



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

**VIA ELECTRONIC MAIL**

November 19, 2021

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

Dear Mr. Wilson:

Based on complaints filed with the Federal Election Commission on October 25, 2017 and August 2, 2018, the Commission, on July 23, 2019, found that there is reason to believe that your client, Hillary for America and Elizabeth Jones in her official capacity as treasurer violated 52 U.S.C. § 30104(b)(5)(A) and 11 C.F.R. § 104.3(b)(4)(i) of the Federal Election Campaign Act of 1971, as amended (the "Act"), and instituted an investigation of this matter.

After considering all the information available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file a brief stating your position on the issues and replying to the General Counsel's Brief.<sup>1</sup> The General Counsel's Brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, including because of the upcoming holidays, you may submit a written request for an extension of time in exchange for a tolling agreement. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of General

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<sup>1</sup> You may submit the brief electronically to [cela@fec.gov](mailto:cela@fec.gov), or to the staff attorney assigned to the matter as applicable. Enforcement-related materials submitted only by mail will be deemed received when actually received by OGC staff, subject to delays due to the intermittent processing of mail. See <https://www.fec.gov/resources/cms-content/documents/status-of-fec-operations.pdf> (April 15, 2021).

Counsel ordinarily will not give extensions beyond 20 days. The Office of General Counsel will not give extensions absent an agreement to toll the applicable statute of limitations.

You may also request additional information gathered by the Commission in the course of its investigation in this matter. *See* Agency Procedure for Disclosure of Documents and Information in the Enforcement Process, 76 Fed. Reg. 34,986 (June 15, 2011).

In addition, you may also request an oral hearing before the Commission. *See* Procedural Rules for Probable Cause Hearings, 72 Fed. Reg. 64,919 (Nov. 19, 2007); Amendment of Agency Procedures for Probable Cause Hearings, 74 Fed. Reg. 55,443 (Oct. 28, 2009). Hearings are voluntary, and no adverse inference will be drawn by the Commission based on a respondent's decision not to request such a hearing. Any request for a hearing must be submitted along with your reply brief and must state with specificity why the hearing is being requested and what issues the respondent expects to address. Where necessary, the Commission reserves the right to request from a respondent an agreement tolling any upcoming deadline, including any statutory deadline or other deadline found in 11 CFR part 111. *See* Procedural Rules for Probable Cause Hearings, 72 Fed. Reg. at 64,920. The Commission will notify you within 30 days of your request for a hearing as to whether or not the request has been granted.

A finding of probable cause to believe requires that the Office of General Counsel attempt for a period of not less than 30, but not more than 90, days, to settle this matter through a conciliation agreement.

Should you have any questions, please contact Richard L. Weiss, the attorney assigned to this matter, at (202) 694-1021 or [rweiss@fec.gov](mailto:rweiss@fec.gov).

Sincerely,

Lisa J. Stevenson /by CK

Lisa J. Stevenson  
Acting General Counsel

Enclosure:  
General Counsel's Brief

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2 In the Matter of )  
 3 )  
 4 Hillary for America and Elizabeth Jones ) MURs 7291 and 7449  
 5 in her official capacity as treasurer )  
 6 )  
 7 )

8 **GENERAL COUNSEL’S BRIEF**

9 **I. STATEMENT OF THE CASE**

10 These matters arose from complaints filed with the Federal Election Commission (the  
 11 “Commission”) alleging that Hillary for America, Inc. and Elizabeth Jones in her official capacity  
 12 as treasurer (“HFA”) failed to file accurate disclosure reports when it mischaracterized the payee  
 13 and purpose of certain disbursements disclosed as made to Perkins Coie LLP (“Perkins Coie”) for legal services, when in fact the payments were passed through to the research firm Fusion GPS (“Fusion”) for the purpose of opposition research and should have been disclosed as such,  
 14 in violation of the Federal Election Campaign Act of 1971, as amended (the “Act”). Based on  
 15 the available information, on July 23, 2019, the Commission found reason to believe that HFA  
 16 violated 52 U.S.C. § 30104(b)(5)(A) and 11 C.F.R. § 104.3(b)(4)(i).<sup>1</sup>

17 The Commission commenced an investigation concerning HFA’s disclosures of  
 18 payments to Perkins Coie for Fusion’s work and the amounts that HFA paid for Fusion’s work.  
 19 The investigation revealed that the total amount that HFA spent on Fusion’s opposition research but  
 20 reported as “legal services” was \$180,000. The investigation further establishes the Commission’s  
 21 finding at the reason to believe stage that HFA’s reporting of disbursements paid to Fusion were  
 22 inadequate and in violation of the Act. Accordingly, this Office is prepared to recommend that the  
 23 Commission find probable cause to believe that HFA violated 52 U.S.C. § 30104(b)(5)(A) and  
 24  
 25

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<sup>1</sup> Certification (“Cert.”) ¶ 2 (July 26, 2019), MURs 7291 & 7449.

