BEFORE THE
FEDERAL ELECTION COMMISSION

Representative Ted Lieu
Representative Walter Jones
Senator Jeff Merkley
State Senator John Howe
Zephyr Teachout
Michael Wager
Free Speech For People
Campaign for Accountability

v. MUR No. _____

House Majority PAC
Congressional Leadership Fund
Senate Majority PAC
Senate Leadership Fund
American Alliance PAC
Bold Agenda PAC
Defending Main Street SuperPAC Inc.
ESAFund
Freedom Partners Action Fund, Inc.
New York Wins PAC

COMPLAINT

1. This complaint is filed under 52 U.S.C. § 30109(a)(1) and 11 C.F.R. § 111.4, seeking an immediate investigation and enforcement action against political committees for violations of the Federal Election Campaign Act (FECA). The respondent political committees, known popularly as "super PACs," have knowingly accepted contributions that exceed the limits of 52 U.S.C. § 30116.

2. Under FECA, contributions to political committees are subject to dollar limits. For political committees that are not the authorized committees of candidates or political parties, the applicable limit is $5,000 per contributor per

year. 52 U.S.C. § 30116(a)(1)(C); 11 C.F.R. § 110.1(d). This contribution limit "appl[ies] to contributions made to political committees making independent expenditures." 11 C.F.R. § 110.1(n). A political committee may not knowingly accept any contribution in violation of that limit. 52 U.S.C. § 30116(f).

3. Respondents have knowingly accepted and continue to knowingly accept contributions that exceed the $5,000 per contributor limit, in some cases by over a hundredfold.

4. In March 2010, the U.S. Court of Appeals for the D.C. Circuit found the limit in § 30116(a)(1)(C) to be unconstitutional as applied to SpeechNow.org, an unincorporated nonprofit association that promised to make only independent expenditures, and its contributors. *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010) (en banc). In so doing, the D.C. Circuit extended *Citizens United v. FEC*, 558 U.S. 310 (2010), which concerned a *spender-based ban* on *independent expenditures*, to the entirely different context of *dollar limits* on *contributions*.

5. The Department of Justice chose not to seek Supreme Court review of the decision, in large part on the theory that "the particularly limited nature of SpeechNow's contribution and expenditure practices means that the court of appeals' decision will affect only a small subset of federally regulated contributions." Letter from Att'y Gen. Eric H. Holder, Jr., to Sen. Harry Reid (June 16, 2010), http://1.usa.gov/298RWaP. The Supreme Court has never considered the question.

6. Time has proven the Attorney General's prediction wrong. *SpeechNow* did not "affect only a small subset of federally regulated contributions." Rather, it

birthed the "super PAC," through which wealthy contributors make unlimited contributions to political committees that spend the money on behalf of candidates and parties, thus evading the dollar limits on contributions given directly to candidates and parties. Since the Court of Appeals' decision in *SpeechNow*, as set forth in more detail below, the number of super PACs has exploded, as has the size of contributions to them and their influence in federal races, giving rise to a widespread perception of quid pro quo corruption.

7. In July 2010, the FEC issued Advisory Opinion No. 2010-11 (*Commonsense Ten*) (July 22, 2010), http://1.usa.gov/298r8dg, to a political committee that later became respondent Senate Majority PAC. The FEC opined that the political committee's "planned course of action, which involves soliciting and accepting unlimited contributions from individuals, political committees, corporations, and labor organizations for the purpose of making independent expenditures . . . complies with the Act." *Id.* at 2. In light of this advisory opinion and 52 U.S.C. § 30108(c)(2), complainants do not ask the FEC to seek civil penalties or other sanctions for past conduct, but rather only declaratory and/or injunctive relief against future acceptance of excessive contributions.

8. The Court of Appeals for the D.C. Circuit has not yet revisited *SpeechNow*. In these proceedings, however, the FEC is not bound by the D.C. Circuit's ruling, as the FEC itself has recognized. In arguing against injunctive relief in *SpeechNow*, the FEC noted that the doctrine of collateral estoppel precludes it from enforcing contribution limits against the plaintiffs who brought

the *SpeechNow* litigation. The FEC emphasized, however, that despite the *SpeechNow* ruling, it can still enforce FECA's contribution limits in cases brought by or against other parties outside the D.C. Circuit. *See* FEC Br. in Partial Opp. to Pls.' Mot. for Entry of Judgment 4-8, May 28, 2010, ECF No. 77, *SpeechNow.org v. FEC*, No. 08-248 (D.D.C. 2010), http://1.usa.gov/28NZZIv. This proceeding involves at least two complainants (John Howe and Michael Wager) and at least one respondent (ESAFund) located in circuits that have not yet ruled on the issues presented by *SpeechNow*. Moreover, an administrative agency need not acquiesce in a court of appeals ruling even in the same circuit as long as the agency is "embarked on a rational litigation program designed to secure a reasonably prompt national resolution of the question in dispute." Samuel Estreicher & Richard L. Revesz, *The Uneasy Case Against Intracircuit Nonacquiescence*, 99 Yale L.J. 831, 832 (1990). In these proceedings, complainants ask the FEC to reconsider, in light of later experience, its previous decision to acquiesce to *SpeechNow*.

COMPLAINANTS

9. Ted Lieu, 415 Cannon House Office Building, Washington, DC 20515, is a United States Representative from California's 33rd District and a Democrat. In his 2014 election campaign, he was targeted by spending from two super PACs, American Alliance and Bold Agenda PAC. American Alliance spent $506,407 in his race (including an attack ad falsely linking him to a terrorist group), of which $500,000 came from a single donor. *See* FEC, *American Alliance, Independent expenditures: 2013-2014*, http://1.usa.gov/28SxzgR; FEC, *American Alliance,*

Receipts, http://1.usa.gov/28SxtG2 (all last visited June 29, 2016); Paul Blumenthal, *These Super PACs Spent Big As Elections Neared, But Kept Donors Secret Until Now*, HuffPost Politics (Dec. 6, 2014), http://huff.to/1wbeJLx.

10. As a Member of Congress, Representative Lieu is interested in upholding federal campaign finance law. Furthermore, Representative Lieu is running for re-election in 2016, and faces the strong risk that unregulated super PAC contributions will again be used in an attempt to influence federal elections in which he is a candidate. If the FEC does not faithfully enforce § 30116, he will be open to attack, particularly during critical time periods just before the election, in broadcast advertising campaigns mounted by groups created to evade the contribution limits imposed by Congress.

