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December 2, 2016

*Submitted via email and postal mail*

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

**RE: MUR 7147**

Dear Ms. deBeau:

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

CLC's complaint alleged, among other things, that "Make America Number 1 is inextricably intertwined with the Trump campaign," such that there is reason to believe that many of the super PAC's expenditures were coordinated with the Trump campaign, and accordingly should be treated as in-kind contributions to the Trump campaign. Reports published since the complaint was filed provide additional evidence that Make America Number 1 and the Trump campaign were not truly "independent" of one another.

The U.S. Supreme Court has repeatedly declared that "[t]he absence of prearrangement and coordination of an expenditure with the candidate . . . not only undermines the value of the expenditure to the candidate, but also alleviates the danger that expenditures will be given as a *quid pro quo* for improper commitments from the candidate."<sup>1</sup>

Yet Make America Number 1's expenditures were apparently of such great value to the Trump campaign that its chair, Rebekah Mercer, has been named to the executive

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

committee of President-Elect Trump’s transition team, and that she is reportedly “among those wielding the most clout” in Trump’s administration.<sup>2</sup>

“It would be difficult to overstate Rebekah’s influence in Trump World right now,” one GOP fundraiser who has worked with Mercer and people in the Trump campaign told *Politico*.<sup>3</sup>

### *Compensation for personal services*

Specifically, CLC’s complaint alleged that Make America Number 1 appeared to have paid compensation to Trump campaign CEO Stephen K. Bannon (now White House chief strategist) via payments to the firms Glittering Steel LLC and Cambridge Analytica, which are incorporated at the same address as Bannon’s consulting firm and closely associated with him.<sup>4</sup> These payments constitute in-kind contributions to Donald J. Trump for President, Inc. from Make America Number 1 in the form of compensation for personal services rendered to the campaign. 52 U.S.C. § 30101(8)(A)(ii).

During that same period, the Trump campaign did not report any payments to Bannon directly.

News reports published after CLC filed its complaint confirm Glittering Steel LLC’s close ties to Bannon. *The Daily Beast* reported on November 4 that “A film industry source . . . said Glittering Steel was little more than ‘a front for Bannon.’”<sup>5</sup>

Reports filed with the Commission show that Make America Number 1 has paid a total of \$280,000 to the firm described as “a front for Bannon” since August 17, 2016, when Bannon was announced as Trump’s campaign CEO: \$15,000 in August, \$77,500 in September,<sup>6</sup> and \$187,500 between October 1 and November 5.<sup>7</sup> During that same period the Trump campaign did not report any payments to Bannon or Glittering Steel LLC.

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<sup>2</sup> Kenneth P. Vogel, *The Heiress Quietly Shaping the Trump Administration*, POLITICO, Nov. 21, 2016, <http://www.politico.com/story/2016/11/rebekah-merceraldonald-trump-231693>.

<sup>3</sup> *Id.*

<sup>4</sup> Corporate filings with the California Secretary of State show that “Bannon Strategic Advisors, Inc.” occupies the same address as Glittering Steel, LLC at 8383 Wilshire Boulevard, Suite 1000, in Beverly Hills, California (but see *supra* note 8). Make America Number 1 has reported payments to Glittering Steel LLC at this address.

<sup>5</sup> Betsy Woodruff, *Liberal Hollywood Power Players Working for Breitbart and Trump Campaign CEO Steve Bannon, Too*, Daily Beast (Nov. 4, 2016), <http://www.thedailybeast.com/articles/2016/11/04/liberal-hollywood-power-players-working-for-breitbart-and-trump-campaign-ceo-steve-bannon-too.html>.

