



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

By Email and First Class Mail

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**AUG - 9 2019**

RE: MURs 7291 and 7449  
Hillary for America and  
Elizabeth Jones in her official  
capacity as treasurer

Dear Mr. Elias:

On October 27, 2017, and August 8, 2018, the Federal Election Commission ("Commission") notified you of complaints alleging that your client, Hillary for America, Inc. and Elizabeth Jones in her official capacity as treasurer ("Committee"), violated certain sections of the Federal Election Campaign Act of 1971, as amended. A copy of each complaint was forwarded to you at that time.

Upon review of the allegations contained in the complaint, and information provided by you, the Commission, on July 23, 2019, found that there is reason to believe that the Committee violated 52 U.S.C. § 30104(b)(5)(A) and 11 C.F.R. § 104.3(b)(4)(i) by misreporting the purpose of funds paid to Fusion GPS through Perkins Coie LLP. The Commission took no action at this time as to the allegations that the Committee violated 52 U.S.C. § 30121 and 11 C.F.R. § 110.20(b) and (h)(1). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is enclosed for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Statements should be submitted under oath. We request that all responses to the enclosed Request for Written Answers and Production of Documents be submitted to the Office of the General Counsel within 30 days of your receipt of this notification. Any additional materials or statements you wish to submit should accompany the response to the Request for Written Answers and Production of Documents. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. *See* 52 U.S.C. § 30109(a)(4).

MURs 7291 and 7449

Marc E. Elias, Esq.

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Please note that you have a legal obligation to preserve all documents, records, and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. *See* 18 U.S.C. § 1519.

If you are interested in pursuing pre-probable cause conciliation, you should make such a request by letter to the Office of the General Counsel. *See* 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into in order to complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been delivered to the respondents.

Requests for extensions of time are not routinely granted. Requests must be made in writing at least five days prior to the due date of the response and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days. Pre-probable cause conciliation, extensions of time, and other enforcement procedures and options are discussed more comprehensively in the Commission's "Guidebook for Complainants and Respondents on the FEC Enforcement Process," which is available on the Commission's website at [http://www.fec.gov/em/respondent\\_guide.pdf](http://www.fec.gov/em/respondent_guide.pdf).

Please be advised that, although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.<sup>1</sup>

This matter will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public. For your information we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Anne Robinson, the attorney assigned to this matter, at (202) 694-1650 or [arobinson@fec.gov](mailto:arobinson@fec.gov).

On behalf of the Commission,



Ellen L. Weintraub  
Chair

#### Enclosures

Factual and Legal Analysis

Request for Written Answers and Production of Documents

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<sup>1</sup> The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

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4  
5 **RESPONDENT:** Hillary for America and Elizabeth Jones MURs 7291 and 7449  
6 in her official capacity as treasurer  
7

8 **I. INTRODUCTION**

9 The three Complaints in these matters allege that the authorized committee of Democratic  
10 Party nominee Hillary Clinton, Hillary for America, Inc. and Elizabeth Jones in her official  
11 capacity as treasurer (“HFA” or “Committee”), and the Democratic National Committee  
12 (“DNC”) failed to file accurate disclosure reports when they mischaracterized the payee and  
13 purpose of certain disbursements disclosed as made to Perkins Coie LLP (“Perkins Coie”) for  
14 legal services, when in fact the payments were passed through to the research firm Fusion GPS  
15 (“Fusion”) for the purpose of opposition research and should have been disclosed as such.<sup>1</sup> HFA  
16 contends that the disbursements at issue were properly disclosed because Perkins Coie LLP hired  
17 Fusion GPS to support its provision of legal services to HFA, and the Committee did not contract  
18 with or make payments to Fusion.<sup>2</sup> The MUR 7449 Complaint also alleges that HFA violated  
19 § 30121 and 11 C.F.R. § 110.20(b) and (h)(1).<sup>3</sup>

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<sup>1</sup> MUR 7291 Compl. ¶¶ 1-2 (Oct. 25, 2017); MUR 7331 Compl. at 2 (Feb. 26, 2018); MUR 7449 Compl. at 2, 10-14 (Aug. 2, 2018).

