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MARGARET CHRIST  
1101 14th Street NW, Suite 400  
Washington, DC 20005  
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v.

MUR No. 7634

DE BLASIO 2020  
Jon Paul Lupo, Treasurer  
400 Jay Street, Suite 310  
Brooklyn, NY 11201

FAIRNESS PAC  
Richard Buery, Treasurer  
400 Jay Street, Suite 120  
Brooklyn, NY 11201

NY FAIRNESS PAC  
400 Jay Street, Suite 120  
Brooklyn, NY 11201

**COMPLAINT**

1. This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) and is based on information and belief that de Blasio 2020 (ID: C00706697), Fairness PAC (ID: C00683664), and NY Fairness PAC have violated the Federal Election Campaign Act ("FECA"), 52 U.S.C. § 30101, *et seq.*
2. The authorized committee of presidential candidate Bill de Blasio, de Blasio 2020, appears to have concocted a shell game to arrange for a small number of wealthy donors to support de Blasio's presidential run above and beyond legal contribution limits by

routing money through a federal committee, Fairness PAC, and a state committee, NY Fairness PAC. As a result, there is reason to believe de Blasio 2020 violated FECA by accepting unreported and excessive contributions, in violation of 52 U.S.C. §§ 30116(f) and 30104(b)(3)(B), and by failing to disclose expenditures made, in violation of 52 U.S.C. § 30104(b)(4)-(5), and that Fairness PAC and NY Fairness PAC made excessive contributions, in violation of 52 U.S.C. § 30116(f).

3. By de Blasio 2020 failing to report in-kind contributions received, respondents misled the public and complainant Christ of the true sources of Bill de Blasio's support, depriving complainant Christ of the facts necessary to properly evaluate candidates for office and to cast an informed vote.
4. "If the Commission, upon receiving a complaint . . . has reason to believe that a person has committed, or is about to commit, a violation of [FECA] . . . [t]he Commission *shall* make an investigation of such alleged violation . . . ." 52 U.S.C. § 30109(a)(2) (emphasis added); *see also* 11 C.F.R. § 111.4(a).

#### FACTS

5. Bill de Blasio is the Mayor of New York City, and a candidate for the Democratic nomination for president.
6. NY Fairness PAC is a state political action committee registered with the New York State Board of Elections.<sup>1</sup>

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<sup>1</sup> See NY Fairness PAC, 2019 July Periodic Report, New York State Board of Elections, [http://www.elections.ny.gov:8080/plsql\\_browser/getreports?filer\\_in=A22609&fyear\\_in=2019&rep\\_in=K](http://www.elections.ny.gov:8080/plsql_browser/getreports?filer_in=A22609&fyear_in=2019&rep_in=K); *see also* Josefa Velasquez & Yoav Gonen, *Bill de Blasio Tapped His State PAC for White House Hopes*, THE CITY (July 18, 2019), <https://thecity.nyc/2019/07/bill-de-blasio-tapped-his-state-pac-for-presidential-hopes.html>.

7. Fairness PAC filed a statement of organization as a multicandidate committee with the Commission on July 25, 2018, listing the committee's web address as "billdeblasio.com."<sup>2</sup> *POLITICO* reported on July 26, 2018 that Mayor de Blasio had formed the PAC, describing it as his "federal leadership PAC" that would be "potentially setting up a run for office after his term as mayor expires."<sup>3</sup>
8. Shortly after the formation of Fairness PAC, the disclaimer on billdeblasio.com was changed from "Paid for by de Blasio 2017"—the name of de Blasio's mayoral campaign committee—to "Paid for by Fairness PAC."<sup>4</sup>
9. Fairness PAC has been soliciting contributions through an ActBlue fundraising page, which describes itself as "a joint fundraising activity by Fairness PAC and NY Fairness PAC," and states that "[b]oth PACs together will accept no more than \$5,000 per calendar year from any contributor. All contributions from individuals will be allocated 50% to Fairness PAC and 50% to NY Fairness PAC."<sup>5</sup> Fairness PAC's reports filed with the Commission and NY Fairness PAC's reports filed with the New York State Board of Elections confirm that the federal committee has accepted contributions of up to \$5,000

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<sup>2</sup> Fairness PAC, Statement of Organization, FEC Form 1, at 1 (July 25, 2018), <https://docquery.fec.gov/pdf/815/201807259119315815/201807259119315815.pdf>. A year later, Fairness PAC filed an amended statement of organization designating itself a federal leadership PAC sponsored by Bill de Blasio. Fairness PAC, Statement of Organization, FEC Form 1, at 2, 3 (amended July 25, 2019), <https://docquery.fec.gov/pdf/959/201907299152457959/201907299152457959.pdf>.

