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July 7, 2021

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DELIVERED VIA ELECTRONIC MAIL

Lisa J. Stevenson
Complaints Examination & Legal Administration
Federal Election Commission
1050 First Street, N.E.
Washington, D.C. 20463

Re: MUR 7904

Dear Ms. Stevenson:

This response is submitted on behalf of New Venture Fund (“NVF”) and Sixteen Thirty Fund (“STF”) (collectively, “Respondents”), in response to a complaint filed with the Federal Election Commission (the “Commission”) by Americans for Public Trust (“Complainant”). As demonstrated below, the Complaint relies on nothing more than innuendo and conjecture. It fails to offer facts supporting its claims that NVF and STF failed to register and report as political committees under the Federal Election Campaign Act (the “Act”) and violated the ban on foreign national contributions, and it ignores settled law as well as Respondents’ public filings.

The claim that the two organizations operate as political committees rests on scant allegations that even if they were true do not establish a violation of the Act. In addition, the Complaint fails to cite any facts whatsoever showing that the *major purpose* of either NVF or STF was the nomination or election of federal candidates—a constitutional prerequisite to establish that an organization is operating as a federal political committee. In fact, the major purpose test is not even mentioned in the Complaint. Further, the allegation is belied by each organization’s annual IRS Form 990 information returns—also ignored by the Complaint—establishing that as a 501(c)(3) organization NVF engages in no political activity at all, and that a substantial majority of spending by STF, a 501(c)(4) organization, is for activity that is not regulated by the Act. Indeed, the allegation that NVF operates as a political committee is flatly at odds with the organization’s 15-year history—free of IRS inquiry or serious complaint—of engaging in exclusively charitable activities, consistent with its 501(c)(3) tax-exempt status.

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The Complaint's other allegation that Respondents violated the ban on foreign national contributions is equally baseless, alleging a scheme to conceal foreign donations without offering any supporting facts. Consistent with its 501(c)(3) tax-exempt status, NVF does not engage in any activities to support or oppose candidates for elective office at any level of government. STF has made contributions and expenditures in connection with federal elections, as permitted by FECA and consistent with its 501(c)(4) tax-exempt status. But as discussed below, at no time has STF accepted or used funds from a foreign national for such purposes.

For these reasons, the Complaint should be dismissed.

I. Factual Background

NVF is a District of Columbia nonprofit corporation, organized and operated as a 501(c)(3) public charity. NVF and the projects it supports work to build a just, equitable, and sustainable future. NVF helps execute a range of public interest projects on issues such as conservation, global health, public policy, international development, education, disaster recovery, and the arts. At the end of 2019, NVF managed a charitable portfolio of more than \$460 million and had launched more than 500 projects, including the Hub Education and Engagement Fund.¹ From 2013-2018, NVF had received support from more than 8,000 donors. The vast majority of NVF funding comes from charitable foundations, more than half of which are among the 50 largest grantmaking foundations in the United States.²

STF is a District of Columbia nonprofit corporation, organized and operated as a 501(c)(4) social welfare organization. STF and the projects it supports are fighting for economic equity, affordable health care, climate solutions, racial justice, voter access, and other essential social-change goals. Through its projects, STF engages in a range of activities to ensure the success of innovative policy solutions to address issues facing our country: educational activities designed to create a national environment in which reforms can succeed; promotion of administrative government and corporate action to achieve social goals; direct and grassroots lobbying activities designed to introduce and enact legislation that achieves reforms in these issue areas; and, in limited amounts, political activities designed to ensure that electoral outcomes will contribute to the social reforms sought by STF. Those limited political activities have included contributions to federal independent

¹ The Complaint conflates two projects that complement one another but are sponsored by separate entities. Hub Education and Engagement Fund is a project of New Venture Fund; the Hub Project is a project of Sixteen Thirty Fund.

² New Venture Fund Impact Report (Dec. 2019), <https://impact.newventurefund.org/>; New Venture Fund, IRS Return of Organization Exempt from Income Tax (2019) (hereinafter "IRS Form 990").