11. Walter Jones, 2333 Rayburn House Office Building, Washington, DC 20515, is a United States Representative from North Carolina's 3rd District and a Republican. In his 2014 election campaign, he was targeted by spending from a super PAC called Ending Spending Action Fund (now known as ESAFund), which spent $381,354 opposing him and $353,252 supporting his then-opponent. *See* FEC, *Ending Spending Action Fund, Independent Expenditures: 2013-2014*, http://1.usa.gov/28OG0he (last visited June 29, 2016).

12. As a Member of Congress, Representative Jones is interested in upholding federal campaign finance law. Furthermore, Representative Jones is running for re-election in 2016, and faces the strong risk that unregulated super PAC contributions will again be used in an attempt to influence federal elections in

which he is a candidate. If the FEC does not faithfully enforce § 30116, he will be open to attack, particularly during critical time periods just before the election, in broadcast advertising campaigns mounted by groups created to evade the contribution limits imposed by Congress.

13. Jeff Merkley, P.O. Box 14172, Portland, OR 97293, is a United States Senator from Oregon and a Democrat. In his 2014 election campaign, he was targeted by spending from a super PAC called Freedom Partners Action Fund, Inc., which spent $1,020,016 opposing him. *See* FEC, *Freedom Partners Action Fund, Inc., Independent expenditures: 2013-2014*, http://1.usa.gov/29cPAuE (last visited June 30, 2016).

14. As a Senator, Senator Merkley is interested in upholding federal campaign finance law. Furthermore, Senator Merkley expects to run for re-election in 2020, and faces the strong risk that unregulated super PAC contributions will again be used in an attempt to influence federal elections in which he is a candidate. If the FEC does not faithfully enforce § 30116, he will be open to attack, particularly during critical time periods just before the election, in broadcast advertising campaigns mounted by groups created to evade the contribution limits imposed by Congress.

15. John Howe, P.O. Box 172, Red Wing, MN 55066, is a Republican candidate for United States Congress from Minnesota's 2nd District, and a former Minnesota State Senator. The primary election is scheduled for August 9, 2016. House Majority PAC, a super PAC which supports Democrats and opposes

Republicans in Congressional races, has already reserved $2,415,794 of television time in the Minneapolis media market. House Majority PAC, *House Majority PAC Adds Over $5.2 Million in Airtime* (May 17, 2016), http://www.thehousemajoritypac.com/news/press-releases/house-majority-pac-adds-over-52-million-in-airtime. House Majority PAC states that the purpose of its media campaign, in Minneapolis and elsewhere, is to "hold House GOP candidates accountable in every corner of the country." *Ibid.*

16. Mr. Howe faces the strong risk that unregulated super PAC contributions will be used in an attempt to influence federal elections in which he is a candidate. If the FEC does not faithfully enforce § 30116, he will be open to attack, particularly during critical time periods just before the election, in broadcast advertising campaigns mounted by groups created to evade the contribution limits imposed by Congress.

17. Zephyr Teachout, c/o Zephyr Teachout for Congress, P.O. Box 491, Rosendale, NY 12472, is the Democratic candidate for United States Congress from New York's 19th District. This district has been identified by outside observers as a highly competitive race. *See, e.g.,* Kevin B. Sanders, *A Congressional Barnburner Brews in New York 19,* Observer (June 17, 2016), http://observer.com/2016/06/a-congressional-barnburner-brews-in-new-york-19/.

18. In the 2016 Republican primary race for New York's 19th District, a super PAC called New York Wins PAC spent over $594,000. *See* FEC, *New York Wins PAC, Independent expenditures: 2015-2016*, http://1.usa.gov/28OIsjA (last

visited June 29, 2016). Reportedly, according to the director and founder of New York Wins PAC, this super PAC will also spend money on independent expenditures in the general election. *See* James Nani, *Updated: New pro-Faso super PAC enters race for NY-19, bankrolled by single multi-millionaire*, The Fray (May 17, 2016), http://blogs.hudsonvalley.com/fray/2016/05/17/new-pro-faso-super-pac-enters-race-for-ny-19-bankrolled-by-single-multi-millionaire/.

19. Ms. Teachout faces the strong risk that unregulated super PAC contributions will be used in an attempt to influence federal elections in which she is a candidate. If the FEC does not faithfully enforce § 30116, she will be open to attack, particularly during critical time periods just before the election, in broadcast advertising campaigns mounted by groups created to evade the contribution limits imposed by Congress.

20. Michael Wager, c/o Citizens for Michael Wager, P.O. Box 1044, Solon, OH 44139, is the Democratic candidate for United States Congress from Ohio's 14th District. In 2014, he ran for this seat against the incumbent Representative, and he was targeted by spending from a super PAC called Defending Main Street SuperPAC Inc. In the 2014 election cycle, Defending Main Street SuperPAC Inc. spent $82,000 opposing his candidacy, and $39,550 supporting the candidacy of his then-opponent, Representative David Joyce. *See* FEC, *Defending Main Street SuperPAC Inc., Independent expenditures: 2013-2014*, http://1.usa.gov/28QhsWg (last visited June 29, 2016). In 2016, Mr. Wager is again running against Representative Joyce. So far, Defending Main Street SuperPAC Inc. has spent over

$243,000 supporting the candidacy of Representative Joyce. *See* FEC, *Defending Main Street SuperPAC Inc., Independent expenditures: 2015-2016*, http://1.usa.gov/28O5xC8 (last visited June 29, 2016).

21. Mr. Wager faces the strong risk that unregulated super PAC contributions will again be used in an attempt to influence federal elections in which he is a candidate. If the FEC does not faithfully enforce § 30116, he will be open to attack, particularly during critical time periods just before the election, in broadcast advertising campaigns mounted by groups created to evade the contribution limits imposed by Congress.

22. Free Speech For People, 1340 Centre St., Suite 209, Newton, MA 02459, is a national non-partisan, non-profit 501(c)(3) organization that works to restore republican democracy to the people, including through legal advocacy concerning the law of campaign finance. Free Speech For People's thousands of supporters around the country engage in education and non-partisan advocacy to encourage and support effective government of, by, and for the American people.

23. Campaign for Accountability, 1201 Connecticut Ave., NW, Suite 300, Washington, DC 20036, is a national non-partisan project of the Hopewell Fund, a non-profit 501(c)(3) organization. Campaign for Accountability uses research, litigation and communications to expose misconduct and malfeasance in public life. Millions of Americans' lives are negatively impacted by decisions made behind the doors of corporate boardrooms, government offices, and shadowy nonprofit groups. Campaign for Accountability works to bring transparency to government and

corporate actors and to reform the campaign finance system to eliminate the corruption that flows from unlimited spending.