<sup>3</sup> Laura Nahmias & Gloria Pazmino, *de Blasio Launches Federal PAC and Considers Post-Mayoral Run*, *POLITICO* (July 26, 2018), <https://www.politico.com/states/new-york/albany/story/2018/07/25/de-blasio-launches-federal-pac-and-considers-post-mayoral-run-529622>.

<sup>4</sup> Compare Archive of Billdeblasio.com, ARCHIVE.ORG (July 22, 2018), <https://web.archive.org/web/20180722095904/https://billdeblasio.com/>, with Archive of Billdeblasio.com, ARCHIVE.ORG (July 28, 2018), <https://web.archive.org/web/20180728045226/https://billdeblasio.com/>.

<sup>5</sup> *Donate to Fairness PAC*, ACTBLUE, <https://secure.actblue.com/donate/fairnesspac> (last visited Aug. 2, 2019).

through ActBlue and then has transferred half of those contribution amounts to NY Fairness PAC.<sup>6</sup>

10. De Blasio publicly announced his candidacy for president on May 16, 2019,<sup>7</sup> and filed his statement of candidacy with the Commission on May 20, 2019, designating de Blasio 2020 as his authorized campaign committee.<sup>8</sup> The disclaimer on [billdeblasio.com](http://billdeblasio.com) was then changed to “Paid for by de Blasio 2020.”<sup>9</sup>
11. De Blasio 2020’s first report filed with the Commission, the July 2019 Quarterly, disclosed 78 discrete expenditures described in memo items as “Exploratory”—for purposes including “fundraising consulting,” “strategic consulting,” “polling,” “travel,” and “media production”—totaling approximately \$148,000.<sup>10</sup> The exploratory expenditures were dated in the approximately three months before de Blasio declared his candidacy, with the earliest reported exploratory expenditure dated March 7, 2019,<sup>11</sup> and

<sup>6</sup> Compare Fairness PAC, Receipts, \$5,000, 2019-20, FEC.GOV, [https://www.fec.gov/data/receipts/?data\\_type=processed&committee\\_id=C00683664&two\\_year\\_transaction\\_period=2020&min\\_amount=5000&max\\_amount=5000](https://www.fec.gov/data/receipts/?data_type=processed&committee_id=C00683664&two_year_transaction_period=2020&min_amount=5000&max_amount=5000) (last visited Aug. 5 2019), with NY Fairness PAC, 2019 July Periodic Expenditures/Payments, NYS Board of Elections Financial Disclosure Report Schedule F, [http://www.elections.ny.gov:8080/reports/rwservlet?cmdkey=efs\\_sch\\_report+p\\_filer\\_id=A22609+p\\_e\\_year=2019+p\\_freport\\_id=K+p\\_transaction\\_code=F](http://www.elections.ny.gov:8080/reports/rwservlet?cmdkey=efs_sch_report+p_filer_id=A22609+p_e_year=2019+p_freport_id=K+p_transaction_code=F) (last visited Aug. 5, 2019) (showing that \$5,000 contributors to Fairness PAC are reported by NY Fairness PAC as having given \$2,500 on the same day); see also Fairness PAC, Disbursements to NY Fairness PAC, 2019-20, FEC.GOV, [https://www.fec.gov/data/disbursements/?data\\_type=processed&committee\\_id=C00683664&recipient\\_name=NY+Fairness&two\\_year\\_transaction\\_period=2020](https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00683664&recipient_name=NY+Fairness&two_year_transaction_period=2020) (last visited Aug. 5, 2019) (showing eight “transfers to non-federal committee” from Fairness PAC to NY Fairness PAC totaling \$284,816 and occurring from January through June 2019).