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expenditure committees, including but not limited to Change Now, and independent expenditures in connection with federal elections, all of which were disclosed to the Commission in full compliance with FECA. At the end of 2019, STF managed a social welfare portfolio of more than \$138 million and had launched more than 90 projects, including The Hub Project. Since its inception, STF has received support from more than 380 donors in support of STF's social welfare mission.³

The Wyss Foundation—a Pennsylvania nonprofit corporation organized and operated as a 501(c)(3) private foundation—and Berger Action Fund—a Delaware nonprofit corporation organized and operated as a 501(c)(4) social welfare organization—are among NVF and STF's many donors. The Wyss Foundation has provided grant funding to NVF in support of NVF's charitable mission. Wyss Foundation grant funds are accepted by NVF for use exclusively for charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code and applicable Treasury regulations, which explicitly prohibit political campaign intervention (i.e., activities to support or oppose candidates for elective office). Berger Action Fund has provided grant funding to STF in support of STF's social welfare mission. Berger Action Fund grant funds are accepted by STF for use exclusively in furtherance of STF's 501(c)(4) social welfare mission and on the express written condition that no funds will be used for voter registration or get-out-the-vote activities or any activities to support or oppose candidates for elective office or to support or oppose any political party.⁴

NVF and STF conduct their activities in compliance with all grant terms and conditions, including those described above, and all applicable laws in furtherance of their respective missions as 501(c)(3) and 501(c)(4) tax-exempt organizations. The organizations routinely accept grant funding subject to specific restrictions on use. To manage their respective contractual and compliance obligations, the organizations maintain robust grant management systems and procedures.⁵ These measures are implemented by experienced employees and outside consultants, including those at Arabella Advisors, a nationwide consulting firm with expertise in philanthropy and nonprofit organization management, which is engaged to provide management and administrative services to NVF and STF, including human resources, payroll, and legal support services.

³ Sixteen Thirty Fund, IRS Form 990 (2019); Kurtz Aff. ¶¶ 2-3.

⁴ Kurtz Aff. ¶ 4.

⁵ *Id.*

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II. Analysis

The Commission may find “reason to believe” a violation occurred only if a complaint sets forth sufficient specific facts which, if proven true, would constitute a violation of the Act. Unwarranted legal conclusions from asserted facts or mere speculation will not be accepted as true.⁶ As discussed below, the facts offered by the Complainant do not amount to a violation of the Act and its speculative conclusions to the contrary are directly refuted by Respondents’ public filings.

A. Neither STF nor NVF is a Political Committee

Under the Act and Commission regulations, organizations that qualify as “political committees” must register and file periodic disclosure reports with the Commission.⁷ The Act defines “political committee” as any group that receives contributions or makes expenditures in excess of \$1,000 in a calendar year.⁸ Recognizing constitutional concerns about the vagueness and potential breadth of this statutory definition, the U.S. Supreme Court ruled in *Buckley v. Valeo* that a political committee must also have “the major purpose” of influencing the nomination or election of a Federal candidate.⁹ Such a limiting construction is necessary, the Court said, to avoid threatening the speech of groups engaged in “both issue discussion and advocacy of a political result.”¹⁰ Otherwise, “the distinction between issue discussion ... and candidate advocacy would be sufficiently indistinct that the right of citizens to engage in the vigorous discussion of issues of public interest without fear of reprisal would be intolerably chilled.”¹¹ Accordingly, the Commission may regulate entities as political committees only if they satisfy both the monetary threshold and the major purpose requirement.

The Commission has not adopted a rule elaborating on *Buckley*’s major purpose test but has explained that political committee status must be evaluated on a case-by-case basis.¹² Over time, the Commission and the courts have considered a group’s “overall conduct” when evaluating its major purpose, including public statements about the group’s mission, organizational documents,

⁶ Statement of Reasons of Cmr. Mason, Sandstrom, Smith, and Thomas, MUR 4960 (Clinton).

⁷ 52 U.S.C. §§ 30102-04.