RESPONDENTS

24. House Majority PAC (ID# C00495028), 700 13th Street NW, Suite 600, Washington, DC 20005, is an independent expenditure-only committee (super PAC) established on April 6, 2011.[1] House Majority PAC, *Statement of Organization* (Apr. 6, 2011), http://1.usa.gov/28MiA7E. House Majority PAC states as its goal "helping Democrats win seats in the House." House Majority PAC, *Our Story*, http://hmp.ac/17mfU9n (last visited July 3, 2016). House Majority PAC made independent expenditures for or against over 140 candidates in the 2012 and 2014 election cycles, and has already made independent expenditures for or against four candidates in the 2016 cycle. *See* FEC, *House Majority PAC, Independent expenditures: 2015-2016*, http://1.usa.gov/28RfvJ8; *House Majority PAC, Independent expenditures: 2013-2014*, http://1.usa.gov/28Pumtm; *House Majority PAC, Independent expenditures: 2011-2012*, http://1.usa.gov/28PlXPM (all last visited June 29, 2016). In the 2016 election cycle, House Majority PAC has reserved nearly $19 million of television time so far. House Majority PAC, *House Majority PAC Adds Over $5.2 Million in Airtime* (May 17, 2016), http://www.thehousemajoritypac.com/news/press-releases/house-majority-pac-adds-over-52-million-in-airtime.

[1] By referring to this and other respondents as an "independent expenditure-only committee," complainants do not confirm or concede that the respondent's expenditures are in fact truly independent, but only that the respondent has thus registered with the FEC.

25. Congressional Leadership Fund (ID# C00504530), 1747 Pennsylvania Avenue NW, 5th Floor, Washington, DC 20006, is an independent expenditure-only committee (super PAC) established on October 21, 2011. Congressional Leadership Fund, *Statement of Organization* (Oct. 21, 2011), http://1.usa.gov/28PycTP. Congressional Leadership Fund "is a super PAC exclusively dedicated to protecting and strengthening the Republican Majority in the House of Representatives." Congressional Leadership Fund, *About*, http://www.congressionalleadershipfund.org/about/ (last visited July 3, 2016). In the 2012 and 2014 election cycles, Congressional Leadership Fund made independent expenditures for or against 39 candidates, and in the 2016 cycle so far, has made independent expenditures supporting one candidate. *See* FEC, *Congressional Leadership Fund, Independent expenditures: 2015-2016*, http://1.usa.gov/28SjMei; *Congressional Leadership Fund, Independent expenditures: 2013-2014*, http://1.usa.gov/28YkUvU *Congressional Leadership Fund, Independent expenditures: 2011-2012*, http://1.usa.gov/28QMxVS (all last visited June 29, 2016).

26. Senate Majority PAC (ID# C00484642) (formerly known as Majority PAC, and before that as Commonsense Ten), 700 13th Street NW, Suite 600 Washington, DC 20005, is an independent expenditure-only committee (super PAC) established on June 11, 2010. Senate Majority PAC, *Statement of Organization* (June 11, 2010), http://1.usa.gov/28Rg8Ci. Senate Majority PAC was established to win Senate races for Democratic candidates. Senate Majority PAC, *Our Mission*, http://www.senatemajority.com/about/ (last visited June 29, 2016). Senate Majority

PAC made expenditures for or against 42 candidates in the 2012 and 2014 election cycles, and so far has made independent expenditures supporting 11 candidates in the 2016 cycle. *See* FEC, *Senate Majority PAC, Independent expenditures: 2015-2016*, http://1.usa.gov/28W6NIZ; *Senate Majority PAC, Independent expenditures: 2013-2014*, http://1.usa.gov/28RST5d; *Senate Majority PAC, Independent expenditures: 2011-2012*, http://1.usa.gov/28SjH6g (all last visited June 29, 2016). Reportedly, in the 2014 election cycle, Senate Majority PAC funded 1 out of every 20 television ads in Senate races across the country. Carrie Levine & Dave Levinthal, *This Super PAC was Behind 1 Out of Every 20 Senate Ads*, Time (Nov. 3, 2014), http://ti.me/1A3nN6P.

27. Senate Leadership Fund (ID# C00571703), 45 North Hill Drive, Suite 100, Warrenton, VA 20186, is an independent expenditure-only committee (super PAC) established on January 20, 2015. Senate Leadership Fund, *Statement of Organization* (Jan. 20, 2015), http://1.usa.gov/295dNzD. Senate Leadership Fund asserts that it "has one goal: *to protect and expand the Republican Senate Majority*." Senate Leadership Fund, *About*, http://www.senateleadershipfund.org/about/ (last visited June 29, 2016) (emphasis in original). In the 2016 election cycle (its first), so far Senate Leadership Fund has made independent expenditures for or against two candidates. *See* FEC, *Senate Leadership Fund, Independent expenditures: 2015–2016*, http://1.usa.gov/28V1Mj0 (last visited June 29, 2016). On June 28, 2016, Senate Leadership Fund announced that it had reserved $38.6 million in fall cable and broadcast advertising time. Senate Leadership Fund, *Senate Leadership Fund*

Announces Nearly $40 Million in First Round of Fall TV Reservations (June 28, 2016), http://www.senateleadershipfund.org/senate-leadership-fund-announces-nearly-40-million-first-round-fall-tv-reservations/.

28. American Alliance PAC (ID# C00567016), P.O. Box 1706, Alexandria, VA 22313, is an independent expenditure-only committee (super PAC) established on August 8, 2014. American Alliance PAC, *Statement of Organization* (Aug. 8, 2014), http://1.usa.gov/28QcI35. American Alliance PAC is "devoted to helping elect candidates from across the nation that stand to protect its founding principles: an open and free economic market and a more limited federal government." American Alliance PAC, *About*, http://americanalliancepac.org/about/ (last visited June 29, 2016). In the 2014 election cycle, American Alliance PAC made independent expenditures of $107,051 opposing complainant Representative Ted Lieu and $399,362 supporting his then-opponent. FEC, *American Alliance, Independent expenditures: 2013-2014*, http://1.usa.gov/28OuCjD (last visited June 29, 2016).

29. Bold Agenda PAC (ID# C00569426), P.O. Box 1173, Santa Rosa, CA 95402, is an independent expenditure-only committee (super PAC) established on October 8, 2014. Bold Agenda PAC, *Statement of Organization* (Oct. 8, 2014), http://1.usa.gov/28NuxoN. Bold Agenda PAC proposes "achievable[] steps that would strengthen our economy, our individual liberty, and our national security" and that "the Republican Party should rally to adopt them." Bold Agenda PAC, *About*, http://boldagendapac.com/#about (last visited June 29, 2016). In the 2014

election cycle, Bold Agenda PAC made independent expenditures of $256,485 supporting complainant Representative Ted Lieu's then-opponent. FEC, *Bold Agenda PAC, Independent expenditures: 2013-2014*, http://1.usa.gov/28OwwRw (last visited June 29, 2016).

