



FACT

FOUNDATION FOR
ACCOUNTABILITY
AND CIVIC TRUST

August 1, 2019

Ms. Lisa J. Stevenson
Acting General Counsel
Office of the General Counsel
Federal Election Commission
1050 First Street, NE
Washington, D.C. 20463

MUR # 7631

2019 AUG -5 PM 2:06

OFFICE OF
GENERAL COUNSEL

COMPLAINT BEFORE THE FEDERAL ELECTION COMMISSION

RE: Request for Investigation into Presidential Candidate Bill de Blasio, de Blasio 2020, and NY
Fairness PAC

Dear Ms. Stevenson,

The Foundation for Accountability and Civic Trust (FACT) is a nonprofit organization dedicated to promoting accountability, ethics, and transparency in government and civic arenas. We achieve this mission by hanging a lantern over public officials who put their own interests over the interests of the public good. FACT files this complaint¹ requesting the Federal Election Commission (FEC) immediately investigate and take appropriate enforcement action to address apparent violations of the Federal Election Campaign Act as amended (Act) and Commission regulations by presidential candidate Bill de Blasio, his federal campaign committee (de Blasio 2020), and his state PAC (NY Fairness PAC).

This complaint is based upon information and belief, supported by media reports and public filings, that de Blasio and de Blasio 2020 has accepted excessive contributions from de Blasio's state PAC and used funds not subject to federal law for his presidential campaign. Currently, as Mayor of New York City, de Blasio has a state PAC, while simultaneously running as a federal candidate for President. De Blasio used his state PAC to directly pay for expenses of his federal presidential campaign. This type of activity directly violates federal election laws,

¹ This complaint is filed under 52 USC § 30109(a)(1).

including contribution limits and reporting requirements.² The Commission must immediately investigate and enforce the law.³

De Blasio and his presidential campaign, de Blasio 2020, recently disclosed a \$52,851.89 debt owed to de Blasio's state PAC, NY Fairness PAC.⁴ As reported, de Blasio's presidential campaign was "strapped for cash" and turned to his state PAC to pay for his presidential campaign's expenses, including travel, digital advertising, and rent expenses.⁵ After de Blasio's state PAC paid for his presidential campaign's expenses, de Blasio's presidential campaign reported the coordinated expenditures as a federal campaign debt.⁶ In addition to the reported expenses included in the \$52,851.89 debt, NY Fairness PAC made additional expenditures that appear to be related to de Blasio's presidential campaign.⁷ NY Fairness PAC paid for half of the cost of the production of de Blasio's presidential announcement video in the amount of \$19,964.⁸ After de Blasio announced his presidential candidacy, NY Fairness PAC also paid \$9,130 for digital services.⁹

Federal law prohibits federal candidates from soliciting, receiving, directing, transferring, or spending funds in connection with an election for Federal office unless the funds are subject to the limitations, prohibitions, and reporting requirements of the Act.¹⁰ A federal candidate is prohibited from accepting a contribution in excess of \$2,800 from a state nonmulticandidate PAC.¹¹ A contribution is anything of value given to influence an election, including direct cash

² 52 U.S.C. §§ 30116 (contribution limits), 30104 (reporting requirements).

³ "If the Commission, upon receiving a complaint . . . has reason to believe that a person has committed or is about to commit, a violation of the [Act] . . . [t]he Commission shall make and investigation of such alleged violation." 52 U.S.C. § 30109(a)(2); 11 C.F.R. § 111.4(a).

⁴ De Blasio 2020, Amended July Quarterly Report, pg. 417, filed Jul. 19, 2019, available at <https://docquery.fec.gov/pdf/448/201907199151533448/201907199151533448.pdf>.

⁵ Nolan Hicks, *De Blasio Used State Account He Controls As Campaign Slush Fund*, New York Post, July 19, 2019, available at <https://nypost.com/2019/07/19/de-blasio-used-state-account-he-controls-as-campaign-slush-fund/>.