<sup>7</sup> Sally Goldenberg, *New York City Mayor Enters Crowded Democratic 2020 Field*, POLITICO (May 16, 2019), <https://www.politico.com/states/new-york/albany/story/2019/05/16/new-york-city-mayor-enters-crowded-democratic-2020-field-1018998>.

<sup>8</sup> Bill de Blasio, Statement of Candidacy, FEC Form 2 (May 20, 2019), <https://docquery.fec.gov/pdf/744/201905209149750744/201905209149750744.pdf>.

<sup>9</sup> Archive of [billdeblasio.com](http://billdeblasio.com), ARCHIVE.ORG (May 30, 2019), <https://web.archive.org/web/20190530154708/https://billdeblasio.com/>.

<sup>10</sup> de Blasio 2020, 2019 July Quarterly Report, FEC Form 3, at 355-416 (amended July 19, 2019), <https://docquery.fec.gov/pdf/448/201907199151533448/201907199151533448.pdf>.

<sup>11</sup> *Id.* at 363.

the last dated May 14, 2019.<sup>12</sup> However, de Blasio 2020 did not report any contributions that funded those expenditures: the committee's first reported receipt was dated May 16, 2019.<sup>13</sup>

12. Some of those exploratory expenditures were originally paid for by Fairness PAC. Eight de Blasio 2020 expenditures denoted by the campaign as "Exploratory," totaling \$72,193, corresponded with eight expenditures made, on the same dates and in the same amounts, by Fairness PAC, which described those eight expenditures in memo entries as "Exploratory Activity."<sup>14</sup>
13. De Blasio 2020 reimbursed Fairness PAC \$123,000 on June 30, 2019 for "polling,"<sup>15</sup> which appears to correspond to two of Fairness PAC's disbursements for exploratory activities: a \$68,000 "polling" disbursement from March 27, 2019, reflected on both de Blasio 2020's and Fairness PAC's reports,<sup>16</sup> and a \$55,000 "research and polling" disbursement from Fairness PAC to Keating Research on May 13, 2019, which de Blasio 2020 failed to report as an expenditure.<sup>17</sup> The \$4,193 paid by Fairness PAC for the other seven exploratory expenditures were apparently not reimbursed by de Blasio 2020.
14. The 70 other de Blasio 2020 expenditures reported as "exploratory," which together totaled approximately \$80,000, appear to have been originally paid by de Blasio's state committee, NY Fairness PAC. Those exploratory expenditures corresponded with

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<sup>12</sup> *Id.* at 378.

<sup>13</sup> *Id.* at 48.

<sup>14</sup> Compare de Blasio 2020, 2019 July Quarterly Report, *supra* note 10, at 357, 362, 363-64, 367, 370, 393, 399, with Fairness PAC, 2019 Mid-Year Report, FEC Form 3X, at 9, 122, 124, 126, 127, 130, 151, 152, 154 (filed July 31, 2019), <https://docquery.fec.gov/pdf/569/201907319161343569/201907319161343569.pdf>.

<sup>15</sup> *Id.* at 99; de Blasio 2020, 2019 July Quarterly Report, *supra* note 10, at 378.

<sup>16</sup> de Blasio 2020, 2019 July Quarterly Report, *supra* note 10, at 362; Fairness PAC, 2019 Mid-Year Report, *supra* note 14, at 130.

<sup>17</sup> Fairness PAC, 2019 Mid-Year Report, *supra* note 14, at 154.

disbursements made, on or around the same date and in the same amounts, by NY Fairness PAC, according to that committee's reports filed with New York State authorities.<sup>18</sup> For example, NY Fairness PAC disclosed a \$19,694 payment to Freedomland Media for video production services on May 12, 2019,<sup>19</sup> and de Blasio 2020 reported an exploratory disbursement to the same firm in the same amount (although dated May 14, 2019);<sup>20</sup> the disbursement reportedly paid for de Blasio's presidential launch video.<sup>21</sup> De Blasio 2020 did not report reimbursing NY Fairness PAC for these expenditures, nor did it disclose the identities of the individuals whose contributions had funded those expenditures. However, de Blasio 2020 did report owing a \$52,852 debt to NY Fairness PAC for "travel expenses, digital advertising, rent."<sup>22</sup>

15. Other disbursements made by NY Fairness PAC and Fairness PAC appear to pertain to exploratory activities, but were not reported as expenditures by de Blasio 2020. For example:

- a. NY Fairness PAC and Fairness PAC together paid \$92,000—\$46,000 each—to Trilogy Interactive for a "digital media buy" on April 12, 2019,<sup>23</sup> and within days after those disbursements, the Bill de Blasio Facebook page began running dozens of ads whose disclaimers stated, "Paid for by Fairness PAC."<sup>24</sup> The ads criticized

<sup>18</sup> NY Fairness PAC, 2019 July Periodic Expenditures/Payments, *supra* note 6.