<sup>6</sup> Make America Number 1 Report of Receipts and Disbursements, October Monthly FEC Form 3X (reporting period 09/01/16 to 09/31/16), <http://docquery.fec.gov/pdf/506/201610209034283506/201610209034283506.pdf#navpanes=0>

Notably, on the same day that CLC filed its complaint alleging that Make America Number 1 had compensated Bannon by way of entities located at the same address as his Bannon Strategic Advisors Inc. consulting firm, paperwork was filed with the California Secretary of State changing the firm's registered address.<sup>8</sup>

A November 23 report in the *Washington Post* indicates that Bannon has long been indirectly compensated by Mercer-backed entities.<sup>9</sup> According to the *Washington Post*, between 2012 and 2016, as Bannon worked full-time as executive chairman of the Breitbart News Network from offices in Washington D.C. and Los Angeles, the Tallahassee, the Florida-based Government Accountability Institute also claimed that Bannon had worked as its chair for 30 hours per week and was compensated a total of \$376,000 over those four years.<sup>10</sup> The Mercer Family Foundation funded the Government Accountability Institute and Rebekah Mercer is on its board of directors.<sup>11</sup>

As *Nonprofit Quarterly* noted in a November 28 article, "It appears that the Government Accountability Institute, using money from major donors like the Mercer Family Foundation's Robert Mercer and his administrator/daughter Rebekah Mercer, provided

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<sup>7</sup> Make America Number 1 Report of Receipts and Disbursements, Pre-General Report, FEC Form 3X (reporting period 10/01/16 to 10/20/16), <http://docquery.fec.gov/pdf/063/201610279034660063/201610279034660063.pdf#navpanes=0>; 24/48 Hour Report of Independent Expenditures, Schedule E (filed 10/27/16), <http://docquery.fec.gov/pdf/618/201610279036687618/201610279036687618.pdf#navpanes=0>; *Id.* (filed 11/01/16) <http://docquery.fec.gov/pdf/158/201611029037084158/201611029037084158.pdf#navpanes=0>; *Id.* (filed 11/05/16) <http://docquery.fec.gov/pdf/183/201611059037127183/201611059037127183.pdf#navpanes=0>. These subsequent payments, made after CLC filed its complaint, replaced Glittering Steel's Beverly Hills address with an address at a UPS store in Virginia.

<sup>8</sup> Compare Exhibit A (Bannon Strategic Advisors, Inc.'s corporate registration as of September 20, 2016, listing its address at 8383 Wilshire Blvd., Suite 1000) with Exhibit B (Bannon Strategic Advisors Inc.'s corporate registration as of December 1, 2016 listing a different address, noting in the top left corner "Last Statement Filed on: 10/6/2016," indicating the address was changed on this date, the same day CLC filed its complaint).

<sup>9</sup> Robert O'Harrow Jr., *Trump Advisor Received Salary From Charity While Steering Breitbart News*, Wash. Post. (Nov. 23, 2016), [https://www.washingtonpost.com/investigations/trump-adviser-received-salary-from-charity-while-steering-breitbart-news/2016/11/22/75340778-af8a-11e6-8616-52b15787add0\\_story.html](https://www.washingtonpost.com/investigations/trump-adviser-received-salary-from-charity-while-steering-breitbart-news/2016/11/22/75340778-af8a-11e6-8616-52b15787add0_story.html).

<sup>10</sup> *Id.*

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

significant income—using charitable gifts—to Bannon while he was employed full-time at Breitbart.”<sup>12</sup>

A Mercer-backed entity subsidizing Bannon’s work for Breitbart News is one thing, but if a Mercer-backed super PAC subsidized Bannon’s work for the Trump campaign, it violates federal campaign finance law.

CLC’s October 6 complaint also described how the data firm “Cambridge Analytica” is registered at the same address as Bannon’s consulting firm, Bannon’s Glittering Steel LLC, and Bannon’s “Breitbart News” holdings, and that Bannon is on Cambridge Analytica’s board, as is Robert Mercer, who funds Make America Number 1.<sup>13</sup>

Make America Number 1 has paid at least \$4,633,876 to Cambridge Analytica since Bannon joined the Trump campaign: \$411,763 in August, \$886,133 in September,<sup>14</sup> \$1,935,980 in October,<sup>15</sup> and \$1,400,000 between November 1 and November 4.<sup>16</sup> These payments to a firm associated with Bannon provide additional reason to believe that Make America Number 1 may have subsidized the Trump campaign CEO’s compensation.