11 C.F.R. § 104.3(b)(4)(i) by failing to report the proper purpose of the funds paid to Perkins Coie for opposition research performed by Fusion.

## II. FACTS

HFA was the authorized committee of Hillary Clinton's 2016 presidential campaign.<sup>2</sup> Fusion is a research consulting firm headquartered in Washington, DC.<sup>3</sup> Glenn Simpson is the majority owner of Fusion and has testified under oath regarding the research conducted by Fusion. Christopher Steele is a British national who worked as a subcontractor to Fusion through his investigative research firm, Orbis Business Intelligence.<sup>4</sup> Perkins Coie is a law firm that served as General Counsel for HFA during the 2016 election cycle.<sup>5</sup>

Fusion approached Perkins Coie in March 2016 and Perkins Coie agreed to pay for the continuation of research on then-candidate Donald J. Trump that Fusion had previously been conducting on behalf of a Republican donor.<sup>6</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>7</sup>

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<sup>2</sup> See Amended Statement of Organization, HFA (June 8, 2016).

<sup>3</sup> Fusion GPS Website, <http://www.fusiongps.com/> (last visited Nov. 19, 2021).

<sup>4</sup> MUR 7449 Compl. at 2-3, 7-8 (Aug. 2, 2018) (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>5</sup> Factual & Legal Analysis at 2, MURs 7291 and 7449.

<sup>6</sup> *Id.*, Ex. 1; MUR 7449 HFA 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*, WASH. 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. Simpson House Interview at 11-12.

<sup>7</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)).

HFA campaign manager Robby Mook reportedly approved a budget request for the research by Fusion without knowing the identity of the researcher.<sup>8</sup> HFA reported the purpose of all amounts it paid Perkins Coie as “Legal Services.”<sup>9</sup>

On July 23, 2019, when the Commission found reason to believe that HFA violated the Act, “by failing to properly disclose the purpose of certain disbursements” it concluded 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.”<sup>10</sup>

During the subsequent investigation, HFA provided responses to the Commission’s Subpoenas and Orders,<sup>11</sup> and included invoices, account statements, copies of checks, and wire transfers.<sup>12</sup> The investigation confirmed that in April 2016, Perkins Coie engaged Fusion to perform “a variety of research and consulting services.”<sup>13</sup> The total amount that HFA spent on

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<sup>8</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).

<sup>9</sup> *See generally* HFA 2016 Disclosure Reports.

<sup>10</sup> Factual and Legal Analysis at 8.

<sup>11</sup> On August 9, 2019, HFA was notified of the Commission’s findings, provided with the Factual and Legal Analysis, and served with informal discovery. Letter to Marc E. Elias, Counsel for HFA, from Chair Ellen L. Weintraub, FEC (Aug. 9, 2019). On October 23, 2019, HFA submitted a response to the Commission’s reason to believe finding requesting the Commission reconsider its findings. Letter to Anne Robinson, FEC, from Marc E. Elias and Graham M. Wilson, Counsel for HFA (Oct. 23, 2019). On February 4, 2020, HFA notified OGC that they were not going to respond to the discovery requests considering the lack of quorum. Letter to Anne Robinson, FEC, from Marc E. Elias, Counsel for HFA (Feb. 4, 2020). When the Commission regained a quorum, the Commission issued a subpoena to HFA on February 12, 2021. Cert. (Feb. 10, 2021), MURs 7291 & 7449.

<sup>12</sup> Respondent objected to most of the discovery requests, both asserting attorney-client and attorney work privileges and objecting to the requests on breadth and scope grounds. *See* HFA Resp. to Order to Submit Written Answers and Subpoena to Produce Documents at 4 (June 3, 2021).

