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October 18, 2016

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FEDERAL ELECTION COMMISSION

VIA EMAIL (JJORDAN@FEC.GOV);  
(MDEBEAU@FEC.GOV)

Mr. Jeff S. Jordan, Assistant General Counsel  
Attn: Mary Beth deBeau, Paralegal  
Office of Compliance Examination and Legal Administration  
Federal Election Commission  
999 E. Street, NW  
Washington, DC 20463

Re: MUR 7101

Dear Mr. Jordan:

On July 14, 2016, the Federal Election Commission ("FEC") notified my client Robert Mercer by letter of a complaint filed by two organizations called Free Speech for People and Campaign for Accountability, among others, against ten so-called "super PACs." While Mr. Mercer is not named as a target of the complaint, or in any of the Counts alleging violations, his name does appear on page 28 of the 34-page document as someone who contributed to a super PAC called the Freedom Partners Action Fund, Inc., and again on page 29 of the complaint as someone who contributed to a super PAC called New York Wins!

The complaint does not accuse Mr. Mercer of any wrongdoing, so it is unclear why the FEC sent him a letter alleging that he may have violated the federal campaign finance laws. Nevertheless, because the letter invites a response, we are providing the following information to the FEC in the spirit of cooperation.

On or about September 8, 2014 Mr. Mercer made a contribution to Freedom Partners Action Fund, Inc. in excess of \$5,000, and on or about January 29, 2016, Mr. Mercer made a contribution in excess of \$5,000 to New York Wins. He made each contribution because it was consistent with the federal campaign finance laws, as interpreted by both the FEC and the federal courts. *See McCutcheon v. FEC*, 572 U.S. \_\_\_, nt. 2 (2014) ("A so-called "Super PAC" is a PAC that makes only independent expenditures and cannot contribute to candidates. The base and aggregate limits govern contributions to traditional PACs, but not to independent expenditure PACs."). The complaint readily and repeatedly acknowledges the fact, and it also recognizes that the super PAC's receipt of Mr. Mercer's contributions were permissible as well. The lack of merit for both this complaint, and the FEC's action in seeking a response from Mr. Mercer is further demonstrated by the Commission's published chart detailing contribution limits for 2015-16 federal elections, annexed hereto, which clearly states in footnote 1, "PAC" here refers to a committee that makes contributions to other federal political committees. Independent-

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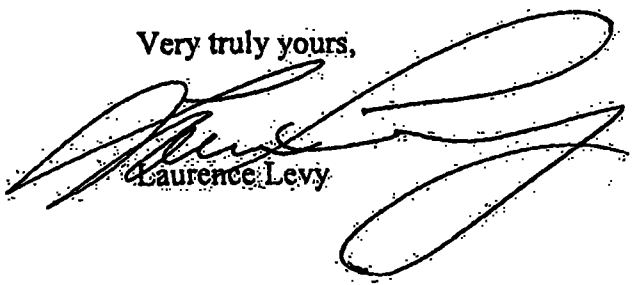
expenditure-only political committees (sometimes called "super PACs") may accept unlimited contributions, including from corporations and labor organizations."

Further, Advisory Opinion 2010-11 Commonsense Ten, dated July 22, 2010 states at page 3;

"Moreover, the United States Supreme Court held in *Citizens United* that corporations may make unlimited independent expenditures using corporate treasury funds. See *Citizens United v. FEC*, 130 S. Ct. 876, 913 (2010). The court in *SpeechNow* relied extensively on the Supreme Court's decision in *Citizens United*. See *SpeechNow*, 599 F.3d at 692-96. Following *Citizens United* and *SpeechNow*, corporations, labor organizations, and political committees may make unlimited independent expenditures from their own funds, and individuals may pool unlimited funds in an independent expenditure-only political committee. It necessarily follows that corporations, labor organizations and political committees also may make unlimited contributions to the holdings in *Citizens United* and *SpeechNow*, that "independent expenditures do not lead to, or create the appearance of, *quid pro quo* corruption," *Citizens United*, 130 S. Ct. at 910, the Commission concludes that there is no basis to limit the amount of contributions to the Committee from individuals, political committees, corporations and labor organizations." (emphasis added)

Accordingly, rather than subject him to further enforcement proceedings for something he was neither accused of nor that represents a violation of the campaign finance laws, the FEC should find that Mr. Mercer did not violate the law and immediately dismiss this matter.

Very truly yours,



Laurence Levy

cc: Robert Mercer

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The chart below shows the specific contribution limits for 2015-2016. The chart is also available as a stand-alone [HTML table](#) or as a [PDF table](#), suitable for printing.

**CONTRIBUTION LIMITS FOR 2015-2016 FEDERAL ELECTIONS**

DONORS	RECIPIENTS				
	Candidate Committee	PAC <sup>1</sup> (SSF and Nonconnected)	State/District/Local Party Committee	National Party Committee	Additional National Party Committee Accounts <sup>2</sup>
Individual	\$2,700* per election	\$5,000 per year	\$10,000 per year (combined)	\$33,400* per year	\$100,200* per account, per year
Candidate Committee	\$2,000 per election	\$5,000 per year	Unlimited Transfers	Unlimited Transfers	
PAC - Multicandidate	\$5,000 per election	\$5,000 per year	\$5,000 per year (combined)	\$15,000 per year	\$45,000 per account, per year
PAC - Nonmulticandidate	\$2,700* per election	\$5,000 per year	\$10,000 per year (combined)	\$33,400* per year	\$100,200* per account, per year
State, District & Local Party Committee	\$5,000 per election (combined)	\$5,000 per year (combined)	Unlimited Transfers		
National Party Committee	\$5,000 per election <sup>3</sup>	\$5,000 per year			

\* Indexed for inflation in odd-numbered years.

1. "PAC" here refers to a committee that makes contributions to other federal political committees. Independent-expenditure-only political committees (sometimes called "super PACs") may accept unlimited contributions, including from corporations and labor organizations.

2. The limits in this column apply to a national party committee's accounts for: (i) the presidential nominating convention; (ii) election recounts and contests and other legal proceedings; and (iii) national party headquarters buildings. A party's national committee, Senate campaign committee and House campaign committee are each considered separate national party committees with separate limits. Only a national party committee, not the parties' national congressional campaign committees, may have an account for the presidential nominating convention.

3. Additionally, a national party committee and its Senatorial campaign committee may contribute up to \$46,800 combined per campaign to each Senate candidate.

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