person provides anything of value . . . to another person for the *purpose* of causing that other person to make a contribution in that other person's name); *U.S. v. Danielczyk*, 788 F. Supp.2d 471, 483 (E.D. Va. 2011), *rev'd in part on other grounds*, 683 F.3d 611 (4th Cir. 2012) (parent's contribution to politically active college student would only result in contribution in the name of another "where the parent's purpose was to circumvent his contribution limits through his daughter").

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For example, if Corporation A provides Individual B a \$3,000 bonus for the purpose of rewarding good work, and Individual B uses that income to contribute to Candidate C, there is no violation of section 30122. But if Corporation A provides Individual B a \$3,000 bonus for the purpose of reimbursing Individual B's contribution to Candidate C, a violation of section 30122 can be found, and indeed it has. In both scenarios, the purpose of the transfer has always been the dispositive fact.³⁷

Accordingly, a contribution in the name of another does not exist merely because Person A gives to Person B, who in turn gives to Person C. Instead, the Commission must look “to the substance of the transaction” to ascertain whether Person A intended their gift to benefit the ultimate recipient.³⁸

At the heart of Complainants' allegations is a fiction: that Mr. Bloomberg “parked his money for a few months in a candidate account” for “the simply [sic] expedient of laundering millions of dollars” to the DNC.³⁹ This characterization of the campaign could not be further from the truth. Mr. Bloomberg ran a robust, national campaign, hiring more than 2,500 staff and opening more than 250 field offices in 36 states and three territories. He and campaign surrogates traveled extensively to campaign events, released policy platforms, and made campaign speeches to potential voters. He also participated in two nationally-televised debates. The Committee sent millions of mail pieces, and called, sent text messages, and knocked on more than a million doors to reach voters. The Committee has spent over \$1 billion dollars to support Mr. Bloomberg's candidacy for president, including more than \$700 million on television, radio, direct mail, and digital campaign ads.⁴⁰

Mr. Bloomberg's last cash contribution to the Committee before the Committee's transfer to the DNC occurred on February 28, 2020, in advance of the campaign's significant spending prior to the “Super Tuesday” primaries on March 3, 2020 and well in advance of the transfer to the DNC. The transfer amounted to less than 2% of the campaign's total expenditures. Hayden Horowitz, the campaign treasurer, affirms that every contribution from Mr. Bloomberg to his campaign was for the purpose of funding campaign activities and paying campaign obligations.⁴¹

³⁷ Controlling Statement of Reasons of Commissioners Matthew Petersen, Caroline Hunter, and Lee Goodman at 3, MURs 6485 (W Spann LLC), 6487 & 6488 (F8 LLC), 6711 (Specialty Investments Group, Inc.), and 6930 (SPM Holdings LLC) (Apr. 18, 2016).

³⁸ *O'Donnell*, 608 F.3d at 550.

³⁹ Compl. at 2, MUR 7722.

⁴⁰ Horowitz Decl. at ¶ 3.

⁴¹ Horowitz Decl. at ¶ 4.

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Complainants ignore what actually transpired in the campaign, seizing instead on an unremarkable statement in a memorandum from the Committee to the DNC that, “[a]s Mike said through the campaign, he would support whomever the eventual Democratic nominee is, as well as Democrats in key races.” Complainants portray this as an “admi[ssion] that [Mr. Bloomberg] had always intended to support the Democratic Party’s nominee for President, even when he established MIKE BLOOMBERG 2020, Inc. and contributed nearly a billion dollars of his personal funds to it.”⁴² Additionally, Complainants argue that because the party’s nominee at that time was “overwhelmingly likely to be “former Vice President Joe Biden,” the transfer was “at the very least . . . made indirectly on behalf of the party’s eventual nominee” and “must be treated and reported as an earmarked contribution from MIKE BLOOMBERG 2020, INC. to the presidential candidate who receives the Democratic Party’s nomination for President.”⁴³

Complainants, two experienced political organizations, no doubt realize that virtually every candidate in the major party primaries pledges to support the candidate who secures the nomination. Acknowledging that Mr. Bloomberg made this pledge throughout the campaign certainly does not establish that he intended to earmark his contributions to the Committee for the party committees or, alternatively, that the Committee intended to earmark its transfer to the DNC for the Democratic nominee. In fact, the memorandum cited by Complainants expressed the Committee’s hope that the transferred funds would be used to help the DNC’s organizing efforts support candidates up and down the ballot.

Clearly, there is no basis for Complainants’ allegation that Mr. Bloomberg “laundered” his money in a campaign account to take advantage of the party transfer rules. To conclude otherwise would not only be contrary to the facts before the Commission, but also an unprecedented application of the prohibition on contributions in the name of another.⁴⁴

⁴² Compl at ¶ 12, MUR 7722.

⁴³ Compl. at ¶¶ 94-100, MUR 7722.