30. Defending Main Street SuperPAC Inc. (ID# C00540203), 325 7th Street, NW, Suite 610, Washington, DC 20004, is an independent expenditure-only committee (super PAC) established on December 18, 2012. Defending Main Street SuperPAC Inc., *Statement of Organization* (Dec. 18, 2012), http://1.usa.gov/28RcAek. In the 2014 election cycle, Defending Main Street SuperPAC Inc. made independent expenditures for or against 20 candidates, and in the 2016 election cycle so far, Defending Main Street SuperPAC Inc. has made independent expenditures for or against six candidates. FEC, *Defending Main Street SuperPAC Inc., Independent expenditures: 2015–2016*, http://1.usa.gov/28SoBQw; *Defending Main Street SuperPAC Inc., Independent expenditures: 2013–2014*, http://1.usa.gov/28SoAMy (all last visited June 29, 2016).

31. ESAFund (ID# C00489856) (formerly known as Ending Spending Action Fund, and before that as Ending Spending Fund), 610 South Boulevard, Tampa, FL 33606, is an independent expenditure-only committee (super PAC) established on October 5, 2010. ESAFund, *Statement of Organization* (Oct. 5, 2010), http://1.usa.gov/28RRHkP. ESAFund supports candidates "who favor enhancing free enterprise, reducing the size of government, and balancing our nation's budget." ESAFund, http://esafund.com (last visited June 29, 2016). In the 2014

election cycle, ESAFund made independent expenditures for or against 16 candidates, and in the 2016 election cycle, so far has made independent expenditures for or against three candidates. FEC, *ESAFund, Independent expenditures: 2015-2016*, http://1.usa.gov/28V6tcm; *ESAFund, Independent expenditures: 2013-2015*, http://1.usa.gov/28V6Bc0 (all last visited June 29, 2016).

32. Freedom Partners Action Fund, Inc. (ID# C00564765), 2300 Wilson Boulevard, Suite 500, Arlington, VA 22201, is an independent expenditure-only committee (super PAC) established on June 13, 2014. Freedom Partners Action Fund, Inc., *Statement of Organization* (June 13, 2014), http://1.usa.gov/29cFZCL. Freedom Partners Action Fund, Inc. supports candidates "who believe in freedom, who will empower entrepreneurs over special interests to expand opportunities, create strong communities, and give everyone the best shot at a better life" as well as candidates "who promote free markets and a free society." Freedom Partners Action Fund, Inc., https://fpaction.org/; Freedom Partners Action Fund, Inc., *About*, https://fpaction.org/about/ (all last visited June 29, 2016). In the 2014 election cycle, Freedom Partners Action Fund, Inc., made independent expenditures for or against 21 candidates. FEC, *Freedom Partners Action Fund, Inc., Independent expenditures: 2013-2014*, http://1.usa.gov/29cPAuE (last visited June 30, 2016). In the 2016 election cycle so far, Freedom Partners Action Fund has made independent expenditures against five candidates, and in support of one candidate. FEC, *Freedom Partners Action Fund, Independent expenditures: 2015-2016,* http://1.usa.gov/299cRhs (last visited June 29, 2016).

33. New York Wins PAC (ID# C00603365), 150 Lake Street, Elmira, NY 14901, is an independent expenditure-only committee (super PAC) established on January 11, 2016. New York Wins PAC, *Statement of Organization* (Jan. 11, 2016), http://1.usa.gov/28R7WkH. Reportedly, the principal race on which it is focusing in 2016 is supporting Republican candidate John Faso in his race for New York's 19th Congressional District. *See* Nani, *supra*. In the 2016 election cycle so far, New York Wins PAC has made independent expenditures of over $594,000 against Mr. Faso's opponent in the Republican primary. *See* FEC, *New York Wins PAC, Independent expenditures: 2015-2016*, http://1.usa.gov/28OisjA (last visited June 29, 2016).

BACKGROUND

Before *SpeechNow*

34. In *Buckley v. Valeo*, the Supreme Court held that limits on contributions were justified by the public interest in "limit[ing] the actuality and appearance of corruption resulting from large individual financial contributions," and that "[o]f almost equal concern as the danger of actual quid pro quo arrangements is the impact of the appearance of corruption stemming from public awareness of the opportunities for abuse inherent in a regime of large individual financial contributions." 424 U.S. 1, 26-27 (1976) (per curiam). And as the Court explained, "a limitation upon the amount that any one person or group may contribute to a . . . political committee entails only a marginal restriction upon the contributor's ability to engage in free communication." *Id.* at 20.

35. In 1976, just two months after *Buckley*, Congress amended FECA to include, among other provisions, annual limits on contributions to political

committees other than the authorized committees of candidates or political parties. *See* Federal Election Campaign Act Amendments of 1976, Pub. L. No. 94-283, § 112(2), 90 Stat. 475, 486-87 (May 11, 1976). That provision remains substantially the same today. *See* 52 U.S.C.A. § 30116(a)(1)(C) (2016).

36. In 1976, in the FEC's very first proposed regulations to implement FECA, the FEC proposed a provision specifying that this limit "also appl[ies] to contributions to committees making independent expenditures." FEC, *Federal Election Campaign Act*, 41 Fed. Reg. 21,572, 21,585 (May 24, 1976) (codified at 11 C.F.R. § 110.1(d) (1976)). Over several revisions, the FEC has preserved this provision in substantially the same form as it reads today, *see* 110 C.F.R. § 110.1(n) (2016), noting over the years that no public commenters had ever objected. *See* FEC, *Coordinated and Independent Expenditures*, 68 Fed. Reg. 421, 449 (Jan. 3, 2003) ("The Commission received no comments on this section."); FEC, *Contribution and Expenditure Limitations and Prohibitions; Contributions by Persons and Multicandidate Political Committees*, 52 Fed. Reg. 760, 764 (Jan. 9, 1987) ("None of the public comments received addressed this provision.").