<sup>2</sup> MUR 7291 Hillary for America Resp. at 2-8 (Dec. 14, 2017) (“MUR 7291 HFA Resp.”); MUR 7331 Hillary Victory Fund/Hillary for America/DNC Services Corp./Democratic National Committee Joint Resp. at 2, 4-5, 11-17 (June 4, 2018) (“MUR 7331 HFA/DNC Resp.”); MUR 7449 Hillary for America/DNC Services Corp./Democratic National Committee/Perkins Coie LLP/Mark Elias Joint Resp. at 2-9 (Oct. 3, 2018) (“MUR 7449 HFA/DNC Resp.”). The allegations regarding Fusion GPS were severed from MUR 7331 and merged into MUR 7291.

<sup>3</sup> MUR 7449 Compl. at 17-18. The Commission takes no action at this time as to these allegations.



For the reasons set forth below, the Commission finds reason to believe that HFA violated 52 U.S.C. § 30104(b)(5)(A) and 11 C.F.R. § 104.3(b)(4)(i) by failing to properly report the purpose of certain disbursements.

## II. FACTUAL BACKGROUND

HFA is the authorized committee of Hillary Clinton's 2016 presidential campaign, and the DNC is the national committee of the Democratic Party.<sup>4</sup> Fusion is a research consulting firm headquartered in Washington, DC.<sup>5</sup> Glenn Simpson is the majority owner of Fusion and has testified under oath regarding the research conducted by Fusion for Clinton and the DNC.<sup>6</sup> Christopher Steele is a British national who worked as a subcontractor to Fusion through his investigative research firm, Orbis Business Intelligence ("Orbis").<sup>7</sup> Perkins Coie is a law firm of which Marc Elias is a partner.<sup>8</sup> Elias's biography on Perkins Coie's website states that he

<sup>4</sup> See Amended Statement of Organization, HFA (June 8, 2016); Amended Statement of Organization, DNC (Sept. 17, 2018).

<sup>5</sup> See <http://www.fusiongps.com/>.

<sup>6</sup> See U.S. House of Representatives Permanent Select Committee on Intelligence, Executive Session, Interview of Glenn Simpson, 5-6 (Nov. 14, 2017), <http://docs.house.gov/meetings/IG/IG00/20180118/106796/HMTG-115-IG00-20180118-SD002.pdf> ("Simpson House Interview") (noting that Simpson testified under oath); U.S. Senate Judiciary Committee, Interview of Glenn Simpson, 9-10, 14 (Aug. 22, 2017), [https://www.feinstein.senate.gov/public/\\_cache/files/3/9/3974a291-ddbe-4525-9ed1-22bab43c05ae/934A3562824ACA7BB4D915E97709D2F.simpson-transcript-redacted.pdf](https://www.feinstein.senate.gov/public/_cache/files/3/9/3974a291-ddbe-4525-9ed1-22bab43c05ae/934A3562824ACA7BB4D915E97709D2F.simpson-transcript-redacted.pdf) ("Simpson Senate Interview") (providing that Simpson did not testify under oath but that he understood that making a false statement to Congress was a federal crime). Fusion is the trade name of Bean LLC, which is a Delaware corporation registered in the District of Columbia. See Simpson Senate Interview at 14-15; Simpson House Interview at 6; Delaware Dep't of State Div. of Corps., *General Information Name Search*, <https://icis.corp.delaware.gov/ecorp/entitysearch/NameSearch.aspx> (enter Entity Name: Bean LLC or File No.: 4854128); D.C. Dep't of Consumer and Regulatory Affairs, *My D.C. Business Center Quick Search*, <https://mybusiness.dc.gov/#/quicksearch> (enter Business Name: Bean or File No.: L53032).

<sup>7</sup> MUR 7449 Compl. at 2-3, 7-8 (citing Jane Mayer, *Christopher Steele, The Man Behind the Trump Dossier*, THE NEW YORKER (Mar. 12, 2018), <https://www.newyorker.com/magazine/2018/03/12/christopher-steele-the-man-behind-the-trump-dossier> ("New Yorker Article")). According to the New Yorker Article, Steele co-founded Orbis, which is located in Mayfair, London, UK, in 2008.