⁶ De Blasio 2020, Amended July Quarterly Report, pg. 417, filed Jul. 19, 2019, available at <https://docquery.fec.gov/pdf/448/201907199151533448/201907199151533448.pdf>.

⁷ Nolan Hicks, *De Blasio Used State Account He Controls As Campaign Slush Fund*, New York Post, July 19, 2019; Shane Goldmacher, *Low in Cash and Polls, 2020 Democrats Get Creative with Accounting*, NY Times, July 30, 2019, available at <https://www.nytimes.com/2019/07/30/us/politics/2020-democrats-campaign-finance.html>.

⁸ *Id.*

⁹ *Id.*

¹⁰ 52 U.S.C. § 30116; *see also, e.g.*, 11 C.F.R. § 300.63 ("If an individual is simultaneously running for both Federal and State or local office, the individual must raise, accept, and spend only Federal funds for the Federal election.").

¹¹ FEC, Contribution Limits, available at <https://www.fec.gov/help-candidates-and-committees/candidate-taking-receipts/contribution-limits/>.

contributions and in-kind contributions of payments for goods and services.¹² Further, a loan “is considered a contribution to the extent of the outstanding balance of the loan” and “must not exceed the contribution limit.”¹³ Additional rules also apply if a state PAC contributes to a federal candidate: the federal campaign must ensure the funds “that comprise the contribution must come from permissible sources under the Act” and “[m]aking the contribution may require the nonfederal committee to register with the FEC as a federal political committee.”¹⁴

In the present case, NY Fairness PAC paid for at least \$52,851.89 of de Blasio’s presidential campaign expenses, including expenditures for travel, digital advertising, and office rent. The purpose and nature of these expenditures demonstrate they were clearly presidential campaign expenses and made in coordination with the presidential campaign,¹⁵ and thus in-kind contributions in excess of the federal law limits. Reporting these in-kind contributions as loans does not negate the in-kind contributions, rather the loans themselves are also considered contributions. Moreover, federal law treats these types of loans as contributions because otherwise the federal contribution limits would be meaningless. A federal candidate could simply use state PACs to raise funds not subject to federal limits and source prohibitions and then run a federal campaign with loans from the state PACs non-federal funds. Thus, de Blasio 2020 itself reported it accepted approximately \$50,000 of excessive contributions from NY Fairness PAC.

In addition, NY Fairness PAC made other expenditures that were not included in the \$52,851.89 loan, but appear to be additional contributions to de Blasio 2020. For instance, the state PAC paid for half of the production of the federal campaign’s announcement video and digital advertising after de Blasio announced his presidential candidacy. These expenses were expenses of the presidential campaign and thus are also in-kind contributions. Finally, de Blasio 2020 is required to ensure all the funds spent on its behalf by NY Fairness PAC were from permissible sources and in permissible amounts under federal law.

¹² 11 CFR § 100.52.

¹³ FEC, *Handling Candidate Loans, Debts and Advances*, available at <https://www.fec.gov/help-candidates-and-committees/handling-loans-debts-and-advances/> (citing 11 CFR § 100.52); FEC, *Types of Contributions*, available at <https://www.fec.gov/help-candidates-and-committees/candidate-taking-receipts/types-contributions/>.

¹⁴ FEC, *Who Can and Can’t Contribute*, available at <https://www.fec.gov/help-candidates-and-committees/candidate-taking-receipts/who-can-and-cant-contribute/>; 11 CFR 300.61; 11 CFR 102.1.

¹⁵ 52 U.S.C. § 30116(a)(7)(B)(i) (“[E]xpenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate.”).

De Blasio used his state PAC to fund his presidential campaign, spent non-federal funds to support his federal campaign and de Blasio 2020 accepted excessive contributions from NY Fairness PAC. If the Commission does not act and punish a clear violation, then the laws are without purpose. FACT requests the Commission immediately investigate and hold the respondents accountable.

Respectfully submitted,

Karnold

Kendra Arnold, Executive Director
Foundation for Accountability & Civic Trust
1717 K Street NW, Suite 900
Washington, D.C. 20006

STATE OF IOWA)
) ss.
COUNTY OF POLK)

Subscribed and sworn to before me on August 1, 2019.