Developments since *SpeechNow*

37. In *SpeechNow*, the D.C. Circuit opined that "contributions to groups that make only independent expenditures also cannot corrupt or create the appearance of corruption." 599 F.3d at 694. This departed from both *Buckley* and *Citizens United*, and improperly subjected contribution limits to the higher level of scrutiny that the Supreme Court currently applies to independent expenditures. *See* Albert W. Alschuler, *Limiting Political Contributions After* McCutcheon, Citizens

United, *and* SpeechNow, 67 Fla. L. Rev. 389, 474-76 (2015). As defined by the Supreme Court, "an independent expenditure is political speech presented to the electorate." *Citizens United*, 558 U.S. at 360. However, "[a] contribution is not 'speech presented to the electorate.' A contribution is money given to a coordinating body." Lawrence Lessig, *What an Originalist Would Understand "Corruption" to Mean*, 102 Cal. L. Rev. 1, 21 (2014). Moreover, as set forth below, the D.C. Circuit's pronouncement that contributions to independent expenditure groups "cannot corrupt or create the appearance of corruption" has proven empirically wrong.

38. Since *SpeechNow*, and contrary to Attorney General Holder's prediction, the number of super PACs has exploded, as has the size of contributions to them and their influence in federal races. In the 2016 cycle, there are over 2,400 organized federal super PACs. *See* FEC, *Committees* (search result for super PACs active 2015-16), http://1.usa.gov/28SqlJD (last visited June 24, 2016). As of April 2016, over 40% of federal super PAC contributions had come from just 50 funders and their families. Matea Gold & Anu Narayanswamy, *The new Gilded Age: Close to half of all super-PAC money comes from 50 donors*, Wash. Post, Apr. 15, 2016, http://wpo.st/Uhv_1. By late June 2016, federal super PACs had reported total receipts of over $755 million and total independent expenditures of over $405 million. Ctr. for Responsive Politics, *Super PACs*, https://www.opensecrets.org/pacs/superpacs.php (last updated June 24, 2016).

39. While much of the national media coverage of super PACs focuses on presidential elections, super PACs are increasingly dominant in the funding of

congressional elections. *See* Gold & Narayanswamy, *supra* (noting that "[w]ealthy patrons also are turning their attention to congressional races" and that already "more than two dozen super PACs each backing a single House or Senate candidate have emerged," but that "[t]he biggest surge of cash is likely to come this fall, when millionaires and billionaires aligned with both parties fully engage in the fights for control of the White House and Congress"). By late March 2016, outside groups (super PACs and political nonprofits such as 501(c)(4) organizations) from both the Democratic and Republican parties had *already* spent a combined $34.1 million on races for seats in the House and Senate—85% more than the $18.4 million that had been spent by the same time in the 2012 elections. Bill Allison, *With GOP in Disarray, Super-PACs Target Congress*, Bloomberg Politics (Mar. 22, 2016), http://bloom.bg/1pxhuo7.

Corruption and the Appearance of Corruption Through Super PACs

40. Recent public opinion surveys reveal widespread perceptions of corruption in the federal government:

- In a February 2016 Rasmussen Reports survey, 61% of likely voters agreed that most members of Congress were "willing to sell their vote for either cash or a campaign contribution," with the same percentage believing it likely that their own representative had done the same. Rasmussen Reports, *Congressional Performance: Voters Still Say Congress is For Sale* (Feb. 22, 2016), http://www.rasmussenreports.com/public_content/politics/mood_of_america/congressional_performance.

- In a September 2015 Gallup survey, 75% of respondents agreed that corruption was widespread in government, up from 66% in 2009. Gallup, *75% in U.S.* See *Widespread Government Corruption* (Sept. 19, 2015), http://www.gallup.com/poll/185759/widespread-government-corruption.aspx.

- In an April 2012 Pew Research Center survey, 54% of respondents described the United States government as "mostly corrupt." Pew Research Ctr. for the People & the Press, *Growing Gap in Favorable Views of Federal, State Governments* (Apr. 26, 2012), http://www.people-press.org/files/legacy-pdf/4-26-12%20Govt%20Favorability.pdf.

- In a 2011 Center for Competitive Politics/Cooperative Congressional Election Study survey, 59.2% of respondents agreed that a contribution of $5,000 or more could exert a corrupting influence on a candidate for Congress. *See* Jason M. Farrell & Nima Veiseh, *Public Perception and the "Appearance of Corruption" in Campaign Finance* 7-8, Ctr. for Competitive Politics (Dec. 16, 2011), http://www.campaignfreedom.org/wp-content/uploads/2012/11/Public-Perception-and-the-Appearance-of-Corruption-in-Campaign-Finance-Report-Final.pdf.[2]

41. In particular, public opinion demonstrates an appearance of corruption specifically attributable to large super PAC contributions:

- In an October 2012 Democracy Corps/Public Campaign Action Fund survey, 59% of voters in 54 competitive congressional districts agreed that "[w]hen someone gives 1 million dollars to a super PAC, they want something big in return from the candidates they are trying to elect." Stan Greenberg et al., *In Congressional Battleground, Voters Intensely Concerned About Money in Politics* 4, Democracy Corps (Oct. 1, 2012), http://www.democracycorps.com/attachments/article/910/dcor.pcaf.memo.093012.v4.pdf.

- In an April 2012 Brennan Center for Justice survey focusing specifically on super PACs, 69% of respondents (74% of Republicans, 73% of Democrats) agreed that "new rules that let corporations, unions and people give unlimited money to Super PACs will lead to corruption." 73% of respondents (75% of Republicans, 78% of Democrats) agreed that "there would be less corruption if there were limits on how much could be given to Super PACs." 68% of respondents (71% of Democrats, 71% of Republicans) agreed that "a company that spent $100,000 to help elect a

[2] 394 of 974 respondents responded that *any* contribution could exert a corrupting influence; 183 respondents specified dollar thresholds between $1 and $5,000. *See id.* The report's summary notes that, of the 438 respondents who specified a particular dollar threshold (as opposed to any contribution) for a corrupting influence, the median response was $10,000, a level that 65% of those who specified a particular threshold (and, implicitly, 100% of those who believe that *any* contribution is corrupting) agreed exerts a corrupting influence. *See id.* at 3, 7-8.

member of Congress could successfully pressure him or her to change a vote on a proposed law." Brennan Ctr. for Justice, *National Survey: Super PACs, Corruption, and Democracy* (Apr. 24, 2012), https://www.brennancenter.org/analysis/national-survey-super-pacs-corruption-and-democracy (summary and appendix).

- In a March 2012 ABC News/Washington Post survey, 69% of respondents stated that super PACs should be illegal. Damla Ergun, *Seven in 10 Would Send Super PACs Packing*, ABC News (Mar. 13, 2012), http://abcnews.go.com/blogs/politics/2012/03/seven-in-10-would-send-super-pacs-packing/; Wash. Post, *Washington Post-ABC News Poll* (Mar. 10, 2012), http://www.washingtonpost.com/wp-srv/politics/polls/postabcpoll_031012.html (question 33). A similar survey that asked the same question just in North Carolina, the home state of complainant Walter Jones, yielded nearly identical results. *See* Elon Univ., *Elon Poll* 6 (Apr. 27, 2012), http://www.elon.edu/docs/e-web/elonpoll/042712_PollMethodology.pdf.