<sup>8</sup> See *Marc E. Elias*, Perkins Coie LLP, <https://www.perkinscoie.com/en/professionals/marc-e-elias.html>.

“served as general counsel to” HFA “in 2016.”<sup>9</sup> In its Response, the Committee acknowledges that Perkins Coie served as General Counsel for HFA during the 2016 election cycle.<sup>10</sup>

Perkins Coie was approached by Fusion in March 2016 and agreed to pay for the continuation of research on then-candidate Donald J. Trump that Fusion had conducted on behalf of a Republican donor.<sup>11</sup> Marc Elias and Perkins Coie reportedly formally retained Fusion in April 2016.<sup>12</sup> HFA states that the research was for the purpose of supporting Perkins Coie’s representation of it.<sup>13</sup> HFA campaign manager Robby Mook reportedly approved a budget request for the research without knowing the identity of the researcher.<sup>14</sup> Simpson, when asked in his congressional testimony whether he was aware, when Fusion was retained by Perkins Coie, that Perkins Coie was working on behalf of the DNC, testified that “nobody gave me a document or informed me specifically of that” but also that he did not think Perkins Coie was engaging Fusion for itself; Simpson further testified that “I have been in Washington for several

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<sup>9</sup> See *id.*

<sup>10</sup> MUR 7291 HFA Resp. at 2, 7.

<sup>11</sup> MUR 7291 HFA Resp. at 2, Ex. 1; MUR 7449 HFA/DNC Resp., Ex. 1; MUR 7291 Compl. ¶ 5 (citing Adam Entous, Devlin Barrett, and Rosalind Henderman, *Clinton Campaign, DNC Paid for Research that Led to Russia Dossier*, THE WASHINGTON POST (Oct. 24, 2017), [https://www.washingtonpost.com/world/national-security/clinton-campaign-dnc-paid-for-research-that-led-to-russia-dossier/2017/10/24/226fabf0-b8e4-11e7-a908-a3470754bbb9\\_story.html?utm\\_term=.e2c61bfdabee](https://www.washingtonpost.com/world/national-security/clinton-campaign-dnc-paid-for-research-that-led-to-russia-dossier/2017/10/24/226fabf0-b8e4-11e7-a908-a3470754bbb9_story.html?utm_term=.e2c61bfdabee) (“Post Article”)). Fusion had previously been paid by The Washington Free Beacon, which stopped paying in April or May 2016 once Trump appeared to secure the Republican nomination for President. See Simpson House Interview at 11-12.

<sup>12</sup> See MUR 7291 Compl. ¶ 5 (citing Post Article); see also MUR 7449 Compl. at 4; Simpson House Interview at 12-13. The Post Article cites sources “familiar with the matter.” The information provided by HFA is largely drawn from a letter from Perkins Coie to the Zuckerman Spaeder LLP (“Zuckerman”) law firm, counsel for Fusion, authorizing Zuckerman to disclose certain information regarding Perkins Coie’s hiring of Fusion. MUR 7291 HFA Resp. at 2, Ex. 1 (Letter from Matthew J. Gehringer, General Counsel, Perkins Coie, to William W. Taylor, III, Zuckerman (Oct. 24, 2017); MUR 7449 HFA/DNC Resp. at 3, Ex. 1 (same).

<sup>13</sup> MUR 7291 HFA Resp. at 2; MUR 7331 HFA/DNC Resp. at 16-17; MUR 7449 HFA/DNC Resp. at 3.

<sup>14</sup> New Yorker Article (“Mook had approved Perkins Coie’s budget request for opposition research without knowing who was producing it.”); Simpson Senate Interview at 139-40 (testifying that the “dossier” published online by BuzzFeed in January 2017, which was comprised of sixteen pre-election memoranda and one post-election memorandum, represents the “entire universe” of memoranda Steele and Orbis created for Fusion).

decades, and I spent a lot of time on Capitol Hill and it was well-known to me that Perkins Coie represented the DNC.”<sup>15</sup> Fusion likely worked for Perkins Coie on a series of 30-day contracts, and their relationship ended with the 2016 presidential election.<sup>16</sup>