Qwanne Mosley
Notary Public in and for the State of Iowa

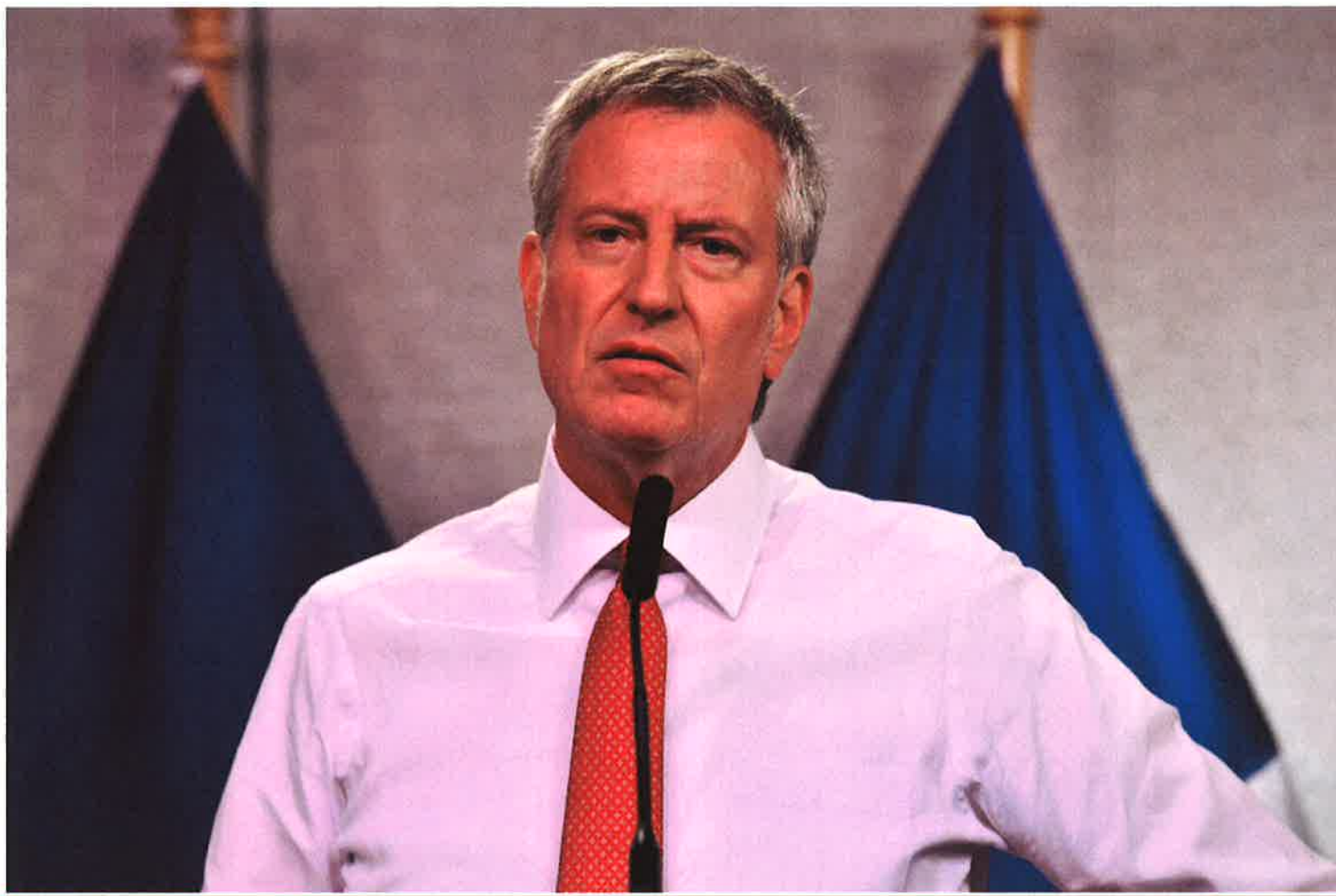


METRO

De Blasio used state account he controls as campaign slush fund

By Nolan Hicks

July 19, 2019 | 6:15pm | Updated



Mayor Bill de Blasio
Paul Martinka

Strapped for cash, Mayor Bill de Blasio turned to a state political account he controls to buy plane tickets, pay rent and purchase digital advertisements for his nascent presidential campaign — potentially violating campaign finance regulations, campaign finance experts told The Post.