⁸ *Id.* § 30101(4)(a). “Contribution” and “expenditure” are receipts and disbursements “for the purpose of influencing any election for Federal office.” *Id.* §§ 30101(8)(A)(i), (9)(A)(i).

⁹ *Buckley v. Valeo*, 424 U.S. 1, 79-80 (1976). The Court further held that, as applied to communications made independently of a candidate, the term “expenditure” includes only disbursements for communications that “in express terms advocate the election or defeat of a clearly identified candidate for federal office.” *Id.*; see also *FEC v. Mass. Citizens for Life*, 479 U.S. 238, 252 (1986); *N.C. Right to Life v. Leake*, 525 F.3d 274, 287-88 (4th Cir. 2008).

¹⁰ *Buckley*, 424 U.S. at 79.

¹¹ *N.C. Right to Life v. Bartlett*, 168 F.3d 705, 712 (citations omitted).

¹² See *Supplemental Explanation & Justification of Political Committee Status*, 72 Fed. Reg. 5595 (Feb. 7, 2007).

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government filings, and the proportion of the group's spending related to "federal campaign activity."¹³

When evaluating a group's overall conduct, it is not enough to allege, as Complainants do here, that an organization is engaged in "significant spending in federal elections."¹⁴ Rather, the Commission has made clear that an organization "must have *the* major purpose of engaging in Federal campaign activity" to be regulated as a political committee.¹⁵ The federal courts have emphasized this reading of *Buckley*, stating that "the Court in *Buckley* must have been using 'the major purpose' test to identify organizations that had the election or opposition of a candidate as their only or primary goal" because "[p]ermitting the regulation of organizations as political committees when the goal of influencing elections is merely one of multiple 'major purposes' threatens the regulation of too much ordinary political speech to be constitutional."¹⁶

As explained below, neither STF nor NVF is a political committee. NVF cannot and does not have the major purpose of influencing federal elections because it is organized and operated for 501(c)(3) charitable purposes and has never supported or opposed candidates for elective office, as such activities are prohibited for charities. Although STF has made contributions and expenditures in connection with federal elections, as permitted by FECA and consistent with its 501(c)(4) tax-exempt status, at no time has influencing federal elections been STF's major purpose.

1. STF's Activities to Influence Federal Elections Are Not the Organization's "Major Purpose"

The Complaint alleges that STF qualified as a political committee by virtue of activities conducted through the Hub Project.¹⁷ It asks the Commission to reach this conclusion on a bafflingly sparse account of STF's activities, arguing vaguely that the Hub Project "oversaw" political "spending campaigns" in recent years.¹⁸ Many of the activities described, however, including "pressuring

¹³ *Id.* (citing, for example, *FEC v. Malenick*, 310 F. Supp. 2d 230, 234-36 (D.D.C. 2004); *FEC v. GOPAC*, 917 F. Supp. 851, 859 (D.D.C. 1996); *FEC Advisory Op.* 2006-20 (Unity 08)).

¹⁴ Compl. at ¶ 30.

¹⁵ *Supplemental Explanation & Justification of Political Committee Status*, 72 Fed. Reg. 5595, 5601 ("Not only must the organization have raised or spent \$1,000 in contributions or expenditures, but it must additionally have *the* major purpose of engaging in Federal campaign activity.") (emphasis added).

¹⁶ *N.C. Right to Life v. Leake*, 525 F.3d 274, 287-89 (4th Cir. 2008); *see also FEC v. Massachusetts Citizens for Life*, 479 U.S. 238 (1986) (referring to regulable committees as "groups whose *primary* objective is to influence political campaigns"); *FEC v. Machinists Nonpartisan Political League*, 655 F.2d 380, 391-92 (D.C. Cir. 1981).

¹⁷ Compl. at ¶ 30.

¹⁸ *Id.* ¶¶ 30-32.