Fusion reportedly stated that it was paid \$1.02 million by Perkins Coie for fees and expenses related to the research on Trump.<sup>17</sup> Perkins Coie publicly acknowledged that it hired Fusion on behalf of HFA and the DNC, and the two committees appear to have shared the costs related to Fusion’s work for Perkins Coie.<sup>18</sup> In fact, the DNC reported making a \$66,500 payment to Perkins Coie on August 16, 2016, for “Research Consulting.”<sup>19</sup> Overall, the DNC reported paying \$5,267,642.67 to Perkins Coie between March and December 2016.<sup>20</sup> HFA

<sup>15</sup> Simpson House Interview at 19-21 (explaining further that “I knew it was the DNC that we were working for” because “I was generally aware that Perkins Coie represented the DNC”). Simpson did not address whether he knew that HFA was also a client, but he did deny having any “dealings” with Clinton. *Id.* at 106. Simpson also, however, testified that he had, over the years, fielded journalists’ questions about the Clinton Foundation and Hillary Clinton, but that “at some point, you know, that became a conflict of interest.” *Id.* at 150-51 (not specifying at which point he knew that became a conflict or how he knew).

<sup>16</sup> MUR 7291 HFA Resp., Ex. 1; *see* MUR 7449 HFA/DNC Resp., Ex.1; *see* Simpson House Interview at 8, 74 (explaining that Fusion’s business practice was to engage with a client on a 30-day contract, provide a report to the client, and engage for another 30 days if the client chose to do so); Simpson Senate Interview at 289-90.

<sup>17</sup> MUR 7449 Compl. at 5 (citing Mark Hosenball, *Ex-British Spy Paid \$168,000 for Trump Dossier, U.S. Firm Discloses*, REUTERS (Nov. 1, 2017), <https://www.reuters.com/article/us-usa-trump-russia-dossier/ex-british-spy-paid-168000-for-trump-dossier-u-s-firm-discloses-idUSKBN1D15XH> (“Reuters Article”) (citing a public statement by Fusion)). The MUR 7331 Complaint alleges that HFA and the DNC paid \$12 million “for an opposition research project to link Donald Trump to Russia” but provides no information supporting that figure. MUR 7331 Compl. at 2.

<sup>18</sup> MUR 7449 Compl. at 4 (citing Kenneth P. Vogel, *Clinton Campaign and Democratic Party Helped Pay for Russia Trump Dossier*, THE NEW YORK TIMES (Oct. 24, 2017), <https://www.nytimes.com/2017/10/24/us/politics/clinton-dnc-russia-dossier.html> (“Times Article”); MUR 7291 Compl. ¶ 5 (citing Post Article); *see also* MUR 7291 HFA Resp. at 2, Ex. 1; MUR 7449 HFA/DNC Resp. at 3, Ex. 1.

<sup>19</sup> MUR 7291 Compl. ¶ 9.

<sup>20</sup> *See generally* DNC 2016 Disclosure Reports. The DNC paid Perkins Coie \$6,726,407.25 between January 1, 2015, and December 31, 2016, of which \$6,466,711.46 was for “Legal and Compliance Consulting.” *See* MUR 7291 Compl. ¶ 9; *see generally* DNC 2015-16 Disclosure Reports.

1 reported paying a total of \$4,941,201.09 to Perkins Coie between March and December 2016.<sup>21</sup>  
2 The reported \$1.02 million figure representing Perkins Coie's total payments to Fusion would  
3 comprise 8.4% of all the fees paid to Perkins Coie by the two committees during the 2015-2016  
4 election cycle. HFA reported the purpose of all amounts it paid Perkins Coie as "Legal  
5 Services." The DNC, for the most part, reported that the purpose of its Perkins Coie payments  
6 was "Legal and Compliance Consulting." In addition, other DNC payments to the law firm  
7 listed "Postage & Shipping," "Travel," "Data Services Subscription," and "Printing & Copying."