#### **“Common Vendor”**

Reports filed with the Commission since CLC filed its complaint also indicate that Donald J. Trump for President, Inc. paid \$5 million to Cambridge Analytica in September,<sup>17</sup> and \$250,000 in October,<sup>18</sup> providing further evidence to CLC’s claim that Make America Number 1 has run afoul of the “common vendor” rule designed to

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<sup>12</sup> Michael Wyland, *Trump Adviser Double-Dipping From Breitbart and Nonprofit Foundation*, Nonprofit Quarterly (Nov. 28, 2016), <https://nonprofitquarterly.org/2016/11/28/trump-adviser-double-dipping-breitbart-nonprofit-foundation/>.

<sup>13</sup> See Compl. ¶ 88.

<sup>14</sup> Make America Number 1, October Monthly FEC Form 3X (reporting period 09/01/16 to 09/31/16).

<sup>15</sup> Make America Number 1, Pre-General Report, FEC Form 3X (reporting period 10/01/16 to 10/20/16).

<sup>16</sup> 24/48 Hour Report of Independent Expenditures, Schedule E (filed 11/02/16), <http://docquery.fec.gov/pdf/158/201611029037084158/201611029037084158.pdf#navpanes=0>; *Id.* (filed 11/04/16), <http://docquery.fec.gov/pdf/902/201611049037123902/201611049037123902.pdf#navpanes=0>.

<sup>17</sup> Donald J. Trump for President, Inc. Report of Receipts and Disbursements, October Monthly FEC Form 3P (reporting period 09/01/16 to 09/30/16), <http://docquery.fec.gov/pdf/046/201610209034180046/201610209034180046.pdf>.

<sup>18</sup> Donald J. Trump for President, Inc. Report of Receipts and Disbursements, Pre-General Report FEC Form 3P (reporting period 09/01/16 to 09/30/16), <http://docquery.fec.gov/pdf/789/201610279036945789/201610279036945789.pdf>.

preserve the independence of campaigns and political committees. *See* 11 C.F.R. § 109.21(d)(4).

As described in CLC’s October 6 complaint,<sup>19</sup> by Make America Number 1 and Donald J. Trump for President, Inc. using the common vendor Cambridge Analytica for similar services—such as identifying voters and developing the content of communications—there is reason to believe that Cambridge Analytica used or conveyed to Make America Number 1 information about the Trump campaign’s “plans, projects, activities or needs,” and that such information was “material to the creation, production, or distribution” of the political committee’s communications, 11 C.F.R. § 109.21(d)(4), and that therefore Make America Number 1 made in-kind contributions to Donald J. Trump for President, Inc. in the form of coordinated communications. Those contributions violated FECA by exceeding the law’s contribution limits and violating its source prohibitions.

Published reports indicate that the Trump campaign hired Cambridge Analytica at the behest of Make America Number 1’s chair, Rebekah Mercer, strengthening the inference that the vendor was used as a means of sharing information between the campaign and political committee. *Politico* reported on November 21:

Three GOP digital strategists say Mercer used her influence in Trump’s circle to ensure that Cambridge Analytica, which also counted Bannon as a board member, would be brought on board by Trump’s campaign team after [former campaign manager Corey] Lewandowski was fired. And they say Mercer has signaled her interest in seeing the company awarded the data and analytics contracts for both the RNC and an independent pro-Trump vehicle currently being planned.

One of the strategists said Mercer is seen as the “patron saint” of Cambridge Analytica, where Bannon is a board member.<sup>20</sup>

*Politico* additionally reported that Mercer’s goal in having the Trump campaign and other political committees use Cambridge Analytica is to exert control over the candidate and party:

An operative familiar with Mercer’s involvement with Cambridge Analytica and interactions with Trump’s team said “it’s not about the money at all. She doesn’t want to make money, she doesn’t care about money. It’s all about controlling the apparatus of the Republican Party to enforce ideological purity.”<sup>21</sup>

*The Guardian* also reported on November 23 that Cambridge Analytica will continue playing a dual role in the Trump presidency, reporting that the firm “is in early talks to snare two potentially lucrative new contracts, one to boost the incoming Trump White

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<sup>19</sup> *See e.g.* Compl. ¶¶ 95-103.