<sup>19</sup> *Id.* at 13.

<sup>20</sup> de Blasio 2020, 2019 July Quarterly Report, *supra* note 10, at 378.

<sup>21</sup> Josefa Velasquez & Yoav Gonen, *Mayoral Math: de Blasio Claims Campaign Video Isn't a Campaign Expense*, THE CITY (Jul. 19, 2019), <https://thecity.nyc/2019/07/de-blasio-claims-campaign-video-isnt-a-campaign-expense.html>.

<sup>22</sup> de Blasio 2020, 2019 July Quarterly Report, *supra* note 10, at 417.

<sup>23</sup> Fairness PAC, 2019 Mid-Year Report, *supra* note 14, at 133; NY Fairness PAC, 2019 July Periodic Expenditures/Payments, *supra* note 6, at 9.

<sup>24</sup> *Ads from the Page Bill de Blasio*, Facebook, [https://www.facebook.com/ads/library/?active\\_status=all&ad\\_type=political\\_and\\_issue\\_ads&country=US&impression\\_search\\_field=has\\_impressions\\_lifetime&page\\_ids\[0\]=175360322557925&q=de%20blasio](https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&impression_search_field=has_impressions_lifetime&page_ids[0]=175360322557925&q=de%20blasio) (last visited Aug. 5, 2019).

President Trump or promoted de Blasio's policy agenda, and asked recipients to share their name and email address.<sup>25</sup> After de Blasio announced his candidacy, the same Bill de Blasio Facebook page continued running ads with similar messages, but the disclaimers now stated, "Paid for by de Blasio 2020."<sup>26</sup>

- b. In the months before de Blasio's announcement, NY Fairness PAC reported \$5,069 in disbursements for "digital services" or "digital consulting,"<sup>27</sup> and, then, on May 15, 2019, one day before de Blasio announced his candidacy, NY Fairness PAC reported a \$40,000 payment to Clarify Agency in San Francisco for "digital services."<sup>28</sup> NY Fairness PAC does not appear to have a website, Facebook page, or other social media presence, and a review of the Facebook and Google political ad archives does not reveal any ads purchased under NY Fairness PAC's name. However, the Bill de Blasio Facebook page began running digital ads on May 16, 2019 with the disclaimer "paid for by de Blasio 2020," although de Blasio 2020 did not report a disbursement for digital services until June 3, 2019, when it paid \$26,400 to Clarify Agency,<sup>29</sup> the same firm NY Fairness PAC had reported paying two weeks earlier.

16. At least 25 individuals who contributed the \$2,800 maximum to de Blasio 2020 had additionally contributed \$2,500 to Fairness PAC and \$2,500 to NY Fairness PAC between January 1 and May 16, 2019, according to reports filed with the Commission

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

<sup>26</sup> Compare Bill de Blasio Facebook ad dated April 24, paid for by Fairness PAC ("This country has spent decades taking from working people and giving to the one percent. I've had enough."), with Bill de Blasio Facebook ad dated May 24, 2019, paid for by de Blasio 2020 ("This country has spent decades taking from working people and concentrating wealth in the hands of the 1 percent."). See *id.*

<sup>27</sup> NY Fairness PAC, 2019 July Periodic Expenditures/Payments, *supra* note 6, at 1-2, 4, 10.

<sup>28</sup> *Id.* at 14.