8 HFA asserts that Perkins Coie retained Fusion to assist with its legal representation of the  
9 Committee and that the committee did not contract directly with Fusion or make any payments  
10 directly to Fusion.<sup>22</sup> Therefore, HFA contends, the disbursements at issue were properly  
11 disclosed and the complaints should be dismissed.<sup>23</sup>

### 12 III. LEGAL ANALYSIS

13 The Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission  
14 regulations require political committees to report the name and address of each person to whom  
15 they make expenditures or other disbursements aggregating more than \$200 per calendar year, or

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<sup>21</sup> See generally HFA 2016 Disclosure Reports. HFA paid \$5,631,421.02 to Perkins Coie between January 1, 2015, and December 31, 2016 for "Legal Services." See MUR 7291 Compl. ¶ 8; see generally HFA 2015-16 Disclosure Reports.

<sup>22</sup> MUR 7291 HFA Resp. at 2; MUR 7331 HFA/DNC Resp. at 2, 11; MUR 7449 HFA/DNC Resp. at 2-3.

<sup>23</sup> MUR 7291 HFA Resp. at 2-8; MUR 7331 HFA/DNC Resp. at 11-17; MUR 7449 HFA/DNC Resp. at 2-9, 13.

per election cycle for authorized committees, as well as the date, amount, and purpose of such payments.<sup>24</sup>

Commission regulations define “purpose” as a “brief statement or description of why the disbursement was made.”<sup>25</sup> “The ‘purpose of disbursement’ entry, when considered along with the identity of the disbursement recipient, must be sufficiently specific to make the purpose of the disbursement clear.”<sup>26</sup> The Commission has determined that the description of purpose should be sufficient to allow “a person not associated with the committee [to] easily discern why the disbursement was made when reading the name of the recipient and the purpose.”<sup>27</sup>

Examples of sufficient statements of purpose include, but are not limited to, dinner expenses, media, salary, polling, travel, party fees, phone banks, travel expenses, travel expense reimbursement, and catering costs.<sup>28</sup> In addition to the non-exhaustive list of examples included in the regulation, the Commission has provided guidance that a description of purpose such as “Consultant-Legal” is sufficient for a disbursement to a consultant; the sufficiency of the description is read in context with the name of the payee.<sup>29</sup> Additional guidance set forth on the

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<sup>24</sup> 52 U.S.C. § 30104(b)(5), (6); 11 C.F.R. § 104.3(b)(3)(i), (ix) (political committees other than authorized committees); *id.* § 104.3(b)(4)(i), (vi) (authorized committees); *id.* § 104.9(a), (b) (all political committees).

<sup>25</sup> 11 C.F.R. § 104.3(b)(3)(i)(A), (B); *id.* § 104.3(b)(4)(i)(A).

<sup>26</sup> See Statement of Policy: “Purpose of Disbursement” Entries for Filings with the Commission, 72 Fed. Reg. 887 (Jan. 9, 2007) (“Purpose Statement of Policy”) (citing 11 C.F.R. §§ 104.3(b)(3)(i)(B), (4)(i)(A)).

<sup>27</sup> Purpose Statement of Policy, 72 Fed. Reg. at 888.

<sup>28</sup> 11 C.F.R. § 104.3(b)(3)(i)(B); *id.* § 104.3(b)(4)(i)(A).

<sup>29</sup> Purpose Statement of Policy, 72 Fed. Reg. at 888; see also FEC Campaign Guide for Congressional Candidates at 103 (June 2014) (the description of purpose must be sufficiently specific such that it makes clear the reason for the disbursement when considered in conjunction with the payee’s identity).



Commission’s website includes “Legal / Legal Fees / Legal Services” as a sufficient description of purpose.<sup>30</sup>

During the 2016 election cycle, HFA disclosed \$5.6 million in payments made to Perkins Coie whose purpose was reported as “Legal Services.”<sup>31</sup> The DNC, during the same 2016 cycle, disclosed more than \$6.4 million in payments issued to Perkins Coie for the purpose of “Legal and Compliance Consulting.”<sup>32</sup> In addition to these DNC legal expenses, the record indicates that the DNC also reported one disbursement of \$66,500 to Perkins Coie with the purpose of “Research Consulting.”<sup>33</sup> According to Fusion’s reported public statement, Perkins Coie paid a total of \$1.02 million to Fusion in 2016,<sup>34</sup> for the purpose of conducting opposition research on Trump using funds obtained from HFA and the DNC.<sup>35</sup>