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members [of Congress],”¹⁹ “criticizing conservative policies,”²⁰ and “work[ing] behind the scenes to ‘dramatically shift the public debate and policy positions of core decision makers’”²¹ are precisely the type of issue advocacy that the courts have warned cannot be swept within the ambit of the FECA. And the Complaint points to no organizational documents, public statements, or patterns of spending that otherwise suggest STF’s major purpose is influencing federal elections. As such, the Complaint fails to put forward the “legally significant facts” necessary to satisfy the Commission’s evidentiary standard for a reason to believe finding.²²

Even if, for the sake of argument, the Commission accepted as true the Complaint’s threadbare assertion that the Hub Project engaged in “significant spending in federal elections,” it would be insufficient to establish STF’s major purpose. As noted above, the Hub Project is one of numerous projects sponsored by STF, a social welfare organization that advocates for innovative policy solutions to address a wide range of issues. Some of these projects involve no political activity at all. The activities and expenses of the Hub Project thus represent far less than a majority of STF’s “overall conduct” and are an insufficient basis on which to base a finding regarding political committee status.

STF’s overall conduct is, of course, reflected in the organization’s duly filed disclosures with the Commission and the Internal Revenue Service (“IRS”). In contrast to the Complaint’s conclusory allegations, these official filings clearly demonstrate that STF’s disbursements to influence Federal elections are typically a rather marginal proportion of its overall spending.

Since 2016, the disbursements reported to the Commission as either independent expenditures or electioneering communications²³ by STF, plus contributions from STF received by federal

¹⁹ *Id.* ¶ 12.

²⁰ *Id.* ¶ 15.

²¹ *Id.* ¶ 16.

²² See *Democratic Senatorial Campaign Comm. v. FEC*, 745 F. Supp. 742, 745-46 (D.D.C. 1990) (holding that a reason to believe determination requires “a minimum evidentiary threshold that require[s] at least ‘some legally significant facts’ to distinguish the circumstances” from every other scenario involving independent speech).

²³ Respondents include spending on Federal electioneering communications here for the avoidance of doubt; however, the calculation of major purpose may not include spending on issue advocacy simply because it addresses issues of national importance and officeholders’ positions thereon. *Buckley* established that the term, “political committee,” includes “only those entities that have as a major purpose engaging in express advocacy in support of a candidate.” And although a federal district court recently instructed the Commission to analyze electioneering communications when considering an organization’s major purpose, see *CREW v. FEC*, 209 F. Supp. 3d 77 (D.D.C. 2016), the Supreme Court has made clear that electioneering communications may advocate for either candidates or issues, see *FEC v. Wisconsin Right to Life*, 551 U.S. 449, 470-71 (2007); see also Statement of reasons of Cmr. Peterson, Hunter, and McGahn, MUR 5541 (Jan. 22, 2009) (casting “serious doubt on the validity of examining anything other than the amount of express advocacy in the major purpose test analysis”).

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political committees (collectively, “FECA Disbursements”), have never exceeded 18 percent of STF’s overall spending, as disclosed to the IRS on STF’s Forms 990. Before 2020, STF’s FECA Disbursements never exceeded 8 percent of its overall spending. Thus, even with the most expansive understanding of which expenses count toward an organization’s major purpose, STF’s annual FECA disbursements never predominate over the organization’s overall expenses.

Figure 1: FECA Disbursements in Relation to Overall Spending						
	FEC Data				Total Expenses (IRS Form 990)	FECA Disbursements as % of Total Expenses
	Contributions to Federal Political Committees	Federal IEs	Federal ECs	Total FECA Disbursements		
2016	3,500.00	533,496.55	-	536,996.55	19,660,860.00	2.73%
2017	-	-	-	-	46,893,083.00	0.00%
2018	4,008,958.54	114,100.95	824,299.61	4,947,359.10	141,396,752.00	3.50%
2019	7,713,590.49	-	-	7,713,590.49	98,641,867.00	7.82%
2020	60,125,567.48	-	12,770,259.14	72,895,826.62	410,616,973.00 ²⁴	17.75%

Furthermore, the Commission is not limited to considering a group’s spending in a calendar or fiscal year when evaluating major purpose. Rather, the Commission and federal courts have also evaluated an organization’s major purpose by reviewing its history of activities and spending over time.²⁵ Applying this reasoning to STF, it is even clearer that the organization does not have a major purpose of influencing elections.

