



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: The Commission

FROM: Lisa J. Stevenson
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SUBJECT: MURs 7631/7634 (De Blasio 2020, *et al.*) Notice of Errata

This Office is submitting an Errata to the Memorandum to the Commission containing Proposed Factual and Legal Analyses and Conciliation Agreements in these matters, circulated on September 27, 2022.

The Commission found reason to believe that “Fairness PAC and Herbert Block in his official capacity as treasurer violated 52 U.S.C. § 30116(a) by making excessive contributions to De Blasio 2020 and Bill de Blasio with respect to \$123,000 in polling expenses.”¹ This \$123,000 amount corresponds to payments by Fairness PAC of \$68,000 to Brilliant Corners Research and Strategies on March 27, 2019, and \$55,000 to Keating Research on May 13, 2019 for polling that the respondents acknowledge benefitted the campaign and that qualify as in-kind contributions pursuant to 11 C.F.R. 110.2(l) and which were not reimbursed within 30 days pursuant to that provision.

De Blasio 2020 made a payment to Fairness PAC on June 30, 2019 of \$123,000 to refund the in-kind contributions. This occurred within 60 days of Fairness PAC’s payment of \$55,000 to Keating Research. On that basis, the penalties calculated in the Memorandum and accompanying Conciliation Agreements excluded the payment of \$55,000 to Keating

¹ Cert. ¶ 4.1 (Aug. 12, 2022).

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Research. Since circulating the Memorandum, however, we became aware that the Commission in MUR 6926 (Martin O'Malley, *et al.*) treated a payment to refund an in-kind contribution within 60 days of the expenditure as though an excessive contribution had not occurred.² If the Commission were to apply the same approach here, the payment of \$55,000 to Keating Research arguably should not be treated as an excessive contribution and appropriate changes are required to the documents we circulated.

Further, in reviewing this issue, we identified a typo in the draft proposed Factual and Legal Analyses and Conciliation agreements that incorrectly lists the date of the repayment as July 30, 2019, rather than June 30, 2019. This typo is corrected in the attached documents. The date of the repayment is otherwise correct when described elsewhere in the documents previously circulated.

² See Factual & Legal Analysis at 10-11, MUR 6926 (Martin O'Malley, *et al.*) (citing Advisory Opinion 2004-37 (Waters); Advisory Opinion 2003-17 (Treffinger)).