<sup>13</sup> HFA Resp. to Order to Submit Written Answers and Subpoena to Produce Documents at 4.

1 Fusion's opposition research but reported as "legal services" was \$175,000.<sup>14</sup> HFA provided a  
 2 chart of payments that it made to Perkins Coie, which included funds paid to Fusion.<sup>15</sup>  
 3 Additionally, HFA provided the underlying invoices from Perkins Coie for each of the  
 4 payments.<sup>16</sup> Fusion invoices sent to Perkins Coie for the services rendered on behalf of HFA list  
 5 a monthly retainer fee plus additional fees labeled as "Russia Research" or "Russian language  
 6 researcher."<sup>17</sup> Copies of checks and wire transfers reflecting payments Fusion made to its

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<sup>14</sup> HFA paid a somewhat higher amount to Perkins Coie in connection with Fusion, \$210,000, a figure including a \$5,000 per month fee paid to Perkins Coie, but not passed on to Fusion. *See* HFA Documents 1-18 attached to the HFA Response to Discovery Requests; *see also* HFA Response to Discovery Requests at 6 (Apr. 13, 2021) (listing the payments and amounts to Perkins Coie from HFA); *see generally* HFA 2016 Disclosure Reports. HFA paid Perkins Coie \$30,000 on July 14, 2016 for \$5,000 in "legal services" and \$25,000 in "professional services -other" for the Fusion research and reported it on its disclosure report filed on August 20, 2016. HFA paid Perkins Coie \$30,000 on August 11, 2016 for \$5,000 in "legal services" and \$25,000 in "professional services - other" for the Fusion research and reported it on its disclosure report filed on September 20, 2016. HFA paid Perkins Coie \$90,000 on August 25, 2016 for \$15,000 in "legal services" and \$75,000 in "professional services - other" for the Fusion research and reported it on its disclosure report filed on September 20, 2016. HFA paid Perkins Coie \$30,000 on September 14, 2016 for \$5,000 in "legal services" and \$25,000 in "professional services - other" for the Fusion research and reported it on its disclosure report filed on October 20, 2016. HFA paid Perkins Coie \$30,000 on October 19, 2016 for \$5,000 in "legal services" and \$25,000 in "professional services -other" for the Fusion research and reported it on its disclosure report filed on October 27, 2016.

<sup>15</sup> *See id.*; HFA Response to Discovery Requests at 6.

<sup>16</sup> *See* HFA Response Documents to Discovery Requests at HFA-FEC-001-HFA-FEC-0024 (Apr. 13, 2021).

<sup>17</sup> Fusion Invoices at LFM000004, LFM000006, LFM000008, LFM000010.

subvendors, Nellie Ohr,<sup>18</sup> Graham Stack,<sup>19</sup> Edward Austin Limited,<sup>20</sup> and Orbis Business Intelligence Ltd.,<sup>21</sup> as part of the services rendered to Perkins Coie were obtained during the investigation. These subvendors reportedly contributed to Fusion's research regarding Donald Trump and Russia.<sup>22</sup>

Comparing the invoices from Perkins Coie with those of Fusion make clear that Perkins Coie billed HFA for its portion of the services rendered by Fusion to Perkins Coie. The invoices provided during the investigation delineate fees for "legal services rendered" and fees for "professional services — other."<sup>23</sup> The only services billed as "legal services rendered" under a header entitled "for services through [date]" are the \$5,000 retainer fee to Perkins Coie.<sup>24</sup> The entire amounts billed by Fusion and subsequently billed to HFA are billed as "professional

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<sup>18</sup> *Id.* at LFM000011-LFM000015. Nellie Ohr was a contractor for Fusion and reportedly worked on research and analysis of Donald Trump as well as open-source research on Russian oligarchs. *See* Jerry Dunleavy, *Hundreds of Pages of Emails Show Nellie Ohr Researched Trump-Russia Connections*, WASHINGTON EXAMINER (Aug. 25, 2019), <https://www.washingtonexaminer.com/news/hundreds-of-pages-of-emails-show-nellie-ohr-researched-trump-russia-connections>; Jeremy Herb, *Fusion GPS Contractor Nellie Ohr Doesn't Say Much At House Interview*, CNN (Oct. 19, 2018), <https://www.cnn.com/2018/10/19/politics/nellie-ohr-fusion-gps-congress-gps>.