HFA maintains that the purpose was correctly reported as “legal services,” on the basis that Fusion was hired in connection with the legal services provided by Perkins Coie.<sup>36</sup> In addressing “purpose” reporting, the Committee has not provided details on how Fusion’s research supported Perkins Coie’s legal work. The Committee claims that the Commission recognizes that legal services can include a “range of diverse legal services” including litigating,

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<sup>30</sup> FEC, Purposes of Disbursement (last updated July 13, 2017), <https://www.fec.gov/help-candidates-and-committees/purposes-disbursement>; *see also* Purpose Statement of Policy, 72 Fed. Reg. at 888 (indicating that additional guidance will be posted at the URL in this footnote).

<sup>31</sup> *See supra* note 21.

<sup>32</sup> *See supra* note 20.

<sup>33</sup> MUR 7291 Compl. ¶ 9.

<sup>34</sup> *See* Reuters Article.

<sup>35</sup> New Yorker Article (“Mook had approved Perkins Coie’s budget request for opposition research without knowing who was producing it.”).

<sup>36</sup> MUR 7291 HFA Resp. at 2-3, 6-7; MUR 7331 HFA/DNC Resp. at 12-13; MUR 7449 HFA/DNC Resp. at 3-4, 7-8.

advising on trademark issues and vetting staff, but the responses never state that Fusion's research was used for those services.<sup>37</sup> Nor does the response to the Commission assert that such information would be privileged. A person reading the Committee's disclosure reports could not have discerned that the Committee was disbursing funds for anything other than legal services by reading the name of the recipient (*i.e.*, Perkins Coie) together with the reported purpose (*i.e.*, legal services or legal or compliance consulting).<sup>38</sup>

Thus, putting aside the question of whether HFA failed to accurately disclose the payees of disbursements, the available information indicates that there is at least reason to believe that HFA did not properly disclose the purpose of the disbursements to Perkins Coie, for what appears to have been opposition research done by Fusion. Where respondents disclosed inadequate or incorrect purposes, the Commission has held the respondents accountable, finding reason to believe that they violated the Act.<sup>39</sup> Accordingly, the Commission finds reason to

<sup>37</sup> MUR 7291 HFA Resp. at 6; MUR 7331 HFA/DNC Resp. at 15; MUR 7449 HFA/DNC Resp. at 6-7.

<sup>38</sup> See Purpose Statement of Policy, 72 Fed. Reg. at 888.

<sup>39</sup> See, e.g., Report of the Audit Division at 13-14 (Dallas County Republican Party) (Nov. 19, 2008) (respondent disclosed an inadequate or incorrect purpose for 50 disbursements totaling \$215,261 where committee sometimes reported generic purposes such as professional fees and fundraising consultant, which did not allow a person to easily discern why the disbursements were made when reading the payee and purpose together); Factual & Legal Analysis at 2-3, MUR 6204 (Dallas County Republican Party) (finding reason to believe that committee violated, *inter alia*, 52 U.S.C. § 30104(b)(5) (formerly 2 U.S.C. § 434(b)(5))); Report of the Audit Division at 12-13 (Cranley for Congress) (Apr. 23, 2008) (sample review projected \$1.4 million in disclosed disbursements lacked required information including, but not limited to, missing or inadequate purposes, for which a person could not easily discern why the disbursements were made when reading the payee and purpose together); Certification, MUR 6134 (Cranley for Congress) (Nov. 19, 2008) (approving the Report of the Audit Division dated April 23, 2008 as the Factual & Legal Analysis); Conciliation Agreement at 4, 6, MUR 5635 (Conservative Leadership Political Action Committee); Final Audit Report, Conservative Leadership Political Action Committee (Nov. 29, 2004) (committee failed to disclose a correct or adequate purpose for disbursements totaling over \$1.6 million). In cases involving a limited number of disbursements or small amount of money, the Commission has dismissed the matter or referred it to the Commission's Alternative Dispute Resolution Office ("ADRO"). See, e.g., Certification at 3, MUR 6518 (Newt Gingrich, *et al.*) (June 24, 2015) (referring allegations to the ADRO that respondents failed to disclose an adequate purpose for one \$47,005 disbursement); MUR 6638 (Todd Long for Congress) (dismissing allegation that respondent incorrectly described the purpose of two disbursements totaling \$21,667 as "check" where respondent committee corrected description and terminated). In addition, a recent decision by the United States Court of Appeals for the Eighth Circuit rejected an argument that identifying a purpose of "audio/visual expenses" for payments that were actually compensation for an endorsement did not cause a committee's disclosure reports to