<sup>29</sup> de Blasio 2020, 2019 July Quarterly Report, *supra* note 10, at 373.



and state authorities.<sup>30</sup> Eighteen of those contributors gave to Fairness PAC and NY Fairness PAC during the months that de Blasio was putatively testing the waters for a presidential run, between March and May of 2019.<sup>31</sup> One donor who gave the maximum to de Blasio 2020 told *The City* that he gave \$2,500 to NY Fairness PAC in order to support de Blasio's potential presidential run.<sup>32</sup>

## SUMMARY OF THE LAW

### I. "TESTING THE WATERS"

17. "Contribution" includes "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office." 52 U.S.C. § 30101(8)(A)(i); *see also* 11 C.F.R. §§ 100.51-100.52.
18. "Expenditure" includes "any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office." 52 U.S.C. § 30101(9)(A)(i); *see also* 11 C.F.R. §§ 100.110-100.112.

<sup>30</sup> Specifically, the three committees' reports show that the following individuals gave \$2,500 to Fairness PAC, \$2,500 to NY Fairness PAC, and \$2,800 to de Blasio 2020: (1) Harry Adjmi (who additionally contributed \$2,800 to de Blasio 2020 for the general election), (2) Tania Babic, (3) Lawrence Benenson, (4) Samantha Boardman, (5) Richard Born, (6) Michael Cheng, (7) Terence Cheng, (8) Ira Drukier, (9) Steven Feldman, (10) Luisa Fernholz, (11) Robert Fernholz, (12) Alvina Fuchs, (13) Michael Fuchs, (14) Penching Liaw, (15) Kevin Maloney, (16) Dennis Mehiel, (17) Karen Mehiel, (18) Yu-Ching Pai, (19) Aby Rosen, (20) Ilirjan Rusi, (21) Mike Schein, (22) Charles Tebele, (23) Nancy Tebele, (24) George Tsunis, and (25) William Zeckendorf. *See* NY Fairness PAC, 2019 July Periodic Individual/Partnerships, NYS Board of Elections Financial Disclosure Report Schedule A, [http://www.elections.ny.gov:8080/reports/rwservlet?cmdkey=efs\\_sch\\_report+p\\_filer\\_id=A22609+p\\_e\\_year=2019+p\\_freport\\_id=K+p\\_transaction\\_code=A](http://www.elections.ny.gov:8080/reports/rwservlet?cmdkey=efs_sch_report+p_filer_id=A22609+p_e_year=2019+p_freport_id=K+p_transaction_code=A) (last visited Aug. 5, 2019); Fairness PAC, 2019 Mid-Year Report, *supra* note 14; de Blasio 2020, 2019 July Quarterly Report, *supra* note 10.

<sup>31</sup> Specifically, the following 18 individuals gave \$2,500 each to NY Fairness PAC and Fairness PAC between March and May 2019: (1) Harry Adjmi, (2) Tania Babic, (3) Lawrence Benenson, (4) Samantha Boardman, (5) Richard Born, (6) Michael Cheng, (7) Terence Cheng, (8) Ira Drukier, (9) Alvina Fuchs, (10) Michael Fuchs, (11) Penching Liaw, (12) Kevin Maloney, (13) Yu-Ching Pai, (14) Aby Rosen, (15) Ilirjan Rusi, (16) Mike Schein, (17) George Tsunis, and (18) William Zeckendorf. *See* NY Fairness PAC, 2019 July Periodic Individual/Partnerships, *supra* note 30; Fairness PAC, 2019 Mid-Year Report, *supra* note 14.

<sup>32</sup> Velasquez & Gonen, *supra* note 1.



19. The Commission has explained that under FECA, “an individual is deemed a ‘candidate’ . . . if he or she receives contributions or makes expenditures in excess of \$5,000 or gives consent to another person” to do so on his or her behalf. *See* Payments Received for Testing the Waters Activities, 50 Fed. Reg. 9992-93 (Mar. 13, 1985) (Final Rules and Explanation and Justification). However, “[t]hrough its regulations, the Commission has established limited exceptions to these automatic thresholds which permit an individual to test the feasibility of a campaign for Federal office without becoming a candidate under the Act.” *Id.* These “limited exceptions” to the definitions of “contribution” and “expenditure” are commonly referred to as the “testing-the-waters” exceptions and are found at 11 C.F.R. §§ 100.72 and 100.131.
20. Section 100.72(a) provides:
 

Funds received solely for the purpose of determining whether an individual should become a candidate are not contributions. . . . Only funds permissible under the Act may be used for such activities. The individual shall keep records of all such funds received. See 11 CFR 101.3. *If the individual subsequently becomes a candidate, the funds received are contributions subject to the reporting requirements of the Act.* Such contributions must be reported with the first report filed by the principal campaign committee of the candidate, regardless of the date the funds were received.