<sup>19</sup> Fusion Invoices at LFM000024, LFM000028, LFM000032, LFM000036. Stack was a contractor for Fusion who reportedly worked on opposition research relating to Trump and Russia. *See* Graham Stack, *Graham Stack: Everything You Know About Paul Manafort Is Wrong*, KYIV POST (Sept. 17, 2018), <https://www.kyivpost.com/article/opinion/op-ed/graham-stack-everything-you-know-about-paul-manafort-is-wrong.html>.

<sup>20</sup> Fusion Invoices at LFM000020, LFM000028. Edward Baumgartner reportedly has a degree in Russian language and runs Edward Austin Limited, a research consulting firm with a focus on Russia and Ukraine and was hired by Fusion to meet with Natalia Veselnitskaya for the purpose of opposition research. *See* Natasha Bertrand, *Meet The Russia Specialist Who Worked On 2 Of Fusion GPS' Most Controversial Projects*, BUSINESS INSIDER (Jan. 14, 2018), <https://www.businessinsider.com/ed-baumgartner-fusion-gps-christopher-steele-russia-projects-2018-1>.

<sup>21</sup> Fusion Invoices at LFM000032, LFM000036, LFM000040. Orbis Business Intelligence Ltd. is the investigative research firm co-founded by Michael Steele. *See* Factual & Legal Analysis at 2, MURs 7291 and 7449.

<sup>22</sup> *See supra* nn. 18-21.

<sup>23</sup> *See* HFA Response Documents to Discovery Requests at HFA-FEC-001-HFA-FEC-0024.

<sup>24</sup> *Id.*

services-other” under a header entitled “disbursements.”<sup>25</sup> For example, the following image shows how the invoices distinguished between the types of services rendered.<sup>26</sup>

INVOICE # 5505362  
 HFACC, Inc.  
 116514.0004 / Research 2010

PERKINScoie

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FOR SERVICES THROUGH 05/31/16  
 For Legal Services Rendered

SERVICES  
 \$5,000.00

FOR DISBURSEMENTS THROUGH 06/15/16

DESCRIPTION	AMOUNT
Professional services - other -	\$25,000.00

### III. LEGAL ANALYSIS

The Act and Commission regulations require political committees to report the name and address of each person to whom they make expenditures or other disbursements aggregating more than \$200 per calendar year, or per election cycle for authorized committees, as well as the date, amount, and purpose of such payments.<sup>27</sup>

Commission regulations define “purpose” as a “brief statement or description of why the disbursement was made.”<sup>28</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

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at HFA-FEC-0004.

<sup>27</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>28</sup> 11 C.F.R. § 104.3(b)(3)(i)(A), (B); *id.* § 104.3(b)(4)(i)(A).



the disbursement clear.”<sup>29</sup> The Commission has explained 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>30</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>31</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>32</sup> Additional guidance set forth on the Commission’s website includes “Legal / Legal Fees / Legal Services” as a sufficient description of purpose.<sup>33</sup>

During the 2016 election cycle, HFA disclosed \$5.6 million in payments made to Perkins Coie and reported as “Legal Services.”<sup>34</sup> HFA maintains that the purpose was correctly reported for the payments at issue as “legal services,” on the basis that Fusion was hired in connection with unspecified legal services allegedly provided by Perkins Coie.<sup>35</sup> However, a person reading the Committees’ disclosure reports could not have discerned “why the disbursement was made,”

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<sup>29</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>30</sup> Purpose Statement of Policy, 72 Fed. Reg. at 888.

<sup>31</sup> 11 C.F.R. § 104.3(b)(3)(i)(B); *id.* § 104.3(b)(4)(i)(A).

<sup>32</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).

<sup>33</sup> FEC, Purposes of Disbursement (last updated July 13, 2017), <https://www.fec.gov/help-candidates-and-committees/purposes-disbursement>; *cf.* Purpose Statement of Policy, 72 Fed. Reg. at 888 (indicating that additional guidance will be posted at the URL in this footnote).

<sup>34</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>35</sup> MUR 7449 HFA Resp. at 3-4, 7-8.