Finally, as noted above, STF is organized and operated as a tax-exempt social welfare organization described in Section 501(c)(4) of the Internal Revenue Code. As a condition of their tax-exempt status, 501(c)(4) organizations must be primarily engaged in social welfare activities and may engage in only a limited amount of activities to support or oppose candidates for elective office. STF has always operated consistently with its tax-exempt status, and its activities to influence candidate elections at any level of government are not and have never been the organization’s primary activity. STF’s overall spending on such activities as reported to the IRS—which covers a wider array of activity than FEC disclosures, including advocacy in state and local elections—never exceeded 25.3 percent of STF’s overall spending between 2016 and 2019. Though

²⁴ Kurtz Aff. ¶ 4. STF has not yet filed its Annual Return for 2020. Figures provided for 2020 expenditures are estimates based on the organization’s preliminary accounting.

²⁵ See, e.g. *CREW v. FEC*, 209 F. Supp 3d. 77, 94 (D.D.C. 2017) (“Given the FEC’s embrace of a totality-of-the-circumstances approach to divining an organization’s ‘major purpose,’ it is not *per se* unreasonable that the Commissioners would consider a particular organization’s full spending history as relevant to its analysis.”)

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projections for the organization's 2020 Form 990 suggest that campaign spending in the presidential election year was somewhat higher, it still fell well within Internal Revenue Code limitations on 501(c)(4) organizations.

Figure 2: IRS Form 990 Campaign Activity in Relation to Overall Spending			
	Total Campaign Activity (IRS Form 990)	Total Expenses (IRS Form 990)	IRS Campaign Activity as % of Total Expenses
2016	3,623,144	19,660,860	18.4%
2017	914,110	46,893,083	1.9%
2018	35,881,914	141,396,752	25.3%
2019	13,240,753	98,641,867	13.4%

Accordingly, STF's government filings directly refute the allegation that STF has the major purpose of influencing Federal elections and demonstrate that the organization is not a political committee within the meaning of the Act.²⁶

2. NVF Does Not Engage in Activities to Support or Oppose Candidates for Elective Office

NVF is organized and operated as a tax-exempt organization described in Section 501(c)(3) of the Internal Revenue Code. The Code prohibits 501(c)(3) tax-exempt organizations from engaging in any political campaign intervention, which includes any direct or indirect activities in support of or opposition to any candidate for elective public office, at any level of government.²⁷ Prohibited political campaign intervention includes, but is not limited to, FECA-regulated activities, such as making contributions to federal candidates or political committees and making expenditures for communications expressly advocating the election or defeat of clearly identified federal candidates. Violating the ban on campaign intervention comes with serious consequences: the IRS may revoke the organization's tax-exempt status and may impose excise taxes on the organization, and, in some cases, on responsible individuals within the organization.

²⁶ Organizations that the Commission has previously found to be political committees engaged in campaign related activity to a far greater extent. *Compare* MUR 6317 (Stewart) (100% of disbursements made for campaign activity); MUR 5754 (MoveOn.org Voter Fund) (approximately 68% of total disbursements over an election cycle were for campaign related activity); MUR 5753 (League of Conservation Voters 527) (approximately 71% of disbursements for federal campaign activity); MURs 5511 and 5525 (Swiftboat Veterans for Truth and POWs for Truth) (91% of disbursements for campaign related activity).

²⁷ IRC § 501(c)(3); Treas. Reg. § 1.501(c)(3)-1(c)(3).