11 C.F.R. § 100.72(a) (emphasis added).
21. Section 100.131 similarly provides that “[p]ayments made solely for the purpose of determining whether an individual should become a candidate are not expenditures,” but “[i]f the individual subsequently becomes a candidate, the payments made are expenditures subject to the reporting requirements of the Act.” 11 C.F.R. § 100.131(a).
22. All funds received or payments made in connection with “testing-the-waters” activities conducted under 11 C.F.R. §§ 100.72(a) and 100.131(a) prior to becoming a candidate are “considered contributions or expenditures under the Act and shall be reported . . . in the first report filed by such candidate’s principal campaign committee.” 11 C.F.R.

§ 101.3. An individual who is testing the waters must keep records of the “name of each contributor, the date of receipt and amount of all contributions received and all expenditures made in connection with” testing-the-waters activities. *Id.*

23. Section 110.2(l) additionally provides that payments for testing-the-waters activities paid for by a multicandidate committee before the individual announces her presidential candidacy constitute in-kind contributions from the multicandidate committee to the candidate subject to the \$5,000 limit on such contributions, unless reimbursed by the candidate’s campaign committee. The Commission has explained that this provision, and another pertaining to publicly-funded presidential candidates:

were designed to address situations where unauthorized political committees closely associated with a particular individual planning to run for President defray costs that are properly treated as in-kind contributions unless reimbursed by the Presidential campaign. . . . If there is full and timely reimbursement, the multicandidate political committee's payment is not to be treated as an in-kind contribution for either entity, but rather the reimbursement is an expenditure of the candidate's campaign . . .

Public Financing of Presidential Candidates and Nominating Conventions, 68 Fed. Reg. 47386, 47387, 47407 (Aug. 8, 2003).

24. In Advisory Opinion 1985-40, the Commission concluded that travel expenses and hospitality suite rentals for a prospective presidential candidate’s attendance at state and regional Republican Party meetings and conferences, described as “cattle shows” that would “be attended by party officials, party activists, elected officeholders, political consultants, and the press,” constituted testing-the-waters expenses. Advisory Opinion 1985-40 (Republican Majority Fund) at 6–9. Similarly, the Commission concluded that expenses related to the prospective candidate’s “travel to early primary and convention states to meet privately with Republican Party leaders to seek their views on whether he should seek the 1988 Republican presidential nomination” constituted testing-the-waters

activities. *Id.* Finally, the Commission concluded that expenses related to setting up “steering committees in certain states, such as Iowa and New Hampshire, which will hold early caucuses and primaries in connection with the 1988 Republican presidential nomination” constituted testing-the-waters activities. *Id.*

## II. CONTRIBUTION LIMITS & RESTRICTIONS

25. A presidential candidate’s principal campaign committee, together with any other committees authorized by the candidate, may not accept contributions from an individual that, in the aggregate, exceed \$2,800 per election. 52 U.S.C. § 30116(a)(1)(A).
26. A loan “is a contribution at the time it is made and is a contribution to the extent that it remains unpaid,” 11 C.F.R. § 100.52(b)(2), and if the amount of the loan exceeds contribution limits, it “shall be unlawful whether or not it is repaid,” *id.* § 100.52(b)(1).

## CAUSES OF ACTION

### I. DE BLASIO 2020 ACCEPTED CONTRIBUTIONS IN EXCESS OF LEGAL LIMITS AND FAILED TO REPORT CONTRIBUTIONS RECEIVED AND EXPENDITURES MADE

27. All funds received and payments made for the purpose of determining whether an individual should become a candidate constitute “testing-the-waters” activities, those activities must be paid for with funds that comply with FECA’s contribution limits and restrictions, 11 C.F.R. §§ 100.72(a) and 100.131(a), and they must be reported by an individual who becomes a candidate on that candidate’s first disclosure report, 11 C.F.R. § 101.3.
28. Bill de Blasio began testing the waters for a presidential run no later than March of 2019, when he began using NY Fairness PAC and Fairness PAC resources to make expenditures for staff costs, polling, travel to and lodging in presidential primary states, and consulting services. After de Blasio formally declared his candidacy on May 16,