De Blasio's presidential campaign disclosed it owes his [NY Fairness PAC \\$52,852](#) — a tally that includes purchases made after Hizzoner officially announced his run, his staff confirmed.

The only problem: [Federal law bars state groups](#) — like de Blasio's — from contributing more than \$2,800 in cash, loans or purchases to a federal campaign during the primary election.

Purchases made "in cooperation, consultation or concert with, or at the request or suggestion of, a candidate's campaign" are considered

donations and count toward fundraising limits, [according to Federal Election Commission guidelines](#).

De Blasio's presidential campaign acknowledged in its FEC report that NY Fairness PAC spent those tens of thousands of dollars on its behalf to pay for campaign "travel expenses, digital advertising, [and] rent."

NY Fairness PAC's purchases for Hizzoner's campaign included:

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- \$40,000 in digital media consulting services purchased on May 15, the day before de Blasio's launch;
- \$8,562 for "launch weekend travel," including \$3,970.70 in plane tickets bought on United Airlines, American Airlines and JetBlue Airways on May 16 and May 17;
- \$4,200 for rent at The Yard, the Brooklyn coworking space where de Blasio's campaign is headquartered, which was paid in June.

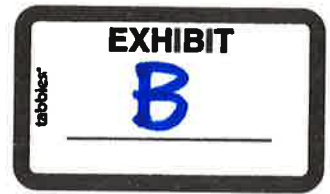
However, the campaign booked the PAC's spending as a debt, not as a contribution — a legal maneuver that stunned lawyers, campaign finance experts and political consultants.

"It appears de Blasio's state PAC spending is in excess of federal limits," said Tyler Cole, a top lawyer at Issue One, a Washington, DC, watchdog group that focuses on campaign finance reform. "Federal candidates must run their campaigns out of federally regulated committees — the law is only meaningful if they abide by the federal limits."

He added: "You can't allow candidates to use state committees to do an end-run around the law."

The maneuver of listing state PAC expenditures as a campaign debt for a federal campaign instead of a donation stunned one Democratic strategist.

The donation limit end-run was "among the most creative ways to circumvent election laws that I've ever seen," the source said.



Low in Cash and Polls, 2020 Democrats Get Creative With Accounting

By **Shane Goldmacher**

July 30, 2019

Staff members for a half dozen Democratic presidential candidates did not receive their final June paycheck that month. Instead, their campaigns nudged payday into July, an accounting maneuver that obscured payroll costs and temporarily made it look like candidates had more cash on hand than they actually did.

POLITICS

The New York Times

The move deferred more than \$700,000 in payroll costs for candidates including Senators Amy Klobuchar and Michael Bennet and Govs. Steve Bullock and Jay Inslee, federal election records show. It affected more than 200 campaign aides, from the junior-most field staff in Iowa to senior national advisers.

The delay also pushed paychecks into the third quarter of 2019, essentially keeping them off the books for three months until the next campaign finance reports are filed in October.

That does not violate campaign laws, but it is a symptom of the high stakes of the 2020 money race and a crowded field choked with candidates struggling to stay alive ahead of this week's second round of debates in Detroit. In a presidential primary with many Democratic hopefuls competing for campaign cash, a candidate's viability is often judged by donors, the news media and even rivals with a cursory look at campaign balance sheets.

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Delaying paychecks was only one tactic employed to cast the fund-raising reports delivered to the Federal Election Commission this month in the most positive form. Some collected funds they cannot legally spend in the primary, a distinction buried deep in the reports. Some racked up debts. One candidate, Mayor Bill de Blasio of New York, used a state-level political action committee for campaign expenses, which has raised legal questions.