42. Even assuming that a super PAC does not "coordinate" its campaign strategy with a supported candidate, a contributor is free to discuss both the "quid" and the "quo" with the candidate. *See* Alschuler, *supra*, 67 Fla. L. Rev. at 475. Interviews with former Members of Congress, recent congressional candidates, campaign and legislative staff, and political operatives suggest how such quid pro quo agreements could occur. *See* Daniel B. Tokaji & Renata E.B. Strause, *The New Soft Money* (2014), http://moritzlaw.osu.edu/thenewsoftmoney/wp-content/uploads/sites/57/2014/06/the-new-soft-money-WEB.pdf. As one campaign operative explained: "So the Member calls and says 'Hey, I know you're maxed out – and I can't take any more money from you – but there's this other group. I'm not allowed to coordinate with them, but can I have someone call you?'" *Id.* at 68. The same conversation could then proceed to discuss legislative matters, including an

agreement to take some official action in exchange for the donor's contributions to the "other group," *i.e.*, the super PAC.[3]

43. The availability of quid pro quo transactions through super PAC contributions creates a potential for corruption, and an appearance of corruption that is confirmed by the public. For this reason, enforcing the contribution limits of 52 U.S.C. § 30116(a)(1)(C) against super PACs is justified by the interest in preventing corruption and the appearance of corruption.

FACTS

44. As set forth below, respondents have accepted multiple contributions that exceed $5,000 per person per year and, on information and belief, will continue to do so. While all such excessive contributions violate 52 U.S.C. §§ 30116(a)(1)(C) and (f), this complaint recites only select very large contributions.[4]

House Majority PAC

45. On June 30, 2015, House Majority PAC accepted a $500,000 contribution from S. Donald Sussman of North Haven, ME, the Founder and Chairman of Paloma Partners. House Majority PAC, *FEC Form 3X, July 31 Mid-Year Report*, July 31, 2015, at 456, http://1.usa.gov/298L8vK.

46. On September 3, 2015, House Majority PAC accepted a $500,000 contribution from S. Donald Sussman of North Haven, ME, the Founder and

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[3] As might be expected, the various interviewees for *The New Soft Money* described different personal and office practices regarding conversations with donors, interactions with super PACs and other outside spending groups. Also as might be expected, the authors noted that their interviews "reveal[ed] no direct evidence of *quid pro quo* corruption." *Id.* at 5.

[4] Because the respondents differ in the timing, size, and structuring of contributions, the selection criteria for these examples vary slightly.

Chairman of Paloma Partners. House Majority PAC, *FEC Form 3X, January 31 Year-End Report*, Jan. 29, 2016, at 256, http://1.usa.gov/291PFxn.

47. On December 28, 2015, House Majority PAC accepted a $1,000,000 contribution from Fred Eychaner of Chicago, IL, the President of Newsweb Corporation. *Id.* at 3551, http://1.usa.gov/28Wuhw9.

48. On December 29, 2015, House Majority PAC accepted a $500,000 contribution from S. Donald Sussman of North Haven, ME, the Founder and Chairman of Paloma Partners. *Id.* at 2680, http://1.usa.gov/298Cfl6.

49. On January 7, 2016, House Majority PAC accepted a $1,000,000 contribution from James Simons of New York, NY, the President of Euclidean Capital. House Majority PAC, *FEC Form 3X, February Monthly Report*, Feb. 19, 2016, at 20, http://1.usa.gov/28PkhCV.

50. On February 18, 2016, House Majority PAC accepted a $500,000 contribution from Bernard Schwartz of New York, NY, the Chairman and CEO of BLS Investments. House Majority PAC, *FEC Form 3X, March Monthly Report*, Mar. 18, 2016, at 34, http://1.usa.gov/298NfQo.

Congressional Leadership Fund

51. On October 3, 2014, Congressional Leadership Fund accepted a $5,000,000 contribution from Sheldon Adelson of Las Vegas, NV, the Chairman of Las Vegas Sands. Congressional Leadership Fund, *FEC Form 3X, Pre-General Election Report*, Oct. 23, 2014, at 6, http://1.usa.gov/292982R.

52. On July 1, 2014, Congressional Leadership Fund accepted a $1,000,000 contribution from Chevron (Corporation), of Concord, CA. Congressional Leadership

Fund, *FEC Form 3X, October 15 Quarterly Report*, Oct. 15, 2014, at 6, http://1.usa.gov/2990oGX.

53. On March 31, 2016, Congressional Leadership Fund accepted a $1,000,000 contribution from Chevron (Corporation), of Concord, CA. Congressional Leadership Fund, *FEC Form 3X, April 15 Quarterly Report*, Apr. 15, 2016, at 7, http://1.usa.gov/28QcOU3.

Senate Majority PAC

54. On June 8, 2012, Senate Majority PAC (then known as Majority PAC) accepted a $300,000 contribution from Vitreo-Retinal Consultants of the Palm Beaches, of West Palm Beach, FL. Majority PAC, *FEC Form 3X, July 15 Quarterly Report*, July 13, 2012, at 14, http://1.usa.gov/293inmq.

55. On October 16, 2012, Senate Majority PAC (then known as Majority PAC) accepted a $300,000 contribution from Vitreo-Retinal Consultants of the Palm Beaches, of West Palm Beach, FL. Majority PAC, *FEC Form 3X, Pre-General Election Report*, Oct. 25, 2012, at 14, http://1.usa.gov/296kRKR.

56. On August 28, 2015, Senate Majority PAC accepted a $1,000,000 contribution from George Marcus of Palo Alto, CA, the Chairman of Marcus & Millichap Company. Senate Majority PAC, *FEC Form 3X, January 31 Year-End Report*, Jan. 29, 2016, at 261, http://1.usa.gov/291f268.

57. On December 28, 2015, Senate Majority PAC accepted a $1,000,000 contribution from Fred Eychaner of Chicago, IL, the President of Newsweb Corporation. *Ibid.*

Senate Leadership Fund

58. On April 30, 2015, Senate Leadership Fund accepted a $1,000,000 contribution from Robert McNair of Houston, TX, the Chairman of Houston Texans. Senate Leadership Fund, *FEC Form 3X, July 31 Mid-Year Report*, July 31, 2015, at 7, http://1.usa.gov/291kCku.