MURs 7291 and 7449 (Hillary for America)

Factual and Legal Analysis

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- 1 believe that HFA violated 52 U.S.C. § 30104(b)(5)(A) and 11 C.F.R. § 104.3(b)(4)(i) by failing
- 2 to properly disclose the purpose of certain disbursements.

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be false. *See United States v. Jesse Benton, John Tate, and Dimitrios Kesari*, 890 F.3d 697 (8th Cir. May 11, 2018), *cert. denied*, 2019 WL 1231756 (Benton), 2019 WL 1231758 (Tate), 2019 WL 1231759 (Kesari) (Mar. 18, 2019) (affirming the convictions of three former Ron Paul 2012 campaign officials for, *inter alia*, violating the Act by causing false campaign finance reports to be filed with the Commission).

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of

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MURs 7291 and 7449

**REQUEST FOR WRITTEN ANSWERS  
AND PRODUCTION OF DOCUMENTS**

TO: Hillary for America, Inc. and Elizabeth Jones  
in her official capacity as treasurer  
c/o Marc E. Elias, Esq.  
Perkins Coie LLP  
700 13th Street NW, Suite 600  
Washington, DC 20005

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 30 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, 1050 First Street NE, Washington, DC 20463, on or before the same deadline. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals. We request that you produce documents and communications in an easily readable format (*i.e.*, PDF). For the purposes of these questions, “identify” and “identity” with respect to a person shall mean provide the person’s full name, most recent business and residence addresses, telephone numbers, and email addresses.

1. Provide all retainer agreements, invoices, checks or other instruments of payment (including copies of canceled checks) relating to Fusion GPS or the services provided by Fusion GPS.
2. Provide all documents and records of communications relating to Fusion GPS or the services provided by Fusion GPS, including, but not limited to:
  - a. all documents related to any authorization given to Perkins Coie LLP to expend funds for research on Donald J. Trump;
  - b. any communications to or from any officer, employee, consultant, representative, or agent of Hillary for America, Inc. (“HFA”), and provide the date of each communication, a description of the content of each communication, and identify the persons making and receiving the communication;



- c. to the extent not provided in response to Question 2.b, all communications between any officer, employee, consultant, representative, or agent of HFA and any officer, employee, consultant, representative, or agent of Fusion GPS, including the date of each communication, the identity the persons making and receiving the communication, and a description of the content of each communication;
  - d. to the extent not provided in response to Question 2.b, all communications between Marc Elias or any other officer, employee, representative, or agent of Perkins Coie LLP and any officer, employee, consultant, representative, or agent of HFA, including the date of each communication, the identity the persons making and receiving the communication, and a description of the content of each communication;
  - e. to the extent not provided in response to Question 2.b, all communications relating to Fusion GPS between any officer, employee, representative, or agent of HFA and any officer, employee, consultant, representative, or agent of DNC Services Corporation/Democratic National Committee, including the date of each communication, the identity the persons making and receiving the communication, and a description of the content of each communication.
- 3. Provide a list of each payment HFA made to Perkins Coie LLP that included funds to pay Fusion GPS, including, but not limited to, the date, purpose of the payment, amount of the payment, and the payment's location on a HFA disclosure report filed with the Commission.
  - 4. Identify the person(s) responsible for creating, drafting, reviewing, and filing HFA's Federal Election Commission disclosure reports between January 1, 2016 and December 31, 2016. State the dates during which each person had that responsibility.
  - 5. Provide the names, telephone numbers, residential addresses, email addresses, and HFA title of the persons providing information responsive to these questions.