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“It’s in their interest to spin the numbers in the best light possible,” said Michael Beckel, an investigator and researcher with Issue One, which advocates campaign-finance transparency, “and using accounting gimmicks to paint an even rosier picture is one way they are going to try to sell their campaign to the donor class and the Democratic base writ large.”

Of the 2020 field, Ms. Klobuchar of Minnesota delayed the largest payroll payment at the end of June. Her previous mid-June payroll had shown roughly \$275,000 in salary and taxes. By holding off payment of the next set of paychecks until July, her cash on hand was inflated by at least that amount (her staff has been steadily growing).

But that is not the only maneuver that boosted the appearance of Ms. Klobuchar’s books. She has raised more than \$750,000 in funds earmarked for the general election — money from donors who gave her more than the \$2,800 legal maximum for the primary. While it is technically money she has in the bank, she cannot legally spend it in the primary.



Governor Jay Inslee of Washington had nearly \$172,000 in unpaid bills that had the effect of inflating his campaign's bottom line. Michelle Gustafson for The New York Times

Combined with her delayed payroll, Ms. Klobuchar's spendable cash reserves are about \$1 million less than the \$6.7 million figure that appears in her filing. Her campaign declined to comment.

[Kamala Harris and Joe Biden will meet again in the next Democratic debates. Here are the lineups.]

Then there is Mr. Inslee, the Washington governor. He reported \$1.2 million in cash on hand, which would appear to rank him 14th in the field. But Mr. Inslee's actual financial position is far weaker. He had nearly \$172,000 in unpaid bills. Nearly one-third of his funds, more than \$400,000, was earmarked for the general election. And he did not pay June's final payroll — another \$75,000 or so — in that month, records show.

Accounting for those maneuvers, Mr. Inslee's actual cash position was less than half of what it initially appeared — a little shy of \$550,000. His campaign declined to comment.

The campaigns of Mr. Inslee, Ms. Klobuchar and others who delayed payroll had been sending their second bimonthly paychecks on the last day of the month, which fell on a Sunday in June. The campaign of Mr. Bullock of Montana was the only one to respond to a request for comment, saying the delay was simply because June 30 fell on a Sunday. But other campaigns with bimonthly payouts, such as Senator Kamala Harris of California and former Housing Secretary Julián Castro, cut checks on Friday June 28, the last workday of the month.

Reliance on financial gimmicks to boost the bottom line is most common among those polling toward the back of the pack. But upper-tier candidates are not immune.

Former Representative Beto O'Rourke of Texas bragged about breaking Senator Bernie Sanders's 24-hour record for fund-raising in March. Only later, when he filed his full financial report, was it clear his total included general election funds he could not spend in the primary. And the campaign of Ms. Harris pushed a \$1 million payment to her digital consultancy until the first day of the second quarter, boosting her first cash-on-hand report. The \$1 million payout was the largest single payment any campaign has made to any vendor.

Representative Seth Moulton of Massachusetts, who did not qualify for the June or July primary debates, reported \$725,000 cash on hand at the end of June, among the lowest figures in the field. The reality was even more grim.

Mr. Moulton did not pay out a final June paycheck to aides that month — obscuring roughly \$96,000 in expenses. Plus, he had \$98,000 in debts and more than \$200,000 of his funds were earmarked for the general election. His functional cash total was closer to \$325,000.

Former Representative John Delaney of Maryland was the other candidate who pushed back the final June payday; Mr. Delaney, along with Ms. Klobuchar and Mr. Inslee, had previously pushed the final first-quarter payroll into the second quarter.

[We tracked down the 2020 Democrats and asked them the same set of questions. Watch them answer.]

Mr. de Blasio did something entirely different to boost his financial position. He used a state-level PAC to underwrite some of his presidential activities, a move called “bewildering” by Brendan Fischer, the director of the federal reform program at the Campaign Legal Center, a nonprofit watchdog group.