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Accordingly, NVF does not engage in any activities to support or oppose candidates for elective office at any level of government.²⁸ To do so would not only jeopardize the organization's tax-exempt status, but result in breach of the terms of the organization's grant funding, the vast majority of which comes from other 501(c)(3) private foundations and public charities, which are also subject to the ban on political campaign intervention. Because NVF is organized and operated for 501(c)(3) charitable purposes and does not engage in any activities to support or oppose candidates, it cannot have the major purpose of influencing federal elections and is therefore not a political committee within the meaning of the Act.²⁹

B. STF and NVF Have Not Accepted Donations from Foreign Nationals in Connection with U.S. Elections or Contributions in the Name of Another

The Complaint also alleges that NVF and STF violated the Act by accepting funds from the Wyss Foundation ("WF") and Berger Action Fund ("BAF"), both domestic nonprofit organizations. Based on WF and BAF's alleged relationship with and funding from Swiss-born philanthropist Hansjörg Wyss and STF's participation in Federal elections, the Complaint makes the leap, without any further evidence, that NVF and STF must have violated the Act's prohibitions on contributions from foreign nationals and acted as conduits to conceal WF and BAF, and in turn Mr. Wyss, as the true source of STF's political spending.³⁰ There is no basis to find reason to believe a violation occurred on such rank speculation.

The Act and Commission regulations prohibit an organization from knowingly accepting or receiving a "contribution or a donation" from a foreign national "in connection with a Federal, State or local election."³¹ The Act also prohibits a person from knowingly accepting a contribution in the name of another or permitting one's name to be used to effect such a contribution.³²

Neither NVF nor STF has ever received funding from a foreign national for the purpose of influencing a Federal election or otherwise "in connection with" an election. To begin with, NVF

²⁸ See generally, New Venture Fund, IRS Forms 990 (swearing annually, under penalties of perjury, that the organization did not engage in direct or indirect political campaign activities on behalf of or in opposition to candidates for public office).

²⁹ See Statement of Reasons of Cmrs. Hunter and Goodman, MUR 6872 (New Models) ("Although an organization's tax status is not dispositive of the question, it is certainly a relevant consideration. As Senator McCain, a principal Senate sponsor of BCRA, has stated, 'under existing tax laws, Section 501(c) groups ... cannot have a major purpose to influence federal elections, and therefore are not required to register as federal political committees, as long as they comply with their tax law requirements.'")

³⁰ Compl. at ¶¶ 22-27.

³¹ 52 U.S.C. § 30121(a)(1)-(2); 11 C.F.R. § 110.20(g).

³² 52 U.S.C. § 30122.

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and STF have never received funds directly from Mr. Wyss. And although NVF and STF have received grants from WF and BAF as described above (both *domestic* nonprofit corporations whose grantmaking activities are governed by their own boards of directors), NVF and STF's decisions about how donors' funds will be spent are controlled by NVF and STF's respective boards of directors, not by the organizations' donors.³³

As noted above, NVF does not engage in any activities to support or oppose candidates for elective office at any level of government.³⁴ As such, it has never received or spent funds to influence candidate elections, let alone served as a conduit for the political spending of a foreign national.

With respect to STF, all grants that STF received from BAF have included a specific restriction barring STF from using BAF funding to intervene in any election in support of or opposition to any candidate for public office or political party, or for voter registration or "get-out-the-vote" activities.³⁵ Not only was BAF's funding *not* for the purpose of enabling STF's political spending, STF was contractually barred from putting it to such uses and STF at all times complied with those restrictions. Though the Complaint would have the Commission believe STF had no funds available for its political activities other than grants received from BAF, the organizations' annual Forms 990 show exactly the contrary. STF's total revenue has always been sufficient to cover its campaign activity without regard to restricted grants received from BAF:

Figure 3: STF Revenue in Relation to Campaign Activity			
Tax Year ³⁶	STF Total Revenue (STF IRS Form 990)	Total BAF Grants to STF (BAF IRS Form 990)	STF Total Campaign Activity (STF IRS Form 990)
2016	21,258,592	10,813,000	3,623,144
2017	79,559,836	48,483,333	914,110
2018	143,837,877	41,071,667	35,881,914
2019	138,371,684	34,907,000	13,240,753

In short, there is no evidence of a "scheme" to conceal WF, BAF or Mr. Wyss as the true source of STF's contributions to political committees. The allegations are baseless and must be dismissed.

³³ Kurtz Aff. ¶ 5.