59. On May 7, 2015, Senate Leadership Fund accepted a $1,000,000 contribution from Bernard Marcus of Atlanta, GA, the Chairman of the Marcus Foundation. *Id.* at 8, http://1.usa.gov/291fwcs.

60. On May 20, 2015, Senate Leadership Fund accepted a $1,000,000 contribution from Paul Singer of New York, NY, the Founder and CEO of Elliott Management Group. *Id.* at 10, http://1.usa.gov/295UqbL.

61. On August 27, 2015, Senate Leadership Fund accepted a $1,000,000 contribution from Warren Stephens of Little Rock, AR, the Chairman, President, and CEO of Stephens Inc. Senate Leadership Fund, *FEC Form 3X, January 31 Year-End Report*, Dec. 31, 2015, at 9, http://1.usa.gov/291gzZC.

62. On September 28, 2015, Senate Leadership Fund accepted a $1,000,000 contribution from Chevron (Corporation), of Concord, CA. *Id.* at 11, http://1.usa.gov/292VrPV.

63. On October 9, 2015, Senate Leadership Fund accepted a $1,000,000 contribution from Petrodome Energy, of Houston, TX. *Id.* at 12, http://1.usa.gov/291lp51.

64. On December 8, 2015, Senate Leadership Fund accepted a $1,000,000 contribution from Access Industries, of New York, NY. *Id.* at 14, http://1.usa.gov/299Tx3Y.

American Alliance

65. On October 22, 2014, American Alliance accepted a $500,000 contribution from Sheldon Adelson of Las Vegas, NV, the Chairman of Las Vegas Sands. American Alliance, *FEC Form 3X, Post-General Election Report,* Dec. 1, 2014, at 6, http://1.usa.gov/28OopwS.[5]

Bold Agenda PAC

66. On October 14, 2014, Bold Agenda PAC accepted a contribution of $110,000 from Americans for Shared Prosperity.[6] Bold Agenda PAC, *FEC Form 3X, Pre-General Election Report,* Oct. 18, 2014, at 6, http://1.usa.gov/28ObjSI.

67. On October 15, 2014, Bold Agenda PAC accepted a contribution of $145,000 from Americans for Shared Prosperity. *Id.*

68. On October 16, 2014, Bold Agenda PAC accepted a contribution of $250,000 from John Jordan of Healdsburg, CA, the CEO of Jordan Winery. Bold

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[5] The FEC Form 3X lists the $500,000 contributor as "Sheldon Adelstein." *Id.* This appears to be a scrivener's error.

[6] Americans for Shared Prosperity is a 501(c)(4) organization. Americans for Shared Prosperity, *Form 990, 2014*, Foundation Ctr. (Jan. 21, 2016), http://990s.foundationcenter.org/990_pdf_archive/471/471581529/471581529_201507_990O.pdf. Reportedly, Americans for Shared Prosperity is actually headed by California winery owner John Jordan. *See* Maggie Haberman, *Outside GOP group targets women*, Politico (Sept. 23, 2014), http://www.politico.com/story/2014/09/americans-for-shared-prosperity-to-launch-women-focused-ads-111168.html.

Agenda PAC, *FEC Form 3X, Post-General Election Report,* Dec. 2, 2014, at 6, http://1.usa.gov/28NAWGL.

Defending Main Street SuperPAC Inc.

69. On February 22, 2016, Defending Main Street SuperPAC Inc. accepted a contribution of $200,000 from Robert Ziff of New York, NY, an investment banker at Ziff Brothers Investments. Defending Main Street SuperPAC Inc., *FEC Form 3X, March Monthly Report*, March 8, 2016, at 6, http://1.usa.gov/29mai7X.

70. On February 26, 2016, Defending Main Street SuperPAC Inc. accepted a contribution of $250,000 from LIUNA Building America of Washington, DC, itself a super PAC (ID# C00568964). *See id.* at 7, http://1.usa.gov/291Xkvn.[7]

71. On May 17, 2016, Defending Main Street SuperPAC Inc. accepted a contribution of $200,000 from Sean Parker of Washington, DC, a self-employed entrepreneur. Defending Main Street SuperPAC Inc., *FEC Form 3X, June Monthly Report*, June 9, 2016, at 6, http://go.usa.gov/x3pdC.

ESAFund

72. On April 16, 2015, ESAFund accepted a contribution of $500,000 from Paul Singer of New York, NY, the Founder and CEO of Elliott Management Group. ESAFund, *FEC Form 3X, July 31 Mid-Year Report*, July 31, 2015, at 6, http://1.usa.gov/28SDLpf.

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[7] LIUNA Building America itself is primarily funded by contributions substantially exceeding $5,000 per year from the Laborers' Political League Education Fund, of Washington, DC and the Laborers' Political League Great Lakes Region, of Chicago, IL. *See* FEC, *LIUNA Building America, Receipts*, http://1.usa.gov/28Sf0eV (last visited June 29, 2016).

73. On August 4, 2015, ESAFund accepted a contribution of $850,000 from Marlene Ricketts of Omaha, NE, a retiree. ESAFund, *FEC Form 3X, January 31 Year-End Report*, May 4, 2016, at 7, http://1.usa.gov/291XCm0.

74. On December 11, 2015, ESAFund accepted a contribution of $500,000 from Paul Singer of New York, NY, the Founder and CEO of Elliott Management Group. *Ibid.*

75. On December 30, 2015, ESAFund accepted a contribution of $500,000 from Kenneth Griffin of Chicago, IL, the Founder and CEO of Citadel, LLC. *Id.* at 6, http://1.usa.gov/2933SuE.

Freedom Partners Action Fund, Inc.

76. On September 8, 2014, Freedom Partners Action Fund, Inc. accepted a contribution of $2,500,000 from Robert Mercer of East Setauket, NY, the co-CEO of Renaissance Technologies. Freedom Partners Action Fund, Inc., *FEC Form 3X, October 15 Quarterly Report*, Oct. 15, 2014, at 19, http://1.usa.gov/29e0JKK.

77. On October 17, 2014, Freedom Partners Action Fund, Inc. accepted a contribution of $3,000,000 from Charles G. Koch 1997 Trust, attributed to the Chairman of the Board and CEO of Koch Industries, Inc., of Wichita, KS. Freedom Partners Action Fund, Inc., *FEC Form 3X, Post-General Election Report,* Dec. 4, 2014, at 20, http://1.usa.gov/29gftdA.

78. On May 13, 2016, Freedom Partners Action Fund, Inc. accepted a contribution of $2,000,000 from Diane Hendricks of Afton, WI, the Chairperson of Hendricks Holding Co., Inc. Freedom Partners Action Fund, *FEC Form 3X, June Monthly Report*, June 20, 2016, at 7, http://1.usa.gov/295XdSh.