2019, de Blasio 2020 reported some of those disbursements as “exploratory” expenditures on its first report filed with the Commission.<sup>33</sup> However, evidence indicates that the state and federal committees made additional expenditures in connection with de Blasio’s presidential run that were not reported on de Blasio 2020’s report. For example, Fairness PAC and NY Fairness PAC together paid \$92,000 for a “digital media buy” just over a month before de Blasio announced his candidacy, expenditures which appeared to fund Bill de Blasio Facebook ads building a list for his presidential run.<sup>34</sup> NY Fairness PAC also appears to have made other payments in connection with de Blasio’s presidential run, including a \$40,000 payment for “digital services” one day before de Blasio announced his candidacy, which appears to have funded de Blasio 2020’s initial wave of digital ads.<sup>35</sup>

29. Available evidence indicates that de Blasio used NY Fairness PAC to pay for potentially \$171,069 in expenditures testing the waters for, or otherwise in connection with, his presidential run, only approximately \$80,000 of which were disclosed on de Blasio 2020’s first report filed with the Commission; in other words, de Blasio 2020 failed to disclose at least \$91,000 of expenditures made by NY Fairness PAC.<sup>36</sup>
30. Despite NY Fairness PAC having paid for at least \$171,069 in exploratory expenditures, de Blasio 2020’s first report disclosed only a \$52,852 debt owed to NY Fairness PAC,<sup>37</sup> meaning that at least \$118,217 in expenditures have been neither reimbursed nor reported as debt by de Blasio 2020.

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<sup>33</sup> See ¶ 11.

<sup>34</sup> See ¶ 15(a).

<sup>35</sup> See ¶ 15(b).

<sup>36</sup> See ¶ 14, 15(a), 15(b).

<sup>37</sup> See ¶ 14.

31. Available evidence also indicates that de Blasio used Fairness PAC for \$173,193 in expenditures testing the waters for, or otherwise in connection with, his presidential run, but de Blasio 2020 disclosed only \$72,193 of those expenditures on its first report filed with the Commission; therefore, de Blasio 2020 failed to disclose at least \$101,000 in expenditures made by Fairness PAC.<sup>38</sup>
32. Despite Fairness PAC funding at least \$173,193 in exploratory expenditures, de Blasio 2020 only reported a \$123,000 reimbursement to Fairness PAC,<sup>39</sup> leaving \$50,193 unreimbursed.
33. De Blasio 2020 did not report the identities of the contributors who funded these expenditures, as de Blasio 2020's first contributions are dated May 16, 2019.<sup>40</sup> However, records show that at least 25 individuals who had contributed \$2,500 to Fairness PAC and \$2,500 to NY Fairness PAC in 2019 also contributed the \$2,800 maximum to de Blasio 2020.<sup>41</sup> Eighteen of those contributors gave to Fairness PAC and NY Fairness PAC during the period that de Blasio was making exploratory expenditures, between March and May of 2019.<sup>42</sup>
34. Both NY Fairness PAC and Fairness PAC appear to have used those donors' contributions to fund the exploratory expenditures. NY Fairness PAC began 2019 with \$27,989 cash-on-hand,<sup>43</sup> then raised hundreds of thousands of dollars during the first half

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<sup>38</sup> See ¶¶ 12, 13, 15(a).

<sup>39</sup> See ¶ 13.

<sup>40</sup> See ¶ 11.

<sup>41</sup> See ¶ 16.

<sup>42</sup> See *id.*

<sup>43</sup> NY Fairness PAC, 2019 July Periodic Report Summary Page, NYS Board of Elections Financial Disclosure Report Schedule F, [http://www.elections.ny.gov:8080/plsql\\_browser/efs\\_summary\\_page?comid\\_in=A22609&rdate\\_in=15-JUL-2019&reportid\\_in=K&eyear\\_in=2019](http://www.elections.ny.gov:8080/plsql_browser/efs_summary_page?comid_in=A22609&rdate_in=15-JUL-2019&reportid_in=K&eyear_in=2019) (last visited Aug. 5, 2019).