1 that is, that the Committees were disbursing funds for anything other than the legal services,  
 2 travel, or assorted fees that were identified by reading the name of the recipient (*i.e.*, Perkins  
 3 Coie) together with the reported purpose (*i.e.*, legal services or legal or compliance consulting).<sup>36</sup>  
 4 In prior matters in which respondents disclosed inadequate or incorrect purposes that did not  
 5 allow a person to easily discern why the disbursements were made when reading the payee and  
 6 purpose together, the Commission has held the respondents accountable, conciliating after  
 7 finding reason to believe that they violated the Act.<sup>37</sup>

8 Furthermore, the invoices provided during the investigation reveal that Perkins Coie itself  
 9 distinguished the services provided by Fusion as “professional services — other” under the  
 10 “disbursements” category rather than the “legal services rendered category” further supporting  
 11 the Commission’s finding that the true purpose of these disbursements appears to have been  
 12 something other than legal services, namely opposition research. The use of an inaccurate or  
 13 misleading purpose impedes the ability of a person reading the relevant disclosure report to  
 14 easily discern why the disbursement was made.<sup>38</sup> Thus, the United States Court of Appeals for  
 15 the Eighth Circuit rejected an argument that identifying a purpose of “audio/visual expenses” for  
 16 payments that were actually compensation for an endorsement did not cause a committee’s

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<sup>36</sup> 11 C.F.R. § 104.3(b)(3)(i)(A); *see* Purpose Statement of Policy, 72 Fed. Reg. at 888.

<sup>37</sup> *See, e.g.*, Conciliation Agreement at ¶ IV.5 (Oct 22, 2009) MUR 6204 (conciliating, *inter alia*, inadequate reporting of purpose 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); Conciliation Agreement at ¶ IV.21 (May 18, 2009) MUR 6134 (Cranley for Congress) (conciliating, *inter alia*, inadequate reporting of purpose) because 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).

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

disclosure reports to be false.<sup>39</sup> Here, the documentary evidence obtained during the investigation reinforces the Commission's determination at the reason to believe stage 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."<sup>40</sup> The invoices reflect that Fusion was providing opposition research services related to Trump and Russia, continuing work that had been previously performed and funded by a Republican donor, and there is no evidence that Fusion provided services other than this opposition research or associating it with particular legal services. Further, the accounting information provided by HFA during the investigation establishes the extent of the Committees' reporting violations.

The Commission's precedent, the factual record, and the evidence from the investigation described above establishes that HFA did not properly disclose the purpose of the disbursements to Perkins Coie, for what should have been disclosed as opposition research done by Fusion. Accordingly, the investigation confirms 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 disclose the correct purpose. In seeking relief that requires HFA to amend all of their reports to accurately describe the purpose of the payments made to Fusion, the Commission will further the Act's disclosure purpose by allowing persons not associated with the committee to easily discern why the disbursements were made when reading the name of the recipient and the purpose.<sup>41</sup>

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<sup>39</sup> 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).

<sup>40</sup> Factual & Legal Analysis. at 8.

<sup>41</sup> 11 C.F.R. § 104.3(b)(3)(i)(A), (B); *id.* § 104.3(b)(4)(i)(A); *see also* Purpose Statement of Policy, 72 Fed. Reg. at 888. The Commission's authority to seek equitable relief such as the correction of inaccurate reporting can be distinguished from the five-year statute of limitations applicable to pursuing certain relief such as civil penalties.

**IV. CONCLUSION**

For the foregoing reasons, the Office of General Counsel is prepared to recommend that the Commission find probable cause 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 disclose the correct purpose.

November 19, 2021  
 Date

Lisa J. Stevenson /by CK  
 Lisa J. Stevenson  
 Acting General Counsel

Charles Kitcher  
 Charles Kitcher  
 Associate General Counsel for Enforcement

Mark Allen /by RW  
 Mark Allen  
 Assistant General Counsel

Richard Weiss  
 Richard L. Weiss  
 Attorney

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*See FEC v. Craig for U.S. Senate*, 816 F.3d 829, 847 (D.C. Cir. 2016) (upholding award of equitable relief in suit brought by FEC); *FEC v. Christian Coalition*, 965 F. Supp. 66, 71 (D.D.C. 1997); *accord FEC v. Nat'l Republican Senatorial Comm.*, 877 F. Supp. 15, 17, 20-21 (D.D.C. 1995) (permitting the Commission to seek equitable relief for claim of violation occurring nearly a decade prior to suit).