⁴⁴ Two affiliated organizations reacting to the Committee’s transfer filed a petition for rulemaking requesting that the Commission impose a limit on transfers by candidate-funded campaigns. Those petitioners concede that 11 CFR § 113.2 “allows a transfer of the type undertaken by the Bloomberg campaign.” Petition for Rulemaking filed by Citizens United (April 8, 2020), available at https://www.scribd.com/document/455597038/CU-Petition-for-Rulemaking-to-FEC#from_embed.

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V. The Law May Not be Applied in a Manner that Subjects Self-Funded Candidates and Their Campaigns to More Restrictive Contribution Limits

The Supreme Court has held repeatedly that “political speech cannot be limited based on a speaker’s wealth,” which “is a necessary consequence of the premise that the First Amendment generally prohibits the suppression of political speech based on the speaker’s identity.”⁴⁵ In *Davis v. FEC*, the Court applied this principle to strike down the so-called “Millionaire’s Amendment” of the Bipartisan Campaign Reform Act of 2002, which granted a candidate the ability to fundraise subject to increased contribution limits if the candidate’s opponent self-financed his or her campaign in excess of certain thresholds.⁴⁶ The Court reasoned that the Millionaire’s Amendment imposed an unconstitutional choice on self-funded candidates to either “abide by a limit on personal expenditures or endure the burden that is placed on that right by the activation of a scheme of discriminatory contribution limits.”⁴⁷ Restricting the Committee from making transfers to the DNC merely because Mr. Bloomberg’s campaign was self-funded would create a similar scheme of discriminatory limits and should be rejected.

VI. Conclusion

Putting aside the inflammatory rhetoric, this is simply a case where Complainants – Great America PAC, a Super PAC supporting President Donald Trump, and Americans for Public Trust, a conservative group led by a former National Republican Congressional Committee chair – are unhappy about the Committee’s transfers to the DNC and Democratic state parties. This is not a basis for Commission action. Complainants’ request to apply one rule to Mr. Bloomberg and his campaign and another for everyone else is contrary to longstanding Commission law and guidance, as well as constitutional principles, and is based on a gross mischaracterization of the campaign. The complaints are meritless and should be dismissed.

⁴⁵ *Citizens United v. Federal Election Comm’n*, 558 U.S. 310, 350 (2010).

⁴⁶ *Davis v. Federal Election Comm’n*, 554 U.S. 724, 726 (2008).

⁴⁷ *Id.* at 726.

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Respectfully submitted,



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Attorneys for Respondents Michael R. Bloomberg,
Mike Bloomberg 2020 and Hayden Horowitz in his
official capacity as treasurer

BEFORE THE FEDERAL ELECTION COMMISSION

IN RE:)

Michael R. Bloomberg)
 Mike Bloomberg 2020. Inc.)
 Hayden Horowitz (in his official capacity)
 as treasurer))

MURs 7722 & 7723

Respondents.)

AFFIDAVIT OF HAYDEN HOROWITZ

I, Hayden Horowitz, hereby depose and state:

1. My name is Hayden Horowitz. I am over the age of eighteen. I am the Treasurer of Mike Bloomberg 2020, Inc. (the "Committee") and have served in that capacity since the Committee's inception.

2. The Committee was incorporated as a Delaware nonstock, non-profit corporation under 26 U.S.C. §527. Michael R. Bloomberg is not, and has never been, an officer of the corporation or a member of the board of directors.

3. The Committee's sole funder was Mr. Bloomberg. At all times, Mr. Bloomberg's contributions were made for the purpose of funding *bona fide* campaign activities. To that end, the Committee hired more than 2,500 staff, opened more than 250 field offices in 36 states and 3 territories, sent millions of mail pieces, and contacted millions of voters via calls, text messages, and knocking on doors - all to support Mr. Bloomberg's candidacy for president. The Committee has spent over \$1 billion dollars, including more than \$700 million on television, radio, print, direct mail, and digital advertisements.

4. No contributions to the Committee were made for any purpose other than to fund ongoing campaign activities and pay campaign obligations in support of Mr. Bloomberg's candidacy for president.

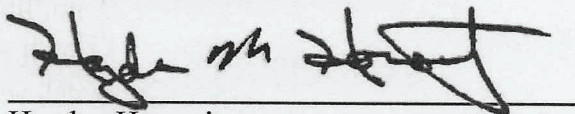
5. Nearly two weeks after Mr. Bloomberg ended his campaign, the Committee transferred \$18 million of its remaining funds to the Democratic National Committee and simultaneously began transferring 13 prepaid offices (of the 250 the Committee had opened), as well as other surplus items such as technology, office supplies and furniture, to various Democratic state parties.

6. Mr. Bloomberg made periodic cash and in-kind contributions to the Committee. Prior to the party transfers noted above, Mr. Bloomberg's last contribution to the Committee was

on February 28, 2020 in the amount of \$50 million. On March 4, 2020 (the day after the Super Tuesday primaries), the Committee had more than \$47 million cash on hand and the Committee had more than \$29 million cash on hand as the date of the transfer on March 13, 2020 to the Democratic National Committee. The transfer amounted to less than 2% of the campaign's total expenditures.

I declare under the penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
June 8, 2020



Hayden Horowitz