of 2019, most of it during the period the committee was making exploratory expenditures. Fairness PAC began 2019 with \$25,960 cash-on-hand,<sup>44</sup> and similarly raised hundreds of thousands of dollars in individual contributions, most of which were made during the period the committee was making exploratory expenditures. Put another way, NY Fairness PAC and Fairness PAC could only afford to fund de Blasio's exploratory activities using funds raised from donors who gave during the period de Blasio was testing the waters for candidacy. Pursuant to the Commission's testing-the-waters regulations, the donations to NY Fairness PAC and Fairness PAC became contributions to de Blasio 2020 once de Blasio became a candidate for president. Aggregating such donors' contributions to NY Fairness PAC and Fairness PAC with their contributions to de Blasio 2020 results in de Blasio 2020 accepting potentially dozens of contributions in excess of federal limits by nearly 300%.

35. Therefore, there is reason to believe that de Blasio 2020 accepted unreported and excessive individual contributions, in violation of 52 U.S.C. §§ 30116(f) and 30104(b)(3)(B), and failed to disclose expenditures made, in violation of 52 U.S.C. § 30104(b)(4)-(5).

## **II. FAIRNESS PAC ILLEGALLY MADE AND DE BLASIO 2020 ILLEGALLY ACCEPTED AN EXCESSIVE CONTRIBUTION**

37. Payments by federal multicandidate committees for testing the waters activities constitute in-kind contributions subject to the \$5,000 limit, unless reimbursed by the candidate's authorized committee within 30 days of the end of the testing-the-waters period. 11 C.F.R. § 110.2(l).

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<sup>44</sup> Fairness PAC, 2019 Mid-Year Report, *supra* note 14, at 2.

38. Available evidence indicates that Fairness PAC paid at least \$173,193 for testing the waters activities,<sup>45</sup> but de Blasio 2020 reported reimbursing only \$123,000 of that amount—and only did so after the 30 day window had expired.<sup>46</sup> The testing-the-waters period ended with de Blasio announcing his candidacy on May 16, 2019 and the reimbursement was not made until June 30, 2019.
39. As a result, there is reason to believe that Fairness PAC made, and de Blasio 2020 accepted, an excessive \$173,193 contribution, \$50,193 of which remains outstanding, in violation of 52 U.S.C. § 30116(f).

### **III. NY FAIRNESS PAC ILLEGALLY MADE AND DE BLASIO 2020 ILLEGALLY ACCEPTED AN EXCESSIVE CONTRIBUTION**

34. Instead of reporting the identities of the individual contributors who contributed to NY Fairness PAC to fund an estimated \$173,193 in exploratory expenditures (*see* Count I), de Blasio 2020 disclosed a \$52,852 debt owed to NY Fairness PAC.
35. The Commission has not addressed whether a candidate may use a nonfederal committee as an exploratory committee, but even if this were permissible, the nonfederal committee's exploratory expenditures would constitute in-kind contributions, unless reimbursed by the candidate's authorized committee within 30 days of the end of the testing-the-waters period. 11 C.F.R. § 110.2(l). To date, de Blasio 2020 has not reported any reimbursements to NY Fairness PAC.
36. As a result, NY Fairness PAC made, and de Blasio 2020 accepted, a \$173,193 contribution, in violation of 52 U.S.C. § 30116(f).

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<sup>45</sup> See ¶¶ 12, 13, 15(a).

<sup>46</sup> See ¶ 13.



**PRAYER FOR RELIEF**

37. Wherefore, the Commission should find reason to believe that de Blasio 2020, Fairness PAC, and NY Fairness PAC violated 52 U.S.C. § 30101, *et seq.*, and conduct an immediate investigation under 52 U.S.C. § 30109(a)(2). Further, the Commission should determine and impose appropriate sanctions for any and all violations, should enjoin the respondent from any and all violations in the future, and should impose such additional remedies as are necessary and appropriate to ensure compliance with FECA.

Respectfully submitted,



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August 7, 2019

**VERIFICATION**

The complainants listed below hereby verify that the statements made in the attached complaint are, upon their information and belief, true.

Sworn pursuant to 18 U.S.C. § 1001.

For Complainant Campaign Legal Center

  
Brendan Fischer

Sworn to and subscribed before me this 7 day of August 2019.

  
Notary Public



For Complainant Margaret Christ

  
Margaret Christ

Sworn to and subscribed before me this 7 day of August 2019.

  
Notary Public