³⁴ See generally, New Venture Fund, IRS Forms 990.

³⁵ Kurtz Aff. ¶ 5.

³⁶ STF and BAF operate on different fiscal years for tax reporting purposes. STF's tax year runs from January 1 through December 30. BAF's IRS Forms 990 show that its tax year runs from April 1 through March 31. Notwithstanding the slightly differing tax reporting periods, the available data makes clear that STF's total revenue in each year well exceeded the amounts it received from BAF, and STF had ample funds from other sources to cover campaign activity in each year.

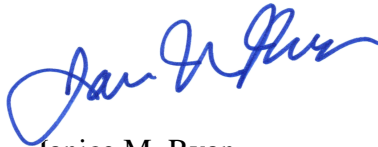
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III. Conclusion

Vague grumblings about dark money and ill-defined schemes are no substitute for facts and reasoned legal analysis. Here, the Complaint fails to cite any facts that reasonably lead to its desired conclusions. Its distorted portrayal of Respondents' activities is contrary to their actual structure and operations, as described above, and its conclusions are at odds with constitutional requirements as well as Respondents' public filings. As explained above, neither NVF nor STF is a federal political committee, and neither organization has accepted or used funds from a foreign national in connection with a federal election. Accordingly, the Commission should find no reason to believe that either NVF or STF violated the Act and dismiss the Complaint.

Respectfully submitted,



Janice M. Ryan
Lawrence H. Norton
Meredith K. McCoy

BEFORE THE FEDERAL ELECTION COMMISSION

IN RE:

Sixteen Thirty Fund,

Respondent.

MUR 7904

Affidavit of Amy Kurtz

I, Amy Kurtz, hereby declare the following:

1. My name is Amy Kurtz. I serve as President of Sixteen Thirty Fund (“STF”). I am of legal age and competent to testify in this matter.
2. STF is a District of Columbia nonprofit corporation, organized and operated as a social welfare organization as described under Section 501(c)(4) of the Internal Revenue Code. As a condition of STF’s tax-exempt status, STF must be primarily engaged in social welfare activities and may engage in only a limited amount of political campaign activity (i.e., activities to support or oppose candidates for elective office). STF has always operated consistently with its tax-exempt status and its activities to influence candidate elections are not and have never been the organization’s primary activity.
3. STF and the projects it supports operate with the mission of fighting for economic equity, affordable health care, climate solutions, racial justice, voter access, and other essential social-change goals. Since its inception, STF has launched more than 90 projects and has received support from more than 380 donors in support of the organization’s social welfare mission.
4. STF’s annual revenue and expenses, including expenses for political activity, are duly reported to the Internal Revenue Service on STF’s Form 990 Annual Informational Returns, which are publicly available through 2019. At the time of this declaration, STF had not yet filed its 2020 Form 990 Annual Informational Return with the Internal Revenue Service, as it is not due until later this year. However, initial estimates based on the organization’s preliminary accounting indicate that expenditures for the year totaled \$410,616,973.00.
5. STF accepts grant funding in support of STF’s social welfare mission, including grants from the Berger Action Fund. Berger Action Fund grant funds are accepted by STF for use exclusively in furtherance of STF’s 501(c)(4) social welfare mission and on the express written condition that no funds will be used for voter registration or get-out-the-vote activities or any activities to support or oppose candidates for elective office or to support or oppose any political party. At all relevant times, STF has complied with BAF’s grant restrictions. STF routinely accepts grants subject to specific restrictions on use. To ensure adherence to all grant terms and conditions and all applicable laws, STF maintains robust compliance systems and procedures.

6. STF has never received funds directly from Hansjörg Wyss. STF has received grants from Berger Action Fund, a domestic nonprofit whose grantmaking activities are governed by its own boards of directors, but STF's decisions about how donors' funds will be spent are controlled by STF's board of directors, not by the organization's donors.

I declare under penalty of perjury that the foregoing is true and correct.

Amy Kurtz
Amy Kurtz (Jul 7, 2021 15:03 EDT)

Amy Kurtz

Dated: July 7, 2021