<sup>20</sup> Vogel, *supra* note 2.

<sup>21</sup> *Id.*

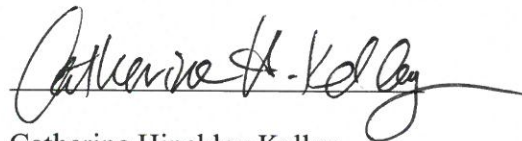
House's policy messaging and the other to help the Trump Organization expand its sales."<sup>22</sup>

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

Respectfully submitted,



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Counsel to the Campaign Legal Center

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<sup>22</sup> Peter Stone, *Data firm in talks for role in White House messaging – and Trump business*, *The Guardian* (Nov. 23, 2016), <https://www.theguardian.com/us-news/2016/nov/23/donald-trump-cambridge-analytica-steve-bannon>.

VERIFICATION

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

Sworn pursuant to 18 U.S.C. § 1001.

**For Complainant Campaign Legal Center**



A handwritten signature in cursive script, appearing to read "Lawrence M. Noble", written over a horizontal line.

Lawrence M. Noble

Sworn to and subscribed before me this 2 day of December 2016.

A handwritten signature in cursive script, appearing to read "Kazi Jones", written over a horizontal line.

Notary Public

**For Complainant Catherine Hinckley Kelley**



A handwritten signature in cursive script, appearing to read "Catherine H. Kelley", written over a horizontal line.

Catherine Hinckley Kelley

Sworn to and subscribed before me this 2 day of December 2016.

A handwritten signature in cursive script, appearing to read "Kazi Jones", written over a horizontal line.

Notary Public

# EXHIBIT A



## Business Entity Detail

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Data is updated to the California Business Search on Wednesday and Saturday mornings. Results reflect work processed through Tuesday, September 20, 2016. Please refer to [Processing Times](#) for the received dates of filings currently being processed. The data provided is not a complete or certified record of an entity.

Entity Name:	BANNON STRATEGIC ADVISORS, INC.
Entity Number:	C2752795
Date Filed:	06/15/2005
Status:	ACTIVE
Jurisdiction:	CALIFORNIA
Entity Address:	8383 WILSHIRE BOULEVARD, SUITE 1000
Entity City, State, Zip:	BEVERLY HILLS CA 90211
Agent for Service of Process:	STEVES RODRIGUEZ
Agent Address:	8383 WILSHIRE BOULEVARD, SUITE 1000
Agent City, State, Zip:	BEVERLY HILLS CA 90211

\* Indicates the information is not contained in the California Secretary of State's database.

- If the status of the corporation is "Surrender," the agent for service of process is automatically revoked. Please refer to California Corporations Code [section 2114](#) for information relating to service upon corporations that have surrendered.
- For information on checking or reserving a name, refer to [Name Availability](#).
- For information on ordering certificates, copies of documents and/or status reports or to request a more extensive search, refer to [Information Requests](#).
- For help with searching an entity name, refer to [Search Tips](#).
- For descriptions of the various fields and status types, refer to [Field Descriptions and Status Definitions](#).

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# EXHIBIT B



SECRETARY OF STATE

ELECTIONS &amp; VOTER INFO

CAMPAIGN FINANCE

CALIFORNIA BUSINESS PORTAL

ARCHIVES &amp; MUSEUM

## Results Detail

Last statement filed on: 10/6/2016

Corporation		
BANNON STRATEGIC ADVISORS, INC.		
<b>Number:</b> C2752795	<b>Incorporation Date:</b> 6/15/2005	<b>Status:</b> Active
<b>Jurisdiction:</b> CA	<b>Type:</b> Domestic Stock	
Address		
8391 BEVERLY BLVD #117, LOS ANGELES, CA 90048		
Agent For Service Of Process		
ERESIDENTAGENT, INC. 12121 WILSHIRE BLVD STE 1201, LOS ANGELES, CA 90025		

Please review this information to determine if you have located the correct corporation. The corporation is not yet due to file the required statement; therefore, this filing must be filed either by mail or at our public [Information](#) for the forms and instructions.