79. On May 13, 2016, Freedom Partners Action Fund, Inc. accepted a contribution of $2,000,000 from Mountaire Corporation of Little Rock, AR. *Id.* at 9, http://1.usa.gov/295XEfk.

80. On May 24, 2016, Freedom Partners Action Fund, Inc. accepted a contribution of $1,000,000 from Richard B. Gilliam of Keswick, VA, a manager at Cumberland Development. *Id.* at 7, http://1.usa.gov/295XdSh.[8]

81. On May 24, 2016, Freedom Partners Action Fund, Inc. accepted a contribution of $3,000,000 from Charles Koch of Wichita, KS, the Chairman of the Board and CEO of Koch Industries, Inc. *Id.* at 8, http://1.usa.gov/292f0cA.

New York Wins PAC

82. On January 29, 2016, New York Wins PAC accepted a contribution of $500,000 from Robert Mercer of Setauket, NY, a financial consultant at Renaissance Technologies. New York Wins PAC, *FEC Form 3X, April Quarterly Report*, Apr. 11, 2016, at 6, http://1.usa.gov/28S2Og0.

83. On May 13, 2016, New York Wins PAC accepted a contribution of $500,000 from Paul Singer of New York, NY, the Founder and CEO of Elliott Management Group. New York Wins PAC, *FEC Form 3X, Pre-Primary Election Report*, June 16, 2016, at 6, http://1.usa.gov/28UNdfp.

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[8] The FEC Form 3X describes Mr. Gilliam as a "manager" at Cumberland Development. He is apparently the President, Chairman, and CEO. *See* Bloomberg, *Company Overview of Cumberland Resources Corporation, Executive Profile, Richard Gilliam*, http://bloom.bg/29ekxdQ (last visited July 4, 2016).

VIOLATIONS

84. Under FECA and FEC regulations, no person may make contributions to a political committee (other than a candidate or party committee), including a committee that only makes so-called independent expenditures, exceeding $5,000 per calendar year. 52 U.S.C. § 30116(a)(1)(C); 11 C.F.R. §§ 110.1(d), (n).

85. Under FECA, no political committee may knowingly accept any contribution in violation of the limits of § 30116. 52 U.S.C. § 30116(f). The "knowingly" standard "'does not require knowledge that one is violating the law, but merely requires an intent to act.'" *FEC v. Malenick*, 310 F. Supp. 2d 230, 237 n.9 (D.D.C. 2004) (quoting *FEC v. John A. Dramesi for Congress Comm.*, 640 F. Supp. 985, 987 (D.N.J. 1986)), *rev'd in other part on reconsideration,* No. Civ. A. 02-1237, 2005 WL 588222 (D.D.C. Mar. 7, 2005)).

Count I

86. As set forth above, respondent House Majority PAC has violated 52 U.S.C. § 30116(f) by accepting multiple contributions that substantially exceed the $5,000 limit of 52 U.S.C. § 30116(a)(1)(C). As respondent plainly disclosed these excess contributions, these violations were "knowing" under 52 U.S.C. § 30166(f).

Count II

87. As set forth above, respondent Congressional Leadership Fund has violated 52 U.S.C. § 30116(f) by accepting multiple contributions that substantially exceed the $5,000 limit of 52 U.S.C. § 30116(a)(1)(C). As respondent plainly disclosed these excess contributions, these violations were "knowing" under 52 U.S.C. § 30166(f).

Count III

88. As set forth above, respondent Senate Majority PAC has violated 52 U.S.C. § 30116(f) by accepting multiple contributions that substantially exceed the $5,000 limit of 52 U.S.C. § 30116(a)(1)(C). As respondent plainly disclosed these excess contributions, these violations were "knowing" under 52 U.S.C. § 30166(f).

Count IV

89. As set forth above, respondent Senate Leadership Fund has violated 52 U.S.C. § 30116(f) by accepting multiple contributions that substantially exceed the $5,000 limit of 52 U.S.C. § 30116(a)(1)(C). As respondent plainly disclosed these excess contributions, these violations were "knowing" under 52 U.S.C. § 30166(f).

Count V

90. As set forth above, respondent American Alliance has violated 52 U.S.C. § 30116(f) by accepting a contribution that substantially exceeds the $5,000 limit of 52 U.S.C. § 30116(a)(1)(C). As respondent plainly disclosed this excess contribution, this violation was "knowing" under 52 U.S.C. § 30166(f).

Count VI

91. As set forth above, respondent Bold Agenda PAC has violated 52 U.S.C. § 30116(f) by accepting multiple contributions that substantially exceed the $5,000 limit of 52 U.S.C. § 30116(a)(1)(C). As respondent plainly disclosed these excess contributions, these violations were "knowing" under 52 U.S.C. § 30166(f).

Count VII

92. As set forth above, respondent Defending Main Street SuperPAC Inc. has violated 52 U.S.C. § 30116(f) by accepting multiple contributions that

substantially exceed the $5,000 limit of 52 U.S.C. § 30116(a)(1)(C). As respondent plainly disclosed these excess contributions, these violations were "knowing" under 52 U.S.C. § 30166(f).

Count VIII

93. As set forth above, respondent ESAFund has violated 52 U.S.C. § 30116(f) by accepting multiple contributions that substantially exceed the $5,000 limit of 52 U.S.C. § 30116(a)(1)(C). As respondent plainly disclosed these excess contributions, these violations were "knowing" under 52 U.S.C. § 30166(f).

Count IX

94. As set forth above, respondent Freedom Partners Action Fund, Inc. has violated 52 U.S.C. § 30116(f) by accepting multiple contributions that substantially exceed the $5,000 limit of 52 U.S.C. § 30116(a)(1)(C). As respondent plainly disclosed these excess contributions, these violations were "knowing" under 52 U.S.C. § 30166(f).

Count X

95. As set forth above, respondent New York Wins PAC has violated 52 U.S.C. § 30116(f) by accepting multiple contributions that substantially exceed the $5,000 limit of 52 U.S.C. § 30116(a)(1)(C). As respondent plainly disclosed these excess contributions, these violations were "knowing" under 52 U.S.C. § 30166(f).

PRAYER FOR RELIEF

96. Based on the above-described acceptance of contributions that exceed the limits set forth in 52 U.S.C. § 30116(a)(1)(C), the FEC should conduct an immediate investigation under 52 U.S.C. § 30109, should determine that

respondents have violated and, without prospective relief, will continue to violate 52 U.S.C. § 30116(f), and should seek declaratory and/or injunctive relief against future acceptance of excessive contributions.

Respectfully submitted,

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