Mayor Bill de Blasio of New York used a state-level political action committee to underwrite some of his presidential activities. Yana Paskova for The New York Times

Mr. de Blasio reported paying the state PAC \$123,000 for polling and owing another \$53,000 for travel and digital ads. But he did not report the donations to the PAC to his campaign. Among the problems with the arrangement is that the state PAC received money from contributors who also gave the maximum allowed to Mr. de Blasio's campaign, Mr. Fischer said.

"It looks an awful lot like a violation, and possibly more than one violation," Mr. Fischer said of the arrangement, which was first detailed by Politico and The City. He added that the Campaign Legal Center was "very likely" to file a formal complaint with the Federal Election Commission.

In another unusual move, Mr. de Blasio's campaign claimed that the costs for his presidential campaign launch video were not entirely related to his presidential campaign.

His state PAC and campaign made identical \$19,964 payments to Freedomland Media, the vendor that produced the video. A campaign spokeswoman, Jaclyn Rothenberg, said it was proper for the state PAC to pay for part of the cost because it was commissioned "before he had made a decision" to run and his PAC would have made a video if he was not running for president.

Mr. de Blasio, who has faced campaign finance investigations in New York, told reporters earlier this month that "everything we've done is according to the law."

While Mr. de Blasio used a state PAC, other candidates were operating federal PACs that served as de facto campaigns-in-waiting ahead of their launch. Those PACs must disclose their full finances by July 31.

Not every 2020 candidate resorted to raising general election funds. Some actively refunded such donations, including former Vice President Joseph R. Biden Jr. and Senator Kirsten Gillibrand of New York. Mayor Pete Buttigieg of South Bend, Ind., raised the most, about \$825,000, but that accounts for only a small fraction of his \$22.7 million war chest.

While campaigns can push off costs besides payroll into future quarters, those can be impossible to track until months later, when the next quarterly filing is made. In the first quarter of 2019, several campaigns held off making big payments to vendors that were buying advertising until April 1 — the first day of the new quarter.

The biggest was Ms. Harris's \$1 million payment to her digital team, but Senator Cory Booker of New Jersey paid \$254,697 to a vendor, Ms. Klobuchar \$300,000 and Mr. Delaney \$238,283 — all on April 1.

Campaigns will not have to reveal until mid-September what payments they deferred into July. Of course, by then, it is possible not all these candidates will still be running for president.

Rachel Shorey contributed reporting.

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"If it's not a violation of the letter of the law, it's certainly a violation of the spirit of the law," the person added.

Beyond the nearly \$53,000 debt disclosed to the FEC, The Post identified another \$27,609 in NY Fairness PAC expenditures made on or after de Blasio's May 16 announcement — including \$9,130 for "digital services" from Trilogy Interactive.

De Blasio's campaign claimed that spending was not related to the campaign.

All told, NY Fairness PAC reported spending \$335,780 between Jan. 12 and July 11, the state filing shows.

"De Blasio continues to push the outer bounds of campaign finance law," said Alex Camarda, a campaign finance monitor with the government watchdog group Reinvent Albany. "Spending on his presidential campaign should be done by his presidential campaign committee. Period."

De Blasio claimed his campaign is following the law.

"We have complied with all of those regulations," said campaign spokeswoman Jaclyn Rothenberg. "NYS law does not preclude a NYS PAC from spending in elections other than NYS elections."

The NY Fairness PAC controversy is the latest ethics headache for de Blasio, who battled a string of campaign fundraising scandals during his first term.

Hizzoner **narrowly avoided indictment in 2017** for trading favors with donors to his first 2013 mayoral campaign, his 2014 failed campaign to win control of the state Senate and to a nonprofit controlled by his allies, the Campaign for One New York.

Subsequently, a Department of Investigation report found Blasio's **CONY fundraising violated** city ethics rules.

Additional reporting by Bernadette Hogan and Bruce Golding

FILED UNDER **2020 PRESIDENTIAL ELECTION, BILL DE BLASIO, CITY HALL**

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